Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of	)	
	)	
Policy and Rules Concerning Rates	)	
for Dominant Carriers	)	CC Docket No. 87-313
	)	
and	)	AAD 97-28
	)	
Amendment of Part 61 of the Commission's Rules	)	
to Require Quality of Service Standards in	)	
Local Exchange Carrier Tariffs	)	

MEMORANDUM OPINION AND ORDER

Adopted: May 14, 1997; Released: May 30, 1997

By the Commission:

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I. INTRODUCTION

1. In 1990, the Commission adopted the *LEC Price Cap Order*[1] establishing an incentive-based system of regulation. Price cap regulation provides carriers with incentives to operate more efficiently by reducing costs so that these carriers can realize greater earning potential. In response to concerns raised by carriers and state regulators that our price cap initiative could cause degradation to service and network quality, the Commission, in a series of proceedings, established a system to monitor service quality and infrastructure development.[2] Since that time, a number of parties have filed petitions asking the Commission to review various rules with respect to data collection, standard setting, and enforcement strategies.

2. On May 17, 1991, the Bureau released the *Service Quality Order* that established service quality and infrastructure reporting requirements for incumbent local exchange carriers (ILECs) subject to price cap regulation. In response to the *Service Quality Order*, the Telecommunications Association (TCA) submitted an Application for Review on June 17, 1991. On April 6, 1992, the International Communications Association (ICA) and the Consumer Federation of America (CFA) filed a Joint Petition for Rulemaking (ICA/CFA Joint Petition), requesting the Commission to require price cap ILECs to include internal service quality standards in their access tariffs. On October 12, 1993, the Bureau released the *Service Quality Modifications Order* that made further modifications to service quality reporting requirements for price cap ILECs. Seven ILECS filed petitions for reconsideration of the Bureau's *Service Quality Modifications Order*.[3]

3. On February 8, 1996, the Telecommunications Act of 1996 ("1996 Act") was enacted. The 1996 Act requires that "quality services should be available at just, reasonable and affordable rates."[4] It also requires ILECs to make available quality services to competing local exchange carriers (CLECs) without discrimination and with reasonable access to ILEC networks.

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[1] Policy and Rules Concerning Rates for Dominant Carriers, *Second Report and Order*, 5 FCC Rcd 6786 (1990) (*LEC Price Cap Order*).

[2] *See* Policy and Rules Concerning Rates for Dominant Carriers, CC Docket No. 87-313, *Memorandum Opinion and Order*, 6 FCC Rcd 2974 (Com. Car. Bur. 1991) (*Service Quality Order*), *recon.*, 6 FCC Rcd 7482 (Com. Car. Bur. 1991); Policy and Rules Concerning Rates for Dominant Carriers, *Memorandum Opinion and Order*, 8 FCC Rcd 7474 (Com. Car. Bur. 1993) (*Service Quality Modifications Order*).

[3] Parties filing Petitions for Reconsideration, oppositions and replies are listed in Appendix A.

[4] 47 U.S.C. § 254(b)(1).

On May 8, 1997, the Commission released the *Universal Service Order* that recognizes service quality as an important goal of the 1996 Act.[5] In this Order, we address the issues raised in the petitions filed by TCA, ICA, CFA and the ILECs. We also make modifications to our service quality and infrastructure reporting requirements consistent with the provisions of the 1996 Act.

II. BACKGROUND

4. On October 4, 1990, the Commission issued the *LEC Price Cap Order* that adopted an incentive-based system of regulation designed to "advance the public interest goals of just, reasonable, and nondiscriminatory rates, as well as a communications system that offers innovative, high quality services."[6] Price cap regulation defines ranges within which rates are presumed lawful. Factors outside of the carrier's control, such as inflation and national productivity, establish these ranges. Accordingly, carriers subject to price cap regulation can increase their earnings by reducing costs and realizing efficiencies. The *LEC Price Cap* Order also addressed concerns that price cap regulation could create cost-cutting incentives that might result in degradation of service quality and diminishing investment in network infrastructure. In response to these concerns, the Commission directed all ILECs under price cap regulation to file quarterly service quality reports. Those ILECs for which price cap regulation is mandatory -- the Bell Operating companies (BOCs) and GTE -- would also be required to file semiannual service quality reports and annual infrastructure reports. The Commission delegated to the Chief, Common Carrier Bureau, authority to establish reporting requirements designed to capture trends in service quality and telephone industry infrastructure development under price cap regulation.[7]

5. In response to the Commission's directive in the *LEC Price Cap Order*, the Bureau released the *Service Quality Order*. This Order established requirements for the content and format of quarterly and semiannual service quality reports and annual infrastructure reports required of price cap ILECs.[8] The Commission uses its Automated Reporting Management Information System (ARMIS) for service quality and infrastructure reporting and monitoring.[9]

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[5] *See* Federal-State Joint Board on Universal Service, *Report and Order*, CC Docket No. 96-45, FCC 97-157, (rel. May 8, 1997) (*Universal Service Order*).

[6] *LEC Price Cap Order*, 5 FCC Rcd at 6786.

[7] *Id.*

[8] *Id.*

[9] *See* Automated Reporting Requirements for Certain Class A and Tier 1 Telephone Companies (Parts 31, 43, 67 and 69 of the FCC's Rules), *Report and Order*, 2 FCC Rcd 5770 (1987) (*ARMIS Order*), *modified on recon.*, 3 FCC Rcd 6375 (1988) (*ARMIS Reconsideration Order*), *further recon.*, 4 FCC Rcd 8240 (1989), (*ARMIS Order*), 5 FCC Rcd 4718 (1990) (*ARMIS Order*).

The ARMIS system consists of ten reports filed by ILECs with total annual operating revenues exceeding $109 million.[10] The non-confidential information collected through ARMIS is available to the public in both paper and electronic formats.

6. In a Public Notice, the Bureau solicited comments from interested parties regarding the clarity, reliability, and effectiveness of the reporting requirements.[11] In July 1992, the Bureau released a second public notice, that sought comment on further modifications to existing reporting requirements and solicited comments on additional proposed modifications.[12]

7. The *Service Quality Modifications Order* released in October 1993, implemented further modifications to the ARMIS Service Quality Report 43-05. That Order directed carriers to continue reporting at the study area level,[13] but to retain all wire center level records.[14] The

[10] ARMIS reports consist of the following ten reports: (1) The *ARMIS Summary Report* (43-01) which contains aggregate cost and revenue data reported at the study area level; (2) The *Uniform System of Accounts* or *USOA Report* (43-02) which reports the end year balances for each USOA account; (3) The *Joint Cost Report* (43-03) which contains data about regulated and nonregulated services, disaggregated by allocation methods set forth in the filing carriers's cost allocation manual, at the study area level; (4) The *Access Report* (43-04) which contains jurisdictional separations and access charge data by Part 36 category reported at the study area level; (5) The *Forecast Report* (495A) which is filed simultaneously with the carrier's annual access tariff filing and contains a forecast of expected regulated and nonregulated investment usage reported at the study area level; (6) The *Actual Usage Report* (495B) contains the actual usage of regulated and nonregulated investment reported at the study area level; (7) The *Service Quality Report* (43-05) which collects study area level data designed to capture trends in service quality under price cap regulation; (8) The *Customer Satisfaction Report* (43-06) which collects study area level data to monitor price cap ILEC customer satisfaction; (9) The *Infrastructure Report* (43-07) which collects data, at the study area level, designed to capture trends in telephone industry infrastructure development under price cap regulation; and (10) The *Operating Data Report* (43-08) which contains corporate statistical schedules at the operating company level. Pursuant to Section 402(b)(2)(B) of the 1996 Act, ILECs are no longer required to file ARMIS reports more frequently than annually. 1996 Act § 402(b)(2)(B); *see also* Implementation of the Telecommunications Act of 1996: Reform of Filing Requirements and Carrier Classifications, *Order and Notice of Proposed Rulemaking*, 11 FCC Rcd 11716 (1996); Revision of Filing Requirements, *Order*, CC Docket No. 96-23, DA 96-381 (Com. Car. Bur. Mar. 20, 1996); Implementation of the Telecommunications Act of 1996: Reform of Filing Requirements and Carrier Classifications, Anchorage Telephone Utility, Petition for Withdrawal of Cost Allocation Manual, Report and Order, CC Docket No. 96-193, FCC 97-145 (rel. May 20, 1997) (*Section 402(b)(2)(B) Order*).

[11] *See* Public Notice, 7 FCC Rcd 3590 (Com. Car. Bur. 1992) (*March 1992 Public Notice*).

[12] *See* Public Notice, Modifications to Service Quality/Infrastructure Reports, 7 FCC Rcd 4632 (Com. Car. Bur. 1992) (*July 1992 Public Notice*).

[13] A study area is a geographic segment of a carrier's telephone operations. It generally corresponds to a carrier's entire service territory within a state.

Bureau also clarified definitions used in the ARMIS forms and instructions accompanying them, finding "subsequent" trouble reports better filed within the "repeat" trouble category. The Bureau developed four new reporting categories: (1) overall customer satisfaction; (2) installations; (3) repairs; and (4) business office. Finally, the Bureau reaffirmed the Commission's use of benchmarking and deferred decisions on transmission quality, bit-error rate and availability measures, trunk blocking reports, call completion ratios, and switch deployment and capabilities.

III. DATA COLLECTION

8. In this section, we address issues of service quality data collection raised by TCA's Application for Review of the *Service Quality Order* in light of the 1996 Act and subsequent Bureau orders that modified the reporting requirements established in the *Service Quality Order*. We also discuss the issues raised by the ILECs in their petition for reconsideration of the *Service Quality Modifications Order*.

A. Bit-Error Rate and Availability Data Reporting

1. Background

9. "Bit-error rate" refers to percentage of received bits in error compared to the total number of bits received in a high-speed telecommunications transmission. "Availability" is the measure of the percentage of time that a transmission path is "up" and available for use or "down" and incapable of transmitting information.

10. In the *Service Quality Order* and the *Service Quality Modifications Order*, the Bureau recognized the importance of reporting bit-error rate, availability, and error free seconds, but determined that the prohibitively high costs of implementing such reporting would outweigh the benefits to be gained by mandating such a requirement.[15] After adopting the *Service Quality Order*, and in response to subsequent technological developments,[16] the Bureau revisited the issue. In its *July 1992 Public Notice*, the Bureau solicited comment on the question of measuring

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[14] A "wire center" is the location at which the telephone company terminates subscriber outside cable plant (*i.e.*, their local lines) and that has the necessary testing facilities to maintain them. A wire center might have one or several class 5 central offices, also called public exchanges or simply switches. A customer could receive telephone service from one, several or all of these switches without paying extra. They would all be the customer's local switch.

[15] *Id.*

[16] Technological developments to which we refer include the Advanced Intelligent Network (AIN), Asynchronous Transfer Mode (ATM) switching, advancements in digital subscriber loop technology (xDSL), and increased fiber transmission rates as high as 40 gigabits per second.

transmission quality for "high-speed data transmission."[17] In the *Service Quality Modifications Order*, the Bureau stated that it had received insufficient information on which to make a judgment, and deferred resolution of this issue to a later phase of this proceeding.[18] We now address this issue again.

2. Positions of the Parties

11. TCA argues that the Commission should require ILECs to report bit-error rate and availability data associated with "high-speed data lines."[19] TCA disputes the Bureau's conclusion that such reporting would be intrusive, costly, and of little value to the Commission's monitoring efforts. With respect to availability data, TCA asserts that reporting of this data would impose no burden.[20] As for bit-error rate measures, TCA states that the Bureau has seriously overestimated the cost and intrusiveness of reporting this information.[21]

12. In its opposition to TCA's application for review, Bell Atlantic contends that the Bureau's decision in the *Service Quality Order* not to require bit-error rate and availability information for data services was justified because the ILECs showed that such a requirement would be prohibitively expensive and burdensome, that measurement would be intrusive, and that there are no established industry standards for acceptable performance.[22] Bell Atlantic argues that TCA has offered no evidence that the Bureau's determination is incorrect.[23]

3. Discussion

13. We do not find persuasive TCA's argument that we impose mandatory bit-error rate and availability reporting requirements regarding digital transmission both above and below the DS1 rate level for mandatory price cap ILECs. TCA has failed to demonstrate that the

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[17] *See July 1992 Public Notice*, 7 FCC Rcd at 4632: *Service Quality Modifications Order*, 8 FCC Rcd at 7474 paras. 58-59.

[18] *Service Quality Modifications Order*, 8 FCC Rcd at 7474.

[19] TCA Application for Review at 14-18.

[20] *Id.*

[21] TCA disputes the accuracy and application of cost figures provided by SWB and relied upon by the Bureau. TCA Application for Review at 16.

[22] *See e.g.*, Bell Atlantic Opposition at 11-12.

[23] *Id.* at 12-13.

benefits of bit-error rate and availability reports for individual data circuits will outweigh the costs that would be imposed on customers for those services. Because we find that the Bureau adequately supported the conclusions it drew in the *Service Quality Order*, we decline to reverse the Bureau's determination.[24]

14. Digital transmission is becoming more pervasive throughout the ILEC network. In recent years there have been technological advances permitting nonintrusive monitoring of digital transmission. "Nonintrusive monitoring" refers to testing the customer's circuit without interruption. Previously, it was necessary for the customer to turn the circuit over to the telephone company for testing with specialized test patterns. Recent developments, however, allow the testing to be done while the customer continues to use the circuit. Therefore, actual customer data are used to make certain that the input is identical to the output. In a companion rulemaking proceeding, we will seek comment on whether new and developing capabilities of digital transmission equipment have the ability to reduce costs of monitoring transmission quality so that service quality reports, customer complaint reports, and infrastructure reports can be included in our service quality monitoring program without significant burden to affected companies. This companion proceeding will update the record and permit interested parties to discuss any recent technological advances facilitating measurement of digital transmission quality. The information provided in the comments will enable us to make an informed decision on whether ILECs should be required to report bit-error rate and availability data for digital transmission.

B. Disaggregated Reporting

1. Background

15. Disaggregation is the method of service quality and infrastructure reporting carriers use to break down data either geographically or by service category. This method of reporting is common to all of our service quality reports and allows greater precision in evaluating the carrier's service performance.

16. In the *LEC Price Cap Order,* ILECs were directed to file service quality data at the study area level and disaggregate the information into switched access and special access categories in Table I of the ARMIS Report 43-05.[25] The Bureau found generally that service quality reports based on study area data are refined enough to allow adequate monitoring of ILEC performance. The Bureau also found, however, that the service quality reports would be even more useful if they were disaggregated by the type of service (switched access or special access)

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[24] *Service Quality Order*, 6 FCC 2996 at paras. 56-59.

[25] *LEC Price Cap Order*, 5 FCC Rcd 6786.

because of the different service quality characteristics of these two services that are purchased by the same customers.

17. The Bureau's *March 8 1991 Public Notice* proposed that ILECs be required to disaggregate service quality data to the level of Metropolitan Statistical Areas (MSAs) and non-MSAs[26] for three service quality reports (ARMIS Service Quality Report 43-05, Table I, Repair Intervals; Table IV, Switch Downtime; and Table V, Complaints) and one infrastructure report (Infrastructure Report 43-07, Table I, Switching Entities).[27] After receiving comments on this proposal from interested parties, the Bureau concluded in the *Service Quality Order* that it would not further extend the geographic disaggregation of service quality data below the study area level. This position was reaffirmed in the *Service Quality Modifications Order.*

2. Positions of the Parties

18. In its Application for Review of the *Service Quality Order*, TCA argues that the ILECs should group and report all service quality and infrastructure data by geographic areas smaller than study areas. TCA also contends that the Bureau's refusal to require reporting at the MSA/non-MSA level for three service quality categories is unexplained and unsupported. TCA maintains that the ILECs' being allowed to file service quality reports that are not disaggregated to the study area results in averaged reports that obscure service quality changes for whole states. TCA urges that service quality and infrastructure reports should be disaggregated in accordance with the service categories established in the *BOC ONA Reconsideration Order.*[28] Finally, TCA maintains that further disaggregation would deter the ILECs from circumventing limitations on strategic pricing by moving groups of customers among same-category services in order to manipulate selectively service quality data. TCA objects to the Bureau's conclusion that such disaggregation is unnecessary, and states that the Bureau has not shown that such manipulation is unlikely or otherwise deterred.[29]

19. Bell Atlantic supports the Commission's decision in the *Service Quality Order* not to require disaggregation of additional service quality data at the MSA level because such a

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[26] *See* Public Notice, 6 FCC Rcd 1621 (Com. Car. Bur. 1991) (*March 8 Public Notice*). Metropolitan Statistical Areas (MSAs) are designated by the Bureau of Census. MSAs follow geographic borders and are defined using statistics that are widely recognized as indicative of metropolitan character. Non-MSAs include all counties that are not part of a MSA.

[27] *See March 1992 Public Notice*, 7 FCC Rcd 3590.

[28] TCA Application for Review at 17-18, *citing*, Filing and Review of Open Network Architecture Plans, 5 FCC Rcd 3084 (1990) (*BOC ONA Reconsideration Order*).

[29] *Id.*

requirement would be burdensome and would produce information of questionable value.[30] Rochester asserts that such a requirement would constitute "overkill," and states that TCA has failed to demonstrate any benefits to be gained from requiring further disaggregation of data reported.[31] Similarly, ILECs assert that the decision not to require separate reporting by ONA categories, appealed by TCA, was correct and justified.[32]

3. Discussion

20. We decline at this time to implement TCA's proposal for further disaggregation of data beyond the study area level. TCA has failed to provide any evidence that service quality data have been manipulated. We therefore find no grounds for imposing additional reporting requirements. We also find that the record demonstrates that the MSA/non-MSA data disaggregation proposed by TCA would provide additional information of minimal value to the reporting carriers. We find, however, that the forward-looking cost models developed in the *Universal Service Order* indicate that ILECs do in fact have the ability to collect data at a highly disaggregated levels that provide more detailed and useful information than ILECs currently report at the study areal level. Therefore, in a companion rulemaking proceeding, we will seek comment on whether data should be collected below the study area level.

C. Disaggregated Reporting of Wire Center Data

1. Background

21. In the *March 22 Public Notice*, the Bureau sought comment on whether to disaggregate service quality data in Service Quality Report 43-05 to the wire center level and report these data on an "exception basis"[33] at the wire center level. After soliciting comments, the Bureau concluded that it would not require this further disaggregation because such reporting would be too burdensome for carriers.

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[30] Bell Atlantic Opposition at 6-7. *See also* PacTel Opposition at 5; SWB Opposition at 4-6 (contending that TCA rejects SWB's estimates of cost of such reporting, but provides no alternative estimates of its own).

[31] Rochester Opposition at 5-6.

[32] Rochester Opposition at 5-6. *See also* Bell Atlantic Opposition at 8-9; Ameritech Opposition at 4-5; BellSouth Opposition at 13-15.

[33] "Exception reporting" is the reporting of performance that fails to meet a predetermined threshold established either by the Commission or industry standards. *See Service Quality Modifications Order*, 8 FCC Rcd at 7476, para. 9.

22. In the *Service Quality Order and the Service Quality Modifications Order*, the Bureau reviewed the issue of disaggregation of data to the wire center level. In these proceedings, parties urged the Bureau to reconsider its earlier decisions and to require ILECs to disaggregate data to the wire center level to ensure that rural subscribers do not experience greater service deterioration than the Bureau's aggregated report would indicate was occurring. The Bureau disagreed. Balancing the need for the data against the burden imposed on ILECs and on Commission resources to gather, collate, and analyze the data, the Bureau concluded in both orders that data collected on the study area level were sufficient to monitor service quality adequately. The Bureau further concluded, however, that ILECs should retain wire center service quality data to permit the detection of possible trends in service degradation. Finally, the Bureau found that if a change in the geographic level of disaggregation is warranted, it would consider amending the reporting requirements to address that need.

2. Positions of the Parties

23. In its Application for Review, TCA renews its argument for further disaggregation to the wire center level. TCA also argues that the Bureau properly required retention of wire-center-service-area data. TCA asserts that the Bureau's action would enable it to require exception reporting on a wire center basis. TCA contends that exception reporting at the wire center level is an effective way to ensure that all customers receive responsive and reliable service.[34]

24. In their petition, ILECs argue that the Bureau failed to explain why underlying wire-center-service-area data should be retained, or to identify what specific data should be retained and for how long.[35] SNET, SWB, USTA, and US West argue that the requirement to retain these records for an unspecified time period is unreasonable and unwarranted.[36] PacTel argues that the requirement to retain wire-center-service-area data should only apply to data reported in the service quality reports (ARMIS Reports 43-05 and 43-06) and not to the infrastructure report (ARMIS Report 43-07).[37] PacTel contends that infrastructure report data should not be retained on a wire center basis because TCA's request, the basis for the retention requirement, sought access to disaggregated information on service performance rather than

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[34] TCA Application for Review at 18-20.

[35] Ameritech Petition at 1-2; PacTel Petition at 10-12; SNET Petition at 4; SWB Petition at 2-4; USTA Petition at 4; US West Petition at 9-12. Ameritech and PacTel propose that wire-center-service-area data be retained for only two years.

[36] *See* SNET Petition at 3; SWB Petition at 2-3; USTA Petition at 4; US West Petition at 9-10.

[37] PacTel Petition at 10-11.

facilities.[38] USTA also argues that if the Commission does not eliminate this requirement, then it should be limited solely to ARMIS Report 43-07.[39]

3. Discussion

25. We affirm the Bureau's decisions in the *Service Quality Order* and the *Service Quality Modifications Order* not to require disaggregation to the wire center level. We also find unpersuasive ILEC claims that the wire-center-service-area data obligation to retain wire center data imposes administrative hardship and is unwarranted. The Bureau found that it is common practice for carriers to identify this data at least service quality and infrastructure information by wire-center-service-area, particularly installation and repair data in ARMIS Service Quality Report 43-05 and Infrastructure Report 43-07. It is also common practice to identify it in even more detail, *i.e.*, by customer. Thus, we do not require carriers to identify data to which they do not now have ready access and find that such data collection does not impose an undue burden on ILECs. We, therefore, require ILECs merely to retain data to the wire center level for the ARMIS Reports 43-05 and 43-07, but not to report it routinely. We also limit the retention requirement to four years in order to ensure that sufficient data are available, if needed for future review by the Commission. We find that the benefits of preserving our ability either to implement an exception reporting procedure rapidly or to collect data ensuring ILEC service quality and infrastructure development outweigh the costs that the ILECs may incur to implement this requirement.

D. ISDN Usage Reporting in ARMIS Report (43-07)

1. Background

26. In the *Service Quality Modifications Orde*r, the Bureau specifically instructed ILECs, when reporting the number of lines actually served by switches with ISDN, not to "include in this count lines that could be connected ISDN-capable to switches."[40] The Bureau sought to obtain a more accurate understanding of the ISDN-implementation rate by distinguishing lines actually served by ISDN from lines that have potential, but are not currently served by ISDN.[41]

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[38] *Id.*

[39] USTA Petition at 4, n.6.

[40] *See Service Quality Modifications Order*, 8 FCC Rcd at 7524-31, Attachment, FCC Report 43-07, Row Instructions, Table I, Row 0300-0301.

[41] *Id.*

2. Positions of the Parties

27. US West urges the Bureau not to require reporting of ISDN-capable lines.[42] As a threshold matter, US West argues that this modification was made without adequate notice to ILECs.[43] US West also contends that, under the amended ISDN reporting requirement, the Bureau no longer receives data on the number of lines actually served by ISDN-capable switches.[44] Finally, US West and Bell Atlantic claim that this new definition does not accurately represent ISDN infrastructure development among ILECs because it produces misleading statistics that vastly understate the number of lines with access to ISDN.[45] These parties therefore contend that the more relevant data are the number of lines that could be equipped with ISDN on request, because that data provides evidence of the availability of ISDN service, and not just the number of lines that are currently being served by an ISDN-capable switch.[46]

3. Discussion

28. US West and Bell Atlantic state that our ARMIS infrastructure reporting requirements should include relevant evidence of the availability of ISDN services to customers.[47] We agree. ISDN is an important indicator of ILEC infrastructure development. US West and Bell Atlantic assert that reporting the number of lines capable of ISDN is a better measure of infrastructure development than measuring the number of lines actually providing ISDN service. We conclude that both types of information would be useful to capture both supply and demand. We recognize that two major components are needed to provide ISDN service to customers: (1) a subscriber loop that meets ISDN transmission parameters and (2) capacity (information carrying ability) on the line side of a switch capable of providing ISDN service. Accordingly, we modify the current infrastructure reporting requirements to ensure that carriers report both types of data.[48] Prospectively, we will require ILECs to report the actual number of subscriber lines currently

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[42] US West Petition at 22-23. *See also* Bell Atlantic Reply at 3-4.

[43] US West Petition at 22.

[44] *Id.* at 23.

[45] US West Petition at 22-23; Bell Atlantic Reply at 3-4.

[46] *Id.*

[47] *Id.*

[48] Currently, only mandatory price cap carriers are required to file these ISDN data. In a companion proceeding, we will seek comment on whether carriers under optional incentive plans will also be required to file these ISDN data.

capable of supporting ISDN transmission. We will also require them to file data on the number of ports on the line side of switches capable of providing ISDN service. This modification to our infrastructure report will enable the Commission and state regulators to measure the relative usage, availability, and growth in ILEC ISDN services on regional, state, and national base.[49]

E. Customer Installation Reporting in ARMIS Report (43-05)

1. Background

29. Customer installation data measures a carrier's success in making installations and repairs in a timely manner. These data are reported in Tables I and II of the ARMIS Service Quality Report 43-05. Prior to the release of the *Service Quality Modifications Order*, ILECS reported average intervals between the date the installation or repair was promised and the date on which the work was performed.

30. In the *Service Quality Modifications Order*, the Bureau modified its reporting requirements governing how price cap ILECs were to measure installation and repair intervals of local service.[50] The Bureau eliminated the requirement that ILECs report the average interval between ILEC commitment dates and the actual dates of installation or repair, *i.e.*, the "average missed commitment interval."[51] Instead, the Bureau required ILECs to report the average interval between the dates customers place their orders and the dates installation occurred, *i.e.*, the "average installation interval."[52] The Bureau concluded that this modification would provide a better measure of ILEC responsiveness.[53] The Bureau found that this new requirement would not create additional burden, as the BOCs already collect similar data in their ONA reports.[54] The Bureau further modified its reporting requirements by allowing carriers to report installation

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[49] The New York Department of Public Service has requested that we require ILECs to include in their infrastructure reports the percent of access lines with ISDN access. *See* June 22, 1993 Letter to Chairman Quello from Peter A. Bradford, Chairman of the State of New York Department of Public Service, and June 24, 1993 letter to Ms. Kathleen Levitz, Acting Chief of the Common Carrier Bureau, from Richard Stannard, Director of the Communications Division of the State of New York Department of Public Service.

[50] *See Service Quality Modifications Order*, 8 FCC Rcd at 7477-78, paras. 18-24.

[51] *Id.*

[52] *Id.* at paras. 18-20.

[53] *Id.*

[54] *Id.* at para. 18, n.36.

interval data in measurements of either work days or calendar days.[55] Finally, the Bureau modified how interval data are reported by permitting the ILECs, if they choose, to report a second interval, excluding any "customer driven" dates.[56]

2. Positions of the Parties

31. Several ILECs ask the Bureau to reconsider and reverse its decision in the *Service Quality Modifications Order*.[57] Ameritech and PacTel request that we reinstate the earlier reporting requirement that made average intervals between the commitment dates and the actual installation dates the measure of service installation and repair intervals.[58] Ameritech and PacTel claim that the Bureau's recent modifications would require costly computer system changes since such data are not currently retained.[59] Some ILECs also assert that service intervals measured from commitment dates serve as better indicators of carrier performance than intervals measured from customer order dates.[60] Several ILECs also argue that the industry's near complete conversion to a "just say when" installation time table, where commitment dates have become virtually all "customer driven," has now rendered the average installation interval virtually "meaningless."[61] In addition, US West claims that the use of average installation intervals is of

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[55] *Id.*

[56] *Id.*

[57] *See* Ameritech Petition at 2-3; Bell Atlantic Petition at 2-3; PacTel Petition at 4-7; SNET Petition at 4-5; SWB Petition at 5-6; USTA Petition at 4-6; US West Petition at 12-16.

[58] Ameritech Petition at 3; PacTel Petition at 5.

[59] Ameritech claims it would cost $500,000 and take several months to implement system changes to separate orders with customer-dictated due dates from standard due date orders. Ameritech Petition at 3. PacTel contends that it would require significant computer programming changes and cost approximately $25,000 to comply with the reporting requirement calling for the average installation intervals for local service. PacTel Petition at 5. SNET and USTA similarly argue that these requirements are costly and administratively burdensome. SNET contends that it should be exempted from these requirements and argues that unlike the BOCs, which already collect similar data for ONA reports, it and other small and mid-size elective price cap carriers are not subject to the *Computer III* ONA requirements. SNET Petition at 4. *See also* USTA Petition at 5.

[60] According to PacTel, a measurement of "average missed commitment" (whether standard intervals or customer-determined), unlike the "average installation interval," immediately provides comparative data to evaluate a carrier's success in meeting both its own installation commitments and its customers' needs. PacTel Petition at 5.

[61] *See* Bell Atlantic Petition at 2; SNET Petition at 4-5; US West Petition at 13; Ameritech Reply at 1; PacTel Reply at 5.

limited value because the required reporting categories include a mix of services for which installation times vary substantially.[62] US West states that a relatively simple and quickly installed WATS line is entered in the same reporting category as a more complicated high-capacity circuit requiring longer installation periods.[63] US West therefore questions the value of such data because they fail to reflect the varying composition of individually reported services.

32. US West also requests that the Bureau clarify its requirement that carriers report installation intervals in actual business days.[64] It contends that this requirement does not advance the Commission's goals of increasing uniformity in reporting because carriers differ as to whether weekend days constitute business days.[65] US West also seeks reconsideration of the Bureau's decision that required the filing and use of information concerning installation orders "placed" during the reporting period in calculating installation intervals. US West instead advocates that we should use only information concerning orders "completed" during the reporting period in such calculation.[66] In addition, US West requests that the Commission exclude from the reporting requirement those installation orders that are not completed by the commitment date when the customer was not prepared to receive service as of that date.[67] Finally, USTA and others maintain that the Bureau should either eliminate or make optional its requirement to exclude service orders with customer-specified due dates.[68]

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[62] US West Petition at 13-14.

[63] *Id.*

[64] *Id.* at 12.

[65] PacTel urges the Commission to require intervals to be measured in calendar days because from the customer's perspective, installation intervals are more correctly measured by calendar days. PacTel Petition at 6-7.

[66] US West Petition at 14-15. US West states that, because certain orders are placed but not completed during the reporting time period, sufficient information should be available if we were to require ILECs to file only information concerning orders completed during the time period.

[67] US West Petition at 15-16. US West maintains that the Commission's reporting requirements for the ILEC installation interval should parallel those established for the "percentage of commitments met," and therefore the reported "average interval" should not contain customer-caused misses.

[68] Ameritech Petition at 3; SWB Petition at 5; USTA Petition at 5-6. *See also* Bell Atlantic Petition at 3, n.7; US West Petition at 15.

33. TCA argues that the Bureau has properly required the ILECs to report actual installation intervals.[69] Contrary to the ILECs' position, TCA asserts that the disclosure of directly comparable performance data is a critical element of any effective service quality monitoring program.[70] TCA states that ILECs offer no evidence to support their contention that intervals measured from order placement to installation would "paint an unrealistically negative picture of actual performance."[71] As such, the ILECs fail to justify their arguments for excluding the intervals calculated from the date of the order's placement to the order's commitment date.[72] TCA contends that carriers should either be directed to change their reporting systems to exclude customer-directed dates, or they should be required to file reports that include those data.[73] TCA states that we should still require ILECs to file these reports in the same format in order to ensure comparability.[74] TCA, therefore, argues that we should reject SWB's request that we make the exclusion of customer-directed dates optional and Bell Atlantic's request to allow ILECs to report intervals in the manner they find most "meaningful."[75]

3. Discussion

34. We affirm the Bureau's decision to eliminate reference to carriers' standard intervals in ARMIS Report 43-05 (Tables I and II) and require carriers instead to report actual installation intervals expressed in business days.[76]

35. *Business days or Calendar days.* We recommend further modification of the rules governing the measure of average installation intervals contained within the *Service Quality Modifications Order.*[77] Although that Order and corresponding row instructions (Rows 114, 134) included in that Order require carriers to report installation intervals in business days, we note

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[69] *See* TCA Opposition at 6-8.

[70] *Id.*

[71] *Id.* at 7.

[72] *Id.* at 7, n.19.

[73] *Id.*

[74] *Id.* at 7, n.20.

[75] *Id.*

[76] "Business days" refers to five days of a business week that begin on Monday and ends on Friday.

[77] *See Service Quality Modifications Order*, 8 FCC Rcd 7474.

that a footnote in the Order contradicts this requirement because it states that "use of work days or calendar days as a measure of average installation interval is left to the discretion of the reporting carrier."[78] Our goal is to obtain information that is the most accurate measure of delay in making installations and repairing new services. In addition, we seek to ensure uniform reporting. Therefore, we conclude that we should eliminate the choice between calendar and business days. We find business days to be a better measure because holidays and weekends obfuscate the measure of delays. Therefore, we strike the reference to "calendar days" and instead require carriers to report the average installation interval only in actual business days. This will ensure that the average installation interval reported to the Commission and the public reflects actual service periods. We reject PacTel's request to require that the average installation interval be reported in calendar days.

36. *Installation Intervals.* As stated in the *Service Quality Modifications Order*, the Bureau adopted an average installation interval to meet our directive that all units and methods of measurement should be uniform wherever possible.[79] We agree with TCA that the reporting of directly comparable installation performance information is a vital component of our service quality monitoring program. We find that our current installation interval reporting requirements will lead to uniform reporting of service quality data, thereby enabling the Commission and the public to monitor and assess each price cap carrier's installation performance over time and in comparison to other carriers. Our previous installation reporting procedures required carriers to report "missed commitment intervals." Even for carriers with similar "installation intervals," "missed commitment intervals" could vary substantially based upon each carrier's individual staffing and installation commitment policies. Our current reporting requirement solves this problem by requiring that all carriers report actual installation intervals, *i.e.*, from the date a customer places an order until the carrier actually provides the service. Such data are not susceptible to distortion because of variations in carrier installation commitment policies. Thus, we find that the public is best served by the Commission's use of average installation intervals based on actual installation performance data to monitor ILEC service quality and that these benefits outweigh any minor burdens that may be imposed upon carriers who must change their current procedures to comply with these requirements.

37. We agree with US West, however, that certain changes to installation interval reporting requirements imposed in the *Service Quality Modifications Order* would make the reported data more useful to the public and to the Commission. US West argues that the Bureau should amend its requirement that carriers file information concerning installation orders "placed" during the reporting period and instead use only the number of orders "completed" during the reporting period to calculate its intervals. If an installation order had not been completed by the

[78] *Id.* at 7477, para. 18 n.36.

[79] *Id.* at para. 18.

end of the reporting period, the carrier would not know the actual installation interval. Such a result would not permit carriers to complete the reporting tables annually. Thus, we amend our reporting procedures to require that ILECs report installation interval data for only those orders that are completed during the reporting period. We also amend the ARMIS Service Quality Report 43-05 instructions to require carriers to provide the number of orders or circuits completed during the reporting period. These amendments will enable the Commission to monitor "completed" orders.

38. *Customer Delay.* Finally, we agree with US West that carriers' service quality records should not be marred by the appearance of delay when the carrier is ready to make the installation and the customer is not ready or available to receive it. US West suggests, however, that any delay in installation due to a customer's not being ready for service be excluded in the installation interval data.[80] While it would protect the carriers' records, this proposal would add unnecessary complexity to the carriers' reporting systems and make it much more difficult for the Commission and others to audit. Therefore, we do not adopt US West's proposed change to our installation interval data. By including additional reporting entries to the "Orders Completed During Period" sections of Tables I and II of the ARMIS 43-05 Report, however, we can ensure that a carrier will not be held accountable for missed commitments. These additional entries shall detail the number of commitments missed due to the customer and allow for the adjustment of data concerning completed orders to reflect this additional information. Because the additional entries detail customer failure to meet installation commitments, we conclude that US West's concern that carriers not be held accountable for customer delay has been addressed. We also conclude that this modification does not impose a significant burden on reporting carriers.

F. Customer Trouble Reporting

1. Background

39. Customer trouble reports collect and publish data concerning customer reports to carriers of local service problems. These trouble reports measure the number and type of service complaints during a reporting period. Carriers record these data in Tables I and II of the Service Quality Report 43-05. In the *July 1992 Notice*, the Bureau proposed that Table II be modified so that customer trouble reports could include a measurement of the repair interval, in hours to the nearest tenth.[81]

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[80] US West Petition at 14-16.

[81] *July 1992 Notice*, 7 FCC Rcd at 4633.

40. In the *Service Quality Modifications Order*, the Bureau stated that its review of service quality trouble report data indicated that carriers were defining "initial" and "repeat" trouble reports differently.[82] The Bureau defined "initial" trouble reports as the first (and in many cases the only) trouble report on a particular problem that does not include a count of any repeat troubles. "Repeat" trouble reports were defined as those reports made by a customer within 30 days after an "initial" trouble report.[83] The Bureau found that some carriers record a third type of trouble report, known as the "subsequent" trouble report. "Subsequent" trouble reports are those made by a customer regarding service problems that have been previously reported to, but not yet been addressed by, the carrier.[84] Finally, the Bureau determined that "subsequent" trouble reports occurring within 30 days after an "initial" report should be recorded as "repeat" reports.

2. Positions of the Parties

41. ILECs submitting petitions for reconsideration of the *Service Quality Modifications Order* request that the Bureau reconsider its requirement that any subsequent trouble report information be recorded in their ARMIS filings.[85] Ameritech, Bell Atlantic and US West argue that carriers attach distinct meanings to "subsequent" and "repeat" trouble reports, and that grouping these two types of reports within the same reporting category, as required by the *Service Quality Modifications Order*, will distort these data and render them virtually meaningless.[86] Petitioning ILECs contend that the redundant or supplemental inclusion in the "repeat" category of "subsequent" trouble reports, does not reflect the carriers' ability to repair the first reported trouble, but instead, represent customer-initiated contact prior to the attempt at repair.[87] Finally, Bell Atlantic and US West propose that if subsequent trouble reports are to be filed at all, they should be recorded on a separate line from "initial" and "repeat" trouble reports.[88]

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[82] *Service Quality Modifications Order*, 8 FCC Rcd at 7478, para. 26.

[83] *Id.*

[84] *Id.*

[85] *See* Ameritech Petition at 4; Bell Atlantic Petition at 3-4; USTA Petition at 3-4; US West Petition at 17-18.

[86] Ameritech Petition at 4; Bell Atlantic Petition at 3-4; US West Petition at 17-18.

[87] *See* Ameritech Petition at 4; Bell Atlantic Petition at 4; USTA Petition at 4; US West Petition at 17.

[88] Bell Atlantic Petition at 4; US West Petition at 17.

3. Discussion

42. We agree with petitioners that "subsequent" and "repeat" trouble reports are distinct and should not be grouped within the same reporting category. We therefore reverse the Bureau's determination in the *Service Quality Modifications Order* that carriers record as "repeat" trouble reports in Table II of the ARMIS Service Quality Report (43-05) "subsequent" trouble reports occurring within 30 days after an initial trouble report. We recognize that the inclusion of "subsequent" trouble reports only in the "repeat" trouble reporting category could create a false impression that problems were not properly addressed by the ILEC in a prior attempt at repair. We also recognize the usefulness of having subsequent trouble reports recorded in Table II. Thus, we modify our Service Quality Report to require ILECs to report "subsequent" trouble reports separately as a subcategory under both the "initial" and "repeat" categories. For purposes of our Service Quality Report (43-05), we now define "subsequent" trouble reports as complaints made to the ILEC on service quality problems before the ILEC has either resolved or reclassified the "initial" trouble report or the "repeat" trouble report. By contrast, we define "repeat" trouble reports as complaints concerning service quality that recur within 30 days of ILEC repair or reclassification of the "initial" trouble report. We stress that the establishment of a separate reporting category for "subsequent" trouble reports in no way affects our ability to measure the quality of ILEC repair service.

G. Customer Satisfaction Reporting

1. Background

43. To measure the overall satisfaction of customers, carriers implement telephone surveys. Results from these surveys of both business and residential customers is reported in Table I of the Customer Satisfaction Report 43-06.

44. In the *July 1992 Notice*, the Bureau requested comment on the implementation of categories of standardized customer categories in the reporting requirements. Specifically, the Bureau sought comment on whether these overall quality measurements produce more useful data.[89] In comments, the ILECs opposed the proposed use of standardized surveys because they claimed that such methods of data collection would only cause customer confusion and burden filing carriers.[90]

45. In the *Service Quality Modifications Order,* the Bureau established several standardized customer categories. The Bureau stated that it was not attempting to create and

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[89] *July 1992 Notice*, 7 FCC Rcd at 4634.

[90] *Id.*

impose upon the ILECs a standardized customer satisfaction survey, but rather to draw from existing ILEC customer service surveys certain "common denominator" groupings, of both respondents and areas of concern common to all carriers and all customers, in order to improve the survey process.[91] This led the Bureau to define for reporting purposes three categories of customer respondents: residential; small business; and large business.[92] It also required ILECs to ask surveyed customers about satisfaction with four categories of service: "overall satisfaction;" installations; repairs; and "business office." In addition, the Bureau required ILECs to report the total number of customers surveyed, and the percentage of those customers that were dissatisfied.[93] Finally, the Bureau required that ILECs, when using our electronic filing procedures for the first time, file Table I both on paper and in electronic format.[94]

2. Positions of the Parties

46. PacTel asks the Bureau to reconsider and eliminate the "overall customer satisfaction" category.[95] PacTel argues that it will be unable to supply data for the overall customer satisfaction category because it does not currently collect those data, cannot extrapolate an "overall customer satisfaction" rating from existing data, and does not plan to modify future surveys to provide such data.[96] Moreover, PacTel contends that the "overall satisfaction" category is so "ill-defined, generalized, and amorphous" that it is not useful in determining service quality.[97] According to PacTel, customer dissatisfaction may result from a myriad of factors unrelated to the components of service quality reported to the Commission, and therefore, this measurement is not useful to understand either why service quality declined or how customer satisfaction can be improved.[98] In addition, PacTel claims that comparisons between ILEC surveys is nearly impossible because data drawn to measure "overall satisfaction" vary from

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91 *Service Quality Modifications Order*, 8 FCC Rcd at 7481, para. 45.

92 *Id.* at para. 46.

93 *Id.* at para. 69.

94 *Id.*

95 PacTel Petition at 2-4.

96 *Id.* at 3.

97 *Id.*

98 *Id.*

survey to survey.[99] It also maintains that because of the subjectivity involved with extrapolating such data, "overall satisfaction" data cannot be substantiated if challenged.[100] Finally, PacTel states that, unlike other areas of concern, such as installation, repairs, and business office, "overall customer satisfaction" is neither objective or verifiable because of its "ethereal" nature.[101]

3. Discussion

47. We agree with PacTel that we should eliminate the "overall customer satisfaction" category contained in ILEC customer satisfaction survey data. The customer survey, like other information collected in ARMIS, should be drawn from data ILECs collect and use for their own purposes. We should not create or impose a survey structure or new data collection obligations in connection with those surveys that are otherwise useless to the ILECs. In addition, we find that when the Bureau established the "overall satisfaction" reporting category, it failed to define a quantifiable performance indicator. This reporting category helps neither the public nor this Commission to identify a specific flaw in ILEC service quality. Unlike the other categories of service identified in the *Service Quality Modifications Order*, *i.e.*, installation, repairs, and business office, all of which describe a particular service function performed by carriers, "overall satisfaction," is so vague that ILEC survey data would not provide useful information. We, therefore, reverse the Bureau's decision to create an "overall satisfaction" reporting category, and we eliminate this requirement.

IV. STANDARDS

A. Tariffing

1. Background

48. In the *LEC Price Cap Order*, the Commission refused to require ILECs to report their internal service quality standards in their interstate tariffs. The Commission concluded that the existence of high level service quality, price cap incentives, and state monitoring obviated the need for any national standards.[102]

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[99] *Id.* at 4.

[100] *Id.*

[101] *Id.*

[102] *LEC Price Cap Order*, 5 FCC Rcd at 6829-30; *LEC Price Cap Reconsideration Order,6* FCC Rcd at 7482 paras. 191-92.

49. In the *Service Quality Order*, the Bureau affirmed its earlier decision not to require ILECs to file service quality standards in their interstate tariffs. The Bureau found that a requirement that interstate tariffs include service quality standards would lead to various challenges of the standards filed, with the result that the Commission would be expected to rule upon the acceptability of these standards, and probably to enforce them.[103] The Bureau concluded that this requirement would be tantamount to establishing national standards, an action not within the Bureau's delegated authority.[104] Finally, the Bureau found that a standards requirement might be realized through the present service quality monitoring program.[105]

2. Positions of the Parties

50. In its application for review of the *Service Quality Order*, TCA challenges the Bureau's earlier decisions not to require price cap carriers to tariff their own internal service quality standards. TCA states that the Bureau has neither shown that increased administrative burden or unreasonable time delay would result from requiring tariffs to contain service quality standards nor proposed any alternative means of assuring acceptable service quality. TCA also disputes the Bureau's determination that tariffing service quality standards would be tantamount to specifying uniform national standards. [106]

51. TCA argues that requiring ILECs to include their standards in their tariffs would be useful even if those standards were not reviewed by the Commission. TCA contends that tariffing of standards would: (1) allow users to pressure ILECs privately, without having to resort to the complaint process; (2) enable users to plan their networks with a higher level of certainty as to the quality of services that they will be receiving; (3) provide widespread public notice of changes in standards; and (4) promote standards of national uniformity.[107] TCA asserts that the benefits associated with tariffing of standards offers cannot be realized through the Commission's current reporting and monitoring plan. Finally, TCA argues that although ILECs are required to file installation interval schedules, this information is excluded from the ARMIS reports, and that absent tariffing, this information may be manipulated by ILECs.[108]

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[103] *Service Quality Order*, 6 FCC Rcd at 2991-2.

[104] *Id.*

[105] *Id.*

[106] TCA Application for Review at 6-11.

[107] *Id.* at 9-10.

[108] *Id.*

52. ILECs assert that the Commission's determination not to require ILECs to include service quality standards in their tariffs was correct, because such a requirement would impose a significant and unjustified burden on both ILECs and Commission staff.[109] BellSouth for example, argues that TCA's application fails to rebut evidence on the record demonstrating that it would be administratively burdensome to the ILECs and the Commission to require a tariff filing each time an ILEC modifies the technical standards applicable to one of its numerous service offerings.[110]

53. The ICA/CFA petition urges the Commission to require ILECs to include in their annual access tariff filings certain service quality standards. The joint petitioners assert that "fundamentally changed circumstances resulting from newly available information" justify the Commission's acceptance of their petition. They refer to the Majority Staff Report released in February 1992,[111] which collected and commented on ILEC internal standards for service quality and reliability indicators. Petitioners note that there is variation among ILECs on some standards, and that some ILECs had no internal standards for some areas covered by the report. The Independent Data Communications Manufacturers Association, Inc., the Information Technology Association of America, and TCA support the joint petition.

54. All price cap ILECS oppose the ICA/CFA joint petition, as does MCI. These commenters argue that the joint petition fails to establish any change in circumstances and that the ICA/CFA petition simply repeats arguments made and addressed previously.

3. Discussion

55. Having twice examined this issue, the Bureau found in the *LEC Price Cap Order* and again in the *Service Quality Order* that mandatory tariffing of service quality standards was not necessary.[112] While recognizing that including company service quality standards in tariffs would remove uncertainty with respect to the quality of service that customers should expect to receive, the Bureau stated a preference for reporting actual performance, rather than for measuring ILECs' success in meeting their own internal standards. The Bureau also expressed

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[109] *See* Bell Atlantic Opposition at 8-10; PacTel Opposition at 3-4; Rochester Opposition at 6-7; SWB Opposition at 1-2.

[110] BellSouth Opposition at 10.

[111] Review of Telephone Network Reliability and Service Quality Standards report by the Majority Staff Report of the Subcommittee on Telecommunications and Finance, Committee on Energy and Commerce, U.S. House of Representatives (February 1992) (*Majority Staff Report*).

[112] *LEC Price Cap Order*, 5 FCC Rcd at 6834 ; *Service Quality Order*, 6 FCC Rcd at 2291-92, para. 43-44. *See Service Quality Modifications Order*, 8 FCC Rcd at 7425.

its belief that tariffing of ILEC internal service quality standards could impose considerable administrative burdens and delay on both the Commission and the ILECs because changes in standards would require frequent revisions to numerous tariffs.[113]

56. We agree with the conclusions of the *Universal Service Recommended Decision* and the *Universal Service Order* that we should require tariffing of service quality standards. In the *Universal Service Recommended Decision*, the Joint Board charged with making recommendations to the Commission concerning the implementation of Section 254 of the 1996 Act recommended that the Commission rely upon existing data rather than specific standards to monitor service quality because several states currently have service quality reporting requirements in place for carriers serving their jurisdictions and the imposition of additional requirements at the federal level would largely duplicate the states' efforts.[114] In the *Universal Service Order*, we determined that, " . . . implementing federally-imposed service quality or technical standards for promoting universal service would be inconsistent with the 1996 Act's goal of a procompetitive, de-regulatory national policy framework" because of the administrative burden on carriers resulting from the compilation and preparation of service quality reports that would be required for the Commission to assess whether carriers were meeting those standards."[115] We conclude, therefore, that TCA and joint petitioners present no argument that the Bureau and the Commission have not already considered fully and addressed at length in earlier and recent decisions. We find that the best approach remains that advanced by the Bureau -- of continuing the efforts to collect actual performance data rather than measurements of ILECs' success in meeting their own internal standards (whether those standards are identical to other ILECs' or not). Our focus and concern is actual ILEC performance, the level of service quality provided, rather than that intended or promised in a tariff. We also conclude that the Bureau's efforts to develop uniform units and methods of measurement, and to require that ILECs report actual performance in terms of such measures (days, hours, access lines) are useful to the public. In order to make this monitoring still more effective and useful to the public, however, we direct the Bureau to publish an annual summary of filed data.

B. Benchmarking

1. Background

57. Benchmarking is the review of performance data from several entities and use of the "best" performance as the principal criterion for comparing entity performance. From the inception of the monitoring program, benchmarking has been a primary goal. In the *LEC Price*

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[113] *Id.*

[114] *See Universal Service Recommended Decision*, 12 FCC Rcd at 140.

[115] *Universal Service Order* at paras. 97-98.

Cap Order, the Bureau first raised the issue of benchmarking in its discussion of standardizing service quality and infrastructure reports.[116] The Commission stated that "efforts to make the service quality and infrastructure reports more uniform will continue" and specified that the "Bureau is directed to make every effort to promote uniformity among the ILECs regarding classification of services, establishment of intervals, units of measurement . . . and other reporting factors."[117] The Commission concluded that benchmarking promotes the Commission's uniform reporting goals and is indispensable in monitoring the impact of price cap regulation on ILEC service quality and infrastructure development.

58. In the *Service Quality Modifications Order*, the Bureau addressed the issue of benchmarking. The Bureau reiterated the Commission's conclusion that benchmarking is a valuable tool to evaluate the impact of price cap regulation on the quality of service. The Bureau stated, "[t]he benefit of benchmarking in price cap ILEC monitoring is that the benchmark is as dynamic as the telecommunications industry."

2. Positions of the Parties

59. Various ILECs have asked the Bureau to reconsider its decision to use ARMIS service quality and infrastructure reports as the benchmark for comparing service quality data among the ILECs.[118] These parties contend that the Commission's desire for benchmarking is inconsistent with its expressed service quality and infrastructure monitoring goals, and its prior determinations not to adopt industry-wide quality of service standards for price cap ILECs.[119] US West and others argue that the Commission's service quality monitoring for price cap carriers was not devised to conduct "cross carrier" comparisons, but rather was intended to show how carriers perform in relation to their own standards given the economic incentives of price cap regulation.[120] Several ILECs maintain that "cross carrier" benchmark comparisons for service quality monitoring would not be useful because of the inherent geographic, technical, commercial, and procedural differences among price cap carriers.[121] Bell Atlantic and USTA maintain that the

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[116] *See LEC Price Cap Order*, 5 FCC Rcd at 6828, para. 341.

[117] *Id.*

[118] *See* Ameritech Petition at 3; Bell Atlantic Petition at 1-2; Bell Atlantic Reply at 1-2; PacTel Reply at 4; SWB Petition at 4-5; USTA Petition at 2-3; US West Petition at 7-8.

[119] *See* PacTel Reply at 4; USTA Petition at 2-3; US West Petition at 7.

[120] *Id.*

[121] *Id.*; SWB Petition at 4; USTA Petition at 3.

only meaningful benchmark would be relative level of service quality and infrastructure development for each carrier before and after implementation of price cap regulation.[122]

60. TCA argues that the Bureau properly acknowledges the value of benchmarking.[123] TCA contends that benchmarking is a potent and necessary incentive for ILECs to improve service quality. TCA maintains that ILECs minimize the value of data and overstate the differences among the carriers. TCA argues, for example, that similarities among carriers such as NYNEX, Bell Atlantic, BellSouth, Ameritech, and SWB is evidenced by the fact that they all serve areas that contain both major metropolitan centers and extensive suburban and rural territories.[124] In light of this example, TCA also asserts that benchmarking would provide the Commission with the necessary data to determine whether differences in performance reflect geographic and demographic variations, or simply differences in commitment to quality service and infrastructure improvement. Finally, TCA argues that, contrary to ILEC assertions, benchmarking is not tantamount to establishing national standards but rather serves as an informational tool.[125]

3. Discussion

61. We affirm the Bureau's previous decisions to use ARMIS reports for comparing and benchmarking the levels of service quality and infrastructure development among price cap ILECs. We reject claims made repeatedly throughout this proceeding that the Bureau's use of benchmarking effectively creates *de facto* national performance standards. The effect of benchmarking is that it allows the Bureau to make ARMIS reports more uniform in how they classify services and define intervals, units of measurements and other reporting factors. Benchmarking, therefore, does not impose mandatory service quality or infrastructure requirements on ILECs. Rather, it permits the Commission simply to make useful comparisons of ILEC performance. We determine that our reliance on benchmarking is consistent with our prior decisions rejecting national standards.[126] Since the inception of price cap regulation, we have required that the Bureau strive to standardize ILEC service quality and infrastructure development reports to permit meaningful comparisons of the ILECs performance.[127] While we

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[122] Bell Atlantic Petition at 2.

[123] TCA Opposition at 3-6.

[124] *Id.* at 4-5.

[125] *Id.* at 6.

[126] *LEC Price Cap Order*, 5 FCC Rcd at 6828, para. 341.

[127] *See e.g., Id.* at 6828, para. 342.

acknowledge that differences in the ILECs' operations may be explained in part by variations in carriers' service quality and infrastructure data, we conclude that benchmarking best serves the public interest and allows for the Commission and public to identify potential problem areas in quality of ILEC service.

C. Enforcement

1. Background

62. In 1991, the Commission established the Network Reliability Council,[128] an advisory group to consider network reliability and other issues related to local telephone service degradation. The council is comprised of industry representatives, users, and public interests groups that evaluate ILEC service quality and make recommendations to the Commission. The council also charters working groups that invite public participation.

2. Position of Parties

63. TCA contends that there should be additional mechanisms to address degradation in service quality. It argues for the establishment of a federal mechanism to deal with nation-wide service degradation and the creation of User-ILEC forum to promote the development of uniform, technologically reasonable service quality standards.[129] In balancing the Commission's directive to seek uniformity, against its decision not to mandate standards, TCA argues that the Bureau should have adopted TCA's suggestion to establish a forum, accountable to the Commission, that would permit user participation.[130] TCA maintains that such a forum should report to the Commission on a quarterly basis, and that the Commission should consider detailing a staff representative to attend forum meetings.[131]

64. The ILECs oppose TCA's proposals to establish both a federal mechanism to address service quality problems and User-ILEC forum.[132] Bell Atlantic asserts that TCA has failed to demonstrate deficiencies in the current industry forums for establishing standards, in which carriers, manufacturers, users, and other interested parties may participate. Moreover, Bell Atlantic argues that TCA has not demonstrated how the establishment of these two new entities

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[128] This organization is now known as the Network Reliability and Interoperability Council.

[129] TCA Application at 13.

[130] *Id.*

[131] *Id.* at 12.

[132] Bell Atlantic Opposition at 3. *See also* PacTel Opposition at 4; SWB Opposition at 1-2.

would foster better standards.[133] PacTel argues that TCA can remedy the purported deficiency in user representation by participating in the Exchange Carrier Standards Association's (ECSA) quarterly meetings.[134]

3. Discussion

65. We conclude that the advisory council that the Commission has established obviates the need for creation of a federal mechanism or User-ILEC forum as recommended by TCA. The Network Reliability Council and its successor, the Network Reliability and Interoperability Council, have been composed of representatives from the telecommunications industry, users, and public interest groups. These two entities have evaluated the causes of various service quality problems, studied how to remedy them and issued reports on their findings.[135] The councils have held meetings open to the public and have permitted members of the public to join working groups established by the councils. Our experience indicates that these advisory councils have performed well and, in fact, we have often adopted their recommendations. We therefore find that the present advisory council mechanism provides an effective means for addressing service quality issues. We therefore decline to adopt TCA's recommendation to establish a federal mechanism designed to address national service quality problems and create a new User-ILEC forum.

V. FINAL REGULATORY FLEXIBILITY ACT ANALYSIS

66. As required by Section 603 of the Regulatory Flexibility Act (RFA), as amended,[136] an Initial Regulatory Flexibility Analysis (IFRA) was incorporated in the *Service Quality Order* and the *Service Quality Modifications Order*. In these two Orders, the Commission certified that the proposed modifications to its service quality and infrastructure reporting requirements would not have a significant economic impact on a substantial number of small entities because the proposed rules did not pertain to small entities. No comments were

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[133] Bell Atlantic Opposition at 4; SWB Opposition at 2-3.

[134] PacTel Opposition at 8-9. Bell Atlantic also noted the existence of the ECSA. Bell Atlantic Opposition at 4-5. ECSA, now known as the Alliance for Telecommunications Industry Solutions (ATIS), was established in 1983 to deal with telecommunications technical standards, network operations, and other issues. ATIS sponsors the American National Standards Institute (ANSI) Committee T1, Telecommunications, which incorporated the T1A1 Technical Subcommittee, which defines data transmission performance standards and measurement methods and the T1M1 Technical Subcommittee, which addresses inter-network operations, administration, maintenance, and provisioning issues.

[135] *See generally* Network Reliability: A Report to the Nation (publisher National Engineering Consortium) (June 1993)

[136] *See* 5 U.S.C. § 603.

received concerning the proposed certification. For the reasons stated below, we certify that the modifications to the rules adopted herein will not have a significant impact on a substantial number of small entities.[137] This certification conforms to the RFA, as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA).[138]

67. The RFA defines a "small business" to be same as a "small business concern" under the Small Business Act."[139] Under the Small Business Act, a "small business concern" is one that: (1) is independently owned and operated; (2) is not dominant in its field operation; and (3) meets any additional criteria established by the Small Business Administration.[140] Section 121.201 of the Small Business Administration regulations defines a small telecommunications entity in SIC code 4813 (Telephone Companies Except Radio Telephone) as any entity with 1,500 or fewer employees at the holding company level.[141] Our rules concerning the reporting requirements for service quality and infrastructure data apply to the Bell Operating Companies and other incumbent local exchange carriers with total operating revenues exceeding $109 million. Although these incumbent local exchange carriers may have fewer than 1,500 employees and thus fall within the SBA's definition of small telecommunications entity, we do not believe that such entities should be considered small entities within the meaning of the RFA, because they are dominant in their field of operations or are not independently owned and operated, and therefore by definition not small entities under the RFA. Because the small ILECs subject to these rules are either dominant in their field of operations or are not independently owned and operated, consistent with our prior practice, they are excluded from the definition of "small entity" and "small business concerns." Accordingly, our use of the terms "small entities" and "small businesses" does not encompass small ILECs. Out of an abundance of caution, however, for regulatory flexibility analysis purposes, we will consider small ILECs within this analysis and use the term "small ILECs" to refer to any ILECs that arguably might be defined by SBA as "small business concerns."[142]

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[137] 5 U.S.C. § 605(b).

[138] *Id.* §§ 601-611. SBREFA was enacted as Subtitle II of the Contract With America Advancement Act of 1996 (CWAAA), Pub. L. No. 104-121, 110 Stat. 847 (1996).

[139] 5 U.S.C. § 601(6) (adopting 15 U.S.C. § 632(a)(10).

[140] 15 U.S.C. § 632.

[141] 13 C.F.R. § 121.201.

[142] *See* Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, CC Docket No. 96-98, First Report and Order, 11 FCC Rcd 15499 (1996) (*Local Competition Order*), *stayed in part pending judicial review sub. nom. Iowa Utils. Bd. v. FCC*, 109 F.3d 418 (8th Cir. 1996).

68. Similarly, our modification of the service quality and infrastructure reporting requirements affect only incumbent local exchange carriers with annual operating revenues above $109 million. While incumbent local exchange carriers may have fewer than 1,500 employees and thus fall within the SBA's definition of small telecommunications entity, we conclude that such entities should not be considered small entities within the meaning of the RFA.

69. Moreover, none of the rule changes adopted herein will have a significant economic impact on the incumbent local exchange carriers who are required to file service quality and infrastructure data. Accordingly, we do not believe the rules adopted or modified herein will have a significant economic impact on a significant number of small entities.

70. The Commission shall provide a copy of this certification to the Chief Counsel for Advocacy of the SBA, and include it in the report to Congress pursuant to the SBREFA.[143] The certification will also be published in the Federal Register.[144]

VI. PAPERWORK REDUCTION ACT ANALYSIS

71. This Order contains a proposed modified information collection obligation. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget (OMB) to comment on the information collections contained in this Order, as required by the Paperwork Reduction Act of 1995, Pub. L. No. 104-13. OMB comments are due 60 days from the date of publication of this Order in the Federal Register. Comments should address: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology. The implementation of the proposed or modified information collections are contingent upon OMB approval. OMB approval will take at least 150 days.

VII. ORDERING CLAUSES

72. Accordingly, **IT IS ORDERED** that, pursuant to Sections 1, 4(i), 4(j), 201-205, 215, 218, 219, 220 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), 154(j), 201-205, 215, 218, 219, and 220 that the Petition for Limited Waiver filed by US West Communications, Inc. on November 12, 1993 IS **DENIED**.

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[143] 13 C.F.R. § 801(a)(1)(A).

[144] *Id.* § 605(b).

73. **IT IS FURTHER ORDERED** that, pursuant to Sections 1, 4(i), 4(j), 201-205, 215, 218, 219, 220 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), 154(j), 201-205, 215, 218, 219, and 220, that the Petitions for Reconsideration of Ameritech, Bell Atlantic, Pacific Bell and Nevada Bell, Southern New England Telephone Company, Southwestern Bell, United States Telephone Association and US West **ARE GRANTED** to the extent contained herein, and otherwise **DENIED**.

74. **IT IS FURTHER ORDERED** that, pursuant to Sections 1, 4(i), 4(j), 201-205, 215, 218, 219, 220 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), 154(j), 201-205, 215, 218, 219, and 220, and Section 1.115(g) of the Commission's rules, 47 C.F.R. § 1.115(g), that the Application for Review filed by the Telecommunications Association on June 17, 1991 **IS DENIED**.

75. **IT IS FURTHER ORDERED** that, pursuant to Sections 1, 4(i), 4(j), 201-205, 215, 218, 219, 220 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), 154(j), 201-205, 215, 218, 219, and 220, and Section 1.401(e) of the Commission's rules, 47 C.F.R. § 1.401(e) that the Joint Petition for Rulemaking filed by International Communications Association and Consumer Federation of America on April 6, 1992 **IS DENIED**.

FEDERAL COMMUNICATIONS COMMISSION

William F. Caton
Acting Secretary

APPENDIX A

Pleadings in the TCA Application for Review

Oppositions

Ameritech Operating Companies (Ameritech)
Bell Atlantic Telephone Companies (Bell Atlantic)
BellSouth Corporation (BellSouth)
NYNEX Telephone Companies (NYNEX)
Pacific Bell and Nevada Bell (PacTel)
Rochester Telephone Corporation (Rochester)
Southwestern Bell Telephone (SWB)
US West Communications, Inc. (US West)

Replies

Telecommunications Association (TCA)

Pleadings in the Joint Petition For Rulemaking of International Communication Association (ICA) and Consumer Federation of America (CFA)

Oppositions

Ameritech
Bell Atlantic
BellSouth
NYNEX
PacTel
Rochester
SWB
US West