

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

In the Matter of
Rules and Regulations Implementing the
Telephone Consumer Protection Act of 1991

CG Docket No. 02-278

COMMENTS ON BEHALF OF THE NATIONAL ASSOCIATION OF WATER COMPANIES REGARDING THE
JOINT PETITION SUBMITTED BY THE EDISON ELECTRIC INSTITUTE AND THE AMERICAN GAS
ASSOCIATION

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The National Association of Water Companies (“NAWC” or “the Association”) represents the private water and wastewater services industry across the United States, which serves nearly one in four Americans every day. NAWC members range from companies in small towns and communities to the largest water operator in the country that serves 14 million people a day. The services that they provide are essential to the safety, health, and prosperity of every customer they serve, and they are dedicated to providing these services around the clock, every day, in exemplary fashion. The mission of these companies extends beyond building and maintaining their facilities to informing their customers of critical events, planned construction and outages, conservation, and service issues.

Water is the only utility product that is ingested and maintaining a constant, safe supply requires dedication, expertise, and communication. Like our counterparts in the electric and natural gas distribution industries, our members are increasingly employing automated telephone calls and text messages to provide essential and timely information to their customers. The Association agrees with the assertion by the Edison Electric Institute (“EEI”) and the American Gas Association (“AGA”) in their petition filed February 12, 2015 (“Petition”) that the lack of a comprehensive statement by the Federal Communications Commission (“Commission”) on the consent required for non-emergency communications from utilities presents an unnecessary exposure to litigation for NAWC members. Without further clarification, water utilities could risk facing significant lawsuits and damages, while diverting valuable resources away from their core responsibility to serve their customers. Furthermore, it would only take a few aggressive plaintiffs to discourage water and wastewater utilities from using these highly effective communication platforms to inform their customers.

While many of the communications that NAWC members send to their customers would clearly qualify as emergency communications and therefore be exempt from TCPA requirements, there are many instances where these communications are for informational or service purposes, such as conservation issues in drought-affected areas, seasonal system maintenance messages, and

construction alerts, among others. These communications are for non-telemarketing, informational purposes, and are made only if the customer provided their number to the utility. Often, they are also part of a broader customer engagement strategy that is either encouraged or mandated by the state regulators. Most importantly, customer expectations are shifting rapidly, and many have become accustomed to timely communication from their utilities, increasingly on mobile platforms.

NAWC members have adapted to this shifting landscape and are reaching more of their customers, but a lack of a definitive ruling from the Commission about which calls do not violate the prohibition against prerecorded calls and, therefore, do not require prior express consent will make utilities reluctant to bear the significant litigation risk through expanding these communication programs.

NAWC supports the request included in the Petition that the Commission clarify that the provision of a telephone number – whether mobile or fixed – by a customer constitutes “prior express consent” to receive non-telemarketing, informational communications related to the customer’s utility service. The Association supports customer protections that would allow for the customer to opt out, should they feel that they are receiving too many messages or feel that they are not relevant. We appreciate the opportunity to comment and thank the Commission for examining this important issue.

Respectfully submitted,



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