

(2) *Alternate projects.* \* \* \*

(ii) Federal funding for such alternate projects will be 75 percent of the Federal share of the approved Federal estimate of eligible costs.

(iii) If soil instability at the alternate project site makes the repair, restoration or replacement of a State or local government-owned or -controlled facility infeasible, the Federal funding for such an alternate project will be 90 percent of the Federal share of the approved Federal estimate of eligible costs.

\* \* \* \* \*

3. Amend § 206.221 as follows:

(a) Redesignate paragraphs (e)(3) through (e)(6) as paragraphs (e)(4) through (e)(7); and

(b) Add new paragraph (e)(3) to read as follows:

**§ 206.221 Definitions.**

\* \* \* \* \*

(e) *Private nonprofit facility* \* \* \*

(3) *Irrigation facility* means those facilities that provide water for essential services of a governmental nature to the general public. Irrigation facilities include water for fire suppression, generating and supplying electricity, and drinking water supply; they do not include water for agricultural purposes.

\* \* \* \* \*

4. Amend § 203.226 as follows:

(a) Redesignate paragraphs (b) through (i) as paragraphs (c) through (j); and

(b) Add new paragraph (b) to read as follows:

**§ 206.226 Restoration of damaged facilities.**

\* \* \* \* \*

(b) *Private nonprofit facilities.* Eligible private nonprofit facilities may receive funding under the following conditions:

(1) The facility provides critical services, which include power, water (including water provided by an irrigation organization or facility in accordance with § 206.221(e)(3)), sewer services, wastewater treatment, communications, emergency medical care, fire department services, emergency rescue, and nursing homes; or

(2) The private nonprofit organization not falling within the criteria of § 206.226(b)(1) has applied for a disaster loan under section 7(b) of the Small Business Act (15 U.S.C. 636(b)) and

(i) The Small Business Administration has declined the organization's application; or

(ii) Has eligible damages greater than the maximum amount of the loan for which it is eligible, in which case the

excess damages are eligible for FEMA assistance.

\* \* \* \* \*

5. Revise § 206.361(b) to read as follows:

**§ 206.361 Loan program.**

\* \* \* \* \*

(b) *Amount of loan.* The amount of the loan is based upon need, not to exceed 25 percent of the operating budget of the local government for the fiscal year in which the disaster occurs, but shall not exceed \$5 million. The term *fiscal year* as used in this subpart means the local government's fiscal year.

\* \* \* \* \*

6. Revise § 206.363(b)(1) to read as follows:

**§ 206.363 Eligibility criteria.**

\* \* \* \* \*

(b) *Loan eligibility*—(1) *General.* To be eligible, the local government must show that it may suffer or has suffered a substantial loss of tax and other revenues as a result of a major disaster or emergency, must demonstrate a need for financial assistance in order to perform its governmental functions, and must not be in arrears with respect to any payments due on previous loans. Loan eligibility is based on the financial condition of the local government and a review of financial information and supporting documentation accompanying the application.

\* \* \* \* \*

Dated: April 30, 2001.

**Joe M. Allbaugh,**

*Director.*

[FR Doc. 01-11155 Filed 5-3-01; 8:45 am]

**BILLING CODE 6718-02-P**

**FEDERAL COMMUNICATIONS COMMISSION**

**47 CFR Part 20**

[WT Docket No. 97-207; FCC 01-125]

**Calling Party Pays Service Offering in the Commercial Mobile Radio Services**

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule, petition for reconsideration.

**SUMMARY:** This document denies a petition for reconsideration of a previous Declaratory Ruling in this proceeding. This decision also terminates this proceeding regarding calling party pays service offering without taking any specific action on the issues raised in the proceeding.

**FOR FURTHER INFORMATION CONTACT:** Joseph A. Levin or David H. Siehl, 202-418-1310; [TTY: 202-418-7233].

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Memorandum Opinion and Order on Reconsideration and Order Terminating Proceeding in WT Docket No. 97-207, FCC 01-125, adopted April 9, 2001, and released April 13, 2001. The complete text of the released document is available on the Commission's Internet site, at [www.fcc.gov](http://www.fcc.gov). The full text is also available for inspection and copying during normal business hours in the FCC Reference Information Center (Courtyard level), 445 12th Street, SW., Washington, DC 20554, and also may be purchased from the Commission's copy contractor, International Transcription Services (ITS, Inc.), (202) 857-3800, 445 12th Street, SW., CY-B400, Washington, DC 20054.

**Synopsis of Memorandum Opinion and Order on Reconsideration and Order Terminating Proceeding**

1. This Memorandum Opinion and Order on Reconsideration and Order Terminating Proceeding (MO&O) denies a Petition for Reconsideration of the Declaratory Ruling and Notice of Proposed Rulemaking in this proceeding (64 FR 38313, July 16, 1999; 64 FR 38396, July 16, 1999) regarding calling party pays service, and terminates the proceeding without action.

2. The Ohio Public Utilities Commission (Ohio Petition) alleges that the Declaratory Ruling contains ambiguous and potentially conflicting conclusions that should be clarified. As discussed in paragraphs 7 through 19 of the MO&O, because the Commission's rules permit parties to file petitions for reconsideration only for final rules, the MO&O considers only that part of the Ohio Petition which argues that calling party pays is not properly classified as a commercial mobile radio service because it does not meet the interconnected service criteria. The Commission denies the Ohio Petition, finding that calling party pays service is an interconnected for profit service to the public and, therefore, constitutes commercial mobile radio service under the Communications Act.

3. The MO&O also terminates the calling party pays proceeding without taking action. The MO&O, in paragraphs 20-24 of the full text of the MO&O, finds that it is unclear that regulatory intervention by the Commission is warranted. The Commission emphasizes, however, that the existing rules do not prevent a carrier from offering a calling party pays service to its subscribers. In terminating this

proceeding, the Commission removes any remaining regulatory uncertainty regarding calling party pays occasioned by the pendency of the proceeding.

#### Ordering Clauses

4. The Petition for Reconsideration of the Declaratory Ruling in this proceeding, filed by the Public Utility Commission of Ohio on August 16, 1999, is denied.

5. The proceeding is terminated without further action.

6. This action is taken pursuant to sections 1, 4(i), 7, 201, 202, 303(r), and 332 of the Communications Act of 1934 as amended, 47 U.S.C. 151, 154(i), 157, 201, 202, 303(r), 332.

Federal Communications Commission.

**Magalie Roman Salas,**

*Secretary.*

[FR Doc. 01-11169 Filed 5-3-01; 8:45 am]

BILLING CODE 6712-01-P

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 64

[CC Docket No. 97-213; FCC 01-126]

#### Communications Assistance for Law Enforcement Act

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule; petitions for reconsideration.

**SUMMARY:** In this document the Commission responds to petitions for reconsideration of previous Commission decisions in this proceeding which implements the Communications Assistance for Law Enforcement Act (CALEA). The Commission makes minor revisions to the Commission's rules to clarify the arrangements telecommunications carriers subject to CALEA must make to ensure that law enforcement agencies can contact them when necessary, and to clarify the interception activity that triggers a record keeping requirement. The Commission makes additional clarifications without altering the rules, but otherwise denies the requests for reconsideration.

**DATES:** Effective June 4, 2001.

**FOR FURTHER INFORMATION CONTACT:** John Spencer or Susan Kimmel, 202-418-1310.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Second Order on Reconsideration (Second Order) in CC Docket No. 97-213; FCC 01-126, adopted April 9, 2001, and released April 16, 2001. The complete

text of this Second Order is available for inspection and copying during normal business hours in the FCC Reference Information Center, Courtyard Level, 445 12th Street, SW., Washington, DC, and also may be purchased from the Commission's copy contractor, International Transcription Services (ITS, Inc.), CY-B400, 445 12th Street, SW., Washington, DC.

#### Synopsis of the Second Order on Reconsideration

1. This Second Order on Reconsideration (Second Order) resolves two petitions for reconsideration of the Report and Order (R&O) in this proceeding (64 FR 51462, September 23, 1999) and one petition for reconsideration of the Second Report and Order (Second R&O) in this proceeding (64 FR 55164, October 12, 1999). These decisions implemented sections 102, 105, and 301 of the Communications Assistance for Law Enforcement Act (CALEA) (Communications Assistance for Law Enforcement Act, Public Law 104-414, 108 Stat. 4279, 1994.) The Second Order makes minor revisions to 47 CFR 64.2103 and 64.2104 to clarify the arrangements telecommunications carriers subject to CALEA must make to ensure that law enforcement agencies can contact them when necessary, and the interception activity that triggers a record keeping requirement. The Second Order makes additional clarifications without altering the Commission's rules, but otherwise denies the requests for reconsideration.

2. The U.S. Department of Justice and the Federal Bureau of Investigation (FBI) seek stronger personnel security measures than those adopted in the First R&O, in order to "ensure the trustworthiness of the private-company employees who have become increasingly responsible for implementing electronic surveillance." As discussed in paragraphs 4 through 14 of the Second Order, the Commission denies the FBI's request. However, the Commission encourages carriers to consider voluntarily adopting, as internal procedures, measures to respond to the concerns presented by the FBI, as appropriate, and making them part of their systems security and integrity (SSI) policies and procedures.

3. The FBI also proposes a requirement that carriers generate an automated message that would permit law enforcement agencies (LEAs) to confirm periodically that the software used to conduct an interception is working correctly and is accessing the equipment, facilities, or services of the correct subscriber. The Commission, as

detailed in paragraphs 15 through 17 of the Second Order, similarly denies this proposal. In so doing, however, the Commission notes that "there is nothing that would prevent carriers from providing this capability either on a voluntary basis or with compensation from LEAs."

4. The FBI next asks the Commission to modify the rules, adopted in the R&O requiring that carriers report acts of unauthorized electronic surveillance that occur on their premises and compromises of their SSI procedures involving the execution of electronic surveillance "within a reasonable period of time upon discovery." The FBI recommends that the Commission modify the rule to require reporting "as soon after discovery as is reasonable in light of privacy and safety concerns and the needs of law enforcement." The Commission, as indicated in paragraphs 18 through 20 of the Second Order, shares the FBI's concern about the importance of prompt reporting of systems security breaches and expects carriers to report breaches with due diligence and dispatch. However, in the absence of significant problems to date, the Commission declines to adopt additional factors to further define how quickly a carrier should report a security breach to law enforcement.

5. The FBI seeks modification of the Commission's record keeping requirement in 47 CFR 64.2104(a)(1), pertaining to the commencement of interceptions. Specifically, FBI argues that the current language could lead to interpretations when the circuit is open for the duration of "multiple intercepts, the carrier's records of these various intercepts would all show the same 'start date and time,'" as opposed to recording individual interceptions. Thus, FBI asks the Commission to modify the phrase in § 64.2104(a)(1) from "date and time of the opening of the circuit" to "date and time at which the interception of communications or access to call identifying information was enabled." The Commission, in paragraphs 21 through 24 of the Second Order, grants the FBI's request and modifies the rules accordingly with slight modification.

6. The National Telephone Cooperative Association (NCTA) asks that the Commission clarify the language of 47 CFR 64.2103 "to make it obvious that a single person is not responsible for being law enforcement's point of contact[for CALEA matters], 24 hours a day, 7 days a week." The Commission agrees with NCTA and, as indicated in paragraphs 25 through 28 of the Second Order, modifies § 64.2102 accordingly. The Commission