

**§ 64.634**

occurred using such proof and any evidence supplied by the iTRS user or other iTRS providers. Failure by the allegedly unauthorized provider to respond or provide proof of verification will be presumed to be sufficient evidence of a violation.

[78 FR 40609, July 5, 2013]

**§ 64.634 Procedures where the Fund has not yet reimbursed the provider.**

(a) This section shall only apply after an iTRS user or iTRS provider has complained to or notified the Commission that an allegedly unauthorized change, as defined by § 64.601(a) of this part, has occurred, and the TRS Fund (Fund), as defined in § 64.604(c)(5)(iii) of this part, has not reimbursed the allegedly unauthorized default provider for service attributable to the iTRS user after the allegedly unauthorized change occurred.

(b) An allegedly unauthorized provider shall identify to the Fund administrator all minutes submitted by the allegedly unauthorized provider to the Fund for reimbursement that are attributable to the iTRS user after the allegedly unauthorized change of default provider, as defined by § 64.601(a) of this part, is alleged to have occurred.

(c) If the Commission determines that an unauthorized change, as defined by § 64.601(a) of this part, has occurred, the Commission shall direct the Fund administrator to not reimburse for any minutes attributable to the iTRS user after the unauthorized change occurred, and neither the authorized nor the unauthorized default provider may seek reimbursement from the fund for those charges. The remedies provided in this section are in addition to any other remedies available by law.

(d) If the Commission determines that the default provider change was authorized, the default provider may seek reimbursement from the Fund for minutes of service provided to the iTRS user.

[78 FR 40609, July 5, 2013]

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**§ 64.635 Procedures where the Fund has already reimbursed the provider.**

(a) The procedures in this section shall only apply after an iTRS user or iTRS provider has complained to or notified the Commission that an unauthorized change, as defined by § 64.601(a) of this part, has occurred, and the Fund has reimbursed the allegedly unauthorized default provider for minutes of service provided to the iTRS user.

(b) If the Commission determines that an unauthorized change, as defined by § 64.601(a) of this part, has occurred, it shall direct the unauthorized default provider to remit to the Fund an amount equal to 100% of all payments the unauthorized default provider received from the Fund for minutes attributable to the iTRS user after the unauthorized change occurred. The remedies provided in this section are in addition to any other remedies available by law.

[78 FR 40609, July 5, 2013]

**§ 64.636 Prohibition of default provider freezes.**

(a) A default provider freeze prevents a change in an iTRS user's default provider selection unless the iTRS user gives the provider from whom the freeze was requested his or her express consent.

(b) Default provider freezes shall be prohibited.

[78 FR 40609, July 5, 2013]

**Subpart G—Furnishing of Enhanced Services and Customer-Premises Equipment by Bell Operating Companies; Telephone Operator Services**

**§ 64.702 Furnishing of enhanced services and customer-premises equipment.**

(a) For the purpose of this subpart, the term *enhanced service* shall refer to services, offered over common carrier transmission facilities used in interstate communications, which employ computer processing applications that

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act on the format, content, code, protocol or similar aspects of the subscriber's transmitted information; provide the subscriber additional, different, or restructured information; or involve subscriber interaction with stored information. Enhanced services are not regulated under title II of the Act.

(b) Bell Operating Companies common carriers subject, in whole or in part, to the Communications Act may directly provide enhanced services and customer-premises equipment; provided, however, that the Commission may prohibit any such common carrier from engaging directly or indirectly in furnishing enhanced services or customer-premises equipment to others except as provided for in paragraph (c) of this section, or as otherwise authorized by the Commission.

(c) A Bell Operating Company common carrier prohibited by the Commission pursuant to paragraph (b) of this section from engaging in the furnishing of enhanced services or customer-premises equipment may, subject to other provisions of law, have a controlling or lesser interest in, or be under common control with, a separate corporate entity that furnishes enhanced services or customer-premises equipment to others provided the following conditions are met:

(1) Each such separate corporation shall obtain all transmission facilities necessary for the provision of enhanced services pursuant to tariff, and may not own any network or local distribution transmission facilities or equipment.

(2) Each such separate corporation shall operate independently in the furnishing of enhanced services and customer-premises equipment. It shall maintain its own books of account, have separate officers, utilize separate operating, marketing, installation, and maintenance personnel, and utilize separate computer facilities in the provision of enhanced services.

(3) Each such separate corporation which provides customer-premises equipment or enhanced services shall deal with any affiliated manufacturing entity only on an arm's length basis.

(4) Any research or development performed on a joint or separate basis for

the subsidiary must be done on a compensatory basis. Except for generic software within equipment, manufactured by an affiliate, that is sold "off the shelf" to any interested purchaser, the separate corporation must develop its own software, or contract with non-affiliated vendors.

(5) All transactions between the separate corporation and the carrier or its affiliates which involve the transfer, either direct or by accounting or other record entries, of money, personnel, resources, other assets or anything of value, shall be reduced to writing. A copy of any contract, agreement, or other arrangement entered into between such entities shall be filed with the Commission within 30 days after the contract, agreement, or other arrangement is made. This provision shall not apply to any transaction governed by the provision of an effective state or federal tariff.

(d) A carrier subject to the proscription set forth in paragraph (c) of this section:

(1) Shall not engage in the sale or promotion of enhanced services or customer-premises equipment, on behalf of the separate corporation, or sell, lease or otherwise make available to the separate corporation any capacity or computer system component on its computer system or systems which are used in any way for the provision of its common carrier communications services. (This does not apply to communications services offered the separate subsidiary pursuant to tariff);

(2) Shall disclose to the public all information relating to network design and technical standards and information affecting changes to the telecommunications network which would affect either intercarrier interconnection or the manner in which customer-premises equipment is attached to the interstate network prior to implementation and with reasonable advance notification. Such information shall be disclosed in compliance with the procedures set forth in 47 CFR 51.325 through 51.335.

(3) [Reserved]

(4) Must obtain Commission approval as to the manner in which the separate corporation is to be capitalized, prior

to obtaining any interest in the separate corporation or transferring any assets, and must obtain Commission approval of any modification to a Commission approved capitalization plan.

(e) Except as otherwise ordered by the Commission, the carrier provision of customer premises equipment used in conjunction with the interstate telecommunications network may be offered in combination with the provision of common carrier communications services, except that the customer premises equipment shall not be offered on a tariffed basis.

[45 FR 31364, May 13, 1980, as amended at 46 FR 6008, Jan. 21, 1981; 63 FR 20338, Apr. 24, 1998; 64 FR 14148, Mar. 24, 1999; 66 FR 19402, Apr. 16, 2001]

#### § 64.703 Consumer information.

(a) Each provider of operator services shall:

(1) Identify itself, audibly and distinctly, to the consumer at the beginning of each telephone call and before the consumer incurs any charge for the call;

(2) Permit the consumer to terminate the telephone call at no charge before the call is connected;

(3) Disclose immediately to the consumer, upon request and at no charge to the consumer—

(i) A quotation of its rates or charges for the call;

(ii) The methods by which such rates or charges will be collected; and

(iii) The methods by which complaints concerning such rates, charges, or collection practices will be resolved; and

(4) Disclose, audibly and distinctly to the consumer, at no charge and before connecting any interstate non-access code operator service call, how to obtain the total cost of the call, including any aggregator surcharge, or the maximum possible total cost of the call, including any aggregator surcharge, before providing further oral advice to the consumer on how to proceed to make the call. The oral disclosure required in this subsection shall instruct consumers that they may obtain applicable rate and surcharge quotations either, at the option of the provider of operator services, by dialing no more than two digits or by re-

maining on the line. The phrase “total cost of the call” as used in this paragraph means both the variable (duration-based) charges for the call and the total per-call charges, exclusive of taxes, that the carrier, or its billing agent, may collect from the consumer for the call. It does not include additional charges that may be assessed and collected without the involvement of the carrier, such as a hotel surcharge billed by a hotel. Such charges are addressed in paragraph (b) of this section.

(b) Each aggregator shall post on or near the telephone instrument, in plain view of consumers:

(1) The name, address, and toll-free telephone number of the provider of operator services;

(2) Except for CMRS aggregators, a written disclosure that the rates for all operator-assisted calls are available on request, and that consumers have a right to obtain access to the interstate common carrier of their choice and may contact their preferred interstate common carriers for information on accessing that carrier’s service using that telephone;

(3) In the case of a pay telephone, the local coin rate for the pay telephone location; and

(4) The name and address of the Consumer Information Bureau of the Commission (Federal Communications Commission, Consumer Information Bureau, Consumer Complaints—Telephone, Washington, D.C. 20554), to which the consumer may direct complaints regarding operator services. An existing posting that displays the address that was required prior to the amendment of this rules (*i.e.*, the address of the Common Carrier Bureau’s Enforcement Division, which no longer exists) may remain until such time as the posting is replaced for any other purpose. Any posting made after the effective date of this amendment must display the updated address (*i.e.*, the address of the Consumer Information Bureau).

(c) *Updating of postings.* The posting required by this section shall be updated as soon as practicable following any change of the carrier presubscribed to provide interstate service at an aggregator location, but no later than

30 days following such change. This requirement may be satisfied by applying to a payphone a temporary sticker displaying the required posting information, provided that any such temporary sticker shall be replaced with permanent signage during the next regularly scheduled maintenance visit.

(d) *Effect of state law or regulation.* The requirements of paragraph (b) of this section shall not apply to an aggregator in any case in which State law or State regulation requires the aggregator to take actions that are substantially the same as those required in paragraph (b) of this section.

(e) Each provider of operator services shall ensure, by contract or tariff, that each aggregator for which such provider is the presubscribed provider of operator services is in compliance with the requirements of paragraph (b) of this section.

[56 FR 18523, Apr. 23, 1991, as amended at 61 FR 14981, Apr. 4, 1996; 61 FR 52323, Oct. 7, 1996; 63 FR 11617, Mar. 10, 1998; 63 FR 43041, Aug. 11, 1998; 64 FR 47119, Aug. 30, 1999; 67 FR 2819, Jan. 22, 2002]

#### § 64.704 Call blocking prohibited.

(a) Each aggregator shall ensure that each of its telephones presubscribed to a provider of operator services allows the consumer to use "800" and "950" access code numbers to obtain access to the provider of operator services desired by the consumer.

(b) Each provider of operator services shall:

(1) Ensure, by contract or tariff, that each aggregator for which such provider is the presubscribed provider of operator services is in compliance with the requirements of paragraphs (a) and (c) of this section; and

(2) Withhold payment (on a location-by-location basis) of any compensation, including commissions, to aggregators if such provider reasonably believes that the aggregator is blocking access to interstate common carriers in violation of paragraphs (a) or (c) of this section.

(c) Each aggregator shall, by the earliest applicable date set forth in this paragraph, ensure that any of its equipment presubscribed to a provider of operator services allows the consumer to use equal access codes to ob-

tain access to the consumer's desired provider of operator services.

(1) Each pay telephone shall, within six (6) months of the effective date of this paragraph, allow the consumer to use equal access codes to obtain access to the consumer's desired provider of operator services.

(2) All equipment that is technologically capable of identifying the dialing of an equal access code followed by any sequence of numbers that will result in billing to the originating telephone and that is technologically capable of blocking access through such dialing sequences without blocking access through other dialing sequences involving equal access codes, shall, within six (6) months of the effective date of this paragraph or upon installation, whichever is sooner, allow the consumer to use equal access codes to obtain access to the consumer's desired provider of operator services.

(3) All equipment or software that is manufactured or imported on or after April 17, 1992, and installed by any aggregator shall, immediately upon installation by the aggregator, allow the consumer to use equal access codes to obtain access to the consumer's desired provider of operator services.

(4) All equipment that can be modified at a cost of no more than \$15.00 per line to be technologically capable of identifying the dialing of an equal access code followed by any sequence of numbers that will result in billing to the originating telephone and to be technologically capable of blocking access through such dialing sequences without blocking access through other dialing sequences involving equal access codes, shall, within eighteen (18) months of the effective date of this paragraph, allow the consumer to use equal access codes to obtain access to the consumer's desired provider of operator services.

(5) All equipment not included in paragraphs (c)(1), (c)(2), (c)(3), or (c)(4) of this section shall, no later than April 17, 1997, allow the consumer to use equal access codes to obtain access to the consumer's desired provider of operator services.

(6) This paragraph does not apply to the use by consumers of equal access

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code dialing sequences that result in billing to the originating telephone.

(d) All providers of operator services, except those employing a store-and-forward device that serves only consumers at the location of the device, shall establish an "800" or "950" access code number within six (6) months of the effective date of this paragraph.

(e) The requirements of this section shall not apply to CMRS aggregators and providers of CMRS operator services.

[56 FR 18523, Apr. 23, 1991, as amended at 56 FR 40799, Aug. 16, 1991; 57 FR 34260, Aug. 4, 1992; 63 FR 43041, Aug. 11, 1998]

## § 64.705 Restrictions on charges related to the provision of operator services.

(a) A provider of operator services shall:

(1) Not bill for unanswered telephone calls in areas where equal access is available;

(2) Not knowingly bill for unanswered telephone calls where equal access is not available;

(3) Not engage in call splashing, unless the consumer requests to be transferred to another provider of operator services, the consumer is informed prior to incurring any charges that the rates for the call may not reflect the rates from the actual originating location of the call, and the consumer then consents to be transferred;

(4) Except as provided in paragraph (a)(3) of this section, not bill for a call that does not reflect the location of the origination of the call; and

(5) Ensure, by contract or tariff, that each aggregator for which such provider is the presubscribed provider of operator services is in compliance with the requirements of paragraph (b) of this section.

(b) An aggregator shall ensure that no charge by the aggregator to the consumer for using an "800" or "950" access code number, or any other access code number, is greater than the amount the aggregator charges for calls placed using the presubscribed provider of operator services.

(c) The requirements of paragraphs (a)(5) and (b) of this section shall not

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apply to CMRS aggregators and providers of CMRS operator services.

[56 FR 18523, Apr. 23, 1991, as amended at 63 FR 43041, Aug. 11, 1998]

## § 64.706 Minimum standards for the routing and handling of emergency telephone calls.

Upon receipt of any emergency telephone call, providers of operator services and aggregators shall ensure immediate connection of the call to the appropriate emergency service of the reported location of the emergency, if known, and, if not known, of the originating location of the call.

[61 FR 14981, Apr. 4, 1996]

## § 64.707 Public dissemination of information by providers of operator services.

Providers of operator services shall regularly publish and make available at no cost to inquiring consumers written materials that describe any recent changes in operator services and in the choices available to consumers in that market.

[56 FR 18524, Apr. 23, 1991]

## § 64.708 Definitions.

As used in §§ 64.703 through 64.707 of this part and § 68.318 of this chapter (47 CFR 64.703-64.707, 68.318):

(a) *Access code* means a sequence of numbers that, when dialed, connect the caller to the provider of operator services associated with that sequence;

(b) *Aggregator* means any person that, in the ordinary course of its operations, makes telephones available to the public or to transient users of its premises, for interstate telephone calls using a provider of operator services;

(c) *Call splashing* means the transfer of a telephone call from one provider of operator services to another such provider in such a manner that the subsequent provider is unable or unwilling to determine the location of the origination of the call and, because of such inability or unwillingness, is prevented from billing the call on the basis of such location;

(d) *CMRS aggregator* means an aggregator that, in the ordinary course of its operations, makes telephones available to the public or to transient

users of its premises for interstate telephone calls using a provider of CMRS operator services;

(e) *CMRS operator services* means operator services provided by means of a commercial mobile radio service as defined in section 20.3 of this chapter.

(f) *Consumer* means a person initiating any interstate telephone call using operator services. In collect calling arrangements handled by a provider of operator services, the term consumer also includes the party on the terminating end of the call. For bill-to-third-party calling arrangements handled by a provider of operator services, the term consumer also includes the party to be billed for the call if the latter is contacted by the operator service provider to secure billing approval.

(g) *Equal access* has the meaning given that term in Appendix B of the Modification of Final Judgment entered by the United States District Court on August 24, 1982, in *United States v. Western Electric*, Civil Action No. 82-0192 (D.D.C. 1982), as amended by the Court in its orders issued prior to October 17, 1990;

(h) *Equal access code* means an access code that allows the public to obtain an equal access connection to the carrier associated with that code;

(i) *Operator services* means any interstate telecommunications service initiated from an aggregator location that includes, as a component, any automatic or live assistance to a consumer to arrange for billing or completion, or both, of an interstate telephone call through a method other than:

(1) Automatic completion with billing to the telephone from which the call originated; or

(2) Completion through an access code used by the consumer, with billing to an account previously established with the carrier by the consumer;

(j) *Presubscribed provider of operator services* means the interstate provider of operator services to which the consumer is connected when the consumer places a call using a provider of operator services without dialing an access code;

(k) *Provider of CMRS operator services* means a provider of operator services that provides CMRS operator services;

(1) *Provider of operator services* means any common carrier that provides operator services or any other person determined by the Commission to be providing operator services.

[56 FR 18524, Apr. 23, 1991; 56 FR 25721, June 5, 1991, as amended at 61 FR 14981, Apr. 4, 1996; 63 FR 43041, Aug. 11, 1998; 67 FR 2820, Jan. 22, 2002]

#### § 64.709 Informational tariffs.

(a) Informational tariffs filed pursuant to 47 U.S.C. 226(h)(1)(A) shall contain specific rates expressed in dollars and cents for each interstate operator service of the carrier and shall also contain applicable per call aggregator surcharges or other per-call fees, if any, collected from consumers by, or on behalf of, the carrier.

(b) Per call fees, if any, billed on behalf of aggregators or others, shall be specified in informational tariffs in dollars and cents.

(c) In order to remove all doubt as to their proper application, all informational tariffs must contain clear and explicit explanatory statements regarding the rates, *i.e.*, the tariffed price per unit of service, and the regulations governing the offering of service in that tariff.

(d) Informational tariffs shall be accompanied by a cover letter, addressed to the Secretary of the Commission, explaining the purpose of the filing.

(1) The original of the cover letter shall be submitted to the Secretary without attachments, along with FCC Form 159, and the appropriate fee to the address set forth in §1.1105 of this chapter.

(2) Carriers should file informational tariffs and associated documents, such as cover letters and attachments, electronically in accordance with §§61.13 and 61.14 of this chapter.

(e) Any changes to the tariff shall be submitted under a new cover letter with a complete copy of the tariff, including changes.

(1) Changes to a tariff shall be explained in the cover letter but need not be symbolized on the tariff pages.

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(2) Revised tariffs shall be filled pursuant to the procedures specified in this section.

[63 FR 11617, Mar. 10, 1998; 63 FR 15316, Mar. 31, 1998, as amended at 67 FR 2820, Jan. 22, 2002; 73 FR 9031, Feb. 19, 2008; 76 FR 43217, July 20, 2011]

**§ 64.710 Operator services for prison inmate phones.**

(a) Each provider of inmate operator services shall:

(1) Identify itself and disclose, audibly and distinctly to the consumer, at no charge and before connecting any interstate, non-access code operator service call, how to obtain the total cost of the call, including any surcharge or premises-imposed-fee. The oral disclosure required in this paragraph shall instruct consumers that they may obtain applicable rate and surcharge quotations either, at the option of the provider of inmate operator services, by dialing no more than two digits or by remaining on the line. The phrase "total cost of the call," as used in this paragraph, means both the variable (duration-based) charges for the call and the total per-call charges, exclusive of taxes, that the carrier, or its billing agent, may collect from the consumer for the call. Such phrase shall include any per-call surcharge imposed by the correctional institution, unless it is subject to regulation itself as a common carrier for imposing such surcharges, if the contract between the carrier and the correctional institution prohibits both resale and the use of pre-paid calling card arrangements.

(2) Permit the consumer to terminate the telephone call at no charge before the call is connected; and

(3) Disclose immediately to the consumer, upon request and at no charge to the consumer—

(i) The methods by which its rates or charges for the call will be collected; and

(ii) The methods by which complaints concerning such rates, charges or collection practices will be resolved.

(b) As used in this subpart:

(1) *Consumer* means the party to be billed for any interstate call from an inmate telephone;

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(2) *Inmate telephone* means a telephone instrument set aside by authorities of a prison or other correctional institution for use by inmates.

(3) *Inmate operator services* means any interstate telecommunications service initiated from an inmate telephone that includes, as a component, any automatic or live assistance to a consumer to arrange for billing or completion, or both, of an interstate telephone call through a method other than:

(i) Automatic completion with billing to the telephone from which the call originated; or

(ii) Completion through an access code used by the consumer, with billing to an account previously established with the carrier by the consumer;

(4) *Provider of inmate operator services* means any common carrier that provides outbound interstate operator services from inmate telephones.

[63 FR 11617, Mar. 10, 1998, as amended at 67 FR 2820, Jan. 22, 2002]

**Subpart H—Extension of Unsecured Credit for Interstate and Foreign Communications Services to Candidates for Federal Office**

**AUTHORITY:** Secs. 4, 201, 202, 203, 218, 219, 48 Stat. 1066, 1070, 1077; 47 U.S.C. 154, 201, 202, 203, 218, 219; sec. 401, 86 Stat. 19; 2 U.S.C. 451.

**SOURCE:** 37 FR 9393, May 10, 1972, unless otherwise noted.

**§ 64.801 Purpose.**

Pursuant to section 401 of the Federal Election Campaign Act of 1971, Public Law 92-225, these rules prescribe the general terms and conditions for the extension of unsecured credit by a communication common carrier to a candidate or person on behalf of such candidate for Federal office.

**§ 64.802 Applicability.**

These rules shall apply to each communication common carrier subject to the whole or part of the Communications Act of 1934, as amended.

**§ 64.803 Definitions.**

For the purposes of this subpart: