

P-999/CI-92-992 ORDER AFTER RECONSIDERATION

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Don Storm  
Tom Burton  
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Chair  
Commissioner  
Commissioner  
Commissioner  
Commissioner

In the Matter of a Commission  
Initiated Investigation into the  
Provision of Custom Local Area  
Signaling Services in Minnesota

ISSUE DATE: December 3, 1993

DOCKET NO. P-999/CI-92-992

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**PROCEDURAL HISTORY**

**I. Proceedings to Date**

On June 17, 1993 the Commission issued its ORDER ESTABLISHING CONDITIONS FOR THE PROVISION OF CUSTOM LOCAL AREA SIGNALING SERVICES. That Order authorized Minnesota telephone companies to offer Custom Local Area Signaling Services, popularly known as CLASS services, subject to detailed conditions.

During the 20 day period for requesting further administrative review,<sup>1</sup> the following parties filed petitions for reconsideration or clarification: the Department of Public Service (the Department); the Residential Utilities Division of the Office of the Attorney General (the RUD-OAG); the Minnesota Telephone Association (the MTA); and U S West Communications, Inc. (U S West). AT&T Communications of the Midwest, Inc. (AT&T) did not file a petition, but did file an answer to the RUD-OAG's petition.

The petitions for reconsideration and clarification came before the Commission on September 14, 1993. The Commission heard oral argument from all parties and deliberated on all issues.

On October 19, 1993 the Commission decided to reopen deliberations on issues relating to per-call business blocking. At the same time the Commission took official notice of a July 8, 1993 stipulation filed with the New Jersey Board of Regulatory Commissioners proposing that per-call blocking be permitted in exchanges or portions of exchanges in which Anonymous Call Rejection was also available.<sup>2</sup> On October 20 the

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<sup>1</sup> Minn. Rules, part 7830.4100.

<sup>2</sup> New Jersey Coalition for Battered Women, et al. v. New Jersey Bell, Docket No. T092070699. The New Jersey Commission

Commission issued a notice informing all parties of these actions, scheduling redeliberations for November 2, and inviting all parties to present oral comments on that date on the feasibility, timing, and costs of permitting per-call business blocking in conjunction with Anonymous Call Rejection. On October 22, 1993 the Commission issued a second notice rescheduling redeliberations to November 9.

On November 9, 1993 the Commission redeliberated on all issues relating to per-call business blocking.

Having examined the entire record herein, and having heard the arguments of the parties, the Commission makes the following findings, conclusions, and order.

### **FINDINGS AND CONCLUSIONS**

#### **II. The Original Order**

In its June 17 Order the Commission found that there were no legal barriers to offering CLASS services in Minnesota. The Commission found that the benefits of CLASS services outweighed their drawbacks and that CLASS services were in the public interest, subject to regulatory safeguards to protect vulnerable persons and maximize consumer choice. The Commission found that the proper regulatory classification for CLASS services was noncompetitive. Minn. Stat. § 237.59 (1992).

The Order set detailed conditions on the provision of CLASS services, to serve the following goals: to promote public understanding of CLASS services; to prevent improper use of information obtained through CLASS services; to ensure that appropriate distinctions between business and residential customers were maintained; and to develop a solid base of information on the performance of CLASS services in Minnesota. The most significant conditions imposed in the Order are discussed below.

The Order required that line blocking be available to all residential customers at all times; companies were required to provide it at no charge for an initial 90-day period and for a one-time cost-based fee thereafter. The Order prohibited business line blocking in the absence of demonstrated need. It limited per-call business blocking to customers who specifically requested the service. It required a fee each time the service was used.

The Order also required companies to conduct public education campaigns before providing the service; to notify law enforcement

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adopted the stipulation on October 26, 1993.

agencies well in advance; to file tariffs detailing their security measures for protecting information stored in CLASS data bases; and to file annual reports describing service availability, market penetration, blocking usage, and service revenues. The Order also prohibited the sale of data collected through Caller ID or other CLASS services.

### **III. The Relief Requested**

#### **A. The Department of Public Service**

The Department claimed the Commission should make the following changes in the June 17 Order:

- (1) find that CLASS services are emergingly competitive;
- (2) require companies to make residential line blocking available at no charge at all times;
- (3) adjust the deadlines for the companies' and the Department's annual CLASS services reports;
- (4) require all companies capable of offering Call Trace to do so; require tariff filings detailing companies' Call Trace procedures; find that customer use of Call Trace constitutes consent to release information to law enforcement agencies; require Call Trace to be priced on a per-use instead of per-line basis;
- (5) require companies to provide per-call unblocking on all blocked lines and require a different activation code for that service than for per-call blocking;
- (6) prohibit Anonymous Call Rejection until per-call unblocking on all blocked lines has been available for one year;
- (7) tighten restrictions on the transmission of CLASS data between companies and local exchanges.

#### **B. The Residential Utilities Division of the Office of the Attorney General**

The RUD-OAG claimed the Commission should make the following changes in the Order:

- (1) require companies to install residential line blocking at no charge the first time each customer requests it, or in the alternative, waive all blocking installation fees for one year from the date CLASS services are introduced;
- (2) require companies to install line blocking for residential customers with unlisted or unpublished numbers, unless they have made an affirmative choice for no blocking;
- (3) require companies to file CLASS services proposals at least four to six months before they intend to begin offering CLASS services;
- (4) require all companies capable of offering Call Trace to do so; require tariff filings detailing companies' Call Trace procedures; require Call Trace to be priced on a per-use instead of per-line basis; limit per-call fees to 25 cents, with companies encouraged to waive fees in appropriate cases;
- (5) require companies to provide per-call unblocking on all blocked lines and require a different activation code for that service than for per-call blocking;
- (6) prohibit Anonymous Call Rejection unless per-call unblocking is available on all blocked lines;
- (7) tighten restrictions on the transmission of CLASS data between companies and local exchanges.

**C. The Minnesota Telephone Association**

The MTA asked the Commission to make the following changes in the CLASS services Order:

- (1) allow companies other than U S West to limit line blocking to customers with a demonstrated need;
- (2) allow per-call blocking to business customers at no charge;
- (3) find that CLASS services are emergingly competitive.

**D. U S West Communications, Inc.**

U S WEST asked the Commission to take the following action on reconsideration:

- (1) allow per-call blocking to business customers at no charge, or in the alternative, waive the Order's per-call business blocking provisions for individual companies upon a showing of need;
- (2) find that CLASS services are emergingly competitive.

**E. AT&T Communications of the Midwest, Inc.**

A&T did not request reconsideration of the Commission's Order. The Company did, however, file comments opposing RUD-OAG's proposal to make line blocking the default option for residential customers with unlisted or unpublished telephone numbers. The Company also opposed RUD-OAG's proposed language to tighten restrictions on transferring CLASS-generated data between companies and local exchanges.

**IV. Commission Action**

**A. Summary of Commission Action**

The Commission has carefully considered the arguments of all parties and reexamined its June 17 Order in light of them. The Commission concludes it should take the following actions on reconsideration: (1) reconsider its original decisions on per-call business blocking; (2) grant the Department's request to modify the annual reporting deadlines; (3) require all companies offering CLASS services to offer Call Trace, unless they lack the technical capacity to do so; (4) require companies to provide per-call unblocking on blocked lines where technically feasible and prohibit Anonymous Call Rejection where per-call unblocking is not technically feasible; (5) clarify that all local exchanges and telephone companies operating in this state must honor blocking decisions made by Minnesota customers; (6) clarify Order language about the nature and regulatory classification of CLASS services.

In all other respects, the Commission affirms the decisions in the June 17 Order. Determinations on individual issues are explained below.

**B. Business Blocking**

**1. The Order and the Parties' Positions**

**a. Initial Filings**

The June 17 Order gave residential customers unconditional access to per-line and per-call blocking. It restricted business blocking by limiting line blocking to customers with demonstrated need and limiting per-call blocking to customers who affirmatively requested it and paid a per-call fee.

U S West sought reconsideration on grounds that the business blocking requirements of the June 17 Order would be expensive to implement and would delay that company's introduction of CLASS services by several months. The MTA sought reconsideration on grounds that the business blocking requirements created the appearance of hostility to business interests and that liberal residential blocking policies offset any advantage that might otherwise result from restricting business blocking. The Department favored making per-call blocking available to business customers at no charge. In the alternative, the Department favored granting waivers to companies unable to comply with the business blocking requirements of the June 17 Order.

**b. Comments at Redeliberation**

At the Commission's November 9, 1993 redeliberation, all parties were granted oral argument. The scope of redeliberation was limited to per-call business blocking issues.

The Department proposed that the Commission permit per-call business blocking under the following conditions: (1) Anonymous Call Rejection and per-call unblocking of blocked lines would be available to every customer; (2) per-call blocking and per-call unblocking would be activated by different codes; (3) compliance with (1) and (2) would be deferred upon a clear showing of prohibitive costs. The Department also recommended that the Commission convene a study group to examine telemarketing issues.

The RUD-OAG proposed that the Commission allow companies to choose one of the following approaches to per-call business blocking: (1) provide per-call blocking only upon a showing of need; (2) provide per-call blocking for a per-use fee; (3) provide per-call blocking but mark all business calls, blocked and unblocked, with a special code, and offer Anonymous Call Rejection and per-call unblocking to all customers; (4) provide per-call blocking and offer name and number identification, Anonymous Call Rejection, and per-call unblocking to all customers.

The Minnesota Telephone Association generally supported linking per-call business blocking with Anonymous Call Rejection and per-call unblocking. The Association urged that waivers be granted, however, in cases where the costs of providing these services would be prohibitive.

The Minnesota Business Utilities Users Council supported the Department's and the RUD-OAG's approaches, stating the Council's main concern was ensuring access to per-call blocking by business customers.

U S WEST supported linking per-call business blocking with Anonymous Call Rejection and per-call unblocking. The Company stated this approach would involve less expense, delay, and potential for errors than the original decision.

The Minnesota Coalition for Battered Women emphasized the need for companies to consult with battered women's advocates in designing educational materials explaining CLASS services.

## **2. Commission Action**

The Commission authorized the introduction of CLASS services, of which Caller ID is the centerpiece, because it found their benefits outweighed their drawbacks. Their chief benefit is to give people more control over their telephone by providing more information about incoming calls and more options for dealing with them. CLASS services have the potential to become effective personal control/time management tools for telephone subscribers. All forms of blocking work against this potential. All forms of blocking reduce the amount of information and the range of choices available to called parties. All forms of blocking reduce the immediate value of Caller ID and impair the ability of the marketplace to shape the future role of this technology.

The Commission nevertheless adopted liberal residential blocking policies, mainly to protect the privacy of the home. Since access to a home telephone number carries with it the ability to invade the privacy of that home, the Commission found that individuals can have a strong interest in restricting access to their telephone numbers and that this interest takes priority over the convenience offered by Caller ID.

The Commission drew a sharp distinction between the interests of individuals and businesses in restricting access to their telephone numbers, mainly because the privacy of the home is rarely compromised by the disclosure of business numbers. The Commission also noted that business calls are often unwelcome intrusions on home life, as evidenced by legislative efforts to control telemarketing. Finally, the Commission found that limiting business blocking can generally enhance the value of Caller ID by reducing the number of calls subscribers have to answer "just in case."

The Commission continues to find this line of reasoning persuasive and continues to believe business blocking should be discouraged. As discussed at length in the June 17 Order, the Commission does not recognize any general right for calling parties to withhold their identities from the persons they are calling. The status quo is an accident of technology, not the result of a conscious policy decision. As technology evolves and permits earlier and more complete disclosure about incoming calls, consumers should have the benefit of that disclosure, unless there are strong public policy reasons for withholding it. Respect for individual decisions about how best to preserve the privacy of one's home is a strong public policy reason. There is no strong public policy basis for across-the-board access to unlimited blocking for business customers.

The Commission will therefore reaffirm its original decision requiring a showing of need for per-line business blocking. As before, need will be assumed on the part of law enforcement agencies, shelters for battered persons, and government agencies engaged in undercover operations. Other customers can demonstrate need under criteria set forth in Commission-approved company tariffs. Disputes about the need for blocking will be resolved by the Commission. Once need has been demonstrated (or assumed), blocking will be provided free of charge.

The Commission will, however, rethink its original decision to limit per-call blocking to businesses specifically requesting it and paying a per-call fee. U S West contends these restrictions cannot be implemented without significant expense and delay. The Commission respects the Company's desire to introduce CLASS services promptly and cost-effectively, especially given the Legislature's imposition of a January 1995 deadline for the availability of CLASS services in the metropolitan area. The Commission also respects the argument, presented in full by the Minnesota Business Utilities Users Council, that there is genuine social value in ensuring that certain businesses (such as law firms and medical offices) are able to block the transmission of originating information on sensitive calls. Finally, the Commission recognizes that businesses have a need and a right to communicate with the public and that their ability to set the terms of that communication should not be unreasonably restricted.

The Commission believes the best way to balance consumers' interests in protecting their homes from commercial intrusions and business' interests in communicating with the public is to maximize the amount of information and the range of choices available to consumers for every call. The tools for doing this are free Anonymous Call Rejection, free per-call unblocking, and an educated public.

Using Anonymous Call Rejection will effectively end unwanted anonymous calls, whether originating from business or residential phones. Customers with Anonymous Call Rejection will receive no blocked calls, business or residential. Callers attempting to reach them while blocking will be informed by recording that the called party has chosen to reject blocked calls and the call will not be completed. The caller can then choose to unblock, on the chance the called party will answer an unblocked call, or choose not to make the call. In either case, both parties will be operating with maximum information and autonomy.

The Commission is convinced that giving the customer control over how he or she handles blocked calls, together with the amount of information and the range of choices necessary to make that control meaningful, is the soundest public policy. Companies offering CLASS services will therefore be required to offer per-call business blocking, Anonymous Call Rejection, and per-call unblocking of blocked lines without separate charge.

A remaining issue is that switch and software capabilities vary from company to company. For some companies, full and immediate compliance with the requirements set forth above may be technically impossible or prohibitively expensive. The Commission will require companies in this situation to include in their applications to provide CLASS services a detailed explanation of their inability to comply and a proposed time frame for full compliance. These filings will be examined individually by the Commission.

### **C. Reporting Deadlines**

The June 17 Order requires all companies providing CLASS services to file annual reports for three years and requires the Department to file an annual analysis of those reports, together with any recommendations it makes on the basis of that analysis. For purposes of administrative convenience, the Department asked the Commission to change the deadlines for the companies' reports to coincide with the deadlines for their annual reports and to adjust the Department's deadline accordingly. The Commission will do so.

### **D. Call Trace**

Both the RUD-OAG and the Department emphasized the public benefits provided by CLASS Call Trace and urged the Commission to require all companies with the technical capacity to offer the service to do so. The Commission shares the conviction of these agencies that Call Trace will be a valuable tool for combatting threatening or harassing telephone calls. It offers more convenience, lower costs, more privacy, and greater accuracy than many forms of traditional call tracing technology. To require all companies capable of offering the service to do so, however, would be beyond the scope of this proceeding. The Commission will, however, require all companies offering CLASS services to offer Call Trace, unless they lack the technical capacity to do so. The Commission agrees with the RUD-OAG and the Department that companies should file tariffs detailing proposed Call Trace procedures, including proposed procedures for handling and disclosing originating information collected by activation of the service.

The Commission will not address the rate issue raised by the RUD-OAG, since the record does not contain detailed cost data and the parties have not fully analyzed and briefed the issue. Cost issues can best be resolved when proposed prices are filed. For similar reasons, the Commission will not address the issue the Department raised in regard to customer consent to disclosure of originating information captured by Call Trace technology.

### **E. Per-Call Unblocking and Anonymous Call Rejection**

The Department and the RUD-OAG contended all companies offering CLASS services should make per-call unblocking available on all blocked lines and should establish a different activation code

for per-call unblocking than for per-call blocking. Many CLASS software programs do not provide per-call unblocking or provide it only with the same activation code used for per-call blocking. In the alternative, the RUD-OAG recommended prohibiting the provision of Anonymous Call Rejection, a service which prevents the completion of blocked calls, unless per-call unblocking is universally available with an activation code used for no other service. The Department recommended prohibiting Anonymous Call Rejection until per-call unblocking, with an exclusive activation code, had been available for one year.

The Commission agrees that providing Anonymous Call Rejection without per-call unblocking would contravene the public interest. One of the Commission's goals in authorizing CLASS services is to expand the choices open to consumers in their use of the telephone. Maximum consumer choice requires that people be free to reject blocked calls and free to block and unblock outgoing calls at will. Although per-call blocking goes a long way toward achieving this goal, it is not sufficient. Some subscribers have a strong need or desire to keep their telephone numbers private. These subscribers should not be forced to choose between routinely blocking transmission of their telephone numbers and being able to reach any telephone on the network. They should be able to weigh the importance of reaching a party who rejects blocked calls and allow transmission of originating information if they believe the benefits exceed the risks. This is especially true of persons with compelling reasons for choosing line blocking, such as persons who have experienced domestic violence.

The Commission will therefore prohibit the provision of Anonymous Call Rejection unless and until per-call unblocking is available on all blocked lines. It will require the provision of per-call unblocking by all companies with the technical capability to do so. It will require companies that do not provide per-call unblocking to file explanations of their failure to do so. To prevent customer confusion, the Commission will require that per-call unblocking be activated by a different code than per-call blocking, where the technical capability is present.

The Commission will not require that per-call unblocking be available for at least a year before Anonymous Call Rejection is offered. The Commission believes subscribers using either of these two services will master basic blocking/unblocking options in less than one year.

#### **F. Inter-Company and Inter-Exchange Transmission of CLASS Data**

The RUD-OAG and the Department expressed concern about controlling the transmission of originating information, especially blocked originating information, between companies and exchanges within the state. Both parties suggested language for dealing with the issue, as did U S WEST.

The Commission has fewer concerns in this regard. Every telephone company in the state is bound by the terms of the June 17 Order and the terms of individual tariffs approved under it. The Order prohibits the sale of data collected through CLASS technology and generally protects its confidentiality. Furthermore, the language proposed by the RUD-OAG and the Department may be read to prohibit longstanding data exchange practices necessary for billing and efficient operation of the network. The initial language proposed by U S West clarifies the seriousness with which the Commission views companies' obligations to honor blocking choices, without raising other concerns. The Commission will therefore use that clarifying language and require that each originating company will be responsible for educating its own customers on CLASS services and blocking options. Terminating companies must honor blocking options that are delivered to their networks.

### **G. CLASS Services' Regulatory Classification**

The Department, U S West, and the MTA asked the Commission to reconsider its decision that CLASS services are noncompetitive under Minn. Stat. § 237.59 (1992). They restated their original arguments, which the Commission has carefully reexamined and again rejects.

The Commission will, however, clarify that CLASS services are not basic local service, as some readings of the June 17 Order might suggest. The Commission will substitute the following for the original paragraph describing the relationship between CLASS services and local service: The Commission is particularly comfortable with treating CLASS services as noncompetitive, since in reality some of the services are technical improvements on existing custom calling features. CLASS services are inherent to the operation of the local network. Their purpose is to make local service more responsive to contemporary needs for greater control over incoming calls.

### **H. Residential Line Blocking**

#### **1. MTA's Request**

The MTA urged the Commission to allow non-U S West companies to limit residential line blocking to persons who have demonstrated need. The MTA claimed the original Order placed undue emphasis on the privacy needs of U S West customers, who are predominantly urban, and argued the predominantly rural customers of independent companies may well have different needs. The MTA also argued allowing non-U S West companies to offer different blocking options would provide a factual basis for comparing the effects of different approaches to line blocking.

The Commission disagrees. The blocking decisions of the June 17 Order were based on careful balancing of the privacy and information needs of all residential customers. The Commission determined residential customers should have maximum control over

how CLASS services affect them and should have unlimited access to per-line and per-call blocking. To the extent the privacy needs of rural customers differ from the privacy needs of urban customers, rural customers will make different blocking choices. The Commission will not make those choices for them. Similarly, since the Commission believes sound public policy requires that line blocking be available to all residential customers, the Commission will not limit the blocking choices available to some customers to establish a data base for comparing different blocking policies.

## **2. Fee Issues**

Both the Department and the RUD-OAG requested reconsideration of the Commission's decision to allow companies to charge a one-time cost-based fee for installing line blocking after an initial 90-day period. The Department urged that line blocking be available free of charge at all times. The RUD-OAG urged that no customer be charged the first time he or she has line blocking installed. In the alternative, the RUD-OAG recommended prohibiting charges for installing blocking during the first year a company offers CLASS services.

The Commission continues to consider it reasonable to allow companies to charge a one-time cost-based installation fee to customers who request line blocking after an initial period of at least 90 days. The costs of installing line blocking have to be allocated to and borne by someone. While it is reasonable to treat initial line blocking costs as system-wide start-up costs, it is equally reasonable to assign these costs to the cost-causer once the system is operational. The Commission believes the 90-day cut-off point adopted in the June 17 Order is a reasonable point at which to allow companies to transfer responsibility for these costs to the cost-causer.

### **I. Advance Notice of CLASS Service Offerings**

The RUD-OAG asked the Commission to require companies to file proposals to offer CLASS services four to six months before they intend to offer them, to ensure adequate time for regulatory review. The Commission considers this unnecessary. The June 17 Order prohibits companies from offering CLASS services until their applications have been approved. This requirement adequately protects the public interest.

### **J. Blocking Requirements for Customers with Unlisted or Unpublished Numbers**

The RUD-OAG asked the Commission to require companies to install line blocking for customers with unlisted or unpublished numbers unless these customers request different blocking options. The Commission believes these customers should make their own choices. The Commission is confident that the Commission-approved customer education programs conducted by the companies

will be effective and that these privacy-conscious customers will respond and choose the blocking options best suited to their needs.

**K. Reconsideration Otherwise Denied**

Having reexamined the entire record herein and having heard the arguments of all parties, the Commission denies reconsideration and affirms its original Order on all issues not specifically reconsidered herein.

**ORDER**

1. All Companies offering Caller ID shall implement the per-call business blocking, Anonymous Call Rejection, and per-call unblocking requirements set forth in the text of this Order.
2. Companies proposing to offer CLASS services that believe they cannot comply with the per-call business blocking, Anonymous Call Rejection, and per-call unblocking requirements of this Order shall file a detailed explanation of their inability to comply and a proposed time frame for full compliance.
3. No company may offer Anonymous Call Rejection service unless it offers per-call unblocking on all blocked lines.
4. All companies with the technical capability to do so shall offer per-call unblocking on all blocked lines, activated by a code different from the code which activates per-call blocking. All companies filing applications to provide CLASS services shall describe all unblocking options they propose to offer, including the codes activating unblocking. They shall explain in detail any inability to comply with the requirements of the preceding sentence.
5. All companies offering CLASS services shall offer Call Trace service unless they lack the technical capability to do so and shall file tariffs detailing their proposed procedures for handling and disclosing information collected by activation of the service.
6. Each originating company shall be responsible for educating its own customers on CLASS services and blocking options. Terminating companies must honor blocking options that are delivered to their networks.
7. The deadlines for the annual reports required under paragraph 6 of the June 17 Order shall be changed to May 1 for companies' reports and July 1 for the Department's report.

8. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar  
Executive Secretary

(S E A L)

DISSENTING OPINION

Commissioner Knaak, dissenting.

I must respectfully dissent, in part, from the majority opinion. This Commission took an important, if tentative, step on June 17 in its Order when it stated:

The Commission sees no sound policy basis for treating as the norm the practice of placing calls without simultaneously disclosing one's identity. Determining identities is an initial step in any two-way communication; prompt disclosure of the calling party's identity will generally benefit both parties.

In addition in this Order the Commission stated:

CLASS services have the potential to become effective personal control/time management tools for telephone subscribers. All forms of blocking work against this potential. All forms of blocking reduce the amount of information and the range of choices available to called parties. All forms of blocking reduce the immediate value of Caller ID and impair the ability of the marketplace to shape the future role of this technology.

In the context of telephone service, I would put it even more bluntly: barring exceptional circumstances, all telephone calls made to residential telephones must provide for the identity and telephone number of the caller. This, I submit, given the available technology, is the only appropriate statement of general policy on the matter that fits on all squares with what I believe are clear constitutional and cultural directives requiring us to hold pre-eminent the privacy of our citizens to the peaceful use and enjoyment of their homes.

Our pre-telephone state and federal constitutions both jealously guarded the homestead from physical intrusions and inconveniences

that had routinely disrupted life in some areas before the revolution. An evolving body of law more clearly defining our individual constitutional right to privacy has emerged since then, which stands out as a uniquely American contribution to modern jurisprudence and society.

I doubt that any self-respecting adults in our community would consider trespassing into a neighbor's (much less a stranger's) home without permission or would fail to recognize the right of a homeowner in such a situation to call the police. Moreover, I doubt any such adults would refuse to respond to a question about their name after they have knocked on somebody's door. The well-known stereotype of the vacuum cleaner salesman barging through a door to throw dirt on the floor also offends these same sensibilities.

Yet this rude and invasive behavior, we are told, is acceptable behavior in the context of a telephone call. There's no reason to accept this argument. Public policy in Minnesota has long protected the sanctity of the home. The legislature expressed this policy in the context of telephone service when it enacted Minn. Stat. §§ 325E.26 to 325E.31, which place strict limits on the use of automatic dialing-announcing devices. In upholding the constitutionality of this statute, the Minnesota Supreme Court addressed the uniquely invasive nature of a phone call, stating in relevant part:

The telephone is unique in its capacity to bring those outside the home into the home for direct verbal interchange--in short, the residential telephone is uniquely intrusive. The caller, who can convey messages which very young children can understand, is able to enter the home for expressive purposes without contending with such barriers as time or distance, doors or fences. We do not take this verbal presence lightly . . .

State of Minnesota v/ Casino Marketing Group, Inc., 491 N.W.2d882, 886 (1992).

The Court went on to emphasize the inadequacy of current technology to protect individuals from this invasion, stating in response to the claim that the ability to hang up would suffice:

Although it is true that the subscriber can elect not to listen to the entire . . . message, Judge Douglas' "captive audience" observation is nevertheless appropriate here because the subscriber has been forced to answer the telephone and receive at least part of the message before he or she can hang up on the unsolicited call.

Caller I.D. is a technological breakthrough for those who wish to regain control over access to their homes by way of the telephone--control that was, in the words of the majority, lost through "an accident of technology, not as a result of a conscious policy decision." Caller I.D. will simply provide those receiving calls with the same information their callers already possess, namely the other party's name and telephone number. This information will enable consumers to make informed choices on whether and when to answer the phone. It will allow consumers to prioritize calls, avoid interruption at the dinner hour or other private family moments and elude the intimidating, harassing or obscene calls that break the tranquility of a quiet evening and evoke fear in the innocent. Moreover, the mere presence of Caller I.D. should discourage abusive calls by eliminating the guarantee of anonymity on which these calls depend.

The benefits of Caller I.D. are not limited to the issue of privacy. Caller I.D. can help hearing- and mobility-impaired persons who may use the record of missed calls created by Caller I.D. when unable to respond in time to the ring or flashing light of the phone. Caller I.D. can also benefit individuals placing emergency calls who may not be able to communicate their identity or whereabouts.

The role of Caller I.D. in emergency calls can be critical, even where 911 is universally available. Vista Telephone Company indicated that in Rochester, New York, for example, more than 200,000 emergency calls were placed each year to non-911 numbers. Calls of this nature may be to poison control centers, hospitals, doctors, friends or relatives. Revelation of the caller's name and number through Caller I.D. may save the lives of these callers if the emergency prevents them from communicating this information verbally.

To the extent the Commission has permitted Caller I.D. to be used in Minnesota, it has struck a blow for privacy and freedom from fear.

Here, however, is where we part company. The majority has decided that companies must offer per call and line blocking to protect whatever interest callers may have in remaining anonymous. This, in my judgment, utterly defeats the purpose of Caller I.D. The majority recognizes this basic fact in its opinion, but then appears to ignore it. I, however, am not willing to ignore it. The abusive caller that now masks his identity from his late-night victim would still do so. This type of cowardly behavior should not be the cornerstone of any public policy--much less one affecting use of technology so pervasive in daily life.

No good reason exists to require blocking on a routine basis. As a woman, I am keenly sensitive to the issues raised in the hearings by battered women's advocates, but believe those concerns are both misplaced and far outweighed by the positive

benefit of exposure of the names and numbers of callers who are themselves abusers. I would agree that some exceptions, on a case-by-case basis, could be made for line blocking in instances where there is some possibility of physical endangerment in shelters.

I find nothing in the record that compels me to accept the arguments of law enforcement for automatic line blocking. They too should be required to justify their actions on a case-by-case basis before a court or magistrate and articulate some rational reason before being permitted to receive blocking.

The case against blocking on commercial phone lines, particularly where the recipient of the call is a residential phone, is most compelling of all. No reason exists to insist that commercial speech via telephone be permitted to intrude into private homes without the consent of the homeowner. I have no doubt some pressure was brought to bear to change the Commission's viewpoint on this matter, and it should have been zealously resisted. To the extent we have failed to resist this pressure, we have done a great disservice to the individual citizens of Minnesota.

To add insult to injury, the Order is crafted in a manner that does not require commercial phone users to pay a truly fair share for their use of the service. The residential ratepayer will eventually be forced to shoulder the financial burden of this masked commercial invasion of their homes. If this were widely known, I suspect the result would be public outrage.

In summary, I would say the Commission is unanimous in its view of the desirability of and necessity for Caller I.D. The Commission has erred, however, in concluding that an apparent need exists for widespread blocking. Moreover, blocking substantially "un-does" the major benefit of Caller I.D.: a fuller measure of control of one's own home and privacy. While allowance for anonymous call rejection does mitigate some expected abuses, it is apparent it will do so too slowly under the Order and will also add further complication and significant expense. By allowing Caller I.D. only, as a new service, we would be providing the greatest benefit in the most cost efficient manner possible to the ratepayers of Minnesota.

Signed \_\_\_\_\_  
Dee Knaak  
Commissioner

Date: \_\_\_\_\_