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May 26, 2010

Via Electronic Filing

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

Re: *Ex Parte* Notice – CG Docket Nos. 03-123, 10-51

Dear Ms. Dortch:

On May 25, 2010, Pat Nola, President and CEO of Sorenson Communications, Inc. (“Sorenson”), Paul Kershnik, Sorenson’s Chief Marketing Officer, Mike Maddix, Sorenson’s Director of Government and Regulatory Affairs, and the undersigned, counsel for Sorenson, met separately with Commissioner Copps and his legal advisor Jennifer Schneider; Commissioner Clyburn and her legal advisor Angela Kronenberg; Commissioner Baker and her legal advisor Christi Shewman; and Christine Kurth, legal advisor to Commissioner McDowell, to discuss the rate for video relay service (“VRS”) for the period after June 30, 2010.

During the meetings, Mr. Nola urged the Commission to adopt a VRS rate that advances the goals of the Americans with Disabilities Act (“ADA”) and ensures that communications services for the deaf and hard of hearing continue to improve, rather than stagnate or regress. Mr. Nola described the growing significance of VRS, as the only form of relay that allows deaf users of American Sign Language to communicate in real time with hearing individuals. He explained that the three-year incentive-based plan unanimously adopted by the Commission in 2007 succeeded in making VRS more functionally equivalent, more available, more technologically advanced, and more efficient, as Congress mandated,<sup>1</sup> because it aligned the

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<sup>1</sup> 47 U.S.C. § 225(a)(3), (b)(1), (d)(2). *See* Comments of Sorenson Communications, Inc., CG Docket Nos. 03-123 and 10-51, at 6-10, 16-18 (May 14, 2010).

incentives of providers with the goals of the ADA. That successful plan set three “tiered” rates, grouped closely together at levels above \$6.00 per minute.<sup>2</sup>

Mr. Nola noted that the April 30th Public Notice “particularly” sought comment on a proposal to set Tier 1 and 2 rates at levels near \$6.00, while slashing the Tier 3 rate to \$3.89 per minute.<sup>3</sup> Mr. Nola reaffirmed in yesterday’s meetings his previous statements<sup>4</sup> that a Tier 3 rate of \$3.89 would force Sorenson into bankruptcy and make it impossible for other providers to offer service at the Tier 3 level. As he described, flash cutting the Tier 3 rate would harm the public in various ways:

- The jobs of almost six thousand Sorenson employees would be endangered, including large numbers of deaf employees (not counting positions that have to be held by hearing persons, more than 40 percent of Sorenson’s workforce is deaf).
- If Sorenson were forced into bankruptcy, thousands of deaf individuals would be stranded without access to VRS, forced to revert to TTY devices.
- Investment in VRS would dry up for fear that any provider’s viability could be destroyed overnight as a result of a massive rate cut. New providers would not be able to enter the business, and all surviving providers would have to cut research and development and projects to locate new users. The hardest hit would be those least able to afford it – those deaf individuals who still lack access to VRS.
- With VRS becoming less functionally equivalent, broadband adoption among the deaf would falter, remaining well below the rate for hearing people.

There is no sound basis to wreak such damage and undo all the progress made under the three-year plan. To the contrary, the record supports a fair rate that will continue to allow providers to advance the goals of the ADA in an efficient, pro-consumer manner. Sorenson will continue to work cooperatively with FCC staff to ensure that this goal becomes a reality.

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<sup>2</sup> See *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Report and Order and Declaratory Ruling, 22 FCC Rcd 20140, ¶ 55 (2007).

<sup>3</sup> *National Exchange Carrier Association Submits the Payment Formula and Fund Size Estimate for the Interstate Telecommunications Relay Services Fund for the July 2010 Through June 2011 Fund Year*, Public Notice, CG Docket No. 03-123, DA 10-761, at 2 (rel. Apr. 30, 2010).

<sup>4</sup> See Letter from Pat Nola, President and Chief Executive Officer of Sorenson Communications, Inc., attached to Letter from Regina M. Keeney, Counsel for Sorenson, to Marlene H. Dortch, FCC Secretary, CG Docket Nos. 03-123 and 10-51 (May 7, 2010).

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This letter is being filed for inclusion in the public record of the above-referenced proceeding.

Sincerely,

/s/ Regina M. Keeney  
Regina M. Keeney

cc: Commissioner Meredith Attwell Baker  
Commissioner Mignon Clyburn  
Commissioner Michael J. Copps  
Angela Kronenberg  
Christine Kurth  
Jennifer Schneider  
Christi Shewman