



# PUBLIC NOTICE

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**NOTICE OF CONDITIONAL GRANT OF APPLICATION OF ASL SERVICES HOLDINGS, LLC FOR CERTIFICATION AS A PROVIDER OF VIDEO RELAY SERVICE ELIGIBLE FOR COMPENSATION FROM THE INTERSTATE TELECOMMUNICATIONS RELAY SERVICE FUND**

**CG DOCKET NO. 10-51**

By the Chief, Consumer and Governmental Affairs Bureau:

On September 7, 2011, ASL Services Holdings, LLC (ASL Holdings) filed an application to be certified<sup>1</sup> as a provider of video relay service (VRS) that is eligible for compensation from the Interstate TRS Fund (Fund).<sup>2</sup> For the reasons discussed below, the Consumer and Governmental Affairs Bureau (Bureau) hereby grants ASL Holdings' application on a conditional basis, pending inspection of ASL Holdings' facilities and confirmation of ASL Holdings' compliance with all applicable rules and orders.

In the *iTRS Certification Order* released on July 28, 2011, the Commission amended its requirements and processes for certifying iTRS providers as eligible for compensation from the Fund, to ensure that iTRS providers receiving certification are qualified to provide iTRS in compliance with the Commission's rules, and to eliminate waste, fraud and abuse through improved oversight of such

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<sup>1</sup> ASL Services Holdings, LLC, *Internet-Based TRS Certification Application*, CG Docket No. 03-123 (Sept. 7, 2011) (ASL Holdings Application), supplemented on November 9, 2011. See 47 C.F.R. § 64.606; *Structure and Practices of the Video Relay Service Program*, CG Docket No. 10-51, Second Report and Order and Order, 26 FCC Rcd 10898 (2011) (*iTRS Certification Order*).

<sup>2</sup> The Communications Act of 1934, as amended, defines telecommunications relay services (TRS) as:

... telephone transmission services that provide the ability for an individual who is deaf, hard of hearing, deaf-blind, or who has a speech disability to engage in communication by wire or radio with one or more individuals, in a manner that is functionally equivalent to the ability of a hearing individual who does not have a speech disability to communicate using voice communication services by wire or radio.

47 U.S.C. § 225(a)(3) (as amended by the Twenty-First Century Communications and Video Accessibility Act of 2010 (CVAA), Pub. L. No. 111-260, § 103(b), 124 Stat. 2751, 2755 (2010); Pub. L. No. 111-265 (technical amendments to CVAA)). VRS is a form of Internet-based TRS (iTRS) that uses a broadband Internet connection between the VRS user and the communications assistant (CA) to enable a person using American Sign Language to communicate over video with another party through a CA. During a VRS call, the CA relays the communications between the two parties, signing what the other party says to the deaf or hard of hearing user and responding in voice to the other party to the call. The Interstate TRS Fund compensates eligible providers of VRS and other forms of interstate TRS for their reasonable costs of providing these services. See 47 C.F.R. § 64.604(c)(5)(iii).

providers.<sup>3</sup> These new rules require that all iTRS providers obtain certification from the Commission to be eligible to receive compensation from the Fund.<sup>4</sup> They further require that all VRS applicants for certification lease, license or own, as well as operate, essential facilities associated with iTRS call centers and employ their own CAs to staff those centers on the date of their application for certification.<sup>5</sup> Each iTRS applicant for certification is also required to submit specific types of documentary evidence that demonstrate its compliance with Commission rules, including those adopted in the *VRS Practices R&O*.<sup>6</sup> On October 17, 2011, the Commission released the *iTRS Certification Clarification Order*,<sup>7</sup> clarifying certain aspects of the certification requirements adopted in the *iTRS Certification Order*, and modifying section 64.606 of the Commission's rules to lessen the burdens on applicants for certification and providers associated with providing certain documentation to the Commission.<sup>8</sup>

Based on our review of the application submitted by ASL Holdings, as supplemented, we grant conditional certification to ASL Holdings to provide VRS service. In the *iTRS Certification Order*, the Commission reserved the right, after initial review of the application, to conditionally grant certification subject to one or more subsequent on-site visits of the applicant.<sup>9</sup> The Commission noted that such visits would "better enable the Commission to verify the information provided in a certification application, and help us to better assess an applicant's ability to provide service in compliance with our rules."<sup>10</sup> We grant this certification conditionally, in part because this is the first time that ASL Holdings will become eligible to receive compensation directly from the Fund. While we find that ASL Holdings' application facially meets the certification requirements,<sup>11</sup> we believe that an on-site visit is necessary to verify ASL Holdings' ability to provide service in compliance with the Commission's rules.<sup>12</sup> This grant of conditional certification is without prejudice to the Commission's final determination of ASL Holdings' qualifications, and is dependent on the Commission verifying the information provided in the application for certification, and the veracity of the applicant's representations that it will provide service in compliance with all pertinent Commission requirements.<sup>13</sup>

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<sup>3</sup> *iTRS Certification Order*, 26 FCC Rcd at 10899, ¶ 1. The measures adopted in the *iTRS Certification Order* were part of the Commission's ongoing and transitional efforts to reform the structure and practices of the VRS program, and the new certification processes by which this grant of conditional certification is awarded may be superseded or modified by future Commission actions on VRS reform.

<sup>4</sup> *Id.* at ¶ 2.

<sup>5</sup> *Id.*

<sup>6</sup> *See, e.g.*, 47 C.F.R. § 64.606(a); *see also Structure and Practices of the Video Relay Service Program*, Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 5545 (2011) (*VRS Practices R&O*).

<sup>7</sup> *Structure and Practices of the Video Relay Service Program, Sprint Nextel Corporation Expedited Petition for Clarification, Sorenson Communications, Inc. Petition for Clarification, AT&T Services, Inc. Petition for Reconsideration of AT&T*, CG Docket No. 10-51, Memorandum Opinion and Order, Order, and Further Notice of Proposed Rulemaking, FCC 11-155 (2011) (*iTRS Certification Clarification Order*).

<sup>8</sup> *See id.* at ¶¶ 16-20.

<sup>9</sup> 47 C.F.R. § 64.606(a)(3); *see also iTRS Certification Order*, 26 FCC Rcd at 10914, ¶ 37.

<sup>10</sup> *iTRS Certification Order*, 26 FCC Rcd at 10914, ¶ 36.

<sup>11</sup> *Id.* at ¶ 37; *see* 47 C.F.R. § 64.606(b)(2).

<sup>12</sup> *See iTRS Certification Order*, 26 FCC Rcd at 10914, ¶ 36.

<sup>13</sup> *Id.* at ¶ 37.

The Bureau notes some inaccuracies in ASL Holdings' application. Specifically, in its application, ASL Holdings incorrectly characterizes section 64.604(b)(4)(i) of the Commission's rules (the "24/7 rule"),<sup>14</sup> and states in a footnote that it does not consider itself subject to the 24/7 staffing requirements.<sup>15</sup> Despite this mischaracterization of the rule, ASL Holdings represents in its application that its "CAs are on duty 24 hours per day, 7 days a week, every day of the year."<sup>16</sup> As noted in the *iTRS Certification Clarification Order*, the Commission expects that, "once a VRS provider has been certified (conditionally or fully) by the Commission, it will continue to employ and utilize its own CAs and provide its own call center functions, as represented in its certification application, and not attempt to rely solely or in part on subcontracting or similar arrangements for these core services and functions."<sup>17</sup> Therefore, we reiterate that all certified VRS providers, including those operating subject to conditional certification, are expected to provide their own service in compliance with the 24/7 rule.

Moreover, our review of the application has raised questions about the manner in which ASL Holdings will route 911 calls. We remind ASL Holdings that section 64.605(b)(2)(iii) of the Commission's rules expressly requires that all 911 calls be routed through the use of automatic numbering identification (ANI) and, if necessary, pseudo-ANI, via the dedicated Wireline E911 Network,<sup>18</sup> and that iTRS providers may not fulfill their 911 obligations by routing 911 calls to ten-digit administrative (NPA-NXX) numbers of PSAPs, designated statewide default answering points, or appropriate local emergency authorities where a selective router is utilized.<sup>19</sup> Compliance with this rule is critical to ensuring that iTRS users are able to place a 911 call without disruption or delay.

In addition, ASL Holdings states in its application that it will coordinate with other industry representatives "in developing procedures for population of *NeuStar, Inc.'s Registered Location numbering assignment administrator's database* immediately upon certification."<sup>20</sup> We further remind ASL Holdings that providers do not obtain registered location information from the TRS Numbering Directory, which is maintained by its administrator, Neustar. The primary purpose of this directory is to record the mapping of the North America Numbering Plan telephone number of each registered iTRS user

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<sup>14</sup> In its application, ASL Holdings cites section 64.604(b)(4)(i) as stating: "TRS shall operate every day, 24 hours a day. Relay services that are not mandated by this Commission need not to [sic] be provided every day, 24 hours a day." See ASL Holdings Application at 38. However, that rule actually provides that "TRS shall operate every day, 24 hours a day. Relay services that are not mandated by this Commission need not be provided every day, 24 hours a day, *except VRS.*" 47 C.F.R. § 64.604(b)(4)(i) (emphasis added).

<sup>15</sup> ASL Holdings states that: "The FCC goes on to state that 'VRS is not a mandatory TRS service' and therefore is not subject to perpetual staffing requirements." ASL Holdings Application at 38 n.45 (citing *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CC Docket Nos. 90-571 & 98-67, CG Docket No. 03-123, Report and Order, Order on Reconsideration, and Further Notice of Proposed Rulemaking, 19 FCC Rcd 12475, 12596, App. E n.33 (2004)).

<sup>16</sup> ASL Holdings Application at 38.

<sup>17</sup> *iTRS Certification Clarification Order* at ¶ 13.

<sup>18</sup> 47 C.F.R. § 64.605(b)(2)(iii).

<sup>19</sup> See *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; E911 Requirements for IP-Enabled Service Providers*, Report and Order and Further Notice of Proposed Rulemaking, CG Docket No. 03-123 and WC Docket No. 05-196, 23 FCC Rcd 11591, 11621, ¶ 84 (2008).

<sup>20</sup> ASL Holdings Application at 30 (emphasis added).

to a unique Uniform Resource Identifier (URI).<sup>21</sup> Because this directory does not maintain a list of registered location information for VRS users, we remind ASL Holdings that it must maintain its own database of such registered location information in order to comply with the numbering requirements.

Our grant of certification to ASL Holdings is contingent on verification of information provided in its application. The Commission reserves the right to conduct one or more on-site inspections of ASL Holdings' facilities by designated personnel, and to request additional documentation relating to ASL Holdings' provision of VRS. Ultimate conversion to full certification will be granted if and when, based on on-site visits and/or the review of additional documentation, the Commission finds that ASL Holdings is in compliance with its rules and orders, including the 24/7 rule and the E911 rules, and is accordingly qualified to receive compensation from the Fund for the provision of VRS.<sup>22</sup> If at any time during the period in which ASL Holdings is operating pursuant to this conditional certification, the Commission determines that the assertions in ASL Holdings' application cannot be supported, or finds evidence of apparent rule violations, fraud, waste, or abuse, it will terminate ASL Holdings' conditional certification. In such case, ASL Holdings' application will be denied and its conditional certification will automatically terminate 35 days after denial.<sup>23</sup> If, however, the Commission grants full certification, ASL Holdings, like all VRS providers, will be expected to operate in compliance with all relevant Commission rules and orders.

We understand that once certified, ASL Holdings will require a limited period of time to transition to providing stand-alone VRS as a conditionally certified provider. Specifically, as a conditionally certified provider, ASL Holdings may need to interconnect with the TRS Numbering Directory in order to register ten-digit telephone numbers for their new customers, establish coordination with the TRS Fund Administrator, reroute IP addresses relevant to the provision of VRS, and make other arrangements necessary to register users and handle their calls as a stand-alone provider.<sup>24</sup> Accordingly, we grant ASL Holdings a waiver of section 64.604(c)(5)(iii)(N)(I)(iii) of the Commission's rules<sup>25</sup> until November 30, 2011, in order to facilitate such a transition.<sup>26</sup> Because the stay of effectiveness of section 64.604(c)(5)(iii)(N)(I)(iii) expires on November 15, 2011, we find that this additional time will be

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<sup>21</sup> See 47 C.F.R. § 64.613.

<sup>22</sup> See *iTRS Certification Order*, 26 FCC Rcd at 10914, ¶ 37; 47 C.F.R. § 64.606(b)(2)(c)(2).

<sup>23</sup> See *iTRS Certification Order*, 26 FCC Rcd at 10914, ¶ 37. If the Commission terminates a conditional certification, the provider must give at least 30 days' notice to its customers that it will no longer offer service.

<sup>24</sup> See, e.g., Letter from David J. Bahar, Vice President of Government and Regulatory Affairs, Convo Communications, LLC, to Marlene H. Dortch, Secretary, FCC (filed Nov. 8, 2011), at 1 (describing steps required to transition from VRS subcontractor to stand-alone VRS provider, and asserting that it will take Convo between two weeks and one month to commence independent VRS operations).

<sup>25</sup> 47 C.F.R. § 64.604(c)(5)(iii)(N)(I)(iii).

<sup>26</sup> See 47 C.F.R. § 1.3 (Commission may waive its rules on its own motion if good cause therefor is shown). This transition period is consistent with the Commission's objective to provide subcontractors to eligible VRS providers with "the opportunity to apply for certification prior to the expiration of the stay and...the opportunity to seek to transition to eligibility in a seamless manner, without any interruption in providing service." *Structure and Practices of the Video Relay Service Program*, Order Extending Suspension of Effective Date, 26 FCC Rcd 13820, 13821, ¶ 4 (2011). Because we conditionally grant ASL Holdings' certification application and waive section 64.604(c)(5)(iii)(N)(I)(iii) of the Commission's rules until November 30, 2011, we find that its request for waiver of section 64.604(c)(5)(iii)(N)(I)(iii) is rendered moot. See *ASL Services Holdings, LLC, Petition for Waiver*, CG Docket No. 10-51 (filed Sept. 28, 2011) (requesting waiver of section 64.604(c)(5)(iii)(N)(I)(iii) until its application for VRS certification is granted).

necessary and sufficient to enable ASL Holdings to transition to providing stand-alone VRS on a conditional basis, and will serve the public interest. We thus find good cause for granting this waiver.<sup>27</sup>

A copy of ASL Holdings' redacted application is available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW, Suite CY-A257, Washington, DC 20554, (202) 418-0270. The full text of this *Public Notice* is similarly available for public inspection or copying. These documents may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc. (BCPI), Portals II, 445 12th Street, SW, Room CY-B402, Washington, DC 20554. Customers may contact BCPI at its web site: [www.bcpweb.com](http://www.bcpweb.com), or by calling 1-800-378-3160. A copy of ASL Holdings' redacted application may also be found by searching on the Commission's Electronic Comment Filing System (ECFS) at <http://www.fcc.gov/cgb/ecfs> (insert CG Docket No. 10-51 into the Proceeding block).

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For further information, please contact Gregory Hlibok, Consumer and Governmental Affairs Bureau, Disability Rights Office, at (866) 954-4053 (voice/videophone), (202) 418-0431 (TTY), or e-mail at [Gregory.Hlibok@fcc.gov](mailto:Gregory.Hlibok@fcc.gov).

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<sup>27</sup> We distinguish this grant of a brief waiver of section 64.604(c)(5)(iii)(N)(I)(iii) to ASL Holdings from our decision on November 8, 2011 denying a request filed by Gallaudet University to extend the stay of effective date of that rule. See *Structure and Practices of the Video Relay Service Program*, CG Docket No. 10-51, Public Notice, DA 11-1868 (CGB rel. Nov. 8, 2011) (*VRS Stay Extension Denial Order*). We did not find good cause to extend the stay of the effective date of section 64.604(c)(5)(iii)(N)(I)(iii) in the *VRS Stay Extension Denial Order* because we concluded that Gallaudet had adequate time and notice to apply for certification as a stand-alone provider of VRS that would not require such an extension. In contrast, here ASL Holdings has timely filed an application for certification, which the Bureau has conditionally granted. A limited waiver of section 64.604(c)(5)(iii)(N)(I)(iii) thus is necessary to allow ASL Holdings to transition from a subcontracting entity to a stand-alone VRS provider.