

August 1, 2013

Monica S. Desai  
Direct Tel: 202-457-7535  
Direct Fax: 202-457-6315  
mdesai@pattonboggs.com

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

Re: **Notice of Ex Parte – CG Docket Nos. 03-123 and 10-51  
Purple Communications, Inc.**

Dear Ms. Dortch:

On July 31, 2013, the undersigned, outside counsel to Purple Communications, Inc. (“Purple”), contacted Dave Grimaldi (Chief Counsel and Senior Legal Advisor, Acting Chairwoman Clyburn), Kris Monteith, (Acting Chief, Consumer and Governmental Affairs Bureau), and Jonathan Chambers (Acting Chief, Office of Strategic Planning and Policy Analysis), to express the following points regarding the petition filed by Purple on July 8, 2013, related to iTRS access technologies.<sup>1</sup>

In its petition, Purple requested clarification that footnote 122 in the Commission’s June 10, 2013 Order,<sup>2</sup> stating that “[c]alls that are completed using a technology that does not provide both inbound and outbound functionality are not compensable from the TRS Fund,” does not apply when users access IP CTS through web and wireless services. Given that August 5, 2013, is the effective date of the iTRS definition adopted in the Order, triggering application of footnote 122, Purple supplements its petition with a request for a short-term, 60-day delay of the effective date while the Commission considers the narrow issue raised in Purple’s petition.

Providing this short-term delay would be consistent with the Bureau’s precedent of delaying an effective date due to technical infeasibility – particularly in the context of web/wireless IP CTS. Indeed, the Bureau considered a similar issue in its IP CTS waiver order, released on May 9, 2013, examining whether to apply the captions default-off rule to Wireless CapTel and WebCapTel on mobile phones, laptops, tablets, and computers.<sup>3</sup> The Bureau found that “given the apparent

<sup>1</sup> See Petition of Purple Communications, Inc. for Expedited Clarification or Partial Reconsideration or, Alternatively, a Waiver, CG Docket Nos. 10-51 and 03-123 (filed July 8, 2013).

<sup>2</sup> *Structures and Practices of the Video Relay Service Program, et al.*, CG Docket Nos. 10-51 and 03-123, Report and Order and Further Notice of Proposed Rulemaking, 28 FCC Rcd 8618 (rel. June 10, 2013) (“Order”).

<sup>3</sup> See *Misuse of Internet Protocol (IP) Captioned Telephone Service, et al.*, CG Docket Nos. 13-24 and 03-123, Order, 28 FCC Rcd 6454 (rel. May 9, 2013) (“May 9 Order”).

infeasibility of bringing these software applications into full compliance” with the default-off rule, “considerations of hardship and equity justify grant of a waiver under these special circumstances.”<sup>4</sup> Accordingly, the Bureau granted a waiver to Sprint, recognizing that inbound calls over web and wireless technologies have technical differences that even Sprint could not overcome without a waiver.<sup>5</sup>

This same precedent justifies a short-term delay of the August 5 effective date as requested by Purple. As Purple has emphasized in its filings on this issue, there is no technology that allows captioning once an IP CTS call has already started, and there is no technology that allows for automatic captioning of incoming calls over web and wireless. Purple remains willing to explore this issue with the Commission – and welcomes the opportunity to do so – to see if there is any alternative way to implement footnote 122 in a way that would effectuate the policy behind it. In the meantime, however, for the reasons detailed in its petition of July 8, and in subsequent ex parte filings, Purple requests that the Bureau grant a short-term delay of the effective date so that Purple can continue providing customers with IP CTS over web and wireless while the Commission evaluates the narrow issue raised in Purple’s petition.

Respectfully submitted,



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Monica S. Desai  
Patton Boggs, LLP  
2550 M Street, NW  
Washington, DC 20037  
202-457-6315  
*Counsel to Purple Communications, Inc.*

cc:

Robert Aldrich  
Nicholas Alexander  
Jonathan Chambers  
Eliot Greenwald  
Dave Grimaldi  
Gregory Hlibok  
Kris Monteith  
Karen Strauss

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<sup>4</sup> May 9 Order, ¶ 18.

<sup>5</sup> See May 9 Order, ¶¶ 17-18.