

**Before the  
Federal Communications Commission  
Washington, DC 20554**

In the Matter of	)	
	)	
The Communications Assistance For	)	CC Docket No. 97-213
Law Enforcement Act (CALEA),	)	NSD-L-00-234
Section 107(c) Extension of Capability	)	
Requirements	)	

**ORDER**

**Adopted: February 28, 2002**

**Released: February 28, 2002**

By the Common Carrier Bureau:

1. Pursuant to the authority under section 107(c) of the Communications Assistance for Law Enforcement Act (CALEA),<sup>1</sup> we grant the petitions for extension filed by wireline telecommunications carriers listed in the attached Appendix A to the extent described herein. In addition, we grant the petitioners listed in the attached Appendix B an additional preliminary extension of the compliance date for section 103 of CALEA until March 31, 2002, or until superseded by a final determination on the merits of the underlying extension request.

2. On August 15, 2001 and September 28, 2001, the Common Carrier Bureau (Bureau) released orders<sup>2</sup> granting petitions filed with the Federal Communications Commission (Commission or FCC) by carriers seeking extensions of the deadline for complying with the capability requirements of section 103 of CALEA,<sup>3</sup> as provided in section 107(c) of CALEA.<sup>4</sup> In those orders, the Bureau noted that it would continue to consult with the Federal Bureau of Investigation (FBI), and would release additional orders resolving the remaining petitions filed

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<sup>1</sup> 47 U.S.C. § 1006(c).

<sup>2</sup> See CALEA Section 107(c) Extension of Capability Requirements, *Order*, DA 01-1902 (Comm. Carr. Bur., Aug. 15, 2001) (*August 2001 107(c) Wireline Extension Order*); CALEA Section 107(c) Extension of Capability Requirements, *Order*, DA 01-2244 (Comm. Carr. Bur., Sept. 28, 2001) (*September 2001 107(c) Wireline Extension Order*). See also *Public Notice* DA 01-3007, NSD-L-00-234 (released Dec. 21, 2001) extending the preliminary extensions granted in the *September 2001 107(c) Wireline Extension Order* until March 31, 2002, or until superseded by a final determination on the merits of the underlying extension requests.

<sup>3</sup> 47 U.S.C. § 1002.

<sup>4</sup> 47 U.S.C. § 1006(c). Pursuant to section 107(c)(1) of the Communications Assistance for Law Enforcement Act (CALEA), telecommunications carriers may seek extensions of the deadline for complying with the capability requirements of section 103.

by wireline carriers requesting extensions. We have consulted fully with the FBI with regard to each petition filed,<sup>5</sup> and find that compliance with the assistance capability requirements under section 103 is not reasonably achievable by the carriers listed in the attached Appendix A through application of technology available within the compliance period. Accordingly, we grant the carriers listed in Appendix A an extension of the compliance date for section 103 of CALEA consistent with the dates the carriers received under the FBI's Flexible Deployment Program.<sup>6</sup>

3. CALEA, enacted on October 25, 1994, was intended to preserve the ability of law enforcement officials to conduct electronic surveillance effectively and efficiently in the face of rapid advances in telecommunications technology. To achieve this goal, section 103 of CALEA sets forth four general assistance capability requirements with which carriers must comply.<sup>7</sup> Pursuant to section 107(c)(1) of CALEA, telecommunications carriers may petition the Commission for an extension of the compliance deadline.<sup>8</sup> Before taking final action in granting a carrier's petition for extension pursuant to section 107(c), the Commission must consult with the Attorney General.<sup>9</sup> An extension may be granted if the Commission determines that "compliance with the assistance capability requirements under section 103 is not reasonably achievable through application of technology available within the compliance period."<sup>10</sup> In granting the petition, the Commission can extend the compliance deadline no longer than two years from the date of grant.<sup>11</sup>

4. The Commission previously has set forth procedures for the operating Bureaus to follow in considering section 107(c) petitions for extension.<sup>12</sup> The Commission required that all section 107(c) petitions contain certain basic information, including the identity of the carrier's switching equipment (by manufacturer; type, make and model; software version or generic currently operating; Common Language Location Identification (CLLI) Code and geographic areas served; and the date or dates that the equipment will become compliant with section 103, to the extent such information is available to the carrier) and a brief statement or showing as to why the extension is necessary.<sup>13</sup> In Public Notices dated November 20, 2000, February 22, 2001,

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<sup>5</sup> The Commission has a statutory obligation to consult with the Attorney General. 47 U.S.C. § 1006(c)(2). The Attorney General delegated this consultation responsibility to the FBI, which established a CALEA Implementation Section (CIS) to carry out this and related functions.

<sup>6</sup> The FBI's Flexible Deployment Program is discussed more fully in paragraph 5, *infra*.

<sup>7</sup> 47 U.S.C. § 1002(a).

<sup>8</sup> 47 U.S.C. § 1006(c)(1).

<sup>9</sup> 47 U.S.C. § 1006(c)(2).

<sup>10</sup> *Id.*

<sup>11</sup> 47 U.S.C. § 1006(c)(3).

<sup>12</sup> See CALEA Section 103 Compliance and Section 107(c) Petitions, *Public Notice*, 15 FCC Rcd 7482 (2000), as modified by *Public Notice*, 15 FCC Rcd 9518 (2000) (hereinafter the April 2000 and June 2000 Public Notices), available at <http://www.fcc.gov/ccb/nsd/documents/CALEA2001.HTML>.

<sup>13</sup> April 2000 Public Notice.

May 31, 2001, and June 22, 2001, the Bureau found that more than one thousand wireline petitioners had satisfied the requirements set forth in the April 2000 Public Notice for a preliminary determination that their circumstances warranted an extension of the deadline for complying with CALEA section 103 until September 30, 2001, unless earlier revoked by the Commission or superseded by a final determination on the underlying extension request.<sup>14</sup>

5. In January 2000, the FBI established a Flexible Deployment Program to assist telecommunications carriers in meeting certain requirements of CALEA. In its Flexible Deployment Assistance Guide, the FBI requested that carriers voluntarily submit to it certain information and explained under what circumstances, based on a review of that information, the FBI might support a carrier's petition for extension filed with the FCC.<sup>15</sup> As the Commission has previously indicated, under certain circumstances, a carrier's participation in the FBI's Flexible Deployment Program enables the FCC to satisfy its statutory obligation to consult with the Attorney General, and assists the FCC in determining both whether an extension of the compliance deadline is warranted and the appropriate length of any extension.<sup>16</sup> Under the Program's procedures, the FBI independently reviews each carrier's extension request in light of the CALEA priorities of law enforcement agencies, among other things. If, after reviewing the information submitted, the carrier and the FBI are able to arrive at a mutually agreeable CALEA deployment schedule, the FBI issues a letter (FBI support letter) stating whether the FBI supports an extension request and, if so, the length of such extension. Each carrier listed in Appendix A participated in the FBI's Flexible Deployment Program and received an FBI support letter.

6. After reviewing the record of each petition and consulting fully with the FBI, we determine that compliance with the assistance capability requirements under section 103 is not reasonably achievable through application of technology available within the compliance period for the petitioners listed in Appendix A. Accordingly we find that these wireline petitioners have satisfied the statutory requirements for an extension of the CALEA compliance deadline. We therefore grant the petitioners listed in the Appendix A extensions of the deadline for complying with CALEA section 103 consistent with the date(s) they received under the FBI's Flexible Deployment Program, as set forth in each petitioner's individual FBI support letter.

7. If a carrier has questions regarding the exact date(s) of its individual extension grant, it should contact the FBI's Flexible Deployment Program Manager, CALEA Implementation Section at (800) 551-0336 or (703) 814-4700. As the Bureau continues to consult with the FBI, the Bureau will release additional orders resolving the remaining petitions filed by wireline carriers requesting extensions.

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<sup>14</sup> See *Public Notice*, 15 FCC Rcd 22308 (2000); *Public Notice*, 16 FCC Rcd 4649 (2001); *Public Notice*, DA 01-1316 (rel. May 31, 2001); and *Public Notice*, DA 01-1494 (rel. June 22, 2001), available at <http://www.fcc.gov/ccb/nsd/documents/CALEA2001.HTML>.

<sup>15</sup> U.S. Department of Justice, Federal Bureau of Investigation, CALEA Implementation Section, FLEXIBLE DEPLOYMENT ASSISTANCE GUIDE (Jan. 2000). The Guide is available on the Internet at <http://www.askcalea.net/pdf/flexguide.pdf>.

<sup>16</sup> 47 U.S.C. § 1006(c)(2); see April 2000 Public Notice.

8. Further, due to the large number of extension petitions filed by wireline carriers, the statutory obligation to consult with the Attorney General, and the amount of time and resources necessary to consider fully the merits of each petition, we are unable to grant extensions for the petitioners listed in Appendix B at the present time. Accordingly, the petitioners in Appendix B are deemed to have an additional preliminary extension of the deadline for complying with CALEA section 103 until March 31, 2002, or until superseded by a final determination on the merits of the underlying extension request.

9. Accordingly, IT IS ORDERED that, pursuant to sections 4(i) and 4(j) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 154(j), and section 107(c) of the Communications Assistance for Law Enforcement Act, 47 U.S.C. § 1006(c), the wireline telecommunications carriers listed in Appendix A attached to this Order are HEREBY GRANTED AN EXTENSION of the compliance date of the assistance capability requirements of section 103 of CALEA, 47 U.S.C. §1002(a)(1)-(4), consistent with the dates received under the FBI's Flexible Deployment Program, as set forth in each carrier's individual FBI support letter.

10. IT IS FURTHER ORDERED that, pursuant to sections 4(i) and 4(j) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 154(j), and section 107(c) of the Communications Assistance for Law Enforcement Act, 47 U.S.C. § 1006(c), the wireline telecommunications carriers listed in Appendix B attached to this Order are HEREBY GRANTED AN ADDITIONAL PRELIMINARY EXTENSION of the compliance date of the assistance capability requirements of section 103 of CALEA, 47 U.S.C. §1002(a)(1)-(4), until March 31, 2002, or until superseded by a final determination on the merits of the underlying extension request.

FEDERAL COMMUNICATIONS COMMISSION

Dorothy T. Attwood  
Chief,  
Common Carrier Bureau