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

June 6, 2016

Via Electronic Filing

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

Re: *Payment Formulas and Funding Requirement for the Interstate
Telecommunications Relay Services Fund for the 2016-17 Fund Year
CG Docket Nos. 03-123 & 10-51*

Dear Ms. Dortch:

Sprint Corporation (“Sprint”) hereby submits the attached *ex parte* letter to provide supplemental information with respect to its costs of providing IP Relay services. 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 *ex parte* letter and accompanying financial information (“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

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 all of the redacted information contained in the attached *ex parte* letter and appended supplemental cost 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 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 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 is submitting this information with respect to the costs of providing IP Relay services, which information is used by the Commission to establish cost recovery compensation rates for telecommunications relay service providers. A redacted version of the submission is being submitted for inclusion of the record in the Commission's above-referenced docketed proceeding.

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

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)).

operations and finances that is sensitive for competitive and other reasons. This information 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 was once 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 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,

/s/ Scott R. Freiermuth

Scott R. Freiermuth

Counsel – Government Affairs, Federal Regulatory

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).



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Re: *Payment Formulas and Funding Requirement for the Interstate
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CG Docket Nos. 03-123 & 10-51

Dear Ms. Dortch:

Sprint Corporation (“Sprint”) recently filed comments explaining why the proposed provider compensation rate for IP Relay is inadequate.¹ At this time, Sprint wishes to supplement the record by providing the additional cost information set forth in Attachment A, which further demonstrates why the IP Relay rate should not be reduced. In particular, the proposed rate of \$1.2112 per minute would not permit Sprint to enhance its IP Relay offering to better meet the needs of individuals who are both deaf and blind or to engage in much-needed outreach.

¹ Comments of Sprint Corporation, CG Docket Nos. 03-123 & 10-51 (May 24, 2016) (“Sprint Comments”). *See also Rolka Loube Associates Submits Payment Formulas and Funding Requirement for the Interstate Telecommunications Relay Services Fund for the 2016-17 Fund Year*, CG Docket Nos. 03-123 & 10-51, Public Notice, DA 16-518 (rel. May 9, 2016).

As an initial matter, the Commission should permit Sprint to be compensated for implementing certain enhancements designed to better serve the deaf-blind community. The Commission has recognized that the “ability to communicate enables people to be independent, productive, safe and secure,” but “accessibility barriers confronting people who are deaf-blind have largely prevented this community from enjoying these benefits.”² In recognition of these barriers and at the Commission’s urging, Sprint has held a number of meetings with members of this community to obtain feedback regarding targeted changes that would improve the overall accessibility, mobility, and usability of IP Relay. The proposed enhancements will be carried out through three separate projects. The first involves improvements to the mobility and accessibility of Sprint IP Relay apps on the Android and Apple platforms. Today, native accessibility within these platforms can conflict with the Sprint IP Relay app, resulting in confusion to a deaf-blind user. The second project involves simplifying the user registration process, so that registration can be completed through the IP Relay app. Such device-based registration improves the accessibility and mobility of Sprint IP Relay service. The third project tackles feedback from deaf-blind users that Sprint’s IP Relay website is not optimized for some popular web browsers. This project therefore focuses on improvements to the Sprint IP Relay website to ensure that it integrates well with web browsers including Safari and Chrome. While the costs of implementing these upgrades were not yet quantified when Sprint initially submitted its cost information to Rolka Lube, Sprint now has obtained quotes from vendors. There can be no doubt that permitting Sprint to implement these service enhancements will bolster “functional equivalence” and advance the public interest.

In addition to the costs of these service enhancements, Sprint seeks to recover limited outreach-related funding, in order to educate the deaf-blind community regarding the new functionalities Sprint is implementing and to perform broader outreach related to IP Relay generally. Sprint recognizes that the Commission previously prohibited IP Relay providers from including outreach costs in their annual cost submissions, instead establishing the iTRS National Outreach Program to conduct and coordinate IP Relay and VRS outreach nationwide.³ Sprint understands, however, that this program is still in the planning stages. Accordingly, in order to “improve[e] the availability of TRS through education of TRS users

² *Implementation of the Twenty-First Century Communications and Video Accessibility Act of 2010, Section 105, Relay Services for Deaf-Blind Individuals*, Report and Order, 26 FCC Rcd 5640, ¶ 1 (2011).

³ *Structure and Practices of the Video Relay Service Program; Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Report and Order and Further Notice of Proposed Rulemaking, 28 FCC Rcd 8618, ¶ 23 (2013).

and the hearing population alike,”⁴ Sprint wishes to engage in targeted outreach until the national program is fully effectuated.

Notably, the concerns that led the Commission to eliminate outreach funding no longer exist in the IP Relay marketplace. The Commission suspended funding based on a finding that TRS providers had devoted money “to individual branded marketing campaigns, which . . . focus primarily on efforts to win back TRS users from competitors, often in conjunction with expensive and enticing giveaways of free products, such as iPads and TV sets.”⁵ Given that Sprint is the only remaining IP Relay provider, the Commission’s concern regarding this use of outreach funding no longer militates in favor of precluding Sprint from receiving outreach-related support.

Moreover, Sprint’s proposed outreach costs are quite reasonable. The Commission allocated \$2,000,000 to establish the pilot iTRS National Outreach Program.⁶ Sprint’s proposed outreach funding of approximately [BEGIN CONFIDENTIAL] [REDACTED] [END CONFIDENTIAL] represents only [BEGIN CONFIDENTIAL] [REDACTED] [END CONFIDENTIAL] of this amount.⁷ The amount Sprint proposes to use specifically on outreach to the deaf-blind community also is reasonable. The Commission recently proposed to “reduce the amount of money spent on national outreach to \$250,000” for the first three years of the permanent National Deaf-Blind Equipment Distribution Program based on its conclusion that more deaf-blind individuals were now aware of the program.⁸ Even if the Commission adopts this reduced funding, it still would be allocating more to this program than Sprint seeks for informing and educating deaf-blind individuals about *new* capabilities.

⁴ *Id.* ¶ 15.

⁵ *Id.* ¶ 31.

⁶ *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; Structure and Practices of the Video Relay Service Program*, Order, 29 FCC Rcd 8044, ¶ 22 (2014).

⁷ When the Commission adopted the outreach program, it would appear that IP Relay represented more than 21% of the combined IP Relay/VRS projected minutes of use. *See Interstate TRS Fund Performance Status Report: June 2013*, Rolka Loube Associates, http://media.wix.com/ugd/455e4d_ba61f9b0649_f4357945bd3b7679a1318.pdf.

⁸ *Implementation of the Twenty-First Century Communications and Video Accessibility Act of 2010, Section 105, Relay Services for Deaf-Blind Individuals*, Notice of Proposed Rulemaking, 30 FCC Rcd 5255, ¶ 61 (2015).

Sprint – the only remaining provider of IP Relay services – cannot sustain its high-quality service if the IP Relay rate is reduced from \$1.37 to \$1.2112.⁹ This proposed rate ultimately would harm the many individuals who continue to rely on IP Relay services. As the Commission has found, the “consequences of Sprint’s termination of IP Relay service would be severe for consumers who are deaf, deaf-blind, hard-of-hearing, or have speech disabilities.”¹⁰ To avoid this deleterious outcome, the Commission should stay the rate at its current level of \$1.37 and immediately open a proceeding to overhaul the IP Relay system, including by moving away from the cost-plus rate-setting methodology.

This filing is made in accordance with Section 1.1206(b)(2) of the Commission’s rules.¹¹ In the event that there are any questions concerning this matter, please contact the undersigned.

Respectfully submitted,

/s/ Scott R. Freiermuth
Scott R. Freiermuth
Counsel, Government Affairs,
Federal Regulatory

cc: Karen Peltz Strauss
Robert Aldrich
Darryl Cooper
Eliot Greenwald

⁹ Sprint Comments at 2.

¹⁰ *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Order, 29 FCC Rcd 16273, ¶ 7 (2014) (further finding that “certain categories of consumers currently rely upon IP Relay service as their sole or primary means of communicating by telephone, including consumers who are deaf-blind or have speech disabilities, as well as deaf or severely hard-of-hearing consumers who do not know or are not comfortable with the use of American Sign Language”).

¹¹ 47 C.F.R. § 1.1206(b)(2).

ATTACHMENT A

[BEGIN CONFIDENTIAL INFORMATION]

Projected Sprint Conversation Minutes for Jul 16-Jun 17

[REDACTED]

Original
\$ [REDACTED]

Rate As Currently Proposed by RL

Items Sprint believes should be included:

A)	Outreach Included in 2016 Filing Amount	real cost to Sprint	\$ [REDACTED]	\$ [REDACTED]
B)	Upgrade Platform To Accommodate Deaf/Blind Functionality			
	Cost to Upgrade Applications (Apple/Android)	Vendor Quote	\$ [REDACTED]	\$ [REDACTED]
	Cost to support user registration on the device	IT LOE	\$ [REDACTED]	\$ [REDACTED]
	Cost to Integrate into Sprint IP Websites	IT LOE	\$ [REDACTED]	\$ [REDACTED]
C)	Additional Outreach to Deaf/Blind Community		\$ [REDACTED]	\$ [REDACTED]
D)	Additional Headcount to Support Deaf/Blind Marketplace		\$ [REDACTED]	\$ [REDACTED]
			\$ [REDACTED]	\$ [REDACTED]
	Total Additional Rate Requested		\$ [REDACTED]	\$ [REDACTED]
	Request to Stay Rate at Current Levels		\$ [REDACTED]	\$ [REDACTED]

[END CONFIDENTIAL INFORMATION]

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