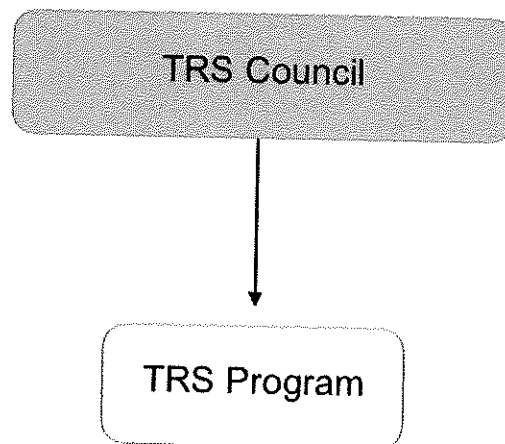


Telecommunications Relay Service Advisory Council Program Evaluation Report

January, 2018

Submitted to the Joint Standing Committee on Energy, Utilities and Technology

Organizational Units and Programs



INTRODUCTION

Pursuant to 3 M.R.S. § 956, the Telecommunications Relay Service Advisory Council (hereinafter “the Council”) has prepared the following Program Evaluation Report. During the process leading up to the submission of this report, the Council took a close and hard look at the manner in which the Council operates to ensure that the Council’s policies and actions are keeping up with an evolving telecommunications landscape. In performing this review, the Council has identified several areas in which changes would be required to modernize the operations of the Council. The Council addressed some of the issues through the adoption of new written policies governing the directors of the Council and the manner in which the business of the Council is handled. However, some of the identified issues will require a statutory fix to keep the Council operating at peak efficiency in the new inter-modal telecommunications environment. To this end, the Council is including in this Report a set of proposed legislative changes that we request the Joint Standing Committee on Energy, Utilities, and Technology (hereinafter “the Committee”) consider for adoption.

REQUIRED INFORMATION PURSUANT TO 3 M.R.S. § 956(2)

Enabling or authorizing law or other relevant mandate, including any federal mandates

The Council and its activities are authorized through two basic areas of Statute. The first is 5 M.R.S. § 12004-G(30-C)¹, which establishes the Council as a General Government Board. The second is Chapter 87 of Title 35-A², which sets forth the duties and structure of the Council. The funding for the duties of the Council is through the Maine Universal Service Fund, specifically 35-A M.R.S. § 7104(7)³.

In addition to State law, there is an overarching federal mandate for the provisioning of telecommunications relay service. 47 U.S.C. § 225⁴ establishes telecommunications relay service at the national level and contains provisions for individual States to seek certification from the FCC that the State operates a qualified program for the provisioning of intrastate telecommunications relay service. Maine has been certified by the FCC as having a qualified intrastate telecommunications relay service program.

A description of each program administered by the agency or independent agency, including the following for each program:

(1) Established priorities, including the goals and objectives in meeting each priority;

¹ The relevant text of 5 M.R.S. § 12004-G is set forth in Attachment A-1.

² The full text of Chapter 87 is set forth in Attachment A-2.

³ The full text of §7104(7) is set forth in Attachment A-3.

⁴ The full text of 47 U.S.C. § 225 is set forth in Attachment A-4.

- (2) Performance measures or other benchmarks used by the agency to measure its progress in achieving the goals and objectives; and*
- (3) An assessment by the agency indicating the extent to which it has met the goals and objectives, using the performance measures. When an agency has not met its goals and objectives, the agency shall identify the reasons for not meeting them and the corrective measures the agency has taken to meet the goals and objectives*

The Council is tasked with administering the Telecommunications Relay Service (TRS) program within the State. TRS is a program where individuals call a single number, 7-1-1, which connects them to the TRS Provider for the State who acts as a translator between hearing individuals and Deaf or Hard of Hearing individuals to permit telephonic communications among all users of the public switched telephone network. The primary benefit of this system is that it does not require both parties to the call to have assistive devices, such as TTY machines, thus opening the door for Deaf and Hard of Hearing individuals to contact any other telephone user in the State, from their grandchild to their bank to the local pizza shop, without limitations or added costs by either party.

One priority for this program is to ensure that there is a high quality, reliable TRS program in the State that is compliant with federal standards and trends. To accomplish this goal, the Council has engaged in an RFP proceeding to select the TRS Provider for the State. The current TRS Provider for Maine is Hamilton Communications.

Another priority for this program is to ensure that people are aware of TRS and educated in how to use the system. To accomplish this goal, the Council requires the TRS Provider to support outreach throughout the State in conjunction with Maine groups who work with the Deaf and Hard of Hearing communities. The Council also requires the TRS Provider to support the Council in its efforts to perform outreach to constituencies beyond the Deaf and Hard of Hearing community to ensure that when people or businesses receive a TRS call they do not hang up. In addition the TRS Provider supports the Council's continued involvement with federal organizations to ensure that the Council is able to adequately address existing standards for services provided by the TRS Provider.

The benchmarks that the Council uses to ensure a high quality, reliable TRS program are established through call answer times which are reported on a monthly basis by the TRS Provider. Call answer times are established through the contract with the TRS Provider and reflect the federal standards for relay services. The TRS Provider has met or exceeded these standards on almost all occasions, and on the occasions when they have not it has been investigated by the Council and determined that the misses were due to storm related events that were extreme and beyond the control of the TRS Provider.

The Council does not have set benchmarks for outreach services, but in terms of performance measures the Council receives a report on a quarterly basis from the State outreach entities working with the TRS Provider regarding the nature and extent of specific outreach efforts to ensure that there is sufficient and effective outreach occurring on a consistent basis. In addition, the Council routinely sends representatives to the National Association of Relay

Service Administrators annual convention to ensure that the State program is being promoted and executed in a manner that is consistent with best practices developed both at the federal level and by other States.

The Council has performed an internal review of all of its practices and determined that there may be additional ways to improve outreach and the effectiveness of the TRS program. To this end, the Council is specifically suggesting that the legislature approve a statutory revision that would permit the Council to engage in pilot programs to explore new and innovative ways to improve outreach and the quality and accessibility of TRS Service. As the technologies change and the manner in which communications are accomplished evolves, the Council needs to have flexibility to stay ahead of the curve to ensure that the people of the State have the maximum benefit from the program. At the same time, the Council is acutely aware of the need to remain fiscally responsible as these programs are developed. The use of pilot programs will allow the Council to evaluate an array of potential improvements in a cost efficient and effective manner.

Organizational structure, including a position count, a job classification and an organizational flow chart indicating lines of responsibility

The Council has no Staff and consists solely of those individuals appointed pursuant to statutory mandate. From within the members of the Council, a slate of officers is elected comprised of the Chair, the Vice-Chair, the Treasurer and the Clerk. The council provides direction to the Chair, who has the authority to form subcommittees to carry out the directives of the Council. The Clerk is responsible for ensuring filings are made as necessary for any State or Federal certifications or reports. The Treasurer is responsible for receiving reimbursement requests for activities on behalf of the Council. The Treasurer and the Chair are jointly tasked with the approval of any reimbursement requests.

Financial summary, including sources of funding by program and the amounts allocated or appropriated and expended over the past 10 years

Funding for the TRS Program is provided through the Maine Universal Service Fund (MUSF) pursuant to 35-A M.R.S. § 7104(7). The total appropriated and allocated amount over the last 10 years has been \$6,330,779.

Funding for the Council is provided as part of the agreement with the TRS Provider regarding outreach obligations. The amount has been \$15,000 per year for the past 10 years for a total of \$150,000. This amount was included in the total amount disbursed from the MUSF

In reviewing the process, the Council determined that it would be more efficient and appropriate to clarify that the Council will be funded directly from the MUSF. To that end, the Council has included proposed statutory changes as part of this report to clarify that the Council will be funded directly from the MUSF.

Identification of those areas where an agency has coordinated its efforts with other state and federal agencies in achieving program objectives and other areas in which an agency could establish cooperative arrangements, including, but not limited to, cooperative arrangements to coordinate services and eliminate redundant requirements

The Council has coordinated efforts with the Maine Department of Labor and Disability Rights Maine to engage in outreach with the Deaf and Hard of Hearing community as well as outreach with the business community to educate them on the availability of the TRS Program. In addition, to receive federal certification, Maine's TRS Program must conform to the principles outlined by the Federal Communications Commission.

The TRS Program is a very focused program that is integrated with Federal statutory obligations. As such there is very limited opportunity to coordinate with other agencies and there is no overlap that the Council is aware of in the services provided by the TRS Program.

Identification of the constituencies served by the agency or program, noting any changes or projected changes

The constituencies served by the Council include all users of intrastate voice communications capable of access the public switched telephone network. The TRS Program is explicitly designed to connect all users of the networks with users of assistive devices. This constituency is not projected to change.

A summary of efforts by an agency or program regarding the use of alternative delivery systems, including privatization, in meeting its goals and objective

The nature of the Council activities does not make alternate delivery services possible in the administration of the TRS Program. The services under the TRS Program are accomplished by a private company who was contracted through a competitive bidding process.

Identification of emerging issues for the agency or program in the coming years

As technology evolves, the TRS Program must evolve with it. A significant emerging issue is the jurisdictional allocation of service requirements and costs. As more users of the TRS Program utilize internet and video relay services, which are jurisdictionally interstate, the costs for the federal TRS Program have increased to a level that the Federal Communications Commission has begun to question the sustainability of the current structure. This raises a possibility that on a going forward basis there may be a shift from interstate to intrastate jurisdictions for either services or costs related to the program.

Any other information specifically requested by the committee of jurisdiction

The Council's committee of jurisdiction, the Joint Standing Committee on Energy, Utilities and Technology, has not specifically requested additional information.

A comparison of any related federal laws and regulations to the state laws governing the agency or program and the rules implemented by the agency or program

Attachment B contains the Federal statutes and rules associated with Telecommunications Relay Services. The Council does not have any Rules, however the contract with the TRS Provider includes specific minimum standard obligations that mirror the federal criteria in 47 C.F.R. § 64.604.⁵

Agency policies for collecting, managing and using personal information over the Internet and nonelectronically, information on the agency's implementation of information technologies and an evaluation of the agency's adherence to the fair information practice principles of notice, choice, access, integrity and enforcement

The Council does not collect, manage, or retain personal information in any form or medium. The Council does not maintain a website or any other form of internet presence. The Council maintains CART transcripts of meetings in electronic format and would make those available upon request.

A list of reports, applications and other similar paperwork required to be filed with the agency by the public

No information is required to be filed with the Council by the public.

A list of reports required by the Legislature to be prepared or submitted by the agency or independent agency

The Council is required to file a Program Evaluation Report pursuant to 3 M.R.S. Chapter 35.

Identification of provisions contained in the agency's or independent agency's enabling or authorizing statutes that may require legislative review to determine the necessity of amendment to align the statutes with federal law, other state law or decisions of the United States Supreme Court or the Supreme Judicial Court.

As discussed above, the Council has taken a very hard look at all of the practices, policies, and statutes that govern the Council activities. As a result, the Council has prepared a draft of legislative changes to improve the operations of the Council on a going forward basis. The proposed changes are set forth in Attachment C.

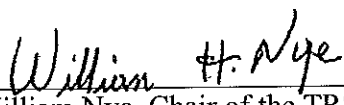
CONCLUSION

The Council has effectively carried out its duties and helped to ensure that Maine has a TRS Program that provides services at a high level to all users of the system in a cost efficient manner. By adopting the proposed legislative changes set forth in Attachment C, the legislature

⁵ 47 C.F.R. § 64.604 is set forth in Attachment B.

can position the Council to proactively address the issues and opportunities that are presented by an evolving telecommunications environment.

Respectfully Submitted,



William Nye, Chair of the TRS Advisory Council

Attachment A-1

§12004-G. General government

The primary responsibilities of the boards in this section vary and are limited to a specific purpose. These responsibilities may include the regulation of a particular activity, the licensing of a particular activity, the establishment of policy for a specific purpose or organization and the acquisition of property for a specific purpose.

In addition to the powers to hold hearings, adopt rules and establish policies and procedures, these boards may enter into contracts, establish just charges, conduct investigations, acquire property or enforce state laws.

This classification includes the following.

...

30-C

FIELD	NAME OF ORGANIZATION	RATE OF COMPENSATION	STATUTORY REFERENCE
Public Utilities	Telecommunications Relay Services Advisory Council	Not Authorized	35-A MRSA §8704

Attachment A-2

Maine Revised Statutes

Title 35-A: PUBLIC UTILITIES

Chapter 87: TELECOMMUNICATIONS RELAY SERVICES

§8701. FINDINGS

The Legislature finds and declares that it is in the public interest to establish an effective statewide system to provide continuous telecommunications relay services to facilitate communication between deaf, hard-of-hearing or speech impaired persons who use telecommunications devices for the deaf and persons using standard telephone equipment. [2009, c. 68, §5 (AMD) .]

SECTION HISTORY

1989, c. 851, §7 (NEW). 2009, c. 68, §5 (AMD).

§8702. DEFINITIONS

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [1989, c. 851, §7 (NEW) .]

1. Advisory council. "Advisory council" means the Telecommunications Relay Services Advisory Council.

[1989, c. 851, §7 (NEW) .]

2. Blockage level. "Blockage level" means the proportion of placed calls that fail to reach a relay operator.

[1989, c. 851, §7 (NEW) .]

3. Deaf person. "Deaf person" means a person whose sense of hearing is nonfunctional for the purpose of ordinary communication.

[1989, c. 851, §7 (NEW) .]

3-A. Hard-of-hearing person. "Hard-of-hearing person" means a person who has a hearing loss in the range of mild to profound, who uses residual hearing and who prefers to speak and listen with the help of amplification, implantable devices, assistive technology and speechreading.

[2009, c. 68, §6 (NEW) .]

4. Hearing impaired person.

[2009, c. 68, §7 (RP) .]

5. Speech impaired person. "Speech impaired person" means a person whose speech is nonfunctional or diminished for the purpose of ordinary communication.

[2009, c. 68, §8 (AMD) .]

Attachment A-2

5-A. Speechreading. "Speechreading" means a technique of understanding speech by visually interpreting the movements of the lips, face and tongue with information provided by the context, language and any residual hearing.

[2009, c. 68, §9 (NEW) .]

6. Telecommunications device for the deaf or TDD. "Telecommunications device for the deaf" or "TDD" means a teletypewriter, or TTY, or other telecommunication equipment used by deaf, hard-of-hearing or speech impaired persons to conduct telephone communications, including but not limited to devices required for captioned telephone service, equipment necessary to perform video relay service and 2-way paging devices.

[2009, c. 68, §10 (AMD) .]

7. Telecommunications relay service. "Telecommunications relay service" means a service transmitting messages and information between a person using a telecommunications device for the deaf and another person.

[2009, c. 68, §11 (AMD) .]

SECTION HISTORY

1989, c. 851, §7 (NEW). 2009, c. 68, §§6-11 (AMD).

§8703. REQUIREMENTS

Telecommunications relay services must conform to the following requirements. [1989, c. 851, §7 (NEW) .]

1. Geographic availability. Services must be available on a statewide basis to the extent that they are technologically feasible.

[2009, c. 68, §12 (AMD) .]

2. Temporal availability. Services must be available 24 hours a day for every calendar day of the year.

[1989, c. 851, §7 (NEW) .]

3. Accessibility. Relay service operators may not refuse calls or limit the length of calls.

[1989, c. 851, §7 (NEW) .]

4. Blockage level. The allowable blockage level for the telecommunications relay services must be reasonable. Complaints relating to the reasonableness of the blockage level may be brought to the commission by the advisory council or by 10 or more aggrieved persons pursuant to section 1302, subsection 1.

[1989, c. 851, §7 (NEW) .]

5. Confidentiality. The providers of telecommunications relay services shall keep relay service communications confidential.

[2015, c. 250, Pt. C, §6 (AMD) .]

6. User fee prohibited. A separate fee for telecommunications relay services may not be assessed to users of the services.

[1989, c. 851, §7 (NEW) .]

Attachment A-2

7. Recovery of expenses and costs. The costs for telecommunications relay services must be recovered through the state universal service fund pursuant to section 7104, subsection 7.

[2005, c. 305, §3 (AMD) .]

8. Advisory council. The providers of telecommunications relay services must take into consideration any comments from the advisory council.

[1989, c. 851, §7 (NEW) .]

9. Restrictions. Upon request, the providers of telecommunications relay services shall make known to users of the services any restrictions on the types of calls handled such as collect calls and automated information services.

[1989, c. 851, §7 (NEW) .]

10. Notification of rates or charges. Upon request, the providers of telecommunications relay services shall make known to users any rates or charges for the services.

[1989, c. 851, §7 (NEW) .]

SECTION HISTORY

1989, c. 851, §7 (NEW). 2005, c. 305, §3 (AMD). 2009, c. 68, §12 (AMD).
2015, c. 250, Pt. C, §6 (AMD).

§8704. ADVISORY COUNCIL

The Telecommunications Relay Services Advisory Council, as established by Title 5, section 12004-G, subsection 30-C, shall evaluate telecommunications relay services in this State and provide advice to providers of telecommunications relay services. [2005, c. 605, §5 (AMD) .]

1. Membership. The advisory council consists of 12 members as follows:

A. The Director of the Division for the Deaf, Hard of Hearing and Late Deafened, Bureau of Rehabilitation Services, Department of Labor, or a designee; [2009, c. 174, §26 (AMD) .]

B. The chair of the Commission for the Deaf, Hard of Hearing and Late Deafened established by Title 5, section 12004-J, subsection 17, or a designee; [2009, c. 652, Pt. A, §48 (AMD) .]

C. One member from the Public Utilities Commission, appointed by the commissioners; [1989, c. 851, §7 (NEW) .]

D. One member from the office of the Public Advocate, appointed by the Public Advocate; and [1989, c. 851, §7 (NEW) .]

E. Eight members appointed by the Governor as follows:

(1) One member from the Maine Educational Center for the Deaf and Hard of Hearing and the Governor Baxter School for the Deaf;

(2) One member from a statewide association for the deaf;

(3) One member from a disability rights organization in this State;

(4) One member from the largest incumbent local exchange carrier providing telecommunications relay service in this State;

(5) One member of a telephone association in this State, except that the representative under this subparagraph may not be a representative of the carrier under subparagraph (4);

Attachment A-2

(6) Two members from the general public who use telecommunications devices for the deaf that operate in connection with telecommunications relay services as their primary means of telecommunications; and

(7) One member representing a company that provides telecommunications relay services through the Internet, wireless telecommunications or cable telecommunications. [2015, c. 398, §1 (AMD).]

[2015, c. 398, §1 (AMD) .]

2. Compensation. Compensation is not authorized.

[1989, c. 851, §7 (NEW) .]

3. Technical assistance. The commission shall provide technical assistance to the advisory council.

[1989, c. 851, §7 (NEW) .]

4. Appointment of chair and vice-chair. The members shall annually elect a chair and a vice-chair from among the membership. The vice-chair shall serve as acting chair in the absence of the chair. The council shall meet at the call of the chair but no fewer than 4 times during the calendar year. The chair may delegate, as necessary, duties to members to carry out the functions of the council.

[1989, c. 851, §7 (NEW) .]

5. Powers and duties. The advisory council shall evaluate telecommunications relay services in this State and shall advise providers of telecommunications relay services regarding telecommunications relay service matters, including, but not limited to, the development of training standards and an evaluation of the service being provided, including the quality and availability of that service. The advisory council may enter into contracts with telecommunications relay service providers for the purpose of providing telecommunications relay services.

[2005, c. 605, §6 (AMD) .]

SECTION HISTORY

1989, c. 851, §7 (NEW). 1993, c. 708, §J12 (AMD). 2001, c. 377, §3 (AMD). 2005, c. 279, §17 (AMD). 2005, c. 605, §§5,6 (AMD). 2009, c. 68, §13 (AMD). 2009, c. 174, §§26, 27 (AMD). 2009, c. 652, Pt. A, §48 (AMD). 2013, c. 40, §1 (AMD). 2015, c. 398, §1 (AMD).

The State of Maine claims a copyright in its codified statutes. If you intend to republish this material, we require that you include the following disclaimer in your publication:

All copyrights and other rights to statutory text are reserved by the State of Maine. The text included in this publication reflects changes made through the First Special Session of the 128th Maine Legislature and is current through November 1, 2017. The text is subject to change without notice. It is a version that has not been officially certified by the Secretary of State. Refer to the Maine Revised Statutes Annotated and supplements for certified text.

The Office of the Revisor of Statutes also requests that you send us one copy of any statutory publication you may produce. Our goal is not to restrict publishing activity, but to keep track of who is publishing what, to identify any needless duplication and to preserve the State's copyright rights.

PLEASE NOTE: The Revisor's Office cannot perform research for or provide legal advice or interpretation of Maine law to the public. If you need legal assistance, please contact a qualified attorney.

Attachment A-3

35-A M.R.S. § 7014(7)

7. Telecommunications relay services support. In order to ensure the affordability of telecommunications relay services throughout the State, the commission shall establish funding support for telecommunications relay services, including related outreach programs, within the state universal service fund established pursuant to subsection 3.

A. In establishing the total level of support for the state universal service fund, the commission shall include funding levels for telecommunications relay services as recommended by the Telecommunications Relay Services Advisory Council, as established in section 8704, unless the commission determines, upon its own motion or upon the request of a voice network service provider, that the recommended funding levels may be unreasonable. If the commission determines that the funding levels may be unreasonable, the commission shall open a proceeding to determine a reasonable funding level for telecommunications relay services, including related outreach programs. Upon the conclusion of the proceeding, the commission shall establish funding support for telecommunications relay services, including related outreach programs, that it has found to be reasonable within the state universal service fund. The commission shall require contributions to the state universal service fund on a quarterly basis to meet the established funding support levels.

B. In determining reasonable funding levels for telecommunications relay services, including related outreach programs, the commission may consider whether the recommended funding is for telecommunications relay services, including related outreach programs, that are:

- (1) Federally required services;
- (2) Services provided in other states with a similar deaf, hard-of-hearing and speech impaired population as this State; or
- (3) Services that are designed to maximize the effectiveness of telecommunications relay services through the application of new technologies.

Attachment A-4

47 U.S. Code § 225 - Telecommunications services for hearing-impaired and speech-impaired individuals

(a) Definitions As used in this section —

(1) Common carrier or carrier

The term “common carrier” or “carrier” includes any common carrier engaged in interstate communication by wire or radio as defined in section 153 of this title and any common carrier engaged in intrastate communication by wire or radio, notwithstanding sections 152(b) and 221(b) of this title.

(2) TDD

The term “TDD” means a Telecommunications Device for the Deaf, which is a machine that employs graphic communication in the transmission of coded signals through a wire or radio communication system.

(3) Telecommunications relay services

The term “telecommunications relay services” means telephone transmission services that provide the ability for an individual who is deaf, hard of hearing, deaf-blind, or who has a speech disability to engage in communication by wire or radio with one or more individuals, in a manner that is functionally equivalent to the ability of a hearing individual who does not have a speech disability to communicate using voice communication services by wire or radio.

(b) Availability of telecommunications relay services

(1) In general

In order to carry out the purposes established under section 151 of this title, to make available to all individuals in the United States a rapid, efficient nationwide communication service, and to increase the utility of the telephone system of the Nation, the Commission shall ensure that interstate and intrastate telecommunications relay services are available, to the extent possible and in the most efficient manner, to hearing-impaired and speech-impaired individuals in the United States.

(2) Use of general authority and remedies

For the purposes of administering and enforcing the provisions of this section and the regulations prescribed thereunder, the Commission shall have the same authority, power, and functions with respect to common carriers engaged in intrastate communication as the Commission has in administering and enforcing the provisions of this subchapter with respect to any common carrier engaged in interstate communication. Any violation of this section 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 this chapter by a common carrier engaged in interstate communication.

(c) Provision of services Each common carrier providing telephone voice transmission services shall, not later than 3 years after July 26, 1990, provide in compliance with the regulations

Attachment A-4

prescribed under this section, throughout the area in which it offers service, telecommunications relay services, individually, through designees, through a competitively selected vendor, or in concert with other carriers. A common carrier shall be considered to be in compliance with such regulations—

(1) with respect to intrastate telecommunications relay services in any State that does not have a certified program under subsection (f) 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 the Commission's regulations under subsection (d); or

(2) with respect to intrastate telecommunications relay services in any State that has a certified program under subsection (f) 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 subsection (f) for such State.

(d) Regulations

(1) **In general** The Commission shall, not later than 1 year after July 26, 1990, prescribe regulations to implement this section, including regulations that—

(A) establish functional requirements, guidelines, and operations procedures for telecommunications relay services;

(B) establish minimum standards that shall be met in carrying out subsection (c);

(C) require that telecommunications relay services operate every day for 24 hours per day;

(D) require that users of telecommunications relay services 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 point of origination to point of termination;

(E) prohibit relay operators from failing to fulfill the obligations of common carriers by refusing calls or limiting the length of calls that use telecommunications relay services;

(F) prohibit relay operators from disclosing the content of any relayed conversation and from keeping records of the content of any such conversation beyond the duration of the call; and

(G) prohibit relay operators from intentionally altering a relayed conversation.

(2) Technology

The Commission shall ensure that regulations prescribed to implement this section encourage, consistent with section 157(a) of this title, the use of existing technology and do not discourage or impair the development of improved technology.

(3) Jurisdictional separation of costs

(A) In general

Attachment A-4

Consistent with the provisions of section 410 of this title, the Commission shall prescribe regulations governing the jurisdictional separation of costs for the services provided pursuant to this section.

(B) Recovering costs

Such regulations shall generally provide that costs caused by interstate telecommunications relay services shall be recovered from all subscribers for every interstate service and costs caused by intrastate telecommunications relay services shall be recovered from the intrastate jurisdiction. In a State that has a certified program under subsection (f), a State commission shall permit a common carrier to recover the costs incurred in providing intrastate telecommunications relay services by a method consistent with the requirements of this section.

(e) Enforcement

(1) In general

Subject to subsections (f) and (g), the Commission shall enforce this section.

(2) Complaint

The Commission shall resolve, by final order, a complaint alleging a violation of this section within 180 days after the date such complaint is filed.

(f) Certification

(1) State documentation

Any State desiring to establish a State program under this section shall submit documentation to the Commission that describes the program of such State for implementing intrastate telecommunications relay services and the procedures and remedies available for enforcing any requirements imposed by the State program.

(2) Requirements for certification After review of such documentation, the Commission shall certify the State program if the Commission determines that—

(A) the program makes available to hearing-impaired and speech-impaired individuals, either directly, through designees, through a competitively selected vendor, or through regulation of intrastate common carriers, intrastate telecommunications relay services in such State in a manner that meets or exceeds the requirements of regulations prescribed by the Commission under subsection (d); and

(B) the program makes available adequate procedures and remedies for enforcing the requirements of the State program.

(3) Method of funding

Except as provided in subsection (d), the Commission shall not refuse to certify a State program based solely on the method such State will implement for funding intrastate telecommunication relay services.

(4) Suspension or revocation of certification

Attachment A-4

The Commission may suspend or revoke such certification if, after notice and opportunity for hearing, the Commission determines that such certification is no longer warranted. In a State whose program has been suspended or revoked, the Commission shall take such steps as may be necessary, consistent with this section, to ensure continuity of telecommunications relay services.

(g) Complaint

(1) Referral of complaint

If a complaint to the Commission alleges a violation of this section with respect to intrastate telecommunications relay services within a State and certification of the program of such State under subsection (f) is in effect, the Commission shall refer such complaint to such State.

(2) Jurisdiction of Commission After referring a complaint to a State under paragraph (1), the Commission shall exercise jurisdiction over such complaint only if—

(A) final action under such State program has not been taken on such complaint by such State—

(i) within 180 days after the complaint is filed with such State; or

(ii) within 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 subsection (f).

Attachment B

47 C.F.R. §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

Attachment B

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 company 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

Attachment B

- (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.

Attachment B

(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.

Attachment B

(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;

Attachment B

- (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

Attachment B

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.

Attachment B

(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;

Attachment B

- (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.

Attachment B

(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.

Attachment B

(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;

Attachment B

- (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.

(2) Call data required from all TRS providers. In addition to the data requested by paragraph (c)(5)(iii)(C)(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;

Attachment B

- (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)(C)(2) of this section, Internet-based Relay Providers seeking compensation from the Fund shall submit speed of answer compliance data.
- (4) Providers submitting call record and speed of answer data in compliance with paragraphs (c)(5)(iii)(C)(2) and (c)(5)(iii)(C)(3) of this section shall:
- (i) Employ an automated record keeping system to capture such data required pursuant to paragraph (c)(5)(iii)(C)(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.

Attachment B

(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

Attachment B

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 administered 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

Attachment B

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

Attachment B

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.

Attachment B

(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.

Attachment B

(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 administrator, 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

Attachment B

(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

Attachment B

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

Attachment B

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.

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

(9) IP CTS registration and certification requirements.

(i) IP CTS providers must first obtain the following registration information from each consumer prior to requesting compensation from the TRS Fund for service provided to the consumer. The consumer's full name, date of birth, last four digits of the consumer's social security number, address and telephone number.

Attachment B

(ii) Self-certification prior to August 28, 2014. IP CTS providers, in order to be eligible to receive compensation from the TRS Fund for providing IP CTS, also must first obtain a written certification from the consumer, and if obtained prior to August 28, 2014, such written certification shall attest that the consumer needs IP CTS to communicate in a manner that is functionally equivalent to the ability of a hearing individual to communicate using voice communication services. The certification must include the consumer's certification that:

(A) The consumer has a hearing loss that necessitates IP CTS to communicate in a manner that is functionally equivalent to communication by conventional voice telephone users;

(B) The consumer understands that the captioning service is provided by a live communications assistant; and

(C) The consumer understands that the cost of IP CTS is funded by the TRS Fund.

(iii) Self-certification on or after August 28, 2014. IP CTS providers must also first obtain from each consumer prior to requesting compensation from the TRS Fund for the consumer, a written certification from the consumer, and if obtained on or after August 28, 2014, such certification shall state that:

(A) The consumer has a hearing loss that necessitates use of captioned telephone service;

(B) The consumer understands that the captioning on captioned telephone service is provided by a live communications assistant who listens to the other party on the line and provides the text on the captioned phone;

(C) The consumer understands that the cost of captioning each Internet protocol captioned telephone call is funded through a federal program; and

(D) The consumer will not permit, to the best of the consumer's ability, persons who have not registered to use Internet protocol captioned telephone service to make captioned telephone calls on the consumer's registered IP captioned telephone service or device.

(iv) The certification required by paragraphs (c)(9)(ii) and (iii) of this section must be made on a form separate from any other agreement or form, and must include a separate consumer signature specific to the certification. Beginning on August 28, 2014, such certification shall be made under penalty of perjury. For purposes of this rule, an electronic signature, defined by the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. 7001 et seq., as an electronic sound, symbol, or process, attached to or logically associated with a contract or other record and executed or adopted by a person with the intent to sign the record, has the same legal effect as a written signature.

(v) Third-party certification prior to August 28, 2014. Where IP CTS equipment is or has been obtained by a consumer from an IP CTS provider, directly or indirectly, at no charge or for less than \$75 and the consumer was registered in accordance with the requirements of paragraph (c)(9) of this section prior to August 28, 2014, the IP CTS

Attachment B

provider must also obtain from each consumer prior to requesting compensation from the TRS Fund for the consumer, written certification provided and signed by an independent third-party professional, except as provided in paragraph (c)(9)(xi) of this section.

(vi) To comply with paragraph (c)(9)(v) of this section, the independent professional providing certification must:

(A) Be qualified to evaluate an individual's hearing loss in accordance with applicable professional standards, and may include, but are not limited to, community-based social service providers, hearing related professionals, vocational rehabilitation counselors, occupational therapists, social workers, educators, audiologists, speech pathologists, hearing instrument specialists, and doctors, nurses and other medical or health professionals;

(B) Provide his or her name, title, and contact information, including address, telephone number, and email address; and

(C) Certify in writing that the IP CTS user is an individual with hearing loss who needs IP CTS to communicate in a manner that is functionally equivalent to telephone service experienced by individuals without hearing disabilities.

(vii) Third-party certification on or after August 28, 2014. Where IP CTS equipment is or has been obtained by a consumer from an IP CTS provider, directly or indirectly, at no charge or for less than \$75, the consumer (in cases where the equipment was obtained directly from the IP CTS provider) has not subsequently paid \$75 to the IP CTS provider for the equipment prior to the date the consumer is registered to use IP CTS, and the consumer is registered in accordance with the requirements of paragraph (c)(9) of this section on or after August 28, 2014, the IP CTS provider must also, prior to requesting compensation from the TRS Fund for service to the consumer, obtain from each consumer written certification provided and signed by an independent third-party professional, except as provided in paragraph (c)(9)(xi) of this section.

(viii) To comply with paragraph (c)(9)(vii) of this section, the independent third-party professional providing certification must:

(A) Be qualified to evaluate an individual's hearing loss in accordance with applicable professional standards, and must be either a physician, audiologist, or other hearing related professional. Such professional shall not have been referred to the IP CTS user, either directly or indirectly, by any provider of TRS or any officer, director, partner, employee, agent, subcontractor, or sponsoring organization or entity (collectively "affiliate") of any TRS provider. Nor shall the third party professional making such certification have any business, family or social relationship with the TRS provider or any affiliate of the TRS provider from which the consumer is receiving or will receive service.

(B) Provide his or her name, title, and contact information, including address, telephone number, and email address.

(C) Certify in writing, under penalty of perjury, that the IP CTS user is an individual with hearing loss that necessitates use of captioned telephone service and that the third party professional understands that the captioning on captioned telephone

Attachment B

service is provided by a live communications assistant and is funded through a federal program.

(ix) In instances where the consumer has obtained IP CTS equipment from a local, state, or federal governmental program, the consumer may present documentation to the IP CTS provider demonstrating that the equipment was obtained through one of these programs, in lieu of providing an independent, third-party certification under paragraphs (c)(9)(v) and (vii) of this section.

(x) Each IP CTS provider shall maintain records of any registration and certification information for a period of at least five years after the consumer ceases to obtain service from the provider and shall maintain the confidentiality of such registration and certification information, and may not disclose such registration and certification information or the content of such registration and certification information except as required by law or regulation.

(xi) IP CTS providers must obtain registration information and certification of hearing loss from all IP CTS users who began receiving service prior to March 7, 2013, within 180 days following August 28, 2014. Notwithstanding any other provision of paragraph (c)(9) of this section, IP CTS providers shall be compensated for compensable minutes of use generated prior to February 24, 2015 by any such users, but shall not receive compensation for minutes of IP CTS use generated on or after February 24, 2015 by any IP CTS user who has not been registered.

(10) IP CTS settings. Each IP CTS provider shall ensure that each IP CTS telephone they distribute, directly or indirectly, shall include a button, icon, or other comparable feature that is easily operable and requires only one step for the consumer to turn on captioning.

(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

Attachment B

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.

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

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

- (i) False or unverified claims for TRS Fund compensation,
- (ii) Unauthorized use of VRS,
- (iii) The making of VRS calls that would not otherwise be made, or
- (iv) The use of VRS by persons who do not need the service in order to communicate in a functionally equivalent manner. A VRS provider shall not seek payment from the TRS Fund for any minutes of service it knows or has reason to know are resulting from such practices. Any VRS provider that becomes aware of such practices being or having been committed by any person shall as soon as practicable report such practices to the Commission or the TRS Fund administrator.

(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.

TRS Program Evaluation Report, 2018

Attachment B

(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.

Attachment C

An Act to Enhance the Operations of the Telecommunications Relay Service Advisory Council

Sec. 1. 35-A MRS § 8704 is hereby amended as follows:

§8704. Advisory Council

The Telecommunications Relay Services Advisory Council, as established by Title 5, section 12004-G, subsection 30-C, shall evaluate telecommunications relay services in this State and ~~provide advice to providers~~ implement the Maine State Telecommunications Relay Service Program as certified by the Federal Communications Commission pursuant to 47 C.F.R. Part 64, Subpart F of telecommunications relay services.

1. Membership. The advisory council consists of 12 members as follows:

- A. The Director of the Division for the Deaf, Hard of Hearing and Late Deafened, Bureau of Rehabilitation Services, Department of Labor, or a designee;
- B. The chair of the Commission for the Deaf, Hard of Hearing and Late Deafened established by Title 5, section 12004-J, subsection 17, or a designee;
- C. One member from the Public Utilities Commission, appointed by the commissioners;
- D. One member from the office of the Public Advocate, appointed by the Public Advocate; and
- E. Eight members appointed by the Governor as follows:
 - (1) One member from the Maine Educational Center for the Deaf and Hard of Hearing and the Governor Baxter School for the Deaf;
 - (2) One member from a statewide association for the deaf;
 - (3) One member from ~~a disability rights organization in this State~~ Disability Rights Maine;
 - (4) One member from the largest incumbent local exchange carrier providing telecommunications relay service in this State;
 - (5) One member of a telephone association in this State, except that the representative under this subparagraph may not be a representative of the carrier under subparagraph (4);

Attachment C

(6) Two members from the general public who use telecommunications devices for the deaf that operate in connection with telecommunications relay services as their primary means of telecommunications; and

(7) One member representing a company that provides telecommunications relay services through the Internet, wireless telecommunications or cable telecommunications.

2. Compensation. ~~Compensation is not authorized.~~ Members of the council are not authorized to receive payment or reimbursement for attendance or participation in regular meetings of the council, including but not limited to per-diem compensation and mileage costs. Notwithstanding any other provision of law:

A. The council is authorized to reimburse *members individuals designated by the council* for costs associated with participation in *national* conferences regarding the provisioning of telecommunications relay services and assistive telecommunications devices or technologies for the deaf and hard of hearing; and

B. The council is authorized to pay for costs associated with scheduled meetings of the council, or any meeting of a duly authorized sub-committee of the council, including costs associated with a venue, refreshments, interpreters for meeting attendees, and transcription services.

3. Technical assistance. ~~The commission shall provide technical assistance to the advisory council.~~

43. Appointment of chair and vice-chair. *Every two years*, the members shall *annually* elect a chair and a vice-chair from among the membership. The vice-chair shall serve as acting chair in the absence of the chair. The council shall meet at the call of the chair but no fewer than 4 times during the calendar year. The chair may delegate, as necessary, duties to members of the council, either individually or through the formation of sub-committees, to carry out the functions of the council.

54. Powers and duties. The advisory council shall evaluate telecommunications relay services in this State and shall *implement the Maine State Telecommunications Relay Service Program as certified by the Federal Communications Commission pursuant to 47 C.F.R. Part 64, Subpart F* ~~advise~~ *oversee providers of telecommunications relay services regarding telecommunications relay service matters.* In implementing the State program the council shall develop and execute programs and policies as necessary, including, but not limited to, the development of training standards and an evaluation of the service being provided, including the quality and availability of that service. ~~The advisory council may enter into contracts with telecommunications relay service providers for the purpose of providing telecommunications relay services.~~

A. The council ~~shall~~ *may* enter into contracts with telecommunications relay service providers for the purpose of providing telecommunications relay services. The council

Attachment C

shall choose a relay service provider for the provisioning of intrastate telecommunications relay service through a bidding process consistent with the bidding processes established by the Division of Purchases to be held no less than once every 5 years. In developing the bidding process, the council shall coordinate with the Division of Purchases to ensure a process that recognizes the unique nature and limited number of potential vendors for the provisioning of intrastate telecommunications relay services. Once a relay service provider has been chosen, the council may enter into a contract, including any amendments associated with the contract for a period of up to 5 years from the initial contract date following the award, with the winning bidder without further oversight or approval by the Division of Purchases.

B. The council may enter into agreements with one or more entities to work with the relay service provider to provide outreach for telecommunications relay service. The council shall coordinate with the Division of Purchases to develop a process for entering into such agreements in a manner that preserves the principles of the competitive bidding processes used by the Division of Purchases while recognizing the limited number of entities providing the services sought by the council. Any agreements established under this subsection may include compensation for the provisioning of outreach services.

C. The council may organize and fund projects associated with promoting the use of telecommunications relay services, including but not limited to surveys, public forums, and hosting of events.

D. The council may develop, administer, and fund pilot projects to address access to telecommunications relay services.

E. The council shall establish an annual budget to cover the costs associated with the provisioning of telecommunications relay service within the State, the costs of outreach associated with telecommunications relay services including but not limited to agreements for outreach and council run projects, the costs of pilot projects to address access to telecommunications relay services, and any other costs associated with the administration and operation of the council as determined by the council, including but not limited to any compensation authorized pursuant to subsection 2. Notwithstanding any other provision of this section, the annual budget submitted pursuant to this subsection may not exceed \$600,000. This budget shall be forwarded to the commission for payment pursuant to Section 7104(7) of this Title.

Sec. 2. 35-A MRS § 7104(7) is hereby amended as follows:

7. Telecommunications relay services support. In order to ensure the affordability of telecommunications relay services throughout the State, the commission shall establish funding support for telecommunications relay services, including related outreach programs, within the state universal service fund established pursuant to subsection 3.

Attachment C

A. In establishing the total level of support for the state universal service fund, the commission shall include funding levels for telecommunications relay services as ~~recommended requested~~ by the Telecommunications Relay Services Advisory Council, as established in section 8704 pursuant to the submission of an annual budget in accordance with section 8704(4)(C), ~~unless the commission determines, upon its own motion or upon the request of a voice network service provider, that the recommended funding levels may be unreasonable. If the commission determines that the funding levels may be unreasonable, the commission shall open a proceeding to determine a reasonable funding level for telecommunications relay services, including related outreach programs. Upon the conclusion of the proceeding, the commission shall establish funding support for telecommunications relay services, including related outreach programs, that it has found to be reasonable within the state universal service fund. The commission shall require contributions to the state universal service fund on a quarterly basis to meet the established funding support levels.~~

~~B. In determining reasonable funding levels for telecommunications relay services, including related outreach programs, the commission may consider whether the recommended funding is for telecommunications relay services, including related outreach programs, that are:~~

- ~~(1) Federally required services;~~
- ~~(2) Services provided in other states with a similar deaf, hard-of-hearing and speech impaired population as this State; or~~
- ~~(3) Services that are designed to maximize the effectiveness of telecommunications relay services through the application of new technologies.~~

Sec. 3. The commission shall continue to require collections to, and make disbursements from, the Maine Universal Service Fund to meet the financial obligations contained in the existing agreement between the council and the State relay service provider for all services currently associated with the agreement until such time as a new bid process has been completed and new contract has been executed pursuant to the amendments contained in Section 1 of this legislation.

SUMMARY

This legislation is designed to clarify the structure and operations of the TRS Advisory Council to clarify support for the Council and to improve the ability of the Council to proactively address issues associated with maintaining a high quality TRS Program in an evolving telecommunications market.