

Before the  
Federal Communications Commission  
Washington, D.C. 20554

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In the Matter of )  
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Rules and Regulations Implementing )  
Minimum Customer Account Record )  
Exchange Obligations on All Local and )  
Interexchange Carriers )  
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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

CG Docket No. 02-386

**REPLY COMMENTS OF COX COMMUNICATIONS, INC.**

Cox Communications, Inc. ("Cox"), by its attorneys, hereby submits its reply comments in the above-captioned proceeding.<sup>1</sup> These reply comments focus on two issues raised by other parties in their initial comments: reimbursement for the costs of meeting CARE requirements and the time to respond to information requests. As shown below, the Commission should provide for reimbursement of burdened carriers if it incorporates mandatory CARE requirements into its rules and any rules should permit carriers a reasonable time of not less than ten days to exchange required CARE data.

Initially, however, the commission should note that the comments show widespread support for allowing the Ordering and Billing Forum (the "OBF") to continue its role as the chief architect of the CARE process.<sup>2</sup> Accordingly, Cox reiterates its position that the Commission should invest the OBF with the authority to develop a set of minimum CARE standards that are

<sup>1</sup> Rules and Regulations Implementing Minimum Customer Account Record Exchange Obligations on All Local and Interexchange Carriers, *Notice of Proposed Rulemaking*, CG Docket No. 02-386, FCC 04-50, 69 FR 20845 (released March 25, 2004) (the "Notice").

<sup>2</sup> See, e.g., Comments of the United States Telecom Association at 1-2 ("USTA Comments"); Comments of Martin Group, Inc. at 1 ("Martin Comments"); Comments of TDS Telecommunications Corp. at 6; Comments of Creative Support Solutions at 5.

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mandatory for all carriers.<sup>3</sup> The OBF is the only body with the knowledge base, the experience, and the internal organization necessary to develop and maintain a set of reasonable CARE standards that will satisfy all carriers' needs without placing undue burdens on any party.

**I. IF THE COMMISSION ADOPTS A MANDATORY CARE STANDARD IT SHOULD PROVIDE A REIMBURSEMENT MECHANISM FOR CARRIERS THAT ARE REQUIRED TO PROVIDE THE INFORMATION.**

IXCs will be the primary beneficiaries of their proposed new CARE standards, and they should be required to bear the costs of compliance with those standards. The comments in this proceeding demonstrate that no other party will benefit from the IXCs' proposed standards, and that LECs will be substantially burdened. The LEC commenters have shown that much of the CARE information the IXCs propose to require LECs to provide is not essential to achieving the legitimate consumer protection goals of a mandatory minimum CARE regime.<sup>4</sup> LECs also will see no benefits from the IXCs' proposals because they would not place any data exchange responsibilities on IXCs themselves. Requiring IXCs to adhere to mandatory CARE standards when their customers switch carriers would at least even the burdens of the requirements, but IXCs still will be the chief beneficiaries.

IXC's would gain several benefits from their proposed rules. First, they would obtain access to a wealth of customer information without expending any resources to collect or maintain it. The IXCs' proposal would require LECs to gather and maintain information about both existing and departing customers and provide that information to IXCs whenever customers

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<sup>3</sup> Comments of Cox Communications, Inc. at 3-5 ("Cox Comments").

<sup>4</sup> Comments of the Frontier and Citizens Telephone Companies at 4-6 ("Citizens Comments"); Martin Comments at 1; Comments of the Oklahoma Rural Telephone Companies at 10-11 ("ORTC Comments"); Comments of Cincinnati Bell Telephone Company at 3-4 ("Cincinnati Bell Comments").

switch carriers. Thus, LECs would have the responsibility to maintain all customer contacts necessary to ensure proper billing of IXC customers.<sup>5</sup> Moreover, as Cox has pointed out, the IXC proposals would codify a system in which LEC's are required to perform customer service and marketing functions on the IXCs' behalf.<sup>6</sup>

Providing these benefits to IXCs will impose significant operational burdens on LECs. LECs will be forced to devote substantial manpower and data storage and maintenance resources to these tasks, which will be particularly difficult for rural LECs and other LECs with lower call volumes.<sup>7</sup> One commenter estimated that compliance with these new obligations would require the expenditure of approximately two percent of its annual revenues, and another noted that imposing these compliance costs on LECs will lead to rate increases for consumers.<sup>8</sup> The extent of these burdens highlights the inequity of expecting LECs – and their customers – to pay for a CARE system that will benefit only IXCs. Indeed, requiring LECs to meet CARE requirements without reimbursement from IXCs would create a classic free-rider scenario, with all of the benefits accruing to parties that do not have to incur the costs.

Accordingly the Commission must give LECs the ability to recover their costs from IXCs so that the burdens of any mandatory CARE system can be reasonably apportioned. The commenters suggested several means of LEC cost recovery. For example, the National Telecommunications Cooperative Association argued that the Commission should allow cost-

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<sup>5</sup> Citizens Comments at 5-6; Martin Comments at 3; Comments of the Rural Incumbent Local Exchange Carriers at 17 (“RILEC Comments”); ORTC Comments at 6.

<sup>6</sup> Cox Comments at 6.

<sup>7</sup> Cincinnati Bell Comments at 14; National Telecommunications Cooperative Association Initial Comments at 4-5 (“NTCA Comments”). CLECs also would face the same difficulties.

<sup>8</sup> Citizens Comments at 2-3; Comments of the United States Telecom Association at 7.

recovery through increased access charges.<sup>9</sup> Frontier and Citizens Telephone argued that required CARE information should be provided to IXC's on a cost-based, tariffed basis, so that IXC's will bear the cost of LEC compliance.<sup>10</sup> Cox favors the tariffing approach because it has proven successful in the context of billing number and address information, which also is provided under tariff. Moreover, offering CARE information on a tariffed basis ensures that LEC's will be permitted to recover their costs without subjecting IXC's to any danger of being charged unreasonable rates for the information. Most important, by allowing cost recovery, the Commission will likely ensure that IXC's request only the information that they need to successfully complete carrier-change requests.

**II. THE COMMISSION'S RULES MUST ENSURE THAT LEC'S HAVE A REASONABLE TIME TO PROCESS CARRIER-CHANGE REQUESTS.**

The Commission also must ensure that it allows reasonable processing times for CARE information exchanges following customer-change requests. Most of the commenters rejected the IXC's' unreasonable requests for a one-to-five day time-limit for information exchanges, but several parties continue to propose processing periods that are unreasonably short.<sup>11</sup> For example, the California Public Utilities Commission supports NARUC's model rules governing CARE, which would allow three days processing time for all required intercarrier notifications.<sup>12</sup>

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<sup>9</sup> NTCA Comments at 5.

<sup>10</sup> Citizens Comments at 4.

<sup>11</sup> Joint Petition, Appendix A at 7-8.

<sup>12</sup> Comments of the California Public Utilities Commission and the People of the State of California at 8 (citing NARUC model rules at §§ 3, 4, 6). For the reasons outlined in its comments, Cox continues to oppose allowing state commissions to impose individual CARE requirements. Cox Comments at 9.

The New England Conference of Public Utilities Commissioners supports a five day time period.<sup>13</sup>

Any uniform CARE standard should permit at least a ten day window within which carriers can exchange CARE information. As Cox pointed out in its comments, until call volumes justify the necessary investment in electronic systems, many internal CLEC systems will remain manual and therefore labor intensive. Requiring these manual processes to be completed in anything less than ten days is simply unreasonable. Even when CLECs use electronic processes, volume-based delays are common. If the Commission decides to institute the IXCs' proposed CARE requirements, many carriers will be compiling, storing, and exchanging large amounts of information for the first time. Immediately requiring an expedited exchange of this information would be certain to cause error even if it were feasible, which the record clearly demonstrates it is not.<sup>14</sup> The wiser course would be to adopt a ten day period now to permit LECs the opportunity to implement any new requirements without undue time pressures. Once any CARE requirements are implemented, the Commission can revisit the time period if there is evidence that a shorter time is necessary.

### CONCLUSION

Cox maintains its view that the Commission should do no more in this proceeding than mandate uniform mandatory compliance with CARE standards to be developed and maintained by the OBF. However, if the Commission adopts any other rules, it should (1) institute

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<sup>13</sup> New England Conference of Public Utilities Commissioners Comments at 8.

<sup>14</sup> Cincinnati Bell Comments at 13-14; RILEC Comments at 12-13 (suggesting minimum period of 7 days). *See also* Comments of SBC Communication Inc. at 10 (suggesting that carriers be required to accomplish information transfer within a "reasonable time"); Comments of Qwest Communications International Inc. at 11-13.

reasonable means for LECs to recover their costs of complying with CARE rules that chiefly benefit IXCs; and (2) ensure that LECs are given a sufficient period of time to comply with whatever CARE requirements that the Commission adopts.

Respectfully submitted,

COX COMMUNICATIONS, INC.



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