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

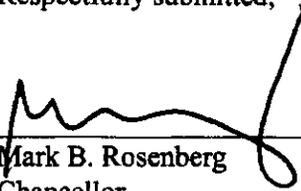
In the Matter of)
)
Communications Assistance for Law) ET Docket No. 04-295
Enforcement Act and Broadband Access and)
Services) RM-10865

REPLY COMMENTS OF
Florida Board of Governors
State University System of Florida

See attachment.

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Respectfully submitted,



Mark B. Rosenberg
Chancellor

Florida Board of Governors
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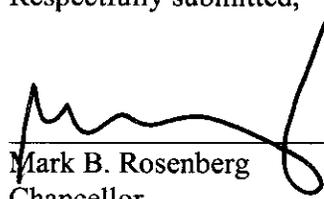
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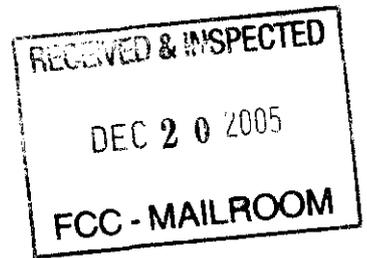
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Chair

December 8, 2005

John Dasburg
Vice Chair

The Honorable Kevin J. Martin
Chairman
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Rene Albors

Akshay M.
Desai, M.D.

Dear Mr. Martin:

Ann Duncan

J. Stanley
Marshall, Ph.D.

This letter is to provide comments to the August 2005 Federal Communications Commission order, published in the October 13, 2005 Federal Register, which extends the provisions of the 1994 Communications Assistance for Law Enforcement Act (CALEA) to institutions of higher education and the networks they administer and use to assist their education and research missions. As Chancellor of the Florida Board of Governors which oversees the state universities in Florida, I am concerned with the implications of implementing this proposed rule on the campus networks we operate for our students, faculty and staff.

Bill McCollum

Shelia M.
McDevitt

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M. Lynn Pappas

Our universities have a history of working with law enforcement, and have provided CALEA compliance when asked to do so. The fact of the matter is that there have been very few requests of this type over the years. A recent survey of the eleven public universities in Florida indicates that nine out of the eleven institutions surveyed report a combined total of less than 10 requests over the last ten years. However, it is our intention, as always, to continue to work cooperatively and quickly to meet the needs of law enforcement.

Ava L. Parker

Peter Rummell

Chris Schoonover

John W. Temple

John Winn

It is our contention that changes of this magnitude may exceed the scope of CALEA as defined, and should have action by Congress. It is also our contention that our networks are not generally available to the public, and meet the criteria for private networks which are specifically excluded by legislative action.

Martha Paláez

Zach P.
Zachariah, M.D.

These are areas for the courts to decide. Setting those aside, we have other concerns. The proposed rulemaking mandates full compliance for newly covered entities by May of 2007, but does not provide specifications for what constitutes compliance. We request that the time for compliance not be set until the specifications are defined. At this point, we cannot determine if vendors can supply equipment that is compliant with the proposed rule. Lacking such specifications, we can envision compliance scenarios ranging from complete replacement of all routers and switches to working directly with trusted network operators on each particular situation. If it is the former and even if

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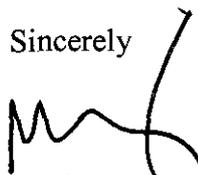
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the vendors can deliver compliant equipment in a timely manner, we still have to assess the budgetary impact of this rulemaking. An unfunded mandate of potentially millions of dollars per campus for the public universities in Florida is a difficult burden for them to have to bear.

Given the low number of requests our universities have seen, we believe that we can fully meet CALEA's goal of giving law enforcement access to Internet-based communications by officers working directly with trusted network operators to identify the best way to monitor or intercept *particular communications in each situation*. Network operators would do the necessary monitoring and give the results to law enforcement (with appropriate attention to custody chains and other evidentiary issues). This approach would make it unnecessary to install the equipment necessary for ubiquitous tap points or devices as required in the current form of the proposed regulations. While the cost *per request* may be more than the proposed method, it does not require the substantial changes to how ISPs and other network facility operators design, equip, and manage their networks that would be necessary in the proposed rule change.

The EDUCAUSE CALEA Frequently Asked Questions site states that the figures for the number of wiretap requests for 2004 are 1,714 for all local, state, and federal courts and an additional 1,754 under Foreign Intelligence Surveillance Act (FISA) courts (national security). In an informal survey of 700 campuses, there were no reports of wiretap orders being served in 2003. Law enforcement reports that there were "a few" served on campuses under FISA. By any account, the number of wiretap orders on campuses is extremely small. We believe that this clearly indicates that the value proposition for spending such immense resources on wholesale university network facility upgrades is extremely low and, therefore, should be significantly reduced, if not altogether abandoned.

We urge the Commission to suspend the compliance date of May 2007 until these questions and issues can be resolved. We stand ready to assist, and recommend the Commission include representatives of the entities affected by the expanded definitions in developing the specifications so that the overall goal can be reached.

Sincerely

Mark B. Rosenberg
Chancellor
Florida Board of Governors
State University System of Florida

The Honorable Kevin J. Martin

December 8, 2005

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- c: Mr. Frank T. Brogan, President, Florida Atlantic University
- Dr. Castell V. Bryant, President, Florida A&M University
- Dr. John C. Cavanaugh, President, University of West Florida
- Mr. John A. Delaney, President, University of North Florida
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- Dr. J. Bernard "Bernie" Machen, President, University of Florida
- Dr. Modesto "Mitch" A. Maidique, President, Florida International University
- Dr. William "Bill" C. Merwin, President, Florida Gulf Coast University
- Dr. Gordon E. "Mike" Michalson, Jr., President, New College of Florida
- Dr. T.K. Wetherell, President, Florida State University

Chief Information Officers, State Universities of Florida

Mr. Jim Pirius, JCP Associates and Davis O'Connell, Inc.