

May 2, 2013

REDACTED—For Public Inspection

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;
*Telecommunications Relay Services and Speech-to-Speech Services for Individuals with
Hearing and Speech Disabilities*, CG Docket No. 03-123

Dear Ms. Dortch:

On behalf of Sorenson Communications, Inc. (“Sorenson”), undersigned counsel submits the attached ex parte containing Confidential Information pursuant to the *Protective Order* issued in the above-captioned proceedings on March 14, 2012.

As required by paragraph 4 of the *Protective Order*, we submit: (a) one copy of the filing containing Confidential Information; and (b) two copies of the filing in redacted form to the Secretary’s Office along with this cover letter. We will also file a copy of the redacted version via ECFS.

Sincerely,



John T. Nakahata
Counsel to Sorenson Communications, Inc.

May 2, 2013

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Ex Parte

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;
Telecommunications Relay Service and Speech-to-Speech Services for Individuals with
Hearing and Speech Disabilities, CG Docket No. 03-123*

Dear Ms. Dortch:

On April 30, 2013, I spoke with Angela Kronenberg, Legal Adviser to Commissioner Clyburn, on behalf of Sorenson Communications, Inc. (“Sorenson”). On May 1, 2013, on behalf of Sorenson, I spoke with Jonathan Chambers, Chief, Office of Strategic Planning and Policy Analysis; Nicholas Degani, Legal Adviser to Commissioner Pai; and Priscilla Argeris, Legal Adviser to Commissioner Rosenworcel. On May 2, 2013, Pat Nola, Scott Sorenson and Mike Maddix of Sorenson, Jim Perry and Michael Cole of Madison Dearborn Partners, and Chris Wright and I on behalf of Sorenson met with Commissioner Pai and Nicolas Degani. The points made in these conversations and meetings are summarized as follows.

As we understand it, the Commission has been considering shifting to market-based VRS rates established through an auction mechanism. Sorenson has long supported the use of market-based rates and the idea of using an auction to determine those rates. Such an approach would be consistent with the Americans with Disabilities Act’s core promise of functional equivalence between service for deaf persons and service for hearing persons. Sorenson agrees that a properly structured auction would be a far superior means of establishing VRS rates and that it is desirable to hold an auction as soon as one can reasonably be designed.

As Sorenson has previously set forth in its comments, however, the rate-of-return-based “allowable costs” methodology outlined in Commission orders prior to 2007 would set rates at economically infeasible levels. Using a methodology for a structurally incomparable industry (local telephone companies)—which permits recovery for only a portions of actual costs—assumes that VRS is offered by large common carriers, which it is not. Rate-of-return also yields miniscule margins that would make it nearly impossible for providers even to pay their taxes, much less attract capital, invest in developing new services and equipment, or engage in other

slack to avoid consumer disruption.⁷ The rest of the industry lacks sufficient capacity to handle a significant out-migration from the largest provider.⁸

Thus, the Commission should set its transitional rates at levels that assure that functionally equivalent VRS services continue to be actually available until an auction supersedes the transitional rates—which can only be accomplished by allowing VRS providers to charge a rate that covers all of their costs and a reasonable margin not just on booked capital equipment, but also on the skills of its interpreters, technical staff and managers.

In my discussion with Ms. Kronenberg, I also stated that Sorenson was not blocking subscribers of competitors' services from leaving video mail, but that the inability to do so stemmed from different system designs, as discussed in my ex parte letter of May 1, 2013.⁹ I also stated that claims that consumer groups supported mandatory use of "off-the-shelf" devices rather than proprietary equipment were false, as discussed in my ex parte letter of April 30, 2013.¹⁰ Both of those letters are specifically incorporated by reference herein.

Please contact me if you have any questions.

Sincerely,



John T. Nakahata
Counsel for Sorenson Communications, Inc.

cc: Jonathan Chambers
Nicholas Degani
Priscilla Delgado Argeris
Angela Kronenberg
Matthew Berry

Nicholas Alexander
Karen Peltz Strauss
Robert Aldrich
Gregory Hlibok

⁷ *See id.* at 20.

⁸ *See id.*

⁹ *See* Letter from John T. Nakahata, Counsel, Sorenson Communications, Inc., to Marlene H. Dortch, Secretary, Federal Communications Commission, CG Docket Nos. 03-123 & 10-51 (filed May 1, 2013).

¹⁰ *See* Letter from John T. Nakahata, Counsel, Sorenson Communications, Inc., to Marlene H. Dortch, Secretary, Federal Communications Commission, CG Docket Nos. 03-123 & 10-51 (filed April 30, 2013).