

**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)

TO: The Commission

REPLY COMMENTS OF TDS TELECOMMUNICATIONS CORP.

The comments submitted in the above-captioned proceeding confirm that there is no need for the Commission to mandate the exchange of Customer Account Record Exchange (CARE) information between local exchange carriers (LECs) and interexchange carriers (IXCs). The benefits of such regulation would be meager, and the costs to both carriers and the Commission would be great. Accordingly, TDS Telecommunications Corp. (TDS Telecom) respectfully reiterates its opposition to the adoption of mandatory minimum CARE standards.¹

I. THE COMMENTS DEMONSTRATE NO CLEAR NEED FOR REGULATORY INTERVENTION IN THE EXCHANGE OF CARE INFORMATION.

As an active and long-time participant in the voluntary exchange of CARE information, TDS Telecom understands that consumers benefit when IXCs and LECs exchange certain basic customer information. TDS Telecom agrees that it is useful for carriers to exchange “customer data required to establish and maintain customer accounts, bill customers, and execute

¹ Comments of TDS Telecommunications Corp., CG Docket No. 02-386, at 3 (June 3, 2004) (Comments of TDS Telecom) (“Carriers have strong incentives to participate in the voluntary exchange of CARE information, and the few specific concerns identified by the petitioners in this proceeding can be resolved through the ATIS OBF.”)

and communicate customer changes between carriers.”² Yet commenters asking the Commission to *mandate* that exchange of information have not shown that the existing voluntary system is sufficiently inadequate or harmful to consumers to justify regulatory intervention, with all its attendant complexities.

Proponents of mandatory CARE standards offer little evidence demonstrating any significant or widespread problems in the current voluntary model under which carriers exchange information using the CARE data format prescribed by the industry-consensus Alliance for Telecommunications Industry Solutions (ATIS) Ordering and Billing Forum (OBF). Instead, supporters of regulatory mandates largely reiterate the virtues of data exchange, note in vague terms that some CLECs do not participate in CARE,³ and offer conclusory allegations that the voluntary CARE system is responsible for “approximately 40% to 60% of consumer complaints concerning billing errors.”⁴ The few concrete examples of billing problems or improprieties offered are not clearly attributable to the lack of mandatory CARE requirements and do not rise to a level justifying regulatory action.

For example, some commenters claim that a recent incident in which AT&T erroneously billed over one million accounts nationally for a \$3.95 minimum recurring charge occurred because AT&T “never received out-PIC information indicating that these customers

² Comments of SBC Communications, Inc., CG Docket No. 02-386, at 1 (June 3, 2004) (SBC Comments). Similarly, TDS Telecom does not dispute that “[a]ccurate, timely CARE data are necessary for an IXC to know when a customer is presubscribed to its network via the local service provider’s switch.” Joint Comments of AT&T Corp., MCI Inc., and Sprint Corp., CG Docket No. 02-386, at 3-4 (June 3, 2004) (AT&T/MCI/Sprint Comments).

³ See, e.g., AT&T/MCI/Sprint Comments at 3; Comments of Americatel, CG Docket No. 02-386, at 3 (June 3, 2004) (Americatel Comments).

⁴ AT&T/MCI/Sprint Comments at 6. AT&T/MCI/Sprint provide no data to support this claim, nor do they indicate the number of complaints from which the 40% to 60% figure is derived. Accordingly, this number does not indicate the scope of the asserted problems.

had switched to other carriers.”⁵ However, at least one commenter also acknowledged that the problem may have originated in “deficiencies in AT&T’s record keeping.”⁶ Supporting this latter theory is the fact that, without the assistance of mandatory CARE standards, AT&T already has implemented a “corrective action plan” that has apparently resolved the billing-error issue.⁷ This incident, which may well be due to internal errors at AT&T rather than any deficiency in the voluntary CARE process, does not justify mandating CARE standards across the wireline industry.

Another example is provided by Working Assets Long Distance, which details a claim of allegedly anticompetitive conduct by SBC in its exchange of CARE data with IXC’s.⁸ Regardless of whether SBC’s conduct in this particular instance is anticompetitive, the Commission need not promulgate mandatory CARE requirements to address this type of problem. If any carrier were to engage in “unjust or unreasonable” conduct related to the exchange (or lack of exchange) of CARE information, an aggrieved party could bring a complaint under section 208 of the Act. This would be consistent with the Commission’s practice of deferring the adoption a broad prescriptive rule when matters of particular concern

⁵ See Comments of Eliot Spitzer, Attorney General of the State of New York, CG Docket No. 02-386, at 2-4 (June 3, 2004) (Spitzer Comments); see also Comments of the New England Conference of Public Utilities Commissioners, CG Docket No. 02-386, at 4 (June 3, 2004) (NECPUC Comments).

⁶ Spitzer Comments at 5. According to AT&T, the same billing error affected approximately 200,000 to 300,000 current AT&T customers (who had not switched to other carriers), in addition to nearly 800,000 non-AT&T customers. *AT&T Responds to Billing Errors*, KAAL-TV.com, May 26, 2004, available at <http://kaaltv.com/article/view/61779/> (last visited June 17, 2004). In addition, some consumers reported that when they called to complain about the erroneous charges, they received a sales solicitation from AT&T representatives. See Peter J. Howe, *State Looks at False Bills From AT&T*, The Boston Globe, March 2, 2004.

⁷ *PSC Chairman Flynn Announces New AT&T Commitment to Fix Remaining Bill Problems*, New York Public Service Commission, No. 04032, May 4, 2004, at 2.

⁸ Comments of Working Assets Funding Service d/b/a Working Assets Long Distance, CG Docket No. 02-386, at 5-11 (June 3, 2004).

can be efficiently addressed through the complaint process.⁹ As the Commission has found in other contexts, it “need not change [its] rules in response to speculative and unsupported claims[.]”¹⁰

II. MANDATING PARTICIPATION IN CARE EXCHANGE WOULD CREATE A NEW, COMPLEX, ONGOING REGULATORY REGIME

Any Commission action mandating participation by carriers in the exchange of CARE data would result in the creation of a new regulatory regime with ongoing Commission involvement in the development and prescription of individual CARE codes and practices. The lack of consensus concerning the type and scope of CARE participation that should be required demonstrates that this regime would be complex and could generate significant controversy. Commenters contending that the Commission could merely “require that all LECs provide IXC’s with the *basic* information necessary to process the accounts of customers who are presubscribed to the IXC,” and then exercise little ongoing administrative oversight, are mistaken.¹¹

Commenters express myriad views concerning how the Commission should regulate CARE participation. AT&T, MCI, and Sprint ask the Commission to adopt a lengthy list of Transaction Code Status Indicators (TCSIs), as well as “performance standards” to

⁹ See, e.g., *Access Charge Reform, First Report and Order*, CC Docket No. 96-262, 12 FCC Rcd 15982, 16141 (1997) (declining to adopt regulations governing the provision of terminating access provided by CLECs and reasoning that “if an access provider’s service offerings violate section 201 or section 202 of the Act, we can address any issue of unlawful rates through the exercise of our authority to investigate and adjudicate complaints under section 208.”); *2000 Biennial Regulatory Review, Policy and Rules Concerning the International, Interexchange Marketplace, Report and Order*, IB Docket No. 00-202, 16 FCC Rcd 10647, 10658 (2001) (eliminating tariffing requirement in international interexchange market and noting that “to the extent carriers attempt to engage in unjustly or unreasonably discriminatory behavior, we have the ability to... investigate and adjudicate complaints and to examine relevant legal and policy issues under Section 208 of the Act.”)

¹⁰ *Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996*, Order on Remand & Notice of Proposed Rulemaking, CC Docket No. 96-128, 17 FCC Rcd 3248, 3271 (2002) (declining to adopt revisions to nonstructural safeguards concerning inmate calling services and noting that “[i]f any party believes that improper subsidization occurs, it should bring a complaint under section 208 of the Act.”).

¹¹ Comments of Cincinnati Bell Telephone Co., CG Docket No. 02-386, at 2 (June 3, 2004).

regularly assess the quality of a LEC's participation in CARE.¹² Americatel seeks adoption of the same set of standards and asks the Commission to direct "the telecommunications industry... to develop a nationwide line level database."¹³ SBC asks the Commission to mandate the exchange of six types of customer information, but "opposes any Commission requirement mandating the use of specific CARE codes" to accomplish this exchange.¹⁴ Qwest takes a similar approach but identifies seven types of data that should be exchanged.¹⁵ Another RBOC, Verizon, believes that the Commission need not prescribe any categories of data to be exchanged. Verizon asserts instead that any problem with the exchange of CARE information could be "solve[d]" by simply "requiring all competitive local exchange carriers to support CARE."¹⁶ These conflicting proposals demonstrate the complexity involved in establishing a mandatory CARE regime. That complexity is exacerbated by the evolving nature of the telecommunications market and the resulting need to modify CARE requirements over time to accommodate changes in the market.

Even if the Commission were to attempt to delegate to a third party the responsibility for dictating the specific requirements of a mandatory CARE system,¹⁷ it would need to leave open an avenue for appeal to the Commission. The lack of consensus on specific mandatory CARE requirements and the need for such requirements to evolve over time suggest

¹² Petition for Rulemaking to Implement Mandatory Minimum Customer Account Record Exchange Obligations on All Local and Interexchange Carriers, filed by AT&T Corp., Sprint Corp., and WorldCom, Inc., CG Docket No. 02-386, 17 FCC Rcd 25535 (2002).

¹³ Americatel Comments at 4.

¹⁴ Comments of SBC Communications, Inc., CG Docket No. 02-386, at 3 (June 3, 2004) (SBC Comments).

¹⁵ Comments of Qwest Corporation, CG Docket No. 02-386, at 9-10 (June 3, 2004) (Qwest Comments).

¹⁶ Comments of Verizon, CG Docket No. 02-386, at 2 (June 3, 2004) (Verizon Comments).

¹⁷ See, e.g., Comments of the Alliance for Telecommunications Industry Solutions, CG Docket No. 02-386 (June 3, 2004).

that such appeals would be frequent and potentially contentious. This contrasts with the current system, under which the voluntary CARE standards adopted by the ATIS OBF are widely used both because of the consensus-based approach pursuant to which they are developed and because of the flexibility afforded carriers to implement the exchange of CARE information through a variety of approaches.¹⁸

In the absence of widespread problems under the current system, there is simply no reason for the Commission to undertake the substantial regulatory burden that would be involved in establishing and administering a mandatory CARE system. Any “advance protections” offered by mandatory CARE standards “would be outweighed by the enormous administrative burden those requirements would impose on the Commission”¹⁹ and on LECs that already participate in the voluntary exchange of CARE data.²⁰

¹⁸ See Comments of TDS Telecom at 7 (“Because of the diverse and sizable membership of ATIS... the CARE standards resulting from [the OBF] process are widely accepted on a voluntary basis. However, the voluntary and flexible nature of the process allows carrier to decline to implement CARE codes or enhancements that are unnecessary or inappropriate to the particular circumstances of the carrier.”)

¹⁹ *Regulatory Treatment of LEC Provision of Interexchange Services Originating in the LEC’s Local Exchange Area and Policy and Rules Concerning the Interstate, Interexchange Marketplace, Order*, CC Docket No. 96-149, 12 FCC Rcd 15756, 15831 (1997) (declining to require advance tariffing and cost support data requirements on the Bell Operating Company interLATA affiliates).

²⁰ See e.g., Comments of the Small Incumbent Local Exchange Carriers, CG Docket No. 02-386, at 1 (June 3, 2004) (“[T]he Small ILECs would need to revamp their customer care processes to incorporate the new procedures, including the myriad of transaction codes specified by the Large IXCs.”); Comments of TDS Telecom at 9-10 (estimating at least 500 hours of information systems personnel time just to make the technical changes called for by the proposed mandatory minimum CARE standards).

CONCLUSION

Commenters supporting the imposition of mandatory CARE requirements have not provided meaningful evidence of problems that would justify a departure from the industry-led voluntary process that has been in place for nearly two decades. In the absence of such evidence, there is no need for the Commission to intervene in a marketplace that incentivizes carriers appropriately and functions adequately to protect consumers and carriers alike. To the extent that any carrier handles the exchange of customer information in an unjust or unreasonable manner, the Commission's complaint process serves as an adequate safeguard. Accordingly, TDS Telecom urges the Commission to terminate this rulemaking without adopting mandatory CARE requirements.

Respectfully submitted,



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