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

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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

REPORT AND ORDER AND FURTHER NOTICE OF PROPOSED RULEMAKING

Adopted: February 10, 2005 **Released: February 25, 2005**

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Reply Comment Date: 60 days after publication in the Federal Register.

By the Commission: Chairman Powell issuing separate statement.

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I. INTRODUCTION

1. In March 2004, the Commission released a Notice of Proposed Rulemaking ("NPRM") seeking comment on whether to adopt mandatory, minimum standards governing the exchange of customer account information between local exchange carriers ("LECs") and interexchange carriers ("IXCs").1 The NPRM also sought comment on particular information exchange requirements proposed in a petition for declaratory ruling filed by Americatel Corporation ("Americatel Petition"),2 and in a

[1] *Rules and Regulations Implementing Minimum Customer Account Record Exchange Obligations on all Local and Interexchange Carriers*, Notice of Proposed Rulemaking, CC Docket No. 02-386, 19 FCC Rcd 5688 (2004) ("*NPRM*").

[2] Obligation of All Local Exchange Carriers to Provide Timely and Accurate Billing Name and Address Service to Interexchange Carriers, Petition for Declaratory Ruling, filed by Americatel Corporation on Sept. 5, 2002.

separate petition for rulemaking filed by AT&T, Sprint Corporation, and MCI, Inc. ("Joint Petition").3 As explained more fully below, we find that the record of this proceeding demonstrates that basic customer account information that carriers require to ensure accurate billing of end user customers and to execute end user customer requests in a timely manner is not being provided by all LECs and by all IXCs. For this reason, we adopt new rules to facilitate the exchange of customer account information between LECs and IXCs and to establish carriers' responsibilities with respect to such exchanges.

2. The rules we adopt today will help to ensure that consumers' phone service bills are accurate and that their carrier selection requests are honored and executed without undue delay. These requirements also recognize a carrier's right to be compensated for the services it provides by ensuring that providers of long distance phone services receive proper notification when customers are placed on their networks. To those ends and for the reasons that we discuss below, we grant in part, and deny in part, the Americatel Petition and the Joint Petition. Finally, in the attached Further Notice of Proposed Rulemaking, we seek comment on issues relating to the exchange of customer account information between local exchange carriers.

II. BACKGROUND

A. Factual Background

1. Current Data Exchange Methods

3. For the purpose of providing interexchange service, an IXC obtains access to its customer by means of the particular local switch that serves each local exchange service customer. Certain transactions affecting an IXC's ability to provide service and manage its customers' accounts, including the execution of customer requests to establish or change a preferred IXC ("PIC") or to make certain changes to a customer's account information, are carried out, not by the customer's IXC, but by his LEC. In these situations, effective communications between LECs and IXCs may be critical to IXCs' ability to maintain accurate billing records and to honor customer PIC selections and other customer requests.

4. There is currently no uniform, nationwide process by which all carriers exchange customer account information.4 Individual carriers nevertheless may share customer account information pursuant to state-mandated data exchange requirements,5 voluntarily-established business rules,6 or privately negotiated agreements with other carriers.7 Many carriers today utilize in varying degrees certain voluntary, industry-developed standards known as the Customer Account Record Exchange ("CARE") process. We discuss the history and operation of the CARE process immediately below.

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[3] Petition for Rulemaking to Implement Mandatory Minimum Customer Account Record Exchange Obligations on All Local and Interexchange Carriers, filed by AT&T Corp, Sprint Corporation, and WorldCom, Inc. on Nov. 22, 2002. In this Order, we refer to Petitioner WorldCom, Inc. by its current corporate name, which is MCI.

[4] *See, e.g.*, NECA comments at 3 ("NECA pool members exchange end user account information with IXCs through a variety of methods"). *See also* NARUC Subcommittee on Consumer Affairs, Standards Relative to the Exchange of Customer Account Information Between Interexchange Carriers, Local Exchange Carriers, and Competitive Local Exchange Carriers (March 4, 2004) (model guidelines and resolution encouraging states to adopt mandatory, minimum requirements for the exchange of customer account information between LECs and IXCs).

[5] *See, e.g.*, 16 Tex. Admin. Code § 26.130 (m) (West 2004)

[6] *See, e.g.*, Okla. RTCs Comments at 3.

[7] *See, e.g.*, USTA Comments at 8; Okla. RTCs Reply at 3-4.

2. The Customer Account Record Exchange Process

5. The CARE process was established under the auspices of the Alliance for Telecommunications Industry Solutions ("ATIS") Ordering and Billing Forum ("OBF") in response to the break-up of the Bell System and the introduction of competitive long distance services.[8] ATIS develops and promotes technical and operational standards for communications and related information technologies. According to ATIS, its member companies represent "all segments of the telecommunications industry" and participate in ATIS' open industry committees and forums.[9] The CARE process initially was developed to assist LECs in fulfilling their equal access obligations,[10] which required them to provide all IXCs with access to their networks equal in type, quality, and price to that provided to AT&T and its affiliates.[11] Thus, when a customer wished to change long distance providers or otherwise make changes to his billing, name, and address information, the CARE process was used by incumbent LECs ("ILECs") to transmit customer account information to the appropriate IXC to ensure the seamless provision of service to the customer.

6. The Subscription Committee of the OBF developed and continues to maintain the Equal Access Subscription Customer Account Record Exchange Industry Support Interface ("CARE/ISI") document. According to ATIS, the CARE/ISI document "describes industry recommendations for a standardized exchange of customer account information among telecommunications service providers."[12] The document identifies the content of the data that participating carriers are expected to share in specified circumstances and provides a consistent format for the exchange of that data.[13] CARE data consists of numbered codes called Transaction Code/Status Indicators ("TCSIs" or "CARE codes"). Each TC describes the nature or purpose of the data being exchanged (e.g., a TC of "22" is used to represent a customer disconnecting her IXC). Each SI provides specific details associated with the TC (e.g., an SI of "06" coupled with a TC of "22" represents a customer disconnecting his IXC by switching to another IXC). The TCSI in this example would appear as "2206." Although TCSIs may be exchanged by use of several different mediums, including but not limited to facsimile, mail, and e-mail, the CARE standards specifically "support a data format intended to facilitate the mechanized exchange of [customer account] information."[14]

B. Procedural Background

1. The Equal Access Notice of Inquiry

7. On February 28, 2002, the Commission released a Notice of Inquiry seeking comment on the status and continued importance of the equal access and nondiscrimination obligations of section 251(g)

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[8] *NPRM*, 19 FCC Rcd at 5690, ¶ 3. *See also United States v. AT&T*, 552 F. Supp. 131 (D.D.C. 1982), *aff'd sub nom., Maryland v. United States*, 460 U.S. 1001 (1983).

[9] ATIS Comments at 2.

[10] Equal access allows end users to access facilities of a designated IXC by dialing "1+" the desired telephone number.

[11] *NPRM*, 19 FCC Rcd at 5690, ¶ 3.

[12] ATIS Comments at 4.

[13] *Id.*

[14] CARE/ISI Document at 1-3.

of the Communications Act of 1934, as amended (the "Act").15 On May 10, 2002, and September 18, 2002, AT&T filed comments in that proceeding in which it argued that all carriers should be subject to the same mandatory, minimum requirements with regard to the accurate and timely exchange of customer account information.16 Specifically, AT&T proposed that the Commission initiate a rulemaking proceeding to address the issue of making the voluntary CARE process mandatory for all LECs in order to provide uniform, timely, and complete exchange of customer account data.17 In their reply comments in the Equal Access NOI proceeding, Sprint and MCI both supported AT&T's proposal for implementation of mandatory minimum standards governing the exchange of customer account information.18

2. The Americatel Petition and the Joint Petition

8. Two separate petitions were subsequently filed with the Commission concerning the exchange of customer account data between LECs and IXCs.19 The first, filed by Americatel Corporation on September 5, 2002, asked the Commission to issue a declaration that: (1) the obligation of LECs to provide customer billing, name and address ("BNA")20 information to IXCs, subject to existing safeguards, extends not merely to ILECs, but to competitive LECs ("CLECs") as well; (2) all LECs must notify the appropriate presubscribed IXC whenever a customer changes local service providers; and (3) a LEC that no longer serves a particular customer must provide to a requesting long distance provider the identity of the customer's new LEC.21

9. A second petition, filed on November 22, 2002, by AT&T, Sprint, and MCI (collectively, "Joint Petitioners") asked the Commission to initiate a rulemaking proceeding to implement mandatory, minimum standards governing the exchange of customer account information between LECs and IXCs and to adopt CARE as the prescribed format for such exchanges.22 The Joint Petitioners argued that mandatory, minimum standards are needed to ensure the exchange of information that carriers require to

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[15] *Review of the Equal Access and Nondiscrimination Obligations Applicable to Local Exchange Carriers*, Notice of Inquiry, CC Docket No. 02-39, 17 FCC Rcd 4015 (2002) ("*Equal Access NOI*"). Section 251(g) preserves the equal access and nondiscrimination requirements that were established for LECs "under any court order, consent decree, or regulation, order, or policy of the Commission" prior to passage of the 1996 Act. 47 U.S.C. § 251(g). That provision imports the obligations of the Modification of Final Judgment, the consent decree that settled the Department of Justice's antitrust suit against AT&T and required divestiture of the Bell Operating Companies as well as Commission equal access requirements. *U.S. v. AT&T*, 552 F. Supp. 131 (D.D.C. 1982), *aff'd sub nom.*, *Maryland v. U.S.*, 460 U.S. 1001 (1983).

[16] AT&T Comments in the *Equal Access NOI* proceeding (filed May 10, 2002, and September 18, 2002).

[17] *Id.*

[18] Sprint Reply in the *Equal Access NOI* proceeding (filed June 10, 2002), at 3-4; MCI Reply in the *Equal Access NOI* proceeding (filed June 10, 2002), at 2-3.

[19] Unless otherwise specified, the term "LECs," as used herein, refers to both incumbent LECs and competitive LECs.

[20] Under the Commission's rules, the term "billing name and address" refers to the name and address provided to a LEC by each of its local exchange customers to which the LEC directs bills for its services. 47 C.F.R. § 64.1202(a)(1).

[21] Americatel Petition at 18. If the Commission were to determine that these issues would be better addressed in a rulemaking proceeding, Americatel asked that its petition be treated as a petition for rulemaking. *Id.* at 4 n.4.

[22] Joint Petition at 1.

maintain accurate billing records and to deliver quality customer service.23 While noting that most ILECs participate in CARE, the Joint Petitioners complained that many CLECs that were established following enactment of the Telecommunications Act of 1996 either do not provide it at all, or do not provide it on a timely basis or with a quality or format upon which IXCs can depend.24 Under the Joint Petitioners' proposal, all LECs and IXCs would be required, in specified situations, to transmit to other carriers particular CARE codes (or specified alternative codes) that are designed to provide particular billing and/or other "essential" customer account information.25 The Joint Petitioners further proposed that carriers be given flexibility in their choice of methods for transmitting CARE data and that such methods should include transmission by paper (facsimile, mail), e-mail, cartridge, Internet processing, mechanized processing, and real-time processing.26 Finally, the Joint Petitioners proposed that we adopt performance measures for timeliness, accuracy, and completeness of CARE data transmissions.27

3. The December 2002 Public Notice

10. On December 20, 2002, the Commission opened a new Consumer & Governmental Affairs Bureau docket to receive public comment on the Americatel Petition and the Joint Petition (collectively, the "Petitions"). On that date, the Commission issued a public notice directing interested parties to file comments on the issues raised in the Petitions by January 21, 2003, and to file reply comments by February 4, 2003.28 After reviewing the Petitions and the comments filed in response to the December 2002 Public Notice, the Commission determined that these issues would be "more appropriately addressed through a notice and comment rulemaking proceeding than by an immediate ruling on the petitions."29 For this reason, the Commission determined to elicit further public comment in an NPRM.30

4. The Notice of Proposed Rulemaking

11. On March 25, 2004, the Commission released an NPRM seeking further comment as to whether it should adopt mandatory, minimum standards governing the exchange of customer account information between LECs and IXCs. In particular, the Commission sought comment on issues and proposals raised in the Petitions, as well as in comments filed by parties in response to the December 2002 Public Notice. Commenters who disagreed with the specific proposals set forth in the Petitions were encouraged to "specifically outline the minimum data exchange necessary to address the problems described in the petitions."31 The Commission noted its intent to focus "primarily" on the proposals

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[23] *Id.*

[24] *Id.* at 3.

[25] *Id.* at 7.

[26] *Id.*, App. A, at 4.

[27] *Id.* at 8-10 and App. A, at 4-8.

[28] *See Pleading Cycle Established for Comments on Petition for Declaratory Ruling and/or Rulemaking, filed by Americatel Corporation, and for Comments on Joint Petition for Rulemaking to Implement Mandatory Minimum Customer Account Record Exchange Obligations on All Local and Interexchange Carriers, filed by AT&T Corp., Sprint Corporation, and WorldCom, Inc.*, Public Notice, CG Docket No. 02-386, 17 FCC Rcd 25535 (2002) ("*December 2002 Public Notice*").

[29] *NPRM*, 19 FCC Rcd at 5692 ¶ 9.

[30] *Id.*

[31] *NPRM*, 19 FCC Rcd at 5694-95, ¶ 12.

outlined in the Joint Petition and further noted that it had determined not to address the Americatel Petition "in full" at this time.32 In particular, the Commission declined to address the Americatel Petition to the extent that the relief requested by Americatel was in the form of a declaratory ruling rather than in a rulemaking proceeding.33 Finally, the Commission indicated that it was not necessary to address Americatel's request for declaratory relief concerning CLECs' BNA service obligations insofar as the Commission's current BNA requirements make "no distinction between the responsibilities of independent LECs and competitive LECs, and place[] the obligations of notice and access on all LECs." 34 A list of parties who filed comments and/or reply comments in response to the NPRM is set forth in Appendix D attached hereto.

III. DISCUSSION

A. Overview

12. In this Order, we establish mandatory, minimum standards governing the exchange of customer account information between LECs and IXCs. In taking this action, we do not prescribe the use of a particular notification format or medium for the transfer of customer account information, such as CARE, and, instead, identify the situations in which information exchanges must take place and the obligations of particular carriers with respect to those exchanges. Under the rules we adopt today, a LEC will be required to supply customer account information to an IXC when: (1) the LEC has placed an end user on the IXC's network; (2) the LEC has removed an end user from the IXC's network; (3) an end user that is presubscribed to the IXC makes certain changes to her account information via her LEC; (4) the IXC has requested BNA for an end user who has usage on the IXC's network but for whom the IXC does not have an existing account; and (5) the LEC rejects an IXC-initiated PIC order. In addition, an IXC will be required to supply customer account information to a LEC when an end user contacts the IXC directly either to select or to remove the IXC as his PIC. We also require carriers to provide the required notifications promptly and without unreasonable delay. Finally, we require carriers to exercise reasonable efforts to ensure that the required data transmissions are complete and accurate.

B. The Need for Mandatory, Minimum Standards Governing the Exchange of Customer Account Information Between LECs and IXCs

1. Background

13. The NPRM sought comment on whether the Commission should replace the current voluntary process for exchanging customer account information with mandatory, minimum standards applicable to all LECs and IXCs.35 In particular, the NPRM asked parties to address the magnitude of the billing problems ascribed to carriers' failure to exchange customer account information among themselves in a complete and/or timely manner and whether the adoption of mandatory, minimum standards could significantly reduce the percentage of consumer complaints concerning billing errors.36 We also sought comment on the then-proposed NARUC Subcommittee on Consumer Affairs model

[32] *NPRM*, 19 FCC Rcd at 5693 ¶ 9.

[33] *NPRM*, 19 FCC Rcd at 5693 ¶ 9 and n.4.

[34] *NPRM*, 19 FCC Rcd at 5693 ¶ 9.

[35] *NPRM*, 19 FCC Rcd at 5689, 5693 ¶¶ 1, 10.

[36] *NPRM*, 19 FCC Rcd at 5692-93 ¶¶ 9, 10.

"carrier change guidelines."37 Noting that these could be adopted on a state-by-state basis to address customer account record concerns, we asked whether the model guidelines would adequately address the issues raised in the Petitions.

14. The NPRM also sought comment on Americatel's proposal to require the establishment of a line-level database as a comprehensive solution to data exchange problems in the industry and as to whether the adoption of data exchange requirements could provide quicker relief to the petitioners than the adoption of the database solution proposed by Americatel.38 Finally, we sought comment on our tentative conclusion that a uniform process observed by all LECs and all IXCs could provide a better framework for fair and consistent enforcement activity by the Commission.39

2. Discussion

15. Upon a review of the record before us, we conclude that mandatory, minimum standards are needed to facilitate the exchange of customer account information between LECs and IXCs. We adopt this conclusion in light of the considerable record of evidence demonstrating that information needed by carriers to execute customer requests in a timely and efficient manner and to properly bill customers is not being consistently provided by all LECs and by all IXCs.40 The Joint Petitioners report, for example, that of the approximately 3,065 wireline local service providers identified in the Local Exchange Routing Guide, nearly 60% of these providers do not participate in any exchange of customer account information.41 The Joint Petitioners further report that, on average, approximately 163.7 million calls per month (nearly two billion calls per year) are placed on their long distance networks by subscribers for whom the Joint Petitioners have received no customer billing name and address information.42

16. In determining the need for mandatory, minimum standards, we also take particular note of the information and views presented by representatives of state regulatory commissions and other state and consumer organizations, all of which urge us to adopt mandatory, minimum standards.43 For example, the National Association of Regulatory Utility Commissioners ("NARUC") reports that between 30% and 50% of billing-related telecommunications complaints received by state commissions

[37] *NPRM*, 19 FCC Rcd at 5698 ¶ 22. In March 2004, the NARUC Board of Directors adopted a resolution approving the principles expressed in the model rule that had been developed earlier by the NARUC Subcommittee on Consumer Affairs. The March 2004 resolution encourages states to adopt "minimum requirements relative to the exchange of customer account information between [IXCs and LECs]. The resolution further encourages states to use the NARUC Model Rule "as a template upon which to build their own customized individual standards." NARUC Comments, App. A.

[38] *NPRM*, 19 FCC Rcd at 5697 ¶¶ 17-19.

[39] *NPRM*, 19 FCC Rcd at 5693 ¶ 10.

[40] *See, e.g.*, Joint Petition at 3-7; Americatel Petition at 6-8; NASUCA Comments at 5; NYOAG Comments at 2; Qwest Comments at 6; Transaction Networks Comments at 1; Willtel Comments at 1; Working Assets Comments at 6-8; SBC Comments at 2.

[41] *See* Letter from Michael F. Del Casino, AT&T, to Marlene H. Dortch, FCC (October 25, 2004), Attachment, at 3. The Local Exchange Routing Guide, or LERG, refers to a database of switching information that is maintained by Telcordia Technologies and that is updated monthly.

[42] *See* Letter from Michael F. Del Casino, AT&T, to Marlene H. Dortch, FCC (October 25, 2004), Attachment, at 4.

[43] *See, e.g.*, CPUC Comments at 2; NARUC Comments at 4; NASUCA Reply at 4; NECPUC Comments at 5; NJDRA Reply at 4-5; NYOAG Comments at 2; OOAG Reply at 2; OPC-DC Comments at 3; PPUC Reply at 1; TPUC Comments at 2.

appear to be the result of "a breakdown in communications among the numerous carriers involved in changing a customer's primary interexchange carrier."[44] NARUC, which supports our adoption of nationwide, minimum requirements in this area, also has adopted resolutions and a model rule addressing this issue. In adopting the model rule, NARUC reportedly hopes to encourage states to adopt their own mandatory, minimum standards.[45] The New England Conference of Public Utility Commissioners ("NECPUC") similarly reports that problems stemming from carriers' failure to communicate critical customer account information regarding PIC changes are "pervasive and warrant regulatory intervention."[46] NECPUC further states that approximately 20% of PIC changes "fail[] to flow through seamlessly" and that these failures, many of which NECPUC believes are attributable to ineffective communications among carriers, are "costly for consumers and carriers and damage[] consumers' confidence in the marketplace."[47]

17. The comments of NECPUC and others also reinforce our belief that the adoption of mandatory, minimum standards applicable to all LECs and IXCs will enhance Commission and state enforcement efforts. We agree that, once carriers' respective obligations with respect to specific transactions are clearly delineated and made mandatory, regulators will be better able to determine the responsibility of individual carriers in connection with particular billing disputes and to ascertain at which point(s) in a transaction involving two or more carriers the process has gone awry.

18. On the basis of the Commission's own experience with consumer complaint investigations, we find that consumers are significantly impacted when carriers fail to communicate. As the Commission has observed in resolving consumer billing complaints, if a consumer's PIC change order is not communicated to the appropriate IXCs, the consumer may continue to receive bills from her former IXC for non-usage related charges long after the consumer has cancelled her service with that provider. In that instance, the consumer's new IXC, upon detecting usage on its network that it cannot associate with an identified subscriber (because it has received no billing name or address information from the customer's LEC) may have no choice but to place a block on the customer's line, thus preventing the customer from placing long distance calls over the network of the customer's preferred carrier. In these and other examples, it is the consumer who bears the burden of making multiple phone calls to rectify problems of double and continued billing, as well as problems associated with the delayed or failed execution of consumers' PIC change requests.

19. Although there is a divergence of views as to the particular circumstances in which information exchanges should be made mandatory and the specific parameters governing those exchanges (addressed in Sections C and D infra), there is widespread recognition among industry commenters that, in a defined set of circumstances, certain mandatory, minimum standards are needed.[48] A number of small and rural ILECs, however, oppose our adoption of mandatory, minimum standards with respect to the exchange of customer account information.[49] These parties oppose mandatory standards in general

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[44] NARUC Comments at 3.

[45] *Id.* at 2-3 (citing NARUC Comments, App. A, B, and C).

[46] NECPUC Comments at 3.

[47] *Id.*

[48] *See, e.g.*, Joint Petitioners Comments at 7; BellSouth Comments at 1; Cox Communications Comments at 1; Nextel Comments at 2; Time Warner Comments at 2; ALTS Reply at 2.

[49] *See, e.g.*, NTCA Comments at 2 ("The Commission should consider less burdensome alternatives before it imposes a mandate expected to involve substantial burdens and costs on small rural ILECs."); TDS Comments at 4 (although TDS "participates in the automated exchange of CARE information in accordance with

or, in the case of some parties, the imposition of CARE standards in particular on grounds that: (1) the information that IXCs claim to need could be obtained from the IXCs' own customers50 or through voluntary negotiations between LECs and IXCs;51 (2) ATIS OBF is a more appropriate forum for addressing data exchange issues and IXCs have not met their burden of proving that the current voluntary standards are inadequate;52 (3) small and rural LECs lack the necessary resources to implement costly new processes;53 (4) imposing additional requirements on ILECs is unwarranted insofar as the record demonstrates that it is the CLECs, not the ILECs, that are responsible for the vast majority of problems and disputes relating to the sharing of information with IXCs.54 We address these arguments in turn below.

20. As an initial matter, we find that the specific customer data that are the subject of the rules that we adopt today is not consistently available to IXCs in a timely or reliable manner, or at all, from sources other than their customers' LEC. For example, a customer who wishes to initiate or change a PIC selection may do so by communicating this request to his LEC or by directly contacting his PIC, which then must submit the order to the LEC on behalf of the customer. In either situation, the PIC may have no way of knowing that the customer has been added to its network unless and until the LEC provides notification to the IXC confirming this fact. Absent such notification, an IXC's customer may be able to place long distance calls on the IXC's network, but the IXC may not have sufficient information to bill the customer accurately, if at all, for those calls.55 Similarly, when a LEC removes a customer from an IXC's network in response to a customer's PIC change request, absent notification of this fact, an IXC may not be aware that it is no longer the customer's PIC and, most importantly, that it should discontinue billing the customer for non-usage specific monthly charges. Because the LEC is often regarded as the point of contact for a customer wishing to make changes to his long distance service account, and it is the LEC that executes a customer's request to establish or change a PIC selection, we find that certain basic customer account information that is needed by IXCs to provide service and properly bill their customers is not reasonably available from the IXC's customer or from sources other than the customer's LEC.56 Even when customer account information is available through other means, the IXC may have no reason to request it to the extent that it is unaware that a change has occurred.

21. Second, given that LECs and IXCs today compete directly in the long distance service

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the standards established by the ATIS OBF[,]" it sees "no evidence of a need" to make those standards mandatory).

[50] *See, e.g.*, Frontier Comments at 6.

[51] *See, e.g.*, USTA Comments at 8; Okla. RTCs Reply at 3-4.

[52] *See, e.g.*, TDS Comments at 4; USTA Comments at 2; Okla. RTCs Comments at 2-3.

[53] *See, e.g.*, Texas Statewide Tel. Coop. Comments at 2; Rural ILECs Comments at 3; Frontier Comments at 2-4; TDS Comments 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).

[54] *See, e.g.*, Okla. RTCs Reply at 2.

[55] *See* Joint Petition at 4-5 (noting that this problem results in "multi-million dollar losses" to the long distance industry each year).

[56] *See* SBC Comments at 2 (due to faulty inter-carrier communications "many IXCs do not know when subscribers are placed on or removed from their network, or receive insufficient customer data to enable them to bill their customers for service or bill them correctly"); NASUCA Reply at 7 n.30 (noting that information supplied by a LEC about a customer's PIC is "likely to be more accurate than information gathered from the customer, which would still have to be confirmed by the LEC").

markets of many states, we disagree with commenters who suggest that customer account information that is within the exclusive control of a customer's LEC can always be obtained by an IXC through voluntary negotiations with the LEC or in reliance on voluntary ATIS OBF standards. Although we encourage carriers to enter into voluntary agreements governing the exchange of customer account information and we commend the significant steps that industry has taken to develop voluntary standards through the ATIS OBF process, we are not persuaded that, without some minimum regulatory intervention, all carriers will participate voluntarily in such agreements or otherwise negotiate in good faith.57 Our own experience with consumer billing complaint investigations reinforces this observation. We agree with the Joint Petitioners that voluntary standards fall short because they do not result in industry-wide participation. Without industry-wide participation, customers have no assurance that their carrier change and other requests will be acted upon in a timely or efficient manner, if at all. The broad-based support for Commission action, as reflected in the record of this proceeding, supports the conclusion that voluntary industry standards, by themselves, are not adequate for this purpose.

22. Likewise, to the extent that the March 2004 NARUC resolution encourages states to use the NARUC model rule "as a template upon which to build their own customized individual standards[,]" and adoption of such standards is plainly within the discretion of each and every state commission or legislature, we conclude that the NARUC model rule is not likely to ensure industry-wide participation or a uniform, minimum standard.58 Although the NARUC model rule may prove useful to states wishing to adopt more expansive requirements than those adopted here, the model rule is unlikely to result in the adoption, on a nationwide basis, of the minimum standards that we believe are needed to address the billing and provisioning problems at issue in this proceeding.

23. Third, we note that, in response to concerns expressed by commenters regarding the burdens that mandatory, minimum standards would impose on small and rural carriers, we have made every effort to minimize those burdens. By limiting the universe of mandated information exchanges to those situations that we believe are most critical to addressing the problems identified in the record (see Section C infra) and by adopting standards that allow for flexibility in both the format and medium of information exchanges (see Section D infra), we anticipate that the costs or burdens associated with implementing the requirements that we adopt today will be minimal.59 Because we have made a concerted effort to minimize the burdens on small and rural carriers, we believe that any additional burdens associated with these requirements are outweighed by important public interest considerations, including the accurate billing of customers and the timely and efficient execution of customer requests.60

24. Finally, we disagree with the suggestion that imposing data exchange requirements on ILECs is unwarranted because it is CLECs, not ILECs, that are responsible for the problems identified in this proceeding. Contrary to this suggestion, the record demonstrates that long distance companies have

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[57] *See* Working Assets Comments at 3 ("In the absence of regulatory oversight the local exchange carriers can, and in Working Assets experience have, improperly used their unilateral control of CARE information to disadvantage their competitors.")

[58] *See* NARUC Comments at 5 ("Whatever the benefits of industry created solutions for exchange of such information, unfortunately industry cannot mandate the use of those standards").

[59] *See* Rural ILECs Comments at 10 (urging that, if the Commission adopts mandatory standards it should "require carriers to exchange information at specific times, but refrain from micro-managing the methods the carriers use to do so").

[60] *See also* Americatel Reply at 5 (noting that, on a relative basis, Americatel's financial problems related to unbillable calls are "much greater" than the financial impact on the ILECs should the FCC require ILECs to adopt minimum CARE standards).

experienced difficulty securing basic customer account information both from ILECs and CLECs.61 In any event, because the information exchange requirements that we adopt today represent, in our view, the bare minimum that carriers must do to address the billing, provisioning, and accuracy concerns raised in this proceeding, we anticipate that, as a practical matter, these requirements will result in minimal, if any, additional burden on ILECs that currently are participating in CARE or are otherwise providing IXCs with the equivalent information.

C. Transactions Requiring the Transfer or Exchange of Customer Account Information and Responsibilities of Particular Carriers

1. Background

25. The NPRM. In the NPRM, the Commission sought comment on the specific data exchanges proposed in the Petitions (as described below) and encouraged parties, to the extent that they disagree with the proposals set forth in the Petitions, to "specifically outline the minimum data exchange necessary to address the problems described in the [P]etitions."62

26. The Joint Petition. The Joint Petitioners ask the Commission to mandate the exchange of customer account information (as reflected by a specific subset of CARE codes) in connection with a defined set of transactions. Under the Joint Petition, a LEC would be required to supply customer account information to an IXC when: (1) the LEC has placed an end user on the IXC's network; (2) the LEC has removed an end user from the IXC's network; (3) an end user that is presubscribed to the IXC makes certain changes to her account information via her LEC; (4) the LEC has suspended or blocked an end user from using the IXC's network (e.g., due to collection or fraud issues); (5) the IXC has requested BNA for an end user who has usage on the IXC's network but for whom the IXC does not have an existing account; and (6) when the LEC rejects an IXC-initiated request or order in order to explain the basis for such rejection. Under the Joint Petition, an IXC would be required to supply customer account information to a LEC when an end user contacts the IXC directly to select the IXC as his PIC.63 In the NPRM, we sought comment on whether, if we were to adopt mandatory, minimum standards, the standard proposed by the Joint Petitioners was "appropriate and adequate to address the concerns raised in the petitions" and whether any modifications to that proposal would be necessary.64

27. The Americatel Petition. Americatel asks the Commission to issue a declaration that a LEC must notify the appropriate presubscribed long distance carrier when a customer changes local service providers and that, upon the request of a long distance carrier, a LEC that no longer serves a customer must indicate the identity of the customer's new local service provider.65 Americatel also asks the Commission to clarify that the obligation to provide BNA service to IXCs extends to all LECs, and not just to ILECs. The NPRM sought comment on the first two issues raised in the Americatel Petition.66

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[61] *See, e.g.*, Qwest Comments at 6; Working Assets Comments at 3, 5.

[62] *NPRM*, 19 FCC Rcd at 5694-95 ¶ 12. The *NPRM* also sought comment as to whether data exchange requirements are needed in the context of wireline-to-wireless porting. *NPRM*, 19 FCC Rcd at 5695 ¶¶ 13-14.

[63] Joint Petition, App. A at 3. We note that, in their proposal, the Joint Petitioners used the terms "local service provider" and "access customer" in lieu of LEC and IXC. We use the terms LEC and IXC in describing their proposal for consistency and to avoid confusion with terms used previously in this Order. As discussed in Section D *infra*, the Joint Petitioners also identified the "minimum CARE TCSIs" that they considered "essential" to facilitate the transfer or exchange of the information required in each of these situations.

[64] *NPRM*, 19 FCC Rcd at 5694 ¶ 12.

[65] Americatel Petition at 12-13.

[66] *NPRM*, 19 FCC Rcd at 5694 ¶ 12.

With respect to Americatel's request for declaratory relief regarding LECs' BNA service obligations, the Commission noted that section 64.1201 of its rules makes "no distinction" between the responsibilities of independent LECs and competitive LECs, and "places the obligations of notice and access on all LECs."[67]

28. The Coalition Proposal. On November 8, 2004, a coalition of interexchange carriers and local exchange carriers including AT&T, MCI, Sprint, BellSouth, Qwest, SBC, and Verizon ("the Coalition") filed with the Commission a proposed "set of mandated business activities that should trigger the exchange of specific customer record information between carriers."[68] In its November 8, 2004 ex parte letter, the Coalition asserts that "mandating the exchange of specific information during the identified business activities will reduce the number of consumer complaints associated with carrier changes."[69] In addition, the Coalition contends that the information that carriers would be required to exchange under its proposal is "the minimum required" to address customer billing issues associated with these business activities.[70]

2. Discussion

29. We conclude that minimum data exchange requirements are needed in connection with a number of specific transactions identified in the record. We anticipate that the adoption of nationwide rules requiring the exchange or transfer of customer account information in the situations identified below will help to alleviate the billing and provisioning problems described in this proceeding as well as the associated customer confusion and complaints that are documented in the record before us and that have come to our attention through the Consumer Inquiries & Complaints Division of the Commission's Consumer & Governmental Affairs Bureau. We note that the rules that we adopt today do not prescribe a particular format or delivery method (e.g., the CARE process) for the transfer of customer account information and instead focus more generally on information sharing in particular situations.[71] In adopting this approach we agree with the comments of Qwest that, at this time, what is important is that information exchanges take place, not the format or methodology that is associated with those exchanges.[72]

30. The specific information that carriers will be required to exchange represents the minimum that is required in connection with each of the identified transactions. Although we do not prescribe the CARE format, the content of the notification requirements adopted here generally mirrors that which carriers currently exchange under the industry-established CARE standards. The Coalition contends that these particular data elements represent "the minimum required in order to address customer billing

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[67] *NPRM*, 19 FCC Rcd at 5693 ¶ 9 (emphasis in original).

[68] The Coalition first proposed a draft list of mandated data exchanges in an *ex parte* letter filed with the Commission on November 5, 2004. *See* Letter from Mary L. Henze, BellSouth, to Marlene Dortch, FCC (November 5, 2004). The Coalition filed a "refinement and clarification" of that list on November 8, 2004. *See* Letter from Michael F. Del Casino, AT&T, to Marlene Dortch, FCC (November 8, 2004). It filed with the Commission a slightly modified version of the list on November 10, 2004. *See* Letter from Michael F. Del Casino, AT&T, to Marlene Dortch, FCC (November 10, 2004).

[69] *See* November 8, 2004, Coalition *Ex Parte*.

[70] *See* November 8, 2004, Coalition *Ex Parte*.

[71] We address commenters' arguments regarding the CARE process and other formats and delivery methods that carriers may use to transmit customer account information in Section E herein.

[72] Qwest Comments at ii.

issues" identified in this proceeding.[73] We note that no party has addressed the Coalition's proposed list of required data elements or otherwise disputed this contention. We conclude that the required data elements may be transmitted using CARE processes (i.e., TCSIs with the required data elements) or, if CARE processes are not used, a written description of the required information.[74] Finally, in response to carrier comments cautioning us to avoid requiring carriers to transmit information that they do not have, we clarify that a carrier is obligated to transmit the required information only to the extent that that information is reasonably available to it. We describe here the situations in which information exchanges must take place and the obligations of particular carriers with respect to those exchanges.

Customer Account Changes That Affect a Customer's Choice of Preferred Interexchange Carrier - Customer is Placed on IXC's Network

31. In the transactions described in this section, a LEC has received an order to add at its local switch a presubscribed long distance customer to an IXC's network. We conclude that the data exchanges described here are necessary to facilitate the proper establishment and billing of an end user customer's account.[75] These notification requirements are intended primarily to address the situations described by the Joint Petitioners in which they reportedly are unable to bill a presubscribed customer for long distance calls made on an IXC network or to honor a customer's request for a particular calling plan because the customer's LEC has not notified the IXC that it has placed the customer on the IXC's network or supplied appropriate BNA information for that customer.[76]

Customer-Submitted PIC Order

32. Upon receiving and processing a PIC selection submitted by an end user customer and adding the customer to the preferred IXC's network at the LEC's local switch, the LEC must notify the IXC of this event.[77] Commenters who proposed particular data exchange standards generally agreed that the transfer of customer account information in this situation should be made mandatory.[78]

33. In conjunction with this notification requirement, the confirmation provided by the LEC to the IXC must contain all of the customer account information necessary to allow for proper billing of the customer by the IXC including: (1) the customer's billing telephone number, working telephone number, and billing name and address; (2) the effective date of the PIC change; (3) a statement describing the customer type (i.e., business or residential); (4) a statement indicating, to the extent appropriate, that the customer's telephone service listing is not printed in a directory and is not available from directory assistance, or is not printed in a directory but is available from directory assistance; (5) the jurisdictional scope of the PIC installation (i.e., intraLATA and/or interLATA and/or international); (6) the carrier identification code of the submitting LEC; and (7) if relevant, a statement indicating that the customer's

[73] *See* November 8, 2004, Coalition *Ex Parte*. *See also* November 17, 2004, Coalition *Ex Parte* ("exchange of these data elements is vital to ensuring that our mutual customers receive prompt execution of account maintenance").

[74] As we discuss further in Section E *infra*, we encourage, but do not require, carriers to use CARE processes and guidelines.

[75] *See, e.g.*, Joint Petition at 6; Qwest Comments at 9; CBT Comments at 6.

[76] Joint Petition at 5-7.

[77] According to the Coalition, a carrier that elects to use CARE TCSI codes to communicate this information may use TCSIs 2003, 2008, 2009, or 2010. November 17, 2004, Coalition *Ex Parte*.

[78] *See, e.g.*, NASUCA Comments at 2; SBC Reply at 2 (arguing that LECs should be required to notify a presubscribed IXC when a customer is placed on the IXC's network).

account is subject to a PIC freeze.

IXC-Submitted PIC Order

34. When an end user customer contacts an IXC to establish interexchange service on a presubscribed basis, the IXC selected must submit the customer's properly verified PIC order to the customer's LEC, instructing the LEC to install or change the PIC for the customer's line(s) to that IXC.79 Commenters who proposed particular data exchange standards generally agreed that the transfer of customer account information in this situation should be made mandatory.80

35. In conjunction with this notification requirement, the IXC must submit to the LEC all of the information necessary to properly execute the order including but not limited to: (1) the customer's billing telephone number or working telephone number associated with the lines or terminals that are to be presubscribed to the IXC; (2) the date of the IXC-submitted PIC order; (3) the jurisdictional scope of the PIC order (i.e., intraLATA and/or interLATA and/or international); and (4) the carrier identification code of the submitting IXC.

Confirmation of IXC-Submitted PIC Order

36. When a LEC has placed a customer on an IXC's network at the local switch in response to an IXC-submitted PIC order, the LEC must send a confirmation to the submitting IXC.81 Commenters who proposed particular data exchange standards generally agreed that the transfer of customer account information in this situation should be made mandatory.82

37. In conjunction with this notification requirement, the confirmation provided by the LEC to the IXC must include: (1) the customer's billing telephone number, working telephone number, and billing name and address; (2) the effective date of the PIC change; (3) a statement describing the customer type (i.e., business or residential); (4) a statement indicating, to the extent appropriate, if the customer's telephone service listing is not printed in a directory and is not available from directory assistance, or is not printed in a directory but is available from directory assistance; (5) the jurisdictional scope of the PIC installation (i.e., intraLATA and/or interLATA and/or international); and (6) the carrier identification code of the submitting LEC. If the PIC order at issue originally was submitted by an underlying IXC on behalf of a toll reseller, the confirmation provided by the LEC to the IXC must indicate, to the extent that this information is known, a statement indicating that the customer's PIC is a toll reseller.

Rejection of IXC-Submitted PIC Order

38. When a LEC rejects or otherwise does not act upon a PIC order submitted to it by an IXC, the LEC must notify the IXC and provide the reason(s) why the PIC order could not be processed.83

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[79] *See* 47 C.F.R. § 64.1120(a). According to the Coalition, a carrier that elects to use CARE TCSI codes to communicate this information may use TCSIs 0101, 0105, or 0104. November 17, 2004, Coalition *Ex Parte.*

[80] *See, e.g.*, Qwest Comments at 9.

[81] According to the Coalition, a carrier that elects to use CARE TCSI codes to communicate this information may use TCSIs 2004 or 2020 (indicating to underlying IXC that confirmation is in response to a toll reseller order) November 17, 2004, Coalition *Ex Parte.*

[82] *See, e.g.*, BellSouth Comments at 6.

[83] According to the Coalition, a carrier that elects to use CARE TCSI codes to communicate this information may use applicable TCSIs in the 21XX, 31XX, or 41XX series. November 17, 2004, Coalition *Ex Parte.*

Commenters who proposed particular data exchange standards generally agreed that the transfer of customer account information in this situation should be made mandatory.[84]

39. In conjunction with this notification requirement, the LEC must notify the IXC that it has rejected the IXC-submitted PIC order and specify the reason(s) for the rejection (e.g., due to a lack of information, incorrect information, or a PIC freeze on the customer's account).[85] The notification must contain the identical data elements that were provided to the LEC in the original IXC-submitted PIC order (i.e., mirror image of the original order), unless otherwise specified herein. If a LEC rejects an IXC-submitted PIC order for a multi-line account (i.e., the customer has selected the IXC as his PIC for two or more lines or terminals associated with his billing telephone number), the notification provided by the LEC rejecting that order must explain the effect of the rejection with respect to each line (working telephone number or terminal) associated with the customer's billing telephone number. A LEC will not be required to generate a line-specific or terminal-specific response, however, and may communicate the rejection at the billing telephone level, when the LEC is unable to process an entire order, including all working telephone numbers and terminals associated with a particular billing telephone number. In addition, the notification must indicate the jurisdictional scope of the PIC order rejection (i.e., intraLATA and/or interLATA and/or international).

40. Finally, if a LEC rejects a PIC order because: (1) the customer's telephone number has been ported to another LEC; or (2) the customer has otherwise changed local service providers, the LEC must include in its notification, to the extent that it is available, the identity of the customer's new local service provider. Although a few carriers argue that providing this information would be burdensome and costly, these carriers make no effort to substantiate these claims.[86] We find that, to the extent that it is available, information concerning the identity of the carrier that is responsible for a customer's local service account must be transferred to an IXC whose PIC order has been rejected given that, in our view, this information is critical to evaluating the customer's PIC choice, particularly where the customer has not accurately identified his local service provider.

Additional Information Concerning Placement of Customer on IXC's Network

41. To the extent that certain additional information is available to a LEC regarding the circumstances surrounding the placement of a customer on an IXC's network, its notification must include this information as well. Specifically, the LEC must include within the notifications described above, information, if relevant and to the extent that it is available, reflecting the fact that a customer's PIC selection was the result of: (1) a move (an end user customer has moved from one location to another within a LEC's service territory); (2) a change in responsible billing party; or (3) the resolution of a PIC dispute (following a slam).[87] Although certain parties dispute an IXC's need for this additional information, we find that the information is important to an IXC's ability to maintain continuity in its provision of service to a presubscribed customer and to properly bill its customers. For example, if a customer moves from one location to another within a LEC's service territory but does not change local

[84] *See, e.g.*, Verizon Reply at 2.

[85] A PIC freeze prevents a change in a subscriber's preferred carrier selection unless the subscriber gives the carrier from whom the freeze was requested his or her express written or oral consent. 47 C.F.R. § 64.1190(a).

[86] *See, e.g.*, USTA Comments at 6.

[87] According to the Coalition, a carrier that elects to use CARE TCSI codes to communicate this information may use TCSI 2005 or an applicable TCSI in the 23XX series (customer move), TCSI 2007 or an applicable TCSI in the 23XX series (change in responsible billing party), or TCSI 2011 (PIC dispute). November 17, 2004, Coalition *Ex Parte*.

or long distance carriers, the customer's PIC may require this information in order to properly bill the customer and to know whether to continue the customer's subscription to a particular calling plan. Similarly, a customer's PIC may require notification of a change of responsible party on an account in order to properly identify and bill the new responsible party and to issue a final bill, if appropriate, to the former responsible party. Finally, we note that, in addition to ensuring that a customer's calling plan subscriptions can be restored following a slam, the notification that a LEC must transmit to a customer's PIC, once the customer has been restored to his PIC following a PIC dispute, corresponds to the notification provision in section 64.1150(a) of the Commission's existing rules, which requires a LEC that is informed of an alleged slam to notify both the authorized and allegedly unauthorized carrier of the incident.88

Customer Account Changes That Affect a Customer's Choice of Preferred Interexchange Carrier - Customer Cancels PIC

42. When an end user customer contacts an IXC or a LEC to discontinue interexchange service on a presubscribed basis, proper notification to each of the carriers involved, as detailed herein, is required. As the Texas PUC notes, the basis for adopting notification requirements in this situation is to protect consumers from "continued billing for services that the customer sought to cancel, an issue that [has given] rise to numerous and continued customer complaints."89 Commenters further note instances in which IXCs are held responsible for what consumers perceive as double or continued billing, cramming,90 and slamming91 in situations where a customer's LEC does not notify an IXC that the IXC's customer has selected a new PIC and, unaware of this change, the IXC continues billing the customer for recurring, non-usage related monthly charges after the customer is no longer on its network.92

43. Frontier argues that IXCs should be required to contact their customers to obtain carrier change information. According to Frontier, the fact that "a customer's usage suddenly drops to zero, or remains at zero for some period of time, [should provide to the IXC] some clue that it may have lost a customer."93 We disagree. Because accurate customer billing by IXCs hinges on their receipt of timely and accurate customer account information, we reject the suggestion that carriers should be required to take a wait-and-see approach when it comes to billing their customers. We find that the most reliable source of accurate and complete customer account information in this situation, and sometimes the only source of such information, is the customer's LEC.

Customer Contacts LEC or New IXC to Cancel PIC

44. When a LEC has removed at its local switch a presubscribed long distance customer from an IXC's network, either in response to a customer order or upon receipt of a properly verified PIC order submitted by another IXC, effectively canceling the service of the first IXC, the LEC must notify the

[88] 47 C.F.R. § 64.1150(a).

[89] Texas PUC Comments at 3.

[90] "Cramming" refers to the practice of causing unauthorized, misleading, or deceptive charges to be placed on consumers' telephone bills. *NPRM*, 19 FCC Rcd at 5701 n. 20.

[91] "Slamming" refers to the submission and execution by a telecommunications carrier of an unauthorized change in a subscriber's selection of a provider of telephone exchange service or telephone toll service. *NPRM*, 19 FCC Rcd at 5701 n. 21 (citing 47 U.S.C. § 258(a)).

[92] *See, e.g.*, NARUC Comments at 5.

[93] Frontier Comments at 5.

customer's former IXC of this event. Specifically, the LEC must notify the IXC that the customer, by directly contacting the LEC or by establishing presubscribed service with another IXC, has cancelled the IXC's services and is no longer presubscribed to that IXC's network.94 Commenters who proposed particular data exchange standards generally agreed that the transfer of customer account information in this situation should be made mandatory.95

45. In conjunction with this notification requirement, the LEC must provide to the IXC all of the customer account information that is necessary to allow for proper final billing of the customer by the IXC including: (1) the customer's billing telephone number, working telephone number, and, billing name and address; (2) the effective date of the PIC change; (3) a description of the customer type (i.e., business or residential); (4) the jurisdictional scope of the lines or terminals affected (i.e., intraLATA and/or interLATA and/or international); and (5) the carrier identification code of the submitting LEC. In addition, when a customer changes PICs but retains the same LEC, the LEC is responsible for notifying both the old PIC and new PIC of the PIC change.

Customer Contacts IXC to Cancel PIC and to Select No-PIC Status

46. When an end user customer contacts an IXC to discontinue interexchange service on a presubscribed basis, the IXC must confirm that it is the customer's desire to have no PIC and, if that is the case, the IXC must notify the customer's LEC. The IXC also is encouraged to instruct the customer to notify his LEC. An IXC may choose to satisfy this requirement by establishing a three-way call with the customer and the customer's LEC to confirm that it is the customer's desire to have no PIC and, where appropriate, to provide the customer the opportunity to withdraw any PIC freeze that may be in place.96 This notification requirement applies only when a customer expresses a desire to have no PIC. It does not apply where the customer expresses a desire to change PICs given that the LEC in that instance will know to remove a customer from the network of her former PIC upon receipt of a properly verified order from her new PIC.

47. Although the Coalition did not propose that we adopt a notification requirement in this situation, several other commenters have urged us to adopt such a requirement. We note, for example, that the comments of the New York Office of the Attorney General describe at length the erroneous billings that result when a customer's PIC cancellation order is not communicated to the customer's LEC.97 To address the concern raised by the NYOAG and other commenters, we take this action to

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[94] According to the Coalition, a carrier that elects to use CARE TCSI codes to communicate this information may use TCSIs 2203 or 2209 (customer cancels PIC by contacting LEC), or TCSI 2206 (PIC cancelled through another IXC-submitted order). November 17, 2004, Coalition *Ex Parte*.

[95] *See, e.g.*, SBC Reply at 2; NASUCA Comments at 2.

[96] We note that our PIC freeze rules, which prevent a LEC from switching a customer's PIC from one IXC to another when a PIC freeze is in place, could be interpreted to prevent a LEC from switching a PIC-frozen customer to "no-PIC" status without the customer's express authorization. *See* 47 C.F.R. § 64.1190. Because we believe that this issue should be explored more fully in the Commission's slamming docket, we decline to resolve it here. Pending final resolution of this matter by the Commission, we strongly encourage carriers to engage in a three-way conversation in which the customer who wishes to have no PIC, but whose account is subject to a PIC freeze, is provided the opportunity to withdraw the PIC freeze in order to effectuate the customer's wishes.

[97] NYOAG Comments at 3-5 ("Consumers reasonably believe...that telling their IXC to cancel the service will terminate their contractual relationship and are not aware of the additional requirement that the local carrier be notified."). The NYOAG Comments propose that all carriers be required to send a notice of line loss to other affected providers. *See also* Oregon Attorney General of the State of Oregon Reply Comments at 3 ("Requiring consumers to contact their local exchange carrier in order to terminate their customer relationship with their long distance carrier is burdensome, counterintuitive, and unreasonable").

ensure that an IXC customer's express instruction to cancel the services of a particular IXC is honored.

48. In conjunction with this notification requirement, the IXC must submit to the LEC all of the information necessary to properly execute the cancellation order including but not limited to: (1) the customer's billing telephone number or working telephone number associated with the lines or terminals that are affected; (2) the date of the IXC-submitted PIC removal order; (3) the jurisdictional scope of the PIC removal order (i.e., intraLATA and/or interLATA and/or international); and (4) the carrier identification code of the submitting IXC.

Additional Information Concerning Removal of Customer from IXC's Network

49. To the extent that certain additional information is available to a LEC regarding the circumstances surrounding the removal of a customer from an IXC's network, its notification must include this information as well. Specifically, the LEC must include within the notifications described above, if relevant, information reflecting the fact that a customer's PIC removal was the result of: (1) the customer moving from one location to another within the LEC's service territory (but where there is no change in local service provider); (2) a change of responsible party on an account; or (3) a disputed PIC selection (PIC removal to rectify unauthorized switch).98 As explained more fully in Subsection (2)(a)(v) supra, we find that these notifications are needed to ensure that an IXC can properly identify and bill its customer and to maintain continuity of service and calling plans when a customer is not changing PICs.

Changes to Customer's Local Service Account (That May or May Not Affect Customer's Choice of Preferred Interexchange Carrier)

Particular Changes to Account of Presubscribed End User Customer

50. When, according to a LEC's records, any account or line information changes occur on a presubscribed customer's account, the LEC must communicate the changed information to the customer's PIC. For purposes of this requirement, the LEC must supply any account or line information changes that are necessary for an IXC to issue timely and accurate bills to its customers and to maintain accurate PIC records.99 We agree with commenters who contend that this information is needed to facilitate accurate and timely billing of end user customers.100

51. In conjunction with this notification requirement, the LEC must inform the IXC of any changes to the following: (1) the customer's billing telephone number, working telephone number, and billing name and address; (2) the customer code assigned to that customer by the LEC; (3) the type of customer account (i.e., business or residential); (4) the status of the customer's telephone service listing as not printed in a directory and not available from directory assistance, or not printed in a directory but available from directory assistance; and (5) the jurisdictional scope of the PIC installation (i.e., intraLATA and/or interLATA and/or international). If there are changes to the customer's billing or

[98] According to the Coalition, a carrier that elects to use CARE TCSI codes to communicate this information may use TCSI 2202 or an applicable TCSI in the 23XX series (PIC canceled due to customer move within LEC service territory), TCSI 2212 (PIC canceled due to change in responsible party), or TCSIs 2217, 2218, or 2219 (PIC cancelled following resolution of PIC dispute). November 17, 2004, Coalition *Ex Parte.*

[99] According to the Coalition, a carrier that elects to use CARE TCSI codes to communicate this information may use TCSIs 2317, 2368, 2369 or an applicable TCSI in the 23XX series. November 17, 2004, Coalition *Ex Parte.*

[100] *See, e.g.*, Joint Petitioners Reply at 14-15.

working telephone number, customer code, or customer type, the LEC must supply both the old and new information for each of these categories.

Local Service Disconnects

52. Upon receipt of an end user customer's request to terminate his entire local service account or disconnect one or more lines (but not all lines) of a multi-line account, the LEC must notify the PIC(s) for the billing telephone number or working telephone number on the account of the account termination or lines disconnected.101 We agree with commenters who argue that this information is needed to ensure that a presubscribed IXC does not continue to bill a customer who has disconnected her line for non-usage related monthly charges.102

53. In conjunction with this notification requirement, the LEC must provide to a customer's PIC(s) all account termination or single/multi-line disconnection change information necessary for the PIC(s) to maintain accurate billing and PIC records, including: (1) the effective date of the termination/disconnection; and (2) the customer's working and billing telephone numbers and billing name and address; (3) the type of customer account (i.e., business or residential); (4) the jurisdictional scope of the PIC installation (i.e., intraLATA and/or interLATA and/or international); and (5) the carrier identification code of the LEC.

Change of Local Service Provider

54. When an end user customer changes LECs, the customer's former LEC must notify the customer's PIC(s) of the customer's change in LECs. If the customer also makes a PIC change, the customer's former LEC must notify the customer's former PIC(s) of the change and the new LEC must notify the customer's new PIC of the customer's PIC selection. We conclude that notification to the former PIC by the former LEC and notification to the new PIC by the new LEC will enable the former and current PICs to know the precise date from which each may or may not charge for presubscribed service and will help to avoid double billing.

55. If the customer's LEC is unable to identify the customer's new LEC, the former LEC should simply notify the presubscribed IXC of a local service disconnect as described above. To the extent that a LEC has certain additional information regarding a customer's change of local service providers and the identity of the customer's new LEC, its notification must include this information as well. Specifically, the LEC's notification information, if available, must reflect the fact that an account change was the result of: (1) the customer porting his number to a new LEC; (2) a local resale arrangement (customer has transferred to local reseller); or (3) the discontinuation of a local resale arrangement.103 We conclude that this information is needed by an IXC to facilitate continuity of service where the customer is changing local service providers but is not making a PIC change and, to alert an IXC when the IXC is no longer the customer's PIC.104

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[101] According to the Coalition, a carrier that elects to use CARE TCSI codes to communicate this information may use TCSIs 2201, 2215, or 2216. November 17, 2004, Coalition *Ex Parte.*

[102] *See, e.g.*, Joint Petitioners Comments at 5-6 and n. 6.

[103] According to the Coalition, a carrier that elects to use CARE TCSI codes to communicate this information may use TCSI 2231 (customer is porting number to a new carrier), TCSI 2233 (customer is migrating to a new local provider involving local resale), or TCSI 2234 (termination of local resale arrangement). November 17, 2004, Coalition *Ex Parte.*

[104] *See, e.g.*, Qwest Comments at 10 n.15 (noting that, although an IXC may be able to learn the identity of a customer's new local service provider when the customer has ported his number to that provider by querying

IXC Requests for Customer BNA Information

56. Upon the request of an IXC, a LEC must provide the billing name and address information necessary to facilitate an end user's receipt of a timely, accurate bill for services rendered and/or to prevent fraud, regardless of the type of service the end user receives/has received from the requesting carrier (i.e., presubscribed, dial-around, casual).105 In the NPRM, the Commission indicated that it need not address BNA requests in this proceeding to the extent that all LECs, including CLECs, currently are subject to the BNA requirements of 47 C.F.R. § 64.1201. While agreeing that section 64.1201 applies to all LECs, Qwest and other commenters argue that this provision deals only with BNA requests in the context of joint-use calling cards.106 These commenters urge the Commission to include an obligation to provide BNA generally for IXCs' presubscribed, dial-around, and casual calling customers.107 We hereby clarify that the obligation to provide BNA information extends to all LECs and is not confined to the context of joint-use calling cards. By including BNA requests among the data exchanges identified here, we clarify carriers' existing obligation to provide BNA information upon the request of an IXC.

57. In response to an IXC's BNA request for ANI, a LEC must provide the BNA for the submitted ANI along with: (1) the working telephone number for the ANI; (2) the date of the BNA response; (3) the carrier identification code of the submitting IXC; and (4) a statement indicating, to the extent appropriate, if the customer's telephone service listing is not printed in a directory and is not available from directory assistance, or is not printed in a directory but is available from directory assistance.108 A LEC that is unable to provide the BNA requested must provide the submitting carrier with the identical information contained in the original BNA request (i.e., the mirror image of the original request), along with the specific reason(s) why the requested information could not be provided.109 If the BNA is not available because the customer has changed local service providers or ported his telephone number, the LEC should include the identity of the new provider when this information is available.

D. Format and Method of Delivery of Required Information Exchanges

1. Background

58. In the NPRM, we asked parties to comment on whether our adoption of CARE codes and CARE guidelines governing the transmission of customer data would provide uniformity and consistency within the industry and thereby facilitate the exchange of customer account information between and

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the NPAC database by Neustar, in the case of resale, the IXC will know only that a disconnection has occurred but will not know the identity of the new carrier).

[105] According to the Coalition, a carrier that elects to use CARE TCSI codes to communicate this information may use TCSI 0501(IXC BNA request for ANI) or TCSI 2501 (LEC response to BNA request), as appropriate. November 17, 2004, Coalition *Ex Parte.*

[106] *See, e.g.*, Qwest Comments at 6.

[107] Qwest Comments at 10 n.16 ("The matter of BNA provisioning is fairly within the scope of the existing *NPRM* as it is raised not only by Americatel but the Joint Petition. The *NPRM* only reserved the matter of addressing the item in the context of a declaratory ruling and the matter of a national database to provision the information").

[108] The term automatic number identification ("ANI") refers to the delivery of a calling party's billing telephone number by a LEC to any interconnecting carrier for billing or routing purposes.

[109] According to the Coalition, a carrier that elects to use CARE TCSI codes to communicate this information may use an appropriate TCSI in the 26XX series. November 17, 2004, Coalition *Ex Parte.*

among carriers.110 The Joint Petitioners identify a subset of CARE codes and ask that carriers be required, in specified situations, to transmit those codes, each of which is designed to provide specific billing and other customer account information to involved carriers.111 The Joint Petitioners argue that the CARE process offers the uniformity that is needed to ensure complete and accurate transmissions of customer data between LECs and IXCs and to support consumers' ability to move seamlessly from one carrier to another.112 The Joint Petitioners further argue that their proposal affords carriers flexibility insofar as it specifies the use of certain "preferred" codes in particular situations, but also allows for the use of certain "alternative" codes depending upon carriers' particular needs and operations.113 The Joint Petitioners urge that their proposal also would minimize costs for carriers not currently participating in the CARE process, by affording carriers flexibility in terms of the methods used to transmit required data.114

2. Discussion

59. Because we agree with commenters who argue that what is most important is that information exchanges take place, we decline to mandate at this time the use of a particular format or transmission medium, such as CARE, with respect to the data exchanges required by this Order.115 In addition, the rules we adopt today do not preclude carriers from arranging with other carriers or entities to provide the required notification(s) on their behalf.116 By focusing on information exchanges in particular circumstances rather than on mandating specific formats or transmission mediums for those exchanges, we have attempted to minimize the potential costs or burdens associated with implementing these requirements, particularly for small and rural carriers. As noted by one commenter, "[e]ven though the CARE process ... may be workable for larger companies with large staffs, [requiring compliance with CARE] would add unnecessary burdens to smaller ILECs that currently do not use the CARE codes but do provide information to other carriers that meets the other carriers' needs."117 Thus, to the extent that carriers currently are providing, consistent with the requirements adopted herein, timely and adequate notifications to other carriers pursuant to inter-carrier agreements or other non-CARE processes, we have determined not to require those carriers to incur potentially unnecessary expenses associated with modifying their current processes.118 We refrain from prescribing the use of particular CARE codes also in light of the fact that, among carriers currently participating in CARE, few of those carriers' operating

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[110] *NPRM*, 19 FCC Rcd at 569-93, ¶¶ 9-10.

[111] Joint Petition at 7.

[112] Joint Petitioners Comments at 2.

[113] Joint Petition at 7-8 and App. A.

[114] Joint Petition at 8 (noting that carriers could transmit data in a variety of ways, including paper, e-mail, cartridge, Internet processing, mechanized processing or real-time processing).

[115] *See, e.g.*, Qwest Comments at ii; Texas Statewide Telephone Coop. Reply at 5 (urging the Commission "to focus on the information sharing process rather than mandating specific formats for sharing information"). *See also*, Texas PUC Comments at 2 (noting that the Texas PUC rule does not require the use of a specific notification method, such as CARE).

[116] Texas PUC Comments at 2.

[117] Rural ILECs Comments at 10.

[118] *See* NTCA Comments at 4 ("It can be expected that the costs of implementing a minimum standard will have a greater impact on small carriers with fewer customers over which to spread costs. Every effort should be made to minimize the adverse impact of these costs").

systems, if any, support an identical set of CARE codes.119 Because CARE is an established standard that has been successfully used by many carriers for a number of years, we encourage carriers to use CARE processes and guidelines in implementing the requirements adopted herein and to work with the OBF industry forum to further develop and refine them. In light of our desire to avoid imposing any potentially unnecessary burdens on small and rural carriers that currently do not participate in CARE, we do not mandate such participation. Finally, if the measures that we adopt today do not resolve the billing, provisioning, and accuracy concerns raised in the record of this proceeding, we may reconsider at a future time the need for additional standards.

E. Performance Measures

1. Background

60. The Joint Petitioners urge the Commission to adopt performance measurements governing the timeliness, accuracy, and completeness of any mandated data exchanges.120 In particular, they ask the Commission to: (1) adopt timeliness thresholds that would vary from 12 hours to five business days depending upon the processing method used; (2) require all carriers to use "best efforts" and "quality practices and methods" to ensure that the data exchanged is accurate and complete; and (3) require all carriers to use the CARE/ISI document guidelines to ensure the accuracy and completeness of submitted information.121 The NPRM sought comment as to whether the performance criteria proposed by the Joint Petitioners are "appropriate or necessary" and whether other measures would provide a more accurate assessment of carrier compliance.122

2. Discussion

61. We agree with the Joint Petitioners and other commenters that the timely transmission of account information between carriers is essential to ensuring that customer requests are honored and that they are processed without undue delay. Accordingly, we require carriers to provide the required notifications promptly and without unreasonable delay.123 We note that the Commission has employed a similar timeliness standard in the context of its rules governing a LEC's obligation to accept and process a carrier change order that has been verified and submitted to the LEC by an IXC.124 We have determined not to adopt more specific timeliness measures given the widely divergent proposals of commenters on this question and because we conclude that it would be premature to adopt timeframes before we have had an opportunity to observe the level of carrier performance and compliance with the data exchange requirements that we adopt today.125 We anticipate that carriers' future performance in this regard will

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[119] *See, e.g.*, Verizon Reply at 3-5.

[120] Joint Petition at 8.

[121] Joint Petition at 9.

[122] *NPRM*, 19 FCC Rcd at 5696 ¶ 16.

[123] *See, e.g.*, Joint Petition at 8; Working Assets Comments at 13-14.

[124] *See* 47 C.F.R. § 64.1120(a)(2) ("For an executing carrier, compliance with the procedures described in this part shall be defined as prompt execution, without any unreasonable delay, of changes that have been verified by a submitting carrier.").

[125] For example, the NARUC Model Rule recommends that an executing carrier be required to provide confirmation of a PIC change "as soon as is practical" but not to exceed three business days. NARUC Model Rule, § 6. By contrast, the Texas PUC rule referenced above requires a local service provider to provide notification of a PIC change within five business days. *See* 16 Tex. Admin. Code § 26.130(m).

inform our judgment as to whether more specific timeframes are needed.

62. Regarding the accuracy and completeness of carrier data exchanges, we require carriers to exercise reasonable efforts to ensure that the data transmitted is accurate.126 We also encourage, but do not require, carriers to refer to the guidelines set forth in the CARE/ISI document to ensure the completeness of data transmissions. Again, we conclude that once all LECs and IXCs are subject to the data exchange requirements adopted here, we will be better able to determine if further Commission action is needed.

63. To the extent that a carrier believes that it is aggrieved by another carrier's failure to provide accurate and complete information in a timely fashion, we encourage such carrier to bring this to our attention through appropriate enforcement processes. If we observe, upon implementation of the attached rules, a widespread disregard by carriers in this area we may, at that time, reconsider the need for more specific performance criteria.

F. Customer Privacy and Limitations on Use of Customer Account Information

1. Background

64. Section 222 of the Act governs carriers' use of customer proprietary network information ("CPNI") and generally prohibits a carrier from disclosing such information.127 Section 222 establishes three categories of customer information to which different privacy protections and carrier obligations apply: (1) individually identifiable CPNI; (2) aggregate customer information; and (3) subscriber list information.128 The Act accords CPNI, which includes personal, individually identifiable information, the greatest level of protection. As specified in section 222(c)(1), a carrier can only "use, disclose or permit access to CPNI in its provision of (A) the telecommunications service from which such information is derived, or (B) services necessary to, or used in, the provision of such telecommunications service."129 Section 222(d) contains several exceptions to the general prohibition on disclosure of individually identifiable CPNI, including, as relevant here, those that permit a telecommunications carrier to use individually identifiable CPNI: (1) to initiate, render, bill and collect for telecommunications services; or (2) to protect the rights or property of the carrier, or to protect users and other carriers from

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[126] Joint Petition at 9.

1. [127] Section 222(h) defines CPNI as:

(A) information that relates to the quantity, technical configuration, type, destination, location, and amount of use of a telecommunications service subscribed to by any customer of a telecommunications carrier, and that is made available to the carrier by the customer solely by virtue of the carrier-customer relationship; and (B) information contained in the bills pertaining to telephone exchange service or telephone toll service received by a customer of a carrier.

47 U.S.C. § 222(h).

[128] *Implementation of the Telecommunications Act of 1996; Telecommunications Carriers' Use of Customer Proprietary Network Information and Other Customer Information*, 17 FCC Rcd 14860, 14864 ¶ 6 (2002).

[129] 47 U.S.C. § 222(c)(1). *See also* 47 U.S.C. § 222(b) ("A telecommunications carrier that receives or obtains proprietary information from another carrier for purposes of providing any telecommunications service shall use such information only for such purpose, and shall not use such information for its own marketing efforts").