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set industry-wide standards and generic requirements for telecommunications equipment or customer premises equipment. The statutory procedures allow outside parties to fund and participate in setting the organization's standards and require the organization and the parties to develop a process for resolving any technical disputes. In cases where all parties cannot agree to a mutually satisfactory dispute resolution process, section 273(d)(5) requires the Commission to prescribe a dispute resolution process.

§ 64.1701 Definitions.

For purposes of this subpart, the terms *accredited standards development organization*, *funding party*, *generic requirement*, and *industry-wide* have the same meaning as found in 47 U.S.C. 273.

§ 64.1702 Procedures.

If a non-accredited standards development organization (NASDO) and the funding parties are unable to agree unanimously on a dispute resolution process prior to publishing a text for comment pursuant to 47 U.S.C. 273(d)(4)(A)(v), a funding party may use the default dispute resolution process set forth in section 64.1703.

§ 64.1703 Dispute resolution default process.

(a) *Tri-Partite Panel.* Technical disputes governed by this section shall be resolved in accordance with the recommendation of a three-person panel, subject to a vote of the funding parties in accordance with paragraph (b) of this section. Persons who participated in the generic requirements or standards development process are eligible to serve on the panel. The panel shall be selected and operate as follows:

(1) Within two (2) days of the filing of a dispute with the NASDO invoking the dispute resolution default process, both the funding party seeking dispute resolution and the NASDO shall select a representative to sit on the panel;

(2) Within four (4) days of their selection, the two panelists shall select a neutral third panel member to create a tri-partite panel;

(3) The tri-partite panel shall, at a minimum, review the proposed text of the NASDO and any explanatory material provided to the funding parties by the NASDO, the comments and any alternative text provided by the funding party seeking dispute resolution, any relevant standards which have been established or which are under development by an accredited-standards development organization, and any comments submitted by other funding parties;

(4) Any party in interest submitting information to the panel for consideration (including the NASDO, the party seeking dispute resolution and the other funding parties) shall be asked by the panel whether there is knowledge of patents, the use of which may be essential to the standard or generic requirement being considered. The fact that the question was asked along with any affirmative responses shall be recorded, and considered, in the panel's recommendation; and

(5) The tri-partite panel shall, within fifteen (15) days after being established, decide by a majority vote, the issue or issues raised by the party seeking dispute resolution and produce a report of their decision to the funding parties. The tri-partite panel must adopt one of the five options listed below:

(i) The NASDO's proposal on the issue under consideration;

(ii) The position of the party seeking dispute resolution on the issue under consideration;

(iii) A standard developed by an accredited standards development organization that addresses the issue under consideration;

(iv) A finding that the issue is not ripe for decision due to insufficient technical evidence to support the soundness of any one proposal over any other proposal; or

(v) Any other resolution that is consistent with the standard described in section 64.1703(a)(6).

(6) The tri-partite panel must choose, from the five options outlined above, the option that they believe provides the most technically sound solution and base its recommendation upon the substantive evidence presented to the panel. The panel is not precluded from taking into account complexity of implementation and other practical considerations in deciding which option is