



Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

RECEIVED FPSC
AUG -2 PM 1:28
COMMISSION CLERK

DATE: August 2, 2001

TO: DIRECTOR, DIVISION OF COMMISSION CLERK AND ADMINISTRATIVE SERVICES (BAYÓ)

FROM: DIVISION OF REGULATORY OVERSIGHT (HARVEY, VINSON, HALLENSTEIN, KELLY) *mate*
 DIVISION OF COMPETITIVE SERVICES (SIMMONS) *msd*
 DIVISION OF LEGAL SERVICES (FUDGE, B. KEATING) *BK*

RE: DOCKET NO. 000121-TP - INVESTIGATION INTO THE ESTABLISHMENT OF PERMANENT PERFORMANCE MEASURES FOR INCUMBENT LOCAL EXCHANGE TELECOMMUNICATIONS COMPANIES.

AGENDA: 08/14/01 - REGULAR AGENDA - POST HEARING DECISION - PARTICIPATION IS LIMITED TO COMMISSIONERS AND STAFF.

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\RG0\WP\000121.RCM

DOCUMENT NUMBER-DATE
09419 AUG-20
FPSC-COMMISSION CLERK

DOCKET NO. 000121-TP
DATE: August 2, 2001

CASE BACKGROUND

The Commission opened this docket to develop permanent performance metrics for the ongoing evaluation of operations support systems (OSS) provided for alternative local exchange carriers (ALEC) use by incumbent local exchange carriers (ILECs). Associated with the performance metrics is a monitoring and enforcement program that is to ensure that ALECs receive nondiscriminatory access to the ILEC's OSS. Performance monitoring is necessary to ensure that ILECs are meeting their obligation to provide unbundled access, interconnection and resale to ALECs in a nondiscriminatory manner. Additionally, it establishes a standard against which ALECs and the Commission can measure performance over time to detect and correct any degradation of service provided to ALECs.

This docket consists of three phases. Phase I began with workshops between Commission staff and members of the ALEC and ILEC communities. These workshops were held on March 30, 2000, August 8, 2000, and December 13, 2000. The purpose of Phase I was to determine and resolve any policy and legal issues in this matter. Phase II will involve establishing permanent metrics for BellSouth Telecommunications, Inc. (BellSouth), including a specific monitoring and enforcement program. The procedural requirements and dates set forth in the Order Establishing Procedure pertain to Phases I and II. The performance assessment plan resulting from Phases I and II will apply to BellSouth only. An administrative hearing for Phases I and II was held on April 25-27, 2001. At the completion of Phase II, staff will begin Phase III of this docket, which will entail the establishment of performance metrics and a performance monitoring and evaluation program for the other Florida ILECs.

The Commission is vested with jurisdiction over this matter pursuant to Sections 364.01(3) and (4)(g), Florida Statutes. Pursuant to Section 364.01 (3), Florida Statutes, the Florida legislature has found that regulatory oversight is necessary for the development of fair and effective competition in the telecommunications industry. To that end, Section 364.01 (4) (g), Florida Statutes, provides, in part, that the Commission shall exercise its exclusive jurisdiction in order to ensure that all providers of telecommunication service are treated fairly by

DOCKET NO. 000121-TP

DATE: August 2, 2001

preventing anticompetitive behavior. Furthermore, it is noted that the FCC has encouraged the states to implement performance metrics and monitoring for purposes of evaluating the status of competition under the Telecommunications Act of 1996.

By Order No. PSC-01-1097-PCO-TP, issued May 8, 2001, all parties were granted a two-week extension to file post hearing briefs. The ALEC Coalition filed a post-hearing brief on behalf of MCI Metro Access Transmission Services, LLC; MCI WorldCom Communications, Inc., (WorldCom); DIECA Communications Company d/b/a Covad Communications Company (Covad); Mpower Communications Corp. (Mpower); e.spire Communications, Inc. (e.spire); and ITC^DeltaCom Communications, Inc. (ITC^DeltaCom). The Florida Cable Telecommunications Association (FCTA) also filed a post-hearing brief but did not take a position on any issue and, therefore, will not be listed in the Position of the Parties. Staff has considered the FCTA argument and basic position in formulating its recommendation. Staff notes that KMC Telecom Inc. (KMC), Time Warner Telecom of Florida, L.P. (Time Warner), and IDS Telecom LLC (IDS) did not file post-hearing briefs. Therefore, pursuant to the terms of the Prehearing Order, those parties have waived all issues. At the hearing, the following parties stipulated to issues A, 7, 14a, and 14b: BellSouth, AT&T, e-spire, FCTA, WorldCom, KMC, Covad, Mpower, Z-tel, Time Warner, and IDS.

TABLE OF CONTENTS

TABLE OF ATTACHMENTS - 10 -

LIST OF ACRONYMS USED IN RECOMMENDATION - 11 -

ISSUE A How should the results of KPMG's review of
BellSouth performance measures be incorporated
into this proceeding? (STIPULATED) - 14 -

ISSUE 1A What are the appropriate service quality
measures to be reported by BellSouth? (HARVEY) - 15 -

ISSUE 1B What are the appropriate business rules,
exclusions, calculations, and levels of
disaggregation and performance standards
for each? (HARVEY) - 37 -

ISSUE 2A What are the appropriate Enforcement
Measures to be reported by BellSouth for
Tier 1 and Tier 2? (HARVEY) - 85 -

ISSUE 2B What are the appropriate levels of
disaggregation for compliance reporting? (HARVEY) - 99 -

ISSUE 3A What performance data and reports
should be made available by BellSouth
to ALECs? (KELLEY) - 111 -

ISSUE 3B Where, when, and in what format should
BellSouth performance data and reports be
made available? (KELLEY) - 116 -

ISSUE 4A Does the Commission have the legal
authority to order implementation of
a self-executing remedy plan? (FUDGE) - 119 -

ISSUE 4B With BellSouth's consent? (FUDGE) - 132 -

ISSUE 4C Without BellSouth's consent? (FUDGE) - 133 -

DOCKET NO. 000121-TP
DATE: August 2, 2001

ISSUE 5A	Should BellSouth be penalized when BellSouth fails to post the performance data and reports to the Web site by the due date? (KELLEY)	- 134 -
ISSUE 5B	If so, how should the penalty amount be determined, and when should BellSouth be required to pay the penalty? (KELLEY)	- 138 -
ISSUE 6A	Should BellSouth be penalized if performance and reports published on the BellSouth Web site are incomplete or inaccurate? (KELLEY)	- 141 -
ISSUE 6B	If so, how should the penalty amount be determined, and when should BellSouth be required to pay the penalty? (KELLEY)	- 145 -
ISSUE 7	What review process, if any, should be instituted to consider revisions to the Performance Assessment Plan that is adopted by this Commission? (STIPULATED)	- 149 -
ISSUE 8	When should the Performance Assessment Plan become effective? (KELLEY, FUDGE)	- 151 -
ISSUE 9	What are the appropriate Enforcement Measurement Benchmarks and Analogs? (HARVEY)	- 156 -
ISSUE 10	Under what circumstances, if any, should BellSouth be required to perform a root cause analysis? (KELLEY)	- 161 -
ISSUE 11A	What is the appropriate methodology that should be employed to determine if BellSouth is providing compliant performance to an individual ALEC? (Tier 1) (SIMMONS)	- 164 -
ISSUE 11B	How should parity be defined for purposes of the Performance Assessment Plan? (SIMMONS)	- 164 -

ISSUE 11C What is the appropriate structure? (SIMMONS) . - 164 -

1. What is the appropriate statistical methodology? (SIMMONS)
2. What is the appropriate parameter delta, if any? (SIMMONS)
3. What is the appropriate remedy calculation? (SIMMONS)
4. What is the appropriate benchmark table for small sample sizes? (SIMMONS)
5. Should there be a floor on the balancing critical value? (SIMMONS)

ISSUE 12A What is the appropriate methodology that should be employed to determine if BellSouth is providing compliant performance on a statewide ALEC-aggregate basis? (Tier 2) (SIMMONS) - 164 -

ISSUE 12B How should parity be defined for purposes of the Performance Assessment Plan? (SIMMONS) - 164 -

ISSUE 12C What is the appropriate structure? (SIMMONS) . - 164 -

1. What is the appropriate statistical methodology? (SIMMONS)
2. What is the appropriate parameter delta, if any? (SIMMONS)
3. What is the appropriate remedy calculation? (SIMMONS)
4. What is the appropriate benchmark table for small sample sizes? (SIMMONS)
5. Should there be a floor on the balancing critical value? (SIMMONS)

ISSUE 13 When should BellSouth be required to make payments for Tier 1 and Tier 2 noncompliance, and what should be the method of payment? (SIMMONS) - 189 -

DOCKET NO. 000121-TP
DATE: August 2, 2001

ISSUE 14A	Should BellSouth be required to pay interest if BellSouth is late in paying an ALEC the required amount for Tier 1? (STIPULATED)	- 191 -
ISSUE 14B	If so, how should the interest be determined? (STIPULATED)	- 192 -
ISSUE 15	Should BellSouth be fined for late payment of penalties under Tier 2? If so, how? (HALLENSTEIN)	- 193 -
ISSUE 16	What is the appropriate process for handling Tier 1 disputes regarding penalties paid to an ALEC? (HALLENSTEIN)	- 196 -
ISSUE 17	What is the appropriate mechanism for ensuring that all penalties under Tier 1 and Tier 2 Enforcement Mechanisms have been paid and accounted for? (HALLENSTEIN)	- 199 -
ISSUE 18	What limitation of liability, if any, should be applicable to BellSouth? (VINSON) . .	- 201 -
ISSUE 19A	What type of cap, if any, is appropriate for inclusion in the Performance Assessment Plan? (VINSON)	- 204 -
ISSUE 19B	What is the appropriate dollar value of a cap if applicable? (VINSON)	- 208 -
ISSUE 20	What process, if any, should be used to determine whether penalties in the excess of the cap should be required? (VINSON)	- 211 -
ISSUE 21	If there is a cap, for what period should the cap apply? (VINSON)	- 213 -

DOCKET NO. 000121-TP
DATE: August 2, 2001

ISSUE 22	Should the Performance Assessment Plan include a Market Penetration Adjustment, and if so how should such an adjustment be structured? (SIMMONS)	- 215 -
ISSUE 23	Should the Performance Assessment Plan include a Competitive Entry Volume Adjustment, and if so how should such an adjustment be structured? (SIMMONS)	- 217 -
ISSUE 24A	Should periodic third-party audits of Performance Assessment Plan data and reports be required? (HALLENSTEIN)	- 219 -
ISSUE 24B	If so, how often should audits be conducted, and how should the audit scope be determined? (HALLENSTEIN)	- 228 -
ISSUE 25	If periodic third-party audits are required, who should be required to pay the cost of the audits? (HALLENSTEIN)	- 230 -
ISSUE 26	Who should select the third-party auditor if a third-party audit is required? (HALLENSTEIN)	- 232 -
ISSUE 27A	Should an ALEC have the right to audit or request a review by BellSouth for one or more selected measures when it has reason to believe the data collected for a measure is flawed or the report criteria for the measure is not being adhered to? (HALLENSTEIN)	- 234 -
ISSUE 27B	If so, should the audit be performed by an independent third party? (HALLENSTEIN)	- 237 -
ISSUE 28	Should BellSouth be required to retain performance measurement data and source data, and if so, for how long? (HALLENSTEIN)	- 239 -
ISSUE 29	What is the appropriate definition of "affiliate" for the purpose of the Performance Assessment Plan? (VINSON)	- 241 -

DOCKET NO. 000121-TP
DATE: August 2, 2001

ISSUE 30A Should BellSouth be required to provide
"affiliate" data as it relates to
the Performance Assessment Plan? (VINSON) . . . - 243 -

ISSUE 30B If so, how should data related to BellSouth
affiliates be handled for purposes of (VINSON) - 246 -

1. Measurement reporting? (VINSON)
2. Tier 1 compliance? (VINSON)
3. Tier 2 compliance? (VINSON)

ISSUE 31 Should this docket be closed? (VINSON) - 249 -

DOCKET NO. 000121-TP
DATE: August 2, 2001

TABLE OF ATTACHMENTS

Attachment 1	Number of Proposed Metrics by Category . . .	- 30 -
Attachment 2	Analysis of Proposed Service Quality Measures	- 31 -
Attachment 3	ALEC Proposed Changes to Business Rules, Standards and Disaggregation	- 51 -
Attachment 4	Level of Disaggregation by Metric	- 65 -
Attachment 5	Service Quality Measures Disaggregation and Standards	- 70 -
Attachment 6	Proposed Enforcement Mechanisms Measures . .	- 94 -
Attachment 7	Enforcement Measures Disaggregation and Standards	- 103 -
Attachment 8	BellSouth's Performance Assessment Plan - State versus Regional Report Scope . .	- 222 -

DOCKET NO. 000121-TP
DATE: August 2, 2001

List of Acronyms Used in Recommendation

Act: The Federal Communications Commission Telecommunications Act of 1996

ALEC: Alternative Local Exchange Company

ARMIS: Automated Reporting Management Information System

ASR: Access Service Request

BFR: Bona Fide Request

BOC: Bell Operating Company

BRC: Business Repair Center

BST: BellSouth Telecommunications Company, Inc.

CSOTS: CLEC Service Order Tracking System

DSL: Digital Subscriber Line

DUF: Daily Usage File

ECTA: Electronic Communications Trouble Administration

EEL: Extended Enhanced Loop

FOC: Firm Order Confirmation

FPSC: Florida Public Service Commission

HDSL: High Speed Digital Subscriber Loop/Line

ILEC: Incumbant Local Exchange Company

IS: Interconnection Services

KPMG: KMPG Consulting Inc.

DOCKET NO. 000121-TP

DATE: August 2, 2001

LCSC: Local Carrier Service Center

LERG: Local Exchange Routing Guide

LIDB: Line Information Database

LNP: Local Number Portability

LON: Local Order Numbering

LRN: Location Routing Number

LSR: Local Service Request

NXX: Prefix portion of a telephone number

OSDA: Operator Services Directory Assistance

OSS: Operations Support Systems

PAP: Performance Assessment Plan

PF: Pending Facilities

PMAP: Performance Measurement Analysis Platform

PSC: Public Service Commission

PSIMS: Product/Service Order Inventory Management System

RNS: Regional Negotiation System

ROS: Regional Ordering System

SQM: Service Quality Measures

SEEM: Self-Effectuating Enforcement Mechanism

SOCS: Service Order Control System

SWBT: Southwestern Bell Telephone

DOCKET NO. 000121-TP

DATE: August 2, 2001

TAFI: Trouble Analysis Facilitation Interface

TSOCT: Total Service Order Cycle Time

UCL: Unbundled Copper Link

UNE: Unbundled Network Element

VSEEM: Voluntary Self-Effectuating Enforcement Mechanism

DOCKET NO. 000121-TP

DATE: August 2, 2001

ISSUE A: How should the results of KPMG's review of BellSouth performance measures be incorporated into this proceeding?

RECOMMENDATION: Staff recommends the Commission approve the stipulated position of the parties.

STIPULATED POSITION OF THE PARTIES:

Any appropriate modifications should be addressed as part of the next performance assessment plan review cycle. This review should occur approximately six months after completion of this proceeding.

STAFF ANALYSIS:

Staff recommends approval of the stipulated position, which was agreed to by BellSouth, AT&T, e.spire, FCTA, Worldcom, KMC, Covad, Mpower, Z-tel, Time Warner and IDS, and filed in this docket as document number 09141-01.

DOCKET NO. 000121-TP

DATE: August 2, 2001

ISSUE 1a: What are the appropriate service quality measures to be reported by BellSouth?

RECOMMENDATION: All 71 metrics proposed by BellSouth should be adopted as part of the Florida SQMs. Additionally, the following four metrics should be included in the Florida Service Quality Measures:

Percent Order Accuracy

Percent Completion/Attempts without a Notice or with less than 24 Hours Notice

Percent Completion of Timely Loop Modification

Percent Billing Errors Corrected in X Days

(HARVEY)

POSITIONS OF THE PARTIES:

BST: The appropriate service quality measures to be reported by BellSouth are those contained in the BellSouth Service Quality Measurements (SQMs), which are attached to the testimony of BellSouth witness David Coon as Exhibit DAC-1. (Exhibit 16)

ALEC: The Commission should require BellSouth to implement additional measures and to modify its existing measures as proposed by the ALEC coalition in testimony and Exhibit 14.

Z-TEL: Z-Tel adopts the position stated by the ALEC Coalition.

STAFF ANALYSIS: This issue considers what the appropriate measures are for purposes of monitoring nondiscrimination in Operation Support Systems provided to ALECs. It is important that the metrics capture all key aspects of ILEC service while avoiding redundant and unimportant metrics. The major measurement categories are preordering, ordering, provisioning, maintenance and repair, and billing. In addition, the following categories are also included: operator service and directory assistance, database information, E911, trunk group performance, collocation, and change management. BellSouth has proposed 71 measures, while the ALEC Coalition has proposed 92 measures.

Argument

BellSouth's Service Quality Measurements (SQMs) are designed to evaluate the quality of service delivered to BellSouth's wholesale and retail customers. (TR 241) BellSouth Witness Coon states that the appropriate service quality measures to be reported by BellSouth are attached to his testimony in DAC-1 (Exhibit 16). Witness Coon states that BellSouth measurements are the result of more than two years of work with direction provided by several state commissions and the FCC and input provided by various ALECs. Witness Coon also states that more than 87 ALECs currently have agreements with BellSouth in Florida that include the SQMs proposed by BellSouth. BellSouth believes "[t]he SQMs are more than adequate to allow the Florida Public Service Commission and the ALECs to monitor BellSouth's performance and to determine that nondiscriminatory access to BellSouth's Operations Support Systems (OSSs) is being provided to ALECs in Florida." (TR 240-241)

BellSouth's Witness Coon states that the BellSouth SQM document is a comprehensive and detailed description of BellSouth Service Quality Measurements. Witness Coon explains the SQMs are divided into eleven sections, each one representing a different group of measurements relating to a specific portion of BellSouth's Operations Support Systems. "The end result is eleven sections totaling 71 measurement categories." (TR 241-242)

ALEC Witness Kinard believes that a performance measurement plan needs to be comprehensive because significant gaps in coverage can make it extraordinarily difficult and time-consuming to detect and deter below parity performance. Witness Kinard states that when an area of BellSouth's performance is not covered by a metric, the primary tool available to an ALEC to remedy poor performance is an action to enforce the party's interconnection agreement. Witness Kinard continues that enforcement actions based upon disparate treatment can be uphill battles because the ALEC must prove that BellSouth is providing better service to itself, its customers or its affiliates than to the ALEC. To make the case, the ALEC must somehow obtain accurate interval BellSouth information concerning the services it provides to itself, its customers or its affiliates. Even if this can be done, Witness Kinard says an enforcement case can take far too long for an ALEC attempting to solve an immediate problem affecting its business. According to Witness Kinard, "[c]omprehensive performance metrics therefore go

DATE: August 2, 2001

hand-in-hand with the potential for broad scale entry into the local market." (Kinard TR 121)

ALEC Witness Kinard states that measurements should cover all problems that can and have arisen through real market experience with:

- (A) Service delivery methods such as resale and individual unbundled network elements (such as loops or transport), UNE combinations (such as enhanced extended loop and platform), and facilities interconnection.
- (B) Products and processes such as coordinated conversions, various flavors of xDSL and line sharing and line splitting services, local number portability, loop acceptance testing and loop conditioning.
- (C) Retail-wholesale relationships management such as operational support systems speed and connectivity, help desk responsiveness, database update accuracy and timeliness, and change management processes, and software error correction timeliness.
- (D) Provisioning status notices such as acknowledgments, confirmations, rejections, completion notices, jeopardy notices and loss notices.
- (E) Maintenance responsiveness and capability in resolving customer trouble reports.
- (F) Billing accuracy and completeness for the end user customer and the ALECs. (TR 122)

Analysis

In order to more clearly ascertain where the proposed differences are in relation to the various proposed SQMs, staff has prepared Attachment 1. This attachment identifies the number of metrics by category proposed by BellSouth compared to the metrics proposed by the joint ALEC Coalition. BellSouth has proposed 71 measures, and the joint ALEC Coalition contains approximately 92 measures.

The following is a list of the 23 metrics, listed by category, that the ALEC Coalition is requesting in addition to those that BellSouth has proposed in this proceeding.

Ordering

1. Call Abandonment Rate (Ordering and Maintenance)
2. Percent Order Accuracy

Provisioning

3. Percent Successful xDSL Loops Cooperatively Tested
4. Percent Completion/Attempts without a Notice or with less than 24 Hours Notice
5. Percent of Orders Canceled or Supplemented at the Request of the ILEC
6. Percent Customers Restored to ILEC
7. Mean Time to Restore Customer to the ILEC
8. Percent Completion of Timely Loop Modification
9. Percent of Hot Cuts Not Working as Initially Provisioned
10. Percent On Time Hot Cut Performance

Maintenance & Repair

11. Mean Jeopardy Interval for Maintenance & Trouble Handling

Billing

12. Percent Billing Errors Corrected in X Days
13. Percent on Time Mechanized Invoice Delivery

Trunk Group Performance

14. Timeliness of Response for BST to ALEC Trunks
15. Percent Response to Requests for BST to ALEC Trunks Provided within 7 Days
16. Percent Negative Responses to Requests for BST to ALEC Trunks

Bona Fide Request (BFR) Process

17. Percentage of Requests Processed within 30 Business Days

DOCKET NO. 000121-TP

DATE: August 2, 2001

18. Percentage of Quotes Provided for Authorized BFRs/Special Requests within X (30, 60, 90) Days

Change Management

19. ILEC vs CLEC Changes Made

Software Issues

20. Percent Software Certification Failures
21. Software Problem Resolution Timeliness
22. Software Problem Resolution Average Delay Days

Commitment Responsiveness

23. Percent on Time Response Commitments for Contracts, Business Rules and Telephone Calls

Staff will briefly discuss the merits of each of the 23 additional ALEC metrics proposed below.

Ordering

1. *Call Abandonment Rate*

Mpower Witness Iacino testified that "Mpower experiences excessively long hold times when calling the LCSC." (TR 818) The ALEC Coalition stated that "Mpower testimony regarding long hold times may indicate a need for a call abandonment measurement to capture those calls where the ALEC gives up in frustration." (TR 134) The rebuttal testimony filed by BellSouth states that the metrics "Speed of Answering in the Ordering Center and Average Answer Time-Repair Center measure the average time a customer is in queue when calling the ordering and repair center." (Coon TR 308) Staff agrees with BellSouth and does not believe that the Call Abandonment Rate metric would be an effective measure because of the ability of the ALECs to affect the outcome by choosing to abandon the call. Calls may be abandoned for a number of reasons, not all of which are under BellSouth's control. BellSouth should not be held responsible for metrics that do not reflect its performance. Staff believes the existing measure of Average Speed

DOCKET NO. 000121-TP
DATE: August 2, 2001

to Answer Calls is an adequate measure to address the ALECs concerns.

2. *Percent Order Accuracy*

Witness Kinard states that this measure is needed in Florida "to ensure that BellSouth provisions an order the way it was entered or faxed by the ALEC." (TR 132) Witness Coon purports that BellSouth's existing measurements of Percent Provisioning Troubles within 30 days of Service Order Activity and Invoice Accuracy are reflective of the accuracy of BellSouth order completions. Staff agrees with the ALECs that this metric may provide useful information regarding the accuracy of orders.

Provisioning

3. *Percent Successful xDSL Loops Cooperatively Tested*

ALEC Witness Kinard testifies that BellSouth should measure the percent of successful xDSL loops cooperatively tested. Witness Kinard says this metric would capture how often an xDSL loop that is not working is delivered to the ALEC. (TR 134) BellSouth Witness Coon stated that this measure is already captured through BellSouth's Measure P-7 Cooperative Acceptance Testing-Percent of xDSL Loops Tested. (TR 378) At the hearing, debate was held over whether BellSouth's current metric was measuring only successful tests or measuring all tests conducted. BellSouth Witness Coon clarified that this measure was in fact the same as the measure the ALECs were requesting. (TR 419) BellSouth stated that it would be willing to make adjustments to its proposed SQMs to ensure that it was clear that the loop had to be successful from both the ALEC and the ILEC points of view. (TR 419) Staff believes such clarification is necessary. The following change should be made: (1) In the Definition Portion, add "A loop will be considered successfully cooperatively tested when both the ALEC and ILEC representatives agree that the loop has passed the cooperative testing" and (2) In the SEEM Analog/Benchmark, replace "95 percent of Lines Tested" with "95 percent of Lines Tested Successfully Passing Cooperative Testing."

4. *Percent Completion/Attempts Without a Notice or With Less Than 24 Hours Notice*

DOCKET NO. 000121-TP
DATE: August 2, 2001

Witness Kinard testified that "[m]issed or late confirmations make ALECs look disorganized since they have to scramble to meet the due date or are caught off guard by service delivery to their customer." (TR 132) Witness Coon stated that while this metric was approved in Georgia, it does not capture any information about the level of service BellSouth provides to the ALEC. (TR 300) Witness Coon argues that BellSouth has "five separate provisioning measurements (Provisioning P1-P5) that deal with order completion interval, held orders and completion notices." (TR 300) BellSouth believes that this measure would penalize BellSouth when the ALEC asked for an expedited installation of less than three days (which resulted in the manual handling of the order) and when BellSouth took 48 hours to return the FOC to the ALEC. In this situation, the FOC would have been returned in the allowed time and the order would have been worked on the exact date requested by the ALEC. However, because less than 24 hours separated the FOC and the time the order was worked, a penalty would be charged. (BR 5) Staff is not convinced by BellSouth's argument and believes this measure should be included. An exclusion for expedited orders can be included in the Business Rules to alleviate BellSouth's concern.

5. *Percent of Orders Canceled or Supplemented at the Request of the ILEC*

ALEC Witness Kinard states that this metric, which was adopted in New York, captures instances when ALECs do not extend the due date voluntarily but rather at the request of BellSouth in order to adjust for BellSouth-caused failures to complete the order. "When an ALEC agrees to supplement the order at BellSouth's request, what would have been a missed due date is now assigned a new due date in the future." (TR 132-133) BellSouth Witness Coon testified that "the focus of BellSouth's activities is on complying with meeting the due dates on the original order, not on asking the ALEC to supplement or cancel the order." (TR 306-307) Witness Coon continued that this measurement is not necessary because if BellSouth did ask for a supplementary order, it "could and in no doubt would have a bona fide reason for asking for a supplementary order." (TR 307) Staff believes that justifiable reasons for requesting supplements may exist and that these requests may be in the best interest of the ALEC. Staff does not believe this metric would be appropriate at this time.

6. *Percent Customers Restored to ILEC*
7. *Mean Time to Restore Customer to the ILEC*

ALEC Witness Kinard states that these two metrics are necessary because they measure both "the speed of restoring service to BellSouth when a customer conversion fails and the percent of accurate port-backs to BellSouth when necessary." (TR 133) BellSouth Witness Coon argues that these measures relate to customers who were going to be switched to the ALECs but who were not because of a problem in the porting process. According to Witness Coon, "[t]he measures would record the time that lapsed before the customer is returned to service with BellSouth and the percentage of customers that are returned" for these reasons. (TR 305) Witness Coon states that it would be impossible to draw any meaningful conclusions from these measurements. (TR 308) According to Witness Coon, the porting may fail because of something the ALEC did or failed to do, furthermore, there are existing measures in place to quantify problems in the "hot cut" process. (TR 308) These existing measures include Coordinated Customer Conversions-Average Recovery Time and Hot Cut Timeliness. Staff believes these two proposed measures, Percent Customer Restored to ILEC and Mean Time to Restore Customer to the ILEC would not provide meaningful data since the porting problems may occur as a result of an ALEC action. As a result, these metrics should not be adopted at this time.

8. *Percent Completion of Timely Loop Modification*

ALEC Witness Kinard affirms that some loops require modification or conditioning before they can be used to provide a customer with xDSL service. (TR 135) According to Witness Kinard, this metric measures BellSouth's timeliness in making needed modifications or performing the necessary deconditioning. (TR 135) Covad Witness Allen emphasized the need for a metric or a level of disaggregation for loop provisioning where conditioning is required. (TR 720-721) Witness Coon asserted that BellSouth has added DSL level disaggregation to its existing and new measures. Witness Coon believes that the process for handling orders with loop conditioning was being modified so that this measurement is addressed by BellSouth provisioning measurements, such as Order Completion Interval and Percent Missed Installation Appointments. At the hearing, Witness Coon could not give a firm date as to when the process would be modified. (TR 423-424) Staff agrees that

BellSouth has adequate disaggregation in the Order Completion Interval metric to address the ALEC concerns. However, the Missed Installation Appointments Interval does not contain this same level of disaggregation for orders with and without conditioning. Staff believes this disaggregation would be useful. As an alternative to the disaggregation for loop conditioning for Percent Missed Installation Appointments, BellSouth should establish a separate measurement for loop conditioning.

9. *Percent of Hot Cuts Not Working as Initially Provisioned*

ALEC Witness Kinard asserts that this measure captures instances when loops are provisioned on time but are not working. (TR 133) According to Witness Kinard, often ALECs cannot log a trouble report until the order is completed in the ILEC's billing system, which may take many hours or days. (TR 133) Witness Kinard holds that these provisioning troubles are undetectable by BellSouth's current performance measures. (TR 133) Witness Coon's response is that BellSouth is adding a new hot cut measurement, Percent Troubles within 7 Days of a Completed Service Order. Witness Coon says that an ALEC can report a trouble as soon as the service order is completed—they do not have to wait until the order is completed in the ILEC billing system. (TR 307) Staff believes that the measure proposed by the ALECs would be redundant to the Percent Troubles Within 7 days of a Completed Service Order metric.

10. *Percent On-Time Hot Cut Performance*

According to Witness Kinard, customers must not be subjected to unscheduled service disruptions because of lengthy or uncoordinated cut overs of loops. (Exhibit 14, KK-4, p. 17) An early cut of facilities can cause the customer to lose service, and a late cut translation often means the customer cannot receive all calls or certain incoming calls. (TR 353) Either is harmful to customers and to the ALECs' reputations. Although BellSouth has proposed a similar measure, under its proposal, BellSouth is considered to have met its metric if the cut over starts within 15 minutes of the scheduled start time. Under the ALEC Coalition's proposal, BellSouth is measured by whether it is started—and completed—within the specific cut over window. (Exhibit. 9, Kinard Deposition, p. 24) Staff believes this metric is adequately

covered by the metrics Coordinated Customer Conversion Hot Cut Timeliness and the Coordinated Customer Conversion Interval.

Maintenance & Repair

11. Mean Jeopardy Interval for Maintenance & Trouble Handling

Witness Kinard asserts that this measure is similar to the metric for jeopardies in provisioning. If BellSouth makes an appointment to repair a service and then finds it cannot make that appointment, the ALEC should be given a notice. The notice would provide the ALEC an opportunity to contact its customers in order to reschedule the appointment and to minimize inconvenience. (Kinard Deposition, page 15, line 17-22 Composite Exhibit 9) BellSouth Witness Coon's testimony does not address the merits of this metric. Staff believes that sufficient notification of repair status changes, including possible jeopardies, are available to ALECs through TAFI and ECTA repair interfaces and the CWINS Center. TAFI and ECTA provide electronic notification of recent status changes and intermediate status codes to describe repair activities and problems encountered. Manual repair status reports are also available by calling the CWINS center.

Conditions jeopardizing repair completion, such as missed repair appointments, no access to customer premises, modifications to pending reports, and no available facilities can be individually monitored by ALECs in current repair metrics, or through updated status reports and intermediate status codes. As a result, staff does not believe this metric is necessary at this time.

Billing

12. Percent Billing Errors Corrected in X Days

Witness Kinard testified that delays in providing adjustments to carrier bills or correct daily usage feed errors can harm the ALEC and its customers. Errors that do not get corrected promptly either lead to the ALECs holding up charges or passing on the wrong charges to the customer. Witness Kinard contends that the current invoice accuracy measure does not capture whether errors are corrected within a reasonable time. (TR 135) BellSouth Witness Coon stated that BellSouth currently provides measurements that address this issue in the B-1 Invoice Accuracy metric. In

addition, BellSouth conducts monthly audits by the Billing Verification Group that evaluate samples of bills for accuracy and compliance. BellSouth believes that the measures provide adequate information to assess BellSouth's billing processes. (Coon TR 309) Staff believes this proposed metric would capture how quickly BellSouth corrects errors. While there are existing measures to capture billing timeliness and billing accuracy, none of the measures capture how quickly errors are fixed. Staff agrees that this metric should be added.

13. Percent on Time Mechanized Invoice Delivery

ALEC Witness Kinard states that "[n]ot only do the charges on the bills need to be correct and complete, but also that the formatting must follow appropriate industry standards for electronic processing in the ALECs' systems. Without properly mechanized bills, ALECs may be forced to reconcile boxes of paper bills for charges that cannot be accepted or audited by their electronic systems." (TR 136) BellSouth Witness Coon states that BellSouth's Mean Time to Deliver Invoices metric addresses this issue. (TR 309) Staff agrees with BellSouth that the Mean Time to Deliver Invoices metric proposed by BellSouth captures the intent of the metric proposed by the ALECs. Staff does not believe that both metrics are necessary. The metric proposed by BellSouth is adequate. If ALECs would like to propose replacing the BellSouth metric with the ALEC proposed metric, this could be considered during the six-month review period. Staff currently believes that the Mean Time to Deliver Invoices metric is more useful for parity evaluation purposes.

Trunk Group Performance

- 14. Timeliness of Response for BST to CLEC Trunks*
- 15. Percent Response to Requests for BST to ALEC Trunks Provided within 7 Days*
- 16. Percent Negative Responses to Requests for BST to ALEC Trunks*

Witness Kinard states in her direct testimony that "ALECs cannot expand without adequate trunk capacity inbound from the ILEC as well as outbound to the ILEC. ILEC delays in providing

reciprocal trunks or delays in providing ALECs a due date for such trunks force ALECs to delay installing new customers." (TR 130) According to Witness Kinard, the "Mean Time to Provide Response measurement is key when comparing service to affiliates in response to trunk requests. The Percent Responses to Requests for BellSouth-to-ALEC Trunks Provided Within 7 Days metric measures the response standard proposed by ALECs to be achieved 95 percent of the time. The Percent Negative Response to Request for BellSouth-to-ALEC trunks metric would allow tracking of BellSouth rejections of ALEC requests for more capacity." (Kinard TR 131)

BellSouth Witness Coon contends that "[t]he primary focus of these measurements is to determine whether there is sufficient trunking capacity from the BellSouth network to the ALEC switch when traffic is increased substantially, such as might occur when an Internet Service Provider is switched to the ALEC. Each of these measures purports to measure responses to requests by ALECs for trunking. Since BellSouth has no way of knowing when this is going to occur, it hardly seems fair to have a measurement related to BellSouth success in meeting unanticipated demand." Witness Coon suggests that "[t]he best solution is not to have another set of metrics but to require accurate forecasts by the ALECs of traffic requirements." (TR 305) Staff does not believe these metrics are necessary at this time because the number of trunk requests by ALECs on a monthly basis is extremely low. ALECs should be responsible for actively monitoring their requests and following up on a case-by-case basis.

BFR Process

17. *Percentage of Requests Processed within 30 Business Days*
18. *Percentage of Quotes Provided for Authorized BFRs/Special Requests within X (30, 60, 90) Days*

The Georgia Commission ordered BellSouth to add measurements to the SQMs reflecting both the percentage of Bona Fide Request (BFRs) processed within thirty days and the percentage of quotes provided for Bona Fide Requests within certain intervals. Witness Kinard states that these measures should be included in the Florida metrics since they were ordered in Georgia. (TR 161) "While BellSouth could report its performance with respect to Bona Fide Requests on a manual basis," according to Witness Coon, he believes

"it is impossible to draw any conclusions about BellSouth's performance based upon a limited number of transactions." [D]uring the period of January 2000 through October 2000, BellSouth received only seven BFRs from ALECs across the entire region. Staff agrees with BellSouth and does not believe these two metrics are necessary. Additionally, Witness Kinard agreed that these metrics could wait for a later date for implementation of this measure. (Composite Exhibit 9 Kinard Deposition, p. 17, line 18-19) Staff believes these two metrics provide limited information and should not be captured.

Change Management

19. *ILEC vs CLEC Changes Made*

Witness Kinard states that this measure is necessary because "BellSouth has not yet included a metric in its SQM that tracks whether BellSouth responds fairly to ALEC requests for changes and new functionalities on its interfaces." (TR 140) Witness Kinard testified that "[w]hile ALECs prioritize the change requests, BellSouth implements these changes whenever it chooses and ignores the ALEC prioritization. Therefore, according to Witness Kinard, "the Commission needs to order BellSouth to measure the percentage of BellSouth changes made versus the number of ALEC changes made to determine whether ALEC requests are being handled in a fair and equitable manner." (TR 140) BellSouth Witness Coon testified that this measure would not prove useful. Witness Coon states that the "change control process has a method of escalating any disputes about whether a proposed change was properly rejected." (TR 130) According to Witness Coon, the measurement would tell us nothing about the relative merits or demerits of any proposal. (TR 310) Staff agrees with this assertion. BellSouth could be penalized for making changes when they are in the best interest of the ALEC. Because of the potential disincentive nature of this metric, staff does not recommend adoption.

Software Issues

20. *Percent Software Certification Failures*

21. *Software Problem Resolution Timeliness*

22. *Software Problem Resolution Average Delay Days*

ALEC Witness Kinard believes that the metric *Percent Software Certification Failures* will provide ALECs with "some assurance that BellSouth will sufficiently test software before a system is rolled out. ALECs need to be sure that their existing systems will still function when BellSouth introduces software upgrades." (TR 140) According to Witness Kinard, the other two software metrics measure how quickly BellSouth fixes software errors caused by changes to an existing interface. The *Average Delay Day* measure captures the degree to which the problem is allowed to continue. Witness Kinard states that the Georgia, Texas and New York plans have such a metric. (TR 140) BellSouth Witness Coon believes that the testing arrangements made available with any software update are adequate to resolve these issues before the software is loaded. Witness Coon continues that "the change management process is more suitable for establishing methods and procedures for software updates." (TR 311) Staff believes that none of these three metrics are necessary at this time. BellSouth's business processes currently include software testing. The purpose of testing is to find and correct errors. Staff doesn't believe that BellSouth should be penalized for errors found in testing. Staff does not believe there is a valid reason for monitoring these numbers. Staff has not seen any evidence presented in this case that software problem resolution is an issue with BellSouth's performance that would necessitate the need for metrics.

Commitment Responsiveness

23. *Percent on Time Response Commitments for Contracts, Business Rules and Telephone Calls*

ALEC Witness Kinard believes that this metric will capture how quickly BellSouth representatives resolve problems. (TR 136) According to Witness Kinard, an ALEC "should not have to wait days for BellSouth to respond to a problem that has stalled production of orders for the ALEC." (TR 136) BellSouth Witness Coon argues that "this measure would be dependent upon a completely manual process of tracking the responsiveness of BellSouth service representatives." (TR 309-310) Staff agrees that this measure would be labor intensive to capture and because of the imprecise collecting results, staff recommends that this metric should not be adopted at this time.

DOCKET NO. 000121-TP

DATE: August 2, 2001

Attachment 3 delineates a summary of which metrics are proposed by BellSouth, which are proposed by the ALECs and which are recommended by staff.

Conclusion

All 71 proposed BellSouth metrics should be adopted as part of the Florida SQMs. Additionally, the following four metrics should be included in the Florida SQMs:

Percent Order Accuracy

Percent Completion/Attempts without a Notice or with less than 24 Hours Notice

Percent Completion of Timely Loop Modification

Percent Billing Errors Corrected in X Days

ATTACHMENT 1

Number of Proposed Metrics by Category		
OSS Category	BellSouth	ALECs
Preordering	6	6
Ordering	15	16
Provisioning	15	22
Maintenance & Repair	7	8
Billing	8	10
OS/DA	4	4
Database Update	3	3
E911	3	3
Trunk Group Performance	2	5
Collocation	3	3
Change Management/Interface Outages	5	6
Software Issues	0	3
BFR Process	0	2
Commitment Responsiveness	0	1
Totals	71	92

ATTACHMENT 2

ANALYSIS OF PROPOSED SQMS				
	Measure	BST-FL Proposed	ALEC Proposed	FLA Staff Recommended
Preordering				
OSS-2	OSS Interface Availability (Preordering/Ordering)	X	X	X
OSS-1	Average Response Time for OSS Preorder Interfaces & Response Interval	X	X	X
OSS-3	Interface Availability (M&R)	X	X	X
OSS-4	Response Interval (M&R)	X	X	X
PO-1	Loop Makeup Inquiry (Manual)	X	X	X
PO-2	Loop Makeup Inquiry (Electronic: TAG and LENS)	X	X	X
Ordering				
O-1	Acknowledgment Timeliness (Electronic)	X	X	X
O-2	Acknowledgment Completeness (Fully Mechanized, Partially Mechanized & Total Mechanized)	X	X	X
O-3 O-4	Percent Order Flow Through (Summary and Detail)	X	X	X
O-5	Flow-through Error Analysis	X	X	X
O-6	CLEC LSR Information - LSR Flow-Through Matrix	X	X	X
O-7	Percent Rejected Service Request (Mechanized, Partially Mechanized & Non- Mechanized)	X	X	X
O-8	Reject Interval	X	X	X
O-9	Firm Order Confirmation Timeliness (Mechanized, Partially Mechanized & Non- Mechanized)	X	X	X
O-10	Service Inquiry with LSR Firm Order Confirmation (FOC) Response Time (Manual)	X	X	X
O-11	Firm Order Confirmation and Reject Response Completeness	X	X	X

ANALYSIS OF PROPOSED SQMS				
	Measure	BST-FL Proposed	ALEC Proposed	FLA Staff Recommended
O-12	Speed of Answer in Ordering Center	X	X	X
O-13	LNP - Percent Rejected Service Request	X	X	X
O-14	LNP - Reject Interval Distribution & Average Reject Interval	X	X	X
O-15	LNP - FOC Timeliness Interval Distribution & FOC Average Interval	X	X	X
	Call Abandonment Rate		X	
	Percent Order Accuracy		X	X
Provisioning				
P-1	Mean Held Order Interval	X	X	X
P-2	Percent Orders given Jeopardy Notice (Electronic)	X	X	X
P-2	Average Jeopardy Notice Interval (Electronic)	X	X	X
P-3	Percent Missed Installation Appointments	X	X	X
P-4	Order Completion Interval	X	X	X
P-5	Average Completion Notice Interval (Electronic)	X	X	X
P-6	Coordinated Customer Conversions Interval	X	X	X
P-6A	Coordinated Customer Conversions Hot Cut Timeliness % within Interval & Average Interval	X	X	X
P-6B	Coordinated Customer Conversions - Average Recovery Time	X	X	X
P-6C	Coordinated Customer Conversions - % Provisioning Troubles Received Within 7 Days of a Completed Service Order	X	X	X
P-7	Cooperative Acceptance Testing(% xDSL Loops Tested)	X	X	X
P-8	% Provisioning Troubles within 30 days	X	X	X
P-9	Total Service Order Cycle Time	X	X	X

ANALYSIS OF PROPOSED SQMS				
	Measure	BST-FL Proposed	ALEC Proposed	FLA Staff Recommended
P-10	LNP - Percent Missed Installation Appointments	X	X	X
P-11	LNP - Average Disconnect Timeliness Interval & Disconnect Timeliness Interval Distribution	X	X	X
P-12	LNP - TSOCT	X	X	X
	% Completions/Attempts w/o notice or w/Less Than 24 Hr Notice		X	X
	Percent of Orders Canceled or Supplemented at Request of ILEC		X	
	% Customer Restored to ILEC		X	
	% Completion of Timely Loop Modification		X	X
	Mean Time to Restore Customer to the ILEC		X	
	Percent of Hot Cuts Not Working as Initially Provisioned		X	
	Maintenance & Repair			
M&R-1	Missed Repair Appointments	X	X	X
M&R-2	Customer Trouble Report Rate	X	X	X
M&R-3	Maintenance Average Duration	X	X	X
M&R-4	% Repeat Troubles within 30 days	X	X	X
M&R-5	Out of Service > 24 hours	X	X	X
M&R-6	Average Answer Time - Repair Center	X	X	X
M&R-7	Mean Time to Notify CLEC of Network Outages (M&R)	X	X	X
	Mean Jeopardy Interval for Maintenance & Trouble Handling		X	
	Billing			
B-1	Invoice Accuracy	X	X	X
B-2	Mean Time to Deliver Invoices	X	X	X
B-3	Usage Data Delivery Accuracy	X	X	X

ANALYSIS OF PROPOSED SQMS				
	Measure	BST-FL Proposed	ALEC Proposed	FLA Staff Recommended
B-4	Usage Data Delivery Completeness	X	X	X
B-5	Usage Data Delivery Timeliness	X	X	X
B-6	Mean Time to Deliver Usage	X	X	X
B-7	Recurring Charge Completeness	X	X	X
B-8	Non-Recurring Charge Completeness	X	X	X
	% Billing Errors Corrected in X Days		X	X
	% on Time Mechanized Invoice Delivery		X	
OS/DA				
OS-1	Average Speed to Answer (OS)	X	X	X
OS-2	% Answered in "X" Seconds (OS)	X	X	X
DA-1	Average Speed to Answer (DA)	X	X	X
DA-2	% Answered in "X" Seconds (DA)	X	X	X
DA Database Accuracy				
D-1	Average Update Interval for DA Database for Facility Based CLECs	X	X	X
D-2	Percentage DA Database Accuracy For Manual Updates	X	X	X
D-3	Percent NXXs loaded and Tested by/or prior to the LERG effective date	X	X	X
ES&I				
E-1	Timeliness	X	X	X
E-2	Accuracy	X	X	X
E-3	Mean Interval	X	X	X

ANALYSIS OF PROPOSED SQMS				
	Measure	BST-FL Proposed	ALEC Proposed	FLA Staff Recommended
Commitment Responsiveness				
	% on Time Response Commitments for Contracts, Business Rules and Telephone Calls		X	
Trunk Group Performance				
TGP-1	Trunk Group Performance - Aggregate	X	X	X
TGP-2	Trunk Group Performance - Specific	X	X	X
	Timeliness of Response for BST to CLEC Trunks		X	
	% Responses to Requests for BST to ALEC Trunks Provided within 7 Days		X	
	% Negative Responses to Requests for BST to ALEC Trunks		X	
Collocation				
C-1	Average Response Time	X	X	X
C-2	Average Arrangement Time	X	X	X
C-3	% of Due Dates Missed	X	X	X
Bona Fide/Special Request Process (BFRs)				
	Percentage of Requests Processed within 30 Business Days		X	
	Percentage of Quotes Provided for Authorized BFRs/Special Requests Within X (10,30,90) Days		X	
Change Management/Interface Outages				
CM-1	Timeliness of Change Management Notices	X	X	X
CM-2	Average Delay Days for Change Management Notices	X	X	X
CM-3	Timeliness of Documents Associated with Change	X	X	X
CM-4	Average Delay Days for Documentation	X	X	X
CM-5	Average Notice of Interface Outage	X	X	X

DOCKET NO. 000121-TP

DATE: August 2, 2001

ANALYSIS OF PROPOSED SQMS				
	Measure	BST-FL Proposed	ALEC Proposed	FLA Staff Recommended
	ILEC vs CLEC Changes Made		X	
	Software Issues			
	Software Problem Resolution Timeliness		X	
	% Software Certification Failures		X	
	Software Problem Resolution Average Delay Days		X	
	TOTAL	71	92	75

DOCKET NO. 000121-TP
DATE: August 2, 2001

ISSUE 1b: What are the appropriate business rules, exclusions, calculations, and levels of disaggregation and performance standards for each metric?

RECOMMENDATION: The Commission should adopt the BellSouth business rules, disaggregation and standards as proposed, with the exception of the changes reflected in Attachments 3, 4 and 5. (HARVEY)

POSITIONS OF THE PARTIES:

BST: The appropriate business rules, exclusions, calculations, and levels of disaggregation and performance standards to be reported by BellSouth are those contained in the BellSouth Service Quality Measurement (SQM) plan that is attached to the testimony of BellSouth Witness David Coon as Exhibit DAC-1.

ALEC: The appropriate business rules, calculation formulas, disaggregation levels and standards for metrics currently included in BellSouth's SQM and for the additional metrics proposed by the ALEC Coalition are described in detail in testimony and Exhibit 14.

Z-TEL: Z-Tel adopts the position stated by the ALEC Coalition.

STAFF ANALYSIS: This issue addresses the specific business rules, calculations, disaggregation and standards for the metrics that will be used to ascertain whether BellSouth is providing Operation Support System service at parity. Each of the metrics must be documented in detail so that it is clear what is being measured, how it is being measured and what is excluded from the measurement. Sufficient metric disaggregation is necessary so that like-to-like comparison can be made. Additionally, a performance standard in the form of a benchmark or an analog must also be identified.

Argument

BellSouth and the ALECs both frame this issue around two distinct questions. The first involves the appropriate business rules, exclusions, calculations and standards for each measurement. The second, much larger, issue has to do with the level of disaggregation that should be included in the plan. Generally when

staff uses the term business rules for purposes of this recommendation, we are including business rules, exclusions and calculations in one category. The arguments presented below will therefore address three areas: business rules, disaggregation and standards

BellSouth's Exhibit 16 presents BellSouth's recommendation as to appropriate business rules, exclusions, calculations, levels of disaggregation and performance standards for each measurement. The BellSouth recommendations are included in the BellSouth Service Quality Measurement (SQM) Plan. The ALEC Exhibit 14 presents the ALEC Coalition's recommendation pertaining to business rule changes, levels of disaggregation and performance standards.

Business Rules

ALEC Witness Kinard asserts that "business rules are the heart of every measure. The Business rules state the start and stop time of each metric and provide details necessary to describe processes in between. The rules on how the data will be collected for ALECs and for BellSouth are also included. (TR 142) Witness Kinard states that "the business rules need to be detailed enough that a third party can use them to recreate BellSouth's performance measure reports using BellSouth's raw data. (TR 142) According to Witness Kinard, "[t]hey also must be structured to ensure that BellSouth discrimination is not being masked." (TR 142) Composite Exhibit 14, KK-1 describes over 120 individual issues or disputes the ALEC Coalition has with BellSouth's SQMs.

Witness Coon claims that Witness Kinard's analysis is based on an older SQM plan than what was filed in Florida and that the version of the SQM filed in this docket address a number of Witness Kinard's concerns. (TR 316) As for other comments, to the extent they are still relevant to the current SQM plan, Witness Coon states that the BellSouth Business rules are clear, concise and appropriate. (Coon TR 316)

Witness Coon argues that the changes advocated by Witness Kinard "are similar to changes that BellSouth and a coalition of ALECs discussed extensively in the generic performance measurement dockets in Louisiana and Georgia for the past two years. Many of the ALECs participating in those dockets are the same ALECs involved in this generic proceeding in Florida." (TR 306) Witness

DOCKET NO. 000121-TP

DATE: August 2, 2001

Coon states that Kinard is "simply rehashing old issues and offering no substantive reason why BellSouth business rules should be changed." (TR 316)

Disaggregation

In its brief, BellSouth suggests that "[t]he issue of the appropriate level of disaggregation is, with the possible exception of penalty amounts and the system to apply penalties, the single issue of greatest practical importance to this docket. In principle, both parties agree that the measurement categories should be broken down to a level so that there are meaningful direct comparisons between the performance BellSouth gives its customers and that provided to ALECs and their customers." (BellSouth BR 11)

"BellSouth proposed measurements are disaggregated into 1200 submetrics (TR 296), according to a methodology that is described in detail in DAC-4. (BR 12) "BellSouth believes that the level of disaggregation it proposes (which is comparable to what was adopted in Georgia and Louisiana) is more than adequate to make meaningful comparisons for the purpose of determining whether BellSouth is providing service at parity." (BellSouth BR 12)

In his testimony, Witness Coon gave a specific example of how the overzealous disaggregation proposed by the ALECs would affect one particular measure, Mean Held Order and Distribution Interval. The ALECs proposed that this category be disaggregated by 41 types of products, 13 levels of geography, 3 levels of volume, and 3 levels of dispatch status. Thus, to determine the number of submeasures that would result from the disaggregation proposed by the ALECs, one would have to multiply 41 times 13 times 3 times 3, for a total of 4,797 submeasures for the single measurement of Mean Held Order and Distribution Interval (TR 318). Much time was spent in depositions and the hearing attempting to ascertain the number of submetrics the ALECs are proposing. Witness Bursh states in her deposition that she had calculated the number of submetrics and concluded there are exactly 10,000. (Exhibit 10 Bursh Deposition, p. 67) At the time of the hearing; however, she admitted that her analysis was wrong, and the ALECs stipulated to this effect. (TR 1043) Witness Coon attempted to estimate the number of submetrics in the ALEC proposal and he estimated there would be approximately

DOCKET NO. 000121-TP

DATE: August 2, 2001

75,000. (TR 319) Witness Kinard readily admitted she had no idea how many submetrics there are in the ALEC plan. (TR 198)

The ALEC Coalition proposes that the Commission require BellSouth to provide a level of disaggregation such that deficiencies in BellSouth's performance can neither be masked nor ignored. Disaggregation should be required by geography, interface type, preorder query type, product, service order activity, volume category, trouble type, trunk design and type (for trunk blockage measurements), maintenance and repair query type and collocation category. (TR 144-149) Not every disaggregation category would apply to every measurement in the ALEC proposal, but many (if not most) measurements would have multiple types of disaggregation applied to them. (Exhibit 9, Kinard Deposition, pp. 73-74, TR 225-230) Composite Exhibit 14, KK-2 provided in depth details regarding the levels of disaggregation proposed by the ALECs.

According to the ALECs, "aggregating multiple product offerings together, particularly offerings that have different standards, provides an inaccurate view of BellSouth's performance. BellSouth's poor performance on some measurements would be masked due to aggregation with other measures that show adequate performance." (ALEC BR 20)

According to Witness Kinard, the levels of disaggregation should cover all of the products ALECs purchase when there is large-scale entry in both the residential and business markets, including the popular xDSL services. Witness Kinard states that to be effective in measuring BellSouth's performance, the reporting should categorize the information by product type to identify with specificity the services provided by BellSouth. Examples of product disaggregation include resale, UNEs and trunks broken down by residential and business customer where appropriate. Further disaggregation for resale and UNEs include DSLs and DS3s, separating BRI ISDN from PRI ISDN. Unbundled loop types, such as analog voice-grade loops, digital loops, ADSL loops, HDSL loops, UCLs, and xDSL loops should be disaggregated because BellSouth's performance will vary for each loop type. Also, UNE-Platform needs to be reported separately because this product combines a loop with switching and transport and is different than just ordering a loop without the switching and transport. (Kinard TR 146-147)

DOCKET NO. 000121-TP
DATE: August 2, 2001

The ALEC Coalition rebuttal testimony highlighted additional areas of concern regarding BellSouth's proposed disaggregation levels. According to Witness Kinard, provisioning and repair measures should be divided into three categories: 1) switched-based orders; 2) central office or "dispatch in" orders; and 3) field work or "dispatch out" orders. (TR 162- 163) According to the ALECs, other key examples of BellSouth's inappropriate loop disaggregation include the following items. First, DS1 loops should not be included with DS3 loops because BellSouth has different intervals for DS1 and DS3 loops. Second, various types of xDSL services should be disaggregated to detect discrimination in the ALECs' chosen mode of service delivery of problems in checking facilities for certain types of DSL products. Third, line splitting should be disaggregated from line sharing in order to detect discrimination when the ILEC is not the voice provider of the loop. (Kinard TR 163, 226)

Testimony from e.spire indicates "that disaggregated reporting for Special Access to Enhanced Extended Loop conversions are required for the ordering and provisioning metrics to capture problems it has run into in migrating between the two BellSouth services." (Kinard TR 144) Although e.spire submitted data to BellSouth nearly one year ago, BellSouth has not processed e.spire's orders. (TR 779) According to e.spire, "[t]his delay runs counter to the FCC's recognition that 'the process by which special access circuits are converted to unbundled loop-transport combinations should be simple and accomplished without delay.'" (Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, CC Docket 96-98, Supplemental Order on Clarification, 15, FCC Rcd 9578 para.30.) (TR 780)

According to BellSouth,

[i]f the impossibility of the ALEC plan were not enough reason to reject it, there is also the fact that it is conceptually flawed. There is no question but that more disaggregation will result in smaller numbers of events that are captured in each submeasure. Both Ms. Kinard and Ms. Bursh testified that for many of the submeasurement categories proposed by the ALECs there would be no activity in a given month. (Kinard TR 177; Bursh Exhibit 10; Bursh Deposition, p. 48). Likewise, Witness Kinard

DATE: August 2, 2001

admitted that even when there is activity, some submetrics would likely capture as few as one, two, or three events. (TR 179) As Dr. Ford, a witness for Z-Tel, testified, generally speaking, smaller sample sizes result in a lower level of statistical confidence in any test performed on the samples. (Exhibit 12, Ford Deposition, p. 62). In other words (as Dr. Ford also admitted), the smaller the sample size, the less sure one can be from a statistical standpoint that the occurrence of a particular event is attributable to something other than random chance. (Id.) Thus, more disaggregation would result in smaller samples, which as a general proposition, would raise the possibility that BellSouth is being adjudged as providing service at something less than parity, when any observed disparity is actually nothing more than a random occurrence. (BR 16)

According to the BellSouth brief, "BellSouth has proposed a reasonable plan that is calculated to accomplish the task that performance measurement plans are supposed to do, detect discriminatory performance." (BR 17) According to BellSouth, the ALEC plan "is impossible to implement, impossible to monitor and calculated only to prevent BellSouth from obtaining interLATA relief in Florida." (BellSouth BR 17)

Standards

In Witness Kinard's direct testimony, she states that a retail analog is a service or function that BellSouth provides for itself, its customers or its affiliates that is analogous to a service or function that BellSouth provides to ALECs. When a BellSouth retail analog exists, BellSouth performance for itself, its customers and its affiliates should be compared to its performance for ALECs to determine if BellSouth is meeting the Act's parity requirement. If no retail analog exists, BellSouth's performance must be gauged by a performance standard, also known as a benchmark. A benchmark is a set level of performance, such as provisioning a particular UNE 95 percent of the time within three days. (Kinard TR 149-150)

According to Witness Kinard,

DATE: August 2, 2001

Benchmarks should be based on the level of performance that can be expected to offer an efficient carrier a meaningful opportunity to compete. Benchmarks cannot be based simply on BellSouth's historical performance - [because] BellSouth has provided a certain level of service to ALECs in the past does not mean that level of service provides ALECs a meaningful opportunity to compete or to even meet Florida's end user standards. (Kinard TR 150)

Choosing a retail analog that is dissimilar to the service or product being measured can make discriminatory performance look like parity. If a slow process is chosen on the retail side, it masks poor performance on the wholesale side. (Kinard TR 150)

The benchmarks and analogs proposed by Witness Kinard were included in testimony. (Exhibit 14, KK-2, KK-3) The ALEC Coalition takes issue with those BellSouth proposed benchmarks that are below the 95 percent or higher thresholds that have been set in other states, such as New York and Texas, for most metrics except for call center and OSDA answer times. (Kinard TR 151) Often, the intervals themselves are set below those adopted in other states. According to the ALEC Coalition, the Commission should require BellSouth to meet the 95 percent or higher thresholds to foster competition as was done in New York and Texas. (TR 181, ALEC BR 22)

In some instances, BellSouth has proposed measures without retail analogs or benchmarks, in what it terms "diagnostic." For some measures, ALECs do not disagree, but for some, the ALECs believe the Commission should establish a benchmark. For example, BellSouth has proposed the metric 'O-12, Speed of Answer in the Ordering Center, which measures the average time an ALEC is in queue at the Local Carrier Service Center (LCSC), sometimes with customers on the line. Because BellSouth has decided to label it "diagnostic" there is no performance standard that BellSouth is held accountable for meeting. (TR 351) Mpower testified that it generally experiences excessively long hold times when calling into the LCSC trying to clarify the BellSouth business rules it is required to follow. (TR 818) Often Mpower is put

DOCKET NO. 000121-TP

DATE: August 2, 2001

on hold when it calls the LCSC from 20 minutes to over 90 minutes. (Id.) There is no reason for this metric to be diagnostic: the Commission should adopt the ALECs' proposed benchmark of 95 percent in 20 seconds and 100 percent in 30 seconds.

Furthermore, with respect to benchmarks for xDSL loop delivery, BellSouth has proposed that it be given seven business days from issuance of the FOC (for loops without conditioning) and 14 business days from issuance of the FOC (for loops with conditioning). (BR 22)

According to the ALECs, BellSouth's measurement will not capture its performance of conditioning at all.

For loops without conditioning, BellSouth is actually asking for two days longer to deliver a loop than it promises in its product and services guide. BellSouth performance will improve only when this Commission orders that performance to improve. For example, Mr. Latham admitted that BellSouth only began offering to perform conditioning in 14 days after the Georgia Commission ordered that benchmark. (TR 881) Mr. Latham admitted that BellSouth could deliver a loop in five days, but had never tried to deliver one in three days, although it was technically feasible to do so. (TR 875) Moreover, Mr. Latham testified that he was not aware that BellSouth was proposing seven business day for the provisioning plus 48 hours for issuance of a FOC, for a total interval of nine business days. (TR 879-880) BellSouth fails to justify this excessive interval, while admitting it can provision loops in a shorter period and that it should be working to improve loop delivery intervals. (TR 878-879) (BR 22-23)

The ALECs believe that "[n]o improvement will happen until this Commission orders a reasonable xDSL loop interval of three or five days with conditioning. (BR 23)

According to Witness Kinard, "the standard interval for migrations from special access to EELs should be 95 percent within ten days from receipt of an error-free request for conversion." (TR

163) E.spire also proposes a new submeasure that could measure how quickly BellSouth changes billing rates from special access to EELs charges. The ALECs proposed benchmark for this measure is 95 percent within 30 days from the receipt of an error-free order. (TR 164)

Witness Coon notes that Witness Kinard simply presents her analogs and benchmarks without any critical analysis to support the conclusions she has reached. BellSouth Witness Coon notes that its recommendations regarding benchmarks and analogs are a result of several years works and have been conformed to the results reached in Georgia. While BellSouth agrees with the principle that simply having another state approve something does not necessarily mean it is appropriate for Florida to approve, the fact that Georgia has approved these analogs and benchmarks should bear some weight. (TR 321)

Analysis

Business Rules

Staff has analyzed the proposed BellSouth SQM as well as the specific changes requested by the ALEC Coalition. An analysis and recommendation regarding the changes to the specific business rules requested by the ALEC Coalition is shown in Attachment 3.

Disaggregation

In addition to the changes to the business rules discussed above, the ALECs are requesting extensive additions to the levels of disaggregation. Staff agrees that the measurement categories should be broken down to a level so that there are meaningful direct comparisons between performance BellSouth gives its customers and that provided to ALECs and their customers. The varying domains, such as preordering, ordering, provisioning, and maintenance and repair will have differing level of disaggregation. Below staff will discuss its general opinion by domain. Attachment 4 is an analysis of the disaggregation for each metric as proposed by BellSouth for informational purposes.

For the OSS or preordering domain, it is important that ALECs have constant access to applications and systems in a expedient manner. The metrics in the OSS domain address system response times and interface availability. Staff generally believes the

DOCKET NO. 000121-TP

DATE: August 2, 2001

metrics contained in this domain should be disaggregated by legacy system or application accessed. In some cases, it will also be appropriate to capture results to preorder inquiries in time intervals. Staff has analyzed each level of disaggregation for the preordering domain metric as proposed by BellSouth and believes that the disaggregation is generally appropriate as summarized in Attachment 4.

The intent of the ordering metrics is to provide information to ALECs regarding the status of an order submitted to BellSouth. The majority of the ordering metrics are measuring a time interval and will be measured against benchmarks rather than retail analogs. When appropriate staff believes it is necessary to disaggregate by level of mechanization used to send an order. For example, an order sent over an electronic interface can be rejected in a relatively short time frame compared to an order that is sent via fax machine. For those metrics that measure a time interval, staff also believe it is appropriate to disaggregate by time frame. In some cases, when ordering metrics it is also necessary to disaggregate by product type to discern if an individual products are being discriminated against in the ordering process. Staff believes the level of disaggregation for each of the ordering metrics specified in Attachment 4 is appropriate.

The provisioning metrics capture the amount of time it takes BellSouth to provision orders. BellSouth's proposal for provisioning metrics generally includes disaggregation by product, volume, level of mechanization and dispatch status. Staff believes this level of disaggregation is appropriate for provision metrics, as summarized in Attachment 4.

The intent of the maintenance and repair metrics is to show a variety of activities, such as missed appointment, trouble rate, and duration of trouble reports. Generally, maintenance and repair metrics will be disaggregated by product and dispatch status. Staff believes this level of disaggregation is appropriate for this type of metric, as shown in Attachment 4.

Staff does not believe that disaggregation by geography within the state of Florida for provisioning metrics or maintenance and repair metrics, as proposed by the ALECs, is appropriate at this time. This level of disaggregation would add a level of complexity

DOCKET NO. 000121-TP

DATE: August 2, 2001

to the performance measure plan that would hinder initial implementation. Staff believes the plan's initial purpose is to discern whether discrimination is occurring in the state of Florida on an aggregate basis. If the Commission would like to expand the plan to be able to ascertain if discrimination is occurring in selected areas within the state, that modification could be made at a later date. Currently all BellSouth metrics are reported at the state and/or the BellSouth regional level.

Staff partially agrees with the ALEC Coalition and is recommending some modification of disaggregation at the product level. Staff believes that BellSouth should disaggregate line splitting from line sharing in order to detect discrimination when the ILEC is not the voice provider of the loop and that EELs should be a separate category.

Staff disagrees that product disaggregation should include 41 products as proposed by the ALECs. Staff believes disaggregation to all 41 products would be inappropriate at this time because of the lack of apparent activity in many of the categories. BellSouth has proposed approximately 20 levels of product disaggregation. Staff is recommending approximately 19-24 levels of product disaggregation depending on the domain. Attachment 5 shows the general categories of disaggregation proposed for each metric by BellSouth.

Staff recommends the following **Ordering** product disaggregation:

- Resale - Residence
- Resale - Business
- Resale - Design (Special)
- Resale PBX
- Resale Centrex
- Resale ISDN
- 2W Analog Loop Design
- 2W Analog Loop Non-Design
- 2W Analog Loop w/LNP Design
- 2W Analog Loop w/LNP Non-Design
- UNE Digital Loop < DS1
- UNE Digital Loop ≥ DS1
- UNE xDSL (ADSL, HDSL, UCL)

DOCKET NO. 000121-TP

DATE: August 2, 2001

Line Sharing
Line Splitting
Standalone LNP
Switch Ports
Loop + Port Combinations
Local Transport
UNE Other Non-Design
UNE Other Design
EELs
Local Interconnection Trunks

Staff recommends the following **Provisioning** product disaggregation:

Resale Residence
Resale Business
Resale Design
Resale PBX
Resale Centrex
Resale ISDN
Standalone LNP
2W Analog Loop Design
2W Analog Loop Non-Design
 · Dispatch
 · Non-Dispatch (Dispatch In)
2W Analog Loop w/LNP Design
2W Analog Loop w/LNP Non-Design
 · Dispatch
 · Non-Dispatch (Dispatch In)
UNE Digital Loop < DS1
UNE Digital Loop ≥DS1
UNE Loop+ Port Combinations
 · Dispatch Out
 · Non-Dispatch
 · Dispatch In
 · Switch-Based
UNE Switch ports
UNE Combo Other
 · Dispatch
 · Non-Dispatch (Dispatch In)
UNE xDSL (HDSL, ADSL and UCL)
UNE xDSL (HDSL, ADSL and UCL)
w/o conditioning (P-4 only)

DOCKET NO. 000121-TP

DATE: August 2, 2001

UNE xDSL (HDSL, ADSL and UCL)
with conditioning (P-4 only)

UNE ISDN

UNE Line Sharing

UNE Line Splitting

UNE Other Design

UNE Other Non - Design

EELs

Local Transport (Unbundled Interoffice Transport)

Local Interconnection Trunks

Staff recommends the following **Maintenance and Repair** product disaggregation:

Resale Residence

Resale Business

Resale Design

Resale PBX

Resale Centrex

Resale ISDN

Standalone LNP (Not Available in Maintenance)

2W Analog Loop Design

2W Analog Loop Non - Design

UNE Loop + Port Combinations

UNE Switch ports

UNE Combo Other

UNE XDSL (HDSL, ADSL and UCL)

UNE ISDN

UNE Line Sharing

UNE Other Design

UNE Other Non - Design

Local Interconnection Trunks

Local Transport (Unbundled Interoffice Transport)

Standards

The standards proposed by staff are displayed in Attachment 5.

Conclusion

DOCKET NO. 000121-TP

DATE: August 2, 2001

The Commission should adopt the BellSouth business rules, disaggregation and standards as proposed, with the exception of the changes reflected in Attachments 3, 4 and 5.

ATTACHMENT 3

BellSouth Measurement	ALEC Proposed Changes to Business Rules, Standards and Disaggregation	Staff Recommendation
Preordering		
<p>OSS-1. Average Response Time and Response Interval (Preordering)</p>	<p>Definition: The measurement time should begin when BellSouth receives the query from the ALEC and should end when BellSouth returns a response to the ALEC interface. BellSouth should be accountable for the period of time in which the query and its response are in its possession.</p> <p>Business Rules: (1) BellSouth should exclude syntactically incorrect queries from the measure. The query type measurements should show how long it takes to return valid query information that is useful to the ALEC. Responses to invalid queries could come more quickly than a response to a valid query, thus diluting the results in terms of how quickly ALECs receive the information sought through a syntactically correct query. (2) BellSouth should not be allowed to drag its feet in measuring new query types and new interfaces. It should agree to report on such new queries and interfaces within six to eight weeks after they go into production.</p> <p>Disaggregation: BellSouth must capture all interfaces used, including PSIMS, and it must measure the speed of rejected queries and the number of queries receiving time outs to capture all pre-order response time issues of concern to ALECs. Numerous time outs and slow rejects, as well as the speed of other query responses, can add up and cause a customers to become frustrated while the ALEC is trying to sign them up to new service.</p> <p>Standard: The ALECs suggest parity with retail.</p>	<p>Staff agrees the date/time stamp should begin when BellSouth receives a query at the BellSouth Gateway and should end when the query is transmitted from the BellSouth Gateway.</p> <p>Staff agrees and believes BellSouth should exclude syntactically incorrect queries from this measure.</p> <p>Staff believes that change control is the appropriate forum for this concern.</p> <p>Staff believes that BellSouth is currently capturing all interfaces used including P/SIMS. Staff has recommended excluding syntactically queries, but does not believe it is necessary to measure the time of the rejection.</p> <p>Staff believes the appropriate benchmark for this measure is parity + 2 seconds. This benchmark is subject to a timing study being conducted by KPMG.</p>
<p>OSS-2. Interface Availability (Pre-Ordering)</p>	<p>Definition: BellSouth's definition should be expanded to include all interfaces, not just legacy systems. It is of no use to a ALEC if the legacy system is up, but the interface needed to access it is down.</p> <p>Business Rules: BellSouth's tortured and unsubstantiated business rules place severe limitations on what is considered an outage. All such exclusions should be eliminated from this measure.</p> <p>Data Retained: BellSouth should be required to post its own scheduled hours of OSS availability on its web-site as it currently does for ALEC OSS availability.</p>	<p>It appears that all ALEC interfaces are included in DAC 1 Exhibit 16 with the exception of Robotag. BellSouth should clarify language to include Robotag.</p> <p>The business rules should be revised to reduce limitations on what is considered an outage.</p> <p>DAC-1 Exhibit 16 reflects that reporting for RNS/ROS are under development.</p>

BellSouth Measurement	ALEC Proposed Changes to Business Rules, Standards and Disaggregation	Staff Recommendation
OSS-3. Interface Availability (Maintenance & Repair)	<p>Disaggregation: BellSouth needs to disaggregate by all its OSS Systems. If any route to that OSS varies, then each interface route should be reported separately.</p> <p>Data Retained: BellSouth should be required to post its own scheduled hours of OSS availability on its web-site as it currently does for ALEC OSS availability. BellSouth also must not do system maintenance more often in ALEC prime operational hours: 5 to 9 p.m. versus its own prime hours: 9 to 5 p.m.</p>	<p>Only relevant M&R interfaces should be included since this is M&R interface measure availability. Staff believes BellSouth proposed level of reporting is appropriate.</p> <p>Staff agrees and believes BellSouth should post its own scheduled hours of OSS availability. DAC-1 reflects that the BellSouth TAFI availability will be reported on the interconnection website.</p>
OSS-4 Response Interval (Maintenance & Repair)	No change proposed	Staff believes that BellSouth should not schedule normal maintenance during the hours of 8a.m.-9p.m. M-F
PO-1 Loop Makeup - Response Time - Manual	<p>Disaggregation: BellSouth does not disaggregate by type of loop.</p> <p>Standard: Its proposed benchmark of 3 business days is more lenient than the ALEC proposed 72 hour interval.</p>	<p>Staff does not believe disaggregation by loop type is necessary for this metric.</p> <p>Staff believes the proposed benchmark of 3 business days is appropriate.</p>
PO-2: Loop Makeup - Response Time - Electronic	<p>Standard: BellSouth proposes a benchmark of 90% in 5 minutes for now, with reassessment after 6 months. The Georgia Commission ordered a short-term benchmark of 90% within 5 minutes, and a benchmark after six months of 95% within 1 minute. At the least, this approach should be adopted. Better yet, the benchmark of 95% within 1 minute should be adopted immediately.</p> <p>Moreover, BellSouth should be required to provide this information (and meet this standard) via EDI as well as TAG.</p>	<p>Staff agrees that the appropriate benchmark should be 95% in 1 minute.</p> <p>EDI is not a pre-ordering system and therefore is not applicable in this measure.</p>
Ordering		
O-1: Acknowledgment Message Timeliness	<p>Business Rules: The following BellSouth business rule needs to be clarified: "If more than one ALEC uses the same ordering center, an Acknowledgment Message will be returned to the 'Aggregator', however, BellSouth will not be able to determine which specific ALEC this message represented." Obtaining individual results is vital to ALECs. This issue is especially critical as this measure is a proposed Tier 1 measure in BellSouth's remedy plan.</p> <p>Standard: BellSouth proposes a of 90% within 30 minutes at first for EDI (moving to 95% within 30 minutes after six months) and 95% within 30 minutes for TAG. The benchmark should be 98% within 15 minutes for both EDI and TAG immediately. The ALEC intervals are generous in that the acknowledgment response is part of the transmission "handshake" and should normally be returned in seconds from receipt of an order.</p>	<p>Staff agrees that BellSouth needs to clarify the business rule.</p> <p>Staff recommends a benchmark of 95% ≤ 30 minutes.</p>

BellSouth Measurement	ALEC Proposed Changes to Business Rules, Standards and Disaggregation	Staff Recommendation
<p>O-3. Percent Flow-through Service Requests (Summary)</p> <p>O-4. Percent Flow-through Service Requests (Detail)</p> <p>O-5. Flow-through Error Analysis</p>	<p>Exclusions: BellSouth's SQM should not exclude orders that fall to manual, through no fault of the ALEC, from the metric. It may measure whether the orders it has designed to flow through actually do, but it should also show the whole story on what orders have not yet been designed to flow through. The purpose of this measure should be to measure the percent flow-through capability of BellSouth's ordering systems. ALECs cannot improve the flow-through of error free orders, only BellSouth can. Therefore, it should be held accountable for its decision not to provide flow-through. Further, BellSouth is obligated to provide parity service. As it has provided no evidence that such orders fall out for manual processing for its retail operation, it should not be allowed to exclude such orders from its flow-through calculation for ALECs.</p> <p>At a minimum, the Commission should establish a timely sunset provision on this exclusion to cause BellSouth to improve its flow-through performance. Fall out from errors occurring in SOCS should be included in the metrics, as should all fall out resulting from BellSouth system issues.</p> <p>Standard: BellSouth's benchmarks may be appropriate if total flow through is being measured, but if only orders designed to flow through as BellSouth currently proposes are counted then the benchmark should be a strict 98%. ALECs propose that both total and achieved/designed flow through performance should be measured.</p>	<p>Staff agrees and believes BellSouth should produce separate results with and without manual fallout.</p> <p>Staff believes that the appropriate benchmarks for total flow through are: Residence 95% Business 90% UNE 85% LNP 85%</p>
<p>O-7 Percent Rejected Service Requests</p>	<p>Business Rules: BellSouth must identify all errors in orders in parallel, rather than catching and sending back each error one at a time. BellSouth's current serial process of rejecting orders extends the time for ALECs finally getting an order accepted.</p>	<p>Staff believes the order edit routines at BellSouth are appropriate and consistent with those in other jurisdictions.</p>
<p>O-8. Reject Interval</p>	<p>Business Rules: BellSouth's business rules and formula should be changed to require BellSouth to calculate this measure as follows. The measured interval should end upon delivery by BellSouth of a response to the ALEC interface. BellSouth should measure the entire interval up to the point that it returns the rejected LSR to the ALEC. BellSouth should be accountable for the time in which the rejection is in its possession.</p> <p>For non-mechanized orders, BellSouth indicates that it is using LON, its order tracking system for non-mechanized orders. Again, BellSouth provides no justification and the ALECs request that BellSouth be required to use the actual stop time from the fax server as it uses the date/time stamp from the fax for the receipt of the order.</p> <p>Further, when a ALEC uses multiple OSS interfaces the reject interval should be measured for each one. Different interfaces can produce different rejection intervals, and disaggregated monitoring of such differences are needed.</p>	<p>Staff agrees and believes that the business rules proposed by BellSouth require a date/time stamp in the ALEC interface (EDI, LENS or TAG). Previously the date/time stamp was in LEO.</p> <p>Staff agrees and believes that BellSouth is using the date/time stamp that reflects the time the rejection is automatically sent back to the ALECs via LON. LON automatically sends a fax to the ALEC.</p> <p>Staff disagrees with disaggregation of this interval by interface.</p>

BellSouth Measurement	ALEC Proposed Changes to Business Rules, Standards and Disaggregation	Staff Recommendation
	<p>Standard: BellSouth's intervals for partially mechanized orders are too long. Such rejections should be received in 5 hours not 48. Totally manual orders may have a longer 24 hour interval. These intervals should include trunks. BellSouth's proposed trunk rejection intervals—4 days—are too long to wait to learn that its order had not even been initiated yet.</p>	<p>Staff agrees and believes the benchmark for partially mechanized should be 95% ≤ 10 hours. The non-mechanized benchmark should be 95% ≤ 24 hours. The benchmark for trunks 95% ≤ 24 hours.</p>
<p>O-9. Firm Order Confirmation Timeliness</p>	<p>Business Rules: BellSouth's business rules and formula should be changed to require BellSouth to calculate this measure as follows: The measured interval should end upon delivery by BellSouth of a response to the ALEC interface.</p> <p>For non-mechanized orders, BellSouth indicates that it is using LON, its order tracking system for non-mechanized orders. Again, BellSouth provides no justification and the ALECs request that BellSouth be required to use the actual stop time from the fax server as it uses the date/time stamp from the fax for the receipt of the order.</p> <p>Also, if ALECs order inbound BellSouth to ALEC trunks through ASRs, the confirmation of those ASRs should be included in this metric. ALECs also have proposed a separate measure to capture how quickly BellSouth responds to inbound trunk requests whether made through ASRs to which BellSouth sends a confirmation or by a Trunk Group Service Request to which BellSouth responds by sending an ASR. Either as part of the confirmation or a separate metric, measurement of the time it takes BellSouth to respond is critical to monitor. ALECs often wait long times for ILECs to send the ASRs when capacity is inadequate to carry calls from ILEC customers to ALEC customers. ALECs seek to have adequate inbound trunk capacity in place before adding new customers that would cause blocking for new and existing customers. Current trunking measurements do not capture this missing response time on inbound trunks.</p> <p>BellSouth also should confirm facilities availability for all orders, not just trunks, before issuing a confirmation. If ALECs cannot depend on the due date given them then confirmations are useless. Too often in BellSouth territory ALECs receive confirmations immediately followed by notice that the order is being held for facilities. Facilities checks should be a standard requirement for all orders.</p> <p>Standard: While BellSouth and ALECs agree the interval for confirmation of fully mechanized or flow through orders, BellSouth has proposed extremely long intervals for confirming partially mechanized and trunk orders. BellSouth should establish intervals of five hours for partially mechanized orders, similar to the intervals agreed to by SBC's Pacific Bell and Ameritech affiliates. SWBT has a five hour confirmation interval for all electronic orders. Manual orders, including trunk orders should be confirmed in 24 hours.</p>	<p>Staff agrees and believes BellSouth proposed business rules state that the date/time stamp is captured in EDI, LENS, and TAG.</p> <p>Staff agrees and believes that BellSouth is using the date/time stamp that reflects the time the rejection is automatically sent back to the ALECs via LON. LON automatically sends a fax to the ALEC.</p> <p>Staff agrees and believes the BellSouth proposal in DAC-1 Exhibit 6 addresses the measurement of local interconnection trunks. Interconnection trunks are specified in the business rules and a separate benchmark has been established for this level of disaggregation.</p> <p>Staff agrees that BellSouth should be required to do electronic facilities checks to ensure due dates delivered in FOCs can be relied on.</p> <p>Staff agrees that the benchmark for non-mechanized should be 95% ≤ 24 hours. Partial Mechanized 95% ≤ 10 hours. Trunk orders should be 95% ≤ 36 hours</p>

BellSouth Measurement	ALEC Proposed Changes to- Business Rules, Standards and Disaggregation	Staff Recommendation
O-10: Service Inquiry With LSR Firm Order Confirmation (FOC) Response Time Manual	Standard: The benchmark for this metric should combine the interval for Manual Loop Qualification with the appropriate FOC interval. At most, the benchmark should be 95% in 3 days for electronic orders and 4 days for manual orders.	Staff has no evidence to support a change at this time. This is a new metric and the benchmark is $95\% \leq 5$ business days.
O-11: Firm Order Confirmation and Reject Response Completeness	Business Rules: BellSouth should include partially and non-mechanized orders.	Staff agrees that partially and non-mechanized orders should be included in this metric.
O-12: Speed of Answer in Ordering Center	Standard: This metric should not be diagnostic. The benchmark should be 95% in 20 seconds and 100% in 30 seconds.	Staff agrees there should be a standard for this measure. The standard should be parity with retail.
O-12 Speed of Answer (Ordering Center)	Disaggregation: The reports should be by each help desk center the ALECs call into as each may have different answering times.	Staff disagrees with this level of disaggregation.
O-13 LNP Percent Rejected Service Requests	Exclusions: BellSouth should not be allowed to exclude non-mechanized orders.	Staff agrees and believes BellSouth has eliminated this exclusion in the proposed business rules.
O-14 LNP Reject Interval Distribution and Average Reject Interval	<p>Exclusions: BellSouth should not be allowed to exclude non-mechanized orders from this measure.</p> <p>Business Rules: BellSouth's business rules for the start and stop times for this measure are unclear. BellSouth should be accountable for the LSR while it is in its possession and should change its business rules to reflect that it uses the date/time stamps in EDI, LENS and TAG to measure this interval.</p> <p>Standards: BellSouth has proposed extremely long intervals for returning partially mechanized orders. BellSouth should establish intervals of five hours for partially mechanized orders, similar to the intervals agreed to by SBC's Pacific Bell and Ameritech affiliates.</p>	<p>Staff agrees and believes BellSouth has eliminated this exclusion in the proposed business rules.</p> <p>Staff agrees and believes BellSouth should change the business rules to reflect the use of date/time stamp in the EDI, LENS and TAG gateway.</p> <p>Staff partially agrees and believes the benchmark for partially mechanized should be $95\% \leq 10$ hours and recommends the non-mechanized benchmark should be revised to $95\% < 24$ hours.</p>
O-15 LNP Firm Order Confirmation Timeliness Interval Distribution and Firm Order Confirmation Average Interval	<p>Exclusions: BellSouth should not be allowed to exclude non-mechanized orders from this measure.</p> <p>Business Rules: BellSouth's business rules for the start and stop times for this measure are unclear. BellSouth should be accountable for the LSR while it is in its possession and should change its business rules to reflect that it uses the date/time stamps in EDI, LENS and TAG to measure this interval.</p> <p>Standards: BellSouth has proposed extremely long intervals for returning partially mechanized orders. BellSouth should establish intervals of five hours for partially mechanized orders, similar to the intervals agreed to by SBC's Pacific Bell and Ameritech</p>	<p>Staff agrees and believes BellSouth should not exclude non-mechanized from reporting. DAC-1 reflects that non-mechanized is "under development".</p> <p>Staff agrees and believes BellSouth should change the business rules to reflect the use of date/time stamp in EDI, LENS and TAG.</p> <p>Staff agrees and believes the benchmark should be partially mechanized $95\% \leq 10$ hours and recommends the non-mechanized</p>

BellSouth Measurement	ALEC Proposed Changes to Business Rules, Standards and Disaggregation	Staff Recommendation
	affiliates. SWBT has a five hour return interval for all electronic orders. Manual orders should be returned in 24 hours.	benchmark should be revised to 95% ≤ 24 hours.
Provisioning		
P-1 Mean Held Order Interval and Distribution Intervals	<p>Business Rules and Calculations: BellSouth's approach to this measure is fatally flawed in that it allows any held order which is closed prior to the end of the month to be excluded from this calculation. Therefore an order could be held on the 1st of the month, and not be released until the 29th, but not appear in this report. BellSouth should be required to report the average delay of all orders held for lack of facilities past the due date.</p> <p>Disaggregation: ALECs need to see how many orders are held by all products, including the various xDSL-capable loops with and without conditioning, line-sharing and splitting requests, etc. The results should also be disaggregated by the reason for the hold: "facilities," "load," and "other" at the very least.</p>	<p>Staff agrees and believes that BellSouth should capture all orders held past due dates, not only those open at the close of the reporting period.</p> <p>Staff agrees and notes that BellSouth currently includes the level of disaggregation in DAC-1. Hold reason data is currently captured in raw data. ALEC can use the raw data to investigate any specific concerns. Staff does not believe disaggregation by hold reason is appropriate.</p>
BellSouth Measurement	ALEC Proposed Changes to Business Rules, Standards and Disaggregation	Staff Recommendation
P-2 Average Jeopardy Notice Interval and Percentage of Orders Given Jeopardy Notices	<p>Business Rules: ALECs need to have an equivalent opportunity to plan with customers for situations where an order appears to be in jeopardy as does BellSouth. Therefore, if any BellSouth representative can check on the status of the order, then ALECs need access to that same information sent through electronic or manual notices as requested.</p> <p>Calculation: The calculation should be based on the orders placed in jeopardy not just those orders sent jeopardy notices. To calculate the metric as proposed by BellSouth would understate any problem in ALECs not receiving notices on orders that are going to be missed.</p>	<p>Staff believes that ALEC have the opportunity to check the status of any order through CSOTS. Staff is unclear what the ALECs are requesting here.</p> <p>Staff disagrees and believes this measure is capturing notices. Staff is unsure how "orders placed in jeopardy" would be determined. If an order is placed in jeopardy, a notice is provided to ALECs.</p>
P-3 Percent Missed Installation Appointments	<p>Business Rules: Disconnect and From orders should be disaggregated and reported separately, rather than be excluded as BellSouth proposes. ALECs need to see that their requests to disconnect customers from service are timely as well. This will help avoid billing disputes with the terminated customer.</p> <p>Business Rules: The due date on any firm order confirmation followed by a notice of facilities hold status should be considered a missed appointment, because BellSouth should have checked facilities before issuing the confirmation. (See e.spire testimony.)</p> <p>Business Rules/Calculation: BellSouth includes only misses of the original due date. Therefore, if an appointment is rescheduled, and also missed, BellSouth does not report it. This is misleading and can mask discriminatory behavior. BellSouth should be required to report on all its missed appointments.</p>	<p>Staff disagrees. This measurement was intended to focus on installation appointments. Staff sees no justification for changing the exclusion of Disconnect or From orders.</p> <p>Staff believes that missed appointments caused by pending facilities are calculated in the missed installation appointment metric currently if the pending facilities extend beyond the due date.</p> <p>Staff agrees that subsequent missed appointment should be included in the calculation of this metric.</p>

BellSouth Measurement	ALEC Proposed Changes to- Business Rules, Standards and Disaggregation	Staff Recommendation
	<p>Calculation: The denominator is also incorrect. BellSouth uses the number of orders completed in the reporting period, but it should use the number of orders due in the reporting period. Orders could and likely would be completed in one month, but not due until the next month, and should not be included.</p> <p>Business Rules: This measure should be changed to include time, when time specific appointments are ordered by the ALEC. This measure should evaluate the level of service ALECs are paying for and to which BellSouth is committing, i.e. if the appointment is time specific, the measurement should be time specific.</p> <p>Disaggregation: ALECs need to see how many orders are held by all products, including the various xDSL-capable loops with and without conditioning, line-sharing and splitting requests, etc.</p>	<p>Staff disagrees and believes the appropriate denominator is orders completed in the reporting period.</p> <p>Staff agrees that Missed Installation Appointment should be modified to capture time specific appointments when the specific time is missed.</p> <p>Staff partially agrees and believes the level of disaggregation proposed by BellSouth which include xDSL and line sharing is appropriate.</p>
P-4. Average Completion Interval (OCI) Interval Distribution	<p>Business Rules: Disconnect and From as well as expedite orders should be disaggregated and reported separately, rather than be excluded as BellSouth proposes. These usually are very short intervals that can skew total results, but ALECs need to know the speed at which disconnect and expedite orders are being met.</p> <p>Business Rules: BellSouth should be required to modify its business rules and calculation to reflect the appropriate interval. The appropriate starting point for this measure is when BellSouth receives a valid LSR and the appropriate ending point is when a completion notice is sent to the ALEC. Both the New York and Texas performance measures plans begins this interval with the date that a valid service request is received, not when the order is entered into the SOC system as proposed by BellSouth. BellSouth's approach eliminates what could be considerable time from the interval, particularly for non-flow through orders. BellSouth is in control of that time, not the ALEC, and should be accountable for it.</p> <p>Disaggregation: Orders designated "pending facilities" should be a level of disaggregation, as well as the other proposed levels of disaggregation in KK-2. ALECs need to see if BellSouth's orders designated as pending facilities get completed at a faster pace than ALEC orders that were pending facilities.</p> <p>ALECs need to see disaggregation by the various xDSL-capable loops, line-sharing and splitting requests, etc. As mentioned above, information on whether these products also include conditioning should be a level of disaggregation. ALECs need to see if they are receiving line conditioning on orders in a non-discriminatory fashion.</p> <p>Disaggregation: BellSouth should be required to report its provisioning measures that have a parity standard by type of work performed. BellSouth currently reports by dispatch and non-dispatch. However, this is causing misleading results as BellSouth</p>	<p>Staff disagrees with the any change to the exclusions for this metric.</p> <p>Staff partially agrees with this proposal. The interval should begin when the FOC is generated, as BellSouth proposed, and conclude when a completion notice is sent to the ALEC.</p> <p>Staff disagrees that this level of disaggregation is needed at this time.</p> <p>Staff partially agrees with this proposal and believes BellSouth currently includes adequate xDSL and Line Sharing disaggregation in its proposal.</p> <p>Staff agrees that BellSouth should disaggregate provisioning metrics as shown in Attachment 5.</p>

BellSouth Measurement	ALEC Proposed Changes to- Business Rules, Standards and Disaggregation	Staff Recommendation
	<p>combines central office and field work in the dispatch category BellSouth should be required to report by non-dispatch, dispatch in (or CO work), and dispatch out (or field work).</p> <p>Instead of excluding orders with intervals later than the offered interval, they should be disaggregated and reported separately.</p>	<p>Staff disagrees that BellSouth should disaggregate for later than offered due dates.</p>
<p>P-4: Average Completion Interval</p>	<p>Standard: BellSouth's proposed intervals for xDSL with and without conditioning are too long. Interval for conditioning should be no more than 5 days.</p>	<p>Staff believes the standards for xDSL with and without loop condition of 7 and 14 days are too long. The standard should be 5 and 12 days respectively.</p>
<p>P-5. Average Completion Notice Interval</p>	<p>Exclusions: BellSouth should be required to remove its exclusion of non-mechanized and partially mechanized orders.</p> <p>Disconnections and From orders should be included in the measurement but reported separately to track performance,</p> <p>BellSouth should be required to modify its business rules and calculation formula to indicate the measured interval ends upon delivery by BellSouth of a notice of completion to the ALEC interface (LENS, EDI, or TAG) or, if manual, the date/time stamp from the fax machine or server. BellSouth should be accountable for the time in which the completion information is in its possession.</p> <p>Standard: Completion notices need to be delivered promptly after actual physical work completion so ALECs know when they own new customers and must respond to their needs. If the retail analog selected operates at the interval stated by BellSouth in collaborative (an hour to an hour and a half) that is acceptable but most completion notices need to be delivered at least one hour after work completion.</p>	<p>Staff agrees and believes that the BellSouth SQM proposal for this measure has removed the exclusion for both Non-Mechanized and Partially Mechanized.</p> <p>Staff disagrees with removing this exclusion and creating a separate level of disaggregation.</p> <p>Staff agrees and believes that the BellSouth SQM proposal for this measure has included an end time stamp of when the notice is transmitted to the ALEC interface. The end time stamp for non-mechanized orders should be the time stamp from the fax machine or server via LON.</p> <p>Staff agrees and believes parity with retail is appropriate.</p>
<p>P-6 Coordinated Customer Conversion Interval</p>	<p>Exclusions: Cancelled orders should be included to capture all the hot cut activity (even those attempts that prompt the customer to cancel the order) in the metric.</p> <p>Standard: BellSouth's interval represents a flawed calculation that does not depict the actual performance on each individual cut. In any event, BellSouth's 15 minutes per loop is excessive and even the ALEC's standard is generous considering it should not take more than 5 minutes per loop for conversion.</p>	<p>Staff does not believe this is the appropriate measure for capturing order cancellations. Staff believes cancelled orders should be excluded.</p> <p>Staff believes that 95% ≤ 15 minutes is appropriate at this time.</p>
<p>P6-A Coordinated Customer Conversions Hot Cut Timeliness %</p>	<p>Exclusions: Cancelled orders should be included to capture all the hot cut activity (even those attempts that prompt the customer to cancel the order) in the metric.</p>	<p>Staff believes that cancelled orders should be excluded from this metric.</p>

BellSouth Measurement	ALEC Proposed Changes to Business Rules, Standards and Disaggregation	Staff Recommendation
within Interval and Average Interval	<p>Business Rules: The ALECs request that this measurement be modified to include the entire hot cut interval or replaced with the hot cut timeliness measure requested by the ALECs in my direct testimony. It is important that not only the start time of the cut, but the entire interval, including acceptance testing with the ALEC be included in this measure.</p> <p>Business Rules: Metric should be clarified to make clear that an early cut would be included as a missed appointment if cut was restarted within original window. Thirty minute buffer is excessive.</p> <p>The loop should not be considered delivered until BellSouth and the ALEC have checked whether electrical continuity exists. Customers will not tolerate timely delivery of non-working loops.</p> <p>Disaggregation: Particularly with the advent of line sharing and splitting, disaggregation by all the types of digital and xDSL loops offered by BellSouth is critical to detect problem areas with hot cuts.</p> <p>Standard: The benchmark should be 95% completed within cut over window. BellSouth only appears to be measuring whether the cut started on time, but does not measure whether it finished within the cut over window proposed by the ALECs.</p>	<p>Staff agrees and believes that BellSouth has included a notification provision in its proposed SQM for this metric.</p> <p>Staff disagrees that + or - 15 minutes of schedule start time is excessive.</p> <p>Acceptance testing results are captured in the BellSouth proposed metric P-7.</p> <p>Staff disagrees that product disaggregation to the extent proposed is needed at this time.</p> <p>Staff believes the benchmark of 95% + or - 15 minutes is appropriate.</p>
P6-B: Coordinated Customer Conversions – Average Recovery Time	<p>Exclusions: Only verified end user and ALEC caused reasons should be excluded. (i.e. the ALEC has to agree).</p> <p>Business Rules: Outages during and before the cut are included, not just those that can be reported after order completion through maintenance systems. BellSouth may separate out the later group of restorals and measure them as a disaggregation of Maintenance Average Duration with the same benchmark if it prefers.</p> <p>Standard: The benchmark should be 98% in 1 hour and 100% in 2 hours. These outages were caused by BellSouth's cut-over errors and, thus, should be easy for it to diagnose and resolve.</p>	<p>Staff agrees that exclusions relating to end-user and ALEC-caused reasons should require ALEC agreement.</p> <p>Staff disagrees with the ALEC proposal to disaggregate Maintenance Average Duration further.</p> <p>Staff has no evidence on which to support the assertion that the benchmark should be 98% in 1 hour. Since this is a new metric, staff believes the benchmark should be established at the 6-month review period.</p>
P-6C: Coordinated Customer Conversions- % Provisioning Troubles Received W/i 7 days of a Completed Service Order	<p>Standard: The benchmark should be 1%, not 5 % as BellSouth proposes.</p>	<p>Staff has no evidence on which to support the assertion that the benchmark should be 1% versus 5%. Staff believes the benchmark for the measure should be reevaluated at the 6-month review period.</p>

BellSouth Measurement	ALEC Proposed Changes to Business Rules, Standards and Disaggregation	Staff Recommendation
P-7: Cooperative Acceptance Testing - % of xDSL Loops Tested	<p>Exclusions: BellSouth should report the number of exclusions (ALEC caused failures monthly) so ALECs can determine whether or not their reports match up.</p> <p>Definition: The following change should be made: (1) In the Definition Portion, add "A loop will be considered successfully cooperatively tested when both the ALEC and ILEC representatives agree that the loop has passed the cooperative testing" and (2) In the SEEM Analog/Benchmark, replace "95 percent of Lines Tested" with "95 percent of Lines Tested Successfully Passing Cooperative Testing."</p> <p>Standard: The benchmark should be 99.5%.</p>	<p>Staff agrees that the number of exclusions should be captured in the raw data so that ALECs can verify accuracy.</p> <p>BellSouth agreed at hearing to further define that successful testing means successful to both the ALEC and BellSouth</p> <p>Staff has no evidence to support an increase to the benchmark at this time.</p>
P-8 Percent Provisioning Troubles within 30 days of Service Order Completion	<p>Business Rules: The metric should include all trouble reports arising from the same order. A customer may experience several service disruptions related to provisioning problems and each should count as a provisioning trouble.</p>	<p>Staff disagrees and believes BellSouth is currently capturing the troubles appropriately. The first trouble is captured as a Provisioning Trouble within 30 day of service Order Completion. Subsequent Troubles are captured in the repeat troubles within 30 days metric. Staff believes this is appropriate.</p>
P-9 Total Service Order Cycle Time (TSOCT)	ALECs did not analyze this measure.	
P-10 LNP Percent Missed Installation Appointments	<p>See missed appointment issues in P-3 above.</p> <p>Exclusions: The measure should be modified to include non-mechanized orders. The Commission should not allow BellSouth to discriminate against ALECs who place orders via non-mechanized means.</p>	<p>See P-3 above</p> <p>Staff agrees and believes BellSouth has eliminated the non-mechanized exclusion in the SQM Proposal for this measure in DAC-1, Exhibit 16.</p>
P-11 LNP Disconnect Timeliness Interval	<p>Business Rules: BellSouth should be required to actually perform the disconnect activity before completing the service order in SOCs.</p> <p>Exclusions: BellSouth should be required to include non-mechanized orders. See comments in measure above.</p>	<p>Staff agrees and believes that the BellSouth-proposed SQM for this metric reflects this proposal.</p> <p>Staff agrees and believes BellSouth has eliminated the non-mechanized exclusion in the SQM proposal for this measure in DAC-1, Exhibit 16.</p>
Maintenance and Repair		
MR-1 Missed Repair Appointments	<p>Exclusions: BellSouth may exclude customer provided or ALEC equipment troubles from the metric but it should report the number of exclusions monthly.</p> <p>Business Rules: The end time should be when the ALEC receives notice that the service is restored. This will enable the ALEC to notify BellSouth promptly if it disagrees that the service has been</p>	<p>Staff disagrees at this time. Causes for Missed Repair Appointments are included in the data retained and ALECs have the capability of investigating the problem when necessary.</p> <p>Staff disagrees. This metric measures missed appointments. For analog purposes it is necessary that</p>

BellSouth Measurement	ALEC Proposed Changes to Business Rules, Standards and Disaggregation	Staff Recommendation
	restored.	this comparability be maintained.
MR-2 Customer Trouble Report Rate	See MR-1 above. Standard: The standard should be parity or no worse than the end user standard in Florida. Otherwise ALECs will not be able to meet the end user standard.	See response to MR-1 above. Staff agrees and believes parity is the standard proposed by BellSouth in DAC-1, Exhibit 16.
MR-3 Maintenance Average Duration	Exclusions: Customer and ALEC equipment troubles may be excluded but should be reported separately for the reasons stated in MR-1. BellSouth also should not exclude troubles that have lasted more than 10 days. Business Rules: The trouble report should not be considered closed or service restored until the ALEC is given notice. "Restore" means to return to the normally expected operating parameters for the service and verification by the ALEC that the service has been restored. ALECs must be able to verify when informed that the trouble is closed that service has been restored to the customer. This will reduce the number of repeat trouble reports for services that were prematurely closed by BellSouth, but the ALEC customer's service is still impaired. Disaggregation: All maintenance metrics should be disaggregated by trouble type so ALECs can ascertain the specific types of problems (Central Office, Loop, etc.) where they may not be receiving parity service. This also protects BellSouth as dispatch troubles generally take longer than central office troubles and could make the metric look out of parity only because the ALEC had more dispatch troubles. So such disaggregation is particularly crucial for trouble duration. Business Rules: BellSouth should clarify what it means by a "correct" repair request and how an ALEC is informed that reporting of trouble is incorrect.	See response to MR-1 above. Trouble reports greater than 10 days have to be removed from exclusion in the BellSouth SQM proposed in DAC-1, Exhibit 16. Staff disagrees. This metric measures duration of troubles. For analog purposes it is necessary that this comparability be maintained. Staff disagrees that disaggregating by trouble type is necessary and believes this is excessive disaggregation. However, ALECs can analyze their results by disposition and cause code by reviewing the raw data. BellSouth is currently disaggregating by dispatch for this measure. Staff agrees that this clarification would be useful.
MR-4 Percent Repeat Troubles in 30 Days	Business Rules: Customer and ALEC equipment trouble exclusions should be reported separately (See MR-1). Calculation: The denominator for the metric should be all repeat troubles received in the month, rather than all troubles closed. Using BellSouth's calculation could understate the problem for a month in which numerous troubles have not been closed by the end of the month. Standard: The standard should be parity or no worse than the state's end user standard. Otherwise the ALEC could not meet that standard.	See MR-1 response Staff disagrees that the denominator should be changed. Staff agrees and BellSouth proposed standard is parity.
MR-6 Average Answer Time (Repair Center)	Disaggregation: If there is more than one maintenance center, then the results of both centers should be shown separately to monitor each center's performance.	Staff believes the proposed level of disaggregation is adequate. BellSouth currently disaggregate between the UNE center and the

BellSouth Measurement	ALEC Proposed Changes to- Business Rules, Standards and Disaggregation	Staff Recommendation
	Standard: 95% calls should be answered in 20 seconds, and 100% in 30 seconds to ensure prompt taking of trouble reports. In no case, should the answer time be worse than the end user requirement. Benchmark should be the better of parity or at least the end user standard.	BRC repair center for ALECs. Staff believes that parity is the appropriate standard as proposed in BellSouth DAC-1, Exhibit 16.
MR-7: Mean Time to Notify CLEC of Network Outages	Standard: Parity by design needs to be confirmed by KPMG. If confirmed, no metric is needed, just information on how to get the same notices at the same time as BellSouth.	Parity by design will be confirmed by KPMG during the OSS test.
B-1. Invoice Accuracy	Business Rule: Invoice accuracy should not be based on adjustment dollars, as BellSouth is in control of whether or not it grants an adjustment, and is therefore in control of the outcomes of this measurement.	Staff agrees that this measure presents problems; however, no evidence has been provided to correct the deficiencies in the measure. Staff proposes adding the number of bills and bill adjustments to the current metric.
B-2. Mean Time to Deliver Invoices	Calculation: This measure should be modified to be based on percent invoices received on time, or the Commission should adopt the Percent On-Time Mechanized Local Service Invoice Delivery measure recommended by the ALECs. Exclusions: Bills rejected because of BellSouth formatting or content errors should be included.	Staff disagrees with modifying this measure. Staff agrees that this exclusion should be eliminated.
B-3 Usage Data Delivery Accuracy	Calculation: ALECs believe the metric should reflect the number of records not data packs delivered accurately. This is more in line with how accuracy has been calculated in the past for usage data..	Staff agrees that the measure should be modified to reflect records rather than data packs
B-6 Mean Time to Deliver Usage	Business Rule: ALECs believe that the measurement should begin with the generation of data by the ALEC retail customer or ALEC access customer (by the AMA recording equipment associated with the ALEC switch.). This will ensure that all usage (local and associated access) are covered by this metric.	Staff believes the BellSouth measure should be modified to reflect differences between date data is mailed and date data is generated by customer/Total record volume delivery
OSDA		
OS-1 OS/DA Speed to Answer Performance/ Average Speed to Answer	Exclusions: BellSouth should not exclude call abandonment times. The customers likely abandoned the call because of lengthy waits for a response and such time should be included in the metric calculation. Standard: ALECs propose that 95% of calls be answered in 10 seconds. The metric would have to be changed from an average measure to a Percent in 10 Seconds to suit this benchmark. Otherwise the benchmark needs to be restates as an acceptable average. In no case, should the standard be worse than the end user standard for answering such calls, as the ALECs need to meet the end user standard. ALECs want third-parity verification of BellSouth's claims that this measure is parity by design.	Staff agrees and believes the BellSouth SQM proposed for this metric does not exclude calls that are abandoned. The time at which a call is abandoned is captured. Staff believes this metric is appropriate as proposed by BellSouth and is parity by design. Staff believes this will be confirmed by the OSS Third-Party Test.

BellSouth Measurement	ALEC Proposed Changes to- Business Rules, Standards and Disaggregation	Staff Recommendation
OS-2 OS/DA Speed to Answer Performance/Percent Answered in X Seconds	Business Rules: ALECs propose that OS/DA performance be measured with a single metric, but disaggregated for OS and DA.	Staff believes BellSouth proposed method for capturing metric is appropriate.
E-1 E911 Timeliness E-2 E911 Accuracy E-3 E911 Mean Interval	Standard: ALECs have no changes to these measures but want third-parity verification of BellSouth's claims that its E911 update processes are parity by design.	Parity by design will be validated in the OSS Third-Party Test.
TGP-1 Trunk Group Performance - Aggregate	Business Rules: ALECs are seeking the inclusion of 911 trunks in this measure along with the OS/DA trunks that BellSouth has agreed to add. Disaggregation: BellSouth must disaggregate reporting by trunk type and design type. Combining trunks built to different blocking standards can hide blocking problems. Standards: The measure should be based on parity in not exceeding the various blocking design levels. See KK-3.	Staff is unclear what the ALECs are proposing.
TGP-2 Trunk Group Performance	See TGP-1.	See TGP-1.
C-1 Collocation Average Response Time	Standards: ALECs propose to change metric to a proportion and set standard at 95% in 10 calendar days.	Staff disagrees. The standard established for this measure resulted from a previous docket at the Commission.
C-2. Collocation Average Arrangement Time	Business Rule: Further, a collocation should not be considered complete until the ALEC accepts the collocation and associated cable assignment information is provided. This definition has been adopted in New York and other states in the Verizon region. Disaggregation: Disaggregation needs to also include Remote collocations and separate out the augment types by differing intervals (i.e. 90 day physical augment from 45-day physical augment) for reporting average intervals.	Staff agrees and believes appropriate language should be added. Staff believes the current level of disaggregation is appropriate.
C-3 Collocation Percent Due Dates Missed	Standard: Due to control BellSouth has over the committed due date and the long standard intervals, ALECs recommend that no misses should be allowed.	Staff believes a benchmark of 95% on time would be appropriate. Texas uses this same standard.
Database Update Information		
D-1: Average Database Update Interval	Standard: Parity by design needs to be confirmed by KPMG.	Parity by design will be validated in the OSS Third-Party Test.

BellSouth Measurement	ALEC Proposed Changes to Business Rules, Standards and Disaggregation	Staff Recommendation
D-3: Percent NXXs and LRNs Loaded by LERG Effective Date	Business Rules: BellSouth's business rules should not define the interval by the completion of initial interconnection trunk groups when that happens after the LERG effective date. Otherwise, BellSouth could delay delivery of trunks to cover late LERG updates. The LERG effective date should be the end time in all cases.	Staff disagrees that a change is needed.
Change Management		
CM-1 Timeliness of Change Management Notices	<p>Business Rules: Business rules do not state whether ALECs receive both notice and documentation within specified time before implementation.</p> <p>Disaggregation: Need to disaggregate by notice type (i.e. BellSouth initiated, ALEC initiated, industry forum, regulatory or emergency, for example)</p> <p>Standards: Standards in underlying change management process are unclear and reporting on website does not match business rules in the metrics.</p>	<p>Staff believes this proposal is addressed in CM-3.</p> <p>Staff disagrees and does not believe disaggregation by notice type is necessary.</p> <p>Staff believes the benchmark for this measure should be 98% on time.</p>
CM-2 Average Delay Days for Change Management Notices	(See Above.) Standards: Benchmark should be 95% in 5 days. For 30 days it should be a shorter delay day interval of no more than 3 days.	Staff agrees with the proposed benchmark of 95% in 5 days is appropriate.
CM-3 Timeliness of Documents Associated with Change	(See Above.) Exclusions: BellSouth's proposed exclusion for dates that slip less than 30 days "for reasons outside BellSouth control" is too broad. Standard: A Five day interval for documentation changes is too short for ALECs to be able to implement changes. ALECs recommend 30 days for documentation changes, unless it is for error correction, which should be provided within the five day time frame. Further, if the documentation is associated with software changes, 90 days or more is needed for major releases.	<p>Staff suggests that BellSouth further clarify this statement.</p> <p>Staff proposes that the benchmark be 98% on time.</p>
CM-4 Average Delay Days for Documentation	Standard: Benchmark should be 98% in 5 days.	Staff proposes a benchmark of 95% ≤ 5 days .
CM-5: Notification of CLEC Interface Outages	Business Rules: BellSouth should explain how it verifies outage and the interval between first notice of outage and verification. If this interval is long, the notice could be delayed and still appear to be on time because of "verification" condition.	Staff disagrees that any change is needed to this metric at this time.

Level of Disaggregation by Metric									
No.	Measure	Interface	Product	Volume	Time Interval	Dispatch Status	Geography State	Geography Region	Mechanization
Pre-Ordering									
OSS-1	Average Response Time for OSS Pre-Order Interfaces & Response Interval	X			X			X	
OSS-2	OSS Interface Availability (All Systems)	X						X	
OSS-3	Interface Availability (M&R)	X						X	
OSS-4	Response Interval (M&R)	X			X			X	
PO-1	Loop Makeup Inquiry (Manual)				X		X	X	
PO-2	Loop Makeup Inquiry (Electronic:EDI, TAG and LENS)				X		X	X	
Ordering									
O-1	Acknowledgment Timeliness (Electronic)	X			X			X	
O-2	Acknowledgment Completeness (Fully Mechanized, Partially Mechanized & Total Mechanized)	X						X	
O-3/4	Percent Order Flow Through (Summary & Detail)	X	X					X	X
O-5	Flow-through Error Analysis								
O-6	CLEC LSR Information - LSR Flow-Through Matrix	X	X						
O-7	Percent Rejected Service Request (Fully mechanized, Partially Mechanized & Non-Mechanized)		X				X	X	X
O-8	Reject Interval		X		X		X	X	X

Level of Disaggregation by Metric

No.	Measure	Interface	Product	Volume	Time Interval	Dispatch Status	Geography		Mechanization
							State	Region	
O-9	Firm Order Confirmation Timeliness (Fully mechanized, Partially Mechanized & Non-Mechanized)		X		X		X	X	X
O-10	Service Inquiry with LSR Firm Order Confirmation (FOC) Response Time (Manual)				X		X	X	
O-11	Firm Order Confirmation and Reject Response Completeness		X				X	X	X
O-12	Speed of Answer in Ordering Center							X	
O-13	LNP - Percent Rejected Service Request		X				X	X	X
O-14	LNP - Reject Interval Distribution & Average Reject Interval		X		X		X	X	X
O-15	LNP - FOC Timeliness Interval Distribution & FOC Average Interval		X		X		X	X	X
	Percent Order Accuracy								
Provisioning									
P-1	Mean Held Order Interval		X	X	X		X	X	
P-2	Average Jeopardy Notice Interval (Electronic) & % Orders Given Jeopardy Notice		X				X	X	X
P-3	Percent Missed Installation Appointments		X	X		X	X	X	
P-4	Order Completion Interval		X	X	X	X	X	X	
P-5	Average Completion Notice Interval (Electronic)		X		X	X	X	X	X
P-6C	Coordinated Customer Conversions - % Provisioning Troubles Received Within 7 Days of a Completed Service Order		X			X	X	X	

Level of Disaggregation by Metric									
No.	Measure	Interface	Product	Volume	Time Interval	Dispatch Status	Geography State Region		Mechanization
P-6	Coordinated Customer Conversions Interval		X		X		X	X	
P-6A	Coordinated Customer Conversions Hot Cut Timeliness % within Interval & Average Interval		X		X		X	X	
P-6B	Coordinated Customer Conversions - Average Recovery Time		X				X	X	
P-7	Cooperative Acceptance Testing(% xDSL Loops Successfully Tested)		X				X	X	
P-8	% Provisioning Troubles within 30 days		X	X		X	X	X	
P-9	Total Service Order Cycle Time		X	X	X	X	X	X	X
P-10	LNP - Percent Missed Installation Appointments		X	X		X	X	X	
P-11	LNP - Average Disconnect Timeliness Interval & Disconnect Timeliness Interval Distribution		X		X		X	X	
P-12	LNP - TSOCT		X		X	X	X	X	X
	% Completions/ Attempts w/o notice or w/Less Than 24 Hr Notice								
	% Completion of timely loop modification								
Maintenance & Repair									
M&R-1	Missed Repair Appointments		X			X	X	X	
M&R-2	Customer Trouble Report Rate		X			X	X	X	
M&R-3	Maintenance Average Duration		X			X	X	X	
M&R-4	% Repeat Troubles within 30 days		X			X	X	X	
M&R-5	Out of Service > 24 hours		X			X	X	X	

Level of Disaggregation by Metric									
No.	Measure	Interface	Product	Volume	Time Interval	Dispatch Status	Geography		Mechanization
							State	Region	
M&R-6	Average Answer Time - Repair Center							X	
M&R-7	Mean Time to Notify CLEC of Network Outages (M&R)						X	X	
Billing									
B-1	Invoice Accuracy		X				X	X	
B-2	Mean Time to Deliver Invoices		X				X	X	
B-3	Usage Data Delivery Accuracy							X	
B-4	Usage Data Delivery Completeness							X	
B-5	Usage Data Delivery Timeliness							X	
B-6	Mean Time to Deliver Usage							X	
B-7	Recurring Charge Completeness		X					X	
B-8	Non-Recurring Charge Completeness		X					X	
	% Billing Errors Corrected in X Days								
OS/DA									
OS-1	Average Speed to Answer (OS)						X		
OS-2	% Answered in "X" Seconds (OS)						X		
DA-1	Average Speed to Answer (DA)						X		
DA-2	% Answered in "X" Seconds (DA)						X		
Database Update Information									
D-1	Average Update Interval for DA Database for Facility Based CLECs						X		

Level of Disaggregation by Metric									
No.	Measure	Interface	Product	Volume	Time Interval	Dispatch Status	Geography		Mechanization
							State	Region	
D-2	Percentage DA Database Accuracy For Manual Updates						X		
D-3	Percent NXXs loaded and Tested by/or prior to the LERG effective date							X	
E911									
E-1	Timeliness						X	X	
E-2	Accuracy						X	X	
E-3	Mean Interval				X		X	X	
Trunk Group Performance									
TGP-1	Trunk Group Performance - Aggregate				X		X		
TGP-2	Trunk Group Performance - Specific				X		X		
Collocation									
C-1	Average Response Time		X				X		
C-2	Average Arrangement Time		X				X		
C-3	% of Due Dates Missed		X				X		
Change Management/Interface Outages									
CM-1	Timeliness of Change Management Notices							X	
CM-2	Average Delay Days for Change Management Notices							X	
CM-3	Timeliness of Documents Associated with Change							X	
CM-4	Average Delay Days for Documentation							X	
CM-5	Average Notice of Interface Outage	X						X	

Service Quality Measures Disaggregation and Standards					
No.	Measure	BellSouth Proposed		Staff Recommendation	
		Disaggregation	Analog/Benchmark	Disaggregation	Analog/Benchmark
Preordering					
OSS-1	Average Response Time and Response Interval (Pre-Ordering)	Region	Parity + 4 Seconds	Region	Parity + 2 Seconds
OSS-2	Interface Availability (Pre-Ordering)	Region	≥ 99.5%	Region	≥ 99.5%
OSS-3	Interface Availability (Maintenance & Repair)	Region	≥ 99.5%	Region	≥ 99.5%
OSS-4	Response Interval (Maintenance & Repair)	Region	Parity	Region	Parity
PO-1	Loop Make Up – Average Response Time – Manual	Loops	95% in 3 Business Days	Loops	95% in 3 Business Days
PO-2	Loop Make Up – Average Response Time – Electronic	Loops	90% in 5 Minutes (Reassess after 6 mos – new system)	Loops	95% in 1 Minute
Ordering					
O-1	Acknowledgment Message Timeliness	EDI TAG	90% w/i 30 Mins (6mos – 95% w/i 30 Mins) 95% within 30 Minutes	EDI TAG	95% ≤ 30 Minutes 95% ≤ 30 Minutes
O-2	Acknowledgment Message Completeness	EDI TAG	100%	EDI TAG	100%
O-3	Percent Flow-through Service Requests (Summary)	Residence Business UNE LNP	95% 90% 85% 85%	Residence Business UNE LNP	95% 90% 85% 85%
O-4	Percent Flow-through Service Requests (Detail)	Residence Business UNE LNP	95% 90% 85% 85%	Residence Business UNE LNP	95% 90% 85% 85%
O-5	Flow-through Error Analysis	N/A	N/A	N/A	N/A
O-6	CLEC LSR Information LSR Flow-Through Matrix	N/A	N/A	N/A	N/A
O-7	Percent Rejected Service Requests	Resale Residence Resale Business Resale Design (Special) Resale PBX Resale Centrex Resale ISDN LNP Standalone 2w Analog Loop Design 2w Analog Loop Non-Design UNE Digital Loop < DS1 UNE Digital Loop ≥ DS1 UNE Loop + Port Combinations Switch Ports UNE xDSL (ADSL, HDSL, UCL) Line Sharing Local Interoffice Transport Local Interconnection Trunks	Diagnostic	Resale Residence Resale Business Resale Design (Special) Resale PBX Resale Centrex Resale ISDN LNP Standalone 2w Analog Loop Design 2w Analog Loop Non-Design 2w Analog Loop w/LNP Design 2w Analog Loop w/LNP Non-Design UNE Digital Loop < DS1 UNE Digital Loop ≥ DS1 UNE Loop + Port Combinations Switch Ports UNE xDSL (ADSL, HDSL, UCL) Line Sharing Local Interoffice Transport Local Interconnection Trunks UNE Combo Other UNE ISDN Line Splitting	Diagnostic

Service Quality Measures Disaggregation and Standards					
No.	Measure	BellSouth Proposed		Staff Recommendation	
		Disaggregation	Analog/Benchmark	Disaggregation	Analog/Benchmark
O-8	Reject Interval	Resale Residence Resale Business Resale Design (Special) Resale PBX Resale Centrex Resale ISDN LNP Standalone 2w Analog Loop Design 2w Analog Loop Non-Design UNE Digital Loop < DS1 UNE Digital Loop ≥ DS1 UNE Loop + Port Combinations Switch Ports UNE xDSL (ADSL, HDSL, UCL) Line Sharing Local Interoffice Transport Local Interconnection Trunks	Fully Mechanized: 97% within 1 Hour Partially Mechanized: 85% within 18 Hours in 3 Months 85% within 10 Hours in 6 Months Non-Mechanized: 85% within 24 Hours	Resale Residence Resale Business Resale Design (Special) Resale PBX Resale Centrex Resale ISDN LNP Standalone 2w Analog Loop Design 2w Analog Loop Non-Design 2w Analog Loop w/LNP Design 2w Analog Loop w/LNP Non-Design UNE Digital Loop < DS1 UNE Digital Loop ≥ DS1 UNE Loop + Port Combinations Switch Ports UNE xDSL (ADSL, HDSL, UCL) Line Sharing Local Interoffice Transport Local Interconnection Trunks UNE Combo Other UNE ISDN Line Splitting UNE Other Non- Design UNE Other Design EELS	Fully Mechanized: 97% ≤ 1 Hour Partially Mechanized: 95% ≤ 10 Hours Non-Mechanized: 95% ≤ 24 Hours 95% ≤ 36 Hours

Service Quality Measures Disaggregation and Standards					
No.	Measure	BellSouth Proposed		Staff Recommendation	
		Disaggregation	Analog/Benchmark	Disaggregation	Analog/Benchmark
O-9	Firm Order Confirmation Timeliness	Resale Residence Resale Business Resale Design (Special) Resale PBX Resale Centrex Resale ISDN LNP Standalone 2w Analog Loop Design 2w Analog Loop Non-Design UNE Digital Loop < DS1 UNE Digital Loop ≥ DS1 UNE Loop + Port Combinations Switch Ports UNE xDSL (ADSL, HDSL, UCL) Line Sharing Local Interoffice Transport Local Interconnection Trunks	Fully Mechanized: 95% within 3 Hours Partially Mechanized: 85% within 18 Hours in 3 Months 85% within 10 Hours in 6 Months Non-Mechanized: 85% within 36 Hours 85% within 4 Days	Resale Residence Resale Business Resale Design (Special) Resale PBX Resale Centrex Resale ISDN LNP Standalone 2w Analog Loop Design 2w Analog Loop Non-Design 2w Analog Loop w/LNP Design 2w Analog Loop w/LNP Non-Design UNE Digital Loop < DS1 UNE Digital Loop ≥ DS1 UNE Loop + Port Combinations Switch Ports UNE xDSL (ADSL, HDSL, UCL) Line Sharing Local Interoffice Transport Local Interconnection Trunks UNE Combo Other UNE ISDN Line Splitting UNE Other Non- Design UNE Other Design EELS	Fully Mechanized: 95% ≤ 3 Hours Partial Mechanized: 95% ≤ 10 Hours Non-Mechanized: 95% ≤ 24 Hours 95% ≤ 48 Hours
O-10	Service Inquiry with LSR Firm Order Confirmation (FOC) – Response Time Manual	xDSL (includes UNE unbundled ADSL, HDSL and UNE Unbundled Copper Loops) Unbundled Interoffice Transport	95% Returned within 5 Business Days	xDSL (includes UNE unbundled ADSL, HDSL and UNE Unbundled Copper Loops) Unbundled Interoffice Transport	95% Returned ≤ 5 Business Days
O-11	FOC and Reject Response Completeness	Resale Residence Resale Business Resale Design (Special) Resale PBX Resale Centrex Resale ISDN LNP Standalone 2w Analog Loop Design 2w Analog Loop Non-Design UNE Digital Loop < DS1 UNE Digital Loop ≥ DS1 UNE Loop + Port Combinations Switch Ports UNE xDSL (ADSL, HDSL, UCL) Line Sharing Local Interoffice Transport Local Interconnection Trunks	95% Returned	Resale Residence Resale Business Resale Design (Special) Resale PBX Resale Centrex Resale ISDN LNP Standalone 2w Analog Loop Design 2w Analog Loop Non-Design 2w Analog Loop w/LNP Design 2w Analog Loop w/LNP Non-Design UNE Digital Loop < DS1 UNE Digital Loop ≥ DS1 UNE Loop + Port Combinations Switch Ports UNE xDSL (ADSL, HDSL, UCL) Line Sharing Local Interoffice Transport Local Interconnection Trunks UNE Combo Other	95% Returned

Service Quality Measures Disaggregation and Standards					
No.	Measure	BellSouth Proposed		Staff Recommendation	
		Disaggregation	Analog/Benchmark	Disaggregation	Analog/Benchmark
O-12	Speed of Answer in Ordering Center	CLEC – Local Carrier Service Center BellSouth - Business Service Center - Residence Service Center	Diagnostic	CLEC – Local Carrier Service Center BellSouth - Business Service Center - Residence Service Center	Parity with Retail
O-13	LNP-Percent Rejected Service Request	LNP UNE Loop with LNP	Diagnostic	LNP UNE Loop with LNP	Diagnostic
O-14	LNP-Reject Interval Distribution & Average Reject Interval	LNP UNE Loop with LNP	Fully Mechanized: 97% within 1 Hour Partially Mechanized: 85% ≤ 18 Hours Non-Mechanized: 85% < 24 Hours	LNP UNE Loop with LNP	Fully Mechanized: 97% ≤ 1 Hour Partially Mechanized: 95% ≤ 10 Hours Non-Mechanized: 95% ≤ 24 Hours
O-15	LNP-Firm Order Confirmation Timeliness Interval Distribution & Firm Order Confirmation Average Interval	LNP UNE Loop with LNP	Fully Mechanized: 95% within 3 Hours Partially Mechanized: 85% ≤ 18 Hours (10 hours after 6 months) Non-Mechanized: 85% < 36 Hours	LNP UNE Loop with LNP	Fully Mechanized: 95% within 3 Hours Partially Mechanized: 95% ≤ 10 Hours Non-Mechanized: 95% ≤ 24 Hours
Provisioning					
P-1	Mean Held Order Interval & Distribution Intervals	Resale Residence Resale Business Resale Design Resale PBX Resale Centrex Resale ISDN LNP (Standalone) 2w Analog Loop Design 2w Analog Loop Non-Design UNE Digital Loop < DS1 UNE Digital Loop ≥ DS1 UNE Loop + Port Combinations UNE Switch Ports UNE Combo Other UNE xDSL (ADSL, HDSL, UCL) UNE ISDN (includes	Retail Residence Retail Business Retail Design Retail PBX Retail Centrex Retail ISDN Retail Res and Bus (POTS) Retail Res and Bus Dispatch Retail Res and Bus (POTS excluding switch based orders) Retail Digital Loop < DS1 Retail Digital Loop ≥ DS1 Retail Res and Bus Retail Res and Bus (POTS) Retail Res and Bus and Design Disp. ADSL provided to Retail Retail ISDN – BRI	Resale Residence Resale Business Resale Design Resale PBX Resale Centrex Resale ISDN LNP (Standalone) 2w Analog Loop Design 2w Analog Loop Non-Design -Dispatch -Non-Dispatch 2w Analog Loop w/LNP Design 2w Analog Loop w/LNP Non-Design -Dispatch -Non-Dispatch UNE Digital Loop < DS1 UNE Digital Loop ≥ DS1 UNE Loop + Port Combinations -Dispatch out -Non-Dispatch -Dispatch in -Switch-based UNE Switch Ports UNE Combo Other -Dispatch -Non-Dispatch UNE xDSL (ADSL, HDSL, UCL) UNE ISDN (includes	Retail Residence Retail Business Retail Design Retail PBX Retail Centrex Retail ISDN Retail Res and Bus (POTS) Retail Res and Bus Dispatch Retail Res and Bus (POTS excluding switch based orders) Retail Res and Bus Dispatch Retail Res and Bus (POTS excluding switch based orders) Retail Digital Loop < DS1 Retail Digital Loop ≥ DS1 Retail Res and Bus Retail Res and Bus (POTS) Retail Res and Bus and Design Disp. ADSL provided to Retail Retail ISDN – BRI

Service Quality Measures Disaggregation and Standards					
No.	Measure	BellSouth Proposed		Staff Recommendation	
		Disaggregation	Analog/Benchmark	Disaggregation	Analog/Benchmark
		UDC) UNE Line Sharing Local Transport (Unbundled Interoffice Transport) Local Interconnection Trunks	ADSL provided to Retail Retail DS1 and DS3 Interoffice Parity with Retail	UDC) UNE Line Sharing Local Transport (Unbundled Interoffice Transport) Local Interconnection Trunks UNE Line Splitting UNE Other Non-Design UNE Other Design EELs	ADSL provided to Retail Retail DS1 and DS3 Interoffice Parity with Retail TBD Retail Res and Bus Retail Design TBD
P-2	Average Jeopardy Notice	Resale Residence Resale Business Resale Design Resale PBX Resale Centrex Resale ISDN LNP (Standalone) 2w Analog Loop Design 2w Analog Loop Non- Design UNE Digital Loop < DS1 UNE Digital Loop ≥ DS1 UNE Loop + Port Combinations UNE Switch Ports UNE Combo Other UNE xDSL (ADSL, HDSL, UCL) UNE ISDN (includes UDC) UNE Line Sharing Local Transport (Unbundled Interoffice Transport) Local Interconnection Trunks	95% ≥ 48 Hours	Resale Residence Resale Business Resale Design Resale PBX Resale Centrex Resale ISDN LNP (Standalone) 2w Analog Loop Design 2w Analog Loop Non- Design -Dispatch -Non-Dispatch 2w Analog Loop w/LNP Design 2w Analog Loop w/LNP Non-Design -Dispatch -Non-Dispatch UNE Digital Loop < DS1 UNE Digital Loop ≥ DS1 UNE Loop + Port Combinations -Dispatch out -Non-Dispatch -Dispatch in -Switch-based UNE Switch Ports UNE Combo Other -Dispatch -Non-Dispatch UNE xDSL (ADSL, HDSL, UCL) UNE ISDN (includes UDC) UNE Line Sharing Local Transport (Unbundled Interoffice Transport) Local Interconnection Trunks UNE Line Splitting UNE Other Non-Design UNE Other Design EELs	95% ≥ 48 Hours
P-2	Percentage of Orders Given Jeopardy Notices	Resale Residence Resale Business Resale Design Resale PBX Resale Centrex Resale ISDN LNP (Standalone)	Retail Residence Retail Business Retail Design Retail PBX Retail Centrex Retail ISDN Retail Res & Bus (POTS)	Resale Residence Resale Business Resale Design Resale PBX Resale Centrex Resale ISDN LNP (Standalone)	Retail Residence Retail Business Retail Design Retail PBX Retail Centrex Retail ISDN Retail Res & Bus (POTS)

**Service Quality Measures
Disaggregation and Standards**

No.	Measure	BellSouth Proposed		Staff Recommendation	
		Disaggregation	Analog/Benchmark	Disaggregation	Analog/Benchmark
		2w Analog Loop Design 2w Analog Loop Non-Design UNE Digital Loop < DS1 UNE Digital Loop ≥ DS1 UNE Loop + Port Combinations UNE Switch Ports UNE Combo Other UNE xDSL (ADSL, HDSL, UCL) UNE ISDN (includes UDC) UNE Line Sharing Local Transport (Unbundled Interoffice Transport) Local Interconnection Trunks	Retail Res & Bus Dispatch Retail Res and Bus (POTS excluding switch based orders) Retail Digital Loop <DS1 Retail Digital Loop ≥ DS1 Retail Res and Bus Retail Res & Bus (POTS) Retail Res & Bus and Design Disp. ADSL provided to Retail Retail ISDN – BRI ADSL provided to Retail Retail DS1 and DS3 Interoffice Parity with Retail	2w Analog Loop Design 2w Analog Loop Non-Design -Dispatch -Non-Dispatch 2w Analog Loop w/LNP Design 2w Analog Loop w/LNP Non-Design -Dispatch -Non-Dispatch UNE Digital Loop < DS1 UNE Digital Loop ≥ DS1 UNE Loop + Port Combinations -Dispatch out -Non-Dispatch -Dispatch in -Switch-based UNE Switch Ports UNE Combo Other -Dispatch -Non-Dispatch UNE xDSL (ADSL, HDSL, UCL) UNE ISDN (includes UDC) UNE Line Sharing Local Transport (Unbundled Interoffice Transport) Local Interconnection Trunks UNE Line Splitting UNE Other Non-Design UNE Other Design EELs	Retail Res & Bus Dispatch Retail Res and Bus (POTS excluding switch based orders) Retail Res and Bus Dispatch Retail Res and Bus (POTS excluding switch based orders) Retail Digital Loop < DS1 Retail Digital Loop ≥ DS1 Retail Res and Bus Retail Res & Bus (POTS) Retail Res & Bus and Design Disp. ADSL provided to Retail Retail ISDN – BRI ADSL provided to Retail Retail DS1 and DS3 Interoffice Parity with Retail TBD Retail Res and Bus Retail Design TBD
P-3	Percent Missed Installation Appointments	Resale Residence Resale Business Resale Design Resale PBX Resale Centrex Resale ISDN LNP (Standalone) 2w Analog Loop Design 2w Analog Loop Non-Design UNE Digital Loop < DS1 UNE Digital Loop ≥ DS1 UNE Loop + Port Combinations	Retail Residence Retail Business Retail Design Retail PBX Retail Centrex Retail ISDN Retail Res and Bus (POTS) Retail Res& Bus Dispatch Retail Res and Bus (POTS excluding switch based orders) Retail Digital Loop <DS1 Retail Digital Loop ≥ DS1 Retail Res and Bus	Resale Residence Resale Business Resale Design Resale PBX Resale Centrex Resale ISDN LNP (Standalone) 2w Analog Loop Design 2w Analog Loop Non-Design -Dispatch -Non-Dispatch 2w Analog Loop w/LNP Design 2w Analog Loop w/LNP Non-Design -Dispatch -Non-Dispatch UNE Digital Loop < DS1 UNE Digital Loop ≥ DS1 UNE Loop + Port Combinations -Dispatch out -Non-Dispatch	Retail Residence Retail Business Retail Design Retail PBX Retail Centrex Retail ISDN Retail Res and Bus (POTS) Retail Res& Bus Dispatch Retail Res and Bus (POTS excluding switch based orders) Retail Res and Bus Dispatch Retail Res and Bus (POTS excluding switch based orders) Retail Digital Loop <DS1 Retail Digital Loop ≥ DS1 Retail Res and Bus

**Service Quality Measures
 Disaggregation and Standards**

No.	Measure	BellSouth Proposed		Staff Recommendation	
		Disaggregation	Analog/Benchmark	Disaggregation	Analog/Benchmark
		UNE Switch Ports UNE Combo Other UNE xDSL (ADSL, HDSL, UCL) UNE ISDN (includes UDC) UNE Line Sharing Local Transport (Unbundled Interoffice Transport) Local Interconnection Trunks	Retail Res & Bus (POTS) Retail Res & Bus and Design Disp. ADSL provided to Retail Retail ISDN – BRI ADSL provided to Retail Retail DS1 and DS3 Interoffice Parity with Retail	-Dispatch in -Switch-based UNE Switch Ports UNE Combo Other -Dispatch -Non-Dispatch UNE xDSL (ADSL, HDSL, UCL) UNE ISDN (includes UDC) UNE Line Sharing Local Transport (Unbundled Interoffice Transport) Local Interconnection Trunks UNE Line Splitting UNE Other Non-Design UNE Other Design EELs	Retail Res & Bus (POTS) Retail Res & Bus and Design Disp. ADSL provided to Retail Retail ISDN – BRI ADSL provided to Retail Retail DS1 and DS3 Interoffice Parity with Retail TBD Retail Res and Bus Retail Design TBD
P-4	Average Completion Interval (OCI) & Order Completion Interval Distribution	Resale Residence Resale Business Resale Design Resale PBX Resale Centrex Resale ISDN LNP (Standalone) 2w Analog Loop Design 2w Analog Loop Non-Design UNE Digital Loop < DS1 UNE Digital Loop ≥ DS1 UNE Loop + Port Combinations UNE Switch Ports UNE Combo Other UNE xDSL (ADSL, HDSL, UCL) UNE xDSL (ADSL, HDSL, UCL) UNE ISDN (includes UDC) UNE Line Sharing Local Transport (Unbundled Interoffice Transport) Local Interconnection Trunks	Retail Residence Retail Business Retail Design Retail PBX Retail Centrex Retail ISDN Retail Res & Bus (POTS) Retail Res& Bus Dispatch Retail Res and Bus (POTS excluding switch based orders) Retail Digital Loop <DS1 Retail Digital Loop ≥ DS1 Retail Res and Bus Retail Res & Bus (POTS) Retail Res and Bus and Design Disp. 7 Days w/o conditioning 14 Days w/ conditioning Retail ISDN – BRI ADSL provided to Retail Retail DS1 and DS3 Interoffice Parity with Retail	Resale Residence Resale Business Resale Design Resale PBX Resale Centrex Resale ISDN LNP (Standalone) 2w Analog Loop Design 2w Analog Loop Non-Design -Dispatch -Non-Dispatch 2w Analog Loop w/LNP Design 2w Analog Loop w/LNP Non-Design -Dispatch -Non-Dispatch UNE Digital Loop < DS1 UNE Digital Loop ≥ DS1 UNE Loop + Port Combinations -Dispatch out -Non-Dispatch -Dispatch in -Switch-based UNE Switch Ports UNE Combo Other -Dispatch -Non-Dispatch UNE xDSL (ADSL, HDSL, UCL) UNE xDSL (ADSL, HDSL, UCL) UNE ISDN (includes UDC) UNE Line Sharing Local Transport (Unbundled Interoffice Transport) Local Interconnection Trunks UNE Line Splitting UNE Other Non-Design UNE Other Design	Retail Residence Retail Business Retail Design Retail PBX Retail Centrex Retail ISDN Retail Res & Bus (POTS) Retail Res& Bus Dispatch Retail Res and Bus (POTS excluding switch based orders) Retail Res and Bus Dispatch Retail Res and Bus (POTS excluding switch based orders) Retail Digital Loop <DS1 Retail Digital Loop ≥ DS1 Retail Res and Bus Retail Res & Bus (POTS) Retail Res & Bus and Design Disp. 5 Days w/o conditioning 12 Days w/conditioning Retail ISDN – BRI ADSL provided to Retail Retail DS1 and DS3 Interoffice Parity with Retail TBD Retail Res and Bus

Service Quality Measures Disaggregation and Standards					
No.	Measure	BellSouth Proposed		Staff Recommendation	
		Disaggregation	Analog/Benchmark	Disaggregation EELs	Analog/Benchmark Retail Design TBD
P-5	Average Completion Notice Interval	Resale Residence Resale Business Resale Design Resale PBX Resale Centrex Resale ISDN LNP (Standalone) 2w Analog Loop Design 2w Analog Loop Non-Design UNE Digital Loop < DS1 UNE Digital Loop ≥ DS1 UNE Loop + Port Combinations UNE Switch Ports UNE Combo Other UNE xDSL (ADSL, HDSL, UCL) UNE ISDN (includes UDC) UNE Line Sharing Local Transport (Unbundled Interoffice Transport) Local Interconnection Trunks	Retail Residence Retail Business Retail Design Retail PBX Retail Centrex Retail ISDN Retail Res & Bus (POTS) Retail Res& Bus Dispatch Retail Res and Bus (POTS excluding switch based orders) Retail Digital Loop <DS1 Retail Digital Loop ≥ DS1 Retail Res and Bus Retail Res & Bus (POTS) Retail Res and Bus and Design Disp. ADSL provided to Retail Retail ISDN – BRI ADSL provided to Retail Retail DS1 and DS3 Interoffice Parity with Retail	Resale Residence Resale Business Resale Design Resale PBX Resale Centrex Resale ISDN LNP (Standalone) 2w Analog Loop Design 2w Analog Loop Non-Design -Dispatch -Non-Dispatch 2w Analog Loop w/LNP Design 2w Analog Loop w/LNP Non-Design -Dispatch -Non-Dispatch UNE Digital Loop < DS1 UNE Digital Loop ≥ DS1 UNE Loop + Port Combinations -Dispatch out -Non-Dispatch -Dispatch in -Switch-based UNE Switch Ports UNE Combo Other -Dispatch -Non-Dispatch UNE xDSL (ADSL, HDSL, UCL) UNE ISDN (includes UDC) UNE Line Sharing Local Transport (Unbundled Interoffice Transport) Local Interconnection Trunks UNE Line Splitting UNE Other Non-Design UNE Other Design EELs	Retail Residence Retail Business Retail Design Retail PBX Retail Centrex Retail ISDN Retail Res & Bus (POTS) Retail Res& Bus Dispatch Retail Res and Bus (POTS excluding switch based orders) Retail Res and Bus Dispatch Retail Res and Bus (POTS excluding switch based orders) Retail Digital Loop <DS1 Retail Digital Loop ≥ DS1 Retail Res and Bus Retail Res & Bus (POTS) Retail Res and Bus and Design Disp. ADSL provided to Retail Retail ISDN – BRI ADSL provided to Retail Retail DS1 and DS3 Interoffice Parity with Retail TBD Retail Res and Bus Retail Design TBD
P-6	Coordinated Customer Conversions Interval	Unbundled Loops w INP Unbundled Loops w LNP	95% ≤ 15 Minutes 95% ≤ 15 Minutes	Unbundled Loops w INP Unbundled Loops w LNP	95% ≤ 15 Minutes 95% ≤ 15 Minutes
P-6A	Coordinated Customer Conversions Hot Cut Timeliness % within Interval and Average Interval	SL1 Time Specific SL1 Non Time Specific SL2 Time Specific SL2 Non Time Specific SL1 IDLC SL2 IDLC	95% + or – 15 minutes of Scheduled Start Time 95% w/in 4 Hour window 95% w/in 4 Hour window	SL1 Time Specific SL1 Non Time Specific SL2 Time Specific SL2 Non Time Specific SL1 IDLC SL2 IDLC	95% + or – 15 minutes of Scheduled Start Time 95% w/in 4 Hour window 95% w/in 4 Hour window
P-6B	Coordinated Customer Conversions – Average Recovery Time	Unbundled Loops w/ INP Unbundled Loops w/LNP	Diagnostic Diagnostic	Unbundled Loops w/ INP Unbundled Loops w/LNP	Diagnostic Diagnostic
P-6C	Coordinated Customer Conversions – % Provisioning Troubles Received W/i 7 days of a completed Service Order	UNE Loop Design UNE Loop Non-Design Dispatch/Non-Dispatch	≤ 5%	UNE Loop Design UNE Loop Non-Design Dispatch/Non-Dispatch	≤ 5%
P-7	Cooperative Acceptance Testing - % of xDSL Loops Tested	UNE xDSL - ADSL - HDSL - UCL	95% of Lines Tested	UNE xDSL - ADSL - HDSL - UCL	95% of Lines Successfully Tested

Service Quality Measures Disaggregation and Standards					
No.	Measure	BellSouth Proposed		Staff Recommendation	
		Disaggregation	Analog/Benchmark	Disaggregation	Analog/Benchmark
P-8	% Provisioning Troubles within 30 days of Service Order Completion	- OTHER Resale Residence Resale Business Resale Design Resale PBX Resale Centrex Resale ISDN LNP (Standalone) 2w Analog Loop Design 2w Analog Loop Non-Design UNE Digital Loop < DS1 UNE Digital Loop ≥ DS1 UNE Loop + Port Combinations UNE Switch Ports UNE Combo Other UNE xDSL (ADSL, HDSL, UCL) UNE ISDN (includes UDC) UNE Line Sharing Local Transport (Unbundled Interoffice Transport) Local Interconnection Trunks	Retail Residence Retail Business Retail Design Retail PBX Retail Centrex Retail ISDN Retail Res & Bus (POTS) Retail Res and Bus Dispatch Retail Res and Bus (POTS excluding switch based orders) Retail Digital Loop < DS1 Retail Digital Loop ≥ DS1 Retail Res and Bus Retail Res & Bus (POTS) Retail Res and Bus and Design Disp. ADSL provided to Retail Retail ISDN – BRI ADSL provided to Retail Retail DS1 and DS3 Interoffice Parity with Retail	- OTHER Resale Residence Resale Business Resale Design Resale PBX Resale Centrex Resale ISDN LNP (Standalone) 2w Analog Loop Design 2w Analog Loop Non-Design -Dispatch -Non-Dispatch 2w Analog Loop w/LNP Design 2w Analog Loop w/LNP Non-Design -Dispatch -Non-Dispatch UNE Digital Loop < DS1 UNE Digital Loop ≥ DS1 UNE Loop + Port Combinations -Dispatch out -Non-Dispatch -Dispatch in -Switch-based UNE Switch Ports UNE Combo Other -Dispatch -Non-Dispatch UNE xDSL (ADSL, HDSL, UCL) UNE ISDN (includes UDC) UNE Line Sharing Local Transport (Unbundled Interoffice Transport) Local Interconnection Trunks UNE Line Splitting UNE Other Non-Design UNE Other Design EELs	Retail Residence Retail Business Retail Design Retail PBX Retail Centrex Retail ISDN Retail Res & Bus (POTS) Retail Res and Bus Dispatch Retail Res and Bus (POTS excluding switch based orders) Retail Res and Bus Dispatch Retail Res and Bus (POTS excluding switch based orders) Retail Digital Loop < DS1 Retail Digital Loop ≥ DS1 Retail Res and Bus Retail Res & Bus (POTS) Retail Res and Bus and Design Disp. ADSL provided to Retail Retail ISDN – BRI ADSL provided to Retail Retail DS1 and DS3 Interoffice Parity with Retail TBD Retail Res and Bus Retail Design TBD
P-9	Total Service Order Cycle Time (TSOCT)	Resale Residence Resale Business Resale Design Resale PBX Resale Centrex Resale ISDN LNP (Standalone) 2w Analog Loop Design 2w Analog Loop Non-Design	Diagnostic	Resale Residence Resale Business Resale Design Resale PBX Resale Centrex Resale ISDN LNP (Standalone) 2w Analog Loop Design 2w Analog Loop Non-Design -Dispatch -Non-Dispatch 2w Analog Loop w/LNP Design 2w Analog Loop w/LNP Non-Design -Dispatch -Non-Dispatch UNE Digital Loop < DS1	Diagnostic

**Service Quality Measures
 Disaggregation and Standards**

No.	Measure	BellSouth Proposed		Staff Recommendation	
		Disaggregation	Analog/Benchmark	Disaggregation	Analog/Benchmark
		UNE Digital Loop < DS1 UNE Digital Loop ≥ DS1 UNE Loop + Port Combinations UNE Switch Ports UNE Combo Other UNE xDSL (ADSL, HDSL, UCL) UNE ISDN (includes UDC) UNE Line Sharing Local Transport (Unbundled Interoffice Transport) Local Interconnection Trunks		UNE Digital Loop ≥ DS1 UNE Loop + Port Combinations -Dispatch out -Non-Dispatch -Dispatch in -Switch-based UNE Switch Ports UNE Combo Other -Dispatch -Non-Dispatch UNE xDSL (ADSL, HDSL, UCL) UNE ISDN (includes UDC) UNE Line Sharing Local Transport (Unbundled Interoffice Transport) Local Interconnection Trunks UNE Line Splitting UNE Other Non-Design UNE Other Design EELs	
P-10	LNP -Percent Missed Installation Appointments	LNP	95% Due Dates Met	LNP	95% Due Dates Met
P-11	LNP-Average Disconnect Timeliness Interval & Disconnect Timeliness Interval Distribution	LNP	95% < 15 Minutes	LNP	95% < 15 Minutes
P-12	LNP-Total Service Order Cycle Time	LNP	Diagnostic	LNP	TBD
Maintenance and Repair					
M&R-1	Missed Repair Appointments	Resale Residence Resale Business Resale Design Resale PBX Resale Centrex Resale ISDN 2w Analog Loop Design 2w Analog Loop Non-Design UNE Digital Loop < DS1 UNE Digital Loop ≥ DS1 UNE Loop + Port Combinations UNE Switch Ports UNE Combo Other UNE xDSL (ADSL, HDSL, UCL) UNE ISDN UNE Line Sharing Local Transport (Unbundled Interoffice Transport) Local Interconnection Trunks	Retail Residence Retail Business Retail Design Retail PBX Retail Centrex Retail ISDN Retail Res& Bus Dispatch Retail Res & Bus (POTS excluding switch based features) Retail Digital Loop <DS1 Retail Digital Loop ≥ DS1 Retail Res and Bus Retail Res & Bus (POTS) Retail Res and Bus and Design Disp. ADSL provided to Retail Retail ISDN - BRI ADSL provided to Retail Retail DS1 and DS3 Interoffice Parity with Retail	Resale Residence Resale Business Resale Design Resale PBX Resale Centrex Resale ISDN 2w Analog Loop Design 2w Analog Loop Non-Design UNE Digital Loop < DS1 UNE Digital Loop ≥ DS1 UNE Loop + Port Combinations UNE Switch Ports UNE Combo Other UNE xDSL (ADSL, HDSL, UCL) UNE ISDN UNE Line Sharing Local Transport (Unbundled Interoffice Transport) Local Interconnection Trunks	Retail Residence Retail Business Retail Design Retail PBX Retail Centrex Retail ISDN Retail Res& Bus Dispatch Retail Res & Bus (POTS excluding switch based features) Retail Digital Loop <DS1 Retail Digital Loop ≥ DS1 Retail Res and Bus Retail Res & Bus (POTS) Retail Res and Bus and Design Disp. ADSL provided to Retail Retail ISDN - BRI ADSL provided to Retail Retail DS1 and DS3 Interoffice Parity with Retail
M&R-2	Customer Trouble Report Rate	Resale Residence Resale Business Resale Design Resale PBX Resale Centrex	Retail Residence Retail Business Retail Design Retail PBX Retail Centrex	Resale Residence Resale Business Resale Design Resale PBX Resale Centrex	Retail Residence Retail Business Retail Design Retail PBX Retail Centrex

**Service Quality Measures
Disaggregation and Standards**

No.	Measure	BellSouth Proposed		Staff Recommendation	
		Disaggregation	Analog/Benchmark	Disaggregation	Analog/Benchmark
		Resale ISDN 2w Analog Loop Design 2w Analog Loop Non-Design UNE Digital Loop < DS1 UNE Digital Loop ≥ DS1 UNE Loop + Port Combinations UNE Switch Ports UNE Combo Other UNE xDSL (ADSL, HDSL, UCL) UNE ISDN UNE Line Sharing Local Transport (Unbundled Interoffice Transport) Local Interconnection Trunks	Retail ISDN Retail Res and Bus Dispatch Retail Res and Bus (POTS excluding switch based features) Retail Digital Loop <DS1 Retail Digital Loop ≥DS1 Retail Res and Bus Retail Res & Bus (POTS) Retail Res and Bus and Design Disp. ADSL provided to Retail Retail ISDN – BRI ADSL provided to Retail Retail DS1 and DS3 Interoffice Parity with Retail	Resale ISDN 2w Analog Loop Design 2w Analog Loop Non-Design UNE Digital Loop < DS1 UNE Digital Loop ≥ DS1 UNE Loop + Port Combinations UNE Switch Ports UNE Combo Other UNE xDSL (ADSL, HDSL, UCL) UNE ISDN UNE Line Sharing Local Transport (Unbundled Interoffice Transport) Local Interconnection Trunks	Retail ISDN Retail Res and Bus Dispatch Retail Res and Bus (POTS excluding switch based features) Retail Digital Loop <DS1 Retail Digital Loop ≥DS1 Retail Res and Bus Retail Res & Bus (POTS) Retail Res and Bus and Design Disp. ADSL provided to Retail Retail ISDN – BRI ADSL provided to Retail Retail DS1 and DS3 Interoffice Parity with Retail
M&R-3	Maintenance Average Duration	Resale Residence Resale Business Resale Design Resale PBX Resale Centrex Resale ISDN 2w Analog Loop Design 2w Analog Loop Non-Design UNE Digital Loop < DS1 UNE Digital Loop ≥ DS1 UNE Loop + Port Combinations UNE Switch Ports UNE Combo Other UNE xDSL (ADSL, HDSL, UCL) UNE ISDN UNE Line Sharing Local Transport (Unbundled Interoffice Transport) Local Interconnection Trunks	Retail Residence Retail Business Retail Design Retail PBX Retail Centrex Retail ISDN Retail Res and Bus Dispatch Retail Res and Bus (POTS excluding switch based features) Retail Digital Loop <DS1 Retail Digital Loop ≥DS1 Retail Res and Bus Retail Res & Bus (POTS) Retail Res and Bus and Design Disp. ADSL provided to Retail Retail ISDN – BRI ADSL provided to Retail Retail DS1 and DS3 Interoffice Parity with Retail	Resale Residence Resale Business Resale Design Resale PBX Resale Centrex Resale ISDN 2w Analog Loop Design 2w Analog Loop Non-Design UNE Digital Loop < DS1 UNE Digital Loop ≥ DS1 UNE Loop + Port Combinations UNE Switch Ports UNE Combo Other UNE xDSL (ADSL, HDSL, UCL) UNE ISDN UNE Line Sharing Local Transport (Unbundled Interoffice Transport) Local Interconnection Trunks	Retail Residence Retail Business Retail Design Retail PBX Retail Centrex Retail ISDN Retail Res and Bus Dispatch Retail Res and Bus (POTS excluding switch based features) Retail Digital Loop <DS1 Retail Digital Loop ≥DS1 Retail Res and Bus Retail Res & Bus (POTS) Retail Res and Bus and Design Disp. ADSL provided to Retail Retail ISDN – BRI ADSL provided to Retail Retail DS1 and DS3 Interoffice Parity with Retail
M&R-4	Percent Repeated Troubles w/i 30 days	Resale Residence Resale Business Resale Design Resale PBX Resale Centrex Resale ISDN 2w Analog Loop Design 2w Analog Loop Non-Design UNE Digital Loop < DS1 UNE Digital Loop ≥ DS1 UNE Loop + Port Combinations UNE Switch Ports	Retail Residence Retail Business Retail Design Retail PBX Retail Centrex Retail ISDN Retail Res and Bus Dispatch Retail Res and Bus (POTS excluding switch based features) Retail Digital Loop <DS1 Retail Digital Loop ≥DS1 Retail Res and Bus Retail Res & Bus (POTS)	Resale Residence Resale Business Resale Design Resale PBX Resale Centrex Resale ISDN 2w Analog Loop Design 2w Analog Loop Non-Design UNE Digital Loop < DS1 UNE Digital Loop ≥ DS1 UNE Loop + Port Combinations UNE Switch Ports	Retail Residence Retail Business Retail Design Retail PBX Retail Centrex Retail ISDN Retail Res and Bus Dispatch Retail Res and Bus (POTS excluding switch based features) Retail Digital Loop <DS1 Retail Digital Loop ≥DS1 Retail Res and Bus Retail Res & Bus (POTS)

Service Quality Measures Disaggregation and Standards					
No.	Measure	BellSouth Proposed		Staff Recommendation	
		Disaggregation	Analog/Benchmark	Disaggregation	Analog/Benchmark
		UNE Combo Other UNE xDSL (ADSL, HDSL, UCL) UNE ISDN UNE Line Sharing Local Transport (Unbundled Interoffice Transport) Local Interconnection Trunks	Retail Res and Bus and Design Disp. ADSL provided to Retail Retail ISDN – BRI ADSL provided to Retail Retail DS1 and DS3 Interoffice Parity with Retail	UNE Combo Other UNE xDSL (ADSL, HDSL, UCL) UNE ISDN UNE Line Sharing Local Transport (Unbundled Interoffice Transport) Local Interconnection Trunks	Retail Res and Bus and Design Disp. ADSL provided to Retail Retail ISDN – BRI ADSL provided to Retail Retail DS1 and DS3 Interoffice Parity with Retail
M&R-5	Out of Service > 24 Hours	Resale Residence Resale Business Resale Design Resale PBX Resale Centrex Resale ISDN 2w Analog Loop Design 2w Analog Loop Non-Design UNE Digital Loop < DS1 UNE Digital Loop ≥ DS1 UNE Loop + Port Combinations UNE Switch Ports UNE Combo Other UNE xDSL (ADSL, HDSL, UCL) UNE ISDN UNE Line Sharing Local Transport (Unbundled Interoffice Transport) Local Interconnection Trunks	Retail Residence Retail Business Retail Design Retail PBX Retail Centrex Retail ISDN Retail Res and Bus Dispatch Retail Res and Bus (POTS excluding switch based features) Retail Digital Loop < DS1 Retail Digital Loop ≥ DS1 Retail Res and Bus Retail Res & Bus (POTS) Retail Res and Bus and Design Disp. ADSL provided to Retail Retail ISDN – BRI ADSL provided to Retail Retail DS1 and DS3 Interoffice Parity with Retail	Resale Residence Resale Business Resale Design Resale PBX Resale Centrex Resale ISDN 2w Analog Loop Design 2w Analog Loop Non-Design UNE Digital Loop < DS1 UNE Digital Loop ≥ DS1 UNE Loop + Port Combinations UNE Switch Ports UNE Combo Other UNE xDSL (ADSL, HDSL, UCL) UNE ISDN UNE Line Sharing Local Transport (Unbundled Interoffice Transport) Local Interconnection Trunks	Retail Residence Retail Business Retail Design Retail PBX Retail Centrex Retail ISDN Retail Res and Bus Dispatch Retail Res and Bus (POTS excluding switch based features) Retail Digital Loop < DS1 Retail Digital Loop ≥ DS1 Retail Res and Bus Retail Res & Bus (POTS) Retail Res and Bus and Design Disp. ADSL provided to Retail Retail ISDN – BRI ADSL provided to Retail Retail DS1 and DS3 Interoffice Parity with Retail
M&R-6	Average Answer Time - Repair Centers	Region	Parity with Retail	Region	Parity with Retail
M&R-7	Meantime to Notify CLEC of Network Outages	BellSouth Aggregate CLEC Aggregate CLEC Specific	Parity by Design	BellSouth Aggregate CLEC Aggregate CLEC Specific	Parity by Design
Billing					
B-1	Invoice Accuracy	Resale UNE Interconnection	Parity with BST Retail Aggregate	Resale UNE Interconnection	Parity with BST Retail Aggregate
B-2	Mean Time to Deliver Invoices	Resale UNE Interconnection	CRIS-based invoices will be released for delivery w/i six (6) business days CABS-based invoices will be released for delivery w/i eight (8) calendar days CLEC Average Delivery Intervals for both CRIS and CABS invoices are comparable to BellSouth Average delivery for both systems.	Resale UNE Interconnection	CRIS-based invoices will be released for delivery w/i six (6) business days CABS-based invoices will be released for delivery w/i eight (8) calendar days CLEC Average Delivery Intervals for both CRIS and CABS invoices are comparable to BellSouth Average delivery for both systems.
B-3	Usage Data Delivery Accuracy	Region	Parity with Retail	State, Region	Parity with Retail
B-4	Usage Data Delivery Completeness	Region	Parity with Retail	Region	Parity with Retail
B-5	Usage Data Delivery Timeliness	Region	Parity with Retail	Region	Parity with Retail

Service Quality Measures Disaggregation and Standards					
No.	Measure	BellSouth Proposed		Staff Recommendation	
		Disaggregation	Analog/Benchmark	Disaggregation	Analog/Benchmark
B-6	Mean Time to Deliver Usage	Region	Parity with Retail	Region	Parity with Retail
B-7	Recurring Charge Completeness	Resale UNE Interconnection	Parity 90% 90%	Resale UNE Interconnection	Parity 90% 90%
B-8	Non-Recurring Charge Completeness	Resale UNE Interconnection	Parity 90% 90%	Resale UNE Interconnection	Parity 90% 90%
OSDA					
OS-1	Speed to Answer Performance/Average Speed to Answer (Toll)	None	Parity by Design	None	Parity by Design
OS-2	Speed to Answer Performance/Percent Answered within "X" Seconds (Toll)	None	Parity by Design	None	Parity by Design
DA-1	Speed to Answer Performance/Average Speed to Answer (DA)	None	Parity by Design	None	Parity by Design
DA-2	DA-2. Speed to Answer Performance/Percent Answered within "X" Seconds (DA)	None	Parity by Design	None	Parity by Design
Database Update					
D-1	Database Update – Interval and Average Interval	LIDB Directory Listing Directory Assistance	Parity by Design	LIDB Directory Listing Directory Assistance	Parity by Design
D-2	Database Update - % Accuracy	LIDB Directory Listing	95% Accurate 95% Accurate	LIDB Directory Listing	95% Accurate 95% Accurate
D-3	NXX and LRNs Loaded by LERG Effective Date	Region	100% by LERG effective date	Region	100% by LERG effective date
E911					
E-1	Timeliness	None	Parity by Design	None	Parity by Design
E-2	Accuracy	None	Parity by Design	None	Parity by Design
E-3	Mean Interval	None	Parity by Design	None	Parity by Design
Trunk Group Performance					
TGP-1	Trunk Group Performance-Aggregate	CLEC Aggregate BellSouth Aggregate	Any 2 hour period in 24 hours where CLEC blockage exceeds BellSouth blockage by more than 0.5% using trunk groups 1,3,4,5,10, 16 for CLECs and 9 for BellSouth	CLEC Aggregate BellSouth Aggregate	Any 2 hour period in 24 hours where CLEC blockage exceeds BellSouth blockage by more than 0.5% using trunk groups 1,3,4,5,10, 16 for CLECs and 9 for BellSouth
TGP-2	Trunk Group Performance-CLEC Specific	CLEC Trunk Group BellSouth Trunk Group	Any 2 hour period in 24 hours where CLEC blockage exceeds BellSouth blockage by more than 0.5% using trunk groups 1,3,4,5,10, 16 for CLECs and 9 for BellSouth	CLEC Trunk Group BellSouth Trunk Group	Any 2 hour period in 24 hours where CLEC blockage exceeds BellSouth blockage by more than 0.5% using trunk groups 1,3,4,5,10, 16 for CLECs and 9 for BellSouth
Collocation					
C-1	Average Response Time	Virtual – Initial Virtual – Augment Physical Caged – Initial Physical Caged – Augment Physical Cageless - Initial Physical Cageless - Augment	Virtual–15 Calendar Days Physical Caged – 15 Calendar Days Physical Cageless – 15 Calendar Days	Virtual – Initial Virtual – Augment Physical Caged – Initial Physical Caged – Augment Physical Cageless - Initial Physical Cageless - Augment	Virtual–15 Calendar Days Physical Caged – 15 Calendar Days Physical Cageless – 15 Calendar Days
C-2	Average Arrangement Time	Virtual – Initial Virtual – Augment	Virtual–60 Calendar Days Virtual - Augment – 45	Virtual – Initial Virtual – Augment	Virtual–60 Calendar Days Virtual - Augment – 45

Service Quality Measures Disaggregation and Standards					
No.	Measure	BellSouth Proposed		Staff Recommendation	
		Disaggregation	Analog/Benchmark	Disaggregation	Analog/Benchmark
		Physical Caged – Initial Physical Caged – Augment Physical Cageless - Initial Physical Cageless - Augment	Calendar Days (w/o Space Increase) Virtual - Augment– 60 Calendar Days (with Space Increase) Physical Caged – 90 Calendar Days (Ordinary) Physical Caged – Augment – 45 Calendar Days (w/o Space Increase) Physical Caged – Augment – 90 Calendar Days (with Space Increase) Physical Cageless – 90 Calendar Days Physical Cageless - Augment – 45 Calendar Days (w/o Space Increase) Physical Cageless - Augment – 90 Calendar Days (with Space Increase)	Physical Caged – Initial Physical Caged – Augment Physical Cageless - Initial Physical Cageless - Augment	Calendar Days (w/o Space Increase) Virtual - Augment– 60 Calendar Days (with Space Increase) Physical Caged – 90 Calendar Days (Ordinary) Physical Caged – Augment – 45 Calendar Days (w/o Space Increase) Physical Caged – Augment – 90 Calendar Days (with Space Increase) Physical Cageless – 90 Calendar Days Physical Cageless - Augment – 45 Calendar Days (w/o Space Increase) Physical Cageless - Augment – 90 Calendar Days (with Space Increase)
C-3	Percent of Due Dates Missed	Virtual – Initial Virtual – Augment Virtual – Combined Physical Caged – Initial Physical Caged – Augment Physical Cageless - Initial Physical Cageless - Augment	≥ 90% on Time	Virtual – Initial Virtual – Augment Virtual – Combined Physical Caged – Initial Physical Caged – Augment Physical Cageless - Initial Physical Cageless - Augment	≥ 95% on Time
Change Management					
CM-1	Timeliness of Change Management Notices	Region	95% ≥ 30 days of Release	Region	98% on Time
CM-2	Average Delay Days for Change Management Notices	Region	90% ≤ 8 Days	Region	≤ 5 Days
CM-3	Timeliness of Documents Associated with Change	Region	95% ≥ 30 days if new features coding is req. 95% ≥ 5 days for documentation defects, corrections or clarifications	Region	98% on Time
CM-4	Average Delay Days for Documentation	Region	90% ≤ 8 Days	Region	95% ≤ 5 Days
CM-5	Notification of Interface Outages	By interface type for all interfaces accesses by CLECs	97% in 15 Minutes	By interface type for all interfaces accesses by CLECs	97% ≤ 15 Minutes
New Metrics Recommended by Staff					
	Percent Order Accuracy	Not Proposed	Not Proposed	Resale Residence Resale Business Resale Design (Specials) UNE Specials (design) UNE (non-design) Local Interconnection Trunks	95% Accurate
	Percent Completion Attempts w/o a Notice or < 24 hours Notice	Not Proposed	Not Proposed	Resale Residence Resale Business Resale Design Resale PBX Resale Centrex Resale ISDN	≤ 5%

Service Quality Measures Disaggregation and Standards						
No.	Measure	BellSouth Proposed		Staff Recommendation		
		Disaggregation	Analog/Benchmark	Disaggregation	Analog/Benchmark	
				LNP (Standalone) 2w Analog Loop Design 2w Analog Loop Non-Design -Dispatch -Non-Dispatch 2w Analog Loop w/LNP Design 2w Analog Loop w/LNP Non-Design -Dispatch -Non-Dispatch UNE Digital Loop < DS1 UNE Digital Loop ≥ DS1 UNE Loop + Port Combinations -Dispatch out -Non-Dispatch -Dispatch in -Switch-based UNE Switch Ports UNE Combo Other -Dispatch -Non-Dispatch UNE xDSL (ADSL, HDSL, UCL) UNE ISDN (includes UDC) UNE Line Sharing Local Transport (Unbundled Interoffice Transport) Local Interconnection Trunks		
	Percent Completion of Timely Loop Modification	Not Proposed	Not Proposed	N/A	95% ≤ 5 Business Days	
	Percent Billing Errors Correct in X Days	Not Proposed	Not Proposed	Carrier Bill DUF	Diagnostic	

DOCKET NO. 000121-TP
DATE: August 2, 2001

ISSUE 2a: What are the appropriate Enforcement Measures to be reported by BellSouth for Tier 1 and Tier 2?

RECOMMENDATION: Staff believes that the metrics displayed in the "Staff Recommended" column in Attachment 6 should be included in the Florida Performance Assessment Plan as Tier 1 and Tier 2 Enforcement Metrics. (HARVEY)

POSITIONS OF PARTIES:

BST: The enforcement plan should utilize key measures in areas that affect customers. BellSouth's plan does so. It is not appropriate to have a penalty associated with each and every measurement in the performance plan.

ALEC: Because the submeasures proposed by the ALEC Coalition monitor key areas of ALEC and BellSouth activity, all submeasures proposed are included Tier 1 and Tier 2 of the ALEC Enforcement plan. Consequently, BellSouth should report all proposed submeasures in both Tier 1 and Tier 2.

Z-TEL: Z-Tel adopts the position stated by the ALEC Coalition.

STAFF ANALYSIS:

This issue addresses which measures should be included in the enforcement portion of the Florida Performance Assessment Plan. The enforcement measures are those to which penalties are applied if BellSouth fails to meet the performance standards as set by the Commission. Staff believes that an effective enforcement plan is one that contains clearly articulated, predetermined measures and standards that encompass a comprehensive range of carrier-to-carrier performance.

Argument

BellSouth's proposed enforcement plan generally includes key measures in areas that affect customers. (Coon TR 250) According to BellSouth, the measurement set was patterned after those used in New York and Texas. According to Witness Coon, BellSouth took the approach, as ordered by those Commissions, of assigning

DOCKET NO. 000121-TP
DATE: August 2, 2001

penalties only to measurements that are most "customer impacting." Applying this standard, Witness Coon states that BellSouth proposes to pay Tier 1 penalties for 57 specifically identified measures. (Coon TR 250) The enforcement measures are detailed in DAC-1 and summarized in DAC-5, Exhibit 16.

BellSouth believes there are several specific factors that make the proposed smaller number of Tier 1 and Tier 2 measures appropriate. The factors correspond to six categories of measurements for which penalties are not proposed. (BellSouth BR 18) Specifically, they include the following:

1. Aggregation of Measures. Although there may be some usefulness in disaggregating measurements to a fairly granular level for purposes of making comparisons, this level of disaggregation is not always appropriate when penalties are applied. An example is xDSL services. Various xDSL services are provided over copper wires. The different services are distinguishable based upon the electronics installed by the ALEC. Given the similarity of these products, BellSouth has aggregated them together for the purpose of determining whether remedy payments are warranted. This aggregation is also appropriate to avoid the inherent unreliability of small samples (discussed earlier), in other words, to ensure meaningful comparisons.
2. Diagnostic Measurements. There are a number of measurements included because they provide information to ALECs, but a failure to meet these measurements really has no effect on the customer. An example of this type of measurement is Percent Rejected Service Requests. This measurement could help an ALEC determine whether its service representatives are completing and issuing local service requests properly, but it does not truly reflect BellSouth's performance.
3. Method of Submission. For some measurements (reject interval, for example), BellSouth's SQM disaggregates the measure by method of submission,

in other words, fully mechanized, partially mechanized and non-mechanized. (Exhibit 16) In BellSouth's remedy plan, however, only the measurement for fully mechanized submission has an attendant penalty, since this is the measurement category in which virtually all activity will occur.

4. Parity by Design Measures. Certain measures are categorized as parity by design. An example of this would be the E911 measures in Exhibit DAC-1. A parity by design measure occurs when BellSouth orders and ALEC orders are processed in a way that makes it impossible for BellSouth to distinguish between the two. In these instances, discrimination is just not possible.
5. Correlated Measures. In some instances, measurements are correlated, so that the failure of one measure will also result in the failure of a second measure. BellSouth does not believe that it is appropriate to pay multiple penalties for a single failure. Therefore, it proposed that only a single penalty be associated with any measures that are correlated
6. Regional Measures. Some of BellSouth's measurements are regional in nature. Since BellSouth's OSS systems are regional, measurements such as OSS Average Response time and Response Interval and OSS Interface Availability would apply regionally, i.e., to the ALEC industry as a whole. Since the point of Tier 1 penalties is to provide penalty payments to particular affected ALECs, it makes no sense to have a penalty for a measurement that, if failed, will affect the entire ALEC industry. (BellSouth BR 18-19)

BellSouth believes the ALEC plan "stands in dramatic contrast to that of BellSouth." BellSouth states, "The ALEC plan appears in every detail to have been designed to generate incredible penalties. First, the ALEC plan has a penalty associated with every single submetric." (BellSouth BR 20)

BellSouth alleges that:

The number of submetrics in the ALECs' plan is somewhere between 100,000 and several million, which means that the ALECs' plan could require 100,000 or more penalty payments every month. Further, the ALECs' penalty plan provides for BellSouth to pay penalties any time it misses a measurement in the given month, regardless of the number of transactions that are captured by that measurement. Finally, the penalty to be paid can, based on the severity of the failure, be as much as \$25,000. (TR 1022) Taken together, these factors (i.e., 100,000 plus measurements and a penalty of up to \$25,000 for the failure of each and every one) could result in the potential for BellSouth to pay penalties every month in amounts that are truly staggering. (BellSouth BR 20)

BellSouth further notes that:

The massive penalties that could attach to each of the ALECs' proposed measurements bear no relationship to the damage that would be suffered by the ALECs. There is not a shred of evidence in the record that the ALECs made any attempt at all to actually tie the amounts of the penalties proposed to the damages incurred. For example, all parties agree that there are certain diagnostic measures in the plan. As stated previously, BellSouth does not believe there should be a penalty associated with these measures [some of which measure ALECs' performance as much as they do BellSouth's]. Nevertheless, the ALEC plan assesses penalties when measures of this sort are failed. (BellSouth BR 21)

As the ALEC witnesses admitted:

The degree of disaggregation they propose will result in many measurement categories with no activity whatsoever in a given month and many more with only slight activity. (Kinard: TR 177, 179; Bursh: Exhibit 10, Bursh Deposition, p. 59) Further, in the

submeasurement categories with a very small volume of activity, any failure would appear to result in a penalty. In her deposition, Witness Bursh states that if a particular submeasurement captures only one event in a month and BellSouth fails to provide service at parity in this one incident, a payment will be assessed. (Exhibit 10, Bursh Deposition, p. 77) At the time of the hearing, however, Ms. Bursh claimed that this would not occur because of the way the model treats small sample sizes. Instead, she contends that the model operates so that a single failure can never prompt a penalty. (TR 1033-35) When she was referred specifically to the document attached to her testimony that deals with small sample sizes; however it became apparent that this document did not support her testimony. (Exhibit 25) The document to which she referred showed that, in the context of measurements that utilize the benchmark, the benchmarks are adjusted downward if there are small sample sizes. (Exhibit 25, CLB-I, p. 14) The document attached to her testimony, however, showed no adjustment for sample sizes of less than four, only a footnote that states that 'the table can be expanded to include all possible data sizes from 1 upward.' (Id. p. 15) There is absolutely nothing in this document that says that BellSouth will not be penalized if a measurement captures a single failed event. (BellSouth BR 23) (Emphasis in original)

According to BellSouth, its plan is patterned after the plans utilized in Texas and New York in that penalties are assigned only to certain key measures. BellSouth maintains that the Louisiana and Georgia plans do the same. In each instance, the selection of key measures has entailed winnowing out those measurements that are less critical and that, therefore, should not have associated penalties. (TR 250)

On behalf of the ALECs, Witness Bursh claims to apply the same standard. According to BellSouth, "if this is indeed true, then the ALECs' method of applying this standard is novel, to say the least. As Ms. Bursh testified, 'in the ALEC plan, because the submeasures monitor key areas of ALEC and BellSouth activity, all submeasures proposed by the ALECs are included in the determination of remedy payments.' (TR 956) In other words, all

DOCKET NO. 000121-TP

DATE: August 2, 2001

100,000 plus submeasures in the ALEC plan are simply assumed to be important enough to justify a penalty." (BellSouth BR 21)

The ALECs do not believe that the BellSouth-proposed enforcement measures encompass a comprehensive range of carrier-to-carrier performance. (ALEC BR 25) The ALECs' position is that all submeasures proposed by the ALEC Coalition should be included in both Tier 1 and Tier 2 of the enforcement plan. Witness Bursh testified that the ALECs' plan measures "cover the full panoply of BellSouth's activities that ALECs must rely upon in order to deliver retail service offerings in the local market place." (TR 955) The ALECs believe that "every submeasure is designed to identify and measure a key area of activity that affects ALEC and BellSouth customers, and consequently, the development of competition in Florida's local telecommunications markets." (TR 955). In the ALEC plan, because the submeasures monitor "key areas" of performance, all submeasures proposed by the ALECs are included in the determination of remedy payments. (TR 956)

The ALECs' testimony discounted the FCC New York BellAtlantic Order that supported BellSouth's position that an enforcement plan should not include all measures. In its BellAtlantic Order, the FCC stated that the measures the New York Commission selected for inclusion in its remedy plan were sufficient. (TR 997) The ALECs' position is that the FCC did not exclude the possibility that, in a different circumstance, an appropriate enforcement plan should include all measures. (ALEC BR 24)

Witness Bursh testified that the measures in BellSouth's SEEM remedy plan and BellSouth SQM were unilaterally selected by BellSouth without any direct input from the ALEC community. (TR pp. 996-997) Moreover, BellSouth has unilaterally made its determination of the measures that are "key" ALEC customer-impacting measures. (Kinard TR 250) The ALECs' argue that, while BellSouth has been ordered to include certain measures requested by ALECs in its SQM, BellSouth has not requested, and has even ignored, input from the ALECs regarding the measures that should be included in its SQM and SEEM remedy plans. (Bursh TR 997) The ALEC Coalition stated that the measures in BellSouth's SEEM remedy plan do not encompass a comprehensive range of carrier-to-carrier performance. (ALEC BR 28)

Specifically, the ALECs argue that BellSouth's SEEM remedy plan is far more narrow than its SQM plan. According to Witness Kinard, the SEEM remedy plan contains only a small subset of the measures BellSouth proposes to report on for the Commission. (TR Kinard 250, TR Bursh 977) As an example, BellSouth acknowledges that FOC Timeliness is a key measure for ALECs, nevertheless, ALECs claim, BellSouth excluded FOC Timeliness from Tier 1 of SEEM. (Coon TR 312-313, 476)

Additionally, the ALECs argue that SEEM does not specify LNP-FOC Timeliness or LNP Reject Interval as enforcement measures. According to Witness Bursh, for many facilities-based ALECs, LNP orders are critical aspect of their business. Without a FOC, ALECs cannot provide customers with an expected date of service. According to Witness Bursh, BellSouth can hinder an individuals ALEC's ability to provide its customers with timely notice of service without a consequence to BellSouth. (TR 1000)

The ALEC coalition points out that many other measures are omitted from the BellSouth remedy plan. According Witness Bursh, BellSouth has inappropriately excluded the following metrics from Tier 1 consequences: (TR 999-1000)

1. Invoice Accuracy
2. Mean Time to Deliver Invoices
3. Usage Data Delivery Accuracy
4. Reject Interval
5. FOC Timeliness
6. Acknowledgment Message Timeliness-EDI
7. Acknowledgment Message Timeliness-TAG
8. Acknowledgment Message Completeness-EDI
9. Acknowledgment Message Completeness-TAG

ALEC Witness Bursh testified that the BellSouth SEEM remedy plan omits measures that are critical to assuring nondiscrimination. Any remedy plan must cover all forms of operational support required by the Act. Both blatant (directly and immediately customer observable) and subtle discrimination (ALEC operational support) will ultimately impact customers. Due to the many omitted measures, BellSouth's SEEM remedy plan does not hinder sanctions for noncompliance. (Bursh TR 1005)

Analysis

DOCKET NO. 000121-TP

DATE: August 2, 2001

Attachment 6 shows the metrics that BellSouth proposes to include in the enforcement plan and the metrics that staff proposes should be included. The ALECs' position is that all metrics and all levels of disaggregation should be included. Staff does not agree with the ALECs' position because the FCC has previously indicated that enforcement plans do not need to include all measures. Staff agrees with BellSouth in that there are several factors, such as parity by design, correlation and the regional nature of measures, that make a smaller set of metrics appropriate.

Staff has made special note of the specific metrics that are identified in Witness Bursh's testimony as being inappropriately omitted from Tier 1. Staff agrees that Invoice Accuracy and Mean Time to Deliver Invoices should be included as Tier 1 metrics. Staff also agrees that Reject Interval and FOC Timeliness and the corresponding LNP metrics should be included as Tier 1 metrics. Staff also believes that the Acknowledgment Message Timeliness and Acknowledgment Message Completeness metrics should be included as Tier 1 metrics. Additionally, Out of Service > 24 Hours has been included as both a Tier 1 and a Tier 2 metric.

Staff believes that the recommended set of enforcement metrics represents a comprehensive set of metrics that will adequately evaluate the most critical areas of carrier-to-carrier performance. Staff is recommending 24 Tier 1 metrics and 34 Tier 2 metrics compared to the BellSouth proposed 15 and 31 respectively.

Of the 24 Tier 1 metrics proposed by staff, seven cover the ordering domain, eight cover the provisioning domain, five are from the Maintenance and Repair domain, and two are from the billing domain. These domains are the most critical aspect of OSS performance. Other Tier 1 metrics recommended include Trunk Group Performance and Collocation.

The 34 Tier 2 metrics are comprised of five preordering metrics and eight ordering metrics. Additionally, there are nine Tier 2 provisioning metrics, five maintenance and repair metrics, and three billing metrics. In addition to these major domains, there are Tier 2 metrics covering Trunk Group Performance, Collocation and Change Management.

DOCKET NO. 000121-TP

DATE: August 2, 2001

Staff believes that there are many factors which must be considered when determining whether a metric should be included as an enforcement mechanism. In order to make this determination, staff looked at whether the metric is customer-impacting or if the metric is critical to ALECs in providing quality service in a timely manner. Other factors include whether the measure was diagnostic, correlated, parity by design, and quality of the metric. To evaluate whether a metric should specifically be included in Tier 1 or Tier 2, staff considered regional versus individual ALEC reporting capability.

Conclusion:

Staff believes that the metrics displayed in the "Staff Recommended" column in Attachment 6 should be included in the Florida Performance Assessment Plan as Tier 1 and Tier 2 enforcement metrics.

BellSouth Proposed Enforcement Mechanisms					
No.	Measure	BellSouth Proposed Enforcement Measures		Staff Recommended Enforcement Measures	
		Tier 1	Tier 2	Tier 1	Tier 2
Preordering					
OSS-1	Average Response Time for OSS Pre-Order Interfaces & Response Interval		x		x
OSS-2	OSS Interface Availability (All Systems)		x		x
OSS-3	Interface Availability (M&R)		x		x
OSS-4	Response Interval (M&R)				x
PO-1	Loop Makeup Inquiry (Manual)		x		x
PO-2	Loop Makeup Inquiry (Electronic: TAG and LENS)		x		x
Ordering					
O-1	Acknowledgment Timeliness (Electronic)		x	x	x
O-2	Acknowledgment Completeness (Fully Mechanized, Partially Mechanized & Total Mechanized)		x	x	x
O-3/4	Percent Order Flow Through (Summary & Detail)		x		x
O-5	Flow-through Error Analysis				
O-6	CLEC LSR Information - LSR Flow-Through Matrix				
O-7	Percent Rejected Service Request (Fully Mechanized, Partially Mechanized & Non-Mechanized)				
O-8	Reject Interval		x	x	x
O-9	Firm Order Confirmation Timeliness (Fully Mechanized, Partially Mechanized & Non-Mechanized)		x	x	x

BellSouth Proposed Enforcement Mechanisms					
No.	Measure	BellSouth Proposed Enforcement Measures		Staff Recommended Enforcement Measures	
		Tier 1	Tier 2	Tier 1	Tier 2
O-10	Service Inquiry with LSR Firm Order Confirmation (FOC) Response Time (Manual)				
O-11	Firm Order Confirmation and Reject Response Completeness	x	x	x	x
O-12	Speed of Answer in Ordering Center				x
O-13	LNP - Percent Rejected Service Request				
O-14	LNP - Reject Interval Distribution & Average Reject Interval			x	x
O-15	LNP - FOC Timeliness Interval Distribution & FOC Average Interval			x	x
	Percent Order Accuracy				
Provisioning					
P-1	Mean Held Order Interval				
P-2	Average Jeopardy Notice Interval (Electronic)				
P-2	Percent Orders given Jeopardy Notice (Electronic)				
P-3	Percent Missed Installation Appointments	x	x	x	x
P-4	Order Completion Interval	x	x	x	x
P-5	Average Completion Notice Interval (Electronic)				
P-6	Coordinated Customer Conversions Interval	x	x	x	x
P-6A	Coordinated Customer Conversions Hot Cut Timeliness % within Interval & Average Interval	x	x	x	x
P-6B	Coordinated Customer Conversions - Average Recovery Time				

DOCKET NO. 000121-TP
 DATE: August 2, 2001

BellSouth Proposed Enforcement Mechanisms					
No.	Measure	BellSouth Proposed Enforcement Measures		Staff Recommended Enforcement Measures	
		Tier 1	Tier 2	Tier 1	Tier 2
P-6C	Coordinated Customer Conversions - % Provisioning Troubles Received Within 7 Days of a Completed Service Order	x	x	x	x
P-7	% Successful xDSL loops cooperatively tested		x	x	x
P-8	% Provisioning Troubles within 30 days	x	x	x	x
P-9	Total Service Order Cycle Time				
P-10	LNP - Percent Missed Installation Appointments	x	x	x	x
P-11	LNP - Average Disconnect Timeliness Interval & Disconnect Timeliness Interval Distribution	x	x		
P-12	LNP - TSOCT				
	% Completions/Attempts w/o notice or w/Less Than 24 Hr Notice				
	% Completion of Timely Loop Modification				
Maintenance & Repair					
M&R-1	Missed Repair Appointments	x	x	x	x
M&R-2	Customer Trouble Report Rate	x	x	x	x
M&R-3	Maintenance Average Duration	x	x	x	x
M&r-4	% Repeat Troubles within 30 days	x	x	x	x
M&R-5	Out of Service > 24 hours			x	x
M&R-6	Average Answer Time - Repair Center				
M&R-7	Mean Time to Notify CLEC of Network Outages (M&R)				
Billing					
B-1	Invoice Accuracy		x	x	x

BellSouth Proposed Enforcement Mechanisms

No.	Measure	BellSouth Proposed Enforcement Measures		Staff Recommended Enforcement Measures	
		Tier 1	Tier 2	Tier 1	Tier 2
B-2	Mean Time to Deliver Invoices		x	x	x
B-3	Usage Data Delivery Accuracy		x		x
B-4	Usage Data Delivery Completeness				
B-5	Usage Data Delivery Timeliness				
B-6	Mean Time to Deliver Usage				
B-7	Recurring Charge Completeness				
B-8	Non-Recurring Charge Completeness				
	% Billing Errors Corrected in X Days				
OS/DA					
OS-1	Average Speed to Answer (OS)				
OS-2	% Answered in "X" Seconds (OS)				
DA-1	Average Speed to Answer (DA)				
DA-2	% Answered in "X" Seconds (DA)				
Database Update Information					
D-1	Average Update Interval for DA Database for Facility Based CLECs				
D-2	Percentage DA Database Accuracy For Manual Updates				
D-3	Percent NXXs loaded and Tested by/or prior to the LERG effective date				
E911					
E-1	Timeliness				
E-2	Accuracy				
E-3	Mean Interval				
Trunk Group Performance					
TGP-1	Trunk Group Performance - Aggregate		x		x

BellSouth Proposed Enforcement Mechanisms					
No.	Measure	BellSouth Proposed Enforcement Measures		Staff Recommended Enforcement Measures	
		Tier 1	Tier 2	Tier 1	Tier 2
TGP-2	Trunk Group Performance - Specific	x		x	
Collocation					
C-1	Average Response Time				
C-2	Average Arrangement Time				
C-3	% of Due Dates Missed	x	x	x	x
Bona Fide/Special Request Process (BFRs)					
	Percentage of Requests Processed within 30 Business Days				
	Percentage of Quotes Provided for Authorized BFRs/Special Requests Within X (10,30,90) Days				
Change Management/Interface Outages					
CM-1	Timeliness of Change Management Notices		x		x
CM-2	Average Delay Days for Change Management Notices				
CM-3	Timeliness of Documents Associated with Change		x		x
CM-4	Average Delay Days for Documentation				
CM-5	Average Notice of Interface Outage				
	TOTAL	15	31	24	34

DOCKET NO. 000121-TP

DATE: August 2, 2001

ISSUE 2B: What are the appropriate levels of disaggregation for compliance reporting?

RECOMMENDATION: The appropriate level of disaggregation for compliance reporting is specified in Attachment 7. This recommendation includes more detailed reporting of product and mechanization disaggregation than that proposed by BellSouth.
(HARVEY)

POSITIONS OF THE PARTIES:

BST: The appropriate level of disaggregation for compliance reporting is that proposed by BellSouth and set forth in Exhibit DAC-4 to the testimony of BellSouth witness, David Coon.

ALEC: The ALEC Coalition proposes that disaggregation be required by interface type, preorder query type, product, volume category, work activity type, trouble type, trunk design and type (for trunk blockage measurements), maintenance and repair query type and collocation category to allow for like to like comparisons.

Z-TEL: The appropriate levels of disaggregation are those at the cell or submeasure level that are associated with the modified Z test. Aggregating different tests across product lines serves no useful purpose and could have the effect of masking discrimination. (Ford)

STAFF ANALYSIS: This issue identifies what the appropriate levels of disaggregation are for purposes of the enforcement mechanism.

Argument

BellSouth Witness Coon testified that the appropriate level of disaggregation for compliance reporting are shown in Exhibit 16, DAC-4.

The ALEC Coalition proposes that disaggregation be required by interface type, preorder query type, product, volume category, work activity type, trouble type, trunk design and type (for

DOCKET NO. 000121-TP

DATE: August 2, 2001

trunk blockage measurements), maintenance and repair query type and collocation category to allow for like to like comparisons. (Kinard TR 144, Bursh TR 960)

The ALECs argue that disaggregation is critical to an effective remedy plan because it prevents poor performance in one area from being obscured by being lumped together with dissimilar performance data. (Bursh TR 960) The ALECs specify in the SEEM remedy plan, BellSouth aggregates all UNE loops together even though the processes (i.e. interval) for various loops, such as ADSL or analogs loops, may differ. For example, the interval for one DS1 Loop is 23 days and the interval for one two wire Analog Loops is four days. Witness Bursh testified that this is a critical failing of SEEM. (Bursh TR 1001)

Witness Coon testified that in the SEEM disaggregation, there is recognition that the products are different, but when BellSouth aggregated them to determine the penalty, they are grouped to make the statistical determination and to determine the appropriate penalty. (Exhibit 6, Coon Deposition p. 104)

Specifically, the ALECs' concern is that, while there are 20 levels of disaggregation for Order Completion Interval measure in the BellSouth SQM, there are only eight levels of disaggregation for the same measure in SEEM. (Exhibit 16, DAC-1 3.9-3.10) Similarly Reject Interval has 17 level of product disaggregation in the BellSouth SQM, however in the SEEM remedy plan, BellSouth is proposing one level of disaggregation. (Bursh 1002; Exhibit 16, DAC-1 p. 2.21-2.23)

The ALECs argue that BellSouth proposes to rely upon overly-aggregated results. Such aggregation masks differences and makes detection on interior performance less likely. As discussed earlier, insufficient product disaggregation will allow BellSouth to mask discrimination and, thereby, influence the type and pace of developing competition. In the SEEM remedy plan, discrimination of high-revenue or volume products, such as DS1s or DS3s, can easily be concealed given that they are consolidated with a dissimilar high volume product such as analog loops. (Bursh TR 1002)

Achieving an appropriate level of disaggregation is important because measurements and reporting frequently occur

DATE: August 2, 2001

only at this level. However, it is also important that the disaggregation not be so granular and so detailed so as to completely obfuscate performance. Using one analogy, one would not view an artist's painting by focusing only on the individual brush strokes. Yet the ALECs' proposal does just that by taking the comparison point at which BellSouth's performance is evaluated to extremes. According to Witness Coon, the ALECs' plan includes approximately 75,000 submeasures, compared to approximately 1200 submeasures in BellSouth's plan. The level of disaggregation in the two plans principally accounts for this difference. (Coon TR 317)

Analysis

Disaggregation is the process of breaking down performance data into sufficiently specific categories or dimensions so that like-to-like comparisons can be made. In order to compare BellSouth's performance for its own retail customers to its performance for ALECs', it is necessary for a UNE analog loop product to be compared to an analog at BellSouth that is equivalent. Disaggregation is important to an effective remedy plan because it prevents poor performance in one area from being combined with dissimilar performance data. For example comparing provisioning work that is dispatched for BellSouth to provision work that is not dispatched for ALECs may mask discriminatory performance, as would comparing mechanized processes for the ALECs to a manual process for BellSouth.

BellSouth has proposed disaggregation at a more granular level for reporting and pass/failure determination purposes than for penalty assessment. For reporting purposes, BellSouth proposes approximately 19 levels of product disaggregation. However, the BellSouth SEEM methodology for determining penalties re-aggregates various product categories. BellSouth is proposing only seven levels of product disaggregation for penalty determination. Staff does not believe this product reaggregation is appropriate for penalty determination. There are eight metrics included in staff's recommendation to which product disaggregation is applicable. Staff believes BellSouth product disaggregation for compliance purposes should match what it has recommended for product reporting purposes.

In addition to the changes to product disaggregation, staff is recommending that for two BellSouth-proposed measures the

DOCKET NO. 000121-TP

DATE: August 2, 2001

company only pay penalties in the "fully mechanized" category of disaggregation. Staff recommends that the penalties for these two metrics, O-8 Reject Interval and O-11 FOC and Reject Response Completeness not be limited to fully mechanized. Penalties should be paid for failures in partially mechanized and non-mechanized categories as well.

The BellSouth proposed disaggregation for penalty determination purposes is that specified in Attachment 7. This attachment also contains staff's recommended disaggregation. Staff estimates there would be over 825 levels of disaggregation for compliance reporting and penalties for Tier 1 and over 875 total levels of disaggregation for compliance reporting and penalties for Tier 2. In addition to product disaggregation, staff's recommendation includes disaggregation by interface, system, volume, time interval, dispatch status and mechanization for metrics where appropriate.

Conclusion

The appropriate level of disaggregation for compliance reporting is specified in Attachment 7. This recommendation includes more detailed reporting of product and mechanization disaggregation than that proposed by BellSouth.

Enforcement Measures Disaggregation and Standards					
No.	Measure	BellSouth Proposed		Staff Recommendation	
		Disaggregation	Analog/Benchmark	Disaggregation	Analog/Benchmark
Preordering					
OSS-1	Average Response Time and Response Interval	Region	Percent Response Received within 6.3 seconds: > 95%	Interface System Region	Parity + 2 seconds
OSS-2	Interface Availability (Pre-Ordering)	Region	≥ 99.5%	Region	≥ 99.5%
OSS-3	Interface Availability (Maintenance & Repair)	Region	≥ 99.5%	Region	≥ 99.5%
OSS-4	Response Interval (Maintenance and Repair)	Region	Parity	Region	Parity
PO-1	Loop Make Up – Average Response Time – Manual	Loops	95% in 3 Business Days	Loops	95% in 3 Business Days
PO-2	Loop Make Up – Average Response Time – Electronic	Loops	90% in 5 Minutes	Loops	95% in 1 Minutes
Ordering					
O-1	Acknowledgment Message Timeliness	EDI TAG	90% w/ 30 Mins (6 mos – 95% within 30 Minutes) 95% within 30 Minutes	EDI TAG	95% ≤ 30 Minutes
O-2	Acknowledgment Message Completeness	EDI TAG	100%	EDI TAG	100%
O-3	Percent Flow-through Service Requests (Summary)	Residence Business UNE LNP	95% 90% 85% 85%	Total & Achieved Residence Business UNE LNP	95% 90% 85% 85%
O-8	Reject Interval	Fully Mechanized	97% within 1 Hour	Fully Mechanized Partially Mechanized Non-Mechanized Local Interconnection Trunks	97% ≤ 1 Hour 95% ≤ 10 Hours 95% ≤ 24 Hours 95% ≤ 36 Hours
O-9	Firm Order Confirmation Timeliness	Mechanized Partially Mechanized Non-Mechanized Local Interconnection Trunks	95% ≤ 3 Hour 85% w/ 18 Hrs (in 3 mos) 85% w/ 10 Hrs (in 6 mos) 85% < 36 Hours 95% within 10 days	Fully Mechanized Partially Mechanized Non-Mechanized Local Interconnection Trunks	95% ≤ 3 Hours 95% ≤ 10 Hours 95% ≤ 24 Hours 95% ≤ 48 Hours
O-11	FOC and Reject Response Completeness	Fully Mechanized	95% Returned	Fully Mechanized Partially Mechanized Non Mechanized Local Interconnection Trunks	95% Returned
O-12	Speed of Answer in Ordering Center	CLEC-Local Carrier Service Center BellSouth -Business Service Center -Residence Service Center	Diagnostic	CLEC-Local Carrier Service Center BellSouth -Business Service Center -Residence Service Center	Parity with Retail
O-14	LNP-Reject Interval Distribution & Average Reject Interval	Not Proposed	Not Proposed	LNP UNE Loop with LNP	Fully Mechanized: 97% ≤ 1 Hour Partially Mechanized: 95% ≤ 10 Hours Non-Mechanized: 95% ≤ 24 Hours

Enforcement Measures Disaggregation and Standards					
No.	Measure	BellSouth Proposed		Staff Recommendation	
		Disaggregation	Analog/Benchmark	Disaggregation	Analog/Benchmark
O-15	LNP-Firm Order Confirmation	Not Proposed	Not Proposed	LNP UNE Loop with LNP	Fully Mechanized: 95% ≤ 3 Hours Partially Mechanized: 95% ≤ 10 Hours Non-Mechanized: 95% ≤ 24 Hours
Provisioning					
P-3	Percent Missed Installation Appointments	Resale POTS Resale Design UNE Loop & Port Combos UNE Loops UNE xDSL UNE Line Sharing Local Interconnection Trunks	Retail Residence and Business (POTS) Retail Design Retail Residence and Business Retail Residence and Business Dispatch ADSL Provided to Retail ADSL Provided to Retail Parity with Retail	Resale Residence Resale Business Resale Design Resale PBX Resale Centrex Resale ISDN LNP (Standalone) 2w Analog Loop Design 2w Analog Loop Non-Design -Dispatch -Non-Dispatch 2w Analog Loop w/LNP Design 2w Analog Loop w/LNP Non-Design -Dispatch -Non-Dispatch UNE Digital Loop < DS1 UNE Digital Loop ≥ DS1 UNE Loop + Port Combinations -Dispatch out -Non-Dispatch -Dispatch in -Switch-based UNE Switch Ports UNE Combo Other -Dispatch -Non-Dispatch UNE xDSL (ADSL, HDSL, UCL) UNE ISDN (includes UDC) UNE Line Sharing Local Transport (Unbundled Interoffice Transport) Local Interconnection Trunks UNE Line Splitting UNE Other Non-Design UNE Other Design EELs	Retail Residence Retail Business Retail Design Retail PBX Retail Centrex Retail ISDN Retail Res and Bus (POTS) Retail Res and Bus Dispatch Retail Res and Bus (POTS excluding switch based orders) Retail Res and Bus Dispatch Retail Res and Bus (POTS excluding switch based orders) Retail Digital Loop < DS1 Retail Digital Loop ≥ DS1 Retail Res and Bus Retail Res and Bus (POTS) Retail Res and Bus and Design Disp. ADSL provided to Retail Retail ISDN – BRI ADSL provided to Retail Retail DS1 and DS3 Interoffice Parity with Retail TBD Retail Res and Bus Retail Design TBD

Enforcement Measures Disaggregation and Standards					
No.	Measure	BellSouth Proposed		Staff Recommendation	
		Disaggregation	Analog/Benchmark	Disaggregation	Analog/Benchmark
P-4	Average Completion Interval (OCI) & Order Completion Interval Distribution	Resale POTS Resale Design UNE Loop & Port Combos UNE Loops UNE xDSL UNE xDSL UNE Line Sharing Local Interconnection Trunks	Retail Residence and Business (POTS) Retail Design Retail Residence and Business Retail Residence and Business Dispatch 7 Days w/o Conditioning 14 Days w Conditioning ADSL Provided to Retail Parity with Retail	Resale Residence Resale Business Resale Design Resale PBX Resale Centrex Resale ISDN LNP (Standalone) 2w Analog Loop Design 2w Analog Loop Non-Design -Dispatch -Non-Dispatch 2w Analog Loop w/LNP Design 2w Analog Loop w/LNP Non-Design -Dispatch -Non-Dispatch UNE Digital Loop < DS1 UNE Digital Loop ≥ DS1 UNE Loop + Port Combinations -Dispatch out -Non-Dispatch -Dispatch in -Switch-based UNE Switch Ports UNE Combo Other -Dispatch -Non-Dispatch UNE xDSL (ADSL, HDSL, UCL) UNE ISDN (includes UDC) UNE Line Sharing Local Transport (Unbundled Interoffice Transport) Local Interconnection Trunks UNE Line Splitting UNE Other Non-Design UNE Other Design EELs	Retail Residence Retail Business Retail Design Retail PBX Retail Centrex Retail ISDN Retail Res and Bus (POTS) Retail Res and Bus Dispatch Retail Res and Bus (POTS excluding switch based orders) Retail Res and Bus Dispatch Retail Res and Bus (POTS excluding switch based orders) Retail Digital Loop < DS1 Retail Digital Loop ≥ DS1 Retail Res and Bus Retail Res and Bus (POTS) Retail Res and Bus and Design Disp. 5 Days w/o Conditioning 12 Days w/Conditioning Retail ISDN - BRI ADSL provided to Retail Retail DS1 and DS3 Interoffice Parity with Retail TBD Retail Res and Bus Retail Design TBD
P-6	Coordinated Customer Conversions Interval	Unbundled Loops	95% ≤ 15 Minutes	Unbundled Loops	95% ≤ 15 Minutes
P-6A	Coordinated Customer Conversions Hot Cut Timeliness % within Interval and Average Interval	UNE Loops SL1 IDLC SL2 IDLC	95% + or - 15 minutes of Scheduled Start Time 95% w/in 4 Hour window 95% w/in 4 Hour window	SL1 Time Specific SL1 Non Time Specific SL2 Time Specific SL2 Non Time Specific SL1 IDLC SL2 IDLC	95% + or - 15 minutes of Scheduled Start Time 95% w/in 4 Hour window 95% w/in 4 Hour window

Enforcement Measures Disaggregation and Standards					
No.	Measure	BellSouth Proposed		Staff Recommendation	
		Disaggregation	Analog/Benchmark	Disaggregation	Analog/Benchmark
P-6C	Coordinated Customer Conversions - % Provisioning Troubles Received W/in 7 days of a completed Service Order	UNE Loops	≤ 5%	UNE Loops Design UNE Loops Non-Design Dispatch/Non-Dispatch	≤ 5%
P-7	Cooperative Acceptance Testing - % of xDSL Loops Tested	UNE xDSL	95% of Lines Tested	UNE xDSL -ADSL -HDSL -UCL -Other	95% of Lines Successfully Tested
P-8	% Provisioning Troubles w/in 30 days of Service Order Completion	Resale POTS Resale Design UNE Loop & Port Combos UNE Loops UNE xDSL UNE Line Sharing Local Interconnection Trunks	Retail Residence and Business (POTS) Retail Design Retail Residence and Business Retail Residence and Business Dispatch ADSL Provided to Retail Parity with Retail	Resale Residence Resale Business Resale Design Resale PBX Resale Centrex Resale ISDN LNP (Standalone) 2w Analog Loop Design 2w Analog Loop Non-Design -Dispatch -Non-Dispatch 2w Analog Loop w/LNP Design 2w Analog Loop w/LNP Non-Design -Dispatch -Non-Dispatch UNE Digital Loop < DS1 UNE Digital Loop ≥ DS1 UNE Loop + Port Combinations -Dispatch out -Non-Dispatch -Dispatch in -Switch-based UNE Switch Ports UNE Combo Other -Dispatch -Non-Dispatch UNE xDSL (ADSL, HDSL, UCL) UNE ISDN (includes UDC) UNE Line Sharing Local Transport (Unbundled Interoffice Transport) Local Interconnection Trunks UNE Line Splitting UNE Other Non-Design UNE Other Design EELs	Retail Residence Retail Business Retail Design Retail PBX Retail Centrex Retail ISDN Retail Res and Bus (POTS) Retail Res& Bus Dispatch Retail Res and Bus (POTS excluding switch based orders) Retail Res and Bus Dispatch Retail Res and Bus (POTS excluding switch based orders) Retail Digital Loop < DS1 Retail Digital Loop ≥ DS1 Retail Res and Bus Retail Res and Bus (POTS) Retail Res and Bus and Design Disp. ADSL provided to Retail Retail ISDN - BRI ADSL provided to Retail Retail DS1 and DS3 Interoffice Parity with Retail TBD Retail Res and Bus Retail Design TBD
P-10	LNP - Percent Missed Installation Appointments	LNP	95% of Due Dates Met	LNP	95% of Due Dates Met

Enforcement Measures Disaggregation and Standards					
No.	Measure	BellSouth Proposed		Staff Recommendation	
		Disaggregation	Analog/Benchmark	Disaggregation	Analog/Benchmark
Maintenance and Repair					
M&R-1	Missed Repair Appointments	Resale POTS Resale Design UNE Loop & Port Combos UNE Loops UNE xDSL UNE Line Sharing Local Interconnection Trunks	Retail Residence and Business (POTS) Retail Design Retail Residence and Business Retail Residence and Business Dispatch ADSL Provided to Retail ADSL Provided to Retail Parity with Retail	Resale Residence Resale Business Resale Design Resale PBX Resale Centrex Resale ISDN 2w Analog Loop Design 2w Analog Loop Non-Design UNE Digital Loop < DS1 UNE Digital Loop ≥ DS1 UNE Loop + Port Combinations UNE Switch Ports UNE Combo Other UNE xDSL (ADSL, HDSL, UCL) UNE ISDN UNE Line Sharing Local Transport (Unbundled Interoffice Transport) Local Interconnection Trunks	Retail Residence Retail Business Retail Design Retail PBX Retail Centrex Retail ISDN Retail Res & Bus Dispatch Retail Res & Bus (POTS excluding switch based features) Retail Digital Loop < DS1 Retail Digital Loop ≥ DS1 Retail Res and Bus Retail Res & Bus (POTS) Retail Res and Bus and Design Disp. ADSL provided to Retail Retail ISDN – BRI ADSL provided to Retail Retail DS1 and DS3 Interoffice Parity with Retail
M&R-2	Customer Trouble Report Rate	Resale POTS Resale Design UNE Loop & Port Combos UNE Loops UNE xDSL UNE Line Sharing Local Interconnection Trunks	Retail Residence and Business (POTS) Retail Design Retail Residence and Business Retail Residence and Business Dispatch ADSL Provided to Retail ADSL Provided to Retail Parity with Retail	Resale Residence Resale Business Resale Design Resale PBX Resale Centrex Resale ISDN 2w Analog Loop Design 2w Analog Loop Non-Design UNE Digital Loop < DS1 UNE Digital Loop ≥ DS1 UNE Loop + Port Combinations UNE Switch Ports UNE Combo Other UNE xDSL (ADSL, HDSL, UCL) UNE ISDN UNE Line Sharing Local Transport (Unbundled Interoffice Transport) Local Interconnection Trunks	Retail Residence Retail Business Retail Design Retail PBX Retail Centrex Retail ISDN Retail Res & Bus Dispatch Retail Res & Bus (POTS excluding switch based features) Retail Digital Loop < DS1 Retail Digital Loop ≥ DS1 Retail Res and Bus Retail Res & Bus (POTS) Retail Res and Bus and Design Disp. ADSL provided to Retail Retail ISDN – BRI ADSL provided to Retail Retail DS1 and DS3 Interoffice Parity with Retail

Enforcement Measures Disaggregation and Standards					
No.	Measure	BellSouth Proposed		Staff Recommendation	
		Disaggregation	Analog/Benchmark	Disaggregation	Analog/Benchmark
M&R-3	Maintenance Average Duration	Resale POTS Resale Design UNE Loop & Port Combos UNE Loops UNE xDSL UNE Line Sharing Local Interconnection Trunks	Retail Residence and Business (POTS) Retail Design Retail Residence and Business Retail Residence and Business Dispatch ADSL Provided to Retail ADSL Provided to Retail Parity with Retail	Resale Residence Resale Business Resale Design Resale PBX Resale Centrex Resale ISDN 2w Analog Loop Design 2w Analog Loop Non-Design UNE Digital Loop < DS1 UNE Digital Loop ≥ DS1 UNE Loop + Port Combinations UNE Switch Ports UNE Combo Other UNE xDSL (ADSL, HDSL, UCL) UNE ISDN UNE Line Sharing Local Transport (Unbundled Interoffice Transport) Local Interconnection Trunks	Retail Residence Retail Business Retail Design Retail PBX Retail Centrex Retail ISDN Retail Res & Bus Dispatch Retail Res & Bus (POTS excluding switch based features) Retail Digital Loop < DS1 Retail Digital Loop ≥ DS1 Retail Res and Bus Retail Res & Bus (POTS) Retail Res and Bus and Design Disp. ADSL provided to Retail Retail ISDN – BRI ADSL provided to Retail Retail DS1 and DS3 Interoffice Parity with Retail
M&R-4	Percent Repeat Troubles w/i 30 days	Resale POTS Resale Design UNE Loop & Port Combos UNE Loops UNE xDSL UNE Line Sharing Local Interconnection Trunks	Retail Residence and Business (POTS) Retail Design Retail Residence and Business Retail Residence and Business Dispatch ADSL Provided to Retail ADSL Provided to Retail Parity with Retail	Resale Residence Resale Business Resale Design Resale PBX Resale Centrex Resale ISDN 2w Analog Loop Design 2w Analog Loop Non-Design UNE Digital Loop < DS1 UNE Digital Loop ≥ DS1 UNE Loop + Port Combinations UNE Switch Ports UNE Combo Other UNE xDSL (ADSL, HDSL, UCL) UNE ISDN UNE Line Sharing Local Transport (Unbundled Interoffice Transport) Local Interconnection Trunks	Retail Residence Retail Business Retail Design Retail PBX Retail Centrex Retail ISDN Retail Res & Bus Dispatch Retail Res & Bus (POTS excluding switch based features) Retail Digital Loop < DS1 Retail Digital Loop ≥ DS1 Retail Res and Bus Retail Res & Bus (POTS) Retail Res and Bus and Design Disp. ADSL provided to Retail Retail ISDN – BRI ADSL provided to Retail Retail DS1 and DS3 Interoffice Parity with Retail

Enforcement Measures Disaggregation and Standards					
No.	Measure	BellSouth Proposed		Staff Recommendation	
		Disaggregation	Analog/Benchmark	Disaggregation	Analog/Benchmark
M&R 5	Out of Service > 24 Hours	Not Proposed	Not Proposed	Resale Residence Resale Business Resale Design Resale PBX Resale Centrex Resale ISDN 2w Analog Loop Design 2w Analog Loop Non-Design UNE Digital Loop < DS1 UNE Digital Loop ≥ DS1 UNE Loop + Port Combinations UNE Switch Ports UNE Combo Other UNE xDSL (ADSL, HDSL, UCL) UNE ISDN UNE Line Sharing Local Transport (Unbundled Interoffice Transport) Local Interconnection Trunks	Retail Residence Retail Business Retail Design Retail PBX Retail Centrex Retail ISDN Retail Res & Bus Dispatch Retail Res & Bus (POTS excluding switch based features) Retail Digital Loop < DS1 Retail Digital Loop ≥ DS1 Retail Res and Bus Retail Res & Bus (POTS) Retail Res and Bus and Design Disp. ADSL provided to Retail Retail ISDN – BRI ADSL provided to Retail Retail DS1 and DS3 Interoffice Parity with Retail
Billing					
B-1	Invoice Accuracy	CLEC State BellSouth State	Parity with Retail	CLEC State BellSouth State	Parity with Retail
B-2	Mean Time to Deliver Invoices	CLEC State - CRIS - CABS BellSouth State	Parity with Retail	CLEC State - CRIS - CABS BellSouth State	Parity with Retail
B-3	Usage Data Delivery Accuracy	CLEC State BellSouth State	Parity with Retail	CLEC State BellSouth State	Parity with Retail
Trunk Group Performance					
TGP-1	Trunk Group Performance-Aggregate	CLEC aggregate/ BellSouth aggregate	Any 2 hour period in 24 hours where CLEC blockage exceeds BellSouth blockage by more than 0.5% using trunk groups 1,3,4,5,10, 16 for CLECs and 9 for BellSouth	CLEC aggregate BellSouth aggregate	Any 2 hour period in 24 hours where CLEC blockage exceeds BellSouth blockage by more than 0.5% using trunk groups 1,3,4,5,10, 16 for CLECs and 9 for BellSouth
TGP-2	Trunk Group Performance-CLEC Specific	CLEC Trunk Group BellSouth Trunk Group	Any 2 hour period in 24 hours where CLEC blockage exceeds BellSouth blockage by more than 0.5% using trunk groups	CLEC Trunk Group BellSouth Trunk Group	Any 2 hour period in 24 hours where CLEC blockage exceeds BellSouth blockage by more than 0.5% using

DOCKET NO. 000121-TP
 DATE: August 2, 2001

Enforcement Measures Disaggregation and Standards					
No.	Measure	BellSouth Proposed		Staff Recommendation	
		Disaggregation	Analog/Benchmark 1,3,4,5,10, 16 for CLECs and 9 for BellSouth	Disaggregation	Analog/Benchmark trunk groups 1,3,4,5,10, 16 for CLECs and 9 for BellSouth
Collocation					
C-3	Percent of Due Dates Missed	All Collocation Arrangements	≥ 90% on Time	All Collocation Arrangements	≥ 95% on Time
Change Management					
CM-1	Timeliness of Change Management Notices	Region	95% ≥ 30 days of Release	Region	98% On Time
CM-3	Timeliness of Documents Associated with Change	Region	95% ≥ 30 days of the change	Region	98% On Time

DOCKET NO. 000121-TP

DATE: August 2, 2001

ISSUE 3a: What performance data and reports should be made available by BellSouth to ALECs?

RECOMMENDATION: Staff recommends BellSouth be required to post data and reports for all approved performance measures to its Interconnection Services Website. The raw data that supports all reports derived from PMAP should also be provided on the Web site. Each report should contain the information specified in the BellSouth SQM "Report Structure" section. Staff would like to encourage BellSouth to consider incorporating these measures into PMAP if at all possible. Additionally, this issue can be revisited during the six-month review period to determine if additional changes should be made. (KELLEY)

POSITIONS OF THE PARTIES:

BST: The appropriate performance data and reports to be made available by BellSouth to ALECs are those identified in BellSouth's SQM. The raw data that supports all reports derived from PMAP should also be provided.

ALEC: BellSouth's reports should include data on its provision of services to its retail customers, services and facilities provided to carriers, including BellSouth local exchange affiliates, and benchmark results. BellSouth should provide all raw data underlying reports, provide a manual to interpret and a single point of contact to answer questions about raw data.

Z-TEL: Z-Tel adopts the position of the ALEC Coalition.

STAFF ANALYSIS: This issue addresses what performance data and reports need to be made accessible by BellSouth to the ALECs. BellSouth asserts that it should provide the SQM results and raw data that supports the PMAP results. The ALECs suggest providing additional information, such as information on BellSouth's affiliates' results, services and facilities provided to carriers, as well as a manual to interpret raw data and a single point of contact available to answer ALECs' questions.

Argument

DOCKET NO. 000121-TP

DATE: August 2, 2001

BellSouth Witness Coon states that the appropriate performance data and reports to be made available to the ALECs are identified in the BellSouth SQM. (TR 252) The BellSouth SQM specifically identifies a "Report Structure" section which indicates key dimensions of each report for each measure. (TR 244)

BellSouth believes that there is no compelling reason to provide raw data for every one of the measures and that to do so is simply not possible. As to the former point, the raw data that is derived from PMAP (which is available on BellSouth's Web site) will, as Mr. Coon testified, "include the most critical ordering, provisioning, and maintenance and repair measurements in which ALECs generally are interested, including, but not limited to, FOC Timeliness, Reject Interval, Percent Missed Installation Appointments, Average Completion Interval, Order Completion Interval Distribution, Missed Repair Appointments, Customer Trouble Report Rate and Maintenance Averaged [sic] Duration." (TR 312-313) Thus, BellSouth is willing and able to produce the raw data that underlies the most important reports. (BR 25-26)

BellSouth states that it does not have the capability to make available electronically the raw data that is used to generate performance reports outside of PMAP, such as raw data for regional reports that are not (and cannot) be separated by ALEC (e.g., Speed of Answer in the Maintenance Center). (TR 255) These measurements reflect the time that a call, in effect, waits in line before it is answered by a BellSouth representative. The work centers that receive the calls are regional, and hundreds of thousands of calls are received each month from throughout the entire region. As Mr. Coon stated, "although each call is individually timed and the averages for the month are posted in the SQM reports, it is not possible to electronically identify each and every ALEC call underlying these SQM reports." (TR 255)

The ALEC Coalition stated:

BellSouth should provide ALECs with performance data and reports that include BellSouth's provision of:

1. Services to BellSouth's retail customers in aggregate;
2. Services and facilities provided to any BellSouth local exchange affiliate purchasing interconnection, unbundled network elements or resale;
3. Services and facilities provided to carriers purchasing interconnection, unbundled network elements or resale in the aggregate; and
4. Services and facilities provided to individual carriers purchasing interconnection, unbundled network elements or resale. (TR 976)

According to the ALEC Coalition the reports should reflect the outcome of statistical procedures applied to each submeasure for which a parity determination will be made. Benchmark results should also be reported. (TR 975-976)

According to the ALECs, BellSouth is currently not providing access to the raw data underlying a number of measures such as the following:

Ordering

- LNP Percent Rejected Interval Service Requests Totally Mechanized
- LNP Percent Rejected Interval Service Requests Partially Mechanized
- LNP Percent Rejected Interval Service Requests Fully Mechanized
- LNP Reject Interval Service Requests Totally Mechanized
- LNP Reject Interval Service Requests Partially Mechanized
- LNP Reject Interval Service Requests Fully Mechanized
- LNP Firm Order Confirmation Totally Mechanized
- LNP Firm Order Confirmation Partially Mechanized
- LNP Firm Order Confirmation Fully Mechanized

Provisioning

- LNP Total Order Cycle Time Mechanized

DATE: August 2, 2001

- LNP Total Order Cycle Time Mechanized with Appointment Codes
- LNP Percent Missed Installation Appointments
- LNP Disconnects

Billing

- Invoice accuracy CLEC (Region)
- Mean Time to Deliver Invoices CLEC (Region)
- Usage Data Delivery Accuracy CLEC
- Usage Timeliness & Completeness CLEC (TR 1007-1008)

For many facilities-based ALECs, LNP orders are a critical aspect of their business. By not providing access to LNP raw data, BellSouth prohibits ALECs from validating its reported performance. According to the ALEC Brief, an effective remedy plan should provide performance reports and the supporting raw data for all measures in the plan. BellSouth's SEEM does not. (TR 1008)

Analysis

Staff believes that BellSouth should make performance data and reports available to individual ALECs and to the Commission on its Interconnection Services Web site. Staff believes ALECs need access to this information in order to ascertain problems they may be causing themselves or performance problems they may be experiencing from BellSouth. The Commission needs this information to ascertain whether, from an aggregate standpoint, BellSouth is providing service at parity to ALECs in the state of Florida. Each report should contain the information specified in the BellSouth SQM "Report Structure" section. Staff also agrees that BellSouth should provide electronic access to the Performance Monitoring and Analysis Platform raw data underlying the performance measures. Additionally, staff believes that BellSouth should provide detailed instructions regarding access to the reports and to the raw data, as well as the nature of the format of the data provided on the Web site to provide guidance to CLECs.

Staff is concerned with the fact that raw data is not available for the LNP and Billing measures. Staff agrees with the ALECs that the lack of this information prevents ALECs from

DOCKET NO. 000121-TP

DATE: August 2, 2001

validating reported performance. Staff understands and acknowledges that BellSouth does not currently have the capability for providing access to the raw data for these measures. The record is silent on why some measures are included in PMAP while others are not. Staff would like to encourage BellSouth to consider incorporating these measures into PMAP if at all possible. Additionally, this issue can be revisited during the six-month review period to determine if additional changes should be made.

Conclusion

Staff recommends BellSouth be required to post data and reports for all approved performance measures to its Interconnection Services Web site. The raw data that supports all reports derived from the PMAP should also be provided on the Web site. Each report should contain the information specified in the BellSouth SQM "Report Structure" section. Staff would like to encourage BellSouth to consider incorporating these measures into PMAP if at all possible. Additionally, this issue can be revisited during the six-month review period to determine if additional changes should be made.

DOCKET NO. 000121-TP

DATE: August 2, 2001

ISSUE 3b: Where, when, and in what format should BellSouth performance data and reports be made available?

RECOMMENDATION: Staff recommends that BellSouth be required to post data and reports for all approved performance measures via its Interconnection Services Web site. These reports should be posted by the 30th day after the month in which the reported activity occurs. (KELLEY)

POSITIONS OF THE PARTIES:

BST: Performance reports for all BellSouth SQMs should be made available electronically on a monthly basis at BellSouth's Website and should be posted by the 30th day after the month in which the reported activity occurs.

ALEC: Performance data and reports should be made available on an Internet Website by the 15th of each month: be accessible by use of standard database management tools: be reported in a summarized spreadsheet format and include, at a minimum, those fields of information specified on Exhibit CLB-3.

Z-TEL: Z-Tel adopts the position of the ALEC Coalition.

STAFF ANALYSIS: This issue addresses the specific requirements of reporting performance data and reports to the ALECs. The term "requirements" is further defined as to where, when, and in what format the information is made available.

Argument

BellSouth states that all parties agree that it is appropriate for the reports to be published electronically on the BellSouth Website. According to BellSouth, the disputed aspect of this issue concerns the time frame for providing this information. BellSouth has committed to posting the reports by the 30th day after the month in which the reported activity takes place. (TR 253)

Witness Coon strongly objects to posting by the 20th day of the following month for these reports. He believes that, with

DOCKET NO. 000121-TP

DATE: August 2, 2001

the large number of ALECs in Florida, there would be such a large number of reports to be generated that BellSouth would not be able to meet the proposed deadlines. Witness Coon states that the 30th of the month is far more reasonable. (TR 254) Witness Coon states there are approximately 155 ALECs operating in Florida. (TR 312) Further, there are 105 ALEC-specific reports included in the BellSouth SQMs and 129 reports that reflect BellSouth/ALEC aggregate reports. Thus, to determine the maximum amount of reporting that might be due in any month would require multiplying the 155 ALECs times 105 reports (16,275 reports) and adding the 129 aggregate reports, which would total 16,404 reports. Further, raw data would have to be produced for many of the reports, as described previously. According to the BellSouth brief, given the magnitude of the reporting that must be done by BellSouth, combined with the fact that BellSouth makes every effort to validate the data before it is reported, BellSouth submits that posting a report by the 30th day of the month is the most reasonable of the proposals that have been made.

Witness Bursh agrees with BellSouth Witness Coon that the performance data and reports should be available to the ALECs on an internet Website. (TR 977) Witness Bursh also states that the performance data should be provided in a format that can readily be utilized by standard database management tools such as Excel, Access, or Oracle. (TR 978)

Analysis

As to the format of the reports, the parties appear to agree that it is appropriate for the reports to be published electronically on BellSouth's Interconnection Services Website in a format that can readily be utilized by standard database management tools such as Excel, Access, or Oracle. The disputed aspect of this issue concerns the time frame for providing this information. (TR 254)

Staff agrees with BellSouth that the reports should be posted as soon as possible after the month ends but no later than by the 30th day of the month after the activity is incurred. Staff agrees with BellSouth that generating and posting the number of reports required per the BellSouth proposal (1,404 reports plus raw data) will be time consuming and may require until the 30th of the month following the activity.

DOCKET NO. 000121-TP

DATE: August 2, 2001

Conclusion

Staff recommends that BellSouth be required to post data and reports for all approved performance measures via its Interconnection Services Website. These reports should be posted by the 30th day after the month in which the reported activity occurs.

DOCKET NO. 000121-TP

DATE: August 2, 2001

ISSUE 4a: Does the Commission have the legal authority to order implementation of a self-executing remedy plan?

RECOMMENDATION: Staff believes the Commission has the authority under state and federal law to implement the measures, benchmarks, and analogs recommended by staff in this proceeding. Staff also believes that the Commission can implement the Tier 2 penalties, which are payments to the State.

As for the Tier 1 payments to ALECs, staff believes it is not necessary for the Commission to determine at this time whether or not it has authority to enforce payments to ALECs under this plan, or otherwise enforce the self-effectuating payment provisions, because it appears that BellSouth is willing to implement such a plan, as long as it is reasonable. A problem only arises if BellSouth contends that any plan approved by the Commission is unreasonable. Only then would the Commission really need to take a stand on this issue. Staff suggests that the Commission need not take a firm stance on this aspect of its authority at this time. If the reasonableness of ALEC payments under a plan approved by the Commission is contested, the Commission should then make its determination based on the state of the law at the time its authority is actually contested.

As for the Tier 2 penalties, staff believes that Section 364.285, Florida Statutes, allows the Commission to penalize BellSouth for failure to comply with Commission rules, statutes, or Orders. Staff also believes that should BellSouth report that it has missed benchmarks set forth in the approved plan, such failure could be deemed to constitute a prima facie showing that the company has willfully failed to comply with the Commission's performance measures, unless BellSouth provides an explanatory response not later than 21 days of reporting that it has failed to comply with any performance measure. The company's response should be in writing and should set forth specific allegations of fact and law explaining why the situation that has resulted in noncompliance was not a "willful" violation. The Commission can then make an initial determination as to whether BellSouth's noncompliance was, indeed, willful based upon the filings. Staff notes that this initial determination would, however, need to provide BellSouth with the opportunity to request a hearing. In

DOCKET NO. 000121-TP
DATE: August 2, 2001

some circumstances, it may be appropriate to set the matter for an expedited hearing without the intervening step of the Commission making an initial determination based upon BellSouth's response. Staff notes that this analysis is equally applicable to the penalties recommended in issues 5, 6, 13, and 15. (FUDGE, KEATING)

POSITIONS OF THE PARTIES:

BST: The Commission has the legal authority to enter an Order that is consistent with the voluntary enforcement mechanism offered by BellSouth. The Commission does not have the legal authority to order a self-executing remedy plan that includes elements to which BellSouth does not agree.

ALEC: Yes. The Commission has the legal authority to order the implementation of a self-executing remedy plan under Section 251 of the Telecommunications Act of 1996, with or without BellSouth's consent.

Z-TEL: Z-Tel adopts the position of the ALEC coalition.

STAFF ANALYSIS: The wording of this issue does not adequately reflect the breadth of the legal issues involved here. A Performance Assessment Plan consists of several parts, all of which require Commission authority to implement. An effective Performance Assessment Plan consists of a set of comprehensive, adequately defined measures, benchmarks and analogs, and an appropriate remedy plan. While not clearly addressed in the briefs, there does not appear to be any dispute regarding the Commission's authority to implement measures, benchmarks, and analogs. Therefore, staff will address this issue first. Next, staff will discuss the Commission's authority to enforce the performance measures and the parties' arguments on the Commission's authority to implement a self-executing remedy plan. A self-executing remedy plan includes the Tier 1 and Tier 2 enforcement mechanisms discussed by the parties herein, and the automatic penalties recommended in Issues 5, 6, 13, and 15. Staff will also discuss whether the Commission would be improperly delegating its enforcement of the performance measures.

1. Authority to Implement Measures and Benchmarks

Both Chapter 364, Florida Statutes, as amended in 1995, and the Telecommunications Act of 1996 mandate the opening of local telecommunications markets to competition. Both statutes require incumbent local exchange companies to provide access to and interconnection with their facilities to competitive carriers. Both statutes contemplate a central role for the state commission in implementing these requirements. Both statutes authorize state commission review and authority over interconnection agreements between incumbents and competitors.

Section 47 U.S.C. §252 authorizes a state commission to approve negotiated interconnection agreements and arbitrate agreements where negotiations fail. Section 47 U.S.C. §252(b)(4)(c), provides that the state commission shall resolve arbitrated interconnection issues by imposing appropriate conditions as required, to implement the substantive interconnection provisions of the Act. Section 252 also requires that the state commission approve all negotiated and arbitrated agreements. Section 251(d)(3), Preservation of State Access Regulations, states that:

In prescribing and enforcing regulations to implement the requirements of this section, the Commission shall not preclude the enforcement of any regulation, order, or policy of a state commission that -

(A) establishes access and interconnection obligations of local exchange carriers;

(B) is consistent with the requirements of this section;

and

(C) does not substantially prevent implementation of the requirements of this section and the purposes of this part.

Thus, state laws implementing interconnection agreements are not preempted by federal law if they are consistent with the 1996 Act. Section 364.162, Florida Statutes, authorizes the Commission to set nondiscriminatory rates, terms, and conditions of interconnection. See also Section 364.19, Florida Statutes,

(stating that "[t]he commission may regulate, by reasonable rules, the terms of telecommunications service contracts between telecommunications companies and their patrons.") In this proceeding, the appropriate terms to encourage non-discriminatory access are adequately defined measures, benchmarks and analogs. Consequently, staff believes the Commission has the authority under state and federal law to implement the measures, benchmarks, and analogs recommended by staff in this proceeding.

2. Authority to Enforce

A. Payments to ALECs

Argument

In her direct testimony, BellSouth Witness Cox agrees with Witness Stallcup's opinion on the Commission's authority to order monetary damages and that the parties would have to enter a voluntary agreement before the Commission could approve a Tier 1 enforcement mechanism. Witness Cox states that "BellSouth is willing to voluntarily submit to the self-effectuating enforcement mechanism described in Mr. Coon's testimony, provided the metrics are appropriate." (TR 541)

Witness Cox recognizes that BellSouth cannot obtain authority to provide inter-LATA service unless the FCC determines, with input from the Commission, that BellSouth is providing nondiscriminatory access to all ALECs in Florida. (TR 551-552) Upon cross-examination, Witness Cox admitted that the FCC "is going to want to see an enforcement plan." However, BellSouth is "hopeful that throughout this process we can come up with one we can all live with." (TR 591)

In its brief, BellSouth argued that the Commission lacks the ability to impose a "self executing remedy plan" (i.e. requiring BellSouth to pay penalties when it fails to meet the plan's measurements) without BellSouth's consent. BellSouth states that the Act does not give the Commission the explicit authority to order automatic penalties akin to liquidated damages. Moreover, BellSouth believes that the Commission's reluctance to impose automatic penalties in the context of interconnection agreements undercuts any argument that the authority to impose automatic penalties is implicitly granted by Section 251. (BR 28) BellSouth states that the Commission's findings in the BellSouth

DOCKET NO. 000121-TP

DATE: August 2, 2001

and AT&T arbitrations that automatic, or self-effectuating, penalties are tantamount to liquidated damages, which the Commission does not have the authority to order under state law, would have settled the argument but for MCI Telecommunications Corp. v. BellSouth Telecommunications, Inc., 112 F. Supp 2d 1286 (U.S.D.C., No. D. FL, 2000).

In MCI, the court considered whether a provision for damages must be included in the interconnection agreement between the parties. The court found that "if a compensation provision were truly required by the Telecommunications Act and could be adopted in some form without imposing on the Florida Commission an unconstitutional burden . . . then any contrary Florida law obviously would not preclude adoption of such a provision." Id. at 1298. The court held that the Commission must consider anything that a party raises in an arbitration. However, the court noted that "nothing in this Order should be read as an indication that the Telecommunications Act imposes on state Commissions an obligation to perform any enforcement role requested by the parties, or that Congress lawfully could impose any such obligation on state commissions. Id.

BellSouth states that "the Court did not identify any state law that actually provides the authority to order a liquidated damages provision/enforcement mechanism/penalty." (BR 30)

While BellSouth agrees with Witness Stallcup's understanding of the law, BellSouth believes that the statements within the Proposal - "failure to comply with the plan will be deemed to be an admission of willful violation of the Commission rules" - assumes that BellSouth will agree to all penalties proposed by Staff, which BellSouth clearly has not done. While this is not an issue if the Commission adopts BellSouth's Plan, BellSouth states it will not reject any reasonable self-effectuating remedy proposal, even if it deviates from that which BellSouth has already consented. (BR 33) Meanwhile, the ALECs have proposed a plan that is a virtual "cash machine," to which BellSouth cannot agree. (BR 33)

In their brief, the ALEC Coalition (ALECs) state that the Commission has the authority to order the implementation of a self-executing remedy plan under the Telecommunications Act of 1996, with or without BellSouth's consent. The ALECs cite to an

DOCKET NO. 000121-TP

DATE: August 2, 2001

Order of the Pennsylvania Commission, in which that Commission found that "[its] implementation of performance measures and standards is a legitimate exercise of the Commission's authority to ensure that BA-PA fulfills Section 251 obligations." Likewise, the ALECs argue, this Commission's adoption of a self-executing remedy plan is simply an exercise of the Commission's authority to enforce Section 251.

The ALECs argue that because the Commission's authority to adopt a self-effectuating remedy plan is delegated to it by the Act, "under the Supremacy Clause, any contrary Florida law would not preclude adoption of such a plan." (BR 35) "Further, this Commission has recognized its authority to implement such policies on a generic basis rather than in individual arbitrations." See Order No. PSC-99-1078-PCO-TP, issued May 26, 1999, in Docket No. 981834-TP MCI, 112 F. Supp. 2d at 1286. See also In re: Petition for Arbitration of ITC^DeltaCom Communications, Inc. with BellSouth Telecommunications, Inc. Pursuant to the Telecommunications Act of 1996, Docket No. 99-00430, Interim Order of Arbitration Award, p. 12 (August 11, 2000) (TRA [Tennessee Regulatory Authority] concludes it has authority to arbitrate enforcement mechanisms).

The ALECs contend that because the Commission must ensure nondiscriminatory treatment pursuant to Section 251, the Commission must require BellSouth to implement a self-effectuating remedy plan now, not after BellSouth meets the criteria for Section 271 approval. As the Georgia Public Service Commission points out, a remedies plan not only helps to avoid backsliding, but also enables more rapid development of competition, and encourages BellSouth to provide nondiscriminatory service during the critical early stages, while providing some compensation to CLECs for additional costs they incur when BellSouth's performance falls short. In re: Performance Measurements for Telecommunications Interconnection, Unbundling and Resale, Docket No. 7892-U, Order, p. 22 (Oct 3, 2000). (BR 37)

Analysis

Staff believes it is not necessary for the Commission to determine at this time whether or not it has authority to enforce payments to ALECs under this plan, or otherwise approve a self-effectuating plan containing such payments, because it appears

DATE: August 2, 2001

that BellSouth is willing to implement such a plan, as long as it is reasonable. A problem only arises if BellSouth contends that any plan approved by the Commission is unreasonable. Only then would the Commission really need to take a stand on this issue. Staff suggests that the Commission refrain from taking a firm stance on this aspect of its authority at this time. If the reasonableness of ALEC payments under a plan approved by the Commission is contested, the Commission should then make its determination based on the state of the law at the time its authority is actually contested when, perhaps, some level of clarity will have been reached¹.

While the Commission's authority in this area is not yet settled and need not be reached at this time, staff notes that spirited and informative arguments were put forth by both sides regarding the Commission's jurisdiction. Of particular note to staff are the implications of the decision in MCI Telecommunications Corp. v. BellSouth Telecommunications, Inc., 112 F. Supp 2d 1286 (U.S.D.C., No. D. FL, 2000), wherein the Court decided that the Commission can arbitrate and adopt such provisions, but noted that, "Nothing in this order should be read as an indication that the Telecommunications Act imposes on state commissions an obligation to perform any enforcement role requested by the parties, or that Congress lawfully could impose any such obligation on state commissions." Id. at fn. 16. Thus, the Court did not directly address whether or not the Commission could enforce such provisions, although the Commission had argued that it could not under Southern Bell Tel. and Tel. Co. v. Mobile America Corp., 291 So. 2d 199 (Fla. 1974).

Staff also emphasizes that payments to the ALECs are a crucial aspect of the plan. As stated by the Georgia Commission, such a plan enables competition to develop more rapidly, and will

¹As noted by Judge Hinkle in MCI Telecomms. Corp. v. BellSouth Telecomms., Inc. and reiterated in AT&T Communications of the Southern States, Inc., Plaintiff, v. BellSouth Telecommunications, Inc., et al., Defendants. 122 F. Supp 2d 1305 (N.D. Fla. 2000):

The rapidly evolving judicial, administrative and technological developments in the telecommunications field render the task of the Florida Commission (and this court on review) somewhat akin to shooting at a moving target, one whose movements are neither constant nor predictable.

DATE: August 2, 2001

encourage BellSouth to provide nondiscriminatory service during the critical early stages, while providing compensation to the CLECs for additional costs that they occur when BellSouth's performance falls short. In re: Performance Measurements for Telecommunications Interconnection, Unbundling and Resale, Docket No. 7892-U, Order, p. 22 (Oct. 3, 2000). Such goals are in line with the Florida Legislature's mandate to the Commission to encourage competition through the flexible regulatory treatment of providers and ensure that all providers are treated fairly, by preventing anticompetitive behavior and eliminating unnecessary regulatory restraint. Section 364.01(4)(b) and (g), Florida Statutes. Thus, it is arguable that payments to ALECs under staff's proposed plan do not even fall within the realm of "liquidated damages" as contemplated by the Mobile America court, but, instead, are simply a mechanism to level the competitive playing field when BellSouth does not, or cannot, meet the benchmarks.

B. Penalties

Argument

At the hearing, Witness Stallcup testified that it was his "understanding that the Commission does not have the authority to receive penalty payments absent a finding of a willful violation of a Commission order, rule, or statute." (TR 50) Normally, violations are determined through a "show cause" proceeding which provides an opportunity for the party "to present a case as to why it should not be fined for the alleged violation." (TR 50)

To avoid lengthy "show cause" proceedings and to make the Tier 2 enforcement mechanism self-effectuating, Witness Stallcup proposes that BellSouth agree that any failure to provide compliant service under Tier 2 would constitute a willful violation of the final order resulting from this docket. He also testified that "[i]n addition, the agreement would obligate BellSouth to remit any penalties resulting from Tier 2 to the Florida Public Service Commission for deposit in the State's General Revenue Fund." (TR 50)

While BellSouth agrees with Witness Stallcup's understanding of the law, BellSouth believes that the statements within the Proposal - "failure to comply with the plan will be deemed to be an admission of willful violation of the Commission rules" -

DOCKET NO. 000121-TP

DATE: August 2, 2001

assumes that BellSouth will agree to all penalties proposed by Staff, which BellSouth clearly has not done. While this is not an issue if the Commission adopts BellSouth's Plan, BellSouth states that it will not reject any reasonable self-effectuating remedy proposal, even if it deviates from that which BellSouth has already consented. (BR 33) Meanwhile, BellSouth argues that the ALECs have proposed a plan that is a virtual "cash machine," to which BellSouth cannot agree. (BR 33)

As for the ALECs, as stated above, they believe that because the Commission's authority to adopt a self-effectuating remedy plan is delegated to it by the Act, "under the Supremacy Clause, any contrary Florida law would not preclude adoption of such a plan." (BR 35)

Analysis

Staff believes that the Commission's power to penalize BellSouth for failure to comply with implemented benchmarks is set forth in Section 364.285, Florida Statutes. Section 364.285, Florida Statutes, provides, in part, that

(1) The commission shall have the power to impose upon any entity subject to its jurisdiction under this chapter which is found to have refused to comply with or to have willfully violated any lawful rule or order of the commission or any provision of this chapter a penalty for each offense of not more than \$25,000, which penalty shall be fixed, imposed, and collected by the commission; or the commission may, for any such violation, amend, suspend, or revoke any certificate issued by it.

Thus, the Commission clearly has jurisdiction to impose penalties for failure to comply with benchmarks set and approved by this Commission.

The next question then becomes whether the Commission can implement a mechanism whereby a finding of willful violation of the benchmarks and the appropriate penalty are self-effectuating, thereby, eliminating the need for a Show Cause proceeding. Staff believes that a failure to comply with the permanent performance measures contained within any plan adopted by this Commission could be deemed to constitute a prima facia showing that the

DOCKET NO. 000121-TP

DATE: August 2, 2001

company has violated an order of this Commission. It could then be argued that this initial showing would constitute a finding of willful noncompliance allowing for the imposition of the appropriate penalties. However, staff does believe that in order to comply with the requirements of due process, it would be necessary to provide BellSouth with an opportunity to respond and/or provide a defense prior to the date upon which any penalty payment would become due. As set forth in Miami-Dade County v. Reyes, 772 So. 2d 24 (Fla. 3rd DCA 2000):

While "the concepts of due process in an administrative proceeding are less stringent than in a judicial proceeding, they nonetheless apply.

Citing A.J. v. State, Dep't. of HRS, 630 So. 2d 1187, 1189 (Fla. 2d DCA 1994). Nevertheless, the Florida Supreme Court has found that:

First, "procedural due process in the administrative setting does not always require application of the judicial model." Dixon v. Love, 431 U.S. 105, 115, 97 S. Ct. 1723, 1729, 52 L. Ed. 2d 172 (1977). Thus the formalities requisite in judicial proceedings are not necessary in order to meet due process requirements in the administrative process.

Hadley v. Dept. of Administration, 411 So. 2d 184, 187-188 (Fla. 1982). Further explanation of the requirements of due process is set forth in Rucker v. City of Ocala, 684 So. 2d 836 (Fla. 1st DCA 1996):

To qualify under due process standards, the opportunity to be heard must be meaningful, full and fair, and not merely colorable or illusive. Sokolowski, 439 So. 2d at 934 ("To qualify under due process standards, the opportunity to be heard must be meaningful."). . . . See also Neff v. Adler, 416 So. 2d 1240, 1242-43 (Fla. 4th DCA 1982) ("The fundamentals of procedural due process are (1) a hearing (2) before an impartial decision-maker, after (3) fair notice of the charges and allegations, (4) with an opportunity to present one's own case."). Nevertheless, "the manner in which due process protections apply vary with the character

DOCKET NO. 000121-TP

DATE: August 2, 2001

of the interests and the nature of the process involved." Real Property, 588 So. 2d at 960. "There is no single, inflexible test by which courts determine whether the requirements of procedural due process have been met." Id.

Based on the above analysis, staff believes that self-effectuating Tier 2 penalties can be implemented by the Commission, as long as BellSouth is given a meaningful opportunity to respond and/or defend itself in a Section 120.57, Florida Statutes, hearing, before any penalty is assessed by the mechanism.

In order to provide an adequate clear point of entry the notice does not have to track any particular language or recite statutory provisions verbatim, so long as it clearly informs the affected party of its rights and the time limits.

Florida League of Cities v. Administration Comm., 586 So. 2d 397 (Fla. 1st DCA 1991); Capital Copy Inc. v. University of Florida, 526 So.2d 988 (Fla. 1st DCA 1988); Lamar Advertising Co. v. Department of Transportation, 523 So.2d 712 (Fla. 1st DCA 1988).

Staff emphasizes that the Florida Leagues of Cities case seems directly on point on this issue. In that the case, two local governments failed to submit their growth management plans to the Administration Commission on time. As a result, they were fined and denied hearings. The Commission's sanctions policy was challenged as a violation of due process, an un-adopted rule, and an unlawful delegation of authority. The court determined that the policy did not fit the definition of a rule under Section 120.52(16), Florida Statutes, and that it did not constitute an unlawful delegation of authority. However, the court did determine that the policy did not provide a sufficient point of entry for those subject to the policy to request a hearing, stating that, "Until proceedings are had satisfying section 120.57, or an opportunity for them is clearly offered and waived, there can be no agency action affecting the substantial interests of a person." Florida League of Cities, 586 So. 2d at 413. Under staff's recommended mechanism, BellSouth will have full notice of the charges against it if it fails to comply with a benchmark, and it will have the opportunity to present its case

DATE: August 2, 2001

to the Commission. Staff believes that the opportunity to request a hearing under the plan is sufficient to meet the due process requirements in accordance with the cited cases.

Staff further notes that it was initially concerned about the Commission's ability to delegate its enforcement authority in this area, because of "the rule that in the absence of statutory authority, a public officer can not delegate his powers, even with the approval of the court." State v. Inter-American Center Authority, 84 So. 2d 9, 13-14 (Fla. 1955).² However, staff believes that the facts of this case do not constitute a delegation of authority. In the cases addressing improper delegation of authority by an agency, the agency was actually delegating its decision-making authority. In this instance, the Commission is establishing the benchmarks and analogs. The Commission is also establishing a self-effectuating penalty mechanism. No decision will be made by BellSouth. BellSouth will have no discretion as to which benchmarks will be enforced, nor will it decide how much it will pay for failing to meet those benchmarks (although it will have the opportunity to avoid incurring penalties by meeting those benchmarks). Any problems arising from the Performance Assessment Plan will be addressed solely by the Commission. Consequently, staff does not believe that the Commission would be delegating any of its authority, much less doing so improperly. See also Florida League of Cities v. Administration Comm., 586 So. 2d 397 (Fla. 1st DCA 1991 ("The Commission is executing and enforcing law within the specific parameters placed by the legislature on the exercise of its discretion.") As such, staff believes that the Commission can implement the Tier 2 penalties set forth in the plan.

Based on the foregoing, staff believes that Section 364.285, Florida Statutes, allows the Commission to penalize BellSouth for failure to comply with Commission rules, statutes, or Orders.

²This principle was further explained in an opinion of the Attorney General which stated that "in the absence of statutory authorization, the Department of General Services cannot delegate its power and duty to supervise the construction of state buildings and to enforce the building code adopted for the construction of state buildings." Op. Att'y Gen. Fla. 83-88 (1983). More recently, in Johnson v. Bd. of Architecture and Interior Design, 634 So. 2d 666, 667 (1994), the court held that there was no statutory authority for the Board to delegate its power to approve or deny applications to an appointed "Interior Design Committee."

DOCKET NO. 000121-TP

DATE: August 2, 2001

Staff also believes that should BellSouth report that it has missed benchmarks set forth in the approved plan, such could be deemed to constitute a prima facie showing that the company has willfully failed to comply with the Commission's performance measures, unless BellSouth provides an explanatory response within a specified time. Failure to respond as specified would allow for the imposition of appropriate Tier 2 penalties. Thus, in order to comply with the requirements of due process, BellSouth must be given an opportunity to respond and/or provide a defense prior to the date upon which any penalty is deemed "assessed," and the payment becomes due. As such, staff recommends that BellSouth be allowed to respond not later than 21 days of reporting that it has failed to comply with any performance measure. The company's response should be in writing and should set forth specific allegations of fact and law explaining why the situation that has resulted in noncompliance was not a "willful" violation. The Commission can then make an initial determination as to whether BellSouth's noncompliance was, indeed, willful based upon the filings. Staff notes that this initial determination would, however, need to provide BellSouth with the opportunity to request a hearing. In some circumstances, it may be appropriate to set the matter for an expedited hearing without the intervening step of the Commission making an initial determination based upon BellSouth's response. Staff notes that this analysis is equally applicable to the penalties recommended in issues 5, 6, 13, and 15.

Staff notes that it is hopeful that most instances of noncompliance will not be contested and will not result in a hearing. Staff adds that this type of process is also apparently what the FCC has in mind. As the FCC stated, an effective enforcement plan shall "have a self-executing mechanism that does not leave the door open unreasonably to litigation and appeal." BA NY Order ¶ 433.

DOCKET NO. 000121-TP

DATE: August 2, 2001

ISSUE 4b: With BellSouth's consent?

RECOMMENDATION: Yes. Furthermore, staff notes that if BellSouth were to consent, the Tier 2 penalties could be implemented without the response period outlined in Issue 4(a). (**Fudge, Keating**)

POSITIONS OF THE PARTIES:

BST: See response to Issue 4(a).

ALEC: See response to Issue 4(a)

Z-TEL: Z-Tel adopts the position of the ALEC coalition.

STAFF ANALYSIS: As stated above all parties agree that with BellSouth's consent, the Commission may order a self-executing remedy plan. Based on the same analysis set forth in Issue 4(a), staff agrees that the Commission can implement a self-executing remedy plan with BellSouth's consent. BellSouth's overt consent also eliminates the lack of clarity regarding enforcement of Tier 1 penalties and would be considered a waiver of any due process concerns regarding Tier 2 penalties. Furthermore, staff notes that if BellSouth were to consent, the Tier 2 penalties could be implemented without the response period outlined in Issue 4(a). Staff believes that such agreement is possible, in view of BellSouth's statement that ". . . BellSouth will not reject out of hand the prospect of agreement with any reasonable self-effectuating remedy proposal ordered by the Commission, even if it deviates from that to which BellSouth has already consented." (BR 33).

DOCKET NO. 000121-TP

DATE: August 2, 2001

ISSUE 4c: Without BellSouth's consent?

RECOMMENDATION: Staff's recommendation on this issue is the same as set forth in Issue 4a. (**Fudge, Keating**)

POSITIONS OF THE PARTIES:

BST: See response to Issue 4(a).

ALEC: See response to Issue 4(a)

Z-TEL: Z-Tel adopts the position of the ALEC coalition.

STAFF ANALYSIS: Staff's recommendation on this issue is the same as set forth in Issue 4(a).

DOCKET NO. 000121-TP
DATE: August 2, 2001

ISSUE 5a: Should BellSouth be penalized when BellSouth fails to post the performance data and reports to the Web site by the due date?

RECOMMENDATION: Staff recommends that BellSouth be required to develop a Performance Assessment Plan that includes a self-executing voluntary enforcement mechanism if performance data and reports are not posted to the BellSouth Interconnection Web site by the due date. (KELLEY)

POSITIONS OF THE PARTIES:

BST: No. BellSouth should not be subject to an automatic penalty for the late posting of a report, unless there is a systematic failure to post reports.

ALEC: Yes. Posted performance data and reports are the main means available to ALECs to ensure that BellSouth is complying with designated performance standards and providing parity service to ALECs and also a means by which ALECs can identify issues regarding BellSouth's performance that need to be addressed.

Z-TEL: Z-Tel adopts the position of the ALEC Coalition.

STAFF ANALYSIS: This issue considers whether BellSouth should be penalized for failure to post performance data and reports to the Web site by the due date. BellSouth believes that because of the complexity of the reports, it is inevitable that some problems will arise in posting a report. The ALECs contend that BellSouth has been delinquent in posting the reports in the past and that a potential remedy to the tardiness is to penalize BellSouth.

Argument

BellSouth Witness Coon argues that the increasing complexity of the measurements and submetrics, the volume of data processed, and the validation of reports prior to posting impose additional burdens on BellSouth and, therefore, the company should not be subjected to a late-posting penalty. He further contends that BellSouth makes every reasonable effort to furnish the reports by

DOCKET NO. 000121-TP

DATE: August 2, 2001

the deadline to the ALECs, but with the volume of data and reports, it would be foolish to assume that there will never be a problem posting a report. (TR 256) Witness Coon also states that it is doubtful whether ALECs are even harmed by late posting, since few ever even access PMAP at all. (TR 257-258)

According to the BellSouth brief, the issue of the amount of any penalty to be levied for late filing involves two separate questions. One, can the Commission can assess any penalty against BellSouth that is involuntary and automatic? Two, if the Commission can do so, how much should the penalty be? For the reasons discussed previously in response to Issue 4, BellSouth does not believe that the Commission has the power to assess voluntary penalties against BellSouth. However, if the Commission finds otherwise, then the next question is the amount of the penalty. As Mr. Coon notes in his testimony, the staff has proposed a penalty of \$2,000 per day. (TR 257) Assuming that this applies to the aggregate of reports, rather than each individual report, BellSouth believes that this amount is reasonable. (TR 257)

ALEC Witness Bursh contends that BellSouth has already been late in submitting performance reports and should pay penalties to the Commission for late, inaccurate and incomplete reports. (TR 1006) According to the ALEC Coalition, one of the key functions of an effective remedy plan is to motivate an ILEC to provide parity service to ALECs. (TR 1013) BellSouth's posted performance data and reports are the most effective means available to ALECs and this Commission to ensure that BellSouth is complying with designated performance standards and providing parity service to ALECs as required by the Act. BellSouth's posted performance data and reports are also the best means by which ALECs can identify issues regarding BellSouth's systems, processes and performance that need to be addressed. If this information is not provided to ALECs by the due date, or is incomplete or inaccurate when provided, the ability of the ALECs and the Commission to determine if BellSouth is providing parity service is hindered. Moreover, problems that affect an ALEC's ability to serve its customers cannot be detected or corrected in a timely manner.

Additionally, all parties agree that the self-effectuating nature of an enforcement mechanism is essential to its success.

DOCKET NO. 000121-TP

DATE: August 2, 2001

However, the ALECs contend that the self-executing nature of the remedy plan will likely be compromised if BellSouth does not meet its obligation to post performance data and reports by the due date. ALECs should not be put in the position of having to approach the Commission to force BellSouth to provide performance data and reports as required in the enforcement plan. Therefore, BellSouth should be required to comply with all reporting deadlines ordered by the Commission. (BR 39)

According to the ALEC Coalition brief, the \$5,000 and \$1,000 amounts included in the ALEC plan represent the amounts that the ALECs believe are necessary to motivate BellSouth to comply with its reporting obligations. However, the ALECs state that it is critical that the Commission set penalty amounts for late, inaccurate, and incomplete posting of reports and data that are sufficient to motivate BellSouth to comply with its reporting obligations. Otherwise, the self-enforcing mechanism of the remedy plan will be hampered because neither ALECs nor the Commission will be able to properly monitor BellSouth's performance.

Analysis

Staff agrees with the ALEC Coalition that BellSouth's posted performance data and reports are the most effective means available to ALECs and this Commission to ensure that BellSouth is complying with the performance standards and providing parity service to ALECs as required by the Act.

BellSouth Witness Coon does not believe the Commission has the authority to impose involuntary penalties. Staff disagrees. As set forth in Issue 4a, the Commission can impose penalties, as long as the requirements of due process are met.

BellSouth argues that unless there is a systematic failure in posting reports, there should be no penalty for late posting. (TR 256) Staff believes that BellSouth should be responsible for penalties relating to systematic failures and also late posting. Both ALECs and the Commission need to access the performance data and reports in order to determine parity and it is BellSouth's responsibility to provide this information.

Staff notes that the performance assessment plans for Georgia and Texas both include a penalty mechanism for failure to

DOCKET NO. 000121-TP

DATE: August 2, 2001

post performance data and reports by the due date. (Exhibit 1, Docket No. 7892-U, Order In re: Performance Measurements For Telecommunications Interconnection, Unbundling And Resale, January 12, 2001; Exhibit 1, Interconnection Agreement-Texas between Southwestern Bell Telephone Company and CLEC (T2A) 010700) Staff agrees with the Georgia and Texas Commissions regarding the ILEC's obligation to post performance data by the due date and the need for a penalty for failure to do so.

Conclusion

Staff recommends that BellSouth be required to develop a Performance Assessment Plan that includes a self-executing voluntary enforcement mechanism if performance data and reports are not posted to the BellSouth Interconnection Services Web site by the due date.

DOCKET NO. 000121-TP

DATE: August 2, 2001

ISSUE 5b: If so, how should the penalty amount be determined, and when should BellSouth be required to pay the penalty?

RECOMMENDATION: Staff recommends that BellSouth be required to develop a Performance Assessment Plan that includes a self-executing voluntary enforcement mechanism if performance data and reports are not posted to the BellSouth Interconnection Services Web site by the due date. Staff recommends that the penalty be no less than \$2,000 per day for the aggregate of any such delinquent reports. This penalty should be payable to the Florida Public Service Commission for deposit into the State General Revenue Fund. The payment should be received within fifteen calendar days of the actual publication date. (KELLEY)

POSITIONS OF THE PARTIES:

BST: As stated there should be no penalty. If, however, [the] Commission determines it is appropriate to assess such a penalty, the amount of the penalty proposed by the Staff (\$2,000 per day), would be reasonable if the \$2,000 per day applies to the aggregate of all reports.

ALEC: BellSouth should be liable for payments of \$5,000 a day for each report not posted by the due date. BellSouth's payment amount should be based upon the date the latest report is delivered to an ALEC, and should be paid into a state fund by the 15th day after the latest report is filed.

Z-TEL: Z-Tel adopts the position of the ALEC Coalition.

STAFF ANALYSIS: If BellSouth should pay a penalty for failing to post the performance data and reports to the Website by the due date, this issue addresses the penalty amount and the payment deadline. BellSouth does not believe that any penalty should be assessed, but agrees with the penalty proposed by staff of \$2,000 per day for the aggregate of all reports if a penalty should be deemed appropriate. ALECs believe that the remedy fee should be \$5,000 per day per measurement.

Argument

DOCKET NO. 000121-TP

DATE: August 2, 2001

BellSouth Witness Coon believes the Florida Commission cannot impose monetary penalties unless there is a violation of a Commission Order, rule or statute. He further maintains that the ALECs are not monetarily harmed when the reports are posted late, and additionally, very few ALECs choose to access this data. (TR 257-258) Nevertheless, Witness Coon does state that the amount proposed by staff Witness Stallcup of \$2,000 per day, to be paid to the Commission, is acceptable to BellSouth if the Commission decides to impose such penalties on BellSouth for failure to post performance reports to the Website by the due date. (TR 257)

ALEC Coalition Witness Bursh contends that the ILEC should be liable for payments of \$5,000 to a state fund for every day past the due date for delivery of the reports and data. (TR 979) Witness Bursh adds that ALECs have already experienced late submission of performance reports by BellSouth. (TR 1006)

Analysis

Given staff's recommendation that a penalty should be assessed for late filing, staff believes that \$2,000 per day for the aggregate of the reports is an appropriate assessment. This amount is consistent with the amount imposed in other jurisdictions. The Performance Plan approved by the Georgia Public Service Commission has established that BellSouth is liable for payments of \$2,000 per day if reports are late. (Exhibit 1, Docket No. 7892-U, Order In re: Performance Measurements For Telecommunications Interconnection, Unbundling And Resale, January 12, 2001) Further, BellSouth Witness Coon testified that \$2,000 is acceptable.

Staff believes that BellSouth should be required to pay the penalty to the Florida Public Service Commission for deposit in the State General Revenue Fund within fifteen (15) calendar days of the actual publication date. (Exhibit 13, p. 2) All parties are in agreement regarding payment of the penalty to the State via the State General Revenue Fund.

The ALECs state that they have already experienced late posting of performance reports and that they rely heavily on this information. According to BellSouth, however, ten percent of the registered ALECs in the region actually access PMAP data. (Exhibit 3, Item 17) Staff questions how important timely access

DOCKET NO. 000121-TP

DATE: August 2, 2001

to the PMAP data is to ALECs since few ALECs actually access this information. Since only 10% of the registered ALECs are accessing this information, staff suggests \$2,000 per day is a sufficient and appropriate assessment.

Conclusion

Staff recommends that BellSouth be required to develop a Performance Assessment Plan that includes a self-executing voluntary enforcement mechanism if performance data and reports are not posted to the BellSouth Interconnection Services Web site by the due date. This penalty should be payable to the Florida Public Service Commission for deposit into the State General Revenue Fund. The payment should be received within 15 calendar days of the actual publication date.

DOCKET NO. 000121-TP

DATE: August 2, 2001

ISSUE 6a: Should BellSouth be penalized if performance data and reports published on the BellSouth Website are incomplete or inaccurate?

RECOMMENDATION: Staff recommends that BellSouth be required to develop a Performance Assessment Plan that includes a self-executing voluntary enforcement mechanism if performance data and reports are incomplete or inaccurate. Reports should be deemed to be incomplete if they do not present data for all of the required metrics. Reports should be deemed inaccurate if any of the required data is not calculated as specified in the approved Service Quality Measurement document. (KELLEY)

POSITIONS OF THE PARTIES:

BST: No. BellSouth should not be subject to involuntary, automatic penalties for incomplete or inaccurate reports. Such a penalty would be difficult to administer. Applying a penalty after an error is detected is inconsistent with errors or omissions as quickly as possible after they are discovered.

ALEC: Yes. The posting of incomplete or inaccurate performance data and reports by BellSouth prevents ALEC[s] and the Commission from obtaining an accurate picture of BellSouth's performance to ALECs and disrupts the self-executing nature of the remedy plan by creating the possibility of protracted litigation over remedies.

Z-TEL: Z-Tel adopts the position of the ALEC Coalition.

STAFF ANALYSIS: This issue considers whether BellSouth is under an obligation to post complete and accurate performance data and reports to the Web site. This issue is important because if the information is incomplete or inaccurate when provided, the ability of the ALECs and the Commission to determine if BellSouth is providing parity service is hindered.

Argument

BellSouth Witness Coon refers to Issue 5a as it being analogous to this issue. Witness Coon contends that the

DOCKET NO. 000121-TP

DATE: August 2, 2001

definitions of "incomplete" and/or "inaccurate" are so imprecise that there would likely be an ongoing administrative burden each month to determine what is incomplete or inaccurate. (TR 258) He believes that the emphasis needs to be directed toward providing complete and accurate reports and correcting any errors as quickly as possible. Witness Coon asserts that the automatic assessment of penalties would discourage the correcting of the reports, even if they were appropriate. (TR 258)

Witness Coon states that the Commission cannot impose monetary damages unless it is in violation of a Commission Order, rule or statute. (TR 259) However, if the Commission concludes that it may do so, BellSouth believes that the amount that has been proposed by the staff (\$400 per day) is acceptable provided it applies to the aggregate of all reports. (TR 259)

Witness Bursh believes that BellSouth should be subject to penalties for inaccurate and incomplete performance reports since the ALECs have already experienced problems of this nature. (TR 1006) She further states, "if this information is incomplete or inaccurate when provided, the ability of the ALECs and the Commission to determine if BellSouth is providing parity service is hindered. Moreover, problems that affect an ALECs ability to service its customers cannot be detected or corrected in a timely manner." (BR 38-39)

In its brief, the ALECs contend that:

Mr. Coon's suggestion that BellSouth would be willing to accept...\$400 a day for the incomplete or inaccurate posting o[f] reports and performance data in staff's proposal, so long as it applies to the aggregate of all reports, is ridiculous. (TR 257, 259) The purpose of this penalty is to motivate BellSouth to meet its performance reporting obligations, not to find an amount that BellSouth is comfortable with paying as a cost of doing business. Common sense suggests that in order to affect behavior, any consequences must be set at a level that the party does not wish to pay, otherwise the desired result will not be achieved. Thus, ...\$400 a day for inaccurate or incomplete reports or performance data, which BellSouth is apparently willing to pay, would not be adequate to

DOCKET NO. 000121-TP

DATE: August 2, 2001

motivate BellSouth to meet its performance reporting obligations. (BR 39-40)

Analysis

Staff concurs with the ALEC Coalition that a penalty should be applicable in this instance since ALECs depend on BellSouth to provide these reports in a complete and accurate manner. Staff believes that an incentive to post reports in an accurate and complete manner is appropriate. It is BellSouth's responsibility to provide this information to the ALECs and to the Commission in an accurate and timely manner. Staff notes that both the performance plans for Georgia and Texas include a requirement that the ALECs will have access to complete and accurate monthly reports or otherwise a penalty will be assessed.

Staff disagrees with BellSouth Witness Coon that the terms "incomplete" and "inaccurate" are sufficiently ambiguous to preclude taking any action to prevent improper reporting of the data. For purposes of determining the applicability of penalties, reports should be deemed to be incomplete if they do not present all of the required data as specified in Issues 3a and 3b. Similarly, reports should be deemed inaccurate if any of the required data is not calculated as specified in the SQM plan.

BellSouth Witness Coon does not believe the Commission has the authority to impose involuntary fines upon BellSouth; however, BellSouth does state the \$400 per day penalty is reasonable if the Commission does impose a penalty. (TR 259) Since BellSouth is agreeable to a \$400 per day penalty, staff believes that the issue of the Commission's authority need not be addressed. Nevertheless, staff does believe that if BellSouth did not agree, the Commission could still impose penalties, as long as the requirements of due process are met, as set forth in Issue 4a.

Complete and accurate performance reports are necessary for the ALECs and the Commission. A penalty will establish an incentive for BellSouth to post the reports in a complete and accurate fashion.

Conclusion

Staff recommends that BellSouth be required to develop a Performance Assessment Plan that includes a self-executing

DOCKET NO. 000121-TP

DATE: August 2, 2001

voluntary enforcement mechanism if performance data and reports are incomplete or inaccurate. Reports should be deemed inaccurate if any of the required data is not calculated as specified in the approved Service Quality Measurement document.

DOCKET NO. 000121-TP

DATE: August 2, 2001

ISSUE 6b: If so, how should the penalty amount be determined, and when should BellSouth be required to pay the penalty?

RECOMMENDATION: Staff recommends that BellSouth be required to develop a Performance Assessment Plan that includes a self-executing voluntary enforcement mechanism if performance data and reports are incomplete or inaccurate. Staff suggests that, a penalty of no less than \$400 per day should be assessed for the aggregate of all such reports. This payment should be made to the Florida Public Service Commission, for deposit into the State General Revenue Fund, within 15 calendar days of the final publication date or the report revision date. (KELLEY)

POSITIONS OF THE PARTIES:

BST: As stated in response to Issue 6a, there should be no penalty. If the Commission determines otherwise, the \$400 per day proposed by Staff is an appropriate amount, if this amount applies to the aggregate of all reports and not to each incomplete or inaccurate report.

ALEC: BellSouth should pay \$1,000 a day for each day past the original due date that complete and accurate data or reports are not posted. BellSouth's payment should be based upon the latest report delivered to an ALEC, and should be paid into a state fund by the 15th day after the latest report is filed.

Z-TEL: Z-Tel adopts the position of the ALEC Coalition.

STAFF ANALYSIS: If BellSouth should pay a penalty for failing to post performance data and reports to the Web site in an accurate and complete manner, this issue addresses the penalty amount and the payment deadline. BellSouth does not believe that any penalty should be assessed, but if assessed, BellSouth agrees with the penalty proposed by staff of \$400 per day for the aggregate of all reports. The ALECs believe the remedy should be \$1,000 per day.

Argument

DOCKET NO. 000121-TP

DATE: August 2, 2001

BellSouth Witness Coon does not believe that BellSouth should be penalized for incomplete or inaccurate reporting. Witness Coon believes the primary objectives should be to identify omissions and errors and to correct them expeditiously. Instituting a penalty would discourage such corrections. (TR 258)

Witness Coon states that the Commission does not have the authority to impose an involuntary fine upon BellSouth. (TR 259) However, if the Commission concludes that it may do so, BellSouth believes that the amount that has been proposed by the staff (\$400 per day) is reasonable. (TR 259) The authority for this recommendation was addressed in Issue 4.

If performance data and reports are incomplete and inaccurate, Witness Bursh states that the ILEC should be liable for payments of \$1,000 to a state fund for every day past the due date for delivery of the original reports. (TR 980) She further states that some of the previous performance reports supplied by BellSouth have been inaccurate and incomplete. (TR 1006)

The ALEC Coalition believes it is critical that the Commission set penalty amounts for late, inaccurate and incomplete posting of reports and data sufficient to motivate BellSouth to comply with its reporting obligations. Otherwise the self-enforcing mechanism of the remedy plan will be hampered because neither ALECs nor the Commission will be able to properly monitor BellSouth's performance. Additionally, the ALECs argue in their brief that if this information is not provided by the due date or is incomplete or inaccurate when provided, the ability of the ALEC and the Commission to determine if BellSouth is providing service at parity is hindered. Moreover, the problems that affect an ALEC's ability to serve its customers cannot be detected or corrected in a timely manner.

Analysis

Staff agrees with the ALEC Coalition that a penalty is appropriate for "incomplete" and "inaccurate" reporting. Staff believes a penalty is necessary to encourage BellSouth to report this information in a complete and accurate fashion. Both the ALECs and the Commission must use this information to determine whether BellSouth is providing parity of service. The issue is the amount of penalty that should be assessed.

DOCKET NO. 000121-TP

DATE: August 2, 2001

Staff believes the appropriate penalty that should be assessed is \$400 per day for the aggregate of all reports. Since only 10 percent of the registered ALECs are accessing PMAP data, staff recommends using \$400 per day as the appropriate assessment versus the ALEC-proposed \$1,000 per day. Staff questions how important the accuracy of PMAP data is to ALECs since few ALECs actually access this information.

Staff believes that BellSouth should be required to pay the penalty to the Florida Public Service Commission for deposit in the State General Revenue Fund within 15 calendar days of the actual publication date. (Exhibit 13, p. 2) All parties are in agreement regarding where the assessed penalty should be submitted.

BellSouth Witness Coon does not believe the Commission has the authority to impose involuntary fines upon BellSouth; however, BellSouth does state the \$400 per day penalty is reasonable if the Commission does impose a penalty. (TR 259) Since BellSouth is agreeable to a \$400 per day penalty, staff believes that the issue of the Commission's authority need not be addressed. Nevertheless, staff does believe that if BellSouth did not agree, the Commission could still impose penalties, as long as the requirements of due process are met, as set forth in Issue 4a.

Staff notes the Performance Plans for Texas and Georgia also include requirements that ALECs have access to complete and accurate performance reports, or otherwise a penalty will be assessed. (Exhibit 1, Interconnection Agreement-Texas between Southwestern Bell Telephone Company and CLEC (T2A) 010700; Exhibit 1, Docket No. 7892-U, Order In re: Performance Measurements For Telecommunications Interconnection, Unbundling And Resale, January 12, 2001) Georgia's penalty for incomplete or inaccurate reports is \$400 to the affected ALEC for every day past the due date, while Texas's penalty is \$1,000 per day. (Exhibit 1, Docket No. 7892-U, Order In re: Performance Measurements For Telecommunications Interconnection, Unbundling And Resale, January 12, 2001)

Conclusion

DOCKET NO. 000121-TP

DATE: August 2, 2001

Staff recommends that BellSouth be required to develop a Performance Assessment Plan that includes a self-executing voluntary enforcement mechanism if performance data and reports are incomplete or inaccurate. Staff recommends that a penalty of no less than \$400 per day should be assessed for the aggregate of all such reports. This payment should be made to the Florida Public Service Commission, for deposit into the State General Revenue Fund, within 15 calendar days of the final publication date or the report revision date.

DOCKET NO. 000121-TP
DATE: August 2, 2001

ISSUE 7: What review process, if any, should be instituted to consider revisions to the Performance Assessment Plan that is adopted by this Commission?

RECOMMENDATION: Staff recommends the Commission approve the stipulated position of the parties.

STIPULATED POSITION OF THE PARTIES:

The parties concur in the proposed review process set forth in the FPSC Staff Proposal (Section 3.0, Modifications to Measures.) [Exhibit 13, p.2]

STAFF ANALYSIS: Staff recommends approval of the stipulated position, which was agreed to by BellSouth, AT&T, e.spire, FCTA, Worldcom, KMC, Covad, Mpower, Z-tel, Time Warner and IDS, and filed in this docket as document number 09141-01.

Section 3.0 of staff Witness Stallcup's proposal states:

3.0 Modifications to Measures

- 3.1 During the first two years of implementation, BellSouth will participate in six-month review cycles starting six months after the date of the Florida Public Service Commission order. A collaborative work group, which will include BellSouth, interested CLECs and the Florida Public Service Commission will review the Performance Assessment Plan for additions, deletions or other modifications. After two years from the date of the order, the review cycle may, at the discretion of the Florida Public Service Commission, be reduced to an annual review.
- 3.2 BellSouth and the CLECs shall file any proposed revisions to the Performance Assessment Plan on month prior to the beginning of each review period.

DOCKET NO. 000121-TP

DATE: August 2, 2001

3.3 From time to time, BellSouth may be ordered by the Florida Public Service Commission to modify or amend the Service Quality Measures or Enforcement Measures. Nothing will preclude any party from participating in any proceeding involving BellSouth's Service Quality Measures or Enforcement Measures or from advocating that those measures be modified.

3.4 In the event a dispute arises regarding the ordered modification or amendment to the Service Quality Measures or Enforcement Measures, the parties will refer the dispute to the Florida Public Service Commission.

[Exhibit 13, p.2]

DOCKET NO. 000121-TP

DATE: August 2, 2001

ISSUE 8: When should the Performance Assessment Plan become effective?

RECOMMENDATION: Staff is recommending several changes to BellSouth's original performance assessment plan and to staff's strawman methodology. Staff believes that BellSouth is in the best position to modify its original plan to conform to the requirements of the Order in this docket. Therefore, staff recommends that BellSouth file a revised performance assessment plan consistent with staff's recommendation herein, within 45 days of the Final Order in this docket. Staff also requests that it be given administrative authority to approve the performance assessment plan and enforcement mechanism if it complies with the Final Order in this docket. Staff recommends that the Performance Assessment Plan become effective 90 days from the approval of the Performance Assessment Plan. (KELLEY, FUDGE)

POSITIONS OF THE PARTIES:

BST: Assuming the Commission issues an Order by July 31, 2001, BellSouth can produce all data and measurements included in the BellSouth proposal during the fourth quarter of 2001. The enforcement portions of the performance assessment plan, however, should not become effective until after BellSouth receives 271 authority in Florida.

ALEC: The Performance Assessment Plan should be effectively [sic] immediately in order to ensure that BellSouth is providing ALECs parity service as required by Sections 251 and 252 of the Act. Immediate implementation will also allow the Commission to measure BellSouth's compliance prior to ruling on BellSouth's 271 application.

Z-TEL: Z-Tel adopts the position of the ALEC Coalition.

STAFF ANALYSIS: This issue addresses when the Performance Assessment Plan becomes effective. BellSouth believes it should not become effective until interLATA authority is granted to BellSouth. However, ALECs believe it should be effective immediately.

Argument

DOCKET NO. 000121-TP

DATE: August 2, 2001

BellSouth Witness Cox states that it is appropriate that no part of the enforcement mechanism proposal take effect until the plan is necessary to serve its purpose - that is, until BellSouth receives interLATA authority. She believes the performance measurements are designed to measure compliance, not penalty assessment. (TR 552) Witness Cox admits during cross examination that if the Commission puts the plan into effect before 271 approval, the data that is generated could be used to prove BellSouth is providing parity service. (TR 563)

ALEC Witness Bursh believes the remedy plan should go into effect as soon as it is ordered by the Commission. She states the performance measurement systems should be tested prior to 271 approval, so that any backsliding can be deterred. (TR 1009)

In its brief, BellSouth argues that this issue involves two distinct questions: 1) when can the plan be implemented; and 2) when should the plan be implemented. (BR 36) As to the first question, Witness Coon testified that "each modification and change to what BellSouth has proposed will require a substantial amount of intensive effort" to implement. (TR 248)

BellSouth disagrees with Z-Tel that "the role of the performance plan is to ensure BellSouth's compliance with the terms of the interconnection agreement[s], not simply to get BellSouth 271 relief." (BR 39) BellSouth contends disputes under that agreements are to be remedied by a complaint to the Commission or pursuant to the terms of that agreement.

BellSouth also disagrees with the contention that the plan should be implemented now, to prove that BellSouth is providing compliant performance before filing its 271 application with the FCC. BellSouth states that implementing the plan now so that BellSouth's performance can be monitored would delay its 271 application and would duplicate the third-party testing to date. (BR 40)

Finally, BellSouth argues that even if the ALECs' arguments concerning implementation of measurements prior to 271 relief had merit, those same arguments provide no basis for the immediate implementation of penalties.

The ALECs argue that Louisiana and Georgia have recognized that a remedies plan should be adopted prior to an ILEC receiving 271 approval. (TR 563, 596) Moreover, avoiding backsliding is only one of the reasons to implement a remedies plan. As Witness Cox acknowledged, BellSouth is obligated to provide parity service under 251 whether or not BellSouth applies for 271 relief. (TR 561) By delaying implementation of a penalty plan until after 271 approval, "the Commission would forego the opportunity to enable more rapid development of competition." (BR 42-43) A penalty plan will encourage BellSouth to provide nondiscriminatory service during the critical early stages of competition. It would also provide payments to ALECs to partially defray the additional costs attributable to inferior service by BellSouth due to discriminatory or non-parity service.

Analysis

The first question that needs to be addressed is when can the Performance Assessment Plan be implemented. BellSouth Witness Coon testified that "[i]f an order is issued by July 31, 2001 adopting the SQM proposed by BellSouth, BellSouth can produce all measurements and data during the fourth quarter of 2001." (TR 260) Therefore, it would take a minimum of 60 days to a maximum of 90 days if the Commission were to adopt BellSouth's proposal. Staff notes that the Performance Plan approved by the Georgia Commission required that the remedy plan go into effect 45 days from issuance of the order. (Docket No. 7892-U, Order In re: Performance Measurements for Telecommunications Interconnection, Unbundling and Resale, January 12, 2001) Staff recognizes that BellSouth may need a period of time to implement the Florida plan.

Staff is recommending several changes to BellSouth's original performance assessment plan and to staff's strawman methodology. Staff believes that BellSouth is in the best position to modify its original plan to conform to the requirements of the Order in this docket. Therefore, staff recommends that BellSouth file a revised performance assessment plan consistent with staff's recommendation herein, within 45 days of the Final Order in this docket. Staff also requests that it be given administrative authority to approve the performance assessment plan and enforcement mechanism if it complies with the Final Order in this docket. Because staff is also recommending changes to BellSouth's proposal, staff recommends that the

DOCKET NO. 000121-TP

DATE: August 2, 2001

Performance Assessment Plan become effective 90 days from approval of the Plan submitted in conformance with the Final Order in this docket. This would give BellSouth at least 135 days (excluding the time to approve the modified plan) from the date of the Order to "develop the requirements associated with the change, writing software code and testing the software code to protect the integrity of the production PMAP system while continuing to process and produce monthly SQM reports." (TR 248)

Regarding when the Plan should be implemented, staff agrees with BellSouth that nothing in the Act requires a Performance Assessment Plan be implemented prior to 271 approval. However, nothing in the Act prevents implementation of a Performance Assessment Plan prior to 271 approval. As stated in issue 4(a), a Performance Assessment Plan is consistent with both state and federal law. Staff agrees with Z-Tel Witness Ford that BellSouth is obligated to provide ALECS with nondiscriminatory access to its OSS under the provisions of Section 251 of the Act. (TR 1187)

Both AT&T and Z-Tel maintain that the Performance Assessment Plan should be implemented before BellSouth is granted 271 approval. Staff agrees with the ALECs that under Section 251 BellSouth owes ALECs a quality of OSS service at least equal to what it provides itself. (TR 561, 1187)

A Performance Assessment Plan is not a prerequisite to 271 approval, but a necessary tool to ensure that BellSouth is providing nondiscriminatory service. Staff agrees with BellSouth that in general, disputes under agreements are to be remedied by a complaint to the Commission or pursuant to the terms of that agreement. However, as the FCC recognized "negotiations between an incumbent and a new entrant differ from commercial negotiations in a competitive market because new entrants are dependent solely on the incumbent for interconnection." Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, CC Docket No. 96-98, First Report and Order, 11 FCC Rcd 15499, 15577 (para. 216) (1996). Moreover, "the LEC has the incentive to discriminate against its competitors by providing them less favorable terms and conditions of interconnection than it provides itself." *Id.* at 218. Finally, the Commission declined to arbitrate any penalty provision in interconnection agreements, and has deferred any benchmarks, analogs, or penalty provisions to this generic

DOCKET NO. 000121-TP

DATE: August 2, 2001

docket. See Docket Nos. 000828-TP, 000731-TP, and 000649-TP. Therefore, staff believes that any penalty plan included heretofore within an agreement would not have the same effect as the one proposed herein.

Conclusion

Staff is recommending several changes to BellSouth's original performance assessment plan and to staff's strawman methodology. Staff believes that BellSouth is in the best position to modify its original plan to conform to the requirements of the Order in this docket. Therefore, staff recommends that BellSouth file a revised performance assessment plan consistent with staff's recommendation herein, within 45 days of the Final Order in this docket. Staff also requests that it be given administrative authority to approve the performance assessment plan and enforcement mechanism if it complies with the Final Order in this docket. Staff recommends that the Performance Assessment Plan become effective 90 days from the approval of the Performance Assessment Plan.

DOCKET NO. 000121-TP

DATE: August 2, 2001

ISSUE 9: What are the appropriate Enforcement Measurement Benchmarks and Analogs?

RECOMMENDATION: The appropriate Enforcement Measurement Benchmarks and Analogs are those specified in Attachment 7 under Issue 2b. (HARVEY)

POSITIONS OF THE PARTIES:

BST: The appropriate enforcement measurement benchmark and analogs are those set forth in the Exhibit DAC-1 to the testimony of BellSouth Witness, David Coon, and summarized in Exhibit DAC-5

ALEC: Because the submeasures proposed by the ALEC Coalition monitor key areas of ALEC and BellSouth activity, all submeasures proposed are included in Tier 1 and Tier 2 of the ALEC Enforcement plan. The appropriate performance standards for the submeasures are set forth in Exhibit KK-2 attached to Karen Kinard's direct testimony.

Z-TEL: Z-Tel adopts the position stated by the ALEC Coalition.

STAFF ANALYSIS: This issue identifies the appropriate standards that should be used for purposes of determining if BellSouth is providing service to ALECS at parity with what BellSouth provides its retail customers. Standards for each metric are divided into two categories, they can be either a benchmark or a retail analog. Retail analog are for those measures for which there is an identifiable retail service to which the whole performance can be compared. Measures for which a benchmark is set requires BellSouth to meet an absolute performance level. Failure on BellSouth's part to comply with the standards set forth in this recommendation would result in a self-executing remedy payment to either the individual ALEC who was received deficient service or to the State of Florida if aggregate service in the state falls below these standards.

Argument

Witness Coon testified that the appropriate enforcement measurement benchmark and analogs were summarized in Exhibit 16

DOCKET NO. 000121-TP

DATE: August 2, 2001

DAC-6. Witness Coon provides the following example of analogs with metric P-3: Percent Missed Installation Appointment:

SEEM Disaggregation

Resale POTS
Resale Design
USE Loop and Port Comb
USE Loops
USE xDSL
USE Line Sharing
Local Interconnection Trunks

SEEM Analog/Benchmark

Retail Res and Business (POTS)
Retail Design
Retail Res and Business
Retail Res and Bus Dispatch
ADSL provide to Retail
ADSL provide to retail
Parity with retail

In Issue 2a, the ALECs argue that in their plan BellSouth service to ALECs and to its own retail operations is gauged using a comprehensive set of performance measurements that cover a full panoply of BellSouth activities that ALECs must rely upon in order to deliver their retail service offerings in the local market place. (Bursh TR 955) "Every submeasure is designed to identify and measure a key area of activity that affects ALEC and BellSouth customers, and consequently, the development of competition in Florida's local telecommunications market." (Bursh TR 955) Because the submeasures monitor key areas of ALEC and BellSouth activity, all submeasures proposed by the ALECs are included in the determination of remedy payments. (Bursh TR 956) The measures proposed in the ALEC remedy plan, including disaggregation, benchmarks and retail analogs, are set forth in the testimony and exhibits of Witness Kinard. (Composite Exhibit 14)

The ALEC Coalition argues that the BellSouth proposal relies upon overly aggregated results. "Such aggregation masks differences and makes detection of inferior performance less likely." (Bursh TR 1002) Specifically ALEC Witness Bursh testified that, for order completion interval, BellSouth can report compliant support even though it is providing discriminatory support in reality. The retail analog for Order Completion Interval-UNE Loops is Retail Residence and Business Dispatch. According to Witness Bursh, a significant percent of the UNE Loop observations could be UNE analog loops, which are all dispatch-in. Dispatch-in signifies that the work is done within the Central Office. Dispatch usually refers to service where the work is done in the field or outside of the central office. (TR 1002) Witness Bursh states that "work done within

DOCKET NO. 000121-TP

DATE: August 2, 2001

the central office has a shorter interval than work done away from the central office. Given that the retail analog [for Order Completion Interval-UNE Loops] is designed as Retail Residence and Business Dispatch, BellSouth would always be providing longer interval for itself (compliant support) for this example primarily because the retail analog is inappropriate." (Bursh 1002-1003)

As to benchmarks, the dispute between the parties is more clearly drawn. Again, BellSouth has chosen benchmark values that it believes are appropriate based upon the Louisiana and Georgia proceedings, and which are the same as those approved by the Georgia Commission. In contrast, the ALECs have proposed benchmarks that range from 95 to 100 percent (i.e., perfection). The ALECs have proposed no benchmark below 95 percent. In making their proposal, the ALECs have obviously deviated from what was accepted in Louisiana and Georgia. The specific values of the benchmarks proposed by Ms. Kinard on behalf of the ALECs are not substantively supported anywhere in her testimony. Further, Ms. Kinard admitted upon cross-examination that the ALECs have no analysis or study to support the conclusion that a 95 percent benchmark is the minimum 'that would allow ALEC a meaningful opportunity to compete.'" (TR 181) (BR 41) (Footnote omitted)

At the hearing when Witness Coon was asked how BellSouth determined what the appropriate benchmarks should be, his response was that most of the benchmarks proposed here are those that have been ordered in the Georgia Commission. He testified that, while BellSouth may not believe that a benchmark is appropriate, it is what was ordered in another jurisdiction. He could not provide any factual basis for establishment of the BellSouth-proposed benchmarks. (TR 508-509)

BellSouth Witness Coon argues that Witness Kinard's comments suggest that the Commission should adopt the ALEC plan not the BellSouth plan. Witness Coon notes that Witness Kinard simply presents her analogs and benchmarks without any critical analysis to support the conclusions she has reached. Witness Coon notes that its recommendations regarding benchmarks and analogs are a result of several years of work and have been conformed to the

DOCKET NO. 000121-TP

DATE: August 2, 2001

results reached in Georgia. While BellSouth agrees with the principle that simply having another state approve something does not necessarily mean it is appropriate for Florida, the fact that Georgia has approved these analogs and benchmarks should bear some weight. (TR 321)

Analysis

Staff agrees with BellSouth that many years of work have gone into the development of the benchmarks and analogs proposed by BellSouth.

The ALEC Coalition testimony specifies one example of how, because of disaggregation, the analogs proposed by BellSouth are inappropriate. Witness Bursh identifies that the BellSouth proposal for Average/Order Completion Interval-USE Loops analog is Retail Residence and Business Dispatch. Witness Bursh proposes that many of the USE Loops in this category may be analog loops, which are not dispatched outside the central office. Witness Bursh believes it would be inappropriate to compare the aggregate category of UNE Loop to Retail Residence and Business Dispatch since BellSouth would conceivably be providing longer intervals for itself.

Staff agrees that this level of aggregation is inappropriate and has recommended changes to the aggregation as specified in Issue 2b. As a result of creating more levels of disaggregation for compliance purposes, the analogs will also be more disaggregated. The appropriate benchmarks and analogs are shown in relation to the disaggregation specified in Issue 2b, Attachment 7.

Using the example provided by the ALEC Coalition for Average/Order Completion Interval, there is no aggregate UNE Loops category in the staff recommendation. Loops would be segregated by analog and digital and by design and non design. Specifically, a two-wire analog Loop-Design would be compared to retail residence and business dispatch, while a nondesign two-wire analog loop would be compared retail residence and business (POTS excluding switch based orders) for compliance purposes. Staff believes these analogs are appropriate.

As to benchmarks, staff agrees with the ALEC Coalition that benchmarks set below 90 or 95 percent do not generally allow the

DOCKET NO. 000121-TP

DATE: August 2, 2001

ALECs a meaningful opportunity to compete. Staff is recommending an increase to many of the benchmarks that are set below this level for both reporting (Issue 1b) and compliance purposes (Issue 9).

Conclusion

The appropriate Enforcement Measurement Benchmarks and Analogs are those specified in Attachment 7 under Issue 2B.

DOCKET NO. 000121-TP

DATE: August 2, 2001

ISSUE 10: Under what circumstances, if any, should BellSouth be required to perform a root cause analysis?

RECOMMENDATION: Staff does not believe root cause analysis should be implemented at this time as part of the Performance Assessment Plan. (KELLEY)

POSITIONS OF THE PARTIES:

BST: BellSouth should not be required under any circumstances to perform a root cause analysis. A root cause analysis is an expensive and time-consuming process that is not needed in the present context.

ALEC: Root cause analysis is a useful procedure for identifying the source of a continuing failure to provide parity of service, and should be required for any measure that fails twice in any 3 consecutive months in a calendar year. It should be required by the terms of the Performance Assessment Plan.

Z-TEL: Z-Tel adopts the position of the ALEC Coalition.

STAFF ANALYSIS: This issue considers whether BellSouth should be required to perform a root cause analysis. ALECs contend that if a failure occurs twice in three consecutive months, a root cause analysis is necessary to identify problems. BellSouth argues that it is an expensive, time-consuming process that is not always necessary.

Argument

BellSouth Witness Coon defines "root cause analysis" as an often formalized, comprehensive, and detailed investigation of all the component activities related to the delivery of the service in question. A root cause analysis may include participation by all BellSouth entities involved in the delivery of the service and include not only problem identification but also the development and implementation of solutions. (TR 261)

Witness Coon believes that BellSouth should never be required to perform a root cause analysis. He believes that

DOCKET NO. 000121-TP

DATE: August 2, 2001

BellSouth has the information necessary to identify problems and the incentive, by virtue of enforcement penalties, to correct those problems. (TR 262) He does not believe BellSouth, nor the Commission, should be required to use valuable resources on issues already addressed under a self-effectuating remedy plan. (TR 262)

A root cause analysis is an investigation of all component activities related to the delivery of a service to an ALEC identified as being inferior. (TR 261) BellSouth argues that the Performance Assessment Plan adopted by the Commission should not impose a requirement that BellSouth conduct a root cause analysis of a continuing source of disparity. (TR 261) Witness Coon states that the ALECs have failed to demonstrate such a need.

ALEC Witness Bursh states that "a root cause analysis is a useful procedure for building action plans to remedy unacceptable performance and should be incorporated within a performance measurement system . . ." (TR 981) She also states that procedures, such as root cause analyses, which could potentially remedy recurrence of failures, are definitely essential. (TR 1008)

Witness Bursh further states, "[t]he Georgia Public Service Commission Order stated that BellSouth must perform a "root cause analysis" and file with the Commission a corrective action plan within 30 days of the failure. The root cause analysis would be triggered if any measure fails twice in any three consecutive months in a calendar year." (TR 981)

Analysis

Witness Coon does not believe that BellSouth should be required to perform a root cause analysis if a self-effectuating enforcement plan is in place. Staff agrees that conducting root cause analyses could become burdensome, using valuable BellSouth and Commission resources.

The ALEC Coalition comments in its brief that:

"[i]t is ironic that BellSouth, who accused the ALEC Coalition of being interested primarily in constructing a plan that would become a revenue producing device, argues against a provision that would identify the

DOCKET NO. 000121-TP

DATE: August 2, 2001

source of the disparity, require that it be rectified, and in the process turn off the penalty payments. (BR 44)

In a sense, there are some similarities between BellSouth's position and that of the ALEC Coalition. Like BellSouth, the ALEC Coalition believes it is imperative that the self-effectuating nature of the PAP not be disrupted. Specifically, the ALEC Coalition believes the conducting of a root cause analysis should not interfere with the timely payments called for by a BellSouth failure. (TR 1008) (BR 44)

Witnesses Bursh and Ford believe that it is necessary to implement a root cause analysis whenever there are repeated failures. Witness Ford believes BellSouth should not perform this analysis unless it is required under the performance assessment plan.

Staff is concerned that requiring a root cause analysis at this time could hinder initial implementation of the Florida Performance Assessment Plan. Staff believes the implementation of a self-executing enforcement program is incentive enough for BellSouth to perform an analysis if and when penalties are paid out.

Conclusion

Staff does not believe root cause analysis should be implemented at this time as part of the Performance Assessment Plan.

ISSUES 11 & 12:

- a. What is the appropriate methodology that should be employed to determine if BellSouth is providing compliant performance to an individual ALEC? (Tier 1 and Tier 2)
- b. How should parity be defined for purposes of the Performance Assessment Plan? (Tier 1 and Tier 2)
- c. What is the appropriate structure? (Tier 1 and Tier 2)
 1. What is the appropriate statistical methodology?
 2. What is the appropriate parameter delta, if any?
 3. What is the appropriate remedy calculation?
 4. What is the appropriate benchmark table for small sample sizes?
 5. Should there be a floor on the balancing critical value?

RECOMMENDATION:

- a. Where the standard for a measure is a retail analog, compliance should be evaluated through a statistical process. Where the standard for a measure is a benchmark, compliance should be determined by a "bright-line" comparison, with an adjustment for small sample sizes.
- b. Where a measure has a retail analog, BellSouth should be required to provide access to a competing carrier in substantially the same time and manner as it provides to itself. For those functions that have no retail analog, BellSouth should be required to provide access that would offer an efficient carrier a meaningful opportunity to compete.
- c.1. Based on staff's recommendation in Issue 2, the Truncated Z statistic should be used to evaluate compliance for enforcement measures with retail analogs. For small samples (30 or less), a permutation test should be used to calculate Z-scores for mean measures. In addition, the transformed data method, also known as the arcsine square root transformation, should be used to calculate Z-scores for proportion and rate measures. For small samples, the hypergeometric test, also known as Fisher's Exact Test, should be used for proportion and rate measures.

DOCKET NO. 000121-TP

DATE: August 2, 2001

c.2. Z-Tel Witness Ford's delta function and recommended parameter values should be adopted.

c.3. BellSouth should be directed to develop a remedy plan which includes certain features. Remedies should be measure-based, rather than transaction-based, and should vary by type of measure and duration for Tier 1, and type of measure for Tier 2. The relative relationships between the various measure-based remedy payments should be consistent with the relative relationships between the various BellSouth proposed, transaction-based remedy payments. Tier 1 remedies should be set such that the average Month 1 remedy approximates the \$2,500 minimum payment recommended by the ALEC Coalition. Tier 2 remedies should be applicable after three consecutive months of violations, as proposed by BellSouth.

c.4. BellSouth's proposed benchmark table, which reflects a statistical approach based on a 95% confidence interval, should be adopted for small samples.

c.5. Based on staff's recommendation on Issues 11.c.2 and 12.c.2, there should not be a floor on the balancing critical value.

(SIMMONS)

POSITION OF PARTIES:

BST: Issue 11a,11b,12a,12b: The determination of whether BellSouth is providing "compliant performance" to an individual ALEC is identical to the determination of whether BellSouth is providing service at parity. The FCC has expressly defined parity. Where a retail analog exists, BellSouth must provide access to competing carriers in substantially the same time and manner as it provides to itself. For functions that have no retail analog, BellSouth must provide access that would allow an efficient carrier a meaningful opportunity to compete. This would be determined by the use of a benchmark.

Issue 11c,12c,11c.1,12c.1: The appropriate statistical methodology to use when comparing the service BellSouth provides to ALECs with the service that BellSouth provides to its retail operations is the methodology jointly created by BellSouth and a

DOCKET NO. 000121-TP

DATE: August 2, 2001

number of ALECs in Louisiana, referred to as the Truncated Z method with error probability balancing.

Issue 11c.2,12c.2: The appropriate parameter delta for Tier 1 is 1.0. The appropriate parameter delta for Tier 2 is 0.5. BellSouth recommends utilizing each delta for an initial period of six months to see what results are produced, and upon analyses of these results, to set a permanent value.

Issue 11c.5,12c.5: There should be no floor placed on the "balancing critical value." An artificial floor will inappropriately prevent the balancing critical value from changing as it should, with changes in sample size.

ALEC: Issue 11a,12a: See 11c

Issue 11b,12b: See 11c

Issue 11c.1,12c.1: The statistical methodology the ALECs recommend is the Modified Z statistic.

Issue 11c.2,12c.2: The ALECs propose that this Commission adopt 0.25 or less as the parameter delta value for all sub-measures in Tier 1 and Tier 2.

Issue 11c.3,12c.3: The value of the Modified Z statistic is compared with a pre-specified negative number, called the critical value. The ALEC plan uses "balancing" to determine the critical value. The parameter delta defines the degree of violation of parity that the probability of Type II error is balanced against the probability of Type I error under parity. The Tier 2 remedy calculation includes a factor "n" in the calculation that is based upon ALEC market penetration levels. The value of "n" decreases as the number of ALEC served lines increases, resulting in Tier 2 payments decreasing as ALEC market penetration increases.

Issue 11c.4,12c.4: For small sample sizes, 30 or fewer observations in either of the data sets to be compared, permutation analysis is used to compute the score.

Issue 11c.5,12c.5: The ALEC Plan does not require a floor.

DOCKET NO. 000121-TP

DATE: August 2, 2001

Z-TEL: **Issue 11a:** For measures without retail analogs, benchmarks should be used and evaluated on a stare-and-compare basis. If retail analogs are specified, then a statistical method should be used that assesses whether or not the service levels are equal.

Issue 12a: If the Delta Function is used, the statistical procedures used for individual CLEC [ALEC] data transfer directly. If a fixed Delta value is used, a floor on the Delta value of 3.73 must be established to maintain the integrity of the means difference test for aggregate data with large sample sizes.

Issue 11b: In the context of a performance assessment plan, as in the 1996 Act, parity means no difference in the quality of service provided by an ILEC to its retail customers and the quality of the corresponding service that it provides to ALECs.

Issue 12b: Parity means equality. For measures with retail analogs, parity is defined in terms of a null hypothesis of zero means difference. For benchmarks, parity is defined in terms of a bright-line, stare-and-compare method of evaluating service equality.

Issue 11c.1,12c.1: Z-Tel supports the Modified Z test, including the "Delta Function" advocated by Dr. Ford. The "Delta Function" is needed to ensure that the statistical test, which is highly sensitive to changes in delta and sample size, retains the ability to detect disparities in the quality of service provided to ALECs.

Issue 11c.2,12c.2: To reflect Congress's mandate of equality of service, the test must employ meaningful significance levels. Only Z-Tel's "Delta Function" appropriately sets Delta, by allowing Delta to vary with sample size, to ensure this crucial result.

Issue 11c.3,12c.3: Z-Tel supports the measurement based approach described by the ALEC Coalition. As a compromise, Z-Tel proposes the hybrid approach described in Dr. Ford's late-filed deposition exhibit.

Issue 11c.4,12c.4: Z-Tel does not object to the use of the log-odds statistical method for percent and rate measures, as long as the implied Delta value (defined as Lambda for this test) of that method does not exceed the Commission's choice of Delta.

Issue 11c.5,12c.5: The Delta Function alleviates the need for a floor on the balancing critical value. However, if a fixed critical value is used, a floor should be specified so that the statistical procedure is a meaningful test of the null hypothesis of equality. Z-Tel recommends a floor not to exceed 3.73.

STAFF ANALYSIS: Due to the similarities in the testimony, analysis, and recommendations for Issues 11 and 12, staff is treating these issues on a combined basis. Please note that the issues are identical except that Issue 11 addresses Tier 1, and Issue 12 addresses Tier 2. Staff's analysis is organized by part, sub-part.

a. What is the appropriate methodology that should be employed to determine if BellSouth is providing compliant performance to an individual ALEC? (Tier 1 and Tier 2)

With the exception of the appropriate level of aggregation for purposes of determining compliant performance, the parties appear to agree in broad conceptual terms on the appropriate methodology. For measures with a retail analog, all of the proposed plans employ a statistical approach to assess compliance. (Stallcup TR 84-87) Further, the parties believe that a special provision should be made for small sample sizes. (Mulrow TR 695-696; Bell TR 1106; Ford TR 1137) The standard for measures which do not have a retail analog is a benchmark, and the parties advocate a "bright-line" or "stare and compare" approach to determine compliance, with an allowance for small sample sizes. (Stallcup TR 83-84; Ford TR 1137) As will be discussed later, the parties disagree on the appropriate benchmark table for small sample sizes.

Therefore, where the standard for a measure is a retail analog, staff recommends that compliance be evaluated through a statistical process. Where the standard for a measure is a benchmark, staff recommends that compliance be determined by a "bright-line" comparison, with an adjustment for small sample sizes.

b. How should parity be defined for purposes of the Performance Assessment Plan? (Tier 1 and Tier 2)

There is much similarity among the parties' testimony regarding the appropriate definition of parity. According to BellSouth's Witness Coon, the following definitions of parity by the FCC should apply:

1) where a retail analog exists, the BOC must provide access to a competing carrier in substantially the same time and manner as it provides to itself; 2) for those functions that have no retail analogue, the BOC must provide access that would offer an efficient carrier a meaningful opportunity to compete. (emphasis in original) (TR 263)

ALEC Coalition Witness Bursh also states that "benchmarks are set at a level that provides ALECs with a meaningful opportunity to compete." (TR 1028)

Z-Tel Witness Ford believes that parity service, non-discriminatory service, and the same level of service are all synonymous. (TR 1134) In addition, Witness Ford believes that service needs to be non-discriminatory for all sizes of ALECs. (TR 1163).

From a statistical standpoint, BellSouth Witness Mulrow and Z-Tel Witness Ford provide similar definitions of parity. Witness Mulrow states that the "null hypothesis is really that the means are equal and the standard deviations are equal." (TR 684) Witness Ford opines that the null hypothesis is a "zero-means difference." (TR 1179) Due to the agreement among the parties that there is a need to balance Type I and Type II errors, which will be covered later in this issue, there must be some deviation in practice from the theoretical null hypothesis. Nonetheless, staff believes that the null hypothesis should be defined as closely as possible to this ideal, while still incorporating error probability balancing as all parties support.

Therefore, staff recommends that BellSouth Witness Coon's definition of parity should be adopted. Where a measure has a retail analog, BellSouth should be required to provide access to a competing carrier in substantially the same time and manner as

it provides to itself. For those functions that have no retail analog, BellSouth should be required to provide access that would offer an efficient carrier a meaningful opportunity to compete.

c. What is the appropriate structure? (Tier 1 and Tier 2)

1. What is the appropriate statistical methodology?

In discussing the appropriate statistical methodology, the parties have offered testimony which describes how the methodology may need to vary depending on whether the measure is a mean measure, a proportion measure, or a rate measure. In addition, there is the small sample size problem, and the issue of the appropriate level of aggregation for purposes of assessing compliance, which directly affects the selection of the appropriate statistical methodology.

BellSouth Witness Mulrow explains how mean measures, proportion measures, and rate measures are different types of statistics. In a comparison of means, Witness Mulrow testifies that the average of the BellSouth transactions in a "cell" is compared to the average or mean of the ALEC transactions. (TR 635) Some measures, however, are not expressed in terms of means. Witness Mulrow cites missed appointments as an example of a proportion measure, where the statistic is expressed as a percentage. (TR 635) He cites a rate measure (e.g., customer trouble report rate) as another example of a statistic which is not stated in terms of a mean. (TR 635) While proportion measures cannot exceed 1, a rate measure may exceed 1. (TR 635) For mean measures, Witness Mulrow observes that the statistical approach must consider the BellSouth and ALEC means and the standard deviation of BellSouth's mean. In the case of proportion and rate measures, the proportion or rate is the only parameter to consider. Witness Mulrow states that "BellSouth cannot separately control the proportion [or rate] value and the variability about that value." (TR 636) According to Witness Mulrow, ALEC Coalition Witness Bell inappropriately uses the same statistical approach for mean, proportion, and rate measures in his direct testimony. (Mulrow TR 635-636)

Before discussing how the statistical approach may need to vary to fit the nature of the measure (mean, proportion, or rate), the error probability balancing concept needs to be introduced. As will be discussed below, Type I and Type II

errors are common parlance among statisticians, and there is agreement among the parties as to what constitutes Type I and Type II errors. Further, staff believes that there is agreement among the parties on the need to balance these two types of errors in the context of a Performance Assessment Plan.

With Type I error, staff Witness Stallcup indicates that the statistical test shows that BellSouth is providing non-compliant service when in fact it is providing compliant service. (TR 56) Similarly, ALEC Coalition Witness Bell states that a Type I error occurs if the statistical test shows that "BellSouth is favoring its retail operations when, in fact, parity service exists." (TR 1067). Finally, Z-Tel Witness Ford states that Type I error occurs when there is a false conclusion that service is discriminatory. (TR 1144) Staff believes that all of these descriptions are conceptually identical.

With Type II error, staff Witness Stallcup indicates that the statistical test shows that BellSouth is providing compliant service when in fact it is providing non-compliant service. (TR 56) According to ALEC Coalition Witness Bell, "a Type II error occurs if the statistical test fails to indicate that BellSouth is favoring its retail operations when, in fact, a certain degree of disparity does exist." (TR 1067) Z-Tel Witness Ford describes Type II error as "fail[ing] to detect discrimination that actually exists." (TR 1144) Once again, staff believes that all of these descriptions are conceptually the same.

Staff Witness Stallcup describes the Balancing Critical Value technique as a means to equalize Type I and Type II errors such that the enforcement mechanism will not be biased towards BellSouth or the ALECs. He goes on to state that this approach has the "intuitive appeal of balancing the interests of both BellSouth and the ALECs." (TR 56) Z-Tel Witness Ford offers similar testimony, expressed in terms of penalty payments:

With Type I error, the ILEC pays penalties for false positives. With Type II error, the ILEC does not pay penalties when it does in fact discriminate. Both problems need to be addressed within the context of a performance plan. (TR 1144-1145)

DOCKET NO. 000121-TP

DATE: August 2, 2001

BellSouth Witness Taylor also speaks to the motivation for balancing, namely the "desire to hold the risk of Type I error (which would favor the ALEC at BellSouth's expense) at exactly the same level as the risk of Type II error (which would favor BellSouth at the ALEC's expense)." (TR 1222) Thus, staff believes there is much agreement on the balancing concept, albeit dispute over the appropriate value for the parameter delta which is required to implement the concept.

Staff Witness Stallcup observes that the choice of statistical methodology is a function of the level of disaggregation. If BellSouth's method of disaggregating the enforcement measures is deemed appropriate, BellSouth's test statistic (Truncated Z) would be appropriate. Similarly, if the Commission adopts the ALEC's method of disaggregating the enforcement measures, the ALEC's test statistic (Modified Z) would be appropriate. (Stallcup TR 70,88)

In addition, Witness Stallcup explains that both tests, Modified Z and Truncated Z, begin in the same way with a Modified Z test being performed at the "cell" level. Under the Truncated Z, the cell level results are in turn aggregated. (Stallcup TR 55,56) The truncation involves setting cell level Z scores to zero, if the ALEC received superior service. (EXH 13;Mulrow TR 630) For a mean measure, a Z score is calculated by dividing the difference between the ALEC and ILEC means by the standard deviation of this difference. Based on the assumption that both samples were drawn from the same population, the Z score has a sampling distribution that approximates a Standard Normal (i.e., the bell-shaped probability distribution) (EXH 27,RMB-1,pp.9,10; Stallcup TR 55)

ALEC Coalition Witness Bell and Z-Tel Witness Ford agree that the Truncated Z is appropriate to aggregate homogeneous cells. (Bell TR 1085,1096; Ford TR 1193,1198) Witness Ford notes that the Truncated Z is the only method proposed by the parties to aggregate cell-level statistics. (TR 1168) While Witness Bell has some concern about Truncated Z concealing discrimination, he notes that "this feature of truncated Z is not a flaw in the procedure, but it can result in unintended consequences if very heterogeneous cells are aggregated." (TR 1083)

DOCKET NO. 000121-TP
DATE: August 2, 2001

Staff agrees with the premise that the choice of Truncated Z or Modified Z depends on the level of disaggregation. Fundamentally, the issue is the appropriate level of disaggregation for enforcement measures, with the statistical methodology being a fallout. Based on staff's recommendation in Issue 2, the Truncated Z statistic should be used to evaluate compliance for enforcement measures with retail analogs. For small samples (30 or less), BellSouth Witness Mulrow, ALEC Coalition Witness Bell, and Z-Tel Witness Ford agree that a permutation test should be used to calculate Z-scores for mean measures. (Mulrow TR 695, Bell TR 1106, Ford TR 1201) Permutation analysis is a computer-intensive method that compares the observed results for the ALEC customers with the distribution of results that would be observed by drawing a random sample from the pool of ALEC and BellSouth customers. (Bell TR 1064-1065)

With respect to proportion and rate measures, the testimony evolved over the course of the proceeding, with the ultimate outcome being that there is considerable similarity in the positions being taken by BellSouth Witness Mulrow, ALEC Coalition Witness Bell, and Z-Tel Witness Ford. While Witnesses Mulrow, Bell, and Ford acknowledge the "odds" ratio method as being legitimate, Witnesses Bell and Ford note that no evidence has been presented regarding the appropriate value for ψ , a key parameter of the test. (Mulrow TR 642-645; Bell TR 1105-1106; Ford TR 1200-1201) On this basis, staff believes that the "odds" ratio should not be considered.

The other method cited for proportion measures and, in some instances rate measures, is the transformed data method, also known as the arcsine square root transformation. BellSouth Witness Mulrow, ALEC Coalition Witness Bell, and Z-Tel Witness Ford all support use of this method to calculate Z scores for proportion measures. (Mulrow TR 694-695; Bell TR 1105; Ford TR 1200-1201) Further, Witnesses Bell and Ford support use of this method to calculate Z scores for rate measures, while Witness Mulrow contends that the square root transformation should be used for rate measures. (Mulrow TR 695; Bell TR 1105; Ford TR 1200-1201) According to Witness Mulrow's testimony, however, he has not verified the appropriateness of using the square root transformation for rate measures, and is relying on a representation made by Dr. Mallows, a former AT&T statistician, who is not a Witness in this case. (TR 695) Accordingly, staff

believes that the weight of the evidence supports use of the transformed data method for both proportion and rate measures. In addition, while proportion measures cannot exceed 1, and a rate measure can in theory exceed 1, staff believes there will be little practical difference in the range of values for these two types of measures, in the context of a performance assessment plan. For small samples, all witnesses who offered an opinion stated that the hypergeometric test, also known as Fisher's Exact Test, is appropriate for proportion and rate measures. (Mulrow TR 695-696; Bell TR 1106; Ford TR 1201)

Based on staff's recommendation in Issue 2, the Truncated Z statistic should be used to evaluate compliance for enforcement measures with retail analogs. For small samples (30 or less), a permutation test should be used to calculate Z-scores for mean measures. In addition, the transformed data method, also known as the arcsine square root transformation, should be used to calculate Z-scores for proportion and rate measures. For small samples, the hypergeometric test, also known as Fisher's Exact Test, should be used for proportion and rate measures.

2. What is the appropriate parameter delta, if any?

Balancing Type I and Type II errors requires inclusion of a parameter called "delta," which introduces the concept of material disparity. (Stallcup TR 56-57) BellSouth Witness Mulrow defines delta as "a factor that is used to identify whether a meaningful difference exists between the BellSouth and ALEC performance, in addition to a statistically significant difference." (TR 621) ALEC Coalition Witness Bell describes delta as the degree of disparity for which the probabilities of Type I and Type II errors are being balanced. (TR 1070, 1085-1086) He opines that "this disparity should equal the minimum difference that is judged to be a material obstacle to competition." (TR 1086) BellSouth Witness Taylor describes delta as a material difference and elaborates that "delta is the number that balances the penalty payment with the gain from discrimination." (TR 1252-1253) The parties are in agreement that the choice of a delta value is not really a statistical decision, but rather a decision based on business judgment. (Stallcup TR 57; Mulrow TR 622; Bell TR 1071; Ford TR 1148,1191; Taylor TR 1235)

Staff observes that since delta introduces disparity, while at the same time the statistical test should theoretically be one of parity, there is an inherent tension between these two concepts. Z-Tel Witness Ford indicates that the larger the value of delta, the further the statistical test deviates from a true test of parity. In exchange for this undesirable result, there is the gain achieved by balancing statistical errors. (TR 1191) Witness Ford stresses that the balancing effort should be done in a reasonable fashion in order to minimize the extent to which the statistical test deviates from a true test of parity. (TR 1191-1192)

BellSouth is recommending a delta value of 1 for Tier 1 and .5 for Tier 2. (Coon TR 270,278) To illustrate the practical effect of delta, BellSouth Witness Mulrow provides a provisioning example using a measure with a mean of 5 days and a standard deviation of half a day. Using first a delta value of 1, and then a delta value of .5, Witness Mulrow indicates that if the ALEC mean exceeds BellSouth's mean by 6 hours and 3 hours, respectively, the differences would be viewed as material. He questions whether such a small difference is really material. (TR 621-622)

ALEC Coalition Witness Bell and Z-Tel Witness Ford both question the usefulness of Witness Mulrow's example. Witnesses Bell and Ford both believe that Witness Mulrow's example is very unrealistic in that the standard deviation for provisioning intervals typically exceeds the mean. Both Witnesses cite to Qwest performance results as one basis for their opinion. (Bell TR 1079-1080; Ford TR 1179-1180) In addition, both Witnesses provide alternative examples, with purportedly more realistic assumptions for the standard deviation. These alternative examples provided by Witnesses Bell and Ford result in differences between the ALEC mean and the BellSouth mean of 5 days and 7.5 days, respectively, being judged material. (Bell TR 1090; Ford TR 1180) Staff notes that BellSouth could report standard deviations for interim performance measures, but has chosen not to do so. Thus, there is no empirical evidence, specific to BellSouth, regarding the relationship between the mean and standard deviation for different measures.

The ALEC Coalition recommends that the Commission set the delta value no higher than .25. (Bell TR 1072,1075) If the delta

DOCKET NO. 000121-TP

DATE: August 2, 2001

value is substantially higher than the minimum value needed to reflect materiality, Witness Bell indicates that ALECs will face a greater risk of Type II error than BellSouth's risk of Type I error under a parity test. According to Witness Bell, this problem is particularly significant for large sample sizes where the balancing critical value is a large negative, which corresponds to a very small probability of Type I error. (TR 1074)

Z-Tel Witness Ford advocates a delta function, in which delta varies by sample size, as being a reasonable compromise between the positions of BellSouth and the ALEC Coalition. (TR 1155,1175,1192-1193) With Witness Ford's recommended parameter values, the equation produces a maximum delta value of 1, and a delta value of .051 at an ALEC sample size of 30,000. For a sample size of 175, the delta value is .25. (TR 1155) Under the delta function, staff observes that the delta value is inversely related to the ALEC sample size.

There is agreement on the ramifications of the choice of the delta value. BellSouth Witness Mulrow and ALEC Coalition Witness Bell both state that penalties will be paid if the disparity is greater than $\frac{1}{2}$ delta standard deviations. Witness Bell notes, however, that error balancing does not occur at this point. (Mulrow TR 665,668,702-703; Bell TR 1099)

There is much dispute regarding the relevance of sample size in selecting the delta value. BellSouth Witness Mulrow strongly believes that delta should not vary with sample size. In response to questions regarding the Louisiana statisticians' report, which he coauthored, Witness Mulrow contends that the statement "sample size matters here too," which appears in the report, merely indicates that sample size affects the balancing critical value. Interestingly, Witness Mulrow does read a portion of the Louisiana statisticians' report which states the following:

Using the same value of delta for the overall state testing [Tier 2] does not seem sensible. At the state level we are aggregating over CLECs, so using the same delta as for an individual CLEC would be saying that a "meaningful" degree of disparity is one where the violation is the same for each CLEC. But the detection

DOCKET NO. 000121-TP

DATE: August 2, 2001

of disparity for any component CLEC is important, so the relevant "overall" delta should be smaller. (TR 670-671)

In addition, Witness Mulrow is asked about a statement in the report that a "fixed delta might be fine across individual CLECs where currently in Louisiana the CLEC customer bases are not too different." Witness Mulrow maintains that the statement means that a fixed delta might be reasonable if the CLECs serve similar types of customers, and thus have similar types of transactions. He continues to maintain, however, that sample size should not affect the selection of a delta value, and attributes the confusion to a bad job of cutting and pasting. (TR 669-674)

The ALEC Witnesses offer considerable testimony in opposition to the position taken by Witness Mulrow. First, Z-Tel Witness Ford disputes testimony by Witness Mulrow that the decision to use a lower delta value for Tier 2 in Louisiana is related to the masking which can occur in aggregating results across ALECs. (Ford TR 1176) Witness Ford contends that the real reason is that sample sizes are inherently larger for Tier 2, and a lower delta reduces the Balancing Critical Value, which protects the integrity of the statistical test of parity. (TR 1176-1177)

Witness Ford also believes that there are perverse consequences from balancing with large sample sizes. (TR 1151) ALEC Coalition Witness Bell also believes that balancing has some limitations for large samples. (TR 1107) Under his proposed delta function, Witness Ford maintains that these difficulties are mitigated. In particular, he states:

The most important aspect of my proposal on the choice of delta is that once the statistical errors get so small that the errors have no real impact on the over or underpayment of penalties, then we should adhere more closely to a strict test of equality because the balancing procedure forces us to deviate from a true test of equality, an undesirable consequence of the approach. (TR 1192)

Witness Ford explains that a standard statistical test which does not employ error balancing takes into account the imprecision

DOCKET NO. 000121-TP

DATE: August 2, 2001

inherent in an estimate. This imprecision is quite pronounced at small sample sizes, but at large sample sizes, the estimate is much more precise. Failure to consider sample size in setting a delta value results in greater error at large sample sizes than would occur under a standard statistical test. (Ford TR 1205-1206)

BellSouth Witness Taylor also has concerns which are related to sample size. For small sample sizes, Witness Taylor states that balancing results in high Type I error, as well as high Type II error. He believes this is problematic since statisticians typically err on the side of a "not guilty" verdict when samples are small, and therefore, tests are not powerful. With very large samples, very small differences can be detected. On the one hand, the difference may not be material in the sense of having any competitive significance, but the difference may be statistically significant and consistent with discrimination. Witness Taylor indicates that he does not mind using a balancing critical value for any sample size. In fact, he does not have a magic number for sample size, but indicates that the sample size and delta should yield a balancing critical value on the order of 1.5, which equates to a Type I error or significance level of about .05. (TR 1255-1257) Under Dr. Mulrow's approach in which sample size is not considered, significance levels could be drastically lower than .05. (Ford TR 1172)

With the exception of the appropriate remedy calculation, staff believes that the appropriate value of delta is the most contentious aspect of the statistical methodology. To make matters more difficult, there is no established method for setting delta, and the decision is largely one of judgment, albeit there are statistical considerations.

Staff believes that much of the dispute is related to conflicting objectives. BellSouth Witness Mulrow states that "those levels of disparity that are lower than the materiality threshold, which is defined by the choice of delta, will not be considered discriminatory." (TR 652) On the other hand, Z-Tel Witness Ford believes that delta is a "necessary evil." (TR 1192) In exchange for the statistical test deviating from a true test of parity, the ALECs receive the benefit of error probability balancing. (Ford TR 1191)

In staff's opinion, Witness Ford advances the correct principle, namely that balancing should be done in a reasonable fashion in order to minimize the deviation from a true test of parity. (TR 1191-1192) Staff recognizes that BellSouth Witness Mulrow's position that balancing should be done in the same fashion (i.e., fixed delta) across all sample sizes is probably rooted in the idea that since balancing assists ALECs at small sample sizes, it is only fair the balancing disadvantage ALECs at larger sample sizes. Staff does not find this rationale compelling. Far more compelling from staff's perspective is the principle advanced by Witness Ford that the Commission should adhere as closely as possible to a strict test of parity, since BellSouth is required to provide non-discriminatory service under the Telecommunications Act of 1996.

Staff recommends that Z-Tel Witness Ford's delta function and recommended parameter values be adopted since this approach will do a better job of achieving our objective than any of the other proposals. Through the delta function, the delta value will be inversely related to the ALEC sample size. This will ensure that balancing will have less practical effect as the sample size increases, minimizing the extent to which the statistical test deviates from a true test of parity. Moreover, Witness Ford's delta function covers the range of delta values proposed by the various parties in this proceeding. Finally, and importantly, Witness Ford's proposal is inherently applicable to Tier 1 and Tier 2, since delta is a function of sample size.

3. What is the appropriate remedy calculation?

As mentioned previously, this aspect is extremely contentious since BellSouth and the ALEC Coalition have proposed radically different remedy calculations. BellSouth is recommending transaction-based remedies, while the ALEC Coalition is advocating measure-based remedies. Under BellSouth's transaction-based remedy plan, a payment would be made based on some estimate of the number of discriminatory transactions for a measure and the type of measure. (EXH 16, DAC-6) Under the ALEC Coalition's measure-based remedy plan, payments would be made based on a finding of discrimination for the measure, which would be independent of the number of transactions and the type of measure. (Bursh TR 961-965, 968-972) Both plans purport to address the severity and duration of the discrimination, and the ALEC

Coalition Plan includes a market penetration adjustment for Tier 2. As will be discussed below, both remedy plans are problematic in certain respects. In addition, no real empirical data has been presented which can serve as a basis for the penalty amounts under either plan. Consequently, most of the criticisms of both plans are theoretical in nature.

Assuming the goal is to ensure that BellSouth has an economic incentive to comply with performance standards, BellSouth Witness Taylor believes that the size of the penalty payments should be calibrated to the seriousness of the performance disparities. (TR 1230-1231) He goes on to explain that the economic value should be based mostly on business judgment initially and refined based on experience. For those performance disparities that cross the materiality threshold, he believes that the next step should be to determine what portion of the transactions suffer from "statistically significant and material performance disparities." Witness Taylor alleges that BellSouth is the only party that attempts to make such a calculation. Lastly, the number of affected transactions is multiplied by a per-transaction penalty. (Taylor TR 1231-1232)

Witness Taylor believes that the penalties in the ALEC Coalition plan are "arbitrary, unrelated to performance metrics or transactions, and unrelated to the economic importance of observed performance disparities." (TR 1232) While he acknowledges that BellSouth's proposed penalties are in some sense arbitrary, he believes that the BellSouth plan is more rational. In particular, Witness Taylor believes that the BellSouth plan recognizes the type of transaction, the estimated economic seriousness of the violation, and the duration of the violation. (TR 1233) In contrast, he believes that the ALEC plan attempts to determine severity based on statistical criteria and does not correlate the size of the penalty with the economic harm. (TR 1233-1234) According to Witness Taylor, not all functions or performance metrics have the same economic value. (TR 1227)

Witness Taylor goes on to discuss the consequences of setting penalties without regard to the economic significance of the disparity. He indicates that a statistical decision rule will not reflect the expected economic gain or loss from the disparity. (TR 1239) As a result, one party may attempt to game

DOCKET NO. 000121-TP

DATE: August 2, 2001

the system. The Witness defines one type of gaming known as moral hazard as follows:

. . . moral hazard is a form of gaming by which one party to a plan or contract may act in ways -- within the framework of the existing plan -- that allow it to gain an unanticipated competitive or financial advantage at the expense of the other party. (TR 1239)

Moral hazard-based behavior could manifest itself in several ways such as rewarding lack of cooperation, maximizing opportunities for unearned income by ALECs, discouraging investment by ALECs, encouraging inefficient entry, and encouraging entrapment. (Taylor TR 1240) Witness Taylor believes that the "single best protection against gaming is to de-link the size of penalties for specific performance disparities from the statistical methodology used to test for those disparities." (TR 1241)

ALEC Coalition Witness Bursh criticizes BellSouth's transaction-based remedy payments as minimizing BellSouth's liability when competition is at an "embryonic" level. (Bursh TR 994). In addition, Z-Tel Witness Ford believes that a transaction-based approach will favor large ALECs. (TR 1163)

ALEC Witnesses Bell, Bursh, and Ford take great issue with BellSouth's parity gap and affected volume calculations. As will be described below, these Witnesses believe BellSouth's approach for determining the number of adversely affected transactions is conceptually flawed. Even BellSouth Witnesses Mulrow and Taylor acknowledge that in estimating the number of discriminatory transactions, BellSouth proposes to estimate the portion of transactions for which disparate service was detected, rather than the number of transactions that did not receive parity service. (Mulrow TR 697; Taylor TR 1258-1259) Witness Taylor mentions that he does not have a better way of doing the calculation and admits that this notion of affected transactions is not a clear concept. Nonetheless, he believes the calculation is "roughly right" in that the resultant penalties should be sufficient to deter discriminatory behavior. (TR 1259)

While unsure how to correct the problem, ALEC Coalition Witness Bursh believes there is something terribly inappropriate about paying remedies on only a portion of the violations. She

DOCKET NO. 000121-TP

DATE: August 2, 2001

cites an example in which there were remedy payments for only 29 of 96 violations. (Bursh TR 1050)

ALEC Coalition Witness Bell states that he does not understand BellSouth's rationale for the affected volume calculation. (TR 1112) He goes on to state that under BellSouth's plan, remedies are paid on the number of transactions beyond the point where BellSouth is found out of compliance, rather than beyond parity. (TR 1115) Witness Bell believes the proper concept is that once BellSouth is determined to be out of compliance, the question should be how far has BellSouth deviated from parity. (TR 1114) To illustrate his concept, Witness Bell provides an analogy where a driver is stopped for speeding, traveling 77 miles per hour in a 65 miles per hour zone. While speeders may not be stopped unless they are going at least ten miles an hour over the limit, the fine is predicated on the driver being 12 miles per hour over the limit. He believes that BellSouth's parity gap calculation is analogous to only being judged out of compliance by two miles per hour. (TR 1113)

Z-Tel Witness Ford find the parity gap calculation problematic in several respects. First, he provides two examples in which the average time in which BellSouth provides service to the ALEC is the same, but the distribution about the average is quite different. The parity gap is the same for both examples, but in one case 10% of the transactions are actually discriminatory, while in the other case, all of the transactions are discriminatory. Witness Ford finds it very odd that the parity gap calculation would produce the same result when the form of discrimination is so different. He also notes that BellSouth's proposal to truncate the parity gap at 100% is further evidence that the parity gap cannot be a measure of transactions. If the parity gap truly measured transactions, the parity gap could not exceed 100%, and there would be no reason for the truncation. (TR 1157) Finally, Witness Ford states that "(e)xactly what the parity gap does measure is unclear, particularly after the truncation procedures, but it does not appear to be a reliable measure of either transactions or severity." (TR 1160) He believes that the parity gap may indicate discrimination or just differences based on sample size. (TR 1160) Furthermore, Witness Ford believes that the parity gap is "not a reliable or consistent measure of how far the means are apart." (TR 1204)

DOCKET NO. 000121-TP

DATE: August 2, 2001

Under the ALEC Coalition's plan, the maximum penalty per measure for Tier 1 is \$25,000 for severe or chronic (three consecutive misses) violations, and the minimum penalty is \$2,500. (Bursh TR 965,1022,1030) Tier 2 penalties are variable multiples of the Tier 1 penalties, which depend on ALEC market penetration. (Bursh TR 962,969,971) The penalties are not sensitive to the type of measure.

Z-Tel Witness Ford supports the ALEC Coalition's proposal for measure-based remedies since he believes that the decision is to discriminate, rather than to discriminate against certain customers. (TR 1158-1159) ALEC Coalition Witness Bursh believes that the penalty amounts should incent BellSouth to comply. According to Witness Bursh, the ALEC Coalition's proposed penalties are designed to provide the appropriate incentive and are not intended to reflect the economic harm to the ALEC, which she believes is nearly impossible to determine. (TR 1024-1025)

In addition to his previous commentary on the arbitrary nature of the ALEC Coalition's proposed penalties, BellSouth Witness Taylor also criticizes the plan on the basis that the statistical certainty of discrimination is not an indicator of severity. He believes that a statistical decision rule can only provide an absolute diagnosis, not a relative one. Stated differently, the statistical decision rule merely indicates that the null hypothesis is true or false. (TR 1225) The statistical decision rule can detect material discrimination, but cannot determine the relative severity of the failure. (Taylor TR 1228)

Witness Taylor explains that "a z-score that is twice as distant from a critical value than another could easily be for reasons other than simply that one of the performance means is twice as large as the other." According to Witness Taylor, z-scores are influenced by "the mean performance when BellSouth serves itself, the mean performance when BellSouth serves the ALEC, the standard deviations for both, and the number of measurements made in each case." (TR 1226)

By using the same method to detect discrimination and measure its severity, Witness Taylor believes that the ALEC Coalition's Plan confuses the degree of certainty with the degree of severity. (TR 1251) Even ALEC Coalition Witness Bursh acknowledges that the penalties escalate as the statistical

certainty of discrimination increases. (TR 1050) Staff agrees with BellSouth's Witness Taylor's assessment that the statistical decision rule is not helpful in assessing severity.

Unfortunately, both the BellSouth remedy plan and the ALEC Coalition remedy plan appear to do a poor job of estimating the extent of any discrimination in staff's opinion. As discussed above, the BellSouth plan is predicated on parity gap and affected volume calculations that are very questionable, and the ALEC Coalition plan confuses statistical certainty with severity. Staff Witness Stallcup does note that apart from the level of disaggregation affecting the statistical evaluation, the best parts of both plans could be combined into some sort of hybrid remedy plan. (TR 114-115) ALEC Coalition Witness Bell also observes that a different remedy plan, other than the one proposed by BellSouth, could be used with the truncated Z. (TR 1122)

Since, in our opinion, there are fundamental flaws in both the BellSouth and ALEC Coalition remedy plans, staff believes it has no choice but to recommend a remedy plan which incorporates the better features of the two. First, staff believes that the remedy plan must at least initially be measure-based, given what we believe to be serious issues with BellSouth's parity gap and affected volume calculations. Over time, it may be possible to evolve to a transaction-based system, with a minimum payment, an idea mentioned by Z-Tel Witness Ford. (TR 1181) If the issues with BellSouth's parity gap and affected volume calculations can be solved through the periodic review process, staff believes that transaction-based remedies, with a minimum payment provision, would be preferable in concept. For now, however, staff sees no choice but to recommend that a measure-based remedy plan be adopted.

Staff notes that BellSouth's recommended remedy payment per affected item varies depending on the measure, while the ALEC Coalition's recommended remedy payment per failed measure does not vary according to the type of measure. In concert with BellSouth Witness Taylor's testimony, staff believes that economic importance is a relevant consideration in setting remedy payments. By the same token, staff acknowledges ALEC Coalition Witness Bursh's testimony, that the economic cost to ALECs is almost impossible to pinpoint. In addition, staff believes that

DOCKET NO. 000121-TP

DATE: August 2, 2001

certain measures are intrinsically more important in that success or failure in meeting the standard more directly affects end use customers.

Based on the above considerations, staff believes that the remedy payments should vary by measure. Unfortunately, no empirical evidence was offered by any party to this proceeding, which can be used to set remedy payments. As a result, the relative relationships between the various BellSouth proposed remedy payments provide the only quantitative basis for differentiating remedy payments by measure.

BellSouth and the ALEC Coalition both address chronic failures, but in slightly different ways. Under the ALEC Coalition Plan, a chronic failure is defined as three consecutive monthly misses and calls for a \$25,000 payment under Tier 1. (Bursh TR 965) BellSouth proposes a sliding scale of remedy payments for Tier 1, in which the penalty increases for successive months of non-compliant performance. (EXH 16, DAC-6, p.2)

BellSouth proposes separate schedules of remedies for Tier 1 and Tier 2. (EXH 16, DAC-6, p.2) Also, under BellSouth's proposal, Tier 2 penalties are assessed after three consecutive months of violations. (Coon TR 272-273) In contrast, the ALEC Coalition recommends that Tier 2 remedies be a multiple of "n" greater than the Tier 1 remedies. The value for "n" is a function of the ALEC market penetration levels and varies from 1 to 10. (Bursh TR 971)

Given staff's recommendation to vary remedy payments by measure, and in view of the fact that BellSouth's recommended remedies, per affected item, vary by type of measure, tier, and duration, staff believes that these relationships could be used to deaverage the ALEC Coalition's recommended \$2,500 minimum payment per failed measure. In general, the easiest way to implement this concept would be to apply a multiplier to BellSouth's remedy tables for Tier 1 and Tier 2 to convert to measure-based penalties. A problem will arise, however, for certain measures where the volumes are expressed in very different units, as compared to other measures. For most measures, the volumes are expressed in terms of end user orders. This is true for pre-ordering, ordering, provisioning, maintenance and repair, and LNP. This is not the case for

billing, change management, interconnection trunks, and collocation.

Based on the above considerations, staff recommends that BellSouth be directed to develop a remedy plan which includes certain features. Remedies should be measure-based, rather than transaction-based, and should vary by type of measure and duration for Tier 1, and type of measure for Tier 2. The relative relationships between the various measure-based remedy payments should be consistent with the relative relationships between the various BellSouth proposed, transaction-based remedy payments. Tier 1 remedies should be set such that the average Month 1 remedy approximates the \$2,500 minimum payment recommended by the ALEC Coalition. Tier 2 remedies should be applicable after three consecutive months of violations, as proposed by BellSouth.

Staff is recommending approximately 825 levels of disaggregation for Tier 1 compliance reporting and penalties in Issue 2b. Further, at the time of the hearing in this docket, 92 CLECs had access to Florida PMAP data. (EXH 3, p. 52) Assuming an average remedy payment of \$2,500 for Month 1, various scenarios of total monthly payments by BellSouth under Tier 1 can be developed. One awkward aspect of developing scenarios, however, is that the typical ALEC will have transactions in only some of the 825 levels. If the typical ALEC has transactions in only 100 levels, which staff believes is a high-end estimate, and there is a 10% failure rate, BellSouth's total monthly payment for Tier 1 would be \$2,300,000 ((92 ALECs)(100 levels)(10%)(\$2,500 average)).

4. What is the appropriate benchmark table for small sample sizes?

With small samples, the parties agree that some consideration must be given to random variation which may make it difficult for BellSouth to meet a benchmark which is expressed as a certain percentage of transactions being completed in a specified time. BellSouth Witnesses Coon and Mulrow advocate a statistical approach based on a 95% confidence interval. (EXH 16, DAC-6, p.7; Coon TR 271-272; Mulrow TR 696) ALEC Coalition Witness Bursh advocates a non-statistical approach, wherein the allowable number of missed transactions is rounded up to the next

whole number. (EXH 25,CLB-2,p.1) For example, in the case of four transactions, an adjustment would be made to allow BellSouth to miss one transaction and still be considered in compliance with a 95% benchmark. (Bursh TR 1034-1037) Witness Bursh believes that this approach is appropriate because some mitigation has been provided by defining the benchmark at 95%, rather than 100%. (TR 1047) Z-Tel Witness Ford also believes that there should not be any statistical adjustments to the benchmarks in the case of small sample sizes. He believes that the rounding up approach sponsored by Witness Bursh is reasonable. (Ford TR 1201)

Since the benchmarks are set in a way that does not require perfection, staff believes that the rounding up approach advocated by ALEC Coalition Witness Bursh could be used. Staff notes that such an approach would be simpler. Nonetheless, staff believes that BellSouth's recommended approach is more defensible since it incorporates random variation in a statistically sound manner. To illustrate the difference in the two approaches, consider the case where there are 20 transactions for a particular measure, and the benchmark is expressed as 95% of the transactions being completed in 24 hours. If 18 of the 20 transactions (90%) are completed in 24 hours, this would be considered non-compliant performance under the ALEC Coalition Plan, and compliant performance under BellSouth's Plan. Staff believes that BellSouth's approach takes into consideration that its typical performance can meet the 95% standard, yet be higher or lower for a small sample because of random variation. On this basis, staff believes that BellSouth's recommended benchmark table should be adopted for small samples.

5. Should there be a floor on the balancing critical value?

ALEC Coalition Witness Bell and Z-Tel Witness Ford both believe that there should be a floor on the balancing critical value in certain situations. Witness Bell supports use of a floor if the delta value is greater than .25 and also sees merit in using either a floor for large sample sizes or the delta function. (TR 1082,1094). Similarly, Witness Ford believes that a floor is needed, or the delta value should be a function of sample size. (TR 1151-1156)

DOCKET NO. 000121-TP

DATE: August 2, 2001

In contrast, BellSouth Witness Mulrow does not believe a floor is appropriate since this would artificially and arbitrarily reduce the materiality level. (TR 624) He explains that when sample sizes are small, balancing results in significance levels that are much larger than conventionally used, which gives the benefit of the doubt to the ALEC. When sample sizes are large, the reverse is true, and the data should show a material difference, not simply a conventionally significant difference. (Mulrow TR 656-657)

In view of staff's recommendation to adopt Z-Tel Witness Ford's delta function, there is no need to place a floor on the balancing critical value. Indeed, Witness Ford acknowledges that either a floor is needed or the delta function should be used. (TR 1154-1156) Therefore, based on staff's recommendation on Issues 11.c.2 and 12.c.2, there should not be a floor on the balancing critical value.

DOCKET NO. 000121-TP

DATE: August 2, 2001

ISSUE 13: When should BellSouth be required to make payments for Tier 1 and Tier 2 noncompliance, and what should be the method of payment?

RECOMMENDATION: BellSouth should be required to make payments for Tier 1 and Tier 2 noncompliance by check, by the 30th day following the due date of the performance measurement report, for the month in which the obligation arose. **(SIMMONS)**

POSITIONS OF THE PARTIES:

BST: Both Tier 1 and Tier 2 payments should be by check, with Tier 1 payments to the affected ALEC and Tier 2 payments to the Florida State Treasury. For both Tiers, payment should be rendered at the end of the second month after the month for which penalties are due.

ALEC: BellSouth should be required to make payment for Tier 1 and Tier 2 noncompliance by the 15th business day following the due date of the data and the reports upon which the remedies are based. Payments should be made in the form of a check.

Z-TEL: Z-Tel adopts the position of the ALEC Coalition.

STAFF ANALYSIS:

As a backdrop, staff notes that the parties presented relatively little testimony on this issue.

Staff Witness Stallcup and BellSouth Witness Coon provide similar proposals. According to Witness Stallcup, payment should be made by the 30th day following the due date of the performance measurement report for the month in which the obligation arose. (EXH 13) Witness Coon believes that payment should be made by check, by the end of the second month following the month for which disparate treatment was detected. (TR 280) The essential difference in the two proposals is that Witness' Stallcup believes that performance measurement reports should be due by the 20th calendar day of the month, whereas Witness Coon believes that the reports should be due by the 30th calendar day of the month, for

DOCKET NO. 000121-TP

DATE: August 2, 2001

the preceding month. (EXH 13, Coon TR 253) Both Witnesses advocate roughly a month between the due date for the reports and the due date for payment of any obligations arising from the reports. Finally, ALEC Coalition Witness Bursh believes that payments for Tier 1 and Tier 2 noncompliance should be made by the 15th business day following the due date for the reports. (TR 984)

Based on the limited testimony, staff believes that there is more sentiment towards having a month or 30 days between the due date for the reports and the due date for payment of any obligations arising from the reports. Given that the number of days in a month can vary between 28 and 31, staff prefers that the interval be expressed as 30 days. Finally, staff notes that the parties agree on making payments by check.

Therefore, staff recommends that BellSouth should be required to make payments for Tier 1 and Tier 2 noncompliance by check, by the 30th day following the due date of the performance measurement report, for the month in which the obligation arose.

DOCKET NO. 000121-TP

DATE: August 2, 2001

ISSUE 14a: Should BellSouth be required to pay interest if BellSouth is late in paying an ALEC the required amount for Tier 1?

RECOMMENDATION: Staff recommends the Commission approve the stipulated position of the parties.

STIPULATED POSITION OF THE PARTIES: Yes.

STAFF ANALYSIS: Staff recommends approval of the stipulated position, which was agreed to by BellSouth, AT&T, e.spire, FCTA, Worldcom, KMC, Covad, Mpower, Z-tel, Time Warner and IDS, and filed in this docket as document number 09141-01.

DOCKET NO. 000121-TP

DATE: August 2, 2001

ISSUE 14b: If so, how should the interest be determined?

RECOMMENDATION: Staff recommends the Commission approve the stipulated position of the parties.

STIPULATED POSITION OF THE PARTIES: B[ell]S[outh] should be required to pay the ALEC interest at a rate of six percent simple interest (at a rate of six percent simple interest per annum) for each day after the due date that B[ell]S[outh] fails to pay the ALEC.

STAFF ANALYSIS: Staff recommends approval of the stipulated position, which was agreed to by BellSouth, AT&T, e.spire, FCTA, Worldcom, KMC, Covad, Mpower, Z-tel, Time Warner and IDS, and filed in this docket as document number 09141-01.

DOCKET NO. 000121-TP

DATE: August 2, 2001

ISSUE 15: Should BellSouth be fined for late payment of penalties under Tier 2? If so, how?

RECOMMENDATION: BellSouth has voluntarily agreed to a payment to the Commission of \$1,000 per day, to be deposited in the State's General Revenue Fund, for each day that payment is late under the Tier 2 enforcement mechanism. (HALLENSTEIN)

POSITIONS OF THE PARTIES:

BST: No. BellSouth should not be subjected to a fine (in other words, an involuntary payment) for the late payment of penalties under Tier 2. However, BellSouth has voluntarily agreed to a payment to the Commission of \$1,000 per day for each day that payment is late.

ALEC: Yes. If BellSouth fails to make payment by the 15th business day following the due date of the data and reports that the payment is based upon, BellSouth should be liable for accrued interest for every day that the payment is late. Interest should be calculated in the same manner as the late payment for Tier 1 measures.

Z-TEL: Z-Tel adopts the position stated by the ALEC Coalition.

STAFF ANALYSIS: This issue addresses whether BellSouth should be held liable for failure to make payments by the due date under the Tier 2 enforcement mechanism.

Argument

In its brief, BellSouth argues that the ALECs' position is unnecessarily complex as well as arbitrary. BellSouth further points out that, in Florida, BellSouth is no longer subject to rate of return regulation, but rather to the form of alternative regulation described in Section 364, Florida Statutes. BellSouth contends that the ALEC proposal not only contains an overly complex calculation, but also that it is based on an anachronistic view of the status of regulation in Florida. (BST BR 56)

DOCKET NO. 000121-TP

DATE: August 2, 2001

BellSouth Witness Coon proposes that "BellSouth make a voluntary payment to the Commission of \$1,000 per day for each day after the due date that BellSouth fails to pay under the Tier 2 Enforcement Mechanism." (TR 281) With the exception of BellSouth's payment being voluntary as opposed to an involuntary penalty or a fine, staff Witness Stallcup agrees with BellSouth's proposal. (Exhibit 13, p. 7) Both witnesses agree that \$1,000 per day is appropriate and should be deposited into the State General Revenue Fund.

Witness Bursh states, "[i]f the ILEC fails to remit a consequence payment . . . then it should be liable for accrued interest for every day the payment is late." (TR 984) She further states that the interest should be calculated at "[a] per diem interest rate that is equivalent to the ILEC's rate of return for its regulated services for the most recent reporting year." (TR 984) However, in its brief, the ALEC Coalition states, "[i]nterest should be calculated in the same manner as the late payment for Tier 1 measures." (ALEC BR 62) In Issue 14b, the parties to this docket stipulated that BellSouth would pay the ALECs interest at a rate of six percent simple interest per annum for each day after the due date for the Tier 1 enforcement mechanism.

Analysis

Based upon the evidence and the argument presented by the ALECs, staff concurs with BellSouth's position. It is unclear to staff as to which method of payment the ALECs prefer—a per diem interest rate equivalent to BellSouth's rate of return or a six percent simple interest rate as stipulated in Issue 14b.

As asserted by BellSouth in its brief, BellSouth is no longer subject to rate of return regulation in Florida. Hence, it is not possible to set an interest rate equivalent to BellSouth's rate of return. (BST BR 56)

Staff also believes the calculation of a six percent simple interest rate would be unnecessarily complex. The ALECs would not benefit from customizing each payment amount since the payments under the Tier 2 enforcement mechanism would be made to the Commission for deposit in the State's General Revenue Fund. As observed in BellSouth's brief, the \$1,000 per day payment for

DOCKET NO. 000121-TP

DATE: August 2, 2001

each day past the due date is a finite amount, simple to determine, and easy to administer. (BST BR 56)

Conclusion

BellSouth has voluntarily agreed to a payment to the Commission of \$1,000 per day, to be sent to the Commission for deposit in the State's General Revenue Fund, for each day that payment is late under the Tier 2 enforcement mechanism.

DOCKET NO. 000121-TP

DATE: August 2, 2001

ISSUE 16: What is the appropriate process for handling Tier 1 disputes regarding penalties paid to an ALEC?

RECOMMENDATION: If an ALEC disputes the amount paid under Tier 1 enforcement mechanisms, the ALEC should submit a written claim to BellSouth within 60 days after the payment due date. BellSouth should investigate all claims and provide the ALEC with written findings within 30 days after receipt of the claim. If BellSouth determines the ALEC is owed additional amounts, BellSouth should pay the ALEC such additional amounts within 30 days after its findings along with six percent simple interest per annum. However, the ALEC should be responsible for all administrative costs associated with resolution of disputes that result in no actual payment. Administrative costs are all expenses that are incidental in nature and reasonably incurred in the resolution of the disputed matter. Such costs would include, but not be limited to, postage, travel and lodging, communication expenses, and legal costs. If BellSouth and the ALEC are unable to reach a mutually agreeable settlement pertaining to the amount disputed, the Commission should settle the dispute. If Commission intervention is required, the dispute should be settled through mediation conducted by staff. (HALLENSTEIN)

POSITIONS OF THE PARTIES:

BST: BellSouth generally concurs with the proposal set forth in Mr. Stallcup's Strawman proposal. BellSouth also proposes the addition of provisions to discourage the submission of frivolous disputes.

ALEC: When an ALEC and BellSouth are unable to reach a mutually agreeable settlement pertaining to the amount of remedies owed by BellSouth the Commission should settle the dispute.

Z-TEL: Z-Tel adopts the position stated by the ALEC Coalition.

STAFF ANALYSIS: This issue addresses how to treat disputes that emerge from the penalties paid by BellSouth under the Tier 1 enforcement mechanism.

Argument

As stated in BellSouth's Witness Coon's testimony, BellSouth generally agrees with the proposal attached to the testimony of Witness Stallcup, whereby the ALECs may seek additional remedies from BellSouth if the amounts paid under the Tier 1 enforcement mechanism are in question. (TR 282; Exhibit 13, p. 7) However, BellSouth proposes that the dispute process add a provision to discourage the submission of frivolous disputes. Frivolous disputes, as defined by Witness Coon, are those disputes, "where the amount in dispute is negligible or where it is consistently determined that the penalty is correct." (TR 282)

As stated in its prehearing statement, the ALEC Coalition also agrees with the proposal attached to the testimony of Witness Stallcup, whereby the ALECs may seek additional remedies from BellSouth if the amounts paid under the Tier 1 enforcement mechanism are in question. (Exhibit 13, p. 7) However, since the proposal includes a provision for the ALECs to bear the responsibility for all administrative costs associated with resolution of disputes that result in no actual payment, the ALEC Coalition requests for staff to further define "administrative costs." (ALEC BR 63) In addition, the ALECs cite the provision for the Commission to settle disputes if BellSouth and the ALEC are unable to reach a mutually agreeable settlement pertaining to the amount disputed. (ALEC BR 63)

Analysis

Based upon the positions presented by both BellSouth and the ALEC Coalition, staff believes there is little to debate regarding this issue. Both parties agree to the dispute process outlined in Witness Stallcup's proposal, with the exception of the parties' request for additional provisions and clarifications to be included in the proposal.

BellSouth requests for an additional provision to discourage the submission of frivolous disputes. Staff notes that the current proposal's provision for ALECs to bear the responsibility for "all administrative costs associated with resolution of disputes that result in no actual payment" fulfills BellSouth's request for a provision to discourage the ALECs from submitting frivolous disputes. As requested by the ALEC Coalition, staff defines administrative costs as all expenses that are incidental in nature and reasonably incurred in the resolution of the

DOCKET NO. 000121-TP

DATE: August 2, 2001

disputed matter. Such costs would include, but not necessarily be limited to: postage, travel and lodging, communication expenses, and legal costs. The ALEC Coalition agrees with Witness Stallcup's provision for the Commission to settle disputes if the parties are unable to mutually agree on the disputed settlement amount. (Exhibit 13, p. 8) Staff concurs with this position.

Conclusion

If an ALEC disputes the amount paid under Tier 1 enforcement mechanisms, the ALEC should submit a written claim to BellSouth within 60 days after the payment due date. BellSouth should investigate all claims and provide the ALEC written findings within 30 days after receipt of the claim. If BellSouth determines the ALEC is owed additional amounts, BellSouth should pay the ALEC such additional amounts within 30 days after its findings along with six percent simple interest per annum. However, the ALEC should be responsible for all administrative costs associated with resolution of disputes that result in no actual payment. Administrative costs are those reasonable costs incurred in the resolution of the disputed matter. Such costs would include, but not be limited to, postage, travel and lodging, communication expenses, and legal costs. If BellSouth and the ALEC are unable to reach a mutually agreeable settlement pertaining to the amount disputed, the Commission should settle the dispute. If Commission intervention is required, the dispute should be settled through mediation conducted by staff.

DOCKET NO. 000121-TP

DATE: August 2, 2001

ISSUE 17: What is the appropriate mechanism for ensuring that all penalties under Tier 1 and Tier 2 enforcement mechanisms have been paid and accounted for?

RECOMMENDATION: At the end of each calendar year, an independent accounting firm, mutually agreeable to the Commission and BellSouth, should certify that all penalties under Tier 1 and Tier 2 enforcement mechanisms were paid and accounted for in accordance with Generally Accepted Accounting Principles. Furthermore, staff contends that these audits should be performed based upon valid audited data of BellSouth's performance measures. (HALLENSTEIN)

POSITIONS OF THE PARTIES:

BST: BellSouth agrees with the proposal set forth in the testimony of Mr. Stallcup.

ALEC: The Commission should have an independent auditing and accounting firm certify, on a random basis, that all the penalties under Tier 1 and Tier 2 Enforcement Mechanisms are properly and accurately assessed and paid in accordance with Generally Accepted Accounting Principles.

Z-TEL: Z-Tel adopts the position stated by the ALEC Coalition.

STAFF ANALYSIS: This issue inquires into the process of ensuring that the penalties paid by BellSouth under Tier 1 and Tier 2 Enforcement Mechanisms are properly accounted for.

Argument

BellSouth agrees with the proposal attached to the testimony of Witness Stallcup, whereby at the end of each calendar year, BellSouth will have its independent accounting firm certify that all penalties under Tier 1 and Tier 2 enforcement mechanisms were paid and accounted for in accordance with Generally Accepted Accounting Principles. (Exhibit 13, p.7)

In its brief, BellSouth argues that conducting audits on a random basis, as proposed by the ALECs, versus a scheduled annual audit could result in multiple audits annually or audits "done in

a manner that would otherwise create an administrative burden."
(BST BR 57)

The ALEC Coalition agrees that an independent accounting firm should certify that all penalties under Tier 1 and Tier 2 enforcement mechanisms were paid and accounted for in accordance with Generally Accepted Accounting Principles. However, the ALEC Coalition believes the independent accounting firm should be selected by the Commission and further proposes that the audits be conducted randomly rather than on an annual basis. (TR 980) In its brief, the ALEC Coalition argues that having to wait 12 months for validation of BellSouth's remedy payments could have "devastating consequences" for some ALECs. (ALEC BR 64)

Analysis

Staff concurs with BellSouth's position regarding audits being conducted on an annual basis to ensure that all the penalties under Tier 1 and Tier 2 enforcement mechanisms are properly and accurately assessed. Staff found no substantial evidence in the ALECs' testimony to support the need for random audits. However, staff concurs in part with the ALECs position that an independent accounting firm should be selected by BellSouth and confirmed by the Commission. Furthermore, staff contends that these audits should be performed subsequent to the annual audits of BellSouth's performance measures recommended in Issue 24 to ensure that payments made under the Tier 1 and Tier 2 enforcement mechanisms are based on valid data.

Conclusion

At the end of each calendar year, an independent accounting firm, mutually agreeable to the Commission and BellSouth, should certify that all penalties under Tier 1 and Tier 2 enforcement mechanisms were paid and accounted for in accordance with Generally Accepted Accounting Principles. Furthermore, staff recommends that these audits should be performed based upon valid audited data of BellSouth's performance measures.

DOCKET NO. 000121-TP

DATE: August 2, 2001

ISSUE 18: What limitation of liability, if any, should be applicable to BellSouth?

RECOMMENDATION: Staff recommends that BellSouth not be held liable for performance measure failures resulting from circumstances beyond BellSouth's control. Staff recommends the following limitations of liability:

1) BellSouth will not be responsible for an ALEC's acts or omissions that cause performance measures to be missed or failed, including, but not limited to, accumulation and submission of orders at unreasonable quantities or times or failure to submit accurate orders or inquiries. BellSouth shall provide the ALEC with reasonable notice of such acts or omissions or provide the ALEC with any such supporting documentation.

2) BellSouth shall not be obligated for penalties under Tier 1 or Tier 2 Enforcement Mechanisms for noncompliance with a performance measure if such noncompliance was the result of an act or omission by the ALEC that was in bad faith.

3) BellSouth shall not be obligated for penalties under Tier 1 or Tier 2 Enforcement Mechanisms for noncompliance with a performance measurement if such noncompliance was the result of any of the following: a Force Majeure event; an act or omission by a ALEC that is contrary to any of its obligations under the Act, Commission rule, or state law; or an act or omission associated with third-party systems or equipment.

In addition to these specific limits of liability, staff notes that BellSouth may petition the Commission to consider a waiver based upon other circumstances. (VINSON)

POSITIONS OF THE PARTIES:

BST: BellSouth agrees with the staff Strawman proposal, which includes limitations of liability for events such as the submission of orders in unreasonable quantities, findings of noncompliance that are attributable to an ALEC, and an ALEC's noncompliance with its interconnection agreement.

DOCKET NO. 000121-TP

DATE: August 2, 2001

ALEC: ALECs do not support an absolute limitation on BellSouth's liability. Rather, ALECs propose a procedural cap that, when reached, would allow BellSouth to seek regulatory review of the remedy payments that are due.

Z-TEL: Z-Tel adopts the position of the ALEC Coalition.

STAFF ANALYSIS: This issue addresses whether there are certain instances in which BellSouth should not be held liable for performance measure failures, specifically in situations that are beyond BellSouth's control, for example, ALEC acts or omissions.

Argument

Witness Coon agrees with the liability limitations prescribed by staff Witness Stallcup in Exhibit 13. (TR 282-3) Witness Stallcup's proposal states that BellSouth will not be responsible for performance measure failures that result from: ALEC accumulation and submission of orders at unreasonable quantities or times or failure to submit accurate orders, ALEC acts or omissions in bad faith, ALEC acts or omissions contrary to its Interconnection Agreement, the Act, Commission rule, or state law. Witness Stallcup's proposal also would limit BellSouth liability stemming from Force Majeure events and acts or omissions associated with third-party systems or equipment.

While ALEC Witness Bursh endorses a procedural liability cap, her testimony does not specifically address the above conditions that would trigger liability limitations. (TR 973)

Analysis

Staff agrees with the liability limitations proposed by staff Witness Stallcup in Exhibit 13. Otherwise, ALECs could benefit from their own failure to perform or from "gaming" the enforcement plan by intentionally seeking to cause BellSouth to fail to meet measurement standards or benchmarks. Staff also agrees that BellSouth should not be liable for the effects of a Force Majeure event or the results of acts or omissions related to third-parties' systems or equipment.

Conclusion

Staff recommends adoption of the limitations of BellSouth liability listed in Witness Stallcup's proposal as follows:

DOCKET NO. 000121-TP
DATE: August 2, 2001

1) BellSouth will not be responsible for an ALEC's acts or omissions that cause performance measures to be missed or failed, including, but not limited to, accumulation and submission of orders at unreasonable quantities or times or failure to submit accurate orders or inquiries. BellSouth shall provide the ALEC with reasonable notice of such acts or omissions or provide the ALEC with any such supporting documentation.

2) BellSouth shall not be obligated for penalties under Tier 1 or Tier 2 Enforcement Mechanisms for noncompliance with a performance measure if such noncompliance was the result of an act or omission by the ALEC that was in bad faith.

3) BellSouth shall not be obligated for penalties under Tier 1 or Tier 2 Enforcement Mechanisms for noncompliance with a performance measurement if such noncompliance was the result of any of the following: a Force Majeure event; an act or omission by a ALEC that is contrary to any of its obligations under the Act, Commission rule, or state law; or an act or omission associated with third-party systems or equipment. (Exhibit 13, pp. 7-8)

In addition to these specific limits of liability, staff notes that BellSouth may petition the Commission to consider a waiver based upon other circumstances.

DOCKET NO. 000121-TP

DATE: August 2, 2001

ISSUE 19a: What type of cap, if any, is appropriate for inclusion in the Performance Assessment Plan?

RECOMMENDATION: Staff recommends that the Commission's Performance Assessment Plan include an absolute annual cap, limiting total annual payments under Tier 1 and Tier 2 as specified in Issue 19b. (VINSON)

POSITIONS OF THE PARTIES:

BST: An absolute cap is appropriate. This cap should be set at 36 percent and should apply annually. There should be no penalties in excess of this cap.

ALEC: ALECs support a "procedural cap" that, when reached, allows BellSouth to seek regulatory review of the remedy payments that are due. BellSouth would continue to make payments into a designated account until the Commission decides if BellSouth has presented sufficient justification for not paying remedies in excess of the procedural cap.

Z-TEL: Z-Tel adopts the position of the ALEC Coalition.

STAFF ANALYSIS: This issue explores the type of overall limit on remedy payments by BellSouth under a Performance Assessment Plan. Such a limit, or cap, would limit the risks of financial harm to BellSouth and to its shareholders.

Argument

All parties agree that a cap is appropriate, but they debate the merits of an absolute cap versus a procedural cap. ALECs state that an absolute cap fails to provide a continuing incentive for BellSouth to perform once the cap is reached. BellSouth considers the more open-ended procedural cap unfair to the ILEC.

Witness Coon argues that only an absolute cap is appropriate with a "self-effectuating" performance assessment plan and that a procedural cap is "not really a cap at all, but rather a threshold that must be reached before the process of setting a

DOCKET NO. 000121-TP

DATE: August 2, 2001

cap begins." (TR 283) In his view, the procedural cap process simply defers and delays the decision of the total of payments at risk.

Witness Coon notes the possibility that payments beyond the procedural cap could eventually be determined by the Commission to have been unwarranted, but that BellSouth may suffer financial harm if not successful in recovering these "overpayments" from ALECs. (TR 284) He recommends that, if the Commission chooses the procedural cap approach, the procedural cap threshold should be set very low and that payments should be suspended until the absolute cap is eventually set by the Commission. (Ibid.) Witness Coon points out that the performance plans in New York, Texas, Kansas and Oklahoma all have annual caps similar to the BellSouth-proposed absolute cap. (TR 275)

ALEC Witness Bursh argues that an absolute cap is unacceptable because of the possibility that BellSouth could choose to retain market share by delivering noncompliant service to ALECs. (TR 973) She further states that an absolute cap implies that once the ILEC's performance deteriorates to a particular level (i.e. reaching the cap), then further deterioration in performance is irrelevant since the penalty cap will have been met. (TR 973)

Witness Bursh takes issue with BellSouth's contention that payments made beyond a procedural cap may be difficult for BellSouth to recover. She states that if the procedural cap is reached "BellSouth should continue to make Tier 2 payments into an interest-bearing registry or escrow account that earns a minimum interest rate as approved by the Commission." (TR 974) She appears to believe that Tier 1 payments beyond the procedural caps should still be paid directly to ALECs rather than into an escrow account. (Ibid.)

Witness Ford concurs with Witness Bursh that an absolute cap is inappropriate because, once the cap is reached, there is no counter-incentive to BellSouth's potential desire to discriminate and impede competition. (TR 1163)

Analysis

As noted in staff's analysis of Issue 4, the record in this case shows that BellSouth agrees in principle to the inclusion of

performance measures and to a concomitant self-executing remedy plan in its interconnection agreements. However, staff believes it is unfair and unrealistic to expect BellSouth to agree to an unlimited penalty total under such a remedy plan. Staff believes that an absolute annual cap is necessary to provide some degree of certainty regarding the potential total of remedy payments by BellSouth.

Staff disagrees with the ALEC and Z-Tel view that performance penalties alone are expected to motivate a Bell company to provide nondiscriminatory OSS access and service for ALECs. Staff notes that in its New York order, the Commission stated:

Most fundamentally, we disagree with a basic assumption made by several commenters: that liability under the Plan must be sufficient, *standing alone*, to completely counterbalance Bell Atlantic's incentive to discriminate. The performance plans adopted by the New York Commission do not represent the only means of ensuring Bell Atlantic continues to provide nondiscriminatory service to competing carriers. In addition to the \$269 million at stake under this Plan . . . Bell Atlantic faces other consequences if it fails to sustain a high level of service to competing carriers, including: federal enforcement action pursuant to section 271(d)(6); liquidated action under 32 interconnection agreements; and remedies associated with antitrust and other legal actions. (FCC 99-404, ¶435)

Further, staff notes that if performance measures results were to indicate that BellSouth's service to ALECs had deteriorated severely, the Commission could require a show cause proceeding to investigate the causes and potential remedies. ALECs would be free to file a complaint with the Commission, as well, in this case.

Conclusion

Staff recommends that the Commission's Performance Assessment Plan include an absolute annual cap, limiting total annual payments under Tier 1 and Tier 2 as specified in Issue 19b.

DOCKET NO. 000121-TP
DATE: August 2, 2001

DOCKET NO. 000121-TP

DATE: August 2, 2001

ISSUE 19b: What is the appropriate dollar value of a cap if applicable?

RECOMMENDATION: Staff recommends the absolute annual cap for Tier 1 and Tier 2 payments be set at 39 percent of BellSouth's annual Florida net operating revenues, based upon the most recently reported ARMIS data. (VINSON)

POSITIONS OF THE PARTIES:

BST: An absolute cap is appropriate. This cap should be set at 36 percent and should apply annually. There should be no penalties in excess of this cap.

ALEC: The 39 percent procedural cap in the Strawman Proposal is reasonable.

Z-TEL: Z-Tel adopts the position of the ALEC Coalition.

STAFF ANALYSIS: This issue addresses how to specify a total remedy cap. All parties agree that the cap should be stated in terms of a percentage of BellSouth's Florida net operating revenues.

Argument

As a percentage of net revenues, the parties' positions on caps range from BellSouth's 36 percent to the ALEC Coalition's 39 percent. Staff Witness Stallcup's proposal suggests a 39 percent procedural cap.

BellSouth Witness Coon states that the cap should be stated in terms of a percentage of BellSouth's Florida net operating revenues, rather than a discrete dollar amount. He recommends an absolute cap of 36 percent of net operating revenues, noting that this is consistent with caps approved by the FCC for Verizon in New York and SBC in Kansas and Oklahoma. (TR 285)

Witness Coon surmises that the 39 percent cap proposed in staff Witness Stallcup's proposal may have been based upon the Bell Atlantic (now Verizon) cap in New York. This cap was

DOCKET NO. 000121-TP

DATE: August 2, 2001

originally set by the New York Commission at 36 percent. It was eventually increased by three percent through fines triggered by major OSS malfunctions that occurred after 271 approval was granted by the FCC. He states the additional three percent is not necessary because similar failures "will not occur in BellSouth." (TR 286)

Witness Coon notes that if the Commission should opt for a procedural cap, this threshold should be set very low. He states that, in this case, the cap should be set "well below what any reasonable absolute cap might be." (TR 284)

Regarding the amount of the cap, Witness Bursh's testimony states that "the procedural cap needs to be set sufficiently high enough so as not to negate the benefits of self-executing remedies." She further states the "39 percent procedural cap in the Strawman Proposal is reasonable." (TR 975)

Analysis

Staff agrees with BellSouth that the cap should be set as a percentage of net revenues, rather than set at a discrete dollar amount. This approach, which was followed in New York, Texas and Georgia, prevents the need to periodically update a specified dollar-amount cap.

Staff notes that BellSouth Witness Coon states that the caps approved to date by the FCC have been based upon a designated year of ARMIS reporting. He stated that basing the cap upon the percentage of either 1999 or 2000 ARMIS net operating revenue would be appropriate, depending upon the availability of the latter. (TR 511)

Staff is uncertain whether staff Witness Stallcup's cap of 39 percent was based upon the New York experience, as posited by Witness Coon. However, staff disagrees with Witness Coon that there can be any certainty that problems similar to those experienced in New York could not occur in Florida. Staff notes that the caps were set at 44 percent in Georgia and 36 percent in Texas. [Exhibit 1, Docket No. 7892-U, Order In re: Performance Measurements For Telecommunications Interconnection, Unbundling And Resale, January 12, 2001, p. 24; Interconnection Agreement-Texas between Southwestern Bell Telephone Company and CLEC (T2A)

DOCKET NO. 000121-TP

DATE: August 2, 2001

010700, p.7] Therefore, staff finds that the 39 percent cap proposed by Witness Stallcup is reasonable.

Conclusion

Staff recommends the absolute annual cap for Tier 1 and Tier 2 payments be set at 39 percent of BellSouth's annual Florida net operating revenues, based upon the most recently reported ARMIS data.

DOCKET NO. 000121-TP

DATE: August 2, 2001

ISSUE 20: What process, if any, should be used to determine whether penalties in excess of the cap should be required?

RECOMMENDATION: Staff does not recommend that penalties in excess of the annual absolute cap be considered by the Commission.
(VINSON)

POSITIONS OF THE PARTIES:

BST: An absolute cap is appropriate. This cap should be set at 36 percent and should apply annually. There should be no penalties in excess of this cap.

ALEC: BellSouth would have the burden of showing, by clear and convincing evidence, that the remedies due in excess of the procedural cap are unwarranted. The Commission would then decide whether and to what extent the amount in excess of the procedural cap should be paid out.

Z-TEL: Z-Tel adopts the position of the ALEC Coalition.

STAFF ANALYSIS: This issue inquires into the procedure for possible remedy payments beyond the cap.

Argument

Witness Bursh contends that "the procedural cap affords BellSouth the opportunity to present the Commission with evidence as to why it should not be required to continue paying remedies even though its performance continues to deteriorate." (TR 993) This appears to place the burden of proof upon BellSouth. Staff Witness Stallcup concurs that BellSouth should bear the burden of proof in allowing for an "expedited hearing." (Exhibit 13, p.8) BellSouth states flatly that no penalty payments in excess of the cap are appropriate and does not address any procedure for considering otherwise.

Analysis

Staff believes that the absolute penalty cap represents a substantial motivation for BellSouth to provide service in compliance with the approved performance measures. Staff notes it

DOCKET NO. 000121-TP

DATE: August 2, 2001

is unlikely that the need to consider payments in excess of the cap would arise. BellSouth would be well served to take effective remedial action long before it is required to forfeit more than one-third of annual Florida net revenues.

As stated in staff's analysis of Issue 19a, should performance measures results indicate that BellSouth's service to ALECs had deteriorated severely, the Commission could require a show cause proceeding to investigate the causes and potential remedies. ALECs would also be free to file a complaint with the Commission, as well, in this case.

As also cited in staff's analysis of Issue 19a, the FCC has stated that performance plan penalties are not intended to be the sole source of motivation for ILECs to provide nondiscriminatory OSS access and service. Therefore, staff does not recommend that the Commission consider requiring penalty payments beyond the 39 percent annual cap.

Conclusion

Staff does not recommend that penalties in excess of the annual absolute cap be considered by the Commission.

DOCKET NO. 000121-TP

DATE: August 2, 2001

ISSUE 21: If there is a cap, for what period should the cap apply?

RECOMMENDATION: Staff recommends that the absolute cap on Tier 1 and Tier 2 payments apply on an annual basis from the effective date of the Performance Assessment Plan as determined in Issue 8. (VINSON)

POSITIONS OF THE PARTIES:

BST: An absolute cap is appropriate. This cap should be set at 36 percent and should apply annually. There should be no penalties in excess of this cap.

ALEC: The procedural cap should apply on a rolling twelve-month basis for the life of the enforcement plan.

Z-TEL: Z-Tel adopts the position of the ALEC Coalition.

STAFF ANALYSIS: This issues considers the timing applicable to the remedy payments cap.

Argument

BellSouth Witness Coon states without elaboration that "an absolute cap should be applied on an annual basis." (TR 286) ALEC Witness Bursh states without elaboration "the procedural cap should apply on a rolling twelve-month basis." (TR 975)

Analysis

Staff concurs with Witness Coon's recommendation of a cap applied on an annual basis. It is simple and consistent with a fixed absolute cap.

The ALEC recommendation of a rolling twelve-month application would be consistent with a procedural cap and an ongoing reassessment each month. However, staff believes this could present a substantial administrative burden that would frustrate the intent of a self-executing plan.

Conclusion

DOCKET NO. 000121-TP

DATE: August 2, 2001

Staff recommends that the absolute cap on Tier 1 and Tier 2 payments apply on an annual basis from the effective date of the Performance Assessment Plan as determined in Issue 8.

DOCKET NO. 000121-TP

DATE: August 2, 2001

ISSUE 22: Should the Performance Assessment Plan include a Market Penetration Adjustment, and, if so, how should such an adjustment be structured?

RECOMMENDATION: No. The Performance Assessment Plan should not include a Market Penetration Adjustment. (SIMMONS)

POSITIONS OF THE PARTIES:

BST: Both penalties [Issues 22 and 23] should be rejected because they would increase penalties under inappropriate circumstances, penalize BellSouth for ALEC's strategic business decisions, and encourage ALECs to improper[ly] "game" the measurement process.

ALEC: Yes. The Tier 2 remedy calculation in the ALEC Plan includes a factor "n" in the calculation. The value of "n" is based on ALEC market penetration levels and decreases as the number of ALEC served lines increases. Thus, as ALEC market penetration increases, Tier 2 payments decrease.

Z-TEL: Z-Tel adopts the position of the ALEC Coalition.

STAFF ANALYSIS: Staff Witness Stallcup advances the concept that advanced and nascent services should receive special treatment under a transaction-based remedy plan, since the normal remedy payments may not provide a sufficient incentive for BellSouth to provide compliant service. He proposes that an adjustment be made for Tier 2 wherein the penalties per failed transaction, for specific measures and offerings, would be trebled if the number of monthly transactions is 100 or less. (EXH 13, TR 61-62)

BellSouth Witness Coon does not support use of a Market Penetration Adjustment. He argues that "[t]his adjustment will unfairly penalize BellSouth for ALECs' business decisions not to include Florida in initial entry level strategies or to target other areas before moving to Florida." (Coon TR 287)

As referenced in Issues 11 and 12, ALEC Coalition Witness Bursh recommends that Tier 2 remedies be a multiple of "n"

DOCKET NO. 000121-TP

DATE: August 2, 2001

greater than the Tier 1 remedies. The value for "n" is a function of the ALEC market penetration levels and varies from 1 to 10. (TR 971)

Staff believes that a Market Penetration Adjustment is inherently unnecessary with a measure-based remedy plan. This is consistent with staff Witness Stallcup's testimony that the adjustment "is intended to assist the development of newer services with relatively low volumes." (TR 61) Under a measure-based remedy plan, low volumes are not an issue since the remedy payment for a failed measure will not be sensitive to volume. Accordingly, staff recommends that the Performance Assessment Plan should not include a Market Penetration Adjustment.

DOCKET NO. 000121-TP

DATE: August 2, 2001

ISSUE 23: Should the Performance Assessment Plan include a Competitive Entry Volume Adjustment, and if so, how should such an adjustment be structured?

RECOMMENDATION: No. The Performance Assessment Plan should not include a Competitive Entry Volume Adjustment. (SIMMONS)

POSITIONS OF THE PARTIES:

BST: Both penalties [Issues 22 and 23] should be rejected because they would increase penalties under inappropriate circumstances, penalize BellSouth for ALEC's strategic business decisions, and encourage ALECs to improper[ly] "game" the measurement process.

ALEC: Yes, if a transaction-based plan is used. Payments on a transaction basis will be too small to incent BellSouth not to discriminate. As a result, nascent services and ALECs in an embryonic stage would be negatively affected. A market penetration adjustment is necessary to address this inadequacy.

Z-TEL: Z-Tel adopts the position of the ALEC Coalition.

STAFF ANALYSIS: Staff Witness Stallcup believes that this feature will "help protect a small ALEC's ability to establish and maintain a presence in the local exchange market." (TR 61) Under his proposal, per-transaction penalty amounts under Tier 1 would be trebled if there are 25 or fewer transactions per month, and doubled if there are 26 to 50 transaction per month, for a given measure. (TR 61) As with the Market Penetration Adjustment, Witness Stallcup is concerned that under a transaction-based remedy system, the normal remedy payments may not provide a sufficient incentive for BellSouth to provide compliant service to ALECs which have a small number of transactions. (TR 62)

ALEC Coalition Witness Bursh and Z-Tel Witness Ford both believe that some sort of adjustment is needed with a transaction-based remedy system to address the small sample problem. (Bursh TR 965-966; Ford TR 1181-1182) With a transaction-based remedy system, Witness Ford believes that a

DOCKET NO. 000121-TP

DATE: August 2, 2001

minimum payment is a better method for correcting the "perverse incentives at small samples." (TR 1181-1182) In addition, Witness Ford notes that the ALEC Coalition's proposed measure-based system also addresses the small sample problem in a reasonable manner. (TR 1182)

While the adjustment is targeted as protection for small ALECs, BellSouth Witness Coon observes that the adjustment is based on the number of transactions. He believes that large ALECs will also benefit since there will be instances where the number of transactions processed for a large company may fall under the thresholds of 25 and 50. Collocation and invoice related measures could be particularly problematic since the very nature of these measures suggests that volumes would be low. (Coon TR 287-289)

Staff believes that BellSouth Witness Coon's criticisms of this proposed feature are very valid. Moreover, under a measure-based remedy plan, low volumes are not an issue since the remedy payment for a failed measure will not be sensitive to volume. Accordingly, staff recommends that the Performance Assessment Plan should not include a Competitive Entry Volume Adjustment.

DOCKET NO. 000121-TP

DATE: August 2, 2001

ISSUE 24a: Should periodic third-party audits of Performance Assessment Plan data and reports be required?

RECOMMENDATION: Yes. Third-party audits of BellSouth's Performance Assessment Plan metrics and reports should be required. The metrics and reports should be audited at a state level unless the data is only reported and collected at a regional level. (HALLENSTEIN)

POSITIONS OF THE PARTIES:

BST: Yes. Third-party audits of Performance Assessment Plan data and reports are appropriate. Because BellSouth's measurement data is produced by a regional system and managed by a regional organization, audits should be conducted regionally whenever possible.

ALEC: Yes. Periodic third-party audits should be required. The audit should cover all reporting procedures and reportable data and should include all systems, processes and procedures associated with the production and reporting of performance measurement results.

Z-TEL: Z-Tel adopts the position stated by the ALEC Coalition.

STAFF ANALYSIS: This issue addresses whether or not third-party audits should be performed on BellSouth's Performance Assessment Plan data and reports.

Argument

As stated in its prehearing statement, BellSouth believes that third-party audits of its Performance Assessment Plan data and reports are appropriate. However, BellSouth argues that the audits should be addressed at regional level as opposed to a state level, as proposed by the ALEC Coalition. BellSouth Witness Coon states:

BellSouth's measurement data is produced by a regional system and managed by the same regional organization. To the extent possible, audits should be conducted

regionally since many of the processes and programs are the same from state to state. (TR 290)

The ALEC Coalition also believes that third-party audits of BellSouth's Performance Assessment Plan data and reports are appropriate. However, the ALEC Coalition advocates for the audits to be conducted at a state level. ALEC Witness Kinard states, "many of BellSouth's processes, such as provisioning, repair, and collocation, are handled at the state level." (TR 164)

Analysis

Both BellSouth and the ALEC Coalition agree that audits of BellSouth's Performance Assessment Plan should be conducted by an independent third party. However, the parties are in disagreement as to the geographic level at which the audits should be conducted-- a regional level versus the state specific level. Attachment 8 shows the specific levels (state versus region) for which BellSouth's performance measures are reported and collected. The measures shown in Attachment 8 are those proposed and provided by BellSouth in attachment DAC-1 (Exhibit 16) to Witness Coon's testimony.

Staff agrees in part with BellSouth in that data for specific metrics should be audited at a regional level due to the centralized nature of BellSouth's processes and systems. For example, as shown in Attachment 8 the Average Response Time and Response Interval (OSS-1) and Interface Availability (OSS-2) metrics would be audited at a regional level since these measures are collected and reported only at the regional level.

Staff also agrees in part with the ALEC Coalition. Staff believes measures related to specific functions of BellSouth's Performance Assessment Plan should be audited at the state level to ensure that performance measures for Florida ALECs are accurately and appropriately calculated. For example, as shown in Attachment 8, the Reject Interval (O-8) and Percent Missed Installation Appointments (P-3) metrics should be audited at a state level to get a state-specific view of these results since these measures are collected and reported at both the state and regional levels.

Conclusion

DOCKET NO. 000121-TP
DATE: August 2, 2001

Third-party audits of BellSouth's Performance Assessment Plan metrics and reports should be required. The metrics and reports should be audited at a state level unless the data is only reported and collected at a regional level.

ATTACHMENT 8

BELLSOUTH'S PERFORMANCE ASSESSMENT PLAN STATE VS REGIONAL REPORT SCOPE			
No.	Measure	Reported at State Level	Reported at Regional Level
Pre-Ordering			
OSS-1	Average Response Time for OSS Pre-Order Interfaces & Response Interval		X
OSS-2	OSS Interface Availability (All Systems)		X
OSS-3	Interface Availability (M&R)		X
OSS-4	Response Interval (M&R)		X
PO-1	Loop Makeup Inquiry (Manual)	X	X
PO-2	Loop Makeup Inquiry (Electronic: EDI, TAG and LENS)	X	X
Ordering			
O-1	Acknowledgment Timeliness (Electronic)		X
O-2	Acknowledgment Completeness (Fully Mechanized, Partially Mechanized & Total Mechanized)		X
O-3/4	Percent Order Flow Through (Summary & Detail)		X
O-7	Percent Rejected Service Request (Fully Mechanized, Partially Mechanized & Non-Mechanized)	X	X
O-8	Reject Interval	X	X

BELLSOUTH'S PERFORMANCE ASSESSMENT PLAN STATE VS REGIONAL REPORT SCOPE			
No.	Measure	Reported at State Level	Reported at Regional Level
O-9	Firm Order Confirmation Timeliness (Fully Mechanized, Partially Mechanized & Non-Mechanized)	X	X
O-10	Service Inquiry with LSR Firm Order Confirmation (FOC) Response Time (Manual)	X	X
O-11	Firm Order Confirmation and Reject Response Completeness	X	X
O-12	Speed of Answer in Ordering Center		X
O-13	LNP - Percent Rejected Service Request	X	X
O-14	LNP - Reject Interval Distribution & Average Reject Interval	X	X
O-15	LNP - FOC Timeliness Interval Distribution & FOC Average Interval	X	X
Provisioning			
P-1	Mean Held Order Interval	X	X
P-2	Average Jeopardy Notice Interval (Electronic) & % Orders Given Jeopardy Notice	X	X
P-3	Percent Missed Installation Appointments	X	X
P-4	Order Completion Interval	X	X
P-5	Average Completion Notice Interval (Electronic)	X	X

DOCKET NO. 000121-TP
 DATE: August 2, 2001

BELLSOUTH'S PERFORMANCE ASSESSMENT PLAN STATE VS REGIONAL REPORT SCOPE			
No.	Measure	Reported at State Level	Reported at Regional Level
P-6C	Coordinated Customer Conversions - % Provisioning Troubles Received Within 7 Days of a Completed Service Order	X	X
P-6	Coordinated Customer Conversions Interval	X	X
P-6A	Coordinated Customer Conversions Hot Cut Timeliness % within Interval & Average Interval	X	X
P-6B	Coordinated Customer Conversions - Average Recovery Time	X	X
P-7	Cooperative Acceptance Testing(% xDSL Loops Successfully Tested)	X	X
P-8	% Provisioning Troubles within 30 days	X	X
P-9	Total Service Order Cycle Time	X	X
P-10	LNP - Percent Missed Installation Appointments	X	X
P-11	LNP - Average Disconnect Timeliness Interval & Disconnect Timeliness Interval Distribution	X	X
P-12	LNP - THATCHED	X	X
Maintenance & Repair			
M&R-1	Missed Repair Appointments	X	X

DOCKET NO. 000121-TP
 DATE: August 2, 2001

BELLSOUTH'S PERFORMANCE ASSESSMENT PLAN STATE VS REGIONAL REPORT SCOPE			
No.	Measure	Reported at State Level	Reported at Regional Level
M&R-2	Customer Trouble Report Rate	X	X
M&R-3	Maintenance Average Duration	X	X
M&R-4	% Repeat Troubles within 30 days	X	X
M&R-5	Out of Service > 24 hours	X	X
M&R-6	Average Answer Time - Repair Center		X
M&R-7	Mean Time to Notify CLEC of Network Outages (M&R)	X	X
Billing			
B-1	Invoice Accuracy	X	X
B-2	Mean Time to Deliver Invoices	X	X
B-3	Usage Data Delivery Accuracy		X
B-4	Usage Data Delivery Completeness		X
B-5	Usage Data Delivery Timeliness		X
B-6	Mean Time to Deliver Usage		X
B-7	Recurring Charge Completeness		X
B-8	Non-Recurring Charge Completeness		X
OS/DA			
OS-1	Average Speed to Answer (OS)	X	

BELLSOUTH'S PERFORMANCE ASSESSMENT PLAN STATE VS REGIONAL REPORT SCOPE			
No.	Measure	Reported at State Level	Reported at Regional Level
OS-2	% Answered in "X" Seconds (OS)	X	
DA-1	Average Speed to Answer (DA)	X	
DA-2	% Answered in "X" Seconds (DA)	X	
Database Update Information			
D-1	Average Update Interval for DA Database for Facility Based CLECs	X	
D-2	Percentage DA Database Accuracy For Manual Updates	X	
D-3	Percent NXXs loaded and Tested by/or prior to the LERG effective date		X
E911			
E-1	Timeliness	X	X
E-2	Accuracy	X	X
E-3	Mean Interval	X	X
Trunk Group Performance			
TGP-1	Trunk Group Performance - Aggregate	X	
TGP-2	Trunk Group Performance - Specific	X	
Collocation			
C-1	Average Response Time	X	
C-2	Average Arrangement Time	X	
C-3	% of Due Dates Missed	X	

DOCKET NO. 000121-TP

DATE: August 2, 2001

BELLSOUTH'S PERFORMANCE ASSESSMENT PLAN STATE VS REGIONAL REPORT SCOPE			
No.	Measure	Reported at State Level	Reported at Regional Level
Change Management/Interface Outages			
CM-1	Timeliness of Change Management Notices		X
CM-2	Average Delay Days for Change Management Notices		X
CM-3	Timeliness of Documents Associated with Change		X
CM-4	Average Delay Days for Documentation		X
CM-5	Average Notice of Interface Outage		X

DOCKET NO. 000121-TP

DATE: August 2, 2001

ISSUE 24b: If so, how often should audits be conducted, and how should the audit scope be determined?

RECOMMENDATION: A comprehensive independent third-party audit of the Performance Assessment Plan data and reports for both BellSouth and the ALECs should be conducted for the current year data for each of the next five years. BellSouth, the ALECs, and the Commission should jointly determine the scope of the audit.
(HALLENSTEIN)

POSITIONS OF THE PARTIES:

BST: There should be a comprehensive audit of the current year aggregate level reports for both BellSouth and the ALECs for each of the next five years. BellSouth, the PSC and the ALECs should jointly determine the scope of the audits.

ALEC: A comprehensive audit should be conducted every twelve months, with the first such audit commencing twelve months after the conclusion of the KPMG OSS Test's metric replication. The audit scope should be determined in an audit process that is open to ALECs.

Z-TEL: Z-Tel adopts the position stated by the ALEC Coalition.

STAFF ANALYSIS: This issue addresses the frequency and who should determine the scope of the third-party audits of BellSouth Performance Assessment Plan recommended in Issue 24a. All parties are in agreement on this issue.

Argument

BellSouth is in agreement that annual third-party audits should be conducted for the next five years, 2001 through 2006. BellSouth also agrees that BellSouth, the ALECs, and the Commission should jointly determine the scope of the audit. (TR 290)

The ALEC Coalition also agrees that annual third-party audits should be conducted for the next five years and further

DOCKET NO. 000121-TP

DATE: August 2, 2001

agrees that BellSouth, the ALECs, and the Commission should jointly determine the scope of the audit. (TR 290)

Analysis

BellSouth and the ALEC Coalition are in agreement regarding this issue.

Conclusion

A comprehensive independent third-party audit of BellSouth's Performance Assessment Plan data and reports for both BellSouth and the ALECs should be conducted for the current year data for each of the next five years. BellSouth, the ALECs, and the Commission should jointly determine the scope of the audit.

DOCKET NO. 000121-TP
DATE: August 2, 2001

ISSUE 25: If periodic third-party audits are required, who should be required to pay the cost of the audits?

RECOMMENDATION: The cost of third-party audits should be borne by BellSouth. (HALLENSTEIN)

POSITIONS OF THE PARTIES:

BST: The cost of these audits should be borne 50% by BellSouth and 50% by the ALEC or ALECs.

ALEC: BellSouth is the dominant market provider with the incentive and ability to discriminate. To ensure that BellSouth's reporting is accurate and triggers remedies designed to curb its incentives to discriminate, comprehensive annual audits are critical. Costs for these annual audits should be borne by BellSouth.

Z-TEL: Z-Tel adopts the position stated by the ALEC Coalition.

STAFF ANALYSIS: This issue inquires into who should be responsible for paying for the third-party audits of BellSouth's Performance Assessment Plan.

Argument

BellSouth maintains that fifty percent of the audit costs should be shared by the ALEC or ALECs. (TR 291) BellSouth Witness Coon argues that "BellSouth has already invested significant resources and dollars, under the direction of the Georgia and Florida Commissions, in the validation and testing of BellSouth's performance measurements by an independent third party, KPMG." (TR 323) BellSouth further asserts in its brief that the total costs to each ALEC would be "relatively small" and "fair and reasonable" if their share of the fifty percent is divided among the various ALECS. According to BellSouth, if the ALECs bear fifty percent of the audit costs, the ALECs, in turn, can effectively define the scope of the audit, which can be used to determine the audit cost. (BST BR 69-70)

On the contrary, ALEC Witness Kinard states:

Costs for these annual audits should be borne by BellSouth. BellSouth is the dominant market provider with the incentive and ability to discriminate. To ensure that BellSouth's reporting is accurate and triggers remedies designed to curb its incentives to discriminate, comprehensive annual audits are critical. (TR 153)

Witness Kinard also argues that "[a]udits are an integral part of a performance measurements plan to ensure BellSouth's compliance with the Telecommunications Act of 1996." (TR 165) BellSouth should bear the total cost of the audits, since they, as the incumbent, would need to assure they are in compliance with the Act.

Analysis

Notwithstanding BellSouth's general duty to comply with the Telecommunications Act of 1996, staff concurs with BellSouth in that a performance measurement plan is not specifically required by the Act, as implied by the ALEC Coalition. However, staff supports the ALECs' position that the audit costs should be borne by BellSouth. Staff believes if the ALECs were to bear fifty percent of the audit costs, the process of identifying which ALECs are to be billed and the amount to be billed to each would be difficult and burdensome. For example, for those performance measures that are only collected and reported at the regional level (nine state region), non-Florida ALECs would derive some benefit.

Staff believes there would be an inherent difficulty in determining which ALECs should bear the audit costs and the amount to collect from each. Additionally, since BellSouth controls the accuracy and validity of the performance measures, BellSouth is ultimately responsible for the outcome of the audit and, therefore, the underlying costs of the audit.

Conclusion

The cost of third-party audits should be borne by BellSouth.

DOCKET NO. 000121-TP
DATE: August 2, 2001

ISSUE 26: Who should select the third-party auditor if a third-party audit is required?

RECOMMENDATION: In Issue 25, staff recommends for the cost of third-party audits to be borne by BellSouth. If the Commission chooses to approve this recommendation, the third-party auditor should be selected by BellSouth, and subject to confirmation by the Commission staff to ensure adherence to the general standards of the Institute of Internal Auditors. (HALLENSTEIN)

POSITIONS OF THE PARTIES:

BST: The independent third-party auditors should be selected based upon input from BellSouth, the PSC (if applicable), and the ALECs.

ALEC: BellSouth and the ALECs should jointly select the third-party auditor. If the parties cannot agree on the auditor, the Commission should determine the auditor.

Z-TEL: Z-Tel adopts the position stated by the ALEC Coalition.

STAFF ANALYSIS: This issue inquires into how a third-party auditor should be selected.

Argument

BellSouth agrees with the proposal attached to the testimony of staff Witness Stallcup (Exhibit 13, p. 10), whereby the independent third-party auditor should be selected with input from BellSouth and the Commission. In Witness Coon's testimony and in BellSouth's brief, BellSouth also is in agreement to having the ALECs participate in the third-party auditor selection process. (TR 291; BST BR 70)

The ALEC Coalition proposes that BellSouth and the ALECs should jointly select the third-party auditor and the Commission would only intervene if the parties cannot mutually agree on the selection of the auditor.

Analysis

DOCKET NO. 000121-TP

DATE: August 2, 2001

Staff believes BellSouth agrees to having the ALECs participate in the selection of an independent third-party auditor only if the ALECs are to bear fifty percent of the audit costs as proposed by BellSouth in Issue 25. Since staff is recommending for BellSouth to pay for the total costs of the third-party audits in Issue 25, staff contends that BellSouth should select the third-party auditor with Commission confirmation.

Conclusion

In Issue 25, staff recommends for the cost of third-party audits to be borne by BellSouth. If the Commission chooses to approve this recommendation, the third-party auditor should be selected by BellSouth and confirmed by the Commission to ensure adherence to the general standards of the Institute of Internal Auditors.

DOCKET NO. 000121-TP
DATE: August 2, 2001

ISSUE 27a: Should an ALEC have the right to audit or request a review by BellSouth for one or more selected measures when it has reason to believe the data collected for a measure is flawed or the report criteria for the measure are not being adhered to?

RECOMMENDATION: No. BellSouth should not have to undergo an individual audit (i.e., mini-audit) whenever an ALEC has reason to believe the data collected for a performance measure is flawed or that the report criteria are not being followed. (HALLENSTEIN)

POSITIONS OF THE PARTIES:

BST: No. BellSouth provides ALECs with the raw data that underly many of the BellSouth service quality measure reports. The ALECs can use the raw data to validate the results of the BellSouth service quality measurement reports posted on the BellSouth website.

ALEC: Yes, under such circumstances, the ALEC should be allowed, upon written request, to have a mini-audit performed on the specific measure/sub-measure. After thirty days, the ALEC may begin the mini-audit upon providing BellSouth five business days advance written notice.

Z-TEL: Z-Tel adopts the position stated by the ALEC Coalition.

STAFF ANALYSIS: This issue questions whether or not the ALECs should be allowed to request individual audits or "mini-audits" of specific measures or submeasures within BellSouth's Performance Assessment Plan when the ALECs believe the measures or submeasures are wrong.

Argument

BellSouth does not believe that the ALECs need to request individual or "mini-audits" whenever they believe data collected for a measure is flawed or the report criteria for the measure is not being adhered to. Staff notes that BellSouth's Witness Coon states:

BellSouth provides the ALECs with the raw data underlying many of the BellSouth Service Quality Measurements reports as well as a user manual on how to manipulate the data into reports. The ALECs can use this raw data to validate the results in the BellSouth Service Quality Measurements reports posted every month on the BellSouth web site. (TR 291-292)

In its brief, BellSouth further argues, "the ALECs propose a method of conducting mini-audits that would be, at best, extremely burdensome and, more likely, impossible." (BST BR 71) In his testimony, BellSouth Witness Coon states:

. . . there are over 80 ALECs in Florida that currently have BellSouth SQMs as part of their interconnection agreements. If each of those ALECs were allowed three mini-audits a year as proposed by Ms. Kinard, that would equate to 240 audits per year in Florida alone. If the annual comprehensive audit takes six months to complete (a conservative estimate based on comprehensive audits in Georgia and Florida), there are only six months left for mini-audits. (TR 324-326)

ALEC Witness Kinard argues that for some measures (for example, LNP), the raw data is not available to the ALECS, while for some other measures, the raw data is flawed or it is not meaningful. (TR 156). Witness Kinard further contends that the ALECs should have the right to request a mini-audit to be performed on a particular measure or submeasure if they provide BellSouth with an advance written notice. Mini-audits, as defined by Witness Kinard, are audits of "all systems, processes and procedures associated with the production and reporting of performance measurements results for the audited/submeasure." (TR 154) Witness Kinard proposes that "no more than three mini-audits would be conducted simultaneously unless more than one ALEC wanted the same measure/submeasure audited at the same time, in which case mini-audits of the same measure/submeasure should count as one mini-audit for this purpose." (TR 154)

Analysis

Staff concurs with BellSouth's position. Staff believes the ALECs' request for mini-audits of the performance measures would be overly burdensome to BellSouth. In Issue 24, staff proposes that an audit of BellSouth's performance measures be conducted annually by an independent third party to validate the results of BellSouth's performance measurement reports posted on the BellSouth Web site. Staff believes this annual audit will provide adequate protection for ALECs.

Staff would also note that the Commission has jurisdictional authority to independently initiate an audit of BellSouth's performance measures if the Commission has reason to believe that BellSouth's raw data is inadequate or seriously flawed. ALECs would be free to petition the Commission to exercise this authority.

Conclusion

BellSouth should not have to undergo an individual audit by a third party (mini-audit) whenever an ALEC has reason to believe the data collected for a performance measure is flawed or that the report criteria is not being adhered to.

DOCKET NO. 000121-TP

DATE: August 2, 2001

ISSUE 27b: If so, should the audit be performed by an independent third party?

RECOMMENDATION: In Issue 27a, staff recommends that BellSouth should not have to undergo individual audits (mini-audits) of performance measures at the request of the ALECs. However, if the Commission chooses to authorize these audits, an ALEC should be allowed to request in writing that a review be performed by BellSouth on specific measures and/or submeasures. If within 30 days of the request, the issue has not been resolved, the ALEC may, at its own expense, commence a focused audit by an independent third party upon providing BellSouth with five business days' advance notice. (HALLENSTEIN)

POSITIONS OF THE PARTIES:

BST: No. Additional audits beyond the yearly comprehensive audit discussed under Issue 24 are not necessary.

ALEC: Yes, in most cases and unbiased third party would be the best choice as an auditor, although there may be cases in which the ALECs and BellSouth could jointly review certain metric reporting issues with Commission oversight.

Z-TEL: Z-Tel adopts the position stated by the ALEC Coalition.

STAFF ANALYSIS: This issue addresses whether or not a third-party auditor should perform the individual or "mini-audits" discussed in Issue 27a. In Issue 27a, staff recommends that the Commission deny the ALECs request for the mini-audits.

Argument

In its brief, BellSouth does not take a position on this issue as to whether an individual audit should be performed by an independent third party. As stated by Witness Coon in his testimony, "the question of who should perform the audit is moot" since BellSouth's position is that ALECs should not have the right to request individual or mini-audits of BellSouth's performance measures (TR 292). In his testimony, Witness Coon further argues that it should not have to succumb to additional

DOCKET NO. 000121-TP

DATE: August 2, 2001

ALEC mini-audit requests beyond BellSouth's agreement to undergo an annual comprehensive third-party audit of its performance measures as proposed in Issue 24. (TR 292)

The ALEC Coalition agrees that, in most cases, an unbiased third party would be the best choice to perform mini-audits of BellSouth's performance measures. (TR 154-155) For some cases, the ALEC Coalition proposes that the ALECs and BellSouth jointly review certain metric reporting issues with Commission oversight. (TR 156)

Analysis

If the Commission authorizes mini-audits in Issue 27a, staff supports the proposal attached to Witness Stallcup's testimony, whereby a ALEC should have the right to a review performed by BellSouth on specific measures, upon written request. If within 30 days of the request, the issue has not been resolved, the ALEC may, at its own expense, commence a focused audit by an independent third party upon providing BellSouth with five business days advance notice.

Conclusion

In Issue 27a, staff recommends that BellSouth should not have to undergo individual audits (mini-audits) of performance measures at the request of the ALECs. However, if the Commission chooses to authorize these audits, an ALEC should be allowed to request in writing that a review be performed by BellSouth on specific measures and/or submeasures. If within 30 days of the request the issue has not been resolved, the ALEC may, at its own expense, commence a focused audit by an independent third party upon providing BellSouth with five business days' advance notice.

DOCKET NO. 000121-TP

DATE: August 2, 2001

ISSUE 28: Should BellSouth be required to retain performance measurement data and source data, and if so, for how long?

RECOMMENDATION: Yes. BellSouth should retain the performance measurement raw data files for a period of 18 months and further retain the monthly reports produced in PMAP for a period of three years. (HALLENSTEIN)

POSITIONS OF THE PARTIES:

BST: The data that is maintained by the PMAP system should be retained for a period not to exceed eighteen months. The retention of this data for longer than eighteen months would result in large and burdensome costs to BellSouth.

ALEC: Yes. Performance measurement data and source data should be retained for 18 months or as required to audit BellSouth's performance.

Z-TEL: Z-Tel adopts the position stated by the ALEC Coalition.

STAFF ANALYSIS: This issue addresses the retention of data and reports maintained in BellSouth's Performance Assessment Plan.

Argument

BellSouth proposes to retain its Performance Measurements Analysis Platform (PMAP) data for a period not to exceed 18 months. Witness Coon argues that "retention of this volume of data longer than 18 months would represent tremendous costs to BellSouth in data storage and, therefore, would be unreasonable and overly burdensome." (TR 56)

The ALEC Coalition also proposes to retain PMAP data for a period not to exceed 18 months. However, if an audit of BellSouth's performance measures were to exceed 18 months, the ALECs further propose that PMAP data should be retained for as long as it is necessary to complete the audit. (ALEC BR 74)

Analysis

DOCKET NO. 000121-TP

DATE: August 2, 2001

BellSouth's PMAP system is used to collect, process and report performance data to correspond to the performance measurements reflected in BellSouth's Service Quality Manual. Currently, via BellSouth's Website, ALECs can retrieve monthly performance reports that are produced on an ALEC-specific and an ALEC-aggregate basis for the BellSouth region and for each BellSouth state. The monthly reports also contain applicable information concerning BellSouth's retail performance.

BellSouth's PMAP system is also used to maintain the raw data files used to generate the monthly reports. The raw data files are bits and pieces of data compiled from numerous BellSouth information systems. The raw data files maintained in PMAP are ALEC-specific and provide each ALEC with the capability of tracking down an individual service order or individual trouble ticket.

Because of the enormous size of the raw data files, staff concurs with BellSouth that retention of this data for a period longer than 18 months be would be unreasonable and overly burdensome. However, staff believes that it would be reasonable for BellSouth to retain the monthly reports produced in PMAP for a three-year period.

Conclusion

BellSouth's should retain the performance measurement raw data files for a period of 18 months and further retain the monthly reports produced in PMAP for a period of three years.

DOCKET NO. 000121-TP
DATE: August 2, 2001

ISSUE 29: What is the appropriate definition of "affiliate" for the purpose of the Performance Assessment Plan?

RECOMMENDATION: Staff recommends that the definition of "affiliate" contained in the Act be used for purposes of the Performance Assessment Plan. The Act states the following:

The term "affiliate" means a person that (directly or indirectly) owns or controls, is owned or controlled by, or is under common ownership or control with, another person. For purposes of this paragraph, the term "own" means to own an equity interest (or the equivalent thereof) of more than 10%. (VINSON)

POSITIONS OF THE PARTIES:

BST: The term affiliate is defined in the Telecommunications Act. If affiliate data is required, the only BellSouth affiliate data that should be reported is that which reflects the provision of wholesale services from BellSouth to a BellSouth-affiliated ALEC.

ALEC: The affiliate reporting should include all affiliates that purchase wholesale services from BellSouth. The term "affiliate" should be defined pursuant to the Telecommunications Act definition. Section 3(1) of the Communications Act.

Z-TEL: Z-Tel adopts the position of the ALEC Coalition.

STAFF ANALYSIS: All parties agree that the definition of "affiliate" contained in the 1996 Telecom Act is appropriate for use in the Performance Assessment Plan.

Argument

BellSouth Witness Cox agrees that the term "affiliate" should be defined as specified by the 1996 Telecom Act. The Act states,

The term "affiliate" means a person that (directly or indirectly) owns or controls, is owned or controlled by, or is under common ownership or control with,

DOCKET NO. 000121-TP

DATE: August 2, 2001

another person. For purposes of this paragraph, the term "own" means to own an equity interest (or the equivalent thereof) of more than 10%.

ALEC Witness Kinard also recommends the Act's definition of "affiliate."

Analysis

Staff recommends that the definition of "affiliate" contained in the Act is adequate for purposes of the Performance Assessment Plan.

DOCKET NO. 000121-TP
DATE: August 2, 2001

ISSUE 30a: Should BellSouth be required to provide "affiliate" data as it relates to the Performance Assessment Plan?

RECOMMENDATION: Yes. Staff recommends that only BellSouth ALEC affiliate data should be reported for purposes of monitoring under the Performance Assessment Plan. BellSouth should be required to provide monthly results for each metric for each BellSouth ALEC affiliate; however, only the Commission should be provided the number of transactions or observations for BellSouth ALEC affiliates. Staff further recommends that BellSouth be directed to inform the Commission of any changes regarding non-ALEC affiliates' use of its OSS databases, systems, and interfaces. (VINSON)

POSITIONS OF THE PARTIES:

BST: The term affiliate is defined in the Telecommunications Act. If affiliate data is required, the only BellSouth affiliate data that should be reported is that which reflects the provision of wholesale services from BellSouth to a BellSouth-affiliated ALEC.

ALEC: Yes. BellSouth should report monthly affiliate activity related to PAP including all affiliates that buy interconnection or unbundled network elements or that resell BellSouth's services. Information should be reported separately by each affiliate with activity in the metric category. The number of affiliate observations should be reported to the Commission.

Z-TEL: Z-Tel adopts the position of the ALEC Coalition.

STAFF ANALYSIS: This issue explores the question of whether there is a use or potential use for BellSouth affiliate data in the Performance Assessment Plan.

Argument

BellSouth Witness Cox argues that the only BellSouth affiliate data that might be relevant for comparison with ALEC results would be a BellSouth ALEC affiliate. She notes that there is no value in scrutinizing data for BellSouth affiliates whose operations are not comparable to those of ALECs.

DOCKET NO. 000121-TP
DATE: August 2, 2001

In cross examination, Witness Cox testified that she is unaware of any BellSouth affiliates, other than its affiliated ALEC, that currently rely upon BellSouth's OSS databases, system interfaces, or back-end systems in their operations. (TR 592)

ALEC Witness Kinard argues that BellSouth should separately report any affiliate activity for the metrics adopted in this proceeding. She notes that BellSouth should be allowed to exclude the number of affiliate observations from data reported to individual ALECs, but should include this information in data provided to the Commission. (TR 157)

Analysis

Staff agrees with BellSouth Witness Cox that the only potentially relevant BellSouth affiliate data for purposes of the Performance Assessment Plan, is data regarding BellSouth ALEC affiliates. This data should be reported by BellSouth monthly, for each applicable affiliate and metric, for purposes of monitoring by the Commission.

If other BellSouth affiliates were to make use of the OSS databases, systems, and interfaces, the data associated with those affiliates would also be relevant for purposes of the Performance Assessment Plan. However, based upon BellSouth Witness Cox's testimony that she is unaware of any BellSouth affiliates, other than its affiliated ALEC, that currently rely upon BellSouth's OSS databases, system interfaces, or back-end systems in their operations, staff believes that the term "affiliates" should only apply to any BellSouth's ALEC affiliates in this context. (TR 592)

Should there be a change regarding other BellSouth affiliates' use of OSS databases, systems, and interfaces, staff believes BellSouth should be required to inform the Commission so this matter can be reconsidered.

Staff suggests that BellSouth provide monthly results for each metric for each BellSouth ALEC affiliate. Staff agrees with ALEC Witness Kinard that only the Commission should be provided the numbers of transactions or observations for BellSouth ALEC affiliates for purposes of its review. Both the Commission and ALECs should be provided with metrics results such as average intervals, percent completed on time, etc.

DOCKET NO. 000121-TP

DATE: August 2, 2001

Conclusion

Yes. Staff recommends that only BellSouth ALEC affiliate data should be reported for purposes of monitoring under the Performance Assessment Plan. BellSouth should be required to provide monthly results for each metric for each BellSouth ALEC affiliate; however, only the Commission should be provided the number of transactions or observations for BellSouth ALEC affiliates. Staff further recommends that BellSouth be directed to inform the Commission of any changes regarding non-ALEC affiliates' use of its OSS databases, systems, and interfaces.

DOCKET NO. 000121-TP
DATE: August 2, 2001

ISSUE 30b: If so, how should data related to BellSouth affiliates be handled for purposes of

1. Measurement reporting?
2. Tier 1 compliance?
3. Tier 2 compliance?

RECOMMENDATION: The Commission should monitor the BellSouth ALEC affiliate performance metrics results provided each month until an assessment can be made of the data's relevance and significance. At this time, no use should be made of the affiliate data for determining Tier 1 or Tier 2 compliance.
(VINSON)

POSITIONS OF THE PARTIES:

BST: The term affiliate is defined in the Telecommunications Act. If affiliate data is required, the only BellSouth affiliate data that should be reported is that which reflects the provision of wholesale services from BellSouth to a BellSouth-affiliated ALEC.

ALEC: Data should be reported for several months before deciding whether to give up set benchmarks for parity comparisons with ALECs. If BellSouth's affiliate is deemed in a future collaborative as an appropriate retail analog, ALECs may either adopt a standard of parity with the affiliate or use an existing benchmark.

Z-TEL: Z-Tel adopts the position of the ALEC Coalition.

STAFF ANALYSIS: This issue raises the question of how BellSouth affiliate data could be used by the Commission, including its potential use as a benchmark for determining parity between service provided to competing ALECs versus service provided to BellSouth's affiliated ALEC(s). This issue also raises the question of whether attention should be paid to possible disparity between BellSouth's treatment of its own affiliated ALEC(s) versus treatment given competing ALECs.'

Argument

BellSouth Witness Cox points out that in FCC decisions, performance related to BOC affiliates has played no role in its analysis. Instead, she notes that the FCC compares only the performance provided to the ALEC to the performance the BOC provides to its retail customers. (TR 545)

Witness Cox notes that the Georgia Public Service Commission rejected a proposal for comparison between BellSouth's performance for ALECs and its performance for affiliates. Instead the Georgia Commission noted that if an ALEC believes BellSouth is showing preference to its affiliate, it may file a complaint with the Commission. (TR 545-6)

Witness Cox also points out that the Louisiana Public Service Commission staff's recommendation proposed that if the activity in that state of BellSouth's affiliated ALEC reaches a certain threshold, then it should be determined in future audits whether there is any evidence of discriminatory treatment. (TR546)

Witness Cox recommends that BellSouth provide its ALEC affiliate data just like any other ALEC. She recommends either the Georgia or Louisiana staffs' approaches in Florida, but disagrees with any attempt to tie the affiliate results to the Performance Assessment Plan at this time. (TR 546-7) ALEC Witness Kinard proposes that BellSouth report data and that the Commission study it for several months before deciding whether the affiliate data can be used as a substitute for benchmarks and analogs. (TR 158)

Analysis

Staff agrees that the Commission need not take any action with regard to the BellSouth ALEC affiliate data at this time. Instead, the Commission should monitor this data, as BellSouth and the ALEC Coalition suggest, until its relevance, impact, and significance can be determined.

Staff believes the BellSouth affiliated ALEC transaction volume is not significant and would not currently provide a meaningful substitute for benchmarks or analogs. In the meantime, staff believes the affiliate results are unlikely to

DOCKET NO. 000121-TP

DATE: August 2, 2001

skew the overall performance results and need not be excluded from calculation of ALEC aggregate results.

Conclusion

The Commission should monitor the BellSouth ALEC affiliate performance metrics results provided each month until an assessment can be made of the data's relevance and significance. At this time, no use should be made of the affiliate data for determining Tier 1 or Tier 2 compliance.

DOCKET NO. 000121-TP

DATE: August 2, 2001

ISSUE 31: Should this docket be closed?

RECOMMENDATION: No. Staff recommends this docket to remain open pending administrative approval by staff of the final Performance Assessment Plan. BellSouth should prepare and submit a plan for implementing the requirements of the Final Order in this docket within 45 days of its issuance. This document, entitled "Florida Performance Assessment Plan," should document BellSouth's proposed implementation of the plan and should include, but not necessarily be limited to, detailed descriptions of the following key elements:

1. Administration Plan
2. Service Quality Measures
3. Tier 1 And Tier 2 Enforcement Measures
4. Analogs and Benchmarks
5. Calculation Procedures
6. Statistical Methodology

This docket should also remain open for the periodic reviews of the Performance Assessment Plan to begin six months after the Commission's order, as recommended in Issue 7. (**HARVEY, VINSON, FUDGE**)

STAFF ANALYSIS: Staff recommends this docket to remain open pending administrative approval of BellSouth's proposed assessment plan. Staff believes BellSouth should be able to file this proposed plan within 45 days of the issuance of the Final Order in this docket. Staff believes BellSouth's proposed plan should address the following key elements of Witness Stallcup's proposal:

1. Administration Plan
2. Service Quality Measures
3. Tier 1 And Tier 2 Enforcement Measures
4. Analogs and Benchmarks
5. Calculation Procedures
6. Statistical Methodology

DOCKET NO. 000121-TP

DATE: August 2, 2001

Staff also notes the docket should also remain open for the periodic reviews of the Performance Assessment Plan to begin six months after the Commission's order, as recommended in Issue 7.