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State of Florida

Public Service Commission

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

DATE:	February 16, 2005
TO:	Commission Clerk and Administrative Services Division
FROM:	Kitessa Kennedy, Engineering Specialist II, Division of Competitive Markets & Enforcement
RE:	Docket No. 000121A-TP – Investigation into the establishment of operations support systems permanent performance measures for incumbent local exchange telecommunications companies. (BELLSOUTH TRACK)

Please place the attached document, titled "SEEM Staff Strawman, 2/16/05 Edition," into the docket for future reference. This document was transmitted electronically to the parties on February 16, 2005 with the following transmitted message:

Please see the attached file for staff's revised strawman, which will be the subject of our call on Monday, February 21. If you have any questions or need clarification on the revised strawman, please call Sally at (850) 413-6605 or myself at (850) 413-6572. We appreciate your continued participation in this process. Your input has been very helpful to staff in developing workable compromises, which have enabled us to make significant strides towards an acceptable plan. Please keep in mind that our self-imposed deadline for reaching resolution is rapidly approaching.

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SEEM Staff Strawman, 2/16/05 Edition

Measure-Based vs. Transaction-Based Plan

The existing SEEM plan is a measure-based plan, and the current six-month review is addressing if this plan is in need of modification. Several shortcomings to the current plan have been identified by the parties. These shortcomings have been addressed in the proposal presented below.

The first determination to be made is whether the SEEM plan should be measure-based or transaction-based. The issue comes down to which plan provides better incentives for BellSouth to provide parity performance to its wholesale customers, the CLECs. In addition, the selected plan should inherently adjust the incentive as the level of performance changes.

BellSouth presented a transaction-based plan during the initial phase of this docket that included a feature called the parity gap, which was used to estimate the number of disparate transactions. A transaction-based plan was not adopted by this Commission because of the visible shortcomings in this particular estimation process. BellSouth has presented a new transaction-based proposal with a different method for measuring the number of disparate transactions in the current review. Although this new plan is better, it would need improvements in order to be acceptable to staff. Needed improvements would include increasing the remedy amount per transaction where disparity is certain, adjusting the point of reference for determining disparate transactions, and imposing a minimum remedy payment for nascent services.

The CLECs' proposal builds on the existing measure-based plan and incorporates a new severity mechanism. The severity proposal borrows ideas from the discussions between staff and the parties during the preceding year, wherein staff attempted, without reaching agreement, to overlay a severity mechanism onto the existing SEEM plan. The new severity mechanism proposed by the CLECs does not attempt to ensure dollar neutrality nor does it include a direct link from existing performance and volumes to payments, as staff had attempted previously. Nevertheless, the CLECs' proposal includes an indirect link to typical performance and volumes and existing fees through the B coefficient. Staff, however, is concerned that the CLECs' severity mechanism requires use of constraints to help maintain appropriate fee levels. Also, while the CLECs' proposed payment function is logical at a basic level, certain components of the function could just as easily be expressed in a different manner and still be logical.

The concern for sufficient incentive has most often been the CLECs' argument against the transaction-based plan. Staff believes BellSouth's incentive is tied more to the dollars paid and less to the type of plan or method of calculation. A different argument for the measure-based plan that has also been advanced is that the transaction-based plan does not link a CLEC's experienced harm to the remedy amount. However, staff believes the same argument can be made against the measure-based plan. The CLEC's harm is difficult, if not impossible, to measure, and this difficulty is compounded when volumes are low. Because measuring harm is difficult, our objective is to ensure that BellSouth has sufficient incentive to provide parity level performance to the CLECs.

Staff believes that modifying BellSouth's proposal to include enough incentive, is a more rational approach than attempting to modify the CLECs' proposal to include an acceptable

severity mechanism. For this reason, staff's proposal is based on the transaction-based plan proposed by BellSouth, with care being taken to develop a reasonable compromise between the parties' positions and interests. Staff has been very attentive to the parties' concerns and often shares in the concerns on both sides.

Of note, staff believes the BellSouth and CLEC proposals have a distinct, philosophical difference. The CLECs' proposal is predicated more on the estimated severity of the performance failure, while BellSouth's proposal is based more on the statistical certainty of the performance failure. These are two different, but rational, bases for a SEEM plan. While staff acknowledges recent efforts to overlay a severity feature onto the existing SEEM plan, estimating severity has proven very problematic for the past several years. Intuitively, an estimate of severity needs to incorporate a disparity index and volume in some manner, but finding an incontrovertible basis for selecting one formulation over another has proven to be very difficult. Even setting these issues aside, if volumes are low, the severity estimate may include a high level of uncertainty. Given these issues in estimating severity, staff believes that basing the SEEM plan on the statistical certainty of the performance failure is more practical.[1] In addition, the statistical certainty concept can be used in quantifying disparate transactions, which in turn provides some estimate of the severity of the performance failure, albeit a different type of indicator than proposed by the CLECs.

The plan outlined here only addresses that portion of BellSouth's proposed SEEM plan that determines the actual remedy amount based on a failure in a given submeasure. In particular, this proposal does not include revisions to the administrative plan, nor the level of disaggregation for submeasures.

Delta and Psi

Initially, staff had anticipated delaying the determination of delta and psi until a strawman had been accepted by both parties. However, based on feedback to date, staff believes that the decisions on delta and psi will be integral to acceptance and must be addressed at this time. The values of psi and delta are business decisions, not technical issues. These values determine how much of a difference in the sample means/proportions is deemed material. The CLECs have requested that the current delta function be retained; however, they have shown some willingness to accept a fixed delta of no more than 0.5. BellSouth has stated that the current delta function is unacceptable due to the small delta for large volumes and has suggested a fixed delta value of 1.0. Practically speaking, with the current delta function, the materiality determination is overly sensitive at large volumes. At a volume of 500 (where delta is approximately 0.2), only 54% of the wholesale data points could exceed the retail sample mean and still result in a submeasure failure. This small deviation from 50% effectively equates slight differences with discrimination. Staff does not believe that this result is reasonable for pass/fail determinations. Additionally, BellSouth has indicated that any delta value lower than 0.5 for these large volumes would be unacceptable. On the other hand, the CLECs have concerns with a large delta value. Staff finds this argument compelling as well, since at large volumes and a fixed delta of 1.0, BellSouth would not fail even with 65% of the wholesale data points exceeding the retail mean. However, since the CLECs seem willing to accept a fixed delta value of 0.5, staff would like to

[1] Staff notes that in the hearing phase of Docket No. 000121-TP, the testimony addressed the need for a severity feature, although the concepts of severity and statistical certainty were both raised in this context.

offer this as a compromise to the parties. Although both parties may not fully accept this value, both appear to accept a value of 0.5 in at least some situations.

Finally, the value of psi for proportion measures must also be specified. BellSouth indicated that a fixed value for psi would be preferred here as well, but did not provide a value in its filing. The CLECs have suggested that if the delta function is retained, then psi need not be changed either. However, in proposing delta as a fixed value, then a fixed value of psi must also be chosen. Staff would recommend that the parties work together to choose a value of psi analogous to the fixed delta value of 0.5. If additional guidance is needed, staff can facilitate discussions with the parties.

Priority Cell Ranking

In order to ascertain which transactions should be corrected, BellSouth has proposed ranking the cells by the z-score. An alternative could be to rank the cells with negative scores by volume and correct the cells with the most volume first. For the most part, high volume cells should get corrected through the z-score ranking, because the volumes affect the z-scores, which in turn affect the truncated z. Nonetheless, ranking by volume could inappropriately cause cells that are less disparate to be corrected, while leaving those that are more disparate, without correction. Furthermore, ranking by the z-score, a measure of certainty, guarantees correction of disparate cells. An argument could certainly be made for ranking by severity; however, as previously mentioned, measuring severity is difficult, if not impossible. Staff believes that ranking by z-score has merit and proposes this approach.

Cell Correction (Parity Point versus Detection Point) & Development of Fees

After the cells are ranked by z-score, the cell with the largest negative z-score is corrected to 0 and the truncated z is recalculated. The question here is to what value should the truncated z be compared? Should the truncated z be compared to the balancing critical value as is performed in the pass/fail determination? Alternatively, should the truncated z be compared to zero on the basis that the sample means and proportions are the best estimates of performance in the population? Stated differently, beyond the BCV (i.e., the "detection" point), there is a statistically significant and material disparity between BellSouth's wholesale and retail performance. Between the BCV and zero (i.e., the "parity" point), the difference between BellSouth's wholesale and retail performance does not reach the statistically significant and material threshold, but could nonetheless constitute a lesser form of disparity. Staff notes that the truncated z is a combination of negative z-scores, which indicates varying degrees of disparity.

According to BellSouth, cell correction should only be performed until the truncated z reaches the BCV. BellSouth does not believe that cell correction and associated payments are appropriate in the region between the BCV and zero. In support of its position, BellSouth provides several reasons which include: there is a high degree of uncertainty that a failure occurred in the region between the BCV and zero; the materiality determination should be the same for the pass/fail determination and for the calculation of penalties; error balancing would be compromised; and those cells in which BellSouth provided better service have been truncated and thus not considered.

According to the CLECs, any count of disparate transactions should include the region between the BCV and zero. If cell correction is limited to merely reaching the BCV, the CLECs believe this would condone all but the most egregious instances of discrimination.

While both parties have good arguments for their positions, staff does not fully endorse either one. In the region between the BCV and zero, the difference between BellSouth's wholesale and retail performance does not rise to the statistically significant and material threshold that is used in the pass/fail determination. Staff is concerned, however, about completely disregarding transactions in this range since there is a reasonable chance that discrimination has occurred. Also, once a failure is detected, staff prefers that the cell correction be sufficient to address plausible instances of discrimination, rather than achieve just a passing result. Staff offered the composite z approach, which would give credit for BellSouth's better service in the cell correction process and use the parity point, in the hopes of bridging this difference of opinion. BellSouth is not willing to consider the composite z approach without studying the dollar ramifications, and staff is hesitant to delay this process further to enable BellSouth to perform such a review. For that reason, staff focuses on the truncated z approach and the appropriate treatment of the region between the BCV and zero.

Staff does not believe that the materiality determination necessarily needs to be the same for the pass/fail determination and for the calculation of penalties. As mentioned above, once a failure is detected, staff believes the better course of action is to address plausible instances of discrimination, in addition to statistically significant and material disparity. Staff does share BellSouth's concern regarding truncation of cells where BellSouth provided better service. Due to this truncation, staff has some reservation about correcting cells until the truncated z reaches zero. To address this reservation and the fact that the statistically significant and material threshold is not reached in the region between the BCV and zero, staff believes that the fees should be commensurately lower.[2]

Staff is providing a hybrid proposal as part of a compromise that should incent parity performance, while appropriately compensating CLECs for discriminatory performance. Given BellSouth's strong market position, staff does not believe a "commercial" fee schedule, as proposed by BellSouth, is appropriate for transactions that fall in the statistically significant and material category. The CLEC should be "refunded" the money paid for clearly discriminatory service and also be compensated for some additional costs that the CLEC incurred in obtaining the account. In the region between the BCV and zero, where there is less certainty of discrimination, staff believes that the fees should be significantly lower than those applicable in the region below the BCV.

For submeasures with benchmark standards, staff believes that the applicable fees should be those used for parity submeasures, in the region beyond the BCV. Staff reasons that with a

[2] Staff has considered another alternative that would eliminate the perceived need to correct transactions in the region between the BCV and zero. Once a submeasure failure is detected, a second BCV could be calculated using a smaller value of delta (e.g., .25) than used in the pass/fail determination. By using this lower materiality threshold, staff believes that cell correction then could be restricted to the region below the second BCV. This approach could be superior, in concept, to paying reduced fees in the region between the first BCV and zero, and provides for a cell correction process that addresses less serious forms of disparity. Staff will explore this idea further if the parties express interest.

benchmark, a bright-line test is used for determining compliance, which replaces the statistically significant and material determination used for parity submeasures.

Staff has reviewed the "commercial" fee schedule proposed by BellSouth and the associated reasoning behind each of the fees. From staff's perspective, none of the reasoning seems objectionable, except that the rates used to develop the schedule should be Florida-specific. The only other significant change proposed by staff involves Maintenance and Repair. Since a CLEC could have expended significant time and money in acquiring the customer, only to lose the customer to discriminatory maintenance and/or repair service, staff believes that using the fee from the provisioning domain is appropriate. Staff also notes that with the existing SEEM, these two domains have the same fees.

Overall Performance

Staff has concerns with BST's initial proposal for an overall performance incentive that aggregated all submetrics. However, the volatility of other less aggregated approaches to overall performance forces staff to consider other possibilities.

Staff proposes that the Tier 1 fees should be differentiated based on whether the same submeasure fails at the CLEC aggregate level in the same month. If the CLEC aggregate test for the same submeasure fails, staff believes this indicates a systemic problem. For this reason, a lower fee schedule should be used when the CLEC aggregate test passes, and a higher fee schedule used when the CLEC aggregate test fails. In the region below the BCV, the fee should be substantial in order to provide a sufficient incentive for BellSouth to cure the systemic problem.

Table 1 illustrates how Overall Performance and Certainty of Disparity are to be handled in tandem. For example, if BST's performance causes a CLEC to experience a failure in a given submeasure and causes the same submeasure to fail at the CLEC aggregate level, then transactions that require correction to reach the BCV are paid at three times the "commercial" fee, and those additional transactions that when corrected bring the truncated z to zero, are paid at two-thirds the "commercial" fee. If the CLEC aggregate test passes, the applicable fees would be half of those that apply under the CLEC aggregate failure scenario.

Table 1: Tier 1 Per Transaction Fee Determination
Based on Certainty of Disparate Transactions and CLEC Aggregate Performance

CLEC Aggregate Performance	Below BCV	Between BCV and 0
Passes	("Commercial" fee)($^3/_2$)	("Commercial" fee)($^1/_3$)
Fails	("Commercial" fee)(3)	("Commercial" fee)($^2/_3$)

Escalation

Escalation is a necessary Tier 1 feature of the plan. BellSouth needs incentive to ensure that systemic problems do not persist, and the CLECs need assurance that concerns with this persistence will be handled appropriately. Both BellSouth and the CLECs have stated their willingness to accept a system of escalation that mirrors the current month-to-month

relationships in the Georgia Fee Schedule. By using the Georgia fee relationships, the pattern of escalation will vary by submeasure, which differs from the result that would have been obtained by applying escalation factors. Table 2, includes the escalation based on the Georgia Fee relationships.

Fee Schedules and Computations

The cell correction, overall performance, and escalation features all affect determination of the applicable Tier 1 fees to be paid for any submeasure failure. Using the "commercial" fee as a starting point, staff first shows the escalation by month, which corresponds to the number of months that a given CLEC has experienced a failure in a given submeasure. Once the corresponding fee has been selected from Table 3 below, staff next shows how Table 2 is applied to calculate the affected transactions and associated fees.

Table 2: Commercial Schedule for Tier 1 Per Transaction Fee Determination

	M1	M2	M3	M4	M5	M6
OSS/Pre-Ordering	$ 10	$ 15	$ 20	$ 25	$ 30	$ 35
Ordering	$ 20	$ 25	$ 30	$ 35	$ 40	$ 45
Flow Through	$ 40	$ 45	$ 50	$ 55	$ 60	$ 65
Provisioning – Resale	$ 40	$ 50	$ 70	$ 100	$ 130	$ 200
Provisioning – UNE	$ 115	$ 130	$ 145	$ 160	$ 190	$ 230
Provisioning – UNE-P	$ 55	$ 60	$ 70	$ 75	$ 90	$ 110
Maintenance and Repair – Resale	$ 40	$ 50	$ 70	$ 100	$ 130	$ 200
Maintenance and Repair – UNE	$ 115	$ 130	$ 145	$ 160	$ 190	$ 230
Maintenance and Repair – UNE-P	$ 55	$ 60	$ 70	$ 75	$ 90	$ 110
LNP	$ 115	$ 190	$ 385	$ 460	$ 535	$ 615
Billing – BIA	2%[3]	2%[3]	2%[3]	2%[3]	2%[3]	2%[3]
Billing – BIT	$ 7	$ 7	$ 7	$ 7	$ 7	$ 7
Change Management	$ 1,000	$ 1,000	$ 1,000	$ 1,000	$ 1,000	$ 1,000
IC Trunks	$ 25	$ 30	$ 45	$ 65	$ 80	$ 125
Collocation	$ 3,165	$ 3,165	$ 3,165	$ 3,165	$ 3,165	$ 3,165

Consistent with Table 2, where the CLEC aggregate test passes, staff proposes that for those transactions that require correction to reach the BCV, the per transaction fee should be 1 ½ times the "commercial" fee. For those additional transactions that bring the truncated z from the BCV to zero, the fee should be a third of the "commercial" fee. The following example is intended to illustrate the calculation process, but should not be used to draw any other inferences.

[3] Reflects percent interest to be paid on adjusted amounts.

Table 3: Cell-Level Data[4]

Cell	CLEC Misses	Z Score	Rank	Z* after cell correction
1	5	-7.85	1	-2.82222
2	1	-5.45	2	-2.41678
3	1	-3.34	3	-2.03023
4	3	-2.38	4	-1.13887
5	4	-1.62	5	-0.29134
6	7	-1.55	6	0.91925
7	4	-0.55	**BCV: -.96651**	

Table 4: Illustrative Example

Cell #'s corrected	Z* from Table 3	Total Corrected Transactions
1 – 4	-1.13887	10
1 – 4 & part of 5	BCV -0.96651	11 Transactions paid at 1½ times "commercial" fee: 11
1 – 5	-0.29134	14
1 – 5	-0.29134	14
1 – 5 & part of 6	0.00000	16 Transactions paid at 1/3 of the "commercial" fee: 5 (= 16 – 11)
1 – 6	0.91925	21

The data in this example was taken from the Percent Missed Installation Appointments metric, in the Provisioning-UNE domain; therefore, the per transaction amount from Table 3 would be $115. Since 11 transactions corrected the truncated z to the BCV, then 11 * $115 * 3/2 = $1,897.50 and since 5 more corrected transactions brought the truncated z up to 0, then 5 * $115 * 1/3 = $191.67, for a total of $2,089.17.

The Tier 2 fee schedule proposed below is derived from BST's proposed SEEM plan, but recast to reflect only Florida rates. The Tier 2 fees that would be paid below the BCV are calculated at 4.5 times the "commercial" rate, and those that would be paid between the BCV and zero are at the "commercial" rate. The fees were rounded up to the nearest $5 for ease of calculation. The calculations under Tier 2 should be performed analogous to those done in Tier 1.

Table 5: Tier 2 Per Transaction Fee Determination

Performance Measurement	Below BCV	Between BCV and 0
OSS/Pre-Ordering	$ 45	$ 10
Ordering	$ 90	$ 20
Flow Through	$ 180	$ 40
Provisioning – Resale	$ 180	$ 40
Provisioning – UNE	$ 520	$ 115
Provisioning – UNE-P	$ 250	$ 55
Maintenance and Repair – Resale	$ 180	$ 40
Maintenance and Repair – UNE	$ 520	$ 115
Maintenance and Repair – UNE-P	$ 250	$ 55
LNP	$ 520	$ 115
Billing – BIA	9.0%[5]	2%[5]
Billing – BIT	$ 35	$ 7
Change Management	$ 4,500	$ 1,000
IC Trunks	$ 115	$ 25
Collocation	$ 14,250	$ 3,165

[4] The truncated z calculations may not be exactly correct since not all the data is provided in this table.
[5] Reflects percent interest to be paid on adjusted amounts.

Minimum Remedy Payment

Staff proposes that a minimum remedy payment apply to nascent services. Certainly an argument could be made for applying the minimum payment to products with inherently low volume and in those occasions where, for whatever reason, volumes in a given submeasure for a given CLEC are low (i.e., a small CLEC or a CLEC who is testing a product). Where a product, such as collocation, has inherently low volumes, staff believes that the fee schedule has been set accordingly, and no minimum remedy is necessary. In the case where volumes are low for whatever reason, staff believes that the escalation feature can be used to mitigate any concern. Additionally, staff proposes that these situations be monitored to determine if any further action is needed.

Staff proposes that nascent services be defined as new, advanced or other services that are expected to grow, but have to date only achieved negligible levels of market penetration. For these services, BellSouth's payments to CLECs and the Commission should be increased, until such time as market penetration has been achieved.

If, for the three-month rolling average, more than 10 but less than 100 transactions are observed for a submetric on a statewide basis, the associated fee(s) to the CLECs and the Commission will be trebled. On the other hand, if during the same time frame, 100 or more transactions are observed for the submetric, this provision will not apply. Once a service does not satisfy the nascent criteria, the service is ineligible to be classified as nascent in the future.

Two Months of Data versus One Month of Data

Due to concerns raised both by the CLECs and BST, staff is not proposing data be analyzed on a two-month basis. The CLECs only favored use of the two-month approach in certain, limited situations, and BellSouth was concerned with its own reporting. While staff considered including a two-month feature, after consideration of these and other concerns, staff has chosen not to include it.

Conclusion

This SEEM strawman proposal incorporates aspects of proposals from both parties, as well as a few innovative approaches to solving some of the more complicated issues. Staff has strived to ensure that the plan is workable and effective, while still maintaining the balance necessary for an acceptable plan. The proposal embodies several aspects that separately may not appear to provide enough incentive; however, taken as a whole the incentives should be adequate to ensure provision of parity service. By borrowing pieces from each of the proposed plans and constructing a few nonstandard components, staff believes this revision of the plan can be accepted by all.