

DRAFT**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking on the
Commission's Own Motion into the Service
Quality Standards for All
Telecommunications Carriers and Revisions
to General Order 133-B.

Filed
PUBLIC UTILITIES COMMISSION
[Date]
SAN FRANCISCO, CALIFORNIA
R.

ORDER INSTITUTING RULEMAKING**INTO THE SERVICE QUALITY STANDARDS FOR ALL
TELECOMMUNICATIONS CARRIERS
AND REVISIONS TO GENERAL ORDER 133-B****I. Introduction**

In this order we initiate a proceeding to adopt revisions to existing service quality measures and standards¹ applicable to telecommunications carriers reflecting current technological and business conditions.² This proceeding will determine the types of services for which measures and standards should apply, the kind of measures and standards that should apply to those services, the methods for calculating measures, the minimum levels that measured parameters of service should meet (i.e., "standards"), when and how the measures should be reported to this Commission, and the mechanisms that will be used to ensure compliance with established requirements.

¹ "Measures" are the aspects or features of service subject to evaluation and reporting. "Standards" are the minimum acceptable values that measures must meet to be in compliance with the Commission's requirements.

² Consistent with our Consumer Protection Rules, we define "carrier" under our service quality rules to include all entities, whether certificated or registered, that provide

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II. Background

It has been over four years since the Commission last considered changes to existing service quality measures, and more than ten years since the Commission significantly modified its service quality measures and standards. Important developments have occurred in the decade since the Commission last made significant changes to General Order (G.O.) 133-B service quality measures and standards. We believe the technological and regulatory changes that have occurred in the telecommunications industry compel the Commission, consistent with California's telecommunications policies³ and goals⁴, to now focus attention on the questions of what constitutes good service quality and how that service quality should be measured, monitored and enforced.

In the past decade, much of the Commission's focus has been on promoting competition in telecommunications markets. One of the goals of the policy of increased competition was to ensure high quality service. We are concerned that competition may not be sufficient in all markets to foster high quality service for all consumers. We are also concerned that, even in markets where competition is robust, competition alone may not ensure high quality service. The Commission is responsible for ensuring that carriers have "*reasonable statewide service quality standards, including, but not limited to, standards regarding network technical quality,*

telecommunications-related products or services and are subject to the Commission's jurisdiction pursuant to the Public Utilities Code.

³ "To continue our universal service commitment by assuring the continued affordability and widespread availability of high-quality telecommunications service to all Californians." (P.U. Code § 709(a). Emphasis added).

⁴ "The offering of high quality basic telephone service at affordable rates to the greatest number of citizens has been a long-standing goal of the state." (P.U. Code § 871.5(a). Emphasis added).

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customer service, installation, repair, and billing”⁵, and we conclude that now is the appropriate time to review our service quality rules.

By initiating this rulemaking, we are fulfilling our responsibilities under the Public Utilities Code.⁶ In particular, we are addressing important aspects of telephone service not previously addressed when the Commission was making major changes to its regulation of telecommunications carriers.

This rulemaking proposes significant changes to existing measures and standards and proposes new measures, standards and quality assurance mechanisms. We do not intend to apply all proposed measures, standards and quality assurance mechanisms to each and every telecommunications service.⁷ We seek comment on whether the proposed changes to telecommunications service quality rules are adequate and appropriate. We also encourage parties to comment on service quality issues not addressed by our proposal.

A. Commission Regulation of Service Quality

The Commission first developed industry-wide service quality rules over thirty years ago. From time to time, the Commission has strengthened the original standards or has added new measures and standards. We want to ensure that California keeps pace with current conditions and today’s prevailing

⁵ Public Utilities (P.U.) Code 2896(c)

⁶ “*The Commission shall require telephone corporations to 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.*” (P.U.) Code § 2896(c)

⁷ Exhibit A to Attachment 1 displays the proposed service quality measures and the types of services to which we propose they apply.

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standards. This means, in some cases, existing standards may need to be raised or that new measures and standards need to be established. We also want to ensure that our rules adequately address the needs of California telecommunications consumers. Therefore, we plan to address measures and standards in addition to those that deal with network performance by establishing service quality measures and reporting requirements that will complement our consumer protection rules.

The Commission first promulgated industry- wide telecommunications service quality rules in 1970. The Commission ordered staff to organize a review committee to formulate standard telephone service indices for all telephone carriers,⁸ resulting in the establishment of G.O. 133.⁹

Incremental changes were made to G.O. 133 in 1983, resulting in G.O. 133-A.¹⁰ Although changes in the competitive landscape were acknowledged at that time, few substantial changes were made to the service quality rules. For example, the measure “*Installation Commitments*” was changed to “*Installation-Line Energizing Commitments*”, recognizing the deregulation of customer premises equipment (CPE).¹¹ Other incremental changes were made to raise minimum standards for the “*commitments met*” measure. Because the telecommunications industry was in the process of transitioning the type of plant being used, the Commission did not adopt the Commission staff’s proposal to establish a

⁸ D.77947 (71 CPUC, at 550).

⁹ D.80082 (73 CPUC, at 426).

¹⁰ D.83-11-062 (13 CPUC 2nd, at 220).

¹¹ Finding of Fact #6. Ibid, at 234.

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twenty-four hour repair interval because, as the Commission found that utilities were not “*fully equipped with electronic switches and fully dedicated outside plant.*”¹²

The Commission again made incremental changes to G.O. 133-A in 1992, resulting in G.O. 133-B.¹³ Among the most significant changes were inclusion of a measure for “*Business Office Answering Time*” (BOAT) to reflect advancing technology, and deletion of the measure for “*Held Regrade Service Orders*” because most customers had single party service. AT&T protested the proposed service quality rules, asserting the rules “*had not been ‘substantially modified’ since 1972*”, and that the rules were “*hopelessly outdated*” because they treated interexchange carriers (IECs) as if IECs were monopoly local exchange carriers.¹⁴

The Commission rejected AT&T’s protest, accepting commenters’ contention that the proposed rules recognized the then-current competitive environment. The Commission also expressed concern that, although the rules applied to all telephone utilities, AT&T was the only IEC complying with the service quality reporting requirements.

B. Case-By-Case Service Quality Actions

The Commission has also addressed service quality concerns on a case-by-case basis in proceedings apart from its proceedings on service quality measures and standards. For example, in 1976, the Commission ordered Pacific to upgrade its service to curtail and reduce an increasing backlog of held service orders.¹⁵ The Commission also penalized Pacific, by reducing its rate of return, for held

¹² Ibid, at 228.

¹³ D.92-05-056 (44 CPUC 2nd, at 437).

¹⁴ Ibid, at 438 – 440.

¹⁵ D.86593, 80 CPUC 599.

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orders that were unreasonably deferred, citing “...*Pacific’s announced intention to safeguard earnings at the expense of service considerations...*”¹⁶

In 1980, the Commission found that GTE California (now “Verizon”) failed to meet G.O. 133 service quality standards, and reduced its return on equity by 0.5% until it met standards.¹⁷ The Commission also required Verizon to, among other things, report G.O. 133 and additional service quality measures on a quarterly basis.

In 1994, as part of its triennial NRF review for Pacific and Verizon, the Commission examined the quality of telephone service under the NRF. In that proceeding, the Commission approved settlements between the Office of Ratepayer Advocates (ORA) and Verizon and between ORA and Pacific.¹⁸ The ORA/Verizon settlement established a Service Assurance Guarantee Program that provided, among other things, refunds to Verizon’s ratepayers if certain service quality standards were not met. The ORA/Pacific settlement required Pacific to make software changes to correct problems affecting cancellation of calling cards, and to periodically meet with Commission personnel to review installation and maintenance complaints, major service interruptions and other service quality results, and to discuss corrective measures.

The Commission also examined Citizens Utilities Company of California’s (CUCC’s) telephone service quality when it established CUCC’s NRF.¹⁹ The Commission fined CUCC for substandard service and for failing to report service quality problems as required. The Commission imposed a penalty reducing

¹⁶ Ibid, at 613.

¹⁷ D.92366, 4 CPUC 2nd 428, at 535.

¹⁸ D.94-06-011, 55 CPUC 2nd 1 at 54-55.

¹⁹ D.95-11-024, 62 CPUC 2nd 244.

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CUCC's authorized rate of return, and adopted a Service Quality Assurance Program (SQAP) to ensure CUCC improved its service quality. The SQAP included a Service Quality Assurance Mechanism (SQAM) containing automatic penalties and customer refunds for failure to meet specified standards or reporting requirements.

The Commission has also considered service quality issues during its review of the merger applications of SBC Communications, Inc. and Pacific Telesis Group 1996 (SBC / Pacific Merger)²⁰ and the GTE Corporation and Bell Atlantic Corporation (GTE / Bell Atlantic Merger),²¹ respectively. The Commission's decision in the SBC / Pacific Merger noted "*undisputed evidence that Pacific is and has been out of compliance with G.O. 133-B, apparently for some time.*"²² The Commission also found that "*Pacific's service quality has declined*", even though D.94-06-011 found that Pacific would change procedures to improve its service quality.²³

However, the Commission declined to adopt recommendations for changes to service quality standards, in part because it was not convinced that the SBC / Pacific Merger proceeding was "*...the appropriate forum to revise existing standards even if some rule revisions may ultimately be in order.*"²⁴ The Commission also declined to impose penalties, and instead imposed conditions requiring Pacific to "*maintain or improve its service quality over the five years following the*

²⁰ A.96-04-038.

²¹ A.98-12-005.

²² D.97-03-067, 71 CPUC 2nd 351, at 394.

²³ Ibid, at 395.

²⁴ Ibid.

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*merger.”*²⁵ In response to a complaint filed by the ORA in 2000, the Commission found that “*Pacific’s increase between 1996 and 2000 in the mean time to restore service to residential customers violates Ordering Paragraph (OP) 2 of Decision (D.) 97-03-067*”, that “*residential customers are not receiving repair service that is ‘adequate, efficient, just, and reasonable’*”, and that “*Pacific’s failure to expressly notify customers when they call its 611 repair service of the availability of a four-hour appointment window violates § 451 in that it does not ‘promote the safety, health, comfort and convenience of its patrons...and the public.’*”²⁶

In the GTE / Bell Atlantic Merger decision, the Commission stated that it had no reason to believe Verizon’s service quality would deteriorate. As with R.98-06-029, the Commission relied on market forces to improve service quality, concluding that “*increasing competitive pressures will make providing quality service a business imperative.*”²⁷ Nevertheless, the Commission imposed additional service quality reporting requirements for a period of four years.²⁸ Those reporting requirements are the same as many of those addressed in this instant proceeding. Importantly, the reporting obligations under D.00-03-021 will expire in 2004.²⁹

C. The 1998 Service Quality Proceeding

While some of the Commission’s present service quality measures and standards address functions performed by IECs, *most* of the existing service quality measures focus on activities related to local exchange services. This was one reason why the Commission considered revisions to G.O. 133-B in R.98-06-

²⁵ D.97-03-067, Ordering Paragraph 2

²⁶ D.01-12-021

²⁷ D.00-03-021, P.128.

²⁸ Ibid, Ordering Paragraph No. 1(e), P. 173.

²⁹ Ibid, Attachment D.

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029, just two years after competition was authorized in the local exchange market. At that time, the Commission noted that *“customers’ perception that the quality of telephone service provided by local exchange carriers has declined over the last few years”*, citing significant increases in complaints related to service quality.³⁰

The Commission recognized that local exchange competition was still in its infancy, and believed that a competitive marketplace would guarantee high quality telephone service. Nevertheless, the Commission also wanted to ensure that during the transition to a fully competitive local exchange market customers could be assured of certain minimal service quality standards from all carriers.³¹ R.98-06-029 culminated in the issuance of D.00-03-052.

Not surprisingly, most carriers filing comments in R.98-06-029 recommended that, because of competition no service quality rules were needed, but if the Commission was not inclined to eliminate all service quality rules, then the existing rules were sufficient. In contrast, consumer representatives asserted that there was not enough competition or that competition alone was insufficient to justify eliminating service quality rules, and stronger rules were actually warranted.³²

It has now been over four years since we issued R.98-06-029 and nearly seven years since local exchange competition was authorized. We have concerns that our policies in pursuit of increased competition are insufficient to ensure high quality telephone service for all telephone subscribers, and especially for residential and small business customers.

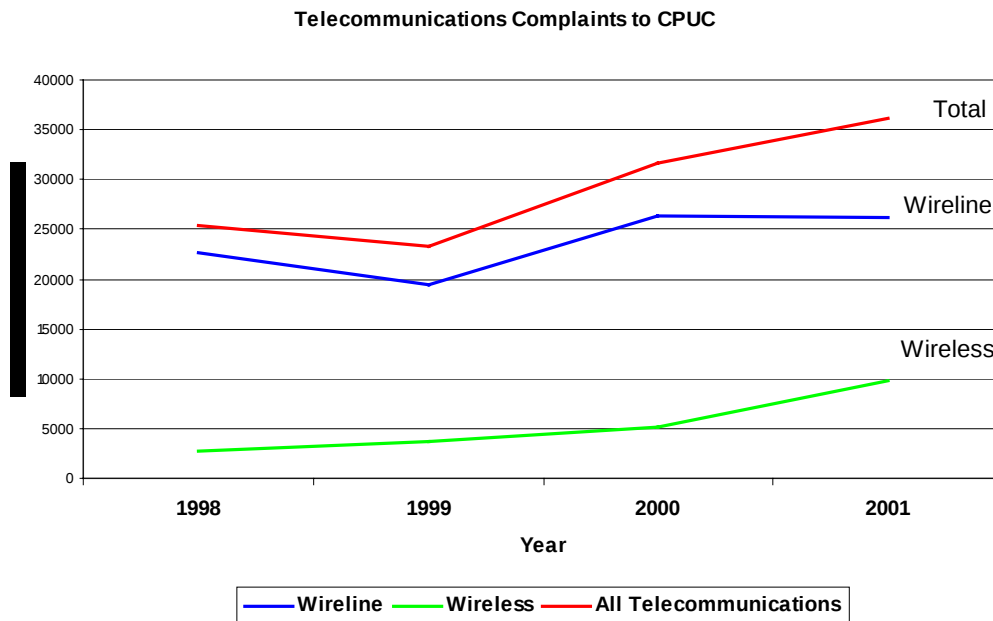
³⁰ R.98-06-029, P.6

³¹ Ibid, P.1

³² D.00-03-052, PP.3-4.

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In 1998, the Commission noted an increase in consumer complaints regarding telecommunications, including many relating to service quality. As can be seen in the chart below, the trend of increased complaints is continuing. During 2001, the Commission received over 35,000 complaints about telecommunications carriers. This represents an increase of 42% over the number of complaints received by the Commission during 1998, suggesting an increasing level of consumer dissatisfaction regarding telecommunications service.³³



Even where more vigorous competition has developed in intraLATA and interLATA toll markets, unacceptable practices like slamming (the unauthorized transfer of a customer to another carrier) and cramming (unauthorized billing)

³³ These totals and the totals reflected in the table below include complaints of all types against telecommunications carriers, not just complaints specifically related to service quality.

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have emerged, requiring Legislative and Commission intervention.³⁴ The quality of telephone service can decline under competition when adequate service quality or consumer protection rules are absent, and utility management focuses too narrowly on cost-cutting or revenue enhancement. For instance, there have been numerous occasions in recent years when the Commission has been called upon to address situations where opportunistic carriers have violated our rules or broken the law.³⁵

Importantly, where vigorous local exchange competition does exist, that competition is dependent on the interconnection of incumbent and competitive carrier networks. Moreover, a large proportion of the existing local exchange competition is provided by carriers reselling another carrier's "bundled" service or using unbundled network elements (UNEs) from incumbent carriers to provide service to end users.

The Commission recognizes the complication this adds to a carrier's ability to provide high quality telephone service to end users or even to measure the quality of that telephone service, when a carrier's service depends to varying degrees on its interconnection with, or acquisition of service or UNEs from another carrier. Therefore, the Commission believes it is also necessary at this time to address situations where underlying incumbent wholesale carriers or interconnecting carriers refuse to provide to end user carriers the service quality information that only the underlying wholesale or interconnecting carrier possesses or is able to produce.

³⁴ Slamming and cramming can also occur in local exchange markets.

³⁵ See, for example, D.95-03-016 (59 CPUC 2nd 30), D.96-09-041 (68 CPUC 2nd 37), D.96-12-031 (69 CPUC 2nd 584), D.97-05-089 (72 CPUC 2nd 621), D.98-07-099 (81 CPUC 2nd 446), D.99-06-055, D.01-04-035, D.01-09-058.

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D. Developing Service Quality Rules to Support Consumer Protection Rules

Finally, the Commission has for some time recognized that it must find new ways to protect consumers, and we have taken significant steps toward establishing effective consumer protection measures.³⁶ The Commission has established certain consumer protection rules through recent decisions, and a decision on a consumer bill of rights is pending in a separate proceeding. This proceeding is not intended to replace those rules. Rather, we intend here to establish service quality measures and reporting requirements which complement our consumer protection rules by permitting us to monitor carrier performance and compliance.

E. Changes in Technology Affecting Service Quality

The technology used to provide telephone services, and the business practices and processes supporting telephone service, have changed dramatically since we first established our service quality rules. The use of fiber optics and digital technology has become widespread throughout telecommunications networks. These technologies have generally served to improve efficiency and reliability of telephone service. However, the use of digital technology has also led to important changes in the business processes supporting the telephone business that may have resulted in sometimes negative changes in the quality of service experienced by telephone customers.

For example, the increasingly widespread use of Automated Response Units (ARUs) and automatic call distributors (ACDs) have resulted in important changes in the way some telephone carriers handle customer calls for repair and installation requests or billing inquiries. The use of ARUs in particular have had

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a significant impact on the quality of customers' experience when calling the business or repair offices because customers no longer immediately reach a "live" person.³⁷

Today, most customers seeking to speak to a telephone company representative will likely spend several minutes listening and responding to recorded messages, navigating a series of menus, and selecting options from those menus or providing other information before reaching a live representative. In many cases, customers never speak to a live representative, but instead serve themselves through these automated systems. In some cases, customers' calls may be terminated by an ARU without ever reaching a live representative, requiring customers to make repeated calls for service.

Existing G.O. 133-B measures for determining Business Office Answering Time (BOAT) and Trouble Report Service Answering Time (TRSAT) do not anticipate the use of ARUs, and are therefore not meaningful when ARUs are used. For example, G.O. 133-B describes BOAT as "*a measurement of time for the business office representative to answer business office calls*"³⁸, and TRSAT as "*a measurement of time for the trouble report service attendant to answer trouble report calls.*"³⁹ However, the average residential customer may actually spend several minutes navigating ARUs and waiting on hold to speak to a business or repair office representative. Also, calls may be terminated if a customer responds incorrectly, requiring the customer to call back and try again.

³⁶ For example, see the Commission's Interim Decision Establishing Rules Governing Telecommunications Consumer Protection in R.00-02-004

³⁷ Although the largest carriers use ARUs, some small carriers still use personnel to directly answer calls.

³⁸ Section 3.9(a). Emphasis Added.

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Importantly, when the Commission addressed Pacific's use of a recorded message played before callers are connected to a Directory Assistance (DA) operator, it noted that G.O. 133 "*did not contemplate the use of a recording which would delay a directory assistance response by at least 14 seconds in addition to the normal delay which would be encountered without it.*"⁴⁰ We believe that the same is true for the use of ARUs interposed between the placement of a call to business or repair offices and the time the call enters an ACD waiting queue.

The Commission found in D.85487 that the additional 14-second delay associated with the use of the DA recording violated G.O. 133, but granted Pacific an exception permitting its continued use. However, we find no Commission action authorizing Pacific⁴¹, Verizon⁴² or any other carrier to use ARUs or to otherwise deviate from TRSAT or BOAT standards. We reach no conclusions at this time as to whether any carrier is in violation of G.O. 133-B answer time standards by using ARUs that consistently prevent business office representatives or trouble report service attendants from answering calls at the rates specified in G.O. 133-B.

However, we do conclude that existing measures and standards need revision, and new measures and standards need to be established that account for the technology and practices used by carriers to handle customer calls in today's business environment. Therefore, we propose to revise our rules to

³⁹ Section 3.8(a). Emphasis Added.

⁴⁰ D.85487, 79 CPUC 497.

⁴¹ Pacific has used ARUs since 1990 (Pacific Bell response to D.R. 02-07-001, Q.1.b.iv).

⁴² Verizon has used Interactive Voice Response Units (IVRUs) since 1994 (Verizon response to D.R. 02-07-001, P.16).

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address the use of ARUs and to address other changes in technology and business practices affecting service quality.

Rulemaking 98-06-029 began this Commission's most recent effort to reflect current technology in its service quality standards, but that proceeding resulted in only minimal revisions to G.O. 133-B. On March 16, 2000, the Commission issued Decision (D.) 00-03-052, retaining the pre-existing G.O. 133-B measures with two exceptions. The only changes adopted in D.00-03-052 were the deletion of Rules 3.4 (Dial Tone Speed) and 3.5 (Dial Service). The Commission recognized that digital switching equipment now in widespread use made Rules 3.4 and 3.5 obsolete in a digital switching environment.

The investigation and rulemaking we initiate today continues the Commission's progress toward establishing meaningful service quality measures and standards reflecting today's technology, business practices, industry structure and regulatory environment.

III. Existing Service Quality Measures and Standards

A. Service Quality Measures

In response to the Telecommunications Division staff's (staff's) requests for service quality data, carriers submitted information indicating that California's telephone carriers utilize significantly different methods for measuring service quality. Moreover, staff has found that the raw data collected and the methods used to process and report that data have changed significantly from time to time.

Differences between the methods and procedures used by companies to compile and report service quality information, as well as changes to those methods within a given company from year to year raise concerns about the

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consistency of reported information either between companies or over time for an individual company. These inconsistencies undermine the Commission's ability to compare carriers' service quality information, and diminish the usefulness of this information in assessing levels of service quality generally or changes in service quality over time. Therefore, we propose to establish more uniform procedures for measuring and reporting service quality measures.

We also propose to require carriers to base service quality measurements on comparable raw data, and to inform the Commission when changes occur in business arrangements or processes that affect the composition of the raw data underlying service quality results. This will help ensure that "apples to apples" comparisons are made either between companies or over time for an individual company.

For example, Pacific included billing inquiries in its measurement of BOAT during some periods and excluded billing inquiries during others. On the other hand, Verizon and AT&T currently *include* billing inquiries in their measurement of BOAT.⁴³ It is unknown at this time how many other carriers include billing inquiries and how many exclude billing inquiries in their measurement of BOAT.

Similarly, Pacific and Verizon included data relating to digital subscriber line (DSL) service in some measures and for some time periods, but excluded DSL data when the service was transferred to their affiliates.⁴⁴ The impact on service quality measures from these transfers of DSL service from local exchange operations to affiliates is unclear.

⁴³ R.01-09-001/I.01-09-002, TR. 2786 – 2787, and page 3 of AT&T response to staff's data request, respectively

⁴⁴ R.01-09-001/I.01-09-002, TR. 2481-2485, and Pacific Bell response to Data Request (D.R.) 02-07-001.

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We recognize that, during the normal course of their businesses, carriers will from time to time make changes that could affect the character and attributes of their service quality data. If the Commission is aware of such changes when they occur, it will be able to understand the effect of those changes on reported service quality information, and can better assess the validity of any comparisons and conclusions it attempts to make about that information. Therefore, we propose to establish criteria concerning the specific services that may be included in reported service quality measures, and require carriers to inform the Commission whenever changes occur in business arrangements or processes that affect the composition of the raw data underlying reported service quality results.

We seek comment on which services should be included under each of the measures we propose to adopt. We also seek comment as to when and how carriers should inform the Commission of changes to business arrangements or processes affecting the composition of the raw data underlying service quality measures.

Because carriers employ significantly different methods for measuring and reporting service quality information and because we are concerned that certain measures reported to the Commission may not accurately reflect carriers' actual service quality, we propose to revise and refine existing measures and standards to ensure greater comparability and continuity of reported information. We seek comment on whether the procedures proposed here will result in accurate quantification of each measure we propose to adopt. Where commenters contend the proposed methods are inadequate or inaccurate, we ask for specific

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step-by- step procedures that achieve our desired goal of comparable information.

B. Service Quality Standards

The Commission has established standards for some, but not all, existing service quality measures. For example, the G.O. 133-B Toll Operator Answering Time (TOAT) measure requires 85% of customer calls be answered within 10 seconds and Directory Assistance Operator Answering Time (DAOAT) measures require 85% of calls be answered within 12 seconds, while TRSAT and BOAT measures require 80% of calls be answered within 20 seconds.⁴⁵ However, no standards exist for requests for service delayed over 30 days due to lack of telephone utility plant (i.e., “held orders”), so carriers have no idea what level of performance is acceptable. Therefore, we intend to monitor carrier data, and to propose standards for measures like held orders where no standards currently exist.

Where we now have standards, they are generally too low. For example, information Pacific submitted to staff shows BOAT 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).⁴⁶

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

⁴⁵ Sections 3.6(c), 3.7(c), 3.8(c), 3.9(c), respectively.

⁴⁶ Pacific, the only carrier submitting this information to staff, provided “Busy Rates” only for the period from January 1997 to March 1999, so more up-to-date information has not been examined (See Response to D.R. 02-01-001, TD 003140).

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within 24 hours.⁴⁷ Importantly, some carriers apply more rigorous standards internally than our current rules require.

For example, Verizon says that its internal standards are more stringent and inclusive than those imposed by our rules, and that neither GO 133-B data nor the Federal Communications Commission's (FCC's) Automated Reporting Management Information System (ARMIS) service quality measures are adequate to satisfactorily evaluate its service quality.⁴⁸ Given our experience in California, we also believe it is time to upgrade our standards. Therefore, we intend to revise the standards for existing measures and implement standards for new measures.

Moreover, even where G.O. 133-B sets minimum standards, no mechanisms are in place to encourage carriers to achieve or maintain the standards, or to discourage carriers from failing to keep service above minimum standards. As mentioned above, the ORA / Verizon settlement approved in D.94-06-011 established a Service Assurance Guarantee Program that included a limited-term SQAM, and the Commission adopted a permanent SQAM for CUCC in D.95-11-024. These SQAMs contain financial penalties for failure to improve service quality, and as a result Verizon's and CUCC's service quality improved.

⁴⁷ Chapter 4901:1-5-06, Appendix A (Telephone Customer Bill of Rights - Providing Your Service). In addition to the standards applicable to all carriers, SBC also has company-specific standards as a condition of its merger with Ameritech that require SBC to pay penalties when its performance falls below specific levels.

⁴⁸ R.01-09-001 / I.01-09-002, TR 2477-2478.

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The Presiding Officer has also recently approved a settlement between the Utility Consumers' Action Network (UCAN), Pacific and its affiliates that provides for credits to customers for DSL billing errors.⁴⁹

Other state regulatory agencies have documented deteriorating service quality in recent years, and some have found it necessary to penalize utilities for inadequate service performance. Some states have also added monetary-based performance assurance mechanisms to their service quality rules. For example, Ohio⁵⁰, Michigan⁵¹ and Arizona⁵² impose financial penalties for inadequate service quality.

The Commission has already established similar service performance guarantee credit programs for large energy utilities. For example, in 1999, the Commission approved a settlement between the San Diego Gas & Electric Company (SDG&E) and several parties (SDG&E Settlement) that provides incentives for SDG&E to meet its:

- Customer service answering time standards;
- Four-hour appointment commitments;
- Service installation and repair commitments.⁵³

Under the SDG&E Settlement, SDG&E can earn or lose up to \$14.5 million from the incentives and penalties associated with performance indicators.

⁴⁹ The settlement adopted in the Presiding Officer's decision in C.02-01-007 found, among other things, that Pacific's and its affiliates' unresponsive service and related service quality problems was a violation of P.U. Code § 2890(d)(2)(D). Unless appealed by October 27, 2002, the Presiding Officer's decision will become effective on that date.

⁵⁰ Chapter 4901:1-5-16.

⁵¹ Michigan Public Service Commission Rule 484.32.

⁵² Arizona Service Quality Plan – Qwest Tariff Section 2.5.

⁵³ D.99-05-030.

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The Commission also adopted a quality assurance program for the Pacific Gas and Electric Company (PG&E) that contains customer service standards for:

- Missed appointments;
- Service installation and repair commitments;
- Timely complaint resolution;
- Timely response to service interruption; and
- Prompt service restoration.

PG&E is required to compensate customers in amounts ranging from \$25.00 to \$100.00, if any of the standards are not met.⁵⁴

D.01-12-021 found Pacific's service quality lacking and deteriorating. That decision established a penalty mechanism to ensure that Pacific meets specified standards for initial and repeat out-of-service repair intervals. In any calendar year in which Pacific fails to meet either of the adopted standards, Pacific must pay a penalty of \$300,000 for each month of the year in which it fails to meet a particular standard.⁵⁵ To date, Pacific has not reported, nor have we audited, any instances of failing to meet the repair interval standards, indicating the penalty mechanism may be accomplishing its intended goal. We also believe CUCC's SQAM described above provides the incentives needed to ensure adequate service quality.

We believe that SQAMs providing direct compensation to customers and financial penalties can be very effective in promoting and maintaining service

⁵⁴ D. 00-02-046.

⁵⁵ The standards are an annual average of 29.3 hours for Pacific's initial out-of-service repair interval and 39.4 hours for its repeat out-of-service repair interval. These standards are comparatively lenient. Ohio requires 100% of out-of-service repairs to be completed within 24 hours, Alabama requires 90% to be cleared within 24 hours and New York requires 80% to be cleared within 24 hours.

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quality. Our experience with CUCC's service quality performance with and without a SQAM, and the need to establish a performance mechanism for Pacific's repair service provide clear lessons. Therefore, we propose to implement SQAMs for our telephone service quality measures to help prevent service quality from deteriorating.

We propose direct compensation to customers by carriers in the form of refunds or adjustments to customer accounts ("customer credits") and financial penalties paid by carriers, similar to those previously established for Pacific, Verizon, CUCC, and similar to those adopted by many other states. We seek comment on whether the proposed financial penalties and customer credits are sufficient to maintain service quality. We also seek comment on whether, when and how exceptions should be made to the imposition of financial penalties and customer credits.

IV. Revisions to Existing Measures and Standards

We intend to revise the rules for measuring and reporting:

- BOAT and TRSAT to reflect the use of ARUs in carrier business and repair office processes, and to specify the services that should comprise the raw data underlying those measures;
- Held service orders to establish uniformity and accuracy;
- Installation Commitments;
- BOAT to uniformly address billing inquiries;
- All measures for separate reporting of advanced services (including DSL) and other services;
- Customer Trouble Reports

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A. BOAT and TRSAT

1. BOAT and TRSAT in an ARU environment

As discussed above, existing G.O. 133-B measures for determining Business Office Answering Time (BOAT) and Trouble Report Service Answering Time (TRSAT) do not anticipate the use of ARUs, and the present measures and standards are not meaningful in an ARU environment. Therefore, we propose to establish separate rules when ARUs are used, in addition to measures and standards where personnel directly answer calls made to business offices or to repair offices.

We seek comment on how our existing rules should be modified to recognize the use of ARUs in order to ensure that callers receive prompt and timely responses.

2. Composition of BOAT and TRSAT Raw Data

Pacific (and possibly other carriers) excludes calls to the business office encountering busy signals ("busy calls") from the computation of its BOAT results.⁵⁶ We believe this practice makes Pacific's BOAT performance appear to be better than it actually is. As mentioned above, Pacific reported BOAT results of 80.3% for September 1998 (just exceeding the 80% minimum standard), even though a substantial percentage of all calls to the business office encountered busy signals and, consequently, many calls to the business office were not answered during that same month.

It is not known how many other carriers exclude busy calls from BOAT, or whether carriers similarly exclude busy calls to their repair offices from the

⁵⁶ See Response to D.R. 02-01-001, TD 003173.

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computation of TRSAT. Therefore, we propose to require carriers to include busy calls in the computation of BOAT and TRSAT.

We believe that inaccessibility to the business or repair offices due to busy signals is an important measure of service quality problems. Therefore, we propose to require reporting of busy call volumes and rates for calls to business offices and to repair offices, and may establish standards and SQAMs in the future. We seek comment on what standards for busy call rates may exist in other states, and what standards should be adopted for busy call rates in California. We also seek comment on what SQAM should be adopted to ensure busy call rates are minimized.

We also seek comment on whether call abandonment rates are an indicator of service quality, and if so, whether standards are needed. If call abandonment standards are needed, we seek comment on what standards should be adopted for call abandonment rates in California and whether a SQAM should be adopted.

B. Held Service Orders

In response to staff's request for information on procedures used to measure held service order activity for primary telephone line installation⁵⁷, some carriers report that they count their held orders each day during a monthly reporting period, and at the end of that month the totals for each day are added together for reporting purposes (i.e., a "rolling" count). Pacific, on the other hand,

⁵⁷ Held orders are "requests for service delayed over 30 days due to lack of telephone utility plant" (G.O. 133-B, Section 3.1).

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reports that one day each month, it counts service orders that have been held over thirty days *as of the date the count takes place* (i.e., a “snapshot” count).⁵⁸

Because some carriers are employing methods that do not report orders delayed well beyond 30 days as “held”, we find it necessary to prescribe more explicitly the methods carriers may use for compiling and reporting service quality measures so the Commission receives consistent, accurate and comparable information. Therefore, we intend to clarify that carriers should count all access line orders held over 30 days during any day of a month, (i.e., carriers should use the “rolling count” method).

We seek comment on whether this procedure is sufficiently explicit to ensure consistent and accurate reporting of held service orders. Where commenters contend the proposed procedure is insufficient, we ask for specific changes to the proposed procedure which will ensure accuracy and consistency of data.

We seek comment on whether carriers should separately report held orders for primary lines and additional lines, or whether held orders for access lines should be reported with no distinction between primary and additional lines. We seek comment on whether standards should be established for held orders, and if so, what are the appropriate standards.

C. Installation Commitments

The “commitments met” measure was designed to measure carriers’ performance for responding to “*requests [to establish or change] non-key telephone individual and party-line service that normally involve plant activity.*”⁵⁹ However, we

⁵⁸ See Response to D.R. 02-01-001, TD 003159.

⁵⁹ G.O. 133-B, Section 3.2(a). See also Section 1.3(p).

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have found that some carriers include data for establishing vertical services and other services not related to access line installation when measuring commitments met. Because installation of vertical services can be done almost instantly, the practice of including these and other non-access line services in service quality results makes a carrier's performance on commitments met for access line installation appear better than it actually is. Therefore, we propose to require separate reporting of commitments met for primary access line installation, additional access line installation, and for installation of other services. We seek comment on whether reporting of commitments met for primary access line installation, additional access line installation, and for installation of other services is sufficient, or whether additional detail is necessary.

D. BOAT to uniformly address billing inquiries

We have noted that Pacific presently excludes billing inquiries in its measurement of BOAT while Verizon, AT&T and perhaps others include billing inquiries in its BOAT measurement. Verizon's and AT&T's practice is inconsistent with G.O. 133-B. G.O. 133-B describes BOAT as “[a] *measurement of time for the business office representative to answer business office calls*”⁶⁰ and defines “business office” as “[a] *Centralized Service Group which receives Small Business and/or Residence Customer requests for new installation or change in existing service. This does not include billing center inquiries.*”⁶¹ (Emphasis Added).

Although we believe our rules are clear that billing inquiries should *not* be included in their BOAT results, we intend to modify the rules to make this

⁶⁰ Section 3.9 (a)

⁶¹ Section 1.3(b)

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explicit. However, because we believe carriers' handling of billing inquiries is also an important aspect of service quality, we propose to establish a separate and distinct measure and standard for BOAT billing inquiries.

We seek comment on whether a separate and distinct measure and standard for BOAT billing inquiries is appropriate, or whether billing inquiries should instead be included with other business office calls for the purpose of measuring BOAT. Where commenters recommend that billing inquiries should be separately measured, we also seek comment on whether the proposed rule concerning exclusion of billing inquiries from BOAT is sufficiently explicit to eliminate confusion as to which calls should be included in the BOAT measure.

E. Advanced Services (including DSL) And Other Services Measures

G.O. 133-B presently includes measures:

- applicable only to *primary telephone line* installation (e.g., Held Primary Service Orders, Installation-Line Energizing Commitments),
- applicable to *primary and other telephone lines* (e.g., Customer Trouble Reports), and
- applicable to *access lines and other local exchange services* (e.g., TRSAT, BOAT).

However, today's customers increasingly depend on more complex services, including DSL for Internet access. As such, we believe some of the current measures are inadequate for assessing service quality in sufficiently meaningful ways. Therefore, we propose to establish separate measures and standards and refine existing measures and standards for all telephone access lines, DSL lines, and other (e.g., vertical) services.

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We seek comment on whether separate measures and standards for primary telephone lines, additional telephone lines, DSL lines, and other (e.g., vertical) services are adequate to measure service quality related to these services. We seek comment on whether reporting of DSL service will be undermined by provisioning DSL service through an ISP or unregulated entities, and if so, how the Commission might best address such situations.

Also, we believe that our rules should be “technology neutral”, and that the technology underlying a telecommunications service is irrelevant when the telecommunications service is used to complete intrastate calls. We have jurisdiction to apply our service quality rules to any intrastate telecommunications service, including any services using Internet Protocol (IP) telephony. Anticipating this emerging technology, we intend for the rules we adopt in this proceeding to apply to similar services regardless of the technology used to provide the service.

We seek comment on whether the measures and standards proposed for telecommunications services using traditional technologies are adequate and appropriate for application to services that use IP telephony. We seek comment on whether additional measures are needed for telecommunications services offered over an IP platform.

F. Customer Trouble Reports

Our review of trouble report standards for other states indicates that California has among the most lenient standards. For example, California requires reporting of initial trouble reports when they exceed from six to ten

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reports per 100 working lines (depending on the size of the serving central office), where other states have set the standard at three reports per 100 lines.⁶²

All carriers now use digital central offices and fiber optics in parts or all of their networks. Therefore, we believe our standards need to be updated to recognize the technology in use today.

We do not intend to compete with other states with respect to stringency of service quality standards. However, we recognize that most Californians are served by carriers that are subsidiaries of corporations with affiliates operating in multiple states. We also recognize that these carriers or their affiliates may face penalties for failure to meet service quality standards in the other states where they operate.

Given the financial incentives to meet service quality standards in other states, carriers may be motivated to shift resources from low-standard low-penalty states to those with higher standards and penalties as a way to minimize the parent corporation's overall financial exposure and the resources invested in maintaining service quality. We will not permit Californians to be the losers from this "service quality arbitrage." Therefore, we intend to establish customer trouble report standards and enforcement mechanisms that ensure carriers provide high quality service to Californians.

V. Additional Service Quality Measures and Standards

We believe that service quality measures should go beyond technical performance measures, and should also include measures of customer service

⁶² For example, see Ohio Rule 4901:1-5-20 (B)(2) and Oregon Service Quality rules (2 reports per 100 lines).

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and related consumer impact measures.⁶³ We also believe that additional technical performance and consumer impact measures and reports are needed to adequately measure service quality. Additional technical performance measures include installation and repair intervals. Additional reports include existing major service interruption reports that should be consolidated in our rules.

Where appropriate, we intend to require additional or consolidate existing reporting of carrier compliance with certain consumer protection rules to help the Commission better assess the effectiveness of those rules, and to provide valuable information to the Commission on where its consumer protection rules may need modification. These consumer protection reporting requirements may include reporting of slamming, cramming and other informal complaints, and compliance with carriers' four-hour appointment obligations.

We seek comment on whether the additional technical and consumer protection-related measures and standards proposed for telecommunications services are adequate. We also seek comment on service quality issues not addressed by our proposal.

A. Installation and Repair Intervals

While G.O. 133-B requires carriers to track access line installation commitments met, this measure provides no indication of *how long* it takes a carrier to meet its commitments (i.e., installation intervals). Thus, a carrier can ensure it meets its commitments merely by advising customers that installation

⁶³ The Commission is responsible for requiring telephone corporations to 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.” P.U. Code § 2896 (c).

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of service will require an extended period of time, and committing to a date sufficiently far into the future.

Where customers have few or no alternatives, customers have little or no bargaining power and are left with the choice of either accepting an installation date far into the future, or not receiving service at all. Thus, merely measuring the percent of commitments met fails to provide any useful information on another important measure of service quality; the interval of time required to install service.

Also, G.O. 133-B presently does not measure repair intervals. In D.83-11-062, the Commission stated that the repair interval was one of the factors that affect customers perception service quality, and recommended that the G.O. 133 Review Committee give careful consideration to establishing a measure for it. Unfortunately, the G.O. 133 Review Committee never proposed a measure for repair intervals, and, to date, none has been adopted.

As mentioned above, the Commission found in D. 01-12-021 that Pacific's deteriorating residential repair intervals were unreasonable. The Commission established standards for initial and repeat out-of-service repair intervals, and will impose financial penalties if Pacific fails to meet the standards. The FCC presently requires certain carriers to regularly report on among other things, various service quality measures under ARMIS. Although the FCC collects installation and repair interval data for certain carriers, we do not believe the FCC's ARMIS reports are adequate for our oversight of service quality.

This is because, unlike G.O. 133-B, the FCC requires only local exchange carriers subject to price cap regulation to report service quality measures. CLECs, interexchange carriers (IECs), and most incumbent local exchange

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carriers (ILECs) do not report ARMIS data. Also, ARMIS reports suffer from many of the same shortcomings described above for G.O. 133-B reports. Finally, ARMIS reports have other limitations, in that they do not address many of the measures that California believes are important indicators of service quality, including Held Orders, Commitments Met, TOAT, DAOAT, BOAT and TRSAT.

Although we believe the limitations described above prevent us from relying on ARMIS reports exclusively for our service quality purposes, we nevertheless believe that installation intervals and repair intervals are important measures of service quality. Therefore, we propose to establish measures and standards in our service quality rules for installation and repair intervals applicable to primary lines, additional lines and other services.

We seek comment on whether the measures for installation and repair intervals should be reported separately for primary lines and additional lines or combined as a single measure. We seek comment on whether the measures for installation and repair intervals for other services are necessary and should be reported. We want our rules to be consistent with the best available practices, and invite parties to illustrate what they believe are the best practices in place for this measure in other jurisdictions.

We also seek comment on whether the proposed standards for installation and repair intervals are adequate, and whether the proposed SQAM will ensure that carriers consistently meet the proposed standards. Where commenters contend that the proposed standards and SQAM are insufficient, we ask for specific changes to the proposed SQAM that will ensure compliance with standards. We want our rules to be consistent with the best available practices,

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and invite parties to illustrate what they believe are the best practices in place for this measure in other jurisdictions.

B. Trouble Report Out-of-Service Clearing Time

We believe that speedy installation and repair of service is an important aspect of service quality, especially when a customer is without service altogether. While measuring repair intervals is a useful tool, we also believe measuring how often carriers fail to promptly repair service or repair service by the time agreed are other important indications of service quality. Therefore, we propose to establish measures to determine the percentage of initial out-of-service trouble reports and repeat out-of-service trouble reports that are cleared within a 24-hour (i.e., 8 working hours) period from the time the trouble was reported by the customer to the carrier. We propose separate measures for trouble related to installation of service (i.e., trouble reported within 30 days of installation) and for non-installation related trouble. Because wireless service does not require installation, we propose that only the non-installation related trouble measure apply to CMRS, and that it apply from the date of service activation.

We seek comment on whether initial and repeat trouble report out-of-service clearing time should be reported separately for primary lines and additional lines or combined as a single measure. We seek comment on whether trouble report clearing time measures for other than out-of-service conditions are necessary and should be reported. We want our rules to be consistent with the best available practices, and invite parties to illustrate what they believe are the best practices in place for this measure in other jurisdictions.

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C. Repair Commitments Met

Our rules presently require reporting of installation commitments met⁶⁴, but do not require reporting of repair commitments met. However, we believe that repairing service when promised is just as important an aspect of good service quality as is installing service when promised.

The National Association of Regulatory Commissioners (NARUC) Technology Policy Subgroup issued its “Service Quality White Paper” in 1998, identifying service quality measures that, among other things, “are considered by the states to be meaningful and significant indicators of service quality” and comprise data that “most, if not all, telephone companies already capture ... for internal management purposes.”⁶⁵ Thus, it is likely that the data for service quality measures we believe is important is also available, and our desire to adopt new measures will not impose an unreasonable burden on carriers.

Pacific and Verizon currently report to the FCC their performance on meeting repair commitments under the SBC / Ameritech and the Bell Atlantic / GTE merger agreements, respectively. Also, Verizon provides a “Service Performance Guarantee (SPG)” when it fails to complete repairs when promised.⁶⁶

Thus, while G.O. 133-B does not presently require reporting repair commitments met, California’s largest carriers already report, and in some cases provide guarantees, for repair commitment performance. Therefore, we propose to establish measures and standards addressing commitments met for initial and

⁶⁴ G.O. 133-B, Section 3.2.

⁶⁵ NARUC Service Quality White Paper. Available at http://www.fcc.gov/Bureaus/Common_Carrier/Public_Notices/1999/da992441.doc

⁶⁶ R.01-09-001/I.01-09-002, TR. 2493

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repeat out-of-service repair of primary and additional lines, and for other than out-of-service repairs, and apply those measures to wireline and CMRS carriers as proposed above for Out-of-Service Clearing Time.

We seek comment on whether the measures for initial and repeat out-of-service repair commitments met should be reported separately for primary lines and additional lines or combined as a single measure. We seek comment on whether the measures for initial and repeat repair commitments met for other services are necessary and should be reported. We want our rules to be consistent with the best available practices, and invite parties to illustrate what they believe are the best practices in place for this measure in other jurisdictions.

We also seek comment on whether the proposed standards for initial and repeat out-of-service repair commitments met are adequate, and whether the proposed SQAM will ensure that carriers consistently meet the proposed standards. Where commenters contend that the proposed standards and SQAM are insufficient, we ask for specific changes to the proposed SQAM that will ensure compliance with standards. We want our rules to be consistent with the best available practices, and invite parties to illustrate what they believe are the best practices in place for this measure in other jurisdictions.

D. Service Outages

We believe frequent or widespread service outages have the potential to pose a significant threat to public safety and place an unwarranted inconvenience to telephone users. California law requires every public utility to *furnish and maintain adequate, efficient, just, and reasonable service, instrumentalities,*

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*equipment, and facilities, including telephone facilities...necessary to promote the safety, health, comfort, and convenience of the public.*⁶⁷

Although staff has requested that all carriers report major telephone service interruptions, the standards and procedures for reporting outages are contained in a 1977 memorandum of which many carriers are not generally aware.⁶⁸ Moreover, the information contained in that memorandum is substantially out of date. Importantly, some carriers have questioned the staff's authority to impose this reporting obligation on carriers via memorandum. We note that Pacific and Verizon are currently required to report major service interruptions as part of NRF monitoring.⁶⁹

We believe that tracking and reporting major service interruptions continues to be an important way for the Commission to be apprised of service interruptions that may affect public safety, and to assess changes that may be necessary to ensure that the public receives adequate, efficient, just, and reasonable telephone service, including uninterrupted access to 911 emergency services. Therefore, we propose to include in our revised G.O. 133-B rules requiring all carriers to report major service interruptions.

We seek comment on whether the rules for reporting major service interruptions are adequate. We direct carriers operating in other states to list by state all rules for reporting major service interruptions to which they are currently subject. We seek comment on whether standards and SQAM should be established to encourage carriers to minimize major service interruptions.

⁶⁷ P.U. Code § 451

⁶⁸ October 5, 1977 Memorandum from Ermet Macario, Chief – Surveillance Branch.

⁶⁹ See, for example, Service Interruption Report P.A.-02-00 and Summary of Major Service Interruptions Report P.A.-02-01.

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Where commenters recommend standards or SQAM, we ask for specific proposals for what the standards should be and why, and what SQAM would ensure compliance with standards and how the SQAM would be applied. We want our rules to be consistent with the best available practices, and invite parties to illustrate what they believe are the best practices in place for this measure in other jurisdictions.

E. Repeat Customer Trouble Reports

G.O. 133-B presently requires reporting of initial reports from customers and users of telephone service relating to dissatisfaction with telephone company-provided equipment and / or service (customer trouble reports).⁷⁰ However, our rules do not require reporting the frequency of repeat trouble reports. Repeat trouble reports are those relating to a previously reported trouble which occurs after the initial or first customer trouble report has been cleared and the customer notified. Reports made before the initial or first customer trouble report has been cleared are not considered to be repeat reports.⁷¹

SBC currently provides service quality data to the FCC's Merger Compliance Oversight Team (MCOT) under the terms of the SBC / Ameritech merger agreement. This data includes "Percent Repeat Troubles" for business and residence customers in the 13 states where SBC operates.⁷² Verizon also provides similar service quality data to the FCC's MCOT under the terms of the Bell Atlantic / GTE merger agreement.⁷³

⁷⁰ Section 3.3.

⁷¹ Reports made before the initial or first customer trouble report has been cleared are called "subsequent reports."

⁷² See Filename RE2.pdf at http://www.fcc.gov/wcb/mcot/SBC_AIT/service_quality/

⁷³ See Filename RE2.pdf at http://www.fcc.gov/wcb/mcot/BA_GTE/service_quality/

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Few things can be more aggravating to customers than repeated unsuccessful attempts to have the same problem fixed. As Verizon puts it, “[customers tell] us that the quality with which we... [complete] work correctly the first time is very important.”⁷⁴ Verizon internally measures the quality of its repair and installation technicians’ workmanship by the percent of time its technicians fail to solve a complaint the first time. Pacific also has internal standards for completing installations and repairs “right the first time.”⁷⁵

We, too, believe that the frequency of repeat trouble is an important indicator of service quality. Therefore, we propose to establish a measure requiring carriers to report the percent of repeat troubles for residential and business customers. We also intend to establish a standard that we believe is reasonable.

We seek comment on whether the measures for repeat trouble reports should be reported separately for primary lines and additional lines or combined as a single measure. We seek comment on whether the measures for repeat trouble reports for other services are necessary and should be reported. We want our rules to be consistent with the best available practices, and invite parties to illustrate what they believe are the best practices in place for this measure in other jurisdictions.

We also seek comment on whether the proposed standards for repeat trouble reports are adequate, and whether the proposed SQAM will ensure that carriers consistently meet the proposed standards. Where commenters contend that the proposed standards and SQAM are insufficient, we ask for specific

⁷⁴ R.01-09-001/I.01-09-002, TR 2479.

⁷⁵ Response to D.R. 02-01-001, TD 003178 (Designated “Proprietary”).

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changes to the proposed SQAM that will ensure compliance with standards. We want our rules to be consistent with the best available practices, and invite parties to illustrate what they believe are the best practices in place for this measure in other jurisdictions.

F. Percent of Installations Completed within 5 Working Days

SBC and Verizon currently provide data on the Percent of Installations Completed within 5 Working Days to the FCC's MCOT under the terms of their respective merger agreements. These carriers also have internal measures for percent of installations completed within five days,⁷⁶ or for average number of days to install.⁷⁷ Other states have also established standards requiring a specified percentage of installations to be completed within five days. For example, Ohio requires carriers to complete all requests for local service within five business days⁷⁸, New York requires carriers serving more than 500,000 lines to complete 80% of requests for basic local service within five working days⁷⁹, and Alabama requires 90% of requests for residential service to be completed within five working days⁸⁰. We, too, propose to establish a measure and standard requiring installations to be completed within five working days.

We seek comment on whether the measures for installations to be completed within five working days should be reported separately for primary lines and additional lines or combined as a single measure. We want our rules to be

⁷⁶ SBC response to D.R. 02-01-001, TD 003178 (Designated "Proprietary").

⁷⁷ Verizon response to D.R. 02-01-001, P.24.

⁷⁸ Chapter 4901:1-5-20(C)(1).

⁷⁹ Part 603.3(e).

⁸⁰ Rule T-21 (M)(1).

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consistent with the best available practices, and invite parties to illustrate what they believe are the best practices in place for this measure in other jurisdictions.

We also seek comment on whether the proposed standards for installations to be completed within five working days are adequate, and whether the proposed SQAM will ensure that carriers consistently meet the proposed standards. Where commenters contend that the proposed standards and SQAM are insufficient, we ask for specific changes to the proposed SQAM that will ensure compliance with standards. We direct carriers operating in other states to list by state all performance mechanisms related to standards for installations to be completed within five working days to which they are currently subject, and to which lines (primary, or primary and additional) the performance mechanisms apply.

G. Measures Related to Consumer Protection Rules

We believe that input from customers is a valuable tool for identifying areas needing improvement and for assessing the effectiveness of the technical objective service quality measures we've established. Therefore, we intend to take steps to develop ways to measure different kinds of customer concerns by defining what information carriers should collect (i.e., reportable complaints") and the different categories for tracking and reporting customer concerns. Therefore, the scope of this rulemaking will include prescribing a definition of customer complaint for service quality reporting purposes. However, this aspect of the rulemaking will be scheduled for a later date when we will intend to issue a proposal.

The Commission's pending Interim Decision Establishing Rules Governing Telecommunications Consumer Protection in R.00-02-004 intends to establish

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and consolidate its consumer protection rules under a new General Order. As stated above, this instant proceeding is not intended to replace or modify those rules. Rather, we intend to establish reporting requirements that will help the Commission measure the effectiveness of its consumer protection rules, and assist the Commission in determining if and when its consumer protection rules need modification. Therefore, the scope of this instant rulemaking will include prescribing a definition of customer complaint for service quality reporting purposes, and may be further revised if and when we issue a decision in R.00-02-004 (Establishing Rules Governing Telecommunications Consumer Protection).

However, we are prepared at this time to begin our effort toward establishing measures related to consumer protection. Specifically, we propose to adopt requirements addressing carrier compliance with consumers' right to have their service connection or repair appointment scheduled within a four-hour period.

Utilities are required under current law to *"inform their subscribers of their right to service connection or repair within a four-hour period, if the presence of the subscriber is required, by offering the four-hour period at the time the subscriber calls for service connection or repair, or by notifying the subscriber by mail three times a year of this service."*⁸¹ In deciding C.00-11-018, the Commission found that Pacific failed to expressly notify customers that call its 611 repair service of the availability of a four-hour appointment window, and ordered Pacific to provide customers who call for repairs with an opportunity to request a four-hour appointment period.⁸²

⁸¹ California Civil Code § 1722 (c).

⁸² D.01-12-021.

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C.00-11-018 was not the first time issues concerning compliance with California Civil Code §1722 (c) have been brought before the Commission. In fact, NRF utilities' compliance with their obligation to offer a four-hour appointment opportunity has been an area of concern to customers for more than a decade.⁸³ Even though the four-hour appointment opportunity is currently state law, the pending interim decision in R.00-02-004 on telecommunications consumer protection rules proposes a similar rule requiring all telecommunications carriers to provide customers an opportunity to request a four-hour appointment period for installation and repair services.

Also, as mentioned above, the Commission has already adopted a service performance guarantee credit program that requires SDG&E to credit customer accounts \$50 if SDG&E fails to meet its scheduled appointment commitment.⁸⁴

Therefore, we propose to establish requirements that telecommunications carriers report their performance in meeting their four-hour appointment obligations. The rules we propose will require carriers to report the frequency of four-hour appointment requests (i.e., percentage of four-hour appointment requests as a percentage of total installation and repair service requests), and carriers' performance in successfully meeting the four-hour appointment window (i.e., four-hour appointment commitments met as a percentage of total four-hour appointments scheduled).

We also propose a SQAM requiring a carrier to credit customers \$50 if the carrier fails to meet its scheduled appointment commitment. We seek comment on whether the proposed measures for four-hour appointment commitments are

⁸³ D.94-06-011, 55 CPUC 2nd 1 at 55.

⁸⁴ D.99-05-030.

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adequate, and whether the proposed SQAM will ensure that carriers consistently meet the appointment commitments. Where commenters contend that the proposed SQAM is insufficient, we ask for specific changes to the proposed SQAM that will ensure compliance.

VI. Methods For Measuring Applicable Standards

The existing G.O. 133-B rules apply to “*all telephone utilities providing service within the State of California.*”⁸⁵ Even though G.O. 133-B applies to all telephone utilities in California, staff reports that only ILECs have ever filed any G.O. 133-B reports with the Commission. Given the absence of sufficiently precise rules governing the methods and procedures that ensure uniformity in measuring and reporting service quality measures, the Commission is concerned that some carriers may have established procedures which minimize the possibility that G.O. 133-B reports will ever need to be filed with the Commission. Other carriers may simply not file the required reports.

We cited above an example of how one carrier’s procedures understate held orders and another example of how that carrier’s methods overstate its BOAT performance. We believe there exist numerous other ways carriers can perform sampling or devise procedures that reduce or eliminate carriers’ obligation to report service quality information to the Commission.

For example, G.O. 133-B permits carriers to base TOAT, DAOAT, TRSAT and BOAT results on a sample “that is representative of the measurement period”, but does not otherwise require a carrier’s sampling procedures to satisfy any particular criteria.⁸⁶ Thus, a carrier can generate TOAT, DAOAT, TRSAT and

⁸⁵ Rule 1.2.

⁸⁶ See Sections 3.6, 3.7, 3.8, and 3.9, respectively.

BOAT results that will not trigger the reporting threshold, either intentionally or inadvertently, merely by changing sample size, time of day / week / month for sampling, etc. Widely differing methods undermine the usefulness of service quality information. Therefore, we intend to adopt more specific criteria and procedures for producing service quality results. We propose that sampling be performed either, 1) daily and continuously throughout the 24-hour period in at least one-hour intervals, or 2) during the busy-hour of each day.

We seek comment on whether the proposed sampling procedures will ensure accurate and consistent TOAT, DAOAT, TRSAT and BOAT results. Where commenters contend the proposed methods are inadequate, we ask for specific step-by-step procedures that achieve accurate and consistent information.

VII. G.O. 133-B Service Quality Data Produced, Retained or Controlled by Carrier's Parents, Subsidiaries, Affiliates or Unregulated Third Parties

We intend to enforce our service quality rules, even where carriers assert that G.O. 133-B service quality information is not available because the services to which the information relates is provided by an unregulated parent, subsidiary, affiliate or third party (including underlying wholesale carriers).

We seek comment on whether there are circumstances where carriers should be exempt from some or all service quality rules when unaffiliated third parties perform activities affecting a regulated carrier's service quality.

A. Service Quality Data Produced, Retained or Controlled by Unregulated Third Parties

It is an increasingly common practice for carriers to subcontract certain activities or functions, such as directory assistance services, to affiliates and third

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party providers. Some carriers have reported to staff that third parties providing services for them do not collect the data needed to produce service quality measures like DAOAT.

We remind carriers that utilities under our jurisdiction are responsible for the conduct and performance of unaffiliated third parties involved in activities affecting a telephone carrier's service quality or the activities necessary to produce information concerning the carrier's service quality.⁸⁷ We expect carriers to take whatever steps are necessary to ensure that unregulated entities performing activities on the carriers' behalf that affect carriers' service quality or the activities necessary to produce carriers' service quality information are able to adequately support carriers' obligations under our rules.

B. Service Quality Data Produced, Retained or Controlled by Carrier's Unregulated Parents, Subsidiaries or Affiliates

Cox California Telcom (Cox), one of California's largest competitive local exchange carriers, challenged staff's request for service quality data, contending that some of the requested service quality information pertained to, and was produced, retained or otherwise controlled by affiliates not subject to the jurisdiction of this Commission. Cox asserts that certain information concerning telephone service quality can not be segregated from that of its unregulated affiliates, and that it would be improper to require it to submit confidential and proprietary information of its unregulated affiliates.

⁸⁷ "Every public utility shall obey and comply with every order, decision, direction, or rule made or prescribed by the Commission in the matters specified in this part, or any other matter in any way relating to or affecting its business as a public utility, and shall do everything necessary or proper to secure compliance therewith by all of its officers, agents, and employees." P.U. Code § 702. (Emphasis Added).

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With respect to parents, affiliates and subsidiaries, we remind carriers that *“the Commission, each Commissioner, and each officer and person employed by the Commission may, at any time, inspect the accounts, books, papers, and documents of any public utility”, and that our authority “also applies to inspections of the accounts, books, papers, and documents of any business which is a subsidiary or affiliate of, or a corporation which holds a controlling interest in, an electrical, gas, or telephone corporation with respect to any transaction between the electrical, gas, or telephone corporation and the subsidiary, affiliate, or holding corporation on any matter that might adversely affect the interests of the ratepayers of the electrical, gas, or telephone corporation.”*⁸⁸

The Commission could not fulfill its responsibilities with respect to service quality were it to not require carriers to provide certain service quality data because that data is not segregated from the data of carriers' unregulated affiliates. Moreover, were the Commission to take such a position, carriers could easily evade this Commission's service quality requirements merely by commingling regulated and unregulated data. This concern is as applicable to incumbent carriers and their unregulated affiliates (with respect to DSL service, for example) as it is to competitive carriers.

Therefore, entities other than regulated carriers that are involved in activities affecting a carrier's service quality or the activities necessary to the production of information concerning the quality of the regulated carrier's telephone service which is required by this Commission in the exercise of its jurisdiction may be indirectly subject to our service quality rules. Moreover, the law is explicit with respect this Commission's authority concerning, among other

⁸⁸ P.U. Code §§ 314(a) and (b)

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things, the service quality of cable companies or their affiliates providing telephone service.

*“If the local exchange corporation is subject to the Commission’s standards for the interconnection of networks, network unbundling, and service quality, the cable television corporation or its affiliates may be subject to the Commission’s standards for the interconnection of networks, network unbundling, and service quality, for that portion of their network dedicated to intraexchange telecommunications service. In addition, all corporations offering intraexchange telecommunications service shall be subject to the Commission’s consumer protection regulations.”*⁸⁹ (Emphasis Added).

Thus, this Commission could choose to assert its jurisdiction directly over cable companies and their parents or affiliates that are performing functions supporting local exchange telephone service relating to service quality, or the activities necessary to produce information needed to comply with our service quality rules. Although the Commission *could* exercise direct authority over cable companies or other unregulated entities involved in providing or supporting the provision of regulated telecommunications services, it is unnecessary to do so at this time. This is because we believe we have sufficient authority over regulated carriers to achieve our objectives.

We presently require NRF utilities to provide service quality information similar to that which Cox states it can not provide because the information is not within its possession or control.⁹⁰ These NRF carriers are able to provide this information, even though they, too, operate under corporate structures that include unregulated affiliates. Therefore, we intend to hold all of the carriers under our jurisdiction responsible for the performance of their unregulated

⁸⁹ P.U. Code § 709.5(e)

⁹⁰ See, for example, Monitoring Reports P.A.-02-03 and P.A.-02-04.

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parents, subsidiaries, affiliates, unaffiliated third parties and / or other entities with respect to activities affecting or relating to a carrier's service quality or the activities necessary to produce the service quality information needed to comply with our rules. We seek comment on whether there are circumstances where carriers should be exempt from some or all service quality rules when unregulated parents, subsidiaries, affiliates, unaffiliated third parties and / or other entities perform activities affecting a regulated carrier's service quality.

C. Service Quality Data Produced, Retained or Controlled by Unaffiliated Third Party Carriers

Staff reports that carriers providing telephone services on a resale basis are not able to produce service quality information required by the Commission under G.O. 133-B. At least one underlying incumbent wholesale carrier refuses to provide to the resale carrier the service quality information that only the underlying wholesale carrier possesses or is able to produce.

Several resale carriers provided staff with Pacific's response to their request for service quality data concerning the activities performed by Pacific as the underlying wholesale carrier. Pacific's response states that Pacific "*does not track information [the Commission] requested that relates to [the resale carriers'] retail operations*", and that "*it would be inappropriate for Pacific to provide [information relating to the resale carriers' service quality] because [the Commission] seeks information from [the resale carrier], not Pacific.*"⁹¹

Important service quality information would be unavailable, were resellers exempt from or otherwise not required to comply with our information reporting

⁹¹ See, for example, Lightyear Communications, Inc., response to Data Request 02-01-001.

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requirements. We find such an arrangement unacceptable, and will require all carriers, resale or facilities-based, to comply with our service quality rules.

All telephone utilities are subject to existing G.O. 133-B rules, and are presently obligated to monitor and report service quality measures. However, many carriers, both facilities-based and resale, obtain functions like directory assistance services from affiliates or third party providers. Likewise, resale carriers providing services to end users are largely, if not entirely, dependent on the performance of their underlying wholesale carrier.

We recognize that, if an agent, affiliate or underlying wholesale carrier does not furnish adequate service or provide a carrier with required service quality information, the carrier is exposed to potential violations of our rules. However, where a carrier is unable to comply with our rules due to the failures on the part of a third party, we believe that the filing of a complaint alleging violations of P.U. Codes §§ 2110 and/or 2111 may provide adequate recourse.

Nevertheless, we seek comment on how carriers using third parties to perform telecommunications-related functions presently monitor the service quality measures required under G.O. 133-B, and what processes these carriers use to obtain required information from their agents, affiliates or underlying wholesale carriers. We assume good management practices require such information systems. We also seek comment as to whether existing Commission procedure (i.e., filing a complaint) is adequate for ensuring carriers are able to obtain data needed to monitor and report required service quality information, or if additional steps should be taken to enhance carriers' ability to comply with our rules.

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VIII. Applicability of G.O. 133-B Service Quality Measures and Standards

As with our Consumer Protection Rules, we will define “carrier” under our service quality rules to include all entities, whether certificated or registered, that provide telecommunications-related products or services and are subject to the Commission’s jurisdiction pursuant to the Public Utilities Code. Although R.98-06-029 considered whether the service quality standards contained in G.O. 133-B should be imposed on non-dominant carriers or on carriers that provide competitive services, D.00-03-052 made no changes to the applicability of G.O. 133-B. Thus, non-dominant interexchange carriers (NDIECs) and CLECs are currently subject to G.O. 133-B service quality standards.

R.98-06-029 did not determine whether Commercial Mobile Radio Service (CMRS) providers were “telephone utilities” for G.O. 133-B purposes. However, D.95-10-032 addressed generally which CMRS providers are subject to Commission jurisdiction, and D.96-12-071 provided further clarification. We do not intend to revisit the definition of “CMRS providers” in this proceeding. However, we recognize that many consumers are increasingly using wireless services to supplement and to replace some of their use of wireline telephone services.⁹² Therefore, we intend to make CMRS providers, over which we have previously asserted continuing jurisdiction, subject to the revised G.O. 133-B service quality rules, where appropriate and as specified in Attachment 1.⁹³

⁹² Report to the California State Legislature on The Status of Telecommunications Competition in California, June 5, 2002, P.50.

⁹³ Cellular telephone carriers are required by statute to provide the commission with information, as specified by the commission, concerning service quality and customer complaints. See P.U. Code § 2885.6(a).

As stated above, we do not intend to apply all proposed measures to every telecommunications service. We seek comment on whether the measures and standards identified as applicable to CMRS providers is complete, or whether additional measures and standards are applicable. Exhibit A to Attachment 1 displays the proposed service quality measures and the types of services to which we propose they apply. We also seek comment on whether the measures and standards for CMRS providers include any measures and standards that are not applicable to CMRS services.

IX. Reporting Service Quality Results to the Commission

A. Reporting Frequency

As stated above, in addition to incumbent carriers, IECs and CLECs are currently subject to G.O. 133-B service quality measures and standards. Even though G.O. 133-B applies to all telephone utilities in California, staff reports that only ILECs and one IEC/CLEC have ever reported any service quality results to the Commission.

The Commission recognizes that G.O. 133-B currently requires carriers to file reports with the Commission only when carriers fail to meet minimum service quality standards during a reporting period (i.e., “exception reporting”). However, because generally only incumbent carriers have ever reported any service quality results to the Commission, we are concerned that some carriers may not be complying with their G.O. 133-B reporting obligations.

Importantly, exception reporting deprives the Commission of continuous and useful service quality information, and requires the Commission to assume that “everything must be alright, otherwise we should be receiving carrier reports.” As pointed out in the Commission’s decision addressing CUCC’s NRF,

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G.O. 133-B's exception reporting "...essentially expects utilities to operate on the honor system, but non-reporting does not always mean compliance."⁹⁴ As mentioned above, certain carriers are required to regularly report (i.e., "positive report") various service quality measures under the FCC's ARMIS and MCOT requirements. We also discussed why the limitations of those reports prevent us from relying on them to satisfy our service quality information needs.

We are aware that there are also times when carriers fail to accurately report information as required. For example, our consumer protection rules require billing telephone companies to report complaints received each month for each service provider and billing agent. However, as acknowledged by Pacific in the Presiding Officer's recently adopted DSL settlement, Pacific reported fewer than 50 complaints it received concerning DSL service for which it billed on behalf of its affiliates during 2001 and 2002, even though it and its affiliate received over 5,000 complaints and the Commission received 853 complaints during that same period.

Nevertheless, we believe when uniform procedures are in place for the measures the Commission deems important to assessing service quality, ongoing periodic reports will provide the Commission with far more useful information than is currently available under G.O. 133-B's exception reporting framework.

Therefore, we propose to require quarterly reporting of actual monthly service quality performance measures, whether or not carriers exceed minimum service quality standards. Because carriers are already obligated to gather data for the purpose of monitoring service quality, the additional step of filing

⁹⁴ D.95-12-024, 62 CPUC 2nd, at 262.

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ongoing service quality reports should not place a significant additional burden on carriers.

Further, we propose to enforce our reporting requirements with fines and other penalties. That is, we propose to establish specific penalties for failure to report and will, via Commission Resolution or other Commission action, fine and/or, suspend and, if necessary, revoke the operating authority of carriers that fail to comply with our service quality reporting requirements.

We seek comment on whether there are circumstances where carriers should be exempt from positive reporting. We seek comment on whether quarterly reporting of actual monthly service quality performance measures is sufficient, whether more frequent (monthly) reporting is necessary, or whether less frequent reporting is adequate.

B. Means and Format of Reporting

In addition to paper (“hard copy”) reports, we propose to require electronic reporting of service quality measures in an IBM-compatible electronic (compact disk or 3.5” floppy diskette, or electronically/Internet transmitted) format with text information in MS Word and numeric information in MS Excel or MS Access. We believe this reporting method will be more efficient and cost effective for carriers, and will facilitate the Commission’s analysis of service quality information. We propose to specifically prohibit reporting of service quality information in PDF format, because this format limits Commission’s ability to analyze service quality data.

We seek comment on whether these proposed methods and format of reporting are adequate.

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X. Record Retention Requirements

Existing G.O. 133-B rules require monthly summary records of service measurements to be retained for two years. We have found that this retention period is inadequate, because usually more than two years elapse between the Commission's review of service quality, and carrier data is sometimes not available. We note that the Commission currently requires utilities to retain cancelled tariff sheets for twenty years⁹⁵, while many accounting related records must be retained indefinitely.⁹⁶

Therefore, we propose to require that the data supporting reported service quality measures be retained for a minimum of six years. The Commission is required to audit carriers every three years pursuant to P.U. Code 314.5. A six year record retention requirement will help ensure that sufficient service quality information is available whenever the Commission conducts carrier audits, and provide data that can be used to compare one audit period to another.

We seek comment on whether the record retention requirement will ensure that service quality data is available for audit and review purposes.

XI. General Order Review Committee

As discussed above, the General Order Review Committee ("Committee") was created in 1972 pursuant to D.80082 to "review the state of the art in telephony, to examine the measurements set forth in this General Order, and to suggest revisions, additions, and deletions to said measurements."⁹⁷ A Commission staff member serves as chairperson of the Committee. Telephone utilities are required members, and individuals or interested parties may

⁹⁵ See G.O. 96-A, P.4.

⁹⁶ See G.O. No. 28, P.1.

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represent the public on the Committee. The committee is required to meet at least once a year, record meeting minutes and report to the Commission when changes to the General Order are recommended.

We are informed by staff that the Committee has not met during the four years since R.98-06-029 was issued, because little value was seen in meeting while comments and recommendations submitted in that proceeding were pending Commission action. The Committee did not meet after D.00-03-052 was issued in R.98-06-029, because service quality was expected to be an issue under review in R.01-09-001/I.01-09-002.

When the Commission has previously considered changes to the service quality rules, utility representatives generally recommended eliminating measures or making minor “clarifying” changes to the rules.⁹⁸ We also note that utility representatives have generally and consistently opposed staff recommendations to add new measures or tighten standards.

As discussed earlier, the carriers filing comments in R.98-06-029 generally recommended that, because of competition no service quality rules were needed, but if the Commission did not eliminate all service quality rules, then the existing rules were sufficient. We recognize that many of these carriers are the utilities represented on the Committee.

We believe the Committee has not proven as useful as the Commission originally expected it to be, and has not even met during the last several years. Therefore we propose to discontinue the Committee. We believe that, when changes are needed in the future to our service quality rules, adequate processes

⁹⁷ G.O. 133-B, Section 5.1(a).

⁹⁸ See, for example, D.83-11-062 (13 CPUC 2nd 220) and D.92-05-056 (44 CPUC 2nd 437),

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are still available to bring issues or recommendations to our attention. We seek comment on whether the Committee should be discontinued.

XII. Preliminary Scoping Memo

By this order, we commence a rulemaking proceeding to consider revisions to existing service quality standards applicable to telecommunications carriers. The proceeding shall be conducted in accordance with Article 2.5 of the Commission's Rules of Practice and Procedure (Rules).⁹⁹ All certificated and registered telecommunications carriers are designated as respondents to this order. As required by Rule 6(c)(2), this order includes a preliminary scoping memo¹⁰⁰ as set forth below.

The scope of this rulemaking is to review and revise, supplement and expand, as necessary, those elements of G.O. 133-B and to add new measures, procedures, standards and reports to our service quality rules.

The final scope of the issues will be determined in one or more scoping rulings issued by the assigned Commissioner pursuant to Rules 6(c)(2) and 6.3. The Commission recently reviewed Pacific's and Verizon's service quality during its 4th triennial review of the NRF.¹⁰¹ The Commission has not yet issued its decision in that proceeding. Therefore, the scope of this instant rulemaking may be revised when or after we issue a decision in R.01-09-001 / I.01-09-002. The scope of this instant rulemaking may also be revised if and when we issue a

⁹⁹ The Rules of Practice and Procedure are posted on the Commission's web site at www.cpuc.ca.gov.

¹⁰⁰ Rule 5(m) defines "scoping memo" as an order or ruling describing the issues to be considered in a proceeding and the timetable for resolving the proceeding.

¹⁰¹ R.01-09-001 / I.01-09-002.

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decision in R.00-02-004 (Establishing Rules Governing Telecommunications Consumer Protection).

Pursuant to Rule 6(c)(2), we preliminarily determine that (1) the category of this proceeding is "quasi-legislative" as that term is defined in Rule 5(d),¹⁰² and (2) there is no need for evidentiary hearings. If any commenting party believes that evidentiary hearings are required, it shall file a motion requesting hearings within 15 days after filing reply comments. The motion shall identify the specific issues raised in comments or reply comments for which the party believes hearings are necessary and why the comments do not provide sufficient basis on which the Commission can reach its decision. If a motion requesting hearings is granted, the time, place, and scope of the evidentiary hearings will be set in one or more rulings issued by the assigned Commissioner or the assigned Administrative Law Judge (ALJ).¹⁰³

Questions to which the Commission seeks comment are listed in Attachment 1. The preliminary schedule for this proceeding is set forth in Attachment 2 of this order.

XIII. Service and Availability of this Order

This order shall be served on the service lists for R.98-06-029 (Rulemaking on service quality standards), R.95-04-043/I.95-04-044 (Rulemaking and

¹⁰² Rule 5(d) defines "quasi-legislative" proceedings are proceedings that establish policy or rules (including generic ratemaking policy or rules) affecting a class of regulated entities, including those proceedings in which the Commission investigates rates or practices for an entire regulated industry or class of entities within the industry.

¹⁰³ In a quasi-legislative proceeding, the assigned Commissioner is the presiding officer, except that the assigned Administrative Law Judge, in the assigned Commissioner's absence, shall act as presiding officer at any hearing other than a formal hearing, as defined in Rule 8(f)(2). (Rule 5(k)(3))

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investigation into local competition), R.00-02-004 (Rulemaking establishing rules governing telecommunications consumer protection) and R.93-04-003/I.93-04-002 (Rulemaking and investigation into Open Access and Network Architecture Development). This order shall be served on all certificated and registered carriers (Respondents).

This order will be available to the public on the Commission's web site (www.cpuc.ca.gov). A copy of this order may also be obtained from the Commission's Central Files Office in San Francisco [(415) 703-2045], and from the Commission's Public Advisor Offices in Los Angeles [(213) 897-3544] and San Francisco [(415) 703-2074].

The Commission's practice is to require any party who wishes to formally participate in a proceeding to submit an appearance form at a prehearing conference (PHC) or evidentiary hearing. This practice may discourage formal participation in this proceeding, since individuals and small organizations may find it burdensome to travel to a PHC or evidentiary hearing.

To facilitate broad public participation in this proceeding, we will allow parties to formally participate by mailing a notice of participation to the Commission's Process Office. The address of the Process Office is Room 2000, 505 Van Ness Avenue, San Francisco, CA 94102. The notice must include all of the following information:

- The proceeding number shown on the first page of this order.
- The name, address and telephone number of each person to be placed on the service list. Parties are encouraged to provide an e-mail address. Any party that provides an e-mail address will be required to (1) serve

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- their pleadings by e-mail on other parties that provide an e-mail address, and (2) receive the pleadings of other parties by e-mail.
- The person, entity or organization for which the notice is being filed.
 - The category of participation. There are three categories of participation: Appearance, State Service and Information Only. Those in the Appearance category are parties with all attendant rights and obligations. Appearances receive exhibits, testimony and all formal documents, including pleadings, motions, rulings, proposed decisions and Commission decisions. Appearances must serve their pleadings on all other Appearances and those in the State Service category. Persons should not indicate that they are an Appearance unless they intend to actively participate in this proceeding by filing comments or testimony. Any Appearance that fails to actively participate may be moved to the Information Only portion of the service list. The State Service category consists of persons employed by the State of California. Those in the State Service category receive the same documents as Appearances, but they are not parties to the proceeding and can not file pleadings. Those in the Information Only category receive all Commission-generated documents at no charge, such as notices of hearings, rulings, proposed decisions and Commission decisions. Appearances are not required to serve their pleadings on those in the Information Only category.

Parties may also seek to formally participate in this proceeding by filing a notice of party / non-party status at a PHC or evidentiary hearing. Any person interested in participating in this rulemaking but unfamiliar with the

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Commission's procedures should contact the Commission's Public Advisor Offices in Los Angeles [(213) 897-3544] or San Francisco [(415) 703-2074].

Parties should note that it is not necessary to formally participate in this proceeding in order to monitor major developments. Significant documents in this proceeding (e.g., rulings and decisions) will be posted on the Commission's web site. There is no need to mail the previously described notice of participation to the Process Office to monitor in this fashion.

The Process Office will compile an initial service list based on the notices that it receives on or before two weeks from the effective date of this order.¹⁰⁴ The service list for this proceeding may be obtained from the Commission's web site (www.cpuc.ca.gov) or the Process Office [(415) 703-2021].

The assigned Commissioner and the assigned ALJ shall have ongoing oversight regarding the procedures governing parties' participation and the service list. They may revise these procedures and the service list, as necessary.

XIV. Electronic Service

Any Appearance that provides an e-mail address shall serve and receive all pleadings by e-mail in Microsoft Word format. There is no need to serve hard copies of pleadings on any party listed in the Appearance and State Service categories of the service list if that party has provided an e-mail address. However, if a party in the Appearance or State Service categories has not provided an e-mail address, then that party must be served with a hard copy.¹⁰⁵

¹⁰⁴ The Process Office periodically updates service lists to correct errors and to make changes at the request of the parties on the list or the assigned ALJ.

¹⁰⁵ This order does not affect the Commission's Rules regarding the filing of documents at the Commission. All documents filed at the Commission must be tendered in paper form as described in Rule 2 et seq.

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XV. Ex Parte Communications

This proceeding is subject to Rule 7, which specifies standards for engaging in ex parte communications and the reporting of such communications. Because this proceeding is preliminarily categorized as quasi-legislative, pursuant to Rule 7(a)(4), there are no restrictions on ex parte communications and they need not be reported, consistent with Rule 7(d). Following the assigned Commissioner's appealable determination of category, the applicable ex parte communication and reporting requirements shall depend on such determination unless and until the determination is modified by the Commission pursuant to Rule 6.4 or 6.5.

IT IS ORDERED that:

1. A rulemaking is initiated to adopt service quality measures, procedures, standards and quality assurance mechanisms applicable to telecommunications carriers.
2. All certificated and registered telecommunications carriers are respondents.
3. The issues to be considered in this proceeding are listed and described in Attachment 1 of this order. These issues constitute the general scope of this proceeding. The exact scope of this proceeding will be determined in one or more scooping rulings issued by the assigned Commissioner.
4. The preliminary schedule for conducting this proceeding is set forth in Attachment 2. The assigned Commissioner and the assigned ALJ may revise the schedule of this proceeding.
5. Parties seeking to participate in this proceeding shall mail a notice of participation to the Commission's Process Office no later than two weeks from

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the effective date of this order. The address of the Process Office is Room 2000, 505 Van Ness Avenue, San Francisco, CA 94102. The notice must include all of the information identified in Section XIII of this order.

6. The Process Office shall create an initial service list based on notices of participation received by the Process Office on or before four weeks from the effective date of this order. Parties may obtain the service list from the Commission's web site (www.cpuc.ca.gov) or by contacting the Process Office [(415) 703-2021].

7. The assigned Commissioner and the assigned ALJ shall have ongoing oversight regarding the procedures governing participation in this proceeding. They may revise these procedures as necessary. The assigned Commissioner and the assigned ALJ shall also have ongoing oversight of the service list. They may revise the service list or the procedures governing the list as necessary.

8. Any party listed in the "Appearances" category on the service list that provides an email address shall serve and receive all pleadings by e-mail in Microsoft Word format. There is no need to serve hard copies of the pleadings on any party listed in the Appearances and State Service categories on the service list if that party has provided an e-mail address.

9. All documents filed at the Commission must be tendered in paper form as described in Rule 2 et seq.

10. Opening and reply comments as described in this order shall be filed with the Commission and served on all parties in accordance with the schedule attached to this order. In addition, as required by Rule 6(c)(2), parties shall include in their opening comments any objections they may have regarding (i)

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the categorization of this proceeding as “quasi-legislative,” (ii) the preliminary determination that evidentiary hearings are not required, and (iii) the preliminary scope and schedule for this proceeding.

11. Any party who believes an evidentiary hearing is required shall file a motion requesting such a hearing within 15 days after the deadline established for filing reply comments. Replies to motions requesting hearings shall be filed and served within 10 days after the filing of a motion requesting an evidentiary hearing. A motion requesting an evidentiary hearing shall identify and describe (i) the material issues of fact, (ii) the evidence the party proposes to introduce at the requested hearing, and (iii) the schedule for conducting the hearing. Any right that a party may otherwise have to an evidentiary hearing will be waived if the party does not submit a timely motion requesting an evidentiary hearing.

12. This proceeding is preliminarily determined to be a quasi-legislative proceeding and no hearings are required.

13. This order shall be served on the service list for R.98-06-029 (Rulemaking on service quality standards), R.95-04-043/I.95-04-044 (Rulemaking and investigation into local competition), R.00-02-004 (Rulemaking establishing rules governing telecommunications consumer protection) and R.93-04-003/I.93-04-002 (Rulemaking and investigation into Open Access and Network Architecture Development).

14. This order shall be served on all certificated and registered carriers (Respondents).

This order is effective today.

Attachment 1

Questions for Comment

Uniformity of Service Quality Data

Exhibit A to this Attachment summarizes the measures proposed for adoption and the services proposed to be tracked for each of the measurements. We do not intend to apply all proposed measures, standards and quality assurance mechanisms to each and every telecommunications service. The Commission solicits comments on the adequacy of our proposal. If a carrier recommends adding or removing measures or services to the matrix, please provide details as to the necessity of that addition. We also encourage parties to comment on service quality issues not addressed by our proposal.

1. Please address whether the methods proposed in the rulemaking accurately quantify each of the measures we propose to adopt. If the proposed methods do not reflect the carrier-specific details of the process being measured, please provide specific step-by-step procedures that reflect your carrier's processes.
2. Some services we propose to be measured are provided by a carrier's affiliates. Please explain how this might impact the accuracy of reports or the ability of a carrier to provide reports.
3. The terms "primary" and "additional" or "secondary" lines are used in the proposed rules. For example, we propose that carriers distinguish between primary and additional lines, reporting that data separately. This issue may be addressed in an upcoming decision in R.01-09-001 / I.01-09-002. If any party did not state a position in that docket, they may briefly state their position in their response to this rulemaking.

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4. When and how should carriers inform the Commission of changes to business arrangements or processes affecting the composition of the raw data underlying service quality measures?

Service Quality Assurance Mechanisms and Service Performance Guarantees

5. Are the proposed Service Quality Assurance Mechanisms (SQAMs) sufficient to maintain service quality. We invite parties to identify what they believe are the best practices in place for service quality measures in other jurisdictions that should be adopted in California.
6. Under what circumstances, if any, should proposed penalties be reduced or waived? How would this be carried out?
7. Are call abandonment rates an indicator of service quality? If so, are standards needed?
8. What SQAMs should be adopted to ensure that busy call rates and call abandonment rates are minimized?

Rules Applicable to Automated Response Units (ARUs)

9. Do the proposed rules for ARUs ensure that callers receive prompt and timely responses? If the proposed rules are inadequate, please provide specific changes to the proposed rules that would ensure callers receive prompt and timely responses from business and repair office representatives.

BOAT to uniformly address billing inquiries

10. Is a separate and distinct measure and standard for BOAT billing inquiries appropriate, or should billing inquiries instead be included with other business office calls for the purpose of measuring BOAT? Carriers should

Attachment 1

state whether billing inquiries and non-billing-related calls are routed to the same pool of service representatives or to distinct pools.

11. If billing inquiries should be separately measured, are the proposed rules sufficiently explicit to eliminate confusion as to which types of calls should be included in each BOAT measure?

Methods For Measuring Applicable Standards

12. Will the proposed methods and procedures ensure accurate and consistent TOAT, DAOAT, TRSAT and BOAT results? If the proposed methods are inadequate, please provide specific step-by- step procedures that you believe would achieve accurate and consistent information.

Service Quality Data Produced, Retained or Controlled by Carrier's Parents, Subsidiaries, Affiliates or Unregulated Third Parties

13. Are there circumstances under which carriers should be exempt from some or all service quality rules when affiliated or unaffiliated third parties perform activities affecting a telephone carrier's service quality? If so, please explain.

Applicability of G.O. 133-B Service Quality Measures and Standards

14. Are the measures and standards identified as applicable to CMRS providers comprehensive, or are additional measures and standards applicable?
15. Do the measures and standards for CMRS providers include any measures and standards that are not applicable to CMRS services?

Reporting Requirements

16. Are there circumstances where carriers should be exempt from affirmative reporting?

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17. Is quarterly reporting of actual monthly service quality performance measures sufficient? Is more frequent (e.g., monthly) reporting necessary, or is less frequent reporting (e.g., annual) is adequate? If so, please explain.

Means and Format of Reporting

18. Are the proposed methods and format of reporting adequate?

Record Retention Requirements

19. Will the record retention requirements ensure that service quality data is available for audit and review purposes?

Attachment 1

General Order Review Committee

20. Should the Review Committee be discontinued? If not, please explain.

Attachment 1

EXHIBIT A

Service Quality Measures			Services			
Service Type	Service Quality Measure	Basic Local Exchange Access Line Service	IntraLATA/InterLATA toll service	CMRS (mobile radio service)	Ancillary (Vertical) Voice Services	Advanced Data Services (incl. DSL)
Installation	Held Access Line Service Orders	Yes	No	No	No	Yes
	Installation Commitments Met for Access Line Orders	Yes	No	No	No	Yes
	Installation Commitments Met for Other-Than Access Line Orders	No	Yes	Yes	Yes	No
	Installation Interval for Access Line Service Orders	Yes	No	No	No	Yes
	Installation Intervals for Other-Than Access Line Service Orders	No	Yes	Yes	Yes	No
	Percent of Access Line Installations Completed Within 5 Working Days	Yes	No	No	No	Yes
	Access Line Installation Trouble Report Clearing Time	Yes	No	No	No	Yes
	Access Line Installation Trouble Report Out-of-Service Clearing Time	Yes	No	No	No	Yes
	Access Line Installation Trouble Report Commitments Met	Yes	No	No	No	Yes
Maintenance	Customer Trouble Reports	Yes	Yes	Yes	Yes	Yes
	Repeat Out-of-Service Trouble Reports	Yes	Yes	Yes	Yes	Yes
	Initial Out-of-Service Trouble Report Clearing Time	Yes	Yes	Yes	Yes	Yes
	Repeat Out-of-Service Trouble Report Clearing Time	Yes	Yes	Yes	Yes	Yes
	Initial Out-of-Service Clearing Time Commitments Met	Yes	Yes	Yes	Yes	Yes
	Repeat Out-of-Service Clearing Time Commitments Met	Yes	Yes	Yes	Yes	Yes
	Other-Than Out-of-Service Clearing Time Commitments Met	Yes	Yes	Yes	Yes	Yes
	Initial Out-of-Service Repair Interval	Yes	Yes	Yes	Yes	Yes
	Repeat Out-of-Service Repair Interval	Yes	Yes	Yes	Yes	Yes
	Other-Than Out-of-Service Repair Interval	Yes	Yes	Yes	Yes	Yes
	Total Four-Hour Appointment Requests	Yes	No	No	No	Yes
	Four-Hour Appointment Commitments Met	Yes	No	No	No	Yes
Operator, DA, Repair and Business Offices	Toll Operator Answering Time	Yes	Yes	Yes	No	No
	Directory Assistance Operator Answering Time	Yes	Yes	Yes	No	No
	Trouble Report Service Answering Time	Yes	Yes	Yes	Yes	Yes
	Business Office Answering Time - Non-Billing-Related	Yes	Yes	Yes	Yes	Yes
	Business Office Answering Time - Billing Inquiries	Yes	Yes	Yes	Yes	Yes
	Percentage of abandoned calls	Yes	Yes	Yes	Yes	Yes
	Percentage of blocked calls	Yes	Yes	Yes	Yes	Yes

Attachment 2

Schedule	
Event	Date
Notices of Participation	Within 14 days after the issuance of rulemaking order.
Opening Comments	Sixty days after the issuance of rulemaking order.
Reply Comments	Thirty days after the filing of Opening Comments.
Motions for Evidentiary Hearings	Fifteen days after the filing of Reply Comments.
Replies to Motions	Ten days after the filing of Motions for Evidentiary Hearings.
Prehearing Conference	To be determined (TBD) by Presiding Officer.
Ruling re: Scope, Schedule and Need for Hearing	To be determined (TBD) by Presiding Officer.
Written Testimony & Evidentiary Hearings (if necessary)*	Opening Testimony: TBD, if necessary. Reply Testimony: TBD, if necessary. Evidentiary Hearings: TBD, if necessary.
Briefs re: Hearing Issues	Two weeks after close of hearings (if applicable).
Proposed Rules Circulated for Comment	Within 60 days after Reply Comments (or filing of briefs, if applicable).
Opening Comments on Proposed Rules	Thirty days after the issuance of proposed rules.
Reply Comments on Proposed Rules	Fifteen days after the filing of Opening Comments on Proposed Rules.
Draft Final Decision.	July 2003 *
Comments on Draft Final Decision.	Fall 2003 *
Final Decision.	Fall 2003 *

* Assuming no evidentiary hearings.