



PUBLIC NOTICE

Federal Communications Commission
445 12th St., S.W.
Washington, D.C. 20554

News Media Information 202 / 418-0500
Internet: <http://www.fcc.gov>
TTY: 1-888-835-5322

DA No. 04-700
March 12, 2004

Comment Sought on CALEA

Petition for Rulemaking

RM-10865

Comment Date: April 12, 2004

Reply Comment Date: April 27, 2004

By the Chief, Office of Engineering and Technology:

On March 10, 2004, the Federal Bureau of Investigation, U.S. Department of Justice, and U.S. Drug Enforcement Administration (“Law Enforcement”) filed with the Commission a “Joint Petition For Expedited Rulemaking” (RM-10865). The Petition requests that the Commission initiate a new rulemaking proceeding to resolve, on an expedited basis, various outstanding issues associated with the implementation of the Communications Assistance for Law Enforcement Act (“CALEA”). CALEA was enacted in October 1994 in response to rapid advances in telecommunications technology that threaten the ability of law enforcement agencies (“LEAs”) to conduct electronic surveillance. CALEA statute: Pub. L. No. 103-414, 108 Stat. 4279 (1994), codified as 47 U.S.C. 1001-10 and 47 U.S.C. 229.

We note that, in recently initiating a rulemaking proceeding regarding Internet Protocol (“IP”)-enabled services, the Commission anticipated that Law Enforcement would file the instant Petition.¹ In the *Notice of Proposed Rulemaking* in the IP proceeding, the Commission recognized the importance of ensuring that LEAs’ requirements are fully addressed and stated that it took seriously the issues raised by LEAs concerning lawfully authorized wiretaps. Accordingly, the Commission announced plans to initiate a rulemaking proceeding in the near future to address the matters that it anticipated Law Enforcement would raise in the Petition. The Commission also announced plans to closely coordinate its efforts in these two new proceedings.

¹ See *IP-Enabled Services, Notice of Proposed Rulemaking*, WC Docket No. 04-36, FCC 04-28, released March 10, 2004, at n.158.

This *Public Notice* begins an expeditious process to address the issues raised by Law Enforcement. In its Petition, Law Enforcement states, that although the Commission has taken steps to implement CALEA, there remain several outstanding issues. In order to resolve these issues, Law Enforcement asks the Commission to:

- (1) formally identify the types of services and entities that are subject to CALEA (*e.g.*, both common carrier and non-common carrier broadband access and broadband telephony services and providers);
- (2) formally identify the services that are considered “packet-mode services;”
- (3) initially issue a Declaratory Ruling or other formal Commission statement, and ultimately adopt final rules, finding that broadband access services and broadband telephony services are subject to CALEA;
- (4) reaffirm, consistent with the Commission’s finding in the *CALEA Second Report and Order*, that push-to-talk “dispatch” service is subject to CALEA;
- (5) adopt rules that provide for the easy and rapid identification of future CALEA-covered services and entities;
- (6) establish benchmarks and deadlines for CALEA packet-mode compliance;
- (7) adopt rules that provide for the establishment of benchmarks and deadlines for CALEA compliance with future CALEA-covered technologies;
- (8) outline the criteria for extensions of any benchmarks and deadlines for compliance with future CALEA-covered technologies established by the Commission;
- (9) establish rules to permit the Commission to request information regarding CALEA compliance generally;
- (10) establish procedures for enforcement actions by the Commission against entities that do not comply with their CALEA obligations;
- (11) confirm that carriers bear sole financial responsibility for CALEA implementation costs for post-January 1, 1995 communications equipment, facilities and services;
- (12) permit carriers to recover their CALEA implementation costs from their customers, and
- (13) clarify the cost methodology and financial responsibility associated with intercept provisioning.

Accordingly, we invite comment from all interested parties, including wireless and wireline telecommunications carriers, providers of Internet services, equipment manufacturers, equipment standards organizations, and privacy groups.

Comments are requested on the Petition by **April 12, 2004** and reply comments are requested by **April 27, 2004**. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. See Electronic Filing of Documents in Rulemaking Proceedings, 63 FR 24121, May 1, 1998. Comments filed through the ECFS can be sent as an electronic file via the Internet to <http://www.fcc.gov/e-file/ecfs.html>. Generally, only one copy of an electronic submission must be filed. In completing the transmittal screen, commenters should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to ecfs@fcc.gov, and should include the following words in the body of the message, "get form <your e-mail address>." A sample form and directions will be sent in reply. Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, commenters must submit two additional copies for each additional docket or rulemaking number.

All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). The Commission's contractor, Natek, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class mail, Express mail, and Priority Mail should be addressed to 445 12th Street, SW., Washington, DC 20554.

For further information, contact Rodney Small, Office of Engineering and Technology, (202)418-2452; email Rodney.Small@fcc.gov