



Federal Communications Commission
Washington, D.C. 20554

May 27, 2010

DA 10-963

Mr. Gil M. Strobel
Lawler, Metzger, Keeney & Logan, LLC.
2001 K Street, NW, Ste 802
Washington, DC 20006

Re: Sorenson's request for payment of certain VRS calls handled on August 7, 2009 (CG Docket No. 03-123)

Dear Mr. Strobel:

By this letter, the Consumer and Governmental Affairs Bureau (Bureau) grants Sorenson's request for payment of Video Relay Service (VRS) calls handled on August 7, 2009 for which technical difficulties prevented Sorenson from capturing certain call data information required by the Commission's rules. As set forth below, we direct the National Exchange Carriers Administration (NECA or Administrator), the Interstate TRS Fund Administrator, to remit payment of [REDACTED] to Sorenson at the next regularly monthly disbursement.

On March 2, 2010, Sorenson sent a letter to the Bureau's Disability Rights Office (DRO) requesting compensation for [REDACTED] VRS minutes for which Sorenson was unable to record certain call data information. The missing data consists of the specific session start and end time, and conversation start and end time for certain calls handled on August 7, 2009.¹ On March 26, 2010, Sorenson explained that it was able to verify the accuracy of the conversation minute data captured by a secondary database that Sorenson uses solely for operational purposes.² Based on Sorenson's statements, the underlying data, and the Administrator's analysis, the Bureau concludes that Sorenson is entitled to payment for these minutes. We also note that Sorenson's request for compensation of the total number of unrecorded minutes on Friday, August 7, 2009 is at least [REDACTED] percent less than the total number of minutes Sorenson handled on the preceding Friday, July 31, 2009, and the following Friday, August 14, 2009.

Because the total of Sorenson's monthly minutes for August 2009 was greater than 500,000, we apply the tier rate of \$6.2372 per minute to these conversation minutes at issue. We then multiply the [REDACTED] conversation minutes by the \$6.2372 rate, resulting in a total amount due Sorenson of [REDACTED].³ The Bureau directs NECA to remit payment of [REDACTED] to Sorenson by electronic funds transfer at the next regularly monthly disbursement.

¹ Letter from Gil Strobel, Lawler, Metzger, Keeney & Logan, LLC, to Thomas Chandler, Chief, Disability Rights Office dated March 2, 2010 (CG Docket No. 03-123). Sorenson noted that a portion of calls from August 7, 2009 were not affected by the technical problems and have already been compensated from the Interstate TRS Fund. Sorenson further noted that it is not seeking compensation for over [REDACTED] minutes that were unaccounted for.

² Letter from Gil Strobel, Lawler, Metzger, Keeney & Logan, LLC, to Marlene H. Dortch, Secretary, Federal Communications Commission dated March 26, 2010 (CG Docket No. 03-123).

³ This figure is rounded up from [REDACTED].

In reaching this result, we grant a limited waiver of the Commission's rule, 47 C.F.R. §64.604(c)(5)(iii)(E), which requires that "all TRS providers, including providers who are not interexchange carriers, local exchange carriers, or certified state relay providers, must submit reports of interstate TRS minutes of use to the administrator in order to receive payments," and that compensable minutes are "minutes of use for completed ... calls ... beginning after call set-up and concluding after the last message call unit" (*i.e.*, conversation time).⁴

Accordingly, IT IS ORDERED that, pursuant to the authority granted by sections 1, 4(i), 4(j), 5, and 225 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), 154(j), 155 and 225, and pursuant to the authority delegated in sections 0.141., 0.361, 1.3 and 64.604 of the Commission's rules, 47 C.F.R. §§ 0.141, 0.361, 1.3 and 64.604, the Interstate TRS Fund Administrator SHALL REMIT to Sorenson by electronic funds transfer at the next regularly monthly disbursement.⁵

If you have any questions concerning this matter, please contact Gregory Hlibok, Disability Rights Office, Consumer and Governmental Affairs Bureau, FCC, at (202) 559-5158 (voice or videophone), or Gregory.Hlibok@fcc.gov.

Sincerely,

Joel Gurin
Chief, Consumer and Governmental Affairs Bureau

⁴ 47 C.F.R. § 64.604(c)(5)(iii)(E). Generally, the Commission's rules may be waived for good cause shown. 47 C.F.R. § 1.3. The Commission may exercise its discretion to waive a rule where the particular facts make strict compliance inconsistent with the public interest. *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (*Northeast Cellular*); *see also WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969). We find that Sorenson's explanation for not complying with this rule for the limited number of minutes at issue here is sufficient to warrant a waiver.

⁵ Sorenson's March 2, 2010 letter (*see note 2, supra*) requests that data pertaining to the minutes of use at issue here be treated as confidential under the Commission's rules. As a result, the version of this letter filed in the docket will have the company's proprietary commercial and financial information redacted.