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Matilda Sanders*1

Matilda Sanders

From: Daniels, Sonia C - LGCRP [soniadaniels@att.com]
Sent: Monday, December 06, 2004 3:02 PM
To: Filings@psc.state.fl.us
Cc: Lisa Harvey; ateitzman@psc.state.fl.us; rmulvany@birch.com; gwatkins@covad.com; mfeil@mail.fdn.com; Michael Gross; dst@tobinreyes.com; aleiro@idstelcom.com; NEdwards@itcdeltacom.com; Donna McNulty; jmclau@kmctelecom.com; jacanis@kelleydrye.com; mhazzard@kelleydrye.com; jmcglothlin@mac-law.com; Vicki Gordon Kaufman; rheatter@mpowercom.com; danyelle.kennedy@networktelephone.net; Inowalsky@nbglaw.com; Michael Britt; Peter Dunbar; Susan Masterton; Dulaney L. O'Roark; Mark.Ozanick@accesscomm.com; mconquest@itcdeltacom.com; MCampbell@nuvox.com; TSauder@birch.com; Nancy Sims; Nancy White; Tracy Hatch; Chris McDonald; Musselwhite, Brian J - LGCRP; Norris, Sharon E - LGCRP
Subject: RE: 000121A -- CLEC Response to SEEM Wkshp Action Items



12062004 FL
C Resp to Act

> Docket No. 000121A-TP -- In re: Investigation into the Establishment
> of Operations Support system Permanent Performance Measures for
> Incumbent Local Exchange Telecommunications Companies (BellSouth
> track)

> Attached please find for electronic filing the CLEC Coalition's Response to Action
Items from the November 8-9, 2004 SEEM Workshop in the above-referenced docket. The cover
letter, certificate of service and the CLEC Coalition's Response are a total of 14 pages.
The attached document should be considered the official version for purposes of the docket
file.

> As indicated in the cover letter, copies of the CLEC Coalition's Response are being
distributed to parties via electronic (in cases where e-mail addresses are available) and
U.S. Mail. Thank you for your assistance in this matter.

> <<12062004 FL CLEC Resp to Action Items from SEEM Workshop.pdf>>

> Sonia Daniels
> Docket Manager
> AT&T Law & Gov't Affairs
> 1230 Peachtree
> 4th Floor
> Atlanta, GA 30309
> Phone: 404-810-8488
> Fax: 281-664-9791

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DOCUMENT NUMBER-DATE

12901 DEC-06

FPSC-COMMISSION CLERK

ORIGINAL



Tracy Hatch
Senior Attorney
Law and Government Affairs
Southern Region

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

December 6, 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 Coalition's Response to Action Items from the November 8-9 SEEM Workshop 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 electronic and U.S. Mail.

Thank you for your assistance with this filing.

Sincerely yours,

s/ Tracy W. Hatch

Tracy W. Hatch

TWH/scd
Attachment
cc: Parties of Record

DOCUMENT NUMBER-DATE
12901 DEC-6 04
FPSC-COMMISSION CLERK

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the CLEC's Response was served
by U.S. Mail this 6th day of December 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 Canzano McNulty
MCI
1203 Governors Square Blvd., Suite 201
Tallahassee, FL 32301

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

WorldCom, Inc.
Dulaney O'Roark, III
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
Tracy W. Hatch

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Investigation into the Establishment)
of Operations Support System Permanent) Docket No. 000121A-TP
Performance Measures for Incumbent)
Local Exchange Telecommunications) Filed: December 6, 2004
Companies (BellSouth Track))

CLEC COALITION RESPONSE TO SEEM WORKSHOP ACTION ITEMS

Competitive Local Exchange Carriers ("CLECs"), AT&T Communications of the Southern States, LLC; Birch Telecom; DIECA Communications Company d/b/a Covad Communications Company ("Covad"); ITC^DeltaCom Communications, Inc. ("ITC^DeltaCom/BTI"); MCImetro Access Transmission Services, LLC, MCI WorldCom Communications, Inc.; and Network Telephone Corp., hereinafter collectively referred to as the "CLEC Coalition," hereby file the following responses to the Florida Public Service Commission Staff's ("Staff's") request that answers be supplied for the following Action Item from the November 8-9, 2004 SEEM Workshop:

Action Item 1: Provide comments on which measures would be candidates for reporting two months of data.

Response:

CLECs would not oppose measuring and reporting sub-metric level performance every two months for certain "low volume" services for Tier I penalties. (However, the SQM reports should remain monthly to permit timely monitoring of service performance.) For purposes of combining two months of data, services would be considered low volume if the median volume of transactions for individual CLECs was 15 or less per month for the most recent six months available at the time of this designation. Sub-metrics designated as "low volume" would be re-evaluated at each plan review.

Penalty payments should be adjusted as follows:

CLECs would not require an adjustment for a transaction based plan because the number of disparate transactions might be expected to double for a two month period. For a measure based plan, remedy amounts would need to be adjusted upward if **all** sub-metrics were switched to bimonthly assessment. For this scenario, CLECs recommend an adjustment to increase all values of B by approximately the square root of 2. However, if the assessment period is increased only for low volume submetrics, as proposed by the CLECs, the CLECs would agree not to adjust the remedy formula.

Impact on Tier II Calculations:

As volumes for Tier II metrics are based on Tier I aggregate results, it is not necessary to make changes to Tier II calculations. (Tier II would not combine two months data.)

Action Item 2 - Minimum Remedy Payments

- a. Propose a definition of nascent services, what products currently fit this category, how should they be treated, how many in service, over what period of time**

Response:

By its nature, the measure based plan proposed by CLECs avoids the need for adjustments to protect nascent services. If a transaction based plan is adopted, the CLECs recommend that a

market penetration adjustment, which includes nascent services, also be adopted. Following is proposed language, based on the Georgia SEEM plan:

Market penetration adjustment.

BellSouth shall implement a market penetration adjustment for new, advanced or other services that are expected to grow, but have to date achieved only negligible levels of market penetration.

1. In order to ensure parity and benchmark performance where CLECs order low volumes of advanced and nascent services, BellSouth shall make additional payments to CLECs and the Commission when there are more than 10 and less than 100 observations for those sub-measures listed below on average statewide for a three-month period. (This list is preliminary and should be subject to true-up prior to issuance of any Commission Order)

- **Percent Missed Installation Appointments**

- UNE EELs
- UNE xDSL
- UNE ISDN
- UNE Line Sharing
- UNE Line Splitting

- **Average Completion Interval**

- UNE EELs
- UNE xDSL
- UNE ISDN
- UNE Line Sharing
- UNE Line Splitting

- **Missed Repair Appointments**

- UNE EELs
- UNE xDSL
- UNE ISDN
- UNE Line Sharing
- UNE Line Splitting

- **Maintenance Average Duration**

- UNE EELs
- UNE xDSL
- UNE ISDN
- UNE Line Sharing
- UNE Line Splitting

- Average Response Time for Loop Make-Up Information (Not currently disaggregated-manual analysis required)
 - UNE DS1 and above
 - UNE EELs
 - UNE xDSL
 - UNE ISDN
 - UNE Line Sharing
 - UNE Line Splitting

(CLECs may also need to revise this recommended list after issuance of the FCC's TRO Order.)

2. The additional payments referenced in 1, above, shall be made if BellSouth fails to provide parity service for the above measurements as determined by the use of the Truncated Z-Test and the balancing critical value or fails to meet the standard for benchmark measures in a given month for Tier I or in 3 consecutive months for Tier II.

3. If, for the three months that are utilized to calculate the rolling average, there were 100 observations or more on average for the sub-metric, then no additional payments under this market penetration adjustment provision will be made to the CLECs or to Commission for deposit with the State Treasury. On the other hand, if during the same time frame there is an average of more than 10 but *less* than 100 observations for a sub metric on a statewide basis, then BellSouth shall calculate the additional payments to CLECs and the Commission by trebling the per transaction amounts in the normal Tier I and Tier II fee schedules and applying the method of calculating remedies ordered by the Commission.

4. Any payments made under this market penetration adjustment provision are subject to the Absolute Cap set by the Commission.

- b. **What other circumstances warrant a minimum payment, low volume, etc?**

Response:

CLECs believe that if the fee schedule, disaggregation, standards, and escalations for chronic violations are set appropriately, no additional minimum payment schedule is needed. For example, fees for low volume, high impact services such as collocation and change management must be high enough to incent BellSouth not to discriminate against CLECs. Disaggregation must be sufficient to avoid masking discrimination. The cell level disaggregation and truncated methodology alone are not sufficient. For example, non-dispatch and dispatch services involve separate processes and separate work groups, and should be disaggregated. Similarly, loops with conditioning are provisioned very differently than those without conditioning. Fee schedules for chronic lack of compliance, in the event the basic schedule is too low, should be in place to incent BellSouth to improve its performance.

b. How should any minimum penalty amount be established?

Response:

See responses to a and b above.

Action Item 3: Provide comments on alternative (to BellSouth and Staff proposals) methods to establish varying fee schedules based on overall performance.

Background

BellSouth proposed three options for fee schedules to be implemented, based on BellSouth's level of overall performance for a given month, as compared to baseline performance.

BellSouth's stated rationale for the proposed change was:

1. Provides a provision to deter back-sliding
2. Provides an additional incentive to improve performance
3. Eliminates a flaw in the proposed plan that requires BellSouth to provide better service to

CLECs

Based on concerns with BellSouth's proposal to use one overall level of performance that aggregates all sub-measures and measures¹, Staff proposed an alternative method of evaluating performance, which stratified performance by product groupings and weighted the various domains of performance metrics within those product groupings. Both BellSouth and the CLECs expressed some concerns with Staff's proposal. Staff then asked the parties to suggest additional alternatives for using varying levels of performance to trigger different levels of fees for non-compliant performance. In particular, the Staff asked the parties to comment on the following proposal:

If a given submeasure in Tier 2 passes, but fails in Tier 1 one fee schedule (a lower fee schedule) would apply.

If a given submeasure in Tier 2 fails, and it fails in Tier 1 a different fee schedule (a higher fee schedule) would apply.

¹ CLECs have strong concerns with BellSouth's proposed fee schedules as well as how it proposes to measure performance to "activate" a particular fee schedule.

Response:

Regarding BellSouth's rationale 1 above, CLECs strongly disagree that the anemic and non-existent fee schedules proposed by BellSouth are sufficient to deter back-sliding, much less ensure compliant performance. Further, the use of overall performance that allows BellSouth to determine an overall fee schedule permits it to provide even worse performance for particular metrics and/or CLECs. (See Row 6 of CLEC technical matrix for additional concerns and arguments against BellSouth's proposal.)

Regarding BellSouth's rationale 2 above, CLECs are not opposed to lesser penalties (and greater penalties) based on level of compliance. The severity mechanism proposed by the CLECs was designed for just such purposes. In response to Staff's request that parties comment on its latest proposal described above, the CLECs provide the following comments:

CLECs are receptive to the proposal because it avoids the problem of aggregation across products and/or domains.² Consequently, irrelevant results for one submetric do not affect remedies associated with violations for another submetric. However, CLECs have concerns that this proposal offers little protection against discrimination toward a specific CLEC, nor does it address the severity of the failure of a given sub-measure.

Regarding rationale 3 above, CLECS do not agree that BellSouth provides better service to CLECs than it provides itself. BellSouth has provided no evidence that it has methods and procedures or processes by which its systems and personnel are directed to systematically provide superior performance to that it provides itself. Further, to the extent that BellSouth made

² Based on its strong concerns about the appropriateness of a plan that would permit scenarios of decreasing fee schedules that would be applied to deteriorating performance, CLECs were unable to create a recommendation that further modified the BellSouth or original Staff proposal.

this proposal to (once again) address its alleged low volume/Type 1 error concerns, CLECs do not believe BellSouth's proposal is an appropriate method of dealing with those concerns. It certainly is an illogical and inappropriate solution to pay less (or not at all) when you do discriminate because you have concerns that you sometimes pay when you do not (especially when the reverse is also true). Further, the Staff is currently considering methods of reducing instances of low volumes such as examining areas for reduced disaggregation, and combining two months of data for "low volume" sub-metrics.

Respectfully submitted this 6th day of December, 2004.

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/ Rose Mulvany Henry

Rose Mulvany Henry
Vice President of Regulatory Affairs
Birch Telecom, 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/ Donna McNulty

Donna Canzano McNulty
MCImetro Access Transmission Services, LLC,
MCI WorldCom Communications, Inc.
1203 Governors Square Blvd., Suite 201
Tallahassee, FL 32301

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/ Margaret Ring

Margaret Ring
Director, Regulatory & Governmental Affairs
Network Telephone Corp.
3300 North Pace Boulevard
Pensacola, FL 32505