

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of )
Telecommunications Relay Services ) CG Docket No. 03-123
And Speech-to-Speech Services for )
Individuals with Hearing and Speech Disabilities )
Structure and Practices of the Video Relay Service ) CG Docket No. 10-51
Program )
Purple Communications, Inc. )
Application for Certification to Provide Internet )
Protocol Captioned Telephone Service )

ORDER

Adopted: December 12, 2014

Released: December 12, 2014

By the Acting Chief, Consumer and Governmental Affairs Bureau:

1. In this Order, the Consumer and Governmental Affairs Bureau (CGB or Bureau) of the Federal Communications Commission (Commission), suspends, on an interim basis and until further notice, the requirement that Purple Communications, Inc. (Purple) discontinue the provision of Internet Protocol Captioned Telephone Service (IP CTS) through its web and wireless applications. Pursuant to a Public Notice released November 7, 2014, this requirement was imposed as a condition of the Bureau’s conditional grant of renewal of Purple’s certification as a provider of IP CTS supported by the Interstate Telecommunications Relay Services Fund (TRS Fund).1

I. BACKGROUND

2. On November 7, 2014, CGB conditionally granted renewal of Purple’s certification to provide IP CTS.2 In its review of Purple’s IP CTS operations, however, the Bureau found that Purple had failed to operate the web and wireless applications of its ClearCaptions IP CTS in compliance with the Commission’s 911 emergency calling requirements for telecommunications relay services (TRS), from the commencement of service in 2011 through, at a minimum, October 9, 2014.3 Therefore, the Bureau conditioned the renewal of certification on, among other things, Purple’s discontinuance of the Fund-supported provision of IP CTS through web and wireless applications, effective December 12, 2014.4 The Bureau stated that this condition may be removed if Purple demonstrates that it has adopted and is utilizing measures that are sufficient to ensure that its provision of IP CTS, for web and wireless-based IP

1 Notice of Grant of Conditional Certification for Purple Communications, Inc., to Provide Internet Protocol Captioned Telephone Service, CG Docket Nos. 03-123, 10-51, Public Notice, DA 14-1627 (rel. Nov. 7, 2014) (Purple Conditional Certification PN).

2 Id.

3 Id., ¶¶ 7-14.

4 Id., ¶ 15.

CTS users, including acceptance and handling of emergency calls to 911, meets or exceeds all TRS minimum standards and complies with all applicable Commission rules and orders.<sup>5</sup> In addition, recent tests had also raised questions about Purple's compliance with minimum TRS standards with respect to the handling of incoming (non-emergency) calls placed to Purple's registered IP CTS users who use web and wireless applications. Therefore, the Bureau also required that, in order to have the condition removed and be allowed to provide service through its web and wireless applications, Purple must demonstrate that it will accept and handle, in compliance with all applicable Commission rules and orders, incoming calls to registered users who access IP CTS through these applications.<sup>6</sup>

## II. FINDINGS

3. On November 19, 2014, Purple submitted materials that it contends demonstrate compliance with the Commission's rules governing the handling of 911 and incoming IP CTS calls via web and wireless applications. On November 25, 2014, Purple further supplemented these materials. The materials submitted by Purple include information and documentation regarding: (1) Purple's procedures for handling 911 calls through web and wireless IP CTS applications; (2) Purple's arrangements with service providers for routing and transmitting 911 calls; (3) Purple's handling of certain 911 IP CTS calls placed through web and wireless applications; (4) recent 911 IP CTS test calls by Purple employees; (5) Purple's assessment of its compliance with the speed-of-answer rule;<sup>7</sup> (6) measures Purple reports using to ensure that it collects TRS compensation only from calls by IP CTS users who have satisfied the Commission's registration and user certification requirements; (7) arrangements with a third party testing firm to conduct periodic testing of Purple's handling of 911 and incoming IP CTS calls; (8) recent 911 and incoming IP CTS test calls by a third party tester; (9) updated instructions to Purple's communications assistants for handling 911 IP CTS calls; and (10) Purple's handling of certain incoming calls placed to web and wireless IP CTS users.<sup>8</sup>

4. On numerous occasions, the Commission has confirmed the critical importance of ensuring that the American people have access to reliable and resilient 911 communications service.<sup>9</sup> It was for this reason that the Bureau conditioned the renewal of Purple's IP CTS recertification in part on Purple's discontinuance of these services through web and wireless applications in its November 7, 2014 order.<sup>10</sup> Specifically, we stated that the condition "may be removed if Purple demonstrates that it has adopted and is utilizing measures that are sufficient to ensure that its provision of IP CTS, for web and wireless-based IP CTS users, including acceptance and handling of emergency calls to 911, meets or exceeds all TRS minimum standards and complies with all applicable Commission rules and orders."<sup>11</sup> and that "[w]ith respect to 911 calling, that such demonstration must include, but not be limited to, a detailed description of Purple's proposed method of handling 911 calls, complete documentation of Purple's arrangements with its service provider for routing and transmitting 911 calls with appropriate location and callback information, and a detailed description and commitment to adhere to an effective program and protocol for periodic testing of Purple's emergency calling process."<sup>12</sup> Since that time, as

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<sup>5</sup> *Id.*, ¶ 16.

<sup>6</sup> *Id.*, ¶ 16.

<sup>7</sup> 47 C.F.R. § 64.604(b)(2).

<sup>8</sup> See Letter from Monica Desai, Squire Patton Boggs LLP, to Marlene H. Dortch, Secretary, FCC (filed Nov. 19, 2014); Letter from Monica Desai, Squire Patton Boggs LLP, to Marlene H. Dortch, Secretary, FCC (filed Nov. 25, 2014).

<sup>9</sup> See e.g., *911 Governance and Accountability; Improving 911 Reliability*, PS Docket Nos. 14-193, 13-75, Policy Statement and Notice of Proposed Rulemaking, FCC 14-186, ¶ 1 (Nov. 21, 2014).

<sup>10</sup> See *Purple Conditional Certification PN*, ¶ 7.

<sup>11</sup> *Id.*, ¶ 16.

<sup>12</sup> *Id.*, n. 44.

discussed above, Purple has provided extensive information detailing its compliance with the 911 call handling requirements for its IP CTS web and wireless applications. The Bureau is currently analyzing the material submitted by Purple. Although this analysis is not yet complete, and we reserve final judgment of Purple's recertification of these services until completion of this review, thus far, we are persuaded by these materials that Purple has taken significant steps toward achieving compliance with minimum emergency call handling TRS standards. In light of Purple's showing, the Bureau must consider the possible harm that could result to consumers were Purple required to cease providing such services at this time.

5. Section 225 directs the Commission to ensure that TRS are available to consumers with hearing and speech disabilities to "increase the utility of the telephone system of the Nation" and "to make available to all individuals in the United States a rapid, efficient nationwide communications service."<sup>13</sup> At the time that it adopted this section, Congress explained that given the pervasiveness of the telephone for both commercial and personal matters, the inability to utilize the telephone system fully has enormous impact on an individual's ability to integrate effectively in today's society."<sup>14</sup> Since adoption of these requirements, TRS users have come to rely on particular services and features that particular relay providers offer. Thus, we must carefully consider the impact that discontinuing any of these services can have on consumers before taking such action.<sup>15</sup> In the instant situation, we believe that the impact that an interruption of service would likely have on relay users is unwarranted by the currently available evidence provided by Purple. Otherwise stated, we believe that the importance of maintaining the continuity of web and wireless IP CTS for Purple's TRS users, coupled with our interest in preventing potential harm to consumers were this service required to be discontinued at this time, justifies allowing Purple to continue offering this service pending further review. Therefore, pending completion of its review, the Bureau finds that it is appropriate, in the interests of ensuring continuity of service to consumers, to suspend the condition in the *Purple Conditional Certification PN* that required Purple to discontinue the TRS Fund-supported provision of IP CTS through its web and wireless applications. By this order, for the present time and until our review of Purple's compliance with the 911 call handling requirements is complete, we allow Purple to continue requesting Fund compensation for IP CTS provided via its web or wireless applications.<sup>16</sup>

6. ACCORDINGLY, IT IS ORDERED that, pursuant to Sections 1, 2, 4, and 225 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 152, 154, and 225, and section 64.606 of the Commission's rules, 47 C.F.R. § 64.606, and pursuant to authority delegated in sections 0.141 and 0.361 of the Commission's rules, 47 C.F.R. §§ 0.141 and 0.361, the requirement of the *Purple Conditional Certification PN* that Purple discontinue the provision of TRS Fund-supported IP CTS via web and wireless applications is suspended, on an interim basis and until further notice; and

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<sup>13</sup> 47 U.S.C. § 225(b)(1).

<sup>14</sup> S. Rep. No. 116, 101<sup>st</sup> Cong., 1<sup>st</sup> Sess. 77 (1989).

<sup>15</sup> See generally *Structure and Practices of the Video Relay Service Program*, CG Docket No. 10-51, Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 5545, 5592-93, ¶¶ 101-03 (2011); *Structure and Practices of the Video Relay Service Program*, CG Docket No. 10-51, Second Report and Order and Order, 26 FCC Rcd 10898, 10919-21, ¶¶ 49-56 (2011) (proposing and adopting rules to avoid interruptions in service that may hamper the ability of relay customers to place iTRS calls). For example, TRS users, especially the deaf-blind community, have undergone a significant period of adjustment resulting from the departure of several TRS providers from the IP Relay market in 2013 and 2014.

<sup>16</sup> Nothing in this Order, however, addresses whether any particular minutes submitted by Purple for payment from the TRS Fund are compensable or constitute service provided pursuant to the TRS minimum standards. See 47 C.F.R. § 64.604(c)(5)(iii)(E)(4).

7. IT IS FURTHER ORDERED that this Order SHALL BE EFFECTIVE on the date of release.

FEDERAL COMMUNICATIONS COMMISSION

Kris Anne Monteith  
Acting Chief  
Consumer and Governmental Affairs Bureau