

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 Disabilities ) CG Docket No. 10-51  
)  
To: The Commission )

***REPLY TO COMMENTS ON PETITION  
FOR CLARIFICATION OR WAIVER***

**PURPLE COMMUNICATIONS, INC.**

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Purple Communications, Inc. (“Purple”), pursuant to the Commission’s July 2, 2010 Public Notice, DA 10-1253, replies to the comments submitted on its June 2, 2010 Petition for Clarification or Waiver (“Petition”) of FCC Rule §64.613(a) to allow it to implement a point to point (“P2P”) call forwarding service for its users.<sup>1</sup> In support, the following is shown:

***I. Introduction and summary.***

A coalition of consumer groups,<sup>2</sup> a number of individual consumers and two other certified providers support grant of Purple’s Petition to allow consumers access to call forwarding service for P2P calls. The principal opposition to Purple’s Petition comes from the dominant VRS provider, Sorenson, which raises a procedural objection having no merit,

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<sup>1</sup> Purple’s Petition acknowledged that pending before the FCC was its Request for Clarification of Requirements For Populating The iTRS Database (July 21, 2009) and a December 3, 2008 Petition for Expedited Modification and Waiver filed by Viable, Inc., each requesting clarification, waiver or modification of FCC Rule §64.613(a), and that consumer groups had recently expressed their support for a speedy resolution of these submissions. Petition at 1. *See Ex Parte Filing of Telecommunications for the Deaf, Inc., et al.* (May 12, 2010). Purple noted that timely action on those requests would moot its Petition. Petition at 1.

<sup>2</sup> Participating in the consumer group filing were the nation’s leading deaf advocacy organizations: Telecommunications for the Deaf and Hard of Hearing, Inc.; American Association of Deaf-Blind; National Association of the Deaf; California Coalition of Agencies Serving the Deaf and Hard of Hearing, Inc.; Association of Late Deafened Adults, Inc.; and Deaf and Hard of Hearing Consumer Advocacy Network.

speculates that some undefined harm may result from allowing a routing protocol it itself previously advocated, and even questions whether allowing call forwarding for video P2P calls is in the public interest. Sorenson instead suggests the issue should be deferred while the Commission considers a Notice of Proposed Rulemaking proceeding, a process which Sorenson fully realizes would delay the Commission's decision and allow the status-quo to prevail at the expense of an opportunity for the industry to better support the community it serves through new technical innovations.

The most simple and compelling reason for grant of the Petition and rejection of Sorenson's position is summarized by the comments of the coalition of consumer organizations ("Consumers") who "disagree with Sorenson because call forwarding of P2P video calls is a feature that is technically possible and needed by people who are deaf, hard of hearing and deaf-blind now. Putting off consideration under another petition is addressed would be a great disservice to people who are deaf, hard of hearing and deaf-blind." Consumer Comments at 8. Purple agrees.

## ***II. Discussion.***

### ***A. Purple's Petition.***

Purple's Petition explained that call forwarding is currently available to hearing telephone users and that the functional equivalence standard of Title IV of the Americans with Disabilities Act, 47 U.S.C. §225, requires it to be available to deaf and hard of hearing users if it is technically feasible. Petition at 1. Purple further explained that it has devised and implemented on its VRS platform a call forwarding feature called "Follow Me," which allows a user with a 10 digit number registered with Purple to forward his or her incoming relay calls

to another video device, whether managed by Purple or by another provider, and if the device is not answered or not found online, send the call into video mail. Petition at 1.

Purple further explained that consumer acceptance of the Follow Me call forwarding feature has been very favorable. However, Purple explained that consumers desire it to implement call forwarding for P2P calls as well, *i.e.*, calls to the deaf user from other deaf users that do not go through relay. Purple explained it has devised a technical solution which allows it to implement this feature, but to do so, it has to be in a position to redirect calls from the user's primary device to those other devices to which consumers wish their calls forwarded. And to do that, Purple explained that P2P incoming calls need to initially route to a Purple server, which then looks up the consumer's call forwarding instructions, and redirects such calls to the desired destination.<sup>3</sup> Petition at 2.

Purple explained that to accomplish P2P call forwarding, it must populate the iTRS database with an URI that contains the IP Address of a Purple server, not the IP Address of the consumer's primary video device.<sup>4</sup> In this way, an incoming P2P call would be routed to a Purple server which would then redirect its delivery to either the consumer's primary device or the device to which the consumer desires the call to be forwarded. Petition at 2. In light of the provisions of FCC Rule §64.613(a), 47 C.F.R. §613(a), which sets forth the rules for populating the iTRS database, Purple requested clarification or waiver of that rule to allow it to implement Follow Me for P2P calls. Petition at 3.

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<sup>3</sup> After such a call redirection (or forwarding) takes place, the Purple server is then no longer involved in handling the call in any way. Petition at 2.

<sup>4</sup> Since incoming V2V calls are routed directly to Purple from the public telephone network, provisioning the iTRS database with server routing information is not necessary to implement call forwarding for relay calls. Purple's platform knows whether the incoming V2V call is answered and if it is not, the call will be automatically forwarded to the alternate number the user has selected. Petition at 2.

Purple explained that in the FCC's December 19, 2008, Numbering Reconsideration Order, the Commission appeared specifically to sanction call forwarding for deaf persons who use VRS.<sup>5</sup> Petition at 3. In that same order, the Commission emphasized the importance of P2P calls to functional equivalence, stating,<sup>6</sup>

While point-to-point calls between VRS users are not relay calls, and thus are not compensable from the Fund, they do constitute an important form of communication for many VRS users, and any loss of such basic functionality is simply not acceptable.

The Commission went on to explain that “all default providers must support the ability of VRS users to make point-to-point calls without the intervention of an interpreter.”<sup>7</sup> And the Commission found that facilitating P2P calls furthers the purposes of section 225 of the Communications Act of 1934, as amended (“Act”), 47 U.S.C. §225, stating:<sup>8</sup>

Section 225(b)(1) directs the Commission to ensure that relay services are available “[i]n order to carry out the purposes established under section 1, to make available to all individuals in the United States a rapid, efficient nationwide communication service, and to increase the utility of the telephone system of the Nation.” While that section refers to relay services, point-to-point services even more directly support the named purposes: they are more rapid in that they involve direct, rather than interpreted, communication; they are more efficient in that they do not trigger the costs involved with interpretation or unnecessary routing; and they increase the utility of the Nation's telephone system in that they provide direct communication – including all visual cues that are so important to persons with hearing and speech disabilities.

The Commission concluded that Congress “intended persons with disabilities to have the fullest possible access to the Nation's communications system” and that “point-to-point

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<sup>5</sup> *Telecommunications Relay Services*, 24 FCC Rcd 791, 811 (para. 42) (2008).

<sup>6</sup> *Id.* at 821(para. 65).

<sup>7</sup> *Id.*

<sup>8</sup> *Id.* at 821 (para. 67).

communications capabilities serve these goals.”<sup>9</sup> The FCC further concluded that section 1 of the Act [47 U.S.C. §101], charges it with making available “so far as possible, to all the people of the United States ... a rapid, efficient, Nationwide ... wire and radio communications service” and that “[f]acilitating direct communication – without an unnecessary third-party interpreter – between citizens with hearing or speech disabilities furthers our mandate to make communications available to all the people.”<sup>10</sup>

Based on this authority, Purple plainly demonstrated that grant of its Petition furthered the public interest. It appears the FCC has always intended to bring innovations to consumers as they became technically achievable. In fact, Purple stated it would be discriminatory to deny this valuable feature to deaf and hard of hearing users for what is estimated to constitute some 80 percent of their (video) telephone calls.<sup>11</sup> *See* Petition at 6.

Purple further demonstrated good cause for grant of its Petition, explaining that a waiver is appropriate where the particular facts make strict compliance inconsistent with the public interest;<sup>12</sup> and that, the agency may take into account considerations of the more effective implementation of overall policy on an individual basis.<sup>13</sup> Petition at 6. Waiver of a rule is thus appropriate if circumstances warrant deviation from the general rule, and such

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<sup>9</sup> *Id.* at 821-22, para. 67. *See also* Section 225(c)(2) of the Act which states, “Technology. - The Commission shall ensure that regulations prescribed to implement this section encourage, consistent with Section 7(a) of this Act, the use of existing technology and do not discourage or impair the development of improved technology.” Purple pointed out that application of FCC Rule §64.613(a) would discourage and impair the development of improved technology available to deaf and hard of hearing persons if not waived or clarified as requested in the Petition. Petition at 6.

<sup>10</sup> *Id.* at 822 (para. 67).

<sup>11</sup> *See Structure and Practices of Video Relay Services Program*, FCC 10-111 at 15 (para. 46) (2010).

<sup>12</sup> *See Northeast Cellular Tel. Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir 1990).

<sup>13</sup> *See WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969), *cert. denied*, 409 U.S. 1027 (1972); *Northeast Cellular*, 897 F.2d at 1166.

deviation will serve the public interest.<sup>14</sup> Applying these standards to the Petition plainly supported the conclusion that good cause existed to support a waiver, if necessary, of FCC Rule §64.613(a), and that waiver would serve the public interest.

Purple showed that the Petition's grant would promote functional equivalency by allowing deaf and hard of hearing users to enjoy call forwarding for all incoming calls. Call forwarding is a feature hearing persons have, so functional equivalence plainly requires it to be available to deaf and hard of hearing persons if technically feasible. Thus, Purple showed that grant of the Petition would foster the intent of Section 225 of the Act by facilitating rapid, efficient communication for P2P video users. And Purple showed that the Petition's grant would not impugn any of the bases the FCC discussed in adopting Rule §64.613(a), of which the principal basis was a concern for consumer privacy.<sup>15</sup> This is because (1) call forwarding is a voluntary feature, (2) the very nature of managing a video device furnishes the provider with similar information as to user calling data whether or not the consumer's device is server routed or direct IP address routed, (3) privacy concerns have not served as a reason for prohibiting server routing for IP Relay and thus should not serve as a basis for prohibiting server routing for VRS, and (4) a better means of protecting consumer privacy would be to implement strict CPNI rules, rules Purple is on record supporting, rather than limiting the ability of providers to implement consumer innovations.<sup>16</sup> Petition at 7-8.<sup>17</sup>

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<sup>14</sup> See *Northeast Cellular*, 897 F.2d at 1166.

<sup>15</sup> *Telecommunications Relay Services*, 23 FCC Rcd 11591, 11631 (para. 53) (2008).

<sup>16</sup> In this connection, it is noted that all major VoIP providers employ server routing. It is analogous to the routing system employed by the public switched telephone network, where all calls transit the consumer's local exchange.

<sup>17</sup> Likewise no danger exists here for a provider to block or degrade calls initiated through a competitor. *Numbering Order*, 23 FCC Rcd at 11613 (para. 53). First, if anything would give a provider the ability to block or degrade calls, it would be the FCC's requirement for the default provider to manage the consumer's CPE, not server routing. Second, server routing simplifies and

***B. Supporting Comments.***

Four providers, the Consumers and a number of individual consumers<sup>18</sup> commented in response to the FCC's Public Notice. The Consumers (and individual consumers) support the Petition, explaining that "Pursuant to 47 U.S.C. §225, individuals who are deaf, hard of hearing and deaf-blind are equally entitled to the benefits of call forwarding and its potential applications" as hearing persons now enjoy. Consumer Comments at 2. The Consumers further cite to Sections 1, 7(a) and 255 of the Act to support the Petition's grant. Consumers also note the Petition's grant would facilitate the ability "for deaf, hard of hearing, and deaf-blind users to have one NANP number for multiple devices, a feature they "have long yearned for ... and have maintained that 'functional equivalency requires that a customer with multiple devices on the same premises using the same service, such as VRS, should be able to obtain one telephone number for all such devices and should not be required to obtain a separate phone number for each device.'" Consumers Comments at 5 (citing August 8, 2008 Comments in Dockets 03-123 and 05-196 at 11).

At a minimum, Consumers support grant of the Petition on an interim basis pending action on the outstanding petitions for modification of Rule § 64.613(a) so to allow VRS users the full benefits of call forwarding during that interim period. Consumers Comments at 7.

Snap Telecommunications, Inc. ("Snap"), a certified VRS provider, also supports the Petition's grant. Snap requests that such grant apply to all providers to allow them to provide

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enhances call termination to multiple devices behind a single router. Even were a provider intending to block or degrade calls placed over the network of a competitor, the proper remedy is for the FCC to treat such behavior harshly as a direct violation of the requirements relating to equipment and service interoperability.

<sup>18</sup> See Comments of Diane Gutierrez (July 15, 2010); Jennifer Sweeney (July 15, 2010); Toby Welch (July 13, 2010); Cynthia Picard (July 13, 2010); Norma B. Garcia (July 13, 2010); Tami Davidson (July 13, 2010).

“server routing ... to enable the innovation of features and services which will help close [the] gap with the [ADA’s] functional equivalence mandate.” Snap Comments at 1. Snap points particularly to the benefit of server routing (which is necessary to implement Purple’s call forwarding feature for P2P calls) in meeting network security requirements of business and government users of VRS and in promoting interoperability of diverse equipment. *Id.* at 2. Snap explains that server routing is standard for VoIP connections and elsewhere in telecommunications, would allow providers to develop and deploy an extensive range of services, features and protections not currently available with direct device routing, and that the Commission permits server based routing for these very reasons with IP Relay. *Id.* at 3.

CSDVRS, LLC, (“CSDVRS”), another certified provider, also agrees with grant of the Petition, “as it represents an available technology and furthers the interests of the functional equivalency mandate of the [ADA].” CSDVRS Comments at 1. Like Snap, CSDVRS argues that grant of the Petition should extend to all VRS providers. *Id.* at 2. In this connection, Purple agrees that grant of the Petition should apply industry-wide and never meant to imply that the requested clarification or waiver of Rule §64.613(a) should apply only to itself.

CSDVRS, similar to Snap, makes the point that server based routing is often needed to bridge firewalls or solve interoperability issues between devices. *Id.* at 2-3. And both Snap and CSDVRS agree with Purple that consumer privacy concerns would be better handled directly through CPNI rules, rather than by limiting the technological capabilities of VRS. Snap Comments at 3; CSDVRS Comments at 3. In sum, CSDVRS concludes that grant of the Petition “will allow consumers much greater flexibility of choice in VRS services, and will further the functional equivalency mandate of the ADA.” CSDVRS Comments at 3.

**C. *Opposing Comments.***

Sorenson Communications, Inc. (“Sorenson”), which admits that it previously supported server-based routing and may do so in the future,<sup>19</sup> objects to the Petition.<sup>20</sup> Sorenson’s principal objection to grant of the Petition appears to be procedural. Sorenson asserts that a notice and comment rulemaking proceeding should be held on whether to modify Section 64.613(a). Sorenson Comments at 1, 5-7. Purple does not disagree that a proceeding needs to be conducted to modify Section 64.613(a), and Purple sought to institute just such a proceeding with its petition filed last July. However, that is no reason to deny consumers important services such as call forwarding, which consumers need and want now. As the Consumers point out, “the Commission has already put the Petition out for comment. Since this is a petition for waiver and not for rulemaking, Public Notice of the Petition constitutes sufficient notice and provides the Commission with authority to issue waivers and grant the Petition. Therefore the assertion by Sorenson has no merit.”

Purple showed that waiver of Section 64.613(a) would promote the purposes of the rule, to better serve deaf and hard of hearing persons, and would not result in the potential harms which led to the adoption of the rule. There is nothing procedurally defective in waiving a rule while its modification is being considered where there is a showing, as Purple has made, that waiver would be in the public interest.

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<sup>19</sup> Neustar, the iTRS administrator previously supported server based routing for VRS. Informal discussions with Neustar indicate it continues to support populating the iTRS database with server-based routing information. Just so Purple’s position is clear, it supports giving providers the flexibility to populate the iTRS database either with server routing information or with the direct IP Address of the consumer device, whatever is necessary in the circumstance to ensure that calls will make it through to the consumer.

<sup>20</sup> Sorenson’s Comments were originally filed June 14, 2010, and were refilled in response to the Commission’s Public Notice.

Sorenson speculates that grant of the Petition might cause some unspecified harm, such as missed calls. That argument in the context of a Petition to allow a call forwarding feature falls flat. Putting aside that the very purpose of call forwarding is to allow a call that would otherwise not get answered to be answered, Sorenson has suggested no reason why either the Follow Me call forwarding feature Purple is implementing, or more generally use of server routing, could even possibly lead to such a result. Indeed, IP Relay relies on server routing for call delivery. Presumably since Sorenson is a leading IP Relay provider, it would be in a position to point to any issue actually existing with respect to server routing.<sup>21</sup> It has not done so. In fact, it is the advantages that server routing has in effecting call delivery – especially in business and government applications, where firewall security is high -- that appears to be a principal bases for Snap, CSDVRS and the Consumers to support the process.

Sorenson further speculates that a potential harm that might result from call forwarding would be “endless loops.”<sup>22</sup> Providers, however, plainly have an incentive to avoid such occurrences and Purple’s system only allows one redirect or forward in part to

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<sup>21</sup> Purple, which is the largest provider of IP Relay service, has not discovered any such issues.

<sup>22</sup> Sorenson suggests without any citation, that call forwarding is a “feature that may be inconsistent with the FCC’s carefully considered numbering regime” and appears to claim that “there is no evidence” that call forwarding “is in the public interest.” Sorenson Comments at 2. We find these statements difficult to take seriously given the Commission’s discussion in its December 19, 2008, Numbering Reconsideration Order, where the Commission appeared specifically to sanction call forwarding for VRS users, stating,

Nothing in this Order is intended to restrict an Internet-based TRS provider that has provisioned a user with multiple numbers for the same service from offering call-forwarding-type features that automatically forward an incoming call for the user at a URI associated with one telephone number to the user at a URI associated with another telephone number if it does not result in additional costs to the Fund. We note, however, that an Internet-based TRS provider that is not the default provider of these numbers may not be able to replicate the same feature based on the information in the Numbering Directory.

prevent such occurrences. Sorenson has also not supported its speculative assertion that grant of the Petition “might” affect other providers. As stated earlier, Purple supports waiver of Section 64.613(a) for any provider which needs to employ server routing to provide a feature or service which it could not otherwise provide. If a provider needed server routing to provide improved service to its users, it could do so. If it does not, it can continue to operate in the same manner as it currently operates by provisioning direct device address information to the iTRS database.

If by “affect,” however, Sorenson actually means that it might suffer a competitive disadvantage because it would choose not to offer consumers similar call forwarding functionality that is not a harm the FCC should recognize since Sorenson could simply allocate the resources necessary to provide call forwarding itself.

Sorenson also claims grant of the Petition “may reduce providers’ incentives to act as default providers by allowing providers” to handle calls without being subject to the obligations of default providers. Sorenson Comments at 7. The problem with that argument is that the Petition is based on P2P traffic, not VRS traffic. Purple gets no financial benefit from P2P traffic and in fact does not “handle” it. Purple has already implemented call forwarding for VRS traffic. Call forwarding for VRS traffic does not require server routing because the incoming call already transits into Purple for interpretation, and thus Purple’s system knows where the consumer has directed his call to route if he is not on line with his or her primary device. That system works equally well either with server routing or with direct device routing. Thus, Sorenson’s speculative concern with respect to default provider obligations is misplaced.

The bulk of the rest of Sorenson's comments is directed to an assertion that Purple has not made a sufficient showing to support the Petition's grant. With respect, however, we suggest that providing consumers functionality equivalent to that which hearing persons enjoy, as mandated by statute, is itself a sufficient and compelling justification to support grant of the Petition. Consumers certainly think so. *See generally* Consumers Comments.

Convo Communications, LLC, an uncertified VRS provider, states its strong support for call forwarding but nevertheless raises an objection to grant of the Petition. Convo claims Purple has not shown its call forwarding solution is the "only way" to implement this feature. Convo Comments at 2. That is, however, a fundamentally unfair standard for anyone to meet. It is virtually impossible to prove a negative. In any event, suffice it to say that Convo certainly has not suggested a viable alternative pursuant to which Purple could implement call forwarding for P2P calls under existing rules.<sup>23</sup>

Indeed, perhaps Convo fundamentally misunderstood Purple's call forwarding solution as Convo suggests that grant of the Petition "may require that other participants make changes on their own VRS platforms to comply with a non-standard configuration...." Purple's Petition requires nothing of the kind. Any provider would be entitled to provision the iTRS database *at its option* with server routing to implement a similar solution, or not. No change in a provider's platform would be required unless that provider decided specifically that it had a need to do so. And contrary to Convo's suggestion, Convo Comments at 4, no change in the iTRS database would be required by grant of Purple's Petition. Therefore there

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<sup>23</sup> Convo suggests that the iTRS database could be configured so that the phone number to which a call is forwarded could be listed as part of the destination field protocol. Convo Comments at 3. This suggestion would require technical review by Neustar and possibly other parties to determine whether or not it would meet ENUM standards, however. Moreover, it would require modification of the iTRS database protocols, which is an objection Convo incorrectly raises concerning Purple's Petition.

are no additional costs or technical development necessary by Neustar, the administrator of the iTRS database, to implement this functionality.

**III. Conclusion.**

In sum, call forwarding is available to hearing persons for all their calls. Call forwarding should likewise be available to deaf and hard of hearing persons for all their calls, if technically feasible. . Purple has shown that call forwarding is technically feasible for P2P video calls through use of a server routing solution, a solution used for IP Relay, VoIP and other telecommunications services today. Call forwarding requires no incremental costs or efforts by Neustar. Grant of Purple's Petition will bring greater functional equivalence in telecommunications to deaf and hard of hearing persons who communicate by VRS and P2P video. Grant of the Petition will not cause any harm to the FCC's numbering scheme, E911 service, or result in any other harm to consumers or the relay service. Rather, as the Consumers convincingly point out, grant of the Petition is consistent with Sections 1, 7(a), 225 and 255 of the Act. As such, the FCC should grant the Petition and either clarify or waive the provisions of FCC Rule §64.613(a), to allow Purple's call forwarding service and other similar services by other providers.

Respectfully submitted,

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