

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Commission Advisory and Compliance Division      RESOLUTION T-15833  
Telecommunications Branch                              January 24, 1996

R E S O L U T I O N

RESOLUTION T-15833. GTE CALIFORNIA INCORPORATED (GTEC) (U-1002-C). REQUEST FOR APPROVAL OF CUSTOMER NOTIFICATION AND EDUCATION PLAN (CNEP) IN COMPLIANCE WITH D.92-06-065 AND D.92-11-062 WHICH MUST BE IMPLEMENTED AND MUST THEREAFTER BE SHOWN TO BE EFFECTIVE TO THE COMMISSION'S SATISFACTION BEFORE GTEC CAN OFFER CALLER ID SERVICE OR PASS CALLING PARTY NUMBERS (CPN) TO INTERCONNECTING CARRIERS.

BY ADVICE LETTER 7905, FILED ON NOVEMBER 1, 1995.

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SUMMARY

This resolution authorizes GTEC to implement a CNEP for the passage of CPN and the provision of Caller ID service subject to the conditions imposed in this resolution. GTEC is required to modify the CNEP filed in Advice Letter (AL) No. 7905 in order to create a public education program which focuses on customer privacy and informed consent. As modified and implemented, GTEC's CNEP must meet the Commission's mandate that the disclosure of CPN be the result of informed consent, as ordered in D. 92-06-065 and modified by D. 92-11-062 (44 CPUC 2d 694 and 46 CPUC 482). Through implementation of the modified CNEP, GTEC should initially attain the reasonably achievable customer awareness levels indicated in this resolution, with a target of 100% customer awareness for ongoing education efforts.

BACKGROUND

In 1992 the Commission authorized Pacific Bell (Pacific), GTE California Incorporated (GTEC) and Contel of California, Inc. (Contel) to offer Caller ID service to their customers. In so doing, the Commission took steps to assure that the service, which allows the calling party's telephone number to be displayed to the called party, would be offered consistent with constitutional and statutory rights of privacy of California citizens. The Commission authorized a choice of blocking options, free of charge, for all customers to prevent nonconsensual number disclosure. For customers dissatisfied with their initial assignment of a blocking option, it granted one free change of this blocking option. It also outlined requirements for rigorous CNEPs to inform customers about the passage of CPN and the available blocking options.

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Recognizing, however, that despite its thorough education requirements, some customers would necessarily remain unaware of the message or fail to understand it, the Commission added a per line blocking default safety net. It provided that any customer with a nonpublished or unlisted number and any emergency service organization which failed affirmatively to indicate a blocking choice to its local exchange carrier would automatically be assigned the option of per line blocking with per call enabling.

Under the Commission's decisions, each respondent local exchange carrier is required to file its proposed CNEP with and obtain approval of its CNEP from the Commission before implementing a CNEP. Additionally the Commission's decisions authorize the Commission Advisory and Compliance Division (CACD) to hire a consultant to assist it in evaluating the telephone company proposals. After the approval and subsequent implementation of a CNEP the utility must provide a showing to the Commission, subject to approval by the Commission, indicating compliance with the adopted customer notification and education requirements and providing evidence that all customers have been informed of pending Caller ID service, including the passage of CPN and the available blocking options.

Until recently the utilities have declined to offer Caller ID service, pursuing instead Federal preemption of certain aspects of the Commission's conditions for offering Caller ID service. On June 5, 1995 the FCC issued its interstate Caller ID rules in Common Carrier Docket No. 91-281. The FCC substantially deferred to California and all other states, stating that individual state blocking regimes should apply to interstate calls so long as minimum federal privacy standards are met. However, the FCC preempted California's per line blocking default safety net. This preemption is under appeal by the Commission. Regarding customer education, the FCC adopted the Commission's informed consent standard and deferred to states to determine, in light of special circumstances applicable to a particular state, appropriate requirements for achieving effective education.

The FCC's order required all local exchange carriers to begin passing CPN to interconnecting carriers on December 1, 1995. GTEC provided staff with a draft CNEP on July 17, 1995. A revised CNEP was provided to staff on August 10, 1995 as well as to community based organizations, public agencies and others. As directed in our Caller ID decisions, GTEC requested written comments and/or participation in a workshop held in Los Angeles on October 19, 1995 for review and comment on its proposed plan prior to filing with the Commission. GTEC filed its current CNEP with the Commission on November 1, 1995.

On October 4, 1995, CACD had entered into a contract with an independent consultant to assist it in evaluating GTEC's and other respondent utilities' CNEPs. The consultant issued her report on GTEC's CNEP to CACD on December 19, 1995. On December 1, 1995, in response to the filed waiver requests of GTEC and other California carriers, the FCC granted a six-month stay of its order requiring the passage of CPN on calls originating in

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California in order to allow California carriers sufficient time to complete required customer notification and education.

On December 27 CACD provided GTEC with a deficiency letter regarding its proposed CNEP, based on the consultant's report. CACD stated that, as it had with Pacific's filing to offer its CNEP, CACD could recommend to the Commission that the Commission conditionally approve GTEC's AL, based on GTEC's stated willingness to revise its CNEP to incorporate the consultant's directives. This procedure has been undertaken to reasonably accommodate the FCC's deadline for passing CPN. On January 4, 1996 GTEC wrote CACD a letter which indicated its willingness to revise its CNEP.

#### NOTICE/PROTESTS

Public notice of GTEC's Advice Letter appeared in the Commission's Daily Calendar on November 3, 1995. CACD received a limited protest, filed by the Division of Ratepayer Advocates (DRA) on November 16, 1995.

DRA's limited protest raises several issues. First, DRA finds that the proposed CNEP does not comply with the Commission's Caller ID decisions as it fails to offer the ordered per line blocking default. DRA believes the Commission cannot approve GTEC's CNEP in violation of its own decision. DRA suggests the Commission might consider ordering GTEC to prepare a contingency plan for notifying and educating GTEC's ratepayers in the event the Court rules in favor of the Commission's appeal regarding the default. Upon submission of GTEC's contingency plan, the Commission might conditionally approve both CNEPs, pending the outcome of the court case.

Second, DRA finds that GTEC's projected customer awareness of blocking options and number delivery is too low. DRA recommends that the Commission adopt the 95% awareness level which DRA proposed in the proceeding and which it believes is consistent with the Commission's goal of informed consent by all customers allowing their numbers to be disclosed. DRA recommends that GTEC continue to offer its CNEP after the offering of Caller ID service and passing CPN until 100% unaided awareness of the service is achieved.

DRA also recommends that GTEC not be allowed to recover through the price cap mechanism any additional cost of continuing the CNEP and, if it does, GTEC should modify its rates and charges for Caller ID service to include this incremental cost.

Third, DRA recommends that GTEC's CNEP should specify that per line blocking is offered with per call enabling. The description of a caller's override of the block by using per call enabling should be parallel to GTEC's description of per call blocking.

Fourth, DRA believes that GTEC should provide, as part of its awareness campaign for television and radio media, further information how Caller ID affects one's privacy.

Fifth, GTEC, DRA finds, has no basis to assume that a family member will "pick up the phone right away" when that person has Caller ID service and receives a call from another family member. GTEC suggests that this phrase is more of a sales pitch for Caller ID service than emphasizing blocking options or privacy related concerns. DRA states that the Commission requires that the CNEP be educational and informative and not be used as a sales pitch.

Sixth, DRA recommends that GTEC should restate its announcement informing a customer who wants to know what blocking option is on a particular phone line to be similar and parallel in details to GTEC's per call blocking announcement.

Last, DRA faults GTEC for misrepresenting the FCC as the "bad guy" for the reason "why" calling party number is being forwarded to callers in other states. DRA believes GTEC should indicate that GTEC and other telecommunications companies around the country are pushing Caller ID service and will greatly benefit from the offering of this service.

#### GTEC's Response

GTEC filed a response to DRA's limited protest on November 28, 1995. GTEC rejects all but three recommendations made by DRA. GTEC agrees to add a statement about per call enabling to its description of per line blocking. GTEC also will insert in its television script the statement that "Caller ID can affect your privacy," prior to the panel that states, "But there is something you can do about it." Last, GTEC will remove its statement in the CNEP that a family member "will pick up the phone right away" when that person has Caller ID, due to DRA's characterization of it as a "sales pitch".

GTEC does not believe it should prepare a contingency plan in the event that the 9th Circuit rules in favor of California. GTEC believes that this is unfeasible, unduly burdensome and is unnecessary. GTEC believes it would be confusing for customers as well as customer contact personnel who would require training under both scenarios. GTEC also disagrees with DRA's position about Z factor recovery, citing the nine criteria set forth by the CPUC for eligibility for such recovery, believing that it does meet the criteria.

GTEC also disagrees with DRA's recommendation that a 95% awareness level should be adopted for considered success of GTEC's CNEP. GTEC did not state why it disagreed with DRA's position, citing that it concurred with the argument provided by Pacific in its response to DRA's limited protest on the same issue.

Concerning DRA's recommendation for modifying its announcement of Per Line blocking in the 800 number so that it would be parallel to the description of Per Call blocking, GTEC states that the Per Call blocking announcement is a standardized message used in central offices throughout the country. To modify this, according to GTEC, would cause customer confusion.

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Last, GTEC objects to DRA's suggestion that, in response to the question "Why is Caller ID happening?" that GTEC should add the statement that "GTE and other telephone companies are pushing Caller ID service and will greatly benefit from the offering of this service". This would replace GTEC's current statement that the FCC requires numbers to be passed to other states and that Caller ID is available in other states. GTEC believes this is sufficient as it is not pushing Caller ID and it is unknown if GTEC will "greatly benefit" from offering the service, since the revenues are speculative and the costs of implementing the CNEP keep mounting.

#### CONSULTANT'S EVALUATION OF GTEC'S PROPOSED CNEP

The consultant evaluating GTEC's CNEP, Dr. Dervin, is an expert in public education communications. Dervin found that while GTEC's filed CNEP tried to break out of the traditional marketing/advertising mode, in effect what is offered is an advertising/marketing based campaign, not a public communication/education campaign. There is far too much emphasis on media and too little on community. Dr. Dervin believes that a public communication/education campaign is required to meet the Commission's mandate for informed consent.

Concerning attention to privacy issues and informed consent, Dervin believes GTEC is to be commended for not avoiding privacy issues, for referring to specific risks that pertain to customers from passing CPN and for emphasizing early in the CNEP messages that CPN is going to pass requiring customers to make decisions. However, when the CNEP is taken as a whole, it downplays the emphasis on privacy and informed consent. Dervin believes the focus of the entire campaign should be on privacy. While the GTEC CNEP goes some distance in emphasizing what the CPUC mandate is about in its campaign, it needs to go further in inviting and assisting customer control of the whens, the hows, and the whys of protecting privacy. The primary starting point and focus of the entire CNEP, the consultant recommends, should be assisting customers in handling their privacy concerns, deciding when and how to protect their phone numbers and knowing how to implement their choices. Dr. Dervin recommends that this should be the foundational base on which all other campaign components must rest.

Dervin finds that the GTEC CNEP does have a central focus and logical coherency across elements. Unfortunately this rests on a campaign whose logic focuses on marketing/advertising rather than on public education. GTEC's CNEP falls short in data based decision making, particularly in designing strategies for reaching specific target groups.

Regarding the standard of educating and informing, GTEC is to be commended for providing consistent attention to message elements i.e. for organizing its core message (in the bill insert and directory white pages) around questions and for paying attention to how to describe things clearly to the uninitiated.

The consultant criticizes GTEC's plan for a lack of evidence of data-based decision making, particularly in designing strategies for reaching specific target groups. The consultant also observes that there is no mention of specific needs of unlisted and nonpublished subscribers nor a contingency plan, should default per line blocking be reimposed by a court decision overturning the FCC's preemption order.

Dervin believes that one of the key elements of a successful public education plan which results in customer understanding and action, required in this case, is the opportunity for interpersonal interactions with customers. She finds that GTEC's plans for training of on-line contact is to be commended for focusing in on the GTEC mandate, and for aligning this focus with the focus of the overall campaign. However, as the description of this training is very brief, it appears to relegate contact with customers to a too simplified vision which positions customer questions into a ready-made script format.

In terms of outcome measurements, Dervin finds that GTEC's proposed goals do not meet with current thinking of what is possible for public communication campaigns. The goals are too modest and the focus is restricted to exposure measures rather than to understanding and action.

Last, regarding the importance of openness to outside input, Dervin finds that in general GTEC showed a commendable responsiveness to outside input. The exception, however, is in its avoidance of the personalizing of relevant issues in the context of customer lives; the downplaying of the emphasis on privacy and informed consent; and ignoring the suggested emphasis on community organizations.

The following principles/actions, as interpreted and summarized by CACD, represent the consultant's recommendations to achieve the education campaign which will satisfy the Commission's informed consent mandate. As GTEC's filed CNEP goes a long way to accomplish these recommendations, GTEC will need to consider and address each one to a lesser or greater degree:

- o Establish the primary starting place and focus of the entire campaign as one of assisting customers in handling their privacy concerns, with deciding when, how and why to protect their phone numbers with CPN passage
- o Do analysis of all input, evaluations and testimonies submitted before and after CNEP development for development of customer information needs
- o Develop and test one set of core materials for use in all campaign materials, including a core set of terms and definitions
- o Develop an ordered set of component messages
- o Develop and test a foundational campaign message

- o Develop the bill insert based on foundational message, emphasizing privacy
- o With collaborative industry wide efforts, seek state wide use of message elements
- o Do a data-based discovery of target groups, including name, geographic distribution, demographic differences from general population, lifestyle differences from general population and culturally important factors relating to phone and privacy for use in developing strategies and evaluation criteria for community outreach effort
- o Increase the community outreach budget through reallocation of proposed media budget
- o Use awareness, understanding and action criteria for evaluation purposes
- o Set outcome goals of 70% aided awareness that numbers will be passed; 60% volunteered understanding of options for blocking and overrides; 30% submission of choice ballot
- o Focus on choice ballot as primary and most important evaluation tool
- o Send blocking option confirmation letters to all customers as soon as possible after choice is registered by customer or default option is assigned by carrier; include information that if confirmed blocking option is unsatisfactory, customer may request one free change of blocking option
- o Develop iterative path for the campaign including expectations of where attention is focused, reevaluation points, planned outcome measurements
- o Expand 800# program to include both a comprehensive set of "answer my question" sub-tracks as well as interactive sub-tracks
- o Develop incentives for customer actions including sweepstakes
- o Install permanent message on bill which provides privacy status
- o Design customer-oriented phone interfaces between customers and employees and reallocate media budget to support this
- o Involve community representatives in co-production of messages and other key materials for their clients
- o Diversify the media program

- o Reorient general media advertising campaign to public service ads
- o Send letter to unlisted/nonpublished customers explaining privacy issues of CPN passage and status of per line blocking default
- o Include proposed letter to unlisted/nonpublished customers announcing reinstatement of per line blocking default as contingency pending outcome of litigation
- o In conducting awareness surveys, include nonpublished and unlisted subscribers as a separate and distinct survey subgroup

#### DISCUSSION

As we stated in our resolution on Pacific's proposed CNEP (T-15827) our recommendation is guided by our Caller ID decisions. Two aspects of these decisions provide key guidance: (1) the emphasis we placed on notifying and educating customers to achieve "informed consent," and (2) our direction that the "customer messages ordered by [the Caller ID] decision shall not be sales messages. They shall provide objective, neutral information on both the services themselves and how consumers can make informed choice about these changes." (D.92-11-062, Ordering Paragraph 7.e., 46 CPUC 2d 482, 492).

In its response to DRA, with three exceptions GTEC either objects to or finds non-meritorious DRA's suggested modifications to its proposed CNEP. We essentially agree with all of DRA's recommendations except the recommendation concerning the 2 factor recovery of additional expenses for conducting the CNEP on an ongoing basis. As we stated in T-15827 for Pacific, we believe this issue is better addressed when and if GTEC files for future 2 factor recovery.

Concerning a contingency plan, we are recommending what we recommended for Pacific, namely that GTEC include two provisions in its revised CNEP. One, that unlisted and non-published customers as well as emergency service organizations be separately notified of their current status concerning the per line blocking default and two, that these customers be notified should the per line blocking default be reinstated. We agree with GTEC that this may be confusing for customers; however, to not mention the status of the per line blocking default issue could be even more confusing for customers who are unaware of the changed policy due to the FCC's preemption and who fail to respond to utility notices, believing that they automatically will be provided per line blocking.

Regarding DRA's suggested modification of GTEC's statement about why Caller ID is happening, we agree with DRA that GTEC's statement could be expanded, although we don't agree that GTEC needs to make a statement about proposed profits resulting from offering Caller ID service.



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Regarding DRA's recommendation that GTEC be required to obtain an initial 95% awareness level for its customers, we agree that our informed consent standard applies to all customers affected by CPN passage. However, our expert consultant has indicated that, at least initially, 100% awareness is not reasonably attainable. Therefore we reject DRA's recommendation.

The consultant has indicated that initial awareness levels for CPN passage of 70% aided awareness, 60% volunteered understanding of blocking options and 30% action (affirmative choice by return of a ballot or order through an 800 number) are reasonably attainable. We therefore require GTEC, as we required Pacific in T-15827, to attain these minimum initial awareness levels before CPN is passed or Caller ID service is offered. If it appears that these awareness levels will not be attained prior to June 1, 1996, the burden shall be on GTEC, well in advance of that date and in any event no later than May 1, 1996, to explain why the levels cannot be attained and to provide CACD with a plan for attaining those levels in a timely manner.<sup>1</sup> Moreover, we expect that GTEC can and will eventually attain a 100% level, or very close to it, through its ongoing public education effort.

We will not allow GTEC or any other utility to go forward in offering Caller ID or passing CPN, if the carrier's showing fails to meet the standards herein stated.

Our consultant has found much to praise GTEC in terms of whether its proposed CNEP will meet the mandate of the Commission. In many observations of GTEC's proposed CNEP she stated that although it was on the right track it did not go far enough to satisfy the Commission's mandate. Therefore we agree with the consultant's recommendations which require GTEC to make additional efforts so that the overall plan will constitute an education campaign rather than an advertising/product marketing campaign.

CACD set forth this opinion to GTEC in a deficiency letter written on December 27, 1995, urging GTEC to take action described in the consultant's report in order to modify its CNEP so that CACD could recommend its approval by the Commission. GTEC has sent CACD a letter which states GTEC's commitment to

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<sup>1</sup> While we are deeply concerned that the initial awareness standards we set herein may result in the nonconsensual disclosure of the CPN of a significant number of California citizens, we cannot require GTEC to do that which is not reasonably possible. The inability of any short-term education program to attain 100% awareness is the reason why we adopted our "safety net" per line blocking default for nonpublished and unlisted subscribers, who pay the local exchange carrier each month for heightened privacy.

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working with CACD staff to adopt as many of the consultant's recommendations as are feasible.

GTEC is concerned, however, that adopting all of the consultant's recommendations would lead to higher CNEP costs and might jeopardize the June 1, 1996 deadline. We do not intend to dictate a budget level for GTEC or any utility complying with our orders. As the consultant stated, without a budget at hand, whether or not her specific suggestions and recommendations were adopted to achieve a specific goal might have to be considered in light of the overall budget.

The consultant report recommended that a statewide CNEP approach, whereby all utilities would utilize the same slogans, messages, and the like, should be developed. Our Caller ID decisions also require all utility education efforts to be as similar as possible (46 CPUC 2d 482, Attachment 1, 492, Ordering Paragraph 7.d.). We anticipate that the resources to develop and implement this statewide material, if such an approach proves feasible, may be shared, at least to some extent, by all utilities. Other cost saving approaches are recommended in the report.

Regarding the timing of the CNEP, we are very aware that the FCC has granted a stay of the requirement of passing CPN until June 1, 1996 and we will not intentionally cause or permit GTEC to unreasonably delay this CPN passage date. However, we consider our primary responsibility under the Caller ID decisions to assure development and implementation of a successful CNEP which informs customers of privacy concerns and rights attending CPN passage and Caller ID service offerings.

We believe that GTEC's plan will succeed if the company revises its CNEP where needed to a public education rather than a product marketing campaign, aggressively implements its program, and takes such additional steps as the company believes necessary to achieve the required awareness levels.

GTEC's revised CNEP should reflect GTEC's consideration and adoption, if feasible, of all the report recommendations, summarized in the above discussion of the consultant report, as well as all steps which GTEC believes necessary to attain the awareness standards herein adopted.

#### FINDINGS

1. GTE California Incorporated (GTEC) filed its proposed Customer Notification and Education Plan (CNEP) on November 1, 1995 as required by Decision 92-06-065 and Decision 92-11-062 before it may offer Caller ID service or pass calling party number (CPN) to interexchange carriers.
2. The Federal Communications Commission (FCC) in its reconsideration order of Rules governing interstate Caller ID (Docket 99-11) granted states discretion to adopt customer notification and education plans prior to the passage of CPN.

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3. The Caller ID decisions (D. 92-11-065, 44 CPUC 2d 694, and D. 92-11-062, 46 CPUC 2d 482) authorize the Commission Advisory and Compliance Division (CACD) to hire an independent consultant to assist it in the evaluation of utility filed CNEPs.
4. CACD hired a consultant on October 4, 1995 to assist it in evaluating GTEC's and other utility CNEPs.
5. The consultant's report evaluating GTEC's CNEP was provided to CACD on December 19, 1995.
6. We concur with the consultant in finding that GTEC's CNEP would fail to satisfy the Commission's and the FCC's mandate for educating customers about intra- and interstate Caller ID service unless it were revised to constitute a public education campaign with a consistent focus on privacy rather than a product marketing campaign.
7. We believe that the consultant's report recommendations will result in a successful CNEP.
8. DRA's comments to GTEC's Advice Letter are approved or rejected as discussed.
9. In a deficiency letter CACD sent GTEC on December 27, 1995, CACD informed GTEC that it agreed with the consultant's report findings and summarized the report recommendations. CACD advised GTEC to implement the recommendations in order to successfully educate its customers about privacy issues related to Caller ID service.
10. GTEC's written response to CACD on January 4, 1996 indicated its willingness to revise its proposed CNEP under certain conditions.
11. GTEC must include in its revised CNEP all steps which it believes are necessary to attain the initial awareness standards set forth in this resolution.
12. GTEC bears the responsibility for attaining on or before June 1, 1996, the initial awareness standards set forth in this resolution.
13. GTEC's revised CNEP shall include a timeline demonstrating how it will implement its CNEP and attain the required initial awareness levels prior to June 1, 1996.

**THEREFORE, IT IS ORDERED that:**

1. GTE California Incorporated (GTEC) is authorized to implement its Customer Notification and Education Plan (CNEP) upon satisfactory compliance with the following conditions.
2. GTEC shall provide the Commission Advisory and Compliance Division (CACD) with a revised CNEP for its approval. The revised CNEP shall constitute a public education campaign with a focus on privacy as recommended in the consultant's report

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provided to CACD. GTEC's revised CNEP shall contain the recommendations made in the report, as summarized in this resolution, as well as a description of any additional steps which GTEC believes necessary to attain the initial awareness levels herein stated. GTEC's revised CNEP shall also include a timeline demonstrating how it will implement its CNEP and attain the required initial awareness levels prior to June 1, 1996.

3. GTEC shall provide to CACD within 10 days after the effective date of this resolution a timetable for revising and filing its CNEP. In order to facilitate completion of its CNEP, GTEC shall provide CACD with weekly progress reports.

4. As GTEC revises its CNEP it shall consult with the Public Advisor on its proposed bill insert.

5. Because it is necessary to facilitate expeditious implementation of customer education relating to Caller ID service and the passage of calling party number (CPN), this resolution is effective today.

I hereby certify that this resolution was adopted by the Public Utilities Commission at its regular meeting on January 24, 1996. The following Commissioners approved it:



Wesley M. Franklin  
Executive Director

P. GREGORY CONLON  
JESSIE J. KNIGHT, Jr.  
HENRY M. DUQUE  
JOSIAH L. NEEPER  
Commissioners

Commissioner Daniel Wm.  
Fessler is necessarily absent  
on official business.