

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

In The Matter of)	
)	
Structure and Practices of the Video Relay Service Program)	CG Docket No. 10-51
)	
Telecommunications Relay Services and Speech- to-Speech Services for Individuals with Hearing and Speech Disabilities)	CG Docket No. 03-123

REPLY COMMENTS OF SORENSON COMMUNICATIONS, INC.

Sorenson Communications, Inc. (“Sorenson”) hereby replies to the comments filed in response to the Notice of Proposed Rulemaking (“NPRM”) issued by the Federal Communications Commission (“FCC” or “Commission”) related to rates and compensation for video relay service (“VRS”) for the 2011-2012 Interstate Telecommunications Relay Services Fund Year.¹

I. VRS PROVIDERS SUPPORT THE PROPOSED EXTENSION OF CURRENT RATES.

There is no disagreement about the Commission’s proposal to extend the current rates into the 2011-12 Fund year until the Commission completes its ongoing rate review and subject to the outcome of Sorenson’s appeal to the Tenth Circuit. Sorenson, CSDVRS, Snap! and Purple

¹ See *Structure and Practices of the Video Relay Service Program*, CG Dockets No. 10-51 and 03-123, Notice of Proposed Rulemaking, FCC 11-62 (rel. Apr. 15, 2011) (“NPRM”).

all support the proposal,² and the Consumer Groups (the only other party to file comments) did not express an opinion.³

II. THE PART 32 SYSTEM OF ACCOUNTS IS NOT APPROPRIATE FOR VRS.

Sorenson and CSDVRS concur that the Part 32 system of accounts does not make sense for VRS.⁴ As CSDVRS explains, the Part 32 system of accounts is a “mismatch” for VRS because it was designed for “traditional telecommunications companies which utilize physical assets as the primary conduit for communications.”⁵ While Purple offers support for applying an approach based on Part 32, it fails to address the practical disconnect between VRS and a system designed for legacy incumbent wireline operations.⁶ At a more fundamental level, as Sorenson explains in its comments, the inquiry is simply premature as it presupposes the structure of a long-term rate methodology before the FCC has issued any notice to that effect.⁷

III. TO PROMOTE INNOVATION AND FUNCTIONAL EQUIVALENCE, THE COMMISSION SHOULD NOT DISCRIMINATE AGAINST CERTAIN CAPITAL COSTS.

Every VRS provider that submitted comments recognizes that provision of innovative and consumer-friendly VRS services requires access to capital.⁸ Purple observes correctly that

² See Comments of Sorenson Communications, Inc. at 1 (“Sorenson Comments”); Comments of CSDVRS, LLC at 2, 8 (“CSDVRS Comments”); Comments of Snap Telecommunications, Inc. at 8 (“Snap! Comments”) (all filed in CG Docket Nos. 10-51 and 03-123 on May 16, 2011); *see also* Comments of Purple Communications, Inc. at 2, 9, CG Docket Nos. 10-213 and 03-123 (filed May 16, 2011) (“Purple Comments”).

³ See Comments of National Association of the Deaf, et. al., GG Docket Nos. 10-51 and 03-123 (filed May 16, 2011) (“Consumer Groups Comments”).

⁴ See Sorenson Comments at 2-3; CSDVRS Comments at 12-13.

⁵ See CSDVRS Comments at 12-13.

⁶ See Purple Comments at 2-3.

⁷ See Sorenson Comments at 2.

⁸ See Sorenson Comments at 4-5; CSDVRS Comments at 13-15; Purple Comments at 6; Snap! Comments at 2.

“VRS innovations . . . would not exist if private investors had not been willing to put money at risk,”⁹ and Snap! likewise notes that “costs of capital . . . are fundamental to a provider’s ability to innovate and continually adapt its services and organization to the needs of the market.”¹⁰ In short, there is general agreement that access to capital is essential to providing VRS services that continue moving toward actual functional equivalence.¹¹

Like Sorenson, CSDVRS recognizes the importance of unfettered access to capital and urges the Commission not to “cap or otherwise set limits related to raising and investing capital, interest expenses and debt repayment.”¹² Snap! and Purple, by contrast, urge the Commission to attempt to draw a line between different kinds capital costs, providing compensation for some but not for others.¹³ While the distinctions they purport to draw between “good” and “bad” capital costs are decidedly murky, it appears reasonably clear that both Snap! and Purple are attempting to conjure up a regulatory world in which Sorenson’s capital costs would be non-compensable while their costs would be. This is ironic because in their “tiers” discussion, those companies attempt to justify why they should be compensated for operating costs above Sorenson’s. This is not a project the Commission should entertain. Not surprisingly, considering that apparent purpose, the lines that Snap! and Purple attempt to draw appear to be arbitrary, and neither Snap! nor Purple even attempts to provide any explanation or justification for their proposals. Equally problematic, neither of them recognizes that their proposals would

⁹ See Purple Comments at 6.

¹⁰ See Snap! Comments at 2.

¹¹ As Sorenson notes in its comments, the FCC’s inquiry regarding costs of capital is premature at a more fundamental level since it presupposes the structure of the longer-term methodology. See Sorenson Comments at 4.

¹² See CSDVRS Comments at 13.

¹³ See Snap! Comments at 2-3; Purple Comments at 3.

require the Commission to step into a thicket of confusion and disputes as providers and the Fund administrator attempt to categorize capital costs based on the unsound distinctions Snap! and Purple propose.

Sorenson agrees wholeheartedly with the Consumer Groups that “[o]ne of the principles of functional equivalency is to encourage innovation of new technology and products.”¹⁴ If innovation and service improvements are core goals for the Commission and for the VRS industry—as all commenters agree they must be—then there is no principled basis on which to discriminate arbitrarily between various forms of capital costs, which are essential ingredients for innovation and improvement.

IV. THE FCC DID NOT SEEK COMMENT ON TIERS.

The three VRS providers other than Sorenson that submitted comments all spend a considerable amount of time discussing the merits of rate tiers,¹⁵ an issue that the FCC did not raise in the NPRM. As the FCC knows, the parties’ positions on tiers—including Sorenson’s explanation that tiers disserve end users and harmfully distort providers’ incentives—have been fully explored on the record, most notably in response to the June 2010 VRS Notice of Inquiry.¹⁶ The commenters’ unsolicited views in this proceeding do not add anything new.¹⁷ Accordingly,

¹⁴ See Consumer Groups Comments at 2.

¹⁵ See CSDVRS Comments at 1-5, 11-12; Snap! Comments at 2, 6; Purple Comments at 4-5.

¹⁶ See *Structure and Practices of the Video Relay Service Program*, Notice of Inquiry, 25 FCC Rcd. 8597 (2010).

¹⁷ By contrast, the views expressed in comments in another ongoing proceeding do shed new light on the issue of tiers. In a Public Notice released on May 4, 2011, the Consumer and Governmental Affairs Bureau sought comment on NECA’s proposed rates for all forms of Telecommunications Relay Service other than VRS. See Public Notice, CG Docket No. 03-123, DA 11-826 (rel. May 4, 2011). NECA proposed a single non-tiered rate for IP Relay service. See *id.* at 2. Even though a single provider of IP Relay (Purple Communications) has call volumes that dwarf the volumes of every other provider, no one filed comments contending that

Sorenson will refrain from responding except to refer back to its previously filed comments on the subject.¹⁸

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IP Relay rates should be tiered. The fact that Sorenson's competitors argue routinely for tiers in the VRS context but never with respect to IP Relay demonstrates that they are not attempting to correct for economies of scale but are instead simply hoping for outside intervention to help them compete against a successful and efficient provider.

¹⁸ See, e.g., Comments of Sorenson Communications, Inc. at 29-33, CG Docket No. 10-51 (filed Aug. 18, 2010); Reply Comments of Sorenson Communications, Inc. at 8-11, CG Docket No. 10-51 (filed Sept. 2, 2010).