

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In The Matters of)	
)	
Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities)	CG Docket No. 03-123
)	
E911 Requirements for IP-Enabled Service Providers)	WC Docket No. 05-196
)	
Internet-Based Telecommunications Relay Service Numbering)	WC Docket No. 10-191
)	

COMMENTS OF SORENSON COMMUNICATIONS, INC.

Sorenson Communications, Inc. (“Sorenson”) hereby comments in response to the Commission’s Notice of Proposed Rulemaking (“NPRM”) regarding assignment of telephone numbers associated with Internet-based Telecommunications Relay Services (“iTRS”), specifically, Video Relay Service (“VRS”) and IP Relay.¹ As one of the few providers that participated in the Alliance for Telecommunications Industry Solutions (“ATIS”) process that eventually formed the basis for the FCC’s seminal iTRS numbering orders,² Sorenson has

¹ *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; E911 Requirements for IP-Enabled Service Providers; Internet-Based Telecommunications Relay Services Numbering*, Notice of Proposed Rulemaking, 25 FCC Rcd. 13,767 (2010) (“NPRM”).

² *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; E911 Requirements for IP-Enabled Service Providers*, Second Report and Order and Order on Reconsideration, 24 FCC Rcd. 791 (2008) (“Dec. 2008 Numbering Order”); *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; E911 Requirements for IP-Enabled Services Providers*, Report and Order and Further Notice of Proposed Rulemaking, 23 FCC Rcd. 11,591 (2008) (“Jun. 2008 Numbering Order”).

consistently been at the forefront of efforts to bring the conveniences and other benefits of ten-digit numbering to VRS consumers. In addition, Sorenson was one of the first providers to issue ten-digit numbers to deaf consumers, and Sorenson was a leader in developing and advocating for functionally equivalent E911 capabilities for VRS and IP Relay. While Sorenson will—as it has always done—implement whatever the Commission orders, the Commission should take a step back and consider whether what it is proposing will promote accessibility for deaf and hard-of-hearing persons. While some of the proposals are unobjectionable and merely codify orders issued to date, the proposal to require deaf and hard-of-hearing consumers to procure toll-free service directly from a toll-free service provider—and to bear all the associated charges—will harm both access for lower income consumers and functional equivalence.

I. OVERVIEW & SUMMARY

The NPRM proposes to restructure substantially the use of toll-free numbers by the deaf and hearing impaired, and to institute for the first time a regime in which deaf and hearing impaired users are charged for inbound calls made to their personal toll-free numbers. Although Sorenson will of course implement these proposed changes if the Commission mandates them, they are decidedly consumer-unfriendly and will increase the likelihood that calls will not be completed correctly. Thus, to minimize consumer disruption, the Commission should consider applying new rules, if at all, only on a prospective basis.

The NPRM proposes to solve problems either that do not exist, or that resulted from the Commission's prior directive (since countermanded) to remove toll-free numbers from the iTRS database. Several of the NPRM's factual bases are incorrect, at least with respect to Sorenson.

For example, Sorenson:

- As required by 47 CFR § 64.611(a)(1)(ii), has assigned, and continues to assign, all its default users a geographically appropriate ten-digit local number, except

when those numbers are not available, in which case Sorenson assigns a geographically approximate telephone number. Sorenson has access to geographically appropriate numbers for approximately 88% of the iTRS users who have selected Sorenson as their default provider.

- Does not assign toll-free numbers to users who do not affirmatively request one, including with respect to geographically approximate telephone numbers.
- Does not assign toll-free numbers on a standalone basis without assigning a ten-digit local number (*i.e.*, as already required by the FCC’s rules, Sorenson always assigns a ten-digit local number to a default user).
- Routes emergency iTRS calls based on the default address provided by the user (*i.e.*, Sorenson does not use telephone numbers to determine the routing of emergency calls).³
- Places both the toll-free and ten-digit local numbers in the iTRS directory to enable point-to-point calling to either number, as directed by the Consumer and Governmental Affairs and Wireline Competition Bureau’s Order of December 4, 2009.⁴
- Does not include toll-free service in the costs reported to NECA.
- Does not block the execution of port requests submitted to its Responsible Organization (“RespOrg”) by a porting-in RespOrg (*i.e.*, Sorenson enables its default users to port toll-free numbers to other providers).

Deaf and hard-of-hearing consumers clearly appreciate the advantages of toll-free numbers, as many consumers have requested them when registering with Sorenson. The

³ Sorenson is concerned that the NPRM reflects an important apparent misconception regarding existing VRS emergency calling functionality. Sorenson shares the Commission’s concern about the critical importance of emergency calling functionality, but it is not aware of any instance in which a VRS user’s use of a toll-free number resulted in any delay in critical response time. The assignment and use of toll-free numbers should have no effect on emergency calls. All emergency calls are automatically routed to the appropriate PSAP, along with the caller’s registered location and ten-digit local number (where they are available). This process does not vary for VRS users with toll-free numbers, and Sorenson is not aware of any situations in which users or PSAP responders confused local and toll-free numbers in a manner that materially degraded response time.

⁴ *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; E911 Requirements for IP-Enabled Service Providers*, Order, 24 FCC Rcd. 14,342 (2009) (“Dec. 2009 Numbering Order”).

Commission's proposed regime for handling toll-free calls to an iTRS user will unnecessarily introduce substantial complexity and will likely create call-routing errors that will degrade iTRS services, particularly for point-to-point calling.

Furthermore, the NPRM does not propose, and should not be interpreted to propose, a prohibition of VRS providers acting as RespOrgs or interexchange carriers, or entering into sales and marketing relationships with RespOrgs or interexchange carriers. There is no basis for such structural separation, which would be inconsistent with Section 225's basic mandate that all telecommunications carriers provide TRS. Moreover, because iTRS providers (at least Sorenson) do not include the costs of toll-free service in the costs reported to NECA, structural separation is not needed for program integrity. Any such separation requirement would discriminate against those iTRS providers that are not carriers today, as compared with those that are carriers or carriers' affiliates.

II. DISCUSSION OF SPECIFIC PROPOSALS

A. User-Selected Toll-free Use

The Commission proposes "to prohibit iTRS providers, acting in the capacity of a user's default number provider, from also automatically assigning a new toll free number to the user."⁵ As Sorenson does not automatically assign toll-free numbers to a new default user, Sorenson does not object to this proposal, but it does have some concern about the proposal's impact in the limited circumstance when a geographically appropriate local number is not available.

The proposed prohibition on automatic assignment of toll-free numbers to a default iTRS user codifies a requirement stated in the Bureaus' August 11, 2009 Public Notice that iTRS providers could assign a toll-free number along with a ten-digit geographic number in response

⁵ NPRM, 25 FCC Rcd. at 13,776 ¶ 16.

to a user's request.⁶ Accordingly, as required by the August 2009 Public Notice, Sorenson does not automatically assign toll-free numbers to its default users, but instead offers consumers the option of obtaining a toll-free number in addition to their ten-digit local number. A default user must affirmatively request a toll-free number in order to receive one.

In Sorenson's experience, these toll-free numbers provide many benefits to iTRS users, particularly those who live in areas where geographically appropriate local numbers are not available.⁷ Twelve percent of users who have selected Sorenson as their default iTRS provider are in areas for which Sorenson does not have access to a geographically appropriate number, and Sorenson thus assigns those default users a "geographically approximate" local ten-digit telephone number.⁸ For those customers, toll charges can result even for calls placed to the iTRS user by hearing persons—including health care providers, schools, governments and employers—located within the same local calling area.⁹ The only way to provide functionally equivalent service for these VRS customers is to provide them with toll-free numbers so that callers can place local calls to them without charge. Accordingly, to promote functional

⁶ *Clarification Regarding the Use of Toll Free Numbers for Internet-Based Telecommunications Relay Services*, Public Notice, 24 FCC Rcd. 10,626 (2009) ("Toll Free Clarification Public Notice").

⁷ *See, e.g.*, NPRM, 25 FCC Rcd. 13,769 ¶ 5 n.26 (noting that local numbers are not available for thousands of VRS consumers and granting a temporary waiver to allow iTRS providers to assign "geographically approximate" numbers when no numbers are available from the user's rate center).

⁸ As a non-carrier, Sorenson is not eligible for number assignments from either NANPA or the pooling administrator. Instead, Sorenson obtains access to numbers from carriers, but no single carrier has numbers in all rate centers in the country. It is infeasible for Sorenson to have agreements to obtain local numbers from the myriad of small telephone companies in areas in which Sorenson's principal numbering partners lack local telephone numbers, particularly because Sorenson may never—or only sporadically—have a default user in many of these areas.

⁹ Whether a toll charge would result for any particular call depends on the scope of the local calling area and any extended area calling plans, as well as whether the caller has an "any distance" calling plan.

equivalence, the Commission should waive the rules it proposes for VRS customers for whom geographically appropriate numbers are not available.

This slight modification to the Commission's proposal would benefit a substantial number of consumers without causing any harm. Contrary to the Commission's concerns, iTRS providers have not materially contributed to toll-free number exhaust.¹⁰ There are over 26 million assigned toll-free numbers nationwide, of which the iTRS numbers are a tiny fraction.¹¹ Simply put, iTRS users make up only a very small number of toll-free subscribers, and their use of toll-free numbers accordingly has an extremely modest impact on number exhaustion.

In addition, assigning toll-free numbers to consumers without access to geographically appropriate numbers would not affect costs to the TRS fund, as Sorenson does not include the costs of toll-free numbers in its submissions to NECA—and the Commission currently does not even permit ten-digit numbering costs to be included in cost submissions.¹² The FCC has made clear that while providers are free to assign toll-free numbers, the costs of those numbers must be borne by either the consumer or the provider and cannot be passed onto the Fund.¹³ Consistent with this ruling, Sorenson has opted to pay all costs associated with its customers' toll-free numbers, but Sorenson does not include those costs in its annual submissions to NECA.

¹⁰ See NPRM, 25 FCC Rcd. at 13,775 ¶ 13.

¹¹ C. Stroup & John Vu, Industry Analysis and Technology Division, Wireline Competition Bureau, Numbering Resource Utilization in the United States (Feb. 2010), *available at* http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-296480A1.pdf.

¹² See Dec. 2008 Numbering Order, 24 FCC Rcd. at 815-16 ¶¶ 52-54 (permitting iTRS providers to offer toll-free numbers as long as they do not charge the Fund for the costs associated with the toll-free numbers).

¹³ *Id.*

B. *Continuing Use of and Access to Toll-free Numbers*

The Commission proposes that any iTRS user who wants to keep a toll-free number that was issued by an iTRS provider may do so.¹⁴ That proposal is, of course, unobjectionable. However, the Commission also proposes that the user must become a direct customer of a toll-free service provider, and the iTRS provider as iTRS provider may have no continuing role in procuring or managing the toll-free number on the user's behalf.¹⁵ In addition, the Commission proposes that once an iTRS user transfers his or her toll-free number from an iTRS provider to a toll-free service provider (or obtains a toll-free number directly from a toll-free service provider), the user assumes responsibility for all costs associated with the toll-free number, including usage charges for all inbound calls.¹⁶

Sorenson will work with the Commission and deaf and hard-of-hearing consumers to implement any decision regarding use of and access to toll-free numbers, but the Commission must recognize the consequences of requiring deaf and hard-of-hearing users to pay for their toll-free numbers associated with iTRS services. First, the rules proposed by the Commission would effectively deprive many deaf and hard-of-hearing consumers of the toll-free numbers they have already acquired and depend upon—particularly for those consumers with the lowest incomes. The proposed rules would require consumers to transfer their toll-free numbers to a toll-free service provider and thereafter to incur the costs associated with those numbers.¹⁷ Requiring

¹⁴ NPRM, 25 FCC Rcd. at 13,777 ¶ 17.

¹⁵ *Id.*

¹⁶ *Id.*, 25 FCC Rcd. at 13,777 ¶ 18.

¹⁷ In response to the NPRM's proposal that toll-free numbering costs may not be reimbursed from the TRS Fund (*see* NPRM, 25 FCC Rcd. at 13,776-77 ¶¶ 13, 18) Sorenson notes that toll-free numbering costs are not compensable now, and are not included among the cost data submitted to NECA. Indeed, Sorenson has provided toll-free numbers at no cost to consumers, despite the fact that the associated costs are not reimbursed. *See* Dec. 2008

consumers to pay for toll-free service is likely to force at least some consumers to relinquish their access to toll-free numbers, thus degrading their service. The Commission should, therefore, consider applying this rule prospectively only, grandfathering existing users of toll-free numbers to ensure that they are not deprived of access to a valued feature due to a change in policy.¹⁸

Second, removing the iTRS provider from its role in provisioning toll-free numbers will introduce errors into the iTRS database. Because the iTRS provider will not be providing the toll-free number, the iTRS provider will have to rely on users to provide the correct toll-free number to associate with the user's IP address in the iTRS database. When a user provides an incorrect number—as will inevitably occur—the incorrect number will be placed in the iTRS database and the user will not be able to receive calls placed to the toll-free number from hearing callers as well as point-to-point calls to the toll-free number from other deaf or hard-of-hearing persons.

Notably, the Commission does not propose to bar iTRS providers from simultaneously serving as a default user's RespOrg or toll-free interexchange service provider—nor should it do so. Such mandatory structural separation would be inconsistent with the statutory construct for TRS as a service that all telecommunications carriers (including toll-free interexchange carriers)

Numbering Order, 24 FCC Rcd. at 815-16 ¶¶ 52-54 (permitting iTRS providers to offer toll-free numbers as long as they do not charge the Fund for the costs associated with the toll-free numbers.)

¹⁸ Functional equivalency does not require identical treatment of deaf and hearing consumers. Rather, functional equivalency should be understood to be a floor, not a ceiling. TRS has yet to achieve true equivalency with traditional telecommunications services in many respects. Given the inherent inequities between the services available to the deaf and the hearing, the deaf should be permitted to enjoy “better” service when possible. To the extent that toll-free numbers make VRS more accessible, they further the mandate of the Americans with Disabilities Act and should be facilitated, not discouraged.

are required to provide. Moreover, there is no need for such a proposal, as the costs associated with toll-free numbers are not included in iTRS providers' NECA cost reports.

Porting is also not a reason to ban consumers from obtaining toll-free numbers from iTRS providers upon request. Sorenson permits and does not obstruct toll-free porting following receipt of a valid request. Those requests flow from the proposed new toll-free provider to Sorenson's toll-free provider, which in turn notifies Sorenson of the request and provides Sorenson an opportunity to block it. Sorenson blocks a request, however, only in the case of a data mismatch that suggests unauthorized porting—that is, when the porting request contains name and contact information that does not match the information in Sorenson's records associated with the toll-free number.

C. *Transfer of Toll-free Numbers*

The Commission seeks comment on ways that iTRS providers can help transfer a toll-free number assigned by the iTRS provider to a direct subscription with a toll-free service provider.¹⁹ It is not clear whether the FCC's current numbering rules allow for the transfer of toll-free numbers in the manner suggested in the NPRM.²⁰ Accordingly, Sorenson suggests that the Commission waive (or confirm the absence of) any requirement that a toll-free number be returned to the general pool as part of a transfer, and instead permit the iTRS provider to transfer a consumer's toll-free number directly to the underlying toll-free carrier for management, without interruption in service or change in number.

¹⁹ See NPRM, 25 FCC Rcd. 13,777-78 ¶ 19.

²⁰ See 47 C.F.R. §§ 52.101–111. It is unclear whether a RespOrg may directly re-assign a toll-free number from one customer to another, or whether, once one customer surrenders a number, it must be returned to the general pool. If the number must be returned to the pool, then it must be made available “on a first-come, first-served basis.” *Id.* § 52.111. Thus, Sorenson is concerned that, once it surrenders a customer's toll-free number, it may be re-assigned to a third party before it can be transitioned to Sorenson's customer.

Furthermore, the Commission seeks comment on how iTRS providers should assist an iTRS user in the process of transferring toll-free numbers to a toll-free service provider.²¹ Sorenson believes that providers should ensure that consumers have full information on the new rules' requirements, the timeline for their implementation, and the options (and consequences) consumers face. They should provide this information via mail or by other comparably effective means. In addition, costs associated with such outreach should be included among "compensable" cost data submitted to NECA.

D. *Toll-free Numbers in the iTRS Directory*

The Commission proposes rules that would require providers to map toll-free numbers to the local number in the iTRS directory, as this would allow deaf and hard-of-hearing users to receive calls through a dial-around iTRS provider.²² Sorenson agrees that toll-free numbers should be mapped to a user's local number in the iTRS Directory. This has been Sorenson's practice, except during a brief period when Sorenson removed toll-free numbers from the iTRS directory in compliance with the Commission's *Toll Free Clarification Public Notice*. When a Sorenson user has both a local and toll-free telephone number, Sorenson associates both numbers with the same "profile" in the iTRS database. This "profile" contains the URI(s) that specify the user's IP address. Likewise, Sorenson concurs that any toll-free number that is not ultimately associated with a ten-digit local telephone number assigned to an iTRS user should be removed from the iTRS database as expeditiously as possible, assuming that it is technically feasible to identify those numbers.²³

²¹ See NPRM, 25 FCC Rcd. at 13,778 ¶ 20.

²² See *id.*, 25 FCC Rcd. at 13,778 ¶ 21.

²³ See *id.*, 25 FCC Rcd. 13,779 ¶ 24. As a technical matter, the SMS/800 database does not contain the associated ten-digit local telephone number, but instead directs the call to a carrier who can then resolve the call's destination. Sorenson has consulted with its toll-free

Sorenson, however, disputes the NPRM’s assertion that some existing toll-free number mapping practices “can create a ‘walled garden’ for the dominant iTRS provider.”²⁴ Contrary to the implication in that statement, Sorenson in fact places toll-free numbers in the iTRS database, and it also ports toll-free numbers in response to valid requests. Any complication in point-to-point communications between different iTRS providers’ customers when one is using a toll-free number results from the FCC’s inversion of the rules on this point. When the FCC, in August 2009, clarified that a user’s toll-free number “must be directed to the user’s ten-digit geographic number in the Service Management System (SMS)/800 database, and not in the Internet-based TRS numbering directory,”²⁵ Sorenson worked with FCC staff to ensure that the company could move toll-free numbers out of the iTRS directory as quickly as possible. Subsequently, as the NPRM notes, the Commission received complaints that many VRS users were unable to connect to toll-free numbers that had been removed from the iTRS database.²⁶ Soon thereafter, the FCC

vendors, who have informed Sorenson that this could not be implemented as strictly proposed in the NPRM.

²⁴ *Id.*, 25 FCC Rcd. 13,778-89 ¶ 22. Sorenson disputes the NPRM’s characterization of Sorenson as “dominant.” Although Sorenson is clearly the most successful VRS provider, it is not “dominant,” as that term is typically used by the FCC. *See Petition of Qwest Corporation for Forbearance Pursuant to 47 U.S.C. § 160(c) in the Phoenix, Arizona Metropolitan Statistical Area*, Memorandum Opinion and Order, 25 FCC Rcd 8622, 8624-25 ¶ 5 (2010) (defining “a dominant carrier as a carrier that possesses market power (*i.e.*, the power to control price), and a nondominant carrier as one that does not possess power over price”) (internal quotation marks omitted). Even if this concept is applicable in the iTRS context (which it is not), Sorenson does not have the ability to set prices or exercise market power. Its VRS compensation rates are set by the FCC, which is the one and only purchaser in the market.

²⁵ *See Toll Free Clarification Public Notice*, 24 FCC Rcd. at 10,627 (clarifying that “Toll free numbers and ten-digit geographic numbers should not be directed to the same Uniform Resource Identifier (URI) in the Internet-based TRS numbering directory.”)

²⁶ *See NPRM*, 25 FCC Rcd. 13,778 ¶ 22 n.73 (citing Letter from Kelby Brick, Vice President – Regulatory & Strategic Policy, Purple Communications, Inc. to Marlene H. Dortch, Secretary, FCC, CG Docket No. 03-123, WC Docket No. 05-196 at 1 (filed Dec. 2, 2009);

reversed course and waived the requirements adopted in the *Toll-Free Clarification Public Notice*,²⁷ and Sorenson worked diligently to re-enter its customers' toll-free numbers into the iTRS database as expeditiously as possible.

E. *Transition Period*

The Commission proposes a one-year transition period, during which the Commission, iTRS providers, and consumer groups can engage in outreach to educate users.²⁸ If the Commission decides to proceed with its proposed rule changes, Sorenson agrees that it should allow at least a one-year transition period for consumer outreach. Consumers who use toll-free numbers will need to be educated about the change in policy and made aware that they will have to begin paying for the toll-free numbers they have been receiving and using without charge. Providers' costs associated with such outreach should be included among "compensable" cost data submitted to NECA. In addition, providers will need time to transfer numbers to the applicable toll-free service provider and to make the necessary technical adjustments to their systems.

F. *Removing Non-Selected Toll-free Numbers from the iTRS Directory*

The Commission proposes that, after the transition period, any toll-free numbers that have not been mapped to local numbers in the SMS/800 database by a toll-free service provider be removed from the iTRS Directory.²⁹ To that end, the NPRM seeks comment on whether there should be a process during the transition period through which iTRS users who know they do not

Letter from Jeff Rosen, General Counsel, Snap!VRS to Marlene H. Dortch, Secretary, FCC, CG Docket No. 03-123, WC Docket No. 05-196 at 1 (filed Dec. 2, 2009)).

²⁷ See Dec. 2009 Numbering Order, 24 FCC Rcd. at 14,344-45 ¶¶ 5-6.

²⁸ See NPRM, 25 FCC Rcd. 13,779 ¶ 23.

²⁹ See *id.*, 25 FCC Rcd. 13,779 ¶ 24; see also *supra* note 23 (commenting on technical limitations related to mapping ten-digit local numbers in the SMS/800 database).

want their toll-free numbers can request that those numbers be deleted from the iTRS directory. Sorenson does not object to this approach, which would lessen the potential problems that could result from a mass simultaneous deletion of numbers at the very end of the transition period.

G. *Consumer Outreach*

The Commission seeks input on ways to make information about the availability and use of toll-free numbers available to iTRS users.³⁰ If the proposed rules are implemented, Sorenson will include in its already-robust outreach efforts information about the new toll-free number rules, policy and procedures. Providers' costs associated with such outreach should be included among "compensable" cost data submitted to NECA.

III. CONCLUSION

For the reasons stated herein, Sorenson urges the Commission to reconsider the proposals contained in the NPRM. Although Sorenson will implement these proposed changes if the Commission mandates them, the Commission must recognize that its proposals are consumer-unfriendly. Should the Commission decide to implement its proposed changes, it should consider applying any new rules only on a prospective basis, and it should consider waiving them altogether for consumers whose iTRS providers lack access to geographically appropriate local numbers.

³⁰ See *id.*, 25 FCC Rcd. 13,779-80 ¶ 25.

Respectfully submitted,

/s/

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