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

In the Matter of	)	
	)	
Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities	)	**CG Docket No. 03-123**
	)	
Petition for Rulemaking re Cost Recovery for Internet Protocol Captioned Telephone Service	)	**CG Docket No. 13-24**

COMMENTS OF SPRINT NEXTEL CORPORATION

Sprint Nextel Corporation ("Sprint"), on behalf of the Telecommunications Relay Services ("TRS") operations of its subsidiary, Sprint Communications Company L.P., pursuant to the Public Notice issued March 8, 2013 (DA 13-369) hereby respectfully submits its comments on the Petition for Rulemaking filed by Sorenson Communications, Inc. ("Sorenson") in the above-captioned dockets. Sorenson requests that the Federal Communications Commission ("FCC") institute a rulemaking looking toward the adoption of "a price cap regulatory approach to govern the rates for the provision of Internet Protocol Captioned Telephone Service ("IP CTS")." Petition at 1. Sprint believes that Sorenson's petition should be denied and in support thereof Sprint states as follows.

The overarching purpose of rate regulation is, or should be, to try to determine what rates would be charged if the marketplace were competitive.[1] Indeed, Sorenson concedes that the rates for IP CTS produced under the Multistate Average Rate Structure ("MARS") are "market-determined," *id.*, since they are "based on the intrastate [PSTN] CTS rates that are set through competitive bidding in the states." *Id.* at 2. Sorenson would now have the FCC abandon its reliance on the market to set the IP-CTS rate and instead establish such rate through the price-cap regulatory regime used to set the IP Relay rate.[2]

Under Sorenson's proposal, the initial rate for IP CTS would be set using the average of the MARS PSTN-based CTS for 2008, 2009 and 2010. Thus, Sorenson claims that its proposed rate would be market-based, although the "market" in this case is the one that was in existence several years ago and not the current market. Sorenson's sole reason for excluding the most recent MARS rates is to exclude the rate increases that occurred in each of the past two years. However, the fact that MARS rates may have recently increased does not make them any less valid than the MARS in effect for the years that Sorenson recommends serve as the "baseline." Indeed, the process used to set the IP CTS rates for the two years that Sorenson would have the FCC exclude was the same as the process for the three years that Sorenson would have the FCC include. Sprint has no reason to believe – and Sorenson does not offer any reason – that the rates

---

[1] In the case of IP-enabled Relay services the FCC should look to adopt marketplace solutions for setting rates since these services are provided at no cost to users. Thus, the FCC cannot rely on the purchase decisions of users to determine if the price it sets for such service reasonably reflects the cost of the service being provided.

[2] In 2007, Sprint supported using a price cap methodology for establishing the rate for IP Relay since Sprint believed that such an approach was superior to the existing "cost-plus" approach then being used the FCC to establish such rate. The FCC adopted MARS to set the rate for traditional PSTN-based TRS. Given its experience with MARS in the ensuing 5+ years Sprint believes a MARS system based on competitive bidding to be superior to price-caps for setting rates.

established for the last two fund years did not accurately reflect the cost of providing Captel service in the States.

Sorenson's rate would then be reduced by an "efficiency factor equal to GDP-PI (the inflation factor less .5 percent (.005) to account for productivity gains." *Id.* at 7. It points out this is the same "efficiency factor" used to establish the rate for IP Relay. Of course, the technology used to provide IP Relay and the technology that Sprint uses to provide IP CTS differ and there is no reason to assume that the use of the IP Relay "efficiency factor" is valid for IP CTS.[3]

Moreover, in a price cap plan any efficiency factor could be negated by adjustments due to exogenous costs, *i.e.,* costs beyond the control of the provider such as the costs incurred to implement the recently imposed interim rules, governing the provision of IP CTS. But determining the exogenous cost adjustment would require the FCC to examine the costs submitted by the providers, and unless the FCC is prepared to conduct an audit of the provider(s) seeking to include these costs in the rate, the FCC will have no way of knowing whether such cost submissions included non-compensable activities such as marketing. As Sorenson notes, the MARS methodology enables the FCC to forego such cost examinations. The providers simply have to absorb the costs associated with factors outside of their control.

The final element of Sorenson's proposal is the adoption of a three-year rate period. *Id.* at 8. It claims that such period is necessary to provide stability so that providers will make, for example "needed investments to improve efficiency." *Id.* But a competitive market does not allow its participants the luxury of being able to improve efficiency but still charge rates that do

---

[3] Sprint is unaware of any detailed analysis undertaken by the FCC to determine if the IP Relay efficiency factor accurately reflects the productivity gains, if any, in the provision of IP Relay.

not reflect such gains for a period of time. Rather a competitive market requires participants to pass such cost reductions onto their customers more or less immediately. Indeed, a competitive market is not static and prices change as cost characteristics change.

In short, there is no justification for the FCC to waste resources by instituting a rulemaking the outcome of which would lead to the adoption of a methodology for setting IP-CTS rates that relied on detailed FCC regulation rather than one that is widely used in the marketplace.

Respectfully submitted,

SPRINT NEXTEL CORPORATION

Charles W. McKee
Michael B. Fingerhut
900 7th Street NW Suite 700
Washington, DC 20001
(703) 592-5112
michael.b.fingerhut@sprint.com

Its Attorneys

March 25, 2013