

**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 HEALINC TELECOM, LLC

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March 19, 2012

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REPLY COMMENTS OF HEALINC TELECOM, LLC

Healinc Telecom, LLC (“Healinc”) replies to other party comments in response to the Commission’s Further Notice of Proposed Rulemaking (“FNPRM”)¹ in the above-referenced matter, and specifically to those made by Sorenson Communications, Inc. (“Sorenson”).² Healinc agrees with some Sorenson recommendations to achieve the Commission’s Telecommunications Relay Services (“TRS”) Program (“Program”) objectives, albeit not with the dominant provider’s underlying basis for its recommendations; to perpetuate its market dominance. Sorenson’s regulatory parity and flexibility arguments specifically ignore current realities. The Commission should embrace the competitive aspects of the Program by eliminating the ability of incumbent providers to cling to their former dominance, now under further Program reforms, while adopting additional consumer protections and tools to preclude fraud, waste, and abuse.

¹ *Structure and Practices of the Video Relay Service Program and Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Further Notice of Proposed Rulemaking, CG Docket Nos. 10-51 & 03-123 (rel. Dec. 15, 2011) (“FNPRM”). Cited comments refer to the March 9, 2012 comments of the cited party in this proceeding.

² *Sorenson Comments*. Healinc focuses its reply comments on specific issues that impact the Company directly. The absence of comment on other party positions should not be understood to imply concurrence or agreement

I. REGULATORY PARITY AND FLEXIBILITY ARE APPROPRIATE ONLY WHEN MEANINGFUL COMPETITION EXISTS.

Healinc's Comments³ likened the Program's evolution to that of the competitive wireline industry, where formerly protected incumbent franchised monopolies who built their networks and operations on guaranteed rate-payer revenues subsequently faced competition following enactment of the Telecommunications Act of 1996. Indeed, Sorenson has followed incumbent regional Bell operating company policy playbooks in arguing here that the provision of relay services "in the most efficient manner"⁴ should translate to fewer providers on the one hand, yet to regulatory parity and additional regulatory flexibility in light of competition on the other. Both self-serving positions are misleading.

These arguments maintain that less efficient providers are being rewarded for their inefficiency, have no incentive to become efficient, and are being subsidized – in this case by the Program rather than by the incumbent. Nevertheless, the argument follows that because of the existence of these competitors there must be regulatory parity, and more streamlined regulation to enable the dominant carrier to compete. What this argument conveniently ignores is the dominant carrier's relatively competition-free, Program-subsidized head start, its grip on "proprietary," loosely-interoperable equipment, and that an exceptionally few current alternative providers have the capability to effectively compete.⁵ It is with this competitive reality that Sorenson's arguments must be tempered.

For example, Sorenson seeks regulatory parity by arguing that "new-to-category" subscription payments should be made to all providers without discrimination; that payments should not favor some providers over others.⁶ Yet this non-discriminatory argument is itself discriminatory because it presupposes that all underlying provider costs are alike. Clearly they are not, *viz.* the current tiered structure. Though Healinc agrees that non-discriminatory regulatory parity is desirable, it is appropriate among similarly situated providers. Smaller providers are not similarly situated to Sorenson because of

³ *Healinc Comments* at 2.

⁴ *Sorenson Comments* at 2 citing to FNPRM at para. 143.

⁵ *Purple Communications, Inc. Comments* at 5. To be sure, only Sorenson has to date refused to engage in technical discussions with Healinc regarding equipment interoperability with a new automatic call distribution platform Healinc is deploying.

⁶ *Sorenson Comments* at 13.

their inherent circumstantial inefficiencies when compared to Sorenson. Contrary to Sorenson's assertions, these "inefficiencies" arise simply because of Sorenson's ability to capitalize on a competition-free, subsidized environment that enabled it to achieve economies of scale that cannot be replicated under the existing environment. Compensation, whether specific to "new-to-category" or otherwise, should recognize the difference in underlying cost structures by compensating in accordance to each provider's cost structure. Under such a cost structure, non-dominant providers will then have the incentive to pursue greater operational efficiency and lower costs as they seek to invest in their growth, which will translate to more efficient operations.⁷ Any other form of parity will simply perpetuate incumbent carrier dominance.

II. ONLY SORENSON SUPPORTS A PER-USER COMPENSATION METHODOLOGY.

Next, Sorenson maintains that the Commission should eliminate tiers from its compensation methodology. Healinc agrees, but not for the reasons Sorenson maintains.⁸ Here again, Sorenson plays the "subsidy" card, arguing that the tiered structure rewards its competitors' inefficiency. In reality, the tiered structure rewards formerly subsidized dominance by compensating at rates that enable dominant carriers to profit from their lower cost structure, and perpetuate their dominance. Healinc agrees that the tiered compensation methodology has run its course, yet should now be replaced with a compensation methodology that compensates providers for their actual costs, rather than by an averaged methodology.

Sorenson suggests that a per-user compensation methodology may be appropriate. Yet Sorenson, more than any provider, would singularly benefit from such an approach because of its low cost structure, ability to leverage its dominance in marketing services to new subscribers, and resultant profitability it would be expected to achieve under such a compensation methodology. Only Sorenson seems to support a per-user compensation methodology, albeit implicitly. Notwithstanding the additional issues raised by a per-user compensation methodology,⁹ such an approach does not account for providers' actual costs, and

⁷ *ASL Services Holdings, LLC Comments* at 13; *Comment of CSDVRS, LLC* at 7.

⁸ *Sorenson Comments* at 24.

⁹ *See inter alia Comments of the Video Relay Services Consumer Association* at 2; *Comments of Deaf and Hard of Hearing Consumer Advocacy Network et al.* at 38.

would reward Sorenson for its dominance, while undermining the Commission's outreach, technology, and broadband deployment goals. Healinc maintains that a compensation methodology that compensates providers for their reasonable, approved direct cost of service should be adopted.

III. CONSUMER EDUCATION, FRAUD PREVENTION, AND CONSUMER PROTECTION INITIATIVES SHOULD BE UNDERTAKEN BY THE COMMISSION.

Sorenson's regulatory parity arguments do have merit in so far as consumer education, fraud prevention, and consumer protection are concerned. Outreach should be conducted in a competitively-neutral manner and not a disguised form of advertising. Creation of an independent outreach entity to educate the public, as Sorenson proposes, would help ensure that outreach efforts would indeed be strictly educational. Alternatively, if providers are to continue developing their own outreach materials, such materials should be subject to Commission review and/or subject to complaint by other providers if deemed to include subtle marketing messages.

Adoption of a Video Relay Services User Database ("VRSUD") is also desirable to limit waste, fraud, and abuse, and should be implemented. Neustar, Inc. has indicated that its current Internet-based Telecommunications Relay Service Telephone Number Directory ("iTRS Directory") database is can be adapted to develop a single VRSUD/iTRS Directory database.¹⁰ Healinc readily supports the development of such an independently administered database.

Healinc also supports adoption of additional consumer safeguards, particularly in the area of Customer Proprietary Network Information ("CPNI") and unauthorized account transfers. The Commission has already adopted effective regulations in Sections 64.2001 *et seq.*¹¹ and 64.1100 *et seq.*,¹² respectively. These existing regulations provide a regulatory framework that should be extended to the provision of relay services consistent with the manner in which certain regulations have been extended to Voice over Internet Service Providers.¹³

¹⁰ *Neustar, Inc. comments at 2.*

¹¹ 47 C.F.R. §64.2001 *et seq.*

¹² 47 C.F.R. §64.1100 *et seq.*

¹³ Healinc recognizes that because there are differences in the manner in which relay services are provided under the Program, these rules may require a degree of adaptation to the provision of relay services, which could be

IV. CONSUMER CHOICE REMAINS CRITICAL.

Commenting parties have overwhelmingly supported the need for consumer choice. With the advent of evolving consumer choice for relay services, policies that enable the dominant carrier to perpetuate its dominance only undermine consumer choice and the Commission's Program goals. Sorenson's competitive parity arguments, particularly those that suggest that current compensation methodology subsidizes other providers, and calls for regulatory flexibility are specious. Consistent with the regional Bell operating companies, these arguments flatly ignore a long-standing market dominance¹⁴ and competitive advantage that no-existing provider has been able to overcome in the provision of relay services. Commission adoption of a per-minute compensation methodology that compensates each provider for its reasonable service costs, development of technical standards that promote interoperability, and embracing the competitive aspects of the Program while also adopting additional consumer protections including adaptation of CPNI and unauthorized account transfer regulations, will foster an environment that will incent innovation, efficiency, outreach and help the Commission achieve its Program objectives.

Respectfully submitted this 19th day of March, 2012,

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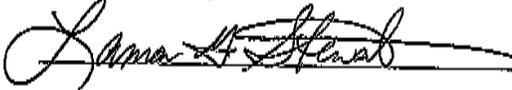
accomplished under a separate rulemaking proceeding.
¹⁴ See e.g. *Purple Communications, Inc. Comments* at 5.

STATE OF SOUTH DAKOTA)
) ss.
COUNTY OF LINCOLN)

VERIFICATION

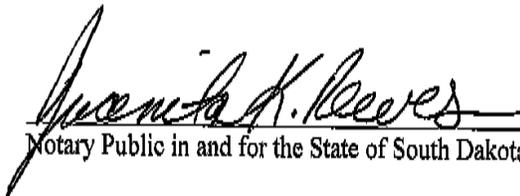
I swear under penalty of perjury that I am Lamar Stewart, Chief Operations Officer of Healinc Telecom, LLC, and officer of Healinc Telecom, LLC, and that I have examined the foregoing *Comments of Healinc Telecom, LLC*, and that all statements of fact and representations contained therein, are true, accurate, and complete.

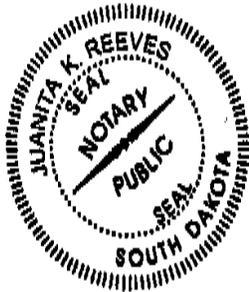
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Subscribed and sworn to before me this 19th day of March 2012.


Notary Public in and for the State of South Dakota



**My Commission Expires
August 5, 2017**