

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Rules and Regulations Implementing the)	CG Docket No. 02-278
Telephone Consumer Protection Act of)	
1991)	
)	

**REPLY COMMENTS OF THE
ALARM INDUSTRY COMMUNICATIONS COMMITTEE**

Pursuant to the Commission’s Public Notice dated February 24, 2015,¹ the Alarm Industry Communications Industry (AICC) hereby submits the following reply comments in support of the Petition for Expedited Declaratory Ruling filed by Edison Electric Institute and American Gas Association in CG Docket No. 02-278 (the “Petition”). AICC agrees with the Petitioners and supporting commenters, and joins in urging the Commission to declare that non-emergency, service-related telephone calls and text messages to customers who have provided a phone number (wireline or wireless) are not in violation of the Telephone Consumer Protection Act of 1991 (“TCPA”).

Statement of Interest

AICC is comprised of representatives of the Central Station Alarm Association (CSAA), Electronic Security Association (ESA), Security Industry Association (SIA), Bosch Security Systems, Digital Monitoring Products, Digital Security Control, Telular Corp, Honeywell Security, Vector Security, Inc., ADT, AES-IntelliNet, Alarm.com, Bay Alarm, Intertek Testing, Security Network of America, United Central Control, AFA Protective Systems, Vivint

¹ *Consumer and Governmental Affairs Bureau Seeks Comment on Petition for Expedited Declaratory Ruling filed by Edison Electric Institute and American Gas Association*, Public Notice, DA 15-244, released February 24, 2015.

(formerly APX Alarm), COPS Monitoring, DGA Security, Security Networks, Universal Atlantic Systems, Axis Communications, Interlogix, LogicMark, Napco Security, Alarm Detection, ASG Security, Security Networks, Select Security, Inovonics, Linear Corp., Numerex, Tyco Integrated Security, FM Approvals, the Underwriters Laboratories, CRN Wireless, LLC, and Rapid Response Monitoring.

AICC member companies protect a wide range of sensitive facilities and their occupants from fire, burglaries, sabotage and other emergencies. Protected facilities include government offices, power plants, hospitals, dam and water authorities, pharmaceutical plants, chemical plants, banks, schools and universities. In addition to these commercial and governmental applications, alarm companies protect a large and ever increasing number of residences and their occupants from fire, intruders, and carbon monoxide poisoning. Alarm companies also provide medical alert services for obtaining ambulances in the event of medical emergencies. Therefore, it is important that AICC member companies have a reasonable way to stay in touch with their customers without fear of becoming embroiled in potentially frivolous litigation.

AICC Supports Common Sense Application of the Proposed Declaratory Ruling

AICC supports the Petitioners and the comments of Consolidated Edison Company of New York, Inc. and Orange and Rockland Utilities, Inc., and agrees that the Commission should issue a declaratory ruling that non-emergency, service-related automated telephone calls to customers who have provided a phone number, including a cell phone number, are not in violation of the TCPA. Petitioners are asking for a common sense approach to customer relations under the TCPA. Indeed, such a ruling should not be limited to calls made by utilities, as many non-utility entities that provide important public interest benefits are likely to encounter

similar controversy over similar facts.² Although automated calls placed by alarm companies are often related to alarm responses and are therefore exempt communications made for “emergency purposes,”³ alarm companies may also benefit by being able to use the contact number provided by their customer in much the same way as the utility-Petitioners: to contact that customer about their account and alarm system status and to verify installation/maintenance appointments.⁴ In addition, there are a number of other important notifications that can best be quickly distributed to alarm subscribers by auto-dialer and/or text message: The need for an equipment upgrade; an equipment recall; alerts regarding a system security risk (e.g., the need for a software upgrade to the customer’s DVR or other equipment that has been identified as being a breach threat); alerts of suspicious activity in a particular market (e.g., someone is knocking on doors soliciting customers pretending they are from the alarm company); or proactive security alerts (e.g., in an area that has been subject to recent home invasions). As AICC has noted in past TCPA proceedings, and indeed as the Commission itself has recognized, when a customer gives a vendor or creditor a particular phone number, that customer expects to be contacted on that number in connection with its relationship with that vendor.⁵

A declaratory ruling is appropriate to resolve the issue at hand. The Commission is empowered to enter a declaratory ruling to terminate a controversy or remove uncertainty.⁶ Though the Commission has broad discretion in deciding whether to issue such a ruling, it has

² See, e.g., *Blackboard Inc. Petition for Expedited Declaratory Ruling*, CG Docket No. 02-278, filed February 24, 2014.

³ 47 CFR §64.1200(a)(1).

⁴ Petition at pp. 3-4.

⁵ See *Comments of the Alarm Industry Communications Committee*, CG Docket No. 02-278, filed May 21, 2010; *Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991*, Report and Order, FCC 92-443, 7 FCC Rcd 8752 (1992).

⁶ 47 USC § 544(e); 47 CFR §1.2.

done so in the past where it “would be helpful to avoid future disputes.”⁷ Here, Petitioners have ably demonstrated that sufficient controversy exists in the form of an increasing number of law suits that have been filed against them (and others), as well as the possibility for confusion in the event different judicial jurisdictions handle the question differently. Moreover, the Petitioners and supporting commenters have also demonstrated that it is clear that providing a telephone number within the context of a transaction is a form of “prior express consent” to receive calls related to that transaction.

For the forgoing reasons, AICC urges the Commission to issue a declaratory ruling confirming that providing a telephone number, including a cell phone number, constitutes “prior express consent” to receive non-telemarketing, service-related information calls or texts at made by automated means that number.

Respectfully submitted,

**THE ALARM INDUSTRY
COMMUNICATIONS COMMITTEE**

By  _____

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Filed: April 9, 2015

⁷ See, e.g., *In re Network Affiliated Stations Alliance (NASA)*, 23 FCC Rcd 13610, 13611 (F.C.C. 2008)