

authentication method in the event of a lost or forgotten password, but such back-up customer authentication method may not prompt the customer for readily available biographical information, or account information. If a customer cannot provide the correct password or the correct response for the back-up customer authentication method, the customer must establish a new password as described in this paragraph.

(f) *Notification of account changes.* Telecommunications carriers must notify customers immediately whenever a password, customer response to a back-up means of authentication for lost or forgotten passwords, online account, or address of record is created or changed. This notification is not required when the customer initiates service, including the selection of a password at service initiation. This notification may be through a carrier-originated voicemail or text message to the telephone number of record, or by mail to the address of record, and must not reveal the changed information or be sent to the new account information.

(g) *Business customer exemption.* Telecommunications carriers may bind themselves contractually to authentication regimes other than those described in this section for services they provide to their business customers that have both a dedicated account representative and a contract that specifically addresses the carriers' protection of CPNI.

[72 FR 31962, June 8, 2007]

**§ 64.2011 Notification of customer proprietary network information security breaches.**

(a) A telecommunications carrier shall notify law enforcement of a breach of its customers' CPNI as provided in this section. The carrier shall not notify its customers or disclose the breach publicly, whether voluntarily or under state or local law or these rules, until it has completed the process of notifying law enforcement pursuant to paragraph (b) of this section.

(b) As soon as practicable, and in no event later than seven (7) business days, after reasonable determination of the breach, the telecommunications

carrier shall electronically notify the United States Secret Service (USSS) and the Federal Bureau of Investigation (FBI) through a central reporting facility. The Commission will maintain a link to the reporting facility at <http://www.fcc.gov/eb/cpni>.

(1) Notwithstanding any state law to the contrary, the carrier shall not notify customers or disclose the breach to the public until 7 full business days have passed after notification to the USSS and the FBI except as provided in paragraphs (b)(2) and (b)(3) of this section.

(2) If the carrier believes that there is an extraordinarily urgent need to notify any class of affected customers sooner than otherwise allowed under paragraph (b)(1) of this section, in order to avoid immediate and irreparable harm, it shall so indicate in its notification and may proceed to immediately notify its affected customers only after consultation with the relevant investigating agency. The carrier shall cooperate with the relevant investigating agency's request to minimize any adverse effects of such customer notification.

(3) If the relevant investigating agency determines that public disclosure or notice to customers would impede or compromise an ongoing or potential criminal investigation or national security, such agency may direct the carrier not to so disclose or notify for an initial period of up to 30 days. Such period may be extended by the agency as reasonably necessary in the judgment of the agency. If such direction is given, the agency shall notify the carrier when it appears that public disclosure or notice to affected customers will no longer impede or compromise a criminal investigation or national security. The agency shall provide in writing its initial direction to the carrier, any subsequent extension, and any notification that notice will no longer impede or compromise a criminal investigation or national security and such writings shall be contemporaneously logged on the same reporting facility that contains records of notifications filed by carriers.

(c) *Customer notification.* After a telecommunications carrier has completed

the process of notifying law enforcement pursuant to paragraph (b) of this section, it shall notify its customers of a breach of those customers' CPNI.

(d) *Recordkeeping.* All carriers shall maintain a record, electronically or in some other manner, of any breaches discovered, notifications made to the USSS and the FBI pursuant to paragraph (b) of this section, and notifications made to customers. The record must include, if available, dates of discovery and notification, a detailed description of the CPNI that was the subject of the breach, and the circumstances of the breach. Carriers shall retain the record for a minimum of 2 years.

(e) *Definitions.* As used in this section, a "breach" has occurred when a person, without authorization or exceeding authorization, has intentionally gained access to, used, or disclosed CPNI.

(f) This section does not supersede any statute, regulation, order, or interpretation in any State, except to the extent that such statute, regulation, order, or interpretation is inconsistent with the provisions of this section, and then only to the extent of the inconsistency.

[72 FR 31963, June 8, 2007]

## Subparts V–W [Reserved]

### Subpart X—Subscriber List Information

SOURCE: 64 FR 53947, Oct. 5, 2000, unless otherwise noted.

#### § 64.2301 Basis and purpose.

(a) *Basis.* These rules are issued pursuant to the Communications Act of 1934, as amended.

(b) *Purpose.* The purpose of these rules is to implement section 222(e) of the Communications Act of 1934, as amended, 47 U.S.C. 222. Section 222(e) requires that "a telecommunications carrier that provides telephone exchange service shall provide subscriber list information gathered in its capacity as a provider of such service on a timely and unbundled basis, under non-discriminatory and reasonable rates, terms, and conditions, to any person

upon request for the purpose of publishing directories in any format."

#### § 64.2305 Definitions.

Terms used in this subpart have the following meanings:

(a) *Base file subscriber list information.* A directory publisher requests base file subscriber list information when the publisher requests, as of a given date, all of a carrier's subscriber list information that the publisher wishes to include in one or more directories.

(b) *Business subscriber.* Business subscriber refers to a subscriber to telephone exchange service for businesses.

(c) *Primary advertising classification.* A primary advertising classification is the principal business heading under which a subscriber to telephone exchange service for businesses chooses to be listed in the yellow pages, if the carrier either assigns that heading or is obligated to provide yellow pages listings as part of telephone exchange service to businesses. In other circumstances, a primary advertising classification is the classification of a subscriber to telephone exchange service as a business subscriber.

(d) *Residential subscriber.* Residential subscriber refers to a subscriber to telephone exchange service that is not a business subscriber.

(e) *Subscriber list information.* Subscriber list information is any information:

(1) Identifying the listed names of subscribers of a carrier and such subscribers' telephone numbers, addresses, or primary advertising classifications (as such classifications are assigned at the time of the establishment of such service), or any combination of such listed names, numbers, addresses, or classifications; and

(2) That the carrier or an affiliate has published, caused to be published, or accepted for publication in any directory format.

(f) *Telecommunications carrier.* A telecommunications carrier is any provider of telecommunications services, except that such term does not include aggregators of telecommunications services (as defined in 47 U.S.C. 226(a)(2)).

(g) *Telephone exchange service.* Telephone exchange service means: