

§ 64.623

Platform, including for point-to-point calls. No VRS provider shall be compensated for minutes of use involving their VRS access technologies or video communication service platforms that are not interoperable with the VRS Access Technology Reference Platform.

(4) All VRS providers must ensure that their VRS access technologies and their video communication service platforms are interoperable with the Neutral Video Communication Service Platform, including for point-to-point calls. No VRS provider shall be compensated for minutes of use involving their VRS access technologies or video communication service platforms that are not interoperable with the Neutral Video Communication Service Platform.

(b) [Reserved]

[78 FR 40609, July 5, 2013]

§ 64.623 Administrator requirements.

(a) For the purposes of this section, the term “Administrator” shall refer to each of the TRS Numbering administrator, the administrator of the TRS User Registration Database, the administrator of the VRS Access Technology Reference Platform, and the provider of the Neutral Video Communication Service Platform. A single entity may serve in one or more of these capacities.

(b) *Neutrality.* (1) The Administrator shall be a non-governmental entity that is impartial and not an affiliate of any Internet-based TRS provider.

(2) Neither the Administrator nor any affiliate thereof shall issue a majority of its debt to, nor derive a majority of its revenues from, any Internet-based TRS provider.

(3) Neither the TRS Numbering administrator nor any affiliate thereof shall be unduly influenced, as determined by the North American Numbering Council, by parties with a vested interest in the outcome of TRS-related numbering administration and activities.

(4) None of the administrator of the TRS User Registration Database, the administrator of the VRS Access Technology Reference Platform, or the provider of the Neutral Video Communication Service Platform, nor any affiliates thereof, shall be unduly influ-

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enced, as determined by the Commission, by parties with a vested interest in the outcome of TRS-related activities.

(5) Any subcontractor that performs any function of any Administrator shall also meet the neutrality criteria applicable to such Administrator.

(c) *Terms of administration.* The Administrator shall administer pursuant to the terms of its contract.

(d) *Compensation.* The TRS Fund, as defined by § 64.604(a)(5)(iii) of this subpart, may be used to compensate the Administrator for the reasonable costs of administration pursuant to the terms of its contract.

[78 FR 40609, July 5, 2013]

§ 64.630 Applicability of change of default TRS provider rules.

Sections 64.630 through 64.636 of this part governing changes in default TRS providers shall apply to any provider of IP Relay or VRS eligible to receive payments from the TRS Fund.

[78 FR 40609, July 5, 2013]

§ 64.631 Verification of orders for change of default TRS providers.

(a) No iTRS provider, either directly or through its numbering partner, shall initiate or implement the process to change an iTRS user's selection of a default provider prior to obtaining:

(1) Authorization from the iTRS user, and

(2) Verification of that authorization in accordance with the procedures prescribed in this section. The new default provider shall maintain and preserve without alteration or modification all records of verification of the iTRS user's authorization for a minimum period of five years after obtaining such verification and shall make such records available to the Commission upon request. In any case where the iTRS provider is unable, unwilling or otherwise fails to make such records available to the Commission upon request, it shall be presumed that the iTRS provider has failed to comply with its verification obligations under the rules.

(b) Where an iTRS provider is offering more than one type of TRS, that

provider must obtain separate authorization from the iTRS user for each service, although the authorizations may be obtained within the same transaction. Each authorization must be verified separately from any other authorizations obtained in the same transaction. Each authorization must be verified in accordance with the verification procedures prescribed in this part.

(c) A new iTRS provider shall not, either directly or through its numbering partner, initiate or implement the process to change a default provider unless and until the order has been verified in accordance with one of the following procedures:

(1) The iTRS provider has obtained the iTRS user's written or electronically signed authorization in a form that meets the requirements of § 64.632 of this part; or

(2) An independent third party meeting the qualifications in this subsection has obtained, in accordance with the procedures set forth in paragraphs (c)(2)(i) through (iv) of this section, the iTRS user's authorization to implement the default provider change order that confirms and includes appropriate verification of registration data with the TRS User Registration Database as defined in § 64.601(a) of this part. The independent third party must not be owned, managed, controlled, or directed by the iTRS provider or the iTRS provider's marketing agent; must not have any financial incentive to confirm default provider change orders for the iTRS provider or the iTRS provider's marketing agent; and must operate in a location physically separate from the iTRS provider or the iTRS provider's marketing agent.

(i) Methods of third party verification. Third party verification systems and three-way conference calls may be used for verification purposes so long as the requirements of paragraphs (c)(3)(ii) through (iv) of this section are satisfied. It shall be a per se violation of these rules if at any time the iTRS provider, an iTRS provider's marketing representative, or any other person misleads the iTRS user with respect to the authorization that the iTRS user is giving, the purpose of that authorization, the purpose of the

verification, the verification process, or the identity of the person who is placing the call as well as on whose behalf the call is being placed, if applicable.

(ii) Provider initiation of third party verification. An iTRS provider or an iTRS provider's marketing representative initiating a three-way conference call must drop off the call once the three-way connection has been established.

(iii) Requirements for content and format of third party verification. Any description of the default provider change transaction by a third party verifier must not be misleading. At the start of the third party verification process, the third party verifier shall identify the new default provider to the iTRS user and shall confirm that the iTRS user understands that the iTRS user is changing default providers and will no longer receive service from the iTRS user's current iTRS provider. In addition, all third party verification methods shall elicit, at a minimum: The date of the verification; the identity of the iTRS user; confirmation that the person on the call is the iTRS user; confirmation that the iTRS user wants to make the default provider change; confirmation that the iTRS user understands that a default provider change, not an upgrade to existing service, or any other misleading description of the transaction, is being authorized; confirmation that the iTRS user understands what the change in default provider means, including that the iTRS user may need to return any video equipment belonging to the original default provider; the name of the new default provider affected by the change; the telephone number of record to be transferred to the new default provider; and the type of TRS used with the telephone number being transferred. If the iTRS user has additional questions for the iTRS provider's marketing representative during the verification process, the verifier shall instruct the iTRS user that they are terminating the verification process, that the iTRS user may contact the marketing representative with additional questions, and that the iTRS user's default provider will not be changed. The marketing representative

may again initiate the verification process following the procedures set out in this section after the iTRS user contacts the marketing representative with any additional questions. Third party verifiers may not market the iTRS provider's services by providing additional information.

(iv) Other requirements for third party verification. All third party verifications shall be conducted in the same language and format that were used in the underlying marketing transaction and shall be recorded in their entirety. In the case of VRS, this means that if the marketing process was conducted in American Sign Language (ASL), then the third party verification shall be conducted in ASL. In the event that the underlying marketing transaction was conducted via text over IP Relay, such text format shall be used for the third party verification. The third party verifier shall inform both the iTRS user and, where applicable, the communications assistant relaying the call, that the call is being recorded. The third party verifier shall provide the new default provider an audio, video, or IP Relay transcript of the verification of the iTRS user authorization. New default providers shall maintain and preserve audio and video records of verification of iTRS user authorization in accordance with the procedures set forth in paragraph (a)(2) of this section.

(d) A new default provider shall implement an iTRS user's default provider change order within 60 days of obtaining either:

(1) A written or electronically signed letter of agency in accordance with § 64.632 of this part or

(2) Third party verification of the iTRS user's default provider change order in accordance with paragraph (c)(2) of this section. If not implemented within 60 days as required herein, such default provider change order shall be deemed void.

(e) At any time during the process of changing an iTRS user's default provider, and until such process is completed, which is when the new default provider assumes the role of default provider, the original default provider shall not:

(1) Reduce the level or quality of iTRS service provided to such iTRS user, or

(2) Reduce the functionality of any VRS access technology provided by the iTRS provider to such iTRS user.

(f) An iTRS provider that is certified pursuant to § 64.606(a)(2) of this part may acquire, through a sale or transfer, either part or all of another iTRS provider's iTRS user base without obtaining each iTRS user's authorization and verification in accordance with paragraph (c) of this section, provided that the acquiring iTRS provider complies with the following streamlined procedures. An iTRS provider shall not use these streamlined procedures for any fraudulent purpose, including any attempt to avoid liability for violations under part 64 of the Commission rules.

(1) Not later than 30 days before the transfer of the affected iTRS users from the selling or transferring iTRS provider to the acquiring iTRS provider, the acquiring iTRS provider shall provide notice to each affected iTRS user of the information specified herein. The acquiring iTRS provider is required to fulfill the obligations set forth in the advance iTRS user notice. In the case of VRS, the notice shall be provided as a pre-recorded video message in American Sign Language sent to all affected iTRS users. In the case of IP Relay, the notice shall be provided as a pre-recorded text message sent to all affected iTRS users. The advance iTRS user notice shall be provided in a manner consistent with 47 U.S.C. 255, 617, 619 and the Commission's rules regarding accessibility to blind and visually-impaired consumers, §§ 6.3, 6.5, 14.20, and 14.21 of this chapter. The following information must be included in the advance iTRS user notice:

(i) The date on which the acquiring iTRS provider will become the iTRS user's new default provider;

(ii) The iTRS user's right to select a different default provider for the iTRS at issue, if an alternative iTRS provider is available;

(iii) Whether the acquiring iTRS provider will be responsible for handling any complaints filed, or otherwise raised, prior to or during the transfer

against the selling or transferring iTRS provider, and

(iv) The toll-free customer service telephone number of the acquiring iTRS provider.

(2) All iTRS users receiving the notice will be transferred to the acquiring iTRS provider, unless they have selected a different default provider before the transfer date.

[78 FR 40609, July 5, 2013]

EFFECTIVE DATE NOTE: At 78 FR 40609, July 5, 2013, § 64.631 was added. Paragraphs (a) through (d) and (f) contain information collection and recordkeeping requirements and will not become effective until approval has been given by the Office of Management and Budget.

§ 64.632 Letter of authorization form and content.

(a) An iTRS provider may use a written or electronically signed letter of authorization to obtain authorization of an iTRS user's request to change his or her default provider. A letter of authorization that does not conform with this section is invalid for purposes of this subpart.

(b) The letter of authorization shall be a separate document or located on a separate screen or Web page. The letter of authorization shall contain the following title "Letter of Authorization to Change my Default Provider" at the top of the page, screen, or Web page, as applicable, in clear and legible type.

(c) The letter of authorization shall contain only the authorizing language described in paragraph (d) of this section and be strictly limited to authorizing the new default provider to implement a default provider change order. The letter of authorization shall be signed and dated by the iTRS user requesting the default provider change.

(d) At a minimum, the letter of authorization must be printed with a type of sufficient size and readable type to be clearly legible and must contain clear and unambiguous language that confirms:

(1) The iTRS user's registered name and address and each telephone number to be covered by the default provider change order;

(2) The decision to change the default provider from the original default provider to the new default provider;

(3) That the iTRS user designates [insert the name of the new default provider] to act as the iTRS user's agent and authorizing the new default provider to implement the default provider change; and

(4) That the iTRS user understands that only one iTRS provider may be designated as the TRS user's default provider for any one telephone number.

(e) If any portion of a letter of authorization is translated into another language then all portions of the letter of authorization must be translated into that language. Every letter of authorization must be translated into the same language as any promotional materials, descriptions or instructions provided with the letter of authorization.

(f) Letters of authorization submitted with an electronically signed authorization must include the consumer disclosures required by Section 101(c) of the Electronic Signatures in Global and National Commerce Act.

[78 FR 40609, July 5, 2013]

§ 64.633 Procedures for resolution of unauthorized changes in default provider.

(a) *Notification of alleged unauthorized provider change.* Original default providers who are informed of an unauthorized default provider change by an iTRS user shall immediately notify the allegedly unauthorized provider and the Commission's Consumer and Governmental Affairs Bureau of the incident.

(b) *Referral of complaint.* Any iTRS provider that is informed by an iTRS user or original default provider of an unauthorized default provider change shall:

(1) Notify the Commission's Consumer and Governmental Affairs Bureau, and

(2) Shall inform that iTRS user of the iTRS user's right to file a complaint with the Commission's Consumer and Governmental Affairs Bureau. iTRS providers shall also inform the iTRS user that the iTRS user may contact and file a complaint with the alleged unauthorized default provider. An original default provider shall have the