

NRECA's member cooperatives are small businesses as defined by the U.S. Small Business Administration.

NRECA and its members are intensely interested in the deployment of advanced communications capabilities within the rural communities and areas in which electric cooperatives provide electric service. Over 200 NRECA members provide, or are working towards providing, commercial fixed broadband service today, deploying fiber-based, fixed wireless or combination fiber and fixed wireless networks to fill gaps not met by traditional telecommunications providers. Another 100 or more are exploring the feasibility of deploying broadband. As an ancillary service to their broadband offerings, many cooperatives are beginning to offer interconnected VoIP services or telephony to the rural communities they serve and thus are potentially subject to the Commission's CPNI rules. To assist the substantial efforts of its members, NRECA recently launched its NRECA Broadband Program providing specific enhanced resources to help electric co-ops succeed as telecommunications providers to their rural communities.

II. COMMENTS

NRECA supports the Commission's efforts to revise its CPNI data breach rules to ensure adequate protections for the public. NRECA agrees with the Commission that much has changed since the Commission first adopted CPNI data breach reporting requirements in 2007. Many of the CPNI rule modifications the Commission has proposed are important updates and will advance the goal of protecting consumers. As described below, in certain instances NRECA believes the Commission's proposed CPNI data breach rules should be more targeted to ensure resources are used in the most effective manner possible to protect the security of the public's information.

A. Centralized Reporting

NRECA strongly supports the Commission's proposal to create and maintain a centralized portal for reporting breaches to the Commission and other federal law enforcement agencies.² Although the Commission currently maintains a link to an online reporting facility for data breach notifications, further centralization of the reporting process will streamline notifications and benefit reporting entities. NRECA agrees with those commenters that favor minimizing the number of government points of contact for data breach reporting.³ Consolidation of efforts will promote the ability of both carriers and government to focus resources on maintaining the security of customer information.

B. Reporting and Notification Threshold

NRECA appreciates the Commission's concern that the current definition of breach in its rules does not require disclosure for unintentional CPNI disclosures. The Commission notes that this is at odds with most State data breach notification laws, which do not include an intentionality qualifier for data breach reporting.⁴ NRECA also understands the Commission's interest in receiving notification of certain inadvertent data breaches, as such disclosures may assist the Commission and federal law enforcement in developing best practices to avoid future breaches and otherwise inform future actions to protect against malicious use of inadvertently disclosed data.

At the same time, NRECA agrees with those commenters that believe over-notification will result in "notice fatigue" for consumers.⁵ Studies already indicate that consumers too often

² FNPRM at para. 25.

³ See WTA Comments at 4.

⁴ FNPRM at para. 12

⁵ See NTCA Comments at 5.

take little action when notified of data breaches. For example, the Identity Theft Resource Center (“ITRC”) recently found that after receiving a breach notification only 11% of consumers took advantage of free credit monitoring and less than half of consumers changed passwords on breached accounts.⁶ Over-notification risks creating a general numbing effect for consumers, potentially unintentionally promoting less safe consumer behavior. For that reason, NRECA supports other commenters that call for a harm-based trigger for data breach notifications.

Specifically, the CPNI rules should not require data breach notices to customers, federal law enforcement, or the Commission in instances in which the carrier determines no reasonable likelihood of financial harm has resulted or will result from the breach. This is consistent with state laws and would exempt instances in which a company employee or agent inadvertently obtains CPNI in good faith, but such information is not used improperly or further disclosed. NRECA is concerned that notifying customers of instances from which no financial harm will result will potentially overwhelm consumers, causing more serious data breaches to become lost in the “noise” of multiple notifications. As noted above, there is evidence that notification fatigue is already occurring and expanding the Commission’s CPNI notification requirements to include inadvertent disclosures with no financial harm would likely exacerbate the problem.

NRECA also believes that over-notification risks becoming a resource drag, not only on carriers but on government resources as well. Thus, NRECA agrees with those commenters that support setting a threshold number of impacted customers before notification to the Commission or federal law enforcement is triggered.⁷ In particular, NRECA supports WTA’s suggestion that

⁶ See ITRC, *Data Breach Notice Research*, November 18, 2021 (available online at: <https://www.idtheftcenter.org/wp-content/uploads/2021/12/ITRC-DIG-Works-Data-Breach-Notice-Research-Findings-Nov-18-2021.pdf>).

⁷ See NTCA Comments at 5, WTA Comments at 7.

a threshold of five thousand affected customers strikes a reasonable level for effective use of resources.⁸ Incidents below that level likely do not warrant federal government involvement. Note this threshold would not relieve carriers of any obligation to notify customers or comply with state data breach requirements. But it would preserve limited resources of the Commission and federal law enforcement to focus on more substantial data breaches.

III. CONCLUSION

NRECA supports many of the Commission's proposals to improve CPNI protections for the public. NRECA urges the Commission to refine its CPNI rules consistent with these comments to ensure that any new requirements are effective in protecting the public and making use of carrier and government resources.

Respectfully submitted,
National Rural Electric Cooperative Association

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⁸ See WTA Comments at 7.