

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Rules and Regulations Implementing)	
Minimum Customer Account Record)	CG Docket No. 02-386
Exchange Obligations on All Local and)	
Interexchange Carriers)	
)	

**COMMENTS OF AT&T CORP., MCI, INC. AND SPRINT CORPORATION
TO NOTICE OF PROPOSED RULEMAKING**

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Pursuant to Section 1.415 of the Commission’s Rules, 47 C.F.R. § 1.415, AT&T Corp. (“AT&T”), MCI, Inc. (“MCI”) and Sprint Corporation (“Sprint”) (collectively referred to as “Joint Petitioners”) submit these comments in response to the Commission’s Notice of Proposed Rulemaking (“*NPRM*”) in the above-entitled proceeding.¹

I. SUMMARY AND BACKGROUND

The Customer Account Record Exchange (“CARE”) process was developed in response to the break-up of the Bell System and the introduction of

¹ *Rules and Regulations Implementing Minimum Customer Account Record Exchange Obligations on All Local and Interexchange Carriers*, CG Docket No. 02-386, Notice of Proposed Rulemaking, FCC 04-50, released March 25, 2004 (“*NPRM*”). A summary of the *NPRM* was published in the Federal Register on April 19, 2004. See 69 Fed. Reg. 20845.

competitive long distance services.² CARE facilitates the exchange of critical customer account information between local exchange carriers (“LECs”) and interexchange carriers (“IXCs”) (or long distance carriers).³ The CARE process allows IXCs to obtain the information necessary to establish, confirm and track IXC-submitted customer orders, receive updated customer information for maintaining accurate customer accounts, receive notification of customer orders taken at the local service provider’s business office and receive notification of customer changes from one long distance carrier, or local service provider, to another.

The CARE system functioned reasonably well prior to the Telecommunications Act of 1996 (the “1996 Act”). When a customer elected to change long distance carriers, or otherwise changed his billing name and address (“BNA”) information, the incumbent LEC (“ILEC”) provided CARE data to the appropriate IXC, as well as accepted carrier change requests from the IXC, to ensure the seamless provision of service to the customer. However, the 1996 Act enabled new, competitive

² *United States v. AT&T Co.*, 552 F. Supp. 131 (D.D.C. 1982), *aff’d sub nom.*, *Maryland v. United States*, 460 U.S. 1001 (1983).

³ To facilitate the equal access and cooperation among telecommunications providers mandated by the Modification of the Final Judgment (“MFJ”), the industry created the Alliance for Telecommunications Industry Solutions (“ATIS”), originally known as the Exchange Carrier Standards Association. ATIS is a global leader in the development of telecommunications standards and operational guidelines and has 124 member companies, representing nearly every sector of the telecommunications industry. The Carrier Liaison Committee of ATIS in turn created the Ordering and Billing Forum (“OBF”) to establish guidelines for administering the equal access carrier selection process. OBF established voluntary industry standards for CARE among carriers. These standards were developed to facilitate the exchange of customer account information to allow LECs to comply with their obligation to provide all IXCs with access that is equal in type, quality, and price to that provided to AT&T and their affiliates. Prior to the 1996 Act, most LECs and IXCs participated in CARE.

LECs (“CLECs”) to enter the local services market. The entry of the CLECs providing local exchange service, and typically also offering long distance service, has had the unintended consequence of undermining the effectiveness of the exchange of CARE data between LECs and IXCs. Although many ILECs and IXCs continue to exchange CARE data, most of the CLECs and some independent LECs (“ICOs”) do not participate in the CARE process. Moreover, of those LECs that do exchange CARE, some ILECs and ICOs in addition to several CLECs do not provide it on a timely basis or with a consistency or level of detail upon which IXCs can depend. Accordingly, adoption of minimum CARE standards for all wireline carriers would create a uniform industry-wide process to support customers’ ability to move seamlessly from one carrier to another, regardless of whether a customer is only changing his long distance carrier(s), changing only his local service provider, or both his long distance and local service providers at the same time. Adoption of minimum CARE standards for all carriers would also provide a universal, uniform process for all wireline carriers to request and receive accurate Billing Name and Address (BNA) information, when they know the identity of the LEC.

II. COMMISSION MANDATED MINIMUM CARE STANDARDS ARE ESSENTIAL

A. CARE Is Necessary To Provide Accurate Billing And Seamless Customer Service.

The Commission seeks comment on whether implementation of mandatory minimum CARE standards will provide consistency within the industry and will eliminate a significant percentage of consumer complaints.⁴ Accurate, timely CARE

⁴ *NPRM* ¶ 10.

data are necessary for an IXC to know when a customer is presubscribed to its network via the local service provider's switch. The presubscribed IXCs must depend on the LECs not only to execute customer changes in an unbiased manner, but also to provide the timely exchange of customer account information so that the presubscribed IXC will know, for example, whether a customer remains on its network, has switched to another local or long distance carrier, has had his dial tone disconnected, or has made significant changes to the account (*e.g.*, changing BNA, telephone number, or responsible party). These IXCs also need to know the identity of the customer's local exchange carrier for the purpose of submitting or requesting customer information. There is no other current industry process available for any IXC to determine which customers are connected to its network at the local switch. Accordingly, the Commission should adopt mandatory minimum CARE standards to mitigate a host of billing, ordering, provisioning, and other customer service problems that are caused by the lack of sharing this essential information.

For example, today, if an IXC's customer switches to a new LEC for local service, and the customer's previous LEC supports CARE, the previous LEC sends a notice – albeit, not universally – to the customer's current IXC. This notice only explains that the customer has left the previous LEC for local service; in some cases this notice may also identify the customer's new LEC, but often does not. This notice does not provide any information on whether the customer retained his former IXC for intraLATA and/or interLATA toll service(s) or instead subscribed to another carrier when he switched his local service. The IXC, therefore, relies on the new LEC to provide the selected IXC the confirmation notice of the customer's intraLATA and/or interLATA toll

service(s) and the customer's BNA for the new local service. Thus, participation in the CARE process by all wireline carriers is critical. Unfortunately such industry-wide participation does not currently exist. Moreover, even those new LECs that purport to provide CARE do not consistently provide a sufficient level of information.⁵ Thus, there is no effective industry process in place to support the customer's ability to move seamlessly from one carrier to another.

Furthermore, an IXC, faced with this information vacuum, confronts a Hobson's choice that harms both the customer and the IXC. On the one hand, an IXC can wait and see if a new LEC provider advises it through the voluntary CARE process that the customer has chosen to remain with that IXC for intraLATA and/or interLATA toll services. During that period, the IXC may continue to bill the customer for monthly recurring charges as well as non-usage charges even though the customer has, unbeknownst to the IXC, changed his primary long distance carrier. From the customer's perspective, this may result in double billing. Alternatively, the IXC can assume that the customer no longer desires the IXC's service and therefore disconnects his calling plans. If this assumption is wrong, the customer, in continuing to use the IXC, finds himself suddenly being billed at higher "basic" rates. Either way, the customer's choice of carrier for intraLATA and/or interLATA toll service is compromised, and the IXCs may be perceived to be responsible for "continued billing," "cramming," "slamming," or violations of the Commission's truth-in-billing requirements solely because they never

⁵ For example, it is important to know how an account was established in case the consumer contests the change in carriers. Therefore it is important for a LEC to distinguish between a LEC install and a confirmation that an IXC-submitted PIC request was executed in its notifications to the IXC.

received accurate, timely and complete information as to which IXC the customer is presubscribed.⁶ These difficulties leave customers with the perception that the IXCs offer poor service when, in fact, the IXCs are at the mercy of a voluntary information exchange system. Indeed, internal studies conducted by the Joint Petitioners reflect that approximately 40% to 60% of consumer complaints concerning billing errors may be eliminated if carriers received all essential information in a timely manner via a mandatory minimum CARE process.

Thus, consumers today are adversely affected because all carriers are not exchanging CARE data in a uniform and timely manner. Additionally, without any information about the customer's identity, or access to accurate billing name and address information, an IXC may be providing service to a customer without being able to collect compensation. This problem results in multi-million dollar losses to the industry each year.

⁶ Amanda Noonan, chairperson of the New England Conference of Public Utility Commissioners ("NECPUC") Consumer Affairs Staff Committee presented examples of the various types of unauthorized billing problems that a customer can face as a result of this information vacuum: (i) billing at casual rates by the old carrier for a time after switching carriers; (ii) billing at casual rates by the new carrier for a time after switching; (iii) billing by the underlying carrier of the reseller, rather than by the reseller chosen; (iv) "pop up billing," *i.e.*, monthly, non-usage related fees being billed by the old carrier months after the consumer switched carriers; and (v) continued billing by the old carrier of monthly non-usage related fees after the consumer has switched carriers. Draft 8/16/2000 Report of the Proceedings, "*Getting the Customer Out of the Middle*", NECPUC Consumer Affairs Workshop on Unauthorized Charges Resulting From Carrier Changes (July 14, 2000). *See also*, NECPUC Consumer Affairs Staff Committee Final Report, "*Getting the Customer Out of the Middle*," *Examining Problems [in] the Carrier Change Process* at 1 (Mar. 19, 2002).

B. Continuing To Allow Carriers The Discretion To Choose Whether To Participate In The CARE Process Is Simply No Longer Viable.

Although the Joint Petitioners believe that regulatory mandates should never be lightly imposed, to reduce the billing and carrier change problems discussed above and the concomitant complaints to regulators that such problems generate, the Commission must require that all wireline carriers participate in the CARE process. The notion that all LECs and IXC's will exchange "the data necessary to establish and maintain customer accounts, and to execute and confirm customer order and customer transfers from one long distance carrier to another,"⁷ absent a Commission requirement to do so, is unrealistic. None of the Joint Petitioners exchange the data necessary to ensure the seamless transfer of a customer from one IXC to another with all of the 3,065 LECs listed in the Local Exchange Routing Guide ("LERG"). To the contrary, each of the Joint Petitioners has managed to enter into relationships for the exchange of customer account information with less than half of the LECs. And, some of these LECs do not even provide the minimum data that are needed.

Nonetheless, as the Commission notes, some of the parties urge the Commission to allow OBF to address the issue raised by the Joint Petitioners before mandating that all carriers comply with a small subset of the CARE standards.⁸ According to the Commission, these parties believe that because the "existing CARE process was developed by the industry," the Commission should "consider the status of

⁷ *NPRM* ¶ 2.

⁸ *Id.* ¶ 20.

industry solutions before adopting rules that may increase burdens on the industry.”⁹

Moreover, these parties argue that the “OBF should be used to address any changes to the CARE process because it is better suited to considering the technical and operational aspects of the way the information will be exchanged than a notice and comment rulemaking.”¹⁰

These parties did not offer any support for their view that the OBF can be relied upon to remedy the billing problems that have arisen in the wake of CLEC entry spurred by the 1996 Act. Nor could they, since OBF is not an “industry-wide” group to which each carrier is required to belong. Rather it is comprised of a subset of the carriers – generally the more established ones – that have elected to participate. Moreover, carriers, including those that fully participate in the OBF, are not obligated to adopt the standards and processes agreed to by the OBF. While carriers may elect to adapt their systems so as to incorporate OBF-approved processes, such a decision is entirely within each carrier’s discretion. Given these facts, referring the issues raised by the Joint Petitioners to the OBF for resolution would solve nothing. Rather, the billing problems that the Joint Petitioners’ request seeks to mitigate would continue.

Joint Petitioners do not suggest that the OBF should no longer be relied upon to consider changes in the CARE process. The Joint Petitioners agree that the OBF is “[well]-suited to considering the technical and operational aspects of the way the

⁹ *Id.*

¹⁰ *Id.*

information will be exchanged.”¹¹ But the Joint Petitioners are not asking that the Commission consider changing the CARE process. Rather, their petition simply asks that the Commission make a small sub-set of the CARE guidelines already adopted by the OBF *mandatory for the entire industry* so that billing problems can be minimized when a customer switches his local service provider and/or long distance provider. To the extent that the OBF recommends changes in any of the mandatory guidelines in the future, the Commission can always adopt such amendments in a streamlined proceeding.

The Commission has also asked for comments on whether the “model guidelines” for the exchange of customer information by carriers, being developed by the NARUC Subcommittee on Consumer Affairs, “adequately address petitioners’ concerns.”¹² They do not. The Joint Petitioners commend the willingness of the NARUC Consumer Affairs subcommittee to actively address the problems caused by the fact that, at present, carriers need not participate in the CARE process. However, as the Commission recognizes, the model guidelines, once finalized, would have to “be adopted on a state-by-state basis” and in any event “would be superseded by any federal rules [the Commission] might adopt.”¹³ For these reasons, the Joint Petitioners respectfully suggest that the Commission should not devote resources to examining whether the model guidelines being considered by NARUC will “adequately address petitioners’

¹¹ *Id.*

¹² *NPRM* ¶ 22.

¹³ *Id.*

concerns,”¹⁴ but instead should expeditiously issue a final order in this proceeding mandating minimum CARE.

III. THE MINIMUM CARE STANDARDS PROPOSED BY THE JOINT PETITIONERS ARE THE APPROPRIATE STANDARDS

A. Joint Petitioners’ Proposal Has Identified The Most Critical Codes.

The Commission seeks comment on whether the minimum CARE standards, recommended by the Joint Petitioners, are adequate to address the concerns raised by the Joint Petition. ¹⁵ In order to mitigate the customer-affecting problems associated with the lack of essential CARE information, Joint Petitioners have identified a small subset of CARE information that is particularly critical to the provision of competitive telecommunications service. Joint Petitioners’ proposal would require all LECs and IXC to exchange these minimum CARE data. ¹⁶ Under this proposal, carriers would be required, in specified situations, to transmit certain codes each designed to provide specific Primary Interexchange Carrier (“PIC”), billing and other essential customer data information to involved carriers.

In their proposal, Joint Petitioners attempted to establish standards that ensure the exchange of critical customer information in a manner that is most beneficial to customers and least burdensome to carriers. For example, in defining the subset of ATIS-developed codes that should be mandatory for all wireline carriers, Joint Petitioners

¹⁴ *Id.*

¹⁵ *NPRM* ¶ 12.

¹⁶ The specific proposal is set forth in Appendix A to the Joint Petition, which contains the proposed Minimum CARE Standards Document and was filed with the Commission on November 22, 2002 in this docket.

sought to identify only those codes that are most critical to customer account maintenance activities and the carrier selection process. As a result, the proposed minimum codes reflect less than five percent (5%) of the total CARE codes developed by ATIS. Joint Petitioners do not intend that the proposed mandatory minimum standard would replace the more expansive guidelines that exist today. As discussed above, Joint Petitioners encourage industry participants to continue to work with the OBF industry forum to develop and utilize established guidelines appropriate for particular needs.

In its Notice, the Commission specifically requested comments on two notification transactions suggested by Americatele, namely whether LECs should be required to notify the appropriate presubscribed IXC whenever a customer changes local service providers and whether, upon the request of an IXC, the customer's previous LEC should be required to indicate which other carrier is providing local service to that customer.¹⁷ The Joint Petitioners' proposal addresses Americatele's request that all LECs should be required to notify the appropriate presubscribed IXC whenever a customer changes local service providers, regardless of whether or not there is a change in IXC.¹⁸ This exchange is important to the presubscribed IXC so that it knows the identity of the local service provider through which the IXC's customer is connected to the IXC's network. However, since under the Joint Petitioners' proposal all new LECs would be required to provide notification to the customer's chosen presubscribed carrier, it would

¹⁷ *NPRM* ¶ 12.

¹⁸ See Appendix A at Section 4 to Joint Petition.

not be necessary for the previous LEC to identify the new LEC to the presubscribed long distance provider.

Nonetheless, the Joint Petitioners' CARE proposal would not resolve carrier identification issues when a long distance carrier that is currently not the consumer's presubscribed carrier needs the new LEC's identity in order to submit a PIC change or for billing dial-around services. If the customer has ported his telephone service to any other facility-based LEC, then the IXC could obtain the identity of the new LEC for a ported telephone number through use of the FCC-approved Number Portability Administration Center (NPAC) database, which is the industry-wide recognized source for local carrier identification of ported and pooled numbers. However, there is no industry process today to identify a LEC that is reselling another carrier's local service. Consequently, in a resale arrangement, the underlying switch provider is the only source that is able to identify to which LEC a customer has migrated his local service. Therefore, underlying switch providers should be required to provide the identification of the new LEC via their CARE process.

B. The Minimum CARE Standards Proposed By The Joint Petitioners Will Resolve The Local Number Portability Issue.

There are currently several industry challenges involving customer migration scenarios that impact customer complaints and carrier billing. Specifically, they involve wireline-to-wireline as well as wireline-to-wireless number portability. The Joint Petition, filed in November 2002, addressed the number portability issue when a

customer ports a number from one wireline carrier to another wireline carrier by designating a specific CARE code to communicate when a number has been ported.¹⁹

However, with the implementation of wireline-to-wireless local number portability, effective November 24, 2003, the Commission recognized that CARE has become more important than ever.²⁰ The issue raised in the *MO&O* concerns the lack of information an IXC receives from the wireless carrier when a subscriber drops an IXC as his long distance carrier. For example, if an AT&T long distance wireline customer using Verizon for local service decides to port his local number to a wireless provider, the customer will now most likely have the wireless provider for both local and long distance calling. Verizon knows that it lost the local customer to a wireless provider because it implemented the port. However, unless the wireline carrier (Verizon LEC) notifies AT&T that this customer ported his telephone number to a wireless provider, AT&T will continue to bill the customer for monthly recurring charges because it will have no way of knowing that it lost the customer to a wireless provider. Therefore, in order to get the necessary information, the wireline LEC porting the telephone number must inform the IXC carrier whenever a subscriber ports to a wireless carrier.

Thus, Joint Petitioners agree that there is a need to modify the proposed minimum CARE standards to include a requirement for support of the Number

¹⁹ See Appendix A at Section 4 to Joint Petition.

²⁰ *In The Matter of Telephone Number Portability, CTIA Petitions for Declaratory Ruling on Wireline-Wireless Porting Issues*, CC Docket 95-116, See Memorandum Opinion and Order and Further Notice of Proposed Rulemaking, (“*MO&O*”), FCC 03-284, released November 11, 2003, at n. 64, “*Telecom carriers must now find methods to determine when a wireline number is ported to wireless number and vice versa.*”

Portability Indicator (NPI) value of “W” which indicates the number being ported is moving from a wireline provider to a wireless provider. The “W” designation within the CARE record will provide IXCs with the necessary notification that the port is to a wireless provider.²¹ This “W” designation will enable the IXC to immediately cease billing for the telephone number.

C. The Performance Standards Proposed By The Joint Petitioners Should Be Adopted.

To maximize the benefits of mandatory minimum CARE standards, the Joint Petition recommended “reasonable performance measurements.” Timeliness, accuracy and completeness thresholds are essential to ensure that customer requests are processed without undue delay. Joint Petitioners have attempted to develop proposed performance criteria that are flexible enough to recognize that information may be transmitted through a variety of means, while providing enough guidance to ensure the seamless transmission of data.²² Joint Petitioners also recommend that carriers be required to implement CARE as soon as reasonably possible.

Timeliness: Standards relating to the timely transmission of data should acknowledge the variety of means by which such data may be transmitted and the service configuration of the LEC. Mechanized processing provides a rapid exchange of the data, while the other industry acceptable methods, such as e-mail or Internet processing or

²¹ Similarly, if all new wireline LECs are required to provide notification to the customer’s current IXC, then there is no need to require the wireless carrier to provide CARE information in instances where the wireless number is being ported to the wireline LEC. The NPAC database will advise non-presubscribed carriers that this number is now ported to a wireline LEC.

²² See Appendix A at Section 3 to the Joint Petition, which sets forth the specific performance measurement recommendations.

cartridge or paper processing, may require additional time. Similarly, while facilities-based carriers may have more immediate access to customer information, CLECs that provide service via resale or unbundled switching may lack the same control over access to such information and it may be appropriate to allow some additional, modest processing time. The proposed criteria are designed to provide maximum flexibility, while ensuring timely transmission of critical customer data.²³

Accuracy: All carriers should exercise “best efforts” to ensure that the data transmitted are accurate, including appropriate quality control measures. When accuracy expectations are not achieved due to incomplete or inaccurate CARE data, the involved carriers should immediately implement recovery processes to minimize adverse impacts to end-user customers who may receive inaccurate bills due to the CARE error.²⁴

Completeness: To ensure that carriers have access to the data necessary to establish or disconnect a customer account, they must receive complete customer data. The guidelines set forth in the OBF CARE Industry Support Interface document serve as a useful point of reference to ensure the completeness of CARE data. Should a carrier discover that incomplete data have been transmitted, however, immediate recovery processes should be implemented.²⁵

Accordingly, the performance standards proposed by the Joint Petitioners are appropriate and should be adopted for all carriers.

²³ *Id.*

²⁴ *Id.*

²⁵ *Id.*

D. Joint Petitioners' Proposal Minimizes Burden to Carriers.

The Commission seeks comment on the expected implementation costs associated with adopting minimum CARE standards, how these costs can be minimized and the appropriate allocation of these costs.²⁶ While there are costs associated with CARE, having a uniform industry-wide practice will ultimately produce cost savings for the industry. The requirements will reduce the expended resources of consumers, carriers and regulatory agencies in responding to consumer questions and complaints. Undoubtedly the benefits that all industry participants will derive from mandated minimum CARE requirements will far exceed the associated costs.

As Joint Petitioners previously discussed, a number of LECs and IXC's have already incurred the expenditures necessary to comply with the guidelines established by the industry for the exchange of this vital information. These carriers should not be penalized for their historical, yet voluntary, adherence to this necessary function by adopting rules that would cause them to revamp their current system. As such, the Joint Petitioners' proposal draws from the remarkably effective industry standards that have been in existence for the past few decades, as well as the use of specified alternative codes to accommodate the current variances in industry processes.

Additionally, the Joint Petition only proposed that a very small fraction of the current industry CARE standards, those absolutely critical to process, be mandated, in order to minimize the cost to those carriers that have not been participating in the process. Moreover, the process itself offers carriers flexibility by enabling carriers to transmit

²⁶ *NPRM* ¶ 15.

CARE data through numerous means that minimize start up costs, such as facsimile transmissions and e-mail. With start up costs minimized for small volume users, the associated costs will essentially reflect the volume of transactions a carrier sends or receives. Therefore, reallocation of costs by the Commission is unnecessary. Carriers' costs will reasonably reflect the size of their business. Thus, carriers will have the flexibility to choose the method that best suits their business needs and the one that offers the most efficiencies and cost-savings.

CONCLUSION

For the reasons set forth above, the Commission should impose mandatory minimum CARE obligations on all local and interexchange carriers.

Respectfully submitted,

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June 3, 2004

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing Comments of AT&T Corp., MCI, Inc. and Sprint Corporation to Notice of Proposed Rulemaking was served by the noted methods, the 3rd day of June 2004 on the following:

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