

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

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;	)	
	)	
Petition for Rulemaking to Enhance Security and Authentication Standards for Access to Customer Proprietary Network Information	)	RM-11277
	)	

**COMMENTS  
OF THE  
ORGANIZATION FOR THE PROMOTION AND ADVANCEMENT  
OF SMALL TELECOMMUNICATIONS COMPANIES**

**I. INTRODUCTION**

The Organization for the Promotion and Advancement of Small Telecommunications Companies (OPASTCO)<sup>1</sup> hereby submits these comments in response to the Notice of Proposed Rulemaking (NPRM) in the above-captioned proceeding.<sup>2</sup> The NPRM seeks comment on various security measures proposed by the

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<sup>1</sup> OPASTCO is a national trade association representing over 550 small incumbent local exchange carriers (ILECs) serving rural areas of the United States. Its members, which include both commercial companies and cooperatives, together serve more than 3.5 million customers. All OPASTCO members are rural telephone companies as defined in 47 U.S.C. §153(37).

<sup>2</sup> *Implementation of the Telecommunications Act of 1996: Telecommunications Carriers' Use of Customer Proprietary Network Information and Other Customer Information*, CC Docket No. 96-115; *Petition for Rulemaking to Enhance Security and Authentication Standards for Access to Customer Proprietary Network Information*, RM-11277, Notice of Proposed Rulemaking, 21 FCC Rcd 1782 (2006) (NPRM).

Electronic Privacy Information Center (EPIC)<sup>3</sup> and the Commission that are intended to further protect the privacy of customer proprietary network information (CPNI) that is collected and held by telecommunications carriers. OPASTCO commends the Commission for its repeated inquiries in the NPRM regarding the burdens that the proposed security measures may impose on small carriers.<sup>4</sup> It is critical that any additional CPNI regulations adopted for rural ILECs do not impose unreasonable costs and burdens on them and will provide real benefits for rural consumers.

In that regard, the Commission should not require rural ILECs to maintain audit trails or encrypt CPNI because the cost of compliance for these carriers would far outweigh any benefits for rural consumers. In addition, the Commission should retain the existing opt-out regime for rural ILECs with respect to sharing CPNI with third-party vendors, particularly third-party billing specialists that require access to CPNI to generate rural ILECs' customer bills. Also, rural ILECs should be afforded flexibility as to when and how to notify customers of CPNI security breaches and whether or not to implement consumer-set passwords based on the needs and desires of their subscribers. If the Commission decides to adopt new limits on data retention, it should ensure that they do not conflict with existing state and federal retention rules. Finally, OPASTCO is accepting of the Commission's tentative conclusion to require carriers to annually file a CPNI compliance certification in order to assist the Commission's efforts to enforce its CPNI rules.

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<sup>3</sup> *Petition of the Electronic Privacy Information Center for Rulemaking to Enhance Security and Authentication Standards for Access to Customer Proprietary Network Information*, CC Docket No. 96-115 (fil. Aug. 30, 2005) (EPIC Petition).

<sup>4</sup> The NPRM appears to represent a substantial effort on the part of the Commission to comply with the Regulatory Flexibility Act by properly considering the impacts on small businesses and their customers at the outset of the proceeding. 5 U.S.C. §§601-612.

**II. WHILE THE PROTECTION OF CPNI IS ESSENTIAL, THE COMMISSION MUST NOT ADOPT ADDITIONAL SECURITY MEASURES THAT WOULD IMPOSE BURDENS ON RURAL ILECS THAT FAR OUTWEIGH THE BENEFITS FOR RURAL CONSUMERS**

The EPIC petition correctly points out the threats that pretexters and other bad actors pose to consumers and their reasonable expectations that carriers will be able to protect their CPNI from unauthorized dissemination. Similarly, the Commission is correct to examine whether additional measures may be appropriate to improve the security of the CPNI that carriers collect. OPASTCO appreciates the Commission's responsible approach in the NPRM, which repeatedly considers the impacts that the additional security measures under consideration would have on small carriers and their customers.

As vital components of the communities they serve, rural ILECs have a vested interest in protecting the privacy of the CPNI they collect from their subscribers. Unlike larger carriers, the owners and employees of rural ILECs often live in the same communities as their customers. Maintaining customer goodwill and trust is a matter of personal credibility as well as a matter of good business sense.

OPASTCO urges the Commission to avoid imposing additional CPNI regulations on rural ILECs that would be overly burdensome and divert limited resources from the provision of high-quality services while providing little, if any, benefit to rural consumers. Such resource diversions would also impede network maintenance and upgrades necessary to make advanced services available to additional rural consumers.

**A. The Commission should not require rural ILECs to maintain audit trails; the extensive software upgrades needed to comply would impose substantial burdens on rural ILECs that would far outweigh any benefits for rural consumers**

The NPRM seeks comment on requiring carriers to maintain audits trails, which would entail keeping a record of each instance in which a customer's records have been accessed, whether any information was disclosed, and to whom.<sup>5</sup> Record-keeping practices vary among rural ILECs. While it is relatively common for service representatives to record when a customer has made a change to his or her account, few, if any, rural ILECs have built into their systems the capacity to create the extensive audit trails proposed by EPIC. To obtain the capacity to maintain these audit trails would require rural ILECs to make substantial software upgrades and conduct customer service training. Such a requirement would be particularly expensive on a per-subscriber basis for small carriers that lack economies of scale. Specifically, the audit trail requirement would impose on rural ILECs a cost of approximately \$2,000 to \$3,000 per access line for the extensive re-design of software applications to properly detect and log any access to customer data.<sup>6</sup>

Ultimately, these costs would have to be passed on to customers and may delay other network upgrades, including those that make advanced services available to greater numbers of rural consumers. Were the Commission to conduct a rational cost-benefit analysis, it would determine that the costs of requiring rural ILECs to implement the

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<sup>5</sup> NPRM, 21 FCC Rcd 1789-1790, ¶¶17-18.

<sup>6</sup> The cost estimate for the proposed audit trail requirement was provided by Mid America Computer Corp. (MACC). Since 1975, MACC has offered a comprehensive customer care and billing software suite allied with their Part 32 Accounting and Materials Management system. MACC also offers its clients complete billing, data processing, statement printing and fulfillment, carrier access billing solutions (CABS), and training services. *See*, [www.maccnet.com](http://www.maccnet.com).

extensive audit trails proposed by EPIC would far outweigh the benefits for rural consumers.

**B. The Commission should not require rural ILECs to encrypt CPNI; the extensive software and hardware upgrades needed to comply would impose substantial burdens on rural ILECs that would far outweigh any benefits for rural consumers**

The NPRM seeks comment on whether the CPNI stored by carriers should be encrypted.<sup>7</sup> It is common practice for rural ILECs to encrypt data points such as social security numbers, credit card data, and bank account information. However, even the customer activity on a small carrier's network generates millions of individual records, and encrypting every data point would also require that the data be un-encrypted each time it is accessed by a customer service representative. Implementing such an encryption process would place a tremendous strain on rural ILECs' existing computer systems, thereby necessitating substantial software and hardware upgrades.

The one-time costs to implement the proposed data encryption requirement would be approximately \$1,000 to \$2,000 per access line.<sup>8</sup> Furthermore, an all-encompassing CPNI encryption requirement could impose new demands on the switch itself, accelerating the need for additional software and hardware upgrades. The need to continually encrypt and decrypt data on an ongoing basis would result in performance degradation of the switch and other network components. This performance degradation would have to be compensated for, resulting in additional expenses that are difficult to quantify. In addition, research and development costs encountered by switch vendors would be passed along to carriers, and ultimately, consumers. Finally, rural ILECs employ far fewer engineers than large, urban-based carriers, and it would take a

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<sup>7</sup> NPRM, 21 FCC Rcd 1790, ¶19.

<sup>8</sup> The cost estimate for the proposed encryption requirement was provided by MACC.

significant number of man-hours to successfully implement the necessary software and hardware changes, to the detriment of other maintenance and upgrading efforts.

OPASTCO is unaware of any evidence that rural ILECs have had CPNI fraudulently accessed directly from their databases. Thus, the Commission should not impose on rural ILECs the extensive CPNI encryption requirement proposed by EPIC as it would impose substantial burdens on rural ILECs while providing little, if any, benefit for rural consumers.

**C. The Commission should retain the existing opt-out regime for rural ILECs with respect to disclosing CPNI to third-party vendors**

The Commission should retain the existing opt-out regime for rural ILECs as it pertains to sharing CPNI with third-party vendors, in particular third-party billing specialists that require access to CPNI to prepare customer bills.<sup>9</sup> It is a common practice among rural ILECs to use an outside firm to generate customer bills; often times this is more efficient than if the rural carrier were to generate the bills itself. Rural ILECs that use third-party billing specialists enter into contractual arrangements with these firms. These arrangements have historically protected the privacy of customer information. Thus, requiring rural ILECs to get “opt-in” consent from customers in order to share their CPNI with third-party vendors such as a billing firm would be highly burdensome while not making the CPNI any more secure.

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<sup>9</sup> NPRM, 21 FCC Rcd 1788, ¶12.

**D. If the Commission decides to adopt a notification requirement, it should provide rural ILECs with the flexibility to define what constitutes a security breach and to develop appropriate methods of customer notification**

OPASTCO agrees that consumers are entitled to notice in the event that the security of their CPNI has been breached.<sup>10</sup> However, requiring rural ILECs to notify their customers in the event of any CPNI disclosure -- even when there is no reason to suspect the disclosure was to an unauthorized person -- would impose significant burdens on rural ILECs, while offering little in the way of corresponding benefits to rural consumers.<sup>11</sup> The Commission can mitigate the burdens of a notification requirement by granting rural ILECs the flexibility to define what constitutes a security breach.

A rural ILEC is also in the best position to determine the precise method of informing its customers of actual or suspected security breaches. Granting rural ILECs the flexibility to develop appropriate methods of customer notification balances the burdens that any such requirement would impose on rural carriers with the need to protect and inform consumers.

**E. The Commission should afford rural ILECs the flexibility to decide whether or not to implement consumer-set passwords according to the wants and needs of their customers**

In the NPRM, the Commission seeks comment on whether it should require carriers to adopt a consumer-set password system to protect access to CPNI.<sup>12</sup> While consumer-set passwords are appropriate for online transactions, they will likely serve as a hindrance to customer service for some in-person or telephone queries. A customer who cannot recall their password will be deprived of access to his or her proprietary

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<sup>10</sup> *Id.*, 21 FCC Rcd 1791-1792, ¶¶21-24.

<sup>11</sup> Moreover, many subscribers could find excessive notification to be a nuisance.

<sup>12</sup> NPRM, 21 FCC Rcd 1789, ¶¶15-16.

information and the service to which his or her account entitles them. Furthermore, rural areas tend to have a higher proportion of elderly residents,<sup>13</sup> who may not be receptive to such a change.<sup>14</sup> Therefore, OPASTCO urges the Commission to grant rural ILECs the flexibility to decide whether or not to offer consumer-set passwords to their customers as an optional security measure, to the extent their customers desire them.

**F. The Commission should balance any limits on data retention it may adopt with existing state and federal regulations**

The NPRM also seeks comment on whether the Commission should mandate the deletion of all records once they are no longer required for billing or dispute resolution purposes.<sup>15</sup> If the Commission decides to adopt limits on data retention, it must take into account existing state and federal data retention requirements. In addition to the Commission's Part 42 data retention rules,<sup>16</sup> rural ILECs are subject to state data retention requirements. The data retention policies adopted by the Commission should balance the need for consumer privacy with these considerations.

**G. An annual CPNI compliance certification filing would assist the Commission in its protection of consumer privacy while imposing minimal burdens on rural carriers**

OPASTCO is accepting of the Commission's tentative conclusion to require carriers to file a CPNI compliance certification with the FCC on an annual basis.<sup>17</sup> The Commission is concerned that a lack of uniformity among existing carrier compliance certifications may impede its ability to protect CPNI. An annual certification

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<sup>13</sup> "Rural populations are composed of a higher percentage of residents 65+ (22%) than are suburban (16%) or urban (14%) populations." Pew Internet and American Life Project, *Rural Areas and the Internet*, (Published Feb. 17, 2004), p. 17.

<sup>14</sup> The use of "shared secret" techniques could mitigate these concerns to some degree. NPRM, 21 FCC Rcd 1789, ¶15.

<sup>15</sup> *Id.*, 21 FCC Rcd 1790-1791, ¶20.

<sup>16</sup> 47 C.F.R §§42.01-42.11.

<sup>17</sup> NPRM, 21 FCC Rcd 1793, ¶29.

requirement would address the Commission's concern without imposing significant burdens on rural ILECs and their customers.

### **III. CONCLUSION**

Rural ILECs are committed to protecting the privacy of the CPNI they collect from their subscribers. However, before imposing any additional CPNI security requirements on rural ILECs, the Commission should be certain that the requirement is not overly burdensome and that the consumer benefits will outweigh the costs. Specifically, the Commission should not require rural ILECs to maintain audit trails or encrypt CPNI data, as both measures would impose significant burdens that far exceed the consumer benefits. The Commission should retain the existing opt-out regime that permits rural ILECs to share CPNI with third-party vendors such as billing firms that perform under contract. The Commission should grant rural ILECs the flexibility to decide when and how to notify their customers of CPNI security breaches and whether or not to implement consumer-set passwords. Also, should the Commission adopt any limitations on data retention, it should make sure that those limitations do not conflict with existing state and federal data retention regulations. Finally, OPASTCO is accepting of an annual CPNI compliance certification requirement to assist the Commission in its enforcement of the CPNI rules.

Respectfully submitted,

**ORGANIZATION FOR THE PROMOTION  
AND ADVANCEMENT OF SMALL  
TELECOMMUNICATIONS COMPANIES**

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April 28, 2006

**Certificate of Service**

I, Brian Ford, hereby certify that copies of OPASTCO's comments were sent on this, the 28<sup>th</sup> day of April, 2006 by first class United States mail, postage prepaid, or via electronic mail, to those listed on the attached sheet.

By: /s/ Brian Ford  
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**Service List**  
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**RM-11277**  
**FCC 06-10**

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