Tracy Hatch
Senior Attorney
Law and Government Affairs
Southern Region

Suite 700
101 N. Monroe Street
Tallahassee, FL 32301
850-425-6360

August 18, 2004

BY ELECTRONIC FILING
Ms. Blanca Bayó, Director
The Commission Clerk and Administrative Services
Room 110, Easley Building
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, Florida 32399-0850

Re: Docket No. 000121A-TP

Dear Ms. Bayó:

Attached please find the CLEC's Comments Concerning Proposed Changes to BellSouth's Performance Assessment Plan in the above-referenced docket. Pursuant to the Commission's Electronic Filing Requirements, this version should be considered the official copy for purposes of the docket file. Copies of this document will be served on all parties via U.S. Mail.

Thank you for your assistance with this filing.

Sincerely yours,

s/ Tracy W. Hatch

Tracy W. Hatch

TWH/las
Attachment
cc: Parties of Record

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the CLEC's Presentation was served by U.S. Mail this 18th day of August 2004 to the following:

(*) Blanca S. Bayo
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 3239-0850

Ms. Nancy B. White
c/o Nancy H. Sims
BellSouth Telecommunications, Inc.
150 S. Monroe Street, Suite 400
Tallahassee, FL 32301-1556

Michael A. Gross
Florida Cable Telecommunications Assoc.
246 E. 6th Avenue, Suite 100
Tallahassee, FL 32302

Nanette Edwards
ITC Deltacom
4092 South Memorial Parkway
Huntsville, AL 35802

Donna C. McNulty
MCI WorldCom
325 John Knox Road, Suite 105
Tallahassee, FL 32302-4131

John D. McLaughlin, Jr.
KMC Telecom, Inc.
1755 North Brown Road
Lawrenceville, GA 30043

Messer Law Firm
Floyd Self
Norman Horton
P.O. Box 1867
Tallahassee, FL 32302

Pennington Law Firm
Peter Dunbar
Karen Camechis
P.O. Box 10095
Tallahassee, FL 32302-2095

Rutledge Law Firm
Kenneth Hoffman
John Ellis
P.O. Box 551
Tallahassee, FL 32302-0551

McWhirter Law Firm
Joseph McGlothlin/Vicki Kaufman
117 S. Gadsden St.
Tallahassee, FL 32301

Wayne Stavanja/Mark Buechele
Supra Telecom
1311 Executive Center Drive, Suite 200
Tallahassee, FL 32301

Kimberly Caswell
Verizon Select Services, Inc.
P.O. Box 110, FLTC0007
Tampa, FL 33601-0110

John Rubino
George S. Ford
Z-Tel Communications, Inc.
601 S. Harbour Island Blvd.
Tampa, FL 33602-5706

Renee Terry
e.spire Communications, Inc.
131 National Business Parkway, #100
Annapolis Junction, MD 20701-10001

William Weber
Covad Communications Company
19th Floor, Promenade II
1230 Peachtree Street, NE
Atlanta, GA 30309-3574

Dulaney O'Roark, III
MCI
Six Concourse Parkway, Suite 3200
Atlanta, GA 30328

IDS Telecom, LLC
Angel Leiro/Joe Millstone
1525 N.W. 167th Street, Second Floor
Miami, FL 33169-5131

Katz, Kutter Law Firm
Charles Pellegrini/Patrick Wiggins
106 East College Avenue, 12th Floor
Tallahassee, FL 32301

Mpower Communications Corp.
David Woodsmall
175 Sully's Trail, Suite 300
Pittsford, NY 14534-4558

ALLTEL Communications, Inc.
C/O Ausley Law Firm
Jeffrey Whalen
PO BOX 391
Tallahassee, FL 32302

BellSouth Telecom., Inc.
Patrick W. Turner/R. Douglas Lackey
675 W. Peachtree Street, Suite 4300
Atlanta, GA 30375

Sprint Communications Company
Susan Masterton/Charles Rehwinkel
PO BOX 2214
MS: FLTLHO0107
Tallahassee, FL 32316-2214

Miller Isar, Inc,
Andrew O. Isar
7901 Skansie Ave., Suite 240
Gig Harbor, WA 98335-8349

Birch Telecom of the South, Inc.
Tad J. Sauder
Manager, ILEC Performance Data
2020 Baltimore Ave.
Kansas City, MO 64108

Suzanne F. Summerlin
2536 Capital Medical Blvd.
Tallahassee, FL 32308-4424

Kelley Drye & Warren, LLP
Jonathan E. Canis/Michael B. Hazzard
1200 19th Street, N.W., 5th Floor
Washington, DC 20036

David Benck
Momentum Business Solutions, Inc.
2700 Corporate Drive
Suite 200
Birmingham, AL 35242

Russell E. Hamilton, III
Nuvox Communications, Inc.
301 N. Main Street, Suite 5000
Greenville, SC 29601

*s/ Tracy W. Hatch*______________________

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Investigation into the Establishment of Operations Support System Permanent Performance Measures for Incumbent Local Exchange Telecommunications Companies (BellSouth Track)	)	Docket No. 000121A-TP Filed: August 18, 2004

CLEC COALITION'S COMMENTS CONCERNING PROPOSED CHANGES TO BELLSOUTH'S PERFORMANCE ASSESSMENT PLAN

The Competitive Local Exchange Carrier Coalition ("CLEC Coalition"), consisting of ACCESS Integrated Networks Inc. ("AIN"), AT&T Communications of the Southern States, LLC ("AT&T"), Birch Telecom, Inc., MCImetro Access Transmission Services, LLC ("MCI"), DIECA Communications Company d/b/a Covad Communications Company ("Covad"), ITC^DeltaCom Communications, Inc. ("ITC^DeltaCom/BTI"), LecStar Telecom, Inc., NewSouth Communications, Corp., and Nuvox Communications Inc., hereby submit comments concerning the changes it proposes to BellSouth's current Performance Assessment Plan. Pursuant to the Notice issued in this Docket, these comments "should specifically address the BellSouth Service Quality Measurement Plan Version 3.00 issued July 1, 2003, and the Self-Effectuating Enforcement Mechanism Administrative Plan Version 2.7 dated June 16, 2003."[1] Because the Commission bifurcated the comments for the SQM and SEEM, these

[1] Notice Of Six-Month Review Workshop, Florida Public Service Commission, Docket 000121A, June 30, 2004.

comments will focus specifically on SEEM changes.[2] Comments on SQM changes were filed July 28, 2004.

I. INTRODUCTION

This Commission has expended much time and effort in evolving the Performance Assessment Plan into its current state. The CLEC Coalition believes both the current SQM and SEEM generally achieve many of the objectives for which the Performance Assessment Plan was established. However, some refinements are necessary. The two years of experience with the current plan provide the foundation for the Coalition's recommendations, which will serve to enhance the current Performance Assessment Plan.

The Commission's Six-Month Review of BellSouth's Performance Assessment Plan provides an important opportunity to share recommendations for improving the current remedy structure, thereby making it more effective in driving BellSouth's performance up to the required standards. The CLEC Coalition will address these comments on the vital issue of the SEEM plan.

II. SUSTAINING CURRENT SEEM PRINCIPLES

It is important to sustain current SEEM principles. The CLEC Coalition proposes that any SEEM changes resulting from the Six-Month Review must build upon the current SEEM principles which include, but are not limited to, the following:

1. Remedy amounts should escalate for repeated Tier I violations, and systemic problems should be subject to administrative review. BellSouth continually reports below-standard performance for some submeasures.

[2] Comments On Six-Month Review Of BellSouth's Performance Assessment Plan, Florida Public Service Commission, Docket 000121A, July 16, 2004.

2. Disaggregation should allow for like-to-like comparisons. The current set of submetrics facilitates accurate comparisons of results to expected performance.

3. In order to provide adequate incentives to improve or maintain service quality for submeasures with low CLEC volumes, remedy calculations should be measure based, not transaction based. Otherwise, the remedy payment structure provides an incentive for BellSouth to give *worse* service, in order to suppress CLEC volumes.

4. Statistical procedures should be used for parity determinations. That is, statistical procedures determine whether BellSouth's wholesale performance is in compliance with the retail analog established for a particular sub-measure.

5. The SEEM plan should be structured to evaluate: (1) the quality of support delivered to each individual CLEC as compared to BellSouth's own retail operations, and (2) the quality of service BellSouth delivers to the CLEC industry as a whole when compared to BellSouth's own retail operations. Monetary consequences in the former situation are payable to the affected CLEC; in the latter, they are payable as regulatory fines to the state of Florida in order to protect the public interest.

III. RECOMMENDED CHANGES TO SEEM

A. Remedy Calculation Should Be Changed.

This Commission has expressed interest, with regard to the SEEM, in the following:

- Incorporating a means to calculate remedies based on the severity of the violation;
- Establishing a cap for a submetric violation; and
- Limiting remedy amounts resulting from one or two failed transactions.

The CLEC Coalition's proposed changes to the remedy calculation respond to this feedback that has been expressed in agenda meetings and Performance Assessment Plan orders.

The CLEC Coalition proposes changes that incorporate the severity of violations into the Tier I Florida SEEM remedy calculations. Currently the severity of a violation does not impact the remedy amount. The current plan specifies fixed remedy payments for Tier I violations in Month 1. Remedy amounts vary from $250 to $5000 depending on the fee category. However, amounts do not vary within the fee category as a function of the severity of damage to a CLEC and its customers.

The CLEC Coalition believes that incorporating a severity component into the remedy calculations is a critical step toward producing effective incentives to improve poor service performance. Under the current plan, once service is poor enough to trigger a violation, all further performance degradation has no impact on the remedy amount, no matter how bad the performance becomes. Consequently, the current plan provides little incentive for BellSouth to improve the areas of its worst performance.

The CLEC Coalition's proposal for incorporating severity into the remedy calculation (See Appendix A) corrects this omission and builds on the Commission Staff's efforts to develop severity based remedies. Like Staff, the CLEC Coalition's proposal adjusts remedy amounts based on CLEC volume and a measure of the disparity of performance.

Not only does the CLEC Coalition's proposal provide a methodology for incorporating the severity of the violation into remedy calculations, it also addresses other concerns which have been raised by various parties in connection with the current remedy calculation. Specifically, the CLEC Coalition's remedy calculation proposal (See Appendix A) is characterized by the following:

- Remedy amounts vary primarily with the magnitude of the observed disparity from the performance standard. Consider a product for which the average order completion interval for ILEC customers is 2.00 days. A violation based on a CLEC average of 6.00 days (a 200 percent increase) should trigger a larger remedy than a violation with a CLEC average of 3.00 days (a 50 percent increase). Doing so will concentrate remedy payments where damage is the greatest and will focus incentives for improvement on submeasures where service performance is the worst.
- Although measure based, remedy amounts take into account the volume of CLEC customer activity. For a fixed disparity level and submeasure, violations affecting a large numbers of customers trigger larger remedies than those affecting fewer customers.
- Inordinately large remedies do not result from one or two failures for a submeasure.
- Remedies for a first time Tier I violation (no violation in the previous month) are limited to $25,000.
- For disparity values that are negative or equal to zero, remedies are not paid.

B. <u>PARIS Reporting Needs To Provide Disclosure into the Degree of Non-Compliance</u>

BellSouth's PARIS reports do not provide adequate information to understand the level of severity of a violation. Only remedy amounts are provided, not the underlying data that lead to the compliance determination calculations. BellSouth's reporting should disclose the degree of non-compliance for a given violation. It should also provide greater visibility into the factors determining non-compliance so that CLECs and the Commission have a better understanding of how the remedy amounts were derived. Accordingly, the CLEC Coalition requests that this Commission require BellSouth to report the following information in its CLEC-specific PARIS reports for each submeasure:

- Tier I Metric
- Truncated Z-Score
- Balancing Critical Value
- Pass/Fail Indication
- Benchmark %
- BellSouth Metric Result
- CLEC Metric Result
- Total CLEC Volume
- Fee Schedule Amount
- Remedy Paid

It should not be difficult for BellSouth to provide this information since it has been providing similar data in response to a request by the Louisiana Public Service Commission for over two years. Furthermore, this information is required in order to perform the current compliance determination.

C. <u>PARIS Reporting Should Disclose the Actual Source of All Adjustments</u>

Adjustments need to be fully explained at the time they are posted on reports. Currently, there is no disclosed substantiation for adjustments reflected in PARIS reporting. Moreover, when adjustments are posted there is no reference linking the adjustment to a notification or description that would allow the CLECs or the Commission to clearly determine the source of the adjustment. In addition, multiple adjustments for a single metric, possibly caused by a variety of errors, are sometimes lumped into a total posted adjusted amount.

The CLEC Coalition proposes that BellSouth be required to do the following: (1) establish a unique identifier for any flaw that will result in at least one adjustment being made; (2) establish a table, namely the Adjustment Table, which would contain the unique identifier and a detailed description of flaws resulting in at least one adjustment being made; (3) include a link to the actual notification of the identified flaw associated with each unique identifier; (4) make the Adjustment Table accessible from the Internet and direct that each entry consist of the unique adjustment identifier, as well as, a detailed description of the adjustment; (5) include a separate line item for each unique adjustment/month-year combination on CLEC-specific PARIS reports; and (6) automatically flag any identified flaws affecting the BellSouth retail analog for the next audit since CLECs are unable to validate retail analog data.

The CLEC Coalition believes that incorporation of these changes relating to the adjustments will eliminate the ambiguities associated with the currently reported adjustments. These changes would allow each reported adjustment amount to be linked to documentation that describes the actual flaw that precipitated the need for the adjustment.

IV. CONCLUSION

Lack of disclosure generally results in doubt and distrust. Incorporation of the CLEC Coalition's recommendations clearly will address the lack of disclosure and will result in a more credible Performance Assessment Plan. Additionally, it will provide the CLEC Coalition with more credible facts upon which future improvement recommendations may be based. It is in the interest of all affected parties, especially CLEC customers, that the Performance Assessment Plan be effective in motivating BellSouth to provide compliant service. The proposed changes, especially the incorporation of severity considerations in the remedy calculation, fill a critical gap toward insuring the effectiveness of the Performance Assessment Plan.

Respectfully filed this the 18th day of August 2004.

COUNSEL FOR THE CLEC COALITION

__*s/ Tracy Hatch* ____________________
Tracy Hatch
AT&T Communications of the Southern States, LLC
101 N. Monroe St., Suite 700
Tallahassee, FL 32301

__*s/ Mark Ozanick*____________________
Mark A. Ozanick, Senior Analyst, Regulatory
ACCESS Integrated Networks, Inc.
4885 Riverside Drive
Macon, GA 31210-1148

__*s/_Joe McGlothlin*________________
ACCESS Integrated Networks, Inc.
Joe McGlothlin
McWhirter Reeves
117 S. Gadsden St.
Tallahassee, FL 32301

__*s/_Rose Mulvany Henry*______________
Rose Mulvany Henry
Vice President of Regulatory Affairs
Birch Telcom, Inc.
2020 Baltimore Avenue
Kansas City, MO 64108

__*s/ Gene Watkins*____________________
Charles E. (Gene) Watkins
Senior Counsel, DIECA Communications,
Inc. d/b/a Covad Communications Co.
1230 Peachtree Street, N.E.
19th Floor
Atlanta, Georgia 30309

_*s/ Nanette Edwards*__________________
ITC^Deltacom/BTI
Nanette S. Edwards
4092 South Memorial Parkway
Huntsville, AL 35802-4343

__*s/ Leon Nowalsky*______________
Counsel for LecStar Telecom, Inc.
Leon Nowalsky
Nowalsky, Bronston, & Gothard
Attorneys at Law
3500 N. Causeway Boulevard
Suite 1442
Metairie, Louisiana 70002
(504) 832-1984

__*s/ De O'Roarke*__________________
Dulaney L. O'Roark
MCI Law and Public Policy
#6 Concourse Parkway, Suite 600
Atlanta, GA 30328

__*s/ Floyd Self*______________________
Counsel for MCI
Floyd Self
Messer, Caparello & Self
215 South Monroe St Ste 701
PO Box 1876
Tallahassee Fl 32302-1876

__*s/ Hamilton Russell*_________________
Hamilton E. Russell
Vice President of Legal Affairs
NewSouth Communications, Corp.
NuVox Communications, Inc.
Two North Main Street
Greenville SC 29601

APPENDIX A

REMEDY CALCULATION PROPOSAL
INCORPORATING SEVERITY

Basis of the CLEC Coalition's Remedy Calculation Proposal[3]

This proposal provides a methodology for incorporating the severity of the violation in remedy calculations and also addresses concerns that have been raised by various parties concerning the current remedy calculation. Based upon input from various parties, the CLEC Coalition's remedy calculation proposal is characterized by the following:

- Remedy amounts vary primarily with the magnitude of the observed disparity from the performance standard. Consider a product for which the average order completion interval for ILEC customers is 2.00 days. A violation based on a CLEC average of 6.00 days (a 200 percent increase) should trigger a larger remedy than a violation with a CLEC average of 3.00 days (a 50 percent increase). Doing so will concentrate remedy payments where damage is the greatest and will focus incentives for improvement on submeasures where service performance is the worst.

- Although measure based, remedy amounts take into account the volume of CLEC customer activity. For a fixed disparity level and submeasure, violations affecting a large numbers of customers trigger larger remedies than those affecting fewer customers.

- Inordinately large remedies do not result from one or two failures for a submeasure.

- Remedies for a first time Tier I violation (no violation in the previous month) are limited to $25,000.

- For disparity values that are negative or equal to zero, remedies are not paid.

[3] The CLEC Coalition's proposal for incorporation of severity in the remedy calculation builds on the Commission Staff's efforts to develop severity based remedies. Like Staff, the CLECs adjust remedy amounts based on CLEC volume and a measure of the disparity of performance.

Base Tier I Remedy Calculations

This section describes the algorithm for computing the Base Remedy Amount for Tier I violations. For Tier I violations, the Base Remedy Amount for a Month 1 violation depends on: a disparity index d, the CLEC volume n, and a base payment factor B specific to a fee category. Adjustments to cap remedy amounts or for repeated violations are described in the next section.

For a given violation, the Base Remedy Amount is the product of three factors:

$$\text{Base Remedy Amount} = d\, n^{1/2}\, B\ .$$

The disparity index, d, is a measure of the quality of service received by a CLEC compared with the parity or benchmark standard. The general formula is

$$d = \frac{\text{CLEC Performance}}{\text{Applicable Standard}} - 1,$$

where CLEC performance and the standard are measured in terms of problems (e.g., percent missed appointments or average repair interval), so that high values are bad. Values of $d = 0$ indicate performance for CLEC customers that is exactly at the standard. Values of $d < 0$ indicate superior service for CLEC customers, while $d > 0$ indicated service below the standard. Large positive values reflect the greatest disparity. To limit the potential impact of this factor on remedies, values of d are capped at 2.50. For any case where d is negative, the value would be set to $d = 0$, and no remedy would be paid.

For benchmark submeasures, the CLEC performance is 100% minus the success percentage for CLEC customers, while the applicable standard is the benchmark percent. For example, if the observed percentage is 92% for a 95% benchmark, the disparity index equals 0.6 (i.e., [100-92]/[100-95] – 1). If for the same benchmark submeasure, the observed percentage for CLECs was 78%, the disparity index would initially equal 3.40 before being reduced to the cap of 2.50.

For parity measures, the "applicable standard" is the observed ILEC performance (percentage or mean) for a set of customers comparable to the CLEC customers—i.e., a like-to-like comparison. The ILEC performance is computed using *direct standardization*[4], which reweights the ILEC results to insure that both the CLEC and ILEC measures are based on the distribution of cells. For example, if 4% of installation appointments are missed for CLEC customers, compared with only 2% for a comparable set of ILEC customers, the disparity index would equal 1.00 (i.e., 4/2 -1).

CLEC volume enters the Base Remedy Amount through its square root, which compromises between ignoring volume and making remedies proportional to volume.

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[4] Little, R.J.A, "Direct standardization: A tool for teaching linear models for unbalanced data," *The American Statistician*, 1982, Vol. 36, pp. 38-43.

The factor *B* is a base amount that varies by measure category (see Tables A.2 and A.3) to reflect variation in the current fixed remedy amounts and in CLEC volumes of past violations.

Adjustments to Tier I Base Remedy Amounts

Limit For A Single Violation.

To limit BellSouth's liability for a single violation, any Base Remedy Amount that exceeds $25,000 is capped at $25,000. To further limit potential remedies at small volumes, a second cap applies for proportion parity measures (see Step 5 below).

ChronicViolations.

Remedy amounts are adjusted upward for violations that have occurred for one or more consecutive months in the immediate past. For chronic violations, the remedy amounts defined above (i.e., the Base Remedy Amount with any adjustments applied from the last paragraph) are multiplied by persistence factors shown in Table A.1 These factors were set to approximate the rates of escalation for the current fixed remedy amounts for the various fee categories.

Table A.1

Persistence Factors Applied
for Repeated Tier I Violations

Consecutive months in violation (including current month)	Persistence factor
1	1.00
2	1.40
3	1.80
4	2.20
5	2.60
6 or more	3.00

For consecutive Tier I violations beyond six consecutive months, the persistence factor stops escalating and remains at 3.00. However, after six consecutive violations, the affected CLEC has the right to request an administrative review by the Commission Staff. At the review, the CLEC could propose additional actions to identify the source of that problem and to alleviate it. Similarly, after six months of industry wide noncompliance for a submeasure, any CLEC with volume for that submeasure has the right to request an administrative review with the same process as described above.

Specific Steps in Tier I Remedy Calculations for Benchmark Submeasures

1. Define necessary variables. Let

   b = the benchmark standard (e.g., 95%), using the small sample benchmark table as appropriate,[5]
   X = the observed percentage for the specified CLEC, and
   n = the CLEC volume.

2. Compute the Disparity Index, d.

   $$d = \frac{100\% - X}{100\% - b} - 1$$

3. Cap the Disparity Index.

   If $d > 2.50$, then reset $d = 2.50$.

4. Compute the Base Remedy Amount.

   Baseline Remedy Amount = $d\, n^{1/2}\, B$, where B is shown in Table A.2.

Table A.2

Values of *B* for Benchmark Submeasures, by Measure Category

Measure	B
AKC	4
ATE	80
FOCRC	80
FOCT	80
PFTSR	80
RI	80

5. Apply ceiling to the Base Remedy Amount.

   If the Base Remedy Amount exceeds $25,000, it is capped at $25,000.

6. Apply persistence factor for repeated violation, if applicable.

For a repeated violation, i.e., a submeasure/CLEC combination in violation for two or more months including the current month, the Final Remedy Amount equals the Base Remedy Amount multiplied by the corresponding factor in Table A.1.

[5] If a benchmark measure indicates problems, rather than successes, then both the benchmark standard b and the observed percentage X should be subtracted from 100% before applying these calculations.

Specific Steps in Tier I Remedy Calculations for Parity Submeasures

1. Define necessary variables. For each cell j, with activity for both the ILEC and for CLEC (i.e., $n_{1j} > 0$ and $n_{2j} > 0$), let

n_{1j} = the ILEC volume in cell j
n_{2j} = the CLEC volume in cell j

n_2 = the total CLEC volume = $\sum_j n_{2j}$

X_{1j} = the observed mean, proportion, or rate for the ILEC sample in cell j
X_{2j} = the observed mean, proportion, or rate for the CLEC sample in cell j

2. Compute the Disparity Index, d.

$$d = \frac{\sum_j (n_{2j} / n_2) X_{2j}}{\sum_j (n_{2j} / n_2) X_{1j}} - 1$$

If the denominator of the fraction equals 0, then d is temporarily set at $d = 99$.

3. Cap the Disparity Index.

If $d > 2.50$, then reset $d = 2.50$. If $d < 0$, then reset $d = 0$, and no remedy is paid.

4. Compute the Base Remedy Amount.

Baseline Remedy Amount = $d\, n^{1/2} B$, where B is shown in Table A.3.

Table A.3

Values of B for Parity Submeasures,
by Measure/Product Category

	Product Category			
Measures	IC-Trunk	LNP	UNE	Other
CTRR, PMIAIS, PPT	15	200	600	200
OOS, PMRA, PRT	NA	NA	1,800	600
AOCCNI, MAD	NA	900	2,700	900

5. Apply ceilings to the Base Remedy Amount.

If the Base Remedy Amount exceeds \$25,000, it is capped at \$25,000. For proportion parity measures, compute the number of CLEC misses: $m_2 = \sum_j n_{2j} X_{2j}$.

Remedies are capped at \$3800 m_2 for UNE submeasures, at \$1440 m_2 for LNP submeasures, and at \$960 m_2 for other submeasures.

6. <u>Apply persistence factor for repeated violation, if applicable</u>**.**

For a repeated violation, i.e., a submeasure/CLEC combination in violation for two or more months including the current month, the Final Remedy Amount equals the Base Remedy Amount multiplied by the corresponding factor in Table A.1.

Example Remedy Calculation for a Parity Submeasure

Table A.4 illustrates the remedy calculations for a hypothetical example, using a proportion parity submeasure. The example assumes that there are 11 cells with both ILEC and CLEC volume ($n_{1j} > 0$ and $n_{2j} > 0$). Columns 2-4 and 5-7 show results, by cell, for ILEC and CLEC customers, respectively.

The last two columns of the table show intermediate calculations needed to compute the disparity index in Step 2. The disparity index is

d = (7.407/5.092) – 1 = 1.455 -1 = 0.455.

Because $0 < d < 2.50$, Step 3 does not affect the value of d. For PMIAIS-UNE, Step 4 gives

Base Remedy Amount = (0.455) $54^{1/2}$ (\$600) = \$2,006.

For a non-repeat violation, this is the final remedy amount.

Table A.4

Example Remedy Calculations for PMIAIS, Dispatch in, < 10 Circuits,
UNE Loop and Port Combo, Month 1 Violation

Cell (j)	ILEC Misses	ILEC n (n_{1j})	ILEC % ($\overline{X}_{1j}$)	CLEC Misses	CLEC n (n_{2j})	CLEC % ($\overline{X}_{2j}$)	$(n_{2j}/n_2)\overline{X}_{1j}$	$(n_{2j}/n_2)\overline{X}_{2j}$
1	0	263	0.00	0	1	0.00	0.000	0.000
2	0	150	0.00	0	4	0.00	0.000	0.000
3	0	847	0.00	0	1	0.00	0.000	0.000
4	108	1771	6.10	0	1	0.00	0.113	0.000
5	0	10	0.00	0	2	0.00	0.000	0.000
6	24	104	23.08	0	3	0.00	1.282	0.000
7	0	82	0.00	0	9	0.00	0.000	0.000
8	8	114	7.02	1	8	12.50	1.040	1.852
9	14	241	5.81	2	11	18.18	1.183	3.704
10	0	198	0.00	0	3	0.00	0.000	0.000

11	17	235	7.23	1	11	9.09	1.474	1.852
Total	171	4015	4.26	4	54	7.41	5.092	7.407

Base Tier II Remedy Calculations

The CLEC Coalition proposes that the Tier II remedy calculation in the current SEEM Plan be continued until the parties have observed whether remedies resulting from changes in the Tier I calculation combined with the current Tier II calculation lead to improved performance. If the remedies prove to be insufficient to motivate compliant performance, then the Tier II remedy calculation will require transitioning.

Summary

The CLEC Coalition proposal for incorporating severity, utilizes both the magnitude of the disparity of service performance and the CLEC volume. These changes will improve incentives for BellSouth to fix its service procedures in the areas where CLECs (and their customers) face the worst performance and the most damage. At the same time, the Coalition's proposal reduces remedies that result from a small number of failures, as well as, limits the amount of remedies to be incurred for a single submetric violation.