

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

In the Matter of: )  
)  
Communications Assistance for ) CC Docket No. 97-213  
Law Enforcement Act )  
)

ORDER

Adopted: February 26, 1999;

Released: March 2, 1999

By the Chief, Office of Engineering and Technology:

1. On December 14, 1998, requests for confidential treatment pursuant to Section 0.459 of the Commission's Rules, and attached data, were filed in this proceeding by five telecommunications equipment manufacturers: Alcatel Network Systems ("Alcatel"); Lucent Technologies Inc. ("Lucent"); Motorola, Inc. ("Motorola"); Northern Telecom Inc. ("Nortel Networks"); and Siemens Information and Communication Networks ("Siemens"). Additionally, on January 29, 1999, Alcatel filed a second request for confidential treatment of attached data. We grant these requests and withhold the associated data from routine public inspection for the reasons stated below.

2. In the Further Notice of Proposed Rulemaking (Further NPRM) in this proceeding, the Commission reached tentative conclusions regarding the technical requirements of the Communications Assistance for Law Enforcement Act ("CALEA") in relation to wireline, cellular, and broadband PCS telecommunications carriage, and sought comment on a range of related issues. The Further NPRM was initiated in response to industry adoption of an interim standard, known as J-STD-025, and petitions for rulemaking that were filed challenging J-STD-025's inclusion or exclusion of certain technical requirements. In the Further NPRM, the Commission stated that it did not intend to reexamine any of the uncontested technical requirements of the J-STD-025 standard but instead would make determinations only regarding whether each of the contested requirements meet the assistance capability requirements of Section 103 of CALEA. These contested requirements are the location information and packet-mode provisions currently included within J-STD-025, and the nine "punch list" items that are currently not included but are sought by the law enforcement community.

3. Also in the Further NPRM, the Commission stated that, in its efforts to determine what features and capabilities fall within the parameters of CALEA, it must consider five specific

factors, pursuant to Section 107(b) of CALEA. These specific factors are that the features and capabilities: meet the assistance capability requirements of Section 103 by cost-effective methods; protect the privacy and security of communications not authorized to be intercepted; minimize the cost of such compliance on residential ratepayers; serve the policy of the United States to encourage the provision of new technologies and services to the public; and provide a reasonable time and conditions for compliance with and the transition to any new standard, including defining the obligations of telecommunications carriers under Section 103 during any transition period. The Commission strongly encouraged commenters to provide it with information as detailed and specific as possible, including in particular:

detailed comment regarding the costs of adding a feature to a telecommunications carrier's network and on what, if any, impact of such costs will have on residential ratepayers. Commenters should consider the costs to manufacturers in developing the equipment or software needed to implement the technical requirement, as well as the cost to carriers to install and deploy such equipment. Commenters should be specific as to which entities would incur the cost of adding particular features; e.g., manufacturers, local exchange carriers (LECs), interexchange carriers (IXCs), or commercial mobile radio service (CMRS) providers, etc. Commenters should also be specific as to what costs would be incurred for hardware, as opposed to software upgrades to carriers' networks, and whether some of these upgrades would have other uses in the networks. If costs are likely to be passed on to residential ratepayers, those costs should be identified, as well as specific mechanisms that could be used to minimize such costs.

4. In response to the Further NPRM, on December 14, 1998 Alcatel, Lucent, Motorola, Nortel Networks, and Siemens filed specific cost data with a request that the data be treated as confidential material pursuant to Section 0.459 of the Rules. Additionally, in response to a request of January 26, 1999 from the Commission's staff, on January 29, 1999 Alcatel filed additional cost data with a request that the data be treated as confidential material pursuant to Section 0.459 of the Rules. Based on our review, we find that the requestors have complied with the provisions of subsection 0.459(a) that a copy of the request shall be attached to and cover all of the materials to which it applies and all copies of those materials, and with the provisions of subsection 0.459(b) that each request shall contain a statement of the reasons for withholding the materials from inspection and of the facts upon which those records are based. We further find that the material for which confidential treatment is sought contains detailed proprietary pricing estimates that, pursuant to Section 0.457(d) of the Commission's Rules, constitute "trade secrets and commercial or financial information . . . and privileged or confidential categories of materials not routinely available for public inspection, 5 U.S.C. 552(b)(4) and 18 U.S.C. 1905." Therefore, we grant the requests to the extent they seek confidential treatment pursuant to the Commission's rules.

5. Finally, we recognize that while the Commission generally has not afforded confidential treatment to material submitted in rulemakings, granting confidential treatment under these unique circumstances will not deprive other interested parties of a meaningful opportunity to review and comment on the material. Specifically, we intend to aggregate the data, if possible, in

a manner that does not reveal the confidential information so that we may release the aggregated data for public inspection and comment. In this respect, on January 26, 1999, the staff requested that each manufacturer supply clarifying information that will better enable us to aggregate the data supplied by them. The responses to the staff's request will also be accorded confidential treatment. In rendering our final decision, we intend to consider only the aggregated data and not the individual data provided by the manufacturers.

6. Accordingly, pursuant to section 0.459(d)(2) of the Commission's Rules, 47 C.F.R. 0.459(d)(2) (1998), IT IS ORDERED that the requests for confidential treatment filed in this proceeding on December 14, 1998 by Alcatel Network Systems; Lucent Technologies Inc.; Motorola, Inc.; Northern Telecom Inc.; and Siemens Information and Communication Networks; and the request for confidential treatment filed in this proceeding on January 29, 1999 by Alcatel Network Systems ARE GRANTED to the extent indicated hereinabove.

7. A copy of this Order will be placed in the public file in lieu of the materials withheld from public inspection. Another copy will be forwarded to the General Counsel of the Commission.

#### FEDERAL COMMUNICATIONS COMMISSION

Dale N. Hatfield  
Chief  
Office of Engineering and Technology