

**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

PETITION FOR TEMPORARY LIMITED WAIVER

Pursuant to Section 1.3 of the Commission’s rules,¹ Sprint Corporation (“Sprint”) hereby requests a temporary limited waiver of the Commission’s speed-of-answer requirements governing the provision of IP Relay.² This waiver is necessary to ensure that Sprint can continue providing IP Relay to consumers even as it assimilates the customers previously served by Sorenson Communications, Inc. (“Sorenson”). Sprint asks that this waiver be granted immediately and deemed effective as of July 7, 2013 – the date on which Sorenson announced that it was discontinuing its IP Relay business – and remain in place through at least November 7, 2013, at which time Sprint anticipates it will have completed the steps necessary to accommodate the new call volumes created by Sorenson’s abrupt exit.

I. BACKGROUND

On July 1, 2013, the Consumer and Governmental Affairs Bureau released an order reducing the per-minute compensation rate for IP Relay to \$1.0147, with additional

¹ 47 C.F.R. § 1.3.

² 47 C.F.R. § 64.604(b)(2).

reductions expected to occur annually.³ One week later, Sorenson announced its decision to exit the IP Relay market.⁴ According to Sorenson, the company stopped enrolling new IP Relay customers on July 8 and will no longer provide IP Relay services after July 31, 2013.⁵ At the time of its announcement, Sorenson was the second largest provider of IP Relay services, behind only Purple Communications, Inc. (“Purple”). Sorenson’s decision to exit the market leaves Sprint and Purple as the only two remaining providers of IP Relay. As a result, Sprint has seen a sharp increase in its IP Relay call volumes and minutes of use as many of Sorenson’s customers shift their demand to Sprint and it is expected that this increase will continue.⁶ This sudden increase in call volumes will almost certainly compromise Sprint’s ability to answer 85 percent of all IP Relay calls within 10 seconds, as required by the Commission’s rules.⁷ Thus, unless this waiver request is granted, Sprint may be deprived of any compensation for the IP Relay services it provides in the aftermath of Sorenson’s exit.⁸

³ *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; Structure and Practices of the Video Relay Service Program*, CG Docket Nos. 03-123 & 10-51, Order, DA 13-1483, ¶¶ 2, 20 (CBG rel. July 1, 2013) (“Rate Order”).

⁴ *Sorenson to Exit IP Relay Business*, SYS-CON MEDIA, (July 8, 2013, 4:48 PM), <http://www.sys-con.com/node/2728113>.

⁵ Letter from John T. Nakahata, Sorenson Communications Inc., to Marlene H. Dortch, FCC Secretary, CG Docket No. 03-123 (July 8, 2013) (“Sorenson Letter”) (noting that Sorenson would continue to provide its customers with assistance in porting numbers through August 31, 2013).

⁶ Although it is impossible to anticipate the precise impact that Sorenson’s exit will have on Sprint, Sprint estimates that if half of the IP Relay calls previously handled by Sorenson are eventually directed to Sprint – with the other half going to Purple – it would more than double the demand for Sprint’s services.

⁷ 47 C.F.R. § 64.604(b)(2)(ii).

⁸ 47 C.F.R. § 64.604(c)(5)(iii)(E), (L); *Structure and Practices of the Video Relay*

II. DISCUSSION

Waiver of Commission rules is permitted upon a showing of “good cause.”⁹ Specifically, the Commission may waive its rules where the particular facts would make strict compliance inconsistent with the public interest, taking into account, *inter alia*, considerations of “hardship, equity, or more effective implementation of overall policy on an individual basis.”¹⁰ Waiver is particularly appropriate where “special circumstances warrant a deviation from the general rule and such deviation will serve the public interest.”¹¹ In this case, a waiver of the Commission’s speed-of-answer rule is necessary to prevent Sprint from being unfairly penalized for the actions of other providers. In the absence of a waiver, Sprint would likely be ineligible for compensation and without compensation Sprint may be forced to exit the IP Relay business, leaving consumers with only one provider of IP Relay, at best.¹² Thus, a waiver would clearly serve the public interest by protecting IP Relay customers’ interest in having access to at least two competing providers of this important service.

Services Program Purple Communications, Inc. Request for Review of the Decision of the TRS Administrator to Withhold TRS Payments, Order, 27 FCC Rcd 8014, ¶¶ 1, 27 (2012) (“Purple Order”).

⁹ 47 C.F.R. § 1.3.

¹⁰ *Numbering Resource Optimization; Petition of California Public Utilities Commission for Waiver of the Federal Communications Commission’s Contamination Threshold Rule*, Order, 18 FCC Rcd 16860, ¶ 9 (2003) (citing *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969), *cert. denied*, 409 U.S. 1027 (1972) (“*WAIT Radio*”); *Northeast Cellular Tel. Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990)).

¹¹ *Northeast Cellular Tel. Co. v. FCC*, 897 F.2d at 1166 (referencing *WAIT Radio*).

¹² Purple has also indicated that it might have to exit the IP Relay business if it does not receive a waiver similar to the one Sprint is requesting. Emergency Petition For Limited Waiver of Purple Communications, Inc., CG Docket Nos. 10-51 & 03-123 (July 11, 2013). Thus, unless the Commission acts promptly, consumers may be left without access to IP Relay service.

Sprint's IP Relay business was not designed to handle the call volumes that are likely to occur as Sorenson's customers migrate to Sprint. Nor did Sprint anticipate Sorenson's decision to exit the IP Relay business so abruptly. Accordingly, Sprint will need time to expand its capacity to handle the sudden increase in demand for its services. For example, Sprint will have to hire and train additional communications assistants ("CAs"). Depending on the volume of traffic, it also may need to open new call centers and/or expand existing call centers and make certain infrastructure improvements to accommodate the unexpected spike in demand.

In the meantime, the increased call volumes are likely to exceed Sprint's current capacity, compromising Sprint's ability to meet the Commission's requirement that IP Relay providers answer 85 percent of calls within 10 seconds.¹³ In fact, Sprint has already experienced a significant spike in call volumes, even though Sorenson has yet to discontinue service. And Sprint expects that its call volumes will continue to increase rapidly as more customers learn of Sorenson's decision to cease its IP Relay operations. Thus, without a waiver of the applicable rule, Sorenson's decision to abandon the IP Relay market would likely result in Sprint forfeiting payment for entire days and expose Sprint to the risk of even more draconian penalties.¹⁴

Sprint has no way of predicting exactly how much its call volumes will increase over the next month as Sorenson's customers are forced to select a new provider. This lack of certainty is exacerbated by the Commission's recent order that substantially reduced the

¹³ 47 C.F.R. § 64.604(b)(2).

¹⁴ Purple Order ¶¶ 1, 27.

compensation for IP Relay providers.¹⁵ It is not clear whether the new compensation rate is enough to cover Sprint's costs even under the most optimal circumstances. (Sorenson, for example, found that the new rate was "unsustainable" and decided to abandon the IP Relay business rather than provide service at the drastically reduced rate.)¹⁶ Sprint cannot afford to hire more CAs or otherwise expand its operations in anticipation of increased call volumes that may never materialize. Accordingly, Sprint must wait to see how consumers react to Sorenson's departure from the IP Relay business and determine what the "new normal" is, as all IP Relay calls are divided between Sprint and Purple.¹⁷

Without the requested waiver, Sprint will find itself handling more calls than ever while being denied compensation for its services. Such a result is both inequitable and untenable. Accordingly, the Commission should grant a limited and temporary waiver of its rules to allow Sprint to adjust to these market changes.

¹⁵ Rate Order ¶¶ 2, 20.

¹⁶ Sorenson Letter at 1.

¹⁷ Moreover, as noted above, even if Sprint could predict exactly what the demand for its services will be in the future, it still would need time to take all the steps needed to accommodate the new call volumes.

III. CONCLUSION

For the foregoing reasons, Sprint requests that the Commission grant Sprint the limited waiver discussed herein, effective as of July 7, 2013 and remaining in effect until at least November 7, 2013.

Respectfully submitted,



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