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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

_____)
 In the Matter of)
)
 Implementation of the) CC Docket No. 96-115
 Telecommunications Act of 1996)
)
 Telecommunications Carriers' Use)
 of Customer Proprietary Network)
 Information and Other Customer)
 Information)
 _____)

REPLY COMMENTS OF AT&T CORP.

Pursuant to the Commission's Public Notice,
 DA 98-1582, released August 7, 1998 ("Notice"), AT&T Corp.
 ("AT&T") submits these reply comments on the petition filed
 by the Connecticut Department of Public Utility Control
 ("DPUC"). DPUC requests a waiver of certain FCC rules under
 Section 222 of the Communications Act regarding the
 disclosure of Customer Proprietary Network Information
 ("CPNI").¹ DPUC contends that these rules would prohibit
 the transfer of CPNI without affirmative consent when a
 customer switches local carriers, thus frustrating its

¹ Implementation of the Telecommunications Act of 1996:
 Telecommunications Carriers' Use of Customer Proprietary
 Network Information and Other Customer Information,
 CC Docket No. 96-115, Second Report and Order and
 Further Notice of Proposed Rulemaking, FCC 98-27,
 released February 26, 1998 ("CPNI Order" and "Further
 Notice," respectively), published in 63 Fed. Reg. 20326
 (April 24, 1998).

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ability to implement the Local Exchange Election Process in Connecticut.²

All the commenters -- namely, AT&T, MCI Telecommunications, Inc. ("MCI"), and SNET America, Inc. ("SAI") -- agree with the DPUC that the incumbent local exchange carrier ("ILEC"), in this case SNET, should transfer CPNI to the follow-on CLEC a customer has chosen to provide local service. The only divergence between the parties' positions is whether a waiver of the FCC's rules is necessary to accomplish this transfer.

As AT&T demonstrated in its comments, the Commission's *CPNI Order*, properly construed, allows the transfer of CPNI without a waiver.³ The Commission should thus clarify that where a customer PICs a new entrant to serve as its local carrier, whether through affirmative balloting or through allocation after having failed to respond to the ballot, the ILEC is permitted to transfer the

² DPUC states that it will not be possible to include a lengthy CPNI notice in the balloting process. In all events, DPUC expects that up to 40% of customers will not respond to the ballot and, as a result, will be assigned a competitive local exchange carrier ("CLEC"). In these circumstances, DPUC contends that customers will not have given their consent to transfer CPNI to the follow-on carrier and therefore a waiver of Sections 64.2007(f)(2)(iii) and (v) of the Commission's rules is required. DPUC at 3.

³ Indeed, in its Reply Comments, filed August 28, 1998, MCI also agreed with AT&T that the Commission should clarify the *CPNI Order* to require the transfer of CPNI to the new CLEC who will be providing the customer's local service and thus obviate the need for a waiver.

customer's service record to the follow-on carrier that will provide local service to the customer.

AT&T is concerned about the potential negative consumer impacts if the Commission finds that a waiver is required. Some ILECs may forego the waiver process and insist that the CLEC who will be providing local service to the customer do so without transfer of the CPNI. This result would not serve the public interest and, indeed, could severely compromise the customer's privacy and personal safety. For example, if a customer subscribed to per-line blocking for Caller ID purposes with the ILEC and fails to advise the CLEC of this fact, without the customer's service record, the CLEC would provide the customer with per-call blocking in accordance with the FCC's rulings in CC Docket 91-281.⁴ If the customer then places a call believing that its line still has per-line blocking, the customer's calling party number ("CPN") will be disclosed to any called party who has Caller ID.⁵ Because certain customers could be endangered if their telephone number were disclosed, this outcome could threaten their personal safety. Similarly, if the 911 database does not

⁴ Rules and Policies Regarding Calling Number Identification Service -- Caller ID, CC Docket No. 91-281, Memorandum Opinion and Order on Reconsideration, Second Report and Order, and Third Notice of Proposed Rulemaking, CC 95-187, paras. 81-87, released May 5, 1995.

⁵ The only way the customer could block disclosure of his or her CPN would be by first dialing *67, which the customer would not do if he or she thinks that per-line blocking is in place.

contain accurate information, customer safety issues may also arise.

At the same time, the customer's CPNI privacy interests are fully protected by the fact that the CLEC is subject to the entire set of CPNI use restrictions that the Commission has imposed on all carriers. Under those rules, absent affirmative customer consent, the CLEC would not be able to use the customer's local CPNI for marketing out-of-category services, unless the customer is already subscribed to the CLEC's long distance or wireless services.

In short, AT&T strongly urges the Commission to find that a waiver is *unnecessary* to transfer the customer information, so that an ILEC could not withhold the customer service record from the follow-on CLEC. This outcome is fully consistent with the Commission's prior holdings.

As the Commission has already found, "although an incumbent carrier is not required to disclose CPNI pursuant to section 222(d)(1) or section 222(c)(2), absent an affirmative written request, local exchange carriers may need to disclose CPNI upon the oral approval of the customer to a competing carrier prior to its commencement of service as part of the LEC's obligations under sections 251(c)(3) and (c)(4). In this way, section 222(c)(1) permits any sharing of customer records necessary for the provision of services by a competitive carrier. . . ." *CPNI Order*, para. 84. Although the Commission did not specifically address the issue of customers who are allocated to a CLEC (rather

than respond to a written ballot or oral solicitation), AT&T believes that the Commission's holding recognizes the need to transfer customer information for the limited purpose of providing service and that an approval to do so is implicit in the customer's decision not to affirmatively select a carrier as part of the balloting process.

CONCLUSION

For these reasons, the Commission should clarify that the waiver requested by DPUC is unnecessary and that CPNI may be transferred from the ILEC to the CLEC that will provide follow-on local service to a customer, whether based on the customer's affirmative selection of the particular CLEC or on the allocation of a customer to a carrier, after the customer fails to respond to a carrier selection ballot.

Respectfully submitted,

AT&T CORP.

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September 1, 1998

CERTIFICATE OF SERVICE

I, Ann Marie Abrahamson, do hereby certify that on this 1st day of September, 1998, a copy of the foregoing "Reply Comments of AT&T Corp." was served by U.S. first class mail, postage prepaid, on the parties listed below.

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