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April 12, 2004

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: RM-10865/DA No. 04-700 --
Comments on the CALEA Petition for Rulemaking

Dear Secretary Dortch:

The Texas Department of Public Safety submits these comments on the U.S. Department of Justice's ("DOJ"), Federal Bureau of Investigation's ("FBI"), and U.S. Drug Enforcement Administration's ("DEA") Joint Petition ("Petition") filed on March 10, 2004, before the Federal Communications Commission ("FCC") requesting that the FCC resolve, on an expedited basis, various critically important issues arising from the implementation of the Communications Assistance for Law Enforcement Act ("CALEA").

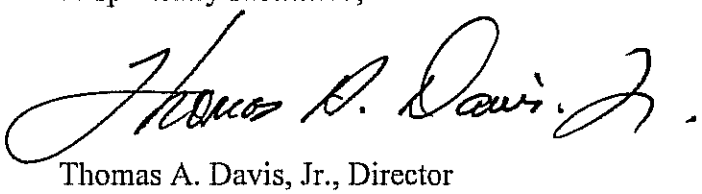
It is vitally important, and consistent with Congress's intent in enacting CALEA, that the FCC initiate a rulemaking proceeding and adopt the rules proposed by the DOJ, FBI, and DEA in the above Petition. Congress enacted CALEA in 1994 to insure that law enforcement has the ability to conduct authorized wiretaps in the future as technologies changed. Since 1994, many new communications technologies have arisen, including broadband Internet access, voice over IP telephony ("VoIP"), push-to-talk digital dispatch services, and other packet mode services. These services, currently used by millions of American citizens, pose a great challenge to state and local law enforcement in that many such providers of these communications services have failed to voluntarily adopt currently available CALEA intercept solutions. Thus, law enforcement has been thwarted in its attempts to implement lawfully authorized surveillance intercepts. Voluntary industry compliance with CALEA does not work.

Furthermore, state and local law enforcement do not have the financial or personnel resources to develop costly *ad hoc* surveillance solutions for each new communications service. Nor should they have to under the current law. For all equipment, services, and facilities deployed after January 1, 1995, Congress, through

CALEA, expressly passed the burden of designing and paying for such surveillance solutions onto the telecommunications carriers themselves.

Given the importance of the issues discussed above, it is imperative that the FCC promptly act upon the Petition and commence a rulemaking proceeding adopting DOJ's, FBI's and DEA's proposed rules.

Respectfully submitted,



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