



PUBLIC NOTICE

Federal Communications Commission
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CONSUMER AND GOVERNMENTAL AFFAIRS BUREAU SEEKS COMMENT ON PETITION FOR EXPEDITED DECLARATORY RULING FILED BY EDISON ELECTRIC INSTITUTE AND AMERICAN GAS ASSOCIATION

CG Docket No. 02-278

Comment Date: March 26, 2015

Reply Comment Date: April 10, 2015

On February 12, 2014, Edison Electric Institute (EEI) and American Gas Association (AGA) filed a petition for expedited declaratory ruling requesting that the Commission confirm, under the Telephone Consumer Protection Act (TCPA),¹ that providing a telephone number to an energy utility constitutes “prior express consent” to receive, at that number, non-telemarketing, informational calls related to the customer’s utility service, which are placed using an automatic telephone dialing system (“autodialer”) or an artificial or prerecorded voice.²

According to EEI³ and AGA,⁴ their members often need to contact their customers, for example, to: provide notification about planned or unplanned service outages; provide updates about outages or service restoration; ask for confirmation of service restoration or information about the lack of service; provide notification of meter work, tree-trimming, or other field work; or warn about payment or other

¹ The TCPA is codified as 47 U.S.C. § 227. The Commission’s implementing rules are codified as 47 C.F.R. § 64.1200. In relevant part, the TCPA prohibits any person within the United States from making “any call (other than a call made for emergency purposes or made with the prior express consent of the called party) using any automatic telephone dialing system or artificial or prerecorded voice . . . to any telephone number assigned to a paging service, cellular telephone service . . . or any service for which the called party is charged for the call.” 47 U.S.C. § 227(b)(1).

² *Petition for Expedited Declaratory Ruling*, CG Docket No. 02-278, filed by Edison Electric Institute and American Gas Association on February 12, 2015, at 4 (*Petition*).

³ According to EEI, it is the association that represents all U.S. investor-owned electric companies, and its members operate in all 50 states and the District of Columbia, providing electricity for 220 million Americans. *Id.* at 2.

⁴ According to AGA, it represents more than 200 local energy utility companies that deliver natural gas to more than 68 million homes, businesses, and industries throughout the United States, and its members deliver 94 percent of all natural gas provided by the nation’s natural gas utilities. *Id.* at 2.

problems that threaten service curtailment.⁵ With regard to such notifications, EEI and AGA state that their members have long used prerecorded message telephone calls and autodialers to reach their customers about service or other related issues.⁶ As utility customers increasingly have transitioned to using wireless phones, EEI and AGA note that their members also have transitioned to using new technologies for notifying their customers, including using wireless-only technologies, such as text messaging.⁷ Thus, according to EEI and AGA, its member utilities use automated texting technologies to notify customers who have provided wireless numbers with information on service or other related issues.⁸

In light of these developments, EEI and AGA request the Commission clarify that non-telemarketing, informational communications, placed using an autodialer or a prerecorded or artificial voice, to customers about their utility service at the number provided by the customer in connection with establishing or continuing their utility service do not violate the TCPA.⁹ We seek comment on this and any other issues raised in the *Petition*.

Pursuant to sections 1.415 and 1.419 of the Commission's rules, 47 CFR §§ 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS). *See* Electronic Filing of Documents in Rulemaking Proceedings, 63 FR 24121 (1998).

- Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: <http://fjallfoss.fcc.gov/ecfs2/>.
- Paper Filers: Parties who choose to file by paper must file an original and one copy of each filing.
- Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.
- All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th Street, SW, Room TW-A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street, SW, Washington DC 20554.

⁵ *Id.* at 3. EEI and AGA state that some of these notifications are mandated by state regulation, some notifications have been adopted at the urging of regulatory authorities, and other notifications are viewed as critical to providing safe, efficient, and reliable service and meeting their obligations to the communities they serve. *See id.* at 4.

⁶ *Id.* at 4.

⁷ *Id.* at 5.

⁸ *Id.* at 5.

⁹ *Id.* at 12.

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The proceeding this Notice initiates shall be treated as a “permit-but-disclose” proceeding in accordance with the Commission’s *ex parte* rules.¹⁰ Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter’s written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule 1.1206(b). In proceedings governed by rule 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (*e.g.*, .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission’s *ex parte* rules.

FOR FURTHER INFORMATION CONTACT: Christina Clearwater, Consumer and Governmental Affairs Bureau, Federal Communications Commission, (202) 418-1893; Christina.Clearwater@fcc.gov.

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¹⁰ 47 C.F.R. §§ 1.1200 *et seq.*