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Ratesetting
5/6/04 Item 48

Decision **PROPOSED DECISION OF ALJ GALVIN (Mailed 11/17/2003)**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of Verizon California Inc. (U 1002 C), a Corporation, for Authority to Re-Categorize Inside Wire Maintenance Plans and Billable Repair Service from Category II to Category III Service Offerings.	Application 01-02-012 (February 7, 2001)

Sullivan Sottile & Taketa LLP, by Timothy B. Sottile, Attorney at Law, and Richard A. Chapkis, Attorney at Law, for Verizon California, Inc., applicant.
James Anthony, Attorney at Law, for The Utility Reform Network, interested party.
Laura J. Tudisco, Attorney at Law, for The Office of Ratepayer Advocates.

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APPENDIX A – Billable Repair Services

O P I N I O N

I. Summary

Verizon California Inc. (Verizon) provides various services that allow customers to either pay a monthly fee to obtain repairs of the customer premises wiring (Inside Wire Maintenance Plan) or to obtain such repair service on an as-needed basis (Billable Repair Service). Verizon's request to re-categorize its Residential Billable Repair Service (BRS), Residential Inside Wire Maintenance Plan (IWMP), and Landlord IWMP from Category II to Category III service offerings is denied. Verizon's request to increase the ceiling rates for its Residential and Landlord IWMPs is also denied.

Verizon's request to re-categorize its Business BRS, and IWMPs for its business and CentraNet customers from Category II to Category III service offerings is granted. Verizon's request to increase the first weekday hour, or less, of its Business BRS ceiling rate from $85.00 to $100.00 is also granted. We further grant Verizon request to bifurcate its BRS tariff schedule into a separate business BRS tariff schedule and separate residential BRS tariff schedule. All revenues and expenses associated with simple inside wire services shall continue to be treated above the line for intrastate ratemaking purposes.

II. Jurisdiction

Verizon is a public utility telephone corporation subject to the jurisdiction of this Commission, as defined in Pub. Util. Code § 234. Verizon filed its application for authority to re-categorize services it currently offers for the repair and maintenance of simple inside wire from Category II to Category III and to raise their ceiling rates. These services are Business and Residential BRS, and Business, Residential, CentraNet, and Landlord IWMPs. This application was

filed pursuant to Rule 42 of the Commission's Rules of Practice and Procedure and Ordering Paragraph 20 of Decision (D.) 89-10-031.[1]

Pursuant to Rule 6(a)(1), Verizon requested that this matter be classified as a ratesetting proceeding and that hearings not be held. By Commission Resolution ALJ 176-3058, dated February 22, 2001, the Commission ratified the preliminary determination that this application is a ratesetting proceeding and determined that an evidentiary hearing might be necessary.

III. Prehearing Conference and Scope of Proceeding

An April 30, 2001 Prehearing Conference (PHC) was held in San Francisco to identify and clarify the issues in this proceeding. The assigned Commissioner issued a June 1, 2001 Scoping Memo summarizing the results of that PHC. The Scoping Memo affirmed the preliminary ratesetting category for this proceeding, designated Administrative Law Judge (ALJ) Galvin as the principal hearing officer, and identified two issues to be addressed in evidentiary hearings. These issues are market power and the reasonableness of Verizon's proposed changes.

The assigned Commissioner and ALJ attended the PHC, and the assigned ALJ presided over the evidentiary hearing.

Evidentiary hearings began on August 6, 2001 and continued through August 8, 2001. Verizon, The Utility Reform Network (TURN), and the Office of Ratepayer Advocates (ORA) provided testimony on the two issues identified in the Assigned Commissioner's Scoping Memo.

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[1] 33 CPUC2d 43 at 235 (1989).

Briefs were filed on September 10, 2001 and reply briefs on September 24, 2001. Upon receipt of those reply briefs, this proceeding was submitted.

IV. Pending Motions

On September 10, 2001, TURN and ORA filed motions for leave to submit under seal non-redacted versions of their opening briefs containing information previously determined to be proprietary and consequently sealed during the evidentiary hearing. There is no opposition to these motions.

Consistent with the treatment of data previously determined to be proprietary, TURN and ORA's motions should be granted. All data placed under seal in this proceeding should remain sealed for a period of two years from the date of this order. The sealed data should not be made accessible or disclosed to anyone other than Commission staff during the two-year time period except on the execution of a mutually acceptable nondisclosure agreement or on further order or ruling of the Commission or the ALJ designated at that time to be the Law and Motion Judge, the assigned ALJ, or the assigned Commissioner.

V. Background

Verizon makes available to its business and residential customers various services to repair customer premises wiring, the maintenance of which is not included in normal monthly fees for service. These services can be obtained by payment of either a recurring monthly fee to cover repairs whenever needed (Inside Wire Maintenance Plan or IWMP) or on a per incident basis billed at an hourly rate (Billable Repair Service or BRS). As set forth in D.89-10-031, telecommunication services for companies operating under the New Regulatory Framework, are classified according to three distinct categories: Category I

represents service offerings deemed to be basic monopoly services; Category II designates discretionary or partially competitive service offerings in which the local exchange carriers (LECs) retain significant, though perhaps declining, market power; and Category III encompasses fully competitive service offerings detariffed due to statutory requirements or federal preemption, or upon a LEC showing that it has, or is expected to have, insignificant market power. The rates and charges for Category I and II service offerings can only be established or modified with Commission approval. The rates and charges for Category III service offerings can be set at the highest level for flexibility in pricing allowed by law, provided that certain notice requirements are met.

Inside wire repair services – IWMP and BRS - are currently classified as Category II services. Verizon seeks to obtain maximum price flexibility for its BRS and IWMPs by changing these inside wire repair and maintenance service offerings from Category II to Category III.[2]

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[2] A price change for a Category II service offering must occur via advice letter. A price reduction at or above the price floor becomes effective with a five-day notice, while a price increase up to the approved Category II ceiling rate is effective with a 30-day notice.

With a change in classification from Category II to Category III Verizon would be able to change its BRS and IWMPs rates below the ceiling rate without becoming subject to protests. Such rates changes would become effective upon one-day's notice. Subsequent decreases or increases of less than 5% in the ceiling rate becomes temporarily effective with a one-day and five-day notice, respectively. These subsequent changes, if not protested, become permanent on the twentieth day after filing. A 5% or greater increase in a ceiling rate becomes temporarily effective with 30 days' notice and permanent, if not protested, on the 30th day after filing. Protested ceiling rate changes remain temporary until the protest is withdrawn or resolved by Commission action. If the protest is not withdrawn or resolved, the ceiling rate reverts to its previously authorized level.

Specifically, Verizon seeks Commission authority to re-categorize its BRS and IWMPs from Category II to Category III and to increase its ceiling rates for one rate element of its BRS and for each rate element of its IWMPs. In addition, Verizon wants to create separate BRS tariff schedule for business and residential customers and to maintain above the line ratemaking treatment for its BRS and IWMPs. We first address the contested issues.

VI. Creation of Separate BRS Tariff Schedules for Business and Residential Customers

A single BRS tariff schedule with common rate elements currently exists for Verizon's business and residential customers. For example, the $85 hourly tariff rate for the first billable hour, or less, is applicable to both business and residential customers. Verizon seeks to split its single BRS tariff schedule into separate tariff schedules for its business and residential customers. It does not propose to change any rate elements currently applicable to its business and residential customers. There is no objection to this request. The request to split the BRS tariff schedule into a separate Business BRS tariff schedule and a separate Residential BRS tariff schedule is reasonable and should be approved without further discussion.

VII. Ratemaking Treatment of BRS and IWMP

In D.89-10-031 we concluded that there should be no cross-subsidies of competitive services at the expense of basic ratepayers. Hence, as a general rule, services placed in Category III with a showing that a utility has insignificant market power are accounted for below-the-line as non-utility services. If a utility wishes to include a fully competitive (Category III) service above the line, "it

would need to overcome the presumption that such a service should be excluded."[3]

Verizon has requested that its BRS and IWMP for both business and residential customers, currently classified as Category II service offerings, continue to be treated above the line for intrastate ratemaking purposes, if its Category III request is granted. This request is consistent with Pub. Util. Code § 461.2. That code section requires all revenues and expenses from the repair of simple inside wire to be recorded above-the-line in the process of establishing rates for a telephone corporation. Hence, irrespective of whether Verizon's business and residential BRS and IWMP are classified as Category II or Category III service offerings, these service offerings are required to be treated above-the-line for intrastate ratemaking purposes.

VIII. Recategorization Request and Market Definition

To determine whether Verizon's BRS and IWMP should be classified as Category III service offerings and whether the ceiling rates for these services should be increased, we need to first define the relevant market so that we may determine whether Verizon "has or is expected to have insignificant market power" in each market it serves or intends to serve, the test for a Category III service.

Verizon identifies the relevant market to be the repair of simple inside wire. Simple inside wire includes all non-system premise telephone wiring, including the associated jacks, on the customer's side of the demarcation point, whether owned and installed by the customer or premises owner, or his agent, or

[3] 33 CPUC2d 43 at 145 (1989).

previously installed and maintained by Verizon under tariff.[4] It does not include any premises equipment, such as telephones themselves.

The substitute payment options identified by Verizon are BRS and IWMPs. BRS is an option provided by Verizon to its customers making them responsible for maintaining and repairing their own simple inside wiring. This service is available on the same terms to both business and residential customers who subscribe to individual-line Basic Exchange Access Line Services. These customers are charged on the basis of time actually spent to dispatch a technician, locate the trouble on the simple inside wire, and complete necessary repairs. BRS charges commence only after a customer is notified that the trouble is on the customer's side of the local loop demarcation point. The customer is then advised of competitive alternatives, and of Verizon's rates. When the customer accepts the charges, Verizon can then dispatch one of its technicians. No extra charge is made for minor materials such as wire and jacks.

Alternatively, customers may subscribe to one of Verizon's IWMPs. These plans are available for business and residential customers subscribing to Verizon's individual-line Basic Exchange Access Line Services. CentraNet customers may subscribe to Verizon's CentraNet IWMP, while building owners and agents are eligible for Verizon's Landlord IWMP. For a monthly fee, Verizon assumes the risks and responsibilities for maintenance and repairs of simple inside wire.

Verizon asserts that, in economic terms, its BRS and IWMP are simply different price structures for the same service. That is, customers pay either a

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[4] Tariff Schedule CPUC No. A-9, 1st Revised Sheet 4.1.

relatively large amount per incident (BRS) , or a relatively low amount per month (IWMP), in order to maintain and repair simple inside wire on their premises.

TURN and ORA, on the other hand, contend that Verizon's BRS and IWMP are distinctively separate markets. They both cite various reasons for asserting such a distinction. They contend that IWMPs function as insurance for events that either have yet to occur or for those whose occurrence remains uncertain while BRS covers events which have already occurred. Pacific Bell Telephone Company (Pacific), they contend, raised its IWMPs rates by more than its BRS rates, demonstrating a distinction in the services. Moreover, the costs of IWMPs are calculated by spreading all incurred costs across the entire base of IWMP subscribers, whereas BRS costs are calculated on a per-hour basis. TURN and ORA also conclude that BRS and IWMPs are distinctly separate markets because customers do not have the option to choose between BRS and IWMPs at the time a customer is experiencing a simple inside wire problem.

The determination of a relevant market for the repair of simple inside wire is not a new issue. Our investigation into station connection accounting and the economic consequences of customer owned premise wiring found in 1992, and again in 1993, that the repair of simple inside wire is "offered pursuant to tariff with two payment options (monthly or per visit)."[5] Verizon,[6] TURN, and

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[5] D.92-01-023, 43 CPUC2d 115 at 126 (1992), and D.93-05-014, dated May 7, 1993 at Appendix A, page 10, of which an abstract of the decision is identified in 49 CPUC2d 223 (1993).

[6] Verizon's predecessor, GTE California, Incorporated, was an active party to the investigation.

ORA[7] were active parties in that proceeding.

Subsequently, in our 1995 local exchange competition investigation, a 1997 decision (D.97-08-059) affirmed that Verizon offers its customers the "option" of paying a fixed amount for a service plan which entitles customers to any necessary simple inside wire repair service or requires paying a separate charge for the service when, and if, needed.[8] TURN and ORA were also active parties in that investigation. Recently, in D.99-06-053, we affirmed that simple inside wire is one market with two payment options.[9]

The only new evidence offered on the simple inside wire market is that Pacific has raised the rates of its IWMPs 150% to $2.99 a month from the $1.20 authorized by D.99-06-053 while not changing its BRS rates. Although this evidence is not disputed, it has not been established that an increase in rates of only one of the payment options demonstrates a separate inside wire market. We observe that such an increase in rates was requested and approved through the advice letter process. We also observe that neither TURN nor ORA opposed any of Pacific's IWMP increases approved through that advice letter process.

Prior Commission decisions and lack of evidence to demonstrate change in the simple inside wire market precludes us from reversing a well established fact that the repair of simple inside wire is a single market with two payment options. Consistent with D.92-01-023, D.93-05-014, D.97-08-059, D.99-06-053, and

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[7] ORA's predecessor, the Division of Ratepayer Advocates (DRA), was a party to the investigation. The functions performed by DRA were transferred to ORA on September 10, 1996.

[8] 74 CPUC2d 396 at 409-410 (1997).

[9] ORA and TURN applied for rehearing of D.99-06-053. It was denied in D.99-09-036.

D.99-09-036, simple inside wire maintenance and repair is one market with two payment options and will be referred to as such in the balance of this decision.

IX. Market Power as the Central Issue

Market power is the pivotal issue in this proceeding because the only criterion that Verizon needs to address for Verizon to obtain authority to re-classify its BRS and IWMP services from Category II to Category III is a demonstration of having "insignificant market power." By definition, a service is placed in Category III if it has been detariffed due to statutory requirements or federal preemption, or if the LEC shows that "it has or is expected to have insignificant market power in the provision of the service in each market it intends to service."[10] Market power exists when a firm has the ability to hold its price profitably above competitive levels for a significant period of time.[11] Because the services identified in this proceeding are not detariffed or preempted by the Federal Communications Commission, the burden of proof lies with Verizon to substantiate that it has or is expected to have "insignificant market power" for the services it wants reclassified to Category III.

Verizon evaluates the same factors used at the time we recategorized Pacific's repair of simple inside wire with two payment options, BRS and IWMP, as set forth in D.99-06-053. Those factors consist of the identification and assessment of the ease-of-market entry and exit for businesses that perform inside wire repair into the simple inside wire market and elasticity with regard to both supply of <u>inside</u> wire repairs and demand for <u>inside</u> wire repair.

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[10] D.89-10-031, 33 CPUC2d 43 at 127 (1989).

[11] See for example, D.99-06-053 at pages 54 and 55 (1999).

TURN and ORA oppose Verizon's use of the same factors used for Pacific more than two years ago, contending the facts of the two cases are different. These parties believe that Verizon's case should be decided on its own merits and not with any special consideration for what was decided in the Pacific case.

We first addressed market power assessment factors in an investigation into the appropriate framework for considering whether and on what terms regulatory flexibility might be granted to AT&T Communications of California, Inc. (AT&T-C), the dominant firm in the inter-Local Access and Transport Area (LATA) market.[12] That investigation resulted in the issuance of D.87-07-017 wherein optional approaches for measuring AT&T-C's market power were established. Those approaches were the Observation and Prediction approaches. That decision also authorized AT&T-C to file an application for nondominant interLATA carrier status using either the Observation or Prediction Approach.

D.89-10-031 left the responsibility of proposing market power criteria in the recategorization context to Pacific and Verizon. Subsequently, we weighed several factors when considering which guidelines should be used for measuring market power. We also identified what market power factors should be considered in evaluating a request to move a service into Category III. These factors included market share, ease of market entry and exit, facilities ownership, and growth capability of competitors. However, we declined to settle on

[12] Consists of telecommunications services originating in one LATA and terminating in another LATA.

definitive guidelines, holding that the determination of market power is service-specific.[13]

Unlike AT&T-C, Verizon has not had its own preliminary proceeding to determine which market power factors should be used in this proceeding. However, it does have the benefit of a Pacific proceeding, wherein specific factors were used in determining Pacific's market power for its repair of simple inside wire with two payment options. Those market power factors are ease of market entry and exit, supply elasticity, and demand elasticity.[14]

Verizon considers its services for the repair of simple inside wire comparable to those of Pacific being offered in areas contiguous to Verizon's service territory. This comparability of simple inside wire repair services has been confirmed and extended by ORA to other California LECs.[15] Therefore, we must conclude that Verizon's repair of simple inside wire service is a service specific offering similar to that of other California LECs.

Given the comparability of the service, Verizon's use of the simple inside wire repair market power factors used for Pacific is consistent with D.90-04-031's service-specific market power criteria. They are reasonable indicators to assess Verizon's market power in this proceeding to the extent that they reflect Verizon-specific assumptions and information. This use of standard factors for service-specific offerings within California is no different than our use of generic

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[13] D.90-04-031, mimeo at 13, Finding of Fact 10, identified but not reported in 36 CPUC2d (April 11, 1990).

[14] RE: Pacific Application 98-02-017, February 9, 1998 and A.98-04-048, April 21, 1998.

[15] Reporters Transcript, Volume 3, page 247 at 20 to page 248 at 1.

financial modeling factors for determining a reasonable return on common equity for individual utilities.[16] It is also consistent with the market power factors set forth in D.89-10-031, discussed in D.90-04-031, and used in D.99-06-053 for the service-specific repair of simple inside wire.

Verizon is using the appropriate factors to determine whether it has market power for the repair of simple inside wire. Having determined the appropriate market power factors, we next address the impact that ease of market entry and exit, supply elasticity, and demand elasticity criteria have on the repair of simple inside wire market.

A. Ease of Market Entry and Exit

The ease of market entry by competitors is dependent on the extent of technical expertise and capital requirements needed to repair simple inside wire. The ease of market exit by competitors is dependent on the extent to which capital investments required to enter the market can effectively be redeployed or sold in response to changes in market conditions.

Verizon states that it has insignificant market power with regard to ease of market entry and exit because of the minimal technical expertise and capital needed to establish a simple inside wire repair business. Verizon explains that the level of technical expertise required is merely a fundamental knowledge of installing and repairing simple inside wire that any certified electrician possesses and which can be competently performed on a "do it yourself" basis.

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[16] Common equity is generally based on the results of quantitative financial models that utilize subjective assumptions and information applicable to individual entity and adjusted for informed judgment.

Verizon demonstrates its do-it-yourself position by using the results of business competitor and residential customer surveys it commissioned from an independent survey company, in which approximately 400 business and 400 residential customers participated. These surveys show that 16% of Verizon's business customers and 27% of its residential customers would themselves be likely or very likely to perform any required simple inside wire repair activities.

Verizon also conducted and commissioned other studies to demonstrate that a substantial number of alternative suppliers exist. For example, Verizon reviewed several hundred telecommunications businesses, over 8,500 electrical-contractor telecommunications business listings in Verizon's Superpages.com,[17] and various Verizon telephone books. Verizon found that there are a large number of businesses already offering simple inside wire repair services to business and residential customers.

TURN and ORA do not dispute the level of technical expertise needed to establish a simple inside wire repair business or whether "do-it-yourselfers" actually exist. However, they do dispute whether a sufficient number of do-it-yourself persons exist to impact the market. We would also be concerned if do it yourself persons are the only competitors; however, this is not the case. Further, neither TURN nor ORA dispute Verizon's claim that other businesses offer simple inside wire repair service through advertisements.

The business competitor surveys were based on a simple random sampling telephone survey of approximately 400 electrical and

[17] Superpages.com is an on-line compilation of what is also already listed in the yellow pages.

telecommunications businesses from almost 4,000 such businesses listed in yellow page directories. The sample size was drawn to provide a 95% confidence level with a 5% margin of error.

We recognize that the results of surveys are not without limitations. We also recognize that surveys must be interpreted with care, particularly surveys concerning a competitive market. Only in monopoly markets can we have a comprehensive picture of everything that goes on. As an administrative agency, the interpretation of survey data falls well within our competence, and in light of that, we apply it in our assessment of survey evidence.

Verizon's initial business survey shows that 53% of the businesses surveyed would repair simple inside wire for business customers, of which 86% of that group are actually repairing simple inside wire. The follow-up business survey of 400 vendors conducted for Verizon based on the same statistical sampling process used for the initial vendor survey shows that 66% of the business survey respondents would repair simple inside wire for residential customers.[18] This is consistent with the results of TURN's non-statistical random survey of other businesses willing to repair simple inside wire for residential customers.[19]

Verizon finds no capital barriers to enter or exit the market because the necessary tools to enter, which many electrical businesses already own, cost less

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[18] The businesses surveyed were in the most part different from those businesses surveyed in the initial surveys.

[19] TURN found that four of the nine electrical contractors listed in Superpages.com whom they contacted do provide inside wire repair services for residential customers.

than $1,000. Further, approximately two-thirds of the 400 businesses surveyed do not need additional tools or equipment for repairing simple inside wire.

TURN disputes Verizon's low capital cost assertion with regard to IWMP on the basis that the "thousands" of electricians and contractors that Verizon claims can enter the IWMP lack the scale of operation needed to compete with Verizon's existing service fleet in order to feasibly offer a low-cost monthly IWMP.

We recognize that businesses may need a service fleet to perform these services, as stated by TURN. However, the majority of responses to Verizon's business survey state that no additional equipment is needed. This demonstrates the alternative business supplier's ability to re-deploy existing fleets to handle simple inside wire repairs irrespective of prices Verizon may charge.

TURN and ORA also dispute Verizon's ease of market entry and exit claim on the basis that Verizon has a competitive advantage that effectively impedes or precludes competitors from entering the market. Their understanding of Verizon's competitive advantage is based on Verizon's ability to retain a practical monopoly on basic local exchange services within its service territory, which enables Verizon to maintain a dominant market share in the simple inside wire repair market. For example, in 2000, Verizon maintained a 16% IWMP share of its single-line business and CentraNet customers and a 68% IWMP share of its residential and landlord customers. However, the business survey shows that 11% of the alternative business suppliers currently offer an IWMP and that an additional 4% or 15% of the alternative business suppliers are willing to do so for business customers. No information is provided on what impact the alternative business suppliers have on the residential IWMP.

TURN and ORA contend that Verizon achieves its competitive advantage through its marketing services, incorporated into its process of taking a customer's order for basic telephone services, even though its tariffs require customers to be advised of alternative repair options. This is because Verizon is the recipient of its customers' "first calls" to report any trouble, of Verizon's ability to isolate where the problem exists prior to any repair, and of customers' perceived risk in calling an alternative supplier. Verizon does not charge its customers until after they are advised of repair rates, accept the charges, and Verizon's technician is on the premises and has performed the needed service.

Verizon has stated that the absence of any potential surprise or hidden charge for lengthy travel or call-out time may be a factor that makes the higher rate charged by the telephone company more attractive to customers, and that customers know that telephone company employees are trained and equipped to perform work on telephone wires efficiently.[20] Verizon, responding to TURN's and ORA's competitive advantage concern, explains that it does inform customers as part of its process of taking a customer's order for basic telephone service that the customer may use competitive businesses for their simple inside wire repairs. Irrespective of these concerns, the business surveys do demonstrate that alternative business suppliers are widely used and are willing to repair simple inside wire.

TURN and ORA identified two additional factors as further evidence of both Verizon's dominant market power and barriers to entry into the repair sector of the simple inside wire market. They first point to Verizon's lack of

[20] Exhibit 2 at page 9.

desire to venture out of its service territory to compete against neighboring incumbents charging higher rates. However, the decision to offer its service nationwide, statewide, or locally is a management decision that is best made by the individual business. We have no intention of micro-managing Verizon. Verizon's lack of desire to venture out of a local area has no impact in determining the ease of market entry and exit.

The issue should be whether competitive business suppliers are willing to compete in Verizon's territory, even if they are not located within that territory. For example, TURN's non-statistical study of alternative business suppliers providing or willing to provide repair of inside wire under the two payment options in the small remote community of Legget found that "there are no competitive options at all for inside wire maintenance plans, while there are some firms willing to provide billable inside wire service to small business and residential customers.[21] This demonstrates the willingness of alternative business suppliers to compete in the most remote areas of Verizon's territory. Although these alternative business suppliers are not necessarily located within the community or willing to offer IWMPs, they are willing to offer alternative BRS.

The second additional factor is that alternative business suppliers tend to charge for premise visits to customers, even if they are precluded from making repairs because the trouble exists on Verizon's side of the line. Alternative business suppliers have this ability. However, there is no evidence that this would preclude a business from entering the simple inside wire market.

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[21] Exhibit 19 at page 10.

In our 1997 local exchange competition decision,[22] we concluded that any certified electrician could repair simple inside wire, that there is a relatively large base of qualified providers, and that there are relatively low barriers to enter the simple inside wire repair market. In our 1999 Pacific inside wire repair decision, D.99-06-053, we subsequently confirmed this existence of a relatively large base of qualified providers and ease of market entry and exit for this service. Irrespective of Verizon's ability to market its repair of simple inside wire service as part of its basic telephone customer ordering process, the large number of alternative suppliers and "do-it-yourselfers" demonstrates the existence of a variety of providers ready, willing and able to repair inside wire.

Nothing has changed. The evidence in this proceeding continues to demonstrate a minimal amount of technical expertise and little, if any capital, are needed for the business of simple inside wire repair. The evidence also demonstrates the existence of a relatively large base of qualified providers ready and willing to repair simple inside wire and a smaller base of qualified providers willing to offer a maintenance plan. The evidence further demonstrates that Verizon's optional payment plans have no impact on the ease of market entry and exit. We can only conclude that there are minimal barriers to enter, expand, or to exit the market to repair simple inside wire. Those barriers are a minimal amount of training and little capital. Verizon has satisfied the ease of market entry and exit factor.

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[22] D.97-08-059, 74 CPUC2d 396 at 410, (1997).

B. Supply Elasticity

Supply elasticity addresses the alternative business suppliers' willingness to enter the market or to expand its service. The higher the number of businesses willing to enter, provide, or expand their services within a market in response to a price change for those services, the higher the elasticity.

Verizon contends that supply elasticity is high because of the previously discussed low barriers to enter the market and the existence of a large base of qualified providers, as demonstrated by the results of its review of telephone books and the internet, where hundreds of telephone companies and thousands of contractors directly advertise that they provide or have the capability of providing these services.

As addressed in our prior "ease of market entry and exit" discussion, the initial telephone business survey conducted by an independent survey company shows that 53% of the businesses surveyed would repair simple inside wire for business customers, of which 86% already provide such service to businesses. Its follow-up business survey, consisting of a separate sample with the same number of business suppliers and based on the same criteria used for its initial business survey, shows that 66% of survey respondents would repair simple inside wire for residential customers. Further, its Verizon customer surveys show that 16% of its business customers and 27% of its residential customers would likely repair their own simple inside wire.

Verizon concludes that the existence of such a large number of alternative suppliers and low cost to enter and expand into the market demonstrate that its customers would migrate to alternative suppliers if Verizon should increase its prices beyond competitive levels.

ORA does not contest the existence of a large number of alternative suppliers. However, TURN contends that Verizon fails to demonstrate supply elasticity because it has not demonstrated any actual supply flexibility.

A supply flexibility analysis would be helpful. However, we acknowledge that such an analysis is neither feasible nor expected because competitors do not freely disclose their respective marketing plans. Even regulated entities, such as Verizon, do not freely disclose their marketing data or plans, as evidenced by its filing of data under seal in this proceeding.

TURN also contends that Verizon has not demonstrated that alternative suppliers could, would, or actually do sell IWMPs. We disagree. Verizon did identify, without providing any details, the name of an alternative supplier offering IWMPs.

The initial business survey shows that approximately 11% of the respondent businesses currently offer business customers the opportunity to subscribe to a monthly IWMP, and that an additional 4%, or 15%, of respondent businesses are willing to offer such a program to business customers. Although the percentages do not appear to be very large, the results show that alternative business suppliers do and are willing to provide business IWMP payment options in competition with Verizon. The business survey also shows that there is a relatively small demand for a business IWMP.

The business surveys conducted by an independent survey company did not seek to determine whether alternative business suppliers currently offer or would be willing to offer IWMP options to residential or landlord customers. This may be, in part, because 68% of Verizon's residential and landlord customers currently subscribe to a Verizon's IWMP. Verizon has not established

that alternative suppliers do or would provide this payment option to residential and landlord customers.

What about supply elasticity in the simple inside wire repair business? For business customers, Verizon is not proposing any price change in current rates. However, it is proposing to increase the ceiling rate for a rate element of its Business BRS by 18%, from $85 to $100 and to increase the ceiling rates for its Business and CentraNet IWMPs by 28%, from $1.95 to $2.50. Although the reasonableness of these ceiling rates are addressed in our subsequent ceiling rate discussion, we observe that a 18% to 30% increase in Verizon's rates established more than twelve years ago should not be a deterrent for alternative business suppliers offering a competitive service. This is especially true given Verizon's small share (26%) of the simple inside wire business market, as identified in our business end-user discussion. Even though Verizon intends to raise its business ceiling rates, the small share that Verizon maintains in the business market leads us to conclude that the price elasticity for supply that Verizon faces is high.

With regard to the residential market, Verizon is not seeking to change the current rates or ceiling rates for its BRS. Although it is not seeking to change its current rates for its Residential and Landlord IWMPs, it is seeking to increase the ceiling rates for this payment option by 84%, from $ .95 to $1.75 a month because its IWMP services are the lowest in America. The requested $1.75 monthly rate would still keep Verizon's rate the lowest of the other three States still regulating inside wire. Those other States are Arizona at $3.90 a month; Maine at $2.45; and New York at $2.10.

Given that the independent alternative business follow-up survey demonstrates that 66% of the alternative business suppliers would repair simple

inside wire for residential customers and that Verizon is not seeking to increase current rates for its residential customers, we must conclude that the supply elasticity in the simple inside wire repair market for residential customers remains high. However, there is a large unexplained disparity between alternative business suppliers' willingness to provide residential repair of simple inside wire and Verizon's actual market share. This is because Verizon maintains 74% of the residential simple inside wire market, of which 68% subscribe to its IWMP.

We are concerned that no evidence has been provided to demonstrate that Verizon is not the only provider of a residential and landlord IWMP. We are also concerned that a unilateral increase in the monthly charge for residential and landlord IWMPs would materially reduce, if not eliminate the IWMP payment option for residential and landlord customers. This concern is supported by the fact that we have received over three hundred letters throughout this proceeding from consumers, the majority of whom oppose such an increase, contending that they cannot afford such a large increase or would be compelled to discontinue Verizon's Residential IWMP. We continue a discussion of this concern in our residential end-user demand discussion.

Although Verizon has not demonstrated alternative business suppliers willingness to offer a IWMP as a pricing option for repairs of simple inside wire, we, nevertheless, conclude that Verizon has demonstrated that supply elasticity in the business and residential repair of simple inside wire market is high. Verizon has satisfied the supply elasticity criteria.

C. Demand Elasticity

Demand elasticity demonstrates the customers' willingness to change suppliers for service within a market in response to a price change for the service.

Verizon uses the results of the business and residential customer end-user surveys to demonstrate high demand elasticity in connection with the repair of simple inside wire. Similar to the business surveys, these surveys are each based on a random sample of 400 end-users. Verizon also provides the results of its own market demand calculations to support its contention of high demand elasticity. These market demand calculations are based on the assumption that the frequency with which simple inside wire repair is being used by subscribers of Verizon's IWMP is consistent with the frequency of repairs being used by its other customers. This usage factor is approximately once every six years for business customers and once every ten years for residential customers.

Similar to our recognition of the reliance we place on the results of Verizon's business surveys, Verizon's market demand calculations are not without limitation. Verizon's use of the actual repair experience of its IWMP subscribers to determine its share of customer demand for the service is not a precise measurement of customer demand. However, it is another factor we can use to evaluate Verizon's customer demand share of the simple inside wire market.

Verizon concludes that the end-user surveys and its market demand calculations demonstrate that its business and residential end-users are confident that alternative business suppliers can satisfy their needs for the repair of simple

inside wire and that Verizon's end-users would change suppliers in response to a price change for the service.

Neither TURN nor ORA believe that Verizon has met its burden of proof to establish that demand elasticity exists. We address the end-user surveys and market demand calculations further by end-user category.

1. Business End-Users

The business end-user survey shows that 91% of Verizon's business end-users expect Verizon to repair their simple inside wire while 60% also expect electrical contractors to provide the repair service. These same business end-users expect other types of businesses to repair their simple inside wire as follows: 58% by other telephone companies; 35% by telecommunications businesses; 25% by building managers; and, 25% by self repair. The percentages do not add up to 100% because the business end-users stated their preference to use more than one business for their simple inside wire repairs.

The large percentage of business end-users recognizing Verizon's ability to provide repairs would be significant, if not for the fact that these business end-users identified multiple suppliers with similar results. Further, the actual results of Verizon's business demand calculations show that business end-users, for whatever reason, opted to use alternative business suppliers 76% of the time.[23] This means that these end-user customers used Verizon 24% of the time. Of Verizon's 24% business end-user demand market share, 16% subscribed

[23] The use of business suppliers 76% of the time is comparable to the availability of suppliers. Specifically, 60% of the business suppliers sampled are willing to install inside wire and 53% are willing to repair inside wire.

to Verizon's IWMP option and 8% used the BRS option. Clearly, Verizon does not have a significant business end-user demand market share.

The relatively large market share being satisfied by alternative business suppliers demonstrates that the business end-users are confident that their simple inside wire repair needs can be met by alternative business suppliers and that Verizon's prices are already competitive, if not high. Similarly, the large percentage of alternative business suppliers recognized by business end-users demonstrates high elasticity of demand in this market.

Given Verizon's low business market share and its intent to not raise its current and ceiling rates, except for the first billable Weekday hour of its Business BRS, the price elasticity of demand that Verizon faces is high. Without a change in its service offerings, this high elasticity of demand is only expected to increase further. Verizon has satisfied the demand elasticity criteria for its business end-users.

2. Residential End-users

The residential end-user[24] survey shows that 90% of the residential end-users expect Verizon to repair residential simple inside wire, while 63% also expect such service to be offered by electrical contractors, 61% by other telephone companies, 31% by telecommunications businesses, 31% by self-repair, and 19% by building managers.[25] These results demonstrate that the residential end-users do not view any one entity or class of entity as being a predominant supplier of simple inside wire repairs and that they are aware of alternative business

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[24] For purposes of discussion in this section, residential end-users include landlord end-users.

[25] As in the case of the business end-users, these percentages do not total 100% because the residential end-users identified more than one business that they would use for repairs.

suppliers capable of meeting their needs, should residential end-users find a need to switch providers. In other words, residential end-users perceive the existence of high demand elasticity.

However, this perceived existence of high demand elasticity does not continue into the actual residential end-users demand market. Actual experience shows that only 26%, fewer than one-third of the residential end-users, currently rely on alternative business suppliers for their simple inside wire needs. The remaining 74% rely on Verizon's service, of which 6% rely on its BRS and 68% on its IWMPs.

The large percentage of end-users utilizing Verizon's optional IWMPs is in stark contrast with the survey results of Verizon showing that only 26% or 70% of the approximate 36% survey respondents, aware of any company offering an IWMP acknowledge subscribing to a IWMP. With no explanation given for this large disparity between perceived and actual utilization, we can only conclude that a large number of residential end-users are not aware that they subscribe to a IWMP. To an extent this is confirmed through the more than 300 letters received from customers in protest of the application. Although a number of these letter writers assert that they will discontinue their residential IWMP, a majority of these protesters object to paying for a service that they seldom or never use. It is also a signal that this service may not yet be fully competitive. Regardless of the reason for the disparity, it is clear that the preference of residential end-users is for the optional IWMP.

With full competition, the substantial number of residential end-users would consider alternative business suppliers for its repair of simple inside wire. Because no alternative business suppliers offer an IWMP, these end-users would be required to migrate to the optional BRS. Absent evidence to

demonstrate that these end-users would exercise choice when deciding whether to continue with Verizon or change suppliers, we must conclude that Verizon has not demonstrated residential or landlord demand elasticity.

Also, absent evidence to demonstrate that alternative business suppliers offer optional IWMPs and evidence to explain the disparity between residential end-users being aware of and actually subscribing to a IWMP, we should conclude that 68% of the residential end-users are captive customers of Verizon, leaving 32%, less than one-third, subject to the influence of competitive BRS service.

Verizon opposes the use of market share data in considering whether it has market power. Verizon contends that market share data is not the market power standard used in prior Commission decisions and because the data is based on historical evidence and ignores recent and ongoing changes in the market. As a general rule, we concur. However, in this case, residential end-users consider the optional IWMP to be their preferred choice and Verizon has not demonstrated recent and ongoing market changes that should be considered. With no other entity providing this preferred payment plan, residential end-users are restricted to Verizon's IWMP. If priced out of the IWMP option, they are limited to the BRS for which there is insufficient information to assess demand elasticity.

It is clear from the record that the repair of simple inside wire for residential and landlord end-users is not a monopoly service. However, the record also demonstrates that these customers prefer the IWMP option over the BRS option. With Verizon maintaining a significant market share through its Residential IWMP and Landlord IWMP options, and lack of evidence demonstrating demand flexibility, we cannot conclude that residential and

landlord demand flexibility exists in the simple inside wire repair market. Verizon has not met its burden of proof to substantiate the existence of residential and landlord end-user demand elasticity in the simple inside wire market.

D. Conclusion

In summary, Verizon has demonstrated the ease of market entry and exit, and supply elasticity in the business and residential customers market for repair of simple inside wire. Verizon has also demonstrated business customers' demand elasticity in the market for repair of simple inside wire. However, it has not demonstrated residential customers' demand elasticity in the market for repair of simple inside wire.

Verizon's Business BRS, Business IWMP, and CentraNet IWMP should be reclassified from Category II to Category III service offerings. Because Verizon has not met its burden of proof to substantiate that it possesses insignificant market power in the market for residential repair of simple inside wire, its Residential BRS, Residential IWMP, and Landlord IWMP should continue to be classified as Category II service offerings.

X. Ceiling Rates

Verizon's tariff rates for its IWMPs have not been changed since 1989. Its currently effective tariff rates for its BRS and IWMPs were first capped as price ceilings in 1998.

A. BRS

Verizon's current and proposed ceiling rates for the individual rate elements of its business and residential customer BRS are set forth in Appendix-A. Of these rate elements, Verizon seeks to increase the first billable

Weekday hour ceiling rate applicable to its business customers from $85 to $100. No other BRS ceiling rate changes are being proposed.

Verizon's business survey demonstrates that approximately 75% of the alternative business suppliers responding to the survey charge their BRS customers by either an hourly labor rate or by time and materials. While these hourly rates range from $18 to over $100, Pacific has been charging a $103 hourly rate since 1993.

We find Verizon's requested ceiling rates in the upper range of competitors. However, in our experience, self-reports of charges by competitive business suppliers deserve a measure of skepticism. This is partially because competitors tend to underreport. Verizon's requested $100 ceiling rate for the first billable Weekday hour of its Business BRS is within the range of rates being charged by alternative business suppliers within California and should therefore be approved.

B. IWMPs

Verizon seeks authority to increase the monthly ceiling rates for its IWMPs as shown in the following tabulation:

	Ceiling Rates	
Service	**Current**	**Proposed**
Residence Service (Each Line)	$ .95	$ 1.75
Business Service (Each Line)	1.95	2.50
CentraNet Service (Each Line)	1.95	2.50
Landlord (Each Residential Rental Unit)	.95	1.75

Verizon supports its request to increase these ceiling rates, in effect since 1989, with a detailed cost study submitted under seal. The cost study

utilizes the Total Service Long Run Incremental Cost (TSLRIC) principle to demonstrate that its floor rates cover directly attributable costs and provide some contribution toward covering shared and common costs.[26]

Verizon seeks increases in these ceiling rates to bring them up to national competitive averages. Verizon explains that its requested ceiling rates are still below those currently accorded to Pacific in its adjacent territory and are also below the prices charged by other LECs offering the same services in 47 other states, states that have detariffed or deregulated inside wire maintenance and repair services.

TURN opposes any ceiling rate increases to the IWMPs on the basis that they already serve to fully recover costs and contribute to common costs. TURN concludes that any increase in these ceiling rates would amount to price gouging because Verizon's business and residential customers cannot obtain inside wire maintenance from any source other than Verizon.

ORA also opposes any ceiling rate increases to the IWMPs on the basis that Verizon's cost study demonstrates that its current ceiling rates significantly exceed the costs to provide the services and provide contribution margins in excess of 22% above the services' TSLRIC for a tariff pricing level.[27]

TSLIRC studies are not used to establish ceiling rates. They are, however, used to establish price floor rates to ensure that a service is not priced below cost. Our analysis of Verizon's current IWMPs' rates (which are also its

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[26] A volume sensitive TSLRIC is used to set price floors at or above costs to prevent a utility from pricing below cost and engaging in price squeezes against their competitors.

ceiling rates) confirm that, although Verizon's prices have remained constant for the past 12 years, current prices enable it to recover cost plus a reasonable markup for profit. We are cognizant that other LECs may be offering the same service at substantially higher rates in 47 other states, which have detariffed or deregulated IWMP services. However, there is no evidence to demonstrate that these LECs compete in the California market or that their markets are comparable to the California market. We also find Verizon's proposal for establishing the ceiling rates of its IWMPs on national averages to be inconsistent with not seeking a similar ceiling rate structure for its alternative BRS payment option. Ceiling rates should not be raised merely to approach or equal a national average.

Verizon does compare its requested ceiling rates to Pacific's ceiling rates for comparable service. However, it neither compares nor knows the rates of other California LECs or other businesses offering a similar service in California.

Verizon has not established that its California ceiling rates should be based on a "National Average." We deny Verizon's request to increase the ceiling rates of its IWMPs. However, this denial does not preclude Verizon from seeking future IWMP ceiling rate changes by application for Category II services and as currently authorized through the advice letter procedure for Category III services or as may be modified by any subsequent Commission action or other procedures that the Commission may establish.

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[27] A markup for Pacific's Open Access and Network Architecture Development pricing conventions was established in D.96-08-068.

XI. Comments on Proposed Decision

The assigned ALJ's proposed decision on this matter was filed with the Docket Office and mailed to all parties of record in accordance with Pub. Util. Code § 311(d) and Rule 77.1 of the Commissions Rules.

Rule 77.3 of the Commission's Rules specifically requires comments to focus on factual, legal or technical errors in the proposed decision, and when citing such errors, requires the party to make specific references to the record. Comments that merely reargue positions taken in briefs are accorded no weight and should not be filed. Rule 77.4 further requires that comments including the proposal of specific changes to the proposed decision also include supporting Findings of Fact and Conclusions of Law.

Comments were received from Verizon. Comments and reply comments were received jointly from ORA and TURN. These comments and reply comments resulted to minor change in the body of this order.

XII. Assignment of Proceeding

Carl W. Wood is the Assigned Commissioner and Michael J. Galvin is the assigned ALJ in this proceeding.

Findings of Fact

1. Verizon is a public utility telephone corporation, subject to the jurisdiction of this Commission, as defined in Pub. Util. Code § 234.

2. Verizon filed its application for authority to recategorize its inside wire maintenance plans and billable repair service from Category II to Category III, pursuant to Rule 42 of the Commission's Rules and OP 20 of D.89-10-031.

3. Telecommunication services are classified into three distinct categories: Category I for services deemed to be basic monopoly services, Category II for

discretionary or partially competitive services and, Category III for fully competitive services.

4. A service is categorized as Category III upon the local exchange carrier substantiating that it retains insignificant market power for a service.

5. There is no opposition to TURN and ORA's motions for leave to submit under seal non-redacted versions of their opening briefs.

6. The Commission found, via three investigations, that Verizon offered to its customers simple inside wire repair service with, pursuant to tariff, two payment options (monthly and per-visit).

7. D.97-08-059 affirmed that Verizon offers its customers the option of paying a fixed amount for a service plan which entitles those customers to any necessary simple inside wire repair service or authorizes that they pay a separate charge for the service when and if needed.

8. D.99-06-053 affirms that simple inside wire is one market with two payment options.

9. Market power is the ability of a firm to hold its price profitably above competitive levels for a significant period of time.

10. Verizon must substantiate that it has or is expected to have insignificant market power for the services its wants re-classified to Category III.

11. D.99-06-053 identifies ease-of-market entry and exit, supply elasticity, and demand elasticity to be the service-specific market power criteria for the evaluation of repair of simple inside wire for which Verizon offers its customers two payment options.

12. D.89-10-031 leaves the responsibility of proposing those market power criteria to Pacific and Verizon in order to assess market power through the application process.

13. Verizon's repair of simple inside wire service with two payment options is comparable to Pacific's and to other California LECs' repair of simple inside wire service.

14. Ease of market entry by competitors is dependent on the extent to which technical expertise and capital requirements are needed to competently repair simple inside wire.

15. Ease of market exit by competitors is dependent on the extent to which capital investments required in order to enter the market can effectively be redeployed or sold in response to changes in market conditions.

16. A fundamental knowledge of installing and repairing simple inside wire, one which any certified electrician possesses, is the only technical expertise needed to meet the standards for competent performance of that service. For this reason, repair of simple inside wire can be competently performed on a do-it-yourself basis.

17. Alternative business suppliers offer simple inside wire repair service through advertisements.

18. Business competitor surveys were based on a simple random sampling telephone survey of approximately 400 electrical and telecommunication businesses selected from almost 4,000 businesses listed in yellow page directories.

19. The business competitor surveys' sampling size was measured to ensure a 95% confidence level allowing for a 5% margin of error.

20. The business surveys show that 53% of the businesses surveyed would repair simple inside wire for business customers and 66% would repair simple inside wire for residential customers.

21. The necessary tools to enter the market for simple inside wire repair, which many electrical businesses already own, costs less than $1,000.

22. Approximately two-thirds of the 400 businesses surveyed have no additional tool or equipment requirements for repairing simple inside wire.

23. We first concluded in our 1997 competitive LEC decision that any certified electrician could repair simple inside wire, that there is a relatively large base of qualified providers, and that there are relatively low barriers to enter the simple inside wire repair market.

24. D.99-06-053 confirms the existence of a relatively large base of qualified providers as well as the existence of ease of market entry and exit for the repair of simple inside wire.

25. Supply elasticity demonstrates the alternative business supplier's willingness to enter the market or to expand its service.

26. Customer surveys show that 16% of Verizon's business customers and 27% of its residential customers are or would likely repair their own simple inside wire.

27. Competitors do not freely disclose their respective marketing plans.

28. The initial business survey shows that approximately 11% of the respondent businesses currently offer business customers the opportunity to subscribe to a monthly inside wire repair plan and that 15% of the respondent businesses are willing to offer such a plan to business customers.

29. Approximately 16% of Verizon's business customers actually subscribe to Verizon's IWMP.

30. Verizon is not proposing any change in its current business rates for inside wire repair.

31. Verizon is not seeking to change its residential BRS current rates or ceiling rates.

32. Over 300 letters from consumers were received in this proceeding, the majority of which expressed opposition to the 85% requested increase in residential IWMP.

33. Demand elasticity demonstrates the customer's willingness to change suppliers for service within a market in response to a price change for the service.

34. Business and residential end-user surveys are each based on a random sample of 400 end-users.

35. Verizon's market demand calculations are based on the assumption that the frequency of simple inside wire repair experienced by Verizon's subscribers of its IWMP is consistent with the frequency for which such repairs are experienced by its other customers.

36. The business end-user survey shows that 91% of Verizon's business end-users expects Verizon to repair its simple inside wire, while 60% also expect electrical contractors to provide the repair service; 58% other telephone companies, 35% telecommunications businesses, 25% building managers, and 25% self repair.

37. Verizon's business end-users have opted to use alternative business suppliers 76% of the time.

38. Actual experience shows that only 26%, fewer than one-third, of the residential end-users currently rely on alternative business suppliers for its simple inside wire needs.

39. Actual experience shows that 74% of residential end-users rely on Verizon's simple inside wire repair service, of which 6% rely on its BRS and 68% on its IWMPs.

40. Approximately 75% of the alternative business suppliers responding to the survey charge their BRS customers by either an hourly labor rate or by time and materials.

41. Pacific has been charging a $103 hourly BRS rate sine 1993.

42. Verizon's ceiling rates for its IWMPs have not changed since 1989.

43. Requested increases in the ceiling rates for Verizon's IWMPs are based on national averages.

44. TSLRIC studies are used to establish price floor rates.

45. Other than Pacific, Verizon neither compares nor knows the rates being charged by other California LECs or other businesses offering a similar service in California.

46. There is no opposition to Verizon's request to bifurcate its single BRS tariff schedule into a separate tariff schedule for its business customers and a separate tariff schedule for its residential customers.

47. Pub. Util. Code § 461.2 requires all revenues and expenses associated with the repair of inside wire to be recorded above the line for intrastate ratemaking purposes

Conclusions of Law

1. TURN and ORA's non-redacted opening briefs should remain under seal.

2. It has not been established that an increase in only one of two payment options for the repair of simple inside wire results in the establishment of a separate simple inside wire market.

3. Simple inside wire repair is one market with two payment options; monthly or per-visit.

4. Verizon's service for repair of simple inside wire is a service-specific offering similar to that of other California LECs.

5. Market power criteria consisting of ease of market entry and exit, supply elasticity, and demand elasticity are reasonable factors to assess Verizon's market power in the repair of simple inside wire.

6. As an administrative agency, the interpretation of survey data lies well within our competence and we apply it in our assessment of survey evidence.

7. Alternative business suppliers have entered and are willing to enter the repair of simple inside wire market.

8. There are no barriers when entering, expanding, or exiting the market for simple inside wire repairs.

9. There is a relatively small demand for the business IWMP option.

10. It has not been established that alternative business suppliers do or would provide IWMPs to residential or landlord customers.

11. Supply elasticity in the simple inside wire market for business and residential customers is high.

12. Verizon has not demonstrated the willingness of alternative business suppliers' to offer the residential IWMP option.

13. Verizon's use of market demand calculations is an approach it employs to determine its demand share of the simple inside wire market within a range of reasonableness.

14. Verizon has demonstrated business end-users' demand elasticity.

15. Residential end-users prefer Verizon's optional IWMP.

16. Verizon has not demonstrated residential or landlord demand elasticity.

17. Verizon's requested ceiling rate change for the first billable Weekday hour of its Business BRS is within the range of rates being charged by alternative business suppliers within California and should be approved.

18. The ceiling rates for Verizon's IWMPs should not be based on national averages.

19. Verizon's request to bifurcate its BRS tariff schedule should be approved.

20. All revenues and expenses associated with the repair of simple inside wire should be treated above-the-line for intrastate ratemaking purposes.

O R D E R

IT IS ORDERED that:

1. All data placed under seal in the proceeding shall remain sealed for a period of two years from the date of this order. The sealed data shall not be made accessible or disclosable to anyone other than Commission staff during the two-year time period except on the execution of a mutually acceptable nondisclosure agreement or on further order or ruling of the Commission or the administrative law judge designated at that time to be the Law and Motion Judge.

2. Verizon California, Inc. (Verizon) is authorized to recategorize its Business Billable Repair Services (BRS), Business Inside Wire Maintenance Service Plan (IWMP), and CentraNet IWMP from Category II to Category III service offerings.

3. Verizon's request to recategorize its Residential BRS, Residential IWMP, and Landlord IWMP from Category II to Category III service offerings is denied without prejudice.

4. Verizon is authorized to increase the first billable Weekday hour of its Business BRS from $85 to $100.

5. Verizon is not authorized to increase the ceiling rates for its business service IWMP, CentraNet IWMP, residential IWMP or landlord IWMP at this time.

6. Verizon is authorized to bifurcate its single BRS tariff schedule into a separate Business BRS tariff schedule and a separate Residential BRS tariff schedule.

7. All revenues and expenses associated with Verizon's Business and Residential BRS and IWMPs, shall continue to be treated above-the-line for intrastate ratemaking purposes.

8. Verizon is authorized to file revised tariffs with the Commission's Telecommunications Division for the recategorization of its Business BRS, Business IWMP, and CentraNet IWMP from Category II to Category III service offerings; bifurcation of its BRS tariff schedule into a separate Business BRS tariff schedule and a separate Residential BRS tariff schedule; and to increase the first billable Weekday hour ceiling rate for its Business BRS from $85 to $100. The revised tariffs shall become effective when authorized by the Commission's Telecommunications Division, but not less than five days after filing, and shall apply after the effective date of this order.

9. Application 01-02-012 is closed.

This order becomes effective immediately.

Dated _____, at San Francisco, California.

APPENDIX A

Billable Repair Services

Current & Proposed Ceiling Rates

Business BRS	**Ceiling Rate**	
	Current	**Proposed**
1st Hour or Less		
8 AM – 5 PM Weekdays	$ 85	$ 100
5 PM – 8 AM Weekdays & Saturday	127	No Change
Sundays & Holidays	170	No Change
Each Additional 15 Minutes or Less		
8 AM – 5 PM Weekdays	$ 21	No Change
5 PM – 8 AM Weekdays & Saturday	31	No Change
Sundays & Holidays	42	No Change
Residential BRS		
1st Hour or Less		
8 AM – 5 PM Weekdays	$ 85	No Change
5 PM – 8 AM Weekdays & Saturday	127	No Change
Sundays & Holidays	170	No Change
Each Additional 15 Minutes or Less		
8 AM – 5 PM Weekdays	$ 21	No Change
5 PM – 8 AM Weekdays & Saturday	31	No Change
Sundays & Holidays	42	No Change

(END OF APPENDIX A)