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## 1 A P P E A R A N C E S

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8 Missouri:

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1 P R O C E E D I N G S

2 JUDGE WOODRUFF: Good morning. Welcome to the  
3 comment hearing regarding a proposed rule-making on  
4 customer propriety network information, Case No.  
5 TX-2010-0160.

6 It's a little bit after 9:00, so we're going to  
7 go ahead and get started. Let's begin by taking entries  
8 of appearance, beginning with Staff.

9 MS. DALE: Colleen M. Dale, Post Office Box 360,  
10 Jefferson City, Missouri, 65102, on behalf of the Staff of  
11 the Missouri Public Service Commission.

12 JUDGE WOODRUFF: And I see a representative of  
13 AT&T here.

14 MR. GRYZMALA: Good morning, your Honor. Bob  
15 Gryzmala at Southwestern Bell Telephone Company doing  
16 business as AT&T Missouri. We're at 909 Chestnut, Room  
17 3516, St. Louis, Missouri, 63101.

18 JUDGE WOODRUFF: Thank you, Mr. Gryzmala. Any  
19 other attorneys who wish to enter an appearance? All  
20 right.

21 Well, as you're aware, this is a rule-making  
22 hearing, so we're here to take comments from the public.  
23 Let's begin with Staff who has filed some written  
24 comments.

25 MS. DALE: As you know, your Honor, these rules

1    were filed on behalf of the Staff the Public Service  
2    Commission attempting to streamline the filing of CPNI  
3    information. We have with us John Van Ashen, who is the  
4    head of Telecommunications Department, if you have any  
5    questions of him.

6                   Generally speaking, our comments that were  
7    prefiled support the rule changes in order to make it  
8    easier for companies to make their CPNI filing at the  
9    Commission in conjunction with their annual reports.

10                  JUDGE WOODRUFF: And I noticed that AT&T did  
11    file a written comment Friday.

12                  MS. DALE: Yes.

13                  JUDGE WOODRUFF: Does staff have a response to  
14    that?

15                  MS. DALE: Staff doesn't have any problems with  
16    AT&T's proposed changes with the exception of the  
17    insertion of -- on the last page of their comments, they  
18    suggest the insertion of "or as otherwise permitted  
19    without customer approval under the Commission's rules."  
20    We are -- we are not supportive of that language insertion  
21    at this time.

22                  JUDGE WOODRUFF: Okay. Do you want to have  
23    Mr. Van Ashen testify to give an explanation for -- for  
24    that position?

25                  MS. DALE: That would be fine.

1 JUDGE WOODRUFF: All right. Mr. Van Ashen.  
2 I'll swear you in as a witness, if you you'd please raise  
3 your right hand.

4 JOHN VAN ASHEN,  
5 being first duly sworn to testify the truth, the whole  
6 truth, and nothing but the truth, testified as follows:

7 JUDGE WOODRUFF: Thank you. Can you respond to  
8 AT&T's comments and why Staff has taken the position it  
9 is?

10 MR. VAN ASHEN: I think we agree with the  
11 general concept of what AT&T is suggesting. And I -- I  
12 have to admit, I was just looking at it this morning,  
13 since I did not see this on Friday.

14 But we're still trying to digest, I think, what  
15 AT&T is proposing. And if I may just kind of speak out  
16 loud as we're talking here, AT&T's proposal, as I  
17 understand it, is to really insert the phrase "except to  
18 initiate, render, bill and collect for telecommunications  
19 services." Is that the basic gist of what AT&T is --

20 MR. GRYZMALA: That's one -- that's one piece.

21 MR. VAN ASHEN: That's one piece.

22 MR. GRYZMALA: Right. Right.

23 MR. VAN ASHEN: And maybe -- maybe it would help  
24 me if I just understood all the pieces, just to make sure  
25 I understand AT&T's proposal.

1 MR. WOODRUFF: All right. Since we are --

2 MR. VAN ASHEN: I think that piece, I think  
3 we're okay with.

4 MR. GRYZMALA: The what?

5 MR. ASHEN: That piece.

6 JUDGE WOODRUFF: All right.

7 MR. VAN ASHEN: It does match up with the other  
8 part of our rules.

9 JUDGE WOODRUFF: All right. Well, Mr. Van  
10 Ashen, we'll have you wait, then, and we'll go over to  
11 Mr. Gryzmala. And, Mr. Gryzmala, I'll go ahead and swear  
12 you in if you want to offer any comments.

13 ROBERT GRYZMALA,  
14 being first duly sworn to testify the truth, the whole  
15 truth, and nothing but the truth, testified as follows:

16 JUDGE WOODRUFF: All right. What would you like  
17 to tell us?

18 MR. GRYZMALA: Well, your Honor, there are two  
19 pieces to our comments effectively. The first one is  
20 that, as Ms. Dale pointed out, the impetus -- the core  
21 impetus behind this proceeding is to streamline the  
22 present procedures. And as our letter of March 5  
23 indicates, we're squarely behind that. So having said  
24 that, we'll move to the second piece.

25 The second piece goes to the breadth of the

1 language that is used. As Ms. Dale -- Ms. Dale  
2 indicated and John, the present rule would propose that  
3 the exception for the latitude in filing a CPNI FCC filed  
4 document with this Commission, the exception would be with  
5 independent contractors or joint venture partners. In  
6 other words, if you have those, that option is not all  
7 available to you, except if those independent contractors  
8 or offer joint venture partners do certain things.

9           And one of them is, as the proposed rule points  
10 out, except for billing and collection services, the point  
11 being there that no approval -- no customer's approval is  
12 required in order to convey or allow access to CPNI to  
13 those folks who are working for the purpose of billing and  
14 collecting for services.

15           Where does that come from? That comes from the  
16 Federal Act, Section 222(d), and it comes from the  
17 Commission's own rules. The point that we make that Ms.  
18 -- Ms. Dale and Mr. Van Ashen alluded to is that not only  
19 is there the exception for billing and collection, but  
20 there is also the exception in the Commission's rules, and  
21 we cite the citation in the letter, for initiating and  
22 rendering telephone service to install it, to maintain it,  
23 to repair it.

24           So we support Ms. -- the Staff's agreement, as I  
25 hear it, that the portion of the language that we would

1    like to add to the rule where it would say, "except to  
2    initiate, render, bill and collect for telecommunications  
3    services," that's okay. In other words, that's what I'm  
4    hearing.

5               The second piece of the second piece, in other  
6    words, this exception, is the phrase that was pointed out,  
7    "or as otherwise permitted without customer approval." No  
8    customer approval is necessary for, as we've seen,  
9    billing, collection and for installing and rendering  
10   telephone service.

11              But there are other instances in which customer  
12   approval is not required either. And that is both under  
13   the Commission's rules and under the federal law. One  
14   example is to -- and, again, this is cited in the letter,  
15   your Honor -- to protect the rights or property of the  
16   telephone company, to protect users of our services, to  
17   protect against fraud, abusive, unlawful.

18              And we -- you know, we have instances of that,  
19   you know, various uses of the network by consumers or  
20   elsewhere for nefarious purposes. And we can use and  
21   exchange and convey CPNI to get to the root of that. That  
22   is the purpose of the phrase "as otherwise permitted  
23   without customer approval."

24              So that -- in other words, when all is said and  
25   done, were you to except -- were the Commission to accept



1   AT&T Missouri's changes, you would have sync -- you know,  
2   the rule here, the reporting rule here would be in sync  
3   with federal law and State law. Not just B and C, not  
4   just initiate, render and maintain service, but it would  
5   be for other exceptions where under federal or State law,  
6   no customer approvals is required.

7               JUDGE WOODRUFF: For the purposes of the record,  
8   could you give me a short explanation of what CPNI is and  
9   what kind of stuff is included in that?

10              MR. GRYZMALA: Absolutely. CPNI is an acronym  
11   which stands for customer proprietary network information.  
12   It is the kind of information we pick up from customers  
13   and have access to from customers as their -- as a result  
14   of their use of the network.

15              A classic example would be the long distance  
16   phone numbers on your bill. That's sensitive. It's  
17   proprietary. It's personal to you. The amount of your  
18   bill, what services you prescribe to, the details, the  
19   particulars, these are items of information for which a  
20   reasonable consumer would expect privacy, and that's the  
21   -- the point of CPNI and the rules of the FCC for many,  
22   many years in this Commission against disclosing it or  
23   conveying it or allowing folks to have access to it  
24   without proper safeguards.

25              JUDGE WOODRUFF: Now, it's --

1           MR. GRYZMALA: And there are exceptions where,  
2   you know, the policy-makers and Legislators have made the  
3   cut in order to run your network, in order to bill for  
4   your service, to turn the screwdriver on the network to be  
5   able to do work, to protect against fraud by customers who  
6   commit fraud in using phone service. You don't need  
7   approval to convey or allow access to CPNI.

8           JUDGE WOODRUFF: There's the consumer privacy  
9   interest. There is also the proprietary interest of the  
10  phone company avoiding having competitors?

11          MR. GRYZMALA: You know, there may be, frankly,  
12  your Honor, but that's not generally been the genesis of  
13  the FCC's rule-makings nor the Commission's rule makes.  
14  I'm more familiar with the FCC's rule-makings over the  
15  past many years. The emphasis there has been with respect  
16  to what are the appropriate safeguards for consumers.

17          JUDGE WOODRUFF: Okay. Mr. Van Ashen or Ms.  
18  Dale, do you have a response?

19          MS. DALE: I --

20          JUDGE WOODRUFF: Ms. Dale, I should probably  
21  swear you in as well.

22                       COLLEEN DALE,  
23  being first duly sworn to testify the truth, the whole  
24  truth, and nothing but the truth, testified as follows:

25          MS. DALE: Thank you. I wanted to point out

1 that the -- the exceptions that Mr. Gryzmala was talking  
2 about are found at 4 CSR 240-33.160(2)(c). And then there  
3 are four subsections under C.

4 It might be acceptable to us to -- instead of  
5 saying under the Commission's rules, if we limited it to  
6 4 CSR 240-33.160(2)(c).

7 JUDGE WOODRUFF: Okay.

8 MS. DALE: The Commission's rules being vast and  
9 broad.

10 MR. GRYZMALA: Can I just take a moment?

11 JUDGE WOODRUFF: Sure. Go ahead.

12 MR. GRYZMALA: All right. Your Honor, may we  
13 have just a moment to speak with my client?

14 JUDGE WOODRUFF: Sure.

15 MR. GRYZMALA: I'm sure we can provide a pretty  
16 quick answer.

17 JUDGE WOODRUFF: We'll go off the record for a  
18 few moments.

19 (Break in proceedings.)

20 JUDGE WOODRUFF: Okay. We're back on the  
21 record. Mr. Gryzmala, what did the -- your client say?  
22 Or what did you decide, I should say?

23 MR. GRYZMALA: Thank you, your Honor. I think  
24 we're agreeable. And let me make sure that I can lock  
25 this down so that there's no uncertainty. At page 3 of

1 AT&T's comments, we have proposed language. So moving to  
2 the parenthetical where it starts to, Except to, this is  
3 the way it would read. "Except to initiate, render, bill  
4 and collect for telecommunications services (or as  
5 otherwise permitted under 4 CSR 240-33.160 (2)(C)). We're  
6 agreeable to that if we understand it as -- as I read it.

7 MS. DALE: Yes.

8 JUDGE WOODRUFF: Ms. Dale?

9 MS. DALE: That would be perfectly acceptable to  
10 us.

11 JUDGE WOODRUFF: Very good. I wish all disputes  
12 could be worked out so easily. Mr. Gryzmala, was there  
13 any other comments you wish to make?

14 MR. GRYZMALA: No, your Honor. Thank you for  
15 the opportunity.

16 JUDGE WOODRUFF: Ms. Dale, anything else?

17 MS. DALE: No.

18 JUDGE WOODRUFF: That's all the parties who have  
19 filed written comments. Was there anyone else here who  
20 would like to make any statements at this time?

21 All right. Well, thank you all very much, then.  
22 With that, we are adjourned. Thank you.

23 (The proceedings were concluded at 9:16 a.m. on  
24 March 8, 2010.)

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## 1 REPORTER'S CERTIFICATE

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3 STATE OF MISSOURI )  
 )ss.  
4 COUNTY OF OSAGE )

5

6 I, Monnie S. Mealy, Certified Shorthand Reporter,  
7 Certified Court Reporter #0538, and Registered  
8 Professional Reporter, and Notary Public, within and for  
9 the State of Missouri, do hereby certify that I was  
10 personally present at the proceedings as set forth in the  
11 caption sheet hereof; that I then and there took down in  
12 stenotype the proceedings had at said time and was  
13 thereafter transcribed by me, and is fully and accurately  
14 set forth in the preceding pages.

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21 Monnie S. Mealy, CSR, CCR #0539  
22 Registered Professional Reporter

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