

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Investigation of protection of customer proprietary network information by incumbent local exchange companies. | DOCKET NO. 060158-TL
ORDER NO. PSC-06-0258-PAA-TL
ISSUED: March 27, 2006

The following Commissioners participated in the disposition of this matter:

LISA POLAK EDGAR, Chairman
J. TERRY DEASON
ISILIO ARRIAGA
MATTHEW M. CARTER II
KATRINA J. TEW

NOTICE OF PROPOSED AGENCY ACTION ORDER
REQUIRING INCUMBENT LOCAL EXCHANGE COMPANIES TO
REVIEW AND REPORT FINDINGS ON CURRENT SECURITY MEASURES
FOR CUSTOMER PROPRIETARY INFORMATION

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service Commission that the action discussed herein is preliminary in nature and will become final unless a person whose interests are substantially affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

I. Case Background

There has been wide spread media coverage recently with regard to cellular call detail information being sold via the Internet. These websites also offer wireline telephone call detail records for long distance service and unlisted numbers. Telecommunications companies that provide local, long distance, and wireless services collect Customer Proprietary Network Information (CPNI) based on individuals' telephone calling behaviors. CPNI includes subscribers' names, addresses, services, amount of usage of services, and calling records. "Calling records" are lists of phone numbers that the subscriber receives calls from or dials. The ability to obtain unlisted telephone numbers is also advertised on some of these websites.

It appears that the companies that offer these services via the Internet are obtaining CPNI from the telephone companies using a method called "Social Engineering" or "Pretexting." Pretexting is a term used for someone that fraudulently represents themselves to the telephone company as the customer of whom they are trying to obtain telephone account information. For example, a person calls the Incumbent Local Exchange Company (ILEC) and represents that his long distance service has been changed without authorization, and asks the ILEC to verify the long distance company to which his line is currently subscribed. With this information, the

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pretexter can then contact the long distance company and continue pursuing the long distance billing records.

In the last few months, our staff has conducted an investigation of the websites that sell CPNI. At this time, our staff has been able to identify 40 websites that offer CPNI for sale. Our staff began investigating the availability of these records for wireline service by placing an order on www.peoplesearchamerica.com on December 29, 2005 for the long distance call records of a Commission employee. Within a few hours our staff received an accurate call detail record of the long distance calls that were pending and being directly billed by the long distance company to the staff employee. The staff employee verified the accuracy of the call detail. Furthermore, our staff verified that a person did contact Sprint on December 29 using the name of the staff employee in order to obtain pertinent information about the account. This information was provided to the Attorney General's office, which filed a lawsuit against the two men that own a Florida based company that offers this service.

Shortly after beginning its investigation, on January 12, 2006, our staff met with Sprint, Verizon, and BellSouth to discuss what procedures the companies use to secure CPNI and asked what additional security measures the companies could implement. The companies filed confidential responses that were reviewed by our staff.

The Electronic Privacy Information Center petitioned the FCC on August 30, 2005, requesting that the FCC initiate rulemaking to require further implementation of security measures by the telephone companies to protect CPNI. The leaders of the House Energy and Commerce Committee have asked the FCC for all filings regarding CPNI with the FCC by the five largest wireless and wireline carriers, as well as details on when it plans to act on a petition filed by the Electronic Privacy Information Center. Rep. Joe Barton (R., Texas), the committee's chairman, has announced plans to introduce legislation to combat the problem.

The Florida Attorney General's office, as previously mentioned, filed a lawsuit against the two individuals that own the Florida based company that offers phone records for sale on the Internet. In addition, Sen. Aronberg (D-Green Acres) has introduced SB 1488 Relating to Telephone Calling Records; if enacted the bill will prohibit a person from obtaining or attempting to obtain calling records of another person by making false or fraudulent statements or by providing false or fraudulent documents to a telecommunications company, or by selling or offering to sell calling records that were obtained in a fraudulent manner; and will make it a first-degree misdemeanor to commit a first violation and a third-degree felony to commit second or subsequent violations.

II. Jurisdiction

The Legislature's intent is clear in Section 364.01(2), Florida Statutes, that we have the "exclusive jurisdiction in all matters set forth in" Chapter 364, Florida Statutes. We also have the implicit jurisdiction to protect consumers' information and to ensure that telecommunications companies are taking the proper measures to safeguard that information under §364.01 and 364.24, Florida Statutes. Section 364.01(4)(c), Florida Statutes, mandates that this Commission use its exclusive jurisdiction to "[p]rotect the public health, safety, and welfare by ensuring that

monopoly services provided by telecommunications companies continue to be subject to effective price, rate, and *service* regulation.” (emphasis added) Furthermore, Section 364.24(2), Florida Statutes, is within this Commission’s purview and specifically provides that “[a]ny officer or person in the employ of any telecommunications company shall not intentionally disclose customer account records except as authorized by the customer [...].” Persons who violate this statutory provision commit a second degree misdemeanor and may be subjected to criminal punishment or fines under §775.082 or 775.083, Florida Statutes.

At the federal level, §222(a) of the Telecommunications Act of 1996 (Act) provides that all telecommunications companies have the duty to protect the privacy of their customers’ proprietary information. Specifically, §222(c)(1) provides that

“a telecommunications carrier that receives or obtains customer proprietary network information by virtue of its provision of a telecommunications service shall only use, disclose, or permit access to individually identifiable customer proprietary information in its provision of (A) the telecommunications service from which such information is derived, or (B) services necessary to, or used in, the provision of such telecommunications service, including the publishing of directories.”

We have an implicit regulatory obligation to monitor the way in which telecommunications companies handle their customers’ proprietary information. We are authorized to implement procedures consistent with the Act pursuant to §120.80(13)(e), Florida Statutes. We have the authority to require telecommunications companies to implement the appropriate safeguards to protect their customers’ proprietary information.

III. Analysis

As stated in the Case Background, our staff met with representatives of the three largest ILECs to discuss the protection of CPNI which is protected by law pursuant to Section 222, of the Federal Telecommunications Act of 1996, and Section 364.24, Florida Statutes. The three ILECs were asked to investigate the magnitude of the problem, identify how the information is being obtained, and what corrective actions the companies plan to implement to prevent future disclosure of the CPNI. The companies filed their responses confidentially. Verizon appeared to have the most comprehensive approach to securing CPNI. Although the measures described in the responses may improve the security, we believe that further measures may be necessary to thwart the efforts of pretexters. On February 3, 2006, our staff inquired again of the three companies whether any additional measures other than those already described in the confidential filings had been implemented. The companies responded that no other measures have been implemented.

Our staff has conducted additional testing to determine if call records could be obtained from other websites. Among those websites tested, locatecell.com provided erroneous records, and discreetresearch.com did not produce any records. On February 9, 2006, our staff obtained

call detail records using gum-shoes.com which supplied accurate long distance call detail information. The ILEC, as well as the long distance provider serving that customer, is BellSouth.

The sale of CPNI has received considerable attention from various agencies, including the Federal Bureau of Investigation, the Federal Communications Commission, and the Federal Trade Commission. In addition, Attorneys General across the nation, including Florida, have been involved in legal actions against the Internet website companies. Several state legislatures are also considering legislation to make the sale of CPNI illegal. All of this action is designed to eliminate the sale of CPNI, but the ultimate responsibility of securing the information lies with the telephone companies.

At the March 7, 2006 Agenda Conference, Mr. Michael Palecki, on behalf of the Florida Attorney General's Office, spoke in support of requiring the ILECs to review their current security measures and to report those findings to this Commission. Moreover, Mr. Palecki suggested that companies offer their customers the option to choose whether their account information and records are to be made available online or over the phone.

We believe that it may be necessary for the ILECs to impose stricter measures to secure CPNI. In order to determine whether additional measures are necessary, we request that the companies review their current security measures and make every effort to report those findings to this Commission by May 1, 2006. In addition, the ILECs shall consider Mr. Palecki's suggestion at the March 7, 2006 Agenda Conference.

III. Decision

Based upon the foregoing, we find that the ILECs shall review their current security measures for protecting CPNI information and provide a report of their findings by May 1, 2006. Furthermore, we hereby grant our staff administrative authority to extend the deadline for ILECs to file their reports, if necessary. In their reports, the ILECs shall include a description of the additional security measures, if any, and the date those measures were or will be implemented. As part of their review, the ILECs shall also consider Mr. Palecki's suggestion to offer customers an option to choose whether they want their account information and phone records to be made available online or over the phone.

Accordingly, this Docket should remain open pending the receipt of reports from the ILECs on their findings regarding current CPNI security measures. In the interim, our staff will continue to test various websites to determine if the security measures are successful.

Based upon the foregoing, it is

ORDERED by the Florida Public Service Commission that incumbent local exchange companies shall review their current security measures for customer proprietary network information and report their findings to this Commission by May 1, 2006. It is further

ORDERED that our staff shall have administrative authority to extend the deadline for submission of the reports. It is further

ORDERED that the reports shall contain a description of the additional security measures that the companies have implemented, if any, and the date those security measures were or will be implemented. It is further

ORDERED that the companies shall consider the Florida Attorney General Office's suggestion to allow customers the option of making available their account information and phone records online or over the phone. It is further

ORDERED that this Docket shall remain open pending receipt of the reports.

By ORDER of the Florida Public Service Commission this 27th day of March, 2006.

BLANCA S. BAYÓ, Director
Division of the Commission Clerk
and Administrative Services

By: Kay Flynn
Kay Flynn, Chief
Bureau of Records

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing that is available under Section 120.57, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

The action proposed herein is preliminary in nature. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, in the form provided by Rule 28-106.201, Florida Administrative Code. This petition must be received by the Director, Division of the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on April 17, 2006.

In the absence of such a petition, this order shall become final and effective upon the issuance of a Consummating Order.

Any objection or protest filed in this/these docket(s) before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.