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Via ECFS

June 6, 2013

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

RE: *Structure and Practices of the Video Relay Service program, CG Docket No. 10-51:
Telecommunications Relay Services and Speech-to-Speech Services for Individuals with
Hearing and Speech Disabilities, CG Docket No. 03-123*

Dear Secretary Dortch:

Attached for submission to the Commission are the *Reply Comments of ASL Services Holdings, LLC* ("ASL/Global VRS") in response to the Commission's May 17, 2013 *Public Notice* in the above-referenced proceedings, DA 13-1137.

Sincerely,

MILLER ISAR, INC.

Andrew O. Isar

Regulatory Consultants to
ASL Services Holdings, LLC

Attachment

cc: Karen Strauss (via electronic mail)
Greg Hlibok (via electronic mail)

**Before the
Federal Communications Commission
Washington, D.C. 20554**

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| In the Matter of |) | |
| |) | |
| Structure and Practices of the Video Relay Service Program |) | CG Docket No. 10-51 |
| |) | |
| Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities |) | CG Docket No. 03-123 |
| |) | |

REPLY COMMENTS OF ASL SERVICES HOLDINGS, LLC

ASL Services Holdings, LLC (branded “Global VRS;” “ASL/Global VRS”)¹ replies to other parties comments in response to the Commission’s *Public Notice* regarding Fiscal Year (“FY”) 2013 Interstate Telecommunications Relay Services Fund (“Fund”) payment formulas.² ASL/Global VRS supports the continuation of current interim video relay service (“VRS”) compensation rates while the Commission considers further VRS Program reforms.³ Given the number of significant, interrelated, and complex Program reforms being considered, continuation of the current VRS compensation structure offers operational stability, pending further reform.

ASL/Global VRS agrees with those commenting parties who stress that VRS compensation should be directly tied to costs and that providers must be given time to adjust to new compensation structures that reflect further reforms if operational stability and moreover,

¹ Fka “Gracias VRS”.

² *In the Matter of Structure and Practices of the Video Relay Service Program Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket Nos. 03-123 and 10-51, *Public Notice*, DA 13-1137 (rel. May 17, 2013) [“Public Notice”].

³ *Public Notice* at 2: “Regarding VRS compensation rates, the Commission is currently considering whether to modify the current interim rates. Pending further action by the Commission, the administrator has submitted Fund size estimates for Fund year 2013-14 that assume a further extension of the current rates, which are: \$6.2390 for Tier I (applicable to each provider’s first 50,000 monthly minutes), \$6.2335 for Tier II (applicable to monthly minutes between 50,001 and 500,000), and \$5.0688 for Tier III (applicable to monthly minutes over 500,000).”

the ability to effectively serve the public, are maintained. ASL/Global again underscores that as the Commission determines how the VRS compensation structure is changed, it should: 1) maintain a direct correlation between provider compensation and cost, considering the disproportional costs on non-dominant providers and those with unique cost structures, in particular; and 2) give providers sufficient time to adjust to the anticipated significant provider costs associated with any major reforms including adoption of interoperability standards and new technology.

Despite RLSA's presumption for a continued extension of the current interim VRS rates for FY 2013 pending Commission deliberation on further VRS reforms that will impact Fund-eligible provider cost structures, it is clear that provider compensation stands to be changed significantly. Maintaining the current interim cost structure wisely maintains a degree of stability, enabling providers to meet the needs of their subscribers and the public, while planning – as much as is possible - for anticipated compensation structure reforms associated with a myriad of complex and interrelated considerations, each having an impact on provider costs.

Rate structure stability should remain an ongoing consideration as the Commission grapples with the additional reforms it views as critical to eliminate waste, fraud, and abuse, while ensuring Fund sustainability. For the past more than four years, the Commission has pursued significant Program reforms which have had profound impacts on provider operations, underlying costs, and the compensation structure. The magnitude of further reforms including interoperability and compliance, coupled with provider implementation of new technology necessitated by rapid advancements, stands to create new costs, and pressures that have no precedence and have the potential to create a destabilizing effect on all providers' operations.

Implementation of any significant reforms should be carefully managed to ensure that compensation correlates directly with reasonable service costs, and that providers have a “glide path” for incorporation of changing compensation structures with sufficient time to enable a seamless transition without impacting subscribers or otherwise undermining provider operations to the point of forced exit from the Fund.

I. VRS COMPENSATION SHOULD CORRELATE DIRECTLY WITH PROVIDER COSTS, AND ACCOUNT FOR THE UNIQUE COSTS ASSUMED BY NON-DOMINANT PROVIDERS AND THOSE SERVING HIGHER COST SEGMENTS OF THE POPULATION.

ASL/Global VRS has underscored the imperative for major VRS reforms - including implementation of interoperability standards - to be adopted with the corresponding cost impact on providers being factored, and with sufficient time for providers to determine the impact and implement reforms well before the Fund VRS compensations structure go into effect.⁴ There is a direct cause and effect between new reforms and their cost which cannot be separated. A VRS compensation structure cannot be viewed in isolation of program reforms, and the costs of such reforms must necessarily be reflected in a compensation structure if provider compensation will reasonably compensate providers for their actual costs of providing service.

In their comments, Sorenson⁵ and ZVRS⁶ again stress that there should be a direct correlation between actual provider costs and the VRS compensation structure. Sorenson aptly states,

⁴ See, *In the Matter of Structure and Practices of the Video Relay Service Program Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket Nos. 03-123 and 10-51, *Comments of ASL Services Holdings, Inc.* (April 23, 2013) [“ASL/Global VRS Comments”].

⁵ *Id. Comments of Sorenson Communications, Inc. and CaptionCall, Inc.* (May 31, 2013) [“Sorenson”]

⁶ *Id. Comments of CSDVRS, LLC* (May 31, 2013) [“ZVRS”]

Whenever the Commission next addresses VRS rates, it should reject once and for all the unworkable “allowable costs” methodology. As Sorenson and others have explained repeatedly, that methodology relies on an artificially limited set of costs when calculating the rate proposal, **rather than considering all of a VRS provider’s costs. There are many sizeable costs—real and non-discretionary costs**—that are excluded, ranging from actual taxes paid, to research and development, to actual (not merely “allowed”) costs of capital. RLSA’s VRS rate proposals are thus based on hypothetical costs, and not on the real world in which deaf and hard-of-hearing customers actually use VRS and VRS providers actually provide service.⁷

Such a direct correlation between actual – and not weighted, assumed, or averaged costs – is imperative for providers who depend on Fund compensation to maintain effective operations, as Sorenson and ZVRS have stated here and before. This is certainly a critical consideration for non-dominant providers, and particularly for those, such as ASL/Global VRS, who assume additional costs for specialized, trilingual interpreters.

ZVRS stresses,

A reduction of the compensation for providers of ZVRS’ size (Tier II) as proposed by RLSA is not only unjustified, it would severely challenge ZVRS’ ability to cover its “reasonable costs of providing VRS” let alone its capacity to compete.⁸

Even Sorenson concedes this point in its comment, above. All reasonable provider costs should be considered.

ZVRS⁹ and ASL/Global VRS¹⁰ have pointed to the Office of Inspector General’s independent auditors’ conclusion “that low-volume providers billing primarily in the lower tier are not overpaid, while the largest provider that bills primarily in the high-volume tier is overpaid.” Indeed non-dominant providers assume higher costs as ZVRS and ASL/Global VRS

⁷ Sorenson at page 7, 8 [emphasis supplied, footnote omitted].

⁸ ZVRS at page 4.

⁹ *Ibid.*

¹⁰ *ASL/Global VRS Comments* at page 3.

have addressed in detail, and do not benefit from the significant economies of scale and legacy dominant subscriber base enjoyed by dominant providers.

ASL/Global VRS' focus on the underserved Hispano community requires the Company to assume even more additional responsibilities and costs, as the Company has previously stressed.¹¹ Such costs include providing for interpreter professional development where interpreter preparation/training programs and some national interpreter organizations have failed to meet interpreter training needs in this arena. Further, the demand for tri-lingual - American Sign Language ("ASL"), Spanish, and English - and bi-lingual (ASL and Spanish) interpreters is exceptionally high compared to the bi-lingual (ASL and English) interpreting profession, often requiring higher compensation rates that reflect specialized skills, to meet Commission Mandatory Minimum Standards of service quality for Spanish.

Further, there are substantial costs associated with outreach to the Hispano Deaf and Hard of Hearing community, who cannot be contacted via conventional media such as the Internet, social media, or television. Isolated individuals require individualized outreach, which adds to the outreach costs. And when contacted, these individuals must be contacted in Spanish, requiring additional costs of translation that ASL/Global VRS now assumes to provide equal access in all languages compensable from the Fund. These additional costs and non-dominant cost structures must be factored into the VRS compensation structure, as they do not, nor can they, lend themselves to an averaged or weighted compensation methodology.

¹¹ See, e.g. *ASL/Global VRS Comments* at page 6.

II. A “GLIDE PATH” IS CRITICAL TO IMPLEMENT CHANGED COMPENSATION STRUCTURES FOLLOWING FURTHER COMMISSION PROGRAM REFORMS.

Graduated implementation of new cost structures remains critical to maintain Program stability regardless of what compensation structures that result from Commission Program reforms are ultimately adopted. Sorenson, reflecting on RLSA’s compensation proposal, rightly states,

No provider today has actual costs that even approach the \$3.40 per-minute ultimate rate that RLSA proposed in October, for which its current proposal reflects the first step, and no provider claims it could operate at that level in the future. **Making such a large one year jump would also be highly destructive, as providers would have no opportunity to restructure gradually in a logical transition.** Instead, the Commission would be mandating drastic, immediate cost cutting in an industry in which the largest variable cost is labor—which is the key to providing the service and thus cannot be slashed without affecting service.¹²

Indeed, providers need time to implement what are anticipated to be significant further Program reforms, lest their operations be undermined by immediate changes in compensation. Providers must be given time to implement and adapt, while meeting current and new regulatory obligations.

Network interoperability, a major concern to the Commission and other providers including ASL/Global VRS, among other reforms, will have a profound impact on provider cost structures. The manner in which the Commission plans to ensure that effective interoperability and adoption of new technology occurs will have a major impact on provider costs that simply cannot possibly be anticipated. A ‘flash cut’ to a new compensation structure before the costs of interoperability and other major reforms can be calculated would be devastating, particularly to smaller providers as ZVRS’ comments cited above stress; “such drastic changes, severely

¹² Sorenson at 10, emphasis supplied..

challenge [providers] ability to cover its ‘reasonable costs of providing VRS’ let alone its capacity to compete.

Only once major VRS reforms are adopted and their associated costs fully quantified, should corresponding rate reform be implemented, and then on a phased-in approach, enabling providers to implement and adapt. ASL/Global VRS recommends a minimum of two years of data analysis following implementation of major reforms before corresponding compensation rates are phased in.

II. CONCLUSION.

ASL/Global VRS supports the continuation of current interim VRS compensation rates, pending Commission deliberation of additional Program reforms. As commenting parties have stressed, the process of implementing complex, interrelated reforms, coupled with Commission expectations for interoperability, adaptation of new technology, compliance, and continued efforts to eliminate waste, fraud, and abuse, carry significant costs that will impact providers. The resulting compensation structures should directly correlate to provider costs, account for the higher costs assumed by non-dominant providers and those serving higher-cost segments of the population in particular, and be implemented gradually to enable providers to adapt. In so doing, the Commission will further provide the long-term stability needed to fully realize the tenant of functional equivalency.

[Signature on following page.]

Respectfully submitted this 6th day of June, 2013,

ASL Services Holdings, LLC

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