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Englewood, CO 80112

**Annual 47 CFR § 64.2009(e) CPNI Certification**

**EB Docket 06-36**

Annual 64.2009(e) CPNI Certification for 2019 covering the prior calendar year 2018

Date filed: February 27, 2019

Name of companies covered by this certification and their respective Form 499 Filer ID(s):

- |                                      |        |
|--------------------------------------|--------|
| 1. AirCanopy Internet Services, Inc. | 826095 |
| 2. Digis, LLC                        | 826259 |
| 3. Essex Telecom, Inc.               | 823076 |
| 4. LP Broadband, Inc.                | 826253 |
| 5. Rhino Communications, Inc         | 829810 |
| 6. Skybeam Acquisition Corporation   | 829809 |
| 7. Suburban Broadband, LLC           | 826524 |

Name of signatory: James O'Brien

Title of signatory: Chief Executive Officer

I, James O'Brien, certify that I am an officer of the companies named above, and acting as an agent of the companies, I have personal knowledge that the companies have established operating procedures that are adequate to ensure compliance with the Commission's CPNI rules.

Attached to this certification is a copy of the CPNI Compliance Manual and Policy for Rise Broadband's operating companies identified above, which details how the companies' procedures ensure that they are in compliance with the requirements (including those mandating the adoption of CPNI procedures, training, safeguards, recordkeeping, and supervisory review) set forth in section 64.2001 et seq. of the Commission's rules.

The companies have not taken actions (i.e., proceedings instituted or petitions filed by a company at either state commissions, the court system, or at the Commission against data brokers) against data brokers in the past year.

The companies have not received customer complaints in the past year concerning the unauthorized release of CPNI.

The companies represent and warrant that the above certification is consistent with 47 CFR § 1.17, which requires truthful and accurate statements to the Commission. The companies also acknowledge that false statements and misrepresentations to the Commission are punishable under Title 18 of the U.S. Code and may subject it to enforcement action.

Signed:

  
James O'Brien  
Chief Executive Officer

Attachments: Rise Broadband CPNI Compliance Manual and Policy

# Customer Proprietary Network Information (CPNI) Compliance Manual and Policy

Revised: February 2019

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## Scope

This CPNI Compliance Manual and Policy applies to all Company employees who are required to follow this Policy as well as complete required training on this Policy as specified herein (**Required Action**). The Company reserves the right to modify this policy at any time, as required. The most current version can be found at <https://security.risebroadband.com>.

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## Purpose and Enforcement

The Company's policy is to comply with the letter and spirit of all laws of the United States, including the CPNI Rules, and to assure that all use of CPNI is made in compliance with this Policy. The CPNI Rules, specifically, 47 CFR 64.2009, require the Company to implement a system to clearly establish the status of a customer's CPNI approval prior to the use of CPNI, and to train its personnel as to when they are and are not authorized to use CPNI, and to have an appropriate disciplinary process in place to address any deviation of said policy.

**Compliance with the CPNI Rules is a serious matter. The FCC can impose substantial penalties and sanctions for a company's failure to do so.** This Policy constitutes the Company's policies and procedures related to CPNI and compliance with the CPNI Rules. All Company employees are subject to this Policy and any violations of this Policy may result in corrective action, including termination of employment and criminal or civil legal action.

Any questions regarding compliance with applicable law and this Policy are to be referred to the Company's Legal Department at [legal@risebroadband.com](mailto:legal@risebroadband.com). Additionally, any violation or breach of, or departure from, the policies and procedures in this Policy, shall be reported immediately to the Company's Legal Department.

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## Definitions

**Affiliate**: A person that (directly or indirectly) owns or controls, is owned or controlled by, or is under common ownership or control with, another person. The term "own" means to own an equity interest (or the equivalent thereof) of more than 10 percent.

**Company**: JAB Wireless, Inc. and its Affiliates, d/b/a Rise Broadband.

**Customer**: A person or entity to which the Company is currently providing service.

**Customer Proprietary Network Information (CPNI):** Information that relates to the quantity, technical configuration, type, destination, location, and amount of use of a telecommunications service subscribed to by any customer of a telecommunications carrier, and that is made available to the carrier by the customer solely by virtue of the carrier-customer relationship; and Information contained in the bills pertaining to telephone exchange service or telephone toll service received by a customer of a carrier. CPNI does not include subscriber list information.

**CPNI Rules:** The rules and regulations of the Federal Communications Commission (FCC) or any legal successor federal agency, that pertain to CPNI as contained in § 222 of the Telecommunications Act of 1934, as amended, 47 USC 222, and the FCC's regulations, 47 CFR 64.2001-.2009.

**Opt-In Approval:** A method for obtaining Customer consent to use, disclose, or permit access to the Customer's CPNI. This approval method requires that the Company obtain the Customer's affirmative, express consent allowing the requested CPNI usage, disclosure, or access after the Customer is provided appropriate notification of the Company's request.

**Opt-Out Approval:** A method for obtaining Customer consent to use, disclose, or permit access to the Customer's CPNI. Under this approval method, a customer is deemed to have consented to the use, disclosure, or access to the Customer's CPNI if the Customer has failed to object thereto within the prescribed waiting period, after the Customer is provided appropriate notification of the Company's request for consent.

**Policy:** This Customer Proprietary Network Information Compliance Manual and Policy, as modified.

**Telecommunications Service:** The offering of telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used.

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## Policy and Procedures

- I. **Use of CPNI in General** - Except as otherwise described in this Policy, when the Company receives or obtains any CPNI by virtue of its provision of a Telecommunications Service, it can only use, disclose, or permit access to individually identifiable CPNI in its provision of:
  - a. The Telecommunications Service from which the information is derived; or
  - b. Services necessary to provide or used in the provision of the Telecommunications Service, including the publishing of directories and establishment of emergency location records.
- II. **Guidelines for Use of CPNI.**
  - a. The Company may not use, disclose, or permit access to CPNI to market service offerings to any Customer that is within a category of service to which the Customer does not already

subscribe from the Company, unless the Company has Customer approval to do so (except that no customer approval is necessary in the situations described in Section II(d)).

- b. The Company cannot use, disclose or permit access to CPNI to identify or track Customers that call competing service providers. Thus, the Company may not use local service CPNI to track any Customers that may call its local service competitors.
- c. The Company may use, disclose, or permit access to CPNI for the purpose of providing or marketing service offerings among the categories of service (i.e., local, interexchange, and CMRS) to which the Customer already subscribes to any service offered by the Company without customer approval.
  - i. If the Company provides different categories of service and a Customer subscribes to more than one category of service offered by the Company, the Company may share CPNI among its Affiliates that provide a service offering to the Customer.
  - ii. If the Company provides different categories of service, but a customer does not subscribe to more than one offering offered by the Company, the Company is not permitted to share CPNI with its Affiliates, except with the customer's approval as outlined in Section III, below.
- d. The Company may use, disclose, or permit access to CPNI, without customer approval, as outlined below:
  - i. To provide inside wiring installation, maintenance, and repair services.
  - ii. To market services formerly known as adjunct-to-basic services, such as, but not limited to speed dialing, computer-provided directory assistance, call monitoring, call tracing, call blocking, call return, repeat dialing, call tracking, call waiting, caller I.D., call forwarding, and/or centrex features.
  - iii. For the provision of customer premises equipment and call answering, voice mail or messaging, voice storage and retrieval services, fax store and forward, and protocol conversion.
  - iv. To protect the rights or property of the Company, or to protect users of those services and other carriers from fraudulent, abusive, or unlawful use of, or subscription to such services.
  - v. Initiate, render, bill and collect for Telecommunications Services.
  - vi. Provide call location information concerning a Customer in emergency situations.

### III. **Obtaining Customer Approval for Use of CPNI.**

- a. Soliciting Customer Approval - The Company may obtain approval through written, oral or electronic methods.
  - i. If the Company relies on oral approval, it bears the burden of demonstrating that such approval has been given in compliance with the FCC's regulations.

- ii. A Customer's approval or disapproval to use, disclose, or permit access to CPNI must remain in effect until the Customer revokes or limits such approval or disapproval.
  - iii. The Company must maintain records of approval, whether oral, written or electronic, for at least one (1) year.
- b. Use of Opt-Out and Opt-In Approval Processes.
- i. The Company may utilize the Opt-Out or Opt-In Approval method to obtain approval to use its Customer's Individually Identifiable CPNI for the purpose of marketing communications-related services to that Customer.
  - ii. The Company may also utilize the Opt-Out or Opt-In Approval method to obtain approval to disclose its Customer's Individually Identifiable CPNI, for the purpose of marketing communications-related services to that Customer, to its agents, to its Affiliates that provide communications-related services and to its joint venture partners and independent contractors.
  - iii. If the Company discloses or provides access to CPNI to a joint venture partner or independent contractor, in addition to obtaining Customer approval, it must also enter into confidentiality agreements with such contractors or partners. The confidentiality agreement must:
    - 1. Require that the independent contractor or joint venture partner use the CPNI only for the purpose of marketing or providing the communications-related services for which the Company has provided the CPNI.
    - 2. Disallow the independent contractor or joint venture partner from using, allowing access to or disclosing the CPNI to any other party, unless required to make such disclosure under force of law.
    - 3. Require that the independent contractor or joint venture partner have appropriate protection in place to ensure the ongoing confidentiality of consumers' CPNI.

#### **IV. Notices Required for Use of CPNI.**

- a. Mandatory Notices Regarding Solicitation.
- i. Prior to soliciting any Customer approval to use, disclose, or permit access to Customers' CPNI, the Company must notify the Customer of the Customer's right to restrict use of, disclosure of, and access to, the Customer's CPNI.
  - ii. The Company must maintain records of the notification, whether oral, written or electronic, for at least one (1) year.



- iii. Content of Notice: Customer notification must provide sufficient information to enable the Customer to make an informed decision whether or not to permit the Company to use, disclose, or permit access to the Customer's CPNI. The notification must:
  - 1. Clearly state that the Customer has a right and the Company has a duty, under federal law, to protect the confidentiality of CPNI.
  - 2. Specify the types of information that constitute CPNI and the specific entities that will receive the CPNI, describe the purposes for which CPNI will be used and inform the Customer of the right to disapprove those uses, and deny or withdraw access to CPNI at any time.
  - 3. Advise the Customer of the precise steps the Customer must take in order to grant or deny access to CPNI, and must clearly state that a denial of approval will not affect the provision of any services to which the Customer subscribes. However, the Company may provide a brief statement in clear and neutral language, describing consequences directly resulting from the lack of access to CPNI.
  - 4. Be comprehensible and not misleading.
  - 5. State that any approval or denial of approval for the use of CPNI outside of the service to which the Customer already subscribes from the Company is valid until the Customer affirmatively revokes or limits such approval or denial.
- iv. If written notification is provided, the notice must be clear and use sufficiently large type, and be placed in an area so as to be readily apparent to a Customer.
- v. If any portion of a notification is translated into another language, then all portions of the notification must also be translated into that same language.
- vi. The Company may state in the notification that the Customer's approval to use CPNI may enhance the Company's ability to offer products and services tailored to the Customer's needs. The Company also may state in the notification that it may be compelled to disclose CPNI to any person upon affirmative written request by the Customer.
- vii. The Company may not include in the notification any statement attempting to encourage a Customer to freeze third-party access to CPNI.
- viii. The Company's solicitation for approval must be proximate to the notification of a Customer's CPNI rights.

- b. **Opt-Out Notice Requirements:** The Company must provide notification to obtain Opt-Out Approval through electronic or written methods, but not by oral communication (except for one-time use of CPNI, as discussed in Section IV(d), below). The contents of any such notification must comply with the requirements of Section IV(a)(iii), above.
- i. The Company must wait for a minimum of thirty (30) days after giving Customers notice and give Customers ample opportunity to opt-out, before assuming Customer approval to use, disclose, or permit access to CPNI. The Company must notify Customers of the specified waiting period for a response before approval is assumed.
    - 1. In the case of an electronic form of notification, the waiting period begins to run from the date on which the notification was sent.
    - 2. In the case of notification by mail, the waiting period begins on the third day following the date that the notification was mailed.
  - ii. If the Company uses the opt-out mechanism, it shall provide notices to its Customers every two years.
  - iii. **Use of E-mail:** If the Company uses e-mail to provide opt-out notices, it must comply with the following additional requirements:
    - 1. The Company must have express, verifiable prior approval from Customers to send notices via e-mail regarding their service in general, or CPNI in particular;
    - 2. Customers must be able to reply directly to e-mails containing CPNI notices in order to opt-out.
    - 3. Opt-out e-mail notices that are returned to the Company as undeliverable must be sent to the Customer in another form before the Company may consider the Customer to have received notice.
    - 4. The subject line of the e-mail must clearly and accurately identify the subject matter of the e-mail.
  - iv. The Company must make available to every Customer a method to opt-out that is of no additional cost to the Customer and that is available 24 hours a day, seven days a week. The Company may satisfy this requirement through a combination of methods, so long as all Customers have the ability to opt-out at no cost and are able to effectuate that choice whenever they choose.
- c. **Opt-In Notice Requirements.** The Company may provide notification to obtain Opt-In Approval through oral, written, or electronic methods. The contents of any such notification must comply with the requirements described in Section IV(a)(iii). above.



d. Notice Requirements Specific to One-Time Use of CPNI

- i. The Company may use oral notice to obtain limited, onetime use of CPNI for inbound and outbound Customer telephone contacts for the duration of the call, regardless of whether the Company uses Opt-Out or Opt-In Approval, based on the nature of the contact.
- ii. The contents of any such notification must comply with the requirements of Section IV(a)(iii), except that the Company may omit any of the following if not relevant to the limited use for which the Company seeks CPNI:
  1. The Company need not advise Customers that if they have opted-out previously, no action is needed to maintain the opt-out election.
  2. The Company need not advise customers that it may share CPNI with its Affiliate(s) or third parties and need not name those entities, if the limited CPNI usage will not result in use by or disclosure to, an Affiliate or third party.
  3. The Company need not disclose the means by which a Customer can deny or withdraw future access to CPNI, as long as the Company explains to Customers that the scope of the approval the Company seeks is limited to a one-time use.
  4. The Company may omit disclosure of the precise steps a Customer must take in order to grant or deny access to CPNI, provided that the Company clearly communicates to the Customer that the Customer can deny access to his CPNI for the call.
- e. Except for use and disclosure of CPNI that is permitted without Customer approval as discussed above, and except for the purpose of marketing communications-related services to a Customer, the Company may only use, disclose, or permit access to a customer's individually identifiable CPNI subject to Opt-In Approval.

**V. Company Safeguards and Recordkeeping Requirements.**

a. Management Safeguards.

- i. Training of Company personnel will include review of this Policy by all existing employees on an annual basis and all new employees upon employment.
- ii. The Company will provide additional training on an as needed basis.
- iii. Company personnel will make no decisions regarding CPNI without first consulting the Company's Legal Department and must obtain supervisory approval from Senior Management and the Legal Department regarding any proposed use of CPNI

- iv. In deciding whether the contemplated use of the CPNI is proper, the individual(s) listed in the previous paragraph will consult this Policy, applicable FCC regulations or Compliance Guide, and, if necessary, legal counsel.
  - v. The person(s) listed in Section V(a)(iii) above will oversee the use of approval methods and notice requirements for compliance with this Policy and any applicable law.
  - vi. The person(s) listed in Section V(a)(iii) above, will also ensure that the Company enters into confidentiality agreements, as necessary, with any joint venture partners or independent contractors to whom it discloses or provides access to any CPNI.
  - vii. Any improper use of CPNI will result in disciplinary action in accordance with established Company disciplinary policies. Any improper use of CPNI shall be treated as a serious offense, and may result in suspension or termination of employment in appropriate cases. Any company personnel making improper use of CPNI will undergo additional training to ensure future compliance.
  - viii. The Company will provide written notice within five business days to the FCC of any instance where the Opt-Out Approval mechanisms do not work properly, to such a degree that consumer's inability to opt-out is more than an anomaly.
    - 1. The notice will be in the form of a letter, and will include the Company's name, a description of the opt-out mechanism(s) used, the problem(s) experienced, the remedy proposed and when it will be/was implemented, whether or not any relevant state commission(s) has been notified and whether it has taken any action, a copy of the notice provided to Customers, and contact information.
    - 2. The Company must submit the notice even if the Company offers other methods by which consumers may opt-out.
  - ix. On an annual basis, a Company officer will submit a compliance certificate to the FCC stating that the officer has personal knowledge that the Company has established operating procedures that are adequate to ensure compliance with the CPNI Rules.
  - x. The Company will review this Policy on a continuing basis to ensure compliance with the CPNI Rules, and will revise this Policy as needed to reflect any subsequent revisions to the CPNI Rules or other applicable law regarding CPNI.
- b. Recordkeeping
- i. The Company will maintain records of its own sales and marketing campaigns that use CPNI in files clearly identified as such. These records include a description of each campaign, the specific CPNI that was used in the campaign, and the products and

services that were offered as a part of the campaign. The Company will maintain these records in its offices for a minimum period of one (1) year.

- ii. The Company will maintain records of its Affiliates' sales and marketing campaigns that use CPNI in files clearly identified as such. Those records shall include a description of each campaign, the specific CPNI that was used in the campaign, and the products and services that were offered as a part of the campaign. The Company will maintain said records in its offices for a minimum period of one (1) year.
- iii. The Company will maintain records of all instances where it disclose or provides CPNI to any third party, or where any third party has been allowed access to CPNI, in files clearly identified as such. Those records will include a description of each campaign, the specific CPNI that was used in the campaign, and the products and services that were offered as a part of the campaign. The Company shall maintain those records in its offices for a minimum period of one (1) year.
- iv. The Company's shall have a policy to maintain records of Customer approval for use of CPNI, as well as notices required by the CPNI Rules, for a minimum period of one (1) year. The Company shall maintain records of Customer approval and disapproval for use of CPNI in a readily-available location that is consulted on an as-needed basis.
- v. The Company shall maintain separate files in which it will retain any court orders respecting CPNI.

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## Required Action

As an employee of the Company you must review, understand and abide by this Policy at all times. You must also complete the annual CPNI training and complete the associated quiz to satisfy the Company's certification requirements.

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## References

1. US Code: Title 47, Chapter 5, Subchapter II, Part I, Section 222 – Privacy of Customer Information (<https://www.gpo.gov/fdsys/pkg/USCODE-2009-title47/pdf/USCODE-2009-title47-chap5-subchapII-partI-sec222.pdf>)
2. Code of Federal Regulations: Title 47-Telecommunications, Part 64-Miscellaneous Rules Relating to Common Carriers, Subpart U-Customer Proprietary Network Information. (<https://www.ecfr.gov/cgi-bin/text-idx?SID=64ffef4bf0204bf072ddd9da13a1bdd7&mc=true&node=pt47.3.64&rgn=div5#sp47.3.64.u>)
3. FCC Order 16-148 – Protecting the Privacy of Customers of Broadband and Other Telecommunications Services. ([http://transition.fcc.gov/Daily\\_Releases/Daily\\_Business/2016/db1103/FCC-16-148A1.pdf](http://transition.fcc.gov/Daily_Releases/Daily_Business/2016/db1103/FCC-16-148A1.pdf))