

December 23, 2015

Via Electronic Filing

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

Re: Reply Comments, Further Notice of Proposed Rulemaking, rel. November 3, 2015, in CG Docket Nos. 10-51 and 03-123

Dear Ms. Dortch:

The Video Relay Services Consumer Association (“VRSCA”) respectfully submits the following reply comments in response to the Federal Communications Commission’s (“FCC”) Further Notice of Proposed Rulemaking (“FNPRM”) in the above proceeding on the FCC’s proposal to modify the Video Relay Service (“VRS”) compensation rate plan that was adopted by the FCC in 2013. Specifically, Section II of FNPRM proposes a partial freeze of the VRS rates for Tier I providers, which means those providing 500,000 or fewer VRS minutes of use per month. On December 9, 2015, the Consumer Groups¹ and the Registry of Interpreters for the Deaf, Inc. (“RID”) filed comments. The reply comments of VRSCA are in support of the comments filed by the Consumer Groups and RID.

The VRSCA, a national communications forum for deaf, hard-of-hearing, deaf-blind, speech-disabled, and hearing individuals who communicate using American Sign Language (“ASL”) and VRS, has submitted numerous filings in these Dockets expressing the concerns of VRS consumers with respect to the FCC’s efforts to ensure functionally equivalent VRS. Our association conducts surveys, provides an objective environment for individuals to be informed about VRS issues, and participates in deaf expositions, town hall meetings, and events throughout the U.S. All VRS users may participate in the VRSCA at no cost and may voluntarily provide contact information with the understanding that they will receive email updates from VRSCA. In 2015 alone, the VRSCA participated in fourteen events, reaching over 30,000 people at these events, and signed up over 1,100 individuals to receive email information on VRS.

¹ The comments were filed by the following organizations: Telecommunications for the Deaf and Hard of Hearing, Inc. (“TDI”), National Association of the Deaf (“NAD”), Deaf and Hard of Hearing Consumer Advocacy Network (“DHHCAN”), Association of Late Deafened Adults, Inc. (“ALDA”), Cerebral Palsy and Deaf Organization (“CPADO”), Deaf Seniors of America (“DSA”), and California Coalition of Agencies Serving the Deaf and Hard of Hearing (“CCASDHH”) (collectively, the “Consumer Groups”).

While the VRSCA is not in a position to comment on VRS rate standards for providers, the VRSCA is in a position to inform the FCC that VRS consumers are concerned about further degradation in the quality of service. The VRSCA agrees with RID's request that the FCC carefully consider the prudence of making decisions related to rate methodology in the absence of quality standards to ensure a functionally equivalent VRS, particularly standards to ensure interpreting quality. In support, RID cites to the U.S. Government Accountability Office ("GAO") Report released in April 2015, which indicates that the FCC has not adequately determined performance goals for the telecommunications relay service ("TRS") program. RID references the GAO Report, which states that without standards related to service quality, such as interpreter accuracy, it is difficult to determine whether functional equivalency is being met. The VRSCA agrees with RID's statement that "setting rates without establishing quality standards is antithetical to achieving functional equivalence." The VRSCA also agrees with RID's point that the FCC, in the FNPRM, incorrectly equates "mandatory minimum standards" with the statutory mandate for functionally equivalent TRS.

The VRSCA also supports the suggestion of the Consumer Groups, that the FCC should address the issue of service quality before decreasing rates. The Consumer Groups also cite to the GAO Report, noting that the FCC has not established performance goals related to quality of service. The Consumer Groups point out that the FCC has not yet addressed the issues and recommendations in the GAO Report. Although the Consumer Groups believe that keeping the small providers in Tier I in the market is an important goal, they point out that quality standards must be determined first before any further rate cuts for any providers. We completely agree with the Consumer Groups' point that quality of service is paramount and the FCC should not lose sight of quality of service in its quest to fulfill other goals. The Consumer Groups, as well as the VRSCA, are concerned about the FCC cutting VRS rates without having conducted service quality analysis and adopting quality standards. Rightfully so, the Consumer Groups fear that the burden of these rate cuts will fall primarily on the VRS consumers who rely on VRS service for functionally equivalent communications. The FCC must first determine the level of service quality that meets the needs of VRS consumers and then address the adequacy of rates. The Consumer Groups suggest that the FCC freeze all rates while it determines the service quality level, and then base the costs on what it takes to meet that level. The VRSCA supports this approach.

Before making decisions related to rate methodology, including rate cuts, the FCC needs to first carefully consider service quality standards. The Americans with Disabilities Act ("ADA"), among other requirements, has a mandate that guarantees access to telecommunication services for an individual who has a hearing or speech impairment in a manner that is functionally equivalent to the ability of an individual who does not have a hearing or speech impairment. The FCC, having found that VRS providers are overcompensated, took steps to reduce VRS compensation rates. At the same time, the FCC is expecting VRS providers to make improvements, such as

improve on speed of answer, establish the user registration database interface, allow for experimental use of deaf interpreters, and allow hearing users to obtain 10-digit phone numbers. These improvements require additional staffing and costs. Like RID and the Consumer Groups, the VRSCA is concerned that the FCC is cutting VRS rates while increasing services like speed of answer, without having standards in place to ensure that qualified interpreters are being used. As a result, it is difficult for the FCC to determine whether it is meeting the mandate of providing functionally equivalent TRS.

The FCC seeks comment on its proposal to freeze VRS rates for the three smallest VRS providers in Tier I and alternatives to the proposed rate freeze. The VRSCA believes that the partial freeze would be helpful, but this is not good enough. The FCC should consider freezing rates in all tiers for all VRS providers until the FCC determines the service quality level. The VRSCA continues to endorse the Joint Proposal of All Six VRS Providers for Improving Functional Equivalence and Stabilizing Rates (“Joint Proposal”) filed March 30, 2015. In the Joint Proposal, the VRS providers urged the FCC to freeze the currently applicable VRS rates for all providers until the FCC implements a permanent rate methodology. The VRS providers listed several improvements in the quality of VRS in their Joint Proposal, and indicated that the improvements are conditioned upon the FCC stabilizing VRS rates. There has been overwhelming support for the Joint Proposal, including the support from deaf consumer organizations. The VRSCA is disappointed that the FCC did not seek comment on the Joint Proposal, which the VRSCA believes will benefit VRS consumers and interpreters.

Finally, the Consumer Groups question the FCC’s exclusion of the cost of research and development from allowable compensation calculations, pointing out that telecommunications companies invest in research and development to remain competitive and facilitate improved service to their customers. The VRSCA agrees that omitting the cost of research and development from allowable compensation rates may result in VRS providers not maintaining service to VRS consumers at a level that is functionally equivalent to what is provided for hearing consumers. Individuals who have a hearing or speech disability want to keep up to date on the newest technologies. Permitting the cost of research and development as an allowable compensation would support innovation and consumer choice, and is consistent with the ADA.

The VRSCA requests that when the FCC is making decisions on improving the VRS program, it consider the points made in these reply comments, along with the points made by the Consumer Groups and RID in their comments.

Respectfully submitted,

/s/ electronically signed

Sharon A. Hayes
Director, VRSCA