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June 25, 2010

Via Electronic Filing

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

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

Dear Ms. Dortch:

Sorenson Communications, Inc. ("Sorenson") urges the Commission to adopt a video relay service ("VRS") rate and rate structure that encourages providers to make long-term investments to improve the reliability and availability of VRS to deaf individuals.[1] The long-term, incentive-based VRS compensation mechanism, adopted unanimously by the Commission in 2007,[2] enabled Sorenson to extend the reach of VRS and invest in improving reliability, even during widespread emergencies or catastrophes.[3] These investments have furthered the goals of the Americans with Disabilities Act ("ADA") by increasing the "functional equivalence" and availability of video relay service.[4]

The Commission's VRS rate decisions will affect, immediately and directly, the investment decisions of VRS providers. As explained in the attached comments, maintaining a

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1 *See* FCC, Public Notice, "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," 25 FCC Rcd 4682 (2010) (DA 10-761).

2 *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, ¶¶ 47-56 (2007).

3 *See* Comments of Sorenson Communications, Inc., PS Docket No. 10-92, at 4-8 (June 25, 2010) (copy attached) ("Sorenson Broadband Networks Survivability Comments"); Comments of Sorenson Communications, Inc., CG Docket No. 03-123, at 16-20 (May 14, 2010) ("Sorenson Rate Comments").

4 47 U.S.C. §§ 225(a)(3), (b)(1) (requiring the FCC to ensure that "functionally equivalent" relay services are provided, "to the extent possible and in the most efficient manner," to persons with hearing or speech disabilities in the United States and incorporating by reference the goal of universal service codified in section 1 of the Communications Act, 47 U.S.C. § 151).

multi-year, incentive-based rate would continue to encourage the investment and innovation needed to ensure the reliability of VRS, even in emergencies. If the Commission were to adopt a "cost"-based rate methodology, it would risk reversing the incentives created and the progress made under the current rate methodology. This risk would increase further if the Commission were to key rates to under-inclusive, so-called "actual" costs. A "tiered" cost-of-service rate mechanism would even further discourage providers from engaging in innovation and investing in their products.[5] As a result, a cost-based, tiered rate plan threatens to undermine the survivability of VRS by reducing providers' incentives to make the investments necessary to maintain and improve the reliability of their services.[6]

Sorenson is submitting for inclusion in the record of the above-referenced dockets its comments regarding the "survivability" of broadband networks and "measures to reduce network vulnerability,"[7] because the issues of reliable VRS systems and the Commission's pending rate decisions are inextricably linked.

Sincerely,

/s/ *Regina M. Keeney*
Regina M. Keeney

cc: Joel Gurin
Paul de Sa
Sherrese Smith
Jennifer Schneider
Christine D. Kurth
Angela Kronenberg
Christi Shewman

Attachment

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[5] Reply Comments of Sorenson Communications, Inc., CG Docket No. 03-123, at 18 (May 21, 2010); *see also* Sorenson Rate Comments at 27-29.

[6] Sorenson Broadband Networks Survivability Comments at 8-10.

[7] *Effects on Broadband Communications Networks of Damage to or Failure of Network Equipment or Severe Overload*, Notice of Inquiry, 25 FCC Rcd 4333, ¶ 3 (2010) (FCC 10-62).

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	
Effects on Broadband Communications	)	PS Docket No. 10-92
Networks of Damage to or Failure of Network	)	
Equipment or Severe Overload	)	
	)	

COMMENTS OF SORENSON COMMUNICATIONS, INC.

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June 25, 2010

Executive Summary

Congress created the Federal Communications Commission ("Commission") for the express purpose of making communications services "available, so far as possible, *to all the people* of the United States . . . for the purpose of promoting safety of life."[1] As the Americans with Disabilities Act ("ADA") makes clear, this general duty is even stronger with respect to the deaf and hard-of-hearing, who are particularly reliant on broadband networks and applications to meet their communications needs.[2] Without access to broadband, deaf individuals would not be able to use video relay service ("VRS"), an IP-based form of telecommunications relay service that allows deaf users of American Sign Language ("ASL") to communicate with hearing people over the phone.

VRS is the *only* technology that permits a deaf individual to communicate in ASL across distance with a hearing individual, including a provider or dispatcher of public safety or emergency services. Accordingly, in evaluating the survivability of broadband networks, the Commission should pay particular attention to the needs of the deaf community, especially VRS users. One key action the Commission can take immediately to protect the deaf community is to adopt stable, predictable, and fair VRS compensation policies that encourage investment in VRS. Failure to adopt such compensation mechanisms will discourage investment and thwart the Commission's obligation to make this life-altering service available and sustainable throughout the nation.

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1 47 U.S.C. § 151 (emphasis added).

2 47 U.S.C. § 225.

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COMMENTS OF SORENSON COMMUNICATIONS, INC.

Sorenson Communications, Inc. ("Sorenson") submits these comments in response to the Federal Communications Commission's ("FCC's" or "Commission's") Notice of Inquiry in the above-captioned proceeding seeking comment on the current state of survivability in America's broadband communications networks and the ways in which network vulnerability can be reduced.[1] Sorenson commends the Commission for initiating this effort to develop strategies that ultimately will strengthen the nation's broadband networks and encourages the Commission to adopt policies that advance the specific needs of the deaf and hard-of-hearing who rely on broadband applications such as video relay service ("VRS") for their basic communications needs. Specifically, Sorenson urges the Commission adopt policies that encourage the investments necessary to ensure the survivability of video relay services.

I. THE COMMISSION IS CHARGED WITH ENSURING THE SURVIVABILITY OF THE BROADBAND NETWORKS AND COMMUNICATIONS SERVICES THAT SERVE DEAF AND HARD-OF-HEARING INDIVIDUALS

An overarching goal of the Commission, as set forth in Section 1 of the Communications Act of 1934 ("Communications Act"), is "to make available, so far as possible, *to all the people*

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[1] *Effects on Broadband Communications Networks of Damage to or Failure of Network Equipment or Severe Overload*, Notice of Inquiry, 25 FCC Rcd 4333 (2010) (FCC 10-62) ("*Survivability NOI*").

of the United States . . . a communications service . . . for the purpose of promoting safety of life."[2] Nowhere is this duty more explicit than with respect to the communications services that serve those who are deaf or hard-of-hearing. An entire section of the Communications Act, added by the Americans with Disabilities Act ("ADA"), is devoted to the Commission's duty to ensure the availability of communications services to those who are deaf or hard-of-hearing.[3]

Sorenson is an industry-leading provider of communications services and products designed to enable deaf and hard-of-hearing people to communicate with the hearing world. One of the company's primary offerings is VRS, a broadband-based form of telecommunications relay service ("TRS"). Unlike other types of TRS, VRS utilizes video services, making it possible for deaf individuals to use American Sign Language ("ASL") to communicate with hearing people over the phone. Typically, a deaf user initiates a VRS call by dialing a hearing individual's telephone number.[4] The call is then routed to a VRS provider's call center, where a VRS interpreter uses a video connection to communicate with the deaf caller using ASL.[5] The interpreter then facilitates the conversation between the hearing and deaf parties by interpreting between ASL and spoken English,[6] speaking to the hearing party over the telephone and signing to the deaf party over the video (IP) connection. In order to use VRS, a deaf user must have a

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2 47 U.S.C. § 151 (emphasis added).

3 47 U.S.C. § 225 (requiring the FCC to ensure that "functionally equivalent" relay services are provided, "to the extent possible and in the most efficient manner," to persons with hearing or speech disabilities in the United States).

4 Although most VRS calls are initiated by a deaf user, hearing individuals may also use VRS to call deaf users. When the hearing individual dials the deaf individual's phone number, the caller is connected to a VRS interpreter who then connects the call to the deaf individual being called and begins interpreting between spoken English and ASL.

5 VRS users are required to select a default VRS provider that will, by "default," route all of the user's calls unless the user chooses to route a particular call to a different VRS provider. 47 C.F.R. § 64.611(a).

6 VRS also can be used to interpret between ASL and spoken Spanish.

high-speed broadband connection that operates at speeds sufficient to support full-motion video links. Accordingly, broadband access is critical to the communications needs of VRS users.

As the Commission has recognized, all Americans increasingly rely on broadband communications networks for voice, video, data, and other communications services, and ensuring widespread survivability is a "critical factor in the safety, security, and well-being of the American people."[7] Unlike traditional users of the broadband network, however, VRS users have no "second choice" for communications. VRS is the *only* technology that permits a deaf individual to communicate in ASL across distance with a hearing individual. Accordingly, without the broadband Internet service necessary for VRS, deaf Americans would be unable to use ASL to communicate with public safety and emergency services, businesses, employers and potential employers, teachers, doctors, friends, and family members over the phone. The Commission has specifically acknowledged the importance of broadband service to the disabled population, announcing its intent to consider how "[t]o better enable Americans with disabilities to experience the benefits of broadband."[8] Consistent with this statement, the ADA, and the Communications Act, Sorenson urges the Commission to consider carefully the needs of the deaf community – and VRS users in particular – in ensuring the survivability of broadband networks and video relay services. In particular, Sorenson urges the Commission to adopt stable, predictable, and fair VRS compensation policies that encourage investment in VRS. Failure to

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7 *Survivability NOI* ¶ 4.

8 FCC, "Broadband Action Agenda," at 4-5 (rel. April 8, 2010), *available at*: <http://www.broadband.gov/plan/national-broadband-plan-action-agenda.pdf>; *see also Joint Statement on Broadband*, 25 FCC Rcd 3420, ¶ 3 (2010) (wherein a unanimous Commission stated its belief that disabilities should not stand in the way of Americans' "opportunity to benefit from the broadband communications era"); *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Second Report and Order, Order on Reconsideration, and Notice of Proposed Rulemaking, 18 FCC Rcd 12379, ¶ 105 (2003) ("In most cases, TRS is the only means of communication between persons with hearing or speech disabilities and emergency services and other persons.").

adopt such compensation mechanisms will discourage investment and thwart the Commission's obligation to make this life-altering service available and sustainable throughout the nation.

II. SORENSON HAS IMPLEMENTED NUMEROUS MEASURES DESIGNED TO INCREASE THE RELIABILITY OF ITS VIDEO RELAY SERVICE

Sorenson has implemented a number of measures to ensure that the company's VRS systems are reliable and can survive virtually any catastrophe. These measures have enabled Sorenson to achieve greater than 99.99% service level reliability systemwide.[9]

Physical Damage.[10] Sorenson has been able to improve the survivability of its infrastructure by deploying geographically-dispersed call centers in multiple regions throughout the United States and Canada. This extensive geographic diversity allows the company to avoid service interruptions in the event of a large-scale disaster or emergency.[11] For example, even if a major disaster made multiple call centers inoperable, it is likely that other call centers in Sorenson's geographically-dispersed North American system could still process VRS calls.[12] Additionally, Sorenson has designed its call centers to withstand power outages. Each call center is equipped with an uninterruptable power supply ("UPS") to ensure that computers and other equipment remain operational during a power outage. Similarly, back-up lighting is available in

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[9] In the past year, Sorenson's VRS system experienced only 5.26 minutes of total downtime.

[10] *See Survivability NOI* ¶¶ 10-12 (seeking information about "the survivability features and risks presented by the physical architecture of current broadband communications networks," as well as the survivability of physical facilities in which network elements are located and the risks posed by network facility co-location).

[11] Small VRS providers have also been able to realize the benefits of geographic redundancy with respect to call centers. *See, e.g.,* Application of Convo Communications LLC for Certification as a Video Relay Service Provider, CG Docket No. 03-123, at 6 (Oct. 30, 2009; filed Oct. 29, 2009) (noting that "Convo utilizes several call centers located in various cities" and anticipates "expand[ing] its services through additional call centers").

[12] Sorenson uses a single systemwide queue for processing calls. Accordingly, any call can be answered by the first available VRS interpreter at any Sorenson call center, regardless of location.

each call center to ensure that VRS interpreters can continue to communicate with deaf callers in the event of an outage.[13]

As part of its efforts to limit the impact of physical damage to any part of its operations, Sorenson has duplicated its key operational systems in multiple collocation spaces, which also are geographically dispersed. This protects Sorenson's VRS systems in the event that an entire region is affected by a disaster. These collocation facilities are custom-built to house Sorenson's data operations and have been extensively reinforced to withstand all but the most extreme physical threats. The locations used by Sorenson meet rigorous "Tier IV Fault Tolerant Site Infrastructure" standards, ensuring that the facilities meet stringent uptime requirements and that the company is not susceptible to a single point of failure.[14] Sorenson further guards against system failures by contracting with multiple carriers to provide services to its collocation facilities. Thus, harm to any one carrier's network will not prevent Sorenson from providing VRS. Finally, all of Sorenson's collocation facilities are served by duplicate network connections, diverse transport links, and redundant and geographically distinct access routers, all of which ensure maximum uptime.

Redundancies.[15] Sorenson has implemented a number of measures designed to reduce "the risk of physical link failures along with the resulting risk of redundancy failures."[16] Reliability

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13 Effective sign language communication is not possible if the deaf user cannot see the VRS interpreter.

14 A Fault Tolerant data center has multiple, independent, physically isolated systems that provide redundant capacity and multiple, independent, diverse, active distribution paths. *See* Uptime Institute, LLC, *Data Center Site Infrastructure Tier Standard: Topology*, at 3 (2010), *available at*: <http://uptimeinstitute.org/index.php?option=com_docman&task=doc_download&gid=82>. As a result, a center that meets these requirements is not susceptible to disruption from a single failure or unplanned event. *Id.*

15 *See Survivability NOI* ¶ 14 (asking, *inter alia*, the following questions: To what extent is switching and routing capacity in broadband communications networks protected by redundant systems or reserve switching capacity? Are the protection mechanisms themselves in broadband

and redundancy features are built into every aspect of Sorenson's VRS operations. Sorenson continually identifies and assesses all critical components[17] of its service and then ensures that these components are adequately duplicated to allow the service to continue uninterrupted despite the loss of any particular component.

At the system level, Sorenson employs multiple redundancy methodologies, each of which is tailored to the technical and engineering constraints of the individual system. For example, with respect to the system VRS interpreters use to process calls, Sorenson uses multiple VRS servers that are always available to process interpreter requests. Only a single server is "in service" at any time, but if the "in service" VRS server fails, one of the remaining servers can be placed into service almost immediately. Sorenson has implemented similar multi-system redundancy methodologies with respect to its video mail system[18] as well as its core services system, which communicates to the user's videophone and provides certain calling features such as call history.[19]

Sorenson's redundancy measures extend beyond the system level, crossing all levels of Sorenson's service operations. In addition to the geographic redundancies described above,

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communications networks reliable? Are there failure mechanisms that will affect both the primary path and the back-up path?).

16 *Id.*

17 Critical components are those the failure of which would lead to a failure of the entire video relay system. Critical components are not only physical pieces of equipment, but also encompass systems, physical sites, and geographic locations.

18 Sorenson's video mail system employs "cluster redundancy," whereby two servers are "in service" simultaneously yet function as one unit (*i.e.*, in parallel). Should one server fail, the other server continues without a perceptible difference in the video mail system.

19 For the core services system, Sorenson uses a network load balancing methodology that allocates demand using algorithmic modeling that "balances" the load between multiple servers and server groups. This methodology permits traffic to be distributed in the event of either a single-server outage or the failure of an entire server group. Therefore, this method is redundant both at the server and system level.

Sorenson has implemented additional redundancies at the hardware level for each system-critical component.[20] With respect to Internet connectivity, Sorenson uses both multi-pathing and multi-homing redundancy to ensure that its service remains connected to the Internet twenty-four hours a day, seven days a week.[21] Taken together, these carefully designed redundancy measures assure outstanding performance and increase the overall reliability of Sorenson's VRS system.

Severe Overloads.[22] VRS frequently is the exclusive means through which the deaf can communicate effectively with first responders and other emergency personnel. Without an adequate level of service, capacity constraints could artificially limit VRS and prevent members of the deaf community from making or receiving VRS calls during emergencies. Sorenson's systems have been designed with the critical nature of VRS in mind and are capable of effectively handling severe overloads and emergency outages. For example, Sorenson's primary servers have sufficient capacity to manage at least twice the volume of the company's current peak traffic, and Sorenson uses DS-3 level transmission facilities at all of its call centers – and much higher capacity connections between its collocation facilities and the Internet – to ensure that call volume capacity can be met even under peak demand. System resources are monitored

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20 These redundancies include, *inter alia*, duplication of the component's power supply, hard drive, and network card. Each power supply within a given piece of equipment accesses a separate electrical circuit. Each network card plugs into a different physical switch which is capable of accessing the Internet via multiple paths.

21 Sorenson uses physically diverse paths (*i.e.*, multi-pathing) from its servers to reach a single Internet interconnection point. Multi-homing redundancy is used to increase the reliability of the Internet connection for an IP network, such as Sorenson's VRS, by having a link from Sorenson's servers connect to multiple Internet interconnection points. The combination of these redundancies results in Sorenson having multiple and diverse paths to reach physically separate Internet interconnection points.

22 *See Survivability NOI* ¶ 16 (seeking information regarding "the ability of broadband access networks . . . to maintain effective operation during severe network congestion or overload").

on an ongoing basis to allow Sorenson to predict future hardware and infrastructure requirements and to implement any necessary changes in advance of a possible capacity shortage.

The stringent redundancy measures Sorenson has implemented at every level of its systems extend to its emergency information and operations. Core service 911 information, including registered location and Public Safety Answering Point ("PSAP") information,[23] is duplicated and continually backed up at Sorenson's collocation facilities. Also, Sorenson's use of geographically dispersed call centers makes it highly unlikely that 911 services will be disrupted in the event of a local or regional disaster. Sorenson's efforts have already proven to be effective at ensuring the survivability of its service during disasters. For example, the company successfully provided VRS during Hurricane Katrina in 2005. Sorenson also was able to keep its service running without interruption when more than five call centers were shut down by ice storms earlier this year.

III. TO ENSURE THE SURVIVABILITY OF COMMUNICATIONS SERVICES FOR THE DEAF AND HARD-OF-HEARING, THE COMMISSION MUST ENCOURAGE INVESTMENT WITH A FAIR, STABLE, AND INCENTIVE-BASED VRS COMPENSATION SYSTEM

The Commission's policies matter. The Commission can improve the reliability of networks and communications services by encouraging investment in robust facilities and services. Or, it can discourage such investment. In the past, the Commission properly encouraged investment in robust, reliable communications services for the deaf and hard-of-

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[23] VRS providers must transmit all 911 calls, as well as the caller's registered location information, to the appropriate PSAP. 47 C.F.R. § 64.605(b). *See also* 47 C.F.R. § 64.601(a)(17) (defining registered location information as the "most recent information obtained by a VRS . . . provider that identifies the physical location of an end user"); 47 C.F.R. § 64.3000(c) (defining a PSAP as "[a] facility that has been designated to receive 911 calls and route them to emergency services personnel").

hearing by adopting a stable, long-term incentive-based VRS rate mechanism.[24] The Commission's policies encouraged investment and led to vast improvements in the quality and reliability of VRS. Led by the Commission's pro-investment VRS compensation policies, the Commission's incentive-based VRS rate regulation encouraged Sorenson to improve the reliability and availability of VRS by increasing its number of call centers to over a hundred in the United States and Canada.

The Commission's progress toward ensuring that reliable, sustainable communications services are available to *all* Americans will be threatened, however, if the Commission fails to continue its pro-investment VRS rate system.[25] If the Commission abandons or reverses the rate policies that encouraged investment in robust VRS facilities, it will disserve those Americans who rely on VRS to make emergency – and even routine – VRS calls. If, for example, the Commission were to adopt a VRS compensation mechanism that is based on cost of service/rate-of-return regulation, it would risk discouraging rather than encouraging innovation and investment in robust, survivable video relay services.[26] This risk would increase further if the

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[24] *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, ¶¶ 47-56 (2007).

[25] The Commission is currently considering several "VRS rate alternatives." *See* National Exchange Carriers Association, "Interstate Telecommunications Relay Services Fund Payment Formula and Fund Size Estimate," CG Docket No. 03-123 (April 30, 2010); FCC, Public Notice, "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," 25 FCC Rcd 4682 (2010) (DA 10-761) ("*TRS Rate Proceeding*"); *see also* Comments of Sorenson Communications, Inc., CG Docket No. 03-123, at 14-19 (May 14, 2010) ("Sorenson Rate Comments").

[26] *See, e.g.,* FCC, "Connecting America: The National Broadband Plan," at 147 (rel. March 16, 2010), *available at*: <http://download.broadband.gov/plan/national-broadband-plan.pdf> ("National Broadband Plan") ("Rate-of-return regulation was not designed to promote efficiency or innovation."); *see also* Sorenson Rate Comments at 4-5; *Price Cap Performance Review for Local Exchange Carriers; Access Charge Reform,* Fourth Report and Order, 12 FCC Rcd 16642, ¶ 167 (1997) (discussing the "perverse incentives of rate-of-return regulation").

Commission were to key rates to under-inclusive, so-called "actual" costs. A "tiered" cost-of-service rate mechanism, such as the one currently under consideration in the Commission's ongoing *TRS Rate Proceeding*, would even further discourage providers from engaging in innovation and investing in their products.[27] As a result, a cost-based, tiered rate plan threatens to undermine the survivability of VRS by reducing providers' incentives to make the investments necessary to maintain and improve the reliability of their services.

The Commission has an explicit statutory obligation to ensure that deaf and hard-of-hearing individuals have communications services available nationwide. The best means, and perhaps the only means, of ensuring the availability of these services is to encourage investment. In turn, to encourage investment in sustainable, survivable VRS facilities, the Commission must adopt a unitary, incentive-based rate mechanism that offers stability and predictability and that compensates all VRS providers equally at a single, equitable rate. Any other approach to VRS rates would threaten the continued reliability of this critical service.

IV. CONCLUSION

Sorenson strongly supports the Commission's goal of ensuring that the nation's broadband network is reliable and survivable. As outlined in the foregoing discussion, Sorenson takes the survivability of its broadband-based VRS offering seriously and has implemented many redundancy measures to bolster its systems and maximize uptime. In developing and implementing measures to strengthen the broadband network as a whole, Sorenson urges the Commission to examine fully the needs of the deaf community and adopt policies to encourage investment in VRS. Specifically, the Commission should protect the reliability and survivability of VRS by continuing its incentive-based VRS rate mechanism. A fair, stable, and incentive-

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[27] Reply Comments of Sorenson Communications, Inc., CG Docket No. 03-123, at 18 (May 21, 2010); *see also* Sorenson Rate Comments at 27-29.

based VRS rate system will encourage providers to make the investments necessary to bolster the survivability of their systems and ensure that deaf users have uninterrupted access to this important service, particularly during emergencies.

Respectfully submitted,

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