

TRS Fund.¹⁶³ In adopting this rule on a permanent basis, the Commission found that the interim rule had not been “burdensome for providers,” and further explained that “[r]equiring a signed statement sworn to be true under penalty of perjury is a vehicle long and regularly used in a myriad of legal contexts to guarantee the veracity of the declarations, as well as to provide a means for civil enforcement and criminal prosecution” to hold high level officials accountable for the actions and submissions of their companies.¹⁶⁴ In addition, any applicant for, or holder of, any Commission authorization already is required to ensure that its statements to the Commission are truthful, accurate, and complete under the Commission’s rules.¹⁶⁵

64. Consistent with these existing requirements, we conclude that interim rules requiring certification by a senior executive, under penalty of perjury, to the truthfulness, accuracy, and completeness of certification applications and annual compliance filings are a necessary and “critical component of our efforts to curtail fraud and abuse.”¹⁶⁶ In particular, these interim rules will help to ensure that the Commission has true and complete information, thereby ensuring that only qualified providers are eligible for compensation from the Fund.¹⁶⁷

65. Section 553 of the Administrative Procedure Act requires that agencies provide notice of and an opportunity for public comment on their proposed rules except, *inter alia*, “when the agency for good cause finds (and incorporates the finding and a brief statement of reasons therefor in the rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.”¹⁶⁸ Agencies, including the Commission, have been afforded “substantial deference” when imposing interim regulations with or without prior notice and comment, particularly where such regulations have been shown to be necessary to prevent irreparable harm and the agency is seeking comment on the matter in a rulemaking proceeding.¹⁶⁹

66. In this case, we find good cause to adopt the following interim rules:

The chief executive officer (CEO), chief financial officer (CFO), or other senior executive of an applicant for Internet-based TRS certification under this section with first hand knowledge of the accuracy and completeness of the information provided, when submitting an application for certification under paragraph (a)(2) of this section, must certify as follows: I swear under penalty of perjury that I am __ (name and title), _an

¹⁶³ See 2010 VRS Declaratory Ruling, Order, and NPRM, 25 FCC Rcd at 6018-20, ¶¶ 11-16; 6038, App. B.

¹⁶⁴ VRS Practices R&O, 26 FCC Rcd at 5586, ¶ 90 (citing 47 C.F.R. § 1.16).

¹⁶⁵ See 47 C.F.R. § 1.17.

¹⁶⁶ See VRS Practices R&O, 26 FCC Rcd at 5586, ¶ 90.

¹⁶⁷ We note that the Commission’s rules require similar certifications in other application and report contexts. See, e.g., 47 C.F.R. § 1.2105 (requiring applicants for eligibility to bid in Commission auctions to make various certifications under penalty of perjury, including, for instance, identifying all parties with whom the applicant has entered into joint ventures or other arrangements of any kind relating to the licenses being auctioned); FCC Form 499-A (Telecommunications Reporting Worksheet, upon which carrier and interconnected voice over Internet protocol provider contributions to TRS, Universal Service, and other Funds are based, must be supported by certification under penalty of perjury as to truthfulness and completeness).

¹⁶⁸ 5 U.S.C. § 553(b)(3)(B).

¹⁶⁹ See, e.g., *Rural Cellular Ass’n v. FCC*, 588 F.3d 1095, 1105-06, para. 10 (2009) (acknowledging that “the FCC should be given ‘substantial deference’ when acting to impose interim regulations,” and that courts “have deferred to the Commission’s decisions to enact interim rules based on its predictive judgment that such rules were necessary to preserve universal service”) (citations omitted).

officer of the above-named applicant, and that I have examined the foregoing submissions, and that all information required under the Commission's rules and orders has been provided and all statements of fact, as well as all documentation contained in this submission, are true, accurate, and complete.¹⁷⁰

The chief executive officer (CEO), chief financial officer (CFO), or other senior executive of an Internet-based TRS provider under this section with first hand knowledge of the accuracy and completeness of the information provided, when submitting an annual report under paragraph (g) of this section, must, with each such submission, certify as follows: I swear under penalty of perjury that I am __ (name and title), _an officer of the above-named reporting entity, and that I have examined the foregoing submissions, and that all information required under the Commission's rules and orders has been provided and all statements of fact, as well as all documentation contained in this submission, are true, accurate, and complete.¹⁷¹

67. Specifically, we find good cause to adopt these interim rules without notice and comment, pursuant to 5 U.S.C. § 553(b)(3)(B), in light of the impending deadlines for initial and re-certification applications. As discussed above in the *Second Report and Order*, the current stay of the Commission's rule which prohibits revenue sharing arrangements expires on October 1, 2011, and iTRS providers who are not eligible to receive compensation directly from the Fund but are currently providing service under a revenue sharing arrangement will no longer be able to provide service through such arrangements.¹⁷² Similarly, providers currently eligible for compensation from the Fund via a means other than Commission certification must apply for certification within 30 days after the rules adopted in the *Second Report and Order* become effective,¹⁷³ and providers with Commission certifications expiring November 4, 2011 must apply for recertification after the rules become effective but at least 30 days prior to their expirations provided that the rules are effective by that date,¹⁷⁴ or risk having to shut down their operations and being denied compensation from the Fund. We therefore find it necessary to adopt these interim rules without further delay. Moreover, we find that interim rules are consistent with the public interest, given the importance of ensuring that only qualified providers are certified to become eligible for compensation from the Fund. Finally, we conclude that notice and comment, in this instance, are impracticable given the impending certification application deadlines. In a forthcoming Notice of Proposed Rulemaking, we will seek additional comment on whether to make this rule permanent.

V. PROCEDURAL MATTERS

68. *Final Paperwork Reduction Act of 1995 Analysis.* This *Second Report and Order* contains modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104-13. It will be submitted to the Office of Management and Budget (OMB) for review under Section 3507(d) of the PRA. OMB, the general public, and other Federal agencies are invited to comment on the modified information collection requirements contained in this proceeding. In addition, we note that pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-

¹⁷⁰ See App. C, *infra* (adding new interim 47 C.F.R. § 64.606(a)(2)(v)).

¹⁷¹ See *id.* (adding new interim 47 C.F.R. § 64.606(g)(2)).

¹⁷² See para. 61, *supra* (urging such providers to file their certification applications on, or as soon as possible after, the day the rules adopted in the *Second Report and Order* become effective if they are interested in seeking a seamless transition to certified iTRS provider).

¹⁷³ See para. 59, *supra*.

¹⁷⁴ See para. 60, *supra*.

198,¹⁷⁵ we previously sought specific comment on how the Commission might further reduce the information collection burden for small business concerns with fewer than 25 employees.

69. In this present document, we have assessed the effects of imposing various requirements on iTRS providers to obtain certification from the Commission in order to be eligible for compensation from the TRS Fund. We have determined that any additional data filing requirements imposed by this *Second Report & Order* on iTRS providers are reasonable and necessary in order to ensure compliance with our rules. We have taken steps to address the concerns of commenters stating that some of our proposed rules were overly burdensome. For example, we initially proposed to require that a provider file a deed or lease for every service center operated. We have modified this requirement in our final rule to allow for providers with more than five centers to submit a sampling of deeds and leases. In addition, we limited our proposed requirement for providers to submit documentation of all financial arrangements to just those arrangements valued at \$500,000 or more. We have also modified the proposed requirement that providers submit copies of all subcontracting agreements, to require the submission of only those agreements related to the provision of iTRS service. The Commission concludes that it has taken steps to further reduce the burdens on affected entities to apply for certification to receive compensation from the TRS Fund for the provision of iTRS services, and that the remaining filing requirements are not overly burdensome.

70. *Congressional Review Act.* The Commission will send a copy of this *Second Report & Order* in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act. See 5 U.S.C. § 801(a)(1)(A).

71. *Final Regulatory Flexibility Certification.* With respect to this *Second Report & Order*, a Final Regulatory Flexibility Certification ("FRFC") is contained in the Appendix. As required by Section 603 of the Regulatory Flexibility Act, the Commission has prepared an FRFC of the expected impact on small entities of the requirements adopted in this *Second Report & Order*. The Commission will send a copy of the *Order*, including the FRFC, to the Chief Counsel for Advocacy of the Small Business Administration.

72. *Final Regulatory Flexibility Analysis.* The interim rules adopted in this *Order* are being adopted without notice and comment, and therefore are not subject to Regulatory Flexibility Act analysis under 5 U.S.C. § 604(a). We will perform appropriate regulatory flexibility analyses for any permanent rules we adopt at a later date.

73. To request materials in accessible formats (such as Braille, large print, electronic files, or audio format), send an e-mail to fcc504@fcc.gov or call the Consumer and Governmental Affairs Bureau at (202) 418-0530 (voice) or (202) 418-0432 (TTY). This *Second Report & Order* can also be downloaded in Word and Portable Document Formats (PDF) at <http://www.fcc.gov/cgb/dro/trs.html>.

VI. ORDERING CLAUSES

74. Accordingly, IT IS ORDERED that, pursuant to Sections 1, 4(i), (j) and (o), 225, and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), (j) and (o), 225, and 303(r), and Section 553(b)(3)(B) of the Administrative Procedure Act, 5 U.S.C. § 553(b)(3)(B), this *Second Report and Order and Order* IS ADOPTED.

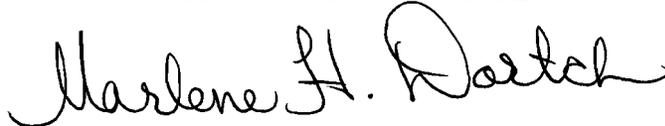
75. IT IS FURTHER ORDERED that, pursuant to Section 1.427(a) of the Commission's rules, 47 C.F.R. § 1.427(a), this *Second Report and Order and Order* and the rules adopted herein shall be

¹⁷⁵ See 44 U.S.C. § 3506(c)(4).

effective 30 days after date of publication of a summary in the *Federal Register*, 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.

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

FEDERAL COMMUNICATIONS COMMISSION

A handwritten signature in black ink that reads "Marlene H. Dortch". The signature is written in a cursive style with a large, looped initial "M".

Marlene H. Dortch
Secretary

APPENDIX A

List of Commenters

Commenters:

SignOn: A Sign Language Interpreting Resource, Inc.	June 1, 2001
American Network, Inc.	June 1, 2001
Purple Communications, Inc.	June 1, 2011
AT&T Services, Inc.	June 1, 2011
CSDVRS, LLC	June 1, 2011
Sorenson Communications, Inc.	June 1, 2011
Telecommunications for the Deaf and Hard of Hearing, Inc., National Association of the Deaf, Association of Late-Deafened Adults, Inc., and American Association of the Deaf-Blind (Consumer Groups)	June 1, 2011
ASL Holdings, LLC	June 1, 2011
Hamilton Relay, Inc.	June 1, 2011
Snap Telecommunications, Inc.	June 1, 2011
Sprint Nextel Corporation	June 1, 2011
Todd Elliott	May 3, 2011
Rene G. Pellerin	May 2, 2011

Reply Commenters:

Gallaudet University	June 16, 2011
Telecommunications for the Deaf and Hard of Hearing, Inc., National Association of the Deaf, Association of Late-Deafened Adults, Inc., and American Association of the Deaf-Blind (Consumer Groups)	June 16, 2011
AT&T Services, Inc.	June 16, 2011
Hamilton Relay, Inc.	June 16, 2011
MaKa Communications Group, Inc.	June 16, 2011

Purple Communications, Inc.

June 16, 2011

Sorenson Communications, Inc.

June 16, 2011

Todd Elliott

June 14, 2011

APPENDIX B

Final Regulatory Flexibility Certification

Docket No. 10-51

1. The Regulatory Flexibility Act of 1980, as amended (RFA),¹ 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."² The RFA generally defines "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction."³ In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act.⁴ 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).⁵

2. In this *Second Report and Order*, the Commission amends its process for certifying Internet-based Telecommunications Relay Service (iTRS) providers as eligible for payment from the Interstate TRS Fund (Fund) for their provision of iTRS, as proposed in the Commission's April 2011 Further Notice of Proposed Rulemaking in CG Docket No. 10-51.⁶ In the *Certification FNPRM*, the

¹ 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).

² 5 U.S.C. § 605(b).

³ 5 U.S.C. § 601(6).

⁴ 5 U.S.C. § 601(3) (incorporating by reference the definition of "small business concern" in 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."

⁵ Small Business Act, 15 U.S.C. § 632.

⁶ *Structure and Practices of the Video Relay Service Program*, Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 5545 (2011) (*VRS Practices R&O and Certification FNPRM*; or *VRS Practices R&O* when just referring to its Report and Order portion, and *Certification FNPRM* when just referring to its FNPRM portion). Notwithstanding prior definitions of "iTRS," see, e.g., *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; E911 Requirements for IP-Enabled Service Providers*, CG Docket No. 03-123, WC Docket No. 05-196, Order, 24 FCC Rcd 14342 (2009) (temporarily waiving a requirement regarding treatment of toll free numbers for VRS and Internet Protocol relay (IP Relay) services), for purposes of this *Second Report and Order*, we use the term "iTRS" to reflect the definition of "Internet-based TRS" in our rules, essentially meaning all forms of TRS in which an individual with a hearing or speech disability uses an Internet connection with the TRS communications assistant (CA). Cf. 47 C.F.R. § 64.601(11) (defining of "Internet-based TRS"). At present, this includes VRS, Internet Protocol relay (IP Relay), the Internet-enabled form of captioned telephone relay service (IP CTS), and any combination of these services or use of these services with other forms of relay, such as voice carryover (allowing a user to speak directly to the other party while having the conversation relayed back) or hearing carryover (allowing a user to hear the other party directly while using relay to convey messages). We note that in the future, "iTRS" may also include other forms of relay services that utilize an Internet connection. Though this *Second Report and Order* is issued in a docket largely focusing on VRS, the policies and rules we adopt here apply to providers of all forms of iTRS, unless specified otherwise.

Commission sought comment on ways to revise the current certification process to ensure that iTRS providers receiving certification are qualified to provide iTRS in compliance with the Commission's rules, and to eliminate waste, fraud and abuse through improved oversight of such providers.

3. Specifically, in this *Second Report and Order*, the Commission requires all iTRS providers to obtain certification from the Commission in order to be eligible to receive compensation from the Fund; requires all VRS applicants for Commission certification to lease, license or own, as well as operate, essential facilities associated with TRS call centers and to employ interpreters to staff those centers at the date of the application; and requires each iTRS applicant for certification to submit specific types of documentary evidence of its ability to comply with all of the Commission's rules, including those adopted in the *VRS Practices R&O*. In addition, the Commission adopts rules governing on-site visits by Commission staff to the premises of applicants for certification, as well as to iTRS providers' premises after they are certified. The Commission also revises its rules governing annual compliance reports filed by certified providers, and substantive TRS program changes that must be reported to the Commission. Finally, the Commission requires prior approval for planned cessations of VRS service of 30 minutes or longer.

4. The Commission has assessed the effects of imposing various requirements on iTRS providers to obtain certification from the Commission in order to be eligible for compensation from the TRS Fund. The Commission has determined that any additional data filing requirements imposed by this *Second Report and Order* on iTRS providers are reasonable and necessary in order to ensure compliance with the Commission's rules, particularly in light of the widespread fraud currently being investigated in the VRS industry.⁷ VRS is a form of iTRS. The Commission has taken steps to address the concerns of commenters stating that some of the Commission's proposed rules were overly burdensome. For example, the Commission initially proposed to require that a provider file a deed or lease for every service center operated. The Commission has modified this requirement in its final rule to allow for providers with more than five centers to submit a representative sampling of deeds and leases. In addition, the Commission has declined to adopt its proposed requirement for providers to submit documentation of all financing arrangements pertaining to the provision of iTRS. The Commission has also declined to adopt the proposed requirement that providers submit copies of all subcontracting agreements for services not directly essential for the provision of iTRS. The Commission concludes that it has taken steps to further reduce the burdens on affected entities to apply for certification to receive compensation from the Fund for the provision of iTRS, and that the remaining filing requirements are not overly economically burdensome.

5. In order to be compensated, TRS providers are already 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 *Second Report and Order* are compensable from the Fund. Thus, because certified providers will recoup the costs of compliance within a reasonable period, the Commission asserts that such providers will not be detrimentally burdened. This applies to currently eligible iTRS providers, as well as potential future applicants to provide iTRS.

6. Applications to become a certified iTRS provider are voluntarily submitted. Therefore, the Commission is not imposing an expense on a potential applicant that it cannot avoid by either declining to apply for certification, or by complying with the Commission's rules. If a small entity, as defined by the SBA, makes the latter business decision and applies for certification by showing that it can comply with all of the Commission's rules, its expenses will be indirectly reimbursed from the Fund once it becomes a certified provider. Therefore, for the small business entities receiving certification there is

⁷ See, e.g., *Second Report and Order* at para. 23, *supra*.

no adverse economic impact, and the question of whether there is a negative impact on a significant number of small entities is moot.

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

8. The Commission will send a copy of the *Second Report and Order*, including a copy of this Final Regulatory Flexibility Certification, in a report to Congress pursuant to the Congressional Review Act.⁸ In addition, the *Second 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.⁹

⁸ See 5 U.S.C. § 801(a)(1)(A).

⁹ See 5 U.S.C. § 605(b).

APPENDIX C**Interim Rules**

Part 64 of Title 47 of the Code of Federal Regulations is amended 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), Pub. L. 104-104, 110 Stat. 56. Interpret or apply 47 U.S.C. 201, 218, 225, 226, 228, 254 (k), and 620, 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, 303(r), and 620.

3. Section 64.606 is amended by revising paragraph (a)(2) and paragraph (g) as follows:

(a)***

(2)***

(v) The chief executive officer (CEO), chief financial officer (CFO), or other senior executive of an applicant for Internet-based TRS certification under this section with first hand knowledge of the accuracy and completeness of the information provided, when submitting an application for certification under paragraph (a)(2) of this section, must certify as follows: I swear under penalty of perjury that I am __ (name and title), _an officer of the above-named applicant, and that I have examined the foregoing submissions, and that all information required under the Commission's rules and orders has been provided and all statements of fact, as well as all documentation contained in this submission, are true, accurate, and complete.

(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.

(1) Such reports must update the information required in paragraph (a)(2) of this section and include updated documentation and a summary of the updates, or certify that there are no changes to the information and documentation submitted with the application for certification, application for renewal of certification, or the most recent annual report, as applicable.

(2) The chief executive officer (CEO), chief financial officer (CFO), or other senior executive of an Internet-based TRS provider under this section with first hand knowledge of the accuracy and completeness of the information provided, when submitting an annual report under paragraph (g) of this section, must, with each such submission, certify as follows: I swear under penalty of perjury that I am ___(name and title), _an officer of the above-named reporting entity, and that I have examined the foregoing submissions, and that all information required under the Commission's rules and orders has been provided and all statements of fact, as well as all documentation contained in this submission, are true, accurate, and complete.

APPENDIX D

Final Rules

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR 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, 254 (k), and 620, 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, 303(r), and 620.

3. Section 64.604 is amended by adding new paragraph (b)(4)(iv) and by revising paragraph (c)(5)(iii)(F) to read as follows:

§64.604 Mandatory minimum standards.

(b)***

(4)***

(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.

(c)***

(5)***

(iii)***

(F) Eligibility for Payment from the TRS Fund.

(J) 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.

* * * * *

4. Section 64.606 is amended by revising the section heading and paragraph (a)(2), by adding new paragraph (a)(3), by revising paragraphs (b)(2), (c)(2), (e)(2), (f)(2) and (g), and by adding new paragraph (h) to read as follows:

§ 64.606 Internet-based TRS provider and TRS program 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 and 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, and in the case of VRS, such documentary and other evidence shall demonstrate that the applicant leases, licenses or has acquired its own facilities and operates such facilities associated with TRS call centers and employs communications assistants, 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) In the case of VRS applicants or providers,

(1) Operating five or fewer call centers within the United States, a copy of each deed or lease for each call center operated by the applicant within the United States;

(2) Operating more than five call centers within the United States, a copy of each deed or lease for a representative sampling (taking into account size (by number of communications assistants) and location) of five call centers operated by the applicant within the United States, together with a list of all other call centers that they operate that includes the information required under §64.604(c)(5)(iii)(N)(2);

(3) Operating call centers outside of the United States, a copy of each deed or lease for each call center operated by the applicant outside of the United States;

(4) A description of the technology and equipment used to support their 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 -- and for each core call center function, a statement

whether such technology and equipment is owned, leased or licensed (and from whom if leased or licensed); and

(5) Proofs of purchase, leases or license agreements for all technology and equipment used to support their call center functions, including a complete copy of any lease or license agreement for automatic call distribution.

(B) For all applicants, 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, members of its board of directors, general partners (in the case of a partnership), and managing members (in the case of a limited liability company);

(C) For all applicants, a list of the number of applicant's full-time and part-time employees involved in TRS operations, including and divided by the following positions: executives and officers; video phone installers (in the case of VRS), communications assistants, and persons involved in marketing and sponsorship activities;

(D) For all applicants, copies of employment agreements for all of the provider's employees directly involved in TRS operations, executives, and communications assistants, and a list of names of employees directly involved in TRS operations, need not be submitted with the application, but must be retained by the applicant for five years from the date of application, and submitted to the Commission upon request; and

(E) For all applicants, a list of all sponsorship arrangements relating to Internet-based TRS, including any associated written agreements;

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

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

(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.

(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 applying for renewal of its certification must file documentation with the Commission containing the information described in paragraph (a)(2) of this section at least 90 days prior to expiration of its certification.

* * * * *

(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.

(f)***

(2) VRS and IP Relay providers certified under this section must notify the Commission of substantive changes in their TRS programs, services, and features within 60 days of when such changes occur, and must certify that the interstate TRS provider continues to meet federal minimum standards after implementing the substantive change. Substantive changes shall include, but not be limited to:

(i) The use of new equipment or technologies to facilitate the manner in which relay services are provided;

(ii) Providing services from a new facility not previously identified to the Commission or the Fund administrator; and

(iii) Discontinuation of service from any facility.

(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 update the information required in paragraph (a)(2) of this section and include updated documentation and a summary of the updates, or certify that there are no changes to the information and documentation submitted with the application for certification, application for renewal of certification, or the most recent annual report, as applicable.

(h) Unauthorized service interruptions.

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

(2) A VRS provider seeking to voluntarily interrupt service for a period of 30 minutes or more in duration 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:

(i) Its justification for such interruption;

(ii) Its plan to notify customers about the impending interruption; and

(iii) 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 at least 35 days prior to 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 an unforeseen service interruption due to circumstances beyond an Internet-based TRS service provider's control, or in the event of a VRS provider's voluntary service interruption of less than 30 minutes in duration, the provider must submit a written notification to CGB within two business days of the commencement of the service interruption, with an explanation of when and how the provider has restored service or the provider's plan to do so imminently. In the event the provider has not restored service at the time such report is filed, the provider must submit a second report within two business days of the restoration of service with an explanation of when and how the provider has restored service. The provider also must provide notification of service outages covered by this paragraph to consumers on an accessible website, and that notification of service status must be updated in a timely manner.

(4) A VRS provider that fails to obtain prior Commission authorization for a voluntary service interruption or fails to provide written notification after a voluntary service interruption of less than 30 minutes in duration, or an Internet-based TRS provider that fails to provide written notification after the commencement of an unforeseen service interruption due to circumstances beyond the provider's control 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.