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**REDACTED FOR PUBLIC INSPECTION
REQUEST FOR CONFIDENTIAL TREATMENT
PURSUANT TO 47 C.F.R. §§ 0.457 AND 0.459**

November 12, 2014

Via Electronic Filing

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

Re: Sprint Corporation – Request for Emergency Temporary Limited Waiver
CG Docket Nos. 03-123 and 10-51 – *Expedited Action Requested*

Dear Ms. Dortch:

Sprint Corporation (“Sprint”) hereby submits the attached Request for Emergency Temporary Limited Waiver (“Request”). Pursuant to Exemption 4 of the Freedom of Information Act (“FOIA”) and the rules of the Federal Communications Commission (“FCC” or “Commission”),¹ Sprint requests confidential treatment for the information that has been redacted in the attached Request (“Sprint Information”), which contains commercially sensitive information. The Sprint Information relates to Sprint’s provision of IP Relay Services and includes company-specific, confidential commercial information, including information that is protected from disclosure by FOIA Exemption 4² and the

¹ 5 U.S.C. § 552(b)(4); 47 C.F.R. §§ 0.457(d) and 0.459; *see also* 18 U.S.C. § 1905 (prohibiting disclosure “to any extent not authorized by law” of “information [that] concerns or relates to the trade secrets, processes, operations, style of work, or apparatus, or to the identity, confidential statistical data, amount or source of any income, profits, losses, or expenditures of any person, firm, partnership, corporation, or association”).

² 5 U.S.C. § 552(b)(4).

Commission's rules protecting information that is not routinely available for public inspection and that would customarily be guarded from competitors.³

1. *Identification of the specific information for which confidential treatment is sought.* Sprint requests that the redacted information contained in the Request be treated as confidential pursuant to Exemption 4 of FOIA and Sections 0.457(d) and 0.459 of the Commission's rules, which protect confidential commercial and other information not routinely available for public inspection. The Sprint Information concerns the company's provision of IP Relay Services and its operational ability to absorb an anticipated influx of customers. This is company-specific, competitively-sensitive, business confidential and/or proprietary commercial information concerning Sprint's operations that would not routinely be made available to the public. If it were disclosed, Sprint's potential competitors could use it to determine information regarding Sprint's competitive position, operations, and performance, and could use that information to gain a competitive advantage over Sprint.

2. *Identification of the Commission proceeding in which the information was submitted or a description of the circumstance giving rise to the submission.* Sprint has an urgent need for the relief sought in its Request in the aftermath of the exit from the marketplace of all other providers of these services. Sprint will almost certainly be required to accommodate a sharp increase in its IP Relay call volumes and minutes of use on very short notice. A redacted version of the Request is being submitted for inclusion of the record in the Commission's docketed proceeding regarding Telecommunications Relay Services, CG Docket Nos. 03-123 and 10-51.

3. *Explanation of the degree to which the information is commercial or financial, or contains a trade secret or is privileged.* The Sprint Information contains company-specific, competitively-sensitive, confidential and/or proprietary, commercial information.⁴ This information can be used to determine information about Sprint's operations that is sensitive for competitive and other reasons. This information would not customarily be made available to the public and customarily would be guarded from all

³ 47 C.F.R. §§ 0.457(d) and 0.459.

⁴ The Commission has broadly defined commercial information, stating that "[c]ommercial' is broader than information regarding basic commercial operations, such as sales and profits; it includes information about work performed for the purpose of conducting a business's commercial operations." *Southern Company Request for Waiver of Section 90.629 of the Commission's Rules*, Memorandum Opinion and Order, 14 FCC Rcd 1851, 1860 (1998) (citing *Public Citizen Health Research Group v. FDA*, 704 F.2d 1280, 1290 (D.C. Cir. 1983)).

others, especially potential competitors, that could use the information to enhance their market position at Sprint's expense.

4. *Explanation of the degree to which the information concerns a service that is subject to competition.* The confidential information at issue relates to the provision of IP Relay, which until the events described in Sprint's Request was subject to vigorous competition from other telecommunications relay service providers, and may again be subject to vigorous competition when the current regulatory and market forces are addressed. If the Sprint Information is not protected, Sprint's potential competitors will be able to use it to their competitive advantage.

5. *Explanation of how disclosure of the information could result in substantial competitive harm.* Since this type of information generally would not be subject to public inspection and would customarily be guarded from competitors, the Commission's rules recognize that release of the information is likely to produce competitive harm. Disclosure could cause substantial competitive harm because Sprint's potential competitors could assess aspects of Sprint's commercial operations and could use that information to undermine Sprint's competitive position.

6.-7. *Identification of any measures taken by the submitting party to prevent unauthorized disclosure, and identification of whether the information is available to the public and the extent of any previous disclosure of the information to third parties.* The confidential information in the Sprint Information is not available to the public, and has not otherwise been disclosed previously to the public. Sprint takes precautions to ensure that this type of information is not released to the general public or obtained by its competitors and potential competitors through other means.

8. *Justification of the period during which the submitting party asserts that the material should not be available for public disclosure.* Sprint requests that the Sprint Information be treated as confidential indefinitely, as it is not possible to determine at this time any date certain by which the information could be disclosed without risk of harm.

9. *Any other information that the party seeking confidential treatment believes may be useful in assessing whether its request for confidentiality should be granted.* Under applicable Commission and federal court precedent, the information provided by Sprint on a confidential basis should be shielded from public disclosure. Exemption 4 of FOIA shields information that is (1) commercial or financial in nature; (2) obtained from a person outside government; and (3) privileged or confidential. The commercial information in question clearly satisfies this test.

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Additionally, where disclosure is likely to impair the government's ability to obtain necessary information in the future, it is appropriate to grant confidential treatment to that information.⁵ Failure to accord confidential treatment to this information is likely to dissuade providers from voluntarily submitting such information in the future, thus depriving the FCC of information necessary to evaluate facts and market conditions relevant to applications and policy issues under its jurisdiction.

If a request for disclosure occurs, please provide sufficient advance notice to the undersigned prior to any such disclosure to allow Sprint to pursue appropriate remedies to preserve the confidentiality of the information.

If you have any questions or require further information regarding this request, please do not hesitate to contact me.

Sincerely,

/s/ Scott R. Freiermuth
Scott R. Freiermuth
Counsel – Government Affairs

Attachment

⁵ See *National Parks and Conservation Ass'n v. Morton*, 498 F.2d 765, 770 (D.C. Cir. 1974); see also *Critical Mass Energy Project v. NRC*, 975 F.2d 871, 878 (D.C. Cir. 1992) (*en banc*) (recognizing the importance of protecting information that “for whatever reason, ‘would customarily not be released to the public by the person from whom it was obtained’”) (citation omitted).

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

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 EXPEDITED ACTION REQUESTED

REQUEST FOR EMERGENCY TEMPORARY LIMITED WAIVER

Pursuant to sections 1.1, 1.3, and 1.41 of the Federal Communications Commission’s (“FCC’s” or “Commission’s”) rules,¹ Sprint Corporation (“Sprint”) hereby requests, on an emergency basis, that the Commission grant a temporary limited waiver of the speed-of-answer requirement that governs the provision of IP Relay and confirm that Sprint has no obligation to serve IP Relay callers before Sprint has registered and verified those users in accordance with Sprint’s internal processes and the FCC’s rules. These expedited measures are necessary in light of the imminent departure of Purple Communications, Inc. (“Purple”) from the IP Relay business. Sprint asks that the waiver be granted immediately and deemed effective as of November 14, 2014 – the date on which Purple has announced that it will discontinue IP Relay. Should Sprint continue offering IP Relay services, Sprint requests that the waiver remain in place until April 15, 2015, at which time Sprint should have completed the steps necessary to accommodate the new call volumes created by Purple’s exit.

¹ 47 C.F.R. §§ 1.1, 1.3, 1.41. *See also* 47 U.S.C. § 225.

I. BACKGROUND AND INTRODUCTION

On October 15, 2014, Purple announced its decision to exit the IP Relay market.

According to Purple, the company stopped enrolling new IP Relay customers at that time and will no longer provide IP Relay to existing customers beginning at 5:00 PM EST on November 14, 2014.²

With the exit of the largest IP Relay provider, Sprint expects a sharp increase in its IP Relay call volumes and minutes of use. Accordingly, Sprint respectfully urges the Commission to implement two measures based on the exigent circumstances Sprint will face if it continues to offer IP Relay service.

- (1) The Commission should grant Sprint a temporary waiver of the IP Relay speed-of-answer rule. The sudden increase in call volumes caused by Purple's exit will compromise Sprint's ability to answer 85 percent of all IP Relay calls within 10 seconds, as required by the Commission's rules.³ Thus, unless the requested waiver is granted, Sprint likely will be deprived of any compensation for the IP Relay services it provides in the aftermath of Purple's exit.⁴
- (2) The Commission should confirm Sprint's understanding of the existing registration and verification requirements. Sprint does not have enough resources on hand to quickly register and verify the expected volume of new users coming from Purple. As such, Sprint expects a delay in registering/verifying customers that seek to transfer from Purple to Sprint. Sprint, therefore, seeks confirmation that it can transition Purple's IP Relay customer base to Sprint over a period of time (*e.g.*, at a rate of no more than **[BEGIN CONFIDENTIAL]** [REDACTED] **[END CONFIDENTIAL]** customers per week) and that Sprint is not required to offer service to a customer until after Sprint's verification process has been completed successfully.

² Letter from John F. Cannon, Counsel to Purple Communications, Inc., to Marlene H. Dortch, FCC Secretary, CG Docket No. 03-123 (Oct. 15, 2014).

³ 47 C.F.R. § 64.604(b)(2)(ii).

⁴ *See* discussion *infra* at note 9.

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II. GRANT OF A TEMPORARY WAIVER OF THE SPEED-OF-ANSWER REQUIREMENTS IS IN THE PUBLIC INTEREST

Waiver of Commission rules is permitted upon a showing of “good cause.”⁵ Specifically, the Commission may waive its rules where the particular facts would make strict compliance inconsistent with the public interest, taking into account, *inter alia*, considerations of “hardship, equity, or more effective implementation of overall policy on an individual basis.”⁶ Waiver is particularly appropriate where “special circumstances warrant a deviation from the general rule and such deviation will serve the public interest.”⁷

In this case, given the “special circumstances” created by the departure of Purple and all other IP Relay providers from the market, waiver of the Commission’s speed-of-answer rules is necessary to prevent Sprint from being unfairly penalized for the actions of other providers. Sprint’s IP Relay business simply was not designed to handle the call volumes that are likely to occur as Purple’s customers migrate to Sprint. Accordingly, Sprint will need time to expand its capacity to handle the sudden increase in demand for its services if it continues to offer IP Relay service.

Until Sprint is able to make the necessary changes, the increased call volumes are likely to exceed Sprint’s capacity, compromising Sprint’s ability to meet the Commission’s

⁵ 47 C.F.R. § 1.3.

⁶ *Numbering Resource Optimization; Petition of California Public Utilities Commission for Waiver of the Federal Communications Commission’s Contamination Threshold Rule*, Order, 18 FCC Rcd 16860, ¶ 9 (2003) (citing *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969), *cert. denied*, 409 U.S. 1027 (1972) (“*WAIT Radio*”); *Northeast Cellular Tel. Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990)).

⁷ *Northeast Cellular Tel. Co. v. FCC*, 897 F.2d at 1166 (referencing *WAIT Radio*).

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requirement that IP Relay providers answer 85 percent of calls within 10 seconds.⁸ Thus, without a waiver of the applicable rule, Purple's decision to abandon the IP Relay market likely would result in Sprint forfeiting payment for entire days and expose Sprint to the risk of even more draconian penalties.⁹ Put simply, absent a waiver, Sprint would find itself handling more calls than ever while being denied any compensation for its services. Such a result unquestionably is inequitable.

III. THE COMMISSION SHOULD CONFIRM THAT SPRINT'S APPROACH TO REGISTERING CUSTOMERS COMPLIES WITH ALL APPLICABLE REGULATORY OBLIGATIONS

To the extent that Sprint continues providing IP Relay service, absorbing Purple's customer base almost certainly will require Sprint to process an influx of requests from IP Relay users seeking to make Sprint their default provider. In order to ensure that Sprint requests reimbursement from the TRS fund only for calls made by eligible users, Sprint intends to verify the eligibility of each of these customers using the same procedures that it has adopted for registering and verifying *new* IP Relay users.¹⁰ Sprint plans to complete this verification process for each customer before he or she is permitted to place IP Relay calls using Sprint's service.

⁸ 47 C.F.R. § 64.604(b)(2).

⁹ See 47 C.F.R. § 64.604(c)(5)(iii)(E), (L); *Structure and Practices of the Video Relay Services Program; Purple Communications, Inc. Request for Review of the Decision of the TRS Administrator to Withhold TRS Payment*, Order, 27 FCC Rcd 8014, ¶¶ 1, 27 (2012) (explaining that failure to comply with the average speed-of-answer rule can lead to compensation being withheld for each day a provider is out of compliance as well as other forfeitures and penalties).

¹⁰ See 47 C.F.R. § 64.611(b); *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; E911 Requirements for IP-Enabled Service Providers*, Second Report and Order and Order on Reconsideration, 24 FCC Rcd 791, ¶ 38 (2008).

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Completing the verification process, however, will take time and will tax Sprint's already over-burdened resources.¹¹ Accordingly, given the potentially large volume of verifications that may be needed in the coming weeks and months, Sprint plans to adopt a reasonable limit on the number of requests for service that it will accept at any one time. Specifically, Sprint plans to process no more than [BEGIN CONFIDENTIAL] [REDACTED] [END CONFIDENTIAL] new requests for service per week. As a result, customers may experience some delay in registering with Sprint as their default provider and in their ability to use Sprint's IP Relay service. Given that Sprint is under no affirmative obligation to offer IP Relay service,¹² Sprint believes that its plans comply with the Commission's rules. Nevertheless, out of an abundance of caution, Sprint seeks the Commission's confirmation that these plans, which are intended to avoid waste, fraud, and abuse in Sprint's provision of IP Relay service, comply with all relevant Commission rules and policies.¹³ In the alternative, to the extent the Commission requires Sprint to accept

¹¹ Sprint anticipates that it may have to issue new 10-digit telephone numbers to many users who previously had selected Purple as their default provider. As noted above, Purple has announced its plans to exit the IP Relay business in the very near future. It is not clear what will happen to the numbers previously assigned by Purple once Purple is no longer providing IP Relay. Unless Purple takes affirmative actions to assist its existing users, there will be no "porting out" carrier for Sprint to work with to arrange ports. In fact, Sprint is uncertain regarding what happens to numbers after the assigning provider ceases operations. It is possible, for example, that the numbers automatically will return to the pool of available numbers.

¹² See, e.g., *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, Waivers of iTRS Mandatory Minimum Standards*, Notice of Proposed Rulemaking, 28 FCC Rcd 13514, ¶ 30 (2013) (noting that "IP Relay, CTS and IP CTS are not mandatory").

¹³ Sprint recognizes that this policy may create particular concerns within the Deaf-Blind community, which is uniquely impacted by changes in the IP Relay marketplace. This community of users may benefit if Sprint were able to prioritize verification requests and/or calls from deaf-blind individuals on an interim basis as users are transitioned from Purple to Sprint. Should the Commission wish Sprint to implement such prioritization, Sprint seeks guidance from

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customers based on Purple's prior registration and verification findings, Sprint asks the Commission to confirm that it will not hold Sprint accountable for any calls made by individuals who later are found to be ineligible.

IV. CONCLUSION

For the foregoing reasons, Sprint requests that the Commission grant a temporary limited waiver of the IP Relay speed-of-answer requirements and confirm that Sprint's proposed approach to registering former Purple customers complies with all FCC rules and requirements.

Respectfully submitted,

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the Commission regarding whether such measures can be achieved without unreasonably discriminating against other users who benefit from IP Relay services. If the Commission believes this prioritization can be accomplished in accordance with the FCC's rules, Sprint also seeks guidance from the Commission on an objective means by which it can ascertain whether a given user is, indeed, deaf-blind. One possibility would be for Sprint to rely on subscriber list-equivalent information obtained from reputable third-party sources (*e.g.*, the American Association of Deaf-Blind or the Helen Keller Society).

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