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

September 23, 2015

Via Electronic Filing

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

Re: Sprint Corporation – Petition for Interim Waiver
CG Docket No. 03-123 – *Expedited Action Requested*

Dear Ms. Dortch:

Sprint Corporation (“Sprint”) hereby submits the attached redacted version of its Petition for Interim Waiver (“Waiver Petition”), the confidential version of which is being filed by hand delivery to the Federal Communications Commission (“FCC” or “Commission”). Pursuant to Exemption 4 of the Freedom of Information Act (“FOIA”) and the FCC’s rules,¹ Sprint requests confidential treatment for the information that has been redacted in the attached Waiver Petition (“Sprint Information”), which contains commercially sensitive information. The Sprint Information relates to Sprint’s provision of Telecommunications Relay Services (“TRS”) and includes company-specific, confidential commercial information, including information that is protected from disclosure by FOIA

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”).

Exemption 4² and the 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 Sprint Information 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 TRS and its provision of long distance services to TRS customers, as well as Sprint's relationship and interconnection with other long distance service providers. This is company-specific, competitively-sensitive, business confidential and/or proprietary commercial information concerning the operations of Sprint and other providers that would not routinely be made available to the public.

2. *Identification of the Commission proceeding in which the information was submitted or a description of the circumstance giving rise to the submission.* Sprint is submitting its Waiver Petition for inclusion in the record of the Commission's docketed proceeding regarding Telecommunications Relay Services, CG Docket No. 03-123. Additionally, Sprint and Hamilton Relay, Inc. are submitting a Joint Petition for Rulemaking seeking permanent rule changes with respect to the two rules discussed in the attached Waiver Petition. The Joint Petition for Rulemaking likewise is filed in CG Docket No. 03-123, and may be assigned a docket number in the form "RM-____" by the FCC.

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 and its relationship and interconnection with other long distance providers that is sensitive for competitive and other reasons. This information would not customarily be made available to the public and would be guarded from all others.

² 5 U.S.C. § 552(b)(4).

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)).

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 TRS and long distance calling options available to TRS customers, including the share of such calls carried by Sprint and certain other providers, which services are subject to competition. If the Sprint Information 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 and others.

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.

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.

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

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*

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

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).

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

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 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

PETITION FOR INTERIM WAIVER

Pursuant to section 1.3 of the Federal Communications Commission’s (“FCC’s” or “Commission’s”) rules,¹ Sprint Corporation (“Sprint”) hereby requests an interim waiver of two mandatory minimum requirements that currently apply to its traditional Telecommunications Relay Service (“TRS”) and Captioned Telephone Service (“CTS”) offerings. In particular, Sprint seeks an interim waiver of: (1) the equal access requirement, which requires providers to offer consumers access to their interexchange carrier of choice to the same extent that such access is provided to voice users;² and (2) the obligation to “be capable of handling any type of call normally provided by telecommunications carriers” to the extent that it requires providers to offer users the “same billing options (*e.g.*, sent-paid long distance, operator-assisted, collect, and third party billing) traditionally offered for wireline voice services” (hereinafter referred to as the “billing option” requirement).³ For the reasons outlined below, an interim waiver of these requirements should apply to the

¹ 47 C.F.R. § 1.3.

² 47 C.F.R. § 64.604(b)(3).

³ 47 C.F.R. § 64.604(a)(3)(ii).

extent that a traditional TRS or CTS provider does not charge for long-distance service.⁴ This interim waiver should remain in effect until the Commission decides in a rulemaking proceeding whether to grant a permanent exemption from these requirements.⁵

I. BACKGROUND AND SUMMARY

The FCC adopted the equal access and billing option requirements more than twenty years ago, when per-minute long-distance charges were standard and standalone long-distance service was a thriving industry. Today, however, most telephone subscribers purchase bundled calling plans that have rendered per-minute charges for long-distance calls and standalone long-distance service increasingly uncommon. As outlined more fully in the Joint Petition for Rulemaking filed concurrently herewith, the equal access and billing option obligations have little utility once these per-minute long-distance charges have been eliminated.

If the Commission grants this interim waiver, Sprint intends to largely eliminate the charges it currently imposes for carrying traditional TRS and CTS long-distance calls. Accordingly, there would be no useful purpose in continuing to require Sprint to comply with the equal access and billing option requirements when it does not impose such charges. Moreover, as set forth below, granting a waiver of these requirements would serve the

⁴ To the extent that traditional TRS and CTS providers continue to impose long-distance charges, they would, of course, continue to be subject to these requirements. Similarly, providers could impose charges or offer billing options only to certain subsets of customers and be subject to the requirements only with respect to those customers.

⁵ *See Hamilton Relay, Inc. and Sprint Corporation Joint Petition for Rulemaking to Reform the Commission's Mandatory Minimum Requirements for Traditional TRS and CTS Providers*, Joint Petition for Rulemaking, CG Docket No. 03-123, RM-_____ (Sept. 23, 2015).

public interest by benefitting traditional TRS and CTS users and making the TRS program more efficient.

II. GRANTING A WAIVER OF THE EQUAL ACCESS AND BILLING OPTION REQUIREMENTS IS IN THE PUBLIC INTEREST

Waiver of Commission rules is permitted upon a showing of “good cause.”⁶

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.”⁷ Waiver is particularly appropriate where “special circumstances warrant a deviation from the general rule and such deviation will serve the public interest.”⁸ In this case, granting an interim waiver of the equal access and billing option requirements would improve service for traditional TRS and CTS users, advance the transition to IP-based technology, and allow the TRS program to be operated more effectively.

A. An Interim Waiver of the Equal Access and Billing Option Requirements Would Benefit Sprint’s Traditional TRS and CTS Users

Sprint’s traditional TRS and CTS users would benefit immediately from the requested interim waiver of the equal access and billing option requirements in at least three ways. First, users that still pay long-distance charges in order to place traditional TRS or

⁶ 47 C.F.R. § 1.3.

⁷ *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)).

⁸ *Northeast Cellular Tel. Co. v. FCC*, 897 F.2d at 1166 (referencing *WAIT Radio*).

CTS calls no longer would be required to do so when Sprint operates pursuant to the requested waiver.⁹

Second, waiving the equal access requirement would simplify the process for placing a long-distance call. To comply with the equal access requirement, Sprint sometimes must ask traditional TRS users to name, on a per-call basis, their preferred long-distance provider. Similarly, Sprint sometimes must advise an individual who attempts to place a long-distance call to a CTS user of the need to register a preferred provider for long-distance calls. Many users understandably find this question or advisory to be confusing given the infrequency with which consumers today use a standalone long-distance service that assesses per-minute charges. When users name a long-distance provider rather than rely on the default carrier,

⁹ The provision of free long-distance service to traditional TRS and CTS customers is consistent with the Communications Act of 1934, as amended (the “Act”), which requires only that TRS users “pay rates *no greater than* the rates paid for functionally equivalent voice communication services with respect to such factors as . . . the distance from point of origin to point of termination.” 47 U.S.C. § 225(d)(1)(D) (emphasis supplied). When granting the waiver requested in this Petition, the Commission should confirm that Sprint and similarly-situated providers would continue to be compensated from the TRS Fund for the costs incurred in originating traditional TRS and CTS calls. In so doing, the Commission would avoid any potential implication that the provision of free long-distance service constitutes an impermissible financial incentive. *See Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Order, 20 FCC Rcd 12503 (2005). Notably, the Commission found that the provision of free long-distance service is impermissible “only [in] the situation where TRS consumers, but not other consumers, are given free long distance service . . . as [an] incentive for the consumer to use the particular TRS provider that also offers the long distance service, or to make more or longer TRS calls.” *Id.* ¶ 6 n.18. To the extent that Sprint ceases billing for traditional long-distance TRS calls, it will no longer bill for any long-distance calls, because Sprint intends to discontinue its provision of wireline consumer long-distance services and associated features in the near future. *See* Section 63.71 Application of Sprint Communications Company L.P., WC Docket No. 15-186 (June 19, 2015). In addition, Sprint’s offering of free long-distance services is not motivated by the desire to increase its TRS users or minutes. Accordingly, the offering of free long-distance service would be permitted in this circumstance, and the associated minutes of traditional TRS and CTS traffic would be compensable.

Sprint's TRS or CTS agent then must take the time to set up and deliver the long-distance call to the specific carrier that was requested. These manual steps increase the time it takes to complete a call, thereby inconveniencing the TRS or CTS consumer. Notably, this delay also undermines the "functional equivalency" of TRS services because non-TRS users seldom, if ever, need to answer these questions when placing a long-distance call.¹⁰

Third, the requested waiver from these requirements would ensure that more long-distance calls are completed successfully. Customers who choose a long-distance carrier on a per-call basis often complain that they are unable to place the call in question using their selected carrier. Unfortunately, there is little that Sprint can do to resolve this problem, because it is caused by a variety of different reasons, all of which are beyond Sprint's control. For example, a user may not have an account with the long-distance carrier the user requests.¹¹ Grant of the requested interim waiver would remove this unnecessary aggravation for traditional TRS and CTS consumers.

¹⁰ In 2007, the Commission forbore from applying the equal access scripting requirement to the Bell Operating Companies ("BOCs") and waived the requirement for their independent incumbent LEC affiliates. *Petition of USTelecom for Forbearance Under 47 U.S.C. § 160(c) from Enforcement of Certain Legacy Telecommunications Regulations, et al.*, Memorandum Opinion and Order and Report and Order and Further Notice of Proposed Rulemaking and Second Further Notice of Proposed Rulemaking, 28 FCC Rcd 7627, ¶ 11 n.27 (2013) ("2013 Forbearance Order") (citing *Section 272(f)(1) Sunset of the BOC Separate Affiliate and Related Requirements, et al.*, Report and Order, 22 FCC Rcd 16440, ¶¶ 125-26 (2007) (forbearing from the equal access scripting requirement for Verizon, Qwest, and AT&T, and waiving the requirement for their non-BOC affiliates)). In 2013, the FCC forbore from applying the requirement to the remaining independent incumbent LECs' mass market long distance calling services. *2013 Forbearance Order* ¶ 16 (finding it "not 'necessary for the protection of consumers'").

¹¹ While Sprint does not reject TRS calls for this reason, a number of long-distance providers do.

B. Grant of the Requested Interim Waiver Would Serve the Public Interest in Additional Ways

Granting an interim waiver of the equal access and billing option requirements would more effectively implement the Commission’s policy of “not discourag[ing] or impair[ing] the development of improved technology.”¹² Failure to grant the requested relief, in contrast, would delay Sprint’s efforts to upgrade its wireline TRS and CTS platform to next generation, IP-based technology. In particular, as part of upgrading its network, Sprint would have to either maintain a portion of its TDM network solely for the purpose of fulfilling the equal access and billing option requirements or undertake the taxing process of replicating and maintaining these capabilities on an IP platform. The Commission can and should avoid these undesirable results by granting the relief requested herein.

In addition, waiving the equal access and billing option requirements when Sprint does not charge traditional TRS and CTS users for placing long-distance calls would more effectively implement the TRS program and aid the Commission in fulfilling its statutory duty to make TRS available “in the most efficient manner.”¹³ As noted, the calling process would be less time-consuming and less confusing, and thus more efficient, for users. In addition, Sprint anticipates that it would be simpler for the TRS Fund administrator to carry out its oversight duties because TRS and Internet-based TRS (“iTRS”) providers would be treated in a similar manner with respect to these types of calls.

¹² 47 U.S.C. § 225(d)(2).

¹³ 47 U.S.C. § 225(b)(1).

C. An Interim Waiver of the Equal Access and Billing Option Requirements Would Not Be Inconsistent with the Public Interest

Granting Sprint and similarly-situated providers a waiver of the equal access and billing option requirements to the extent that they do not assess charges for long-distance traditional TRS or CTS would not harm the public interest, because there are no countervailing public interest concerns that the requirements are needed to address in these circumstances. For example, the equal access requirement originally was imposed to ensure that TRS users are not required to “pay rates that are higher than those charged by their preferred carrier.”¹⁴ To the extent that Sprint or other carriers no longer assess charges for carrying long-distance TRS or CTS calls, however, this concern would be eliminated.

Indeed, Sprint has found that its traditional TRS and CTS users infrequently take advantage of the long-distance calling options required by the equal access and billing option requirements in today’s competitive environment. For example, while Sprint’s traditional TRS platform maintains interconnection with **[begin confidential information]** **[end confidential information]** other long-distance carriers, traditional TRS users actively request very few of these carriers. In one sample month, **[begin confidential information]** **[end confidential information]** long-distance carriers handled less than **[begin confidential information]** **[end confidential information]** of the long-distance calls initiated by Sprint’s traditional TRS users. Instead, Sprint handled more than **[begin confidential information]** **[end confidential information]** of the toll traditional TRS calls, primarily as a default carrier,

¹⁴ *Common Carrier Bureau Reminds All Common Carriers of Their Obligation to Provide Access to Their Telecommunications Services via Telecommunications Relay Services*, Public Notice, 15 FCC Rcd 9916 (1999).

while the remaining calls were carried principally by only **[begin confidential information]** **██████** **[end confidential information]** carriers. Accordingly, granting the requested waiver would advance, and in no way harm, the public interest.

III. CONCLUSION

For the foregoing reasons, Sprint requests that the Commission grant an interim waiver of the equal access and billing option requirements to Sprint and other traditional TRS and CTS providers to the extent that they do not assess toll charges for long-distance calls, pending final Commission action in a rulemaking proceeding to determine whether the rules should be modified in those circumstances.

Respectfully submitted,

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