

June 16, 2014

VIA ELECTRONIC FILING (ECFS)

Marlene H. Dortch, Esq., Secretary  
Federal Communications Commission  
445 Twelfth Street, SW  
Washington, DC 20554

RE: **EX PARTE PRESENTATION**  
*Misuse of Internet Protocol (IP) Captioned Telephone Service;  
Telecommunications Relay Services and Speech-to-Speech Services for  
Individuals with Hearing and Speech Disabilities*  
CG Docket Nos. 13-24, 03-123

Dear Ms. Dortch:

On June 12, 2014, representatives of Hamilton Relay, Inc. (“Hamilton”) met with Commission staff from the Consumer & Governmental Affairs Bureau (“CGB”) and the Office of the Managing Director (“OMD”). Participating on behalf of Hamilton were Dixie Ziegler, and the undersigned counsel for Hamilton. Commission staff present at the meeting were Karen Peltz Strauss, Gregory Hlibok, and Eliot Greenwald of CGB, and David Schmidt and Andrew Multz of OMD. Robert Aldrich of CGB and Diane Mason of OMD participated by telephone.

During the meeting, Hamilton reviewed several points made in its May 23, 2014 comments regarding the proposed TRS rates for 2014-2015. Specifically, Hamilton requested that Commission staff ensure that the state rate information for Virginia, Maine, the U.S. Virgin Islands, and possibly Saipan be included in the TRS Fund Administrator’s MARS rate calculations for interstate forms of traditional TRS, Speech-to-Speech, Caption Telephone Service (“CTS”) and IP CTS.

Hamilton also reiterated its support for the continued use of MARS to calculate the IP CTS rate. We discussed the Consortia economic report, a copy of which is included with this ex parte filing,<sup>1</sup> which highlights the flaws inherent in a cost-based or price cap approach to rate regulation, instead of a competitive-based rate methodology such as MARS. Hamilton also

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<sup>1</sup> The report was originally submitted as Exhibit A to Hamilton’s comments filed on November 4, 2013 in this proceeding.

notes that a rate based on providers' projected costs is subject to wild fluctuations. For example, in 2013, the TRS Administrator calculated a cost-based rate of \$1.4826 as mentioned in the Consortia report (at p.2). The very next year, the TRS Administrator calculated a cost-based rate of \$1.7180,<sup>2</sup> an increase of more than 23 cents per minute (15.5%) in one year. This kind of significant year-over-year change merely highlights the lack of predictability inherent in cost-based rate methodology.

In contrast, as Hamilton has noted, the MARS rate has remained remarkably steady over seven years of annual ratesetting, and in fact has decreased slightly when adjusted for CPI inflation. The marginal increases over time in the MARS rate are due to rising labor costs and other business costs which apply equally to CTS and IP CTS, and not because of decreasing CTS minutes used to calculate the rate.

Hamilton also encouraged the Commission to continue using MARS for IP CTS, and to put off any decision to use a different rate methodology until: 1) a decision has been made about whether state TRS programs should become more involved in IP CTS regulation, including potentially ratesetting; and 2) the Commission has addressed other proposals raised in the August 26, 2013 *Further Notice of Proposed Rulemaking*,<sup>3</sup> including the adoption of IP CTS quality standards. Hamilton requested that at the very least providers should be given more opportunity to formally comment about a cost-based rate methodology before one is adopted.

Finally, Hamilton provided the staff with additional information about its IP CTS emergency calling procedures.

This filing is made in accordance with Section 1.1206(b)(1) of the Commission's rules, 47 C.F.R. § 1.1206(b)(1). In the event that there are any questions concerning this matter, please contact the undersigned.

Respectfully submitted,

WILKINSON BARKER KNAUER, LLP

/s/ David A. O'Connor

Counsel for Hamilton Relay, Inc.

cc (via e-mail): Participants

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<sup>2</sup> Rolka Loube Saltzer Associates LLC, Interstate Telecommunications Relay Services Fund Payment Formula and Fund Size Estimate, CG Docket Nos. 03-123, 10-51, at 14 (filed May 1, 2014).

<sup>3</sup> 28 FCC Rcd 13420 (2013).