

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
)	
Telecommunications Relay Services)	
And Speech-to-Speech Services for)	
Individuals with Hearing and Speech)	CG Docket No. 03-123
Disabilities)	
)	
To: Chief Consumer and)	
Governmental Affairs Bureau)	

CONTINGENT REQUEST FOR TEMPORARY WAIVER

Purple Communications, Inc. (“Purple”) requests a temporary waiver of FCC Rule Section 64.604(b)(2)(ii)’s answer speed requirements for IP Text Relay.¹ A thirty day waiver of the answer speed requirement is requested, effective November 13, 2009. As shown, below, waiver is justified in light of the increased service demand which will result from the need for communications assistants to register currently unregistered IP Text Relay users after the November 12, 2009 Internet based relay registration deadline.

FCC Rule Section 64.604(b)(2)(ii) requires IP Text Relay providers to answer 85 percent of calls within 10 seconds, measured on a daily basis.

¹ Purple has pending a request for extension of the 10 digit number registration deadline for IP Text Relay. See Request for Extension of Mandatory Registration Date for IP Text Relay Service (October 27, 2009). Should that request be granted prior to November 13, 2009, there would be no need to grant this waiver request.

Pursuant to the FCC Rule Section 64.611(b) and the Commission's subsequent orders,² Internet based relay providers may not after November 12, 2009, complete calls for users who are not registered with a default provider and been issued a 10 digit telephone number, with the exception of 911 calls.

Pursuant to a Public Notice released October 21, 2009, providers receiving incoming traffic from an unregistered user after November 12, 2009, are obligated to register the user at that time and complete the call even if they have not verified the user's registered address and completed the registration process.³

Currently, Purple handles a majority of IP Text Relay traffic through its i711 and IP Relay brands. The record before the Commission, confirmed by Purple's analysis, shows that although VRS registration is in excess of 90 percent of users, IP Text Relay registration is at a much lower level. IP Text Relay registration is currently under 30 percent. Purple has sought through a variety of means to register its IP Text Relay users. Despite its aggressive efforts to register users, Purple is still seeing well over a majority of its IP Text Relay traffic coming from unregistered users. Based on this fact, it is clear that come November 13, 2009, IP Text Relay providers, including Purple, will be required to register large numbers of currently unregistered users.

² See *Telecommunications Relay Services*, 23 FCC Rcd 11591 (2008); *Telecommunications Relay Services* 24 FCC Rcd 791 (2008).

³ See Public Notice, Consumer and Governmental Affairs Bureau reminds video relay service and Internet protocol (IP) relay service providers of their outreach obligations and clarifies their call handling obligations for unregistered users after the November 12, 2009, ten-digit numbering registration deadline, DA 09-2261 (October 21, 2009).

From Purple's standpoint, registering the 70 plus percent of IP Text Relay providers who are currently unregistered will be problematic. Although Purple has, where possible, put into place easy to use automated registration pages for IP Text Relay users which will intercept non-registered calls and require registration prior to completing the call. However, not all IP Text Relay applications are susceptible to automated registration, and instead require that the registrations be conducted manually.

Many IP text customers utilize their T-Mobile Sidekick[®] to place wireless calls. In early October, Microsoft's T-Mobile service began experiencing serious technical outages and difficulties causing service disruptions lasting several days. On-going issues continue.⁴ Among the ongoing issues is the inability for customers to access and download any new applications from the Sidekick catalog. Although Purple has prepared a new application that includes an easy-to-use automated registration function, none of its wireless Sidekick customers are yet allowed access to download it due to the problems T-Mobile is experiencing. Consequently, all non-registered wireless customers require CA manual registration before placing a call. Although Purple has made the process as simple as possible, it will still take the average customer several minutes to register before the CA may dial out for them.

Although Purple is prepared come November 13, 2009, to manually register previously unregistered IP Text Relay users, the increased set up time need for manual

⁴ See <http://online.wsj.com/article/SB10001424052748703790404574467431941990194.html>; <http://online.wsj.com/article/SB10001424052748703790404574469593997144948.html>; <http://blogs.wsj.com/digits/2009/10/12/behind-sidekicks-slow-recovery-after-server-slipup/>.

registrations will of necessity result in an usually large increase in session time, adversely impacting answer speed and driving it well below normal limits. Even with maximum possible staffing, Purple expects that it will be unable to meet the answer speed requirement of FCC Rule Section 64.604(b)(2)(ii) for some period of time after November 12, 2009 due to the registration requirement. Accordingly, waiver of Rule Section 64.604(b)(2)(ii) is requested.

The Commission may waive its rules – in whole or in part – “for good cause shown.”⁵ Waiver is appropriate if “special circumstances warrant a deviation from the general rule and such deviation will serve the public interest.”⁶ Here the special circumstances justifying waiver consist of the large surge in traffic that will result from the need for IP Text Relay communications assistants to manually register nonregistered IP Text Relay users. This traffic surge plainly constitutes good cause to grant a temporary waiver of the IP Text Relay answer speed requirement. Purple believes a 30 day waiver should be sufficient for traffic to normalize after the November 12, 2009 registration deadline. Purple believes that beyond the 30 day period, while there will still be many customers needing registration assistance, the bulk of the crunch should have passed, the issue with T-Mobile should be stabilized, and customers should be able to utilize the automated

⁵ FCC Rule Section 1.3, 47 C.F.R. §1.3.

⁶ *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990). *See also Telecommunications Relay Services*, 19 FCC Rcd 12475, 12520, para. 110 (2004) (discussing standard for waiving Commission rules).

registration tool.⁷ Accordingly, Purple hereby requests a 30 day waiver of the IP Text Relay answer speed requirement.

Respectfully submitted,

PURPLE COMMUNICATIONS, INC.

By: _____/s/_____

George L. Lyon, Jr.
Director, Regulatory Compliance
1650 Tysons Blvd., Suite 1500
McLean, Virginia 22102
(202) 828-9472

Kelby Brick
Vice President, Regulatory and Strategic Policy
2118 Stonewall Road
Catonsville, MD 21228
November 9, 2009

⁷ If the situation has not stabilized, the waiver could be readdressed toward the end of the 30 day period.