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President

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Missouri Public
Service Commission

The Honorable Dale Hardy Roberts
Secretary, Missouri Public Service Commission
Post Office Box 360
Jefferson City, Missouri 65102

**RE: TX-2003-0445 -- Customer Proprietary Network Information (CPNI)
(4 CSR 240-33.160)**

Dear Judge Roberts:

Thank you for the opportunity to provide comments in the above-captioned case on the proposed CPNI rule as published in the May 3, 2004 edition of the Missouri Register. As you know, the proposed rule incorporates the provisions of the federal CPNI rule but includes significant state-specific requirements as well.

Requiring telecommunications companies to comply with both a federal CPNI standard and a differing state standard creates an administrative burden on all carriers in Missouri. The federal rule outlines a complicated, multi-step regimen that must be followed when using customer proprietary information. Different protocols govern the use of the data depending upon how the data is to be used and by what entity. Both opt-in and opt-out procedures must be followed in particular cases. All carriers, from large multi-state carriers to small companies serving a few communities, must adhere to the federal rule.

Layering a state-specific rule containing differing definitions, exemptions and provisions over this existing federal requirement is likely to cause carriers great difficulty in following both sets of requirements. The limited management resources of small carriers will be taxed, while carriers operating in several states are likely to see steep compliance costs.

I anticipate that individual companies may provide more specific comments. By way of example, I would note the following general differences between the existing federal rule and the proposed state rule:

- The proposed state rule adds definitions for agent, categories of service, CMRS, control, independent contractor, information services, joint venture partner, party, public safety answering point, and third party, none of which are in the federal rule. In addition, the state rule broadens the definition of the term customer to include

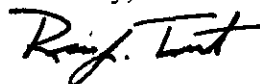
any person or entity with which the telecommunications company has had a prior service relationship. The federal rule only addresses current customers.

- The proposed state rule requires carriers to disclose CPNI to public safety answering points (PSAPS) if the PSAP determines the information is needed to respond to an emergency. The federal rule does not require this disclosure.
- The proposed state rule adds agents and affiliates to the entities that must be included in the provisions of confidentiality agreements for certain uses of CPNI.
- The state rule adds a specific requirement that customer notification use at least 12-point font. This provision could hamper multi-state carriers that seek to use uniform customer communications to comply with federal requirements in an efficient manner.
- The proposed state rule requires additional customer notification of the transfer of CPNI data in cases of bankruptcy, cessation of operations or transfer of assets. The federal rule does not contain this requirement.
- The proposed state rule adds agents, joint venture partners and independent contractors as parties for which companies must maintain records of marketing campaigns that use CPNI. The federal rule does not contain this requirement.

I am not able to provide a reliable estimate of the relative burden that complying with both federal and Missouri-specific CPNI rules would create. Although several members of our association did have a brief opportunity to discuss the rule with Commission staff in June 2003, I am not aware that we were requested to file specific written comments or further review the rule with staff. Our discussion occurred during a review of more than 15 pending rulemakings in various stages of development and the limited time available did not allow for a thorough review. In addition, I am not aware of any request to provide estimates of the cost of implementation.

Thank you for the opportunity to submit these comments on behalf of the association. I would be pleased to discuss the issue further with Commission staff.

Sincerely,



Richard Telthorst, CAE
President