

116. IT IS FURTHER ORDERED that, pursuant to Section 1.427(a) of the Commission's rules, 47 C.F.R. § 1.427(a), this *Report and Order* and the rules adopted herein shall be effective 30 days after date of publication of a summary in the *Federal Register*, except for rule, 64.604(b)(4)(iii), which shall be effective 120 days after publication in the *Federal Register*, and except for the rules containing information collections, which require approval by OMB under the PRA and which shall become effective after the Commission publishes a notice in the *Federal Register* announcing such approval and the relevant effective date.

117. IT IS FURTHER ORDERED that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, SHALL SEND a copy of this *Report and Order* including the Final Regulatory Flexibility Certification, to the Chief Counsel for Advocacy of the Small Business Administration.

118. IT IS FURTHER ORDERED that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, SHALL SEND a copy of this *FNPRM*, including the Initial Regulatory Flexibility Certification, to the Chief Counsel for Advocacy of the Small Business Administration.

FEDERAL COMMUNICATIONS COMMISSION



Marlene H. Dortch  
Secretary

**APPENDIX A****List of Commenters****Comments:**

258 Communications, Inc.

Association of Visual Language Interpreters of Canada (AVLIC)

AT&T, Inc. (AT&T)

Birnbaum Interpreting Services (BIS)

CallCODAVRS

Canada Association of the Deaf (CAD)

Convo Communications, Inc. (Convo)

Government of Canada

CSDVRS, LLC

GraciasVRS

Hamilton Relay, Inc. (Hamilton)

Healinc Telecom, LLC (Healinc)

PAH!VRS and Interpretel, LLC (PAH and Interpretel)

Purple Communications, Inc. (Purple)

Registry of Interpreters for the Deaf (RID)

SKYVRS

Snap!VRS (Snap)

Sorenson Communications, Inc. (Sorenson)

Telecommunications for the Deaf and Hard of Hearing, Inc.; Association of Late-Deafened Adults, Inc.; National Association of the Deaf; Deaf and Hard of Hearing Consumer Advocacy Network; California Coalition of Agencies Serving the Deaf and Hard of Hearing; and American Association of the Deaf-Blind (Consumer Groups)

Verizon and Verizon Wireless

Whitaker, Michelle

**Individual Comments:**

Individual commenters (approximately 175) can be found in CG Docket No. 10-51 at:  
[http://fjallfoss.fcc.gov/ecfs/comment\\_search/input?z=l4yai](http://fjallfoss.fcc.gov/ecfs/comment_search/input?z=l4yai)

**Reply Comments:**

GraciasVRS

PAH and Interpretel

Sorenson

**Ex Parte Filings:**

CSDVRS

Florida Public Service Commission (Florida PSC)

Hamilton

HKNC

National Exchange Carrier Association (NECA)

Snap

## APPENDIX B

## Initial Regulatory Flexibility Certification

## Docket No. 10-51

1. The Regulatory Flexibility Act of 1980, as amended (RFA),<sup>1</sup> requires that an initial regulatory flexibility analysis be prepared for notice-and-comment rulemaking proceedings, unless the agency certifies that “the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.”<sup>2</sup> The RFA generally defines the term “small entity” as having the same meaning as the terms “small business,” “small organization,” and “small governmental jurisdiction.”<sup>3</sup> In addition, the term “small business” has the same meaning as the term “small business concern” under the Small Business Act.<sup>4</sup> A “small business concern” is one that: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA).<sup>5</sup>

2. In the *FNPRM*, the Commission seeks further comment on a number of proposed modifications to our current eligibility requirements for Internet-based TRS providers, including VRS providers, that seek certification from the Commission to be eligible for compensation from the TRS Fund. The Commission seeks comment on these proposals to ensure that all entities seeking certification in the future – or currently certified entities seeking re-certification – are fully qualified to provide Internet-based relay service in compliance with our rules and requirements, including all of the revised obligations adopted in the accompanying Report and Order, to reduce waste, fraud and abuse, and improve oversight.

3. Specifically, the *FNPRM* seeks comment on whether the Commission should require that all Internet-based TRS providers be certified by the Commission to become eligible to receive compensation from the TRS Fund. In addition, the Commission seeks comment on whether new and renewing applicants should provide specific documentary evidence of their ability to comply with our TRS rules. The Commission seeks comment on whether the certification process should include, at the Commission’s discretion other measures, on-site visits to the premises of applicants, to assess the merits of certification applications. The Commission also proposes to revise its annual report filing guidelines to require further documentation.<sup>6</sup>

4. The Commission further proposes to require that providers seek approval from the Commission for voluntary interruption of service, and to require providers to notify the Commission of

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<sup>1</sup> See 5 U.S.C. § 603. The RFA, see 5 U.S.C. § 601–612, has been amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), Pub. L. No. 104-121, Title II, 110 Stat. 857 (1996).

<sup>2</sup> 5 U.S.C. § 605(b).

<sup>3</sup> 5 U.S.C. § 601(6).

<sup>4</sup> 5 U.S.C. § 601(3) (incorporating by reference the definition of “small-business concern” in the Small Business Act, 15 U.S.C. § 632). Pursuant to 5 U.S.C. § 601(3), the statutory definition of a small business applies “unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the Federal Register.”

<sup>5</sup> 15 U.S.C. § 632.

<sup>6</sup> See ¶¶ 95-96, *supra*.

unforeseen service interruptions in the provision of Internet-based TRS. Finally, the Commission proposes to allow a provider that is currently eligible to receive compensation from the TRS Fund via a means other than FCC certification, to file an application for certification under the Commission's new rules. While such a provider's application is pending, the Commission proposes to permit the applicant to seek a temporary waiver of any new requirements to obtain certification from the Commission prior to offering Internet-enabled TRS, to enable the provider to continue to receive compensation from the Fund and to continue providing Internet-based TRS while such provider's application is pending.

5. With regard to the criterion of the economic impact of this *FNPRM*, the Commission notes that all providers potentially affected by the proposed rules, including those deemed to be small entities under the SBA's standard, would be entitled to receive prompt reimbursement for their reasonable costs of compliance. Therefore, the Commission concludes that the *FNPRM*, if adopted, will not have a significant economic impact on any entities. In addition, even if there were an adverse economic impact, no more than five of the eleven providers impacted by the proposed rules meet the definition of a small entity. The SBA has developed a small business size standard for Wired Telecommunications Carriers, which consists of all such firms having 1,500 or fewer employees.<sup>7</sup>

6. Therefore, we certify that the proposals in this *FNPRM* if adopted, would not have a significant economic impact on a substantial number of small entities.

7. The Commission will send a copy of the *FNPRM*, including a copy of this Initial Regulatory Flexibility Certification, to the Chief Counsel for Advocacy of the SBA.<sup>8</sup> This initial certification will also be published in the Federal Register.<sup>9</sup>

8. **IT IS FURTHER ORDERED** that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, SHALL SEND a copy of this *FNPRM*, including the Initial Regulatory Flexibility Certification, to the Chief Counsel for Advocacy of the Small Business Administration.

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<sup>7</sup> 13 C.F.R. § 121.201, NAICS code 517110. According to Census Bureau data for 2007, there were 3,188 firms in this category which operated for the entire year. Of this total, 3,144 firms had employment of 999 or fewer employees, and an additional 44 firms had employment of 1,000 employees or more. Thus, under this size standard, the majority of firms can be considered small. (The census data do not provide a more precise estimate of the number of firms that have employment of 1,500 or fewer employees; the largest category provided is "Firms with 1,000 employees or more.")

<sup>8</sup> 5 U.S.C. § 605(b).

<sup>9</sup> 5 U.S.C. § 605(b).

## APPENDIX C

## Final Regulatory Flexibility Certification

## Docket No. 10-51

1. The Regulatory Flexibility Act of 1980, as amended (RFA),<sup>1</sup> requires that a regulatory flexibility analysis be prepared for rulemaking proceedings, unless the agency certifies that "the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities."<sup>2</sup> The RFA generally defines "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction."<sup>3</sup> In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act.<sup>4</sup> A small business concern is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA).<sup>5</sup>

2. This *Report and Order* adopts rules to minimize fraud, waste, and abuse in the TRS industry, particularly for VRS. Specifically, this *Report and Order* takes the following measures: It adopts rules requiring that VRS providers submit a statement describing the location and staffing of their call centers twice a year, and a notification at least 30 days prior to any change in the location of such centers. It prohibits VRS CAs from relaying calls from their homes. It prohibits VRS provider arrangements that involve tying compensation paid or other benefits given to CAs to minutes or calls processed by that CA, either individually or as part of a group. In addition, the Commission adopts procedures for the resolution of disputed provider payment claims when payment has been suspended.<sup>6</sup>

3. In addition to the above, in this *Report and Order*, the Commission adopts a rule prohibiting compensation for VRS calls that originate from IP addresses that indicate the individual initiating the call is located outside of the United States. Under new rules, VRS CAs will be required to terminate a VRS call if either party to the call: (1) enables a privacy screen or similar feature for more than five minutes, or (2) is unresponsive or unengaged for more than five minutes, unless the call is to 9-1-1 or one of the parties is on hold. In addition compensation for VRS calls for remote training when the provider is involved in any way with such training will be prohibited. The Report and Order also requires automated recordkeeping of TRS minutes submitted to the Fund, and amends the rules governing data collection from VRS providers to add requirements for the filing of data associated with each VRS call for which a VRS provider is seeking compensation.

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<sup>1</sup> See 5 U.S.C. § 603. The RFA, see 5 U.S.C. § 601-612, has been amended by the Small Business Regulatory Enforcement Fairness Act of 1996, (SBREFA) Pub. L. No. 104-121, Title II, 110 Stat. 857 (1996).

<sup>2</sup> 5 U.S.C. § 605(b).

<sup>3</sup> 5 U.S.C. § 601(6).

<sup>4</sup> 5 U.S.C. § 601(3) (incorporating by reference the definition of "small business concern" in Small Business Act, 15 U.S.C. S § 632). Pursuant to 5 U.S.C. § 601(3), the statutory definition of a small business applies "unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the Federal Register."

<sup>5</sup> Small Business Act, § 15 U.S.C. S 632.

<sup>6</sup> See ¶¶24-30, *supra*.

4. The *Report and Order* prohibits revenue sharing agreements between entities eligible for compensation from the Fund and non-eligible entities. Providers will be prohibited from engaging third party entities to provide CAs or call center functions unless the third party is also an eligible provider. Where providers contract with or otherwise authorize other entities to provide other services or functions related to the provision of VRS, the third party may not hold itself out to the public as a service provider. Any such third party contracts must be in writing and available to the Commission and Fund administrator upon request. In addition, each VRS provider will be required to offer VRS only under the name by which the provider became certified and in a manner that clearly identifies that provider of the service, or a sub-brand name that identifies that provider. All calls to any brand or sub-brand of TRS must be routed through a single URL for that brand or sub-brand.

5. The Commission adopts whistleblower protection rules for current and former employees and contractors of TRS providers. The Commission also will require that VRS providers submit to audits annually or as deemed appropriate by the Fund administrator or the Commission. Internet-based TRS providers will be required to retain all records that support their claims for payment from the Fund for five years. Finally, the Commission makes permanent the emergency rule that requires the CEO, CFO, or another senior executive of a TRS provider with first-hand knowledge of the accuracy and completeness of the information provided to certify, under penalty of perjury, to the validity of minutes and data submitted to the Fund administrator.

6. In order to be compensated, TRS providers are required to comply with all of the Commission's rules governing the provision of TRS. All reasonable costs of providing service in compliance with this *Report and Order* are compensable from the Fund. Thus, because the providers will recoup the costs of compliance within a reasonable period, the Commission asserts that the providers will not be detrimentally burdened. Therefore, the Commission certifies that the requirements of the *Report and Order* will not have a significant adverse economic impact on any entities, large or small.

7. The Commission has previously limited its RFA considerations to those entities collecting money directly from the TRS Fund. Although there may be various impacted entities that subcontract with providers eligible for direct compensation from the TRS Fund, the Commission does not have oversight of such entities. Therefore, in addressing only those entities currently eligible to receive compensation from the TRS Fund, the Commission also notes that, of the fourteen providers affected by the *Report and Order*, no more than five meet the definition of a small entity. The SBA has developed a small business size standard for Wired Telecommunications Carriers, which consists of all such firms having 1,500 or fewer employees.<sup>7</sup> Currently, fourteen providers receive compensation from the Interstate TRS Fund for providing any form of TRS. Because no more than five of the providers will be affected by this *Report and Order*, if adopted, are deemed to be small entities under the SBA's small business size standard, the Commission concludes that the number of small entities potentially affected by our proposed rules is not substantial. In addition, because those providers that meet the definition of small entity will be promptly compensated within a reasonable period for complying with this *Report and Order*, the Commission concludes that the financial impact of the Commission's decisions in this *Report and Order* is not substantial.

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<sup>7</sup> 13 C.F.R. § 121.201, NAICS code 517110. According to Census Bureau data for 2007, there were 3,188 firms in this category which operated for the entire year. Of this total, 3,144 firms had employment of 999 or fewer employees, and an additional 44 firms had employment of 1,000 employees or more. Thus, under this size standard, the majority of firms can be considered small. (The census data do not provide a more precise estimate of the number of firms that have employment of 1,500 or fewer employees; the largest category provided is "Firms with 1,000 employees or more.")

8. Therefore, we certify that the requirements of the *Report and Order* will not have a significant economic impact on a substantial number of small entities.

9. The Commission will send a copy of the *Report and Order*, including a copy of this Final Regulatory Flexibility Certification, in a report to Congress pursuant to the Congressional Review Act.<sup>8</sup> In addition, the *Report and Order* and this final certification will be sent to the Chief Counsel for Advocacy of the SBA, and will be published in the Federal Register.<sup>9</sup>

10. IT IS FURTHER ORDERED that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, SHALL SEND a copy of this *Report and Order* including the Final Regulatory Flexibility Certification, to the Chief Counsel for Advocacy of the Small Business Administration.

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<sup>8</sup> See 5 U.S.C. § 801(a)(1)(A).

<sup>9</sup> See 5 U.S.C. § 605(b).

## APPENDIX D

## Proposed Rules

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 C.F.R. part 64 as follows:

**Part 64 – MISCELLANEOUS RULES RELATING TO COMMON CARRIERS**

1. The authority citation for part 64 continues to read as follows:

**Authority:** 47 U.S.C. 154, 254 (k); secs. 403 (b)(2) (B), (c), Public Law 104-104,

110 Stat. 56. Interpret or apply 47 U.S.C. 201, 218, 225, 226, 228, and 254 (k) unless otherwise noted.

**SUBPART F – TELECOMMUNICATIONS RELAY SERVICES AND RELATED CUSTOMER PREMISES EQUIPMENT FOR PERSONS WITH DISABILITIES**

2. The authority citation for subpart F continues to read as follows:

**Authority:** 47 U.S.C. 151-154; 225, 255, and 303(r).

3. Amend § 64.604 of subpart F to re-number paragraph (c)(5)(iii)(F) and revise to read as follows:

**§64.604 Mandatory minimum standards.**

\*\*\*\*\*

(c)\*\*\*

(5)\*\*\*

(iii)\*\*\*

(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 §64.604; or

(iii) Interstate common carriers offering TRS pursuant to §64.604.

*(section omitted)*

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

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4. Revise § 64.606 of subpart F to read as follows:

**§ 64.606 TRS certification.**

\* \* \* \* \*

(a) (2) **Internet-based TRS provider.** Any entity desiring to provide **Internet-based TRS** and to receive compensation from the Interstate TRS Fund, shall submit documentation to the Commission addressed to the Federal Communications Commission, Chief, Consumer & Governmental Affairs Bureau, TRS Certification Program, Washington, DC 20554, and captioned “**Internet-based TRS Certification Application.**” The documentation shall include, in narrative form:

(i) A description of the forms of Internet-based TRS to be provided (i.e., VRS, **IP Relay, and/or IP captioned telephone relay service**);

(ii) A **detailed** description of how the applicant will meet all non-waived mandatory minimum standards applicable to each form of TRS offered, **including documentary and other evidence that the applicant owns and operates facilities associated with TRS call centers and employs interpreters, on a full or part-time basis, to staff such call centers at the date of the application. Such evidence shall include, but not be limited to:**

(A) **a copy of each deed or lease for each call center operated by the applicant;**

(B) **a list of individuals or entities that hold at least a 10 percent equity interest in the applicant, have the power to vote 10 percent or more of the securities of the applicant, or exercise de jure or de facto control over the applicant, a description of the applicant’s organizational structure, and the names of its executives, officers, partners, and members of its board of directors;**

(C) **a list of all of the names of applicant’s full-time and part-time employees on payroll;**

(D) **proof of purchase or license agreement for use of all equipment and/or technologies, including hardware and software, used by the applicant for its call center functions, including but not limited to, automatic call distribution, routing, call setup, mapping, call features, billing for compensation from the TRS fund, and registration;**

(E) **copies of employment agreements for all of the provider’s executives and CAs;**

(F) **copies of any subcontracting agreements pertaining to the provision of the Internet-based relay service other than services not directly essential for the provision of Internet-based relay (such as maintenance and transportation services);**

(G) **a list of all major financing arrangements pertaining to the provision of Internet-based relay service, including documentation on loans for equipment, inventory, property, promissory notes, and liens;**

(H) **copies of all other agreements associated with the provision of Internet-based relay service; and**

(I) **a list of all sponsorship arrangements (e.g., those providing financial support or in-kind interpreting or personnel service for social activities in exchange for brand marketing), including any associated written agreements;**

(iii) A description of the provider's complaint procedures;

(iv) Demonstration of **the provider's** status as a common carrier; and

(v) A statement that the provider will file annual compliance reports demonstrating continued compliance with these rules.

**(a)(3) *Assessment of Internet-based TRS Provider Certification Application.* In order to assess the merits of a certification application submitted by an Internet-based TRS provider, the Commission may conduct one or more on-site visits of the applicant's premises, to which the applicant must consent.**

\* \* \* \* \*

**(b)(2) Requirements for Internet-based TRS Provider FCC certification.** After review of certification documentation, the Commission shall certify, by Public Notice, that the Internet-based TRS provider is eligible for compensation from the Interstate TRS Fund if the Commission determines that the certification documentation:

(i) Establishes that the provision of Internet-based TRS will meet or exceed all non-waived operational, technical, and functional minimum standards contained in §64.604;

(ii) Establishes that the Internet-based TRS provider makes available adequate procedures and remedies for ensuring compliance with the requirements of this section and the mandatory minimum standards contained in §64.604, including that it makes available for TRS users informational materials on complaint procedures sufficient for users to know the proper procedures for filing complaints; and

*(section omitted)*

\* \* \* \* \*

**(c)(2) Internet-based TRS Provider FCC certification period.** Certification granted under this section shall remain in effect for five years. An Internet-based TRS provider may apply for renewal of its certification by filing updated documentation with the Commission, at least 90 days prior to expiration of certification, containing the information described in paragraph (a)(2) of this section.

\* \* \* \* \*

**(e)(2) *Suspension or revocation of Internet-based TRS Provider FCC certification.*** The Commission may suspend or revoke the certification of an Internet-based TRS provider if, after notice and opportunity for hearing, the Commission determines that such certification is no longer warranted. The Commission may, on its own motion, require a certified Internet-based TRS provider to submit documentation demonstrating ongoing compliance with the Commission's minimum standards if, for example, the Commission receives evidence that a certified Internet-based TRS provider may not be in compliance with the minimum standards.

\* \* \* \* \*

**(g) Internet-based TRS providers certified under this section shall file with the Commission, on an annual basis, a report demonstrating that they are in compliance with §64.604. Such reports must include the information required in subsection (a)(2) supported by current documentation.**

5. Revise §64.606 of subpart F to add a new subsection as follows:

(h) Unauthorized service interruptions.

**(1) Each certified Internet-based service provider must provide Internet-based TRS without unauthorized voluntary service interruptions.**

**(2) An Internet-based service provider seeking to voluntarily interrupt service must first obtain Commission authorization by submitting a written request to the Commission's Consumer and Governmental Affairs Bureau (CGB) at least 60 days prior to any planned service interruption, with detailed information of: (1) its justification for such interruption; (2) its plan to notify customers about the impending interruption; and (3) its plans for resuming service, so as to minimize the impact of such disruption on consumers through a smooth transition of temporary service to another provider, and restoration of its service at the completion of such interruption. CGB will grant or deny such a request and provide a response to the provider within 30 days of the proposed interruption, in order to afford an adequate period of notification to consumers. In evaluating such a request, CGB will consider such factors as the length of time of the proposed interruption, the reason for such interruption, the frequency with which such requests have been made by the provider in the past, the potential impact of the interruption on consumers, and the provider's plans for a smooth service restoration.**

**(3) In the event of a brief, unforeseen service interruption due to circumstances beyond a provider's control, the provider must submit a written notification to CGB within two business days of the commencement of the service interruption, with an explanation of how it has restored service or its plan to do so imminently.**

**(4) A certified provider that fails to obtain prior Commission authorization for a voluntary service interruption, or fails to provide written notification after the commencement of a service interruption in accordance with this subsection, may be subject to revocation of certification, suspension of payment from the TRS Fund, or other enforcement action by the Commission, as appropriate.**

**APPENDIX E****Final Rules**

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 C.F.R. part 64 as follows:

**PART 64 – MISCELLANEOUS RULES RELATING TO COMMON CARRIERS**

1. The authority citation for part 64 continues to read as follows:

**Authority:** 47 U.S.C. 154, 254(k); secs. 403(b)(2)(B), (c), Public Law 104-104, 110 Stat. 56. Interpret or apply 47 U.S.C. 201, 218, 225, 226, 228, and 254(k) unless otherwise noted.

**SUBPART F – TELECOMMUNICATIONS RELAY SERVICES AND RELATED CUSTOMER PREMISES EQUIPMENT FOR PERSONS WITH DISABILITIES**

2. The authority citation for subpart F continues to read as follows:

**Authority:** 47 U.S.C. 151-154; 225, 255, and 303(r).

3. Revise § 64.601 to add the following new paragraph (27) and to re-number the subsequent paragraphs accordingly:

(27) *Visual privacy screen.* A screen or any other feature that is designed to prevent one party or both parties on the video leg of a VRS call from viewing the other party during a call.

4. Revise § 64.604(a) of subpart F to add paragraphs (6)(7) to read as follows:

**§ 64.604 Mandatory Minimum standards.**

\*\*\*\*\*

(a)\*\*\*

(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.

5. Revise § 64.604(b)(4) of subpart F to add paragraph (iii) to read as follows:

(b) \*\*\*

(4) \* \* \*

(iii) A VRS CA may not relay calls from a location primarily used as his or her home.

5. Revise § 64.604(c)(5)(iii)(C) of subpart F to read as follows:

(c) \*\*\*

(5) \*\*\*

(iii) \*\*\*

**(C) Data Collection and Audits from TRS Providers.** (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. ~~The administrator and the Commission shall have the authority to examine, verify and audit data received from TRS providers as necessary to assure the accuracy and integrity of TRS Fund payments.~~

(2) *Call data required from all TRS providers.* In addition to the data requested by section 64.604(c)(5)(iii)(C)(1), TRS providers seeking compensation from the TRS Fund shall submit the following specific data associated with each TRS call for which compensation is sought: (1) the call record ID sequence; (2) CA ID number; (3) session start and end times noted at a minimum to the nearest second; (4) conversation start and end times noted at a minimum to the nearest second; (5) incoming telephone number and IP address (if call originates with an IP-based device) at the time of the call; (6) 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; (7) total conversation minutes; (8) total session minutes; (9) the call center (by assigned center ID number) that handled the call; and (10) the URL address through which the call is handled.

(3) *Additional call data required from Internet-based Relay Providers.* In addition to the data required by section 64.604(c)(5)(iii)(C)(2), 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 sections 64.604(c)(5)(iii)(C)(2) and (3) shall (i) employ an automated record keeping system to capture such data required pursuant to section 64.604(c)(5)(iii)(C)(2) 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 (1) 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 (2) 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.

(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.

6. Revise § 64.604(c)(5)(iii) of subpart F to add paragraphs L, M, and N, to read as follows:

(L) *Procedures for the suspension/withholding of payment.*

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

(2) If the Fund administrator in consultation with the Commission, or the Commission on its own accord, determines that payments for certain minutes should be withheld, a TRS provider will be notified within two months from the date for the request for compensation was filed, as to why its claim for compensation has been withheld in whole or in part. TRS providers then will be given two additional months from the date of notification to provide additional justification for payment of such minutes of use. Such justification should be sufficiently detailed to provide the Fund administrator and the Commission the information needed to evaluate whether the minutes of use in dispute are compensable. If a TRS provider does not respond, or does not respond with sufficiently detailed information within two months after notification that payment for minutes of use is being withheld, payment for the minutes of use in dispute will be denied permanently.

(3) If, the VRS 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.

(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 subsection (c)(5)(iii)(F), may hold itself out to the general public as providing VRS.

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

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

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

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

(2) *Call center reports.* VRS providers shall file a written report with the Commission and the TRS Fund administrator, on April 1 and October 1 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: (a) the complete street address of the center; (b) the number of individual CAs and CA managers; and (c) the name and contact information (phone number and email 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.

7. Revise § 64.606(g) of subpart F to read as follows:

(g) VRS and IP Relay providers certified under this section shall file with the Commission, on an annual basis, a report providing evidence that they are in compliance with § 64.604. VRS providers shall include within these annual submissions a description of all agreements in connection with marketing and outreach activities, including those involving sponsorship, financial endorsements, awards, and gifts made by the provider to any individual or entity.

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