

November 18, 2013

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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 Thursday, November 14, the undersigned, outside counsel to Purple Communications, Inc. (“Purple”), met with Gregory Hlibok, Eliot Greenwald, Elaine Gardner, Robert Aldrich, and Caitlin Vogus from the Consumer and Governmental Affairs Bureau. John Goodman, Chief Legal Officer for Purple, also joined the meeting by telephone. The discussion focused on the following points addressed in Purple’s reply comments regarding its petition seeking clarification that footnote 122 in the Commission’s *VRS Reform Order* does not apply to web and wireless Internet Protocol Captioned Telephone Service (“IP CTS”).¹

We emphasized that Purple agrees with the position taken by Hamilton Relay, Inc. (“Hamilton”) that footnote 122 does not apply to web and wireless IP CTS.² Purple is worried, however, that the *Order* is not sufficiently clear on this point, and urged the Commission to expeditiously clarify this issue. We further emphasized that Purple fully agrees with Hamilton and Sorenson Communications, Inc. (“Sorenson”) that using a different method of technology for captioning inbound and outbound IP CTS web and wireless calls should not affect the compensability of those calls.³ Purple, however, believes that, absent the requested clarification, a strict reading of the rule in footnote 122 may not permit the use of different technologies to caption inbound and outbound IP CTS calls on web and wireless technologies. Footnote 122 uses the term “a technology,” which

¹ See Reply Comments of Purple Communications, Inc., CG Docket Nos. 10-51 and 03-123 (filed Oct. 23, 2013); see also *Structure 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, n. 122 (2013); see also 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).

² See Comments of Hamilton Relay, Inc., CG Docket Nos. 10-51 and 03-123, at 2-3 (filed Sept. 26, 2013) (“Hamilton Comments”).

³ See Hamilton Comments at 4; see also Comments of Sorenson Communications, Inc. and CaptionCall, LLC, CG Docket Nos. 10-51 and 03-123, at 3 (filed Sept. 26, 2013).

implies the use of a single technology. Using a TFN approach (or any other inbound methodology currently available), however, plainly constitutes the use of more than one technology. We reiterated that if the Commission meant to continue allowing different methods for captioning inbound IP CTS calls than for captioning outbound IP CTS calls, it must clarify this point.

As discussed in Purple's reply comments, out of caution and because Purple had not received any definitive answer from the Commission, Purple expended resources in August and September to successfully develop a solution that would comply with a reading of footnote 122 that would allow inbound web and wireless traffic to operate on a technology different than that supporting the provider's outbound web and wireless calls. We explained that the system used by Purple to caption incoming calls is similar to that used by Hamilton and Sorenson.

Accordingly, if the Commission clarifies that footnote 122 does apply to web and wireless IP CTS, and that inbound calls and outbound calls can run on different technologies, Purple will have been compliant with the rule as of September 30, 2013. In that event, Purple would modify its original waiver request to apply only to Purple's web and wireless IP CTS minutes generated between August 5, 2013 and September 30, 2013, during which time Purple was waiting for clarification from the Commission regarding (a) whether footnote 122 applied to web and wireless IP CTS at all, and if so, (b) the technical configuration of a solution that would be compliant with the Commission's interpretation of footnote 122.

We emphasized that Commission should either expeditiously (1) clarify that footnote 122 was not intended to apply to inbound web and wireless IP CTS calls; or (2) if the Commission decides that footnote 122 does apply to such calls, (a) clarify whether the inbound and outbound calls can operate on more than one technology, and (b) grant a waiver for Purple's web and wireless IP CTS minutes generated between August 5, 2013 and September 30, 2013.

Respectfully submitted,



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