

(Researched and authored by L. S. Jezouit - October 2011)

Introduction

Within Volume 13, Title 52 - Civil Actions - of the General Statutes of Connecticut there is a section, §52-570d, that governs the recording of "telephonic communications." The section was passed by the General Assembly via Substitute Senate Bill 455 and enacted by P.A. 90-305 effective October 1, 1990. The legislative history revealed that the language of §52-570d was most likely derived from a set of documents that included: (a) the Federal Communications Commission (FCC) regulation, 47CFR64.501, (b) one or more tariffs of regulated telephone service providers and/or (c) other jurisdictions' laws. As an example, compare subsections 9.73.030(2)(b) and (c) [Initial passage and amendment history follows 1986 c 38 § 1; 1985 c 260 § 2; 1977 ex.s. c 363 § 1; 1967 ex.s. c 93 § 1.] of the Revised Code of Washington (Jan. 3, 2011 online version at <http://apps.leg.wa.gov/rcw/>) to subsections 52-570d(b)(3) and (4) of the General Statutes of Connecticut (Jan. 1, 2011 online version at <http://www.cga.ct.gov/current/pub/titles.htm>).

The history of telephone service providers' tariffs and 47CFR64.501, which was subsequently codified and effective September 5, 1967 (see 9 FCC 2d 11(1967)), begins in 1945 when the FCC had reason to initiate action into the matter of the use of recording devices in connection with telephone service, i.e., recording telephone conversations. In general, at that point in time, the service providers' regulations - known as tariffs - prohibited the use of recording devices. For a more detailed historical perspective, see 11 FCC 1033 Docket No. 6787, March 1947.

Purpose

This document was developed to provide a single source reference that covers the approximate forty year period, 1945 - 1987, of the FCC's investigation into and the regulation of the use of recording devices in connection with interstate and foreign message toll telephone service and associated facilities. Generally, the FCC's official actions were set out by published Orders, which, in turn, dictated the elements of the associated telephone service providers' tariffs for those providers that were subject to the Communications Act of 1934; as amended.

This document contains (1) a set of tariff pages that are herein named **FCC Tariff Template 2 of 16 through FCC Tariff Template 6 of 16**, (2) excerpts from the FCC's body of work **In the Matter of Use of Recording Devices in Connection with Telephone Service**; et al and (3) the author's interjected text. The Verizon New York Inc. tariff pages were copied via the CT Public Utilities Regulatory Authority's website. The Verizon tariff pages were used because of all of the service provider tariffs that were reviewed, Verizon's tariff pages most accurately set out the FCC's policy decisions as of March 12, 1987 (2 FCCR 2 502, 504-505 at ¶26), which was the last instance that the FCC has addressed this specific subject matter.

This document could serve as the FCC's or any state regulatory authority's approved template or standard or model tariff in the use of recording devices in connection with telephone service.

Verizon New York Inc.

(C)

GENERAL EXCHANGE TARIFF

IN THE

STATE OF CONNECTICUT

INCLUDING RATES, REGULATIONS AND EXPLANATION OF TERMS

As of August 1, 2000, the New York Telephone Company name has been changed to Verizon New York Inc. All references throughout this Tariff to New York Telephone Company or "the Company" shall be read as Verizon New York Inc.

] (N)]

This Tariff governs the Local Exchange Tariff and the Local and Joint General Toll Tariff, except as provided therein, which Tariffs, revised and added pages or superseding issues thereof, are made a part of this Tariff.

As provided herein, Verizon New York Inc. concurs in portions of the General Exchange Tariff of the Southern New England Telephone Company, including revisions thereto, as filed with the Connecticut Department of Public Utility Control.

(C)

[Note: Effective July 1, 2011 by statute, Public Act 11-80, the DPUC (Department of Public Utility Control) was designated as the Public Utilities Regulatory Authority (PURA).]

GENERAL RULES AND REGULATIONS

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Cancels Page 1 dated October 13, 1999 Effective: November 1, 2002

By Sandra Dilorio Thorn, General Counsel
 1095 Avenue of the Americas, New York, N.Y. 10036

GENERAL RULES AND REGULATIONS

B.1. CONNECTIONS OF CUSTOMER-PROVIDED TERMINAL EQUIPMENT AND COMMUNICATIONS SYSTEMS (Cont'd)

1. General Provisions (Cont'd)

d. Recording of Two-Way Telephone Conversations

Telecommunications services are not represented as adapted to the recording of two-way telephone conversations. However, Customer- provided voice recording equipment may be directly, acoustically or inductively connected with telecommunications services. When such connections are made, the Customer-provided voice recording equipment shall be so arranged that at the will of the user it can be activated or deactivated. In addition, one of the following conditions must apply:

- (1) All parties to the telephone conversation must give their prior consent to the recording of the conversation, and the prior consent must be obtained in writing or be part of, and obtained at the start of, the recording, or
- (2) The recording party notifies the other party that it intends to record the conversation. This notification ~~should~~ [shall] be made at the beginning, and as part of, the recorded portion of any call, or
- (3) A distinctive recorder tone, repeated at intervals of approximately fifteen seconds, is required to alert all parties when the recording equipment is in use. The distinctive recording tone can be provided as part of (a) the recording equipment, (b) Customer-provided registered or grandfathered protective circuitry, or (c) a grandfathered Telephone Company-provided connecting arrangement.

A broadcast licensee shall be exempt from the above recording requirements provided at least one of the following requirements is met:

- (1) the licensee informs each party to the call of its intent to broadcast the conversation; or
- (2) each party to the call is aware of the licensee's intent to broadcast the call; or
- (3) such awareness of the licensee's intent to broadcast the call may be reasonably imputed to the party.

See "Explanatory Notes," starting on page 7 that is labeled in red and located on the upper right corner of the page and reads: "FCC Tariff Template 7 of 16."

It should be noted that the text "... voice recording equipment may be directly, acoustically or inductively connected with telecommunications services." should be rewritten in a manner that more accurately sets out the FCC's requirements. Recordings derived from acoustic, i.e., a microphone, or inductive technology are **not** per se connected to the service provider's equipment. Rewording of the sentence could achieve the FCC's intent as follows: "However, Customer- provided voice recording equipment may be directly [connected] [or for] acoustically or inductively [recording equipment may be effectively inter]connected with telecommunications services."

For rationale to justify the rewording, see *In the Matter of USE OF THE CARTERPHONE DEVICE IN MESSAGE TOLL TELEPHONE SERVICE; In the Matter of THOMAS F. CARTER AND CARTER ELECTRONICS CORP., DALLAS, TEX. (COMPLAINANTS), v. AMERICAN TELEPHONE AND TELEGRAPH CO., ASSOCIATED BELL SYSTEM COMPANIES, SOUTHWESTERN BELL TELEPHONE CO., AND GENERAL TELEPHONE CO. OF THE SOUTHWEST (DEFENDANTS)*, 13 FCC 2d 420, 424 at n3 (1968). Also see below at "2. Pseudo interconnected" that begins on the page named "FCC Tariff Template 9 of 16."

It should be noted that the FCC's reason for requiring that recording devices be capable of being physically connected to and disconnected from the telephone line, or switched on and off is based on the fact that the FCC does not regulate any intrastate call, which, if regulated, is under the purview of each state. See page 7 of 16 under "I. Recording Devices - how connected:."

GENERAL RULES AND REGULATIONS

B.1. CONNECTIONS OF CUSTOMER-PROVIDED TERMINAL EQUIPMENT AND COMMUNICATIONS SYSTEMS (Cont'd)

1. General Provisions (Cont'd)

d. Recording of Two-Way Telephone Conversations (Cont'd)

The FCC has established the following exceptions to the foregoing requirements:

- (1) Private line service which has no connection with the exchange or toll system of the Telephone Company, where recorder connector equipment may be used at the option of the subscriber.
- (2) Recordings made of incoming calls to telephone numbers publicized for emergencies involving health or safety of life and property (e.g., emergency situations involving fire, health care, police, public utilities and emergency road service) and outgoing calls made in immediate response to such calls. Included in this exception are:
 - (a) Recordings made at the United States Department of Defense Command Centers of emergency communications transmitted over the Department of Defense's private line system when connected to telecommunications services.
 - (b) Recordings made at the United States Nuclear Regulatory Commission of the Department of Energy with respect to the telephone systems located at its Operational Center.
- (3) Recordings of calls made for patently unlawful purposes, such as bomb threats, kidnap ransom requests and obscene telephone calls. Outgoing calls made in immediate response to such calls are also excepted. Included in this exception are:
 - (a) Recordings made by the United States Secret Service of the Department of the Treasury for recording of two-way telephone conversations which concern the safety and security of the person of the President of the United States, members of his immediate family, or the White House and its grounds.
- (4) Recordings of calls made by Federal, State or local law enforcement authorities, or federal intelligence authorities, acting under color of law.

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Re FCC exceptions: B.1.-1.d.(1) above **may not be** an FCC exception. This may be "wordsmithing" but a fair reading of the FCC's discussion in this matter reveals that the FCC uses the words: "..., we will continue to exclude private line service from our requirement, except where there is access to the public switched network," See 86 FCC 2d 313, 322 at D. Private Line Service; par. 22.

Material contained herein formerly appeared on Page 11.1.

GENERAL RULES AND REGULATIONS

B.1. CONNECTIONS OF CUSTOMER-PROVIDED TERMINAL EQUIPMENT AND COMMUNICATIONS SYSTEMS (Cont'd)

1. General Provisions (Cont'd)

e. Violation of Regulations

When any Customer-provided terminal equipment or communications system is used with telecommunications services in violation of any of the provisions in this Paragraph B.1., the Telephone Company will take such immediate action, including disconnection of the service, as necessary for the protection of the telecommunications network and Telephone Company employees, and will promptly notify the customer of the violation.

The Customer shall discontinue such use of the terminal equipment or communications system or correct the violation and shall confirm in writing to the Company within 10 days, following the receipt of written notice from the Company, that such use has ceased or that the violation has been corrected. Failure of the Customer to discontinue such use or to correct the violation and to give the required written confirmation to the Telephone Company within the time stated above shall result in suspension of the Customer's service until such time as the Customer complies with the provisions of this Tariff.

] (M)]

Material formerly on this page has been moved to Page 11.

Explanatory Notes

In this document, to facilitate visual discrimination, highlighting has been used to denote blocks of text in the Verizon tariff at pages 4 and 5 of 16 above. Below, associate "I. Recording Devices" with Light blue, "II, Approved Recording Methods" with light green and "III. Approved Exceptions" with yellow. But, visual discrimination using color will be ineffective when a display screen is not operating in color mode or use of a paper copy of this document that is printed in black and white.

OVERVIEW: For a historical perspective, read 11 FCC 1033 - 1056.

I. Recording Devices - how connected: (1) direct physical connection into the telephone system. (2) acoustic pseudo interconnected via audible sound wave using a microphone. (3) inductive pseudo interconnected via telephone system's radiated electrical or magnetic properties that are sensed and amplified.

See 11 FCC at 1035-1037 (March 1947) under NATURE OF TELEPHONE RECORDING DEVICES for a summary explanation for each device type, "the acoustic, the inductive and the direct physical connection."

Note 1. See the page "FCC Tariff Template 4 of 16" above. The text that is highlighted in light blue was most likely developed from the following historical record:

1. Direct physical connection:

(a) 11 FCC 1033-1056 (March 6-24, 1947), (1) at 1033-1035 under "HISTORY OF THE PROCEEDING" the Commission fixes a date, Oct. 31, 1945, as the start of the investigation of the use of recording devices and sets out the intent to conduct an unlimited investigation but that it include eight specific matters of fact finding (See 10 Fed. Reg. 14032 - 14033, Wednesday, November 14, 1945.)

(2) Significant to this discussion of direct physical connection of recording devices is that the FCC made a decision to convene an engineering conference that, among other technical issues, determined the manner in which privacy within a telephone conversation will be addressed, i.e., "... insure that all parties to a telephone conversation have adequate notification that a telephone recording device is being used." 6 FCC 2d 587, (1967). At page 1044: "In its exceptions to the proposed report, and at the oral argument, the [U S Independent Telephone] Association contended that no final order of the Commission on this matter should be made effective until the telephone industry and the Commission have, by an engineering conference or otherwise, found a satisfactory warning device, if the Commission found finally that a warning device constituted sufficient notice to users that a telephone recorder was being used." At page 1056: "An engineering conference of representatives of the telephone companies, the recorder manufacturers, the State commissions and this Commission, will be held to consider the technical questions presented by the use of telephone recorders, and the installation and operation of proper automatic tone warning devices. On the basis of such findings and recommendations as result from this conference, the Commission will give consideration to the adoption of engineering standards to govern the installation, use, and operation of telephone recorders and automatic tone warning devices in connection with interstate and foreign message toll telephone service." (See 12 Fed. Reg. 2133, Tuesday, April 1, 1947.)

The point being made here is that, as documented below, the engineering conference yields a single method for giving warning that a telephone conversation is being recorded. That method is an automatic tone warning device, (the "beep tone"). The significance is that a recording device based on pseudo interconnection technology, as in acoustic and inductive devices, are, for all practical purposes, excluded because neither device type would include the ability to output the tone warning during the recording. The result is that from June 30, 1948, i.e., the effective date of the FCC's Order in the matter of use of recording devices in connection with telephone service, to June 2, 1981, i.e., the effective date of the FCC's change to 47CFR64.501 that included verbal or written consent to record, the direct physical connection was the only prescribed method for recording telephone conversations.

(3) At page 1045 the report summarizes positions taken by the several state utilities commissions as presented by the organization, The National Association of Railroad and Utilities Commissions one of which is that "... the [FCC] should not enter any order herein which would permit anyone other than the telephone company physically to connect any device to existing telephone lines; or which would authorize the use of recording devices requiring physical connection to telephone lines, unless the device is so arranged that the telephone user can make a complete physical disconnection of the device while using the telephone facilities for intrastate toll or exchange purposes."

(4) Generally, at pages 1045-1048 under "JURISDICTIONAL QUESTIONS" the FCC establishes that it does in fact possess the authority to rule in this matter but limited to interstate and foreign message toll telephone service and facilities. Further, the Commission presents a discussion on the operating characteristics associated with recording devices. At page 1047 the FCC sets out a basis for a subsequent decision by writing the following: "In the case of the physically connected type of recorder, the connection can be effected by means of a plug-in jack arrangement." [footnote] 11 ... And footnote 11 reads: "As hereinafter found, the installation of the jack should, however, be made by the telephone company."

(5) At page 1054 under "TARIFF REGULATIONS TO BE ESTABLISHED" that reads in part: "... that recording devices may be installed and used in connection with interstate and foreign message toll telephone service, but only under specified conditions. These conditions should include the requirements that recording devices be used only when such device, at the will of the user, can be physically disconnected from the telephone line or switched off; ..."

(6) At page 1055 under "CONCLUSIONS" at ¶4. that reads in part; "No recording device should be used ... unless, at the will of the user, it can be physically connected to and disconnected from the telephone line or switched on and off."

(7) At page 1056 under "CONCLUSIONS" at ¶7 that in part reads: "Telephone carriers subject to the Communications Act [of 1934, as amended,] should, ... , file tariff regulations with the Commission in which the use of recording devices in connection with interstate and foreign message toll telephone service is authorized, so long as the recording device can, at the will of the user, be physically connected to or disconnected from the telephone line or switched on and off." At ¶8 that in part reads: "An engineering conference ... will be held to consider the technical questions presented by the use of telephone recorders, and the installation and operation of proper automatic tone warning devices." At ¶9 that reads: "The Commission will postpone the issuance of a final order in this proceeding until it has considered these engineering matters."

Intervening Summary: Within the FCC's "ORDER" that was effective June 30, 1948, telephone carriers were required to file tariff regulations to be effective no later than August 2, 1948 that provided for the use of recording devices in connection with interstate and foreign message toll telephone service under the conditions specified in the order as amended. For approximately the next twenty years, the status was that the telephone service provider was required to furnish and maintain any physical connection and any tone warning device. The FCC did not take any action or adopt any formal rule until 1967. See 6 FCC 2d 587-592 (1967) for a "Notice of Proposed Rule-making" that addresses "... the Matter of Amendment of Part 64 of the Commission's Rules Relating to Use of Recording Devices by Telephone Companies." And, specifically paragraph 4 reads: "4. The tariff regulations that have been filed pursuant to the aforesaid decision of the Commission are specifically applicable to "customer-provided" recording devices and are couched in terms of an exception to the "foreign attachment" prohibitions contained in the tariffs. Such tariff provisions do not literally apply to the use of recording devices by the telephone companies themselves." At page 588, the APPENDIX sets out the language of the proposed rule.

See 22 FCC 112 Decision and Order on Remand (Adopted: February 6, 1957) for background information re "foreign attachment," which are certain devices that are not service provider equipment.

(b) 12 FCC 1005-1007 and 1008-1009 (1947-48): (1) At page 1006-1007 - 2nd to last full paragraph - for the following: "It is ordered that the Commission's report of March 24, 1947, ..., as modified by this order, is made a part hereof by reference; It is further ordered that the use of recording devices in connection with interstate and foreign message toll telephone service is authorized, subject to the following conditions: (1) that such use is accompanied by adequate notice to all parties to the telephone conversation that the conversation is being recorded; (2) That such notice will be given by the use of an automatic tone-warning device, ...; (3) That such automatic tone-warning device may be furnished or maintained by anyone, ...; (4) That no recording device shall be used in connection with interstate and foreign message toll telephone service unless, at the will of the user, it can be physically connected to and disconnected from the telephone line or switched on and off."

(2) At page 1007 last paragraph for the following: "It is further ordered that this order shall take effect on the 15th day of January 1948."

(3) At page 1008 for information regarding delayed implementation.

(4) At page 1009 for the following: "It is ordered that the order of November 26, 1947, herein, is modified in the following respects: ...

In the second decretal paragraph of said order, subparagraphs (3) and (4) [sic, should be (5), See 13FR2969.] thereof are revised to read as follows :

(3) That such automatic tone warning device shall be furnished, installed, and maintained by the company or other organization responsible for the furnishing of the telephone service, subject to the requirements that such device have the characteristics specified above; ...

The fourth decretal paragraph of said order is revised to read: ... It is further ordered that telephone carriers subject to the Communications Act of 1934, as amended, shall, ... file tariff regulations ..., to become effective on not less than 30 days' notice, but in no event to become effective later than August 2, 1948, and to provide for the use of recording devices in connection with interstate and foreign message toll-telephone service under the conditions specified in this order; ...

It is further ordered that the order of November 26, 1947, as modified herein, shall take effect on the 30th day of June 1948."

(c) 9 FCC 2d 11-14: (1) At page 11 for the following: "In the Matter of Amendment of Part 64 of the Commission's Rules Relating to Use of Recording Devices by Telephone Companies ... Report and Order (Adopted July 26, 1967)." This docket, Docket 17152, effectively transitions the way the FCC enforces its policy decisions in the matter of use of recording devices in connection with telephone service. The formal rule, 47CFR64.501, applies to the service providers and in turn the FCC will require that the service providers' tariffs comport with the rule.

(2) At page 14 after numbered paragraph 13. "Accordingly, it is ordered, Pursuant to sections 4(i), 201(b), and 202(a) of the Communications Act of 1934, as amended, that , effective September 5, 1967, part 64 of the Commission's rules and regulations, 47 CFR part 64, Is amended"

(3) See 32 FR 11275, August 3, 1967, which is the Federal Register, 2nd column that in part reads: "§64.501 Recording of telephone conversations with telephone companies. No telephone common carrier, subject; in whole or In part to the Communications Act or 1934, as amended, may use any recording device in connection with any Interstate or foreign telephone conversation between any member of the public, on the one hand, and any officer, agent or other person acting for or employed by any such telephone common carrier, on the other hand, except under the following conditions: ... (d) That no recording device shall be used unless it can be physically connected to and disconnected from the telephone line or switched on and off."

(d) For the sake of brevity, note that the FCC's CFR between 1967 and 2010 in the matter of the use of recording devices in connection with telephone service were reviewed but are not set out in detail. As a matter of fact, except for relettering from (d) to (e) in the 1987 edition of 47 CFR 64.501, the requirement "[t]hat no recording device shall be used unless it can be physically connected to and disconnected from the telephone line or switched on and off" remains unchanged. It should be noted that from inception in 1948 until May 17, 1981 use of recording devices by the public in connection interstate and foreign message toll telephone service was governed by the FCC's ordering telephone companies to submit tariffs that specified the automatic tone warning device, "beep tone." From May 18, 1981 and forward in time, the use of recording devices by the public in connection interstate and foreign message toll telephone service is governed by the FCC's ordering telephone companies to submit tariffs that comport with the provisions as set out in 47 CFR 64.501.

2. Pseudo interconnected: As indicated in 1. Direct physical connection: recording devices using acoustic and inductive technologies were effectively excluded because neither was designed to include the required automatic tone warning, "beep tone," during a recorded telephone conversation. Over time the FCC adopted policies that accommodated the using of acoustic and inductive recorders. Because the time line for inclusion of acoustic and inductive recorders was the same, both are documented as follows:

(a) An FCC Public Notice, released March 28, 1951 documented a ruling that telephone conversations may not be recorded by either acoustic or inductive means under any circumstances without violating the tariff.

(b) 9 FCC 2d 11: At page 12 at ¶7 that is part of the COMMENTS SUMMARIZED section, there is verification that between the Order permitting recorded telephone conversations (June - August 1948) and the Report and Order implementing 47CFR64.501 (July 26, 1967) and beyond acoustical recorders were and continue to be excluded. ¶7 in part reads: [The National Telephone Cooperative Association] "NTCA alleges that there have been revolutionary changes since the presently effective tariffs were prescribed regarding the use of the "beep tone"; that the present tariffs should be revised to permit the use of acoustical recordings with an appropriate warning:...."

(c) 58 FCC 2d 6-7: (Suggested reading.) This Memorandum Opinion and Order (Adopted: Jan. 7, 1976; Released: Feb. 24, 1976 provides the FCC's contemporaneous position and rationale for prohibiting the use of acoustic and inductive recording devices.

(d) 67 FCC 2d 1392-1404 is a "Notice of Proposed Rulemaking" that provides background information and refers to the subject matter of acoustic and inductive recording devices. As examples: (1) at page 1392 at ¶1 that in part reads: "... we prohibited entirely the use of recording devices not directly electrically connected to the telephone system. [footnote] 3 and (2) at page 1402 under V. Summary and Conclusions at ¶36 that in part reads: "We further propose to rescind our prescribed rule against use of acoustic and inductive-type recorders when making such recordings."

Footnote 3 reads: "3 Public Notice, released March 28, 1951. This ruling means that telephone conversations may not be recorded by either acoustic or inductive means under any circumstances without violating the tariff."

(e) 86 FCC 2d 313-324: NOTE: For a comprehensive perspective and understanding of the evolution of the use of recording devices in connection with telephone service, one should read 86 FCC 2d 313 in its entirety. But at page 322 under VI. Summary and Conclusions at ¶23 that in part reads: "... [the FCC is] rescinding our pro- scription on the use of acoustic and inductive recording devices" and at ¶25 that in part reads: "... IT IS ORDERED, That all common carriers subject to Title II of the Communications Act, 47 U.S.C. 151 et seq. shall revise such tariff regulations on file with this Commission which provide for the use of recording devices in con- nection with interstate and foreign message toll telephone service and wide area telephone service, to comport with this Order." The Order was adopted on May 7, 1981.

(e) In conclusion for this portion of this document's "2. Pseudo interconnected:" it should be noted that the FCC's policy of including recording devices that use acoustic and inductive technology remains unchanged as of the writing of this document during October of 2011.

II. Approved Recording Methods - documented based on when adopted: (1) Automatic tone warning -"beep tone," (2) Preceded by verbal or written consent of all parties to the telephone conversation, and (3) Preceded by one-party verbal notification which is recorded at the beginning, and as part of the call, by the re- cording party.

Note 2. See the page "FCC Tariff Model 4 of 16" above. The text that is highlighted in light green was most likely developed from the following historical record

First method adopted: (a) 11 FCC 1033-1056 (1947), 1052-1053 under "CONCLUSIONS ON METHODS OF NOTIFICATION OF USE OF RECORDING DEVICES." (1) See page 1052 for the following: "...the Commission is of the opinion that a form of automatic tone warning, generally uniform throughout the United states, ... , should serve adequately to inform users of interstate and foreign message telephone toll service as to the use of record- ing devices in connection with such service."

(2) At page 1053 for the following: "The Commission will postpone issuance of its final order in this proceeding until [] consideration [of the technical and engineering question at the conference of relevant parties] has been had."

(3) At page 1054 under "TARIFF REGULATIONS TO BE ESTABLISHED" that reads in part: "... that recording devices, whether they be physically, or inductively connected, be used only when such use is accompanied by the operation of an automatic tone warning device;"

(4) At page 1055 under "CONCLUSIONS" at 3. that reads in part; "Adequate notice [to all parties that the con- versation is being recorded] will be given by the use of the automatic tone-warning device, ..."

(5) At page 1055 under "CONCLUSIONS" at 8. that reads in part; "An engineering conference of representatives ... will be held to consider the technical questions presented by the use of telephone recorders, and the installation and operation of proper automatic tone warning devices."

(b) 12 FCC 1005-1007 and 1008-1009 (1947-48): (1) At page 1006-1007 - 2nd to last full paragraph - for the following: "It is ordered that the Commission's report of March 24, 1947, ..., as modified by this order, is made a part hereof by reference; It is further ordered that the use of recording devices in connection with interstate and foreign message toll telephone service is authorized, subject to the following conditions: ... (2) That such notice will be given by the use of an automatic tone-warning device, which will automatically produce a distince [sic - most likely should have read "distinct"] signal that is repeated at regular intervals during the course of the telephone conversation when the recording device is in use; such signal to have the characteristics specified above;"

(2) At page 1007 last paragraph for the following: "It is further ordered that this order shall take effect on the 15th day of January 1948."

(3) See page 1008 for information regarding delayed implementation.

(4) See page 1009 for the following: "It is further ordered that the order of November 26, 1947, as modified herein, shall take effect on the 30th day of June 1948."

(c) 9 FCC 2d 11-14: (1) At page 11 for the following: "In the Matter of Amendment of Part 64 of the Commission's Rules Relating to Use of Recording Devices by Telephone Companies ... Report and Order (Adopted July 26, 1967)."

(2) At page 14 at numbered paragraph 13. that in part reads: "Accordingly, it is ordered, Pursuant to sections 4(i), 201(b), and 202(a) of the Communications Act of 1934, as amended, that, effective September 5, 1967, part 64 of the Commission's rules and regulations, 47 CFR part 64, is amended"

(3) See 32 FR 11275, August 3, 1967, which is the Federal Register, 2nd column that in part reads: "§64.501 Recording of telephone conversations with telephone companies. No telephone common carrier, subject; in whole or in part to the Communications Act of 1934, as amended, may use any recording device in connection with any interstate or foreign telephone conversation between any member of the public, on the one hand, and any officer, agent or other person acting for or employed by any such telephone common carrier, on the other hand, except under the following conditions: ... (a) That such use shall be accompanied by adequate notice to all parties to the telephone conversation that the conversation is being recorded: (b) That such notice shall be given by the use of an automatic tone warning device, which will automatically produce a distinct signal that is repeated at regular intervals during the course of the telephone conversation when the recording device is in use: ..."

(d) For the sake of brevity, note that the FCC's CFRs between 1967 and 2010 in the matter of the use of recording devices in connection with telephone service were reviewed but all are not set out in detail except for the amendments made to 47 CFR 64.501 and they are: (1) See 46 FR 29480, June 2, 1981, 1st column that in part reads: "Appendix C 1. Part 64 -- Miscellaneous Rules Relating to Common Carriers. Subpart E - Use of Recording Devices by Telephone Companies -- is amended as follows: 'Section 64.501 is amended by revising paragraphs (a) and (b) and by adding a new (b)(l) to read as follows: '§ 64.501 Recording of telephone conversations with telephone companies. ... (b) Where such use shall be accompanied by an automatic tone warning device, which will automatically produce a distinct signal that is repeated at regular intervals during the course of the telephone conversation when the recording device is in use. Provided that:'"

(2) It should be noted that from inception until May 17, 1981 use of recording devices by the public in connection with interstate and foreign message toll telephone service was governed by the FCC's ordering telephone companies to submit tariffs that specified the automatic tone warning device, "beep tone." From May 18, 1981 and forward in time, the use of recording devices by the public in connection interstate and foreign message toll telephone service is governed by the FCC's ordering telephone companies to submit tariffs that comport with the provisions as set out in 47 CFR 64.501, which were amended to include two additional provisions that set out approved methods for the use of recording devices.

Compare 47CFR64.501(c), 1989 edition, that was in effect at the time that §§52-570d(a)(3) was enacted and codified and each reads:

47CFR64.501(c): "(c) Where such use shall be accompanied by an automatic tone warning device, which will automatically produce a distinct signal that is repeated at regular intervals during the course of the telephone conversation when the recording device is in use."

§§52-570d(a)(3): "(3) is accompanied by an automatic tone warning device which automatically produces a distinct signal that is repeated at intervals of approximately fifteen seconds during the communication while such instrument, device or equipment is in use."

Second method adopted: (a) 86 FCC 2d 313-324 (1981): At page 322 under VI. Summary and Conclusions; (1) at ¶23 that reads: "23. As discussed above, after carefully considering the comments submitted in response to our Notice of Proposed Rulemaking, Docket 20840, 67 FCC 2d 1392 (1976), we have decided not to adopt a rule in this area. We have further decided to revise our present beep tone requirement to include, as an alternative, the all-party consent requirement. Additionally, we are rescinding our proscription on the use of acoustic and inductive recording devices and are continuing our exclusion of private line services, except where such services access the public switched network."

(2) at ¶24 that reads: "24. As a result of this proceeding, Section 64.501 of our Rules, 47 C.F.R. §64.501, dealing with the use of recording devices by telephone companies, will be revised to comport with our findings. The revisions to Section 64.501 are set out in Appendix C and are to become effective on May 18, 1981."

(3) at ¶25 that in part reads: "25. In view of the foregoing and pursuant to the [FCC's] authority ... IT IS ORDERED, That all common carriers subject to Title II of the Communications Act, 47 U.S.C. 151 et seq. shall revise such tariff regulations on file with this Commission which provide for the use of recording devices in connection with interstate and foreign message toll telephone service and wide area telephone service, to comport with this Order."

(4) at page 323 under Appendix C that reads: "... §64.501 Recording of telephone conversations with telephone companies.

(a) Where such use shall be preceded by verbal or written consent of all parties to the telephone conversation, or, ..." (Note: See the text box named "ADVISORY NOTE:" at page 1 of the .pdf file named "Yr-1981-46FR29474thru29480-Adopt-Written&VerbalConsent.")

(b) For a more comprehensive understanding of the FCC's decision making process, read 86 FCC 2d 313 in its entirety. Also see 95 FCC 2d 848 (1983) that requires that any verbal consent shall be recorded.

Compare 47CFR64.501(a), 1989 edition, that was in effect at the time that §§52-570d(a)(1) was enacted and codified and each reads:

47CFR64.501(a): "... (a) Where such use shall be preceded by verbal or written consent of all parties to the telephone conversation, or ..."

§§52-570d(a)(1): "... (1) is preceded by consent of all parties to the communication and such prior consent either is obtained in writing or is part of, and obtained at the start of, the recording, or"

Third method adopted: (a) 2 FCC Rcd 2, 502-506 (1987): At pages 504-505 under V CONCLUSION; (1) ¶24 that reads: "24. Although the beep tone and mutual consent requirements are difficult to enforce, we conclude that this fact alone does not justify their elimination. To discontinue a policy which has as its primary goal the protection of privacy in wire communications could erroneously signal the public that privacy in telephone conversations is no longer an important Commission goal. We therefore, reject the tentative conclusion reached in the Further Notice that this Commission's Rule and tariff prescription imposing a beep tone or mutual consent requirement should be eliminated."

(2) at ¶25 that reads: "25. As discussed above, after carefully considering the comments submitted in response to our Further Notice of Proposed Rulemaking. Docket No. 20840, 95 FCC 2d 853 (1983), we have decided not to eliminate the tariff prescription and Commission rule regulating this area. We have further decided to add a one-party notification option to the present mutual consent and beep tone options."

(3) at ¶26 that in part reads: "26. As a result of this proceeding and pursuant to the [FCC's] authority ..., Section 64.501 of our Rules, 47 C.F.R. § 64.501, dealing with the use of recording devices by telephone companies will be revised to comport with our findings. The revisions to Section 64.501 are set out in Appendix B and are to become effective March 12, 1987."

(4) at ¶27 that in part reads: "27. In view of the foregoing and pursuant to the [FCC's] authority ... , IT IS ORDERED, that all common carriers subject to Title II of the Communications Act, 47 U.S.C. 151 e1 seq., shall revise any tariff regulations on file with this Commission which provide for the use of recording devices in connection with interstate and foreign message toll telephone service and wide area telephone service, to comport with this Order."

(5) at ¶28 that in part reads: "28. IT IS FURTHER ORDERED, that the tariff revisions required in paragraph 27 be filed no later than 45 days from the release date of this Order to be effective on 15 days' notice."

Compare 47CFR64.501(b), 1989 edition, that was in effect at the time that §§52-570d(a)(1) was enacted and codified and each reads:

47CFR64.501(b): "... (b) Where such use shall be preceded by verbal notification which is recorded at the beginning, and as part of the call, by the recording party, or ..."

§§52-570d(a)(2): "... (2)) is preceded by verbal notification which is recorded at the beginning and is part of the communication by the recording party, or"

III. Approved Exceptions - how documented: Chronologically based on when adopted. (If applicable, an associated NOTE will document the elimination or modification of the exception.)

Note 3. See the page "FCC Tariff Model 5 of 16" above. The text that is highlighted in yellow was most likely developed from the following historical record

BACKGROUND: During this research project, it became known that at some point the FCC initiated action to review and reconsider its position in the matter of use of recording devices in connection with telephone service. 67 FCC 2d, 1392 chronicles the initial report of the proceedings for Docket No. 20840 that was most likely initiated by FCC 76-536. 67 FCC 2d 1392, 1393 at paragraph 2 discusses four ordered tariff exceptions and footnotes 5, 6, 7, and 8 provide one or more citations relevant to each exception. As a point of interest, note that between June 1948 and December 1972 there were no exceptions to the beep tone requirement.

First Exception: See 38 FCC 2d 579 that chronicles FCC 72-1127 Memorandum Opinion and Order (Adopted 12/13/1972; Released 12/20/1972) that in part reads:

7. Accordingly, IT IS ORDERED, That the automatic tone warning requirements of our orders of November 26, 1947 and May 30, 1948 (12 F.C.C. 10005 [sic - should be 1005]; and 10008 [sic - should be 1008]) ARE HEREBY WAIVED with respect to connecting arrangements provided by the telephone companies to broadcast licensees when such connecting arrangements are used to record two-way telephone conversations broadcast over the air.

8. IT IS FURTHER ORDERED, That American Telephone and Telegraph Company is HEREBY AUTHORIZED to amend its tariff regulations in accordance with this Memorandum and Opinion and Order.

NOTE: This exception was rendered "obsolete" when the FCC adopted a second method for recording telephone conversations under the FCC's jurisdiction. See 86 FCC 2d 313 (Adopted May 7, 1981; Released May 18, 1981), at page 322 that in part reads:

23. ... We have further decided to revise our present beep tone requirement to include, as an alternative, the all-party consent requirement. Additionally, we are rescinding our proscription on the use of acoustic and inductive recording devices and are continuing our exclusion of private line services, except where such services access the public switched network.

...

25. In view of the foregoing and pursuant to the [FCC's] authority ... IT IS ORDERED, That all common carriers ... shall revise such tariff regulations on file with this Commission which provide for the use of recording devices in connection with interstate and foreign message toll telephone service and wide area telephone service, to comport with this Order.

See also 86 FCC 2d 313, 321 that in part reads:

C. Exceptions to the Revised Tariff Provision

19. We have decided to allow three exceptions to the revised tariff requirement which will supersede the five current exceptions.²⁰

...

²⁰ ... Broadcasters and broadcast organizations will not require an exception under the revised policy (see e.g. 38 FCC 2d 579 (1972) and *Broadcast of Telephone Conversation*, Docket 18601, 23 FCC 2d 1 (1970)) since they are required to obtain prior consent before a conversation can be recorded for broadcast. See e.g., 47 C. F.R. §73.1206. Moreover, since Section 73.1206 excepts from the prior-consent rule for broadcasters, conversations where the caller is aware, or is presumed to be aware, that the call, is likely to be broadcast, we will construe that prior consent for recording these calls has been given for purposes of the tariff requirement.

Second Exception: See 50 FCC 2d 905, ORDER (Adopted January 22, 1975; Released January 27, 1975) that reads:

"1. For the reasons stated in our Memorandum Opinion and Order adopted this date in the Matter of Robert McCann v AT&T et al. FCC 74-91, we are of the opinion that the public interest requires that we carve out an exception to or waiver of the "beep tone" requirements which we ordered in our 1947 and 1948 Recording Devices proceeding in Docket No. 6787 (11 F.C.C. 1033 (1947), 12 F.C.C. 10005 [sic - should read 1005] (1947); and 12 F.C.C. 1008 (1948)), and thereby permit the United States Secret Service to continue to use recording devices to record, without transmitting the "beep tone", certain types of telephone calls referred to the Secret Service which concern the safety and security of the person of the President, members of his immediate family, or the White House and its grounds.

2. Accordingly, IT IS ORDERED, That the automatic tone warning requirement of our above cited orders in Docket 6787, ARE HEREBY WAIVED with respect to telephone calls referred to the United States Secret Service of The Department of the Treasury which concern the safety and security of the person of the President of the United States, or members of his immediate family, or the White House and its grounds.

3. IT IS FURTHER ORDERED, That The American Telephone and Telegraph Company shall, within 30 days from the release date of this Order, file revisions to its tariff to provide for the aforesaid express exemption or waiver."

NOTE: This exception was modified by "incorporation" by the FCC coincident with the adoption of a second method for recording telephone conversations under the FCC's jurisdiction. See 86 FCC 2d 313 (Adopted May 7, 1981: Released May 18, 1981), at page 321 that in part reads:

19. We have decided to allow three exceptions to the revised tariff requirement which will supersede the five current exceptions.20 ...

20. The second exception is for the recording of calls made for patently unlawful purposes, such as bomb threats, kidnap ransom requests, and obscene telephone calls. Outgoing calls made in immediate response to such a call will also be excepted. Under this exception the U.S. Secret Service will still be allowed to record calls referred to it which threaten the safety and security of the President, his immediate family, and the White House.

Third Exception: See 57 FCC 2d 334 MEMORANDUM AND OPINION AND ORDER (Adopted: December 18, 1975; Released: December 29, 1975), which is an "expansion" of the FCC's first exception as set out above and extends to a broadcast network or by a cooperative programming effort composed exclusively of Commission broadcast licensees, at page 335 that in part reads:

"5. Accordingly, IT IS ORDERED, That the automatic tone warning requirements of our orders of November 26, 1947, May 20, 1948 (12 F.C.C. 1005 and 1008) and December 20, 20, 1972 (38 F.C.C. 2d 579) ARE HEREBY AMENDED to permit the recording without the "beep tone" of two-way telephone conversations made solely for the over the air use of a licensed broadcast station by a broadcast network or by a cooperative programming effort composed exclusively of Commission broadcast licensees.

6. IT IS FURTHER ORDERED, That the American Telephone and Telegraph Company SHALL AMEND its tariff regulations consistent with this Memorandum Opinion and Order after coordination with the Chief, Common Carrier Bureau, as to appropriate tariff language."

NOTE: This exception was rendered "obsolete" when the FCC adopted a second method for recording telephone conversations under the FCC's jurisdiction. See 86 FCC 2d 313 (Adopted May 7, 1981: Released May 18, 1981), 322 that reads: [Refer to the text of the NOTE that is associated with the First Exception above.]

Fourth Exception: See 59 FCC 2d 538 MEMORANDUM AND OPINION AND ORDER (Adopted: May 19, 1976; Released: May 24, 1976) at page 539 that in part reads:

"3. We find that the public interest in the military's ability to cope with emergency situations requires us to grant DOD's request. To protect the privacy interests embodied by the beep tone requirement, however, we will strictly limit the exception to that necessary to ensure the proper functioning of DOD's Command Centers. We therefore restrict this exception to recordings made at DOD Command Centers of emergency communications transmitted over their private line system when connected to message toll, WATS or local exchange service. These communications must be excepted to enable DOD to deal with all possible emergency situations. So long as these Command Center numbers are not readily available to the general public, we believe this policy strikes a proper balance between the public interests in national security and in the privacy of telephone conversation.

4. Accordingly, IT IS ORDERED, That, for recordings made at the United States Department of Defense Command Centers, the automatic tone warning requirement of our above-cited Recording Devices proceeding IS HEREBY WAIVED with respect to emergency communications transmitted, in part, to or from the Command Centers over their private line system, as provided herein.

5. IT IS FURTHER ORDERED, That the American Telephone and Telegraph Company shall, within 30 days from the release date of Memorandum Opinion and Order, file revisions to this tariff to provide for the aforesaid express exemption or waiver."

Fifth Exception: An implementing document such as a Memorandum Opinion and Order or another such document was not found. But see 86 FCC 2d 313 MEMORANDUM AND OPINION AND ORDER (Adopted: May 7, 1981; Released: May 18, 1981) at page 315 the last full sentence that precedes "B. Docket No. 20840" that in part reads: "Since the termination of Docket No. 6787 in 1948, the Commission has recognized five limited exceptions to the beep tone requirement.[Footnote 5]" Footnote 5 in part reads: "5) where the recording equipment is used at the Operations Center of the Nuclear Regulatory Commission to record conversations involving or relating to nuclear emergencies." It is likely that the document was an FCC Mimeo. See below.

FCC's Policy Review and Reduction of the 5 Exceptions: Although the primary purpose of the Memorandum Opinion and Order as set out in 86 FCC 2d 313 (1981) was to consider and adopt an alternate or second method for notification that a telephone call was to be recorded, the FCC also assessed the need for continuing any of the previously approved five exceptions. See 86 FCC 2d 313 at page 321 under C. Exceptions to the Revised Tariff Provision and footnote 20 that reads: (1) at ¶19 the first sentence reads: "19. We have decided to allow three exceptions to the revised tariff requirement which will supersede the five current exceptions.20" (2) at Footnote 20 that reads: "20 The present exceptions for the Secret Service, Department of Defense, and the Nuclear Regulatory Commission are included in the new exceptions noted below. Broadcasters and broadcast organizations will not require an exception under the revised policy (see e.g. 38 FCC 2d 579 (1972) and Broadcast of Telephone Conversation, Docket 18601, 23 FCC 2d 1 (1970)) since they are required to obtain prior consent before a conversation can be recorded for broadcast. See e.g., 47 C.F.R. §73.1206. Moreover, since Section 73.1206 excepts from the prior-consent rule for broadcasters, conversations where the caller is aware, or is presumed to be aware, that the call, is likely to be broadcast, we will construe that prior consent for recording these calls has been given for purposes of the tariff requirement." [Emphasis omitted] (3) at ¶19 continued and ¶20 and ¶21 that read: "The first exception is for incoming calls made to telephone numbers publicized for emergencies and outgoing calls made in immediate response. In many types of emergency situations, such as those involving fire, health care, and police, it is infeasible to obtain consent, and use of the beep tone could confuse callers or obliterate important portions of the message. Therefore we will not require the beep tone or prior consent for the recording of calls reporting or made in immediate response to these emergencies. Recordings made at the Department of Defense Command Centers and the Operations Center of the Nuclear Regulatory Commission will be included under this exception. See 59 FCC 2d 538 (1976) and Mimeo No. 06482 (January 29, 1981). 20. The second exception is for the recording of calls made for patently unlawful purposes, such as bomb threats, kidnap ransom requests, and obscene telephone calls. Outgoing calls made in immediate response to such a call will also be excepted. Under this exception the U.S. Secret Service will still be allowed to record calls referred to it which threaten the safety and security of the President, his immediate family, and the White House. 21. The third exception is for recordings made pursuant to an explicit and lawful order of a court issued pursuant to 18 U.S.C. §2516. We adopt this exception so that our requirement will not hinder law enforcement efforts or conflict with Title III of the Omnibus Act." [Emphasis omitted]

Researcher's Note: Prior to this Order each of the five exceptions permitted recording calls without the automatic tone warning, "beep tone." With the effective date of the Order, the FCC set out three exceptions that express the exceptions in general terms rather than the prior scheme, which applied the exceptions to the specific class of licensed broadcasters or to discrete Federal entities. Each exception permits recording calls without the automatic tone warning or written or verbal consent from every recorded party. For clarification and additional information, see 95 FCC 2d 848 and 95 FCC 2d 853. Both are a continuation of Docket No. 20840.

Three Exception Policy (Docket No. 20840 Terminated): The three exception policy as set out in 86 FCC 2d 313, 321 and clarified and broadened as set out in 95 FCC 2d 848-852 was finalized as set out in Vol. 2 No. 2 FCCR 502 (1987) at page 502 under II. Background that in part reads: "The Commission subsequently prohibited the use of recording devices that did not have a direct electrical connection to the telephone line[FN]5 but also recognized certain limited exceptions to the beep tone requirement.[FN]6" Footnote 6 reads: "6 Five exceptions have evolved since the inception of the beep tone policy. These were recently revised and consolidated into three ex-

ceptions which allow for the recording of emergency, patently unlawful and law enforcement-related telephone calls without a beep tone or consent. See Exception Order), clarified on reconsideration, Memorandum Opinion and Order, FCC 83-479. released Oct. 27, 1983. [Emphasis omitted]

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Compare the following:

(a) The Verizon tariff exceptions highlighted in yellow on page 5 of 16 above. (Keep in mind that the Verizon tariff exceptions comport with the FCC's policy decisions as set out above.)

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(b) The Southern New England Telephone Company (SNET) tariff exceptions with an effective date of December 31, 1987, (original pages appended below), that were provided by Peter A. Pescosolido of the Connecticut Department of Public Utility Control via an e-mail on Wednesday, August 11, 2010 8:52:19 AM. Note that these tariff exceptions precede but are contemporary with P.A. 90-305 that became codified as §52-570d. Note that these tariff exceptions (1) reflect FCC policy decisions for exceptions one through four above in that order, (2) overlook exception five concerning the Nuclear Regulatory Commission's Operations Center five and (3) an exception patterned after the first "revised" exceptions as set out in 86 FCC 2d 313 (1981), 321 at ¶19 that in part reads: "The first exception is for incoming calls made to telephone numbers publicized for emergencies and outgoing calls made in immediate response. In many types of emergency situations, such as those involving fire, health care, and police, it is infeasible to obtain consent, and use of the beep tone could confuse callers or obliterate important portions of the message." It is likely that these SNET exceptions were the source for certain exceptions incorporated within §52-570d because of the similarity of the language and because both are outdated relative to FCC policy as it existed on January 26, 1987 and with FCC's termination of Docket No. 20840.

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"GENERAL EXCHANGE TARIFF ... The Southern New England Telephone Company ... Tariffs Part II Section 25 Sheet 2 ... Customer-Provided Terminal Equipment ... A. General Provisions (Continued) ... 4. Recording of Two-Way Telephone Conversations ... a. The FCC has established the following exceptions to the foregoing requirements:

- (1) When used by a Federal Communications Commission licensed broadcast station Customer for recording of two-way telephone conversations solely for broadcast over the air.
- (2) When used by the United States Secret Service of the Department of Treasury for recording of two-way telephone conversations which concern the safety and security of the person of the President of the United States, members of his immediate family, or the White House and its grounds.
- (3) When used by a broadcast network or by a cooperative programming effort composed exclusively of Federal Communications Commission broadcast licensees to record two-way telephone conversations solely for broadcast over the air by a licensed broadcast station.
- (4) When used for recording at United States Department of Defense Command Centers of emergency communications transmitted over the Department of Defense's private line system when connected to telecommunications service.
- (5) When used by a municipal fire or police department for recording on central office lines assigned exclusively for the receipt of fire calls or police emergency calls and attended at all times for such purpose, provided, further, that the Fire Department or Police Department certifies these conditions will be observed."

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(c) §§52-570d(b) that in part reads: "(b) The provisions of subsection (a) of this section shall not apply to: ...

- (1) Any federal, state or local criminal law enforcement official who in the lawful performance of his duties records telephonic communications;
- (2) Any officer, employee or agent of a public or private safety agency, as defined in section 28-25, who in the lawful performance of his duties records telephonic communications of an emergency nature; ...
- (6) Any officer, employee or agent of a Federal Communications Commission licensed broadcast station who records a telephonic communication solely for broadcast over the air;
- (7) Any officer, employee or agent of the United States Secret Service who records telephonic communications which concern the safety and security of the President of the United States, members of his immediate family or the White House and its grounds; and
- (8) Any officer, employee or agent of a Federal Communications Commission broadcast licensee who records a telephonic communication as part of a broadcast network or cooperative programming effort solely for broadcast over the air by a licensed broadcast station.

GENERAL EXCHANGE TARIFF

The Southern
New England
Telephone Company

Tariffs Part II
Section 25
Sheet 2

Customer-Provided Terminal Equipment

A. General Provisions (Continued)

3. Responsibility of The Telephone Company (Continued)

- b. The Telephone Company will, at the Customer's request, provide information concerning interface parameters, including the number of ringers which may be connected to a particular telephone line, needed to permit Customer-provided terminal equipment to operate in a manner compatible with telecommunications services.
- c. The Telephone Company may make changes in its telecommunications services, equipment, operations or procedures, where such action is not inconsistent with Part 68 of the Federal Communications Commission's Rules and Regulations. If such changes can be reasonably expected to render any Customer's terminal equipment or communications system incompatible with telecommunications services, or require modification or alteration of such Customer-provided terminal equipment or communications systems, or otherwise materially affect its use or performance, the Customer will be given adequate notice, in writing, to allow the Customer an opportunity to maintain uninterrupted service.

✓ 4. Recording of Two-Way Telephone Conversations

Telecommunications services are not represented as adapted to the recording of two-way telephone conversations. However, **Customer-provided voice recording equipment may be directly, acoustically or inductively connected with telecommunications services.** When such connections are made, the Customer-provided voice recording equipment shall be so arranged that at the will of the user it can be activated or deactivated. In addition, one of the following conditions must apply:

- **All parties to the telephone conversation must give their prior consent to the recording of the conversation, and the prior consent must be obtained in writing or be part of, and obtained at the start of, the recording;**
 - **A distinctive recorder tone, repeated at intervals of approximately fifteen seconds, is required to alert all parties when the recording equipment is in use. The distinctive recording tone can be provided as part of (1) the recording equipment, or (2) Customer-provided registered or grandfathered protective circuitry or**
 - **where such use shall be preceded by verbal notification which is recorded at the beginning, and as part of the call, by the recording party.**
- a. **The FCC has established the following exceptions to the foregoing requirements:**

(T)
(T)

1st exception - Dec 13, 1972

- (1) When used by a Federal Communications Commission licensed broadcast station Customer for recording of two-way telephone conversations solely for broadcast over the air.

2nd exception - Jan 22, 1975

- (2) When used by the United States Secret Service of the Department of Treasury for recording of two-way telephone conversations which concern the safety and security of the person of the President of the United States, members of his immediate family, or the White House and its grounds.

3rd exception - Dec 18, 1975

- (3) When used by a broadcast network or by a cooperative programming effort composed exclusively of Federal Communications Commission broadcast licensees to record two-way telephone conversations solely for broadcast over the air by a licensed broadcast station.

GENERAL EXCHANGE TARIFF

The Southern
New England
Telephone Company

Tariffs Part II
Section 25
Sheet 3

Customer-Provided Terminal Equipment

A. General Provisions (Continued)

4. Recording of Two-Way Telephone Conversations (Continued)

4th exception - May 19, 1976

(4) When used for recording at United States Department of Defense Command Centers of emergency communications transmitted over the Department of Defense's private line system when connected to telecommunications service.

(5) When used by a municipal fire or police department for recording on central office lines assigned exclusively for the receipt of fire calls or police emergency calls and attended at all times for such purpose, provided, further, that the Fire Department or Police Department certifies these conditions will be observed.

* * * *

(D)

5. Violation of Regulations

When any Customer-provided terminal equipment or communications system is used with telecommunications services in violation of any of the provisions in this Section 25 Paragraph A., the Telephone Company will take such immediate action as necessary for the protection of the telecommunications network and Telephone Company employees, and will promptly notify the Customer of the violation. The Customer shall discontinue such use of the terminal equipment or communications system or correct the violation and shall confirm in writing to the Company within 10 days, following the receipt of written notice from the Company, that such use has ceased or that the violation has been corrected. Failure of the Customer to discontinue such use or to correct the violation and to give the required written confirmation to the Telephone Company within the time stated above shall result in suspension of the Customer's service until such time as the Customer complies with the provisions of this tariff.

6. Definitions

Accessories

The term "Accessories" denotes devices which are mechanically attached to, or used with, the facilities furnished by the Telephone Company and which are independent of, and not electrically, acoustically or inductively connected to the communications path of the telecommunications system.

Acoustic Connection

The term "Acoustic Connection" denotes a connection made by sound and involved no physical connection of the electrical conductors in the communications path.