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

November 17, 2014

Via Electronic Filing

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

Re: Sprint Corporation – Request for Expedited Mid-Cycle Rate Adjustment
CG Docket Nos. 03-123 and 10-51 – *Expedited Action Requested*

Dear Ms. Dortch:

Sprint Corporation (“Sprint”) hereby submits the attached Request for Expedited Mid-Cycle Rate Adjustment (“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, highly confidential and/or proprietary financial and commercial information, including cost data that are protected from disclosure by FOIA Exemption 4² and the Commission’s rules protecting information that is not

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).

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 all of 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 financial, commercial and other information not routinely available for public inspection. The Sprint Information concerns the company's provision of IP Relay Services and the costs of providing such services. This is company-specific, competitively-sensitive, business confidential and/or proprietary financial and commercial information concerning Sprint's operations that would not routinely be made available to the public, and has been carefully guarded from competitors. If it were disclosed, Sprint's competitors and 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 if it is to continue providing IP Relay Services in the aftermath of the exit from the marketplace of all other providers of these services, as described in its Request. 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 and financial information.⁴ This information can be used to determine information about Sprint's operations and finances that is sensitive for competitive and other reasons. This information

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)).

would not customarily be made available to the public in this form and customarily would be guarded from all 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. Moreover, much of the Sprint Information is relevant to the company's provision of other Telecommunications Relay Services, all of which are subject to vigorous competition. If the information is not protected, Sprint's competitors and 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 competitors and potential competitors could assess aspects of Sprint's commercial operations and financial position 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 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.* The confidential information contained in the Sprint Information is the same as or similar to the data and information that are required to be submitted to the Administrator of the Telecommunications Relay Fund under 47 C.F.R. § 64.604(c)(5)(iii). The Commission has recognized that such data and information are among the categories of commercial and

financial information that should be routinely treated as confidential, and the Commission's rules contemplate that this information will be accorded confidential treatment.⁵ 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 and financial information in question clearly satisfies this test.

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.⁶ 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,

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

Attachment

⁵ See 47 C.F.R. § 64.604(c)(5)(iii)(I) (“[t]he administrator shall keep all data obtained from contributors and TRS providers confidential and shall not disclose such data in company-specific form . . .”).

⁶ 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 EXPEDITED MID-CYCLE RATE ADJUSTMENT

Pursuant to sections 1.1 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 temporarily increase the IP Relay compensation rate to ensure that Sprint can continue providing IP Relay and integrate the customers currently served by Purple Communications, Inc. (“Purple”) now that Purple has exited the IP Relay business. Sprint asks that the requested rate increases be granted immediately and deemed effective as of November 14, 2014 – the date on which Purple discontinued its IP Relay service.

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 ceased providing IP Relay to existing customers on November 14, 2014.² Purple’s exit

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

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).

from the business follows closely after the decisions of AT&T Services, Inc.; Hamilton Relay, Inc.; and Sorenson Communications, Inc. to stop providing IP Relay service. This leaves Sprint as the only remaining provider of IP Relay.

Sprint typically handles approximately [BEGIN CONFIDENTIAL] [REDACTED] [END CONFIDENTIAL] IP Relay minutes per month.³ With the exit of the largest IP Relay provider, Sprint expects a sharp increase in its IP Relay call volumes and minutes of use. To accommodate these calls, Sprint respectfully urges the Commission to implement an interim rate that will, together with the Request for Emergency Temporary Limited Waiver filed on November 12, 2014, account for the exigent circumstances that Sprint currently faces. In particular, the Commission should increase the IP Relay compensation rate to [BEGIN CONFIDENTIAL] [REDACTED] [END CONFIDENTIAL] per minute for the first [BEGIN CONFIDENTIAL] [REDACTED] [END CONFIDENTIAL] minutes Sprint handles each month. This rate reflects Sprint's projected ongoing allowable costs of handling IP Relay calls after Purple's exit from the marketplace. Sprint asks that this interim rate take effect retroactive to November 14, 2014 and remain in place until the Commission sets a new IP Relay rate, presumably next June.

In addition, for minutes over the [BEGIN CONFIDENTIAL] [REDACTED] [END CONFIDENTIAL] minute threshold, the Commission should set the IP Relay compensation rate at [BEGIN CONFIDENTIAL] [REDACTED] [END CONFIDENTIAL], which will allow Sprint to recover the exogenous costs it will incur as a result of Purple's exit. This additional rate increase should take effect retroactive to November 14, 2014 and

³ See *infra* at Attachment B.

remain in effect for six months, at which time Sprint should have finished paying for the one-time costs associated with accommodating the expected influx of customers from Purple. Without these emergency adjustments to the IP Relay rate, Sprint will have little choice but to discontinue its IP Relay offering – a result the company would like to avoid.

II. THE COMMISSION SHOULD ADJUST THE IP RELAY RATE ON AN INTERIM BASIS

The current IP Relay compensation rate was calculated using information received from the companies that provided IP Relay services at the time the TRS Administrator, Rolka Loube Saltzer Associates LLC (“RLSA”), issued its data request.⁴ As outlined below, the current rate does not accurately reflect Sprint’s current allowable costs,⁵ and those costs will increase even further now that Purple has exited the market.

Current IP Relay Costs. In the course of conducting an internal review of its IP Relay business, Sprint discovered that the data it submitted to RLSA inadvertently underestimated Sprint’s IP Relay costs. As an initial matter, Sprint did not allocate a sufficient percentage of its TRS-related overhead costs to IP Relay. In making its data submissions to RLSA, Sprint typically totals the overhead costs involved in providing

⁴ See *Interstate Telecommunications Relay Services Fund: Payment Formula and Fund Size Estimate*, Rolka Loube Saltzer Associates LLC, CG Docket Nos. 03-123 and 10-51 (April 30, 2014).

⁵ As Sprint has explained in previous filings, the current rate methodology does not account for all of the costs that Sprint incurs in providing IP Relay. See, e.g., Comments of Sprint Corporation, CG Docket Nos. 03-123 and 10-51, at 3-9 (May 23, 2014). As a result, Sprint’s “allowable costs” are significantly lower than its actual costs. Nevertheless, Sprint is willing to maintain its IP Relay service on an interim basis at the rates proposed herein, in large part because of the public interest benefits of maintaining this critical service. Going forward, however, the FCC should give further consideration to the appropriate rate methodology and ultimately adopt a system that will not only ensure the viability of the service but also encourage innovation and high levels of service quality.

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services that are compensable from the TRS fund and then allocates these costs between those services based on the percentage of Sprint's total TRS minutes that each service represents. Sprint generally uses the allocation method for the costs included in four reporting categories: (1) Annual Recurring Fixed/Semi-Variable Expenses; (2) Annual Administrative Expenses; (3) Other TRS Expenses (except for subcontractor expenses, which are reported based on actual costs); and (4) Annual Recurring Variable Expenses. In making these allocations in its 2014 annual filing, Sprint underestimated the volume of IP Relay minutes it would have to handle. This increase in IP Relay minutes resulted in a concomitant increase in the proportion of Sprint's overall TRS minutes and expenses that are attributable to IP Relay. In Attachment A, Sprint provides updated projections for 2014 that account for the accurate, increased allocation to IP Relay with respect to the first three categories listed above.⁶

With respect to the final category (Annual Recurring Variable Expenses), Sprint has determined that it significantly underestimated the IP Relay costs associated with its [BEGIN CONFIDENTIAL] [REDACTED] [END CONFIDENTIAL] call center – a call center that handles a significant amount of Sprint's IP Relay traffic – due to a separate error in the allocation methodology. In particular, the minutes associated with the call center were allocated as if Sprint provided three TRS services from the center, when in fact Sprint provides only two TRS services from this location. In correcting this inadvertent error,

⁶ These projections are reflected in Attachment A in two different ways, both of which are based on RLSA's reporting categories. The first page of Attachment A outlines the expenses at a high level and includes notes explaining the changes in the various figures. The second page of Attachment A formats the information on the first page to reflect how a revised version of Sprint's RLSA filing would appear (*i.e.*, subdividing the numbers into additional cost categories).

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Sprint determined that it readily could calculate the costs of this category using direct attribution rather than an allocation methodology. Accordingly, Attachment A reflects the actual year-to-date 2014 IP Relay costs associated with the [BEGIN CONFIDENTIAL] [REDACTED] [END CONFIDENTIAL] call center combined with updated projections for the remainder of the year.

Finally, Attachment A reflects an updated projection for subcontractor expenses that reflects both the increased cost associated with an unexpected increase in call volume and the fact that the subcontractor is charging Sprint [BEGIN CONFIDENTIAL] [REDACTED] [END CONFIDENTIAL] per minute more than originally projected. Making all of the adjustments described above leads to allowable IP Relay costs of [BEGIN CONFIDENTIAL] [REDACTED] [END CONFIDENTIAL] per minute, which reflect the allowable costs that Sprint actually incurred *before* Purple exited the marketplace.

Costs After Purple Stopped Providing IP Relay Service. Purple's exit from the IP Relay marketplace renders the RLSA calculations underlying the existing rate obsolete in two additional ways, as Purple's departure increases Sprint's per-minute costs on an ongoing basis and creates short-term exogenous costs for which Sprint must be compensated.

As outlined above, Sprint's current allowable IP Relay costs are approximately [BEGIN CONFIDENTIAL] [REDACTED] [END CONFIDENTIAL] per minute. Purple's departure from the marketplace will increase these costs in a number of ways. First, Sprint's outside vendor has indicated that it will impose a higher per-minute rate going forward to account for the higher call volumes it expects to experience as a result of Purple's exit. Second, providing IP Relay over the longer term will require Sprint to make capital

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investments it had been avoiding in recent years (*e.g.*, spending the money needed to keep its website and agent interfaces up-to-date),⁷ and such investments are subject to an 11.25% rate of return.⁸ Finally, as outlined above, the expected increases in call volume will lead to an increase in the proportion of Sprint’s total overhead TRS costs that are attributable to IP Relay. After accounting for these three factors, Sprint projects that its allowable ongoing costs now that Purple has exited the marketplace would result in a compensation rate of [BEGIN CONFIDENTIAL] [REDACTED] [END CONFIDENTIAL] per minute based on the Commission’s existing rate methodology.

Purple’s departure from the IP Relay business also will require Sprint to incur certain short-term costs that it could not reasonably have anticipated when it submitted its original cost projections to RLSA. Most notably, in order to handle the increased call volumes brought on by Purple’s exist, Sprint must hire and train more communications assistants (“CAs”), set up additional workstations and obtain equipment to be used by these CAs, and hire more people to work on customer verification and transition matters. These expenses, which are outlined in more detail in Attachment B, represent approximately an additional [BEGIN CONFIDENTIAL] [REDACTED] [END CONFIDENTIAL] per minute over the next

⁷ As the market for IP Relay has declined in recent years, Sprint (along with other providers) has made few, if any, capital expenditures, instead relying on the network and infrastructure already in place. Sprint cannot continue to avoid these investments, however, if it is to remain in the IP Relay business.

⁸ *See, e.g., Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Report and Order and Declaratory Ruling, 22 FCC Rcd 20140, ¶ 49 (2007) (“Providers are entitled to their reasonable costs of providing service consistent with the mandatory minimum standards, as well as an 11.25% rate of return on capital investment so that they are not left to finance reasonable capital investments out of pocket.”).

six months for each minute over Sprint’s average monthly total of [BEGIN CONFIDENTIAL] [REDACTED] [END CONFIDENTIAL] IP Relay minutes.⁹

Accordingly, Sprint requests an interim IP Relay rate of [BEGIN CONFIDENTIAL] [REDACTED] [END CONFIDENTIAL] per minute up to [BEGIN CONFIDENTIAL] [REDACTED] [END CONFIDENTIAL] minutes and, for the next six months, a rate of [BEGIN CONFIDENTIAL] [REDACTED] [END CONFIDENTIAL] for each additional minute above [BEGIN CONFIDENTIAL] [REDACTED] [END CONFIDENTIAL] to account for the short-term exogenous costs that Sprint will incur to absorb Purple’s IP Relay traffic. After the six-month period with the higher rate has ended, the Commission should continue to set the IP Relay rate at a level no lower than [BEGIN CONFIDENTIAL] [REDACTED] [END CONFIDENTIAL] until a new rate (or rate methodology) is established. These interim rates should take effect retroactive to November 14, 2014 – the date on which Purple ceased providing IP Relay service. This will allow Sprint to recover at least its FCC-recognized costs. Absent adequate compensation at these levels, Sprint will have no option but to discontinue IP Relay service. Sprint simply cannot be expected to make the investments required to remain in the IP Relay business and

⁹ The Commission’s IP Relay rate methodology explicitly allows for adjustments based on exogenous costs. *Id.* ¶ 44. The investments and costs needed to absorb Purple customers clearly constitute exogenous costs – *i.e.*, “costs beyond the control of . . . IP Relay providers that are not reflected in the inflation adjustment” – that require an adjustment to the compensation rate. *Id.* To the extent that Sprint incurs, or is required to incur, additional unexpected exogenous costs that are not outlined in Attachment B, Sprint would seek compensation for these costs.

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meet the increased demand it will face without an assurance that it will receive sufficient compensation.¹⁰

III. CONCLUSION

For the foregoing reasons, Sprint requests that the Commission temporarily set the IP Relay compensation rate at [BEGIN CONFIDENTIAL] [REDACTED] [END CONFIDENTIAL] per minute up to [BEGIN CONFIDENTIAL] [REDACTED] [END CONFIDENTIAL] minutes per month and at [BEGIN CONFIDENTIAL] [REDACTED] [END CONFIDENTIAL] for each additional minute, effective as of November 14, 2014.

Respectfully submitted,

/s/ Scott R. Freiermuth

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¹⁰ Even before Purple announced its plans, Sprint had been contemplating its own exit from the IP Relay business because it was providing services below its costs and without profit. See discussion *supra* at footnote 5.

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ATTACHMENT A

**[CONFIDENTIAL ATTACHMENT –
REDACTED IN ITS ENTIRETY]**

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ATTACHMENT B

**[CONFIDENTIAL ATTACHMENT –
REDACTED IN ITS ENTIRETY**

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