

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)
Telecommunications Act of 1996:) CC Docket No. 96-115
)
Telecommunications Carriers' Use)
of Customer Proprietary Network)
Information and Other Customer)
Information)

BELLSOUTH COMMENTS

BellSouth Corporation, on behalf of its affiliated companies (collectively "BellSouth"), hereby submits these comments in response to the limited Petition for Reconsideration of the Commission's *Stay Order*¹ that was filed in this proceeding by the Personal Communications Industry Association ("PCIA"). Although BellSouth does not interpret the *Stay Order* precisely as PCIA does, BellSouth concurs with PCIA's request for relief from the import of one particular aspect of that *Order*.

In the *Stay Order*, the Commission deferred enforcement of certain electronic safeguard requirements previously adopted in the *CPNI Order*.² The deferral was granted in response to substantial showings from all segments of the industry that the originally adopted requirements were overly broad and costly and imposed undue burdens on carriers' other important systems

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, *Order*, FCC 98-239 (rel. Sept. 24, 1998) ("*Stay Order*").

² *Implementation of the Telecommunications Act of 1996: Telecommunications Carriers' Use of Customer Proprietary Network Information and Other Customer Information*, 13 FCC 8061

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enhancement initiatives. Thus, the Commission concluded that “postponement of compliance until the Commission provides additional guidance [in response to reconsideration petitions] may promote more effective and efficient deployment of resources spent on meeting the new CPNI requirements.”³ Notwithstanding the material possibility of modifications to the electronic safeguard requirements, however, the Commission expressed an “expect[ation]” that carriers would nonetheless install the original electronic safeguards in any new systems deployed during the pendency of the reconsideration petitions.⁴

PCIA has asked the Commission to reconsider this aspect of the *Stay Order*, apparently interpreting this stated expectation as a *requirement* of the *Order*.⁵ BellSouth does not agree that a statement of expectation by the Commission equates to an enforceable requirement and, in that respect, BellSouth differs from PCIA in its interpretation of what is mandatory under the *Stay Order* for new system deployment. BellSouth concurs in PCIA’s concerns, however, to the extent the Commission’s expression of its expectation was intended to evince for new systems a different standard for compliance with whatever requirements the Commission ultimately adopts on reconsideration.

As PCIA correctly asserts, there is no reasoned basis for distinguishing between new systems and embedded systems with respect to installation of the originally required electronic

(1998) (“*CPNI Order*”) *appeal pending sub nom. U.S. West v. FCC*, no. 98-9518 (10th Cir., filed May 4, 1998).

³ *Stay Order*, at ¶ 4.

⁴ *Stay Order*, at ¶ 5.

⁵ *Compare Stay Order*, at ¶ 5 (“To the extent that new systems are being deployed during the pendency of the reconsideration petitions, however, we *expect* that carriers will install electronic flags and audit trails...” (emphasis added) *with* PCIA Petition at 3 (“the Commission specifically stated that during the pendency of the reconsideration petitions, [carriers are *required* to] install electronic flags and audit trails...” (bracketed clause in original, emphasis added) ([t]o the extent that new systems are being developed [sic].)

safeguards during the pendency of reconsideration petitions. Installation of the safeguards on new systems will be subject to the same risks of economic waste as would be modifications to embedded systems if the safeguard requirements were to change on reconsideration. Because the Commission is actively soliciting and considering alternatives to the original requirements that would be applicable both to new and embedded systems, it would promote neither efficient nor effective deployment of resources to establish an interim compliance standard solely for new systems.

For these reasons, BellSouth concurs in the objective of PCIA's petition and urges the Commission to clarify that new systems will not be held to any different set of implementation standards than are embedded systems, either during the pendency of reconsideration petitions or once the Commission articulates final safeguard requirements on reconsideration.

Respectfully submitted,
BELLSOUTH CORPORATION

By:



M. Robert Sutherland
A. Kirven Gilbert III
Its Attorneys
1155 Peachtree Street, N.E.
Suite 1700
Atlanta, Georgia 30309
(404) 249-3388

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CERTIFICATE OF SERVICE

I do hereby certify that I have this 10th day of December, 1998, served all parties to this action with a copy of the foregoing BellSouth Comments by placing a true and correct copy of same in the United States Mail, postage prepaid, addressed to the parties listed below:

Magalie Roman Salas*
Secretary
Federal Communications Commission
Room 222-Stop Code 1170
1919 M Street, NW
Washington, D.C. 20554

ITS, Inc.*
2100 M Street
Suite 140
Washington, D.C. 20554

Mary McDermott
Todd B. Lantor
Personal Communications Industry
Association
500 Montgomery Street, Suite 700
Alexandria, VA 22314-1561



Karen S. Bullock

* By Hand Delivery