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Via Electronic Filing

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

Re: Purple's Counterpetition for Rulemaking
CG Docket No. 03-123; WC Docket No. 05-196

Dear Ms. Dortch:

To date, Sorenson Communications, Inc. ("Sorenson") has abstained from the debate over whether the Commission should change the rules governing the responsibilities of former default Video Relay Service ("VRS") providers once a user ports his or her number to a new provider.¹ Sorenson feels compelled, however, to respond to the factually inaccurate and legally suspect comments and "Counterpetition for Rulemaking" filed by Purple Communications, Inc. ("Purple").² In addition to being untimely,³ Purple's filing mischaracterizes the facts and proposes a Sorenson-specific rule that, if adopted, would be unlikely to survive judicial scrutiny.

¹ See 47 C.F.R. § 64.611(e); see also Public Notice, *Petition for Rulemaking Filed*, Report No. 2888 (rel. April 24, 2009) (seeking comment on Petition for Rulemaking filed by CSDVRS, Snap, Sprint Nextel and Viable) ("Public Notice"). Sorenson urges the Commission to maintain its current rules regarding the treatment of customer premises equipment ("CPE") after a user has ported his or her number to a new default provider. Those rules better serve the interests of consumers than alternative proposals, and Sorenson has done extensive work to comply with the rules. If, however, the FCC decides to change its rules, the next best option is the one proposed by CSDVRS, *et al.* in their initial Petition for Rulemaking.

² Comments on and Counterpetition for Rulemaking on VRS Equipment Porting of Purple Communications, Inc., CG Docket No. 03-123 (May 13, 2009) ("Counterpetition").

³ Purple filed its Counterpetition on May 13, at least two days after the deadline established by the FCC's Public Notice. See Public Notice (requiring that comments be filed no later than 15 days after the date of the Public Notice).

Among other misstatements, Purple claims that the current rules are “unworkable”⁴ and that “[n]o practical means exists to enable providers to accept routing information from end user equipment distributed by other providers.”⁵ This claim is belied by the fact that Sorenson has developed and circulated an industry standard to facilitate the handling of calls by default providers who did not issue the equipment that their customers are using to make and receive calls. Furthermore, during technical meetings with Sorenson, Purple and most other providers supported the Sorenson porting standard as a workable solution and did not raise any serious objections. Sorenson remains willing to discuss the porting standard with any provider, and will work to address any concerns raised during those discussions.

Additionally, there is no factual basis for Purple’s Sorenson-specific proposal.⁶ Consistent with the Americans with Disabilities Act and the FCC’s rules, Sorenson is deeply committed to serving the deaf community and, furthering the statutory mandate of functional equivalency, increasing awareness of and access to VRS. For example:

- Sorenson was the first – and for years the only – provider to offer free equipment to potential users of VRS.
- Sorenson spent substantial sums developing a next-generation videophone – the VP-200, which it also distributed for free – even though the FCC refused to allow Sorenson to seek reimbursement for the costs of the videophones or the R&D required to develop them.⁷
- Sorenson is the industry leader in outreach, continuing to seek out deaf American Sign Language users and introduce them to VRS.
- Sorenson was the first to realize the importance of point-to-point calls to the deaf community and facilitated such calls by developing a numbering system that allowed deaf users to call each other even before the FCC permitted VRS users to access “real” North American Numbering Plan numbers. Sorenson did this even though it receives no compensation for point-to-point calls.
- Sorenson led the effort to bring 10-digit numbers to VRS users, joining Sprint, AT&T and Verizon as the only providers to participate actively in the ATIS/INC process that led to the development of the current numbering rules.

⁴ Counterpetition at 1.

⁵ *Id.* at 3.

⁶ *See id.* at 12.

⁷ Sorenson also has provided – and continues to provide – technical support to users for free, despite the fact that the FCC has refused to reimburse the company for its customer service costs.

- Sorenson has been at the forefront of implementing the FCC's new numbering rules, registering large numbers of customers and quickly circulating a proposal for handling CPE after a user has ported a number to a new default provider.⁸

Not only is there is no factual basis for Purple's Counterpetition, but it is very unlikely that a Sorenson-specific rule, such as the one proposed by Purple, would survive judicial review. Indeed, Purple's proposal is inconsistent with long-standing precedents forbidding laws and regulations that apply only to one identifiable individual or entity.⁹

For all the reasons explained above, the Commission should deny Purple's Counterpetition. If the Commission decides to change its rules governing the responsibilities of former default providers, it should grant the Petition filed by CSDVRS, *et al.*, and eliminate the requirement that providers support each others' equipment or allow consumers to keep using their existing equipment when they port their numbers to a new default provider. Under no circumstances should the Commission adopt Purple's unlawful proposal.

Pursuant to the Commission's rules, this letter is being submitted for inclusion in the public record of the above-referenced proceeding.

Respectfully submitted,

/s/ Gil M. Strobel
Gil M. Strobel

Counsel to Sorenson Communications, Inc.

cc: Cathy Seidel
Thomas Chandler

⁸ Sorenson agrees with American Network, Inc. that if providers are unable to determine how to comply with the FCC's rules governing CPE by the end of this year, it is because they are not making a good faith attempt to do so. Opposition of American Network, Inc., CG Docket No. 03-123, at 3-4 (May 11, 2009).

⁹ See, e.g., *Dehainaut v. Pena*, 32 F.3d 1066, 1070-71 (7th Cir. 1994); *Communist Party of the United States v. Subversive Activities Control Board*, 367 U.S. 1, 86 (1961) (the singling out of an individual constitutes an "attainder"); *INS v. Chadha*, 462 U.S. 919, 962 (1983) ("[T]he Bill of Attainder Clause was intended not as a narrow, technical prohibition"); see also Akhil Reed Amar, *Attainder And Amendment 2: Romer's Rightness*, 95 Mich. L. Rev. 203, 211 n.23 (Oct. 1996) (providing background on the Attainder Clause).