

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

In the matter of:

Rules and Regulations Implementing
Minimum Customer Account Record
Exchange Obligations on All Local and
Interexchange Carriers

CG Docket No. 02-386

**REPLY COMMENTS
OF THE CALIFORNIA PUBLIC UTILITIES COMMISSION
AND OF THE PEOPLE OF THE STATE OF CALIFORNIA**

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The California Public Utilities Commission and the People of the State of California (CPUC or California) submit these reply comments in response to Comments filed on the Notice of Proposed Rulemaking (NRPM) on mandatory minimum Customer Account Record Exchange (CARE) obligations. The Commission has set forth a number of issues for comment in this NPRM, and the CPUC comments only on some of these issues. Silence on the other issues connotes neither agreement nor disagreement with these proposals.

The great majority of the comments filed support the implementation of some mandatory CARE process for the exchange of customer account information, reflecting the fact that both carriers and their customers would benefit from the application of uniform CARE standards. The issues remaining before the FCC involve the details of

any uniform CARE system the Commission implements. If such a uniform system is adopted, it must be designed to protect the interests of both carriers and customers.

These reply comments address two specific technical issues: (1) Interexchange carriers (IXCs) should be required to notify the local service carrier when informed by customers that they want to cancel IXC service;¹ and (2) The “small subset” of CARE data which becomes a uniform standard² should not be so limited that it excludes information identified by state regulators as essential to the protection of consumers—specifically a unique identifier for every “carrier,”³ whether facilities-based or not.

I. IXCS Should Be Required To Notify The Local Service Carrier When Informed By Customers That They Want To Cancel Ixc Service.

NASUCA and the New York Attorney General describe some of the dislocation that occurs when a customer’s direct request to an IXC for termination of service is not honored. NASUCA notes absence of a requirement for IXCs to send the functional equivalent of a “line loss notice” to the LECs “often results in two bills—one from the new long distance carrier and another from the former presubscribed IXC.”⁴ The New York Comments describe reports that IXCs have instituted a minimum monthly charge after such a termination request has been made, sometimes “many months and even

¹ This suggestion was made in the comments by the Attorney General of New York (New York Comments), the Public Utility Commission of Texas, and the National Association of State Utility Consumer Advocates (respectively, NASUCA and NASUCA Comments). *See, e.g.*, New York Attorney General Comments, at p. 2, NASUCA Comments, at p. 4.

² *Cf.*, Comments of AT&T, MCI and Sprint, at 10.

³ In these comments the term “carriers” includes all resellers.

years” after the original termination request from the customer.⁵ The FCC has found that these practices result in customers being charged improperly high “casual” non-subscriber billing rates for any calls inadvertently made on the cancelled service.⁶

The CPUC’s Consumer Affairs Branch (CAB) has received a large number of complaints about IXC billing practices after a customer makes a disconnect request to the IXC. Currently, these problems stem from the fact that many customers are not told clearly enough that they “need to notify the LEC if they wish to cancel the [IXC’s] PIC without selecting a replacement IXC.”⁷ These problems are easy to rectify, as California pointed out in footnote 7 of its Comments. The outgoing IXC should be required to send a notice to the LEC, informing the LEC that the customer no longer wishes to be subscribed to that number. New York, Texas, and NASUCA all propose this same solution. The CPUC is informed and believes that the existing “dePIC”⁸ transaction code 03 contains a status code indicator (05) that may be submitted by the IXC to the local service provider when the customer requests cancellation of an IXC’s

⁴ NASUCA Comments, at p. 5.

⁵ New York Comments, at pp. 3-4. These reports come from around the country.

⁶ *Cf., In Matter of Halprin v. MCI*, 13 FCC Rcd 22,568 at ¶ 3 (1998). In that case, complainants notified MCI that they wanted to end their service agreement with MCI and,

MCI removed [customer’s] account information associated with the Numbers from its billing system. MCI did not terminate the actual physical provision of service to the Numbers, however, and MCI remained the presubscribed carrier for the Numbers.

The FCC determined, based on these facts that the non-subscriber rates charged by MCI were so high as to be “unreasonable” as a matter of law.

⁷ New York Comments, at p. 3.

service. This code is available in the CARE system today, but it is reportedly only accepted by Verizon.

The New York Comments note that in the past IXCs have asserted that various regulations may “not permit[] [an outgoing IXC] to notify the LEC to change the customer’s PIC.”⁹ California urges that FCC regulations be interpreted and clarified in this proceeding so that no conflict exists with the institution of a uniform dePIC code to be used when a customer requests termination of service.¹⁰ FCC regulation should not be interpreted to require the IXCs to continue their current practices, especially since those practices “conflict[] with traditional contract law principles.”¹¹

II. The Care Data Set Proposed By Joint Petitioners And Other Industry Commenters Should Be Expanded To Provide For A Unique Identifier For Every Carrier, Including Non-Facilities Based Resellers.

As noted in California’s Comments, the lack of a unique identifier for every reseller and/or carrier has made California’s consumer protection efforts significantly more difficult. Switchless resellers in particular have accounted for the majority of the CPUC’s enforcement actions over the last ten years.¹² Previously, the FCC asked the

⁸ California previously referred to this code as a “DPIC” code, in error.

⁹ See, New York Comments, at p. 5, fn. 9 and accompanying text, citing 47 CFR § 64.1100 *et seq.*

¹⁰ Concerns about improper use of the dePIC code by IXCs do not arise if the code is only used when a customer requests cancellation of service.

¹¹ New York Comments, at p. 5, fn 10.

¹² See, e.g., *Cherry Communications Systems*, 62 CPUC2d 656 (D.95-12-019); *Sonic Communications* (I.96-02-043); *Heartline Communications* (I.96-04-024); *Communications TeleSystems International (CTS)*, 72 CPUC 2d 621 (D.97-05-089); *NOS Communications* (D.04-06-017). It appears that those resellers most likely not to have a CIC code or other unique identifier also come from this group of switchless resellers.

North American Numbering Council (NANC) to provide analysis and recommendations on whether the FCC should adopt a requirement that switchless resellers obtain and use their own Carrier Identification Codes (CICs) to address "soft slamming" and related carrier identification problems.¹³ At that time, a reseller wishing a CIC would have been required to purchase physical or trunk access to the public switched telephone network available through the purchase of Feature Group D. This is no longer the case. Following a directive from the FCC, the North American Numbering Plan Administration (NANPA) now assigns "Feature Group D CICs" to switchless resellers without requiring those resellers to first purchase of Feature Group D.¹⁴ In addition, the FCC has already rejected the argument that CIC exhaustion presents a barrier to the use of CICs to prevent certain types of slamming.¹⁵ As a result, the CPUC does not believe the FCC should give much weight to the NANC's 2001 conclusion that requiring resellers to obtain their own CICs would have an adverse effect on "scarce numbering resources . . . [and] competition."¹⁶ Instead, the FCC should require that every CARE request be attributable to the originating carrier using a

¹³ *Third Report and Order and Second Order on Reconsideration* in CC Docket 94-129, released on August 15, 2000, at paragraphs 24-31. The fact that resellers do not have unique identifiers produces problems in addition to "soft slamming."

¹⁴ See, http://www.nanpa.com/number_resource_info/New_CIC_Switchless_resellers.doc. (Viewed June 17, 2004.)

¹⁵ See, *Third Report and Order*, at ¶ 29 (rejecting the CIC exhaustion argument).

¹⁶ Cf., April 17, 2001 Report of CIC IMG to the NANC.

unique carrier identifier such as a CIC. There is simply no reason to allow certain carriers to “hide behind” other carriers when initiating CARE requests.¹⁷

III. Conclusion.

It appears that there is a building consensus that some form of mandatory CARE system is required. As always, however, “the devil is in the details.” California urges

¹⁷ The CPUC is not advocating that resellers who obtain CICs use those codes for call routing. The purpose of giving each reseller a CIC is to create a unique identifier for the reseller using a mechanism that is already in place, understood by the industry, and that fits easily into the established CARE system. California is informed and believes data fields are currently available in the CARE system to reflect CIC codes from both the facilities based carrier and the reseller when a reseller originates a request. As the CPUC pointed out in its Comments, other identifiers, such as state commission registration numbers or the Operating Company Number could also be used to identify carriers.

this Commission to require a system that works both for industry *and* for consumers by incorporating the suggestions for a de-PIC code and for a unique identifier (such as a CIC) for switchless resellers.

Respectfully submitted,

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