



Scott R. Freiermuth
913-315-8521 (office)

Counsel – Government Affairs
6450 Sprint Parkway
KSOPHN0304 – 3B521
Overland Park, KS 66251
scott.r.freiermuth@sprint.com

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

April 3, 2015

Via Electronic Filing

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

Re: Sprint Corporation – Request for Extension of Temporary Limited Waiver
CG Docket No. 03-123 – *Expedited Action Requested*

Dear Ms. Dortch:

Sprint Corporation (“Sprint”) hereby submits the attached Request for Extension of 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 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 an extension of the waiver, as sought in its Request, in the aftermath of the exit from the marketplace of all other providers of IP Relay services. Sprint has been required to accommodate a sharp increase in IP Relay users and associated call volumes and minutes of use, and the transition has not concluded, although Sprint continues to work diligently to keep up with the influx of users. 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 No. 03-123.

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)	
)	
Telecommunications Relay Services and)	CG Docket No. 03-123
Speech-to-Speech Services for Individuals)	
with Hearing and Speech Disabilities)	EXPEDITED ACTION REQUESTED

REQUEST FOR EXTENSION OF 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”) requests an extension of the waiver of the IP Relay speed-of-answer requirements that the Consumer and Governmental Affairs Bureau previously granted to Sprint.² The current waiver is set to expire on April 15, 2015, and Sprint hereby seeks an extension of the waiver until June 30, 2015. As explained below, an extension of the waiver is necessary in light of resource constraints that continue to hamper Sprint’s ability to meet the speed-of-answer requirement.

I. BACKGROUND AND INTRODUCTION

On October 15, 2014, Purple Communications Inc. (“Purple”) announced its decision to exit the IP Relay market, and the company discontinued service on November 14, 2014. With the exit of the largest IP Relay provider, Sprint – the sole remaining IP Relay service provider – expected to incur a sharp increase in its IP Relay call volumes and minutes of

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

² *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Order, 29 FCC Rcd 14882, ¶ 1 (2014) (DA 14-1826) (“*Waiver Order*”); *see also* 47 C.F.R. § 64.604(b)(2)(ii) (requiring IP Relay providers to answer 85 percent of calls within 10 seconds, measured daily).

use. Accordingly, on November 12, 2014, Sprint sought a temporary waiver of the IP Relay speed-of-answer rule. The Commission granted this waiver on December 12, 2014, and the waiver is due to expire on April 15, 2015.³

As expected, the influx of new customers and increased traffic that resulted from Purple's exit from the IP Relay business has proven fairly overwhelming.⁴ In the four months since the waiver was granted, Sprint has assigned over [BEGIN CONFIDENTIAL] [REDACTED] [END CONFIDENTIAL] new 10-digit IP Relay numbers and the number of "active users" has increased by [BEGIN CONFIDENTIAL] [REDACTED] [END CONFIDENTIAL] resulting in a commensurate increase of [BEGIN CONFIDENTIAL] [REDACTED] [END CONFIDENTIAL] in conversation minutes.

While Sprint has worked diligently to keep up with this spike in demand and continues to hire and train Communications Assistants ("CAs") as quickly as possible, it has not always been able to meet the speed-of-answer requirement. Indeed, Sprint has missed the requirement [BEGIN CONFIDENTIAL] [REDACTED] [END CONFIDENTIAL] since November 14, 2014. Thus, the waiver has proven to be absolutely essential, as Sprint could not have sustained its IP Relay business if it had been denied compensation for [BEGIN CONFIDENTIAL] [REDACTED] [END CONFIDENTIAL] of service. Moreover, the waiver remains essential to Sprint's ability to continue providing IP Relay over the next several

³ *Waiver Order* ¶ 1.

⁴ Consistent with the terms of the *Waiver Order*, Sprint has submitted monthly reports to the Commission demonstrating the impact of Purple's exit. *Id.* ¶ 7 & n.27. Sprint is willing to continue filing such monthly reports should the Commission grant an extension of the waiver.

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months as Sprint continues to add new IP Relay subscribers at significantly higher levels than it did before Purple's exit.

In addition, Sprint's ability to keep up with IP Relay demand is exacerbated by new increased demand for state-funded relay services. At the same time that Purple exited the IP Relay business, AT&T began the process of discontinuing its traditional relay services in several states. To date, Sprint has been awarded relay contracts in four states that were formerly served by AT&T, and Sprint has begun providing relay services in two of these states over the past few months.

This new business has had – and will continue to have – a dramatic impact on Sprint's relay call volumes as additional states transition to Sprint. Sprint has already seen its call volumes jump as a result of this new state relay traffic. In fact, Sprint's TRS volumes increased approximately [BEGIN CONFIDENTIAL] [REDACTED] [END CONFIDENTIAL] in the last two months alone, and Sprint expects call volumes to increase up to [BEGIN CONFIDENTIAL] [REDACTED] [END CONFIDENTIAL] by the end of June. Notably, this new state relay call volume has been at least partially responsible for the fact that Sprint missed the IP Relay speed-of-answer requirement [BEGIN CONFIDENTIAL] [REDACTED] [END CONFIDENTIAL] in February 2015. Sprint expects this trend to continue in the coming months as Sprint on-boards new states.

While IP Relay and state relay are distinct services, Sprint uses the same resources to provide both services. Indeed, as Sprint has shared with the Commission on many occasions, the same CAs and the same relay call centers provide both IP Relay services and state relay services. To handle the demands of both new IP Relay traffic and new state relay

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traffic, Sprint estimates that it will need to add approximately [BEGIN CONFIDENTIAL] [REDACTED] [END CONFIDENTIAL] full time employees – consisting primarily of CAs – to handle the demands of the new IP Relay traffic and new state TRS traffic. Despite working diligently to address this shortfall, Sprint has thus far been able to hire less than [BEGIN CONFIDENTIAL] [REDACTED] [END CONFIDENTIAL]. Adding new CAs is not a quick, turnkey operation, particularly given that Sprint is selective in the hiring process and provides extensive training to ensure that its CAs meet both the federal minimum standards and Sprint’s standards for high-quality service.

In sum, the increase in call volumes caused by the departures of Purple from the IP Relay business and AT&T from the intrastate TRS business have compromised Sprint’s ability to answer 85 percent of all IP Relay calls within 10 seconds, as required by the Commission’s rules.⁵ Thus, unless the current waiver is extended, Sprint likely will be deprived of compensation for the IP Relay services it provides as a result of these circumstances.⁶ As Sprint has explained in prior filings, the margins for its IP Relay business are so slim that it could not afford to stay in the business if it was deprived of revenues for entire days where it fails to meet the IP Relay speed-of-answer requirement.

⁵ 47 C.F.R. § 64.604(b)(2)(ii).

⁶ 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 Payments*, 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).

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II. AN EXTENSION OF THE 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.”⁷

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.”⁸ Waiver is particularly appropriate where “special circumstances warrant a deviation from the general rule and such deviation will serve the public interest.”⁹

In this case, given the “special circumstances” created by the departure of both Purple and AT&T from the relay marketplace, waiver of the Commission’s speed-of-answer rules is necessary to prevent Sprint from being unfairly penalized for the sudden increase in the volume of relay calls it is handling in the absence of other providers. As noted above, Sprint is responding to these changes in the marketplace as quickly as possible, but does not believe it will be able to meet the speed-of-answer requirements on a daily basis until the end of June 2015. Thus, without a waiver of the applicable rule, Sprint will likely be denied payment for entire days and be exposed to the risk of even more draconian penalties.¹⁰

⁷ 47 C.F.R. § 1.3.

⁸ *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)).

⁹ *Northeast Cellular Tel. Co. v. FCC*, 897 F.2d at 1166 (referencing *WAIT Radio*).

¹⁰ *See supra* note 6.

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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. Given the fact that Sprint is the only remaining IP Relay service provider, if it were forced to exit the market, countless individuals with hearing loss who depend on IP Relay for their communications would be deprived entirely of this form of relay service. These are the very individuals that are protected by the Americans with Disabilities Act and that the telecommunications relay service program was created to serve.

III. CONCLUSION

For the foregoing reasons, Sprint requests that the Commission extend the current waiver of the IP Relay speed-of-answer requirements until June 30, 2015.

Respectfully submitted,

/s/ Scott R. Freiermuth

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Counsel – Government Affairs
Sprint Corporation
6450 Sprint Parkway
Overland Park, KS 66251
(913) 315-8521
scott.r.freiermuth@Sprint.com

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