

"3510(b)" in its place in paragraphs (a) and (b), and by revising paragraph (d)(1), (d)(3), and (e) to read as follows:

**§ 0.442 Disclosure to other Federal government agencies of information submitted to the Commission in confidence.**

\* \* \* \* \*

(d)(1) Except as provided in paragraphs (d)(2) and (d)(3) of this section, a party who furnished records to the Commission in confidence will be notified at the time that the request for disclosure is submitted and will be afforded 10 days in which to oppose disclosure.

\* \* \* \* \*

(3) A party who furnished records to the Commission in confidence under § 0.457(d) or 0.459 will not be afforded prior notice when the disclosure is made to the Comptroller General. Such a party will instead be notified of disclosure of the records to the Comptroller General either individually or by public notice.

\* \* \* \* \*

(e) Except as provided in paragraph (d)(3) of this section, nothing in this section is intended to govern disclosure of information to Congress or the Comptroller General.

3. Section 0.459 is amended by adding a sentence to the end of paragraph (d)(1), by adding a sentence to the end of paragraph (g), and by adding paragraph (i) to read as follows:

**§ 0.459 Requests that materials or information submitted to the Commission be withheld from public inspection.**

\* \* \* \* \*

(d)(1) \* \* \* If a response in opposition to a confidentiality request is filed, the party requesting confidentiality may file a reply.

\* \* \* \* \*

(g) \* \* \* Materials will be accorded confidential treatment, as provided in § 0.459(g) and § 0.461, until the Commission acts on any timely applications for review of an order denying a request for confidentiality, and until a court acts on any timely motion for stay of such an order denying confidential treatment.

\* \* \* \* \*

(i) Third party owners of materials submitted to the Commission by another party may participate in the proceeding resolving the confidentiality of the materials.

4. Section 0.461 is amended by revising paragraph (i) to read as follows:

**§ 0.461 Requests for inspection of materials not routinely available for public inspection.**

\* \* \* \* \*

(i)(1) If a request for inspection of records submitted to the Commission in confidence under § 0.457(d) or § 0.459 is granted, an application for review of the action may be filed by the person who submitted the records to the Commission or by a third party owner of the records. The application for review and the envelope containing it (if any) shall be captioned "Review of Freedom of Information Action." The application for review shall be filed within 10 working days after the date of the written ruling, shall be delivered or mailed to the General Counsel, and shall be served on the person who filed the request for inspection of records. The first day to be counted in computing the time period for filing the application for review is the day after the date of the written ruling. If an application for review is not filed within this period, the records will be produced for inspection. The person who filed the request for inspection of records may respond to the application for review within 10 working days after it is filed.

(2) If the request for inspection of records submitted to the Commission in confidence under § 0.457(d) or § 0.459 is partially granted and partially denied, the person who submitted the records to the Commission, a third party owner of the records and the person who filed the request for inspection of those records may file an application for review within the 10 working days after the date of the written ruling. The application for review and the envelope containing it (if any) shall be captioned "REVIEW OF FREEDOM OF INFORMATION ACTION." The application for review shall be delivered or mailed to the General Counsel. If either person files an application for review, it shall be served upon the other person.

(3) If an application for review is denied, the person filing the application for review will be notified in writing and advised of their rights.

(4) If an application for review filed by the person who submitted the records to the Commission or who owns the records is denied, or if the records are made available on review which were not initially made available, the person who submitted the records to the Commission or who owns the records will be afforded 10 working days from the date of the written ruling in which to move for a judicial stay of the Commission's action. The first day to be counted in computing the time period for seeking a judicial stay is the day after the date of the written ruling. If a motion for stay is not made within this

period, the record will be produced for inspection.

\* \* \* \* \*

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**FEDERAL COMMUNICATIONS COMMISSION**

**47 CFR Part 64**

[CC Docket 98-170; FCC 99-72]

**Truth-in-Billing and Billing Format**

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule; establishment of effective date.

**SUMMARY:** This document establishes the effective and compliance dates of the Commission's rules published June 25, 1999 concerning Truth-in-Billing. The rules are intended to ensure that consumers are provided with basic information they need to make informed choices among telecommunications services and providers, to protect themselves against inaccurate and unfair billing practices, and to enhance their ability to detect cramming and slamming.

**DATES:** Sections 64.2000 and 64.2001 become effective November 12, 1999. However, compliance with § 64.2001(a)(2)'s requirement that carriers highlight new service providers, and § 64.2001(c), which requires that carriers identify deniable and nondeniable charges, is required by April 1, 2000.

**FOR FURTHER INFORMATION CONTACT:** David A. Konuch, Enforcement Division, Common Carrier Bureau (202) 418-0960.

**SUPPLEMENTARY INFORMATION:** On April 15, 1999, the Commission adopted an order establishing billing principles to ensure that consumers are provided with basic information they need to make informed choices among telecommunications services and providers, to protect themselves against inaccurate and unfair billing practices, and to enhance their ability to detect cramming and slamming. A summary of this order was published in the **Federal Register**. See 64 FR 34488, June 25, 1999. Because §§ 64.2000 and 64.2001 impose new information collection requirements, they could not become effective until approved by the Office of Management and Budget (OMB). On September 24, 1999, OMB approved the information collections contained in the rules. During this review, OMB raised concerns that certain requirements of the Order could impair the efforts of

some telecommunications carriers and providers, particularly small and medium-sized carriers, to ensure that their systems are Y2K compliant. The Commission recognized that ensuring that telecommunications-related computer systems are Y2K compliant is an important public concern.

Accordingly, in light of the concerns raised by OMB, the Commission has agreed to delay, until April 1, 2000, the compliance date for rule 64.2001(a)(2)'s requirement that carriers highlight new service providers, and rule 64.2001(c), which requires that carriers identify deniable and nondeniable charges. Compliance with other principles and guidelines adopted in the Order, including rule 64.2001(a)(2)'s requirement that carriers separate charges on bills by service provider, is required November 12, 1999.

#### List of Subjects in 47 CFR Part 64

Communications common carriers,  
Consumer protection,  
Telecommunications.

Federal Communications Commission.

**Magalie Roman Salas,**  
Secretary.

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## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 64

[CC Docket No. 97-213; FCC 99-229]

#### Implementation of the Communications Assistance for Law Enforcement Act

**AGENCY:** Federal Communications Commission.

**ACTION:** Policy statement.

**SUMMARY:** This document examines the definition of "telecommunications carrier" set forth in section 102 of the Communications Assistance to Law Enforcement Act (CALEA), which determines which entities and services are subject to the assistance capability and other requirements of CALEA, and discusses how the definition applies to various types of service providers. It also provides guidance regarding the factors the Commission will consider in making determinations under section 109 of CALEA as to whether compliance with CALEA's assistance capability requirements is "reasonably achievable" for particular carriers, and the showings to be made by entities filing petitions under section 109.

**FOR FURTHER INFORMATION CONTACT:** Thomas Wasilewski, 202-418-1310.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's *Second Report and Order* (Second R&O) in CC Docket No. 97-213, FCC 99-229, adopted August 26, 1999, and released August 31, 1999. The complete text of the Second R&O is available on the Commission's Internet site, at [www.fcc.gov](http://www.fcc.gov). It is also available for inspection and copying during normal business hours in the FCC Reference Information Center, Courtyard Level, 445 12th Street, S.W., Washington, DC, and may be purchased from the Commission's copy contractor, International Transcription Services, Inc., CY-B400, 445 12th Street S.W., Washington, DC.

#### Synopsis of the Report and Order

1. The Commission adopts a Second Report and Order (Second R&O) in CC Docket No. 97-213, regarding implementation of sections 102 and 109 of the Communications Assistance for Law Enforcement Act, Public Law 103-414, 108 Stat. 4279 (1994) (CALEA). Although the Notice of Proposed Rule Making (NPRM) in this proceeding (which can be found at 62 FR 63302, Nov. 11, 1997) proposed certain rules, the Second R&O does not adopt rules regarding sections 102 and 109.

2. *Section 102 Issues:* CALEA does not modify the existing surveillance laws. Instead, it requires telecommunications carriers to ensure that their facilities are capable of providing the surveillance law enforcement is authorized to conduct. The language and legislative history of CALEA provide sufficient guidance as to what the term "telecommunications carrier" means, such that it can be applied to particular carriers, their offerings and facilities.

3. Subsections 102(8)(A) and (B) identify what entities are subject to CALEA: essentially, common carriers offering telecommunications services for sale to the public. Section 103(a) clarifies that the assistance capability requirements apply to "equipment, facilities, or services that provide a customer or subscriber with the ability to originate, terminate, or direct communications. \* \* \*" The House Report provides further clarification in terms of the functions of covered services, stating: "Thus, a carrier providing a customer with a service or facility that allows the customer to obtain access to a publicly switched network is responsible for complying with the capability requirements" (H.R. Rep. No. 103-827(I), at 26 (1994).) The House Report also describes CALEA's focus in terms of law enforcement agencies' traditional surveillance

requirements: "The only entities required to comply with the [assistance capability] requirements are telecommunications common carriers, the components of the public switched network where law enforcement agencies have served most of their surveillance orders." (*Id.*, at 21.) Further, the legislative history contains examples of the types of service providers subject to CALEA: "The definition of 'telecommunications carrier' includes such service providers as local exchange carriers, interexchange carriers, competitive access providers (CAPs), cellular carriers, providers of personal communications services (PCS), satellite-based service providers, cable operators, and electric and other utilities that provide telecommunications services for hire to the public, and any other wireline or wireless service for hire to the public." (140 Cong. Rec. H-10779 (daily ed. October 7, 1994) (statement of Rep. Hyde).)

4. The legislative history of CALEA makes clear that the requirements of CALEA do not necessarily apply to all offerings of a carrier. The House Report states: "[C]arriers are required to comply only with respect to services or facilities that provide a customer or subscriber with the ability to originate, terminate or direct communications." (H.R. Rep. No. 103-827(I), at 21.) Thus, an entity is a telecommunications carrier subject to CALEA to the extent it offers, and with respect to, such services.

5. CALEA also makes clear that its requirements do not apply to certain entities and services. Subsection 102(8)(C) of the definition specifically excludes information services, and the legislative history makes clear that CALEA does not apply to private network services:

[T]elecommunications services that support the transport or switching of communications for private networks or for the sole purpose of interconnecting telecommunications carriers \* \* \* need not meet any wiretap standards. PBXs are excluded. So are automated teller machine (ATM) networks and other closed networks. Also excluded from coverage are all information services, such as Internet service providers or services such as Prodigy and America-On-Line.

All of these private network systems or information services can be wiretapped pursuant to court order, and their owners must cooperate when presented with a wiretap order, but these services and systems do not have to be designed so as to comply with the capability requirements.

6. CALEA's definitions of "telecommunications carrier" and "information services" were not