BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

FILED
01-31-12
04:59 PM

Order Instituting Rulemaking to Evaluate Telecommunications Corporations Service Quality Performance and Consider Modification to Service Quality Rules.	Rulemaking 11-12-001 (Filed December 1, 2011)

OPENING COMMENTS OF AT&T CALIFORNIA (U 1001 C) AND CERTAIN OF ITS AFFILIATES

NELSONYA CAUSBY

AT&T Services, Inc.
525 Market Street, Suite 2025
San Francisco, CA 94105
Tel.: (415) 778-1488
Fax: (415) 543-0418
E-mail: nelsonya.causby@att.com

Attorney for AT&T California and Certain of its Affiliates

January 31, 2012

TABLE OF CONTENTS

PAGE

I. INTRODUCTION 1

II. GENERAL COMMENTS 3

III. RESPONSES TO COMMISSION QUESTIONS 8

A. Question 1
Are the adopted GO 133-C service quality standards appropriate and reasonable? If not, should new service quality standards be adopted or should existing standards be modified or eliminated? 8

B. Question 2
Should additional Out-of-Service standards be established for Out-of-Service events in excess of 24 hours? 9

C. Question 3
Why are many of the URF carriers consistently missing the service quality measurement standards for (a) Out-of-Service Repairs, and (b) Answer Times? 11

D. Question 4
The current service quality standards and measures focus on retail customers. Should standards be adopted for wholesale service? If so, what should these standards and measures be? 13

E. Question 5
Is it appropriate to implement a penalty mechanism when standards are not met? If so, what should it be? 14

F. Question 6
Should exemptions be allowed for calculating reported service quality results for State of Emergency, Catastrophic Events and events beyond the control of the utility management? If so, should there be limitations on the geographic area(s) covered and/or the duration of the exemption? 15

PAGE

G. Question 7
Should carriers provide the Commission with additional service quality data in the aftermath of a catastrophic event? If so, what additional data is appropriate? 17

H. Question 8
What other reporting requirements or measures are appropriate to evaluate quality of service? 18

I. Question 9
Should the Commission hire a network consultant to: a) review and evaluate the service quality results; b) to evaluate and monitor telecommunications carrier's infrastructure, investments and manpower to improve service quality; and c) to help the Commission determine "best practices"? If so how should they be funded and who should administer the contract(s)? 18

J. Question 10
Question 10(a) Are competitive market forces sufficient to ensure service quality? 19

Question 10(b) What, if any, are the barriers to switching to other services and service providers if a customer is dissatisfied with the quality of wireline telephone service offered by their current provider? 22

K. Question No. 11
How do carriers prioritize repairs between classes of customers, (e.g., retail vs. wholesale and business vs. residential) types of technologies, and types of services? Should residential service be given top priority for repair due to public safety and universal service obligations associated with residential service? 23

L. Question 12
Is the service quality information posted at the Commission's website sufficient to provide consumers with the relevant information to make informed communications service purchasing decisions? 24

M. Question 13
Should the Commission adopt service quality reporting standards for Wireless carriers? 25

N. Question 14
Are there cost-effective engineering and design standards available that would prevent or better mitigate the effects of outages due to storms and other disruptions? If so, what are they? 27

PAGE

O. Question 15
Is the wireline network designed and maintained so as to minimize the duration of outages due to catastrophic events? If not, what should be done to rectify that? 28

P. Question 16
Question 16(a) Is the wireline network being properly maintained to serve Californians and the California economy? 29

Question 16(b) Is wireline service in California comparable to service in other states that have penalties for failure to maintain service or incentive regulation for service quality? 29

Q. Question 17
Question 17(a) Are there any economic, regulatory, physical, or other barriers or disincentives that stifle or discourage wireline maintenance? 30

Question 17(b) What are the consequences of poor wireline maintenance? What can and should be done to foster proper and timely wireline maintenance? 31

IV. CONCLUSION 31

Pursuant to the Order Instituting Rulemaking 11-12-001 ("Rulemaking") issued by the California Public Utilities Commission ("Commission") on December 12, 2011 and the subsequent extension granted by Administrative Law Judge Hecht, AT&T[1] hereby submits its opening comments in this proceeding.

I. INTRODUCTION

AT&T appreciates this opportunity to address the issue of the Commission's regulation of wireline service quality, including the questions posed in the Rulemaking. AT&T also addresses in these comments why the Commission is preempted by federal law from setting wireless service quality standards, why no other state has imposed such standards, and why it is economically irrational to do so in the fiercely competitive market for wireless services.

Since the Commission issued its last decision on service quality in 2009,[2] the competitive communications market in California has experienced the continuing shift away from ILEC wireline voice service to wireless, VoIP service, and other forms of non-voice communications (*e.g.* texting, social media, etc.). Consumers are no longer limited to making phone calls from a standard phone in their home or workplace. Instead, they communicate in numerous ways, using a myriad of services from a broad array of service providers. For their voice service needs, consumers can now choose among ILECs, CLECs, wireless carriers, cable companies or their affiliates (some of which provide voice service via Voice over Internet Protocol or "VoIP"), and other VoIP providers. This intensely competitive market supports eliminating the three service quality measures in General Order 133-C ("GO 133-C") applicable to wireline retail service provided by URF carriers.

---

[1] Pacific Bell Telephone Company d/b/a AT&T California (U 1001 C) hereinafter referred to as "AT&T." These comments are also submitted on behalf of AT&T Communications of California, Inc. (U 5002 C); TCG San Francisco (U 5454 C); TCG Los Angeles, Inc. (U 5462 C); and TCG San Diego (U 5389 C).

[2] *Re Service Quality Standards for All Telecommunications Carriers*, Decision No. 09-07-019, *Decision Adopting General Order 133-C and Addressing Other Telecommunications Service Quality Reporting Requirements*, 275 P.U.R.4th 70, *as modified by* Decision No. 09-07-031, *Order Correcting Error in Decision 09-07-019*, 2009 WL 2407366 (Cal.P.U.C. July 28, 2009).

As Dr. Debra Aron explains in her attached declaration, competition in the communications markets is robust and better suited than regulation to encourage providers to devote their resources to those service attributes most valued by customers.[3] Based on this evidence, the GO 133-C measures applicable to URF carriers should be eliminated. The Out-of-Service ("OOS") measure applicable to wireline services included in GO 133-C issued in 2009 has proven to be especially problematic. The measure is much more difficult than the Commission's previous OOS measure adopted in D.01-12-021 and translates to a Mean-Time-To-Repair ("MTTR") in the range of 11 to 13 hours for AT&T to achieve the Commission's standard of 90% of repairs within 24 hours.[4] Furthermore, elimination of the OOS measure along with the two remaining GO 133-C measures is in keeping with the trend to eliminate wireline service quality measures in other states. As of today, all but nine of the 21 states outside of California, in which AT&T is an ILEC, have eliminated wireline service quality standards.

Further, there is no justification or legal basis for adopting service quality standards for wireless services because Section 332(c)(3) preempts state regulation over rates and entry for wireless service.[5] Courts have recognized that state law claims relating to wireless service quality are preempted under Section 332(c)(3) as prohibited state rate or entry regulation.[6] Additionally, as Dr. Aron explains, the market for wireless service is intensely competitive, and no other state has adopted service quality measures for wireless services.

From the questions in the Rulemaking, the Commission has conveyed its concern regarding the maintenance of the wireline network, including recovery of services during emergency conditions. AT&T recognizes these priorities and is continually investing in its network to deliver reliable services to consumers. Over five years from 2007 to 2011, AT&T's

---

[3] Aron Declaration, ¶¶ 30-50.
[4] *Id.* at ¶ 84.
[5] 47 U.S.C. § 332(c).
[6] *See, e.g., Bastien v. AT&T Wireless Services*, 205 F.3d 983 (7th Cir. 2000) ("*Bastien*"); *Naevus International, Inc. v. AT&T Corp.*, 185 Misc.2d 655, 713 N.Y.S.2d 642 (N.Y.Sup.2000) ("*Naevus*").

infrastructure investment in its California wireline network alone totals over six billion dollars, which equates to approximately $100 million per month. It is in AT&T's best interest to keep its wireline network in working order and to ensure restoral of services after an emergency. AT&T's wireline network is the backbone that allows AT&T to provide a wide array of services in this State, and AT&T is heavily invested in terms of capital and human resources with maintaining its network and enabling new services and technologies.

With regards to emergency conditions, AT&T draws on a long history of recovering from disasters across the country. AT&T is committed to delivering the highest levels of service, quality, and reliability for customers under all circumstances. A critical element of AT&T's efforts to maximize network reliability is its ability to swiftly respond when disaster strikes. AT&T brings unmatched resources to help ensure communications during times of need, all backed by centralized command and control designed to ensure maximum effectiveness and efficiency.[7] When disaster strikes, AT&T's technicians and employees work around the clock to keep the network up and running. As described herein, AT&T has systems and processes in place to address such emergency conditions when they occur.

II. GENERAL COMMENTS

In closing its seven-year proceeding reviewing retail service quality, the Commission issued Decision 09-07-019 and explained it had undertaken:

> to determine the kind of measures that should apply to local exchange and other services in light of changes in regulatory policies and increased market competition as found in this Commission's Uniform Regulatory Framework (URF) decision. Consistent with the general agreement of the parties that competitive environments act to apply a natural pressure for carriers to ensure adequate service quality, it is reasonable to simplify the existing reporting requirements.[8]

***

[7] *See* AT&T's 2010 Sustainability Report available at: http://www.att.com/gen/corporate-citizenship?pid=17918.
[8] D.09-07-019, *mimeo*, p. 2.

> We will require reporting of fewer measures for Uniform Regulatory Framework (URF) ILECs and competitive local exchange carriers (CLECs), since these carriers operate in more competitive markets. The reporting measures we adopt for URF ILECs and for CLECs with 5,000 or more customers are: (1) customer trouble reports (six reports per 100 lines for reporting units with 3,000 or more working lines and lower standards for smaller reporting units); (2) OOS repair intervals (90% within 24 hours excluding Sundays and federal holidays, catastrophic events and widespread outages); and (3) billing, 6non-billing [*sic*] and trouble report answer time (80% within 60 seconds with the option to speak to a live agent).[9]

The Commission reduced to three the service quality measures applicable to URF carriers and correctly decided not to adopt measures for wireless services. As explained by Dr. Aron, the market has only seen further competitive inroads since that time.[10] Consumers now enjoy services not even heard of in 2006, when the Commission found the telecommunications market competitive. Those benefits and opportunities have continued to grow since 2009.[11] Such evidence supports eliminating the remaining three wireline measures and not establishing any wireless measures. In addition, across the country, states have eliminated service quality reporting. For example, of the 21 states outside California where AT&T operates as an ILEC, there has been a trend of eliminating service quality standards, resulting in only nine states that still impose some form of service quality regulation. Given this trend and the current state of competition in the State, the Commission should move forward and eliminate the last three wireline service quality measures applicable under GO 133-C to URF carriers.[12]

Competition is superior to regulation for ensuring consumers receive the quality of service that meets their demands. Competitive markets encourage companies to produce what economists call "optimal" service quality, which is the level of service quality that maximizes

---

[9] *Id.* at 4 (citations omitted).
[10] Aron Declaration, ¶¶ 30-42.
[11] *Id.* at ¶ 42.
[12] These comments focus on reporting under GO 133-C, but the same factors which make GO 133-C reporting unnecessary also apply to GO 152-A, which addresses Private Line Alarm Services. For AT&T, the serving links reported under GO 152-A have declined significantly to just 1,760 lines as of November 2011, reflecting a decrease of 68% from 2002. Similarly, the number of new installation orders per year has decreased drastically. In the past five years from 2007 through 2011, AT&T has had only six orders for alarm lines. Given this decline in AT&T's customer base and new orders, this requirement has outlived its usefulness, and the Commission should eliminate it.

social welfare given that service quality improvements come with a cost, that consumers have scarce resources, and that consumers have to allocate their resources across their alternatives.[13] There is generally no single level of optimal service quality because different people have different preferences. In a competitive environment, artificially restricting the array of service quality options available by establishing regulator-determined standards would reduce consumer welfare. Regulators do not have the constant feedback from the marketplace that providers do, and, therefore, cannot know which dimensions of service quality are most important to consumers or most valued relative to their costs. As a consequence, regulators are likely to impose requirements focused on quality attributes that do not correlate with customer preferences. Wrongly-specified standards force providers to divert resources from providing service attributes that customers care about and stifle innovation and service differentiation to the detriment of consumers.[14]

An example of a wrongly-specified measure is the OOS measure added to GO 133-C in 2009, which has proven to be unworkable and unreasonable for AT&T. The measure is much more difficult than the Commission's previous measure adopted in D.01-21-012, was arbitrarily chosen by the Commission without an adequate record, [15] and translates to an unreasonable MTTR in the range of 11 to 13 hours for AT&T.[16] Furthermore, as Dr. Aron explains, AT&T, the largest LEC in California, has a comparative disadvantage in meeting this measure because there are diseconomies of scale in OOS repair intervals. It does not benefit consumers to force large companies to measure quality of service in a way that is inefficient for their size and more costly than other ways of achieving comparable reliability. AT&T is better suited to providing reliable service by insuring a low incidence of OOS events, which it already does as attested by

[13] Aron Declaration, ¶¶ 20-21.
[14] *Id.* at ¶ 50.
[15] *See, e.g.,* R.02-12-004, Comments of AT&T on Proposed Decision of Commissioner Chong, pp. 6-7 (May 11, 2009); Reply Comments of AT&T on Proposed Decision of Commissioner Chong, p. 2 (May 18, 2009).
[16] Aron Declaration, ¶¶ 15, 84.

its results for the GO 133-C measure of trouble reports per hundred lines ("TRHL"). In light of AT&T's experience with the OOS measure and the extremely low MTTR it requires, this measure is unreasonable and should be eliminated.

The Rulemaking raises one question regarding service quality for wireless service. There is no justification or legal basis for adopting service quality standards applicable to wireless services because Section 332(c)(3) preempts state regulation over rates and entry for wireless services.[17] Courts have recognized that state law claims relating to wireless service quality are preempted under Section 332(c)(3) as prohibited state rate or entry regulation.[18] Additionally, Dr. Aron explains, the Commission should not adopt service quality measures for wireless service because the evidence in the marketplace is that wireless carriers vigorously compete by touting the quality of their networks. They highlight the quality characteristics they are best at providing and attempt to attract customers who most value the quality characteristics they provide. This market dynamic elicits the levels of service quality that best meet consumer demands given the costs of providing them.[19]

As Dr. Aron describes, there are a myriad of different sources that provide wireless consumers with detailed service quality data. As the FCC itself recognizes, mobile service providers themselves publish network quality. Third parties, as well as the FCC, also conduct customer satisfaction surveys for wireless service. Any regulatory effort to intervene and second guess the market would be harmful. The level of wireless service quality experienced by consumers today is influenced by limitations on items such as scarce spectrum and permitting requirements associated with the installation of cell towers. Requiring wireless carriers to meet regulator-determined standards across 50 states, with potentially different standards in each state,

---

[17] 47 U.S.C. § 332(c).
[18] *See, e.g.*, *Bastien* and *Nauvus*, *supra*.
[19] Aron Declaration, ¶¶ 106-107.

would require providers to either increase prices and/or reduce investment in other aspects of service that consumers value, which is likely to harm consumers.[20] Given this environment, it is not surprising that no other state has adopted service quality measures for wireless service, and that this Commission declined to do so in its previous service quality proceeding culminating in the 2009 Decision. It should not do so now.

The Rulemaking also invites parties to address the issue of penalties for failure to meet service quality standards. As a preliminary matter, the Commission has never included automatic penalties for GO 133 results that do not meet standards, and there is no evidence that the Commission should deviate from this course now. In fact, today, there are no other states in which AT&T is the ILEC that have automatic penalty mechanisms. Additionally, Dr. Aron conducted an analysis of whether performance penalties materially affect service quality by comparing quality performance in states with penalties with performance in states that do not have penalties. She concludes that the there is no statistical evidence that penalties affect performance or the quality of service measures that she tested.[21]

Dr. Aron also compared AT&T's performance for the expected number of OOS minutes per line, the Composite Reliability. She found AT&T's reliability performance was statistically indistinguishable from the performance of the other AT&T ILECs in either the non-penalty states or the other penalty states. She concludes penalties have no measureable beneficial effect on service quality. Penalties for regulator-set standards distort behavior away from efficient and desirable service characteristics. Thus, a penalty mechanism would not help consumers. Given that none of the 22 states in AT&T's ILEC footprint have automatic penalty mechanisms, such mechanisms are anachronistic in today's regulatory landscape.[22]

---

[20] *Id.* at ¶¶ 110-112.
[21] *Id.* at ¶ 123.
[22] *Id.* at ¶¶ 126-127.

III. RESPONSES TO COMMISSION QUESTIONS

A. Question 1

Are the adopted GO 133-C service quality standards appropriate and reasonable? If not, should new service quality standards be adopted or should existing standards be modified or eliminated?

There is no longer a justification for the GO 133-C service quality standards. This Commission should follow the lead of the majority of other states in which AT&T is an ILEC and eliminate service quality standards in California. Consumers in California today routinely choose among many service options, and most use and switch among their portfolio of communications services on a daily basis. While no service has or can have perfect performance, all services have many dimensions of quality, and consumers signal on an ongoing basis their satisfaction or dissatisfaction with those attributes by their choices. Consumers' purchasing decisions convey to providers their priorities regarding price, quality, and service attributes. Competition is better suited than regulation to determine the levels of service quality characteristics that satisfy customer demand.[23]

There is no reason to believe that the Commission's current quality standards reflect the best way to provide the level of service quality that meets consumer preferences, nor is there any basis to conclude that violations of particular standards reflect inadequate service quality overall. There is evidence, however, that consumers care a lot about the price they pay for service, which suggests that quality standards that cost more than the value they create for consumers cause significant harm to consumers. The Commission can best serve consumer welfare by allowing the market to respond to consumers' signals and removing intervention that is unnecessary and detrimental to consumers.[24]

---

[23] *Id.* at ¶ 128.
[24] *Id.* at ¶ 129.

Moreover, Dr. Aron's analysis of the FCC's service quality performance data from the 22 states in which AT&T is an ILEC shows there is no statistically significant difference between the states with standards and those without. California should join the many other states in recognizing that the time is past for service quality regulation of telecommunications and remove those remnants of a prior regulatory regime, one that is a world away from the dynamic telecommunications landscape of today.[25]

B. Question 2

Should additional Out-of-Service standards be established for Out-of-Service events in excess of 24 hours?

No. The current OOS standard should be eliminated, not augmented. Dr. Aron analyzed data available from the Commission and FCC and found that the ability of carriers to achieve specific levels of performance on GO 133-C's two repair measures varies by the carrier's size. On average, the larger the carrier, the higher its OOS repair interval. While Dr. Aron's analysis shows diseconomies of scale for repair intervals, the results suggest there are economies of scale associated with reliability measured as trouble and OOS events as a percent of lines. The Composite Reliability, calculated by multiplying together the OOS interval and the number of OOS reports as a percentage of lines, yields the number of minutes each line in the network is out of service on average in a year. It thereby combines the likelihood that a line will go out of service and the duration of the outage if an outage occurs, thereby measuring the overall, average reliability that a customer can expect from his line in a given year. Customers of large companies have similar average outage minutes per year as do customers of smaller companies.[26]

Dr. Aron's analysis of the data also shows that to repair 90% of OOS lines within 24 hours requires the average time to repair OOS lines to be significantly lower than 24 hours. For AT&T

[25] *Id.* at ¶ 130.
[26] *Id.* at ¶¶ 80-81.

to repair 90% of its OOS cases within 24 hours given the distribution of types of cases it faces, it would have to achieve a MTTR of 11 to 13 hours. AT&T's average OOS interval for the first nine months of 2011 was 25 hours. Thus, for AT&T to meet the Commission's 90% standard, it would have to reduce its OOS interval to approximately half of its average OOS interval for 2011. As the largest LEC in California, AT&T has a comparative disadvantage because of diseconomies of scale in OOS repair intervals. AT&T is better suited to providing reliable service by insuring low incidence of OOS events, which it already does, as evidenced by the fact that AT&T's incidence of trouble reports has been lower than the TRHL standard in GO 133-C.[27]

The 90% standard is also problematic insofar as it creates incentives to de-prioritize OOS trouble tickets that are not be closed within 24 hours because once a trouble ticket has exceeded 24 hours, it counts as a miss for purposes of the 90% standard. For these tickets, a company would maximize its chance to meet the standard by diverting resources to closing other OOS trouble tickets instead. Diverting resources away from closing more time-consuming OOS tickets can improve performance on the 90% OOS measure, but increase the average time to repair over all cases, thereby harming consumers. The correct process for resolving this incentive problem is not to add additional measures and standards for tickets exceeding 24 hours, but to eliminate the 90% standard. Adding more standards will inevitably create new incentives for distorted behavior.

The OOS measure does not capture the underlying performance of the carrier for composite reliability because it ignores the likelihood that an outage would occur at all. Standards that limit the OOS interval are an unnecessary and costly way to promote network reliability for large carriers who achieve overall reliability more efficiently by making outages a

[27] *Id.* at ¶¶ 84-85.

rare event. Failing to meet the 90% standard is not evidence of any quality deficiency, overall network reliability, or on overall service quality valued by consumers. Retention of the current standard and the imposition of additional standards for OOS intervals in excess of 24 hours would certainly be moving in the wrong direction.

C. Question 3

Why are many of the URF carriers consistently missing the service quality measurement standards for (a) Out-of-Service Repairs, and (b) Answer Times?

In 2009, the Commission revised its service quality rules to include a new OOS measure of 90% of out-of-service tickets restored in 24 hours. Prior to that revision, GO 133 had never included such a measure. In the proceeding leading up to the issuance of the new service quality rules as GO 133-C in 2009, TURN advocated that the Commission adopt an OOS standard of 36 hours, while DRA recommended standard of 25 hours.[28] These proposals for a MTTR standard were in keeping with the Commission's 2001 Decision that mandated a MTTR standard for OOS applicable only to AT&T. The Commission did not adopt a MTTR standard, instead choosing to adopt the standard of 90% of OOS tickets restored in 24 hours. The Commission said it was adopting the standard because it was "generally consistent with the standard in place in Illinois."[29] Since 2009, Illinois has moved forward with further reforms. AT&T Illinois is no longer subject to the requirement to restore a certain percentage of OOS tickets in a specified time period and is not subject to any penalty provisions related to such a measure.[30]

As AT&T pointed out in its comments on the Proposed Decision, the new OOS standard in GO 133-C is more difficult to meet than the previous OOS measure applicable to AT&T.[31] The previous standard was that initial OOS tickets should have a MTTR of 29.3 hours and repeat

[28] D.09-07-019, *mimeo*, p. 44.
[29] *Id.* at 45.
[30] 220 ILCS 5/13-506.2, (e) (July 10, 2010) sets forth the requirements applicable to AT&T Illinois as an "Electing Provider."
[31] R.02-12-004, Comments of AT&T on Proposed Decision, p. 6 (May 11, 2009).

OOS tickets should have a MTTR of 39.4.[32] The Commission ruled in 2001 that AT&T must meet these standards in order to fulfill its obligations of just and reasonable service under Section 451 of the California Public Utilities Code. In 2009, the Commission ignored its previous finding on this issue and arbitrarily decided to adopt a more stringent standard. The Commission recognized that the new reporting measure "may result in some carriers needing to make certain adjustments in system and/or procedures."[33] If the reporting data suggested problems, the Commission encouraged parties to meet with Staff to discuss these issues.[34] Thus, the Commission imposed a more stringent standard and implicitly acknowledged that carriers would have difficulty meeting it.[35]

As described in detail by Ms. Farrell, AT&T's efforts to implement reporting for the new OOS measure as well as AT&T's efforts to improve its results for the new OOS measure have led to better results. AT&T's OOS results have gone from 53.1 percent in January 2010 to 77.2 percent in November 2011. Despite these efforts, AT&T has not been able to meet the standard. AT&T would have to meet a MTTR of 11 to 13 hours, which is not reasonable in light of the fact that such a standard is 50% shorter than the Commission's previous standard of 29.3 hours for initial OOS tickets adopted in Decision 01-12-021. As Ms. Farrell explains, the extremely low MTTR combined with AT&T's extensive efforts to meet the measure demonstrate that the measure is unreasonable.[36]

With respect to the GO 133-C measure for speed of answer ("SOA"), the Commission's question seems to presume that AT&T has "consistently" missed this measure, which is an

---

[32] *Id.*
[33] D.09-07-019, *mimeo*, p. 45, fn. 148.
[34] *Id.*
[35] In 2011, the Commission Staff issued a report wherein it acknowledged that the carriers have different interpretations regarding calculating OOS intervals and the treatment of excludable events in the calculation and there are differing interpretations on whether a state of emergency constitutes an exemption for reporting anything for the entire company for one or more months. *See* OIR, Attachment A ("March 2011 Staff Report – Telephone Carrier Service Quality Report"), p. 12.
[36] Farrell Declaration, ¶¶ 4-13.

erroneous assumption. For 2010 and 2011, AT&T met the measure for five out of the eight quarters that have been subject to the new SOA standard in GO 133C. AT&T missed the measure for the first quarter of 2010, which would be expected given the efforts needed to ramp up to meet a new, more stringent measure. While AT&T met the measure for the second and third quarters of 2010, its results for fourth quarter 2010 were directly affected by severe weather events in December 2010 because the weather events generated more calls to the company's repair call centers.[37] In 2011, AT&T met the SOA standard of routing customers to a live operator in 60 seconds or less 80% of the time for three of the four quarters in 2011. AT&T only missed the SOA standard in the third quarter, when the results were affected by call volume increases for services, which affected AT&T's ability to meet the SOA standard.[38]

D. Question 4

The current service quality standards and measures focus on retail customers. Should standards be adopted for wholesale service? If so, what should these standards and measures be?

There is no need to adopt measures and standards for wholesale service, because a comprehensive set of Commission-approved wholesale performance measures already exists. In 1997, the Commission issued an order instituting a rulemaking and investigation to determine a set of measurements and standards to assess service levels provided by ILECs to CLECs for certain categories. In 1999, after two years of negotiation among the ILECs, the CLECs, and the Commission, the Commission issued Decision 99-08-020 ordering the implementation of performance measures. With this decision, the ILECs were required to report results monthly for each measure by individual CLEC, the aggregate of all CLECs and ILEC results, where they were relevant. The standards for these measures are statistical parity with ILEC performance where an analogous process existed for ILEC retail customers or a benchmark, where no

[37] *See* ftp://ftp.cpuc.ca.gov/Telco/ServiceQualityReports/AT&T%20CA%20Service%20Quality%202010.pdf.
[38] *See* ftp://ftp.cpuc.ca.gov/Telco/ServiceQualityReports/2011/ATT%20CA%203Q2011.pdf.

analogous retail process exists. In 2002, the Commission issued Decision Nos. 02-03-023 and 02-06-006 ordering implementation of an incentive plan that required ILECs to provide remedy payments to CLECs in those cases where performance standards were not achieved.

To adapt to the evolving wholesale market, AT&T's wholesale performance measurement plan and incentive plan have been modified over the years. The current versions of the plan, as well as all previous versions, are the product of extensive negotiation with the CLEC community. The performance measurement plan is adopted by reference into wholesale interconnection agreements. In the case of the incentive plan, CLECs may choose to adopt the plan or not, depending on their business needs. For AT&T, the plans were last reviewed in 2008 and were submitted to the Commission for approval as consensus filings supported by AT&T and the CLECs participating in the review of the plans. The Commission approved the plans as submitted.[39]

E. Question 5

Is it appropriate to implement a penalty mechanism when standards are not met? If so, what should it be?

No, it is not appropriate to implement a penalty mechanism when standards are not met. As Dr. Aron explains, economic theory suggests that if anything, penalties for regulator-set service quality standards would distort behavior away from efficient and desirable configuration of the various aspects of service characteristics to the detriment of consumers. Hence, imposing a penalty mechanism would not help and could harm consumers.[40]

In fact, almost every other state appears to have recognized that penalty mechanisms are no longer necessary or consistent with the telecommunications marketplace. Today, none of the 22 states in AT&T's ILEC footprint have an automatic penalty mechanism, and it appears only

[39] *See Re Performance of Operations Support Systems*, Decision No. 08-12-032, *Decision Granting Joint Motion for Adoption of Amendments to Performance Incentive Plan,* 2008 WL 5380251 (Cal.P.U.C. Dec. 18, 2008).
[40] Aron Declaration, ¶ 126.

three other states in the U.S. that currently have automatic penalties. Penalty mechanisms are clearly anachronistic in today's market and regulatory landscape.[41]

F. Question 6

Should exemptions be allowed for calculating reported service quality results for State of Emergency, Catastrophic Events and events beyond the control of the utility management? If so, should there be limitations on the geographic area(s) covered and/or the duration of the exemption?

As Dr. Aron explains, the GO 133-C measures applicable to URF carriers should be eliminated.[42] To the extent they continue, exemptions due to events beyond the carrier's control should be recognized. In addition to the reasons discussed by Dr. Aron that support exemptions,[43] other states, such as Illinois, recognize such exemptions.[44] Further, this Commission has long recognized exemptions for catastrophic events. In Decision 01-12-021, the Commission stated:

> We recognize that a catastrophic event such as an earthquake, or a widespread service outage, that is beyond Pacific's control, could have an impact on its ability to meet the standards we have set in the month in which the event occurs. In that case, that month should not be included in calculating the mean for the year, and Pacific should not be fined for failing to meet the standard.[45]

The Commission allowed AT&T to exclude statewide results for months in which states of emergency were declared by the governor or president.[46] Subsequently, in the 2009 Decision, the Commission ruled that "[m]aintenance delays due to circumstances beyond the carrier's control, including catastrophic events or widespread service outages, that occur in one or more

---

[41] *Id.* at ¶ 127.
[42] *Id.* at ¶ 89.
[43] *Id.* at ¶¶ 89-93.
[44] 220 ILCS 5/13-506.2, sec. (e)(2)(D) (July 10, 2010).
[45] D.01-12-021, *mimeo*, p. 39, fn. 38 ("A catastrophic event is defined as any event in Pacific's service area for which there is a declaration of a state of emergency, duly issued under federal or state law."), fn. 39 ("For purposes of this order, a widespread service outage is defined as any outage affecting at least 3% of Pacific's residential customers in the state.").
[46] *See, e.g,.* Resolution T-17024b (July 20, 2006).

months of the year are excluded and should be reported separately."[47] For example, the Commission excluded delays resulting from a customer's request for an appointment beyond 24 hours.[48] Based on this decision, AT&T understood that like the previous measure, the new OOS standard would not apply during months associated with a state of emergency.

The Commission's Staff subsequently clarified that they do not agree with the exception rules for the previous OOS measure, although these rules were incorporated into the 2009 Decision. The Staff's interpretation of the current exemption for catastrophic events incorrectly limits the exclusion to "the specific areas affected, *e.g.,* named in either a Federal or State declared State of Emergency."[49] Not only is this interpretation inconsistent with the decision itself, it fails to recognize that AT&T responds to catastrophic events by moving resources from across the State to the most highly affected area. As a consequence, fewer resources are available to address service issues in the less affected areas, potentially increasing response times in those areas. Because severe conditions in one area of the State have statewide effects, carriers should exclude results for the entire State when catastrophic events occur. This type of exemption maintains incentives for carriers to use all means available to respond in critical situations.[50] The Commission should reaffirm that when emergencies affect a utility's

---

[47] D.09-07-019, *mimeo*, p. 46. *See also id.* at fn. 149 ("A catastrophic event is any event in the reporting carrier's service area for which there is a declaration of a state of emergency by a federal or state authority. A widespread service outage is an outage affecting at least 3% of the carrier's customers in the state. The reporting carrier shall provide supporting information on why the month should be excluded and work papers that show the date(s) of the catastrophic event or widespread outage and how the adjusted figure was calculated. These definitions and reporting requirements are based on D.01-12-021." (citations omitted)).
[48] *See id.* at 45.
[49] Commission Staff Letter to GRC ILECs and URF Carriers re Clarification of Service Quality Rules and Reporting Requirements (Apr. 27, 2011) ("April 27, 2011 Staff Letter").
[50] Farrell Declaration, ¶ 15.

operations, the utility is excused from meeting the OOS standard for the entire month on a statewide basis.[51]

G. Question 7

Should carriers provide the Commission with additional service quality data in the aftermath of a catastrophic event? If so, what additional data is appropriate?

No. The current reporting standards for major service interruptions ("MSI") set forth in section 4 of GO 133-C are sufficient to ensure that the Commission receives relevant data. In Rulemaking No. 02-12-004, the Commission conducted an investigation into new requirements for outage reporting and received comments from numerous parties, including DRA and TURN. Previously, the Commission had an informal reporting process that was not contained in a general order or decision.[52] After reviewing its existing process and receiving comments from parties, the Commission concluded that:

> In determining whether to continue requiring MSI reporting and if so, in what form, we are guided by the same reasons that led the FCC to extend its mandatory reporting of outage information in *In the Matter of New Part 4 of the Commission's Rules Concerning Disruptions to Communications* ("*Rules Concerning Disruptions Order*") ET Docket No. 04-35, Release Number: FCC 04-188 FEDERAL COMMUNICATIONS COMMISSION, 19 FCC Rcd 16830; 2004 FCC LEXIS 4658. Specifically, the FCC recognized the "critical need for rapid, complete, and accurate information on service disruptions that could affect homeland security, public health or safety, and the economic well-being of our Nation, especially in view of the increasing importance of non-wireline communications in the Nation's communications networks and critical infrastructure."[53]

---

[51] The Commission should also continue to exclude tickets associated with events beyond a utility's control on a business as usual basis as well as excluding Sundays and federal holidays. The OOS methodology should also allow carriers to receive credit for repairing OOS tickets within 24, even if the ticket is excludable. OOS tickets, which are excludable for any reason (beyond carrier's control, customer requested appointment, etc.), should be included in the GO 133-C OOS calculation when service is restored in less than 24 hours. Currently, OOS trouble tickets are excluded from the OOS calculation "regardless of whether service was restored in less than 24 hours. *See* April 27, 2011 Staff Letter. This limitation unfairly denies carriers credit for providing excellent service, *i.e.,* the restoral of service in less than 24 hours, when the cause of the outage is beyond their control. AT&T devotes resources to an OOS event before it knows the cause of the trouble, and well before it is ever determined that a case of trouble will ultimately be excluded from reporting. The Commission's calculation methodology should be amended to incent this type of behavior. Continuing the current exclusion of these tickets creates a potential disincentive to address these tickets when the cause is beyond the carrier's control.

[52] D.09-07-019, *mimeo*, p. 61.

[53] *Id.* at 63 (*citing Rules Concerning Disruptions Order,* 19 FCC Rcd 16830 at ¶¶ 1, 10-13).

***

> Balancing the Commission's need for robust service outage reporting and a policy favoring streamlined reporting requirements, wherever possible, we determine that we can achieve both objectives by conforming our reporting requirements to the FCC's.[54]

Given the robust MSI notification requirements set forth in GO 133-C and approved by the Commission in 2009, there is no need to adopt addition requirements.

H. Question 8

What other reporting requirements or measures are appropriate to evaluate quality of service?

None. *See* responses to Questions 2 and 10a.

I. Question 9

Should the Commission hire a network consultant to: a) review and evaluate the service quality results; b) to evaluate and monitor telecommunications carrier's infrastructure, investments and manpower to improve service quality; and c) to help the Commission determine "best practices"? If so how should they be funded and who should administer the contract(s)?

The Commission should not hire a network consultant to review and evaluate service quality results or to evaluate and monitor telecommunications carriers' infrastructure, investments, and manpower. As demonstrated by the Commission's Staff Report dated March 11, 2011, the Commission Staff reviews and evaluates the service quality data submitted to the Commission as well as analyzing carriers' responses to states of emergencies, such as the rain storms that occurred in December 2010. The Commission Staff has a long history of working with carriers regarding service quality results. It has been AT&T's experience that the Commission Staff has the resources to evaluate the service quality data. The Commission should also not hire a consultant to evaluate carriers' investment and workforce because such micromanagement is not beneficial and is beyond the jurisdiction of the Commission.

[54] *Id.* at 64.

J. Question 10

Question 10(a) Are competitive market forces sufficient to ensure service quality?

Yes. Competitive market forces are sufficient to ensure reasonable quality for the aspects of service quality at issue in this proceeding. There is no theoretical justification for service quality regulation for companies that are not subject to rate-of-return regulation, such as California's URF LECs. Competitive markets encourage companies to produce the optimal level of service quality, which is the level that maximizes social welfare given the associated cost and alternative uses of providers' and consumers' resources. Regulators must recognize that higher quality always comes at a cost, and increasing quality above some level will inevitably reduce consumer welfare. Hence, there is a level of service quality that is optimal because it maximizes social welfare, and that level is generally below "perfect" or "maximum" service quality. In competitive markets, competition disciplines quality from being too low or too high given consumers' preferences and the providers' associated costs.[55]

There is no objective standard of "reasonable" service quality that can stand without reference to consumer preference and costs of provision. Reasonable service quality is a level of quality that reasonably reflects consumer preferences, taking the costs and benefits into account. Market forces are best suited to identifying that "reasonable" level of quality through the process of responding on an ongoing basis to consumer demand because market forces continuously drive producers toward optimal service quality. Optimal service quality cannot generally be defined on individual service attributes in isolation of other service attributes. The quality of a service is a portfolio of attributes, and consumers may differ in how they prioritize those attributes. In a competitive market, consumers can choose from levels of quality profiles

[55] Aron Declaration, ¶¶ 20-25.

supplied at different prices to meet different demands. Artificially restricting this array of options harms consumer welfare.[56]

Competition in the telecommunications market in California has continued to grow since the Commission found in 2006 that California's large and mid-sized ILECs lack significant market power and face competition from alternative service providers. In 2006, the iPhone did not exist, social media were a nascent concept, and telephones were used primarily for talking. Today, text-messaging is, by some measures, more popular than voice calling, the Commission has its own Facebook and Twitter pages, and consumers use their mobile phones for music, navigation, communal gaming, and watching television, videos, and movies. In the meantime, the role of landline telephone service provided by the carriers reporting under GO 133-C has diminished materially. As of December 2010, at least 44 percent of California households had no traditional telephone service at all. They were served either by VoIP providers such as the cable companies, or by wireless technology. Wirelines provided by California non-ILECs over their own facilities increased by 28% in just the most recent two years of data. ILECs in California have lost 29 percent of their lines since 2006 and face vigorous competition for traditional landline service and broadband service by cable providers and wireless carriers.[57]

The Commission recognized in 2006 that competitive forces should be relied upon to protect consumers and encourage innovation. Not only has competition continued to grow since that time, but the market has proven once again that innovation is a profound driver of consumer benefits in the telecommunications industry. Consumers enjoy services and opportunities not yet even heard of in 2006, and these benefits and opportunities have continued to grow since the

[56] *Id.* at ¶¶ 26-29.
[57] *Id.* at ¶¶ 30-41.

Commission issued GO 133-C in 2009. Regulatory intervention into the way providers seek to bring benefits to consumers has outlived its usefulness.[58]

While competitive forces reward providers who offer service quality levels that consumers value and punish those that do not, the regulatory process is fundamentally unsuited for determining optimal levels of service quality. The process of identifying socially efficient and welfare-maximizing levels of service quality is not a mechanical or formulaic process, but rather requires iteration and interaction with consumers. In a competitive environment, the constant flow of information from consumers to providers as they make their preferences known explicitly through consumer surveys and direct feedback, and implicitly by their service choices, stimulates reactions by providers to readjust their offerings, correct quality weaknesses that consumers care about, innovate in order to overcome areas of weakness where they are not competitive, and let consumers know about the provider's own strengths and their competitors' vulnerabilities. This process of constant information exchange and course correction cannot realistically be duplicated by a regulatory body or regulatory process. Regulators cannot receive the market feedback that is required to determine which combination of service quality standards best serves customers and respects costs.[59]

Research on consumer preferences indicates that the preponderance of consumers care more about lower prices than about network reliability or customer service. Providers should be encouraged to focus on the attributes about which consumers care, rather than increasing costs or diverting resources in order to conform to standards that do not necessarily reflect consumer values.[60]

---

[58] *Id.* at ¶ 42.
[59] *Id.* at ¶¶ 43-58.
[60] *Id.* at ¶¶ 59-60.

Finally, competition and consumer choice drive service quality in many industries. The power of competition and consumer choice in driving service quality and producing a distribution of different types of service quality to match consumer demand has been demonstrated in a variety of industries and documented in the economics literature. In the automobile industry, the increase in competition brought on by foreign entry to the market resulted in substantially increased quality. Deregulation in the airline industry resulted in a new industry paradigm in which quality dimensions that had been inflated by regulation were reduced, quality on other dimensions was increased, prices fell, and consumers benefitted significantly on net.[61]

Question 10(b) What, if any, are the barriers to switching to other services and service providers if a customer is dissatisfied with the quality of wireline telephone service offered by their current provider?

There do not appear to be barriers to customers' switching to other service providers that would materially impede the ability of the market to respond to demand for service quality. While switching providers is not costless in any market, residential landline customers, who want to switch to another landline provider, do not have to change their telephone number, purchase new handset equipment, or learn to operate a new system. AT&T does not offer term contracts on wireline services. While some wireline providers may offer discounted bundles if customers agree to a term contract, providers generally also offer local service on a month-to-month basis, so that customers switching would not have to sign a term contract. Landline providers also may waive installation fees to encourage customers to switch to them. In addition, wireline customers who are dissatisfied with service for price, quality, or any other

[61] *Id.* at ¶¶ 62-74.

reason can drop wireline service at no cost and rely on the wireless service that virtually all consumers already have.[62]

It is relatively uncommon in competitive markets that switching is entirely costless, but this does not prevent the market from functioning effectively to the benefit of consumers. For example, in any market in which customers purchase long-lived assets, there is likely to be some sunk costs associated with switching, and yet these markets can be vigorously competitive. When customers recognize that they will be "locked in" to a purchase for a period of time, they have that much greater incentive to bargain more aggressively, devote more time and attention to shopping for the best product for their money and preferences, and research the product's quality and other attributes, and the supplier's reputation, before purchasing. Providers with poor service quality or performance will be punished by reduced demand for their products.[63]

K. Question No. 11

How do carriers prioritize repairs between classes of customers, (e.g., retail vs. wholesale and business vs. residential) types of technologies, and types of services? Should residential service be given top priority for repair due to public safety and universal service obligations associated with residential service?

AT&T has extensive experience in planning for and responding to major emergencies and its business continuity preparedness efforts focused on an All-Hazards approach (human-caused, technology-caused, and natural-caused) include operational activities required to ensure continued service, broad scenario planning as well as individual threat assessment and analysis, centralized command and control coordination responsibility, and recovery procedures for all critical functions.[64] All levels of management begin the restoration prioritization as soon as safety and working conditions permit. Ms. Farrell describes the priority restoration of service in

[62] *Id.* at ¶¶ 94-96.
[63] *Id.* at ¶¶ 97-98.
[64] *See, e.g.,* "AT&T National Security Emergency Preparedness (NSEP) Emergency Preparedness Plan (Rev. November 2011)," section 2 ("Business Continuity").

a major emergency and explains that AT&T follows the TSP system, which is mandated and maintained by the FCC.[65]

The factors that affect the prioritization of AT&T service restoration in circumstances that fall short of a major emergency include geography, date the repair reports are received, the commitment date, the technician qualifications, and type of service. The priority of restoration is designed to ensure that public safety services and high-volume infrastructure (Optical, DS3, etc.) services that play the biggest role in public safety and carry the highest volume of traffic. AT&T also has an escalation process for customers who have a medical condition or are elderly living alone.[66]

L. Question 12

Is the service quality information posted at the Commission's website sufficient to provide consumers with the relevant information to make informed communications service purchasing decisions?

The Commission's website compiles monthly data and reports quarterly on the service quality measures that it established in GO 133-C. For the URF ILECs and CLECs, these are TRHL, OOS intervals, and answer time. The OOS measure is not necessarily reflective of actual reliability of service and can present a misleading picture of performance, and there is no basis for concluding that any of these measures reflect the aspects of service quality that consumers most value. Dr. Aron explains that she is unaware of any evidence that consumers benefit from this information or the extent to which they use it.[67] Furthermore, research shows consumers rely on a variety of sources to make their purchasing decisions. Other research suggests that

[65] Farrell Declaration, ¶¶ 16-18. Footnote 8 from paragraph 18 explains that "TSP is an FCC program that directs telecommunications service providers (*e.g.*, wireline and wireless phone companies) to give preferential treatment to users enrolled in the program when they need to add new lines or have their lines restored following a disruption of service, regardless of the cause. The FCC sets the rules and policies for the TSP program. The National Communications System, a part of the U.S. Department of Homeland Security, manages the TSP program. The TSP program is in effect all the time--it is not contingent on a major disaster or attack taking place. Federal sponsorship is required to enroll in the TSP program. *See* http://transition.fcc.gov/pshs/emergency/telecom.html."
[66] Farrell Declaration, ¶¶ 19-21.
[67] Aron Declaration, ¶ 99.

online product recommendations or recommendations through automated systems play an increasingly important role for informing consumer's choices. Among the many resources for information about wireline service quality available to consumers, there are a number of customer satisfaction reports from third parties. Finally, many sources of information on service quality can be accessed for free.[68]

Dr. Aron concludes that consumers rely on a variety of on-line information as well as other information sources when they make telecommunications decisions and that the information on the Commission's web site can be misleading as to actual reliability. The incentives for third parties to provide information from a variety of perspectives that is responsive to consumer needs and the opportunities for consumers to share their opinions on-line are adequate to elicit information that consumers value and use.[69]

M. Question 13

Should the Commission adopt service quality reporting standards for Wireless carriers?

No. The Commission is preempted by federal law from imposing service quality standards on wireless services because Section 332(c)(3) preempts state regulation over rates and entry for wireless service.[70] Courts have recognized that state law claims relating to wireless service quality are preempted under Section 332(c)(3) as prohibited state rate or entry regulation.[71]

In addition, the evidence in the marketplace is that wireless providers explicitly seek to attract customers from their rivals by touting quality of service characteristics of their networks or their customer service. These providers explicitly compete on the basis of their service

[68] *Id.* at ¶¶ 103-104.
[69] *Id.* at ¶ 105.
[70] 47 U.S.C. § 332(c).
[71] *See, e.g., Bastien* and *Naevus, supra*.

qualities and characteristics, and attempt to attract customers by highlighting the quality characteristics that they are best at providing. The Commission has not articulated any quality concerns pertaining to wireless service providers in the Rulemaking, and there is ample reason to believe that consumers would be harmed by regulations that increased providers' costs of service and, therefore, prices.[72]

The wireless industry has brought tremendous benefits to California, the US, and the world and has done so without regulatory intervention in service quality for decades. The wireless services industry is characterized by rapid technological progress and by consumers who desire the fastest, newest, and most innovative services and devices. In this environment, consumers have a wealth of information available to them about service quality, including web sites, blogs, magazines, and user forums. Mobile service providers themselves publish network quality information based on data gathered from surveys and on their actual network performance. In addition, as for wireline service, consumers can obtain information from independent organizations such as J.D. Power and Consumer Reports about consumer satisfaction and opinions on individual mobile service providers based on consumer surveys.[73]

In order to survive in the marketplace, wireless providers must respond to consumers and to competitors. As a result, wireless operators have invested billions of dollars in network upgrades and expansion of coverage. Wireless service quality is not perfect despite the vast investments made into wireless networks and technology. Wireless is a radio service and, as such, the connections are affected by many factors outside of operators' control, such as topology and weather, the requirements for scarce spectrum and government policy toward spectrum allocation, propagation characteristics of the spectrum band a particular carrier owns, and regulatory requirements associated with rights of way, such as municipal restrictions on

[72] Aron Declaration, ¶¶ 106-107.
[73] *Id.* at ¶¶ 108-112.

tower locations. Wireless providers must weigh and balance customers' demand for different dimensions of service quality that may conflict with each other. Requiring wireless carriers to live up to regulator-determined standards on regulator-specified dimensions of quality would require the providers either to increase prices and/or reduce investment in other aspects of service valued by consumers. Regulatory standards are necessarily static and will create distortions in this dynamic market. In fact, nowhere in the country does AT&T face service quality requirements or reporting obligations for wireless service.[74]

N. Question 14

Are there cost-effective engineering and design standards available that would prevent or better mitigate the effects of outages due to storms and other disruptions? If so, what are they?

AT&T already employs the best-available engineering and design standards for preventing or mitigating the effects of outages due to storms and other disruptions that are cost-effective for its network in consideration of weather and other conditions. The standards that AT&T relies upon for building and maintaining its network include industry standards created by the National Electric Safety Code, American National Standards Institute, and Telcordia, the Commission's General Order 95 and General Order 128, and many local city and municipal ordinances and rules. AT&T's engineering and construction design policies aim to minimize disruption and the duration of any customer outages resulting from a catastrophe or other incident. In addition, AT&T's outside plant network components undergo rigorous testing before they are approved for use in the outside plant, and AT&T remotely monitors its network twenty-four hours a day for changes in equipment performance that could indicate the potential for an outage.[75]

---

[74] *Id.* at ¶¶ 113-116.
[75] Farrell Declaration, ¶¶ 22-24.

O. Question 15

Is the wireline network designed and maintained so as to minimize the duration of outages due to catastrophic events? If not, what should be done to rectify that?

Yes.[76] AT&T is committed to maintaining its network in order to succeed in providing a variety of services to its customers in the competitive environment in which it operates. In California, from 2007 through 2011, AT&T invested over six billion dollars in its wireline network, which carries voice service, High Definition TV, high-speed internet, wireless traffic, and a substantial amount of data supporting consumers and businesses around the State. AT&T also has a workforce of thousands of Core Installation and Maintenance ("CIM") technicians located in California who are dedicated to installing and repairing its network facilities. The number of technicians per access line has increased over time, with the average number of technicians per access line increasing more than 25% from mid-2007 to mid-2011.[77]

In addition, AT&T has a proactive maintenance team, referred to as the First Mile Organization, to perform proactive maintenance in the outside plant network, and a Construction and Engineering team of outside technicians, who are also available to assist with the repair of customer service in an emergency. AT&T has adopted a temporary hiring process for winter months to augment its CIM maintenance full-time force with trained technicians as well as local turf teams through the Activity Reduction Committees that focus on bad plant conditions. Combined together, AT&T has an impressive workforce in California. AT&T values its outside cable facilities, and the critical role this infrastructure plays in supporting both traditional wireline services, as well as being the backbone for AT&T's emerging technologies and advanced services.

---

[76] *See also* Aron Declaraton, ¶¶ 117-118.
[77] Farrell Declaration, ¶ 26, Chart 2.

As a result of these efforts, AT&T's network is reliable, and 98% to 99% of its customers do not experience an OOS event in any given month as shown by AT&T's results for the TRHL measure included in GO 133-C. AT&T has met the standard for this measure consistently since 2002.[78]

P. Question 16

Question 16(a) Is the wireline network being properly maintained to serve Californians and the California economy?

See responses above to Questions 3 and 15.

Question 16(b) Is wireline service in California comparable to service in other states that have penalties for failure to maintain service or incentive regulation for service quality?

There are no other states today in which AT&T is the ILEC that have automatic penalty mechanisms related to service quality standards. As a result, it is not possible to compare AT&T's wireline service in California today with AT&T's wireline service in states with penalties. To address the Commission's underlying question, Dr. Aron conducted a number of analyses to assess the past performance of the AT&T ILECs in its 22-state area during a time period when some AT&T states had penalties and some did not. Dr. Aron found that there is no basis in the data to conclude that the existence of penalties has improved the AT&T ILECs' performance.[79]

Using FCC data on service quality filed by AT&T, Dr. Aron compared quality performance in states with penalties with performance in states that did not have penalties during 2004-2009. Dr. Aron analyzed four metrics: percent trouble reports; percent OOS reports; average service restoral interval; and the Composite Reliability indicator that measures the overall average reliability that a customer can expect from his service in a given year. She found

[78] *Id.* at ¶ 30, Chart 3.
[79] Aron Declaration, ¶¶ 119-120.

that after controlling for the size of the AT&T ILEC in each state, the existence of an automatic penalty mechanism in the state had no statistically measurable effect on performance on any of the four performance metrics. Hence, there is no statistical evidence that penalties affect performance on those four service quality measures.[80]

Dr. Aron also compared AT&T California with the AT&T ILECs' performance in other states for 2004 through 2008, during which AT&T California was subject to an automatic penalty mechanism for failing to meet the Commission's then-effective OOS repair interval standard. Dr. Aron found that service quality differed on specific metrics between California and the other states with California, being better on some measures and worse on others. The overall service quality performance of AT&T California, however, was not statistically different from the service quality performance of the AT&T ILECs in the other states that imposed service quality penalties. Moreover, AT&T California's performance was also not statistically different from the overall service quality performance of the AT&T ILECs in the other states that did not impose service quality penalties. Overall, there is no evidence after analysis of the data that penalty provisions have a measurable effect on AT&T ILECs generally or on AT&T California specifically.[81]

Q. <u>Question 17</u>

Question 17(a) Are there any economic, regulatory, physical, or other barriers or disincentives that stifle or discourage wireline maintenance?

With respect to governmental barriers to wireline maintenance, Ms. Farrell describes a growing trend of California municipalities and other right-of-way owners who request permits for routine installation and maintenance work where no excavation is required. Wireline maintenance through access to AT&T manholes, poles, and cabinets is severely restricted by

[80] *Id.* at ¶¶ 121-122.
[81] *Id.* at ¶ 123.

municipalities who impose long delays for permits and other requirements. Consequently, modernization and standardization of the permit request process is imperative.[82]

Question 17(b) What are the consequences of poor wireline maintenance? What can and should be done to foster proper and timely wireline maintenance?

The consequence of poor wireline maintenance is that AT&T will lose customers who rely on its wireline network for provision of many different services, including voice, broadband, and wireless. AT&T has an incentive to provide the efficient amount of investment in its networks because it will lose business if its network is unreliable. For these reasons and as further described in the responses above, AT&T has a commitment to maintaining its network.[83] AT&T is also required to comply with GO 95.[84] The GO 95 rules impose requirements to detect safety hazards and GO 95 non-conformances and repair them in a timely manner.[85]

IV. CONCLUSION

As demonstrated by the responses set forth above, the Commission should move forward with eliminating the remaining three retail service quality measures applicable to URF ILECs in light of the state of competition and the regulatory trend toward eliminating such measures. Additionally, wireless service standards should not be adopted by the Commission because it lacks the legal authority to do so, and the competitive market for wireless services leads to better service quality than regulatory intervention. In recognition of these compelling facts, no other state in the country has adopted wireless service quality measures. The Commission should also reject penalties for service quality measures given that there is no evidence such penalties

---

[82] Farrell Declaration, ¶¶ 33-36.
[83] *Id.* at ¶ 31. *See also r*esponses above to Questions 3 and 15.
[84] *See, e.g., Re Safety of Electric Utility and Communications Infrastructure Provider Facilities*, Decision No. 09-08-029, *Decision in Phase 1 – Measures to Reduce Fire Hazards in California Before the 2009 Fall Fire Season*, 2009 WL 2910747 (Cal.P.U.C. Aug. 20, 2009); *Re Safety of Electric Utility and Communications Infrastructure Provider Facilities*, Decision No. 12-01-032, *Decision Adopting Regulations to Reduce Fire Hazards Associated with Overhead Power Lines and Communication Facilities*, 2012 WL 252537 (Cal.P.U.C. Jan. 12, 2012).
[85] Farrell Declaration, ¶ 32.

improve service, and no state in AT&T's 22-state ILEC footprint has automatic penalties for service quality measures.

AT&T supports the Commission in its ongoing efforts to address public safety when outages occur. In GO 133-C, the Commission has adopted a regulatory regime for extensive reporting of outages. Additionally, AT&T has implemented plans and procedures for managing outages associated with major emergencies and outages that occur in the daily course of business.

Dated at San Francisco, California, this 31st day of January 2012.

Respectfully submitted,

/s/

NELSONYA CAUSBY

AT&T Services, Inc.
525 Market Street, Suite 2025
San Francisco, CA 94105
Tel.: (415) 778-1488
Fax: (415) 543-0418
E-mail: nelsonya.causby@att.com

Attorney for AT&T California and Certain of its Affiliates