

system solely to provide cable service. Until the effective date of the regulations required under subsection (e) of this section, this subsection shall also apply to the rate for any pole attachment used by a cable system or any telecommunications carrier (to the extent such carrier is not a party to a pole attachment agreement) to provide any telecommunications service.

**(e) Regulations governing charges; apportionment of costs of providing space**

(1) The Commission shall, no later than 2 years after February 8, 1996, prescribe regulations in accordance with this subsection to govern the charges for pole attachments used by telecommunications carriers to provide telecommunications services, when the parties fail to resolve a dispute over such charges. Such regulations shall ensure that a utility charges just, reasonable, and nondiscriminatory rates for pole attachments.

(2) A utility shall apportion the cost of providing space on a pole, duct, conduit, or right-of-way other than the usable space among entities so that such apportionment equals two-thirds of the costs of providing space other than the usable space that would be allocated to such entity under an equal apportionment of such costs among all attaching entities.

(3) A utility shall apportion the cost of providing usable space among all entities according to the percentage of usable space required for each entity.

(4) The regulations required under paragraph (1) shall become effective 5 years after February 8, 1996. Any increase in the rates for pole attachments that result from the adoption of the regulations required by this subsection shall be phased in equal annual increments over a period of 5 years beginning on the effective date of such regulations.

**(f) Nondiscriminatory access**

(1) A utility shall provide a cable television system or any telecommunications carrier with nondiscriminatory access to any pole, duct, conduit, or right-of-way owned or controlled by it.

(2) Notwithstanding paragraph (1), a utility providing electric service may deny a cable television system or any telecommunications carrier access to its poles, ducts, conduits, or rights-of-way, on a non-discriminatory<sup>1</sup> basis where there is insufficient capacity and for reasons of safety, reliability and generally applicable engineering purposes.

**(g) Imputation to costs of pole attachment rate**

A utility that engages in the provision of telecommunications services or cable services shall impute to its costs of providing such services (and charge any affiliate, subsidiary, or associate company engaged in the provision of such services) an equal amount to the pole attachment rate for which such company would be liable under this section.

**(h) Modification or alteration of pole, duct, conduit, or right-of-way**

Whenever the owner of a pole, duct, conduit, or right-of-way intends to modify or alter such

pole, duct, conduit, or right-of-way, the owner shall provide written notification of such action to any entity that has obtained an attachment to such conduit or right-of-way so that such entity may have a reasonable opportunity to add to or modify its existing attachment. Any entity that adds to or modifies its existing attachment after receiving such notification shall bear a proportionate share of the costs incurred by the owner in making such pole, duct, conduit, or right-of-way accessible.

**(i) Costs of rearranging or replacing attachment**

An entity that obtains an attachment to a pole, conduit, or right-of-way shall not be required to bear any of the costs of rearranging or replacing its attachment, if such rearrangement or replacement is required as a result of an additional attachment or the modification of an existing attachment sought by any other entity (including the owner of such pole, duct, conduit, or right-of-way).

(June 19, 1934, ch. 652, title II, §224, as added Pub. L. 95-234, §6, Feb. 21, 1978, 92 Stat. 35; amended Pub. L. 97-259, title I, §106, Sept. 13, 1982, 96 Stat. 1091; Pub. L. 98-549, §4, Oct. 30, 1984, 98 Stat. 2801; Pub. L. 103-414, title III, §304(a)(7), Oct. 25, 1994, 108 Stat. 4297; Pub. L. 104-104, title VII, §703, Feb. 8, 1996, 110 Stat. 149.)

AMENDMENTS

1996—Subsec. (a)(1). Pub. L. 104-104, §703(1), inserted first sentence and struck out former first sentence which read as follows: “The term ‘utility’ means any person whose rates or charges are regulated by the Federal Government or a State and who owns or controls poles, ducts, conduits, or rights-of-way used, in whole or in part, for wire communication.”

Subsec. (a)(4). Pub. L. 104-104, §703(2), inserted “or provider of telecommunications service” after “system”.

Subsec. (a)(5). Pub. L. 104-104, §703(3), added par. (5).  
Subsec. (c)(1). Pub. L. 104-104, §703(4), inserted “, or access to poles, ducts, conduits, and rights-of-way as provided in subsection (f) of this section,” after “conditions”.

Subsec. (c)(2)(B). Pub. L. 104-104, §703(5), substituted “the services offered via such attachments” for “cable television services”.

Subsec. (d)(3). Pub. L. 104-104, §703(6), added par. (3).

Subsecs. (e) to (i). Pub. L. 104-104, §703(7), added subsecs. (e) to (i).

1994—Subsec. (b)(2). Pub. L. 103-414 substituted “The Commission” for “Within 180 days from February 21, 1978, the Commission”.

1984—Subsec. (c)(3). Pub. L. 98-549 added par. (3).

1982—Subsec. (e). Pub. L. 97-259 struck out subsec. (e) which provided that, upon expiration of 5-year period that began on Feb. 21, 1978, provisions of subsec. (d) of this section would cease to have any effect.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-549 effective 60 days after Oct. 30, 1984, except where otherwise expressly provided, see section 9(a) of Pub. L. 98-549, set out as a note under section 521 of this title.

EFFECTIVE DATE

Section effective on thirtieth day after Feb. 21, 1978, see section 7 of Pub. L. 95-234, set out as an Effective Date of 1978 Amendment note under section 152 of this title.

**§ 225. Telecommunications services for hearing-impaired and speech-impaired individuals**

**(a) Definitions**

As used in this section—

<sup>1</sup> So in original. Probably should be “nondiscriminatory”.

**(1) Common carrier or carrier**

The term “common carrier” or “carrier” includes any common carrier engaged in interstate communication by wire or radio as defined in section 153 of this title and any common carrier engaged in intrastate communication by wire or radio, notwithstanding sections 152(b) and 221(b) of this title.

**(2) TDD**

The term “TDD” means a Telecommunications Device for the Deaf, which is a machine that employs graphic communication in the transmission of coded signals through a wire or radio communication system.

**(3) Telecommunications relay services**

The term “telecommunications relay services” means telephone transmission services that provide the ability for an individual who has a hearing impairment or speech impairment to engage in communication by wire or radio with a hearing individual in a manner that is functionally equivalent to the ability of an individual who does not have a hearing impairment or speech impairment to communicate using voice communication services by wire or radio. Such term includes services that enable two-way communication between an individual who uses a TDD or other nonvoice terminal device and an individual who does not use such a device.

**(b) Availability of telecommunications relay services****(1) In general**

In order to carry out the purposes established under section 151 of this title, to make available to all individuals in the United States a rapid, efficient nationwide communication service, and to increase the utility of the telephone system of the Nation, the Commission shall ensure that interstate and intrastate telecommunications relay services are available, to the extent possible and in the most efficient manner, to hearing-impaired and speech-impaired individuals in the United States.

**(2) Use of general authority and remedies**

For the purposes of administering and enforcing the provisions of this section and the regulations prescribed thereunder, the Commission shall have the same authority, power, and functions with respect to common carriers engaged in intrastate communication as the Commission has in administering and enforcing the provisions of this subchapter with respect to any common carrier engaged in interstate communication. Any violation of this section by any common carrier engaged in intrastate communication shall be subject to the same remedies, penalties, and procedures as are applicable to a violation of this chapter by a common carrier engaged in interstate communication.

**(c) Provision of services**

Each common carrier providing telephone voice transmission services shall, not later than 3 years after July 26, 1990, provide in compliance with the regulations prescribed under this sec-

tion, throughout the area in which it offers service, telecommunications relay services, individually, through designees, through a competitively selected vendor, or in concert with other carriers. A common carrier shall be considered to be in compliance with such regulations—

(1) with respect to intrastate telecommunications relay services in any State that does not have a certified program under subsection (f) of this section and with respect to interstate telecommunications relay services, if such common carrier (or other entity through which the carrier is providing such relay services) is in compliance with the Commission’s regulations under subsection (d) of this section; or

(2) with respect to intrastate telecommunications relay services in any State that has a certified program under subsection (f) of this section for such State, if such common carrier (or other entity through which the carrier is providing such relay services) is in compliance with the program certified under subsection (f) of this section for such State.

**(d) Regulations****(1) In general**

The Commission shall, not later than 1 year after July 26, 1990, prescribe regulations to implement this section, including regulations that—

(A) establish functional requirements, guidelines, and operations procedures for telecommunications relay services;

(B) establish minimum standards that shall be met in carrying out subsection (c) of this section;

(C) require that telecommunications relay services operate every day for 24 hours per day;

(D) require that users of telecommunications relay services pay rates no greater than the rates paid for functionally equivalent voice communication services with respect to such factors as the duration of the call, the time of day, and the distance from point of origination to point of termination;

(E) prohibit relay operators from failing to fulfill the obligations of common carriers by refusing calls or limiting the length of calls that use telecommunications relay services;

(F) prohibit relay operators from disclosing the content of any relayed conversation and from keeping records of the content of any such conversation beyond the duration of the call; and

(G) prohibit relay operators from intentionally altering a relayed conversation.

**(2) Technology**

The Commission shall ensure that regulations prescribed to implement this section encourage, consistent with section 157(a) of this title, the use of existing technology and do not discourage or impair the development of improved technology.

**(3) Jurisdictional separation of costs****(A) In general**

Consistent with the provisions of section 410 of this title, the Commission shall pre-

scribe regulations governing the jurisdictional separation of costs for the services provided pursuant to this section.

**(B) Recovering costs**

Such regulations shall generally provide that costs caused by interstate telecommunications relay services shall be recovered from all subscribers for every interstate service and costs caused by intrastate telecommunications relay services shall be recovered from the intrastate jurisdiction. In a State that has a certified program under subsection (f) of this section, a State commission shall permit a common carrier to recover the costs incurred in providing intrastate telecommunications relay services by a method consistent with the requirements of this section.

**(e) Enforcement**

**(1) In general**

Subject to subsections (f) and (g) of this section, the Commission shall enforce this section.

**(2) Complaint**

The Commission shall resolve, by final order, a complaint alleging a violation of this section within 180 days after the date such complaint is filed.

**(f) Certification**

**(1) State documentation**

Any State desiring to establish a State program under this section shall submit documentation to the Commission that describes the program of such State for implementing intrastate telecommunications relay services and the procedures and remedies available for enforcing any requirements imposed by the State program.

**(2) Requirements for certification**

After review of such documentation, the Commission shall certify the State program if the Commission determines that—

(A) the program makes available to hearing-impaired and speech-impaired individuals, either directly, through designees, through a competitively selected vendor, or through regulation of intrastate common carriers, intrastate telecommunications relay services in such State in a manner that meets or exceeds the requirements of regulations prescribed by the Commission under subsection (d) of this section; and

(B) the program makes available adequate procedures and remedies for enforcing the requirements of the State program.

**(3) Method of funding**

Except as provided in subsection (d) of this section, the Commission shall not refuse to certify a State program based solely on the method such State will implement for funding intrastate telecommunication relay services.

**(4) Suspension or revocation of certification**

The Commission may suspend or revoke such certification if, after notice and opportunity for hearing, the Commission determines that such certification is no longer war-

ranted. In a State whose program has been suspended or revoked, the Commission shall take such steps as may be necessary, consistent with this section, to ensure continuity of telecommunications relay services.

**(g) Complaint**

**(1) Referral of complaint**

If a complaint to the Commission alleges a violation of this section with respect to intrastate telecommunications relay services within a State and certification of the program of such State under subsection (f) of this section is in effect, the Commission shall refer such complaint to such State.

**(2) Jurisdiction of Commission**

After referring a complaint to a State under paragraph (1), the Commission shall exercise jurisdiction over such complaint only if—

(A) final action under such State program has not been taken on such complaint by such State—

(i) within 180 days after the complaint is filed with such State; or

(ii) within a shorter period as prescribed by the regulations of such State; or

(B) the Commission determines that such State program is no longer qualified for certification under subsection (f) of this section.

(June 19, 1934, ch. 652, title II, §225, as added Pub. L. 101-336, title IV, §401(a), July 26, 1990, 104 Stat. 366; amended Pub. L. 104-104, §3(d)(1), Feb. 8, 1996, 110 Stat. 61.)

AMENDMENTS

1996—Subsec. (a)(1). Pub. L. 104-104 substituted “section 153” for “section 153(h)”.

**§ 226. Telephone operator services**

**(a) Definitions**

As used in this section—

(1) The term “access code” means a sequence of numbers that, when dialed, connect the caller to the provider of operator services associated with that sequence.

(2) The term “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.

(3) The term “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.

(4) The term “consumer” means a person initiating any interstate telephone call using operator services.

(5) The term “equal access” has the meaning given that term in Appendix B of the Modification of Final Judgment entered August 24, 1982, in *United States v. Western Electric*, Civil Action No. 82-0192 (United States Dis-