Phone.com™

February 5, 2015

Via Electronic Comment Filing System

Marlene H. Dortch
Office of the Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Re: Phone.com, 499 Filer ID No. 827009
CPNI Compliance Certification
EB Docket No. 06-36

Dear Ms. Dortch:

On behalf of Phone.com, Inc. and pursuant to 47 C.F.R. § 64.2009(e), enclosed is the company's 2014 CPNI Certification.

Very truly yours,

Ari Rabban

Enclosure

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Annual 47 C.F.R. § 64.2009(e) CPNI Certification

EB DOCKET 06-36

Annual 64.2009(e) CPNI Certification for 2014, Covering the Prior Calendar Year 2014

Date filed: February 5, 2015

Name of company covered by this certification: Phone.com

Form 499 Filer ID: 827009

Name of signatory: Ari Rabban

Title of signatory: CEO

I, Ari Rabban, certify that I am an officer of the company named above, and acting as an agent of the company, that I have personal knowledge that the company has established operating procedures that are adequate to ensure compliance with the Commission's CPNI rules. *See* 47 C.F.R. § 64.2001 *et seq.*

Attached to this certification is an accompanying statement explaining how the company's procedures ensure that the company is in compliance with the requirements set forth in section 64.2001 *et seq.* of the Commission's rules.

The company has not taken any actions against data brokers in the past year nor have any pretexters attempted to access CPNI. The company has not discovered any information about the processes that pretexters are using to attempt to gain access to CPNI other than the publicly disclosed information in this docket.

The company has not received any customer complaints in 2014 concerning the unauthorized release of CPNI.

The company represents and warrants that the above certification is consistent with 47. C.F.R. § 1.17 which requires truthful and accurate statements to the Commission. The company also acknowledges 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.

ARI RABBAN
CEO

Phone.com™

www.phone.com

184 S. Livingston Ave, Suite 9-222, Livingston NJ 07039

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CERTIFICATION OF CPNI FILING
FEBRUARY 5, 2015
EB Docket No. 06-36; EB-06-TC-060

Statement of CPNI Procedures and Compliance

Phone.com does not use or permit access to CPNI to market any services outside of the "total services approach" as specified in 47 CFR §64.2005. Nor does the Company allow affiliates or third parties access to CPNI for marketing-related purposes. If Phone.com elects to use CPNI in a manner that does require customer approval, it will follow the applicable rules set forth in 47 CFR §64.2001 *et seq.*, including the institution of operational procedures to ensure that the appropriate notification is provided and customer approval is obtained before CPNI is used or disclosed. Phone.com will develop and implement an appropriate tracking method to ensure that customers' CPNI approval status can be verified prior to using CPNI for marketing-related purposes. The Company will also adopt the requisite record-keeping requirements should it use CPNI in the future for marketing-related purposes.

Consistent with the Commission's rules, Phone.com uses, discloses, and permits access to CPNI without customer approval for the purposes of: (1) billing and collecting for services rendered; (2) protecting the rights and property of Phone.com, other users, and other carriers from unlawful use; (3) providing inside wiring, installation, maintenance, and repair services; and (4) providing or marketing services that are within the same class of services to which the customer already subscribes.

Phone.com does not currently market to customers that call and make inquiries concerning their account information. But should the Company choose to do so in the future, it will obtain a customer's oral authorization. Phone.com will also require each representative to provide the disclosures required by 64.2008(c) of the CPNI rules including informing customers of their right to deny access to the CPNI before requesting this one-time consent.

Phone.com has implemented procedures whereby it will not provide CPNI without proper customer authentication and does not provide call detail records over the phone. Call detail records are provided exclusively via e-mail or U.S. mail, to the postal or electronic address of record. In order to authenticate a customer's identity prior to disclosing CPNI, Phone.com authenticates the customer using a variety of methods. Phone.com has implemented procedures to inform customers of change of address, e-mail and other changes to account information in a manner that conforms with the relevant rules.

Phone.com has implemented procedures to provide law enforcement with notice should a breach of CPNI occur. After notifying law enforcement and unless directed otherwise, Phone.com will notify affected customers. Phone.com will maintain a record of any CPNI-related breaches for a period of at least two years.

All Phone.com employees who have access to CPNI receive training about CPNI compliance. Specifically, a summary of Phone.com's CPNI policies are included in its Employee Handbook, and all employees are required to acknowledge in writing that they have read and understand the information in the Employee Handbook. All Phone.com employees are required to maintain the confidentiality of all information, including customer information that is obtained as a result of their employment by Phone.com. Employees who do not abide by these policies or otherwise permit the unauthorized use or disclosure of CPNI will be subject to discipline, including possible termination.

CUSTOMER PROPRIETARY NETWORK INFORMATION

("CPNI")

PROTECTION POLICY

Phone.com

184 S. Livingston Ave.

Suite 9-222

Livingston , NJ 07039

For More Information, Contact: Ari Rabban, CEO – 973 577 6381

Employees, contractors, agents, subsidiaries, affiliates and partners of Phone.com, including sales and marketing agents, are obligated to protect the confidentiality of customer information. Customer information obtained by Phone.com by virtue of its provision of interconnected VoIP services may be considered Customer Proprietary Network Information ("CPNI"), and be subject to legal protection under Federal law and regulations. Phone.com supports these laws and regulations, and requires that its employees, company/legal agents and affiliates comply with the policy set forth in this document.

See Glossary at the end of this document for meanings of underlined terms.

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WHAT IS CPNI?

CPNI is defined by Federal statute:

The term "customer proprietary network information" means—

(A) information that relates to the quantity, technical configuration, type, destination, location and amount of use of a telecommunications or interconnected VoIP service subscribed to by any customer of a telecommunications carrier or interconnected VoIP provider, and that is made available to the provider by the customer solely by virtue of the customer relationship; and

(B) information contained in the bills pertaining to telephone exchange service or telephone toll service received by a customer of a provider;

except that such term does not include subscriber list information.

47 United States Code § 222(h)(1).

CPNI includes most information we collect about a customer because of their purchase of interconnected VoIP services ("IVP") from us; this includes:

- Information about the ***types*** of service a customer buys, such as the technical configuration, destination and location of services a customer purchases from Phone.com and its subsidiaries and affiliates. This may include design layout reports, service addresses, originating and terminating locations, circuit speed and capacity, etc.

- Information about the ***amount*** of service a customer purchases from Phone.com. For example, this may include the number of lines, circuits, calls, minutes, or the amount of equipment, subscribed to by the customer.

- Information about a customer's ***usage*** of IVP services, including numbers called, calls received, and optional features utilized.

- Information contained in a bill sent to the customer by Phone.com.

- Subscriber names, addresses and telephone numbers. Because the term "Subscriber List Information" is defined term under Federal law to mean any information of a subscriber (such as name, address, telephone number or classification) *that the company or an affiliate has published, caused to be published, or accepted for publication in a directory*, and *Phone.com does not*

publish its subscriber information in any directory, Phone.com's lists of subscriber names, addresses and telephone numbers are considered CPNI.

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CPNI does *not* include:

- Information that was not obtained by Phone.com by virtue of its provider-customer relationship with the customer. For example, market information that the company may purchase from an outside source that happens to include data concerning one of Phone.com's customers. However, information we obtain from any affiliate of Phone.com that also provides service to a customer is deemed to be CPNI.

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RESTRICTIONS ON USE OF CPNI

How may CPNI be used *without* the customer's approval?

- CPNI may always be used to provide the IVP service that the customer has purchased, or to provide services necessary to, or used in, the provision of such IVP services.

- Phone.com may use CPNI, without notice or approval, to bill and collect for services rendered, and to protect the company's rights and property (including fraud control).

- Aggregate Customer Information may be used without restriction.

- CPNI may be used, without notice or customer approval, for the provision of customer premise equipment ("CPE") (such as handsets), call answering, voice mail or messaging, voice storage and retrieval services, fax storing and forwarding services, protocol conversion, other information services (such as Internet and Internet access services), and to provide call location information in association with the delivery of emergency services.

- CPNI may be used, without notice or approval, for marketing Phone.com's services within a category of services to which the customer already subscribes. The FCC recognizes three (3) categories of telecom services: local, inter-exchange and CMRS (mobile wireless) service. Therefore, if a customer already subscribes to Phone.com's CMRS, the company may, without notice or approval, use that customer's CPNI for the purpose of marketing additional CMRS as well as CPE and wireless Internet services.

- CPNI may be used to assist with any inbound telemarketing or administrative service for the duration of the customer's call, if the customer orally approves use of CPNI in this manner. Since customer approval is not needed to use CPNI in association with the services offered by Phone.com, this category would not normally affect Phone.com.

- CPNI may also be used to provide customer information required by a Public Safety Answering Point (PSAP), *i.e.*, emergency call takers.

How may CPNI be used *with* the customer's approval?

- CPNI may be used to market Communications-Related Services, and may be disclosed to affiliates providing Communications-Related Services, if the customer has received notice and has given approval by the "opt out" procedure. (*See* page 6). Specific requirements apply to how customer notices must be given

(*see* pages 6-7), and the rules pertaining to "opt out" approval must be closely observed. Since Phone.com does not offer Communications-Related Services for which customer approval is required to use CPNI, this category would not normally affect Phone.com.

- CPNI may be disclosed to (1) the company's third party agents and joint venture partners providing Communications-Related Services and (2) unrelated third parties and affiliates that *do not* provide communications-related services *only* if the customer's consent is obtained by the "opt in" procedure. (*See* page 6). Phone.com does not ordinarily disclose CPNI to third parties, and any such disclosure cannot be made without express management approval in addition to customer consent obtained by the "opt-in" procedure.

When is the company *required* to disclose CPNI?

- Phone.com must provide CPNI to any person designated by the customer, upon receipt of an affirmative written request from the customer. In general, the company cannot encourage a customer to freeze third-party access to CPNI.

- When required by law. Any search warrants, subpoenas, and other legal demands for information must immediately be brought to the attention of Brian Scott, COO – 800 998 7087 or 973 577 6380

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HOW PHONE.COM OBTAINS APPROVAL FROM A CUSTOMER TO USE CPNI

Opt Out

- The "opt out" approval method requires that the customer receive an individual notice (by written or electronic means) that the company intends to use the customer's CPNI. Such notices must be sent by the company 30 days before the customer's approval to use CPNI is inferred (33 days for notices sent by mail). If the customer communicates to Phone.com that use of the CPNI is not approved, the company will honor that customer's decision to "opt out." In limited cases, oral approvals may be allowed, as described below in the section entitled *Special Requirements Applicable to One-Time Oral Notices to Customers.*

- If the company elects to send opt out notices by e-mail, the customer must previously have agreed to receive e-mails regarding their account. The subject line of the e-mail must clearly and accurately identify the topic, and the customer must have the option of replying directly to the e-mail. If the e-mail is returned as undeliverable, Phone.com may not use the customer's CPNI until the required notice is given by another means. The customer must be able to opt out at no cost and be able notify the company of his or her decision on a 24-hour/7-day-per-week basis.

- Opt out approval must be refreshed every two years by sending a new notice, with a new 30 or 33 day waiting period for approval.

Opt In

- This method requires Phone.com to obtain from the customer an affirmative, express consent--in oral, electronic or written form--allowing the requested CPNI usage, disclosure or access, after receiving appropriate notification.

- Although customer approvals under the opt in method may be obtained orally, Phone.com allows oral approvals only with written authorization of the company's management. If oral approval is received, the burden will lie on the company to show that the customer received all of the information that would otherwise have been required in writing, and gave the necessary approval.

Notice Requirements Applicable to both the Opt In and Opt Out Methods of Approval

- Notices to customers must be clearly written, legible, and provide sufficient information to enable the customer to make an informed decision to allow or deny

use of CPNI. The company must describe what CPNI is, how it is proposed to be used by the company, and what specific entities may receive the CPNI if approval is granted. Although the notice may advise the customer that use or disclosure of CPNI will enhance Phone.com's ability to provide services to the customer, the notice must also state that the customer has the right, and Phone.com has the duty under Federal law, to protect the confidentiality of CPNI. The customer must be informed of his or her right to deny or later withdraw approval of Phone.com's proposed use of CPNI, and also be advised of the precise steps that must be taken in order to grant or deny approval of such use. Customers must be notified that denial of access to CPNI will not affect the provision of any services to which the customer subscribes.

Special Requirements Applicable to One-Time Oral Notices to Customers

- In general, one-time oral notices are appropriate when the company has made a one-time inbound or outbound telephone contact with the customer and access to CPNI is useful to analyze the customer's existing service. In such cases, Phone.com may use oral notices to obtain limited, one time use of CPNI <u>only for the duration of the call</u>, irrespective of whether the company uses opt-out or opt-in approval with respect to that customer. When using the one time oral notice method, the customer must be advised of the same information that would otherwise be provided in a written or electronic notice. However, certain information may be omitted from the oral notice, if it is clearly inapplicable, including: (a) notice that CPNI will be shared with affiliates or third parties; (b) the specific steps that are necessary to approve or restrict use of CPNI; and (c) previous opt-out decisions require no further action to maintain the opt-out election. Notation should be made in the customer's record of any one-time oral notice to the customer and the customer's acceptance or rejection of one-time use of CPNI.

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HOW TO VERIFY A CUSTOMER'S APPROVAL AND OBTAIN SUPERVISORY APPROVAL FOR PROPOSED OUTBOUND MARKETING EFFORTS

Customer Approval Database

- If necessary, Phone.com will maintain a database that will identify whether or not a Customer has given approval for access to its CPNI. Employees, contractors, agents, subsidiaries, affiliates and partners of the company, including sales and marketing agents, will be obligated to use that database before using, disclosing or permitting access to customers' CPNI in all instances when customer approval is required. Copies of the database will be available by contacting **Brian Scott, COO 800 998 7087 or brian@phone.com**

- Company employees, agents, subsidiaries and affiliates are prohibited from using, disclosing or permitting access to CPNI of any customer who is not listed in the database as having given approval in all instances when customer approval is required. Disciplinary action may result from violation of this prohibition.

- Please report any inaccuracies found in the customer approval database promptly to **Brian Scott, COO 800 998 7087 or brian@phone.com**

Supervisory Review Required Before Making a Request for Customer Approval

- Company employees, agents, subsidiaries and affiliates must obtain supervisory review before making any request to a customer to use, disclose or permit access to CPNI. All requests for such review should be directed to **Brian Scott, COO 800 998 7087 or brian@phone.com**

- The review shall ensure that the requirements of this policy statement are adhered to. In addition, **Brian Scott, COO 800 998 7087 or brian@phone.com** shall maintain a list of those personnel who are authorized to request CPNI consent from customers making inbound calls to Phone.com for the duration of any such calls.

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CONFIDENTIALITY AGREEMENTS WITH CONTRACTORS AND JOINT VENTURERS

Phone.com will share CPNI with a partner, contractor or third party agent, such as an independent contractor, only after that person or entity has entered into a confidentiality agreement with the company. The confidentiality agreement must include the following:

- Require that the partner, contractor or agent use the CPNI only for the purpose of marketing or providing the Communications-Related Services for which it was provided;

- Disallow the partner, contractor or agent from using, allowing access to or disclosing the CPNI to any other party, unless required to make such disclosure under force of law; and

- Require that the partner, contractor or agent have appropriate protections in place to ensure the ongoing confidentiality of the customer's CPNI.

All such confidentiality agreements must be reviewed and approved by Chandrakant Patel, Vice President.

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RETENTION AND WIN-BACK

Restrictions on use of Carrier Proprietary Information to retain customers

- If the company learns by receipt of another carrier's order to switch the customer, or another carrier's change request, that a customer plans to switch from Phone.com to another carrier, Phone.com prohibits its employees, agents, contractors or affiliates from using that information to attempt to dissuade the subscriber from leaving.

- It is specifically prohibited to access call records for the purpose of identifying customers who may have called or been called by any of our competitors.

- Subject to this policy statement on use of CPNI, if the company learns that a customer is switching to another carrier through an independent source (*e.g.*, from a communication received directly from the customer), CPNI may be used to persuade the customer to stay.

Win-back

- Subject to this policy on use of CPNI, Phone.com encourages marketing campaigns to win back former customers that have switched to other carriers. If CPNI is used as part of a "win-back" campaign, it continues to be governed by this policy statement.

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PROCEDURES FOR RELEASE OF CPNI TO CUSTOMERS

Customer-initiated telephone account access

Phone.com shall release Call Detail Information and other CPNI based on customer-initiated telephone contact only pursuant to one of the following three scenarios:

- The customer provides a pre-established password;
- Upon customer request, the Call Detail Information is mailed to the customer's Address of Record; or
- A call is placed to the Telephone Number of Record.

If during the course of a customer-initiated call, the customer is able to provide the Call Detail Information that is needed to address the customer's service issue, then the call may proceed without the need to ask for a password. However, unless a password is provided, discussion of Call Detail Information must be limited to only the Call Detail Information provided by the customer.

Online account access

Online account access is available only with the use of a password.

Password protection

- For new customers, a password may be established at the time of service initiation.
- For existing customers who do not already have passwords, the identity of the customer must be authenticated without the use of Readily Available Biographical Information or Account Information. This can be accomplished by either calling the customer at the Telephone Number of Record, asking the customer to return a form mailed to the Address of Record, or asking the customer to produce a Valid Photo ID that matches the name on the account at one of our retail locations.
- In the event the customer does not remember his or her password, the customer may be authenticated by asking a pre-established question that is not based upon Readily Available Biographical Information or Account Information. The customer may not be provided prompts regarding the password.

Notification of account changes

Customers are to be notified immediately whenever a password, customer response to a back-up means of authentication, online account, or Address of Record is created or

changed. Notification may be accomplished by means of voicemail or text message to the Telephone Number of Record or by mail to the Address of Record.

Business customer exception

For business customers with a dedicated account representative, the dedicated account representative need not ask for a password if the dedicated account representative personally knows the employee of the business who is asking for Call Detail Information or other CPNI.

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PROCEDURES IN THE EVENT OF BREACH OF CPNI PROTECTION

Notification to U.S. Secret Service and FBI

- Any discovery of a breach of CPNI protection shall immediately be reported to **Brian Scott, COO 800 998 7087 or brian@phone.com**. No later than seven business days after it is reasonably determined that there has been a breach of CPNI protection, **Brian Scott, COO 800 998 7087 or brian@phone.com** or **his** designee shall notify the United States Secret Service ("USSS") and the Federal Bureau of Investigation ("FBI") of such breach through a central reporting facility. A link to the central reporting authority can be found at http://www.fcc.gov/eb/cpni.

Notification to customer and/or the public

The customer and/or the public, as applicable, may not be notified of a breach of CPNI protection until seven full business days following notification to the USSS and the FBI.

- The USSS or the FBI may direct postponement of such notification to the customer and/or the public, as applicable, if the agency believes that such notification would impede or compromise an ongoing or potential criminal investigation or national security.

- In addition, the customer and/or the public, as applicable, may be notified prior to the expiration of the seven business day waiting period if, after consulting with the USSS and/or the FBI, as applicable, it is believed that there is an extraordinarily urgent need to notify the customer, a class of customers and/or the public, as applicable, in order to avoid immediate and irreparable harm.

- Subject to the above policies, the determination as to when and how customers and/or the public, as applicable, shall be notified of a breach of CPNI protection shall be made by **Brian Scott, COO 800 998 7087 or brian@phone.com**

Recordkeeping requirements

Electronic or other form of records of breaches of CPNI protection that are discovered, notifications made to the USSS and the FBI, and notifications made to customers shall be maintained and retained for a period of two years and shall include the dates of discovery and notification, a detailed description of the CPNI that was the subject of the breach, and the circumstances of the breach.

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TRAINING, REPORTING AND RECORD KEEPING

Training Requirements

- Phone.com will provide a means for all its employees, company/legal agents, subsidiaries and affiliates to receive training in the proper uses of CPNI, including a familiarity with this policy statement. Anyone who has not received the required training should contact **Brian Scott, COO 800 998 7087 or brian@phone.com**

- **Reporting Requirements**

- **Brian Scott, COO 800 998 7087 or brian@phone.com** is responsible for all government reporting requirements in connection with CPNI.

- Phone.com will provide a written report to the Federal Communications Commission ("FCC") of any instance in which the opt out method has failed to work properly, to such a degree that consumers' inability to opt out is more than an anomaly. The company's report will be filed with the FCC within five business days after learning of such failure. Any employee who becomes aware of any malfunction in the opt out system should immediately report it to **Brian Scott, COO 800 998 7087 or brian@phone.com**

Record-Keeping Requirements

- Phone.com will maintain records of approval, whether oral, written or electronic, for a minimum of one year. A customer's approval or disapproval will remain in effect until the customer revokes or limits such approval or disapproval.

- Phone.com will maintain records of all sales and marketing campaigns that involve the use, disclosure or giving of permission for access to customers' CPNI, including those of the company's subsidiaries and affiliates. All such records will include a description of the campaign, identification of the CPNI used, and a listing of the products and services being offered to customers. One-time uses of CPNI are not generally considered to be sales or marketing campaigns, and individualized records of such one-time uses are not required, except that every disclosure of CPNI to a person or entity outside of Phone.com must be documented and recorded with the same information that would be required in a sales or marketing campaign. Phone.com does not ordinarily disclose CPNI to third parties, and any such disclosure cannot be made without express management approval in addition to customer consent obtained by the "opt-in"

procedure. The records required under this paragraph will be maintained for a minimum of one year.

Phone.com™ GLOSSARY

"Account Information" means information that is specifically connected to the customer's service relationship with Phone.com, including such things as an account number or any component thereof, the telephone number associated with the account, or the bill's amount.

"Address of Record" means an address that has been associated with the customer's account for at least 30 days. The Address of Record may be postal or electronic.

"Aggregate Customer Information" means collective data that relates to a group or category of services or customers, from which individual customer identities and characteristics have been removed.

"Call Detail Information" means any information that pertains to the transmission of specific telephone calls, including, for outbound calls, the number called, and the time, location, or duration of any call and, for inbound calls, the number from which the call was placed, and the time, location, or duration of any call.

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

"Carrier Proprietary Information (CPI)" means a request from one carrier to another to *switch* a customer.

"Communications-Related Services" means IVP services, information services typically provided by IVP providers, and services related to the provision and maintenance of customer premises equipment. Information services that are typically provided by IVP providers. Retail consumer services provided by use of Internet websites (such as travel reservation services or mortgage lending services), are not typically provided by IVP providers and are not considered to be Communications-Related Services, whether or not such services may otherwise be considered to be information services.

"IVP" – means Interconnected Voice over Internet Protocol service as that term is defined in 47 C.F.R. Section 9.1.

"Readily Available Biographical Information" means information drawn from the customer's life history and includes such things as the customer's social security number,

or the last four digits of that number; mother's maiden name; home address; or date of birth.

"Subscriber List Information" means any information of a Phone.com subscriber (such as name, address, telephone number or classification) that the company, a subsidiary, or an affiliate has published, caused to be published, or accepted for publication in a directory. Phone.com does not publish any customer information in a directory.

"Telephone Number of Record" means the telephone number associated with the underlying service, not the telephone number supplied as a customer's contact information.