

Louisiana Public Service Commission
Do Not Call Program
General Order

Docket Number R-27021 - A "Do Not Call" Listing for Louisiana Residential Telephonic
Subscribers

(Decided at the December 8, 2004 Open Session)
Amends and Supercedes the General Order dated July 10, 2003

I. Preamble

This Proposed General Order is established to develop the rules and regulations necessary to implement the Louisiana "Do Not Call" program established pursuant to R.S. 45:844.11, et seq. for residential telephonic subscribers who do not wish to receive telephonic solicitations.

Act 40 identified as the "Telephone Solicitation Relief Act of 2001" recognizes that becoming a residential telephone subscriber should not undermine or lessen a person's right of privacy and finds that there is a compelling state interest to protect the privacy of such subscribers who wish to avoid unsolicited and unwanted telephone solicitations.

Act 40 passed by the Louisiana Legislature in its 2001 regular session, enacted Chapter 8-H of Title 45 of the Louisiana Revised Statutes of 1950, and is comprised of R.S. 45:844.11 through 844.15 relative telephonic solicitation. The legislation enacted provides for a "Do Not Call" listing of residential telephonic subscribers; for listing procedures; the prohibition of certain acts; for notification; for penalties for violations; and for related matters.

Additionally, the legislation directed the Louisiana Public Service Commission, no later than January 1, 2002, to establish and provide for a database to compile a list of telephone numbers of residential subscribers who object to receiving telephonic solicitations, and to promulgate rules to manage the "Do Not Call Program." Included as part of these regulations the Commission has been specifically tasked with the accomplishment of all of the following:

(1.) Require each telecommunication service provider to notify its residential telephonic subscribers of the opportunity to provide notification to the Commission or its contractor that such subscriber objects to receiving telephonic solicitations. The forms of notification shall include but not be limited to quarterly inserts in or messages on the billing statements mailed to its residential telephonic subscribers and conspicuous publication of the notice in the consumer information pages of the local telephone directories.

(2.) Specify the methods by which each residential telephonic subscriber may give notice to the Commission or its contractor of his objection to receiving such telephonic solicitations or revocation of such notice.

(3.) Specify the length of time for which a notice of objection shall be effective and the effect of a change of telephonic number on such notice.

(4.) Specify the methods by which such objections and revocations shall be collected and added to the database.

(5.) Specify the methods by which any person or entity desiring to make telephonic solicitations shall obtain access to the database as required to avoid calling the telephonic numbers of residential telephonic subscribers included in the data base.

(6.) Specify such other matters relating to the "Do Not Call" program the Commission deems necessary.

In response to this legislation, a notice of proposed rulemaking was published in the Commission's Official Bulletin on August 3, 2001. Comments were received and a technical conference was held on September 27, 2001. Timely written comments were received and were considered, and the proposed General Order was modified by the staff to reflect this input. The Commission met in Open Session on October 10, 2001 to consider adopting the draft regulations and, after discussion, elected to defer consideration of the "Do Not Call" program until November 7, 2001. In its Open Session November 7, 2001, the Commission voted on the following regulations governing the Louisiana "Do Not Call" program. On motion of Commissioner Blossman, seconded by Commissioner Owen, and unanimously adopted, the Commission voted to accept the Staff recommendation and approve the Proposed General Order with the addition of a second paragraph under II.G.6. to be designated as (b) and to read as follows: "For the purposes of this Order, calls constituting political activity shall include calls made by any newspaper or periodical qualified to be the official journal of the state, or any parish, municipality, school board or other political subdivision, as set forth in R.S. 43:140 et seq." Also, the Commission directed the Staff to retain the calling time periods 8:00 a.m. to 8:00 p.m., Monday through Saturday.

Subsequently, a notice of proposed rulemaking was published in the Commission's Official Bulletin on December 20, 2002 under Docket Number R-27021. Docket Number R-27021 was designed to modify the General Order dated November 7, 2001. Timely written comments were received and a technical conference was held. The proposed General Order was modified by the staff to reflect this input. In its Open Session April 23, 2003, the Commission voted on the following regulations governing the Louisiana "Do Not Call" program.

On motion of Commissioner Campbell, seconded by Commissioner Dixon, and unanimously adopted, the Commission voted to accept the Staff recommendation and approve the General Order with the following language to be added:

"For purposes of this Order, in the case of property or services advertised and offered for sale directly by the owner thereof, which advertisement contains the telephone number, such advertisement and offer shall be deemed to be an express request by the owner for inquiries relating to the sale of such property or services. This authorization expires six months after the "express request" is granted."

On motion of Commissioner Campbell, seconded by Commissioner Dixon, with Commissioner Sittig concurring, and Commissioners Blossman and Field voting no, the Commission voted to remove the exemption for newspaper companies, including, but not limited to, any newspaper or periodical qualified to be the official journal of the state, or any parish, municipality, school board or other political subdivision, as set forth in R.S. 43:140 et seq., from making telemarketing calls to the general public from the Do Not Call Order.

Subsequently, in its Open Session June 18, 2003, on a motion of Commissioner Field, seconded by Commissioner Dixon, and unanimously adopted, the Commission voted to reconsider the previous General Order dated May 16, 2003.

On motion of Commissioner Dixon, seconded by Commissioner Field, and unanimously adopted, the Commission voted to amend the General Order dated May 16, 2003, track the Do Not Call legislation, including the recent amendment passed by the Legislature as Act 353 and signed by the Governor on June 1, 2003, that exempts the newspapers from the Do Not Call program.

In Regular Session 2004, the legislature recognized that the federal government had created a National Do Not Call Registry and enacted rules and regulations pertaining to unwanted telephonic solicitations, which rules and regulations preempt any less restrictive state law. The legislature recognized that it can be confusing and cumbersome for citizens intending to register for a state and national "do not call" list as well as businesses desiring to make telephonic solicitations in and to residents of the State of Louisiana for there to exist separate state and national lists. Therefore, the legislature found that adoption of the National Do Not Call Registry combined with the state "do not call" listing will better protect residential telephonic subscribers from unsolicited and unwanted

telephonic solicitations and make it easier and less complex for telephonic solicitors to comply with all applicable rules and regulations.

The Commission considered the matter at the December 8, 2004, Business and Executive Session. Commissioner Campbell moved to defer this item until next month in order to receive additional information, which motion was seconded by Commissioner Blossman.

On substitute motion of Commissioner Field, seconded by Commissioner Sittig, with Commissioners Blossman and Dixon concurring, and Commissioner Campbell dissenting, the Commission voted to accept the Staff recommendation. The Commission directed the Staff to work with the Federal Do Not Call program regarding making the Federal database of registered residential subscribers and the Federal rules the same as the Louisiana registered residential subscribers and the Louisiana rules.

II. Definitions:

- A. "Automatic Dialing and Announcing Devices (ADAD)" means any device or system of devices which is used, whether alone or in conjunction with other equipment, for the purpose of automatically selecting or dialing telephone numbers and disseminating recorded messages to the numbers so selected and dialed.
- B. "Commission" means the Louisiana Public Service Commission.
- C. "Doing business in this state", means conducting a telephonic solicitation either from a location within this state or from a location outside of this state to residential telephonic subscribers residing in this state.
- D. "Private Listing" A non-published private listing is not listed in the alphabetical section of the telephone company's directory or directory assistance records and will not be furnished upon request of the calling party.
- E. "Program Manager" means the Louisiana Public Service Commission, outside vendor or contractor, or other entity in charge of running the "Do Not Call" program in Louisiana.
- F. "Residential telephonic subscriber" means any natural person who has subscribed to residential telephonic service from a telecommunications service provider or any other natural person living or residing with such person.
- G. "Business telephonic subscriber" means any means any natural person, firm, organization, partnership, association, or corporation, doing business in this state, who has subscribed to business telephonic service from a telecommunications service provider.
- H. "Referral" means providing the name of a person that knows you, to a person that you know.
- I. "Telephonic solicitation" means any voice or data communication made by a telephonic solicitor to a residential telephonic subscriber for the purpose of encouraging a sale or rental of or investment in property, consumer goods, or services; or for the purpose of encouraging an extension of credit for property, consumer goods, or services; or for the purpose of obtaining information that will or may be used for the direct solicitation of a sale or rental of or investment in property, consumer goods, or services or an extension of credit for such purposes, or for the solicitation of a contribution to a charitable organization. Although considered telephonic solicitation, exceptions are granted to voice or data communications for the following reasons:
 - 1. In response to an express request of the person called. For purposes of this Order, in the case of property or services advertised and offered to sale directly by the owner or provider thereof, if such advertisement or offer contains the phone number of the owner or provider or its authorized representative, then such advertisement or offer shall be deemed to be an "express request" by the owner or provider for inquiries relating to the sale or purchase of such property or services. This authorization expires six months after the "express request" is granted.
 - 2. Primarily in connection with an existing debt or contract, payment or performance of which has not been completed at the time of such call.

3. To any person with whom the telephonic solicitor has an existing business relationship, or a prior business relationship that was terminated or lapsed within six (6) months of such call, except by a person or business that conducts automobile sales and does not complete the sales presentation during the telephone solicitation and is made in contemplation of the sales presentation being completed at a later face-to-face meeting between the telephonic solicitor and the person contacted and where the contacted person has previously made purchases from the automobile dealership.
4. On behalf of an organization, which has non-profit status under Section 501(c) (3), or (6) of the Internal Revenue Code, unless such organization utilizes the services of a paid professional solicitor, as defined in R.S. 51:1901(6).
5. For the purpose of conducting marketing research, public opinion polling, or similar activities that do not involve telephonic solicitation or selling or obtaining information that will or may be used for telephonic solicitation or selling.
6. Constituting political activity. For the purposes of this Order, calls constituting political activity are defined as calls made for the sole purpose of urging support for or opposition to a political candidate or ballot issue provided that the callers identify themselves; or calls made for the sole purpose of conducting political polls or soliciting the expression of opinions, ideas or votes; or calls made by any newspaper or periodical in the state, which is qualified to be the official journal of the state or any parish, municipality, school board, or other political subdivision, as provided by Chapters 2 and 4 of Title 43 of the Louisiana Revised Statutes of 1950.
7. Without completing or attempting to complete a sale, said sale to be completed only after a face-to face meeting between the telephonic solicitor and the person called at the telephonic solicitor's primary place of business or at another location selected by the purchaser. The call must be the result of a referral of the person called to the telephonic solicitor, or be placed to an individual who is personally known to the telephonic solicitor. If placed as a result of a referral, the telephonic solicitor must provide to the person called the name of the person who made the referral. If the person called does not wish to be called after such initial call, then the telephonic solicitor shall not call that person and shall maintain a list of such persons. This exemption shall not apply if directly following the sale the telephonic solicitor attempts to deliver an item or collect payment from the person called or caused another to do so.
8. For the purpose of follow-up or periodic wellness care when the call is made to the client or patient by the client or patient's optometrist, dentist, chiropractic physician or veterinarian, or an agent thereof.

J. "Telephonic solicitor" means any entity identified by the National Do Not Call Registry as a "Seller," a "Telemarketer," or a "Service Provider" and any natural person, firm, organization, partnership, association, or corporation, doing business in this state, who makes or causes to be made a telephonic solicitation, including but not limited to any communication made by use of automated dialing or recorded message devices. For the purposes of this order:

- a. "Independent Solicitor" means a telephone solicitor who has submitted an application and properly enrolled with the Commission to be provided the Do Not Call Register. Independent Solicitors are allowed to distribute Do Not Call Register with employees of that same firm, organization, partnership, association, or corporation.
- b. "Principal Solicitor" means a telephone solicitor who has submitted an application and properly enrolled with the Commission as such, to be provided

the Do Not Call Register and the authority to enter into agreements to provide access to the Do Not Call Register to dependent solicitors as defined herein. Principal Solicitors are allowed to distribute Do Not Call Register with employees of that same firm, organization, partnership, association, or corporation.

- c. "Dependent Solicitor" means a telephone solicitor, other than an employee of an independent solicitor or principal solicitor, who has entered into an agreement with one and only one principal solicitor, as defined herein, to perform telephone solicitation under the indirect supervision of the principal solicitor.

- K. "Unlisted or semi private listings" means a non-listed listing that is not listed in the alphabetical section of the telephone company's directory, but is maintained on directory assistance records and will be furnished upon the request of a calling party.

- L. "Incumbent Local Exchange Carrier", "Small ILEC", "Competitive Local Exchange Carrier" and "Telecommunications Directory Publisher" shall have the same meaning as defined in Section 101 of the Commission's Regulations for Competition in the Local Telecommunications Market (General Order dated March 15, 1996, as amended).

- M. "Federal Do Not Call Law" shall mean the Telemarketing and Consumer Fraud and Abuse Prevention Act as set forth in 15 U.S.C. 6101 to 6108 and the Telephone Consumer Protection Act of 1991 as set forth in 47 U.S.C. 227, as well as any amendment or reenactment of either of those acts and any rule adopted or issued pursuant to either of those Acts, or any amendment of any such rule.

- N. "National Do Not Call Registry" shall mean the list of consumers maintained by the Federal Trade Commission who have indicated that they do not wish to receive unsolicited or unwanted telephonic solicitations pursuant to the Federal Do Not Call Law.

III. Duties of the Commission:

- A. The Commission shall establish and provide for the operation of a database to compile a list of telephonic numbers of residential telephonic subscribers who object to receiving telephonic solicitations.
- B. The information contained in the database is not open to public inspection or disclosure. The Commission will take all necessary steps to protect the confidentiality of the information in the database.
- C. It shall be the duty of the Commission to have such database in operation no later than January 1, 2002.
- D. The database may be operated by the Commission or by another entity under contract with the Commission subject to all confidentiality requests.
- E. No later than January 1, 2002 the Commission shall promulgate regulations to administer the Louisiana "Do Not Call" program.
- F. The Commission shall also establish and provide for the registration and certification of telephonic solicitors that will be operating in the state of Louisiana.
- G. Upon declaration of a state of emergency by the governor, the commission shall immediately notify telephonic solicitors that an emergency has been declared and that during such state of emergency telephonic solicitation is prohibited.
- H. No later than January 1, 2006, the commission or its contractor shall update its "do not call" listing monthly.

IV. Customer Notification:

- A. Each telecommunication service provider, as determined by the Commission, is required

to notify its residential telephonic subscribers quarterly, in the form of a billing insert or message on the billing statements mailed to the residential telephonic subscribers, of the opportunity to provide notification to the Commission or its contractor, here after referred to as the program manager or “Do Not Call” program manager, that such subscriber objects to receiving telephonic solicitations.

- B. Each telecommunication service provider, as determined by the Commission, is required to notify its business telephonic subscribers quarterly, in the form of a billing insert or message on the billing statements mailed to the business telephonic subscribers, of the existence of the Do Not Call program and program regulation requirements.
- C. Local telephone directories published for use by residential telephone subscribers must include a conspicuous notice in the consumer information pages addressing the Louisiana “Do Not Call” program. This notice must include but not necessarily limited to:
 - 1. Who can make application to the program.
 - 2. The cost of participating in the program.
 - 3. How to obtain an application.
 - 4. How to file a customer complaint.
- D. Applications from interested parties desiring to be included in the “Do Not Call” program are to be sent directly to the “Do Not Call” program manager for handling.
- E. Carriers shall not be limited to the forms of customer notification listed above, and are encouraged to advertise the “Do Not Call” program using other media.
- F. The Louisiana Public Service Commission may also promote public awareness of the list through press releases and public service announcements.

V. Telephonic Solicitation Regulations¹:

A. Terms and Conditions

- 1. Telephonic access lines used for solicitation purposes must do so pursuant to the following terms and conditions. These terms and conditions apply to both exempt and non-exempt telephonic solicitors.
- 2. No calls will be placed on Sunday or Legal Holidays. No calls will be placed between the hours of 8:00 P.M. and 8:00 A.M. Monday through Saturday. (Local time at the called party’s location.)
- 3. During a state of emergency as declared by the governor, no telephonic solicitor shall engage in any form of telephonic solicitation.
- 4. Consent must be given by the called party prior to the initiation of any message. A person may give consent to the call made with ADAD equipment when a live operator introduces the call and states an intent to play a recorded message, or when the ADAD has a feature that allows the person to indicate consent. Any such consent shall apply only to a particular call and shall not constitute prior consent to receive further calls through the use of such ADAD equipment.
- 5. Immediately after the called party answers, the name, the telephone number, and the firm making or paying for the call, including but not limited to the name of the individual or firm on whose behalf the call is made, must be clearly stated.
- 6. If the customer’s response is to be recorded, the customer must be informed of such and his permission granted. Recording of two-way telephone conversations must be in compliance with state and federal regulations.
- 7. At the conclusion of the call, the name and telephone number of the individual or firm making or paying for the call, including but not limited to the name of the individual or firm on whose behalf the call is made, must again be clearly stated.
- 8. The telephone number required to be stated in Subsection (3) above must have someone assigned by the company to answer and provide information regarding the automated message received.
- 9. Operators of ADAD equipment will insure that their equipment will not operate when unattended. The attendant will ensure the equipment operates in compliance with these regulations.

¹ See **Definitions: II (I)** 1-7 above.

10. Where facilities permit, the equipment shall be so programmed or utilized in such a manner as to automatically disconnect a called party's line not later than ten seconds after the called party hangs up.
11. No number will be called in random or sequential fashion. Sequentially placed calls refer to those automatically dialed by successively increasing or decreasing integers, or similar methods.
12. No call will be placed to:
 - a. Hospitals, nursing homes, fire protection agencies, law enforcement agencies, or any provider of emergency services.
 - b. Cellular or mobile telephones or any phone that requires the receiving party to pay a fee for the call.
13. Messages must not contain obscene or profane language.
14. Solicitation calls for the sale of pornographic material is prohibited.
15. Solicitation calls shall not be placed for any unlawful purposes.
16. Connection of customer provided communication systems must meet the company's requirements of the Local Exchange Company as well as Part 68 of the Federal Communications Commission's Rules and Regulations.
17. Telephonic solicitors are prohibited from knowingly using telephone equipment or telecommunications network elements to block or otherwise interfere with caller ID functions on the telephone of a residential telephone subscriber to whom a telephone solicitation is made so that the telephone number of the caller is not displayed on the telephone equipment of the called party. (LSA R.S. 45:844.1-844.3)
18. With the exception of directory assistance and telephone directories sold or distributed by local exchange companies or their affiliates, persons who obtain the "Do Not Call" list are prohibited from selling, sharing, leasing, donating or giving the "Do Not Call" list to anyone not registered as a telephonic solicitor with the Commission; provided that this shall not prohibit a telephonic solicitor from providing the "Do Not Call" list to its employees, or exclusive dependent solicitors that are making telephonic solicitations on behalf of the telephonic solicitor and in compliance with these regulations. Further, any information contained in the "Do Not Call" list shall not inure to the benefit of anyone not registered as a telephonic solicitor with the Commission. This includes, but is not limited to, services and/or lists that provide the suppression and/or "scrubbing" of telephone numbers and/or zip codes of residential telephonic subscribers of the Commission's "Do Not Call" program.
19. A principal solicitor is permitted to share its copy of the Do Not Call Register with its dependent solicitors under the following conditions:
 - a. The principal solicitor submits in its application, and addendums, all the necessary information as required by the Commission regarding its dependent solicitors, including, but not limited to, verification that the dependent solicitors have received a copy and will operate in compliance with the Do Not Call regulations, and exclusively for the benefit of the shared solicitation purposes of the principal solicitor;
 - b. The principal solicitor assumes the responsibility of providing to each of its dependent solicitors the most recent version of the Do Not Call register, and maintains documentation on file verifying delivery;
 - c. The principal solicitor, along with the dependent solicitor, will be liable for any violations of these regulations.

B. Customer Registration in the "Do Not Call" program.

1. Louisiana residential telephonic subscribers may give notice to the Commission or its designated contractor of their objections to receiving such telephonic solicitations or revocation of such notice by means of an application, made via internet, telephone, U.S. mail, or fax.

2. The notice to the Commission must include the customer's first and last name, address, apartment number, city, state, postal zip code when available and telephone numbers for inclusion in the "Do Not Call" file. The form and content of the notice may be revised by the Commission and advertised as appropriate in order to provide customer awareness and provide assistance in registering in the program.
3. Notice, objecting to telephonic solicitations and notice revoking such objection, is to be sent to the Louisiana Public Service Commission or its designated contractor.
4. The length of time for which a notice of objection is to be effective is five years and shall be renewed by the Commission upon receipt of a renewal notice, made via internet, telephone, U.S. mail, or fax.
5. The Commission or its designated contractor shall update its "Do Not Call" list quarterly. The listing shall include the telephonic numbers, but not the names or addresses of residential telephonic subscribers who do not want to receive telephonic solicitations.
6. Customers listed in the program will not incur a "Do Not Call" listing charge.

C. Telephonic Solicitors

1. Telephonic solicitors doing business in this state shall obtain copies of the "Do Not Call" listing by paying a fee to the Commission in an amount not to exceed the costs incurred by the Commission or its contractor in the presentation, production, and distribution of that listing. The Commission shall offer a statewide listing. The determination of the number and definition of areas shall be within the discretion of the Commission. Compliance with the provisions of the National Do Not Call Registry does not preempt registration requirements for the Commission's Do Not Call program.
2. Telephonic solicitors shall register with the Commission, pay a registration fee and provide all necessary documentation as required by the Commission in order to subscribe to or obtain copies of the "Do Not Call" list. The registration fee established by the Commission may be revised by the Commission upon proper notice of such change published in the Commission's Official Bulletin². The registrant shall provide:
 - a. Name, address, telephone number(s), FAX number(s) and e-mail address of the company, partnership, or individual planning to operate in the state.
 - b. Name and address of the registrant's designated agent for service of process located in this state.
 - c. Financial responsibility:
 1. For each independent telephonic solicitor: A surety bond executed for the registrant by a surety authorized to do business in this state for the sum of twenty thousand dollars (\$20,000) to be maintained continuously in full force and effect, in favor of the Public Service Commission to guarantee payment of any administrative penalties assessed pursuant to these regulations and file a copy of such bond with the Commission. The Commission may waive the bond requirement for a telephonic solicitor demonstrating financial responsibility, including by the submission of a letter of credit from an accredited financial institution.
 2. For each principal telephonic solicitor: A surety bond executed for the registrant by a surety authorized to do business in this state for the sum of fifty thousand dollars (\$50,000) to be maintained continuously in full force and effect, in favor of the Public Service Commission to guarantee payment of any

² Rules of Practice and Procedures of the Louisiana Public Service Commission Rule 7 and Rule 19.

administrative penalties assessed pursuant to these regulations of the principal or their registered dependent solicitors, and file a copy of such bond with the Commission. The Commission may waive the bond requirement for a telephonic solicitor demonstrating financial responsibility, including by the submission of a letter of credit from an accredited financial institution.

- d. Registration shall be done in form and structure as provided by the Commission.
- e. Registration fees and list fees:
 1. Each independent telephonic solicitor registration shall be an annual payment of four hundred dollars (\$400.00). The permit issued shall be good for a period of one calendar year beginning January 1st and ending December 31st unless otherwise revoked.
 2. Each principal telephonic solicitor registration shall be an annual payment of eight hundred dollars (\$800.00). The permit issued shall be good for a period of one calendar year beginning January 1st and ending December 31st unless otherwise revoked. In addition to this registration fee:
 - a. A registration fee of \$500.00 (paid in the same calendar year January 1 through December 31st) allows a Principal telephonic solicitor to register up to ten dependent solicitors.
 - b. A registration fee of \$1000.00 (paid in the same calendar year January 1 through December 31st) allows a Principal telephonic solicitor to register up to fifty dependent solicitors.
 - c. A registration fee of \$1500.00 (paid in the same calendar year January 1 through December 31st) allows a Principal telephonic solicitor to register up to one hundred dependent solicitors.
 - d. A registration fee of \$2000.00 (paid in the same calendar year January 1 through December 31st) allows a Principal telephonic solicitor to register more than one hundred dependent solicitors.
 - e. The cost for the "Do Not Call" list is four hundred dollars (\$400.00). Everyone, with the exception of dependent telephonic solicitors, is responsible for the cost associated with the purchase of the list.
 - f. Permits shall be renewed annually as prescribed by the Commission and upon payment of the annual registration fee.
 - g. Permits shall be subject to suspension or revocation by the Commission for violation of the Commission regulations.
3. No telecommunications service provider or other party, in its normal course of business, shall knowingly install or provide service to a person making telephonic solicitations without that person first providing proof to the telephone company or entity providing service of registration with the Public Service Commission. Proof shall consist of a letter of authorization or permit from the Commission. After notice and hearing, if the Louisiana Public Service Commission determines that a telephonic solicitor is operating in the state without authority, the Commission may provide notice to the telecommunication service provider providing service to such telephonic solicitor to immediately take action to deny or restrict such service until such telephonic solicitor registers

with the Commission. The telecommunication service provider must provide notice to the Commission upon completion of its action in accordance with said notice.

4. Any telephonic solicitation made by a telephonic solicitor, registered or unregistered, to a residential telephonic subscriber whose number appears on the Commission's then current "Do Not Call" listing is prohibited, except as authorized by these regulations.
5. Telephonic solicitors will be required to update their telemarketing lists quarterly in accordance with these regulations.
6. A telephone call log must be maintained by the telephonic solicitor for a period of twelve months. Upon request, telephonic solicitor must be able to provide to the Commission the log in either numeric or chronological order, which includes:
 1. Number called
 2. Time called
 3. Date called

D. Program Manager Requirements

1. The program manager, in accordance with these regulations and/or the Request for Proposal (RFP) and contract, if applicable, will be required to create and maintain a database of the telephonic numbers and residential subscribers to be placed on the "Do Not Call" list and telephonic solicitors registered to access the list. Ownership of the database(s) and information obtained in the creation and operation of the "Do Not Call" list shall be had by the Louisiana Public Service Commission.
2. The information required in the residential subscriber "Do Not Call" list database will include, but not necessarily be limited to, the following:
 - a. Name and Address of Applicant
 - b. Telephone Number to be Included on the List
 - c. Date Original Application Received
 - d. Date Registration Published to List
 - e. All Renewal Dates
 - f. Manner in which Application was received.
3. The information required in the Telephonic Solicitor database will include, but not necessarily be limited to, the following:
 - a. Legal Name (and d/b/a(s) if applicable) of Company Registering
 - b. Telephone Number of the Company Registering
 - c. FAX Number of the Company Registering
 - d. Address of the Company Registering
 - e. Name and Address of Company's Registered Agent in Louisiana
 - f. Name and Telephone Number of Representative of Company Applying for Registration
 - g. Date Application Received
 - h. Nature of Business
 - i. Federal Tax ID Number.
4. The program manger will be required to provide access to the "Do Not Call" list database(s) to each principal and independent registered telephonic solicitor on a quarterly basis as set forth below. Applications received by the dates indicated below will be included on that quarter's list. The database(s) will be updated and available for download on the first Monday subsequent to the fifteenth day of each quarter's deadline date. If the fifteenth day of that month is a Monday, then the database(s) will be available for download on that day. Registered telephonic solicitors will have electronic access to the "Do Not Call" list database via e-mail or CD-rom in an amount not to exceed the costs incurred by the Commission or its contractor in the presentation, production, and distribution of that listing. The cost of the listing will be four hundred dollars (\$400.00).

Quarter	Consumer Registration Deadline
January - March	December 1
April - June	March 1
July - September	June 1
October - December	September 1

5. The program manager will also make the database available to each principal and independent subscribing telephonic solicitor, at the solicitor's option, via a printed list. In addition to the annual charge of four hundred dollars (\$400.00), the price to receive this information via printed copy will be in accordance with the fee schedule established in Commission General Order dated May 30, 1996.
6. The program manager will be required, at least once every quarter, to run the "Do Not Call" list database against the U.S. Post Office National Change of Address database or an equivalent database for the purpose of purging those phone numbers that are not current.

E. Enforcement: Violations & Penalties

1. The Commission shall investigate any complaints received concerning violations of these regulations. If, after investigating such complaint, the Commission finds that there has been a violation of these regulations, the Commission, after notice and hearing, shall impose an administrative penalty against the telephonic solicitor or anyone found to be in violation of this Order:
 - a. In an amount not to exceed one thousand five hundred dollars (\$1,500.00) for each call violation against a residential telephonic subscriber or anyone listed in §V(A)(12) under the age of sixty-five.
 - b. In an amount not to exceed three thousand dollars (\$3,000.00) for each call violation against a residential telephonic subscriber or anyone listed in §V(A)(12) at the age of sixty-five or older.
 - c. Any telephonic solicitor not registered with the Commission's "Do Not Call" program, who has been found to be in violation of §V(C)(4), shall be subjected to an administrative penalty not to exceed ten thousand dollars (\$10,000).
 - d. Anyone who has been found to be in violation of §V(A)(18) shall be subjected to an administrative penalty not to exceed ten thousand dollars (\$10,000).
2. In determining the appropriate fine under Section E(1) the Commission may consider mitigating circumstances presented by the Telephonic Solicitor, as well as any other such circumstances deemed appropriate by the Commission.
3. Any telephonic solicitor found by the Commission to be in violation of these regulations, who refused to pay the fine assessed, shall after notice and hearing, be assessed additional cost and reasonable attorney fees related to the collection of the fine.
4. All penalties and fees imposed pursuant to this section shall be made payable to the Louisiana Public Service Commission for the administration of these regulations.
5. Telecommunication service providers are required to fully cooperate with the Louisiana Public Service Commission or the program manager in any investigation of an alleged violation of these regulations.
6. Any telephonic solicitor registered in compliance with R. S. 45:844.16 shall not be liable for violating this Chapter if the telephonic solicitor can demonstrate that the violation is a result of unintended error and that as part of its routine business practice, it meets the following standards:
 - a. The telephonic solicitor has established and implemented written procedures to comply with this Chapter.
 - b. The telephonic solicitor has trained its personnel, and any entity assisting in its compliance, in procedures established pursuant to this Chapter.

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c. The telephonic solicitor has maintained a call log of numbers called for solicitation purposes, in either chronological or numerical order, and records and maintains an internal “do not call” list for those residential numbers that may not be contacted.

d. The telephonic solicitor is registered and uses both state and national registries to prevent telephonic solicitations to any telephone number on any list established or mandated to be used pursuant to this Chapter.

e. The telephonic solicitor uses a process to ensure that it does not sell, rent, lease, purchase, or use and applicable “do not call” database, or any part thereof, for any purpose except in compliance with this Chapter and any state or federal law preventing telephonic solicitations to telephone numbers registered as pertaining to this Chapter.

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F. Investigations and Hearing Procedures

1. Any person may report a violation of the “Do Not Call” Order by fully completing and submitting to the Commission a Complaint Form provided by the Commission for such purpose. The completed form shall provide at least the following information:
 - a. Full name of complaining party.
 - b. Age of the complaining party.
 - c. Address of complaining party.
 - d. Home telephone number.
 - e. Number telemarketer called.
 - f. Name and/or telephone number of the telemarketer
 - g. Any information gathered from the call concerning the soliciting caller.
 - h. A statement by the complaining party giving consent to production of records relating to this call from my telecommunications carriers.
 - i. Approximate date when the most recent no call application was submitted.
 - j. Approximate date of the telephonic solicitation.
2. Upon receipt of a completed Complaint Form, the Commission Staff shall investigate and determine if a citation is warranted.
3. If the Commission Staff determines through its investigation that a citation is warranted, the matter will be docketed, a citation issued, notice of the citation will be published in the Commission’s Official Bulletin, and the matter shall be forwarded to the Administrative Hearings Division and set for hearing.
4. Violations shall be determined based upon a preponderance of the evidence presented.
5. Proceedings involving violations with respect to this order shall be handled in an expedited manner in order to deter additional unauthorized calls from telephonic solicitors.

G. Miscellaneous Provisions

1. On or before January 1, 2006, the commission or its contractor shall establish and maintain a single “do not call” list that shall also include Louisiana consumers on the National Do Not Call Registry..
2. Severability: If a court of competent jurisdiction finds any provision of these regulations to be invalid or unenforceable as to any telephonic solicitation procedures, operations or circumstances, such findings shall not render that provision invalid or unenforceable as to any other telephonic solicitation procedures, operations or circumstances. If feasible, any such offering provision shall be deemed to be modified to be within the limits of enforceability or validity; however, if the procedure, operations or circumstance cannot be so modified, it shall be stricken and all other provisions of these regulations in all other respects shall remain valid and enforceable. In addition, in the event any provision of these regulations is stayed in conjunction with a judicial review of these regulations, the remaining provisions of these regulations shall remain

- valid and enforceable.
3. These regulations shall preempt and supersede any conflicting provision contained in any of the Commission General Orders dated April 5, 2000 and March 30, 1992, November 7, 2001, and May 16, 2003. Provisions in these orders that do not conflict with these regulations shall remain in effect.
 4. Telecommunication service providers and telephonic solicitors operating in Louisiana are also subject to the Rules and Regulations Regarding Telephonic Solicitation within Louisiana as specified in the Commission's General Order dated March 29, 2000. (LSA R.S. 45:844.1-844.3)

This Order shall become effective immediately.

BY ORDER OF THE COMMISSION
BATON ROUGE, LOUISIANA
January 18, 2005

/S/ JACK "JAY" A. BLOSSMAN
DISTRICT I
CHAIRMAN JACK "JAY" A. BLOSSMAN

/S/ IRMA MUSE DIXON
DISTRICT III
VICE CHAIRMAN IRMA MUSE DIXON

/S/ C. DALE SITTIG
DISTRICT IV
COMMISSIONER C. DALE SITTIG

/S/ JAMES M. FIELD
DISTRICT II
COMMISSIONER JAMES M. FIELD

LAWRENCE C. ST. BLANC
SECRETARY

/S/ FOSTER L. CAMPBELL
DISTRICT V
COMMISSIONER FOSTER L. CAMPBELL