May 10, 2013

Ex Parte

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

Re: *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, 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:

Sorenson Communications, Inc., ("Sorenson") and its wholly owned subsidiary CaptionCall, LLC ("CaptionCall") submit this letter in response to the Interstate Telecommunications Relay Services Fund Payment Formula and Fund Size Estimate that Rolka Loube Saltzer Associates LLC ("RLSA") submitted on May 1, 2013 in the above-referenced dockets.[1] Sorenson and CaptionCall briefly address three key issues here and will submit more detailed comments on the proposal once a pleading cycle has been established.

The RLSA Proposal includes a number of projections, including proposed compensation rates for Video Relay Service ("VRS") and projected demand for Internet Protocol Captioned Telephone Service ("IP CTS"). Each proposal contains at least one fundamental flaw, which the Commission should direct RLSA to correct.

With respect to VRS, RLSA resubmits a rate proposal it submitted in October, 2012, and for which the Commission sought comment in an October 15, 2012, Public Notice.[2] As the

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1 *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*; *Telecommunications Relay Service and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket Nos. 10-51; 03-123, Payment Formula and Fund Size Estimate Interstate Telecommunications Relay Services (TRS) Fund For July 2013 through June 2014 (filed May 1, 2013) ("RLSA Proposal").

2 *Id*. at 18; *Additional Comment Sought on Structure and Practices of the Video Relay Service (VRS) Program and on Proposed VRS Compensation Rates*, Public Notice, DA 12-1644, 27 FCC Rcd. 12,959 (2012) ("VRS Rate PN").

record reflects, RLSA's VRS rate proposal is destructive and will effectively destroy the VRS industry, and nothing has changed since that record was developed.

The RLSA Proposal suggests an immediate Tier I and Tier II per-minute rate reduction from $6.24 and $6.23, respectively, to a unified per-minute rate of $5.29.[3] The RLSA Proposal further suggests reducing the Tier III per-minute rate from $5.07 to $4.51, with a target rate of $3.40 after a three-year phase in.[4] In response to the VRS Rate PN, numerous commenters documented the myriad flaws in RLSA's proposed VRS rate structure.[5] Most significantly, RLSA relies on an economically infeasible rate-of-return methodology, which was designed for an entirely different service—wireline local exchange service—and which the Commission has abandoned even for that service. In addition, RLSA's proposal carries forward the concept of "allowable costs," which exclude substantial costs, such as taxes, financing costs, operations support, R&D, and outreach costs, all of which providers must pay in order to offer effective VRS service. To make matters worse, RLSA's proposal allows an 11.25% return only on booked capital—a small fraction of a VRS provider's cost structure—which makes no sense in a labor-intensive, capital-light industry like VRS.

The result of this approach—use of a discredited methodology with grossly understated costs and a miniscule return on investment—is a rate structure that will destroy VRS as we know it. No provider today has actual costs that even approach the $3.40 per-minute ultimate rate that RLSA proposed in October, for which its current proposal reflects the first step, and no provider claims it could operate at that level in the future. Making such a large one-year jump would also be highly destructive, as providers would have no opportunity to restructure gradually in a logical transition. Instead, the Commission would be mandating drastic, immediate cost cutting in an industry in which the largest variable cost is labor—which is the key to providing the service and thus cannot be slashed without affecting service. Thus, the Commission should reject RLSA's VRS rate proposal.

Regarding IP CTS, the RLSA Proposal dramatically overprojects IP CTS demand for the upcoming Fund year, causing an unnecessary increase in the TRS contribution factor. The industry has projected 181,429,401 minutes for the upcoming funding year.[6] Because the industry underprojected last year, however, RLSA has rejected that proposal and instead presents three alternative IP CTS demand scenarios, each of which relies on historical IP CTS growth trends. RLSA's alternatives are 290,319,247 minutes, 409,268,995 minutes, and in excess of

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3 *Id*. at 7.

4 *See id*.

5 *See, e.g.*, *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*; *Telecommunications Relay Service and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket Nos. 10-51; 03-123, Reply Comments of Sorenson Communications, Inc. at 5-15 (filed Nov. 29, 2012) (summarizing criticisms of RLSA's VRS rate proposal by Consumer Groups, Purple, ZVRS, ASL/Gracias, Convo, NAOBI, and RID).

6 RLSA Proposal at 24.

825,000,000 minutes, and RLSA concludes that the second figure is a "valid projection of demand for the 2013-14 funding year."[7]

Even RLSA's most conservative projection, however, significantly overstates demand. The RLSA Proposal references the recent order implementing new rules for IP CTS, but assumes that it will have negligible impact on demand—an assumption that is inconsistent with the real-world impact of the new order.[8] The order restricts highly efficient market practices and imposes higher barriers for customers who wish to obtain IP CTS, which has already caused substantial reductions in the growth of CaptionCall's subscriber base. In addition, the order requires that all IP CTS calls begin with captions set to off by default, which has significantly reduced IP CTS minutes of use. As a result, RLSA cannot rely on historical trends in subscriber and minutes-of-use growth. Rather, growth in the upcoming year will, in all likelihood, be dramatically lower than it has been in the past. Thus, the industry's demand projection—181,429,401—is more likely to be accurate than any of RLSA's projections, and, as it was derived before the IP CTS order's effects were felt, may itself overstate demand. In no event, however, is it remotely likely that IP CTS minutes will exceed 400,000,000 in the upcoming year.

Sincerely,

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7 *Id*. at 26-27.

8 *See id*. at 27-29.