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

DEC 31 2007
FCC

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

REPORT AND ORDER

Adopted: December 18, 2007

Released: December 21, 2007

By the Commission:

I. INTRODUCTION

1. In 2005, the Commission adopted mandatory, minimum standards for the exchange of customer account information between local exchange carriers (LECs) and interexchange carriers (IXCs).¹ The Commission determined that such rules were necessary to facilitate the seamless transition of an IXC customer's service from one long distance service provider to another and to avoid billing errors that occur when critical account change information is not shared with a customer's IXC by the customer's local service provider.² Accompanying the *CARE Order* was a Further Notice of Proposed Rulemaking (*Further Notice*), in which the Commission sought comment on whether to require the exchange of customer account information between LECs.³ In this Report and Order (*Order*), we conclude that the record before us does not demonstrate a need for Commission action. For this reason, we decline at this time to adopt mandatory LEC-to-LEC data exchange requirements. The Commission, however, intends to monitor the exchange of such information and, if necessary, may revisit this issue in the future.

¹ See *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, 20 FCC Rcd 4560 (2005) (*CARE Order*).

² See *id.*

³ See *CARE Order*, 20 FCC Rcd at 4587-88, paras. 75-79.

II. BACKGROUND

A. The Customer Account Record Exchange Process

2. The customer account record exchange (CARE) process was established through 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.⁴ The CARE process initially was developed to assist LECs in fulfilling their equal access obligations,⁵ which required them to provide IXCs with access to their networks equal in type, quality, and price to that provided to AT&T and its affiliates.⁶ Thus, when a customer wished to change long distance service providers or otherwise make changes to billing, name, and address (BNA) information, the CARE process was used by incumbent LECs to transmit customer account information to the appropriate IXC to ensure the seamless provision of service to the customer.

B. CARE Order

3. On February 25, 2005, the Commission released the *CARE Order* in which it established mandatory, minimum standards governing the exchange of customer account information between LECs and IXCs.⁷ Under the CARE rules, a LEC is 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.⁸ In addition, an IXC is 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.⁹ In adopting these rules, the Commission determined that, in these identified situations, regulatory intervention was needed to the extent that critical customer account information was not consistently available to the IXC or to the LEC in a timely manner, or at all, from other sources.¹⁰

⁴ See *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, 5690 (2004) (NPRM). 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).

⁵ Equal access allows end users to access facilities of a designated IXC by dialing "1+" the desired telephone number.

⁶ See NPRM, 19 FCC Rcd at 5690, para. 3.

⁷ *CARE Order*, *supra* n.1.

⁸ See 47 C.F.R. § 64.4002. In this context, a "PIC order" refers to a request to change a customer's interLATA or intraLATA service.

⁹ See 47 C.F.R. § 64.4003.

¹⁰ See *CARE Order*, 20 FCC Rcd at 4569, para. 20.

C. Further Notice of Proposed Rulemaking

4. With the *CARE Order*, the Commission issued a *Further Notice* in response to comments filed by BellSouth during the CARE proceeding.¹¹ BellSouth maintained that exchanges between local service providers in connection with local service migrations have many of the same difficulties regarding the sharing of customer account information, as existed at that time between LECs and IXCs.¹² BellSouth urged the Commission to adopt information exchange requirements for all LECs and require carriers to respond to customer record requests within 24 hours. In the *Further Notice*, the Commission sought comment on whether to require all local service providers to participate in the exchange of customer account information and, if so, what information local service providers should be required to supply.¹³ The Commission also asked carriers to identify problems specific to LEC-to-LEC exchanges that might warrant adopting standards for timeliness.¹⁴

D. Comments

5. In response to the *Further Notice*, BellSouth filed comments urging the Commission to adopt standards for LEC-to-LEC migrations. BellSouth explains that when a customer changes LECs, the new LEC typically requests from the former LEC a customer service record (CSR) for that customer.¹⁵ According to BellSouth, the CSR details the specific services, features and configurations of a customer's local phone service.¹⁶ SBC states that this CSR information enables the new LEC to understand how a customer's services are being provisioned.¹⁷ BellSouth states that CSR information is used by the new LEC to prepare a Local Service Request (LSR), which is sent to the old LEC to initiate the migration process.¹⁸

6. According to BellSouth, problems occur when a former LEC fails to respond in a timely manner to a request for CSR information, thereby delaying the migration process.¹⁹ For example, BellSouth contends that, from January to May 2005, 6.5 percent of the CSR requests submitted by BellSouth to other LECs were not answered and 31 percent of responses to CSR requests took three calendar days or more.²⁰ In addition, BellSouth states that during this same period, 39.9% of its local

¹¹ See *CARE Order*, 20 FCC Rcd at 4587-88, paras. 75-79. A list of parties who filed comments and/or reply comments in response to the *Further Notice* is set forth in the Appendix attached hereto.

¹² See BellSouth CARE proceeding *ex parte* filing at 3-4, October 28, 2004. The term "local service migration" refers to the situation in which a local service customer transitions from one local service provider to another.

¹³ See *CARE Order*, 20 FCC Rcd at 4587-88, paras. 75-79.

¹⁴ See *id.*

¹⁵ See BellSouth comments at 4 & n.11.

¹⁶ See *id.*

¹⁷ See SBC comments at 3.

¹⁸ BellSouth comments at 4 & n.12.

¹⁹ See BellSouth comments at 10 (customers may experience double billing, delays in the change of their LSP, and at times a temporary loss of service).

²⁰ See *id.* at 4.

service requests went unanswered for three days or longer.²¹ BellSouth maintains that this information demonstrates the necessity of national standards for information sharing for LEC-to-LEC migrations.²² Some commenters concur with BellSouth regarding the need for national standards, but only offer anecdotal evidence of problems associated with LEC-to-LEC migrations.²³ Commenters opposing such standards argue that the consumer, not the prior LEC, is the best source of CSR information;²⁴ that any problems are not sufficiently widespread to warrant national standards;²⁵ and that state regulatory agencies are best equipped to handle local migration issues.²⁶

III. DISCUSSION

7. Upon a review of the record before us, we decline to adopt mandatory minimum standards for the exchange of customer account information between LECs. We do not believe mandating the exchange of customer account information between LECs is appropriate at this time for several reasons.

8. First, a number of commenters note that ATIS OBF has developed Local Service Migration Guidelines that are specifically designed to facilitate the sharing of customer service records among LECs.²⁷ Indeed, a majority of commenters support the content of these guidelines,²⁸ although there is a difference of opinion as to whether the guidelines should remain voluntary or be made mandatory.²⁹ As these guidelines were finalized in October of 2004³⁰ and the only record evidence before us is from the beginning of 2005, we are concerned that it may be premature for the Commission to interject itself into this process prior to determining the level of voluntary industry cooperation with the OBF-established standards.³¹ Because ATIS OBF is an established industry forum that includes representatives of both incumbent LECs and competitive LECs, we encourage carriers to adhere to the industry-established guidelines and, where necessary, to work with the OBF industry forum to further develop and refine them. To the extent that LECs are not adhering to the October 2004 OBF guidelines, we encourage

²¹ See *id.* at 6.

²² See *id.* at 4.

²³ See, e.g., AT&T comments at 6-14; SBC comments at 2-4; NASUCA comments at 2-4.

²⁴ See, e.g., Cox comments at 3.

²⁵ See, e.g., MCI comments at 3-4; TSTCI reply comments at 1.

²⁶ See, e.g., Cox comments at 2; NYPDS comments at 2; TSTCI reply comments at 1.

²⁷ See ATIS Local Service Migration Guidelines, Issue 1, ATIS-0405300-0001 (Oct. 28, 2004) (ATIS Guidelines).

²⁸ See CompTel/ALTS comments at 7-8; NASUCA reply comments at 2; TDS comments at 3-4; SBC comments at 6; BellSouth comments at 11-12; MCI comments at 6; and AT&T comments at 21.

²⁹ See, e.g., BellSouth comments at 10 (the Commission should adopt standards that parallel those created by the OBF); AT&T comments at 19 (the Commission should rely on the OBF's conclusions to establish the needed guidelines); CompTel/ALTS comments at 8 (the industry-run OBF is an appropriate forum to assess if there is a pervasive information-exchange problem); TDS Comments at 3-4 (ATIS is in a better position to adopt guidelines tailored to the specific and diverse needs of carriers).

³⁰ See ATIS Guidelines (Oct. 28, 2004).

³¹ See BellSouth comments at 4, 6.

parties to bring this to our attention and provide specific documentation of any such noncompliance. Such evidence will inform our understanding of the nature and scope of any continuing (*i.e.*, post-2004) data exchange problems between local service providers and enable us to assess the need for mandatory standards.

9. Second, we note that a number of state commissions have addressed issues relating to local service migrations.³² Unlike the CARE proceeding, in which states and a broad coalition of carriers supported nationwide standards for the exchange of information between LECs and IXC, the record here suggests that the problems with LEC-to-LEC exchanges may not be as widespread and, therefore, may be more appropriately addressed by individual state commissions, which are well-suited to address local service matters between LECs operating in their states.³³

10. Third, we disagree with those commenters that maintain LEC-to-LEC information sharing raises the same issues as LEC-to-IXC information sharing.³⁴ Access to information makes LEC-to-LEC migrations different. In the LEC-to-IXC context, the Commission noted that certain transactions affecting an IXC's ability to provide service and manage customers' accounts, including the execution of customer PIC requests, are carried out, not by the customer's IXC, but by the customer's LEC.³⁵ Because a LEC's exclusive control of the local switch could enable a LEC to place a customer on an IXC's network without the IXC's knowledge, the Commission determined that effective communications between LECs and IXCs is critical to an IXC's ability to maintain accurate billing records and to honor customer PIC selections and other customer requests.³⁶ In the LEC-to-LEC situation, it does not appear that the new LEC is operating in the same information vacuum, or that the information needed could not be obtained from the LEC's new customer.³⁷

11. Finally, to the extent that critical customer account information cannot reasonably be obtained from a LEC's own customer and the customer's former LEC fails to provide such information in a timely manner thus causing unreasonable delay in a local service migration, we note that such conduct may constitute a violation of the Act and the Commission's rules.³⁸ We encourage carriers to bring such

³² See, e.g., *In re Proceeding on Motion of the Commission to Examine Migration of Customers Between Local Carriers*, 220 P.U.R.4th 116, 2002 WL 1974068 (N.Y.P.S.C. Jun 14, 2002) (NO. 00-C-0188, ID 132253). Other states that have adopted LEC migration guidelines include Texas, Maine, Massachusetts, and Florida.

³³ See, e.g., Cox comments at 2 (the service migration process already is being addressed at the state level where necessary); Verizon comments at 2 (it would be premature for the Commission to insert itself into the LEC-to-LEC migration process as several states already have developed standards for such migrations and other states are in the process of developing such standards); MCI comments at 4 (it has not experienced the same degree of difficulties in either providing or receiving customer information relating to local service migrations); Comtel/ALTS comments at 2 (the issues discussed in the Further Notice have not been shown to be widespread throughout the industry); NYPDS comments at 2 (states are best suited to addressing local service migrations).

³⁴ See, e.g., BellSouth comments at 3 (local service customers are impacted in the same way as interexchange service customers were impacted prior to the adoption of the Commission's CARE rules).

³⁵ See *CARE Order*, 20 FCC Rcd at 4570, para. 21.

³⁶ See *id.* at 4569, para. 20.

³⁷ See Cox comments at 3.

³⁸ See, e.g., 47 U.S.C. §§ 201, 202. See also 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

(continued...)

matters to our attention through the Commission's formal complaint procedures, which allow us to review them on a case-by-case basis to determine the scope and seriousness of the issues presented.³⁹

12. In the absence of a more substantial record demonstrating that the recently-adopted OBF guidelines and state commission efforts are not adequate to resolve concerns about LEC-to-LEC information exchanges, we decline to adopt mandatory standards. We emphasize, however, that we take seriously the concerns identified by particular commenters regarding delays in receiving complete and accurate responses to LSR and CSR requests, and that we intend to monitor the situation carefully so that we may take appropriate action in the future if necessary.

IV. PROCEDURAL MATTERS

A. Paperwork Reduction Act

13. The *Report and Order* does not contain new information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104-13. In addition, it does not contain any new or modified "information collection burden for small business concerns with fewer than 25 employees," pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198.⁴⁰

B. Congressional Review Act

14. Because no new rules are adopted in this order, the Commission will not send a copy of this *Report and Order* in a report to Congress and the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. § 801(a)(1)(A).

C. Accessible Formats

15. To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at (202) 418-0530 (voice) or (202) 418-0432 (TTY). This *Report and Order* can also be downloaded in Word and Portable Document Format (PDF) at <http://www.fcc.gov/cgb/policy>.

V. ORDERING CLAUSES

16. Accordingly, IT IS ORDERED that, pursuant to the authority contained in sections 1-4, 201, 202, 222, 258, and 303(r) of the Communications Act of 1934, as amended; 47 U.S.C. §§ 151-154, 201, 202, 222, 258, and 303(r), this *Report and Order* IS ADOPTED.

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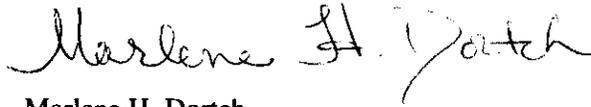
changes that have been verified by a submitting carrier.") and 47 C.F.R. § 64.1100(b) ("A carrier may be treated as an executing carrier... if it is responsible for any unreasonable delays in the execution of carrier changes...").

³⁹ See generally 47 C.F.R. §§ 1.720-1.735 (formal complaint rules). See also 47 U.S.C. § 208.

⁴⁰ See 47 U.S.C. § 3506(c)(4).

17. IT IS FURTHER ORDERED that the Commission's Consumer & Governmental Affairs Bureau, Reference Information Center, SHALL SEND a copy of this *Report and Order* to the Chief Counsel for Advocacy of the Small Business Administration.

FEDERAL COMMUNICATIONS COMMISSION

A handwritten signature in black ink that reads "Marlene H. Dortch". The signature is written in a cursive style with a large, stylized initial 'M'.

Marlene H. Dortch
Secretary

APPENDIX

Committer/Date Filed

AT&T Corp. (7/18/05)
BellSouth Corporation. (7/18/05)
CompTel/ALTS (7/18/05)
Cox Communications (7/18/05)
MCI, Inc. (7/18/05)
NeuStar, Inc. (7/18/05)
New York State Department of Public Service (7/18/05)
National Association of State Utility Consumer Advocates (7/18/05)
SBC Communications (7/18/05)
TDS Telecommunications Corp. (7/18/05)
Verizon (7/18/05)

Abbreviation

AT&T
BellSouth
CompTel/ALTS
Cox
MCI
Neustar
NYSDPS
NASUCA
SBC
TDS
Verizon

Reply Committer/Date Filed

BellSouth Corporation. (8/01/05)
Iowa Utilities Board (8/01/05)
National Association of State Utility Consumer Advocates (8/01/05)
TDS Telecommunications Corp. (8/01/05)
Texas Statewide Telephone Cooperative, Inc. (8/01/05)

BellSouth
Iowa
NASUCA
TDS
TSTCI