STATE OF CALIFORNIA GRAY DAVIS, *Governor*

PUBLIC UTILITIES COMMISSION
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298

March 12, 2003 **Agenda ID # 1866**

TO: PARTIES OF RECORD IN RULEMAKING 01-09-001
AND INVESTIGATION 01-09-002

This is the proposed decision of Administrative Law Judge (ALJ) Thomas previously designated as a principal hearing officer in this proceeding. An earlier, incorrect version of this decision was mailed to the parties on March 4, 2003; the attached decision takes the place of that decision. The attached decision will not appear on the Commission's agenda for at least 30 days after the date it is mailed. This matter was categorized as ratesetting and is subject to Pub. Util. Code § 1701.3(c). Pursuant to Resolution ALJ-180 a Ratesetting Deliberative Meeting to consider this matter may be held upon the request of any Commissioner. If that occurs, the Commission will prepare and mail an agenda for the Ratesetting Deliberative Meeting 10 days before hand, and will advise the parties of this fact, and of the related ex parte communications prohibition period.

The Commission may act at the regular meeting, or it may postpone action until later. If action is postponed, the Commission will announce whether and when there will be a further prohibition on communications.

When the Commission acts on the proposed decision, it may adopt all or part of it as written, amend or modify it, or set it aside and prepare its own decision. Only when the Commission acts does the decision become binding on the parties.

Parties to the proceeding may file comments on the proposed decision as provided in Article 19 of the Commission's "Rules of Practice and Procedure." These rules are accessible on the Commission's website at http://www.cpuc.ca.gov. Opening comments are due on April 2, 2003. Pursuant to Rule 77.3 opening comments shall not exceed 15 pages; however, in view of the length of the decision, the parties may make opening comments not to exceed 25 pages in length. Reply comments are due on April 9, 2003. Finally, comments must be served separately on the ALJ and the Assigned Commissioner, and for that purpose I suggest hand delivery, overnight mail, or other expeditious method of service.

/s/ ANGELA K. MINKIN
Angela K. Minkin, Chief
Administrative Law Judge

ANG:jyc

Attachment

Decision **PROPOSED DECISION OF ALJ THOMAS** **(Mailed 3/12/2003)**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Commission's Own Motion to Assess and Revise the New Regulatory Framework for Pacific Bell and Verizon California Incorporated.	Rulemaking 01-09-001 (Filed September 6, 2001
Order Instituting Investigation on the Commission's Own Motion to Assess and Revise the New Regulatory Framework for Pacific Bell and Verizon California Incorporated	Investigation 01-09-002 (Filed September 6, 2001)

(See Appendix A For List of Appearances)

INTERIM OPINION REGARDING PHASE 2B ISSUES SERVICE QUALITY OF PACIFIC BELL AND VERIZON CALIFORNIA, INC.

Table of Contents

I. Summary

In this decision we evaluate the service quality of Pacific Bell (Pacific)[1] and Verizon California, Inc. (Verizon) over the period January 1, 1990 through the present. We ordered such a review in Decision (D.) 89-10-031, which established the New Regulatory Framework (NRF) as a means of regulating both carriers. NRF is a form of incentive-based regulation that offers an alternative to rate-of-return regulation. The NRF framework, implemented in 1990,[2] relaxed rate regulation of certain large telephone companies in California with the goal of promoting lower costs, innovation and price stability.

The Commission acknowledged in setting up NRF that the incentive to cut costs might hurt customers and service quality if the carriers cut too deeply. Recognizing that the availability of high quality service was one of the central goals of NRF,[3] we set up a process for monitoring Pacific and Verizon's service quality to ensure that they were striking the appropriate balance between cost cutting and good customer service. The Commission stated that if the monitoring efforts revealed that ratepayers were being harmed through deteriorating service quality, the Commission would take immediate steps to rescind or alter NRF.[4]

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[1] Since hearings in this case, Pacific changed its name to SBC. Because we occasionally discuss Pacific's affiliates in this decision, we will retain the "Pacific" moniker as a means of referring to the regulated utility for purposes of this decision.

[2] D.89-10-031, 1989 Cal. PUC LEXIS 576, 33 CPUC 2d 43 (1989), 107 PUR 4th 1 (1989).

[3] D.89-10-031, 33 CPUC 2d at 92, 197.

[4] *Id.* at 153.

This decision reviews the results of several types of data, including Commission- and Federal Communications Commission (FCC)-mandated reports, informal and formal complaints, and customer surveys to determine how the performance of Pacific and Verizon has fared in the 12 years since we instituted NRF.

We find that over this 12-year period, Pacific had a number of key service quality problems. These problems are reflected in the following areas:

- Repair intervals, or the time it takes Pacific to complete repairs once a customer notifies the company of problems and number of trouble reports, especially reports of service outages (*see* Section entitled "Network Reliability, Trouble, and Repair – Pacific," below).
- Answer times (*see* Section entitled "Answer Times – Pacific," below).
- An increasing pace of formal complaints aimed at serious service quality problems and related issues (*see* Sections entitled "Complaint Data – Pacific, Formal Complaints," and "Marketing – Pacific," below).
- Negative trends in service quality in some of the Commission's informal complaint data (*see* Section entitled "Complaint Data – Pacific, Informal Complaints," below).
- A significant deterioration in the perceptions by residential and small business customers of Pacific's service quality (*see* Section entitled "Customer Satisfaction and Service Quality Surveys – Pacific," below).
- Failure by Pacific to file required service quality reports (*see* Section entitled "Other Customer Surveys – Pacific," below).

In addition, we are concerned that, in Pacific's increasing use of affiliates to offer services formerly provided by the regulated utility (*see* Section entitled

"Movement of Functions to Unregulated Affiliates – Pacific," below), Pacific has posed challenges to our regulatory authority that may be detrimental to our ability to protect service quality.

Verizon's service quality results are better than Pacific's, but still show some problems in need of correction. The problems are focused in the following areas:

- Residential and business installation intervals and business installation commitments met (*see* Section entitled "Installation – Verizon," below).
- Business trouble reports for repairs (*see* Section entitled "Repair – Verizon," below).
- Staffing levels (*see* Section entitled "Staffing – Verizon," below).

Compared to Pacific's results, however, Verizon shows positive customer perceptions as measured by a survey conducted by the Commission's Office of Ratepayer Advocates (ORA).

Overall, we find that, as presently constituted, NRF fails to ensure high quality service for residence and business customers of either Pacific or Verizon. NRF's impact on service quality was a key concern when we adopted the new framework in 1989, and we find we had reason for concern. We have dedicated the upcoming Phase 3B of this proceeding to, among other things, an examination of changes in NRF that may be required by our factual findings on the two carriers' service quality. In view of the findings we make here, we believe that the service quality aspects of NRF must be strengthened, and invite parties' input on ways to enhance NRF to ensure better service quality in the future. Any changes that we make to NRF should be coordinated with revisions to General Order 133-B that result from the rulemaking we recently opened to make such revisions, Rulemaking 02-12-004.

II. Scope of This Phase

The Order Instituting Rulemaking (OIR) for this proceeding calls for us to examine the service quality results for Pacific and Verizon in Phase 2B, and consider regulatory changes – including alteration of the NRF framework to account for any problems we find – in Phase 3[5]:

> In Phase 2 of this proceeding, the Commission will assess how service quality has fared under NRF. This assessment will focus on the quality of service provided to end users by Pacific and Verizon. Issues that are beyond the scope of this proceeding include the following: (1) the quality of service provided by Pacific and Verizon to other carriers; (2) requests for relief that are better addressed in complaint proceedings or enforcement OIIs; and (3) issues regarding universal service.
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> . . .
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> In Phase 3, the Commission will consider whether and how NRF should be revised to achieve the Commission's goal of high-quality service. Parties will have an opportunity in Phase 3 to recommend specific revisions to NRF that should be considered by the Commission in light of the record developed in Phase 2 regarding how service quality has fared under NRF. There will not be an opportunity in Phase 3 to litigate issues of fact

[5] In a September 2002 ruling, the Assigned Commissioner divided this proceeding into two sub-phases. *Assigned Commissioner's Ruling Revising the Schedule and Clarifying the Scope of Phase 3*, dated Sept. 23, 2002. Phase 3B will deal with any changes to NRF necessitated by the service quality findings we make here. Parties should interpret any reference to Phase 3 or 3B in this decision to include any new phase the Commission designates for consideration of remedies for the service quality results we find here.

> regarding service quality. All litigation of factual issues pertaining to service quality must occur in Phase 2.[6]
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> . . .
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> Parties may also offer recommendations in Phase 3 regarding how NRF should be revised to promote the availability of high quality services, such as a system of financial carrots and sticks tied to measurements of service quality.

Therefore, in this decision, we make factual findings regarding the service quality performance of Pacific and Verizon over the NRF period (January 1, 1990 to the present), but do not propose regulatory changes at this juncture. Because the NRF period is lengthy, we do not simply focus here on the carriers' most recent performance. Rather, we examine their performance over the entire NRF period, and where we find evidence of problems with the service quality of either company at any time during that period, we identify the problem. In some cases, the most recent data may indicate that quality is improving, and if that is the case we point it out. By the same token, if the positive trend is of short duration, and past problems endured over a significant period of time, we point this out as well.

We do not address or prescribe regulatory changes in this phase of the proceeding. In Phase 3B of this proceeding, parties' recommendations may include, among other things, improvements in the way, under NRF, the Commission monitors service quality, creates incentives for carriers to improve service, and imposes remedies to counteract poor performance.

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[6] Rulemaking (R.) 01-09-001, 2001 Cal. PUC LEXIS 842, Appendix A.

III. Comparison of Pacific's and Verizon's Results

The service quality aspect of this proceeding focused both on Verizon and Pacific, the two largest local exchange carriers (LECs) in California, with the following number of access lines as of 2001:

CALIFORNIA LEC YEAR-2001 NUMBER OF ACCESS LINES[7]

COMPANY	SWITCHED ACCESS LINES	NON-SWITCHED ACCESS LINES	TOTAL ACCESS LINES
PACIFIC BELL	17,548,599	7,858,177	25,406,776
VERIZON CALIFORNIA, INC.	4,721,336	1,621,152	6,342,488

It is helpful to examine the performance of these two companies together, because we are able to gain comparative data that we might not otherwise have had. As we discuss in detail below, while Verizon exhibits some service quality problems, Verizon's performance is better than Pacific's and creates a context for analyzing Pacific's results.

In this decision, we first discuss the measures of service quality we have at our disposal, and then make findings regarding each party's individual service quality results. It is important to divide up the discussion between Pacific and Verizon so the decision is clear on which results pertain to which carrier. While this division results in some duplication in the discussion, we believe it is the best way to determine the correct results for each carrier.

IV. Measures of Service Quality

There are several ways the Commission assesses Pacific and Verizon's service quality. Before discussing the carriers' performance on these measures, we lay out here the basic measures of service quality before us in this case.

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7 Source: Pacific and Verizon ARMIS 43-08 reports, Table III, for 2001, available at http://gullfoss2.fcc.gov/cgi-bin/websql/prod/ccb/armis1/forms/43-08/frame3.hts.

A. GO 133-B Reporting

1. Introduction

The Commission requires telephone utilities providing service in California to make regular reports pursuant to GO 133-B on performance in the areas of installation, network reliability, trouble reports, installation commitments, and answer times. Telephone utilities, including Pacific and Verizon, are required to submit to the Commission quarterly reports of monthly results on seven direct service performance criteria, as follows:

- two measures related to installation:
    - Installation – line energizing commitments met (standard requires that utility meet 95% of commitments).
    - Held primary orders over 30 days
- one measure related to network trouble reports:
    - network trouble reports per 100 access lines (with a standard requiring fewer than 6.0 reports per 100 lines).
- four measures of carriers' answer times:
    - Toll operator answer time (standard requires that each covered traffic office answer 85% of such calls within 10 seconds).
    - Directory Assistance operator answer time (standard requires that each covered traffic office answer 85% of such calls within 12 seconds).
    - Trouble Report Service Answer Time (TRSAT; standard requires that 80% of such calls be answered within 20 seconds).

- Business Office Answer Time (BOAT; standard requires that 80% of such calls be answered within 20 seconds).[8]

We discuss Pacific's and Verizon's performance on some of these measures below. However, there have been many valid criticisms throughout this proceeding of ambiguities and omissions in GO 133-B. We recently instituted a rulemaking to examine GO 133-B in its entirety as it applies to all carriers.[9] That rulemaking will consider what changes to existing GO 133-B measures and standards are appropriate. The Commission may use the record of this proceeding to assist it in making its decisions regarding how to revise GO 133-B. However, where it is clear that Pacific or Verizon are not properly interpreting the requirements of GO 133-B, this decision will identify such misinterpretations and order conforming changes.

2. Use of GO 133-B Data to Compare Carriers' Results

The evidence in this proceeding established that data collected under the Order are not comparable among carriers or from year to year. The carriers have made changes from time to time that affect the composition of the data underlying their reported service quality results. Virtually every witness asked agreed that it is difficult to use GO 133-B for performance comparisons across carriers. There are several reasons for this difficulty, as we discuss below.

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[8] GO 133-B describes "Business Office Answering Time" (BOAT) as "A measurement of time for the business office representative to answer business office calls." GO 133-B, Section 3.9.

[9] R.02-12-004, filed Dec. 5, 2002, available at http://www.cpuc.ca.gov/published/final_decision/21982.htm (Service Quality OIR).

3. Billing Calls

Prior to February 1999, Pacific included calls related to billing in reporting its BOAT statistics, but ceased doing so thereafter without informing the Commission of the change. As TURN correctly points out, "[t]his change has made it impossible to compare Pacific's BOAT performance (without adjustment) either to its own performance over time, . . . to Verizon's performance . . . or to other carriers' performance . . . ."[10]

At the very least, the Commission must be able to rely on GO 133-B data to compare a carrier's performance to itself over time. Currently, however, the carriers' practice does not make such a comparison feasible.

4. DSL-Related Calls

Pacific also once included DSL-related information in its GO 133-B data, but stopped doing so when it moved its DSL functions into a separate subsidiary. The result of this change, once again, means that when we try to compare Pacific's results over time, we end up comparing apples to oranges.

5. Definition of "Primary" Line

There is also disagreement about what GO 133-B means when it requires carriers to report held "primary" service orders. ORA contended the term "primary" means, essentially, that Pacific and Verizon must report data about all basic exchange service lines to a household, regardless of the number of lines at issue. Pacific contended that "primary" refers only to the first line in the house, and not additional lines. However, we also believe GO 133-B should be

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[10] TURN Opening / Service Quality at 25. We refer to the parties' briefs in this decision as follows: A party's opening brief is "__'s Opening / Service Quality"; a party's reply brief is "__'s Reply / Service Quality."

amended to be more clear. Because a change to GO 133-B would affect other carriers besides Pacific and Verizon, this change would appropriately occur outside this proceeding, and is best addressed in our Service Quality OIR.

6. Automated Response Units

Another general criticism of the GO 133-B reporting is that neither Pacific[11] nor Verizon report or track[12] the time a customer spends navigating the companies' Automated Response Units (ARUs) before reaching a live operator. This problem arises both in calculating the carriers' response times in their Business Offices (the BOAT reports) and in connection with their reported Trouble Report Service Answering Time (TRSAT) reporting.

The time a customer spends in "voice mail jail," as some refer to it, may well be as long or longer than the time the customer spends talking to a live operator or service representative. Indeed, since our answer time standards under GO 133-B require "operators," "service attendants" and "business office representatives" to answer calls within mere seconds, it is probable that callers spend more time navigating voice mail menus than during their prescribed seconds-long wait for a company representative.

The evidence substantiated this assumption, at least as to Pacific's residence customers. Pacific stated that the time its residence customers spend in its ARU system ranges from a low of 50 seconds to a high of 300 seconds – that is,

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[11] 23 RT 2973:11-17 (Resnick for Pacific). In this decision, RT refers to the hearing transcripts. Thus, 23 RT 2973:11-17 refers to Volume 23 of the transcript, at page 2973, lines 11-17.

[12] 23 RT 2974:17-23 (Resnick for Pacific; not aware that Pacific can measure how long customers wait in the ARU queue).

from a range of almost 1 minute to 5 minutes.[13] After that, Pacific places customers in a waiting queue for another 35 seconds on average before reaching a live operator.[14]

GO 133-B's failure to address the use of ARUs reflects changes in technology since the Commission adopted the standard, and this technology gap should be closed.[15]

7. Held Order Count

GO 133-B requires that carriers report orders that are held – that is, remain pending – for more than 30 days beyond the commitment date ("held orders").[16] Pacific counts such orders once a month, according to its testimony. This creates a result that is inconsistent with GO 133-B's intent that any order older than 30 days be reported to the Commission.

When Pacific's witness Mr. Resnick explained Pacific's practice, it became clear that Pacific does not capture all relevant orders because it counts such orders only once a month. For example, under certain circumstances, Pacific's practice does not count an order that is 48 days overdue as a held order:

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[13] Exh. 2B:139 at 8 n.12 (Piiru Opening Testimony, citing Pacific response to TD data request 02-01-01-1-I (iii). Verizon responded in discovery that it does not track this information "on a regular basis." *Id.* at 7, n.11.

[14] *Id.* at 7 & n.12.

[15] Although Pacific asserts it has used ARUs since 1990, it provided no evidence that the Commission was aware of its practice or considered the use of ARUs at the time BOAT and TRSAT measures were adopted in 1992.

[16] GO 133-B, Section 3.1 – Held Primary Service Orders.

> Q. Resnick, let's say a customer ordered primary residential service and the commitment date is set for December 29th. We are going to do this as a hypothetical. Due to problems establishing facilities at the customer's residence the line is not installed until February 14th, resulting in a 48-day installation interval from the initial commitment date. Do you have those hypothetical facts in mind, sir?
>
> A. Yes.
>
> Q. In your opinion does this installation meet the GO 133(b) definition of a held order?
>
> A. No.
>
> Q. Why not, sir?
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> A. . . . [T]he way we measure our GO 133 per the guidelines that are set forth by the Commission, we measure held orders that are held for facilities over 30 days on the 25th of the month. So in this case we would look at January 25th as reporting date for GO 133. We would look back on any orders that were held for more than 30 days past the commitment date. In this case it was not. And so then it would not qualify. The following month, the subsequent month, February 25th, we would look back and this order would have been completed, so therefore it would not count.[17]

This method of counting is inconsistent with the requirement of GO 133-B that "An order will count as held when service is not provided within 30 days after commitment date." (Section 3.1(a).) Pacific's method results in it not reporting some orders held up to two months, making its reported performance appear better than its actual performance.

[17] 22 RT 2793:24-2794:22 (Resnick).

Within 30 days of the effective date of this decision, Pacific shall file a compliance document in this docket indicating that it has conformed its practice to the plain meaning of GO 133-B.[18] Pacific shall, at the very least, change its practice of counting held orders so that it counts such orders as often during the month as is necessary to ensure that all orders for which Pacific does not provide service within 30 days after the commitment date show up in Pacific's held order reporting. It is not acceptable for Pacific to continue its current method of making the count, as that practice causes Pacific to under-report its results.

8. Busy or Abandoned Calls

Finally, GO 133-B does not track busy or abandoned calls. We agree with TURN that a large percentage of either can indicate poor customer service. While some FCC requirements cover these calls, they only do so as part of the time-limited merger monitoring reports we discuss later in this decision. We should address this deficiency in the Service Quality OIR.

B. FCC Automated Reporting Management Information System (ARMIS) Data

The FCC also requires the carriers to make reports on several aspects of service quality, and the results for relevant years appear in the record of this proceeding.[19] These ARMIS data, as they are called,[20] stem from FCC Common Carrier Docket No. 87-313, which implemented service quality reporting requirements for local exchange carriers such as Pacific and Verizon. In 1991, the

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[18] Parties who believe Pacific has violated GO 133-B may file a complaint based on such a claim and seek relief for any alleged violation.

[19] Exhs. 2B:707 (Verizon) and 2B:704 & 2B:706 (Pacific).

[20] The term stands for Automated Reporting Management Information System.

FCC added specific reports to collect service quality and network infrastructure information.

The ARMIS 43-05 report contains 39 service quality performance measures which track, among other things, whether Pacific or Verizon meet their installation commitments for residential and business customers, trouble reports and repair intervals (*e.g.*, both initial and repeat trouble reports, and the time required to dispatch and complete repairs in response to trouble reports), and switch downtime incidents. While there are no performance standards associated with these reports, they track very important service quality measures.

The ARMIS 43-06 report tracks customer perceptions of Pacific's and Verizon's service quality.[21] We discuss customer opinion surveys in more detail below.

C. FCC Merger Compliance Oversight Team Data ("MCOT" Data)

Both Pacific and Verizon have undergone changes as a result of large mergers they have entered into with other carriers. As a consequence of these mergers, the FCC has required specific reporting for time-limited periods so that it may monitor service quality impacts that may result from the mergers. (Throughout this proceeding, the parties have referred to these reports generically as "MCOT" requirements, and we use that nomenclature here.)[22]

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[21] We discuss customer surveys in the Section entitled "Customer Service Surveys," below.

[22] The FCC's Merger Compliance Oversight Team maintains a website reflecting the reported results of Pacific (http://www.fcc.gov/wcb/mcot/SBC_AIT/) and Verizon (http://www.fcc.gov/wcb/mcot/BA_GTE/). *See also* Exhibit (Exh.) 2B:507 at 22-23 (Schilberg

Footnote continued on next page

1. MCOT Data – Pacific

As a condition of SBC's merger with Ameritech, the FCC required additional quarterly, state-by-state service quality reporting for the period from June 1999 to November 2002.[23] Categories of reporting for retail services include installation and maintenance, switch outages, transmission facility outages, service quality-related complaints, and answer time performance. The FCC based the reporting categories on the NARUC[24] Service Quality White Paper, authored in 1998.[25]

In late 2000, the FCC notified SBC that, "[t]he quarterly service quality reports filed by SBC Communications, Inc. ('SBC') pursuant to the SBC/Ameritech Merger Order indicate that the quality of service provided by SBC's incumbent local exchange carriers ('LECs') has been deteriorating in several states since approval of the merger in October 1999." The FCC representative went on to state that, "I am concerned that SBC's performance data indicates that consumers in SBC's region are experiencing increasing installation delays, longer repair times, and greater difficulties contacting SBC's incumbent LECs about service quality and other issues. I note also that consumer complaints regarding service quality have increased in recent months

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Direct Testimony describing MCOT reporting). Exhibit 2B:507 refers to Exhibit 507 from Phase 2B of this proceeding.

[23] FCC 99-279, October 6, 1999, Appendix C, Condition XXIV, ¶ 62, available at http://www.fcc.gov/wcb/mcot/SBC_AIT/compliance_program/.

[24] National Association of Regulatory Utility Commissioners.

[25] The NARUC Service Quality White Paper is available at http://www.fcc.gov/Bureaus/Common_Carrier/Public_Notices/1999/da992441.txt.

in spite of SBC's explicit commitment when the merger was pending to devote greater resources to service quality after the merger closed."[26]

In its MCOT reporting for the period July 1999 to June 2001, Pacific shows negative spikes in California in the following areas: 1) answer time performance (business customers),[27] 2) trouble report rate per 100 lines (especially business customers),[28] 3) percentage of installation orders completed within 5 working days (especially residential customers),[29] and 4) percentage of installation orders delayed over 30 days (business customers).[30]

Recognizing the value of the MCOT reporting, during the hearings, Administrative Law Judge (ALJ) Sarah R. Thomas granted TURN's motion seeking an order requiring Pacific to continue to report certain data to this Commission for measures required under the FCC's MCOT requirements that expired in November 2002. (Verizon agreed with TURN voluntarily to continue the reporting until after a final decision in this proceeding.)

Judge Thomas ruled that Pacific should continue to report such information.[31] She found that Pacific already has a mechanism in place to

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[26] Letter from Dorothy Atwood, Chief, FCC Common Carrier Bureau, to Mr. James W. Calloway, Group President – SBC Services, dated October 6, 2000, available at http://www.fcc.gov/wcb/mcot/SBC_AIT/service_quality/. We may take official notice of this letter pursuant to Commission Rule 73.

[27] http://www.fcc.gov/wcb/mcot/SBC_AIT/service_quality/OP1.pdf.

[28] http://www.fcc.gov/wcb/mcot/SBC_AIT/service_quality/RE3.pdf.

[29] http://www.fcc.gov/wcb/mcot/SBC_AIT/service_quality/IN1.pdf.

[30] http://www.fcc.gov/wcb/mcot/SBC_AIT/service_quality/IN2.pdf.

[31] 20 RT 2529-31 (ALJ Thomas' ruling).

capture this data easily, that it has no plans to transfer or dismiss the employees who currently prepare the report, and that it would be wasteful to lose the important data the report captures at a time when the Commission is closely examining Pacific's service quality. We hereby ratify that ruling of the judge pursuant to Pub. Util. Code § 310. We require Pacific to continue reporting these results until further notice of the Commission.

2. MCOT Data – Verizon

The FCC also imposed a 36-month reporting requirement as a condition of the 2000 GTE merger with Bell Atlantic that created Verizon.[32] As TURN pointed out in a motion filed during Phase 2B, the FCC requirement provides the Commission with information not otherwise available in GO 133-B. For example, while GO 133-B measures the handling of business office calls, it does not track billing calls even though such calls account for half of the calls to the business office.

According to the FCC data,[33] Verizon showed negative spikes or trends in California on several service quality measures at the following times during the period July 2000-June 2001, as compared to the rest of that period: 1) percentage of dissatisfied customers (with business customers reporting 50% dissatisfaction in November 2000 and residential customers reporting 20% dissatisfaction in March 2001),[34] 2) answer times (with business answer times in the 50-60 second range in September 2000 and in the 40-50 second range in January 2001 – as

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32 FCC 00-221, Condition 51.

33 We take official notice of this data pursuant to Rule 73.

34 http://www.fcc.gov/wcb/mcot/BA_GTE/service_quality/GTE_States/CU2.pdf.

compared to a GO 133-B standard of 20 seconds); and residential times exceeding 20 seconds in November 2000 [30 seconds] and January 2001 [40 seconds],[35] 3) repair intervals for both residential and business customers spiking in the period January-March 2001,[36] 4) repeat trouble reports spiking for both types of customers in March 2001,[37] and 5) trouble reports per hundred lines spiking in the same January-March 2001 time period for residential customers.[38]

While Verizon voluntarily agreed to continue reporting this MCOT data, we will expand on that agreement to make it parallel with Pacific's, and require Verizon to continue to make its MCOT reports to this Commission until further notice.

D. Complaint Data

Customer complaints can also provide a useful indication of carrier service quality performance. There are at least three sources of complaint data in the record of this proceeding: informal complaints filed with the Commission's Consumer Protection and Safety Division, Consumer Affairs Branch (CAB); formal Commission complaints and investigations; and the carriers' own complaint records.

Verizon's own complaint data appear to be more comprehensive than Pacific's. Pacific keeps track of some complaints that come to its Informal Appeals organization but acknowledged that these complaints are but a small

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35 http://www.fcc.gov/wcb/mcot/BA_GTE/service_quality/GTE_States/OP1.pdf.

36 http://www.fcc.gov/wcb/mcot/BA_GTE/service_quality/GTE_States/RE1.pdf.

37 http://www.fcc.gov/wcb/mcot/BA_GTE/service_quality/GTE_States/RE2.pdf.

38 http://www.fcc.gov/wcb/mcot/BA_GTE/service_quality/GTE_States/RE3.pdf.

fraction of the total complaints it receives. It tends to keep records at the business office level only when the complaint relates to slamming by other carriers and cramming.[39] Verizon appears to track all complaints, although a minimal amount of its own data appears in the record of this proceeding.

Both carriers have claimed that we should not take into account formal complaints and investigations, since the Commission will address – or has addressed – the conduct alleged in those proceedings separately. We disagree. The OIR determined that this proceeding would "assess how service quality has fared under NRF." While we do not intend to penalize the carriers twice for the same conduct, this is the first time we have taken a comprehensive look at Pacific and Verizon's service quality since we instituted the NRF regime.

The OIR states that, "requests for relief that are better addressed in complaint proceedings or enforcement OIIs" are beyond the scope of this proceeding, and we do not consider such requests for relief here. However, the scope of this proceeding does not limit the Commission from reviewing the frequency and nature of prior Commission actions addressing carriers' performance and service quality failures during the NRF period as one of many measures used to assess how service quality has fared under NRF.

The records of the other formal Commission proceedings may, examined together, give clues to patterns of behavior that corroborate other service quality results. And the whole may be greater than the sum of its parts if we consider our formal proceedings together rather than individually. The increasing need for Commission intervention to address service quality failures after carriers

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[39] 23 RT 2939:3 – 2940:11 (Flynn).

began operating under NRF may indicate how effective or ineffective NRF is in promoting high quality service.

Any formal proceeding that we have conducted since 1989, when we first stated we would be examining service quality as part of our NRF monitoring process,[40] is germane to our assessment. Of course, very old cases within that time frame may prove only that at one time Pacific or Verizon had a problem. However, because this assessment covers the entire NRF period, such a case is within the scope of this proceeding.

E. Customer Service Surveys

For this proceeding, ORA conducted a survey of customer perceptions of the service quality of both Pacific and Verizon. We discuss the results below. In addition, the carriers furnished limited information regarding the surveys they conduct themselves, and we also make reference to those surveys in discussing each company's performance. As noted above, the carriers also track customer satisfaction for the FCC as part of their ARMIS 43-06 reporting.

V. Preliminary Remarks About Service Quality Data

A. Comparisons Among Carriers

While all parties concede some difficulty in using existing CPUC and FCC reports to compare carriers, all parties engage in such comparisons. ORA and TURN tend to focus on Pacific more than on Verizon.

ORA argues, for example, that Pacific's FCC service quality reporting of held orders shows that Pacific was the second worst performer when compared with the other twelve SBC companies in other states. Pacific urges us to pay

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[40] *See* D.89-10-031, 33 CPUC 2d 43.

greater attention to the carrier comparison offered by its own expert, Dr. Hauser, made by conducting a regression analysis of six FCC service quality measures for installation and repair. Pacific states that four of the six regressions show that its performance was statistically the same as or better than the average of the other SBC states.

By the same token, all parties criticize the comparisons made by one or more of the other parties. For example, Pacific claims Dr. Hauser's comparison is better than ORA's because he focused on several measures rather than on just one FCC measure, as Pacific contends ORA did. Likewise, ORA and TURN criticize Dr. Hauser's comparisons of Pacific to the average result of the top ten LECs because even Pacific has criticized similar comparisons in the context of a complaint case challenging Pacific's out-of-service intervals.[41] Pacific concedes its comparisons across companies "may not be perfect," while it criticizes others' comparisons as flawed.[42]

Although we acknowledge that any comparison may be subject to criticism due to variances in the data each carrier maintains and the methods used in making the comparisons, we will examine parties' carrier vs. carrier comparisons in this proceeding given that each party agrees that, to some extent, such comparisons are valid.

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41 The Commission decided the complaint case in D.01-12-021, 2001 Cal. PUC LEXIS 1075. *See* Pacific Reply / Service Quality at 20.

42 Pacific Reply / Service Quality at 21.

B. Comparisons of One Company's Performance Over Time

By relying on Dr. Hauser's regression analysis, Pacific conceded that comparing one company's results with its own results over time is an appropriate step.[43] However, when ORA attempted to do the very same type of comparison in its customer survey, Pacific was highly critical of the analysis. While we discuss ORA's survey below, we note at the outset that the survey is largely valid and most useful because it compares Pacific's own results to itself over time. Pacific's concession about the usefulness of such comparisons in one context undermines its criticism of similar comparisons in the context of the ORA survey.

Parties are also sometimes selective about the time frames during which they argue service quality is good/improving or bad/deteriorating. For example, Pacific chooses the period since 1998 to assert that it "has shown significant improvement in reducing [residential repeat out-of-service intervals, initial out-of-service intervals, and business installation] intervals,"[44] while ORA chooses the period between 1999 and 2001 to assert that "Pacific is performing poorly relative to other SBC states for held orders. . . ."[45]

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[43] *See id.* ("Dr. Hauser did not just compare raw results for different companies. He compared changes in Pacific's results over time with changes in the average results for the top ten LECs. Such a comparison accounts for differences in the methodologies of different LECs.")

[44] Exh. 2B:354 at 23 (Hauser Direct Testimony).

[45] Exh. 2B:132 at 2 (Young Opening Testimony).

C. Aggregation of Data

One final threshold point: TURN criticizes Pacific for aggregating data as part of Dr. Hauser's regression analysis. We agree with TURN that combining several measures to come up with an aggregate score can mask serious problems, which may be concealed or diluted when measures are combined. Indeed, we warned against the dangers of such aggregation in D.01-12-021, where we found that "aggregating data in the manner Pacific proposes has the effect of masking poor service quality in one area."[46] We also agree with TURN that "single measures . . . can and do indicate significant areas of service quality decline" and that we can "find significant decline in service quality if an important measure declines relative to past performance."[47]

Predictably, ORA and TURN focus on errors where Pacific's or Verizon's performance is substandard, while Pacific and Verizon emphasize areas in which performance is good or shows improvement. We recognize that the carriers show good results in a number of areas, and should be commended for these results.

By the same token, it is not adequate to show good performance only in some instances. When service quality appears to have improved under NRF, we will acknowledge that improvement. However, if there are instances of poor service quality, we do not believe any party would disagree that we should require improvement in these areas. It is on these areas that we focus in this decision, obviously, because we are interested in encouraging the best possible

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[46] D.01-12-021, *mimeo.*, at 22-23 & finding of fact 16 at 44, 2001 Cal. PUC LEXIS 1075.

[47] TURN Opening/Service Quality at 22, citing D.01-12-021, *mimeo.*, at 11, findings of fact 20-21 at 44-45, & conclusion of law 6 at 45, 2001 Cal. PUC LEXIS 1075.

service for California ratepayers served by Pacific and Verizon. This focus should not be interpreted as disregard for the positive results Pacific and Verizon demonstrate. However, those results do not cancel out the negative results or mean that customers suffering in the areas where performance is poor experience positive service quality.

VI. Pacific's Service Quality Performance

A. Introduction

We now turn to an analysis of Pacific's service quality performance. (We discuss Verizon's performance in a similar section below.) In summary, Pacific shows problems with its service quality and related matters in the following areas:

- Repair intervals, or the time it takes Pacific to complete repairs once a customer notifies the company of problems and number of trouble reports, especially reports of service outages (*see* Section entitled "Network Reliability, Trouble, and Repair – Pacific," below).
- Answer times (*see* Section entitled "Answer Times – Pacific," below).
- An increasing pace of formal complaints aimed at serious service quality problems and related issues (*see* Sections entitled "Complaint Data – Pacific, Formal Complaints," and "Marketing – Pacific," below).
- Negative trends in service quality in some of the Commission's informal complaint data (*see* Section entitled "Complaint Data – Pacific, Informal Complaints," below).
- A significant deterioration in the perceptions by residential and small business customers of Pacific's service quality (*see* Section entitled "Customer Satisfaction and Service Quality Surveys – Pacific," below).

- Failure by Pacific to file required service quality reports (*see* Section entitled "Other Customer Surveys – Pacific," below).

In addition, we are concerned that, in Pacific's increasing use of affiliates to offer services formerly provided by the regulated utility (*see* Section entitled "Movement of Functions to Unregulated Affiliates – Pacific," below), Pacific has posed challenges to our regulatory authority that may be detrimental to our ability to protect service quality.

B. NRF Incentives and Service Quality – Pacific

1. Introduction – Pacific

The parties dispute the impact of NRF incentives on service quality. TURN claims that NRF creates incentives to save money at the expense of service quality. It contends that NRF's emphasis on cost cutting and revenue enhancement has led to deterioration of service quality. It also believes the introduction of new technology affects service quality and may result in discrimination among technology "haves" and "have nots." It alleges that NRF creates incentives for the regulated utility to move functions outside the utility to an unregulated environment, which can leave regulated customers without adequate service. It disputes Pacific's claim that its other rates subsidize basic service, which Pacific claims minimizes its ability to cut costs for – and therefore undermine the quality of – basic telephone service. It does not believe that competition provides an incentive for good service quality. Finally, it believes that positive change will only result from active regulation in connection with NRF.

TURN points to evidence demonstrating that NRF incentives to cut costs and increase revenues have indeed lowered service quality. TURN bases its allegations about repairs, installation and answer times on the reporting we discuss elsewhere in this decision. It claims as to Pacific that the data show adverse impacts causing slow repairs, slow installation, slow telephone answer times, erroneous late payment charges, errors resulting from outsourcing company functions, charging for services that were formally free, and marketing abuses.

TURN relies on other formal Commission proceedings for its claims about late payment charges, outsourcing, service charges, marketing abuses, and deteriorating service quality.

Similarly, ORA alleges that under NRF Pacific has "reduced [its] quality of service, grossly inflated staffing claims, . . . moved portions of the labor force out of California . . . , and had sustained facilities shortages. . . ."[48]

Pacific responds that these claims indicate fundamental disagreement with incentive-based regulation and that the criticisms do not belong here. Pacific states that in fact NRF gives it "strong incentives to provide high-quality service, to retain as many customers as possible, and thereby reduce the opportunity for competitors to 'cream-skim' the most profitable, lower cost, and high-usage customers."[49] It claims that the Commission adequately regulates service quality under NRF through its GO 133-B requirements and other monitoring reports, and that "[t]he Commission has not taken any steps to rescind NRF because . . . Pacific has consistently met or exceeded the Commission's benchmarks under GO 133-B."[50]

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[48] ORA Opening/Service Quality at 3.

[49] Pacific Opening/Service Quality at 8.

[50] *Id.*

Were we at the beginning of NRF process, Pacific's complaint might have more merit. However, we now have many years of experience behind us, and the systemic concerns the parties raise are relevant to whether the system we devised works as we intended or requires revision. A key purpose of this proceeding is to assess how service quality has fared under NRF. Contrary to Pacific's assertion, rather than expressing a fundamental disagreement with incentive-based regulation, concerns raised by parties may instead merely point to areas of incentive regulation requiring special attention from the Commission. Because this is the first chance the Commission has had since the institution of NRF to examine each of our formal proceedings together, TURN appropriately relies on these Commission proceedings as evidence supporting its claims.

In raising a concern that an emphasis on cost cutting can diminish service quality, TURN restates the Commission's own concern when it first instituted NRF.[51] Indeed, it was precisely because of the Commission's concern that the carriers would save money by skimping on service quality that we initially established service quality monitoring requirements, and now undertake an examination of NRF's effects on customers through this proceeding.

The specific service quality data adduced in this proceeding and addressed elsewhere in this decision illustrates that TURN's and ORA's concerns are not speculative, and that Pacific's claims to be in compliance with all of the Commission's requirements are not entirely accurate. Indeed, we find that Pacific's results show poor performance in at least some service quality areas. While it is difficult to tell whether Pacific's service quality would have fared

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[51] *See* D.89-10-031, 33 CPUC 2d at 92, 197.

better under a traditional regulatory scheme than under NRF, the company's performance in certain areas demonstrates that service quality problems can and do exist, and in some cases are increasing, under the current regulatory regime.

2. Movement of Functions to Unregulated Affiliates – Pacific

The parties also dispute the effect of Pacific's admitted practice of moving functions outside the utility to affiliates on service quality. TURN claims that the tendency to move functions outside the utility can adversely impact service quality, while Pacific asserts that the practice saves money, is more efficient, and has no harmful impact on service quality. Pacific claims that TURN is merely "suggest[ing] a fishing expedition where the Commission would require additional data and analysis without any regard for the costs that Pacific would bear to undertake this additional reporting.[52]

As discussed in connection with the Pacific audit,[53] many of the functions previously carried out in the regulated entity have been consolidated in unregulated affiliates such as SBC Operations. While Pacific's witness assures us that the Commission can still regulate Pacific's services even after it transfers functions to unregulated affiliates,[54] we take official notice pursuant to Rule 73 of the Commission's Rules of Pacific's contrary position in another proceeding.

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52 Pacific Reply / Service Quality at 8.

53 We address this audit in a separate decision in this proceeding.

54 Exh. 3B:351 at 7:13 (Harris Reply Testimony) ("the transfer of Pacific functions to shared service affiliates does not change in any way Pacific's regulatory obligations or its obligations to customers. It also does not change the Commission's authority with regard to these obligations. Thus, Pacific has no incentive to attempt to 'game' the regulatory system through shared service affiliates.")

There, Pacific contended that the Commission could not compel discovery from an out-of-state affiliate.

In connection with the Commission's examination of Pacific's pricing of unbundled network elements (UNEs) available to competitive local exchange carriers, Pacific refused to produce information supporting the UNE costs it sought to recover in other states for SBC-affiliated companies, contending such information was beyond the regulatory reach of the Commission. The Assigned Commissioner was forced to sanction Pacific for such conduct.[55] The full Commission affirmed the sanction in D.02-05-042. Pacific's stance there that the Commission lacked regulatory authority to order an affiliate to produce cost information gives us little comfort that Pacific will be forthcoming in the future as to data housed within affiliates.

Nor is it clear that we can count on Pacific to maintain adequate records related to the service quality of its affiliates. In the context of our investigation of complaints about Pacific's DSL service earlier this year, we found that Pacific had failed to maintain adequate records of complaints filed against its ASI affiliate, which provides DSL service to customers. In the OII initiating the proceeding we noted the following:

> Pacific Bell's quarterly reports for the year 2001 report no complaints against SBC-ASI in any month. Considering the number of unauthorized billing complaints received by CAB against SBC-ASI

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[55] *Assigned Commissioner's Ruling Imposing a Sanction Against Pacific Bell Telephone Company For Failure to Comply With Discovery Rulings,* A.01-02-024 *et al.,* dated Feb. 21, 2002 ("Pacific asserts it does not have 'control' over these SBC-Ameritech documents because SBC-Ameritech and Pacific are legally separate entities. Thus, Pacific argues it does not have to produce them.").

> in 2001, the amount of dollars Pacific Bell adjusted to SBC-ASI customers' bills during that period, and staff's allegation that written cramming complaints against SBC-ASI were forwarded by CAB to Pacific Bell, we find it appropriate to consider whether Pacific Bell failed to maintain accurate and up-to-date records of consumer complaints and failed to report these complaints against its affiliates in its quarterly reports submitted to CSD.[56]

In adopting a settlement of the investigation and an accompanying complaint case, we found that in fact Pacific had failed properly to maintain or report DSL-related complaints in violation of D.00-03-020, as modified by D.00-11-015.[57] Importantly, moving services and functions to affiliates not only makes more difficult the Commission's job of ensuring good service quality, it also undermines the consistency and validity of Pacific's service quality information reported under GO 133-B and elsewhere. Pacific and its affiliates acknowledged in the settlement adopted by D.02-10-073 that customers experienced "unresponsive service, such as long waiting queues . . . ."[58] However, because DSL service was moved to an affiliate, Pacific does not include DSL-related data in its service quality measures reported to the Commission.[59]

Therefore, we agree with TURN's concern that transfer of functions formerly provided by the regulated utility to unregulated affiliates may be detrimental to service quality and our ability to detect that deterioration. We do not intend to allow this to happen.

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56 I.02-01-024, 2002 Cal. PUC LEXIS 47, at *14-15.

57 D.02-10-073, *mimeo.*, at 12, and conclusions of law 4 and 5.

58 *Id.*, Settlement Agreement, at 3.

59 23 RT 2873:3-19 (Flynn)

However, it is best that we consider measures to ensure that the Commission does not lose regulatory authority over ratepayer-affecting functions – regardless of what entity carries them out – in Phase 3B. The scoping memo for this proceeding designates Phase 3B as the time to focus on modifying or strengthening the NRF mechanism to ensure that ratepayers are protected.

It may well be that we should impose specific reporting requirements on Pacific and its affiliates, or require Pacific to obtain our approval before transferring any functions to an unregulated affiliate. Indeed, Pub. Util. Code § 851 *et seq.* already gives us such power, at least under some circumstances. We will examine the implications of Pacific's transfer of formerly regulated functions into centralized operations or other unregulated affiliates in Phase 3 of this proceeding. Parties should make specific proposals in briefing and testimony they submit at that time.[60]

3. Incentives to Cut Costs – Basic Service – Pacific

The parties also disagree about whether Pacific has incentives to cut costs and degrade service quality under NRF in the area of basic service. TURN claims that Pacific has incentives to cut costs and degrade service quality even for basic service. Pacific claims that basic service prices are already subsidized (priced below cost) and that it cannot enhance revenue by cutting costs on that service.

Pacific's claim is counterintuitive. As TURN points out, "Pacific is always better off if it can reduce costs. Either its profits will increase or its losses will

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[60] In addition, in at least two pending proceedings, A.99-07-020 and A.02-07-039, the Commission will address requests by Pacific to transfer certain functions and assets to affiliates.

shrink."[61] Thus, we reject Pacific's claim that it has no incentives to cut costs so deeply as to impair service quality simply based on the premise that basic telephone service is subsidized. (Whether Pacific's underlying claim of subsidy has merit is beyond the scope of this proceeding.)

4. Effect of Competition on Service Quality – Pacific

The parties also disagree about the effects of competition on service quality. TURN notes that even assuming, *arguendo*, that competition is present in some of Pacific's markets – for example, in the California DSL market – there is no guarantee that service quality will be good. "The extant competitive pressures were not sufficient to force Pacific and its affiliate Advanced Services, Inc. ('ASI') to provide high quality Digital Subscriber Line ('DSL') service to the thousands of Californians who experienced the billing problems that led to the settlement agreement in C.02-01-007."[62]

Pacific claims that, "as competition increases, this incentive [to maintain service quality which does not adversely affect the demand for Pacific's competitive products] becomes 'even more important.'"[63] As for the ASI case, Pacific claims that "[t]he billing problems associated with ASI are related directly to the difficulties associated with meeting new regulatory requirements, not competitive pressures in the marketplace."[64] We discuss the ASI case in the Section entitled "Formal Complaints – Pacific," below, and agree that the

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61 TURN Opening/Service Quality at 9.

62 *Id.* at 10, citing Exh. 2B:506 at 10-11 & Exh. TLM-R3 (Murray Reply Testimony).

63 Pacific Reply/Service Quality at 8 (citation omitted).

64 *Id.* at 10.

problem with Pacific's DSL service was severe in spite of the presence of competition.

Moreover, there remains a factual dispute over whether there is adequate competition in the local service market to put upward pressure on service quality. In our recent decision allowing Pacific into the long distance market, we found that competition in this market is less than robust: "Local telephone competition in California exists in the technical and quantitative data; but it has yet to find its way into the residences of the majority of California's ratepayers."[65]

Nor is it established that competition safeguards service quality. As we observed in our recent Service Quality OIR:

> It has now been over four years since we issued R.98-06-029[66] 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.[67]

Thus, we agree with TURN that competition under NRF does not alone ensure high quality service, and that we must continue to be vigilant in

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[65] D.02-09-050, *mimeo.*, at 263, available at http://www.cpuc.ca.gov/WORD_PDF/FINAL_DECISION/19433.doc.

[66] In R.98-06-029, initiated just two years after competition was authorized in the local exchange market, 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. R.98-06-029, *mimeo.*, at 9,

[67] R.02-12-004, *mimeo.*, at 9.

monitoring NRF LECs' performance if we are to preserve and enhance service quality. We will attempt to fashion regulatory changes related to these findings in Phase 3, but urge the parties to be specific at that time about what precisely they seek. As the record stands, we have several claims before us, many of which have merit, but little in the way of detailed recommendations for how to ensure incentive based regulation like NRF maintains and enhances service quality. We expect the parties to present such recommendations in Phase 3B of this proceeding.[68]

C. Service Quality Performance – Direct Measures – Pacific

We now examine Pacific's service quality data. First, we discuss general criticisms of the way in which Pacific maintains its data. Then we discuss the results of its performance on the measures we list above. We conclude that Pacific shows service quality problems in the area of repair intervals, trouble reports, business office answer time and trouble report service answer time. We are also concerned that the pace of serious formal complaints involving and

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[68] TURN further claims that competition does not provide an incentive for good service quality under NRF. It contends that Pacific's own witness on this point, Dr. Harris, has made contrary claims in the past, stating that "[p]erhaps the greatest misconception about the effects of competition on quality is that competition improves service quality: IT DOES NOT." TURN Opening/Service Quality at 10, citing Dr. Robert G. Harris, "*Principles of Service Quality Regulation in Retail Telecommunications Services,*" commissioned by Pacific Bell, August 24, 1998, at 10, Attachment 3 to Opening Comments of Pacific Bell in R.98-06-029 (GO 133-B), August 25, 1998 (emphasis in original), *cited in* Exh. 2B:506 (Murray Reply Testimony) at 9-10. Pacific claims TURN took this quote out of context and that Dr. Harris simply was making the point that price, and not just quality, drive customer choice in a competitive marketplace. We conclude that Dr. Harris' quote contradicts his testimony about the effects of competition on service quality in this proceeding, bolstering our decision in this area.

decided against Pacific has increased under NRF, and that the Commission's informal complaint data about Pacific shows several negative trends.

1. Accuracy of Pacific's Data

a. General Issues

A key issue in the proceeding concerned the accuracy of the service quality data that Pacific reports to the FCC as part of its ARMIS reporting obligations. ORA claims that even where Pacific reports positive ARMIS results, the results are unreliable because of errors in the underlying data. Initially, ORA claimed Pacific provided ORA inaccurate installation data for the period 1998-2001. It later changed that assertion to limit the period of claimed inaccuracy to 1998-99, and we limit consideration of the accuracy of Pacific's data to this time period.[69]

ORA relied principally on the work of Linette Young in this area. Ms. Young downloaded Pacific's raw data into a database format, and then compared it to Pacific's summary data as reported in ARMIS. Where there were inconsistencies across these two sets of data, ORA assumed the ARMIS reports were inaccurate. Ms. Young made many corrections to her data over time as Pacific pointed out problems.

Ultimately, it became apparent that the data mismatches Ms. Young found were due not to Pacific's misrepresentations, but rather to differences between the raw data Ms. Young examined and the data Pacific uses to report to regulators. For example, Pacific modifies its raw data to remove certain types of

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[69] *Errata to Opening Brief of the Office of Ratepayer Advocates in Service Quality in Phase 2B*, filed Sept. 10, 2002, at 1; *Second Errata to Opening Brief of the Office of Ratepayer Advocates on Service Quality in Phase 2B*, filed Sept. 11, 2002, at 1.

telephone services that the ARMIS regulatory requirements do not include. We find, therefore, that ORA did not establish that Pacific misreports its installation service results. Therefore, we deny ORA's recommendation that we conduct an audit of Pacific's historic installation data to determine the extent of data error and its subsequent impact on reported service quality results during the NRF period. We do not agree that such an audit is appropriate, since we conclude that ORA did not show that Pacific's installation data are inaccurate.[70]

However, Pacific should have been far more helpful to Ms. Young in pointing out problems with Pacific's data up front. Pacific knew that ORA had requested raw data to allow it to test Pacific's results.[71] Rather than simply waiting until Ms. Young conducted her analysis and pointing out flaws after receiving her testimony, from the outset Pacific should have explained in detail how it translates the raw data to the reports it makes to regulators.

One of the key allegations the auditors made during the audit of Pacific Bell, which we consider in a separate Phase 2B decision, was that Pacific was not cooperative during the audit. We find that Pacific failed to cooperate with ORA in adequately helping it to understand Pacific's data. Had Pacific clarified its

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[70] Our rejection of ORA's recommendation does not in any way preclude the Commission staff from reviewing in the future Pacific's service quality data or its data collection and reporting methods. Similarly, in denying this recommendation, we do not intend to preclude proposals in Phase 3B designed to ensure the accuracy of data reported to regulators, through audits or any other means.

[71] Indeed, Pacific's own staff worked on testing Ms. Young's results, making clear that Pacific was well aware of the ORA's purpose for requesting the data. Exh. 2B:357 at 29 (Resnick Reply Testimony) ("At my direction, several analysts in [Pacific's] Network Services [organization] have worked with the data supplied by Ms. Young in her workpapers.").

data from the outset, Ms. Young may have been able to present a clearer picture. As it was, Ms. Young had to change her analysis each time Pacific – belatedly in our view – explained problems in translating its raw data to reports made for regulatory purposes. In the end, the proceeding could have been much more productive had all such translation errors been resolved beforehand so that Ms. Young could make a true assessment of whether Pacific's data were accurate.

Pacific asserts that we lack authority to order corrective measures if ORA proved that Pacific was mis-reporting its service quality results under ARMIS. Pacific claims that because the alleged errors were in ARMIS data, "the FCC, not the Commission, should determine whether these data should be audited because the FCC is in a better position to evaluate reporting under its rules."[72] We disagree, as we too rely on ARMIS data to assess Pacific's service quality and have an interest in ensuring the data's accuracy. Had ORA proven serious errors exist in Pacific's data, we could have ordered an audit pursuant to our authority under Pub. Util. Code §§ 314(a) and 701.

We next address ORA's specific allegations regarding the accuracy of Pacific's data.

b. Specific Alleged Inaccuracies in Pacific's Data

(1) Installation Orders

ORA claims its analysis shows that Pacific closes installation orders before they are complete. This would have the effect of understating installation intervals in regulatory reports. ORA bases its conclusion on its examination of four informal complaints from residential customers who ordered multiple

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[72] Pacific Reply/Service Quality at 15.

telephone lines at the same time. These lines were to be installed at the same address on the same commitment date. Ms. Young testified that when it was discovered there were not sufficient facilities available to install both lines, "apparently what occurred was Pacific installed one line, closed the order and then reopened or initiated a second order for the second line." ORA is speculating on this point in its use of the term "apparently what occurred." Pacific pointed out that ORA was speculating, and also stated that "lack of facilities for four customers does not constitute a widespread problem."

We agree that there is not enough evidence in the record for us to conclude that Pacific is closing installation orders prematurely. However, from our review of the record, Pacific does not address whether it ever closes out an order containing multiple lines for installation after the first line is installed, and then opens a new order for the subsequent lines. Pacific witness Resnick admitted that "you could have upwards of five, six lines and they would all be installed on one service order."[73] It may be that Pacific keeps the entire service order open until the final line is installed. However, it is counterintuitive that it would do so since such an approach would tend to exaggerate installation intervals, which is not in Pacific's interest.

Because the record is unclear on this issue, we order Pacific to file and serve data in the form of a compliance filing in this docket that affirmatively addresses this point within 30 days of the effective date of this decision. Pacific shall answer the following questions under oath in its submission:

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73 ORA Opening/Service Quality at 16, citing 22 RT 2796:1-3 (Resnick).

- Has Pacific at any time during the period 1990-2002 closed installation orders containing multiple lines to be installed on the same order after a portion of - but not all - the lines were installed?
- If the answer to the previous question is yes, produce an annual summary of the number of such orders.
- If Pacific reports that any multi-line order was closed before all lines associated with that order were installed, explain in detail how Pacific accounts for such orders when calculating its installation intervals for purposes of any regulatory reporting requirements.

(2) Duplicate Records

ORA also argued that the presence of "duplicate" records among the data Pacific provided it indicates there are errors in Pacific's data. However, ORA states in this regard that "ORA does not claim that all duplicate records are erroneous records,"[74] and indeed later appears to concede that "the duplicate records should be included" in Pacific's calculation of its installation intervals.[75] ORA also confusingly asserts that,

> [t]he "erroneous duplicate records" that Pacific refers to are the same anomalous records (orders for basic service that do not contain commitment dates), which Pacific has previously claimed are not erroneous records. After having argued for the inclusion of the duplicate and anomalous records, Pacific cannot now claim that these 'erroneous duplicate records' are erroneous.[76]

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[74] ORA Reply/Service Quality at 3.

[75] *Id.* at 5.

[76] *Id.*

It appears from its statement that ORA no longer claims there is a problem with Pacific's data due to the presence of duplicate records, and we therefore make no finding on this issue.

(3) Anomalous Records

ORA also claims there is a problem with "anomalous records" – records without "commit dates" (dates on which Pacific committed it would complete an installation). ORA's witness believed these records were suspicious based on her belief that "no order for services could flow through Pacific's systems without a commitment date." She claims Pacific told her of this restriction several times, but submitted no written evidence in the record of such a representation by Pacific. Indeed, the evidence is to the contrary. As Pacific points out, it is appropriate that certain orders – related to "supersedures" where a new resident at an address takes over the phone service of the existing customer – not contain "commit dates."

(4) Held Orders

ORA also challenged Pacific's held order data. Here there is more merit to the claim, but our decision turns more on an interpretation of GO 133-B than on the quality of Ms. Young's data. GO 133-B defines a held order as "[r]equests for primary (main) telephone service delayed over 30 days for lack of utility plant." ORA and Pacific strongly disagree on the interpretation of the term "primary telephone service." ORA contends that "primary service" is a class of service that includes basic exchange service and that the sequence of lines to an address is not a factor in the definition of primary service.

Pacific defines "primary service" as the first line into a home. ORA claims that Pacific is erroneously relying - out of context - on a definition contained in our rules for the California High Cost Fund-B (CHCF-B), which define a "primary line" in this manner: "Primary Line: For the purposes of the CHCF-B, 'primary line' is the first line to [a] household."[77] This difference in interpretation clearly affects Pacific's reporting of held orders. If, as ORA contends, Pacific is supposed to be counting all lines into the home as long as they deliver "basic exchange service," then its held order figures likely would be far higher than Pacific reports.

We agree that GO 133-B is ambiguous on this point and that either interpretation is valid. We therefore do not take action against Pacific at this time. We note, however, that our Service Quality OIR is taking a close look at GO 133-B and intend to consider this definitional issue in that forum. We question whether it makes sense for held order reporting to apply only to first lines into a home. Held orders are customer affecting whether they relate to the first line into a home or to subsequent lines.

Next we discuss Pacific's objective results on service quality data.

2. Installation – Pacific

The first objective category of service quality the parties addressed is installation. We find that Pacific has had minor problems in this area. Our biggest concern is that it is difficult to judge Pacific's performance because of the way it keeps its data, as we discuss below. In Phase 3B, parties should address how to alleviate the concerns we raise here.

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[77] ORA Reply/Service Quality at 8, citing Pacific's Tariff, Schedule Cal. P.U.C. No. A2. Network and Exchange Services: A2. General Regulations 2.1.1 Rule No. 1 - DEFINITION OF TERMS.

There are two basic types of installation data: 1) data regarding installation intervals (*i.e.*, the time it takes for the carrier to install phone service) and 2) data regarding installation "commitments met" (*i.e.*, how often the carrier meets its commitments to its customers regarding when the carrier will install service).

ORA's principal complaint was that Pacific's installation data were inaccurate – a claim we address (and generally reject) above. ORA also claimed that its "analysis of Pacific's MCOT reporting of held orders showed that Pacific was the second worst performer in terms of held orders when compared with the other 12 SBC companies in other states."[78] Pacific claimed in response that its expert's regression analysis of the same MCOT data, which produced a more positive result, was more reliable, but otherwise did not refute ORA's claim.

TURN alleged that Pacific's staffing is inadequate to ensure prompt installation, citing a 1996 complaint, A.95-12-043/C.96-02-002/D.97-03-021.[79] We discuss formal complaints in the section entitled "Other Direct Measures of Service Quality – Complaints, below) and do not repeat that discussion here. TURN "[took] no position on the content of the GO 133-B installation data of

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[78] ORA Opening/Service Quality at 10 (citations omitted).

[79] 1997 Cal. PUC LEXIS 142. The Commission found Pacific had insufficient staffing, and poor installation and customer service records, and noted that incentives to cut costs prevented Pacific from addressing the problem. In connection with that complaint, we concluded that based on Pacific's staffing, installation performance and record-keeping, "Pacific does not provide high quality customer services to its ISDN customers and potential ISDN customers . . . ." *Id.* at *50, finding of fact 17. *See also* Exh. 2B:507 at 10-11 (Schilberg Direct Testimony).

Pacific,"[80] but alleged that Pacific's ARMIS performance showed periods of decline and improvement for residential and business installation intervals.[81]

Pacific claimed it had met and exceeded the GO 133-B section 3.2.a "Installation Commitments" standard for all of the NRF period.[82] With regard to ARMIS data, Pacific claimed that, "both residential and business installation intervals in 2001 are below the level they were in 1994, the first year the data were reported."[83]

According to the data in the following graphs we derived,[84] Pacific's ARMIS performance on installation intervals (residential and business) was generally consistent over the 1994-2001 period. Pacific's data were slightly worse than Verizon's in 2000-01:

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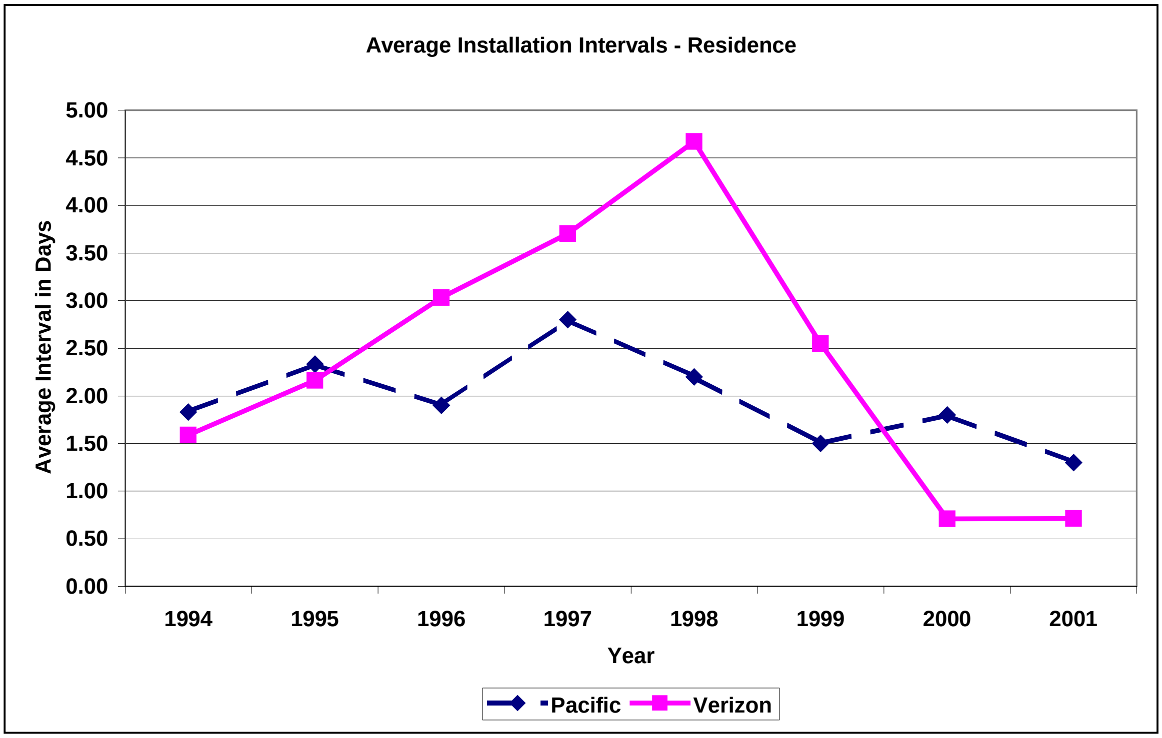
[80] TURN Opening/Service Quality at 16.

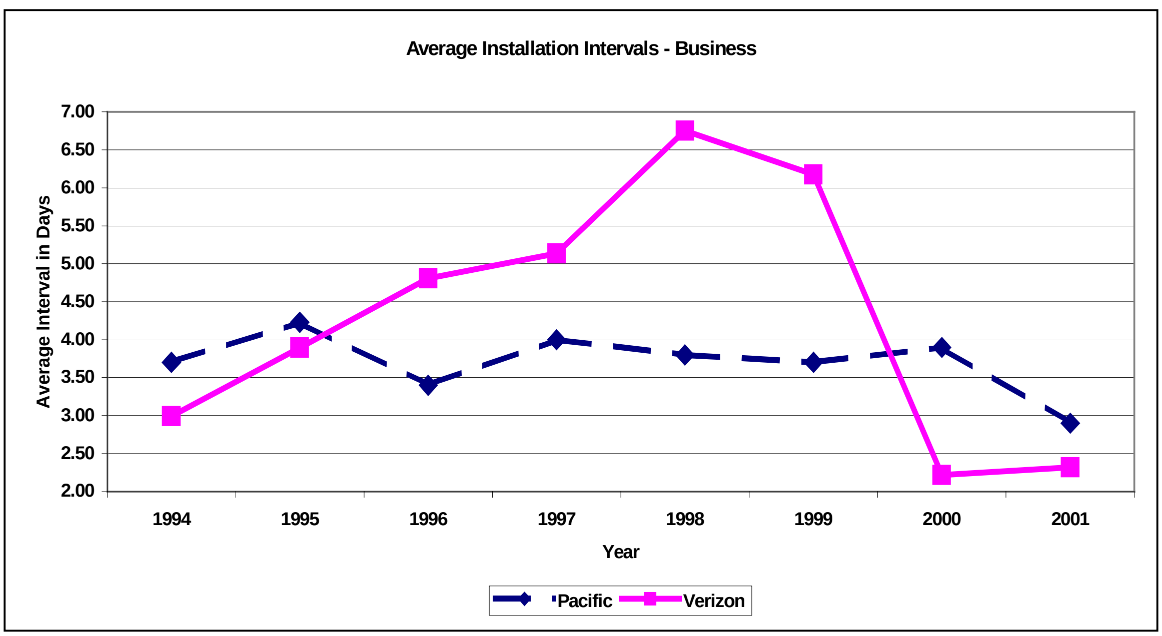
[81] TURN Opening/Service Quality at 17.

[82] Pacific Opening/Service Quality at 11.

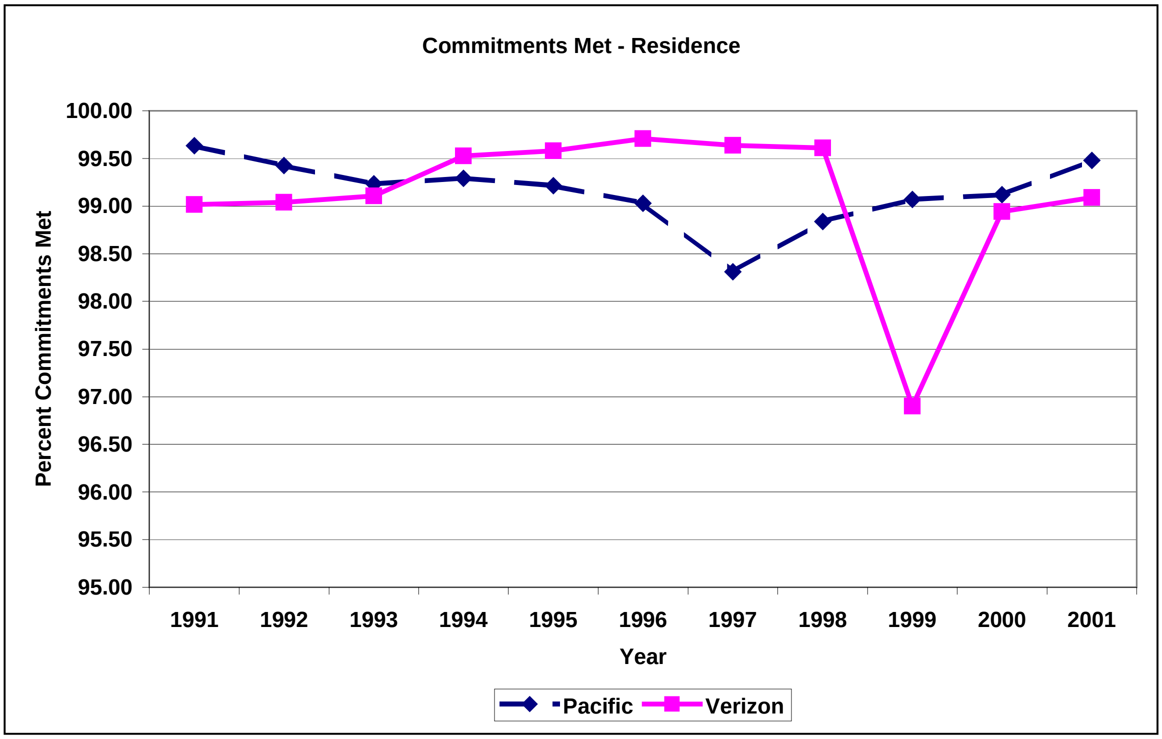
[83] *Id.* at 18.

[84] The installation interval and commitments met graphs are based on ARMIS data reported by carriers to the FCC. Prior to 1996, carriers reported ARMIS data on a quarterly basis, and thereafter, annually. For years reporting quarterly data, quarterly installation orders are summed to obtain annual installation orders. Annual installation intervals and commitments met are obtained by weighting and combining the quarterly data (*i.e.*, multiplying quarterly installation intervals or commitments met by quarterly installation orders, summing the results and dividing the summed result by annual installation orders). Similarly, Verizon's annual installation orders and commitments met are obtained by summing GTE California and Contel installation orders. Verizon's installation intervals and commitments met are obtained by weighting and combining the GTEC and Contel installation intervals or commitments met.

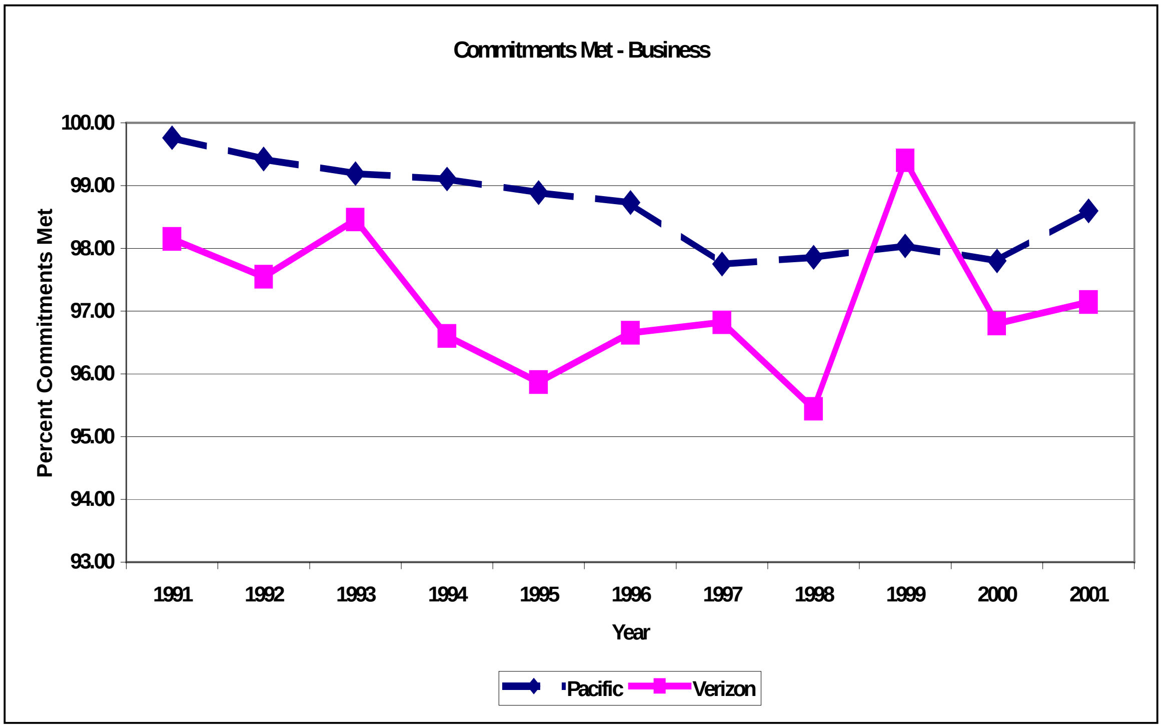

Average Installation Intervals - Residence
Average Interval in Days
5.00
4.50
4.00
3.50
3.00
2.50
2.00
1.50
1.00
0.50
0.00
1994
1995
1996
1997
1998
1999
2000
2001
Year
Pacific
Verizon


Average Installation Intervals - Business
Average Interval in Days
7.00
6.50
6.00
5.50
5.00
4.50
4.00
3.50
3.00
2.50
2.00
1994
1995
1996
1997
1998
1999
2000
2001
Year
Pacific
Verizon

Pacific's residential installation "commitments met" data were consistently good from 1993-2001, with the exception of a dip in "commitments met" in late 1997. For business customers, the percentage of commitments met declined



notably from 1997 through 2000, improving again in 2001.



We also note that on its MCOT reporting, Pacific's installation reporting showed that Pacific showed negative spikes in California for the period July 1999-June 2001 in the percentage of installation orders completed within 5 working days (especially residential customers)[85] and in the percentage of installation orders delayed over 30 days (business customers).[86]

With respect to Pacific's installation data, ORA asserted that, "[Pacific's] ARMIS installation orders also include orders for vertical services such as Caller-

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85 http://www.fcc.gov/wcb/mcot/SBC_AIT/service_quality/IN1.pdf.

86 http://www.fcc.gov/wcb/mcot/SBC_AIT/service_quality/IN2.pdf.

ID and call waiting, as well as jack installations, etc. . . [and the] . . . increase in total installation orders reflects both the increased demand for access lines, and demand for new vertical services marketed in California during the mid to late 1990s."[87] ORA alleged that in 1999, for example, Pacific had approximately 10 million more orders for vertical services and other local services only than it did for orders for basic service, and that vertical services orders contributed to the low reported average installation intervals because vertical services orders are completed within a day of placing the order resulting in installation intervals of 0 or 1 day.

We find that Pacific includes vertical services orders in its data. Pacific can install these services quickly and in automated fashion without dispatching a service technician, so including vertical services orders skews its data toward shorter installation intervals. The record lacks evidence on whether Verizon also includes vertical services orders in its data, so we are unable to conclude that Pacific's and Verizon's data are comparable.

While Pacific asserts that "in most cases, Pacific's recent performance has improved relative to most of the years in which data were reported,"[88] it did not show that the improvements in installation intervals was the result of actual improvement in performance instead of the result of an increasing proportion of "short interval" vertical services orders in the mix of installation interval data reported under ARMIS.

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[87] Exh. 2B:132 at 8 (Young Opening Testimony).

[88] Exh. 2B:355 at 9 (Hauser Reply Testimony).

Finally, as our previous discussion reveals, Pacific's interpretation of the GO 133-B held order requirement causes it consistently to undercount orders held more than 30 days. Thus, despite Pacific's claims of a near-perfect GO 133-B installation record over the NRF period, the true count of held orders may be far higher than what Pacific reports.

Overall, while we find some problems with Pacific's installation performance, our chief concerns relate to Pacific's counting of held order data, its satisfaction of commitments for business customers, and whether Pacific's inclusion of vertical services orders in its ARMIS installation data causes it to present a more positive picture than is warranted. We order that Pacific correct its method of counting held orders in this decision. In Phase 3B, parties should be prepared to address how to address the latter issue.

3. Network Reliability, Trouble, and Repair – Pacific

Overall, we find that Pacific's repair performance over the NRF period has exhibited significant problems. While the intervals of time its customers wait for repairs have decreased lately – starting in 2001 – as reported in Pacific's ARMIS 43-05 reports, Pacific's performance was worse in 2000 than in 1994 on several important measures.[89] It is too soon to know what the trend will be in the future based solely on Pacific's 2001 results. Moreover, just because Pacific's current statistics are acceptable does not mean that we should overlook negative trends in the past.

In D.01-12-021, the Commission noted that Pacific's "average initial repair interval for residential customers increased 45 percent between 1996 and 2000"

[89] The ARMIS reports appear in the record as Exhibits 704 and 706.

(with its residential repeat trouble reports per 100 lines peaking in 1998[90]) and that in "every year since 1996, Pacific's mean time to restore service to residential customers [was] higher than the 1996 base year."[91] The Commission found "a sharp decline in service quality of nearly 50% over a mere four years coupled with Pacific's knowledge thereof and its lack of an attempt to remedy the deterioration."[92] We concluded that, "The Commission cannot find that SBC Pacific's service quality is excellent when the initial out-of-service repair intervals for residential customers has (sic) increased 45% since 1996."[93]

Pacific's results improved beginning in 2001, but, as TURN notes, ORA filed a complaint in November 2000, which may have caused Pacific to be more vigilant from then on.[94] Furthermore, in D.01-12-021, the Commission instituted a system of automatic penalties if Pacific's repair times failed to meet standards established by that decision. Given the timing of ORA's complaint and the Commission's imposition of penalties, it is fair to infer that regulatory intervention had something to do with Pacific's improved performance. We believe our continued vigilance and enforcement are needed to ensure good

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[90] Exh. 2B:354, Attachment 16 (Hauser Direct Testimony).

[91] D.01-02-021, *mimeo.*, at 8 & n.4; *see also* TURN Opening/Service Quality at 19.

[92] D.01-02-021, *mimeo.*, at 11.

[93] *Id.* at 48.

[94] We note, however, Pacific's initial out of service repair interval for residential customers of 42.49 hours for November 2002 exceeds by more than 13 hours the standard of 29.3 hours established in D.01-12-021. Pacific attributes its missed objective to weather. *Report of November 2002 ARMIS Data for Repair Intervals in Compliance with D.01-12-021.*

service quality. Without such scrutiny, service quality could deteriorate. Indeed, we have so opined in other contexts: "Pacific Bell has exhibited a pattern of regulatory compliance during periods of special oversight, only to be followed by noncompliance in furtherance of Pacific Bell's revenue goals when the special oversight ends."[95]

The evidence establishes that Pacific also showed problems in the following areas:

- Pacific's business customers' initial out-of-service[96] repair intervals rose from 11.56 hours in 1994 to 16.5 hours in 2000. While the interval dropped to 12.5 hours in 2001,[97] it is too soon to tell if the trend toward improvement will continue.

- Pacific's business customers' repeat out-of-service[98] repair intervals rose from 12.9 hours in 1994 to 18.5 hours in 2000. Once again, performance improved in 2001 – with the interval dropping to 13.9 hours during that year[99] – but we remain concerned about the prior trend.

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95 D.01-09-058, 2001 Cal. PUC LEXIS 914, at *146, finding of fact 62.

96 "Initial out-of-service trouble reports" are defined as trouble reports concerning service quality in which the customer is totally without phone service. *See* Exh. 2B:133 at 3 n.1 (Hieta Opening Testimony).

97 *See* ORA Opening/Service Quality, at 12, citing Exh. 2B:133 at 3-4 (Hieta Opening Testimony).

98 "Repeat out-of-service trouble reports" are defined as customer trouble reports concerning service quality that are received within thirty days after the resolution of an initial trouble report on the same line. *See* Exh. 2B:133 at 4 n.2 (Hieta Opening Testimony).

99 Exh. 2B:133 at 4 (Hieta Opening Testimony).

- Pacific's ARMIS 43-05 data showed that the number of Pacific's initial trouble reports for conditions other than out-of-service conditions sharply increased from 1994-2001.[100] These trouble reports contain complaints about problems of poor call quality, call interruption and static on the line – clearly problems of consequence to customers.

- Pacific's residential customers' initial "all other [trouble] reports" rose from 622,310 in 1994 to 1,127,512 in 1999, dropping to 916,431 in 2001. It is too soon to tell whether the recent improvements will continue consistently.

- Pacific's repeat residential "all other [trouble] reports"[101] rose from 125,231 in 1994 to 162,035 in 2001.[102]

- Pacific's residential customers' initial and repeat all other trouble reports per million lines rose from 65,286 reports in 1994 to 83,153 reports in 2001 (an increase of 27.4%).[103]

- Pacific also showed a high level of repeat problems shortly after making an initial repair. In 2000, at least 2.73% of residential repeat out-of-service repairs occurred within 24 hours of a previous repair; the number in 2001 was 2.38%. In 2001, the number of repeat problems within one week of a previous repair was 6.76%, 8.84% within two weeks, and 10.10% within three

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[100] Exh. 2B:507 at 34, Figure 13 (Schilberg Direct Testimony). *See also* Exh. 2B at 8-9, Figure 5 (Hieta Opening Testimony).

[101] "All other trouble reports" are defined as reports besides out-of-service trouble reports. *See* Exh. 2B:133 at 7 n.5 (Hieta Direct Testimony).

[102] ORA Opening/Service Quality at 13, citing Exh. 2B:133 at 8 (Hieta Opening Testimony).

[103] ORA Opening/Service Quality at 13, citing Exh. 2B:133 at 9.

weeks.[104] It may be that these figures represented different problems for the same customers. Whatever the problem, however, these high numbers certainly affected customers. The disruption caused by a repair is probably one of the more serious events that can occur in a carrier's relationship with its customers. A second repair within such a short time is an even more serious disruption.

- The relationship of Pacific's repeat out-of-service trouble reports relative to its initial out-of-service trouble reports is worse than that same relationship for other California carriers.[105] While Pacific claims the comparison is inapt because the other carriers are not all comparable in scope and size,[106] Pacific also compares unfavorably to Verizon.[107]

We validated the foregoing concerns by developing several charts based on the ARMIS data in the record.[108] We found that for the period 1994-2001,

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[104] Exh. 2B:133 at 13 (Hieta Opening Testimony). According to its witness, ORA based these figures on an analysis of raw repair data Pacific furnished ORA. Pacific used the raw repair data to calculate ARMIS numbers for the years 2000 and 2001. *Id.* at 12.

[105] Exh. 2B:133 at 11-12 (Hieta Opening Testimony).

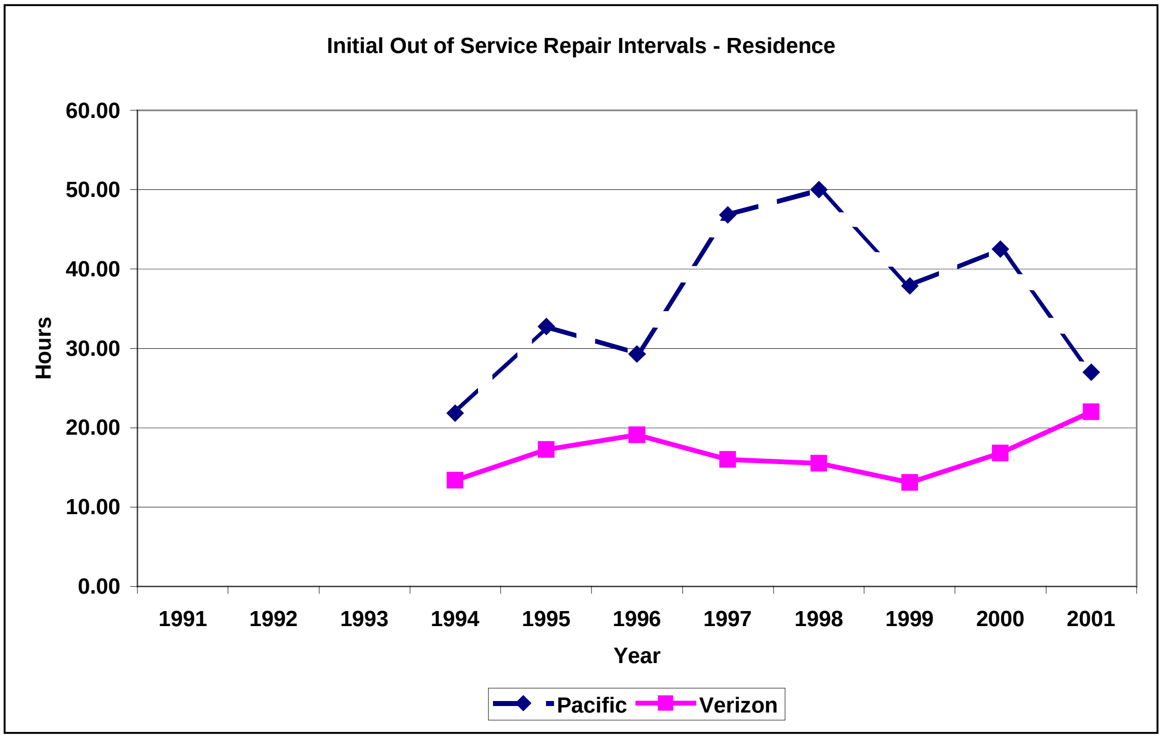
[106] Pacific Reply / Service Quality at 28.

[107] Whereas Pacific's repeat out-of-service reports as a percentage of initial out-of-service trouble reports for California residence customers n the range of 14.7 percent to 20.2 percent during the 1994-2001 period, Verizon's comparable percentages ranged from 8.9 percent to 11.4 percent. Exh. 2B:133 at 11, Table 1 (Hieta Direct Testimony).

[108] The trouble report graphs are based on ARMIS data reported by carriers to the FCC. Prior to 1996, carriers reported ARMIS data on a quarterly basis, and thereafter, annually. For years reporting quarterly data, quarterly results are summed to obtain annual trouble reports. Annual repair intervals are obtained by weighting and combining the quarterly data (i.e., multiplying quarterly repair intervals by quarterly by trouble reports, summing the results and dividing the summed result by annual trouble reports). Similarly, Verizon's annual trouble reports are obtained by summing GTE

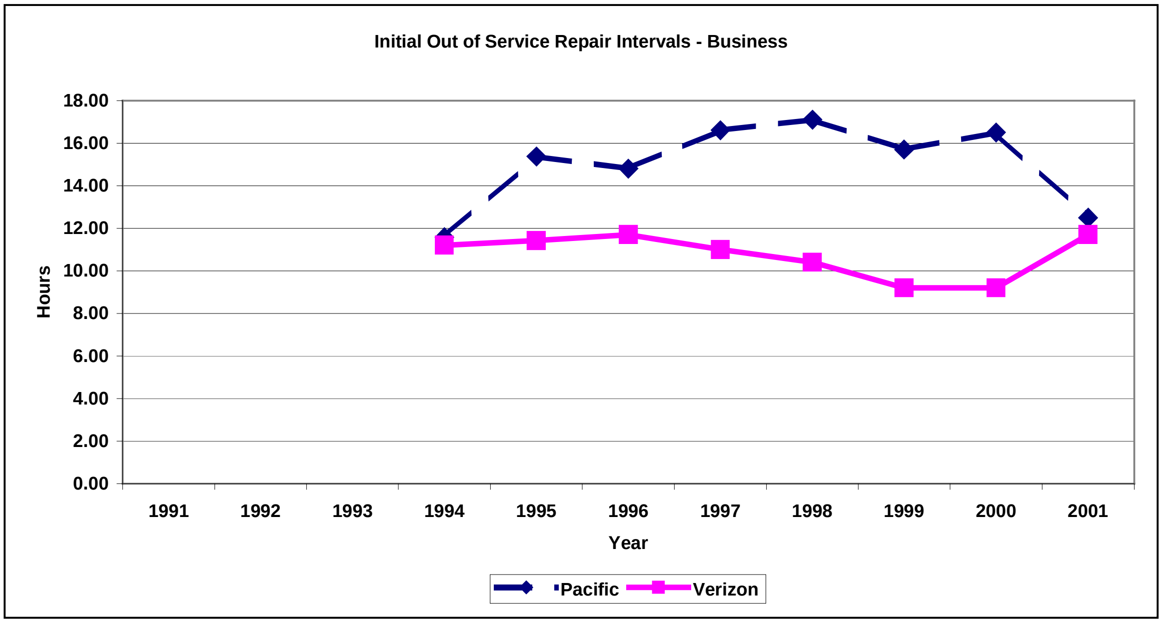
Footnote continued on next page

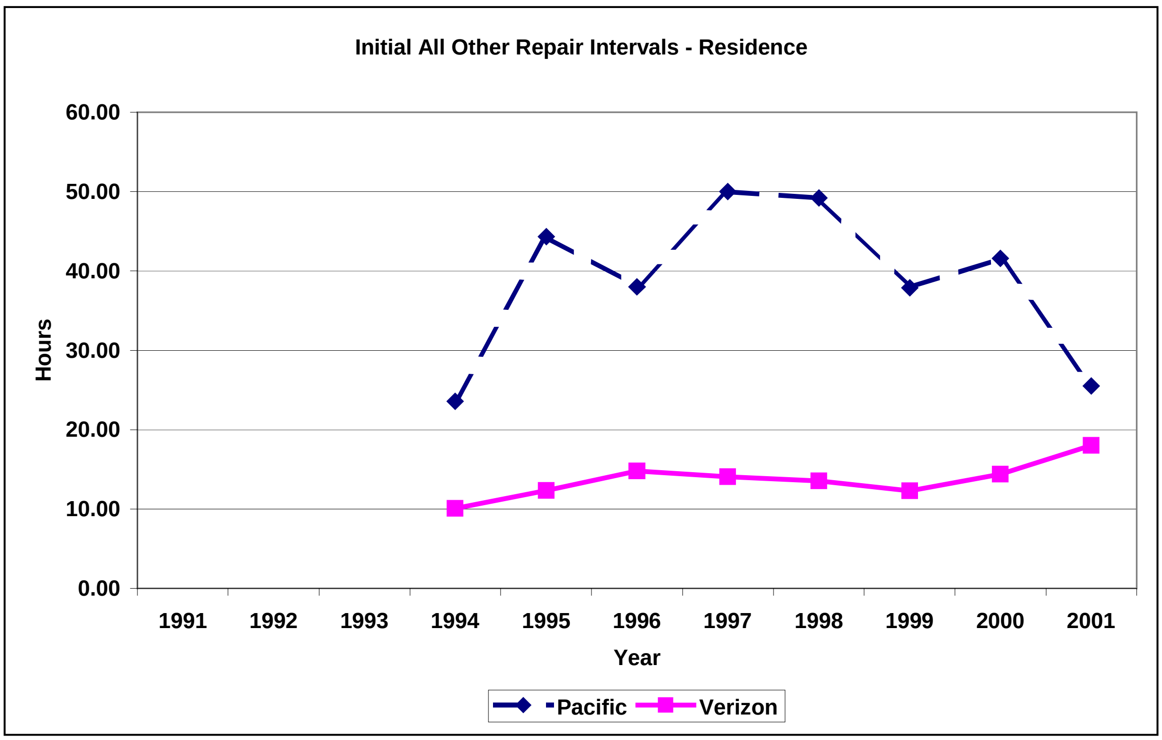
Pacific's performance was worse than Verizon's in all repair interval categories.[109] While ARMIS does not set standards for repair intervals, the differences between Pacific's and Verizon's performance are striking:

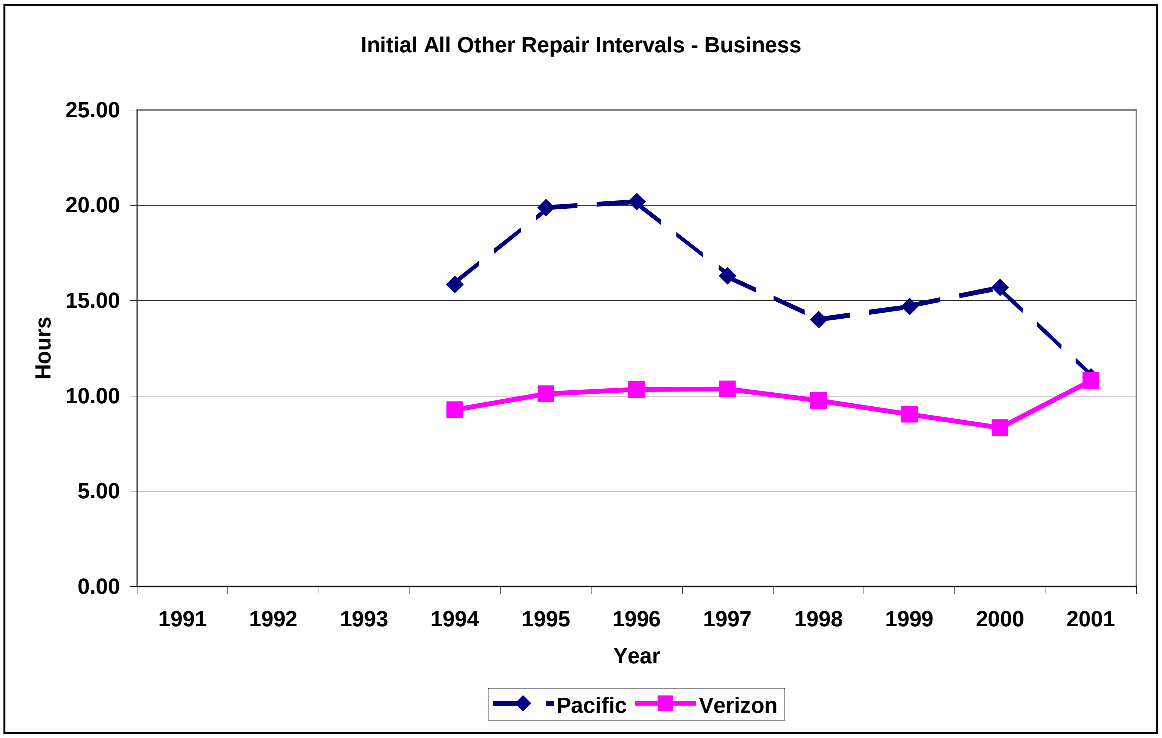


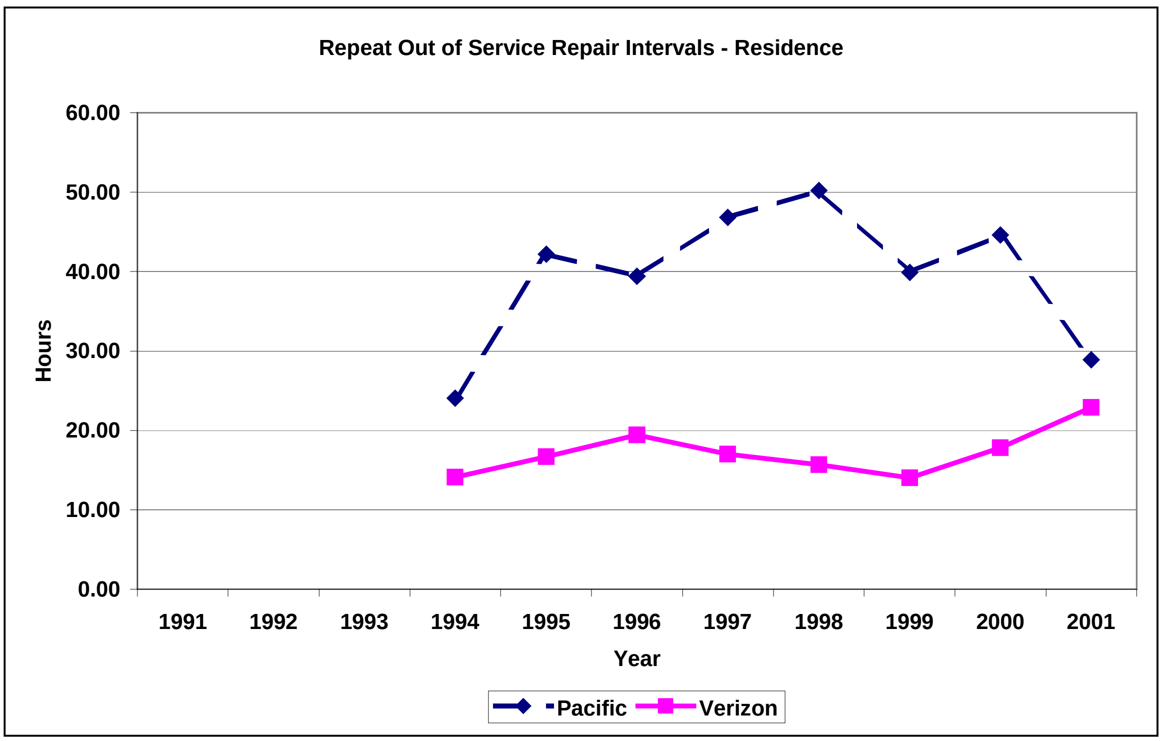
California (GTEC) and Contel trouble reports, and Verizon's repair intervals are obtained by weighting and combining the GTEC and Contel repair intervals.

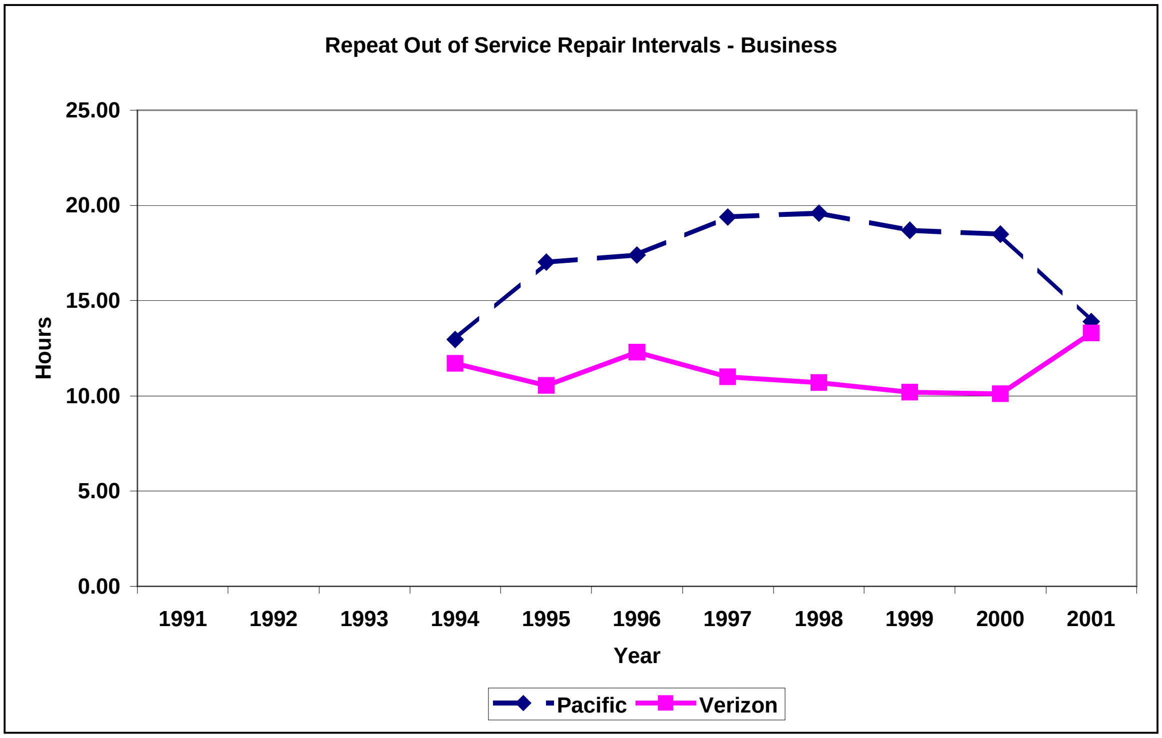
[109] These categories are: 1) initial out of service repair intervals – residence; 2) initial out of service repair intervals – business; 3) initial all other repair intervals – residence; 4) initial all other repair intervals – business; 5) repeat out of service repair intervals – residence; 6) repeat out of service repair intervals – business; 7) repeat all other repair intervals – residence; and 8) repeat all other repair intervals – business.

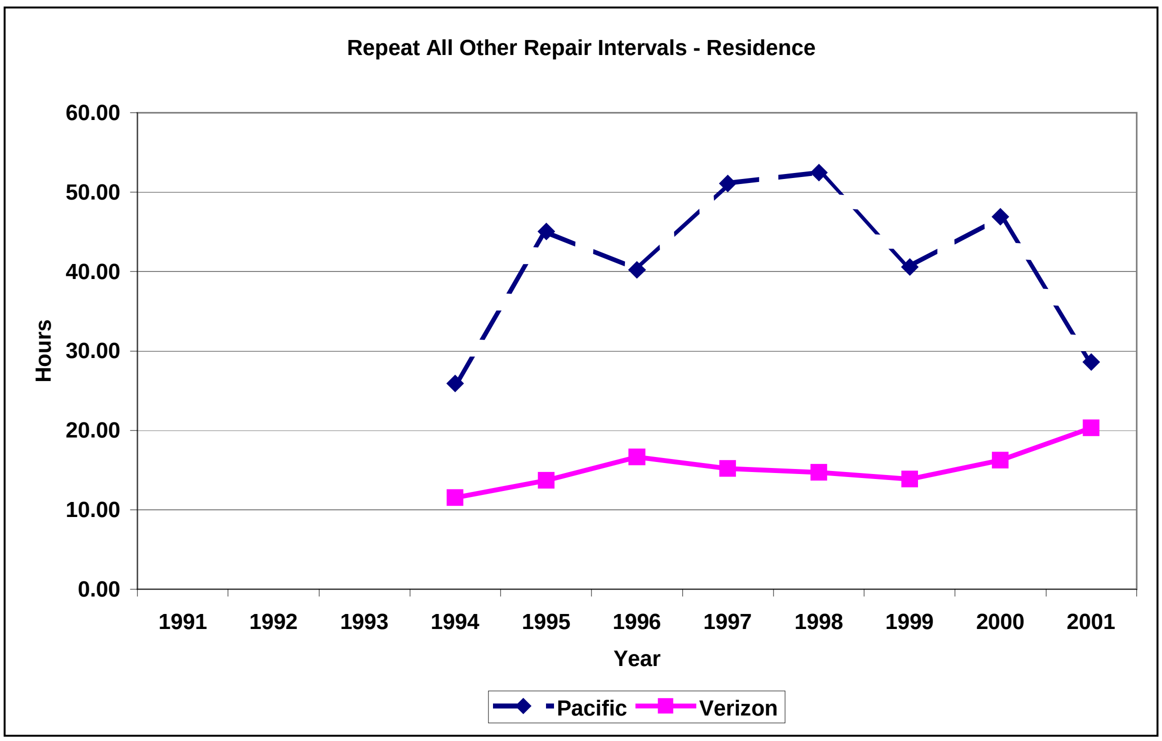

Initial Out of Service Repair Intervals - Business
18.00
16.00
14.00
12.00
10.00
8.00
6.00
4.00
2.00
0.00
Hours
1991
1992
1993
1994
1995
1996
1997
1998
1999
2000
2001
Year
Pacific
Verizon

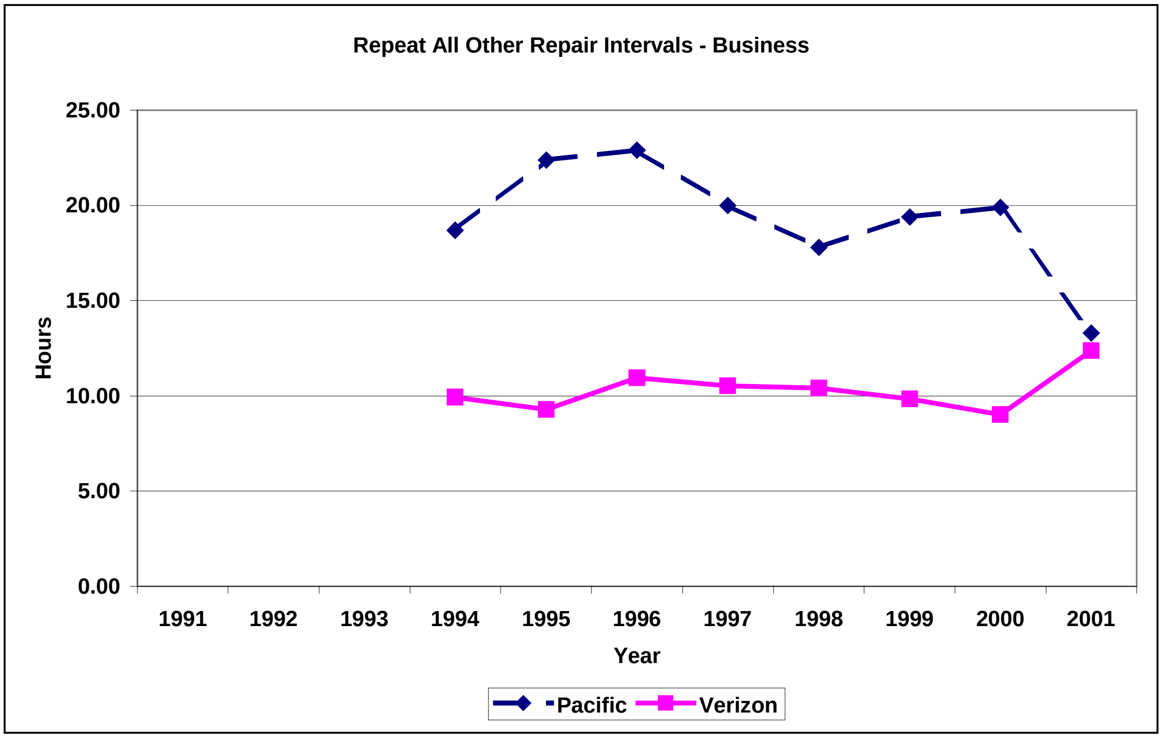

Initial All Other Repair Intervals - Residence
60.00
50.00
40.00
30.00
20.00
10.00
0.00
Hours
1991
1992
1993
1994
1995
1996
1997
1998
1999
2000
2001
Year
Pacific
Verizon


Initial All Other Repair Intervals - Business
25.00
20.00
15.00
10.00
5.00
0.00
Hours
1991
1992
1993
1994
1995
1996
1997
1998
1999
2000
2001
Year
Pacific
Verizon


Repeat Out of Service Repair Intervals - Residence
60.00
50.00
40.00
30.00
20.00
10.00
0.00
Hours
1991
1992
1993
1994
1995
1996
1997
1998
1999
2000
2001
Year
Pacific
Verizon

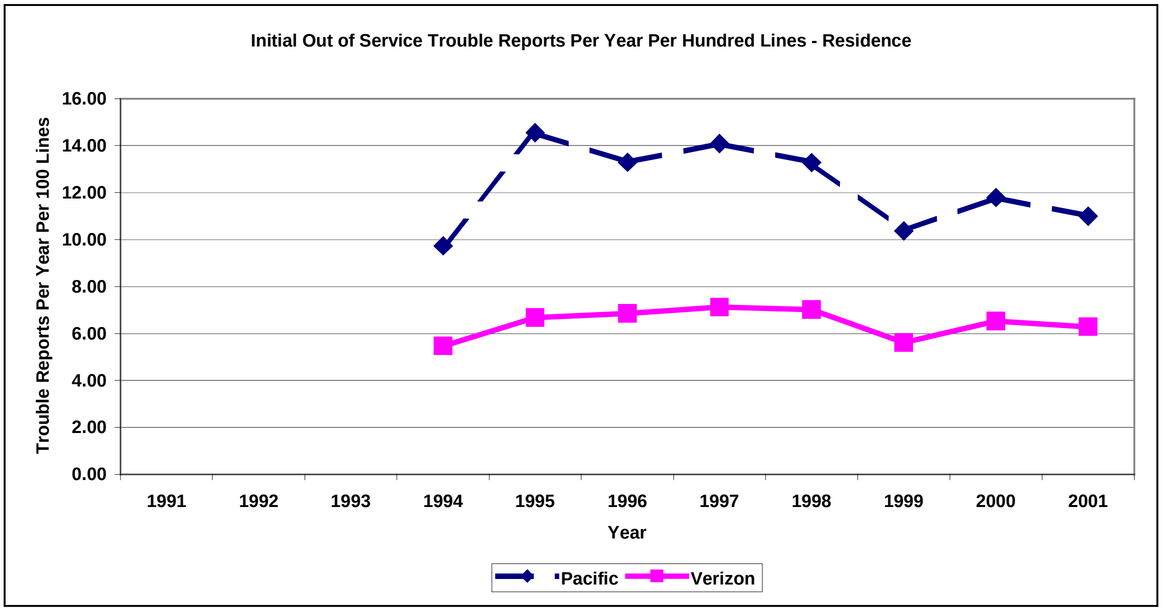

Repeat Out of Service Repair Intervals - Business
25.00
20.00
15.00
10.00
5.00
0.00
Hours
1991
1992
1993
1994
1995
1996
1997
1998
1999
2000
2001
Year
Pacific
Verizon

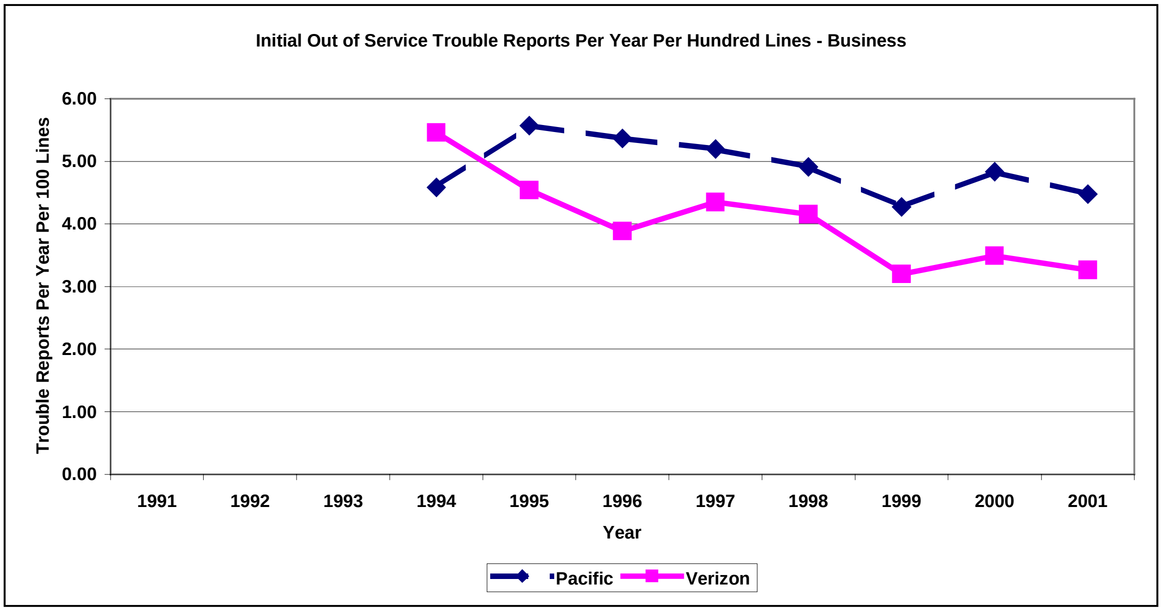

Repeat All Other Repair Intervals - Residence
60.00
50.00
40.00
30.00
20.00
10.00
0.00
Hours
1991
1992
1993
1994
1995
1996
1997
1998
1999
2000
2001
Year
Pacific
Verizon

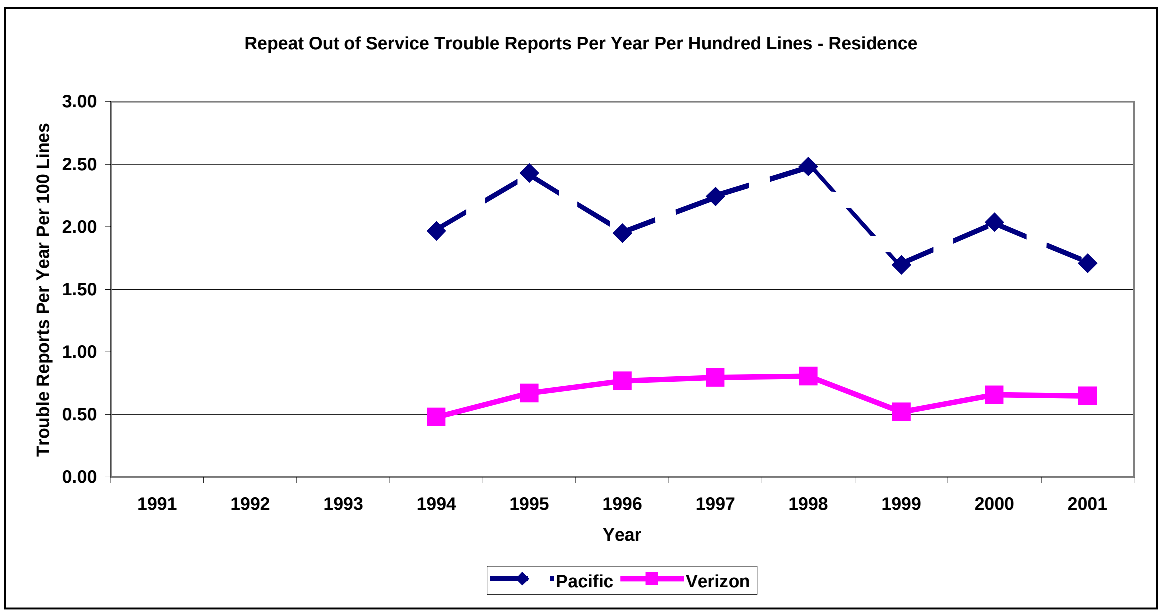


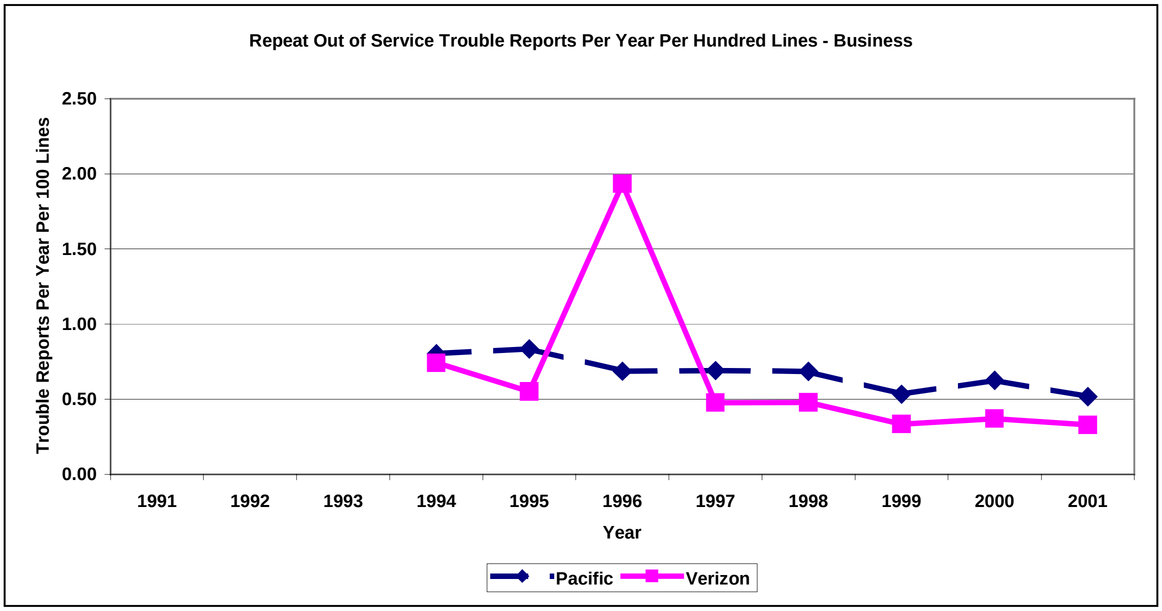
Pacific also generally performed worse than Verizon on trouble report numbers, although there were two categories in which Verizon performed worse and one in which the results were mixed. Pacific's results were worse than Verizon in 1) initial out of service trouble reports – residence; 2) initial out of service trouble reports – business; 3) repeat out of service trouble reports – residence; 4) repeat out of service trouble reports – business; and 5) repeat all other trouble[110] reports – residence, as follows:

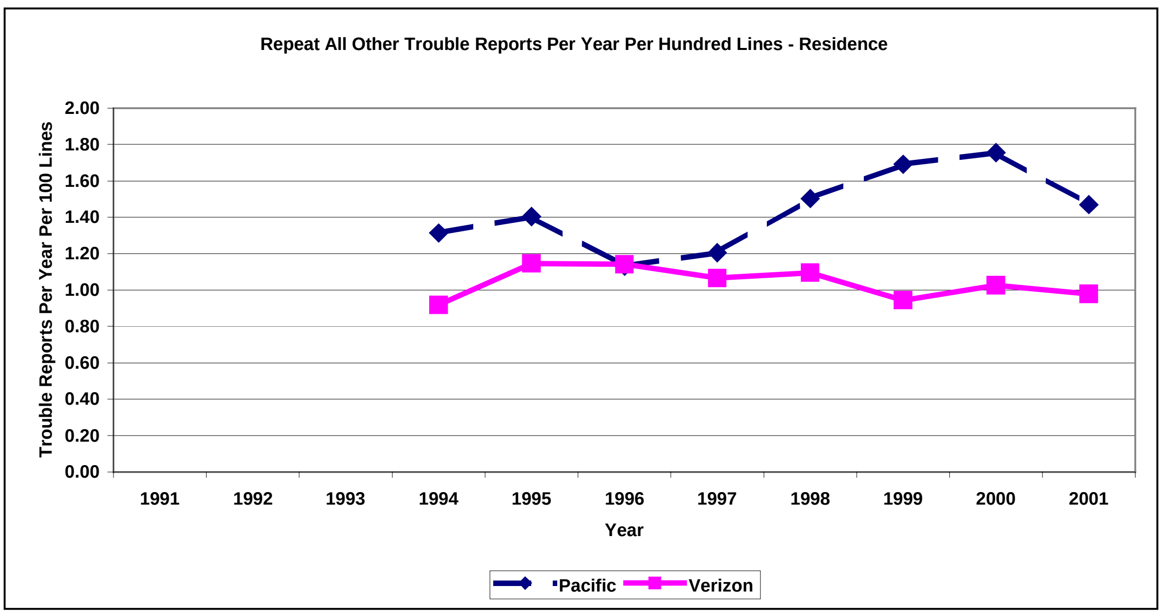
[110] All other trouble reports are all trouble reports except those involving out of service conditions.


Initial Out of Service Trouble Reports Per Year Per Hundred Lines - Residence
Trouble Reports Per Year Per 100 Lines
16.00
14.00
12.00
10.00
8.00
6.00
4.00
2.00
0.00
1991
1992
1993
1994
1995
1996
1997
1998
1999
2000
2001
Year
Pacific
Verizon

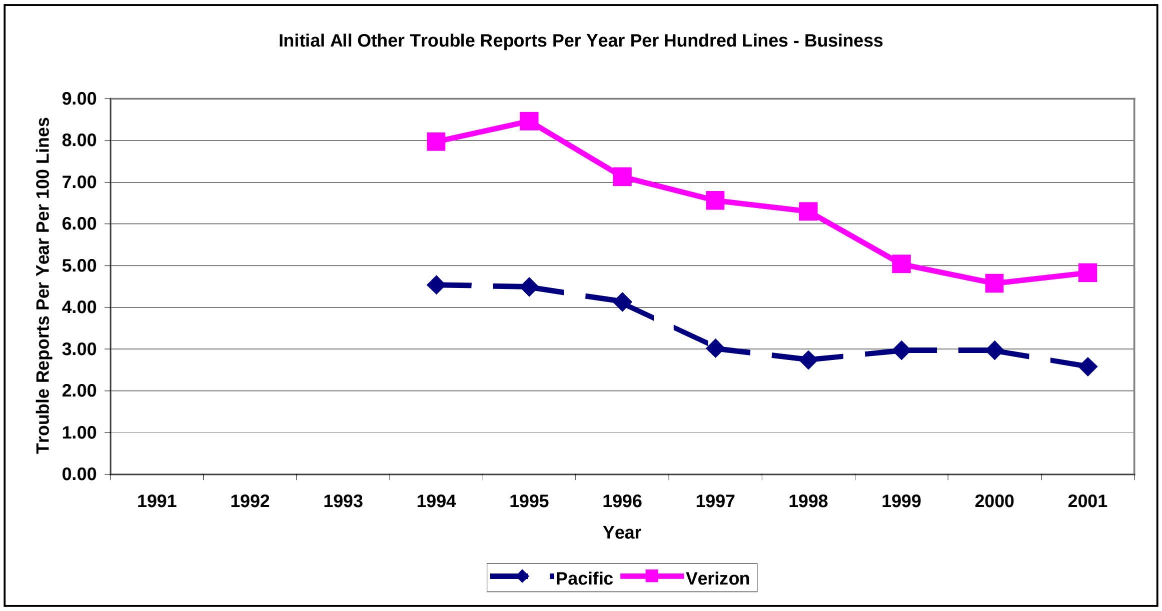

Initial Out of Service Trouble Reports Per Year Per Hundred Lines - Business
Trouble Reports Per Year Per 100 Lines
6.00
5.00
4.00
3.00
2.00
1.00
0.00
1991
1992
1993
1994
1995
1996
1997
1998
1999
2000
2001
Year
Pacific
Verizon

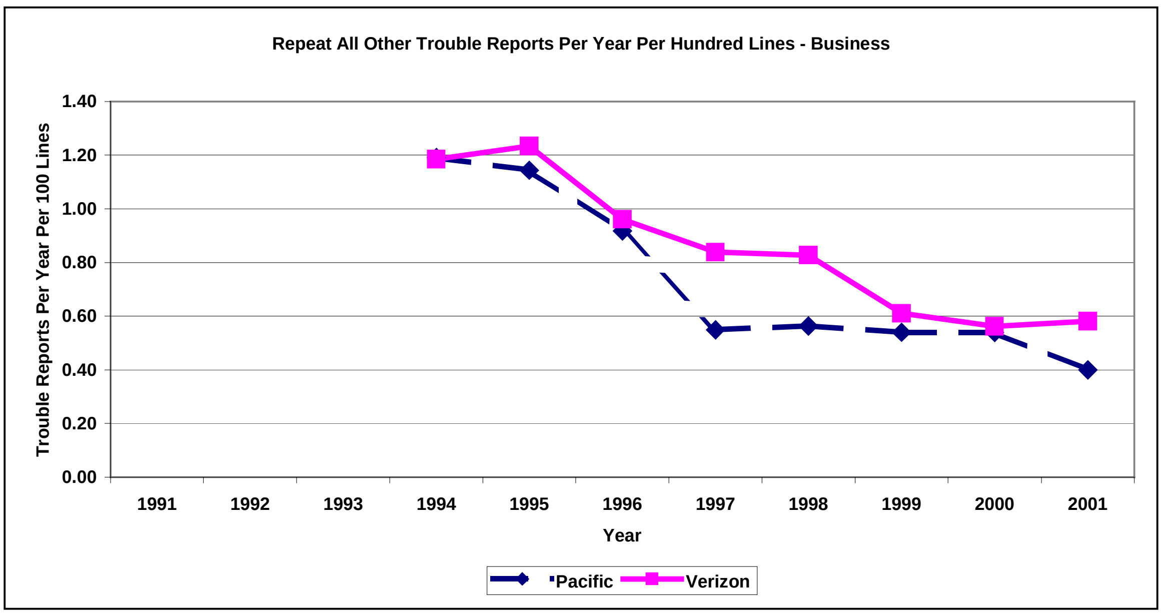

Repeat Out of Service Trouble Reports Per Year Per Hundred Lines - Residence
Trouble Reports Per Year Per 100 Lines
3.00
2.50
2.00
1.50
1.00
0.50
0.00
1991
1992
1993
1994
1995
1996
1997
1998
1999
2000
2001
Year
Pacific
Verizon



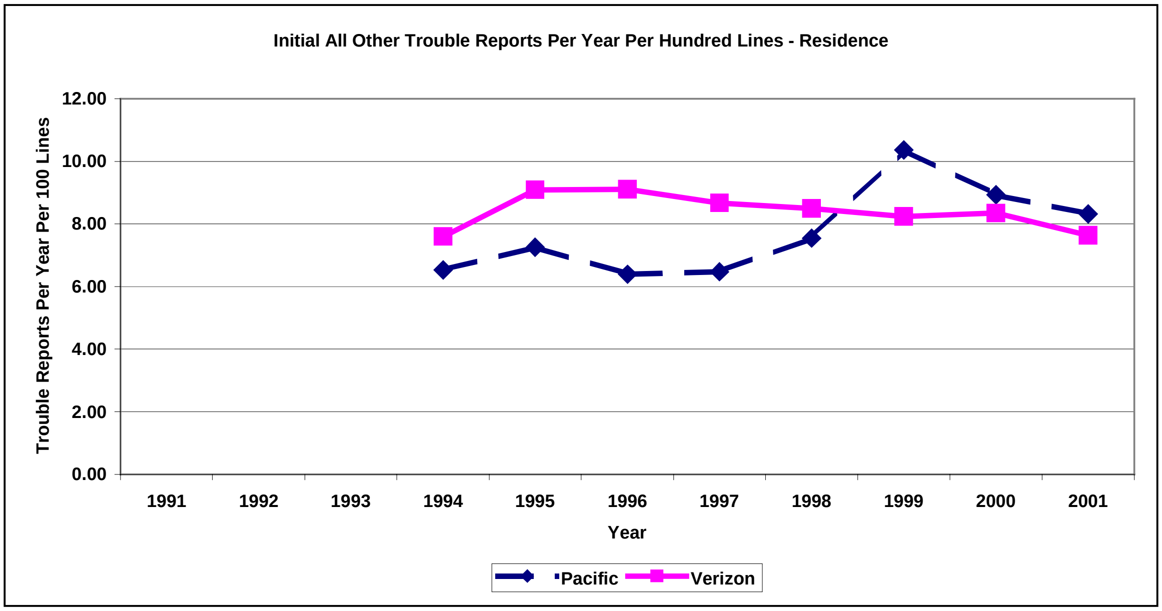


Pacific's results were better than Verizon's in the area of 1) initial all other trouble reports – business; and 2) repeat all other trouble reports – business, as follows:





Finally, Pacific's results on initial all other trouble reports – residence were better than Verizon's during the period 1994-98, and exceeded Verizon's results in 1999-2001:



Overall, we find that Pacific shows numerous problems with repair intervals and trouble reports. While the trend in some areas was positive in 2001, it is too soon to tell where the trends are headed. Thus, we find that Pacific's trouble report counts and repair intervals merit serious consideration when we consider incentives to improve reporting and other NRF changes in Phase 3B of this proceeding.

4. Answer Times – Pacific

Pacific also demonstrated problems with its BOAT and TRSAT answer time performance. Its BOAT results during the period 1991-2001 show that in virtually all years, the percentage of calls Pacific answered within 20 seconds was below the standard. The BOAT measure was added to GO 133-B in 1992,[111] and the minimum standard, measured as the percent of calls answered within 20

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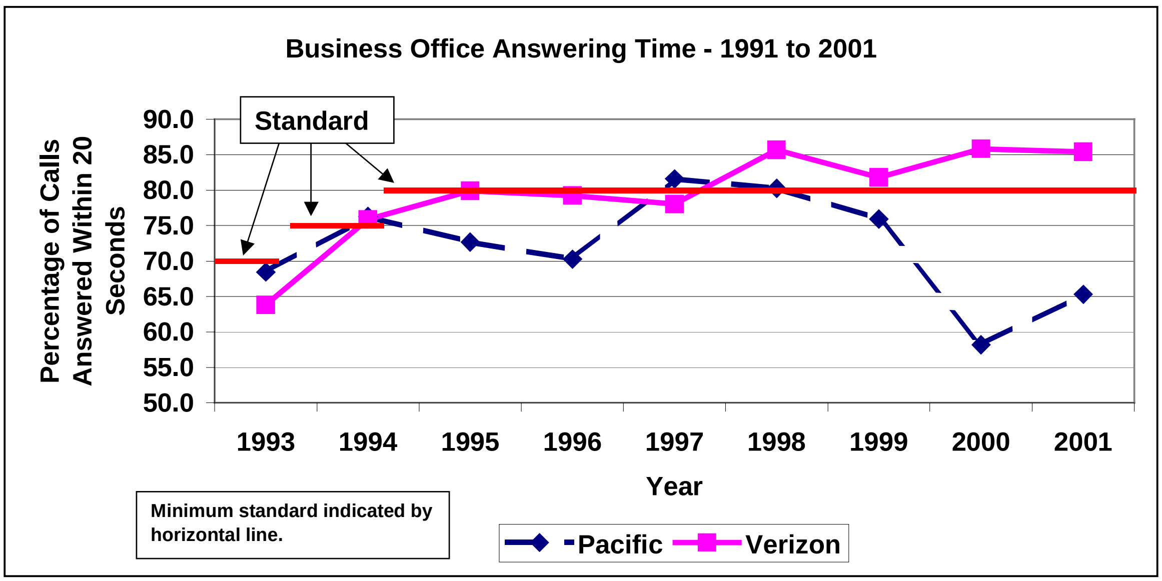
111 D.92-05-056.

seconds, was progressively increased from 70% beginning on December 3, 1992, to 75% (beginning October 4, 1993), to 80% (beginning July 5, 1994).

The following graph shows both the GO 133-B standard in the relevant years and Pacific's (as well as Verizon's) performance. The data used in the graph has been adjusted for Pacific to include billing calls for the period beginning May 1999 and thereafter to make the data comparable for all years and for both companies.[112] In all years but 1993 (when the carriers reported the same results) and 1997 (when Verizon reported slightly poorer results), Pacific's BOAT



figures were worse than Verizon's:

As we noted previously, Pacific changed its practices regarding inclusion of billing calls in its BOAT reporting, making comparison of its year-over-year

112 Verizon includes billing related calls in its reported BOAT data, while Pacific began excluding billing related calls from its BOAT reports beginning May 1999. Pacific's adjusted BOAT data is from TURN's August 27, 2002 Supplemental Testimony.

performance difficult. Pacific now excludes billing calls, but included them in its GO 133-B reporting up until February 1999. TURN requested raw data from Pacific so that it could use consistent data to compare Pacific's performance to itself over time. Once TURN made adjustments to equalize the numbers, TURN found that, "Pacific's service quality has declined compared to itself since February 1999 and compared to Verizon. Pacific's combined performance on GO 133-B and billing calls has been 68% or less answered in 20 seconds during the years 2000 and 2001, a substantial decline from its 1997-1998 performance of meeting the GO 133-B of 80% in 20 seconds."[113] Pacific did not attempt to refute TURN's calculations. Therefore, the figures in the foregoing graph reflect an adjustment of Pacific's results from 1999-2001 to add back estimated billing call answer times.

TURN alleges that Pacific's answer times for billing calls are so poor as to warrant a finding that Pacific has violated Pub. Util. Code § 451. Pacific only answered 20% of billing calls in 20 seconds at one point after February 1999 (GO 133-B requires 80% of business office calls to be answered in that time), and the rate has only improved to approximately 50% of late.[114]

However, both Pacific and TURN recognize that the Commission has not set standards for billing call answer times. This is a reporting gap that the Commission has identified for consideration in R.02-12-004. Therefore, we do not find a § 451 violation. Similarly, because GO 133-B specifically excludes billing inquiries from its measure of BOAT, we do not find that Pacific's

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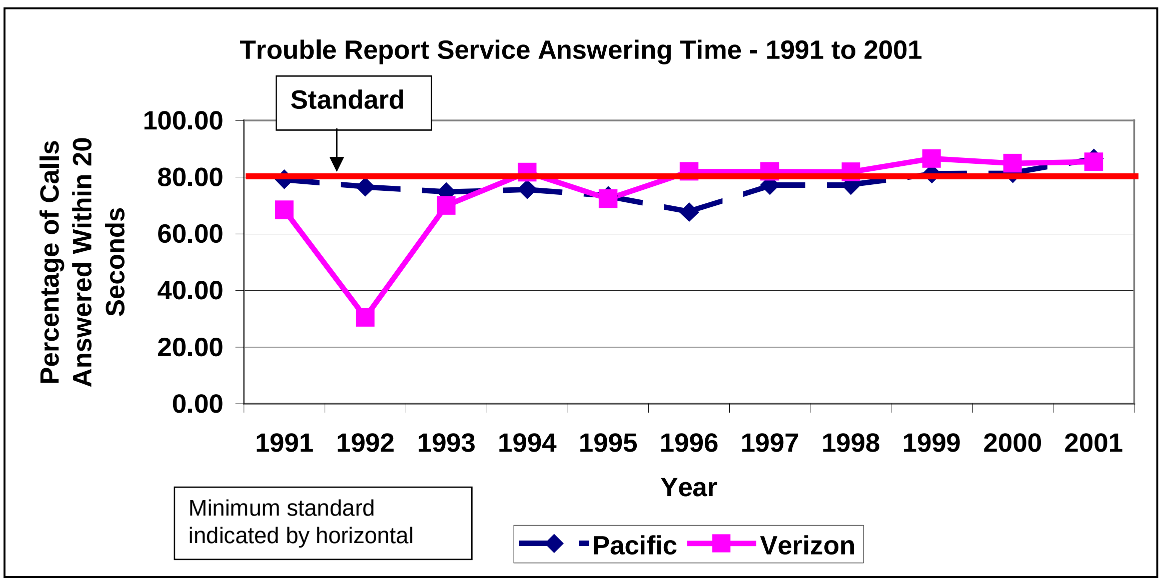
[113] *Id.*, citing Exh. 2B:521 (Schilberg Supplemental Testimony).

[114] Exh. 2B:521, Table 1.

performance of 68% or fewer calls answered within 20 seconds is a violation of GO 133-B standards, when billing calls are included in that measure.

However, we do find that, from the perspective of consumers, the undisputed data show that percentage of calls to a Pacific business office, including billing inquiries, answered within 20 seconds is lower than 1999 levels. This is a degradation of service quality. Moreover, the data in the foregoing graph shows that Pacific's BOAT times have, for all years except 1997, fallen below standards, as well as comparing unfavorably to Verizon's times. Thus, we find that Pacific shows significant problems with its BOAT results.

As for TRSAT results, Pacific's and Verizon's results are mixed over the period 1991-2001, as follows:



On average, Pacific's annual performance was below the standard from 1991 through 1998, and has been below Verizon's performance since 1996, when its performance reached its low ebb.[115]

We find that Pacific's most serious answer time problems lie with its BOAT results. It has shown sub-standard performance in the past on its TRSAT reports as well, but the pattern is less troubling and is trending in a positive direction.

5. Other Direct Measures of Service Quality – Pacific

a. Complaint Data – Pacific

(1) Formal Complaints

TURN relies on several formal Commission proceedings to make its case that service quality has declined under NRF. We discuss each in brief below. TURN also notes that the pace of such cases seems to have increased since 1995, indicating that the tendency for service quality decline under NRF has not diminished with the passage of time.

TURN's list of proceedings shows that there have been at least six proceedings finding serious problems with Pacific's service quality since 1995, as compared to two proceedings in the five-year period from January 1990-December 1994. TURN points to the following cases over the period 1991-present:

- C.91-03-006/D.93-05-062 regarding late payment charges. Pacific was found to have imposed erroneous late payment charges because it did not timely process payments as they

[115] Because monthly calls volumes are not part of the record, annual averages were estimated by summing the monthly results and dividing by 12.

came into its payment processing center. Mail sat around, and when it was finally processed, payments that had been timely made appeared to be late, causing Pacific incorrectly to assess late payment charges. The Commission pointed to some evidence that Pacific allowed the practice to continue in order to save money: "A letter to the Comptroller in May 1990 recognized that Pacific was taking improper action against customers and quoted a manager who believed that curing the problem may not be 'worth spending a lot of money to obtain.'"[116] The Commission required Pacific to refund $34 million in unlawful late charges, and to pay a $15 million fine.

- A.92-05-002 / D.94-06-011 NRF review; settlement with ORA's predecessor, DRA, regarding Pacific's TRSAT answer times, among other things.[117] ORA also alleges that Pacific violated the service quality requirements of D.94-06-011 because it failed to notify ORA by letter in 1994 about software changes related to Calling Cards, or conduct semi-annual meetings with Commission staff on "service quality results, to discuss concerns, and to discuss utility corrective measures."[118] Pacific's witness conceded that Pacific could not substantiate that it sent ORA the required letter, and cited a later decision (D.97-03-067, discussed below) for the proposition that the Commission did not find Pacific to be out of compliance with the latter requirement.[119] However, an examination of D.97-03-067 reveals no such statement by the Commission.

[116] D.93-05-062, *mimeo.*, at 15, 1993 Cal. PUC LEXIS 394, at *21.

[117] 1994 Cal. PUC LEXIS 456, at *158-59.

[118] D.94-06-011, Appendix B, Section 4.B. SERVICE QUALITY.

[119] Exh. 2B:357 at 48:6-14 (Resnick Reply Testimony) & 23 RT 2976:3-24 (Resnick).

- A.95-12-043/D.97-03-021 regarding ISDN.[120] The Commission found Pacific had insufficient staffing, and poor installation and customer service records, and noted that incentives to cut costs prevented Pacific from addressing the problem. We found that, "Pacific does not provide high quality customer services to its ISDN customers and potential ISDN customers . . . ."[121]

- A.96-04-038/D.97-03-067 regarding the Pacific Telesis/SBC merger.[122] In this case, ORA's predecessor (DRA) presented evidence of Pacific's poor performance on its TRSAT and BOAT reports. DRA also claimed that an inadequate workforce caused service deterioration in the TRSAT. The Commission concluded in D.97-03-067 that, "ORA presented an impressive analysis of issues relating to Pacific's service quality which may be useful in other contexts." The Commission also found that "Pacific is and has been out of compliance with GO 133-B, apparently for some time. . . . Pacific failed to meet [the] standard for trouble report answering time almost 50% of the time for the period 1993 through the first six months of 1996 . . . ."[123]

  The Commission also stated: "We are concerned by Pacific's failure to meet trouble report service answering time standards following our adoption of a settlement in D.94-06-011 under which Pacific, as a settling party, agreed to improve its trouble report service answering time in

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[120] 1997 Cal. PUC LEXIS 142. ISDN was an early means of boosting the capacity of existing copper connections between a customer's premises and Pacific's switching facilities.

[121] *Id.* at *50, finding of fact 17. *See also* Exh. 2B:507 at 10-11 (Schilberg Direct Testimony).

[122] 1997 Cal. PUC LEXIS 629, at *131, 71 CPUC 2d 351, 395 (1997).

[123] D.97-03-067, 1997 Cal. PUC LEXIS 629, at *131, 71 CPUC 2d 351, 395 (1997).

order to avoid the imposition of a penalty mechanism. In D.94-06-011, we found that '. . . Pacific will also be adjusting its procedures to improve its quality of service . . . .' (see page 118, D.94-06-011). Since that time, in fact, Pacific's service quality has declined."[124] The Commission threatened Pacific with penalties if it did not improve its results in 90 days, and only then did Pacific's TRSAT and BOAT results improve.

- C.98-04-004/D.01-09-058 regarding Pacific marketing abuse.[125] The Commission found that Pacific provided poor service quality and failed adequately to disclose information regarding its Caller ID, Wire Pro, and "The Basics" packaged services. Regarding service quality, the Commission stated that, "customer service quality is compromised when Pacific Bell representatives ask each caller, at the beginning of every call, for permission to access the subscriber's proprietary network information and to repeat the question if the answer is 'no,' and force customers to listen to unwanted sales pitches prior to providing a response to a customer service inquiry. Therefore such practices are inconsistent with reasonable service quality."[126]

- C.99-06-053/D.01-10-071, in which Pacific was accused of deceptively marketing its "Saver 60" intraLATA toll calling plan. For some customers, Pacific was shown to have marketed the program to customers for whom it did not produce savings, despite Pacific's claims that it would. Pacific settled by agreeing to provide customers notification of the error, make refunds and establish a two-

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124 D.97-03-067, 1997 Cal. PUC LEXIS 629, at *130.

125 2001 Cal. PUC LEXIS 914.

126 2001 Cal. PUC LEXIS 914, at *155.

way feedback/complaint mechanism for telemarketing services.[127]

- C.99-16-018/D.01-12-021 regarding repair services. The Commission found Pacific's repair intervals had increased to such a level that they violated Pub. Util. Code § 451 and a Commission-ordered merger condition requiring that service quality be maintained. The Commission also found that Pacific did not inform customers of their right to be given a window of time within which a representative would complete required service. In reaching its findings, the Commission found that past performance is an adequate standard for determining service quality degradation in violation of Section 451,[128] that cost cutting measures can cause such degradation,[129] and that aggregation of data from multiple measures can mask service quality so poor in a single measure as to violate § 451.[130]

- C.02-01-007/D.02-10-073 regarding DSL. Settled with Commission adopting Pacific's proposed penalty payment into the State general fund of $27 million. Pacific agreed in the settlement that "During the period of January 2000 through the [date of the settlement agreement], an estimated 30,000 to 70,000 [of Pacific's DSL affiliate's] customers complained about and/or experienced billing errors" and that these errors "were not resolved in a timely

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127 D.01-10-071, 2001 Cal. PUC LEXIS 961, at *9-10.

128 D.01-12-021, *mimeo.*, at 11, findings of fact 20, 21 at 44-45, & conclusion of law 6 at 45, 2001 Cal. PUC LEXIS 1075, at *20-21 & 73.

129 *Id., mimeo.* at 10, citing D.01-03-039, *mimeo.*, at 33.

130 *Id.* at 23 & finding of fact 16 at 44.

> manner and/or required multiple calls and substantial investment of time to resolve."[131]

Pacific does not appear to have addressed the formal complaint data TURN cites, except to note that those proceedings should not be considered part of the record of this proceeding, and are irrelevant to an assessment of Pacific's service quality during the NRF period.

We may take official notice of actions of this Commission pursuant to Rule 73. Thus, the formal complaints Commission proceedings TURN or any party cites with regard to Pacific (or Verizon) need not be a part of the record of this proceeding in order for us to rely on them in rendering this decision. Moreover, we disagree with Pacific's contention that its performance in the context of the listed formal proceedings is irrelevant here. This proceeding is our opportunity to examine the entirety of Pacific's record, and we find that these cases, when examined together, indicate that regulatory monitoring is essential to maintenance of good service quality.

TURN is correct that the pace of meritorious complaints has increased since 1995. We find that there were far fewer instances where the Commission has found violations of service quality rules or related matters during a similar time period preceding NRF. We cannot say, however, whether NRF itself caused the problem. Nonetheless, we do not believe that self-regulation is adequate to ensure proper performance and will continue to monitor Pacific's service quality performance closely. We should consider in Phase 3B of this proceeding whether the foregoing complaints give rise to a need for particular monitoring, systems of

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131 D.02-10-073, *mimeo.*, at 8.

rewards and penalties, or other regulatory devices to maintain and improve service quality.

(2) Informal Complaints – Pacific

In the OII initiating this proceeding, the Commission listed informal complaint data for Pacific Bell in Appendix C, as follows:

Number of Informal Complaints Filed at the Commission
January 1, 1995, through July 12, 2001

Pacific Bell								
	Category of Complaint	**1995**	**1996**	**1997**	**1998**	**1999**	**2000**	**2001**
1	Delayed Orders & Missed Appoint.	71	259	644	650	409	623	157
2	Quality of Service (e.g., static, crossed lines, intermittent service, etc.)	947	1,416	1,780	1,639	1,095	1,324	380
3	Disputed Bill	1,334	1,733	2,171	2,113	1,404	2,365	1,249
4	Disconnections	93	186	286	441	306	500	173
5	Deposits	111	100	191	176	128	104	43
6	Disputed Customer of Record	166	121	206	239	238	134	55
7	No Notice	39	65	104	125	127	15	0
8	Late Payment Charge	12	6	10	10	13	0	0
9	Rate Design	175	62	82	150	39	20	11
10	Rules	363	272	465	249	78	152	82
11	Directory	143	89	144	123	109	13	0
12	Company Practice	459	376	319	303	131	498	249
13	Miscellaneous	286	317	262	272	273	294	120
14	Baseline	0	0	1	1	0	0	0
15	Surcharges/Taxes	13	17	73	47	145	55	36
16	Number/Area Code	2	31	48	48	46	18	8
17	Rate Protest	8	24	6	105	11	3	6
18	Master/Sub Meters	0	0	0	2	0	0	0
19	Bill Format	5	5	18	4	10	1	0
20	Commission Policy/Practices	2	1	1	1	4	0	0
21	Operator Services	1	11	12	29	35	2	0
22	Annoyance Calls	18	26	37	53	58	3	0
23	Payment Arrangements	223	295	609	420	124	10	20
24	Commitment	7	52	923	301	100	55	6
25	Pay Per Call Service	65	44	94	26	17	3	1
26	Refusal to Serve	40	53	141	70	10	1	2
27	Estimated Billing	0	1	0	1	0	0	1
28	Deaf Program	0	1	1	2	7	2	2
29	Balance/Level Pay Plan	0	0	0	1	0	0	0
30	Illegal Activities	0	0	0	1	0	6	0
31	COPT	9	12	8	9	3	2	1
32	Custom Calling Features	160	426	129	294	271	472	42
33	Inside Wiring	98	54	70	100	62	28	6
34	Abusive Marketing	41	41	48	53	93	86	26
35	Backbilling	0	0	8	12	21	7	1

	Pacific Bell							
	Category of Complaint	**1995**	**1996**	**1997**	**1998**	**1999**	**2000**	**2001**
36	Centralized Credit Check System	21	7	4	29	59	7	0
37	Female / Minority Business Enterprise	0	1	4	2	0	0	0
38	Mergers	0	5	0	0	1	0	0
39	Low Income Programs	17	9	11	2	18	10	10
40	New Incentive Regulatory	274	7	6	7	13	5	2
41	Safety	0	5	9	10	4	11	3
42	Electromagnetic	0	0	0	1	0	0	0
43	Landline to Cellular	0	0	0	2	4	0	0
44	Improper Advertising	0	0	0	13	8	1	0
45	Cramming	0	0	1	30	27	77	75
46	Outages	0	0	0	4	7	64	15
47	Anonymous Call Rejection	0	0	0	21	5	0	0
48	Prepaid Phone Card	0	0	0	0	2	3	2
	TOTALS	5,203	6,130	8,926	8,191	5,515	6,974	2,784

In Exhibit 2B:701(C),[132] the Commission's legal staff clarified how the data in the foregoing table were derived. The data were compiled from summary reports maintained in the database of the Commission's Consumer Affairs Branch (CAB). An informal complaint, as the term is used in the context of the foregoing data, "is one that is handled by CAB staff in an attempt to come to a mutually agreed upon resolution between the consumer and the utility."[133] The numbers do not include formal complaints, which "consumers may also file . . . with the Commission and [which] are handled by the ALJ Division." CAB also furnished Pacific Bell the underlying data from which it compiled the results.

Pacific did not object to receipt of the complaint information into evidence.[134] Thus, we will assume the informal complaint figures are valid as

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[132] The "C" designates a confidential exhibit. However, none of the summary statistics contained in Appendix C to the OII in this decision require confidential treatment, as they do not identify individual customers or otherwise compromise the trade secrets of any telephone company.

[133] *Id.*

[134] *See* 23 RT 2998:10-25.

reported. As ORA points out, Pacific critiqued the foregoing data from the OII Appendix C, but then used the information to draw its own favorable conclusions about its service quality.[135] Therefore, it is appropriate for us to use the data to draw our own conclusions about Pacific's service quality.

Because the informal complaint data were not organized into categories reflective only of service quality problems, we have summarized the results of complaints that relate most directly to service quality. The results are as follows:

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[135] ORA Reply/Service Quality at 26-27 (citing Pacific witness Flynn as stating "It is difficult to draw any definite conclusions based on the data in Appendix C because we were unable to obtain full answers regarding how the data is collected and processed. . . .).

PACIFIC COMPLAINT DATA BY SERVICE QUALITY RELATED CATEGORIES								
	(1995 - July 12, 2001) Pacific							
	1995	**1996**	**1997**	**1998**	**1999**	**2000**	**2001***	**Total**
Abusive Marketing	41	41	48	53	93	86	26	388
Quality of Service	947	1416	1780	1639	1095	1324	380	8581
Operator Services	1	11	12	29	35	2	0	90
Safety	0	5	9	10	4	11	3	42
Outages	0	0	0	4	7	64	15	90
Delayed Orders & Missed Appts	71	259	644	650	409	623	157	2813
Missed Commitments	7	52	923	301	100	55	6	1444
TOTAL	1067	1784	3416	2686	1743	2165	587	13448

*Partial year data

It is difficult to analyze these data in all their possible permutations, but we can make at least two observations. First, informal complaints were at their worst in 1997-98 and 2000. Thus, any problems Pacific may have are not remote in time, but rather stem from recent years. Second, the ratio of service quality complaints to overall complaints has fluctuated significant over the years, with 1997-98 and 2000 the worst years in this category:

	1995	1996	1997	1998	1999	2000	2001	Total
Total Telecom Complaints	5203	6130	8926	8191	5515	6974	2784	43723
Total Service Quality Complaints (SQC)	1067	1784	3416	2686	1743	2165	587	13448
SQ Complaints/Million Lines	68.0	110.8	203.0	150.8	97.3	121.3	33.7	112.4
% OF SQC Complaints to Total Complaints	21%	29%	38%	33%	32%	31%	21%	31%

VII. Self Monitoring – Pacific

Pacific's witness Rick Resnick acknowledged that Pacific's internal tracking of service quality by and large is no more specific or rigorous than the regulatory requirements we and the FCC impose:

Q. Do you believe that Pacific's own internal standards for service quality are more stringent and detailed than those prescribed in GO 133(b)?

A. . . . I believe that our internals are designed to really line up with our reporting requirements, whether it's MCOT or ARMIS or GO. . . . But we use our internals to make sure that the overall reporting requirements are indeed met.

. . .

Q. Is it correct that Pacific internally tracks items that are germane to service quality that it doesn't necessarily report on pursuant to either GO 133(b), ARMIS, MCOT or any other requirement?

A. We may call some of those differences, but they get at the same type of measure. . . .

Q. If you at the company had to be left only with MCOT, GO 133(b) and ARMIS reporting as the totality of information that you had internally to assess Pacific's service quality, would you be satisfied with that?

. . .

A. I think, as I said, the reporting requirements on ARMIS, MCOT, GO, do a good job of measuring service quality. So I believe our service quality measurements and our ability to measure service would be intact on the whole.[136]

Therefore, our reporting requirements, and those other regulators impose, are critical to the process of tracking and evaluating Pacific's service quality. It is not clear that Pacific would maintain the specific records we require if we did not require it to report its results. Thus, we agree with TURN that Commission

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136 23 RT 2970:16-2972:27 (Resnick).

oversight is essential to our ability to monitor and control Pacific's service quality.

Pacific's testimony is even more revealing when compared to Verizon's testimony in response to the same questioning. Verizon's witness candidly admitted Verizon's service quality managers view the GO 133-B and FCC reporting requirements as a minimum, and that Verizon takes many additional steps internally that no regulator requires. Its goal in doing this appears to be customer satisfaction.[137] That Pacific had an opportunity to demonstrate a similar commitment on questioning, and did not, is telling evidence of its reluctance to self-monitor. Thus, the evidence further supports our conclusion that we must carefully monitor and regulate Pacific's service quality in order to ensure it is satisfactory.

VIII. Customer Satisfaction and Service Quality Surveys – Pacific

A. ORA Survey

At the Commission's direction, ORA's witness Dr. Marek Kanter performed a survey of Pacific's customers based on one ORA carried out in 1995. ORA did not change the survey questions – again at the Commission's direction – because it wanted the results to be comparable over time. While Pacific criticizes the survey, we find that ORA did precisely what it was supposed to do: use the same survey as it used in 1995 so as to have a basis to compare Pacific's results. In this regard, the Commission stated in the OIR that, "Parties that conduct surveys are encouraged to adhere to the following principles. First, in developing the survey, the party should use as a starting point the surveys of

[137] *See, e.g.,* 20 RT 2477:25-2480:16 (Thoms/Anders/Fernandez panel).

Pacific and Verizon customers conducted by Commission staff in previous proceedings."[138]

Moreover, assuming for the sake of argument that Pacific is correct in claiming the survey contains flaws, the same flaws were there in 1995, and so its criticisms do not undermine the survey's usefulness as a means of comparing Pacific's performance over time. Even ORA's own witness conceded some of the flaws, but repeatedly pointed out that his main purpose in using the survey was to gain comparative data.

We find that the survey has merit when used for comparative purposes despite the flaws Pacific points out. Indeed, had ORA changed the 2001 survey from the one used in 1995, ORA notes that Pacific would have criticized the survey on that basis. As its witness Dr. Harris stated, "[i]t is difficult to evaluate the meaning of changes in survey responses over time if there has been a change in the survey itself."[139]

Pacific's key alleged flaws related to "nonresponse error" and to the sample size and ORA's lack of efforts to increase it. Nonresponse error relates to the theory that those who respond to a survey are more likely to have complaints. If one does not control for this bias, according to Pacific's expert, Dr. Hauser, the results of the survey will contain more negative responses than reality would dictate. However, Dr. Hauser himself could not identify a study backing up his claim:

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[138] R.00-09-001, *mimeo.*, at A-3.

[139] ORA Opening/Service Quality at 19, citing Exh. 2B:254 at 34:6-7.

> Q. So is it your testimony that dissatisfied customers are statistically significantly more likely to respond to a survey than satisfied customers?
>
> A. I really wish I could hold up at this moment in time a particular academic study that . . . shows that statistical significance and it's been done to high methodology (sic). I just can't do that at this point in time.[140]

Moreover, ORA points out that in this case, "[t]o demonstrate bias Dr. Hauser would have to show not only that 'dissatisfied customers are more likely to be more concerned with making their voices heard,' but also that such a tendency has increased in the period from 1995 to 2001."[141] ORA used the survey to compare Pacific's performance over time, and Pacific fails to explain why the results changed so markedly from 1995-2001.

On the sample size, it is true that ORA did not follow up with customers in an attempt to increase the size of the sample of customers taking the survey. However, ORA did not follow up in 1995 either. As ORA points out, "had ORA attempted follow-up procedures that were different than the procedures in place in 1995, it would have lost the ability to do a fair comparison of the 1995 with the 2001 results." Dr. Kanter also explained that, "had I done follow-up phone calls, I would have changed the cast of characters, so to speak. The people responding would not have been as directly comparable to the people responding in 1995."[142] Thus, we find that for the purpose Dr. Kanter intended it – comparison between

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[140] 18 RT 2176:16-22 (Hauser).

[141] ORA Opening/Service Quality at 21, citing Exh. 2B:354 at 45:14-16.

[142] ORA Opening/Service Quality at 20, citing 18 RT 2147:2-12.

Pacific's performance in 1995 and its performance in 2001 – Pacific's criticisms lack merit.

The comparison showed serious problems in residential and small business customers' perceptions of Pacific's service quality. The survey found that according to its customers, Pacific's quality of service declined in the period between 1995 and 2001. Of 36 questions in the survey germane to service quality, the responses to 23 questions showed a difference between customer perceptions in 1995 and 2001. Of these 23, in only 4 questions did customers choose a more favorable response in 2001 than they had in 1995. In each of the following 19 questions, the results were worse in 2001 to a statistically significant extent than they were in 1995:

- Q8. How often have you noticed static or noise on the line?
- Q9. How often have you noticed voices fading in or out?
- Q10. How often have you heard voices echoing?
- Q15. How often was the line dead upon picking up the phone?

(Questions 21-27 relate to "long distance calls carried by your local telephone company.")[143]

- Q21. How often have you noticed static or noise in the last 30 days?
- Q22. How often have you noticed voices fading in and out in the last 30 days?

143 Pacific correctly pointed out, in our view, that this question might have confused customers, and more so in 2001 than in 1995 with the differentiation in local toll and long distance calling and the proliferation of long distance providers.

- Q23. How often have you heard voices echoing in the last 30 days?
- Q24. How often have you not heard the other party in the last 30 days?
- Q27. How often have you been disconnected while talking in the last 30 days?

(Questions 31-32 relate to contacts with the local company's business office.)

- Q31. Were the office personnel assisting you courteous?
- Q32. Were you satisfied with the help you received from the office personnel?
- Q34. Regarding contacts with the local company's telephone operators, were you satisfied with the help you received from the operators?

(Questions 37-38 relate to telephone installation and repair.)

- Q37. Was the work completed on time?
- Q38. Were you satisfied with the work?
- Q40. Was your most recent local telephone bill correct?
- Q42. How would you rate your local phone service for the last 30 days?
- Q43. Compared with the last 6 months, rate your service in the last 30 days.
- Q44. What is your overall satisfaction with your local telephone service?
- Q46. Rate the service of [the] present provider, compared with previous providers you have had in the last three years.

Regardless of the individual criticisms Pacific leveled at the questions and the way the survey was formatted, they were the same questions and the same formats Pacific's customers saw in 1995, and the same questions ORA used for Verizon's survey, which produced positive results for that company. We find the ORA survey to provide very strong evidence of a decline in Pacific's customer satisfaction between 1995 and 2001.

IX. Pacific's Surveys

A. J.D. Power Survey – Pacific

Pacific also submitted its own surveys. One, conducted by J.D. Power, a global marketing-information firm that measures customer satisfaction, found from 1996-2001 that Pacific ranked in the top six out of sixteen local telephone service providers surveyed.[144] However, Pacific submitted little information about what the survey asked customers.

Moreover, what information Pacific submitted indicated that the survey included several factors that we consider peripheral to a true assessment of service quality, such as "corporate image" (which respondents ranked as one of the top three factors relevant to customer satisfaction, with 21% finding it important), "cost of service/value" (with 24%) and "calling card," which appear to relate to Pacific's prices and calling card services, and are not elements of service quality as examined in this decision. Thus, we give the J.D. Power study little weight here.

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[144] Exh. 2B:509.

B. IDC Survey – Pacific

Pacific's expert Dr. Hauser also summarized the results of a 2000 survey of various local exchange carriers by IDC, entitled "Telecommunications Consumer Brands Survey." According to Dr. Hauser, IDC is "a leading provider of technology forecasts, insights and advice."[145] Dr. Hauser reported that the IDC survey found that Pacific's customers are more satisfied than the average local telephone customer for all attributes studied except one; Pacific's customers are the second most overall satisfied for customer service; Pacific's customers are the third most satisfied for voice quality; and Pacific is one of the top three providers in over 85% of the areas measured. According to Dr. Hauser, the IDC survey polled 805 households nationally, and measured local telephone service customers' satisfaction with "customer service, fees, marketing, reputation, pricing structure and voice/service quality."[146]

Attachment 31 to Dr. Hauser's testimony summarizes the results of the IDC study. When one examines the data contained there, it appears Pacific's performance is not as positive in the area of service quality as Dr. Hauser claims. The only two indicia of service quality contained in the survey are "customer service" and "voice or service quality."[147] For "customer service," 73.8% of respondents ranked Pacific as a 4 or 5 (with 1 = not very satisfied, and 5 = very satisfied), at best placing Pacific in the middle of the range for comparable

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[145] Exh. 2B:354 at 31:3-4 (Hauser Direct Testimony).

[146] Exh. 2B:354 (Hauser Direct Testimony).

[147] The other indicia, "overall satisfaction," "fees and costs," "marketing style," "reputation of the provider," and "simplicity of pricing structure" either do not measure service quality at all, or pertain to measures in addition to service quality.

carriers. Of the non-SBC companies, GTE/Verizon's comparable result was 83.1%, Bell Atlantic's was 80.7%, and Bell South's was 72.6%, and US West's was 63.1%. Thus, of the companies SBC does not own, Pacific was worse than Verizon, and Bell Atlantic, comparable to Bell South, and better than US West.

Similarly, on "voice or service quality," 85.7% of customers ranked Pacific a 4 or 5. Of the non-SBC companies, Bell South scored 86.3, GTE scored 85.9, US West scored 83.8, and Bell Atlantic scored 83.5. Thus, Pacific's results were comparable to the other non-SBC carriers' results. Only SBC's Ameritech, with 62.5%, scored notably lower that the other carriers, who were all in the range of 83.5% to 86.3 percent.

Based on the foregoing analysis, we do not find that the IDC survey bolsters Pacific's claim that it has distinguished itself on service quality as compared to other carriers. In addition, we find a survey that only looks at Pacific's performance at a snapshot in time less useful than ORA's survey, which compares customer perceptions over the course of 6 years. Moreover, in light of Pacific's failure to produce any of its internal service quality survey results (as discussed in the following section), we are reluctant to put much store in the IDC survey.

C. Other Customer Surveys – Pacific

During the audit phase of this proceeding, the Commission's consultant, Overland Consulting (Overland), found that Pacific used a third-party research firm to conduct customer satisfaction surveys during the NRF period, and that Pacific did not file the surveys with the Commission as required by the NRF monitoring program.[148] According to Overland, the surveys were conducted under Pacific's Customer Service Quality (CSQ) process, and surveyed customers who had recent experience with Pacific in the areas of sales, billing, maintenance, installation, and operator services.

Overland reported that Pacific should have filed the surveys under NRF monitoring report P.A. 02-03, and that Pacific refused Overland's requests for copies of the surveys. In response to Overland's assertion that Pacific failed to file the surveys as required, Pacific states, "It is possible Overland has confused two monitoring reports, P.A-02-03 and P.A-02-04. Pacific understands that P.A-02-03, Customer Survey Report, refers to surveys initiated by the Commission. . . ."[149] Pacific argues that it should not be obliged to produce its customer surveys because the requirement "has not been raised by the Commission or its staff in the last 11 years. . . ."[150] Thus, Pacific argues that it is only required to file customer surveys under report P.A. 02-03 when *the Commission* initiates a survey. We conclude that Pacific's position is inconsistent with the reporting requirements adopted in D.91-07-056.

We have reviewed the origins and purposes of reports P.A. 02-03 and P.A. 02-04, and find the following. After completing a series of workshops in 1990, the Commission adopted a comprehensive monitoring program for Pacific and Verizon "as described and envisioned in the Commission's Advisory and

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148 Exh. 2A:404, at 21-19 (Audit Report)

149 Exh. 2B:340 at 22-23 (Hayes Direct Testimony).

150 *Id.*

Compliance Divisions (CACD) three workshop reports... [including]…the reporting requirements recommended in CACD's Workshop II Report…"[151]

The Commission in D.91-07-056 also directed the staff to produce "a written assessment explaining who prepares each monitoring report that the utilities provide to our staff, and what purpose each of these reports serves for the utility and for the staff."[152] The staff's Monitoring Report Assessment, filed on May 1, 1992, contained the following description of "Customer Surveys" Pacific is required to file under report P.A. 02-03:

> 6. Customer Surveys: These surveys are given to customers who have direct contact with Pacific Bell and are used to measure customer satisfaction levels and perceptions of the company. *These surveys are conducted through the Corporate Research organization at Pacific Bell*, and historically have been provided to the DRA Telecommunications Rate Design Branch, and is [sic] used in DRA's ongoing service quality evaluation. The surveys are provided as initiated. It is recommended that these surveys continue."[153]

The Monitoring Report Assessment also describes a separate set of ongoing survey results that Pacific is required to file monthly under Report P.A. 02-04, as follows:

> "7. Quality of Service Performance – Customer Opinion Surveys: These surveys are conducted by the Company Measures and Statistics organization at Pacific Bell. A monthly report identifying the percentage of customers that are satisfied with Pacific Bell's service quality is provided to the DRA Telecommunications Rate

[151] D.91-07-056, Ordering Paragraphs (OP) 1 and 3, 41 CPUC 2d at 128-30.

[152] *Id.*, OP 6.

[153] *New Regulatory Framework Monitoring Report Assessment*, I.87-11-033, Commission Advisory and Compliance Division, May 1, 1992, at 6 and 60 (emphasis added).

> Design Branch. DRA uses the information in these reports is used in it's [sic] service quality monitoring efforts. It is recommended that these surveys continue."[154]

Thus, the Monitoring Report Assessment describes two separate and distinct monitoring reports addressing different kinds of customer surveys: P.A. 02-03 contains surveys conducted from time-to-time through Pacific's Corporate Research organization measuring customer satisfaction levels and perceptions of the company, while P.A. 02-04 contains a monthly report prepared by Pacific's Measures and Statistics organization on an ongoing basis identifying the percentage of satisfied customers.

Pacific asserts that the P.A. 02-03 report refers only to surveys initiated by the Commission. We find nothing in D.91-07-56, in the staff's workshop report, or in the staff's Monitoring Report Assessment supporting Pacific's assertion that only Commission-initiated customer surveys are to be filed with the Commission under report P.A. 02-03. Therefore, Pacific's position is unsupported by any evidence, and we find that Pacific has not complied with its obligation to file its surveys measuring customer satisfaction levels and perceptions of the company.

Pacific's witness states that, if Pacific's understanding of its reporting obligation is incorrect, neither the Commission nor its staff has raised it as an issue. Pacific appears to suggest that it is free to disregard its compliance obligations if it is not reminded of them. Particularly when the obligations are clear, as is the case here, it should be unnecessary to remind Pacific that it is responsible for understanding its responsibilities under our rules. Moreover,

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[154] *Id.*

Pacific is well aware of the procedures available to it for clarifying any confusion or misunderstandings it may have about its obligations.

Customer perceptions gained through surveys can provide a valuable indicator of service quality. While ORA's survey provides useful information, Pacific criticizes the survey as flawed. At the same time, due to Pacific's failure to file information required by the Commission under its NRF monitoring program and Pacific's refusal to produce this information as requested by Overland, Pacific has deprived the Commission of information that may be useful in its assessment of Pacific's service quality under NRF. Because Pacific has not filed surveys as required under the NRF monitoring program, and has also refused to provide the information to Overland, we can only conclude that the results of those surveys are not favorable to Pacific. At the very least, we cannot find that Pacific's service quality results are enhanced by the P.A. 02-03 surveys, since Pacific has never submitted them.

When we implemented NRF, we stated,

> We expect DRA to closely monitor the new framework on an ongoing basis and, where its analysis identifies areas of concern, to proceed to investigate. We direct the utilities to fully cooperate in providing all necessary information. This order provides Pacific and GTEC with an unprecedented opportunity to conduct their regulated business in a more flexible manner. This increased freedom does not mean that the Commission will countenance a more restrictive information access policy, however. Indeed, *we view the success of the new regulatory framework as inextricably linked to the quality of the Commission's access to utility information*. To make this more credible, we will insist on more cooperation, not less, in sharing of information. We will not tolerate actions which obstruct

> the audits and investigations of the Commission staff, whichever division is involved. . . ."[155]

In the case of the surveys measuring customer satisfaction levels and perceptions of the company, it is clear that Pacific has not complied with its reporting obligations during the NRF period, nor has it cooperated with the Commission's auditor in the Commission's effort to gather important information concerning Pacific's performance under NRF. Parties should recommend in Phase 3B what action should be taken to address Pacific's failure during the NRF period to comply with its customer survey reporting obligations under the monitoring program, and what steps may be necessary to ensure Pacific's compliance in the future. Parties should also recommend ways to ensure Pacific's full cooperation with the Commission's continuing efforts to obtain service quality monitoring information.

D. Additional Factors Affecting Service Quality – Pacific

1. Technological Change – Pacific

TURN also contends that Pacific's deployment of advanced services – primarily its DSL service – threatens to create two classes of customers, those who have excellent service quality by virtue of their access to the most advanced telecommunications infrastructure, and "have nots" who have not had such architecture installed.

As Pacific admits, technological improvement does enhance service quality: "[T]he same [NRF] incentives that promised Pacific greater profit potential benefited customers through efficient investment that would reduce

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[155] D.89-10-031, 33 CPUC 2d at 196 (emphasis added).

costs while enhancing service quality through technological improvement."[156] While Pacific attempted to downplay at hearing the positive implications for service quality that its advanced services architecture delivers to customers, such claims are both counter-intuitive and contrary to its statements elsewhere.[157]

TURN's witness Terry Murray claimed that with Pacific's introduction of "Project Pronto," a project that involved broad deployment of advanced services technology, Pacific promised improvements in service quality from the new service. While Pacific backed off from several of its 1999 broadband network claims at hearing, in 1999 Pacific told investors that the new technology would 1) "be less vulnerable to weather conditions, thereby reducing trouble reports," 2) have "reduced activity . . . in the remaining copper plant because of improved reliability," 3) "avoid dispatches on many installations [and thereby] realize efficiencies in [SBC's] installation and maintenance operations," and 4) "substantially reduce the need to rearrange outside plant facilities when installing new or additional services."[158]

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156 Pacific Opening/Service Quality at 7-8 (emphasis added).

157 As we show in our discussion of the same argument as it applies to Verizon, Verizon concedes that new technology enhances service quality. *See* Section entitled "Technological Change – Verizon," below.

158 Exh. 2B:505A (Confidential Exhibits to Murray Direct Testimony), SBC Investor Briefing, "*SBC Announces Sweeping Broadband Initiative*," dated Oct. 18, 1999, at 7. There is nothing confidential about the investor briefing; indeed, the parties referred to its contents during the hearing.

Pacific's witness confirmed the foregoing 1999 claims at hearing.[159] For example, Pacific conceded that the use of fiber for voice service improves trouble report performance, that if fiber signal quality exceeds the minimum standard, Pacific does not reduce the quality to that minimum,[160] and that, at least with regard to data transmission, fiber loops may allow data to travel at the standard 56k modem speed, while copper loops may not.[161]

TURN also alleges that selective deployment of broadband services creates the risk of discrimination in service provision: "The service quality enhancement of Project Pronto and similar major network improvements raises the possibility of the improvements being deployed in a manner that produces two-tiered basic service and distinct sets of 'haves' served off an advanced system and 'have-nots' served off the unimproved network."

While Pacific claims any such potential was mitigated in the Commission's SBC/Ameritech merger conditions addressing DSL availability in low-income neighborhoods and rural areas, there are at least three limitations on these conditions. First, the merger condition only required deployment in certain wire centers, and not to all customers served by those wire centers. Thus, for

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159 Exh. 2B:360 at 9:10-23 (Boyer Reply Testimony); 23 RT 2915:11-14 & 2916:22-24 (Boyer) ("[T]he use of fiber to provide voice services could positively affect certain facts that contribute to trouble reports. . . . ALJ Thomas: And trouble reports affect customers? Witness Boyer: I will agree with that.").

160 23 RT 2914:23-26 (Boyer).

161 Exh. 2B:357 at 45:9-12 (Resnick Reply Testimony) ("Although some customers have been able to use their 56 kbps [computer] modems to transmit data over voice-grade lines, transmission speeds of 56 kbps may not be attainable on POTS voice-grade lines for a number of reasons, such as bridge tap or loop length. Load coils and loop lengths can inhibit data transmission . . . .").

example, customers far from a wire center received no guarantee of DSL service. Second, the requirements only extended to low-income rural areas if other rural customers took DSL. Third, the merger conditions were only applicable for a limited time.[162]

Thus, we find that TURN's claims have merit, at least to the extent TURN alleges that technological advancement has the potential to improve service quality and that Pacific's deployment of DSL services may fail to benefit all customers equally.

This is not the phase of the proceeding in which to attempt to remedy the foregoing problems, and the parties have not suggested anything more than vague regulatory action at this stage. ORA simply states that "[b]ased on the record of this proceeding and on that of other proceedings before it, the Commission needs to verify the service quality impacts of Project Pronto. . . ."[163] TURN suggests no regulatory changes either. We urge these parties to suggest realistic and concrete measures for our consideration in Phase 3B.

2. Growth – Pacific

Pacific makes the point that its "service quality performance should be viewed in the context of developments during the NRF period . . . [including] growth in demand."[164] It points not only to changes in the California economy that increase or decrease demand, but technological change that stimulates

162 18 RT 2251-54 (Murray). For a timeline setting forth the merger conditions, see the FCC website at http://www.fcc.gov/wcb/mcot/SBC_AIT/timeline/.

163 ORA Opening Service Quality at 25.

164 Pacific Opening/Service Quality at 46.

demand for more telephone lines. Pacific further cites unbundling and interconnection requirements imposed in the Telecommunications Act of 1996.

We do not find that any of these factors excuse poor service quality. Nor is steady service quality during times of economic expansion and contraction something for which we should reward a company. Our standards and those imposed by the FCC apply regardless of such external factors. Moreover, growth in the number of lines and customers served, such as characterized most of the 1990s, provides a commensurate opportunity to increase revenues and earnings. Thus, we do not believe Pacific should be excused for declining service quality requirements in times of growth, whether internal or external to the company.

As ORA's Mr. Piiru stated, "I don't think management would have the kind of force that is dependent on recessions and the weather to have good service quality. I think they would have a service quality standard as a goal and do whatever kind of labor force or whatever kind of capital expenditures are needed to meet those standards."[165]

3. Staffing – Pacific

TURN further alleges that Pacific has cut staff in customer-facing areas, harming service quality. It cites evidence that field staff positions were reduced at Pacific from 1989-95.[166] It claims the number of splicing technicians decreased by 26%, the number of systems technicians decreased by 35%, and that the average years of experience of Pacific's service technicians declined over that time period.

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[165] 21 RT 2639:17-23.

[166] TURN Opening/Service Quality at 17, citing Exh. 2B:507 at 8, table 1 (Schilberg Direct Testimony).

TURN also challenges Pacific's increasing use of outside contractors to perform field work. On this latter point, TURN calculates that outside field contractors caused 14% of the cable cuts causing 911 outages in 2001.[167] Pacific does not refute this statistic.[168] TURN claims that Pacific's "outsourcing" of its DSL business to an unregulated affiliate – SBC's Advanced Services, Inc. (ASI) – caused a rise in service quality complaints, leading to C.02-01-007.

ORA makes similar claims, and also points out that Pacific lent service employees to other states without regard for the impact these employee transfers would have on Pacific's service quality back in California.

Pacific focuses on a different, later time period, and states that evidence TURN's own witness presented shows that from 1996-2001, Pacific increased its staffing levels of personnel with direct customer interaction by over 30%. TURN concedes that Pacific increased the number of service representatives by 61% from 1996 to 1998.[169] Pacific's witness Mr. Resnick explained further that, after the recession in the early 1990s when demand slowed for Pacific's services, Pacific actually increased these staffing levels by over 57%.

However, Pacific's numbers vary depending upon how one examines them. For example, the net growth in total jobs from 1997-2001 was only approximately 5.6%.[170] As ORA testified, "[There has been] very little net growth in job growth [at Pacific] as demand for services has grown. Furthermore, even if

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[167] TURN Opening/Service Quality at 36-37.

[168] Pacific Reply/Service Quality at 57.

[169] TURN Opening/Service Quality at 24.

[170] Exh. 2B:139 at 8 (Piiru Reply Testimony).

there has been growth in [customer-facing] employees as Pacific contends, this stability in total jobs would suggest that non-[customer-facing] positions would have likely declined over time to some extent in order to offset this growth in [customer-facing] employees."[171]

Moreover, Pacific does not dispute TURN's claim about the experience level of its new hires, stating only that, "TURN does not contest the adequacy of the training [of these employees]."[172]

While the record supports the claim that Pacific's staff decreased during the early years of NRF, it also appears Pacific made up for those losses in the second half of the 1990s, at least in the area of the customer-facing employees who have the most direct impact on service quality. We do not find that the record of this proceeding, standing alone, supports the claim that Pacific's customer-facing staffing levels caused problems with service quality, especially since the uncontradicted evidence shows that Pacific increased its customer-facing staff in the latter part of the decade.

However, to the extent we found such problems in the records of the formal proceeding TURN cites (*see* Section entitled "Formal Complaints – Pacific," above), for example in connection with the DSL complaint (C.02-01-007), we cannot ignore that evidence. Moreover, we have just opened a new investigation into Pacific's most recently announced staff cuts, in connection with

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[171] *Id.* Piiru also pointed out – in response to Pacific's evidence of an increase of 25% between 1996 and 2001 in its network investment – that the investment is not commensurate with Pacific's size. Mr. Piiru presented evidence that "Pacific is spending less on infrastructure than the national median for annual investment." *Id.* (citation omitted).

[172] Pacific Reply/Service Quality at 5.

which SBC was quoted as saying that the cuts could one day have an impact on service.[173] In Phase 3B, we will consider whether Pacific should report staffing trends to the Commission, as well as other steps to ensure we are aware of staff cuts that might compromise service quality.

4. Weather – Pacific

Pacific claims that rainfall increased its trouble ticket rates and that findings regarding its service quality during periods of excessive rainfall should be tempered by this fact. However, as ORA points out, Pacific's data showed that trouble tickets actually increased as rain declined in certain years.[174] ORA's witness, Dale Piiru, therefore points out that Pacific's witness "does not provide an adequate correlation between extreme weather events (rainfall totals) and resulting protracted out-of-service intervals."[175]

According to Piiru, ORA found that in 1994-95, when rainfall was higher and economic damage throughout the state 355% higher as compared to 1998, Pacific's average residential repair intervals in 1994-95 were 49.25% less than in 1998. Overall, Pacific's average residential out-of-service repair interval increased by 130% from 1994 to 1998, with a 70.6% increase between 1996 and

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173 I.02-11-008, filed Nov. 21, 2002.

174 ORA Opening/Service Quality at 23, citing Exh. 2B:356 (Resnick Direct Testimony) (Q2-Q3 1997, Q2-Q3 1998, Q2-Q3 1999 and Q2-Q3 2000).

175 Exh. 2B:139 at 3 (Piiru Reply Testimony).

1998.[176] Piiru concludes that Pacific's assertions about weather and its impact on service quality are "overly general and unsupported."[177]

Pacific contends that ORA erroneously bases its analysis of weather on the dollar value of economic devastation in 1994-95 as compared to the El Niño year in 1997-98, and that the damage in the San Francisco area, where Pacific serves "millions of customers" was far higher during the El Niño season. An examination of weather data reveals that during the 1997-98 El Niño season, rainfall in downtown San Francisco was 47.19 inches,[178] 230% of normal seasonal rainfall.[179] In the 1994-95 season, the comparable total was 34.02 inches.[180]

Thus, Pacific is correct that the 1997-98 season had greater rainfall in San Francisco (the location on which Pacific focused) than did the 1994-95 season; that difference may explain some of the increase in trouble reports for the El Niño season as compared to 1994-95.[181] However, the increase is

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176 *Id.* at 4.

177 *Id.* at 2.

178 Another website lists the total as 47.22 inches. http://ggweather.com/sf/daily.html#b.

179 *See* http://ggweather.com/nino/calif_flood.html & http://tornado.sfsu.edu/geosciences/elnino.html. Mr. Piiru cited the former website, and his testimony was admitted into the record without objection. Exh. 2B:139 at 4 & n.3 (Piiru Reply Testimony).

180 http://ggweather.com/sf/daily.html#b. We may take official notice of rainfall totals pursuant to Rule 73.

181 Comparable totals were as follows:

2000-01	19.47 inches
1999-00	24.89 inches

Footnote continued on next page

disproportionate to the increase in rainfall, in our view, and the evidence supports the conclusion that during the 1997-98 season, factors other than simply the weather contributed to a deterioration in Pacific's trouble report performance.

Nor should rainfall be an excuse for poor service. The carriers have extensive outside plant and can expect rain-related damage. El Niño was not a phenomenon that took anyone by surprise, but rather was long anticipated before it happened. For example, the National Oceanic and Atmosphere Administration reports with regard to the 1997-98 El Niño that, "[b]ecause the El Niño developed so rapidly, with record high sea surface temperatures in the equatorial Pacific by July 1997, forecasters could predict a full 6 months in advance with some reliability that the winter over the US would be very

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1998-99	23.49 inches
1997-98	47.19 inches
1996-97	22.63 inches
1995-96	24.89 inches
1994-95	34.02 inches
1993-94	15.22 inches
1992-93	26.66 inches
1991-92	19.20 inches
1990-91	14.08 inches
http://ggweather.com/sf/daily.html#2002	

unusual."[182] Indeed, the carriers should be gearing up for El Niño again, as it recurs on a regular basis.

In connection with our investigation of Pacific Gas and Electric Company's (PG&E's) storm response in early 1995, we found that PG&E's customer call centers were designed to handle average traffic without seasonal adjustments or contingencies to accommodate inclement weather. While the record here is unclear on whether staffing varies seasonally at Pacific, we stated with regard to PG&E that it should: "We conclude PG&E could have and should have had more [customer service representatives] on station December 12, which would have mitigated its severe call center problems."[183]

The same standard should apply to our local exchange telephone carriers.

5. Marketing – Pacific

The Commission's authority over service quality encompasses more than network technical performance.[184] The Commission recently stated it "believe[s] that service quality measures should go beyond technical performance measures, and should also include measures of customer service and related consumer impact measures."[185] Thus, it is appropriate to consider trends and patterns in

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[182] http://www.pmel.noaa.gov/tao/elnino/faq.html#climate-predict.

[183] D.99-06-080, *mimeo.*, at 61.

[184] "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." Cal. Pub. Util. Code § 2896(c).

[185] R.02-12-004, *mimeo.*, at 29.

customer-affecting practices such as cramming, slamming and other marketing abuses during our assessment of service quality under NRF.

Both TURN and ORA point to cases in which the Commission found that Pacific engaged in marketing abuse to show problems in Pacific's service quality. While Pacific has already been penalized in connection with those cases, they tend to corroborate our other findings in this decision and so we refer to them here. As with complaints concerning service quality, since the inception of NRF, the Commission has had to intervene more frequently to address marketing abuses than it did prior to NRF.

The most notable marketing abuse case prior to NRF was addressed in D.86-05-072, which required Pacific to refund over $62 million to customers and to contribute $16.5 million to the Ratepayer Education Trust Fund.[186] In a separate matter, C.86-07-013 alleged that Pacific falsely advertised its Touch Tone service. The complaint was dismissed as moot, because Pacific had refunded the complainant's charges and changed its advertising.[187]

However, Pacific subsequently filed advice letters to discontinue Touch Tone charges for subscribers served by step-by-step switching equipment, and to refund up to $5 million to existing residential Touch Tone subscribers served by that equipment.[188] Pacific's advice letter was protested as inadequate, arbitrary and discriminatory, and the Commission modified Pacific's request by ordering

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[186] 21 CPUC 2d 182 (1986).

[187] D.88-11-028, 29 CPUC 2d 485 (1988).

[188] *See* Resolutions T-14067 and T-14068, respectively.

it to extend its refund with interest to all current and former Touch Tone subscribers served by step-by-step switches.[189]

We find no other cases addressing significant or widespread marketing abuses prior to NRF's inception. By contrast, there have been at least two cases involving Pacific's marketing practices after the Commission adopted NRF. In D.01-09-058, we found that "customer service quality is compromised when Pacific Bell representatives ask each caller, at the beginning of every call, for permission to access the subscriber's proprietary network information and to repeat the question if the answer is 'no,' and force customers to listen to unwanted sales pitches prior to providing a response to a customer service inquiry. Therefore such practices are inconsistent with reasonable service quality."[190]

In D.01-10-071, Pacific was accused of deceptively marketing its "Saver 60" intraLATA toll calling plan. For some customers, Pacific was shown to have marketed the program to customers for who it did not produce savings, despite Pacific's claims that it would. Pacific settled by agreeing to provide customers notification of the error, make refunds and establish a two-way feedback/complaint mechanism for telemarketing services.[191]

We find that it is appropriate for us to consider Pacific's marketing record as one indication of its level of service quality. We also find that Pacific has demonstrated at least twice since NRF that it engages in marketing abuses. Thus,

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[189] Resolution T-14068.

[190] 2001 Cal. PUC LEXIS 914, at *155, conclusion of law 40.

[191] D.01-10-071, 2001 Cal. PUC LEXIS 961, at *9-10.

Pacific's service quality in the area of marketing warrants attention in Phase 3B of this proceeding.

6. Mergers and Structural Changes – Pacific

While the parties listed this heading in their joint outline, we deal with the points they made in the Section entitled "Technological Change," above, and do not discuss the matter further here.

7. Other Issues – Pacific

Finally, TURN points to changes since NRF that it contends also merit a reexamination of the incentives the framework creates. It claims that "to enhance revenues, utilities under incentive regulation will seek to charge for services that were formerly free." It cites Pacific's decisions to restrict the availability of free telephone directories and to charge more for directory assistance calls.

Pacific takes issue with TURN's facts regarding directories and directory assistance calls, but does not comment on TURN's contention that NRF is the root cause of these changes. We have insufficient evidence to find a connection between the NRF mechanism and the changes TURN alleges, and therefore do not recommend changes to the mechanism based on TURN's allegations.

X. Verizon's Service Quality Performance

Verizon's service quality results were better than Pacific's, but also showed problems in some areas. Verizon should focus on making improvement in the following areas:

- Residential and business installation intervals and business installation commitments met (*see* Section entitled "Installation – Verizon," below).
- Business trouble reports for repairs (*see* Section entitled "Repair – Verizon," below).

- Staffing levels (*see* Section entitled "Staffing – Verizon," below).

A. NRF Incentives and Service Quality – Verizon

1. Introduction

As it does for Pacific, ORA alleges that under NRF Verizon – albeit to a lesser extent than Pacific – has "reduced [its] quality of service, grossly inflated staffing claims, . . . moved portions of the labor force out of California . . . , and had sustained facilities shortages. . . ."[192]

TURN cites several specific problems with Verizon that allegedly support its claims about NRF. It states that "like its TRSAT, Verizon's BOAT was often below the GO 133-B standard, until shortly after the SBC/Pacific Bell merger decision, wherein the Commission stated that it would enforce the standards."[193]

While Verizon points out that TURN's witness Gayatri Schilberg conceded on cross examination that one of the areas in which Verizon's performance had improved under NRF was the BOAT results, in fact Ms. Schilberg's testimony was not so clear cut. Rather, she emphasized that improvements only occurred when the Commission took action to enforce its service quality requirements, a point consistent with TURN's claim that regulatory intervention is necessary to ensure quality:

> Q. [W]hen asked to identify an area of service quality under NRF that has improved for Verizon, you identified BOAT, correct?

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192 ORA Opening/Service Quality at 3.

193 TURN Reply/Service Quality at 7.

A. Right. In the last few years I said it has improved. And I think in my testimony I note that *it improved following Commission actions*.[194]

TURN also cites the Commission's decisions twice penalizing Verizon for marketing abuses in connection with its Language Assistance Center.[195] GTE, Verizon's predecessor, agreed to pay $13 million to settle a case alleging that sales staff at its foreign Language Assistance Center charged non-English speaking subscribers for optional services, such as Call Waiting or Call Forwarding, which the customer did not order during the 1989-92 period. We found in 1998 that,

> [T]he information provided to the Commission in 1992 regarding marketing abuse was incomplete because GTEC wrongfully informed the Commission that the abuses were short-term in duration and discovered through 'routine quality control procedures.' Contrary to GTEC's representations, both reports contend that there is evidence which indicates the marketing abuses sporadically occurred beginning in 1989, rather than 1992, and were discovered through non-routine monitoring of customer calls, rather than routine monitoring.[196]

Although the underlying abuses occurred a decade ago, the true facts concerning its magnitude did not come out until the Commission's Consumer Services Division (CSD) and GTEC each conducted investigations in 1997. Before that time, Resolution T-15404 had found that the abuses were related only to the 1992 time period. After the 1997 investigation, the parties both found that the

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194 19 RT 2306:4-9 (Schilberg) (emphasis added).

195 Resolution T-15404 and D.98-12-084.

196 D.98-12-084, 1998 Cal. PUC LEXIS 910, at *13.

abuses were far more widespread than originally thought and covered at least a 3-year period. (Indeed, CSD contended the abuses continued after 1992.[197])

Because GTEC did not bring these facts to light until 1997, it is not fair to say that its misconduct ended in 1992. Rather, the company continued to conceal the true facts until the 1997 investigation. Thus, we agree with TURN that this case is relevant to our determination regarding Verizon's service quality during the NRF period.

Otherwise, the parties make no allegations with regard to Verizon specifically, but rather include Verizon in their general allegations about the effects of NRF on service quality. We therefore incorporate by reference our general discussion from the Section entitled "NRF Incentives and Service Quality – Pacific," above, and note that the same general conclusions apply to Verizon. We find some merit in the claim that NRF creates incentives to save money at the expense of service quality, but analyze Verizon's specific performance in later sections of this decision.

Verizon responds that "Verizon's service quality results are compelling evidence that NRF gives strong incentives to provide high quality service." Thus, it agrees that we must examine its specific service quality results in order to determine the veracity of TURN's claims. However, Verizon also claims that NRF "encourages carriers to focus on service quality," citing several measures that Verizon has employed that go beyond the bare bones reporting that this Commission and the FCC require.[198]

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197 1998 Cal. PUC LEXIS 910, at *18.

198 Verizon Opening/Service Quality at 4.

We do not find that NRF itself causes carriers to establish self-imposed service quality measures. Indeed, the fact that Pacific could not identify any specific service quality measures it imposes that exceed the standards the FCC and we require (*See* the Section entitled "Self Monitoring – Pacific," above) helps disprove Verizon's hypothesis. If it were true that NRF itself causes carriers to make "customer service results . . . an integral part of . . . management practices,"[199] then we would presumably see Pacific imposing the same type of voluntary service quality standards as Verizon claims. The evidence did not establish this fact.

Nor did the decision establishing the NRF framework institute particular service quality reporting requirements, as TURN points out.[200] Instead, the NRF decision cited the Commission's need to be vigilant about service quality lest incentives to cut costs caused the carriers to cut too deeply.

2. Movement of Functions to Unregulated Affiliates – Verizon

TURN focuses its argument in this area on Pacific. While it initially notes that "Recently, Verizon's California predecessor (GTEC) and Pacific Bell have respectively been merged into the nation's largest and second largest carriers,"[201] it identifies no specific problems stemming from the Verizon merger. TURN notes the FCC's MCOT requirements stemming from the Verizon-Bell Atlantic merger expired in November 2002, but in its motion seeking an order continuing Pacific's parallel reporting requirements, TURN stated that Verizon agreed

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[199] Verizon Opening/Service Quality at 4.

[200] TURN Reply/Service Quality at 6.

[201] TURN Opening/Service Quality at 7.

voluntarily to continue these reporting requirements until after a final decision issues in this proceeding. To make Verizon's obligation parallel the order we make here regarding Pacific's MCOT reporting, we will require Verizon to continue to report MCOT data to this Commission until further notice. We agree with TURN that we should consider the usefulness of MCOT data in Phase 3B of this proceeding and determine whether we should require the carriers to continue to report such data even after their merger obligations expire.

Moreover, the assigned Administrative Law Judge made clear during the hearing that regulatory changes in this area are outside the scope of Phase 2A, and instead should be addressed in Phase 3B.[202] We therefore defer this issue as to Verizon to later in this proceeding.

We note that there is one significant difference between Pacific and Verizon in the area of advanced services such as DSL, on which TURN focused much of its concern. While Pacific continues to offer its advanced services in a separate affiliate, Verizon seeks to transfer those services back to the regulated utility.[203] If granted, the transfer may limit the concerns TURN raises, but it is premature to address this issue in this phase.

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[202] 18 RT 2263-67. Any reference to Phase 3B in this decision should be interpreted to include a separate phase if the Commission further segments this proceeding in the future.

[203] A.01-11-014. The Commission has not yet acted on this application, in part due to uncertainty about whether the Commission should decide competitive issues Verizon's competitors raise with regard to DSL services in A.01-11-014 or in another more comprehensive proceeding regarding the incumbent local exchange carriers' obligations to share DSL lines with competitive carriers (R.93-04-003 *et al.*).

In the meantime, however, the record establishes that TURN has some reason to be concerned. Verizon's service quality witness reported that she does not have access to data regarding the company's DSL service quality because DSL is provisioned out of a separate subsidiary:

> Q. Do you have the same internal service quality standards for advanced technologies such as DSL or broadband as you do for POTS[204] service?
>
> A. As you well know, DSL is provisioned out of a separate subsidiary. So I don't have access to their actual customer satisfaction results or their internal metrics. So I can't really answer your question.[205]

The witness went on to state that even if the Commission approves Verizon's application to return its advanced services subsidiary to the regulated utility, it will track DSL and POTS service quality separately.[206] This separate reporting may continue to make Verizon's GO 133-B and ARMIS results look better than they would be if DSL results were also included. Whether housed separately or only reported separately, advanced services results are key to our understanding of Verizon's service quality. In Phase 3B, parties should be prepared to address how we can ensure that we have a complete picture of Verizon's service quality – including that of its DSL operation.

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[204] POTS is an acronym for "Plain Old Telephone Service."

[205] 20 RT 2481:16-22 (Anders).

[206] 20 RT 2483:3-14 (Anders).

3. Incentives to Cut Costs – Basic Service – Verizon

TURN's allegations in this area relate only to an argument Pacific raises. Pacific claims that basic service is subsidized and that it lacks an incentive to cut costs in that area because no amount of cost cutting would make the service profitable. Verizon does not address this argument, and therefore we simply incorporate by reference here the section entitled "Incentives to Cut Costs – Basic Service – Pacific," above.

4. Effect of Competition on Service Quality – Verizon

As it does with regard to Pacific, TURN disputes any notion that competition necessarily improves service quality: "Their [Pacific and Verizon's] theoretical argument, such as it is, rests on the thin air of hypothetical 'competition.'"[207] Verizon does not address this point. Because this is the same argument TURN made with regard to Pacific, we incorporate our discussion of the issue by reference here.

B. Service Quality Performance – Direct Measures – Verizon

Before addressing Verizon's specific performance data, we address ORA's criticisms regarding the accuracy of Verizon's performance data. We find for the most part that ORA's evidence on this point lacked merit. Despite this finding, we believe Verizon shows problems in the areas of business and residence installation intervals and business installation commitments met, business trouble reports for repairs, and staffing levels. We discuss those results after analyzing the accuracy of Verizon's data.

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[207] TURN Reply/Service Quality at 8.

1. Accuracy of Verizon's Performance Data

We do not find merit in ORA's claims that Verizon's performance data are erroneous. Rather, we find that the concerns ORA's Linette Young raised are the result of a mismatch between her data and the data on which Verizon bases its results, of miscommunication between the parties, and of other reasons for which neither party is blameworthy.

2. Duplicate Records

For example, ORA contended in testimony that Verizon's installation data are inaccurate because they contain an excessive number of duplicates. However, it later became clear that the records that appeared to be duplicates in fact were separate records with different service order numbers, and not duplicates at all. When Verizon tested ORA's data using the proper definition of duplicate records, it determined that there were no duplicates in any of its data sets. Since ORA did not mention its contention about duplicate records in briefing, we conclude it no longer disputes Verizon's claim.

3. Installation Intervals

ORA also offered testimony that Verizon's data are inaccurate because installation intervals from different data sets do not match. However, Verizon demonstrated that these separate sets contain a different mix of products or employ different criteria to measure installation intervals. As a result, the installation intervals from these data sets were not supposed to match. ORA made no further mention of this issue in its brief, and we do not find a problem in Verizon's data on this issue.

ORA had a more valid criticism when it came to calculating Verizon's installation intervals. Verizon is open and performs installation on weekends, but does not count weekend days as "working days" in determining whether it has met installation standards imposed on it as part of its MCOT (merger) reporting. ORA included days that Verizon is open that fall on weekends as "working days" – a stance that makes sense because Verizon is "working" on those days – and came up with different installation intervals than Verizon. However, since ORA calculated the interval based on a different period than did Verizon, it is no surprise that the two sets of data did not match.

The real concern with this interval data is not that Verizon's data is unreliable, but that Verizon may be misinterpreting the meaning of the FCC-imposed requirement of counting "working days." Verizon's Linda Thoms testified that she had discussed the matter with the FCC and was told that Verizon was interpreting the term correctly to exclude weekends and holidays. ORA introduced email correspondence between its witness and an FCC staff person who did not "recall making any changes to [Verizon's] business rules for the consumer service quality reporting requirements . . . that would change days to 'business days.'" Ultimately, we find the evidence is inconclusive on whether the FCC means the term "working days" to include weekend days on which the carrier actually does business. While the more sound interpretation in our view is that it does, we are dealing with an FCC requirement that we did not institute.

The only issue for our determination related to the "working days" definition is whether Verizon mis-reports its results. Because of the definitional ambiguity, we do not find that ORA has established anything misleading in Verizon's data on this point.

4. Installation Data vs. Informal Complaint Data

ORA also offered testimony that Verizon is mis-reporting data because its installation data do not match the information in certain informal complaints on file with the Commission. However, ORA admitted that the information in the complaints might not be accurate because the Consumer Affairs Branch representatives who take the complaints rely on customers' statements identifying the dates problems arose. It would not be surprising for customers' recollections of precise dates to vary from Verizon's own computer records. We do not find this variance to raise any red flags about the accuracy of Verizon's reporting.

5. Data on Number of Commitments Met

ORA also challenged Verizon's performance data because Verizon reported commitments met in the mid- to high 90th percentile range for 1998-1999, whereas ORA came up with an inexplicably low percentage - 0.88%, or lower than 1 percent - for these years. While ORA's witness did not concede that such a low result was obviously wrong, it is clear that it was the result of a miscalculation. As it turned out, ORA used a different definition of "commitments met" than did Verizon, resulting in the ORA calculation error.

While ORA explained that it asked for and received the incorrect definition from Verizon, causing the error, in fact this is not what happened. ORA asked Verizon for the definition using the present tense, and Verizon gave it an answer about its current behavior. While Verizon should probably have followed up with ORA to clarify its question, it answered the question posed. ORA then assumed that Verizon's definition was the same one it had used in the past, and came up with a mismatch in the data. While this miscommunication was unfortunate, we find that both sides acted unintentionally but that there is no underlying misrepresentation in Verizon's data.

6. New York Service Quality Complaint

ORA's witness also contended a Verizon affiliate falsified service quality data in New York, but dropped this claim when it was revealed that the New York Public Service Commission found the claim to be unfounded.

7. Closing of Service Orders

We also reject ORA's final contention about the accuracy of Verizon's data. ORA concluded that because Verizon's data included more than one installation order for the same phone number within a single 60-day period, Verizon must be prematurely closing installation orders without resolving them to make its figures look better. ORA assumed that if it could not complete the installation quickly, it would simply close out the installation order without doing the work, and then open a new order for the same work to conceal the delay.

Verizon's testimony contradicted this contention. Verizon pointed out – and we agree – that it is normal for its data to contain two installation orders for the same number within the same 60 days:

> For example, a customer may order basic service at one location and move to a new location within 60 days. If the customer retains the original number at the new location, Verizon's records will appropriately reflect two installation orders for the same service created within 60 days. Similarly, a customer may inadvertently order basic service at the wrong address or a representative may inadvertently record the wrong address. If Verizon installs service at the wrong address and then is required to install service at the correct address, Verizon's records will appropriately reflect two installation orders created within a 60-day period.[208]

[208] Exh. 2B:216 at 13:8-17 (Thoms Supplemental Reply Testimony).

Moreover, we agree that Verizon adequately explained the specific examples ORA provided in which Verizon's data contained more than one record for the same phone number within a 60-day period.

ORA made a similar contention with regard to trouble tickets, arguing that Verizon prematurely closes tickets because "1.88% of the residential repeat out-of-service repairs in 2000 occurred within 24 hours of a previous repeat out-of-service repair."[209] Verizon contends the number of such repairs is actually much smaller – 392 out of approximately 600,000 repairs.[210] We cannot reconcile the difference in numbers, but because repeat out-of-service repairs represent a serious service quality problem, we do not take this evidence lightly. However, this is more an actual problem in service quality than substantiation of a claim that Verizon mis-reports its results, and we deal with this issue in the Section entitled "Repair – Verizon," below.

8. Installation – Verizon

Overall, we find that Verizon had some performance problems in its installation intervals over the relevant period. We also find similar problems with respect to its installation "commitments met" performance for business customers.

TURN points out that, on certain installation measures, Verizon has shown a "pattern of both worsening and improving performance." Verizon explains that "a certain amount of variability on a performance measure is to be

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[209] Exh. 2B:133 at 21 (Hieta Direct Testimony).

[210] Verizon Reply/Service Quality at 31, citing Exh. 2B:214 at 24-25/charts (Thoms Direct Testimony).

expected."[211] We do not agree with the general principle that significant declines in service quality are acceptable just as long as the tide ultimately turns positive. Rather, we expect from all carriers steady, positive performance rather than performance that is irregular or inconsistent. Therefore, it is not a defense to TURN's claim that performance naturally ebbs and flows.

We have compared Verizon's and Pacific's installation performance both on installation intervals and installation commitments. The results appear below.[212] With regard to installation intervals, the graph shows that Verizon performed less well than did Pacific for both residence and business installations from 1995-99. In 2000-01, Verizon California's[213] performance improved: average installation intervals for residence customers decreased from nearly 5 days in 1998 to under 1 days in 2000 and 2001, while the same interval for business customers went from nearly 7 days in 1998 to just over two days in 2000 and

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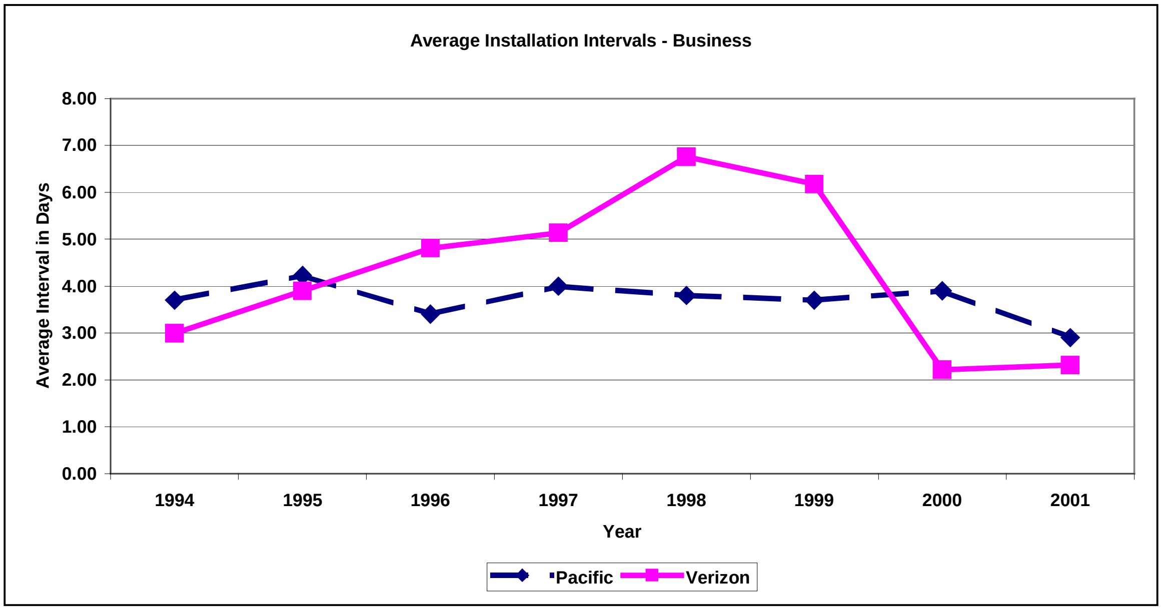
[211] Verizon Reply/Service Quality at 9.

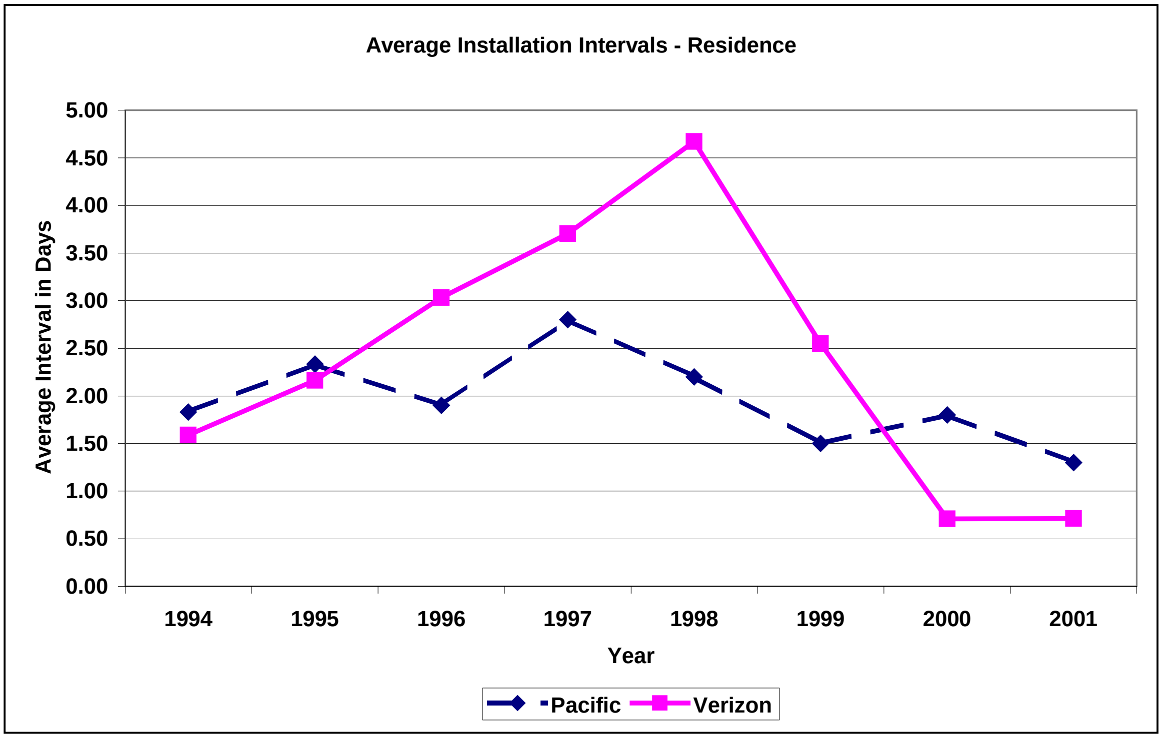
[212] The installation interval and commitments met graphs are based on ARMIS data reported by carriers to the FCC. Prior to 1996, carriers reported ARMIS data on a quarterly basis, and thereafter, annually. For years reporting quarterly data, quarterly installation orders are summed to obtain annual installation orders. Annual installation intervals and commitments met are obtained by weighting and combining the quarterly data (*i.e.*, multiplying quarterly installation intervals or commitments met by quarterly installation orders, summing the results and dividing the summed result by annual installation orders). Similarly, Verizon's annual installation orders and commitments met are obtained by summing GTE California (GTEC) and Contel installation orders. Verizon's installation intervals and commitments met are obtained by weighting and combining the GTEC and Contel installation intervals or commitments met.

[213] The ARMIS data on which the graphs in text are based separates Verizon into three companies: GTE/California, Contel/California and West Coast/California. Because GTE California has approximately 80 percent of the access lines of the three entities, we compare the ARMIS figure for GTE California to Pacific's performance.

2001. Nonetheless, Verizon's installation intervals (business) were at 4 days or more from 1995 through 1999, as shown in the following graph:

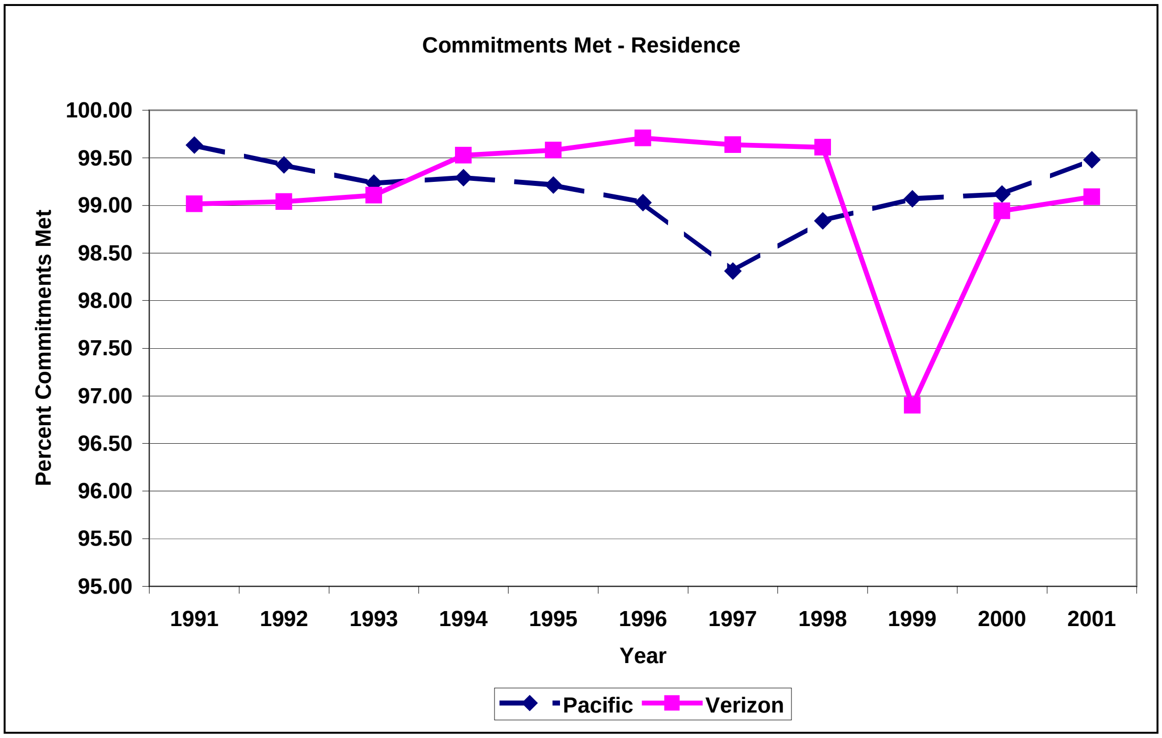


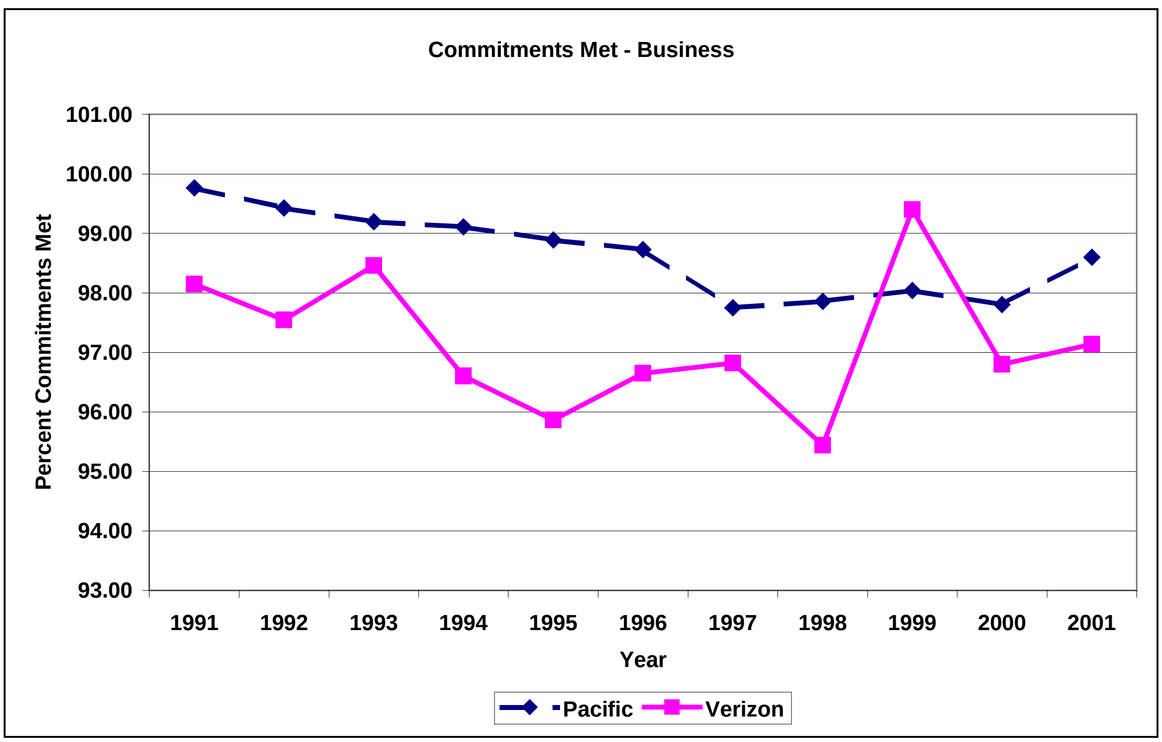
Likewise, Verizon's installation intervals (residence) increased from about 1.5 days to over 4.5 days between 1994 and 1998, as shown in the following graph:



As the foregoing graphs reveal, Pacific's installation intervals were generally better than Verizon's during the NRF period, with business installation intervals remaining stable in the 3-4 day range during the entire period 1994-2001. Residence intervals were not as steady, with small spikes in 1995 and 1997, but the overall numbers were generally lower than Verizon's except in 1994-95 and 2000-01.

Data on installation "commitments met" track the percentage of cases in which a carrier installs according to the schedule it promised the customer. The ARMIS results for Verizon and Pacific appear below. They show the following:


Commitments Met - Residence
Percent Commitments Met
100.00
99.50
99.00
98.50
98.00
97.50
97.00
96.50
96.00
95.50
95.00
1991
1992
1993
1994
1995
1996
1997
1998
1999
2000
2001
Year
Pacific
Verizon


Commitments Met - Business
Percent Commitments Met
101.00
100.00
99.00
98.00
97.00
96.00
95.00
94.00
93.00
1991
1992
1993
1994
1995
1996
1997
1998
1999
2000
2001
Year
Pacific
Verizon

Other than in 1999, when Verizon's percentage of residential commitments met dipped to below 97%, Verizon performed well during the 1993-2001 period on its residential commitments. Its performance did not vary much from Pacific's, and neither party shows major problems in the "commitments met" area during the 1993-2001 period.

Verizon's results were less stable in the area of business commitments met, as the foregoing graph reveals. Verizon's results showed a general declining trend between 1991 and 1998 and were most problematic in 1995 and 1998, dipping to 96% and 95.5% of commitments met for business customers in those years. For all years except 1999, the data show that Verizon's performance was worse than Pacific's.

Overall, the data show that Verizon's installation intervals were problematic, and that its "commitments met" performance also showed problems with respect to business (but not residential) customers.

9. Network Reliability, Trouble and Repair – Verizon

a. Switch Downtime – Verizon

TURN acknowledges that Verizon's long switch downtime incidents have decreased dramatically since 1991, but notes that this change occurred after regulatory action in D.94-06-011. There, GTEC (Verizon's predecessor) agreed to improve its major service interruptions by 30% from 1992 levels within 3 years, with a 45% improvement attributable to its GTD-5 switches. TURN therefore asserts that it is only through regulatory action that we can assure improvements in service quality.

We do not agree that service quality never improves without regulatory action. Verizon, for example, has a number of internal mechanisms to ensure positive service quality results that go beyond simple regulatory requirements.

Indeed, we are impressed by the way in which Verizon supplements regulation with its own self-imposed expectations, and are disappointed that Pacific did not claim to use its own internal standards of excellence.[214]

For example, recognizing that it is difficult to compare ARMIS and GO 133-B results across carriers, Verizon uses other data to "benchmark" itself with other service providers.[215] Verizon also has internal standards for installing or restoring service in a timely way and for completing work correctly the first time that go beyond GO 133-B standards.[216]

By the same token, we believe it is important to retain – and even expand where necessary – the reporting requirements we currently impose as part of GO 133-B or elsewhere. Indeed, we suggest that several holes in the GO 133-B requirements be plugged and that ambiguous language be clarified. Ultimately, we agree with the general premise we cited when we first instituted NRF - that pressure to lower cost and improve efficiency also poses the risk of reducing service quality. Therefore, we will continue closely monitoring service quality for the foreseeable future.

b. Repair – Verizon

Verizon's repair performance showed some problems during the NRF period, especially in the area of trouble reports. In the area of repair intervals, Verizon's performance was consistently good through much of the NRF period,

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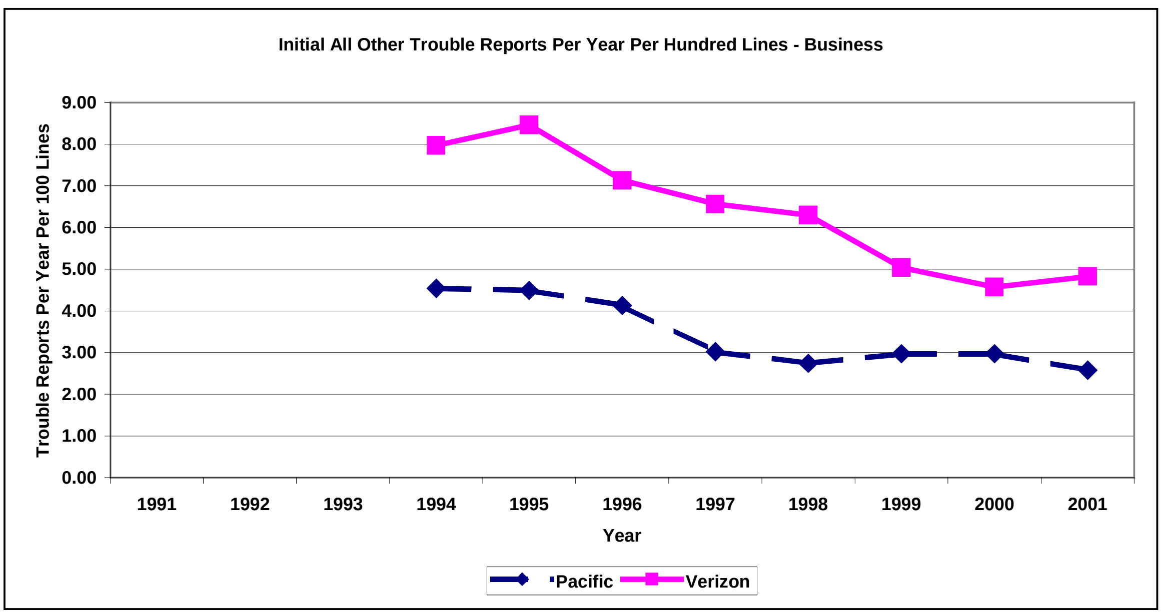
214 *Compare* Section above entitled "Self-Monitoring – Pacific," in which we quote from the testimony of Pacific's witness Mr. Resnick *with* 20 RT 2477-80 (Verizon Thoms/Anders/Fernandez panel).

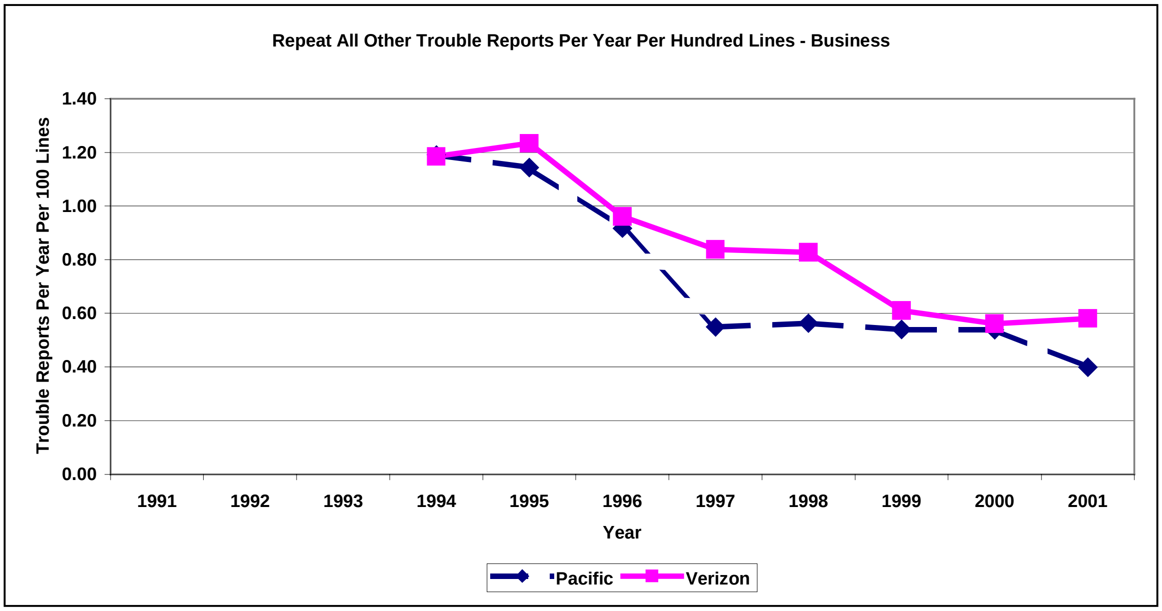
215 20 RT 2477:18-28 (Anders).

216 20 RT 2479:2-19 (Anders).

but has worsened in 2000-01, especially for residential customers. Nevertheless, Verizon's repair interval data throughout the NRF period was consistently better than Pacific's.

In our analysis of Verizon's ARMIS results for trouble reports, Verizon's problems appeared primarily in the context of its business customers. For business customers, Verizon's results were worse than Pacific's for both initial trouble reports for conditions other than out of service conditions and repeat trouble reports for other than out of service conditions, as follows:





ORA emphasized one measure in particular, noting that 1.88 percent of the time**,** Verizon reports residential repeat out-of-service repairs within 24 hours of a previous repeat out-of-service repair.[217] (Verizon gave the figure as a much smaller figure: 392 out of approximately 600,000 repairs in 2000.) While the number is small, it gives us concern because of the magnitude of the problems these customers experience. These are customers whose phones are completely out of service, and who have already had one repair visit. They then have two more repair visits before Verizon can resolve the problem.

According to TURN's witness, "repair times have been increasing for Verizon's (GTE California) residential customers. By 2001, the average repair interval for residential customers was the worst yet recorded since 1994 in ARMIS data for Verizon (GTE-CA) (Table 43-05) in the areas of initial out-of-

[217] Exh. 2B:133 at 21 (Hieta Opening Testimony).

service reports . . ., initial reports other than out-of-service . . ., repeat out-of-service reports . . ., and repeat reports other than out-of-service. . . ."[218]

ORA claimed that Verizon's business annual average repair intervals were not stable in 2001 and 2002. Verizon agreed that these intervals varied between 10 and 15 hours during this time frame.[219] While ARMIS does not set standards for these intervals, Verizon concedes that its 2001 ARMIS average annual repair intervals for certain residential and business customers increased from the levels it achieved in prior years.[220] While Verizon explained the steps it took in an attempt to remedy the situation, it is still too soon to know if the improving trend will continue. The worst performance occurred in the first quarter of 2001. Verizon attributed this poor performance to unusually heavy and prolonged rains in that quarter, but its witness also acknowledged that rain is an expected event for which the company should be prepared.[221]

According to the testimony, which covered a portion of 2002, Verizon's residential repair intervals improved somewhat in the first quarter of 2002. It is not clear whether this improvement represents a short- or longer-term phenomenon. Moreover, our charge in this proceeding is not only to examine

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[218] Exh. 2B:507 at 19:8-13 (Schilberg Opening Testimony).

[219] Verizon Reply/Service Quality at 12.

[220] "ARMIS average annual repair intervals for business initial and repeat out-of-service repairs and initial and repeat all-other-trouble repairs varied temporarily in 2001 from the levels previously achieved by Verizon. Comparable residential intervals also varied in 2000-2001 from levels previously achieved." Verizon Opening/Service Quality at 17-18.

[221] 20 RT 2490:11-19 (Anders).

Verizon's service quality at this precise moment. Rather, we must examine performance over the entire NRF period to look for trends or significant deterioration in quality that might give us reason to be concerned for the future of service quality. Thus, while it is true that most of Verizon's results show improvement, there were also times during the NRF period when they were problematic, and we rely on both performance trends in reaching our conclusions here.

While Verizon introduced 2002 repair data, TURN correctly points out that Verizon takes 3 months of 2002 data and annualizes it in order to reach the conclusion that results have improved significantly since its acknowledged problematic performance in early 2001.[222] If, as TURN advocates, one compares Verizon's earlier performance to its 2001 data, its residential initial trouble reports have declined by only 3% from 1995 to 2001 (as compared to the 18% decline Verizon claims by comparing 1995 to its annualized 2002 data). TURN concludes that "[s]tarting in 1999 Verizon's residential repair intervals steadily worsened and last year were the worst ever. Verizon claims that there have been gains in the early months of 2002, but it remains to be seen if the final results for the year will show any actual improvement."[223]

While the parties tended to focus on the recent deterioration in Verizon's repair intervals, it is noteworthy that Verizon performed better than Pacific on all measures: 1) initial out of service repair intervals – residence; 2) initial out of service repair intervals – business; 3) initial all other repair intervals – residence;

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[222] TURN Reply/Service Quality at 12.

[223] *Id.*

4) initial all other repair intervals – business; 5) repeat out of service repair intervals – residence; 6) repeat out of service repair intervals – business; 7) repeat all other repair intervals – residence; and 8) repeat all other repair intervals – business, as shown in the Section entitled "Repair – Pacific," above.

Overall, our greatest concern is with Verizon's trouble report performance for its business customers. We are also somewhat concerned with the deterioration in Verizon's repair intervals in 2000 and 2001, especially for residential customers. Any further deterioration will be cause for more serious concern.

c. Answer Times – Verizon

GO 133-B requires that the carriers report on answer times in both BOAT and TRSAT reports. We have prepared graphs showing Verizon's performance in both areas, which we reproduce below. As previously noted, the data used in the graph has been adjusted for Pacific to include billing calls for the period beginning May 1999 and thereafter to make the data comparable for all years and for both companies.[224]

We find that Verizon's BOAT results were superior to Pacific's in 1995, 1996 and 1998-2001. However, on average, Verizon's BOAT results failed to meet the minimum standard of 80% of calls answered within 20 seconds during the period from 1993 through 1997.[225] Verizon's BOAT performance was clearly

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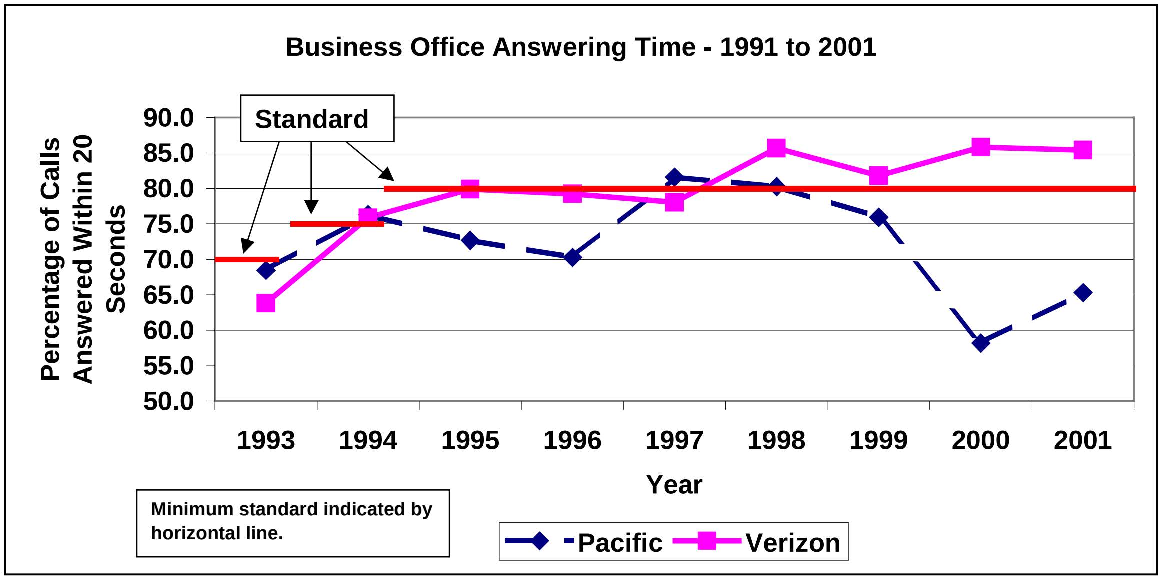
[224] Verizon includes billing related calls in its reported BOAT data, while Pacific began excluding billing related calls from its BOAT reports beginning May 1999. Pacific's adjusted BOAT data is from TURN's August 27, 2002 Supplemental Testimony.

[225] Because monthly calls volumes are not part of the record, annual averages were estimated by summing the monthly results and dividing by 12.

substandard during the early part of the NRF period, but has shown steady improvement since 1997.



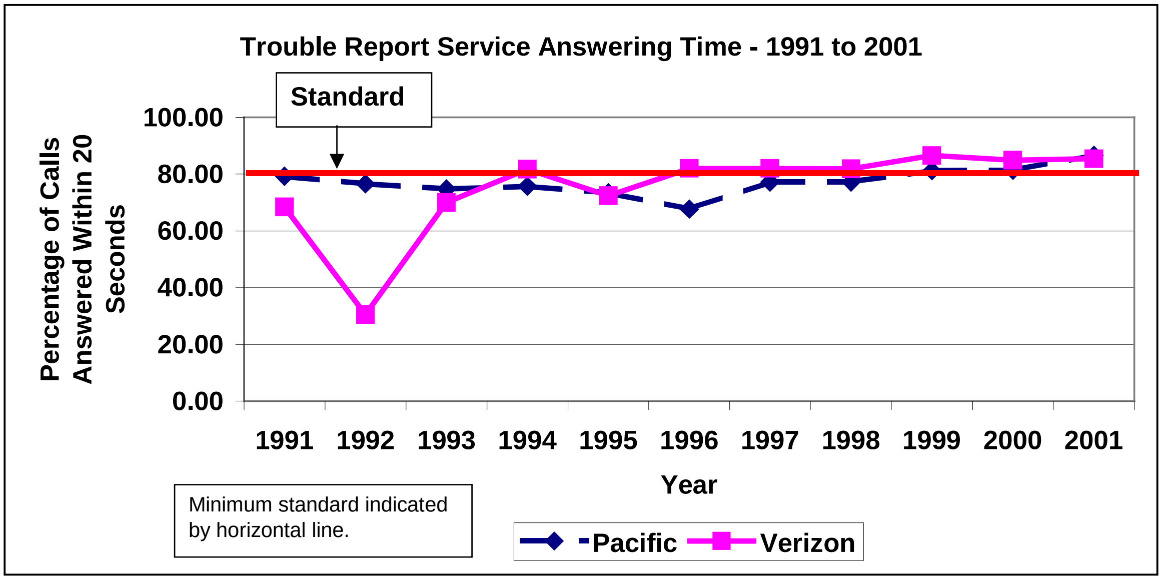
(The minimum standards were 70% beginning December 3, 1992; 75% beginning October 4, 1993 and 80% beginning July 5, 1994.)

We note that the Commission in 1994 approved a settlement in which GTEC agreed to implement a service guarantee program.[226] Under the program, if Verizon failed to meet the G.O. 133-B answer time standards for any three months of a six-month moving period, Verizon would be obligated to provide a refund to ratepayers. Verizon's BOAT performance thereafter showed improvement.

Verizon's TRSAT results were generally better than Pacific's from 1994-2001 (except in 1995 when the two carriers' results were about equal). Verizon's TRSAT results failed to meet the minimum standard of 80% of calls answered

[226] D.94-06-011, 55 CPUC 2d 1, 53 (1994), 1994 Cal. PUC LEXIS 456, at *150 *et seq.*

within 20 seconds from 1991 through 1993 (with extremely poor performance in 1992) and in 1995.



According to the testimony, since 1994, there have been four months in which Verizon failed to meet the standard under TRSAT (Trouble Report Service Answer Time).[227] ORA's witness testified that Verizon had met the TRSAT standard 90% of the time since 1992.[228] We do not agree with TURN that these results for Verizon can be attributed to the Commission's action against *Pacific* after the Commission's Pacific Telesis-SBC merger order (D.97-03-067) threatened Pacific with sanctions for noncompliance with the TRSAT standard. The connection between the two actions is not only too tenuous to draw conclusions with any certainty, but is also undermined by the fact Verizon

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[227] 19 RT 2318:28-2319:20.

[228] Exh. 2B:138 at 6 (Piiru Direct Testimony).

generally exceeded the TRSAT minimum standard after D.94-06-011 and before the Commission issued the merger order.

Verizon uses Automated Response Units (ARUs) or Interactive Voice Response Units (IVRUs) "to facilitate provision of customer service." While Verizon correctly points out that the Commission also uses ARUs in some circumstances, it is not the use of ARUs, *per se*, about which we are concerned. Rather, it is that carriers' reported call answering times – which we prescribe at very low levels numbering in the seconds – do not include the time a customer spends navigating ARU options.

Our call answering standards mean little if a customer spends more time navigating the ARU than waiting for a live operator. For that customer, the time spent navigating and waiting is far longer than the standard we prescribe "for the trouble report service attendant to answer trouble report calls" or "for the business office representative to answer business office calls."[229] Because our current rules do not contemplate the use of ARUs or IVRUs, we are addressing this issue generically in our Service Quality OIR.

GO 133-B 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."[230] However, Verizon states that it includes billing inquiries in its BOAT measure.[231] We do not wish to discourage such voluntary over inclusion,

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[229] GO 133-B, Sections 3.8 and 3.9, respectively.

[230] *Id.*, Section 1.3(b).

[231] 22 RT 2786:10-17 (statement by Verizon's counsel).

but we will require Verizon to notify us if it seeks to discontinue reporting billing inquiries. As we note elsewhere in this decision, one important use of the GO 133-B data is that we can use it to analyze a carrier's performance over time. Such comparability requires that a carrier seek prior Commission authorization before making changes to the way it reports its data.

Overall, we find that, while Verizon had serious problems with respect to both BOAT and TRSAT in the early NRF period, Verizon appears to have developed a consistent track record of solid performance since then.

10. Other Direct Measures of Service Quality – Verizon

a. Service Performance Guarantee

Verizon offers its customers a "service performance guarantee" (SPG) when customers believe – "rightly or wrongly"[232] – that Verizon has delivered problematic service.[233] We wholeheartedly support the SPG program as a good way to offer recompense to customers immediately after they suffer service problems. However, in order for such a program to work fairly, Verizon should ensure it properly discloses the SPG to all customers. Verizon's witness gave inconsistent responses to questioning on whether Verizon discloses the availability of SPGs to customers. First she indicated that Verizon's service personnel do not disclose the SPG on every call:

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232 Verizon Reply/Service Quality at 23.

233 Verizon's SPG was originally a provision of Contel of California's (Contel's) tariffs prior to the GTEC/Contel Merger. ORA's predecessor argued during the merger proceeding that Contel's SPG was superior to Verizon's, and adoption of Contel's SPG by Verizon should be a condition of the merger. However, before the Commission ruled on the issue, Verizon voluntarily adopted the SPG contained in Rule Nos. 18 and 19 of its tariffs. Advice Letter No. 5521, filed August 30, 1993.

> Q.So when a customer calls and places an order, is that customer always told, "By the way, if you're not satisfied, we have this performance credit?
>
> A. No. That's not what we say. We say we guarantee our service, and to meet our commitments to you; and if we fail to do that, call us back, and we will stand by our commitment.
>
> Q. Okay, but . . . reps don't necessarily say, "by the way, there's this credit"?
>
> A. No.

Then, the witness said that in fact Verizon's representatives were required to disclose the availability of the credit up front:

> A. We say, here's what we direct them to say. "We guarantee your service will be working on" – and this happens to be an installation practice – "and if we miss this commitment, please call us, and Verizon will issue you appropriate credit."
>
> . . .
>
> Q. So does the result of your . . . checking of what . . . customer-care representatives do . . . verify to your satisfaction that, in fact, on every . . . initial installation call, the customer is told up front that they can get a credit if they want it?
>
> A. Certainly not on every one, but again, based on our audits and reviews, when we find that the rep has failed to do that, then we go back and provide the appropriate education and coaching. [234]

Because a customer must request the credit in order to get it – "it's our procedure that the customer requests the credit"[235] – it is very important that

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[234] 20 RT 2493:26-2493:19 & 2495:4-13 (Anders).

[235] 20 RT 2493:20-21. *See also id.* at lines 17-19 (Q. "Does a customer get . . . a credit without ever having called Verizon to complaint? A. No, they shouldn't be . . . .").

every customer know of the credit up front in order for it to be applied fairly. However, based on the foregoing ambiguous testimony, it is not clear that Verizon tells every customer of the credit. If Verizon does not, it is highly probable that customers who truly deserve SPGs are not receiving them. These customers may actually have experienced a missed commitment based entirely on objective measurements. However, if the customer does not affirmatively request a credit, we are concerned that the customer does not receive the immediate compensation the SPG program is designed to deliver.[236]

We require more information on this topic, and will examine during Phase 3B the extent to which Verizon discloses its SPG program to all customers. At the very least, Verizon should address the following issues in its Phase 3B testimony:

- State whether every customer receives information on a business office or repair service call to Verizon (a call requesting installation, repair or other Verizon service) about the availability of the SPG. Provide written evidence – scripts, internal memoranda, training materials or other documents – that service personnel at Verizon give such information to customers on the calls. If the written evidence establishes that service personnel do not disclose the SPG to customers on all service calls, produce that written evidence.

- If service personnel do not give every business or repair service caller information during a call to Verizon about the availability of the SPG, explain how customers obtain information about the SPG.

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[236] Verizon's Tariff Rules No. 18(4) and 19(4) state, "A credit will be extended in accordance with the above conditions at the request of the customer."

We agree with ORA that if customers are not being told of the availability of SPG credits, and therefore are not being granted a credit that a similarly situated customer might receive, there are service quality implications.

Verizon should not interpret our comments as a criticism of the usefulness of a service guarantee generally. To the contrary, a properly disclosed and applied program is a good tool for compensating customers as soon as they suffer harm, and for motivating carriers to improve service quality. Verizon shall not discontinue its program as a result of our comments in this decision. However, we believe the program as presently applied may require modification, and ask for the follow-up information above to determine whether we should take further action.

C. Other Direct Measures of Service Quality – Verizon

1. Complaint Data – Verizon

a. Formal Complaints – Verizon

TURN cites two formal proceedings that it states show problems with Verizon's service quality:

- A.92-05-002/D.94-06-011 regarding GTEC (Verizon's predecessor) answer times and switch outages.[237] The Commission found that GTEC's answer times failed to meet minimum GO 133-B standards. For example, GTEC failed to meet the G.O. 133-B answering time standard for its Customer Care Centers in 17 out of the 24 months in 1991 and 1992. For the Customer Billing Centers, the average speed of answering time was approximately two minutes: 126.1 seconds and 113.1 seconds, respectively.[238]

[237] 1994 Cal. PUC LEXIS 456.

[238] 1994 Cal. PUC LEXIS 456, at *154.

GTEC also had a high customer billing error rate, a disproportionately high number of informal complaints, inconsistencies in its service quality monitoring data and problems with its calling cards.

- C.98-04-004 / D.98-12-084, approving GTEC's payment of $13 million to settle marketing abuse claims stemming from the period 1989-92.[239] However, we later found that we did not have all the facts surrounding the abuse in requiring GTEC to distribute $ 3.2 million among local groups within the Hispanic community for the purpose of telecommunications education and to report the names of recipients and amounts of contributions above its normal contributions. At that time, we imposed no punitive fines against GTEC. Only after parallel investigations by GTEC and the Commission in 1997 did the true facts about the extent of the abuses come to light, and at that time GTEC agrees to make a $13 million "civil payment" and a personal apology to the Commission.[240]

Nevertheless, Verizon's formal complaint history during the NRF period compares favorably to Pacific's record. Both formal complaints against Verizon relate to conduct early in the 1990s and before. While GTEC did not bring to light the true facts surrounding the marketing abuses in the second case until 1997, the Commission did not find that the abuses themselves continued after 1992.

Therefore, Verizon's formal complaint history, standing alone, does not indicate a significant service quality problem.

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[239] We discuss this case in full in the Section entitled "NRF Incentives and Service Quality – Verizon – Introduction," above.

[240] D.98-12-084, 1998 Cal. PUC LEXIS 910, at *13.

b. Informal Complaints – Verizon

The OII initiating this proceeding also attached Verizon's informal complaint record, as follows:

Number of Informal Complaints Filed at the Commission

Verizon - January 1, 1995, through July 12, 2001

	Category of Complaint	1995	1996	1997	1998	1999	2000	2001
1	Delayed Orders & Missed Appoint.	20	7	44	94	44	80	44
2	Quality of Service (e.g., static, crossed lines, intermittent service, etc.)	183	250	243	217	193	188	77
3	Disputed Bill	502	655	767	807	489	692	365
4	Disconnections	29	56	61	106	61	59	35
5	Deposits	39	44	47	21	23	22	7
6	Disputed Customer of Record	27	21	53	59	67	37	12
7	No Notice	14	31	22	19	26	0	0
8	Late Payment Charge	3	3	5	7	4	0	0
9	Rate Design	300	28	47	67	9	9	6
10	Rules	20	52	74	69	16	20	21
11	Directory	25	31	47	107	39	0	0
12	Company Practice	26	79	54	58	21	60	44
13	Miscellaneous	76	54	47	77	61	57	25
14	Baseline	0	0	0	0	0	24	0
15	Surcharges/Taxes	15	2	18	36	28	8	14
16	Number/Area Code	1	0	15	14	22	0	1
17	Rate Protest	1	0	2	3	2	0	0
18	Master/Sub Meters	0	0	0	0	0	0	0
19	Bill Format	5	1	3	2	1	0	0
20	Commission Policy/Practices	0	1	1	0	0	0	0
21	Operator Services	0	2	8	6	9	0	0
22	Annoyance Calls	6	5	10	6	14	0	0
23	Payment Arrangements	30	17	38	73	28	5	3
24	Commitment	0	1	9	16	12	2	1
25	Pay Per Call Service	16	19	15	13	5	0	0
26	Refusal to Serve	11	2	14	12	2	1	1
27	Estimated Billing	0	0	0	1	0	0	0
28	Deaf Program	0	2	0	0	2	1	0
29	Balance/Level Pay Plan	0	0	1	1	0	0	0
30	Illegal Activities	0	0	0	0	0	2	0
31	COPT	2	0	5	3	0	0	0
32	Custom Calling Features	21	93	45	42	44	21	0
33	Inside Wiring	13	1	12	13	16	6	3
34	Abusive Marketing	10	35	31	36	19	22	21
35	Backbilling	2	0	3	2	2	1	1
36	Centralized Credit Check System	50	28	43	24	20	1	0
37	Female/Minority Business Enterprise	0	0	0	0	0	0	0
38	Mergers	0	0	0	0	0	0	0
39	Low Income Programs	14	3	18	0	5	8	2
40	New Incentive Regulatory	265	1	1	4	3	0	0
41	Safety	0	0	0	1	1	0	1
42	Electromagnetic	0	0	0	0	0	0	0
43	Landline to Cellular	0	0	0	0	1	0	0
44	Improper Advertising	0	0	0	0	3	0	0
45	Cramming	0	0	0	16	10	6	7
46	Outages	0	0	0	0	0	3	9
47	Anonymous Call Rejection	0	0	0	0	0	0	1
48	Prepaid Phone Card	0	0	0	1	1	1	0
	TOTALS	1,726	1,524	1,803	2,033	1,303	1,336	701

Verizon's totals compare to Pacific's as follows:

Verizon	1995	1996	1997	1998	1999	2000	2001
Totals	1,726	1,524	1,803	2,033	1,303	1,336	701

Pacific	1995	1996	1997	1998	1999	2000	2001
Totals	5,203	6,130	8,926	8,191	5,515	6,974	2,784

However, Pacific also has more than 4 times the number of access lines in California than does Verizon, according to each company's annual reports for 2001:

CALIFORNIA LEC YEAR-2001 NUMBER OF ACCESS LINES[241]			
	SWITCHED	NON-SWITCHED	TOTAL
COMPANY	ACCESS LINES	ACCESS LINES	ACCESS LINES
PACIFIC BELL	17,548,599	7,858,177	25,406,776
VERIZON CALIFORNIA, INC.	4,721,336	1,621,152	6,342,488

Moreover, if one organizes Verizon's data into the same categories as we did for Pacific – that is, those most directly related to service quality, Verizon's numbers are far lower proportionately than Pacific's:

[241] Source: Pacific and Verizon ARMIS 43-08 reports, Table III, for 2001, available at http://gullfoss2.fcc.gov/cgi-bin/websql/prod/ccb/armis1/forms/43-08/frame3.hts.

	Verizon							
	1995	**1996**	**1997**	**1998**	**1999**	**2000**	**2001**	**Total**
Abusive Marketing	10	35	31	36	19	22	21	174
Quality of Service	183	250	243	217	193	188	77	1351
Operator Services	0	2	8	6	9	0	0	25
Safety	0	0	0	1	1	0	1	3
Outages	0	0	0	0	0	3	9	12
Delayed Orders & Missed Appts	20	7	44	94	44	80	44	333
Missed Commitments	0	1	9	16	12	2	1	41
TOTAL	**213**	**295**	**335**	**370**	**278**	**295**	**153**	**1939**

Pacific's comparable numbers – with four times the access lines – are as follows:

	Pacific							
	1995	**1996**	**1997**	**1998**	**1999**	**2000**	**2001**	**Total**
Total	1067	1784	3416	2686	1743	2165	587	13448

Even if one multiplies the Verizon figures by 4, Verizon's proportional numbers are far lower than Pacific's.

	1995	**1996**	**1997**	**1998**	**1999**	**2000**	**2001**	**Total**
Total Telecom Complaints	1726	1524	1803	2033	1303	1336	701	10426
Total Service Quality Complaints (SQC)	213	295	335	370	278	295	153	1939
SQ Complaints/Million Lines	53.3	70.5	76.6	80.6	58.9	61.9	32.4	61.8
% OF SQC Complaints to Total Complaints	12%	19%	19%	18%	21%	22%	22%	19%

Overall, we do not find that Verizon shows significant service quality problems based on the informal complaint data before us.

D. Customer Satisfaction and Service Quality Surveys – Verizon

1. ORA Survey

ORA's customer service survey for Verizon showed that in the minds of the customers surveyed, Verizon's service quality has improved since 1991. ORA's own witness acknowledged this improvement and the ORA survey clearly bears out this conclusion. Indeed, the fact that the survey is capable of measuring an improvement in service quality is, in our view, a validation of the survey's usefulness for drawing a similar - but far less favorable - comparison between Pacific's past and present performance.

We agree with TURN, however, that even if customers perceive service quality to be good, there may nonetheless be objective service quality problems that require a remedy. It is for this reason that in reaching conclusions about Verizon's service quality in this decision, we look not only at customers' subjective perceptions but also at the objective reports Verizon makes to this Commission. Where Verizon demonstrates objective problems – for example in the areas of installation and repair data – we expect Verizon to make improvement.

2. Verizon's Surveys

Verizon claims it surveys its California customers by conducting over 1,000 interviews per month covering Directory Assistance, Consumer and Business Provisioning (which covers installation of new service), Consumer and Business Repair (which covers diagnosis, repair, and restoration of existing service), and Consumer and Business Request and Inquiry (which covers requests and inquires directed to the Business Office regarding customer bills, products and services, prices, and company policies).[242] The results of these surveys show that Verizon offers good service quality. Neither ORA nor TURN challenged the results of these surveys.

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[242] Verizon Opening/Service Quality at 51-52.

E. Additional Factors Affecting Service Quality

1. Technological Change – Verizon

Neither TURN nor ORA made specific allegations about Verizon related to the impact of technological change on its service quality. However, Verizon's claim that it has improved service quality through network upgrades tends to support TURN's general argument that technological advance may tend to create a system of "haves" and "have-nots."

Verizon concedes that technological advances improve quality: "Verizon has removed nearly all of the analog pair gain devices from its network to reduce interference with digital services. Verizon has also placed more than 380,000 miles of fiber optic cable to date in its network to improve data transport rates." SONET rings, Verizon claims, "[allow] customers to receive uninterrupted service even when there is a service outage in the main route."[243] To the extent these upgrades are not ubiquitous, but rather are focused on the most densely populated areas – where SONET rings are most prevalent, for example – some customers are not benefiting from the upgrades.

This claim is in contrast to Pacific's refutation of TURN's claim that upgrading technology creates better service quality. While Verizon does not agree with TURN that the upgrades risk creating two classes of customers – those with and those without the latest technology – its assertion that SONET rings and fiber optics improve service tends to support TURN's arguments.

The underlying question is whether NRF can or should be modified to prevent this disparity in service. We certainly do not wish to discourage

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[243] Verizon Opening/Service Quality at 54.

technological upgrades. The parties should be prepared to address any regulatory changes they believe we can reasonably make in Phase 3B of this proceeding.

2. Growth – Verizon

TURN made the same arguments with regard to Verizon as it did regarding Pacific. It states – and we agree – that a carrier should not benefit from relaxed service quality expectations because it experiences a period of great growth in demand, access lines, customers, or company size. We agree with TURN that "[i]t is the duty of the carriers to manage their growth so as to maintain high service quality."[244]

Verizon does not disagree with TURN in this regard. Rather, it simply reports increases in demand for its services and explains the investments it made to meet this growth. Verizon actually cites instances in which it improved its service quality during times of exceptional growth: "For example, Verizon's continuing investment in the network significantly reduced the number of delayed order requests (DORs) experienced by its customers. . . . Verizon had 5,658 DORs in 1994 and had only 814 in 2001."[245]

However, we do not necessarily agree with Verizon's conclusion that "NRF provides the proper incentives . . . to maintain a high level of service quality. . . ." While Verizon may have used its increased flexibility under NRF to improve its service quality, Pacific's less positive results under NRF undermine

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[244] TURN Opening/Service Quality at 36.

[245] Verizon Opening/Service Quality at 55.

any general argument that NRF alone, and not other factors, causes companies to improve service quality.

3. Staffing – Verizon

TURN shows that Verizon's field staff has declined over the period 1989-1994. TURN states that Verizon's field staffing declined by 35% from 1989, the year the Commission implemented NRF, to 2000, with a large reduction (42%) occurring from 1989-1994. While Verizon's reply testimony suggests that a smaller decline occurred, TURN claims it is misleading because it uses 1984 as the base year for comparison rather than 1989, when NRF was instituted. TURN shows the following staff levels over the period 1989-2000:

Verizon's Field Staffing			
Position	**1989**	**1994**	**2000**
Cable splicer	1770	515	398
Plant installer-Maintainer	1371	0	0
Combination Installer/Maintainer	2	0	0
Customer Service Tech I	0	0	21
Customer Service Tech II	0	1301	1245
Customer Service Tech III	0	0	368
Total	3143	1816	2032
Percent change, 1989 to		-42%	-35%

TURN also points out that Verizon "was not able to provide data on the levels of experience of its field personnel," so that it was impossible to go beyond the raw numbers to determine the quality of the field work being done by Verizon's employees.

Verizon acknowledges reductions in force, but claims that because Verizon redefined certain field positions, the raw numbers TURN used above and elsewhere in its testimony are misleading. It states that the total reduction in cable splicers or their equivalents was 17%, not the much higher percentage TURN claimed.

Nonetheless, these are deep cuts and could portend service quality problems down the road. The cuts may also explain some of Verizon's problems with respect to installation and repairs/trouble reports.

4. Weather – Verizon

Verizon acknowledges that service quality suffered during the first quarter of 2001 due to unusually heavy rains: "[T]he [repair] intervals were extraordinarily high during the January, February, and March period, due to some prolonged rains that we experienced at that particular point in time."[246] We discuss the specifics in the Section entitled "Repair – Verizon," above. However, Verizon's witness admitted that poor weather is no excuse for poor service quality, and that a company with significant outside plant, such as Verizon, should be prepared for inclement weather:

> Q. . . . [A]s a company with huge – hundreds, thousands, maybe millions of miles of outside plant, it wouldn't be responsible simply to sit back and hope that there isn't excess rain in a given year, would it?
>
> A. It's – it's not how we would prepare for that actuality.

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[246] 20 RT 2488:5-7 (Anders).

Q. Because it wouldn't be responsible to prepare that way, would it?

A. No, it wouldn't.[247]

We agree with Verizon, and find that inclement weather is an unacceptable excuse for the poor service quality it delivered during that period. While we appreciate the steps Verizon has taken since that time to improve its response to weather-related outages,[248] they do not obscure the fact that Verizon delivered poor service quality during the first quarter of 2001.

5. Marketing – Verizon

In claiming Verizon has engaged in marketing abuse, TURN again cites C.98-04-004/D.98-12-084, in which the Commission approved GTEC's payment of $13 million to settle marketing abuse claims stemming from the period 1989-92.[249] TURN also claims that Verizon has "misused customer contacts as marketing devices."[250] However, this allegation is based on the same case.

We do not agree with Verizon that this case is irrelevant to our assessment of its service quality because similar incidents have not occurred in the years

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[247] 20 RT 2490:11-19 (Anders).

[248] Such improvements, according to Verizon, included reassigning technicians from non-demand activities such as preventative maintenance to service restoration activities; augmenting its construction workforce with contractors to free up additional employees to work on repair activity; using extensive overtime to increase man-hours committed to service restoration; making significant capital investment to help insulate Verizon's plant from rain related trouble; and developing procedures to more effectively deploy technicians during periods of extreme demand. Exh. 2B:219 at 8:16-17:5 (Anders Reply Testimony).

[249] We discuss this case in full in the Section entitled "NRF Incentives and Service Quality – Verizon – Introduction," above.

[250] TURN Opening/Service Quality at 42.

since then. By the same token, in discussing this case earlier in this decision, we did not believe the case indicated a pattern of problems. *See* Section entitled "Formal Complaints – Verizon," above.

6. Mergers and Structural Changes – Verizon

No party alleges that Verizon's mergers and structural changes have had an impact on service quality. Nor does Verizon – in contrast to Pacific – argue that changes in the company attributable to its growth in size are mitigating factors that explain its service quality results. Thus, we do not find that in Verizon's case mergers or structural changes have had an impact on its service quality.

XI. Comments on Proposed Decision

The proposed decision of the ALJ in this matter was mailed to the parties in accordance with Section 311(d) of the Public Utilities Code and Rule 77.1 of the Rules of Practice and Procedure.

XII. Assignment of Proceeding

Loretta M. Lynch is the Assigned Commissioner and Sarah R. Thomas is the assigned ALJ in this phase of this proceeding.

Findings of Fact

1. Pacific and Verizon had the following number of access lines as of 2001. As of that date, Pacific had more than 4 times the number of access lines as Verizon:

CALIFORNIA LEC YEAR-2001 NUMBER OF ACCESS LINES[251]

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[251] Source: Pacific and Verizon ARMIS 43-08 reports, Table III, for 2001, available at http://gullfoss2.fcc.gov/cgi-bin/websql/prod/ccb/armis1/forms/43-08/frame3.hts.

COMPANY	SWITCHED ACCESS LINES	NON-SWITCHED ACCESS LINES	TOTAL ACCESS LINES
PACIFIC BELL	17,548,599	7,858,177	25,406,776
VERIZON CALIFORNIA, INC.	4,721,336	1,621,152	6,342,488

2. It is helpful to examine the performance of Pacific and Verizon together, because we are able to gain comparative data that we might not otherwise have had.

3. There are several ways the Commission assesses Pacific and Verizon's service quality.

4. The Commission requires telephone utilities providing service in California to make regular reports pursuant to GO 133-B on performance in the areas of installation, network reliability, trouble reports, installation commitments, and answer times.

5. Data collected under GO 133-B are not always comparable among carriers or from year to year. The carriers have made changes from time to time that affect the composition of the data underlying their reported service quality results.

6. Prior to February 1999, Pacific included calls related to billing in reporting its BOAT statistics, but ceased doing so thereafter without informing the Commission of the change. This change has made it impossible to compare Pacific's BOAT performance (without adjustment) either to its own performance over time, to Verizon's performance or to other carriers' performance.

7. GO 133-B does not currently require a carrier to include billing calls in its BOAT results.

8. In R.02-12-004 (the Service Quality OIR), the Commission is considering whether to include billing calls within the GO 133-B standards.

9. The Commission must be able to rely on GO 133-B data to compare a carrier's performance to itself over time. Currently, the carriers' practice does not make such a comparison feasible.

10. Pacific once included DSL-related information in its GO 133-B data, but stopped doing so when it moved its DSL functions into a separate subsidiary. The result of this change means that when we try to compare Pacific's results over time, we end up comparing apples to oranges.

11. Neither Pacific nor Verizon report under GO 133-B the time a customer spends navigating the companies' ARUs/IVRUs before reaching a live operator in their business offices or repairs offices.

12. It is probable that callers spend more time navigating ARU/IVRU menus than during their prescribed wait on hold for a company representative.

13. GO 133-B does not address the use of ARUs/IVRUs.

14. R.02-12-004 is considering answer time reporting where ARUs/IVRUs are used.

15. The carriers' reported BOAT or TRSAT answer times do not include the time a customer spends navigating ARU options.

16. Pacific reviews once per month whether any orders are held for more than 30 days beyond the commitment date ("held orders"). This procedure allows some orders to be held for up to 60 days without those orders being reported as held, a result that is inconsistent with GO 133-B's intent that any order held more than 30 days after the commitment date be reported to the Commission.

17. GO 133-B does not track busy or abandoned calls. R.02-12-004 is considering busy and abandoned calls as part of its consideration of revisions to GO 133-B.

18. The FCC requires carriers to make reports on several aspects of service quality as part of its ARMIS reporting requirements.

19. The ARMIS 43-05 report contains 39 service quality performance measures which track, among other things, whether Pacific or Verizon meet their installation commitments for residential and business customers, trouble reports and repair intervals (*e.g.*, both initial and repeat trouble reports , and the time required to dispatch and complete repairs in response to trouble reports), and switch downtime incidents.

20. The ARMIS 43-06 report tracks customer perceptions of Pacific's and Verizon's service quality.

21. The FCC has required Pacific and Verizon to engage in specific service quality reporting for time-limited periods so that it may monitor service quality impacts that result from these carriers' recent mergers. This reporting is known as MCOT reporting.

22. As a condition of SBC's merger with Ameritech, the FCC required additional quarterly, state-by-state service quality reporting for the period from June 1999 to November 2002. Categories of reporting for retail services include installation and maintenance, switch outages, transmission facility outages, service quality-related complaints, and answer time performance.

23. In late 2000, the FCC notified SBC that, "[t]he quarterly service quality reports filed by SBC Communications, Inc. ('SBC') pursuant to the SBC/Ameritech Merger Order indicate that the quality of service provided by SBC's incumbent local exchange carriers ('LECs') has been deteriorating in several states since approval of the merger in October 1999." The FCC representative also stated that, "I am concerned that SBC's performance data indicates that consumers in SBC's region are experiencing increasing installation

delays, longer repair times, and greater difficulties contacting SBC's incumbent LECs about service quality and other issues. I note also that consumer complaints regarding service quality have increased in recent months in spite of SBC's explicit commitment when the merger was pending to devote greater resources to service quality after the merger closed."

24. In its MCOT reporting for the period July 1999 to June 2001, Pacific shows negative spikes in California in the following areas: 1) answer time performance (business customers), 2) trouble report rate per 100 lines (especially business customers), 3) percentage of installation orders completed within 5 working days (especially residential customers), and 4) percentage of installation orders delayed over 30 days (business customers).

25. The FCC imposed a 36-month reporting requirement as a condition of the 2000 GTE merger with Bell Atlantic that created Verizon. The FCC requirement provides the Commission with information not otherwise available in GO 133-B. For example, while GO 133-B measures the handling of business office calls, it does not track billing calls even though such calls account for half of the calls to the business office.

26. According to the FCC data, Verizon showed negative spikes or trends in California on several service quality measures at the following times during the period July 2000-June 2001, as compared to the rest of that period: 1) percentage of dissatisfied customers (with business customers reporting 50% dissatisfaction in November 2000 and residential customers reporting 20% dissatisfaction in March 2001), 2) answer times (with business answer times in the 50-60 second range in September 2000 and in the 40-50 second range in January 2001 – as compared to a GO 133-B standard of 20 seconds); and residential times exceeding 20 seconds in November 2000 [30 seconds] and January 2001 [40 seconds], 3)

repair intervals for both residential and business customers spiking in the period January-March 2001, 4) repeat trouble reports spiking for both types of customers in March 2001, and 5) trouble reports per hundred lines spiking in the January-March 2001 time period for residential customers.

27. Customer complaints can provide a useful indication of carrier service quality performance.

28. Verizon's own complaint data appear to be more comprehensive than Pacific's. Pacific keeps track of some complaints that come to its Informal Appeals organization but acknowledged that these complaints are but a small fraction of the total complaints it receives.

29. Pacific tends to keep complaint records at the business office level only when the complaints relate to slamming by other carriers and cramming. Verizon tracks all complaints.

30. The records of the other formal Commission proceedings may, examined together, give clues to patterns of behavior that corroborate other service quality results.

31. The increasing need for Commission intervention to address service quality failures after carriers began operating under NRF may indicate how effective or ineffective NRF is in promoting high quality service.

32. Any formal proceeding that we have conducted since 1989, when we first stated we would be examining service quality as part of our NRF monitoring process, is germane to our assessment.

33. It is appropriate to compare a NRF carrier's service quality results to those of other NRF carriers in reaching conclusions about the first carrier's service quality.

34. It is appropriate to compare one carrier's results with its own results over time in reaching conclusions about that company's service quality.

35. Combining several service quality measures to come up with an aggregate score can mask serious problems. We warned against the dangers of such aggregation in D.01-12-021.

36. Single measures can and do indicate significant areas of service quality decline. We can find significant decline in service quality if an important measure declines relative to past performance.

37. Pacific shows problems with its service quality and related matters in the following areas, as more fully explained in subsequent findings of fact:

- Repair intervals, or the time it takes Pacific to complete repairs once a customer notifies the company of problems, and number of trouble reports, especially reports of service outages,
- Answer times,
- An increasing pace of formal complaints aimed at serious service quality problems and related issues,
- Negative trends in service quality in some of the Commission's informal complaint data,
- A significant deterioration in the perceptions of Pacific's service quality by residential and small business customers,
- Failure by Pacific to file required service quality reports.

38. In Pacific's increasing use of affiliates to offer services formerly provided by the regulated utility, Pacific has posed challenges to our regulatory authority that may be detrimental to our ability to protect service quality.

39. Pacific has in the past claimed that information housed within SBC companies outside of Pacific Bell is beyond the reach of this Commission's jurisdiction. The Commission sanctioned Pacific for one such claim.

40. Pacific has transferred many of the functions previously carried out in the regulated utility to unregulated affiliates such as SBC Operations.

41. In connection with the Commission's examination of Pacific's pricing of UNEs available to competitive local exchange carriers in A.01-02-024, Pacific refused to produce information supporting the UNE costs it sought to recover in other states for SBC-affiliated companies, contending such information was beyond the regulatory reach of the Commission. The Assigned Commissioner sanctioned Pacific for such conduct.

42. Moving services and functions to affiliates not only makes more difficult the Commission's job of ensuring good service quality, it also undermines the consistency and validity of service quality information reported under GO 133-B and elsewhere.

43. Transfer of functions formerly provided by the regulated utility to unregulated affiliates may be detrimental to service quality and our ability to detect that deterioration.

44. Pacific transferred certain services previously offered by the regulated utility, such as DSL service, to affiliates such as ASI.

45. Service quality information, such as complaints and trouble reports related to Pacific's DSL service that was previously tracked by Pacific, were no longer included in Pacific's service quality information after Pacific transferred the service to its affiliate.

46. A carrier may increase revenues by cutting the costs of providing service, including basic telephone service, and not just by raising rates. Such cost cuts may cause service quality to deteriorate.

47. Competition under NRF does not alone ensure high quality service, and we must continue to be vigilant in monitoring NRF LECs' performance if we are to preserve and enhance service quality.

48. The pace of serious formal complaints involving and decided against Pacific has increased under NRF.

49. CAB's informal complaint data about Pacific show several negative trends.

50. The mismatches ORA found in Pacific's service quality data were due not to Pacific's misrepresentations, but rather to differences between the raw data ORA examined and the data Pacific uses to report to regulators.

51. ORA did not establish that Pacific misreports its installation service results or that Pacific's installation data are inaccurate.

52. Pacific knew that ORA had requested raw data to allow it to test Pacific's results.

53. According to the ARMIS data in the graphs we derived, Pacific's ARMIS performance on installation intervals (residential and business) was generally consistent over the 1994-2001 period.

54. Pacific's installation interval performance was slightly worse than Verizon's in 2000-01, according to the ARMIS data.

55. Pacific's residential installation "commitments met" data were consistently good from 1993-2001, with the exception of a dip in "commitments met" in late 1997.

56. For Pacific's business customers, the percentage of commitments met declined notably from 1997 through 2000, improving again in 2001.

57. There is not enough evidence in the record to conclude that Pacific is closing installation orders prematurely. Pacific does not address whether it ever

closes out an order containing multiple lines for installation after the first line is installed, and then opens a new order for the subsequent lines.

58. Pacific includes vertical services orders in its data. Pacific can install these services quickly and in automated fashion without dispatching a service technician, so including vertical services orders skews its data toward shorter installation intervals.

59. The record lacks evidence on whether Verizon also includes vertical services orders in its data, so we are unable to conclude that Pacific's and Verizon's data are comparable.

60. Pacific did not show that the improvements in installation intervals was the result of actual improvement in performance instead of the result of an increasing proportion of "short interval" vertical services orders in the mix of installation interval data reported under ARMIS.

61. ORA's discovery of "duplicate" records does not establish that there are errors in Pacific's data.

62. ORA's discovery of "anomalous records" without "commit dates" does not establish that there are errors in Pacific's data.

63. Based on ARMIS data, Pacific was the second worst performer in terms of held orders when compared with the other 12 SBC companies in other states.

64. During the NRF audit period, Pacific's ARMIS performance showed periods of decline and improvement for residential and business installation intervals.

65. For the period 1994-2001, according to ARMIS data, Pacific's performance was worse than Verizon's in all repair interval categories. These categories are: 1) initial out of service repair intervals – residence; 2) initial out of service repair intervals – business; 3) initial all other repair intervals – residence; 4) initial all

other repair intervals – business; 5) repeat out of service repair intervals – residence; 6) repeat out of service repair intervals – business; 7) repeat all other repair intervals – residence; and 8) repeat all other repair intervals – business.

66. During the period 1994-2001, according to ARMIS data, Pacific generally performed worse than Verizon on trouble report numbers, although there were two categories in which Verizon performed worse and one in which the results were mixed. Pacific's results were worse than Verizon in 1) initial out of service trouble reports – residence; 2) initial out of service trouble reports – business; 3) repeat out of service trouble reports – residence; 4) repeat out of service trouble reports – business; and 5) repeat all other trouble[252] reports – residence.

67. Pacific's 1994-2001 ARMIS trouble report results were better than Verizon's in the area of 1) initial all other trouble reports – business; and 2) repeat all other trouble reports – business.

68. Pacific's results on initial all other trouble reports – residence were better than Verizon's during the period 1994-98, and exceeded Verizon's results in 1999-2001.

69. While the intervals of time Pacific's customers wait for repairs decreased starting in 2001 as reported in Pacific's ARMIS 43-05 reports, Pacific's performance was worse in 2000 than in 1994 on several important measures. It is too soon to know what the trend will be in the future based solely on Pacific's 2001 results.

70. ORA filed a complaint against Pacific in November 2000, which may have caused Pacific to be more vigilant from then on.

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[252] All other trouble reports are all trouble reports except those involving out of service conditions.

71. Pacific's business customers' initial out-of-service repair intervals, as reported in ARMIS, rose from 11.56 hours in 1994 to 16.5 hours in 2000. While the interval dropped to 12.5 hours in 2001, it is too soon to tell if the trend toward improvement will continue.

72. Pacific's business customers' repeat out-of-service repair intervals, as reported in ARMIS, rose from 12.9 hours in 1994 to 18.5 hours in 2000. Once again, performance improved in 2001 – with the interval dropping to 13.9 hours during that year – but we remain concerned about the trend.

73. Pacific's residential customers' initial "all other trouble reports," as reported in ARMIS, rose from 622,310 in 1994 to 1,127,512 in 1999, dropping to 916,431 in 2001. This is equal to 6.53 reports per 100 lies per year in 1994, 10.37 reports per hundred lines per year in 1999, and 8.32 reports per 100 lines per year in 2001. It is too soon to tell whether the recent improvements will continue consistently.

74. Pacific's repeat "all other trouble reports," as reported in ARMIS, rose from 125,231 in 1994 to 162,035 in 2001. This is equal to 1.31 reports per 100 lines per year in 1994 and 1.47 reports per 100 lines per year in 2001.

75. Pacific's residential customers' initial and repeat all other trouble reports per million lines rose from 65,286 reports in 1994 to 83,153 reports in 2001 (an increase of 27.4%). This is equal to 7.84 reports per 100 lines per year in 1994 and 9.79 reports per 100 lines per year in 2001.

76. Pacific's ARMIS 43-05 data showed that the number of Pacific's initial trouble reports from residential customers for conditions other than out-of-service conditions sharply increased from 1994-2001. These trouble reports contain complaints about problems of poor call quality, call interruption and static on the line – clearly problems of consequence to customers.

77. Pacific showed a high level of repeat problems shortly after making an initial repair. In 2000, at least 2.73% of residential repeat out-of-service repairs occurred within 24 hours of a previous repair; the number in 2001 was 2.38%. In 2001, the number of repeat problems within one week of a previous repair was 6.76%, 8.84% within two weeks, and 10.10% within three weeks. It may be that these figures represented different problems for the same customers. Whatever the problem, these high numbers negatively affected customers.

78. The disruption caused by a repair is probably one of the more serious events that can occur in a carrier's relationship with its customers. A second repair within such a short time is an even more serious disruption.

79. The relationship of Pacific's repeat out-of-service trouble reports relative to its initial out-of-service trouble reports is worse than that same relationship for other California carriers. Pacific compares unfavorably to Verizon on this measure.

80. While the trend in Pacific's repair intervals and trouble reports was positive in 2001, it is too soon to tell where the trends are headed.

81. In February 1999, Pacific changed its practices regarding inclusion of billing calls in its BOAT reporting, making comparison of its year-over-year performance difficult. Pacific now excludes billing calls, but included them in its GO 133-B reporting up until February 1999.

82. TURN's combination of Pacific's GO 133-B data and its billing call data showed that Pacific's combined performance on GO 133-B and billing calls was 68% or less answered in 20 seconds during the years 2000 and 2001.

83. Pacific's BOAT results during the period 1991-2001 show that in virtually all years, the percentage of calls Pacific answered within 20 seconds was below the standard.

84. The BOAT measure was added to GO 133-B in 1992, and the minimum standard, measured as the percent of calls answered within 20 seconds, was progressively increased from 70% beginning on December 3, 1992, to 75% (beginning October 4, 1993), to 80% (beginning July 5, 1994).

85. The BOAT data (adjusted for Pacific to include billing calls for the period beginning May 1999 and thereafter to make the data comparable for all years and for both companies), show that in all years but 1993 (when the carriers reported the same results) and 1997 (when Verizon reported slightly poorer results), Pacific's BOAT figures were worse than Verizon's.

86. The time to answer calls to a Pacific business office, including billing inquiries, has increased since 1999. This is a degradation of service quality.

87. Pacific's and Verizon's TRSAT results are mixed over the period 1991-2001. On average, Pacific's annual TRSAT performance was below the standard from 1991 through 1998, and has been below Verizon's performance since 1996, when its performance reached its low ebb.

88. There have been at least six proceedings finding serious problems with Pacific's service quality since 1995, as compared to two proceedings in the five-year period from January 1990-December 1994. The pace of meritorious service quality formal proceedings against Pacific has increased since 1995.

89. In connection with A.92-05-002/D.94-06-011, Pacific's witness conceded that Pacific could not substantiate that it was in full compliance with a Commission requirement imposed in D.94-06-011, but cited D.97-03-067 for the proposition that the Commission did not find Pacific to be out of compliance with the latter requirement. An examination of D.97-03-067 reveals no such statement by the Commission.

90. In A.96-04-038/D.97-03-067, regarding the Pacific Telesis/SBC merger, ORA's predecessor (DRA) presented evidence of Pacific's poor performance on its TRSAT and BOAT reports. DRA also claimed that an inadequate workforce caused service deterioration in the TRSAT.

91. The informal complaint data for Pacific for 1995-July 12, 2001 was as set forth in Appendix C to R.01-09-001, the decision initiating this proceeding. The data was compiled from summary reports maintained in the database of the Commission's Consumer Affairs Branch.

92. Organization of Pacific's informal complaint data into categories more closely designed to show service quality complaints shows significant fluctuation year over year in Pacific's performance. Informal complaints were at their worst in 1997-98 and 2000. Thus, any problems Pacific may have are not remote in time, but rather stem from recent years. The ratio of Pacific's service quality complaints to overall complaints has fluctuated significantly over the years, with 1997-98 and 2000 the worst years in this category.

93. Pacific's internal tracking of service quality, by and large, is no more specific or rigorous than the regulatory requirements we and the FCC impose.

94. Our reporting requirements, and those other regulators impose, are critical to the process of tracking and evaluating service quality. Commission oversight is essential to our ability to monitor and control service quality.

95. It is not clear that Pacific would maintain the specific records we require if we did not require it to report its results.

96. Verizon's service quality managers view the GO 133-B and FCC reporting requirements as a minimum. Pacific's practice of only tracking what the Commission requires compares unfavorably to Verizon's more rigorous internal tracking system.

97. In compiling its survey of Pacific's and Verizon's customers, ORA followed the Commission's direction in not changing the survey questions.

98. ORA's main purpose in using its survey was to gain comparative data. It would have been difficult to evaluate the meaning of changes in survey responses over time if there had been a change in the survey itself.

99. Pacific's witness could not identify a study backing up his contention that dissatisfied customers are more likely to respond to a survey than satisfied customers.

100. While ORA did not follow up with customers in an attempt to increase the size of the sample of customers taking the survey, it did not follow up in 1995 either. ORA's action made the results of the 1995 and 2001 surveys more comparable.

101. For the purpose ORA intended – comparison between Pacific's performance in 1995 and its performance in 2001 – Pacific's criticisms of the ORA survey lack merit.

102. The ORA survey of Pacific showed serious problems in residential and small business customers' perceptions of Pacific's service quality. The survey found that according to its customers, Pacific's quality of service declined in the period between 1995 and 2001. Of 36 questions in the survey germane to service quality, the responses to 23 questions showed a difference between customer perceptions in 1995 and 2001. Of these 23, in only 4 questions did customers choose a more favorable response in 2001 than they had in 1995. In 19 questions, the results were worse in 2001 to a statistically significant extent than they were in 1995.

103. In its survey, ORA used the same questions and the same formats Pacific's customers saw in 1995, and the same questions ORA used for Verizon's survey, which produced positive results for that company.

104. ORA's survey provides very strong evidence of a decline in Pacific's customer satisfaction between 1995 and 2001 in key areas.

105. The results for Pacific on ORA's customer survey corroborate some of the more objective findings – that is, findings not based on customers' own reports – contained in Pacific's required reporting.

106. While Pacific's J.D. Power survey for 1996-2001 showed that Pacific ranked in the top six out of sixteen local telephone service providers surveyed, the survey included several factors that we consider peripheral to a true assessment of service quality.

107. When one examines the data reflected in the IDC survey Pacific submitted, it appears Pacific's performance is not as positive in the area of service quality as it claims. The only two indicia of service quality contained in the survey are "customer service" and "voice or service quality." For "customer service," 73.8% of respondents ranked Pacific as a 4 or 5 (with 1 = not very satisfied, and 5 = very satisfied). Of the non-SBC companies, GTE/Verizon's comparable result was 83.1%, Bell Atlantic's was 80.7%, and Bell South's was 72.6%, and US West's was 63.1%. Thus, of the companies SBC does not own, Pacific was worse than Verizon and Bell Atlantic, comparable to Bell South, and better than US West.

108. In the IDC survey, on "voice or service quality," 85.7% of customers ranked Pacific a 4 or 5. Of the non-SBC companies, Bell South scored 86.3, GTE scored 85.9, US West scored 83.8, and Bell Atlantic scored 83.5. Thus, Pacific's results were comparable to the other non-SBC carriers' results. Only SBC's

Ameritech, with 62.5%, scored notably lower that the other carriers, who were all in the range of 83.5% to 86.3 percent.

109. The IDC survey does not bolster Pacific's claim that it scores higher on service quality than other carriers.

110. A survey that only looks at carrier's performance at a snapshot in time less useful than ORA's survey, which compares customer perceptions over the course of 6 years.

111. Pacific did not file with the Commission certain customer surveys it contracted with a third-party research firm to conduct as part of its Customer Service Quality (CSQ) process.

112. Customer perceptions gained through surveys can provide a valuable indicator of service quality.

113. Technological improvement can enhance service quality.

114. With its introduction of "Project Pronto," a project that involved broad deployment of advanced services technology, Pacific promised improvements in service quality from the new service, telling investors in 1999 that the new technology would 1) "be less vulnerable to weather conditions, thereby reducing trouble reports," 2) have "reduced activity . . . in the remaining copper plant because of improved reliability," 3) "avoid dispatches on many installations [and thereby] realize efficiencies in [SBC's] installation and maintenance operations," and 4) "substantially reduce the need to rearrange outside plant facilities when installing new or additional services."

115. Pacific's deployment of DSL services may fail to benefit all customers equally.

116. The SBC/Ameritech merger conditions addressing DSL availability in low-income neighborhoods and rural areas contained at least three limitations.

First, the merger condition only required deployment in certain wire centers, and not to all customers served by those wire centers. Thus, for example, customers far from a wire center received no guarantee of DSL service. Second, the requirements only extended to low-income rural areas if other rural customers took DSL. Third, the merger conditions were only applicable for a limited time.

117. Growth in the number of lines and customers served, such as characterized most of the 1990s, provides a commensurate opportunity to increase revenues and earnings.

118. During 1989-1995, Pacific cut staff in customer-facing areas. The number of splicing technicians decreased by 26%, the number of systems technicians decreased by 35%, and the average years of experience of Pacific's service technicians declined over that time period.

119. Outside field contractors caused 14% of the Pacific cable cuts causing 911 outages in 2001.

120. Pacific increased the number of service representatives by 61% from 1996 to 1998.

121. The net growth in total Pacific jobs from 1997-2001 was approximately 5.6%.

122. Pacific's numbers vary depending upon how one examines them.

123. While Pacific's staff decreased during the early years of NRF, Pacific made up for those losses in the second half of the 1990s, at least in the area of the customer-facing employees who have the most direct impact on service quality.

124. Pacific's trouble tickets increased as rain declined in certain years.

125. The 1997-98 season had greater rainfall in San Francisco than did the 1994-95 season. Pacific's increase in trouble reports during that period is disproportionate to the increase in rainfall. During the 1997-98 season, factors

other than the weather contributed to a deterioration in Pacific's trouble report performance.

126. The carriers have extensive outside plant and can expect rain-related damage.

127. El Niño was not a phenomenon that took anyone by surprise, but rather was long anticipated before it happened.

128. El Niño conditions recur on a regular basis.

129. Pacific has demonstrated at least twice since the Commission instituted NRF that it engages in marketing abuses.

130. There is insufficient evidence to find that Pacific's decisions to restrict the availability of free telephone directories and to charge more for directory assistance calls resulted from the Commission's adoption of the NRF mechanism.

131. Verizon shows problems with its service quality and related matters in the following areas, as more fully explained in subsequent findings of fact:

- Residential and business installation intervals and business installation commitments met.
- Business trouble reports for repairs.
- Staffing levels.

132. Verizon's service quality results were better than Pacific's during the NRF period, but also showed problems in some areas.

133. With regard to installation intervals, the ARMIS 1994-2001 data show that Verizon performed less well than did Pacific for both residence and business installations from 1995-99.

134. In 2000-01, Verizon California's performance on ARMIS improved: average installation intervals for residence customers decreased from nearly 5 days in 1998 to under 1 days in 2000 and 2001, while the same interval for

business customers went from nearly 7 days in 1998 to just over two days in 2000 and 2001. Nonetheless, Verizon's installation intervals (business) were at 4 days or more from 1995 through 1999.

135. Verizon's installation intervals (residence), as shown in ARMIS data, increased from about 1.5 days to over 4.5 days between 1994 and 1998.

136. Pacific's ARMIS installation intervals were generally better than Verizon's during the NRF period, with business installation intervals remaining stable in the 3-4 day range during the entire period 1994-2001. Residence intervals were not as steady, with small spikes in 1995 and 1997, but the overall numbers were generally lower than Verizon's except in 1994-95 and 2000-01.

137. ARMIS data on installation "commitments met" show that other than in 1999, when Verizon's percentage of residential commitments met dipped to below 97%, Verizon performed well during the 1993-2001 period on its residential commitments.

138. In the area of business commitments met, Verizon's results showed a general declining trend between 1991 and 1998 and were most problematic in 1995 and 1998, dipping to 96% and 95.5% of commitments met for business customers in those years. For all years except 1999, the data show that Verizon's performance was worse than Pacific's.

139. Overall, the data show that Verizon's installation intervals were problematic, and that its "commitments met" performance also showed problems with respect to business (but not residential) customers.

140. Verizon had performance problems in its installation intervals and installation "commitments met" performance for business customers over the relevant period.

141. GTE continued to conceal the true facts regarding 1989-92 operation of its Language Assistance Center, addressed in D.98-12-084, until 1997.

142. Verizon's DSL service quality information is not contained within the regulated utility.

143. ORA did not establish that Verizon misreports its installation service results or that Verizon's installation data are inaccurate. The concerns ORA raises are the result of a mismatch between its data and the data on which Verizon bases its results, miscommunication between the parties, and other reasons for which neither party is blameworthy.

144. ORA's discovery of "duplicate" records does not establish that there are errors in Verizon's data.

145. ORA's discovery of mismatched installation intervals in different sets of Verizon data does not establish that there are errors in Verizon's data used to report its installation record.

146. The evidence is inconclusive on whether the FCC means the term "working days," for purposes of a carrier's calculation of its installation intervals, to include weekend days on which the carrier actually does business.

147. The fact that Verizon's installation data do not match the information in certain informal complaints on file with the Commission does not establish problems with Verizon's reporting.

148. ORA did not establish that there is a problem with Verizon's "commitments met" data.

149. The New York Public Service Commission found that a claim that a Verizon affiliate falsified service quality data in New York was unfounded.

150. The evidence did not establish that Verizon prematurely closes installation orders or trouble tickets.

151. Verizon met a minimum of 98% of its basic installation order commitments over the past nine years, which is above the GO 133-B standard of 95 percent.

152. In nine of ten years since 1991, Verizon met its installation commitments for residential customers no less than 99% of the time, as reported in its ARMIS results; since 1991, Verizon has met its business installation commitments an average of 97% of the time.

153. Verizon's long switch downtime incidents have decreased since 1991.

154. It is untrue that service quality never improves without regulatory action.

155. Verizon's repair performance showed some problems during the NRF period, especially in the area of trouble reports.

156. In the area of repair intervals, Verizon's performance was consistently good through much of the NRF period, but has worsened in 2000-01, especially for residential customers.

157. Verizon's repair interval data throughout the NRF period was consistently better than Pacific's.

158. On Verizon's ARMIS results for trouble reports, Verizon's problems appeared primarily in the context of its business customers. For business customers, Verizon's results were worse than Pacific's for both initial trouble reports for conditions other than out of service conditions and repeat trouble reports for other than out of service conditions.

159. Verizon's repair intervals for both residential and business customers have exhibited problems in the recent past, and there is no assurance that more recent positive trends will continue over time.

160. Verizon's residential repair intervals increased in 2000 and 2001, but have improved somewhat in the first quarter of 2002. It is not clear whether this improvement represents a short- or long-term phenomenon.

161. In 2000, Verizon reported residential repeat out-of-service repairs within 24 hours of a previous repeat out-of-service repair 1.88 percent of the time. Verizon gave the figure as a lower number: 392 out of approximately 600,000 repairs in 2000. While the number is small, it gives us concern because of the magnitude of the problems these customers experience. These are customers whose phones are completely out of service, and who have already had one repair visit. They then have two more repair visits before Verizon can resolve the problem.

162. Verizon's business annual average repair intervals were not stable in 2001 and 2002, varying between 10 and 15 hours during this time frame. This was an increase from the levels Verizon achieved in prior years. The worst performance occurred in the first quarter of 2001.

163. Verizon's residential initial trouble reports declined by only 3% from 1995 to 2001, as compared to the 18% decline Verizon claims by comparing 1995 to its annualized 2002 data.

164. Verizon's BOAT results were superior to Pacific's in 1995, 1996 and 1998-2001. However, on average, Verizon's BOAT results failed to meet the minimum standard of 80% of calls answered within 20 seconds during the period from 1993 through 1997. Verizon's BOAT performance was substandard during the early part of the NRF period, but has shown steady improvement since 1997.

165. Verizon's TRSAT results were generally better than Pacific's from 1994-2001 (except in 1995 when the two carriers' results were about equal). Verizon's TRSAT results failed to meet the minimum standard of 80% of calls answered

within 20 seconds from 1991 through 1993 (with extremely poor performance in 1992) and in 1995.

166. Verizon's SPG program is a good way to offer recompense to customers immediately after they suffer service problems. However, in order for such a program to work fairly, Verizon should ensure it properly discloses the SPG to all customers.

167. The evidence did not establish that Verizon consistently discloses its SPG to all customers.

168. A customer must request Verizon's SPG in order to get it.

169. A properly disclosed and applied SPG program is a good tool for compensating customers as soon as they suffer harm, and for motivating carriers to improve service quality.

170. Verizon's formal complaint history during the NRF period compares favorably to Pacific's record. Both formal complaints against Verizon relate to conduct early in the 1990s and before. While GTEC did not bring to light the true facts surrounding the marketing abuses in the second case until 1997, the Commission did not find that the abuses themselves continued after 1992.

171. Verizon's informal complaint history compares favorably to Pacific's.

172. ORA's customer service survey for Verizon showed that in the minds of the customers surveyed, Verizon's service quality has improved since 1991.

173. The fact that ORA's customer service survey is capable of measuring an improvement in service quality for Verizon is a validation of the survey's usefulness for drawing a similar – but far less favorable – comparison between Pacific's past and present performance.

174. Even if customers perceive service quality to be good, there may nonetheless be objective service quality problems that require a remedy. In

reaching conclusions about the carriers' service quality, we look not only at customers' subjective perceptions but also at the objective reporting.

175. Where Verizon demonstrates objective problems – for example in the area of repair data – we expect Verizon to make improvement.

176. Verizon surveys its California customers by conducting over 1,000 interviews per month covering Directory Assistance, Consumer and Business Provisioning (which covers installation of new service), Consumer and Business Repair (which covers diagnosis, repair, and restoration of existing service), and Consumer and Business Request and Inquiry (which covers requests and inquires directed to the Business Office regarding customer bills, products and services, prices, and company policies). The results of these surveys show that Verizon offers good service quality. Neither ORA nor TURN challenged the results of these surveys.

177. Not all customers are benefiting from Pacific's and Verizon's technological upgrades.

178. While Verizon may have used its increased flexibility under NRF to improve its service quality, Pacific's less positive results under NRF undermine any general argument that NRF alone, and not other factors, causes companies to improve service quality.

179. Verizon's field staffing declined by 35% from 1989, the year the Commission implemented NRF, to 2000, with a large reduction (42%) occurring from 1989-1994. The total reduction in cable splicers or their equivalents was 17%.

180. Verizon's service quality suffered during the first quarter of 2001 due to unusually heavy rains.

Conclusions of Law

1. As presently constituted, NRF fails to ensure high quality service for residence and business customers of either Pacific or Verizon. NRF's impact on service quality was a key concern when we adopted the new framework in 1989, and we find we had reason for concern.

2. D.89-10-031, the decision establishing the NRF framework, did not institute specific service quality reporting requirements. Rather, the Commission acknowledged the need under NRF to be vigilant about service quality lest incentives to cut costs caused the carriers to cut too deeply.

3. Any changes that we make to NRF should be coordinated with revisions to General Order 133-B that result from the rulemaking we recently opened to make such revisions, Rulemaking 02-12-004.

4. GO 133-B requires carriers to count an order as held when the service is not provided within 30 days after the commitment date. Pacific's method of counting such orders only once a month undercounts held orders.

5. Judge Thomas correctly ruled that Pacific should continue to report certain data to this Commission for measures required under the FCC's MCOT requirements that expired in November 2002. It is reasonable to require Pacific to continue reporting these results until further notice of the Commission.

6. It is reasonable to extend the end date of Verizon's agreement to continue reporting MCOT data to this Commission. While Verizon agreed to continue the reporting until the conclusion of this proceeding, it is reasonable to order Verizon to continue such reporting until further notice of the Commission.

7. It is appropriate to consider the results of formal complaints and other formal Commission proceedings initiated during the NRF period to come to conclusions about Pacific's and Verizon's service quality. The OIR for this

proceeding states that, "requests for relief that are better addressed in complaint proceedings or enforcement OIIs" are beyond the scope of this proceeding, and we do not consider such requests for relief here. However, the scope of this proceeding does not limit the Commission from reviewing the frequency and nature of prior Commission actions addressing carriers' performance and service quality failures during the NRF period as one of many measures used to assess how service quality has fared under NRF.

8. In D.01-12-021, we found that "aggregating data in the manner Pacific proposes has the effect of masking poor service quality in one area."

9. It is not adequate for a carrier to show good performance only in some instances. If there are instances of poor service quality, we should require improvement in these areas. Positive results do not cancel out the negative results or mean that customers suffering in the areas where performance is poor experience positive service quality.

10. It is appropriate to consider in this proceeding whether NRF creates economic incentives for poor service quality, whether movement of functions formerly provided by the regulated utilities to unregulated affiliates harms service quality, and whether competition affects service quality.

11. In the context of a settlement of our investigation of complaints about Pacific's DSL service in I.02-01-024, we found that Pacific had failed to maintain adequate records of complaints filed against its ASI affiliate, which provides DSL service to customers.

12. In its Service Quality OIR, the Commission intends to consider whether to amend GO 133-B to require that when carriers report their answer times, they include the time customers spend in ARUs.

13. In D.02-09-050, our decision allowing Pacific into the long distance market, we found that, "Local telephone competition in California exists in the technical and quantitative data; but it has yet to find its way into the residences of the majority of California's ratepayers."

14. Pacific should have been far more helpful to ORA's witness in pointing out problems with Pacific's data up front. Pacific should have explained in detail how it translates the raw data to the reports it makes to regulators. Pacific failed to cooperate with ORA in helping it to understand Pacific's data.

15. Because this Commission relies on FCC ARMIS data to determine carriers' service quality, we have an interest in ensuring the data's accuracy.

16. The Commission intends to consider clarifying the meaning of the term "primary (main) telephone service" in GO 133-B in its Service Quality OIR, R.02-12-004. GO 133-B's reference to "primary (main) telephone service" is unclear and requires clarification. It is unclear whether the quoted phrase refers to a class of service that includes basic exchange service and that the sequence of lines to an address is not a factor in the definition of primary service; or whether "primary (main) telephone service" refers only to the first line into a home. We question whether it makes sense to interpret GO 133-B to apply only to first lines into a home.

17. In C.91-03-006/D.93-05-062 regarding late payment charges, Pacific was found to have imposed erroneous late payment charges because it did not timely process payments as they came into its payment processing center. The Commission found that Pacific considered cost in determining whether to fix the problem: "[a] letter to the Comptroller in May 1990 . . . quoted a manager who believed that curing the problem may not be 'worth spending a lot of money to

obtain.'" The Commission required Pacific to refund $34 million in unlawful late charges, and to pay a $15 million fine.

18. In A.95-12-043/D.97-03-021 regarding ISDN, the Commission found Pacific had insufficient staffing, and poor installation and customer service records, and noted that incentives to cut costs prevented Pacific from addressing the problem. It also found that, "Pacific does not provide high quality customer services to its ISDN customers and potential ISDN customers . . . ."

19. In D.01-12-021, the Commission found that Pacific's "average initial repair interval for residential customers increased 45 percent between 1996 and 2000" (with its residential repeat trouble reports per 100 lines peaking in 1998) and that in "every year since 1996, Pacific's mean time to restore service to residential customers [was] higher than the 1996 base year." The also Commission found "a sharp decline in service quality of nearly 50% over a mere four years coupled with Pacific's knowledge thereof and its lack of an attempt to remedy the deterioration." The Commission concluded that, "The Commission cannot find that SBC Pacific's service quality is excellent when the initial out-of-service repair intervals for residential customers has (sic) increased 45% since 1996." The Commission instituted a system of automatic penalties if Pacific's repair times failed to meet standards established by that decision. Given the timing of ORA's complaint and the Commission's imposition of penalties, it is fair to infer that regulatory intervention had something to do with Pacific's improved performance thereafter.

20. Our continued vigilance and enforcement are needed to ensure good service quality.

21. In C.98-04-004/D.01-09-058 regarding Pacific marketing abuse, the Commission found that Pacific provided poor service quality and failed

adequately to disclose information regarding its Caller ID, Wire Pro, and "The Basics" packaged services. We found that "Pacific Bell has exhibited a pattern of regulatory compliance during periods of special oversight, only to be followed by noncompliance in furtherance of Pacific Bell's revenue goals when the special oversight ends." The Commission found that "customer service quality is compromised when Pacific Bell representatives ask each caller, at the beginning of every call, for permission to access the subscriber's proprietary network information and to repeat the question if the answer is 'no,' and force customers to listen to unwanted sales pitches prior to providing a response to a customer service inquiry. Therefore such practices are inconsistent with reasonable service quality."

22. Because GO 133-B specifically excludes billing inquiries from its measure of BOAT, we do not find that Pacific's performance of 68% or fewer calls answered within 20 seconds is a violation of GO 133-B standards, when billing calls are included in that measure.

23. Pacific did not violate Pub. Util. Code § 451 in connection with its answer times for billing calls.

24. The Commission intends to consider whether to include billing calls within the GO 133-B standards in its Service Quality Order Instituting Rulemaking.

25. In A.92-05-002/D.94-06-011, the Commission approved settlement with ORA's predecessor, DRA, regarding Pacific's TRSAT answer times.

26. In D.97-03-067, the Commission found that, "ORA presented an impressive analysis of issues relating to Pacific's service quality which may be useful in other contexts." The Commission also found that "Pacific is and has been out of compliance with GO 133-B, apparently for some time. . . . Pacific

failed to meet [the] standard for trouble report answering time almost 50% of the time for the period 1993 through the first six months of 1996 . . . ." The Commission also stated: "We are concerned by Pacific's failure to meet trouble report service answering time standards following our adoption of a settlement in D.94-06-011 under which Pacific, as a settling party, agreed to improve its trouble report service answering time in order to avoid the imposition of a penalty mechanism. In D.94-06-011, we found that '. . . Pacific will also be adjusting its procedures to improve its quality of service . . . .' (see page 118, D.94-06-011). Since that time, in fact, Pacific's service quality has declined." The Commission threatened Pacific with penalties if it did not improve its results in 90 days, and only then did Pacific's TRSAT and BOAT results improve.

27. In C.99-06-053/D.01-10-071, Pacific was shown to have marketed its "Saver 60" intraLATA toll calling plan to customers for whom the plan did not produce savings, despite Pacific's claims that it would. Pacific settled the case by agreeing to provide customers notification of the error, make refunds and establish a two-way feedback/complaint mechanism for telemarketing services.

28. In C.99-16-018/D.01-12-021 regarding repair services, the Commission found Pacific's repair intervals had increased to such a level that they violated both Pub. Util. Code § 451 and a Commission-ordered merger condition requiring that service quality be maintained. The Commission also found that Pacific did not inform customers of their right to be given a window of time within which a representative would complete required service. The Commission found that past performance is an adequate standard for determining service quality degradation in violation of Section 451, that cost cutting measures can cause such degradation, and that aggregation of data from

multiple measures can mask service quality so poor in a single measure as to violate § 451.

29. C.02-01-007 / D.02-10-073, regarding DSL, was settled with the Commission adopting Pacific's proposed $27 million penalty payment into the State general fund. Pacific agreed in the settlement that "During the period of January 2000 through the [date of the settlement agreement], an estimated 30,000 to 70,000 [of Pacific's DSL affiliate's] customers complained about and / or experienced billing errors" and that these errors "were not resolved in a timely manner and / or required multiple calls and substantial investment of time to resolve."

30. It is appropriate pursuant to Commission Rule 73 for the Commission we take official notice of the Commission's actions in the complaints or other formal proceedings discussed in the section entitled "Complaint Data – Pacific" and "Complaint Data – Verizon" in the body of this decision.

31. In commencing this proceeding, the Commission stated in R.01-09-001 that, "in developing the [customer] survey, the party should use as a starting point the surveys of Pacific and Verizon customers conducted by Commission staff in previous proceedings."

32. Pacific was required to file with the Commission certain customer surveys it contracted with a third-party research firm to conduct as part of its Customer Service Quality process.

33. Under D.91-07-056, Pacific is required to file with the Commission service quality reports P.A. 02-03 and P.A. 02-04, both of which are initiated by Pacific.

34. Due to Pacific's failure to file information required by the Commission under its NRF monitoring program and Pacific's refusal to produce this information as requested by Overland, Pacific has deprived the Commission of

information that may be useful in its assessment of Pacific's service quality under NRF. We can only conclude that the results of those surveys are not favorable to Pacific. At the very least, we cannot find that Pacific's service quality results are enhanced by the P.A. 02-03 surveys, since Pacific has never submitted them.

35. Changes in the California economy that increase or decrease demand, technological change that stimulates demand for more telephone lines, and unbundling and interconnection requirements imposed in the Telecommunications Act of 1996 do not provide an excuse for poor service quality.

36. Steady service quality during times of economic expansion and contraction are not something for which we should reward a company. Our standards and those imposed by the FCC apply regardless of such external factors.

37. Rainfall is not an excuse for poor service. Local exchange telephone carriers can and should have staff available to mitigate service quality problems during periods of extreme weather conditions. They should plan seasonal adjustments or contingencies to accommodate inclement weather.

38. The Commission's authority over service quality encompasses more than network technical performance. It is appropriate to consider trends and patterns in customer-affecting practices such as cramming, slamming and other marketing abuses during our assessment of service quality under NRF.

39. In D.86-05-072, the Commission required Pacific to refund over $62 million to customers and to contribute $16.5 million to the Ratepayer Education Trust Fund.

40. The complainant in C.86-07-013 alleged that Pacific falsely advertised its Touch Tone service. The complaint was dismissed as moot, because Pacific had

refunded the complainant's charges and changed its advertising, but the Commission later ordered Pacific to extend its refund with interest to other customers. .

41. In Resolution T-15404 and D.98-12-084, GTE, Verizon's predecessor, agreed to pay $13 million to settle a case alleging that sales staff at its foreign Language Assistance Center charged non-English speaking subscribers for optional services, such as Call Waiting or Call Forwarding, which the customer did not order during the 1989-92 period.

42. NRF does not cause carriers to establish self-imposed service quality measures.

43. The decision establishing the NRF framework did not institute particular service quality reporting requirements. Rather, the Commission acknowledged the need under NRF to be vigilant about service quality lest incentives to cut costs caused the carriers to cut too deeply.

44. Whether housed separately or only reported separately, advanced services results are key to our understanding of Verizon's service quality.

45. It is important to retain – and even expand where necessary – the reporting requirements we currently impose as part of GO 133-B or elsewhere.

46. Improvement in Verizon's TRSAT results is not reasonably related to the Commission's action against *Pacific* after the Commission's Pacific Telesis-SBC merger order (D.97-03-067) threatened Pacific with sanctions for noncompliance with the TRSAT standard.

47. Verizon's inclusion of billing calls in its BOAT results does not violate GO 133-B, but in order for Verizon's year-over-year results to be comparable, it is appropriate to require Verizon to seek Commission permission to change the way it reports its data.

48. In D.94-06-011, the Commission approved a settlement in which GTEC agreed to implement a service guarantee program. Under the program, if Verizon failed to meet the G.O. 133-B answer time standards for any three months of a six-month moving period, Verizon would be obligated to provide a refund to ratepayers. Verizon's BOAT performance thereafter showed improvement.

49. In order for Verizon's SPG to be distributed fairly, Verizon must consistently disclose the credit to its customers. If Verizon does not do so, it would be appropriate for the Commission to require Verizon to do so.

50. In A.92-05-002 / D.94-06-011, regarding GTEC (Verizon's predecessor) answer times and switch outages, the Commission found that GTEC's answer times failed to meet minimum GO 133-B standards. GTEC failed to meet the G.O. 133-B answer time standard for its Customer Care Centers in 17 out of the 24 months in 1991 and 1992. For the Customer Billing Centers, the average speed of answer time was approximately two minutes: 126.1 seconds and 113.1 seconds, respectively. GTEC also had a high customer billing error rate, a disproportionately high number of informal complaints, inconsistencies in its service quality monitoring data and problems with its calling cards.

51. Verizon's formal complaint history, standing alone, does not indicate a significant service quality problem.

52. Verizon does not show significant service quality problems based on the informal complaint data in the record.

53. It is the duty of the carriers to manage their growth so as to maintain high service quality.

O R D E R

IT IS ORDERED that:

1. Pacific Bell (Pacific) shall conform its method of counting orders held over 30 days to the requirements of General Order (GO) 133-B as stated in this decision. Within 30 days of the effective date of this decision, Pacific shall file a compliance document in this docket demonstrating its compliance with the requirements of this decision with regard to the calculation of such held orders.

2. Pursuant to Pub. Util. Code § 310, we ratify the ruling of the assigned Administrative Law Judge requiring Pacific to continue reporting MCOT data to this Commission. Pacific shall continue to report data to this Commission for measures required under the Federal Communications Commission's (FCC's) Merger Compliance Oversight Team (MCOT) requirements that expired in November 2002 until further notice of the Commission.

3. Verizon California, Inc. (Verizon) shall continue to report data to this Commission for measures required under the FCC's MCOT requirements contained in its order FCC 00-221 until further notice of the Commission.

4. We deny the Office of Ratepayer Advocates' (ORA's) recommendation that we conduct an audit of Pacific's or Verizon's historic installation data to determine the extent of data error and its subsequent impact on reported service quality results during the New Regulatory Framework (NRF) period. Our rejection of ORA's recommendation does not in any way preclude the Commission staff from reviewing in the future Pacific's service quality data or its data collection and reporting methods. Similarly, in denying this recommendation, we do not intend to preclude proposals in Phase 3B designed to ensure the accuracy of data reported to regulators, through audits or any other means.

5. Pacific shall file and serve data in the form of a compliance filing in this docket that answers the following questions under oath within 30 days of the effective date of this decision.

- Has Pacific at any time during the period 1990-2002 closed installation orders containing multiple lines to be installed on the same order after a portion of – but not all – the lines were installed?
- If the answer to the previous question is yes, produce an annual summary of the number of such orders.
- If Pacific reports that any multi-line order was closed before all lines associated with that order were installed, explain in detail how Pacific accounts for such orders when calculating its installation intervals for purposes of any regulatory reporting requirements.

6. We deny The Utility Reform Network's (TURN's) request for a finding that Pacific has violated Pub. Util. Code § 451 with regard to its billing calls.

7. Pursuant to Commission Rule 73, we take official notice of the Commission's actions in the complaints or other formal proceedings discussed in the sections entitled "Complaint Data – Pacific" and "Complaint Data – Verizon" in the body of this decision.

8. The Commission will consider in Phase 3B of this proceeding what regulatory actions it should take to address the service quality problems identified in this decision. The parties shall address such issues in their Phase 3B testimony.

9. Verizon shall notify us in advance if it seeks to discontinue reporting billing inquiries in its Business Office Answer Time (BOAT) results to make any other change in the types of calls it includes in its BOAT reporting.

10. Neither Pacific nor Verizon shall change the way they count their GO 133-B results (except as ordered herein) without advance permission of this Commission.

11. Verizon shall address the following issues in its Phase 3B testimony:

- State whether every customer receives information on a business office or repair service call to Verizon (a call requesting installation, repair or other Verizon service) about the availability of its Service Performance Guarantee (SPG). Provide written evidence – scripts, internal memoranda, training materials or other documents – that service personnel at Verizon give such information to customers on the calls. If the written evidence establishes that service personnel do not disclose the SPG to customers on all service calls, produce that written evidence.

- If service personnel do not give every business or repair service caller information during a call to Verizon about the availability of the SPG, explain how customers obtain information about the SPG.

12. Verizon shall not discontinue its SPG program as a result of this decision.

13. The parties shall address any needed regulatory changes related to the findings this decision makes in Phase 3B of this proceeding.

This order is effective today.

Dated______________, at San Francisco, California.

APPENDIX A

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