

Before the
Federal Communications Commission
Washington, D.C. 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)	
)	
Petition for Indefinite Extension of Waiver of)	
Equipment Porting Requirement)	WC Docket No. 05-196
<hr/>		

**PETITION FOR INDEFINITE EXTENSION OF WAIVER OF
EQUIPMENT PORTING REQUIREMENT**

CSDVRS, LLC (“CSDVRS”) by and through undersigned counsel hereby petitions the Federal Communications Commission (“FCC” or the “Commission”) for an indefinite extension of the existing waiver of the requirement for video relay service (“VRS”) end-user videophone equipment (“CPE”) to be fully portable between the VRS providers. As explained herein, and as delineated in a prior filing by CSDVRS, this porting requirement is unduly restrictive and burdensome to the VRS industry and cannot be readily accomplished.

Background

In its June, 2008 Report and Order and Further Notice of Proposed Rulemaking, the Commission mandated that when a VRS user ports a videophone from one default provider to another, the provider that distributed the phone must ensure that the CPE is capable of delivering routing information to the new default provider.¹ Effectively, this ruling meant that a user’s CPE was required to be as fully portable between providers as their ten-digit telephone number. In

¹ See, *In the Matter of Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; E911 Requirements for IP-Enabled Service Providers*, CG Docket 03-123, FCC 08-151 (June 24, 2008) (“June Order”) at Paragraphs 60-61.

light of this, CSDVRS, GoAmerica, Viable, and Snap filed a Petition for Reconsideration and Clarification with respect to the porting requirements delineated in the June Order on August 15, 2008. In response, in its Second Report and Order and Order on Reconsideration, the Commission, *inter alia*, temporarily waived the porting requirement contained at 47 C.F.R. §64.611(e) for one year during which time it encouraged providers to work together to develop systems which would be in compliance with its rules.² Recognizing that CPE portability was technically and economically infeasible and a uniform industry standard would not be forthcoming, CSDVRS, Snap, Sprint-Nextel, and Viable subsequently submitted a Petition for Rulemaking seeking to eliminate the CPE porting requirement altogether.³ The Commission has not ruled on that Petition to date, despite further petitions on the matter being submitted by providers throughout 2009.

On December 9, 2009, with no indications that the Commission would rule on the Porting Petition or otherwise act on the matter, Purple Communications, Inc. (“Purple”) filed a follow-up request to extend the waiver of the VRS equipment porting requirement.⁴ CSDVRS supports Purple’s position and hereby petitions for an indefinite waiver of the CPE porting requirement until such time as the Commission can issue ruling on the multiple petitions which seek to revise, amend, or eliminate the requirement. As basis for the continued waiver, CSDVRS reiterates the points raised in the Porting Petition and the Purple Request.

² See, *In the Matter of Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; E911 Requirements for IP-Enabled Service Providers*, CG Docket 03-123, FCC 08-275 (December 19, 2008) (“December Order”) at Paragraph 68.

³ See, *In the Matter of Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; E911 Requirements for IP-Enabled Service Providers*, CG Docket 03-123, PETITION FOR RULEMAKING ON VRS EQUIPMENT PORTING (April 14, 2009) (“Porting Petition”).

⁴ *In the Matter of Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; E911 Requirements for IP-Enabled Service Providers*, CG Docket 03-123, REQUEST FOR EXTENSION OF WAIVER OF VRS EQUIPMENT PORTING REQUIREMENT (December 9, 2009) (“Purple Request”).

CPE Portability Remains Infeasible

Although VRS providers have attempted throughout 2009 to cooperate in finding a cross-provider solution in response to the December Order, no industry standard exists nor has been developed which allow CPE to be ported between different providers. As Purple correctly points out in its Request, the only standard suggested was made by the dominant industry provider, Sorenson Communications, but no other industry players agreed to that standard as it would undermine the features of ported CPE and act as a disincentive for consumers to port.⁵ No further standards have been proposed or accepted. It bears mentioning that given the state of the rules and the industry climate, Sorenson has acceded to the industry position on this matter and has urged the Commission (if it is going to change its rules) to grant the Porting Petition and eliminate the porting requirement altogether.⁶

As delineated in the Porting Petition⁷, equipment porting will cause CPE to lose its enhanced features inasmuch as the FCC's ruling does not require providers to support such features on an enhanced device. This effectively would undermine the functional equivalency consumers had heretofore enjoyed and lock consumers in to the dominant provider, rather than lose their enhanced features by porting. This would systematically eliminate any incentive other providers would have to develop better products for consumers. Additionally, to effectively make CPE portable, VRS providers will need to invest substantial amounts of money in research and development and equipment infrastructure changes, as well as forego the millions of dollars already expended on such efforts to devise the current industry baseline. As such, mandating porting of CPE will not only cost the Interstate TRS Fund (the "Fund") substantial amounts of

⁵ See, Purple Request at Page 2.

⁶ See, SORENSON COMMUNICATIONS NOTICE OF EX PARTE, CG Docket 03-123, WC Docket No. 05-196 (August 20, 2009).

⁷ See generally, Porting Petition Pages 5-9

money for restructuring, but it also represents economic waste to the Fund which is [understandably] a great concern for the Commission at this time. Ultimately, the porting rule is not feasible, is bad for consumers, and represents a bane to the integrity of the Fund.

Conclusion

As outlined in the Porting Petition, elimination of the porting rule represents a win-win for consumers and the Commission.⁸ However, if the Commission is not yet prepared to issue a ruling on the Porting Petition, CSDVRS respectfully petitions the FCC to extend the waiver of its porting rule indefinitely until such time as an equitable resolution can be achieved. The Commission may waive its rules in whole or in part “for good cause shown.”⁹ In the instant circumstances, a waiver is justified insofar as industry compliance with the rule is not technically feasible at this time, and every provider stands to be out of compliance, absent such a waiver, as of January 1, 2010. The Commission has numerous petitions concerning CPE portability currently pending before it and absent a ruling on the matter, a waiver is clearly warranted and necessary.

Respectfully Submitted,

Sean Belanger
Chief Executive Officer
CSDVRS, LLC

By:



William Banks
General Counsel
CSDVRS, LLC
600 Cleveland Street, Suite 1000
Clearwater, Florida 33755
Phone: (727) 254-5600 | Fax: (727) 443-1537
wbanks@zvrs.com

⁸ *Id.* at pages 9-10.

⁹ *See*, 47 C.F.R. §1.3