

LAWLER, METZGER, KEENEY & LOGAN, LLC

2001 K STREET, NW  
SUITE 802  
WASHINGTON, D.C. 20006

GIL M. STROBEL  
gstrobel@lawlernetzger.com

PHONE (202) 777-7700  
FACSIMILE (202) 777-7763

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

March 2, 2010

MAR - 2 2010

VIA HAND DELIVERY

Federal Communications Commission  
Office of the Secretary

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

Re: *Request for Confidential Treatment of Sorenson Communications, Inc.*  
*CG Docket No. 03-123*

Dear Ms. Dortch:

Sorenson Communications, Inc. (“Sorenson”) hereby requests confidential treatment for the confidential portions of the attached letter of March 2, 2010, from the undersigned to Thomas Chandler, Chief, Disability Rights Office, Federal Communications Commission (“FCC” or “Commission”), seeking compensation from the Interstate Telecommunications Relay Services Fund (“TRS Fund”) administered by the National Exchange Carrier Association (“NECA”) for Sorenson’s provision of certain Video Relay Service (“VRS”) calls completed on August 7, 2009 (the “Sorenson Information”). Sorenson makes this request pursuant to Exemption 4 of the Freedom of Information Act (“FOIA”) and the Commission’s rules.<sup>1</sup> The Sorenson Information contains company-specific, highly confidential and/or proprietary commercial information protected from disclosure by FOIA Exemption 4 and the Commission’s rules protecting

<sup>1</sup> 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”).

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information that is not routinely available for public inspection and that would customarily be guarded from competitors.<sup>2</sup>

1. *Identification of the specific information for which confidential treatment is sought.* Sorenson requests that the portions of the attached letter that are marked confidential and that are redacted in the public version of the letter 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 commercial, financial, and other information not routinely available for public inspection. The Sorenson Information contains company-specific, competitively-sensitive, business confidential and/or proprietary, commercial data concerning Sorenson's operations and finances that would not routinely be made available to the public, and customarily would be guarded from competitors. If such information were disclosed, Sorenson's competitors could use it to determine Sorenson's competitive position and performance, and could use that information to gain a competitive advantage over Sorenson.

2. *Identification of the Commission proceeding in which the information was submitted or a description of the circumstance giving rise to the submission.* This information is provided to the FCC in order that Sorenson may receive compensation for certain VRS calls it provided on August 7, 2009, as described in the attached letter.

3. *Explanation of the degree to which the information is commercial or financial, or contains a trade secret or is privileged.* The Sorenson Information contains company-specific, competitively-sensitive, confidential and/or proprietary, commercial and operational information. It provides information regarding Sorenson's business operations, the number of certain VRS calls Sorenson handled on August 7, 2009 and the number of minutes represented by those calls, as well as a comparison to calls and minutes relayed on other days. All of this information is sensitive for competitive and other reasons. This information would not customarily be made available to the public and customarily would be guarded from all others, especially competitors. To our knowledge and belief, no company-specific data such as this has ever been made available to the public, and Sorenson only provides it in order to receive compensation for these calls.<sup>3</sup> If this information were not protected, Sorenson's competitors could use it in an effort to determine how best to undercut Sorenson's business.

4. *Explanation of the degree to which the information concerns a service that is subject to competition.* The confidential information at issue relates directly to the provision of

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<sup>2</sup> 47 C.F.R. §§ 0.457 and 0.459.

<sup>3</sup> See Letter from Joel Gurin, Chief, Consumer and Governmental Affairs Bureau, FCC, to William Banks, General Counsel, CSDVRS, CG Docket 03-123, DA 10-225 (rel. Feb. 3, 2010).

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VRS, a form of Internet-based TRS, which is subject to vigorous competition. If the information is not protected, Sorenson's 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 Sorenson's competitors could assess aspects of Sorenson's operations and use that information to undermine Sorenson'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 Sorenson Information is not available to the public, and has not otherwise been disclosed previously to third parties other than NECA.<sup>4</sup> Sorenson routinely treats this information as highly confidential and/or proprietary. Sorenson assiduously guards against disclosure of this information to others.

8. *Justification of the period during which the submitting party asserts that the material should not be available for public disclosure.* Sorenson requests that the Sorenson 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 Sorenson Information would, if publicly disclosed, enable Sorenson's competitors to gain an unfair competitive advantage. Under applicable Commission and federal court precedent, the information provided by Sorenson 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 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. *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,

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<sup>4</sup> The disclosure to NECA was also made for purposes of obtaining compensation and was made pursuant to a request for confidential treatment, with an expectation that the information would not be disclosed to the public. *See* 47 C.F.R. § 64.604(c)(5)(iii)(I).

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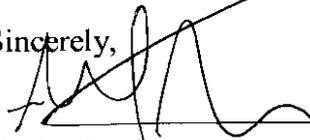
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‘would customarily not be released to the public by the person from whom it was obtained.’”) (citation omitted). Failure to accord confidential treatment to this information is likely to dissuade providers from voluntarily submitting such information in the future, thus depriving the FCC of information necessary to evaluate facts and market conditions relevant to 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 Sorenson 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,

A handwritten signature in black ink, appearing to read 'Gil M. Strobel', written over a horizontal line.

Gil M. Strobel

*Counsel to Sorenson Communications, Inc.*

cc: Thomas Chandler, Chief  
Disability Rights Office

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**REDACTED – FOR PUBLIC INSPECTION**

*Via Hand Delivery*

Thomas Chandler  
Chief, Disability Rights Office  
Federal Communications Commission  
445 12th Street SW  
Washington, DC 20554

**Re: Compensation for Conversation Minutes – CG Docket No. 03-123**

Dear Mr. Chandler:

I am writing on behalf of Sorenson Communications, Inc. (“Sorenson”) to provide the Commission formal notice of technical difficulties that prevented Sorenson from capturing certain data related to some Video Relay Service (“VRS”) calls and to seek compensation for the affected calls. Granting Sorenson’s request would be consistent with the Commission’s recent action instructing the National Exchange Carrier Association (“NECA”) to remit payment to CSDVRS for VRS minutes for which CSDVRS failed to capture conversation time.<sup>1</sup>

As Sorenson explained in its September 2009 submission to NECA, Sorenson experienced technical difficulties on August 7, 2009, that affected the company’s ability to capture some of the details associated with certain VRS calls that the company relayed that day. The technical difficulties resulted from a faulty hard drive configuration that was quickly fixed. While Sorenson was able to record most of the data typically included in its submissions to NECA, including total conversation minutes associated with each of

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<sup>1</sup> Letter from Joel Gurin, Chief, Consumer and Governmental Affairs Bureau, FCC, to William Banks, General Counsel, CSDVRS, CG Docket 03-123, DA 10-225 (rel. Feb. 3, 2010).

the affected calls,<sup>2</sup> Sorenson was unable to gather some of the information requested by NECA, such as the specific session start and end time and conversation start and end time, for certain calls relayed on August 7, 2009.<sup>3</sup> Sorenson is requesting compensation for only [\*begin confidential\*] ██████████ [\*end confidential\*] calls, involving [\*begin confidential\*] ██████████ [\*end confidential\*] conversation minutes that Sorenson is confident it has measured accurately. The company estimates that there were over [\*begin confidential\*] ██████████ [\*end confidential\*] additional conversation minutes relayed by Sorenson interpreters on August 7, 2009, which the company has been unable to verify to its satisfaction. Sorenson is not seeking compensation for these additional minutes.<sup>4</sup>

As noted above, the Chief of the Consumer and Governmental Affairs Bureau (“Bureau”) recently issued a letter granting CSDVRS’s request for payments related to VRS calls placed between December 2008 and April 2009 for which CSDVRS’s billing platform failed to capture conversation time. According to CSDVRS, computer system upgrades prevented CSDVRS from providing complete billing information to NECA.<sup>5</sup> In granting CSDVRS’s request, the Bureau applied the VRS industry’s average utilization rate to the minutes at issue in order to determine the amount of payment for NECA to remit to CSDVRS.

In contrast to the situation presented by CSDVRS, Sorenson is requesting compensation only for a subset of calls from a single day, not for several months’ worth of calls. In addition, Sorenson, unlike CSDVRS, is only seeking compensation for conversation minutes it has verified are accurate.<sup>6</sup> Thus, granting Sorenson’s request

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<sup>2</sup> Although Sorenson could not establish the specific conversation start and end times for the affected calls, it was able to verify the conversation minutes by accessing backup records of VRS calls that are stored on a secondary database. This secondary database was unaffected by the hard drive issue.

<sup>3</sup> A portion of the calls from August 7, 2009 were not affected by the technical problems and Sorenson was able to submit those calls to NECA, and receive compensation from the Fund, without any action by the Commission.

<sup>4</sup> It is also worth noting that the total number of minutes for which Sorenson is seeking – or has sought – compensation for in relation to calls placed on Friday August 7, 2009 is over [\*begin confidential\*] ██████████ [\*end confidential\*] lower than the total number of compensable minutes the company relayed on Friday, July 31, 2009 or on Friday, August 14, 2009.

<sup>5</sup> Letter from William Banks, General Counsel, CSDVRS, to Thomas Chandler, Federal Communications Commission, CG Docket No. 03-123 (March 10, 2009).

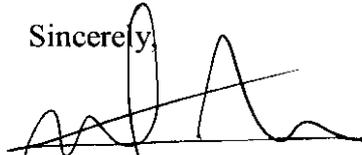
<sup>6</sup> Accordingly, Sorenson does not believe granting its request requires a waiver of the Commission’s rules. See 47 C.F.R. § 64.604(c)(5)(iii)(E) (requiring TRS providers

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would not require the Bureau to apply any formulas to estimate the number of minutes for which compensation should be granted. Given these facts, and the Bureau's recent decision regarding CSDVRS, Sorenson sees no obstacles that would require further delay in ordering NECA to remit payment to Sorenson for the minutes at issue.

Thank you for your consideration. Sorenson looks forward to a prompt and equitable decision on this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Gil M. Strobel". The signature is fluid and cursive, with a prominent loop at the end.

Gil M. Strobel

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seeking compensation from the Interstate TRS Fund to submit reports of conversation minutes for completed calls.) In the event the Commission decides that a waiver is required, Sorenson asks that this letter be considered as a request for such waiver.

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