

**1.0 DESCRIPTION OF SERVICE****1.1 Service Objectives**

Standard Mail may receive deferred handling. Service objectives for delivery are 2 to 9 days; however, delivery time is not guaranteed.

**1.2 Quantity**

Standard Mail provides economical rates for mailings of 200 or more pieces or at least 50 pounds of mail.

**2.0 DEFINING CHARACTERISTICS****2.1 Mailpiece Weight Limit**

All Standard Mail pieces—letters, flats, and small packages—must weigh less than 16 ounces.

**2.2 Preparation Requirements**

Standard Mail is subject to specific volume, marking, and preparation requirements.

**2.3 Inspection of Contents**

Standard Mail is not sealed against postal inspection.

**2.4 Forwarding Service**

The price of Standard Mail does not include forwarding service. Forwarding is available for an additional fee. Undeliverable Standard Mail with no ancillary service endorsement is disposed of by the Postal Service under F010.5.3.

**2.5 Return Service**

The price of Standard Mail does not include return service. Return service is available under F010.5.3 for an additional fee.

**2.6 Extra Services**

Extra services available with Standard Mail are insured mail service (bulk insurance only), certificate of mailing service (bulk certificate of mailing only), return receipt for merchandise service, and Delivery Confirmation service (parcels only). See S900.

**2.7 Periodicals**

Authorized Periodicals may not be entered as Standard Mail unless permitted by standard.

**2.8 Identical Pieces**

The contents of printed matter in a Standard Mail mailing must be identical to a piece sent to at least one other addressee. Standard Mail may include the addressee's name and address but may not transmit personal information except as permitted under 3.0.

**3.0 CONTENT STANDARDS****3.1 Personal Information**

Personal information may not be included in a Standard Mail mailpiece unless all of the following conditions are met:

a. The mailpiece contains explicit advertising for a product or service for sale or lease or an explicit solicitation for a donation.

b. All of the personal information is directly related to the advertising or solicitation.

c. Advertising or solicitation is the exclusive purpose of the mailpiece.

**3.2 Bills and Statements of Account**

Mail containing bills or statements of account as defined in E110.3.0 may not be entered as Standard Mail except under the conditions described in 5.2.

**3.3 Handwritten and Typewritten Matter**

Mail containing handwritten or typewritten matter may not be entered as Standard Mail except under the conditions described in 4.0.

An appropriate amendment to 39 CFR part 111 will be published if the proposal is adopted.

**Neva R. Watson,**

*Attorney, Legislative.*

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**BILLING CODE 7710-12-P**

**FEDERAL COMMUNICATIONS COMMISSION****47 CFR Part 64**

[CG Docket No. 02-386; FCC 04-50]

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

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rules.

**SUMMARY:** In this document, the Commission seeks comment on whether it should impose mandatory minimum Customer Account Record Exchange (CARE) obligations on all local and interexchange carriers and, in specified situations, require carriers to transmit certain CARE codes to involved carriers that are designed to provide specific billing and other essential customer data. It also asks whether adopting a mandatory minimum CARE standard for wireline-to-wireless porting would impose a burden on LECs and/or commercial mobile radio service

(CMRS) providers, and seeks input on what steps might be taken to ameliorate or minimize any such burden. The document also seeks comment on proposals for addressing billing issues in wireline-to-wireless number porting situations.

**DATES:** Comments are due June 3, 2004 and reply comments are due June 18, 2004. Written comments by the public on the proposed information collection(s) are due June 18, 2004. Written comments must be submitted by the Office of Management and Budget (OMB) on the proposed information collection(s) on or before June 18, 2004.

**ADDRESSES:** Federal Communications Commission, 445 12th Street, SW., Room TW-A325, Washington, DC 20554. In addition to filing comments with the Secretary, a copy of any Paperwork Reduction Act (PRA) comments on the information collection(s) contained herein should be submitted to Leslie Smith, Federal Communications Commission, Room 1-A804, 445 12th Street, SW., Washington, DC 20554, or via the Internet to [Leslie.Smith@fcc.gov](mailto:Leslie.Smith@fcc.gov), and to Kristy L. LaLonde, OMB Desk Officer, Room 10234 NEOB, 725 17th Street, NW., Washington, DC, 20503, or via the Internet to [Kristy.L.LaLonde@omb.eop.gov](mailto:Kristy.L.LaLonde@omb.eop.gov).

**FOR FURTHER INFORMATION CONTACT:** Alex Johns at 202-418-2512, Consumer & Governmental Affairs Bureau. For additional information concerning the information collection(s) contained in this document, contact Leslie Smith at 202-418-0217 or via the Internet at [Leslie.Smith@fcc.gov](mailto:Leslie.Smith@fcc.gov).

**SUPPLEMENTARY INFORMATION:** This *Notice of Proposed Rulemaking (NPRM), Rules and Regulations Implementing Minimum Customer Account Record Exchange Obligations on All Local and Interexchange Carriers*, CG Docket No. 02-386, FCC 04-50, contains proposed information collection(s) subject to the Paperwork Reduction Act of 1995 (PRA). It will be submitted to the OMB for review under the Paperwork Reduction Act (PRA). OMB, the general public, and other Federal agencies are invited to comment on the proposed information collection(s) contained in this proceeding. This is a summary of the Commission's *NPRM*, adopted March 10, 2004, and released March 25, 2004. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. See *Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121, May 1, 1998. Comments

filed through the ECFS can be sent as an electronic file via the Internet to <http://www.fcc.gov/e-file/ecfs.html>. Generally, only one copy of an electronic submission must be filed. If multiple docket or rulemaking numbers appear in the caption of this proceeding, however, commenters must transmit one electronic copy of the comments to each docket or rulemaking number referenced in the caption. In completing the transmittal screen, commenters should include their full name, Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to [ecfs@fcc.gov](mailto:ecfs@fcc.gov), and should include the following words in the body of the message, "get form <your e-mail address>." A sample form and directions will be sent in reply. Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, commenters must submit two additional copies for each additional docket or rulemaking number. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Services mail (although we continue to experience delays in receiving U.S. Postal Service mail). The Commission's contractor, Natek, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002. The filing hours at this location are 8 a.m. to 7 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, SW., Washington, DC 20554. All filings must be addressed to the Commission's Secretary, Marlene H. Dortch, Office of the Secretary, Federal Communications Commission, 445 12th Street, SW., Room TW-B204, Washington, DC 20554. Parties who choose to file by paper should also submit their comments on diskette. These diskettes should be submitted to: Kelli Farmer, Federal Communications Commission, 445 12th Street, SW., Room 4-C734, Washington, DC 20554. Such

submissions should be on a 3.5 inch diskette formatted in an IBM compatible format using Word 97 or compatible software. The diskette should be accompanied by a cover letter and should be submitted in "read only" mode. The diskette should be clearly labeled with the commenter's name, proceeding (including the lead docket number in this case, CG Docket No. 02-386, type of pleading (comment or reply comment), date of submission, and the name of the electronic file on the diskette. The label should also include the following phrase "Disk Copy—Not an Original." Each diskette should contain only one party's pleadings, preferably in a single electronic file. In addition, commenters must send diskette copies to the Commission's copy contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY-B402, Washington, DC 20554. Copies of any subsequently filed documents in this matter will be available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY-A257, Washington, DC 20554. The complete text of this NPRM may be purchased from the Commission's duplication contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY-B402, Washington, DC 20554. This is a permit-but disclose notice and comment rulemaking proceeding. *Ex parte* presentations are permitted, except during the Sunshine Agenda period, provided they are disclosed as provided in the Commission's rules. 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](mailto:fcc504@fcc.gov) or call the Consumer & Governmental Affairs Bureau at (202) 418-0531 (voice), (202) 418-7365 (TTY).

#### Paperwork Reduction Act

This NPRM contains proposed information collection(s). The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget (OMB) to comment on the information collections contained in this NPRM, as required by the Paperwork Reduction Act of 1995, Public Law 104-13. Public and agency comments on the proposed information collection(s) are due June 18, 2004. Comments should address: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of

the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, *see* 44 U.S.C. 3506(c)(4), we seek specific comment on how we might "further reduce the information collection burden for small business concerns with fewer than 25 employees." Only those proposals that might change an information collection requirement are discussed below.

*OMB Control Number:* 3060-XXXX.

*Title:* Rules and Regulations Implementing Minimum Customer Account Record Exchange Obligations on All Local and Interexchange Carriers CG Docket No. 02-386 (NPRM), FCC 04-50.

*Form Number:* N/A.

*Type of Review:* New collection.

*Respondents:* Business or other for-profit entities.

*Number of Respondents:* 3,100.

*Estimated Time per Response:* 2 minutes—96 hours (multiple responses annually).

*Frequency of Response:* Recordkeeping.

*Total Annual Burden:* 18,104,000 hours.

*Total Annual Costs:* None.

*Privacy Impact Assessment:* No impact(s).

*Needs and Uses:* In this NPRM, the Commission seeks comment on whether the Commission should impose mandatory minimum Customer Account Record Exchange (CARE) obligations on all local and interexchange carriers. Taking into account the variety of methods carriers may use to exchange the necessary information, we estimate that a requirement making CARE obligations mandatory may result in an additional burden of anywhere from two minutes to 96 burden hours per exchange of CARE data.

#### Synopsis

The CARE system provides a uniform method for the exchange of certain information by interexchange carriers and LECs. CARE allows these carriers to exchange the data necessary to establish and maintain customer accounts, and to execute and confirm customer orders and customer transfers from one long distance carrier to another. At the time the existing CARE process was developed, incumbent Local Exchange Carriers (LECs), for the most part, did not compete for long distance service,

and local markets were not competitive. However, subsequent to the passage of the Telecommunications Act of 1996 (the 1996 Act), the growth of customer migration in the competitive local exchange market has affected the ability of long distance carriers to bill for long distance services rendered to those customers.

The CARE process was developed by the telecommunications industry in response to the break-up of the Bell System and the introduction of competitive long distance services. To facilitate the equal access and cooperation among telecommunications providers mandated by the Modified Final Judgment, the industry created the Alliance for Telecommunications Industry Solutions ("ATIS"), a developer of telecommunications standards and operational guidelines that has 124 member companies, representing nearly every sector of the telecommunications industry. The Carrier Liaison Committee of ATIS in turn created the Ordering and Billing Forum ("OBF"), which established voluntary industry standards for CARE among carriers, based on input from all participating segments of the industry. The CARE standards were developed to facilitate the exchange of customer account information to allow LECs to comply with their obligation to provide all interexchange carriers with access that is equal in type, quality, and price to that provided to AT&T and its affiliates. CARE generically identifies data elements that might be shared between carriers and supports a data format intended to facilitate the mechanized exchange of that information. It aims to provide a consistent definition and data format for the exchange of common data elements.

Historically, incumbent LECs managed the exchange of customer data between themselves and the various interexchange carriers that were competing for the provision of long distance services. When a customer elected to change long distance carriers, or otherwise changed his or her billing, name, and address (BNA) information, the incumbent LEC would provide CARE data to the appropriate interexchange carrier(s) to ensure seamless provision of service to the customer.

Though most LECs and long distance carriers participated in CARE prior to 1996, CARE data is not currently exchanged in a uniform manner now that the number of LECs has increased significantly. As a result, interexchange carriers may often be unable to identify local carrier lines in the current competitive marketplace. Interexchange

carriers may therefore be unaware of whether a customer remains on the network, has switched to another local or long distance carrier, has been disconnected, or has made changes to BNA information. This can inhibit customers' ability to move seamlessly from one carrier to another, and can result in substantial increases in unbillable calls and customer complaints. These problems may also arise in the context of customers porting wireline telephone numbers to wireless carriers. In addition, carriers may be viewed as being responsible for double or continued billing, cramming, slamming, or violations of the Commission's truth-in-billing requirements when they do not receive accurate, timely, or complete information regarding their customers' accounts.

On September 5, 2002, Americatel filed a petition for declaratory ruling to clarify LEC obligations with regard to the provision of BNA service. Specifically, Americatel seeks a declaration that: (1) All local exchange carriers, both competitive and incumbent LECs, are obligated to provide BNA service, subject to existing safeguards; (2) all LECs have an obligation to provide the appropriate prescribed long distance carrier with the identity of the new serving carrier whenever one of the LEC's customers changes local service providers; and (3) any LEC that no longer serves a particular end user customer has an obligation, upon the request of a long distance carrier, to indicate which other LEC is now providing service to such end user customer. Americatel also requests that we require all carriers to exchange customer billing information under specific parameters developed by the industry through the OBF. AT&T, Sprint, and MCI (Joint Petitioners) filed a petition on November 22, 2002, requesting that the Commission initiate a rulemaking proceeding to require certain mandatory CARE obligations for all local and interexchange carriers. Under this proposal, all carriers would be required, in specified situations, to transmit certain CARE codes to involved carriers that are designed to provide specific billing and other essential customer data. Joint Petitioners ask that carriers be given flexibility to provide for the transmission of required data in a variety of ways, including paper (facsimile, U.S. and/or overnight mail), e-mail, cartridge, Internet processing, mechanized processing, or real-time processing. Joint Petitioners argue that this flexibility will minimize implementation costs on the industry,

particularly on smaller carriers. In addition, Joint Petitioners propose to provide flexibility for carriers to use alternate codes for certain transactions, in order to minimize potential development costs for carriers that are not already providing all of the CARE codes. Finally, Joint Petitioners propose that we adopt performance measurements for timeliness, accuracy, and completeness of CARE data.

Fifteen parties filed comments or replies in response to the two petitions. While most agree that the concerns raised in the petitions have some merit, most also contend that the solutions proposed by petitioners are inappropriate or overly broad. Incumbent LECs generally argue that they are already providing CARE and BNA data, and that petitioners have not demonstrated that the existing CARE process is deficient with respect to incumbent LECs. They assert that the problems described by petitioners arise due to certain competitive LECs' failure to participate in CARE and BNA data exchange, or to provide such information to interexchange carriers in the same manner as the incumbent LECs. Accordingly, incumbent LECs argue that competitive LECs should be the sole focus of any proposed rules. Small and rural LECs in particular express concern that mandatory minimum CARE standards will impose additional, unnecessary burdens on them.

After reviewing the petitions and the subsequent comments and replies, we believe that the issues raised in the petitions would be more appropriately addressed through a notice and comment rulemaking proceeding than by an immediate ruling on the petitions. Accordingly, we seek comment on whether mandatory minimum CARE standards could provide consistency within the industry, and could eliminate a significant percentage of consumer complaints concerning billing errors. We focus here primarily on the proposals outlined in the Joint Petition, and do not address Americatel's petition in full at this time. In particular, with respect to Americatel's request for declaratory relief regarding LECs' BNA service obligations, we note that § 64.1201 makes no distinction between the responsibilities of independent LECs and competitive LECs, and places the obligations of notice and access on all LECs.

As a general matter, we believe that a uniform process observed by all regulated entities—competitive LECs, incumbent LECs, and interexchange carriers alike—could also provide a better framework for fair and consistent

enforcement activity by the Commission. We therefore seek comment on whether we should impose mandatory minimum CARE obligations on all local and interexchange carriers. How extensive are the billing problems described in the petitions? Are they sufficiently pervasive throughout the industry to warrant regulatory intervention at this time? To what extent would adoption of the proposed minimum CARE standards place a burden on LECs and interexchange carriers generally? The Joint Petitioners have recommended a Minimum CARE Standard composed of a subset of the existing OBF CARE/Industry Support Interface guideline Transaction Code Status Indicators (TCSIs).

They state that these recommended TCSIs are essential for an interexchange carrier to be able to do all of the following:

- Submit a Preferred Interexchange Carrier (PIC) order to the correct LEC on behalf of the end user (01XX TCSIs—0101, 0104, 0105);
- Know when any LEC has put an end user on the interexchange carrier's network (20XX TCSIs—2003, 2004, 2005, 2007, 2008, 2009, 2010, 2011, 2020);
- Know when any LEC has removed an end user from the interexchange carrier's network (22XX TCSIs—2201, 2202, 2203, 2206, 2215, 2216, 2217, 2218, 2219, 2231, 2233, 2234);
- Receive critical changes to the account for the end user currently PIC'd at the local switch to the interexchange carrier (23XX TCSIs—2317, 2368, 2369);
- Facilitate a request for BNA for end users who have usage on the requesting carrier's network where the interexchange carrier does not have an existing account for the end user (TCSIs 0501, 2503, 2504);
- Know whom the LEC has suspended or blocked from using the carrier network due to collection or fraud issues to allow the PIC'd interexchange carrier to take appropriate steps necessary to maintain customer continuity with the carriers network and/or calling card process (27XX TCSIs—2710, 2711, 2716, 2717, 2720, 2721); and
- Receive a notification of order failure with a reason specific to the order to allow the interexchange carrier to correct the order or take alternative steps (all applicable reject TCSIs—21XX, 31XX, 41XX, 26XX).

We seek comment on whether, if we were to adopt minimum CARE standards, the Joint Petitioner's proposed standard is appropriate and adequate to address the concerns raised in the petitions. Are any modifications

to these proposals necessary? Cox notes that, to the extent any new standards adopted are appropriate and are truly minimal, they should be applied to all LECs, and should not create any meaningful burden on incumbent LECs who are already interacting with interexchange carriers. We seek comment on this view. In addition, should all LECs, including competitive LECs, be required to notify the appropriate presubscribed long distance carrier whenever a specific customer changes local service providers, as Ameritel requests? Should all LECs that no longer serve a particular end user customer be required, upon the request of a long distance carrier, to indicate which other carrier is providing local service to that customer? To the extent commenters suggest modifications or other alternatives to petitioners' proposals, commenters should specifically outline the minimum data exchange necessary to address the problems described in the petitions.

In the *Wireless LNP Order*, we acknowledged that the billing problems described by Joint Petitioners may also arise in the context of wireline-to-wireless number porting. As AT&T explains, where a stand-alone interexchange carrier customer exercises the right to port a wireline telephone number to a wireless carrier, there are no procedures currently in place requiring notification of interexchange carriers that the customer has selected a wireless carrier to provide long distance service. As a result, those customers may continue to be billed by their former interexchange carrier unless and until they advise that carrier that they are discontinuing their long distance service. We note that analogous Interexchange Carrier (IXC) notification issues do not arise in the context of wireline-to-wireline porting. Because wireless carriers typically provide for long distance as part of their service to customers, wireless customers do not have a separate commercial relationship with an IXC and are not separately billed by the IXC. Accordingly, if a wireless customer ports to a wireline carrier, there is no need for separate notification to the IXC that the wireless service is being discontinued.

We seek comment on these wireline-to-wireless number porting concerns. Have consumers or carriers experienced such problems yet, and if so, to what extent have they arisen so far? What have those carriers that have experienced local number porting billing issues done to address them and prevent them from recurring? The Joint Petitioners have suggested that a

possible solution to this problem would be to require LECs to notify IXCs when a local exchange number is ported from a wireline to a wireless carrier. One possibility might be a CARE code that would add a "W" designation for local lines that are ported to wireless carriers. We seek comment on this and any other proposals for addressing billing issues in wireline-to-wireless number porting situations. Would a new CARE code be necessary or appropriate under these circumstances? What else might be done to prevent the billing problems that Joint Petitioners contend may arise in this context? If we were to adopt a mandatory minimum CARE standard for wireline-to-wireless porting, would that standard impose a burden on LECs and/or commercial mobile radio service (CMRS) providers? If so, what steps could we take to ameliorate or minimize that burden? Would voluntary standards be adequate? We note that, in the circumstance of a wireline-to-wireless port, the CMRS provider (unlike the LEC) would not necessarily know the identity of the customer's presubscribed carrier.

We also seek comment on the expected implementation costs associated with adopting minimum CARE standards, as well as the appropriate allocation of those costs. Commenters should also discuss how, if we adopt minimum CARE standards, we can provide sufficient flexibility to protect carriers, particularly small and/or rural LECs, from unduly burdensome requirements. Joint Petitioners claim that their proposal, which would require carriers to use fewer than five percent of the total CARE codes developed by ATIS, provides for transmission of required data in a variety of ways, provides flexibility for carriers to utilize alternate codes for certain transactions, and minimizes start-up costs and potential development costs for all carriers that are not already providing CARE data. Will these steps sufficiently alleviate the cost concerns raised in the comments on the petitions? Are there further, or perhaps better, steps we should consider to minimize the cost and burdens of imposing mandatory CARE standards, particularly for small and/or rural carriers?

We also seek comment on Joint Petitioners' request that we provide for "reasonable" performance measurements for any minimum CARE standards that we adopt. Joint Petitioners have identified specific recommendations for timeliness, accuracy and completeness thresholds. Specifically, they propose: (1) Timeliness thresholds for the various

CARE processing methods (real-time, mechanized, e-mail or internet, and cartridge and paper) that vary from 12 hours to five business days, depending on the method employed; (2) that all carriers use "best efforts" and "quality practices and methods" to ensure that the data exchange is accurate and complete; and (3) that all carriers use the guidelines set forth in the ATIS OBF Equal Access Subscription CARE/ Industry Support Interface document to ensure the accuracy and completeness of CARE data. Are these recommendations appropriate or necessary? Would other measures provide a more accurate assessment of carrier compliance with any minimum standards we might adopt?

Americatel agrees that Joint Petitioners' proposals would resolve many billing-related issues for presubscribed calls, but states that those proposals do not address additional problems associated with dial-around traffic, which is subject to greater collection risks and fraud because the serving carrier does not have any credit information about the customer. Dial-around service providers, who do not have established business relationships with their customers, must either enter into billing and collection agreements with LECs or obtain BNA data from LECs, in order to bill their end users. Americatel supports adoption of a line-level database as a comprehensive solution to current data exchange problems in the industry.

In contrast, Joint Petitioners urge us to address these billing concerns with a phased approach, first requiring all LECs and interexchange carriers to participate in mandatory minimum CARE, and later examining the possibility of creating an industry-wide, line level database to address billing problems not remedied in the first phase. Joint Petitioners believe that mandating minimum CARE standards would alleviate a substantial portion of the billing problems faced by both pre-subscribed and dial-around service providers.

Although, as Joint Petitioners acknowledge, establishing a national line-level database might provide a more comprehensive solution to the billing problems petitioners are experiencing, it appears that development and implementation of such a solution would not provide relief for petitioners in the short term. As Americatel itself notes, the OBF has not been able to reach consensus on a database solution, despite several years of review, development and analysis. CARE is an already established, industry-developed solution that has

worked reasonably well in the past, and we believe that establishing uniform, minimal CARE obligations for all carriers could more readily and quickly provide at least some relief for petitioners than the database solution proposed by Americatel. We seek comment on these views.

Several carriers also argue that the industry-wide OBF is the more appropriate venue for addressing these issues. They note that the existing CARE process was developed by the industry, and ask the Commission to carefully consider the status of industry solutions before adopting rules that may increase burdens on the industry. According to these commenters, the OBF should be used to address any changes to the CARE process because it is better suited to considering the technical and operational aspects of the way information will be exchanged than a notice and comment rulemaking. Conversely, petitioners claim that the OBF has been looking into these billing problems for several years now, but has been unable to reach a resolution. OBF has been attempting to develop a database solution for the exchange of customer billing information among multiple carriers in those cases where the customer has changed one or more of its carriers. The petitioners assert that they have asked us to address these issues precisely because OBF has been unable to do so.

We seek comment on this debate. Would federally-mandated minimum CARE obligations for all carriers restrict the evolution of CARE standards? Or would mandatory, nationwide standards merely establish uniformity that is currently lacking in the CARE process and prove helpful to consumers, carriers, and the Commission?

Finally, we note that the NARUC Subcommittee on Consumer Affairs has been working to draft model carrier change guidelines that could help address some of the issues raised by the petitions, in the absence of uniform minimum CARE requirements. Once finalized, the NARUC model guidelines could be adopted on a state-by-state basis to address customer account record concerns, but would be superseded by any federal rules we might adopt. We seek comment on the NARUC proposals. Will these model guidelines adequately address petitioners' concerns?

#### Initial Regulatory Flexibility Analysis

As required by the Regulatory Flexibility Act of 1980, as amended (RFA), the Commission has prepared this present Initial Regulatory Flexibility Analysis (IRFA) of the

possible significant economic impact on small entities by the policies and rules proposed in this *NPRM*. Written public comments are requested on this IRFA. Comments must be identified as responses to the *NPRM*. The Commission will send a copy of the *NPRM*, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration. See 5 U.S.C. 603(a). In addition, this *NPRM* and the IRFA (or summaries thereof) will be published in the **Federal Register**.

#### Need for, and Objectives of, the Proposed Rules

The CARE system provides a uniform method for the exchange of certain information by interexchange carriers and LECs. CARE allows these carriers to exchange the data necessary to establish and maintain customer accounts, and to execute and confirm customer orders and customer transfers from one long distance carrier to another. At the time the existing CARE process was developed, incumbent LECs, for the most part, did not compete for long distance service, and local markets were not competitive. However, subsequent to the passage of the 1996 Act, the growth of customer migration in the competitive local exchange market has affected the ability of long distance carriers to bill for long distance services rendered to those customers.

Though most LECs and long distance carriers participated in CARE prior to 1996, CARE data is not currently exchanged in a uniform manner now that the number of LECs has increased significantly. This can inhibit customers' ability to move seamlessly from one carrier to another, and can result in substantial increases in unbillable calls and customer complaints. *This Notice of Proposed Rulemaking (NPRM)* seeks comment on whether the Commission should impose mandatory minimum CARE obligations on all local and interexchange carriers. The *NPRM* also seeks comment on whether such billing problems may also arise in the context of wireline-to-wireless number porting and, if so, what might be done to prevent such problems that may arise in this context?

#### Legal Basis

The legal basis for any action that may be taken pursuant to this *NPRM* is contained in sections 1, 4(i), 4(j), 201, 206–208 and 258 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 154(j), 201, 206–208 and 258, and sections 1.421 and 1.429 of the Commission's Rules, 47 CFR 1.421 and 1.429.

### Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply

The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted. The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction." In addition, the term "small business" has the same meaning as the term "small business concern" under section 3 of the Small Business Act. Under the Small Business Act, a "small business concern" is one that: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA).

We have included small incumbent LECs in this RFA analysis. As noted above, a small business" under the RFA is one that, *inter alia*, meets the pertinent small business size standard (e.g., a wireline telecommunications business having 1,500 or fewer employees), and "is not dominant in its field of operation." The SBA's Office of Advocacy contends that, for RFA purposes, small incumbent LECs are not dominant in their field of operation because any such dominance is not "national" in scope. We have therefore included small incumbent LECs in this RFA analysis, although we emphasize that this RFA action has no effect on the Commission's analyses and determinations in other, non-RFA contexts.

**Incumbent Local Exchange Carriers.** Neither the Commission nor the SBA has developed a specific small business size standard for providers of incumbent local exchange services. The closest applicable size standard under the SBA rules is for Wired Telecommunications Carriers. Under that standard, such a business is small if it has 1,500 or fewer employees. According to the FCC's *Telephone Trends Report* data, 1,337 incumbent local exchange carriers reported that they were engaged in the provision of local exchange services. Of these 1,337 carriers, an estimated 1,032 have 1,500 or fewer employees and 305 have more than 1,500 employees. Consequently, the Commission estimates that the majority of providers of local exchange service are small entities that may be affected by the rules and policies adopted herein.

**Competitive Local Exchange Carriers.** Neither the Commission nor the SBA has developed a specific small business

size standard for providers of competitive local exchange services. The closest applicable size standard under the SBA rules is for Wired Telecommunications Carriers. Under that standard, such a business is small if it has 1,500 or fewer employees. According to the FCC's *Telephone Trends Report* data, 609 companies reported that they were engaged in the provision of either competitive access provider services or competitive local exchange carrier services. Of these 609 companies, an estimated 458 have 1,500 or fewer employees, and 151 have more than 1,500 employees. Consequently, the Commission estimates that the majority of providers of competitive local exchange service are small entities that may be affected by the rules.

**Competitive Access Providers.** Neither the Commission nor the SBA has developed a specific size standard for competitive access providers (CAPs). The closest applicable standard under the SBA rules is for Wired Telecommunications Carriers. Under that standard, such a business is small if it has 1,500 or fewer employees. According to the FCC's *Telephone Trends Report* data, 609 CAPs or competitive local exchange carriers and 51 other local exchange carriers reported that they were engaged in the provision of either competitive access provider services or competitive local exchange carrier services. Of these 609 competitive access providers and competitive local exchange carriers, an estimated 458 have 1,500 or fewer employees, and 151 have more than 1,500 employees. Of the 51 other local exchange carriers, an estimated 50 have 1,500 or fewer employees and one has more than 1,500 employees. Consequently, the Commission estimates that the majority of small entity CAPs and the majority of other local exchange carriers may be affected by the rules.

**Local Resellers.** The SBA has developed a specific size standard for small businesses within the category of Telecommunications Resellers. Under that standard, such a business is small if it has 1,500 or fewer employees. According to the FCC's *Telephone Trends Report* data, 133 companies reported that they were engaged in the provision of local resale services. Of these 133 companies, an estimated 127 have 1,500 or fewer employees, and six have more than 1,500 employees. Consequently, the Commission estimates that the majority of local resellers may be affected by the rules.

**Toll Resellers.** The SBA has developed a specific size standard for small businesses within the category of

Telecommunications Resellers. Under that SBA definition, such a business is small if it has 1,500 or fewer employees. According to the FCC's *Telephone Trends Report* data, 625 companies reported that they were engaged in the provision of toll resale services. Of these 625 companies, an estimated 590 have 1,500 or fewer employees, and 35 have more than 1,500 employees. Consequently, the Commission estimates that a majority of toll resellers may be affected by the rules.

**Interexchange Carriers.** Neither the Commission nor the SBA has developed a specific size standard for small entities specifically applicable to providers of interexchange services. The closest applicable size standard under the SBA rules is for Wired Telecommunications Carriers. Under that standard, such a business is small if it has 1,500 or fewer employees. According to the FCC's *Telephone Trends Report* data, 261 carriers reported that their primary telecommunications service activity was the provision of interexchange services. Of these 261 carriers, an estimated 223 have 1,500 or fewer employees, and 38 have more than 1,500 employees. Consequently, we estimate that a majority of interexchange carriers may be affected by the rules.

**Operator Service Providers.** Neither the Commission nor the SBA has developed a specific size standard for small entities specifically applicable to operator service providers. The closest applicable size standard under the SBA rules is for Wired Telecommunications Carriers. Under that standard, such a business is small if it has 1,500 or fewer employees. According to the FCC's *Telephone Trends Report* data, 23 companies reported that they were engaged in the provision of operator services. Of these 23 companies, an estimated 22 have 1,500 or fewer employees, and one has more than 1,500 employees. Consequently, the Commission estimates that a majority of local resellers may be affected by the rules.

**Prepaid Calling Card Providers.** The SBA has developed a size standard for small businesses within the category of Telecommunications Resellers. Under that size standard, such a business is small if it has 1,500 or fewer employees. According to the FCC's *Telephone Trends Report* data, 37 companies reported that they were engaged in the provision of prepaid calling cards. Of these 37 companies, an estimated 36 have 1,500 or fewer employees, and one has more than 1,500 employees. Consequently, the Commission estimates that a majority of prepaid

calling providers may be affected by the rules.

*Other Toll Carriers.* Neither the Commission nor the SBA has developed a specific size standard for small entities specifically applicable to "Other Toll Carriers." This category includes toll carriers that do not fall within the categories of interexchange carriers, operator service providers, prepaid calling card providers, satellite service carriers, or toll resellers. The closest applicable size standard under the SBA rules is for Wired Telecommunications Carriers. Under that standard, such a business is small if it has 1,500 or fewer employees. According to the FCC's *Telephone Trends Report* data, 92 carriers reported that they were engaged in the provision of "Other Toll Services." Of these 92 carriers, an estimated 82 have 1,500 or fewer employees, and ten have more than 1,500 employees. Consequently, the Commission estimates that a majority of "Other Toll Carriers" may be affected by the rules.

#### **Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements for Small Entities**

As noted, we seek comment on whether mandatory minimum CARE standards could provide consistency in the exchange of customer account information within the industry, could eliminate a significant percentage of consumer complaints concerning billing errors, and whether we should impose mandatory minimum CARE obligations on all local and interexchange carriers. In the event any new standards are adopted, we expect that such standards

will be minimal and will provide sufficient flexibility in their application that they will not create any significant burden on small entities.

#### **Steps Taken To Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered**

The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for such small entities; (3) the use of performance, rather than design standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities. *Mandatory Minimum CARE Requirements.* The *NPRM* seeks comment on whether the Commission should impose mandatory minimum CARE obligations on all local and interexchange carriers. We especially seek information addressing the possible financial impact of such mandatory requirements on smaller carriers. We also ask commenters to discuss how, if we were to adopt minimum CARE standards, we could provide sufficient flexibility to protect carriers, particularly small/rural LECs and CMRS providers, from unduly burdensome requirements. We do not have any evidence before us at this time regarding whether the proposals outlined in this *NPRM* would, if

adopted, have a significant economic impact on a substantial number of small entities. However, we recognize that the RFA requires us to consider that such an impact may occur. We therefore seek comment on the potential impact of these proposals on small entities, and whether there are any less burdensome alternatives that we should consider.

#### **Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rules**

None.

#### **Ordering Clauses**

Accordingly, it is ordered, pursuant to sections 1, 4(i), 4(j), 201, 206–208 and 258 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 154(j), 201, 206–208 and 258 and sections 1.421 and 1.429 of the Commission's Rules, 47 CFR 1.421 and 1.429, that the *Notice of Proposed Rulemaking* in CG Docket No. 02–386 is adopted.

*It is further ordered* that the Commission's Consumer & Governmental Affairs Bureau, Reference Information Center, shall send a copy of this *Notice of Proposed Rulemaking*, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

Federal Communications Commission.

**Marlene H. Dortch,**

*Secretary.*

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