



AUG 17 2011 August 17, 2011

Ex Parte

Federal Communications Commission
Office of the Secretary

STAMP AND RETURN

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: *Structure and Practices of the Video Relay Service Program*, CG Docket No. 10-51

Dear Ms. Dortch:

On August 15, 2011, James Perry, Michael Cole, Scott Pasquini and Alex Kerr of Madison Dearborn Partners ("MDP"), and John Nakahata of Wiltshire & Grannis LLP, on behalf of Sorenson Communications, Inc. ("Sorenson") spoke with Paul de Sa, Chief, Office of Strategic Planning and Policy Analysis.

During the meeting, MDP and Sorenson attendees discussed the prospect of restructuring the VRS rate structure to compensate providers on a "per active user" basis rather than on a "per minute basis." We discussed issues previously summarized in Sorenson's ex parte letters of July 29, 2011 and August 11, 2011. We reiterated the importance of a long term, stable system that recognized that existing providers were starting from existing levels of actual costs, including actual capital costs, while at the same time fulfilling the objectives of robust competition and continued functionally equivalent service. MDP and Sorenson attendees discussed what could be a workable transition schedule that would lead to a significant reduction in VRS compensation per active user, as summarized in the attached document.

In addition, we also stated that the Commission should not, as part of the transition to a "per active user" structure, preclude providers from entering into contracts with subscribers, such as are common in wireless telecommunications, particularly when providers are furnishing subscribers with equipment. The Commission, consistent with its general porting rules, should not restrict porting from "winbacks," other than during the pendency of the port. As is the case under the Commission's general porting rules, to the extent that consumers and providers enter into long term contracts, those should be enforced through the parties' contractual mechanisms, and not by blocking ports.

MDP and Sorenson request pursuant to Sections 0.457 and 0.459 of the Commission's rules, 47 C.F.R. §§ 0.457, 0.459, that the Commission withhold from any future public

inspection and accord confidential treatment to the attached document.¹ This document contains sensitive commercial information that falls within Exemption 4 of the Freedom of Information Act (“FOIA”). *See* 5 U.S.C. § 552(b)(4).

Exemption 4 of FOIA provides that the public disclosure requirement of the statute “does not apply to matters that are ... (4) trade secrets and commercial or financial information obtained from a person and privileged or confidential.” 5 U.S.C. § 552(b)(4). Because MDP is providing commercial information “of a kind that would not customarily be released to the public” in response to a request from FCC staff, this information is “confidential” under Exemption 4 of FOIA. *See Critical Mass Energy Project v. NRC*, 975 F.2d 871, 879 (D.C. Cir. 1992).

In support of this request and pursuant to Section 0.459(b) of the Commission’s rules, MDP hereby states as follows:

1. Identification of the Specific Information for Which Confidential Treatment Is Sought (Section 0.459(b)(1))

MDP seeks confidential treatment with respect to all of the data, charts and descriptions contained in the attached document.

2. Description of the Circumstances Giving Rise to the Submission (Section 0.459(b)(2))

At Mr. de Sa’s request, MDP is providing Mr. de Sa with projections with respect to Sorenson’s costs, and transaction compensation levels that, if disclosed, could reveal these costs.

3. Explanation of the Degree to Which the Information Is Commercial or Financial, or Contains a Trade Secret or Is Privileged (Section 0.459(b)(3))

The data described above constitutes sensitive commercial information “which would customarily be guarded from competitors.” 47 C.F.R. § 0.457. In particular, information related to VRS usage volumes and patterns, Sorenson’s VRS user base, and its costs constitute closely guarded information that, if released, would disadvantage Sorenson by providing its competitors with an insight into Sorenson’s operations, service offerings, and costs.

4. Explanation of the Degree to Which the Information Concerns a Service that Is Subject to Competition (Section 0.459(b)(4))

The VRS market is highly competitive throughout the United States.

¹ Pursuant to Section 1.1206(b)(2) of the Commission’s rules, counsel is filing an original and one copy of this letter and its attachment in paper form and delivering electronic copies to the Commission staff involved in the meetings described above. Sorenson is also electronically filing a copy of this letter and a redacted version of the attachment for inclusion in the public record in the docket identified above.

5. Explanation of How Disclosure of the Information Could Result in Substantial Competitive Harm (Section 0.459(b)(5))

Sorenson could be harmed by unauthorized disclosure of this information, as it could provide competitors with commercially sensitive insights related to Sorenson's operations, service offerings and costs.

6. Identification of Any Measures Taken to Prevent Unauthorized Disclosure (Section 0.459(b)(6))

Sorenson does not make the information contained in the attachment publicly available.

7. Identification of Whether the Information Is Available to the Public and the Extent of Any Previous Disclosure of the Information to Third Parties (Section 0.459(b)(7))

Sorenson does not make the information contained in the attachment publicly available.

Sincerely,



John T. Nakahata
Counsel to Sorenson Communications, Inc.

cc: Paul de Sa
Nicholas Alexander

REDACTED - FOR PUBLIC INSPECTION

Sorenson Projected Costs & Proposed VRS Compensation Structure