Canadian Radio-television and Telecommunications Commission
Conseil de la radiodiffusion et des télécommunications canadiennes

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Retail quality of service rate adjustment plan and related issues

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Table of contents

	Paragraph
Summary	
I. Introduction	1
The proceeding	11
Issues	19
II. The Q of S indicators	20
The Q of S indicators to be included	21
Whether Q of S indicators should be tracked on a more geographically discrete basis	27
Margin of error	32
Possible exclusions from the retail rate adjustment plan	41
Events beyond the reasonable control of an ILEC	42
The process to exclude Q of S results from the rate adjustment plan	57
III. The revenue base	66
Identification of the local services involved	68
Bad debt	78
The percentage of local service revenues comprising the TMAV	83
IV. The magnitude of the rate adjustment	95
The standard adjustment table	96
Deductions for customer-specific payments	132
V. Distribution of funds under the rate adjustment	143
Customer eligibility – Network access services (NAS)	144
Treatment of former customers	152
Method of distribution	159
VI. Rate adjustment periods	171
VII. Reporting of retail rate adjustment plan results	182
Q of S exception reporting	183
Reporting to customers	193

Canada

VIII. Audits 205

The audit process 206
Ensuring uniform reporting of Q of S results 232
Remedial measures where non-compliance is identified during an audit 253

IX. Other matters 263

Future review of the final plan 264
Symmetry with the competitor rate adjustment plan 266

X. Implementation 271

Interim plan 273
Final plan 283

Appendix A

Appendix B

Appendix C

In this decision, the Commission finalizes the retail quality of service (Q of S) rate adjustment plan for the large incumbent local exchange carriers. Customer credits payable under the rate adjustment plan must be implemented by 30 June of each year to customers of record as of 31 May. No changes are made to the 13 Q of S indicators used in the interim Q of S rate adjustment plan and the Total Maximum Adjustment Value continues to be set at 5% of local service revenues. The standard adjustment table used to calculate the rate adjustment for each Q of S indicator is simplified. In addition, a requirement for a rate adjustment is added in the event that a Q of S indicator is missed for 5 or more months in a year, but is above the average minimum required performance level for the year. An audit mechanism is established and reporting requirements are also defined.

I. Introduction

1. In *Retail quality of service rate adjustment plan and related issues,* Telecom Public Notice CRTC 2003-3, 27 March 2003 (Public Notice 2003-3), the Commission initiated the present proceeding to establish a final rate adjustment plan for retail customers, implement an audit process for the retail quality of service (Q of S) regime and address any other related matters.

2. The regime governing retail Q of S for the large incumbent local exchange carriers (ILECs) can be traced back more than two decades to *Quality of Service Indicators for Use in Telephone Company Regulation,* Telecom Decision CRTC 82-13, 9 November 1982 (Decision 82-13), in which the Commission established a Q of S monitoring regime for the telephone companies then under the Commission's jurisdiction. In *Review of Regulatory Framework*, Telecom Decision CRTC 94-19, 16 September 1994, the Commission decided it was necessary to review the regime established in Decision 82-13 in light of the introduction of facilities-based competition and the proposed shift to price cap regulation.

3. In *Quality of Service Indicators for Use in Telephone Company Regulation,* Telecom Decision CRTC 97-16, 24 July 1997 (Decision 97-16), the Commission defined a set of 16 Q of S indicators, along with interim performance standards, for the large ILECs then subject to its jurisdiction. ILECs were required to file quarterly reports with respect to the Q of S indicators. An ILEC that did not meet the approved standard for a particular indicator for three consecutive months or seven out of 12 consecutive months was required to report its performance monthly, rather than quarterly, with respect to that indicator until such time as the standard was met or exceeded for three consecutive months. In addition, the ILEC was required to file exception reports explaining the reasons for non-compliance and to provide a detailed plan describing how it intended to rectify the situation and prevent it from recurring. In Decision 97-16, the Commission did not include any form of rate adjustment mechanism if an ILEC failed to meet a Q of S standard.

4. In *Final standards for quality of service indicators for use in telephone company regulation and other related matters,* Decision CRTC 2000-24, 20 January 2000 (Decision 2000-24), the Commission finalized the interim standards for the 16 Q of S indicators established in Decision 97-16. The Commission also determined that three additional Q of S indicators were required. Further changes to the Q of S regime were made in *CRTC creates new quality of service indicators for telephone companies*, Decision CRTC 2001-217, 9 April 2001 (Decision 2001-217), and in *Commission decision regarding show cause, application to review and vary and application to stay, for indicators 1.5 [Access to Business Office] and 2.5 [Access to Repair Bureau] in Decision CRTC 2001-217,* Decision CRTC 2001-375, 29 June 2001.

5. In *Regulatory framework for second price cap period*, Telecom Decision CRTC 2002-34, 30 May 2002 (Decision 2002-34); and *Erratum: Telecom Decision CRTC 2002-34 Appendix 3*, Telecom Decision CRTC 2002-34-1, 15 July 2002 (Decision 2002-34-1), the Commission noted that the ILECs' performance on the Q of S indicators showed ongoing and, for the most part, uninterrupted substandard performance in the years 1998 to 2000. The Commission indicated that it was not convinced that competitive pressure was sufficient to ensure that the ILECs would meet the approved Q of S standards. The Commission concluded that it was necessary to establish incentives to ensure that the ILECs would comply with the Q of S standards. Consequently, the Commission established, effective 1 July 2002, a new Q of S regime with a retail rate adjustment plan for an interim period (the interim plan), for Aliant Telecom Inc. (Aliant Telecom), Bell Canada, MTS Communications Inc. (MTS) and TELUS Communications Inc. (TCI). In *Implementation of price regulation for Télébec and TELUS Québec*, Telecom Decision CRTC 2002-43, 31 July 2002 (Decision 2002-43), the Commission established the same interim plan for Société en commandite de Télébec (Télébec) and TELUS Communications (Québec) Inc. (TELUS Québec), effective 1 October 2002.

6. In *Saskatchewan Telecommunications – Transitions to federal regulation – Reporting quality of service*, Telecom Decision CRTC 2002-53, 30 August 2002, Saskatchewan Telecommunications (SaskTel) was made subject to the same Q of S standards and reporting regime as the other large ILECs. In *Saskatchewan Telecommunications - Applicability of interim quality of service rate adjustment mechanisms and related matters*, Telecom Decision CRTC 2003-36, 5 June 2003, the Commission determined that, effective 1 July 2003, SaskTel would be subject to the same interim plan as the other large ILECs.

7. The interim plan established by the Commission for the large ILECs included 13 main Q of S indicators which were measured on an average annual basis and which were given equal weight. The 13 Q of S indicators, six of which are split into rural and urban, are listed in Table 1 below.

TABLE 1

Q of S indicators included in the interim plan
(A/B denotes urban and rural split)

Indicator #	**Description**	**Standard**
1.1A/B	Provisioning Interval – Urban (5 days) and Rural (10 days)	90% or more
1.2A/B	Installation Appointments Met – Urban and Rural	90% or more
1.3A/B	Held Orders per 100 NAS Inward Movement – Urban and Rural	3.3% or less
1.5	Access to Business Office	80% or more
1.7	On-Time Activation of PICs for Alternate Providers of Long Distance Service	90% or more
2.1A/B	Out-of-Service Trouble Reports Cleared within 24 Hours – Urban and Rural	80% or more
2.2A/B	Repair Appointments Met – Urban and Rural	90% or more
2.3A/B	Initial Customer Trouble Reports per 100 NAS – Urban and Rural	5% or less
2.5	Access to Repair Bureau	80% or more
3.1	Dial Tone Delay	98.5% or more
4.1	Directory Accuracy	93.8% or more
4.2	Access to Directory Assistance	80% or more
4.3	Directory Assistance – Accuracy	93.8% or more

8. Under the interim plan, an ILEC could be subject to a rate adjustment of up to 5% of its total annual business and residential local revenues. This amount is referred to as the total maximum adjustment value (TMAV). The amount of the rate adjustment would depend on the number of indicators which an ILEC failed to satisfy, as well as the extent of such failure with respect to each indicator. Where urban and rural results were reported for a single indicator, the maximum customer credit for that indicator would be divided by two, so that the urban and rural results would each be allocated half of the maximum rate adjustment for that indicator.

9. Under the interim plan, each Q of S indicator was weighted equally so that the maximum adjustment value (MAV) for each indicator was 1/13th of the TMAV. The amount of the rate adjustment for an indicator was calculated in accordance with the interim standard adjustment table which specified for each level of performance, the required rate adjustment as a percentage of the MAV. The Q of S performance ratios and the required adjustments, as illustrated in the worksheets in Decision 2002-34-1, are provided in Table 2.

TABLE 2

Average Annual Performance Ratio	Rate adjustment as a percentage of MAV
10.0	0
9.50 to 9.99	25
9.00 to 9.49	30
8.50 to 8.99	35
8.00 to 8.49	40
7.75 to 7.99	45
7.50 to 7.74	50
7.25 to 7.49	60
7.00 to 7.24	70
6.50 to 6.99	80
6.00 to 6.49	90
5.50 to 5.99	92
5.00 to 5.49	94
4.50 to 4.99	96
4.00 to 4.49	98
Below 4.00	100

10. The interim plan did not specify a mechanism for implementing any rate adjustment which might be required. The Commission indicated, in Decisions 2002-34 and 2002-43, that such a mechanism would be determined when the interim plan was finalized.

The proceeding

11. In Public Notice 2003-3, the Commission invited parties to provide their views, with supporting rationale, on a range of issues grouped as follows:

Rate adjustment plan for retail customers

a) what changes to the interim plan, if any, the Commission should consider in establishing the final retail rate adjustment plan (the final plan);

b) how the current retail Q of S indicators should be weighted for the purpose of calculating the rate adjustment; and

c) whether the final plan should include a weighting element to ensure that customers are appropriately compensated when one or more indicators are repeatedly below the service quality standards.

Reporting of rate adjustment plan results

a) whether the ILECs should be required to report to their retail customers the results of their performance with respect to retail Q of S and the rate adjustment plan;

b) the appropriate information and level of detail to be included in such reports;

c) the appropriate frequency for issuing such reports; and

d) the appropriate method of distributing them to retail customers.

Rate adjustment payment to retail customers

a) an appropriate mechanism for distributing rate adjustment payments to retail customers (e.g. rebates, credits or some other mechanism); and

b) how to accommodate retail customers who discontinue service with a company prior to the determination of the value of the rate adjustment payment.

Possible exclusions from the final plan

a) the circumstances or events, if any, that should be considered to be beyond the reasonable control of an ILEC;

b) the process and method the Commission might utilize to exclude particular retail Q of S results from the final plan; and

c) whether, if the Commission does exclude certain events or circumstances, certain standards should still have to be met and, if so, which ones.

The audit process for the retail Q of S regime

a) the appropriate audit process to ensure that the ILECs report on retail Q of S and rate adjustment results and distribute rate adjustment payments in a consistent and accurate manner;

b) remedial measures that could be used in cases where non-compliance is identified during an audit; and

c) whether the results of an audit, in whole or in part, should be made public.

Parties were also invited to provide comments on other related issues.

12. The Commission made Aliant Telecom, Bell Canada, MTS, SaskTel, Télébec, TCI and TELUS Québec parties to the present proceeding. Other persons were invited to register as interested parties by 10 April 2003.

13. Public Notice 2003-3 set out the following four-stage process:

    - an opportunity for parties to submit evidence (or comments) by 16 May 2003;
    - an interrogatory process from 20 June 2003 to 30 September 2003 (later extended to 10 November 2003);
    - an opportunity for parties to submit argument by 14 October 2003 (later extended to 24 November 2003); and
    - an opportunity for parties to submit reply argument by 28 October 2003 (later extended to 8 December 2003).

14. On 15 May 2003, the Commission received evidence from the Telecommunications Workers' Union (TWU). On 16 May 2003, the Commission received evidence from: Aliant Telecom, Bell Canada, MTS, SaskTel and Télébec (collectively, the Companies); TCI and TELUS Québec (collectively, TELUS); Allstream Corp. (Allstream); and, the Public Interest Advocacy Centre on behalf of the Consumers' Association of Canada, the National Anti-Poverty Organization, and l'Union des consommateurs (collectively, the Consumer Groups).

15. On 21 October 2003, the Commission received arguments from B.C. Public Interest Advocacy Centre on behalf of BC Old Age Pensioners' Organization, Council of Senior Citizens' Organization of BC, Senior Citizens' Association of BC, End Legislated Poverty, West End Seniors' Network, and Tenants Rights Action Coalition (collectively, BCOAPO et al.); and from the City of Calgary.

16. On 27 October 2003, Commission staff advised registered parties that, in addition to the submissions filed in the present proceeding, the following submissions in the proceeding leading to Decision 2002-34 were being added as part of the record of this proceeding:

    - Appendix A to the Final Argument of Aliant Telecom, Bell Canada, MTS, and SaskTel (dated 22 October 2001);
    - Section 2.3 "Quality of Service" of the Reply Argument of Aliant Telecom, Bell Canada, MTS, and SaskTel (dated 31 October 2001);
    - "Quality of Service Incentive" section of the Final Argument of Action Réseau Consommateur, the Consumers' Association of Canada, Fédération des associations coopératives d'économie familiale, and the National Anti-Poverty Organization (ARC et al.) and BCOAPO et al. (dated 22 October 2001); and

- Appendix A to the Reply Argument of ARC et al. and BCOAPO et al. (dated 31 October 2001).

17. On 24 November 2003, the Commission received argument from Allstream, the Companies, the Consumer Groups, TELUS and TWU.

18. On 8 December 2003, reply argument was submitted by Allstream, BCOAPO et al., the Companies, the Consumer Groups, and TELUS. The Consumer Groups filed an additional reply argument on 11 December 2003.

Issues

19. The following areas were the focus of submissions in the present proceeding to finalize the retail rate adjustment plan:

- the Q of S indicators to be used;
- the revenues subject to a rate adjustment;
- the determination of the magnitude of a rate adjustment;
- the mechanism for distributing a rate adjustment;
- the rate adjustment periods;
- the Q of S reporting requirements;
- the audit mechanism; and
- ancillary matters raised by parties.

Each of these areas, and the specific issues they entail, is discussed below.

II. The Q of S indicators

20. As noted above, the interim plan was based on the results of the 13 Q of S indicators identified in Table 1. Parties commented on four issues relating to the Q of S indicators in the present proceeding:

- the Q of S indicators to be included in the plan;
- whether Q of S indicators should be tracked on a more geographically discrete basis;
- whether a margin of error should be included in assessing Q of S results; and

- whether any circumstances or events would warrant excluding sub-standard performance results from the rate adjustment plan.

Each of these issues is discussed below.

The Q of S indicators to be included

21. The 13 Q of S indicators included in the interim plan were developed over the course of several Commission proceedings and were included in the interim plan on the grounds that they related directly to the Q of S experienced by retail customers. The issue in the present proceeding is whether all 13 Q of S indicators should continue to be included in the plan for retail customers. Specifically, discussion focused on the inclusion of indicator 1.7 which measures on-time activation of PICs for alternate providers of long distance service.

Positions of parties

22. The Consumer Groups proposed removing indicator 1.7 from the plan and moving it to the rate adjustment plan for competitors. They submitted that indicator 1.7 involved services to competitors as much as service to end-customers and that, as with other competitor indicators, it measured a factor which affected retail customers indirectly. The Consumer Groups submitted that indicator 1.7 was therefore more appropriately grouped with other competitor indicators. They noted that the Commission had initiated *Finalization of the Quality of Service rate adjustment plan for competitors*, Telecom Public Notice CRTC 2003-9, 30 October 2003 (Public Notice 2003-9), to finalize the rate adjustment plan for competitors and, therefore, treatment of indicator 1.7 could be dealt with in that proceeding.

23. The Consumer Groups were of the view that their proposal to move indicator 1.7 would not have any impact on end-customers. According to the Consumer Groups, end-customers would still be protected since the Q of S measure would be in place as part of the competitor plan. They also argued that the impact of the proposed change on the retail plan would be minimal since the MAV for each indicator would be determined by dividing the TMAV by 12 instead of 13.

24. The Companies noted that the issue of the treatment of indicator 1.7 was specifically identified in Public Notice 2003-9 and they indicated that they would provide their views on the appropriateness of transferring indicator 1.7 in that proceeding. The Companies argued that should the Commission decide to remove indicator 1.7 from the plan, it was important that the amount of the TMAV be reduced accordingly. The Companies stated that, to do otherwise would cause a significant increase in the potential rate adjustment per indicator when such adjustments were already at punitive levels, at least on an interim basis.

25. TELUS argued that the Consumer Groups' proposal should be rejected on the basis that indicator 1.7 measured on-time activation of the process that transfers a customer's long distance service to a competitor long distance service provider while the competitor Q of S indicators dealt strictly with services provided to competitive local exchange carriers. Furthermore, in TELUS's view, indicator 1.7 measured performance for a service that clearly formed part of retail customers' perceptions of overall quality for the services they purchase

from an ILEC. In TELUS's submission, the rationale given by the Consumer Groups to exclude indicator 1.7 was unfounded and there was no requirement to change the number of indicators in the retail Q of S plan.

Commission analysis and determination

26. Indicator 1.7 measures ILEC performance with respect to the transfer of a customer's long distance service from the customer's existing long distance carrier to a new one. The Commission finds that delay in the processing of transfer requests is a matter of direct concern to end-customers. Hence, the Commission determines that it is appropriate to retain indicator 1.7 in the plan, along with the other 12 Q of S indicators.

Whether Q of S indicators should be tracked on a more geographically discrete basis

Positions of parties

27. The Consumer Groups submitted that a recent report from the State of New York was highly critical of the New York Public Service Commission's Q of S incentive plan for Verizon on the grounds that geographic averaging of Q of S, even on the basis of rural or urban areas, could mask serious problems in individual locations. According to the Consumer Groups, the report indicated that specific areas of New York State had chronic, inadequate service which was masked because service quality was measured on a state-wide basis.

28. The Consumer Groups submitted that consideration should be given to tracking Q of S results on a more geographically discrete basis which would permit any serious disparities among urban or rural areas of an ILEC's territory to be identified. The Consumer Groups argued that if this type of tracking were required, then the Commission would be in a position to modify the retail rate adjustment plan in the event that certain communities were found to have been subject to chronically poor service quality.

29. The Companies argued that the Consumer Groups' proposal was outside the scope of this proceeding and that it was also unnecessary. The Companies further argued that, as the Consumer Groups themselves acknowledged, Q of S results were already reported separately for urban and rural areas, where appropriate, so that any such disparities could be identified. The Companies noted that prior to Decision 97-16, Bell Canada reported Q of S results at an even more disaggregated level and further noted that in Decision 97-16, the Commission determined that the reporting of results at the urban and rural level would be appropriate.

30. TELUS submitted that separate reporting of urban and rural results is already a feature of several of the Q of S indicators and that further disaggregation of reporting was neither warranted nor practical. TELUS further submitted that proposals for changes to any of the indicators was beyond the scope of this proceeding and should not be considered.

Commission analysis and determination

31. The Commission has had several extensive proceedings dealing with the definition of the Q of S indicators. The purpose of the present proceeding is to finalize the plan. The proceeding does not extend to the introduction of new indicators or to the modification of existing Q of S

indicators. Consequently, the Commission determines that the proposal made by the Consumer Groups to track Q of S results on a more geographically discrete basis is outside the scope of this proceeding.

Margin of error

32. Under the interim plan, the failure of an ILEC to meet the minimum performance standard for a Q of S indicator would trigger a rate adjustment. The magnitude of the rate adjustment would depend on several factors, including the extent of the performance failure. However, no allowance was made for providing special treatment to performance failures which might fall just below the minimum performance standard.

33. In the present proceeding, the Companies raised the possibility of introducing a margin of error when determining whether the minimum performance standard for a Q of S indicator had been met.

Positions of parties

34. The Companies submitted that if the standard for an indicator was 80%, and an ILEC's performance was 80% for the first 11 months of a year but only 79% for the month of December, the ILEC's average annual result would be 79.9%. The Companies submitted that the fact that a standard might be missed by a small amount in one month was in no way an indication of a significant failure to maintain performance at a level that conforms to the Q of S standards. In the Companies' view, assessing a rate adjustment of 25% of the MAV, as would be required by the interim plan for such a minor breach in performance, would be punitive.

35. The Companies argued that an annual average result of 79.9% for a Q of S indicator with a minimum standard of 80% might only be indicative of a statistical margin of error rather than being indicative of the actual result achieved. The Companies submitted that a "margin of error" interval should be introduced with a minimal associated rate adjustment. The Companies proposed a rate adjustment of 5% for annual average performance of 79.8% to 79.9% for an indicator with a standard of 80%, and for annual average performance of 89.8% to 89.9% for an indicator with a standard of 90%. The Companies submitted that they were not proposing to lower the Q of S standards but rather were proposing rate adjustments which more fairly reflected the level of service deterioration.

36. The Companies subsequently noted that a "statistical margin of error" could only occur in cases where Q of S was measured by means of data sampling. The Companies indicated that, in the case of Bell Canada, for example, only two of the 13 indicators (Indicator 4.1, Directory Accuracy and Indicator 4.3, Directory Assistance – Accuracy) were measured based on a sampling of the entire population. The Companies submitted that in the case of Bell Canada for example, the statistical margin of error for Indicator 4.3, Directory Assistance – Accuracy could be up to ± 3.5% in a given year, based upon an average of 12 monthly samplings. Since the standard for this indicator was 93.8%, this meant that if Bell Canada were to report an annual average result of 93.7%, the company would be subject to a penalty of $5 million. The Companies submitted that not only was this amount punitive for such a minor breach but, due to statistical error, the annual average result could actually have been as high as 97.2% which was well above the standard.

37. The Companies submitted that results for each of the remaining 11 indicators were calculated using the entire population meeting the business rules for the particular indicator and, therefore, there was no "statistical margin of error" for these indicators. The Companies submitted, however, that the failure to meet the performance standard for one of these indicators by a minimal amount might only be indicative of an error in recording the results.

38. The Consumer Groups submitted that the Companies' concern with possible errors in the recording of the results for an indicator was an insufficient reason to effect a major reduction in the rate adjustment for the delivery of service below the minimum standard. The Consumer Groups submitted that reporting errors were completely within the control of the ILEC and that instituting the appropriate controls and procedures should ensure that such reporting errors did not occur.

Commission analysis and determination

39. In the Commission's view, the Companies have correctly pointed out that statistical errors may occur with respect to two of the 13 Q of S indicators since their performance measurement involves data sampling. However, the Commission notes that this fact was known to all parties at the time the minimum performance standards were set for these indicators. The Commission also notes that it is equally likely that the standards for these two indicators could be met as a result of a statistical error in as much as they could be missed as a result of such an error. Consequently, any statistical errors should cancel out over time so that neither an ILEC nor its customers would be disadvantaged by the strict application of the standard. In these circumstances, the Commission does not consider it appropriate to make any allowance for the possibility of statistical errors.

40. With respect to the Companies' more general point, the Commission notes that the approved Q of S standards are the minimum level of performance deemed acceptable; they do not constitute a performance target. The Commission also notes that the recording of Q of S results is within the control of an ILEC. If a margin of error adjustment were permitted, it would amount to a change of the minimum performance standard for the relevant Q of S indicator. Changes to the Q of S performance standards are beyond the scope of this proceeding. In light of these considerations, the Commission determines that it is not appropriate to introduce a margin of error factor into the Q of S indicators for the plan.

Possible exclusions from the retail rate adjustment plan

41. In Public Notice 2003-3, the Commission invited comment on the circumstances or events, if any, that should be considered to be beyond the reasonable control of an ILEC, as well as the process and method the Commission might utilize to exclude particular retail Q of S results from the final plan. Each of these issues is examined, in turn, below.

Events beyond the reasonable control of an ILEC

Positions of parties

42. The Consumer Groups suggested that the Commission should provide a list of examples of exclusions for guidance and proposed that final determinations be made on a case-by-case basis. They submitted that labour disputes, abnormal load volume, and normal bad weather

should not be considered "beyond the reasonable control of the ILECs". The Consumer Groups submitted that since the ILECs had some element of control in labour disputes, there should be an allowance made for labour disruptions of 2 to 4 weeks. Alternatively, the Consumer Groups argued the ILEC could be held responsible for 50% of the amount by which performance was sub-standard during the period in question. The Consumer Groups further submitted that states of emergency, terrorist attacks and extreme or unusual weather would qualify for exclusion.

43. The Companies submitted that, as service standards were set on the basis of normal operating conditions, a *force majeure* clause should be incorporated into the final plan. They proposed the following wording for such a clause:

> "No penalty shall apply in a month where failure to meet the standard is caused, in that month, by fire, strikes, default or failure of other carrier, floods, epidemics, war, civil commotions, acts of God, acts of public authorities or other events beyond the reasonable control of the Company which cannot reasonably be foreseen or provided against."

44. The Companies submitted that normal seasonal events would not be considered "acts of God" and provided the following examples of events which they believed should fall within the scope of the *force majeure* clause:

- the 1999 strike against Bell Canada by the Communications, Energy and Paperworkers Union of Canada (CEP);
- the 1999 work stoppages at MTS (a 100-day stoppage within the CEP bargaining unit and an 11-day stoppage within the International Brotherhood of Electrical Workers (IBEW) bargaining unit;
- the 1997 flood of the Red River;
- the ice storm which hit Eastern Canada in 1998;
- the 2003 outbreak of Severe Acute Respiratory Syndrome in Toronto, which necessitated the quarantine of a number of Bell Canada employees;
- the August 2003 power outage in Ontario which affected Bell Canada's operations; and
- Hurricane Juan, which struck Nova Scotia and Prince Edward Island in September 2003 with serious impacts on the operations of Aliant Telecom.

45. The Companies submitted that it was common in the U.S. to allow for adjustments due to work stoppages and that a similar approach should be taken in Canada. In support of their position, the Companies argued that labour disputes were not within the control of an ILEC since they involved labour negotiations and, as such, were as much within the control of the union bargaining unit as the ILEC. The Companies further submitted that if work stoppages were not excluded from the final plan, this would enhance the bargaining power of unions in labour disputes – a result which the Companies submitted the Commission should not encourage.

46. The Companies submitted that the onus should be on the ILEC making an application for exclusion or adjustment of monthly Q of S results under a *force majeure* clause to demonstrate the extraordinary nature of the circumstances involved; the impact that the event had on that ILEC's service quality; why the ILEC's normal, reasonable preparations for difficult situations proved inadequate; and, the specific dates affected by the event.

47. TELUS submitted that specific events such as tornadoes, violent windstorms, ice storms, earthquakes, fires, explosions, or floods, as well as acts of war or terrorism and civil disturbances could destroy or damage significant amounts of communications infrastructure in the territory of an ILEC, and that performance results attributable to such events should be excluded from the plan.

48. TELUS submitted that the list of exclusions should also include epidemics (including both natural and man-made viruses) and the acts of other parties, such as other connecting carriers, unions, or public authorities, which could make it difficult to continue the normal operations of the ILEC and all of which are both unpredictable and beyond the reasonable control of the ILEC.

49. TELUS argued that the following events, which had occurred in its territory in 2003, should be taken into consideration by the Commission as qualifying exclusionary events:

- severe forest fires in the interior of B.C. and southwestern Alberta which destroyed significant amounts of physical plant and required the diversion of resources to assist with recovery efforts; and

- a major cable cut in Vancouver, caused by a third party doing unrelated construction work on a lot adjacent to a TCI conduit structure near one of its central offices, which diverted considerable resources to restore service and to deal with affected customers.

TELUS indicated that, in both cases, lower priority repair and construction work was postponed and that TCI business offices saw significant increases in the volume of calls.

50. TELUS noted that the Consumer Groups had expressed reservations about accepting labour disruptions as events beyond the reasonable control of an ILEC, because the ILEC would be a party to such a dispute. TELUS submitted that in any collective bargaining process, a company and its union jointly engage in negotiations and it was unreasonable to suggest that a company could control whether a labour dispute occurred or the length of a labour disruption, just because the company was a party to the labour negotiations. TELUS argued that the potential for a labour disruption was an integral feature of a free collective bargaining process and was enshrined in both Canadian labour law and international labour conventions. TELUS also submitted that it was common for commercial agreements to include a *force majeure* clause which covered labour disruptions.

51. Allstream submitted that "acts of God," epidemics, war, and civil unrest should be considered to be beyond the reasonable control of the ILECs and that other situations should be treated on a case-by-case basis. Allstream argued that the wording of the Companies' *force majeure* clause was too broad.

52. BCOAPO et al. submitted that exclusions should be treated on a case-by-case basis and that the onus should be on the ILEC to establish that an exclusion was warranted and the period for which it was warranted.

53. TWU argued that labour disruptions were not beyond the reasonable control of an ILEC and that if an ILEC failed to meet Q of S standards due to a labour disruption, it would not be appropriate to exclude those results from the calculation of the annual rate adjustment.

Commission analysis and determination

54. The Commission notes that there was general consensus among the parties that it would be appropriate to exclude performance failures due to circumstances or events beyond the reasonable control of the ILECs. Further, the parties generally agreed that the onus should be on the ILEC to identify adverse events, explain why an exception would be warranted, and to quantify the proposed modification to the plan results.

55. There was also a general consensus as to the types of adverse events which should lead to an exclusion. The main point of disagreement was the status of labour disruptions. The Consumer Groups and TWU opposed treating labour disputes as exclusions on the basis that an ILEC would have at least some control over the outcome. The Companies and TELUS considered labour disputes to go beyond the realm of reasonable control.

56. The Commission determines that it is appropriate for the plan to include an exclusion mechanism which is sufficiently flexible to accommodate the effects of natural disasters and other adverse events which, by their very nature, are unpredictable and beyond the reasonable control of an ILEC. The Commission considers that labour disruptions may qualify as such in certain circumstances. However, in the Commission's view, each adverse event, whether it be a natural disaster, act of terrorism or labour disruption, should be assessed in light of the surrounding circumstances. Consequently, the Commission concludes that a determination with respect to adverse events should be made on a case-by-case basis as to the modifications, if any, which should be made to the Q of S results for the purposes of the plan.

The process to exclude Q of S results from the rate adjustment plan

Positions of parties

57. The Companies proposed the following process for dealing with potential exclusions:

    (i) the ILEC would file an exclusion application within 21 days of the event, providing all relevant details, as well as a proposal regarding how the Q of S results should be adjusted;

    (ii) the Commission would assess the application and issue a decision within 30 days; and

    (iii) the ILEC would adjust the results in its annual retail rate adjustment plan report pursuant to the Commission's decision.

58. The Companies submitted that it was important that decisions be made promptly so that an ILEC could undertake corrective measures to get indicator results above average on an annual basis to avoid rate adjustments. The Companies argued that public input would be unnecessary. In the Companies' view, the Commission should have sufficient evidence based on an ILEC's application. The Companies submitted that public input would only delay the process when it was important for an ILEC to have speedy resolution of a request. The Companies also submitted that an ILEC should only file an application if the results in question were sub-standard by a significant amount. The Companies further submitted that the regular quarterly reports should continue to display the actual Q of S results and that the adjusted results should only be displayed for use with the annual rate adjustment plan.

59. TELUS noted the Companies' proposal that requests for exclusions from the plan should be filed no more than 21 days after the end of the month during which the extraordinary event occurs. TELUS indicated that while it had assumed that requests for exclusions would be filed once a year, it saw merit in having exclusion events identified as they occurred so that facts and impacts could be identified as soon as possible. TELUS submitted that setting defined time limits might be unwise given the case-by-case nature of events and unpredictability of potential consequences. TELUS submitted that the date of the final rate adjustment report should be the final date for filing exclusion applications claims for the current period. TELUS agreed with the Companies' proposal that quarterly reports contain actual results only.

60. The Consumer Groups submitted that ILECs should petition the Commission for exclusions due to unforeseen circumstances or events beyond their reasonable control. They further submitted that the onus should be on the ILEC to identify relevant details, and list the affected indicators, the time period, and why the exclusion would be merited. The Consumer Groups also submitted that the process should include public input from interested parties and that the Commission should maintain an interested parties list for retail Q of S issues. The Consumer Groups submitted that, upon approval, only impacted indicators should be removed from the final plan results (and only during the relevant time period of the excluded event) and all other service indicator results should remain unchanged. The Consumer Groups disagreed with the Companies proposed 30-day assessment period on the grounds that it precluded public participation.

Commission analysis and determination

61. In the Commission's view, exclusion applications should be permitted with respect to the interim period, as well as on a going-forward basis. The Commission also considers it appropriate for exclusion applications to be filed within a reasonable time period following the conclusion of an adverse event so as to provide an ILEC with reasonable certainty as to the status of its Q of S record for the purposes of the rate adjustment plan. Finally, given the potential impact of any exclusion applications on the amount of funds available for distribution to customers under the plan, the Commission considers it appropriate for the public and other interested parties to have the opportunity to comment on any exclusion applications.

62. In light of the above, the Commission determines that, for the interim period, the ILECs may file an application by **25 April 2005** identifying any adverse events during the interim period for which an exclusion is sought, the effects of the event on specific Q of S indicators and the proposed adjustments to those Q of S results. The application shall be posted on the ILEC's

website coincident with filing and on the Commission's website. Copies of exclusion applications shall be provided to parties who actively participated in this proceeding. Parties shall file comments on **9 May 2005** and the ILECs shall file reply comments by **16 May 2005**. The Commission notes that in the course of reporting regular Q of S results during the interim period Bell Canada and Aliant Telecom reported several adverse events. These will not be considered by the Commission. In order to have an adverse event considered by the Commission, including one that occurred prior to the release of this decision and during the interim period, each ILEC must file an exclusion application in accordance with the procedures set out in this decision.

63. With respect to the final plan, the Commission determines that it is appropriate to require that an ILEC file an exclusion application within 21 days of the end of an adverse event. Such an application should identify the adverse event in question, the effects of the event on specific Q of S indicators and the proposed adjustments to those Q of S results. In case of an ongoing situation not concluded by the end of the annual rate adjustment plan reporting period (the reporting period), an ILEC may file an exclusion application within 21 days of the end of the reporting period. If an ILEC considers that an adverse event has had long-term impacts which were not fully identified or quantifiable in the 21-day period, the ILEC may subsequently request an amended determination based on new information. Any such request must be filed no later than three months after the end of the reporting period, unless otherwise determined by the Commission.

64. Under the final plan, in order to provide the public and other parties with an opportunity to comment on an ILEC's exclusion application, all such applications shall be posted on the ILEC's website coincident with filing and on the Commission's website where the ongoing Q of S results are posted. Copies of exclusion applications shall be provided to parties who actively participated in this proceeding. Parties shall have 14 days from the date of filing of the exclusion application in which to file comments and the ILECs shall have 21 days to file reply comments.

65. In the Commission's view, it is not necessary or appropriate to identify adjustments resulting from exclusions in the regular quarterly or monthly reporting of service results. Any exclusion adjustments will be identified in the Commission's final decision with respect to an ILEC's rate adjustment plan obligations for a specific period.

III. The revenue base

66. The Commission decided, in Decisions 2002-34 and 2002-43, that the total amount available for rate adjustments would be based on the total annual business and residential local revenues and that this revenue base was not to be restricted to local exchange services, but was to include revenues from all other local retail business and residential services that were not forborne from regulation.

67. In the present proceeding, the following issues were discussed in relation to the revenues subject to adjustment:

- identification of the local services involved;
- whether there should be an allowance for bad debt; and
- the percentage of local service revenues comprising the TMAV.

Each of these issues is discussed below.

Identification of the local services involved

Positions of parties

68. The Consumer Groups were of the view that defining the TMAV as a percent of local revenues was a straight-forward and transparent method of setting the annual TMAV. They submitted that, in order to ensure consistency and to facilitate auditing, the ILECs should be required to identify, subject to Commission approval, the specific tariff services to be included when establishing the TMAV.

69. In their responses to Commission interrogatories, the Companies submitted a revenue total based on all tariff items which were not forborne from regulation for local residential and business services from the capped services baskets, as well as those items of a local retail revenue nature, including Centrex, from the uncapped services baskets. In the case of Aliant Telecom, MTS and SaskTel, the companies' TMAV revenue base excluded certain revenues from the local services capped services baskets related to community calling plans, calling features, call trace, network exchange service, message manager, Internet call waiting and wire watch, among others.

70. In response to Commission interrogatories, TELUS submitted a list of tariff items in the capped services baskets separated as local and non-local services. TELUS submitted revenues for the capped services baskets and noted that Centrex revenues fell into the uncapped services basket under the Decision 2002-34 price cap regime. TELUS submitted that the other services included in the price cap baskets were not generally considered to be local retail services, so should not be included when calculating the TMAV.

Commission analysis and determination

71. The Commission notes that, with respect to the determination of the TMAV, TELUS included services from the capped services baskets only, thereby excluding Centrex and other uncapped local services, whereas the Companies included virtually all local services which were not forborne from regulation, no matter which pricing basket was involved.

72. As noted above, in Decisions 2002-34 and 2002-43, the Commission determined that the TMAV should be derived from the total annual business and residential local revenues, including revenues from local exchange services and all other retail business and residential services that are not forborne from regulation. The Commission notes that the uncapped services basket includes, among other services, Centrex which is a retail service essentially equivalent in nature to residential and business local exchange services. As such, the Commission is of the view that Centrex service revenues should be included in the revenue base for determining the TMAV.

73. Based on the ILEC's responses to interrogatories, the ILECs generally included all, or most of, the revenues from the following service baskets as part of the revenue base from which to calculate the TMAV:

- residential local exchange services in non-high cost serving areas (non-HCSAs);
- residential optional local services in non-HCSAs;
- residential local exchange services in high cost serving areas (HCSAs);
- residential optional local services in HCSAs; and
- single and multi-line business local exchange services.

74. The Commission notes that some ILECs expressly excluded some local service tariff items from the list of local services subject to the plan. In the Commission's view, none of the ILECs provided compelling rationale for the proposed revenue exclusions. Given that the identified services are non-forborne local services, the Commission does not consider it appropriate to permit such exclusions.

75. The ILECs had different interpretations as to which service revenues in the other capped services basket, uncapped services basket, public telephone services basket and services with frozen rate treatment should be included in the revenue base used to determine the TMAV. In the Commission's view, there is insufficient information on the record of the present proceeding to permit a final determination on this point. Consequently, the Commission considers it necessary for the ILECs to provide further information in this regard.

76. In the Implementation section at the end of this decision, the Commission initiates a proceeding to identify the revenues to be included in the TMAV from the other capped services basket, the uncapped services basket (excluding Centrex), the public telephone services basket and services with frozen rate treatment.

77. In light of the above, the Commission determines that the revenues to be used in the calculation of the TMAV for the plan shall comprise all business and residential revenues derived from local exchange services and from all other retail business and residential local exchange services that are not forborne from regulation. In particular, these revenues shall include:

    a) all revenues from the residential local exchange services in non-HCSAs basket, residential optional local services in non-HCSAs basket, residential local exchange services in HCSAs basket, residential optional local services in HCSAs basket and single and multi-line business local exchange service basket;

    b) all Centrex revenues from the uncapped services basket; and

    c) all other revenues derived from services identified by the Commission in the follow-up proceeding initiated in the Implementation section, below.

Bad debt

Positions of parties

78. TELUS submitted that the revenue used to calculate the rate adjustment payment should be net of bad debts. TELUS argued that to the extent a company did not receive revenue for services, it should not be obliged to refund that revenue as part of the rate adjustment plan. TELUS submitted that the revenues reported in the annual price cap filings did not reflect the impact of bad debts. TELUS proposed that the revenues reported in the annual price cap filings should be adjusted for bad debt for the purposes of the TMAV calculation. TELUS was of the view that the simplest way to administer this bad debt adjustment, would be to apply the overall corporate percentage of bad debt (as applied to total company revenue) to the local revenues included in the calculation of the TMAV, for the relevant period.

79. BCOAPO et al. opposed TELUS's proposal on the basis that it would reduce the overall amount that customers should receive for overall failure to meet Q of S standards.

80. The Consumer Groups argued that the Commission should continue to base the TMAV on the revenues identified in Decision 2002-34, without any adjustment for bad debt. According to the Consumer Groups, the establishment of the TMAV at 5% of local revenues was not intended to match revenues received by the ILECs, but to establish a quantum sufficient to incent the ILECs to consistently deliver service at the established standards.

81. The Consumer Groups further argued that TELUS's proposal did not result in matching revenues since TELUS proposed using its overall corporate percentage of bad debt to total revenues. The Consumer Groups submitted that this bad debt percentage included numerous services that were excluded from the retail Q of S adjustment plan, including long distance services, Internet services and forborne private line services.

Commission analysis and determination

82. In Decisions 2002-34 and 2002-43, the Commission determined that the basis for calculating the rate adjustment payment should be objective and transparent and that the rate adjustment formula should be based on clearly measured results reported by the ILEC. In the Commission's view, there is no clear relationship between the corporate-wide bad debt percentage proposed by TELUS and the bad debt percentage which might actually apply in respect of the local service revenues used to calculate the TMAV. The Commission also notes that bad debt is a known cost of doing business which is taken into account when prices are established by an ILEC. In particular, the price accommodation made for bad debt by an ILEC exists independently of any possible Q of S rate adjustments. If the gross revenues used to determine the TMAV were adjusted for bad debt, this would effectively permit an ILEC to protect itself against bad debt in its pricing, but then eliminate that pricing accommodation in the context of the rate adjustment plan. In light of these considerations, the Commission determines that it would not be appropriate to make an allowance for bad debt in the calculation of the TMAV.

The percentage of local service revenues comprising the TMAV

Positions of parties

83. The Companies proposed that the TMAV under the final plan should be defined as 1% of local revenues, rather than the 5% used under the interim plan. They submitted that using 1% in the TMAV calculation would result in a TMAV of $50 million for Bell Canada, as compared to the $258 million resulting from the use of 5% as proposed by the Commission under the interim plan. The Companies submitted that a TMAV of $258 million was excessive.

84. The Companies submitted that the interim plan was based on the rate adjustment mechanism proposed by ARC et al. in the proceeding that led to Decision 2002-34, which took into account the U.S. examples of Verizon-Maine and Verizon-Vermont. The Companies argued that the regulatory frameworks for these U.S. companies were significantly different from the Canadian regulatory framework in that while these U.S. companies had higher TMAVs, they carried less regulatory burden and lower service standards than the Canadian ILECs. The Companies submitted that in other U.S. jurisdictions, without the same regulatory concessions as Verizon-Maine and Verizon-Vermont, Q of S penalties were lower. The Companies cited the examples of Verizon-Massachusetts, where the TMAV was set at 1 % of annual retail revenue, and Verizon-Rhode Island, where the TMAV was set at 0.5 % of annual retail revenue.

85. The Companies submitted that the TMAV set under the interim plan was punitive and of a magnitude which went far beyond that which could reasonably be considered necessary to incent the Companies to provide service of a high quality. The Companies further argued that the TMAV set under the interim plan was punitive because excessive penalties set an incentive for companies to target results that would exceed standards and thereby force companies to over-provision their networks.

86. TELUS agreed with the Companies that the percentage used to calculate the TMAV should be reduced from 5% to 1%. According to TELUS, the Commission had already overstated the TMAV required for a Q of S rate adjustment plan – well in excess of the maximum values established in any other jurisdiction.

87. TELUS submitted that the costs of its Q of S improvement plans were in excess of the TMAV (based on 5% of local revenues) which demonstrated that no upward modification to the TMAV was necessary to encourage companies to make investments in order to improve service. TELUS submitted that the decision to improve quality was not the product of a cost-benefit analysis comparing the cost to improve quality against the TMAV. TELUS submitted that the competitive market provided an incentive to improve and maintain service quality.

88. The Consumer Groups proposed that the Commission retain the TMAV at 5% of local revenues in the final plan. The Consumer Groups submitted that reducing the TMAV would reduce the incentive for the ILECs to meet the standards and that if the TMAV was set too low, the ILECs would just consider it a cost of doing business. The Consumer Groups suggested that the TMAV might be too low and noted that TCI had provided below-standard service in spite of a possible penalty of 5% of local revenues. The Consumer Groups also submitted that Bell Canada's

rate adjustment payment, based on 2002 results, was only 0.1% of local revenues. The Consumer Groups argued that the TMAV would be realized only if an ILEC missed all indicators for a year by an amount necessary to trigger a 100% rate adjustment.

89. The Consumer Groups submitted that if the TMAV was set higher, then ILECs would deliver quality service and would not be subject to a rate adjustment. They submitted that the service standards were set at a minimum level of performance and not at a maximum or average level and, therefore, provisioning to meet this minimum level of performance could hardly be construed as over-provisioning the network. The Consumer Groups submitted that the Companies argument about potential over-provisioning of networks had previously been rejected by the Commission.

90. TWU, BCOAPO et al., and the City of Calgary supported retaining the 5% TMAV in the final plan.

Commission analysis and determination

91. The Commission notes that the Q of S standards are not performance targets. On the contrary, the Q of S standards identify the minimum acceptable performance for the various performance measures covered by the Q of S indicators. The failure by an ILEC to meet one or more of these minimum standards must, therefore, trigger an overall rate adjustment to reflect the importance of the Q of S failure and to provide the ILEC with an incentive to avoid such failures in the future.

92. The Commission also considers it appropriate to reiterate the view it expressed in Decision 2002-34 regarding the effect of the Q of S regime on the provisioning of an ILEC's network. Because the Q of S standards are not a performance target but, instead, represent the minimum acceptable performance in respect of the Q of S indicators, provisioning to meet the approved Q of S standards does not amount to over-provisioning. On the contrary, provisioning to meet those standards represents the minimum acceptable provisioning of the network.

93. Finally, using 5% to determine the TMAV does not imply that an ILEC which fails to meet a Q of S indicator would automatically be subject to a rate adjustment of 5% of local service revenues. The TMAV would be triggered only if an ILEC failed to satisfy every one of the 13 Q of S indicators, not just marginally, but to a very significant degree. In the Commission's view, it would be reasonable to require a rate adjustment of 5% of local service revenues in such circumstances. Indeed, permitting an ILEC to retain 95% of its local service revenues when it has provided highly deficient service would appear to be the most that should be considered acceptable.

94. In light of the above, the Commission determines that setting the TMAV at 5% of local service revenues is appropriate.

IV. The magnitude of the rate adjustment

95. If an ILEC fails to satisfy one or more of the Q of S indicators, it is then necessary to determine the total amount of funds to be distributed under the rate adjustment plan. Under the interim plan, each of the Q of S indicators was weighted equally (i.e., the MAV for each indicator

was 1/13th of the TMAV). The equal weighting of the Q of S indicators was not raised as an issue by any of the parties. However, two other issues relating to the magnitude of the rate adjustment were discussed in the present proceeding:

- the structure of the standard adjustment table; and
- whether there should be an allowance for customer-specific payments.

Each of these issues is discussed, in turn, below.

The standard adjustment table

96. The interim plan incorporated a standard adjustment table which provided for an increase in the magnitude of the rate adjustment depending on the magnitude of the Q of S failure. A Q of S result that fell just below the minimum performance standard for an indicator would result in an adjustment amount of 25% of the MAV for that indicator. After this initial step, the adjustment factor increased in a more gradual fashion, reaching 100% of the MAV for the indicator when the Q of S result was below 40% of the standard.

Positions of parties

97. The Consumer Groups submitted that the initial 25% standard adjustment was necessary in order for the ILECs to be strongly encouraged to meet the service standards. The Consumer Groups argued, however, that the gradations in the service adjustment table should be smoother than those in the interim plan.

98. The Consumer Groups proposed changes to the standard adjustment table such that, while the initial step would continue to require a 25% adjustment for successive decreases in performance (as a percentage of the standard) of 2.5%, the rate adjustment factor would increase by successive amounts of 20%, 15%, 10%, 8%, 6%, 5%, 4%, 3%, 2%, 1% and 1%. Under this proposal, a rate adjustment of 100% of the MAV for an indicator would be required if an ILEC's performance fell below 72.5% of the standard for that indicator.

99. The Consumer Groups argued that using annual averages would allow poor performance to be covered by good months, with the annual average unlikely to ever fall below 7 out of 10 on the standard adjustment table. The Consumer Groups submitted that TELUS Québec had a service indicator where the company achieved a service indicator standard of 80% one month in seven, 31% and 32% in two other months, and an all-time low of 15% in another month. The Consumer Groups argued that, despite extraordinarily poor performance, TELUS Québec still achieved an annual average of 53%. They also submitted that TCI had met the standard of 80% in three out of seven months; and 61%, 62%, 74% and 74% in other months, for an annual average of 74%.

100. The Consumer Groups submitted that in order to prevent repeated below-standard behaviour being averaged out over the year, the Commission should consider revising the rate adjustment mechanism so that the initial adjustment of 25% would be triggered for an indicator, if the standard was missed for five or more months during the year, even though the indicator's overall annual average was above-standard. The Consumer Groups argued that this

modification would help to counter the cushioning effect of the annual average, by creating an incentive not only for the ILECs to achieve an acceptable annual average result, but also to meet the standard on a regular, ongoing basis.

101. The Consumer Groups recommended that the Commission include a "penalty escalation" element, applicable to sub-standard results of an indicator in consecutive years. According to the Consumer Groups, such automatic escalation would ensure that customers would be appropriately compensated if an indicator was repeatedly below the service quality standard, and would provide the ILECs with a particularly strong incentive to correct below-standard service.

102. The Consumer Groups submitted that such a "weighting" element could take the form of increasing the Q of S adjustment for a given indicator where that indicator was below standard for multiple years. The Consumer Groups suggested, as an example, that if indicator A were missed in year one and again in year two, the Q of S adjustment calculated for year two would be increased by some predetermined percentage. The Consumer Groups proposed escalation factors of 50%, 100% and 200% for the second, third and fourth years of repeat below-standard performance.

103. The Consumer Groups submitted that while the magnitude of an adjustment for sub-standard service under this mechanism should be sufficient to ensure consistent achievement of the standards, this would not be known until the mechanism had been tested in practice. According to the Consumer Groups, it was possible that the plan would not sufficiently counter cost-cutting incentives that adversely affect Q of S. The Consumer Groups submitted that this appeared to have been the case in at least one jurisdiction in the U.S. where penalties were applied for sub-standard service. They also argued that experience to date with TCI's sub-standard Q of S performance might indicate that an escalation feature was required to incent companies to bring service up to standard in a timely fashion.

104. The Consumer Groups proposed that any such escalation factor should not affect the maximum adjustment for other indicators, otherwise incentives to maintain or improve service quality in other respects would be unduly compromised. The Consumer Groups submitted that, while this approach would mean that an ILEC with repeated poor performance for a given indicator in two consecutive years would be theoretically exposed to a potential rate adjustment of more than 5% of total local revenues, it remained extremely unlikely that this maximum would ever be approached in practice, given the number of indicators being assessed.

105. Allstream proposed that a minimum rate adjustment be applied in cases where an ILEC missed an indicator for a month. Allstream argued that the amount of the adjustment should increase for each following month in which the indicator was missed. According to Allstream, the maximum customer credit should apply for any indicator which fell below the standard for more than six out of 12 months. Allstream submitted that a plan under which any failure to meet the standards was unacceptable, would encourage the ILECs to consistently meet or surpass the minimum level of performance for each indicator.

106. BCOAPO et al. submitted that the final plan must provide a meaningful incentive for ILECs to consistently meet all retail Q of S standards established by the Commission. BCOAPO et al. supported the Consumer Groups' proposal to modify the standard adjustment table.

107. The Companies argued that the standard adjustment table should be modified to begin with a 5% adjustment factor, rather than the 25% required under the interim standard adjustment table, and that subsequent increases in the adjustment should more fairly reflect the level of service deterioration while covering the same range as that of the interim plan. The Companies submitted that a more gradual ramp-up of the standard adjustment table would prevent the consequence of over-provisioning for relatively minor failures.

108. The Companies submitted that the interim standard adjustment table unfairly skewed and severely penalized performance that was below standard by even a small margin. The Companies argued that the slightest miss in average annual performance would result in an adjustment of 25% of the MAV for an indicator and that this was punitive. For example, according to the Companies, in 2002, Bell Canada met all of the Q of S standards, except for one, with an annual average of 79.25% against a Commission standard of 80%. The Companies submitted that this performance would result in a $5 million rate adjustment under the interim plan versus $1 million under the Companies' proposal.

109. The Companies submitted that there were a number of extraordinary events during the period of 1998 to 2000 which contributed to below-standard Q of S performance. The Companies were of the view that the poor performance during these years did not demonstrate a need for a specific measure, as suggested by other parties, to address prolonged below-standard performance.

110. The Companies submitted that service quality had improved since 2000 and since no penalty plan was in effect over the 1998-2000 period, the performance observed over that period could not be taken as indicative of what would have happened had the interim plan been in effect. The Companies submitted that both the interim plan and the Companies' proposal incorporated an annual average measurement whereby prolonged substandard performance over a 12-month period would result in a greater penalty to be paid than would be the case if the sub-standard performance were of a shorter duration. Thus, in the view of the Companies, both the interim plan and the Companies' proposal incorporated a "weighting" feature and, hence, there was no need to add any other weighting features as suggested by some other parties.

111. The Companies submitted that if sub-standard performance were observed over a period exceeding 12 months, then the situation would have been such that a company was unable to sufficiently improve service for that indicator, even in the face of a significant penalty for not meeting the standard and customer reaction to the sub-standard performance. The Companies submitted that a closer examination of such a situation might reveal that the Q of S for that indicator had been improving over time, and therefore the incentives already in place would have been seen to be having the desired effect. Alternatively, in the Companies' submission, it would be possible that the costs of correcting the service problem were substantially greater than the benefits that customers would perceive as a result of improving service to the standard levels. In the Companies' view, such a situation would call into question the continued utility of the indicators in question as an overall measure of service quality.

112. The Companies argued that, rather than introducing an additional measure into the plan, the wiser course of action would be for the Commission to investigate any situation where there was prolonged sub-standard performance at the time it arises, and be governed by the Commission's findings at that time.

113. The Companies indicated that they were aware of only one jurisdiction in the U.S. where heavy penalties were assessed against an ILEC if the Q of S was below standard and it was also below standard in the previous year. The Companies submitted that, under the Ameritech Illinois Q of S plan which covered 10 performance measures, benchmark performance levels had been set for each performance measure and that for every performance measure for which the benchmark level was not met in 2003, Ameritech Illinois would be penalized by $12 million. If Ameritech Illinois did not meet the benchmark level for a particular performance measure in 2002, an additional $2 million would be assessed, bringing the total penalty for that performance measure to $14 million. According to the Companies, in devising such a penalty mechanism, the Illinois Commerce Commission was making deliberate efforts to correct the poor service quality which had been demonstrated by Ameritech Illinois under a previous alternative regulation plan which included a Q of S penalty mechanism. With respect to other Q of S plans in U.S. jurisdictions, the Companies submitted that neither the Verizon-Maine Plan nor the Verizon-Vermont Plan included any weighting element for Q of S indicators which are repeatedly below standard.

114. The Companies argued that under the escalation approach proposed by the Consumer Groups, if an indicator was below standard in four consecutive years, the penalty payable for that indicator would increase to 200% in the fourth year and possibly even higher in subsequent years. In particular, the Companies submitted that, under this proposal, Bell Canada's interim TMAV would escalate from $258.4 million in year one to $387.6 million, $516.8 million and $1 billion in years two, three and four, respectively. The Companies submitted that the magnitude of these amounts was totally unreasonable.

115. The Companies further argued that, while the Consumer Groups contended that an escalation feature was required to incent ILECs to bring service up to standard in a timely fashion, such a feature would actually serve to deteriorate service even more. According to the Companies, if an ILEC was in the position that service was so poor as to attract such a penalty escalation, it was likely that there would have been financial reasons for the company to be in such a position. The Companies argued that the imposition of penalties of an increasingly punitive magnitude (i.e., up to 20% of total annual business and residential local revenues) would only serve to make an ILEC's financial position even worse, thereby greatly increasing the likelihood of below-standard service in the future.

116. The Companies also opposed the Consumer Groups' proposed changes to the standard adjustment table which would apply a sliding scale of increases after the initial 25% rate adjustment. The Companies argued that the proposed changes would increase the percentage of the maximum penalty payable even more rapidly than under the interim standard adjustment table. The Companies submitted that under the Consumer Groups' proposal, a penalty of 45% of the maximum would be assessed if the annual average performance for an indicator was only 2.6% below standard. The Companies argued that there was no justification for a penalty of this size, no regulatory precedent for a penalty of this magnitude, and no sound rationale for it.

117. The Companies argued that the Consumer Groups' proposal to add a supplementary measure on top of monthly averaging of results should be denied. In the Companies' view, if the standard for an indicator had been missed for five months or more during the year but the

standard had been met on an annual average basis, it was highly likely that the standard had been missed in these months by a minimal amount. The Companies submitted that there was no reason for a new penalty to be introduced in such circumstances.

118. TELUS submitted that the interim standard adjustment table had significant discontinuities, and that the rationale for the initial and subsequent increments was not clear. In TELUS's view, the methodology behind the standard adjustment table should be clear to all stakeholders and the results should reflect performance.

119. TELUS proposed that the standard adjustment table be reconfigured so the increments were linear. TELUS submitted that this approach would better match rate adjustments with the extent to which the relevant Q of S standard was missed. TELUS submitted that there was no evidence that the incentive to improve amounted to a cost-benefit analysis, so there was no reason to adopt a rate adjustment mechanism that was anything other than linear.

120. TELUS argued that the proposals made by other parties which called for a rapid and non-uniform increase to the rate adjustment value would create a disincentive to improve service. TELUS also opposed proposals to de-average the annual retail Q of S rate adjustment plan by making any single monthly Q of S performance shortfall subject to a penalty and by introducing a supplemental monthly measure. TELUS argued that Q of S results would continue to be reported during the course of the year under the current program, and there was no likelihood that any problems would go unnoticed.

121. The Consumer Groups argued that the Companies' position for a gradual ramp-up of the service adjustment table to preclude the over-provisioning of networks was previously rejected by the Commission. They submitted that the combination of the Companies' proposed standard adjustment table along with its proposed reduction of the TMAV from 5% to 1% of local revenues would lessen the incentive to meet the service indicators. The Consumer Groups also argued that TELUS's proposal for a more linear approach to assign an equal dollar value for each unit of decrease lacked the required incentive to maintain standards at or above minimum levels.

Commission analysis and determination

122. As noted above, the performance standards established by the Commission represent the minimum acceptable performance for the services in question. They are not performance targets. Consequently, the failure of an ILEC to satisfy a Q of S indicator should result in a rate adjustment which reflects the significance of that failure and establishes an adequate incentive to avoid such failures in the future. Given that the TMAV for an ILEC is set at 5% of the ILEC's local revenues and the MAV for each Q of S indicator is $1/13^{th}$ of the TMAV, an initial rate adjustment of 25% of the MAV translates into 0.096% of the ILEC's local revenues. The Commission does not consider this magnitude of rate adjustment to be excessive in the event that an ILEC fails to meet the minimum accepted performance standard for an indicator. In the Commission's view, a smaller rate adjustment could easily be viewed as merely the cost of doing business by an ILEC and thereby fail to provide an adequate incentive for the ILEC to meet the minimum performance standards. Consequently, the Commission concludes that the initial step in the standard adjustment table should remain at 25%.

123. With respect to subsequent increments in the adjustment table, the Companies proposed increments that would vary between 2%, 5%, 6% and 10%, TELUS proposed 10% increments and the Consumer Groups proposed increments of 20%, 15%, 10%, 8%, down to 1%.

124. The Commission considers that the adjustment table increments proposed by both TELUS and the Companies would neither adequately reflect the seriousness of the deteriorating Q of S nor provide sufficient incentives for the ILECs to meet the Q of S standards. In the Commission's view, larger initial increments, as suggested by the Consumer Groups, would be more appropriate.

125. Under the interim standard adjustment table, the rate adjustment does not reach 100% of the MAV for an indicator until the ILEC performance falls to 40% of the standard. The Companies, TELUS and the Consumer Groups proposed raising this lower limit to 45%, 55% and 72.5%, respectively. The Commission notes that, in recent years, none of the ILECs have even remotely approached a performance level of 40% of a Q of S standard. In the Commission's view, in order for the rate adjustment mechanism to meaningfully reflect the seriousness of Q of S problems and to provide sufficient incentives for the ILECs to meet the Q of S standards, the entire MAV for an indicator should be at risk.

126. In the Commission's view, the performance intervals and adjustment table increments proposed by the Consumer Groups would provide a reasonable basis for setting rate adjustments so as to ensure that the magnitude of the rate adjustment reflects the significance of the Q of S failure and acts as an adequate incentive for the ILEC to prevent deteriorating service quality. The Commission therefore **approves** the final standard adjustment table as set out in Appendix B. The interim standard adjustment table is set out in Appendix A.

127. The Commission notes that both Allstream and the Consumer Groups expressed concern that averaging Q of S results over an entire year could mask service problems. Allstream proposed that a minimum adjustment should be applied for every month that an ILEC missed an indicator. The Consumer Groups proposed that monthly results be considered if the annual average was above standard but an indicator was missed for five or more months during the year. The Consumer Groups proposed that an adjustment of 25% of the MAV for an indicator be assessed in such circumstances.

128. The Commission is concerned that averaging Q of S results on an annual basis could mask the repeated failure of an ILEC to meet the minimum performance standard for an indicator. Consequently, the Commission considers it appropriate to revise the adjustment mechanism to recognize the seriousness of such repeated failures and to provide the ILECs with the incentive to deal with Q of S issues as quickly as possible.

129. The Commission is not convinced that it is necessary to require a rate adjustment for every month in which an indicator is missed. Such an approach would be administratively burdensome and, in the absence of evidence to the contrary, unnecessary to provide the ILECs with an adequate incentive to meet the Q of S standards.

130. In the Commission's view, the Consumer Groups' proposal provides a reasonable basis for identifying Q of S problems which would warrant a rate adjustment. However, the Commission considers that a rate adjustment of 25% of the MAV for an indicator would not be appropriate given that the annual average performance for the indicator would be above the minimum performance standard. Instead, the Commission determines that it would be appropriate to require a rate adjustment of 15% of the MAV for an indicator if the annual average performance of an ILEC were above standard, but below standard results were reported for five or more months during the year. In the Commission's view, such an adjustment would adequately reflect the seriousness of the Q of S failure, as well as provide the ILEC with an incentive to quickly remedy the associated service problems. This modification to the final rate adjustment mechanism is reflected in Appendix C.

131. The Commission notes that the Consumer Groups also proposed the introduction of an escalation factor for prolonged below-standard results. In addition, Allstream suggested that the rate adjustment should be increased for each consecutive month in which a particular indicator was missed and, where any indicator fell below standard for more than six out of 12 months, the maximum adjustment should be applied. In light of the changes to the rate adjustment mechanism already being implemented, the Commission considers it premature to impose any form of escalation factor. The Commission will monitor the Q of S results and assess at a later date whether further measures, such as an escalation factor, are required.

Deductions for customer-specific payments

Positions of parties

132. TELUS submitted that allowance should be made in the final plan for customer-specific credits which may be provided directly to customers for unsatisfactory service performance. TELUS indicated that when customers affected by poor quality service identified themselves and any adverse impacts were assessed directly, a refund proportional to the impact was usually made, often by way of a credit on the customer's bill. TELUS noted that such customer-specific rebates or credits were sanctioned under the Commission-approved Terms of Service and were available to all customers directly affected by a lapse. TELUS also argued that, although discretion was exercised on the part of the company in the distribution of customer-specific credits, it was far from arbitrary since credits were given in response to specific individual circumstances. TELUS submitted that it had no incentives to administer customer credits in a way that was not responsive to the needs and circumstances of individual customers. According to TELUS, customers who received a credit as remuneration for poor service were being directly and materially compensated in a manner superior to the more ubiquitous Q of S rate adjustment plan.

133. TELUS submitted that section 27(2) of the *Telecommunications Act* (the Act) required that similarly situated subscribers be treated in a similar way. In TELUS's view, it did not require that all subscribers be treated identically. According to TELUS, it was arguably more discriminatory to give an across-the-board rate adjustment, as the adjustment would be given to people not necessarily inconvenienced or damaged by unacceptable levels of Q of S and those actually harmed would not be compensated commensurate with the harm. In other words, customers with dissimilar situations would be treated in a similar manner, thereby raising concerns about unjust discrimination. TELUS submitted that one could assume that customer A

had been more harmed than customer B if the former had complained and the latter had not. In TELUS's view, the two customers would likely not have been similarly situated and the difference in circumstances would justify the differences in treatment.

134. TELUS submitted that under its proposal, the incentive for meeting its Q of S standards would not be diminished, and the incentive to compensate customers directly for quality shortcomings would be maintained. According to TELUS, the purpose of the plan was to adjust relevant rates downward when the ILEC service did not meet the standards. Further, in those circumstances where customers impacted by below-standard quality were not individually identified, the Q of S rate adjustment program provided compensation through an administratively simple across-the-board year-end distribution of the total rate adjustment payment. In the view of TELUS, even those who may not have been directly affected by poor quality would be compensated.

135. TELUS submitted that, to the extent possible, customers should not be compensated more than once for the same Q of S shortfall in a given period. However, TELUS acknowledged that it was not administratively practical to identify those customers who had already been compensated on a customer-specific basis. TELUS therefore proposed that the total amount of the identifiable retail Q of S related refunds provided to customers during the reporting period should be deducted from the total retail plan payment prior to its distribution.

136. The Consumer Groups opposed the TELUS proposal. The Consumer Groups submitted that TELUS had acknowledged that its decision to issue customer-specific refunds was independent of the Q of S performance, so there was no link between issuing a customer-specific refund and the Q of S for an indicator being below standard.

137. The Consumer Groups submitted that, under the TELUS proposal, an ILEC would deduct the total amount of customer-specific refunds that it claimed were associated with the 13 Q of S indicators from the amount payable under the plan. The Consumer Groups argued that even if the plan required payment of an adjustment associated with only one service indicator, the ILEC would deduct the total of the customer-specific refunds that it assumed were associated with all 13 indicators, not just the one service indicator below standard. The Consumer Groups were of the view that this demonstrated the lack of linkage between the retail Q of S adjustment and an ILEC's decision to issue customer-specific refunds.

138. The Consumer Groups submitted that the decision to issue customer-specific refunds involved significant discretion on the part of the ILEC. According to the Consumer Groups, the discretion involved in deciding whether to issue a customer-specific refund, as well as to determine the amount and timing of the payment of a refund to a customer made the deduction of these credits inappropriate.

139. Allstream argued that TCI's practice of administering customer-specific refunds and TELUS's proposal that the value of these refunds be deducted from the total annual rate adjustment, could reward the ILEC for poor performance by providing a means to retain customers that might otherwise switch to a competitor. Further, Allstream argued that TCI would be motivated to direct customer-specific refunds towards a class of customer that was subject to competitive pressures.

140. BCOAPO et al. opposed the TELUS proposal and noted that all of TCI's customers were impacted by a failure of the ILEC to meet overall Q of S standards. They also argued that the indicators which could give rise to customer-specific refunds might not always be the indicators that triggered the total annual rate adjustment payment. In the view of BCOAPO et al., the TELUS proposal would only make sense if the amounts paid to specific customers were deducted from those particular customers' share of the total annual rate adjustment payment. BCOAPO et al. submitted that if TCI was not prepared to do this because of difficulty or expense, then it should be the company and not its customers who should be impacted.

Commission analysis and determination

141. The Commission notes that the aim of the plan is to provide a general mechanism for addressing Q of S problems, not to address specific customer complaints. When TCI or any other ILEC provides a subscriber with a customer-specific payment, it exercises its discretion in assessing the nature of the problem and the magnitude of the payment. That decision is influenced by a number of factors, including general customer relations and competitive pressures, which do not necessarily coincide with the purposes of the rate adjustment plan. The Commission considers it inappropriate to deduct customer-specific payments from the total amount of funds to be distributed under the plan as there is no indication that there is a direct link between the customer-specific payments and the Q of S indicators which triggered the payment under the plan. The Commission also notes that TELUS acknowledged that it was not administratively practical to identify individual customers already compensated on a customer-specific basis.

142. In light of these considerations, the Commission determines that it would not be appropriate to deduct customer-specific payments from the total amount of funds to be distributed under the plan.

V. Distribution of funds under the rate adjustment plan

143. Three issues relating to the distribution of funds under the plan were commented on by the parties to the present proceeding:

- the determination of customer eligibility;
- the treatment of former customers; and
- the method of distribution.

Each of these issues is discussed, in turn, below.

Customer eligibility – Network access services (NAS)

Positions of parties

144. The Consumer Groups submitted that the Q of S credit should be apportioned among retail customers on the basis of NAS and, therefore, it was necessary to determine what qualifies as an eligible NAS for this purpose. The Consumer Groups also submitted that eligible NAS should only include services or NAS types that were subscribed to by retail end-customers

and not public telephones or internal administrative company lines. The Consumer Groups further submitted that this approach was consistent with the determination of NAS by a number of ILECs.

145. The Consumer Groups argued that there should be a common set of criteria among the ILECs for treating local business services such as Centrex. According to the Consumer Groups, these services offer business locals with the ability to connect to each other as well as to the public switched telephone network (PSTN), and typically, a business will subscribe to a lower number of PSTN connections than Centrex locals. The Consumer Groups submitted that the key issue was whether Centrex NAS should be calculated based on locals or PSTN connections. The Consumer Groups further submitted that it appeared that most of the ILECs defined Centrex NAS as connections or lines that provide subscribers with access to the PSTN. The Consumer Groups considered that it would be equitable for all ILECs to treat Centrex in the same manner.

146. The Companies and TELUS agreed with the Consumer Groups that NAS for public telephones and internal administrative purposes should not be included in the plan.

147. Aliant Telecom submitted that its retail NAS eligible for credits under the interim plan included retail residence and retail business including basic local and Centrex. Aliant Telecom indicated that it tracked each Centrex local line as a single NAS. Bell Canada submitted that its services applicable to the NAS count comprised regular business services, regular trunk services, Centrex services that provide access to the PSTN, integrated services digital network (ISDN services) and residential services. MTS submitted that services applicable to the NAS count included regular business service, regular trunk service, Centrex services that provided access to the PSTN, ISDN services and residential services. SaskTel submitted that the "rebate eligible" NAS count included single and multi-line business services, Centrex services, ISDN services and residential services. Télébec submitted that the NAS applicable to the service credit included residential local services, business local exchange services, ISDN services and Centrex. TELUS submitted that Centrex connections were counted as PSTN connections in the calculation of NAS. TELUS submitted that the line count data for TELUS Québec excluded the NAS count for Centrex lines, while the data given for TCI left them in the NAS count, since they are normally included in such data.

Commission analysis and determination

148. The Commission agrees with the general view of the parties that eligible NAS under the plan should only include services or NAS types that are subscribed to by retail end-customers and should not include public telephones or internal administrative company lines.

149. The Commission notes that Centrex lines comprise a significant portion of what is generally considered total ILEC NAS. The Commission also notes that Centrex NAS connected to the PSTN are essentially equivalent in nature to residential and business local exchange service. Given that Centrex revenues are to be included in the calculation of the TMAV, in the Commission's view, there is no basis for excluding Centrex from the list of eligible NAS for the purposes of the plan.

150. In the Commission's view, it is the Centrex PSTN connections that would be more susceptible to Q of S issues as compared to the in-house plant normally serving Centrex locals. In addition, the Commission considers that the PSTN connections more closely approximate service to end-user customers than the locals internal to the business. The Commission notes that all parties who commented on this issue agreed that Centrex NAS should be counted as the connections or lines that provide customers with access to the PSTN. In light of the above, the Commission is of the view that for the purpose of the plan, Centrex NAS eligible for a credit should be the Centrex PSTN connections.

151. Accordingly, the Commission determines that for the purpose of the plan and for consistency with the definition adopted for the Commission's annual report to the Governor in Council on *Status of Competition in Canadian Telecommunications Markets,* retail customers eligible for rate adjustments under the plan are all those which can be traced back to an end-customer as follows:

- residential basic local service;
- residential ISDN (BRI – 144 Kbps);
- business basic local service;
- Centrex PSTN connections;
- digital exchange access (DEA);
- business ISDN lines (BRI – 144 Kbps);
- business ISDN lines (PRI – 1.544 Mbps); and
- other (lines which can be traced back to an end-customer).

For greater clarity, the following NAS lines are not included: public telephones, wholesale, unbundled loops and lines for internal administrative use.

Treatment of former customers

Positions of parties

152. The Companies submitted that the cost and administrative burden to locate customers who had discontinued service outweighed any benefits and therefore retail customers who discontinued service with an ILEC prior to the rate adjustment payment should not be accommodated in the plan. They also submitted that in the U.S., it was a customary practice to apply credits to customers of record as of a certain date.

153. TELUS submitted that credits should be given to eligible customers as of the date of the rate adjustment. In TELUS's view, it was virtually impossible to track new or discontinued customers during the year. TELUS submitted that the cost and complexity of tracking was excessive when compared to the materiality of the amount to be credited.

154. Allstream submitted that customers who had migrated to other service providers by the time the rebates were distributed should receive rebates if they were affected by poor Q of S.

155. BCOAPO et al. agreed with TELUS that the cost of tracing discontinued customers probably exceeded the benefits and submitted that credits should be given to customers as of the date of the credit. BCOAPO et al. submitted that payment of rate adjustments as soon as possible after the year-end would minimize the problem of discontinued customers.

156. The Consumer Groups submitted that, while desirable in theory, attempting to rebate affected subscribers who were no longer subscribers of the ILEC would be too costly to achieve in practice and therefore no payments should be made to those customers since the effort to identify them would not be worth the benefit. Therefore, in the view of the Consumer Groups, the rate adjustment should be apportioned to subscribers at the time the credit was issued.

Commission analysis and determination

157. The Commission notes that all parties, with the exception of Allstream, agreed that when distributing the funds under the plan, it would not be cost effective to try to identify customers who had discontinued service. The Commission considers that the cost of attempting to locate customers who have discontinued service prior to the date of the payment would likely outweigh any benefits which might be derived from such an exercise. The Commission also considers that distributing funds under the plan to customers of record on a selected date would be the simplest and most efficient plan to administer.

158. Accordingly, the Commission determines that the distribution of funds under the plan will be made to eligible customers of record at the date determined under the plan which is set out in the following section and the implementation section below.

Method of distribution

Positions of parties

159. The Companies submitted that they preferred to deposit rate adjustment payments into a deferral account and that payments could be made into the same deferral accounts which each company set up pursuant to Decision 2002-34. The Companies further submitted that alternatively, a separate deferral account could be established for rate adjustment payments if the Commission was of the view that any such monies should be set aside for specific purposes and/or intended beneficiaries.

160. The Companies were of the view that direct payments to customers would not simplify distribution since individual payment credits would require billing system modifications. They submitted that the deferral account was already in place, so rate adjustment payments could be easily accommodated. The Companies suggested that an alternative to the deferral account would be to use an annual one-time customer credit on a per-NAS basis, within 90 days of filing a report, in order to allow time for billing system changes.

161. The Companies submitted there was no basis to require interest to be paid in connection with a rate adjustment since payments would be made as soon as administratively possible and interest payments would unduly complicate direct customer credits.

162. TELUS submitted that the only workable method of making rate adjustment payments would be to have a uniform customer credit per access line on the bill. TELUS further submitted that, for simplicity, payment should be made to customers of record in the month preceding the distribution. In TELUS's view, the anticipated materiality of the customer credits would not warrant individual customer payments, as compared to uniform rate adjustment payment amounts for all customers.

163. TELUS submitted that revenue data was available with the filing of price cap results and recommended filing Q of S results coincident with price cap results, with rate adjustment payments to be determined within 90 days of the filing of results.

164. The Consumer Groups argued that direct payments should be made to eligible customers instead of into the deferral account since direct payments would provide a stronger link between sub-standard service and affected customers. The Consumer Groups also submitted that the retail payments were not mandated rate reductions so the deferral account should not be used for the final plan. They further argued that the deferral account required additional procedures and processes which would not be necessary under a direct payment approach. The Consumer Groups submitted that interest which accrued from the end of the reporting period to the payment date should be based on the ILEC's short-term cost of debt.

165. Allstream submitted that remuneration for poor service could be used by the ILECs as a way to retain customers. Allstream also submitted that rate adjustment payments should not be allowed to be designed as customer retention tools by the ILECs who might withhold payments from eligible customers who might otherwise switch to another provider. Similarly, Allstream argued that service credits should not be applied so that the customer had an incentive to remain an ILEC customer until the payment was received or in a way that motivated the customer to purchase additional services from the ILEC. Allstream submitted that disbursement of the rate adjustments should be designed in such a way that it was clear that these credits were being provided because the ILEC did not provide a minimally acceptable level of service.

166. BCOAPO et al. submitted that payments should be made as soon as possible after the year-end results have been established and that the payments were most appropriately made through a general rebate program.

Commission analysis and determination

167. The Commission considers that a direct customer credit would be a simple and efficient method of distributing the funds under the plan. It would also provide the most direct link between the reason for the customer credit (i.e., the failure to meet Q of S standards) and the actual customer credit. In the Commission's view, depositing the funds in either the existing ILEC deferral accounts or a newly created deferral account would not provide the requisite link. It would also require additional administrative procedures and distribution decisions which would more than outweigh any simplicity associated with the initial transfer of the funds to the deferral account.

In light of the above, the Commission determines that it is appropriate to require the ILECs to distribute the funds under the rate adjustment plan by means of a direct annual customer credit to eligible customers of record as of the month preceding the payment of the funds.

168. The Commission is of the view that the application of credits to customer bills should be made as soon as possible after the end of a reporting period since the longer the time frame between the end of the reporting period and the application of the credit, the greater the possibility that customers who would otherwise be entitled to a credit, may have discontinued service or changed carriers.

169. The Commission notes that if the plan reports were to be filed with price cap results at the end of March, as suggested by TELUS, then, allowing 90 days for Commission consideration and ILEC administration and processing, credits could be made to customer bills by the end of June. The Commission considers that this time frame for the filing of Q of S reports, including the calculation of the required rate adjustment, and then the distribution of required customer credits would be reasonable. Assuming customer credits are made on time, the Commission considers that no interest should be payable since any interest would likely be minimal and the calculation of interest an unnecessary administrative burden.

170. In the Implementation section at the end of this decision, the Commission sets out the specific time frames for the filing of Q of S information, the calculation and filing of rate adjustment information and the processing of customer credits.

VI. Rate adjustment periods

171. In Decisions 2002-34 and 2002-43, the Commission determined that any rate adjustments flowing from the interim plan would be addressed in the present proceeding. In order to permit a determination of these rate adjustments it is necessary to establish both the extent of the interim period, as well as the rate adjustment periods within that time frame. It is also necessary to determine the rate adjustment period which will apply under the final plan.

172. The starting dates for the ILECs' interim plan were as follows:

- Aliant Telecom, Bell Canada, MTS, and TCI: 1 July 2002;
- Télébec and TELUS Québec: 1 October 2002;
- SaskTel: 1 July 2003.

Parties provided comments on the appropriate termination dates for the initial interim reporting period, as well as the duration of any subsequent reporting periods.

Positions of parties

173. The Companies submitted that the initial reporting period should end on 31 December 2003 for all companies subject to the interim plan, except SaskTel. The Companies submitted that, since SaskTel only became subject to the interim plan effective 1 July 2003, the initial reporting period for SaskTel should end on 31 December 2004. The Companies noted that if

the initial reporting period were to end on 31 December, the reporting periods for all the ILECs would become standardized. The Companies also argued that reporting on a calendar year basis would be consistent with the reporting period of the overall price cap regime.

174. TELUS proposed that the period of the rate adjustment plan should correspond to the period for the calculation of the TMAV for matters of convenience, transparency and ease of calculation. According to TELUS, this proposal would not reduce the magnitude of the rate adjustment, nor would it reduce the incentives for TELUS to satisfy the Q of S standards. It would, however, make it easier for interested parties to understand the annual calculation of the credit.

175. TELUS noted that given the nature of the rate adjustment calculations, which were designed to average out the normal month-by-month fluctuations in Q of S indicator results, a period less than 12 months was too short for meaningful results on which to base a Q of S credit.

176. TELUS argued that, to implement this proposal, the initial rate adjustment period would have to be modified to account for that portion of 2002 that would fall within the current interim calculation. In the view of TELUS, this approach would require only one adjusting calculation in the first period to make the period for the TMAV calculation coincide with the calendar year specified for the corresponding revenues. TELUS argued that, for the initial period, the Q of S indicators would be those reported over the 18 months of its interim plan (i.e., July 2002 to December 2003 for TCI, and October 2002 to December 2003 in the case of TELUS Québec).

177. TELUS submitted that, since the initial period included a fraction of a year, it might be less administratively complex and easier to audit if a simple calculation was used for the revenues. For example, in the case of TCI, if the period selected for the first Q of S rate adjustment calculation were 18 months, ending December 2003, then local revenues for the full calendar year of 2003 would be used when available plus one-half of the 2002 revenues. In the case of TELUS Québec, one-quarter of 2002 local revenues would be added to the local revenues for 2003. In each case, the period measured would be the same for revenues as for the Q of S reporting.

Commission analysis and determination

178. In the Commission's view, there would be an administrative advantage for the Commission and for the ILECs if the ILECs were to report their results for the plan at the same time. Reporting in this manner would provide consistency for comparison across all ILECs and would facilitate the dissemination of information to customers as to the reason for and the amount of the customer credit. The Commission is also of the view that a calendar year reporting period would be the simplest to implement.

179. The Commission is of the view that the initial reporting period under the interim plan should end on 31 December 2003 for all ILECs except SaskTel. For SaskTel, the initial reporting period should end on 31 December 2004 in order to provide for a reporting period of not less than 12 months. This means that the initial reporting period would be 18 months for Aliant Telecom, Bell Canada, MTS, TCI and SaskTel and 15 months for Télébec and TELUS Québec. A second interim reporting period, from 1 January 2004 to 31 December 2004, would apply to all ILECs except SaskTel.

180. Accordingly, the Commission determines that the reporting periods for each of the ILECs under the interim plan are as follows:

- 18 months for Aliant Telecom, Bell Canada, MTS and TCI from 1 July 2002 to 31 December 2003;
- 15 months for Télébec and TELUS Québec from 1 October 2002 to 31 December 2003;
- 18 months for SaskTel from 1 July 2003 to 31 December 2004; and
- 12 months for all companies, except SaskTel, from 1 January 2004 to 31 December 2004.

181. The Commission also determines that the reporting period for the final plan will be each calendar year commencing 1 January 2005.

VII. Reporting of retail rate adjustment plan results

182. There were two general issues relating to the reporting of Q of S results that were addressed by parties to the present proceeding:

- whether the ILECs should be required to continue the "exception reporting" established by Decision 97-16; and
- whether the ILECs should be required to report to their retail customers the results of their retail Q of S performance and rate adjustment plans and, if so, in what manner.

Each of these issues is discussed, in turn, below.

Q of S exception reporting

183. In Decision 97-16, the Commission introduced exception reporting, directing the ILECs to file additional reports with the Commission when service indicator results were below standard for three consecutive months, or seven out of 12 consecutive months. The ILEC was to file monthly reports for that indicator within 15 days of the end of the month, rather than quarterly reports, and to provide an explanation of the cause of the service quality degradation, as well as an action plan describing how it intended to rectify and prevent the situation from recurring. The monthly reports were required until Q of S results for the indicator met or exceeded the standard for three consecutive months.

Positions of parties

184. The Consumer Groups submitted that implementation of the plan was no guarantee that a service indicator would not fall below standard or that exception reporting would not be triggered. The Consumer Groups further submitted that averaging Q of S results and using a fixed 12-month period with the plan could mask serious quality degradation issues that would otherwise be addressed through the use of exception reporting.

185. The Consumer Groups proposed that the Commission retain exception reporting as a complement to the plan and quarterly reporting requirements. They submitted that, together, these various elements worked to ensure that the ILECs consistently provided quality service to retail customers.

186. The Companies proposed that the requirement to file exception reports should be eliminated and further proposed that the Companies would continue to file their quarterly reports pursuant to Decision 2000-24, so that the Commission and consumers would continue to be informed of the Companies' Q of S results on an ongoing basis.

187. The Companies submitted that in light of the introduction of the interim Q of S rate adjustment plan in Decision 2002-34, the continued requirement to file exception reports was inconsistent with the Commission's intention to "impose the minimum regulatory burden". They also submitted that this requirement was also inconsistent with section 7(f) of the Act, which set out as an objective of Canadian telecommunications policy that "regulation, where required [should be] efficient and effective".

188. The Companies submitted that, given that they were subject to severe financial penalties if service standards were not met, there would be adequate incentive to develop action plans on a timely basis if there were service indicators which were consistently not meeting standards. The Companies further submitted that where the Commission had any concerns regarding results for certain indicators, the Commission could, at any time, question an ILEC about the underlying source of the problem and about the ILEC's action plans for such indicators.

189. BCOAPO et al. submitted that the ILECs should continue to report Q of S performance quarterly.

Commission analysis and determination

190. The Commission notes that the plan is not meant to replace the Commission's role in monitoring Q of S. In the Commission's view, exception reporting helps the Commission to identify service quality problems as they arise and also helps ensure that corrective action is being taken and that the corrective action plan undertaken by the ILECs is successful.

191. The Commission considers that exception reporting promotes the policy objective set out in section 7(b) of the Act "to render reliable and affordable telecommunications services of high quality accessible to Canadians in both urban and rural areas in all regions of Canada". The Commission does not consider exception reporting to be inconsistent with section 7(f) of the Act as submitted by the Companies.

192. In light of the above, the Commission determines that the requirement for exception reporting will remain.

Reporting to customers

193. In Public Notice 2003-3, parties were invited to provide their views on the following matters:

- whether the ILECs should be required to report to their retail customers the results of their performance with respect to retail Q of S and the rate adjustment plan;
- the appropriate information and level of detail to be included in such reports;
- the appropriate frequency of issuing these reports; and
- the appropriate method of distributing them to retail customers.

Positions of parties

194. The Consumer Groups proposed that annual reports be provided to consumers via billing inserts, preferably together with the bill on which the associated rebate or credit appears. The Consumer Groups submitted that the report should explain each service quality measure reported, the applicable service standard, the Q of S results achieved, the rate adjustment mechanism and the credit approved by the Commission. The Consumer Groups recommended that the Commission review and approve the ILECs' proposed billing inserts prior to their issuance. According to the Consumer Groups, this would assist in ensuring that retail customers received sufficient information to understand the purpose of and reasons for the rate adjustment plan credits.

195. The Consumer Groups submitted that Q of S results should be posted to the Commission's website and on each ILEC's website. The Consumer Groups also supported including a section in the white pages explaining the Q of S indicators and how consumers might obtain additional information.

196. The Companies stated that the white pages of their telephone directories included Q of S indicators and information about how consumers could obtain reports. The Companies also stated that they currently provided quarterly reports which were posted to the Commission's website.

197. The Companies submitted that there was no need for further reports where a company had met all of the Q of S standards. They proposed that if a credit was owing, then an annual "plain language" billing insert to explain the results and why the adjustment was being paid should be distributed to customers. In the Companies' view, there was no need to address all remaining satisfactory indicators in the billing insert.

198. TELUS submitted that it was limited to 34 characters (including spaces) for an identifier on each line of its bill. TELUS proposed to include "*YEAR* QUALITY OF SERVICE ADJUSTMENT" as a line identifier on customer bills next to the amount of any adjustment. TELUS also proposed to include a billing insert explaining that the "*YEAR* QUALITY OF SERVICE ADJUSTMENT" was a credit to the customer for service levels provided below the minimum required standards in the preceding year, and directing customers to sources of additional information.

199. TELUS submitted that it had an interest in making sure that its customers understood the reason for the credit on their bill and in providing a means by which they could obtain more details. According to TELUS, apart from reducing the risk of an influx of customer calls concurrent with the rate adjustment, it was simply good business practice to ensure customers were fully informed. In this regard, TELUS also proposed to provide details and explanations of the company's Q of S results on its corporate website and information on the Q of S rate adjustment plan in the introductory pages of its directories. TELUS stated that the introductory pages of TCI's white pages contained a section on Q of S, but proposed adding TCI and Commission website addresses to the directory information. TELUS submitted that there was no need for further measures to inform customers of ILEC Q of S results.

200. Allstream submitted that any rate adjustment reports to customers should be simple, straightforward and provide a clear explanation of the minimum service standard established by the Commission and include the fact that the ILEC is obliged by the Commission to report any sub-standard service to the customer. Allstream also submitted that any reports should make it clear that these reports and credits were being provided to comply with the Commission's rules and should include a neutral explanation of the rules and the calculation of the customer credit.

201. BCOAPO et al. submitted that there should generally be year-end reports to customers regarding service levels and adjustments. However, BCOAPO et al. were of the view that, given customer concern about TCI's Q of S, it might be appropriate for TCI to provide customers with quarterly reports until its Q of S improved.

Commission analysis and determination

202. In the event of an adjustment, customers will receive a credit on their bill which they might find confusing if they did not also receive an adequate explanation. The Commission considers that in such circumstances, customers should be informed by way of a billing insert, of the Q of S results, why a credit is being made and where they can obtain additional information. In order to ensure the rationale for the adjustment is fully explained, it should be clear that the credits are being provided in order to comply with the Commission's decisions and directives. The Commission is of the view that, in order to ensure consistency, wording for all ILEC billing inserts relating to the customer credit should be filed with the Commission for approval.

203. The Commission considers that it would assist with the dissemination of information about the Q of S regime and the plan if all ILECs were to add a description to the introductory section of their white pages directories and also provide an overview of the plan on their company website. In addition, ILECs should include in the introductory section of their white page directories, the website addresses where customers can access the company and the Commission Q of S information.

204. Accordingly, the Commission determines that:

a) customer credits must be accompanied by billing inserts which provide an overview of the plan, the company's Q of S results for the year, and an explanation of why a credit is being made, how it is calculated; and where additional information can be obtained with respect to the plan. Further, it

should be clear in the billing insert that the credits are being provided in order to comply with the Commission's decisions and directives and an explanation of such must be outlined.

b) billing inserts for the interim period, if required, are to be filed with the Commission for approval by **25 April 2005**;

c) billing inserts required under the final plan are to be filed with the Commission for approval no later than 31 March for the preceding 12-month period ending 31 December;

d) billing inserts must be provided, upon request, in Braille, large print, on computer diskette or in any other alternative format mutually agreed upon between the carrier and the subscriber in accordance with Telecom Order CRTC 98-626, 26 June 1998;

e) the ILECs must add a description of the plan to their company website no later than **24 May 2005**; and

f) the ILECs must include a description of the plan, including the website addresses to access the company and the Commission Q of S information, in the introductory section of their white pages directories. Those ILECs that do not already have such information in their directories must add it at the time of their next directory updates.

VIII. Audits

205. In Public Notice 2003-3, parties were invited to provide their views on a number of issues relating to audits of the ILEC reporting of Q of S results and of the implementation of the final plan. The Commission has separated the issues raised by parties into three general categories:

a) the structure of the audit process;

b) ensuring uniform reporting of Q of S results; and

c) remedial measures in cases of non-compliance.

Each of these areas is discussed, in turn, below.

The audit process

Positions of parties

206. Allstream submitted that the ILECs had an incentive to "game" the system to avoid or delay payment of penalties. In Allstream's view, periodic audits would ensure that data collection and reporting was consistent across all ILECs. Allstream argued that the objective of the rate

adjustment plan was to ensure that the ILECs provide service that meets a minimum standard. In Allstreams' view, periodic audits would ensure that the ILECs' customers were treated equally and that the ILECs' reports would accurately reflect the level of service provided.

207. Allstream further submitted that an independent auditor should be responsible for reviewing and assessing the ILECs' internal measurement process relative to a pre-established manual for Q of S measurement. Allstream argued that the audit should encompass, but not be limited to, the sources of data, the consistency of the data used in determining the quality measure relative to similar internal data measures used to derive internal performance standards for service, productivity or other purposes. According to Allstream, the audit should also ensure that the calculation of the quality standard was consistent month-over-month as well as across all ILECs.

208. BCOAPO et al. submitted that an external audit process was necessary for all ILECs, but absolutely necessary for TCI. BCOAPO et al. argued that unannounced external audits should be conducted, especially with respect to serious and continuing problems and that when acceptable service levels were in place, internal audits could be adopted. BCOAPO et al. further submitted that service results should be certified by a senior executive officer of the ILEC.

209. TWU submitted that the reporting of Q of S results should be subject to an independent audit process and that the audits should be conducted on a random basis, at least annually, by accredited outside auditors paid for by the ILECs. TWU also proposed the use, at least annually, of unannounced on-site inspections to gather information from employees, with meetings away from the work site to prevent retribution from management. TWU submitted that on-site observation by auditors would enable a full understanding of each step of the reporting process.

210. TWU further submitted that audits should be directed by the Commission in consultation with an audit oversight committee established for the ILEC. TWU was of the view that the oversight committee should include representatives from the ILEC, the labour union, and an appropriate consumer group. TWU submitted that in the U.S. context, regulators had included union representatives on audit oversight committees. TWU submitted that the structure of the oversight committee should allow employees to bring information to the attention of the Commission without being publicly identified. TWU also suggested that the Commission could direct auditors to undertake investigations as might be advisable.

211. TWU submitted that the results of an audit should be made public in whole, subject to the ability of the ILEC to assert a claim of confidentiality and the ability of the Commission to order that such a part of the audit not be made public. TWU also submitted that the ILEC's Q of S results should be certified by one of its senior executive officers.

212. TELUS submitted that the ILECs should retain the primary responsibility and accountability for managing their Q of S performance, including reporting. TELUS argued that the review by internal auditors, on an on-going basis, should continue. TELUS was of the view that the intention of an audit would be to ensure compliance with established methodology, and would not be an audit of the methodology itself.

213. TELUS submitted that the Commission had the authority under section 71 of the Act to designate inspectors and auditors in order to verify full compliance with its decisions. TELUS submitted that there was no viable evidence that the ILEC results reporting was deficient or that auditors were, or would be, unable to verify ILEC reporting. TELUS also submitted that the suggestion of an oversight committee went far beyond the process normally put in place for financial audits.

214. The Companies proposed an audit process which would encompass four basic steps: an internal review, an external review, a report to the Commission, and, if necessary, remedial measures.

215. The first step of the Companies' proposal would be the internal review. The Companies indicated that they would take measures to ensure that internal controls were reasonably sufficient to ensure an error rate per indicator of 5% or less. Under the Companies' proposal, internal auditors would review a company's procedures and controls to assess their effectiveness. If the net error rate was found to be 5% or more for any indicator, a substantive audit would be performed for the transactions measured by that indicator. The Companies proposed that an annual internal audit report be provided to a designated company officer who would decide whether the Q of S results filed by the company with its annual retail Q of S rate adjustment plan report were presented fairly, in all material respects, for the period covered by that report. The opinion of the company officer would be included as part of the report.

216. As the second step, the Companies proposed that an external auditor would conduct an annual review of the work performed by the internal auditors. The Companies proposed that the costs of external audits be deducted from any rate adjustment amounts payable by the company and if there was no adjustment, the amount be drawn down from the deferral account. The Companies submitted that the Commission should select the same external auditor used for the company's financial results to lessen turnaround time and minimize costs. If the external auditor were to find major deficiencies with the internal audit, a detailed audit would be conducted.

217. The third step in the Companies' proposal would be a report by the external auditor to the Commission. The Companies submitted that the external auditor should prepare an annual report of its findings and recommendations to the Commission. The Companies submitted that, should the Commission consider making an audit report public, in whole or in part, the audited company should be given an opportunity to make their views known prior to releasing any external audit information to the public.

218. The final step in the Companies' proposal related to remedial measures which are discussed below, in the section dedicated to that issue.

219. The Companies argued against the suggestion of some parties that there be an audit oversight committee. According to the Companies, this would introduce an unnecessary adversarial element, as well as delays and complications for no justifiable purpose.

220. According to the Consumer Groups, it was critical to the integrity of the entire rate adjustment plan that all of the key elements be implemented, managed, and executed correctly. They argued that the proper collection and input of the raw data at the start of the Q of S measurement system

was as important as the distribution of the credit to customers. According to the Consumer Groups, the retail rate adjustment plan encompassed two major interconnected processes: 1) the measurement of Q of S performance, and 2) the processing of the Q of S results and revenue data to determine and distribute the required rate adjustment, if any.

221. The Consumer Groups submitted that the audit process should validate the accuracy of Q of S measures as well as rate adjustment results. They argued that there should be regular, independent annual audits to provide on-going oversight rather than random audits or simple reliance on internal audits. The Consumer Groups were of the view that it was appropriate for the ILECs to fund the costs of the independent audits directly. The Consumer Groups opposed the suggestion that audits should be funded from the ILEC deferral accounts. In their view, this would be an inappropriate use of deferral account monies and could trigger additional requests for funds to pay costs that were more appropriately paid directly by the ILECs.

222. The Consumer Groups submitted that the annual rate adjustment plan filing by an ILEC should include an attestation or certification by a senior executive of the ILEC regarding the accuracy of the results and compliance with established processes and procedures, including all relevant Commission determinations. The Consumer Groups also submitted that the creation of an audit oversight committee would enhance the audit process.

223. The Consumer Groups argued that the audit process was meant to enhance the effectiveness of the overall regime and that a key component of effectiveness was transparency, i.e., satisfying all stakeholders that the rate adjustment plan was operating as expected. As such, they suggested that the audit results should be made public (posted on the Commission website except for confidential sections) since public disclosure was one way of communicating whether or not the retail Q of S regime was being implemented as intended.

Commission analysis and determination

224. The Commission has identified four issues in relation to the structure of the audit process:

- the types of audits required;
- the funding of external audits;
- whether an oversight committee is required; and
- unannounced audits/on-site inspections.

Each of these issues is discussed, in turn, below.

The types of audits

225. In Decisions 2002-34 and 2002-43, the Commission determined that periodic audits of Q of S results would enhance the effectiveness of the plan. The Commission remains of that view. Audits serve as a quality control mechanism which protects against both inadvertent errors, as well as isolated or systemic bias. Audits are common in a wide range of contexts, both regulatory and contractual. The Commission concludes that they should form part of the Q of S regime and the plan.

226. In the Commission's view, the ILECs should retain primary responsibility and accountability for managing Q of S performance. The review by an ILEC's internal auditors of Q of S reporting and the plan results should be an on-going part of the ILEC's normal business practices.

227. Given the nature and purpose of the Q of S regime, the Commission is also of the view that periodic external audits are appropriate. In this regard, the Commission notes that no party opposed the idea of external audits. The Commission has determined that external auditors should conduct annual reviews of Q of S reporting in general, as well as of the related administration and reporting under the final plan. The annual external audit should generally be conducted by the same external auditor used to review a company's financial results. In the Commission's view, this would simplify the audit requirement, lessen turnaround time, and minimize costs for the ILECs.

228. In accordance with the above, the Commission determines that:

a) the ILECs must conduct annual audits to ensure compliance with the directives in this decision that pertain to the reporting of Q of S results and the calculation of payments under the final plan;

b) the annual audits are to be conducted by an external auditor and may be conducted in conjunction with annual financial audits; and

c) the ILECs must file with the Commission a report identifying any Q of S issues raised by the external auditor as a result of the audit. This report must be filed within 30 days of the completion of the auditors' report to the ILEC.

Funding external audits

229. The Companies proposed that the cost of external audits be deducted from the rate adjustment payment or from the deferral account, whereas some other parties suggested that the cost be borne by the ILECs. In the Commission's view, it would not be appropriate to deduct the cost of external audits from the funds to be distributed as this would impair the benefit of the plan. Similarly, the Commission does not consider it appropriate to use funds from the deferral accounts to pay for external audits. External audits are an integral part of the overall Q of S regime and, as such, should be funded directly by the ILECs. The Commission notes that if the costs of external audits were to have a material impact on an ILEC, the ILEC could apply for an exogenous adjustment under the price cap mechanism.

An audit oversight committee

230. A number of parties supported the establishment of an audit oversight committee. The Commission is concerned that such a committee could introduce an adversarial element into the audit process and might result in delays and complications for what are likely to be marginal gains, if any, in the audit process. In the absence of clear evidence justifying the establishment of such a committee, the Commission sees no need to do so at this time. Accordingly, the Commission will not require that an audit oversight committee be established at this time.

Unannounced audits/on-site inspections

231. The Commission notes that it has the authority to require that audits be conducted on-site on an unannounced basis. However, the Commission does not see a need to establish a regime of "surprise" audits at this time.

Ensuring uniform reporting of Q of S results

Positions of parties

232. The Consumer Groups submitted that the first step in control plans was to ensure that formal documentation existed on the methodology and procedures that should be used to produce Q of S results, as well as on how to calculate the rate adjustment payments. The Consumer Groups submitted that no such documentation existed and that Bell Canada had confirmed that no formal written manuals were used to produce results for monthly Q of S indicators. The Consumer Groups stated that, during the proceeding leading to Decision 2002-34, a Bell Canada witness accepted a requirement to develop formal documented procedures and to have these processes audited.

233. The Consumer Groups argued that reporting practices might vary from one company to another and the purpose of the Q of S indicator might be compromised. The Consumer Groups submitted that some ILECs had produced documentation regarding processes to produce Q of S results while others had not. The Consumer Groups argued that, in some cases, current Q of S indicators were ambiguous and inconsistent. They cited the following examples in support of their claim:

- Aliant Telecom included requests for optional services in indicator 1.1 (provisioning interval);

- some ILECs excluded time navigating integrated voice response (IVR) systems from indicator 1.5 (on hold duration); and

- SaskTel did not include time on hold after a customer service representative answered a call.

234. According to the Consumer Groups, it was critical to the integrity of the new regime and effectiveness of audits, that each Q of S indicator be clearly described, identifying all tasks covered by the indicator. The Consumer Groups proposed that each indicator be reviewed in detail and clarified to the extent necessary, prior to finalization of the Q of S report.

235. The Consumer Groups proposed that the ILECs develop a formal manual setting out the methodology and procedures to be followed to produce the Q of S indicator measurements and that this manual be submitted to the Commission for review and approval. In the view of the Consumer Groups, formal review and approval of the manuals would ensure that measuring, reporting, and interpretation of Commission definitions would be done in a consistent manner.

236. The Consumer Groups also proposed that the ILECs develop formal written methodologies and procedures regarding the rate adjustment plan processes. The Consumer Groups further proposed that the ILECs be required to submit these methodologies and procedures to the Commission for approval.

237. The Consumer Groups argued in favour of the clarification of key terms, concepts, methodologies, and procedures for recording and reporting Q of S indicators. The Consumer Groups indicated that they were deeply concerned about TCI's reporting practices in light of information which came to light in the course of the present proceeding. The Consumer Groups submitted that these concerns reinforced the need for consistent detailed guidelines, effective audits, and the use of on-site inspections.

238. Allstream submitted that a number of ILECs had little or no documentation in support of the existing Q of S measurement and reporting practices. Allstream further submitted that consistency among ILECs for data collection and reporting was questionable. According to Allstream, the documentation filed by the ILECs illustrated that the business rules varied substantially from one ILEC to another, and further, that those business rules revealed a significant amount of discretion for determining what measurements were excluded from results.

239. BCOAPO et al. submitted that the preferred approach would be for methods and procedures for measurement of Q of S indicators to be developed by the Commission. They suggested that, as an alternative, the Commission should establish a process by which it would oversee the development of consistent indicators by ILECs and other parties.

240. TWU submitted that the current definitions and measurement methods used to establish and enforce Q of S were unclear and inconsistent. TWU further submitted that the absence of universally understood meanings for Commission indicators resulted in varying ILEC practices for the same indicator. According to TWU, it was of the greatest importance that methodologies and procedures used to collect and report on Q of S be documented and subject to review by the Commission to ensure consistency throughout the industry. TWU submitted that the Commission should develop formal written methods and procedures regarding the measurement of each indicator, as well as methods and procedures to be used by the industry to produce Q of S results. TWU suggested that these methods and procedures should then be distributed to all ILEC employees, along with instructions to ensure those requirements were met.

241. TWU submitted that, based on the evidence and interrogatories in this proceeding, the data reported to the Commission by TCI did not reflect the actual level of Q of S the company had provided to its customers. TWU provided a list of questionable reporting and recording practices at TCI. In TWU's view, TCI had adopted various interpretations, practices, and methodologies that had masked deficiencies in performance. TWU submitted that the Commission needed to issue guidelines on proper interpretations or else the ILECs would continue to make their own interpretations. TWU submitted that the ILECs should develop formal Q of S operations manuals and submit them for Commission approval.

242. TELUS submitted that the Q of S indicators were established by the Commission many years ago and that the Commission had the authority to audit or inspect the measurement process at any time. TELUS proposed that all current processes, or those resulting from this proceeding,

would remain in place until the Commission directed otherwise. TELUS further submitted that formal documentation for Q of S reporting had not been a Commission requirement up to this point, and therefore few of the smaller companies had any, including TELUS Québec.

243. TELUS submitted that the intent of this proceeding in regard to audits was to ensure compliance with established methodologies to measure Q of S indicators and the calculation of the annual rate adjustment payments to customers, rather than audit the methodology itself. TELUS argued that the Commission had indicated in a staff letter of 27 October 2003 that an examination of the retail Q of S indicators themselves and an examination of the approved standards for those indicators were both outside the scope of this proceeding.

244. TELUS submitted that it would be advisable to establish a common set of criteria for conducting Q of S reviews, such as uniform definitions, frequencies, tolerances, threshold for, and timing of, reporting to the Commission. TELUS suggested that this should be done in a follow-up industry consultation process, which would ensure consistency of the audit criteria for the rate adjustment plan across Canada. TELUS submitted that the differences among ILECs were neither significant nor substantial and, in any event, would be addressed in the industry consultative process.

245. TELUS argued that Allstream had implied and the Consumer Groups had explicitly requested that the Commission approve Q of S manuals for each company. TELUS further noted that TWU had suggested that the Commission should issue specific guidelines for the interpretation of various retail Q of S indicators. TELUS submitted that although such an approach was adopted for the new competitor Q of S indicators, adoption and implementation of specific guidelines were not warranted for the retail Q of S indicators. TELUS noted that the Q of S indicators have been in place for years, following numerous Commission proceedings that painstakingly set out these indicators.

246. TELUS submitted that it had filed a copy of its business rules on the public record of this proceeding and these were available to the Commission, interested parties, and the company's auditors. According to TELUS, a further approval process was not necessary. TELUS indicated that they were prepared to include a section in its business rules dealing with the retail Q of S rate adjustment plan calculation process, as proposed by the Consumer Groups.

247. In the Companies' view, there was no indication in Public Notice 2003-3 that a review of indicators or their measurement was contemplated by the Commission as being within the purview of the proceeding. The Companies stated that they had been measuring and reporting service results as far back as 1978. The Companies were of the view that, at least in the short term, current procedures should continue to apply.

248. The Companies submitted that to provide guidance to operational groups, ILECs had to interpret Commission definitions and measurement methods for each individual service indicator. In doing so, each ILEC developed its own set of "business rules." The Companies submitted that these business rules would necessarily vary from ILEC to ILEC in order to reflect operational differences within each company. According to the Companies, definitions and measurement methods were not highly detailed for the most part, and were therefore

subject to differing interpretations. The Companies submitted that while some business rules might differ among ILECs for some indicators, this was not deliberate "misinterpretation" but rather resulted from operational differences.

249. The Companies submitted that if the Commission determined that common definitions and measurement criteria were necessary for auditors, then the Companies agreed with TELUS that a follow-up industry consultation process would be the appropriate forum for discussion. The Companies disagreed with the Consumer Groups that common measurement criteria should be set prior to finalizing the retail rate adjustment payments.

Commission analysis and determination

250. In the Commission's view, the record of this proceeding demonstrates that there are inconsistencies among the reporting methods the ILECs use for determining Q of S results. The Commission considers it important that there be consistent reporting methods and procedures among the ILECs, since the plan is based on the ILECs' Q of S results. Retail customers should receive uniform treatment under the plan, as applied by each ILEC, in keeping with the uniform Q of S standards applicable to all ILECs.

251. The Commission recognizes that consistency and data integrity in the measurement, reporting, and recording of Q of S results by an individual ILEC would be evaluated during internal and external audits. However, such audits would not identify or resolve reporting differences as between ILECs. In the Commission's view, the most efficient and effective way to ensure consistency of Q of S reporting would be to develop a business rules manual which would be used by the ILECs for Q of S reporting.

252. Accordingly, the Commission directs the CRTC Interconnection Steering Committee (CISC) to establish a working group to develop a model business rules manual for Q of S reporting. This CISC working group is to submit a model manual for Commission approval no later than **24 March 2006**. Subsequent to Commission approval, the ILECs will be required to comply with the model manual.

Remedial measures where non-compliance is identified during an audit

Positions of parties

253. Allstream submitted that where an ILEC was found to be non-compliant, the ILEC should be obliged to restate and re-submit its Q of S reports. Allstream argued that resubmission of reports and a recalculation of the rate adjustment payment should be accompanied by a fine or a penalty. In Allstream's view, without a secondary consequence, the ILECs could decide that the benefits of non-compliance outweighed the risks. Allstream argued that recent ILEC behaviour with respect to Commission rules bore this out.

254. The Consumer Groups submitted that where non-compliance was identified during an audit, remedial measures could include:

- correcting any measurement results and adjustment values that were affected by the non-compliance;

- conducting a follow-up audit to ensure that the processes and procedures had been updated to prevent future non-compliance; and
- implementing other measures, as deemed appropriate by the Commission, to ensure that the ILECs were in full compliance.

255. The Consumer Groups suggested that for a large adjustment value, it would be appropriate to add an interest payment to the revised adjustment value. The Consumer Groups further submitted that it was appropriate to penalize the ILECs by a sufficiently large amount in order to deter non-compliance. They suggested adding a premium equal to 100% of the payment that would have been made if the company had been compliant.

256. TWU submitted that if non-compliance with an ILEC's approved Q of S manual were identified during an audit, the auditors should estimate the extent of non-compliance and the period over which the non-compliance had taken place. TWU argued that if the results for a Q of S indicator had been over-stated, the indicator result should be retroactively reduced from the level reported by the ILEC by twice the difference between the original level and the estimated level of actual performance. The rate adjustment would then be revised on the basis of this revised Q of S result. TWU submitted that a follow-up audit should be conducted to ensure the ILEC corrected the non-compliance.

257. TWU submitted that the financial consequences of non-compliance should be determined by the provisions of the rate adjustment plan and should be proportional to the extent of the non-compliance. In TWU's view, this remedy would provide a reasonable disincentive to non-compliance.

258. The Companies submitted that if it was determined that the results of an audit did not comply with Commission directives, the results should be restated, with penalties payable based on the restated results. In the Companies' view, it would be unjust to penalize the Companies as a result of interpretations of the Commission's definitions and measurement methods made in good faith, but which may not strictly accord with later Commission clarifications of definitions and measurement methods.

259. The Companies submitted that the time required to effect restatement depended on a number of factors, such as the time period involved, the nature of non-compliance, the amount of system coding to remedy the problem, system capabilities, and data availability. The Companies also submitted that, in the event of non-compliance, they would develop and implement new procedures to ensure that any such non-compliance did not recur.

260. TELUS submitted that the remedial measures suggested by other parties for non-compliance found in the course of an audit were unwarranted and that such actions would amount to punitive action and would be outside the Commission's jurisdiction to implement. TELUS further submitted that the suggested remedial measures ignored the potential for a correction to reduce rather than increase the amount of the rate payment adjustment. In TELUS's view, where a discrepancy was identified by an audit, the rate adjustment should be recalculated as appropriate, and a credit or debit adjustment would be made, presumably on a going-forward basis.

Commission analysis and determination

261. A number of parties suggested that the Commission impose some form of fine or penalty upon an ILEC in the event that an audit revealed that the ILEC had not complied with the requirements of the Q of S monitoring system or the plan. The Commission notes that it does not have the authority under the Act to impose fines or penalties.

262. The Commission determines that if an audit were to reveal that an error had been made by an ILEC in its Q of S reporting or in the application of the plan, it would be necessary for the Commission to consider the nature and magnitude of the error in order to determine the proper remedial action. If there were an error in an ILEC's Q of S results then, at a minimum, those results would need to be restated to reflect the correct information. Similarly, an error in the calculation of a rate adjustment would need to be corrected to identify the correct rate adjustment. The materiality of any restatement or corrected adjustment could then be considered and an assessment by the Commission made as to what further action would be appropriate. The Commission concludes that such an assessment should necessarily be made on a case-by-case basis.

IX. Other matters

263. Parties to the present proceeding raised two ancillary issues relating the to retail rate adjustment plan:

- the future review of the final plan;
- symmetry with the competitive rate adjustment plan.

Each of these issues is discussed, in turn below.

Future review of the final plan

Positions of parties

264. The Consumer Groups submitted that the retail plan should be reviewed at the same time as other elements of the price cap regime, prior to the end of the price cap term in 2006. The Consumer Groups argued that it was likely that some fine-tuning would be required in the future in order to ensure that the plan was achieving its goals. In the Consumer Groups' view, it was important that a review be scheduled, to make any necessary modifications to the plan in accordance with its objectives.

Commission analysis and determination

265. The Commission's decision to establish a retail plan was made in the context of the two proceedings to determine the price cap regimes set out in Decisions 2002-34 and 2002-43. However, this fact does not provide a functional link between the retail plan and those price cap regimes. On the contrary, the retail plan operates on a stand-alone basis and is not dependent on the structure of the price cap baskets, the value of the price cap parameters or any other aspect of the price cap regimes. Consequently, the Commission determines that there

is no requirement to review the results of the retail plan in tandem with the price cap review, as suggested by the Consumer Groups. The Commission will monitor the implementation of the retail plan and will initiate a review of the retail plan if and when it considers it appropriate to do so.

Symmetry with the competitor rate adjustment plan

Positions of parties

266. Allstream submitted that in determining the rate adjustment plan for retail customers, the Commission should have regard to any impacts on the competitor rate adjustment plan and competition. In Allstream's view, the rate adjustments under these two plans should be brought into conformity. Allstream submitted that it was important that the retail plan did not have the inadvertent effect of influencing customer choice or allowing ILECs to use any remuneration for poor service as a means of retaining customers. According to Allstream, if the plans were asymmetric in terms of the magnitude of the rate adjustment, the ILECs would be motivated to meet service standards in one segment at the expense of the other. Allstream further submitted that it was important to recognize that the ILECs were service providers to both retail and competitor customers, and that there was a need to balance these customers' requirements when developing a plan for retail customers.

267. In Allstream's view, the magnitude of rate adjustments and the dissemination of information to end-customers regarding Q of S would influence competition and the relative treatment by the ILECs of retail and competitor customers. Allstream argued that if any of these elements were more onerous or stringent for one plan relative to the other, there would be negative ramifications for the other of these two stakeholder groups.

268. Allstream submitted that the magnitude of penalties between retail and competitor plans relative to the revenue accrued from each market segment differed substantially. Allstream argued that the retail plan was based on a maximum of 5% of total annual local business and residential revenues, whereas the competitor plan had a direct link to service rates for only a small portion of competitors' annual expenditures on local services. According to Allstream, this difference meant that the same level of sub-standard service quality would result in far lower penalties associated with competitors than with the ILECs' retail customers.

Commission analysis and determination

269. The retail and competitor plans are based on ILEC services provided to distinct customer groups. In the Commission's view, each plan must focus on the Q of S results for the services that come within the scope of the plan if it is to function properly.

270. Accordingly, the Commission determines that there is no need for a comparative analysis of the rate adjustments under the retail plan and those which might arise under the competitor plan.

X. Implementation

271. This section sets out the actions required for the interim plan, as well as the ongoing procedures for the final plan.

272. The ILECs are to use 5% of the total revenue base, as approved by the Commission in this and any relevant subsequent decisions, to determine the TMAV.

Interim plan

273. The reporting periods for each of the ILECs under the interim plan are as follows:

- 18 months for Aliant Telecom, Bell Canada, MTS and TCI from 1 July 2002 to 31 December 2003;
- 15 months for Télébec and TELUS Québec from 1 October 2002 to 31 December 2003;
- 18 months for SaskTel from 1 July 2003 to 31 December 2004; and
- 12 months for all companies, except SaskTel, from 1 January to 31 December 2004.

274. The Commission determines that, in order to prevent an undue delay in the processing of customer credits which may be required due to below standard Q of S results during the interim period, it is appropriate to require an interim customer credit which will later be finalized once a determination is made on the final revenue base to determine the TMAV. The interim customer credit is to be based on a TMAV calculated from total revenues from: the residential local exchange services in non-HCSAs and HCSAs baskets; the residential optional local services in non-HCSAs and HCSAs baskets; the single and multi-line business local exchange service basket; and total Centrex revenues from the uncapped services basket.

275. Based on filed Q of S results for 2002, 2003 and 2004, the following ILECs will be required to implement customer credits for the following reporting periods, subject to approval of exclusion applications:

- Aliant Telecom: 2004
- MTS: 2002-2003, 2004
- TCI: 2002-2003, 2004
- TELUS Québec: 2002-2003

276. Accordingly, Aliant Telecom, MTS, TCI and TELUS Québec are required to file the following information by **25 April 2005**:

- total Centrex revenues for the interim reporting period ending 31 December 2003 (except Aliant Telecom) and for the interim reporting period ending 31 December 2004 (except TELUS Québec);

- the MAV per indicator based on the total revenues for each of the service baskets identified above together with the total Centrex revenue, for the first interim reporting period ending 31 December 2003 (except Aliant Telecom);

- the MAV per indicator based on the total revenues for each of the service baskets identified above together with the total Centrex revenue for the second interim reporting period ending 31 December 2004 (except TELUS Québec);

- a proposed billing insert as determined in this decision; and

- the calculation of the total customer credits must be made using Appendices A and C.

277. ILECs shall file an application by **25 April 2005** identifying any adverse events during the interim period for which an exclusion is sought. These applications will be determined on a case-by-case basis. The applications shall be posted to the ILEC's website coincident with filing and on the Commission's website. Copies of exclusion applications shall be provided to parties who actively participated in this proceeding. Parties shall provide comments by **9 May 2005** and the ILECs shall file reply comment by **16 May 2005**.

278. The interim customer credit must be implemented no later than 30 June 2005 for ILECs not filing exclusion applications or by no later than 30 days following the date of the Commission's determination in the case of exclusion applications. The credit is to apply to customers of record on 31 May 2005 unless otherwise determined by the Commission as a result of exclusion applications. Furthermore, Aliant Telecom, MTS, TCI and TELUS Québec must file with the Commission by no later than 30 June 2005 or by no later than 30 days following the date of Commission determinations in the case of exclusion applications, the amount of the customer credit on a per NAS basis and the NAS count used to determine the customer credit.

279. In order to finalize the revenue base to determine the TMAV, the Commission directs Aliant Telecom, MTS, TCI, and TELUS Québec to file with the Commission, providing a copy to parties who actively participated in this proceeding, by **25 April 2005**, for each of the other capped services basket, uncapped services basket (except Centrex), public telephone services basket and services with frozen rate treatment the following information:

a) a list of each tariff item and related revenue for the following periods:

- MTS and TCI from 1 July 2002 to 31 December 2003;

- TELUS Québec from 1 October 2002 to 31 December 2003; and

- Aliant Telecom, MTS and TCI from 1 January 2004 to 31 December 2004.

b) supporting arguments as to why each of the tariff items identified in a) should or should not be included in the revenue base from which to calculate the TMAV.

280. In addition, ILECs not required to implement interim customer credits are directed to file with the Commission, providing a copy to parties who actively participated in this proceeding, by **25 April 2005**, for each of the other capped services basket, uncapped services basket (except Centrex), public telephone services basket and services with frozen rate treatment a current list of each tariff item and supporting arguments as to why each of the tariff items identified should or should not be included in the revenue base from which to calculate the TMAV.

281. Interested parties shall submit comments with the Commission, providing copies to the ILECs by **24 May 2005** and the ILECs shall file reply comments with the Commission, providing copies to any interested parties who filed comments, by **2 June 2005**.

282. The Commission will establish the procedure for making any adjustments to the interim customer credits in its decision regarding the services to be included in calculating the TMAV under the plan and the final amount of the TMAV for the interim period.

Final plan

283. The final plan will apply for each calendar year commencing 1 January 2005. Under the final plan the ILECs are required to:

a) file any application for exclusion of Q of S results within 21 days of the end of an adverse event and, in the case of an ongoing event, within 21 days of the end of the reporting period. Should new information arise, ILECs may request an amended determination no later than three months after the end of the reporting period unless otherwise determined by the Commission;

b) post all exclusion applications on their website coincident with filing and on the Commission's website where the ongoing Q of S results are posted. Copies of exclusion applications are to be provided to parties who actively participated in this proceeding. Parties shall have 14 days from the date of filing of the exclusion application in which to file comments and the ILECs shall have 21 days to file reply comments; and

c) continue to file regular monthly and quarterly Q of S reports.

284. If a customer credit is payable, the ILECs are required to:

a) file with the Commission an annual retail plan report by 31 March following the year under report;

b) determine the per NAS customer credits based on the eligible customers of record on 31 May following the year under report;

c) file with the Commission the amount of the customer credit on a per NAS basis and the NAS count used to determine the customer credit by 15 June following the year under report; and

d) apply the credits to eligible customers no later than 30 June following the year under report.

285. The annual retail plan report must set out:

- the total revenues subject to adjustment, as well as a break down of the total revenues into the revenues for each basket or service grouping generating local revenues;
- the TMAV for the reporting year;
- the calculation of the total customer credits must be made using Appendices B and C; and
- a proposed billing insert as determined in this decision.

286. The ILECs must add a description of the retail plan, including the website addresses to access the company and the Commission's Q of S information, in the introductory section of their white pages directories. Those ILECs that do not already have such information in their directories must add it at the time of their next directory updates.

287. Each ILEC must retain an external auditor to conduct an annual audit of the reporting of its Q of S results and the calculation of its retail rate adjustment, if any. The ILEC must file with the Commission, within 30 days of the completion of the external auditor's report, a detailed report identifying any issues raised by the external auditor.

288. The CISC is to establish a working group to develop a model business rules manual for Q of S reporting. The manual is to be submitted to the Commission for approval no later than **24 March 2006**. Following Commission approval, the ILECs will be required to comply with the model manual.

Secretary General

This document is available in alternative format upon request, and may also be examined in PDF format or in HTML at the following Internet site: http://www.crtc.gc.ca

Retail Quality of Service Rate Adjustment Plan
Interim Standard Adjustment Table

Average Annual Performance Ratio (AAP ratio)	Rate adjustment as a percentage of MAV (standard adjustment (SA))
10.0	0
9.50 to 9.99	25
9.00 to 9.49	30
8.50 to 8.99	35
8.00 to 8.49	40
7.75 to 7.99	45
7.50 to 7.74	50
7.25 to 7.49	60
7.00 to 7.24	70
6.50 to 6.99	80
6.00 to 6.49	90
5.50 to 5.99	92
5.00 to 5.49	94
4.50 to 4.99	96
4.00 to 4.49	98
Below 4.00	100

Appendix B

Retail Quality of Service Rate Adjustment Plan
Final Standard Adjustment Table

Average Annual Performance Ratio (AAP ratio)	Rate adjustment as a percentage of MAV (standard adjustment (SA))
10.00	0.0
9.75 – 9.99	25.0
9.50 – 9.74	45.0
9.25 – 9.49	60.0
9.00 – 9.24	70.0
8.75 – 8.99	78.0
8.50 – 8.74	84.0
8.25 – 8.49	89.0
8.00 – 8.24	93.0
7.75 – 7.99	96.0
7.50 – 7.74	98.0
7.25 – 7.49	99.0
7.00 – 7.24	100.0
Less than 7.0	100.0

Retail Quality of Service Rate Adjustment Plan
Illustrative Calculations

Step 1 – Calculate the Total Maximum Adjustment Value (TMAV)

The TMAV represents 5% of the total revenue base calculated in accordance with the Commission's determination in this decision and any relevant subsequent decisions.

Note: For the interim period, ILECs shall base the calculations for TMAV on 6 months, 15 months, or 18 months, as appropriate. Calculations for the final plan will be based on a calendar year.

EXAMPLE

Revenue Base		Percentage	TMAV
$4,500,250,000.00	x	5.00%	**$225,012,500.00**

Step 2 - Calculate the Maximum Adjustment Value (MAV) per Q of S indicator

MAV = TMAV / number of Q of S indicators subject to the plan in accordance with the Commission's determination in this decision.

Note: Where rural and urban indicators are reported, count as one service category.

EXAMPLE

TMAV		Indicators subject to the plan	MAV
$225,012,500.00	/	13	**$17,308,653.85**

Retail Quality of Service Rate Adjustment Plan
Illustrative Calculations

Step 3 - Calculate Annual Average Performance (AAP) for each Q of S Indicator

Add monthly performance results for each indicator subject to the plan and divide the sum by the number of months for the reporting period to establish the AAP. Where a performance is not reported the result is 0%.

EXAMPLE

	Sum of monthly results (a)	Number of months (b)	**AAP** **(c)** **(a)/(b)**
Indicator 1	1035.6	12	**86.30**
Indicator 2	878.4	12	**73.20**
Indicator 3	1114.5	12	**92.88**
Indicator 4	1095.2	12	**91.27**
Indicator 5	828.5	12	**69.04**
Indicator 6 – urban	837.0	12	**69.75**
Indicator 6 – rural	1071.4	12	**89.28**
Indicator 7	45.6	12	**3.8**
Indicator 8	48.0	12	**4.0**

Retail Quality of Service Rate Adjustment Plan
Illustrative Calculations

Step 4 - Calculate the Annual Average Performance ratio (AAP ratio)

For each indicator, calculate the AAP ratio by dividing the AAP results from Step 4 by the established standard for the indicator (column (b) below) and multiply the result by 10. (Note: the maximum AAP ratio = 10)

EXAMPLE

	AAP (from step 3) (a)	**Standard (b)**	**AAP ratio (c) ((a)/(b))*10**
Indicator 1	86.30	90	**9.59**
Indicator 2	73.20	80	**9.15**
Indicator 3	92.88	90	**10.00**
Indicator 4	91.27	90	**10.00**
Indicator 5	69.04	90	**7.67**
Indicator 6 – urban	69.75	90	**7.75**
Indicator 6 – rural	89.28	90	**9.92**

Where the standard is expressed as "x% or less" as for indicator 1.3 A/B and 2.3 A/B the following calculation is required to calculate the AAP ratio.

Indicator 7			
Standard – 3.3% or less per 100 NAS	100-3.8 *(results from step 3)* = 96.2	100-3.3 *(standard)* = 96.7	**9.95**
Indicator 8			
Standard – 5.5% or less per 100 NAS	100-4.0 = 96.0	100-5.5 = 94.5	**10.00**

Retail Quality of Service Rate Adjustment Plan
Illustrative Calculations

Step 5a - Calculate the Q of S Adjustment (QSA) for each indicator

To calculate the QSA, the AAP ratio established in step 4 above is converted to the appropriate Standard Adjustment (SA) value in accordance with the Standard Adjustment Table (found in Appendices A and B of this decision). The MAV for each indicator is then multiplied by the SA.

EXAMPLE (based on the final Standard Adjustment Table – Appendix B)

Indicators	AAP Ratio	SA	QSA*
Indicator 1	9.59	45%	$7,788,894.23
Indicator 2	9.15	70%	$12,116,057.70
Indicator 3	10	0%	$0
Indicator 4	10	0%	$0
Indicator 5	7.67	98%	$16,962,480.77
Indicator 7	9.95	25%	$4,327,163.46
Indicator 8	10	0%	$0

* QSA = MAV determined in step 2 of $17,308,653.85 x SA of 45%.

Step 5b - Calculate the QSA for indicators with a rural and urban split

For Rural and Urban, apply 50% of the MAV for the rural and 50% of the MAV for the urban AAP.

EXAMPLE (based on the final Standard Adjustment Table – Appendix B)

Indicators	AAP Ratio	SA	(MAV/2)**	QSA
Indicator 6 – Rural	7.75	96%	$8,654,326.92	$8,308,153.85
Indicator 6 – Urban	9.92	25%	$8,654,326.92	$2,163,581.73

** $17,308,653.85 / 2 = $8,654,326.92

Step 5c – For the final plan, calculate the QSA for each indicator for which the annual average performance result is equal to or above the approved standard for that indicator, but which falls below that standard for five or more months in the reporting year

For this situation, the QSA is calculated by multiplying the MAV for that indicator by 15%.

Indicator	AAP	SA	MAV	QSA
Indicator 4	10	15%	$17,308,653.85	$2,596,298.08

Retail Quality of Service Rate Adjustment Plan
Illustrative Calculations

Step 6 – Total QSA for the year

Indicator	QSA
Indicator 1	$7,788,894.23
Indicator 2	$12,116,057.70
Indicator 3	$0
Indicator 4	$2,596,298.08
Indicator 5	$16,962,480.77
Indicator 6 – rural	$8,308,153.85
Indicator 6 – urban	$2,163,581.73
Indicator 7	$4,327,163.46
Indicator 8	$0
TOTAL - QSA	**$54,262,629.82**

Step 7 – Calculate the credit to customers

The credit to customers is calculated by dividing the total QSA by the number of eligible NAS in accordance with the Commission's determination in this decision and any relevant subsequent decisions.