

§ 64.602

(51) *VRS Access Technology Reference Platform*. A software product procured by or on behalf of the Commission that provides VRS functionality, including the ability to make and receive VRS and point-to-point calls, dial-around functionality, and the ability to update user registration location, and against which providers may test their own VRS access technology and platforms for compliance with the Commission's interoperability and portability rules.

(b) For purposes of this subpart, all regulations and requirements applicable to common carriers shall also be applicable to providers of interconnected VoIP service.

[68 FR 50976, Aug. 25, 2003, as amended at 69 FR 53351, Sept. 1, 2004; 72 FR 43559, Aug. 6, 2007; 73 FR 41294, July 18, 2008; 76 FR 24400, May 2, 2011; 76 FR 65969, Oct. 25, 2011; 78 FR 40605, July 5, 2013; 82 FR 7707, Jan. 23, 2017; 82 FR 17761, Apr. 13, 2017; 82 FR 39682, Aug. 22, 2017; 84 FR 8461, Mar. 8, 2019; 84 FR 26369, June 6, 2019]

§ 64.602 Jurisdiction.

Any violation of this subpart F by any common carrier engaged in intrastate communication shall be subject to the same remedies, penalties, and procedures as are applicable to a violation of the Act by a common carrier engaged in interstate communication.

[65 FR 38436, June 21, 2000]

§ 64.603 Provision of services.

(a) Each common carrier providing telephone voice transmission services shall provide, in compliance with the regulations prescribed herein, throughout the area in which it offers services, telecommunications relay services, individually, through designees, through a competitively selected vendor, or in concert with other carriers. Interstate Spanish language relay service shall be provided. Speech-to-speech relay service also shall be provided, except that speech-to-speech relay service need not be provided by IP Relay providers, VRS providers, captioned telephone relay service providers, and IP CTS providers. In addition, each common carrier providing telephone voice transmission services shall provide access via the 711 dialing code to all relay services as a toll free call. CMRS providers subject to this 711 access re-

47 CFR Ch. I (10–1–19 Edition)

quirement are not required to provide 711 dialing code access to TTY users if they provide 711 dialing code access via real-time text communications, in accordance with 47 CFR part 67.

(b) A common carrier shall be considered to be in compliance with this section:

(1) With respect to intrastate telecommunications relay services in any state that does not have a certified program under § 64.606 and with respect to interstate telecommunications relay services, if such common carrier (or other entity through which the carrier is providing such relay services) is in compliance with § 64.604; or

(2) With respect to intrastate telecommunications relay services in any state that has a certified program under § 64.606 for such state, if such common carrier (or other entity through which the carrier is providing such relay services) is in compliance with the program certified under § 64.606 for such state.

[82 FR 7707, Jan. 23, 2017]

§ 64.604 Mandatory minimum standards.

The standards in this section are applicable December 18, 2000, except as stated in paragraphs (c)(2) and (c)(7) of this section.

(a) *Operational standards*—(1) *Communications assistant (CA)*. (i) TRS providers are responsible for requiring that all CAs be sufficiently trained to effectively meet the specialized communications needs of individuals with hearing and speech disabilities.

(ii) CAs must have competent skills in typing, grammar, spelling, interpretation of typewritten ASL, and familiarity with hearing and speech disability cultures, languages and etiquette. CAs must possess clear and articulate voice communications.

(iii) CAs must provide a typing speed of a minimum of 60 words per minute. Technological aids may be used to reach the required typing speed. Providers must give oral-to-type tests of CA speed.

(iv) TRS providers are responsible for requiring that VRS CAs are qualified interpreters. A “qualified interpreter”

is able to interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary.

(v) CAs answering and placing a TTY-based TRS or VRS call shall stay with the call for a minimum of ten minutes. CAs answering and placing an STS call shall stay with the call for a minimum of twenty minutes. The minimum time period shall begin to run when the CA reaches the called party. The obligation of the CA to stay with the call shall terminate upon the earlier of:

(A) The termination of the call by one of the parties to the call; or

(B) The completion of the minimum time period.

(vi) TRS providers must make best efforts to accommodate a TRS user's requested CA gender when a call is initiated and, if a transfer occurs, at the time the call is transferred to another CA.

(vii) TRS shall transmit conversations between TTY and voice callers in real time.

(viii) STS providers shall offer STS users the option to have their voices muted so that the other party to the call will hear only the CA and will not hear the STS user's voice.

(2) *Confidentiality and conversation content.* (i) Except as authorized by section 705 of the Communications Act, 47 U.S.C. 605, CAs are prohibited from disclosing the content of any relayed conversation regardless of content, and with a limited exception for STS CAs, from keeping records of the content of any conversation beyond the duration of a call, even if to do so would be inconsistent with state or local law. STS CAs may retain information from a particular call in order to facilitate the completion of consecutive calls, at the request of the user. The caller may request the STS CA to retain such information, or the CA may ask the caller if he wants the CA to repeat the same information during subsequent calls. The CA may retain the information only for as long as it takes to complete the subsequent calls.

(ii) CAs are prohibited from intentionally altering a relayed conversation and, to the extent that it is not inconsistent with federal, state or local law regarding use of telephone com-

pany facilities for illegal purposes, must relay all conversation verbatim unless the relay user specifically requests summarization, or if the user requests interpretation of an ASL call. An STS CA may facilitate the call of an STS user with a speech disability so long as the CA does not interfere with the independence of the user, the user maintains control of the conversation, and the user does not object. Appropriate measures must be taken by relay providers to ensure that confidentiality of VRS users is maintained.

(3) *Types of calls.* (i) Consistent with the obligations of telecommunications carrier operators, CAs are prohibited from refusing single or sequential calls or limiting the length of calls utilizing relay services.

(ii) Relay services shall be capable of handling any type of call normally provided by telecommunications carriers unless the Commission determines that it is not technologically feasible to do so. Relay service providers have the burden of proving the infeasibility of handling any type of call. Providers of Internet-based TRS need not provide the same billing options (*e.g.*, sent-paid long distance, operator-assisted, collect, and third party billing) traditionally offered for wireline voice services if they allow for long distance calls to be placed using calling cards or credit cards or do not assess charges for long distance calling. Providers of Internet-based TRS need not allow for long distance calls to be placed using calling cards or credit cards if they do not assess charges for long distance calling.

(iii) Relay service providers are permitted to decline to complete a call because credit authorization is denied.

(iv) Relay services other than Internet-based TRS shall be capable of handling pay-per-call calls.

(v) TRS providers are required to provide the following types of TRS calls:

- (A) Text-to-voice and voice-to-text;
- (B) One-line VCO, two-line VCO, VCO-to-TTY, and VCO-to-VCO; and
- (C) One-line HCO, two-line HCO, HCO-to-TTY, HCO-to-HCO. VRS providers are not required to provide text-to-voice and voice-to-text functionality. IP Relay providers are not required to provide one-line VCO

and one-line HCO. IP Relay providers and VRS providers are not required to provide:

(1) VCO-to-TTY and VCO-to-VCO; and
 (2) HCO-to-TTY and HCO-to-HCO. Captioned telephone service providers and IP CTS providers are not required to provide:

(i) Text-to-voice functionality; and
 (ii) One-line HCO, two-line HCO, HCO-to-TTY, and HCO-to-HCO. IP CTS providers are not required to provide one-line VCO.

(vi) TRS providers are required to provide the following features:

(A) Call release functionality (only with respect to the provision of TTY-based relay service);

(B) Speed dialing functionality; and

(C) Three-way calling functionality.

(vii) Voice mail and interactive menus. CAs must alert the TRS user to the presence of a recorded message and interactive menu through a hot key on the CA's terminal. The hot key will send text from the CA to the consumer's TTY indicating that a recording or interactive menu has been encountered. Relay providers shall electronically capture recorded messages and retain them for the length of the call. Relay providers may not impose any charges for additional calls, which must be made by the relay user in order to complete calls involving recorded or interactive messages.

(viii) TRS providers shall provide, as TRS features, answering machine and voice mail retrieval.

(4) Emergency call handling requirements for TTY-based TRS providers. TTY-based TRS providers must use a system for incoming emergency calls that, at a minimum, automatically and immediately transfers the caller to an appropriate Public Safety Answering Point (PSAP). An appropriate PSAP is either a PSAP that the caller would have reached if he had dialed 911 directly, or a PSAP that is capable of enabling the dispatch of emergency services to the caller in an expeditious manner.

(5) *STS called numbers*. Relay providers must offer STS users the option to maintain at the relay center a list of names and telephone numbers which the STS user calls. When the STS user requests one of these names, the CA

must repeat the name and state the telephone number to the STS user. This information must be transferred to any new STS provider.

(6) *Visual privacy screens/idle calls*. A VRS CA may not enable a visual privacy screen or similar feature during a VRS call. A VRS CA must disconnect a VRS call if the caller or the called party to a VRS call enables a privacy screen or similar feature for more than five minutes or is otherwise unresponsive or unengaged for more than five minutes, unless the call is a 9-1-1 emergency call or the caller or called party is legitimately placed on hold and is present and waiting for active communications to commence. Prior to disconnecting the call, the CA must announce to both parties the intent to terminate the call and may reverse the decision to disconnect if one of the parties indicates continued engagement with the call.

(7) *International calls*. VRS calls that originate from an international IP address will not be compensated, with the exception of calls made by a U.S. resident who has pre-registered with his or her default provider prior to leaving the country, during specified periods of time while on travel and from specified regions of travel, for which there is an accurate means of verifying the identity and location of such callers. For purposes of this section, an international IP address is defined as one that indicates that the individual initiating the call is located outside the United States.

(b) *Technical standards*—(1) *ASCII and Baudot*. TTY-based relay service shall be capable of communicating with ASCII and Baudot format, at any speed generally in use. Other forms of TRS are not subject to this requirement.

(2) *Speed of answer*. (i) TRS providers shall ensure adequate TRS facility staffing to provide callers with efficient access under projected calling volumes, so that the probability of a busy response due to CA unavailability shall be functionally equivalent to what a voice caller would experience in attempting to reach a party through the voice telephone network.

(ii) TRS facilities shall, except during network failure, answer 85% of all calls within 10 seconds by any method

which results in the caller's call immediately being placed, not put in a queue or on hold. The ten seconds begins at the time the call is delivered to the TRS facility's network. A TRS facility shall ensure that adequate network facilities shall be used in conjunction with TRS so that under projected calling volume the probability of a busy response due to loop trunk congestion shall be functionally equivalent to what a voice caller would experience in attempting to reach a party through the voice telephone network.

(A) The call is considered delivered when the TRS facility's equipment accepts the call from the local exchange carrier (LEC) and the public switched network actually delivers the call to the TRS facility.

(B) Abandoned calls shall be included in the speed-of-answer calculation.

(C) A TRS provider's compliance with this rule shall be measured on a daily basis.

(D) The system shall be designed to a P.01 standard.

(E) A LEC shall provide the call attempt rates and the rates of calls blocked between the LEC and the TRS facility to relay administrators and TRS providers upon request.

(iii) *Speed of answer requirements for VRS providers.* VRS providers must answer 80% of all VRS calls within 120 seconds, measured on a monthly basis. VRS providers must meet the speed of answer requirements for VRS providers as measured from the time a VRS call reaches facilities operated by the VRS provider to the time when the call is answered by a CA—*i.e.*, not when the call is put on hold, placed in a queue, or connected to an IVR system. Abandoned calls shall be included in the VRS speed of answer calculation.

(3) *Equal access to interexchange carriers.* TRS users shall have access to their chosen interexchange carrier through the TRS, and to all other operator services to the same extent that such access is provided to voice users. This requirement is inapplicable to providers of Internet-based TRS if they do not assess specific charges for long distance calling.

(4) *TRS facilities.* (i) TRS shall operate every day, 24 hours a day. Relay services that are not mandated by this

Commission need not be provided every day, 24 hours a day, except VRS.

(ii) TRS shall have redundancy features functionally equivalent to the equipment in normal central offices, including uninterruptible power for emergency use.

(iii) A VRS CA may not handle VRS calls from a location primarily used as his or her home unless as part of the voluntary at-home VRS call handling pilot program as provided for by paragraph (b)(8) of this section.

(iv) A VRS provider leasing or licensing an automatic call distribution (ACD) platform must have a written lease or license agreement. Such lease or license agreement may not include any revenue sharing agreement or compensation based upon minutes of use. In addition, if any such lease is between two eligible VRS providers, the lessee or licensee must locate the ACD platform on its own premises and must utilize its own employees to manage the ACD platform.

(5) *Technology.* No regulation set forth in this subpart is intended to discourage or impair the development of improved technology that fosters the availability of telecommunications to person with disabilities. TRS facilities are permitted to use SS7 technology or any other type of similar technology to enhance the functional equivalency and quality of TRS. TRS facilities that utilize SS7 technology shall be subject to the Calling Party Telephone Number rules set forth at 47 CFR 64.1600 *et seq.*

(6) *Caller ID.* When a TRS facility is able to transmit any calling party identifying information to the public network, the TRS facility must pass through, to the called party, at least one of the following: the number of the TRS facility, 711, or the 10-digit number of the calling party.

(7) *STS 711 Calls.* An STS provider shall, at a minimum, employ the same means of enabling an STS user to connect to a CA when dialing 711 that the provider uses for all other forms of TRS. When a CA directly answers an incoming 711 call, the CA shall transfer the STS user to an STS CA without requiring the STS user to take any additional steps. When an interactive voice response (IVR) system answers an incoming 711 call, the IVR system shall

allow for an STS user to connect directly to an STS CA using the same level of prompts as the IVR system uses for all other forms of TRS.

(8) *Voluntary at-home VRS call handling pilot program.* Any VRS provider that holds a conditional or full certification to receive compensation from the TRS Fund pursuant to § 64.606 as of March 23, 2017 may participate in the voluntary at-home VRS call handling pilot program. The pilot program shall be in effect for one year, for service provided by participants beginning November 1, 2017, and ending October 31, 2018.

(i) *Notification of intent to participate.* A VRS provider seeking to participate in the pilot program shall notify the Commission of its intent to participate on or before September 1, 2017, and shall include in such notification a detailed plan demonstrating that the VRS provider intends to achieve compliance with the mandatory minimum standards applicable to VRS and with the safeguards enumerated in this paragraph (b)(8). Plans submitted by VRS providers shall specify the following:

(A) A description of the screening process used to select CAs for the at-home call handling program;

(B) A description of specific training to be provided for at-home CAs;

(C) A description of the protocols and CA expectations developed for the at-home call handling program;

(D) A description of the grounds for dismissing a CA from the at-home program and the process for such termination in the event that the CA fails to adhere to applicable requirements;

(E) A description of all steps that will be taken to install a workstation in a CA's home, including evaluations that will be performed to ensure all workstations are sufficiently secure and equipped to prevent eavesdropping and outside interruptions;

(F) A description of the monitoring technology to be used by the provider to ensure that off-site supervision approximates the level of supervision at the provider's call center;

(G) An explanation of how the provider's workstations will connect to the provider's network, including how they will be integrated into the call

center routing, distribution, tracking, and support systems, and how the provider will ensure system redundancy in the event of service disruptions in at-home workstations;

(H) A signed certification by an officer of the provider that the provider will conduct random and unannounced inspections of at least five percent (5%) of all at-home workstations during the pilot program; and

(I) A commitment to comply with all other safeguards enumerated in this paragraph (b)(8) and the applicable rules in this chapter governing TRS.

(ii) *Authorization for at-home VRS call handling.* Upon Commission approval of a VRS provider's plan, the provider may conduct at-home VRS call handling during the period of the pilot program. The Commission may cancel such approval if a VRS provider fails to comply with any of the safeguards enumerated in this paragraph (b)(8) or other applicable mandatory minimum TRS standards. VRS providers may be subject to withholding, forfeitures, and penalties for noncompliant minutes handled by at-home workstations, as is the case for non-compliant minutes handled by call centers.

(iii) *Limit on minutes handled.* In any month of the program, a VRS provider may be compensated for minutes served by at-home CA workstations up to a maximum of *either* thirty percent (30%) of a VRS provider's total minutes for which compensation is paid in that month *or* thirty percent (30%) of the provider's average monthly minutes for the 12 months ending October 31, 2017, whichever is greater.

(iv) *Personnel safeguards.* Before permitting CAs to handle VRS calls from at-home workstations, VRS providers shall:

(A) Ensure that each CA handling calls from an at-home workstation has the experience, skills, and knowledge necessary to effectively interpret from these workstations, including a thorough understanding of the TRS mandatory minimum standards and at least three years of experience as a call center CA.

(B) Establish protocols for the handling of calls from at-home workstations (to the extent there are additional protocols that differ from

those applicable to the provider's call centers) and provide training to at-home CAs on such protocols, in addition to all applicable training that is required of CAs working from call centers.

(C) Provide each CA working from an at-home workstation equivalent support to that provided to CAs working from call centers, as needed to effectively handle calls, including, where appropriate, the opportunity to team interpret and consult with supervisors, and ensure that supervisors are readily available to a CA working from home to resolve problems that may arise during a relay call, such as difficulty in understanding a VRS user's signs, the need for added support for emergency calls, and relieving a CA in the event of the CA's sudden illness.

(D) Establish grounds for dismissing a CA from the at-home VRS call handling program (*i.e.*, for noncompliance with the standards and safeguards enumerated in this paragraph (b)(8) and the rules governing TRS), including a process for such termination in the event that the CA fails to adhere to these requirements, and provide such grounds and process in writing to each CA participating in the pilot program.

(E) Obtain from each CA handling calls from an at-home workstation a certification in writing of the CA's understanding of and commitment to complying with the rules in this chapter governing TRS, including rules governing caller confidentiality and fraud prevention, and the CA's understanding of the reasons and process for dismissal from the at-home VRS call handling program.

(v) *Technical and environmental safeguards.* Participating VRS providers shall ensure that each home environment used for at-home VRS call handling enables the provision of confidential and uninterrupted services to the same extent as the provider's call centers and is seamlessly integrated into the provider's call routing, distribution, tracking, and support systems. VRS providers shall ensure that each at-home workstation:

(A) Resides in a separate, secure location in the CA's home, where access is restricted solely to the CA;

(B) Allows a CA to use all call-handling technology to the same extent as other CAs, including the ability to transition a non-emergency call to an emergency call, engage in virtual teaming with another CA, and allow supervisors to communicate with and oversee calls;

(C) Is capable of supporting VRS in compliance with the applicable mandatory minimum technical and emergency call handling standards to the same degree as these are available at call centers, including the ability to route VRS calls around individual CA workstations in the event the CA experiences a network outage or other service interruption;

(D) Is equipped with an effective means to prevent eavesdropping, such as white noise emitters or soundproofing, and to ensure that interruptions from noises outside the room do not adversely affect a CA's ability to interpret a call accurately and effectively; and

(E) Is connected to the provider's network over a secure connection to ensure caller privacy.

(vi) *Monitoring and oversight obligations.* VRS providers shall:

(A) Inspect and approve each at-home workstation before activating a CA's workstation for use;

(B) Assign a unique call center identification number (ID) to each VRS at-home workstation and use this call center ID to identify all minutes handled from each such workstation in its call detail records submitted monthly to the TRS Fund administrator;

(C) Equip each at-home workstation with monitoring technology sufficient to ensure that off-site supervision approximates the level of supervision at the provider's call center, including the ability to monitor both ends of a call, *i.e.*, video and audio, to the same extent as is possible in a call center, and regularly analyze the records and data produced by such monitoring to proactively address possible waste, fraud, and abuse;

(D) Keep all records pertaining to at-home workstations, including the data produced by any at-home workstation monitoring technology, except for any

data that records the content of an interpreted conversation, for a minimum of five years; and

(E) Conduct random and unannounced inspections of at least five percent (5%) of all at-home workstations during the pilot program.

(vii) *Commission audits and inspections.* At-home workstations and workstation records shall be subject to review, audit, and inspection by the Commission and the Fund administrator and unannounced on-site inspections by the Commission to the same extent as other call centers and call center records subject to the rules in this chapter.

(viii) *Monthly reports.* Each participating VRS provider shall report the following information to the TRS Fund administrator with its monthly requests for compensation:

(A) The call center ID and full street address (number, street, city, state, and zip code) for each at-home workstation and the CA ID number for each individual handling VRS calls from that workstation; and

(B) The location and call center IDs of call centers providing supervision for at-home workstations, plus the names of persons at such call centers responsible for oversight of such workstations.

(ix) *Six-month report.* Each participating VRS provider shall submit, no later than seven months after the start of its program, a report covering the first six months of its program, containing the following information:

(A) A description of the actual screening process used to select CAs for the at-home call handling program;

(B) Copies of training materials provided to at-home CAs;

(C) Copies of written protocols used for CAs working from home;

(D) The total number of CAs handling VRS calls from at-home workstations over the first six months of the program;

(E) The number of 911 calls handled by the provider's at-home workstations;

(F) A description and copies of any surveys or evaluations taken of CAs concerning their experience using at-home workstations and participating in an at-home call handling program;

(G) The total number of CAs terminated from the program;

(H) The total number of complaints, if any, submitted to the provider regarding its at-home call handling program or calls handled by at-home CAs;

(I) The total number of on-site inspections conducted of at-home workstations and the date and location of each inspection;

(J) A description of the monitoring technology used to monitor CAs working at home and an analysis of the experience of supervisors overseeing at-home CAs compared to overseeing CAs in a call center;

(K) Copies of any reports produced by tracking software and a description explaining how the provider analyzed the reports for anomalies; and

(L) Detailed documentation of costs incurred in the use of at-home workstations, including any costs associated with CA recruitment, training, and compensation, engineering and technical set-up (including workstation set-up), and administrative and management support (including oversight, evaluation, and recording).

(c) *Functional standards*—(1) *Consumer complaint logs.* (i) States and interstate providers must maintain a log of consumer complaints including all complaints about TRS in the state, whether filed with the TRS provider or the State, and must retain the log until the next application for certification is granted. The log shall include, at a minimum, the date the complaint was filed, the nature of the complaint, the date of resolution, and an explanation of the resolution.

(ii) Beginning July 1, 2002, states and TRS providers shall submit summaries of logs indicating the number of complaints received for the 12-month period ending May 31 to the Commission by July 1 of each year. Summaries of logs submitted to the Commission on July 1, 2001 shall indicate the number of complaints received from the date of OMB approval through May 31, 2001.

(2) *Contact persons.* Beginning on June 30, 2000, State TRS Programs, interstate TRS providers, and TRS providers that have state contracts must submit to the Commission a contact person and/or office for TRS consumer

information and complaints about a certified State TRS Program's provision of intrastate TRS, or, as appropriate, about the TRS provider's service. This submission must include, at a minimum, the following:

(i) The name and address of the office that receives complaints, grievances, inquiries, and suggestions;

(ii) Voice and TTY telephone numbers, fax number, e-mail address, and web address; and

(iii) The physical address to which correspondence should be sent.

(3) *Public access to information.* Carriers, through publication in their directories, periodic billing inserts, placement of TRS instructions in telephone directories, through directory assistance services, and incorporation of TTY numbers in telephone directories, shall assure that callers in their service areas are aware of the availability and use of all forms of TRS. Efforts to educate the public about TRS should extend to all segments of the public, including individuals who are hard of hearing, speech disabled, and senior citizens as well as members of the general population. In addition, each common carrier providing telephone voice transmission services shall conduct, not later than October 1, 2001, ongoing education and outreach programs that publicize the availability of 711 access to TRS in a manner reasonably designed to reach the largest number of consumers possible.

(4) *Rates.* TRS users shall pay rates no greater than the rates paid for functionally equivalent voice communication services with respect to such factors as the duration of the call, the time of day, and the distance from the point of origination to the point of termination.

(5) *Jurisdictional separation of costs—*

(i) *General.* Where appropriate, costs of providing TRS shall be separated in accordance with the jurisdictional separation procedures and standards set forth in the Commission's regulations adopted pursuant to section 410 of the Communications Act of 1934, as amended.

(ii) *Cost recovery.* Costs caused by interstate TRS shall be recovered from all subscribers for every interstate service, utilizing a shared-funding cost

recovery mechanism. Except as noted in this paragraph, with respect to VRS, costs caused by intrastate TRS shall be recovered from the intrastate jurisdiction. In a state that has a certified program under § 64.606, the state agency providing TRS shall, through the state's regulatory agency, permit a common carrier to recover costs incurred in providing TRS by a method consistent with the requirements of this section. Costs caused by the provision of interstate and intrastate VRS shall be recovered from all subscribers for every interstate service, utilizing a shared-funding cost recovery mechanism.

(iii) *Telecommunications Relay Services Fund.* Effective July 26, 1993, an Interstate Cost Recovery Plan, hereinafter referred to as the TRS Fund, shall be administered by an entity selected by the Commission (administrator). The initial administrator, for an interim period, will be the National Exchange Carrier Association, Inc.

(A) *Contributions.* Every carrier providing interstate telecommunications services (including interconnected VoIP service providers pursuant to § 64.601(b)) and every provider of non-interconnected VoIP service shall contribute to the TRS Fund on the basis of interstate end-user revenues as described herein. Contributions shall be made by all carriers who provide interstate services, including, but not limited to, cellular telephone and paging, mobile radio, operator services, personal communications service (PCS), access (including subscriber line charges), alternative access and special access, packet-switched, WATS, 800, 900, message telephone service (MTS), private line, telex, telegraph, video, satellite, intraLATA, international and resale services.

(B) *Contribution computations.* Contributors' contributions to the TRS fund shall be the product of their subject revenues for the prior calendar year and a contribution factor determined annually by the Commission. The contribution factor shall be based on the ratio between expected TRS Fund expenses to the contributors' revenues subject to contribution. In the event that contributions exceed TRS payments and administrative costs, the

contribution factor for the following year will be adjusted by an appropriate amount, taking into consideration projected cost and usage changes. In the event that contributions are inadequate, the fund administrator may request authority from the Commission to borrow funds commercially, with such debt secured by future years' contributions. Each subject contributor that has revenues subject to contribution must contribute at least \$25 per year. Contributors whose annual contributions total less than \$1,200 must pay the entire contribution at the beginning of the contribution period. Contributors whose contributions total \$1,200 or more may divide their contributions into equal monthly payments. Contributors shall complete and submit, and contributions shall be based on, a "Telecommunications Reporting Worksheet" (as published by the Commission in the FEDERAL REGISTER). The worksheet shall be certified to by an officer of the contributor, and subject to verification by the Commission or the administrator at the discretion of the Commission. Contributors' statements in the worksheet shall be subject to the provisions of section 220 of the Communications Act of 1934, as amended. The fund administrator may bill contributors a separate assessment for reasonable administrative expenses and interest resulting from improper filing or overdue contributions. The Chief of the Consumer and Governmental Affairs Bureau may waive, reduce, modify or eliminate contributor reporting requirements that prove unnecessary and require additional reporting requirements that the Bureau deems necessary to the sound and efficient administration of the TRS Fund.

(C) *Registration Requirements for Providers of Non-Interconnected VoIP Service—(1) Applicability.* A non-interconnected VoIP service provider that will provide interstate service that generates interstate end-user revenue that is subject to contribution to the Telecommunications Relay Service Fund shall file the registration information described in paragraph (c)(5)(iii)(C)(2) of this section in accordance with the procedures described in paragraphs (c)(5)(iii)(C)(3) and (c)(5)(iii)(C)(4) of this section. Any non-

interconnected VoIP service provider already providing interstate service that generates interstate end-user revenue that is subject to contribution to the Telecommunications Relay Service Fund on the effective date of these rules shall submit the relevant portion of its FCC Form 499-A in accordance with paragraphs (c)(5)(iii)(C)(2) and (3) of this section.

(2) *Information required for purposes of TRS Fund contributions.* A non-interconnected VoIP service provider that is subject to the registration requirement pursuant to paragraph (c)(5)(iii)(C)(1) of this section shall provide the following information:

- (i) The provider's business name(s) and primary address;
- (ii) The names and business addresses of the provider's chief executive officer, chairman, and president, or, in the event that a provider does not have such executives, three similarly senior-level officials of the provider;
- (iii) The provider's regulatory contact and/or designated agent;
- (iv) All names that the provider has used in the past; and
- (v) The state(s) in which the provider provides such service.

(3) *Submission of registration.* A provider that is subject to the registration requirement pursuant to paragraph (c)(5)(iii)(C)(1) of this section shall submit the information described in paragraph (c)(5)(iii)(C)(2) of this section in accordance with the Instructions to FCC Form 499-A. FCC Form 499-A must be submitted under oath and penalty of perjury.

(4) *Changes in information.* A provider must notify the Commission of any changes to the information provided pursuant to paragraph (c)(5)(iii)(C)(2) of this section within no more than one week of the change. Providers may satisfy this requirement by filing the relevant portion of FCC Form 499-A in accordance with the Instructions to such form.

(D) *Data collection and audits.* (1) TRS providers seeking compensation from the TRS Fund shall provide the administrator with true and adequate data, and other historical, projected and state rate related information reasonably requested to determine the TRS

Fund revenue requirements and payments. TRS providers shall provide the administrator with the following: total TRS minutes of use, total interstate TRS minutes of use, total TRS investment in general in accordance with part 32 of this chapter, and other historical or projected information reasonably requested by the administrator for purposes of computing payments and revenue requirements. In annual cost data filings and supplementary information provided to the administrator regarding such cost data, IP CTS providers that contract for the supply of services used in the provision of TRS shall include information about payments under such contracts, classified according to the substantive cost categories specified by the administrator. To the extent that a third party's provision of services covers more than one cost category, the resubmitted cost reports must provide an explanation of how the provider determined or calculated the portion of contractual payments attributable to each cost category. To the extent that the administrator reasonably deems necessary, providers shall submit additional detail on such contractor expenses, including but not limited to complete copies of such contracts and related correspondence or other records and information relevant to determining the nature of the services provided and the allocation of the costs of such services to cost categories.

(2) *Call data required from all TRS providers.* In addition to the data requested by paragraph (c)(5)(iii)(D)(1) of this section, TRS providers seeking compensation from the TRS Fund shall submit the following specific data associated with each TRS call for which compensation is sought:

- (i) The call record ID sequence;
- (ii) CA ID number;
- (iii) Session start and end times noted at a minimum to the nearest second;
- (iv) Conversation start and end times noted at a minimum to the nearest second;
- (v) Incoming telephone number and IP address (if call originates with an IP-based device) at the time of the call;
- (vi) Outbound telephone number (if call terminates to a telephone) and IP

address (if call terminates to an IP-based device) at the time of call;

- (vii) Total conversation minutes;
- (viii) Total session minutes;
- (ix) The call center (by assigned center ID number) that handled the call; and
- (x) The URL address through which the call is initiated.

(3) *Additional call data required from internet-based Relay Providers.* In addition to the data required by paragraph (c)(5)(iii)(D)(2) of this section, internet-based Relay Providers seeking compensation from the Fund shall submit speed of answer compliance data.

(4) *Call record and speed of answer data.* Providers submitting call record and speed of answer data in compliance with paragraphs (c)(5)(iii)(D)(2) and (3) of this section shall:

- (i) Employ an automated record keeping system to capture such data required pursuant to paragraph (c)(5)(iii)(D)(2) of this section for each TRS call for which minutes are submitted to the fund administrator for compensation; and

(ii) Submit such data electronically, in a standardized format. For purposes of this subparagraph, an automated record keeping system is a system that captures data in a computerized and electronic format that does not allow human intervention during the call session for either conversation or session time.

(5) *Certification.* The chief executive officer (CEO), chief financial officer (CFO), or other senior executive of a TRS provider with first hand knowledge of the accuracy and completeness of the information provided, when submitting a request for compensation from the TRS Fund must, with each such request, certify as follows:

I swear under penalty of perjury that:

- (i) I am _____ (name and title), an officer of the above-named reporting entity and that I have examined the foregoing reports and that all requested information has been provided and all statements of fact, as well as all cost and demand data contained in this Relay Services Data Request, are true and accurate; and

(ii) The TRS calls for which compensation is sought were handled in compliance with Section 225 of the Communications Act and the Commission's rules and orders, and are

not the result of impermissible financial incentives or payments to generate calls.

(6) *Audits.* The Fund administrator and the Commission, including the Office of Inspector General, shall have the authority to examine and verify TRS provider data as necessary to assure the accuracy and integrity of TRS Fund payments. TRS providers must submit to audits annually or at times determined appropriate by the Commission, the fund administrator, or by an entity approved by the Commission for such purpose. A TRS provider that fails to submit to a requested audit, or fails to provide documentation necessary for verification upon reasonable request, will be subject to an automatic suspension of payment until it submits to the requested audit or provides sufficient documentation. In the course of an audit or otherwise upon demand, an IP CTS provider must make available any relevant documentation, including contracts with entities providing services or equipment directly related to the provision of IP CTS, to the Commission, the TRS Fund administrator, or any person authorized by the Commission or TRS Fund administrator to conduct an audit.

(7) *Call data record retention.* Internet-based TRS providers shall retain the data required to be submitted by this section, and all other call detail records, other records that support their claims for payment from the TRS Fund, and records used to substantiate the costs and expense data submitted in the annual relay service data request form, in an electronic format that is easily retrievable, for a minimum of five years.

(E) *Payments to TRS providers.* (1) TRS Fund payments shall be distributed to TRS providers based on formulas approved or modified by the Commission. The administrator shall file schedules of payment formulas with the Commission. Such formulas shall be designed to compensate TRS providers for reasonable costs of providing interstate TRS, and shall be subject to Commission approval. Such formulas shall be based on total monthly interstate TRS minutes of use. The formulas should appropriately compensate interstate

providers for the provision of TRS, whether intrastate or interstate.

(2) TRS minutes of use for purposes of interstate cost recovery under the TRS Fund are defined as the minutes of use for completed interstate TRS calls placed through the TRS center beginning after call set-up and concluding after the last message call unit.

(3) In addition to the data required under paragraph (c)(5)(iii)(C) of this section, 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.

(4) The administrator shall establish procedures to verify payment claims, and may suspend or delay payments to a TRS provider if the TRS provider fails to provide adequate verification of payment upon reasonable request, or if directed by the Commission to do so. The TRS Fund administrator shall make payments only to eligible TRS providers operating pursuant to the mandatory minimum standards as required in this section, and after disbursements to the administrator for reasonable expenses incurred by it in connection with TRS Fund administration. TRS providers receiving payments shall file a form prescribed by the administrator. The administrator shall fashion a form that is consistent with 47 CFR parts 32 and 36 procedures reasonably tailored to meet the needs of TRS providers.

(5) The Commission shall have authority to audit providers and have access to all data, including carrier specific data, collected by the fund administrator. The fund administrator shall have authority to audit TRS providers reporting data to the administrator.

(6) The administrator shall not be obligated to pay any request for compensation until it has been established as compensable. A request shall be established as compensable only after the administrator, in consultation with the Commission, or the Commission determines that the provider has met its burden to demonstrate that the claim

is compensable under applicable Commission rules and the procedures established by the administrator. Any request for compensation for which payment has been suspended or withheld in accordance with paragraph (c)(5)(iii)(L) of this section shall not be established as compensable until the administrator, in consultation with the Commission, or the Commission determines that the request is compensable in accordance with paragraph (c)(5)(iii)(L)(4) of this section.

(F) *Eligibility for payment from the TRS Fund.* (1) TRS providers, except Internet-based TRS providers, eligible for receiving payments from the TRS Fund must be:

(i) TRS facilities operated under contract with and/or by certified state TRS programs pursuant to § 64.606; or

(ii) TRS facilities owned or operated under contract with a common carrier providing interstate services operated pursuant to this section; or

(iii) Interstate common carriers offering TRS pursuant to this section.

(2) Internet-based TRS providers eligible for receiving payments from the TRS fund must be certified by the Commission pursuant to § 64.606.

(G) Any eligible TRS provider as defined in paragraph (c)(5)(iii)(F) of this section shall notify the administrator of its intent to participate in the TRS Fund thirty (30) days prior to submitting reports of TRS interstate minutes of use in order to receive payment settlements for interstate TRS, and failure to file may exclude the TRS provider from eligibility for the year.

(H) Administrator reporting, monitoring, and filing requirements. The administrator shall perform all filing and reporting functions required in paragraphs (c)(5)(iii)(A) through (c)(5)(iii)(J) of this section. TRS payment formulas and revenue requirements shall be filed with the Commission on May 1 of each year, to be effective the following July 1. The administrator shall report annually to the Commission an itemization of monthly administrative costs which shall consist of all expenses, receipts, and payments associated with the administration of the TRS Fund. The administrator is required to keep the TRS Fund separate from all other funds ad-

ministered by the administrator, shall file a cost allocation manual (CAM) and shall provide the Commission full access to all data collected pursuant to the administration of the TRS Fund. The administrator shall account for the financial transactions of the TRS Fund in accordance with generally accepted accounting principles for federal agencies and maintain the accounts of the TRS Fund in accordance with the United States Government Standard General Ledger. When the administrator, or any independent auditor hired by the administrator, conducts audits of providers of services under the TRS program or contributors to the TRS Fund, such audits shall be conducted in accordance with generally accepted government auditing standards. In administering the TRS Fund, the administrator shall also comply with all relevant and applicable federal financial management and reporting statutes. The administrator shall establish a non-paid voluntary advisory committee of persons from the hearing and speech disability community, TRS users (voice and text telephone), interstate service providers, state representatives, and TRS providers, which will meet at reasonable intervals (at least semi-annually) in order to monitor TRS cost recovery matters. Each group shall select its own representative to the committee. The administrator's annual report shall include a discussion of the advisory committee deliberations.

(I) *Information filed with the administrator.* The Chief Executive Officer (CEO), Chief Financial Officer (CFO), or other senior executive of a provider submitting minutes to the Fund for compensation must, in each instance, certify, under penalty of perjury, that the minutes were handled in compliance with section 225 and the Commission's rules and orders, and are not the result of impermissible financial incentives or payments to generate calls. The CEO, CFO, or other senior executive of a provider submitting cost and demand data to the TRS Fund administrator shall certify under penalty of perjury that such information is true and correct. The administrator shall keep all data obtained from contributors and TRS providers confidential

and shall not disclose such data in company-specific form unless directed to do so by the Commission. Subject to any restrictions imposed by the Chief of the Consumer and Governmental Affairs Bureau, the TRS Fund administrator may share data obtained from carriers with the administrators of the universal support mechanisms (*see* § 54.701 of this chapter), the North American Numbering Plan administration cost recovery (*see* § 52.16 of this chapter), and the long-term local number portability cost recovery (*see* § 52.32 of this chapter). The TRS Fund administrator shall keep confidential all data obtained from other administrators. The administrator shall not use such data except for purposes of administering the TRS Fund, calculating the regulatory fees of interstate common carriers, and aggregating such fee payments for submission to the Commission. The Commission shall have access to all data reported to the administrator, and authority to audit TRS providers. Contributors may make requests for Commission nondisclosure of company-specific revenue information under § 0.459 of this chapter by so indicating on the Telecommunications Reporting Worksheet at the time that the subject data are submitted. The Commission shall make all decisions regarding nondisclosure of company-specific information.

(J) [Reserved]

(K) All parties providing services or contributions or receiving payments under this section are subject to the enforcement provisions specified in the Communications Act, the Americans with Disabilities Act, and the Commission's rules.

(L) *Procedures for the suspension/withholding of payment.* (1) The Fund administrator will continue the current practice of reviewing monthly requests for compensation of TRS minutes of use within two months after they are filed with the Fund administrator.

(2) If the Fund administrator in consultation with the Commission, or the Commission on its own accord, determines that payments for certain minutes should be withheld, a TRS provider will be notified within two months from the date for the request for compensation was filed, as to why

its claim for compensation has been withheld in whole or in part. TRS providers then will be given two additional months from the date of notification to provide additional justification for payment of such minutes of use. Such justification should be sufficiently detailed to provide the Fund administrator and the Commission the information needed to evaluate whether the minutes of use in dispute are compensable. If a TRS provider does not respond, or does not respond with sufficiently detailed information within two months after notification that payment for minutes of use is being withheld, payment for the minutes of use in dispute will be denied permanently.

(3) If, the TRS provider submits additional justification for payment of the minutes of use in dispute within two months after being notified that its initial justification was insufficient, the Fund administrator or the Commission will review such additional justification documentation, and may ask further questions or conduct further investigation to evaluate whether to pay the TRS provider for the minutes of use in dispute, within eight months after submission of such additional justification.

(4) If the provider meets its burden to establish that the minutes in question are compensable under the Commission's rules, the Fund administrator will compensate the provider for such minutes of use. Any payment by the Commission will not preclude any future action by either the Commission or the U.S. Department of Justice to recover past payments (regardless of whether the payment was the subject of withholding) if it is determined at any time that such payment was for minutes billed to the Commission in violation of the Commission's rules or any other civil or criminal law.

(5) If the Commission determines that the provider has not met its burden to demonstrate that the minutes of use in dispute are compensable under the Commission's rules, payment will be permanently denied. The Fund administrator or the Commission will notify the provider of this decision within one year of the initial request for payment.

(6) If the VRS provider submits a waiver request asserting exigent circumstances affecting one or more call centers that will make it highly improbable that the VRS provider will meet the speed-of-answer standard for call attempts occurring in a period of time identified by beginning and ending dates, the Fund administrator shall not withhold TRS Fund payments for a VRS provider's failure to meet the speed-of-answer standard during the identified period of time while the waiver request is under review by the Commission. In the event that the waiver request is denied, the speed-of-answer requirement is not met, and payment has been made to the provider from the TRS Fund for the identified period of time or a portion thereof, the provider shall return such payment to the TRS Fund for any period of time when the speed-of-answer requirement was not met.

(M) *Whistleblower protections.* Providers shall not take any reprisal in the form of a personnel action against any current or former employee or contractor who discloses to a designated manager of the provider, the Commission, the TRS Fund administrator or to any Federal or state law enforcement entity, any information that the reporting person reasonably believes evidences known or suspected violations of the Communications Act or TRS regulations, or any other activity that the reporting person reasonably believes constitutes waste, fraud, or abuse, or that otherwise could result in the improper billing of minutes of use to the TRS Fund and discloses that information to a designated manager of the provider, the Commission, the TRS Fund administrator or to any Federal or state law enforcement entity. Providers shall provide an accurate and complete description of these TRS whistleblower protections, including the right to notify the FCC's Office of Inspector General or its Enforcement Bureau, to all employees and contractors, in writing. Providers that already disseminate their internal business policies to its employees in writing (e.g. in employee handbooks, policies and procedures manuals, or bulletin board postings—either online or in hard copy) must include an accurate

and complete description of these TRS whistleblower protections in those written materials.

(N) In addition to the provisions set forth above, VRS providers shall be subject to the following provisions:

(1) *Eligibility for reimbursement from the TRS Fund.* (i) Only an eligible VRS provider, as defined in paragraph (c)(5)(iii)(F) of this section, may hold itself out to the general public as providing VRS.

(ii) VRS service must be offered under the name by which the eligible VRS provider offering such service became certified and in a manner that clearly identifies that provider of the service. Where a TRS provider also utilizes sub-brands to identify its VRS, each sub-brand must clearly identify the eligible VRS provider. Providers must route all VRS calls through a single URL address used for each name or sub-brand used.

(iii) An eligible VRS provider may not contract with or otherwise authorize any third party to provide interpretation services or call center functions (including call distribution, call routing, call setup, mapping, call features, billing, and registration) on its behalf, unless that authorized third party also is an eligible provider.

(iv) To the extent that an eligible VRS provider contracts with or otherwise authorizes a third party to provide any other services or functions related to the provision of VRS other than interpretation services or call center functions, that third party must not hold itself out as a provider of VRS, and must clearly identify the eligible VRS provider to the public. To the extent an eligible VRS provider contracts with or authorizes a third party to provide any services or functions related to marketing or outreach, and such services utilize VRS, those VRS minutes are not compensable on a per minute basis from the TRS fund.

(v) All third-party contracts or agreements entered into by an eligible provider must be in writing. Copies of such agreements shall be made available to the Commission and to the TRS Fund administrator upon request.

(2) *Call center reports.* VRS providers shall file a written report with the

Commission and the TRS Fund administrator, on April 1st and October 1st of each year for each call center that handles VRS calls that the provider owns or controls, including centers located outside of the United States, that includes:

(i) The complete street address of the center;

(ii) The number of individual CAs and CA managers; and

(iii) The name and contact information (phone number and e-mail address) of the manager(s) at the center. VRS providers shall also file written notification with the Commission and the TRS Fund administrator of any change in a center's location, including the opening, closing, or relocation of any center, at least 30 days prior to any such change.

(3) *Compensation of CAs.* VRS providers may not compensate, give a preferential work schedule or otherwise benefit a CA in any manner that is based upon the number of VRS minutes or calls that the CA relays, either individually or as part of a group.

(4) *Remote training session calls.* VRS calls to a remote training session or a comparable activity will not be compensable from the TRS Fund when the provider submitting minutes for such a call has been involved, in any manner, with such a training session. Such prohibited involvement includes training programs or comparable activities in which the provider or any affiliate or related party thereto, including but not limited to its subcontractors, partners, employees or sponsoring organizations or entities, has any role in arranging, scheduling, sponsoring, hosting, conducting or promoting such programs or activities.

(6) *Complaints—(i) Referral of complaint.* If a complaint to the Commission alleges a violation of this subpart with respect to intrastate TRS within a state and certification of the program of such state under § 64.606 is in effect, the Commission shall refer such complaint to such state expeditiously.

(ii) Intrastate complaints shall be resolved by the state within 180 days after the complaint is first filed with a state entity, regardless of whether it is filed with the state relay adminis-

trator, a state PUC, the relay provider, or with any other state entity.

(iii) *Jurisdiction of Commission.* After referring a complaint to a state entity under paragraph (c)(6)(i) of this section, or if a complaint is filed directly with a state entity, the Commission shall exercise jurisdiction over such complaint only if:

(A) Final action under such state program has not been taken within:

(1) 180 days after the complaint is filed with such state entity; or

(2) A shorter period as prescribed by the regulations of such state; or

(B) The Commission determines that such state program is no longer qualified for certification under § 64.606.

(iv) The Commission shall resolve within 180 days after the complaint is filed with the Commission any interstate TRS complaint alleging a violation of section 225 of the Act or any complaint involving intrastate relay services in states without a certified program. The Commission shall resolve intrastate complaints over which it exercises jurisdiction under paragraph (c)(6)(iii) of this section within 180 days.

(v) *Complaint procedures.* Complaints against TRS providers for alleged violations of this subpart may be either informal or formal.

(A) *Informal complaints—(1) Form.* An informal complaint may be transmitted to the Consumer & Governmental Affairs Bureau by any reasonable means, such as letter, facsimile transmission, telephone (voice/TRS/TTY), Internet e-mail, or some other method that would best accommodate a complainant's hearing or speech disability.

(2) *Content.* An informal complaint shall include the name and address of the complainant; the name and address of the TRS provider against whom the complaint is made; a statement of facts supporting the complainant's allegation that the TRS provided it has violated or is violating section 225 of the Act and/or requirements under the Commission's rules; the specific relief or satisfaction sought by the complainant; and the complainant's preferred format or method of response to the complaint by the Commission and the defendant TRS provider (such as letter,

facsimile transmission, telephone (voice/TRS/TTY), Internet e-mail, or some other method that would best accommodate the complainant's hearing or speech disability).

(3) *Service; designation of agents.* The Commission shall promptly forward any complaint meeting the requirements of this subsection to the TRS provider named in the complaint. Such TRS provider shall be called upon to satisfy or answer the complaint within the time specified by the Commission. Every TRS provider shall file with the Commission a statement designating an agent or agents whose principal responsibility will be to receive all complaints, inquiries, orders, decisions, and notices and other pronouncements forwarded by the Commission. Such designation shall include a name or department designation, business address, telephone number (voice and TTY), facsimile number and, if available, internet e-mail address.

(B) *Review and disposition of informal complaints.* (1) Where it appears from the TRS provider's answer, or from other communications with the parties, that an informal complaint has been satisfied, the Commission may, in its discretion, consider the matter closed without response to the complainant or defendant. In all other cases, the Commission shall inform the parties of its review and disposition of a complaint filed under this subpart. Where practicable, this information shall be transmitted to the complainant and defendant in the manner requested by the complainant (e.g., letter, facsimile transmission, telephone (voice/TRS/TTY) or Internet e-mail).

(2) A complainant unsatisfied with the defendant's response to the informal complaint and the staff's decision to terminate action on the informal complaint may file a formal complaint with the Commission pursuant to paragraph (c)(6)(v)(C) of this section.

(C) *Formal complaints.* A formal complaint shall be in writing, addressed to the Federal Communications Commission, Enforcement Bureau, Telecommunications Consumer Division, Washington, DC 20554 and shall contain:

(1) The name and address of the complainant,

(2) The name and address of the defendant against whom the complaint is made,

(3) A complete statement of the facts, including supporting data, where available, showing that such defendant did or omitted to do anything in contravention of this subpart, and

(4) The relief sought.

(D) *Amended complaints.* An amended complaint setting forth transactions, occurrences or events which have happened since the filing of the original complaint and which relate to the original cause of action may be filed with the Commission.

(E) *Number of copies.* An original and two copies of all pleadings shall be filed.

(F) *Service.* (1) Except where a complaint is referred to a state pursuant to §64.604(c)(6)(i), or where a complaint is filed directly with a state entity, the Commission will serve on the named party a copy of any complaint or amended complaint filed with it, together with a notice of the filing of the complaint. Such notice shall call upon the defendant to satisfy or answer the complaint in writing within the time specified in said notice of complaint.

(2) All subsequent pleadings and briefs shall be served by the filing party on all other parties to the proceeding in accordance with the requirements of §1.47 of this chapter. Proof of such service shall also be made in accordance with the requirements of said section.

(G) *Answers to complaints and amended complaints.* Any party upon whom a copy of a complaint or amended complaint is served under this subpart shall serve an answer within the time specified by the Commission in its notice of complaint. The answer shall advise the parties and the Commission fully and completely of the nature of the defense and shall respond specifically to all material allegations of the complaint. In cases involving allegations of harm, the answer shall indicate what action has been taken or is proposed to be taken to stop the occurrence of such harm. Collateral or immaterial issues shall be avoided in answers and every effort should be made to narrow the issues. Matters alleged

as affirmative defenses shall be separately stated and numbered. Any defendant failing to file and serve an answer within the time and in the manner prescribed may be deemed in default.

(H) *Replies to answers or amended answers.* Within 10 days after service of an answer or an amended answer, a complainant may file and serve a reply which shall be responsive to matters contained in such answer or amended answer and shall not contain new matter. Failure to reply will not be deemed an admission of any allegation contained in such answer or amended answer.

(I) *Defective pleadings.* Any pleading filed in a complaint proceeding that is not in substantial conformity with the requirements of the applicable rules in this subpart may be dismissed.

(7) *Treatment of TRS customer information.* Beginning on July 21, 2000, all future contracts between the TRS administrator and the TRS vendor shall provide for the transfer of TRS customer profile data from the outgoing TRS vendor to the incoming TRS vendor. Such data must be disclosed in usable form at least 60 days prior to the provider's last day of service provision. Such data may not be used for any purpose other than to connect the TRS user with the called parties desired by that TRS user. Such information shall not be sold, distributed, shared or revealed in any other way by the relay center or its employees, unless compelled to do so by lawful order.

(8) *Incentives for use of IP CTS and VRS.* (i) An IP CTS provider shall not offer or provide to any person or entity that registers to use IP CTS any form of direct or indirect incentives, financial or otherwise, to register for or use IP CTS.

(ii) An IP CTS provider shall not offer or provide to a hearing health professional any direct or indirect incentives, financial or otherwise, that are tied to a consumer's decision to register for or use IP CTS. Where an IP CTS provider offers or provides IP CTS equipment, directly or indirectly, to a hearing health professional, and such professional makes or has the opportunity to make a profit on the sale of the equipment to consumers, such IP

CTS provider shall be deemed to be offering or providing a form of incentive tied to a consumer's decision to register for or use IP CTS.

(iii) Joint marketing arrangements between IP CTS providers and hearing health professionals shall be prohibited.

(iv) For the purpose of this paragraph (c)(8), a hearing health professional is any medical or non-medical professional who advises consumers with regard to hearing disabilities.

(v) A VRS provider shall not offer or provide to any person or entity any form of direct or indirect incentives, financial or otherwise, for the purpose of encouraging individuals to register for or use the VRS provider's service.

(vi) Any IP CTS or VRS provider that does not comply with this paragraph (c)(8) shall be ineligible for compensation for such service from the TRS Fund.

(9) [Reserved]

(10) *IP CTS settings.* Each IP CTS provider shall ensure that, for each IP CTS device it distributes, directly or indirectly:

(i) The device includes a button, key, icon, or other comparable feature that is easily operable and requires only one step for the consumer to turn on captioning; and

(ii) On or after December 8, 2018, any volume control or other amplification feature can be adjusted separately and independently of the caption feature.

(11)(i)[Reserved]

(ii) No person shall use IP CTS equipment or software with the captioning on, unless:

(A) Such person is registered to use IP CTS pursuant to paragraph (c)(9) of this section; or

(B) Such person was an existing IP CTS user as of March 7, 2013, and either paragraph (c)(9)(xi) of this section is not yet in effect or the registration deadline in paragraph (c)(9)(xi) of this section has not yet passed.

(iii) IP CTS providers shall ensure that any newly distributed IP CTS equipment has a label on its face in a conspicuous location with the following language in a clearly legible font: "FEDERAL LAW PROHIBITS ANYONE BUT REGISTERED USERS WITH HEARING LOSS FROM USING

THIS DEVICE WITH THE CAPTIONS ON.” For IP CTS equipment already distributed to consumers by any IP CTS provider as of July 11, 2014, such provider shall, no later than August 11, 2014, distribute to consumers equipment labels with the same language as mandated by this paragraph for newly distributed equipment, along with clear and specific instructions directing the consumer to attach such labels to the face of their IP CTS equipment in a conspicuous location. For software applications on mobile phones, laptops, tablets, computers or other similar devices, IP CTS providers shall ensure that, each time the consumer logs into the application, the notification language required by this paragraph appears in a conspicuous location on the device screen immediately after log-in.

(iv) IP CTS providers shall maintain, with each consumer’s registration records, records describing any IP CTS equipment provided, directly or indirectly, to such consumer, stating the amount paid for such equipment, and stating whether the label required by paragraph (c)(11)(iii) of this section was affixed to such equipment prior to its provision to the consumer. For consumers to whom IP CTS equipment was provided directly or indirectly prior to the effective date of this paragraph (c)(11), such records shall state whether and when the label required by paragraph (c)(11)(iii) of this section was distributed to such consumer. Such records shall be maintained for a minimum period of five years after the consumer ceases to obtain service from the provider.

(v) IP CTS providers shall ensure that their informational materials and websites used to market, advertise, educate, or otherwise inform consumers and professionals about IP CTS include the following language in a prominent location in a clearly legible font: “FEDERAL LAW PROHIBITS ANYONE BUT REGISTERED USERS WITH HEARING LOSS FROM USING INTERNET PROTOCOL (IP) CAPTIONED TELEPHONES WITH THE CAPTIONS TURNED ON. IP Captioned Telephone Service may use a live operator. The operator generates captions of what the other party to the call says. These captions are then sent to

your phone. There is a cost for each minute of captions generated, paid from a federally administered fund.” For IP CTS provider websites, the language shall be included on the website’s home page, each page that provides consumer information about IP CTS, and each page that provides information on how to order IP CTS or IP CTS equipment. IP CTS providers that do not make any use of live CAs to generate captions may shorten the notice to leave out the second, third, and fourth sentences.

(12) *Discrimination and preferences.* A VRS provider shall not:

(i) Directly or indirectly, by any means or device, engage in any unjust or unreasonable discrimination related to practices, facilities, or services for or in connection with like relay service,

(ii) Engage in or give any undue or unreasonable preference or advantage to any particular person, class of persons, or locality, or

(iii) Subject any particular person, class of persons, or locality to any undue or unreasonable prejudice or disadvantage.

(13) *Unauthorized and unnecessary use of VRS or IP CTS.* (i) A VRS or IP CTS provider shall not engage in any practice that the provider knows or has reason to know will cause or encourage:

(A) False or unverified claims for TRS Fund compensation;

(B) Unauthorized use of VRS or IP CTS;

(C) The making of VRS or IP CTS calls that would not otherwise be made; or

(D) The use of VRS or IP CTS by persons who do not need the service in order to communicate in a functionally equivalent manner.

(ii) A VRS or IP CTS provider shall not seek payment from the TRS Fund for any minutes of service it knows or has reason to know are resulting from the practices listed in paragraph (c)(13)(i) of this section or from the use of IP CTS by an individual who does not need captions to communicate in a functionally equivalent manner.

(iii) Any VRS or IP CTS provider that becomes aware of any practices listed in paragraphs (c)(13)(i) or (ii) of

this section being or having been committed by any person shall, as soon as practicable, report such practices to the Commission or the TRS Fund administrator.

(iv) An IP CTS provider may complete and request compensation for IP CTS calls to or from unregistered users at a temporary, public IP CTS device set up in an emergency shelter. The IP CTS provider shall notify the TRS Fund administrator of the dates of activation and termination for such device.

(14) *TRS calls requiring the use of multiple CAs.* The following types of calls that require multiple CAs for their handling are compensable from the TRS Fund:

(i) VCO-to-VCO calls between multiple captioned telephone relay service users, multiple IP CTS users, or captioned telephone relay service users and IP CTS users;

(ii) Calls between captioned telephone relay service or IP CTS users and TTY service users; and

(iii) Calls between captioned telephone relay service or IP CTS users and VRS users.

(d) *Other standards.* The applicable requirements of §§ 64.605, 64.611, 64.615, 64.617, 64.621, 64.631, 64.632, 64.5105, 64.5107, 64.5108, 64.5109, and 64.5110 of this part are to be considered mandatory minimum standards.

[65 FR 38436, June 21, 2000]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 64.604, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at www.govinfo.gov.

§ 64.605 Emergency calling requirements.

(a) *Additional emergency calling requirements applicable to internet-based TRS providers.* (1) As of December 31, 2008, the requirements of paragraphs (a)(2)(i) and (a)(2)(iv) of this section shall not apply to providers of VRS and IP Relay to which § 64.605(b) applies.

(2) Each provider of Internet-based TRS shall:

(i) Accept and handle emergency calls and access, either directly or via a third party, a commercially available database that will allow the provider to determine an appropriate PSAP,

designated statewide default answering point, or appropriate local emergency authority that corresponds to the caller's location, and to relay the call to that entity;

(ii) Implement a system that ensures that the provider answers an incoming emergency call before other non-emergency calls (*i.e.*, prioritize emergency calls and move them to the top of the queue);

(iii) Request, at the beginning of each emergency call, the caller's name and location information, unless the Internet-based TRS provider already has, or has access to, a Registered Location for the caller;

(iv) Deliver to the PSAP, designated statewide default answering point, or appropriate local emergency authority, at the outset of the outbound leg of an emergency call, at a minimum, the name of the relay user and location of the emergency, as well as the name of the relay provider, the CA's callback number, and the CA's identification number, thereby enabling the PSAP, designated statewide default answering point, or appropriate local emergency authority to re-establish contact with the CA in the event the call is disconnected;

(v) In the event one or both legs of an emergency call are disconnected (*i.e.*, either the call between the TRS user and the CA, or the outbound voice telephone call between the CA and the PSAP, designated statewide default answering point, or appropriate local emergency authority), immediately re-establish contact with the TRS user and/or the appropriate PSAP, designated statewide default answering point, or appropriate local emergency authority and resume handling the call; and

(vi) Ensure that information obtained as a result of this section is limited to that needed to facilitate 911 services, is made available only to emergency call handlers and emergency response or law enforcement personnel, and is used for the sole purpose of ascertaining a user's location in an emergency situation or for other emergency or law enforcement purposes.

(b) *E911 Service for VRS and IP Relay—*
(1) *Scope.* The following requirements are only applicable to providers of VRS