



Federal Communications Commission
Washington, D.C. 20554

February 28, 2011

Mr. Mark E. Crosby
President/CEO
Enterprise Wireless Alliance
8484 Westpark Drive, Suite 630
McLean, VA 22102

Dear Mr. Crosby:

This responds to your letter of January 31, 2011, seeking guidance as to whether certain of your members must file an annual certification of compliance with section 222 of the Communications Act (Act) and the Commission's rules regarding customer proprietary network information (CPNI). In particular, you ask whether wireless carriers that provide "push-to-talk, non-interconnected, 'non-covered SMR,' wireless communication capabilities to business enterprise and public safety entities" must file an annual CPNI certification.

The Commission's CPNI rules provide that "[a] *telecommunications carrier* must have an officer, as an agent of the carrier, sign and file with the Commission a compliance certification on an annual basis. . . . This filing must be made annually with the Enforcement Bureau on or before March 1 in EB Docket No. 06-36, for data pertaining to the previous calendar year." 47 C.F.R. § 64.2009(e) (emphasis added). For purposes of the CPNI rules, a "telecommunications carrier" is "any provider of telecommunications services" as defined in the Act or any entity that provides interconnected voice over Internet protocol services as defined in 47 C.F.R. § 9.3. See 47 C.F.R. § 64.2003(o); 47 U.S.C. § 153(51). "Telecommunications service," in turn, means "the offering of telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used." 47 U.S.C. § 153(53). Your members' obligation to comply with section 222 and our CPNI rules, including the annual certification requirement, thus turns on a case-by-case assessment whether they are "telecommunications carriers."

Sincerely,

Austin C. Schlick
General Counsel