

TITLE 61
PUBLIC UTILITY REGULATION

CHAPTER 13
TELECOMMUNICATIONS RELAY SERVICES

61-1301. LEGISLATIVE FINDINGS AND INTENT. Title IV of the Americans with disabilities act, public law 101-336, requires that on or before July 26, 1993, telephone corporations providing interstate or intrastate telephone services provide telecommunications relay services (TRS) for individuals who are hearing-impaired or speech-impaired that will allow them to engage in telephone communication in a manner functionally equivalent to that of individuals without hearing or speech impairments. The legislature finds that it is in the public interest to provide for the appointment of a TRS administrator who can coordinate TRS services and assist the state in applying for certification of the state TRS program by the federal deadline of October 1, 1992. This certification, if approved by the federal communications commission, will allow every telephone corporation providing intrastate service in Idaho to meet its obligations under federal law by participating in the state telecommunications relay services program.

[61-1301, added 1992, ch. 148, sec. 1, p. 443.]

61-1302. DEFINITIONS. In this chapter:

(1) "Administrator" means the person with whom the Idaho public utilities commission contracts to administer the program for delivery of telecommunications relay services.

(2) "Commission" means the Idaho public utilities commission.

(3) "Communications impaired" mean individuals who are hearing-impaired or speech-impaired as defined in title IV, section 401, Americans with disabilities act of 1990, public law 101-336, 104 stat. 327, 336-69 (47 U.S.C. section 225) or regulations promulgated pursuant thereto.

(4) "Local exchange company" means a telephone corporation which provides access lines to residential and business customers with the associated transmission of two (2) way interactive switched voice communication within a geographic area where basic local exchange rates rather than message telecommunications service rates apply.

(5) "Message telecommunications service" shall have the meaning prescribed in section 62-603(6), Idaho Code.

(6) "Program" means the effort directed by the administrator pursuant to this chapter to establish and operate an Idaho system to provide telecommunications relay services.

(7) "Telephone corporation" shall have the meaning prescribed in section 62-603(10), Idaho Code.

(8) "Telecommunications relay services (TRS)" mean services through which a communications impaired person, using specialized telecommunications equipment, may send and receive messages to and from a noncommunications impaired person whose telephone is not equipped with specialized telecommunications equipment and through which a noncommunications impaired person may, by using voice communication, send and receive messages to and from a communications impaired person.

[61-1302, added 1992, ch. 148, sec. 1, p. 443.]

61-1303. ADMINISTRATOR'S CONTRACT -- TRS PROVIDER'S CONTRACT -- REQUIREMENTS.

- (1) (a) The commission shall contract with a qualified person to administer the program in accordance with the purposes of this chapter and to secure certification of the program by the federal communications commission. The program administrator shall not be an employee or officer of the state of Idaho, but shall have the capacity to sue and be sued with reference to administration of the program, except as hereinafter provided.
- (b) The administrator's contract shall require, but shall not be limited to, the following:
- (i) that the administrator consult with, and receive recommendations from, the advisory committee, or a representative thereof, appointed by the commission pursuant to section 61-1306, Idaho Code;
 - (ii) that the administrator post a fidelity bond in such amount as may be required by the commission;
 - (iii) that the administrator meet timetables necessary to secure certification of the program by the federal communications commission;
 - (iv) that the administrator, upon such terms as to the commission may seem reasonable, issue a request for proposals to providers of message relay services requesting responsive proposals to provide such services as may be necessary for the program;
 - (v) that the administrator evaluate the responsive proposals and recommend one (1) or more proposals to the commission for its review and approval;
 - (vi) that the administrator enter into a contract with the provider of TRS, which contract and provider have been approved by the commission;
 - (vii) that the administrator consult with the Idaho state council for the deaf and hard of hearing concerning program design and delivery of message relay services to communications impaired persons within the state of Idaho; and
 - (viii) that the administrator perform such other services concerning the program as may be deemed reasonable and necessary by the commission.
- (2) In addition to such other contractual terms as may be necessary or desirable, the administrator shall require, under the terms of the contract with the provider of TRS, that:
- (a) The system be available statewide for operation seven (7) days a week, twenty-four (24) hours per day, three hundred sixty-five (365) days per year, for intrastate calls;
 - (b) The system relay all messages promptly and accurately;
 - (c) The provider preserve the confidentiality of all TRS communications, including the fact and contents of the communications; and
 - (d) The system make available to communications impaired individuals intrastate telecommunications relay services in the state of Idaho that meet or exceed the requirements of applicable regulations of the federal communications commission and which otherwise comply with all applicable state and federal laws.
- (3) Except in cases of criminal or willful misconduct, gross negligence or willful violation of the provisions of this chapter, neither the commis-

sion, the administrator, the provider of TRS, nor the providers of underlying communications services shall be liable for any claims, actions, damages, or causes of action arising out of or resulting from the establishment, participation in, or operation of TRS.

(4) The administrator may receive contributions, gifts and grants on behalf of and in aid of the program. Such contributions, gifts and grants shall be deposited in the Idaho telecommunications relay services fund established pursuant to section 61-1304, Idaho Code.

[61-1303, added 1992, ch. 148, sec. 1, p. 444.]

61-1304. TELECOMMUNICATIONS RELAY SERVICES FUND. (1) The administrator shall establish a fund for the provision of relay services under this chapter, not including customer premises equipment, to be known and designated as the Idaho telecommunications relay services fund, in such depository and under such regulations as shall be established by the commission, to which shall be credited:

(a) All monetary contributions, gifts and grants received by the administrator;

(b) All charges billed and collected pursuant to section 61-1305, Idaho Code.

(2) No funds derived from charges billed and collected pursuant to section 61-1305, Idaho Code, shall be used for the acquisition of end user text telephones.

(3) All moneys deposited in the telecommunications relay fund shall be expended for the purpose of defraying the expenses, debts and costs incurred in carrying out the provisions of this chapter, and for defraying administrative expenses of the administrator, including necessary expenses for consultants to the administrator, expenses for travel, supplies and equipment and other expenses of the administrator necessary for the implementation of the provisions of this chapter. All moneys credited to the telecommunications relay services fund may be expended by the administrator at such times and in such manner as may be authorized by the commission.

[61-1304, added 1992, ch. 148, sec. 1, p. 445.]

61-1305. PARTICIPATION IN PROGRAM. (1) All telephone corporations providing basic local exchange service within the state of Idaho and all telephone corporations providing intrastate message telecommunications service within the state of Idaho, including those otherwise exempt from the jurisdiction of the commission pursuant to section 61-104, Idaho Code, and those providing local exchange services or message telecommunications services pursuant to the telecommunications act of 1988, chapter 6, title 62, Idaho Code, shall except as provided in subsection (2) of this section, provide TRS in accordance with the program established by the commission, and shall pay into the telecommunications relay services fund such sums as may represent the telephone corporation's share of the cost of the program, based upon an allocation methodology duly adopted by the commission in accordance with its rulemaking procedures.

(2) The commission shall permit a telephone corporation to provide telecommunications relay services to its customers by a TRS provider other than the provider approved by the commission and shall waive the telephone corporation's obligation to participate in the program if the commission finds, upon application by a telephone corporation, that the following facts exist:

(a) The telephone corporation will continue to meet its obligation to its Idaho customers in accordance with the standards set forth in the Americans with disabilities act; and

(b) The nonparticipation of such telephone corporation will not substantially impair the operation or provision of TRS pursuant to the program adopted by the commission.

(3) Each telephone corporation subject in whole or in part to the commission's ratemaking authority may apply to the commission for authority to increase its rates and charges in an amount not to exceed its payments to the telecommunications relay services fund pursuant to this chapter or the costs it incurs in providing TRS through an alternative TRS provider as authorized by the commission pursuant to subsection (2) of this section. Such applications shall plainly state the amount of the proposed increase, its manner of calculation, and the proposed recovery method, but shall not require a full cost-of-service filing or general ratemaking presentation. The commission shall promptly consider and act upon such applications.

[61-1305, added 1992, ch. 148, sec. 1, p. 446.]

61-1306. POWERS AND DUTIES OF THE COMMISSION. The commission shall promulgate such rules, policies and procedures as may be necessary to govern administration of the program and ensure that the program is in compliance with any applicable federal laws or regulations including, but not limited to, regulations providing for:

(1) An advisory committee of the telephone industry to assist the administrator;

(2) Consultation by the administrator with the Idaho state council for the deaf and hard of hearing;

(3) Periodic recontracting with and auditing of the administrator and TRS provider;

(4) Timetables for the administrator's duties that will require the administrator to meet the deadline of October 1, 1992, for applying for certification of the state TRS program;

(5) Formulas apportioning the costs of the administrator and TRS provider among the telephone corporations that will share those costs pursuant to section 61-1305, Idaho Code;

(6) Consideration by the commission of customer complaints from TRS users; and

(7) Any other matters deemed necessary for the implementation of TRS in Idaho.

[61-1306, added 1992, ch. 148, sec. 1, p. 446.]