BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

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Order Instituting Rulemaking on the Commission's Own Motion into the Service Quality Standards for All TelecommunicationsCarriers and Revisions to General Order 133-B	Rulemaking 02-12-004 (Filed December 5, 2002)

REPLY COMMENTS OF THE DIVISION OF RATEPAYER ADVOCATES ON THE ASSIGNED COMMISSIONER'S RULING AND SCOPING MEMO IN THE SERVICE QUALITY OIR R. 02-12-004

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I. THE NEED FOR SERVICE QUALITY REGULATION

In their Opening Comments, most telephone service providers expressed the opinion that competition in the telecommunications marketplace was sufficient in itself to protect customers. The providers saw little or no role for Commission regulation or monitoring of service quality.

Wireline telephone service providers, for instance, recommended the abandonment of current service quality reporting requirements.[1] While this view may be popular with service providers, the Commission should not adopt this as a policy for the reasons discussed in DRA's Opening Comments.[2] California state law mandates that the Commission require that all telephone corporations provide *"... customer service to telecommunication customers that includes, but is not limited to… reasonable statewide service quality standards, including standards regarding network technical quality, customer service, installation, repair, and billing."*[3] Additionally, the Commission is required to ensure that service quality is maintained pursuant to P.U. Code § 451[4] and §709.[5]

Wireless service providers echoed the opinion of the wireline service providers, adding that service quality metrics that address installation and repair issues, while perhaps appropriate for wireline service, were inappropriate for wireless service.

In light of the Commission's preference for the role of market competition to promote consumer interests such as service quality, it is important that the Commission monitor in detail how that market is performing. Indeed, this is the law. In addition to the statutory requirements cited above, TURN points to P.U. Code §§ 2896-97, which require the Commission to institute and maintain "reasonable statewide service quality standards, including but not limited to standards regarding network technical quality, customer service, installation, repair and billing," and to insure that consumers have access to "sufficient

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[1] *See, e.g,* Opening Comments Of Verizon California Inc, at 2, Opening Comments Of Pacific Bell Telephone Company D/B/A At&T California at 3-4,5,

[2] DRA Opening Comments, at 2.

[3] Telecommunications Customer Service Act of 1993, P.U. Code Section 2895 (c) (emphasis added).

[4] P.U. Code Section 451 "Every public utility shall furnish and maintain such adequate, efficient, just, and reasonable service, instrumentalities, equipment, and facilities, including telephone facilities, as defined in Section 54.1 of the Civil Code, as are necessary to promote the safety, health, comfort, and convenience of its patrons, employees, and the public."

[5] P.U. Code Section 709. "The Legislature hereby finds and declares that the policies for telecommunications in California are as follows: (a) To continue our universal service commitment by assuring the continued affordability and widespread availability of high-quality telecommunications services to all Californians."

information to make informed choices among service providers." The Commission cannot simply ignore these legislative commands. Moreover, it would be highly irresponsible for the Commission to abandon its constitutional and statutory duty to at least monitor the marketplace precisely at a time when it is turning many regulatory and enforcement functions over to that marketplace.

DRA agrees that many measures and standards traditionally applied to wireline carriers are unnecessary for wireless service providers, but other service quality measures are appropriate. Significant problems exist for wireless customers that the presumed competitive market has not solved. Many wireless customers complain of inadequate coverage, dropped calls, and the lack of information about these issues.[6] In Opening Comments DRA recommended that the Commission require wireless providers to offer detailed street level service maps to customers at the point of sale, for instance, which show areas of weak and strong reception.

Verizon is an interesting case study. It now contends that the service quality metrics that the Commission has traditionally measured do not correspond to what Verizon has found that customers really value.[7] Furthermore, Verizon asserts that focusing on those metrics could cause companies to waste resources in satisfying those metrics that could be better used in maximizing customer satisfaction.[8] DRA believes that Verizon and other service providers that share this view ignore the basic needs of customers, needs that Verizon itself has acknowledged. DRA believes that Verizon was right when it wrote in 2003 that its internal surveys revealed that "… customers want prompt installation, reliable service, and repairs performed quickly and completely.[9]" In fact, Verizon's 2003 proposal[10] was nearly identical to DRA's proposal in Opening Comments in this proceeding. The service quality

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[6] See Comments of the Division of Ratepayer Advocates re Inclusion of Wireless Coverage Maps as part of the Commission's Rulemaking 02-12-004, at pp. 8-9, fns. 31-32 and accompanying text.
[7] Fernandez Declaration for Verizon at 6.
[8] *Ibid.*
[9] Verizon Comments Rulemaking 02-12-004, April 1, 2003, at 1.
[10] Verizon's recommended measures in 2003 were: Customer trouble reports per 100 lines, Initial Out-of-Service Report Interval (hrs), Number of Repeat Trouble Reports, Repeat Out-of-Service Report Interval (hrs), Average Installation Interval (days), % Installation Commitments Met, Directory Assistance Answer Times (in seconds), Business Office Answer Times (in seconds), Trouble Report System Answer Times (in seconds). "Reporting of quarterly results on these measures would cover the essential aspects of service quality that customers view as important and enable the Commission to monitor the performance of carriers on these measures. The Commission's existing investigative and adjudicative powers could supply, to the extent necessary, corrective action for any carrier that deviated significantly from industry performance levels." (Reply Comments of Verizon California in R.02-12-004, May 5, 2003)

recommendations in DRA's Opening Comments are tightly focused on the aspects of customer experience that Verizon itself has found important to customers.

Most of the carriers complained of burden, while ignoring the fact that any responsible carrier collects and needs detailed service quality information to run its network. DRA's point here is that such information, or material parts of it, should be shared with the Commission, and with the public which relies on the phone network for everything from family unity to business transactions to (sometimes) life and death communications.

A. Southwest Airlines "No Frills" Service Comparison

AT&T opined that Southwest Airlines served as an example of how telephone service providers should be allowed to offer varying price-service quality combinations, where customers could have a choice of a low cost provider if service quality were not important to them.[11] The obvious retort is that even "no frills" airlines meet basic safety standards.

AT&T's analogy is inappropriate for several reasons. Southwest Airline's elimination of "frills," such as meals on flights, has no correlation to telecommunications service quality standards, unless it is the availability of additional, optional features. Given the importance of basic telephone service to public health and safety, a customer without telephone service is far worse off than someone receiving only peanuts on a Southwest Airlines flight. Moreover, Southwest has not been excused from maintenance standards, and presumably still complies with all FAA safety requirements. Connection with vital services that is ensured by adequate telephone installation and repair service quality is not a frill but rather is essential to public health and safety.

DRA believes that poor service quality is not an option in the provision of basic exchange access service. Permitting some service providers the option of giving poor service quality would be harmful to the state's telecommunications infrastructure. Because telecommunications networks interconnect, poor service quality by one carrier's network not only jeopardizes users on that network, but jeopardizes the quality of the network as a whole, and diminishes the quality of service offered by other networks that interconnect with the poorer service provider. Uniform and satisfactory service quality is a necessary prerequisite to maintaining a minimum level of service quality across the network.

[11] AT&T, at 6.

Rather than abandon its responsibilities to monitor service quality, the Commission should establish standards for the minimum measures that are essential for consumer health and safety by ensuring that customers are not left without telephone service for a significant amount of time.

B. Publication of Service Quality Results

None of the service providers recommended that service quality results be published for customers to view and compare performance between carriers. However, AT&T comes the closest in its Opening Comments:

> Information gathered and disseminated to consumers, along with mandated minimum performance levels where required for consumer protection, enhance competition by assuring customers of the safety of the products offered and providing comparable measurements of important product characteristics.[12]

AT&T made a strong case for publishing service quality metrics in the past, when it advocated that consumers would benefit from "clear, concise and comparable information on the performance of all providers of voice telecommunications service subject to the Commission's jurisdiction.[13]"

> Customers must have information about the service quality of all carriers to decide which provider will give them the quality and price they desire. The absence of this information will leave customers uninformed or, worse, misinformed, resulting in customers choosing the wrong carriers.[14]

DRA agrees. The results of service quality performance should be published and made available to the public. The logical place for this information is on the Commission's website as an extension of the Commission's initiatives to educate and inform consumers. DRA's Opening Comments provided an example of how this should be done in a service provider "report card."

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[12] Opening Comments of AT&T, at 5.
[13] R. 02-12-004, 2003 Comments of Dr. Harris, at 23.
[14] Comments of Dr. Harris, Attachment 1, p. 24.

II. CUSTOMER SURVEYS

In Opening Comments some carriers or carrier groups recommended that Commission initiated surveys not be undertaken. CTIA-The Wireless Association opposes Commission sponsored surveys because it feels that surveys could interfere with the marketplace if customers believed that the Commission was endorsing one carrier over another.[15] The Joint Commenting Parties[16] oppose releasing the results of customer satisfaction surveys to the public, believing that it would somehow "…interfere with the Commission's performance of effective oversight."[17] Other service providers commented that current surveys published by J.D. Powers, Consumers' Reports or the American Consumer Satisfaction Index were sufficient to meet the needs of CA customers.

DRA disagrees strongly with the view that customer surveys are not necessary, or should not be undertaken. DRA agrees with AT&T that competitive markets thrive with increased information to customers.[18] Survey results are one element in giving customers adequate information before making decisions to purchase service.

In the Consumer Protection Initiative (CPI) the Commission found, "Our education initiative will help consumers meet their needs by allowing them to choose wisely among providers and services."[19] The CPI Decision directed the Commission staff to disseminate consumer education material through the CPUC website.[20] The Uniform Regulatory Framework (URF) Decision highlights the need for customers to have sufficient information to make informed choices, and reinforces that perception with the fact that P.U. Code § 709 requires service providers to provide sufficient information.[21] No one disputes that an adequately functioning competitive market requires that purchasers have adequate and necessary information upon which to base purchasing decisions. The existence of several service providers in the market has little value to customers unless they can compare the services offered by these providers.

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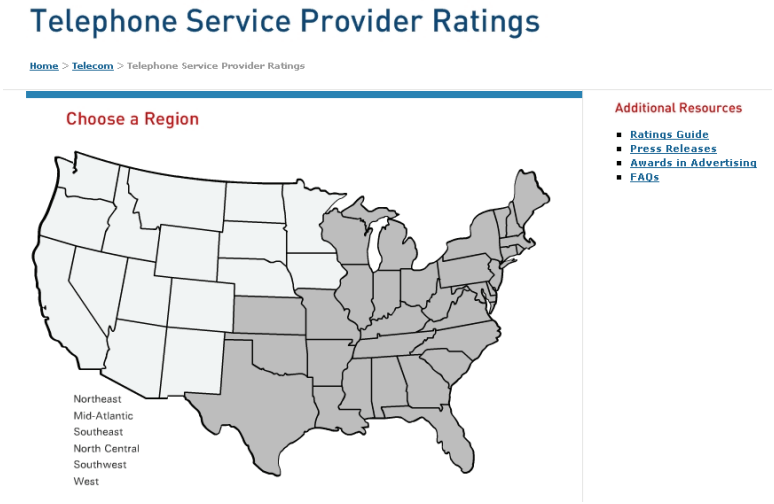
[15] Opening Comments of CTIA, at 2.
[16] Sprint Nextel, Cox California, T-Mobile, XO Communications Services, Astound Broadband, Time Warner.
[17] Joint Commenting Parties, at 7.
[18] AT&T Opening Comments, at 6.
[19] D.06-03-013, at 4, 7, 110-137
[20] *Ibid,* at 7.
[21] D.06-08-030, at 32, 179.

We agree with parties that suggest that an independent third party should perform the surveys. In its Opening Comments, Frontier recommends that the service quality surveys should be combined with other Commission mandated surveys such as those proposed in the URF Phase II Proceeding.[22] This recommendation is consistent with DRA's recommendation in Opening Comments in this proceeding and in the URF proceeding. Surveys should be consistent across companies to allow for easier comparison by customers.

A. J.D. Powers, Consumer Reports, and American Customer Satisfaction Index (ACSI) Surveys

Various parties commented that the J.D. Powers, Consumers Reports, or ACSI surveys in their present form are adequate for California.[23] We disagree, because these surveys do not provide sufficiently comprehensive information about California customer experiences. For example, the J.D. Powers Surveys for wireline and wireless carriers show results on a regional basis only that includes 14 states for the category "west," as shown in the table below.



J.D. Powers survey results for wireline service quality are limited to "…how customers rate their telephone service provider on attributes such as the ability to keep service outages to a minimum and the ability to get calls through on the first try."[24] J.D. Powers surveys include results only for the following wireless service providers: Verizon Wireless, Alltel, Cingular, Sprint Nextel and T-Mobile. Consumer Reports requires a paid subscription to view survey

[22] Frontier Opening Comments, at 3.
[23] Comments of Joint Commenting Parties in Response to Assigned Commissioner's Ruling and Scoping Memo, at 4. Fernandez Declaration in Support of Verizon Opening Comments, at 3.
[24] J.D. Powers Website, http://www.jdpower.com/telecom/ratings/telephone-service/index.aspx.

results for wireless service and the service results only cover Los Angeles, San Diego and San Francisco in California. The Consumer Reports survey results are also limited to Verizon Wireless, T-Mobile, Sprint PCS, Cingular and Nextel. The ACSI surveys are nationwide only, and do not provide state-specific information.

Because of the limitations noted above, DRA recommends that these surveys not be used for the purposes of this OIR.

III. RECOMMENDED SERVICE QUALITY MEASURES

As stated earlier, the Commission must not shy away from its legislative mandate to monitor service quality. In its Opening Comments, DRA recommends that the number of service quality measures be reduced to those that are necessary to promote public health and welfare. Some commenters recommended that G.O. 133B reports be eliminated.[25] In Opening Comments, DRA recommends an overhaul of G.O. 133B, including the elimination of the Held Service Order Reports and the simplification and consolidation of the operator answering measures. Verizon and Frontier recommend the use of ARMIS reports to monitor service quality. DRA agrees that ARMIS is a valuable tool for monitoring service quality and recommends the minimum ARMIS measures that are most important to wireline customers in our Opening Comments. However, DRA went a step further by developing industry standards for these measures, as the Commission has done in the past,[26] to gauge the performance of individual wireline carriers with the rest of the industry. While it is important to compare performance within California, it is also useful for the Commission to be able to judge whether California's telecommunications infrastructure and the services provided over that infrastructure are providing a level of service that is at least as good as the national norm.

A. G.O. 133B

The Commission conceded in 2003 that the G.O. 133B reporting standards were too low:

> Where we now have standards, they are generally too low. For example, information Pacific submitted to staff shows

[25] Verizon at 6, Frontier at 5.
[26] Decision 03-10-088

> BOAT[27] results of 80.3% for September 1998 (just exceeding the 80% minimum standard), even though many calls to the business office were not answered at all during that same month (a large percentage of calls to the business office encountered busy signals).
>
> Many states have more stringent service quality standards than those contained in G.O. 133-B. For example, the Ohio PUC has standards requiring 100% of installations to be completed within 5 days and 100% of repairs be made within 24 hours. Importantly, some carriers apply more rigorous standards internally than our current rules require.[28]

Except for Held Primary Service Orders standards, which DRA recommends be eliminated, the current G.O. 133B results only need to be reported if the company has an "exception" to one of the measures. An exception means that the company failed to meet a particular service quality measure in the General Order. Thus, the *status quo* is useful for tracking failures but inadequate for reporting trends in the improvement or degradation of service quality. That is why DRA recommends in its Opening Comments that the Commission require all G.O. 133B results be reported whether or not there is a failure to meet the current reporting standard, termed "positive" reporting. Positive reporting is superior to exceptions reporting because it records trends in performance, not just the fact that a service provider fails to meet a minimum standard.

B. Small ILECs

The small ILECs argue that they offer good or excellent service quality and that additional reporting would be burdensome. The claim that they offer good or excellent service quality requires deeper analysis, since the only measures most small ILECs are required to report are a much reduced set of G.O. 133B reporting standards. Most small ILECs are exempt from measuring and reporting toll operator answering time, directory assistance answering time, trouble report service answering time, and business office answering time under G.O. 133B.[29] In addition, the smaller the ILEC the more lenient is the

[27] Business Office Answering Time.
[28] R. 02-12-004, Dec. 16, 2002, at 18.
[29] Carriers with a business day average of fewer than 2000 calls per day are exempt from reporting toll operator answering time and directory assistance answering time. Carriers with service groups supporting fewer than 10,000 lines are exempt from reporting trouble report service answering time and business office answering time.

reporting standard for the G.O. 133B Trouble Reports measure.[30] Most small ILECs are not required to report ARMIS service quality measures to the FCC.[31]

The only way to verify the claims of the small ILECs that they provide good or excellent service quality is to measure their performance against similarly situated service providers nationwide, which is exactly what DRA proposes in Opening Comments. Performance comparisons are only possible if the small ILECs are required to report their performance with respect to DRA's proposed modified G.O. 133B measures and the few new ARMIS service quality measures. While most small ILECs do not currently report their performance to ARMIS, DRA believes that the burden to compile the few recommended new measures is outweighed by the benefit California consumers, which in turn impacts the health and welfare of the citizens of California. The necessity of telephone service to contact or be contacted by family, friends, potential employers, to obtain emergency assistance, or to speak to schoolteachers, or local government officials cannot be overstated. Those who do not have telephone service are unable to avail themselves of these essential services. The measures and standards proposed by DRA in Opening Comments are based on the *lowest* performance of a representative sample of small, mid sized or large ILECs, nationwide, as the following table shows.

DRA Proposed Standards

	Industry Averages[32]			
	Small ILEC	Mid Sized ILEC	Large ILEC	**Proposed Minimum Standards**
Installation Commitments Met	**95%**	**97%**	**99%**	**95%**
Installation Intervals	**5 Days**	**2 Days**	**2 Days**	**5 Days**
Initial OOS Repair Intervals	**13 Hours**	**15 Hours**	**25 Hours**	**25 Hours**
Repeat OOS as a % of Initial Reports	**13%**	**16%**	**17%**	**17%**

[30] The G.O. 133B Reporting Service Level. Six reports per 100 working lines (excluding terminal equipment reports) for units with 3,000 or more working lines, eight reports per 100 working lines (excluding terminal equipment reports) for units with l,OOl-2,999 working lines, and 10 reports per 100 working lines (excluding terminal equipment reports) for units with 1,000 or fewer working lines.

[31] Small LECs that are required to report FCC ARMIS service quality information are Verizon West Coast, Citizens-Golden State, and Citizens-tuolumne.

[32] For small ILECs and mid-sized ILECs The industry averages are from a representative cluster of similarly sized ILECs. The industry average for large ILECs is from the Commission's Reference Group of large ILECs (Decision 03-10-088, at 90).

These measures constitute the bare minimum that any provider should be able to achieve. DRA recommends that the small ILECs be held to the proposed minimum standards referenced above. This requirement is particularly important for the small ILECs because their customers generally do not have the same competitive choice for wireline service as do customers in urban areas.

C. Business Services

DRA recommends in its Opening Comments there be an exemption from meeting the service quality measures and standard for service providers serving less than 5,000 customers unless the provider is a carrier of last resort (COLR.) This position is consistent with DRA's proposal for URF monitoring. In its Opening Comments, CBeyond recommends limiting service quality requirements to services provided to the smallest business customers.[33] This position is consistent with DRA's recommendation in URF. We agree with CBeyond that service quality reporting requirements should focus upon small business customers, who purchase five or fewer lines.

D. Outage Reporting

DRA agrees with service providers that emphasize the importance of outage data.[34] In Opening Comments, Frontier acknowledges the value of the CPUC's Major Service Interruptions Reports, but recommends that the CPUC adopt the FCC standards for state reporting, reasoning that this would eliminate the need for carriers to monitor and report service outages under two different standards. In conversations with Frontier, DRA learned that the company files far fewer outages with the FCC than they do under the CPUC's mandated Major Service Interruptions report. For this reason, DRA recommended in Opening Comments that the Commission should require both types of reports because the FCC Outage Reports do not include <u>all</u> of the major service interruptions in California, only the most severe outages. Outages that rise to the level of an FCC report should be reported to the Commission immediately because of the danger to health and welfare that these outages represent. All outage information that is reported to the FCC should be provided to the CPUC immediately by service providers, rather than requiring the CPUC to obtain the

[33] Cbeyond Opening Comments, at 2-3.
[34] AT&T at 9, Verizon at 12-13.

information from the FCC or other agencies. This is needed for the CPUC to proactively investigate telecommunications service outages, just as it does electrical service outages.

IV. REQUIREMENTS FOR WIRELESS SERVICE PROVIDERS

DRA agrees with CTIA and wireless providers that service quality measures applicable to wireline providers are not relevant to customers of wireless services. However, as discussed in DRA's Opening Comments wireless customers face problems unique to that technology, primarily areas of weak reception, or dead zones. DRA notes that no wireless provider addressed the question of wireless service quality reporting in the form of disclosure of wireless coverage areas in Opening Comments in this proceeding.[35]

At the same time, wireless providers continue to advertise their networks in a way that directly places at issue the relative quality of a provider's coverage: "Best network in San Francisco"; "Fewest dropped calls"; and of course Verizon's famous "Can you hear me now?" series of advertisements. It seems incongruous to DRA that these carriers can explicitly or implicitly claim ubiquitous coverage in their advertising while, at the same time, resist disclosure to the Commission and consumers of their *actual* coverage data, information that would be very helpful to consumers and would either confirm or negate their advertising claims.

TURN's comments here were quite astute, and expanded on DRA's proposals. TURN called not only for disclosure of wireless coverage information, but also for disclosure of call-success and dropped-call rates (which may be a function of signal strength or other system limits), information that was shown in the Cingular Investigation to be routinely collected by these companies.[36]

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[35] See Comments of the Division of Ratepayer Advocates re Inclusion of Wireless Coverage Maps as Part of the Commission's Rulemaking 02-12-004.

[36] *See* TURN Opening Comments, at 12-14; *see also* D.04-09-062, Slip Op. at 14:

> The rebuttal testimony of witness James Jacot (Jacot), Cingular's Regional Vice President, Network Operations for the West Region, documents that throughout most of 2001 much of Cingular's California service area failed to meet three internal performance targets: service denied (also referred to as blocked calls); lost calls (defined as customer perceived dropped calls); and switch congestion.

On the other hand, DRA respectfully notes that TURN's coverage disclosure proposals do not track the actual metrics used by wireless engineers, as disclosed to the Commission in the Cingular case, and in the Declaration Under Seal filed by DRA with its Opening Comments in this round of pleading.

No information on pass performance will be 100% accurate in predicting future performance. Nor do coverage maps deal in certitude. But both types of information would contribute enormously to the efficiency of the marketplace, and inform customer choice.

V. AT&T REQUIREMENTS PURSUANT TO D.01-12-021

AT&T requests that the Commission relieve the company of requirements placed upon it by D.01-12-021, reasoning that those requirements "…are inconsistent with competitive parity."[37] Of the 192 ILECs that report ARMIS service quality information, AT&T's performance on out-of-service intervals ranks near the bottom and is better than only two.[38] AT&T has never admitted that its performance is unsatisfactory and implies that it is unfair to continue the requirements of D.01-12-021 because other carriers may have longer out-of-service intervals than AT&T California. The truth is that it is rare that any ILEC in California has worse out-of-service intervals than AT&T for residential customers.[39]

According to AT&T, the D.01-12-021 requirements, which are specific to AT&T, constitute asymmetric regulation.[40] AT&T is mistaken. Decision 01-12-021 established requirements for AT&T as a remedy for specific violations of Commission Orders and the P.U. Code relating to service quality. In its attempt to evade this specific remedy, AT&T is apparently relying on this language from D.06-08-030:

> Finally, we eliminate all asymmetric requirements concerning marketing, disclosure, or administrative processes. If a more restrictive marketing, disclosure, or administrative requirement applies to an ILEC, then the ILEC can modify its tariffs to conform to those of a CLEC.[41]

As this passage makes clear, the asymmetric requirements referenced in D.06-08-030 are between *classes* of telephone providers, and do not address specific remedies applied to a

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[37] AT&T Opening Comments, at 15 (referring to DRA repair complaint decision).
[38] Based on the averages 1996-2004 calculated separately for all reporting ILECs to ARMIS for Residential Customers Initial Out-of-Service Intervals. Source: FCC Report 43-05, the ARMIS Service Quality Report. Out of fairness to AT&T, DRA did not include averages for 2005-2006 because of the weather related problems AT&T experienced in California. However, if 2005 and 2006 had been included in the calculation, AT&T's performance would be the worst in the nation.
[39] *Ibid*.
[40] AT&T Opening Comments, at 15.
[41] D.06-08-030, Slip Op. at 202-03.

single company for proven violations of consumer protection laws. Therefore the Commission should reject AT&T's request to be relieved from the requirements of D.01-12-021.

VI.CONCLUSION

The Commission should adopt the service quality requirements DRA has proposed in Opening Comments.

Respectfully submitted,

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June 15, 2007

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of each document "**REPLY COMMENTS OF THE DIVISION OF RATEPAYER ADVOCATES ON THE ASSIGNED COMMISSIONER'S RULING AND SCOPING MEMO IN THE SERVICE QUALITY OIR R.02-12-004**" in **Rulemaking 02-12-004** by using the following service:

[X] **E-Mail Service:** sending the entire document as an attachment to an e-mail message to all known parties of record to this proceeding who provided electronic mail addresses.

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Executed on June 15, 2007 at San Francisco, California.

/s/ NANCY SALYER

NANCY SALYER

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