



# PUBLIC NOTICE

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**DA 00-2342**  
**October 17, 2000**

**COMMISSION SEEKS COMMENTS TO UPDATE THE RECORD IN THE  
CALEA TECHNICAL CAPABILITIES PROCEEDING  
CC DOCKET NO. 97-213**

In the *Third Report and Order* in CC Docket No. 97-213, the Commission adopted technical capabilities for wireline, cellular, and broadband Personal Communications Services (PCS) carriers to comply with the assistance capability requirements prescribed by the Communications Assistance for Law Enforcement Act of 1994 (CALEA). Specifically, for such carriers, we required that all capabilities of J-STD-025 (the interim industry standard, otherwise referred to as the “J-Standard”), except packet-mode communications, be implemented by June 30, 2000 and that six of nine “punch list” capabilities requested by the Department of Justice/Federal Bureau of Investigation be implemented by September 30, 2001. We also required that a packet-mode capability be implemented by such carriers by September 30, 2001, and in the interim permitted packet-mode data to be delivered to law enforcement under the interim standard, pending further study by the telecommunications industry.

The United States Telecom Association (USTA), Electronic Privacy Information Center (EPIC), and others sought review of the Commission decision in the United States Court of Appeals for the District of Columbia Circuit. The petitioners challenged the requirements that carriers make available to law enforcement agencies the location of antenna towers used in wireless telephone calls, signaling information from custom calling features (such as call forwarding and call waiting), telephone numbers dialed after calls are connected, and data pertaining to digital packet-mode communications. Petitioners argued that the Commission exceeded its statutory authority, impermissibly expanded the types of call-identifying information that carriers must make accessible to law enforcement, and violated the statute’s requirements that it protect communication privacy and minimize the cost of implementing the order.

In a decision issued August 15, 2000, the United States Court of Appeals for the District of Columbia Circuit affirmed the agency’s decision in part and vacated and remanded in part for further proceedings. *USTA v. FCC*, No. 99-1442 (D.C.Cir. Aug. 15, 2000). The court’s mandate issued on October 4, 2000.

The court affirmed the Commission's decision to not remove the antenna tower location information capability and the packet-mode data capability from the J-Standard. The court vacated and remanded to the Commission four of the punch list items that the order required: post-cut-through dialed digit extraction; party hold/join/drop information; subject-initiated dialing and signaling information; and in-band and out-of-band signaling information. The court concluded that the Commission's decision to include these four capabilities reflected a lack of reasoned decisionmaking. The court found that the Commission had not: (a) explained the basis for its conclusion that these four capabilities are required by CALEA as call-identifying information; (b) identified any deficiencies in the J-Standard's definition of call-identifying information; (c) explained how its order would satisfy CALEA's requirements by "cost-effective methods" or how its order would affect residential ratepayers; and (d) explained how required post-cut-through dialed digits would "protect the privacy and security of communications not authorized to be intercepted."

The Commission seeks comment on the issues identified by the court in its decision, and what action it should take to satisfy the court's concerns. In particular, we seek comment on the definition of the term "call identifying information" as used in CALEA, discussed in the legislative history, and used in the interim standard, and whether the four punch list capabilities are covered by that term. Parties should address whether the four punch list capabilities are call identifying information, whether deficiencies exist in the interim standard, and how each of the four punch list capabilities would address such deficiencies. We also seek comment on the definition of the term "cost-effective methods," how cost effectiveness should be measured in relation to the four punch list capabilities, the implementing costs for the punch list capabilities, and how requiring these capabilities would affect residential ratepayers. Commenters should provide information on alternative methods for providing the four capabilities, and for each alternative method provide specific information on implementing cost and the effect on residential ratepayers. Commenters should suggest ways for carriers to minimize costs to residential ratepayers. Finally, commenters should provide information on how the four capabilities, in particular post-cut-through dialed digit extraction, could be implemented while satisfying CALEA's requirement to "protect the privacy and security of communications not authorized to be intercepted."

We hereby solicit comment on the issues raised in the court's remand decision by **November 16, 2000**, and reply comments by **December 1, 2000**. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. Generally, only one electronic submission must be filed. If filing by paper, parties must file an original and four copies. Parties should send comments to the Office of the Secretary, Federal Communications Commission, 445 12<sup>th</sup> Street, S.W., Washington, D.C. 20554. Parties are also encouraged to file a copy of all pleadings on a 3.5 inch diskette in Word 97 format.

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, Postal Service mailing address, and the applicable docket number. Parties may also submit an electronic comment by Internet e-mail. To obtain filing instructions for e-mail comments,

commenters should send an e-mail to [ecfs@fcc.gov](mailto: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.

The *Third Report and Order* is available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12<sup>th</sup> Street, S.W., Room CY-A257, Washington, D.C. 20554. This document may also be purchased from the Commission’s copy contractor, International Transcription Service, Inc., 1231 20<sup>th</sup> Street, NW, 20036, telephone 202-857-3800, facsimile 202-857-3805, TTY 202-293-8810. You may also view this document and all Docket 97-213 filings by accessing the ECFS at [https://gullfoss2.fcc.gov/cgi-bin/websql/prod/ecfs/comsrch\\_v2.hts](https://gullfoss2.fcc.gov/cgi-bin/websql/prod/ecfs/comsrch_v2.hts). The court’s remand decision may be viewed at: <http://pacer.cadc.uscourts.gov/common/opinions/200008/99-1442a.txt>.

This matter shall be treated as a “permit-but-disclose” proceeding in accordance with the Commission’s *ex parte* rules. See 47 C.F.R. §§ 1.1200 and 1.1206. Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentations must contain summaries of the substance or the presentations and not merely a listing of the subjects discussed. More than a one or two sentence description of the views and arguments presented generally is required. See 47 C.F.R. § 1.1206(b). Other rules pertaining to oral and written *ex parte* presentations in permit-but-disclose proceedings are set forth in 47 C.F.R. § 1.1206(b).

This action is taken pursuant to authority found in Sections 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i) and 303(r); and pursuant to Sections 0.31 and 0.241 of the Commission's Rules, 47 C.F.R. §§ 0.31 and 0.241.

For further information, contact Geraldine Matisse, Office of Engineering and Technology, 202-418-2322 ([gmatise@fcc.gov](mailto:gmatise@fcc.gov)) or Rodney Small, Office of Engineering and Technology, 202-418-2452 ([rsmall@fcc.gov](mailto:rsmall@fcc.gov)).

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