

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

In the Matter of:	)	
	)	
Comment Cycle Established	)	CC Docket No. 96-115
for Commission's Further Notice of	)	
Proposed Rulemaking Regarding	)	WC Docket No. 04-36
Protection of Customer Proprietary	)	
Network Information	)	

Comments of the ICORE Companies

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**TABLE OF CONTENTS**

I. INTRODUCTION.....2

II. THE ADDITIONAL PROVISIONS CONTAINED IN THE FURTHER NOTICE  
WOULD BE COSTLY, COMPLEX, CUMBERSOME AND ONLY  
MARGINALLY EFFECTIVE IN PROTECTING CPNI.....3

III. THE COMMISSION SHOULD PURSUE MORE STRINGENT DETERRENCE  
OF PRETEXTERS AND OTHERS ENGAGING IN ILLEGAL BEHAVIOR  
BEFORE IMPOSING MORE REQUIREMENTS ON SMALL ILECS.....5

IV. CONCLUSION.....6

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Comments of the ICORE Companies

The consulting firm of ICORE, Inc. (ICORE), on behalf of a number of incumbent local exchange carriers (ILECs)<sup>1</sup>, offers these comments in the above-captioned proceeding. ICORE provides a variety of consulting, regulatory, billing and network services to small ILECs serving rural and suburban America.

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<sup>1</sup> ILECs participating in this filing include: Doylestown Telephone Company, Doylestown, OH; Dunbarton Telephone Company, Dunbarton, NH; Hot Springs Telephone Company, Kalispell, MT; Lexcom Telephone Company, Lexington, NC; Madison County Telephone Company, Hautsville, AR; Mount Horeb Telephone Company, Mount Horeb, WI; Palmerton Telephone Company, Palmerton, PA; Ronan Telephone Company, Ronan, MT; Summit Telephone Company, Fairbanks, AK; Sycamore Telephone Company, Sycamore, OH; The Middle Point Home Telephone Company, Middle Point, OH.

## **I. INTRODUCTION**

The ILECs represented herein have long been concerned with, and cognizant of, their responsibility to protect the security of sensitive customer information. They have, in fact, done their very best to safeguard their customer's records from data brokers, pretexters and others who would attempt to access and use such records for their own illicit purposes.

In its recent Report and Order<sup>2</sup>, the Commission adopted amendments to Part 64 rules to further strengthen provisions to prevent such unauthorized access to customer proprietary information. While these new requirements, to be effective December 8, 2007, will impose significant costs on small ILECs, these carriers are willing to implement and apply them and in a diligent manner.

The small ILECs represented herein find these requirements to be sufficient to adequately protect CPNI, however, and urge the Commission to not adopt the additional provisions discussed in its Further Notice of Proposed Rulemaking. As shown below, these proposed requirements would be extremely expensive, and would assist only marginally with the protection of customer data.

Rather than impose another set of costly provisions on top of those just adopted, the Commission should monitor the efficacy of the requirements adopted in the Report and Order. It should also work closely with the Federal Trade Commission to vigorously enforce the laws prohibiting unfair or deceptive acts or practices with heavier financial penalties and longer jail sentences.

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<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, WC Docket No. 04-36, Report and Order and Further Notice of Proposed Rulemaking, FCC 07-22 (2007) (Further Notice).

Ultimately, stronger and more effective law enforcement will better deter the data brokers, pretexters, and others dealing in illegal data access than increasingly complex, cumbersome and costly security practices.

**II. THE ADDITIONAL PROVISIONS CONTAINED IN THE FURTHER NOTICE WOULD BE COSTLY, COMPLEX, CUMBERSOME AND ONLY marginally effective in protecting CPNI**

The Further Notice requests comments on additional protective measures, including password protection, audit trails, physical safeguards, and limiting data retention. The ICORE companies feel that these proposed measures are unduly burdensome and costly, and are unnecessary at this time, given the CPNI rules that have already been adopted in the Report and Order.

While it is unclear as to how effective these proposals will be in preventing the violation of customer privacy, the additional regulations will have the very real and direct effect of harming consumers. These measures will either make it more difficult for customers to access their own information, increase the costs imposed on the small ILECs (costs which will have to be passed on to their customers), or both.

In fact, the recovery of CPNI costs is a major concern for small ILECs. Both those that participate in the National Exchange Carrier Association (NECA) pooling process on a “cost” basis, and those that use the “average schedules,” will incur considerable expense in implementing the requirements adopted in the Report and Order.

The “cost” companies, through the jurisdictional cost separations process, should see some allocation of these costs to interstate access, where they can be recovered from

the NECA pool. However, a substantial portion of their CPNI costs will be allocated to intrastate/local, and thus recovered directly from local ratepayers.

“Average schedule” companies are unsure as to how, or when, they may be able to recover a portion of their CPNI costs from the NECA interstate access pooling process. If the costs are built into future schedules, a significant lag will occur. Even if NECA treats CPNI costs as a separate “special settlements” element, it will take considerable time to collect the underlying costs. Either way, average schedule companies will incur substantial costs this year to meet the December 8, 2007 deadline, but then most likely wait a long while before being reimbursed even a small portion of those costs.

With small ILECs already reeling from the costs imposed by the Report and Order, the Commission should not adopt any additional regulations that will impose even greater financial burdens on these companies and their customers. This is especially true when the burdens of these provisions far outweigh the benefits.

Audit trails, for instance, would require small ILECs to make substantial software upgrades and to conduct extensive customer service training. Such programming and training costs would be over and above the significant costs already occasioned by the requirements of the Report and Order.

While small ILECs necessarily record customer account changes, very few have the systems’ capacity or capability to create the kind of extensive audit trail contemplated in the Further Notice. The cost of the required software changes would be prohibitive for most small companies.

Such costs would have to be passed on to customers, at the expense of needed network and service upgrades. A cost-benefit analysis would undoubtedly show that the

significant costs associated with building detailed and complex audit trails would far outweigh the benefits to consumers in rural America.

Similarly, the costs of any further password requirements or physical safeguards would greatly outweigh their benefits. The Commission has adopted a set of comprehensive security measures in its Report and Order. It should monitor the effectiveness of these safeguards over some reasonable amount of time before suggesting further changes.

It should also work vigorously on deterring pretexters and others from engaging in illegal and deceptive activities through more stringent law enforcement efforts.

**III. THE COMMISSION SHOULD PURSUE MORE STRINGENT  
DETERRENCE OF PRETEXTERS AND OTHERS ENGAGING  
IN ILLEGAL BEHAVIOR BEFORE IMPOSING MORE REQUIREMENTS  
ON SMALL ILECS**

There is no need for the Commission to impose additional CPNI requirements on small ILECs. The measures contained in Section 222 of the Telecommunications Act of 1996 (1996 Act), as well as those adopted in the Report and Order, are fully sufficient.

There is no evidence that small ILECs were negligent in complying with the obligations of Section 222 of the 1996 Act, or of any intentional violations of those requirements, that have caused unauthorized release of proprietary customer information. The additional measures adopted in the Report and Order, to be effective December 8, have not even been implemented.

It is grossly premature at this time to impose yet another set of burdensome and costly regulations, when the original CPNI rules had never been either negligently or

intentionally violated by small ILECs, and the further measures prescribed in the Report and Order have never even been tested.

The real problem here is being created by pretexters, data brokers and others who are intent on illegally or deceitfully attempting to access protected information for criminal purposes or financial gain. The measures proposed in the Further Notice seem like yet another attempt to second guess and ward off their future efforts to access proprietary consumer information. This is a difficult task, however, since individuals and groups bent on wrong doing will generally hatch ever more clever and diabolical methods of perpetrating their bad deeds.

The best way to deter such scam artists and criminals is through more diligent law enforcement, harsher fines and financial penalties, and longer jail sentences. Laws prohibiting unfair or deceptive practices used to access, use, sell and distribute proprietary information need to be strengthened and enforced with vigor. Violators need to be subjected to serious financial penalties and longer jail time.

Before imposing additional CPNI regulations on small ILECs, the Commission should take an active role with the Federal Trade Commission to enforce the laws prohibiting the deceptive, unfair and misleading actions of data brokers, pretexters and others who would violate consumer privacy.

#### **IV. CONCLUSION**

Adequate CPNI safeguards already exist. The Commission should monitor the provisions contained in its Report and Order, and work on law enforcement efforts

against violators, before imposing additional costly and burdensome regulations on small, rural ILECs and their customers.

Respectfully submitted,

ICORE, Inc.

A handwritten signature in black ink, appearing to read "J. Reimers". The signature is fluid and cursive, with a large initial "J" and a long, sweeping tail.

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