

## § 64.1903

telephone exchange service or exchange access. Such term does not include a person insofar as such person is engaged in the provision of a commercial mobile service under section 332(c), except to the extent that the Commission finds that such service should be included in the definition of that term.

[64 FR 44425, Aug. 16, 1999]

### § 64.1903 Obligations of all incumbent independent local exchange carriers.

(a) An incumbent independent LEC providing in-region, interstate, interexchange services or in-region international interexchange services shall provide such services through an affiliate that satisfies the following requirements:

(1) The affiliate shall maintain separate books of account from its affiliated exchange companies. Nothing in this section requires the affiliate to maintain separate books of account that comply with part 32 of this title;

(2) The affiliate shall not jointly own transmission or switching facilities with its affiliated exchange companies. Nothing in this section prohibits an affiliate from sharing personnel or other resources or assets with an affiliated exchange company; and

(3) The affiliate shall acquire any services from its affiliated exchange companies for which the affiliated exchange companies are required to file a tariff at tariffed rates, terms, and conditions. Nothing in this section shall prohibit the affiliate from acquiring any unbundled network elements or exchange services for the provision of a telecommunications service from its affiliated exchange companies, subject to the same terms and conditions as provided in an agreement approved under section 252 of the Communications Act of 1934, as amended.

(b) Except as provided in paragraph (b)(1) of this section, the affiliate required in paragraph (a) of this section shall be a separate legal entity from its affiliated exchange companies. The affiliate may be staffed by personnel of its affiliated exchange companies, housed in existing offices of its affiliated exchange companies, and use its affiliated exchange companies' mar-

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keting and other services, subject to paragraph (a)(3) of this section.

(1) For an incumbent independent LEC that provides in-region, interstate domestic interexchange services or in-region international interexchange services using no interexchange switching or transmission facilities or capability of the LEC's own (i.e., "independent LEC reseller,") the affiliate required in paragraph (a) of this section may be a separate corporate division of such incumbent independent LEC. All other provisions of this Subpart applicable to an independent LEC affiliate shall continue to apply, as applicable, to such separate corporate division.

(2) [Reserved]

[64 FR 44425, Aug. 16, 1999, as amended at 71 FR 65751, Nov. 9, 2006]

### Subpart U—Customer Proprietary Network Information

SOURCE: 63 FR 20338, Apr. 24, 1998, unless otherwise noted.

#### § 64.2001 Basis and purpose.

(a) *Basis.* The rules in this subpart are issued pursuant to the Communications Act of 1934, as amended.

(b) *Purpose.* The purpose of the rules in this subpart is to implement section 222 of the Communications Act of 1934, as amended, 47 U.S.C. 222.

#### § 64.2003 Definitions.

(a) *Account information.* "Account information" is information that is specifically connected to the customer's service relationship with the carrier, including such things as an account number or any component thereof, the telephone number associated with the account, or the bill's amount.

(b) *Address of record.* An "address of record," whether postal or electronic, is an address that the carrier has associated with the customer's account for at least 30 days.

(c) *Affiliate.* The term "affiliate" has the same meaning given such term in section 3(1) of the Communications Act of 1934, as amended, 47 U.S.C. 153(1).

(d) *Call detail information.* Any information that pertains to the transmission of specific telephone calls, including, for outbound calls, the number

called, and the time, location, or duration of any call and, for inbound calls, the number from which the call was placed, and the time, location, or duration of any call.

(e) *Communications-related services.* The term “communications-related services” means telecommunications services, information services typically provided by telecommunications carriers, and services related to the provision or maintenance of customer premises equipment.

(f) *Customer.* A customer of a telecommunications carrier is a person or entity to which the telecommunications carrier is currently providing service.

(g) *Customer proprietary network information (CPNI).* The term “customer proprietary network information (CPNI)” has the same meaning given to such term in section 222(h)(1) of the Communications Act of 1934, as amended, 47 U.S.C. 222(h)(1).

(h) *Customer premises equipment (CPE).* The term “customer premises equipment (CPE)” has the same meaning given to such term in section 3(14) of the Communications Act of 1934, as amended, 47 U.S.C. 153(14).

(i) *Information services typically provided by telecommunications carriers.* The phrase “information services typically provided by telecommunications carriers” means only those information services (as defined in section 3(20) of the Communications Act of 1934, as amended, 47 U.S.C. 153(20)) that are typically provided by telecommunications carriers, such as Internet access or voice mail services. Such phrase “information services typically provided by telecommunications carriers,” as used in this subpart, shall not include retail consumer services provided using Internet Web sites (such as travel reservation services or mortgage lending services), whether or not such services may otherwise be considered to be information services.

(j) *Local exchange carrier (LEC).* The term “local exchange carrier (LEC)” has the same meaning given to such term in section 3(26) of the Communications Act of 1934, as amended, 47 U.S.C. 153(26).

(k) *Opt-in approval.* The term “opt-in approval” refers to a method for ob-

taining customer consent to use, disclose, or permit access to the customer’s CPNI. This approval method requires that the carrier obtain from the customer affirmative, express consent allowing the requested CPNI usage, disclosure, or access after the customer is provided appropriate notification of the carrier’s request consistent with the requirements set forth in this subpart.

(l) *Opt-out approval.* The term “opt-out approval” refers to a method for obtaining customer consent to use, disclose, or permit access to the customer’s CPNI. Under this approval method, a customer is deemed to have consented to the use, disclosure, or access to the customer’s CPNI if the customer has failed to object thereto within the waiting period described in § 64.2008(d)(1) after the customer is provided appropriate notification of the carrier’s request for consent consistent with the rules in this subpart.

(m) *Readily available biographical information.* “Readily available biographical information” is information drawn from the customer’s life history and includes such things as the customer’s social security number, or the last four digits of that number; mother’s maiden name; home address; or date of birth.

(n) *Subscriber list information (SLI).* The term “subscriber list information (SLI)” has the same meaning given to such term in section 222(h)(3) of the Communications Act of 1934, as amended, 47 U.S.C. 222(h)(3).

(o) *Telecommunications carrier or carrier.* The terms “telecommunications carrier” or “carrier” shall have the same meaning as set forth in section 3(44) of the Communications Act of 1934, as amended, 47 U.S.C. 153(44). For the purposes of this subpart, the term “telecommunications carrier” or “carrier” shall include an entity that provides interconnected VoIP service, as that term is defined in section 9.3 of these rules.

(p) *Telecommunications service.* The term “telecommunications service” has the same meaning given to such term in section 3(46) of the Communications Act of 1934, as amended, 47 U.S.C. 153(46).

(q) *Telephone number of record.* The telephone number associated with the underlying service, not the telephone number supplied as a customer's "contact information."

(r) *Valid photo ID.* A "valid photo ID" is a government-issued means of personal identification with a photograph such as a driver's license, passport, or comparable ID that is not expired.

[72 FR 31961, June 8, 2007]

**§ 64.2005 Use of customer proprietary network information without customer approval.**

(a) Any telecommunications carrier may use, disclose, or permit access to CPNI for the purpose of providing or marketing service offerings among the categories of service (*i.e.*, local, interexchange, and CMRS) to which the customer already subscribes from the same carrier, without customer approval.

(1) If a telecommunications carrier provides different categories of service, and a customer subscribes to more than one category of service offered by the carrier, the carrier is permitted to share CPNI among the carrier's affiliated entities that provide a service offering to the customer.

(2) If a telecommunications carrier provides different categories of service, but a customer does not subscribe to more than one offering by the carrier, the carrier is not permitted to share CPNI with its affiliates, except as provided in § 64.2007(b).

(b) A telecommunications carrier may not use, disclose, or permit access to CPNI to market to a customer service offerings that are within a category of service to which the subscriber does not already subscribe from that carrier, unless that carrier has customer approval to do so, except as described in paragraph (c) of this section.

(1) A wireless provider may use, disclose, or permit access to CPNI derived from its provision of CMRS, without customer approval, for the provision of CPE and information service(s). A wireline carrier may use, disclose or permit access to CPNI derived from its provision of local exchange service or interexchange service, without customer approval, for the provision of CPE and call answering, voice mail or

messaging, voice storage and retrieval services, fax store and forward, and protocol conversion.

(2) A telecommunications carrier may not use, disclose or permit access to CPNI to identify or track customers that call competing service providers. For example, a local exchange carrier may not use local service CPNI to track all customers that call local service competitors.

(c) A telecommunications carrier may use, disclose, or permit access to CPNI, without customer approval, as described in this paragraph (c).

(1) A telecommunications carrier may use, disclose, or permit access to CPNI, without customer approval, in its provision of inside wiring installation, maintenance, and repair services.

(2) CMRS providers may use, disclose, or permit access to CPNI for the purpose of conducting research on the health effects of CMRS.

(3) LECs, CMRS providers, and entities that provide interconnected VoIP service as that term is defined in § 9.3 of this chapter, may use CPNI, without customer approval, to market services formerly known as adjunct-to-basic services, such as, but not limited to, speed dialing, computer-provided directory assistance, call monitoring, call tracing, call blocking, call return, repeat dialing, call tracking, call waiting, caller I.D., call forwarding, and certain centrex features.

(d) A telecommunications carrier may use, disclose, or permit access to CPNI to protect the rights or property of the carrier, or to protect users of those services and other carriers from fraudulent, abusive, or unlawful use of, or subscription to, such services.

[63 FR 20338, Apr. 24, 1998, as amended at 64 FR 53264, Oct. 1, 1999; 67 FR 59211, Sept. 20, 2002; 72 FR 31962, June 8, 2007]

**§ 64.2007 Approval required for use of customer proprietary network information.**

(a) A telecommunications carrier may obtain approval through written, oral or electronic methods.

(1) A telecommunications carrier relying on oral approval shall bear the burden of demonstrating that such approval has been given in compliance