



PUBLIC NOTICE

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CONSUMER AND GOVERNMENTAL AFFAIRS BUREAU CLARIFIES THE TRANSFERABILITY OF TELECOMMUNICATIONS RELAY SERVICE (TRS) PROVIDER CERTIFICATION

CG Docket No. 03-123

The Consumer & Governmental Affairs Bureau has received requests for guidance concerning the transferability of Federal Communications Commission (Commission) certification of Internet-based TRS providers as eligible for compensation from the Interstate TRS Fund (Fund), pursuant to the provider certification rules contained in section 64.605 of the Commission's rules.¹ We clarify that such certification is not transferable. Therefore, in the event that an entity *not* certified pursuant to section 64.605 purchases, acquires, or merges with another TRS provider, the acquiring or surviving provider must be certified under section 64.605 (or otherwise eligible for compensation from the Fund) before it can receive payments from the Fund. On the other hand, if an entity that *is* certified pursuant to section 64.605 purchases, acquires, or merges with another TRS provider, the acquiring or surviving provider need only notify the Commission of the change in its TRS program and provision of service within 60 days pursuant to section 64.605(f)(2).²

In the *2005 Certification Order*, the Commission established a new federal certification process for common carriers seeking to offer Video Relay Service (VRS) and/or Internet Protocol (IP) Relay and receive compensation from the Fund.³ The certification of eligibility for compensation from the Fund is

¹ See 47 C.F.R. § 64.605. TRS, created by Title IV of the Americans with Disabilities Act of 1990 (ADA), enables an individual with a hearing or speech disability to access the nation's telephone system to communicate with voice telephone users. See generally 47 U.S.C. § 225; 47 C.F.R. § 64.601 *et seq.* (the TRS regulations). There are several forms of TRS, including three that are Internet-based: Video Relay Service (VRS), Internet Protocol (IP) Relay (IP Relay), and IP captioned telephone service (IP CTS). See generally *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, Report and Order, 23 FCC Rcd 5255, 5255-57, at paras. 1-2 (March 19, 2008).

² 47 C.F.R. § 64.605(f)(2) (requiring that certified providers "notify the Commission of substantive changes in their TRS programs, services, and features within 60 days of when such changes occur, and ... certify that the ... provider continues to meet federal minimum standards after implementing the substantive change").

³ *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket No. 03-123, Report and Order and Order on Reconsideration, 20 FCC Rcd 20577 (Dec. 12, 2005) (*2005 Certification Order*) (amending 47 C.F.R. § 64.605). Subsequently, the Commission also permitted IP CTS providers to be certified by the Commission under section 64.605. See *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; Internet-based Captioned*

based on a provider's showing that it will offer service in compliance with the Commission's rules.⁴ The certification rules also require certified providers to notify the Commission "of substantive changes in their TRS programs, services, and features within 60 days of when such changes occur, and ... [to] certify that the Interstate TRS provider continues to meet federal minimum standards after implementing the substantive change."⁵

Given the recent mergers and acquisitions of TRS providers, we clarify that if the acquiring entity is not already eligible to receive compensation from the Fund, it must be certified under section 64.605 (or otherwise become eligible for compensation from the Fund) *before* it can offer service for which it seeks payment from the Fund. Because the Commission certifies providers based on the attestations of their owners or their representatives, who are ultimately responsible for compliance with the Commission's rules, the certification of a provider does not automatically transfer to new owners.

We also clarify that for providers certified under section 64.605, the acquisition of another provider's service, or a merger or similar transaction, constitutes a "substantive change" under section 64.605(f)(2) and requires notice to the Commission within 60 days pursuant to section 64.605(f)(2). Under this rule, the acquiring or surviving company must notify the Commission of the changes to its program and provision of service that result from the acquisition and "must certify that the interstate TRS provider continues to meet federal minimum standards."⁶ To meet the latter requirement, the provider may either certify that the responses provided in its initial certification application upon which the Commission based certification remain accurate, or describe any changes and certify their compliance with the Commission's rules.

To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at (202) 418-0530 (voice), (202) 418-0432 (TTY). This *Public Notice* can also be downloaded in Word or Portable Document Format (PDF) at: <http://www.fcc.gov/cgb/dro/trs.html#orders>.

For further information, please contact Gregory Hlibok, Consumer & Governmental Affairs Bureau, Disability Rights Office, at (800) 311-4381 (voice), (202) 418-0431 (TTY), or e-mail at Gregory.Hlibok@fcc.gov.

Telephone Service, CG Docket No. 03-123, Declaratory Ruling, 22 FCC Rcd 379 (Jan. 11, 2007) (*IP CTS Declaratory Ruling*).

⁴ See *2005 Certification Order*, 20 FCC Rcd at 20588, para. 22; 47 C.F.R. § 64.605(a)(2); see generally 47 C.F.R. § 64.604 (setting forth the TRS mandatory minimum standards).

⁵ 47 C.F.R. § 64.605(f)(2); *2005 Certification Order*, 20 FCC Rcd at 20590, para. 25.

⁶ 47 C.F.R. § 64.605(f)(2).