

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

In the Matter of)	
)	
Rules and Policies Regarding Calling Number Identification Service – Caller ID)	CC Docket No. 91-281
)	
Petition of Liberty Public School District for Waiver of Federal Communications Commission Regulations at 47 C.F.R. § 64.1601(b))	

ORDER

Adopted: May 9, 2013

Released: May 9, 2013

By the Acting Chief, Consumer and Governmental Affairs Bureau:

I. INTRODUCTION

1. In this Order, we grant a petition filed by the Liberty Public School District (LPS)¹ requesting a limited waiver of section 64.1601(b) of the Commission’s rules, which prohibits terminating carriers from passing the calling party number (CPN)² to the called party where a privacy request has been made by the caller.³ We conclude that granting this request, under the conditions specified herein, will serve the public interest by allowing security and law enforcement personnel to rapidly respond to telephone calls made to the LPS that threaten the safety of schoolchildren and school workers, without undermining the policy objectives of the Commission’s CPN rules.

II. BACKGROUND

A. The CPN Rules

2. In 1994, the Commission adopted rules that require common carriers using Signaling System 7 (SS7) to transmit the CPN on interstate calls to interconnecting carriers.⁴ The Commission concluded that passage of CPN over interstate facilities made possible a wide range of services, and that promoting

¹ See Petition of Liberty Public School District for Waiver of Federal Communications Commission Regulations at 47 C.F.R. § 64.1601(b), filed April 22, 2007 (*LPS Petition*); see also Letter from Thomas C. Capps, counsel for LPS, to FCC filed in CC Docket No. 91-281, Mar. 8, 2012 (*LPS Ex Parte*).

² The Commission’s rules define CPN as “the subscriber line number or the directory number contained in the calling party number parameter of the call set-up message associated with an interstate call on a Signaling System 7 network.” 47 C.F.R. § 64.1600(e). Associated with the CPN is a Privacy Indicator “that indicates whether the calling party authorizes presentation of the calling party number to the called party.” 47 C.F.R. § 64.1600(j).

³ *Id.* § 64.1601(b).

⁴ See *Rules and Policies Regarding Calling Number Identification Service – Caller ID*, CC Docket No. 91-281, Report and Order and FNPRM, 9 FCC Rcd 1764 (1994) (*Caller ID Order*); see also 47 C.F.R. § 64.1601(a). The rules require the same of carriers “offering or subscribing to any service based on Signaling System 7 functionality.” *Id.*

the development of such services was consistent with the Commission's responsibilities under the Communications Act.⁵ In particular, the Commission concluded that requiring CPN transmission would bring consumers more rapid and efficient service and encourage the introduction of new technologies and services to the public.⁶

3. In adopting this requirement, however, the Commission recognized that unrestricted CPN transmission could intrude upon the privacy interests of calling parties wishing to remain anonymous.⁷ Therefore, the Commission established privacy options to allow callers to restrict the transmission of their telephone numbers.⁸ For example, the Commission's rules require carriers using SS7 to recognize the dialing of *67 as a request that the carrier not pass the calling party's number.⁹ In addition, carriers are permitted to provide privacy on all calls dialed from a particular line (per-line blocking) where the state policies allow, and if the customer selects that option, carriers will recognize dialing *82 as a caller's request that the CPN be passed through on an interstate call.¹⁰ Section 64.1601(b) of the Commission's rules provides that "[n]o common carrier subscribing to or offering any service that delivers CPN may override the privacy indicator associated with an interstate call."¹¹

4. The Commission has stated, however, that in certain limited circumstances, the public interest requires CPN transmission despite any countervailing privacy request from the calling party.¹² For example, the Commission concluded that, "[t]o the extent that CPN-based services are used to deliver emergency services, we find that privacy requirements for CPN-based services should not apply to delivery of the CPN to a public agency's emergency line, a poison control line, or in conjunction with 911 emergency services."¹³

⁵ *Caller ID Order*, 9 FCC Rcd at 1769, para. 34.

⁶ *Id.* at 1766, para. 8.

⁷ *Id.* at 1769, para. 34.

⁸ See 47 C.F.R. § 64.1601(b); see also *Rules and Policies Regarding Calling Number Identification Service – Caller ID*, Memorandum Opinion and Order on Reconsideration, Second Report and Order and Third Notice of Proposed Rulemaking, CC Docket No. 91-281, 10 FCC Rcd 11700, 11728-29, paras. 81-84 (1995) (*Caller ID Reconsideration Order*).

⁹ 47 C.F.R. § 64.1601(b).

¹⁰ See *Caller ID Reconsideration Order*, 10 FCC Rcd at 11728-29, paras. 81-84; see also 47 C.F.R. § 1601(b).

¹¹ In addition, section 64.1601(b) provides that, "[c]arriers must arrange their CPN-based services, and billing practices, in such a manner that when a caller requests that the CPN not be passed through, a carrier may not reveal that caller's number or name, nor may the carrier use the number or name to allow the called party to contact the calling party." 47 C.F.R. § 64.1601(b).

¹² See 47 C.F.R. § 64.1601(d).

¹³ *Caller ID Order*, 9 FCC Rcd at 1770, para. 37; see also 47 C.F.R. § 64.1601(d)(4)(ii); *INSIGHT 100 Petition for Waiver of § 64.1601(b) Regarding the Transmission of Calling Party Number*, CC Docket No. 91-281, Memorandum Opinion and Order, 17 FCC Rcd 223 (CCB 2002) (*INSIGHT Order*) (waiving section 64.1601(b) on behalf of certain universities and hospitals); *Rules and Policies Regarding Calling Number Identification Service – Caller ID*; *Petition of National Aeronautics and Space Administration for Waiver of Federal Communications Commission Regulations at 47 C.F.R. § 64.1601(b)*, CC Docket No. 91-281, Order, 27 FCC Rcd 5704 (CGB 2012) (*NASA Order*); *Rules and Policies Regarding Calling Number Identification Service – Caller ID*; *Petition of Chevrah Hatzalah Volunteer Ambulance Corps Inc. for Waiver of Section 1601(b) of the*

B. Liberty School District Petition

5. LPS has filed a petition for limited waiver of section 64.1601(b) of the Commission's rules, which prohibits terminating carriers from passing CPN where the caller has made a privacy request.¹⁴ LPS is a public school district serving Liberty, Missouri, a city with a population of approximately 30,000 people, part of Kansas City, Missouri, and parts of unincorporated Clay County, Missouri.¹⁵ LPS serves approximately 9,300 students and 1,300 employees in 15 schools.¹⁶ Over the course of a given year, LPS reports receiving between six and ten threatening or harassing phone calls that it considers serious in nature that include bomb threats and threats toward personnel.¹⁷ According to LPS, parties placing threatening or harassing calls often use the CPN privacy indicator to prevent authorities from identifying them or their location.¹⁸ LPS states that all calls to LPS are routed through a central office switch with a call information data log capable of recording all originating and terminating numbers.¹⁹ LPS also states, however, that because the telecommunications carriers serving LPS are bound by the CPN privacy rules, the carriers will not transmit restricted CPNs to LPS.²⁰ Instead, LPS security personnel must request a trace of threatening or harassing calls to attempt to identify and locate the caller, a process that can take up to a week to complete.²¹ LPS states that security personnel need to be able to identify and locate callers in a more timely manner to apprehend or otherwise prevent the callers from acting on their threats.²²

6. LPS further states that, if its petition is granted, LPS would ensure that access to restricted CPNs would be very limited.²³ According to LPS, even if restricted CPNs were transmitted by carriers to LPS's central office switch, the incoming call would continue to appear as "private" to the called party.²⁴ LPS also states that it would only allow telecommunications and security personnel to access restricted CPN data from the call data log, and only when investigating specific threatening or harassing calls, with the access being documented as part of the investigative report.²⁵ LPS states that it would operate its switch recording and CPN storage in a secure facility, and would only allow transmission of restricted

Commission's Rules – Blocked Telephone Numbers, CC Docket No. 91-281, Order, 2013 WL 652997, DA 13-227 (CGB rel. Feb. 20, 2013) (*Hatzalah Order*).

¹⁴ See *LPS Petition*.

¹⁵ *Id.* at 5.

¹⁶ *Id.* at 9.

¹⁷ *Id.* at 5.

¹⁸ *Id.*

¹⁹ *Id.*; see also *LPS Ex Parte*.

²⁰ *LPS Petition* at 6, 9.

²¹ *Id.* at 5-6.

²² *Id.* at 6.

²³ *Id.* at 9.

²⁴ See *LPS Ex Parte* at 1.

²⁵ *LPS Petition* at 9.

CPNs from LPS to other law enforcement agencies through secure communications.²⁶ Finally, LPS states that it would destroy CPN information after use in a secure manner.²⁷

7. LPS argues that a waiver would serve the public interest because it would allow LPS to better protect its staff and students by providing for more rapid responses to threatening or harassing calls.²⁸ LPS further argues that its situation presents special circumstances that warrant a limited waiver of the rules. LPS states that it provides some of the security service and end office telecommunications to the public school institutions' locations within its distinct geographical boundaries.²⁹

8. The Consumer and Governmental Affairs Bureau released a Public Notice seeking comment on the LPS petition,³⁰ and received one comment. The commenter argues that LPS should explore other options to solve the security problems without violating the privacy interests of callers choosing not to divulge their telephone numbers.³¹

C. Waiver Standard

9. The Commission may waive any of its rules "for good cause shown."³² A waiver may be granted if: (1) the waiver would better serve the public interest than would application of the rule; and (2) special circumstances warrant a deviation from the general rule.³³ Circumstances that would justify a waiver include "considerations of hardship, equity, or more effective implementation of overall policy."³⁴ Generally, the Commission may grant a waiver of its own rules if the relief requested would not undermine the policy objectives of the rule in question, and would otherwise serve the public interest.³⁵

III. DISCUSSION

10. Based upon our review of the petition and the record, we conclude that, subject to certain conditions, the LPS petition meets the criteria for granting a limited waiver of section 64.1601(b), and

²⁶ *Id.*

²⁷ *Id.*

²⁸ *Id.* at 10.

²⁹ *Id.*

³⁰ See *Consumer & Governmental Affairs Bureau Seeks Comment on Liberty School District Petition for Waiver of 47 C.F.R. § 64.1601(b) Regarding the Transmission of Calling Party Number*, Public Notice, CC Docket No. 91-281, 23 FCC Rcd 12639 (2008).

³¹ Comment of John H. Walsh, CC Docket No. 91-281, August 28, 2008.

³² 47 C.F.R. § 1.3; *WAIT Radio v. FCC*, 418 F.2d 1153 (D.C. Cir. 1969), *appeal after remand*, 459 F.2d 1203 (D.C. Cir. 1972), *cert. denied*, 409 U.S. 1027 (1972); *Northeast Cellular Tel. Co. v. FCC*, 897 F.2d 1164 (D.C. Cir. 1990).

³³ *Northeast Cellular*, 897 F.2d at 1166.

³⁴ *WAIT Radio*, 418 F.2d at 1159.

³⁵ *Id.*, 418 F.2d at 1157.

such waiver would not undermine the privacy objectives of that rule.³⁶ We find here specific circumstances where the need to ensure public safety takes precedence over a caller's interest in maintaining the privacy of his or her telephone number, given the conditions we impose to protect that privacy.³⁷ In other circumstances, we have found a waiver to be appropriate where an institution seeking to receive CPN delivery notwithstanding the privacy indicator provides end-office-equivalent communications services as well as security or public-safety functions to multiple locations, has demonstrated a specific threat-based need to respond rapidly to threatening or abusive calls, and commits to access the information only for that limited purpose.³⁸ Here, LPS asserts that its circumstances are similar.³⁹

11. We grant LPS's request for a limited waiver subject to the conditions discussed herein. First, we conclude that a limited waiver of section 64.1601(b) serves the public interest in this instance because LPS will be better able to protect the safety of its 9,300 schoolchildren and 1,300 employees by reducing the time required to identify and apprehend the perpetrators of threatening phone calls. LPS reports receiving between six and ten threatening calls each year that it considers serious in nature, including bomb threats.⁴⁰ LPS confirms that many of the threatening callers use the CPN restrictions in order to delay authorities from identifying them or their location.⁴¹ The ability to access blocked CPN in these situations enhances the opportunity of security and law enforcement personnel to apprehend such individuals before they can act on their threats.

12. Second, we find that special circumstances warrant a deviation from the general rule. The record indicates that LPS: (1) is responsible for the safety of a large number of schoolchildren; (2) receives threatening phone calls that are serious in nature; and (3) provides some of its own security and telecommunications functions. As in prior decisions, we find the waiver criteria are met to advance public safety when subject to appropriate measures to protect the privacy of the calling party. As discussed further below, we condition the approval of this waiver on the implementation of several safeguards consistent with the privacy objectives of the CPN rules to protect the confidentiality of the calling parties. In addition, we recognize that, over time, LPS's circumstances may change or it may cease receiving threatening calls that are serious in nature which necessitate this waiver. Therefore, we require LPS to monitor and report to the Commission whether and how this waiver has enhanced the ability of its security personnel to ensure the safety of its students and employees, including specific examples of such instances. We require LPS to file these reports no later than six and 18 months after the release date of this Order in CC Docket No. 91-281. These reports will cover the periods from the release

³⁶ The requirement in section 64.1601(b) of our rules that carriers not override the privacy indicator applies only to interstate calls. See 47 C.F.R. § 64.1601(b) ("No common carrier subscribing to or offering any service that delivers CPN may override the privacy indicator associated with an interstate call."). We express no view on what rules may apply to the delivery of CPN for intrastate calls in Missouri.

³⁷ See, e.g., *Caller ID Order*, 9 FCC Rcd at 1770, para. 37; 47 C.F.R. § 64.1601(d). The Commission has found that the disclosure of caller ID information does not violate any privacy rights protected by the U.S. Constitution. *Caller ID Order*, 9 FCC Rcd at 1769, para. 30.

³⁸ See, e.g., *INSIGHT Order*, 17 FCC Rcd at 225-26, paras. 8-12.

³⁹ *LPS Petition* at 8.

⁴⁰ *LPS Petition* at 5.

⁴¹ *Id.* In response to the one commenter who opposes the petition, we accept LPS's representation that standard ways of investigating incidents have not been sufficient, see *LPS Petition* at 5-6, and observe also that this waiver is subject to a number of conditions designed to protect the privacy of calling parties' telephone numbers.

date of this Order until the reporting date.⁴² We intend to monitor the results of this waiver, to inform us when considering any similar requests in the future.

13. *Conditions of the Waiver.* The limited waiver granted herein is subject to the following conditions: (1) the CPN on incoming restricted calls to LPS may not be passed on to the line called;⁴³ (2) the system used to record CPN shall be operated in a secure facility limiting access to designated telecommunications and security personnel who have signed non-disclosure agreements that acknowledge and commit the individual to comply with LPS's obligations established herein; (3) telecommunications and security personnel may access restricted CPN data only when investigating phone calls of a threatening and serious nature, and shall document that access as part of the investigative report; (4) transmission of restricted CPN information from LPS to law enforcement agencies must occur only through secure communications; (5) CPN information must be destroyed in a secure manner after a reasonable retention period; (6) any violation of these conditions must be reported promptly to the Commission; and (7) LPS will monitor and report on the effect of this waiver as described in paragraph 12 above.⁴⁴

14. The foregoing waiver conditions and security procedures for CPN use will serve the policies underlying section 64.1601(b), while allowing LPS to better ensure the safety of its students and employees. We believe that, under these conditions, the likelihood that CPN information will be disclosed to unauthorized personnel is minimized and hence, any legitimate expectation of privacy by the caller is adequately addressed. Accordingly, we find good cause to grant LPS' petition for limited waiver to the extent described above.

IV. ORDERING CLAUSES

15. Accordingly, IT IS ORDERED, pursuant to sections 4(i) and (j) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i)-(j), and section 1.3 of the Commission's rules, 47 C.F.R. § 1.3, and the authority delegated in sections 0.141 and 0.361, 47 C.F.R. §§ 0.141, 0.361, that the petition for limited waiver of section 64.1601(b) of the Commission's rules, 47 C.F.R. § 64.1601(b), filed by the Liberty Public School District in CC Docket No. 91-281, IS GRANTED SUBJECT TO THE CONDITIONS DESCRIBED IN PARAGRAPH 13 and as set forth herein.

⁴² Specifically, these reporting periods will cover the timeframes from zero-to-six and zero-to-18 months following the release date of this Order, respectively

⁴³ Only designated telecommunications and security personnel who have complied with the conditions set forth herein will have access to restricted CPN.

⁴⁴ We note that these conditions are consistent with those proposed by the petitioner. *See LPS Petition* at 9.

16. IT IS FURTHER ORDERED that Liberty Public School District shall file a report in CC Docket No. 91-281 no later than six and 18 months after the release date of this Order demonstrating whether and how this waiver has enhanced the ability of its security personnel to ensure the safety of its students and employees.

FEDERAL COMMUNICATIONS COMMISSION

Kris Anne Monteith
Acting Chief
Consumer and Governmental Affairs Bureau