



May 15, 2012

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

Re: Notice of Ex Parte Conference
Structure and Practices of the Video Relay Service Program; Telecommunications Relay
Services and Speech-to-Speech Services for Individuals with Hearing and Speech
Disabilities.
CG Docket Nos. 03-123, & 10-51

Dear Ms. Dortch:

We write to the Commission seeking guidance as to permissibility of financial contributions from a VRS provider to a public or private entity or institution, in direct connection with receiving a designation as a “Preferred Vendor” of VRS services for the recipient institution or entity. This is a pressing matter given Gallaudet’s release on April 18, 2012 of a request for proposal (“RFP”) for a Preferred Vendor of VRS to the university’s entire campus, including all facilities, venues and the staff/student population.

By way of background, as stated in prior filings on this docket¹, Gallaudet and Sorenson are currently parties to a “Joint Video Relay Services Agreement” that calls for Sorenson to be the “exclusive provider for university promoted video relay services and IP relay services on the campus of Gallaudet for all of its faculty, staff, students, and guests.”² Gallaudet has also been the recipient of no less than \$5 million dollars³ in “donations” from Sorenson and its family foundation (as of 2004).

Gallaudet’s recent RFP makes clear that there will be a single VRS vendor awarded Preferred status, and all RFP responses will be evaluated against seven specific criteria, including the following:

“Total compensation to the University. Total compensation includes unrestricted gifts, equipment, assignment of on-campus service personnel, financial sponsorship of campus events such as the Academic Bowl, Homecoming, etc.”

Purple has submitted its RFP response to Gallaudet and wishes to provide services to the entire Gallaudet community. We have included an offer of direct financial compensation, responsive

¹ Response to Waiver Requests filing by Purple Communications, CG Docket 10-51, May 27, 2011, available at <http://apps.fcc.gov/ecfs/document/view?id=7021672176>.

² See Ex See Exhibit A and Exhibit B of Purple’s May 27 Response to Waiver request filing where Purple inserted documents from Gallaudet administrators.

³ <http://pr.gallaudet.edu/otg/BackIssues.asp?ID=5106>, and
<http://www.washingtonpost.com/wp-dyn/articles/A26549-2004Nov4.html>

to the terms of the RFP, but have qualified our response relative to the issues for which we seek guidance in this letter.

We now ask for guidance concerning how the Commission would view these interrelated financial and service arrangements between providers (or their non-profit affiliates) and the recipient of VRS, in light of its current interpretation of TRS rules, including those relating to impermissible incentives and “brown bag” arrangements. Purple’s primary interests are in ensuring that a) there is a level playing field on which all VRS providers understand the rules related to offering or providing such remunerations to their customers, and b) that the Commission acts quickly to clarify the rules on this topic and their approach towards enforcement thereof.

If permissible, Purple would welcome and pursue this and other opportunities similar in nature, and expects other providers would do the same. Unquestionably, Gallaudet and many other large public schools and institutions, provide an invaluable service, opportunity and commitment to the success of the Deaf and Hard of Hearing community that Purple and other VRS providers serve. We respect and encourage others’ generosity towards the university, and understand the critical role that private funding support plays in the University’s budget and ability to serve its student community. However, Purple questions whether such private contributions, when given as an express condition of receiving exclusive rights to deliver a publicly-funded service to a large population at a public school is permissible and/or sound policy.

We emphasize the need for quick action by the Commission to provide guidance on this issue, in order to ensure balanced competition and avoid a potential reactive untying of remuneration with services. It would be unfortunate for Gallaudet, its staff/student population and the winning provider to pursue this path based on the assumption of permissibility, only to have the Commission later decide that such an arrangement was inappropriate.

Sincerely,

PURPLE COMMUNICATIONS, INC.



John Goodman
Chief Legal Officer

cc: Sean Lev, OGC
Kris Monteith, CGB
Sharon Lee, Enforcement Bureau