

# Regulatory Analysis Form

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(1) Agency

Pennsylvania Public Utility Commission

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(2) I.D. Number (Governor's Office Use)

L-970123/57-186

INDEPENDENT REGULATORY  
REVIEW COMMISSION

IRRC Number: 1894

(3) Short Title

Confidentiality of Telephone Customer Information

(4) PA Code Cite

52 Pa.Code §63.135

(5) Agency Contacts & Telephone Numbers

Primary Contact: John Levin, Assistant Counsel (717) 787-5978

Secondary Contact: Shirley Leming, Regulatory Coordinator  
(717) 772-4597

(6) Type of Rulemaking (check one)

- Proposed Rulemaking  
 Final Order Adopting Regulation  
 Final Order, Proposed Rulemaking Omitted

(7) Is a 120-Day Emergency Certification Attached?

- No  
 Yes: By the Attorney General  
 Yes: By the Governor

(8) Briefly explain the regulation in clear and nontechnical language.

This proposed regulation requires telephone companies to maintain an electronic audit trail of all accesses to private customer information by telephone company employees and a record of all disclosures of such information to the telephone company security department, outside persons and governmental agencies. A permanent electronic record of such information must be maintained.

(9) State the statutory authority for the regulation and any relevant state or federal court decisions.

66 Pa.C.S. §1501-1505

PROPOSED	
IRRC #	1894
PAB	10/11/97
CPC	11/25/97
CRD	12/26/97
MONITOR	AL
ANALYST	CT
SUPPORT	TE

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## Regulatory Analysis Form

(10) Is the regulation mandated by any federal or state law or court order, or federal regulation? If yes, cite the specific law, case or regulation, and any deadlines for action.

No.

(11) Explain the compelling public interest that justifies the regulation. What is the problem it addresses?

There have been repeated instances of telephone company personnel accessing private customer information for personal or improper purposes.

(12) State the public health, safety, environmental or general welfare risks associated with nonregulation.

Private customer information may be improperly disclosed or used by telephone company personnel or by those to whom such information has been improperly disclosed.

(13) Describe who will benefit from the regulation. (Quantify the benefits as completely as possible and approximate the number of people who will benefit.)

All telephone customers will benefit from the regulations by reason of the increased security and auditability of access and disclosure of private customer information.

## **Regulatory Analysis Form**

**(14) Describe who will be adversely affected by the regulation. (Quantify the adverse effects as completely as possible and approximate the number of people who will be adversely affected.)**

While telephone companies may incur some modest one-time programming and electronic media costs, it is believed that such costs are small.

**(15) List the persons, groups or entities that will be required to comply with the regulation. (Approximate the number of people who will be required to comply.)**

All jurisdictional telephone companies will be required to comply.

**(16) Describe the communications with and input from the public in the development and drafting of the regulation. List the persons and/or groups who were involved, if applicable.**

No formal input was solicited in the drafting of this proposed regulation. A 45 day comment period is provided for in the Commission's notice.

**(17) Provide a specific estimate of the costs and/or savings to the regulated community associated with compliance, including any legal, accounting or consulting procedures which may be required.**

No detailed estimate is available. It is estimated that programming costs per company should not exceed \$50,000.

### **Regulatory Analysis Form**

**(18) Provide a specific estimate of the costs and/or savings to local governments associated with compliance, including any legal, accounting or consulting procedures which may be required.**

**No costs will be incurred by local governments.**

**(19) Provide a specific estimate of the costs and/or savings to state government associated with the implementation of the regulation, including any legal, accounting, or consulting procedures which may be required.**

**No costs or savings will be incurred by state government.**

## Regulatory Analysis Form

(20) In the table below, provide an estimate of the fiscal savings and costs associated with implementation and compliance for the regulated community, local government, and state government for the current year and five subsequent years.

	Current FY Year	FY +1 Year	FY +2 Year	FY +3 Year	FY +4 Year	FY +5 Year
<b>SAVINGS:</b>	\$	\$	\$	\$	\$	\$
<b>Regulated Community</b>						
<b>Local Government</b>						
<b>State Government</b>						
<b>Total Savings</b>						
<b>COSTS:</b>						
<b>Regulated Community</b>						
<b>Local Government</b>						
<b>State Government</b>						
<b>Total Costs</b>						
<b>REVENUE LOSSES:</b>						
<b>Regulated Community</b>						
<b>Local Government</b>						
<b>State Government</b>						
<b>Total Revenue Losses</b>	none	none	none	none	none	none

(20a) Explain how the cost estimates listed above were derived.

## Regulatory Analysis Form

(20b) Provide the past three year expenditure history for programs affected by the regulation.

Program	FY -3	FY -2	FY -1	Current FY
				None

(21) Using the cost-benefit information provided above, explain how the benefits of the regulation outweigh the adverse effects and costs.

The increased security and auditability of private customer information will provide increased assurance that private customer information is secure, and will reduce improper access to such information by company personnel and outside individuals, businesses and governmental agencies.

(22) Describe the nonregulatory alternatives considered and the costs associated with those alternatives. Provide the reasons for their dismissal.

The sole nonregulatory alternative is inaction. Given the modest cost of electronic auditing, and the benefits of such auditing, inaction was considered to be an ineffective means of combatting repeated public reports of unauthorized access.

(23) Describe alternative regulatory schemes considered and the costs associated with those schemes. Provide the reasons for their dismissal.

No alternative regulatory schemes were considered.

## Regulatory Analysis Form

**(24) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulation.**

No federal standards exist which govern required electronic auditing of access and disclosure of private customer information. The FCC has expressly declined to preempt state regulation of telephone company use of customer proprietary network information in Re: Telecommunications Carriers' Use of CPNI Information: Use of Data Regarding Alarm Monitoring Service Providers, CC Docket No 96-115 (Released 96-115)

**(25) How does this regulation compare with those of other states? Will the regulation put Pennsylvania at a competitive disadvantage with other states?**

The Commission is not aware of any state besides Pennsylvania which requires electronic auditing of the use or disclosure of customer proprietary information. The Commission believes that such self auditing is both less expensive, more effective and less burdensome than direct regulation. This regulation does not place Pennsylvania at a competitive disadvantage with other states while preserving traditional Pennsylvania concerns about personal privacy. It is believed that enhancement of telephone customer privacy is competitively advantageous for Pennsylvania.

**(26) Will the regulation affect existing or proposed regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.**

The proposed regulations supplement existing regulations governing use and disclosure of private customer information.

**(27) Will any public hearings or informational meetings be scheduled? Please provide the dates, times, and locations, if available.**

No.

## **Regulatory Analysis Form**

**(28) Will the regulation change existing reporting, record keeping, or other paperwork requirements? Describe the changes and attach copies of forms or reports which will be required as a result of implementation, if available.**

Yes. The proposed regulations do not prescribe specific forms or additional paperwork. Each company may develop its own method of maintaining the electronic record of access and disclosure required.

**(29) Please list any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, elderly, small businesses, and farmers.**

None.

**(30) What is the anticipated effective date of the regulation; the date by which compliance with the regulation will be required; and the date by which any required permits, licenses or other approvals must be obtained?**

The regulation will become effective immediately upon publication of the order adopting final rules. Given currently effective regulatory review procedures, that will occur in the third quarter of 1999.

**(31) Provide the schedule for continual review of the regulation.**

This regulation is not subject to continual review.



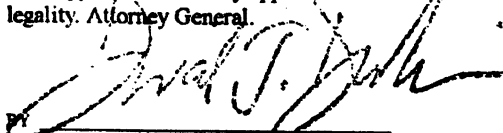
FACE SHEET  
FOR FILING DOCUMENTS  
WITH THE LEGISLATIVE REFERENCE BUREAU

(Pursuant to Commonwealth Documents Law)

RECEIVED  
97 SEP 30 PM 1:43  
INDEPENDENT LEGISLATIVE  
REVIEW COMMISSION

DO NOT WRITE IN THIS SPACE

Copy below is hereby approved as to form and legality. Attorney General.

  
(DEPUTY ATTORNEY GENERAL)

SEP 11 1997

DATE OF APPROVAL

Check if applicable  
Copy not approved. Objections attached

Copy below is hereby certified to be true and correct copy of a document issued, prescribed or promulgated by:

Pennsylvania Public Utility Commission  
(AGENCY)

DOCUMENT/FISCAL NOTE NO. L-970123/57-186

DATE OF ADOPTION July 10, 1997

BY   
James J. McNulty

TITLE (ACTING SECRETARY)

Copy below is hereby approved as to form and legality. Executive or independent Agencies.

BY   
John F. Povilaitis  
Chief Counsel

9-16-97  
DATE OF APPROVAL

Check if applicable. No Attorney General approval or objection within 30 days after submission.

L-970123/57-186  
Proposed Rulemaking  
RE: Electronic Transaction Auditing of  
Telephone Customer Proprietary Information  
52 Pa. Code §63.135

The Pennsylvania Public Utility Commission adopted an order to promulgate proposed regulations regarding confidentiality of telephone customer information. The purpose is to require telephone companies to maintain an electronic audit trail of all accesses to private customer information by telephone company security department, outside persons and governmental agencies. A permanent electronic record of such information must be maintained. The contact person is John A. Levin, Assistant Counsel, Law Bureau, (717) 787-5978.

## **EXECUTIVE SUMMARY**

**L-970123/57-186**

### **Re: Electronic Transaction Auditing of Telephone Customer Proprietary Information**

The Commission promulgates this proposed rulemaking order to require telephone companies to maintain an electronic audit trail of all accesses to private customer information by telephone company employees and a record of all disclosures of such information to the telephone company security department, outside persons and governmental agencies. A permanent electronic record of such information must be maintained.

The contact person is John A. Levin, Assistant Counsel, Law Bureau, (717) 787-5978.

PENNSYLVANIA  
PUBLIC UTILITY COMMISSION  
Harrisburg, PA 17105-3265

Public Meeting held July 10, 1997

Commissioners Present:

John M. Quain, Chairman  
Robert K. Bloom, Vice Chairman  
John Hanger  
David W. Rolka  
Nora Mead Brownell

Re: Electronic Transaction  
Auditing of Telephone Customer  
Proprietary Information

Docket No. L- 00970123

PROPOSED RULEMAKING ORDER

BY THE COMMISSION:

As a result of several incidents involving disclosure or improper use of private or proprietary telephone customer information, the Commission herewith initiates this proposed rulemaking to require the maintenance of electronic transaction auditing records with respect to data processing records and the maintenance of detailed records in any instance in which customer information is disclosed to persons outside the telephone company, any government entity or the telephone company security department.

The Commission is generally aware that data processing and information transaction technology has been improving with respect to availability of adequate data security, transaction auditing and safeguards. The Commission believes that it is now practicable

from the standpoint of both operations and cost to require telephone utilities to implement electronic auditing safeguards and maintain permanent electronic records of such auditing in order to protect the public interest. The Commission also believes that it is desirable and cost effective to require that any disclosure of customer information to outside persons, telephone security officers or governmental agencies be permanently recorded in the event of a later allegation of improper access or disclosure by or to such persons.

In order to enable the Commission to carry out its responsibilities under the Public Utility Code to ensure that telephone service is rendered in accordance with the provisions of the Public Utility Code's requirements that service be rendered in a safe, adequate and reliable fashion, the Commission is considering the amendment of its regulations as described above and as set forth in Annex A.

Accordingly, pursuant to 66 Pa. C.S. §§1501-1505 , and the Commonwealth Documents Law, 45 P.S. §§1201, et seq., and the regulations promulgated thereunder at 1 Pa.Code §§7.1-7.4, we are considering amending the regulations at 52 Pa. Code §§63.135, as noted above and in the manner set forth in Annex A; **THEREFORE,**

IT IS ORDERED:

1. That a rulemaking proceeding shall be initiated to consider the proposed regulations set forth in Annex A hereto.

2. That this order shall be published in the Pennsylvania Bulletin. Interested persons may submit written comments, an original and 15 copies, to Prothonotary, Pennsylvania Public Utility Commission, P.O. Box 3265, Harrisburg, PA 17105-3265, and shall have 45 days from the date the order is published in the Pennsylvania Bulletin to submit such comments. Commentors are strongly encouraged, if suggesting changes or additions to the proposed regulations, to supply alternative regulatory language. Commentators suggesting changes or non-adoption of the proposed draft regulations on the basis of allegations of financial or technical hardship are directed to disclose in detail the basis of such allegations, including all cost studies or technical analyses upon which such allegations are based.

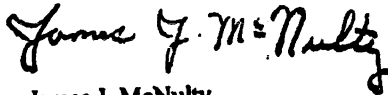
3. That a copy of this order and Annex A shall be served upon the Office of Consumer Advocate, the Office of Small Business Advocate, the Office of Trial Staff, all telephone utilities and the Pennsylvania Telephone Association.

4. That the Secretary shall submit this order and Annex A to the Office of the Attorney General for approval as to legality, and to the Governor's Budget Office for review of fiscal impact.

5. That the Secretary shall submit this order and Annex A for review by the designated standing committees of both Houses of the General Assembly, and for review by the Independent Regulatory Review Commission.

6. The contact person is John Levin, Assistant Counsel, Pennsylvania Public Utility Commission, P.O. Box 3265, Harrisburg, PA 17105-3265, telephone (717) 787-5978.

BY THE COMMISSION



James J. McNulty  
Acting Secretary

(SEAL)

ORDER ADOPTED: July 10, 1997

ORDER ENTERED: JUL 17 1997

TITLE 52. PUBLIC UTILITIES  
PART I. PENNSYLVANIA PUBLIC UTILITY COMMISSION  
SUBPART C - FIXED SERVICE UTILITIES  
Chapter 63 -- TELEPHONE SERVICE, SUBCHAPTER 63.135  
CONFIDENTIALITY OF CUSTOMER COMMUNICATIONS AND INFORMATION

Proposed Revisions to  
52 Pa. Code §63.135

§63.135 Customer Information

\* \* \* \* \*

(5) Safeguarding customer information. A telephone company is responsible for implementing appropriate procedures to safeguard customer information and prevent access to it by unauthorized persons. Tangible customer records such as paper or microfiche records and electromagnetic media shall be stored in secure buildings, rooms and cabinets, as appropriate, to protect them from unauthorized access. Data processing and other electronic systems shall contain safeguards, such as codes and passwords, preventing access to customer information by unauthorized persons and shall be accompanied by electronic transaction auditing which shall create audit data sufficient to establish a permanent record of each instance in which customer data is accessed.

copied, printed, changed, deleted, or added. Electronic transaction audit data shall be retained indefinitely, and shall be kept in a manner which permits access and retrieval of audit information by time of access, date of access, accessing individual, accessing individual's position, accessing individual's affiliation, the customer's name, the customer's account number, the portion of customer information accessed, and the reason for access. Storage of such audit data may be made in any media format determined to be appropriate by the utility, but shall be promptly and properly maintained and transferred to a more current media format in the event that the original or any successor medium becomes technologically obsolete or is in danger of becoming technologically obsolete.

\* \* \* \* \*

(6) ~~[Recording use and d]~~ Disclosure of customer information. The utility shall maintain a permanent record of each instance in which customer information in any form is disclosed to the telephone security department or security personnel, any governmental agency, or any other person outside of the telephone



company for purposes other than to furnish service to the  
customer or to collect charges due from the customer. Such record  
shall be maintained in electronic database format and shall list  
the time of access, date of access, accessing individual,  
accessing individual's position, accessing individual's  
affiliation, the name, address, telephone number and affiliation  
of the person to whom the information was disclosed, the  
customer's name, the customer's account number, the portion of  
customer information accessed, and the reason for access.  
Storage of such data may be made in any media format determined  
to be appropriate by the utility, but shall be promptly and  
properly maintained and transferred to a more current media  
format in the event that the original or any successor medium  
becomes technologically obsolete or is in danger of becoming  
technologically obsolete. [Because of the frequency with which  
customer information is used and disclosed in the ordinary course  
of business, it is neither practical nor desirable to record each  
instance in which customer information is used or disclosed by an  
employee. However, the importance of some forms of customer  
information and the circumstances under which the information may

~~be used or disclosed dictate that a record is required of the use or disclosure of customer information, as follows:~~

~~(i) Each instance in which customer information is used or disclosed for purposes other than to furnish service to the customer, to collect charges due from the customer or to accomplish other ordinary and legitimate business purposes.~~

~~(ii) Each instance in which information is disclosed to persons outside of the telephone company, subject to subparagraph (i).~~

~~(iii) Each instance in which customer information is disclosed to a government entity or the telephone company security department.~~

~~(iv) Each instance in which a record is required by other telephone company practices or procedures.]~~

\* \* \* \* \*



PENNSYLVANIA PUBLIC UTILITY COMMISSION  
COMMONWEALTH OF PENNSYLVANIA  
HARRISBURG, PENNSYLVANIA

THE CHAIRMAN

September 30, 1997

The Honorable John R. McGinley, Jr.  
Chairman  
Independent Regulatory Review Commission  
14th Floor, Harristown II  
333 Market Street  
Harrisburg, PA 17101

Re: L-970123/57-186  
Proposed Regulations  
Electronic Transaction Auditing of Telephone  
Customer Proprietary Information  
52 Pa. Code §63.135

Dear Chairman McGinley:

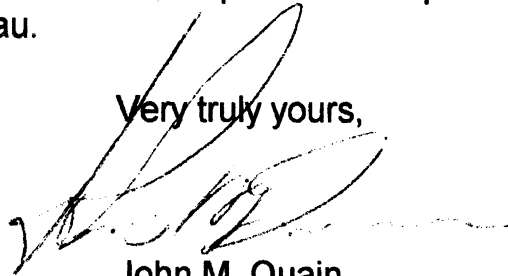
Enclosed please find one (1) copy of the proposed rulemaking and the Regulatory Analysis Form prepared in compliance with Executive Order 1996-1, "Regulatory Review and Promulgation." Pursuant to Section 5(a) of the Regulatory Review Act of June 30, 1989 (P.L. 73, No. 19) (71 P.S. §§745.1-745.15) the Commission is submitting today a copy of the proposed rulemaking and Regulatory Analysis Form to the Chairman of the House Committee on Consumer Affairs and to the Chairman of the Senate Committee on Consumer Protection and Professional Licensure.

The purpose of this proposal is to require telephone companies to maintain an electronic audit trail of all accesses to private customer

information by telephone company employees and a record of all disclosures of such information to the telephone company security department, outside persons and governmental agencies. A permanent record of such information must be maintained. The contact person is John A. Levin, Assistant Counsel, Law Bureau (717) 787-5978.

The proposal has been deposited for publication with the Legislative Reference Bureau.

Very truly yours,

A handwritten signature in black ink, appearing to read 'John M. Quain', written over a horizontal line.

John M. Quain  
Chairman

Enclosures

cc: The Honorable Clarence D. Bell  
The Honorable Roy C. Afflerbach  
The Honorable Chris R. Wogan  
The Honorable William R. Lloyd, Jr.  
Legislative Affairs Director Chiavetta  
First Deputy Chief Counsel Pankiw  
Assistant Counsel Levin  
Regulatory Coordinator Leming  
Mr. Tartline

TRANSMITTAL SHEET FOR REGULATIONS SUBJECT  
TO THE REGULATORY REVIEW ACT

ID Number: L-970123/57-186

Subject: Electronic Transaction Auditing Telephone  
Proprietary Information

Pennsylvania Public Utility Commission

TYPE OF REGULATION

- Proposed Regulation
- Final Regulation with Notice of Proposed Rulemaking Omitted.
- Final Regulation
- 120-day Emergency Certification of the Attorney General
- 120-day Emergency Certification of the Governor

FILING OF REPORT

<u>Date</u>	<u>Signature</u>	<u>Designation</u>
<u>9/30/97</u>	<u>Suzanne Kopler</u>	<u>HOUSE COMMITTEE</u> Consumer Affairs
<u>9/30/97</u>	<u>Martene Fasanov</u>	<u>SENATE COMMITTEE</u> Consumer Protection and Professional Licensure
<u>9/30/97</u>	<u>J. Belmont</u>	Independent Regulatory Review Commission
_____	_____	Attorney General
_____	_____	Legislative Reference Bureau