

**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
)	
To: The Commission)	

COMMENTS OF PURPLE COMMUNICATIONS, INC.

Purple Communications, Inc. submits these comments in support of its petition¹ seeking clarification that footnote 122 of the Commission’s June 10, 2013 Order, which provides 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 Internet Protocol Captioned Telephone Service (“IP CTS”) through web and wireless services.² As explained in Purple’s petition and subsequent filings, it is critical that the Commission (1) explain whether footnote 122 was intended to apply to inbound web and wireless IP CTS calls; and (2) clearly define “technology” in the context of the language of footnote 122. If, based on such clarification, Purple

¹ 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) (“Purple Petition”); see also Public Notice, Request for Comment on Petition Filed by Purple Communications, Inc. Regarding the Provision of Both Inbound and Outbound Functionality for Internet Protocol Captioned Telephone Services, CG Docket Nos. 10-51 and 03-123, DA 13-1814 (rel. Aug. 27, 2013).

² See *Structure and Practices of the Video Relay Service Program, et al.*, Report and Order and Further Notice of Proposed Rulemaking, 28 FCC Rcd 8618, n. 122 (2013) (“Order”).

needs to modify its existing IP CTS system to comply with footnote 122, the Commission should allow Purple sufficient time (120-180 days) to update its software accordingly. Without a waiver, Purple will have to discontinue providing web and wireless IP CTS to its customers.

It is unclear whether footnote 122 applies to web and wireless IP CTS.³ If the Commission clarifies that footnote 122 does apply to web and wireless IP CTS, the Commission's failure to define "a technology" makes it unclear whether any provider's existing web and wireless IP CTS service complies with the rule, or what technical details a new solution would need to include in order to be compliant under the rule.

As Purple has explained to staff, it is currently impossible for any provider to comply with the rule as Purple interprets it, given that there does not currently exist "a technology" that allows "both inbound and outbound functionality."⁴ The technologies currently used by providers to make outbound web and wireless IP CTS calls are different than the technologies used by those providers to support inbound web and wireless IP CTS calls. For example, in an outbound call, Purple's ClearCaptions users who access IP CTS using a web or wireless application must send their own number and the destination number to the call center. The call center receives the signal from the user and then calls the user and the destination number. The call is essentially set up as a three-way conference call with the IP CTS agent muted. As with any regular POTS telephone call, the IP CTS user's ANI is passed to the called party. The call center then listens only to the called party's voice and delivers captions of that voice stream to the IP CTS user. If disconnected, the called party can call back using the IP CTS user's number, but the call center is no longer connected to the call.

³ This is due, in part, to the Commission's failure to define iTRS with sufficient granularity. *See* Letter from Monica Desai, Counsel for Purple, to Marlene H. Dortch, Secretary, FCC, Notice of Ex Parte, CG Docket Nos. 03-123 and 10-51, at 2 (filed Aug. 23, 2013) ("Purple Aug. 23 Ex Parte").

⁴ *See* Purple Petition at 2; Letter from Monica Desai, Counsel for Purple, to Marlene H. Dortch, Secretary, FCC, Notice of Ex Parte, CG Docket Nos. 03-123 and 10-51 (filed Aug. 1, 2013); *see also* Purple Aug. 23 Ex Parte.

While other providers' web and wireless IP CTS services are configured differently, Purple is unaware of any web or wireless technology that automatically captions inbound IP CTS calls to the user's regular PSTN number over web or wireless technologies. Even if such technology existed, automatically captioning the inbound call appears to violate the Commission's "default-off" rule.⁵ Moreover, Purple is not aware of any web or wireless technology that allows the user to access captioning for a call once the call is in progress. Because current technology does not allow inbound IP CTS calls over web or wireless technologies to be captioned directly, absent a waiver, Purple and other IP CTS providers will have no choice but to shut off IP CTS service provided via web or wireless technologies if footnote 122 applies (as Purple interprets it) to IP CTS.

As a matter of policy, Purple believes the Commission could not have intended to apply footnote 122 to IP CTS. The Order containing footnote 122 focuses on reforms to the Video Relay Service ("VRS"), not IP CTS. Moreover, the Commission's 2011 Further Notice of Proposed Rulemaking also did not propose, or include any discussion of, eliminating any type of iTRS service, and the Commission could not have intended to impose a requirement that has no existing technology for implementation.⁶ Furthermore, given that very few, if any, of Purple's customers have requested or inquired about the availability of a technology that provides both inbound and outbound functionality, the Commission would have been attempting to solve a problem that does not appear to exist if it intended to apply footnote 122 to web and wireless IP CTS.

Forcing Purple to cut off its web and wireless IP CTS service, or asking Purple not to seek reimbursement for minutes, while the Commission evaluates Purple's petition and considers what clarification to provide on these issues would be particularly inequitable at this point given that (1)

⁵ See 47 C.F.R. § 64.604(c)(10)(i).

⁶ See *Structure and Practices of the Video Relay Service Program, et al.*, Further Notice of Proposed Rulemaking, 26 FCC Rcd 17367, ¶ 41 (2011).

Purple originally commented on these issues in March 2012, specifically emphasizing the need for granularity in defining iTRS – which would have avoided the very problem Purple is now facing;⁷ (2) Purple could not have known that the Commission would apply a definition of iTRS in a way that would require it to, by default, provide automatic captions “on” for IP CTS, given that the Commission, in January, implemented rules requiring that IP CTS be defaulted to captions “off”; (3) Purple contacted Commission staff within days after the Order was published to better understand the meaning of footnote 122 and whether it applied to IP CTS at all; and (4) Purple filed its petition on July 8, and has continued to wait for clarification from the Commission on these issues.

Moreover, if the Commission did intend for footnote 122 to apply to web and wireless IP CTS, Purple is not asking to be exempted from the rule. As Purple has told the Commission, a solution to allow inbound calls to web/wireless users can be developed and introduced to Purple’s network, but requires the Commission’s clarification of footnote 122 in order to design a solution that would comply with the rule. The Commission’s delay in providing the clarification requested in its July 8 petition has prevented Purple from initiating any development work. Following clarification of the rule’s intent, Purple’s development team would require approximately 120-180 days to effectively develop and introduce a functional solution to its customers.

While its petition has been pending, Purple has continued to offer service to its web and wireless customers since the Order became effective on August 5, based on its hope that the Commission would either clarify that the rule was never intended to apply to IP CTS, or alternatively, grant Purple a limited waiver to allow it to continue to serve existing web and wireless customers while a compliant solution is developed. However, if the Commission denies Purple’s request for a waiver, but clarifies that the Order was intended to apply to IP CTS, Purple will have

⁷ Comments to FNPRM on Structure and Practices of the Video Relay Services Program, Purple Communications, Inc., CG Docket Nos. 10-51 and 03-123, at 14 (filed March 8, 2012).

no choice but to immediately terminate service to its existing web and wireless IP CTS customers. Thereafter, Purple would consider whether to reintroduce a compliant web and wireless service at a future date.

CONCLUSION.

Due to the lack of clarity surrounding footnote 122, the Commission should expeditiously: (1) explain whether footnote 122 was intended to apply to inbound web and wireless IP CTS calls, which, given existing technology, would require all inbound calls to automatically be captioned; (2) clearly define “a technology” in the context of the language of footnote 122; and (3) if, based on such clarification, Purple needs to change its existing system, allow Purple sufficient time to develop a solution that would comply. Without a waiver allowing Purple sufficient time (approximately 120-180 days) to create and implement any necessary software updates, Purple will be forced to discontinue providing web and wireless IP CTS to its customers. This result could not have been intended by the Commission, and would be particularly inequitable given Purple’s repeated attempts to focus the Commission’s attention on this important issue.

Respectfully submitted,



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