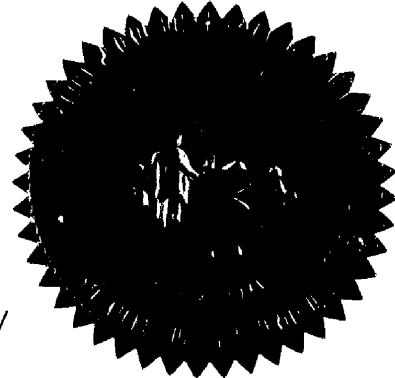


**BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION**

DOCKET NO. 000121-TP

In the Matter of:

**INVESTIGATION INTO THE
ESTABLISHMENT OF OPERATIONS
SUPPORT SYSTEMS PERMANENT
PERFORMANCE MEASURES FOR
INCUMBENT LOCAL EXCHANGE
TELECOMMUNICATIONS COMPANIES.**



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**VOLUME 2
PAGES 192 THROUGH 414**

PROCEEDINGS: HEARING

**BEFORE: CHAIRMAN E. LEON JACOBS, JR.
COMMISSIONER J. TERRY DEASON
COMMISSIONER LILA A. JABER
COMMISSIONER BRAULIO L. BAEZ
COMMISSIONER MICHAEL A. PALECKI**

DATE: Wednesday, April 25, 2001

TIME: Commenced at 9:30 a.m.

**PLACE: Betty Easley Conference Center
Room 148
4075 Esplanade Way
Tallahassee, Florida**

**REPORTED BY: KORETTA E. STANFORD, RPR
Official FPSC Reporter**

APPEARANCES: (As heretofore noted.)

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I N D E X

WITNESSES

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

NAME:

PAGE NO.

KAREN KINARD

Continued Cross Examination by Mr. Carver
Cross Examination by Mr. Fudge

195
225

DAVID A. COONS

Direct Examination by Mr. Lackey
Prefiled Direct Testimony Inserted
Prefiled Rebuttal Testimony Inserted
Cross Examination by Ms. McNulty
Cross Examination by Ms. Boone

235
238
294
346
369

EXHIBITS

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

NUMBER:

ID. ADMTD.

14	KK-1 through KK-5		234
15	BellSouth LMOS Performance Aid	209	235
16	DAC-1 through DAC-6, DAC-R1 and DAC-R2	236	
17	E-Mail From C. Compton of BellSouth to C. Davis of Covad	396	

CERTIFICATE OF REPORTER

414

P R O C E E D I N G S

(Transcript follows in sequence from Volume 1.)

CHAIRMAN JACOBS: We'll go back on the record.

Mr. Carver, you may continue.

MR. CARVER: Thank you.

KAREN KINARD

resumed the stand as a witness on behalf of WorldCom, Inc., and, having been previously sworn, testified as follows:

CONTINUED CROSS EXAMINATION

BY MR. CARVER:

Q Ms. Kinard, in addition to the measurements that are in BellSouth's SQM plan, how many other measures are the ALECs proposing?

A I think, it's 22 additional measures, around 20 measures.

Q Okay. And you propose that this total number of measures would be disaggregated, according to 10 different categories, correct?

A Well, it depends. Like, a lot of them have to do with hot cuts, so it's just that one level of disaggregation for hot cuts.

Q Okay. Let me ask the question this way. You have proposed 10 categories of disaggregation, correct?

A Are you talking generically about products and volume?

Q Yes.

1 A Okay. Yes.

2 Q If you look at Page 27 of your testimony there is a
3 list and on that list there were 10 categories?

4 A Yes, but they don't apply to all metrics.

5 Q Right. And I'll get to that in just a moment, but
6 right now I'm just trying to identify the actual categories.

7 A Mm-hmm.

8 Q They are geography, correct?

9 A Yes.

10 Q Interface type?

11 A Yes.

12 Q Pre-order query type?

13 A Yes.

14 Q Product?

15 A Yes.

16 Q Service order activity?

17 A Yes.

18 Q Volume category?

19 A Yes.

20 Q Trouble type?

21 A I'm sorry, I didn't hear the last one.

22 Q Trouble type?

23 A Yes.

24 Q Trunk design and type?

25 A Yes.

1 Q Maintenance and repair query type?

2 A Yes.

3 Q And collocation category?

4 A Yes.

5 Q And to see which disaggregation categories you would
6 apply to which measures, basically, you would have to look at
7 your Exhibits KK-2 and KK-3 and compare them, correct?

8 A Yes.

9 Q And as far as you know, no one in the ALEC collocation
10 has actually prepared a single document that does that, have
11 they?

12 A I'm sorry, a single document that has --

13 Q Yes.

14 A I think, we put in each measurement what category to
15 draw from for the disaggregation, if we haven't --

16 Q Well, let me try my question a different way. I think,
17 what you've told, us, if you look at KK-2 and KK-3, it can be
18 figured out. But what I'm asking is -- let me put it this way,
19 if you look at Mr. Coon's testimony, Exhibit DAC-R1 is a chart
20 that takes the various measurements in the disaggregation
21 categories and puts numbers to those. And my question is, is
22 there anyone in the ALEC collocation who has done an analysis
23 similar to the one that Mr. Coon has done?

24 A I only know that I have not done that.

25 Q Okay. So, you personally have not counted up the

1 number of submeasures?

2 A No, I have not.

3 Q And you don't know whether anyone else has?

4 A I don't know if anyone else has or not.

5 Q And you don't know whether a doc-- if someone has, you
6 don't know whether a document exists that would reflect what they
7 did?

8 A I don't know that either.

9 Q And, I think, in your deposition you told us that for
10 some of the types of disaggregation, you don't know the number of
11 categories that you would have for that particular type; is that
12 correct?

13 A I think, when you were asking me in the deposition
14 would we know all the query types, I think, we generally would,
15 but it would keep growing. You would be adding new query types.
16 So, we would -- you know, there wouldn't be an ultimate number
17 that's fixed for that.

18 Q Mm-hmm. Well, let me read you the question that I'm
19 referring to, the question and answer, and tell me if I'm
20 misinterpreting it. This is at Page 62 in your deposition
21 beginning at Line 11. "Question: If you wanted to find out
22 definitively what the query types available were for this
23 particular level of disaggregation, is there any way you could do
24 that without getting the information from BellSouth? Answer:
25 Without getting the information from BellSouth? Question:

1 Right. Is there, like, an independent published document you
2 would look at or anything? Answer: I really don't know if
3 there's -- I mean, there are industry guidelines on different
4 interface types, but I think we would have go to BellSouth on
5 what they built to."

6 A Yes, that's correct.

7 Q Okay. So, my interpretation of that is that for this
8 particular disaggregation category to find out how many
9 categories of disaggregation there were, you would have to go to
10 BellSouth. You couldn't do that on your own, correct?

11 A Yes, but it's something you would publish for CLECs to
12 built to, so it's readily attainable.

13 Q Okay. For service order activity, is that also a
14 disaggregation type or would you have to go to BellSouth to
15 determine how many categories?

16 A Not necessarily. I think, there may be some kind of
17 activity that you might group differently than another ILEC, so
18 we'd have to understand what encompasses dispatch in for you
19 versus them, we might need some clarification, but I think we
20 would generally know the different kinds of order activities you
21 have, whether it's a new install, whether it's a dispatch,
22 whether it's a central office trouble.

23 Q Do you know a specific number that you would aggregate
24 for this particular type of disaggregation?

25 A Do I know a specific metric that I would disaggregate

1 for this?

2 Q No. If I understand your answer, you said that you
3 generally know how many categories there would be. So, my
4 question is, is there a particular number that you can tell us
5 today so that you can say, okay, when we get to service order
6 activity that gets broken into x number of categories? Do you
7 have a number in mind?

8 A I mean, I could probably -- right here I don't have the
9 number. I could look at that list and count up the number of
10 different ones, but it might be -- we might pick new and a change
11 order for a provisioning as service order activity. We might
12 differentiate dispatch and nondispatch for some other kind of
13 activity. So, if you're saying we'd use the same number for
14 every metric, we might not do that, but you can certainly count
15 the number of things we would call service order activity in our
16 document.

17 Q No. Actually, my question, I think, was a lot simpler.
18 My question is just as you sit here today, can you give us a
19 number and say that for the disaggregation type service order
20 activity you need x number of categories? Do you have a number
21 in mind?

22 A Yeah. Let me go to KK-2. Well, we've listed three
23 that we want for maintenance and provisioning measures.

24 Q Okay. So, for service order activity, you would only
25 want three levels of disaggregation?

1 A Dispatch in, dispatch out and nondispatch.

2 Q Okay. What about volume, would you be able to tell us
3 how many categories would you need for the volume disaggregation
4 without getting information from BellSouth?

5 A Now, we'd have to look at your product interval guide
6 and see where you differentiate intervals by volume.

7 Q Okay. And the trouble type, that would be another one
8 where you couldn't propose a specific number without getting
9 information from BellSouth; is that correct?

10 A Yes, we'd have to get your trouble code types.

11 Q Okay. So, what you'd do is you would, what, look at
12 our disposition codes?

13 A Mm-hmm, yes.

14 Q Okay. So, for these particular categories that we've
15 talked about; volume, for example, trouble type, you really --
16 even if you wanted to go through the process of calculating how
17 many submetrics there are in your plan, you really couldn't do it
18 without getting that additional information from BellSouth, could
19 you?

20 A Yes. We'd need that information, but I believe it's
21 readily available.

22 Q Okay. But you don't have it now, right?

23 A Not with me, no.

24 Q Okay. Let me ask, to your knowledge, is there a data
25 system that's currently in existence that can keep track of and

1 retain information to the extent necessary to implement your
2 plan?

3 A I'm not a data systems expert, but I would imagine you
4 need a pretty high-capacity system to do all your statistical
5 tests down to the end-office level.

6 Q So, is your answer, since you're not a data expert, you
7 really don't know whether there is or not?

8 A I mean, that would have to be the basic one, but I
9 would speculate that there is.

10 Q Okay. Well, in order to make that decision, whether a
11 system exists, you'd really have to know the number of
12 submetrics, wouldn't you?

13 A I'm not sure if the number of sub-- I think, it would
14 have to do with how many data points are in the submetric that
15 would go into calculating the total volume. If a lot of the
16 disaggregation is just to separate the wheat from the shaft where
17 there's no activity so we'd compare areas where we'd both have
18 activity, then there'll be a lot of areas where there's no data
19 reported at all.

20 Q Well, but if we have a -- if there's a plan put in
21 place that has 75,000 submetrics, then each month for each ALEC
22 some process would have to be gone through to determine whether
23 there's activity in each and in every one of those 75,000
24 categories, correct?

25 A There would have to be coding to separate the data out,

1 but the capacity of the system, I would think, would relate more
2 than the number of data points that had to be crunched.

3 Q Okay. But my point is that even if there's no
4 activity, the system would have to be designed to go through
5 whatever analysis is necessary to reach the conclusion for each
6 submetric that there's no activity, correct?

7 A I would guess so. See, I have trouble with these
8 questions, because we approach disaggregation in like-to-like
9 comparisons. And if your arguments came back that you can
10 combine some of these things that they don't make any difference
11 in time interval or whatever, we would be open to that. But you
12 just keep saying there's too many numbers out there without
13 explaining how we could get like-to-like comparisons without
14 doing the disaggregation we want.

15 Q Okay. I don't think you answered my question, so I'm
16 going to try again. And I understand how you approach
17 disaggregation, but my question is if there are 75,000
18 submetrics, even if there's no activity in a lot of these
19 submetrics, there would have to be some sort of system designed
20 that would keep track of activity so that we would know whether,
21 in a particular submetric, there were no activity, one event, 10
22 events, 20 events, whatever. That would have to be done for each
23 and every submetric, correct?

24 A I would imagine there has to be some kind of computer
25 programming, certain level of capacity.

1 Q Okay. So, then, if that being the case, we really
2 can't know whether it's possible to adopt a particular plan,
3 unless we know how many submetrics it has and whether or not
4 that's feasible, correct?

5 A Well, I think, it's possible to adopt any plan. You
6 might have to buy more computer capacity to do some than others.

7 Q Well, but if we had a plan, hypothetically, that had a,
8 I don't know, 2 or 300,000 measures in it, you're suggesting,
9 what, that that would be appropriate and then somehow some
10 system would have to be made that would accommodate 2 or
11 300,000 measures?

12 A You know, I'm sure there is a system out there that --
13 you know, certainly the federal government deals with much larger
14 amounts of data than that.

15 Q Well, let me ask this. Can we agree that at some point
16 there would be some number of submetrics so great that trying to
17 keep track of them every month and recording the activity would
18 simply be unworkable at some point? Can we agree to that, at
19 least?

20 A I mean, that's sort of open-ended. I guess, there's
21 some point where you could have so many data points. We'd be way
22 ahead of computer technology.

23 Q Okay. But you don't have an opinion as to what that
24 particular number would be?

25 A No, I don't.

1 Q And you're aware that Mr. Coon has testified that your
2 disaggregation proposal would yield 74,695 submeasurement
3 categories, correct?

4 A Yes.

5 Q And you don't know whether that number is correct or
6 not, do you?

7 A I don't know if that's correct or not. And I've said
8 in my deposition that a lot of that is the disaggregation for
9 geographic area. And if he can show us that there's no need for
10 that distinction, for instance, CLECs might not -- or ALECs might
11 not be operating in, you know, half the MSAs, then we don't need
12 to look at those MSAs at all, but that's not the kind of answers
13 we've gotten back so far. We do think you need the geographic
14 disaggregation to look at, if in the area the CLECs are competing
15 what are the intervals in those areas and make sure those
16 intervals are not masked by statewide performance.

17 Q So, if I understand your answer, basically, what you've
18 just said is you would be willing to modify your plan to come up
19 with a more reasonable number of submetrics?

20 A Yes, but we'd want to look at the data. You control
21 the data. You know what your performance is in all the MSAs. We
22 only know how your performance towards us works out to be.

23 Q But as it stands right now, you want the geographic
24 disaggregation, correct?

25 A We want to see it or to see some proof that there is no

1 major geographic distinction for each of the MSAs. Maybe other
2 geographical distinctions would apply.

3 Q Let me ask you to look at -- do you have Mr. Coon's
4 testimony with you? Well, actually, let me do this. I have some
5 copies.

6 A The Direct?

7 Q Yeah, Direct. The next few questions I have relate to
8 the chart that Mr. Coon did, which is DAC-R1, but I have made
9 some copies of. I don't need to have it marked, because it's
10 already in the record, but just for convenience sake, we'll be
11 handing these out.

12 MS. McNULTY: Mr. Carver, what are you referring to
13 again?

14 MR. CARVER: I'm referring to an exhibit to Mr. Coon's
15 Rebuttal testimony which is marked DAC-R1.

16 MS. McNULTY: Thank you.

17 BY MR. CARVER:

18 Q Do you have the exhibit in front of you, Ms. Kinard?

19 A Yes, I do.

20 Q Okay. And I have a couple questions, and I'm telling
21 you why I'm asking these. Frankly, after your deposition last
22 week and some of your explanations about the categories, it may
23 be that actually Mr. Coon's numbers are low. So, I want to ask
24 you about that. First of all, one of your disaggregation
25 categories is service order activity, correct?

1 A Yes.

2 Q Now, if you look at Mr. Coon's chart, he hasn't done an
3 analysis of how that particular disaggregation type would affect
4 the plan, has he?

5 A Is that the dispatch status column or --

6 Q No, I don't believe it is, but I mean, I --

7 A I'm sorry, which column are you saying equates to
8 service order activity?

9 Q Well, my point is that, I think, perhaps he didn't --
10 he missed one of your categories is what I'm saying. And you
11 told us that service order activity is one of the categories that
12 there would have to be disaggregation. So, my question is,
13 basically, if this analysis doesn't include that, then to find
14 out what the accurate number is we'd have to take the service
15 order activity number and multiply that by all the categories
16 where it's appropriate to get the real number, correct?

17 A I'm not sure. This dispatch status might cover the
18 dispatch in, dispatch out and no dispatch, because he has three
19 in there that equates to that. I'm not sure.

20 Q Well, I'll tell you what, since you're not clear about
21 his chart, maybe it's not fair to ask you what he did. So, let
22 me try a different one. Another category is trouble type,
23 correct?

24 A Trouble type?

25 Q Yes, that's another one of the categories that you

1 recommend.

2 A I'm sorry, what -- I said that is one of our
3 categories. What did you want me to --

4 Q Yes, that's one of your categories. And if we look at
5 his chart, if we look at across the top of the chart, it would
6 appear that he has not broken repair out by trouble type. So, my
7 question is if that is the case, then in order to arrive at the
8 real number of measurements in the repaired category, we would
9 have to do an additional multiplication to take that into effect,
10 correct?

11 A Yes.

12 Q Okay. Now, I think, you told us previously that for
13 trouble types you would have to look at BellSouth's processes, I
14 suppose you could say, and taken determine how many disposition
15 codes we have; is that correct?

16 A Yes. Now, they might not all break out -- like, we
17 might put three disposition codes together; for instance, if you
18 excluded found okay, test okay CPE, we'd want to separately see
19 how many exclusions from the trouble report based on those three
20 different codes.

21 Q Okay. You're getting a little bit ahead of me. So,
22 before I ask you my next question, what I'd like to do is hand
23 out a document.

24 MR. CARVER: And Mr. Chairman, if I could have this
25 marked for identification please as, I believe, we're up to

1 number 15?

2 CHAIRMAN JACOBS: Yes, we are. Do you have a title?

3 MR. CARVER: Yes, I'm sorry. It's entitled, "BellSouth
4 LMOS -- and it's L-M-O-S -- Performance Aid."

5 (Exhibit 15 marked for identification.)

6 BY MR. CARVER:

7 Q Now, if you'd go, please, to the second page of this
8 document, the second column, there's a heading that says
9 "Disposition Codes." Do you see that?

10 A Mm-hmm.

11 Q Okay. And the listing of the codes continues through
12 the end of that column through the third column and then over to
13 the next page to columns one and two over on that page; do you
14 see that?

15 A Right.

16 Q Now, are these the type of trouble types that you're
17 talking about?

18 A Yes. But we would lump a lot of them together. We
19 wouldn't -- what we're basically looking for here is what would
20 make a difference in repair intervals. And actually this type of
21 disaggregation, I would think you would want, because central
22 office troubles can get fixed a lot faster than the kinds of
23 troubles with outside plant that you'd have to dispatch to.

24 So, if you separated out the intervals for that,
25 particularly, on mean time to restore and repair commitments met,

1 that helps you as much as us if we have more central office
2 problems and you have more outside plants and they're all
3 disaggregated, looks like we're out of parity. But the issue is
4 the different trouble types.

5 So, we would need the kinds that are grouped together,
6 probably all these O-4 would be just grouped under an O-4
7 disposition that it was outside plant. And all the ones that
8 have to do with a central office or software change would be
9 grouped together.

10 Q Okay. I think, my question was just are these the
11 types of codes that you're talking about? And I recall your
12 answer to that was yes, these are the types of codes you're
13 talking about?

14 A Well, I'm not talking about disaggregating by every
15 single one of them. At the higher level, the O-4 code --

16 Q Right.

17 A -- or the O-3 code.

18 Q Okay. But if they are the same type, then my next
19 question is this: First of all, you can count these, if you'd
20 like, but I will represent to you that the columns of disposition
21 codes, they add up to 165 codes. Now, I think, what you told me
22 in response to your previous question is that you wouldn't
23 necessarily want all 165 of these codes to be applied; is that
24 correct?

25 A No. We just -- see, at the very high level they have a

1 number. All the ones in the O-4 series would be one
2 disaggregation, all those kinds of trebles together. Probably,
3 O-5 would be with them because that would be -- well, O-5 might
4 be what's excluded, too. I'm not sure what you mean by
5 equipment, but we would want to look at all the O-4s together and
6 separate them from all the O-5 central office ones. We wouldn't
7 need one by every type of central office failure.

8 Q Well, I assume once -- I'm sorry. I assume once you
9 sum these up to whatever level you think is appropriate, the
10 number would be somewhere between 1 and 165; is that correct?

11 A I'd say it would more probably be more likely two or
12 three different codes.

13 Q Okay. So, having looked at this list of 165
14 disposition codes, you would only want two or three --

15 A The two or three general categories. Like, all these
16 ones under O-5 would be one separate category.

17 Q Okay.

18 A The found okay would be lumped together and looked at
19 as exclusions. They wouldn't even have a benchmark. That would
20 just be so we could keep monitoring to see if anything looked
21 like an abnormally high number of exclusions, which could exclude
22 it from the trouble reporting metrics all together.

23 Q Okay. Actually, what I really wanted to get into is
24 just the type of codes we're talking about, and I wasn't going to
25 ask you to look at this and off the top of your head come up with

1 a number, but it sounds like you have. So, let me ask you, are
2 you committing that you would only want three trouble types for
3 disaggregation?

4 A Pretty much, basically, from what I see from
5 jurisdiction to jurisdiction. If it's a CO trouble, if it's an
6 outside plant trouble or if it's the kind of trouble that would
7 get excluded from the trouble report, we'd want to see those
8 three sets of numbers.

9 Q Okay. But my question was would you need to study this
10 list more to know how many you need or are you in a position
11 today where you can commit and say you only need three?

12 A I would like the other CLECs to study it, but that
13 would be my Worldcom position, that those are the three ones I
14 need, but...

15 Q Right. And the other ALECs might want all 165, might
16 they?

17 A I would be very surprised if they wanted to see all
18 165.

19 Q But they certainly could want more than three, right?

20 A Possibly, but I wouldn't think much more than three.
21 We'd only want the ones that would have some kind of impact on
22 the time to repair.

23 Q Let's assume, and I know you've told me that you can't
24 commit on behalf of everyone to this number, but let's assume
25 that three is the number the ALECs want.

1 A Mm-hmm.

2 Q Then, just to show how the process would work, to come
3 up with a number of submetrics in your plan, what we'd have to do
4 is we'd have to look at Mr. Coon's chart and come up with the
5 total number of repair submetrics he has and then multiply that
6 by three, correct?

7 A I think, the found okay, test okay CPE would be
8 appropriate applied to all of them separated out from all other
9 troubles, because those are exclusions. I think, the other
10 disposition codes we need to see are more related to the repairs
11 that have intervals. So, that would be your mean time to restore
12 repair commitments met and the, you know, the OSS for 24 hours.

13 Q You've lost me. Are you now adding more trouble types
14 that you would need to the three?

15 A No, I'm saying all three don't need to be applied to
16 every maintenance metric.

17 Q Okay. So, some they would be, some they wouldn't?

18 A Yes.

19 Q Okay. And as you sit here today, you really couldn't
20 tell us which ones could and which ones couldn't with enough
21 specificity to allow us to do any sort of multiplication, I take
22 it?

23 A Other than what I just said before to disaggregate all
24 other codes from found okay, test okay for all the metrics and
25 the three different codes for the ones that have an interval,

1 those three metrics that would involve an interval.

2 Q Let's assume, just for purposes of seeing how this
3 disaggregation process works, that the other ALECs agreed with
4 you that there should be three and they want it to be applied to
5 all repair categories, then what we'd do is we'd have to take the
6 disaggregation we have for repair so far and multiply that by
7 three, correct?

8 A Yes.

9 Q So, for the repair category, rather than having the
10 23,985 that Mr. Coon has on his chart, we would actually have
11 close to 72,000 submetrics, just for repair alone, correct?

12 A Yes, if he used every product. Now, if you came back
13 with specific information that certain products are very similar
14 to repair, I believe, the CLECs -- or applied to the same kind of
15 customer, I think, the CLECs would be open to winnowing down the
16 disaggregation for maintenance.

17 Q But if you make the assumptions that we've made, if you
18 assume that the CLECs would be content with three codes but
19 they'd want them applied to all repairs, that means that rather
20 than there being about 75,000 submetrics in your plan, there
21 would actually be about 125,000, correct?

22 A I'm assuming your addition is correct for what you're
23 saying.

24 Q So, that would add 50,000 submetrics, correct?

25 A I think, what we need to do is have a collaborative on

1 what's meaningful disaggregation and hear which ones you don't
2 think are meaningful, and we could lower the numbers. If we
3 agree that these maintenance intervals for these products are all
4 the same, we wouldn't need that much product disaggregation.

5 Q So again, I guess, what you're saying is if the
6 Commission looked at your process and it came out to some number
7 that was unreasonably high, then you would be willing to go to
8 some more reasonable level of disaggregation; is that what you're
9 saying?

10 A We want to have meaningful disaggregation. So, if you
11 can show evidence that the disaggregation we're asking for
12 doesn't provide any additional information by either showing
13 differences between different types of size customers, high-end
14 customers versus low-paying customers or intervals because of
15 process, then we'd be open to reducing them, but we want to look
16 at the facts of the situation and the differences that affect
17 when you're judging parity, rather than just talk about numbers.

18 Q So, if I understand your testimony correctly, what
19 you're saying is if in the ALECs' judgment there were, oh, I
20 don't know, 125,000 submetrics and they were all important, then,
21 in your view, there should be 125,000 submetrics?

22 A If we're going to judge by parity, that affects both of
23 us, and you would want that level of disaggregation, too, so that
24 you're not failing it, just because we're ordering different
25 things than you are.

1 Q Has any state in the country ordered a plan that has
2 the level of disaggregation that you're advocating?

3 A We have lots of plans that have more disaggregation
4 than BellSouth does.

5 Q That's not my question. My question is, is there any
6 state that has ordered a level of disaggregation that is anywhere
7 near what you're advocating?

8 A You mean, near your interpretation of what I'm
9 aggregating or advocating?

10 Q Let me ask the question this way: If you look at all
11 the states that rule, what's the greatest number of measurements
12 that have been ordered by any state?

13 A I haven't added those up. I know Texas disaggregates
14 by every product in their contract.

15 COMMISSIONER JABER: Let me ask a question here. Has
16 any state adopted, in its entirety, your proposal for
17 disaggregation?

18 THE WITNESS: No state has ever adopted in entirety
19 every product level, but we do have some discussions about -- and
20 CLECs do agree -- okay, from what you've showed us, then a lesser
21 level of disaggregation makes sense.

22 BY MR. CARVER:

23 Q You mentioned Texas before. How many measurements
24 are there in the Texas plan?

25 A I read something where there's, like, 394 in the remedy

1 plan. And I don't know if disaggregation -- how much of that
2 comes from disaggregation versus prime measurements or--

3 Q So, we're talking hundreds rather than thousands?

4 A Well, you're talking what goes in a remedy plan and
5 what needs to be reported.

6 Q Right. So, in their revenue plan -- by terms of
7 revenue plan, I assume you mean penalty plan?

8 A Right.

9 Q They have 394 measurements that have penalties
10 associated with them, correct?

11 A And I just remember reading that at some point. I know
12 they've gone through a review since then, so I'm not saying
13 that's exactly what they have in the remedy plan.

14 Q But it's a lot less than 75,000. We know that, don't
15 we?

16 A Right.

17 Q How many penalty -- how many measurements that have
18 penalties associated with them are there in the New York plan?

19 A How many measures?

20 Q Or submeasures. After they've applied the
21 disaggregation, how many measures or submeasures, whichever way
22 you want to do it, have penalties associated with them?

23 A I know in the mode of entry part there's 122, and then
24 there's probably 49 in the critical measures, and they're not
25 sure how many in the special measures when you count the --

1 Q So, again, we're talking about hundreds rather than
2 thousands?

3 A Yes.

4 Q And I believe, that --

5 A And like I said, in talking about geographic
6 disaggregation during my deposition, that's another one where you
7 can look at the measurements and pay one remedy if you miss one
8 in one geographic area. You don't have to pay for each
9 geographic area you miss. My testimony is about the level of
10 reporting you need to see.

11 Q Right. Given that no state has, as you've testified
12 previously, that no state has adopted your proposal, can I assume
13 from that that -- well, I guess, it's obvious, no one's
14 implemented your proposal or tried to implement it, have they?

15 A Well, different ones have implemented different parts
16 of levels of disaggregation.

17 Q My question is has anyone tried to implement your plan
18 in its entirety?

19 A No. I don't think any plan has ever been -- that
20 anyone first proposes has ever been implemented in its entirety.

21 Q Well, given the fact that no one's ever tried to
22 implement your plan, combined with the fact that you're not sure
23 how many submetrics there are, you really don't know if it's even
24 possible to implement your plan, do you?

25 A I mean, I guess, that's something I believe is

1 possible, but no, you don't know until you try to implement it.

2 MR. CARVER: Thank you. That's all I have.

3 CHAIRMAN JACOBS: Commissioners, any questions?

4 COMMISSIONER JABER: Pronounce your last name for me.

5 THE WITNESS: Kinard.

6 COMMISSIONER JABER: Kinard, okay. You are familiar
7 with remedy plans in which states?

8 THE WITNESS: I'm familiar with New York. I was
9 involved in that. Pennsylvania. I wasn't involved in Texas, but
10 I'm aware of the Texas plan, because Ameritech and Qwest are
11 proposing similar plans.

12 COMMISSIONER JABER: Do you know if any of those
13 states found that they did not have legal authority to order the
14 implementation of the self-effectuating remedy plan?

15 THE WITNESS: No. None of them found they did not have
16 authority.

17 COMMISSIONER JABER: Okay. Do you know if they made
18 a specific finding that their authority came from the Telecom
19 Act?

20 THE WITNESS: I think, Pennsylvania said it had
21 authority from both the Telecom Act and state authority. I'm not
22 really sure in the Ameritech region. New York, at one point, in
23 doing contractual remedies, derived authority from the Telecom
24 Act. I'm not sure it's mentioned in any -- and I don't think it
25 is, in any decisions under the performance assurance plan in the

1 271 proceeding, but I think they had an earlier order in an AT&T
2 arbitration that derived that authority for liquidated damages.

3 COMMISSIONER JABER: Thank you.

4 CHAIRMAN JACOBS: I have a couple questions. In your
5 Rebuttal testimony on Page 3 you talk about the concerns with
6 allowing the measures to look at retail dispatch versus looking
7 at the UNE loops. Are you familiar with that discussion?

8 THE WITNESS: I'm sorry, could you say it a little
9 louder?

10 CHAIRMAN JACOBS: I'm sorry. On Page 3 of your
11 Rebuttal testimony, you discuss a concern with regard to
12 measuring performance on UNE loops, U-N-E loops.

13 THE WITNESS: Mm-hmm.

14 CHAIRMAN JACOBS: And you discussed the idea that the
15 performance measure that's proposed looks at retail dispatch
16 services --

17 THE WITNESS: Right.

18 CHAIRMAN JACOBS: -- as opposed to UNE loops. Now,
19 retail dispatch service, when you say that do you mean that we
20 would look at how BellSouth dispatches its retail offerings,
21 product offerings, as a measure of how it's doing with regard to
22 dispatching and provisioning UNE?

23 THE WITNESS: Yeah. They're using for their retail
24 analog just services where they dispatch, so it's usually a
25 longer interval when you dispatch. And a lot of the UNEs, since

1 they use combined UNE platform in the numbers, are just
2 migrations that they shouldn't require a dispatch. It's not a
3 new loop.

4 CHAIRMAN JACOBS: And the point being -- I'm sorry, go
5 ahead.

6 THE WITNESS: Yeah, so when you compare the two, theirs
7 will have a longer interval because of the order mix or the type
8 of process when what most of the UNE orders when you have UNE-P
9 would be mostly migrations or central office changes and --

10 CHAIRMAN JACOBS: And to address that, you break out
11 this category into three submeasures on Page 4 at the top?

12 THE WITNESS: Mm-hmm.

13 CHAIRMAN JACOBS: You recommend, I should say. And
14 my question is would an alternative -- because what I assume
15 would -- before I ask my question, what I assume the ramification
16 of your recommendation would be is that you'd now have at least
17 six measures here now or is it just -- would you just have three?

18 THE WITNESS: These would be the three types of order
19 activity types we talked about before.

20 CHAIRMAN JACOBS: Right. And I guess, what I'm asking,
21 would you have one set of these three for provisioning and then
22 one set of these three for repair?

23 THE WITNESS: Yes.

24 CHAIRMAN JACOBS: Okay. So, you'd have six total
25 submeasures.

1 THE WITNESS: Yes. And again, for repair, these would
2 be most relevant to the remainder metrics that relate to
3 intervals, like mean time to restore or repair commitments met or
4 out greater than -- out of service greater than 24 hours.

5 CHAIRMAN JACOBS: Okay. Now, would it be a reasonable
6 alternative to look more specifically at some category that looks
7 more specifically at UNE loops? And I assume you have to -- and
8 I understand one of the requirements, and to make sure I'm clear,
9 is that because this is an analog; is that correct? Because you
10 don't have --

11 THE WITNESS: Right.

12 CHAIRMAN JACOBS: Because BellSouth has a component.
13 And they're saying they have the -- I'm sorry, it's not component
14 -- it has a comparable, and what they say the comparable offering
15 is, is the retail dispatch.

16 THE WITNESS: Right.

17 CHAIRMAN JACOBS: Okay. What I'm trying to get at is,
18 is there an alternative that would give us a lower number of
19 measures, particularly submeasures, but yet still accomplish the
20 result that you seek to accomplish?

21 And the thought occurred to me was should we simply
22 look at a wholesale versus retail kind of a measure? Should we
23 look at UNE loops versus -- look at a measure for UNE loops and a
24 measure of BellSouth wholesale component of its retail offerings?
25 Can we do that? If we can do that, would that reduce these

1 measures from six down to two or three?

2 THE WITNESS: I mean, I think, there are some cases
3 where you can, by defining what the product is, also capture that
4 this kind of product will always be a dispatch for the CLEC or
5 equivalent to a dispatch interval or nondispatch. So, we don't
6 need to see the other disaggregations.

7 CHAIRMAN JACOBS: Right.

8 THE WITNESS: We just need to compare on the retail
9 side to what is most like the CLEC process. But, I think, there
10 are other categories, like, if you have UNE-P, some of those may
11 be new loops, although most of them are migrations of existing
12 customers, which would be the shorter interval.

13 CHAIRMAN JACOBS: Okay.

14 THE WITNESS: So, you might have to see the dispatch
15 versus nondispatch to look at -- for their new loops, compare
16 their new loops to our new loops for UNE-P and compare their
17 migrations, you know, central office changes or whatever to our
18 migrations.

19 CHAIRMAN JACOBS: Okay. That answers the question
20 much more adeptly than I asked it.

21 THE WITNESS: Mm-hmm.

22 CHAIRMAN JACOBS: And then, on Page 5 or your
23 testimony when we talk about retail analogs, I take it then you
24 disagree with what should be considered an analog for a
25 particular type of product? And if you do, does that then impose

1 additional submeasures that would need to be looked at again?

2 THE WITNESS: Yes. This is one where they're providing
3 all types of -- putting all types of UNE combinations together,
4 and some are going to have short intervals and some long
5 intervals, depending on if they're design or just basic POTS type
6 services. So, we're looking for the disaggregation on their
7 side, on the retail side, that matches each type of UNE ordering
8 -- UNE combination we would order.

9 CHAIRMAN JACOBS: Okay. So, a similar kind of an issue
10 concern with somewhat of a peril account of a resolution to deal
11 with that, as the first example as we talked about.

12 THE WITNESS: Right.

13 CHAIRMAN JACOBS: I did not remember if you were
14 dealing with that. I think, Dr. Bell is the one that's going to
15 talk about the statistical debate between the two statistical
16 measures; is that correct?

17 THE WITNESS: Yeah, that's not part of my testimony.

18 CHAIRMAN JACOBS: That's all I have.

19 THE WITNESS: Okay.

20 CHAIRMAN JACOBS: Redirect, Ms. McNulty.

21 MS. McNULTY: Worldcom has --

22 MR. FUDGE: Staff has some questions, Commissioner.

23 CHAIRMAN JACOBS: I looked at you and then said
24 redirect.

25

CROSS EXAMINATION

FLORIDA PUBLIC SERVICE COMMISSION

1 BY MR. FUDGE:

2 Q Ms. Kinard, would you please explain what rationale
3 the ALEC coalition used to determine whether a measure should or
4 should not be included in the proposal?

5 A You mean, in the total reporting or in the remedy plan
6 or --

7 Q Total reporting.

8 A We want to see the reporting on all the areas that we
9 think impacts our business, so that's why we've asked for this
10 reporting. Some of it might only be to see what's excluded from
11 the reporting like the found okay, test okay CPE requests, to see
12 that separately. So, that would be a diagnostic. Others, we
13 want to see the reporting to see how it compares to their retail
14 performance. And it's really based on our business needs and
15 what we see are problem areas and to see that we're actually
16 getting parity.

17 Q Would you please explain what rationale the ALEC
18 coalition used to determine the appropriate level of
19 disaggregation for each measure?

20 A The first level of disaggregation?

21 Q The appropriate level.

22 A Again, we're looking at what kinds of disaggregation
23 can make a difference in judging whether there is parity or not.
24 So, in the geographic area, what we're looking for is -- in most
25 cases the CLECs will come in and compete in cities first. If

1 that's compared on the retail side to statewide performance for
2 the ILEC and the rural areas have slower provisioning because of
3 geographics or workload or whatever, then that can skew the
4 results of parity, so we look at that aspect.

5 For some of the maintenance and provisioning, we look
6 at the process. The whole issue of dispatch out takes longer
7 than dispatch in. And even shorter dispatch ins involve software
8 changes. So, you want to look at that, because the numbers could
9 look out of parity, just because one party has more central
10 office problems versus another party you're comparing them to has
11 more dispatch out problems. So, we look at it from that aspect.

12 We look at the products to look at what we compete
13 against. One area in high-capacity loops, we like to see the
14 DS3s separated from the DS1s and DSOs, because they represent
15 just different customer sizes. So, we would imagine maybe their
16 DS3 customers get a service-level agreement, and we want
17 like-to-like comparison to see that we get that similar level of
18 service. Or they might be a priority for repair, just because of
19 the capacity size of a DS3, so we want to see that separated out
20 to judge parity. So, most of our decisions are in looking at
21 each metric and seeing where we think the product makes a
22 difference or the process makes a difference.

23 Q In your testimony, you are requesting a substantial
24 amount of disaggregation, so I'm going to ask you some general
25 questions about when you would apply each of these levels of

1 disaggregation. Would you please explain why you believe it is
2 necessary to disaggregate by geography for the pre-ordering
3 measures?

4 A We do not propose disaggregating by geographic area for
5 pre-order.

6 Q Are you proposing to disaggregate by geography for
7 ordering measures?

8 A I think, for the most part, we would not for ordering,
9 either. Those are basically for provisioning and maintenance.

10 Q Are you proposing to disaggregate by volume for
11 ordering measures?

12 A To the extent that BellSouth has differences in the
13 ordering, if they have a different confirmation interval for
14 different sizes of orders, then we would need that in ordering.

15 Q Are you proposing to disaggregate by interface for
16 ordering measures?

17 A Yes. We disaggregate, for instance, on confirmations
18 and rejections on whether they are fully mechanical, partially
19 mechanical, or manual. For pre-order and system availability, we
20 disaggregate by the specific interfaces; is it EDI, is it LENS,
21 what product are we looking at?

22 Q And why do you believe that is appropriate?

23 A I think, it's important to see if there's problems in
24 the interface that the CLEC is depending on. It shouldn't be
25 allowed that good EDI performance averages out poor performance

1 for CLECs that have to depend on the graphical user interface,
2 type of interface.

3 Q Are you proposing to disaggregate by geography for
4 provisioning measures?

5 A Yes.

6 Q And why is that?

7 A That, again, goes back to what I said before. It may
8 be if you aggregate statewide, you're picking up parts of the
9 state that have longer intervals because of the geography there
10 and the distance of the loop and the distance of the repair
11 center from homes with city kinds of repairs or repairs in areas
12 where they face competition, so they're likely to be faster on
13 repairs in those areas. So, that's the type of geographic
14 disaggregation that's relevant in provisioning and repairs.

15 Q Would you agree that the BellSouth proposal in this
16 docket includes product, volume, level of mechanization, and
17 dispatch status disaggregation for provisioning measures?

18 A It does contain disaggregation in those areas, yes.

19 Q Earlier you said that you are not proposing to
20 disaggregate by geography for pre-ordering measures. Would you
21 please turn to KK-3?

22 A Yes.

23 Q Is the first column pre-ordering measures, top column,
24 top row?

25 A The first column, yes.

1 Q Okay. And in the second column, the first row, the
2 first line it does say geographic disaggregation; is that
3 correct?

4 A Yeah. I think, that is more of a general description
5 of what KK-2 has, but let me look down -- actually, I think, that
6 is an error in this, because I do have different ones highlighted
7 in different metrics, so I would take geographic out of the
8 pre-order.

9 The only thing I would need to double check with the
10 data CLECs, if this makes any difference, for manual loop qual,
11 but I would assume it does not -- that there are not geographic
12 differences, that it would be the same database.

13 Q Thank you, Ms. Kinard.

14 Is it appropriate to disaggregate maintenance and
15 repair measures by geography?

16 A Yes.

17 Q Why?

18 A Like I said, it can be that the repair centers are far
19 away in rural areas, so it can take longer for a dispatch, but
20 there's more kinds of issues with digging up roads and things
21 like that for repairs in cities, so there could be different
22 intervals by where you are geographically.

23 Also, you'd want to see that they're not putting more
24 effort where there is competition, yet comparing parity by
25 looking at the whole state where the areas where they're not

1 faced with competition have longer repair intervals.

2 Q When you are proposing to disaggregate by product, you
3 have listed approximately 41 different products; is that correct?

4 A Yes.

5 Q Do you agree that significant volumes need to exist in
6 each of these 41 product categories in order to make comparisons
7 for enforcement purposes?

8 A I think, it all depends on how you'd define
9 significant. I think, for enforcement purposes we can agree to
10 starting at a certain level, like 10, but I'll defer that to the
11 witness on the remedy plan.

12 Q Do you believe that there are significant volumes in
13 each of these product categories that would allow us to make
14 like-to-like comparisons?

15 A I certainly wouldn't say that all the product areas
16 have significant volume.

17 Q Is it your opinion that every measure that BellSouth
18 reports should be included in the enforcement mechanism?

19 A I don't think diagnostic ones should be included. I
20 think, some measurements can be included in terms -- more
21 measurements should be included in terms of looking at them
22 together, like the example I brought up of looking at on time
23 versus average interval performance together by product or
24 looking at the hot cut measurements together and have them
25 related to one remedy level.

1 Q Earlier you were asked about the appropriate benchmark
2 labels. I'm going to use a specific example. For the benchmark
3 for percent flow-through service request, you're proposing a 98%
4 benchmark. How did you determine that 98% was appropriate?

5 A The 98% is for how they define flow-through, which
6 they're only measuring what is designed to flow through. So, if
7 you're measuring only what's designed to flow through, I would
8 imagine the flow-through rate should be pretty high. If you look
9 at a total flow-through measurement, we're okay with their
10 benchmarks for total flow-through. But if you're just looking at
11 their definition, which only includes in the metric things that
12 are already designed to flow through, then we think there should
13 be a higher benchmark.

14 Q Do you have any factual basis or study for determining
15 that 98% is the appropriate benchmark?

16 A I can't say it's a study. Originally, in New York
17 because KPMG had a 99% flow-through rate, they adopted that.
18 Verizon came back and was saying that even though they told us
19 these types of orders were designed to flow through, sometimes
20 they don't because of other activity, such as a pending order or
21 a customer in treatment, so they wanted to cut that back to 65%.
22 The New York Commission told them to make sure those kinds of
23 orders flow through and set a 95% benchmark. So, we think our
24 98% is in the range between that 95 and 99% that New York looked
25 at.

1 Q On Page 40 of your Direct testimony, you state that in
2 reporting affiliated activity, BellSouth should be allowed to
3 exclude the number of affiliate observations; is that correct?

4 A Yes. A lot of the ILECs don't want to give away
5 proprietary information, so if we just see the intervals and
6 percentages, that's enough for us. Usually, they do let the
7 Commissions see the -- in other areas I've dealt with, they get
8 to see the volume activity. And that helps them judge whether
9 the 50% -- say they have a 50% benchmark, it makes a difference
10 if the activity is only two orders versus a thousand orders. So,
11 sometimes the Commission likes to see how did you get that
12 percentage, what was it based on in terms of data points.

13 Q So, do you mean that in a particular metric, BellSouth
14 should report for its affiliated ALEC the percentage of on time
15 transactions without disclosing the actual number of
16 transactions?

17 A To the other CLECs. But, I think, it probably should
18 report the details on the data points to the Commission to give
19 you a better view of the weight to give to that activity.

20 Q On Page 41 of your Direct testimony, you state "ALECs
21 propose that data be reported for several months before a
22 decision is made on giving up set benchmarks for parity
23 comparisons with the ALEC; is that correct?"

24 A Yes.

25 Q Are you recommending that this issue be examined at the

1 time the Commission reviews its enforcement mechanism, for
2 example, in six months?

3 A Yes, I think, that would be appropriate. If there is
4 -- it depends on how quickly they start to report data. It would
5 be good to see six months worth of data. And the issue there is
6 their affiliate -- for instance, if you want to get rid of the
7 collo benchmarks and do parity comparison, you have to make sure
8 their affiliate is ordering all the different kinds of
9 collocations that the CLECs are ordering. If they're just
10 ordering virtual and the CLECs are ordering physical, then it
11 probably doesn't make sense to move to a parity comparison.

12 Q You also state on Page 40 of your Direct testimony that
13 "affiliate information should be reported separately for each
14 affiliate; i.e., example, data, wireless, future long distance or
15 other with activity in the metric category"; is that correct?

16 A Yes.

17 Q Are you aware of any BellSouth ALEC affiliates that are
18 currently relying upon access to BellSouth's OSS databases,
19 system interfaces, or back-end systems in their operations?

20 A I can't say I'm up to date on their affiliates in
21 general, and I'm not sure how their data affiliate is set up,
22 whether -- but I would be -- I am aware that they probably do
23 line sharing and so forth with the retail company.

24 Q Ms. Kinard, on the bottom of Page 31 and the top of
25 Page 32 of Mr. Coon's Rebuttal testimony, he states that "If each

1 of those ALECs were allowed three mini-audits a year as proposed
2 by Ms. Kinard, that would equate to 240 audits per year in
3 Florida alone." Do you agree with this statement?

4 A If they were -- I'm sorry.

5 Q "If the ALECs were allowed three mini-audits a year,
6 that would equate to 240 audits per year in Florida." Do you
7 agree with this statement?

8 A Well, if every ALEC, since we're sharing -- since we're
9 paying for the cost unless there turns out to be a problem with
10 their reporting, that assumes all the ALECs would pursue that.
11 And I would be surprised if they all each pursued three, but if
12 one of them was more active than the other, we'd put the three
13 limit on that, that ALEC. But if your assumption is that every
14 ALEC would want three, then that number would be true.

15 MR. FUDGE: Thank you, Ms. Kinard. That's all we have.

16 CHAIRMAN JACOBS: Now, redirect.

17 MS. McNULTY: Worldcom has no redirect.

18 CHAIRMAN JACOBS: Very well. Exhibits?

19 MS. McNULTY: Worldcom moves Exhibit 14.

20 CHAIRMAN JACOBS: Without objection, show Exhibit 14 is
21 admitted.

22 (Exhibit 14 admitted into the record.)

23 MR. CARVER: BellSouth moves Exhibit 15.

24 CHAIRMAN JACOBS: Without objection, show Exhibit 15 is
25 admitted.

1 (Exhibit 15 admitted into the record.)

2 CHAIRMAN JACOBS: That takes care of -- thank you very
3 much, Ms. Kinard, you're excused.

4 THE WITNESS: Thank you.

5 CHAIRMAN JACOBS: Next witness. You may proceed,
6 Mr. Lackey.

7 MR. LACKEY: Thank you, Mr. Chairman. BellSouth calls
8 David Coon to the stand. Mr. Chairman, Mr. Carver just passed
9 out an errata sheet to Mr. Coon's testimony and to his exhibit
10 DAC-1. The exhibit is 167 pages long. We thought it would
11 facilitate matters to hand out the errata sheet. I distributed
12 the errata sheet to counsel this morning, everybody I could find.
13 If there's anybody who didn't get it, I've got more.

14 CHAIRMAN JACOBS: Okay. We have that. Thank you.

15 DAVID A. COON

16 was called as a witness on behalf of BellSouth
17 Telecommunications, Inc. and, having been duly sworn, testified
18 as follows.

19 DIRECT EXAMINATION

20 BY MR. LACKEY:

21 Q Mr. Coon, you were sworn earlier today; is that
22 correct?

23 A Yes, sir.

24 Q Did you cause to be prefiled in this proceeding 56
25 pages of Direct testimony in question and answer form?

1 A Yes, I did.

2 Q And did you have attached to that Direct testimony six
3 exhibits?

4 A I did.

5 Q And did you also cause to be prefiled in this
6 proceeding 47 pages of Rebuttal testimony in question and answer
7 form?

8 A Yes.

9 Q And did you have attached to that Rebuttal testimony
10 two exhibits?

11 A Yes, I did.

12 MR. LACKEY: Mr. Chairman, would you like to mark all
13 of his exhibits jointly with the next number?

14 CHAIRMAN JACOBS: That would be fine.

15 MR. LACKEY: I think, it's Exhibit 16.

16 CHAIRMAN JACOBS: That's correct. We'll mark as
17 composite Exhibit 16 the exhibit labeled D, as in David, AC-1
18 through 6 and DAC-R1 and R2.

19 MR. LACKEY: That's correct, Mr. Chairman, thank you.

20 (Exhibit 16 marked for identification.)

21 BY MR. LACKEY:

22 Q Other than for the corrections contained in the errata
23 sheet that we've handed out, if I were to ask you the questions
24 that appear in your Direct and Rebuttal testimony today, would
25 your answers be the same?

1 A Yes, they would.

2 MR. LACKEY: Mr. Chairman, I'd like to ask that the
3 testimony be included in the record as if given orally from the
4 stand.

5 CHAIRMAN JACOBS: Without objection, show the Direct
6 and Rebuttal testimony of Mr. Coon entered into the record as
7 though read.

8 MR. LACKEY: Thank you, sir.

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1 BELLSOUTH TELECOMMUNICATIONS, INC.
2 DIRECT TESTIMONY OF DAVID A. COON
3 BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION
4 DOCKET NO. 000121-TP
5 MARCH 1, 2001
6

7 Q. PLEASE STATE YOUR NAME, YOUR POSITION WITH BELLSOUTH
8 TELECOMMUNICATIONS, INC. ("BELLSOUTH") AND YOUR BUSINESS
9 ADDRESS.
10

11 A. My name is David A. Coon. I am employed by BellSouth as Director –
12 Interconnection Services for the nine-state BellSouth region. My business
13 address is 675 West Peachtree Street, Atlanta, Georgia 30375.
14

15 Q. WHAT IS YOUR PROFESSIONAL EXPERIENCE AND EDUCATIONAL
16 BACKGROUND?
17

18 A. My career at BellSouth spans over 21 years and includes positions in
19 Network, Regulatory, Finance, Corporate Planning, Small Business
20 Services and Interconnection Operations. Prior to my BellSouth
21 employment, I performed a variety of functions in the Network, Regulatory
22 and Marketing Support organizations of C&P Telephone Company-
23 Washington. I have extensive experience in the development and use of

1 quantitative measurements and results including the establishment,
2 analysis and monitoring of BellSouth process measures.

3 I received a Bachelors Degree in Civil Engineering from Ohio University
4 and a Masters Degree in Engineering Administration from George
5 Washington University. I received the Certified Management Accountant
6 (CMA) designation in 1996 from the Institute of Management Accountants.

7

8 Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

9

10 A. I will individually address certain issues, specific to performance
11 measures, outlined in Appendix A of Florida Order No. PSC-01-0242-
12 PCO-TP and provide BellSouth's position on these issues.

13

14 Q. HOW IS YOUR TESTIMONY ORGANIZED?

15

16 A. My Testimony is organized according to the order of the specific issues
17 listed in Appendix A of the FPSC Order (Order No. PSC-01-0242-PCO-
18 TP). As a part of my response to issue 1.a, I will take some time to
19 provide an overview of BellSouth's proposal in this Docket, the BellSouth
20 Service Quality Measurement (SQM) Plan. BellSouth witnesses, Ms. Cox
21 and Dr. Mulrow will also address certain issues in their separately filed
22 testimony.

23

1 Q. HOW SHOULD THE RESULTS OF KPMG'S REVIEW OF BELLSOUTH
2 PERFORMANCE MEASURES BE INCORPORATED INTO THIS
3 PROCEEDING? (ISSUE A)

4

5 A. As the Florida Public Service Commission (Commission) is aware, the
6 KPMG review is currently in progress. KPMG is conducting not only a
7 comprehensive review of the adequacy of each of BellSouth's
8 measurements, but also a review of the need for each of the
9 measurements to insure that BellSouth is producing the appropriate
10 measurement set. Although unlikely, if the review is completed in time for
11 the hearing in this proceeding, BellSouth will address any appropriate
12 modifications to its SQM as part of this proceeding. However, if the review
13 is not completed in time for the hearing in this proceeding, the appropriate
14 modifications should be addressed as part of the next Performance
15 Assessment Plan review cycle. This review should occur approximately
16 six months from the completion of this proceeding.

17

18 Q. WHAT ARE THE APPROPRIATE SERVICE QUALITY MEASURES TO
19 BE REPORTED BY BELLSOUTH? (ISSUE 1.a)

20

21 A. The appropriate service quality measures to be reported by BellSouth are
22 those contained in the BellSouth Service Quality Measurements (SQMs),
23 which I have attached as Exhibit DAC-1. BellSouth's measurements are

1 the result of over two years of work with direction provided by several
2 state commissions and the FCC plus input from various ALECs. More
3 than 87 ALECs currently have agreements with BellSouth in Florida that
4 include the SQMs proposed by BellSouth. The SQMs are more than
5 adequate to allow the Florida Public Service Commission and the ALECs
6 to monitor BellSouth's performance and to determine that non-
7 discriminatory access to BellSouth's Operations Support Systems (OSSs)
8 is being provided to ALECs in Florida.

9
10 Q. PLEASE EXPLAIN WHAT THE SQM DOCUMENT PROPOSED BY
11 BELL SOUTH CONTAINS AND HOW TO READ IT?

12
13 A. The BellSouth SQM document, attached as Exhibit DAC-1, is a
14 comprehensive and detailed description of BellSouth's Service Quality
15 Measurements that are calculated to evaluate the quality of service
16 delivered to BellSouth's customers, both wholesale and retail. The SQM
17 is divided into eleven (11) sections, each one representing a different
18 group of measurements relating to a specific portion of BellSouth's
19 Operations Support Systems. For instance section 1 contains six (6)
20 distinct measurements dealing with access to Operations Support
21 Systems for both pre-ordering and maintenance & repair. Section 2
22 contains fifteen (15) measurements specifically directed at all phases of
23 the ordering process. Another section deals with provisioning and so forth.

1 The end result is eleven sections totaling seventy-one (71) measurement
2 categories.

3

4 In addition, there are three (3) appendices, A-C. Appendix A, Reporting
5 Scope, provides service groupings by categories, i.e., service order
6 activity type, pre-ordering query type, maintenance query type, etc.

7 Appendix B, Glossary of Acronyms and Terms, is just that, a glossary that
8 provides definitions for the most commonly used acronyms and terms
9 found throughout the document. Finally, Appendix C, BellSouth Audit
10 Policy, sets forth BellSouth's audit policy for both internal and external
11 audits of performance measurements.

12

13 Q. CAN YOU ILLUSTRATE WHAT IS CONTAINED IN EACH OF THE
14 MEASUREMENTS WITHIN THE ELEVEN SECTIONS BY PROVIDING
15 AN EXAMPLE?

16

17 A. Certainly. Please refer to Section 1, page 1-1 of Exhibit DAC-1 and look
18 at the first measurement, labeled "OSS-1" and the material related to that
19 measurement. As you can see, this measurement, and indeed all of the
20 measurements, begins with a "Definition" that briefly describes exactly
21 what the measurement is designed to demonstrate. In this case, the
22 measurement calculates the average response time for queries submitted
23 from pre-ordering Interfaces, such as LENS, TAG and RNS to certain

1 legacy systems. These queries are submitted by the ALEC and BellSouth
2 retail representatives to assess feature availability, validate addresses,
3 telephone numbers, reserve telephone numbers, and determine
4 appointment availability.

5
6 Following the definition are any “Exclusions” that identify certain
7 characteristics or external factors, that for various reasons, are not
8 relevant to the measurement and are therefore excluded from the
9 measurement. In this case there are none. However, if you turn to page
10 1-13 of Exhibit DAC-1, and look at the measurement labeled “Loop
11 Makeup – Response Time – Manual”, there is an example of an exclusion.
12 Specifically, the exclusion for that measurement covers electronically
13 submitted loop makeup inquiries. Obviously, it would be inappropriate to
14 include electronically submitted inquiries in a measurement of inquiries
15 submitted manually.

16
17 Returning to my discussion of the components of the measurements
18 labeled OSS-1, next comes the “Business Rules” that describe in detail
19 the components of the measurement and how they interact. An example
20 that is reflected under this measurement is the way the “start” and “stop”
21 times are defined for the measurement.

22

1 Following the “Business Rules” is the actual mathematical formula for
2 producing the measurement, described under the heading of “Calculation.”
3 This provides not only the numerator and denominator for the formula
4 calculations but also a definition of the components of the formula, i.e. in
5 this particular case, a = Date & Time of Legacy Response and b = Date &
6 Time of Legacy Request.

7
8 The next section is labeled “Report Structure.” The report structure
9 provides a definition of the key dimensions of the report. For instance, in
10 the example of the OSS Response Interval, OSS-1, OSS Response is a
11 measurement of the response interval for the aggregate of all ALECS in
12 the BellSouth Region. As a result its report structure is a regional
13 structure, as opposed to an ALEC or a product-specific structure.

14
15 Following “Report Structure” is the “Data Retained” section that describes
16 key elements of data for each measurement that is processed and
17 retained from the back-end OSSs and Legacy Systems in order to
18 produce the reports, i.e. the data must be correlated by month and there
19 must be rules built into the structure of the data that defines methods for
20 accessing the OSS and Legacy Systems.

21
22 Finally, there is a very important section, “SQM Disaggregation –
23 Analog/Benchmark,” that defines how each measurement is broken-down

1 in the report, i.e. in this case, by OSS and Legacy System, and the
2 standard to which we compare that measurement for detecting disparate
3 treatment. In this case, because there is not a retail equivalent for this
4 function, we use a benchmark of parity + 4 seconds.

5
6 The level of disaggregation is a very important component of BellSouth's
7 SQM or, for that matter, any other measurement system. The term
8 disaggregation refers to the breakdown, for reporting purposes, of
9 measurement categories into specific products, i.e. resale residence,
10 resale business and resale design; activity types, i.e. dispatch and non-
11 dispatch; and volumes, i.e. less than or equal to 10 circuits or greater than
12 10 circuits per order. Achieving an appropriate level of disaggregation is
13 important because measurements and reporting frequently occur only at
14 this level. To illustrate, please refer to the measurement category P-4,
15 Average Completion Interval (OCI) & Order Completion Interval, starting
16 on page 3-8 of Exhibit DAC-1. This describes a measure of how long it
17 takes BellSouth to install a service, once a valid Local Service Request is
18 received. Page 3-9 of Exhibit DAC-1 contains the SQM Disaggregation
19 and reporting level for this measurement category. The first line of this
20 table shows a line for Resale Residence and a retail analog of Retail
21 Residence. This means that the Order Completion Interval for Resale
22 Residence is compared to the Order Completion Interval for Retail
23 Residence. Thus there are two measurements; one compared to the

1 other. However this single comparison is further broken down into
2 categories of: 1) Dispatch, < 10 circuits; 2) Dispatch \geq 10 circuits, 3) Non-
3 dispatch, < 10 circuits; 4) Non-Dispatch \geq 10 circuits. Thus there are 4
4 measurements of resale residence compared to 4 measurements of retail
5 residence – for a total of 8 measurements per SQM Level of
6 Disaggregation. There are a total of 20 lines or products on the SQM
7 Level of Disaggregation, meaning that there are approximately 20 times 8
8 or approximately 160 measurements for the single category, P-4, Order
9 Completion Interval.

10
11 In addition to the basic categories that I have described above, for some
12 measurements, which BellSouth believes to be the most important
13 measures of whether we are providing non-discriminatory access to our
14 OSSs, there are two more sections.

15
16 The first is labeled "SEEM Measure," and describes how the measure is
17 addressed in BellSouth's Self-Effectuating Enforcement Mechanism
18 (SEEM). That is, the voluntary enforcement plan, as I will describe in
19 more detail below, has two types of penalties, a "Tier 1" level that is paid
20 to individual ALECs and a "Tier 2" level that is paid to the State of Florida.
21 This portion of the report describes whether the penalty associated with a
22 violation related to that measurement is a "Tier 1" or a "Tier 2" level

1 penalty, although in many cases the measurement falls into both
2 categories, as DAC-1 shows.

3
4 The second additional category is labeled "SEEM Disaggregation –
5 Analog/Benchmark," and defines how the measurement is broken down
6 into sub-metrics and what standard applies to each component in the
7 BellSouth Self-Effectuating Enforcement Mechanism. For example,
8 referring to the SEEM sections of P-3, Percent Missed Installation
9 Appointments, page 3-7, and O-9, Firm Order Confirmation Timeliness,
10 page 2-26 of Exhibit DAC-1, there are several levels of product
11 disaggregation. For the first one, Resale POTS, the comparison is its
12 equivalent Retail POTS. In the second example, O-9, the first level of
13 disaggregation is fully mechanized, which has a benchmark of 95% within
14 3 hours.

15
16 Q. WHAT ARE THE APPROPRIATE BUSINESS RULES, EXCLUSIONS,
17 CALCULATIONS, AND LEVELS OF DISAGGREGATION AND
18 PERFORMANCE STANDARDS FOR EACH MEASUREMENT? (ISSUE
19 1.b)

20
21 A. Each of the measurements included in the BellSouth SQMs, attached as
22 Exhibit DAC-1, has the appropriate business rules, exclusions,
23 calculations, levels of disaggregation and performance standards clearly

1 identified and BellSouth recommends that the Commission adopt those as
2 BellSouth has proposed them.

3

4 Q. CAN THIS MEASUREMENT PLAN BE EASILY MODIFIED?

5

6 A. No. This issue is crucial to the successful and timely resolution of this
7 docket. BellSouth has been working since 1998 on a mechanized delivery
8 system for the processing and delivery of its SQM reports. This system,
9 called Performance Measurements Analysis Platform (PMAP), is
10 described in detail in Exhibit DAC-2, attached to my testimony. This
11 exhibit highlights the enormous size and complexity of PMAP and
12 provides insight into the extraordinary effort required to modify existing
13 measurements or add new measurements. I make this point because
14 each modification and change to what BellSouth has proposed will require
15 a substantial amount of intensive effort developing the requirements
16 associated with the change, writing software code and testing the software
17 code to protect the integrity of the production PMAP system while
18 continuing to process and produce monthly SQM reports. In short, while
19 changes can be made, and have been made, changes are costly and time
20 consuming and should be made, in BellSouth's opinion, only if the value of
21 the change is readily evident.

22

1 Q. DOES BELLSOUTH'S PROPOSAL DIFFER FROM THE PROPOSAL OF
2 THE FPSC STAFF?

3

4 A. Yes, but only slightly. Attached as Exhibit DAC-3 is a matrix that
5 highlights differences between the performance measurements in the
6 Florida Staff recommendation and the SQMs proposed by BellSouth.

7

8 The key difference is that BellSouth's proposal has expanded the SQM to
9 include 13 additional measurement categories that were not a part of the
10 Florida Staff recommendation. These additional measurement categories
11 reflect work done in conjunction with generic performance measurement
12 proceedings in Georgia, Louisiana, North Carolina, and Florida. As an
13 example, of these 13 additional measurement categories, 4 are included
14 in the list of additional metrics to be investigated by KPMG as a part of the
15 Florida OSS Testing evaluation.

16

17 In addition, attached as Exhibit DAC-4, is a matrix that shows the
18 differences between the levels of disaggregation and the standards (retail
19 analog or benchmark) associated with each measurement proposed by
20 the Staff and by BellSouth. As with the measurement categories, the
21 levels of disaggregation and the standards reflect work in several states.

22

1 Q. WHAT ARE THE APPROPRIATE ENFORCEMENT MEASURES TO BE
2 REPORTED BY BELL SOUTH FOR TIER 1 AND TIER 2? (ISSUE 2.a)

3
4 A. The measurement set included in the BellSouth enforcement plan are
5 generally key measures in areas that affect customers. This
6 measurement set is patterned after those used in New York and Texas.
7 The New York plan resulted in a "critical" measurement set, and the Texas
8 plan identified a prioritized set of "high, medium, low" impact measures.
9 As I understand it, the Texas and New York commissions charged the
10 ALECs with identifying the measurement set that was the most 'customer
11 impacting'.

12
13 BellSouth's experience in providing access to IXCs, combined with the
14 outcome of prioritized measures from New York and Texas has resulted in
15 BellSouth offering of a similar key set of customer impacting metrics.
16 These enforcement measurements are detailed in the SQM, Exhibit DAC-
17 1 attached to my testimony and summarized in Exhibit DAC-5 also
18 attached to my testimony. As an example, please refer once again to P-3:
19 Percent Missed Installation Appointments, and in particular the SEEM
20 sections listed for this measurement on Page 3-7 of Exhibit DAC-1. The
21 SEEM Measure table indicates that this is a Tier 1 and a Tier 2
22 measurement. Percent Missed Installation Appointments is one key
23 provisioning measurements, perhaps the most important, as it is an
24 indicator of BellSouth's ability to achieve commitments to its customers.

1 Sub-metrics for this measurement category are listed in the SEEM
2 Disaggregation Table for 7 product categories. When these product
3 categories are compared to the retail analog, and if disparate performance
4 is detected, a penalty amount is calculated. The method of calculation
5 and the fee schedule are addressed later in my testimony.

6
7 Q. WHAT ARE THE APPROPRIATE LEVELS OF DISAGGREGATION FOR
8 COMPLIANCE REPORTING? (ISSUE 2.b)

9
10 A. The appropriate levels of disaggregation for compliance reporting are also
11 a part of Exhibit DAC-4 attached to my testimony. As is apparent from
12 Exhibit DAC-4, BellSouth's proposed disaggregation is generally
13 comparable to that contained in the Florida Staff's recommendation and in
14 some cases BellSouth proposes even more disaggregation. For example,
15 in Exhibit DAC-4 attached, page 2 of 6, for the measurement O-5, Percent
16 Rejected Service Requests, the Staff's recommendation shows 7 levels of
17 product disaggregation, Resale Residence, Resale Business, etc. The
18 BellSouth proposal for the same measurement shows 17 levels of product
19 disaggregation. This also holds true for O-6, Reject Interval and O-7, Firm
20 Order Confirmation Timeliness.

21
22 Q. WHAT PERFORMANCE DATA AND REPORTS SHOULD BE MADE
23 AVAILABLE BY BELL SOUTH TO ALECS? (ISSUE 3.a)

1

2 A. The appropriate performance data and reports made available to the
3 ALECs are those identified in the BellSouth SQM. For instance, referring
4 once again to P-3: Percent Missed Installation Appointments on Page 3-6
5 of Exhibit DAC-1, the report structure indicates that there is a CLEC
6 Specific report for Percent Missed Installation Appointments, reported in
7 categories of <10 lines/circuits > 10 lines/circuits (except trunks), further
8 broken down into dispatch (field work) or non-dispatch (no field work), for
9 each of the SQM Levels of Disaggregation listed on the table at the top of
10 page 3-7. Percent Missed Installation Appointments is a complex report
11 primarily due to the fact that this measurement category is subdivided into
12 so many sub-metrics. For an example of a less complex report, please
13 refer to OS-1: Speed to Answer Performance/Average Speed to Answer –
14 Toll, starting on page 6-1 of Exhibit DAC-1. As the name implies, there is
15 simply a single number for the average speed of answer. Since the
16 operator platforms serve both ALEC and BellSouth retail customers in the
17 same queue, there is no separate measurement for ALEC and BellSouth
18 retail.

19

20 I must note that although the plan is difficult to change because of its
21 detailed and complete nature, in fact the SQM is a living document and
22 may be subject to updates and modifications such as those associated
23 with the KPMG audit of Florida's performance measurements. If the SQM

1 is updated, the most current version will be posted on the BellSouth web
2 site. The posted version should supercede all previous versions as the
3 appropriate measurements to be included in ALEC interconnection
4 agreements.

5
6 In addition, BellSouth voluntarily makes available the raw data utilized for
7 many of the measurements and a comprehensive raw data user manual.
8 This data and the user manual allow the ALECs to build customized
9 reports and further disaggregate reports based on individual ALEC needs.
10 I know of no other local exchange company that provides similar tools to
11 the ALEC community.

12
13 Q. WHERE, WHEN, AND IN WHAT FORMAT SHOULD BELLSOUTH
14 PERFORMANCE DATA AND REPORTS BE MADE AVAILABLE? (ISSUE
15 3.b)

16
17 A. Performance reports for all BellSouth SQMs are currently available
18 electronically on a monthly basis via BellSouth's web-site at
19 <https://pmap.bellsouth.com>. Further, BellSouth commits to having these
20 reports posted by the 30th day of the month for the preceding month's
21 activity in HTML format.

22

1 In its' proposal the FPSC Staff recommended posting by the 20th day.
2 BellSouth strongly objects to the 20th day for posting these reports. In the
3 past, the 20th day was occasionally achievable because of a much lower
4 volume of ALEC-specific data and performance measurement reports.
5 Today, there are over 200 ALECs in Florida. There are 105 ALEC specific
6 reports included in the BellSouth SQM that are posted on the BellSouth
7 web site and 129 BellSouth/ALEC aggregate level reports. If all 200
8 ALECs were to request reports each month this would equate to 200
9 ALECs times 105 reports (21,000 reports) plus the 129 aggregate reports
10 for a total of 21,129 reports posted on a monthly basis in Florida. In
11 addition there is the volume of underlying raw data. BellSouth makes
12 every effort to validate the reports before posting. Given this kind of
13 volume, BellSouth believes posting on the 30th day of the month is far
14 more reasonable.

15
16 With regard to the raw data, the web-site I mentioned does allow ALECs
17 to access electronically the raw data underlying those reports to the extent
18 such reports are derived from BellSouth's Performance Measurement
19 Analysis Platform (PMAP). The format of this raw data is a flat file that
20 can quickly be imported into a spreadsheet or a database management
21 program for further analysis and processing by the ALEC. These reports
22 will include the most critical ordering, provisioning, and maintenance &
23 repair measurements in which ALECs generally are interested, including,

1 but not limited to, FOC Timeliness, Reject Interval, Percent Missed
2 Installation Appointments, Average Completion Interval Order Completion
3 Interval Distribution, Missed Repair Appointments, Customer Trouble
4 Report Rate, and Maintenance Average Duration.

5
6 While every performance report is available electronically, BellSouth does
7 not have the capability to make available electronically the raw data that is
8 used to generate reports outside of PMAP. This would include the raw
9 data for the regional reports that are not specific to a single ALEC, which
10 cannot be efficiently generated electronically. The measurements that
11 reflect the Speed of Answer in the Ordering Center and Speed of Answer
12 in the Maintenance Center are good examples. These measurements
13 reflect the time during which a call is in queue until a BellSouth
14 representative answers the call. These work centers are regional in
15 nature and serve all ALECs, which means that hundreds of thousands of
16 calls are received each month. Although each call is individually timed
17 and the averages for the month are posted in the SQM reports, it is not
18 possible to electronically identify each and every ALEC call underlying
19 these SQM reports.

20
21 Q. SHOULD BELLSOUTH BE PENALIZED WHEN BELLSOUTH FAILS TO
22 POST THE PERFORMANCE DATA AND REPORTS TO THE WEB SITE
23 BY THE DUE DATE? (ISSUE 5.a)

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23

A. No. BellSouth should not be subjected to an automatic penalty for the late posting of reports. While BellSouth will make every reasonable effort to make every deadline imposed upon it, with the volume of data and reports that I discussed above, it would be foolish to assume that there will never be a problem posting a report. However, there is little evidence that late reporting is harmful to the ALECs or to the Commission. Furthermore the increasing complexity of the measurements and sub-metrics, the volume of data processed and the validation of reports prior to posting impose additional burdens on BellSouth that should not be subjected to a penalty. Although BellSouth will make every effort to complete this substantial undertaking by the due date each month, BellSouth should not be automatically penalized any (or every) time it fails in this effort. Certainly, if there was some systemic failure in posting reports there could be some need for Commission overview until the problem is resolved, but merely missing a filing date by a day or two should not be cause for concern. I will discuss the issue of automatic penalties in more detail under Issue 5.b below.

Q. IF SO, HOW SHOULD THE PENALTY AMOUNT BE DETERMINED, AND WHEN SHOULD BELL SOUTH BE REQUIRED TO PAY THE PENALTY?
(ISSUE 5.b)

1 A. Before answering this question, I must note that several issues in my
2 testimony involve both the legal question of the circumstances under
3 which penalties could be imposed and matters that relate more directly to
4 performance measurements. I do not profess to be qualified to render
5 legal opinions, however I will attempt to answer these issues according to
6 my basic understanding. I will not mention this caveat again in responding
7 to other issues that have a legal component.

8
9 Turning to Issue 5.b it is my understanding that the Florida Commission
10 cannot impose monetary penalties unless there is a violation of a
11 Commission Order, rule or statute. On page 5 of his direct testimony, Mr.
12 Stallcup appears to share this view. BellSouth would expect that its
13 comments regarding the posting of reports mentioned above would put
14 this issue in proper perspective and obviate the need for any penalty for
15 simply missing a posting date. However, if the Commission does decide
16 to impose a penalty on BellSouth for failure to post the performance data
17 and reports to the web site by the due date, then the amount proposed by
18 Staff of \$2,000 per day, paid to the Florida Public Service Commission is
19 acceptable to BellSouth, provided that the \$2,000 per day applies to the
20 aggregate of all reports and is not based on each individual report. I want
21 to reiterate, however, that I do not believe the ALECs are monetarily
22 harmed because reports are posted late, nor should the Commission be
23 concerned provided the late filing was not evidence of a systemic failure.

1 This is apparent given that this data is available for every ALEC
2 certificated in the BellSouth region but very few ALECs choose to access
3 this data.

4
5 Q. SHOULD BELLSOUTH BE PENALIZED IF PERFORMANCE DATA AND
6 REPORTS PUBLISHED ON THE BELLSOUTH WEB SITE ARE
7 INCOMPLETE OR INACCURATE? (ISSUE 6.a)

8
9 A. No. As I discussed in Issue 5.a above, BellSouth should not be subjected
10 to involuntary, automatic penalties for incomplete or inaccurate reports.
11 The definitions of 'incomplete' or 'inaccurate' are so imprecise that there
12 would likely be an ongoing administrative burden each month to determine
13 what is incomplete or inaccurate. As a precedent for incomplete or
14 inaccurate performance measurement reporting, it is instructional to
15 consider the principles governing accounting. Accounting principles have
16 long recognized that financial statements are prone to adjustment and
17 correction. There are procedures for handling adjustments, but to my
18 knowledge, none contain an automatic dollar penalty. From a
19 performance measurement reporting viewpoint, the primary objective
20 should be to provide complete and accurate reporting, identify omissions
21 and errors should they occur, and correct them expeditiously. Applying a
22 penalty, once an error has been corrected or a report has been completed
23 would seem to discourage such corrections, even if they were appropriate.

1

2 Q. IF SO, HOW SHOULD THE PENALTY AMOUNT BE DETERMINED, AND
3 WHEN SHOULD BELL SOUTH BE REQUIRED TO PAY THE PENALTY?
4 (ISSUE 6.b)

5

6 A. It is my understanding that the Florida Commission cannot impose
7 monetary damages unless it is in violation of a Commission Order, rule or
8 statute. This opinion would appear to be consistent with that of Mr.
9 Stallcup as stated on page 5 of his direct testimony. If the Commission
10 does decide to impose a penalty on BellSouth for incomplete or inaccurate
11 reports posted to the web site, then the amount proposed in the Staff
12 proposal of \$400 per day, paid to the Florida Public Service Commission
13 is acceptable to BellSouth, provided that the \$400 per day applies to the
14 aggregate of all reports and not each incomplete or inaccurate report
15 incrementally. As stated above, I do not believe the ALECs are monetarily
16 harmed because portions of the reports are incomplete or inaccurate.

17

18 Q. WHAT REVIEW PROCESS, IF ANY, SHOULD BE INSTITUTED TO
19 CONSIDER REVISIONS TO THE PERFORMANCE ASSESSMENT
20 PLAN THAT IS ADOPTED BY THIS COMMISSION? (ISSUE 7)

21

22 A. BellSouth concurs in the proposed review process set forth in Section 3.0,
23 Modifications to Measures, in the FPSC Staff proposal.

1

2 Q. WHEN SHOULD THE PERFORMANCE ASSESSMENT PLAN BECOME
3 EFFECTIVE? (ISSUE 8)

4

5 A. This issue actually consists of two questions:

6 1) When should the enforcement portion of the Performance Assessment
7 Plan become effective? BellSouth witness Ms. Cindy Cox will address
8 this issue from an enforcement perspective in her direct testimony in
9 this proceeding.

10

11 2) When should all the measurements proposed by BellSouth in Exhibit
12 DAC-1 be available? Assuming the Florida Public Service
13 Commission issues an order in this proceeding by July 31, 2001
14 adopting the Service Quality Measurements proposed by BellSouth in
15 this proceeding, BellSouth will produce all data and measurements
16 included in the BellSouth proposal during the fourth quarter 2001.

17

18 Q. WHAT ARE THE APPROPRIATE ENFORCEMENT MEASUREMENT
19 BENCHMARKS AND ANALOGS? (ISSUE 9)

20

21 A. The appropriate enforcement measurement benchmarks and analogs are
22 included in Exhibit DAC-1 and summarized in Exhibit DAC-5. As an
23 example, please refer once again to P-3: Percent Missed Installation

1 Appointments, and in particular the SEEM sections listed for this
 2 measurement on Page 3-7 of Exhibit DAC-1. The enforcement sub-
 3 metrics and the retail analog are listed in the SEEM Disaggregation Table.
 4 For convenience, they are summarized as follows:

<u>SEEM Disaggregation</u>	<u>SEEM Analog/Benchmark</u>
Resale POTS	Retail Res and Business (POTS)
Resale Design	Retail Design
UNE Loop + Port Comb	Retail Residence and Business
UNE Loops	Retail Res and Bus Dispatch
UNE xDSL	ADSL provided to Retail
UNE Line Sharing	ADSL provided to Retail
Local Interconnection Trunks	Parity with Retail

13
 14 Q. ISSUE 10 INVOLVES WHAT IS REFERRED TO AS A "ROOT CAUSE
 15 ANALYSIS." WHAT IS A ROOT CAUSE ANALYSIS?

16
 17 A. When a problem is detected that relates to BellSouth's delivery of services
 18 to ALECs, BellSouth may perform a Root Cause Analysis. This analysis is
 19 an often formalized, comprehensive, and detailed investigation of all the
 20 component activities related to the delivery of the service in question. It
 21 may includes participation by all BellSouth entities involved in the delivery
 22 of the service and include not only problem identification, but also the
 23 development and implementation of solutions. This is a very time

1 consuming and expensive process. In some instances, Root Cause
2 Analysis results may be made available and discussed with state
3 commissions and, in some cases, ALECs.

4
5 Q. UNDER WHAT CIRCUMSTANCES, IF ANY, SHOULD BELL SOUTH BE
6 REQUIRED TO PERFORM A ROOT CAUSE ANALYSIS? (ISSUE 10)

7
8 A. None. In my answer I have assumed this issue is limited to a root cause
9 analysis associated with an enforcement mechanism. An enforcement
10 plan, when and if it becomes effective, should function automatically (that
11 is, be self-effectuating) and avoid administrative burdens for the ALEC,
12 BellSouth and the Commission. Conducting root cause analysis is an
13 administrative process that is both burdensome and unnecessary given
14 that enforcement will provide the incentive to automatically correct
15 significant disparate treatment. This 'self-correction' process is a key by-
16 product of enforcement. BellSouth has the information necessary to
17 identify problems and the incentive, by virtue of enforcement penalties, to
18 correct those problems. There is no need to devote additional
19 commission and BellSouth resources into formalizing a process that is not
20 required.

21
22 Lastly, on page 6 of the direct testimony of FPSC Staff witness Paul W.
23 Stallcup, in Docket No. 000121-TP, dated February 7, 2001, Mr. Stallcup

1 states "I believe both BellSouth and the ALECs acknowledge that the self-
2 effectuating characteristic of an enforcement mechanism is essential.
3 Without this characteristic, the plan could lack the necessary immediacy to
4 encourage BellSouth to provide compliant service to ALECs, and could
5 also burden this Commission and the parties with frequent and lengthy
6 evidentiary proceedings." Root Cause Analysis is an example of a
7 process that would create a burden to the Commission and the parties.
8

9 Q. WHAT IS THE APPROPRIATE METHODOLOGY THAT SHOULD BE
10 EMPLOYED TO DETERMINE IF BELLSOUTH IS PROVIDING
11 COMPLIANT PERFORMANCE TO AN INDIVIDUAL ALEC? (TIER 1)
12 (ISSUE 11.a)

13
14 Q. HOW SHOULD PARITY BE DEFINED FOR PURPOSES OF THE
15 PERFORMANCE ASSESSMENT PLAN? (ISSUE 11.b)

16
17 A. While the FCC has not specifically used the term 'compliant performance',
18 I believe the following definitions of parity by the FCC applies: 1) where a
19 retail analog exists, the BOC must provide access to a competing carrier
20 in substantially the same time and manner as it provides to itself; 2) for
21 those functions that have no retail analogue, the BOC must provide
22 access that would offer an efficient carrier a meaningful opportunity to
23 compete. For those services where there is no retail analog, that is,

1 where BellSouth does not provide the same service or a comparable
2 service in its retail operations, the proper approach would be to use a
3 “benchmark”. This is, of course, a methodology that is quite familiar to this
4 Commission and has been used by the Commission for years.

5
6 The methodology should be a simple comparison of the performance
7 provided to the individual ALEC to the performance standard appropriate
8 to the measurement category. This comparison should be over a period
9 of time and should consider the performance measurement results as a
10 whole, rather than focus solely on a single individual measurement. This
11 will provide the Commission with a complete perspective on the level of
12 performance being provided to the ALEC.

13
14 For those enforcement sub-metrics where BellSouth provides a similar
15 service to its retail operations, the measurement is a little more
16 complicated and is best accomplished through the application of statistical
17 tests. That is, we would measure how BellSouth performed on the retail
18 analog, and we would measure how BellSouth performed when it provided
19 the relevant service to the ALECs. If it appears that BellSouth provided
20 better service to the ALECs, the inquiry is at an end. If, on the other hand,
21 there is a question about whether BellSouth provided non-discriminatory
22 service, a statistical analysis, described in Dr. Mulrow’s testimony, would

1 be undertaken to determine whether there was actually disparate
2 treatment.

3

4 Q. WHAT IS THE APPROPRIATE STRUCTURE? (ISSUE 11.c)

5

6 A. The structure of a Tier 1 enforcement plan should include clearly
7 articulated, pre-determined measurements and standards that encompass
8 a comprehensive range of carrier-to-carrier performance. The
9 enforcement plan should focus on measurements of key processes where
10 a failure in the process could have a direct, significant effect on
11 competition. It is not necessary for the enforcement plan to include all
12 measurements, all products, activities and processes. The FCC rejected
13 the argument that all measures be included in an enforcement plan by
14 stating:

15 We also believe that the scope of performance covered by the
16 Carrier-to-Carrier metrics is sufficiently comprehensive, and that the
17 New York Commission reasonably selected key competition-affecting
18 metrics from this list for inclusion in the enforcement plan. We
19 disagree with commenters who suggest that additional metrics must
20 be added to the plan in order to ensure its effectiveness, and note
21 that the New York Commission has considered and rejected similar
22 arguments. Bell Atlantic Order, at ¶439.

23

1 BellSouth proposes a two-tiered enforcement structure. Tier 1
2 enforcement mechanisms are triggered when BellSouth fails on any one
3 of the Tier-1 measurement categories for a particular month. The
4 resulting penalty is paid directly to individual ALEC. The measurements to
5 be included in the Tier-1 are noted in each measurement category of
6 Exhibit DAC-1. For convenience of the Commission, BellSouth's Tier-1
7 metrics are summarized as follows:

- 8 1. Acknowledgement Message Timeliness – EDI
- 9 2. Acknowledgement Message Timeliness – TAG
- 10 3. Acknowledgement Message Completeness EDI
- 11 4. Acknowledgement Message Completeness TAG
- 12 5. Firm Order Confirmation and Reject Response Completeness –
13 Fully Mechanized
- 14 6. Percent Missed Installation Appointments – Resale POTS
- 15 7. Percent Missed Installation Appointments – Resale Design
- 16 8. Percent Missed Installation Appointments – UNE Loop and Port
17 Combinations
- 18 9. Percent Missed Installation Appointments – UNE Loops
- 19 10. Percent Missed Installation Appointments – UNE xDSL
- 20 11. Percent Missed Installation Appointments – UNE Line Sharing
- 21 12. Percent Missed Installation Appointments – Local IC Trunks
- 22 13. Average Completion Interval – Resale POTS
- 23 14. Average Completion Interval – Resale Design

- 1 15. Average Completion Interval – UNE Loop and Port Combinations
- 2 16. Average Completion Interval – UNE Loops
- 3 17. Average Completion Interval – UNE xDSL
- 4 18. Average Completion Interval – UNE Line Sharing
- 5 19. Average Completion Interval – Local IC Trunks
- 6 20. Coordinated Customer Conversions Interval – Unbindled Loops
- 7 21. Coordinated Customer Conversions – Hot Cut Timeliness %
- 8 within interval - UNE Loops
- 9 22. Coordinated Customer Conversions – % Provisioning Troubles
- 10 Received within 7 days of a completed service order – UNE
- 11 Loops
- 12 23. % Provisioning Troubles within 30 days of Service Order
- 13 Completion – Resale POTS
- 14 24. % Provisioning Troubles within 30 days of Service Order
- 15 Completion – Resale Design
- 16 25. % Provisioning Troubles within 30 days of Service Order
- 17 Completion – UNE Loop and Port Combinations
- 18 26. % Provisioning Troubles within 30 days of Service Order
- 19 Completion – UNE Loops
- 20 27. % Provisioning Troubles within 30 days of Service Order
- 21 Completion – UNE xDSL
- 22 28. % Provisioning Troubles within 30 days of Service Order
- 23 Completion – UNE Line Sharing

- 1 29. % Provisioning Troubles within 30 days of Service Order
- 2 Completion – Local IC Trunks
- 3 30. LNP – Percent Missed Installation Appointments – LNP
- 4 31. LNP – Average Disconnect Timeliness Interval – LNP
- 5 32. Missed Repair Appointments – Resale POTS
- 6 33. Missed Repair Appointments – Resale Design
- 7 34. Missed Repair Appointments – UNE Loop and Port
- 8 Combinations
- 9 35. Missed Repair Appointments – UNE Loops
- 10 36. Missed Repair Appointments – UNE xDSL
- 11 37. Missed Repair Appointments – UNE Line Sharing
- 12 38. Missed Repair Appointments – Local IC Trunks
- 13 39. Customer Trouble Report Rate – Resale POTS
- 14 40. Customer Trouble Report Rate – Resale Design
- 15 41. Customer Trouble Report Rate – UNE Loop and Port
- 16 Combinations
- 17 42. Customer Trouble Report Rate – UNE Loops
- 18 43. Customer Trouble Report Rate – UNE xDSL
- 19 44. Customer Trouble Report Rate – UNE Line Sharing
- 20 45. Customer Trouble Report Rate – Local IC Trunks
- 21 46. Maintenance Average Duration – Resale POTS
- 22 47. Maintenance Average Duration – Resale Design

- 1 48. Maintenance Average Duration – UNE Loop and Port
- 2 Combinations
- 3 49. Maintenance Average Duration – UNE Loops
- 4 50. Maintenance Average Duration – UNE xDSL
- 5 51. Maintenance Average Duration – UNE Line Sharing
- 6 52. Maintenance Average Duration – Local IC Trunks
- 7 53. % Repeat Troubles within 30 days – Resale POTS
- 8 54. % Repeat Troubles within 30 days – Resale Design
- 9 55. % Repeat Troubles within 30 days – UNE Loop and Port
- 10 Combinations
- 11 56. % Repeat Troubles within 30 days – UNE Loops
- 12 57. % Repeat Troubles within 30 days – UNE xDSL
- 13 58. % Repeat Troubles within 30 days – UNE Line Sharing
- 14 59. % Repeat Troubles within 30 days – Local IC Trunks
- 15 60. Trunk Group Performance – CLEC Trunk Group
- 16 62. Collocation Percent of Due Dates Missed

17

18 These 62 metrics address key processes affecting individual ALECs and
19 include metrics for resellers and facility based ALECs.

20

21 Q. WHAT IS THE APPROPRIATE PARAMETER DELTA, IF ANY? (ISSUE
22 11.c.2)

23

1 A. As set forth in Dr. Mulrow's testimony, the selection of parameter Delta
2 involves deciding at what point statistically significant differences in
3 performance become material, and this decision is ultimately a business
4 judgment. Although the parties have proposed different values for Delta,
5 there is little in the way of hard information upon which this business
6 judgement can be made. For this reason, BellSouth believes that any
7 selection of Delta should be only an interim decision that will be reviewed
8 in light of the results produced by the use of this Delta.

9
10 The Louisiana Public Service Commission Staff Final Recommendation
11 specified a Delta of 1.0 for Tier 1, for a period of 6 months. The Louisiana
12 Staff recommended that there be a further evaluation after that period.
13 (Staff Final Recommendation, Docket U-22252 Subdocket C, pages 12
14 and 13. The Staff Final Recommendation was recently approved by the
15 Louisiana Public Service Commission. This decision was made after
16 nearly two years of workshops and comments by the parties and analysis
17 by the Louisiana Staff. BellSouth believes that it makes sense to build
18 upon the efforts of the Louisiana Commission and, at least for an initial
19 six-month period, utilize the Delta of 1.0 for Tier 1 selected by that
20 Commission. Following this 6-month period, further analysis and review
21 should be performed and incorporated into the next periodic review of the
22 overall plan.

23

1 Q. WHAT IS THE APPROPRIATE REMEDY CALCULATION? (ISSUE
2 11.c.3)

3

4 A. BellSouth's proposed remedy calculation is transaction based and similar
5 to the calculation methodology proposed by Mr. Stallcup. Exhibit DAC-6
6 contains BellSouth's proposed fee schedule for the Tier 1 enforcement
7 plan (Section A of Exhibit DAC-6) and several examples of the remedy
8 calculation (Section B of Exhibit DAC-6).

9

10 Q. WHAT IS THE APPROPRIATE BENCHMARK TABLE FOR SMALL
11 SAMPLE SIZES? (ISSUE 11.c.4)

12

13 A. This issue is important as it addresses the question of whether
14 benchmarks should be adjusted when sample sizes are small, due to the
15 fact that only a limited amount of transactions occurred. This is a
16 legitimate concern since it is possible that BellSouth is delivering
17 compliant performance but the compliant performance is not recognized
18 when performance is based on small samples. As an example, if a metric
19 has a benchmark of 90%, and an ALEC has 9 transactions, then each of
20 the 9 transactions must meet the standard for the sub metric. If there is
21 just one failure, the actual performance is 88.8% (8 divided by 9.)

22

1 BellSouth's proposes a 95% Confidence Small Sample Size table as listed
2 in DAC Exhibit 6, Section B, page 6.

3

4 Q. WHAT IS THE APPROPRIATE METHODOLOGY THAT SHOULD BE
5 EMPLOYED TO DETERMINE IF BELLSOUTH IS PROVIDING
6 COMPLIANT PERFORMANCE ON A STATEWIDE ALEC-AGGREGATE
7 BASIS? (TIER 2) (ISSUE 12.a)

8

9 Q. HOW SHOULD PARITY BE DEFINED FOR PURPOSES OF THE
10 PERFORMANCE ASSESSMENT PLAN? (ISSUE 12.b)

11

12 A. The answer to this issue is essentially the same as that provided under
13 issues 11.a and 11.b above, except that the focus is on the ALEC
14 aggregate result rather than on an individual ALEC.

15

16 Q. WHAT IS THE APPROPRIATE STRUCTURE? (ISSUE 12.c)

17

18 A. As with the Tier 1 structure, the Tier 2 enforcement plan should include
19 clearly articulated, pre-determined measurements and standards that
20 encompass a comprehensive range of carrier-to-carrier performance.
21 However Tier 2 enforcement metrics should focus on those processes
22 where recurring failures can have a significant effect on the ALEC
23 industry. Tier 2 enforcement mechanisms are triggered when BellSouth

1 fails three consecutive months for any one of the Tier-2 measurement
2 categories. The resulting penalty is paid to the Florida State Treasury or
3 other State agency as designated by this Commission. The
4 measurements to be included in the Tier-2 are noted in each
5 measurement category of Exhibit DAC-1. For the Commission's
6 convenience, BellSouth's Tier-2 metrics are summarized as follows:

- 7 1. Average Response Time – Pre-Ordering/Ordering
- 8 2. Interface Availability – Pre-Ordering/Ordering
- 9 3. Interface Availability – Maintenance & Repair
- 10 4. Loop Makeup – Response Time – Manual
- 11 5. Loop Makeup – Response Time – Electronic
- 12 6. Acknowledgement Message Timeliness – EDI
- 13 7. Acknowledgement Message Timeliness – TAG
- 14 8. Acknowledgement Message Completeness EDI
- 15 9. Acknowledgement Message Completeness TAG
- 16 10. Percent Flow-through Service Requests (Summary)
- 17 11. Reject Interval
- 18 12. Firm Order Confirmation Timeliness
- 19 13. Firm Order Confirmation and Reject Response Completeness –
20 Fully Mechanized
- 21 14. Percent Missed Installation Appointments – Resale POTS
- 22 15. Percent Missed Installation Appointments – Resale Design

- 1 16. Percent Missed Installation Appointments – UNE Loop and Port
- 2 Combinations
- 3 17. Percent Missed Installation Appointments – UNE Loops
- 4 18. Percent Missed Installation Appointments – UNE xDSL
- 5 19. Percent Missed Installation Appointments – UNE Line Sharing
- 6 20. Percent Missed Installation Appointments – Local IC Trunks
- 7 21. Average Completion Interval – Resale POTS
- 8 22. Average Completion Interval – Resale Design
- 9 23. Average Completion Interval – UNE Loop and Port Combinations
- 10 24. Average Completion Interval – UNE Loops
- 11 25. Average Completion Interval – UNE xDSL
- 12 26. Average Completion Interval – UNE Line Sharing
- 13 27. Average Completion Interval – Local IC Trunks
- 14 28. Coordinated Customer Conversions Interval – Unbundled Loops
- 15 29. Coordinated Customer Conversions – Hot Cut Timeliness %
- 16 within interval - UNE Loops
- 17 30. Coordinated Customer Conversions – % Provisioning Troubles
- 18 Received within 7 days of a completed service order – UNE
- 19 Loops
- 20 31. Cooperative Acceptance Testing - % xDSL Loops Tested
- 21 32. % Provisioning Troubles within 30 days of Service Order
- 22 Completion – Resale POTS

- 1 33. % Provisioning Troubles within 30 days of Service Order
- 2 Completion – Resale Design
- 3 34. % Provisioning Troubles within 30 days of Service Order
- 4 Completion – UNE Loop and Port Combinations
- 5 35. % Provisioning Troubles within 30 days of Service Order
- 6 Completion – UNE Loops
- 7 36. % Provisioning Troubles within 30 days of Service Order
- 8 Completion – UNE xDSL
- 9 37. % Provisioning Troubles within 30 days of Service Order
- 10 Completion – UNE Line Sharing
- 11 38. % Provisioning Troubles within 30 days of Service Order
- 12 Completion – Local IC Trunks
- 13 39. LNP – Percent Missed Installation Appointments – LNP
- 14 40. LNP – Average Disconnect Timeliness Interval – LNP
- 15 41. Missed Repair Appointments – Resale POTS
- 16 42. Missed Repair Appointments – Resale Design
- 17 43. Missed Repair Appointments – UNE Loop and Port
- 18 Combinations
- 19 44. Missed Repair Appointments – UNE Loops
- 20 45. Missed Repair Appointments – UNE xDSL
- 21 46. Missed Repair Appointments – UNE Line Sharing
- 22 47. Missed Repair Appointments – Local IC Trunks
- 23 48. Customer Trouble Report Rate – Resale POTS

- 1 49. Customer Trouble Report Rate – Resale Design
- 2 50. Customer Trouble Report Rate – UNE Loop and Port
- 3 Combinations
- 4 51. Customer Trouble Report Rate – UNE Loops
- 5 52. Customer Trouble Report Rate – UNE xDSL
- 6 53. Customer Trouble Report Rate – UNE Line Sharing
- 7 54. Customer Trouble Report Rate – Local IC Trunks
- 8 55. Maintenance Average Duration – Resale POTS
- 9 56. Maintenance Average Duration – Resale Design
- 10 57. Maintenance Average Duration – UNE Loop and Port
- 11 Combinations
- 12 58. Maintenance Average Duration – UNE Loops
- 13 59. Maintenance Average Duration – UNE xDSL
- 14 60. Maintenance Average Duration – UNE Line Sharing
- 15 61. Maintenance Average Duration – Local IC Trunks
- 16 62. % Repeat Troubles within 30 days – Resale POTS
- 17 63. % Repeat Troubles within 30 days – Resale Design
- 18 64. % Repeat Troubles within 30 days – UNE Loop and Port
- 19 Combinations
- 20 65. % Repeat Troubles within 30 days – UNE Loops
- 21 66. % Repeat Troubles within 30 days – UNE xDSL
- 22 67. % Repeat Troubles within 30 days – UNE Line Sharing
- 23 68. % Repeat Troubles within 30 days – Local IC Trunks

- 1 69. Invoice Accuracy
- 2 70. Mean Time to Deliver Invoices
- 3 71. Usage Data Delivery Accuracy
- 4 72. Trunk Group Performance – Aggregate
- 5 73. Collocation Percent of Due Dates Missed
- 6 74. Timeliness of Change Management Notices
- 7 75. Timeliness of Documents Associated with Change

8

9 These 75 metrics address key processes affecting ALECs in the
10 aggregate and include metrics for resellers and facility based ALECs..

11

12 Q. WHAT IS THE APPROPRIATE PARAMETER DELTA, IF ANY? (ISSUE
13 12.c.2)

14

15 A. As I stated previously, the appropriate approach is to select a Delta, use
16 that Delta for a certain time period, analyze the results, and only then
17 make a permanent selection of the parameter Delta.

18

19 Again, substantial work on the statistical testing parameter delta was done
20 in the Louisiana Workshop by several of the parties in this docket. As a
21 result of that work, the Louisiana Public Service Commission Staff Final
22 Recommendation specified a Delta of 0.5 for Tier 2 for a period of 6
23 months of. The recommendation suggested that a further evaluation be

1 conducted after that period. (Staff Final Recommendation, Docket U-
2 22252 Subdocket C, pages 12 and 13). The Staff Final Recommendation
3 was recently approved by the Louisiana Public Service Commission.
4

5 Therefore, BellSouth proposes that Delta for Tier 2 should be 0.5 for
6 period of 6 months of reporting. Following this 6-month period, further
7 analysis and review should be performed and incorporated into the next
8 periodic review of the overall plan.
9

10 Q. WHAT IS THE APPROPRIATE REMEDY CALCULATION? (ISSUE
11 12.c.3)

12
13 A. BellSouth's proposed Tier 2 remedy calculation methodology differs from
14 the methodology proposed by the FPSC Staff, attached to Staff witness
15 Paul Stallcup's direct testimony as Exhibit PWS-1 (page 6). BellSouth's
16 Tier 2 methodology is based on a failure in a Tier 2 sub metric for three
17 consecutive months such as January, February, March - or - February,
18 March, April. In contrast, Staff proposes to base Tier 2 remedy
19 calculations only results for a single month.
20

21 BellSouth proposes that when there is an indication of disparate treatment
22 at the CLEC aggregate level for a Tier 2 submetric for three consecutive
23 months, the affected volumes for the three month period are averaged and

1 multiplied by the appropriate penalty fee per item to arrive at the amount
2 of the remedy. As an example, consider the 5-month period February,
3 March, April, May and June. Further assume that the ALEC industry
4 received service below the standard for a Tier 2 sub-metric for each of
5 these months. Using the three month averaging, the affected volumes for
6 the months of February, March and April would be averaged and
7 multiplied by the appropriate Tier 2 penalty per item to arrive at a remedy
8 amount. Then the affected volumes for the months of March, April and
9 May would be averaged and multiplied by the appropriate Tier 2 penalty to
10 arrive at the next month's remedy amount.

11

12 The Tier 2 methodology proposed by staff uses monthly state aggregate
13 data. BellSouth strongly believes that at least three months worth of data
14 should be used in order to establish a pattern of consistent disparate
15 treatment to the ALEC industry. One of the underlying principles of
16 BellSouth's Tier 2 Enforcement Mechanism is the establishment of
17 consistent disparate treatment and one month is certainly not sufficient
18 time to establish consistent disparate treatment.

19

20 Q. WHAT IS THE APPROPRIATE BENCHMARK TABLE FOR SMALL
21 SAMPLE SIZES? (ISSUE 12.c.4)

22

23 A. Please refer to the answer for Issue 11.c.4 above.

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21

Q. WHEN SHOULD BELLSOUTH BE REQUIRED TO MAKE PAYMENTS FOR TIER 1 AND TIER 2 NONCOMPLIANCE, AND WHAT SHOULD BE THE METHOD OF PAYMENT? (ISSUE 13)

A. If ordered by the Commission, Tier 1 payments in the form of checks would be sent to the affected ALEC by the end of the second month following the month for which disparate performance is detected. In other words, payment would be rendered by the end of March for January performance.

If ordered by the Commission, Tier 2 payments in the form of checks would be sent to the Florida State Treasury or designated state agency by the end of the second month following the month for which disparate performance is detected. In other words, payment would be rendered by the end of March for January performance.

Q. SHOULD BELLSOUTH BE REQUIRED TO PAY INTEREST IF BELLSOUTH IS LATE IN PAYING AN ALEC THE REQUIRED AMOUNT FOR TIER 1? (ISSUE 14.a)

1 A. BellSouth's penalty proposal provides for the payment of interest for each
2 day BellSouth fails to make penalty payments the same as in the FPSC
3 Staff proposal.

4

5 Q. IF SO, HOW SHOULD THE INTEREST BE DETERMINED? (ISSUE
6 14.b)

7

8 A. As in the FPSC proposal, BellSouth proposes to pay the ALEC six (6)
9 percent simple interest per annum for each day after the due date that
10 BellSouth fails to pay the ALEC the required amount.

11

12 Q. SHOULD BELLSOUTH BE FINED FOR LATE PAYMENTS OF
13 PENALTIES UNDER TIER 2? IF SO, HOW? (ISSUE 15)

14

15 A. No. This is entirely unnecessary. BellSouth should not be subjected to a
16 fine (i. e. involuntary payment) for late payments of penalties. However,
17 BellSouth's proposal includes a voluntary payment to the Commission of
18 \$1,000 per day for each day after the due date that BellSouth fails to pay
19 the Tier 2 Enforcement Mechanism.

20

21 Q. WHAT IS THE APPROPRIATE PROCESS FOR HANDLING TIER 1
22 DISPUTES REGARDING PENALTIES PAID TO AN ALEC? (ISSUE 16)

23

1 A. BellSouth generally agrees with the proposal set forth by the FPSC Staff
2 in Section 4.6.4 of Exhibit PWS-1 in Mr. Stallcup's direct testimony.
3 However we would propose that this dispute process include provisions to
4 discourage submitting frivolous disputes, where the amount in dispute is
5 negligible or where it is consistently determined that the penalty payment
6 is correct.

7
8 Q. WHAT IS THE APPROPRIATE MECHANISM FOR ENSURING THAT
9 ALL PENALTIES UNDER TIER 1 AND TIER 2 ENFORCEMENT
10 MECHANISMS HAVE BEEN PAID AND ACCOUNTED FOR? (ISSUE 17)

11
12 A. BellSouth agrees with the proposal set forth by the FPSC Staff in Section
13 4.6.5 of Exhibit PWS-1 in Mr. Stallcup's direct testimony.

14
15 Q. WHAT LIMITATION OF LIABILITY, IF ANY, SHOULD BE APPLICABLE
16 TO BELLSOUTH? (ISSUE 18)

17
18 A. In Mr. Stallcup's direct testimony, Staff proposed limitations of liability for
19 such events as the submission of orders in unreasonable quantities or
20 times, for findings of noncompliance with a performance measurement
21 attributable to the ALEC, for a Force Majeure event, and for the ALEC's
22 non-compliance with the Interconnection Agreement.

23

1 BellSouth agrees with this proposal.

2

3 Q. WHAT TYPE OF CAP, IF ANY, IS APPROPRIATE FOR INCLUSION IN
4 THE PERFORMANCE ASSESSMENT PLAN? (ISSUE 19.a)

5

6 A. BellSouth proposes the use of an absolute cap. BellSouth's enforcement
7 plan was developed with the thought that an enforcement plan should be
8 self-effectuating. Consequently, each of the two tiers of remedies in the
9 enforcement plan is automatic. While the Commission can step in at any
10 time, remedies will be rendered as the performance is being monitored.
11 However, no Commission order is necessary to render payment. The
12 FPSC Staff's plan, on the other hand, contains a glaring contradiction to
13 the "self-effectuating" concept, the so-called "procedural cap." The
14 BellSouth enforcement plan sets an automatic financial cap (absolute cap)
15 based on a meaningful percentage of BellSouth's net revenues in Florida.
16 The Staff's procedural cap, on the other hand, only determines the point at
17 which the ILEC is permitted to seek relief from additional penalties from
18 the state commission. Thus the procedural cap is not really a cap at all,
19 but rather a threshold that must be reached before the process of setting a
20 cap begins.

21

22 A more logical approach is to set the cap and determine the total amount
23 at risk at the outset. A procedural threshold would simply defer this

1 decision. Furthermore, the proceedings, testimony, analysis, filing of
2 evidence, and hearing needed to set a real cap could take months.
3 During this time, the penalty payments would presumably continue,
4 leading to the potential for irreversible financial damage to BellSouth. For
5 example, assume that a procedural cap is set at 35% of BellSouth's net
6 operating revenue. During the months that will be needed to determine
7 where the absolute cap should be set, penalties would continue to accrue.
8 If, in this example, the Commission ultimately determines that 35% is an
9 appropriate absolute cap, then the payments over this amount made
10 during the pendency of the proceeding could not be recovered. (i.e. it is
11 unlikely that the ALECs would voluntarily return any excess payments.)

12
13 While BellSouth strongly disagrees with the concept of a procedural cap, if
14 the Commission deems this approach necessary, the Commission should
15 structure the process to reduce the prospect of irreversible financial harm
16 to BellSouth. BellSouth recommends that (1) the procedural cap or
17 threshold should be set at a very low amount (i. e. well below what any
18 reasonable absolute cap might be, and (2) after the procedural cap is
19 reached, further penalty payments should be suspended until the
20 Commission sets the absolute cap.

21
22 In any event, it is important to remember that the self-effectuating cap in
23 the enforcement plan is not an overall cap on BellSouth's liability for

1 performance failures. As the FCC has pointed out, a penalty plan is not
2 "the only means of ensuring that [the RBOC] continues to provide
3 nondiscriminatory service to competing carriers." *Bell Atlantic Order*, ¶
4 435. Thus, any characterization of the enforcement cap as an absolute
5 cap on BellSouth's liability for performance failures is incorrect. Moreover,
6 the New York, Texas, Kansas and Oklahoma plans all have annual
7 monetary caps similar to the absolute cap proposed by BellSouth.

8
9 Q. WHAT IS THE APPROPRIATE DOLLAR VALUE OF A CAP IF
10 APPLICABLE? (ISSUE 19.b)

11
12 A. BellSouth believes that the appropriate dollar value of the absolute cap
13 should be 36% of BellSouth's net operating revenues resulting from its
14 Florida operations. This 36% value for cap is consistent with the cap
15 amounts approved by the FCC in approving the Long Distance
16 applications of SBC and Bell Atlantic and more recently in the Kansas and
17 Oklahoma applications.

18
19 BellSouth believes that the recommendation by Mr. Stallcup of 39%, on
20 page 18 of his direct testimony is excessive, particularly in light of the fact
21 that he further recommends that this be a procedural cap (see pages 17-
22 18 of Mr. Stallcup's direct testimony), which allows the percentage to go
23 even higher at the discretion of the Florida Commission. It is possible Mr.

1 Stallcup may have based his recommendation of 39% on events in Bell
2 Atlantic / New York. However the 39% cap for Bell Atlantic/New York
3 includes a 3% adjustment to off-set a major OSS malfunction which
4 occurred after the granting of 271 relief in New York. This situation will not
5 occur in BellSouth.

6

7 Q. WHAT PROCESS, IF ANY SHOULD BE USED TO DETERMINE
8 WHETHER PENALTIES IN THE EXCESS OF THE CAP SHOULD BE
9 REQUIRED? (ISSUE 20)

10

11 A. As I previously testified, BellSouth believes that the only appropriate cap
12 would be an absolute cap. Therefore, there would be no penalties in
13 excess of the cap.

14

15 Q. IF THERE IS A CAP, FOR WHAT PERIOD SHOULD THE CAP APPLY?
16 (ISSUE 21)

17

18 A. BellSouth believes that an absolute cap should be applied on an annual
19 basis.

20

21 Q. SHOULD THE PERFORMANCE ASSESSMENT PLAN INCLUDE A
22 MARKET PENETRATION ADJUSTMENT, AND IF SO, HOW SHOULD
23 SUCH AN ADJUSTMENT BE STRUCTURED? (ISSUE 22)

1

2 A. No. The market penetration adjustment proposed by Staff specifies a
3 trebling of the penalty amount to the State Treasury for selected
4 measurements of advanced and nascent services such as Loop Port
5 Combinations, xDSL, and Line Sharing. This adjustment will unfairly
6 penalize BellSouth for ALECs' business decisions not to include Florida in
7 initial entry level strategies or to target other areas before moving to
8 Florida. The FCC BA 271 Order states at ¶ 427 "Congress specifically
9 declined to adopt a market share or other similar test for BOC entry into
10 long distance, and we have no intention of establishing one here...".

11

12 BellSouth's remedy plan is comprehensive in itself, offering two tiers of
13 incentives. Tier-1 remedies the individual ALEC. Tier-2 addresses the
14 ALECs in the aggregate. BellSouth's remedy plan does not require
15 additional business rules to ensure it pays special attention to ALEC
16 performance based on market penetration.

17

18 Q. SHOULD THE PERFORMANCE ASSESSMENT PLAN INCLUDE A
19 COMPETITIVE ENTRY VOLUME ADJUSTMENT, AND IF SO, HOW
20 SHOULD SUCH AN ADJUSTMENT BE STRUCTURED? (ISSUE 23)

21

22 A. No. On page 16, line 15 of his direct testimony, Mr. Stallcup describes the
23 Competitive Entry Volume adjustment as follows: "This adjustment to the

1 basic remedy payment mechanism is intended to help protect a small
2 ALEC's ability to establish and maintain a presence in the local exchange
3 market." Mr. Stallcup proposes that the adjustment result in a trebling of
4 "the basic per transaction penalty amounts for sub measures if there are
5 25 or fewer transactions per month and double the payment if there are
6 between 25 and 50 transactions per month. (Page 16, Lines 19 – 22)

7
8 There are two problems with this approach. First, the adjustment is
9 targeted as protection for the small ALEC. However the criteria for the
10 application of the adjustment is based on the number of transactions, not
11 the size of the ALEC. Depending on the sub-metric, a large ALEC can,
12 and does, have a small number of transactions in a given month.

13
14 Secondly, the thresholds per sub-metric, 25 or 50, are set at such a high
15 level so as to include large ALECs. To illustrate, consider an example
16 involving the enforcement measurement category C-3, Collocation,
17 Percent of Due Dates Missed. This measurement category is proposed
18 as a Tier 1 enforcement metric by Mr. Stallcup and by BellSouth. For the
19 month of January 2001, 105 collocation arrangements were completed.
20 There are approximately 65 facility based ALECs operating in Florida for
21 an approximate average of 2 collocation arrangements per ALEC. This is
22 a crude comparison but it should be apparent that if any collocation due
23 date was missed, even slightly, it would very likely fall below the threshold

1 of 25 per ALEC per sub-metric and result in triple penalties to the ALEC
2 regardless of the size of the ALEC. Similar examples could be cited for
3 other measurements with relatively low volumes such as Invoice Accuracy
4 and Mean Time to Deliver Invoices, both of which are Tier 1 enforcement
5 measurements in the Staff's proposal. An ALEC may get only 2 Invoices
6 per month, one from CRIS and one from CABS. If the enforcement
7 mechanism resulted in a penalty for these measurements, it is very likely
8 the penalty would be trebled, for all ALECs.

9
10 Admittedly, the very nature of these measurements is that they have a low
11 number of transactions. However other sub-metrics in the Ordering,
12 Provisioning, and Maintenance and Repair categories could be expected
13 to have relatively low volumes and, as a result, the Competitive Entry
14 Volume adjustment would apply to many large ALECs, not just the small
15 ALECs for which this adjustment is targeted.

16
17 Q. SHOULD PERIODIC THIRD-PARTY AUDITS OF PERFORMANCE
18 ASSESSMENT PLAN DATA AND REPORTS BE REQUIRED? (ISSUE
19 24.a)

20
21 A. Yes, within reason. BellSouth believes that third-party audits of
22 Performance Assessment Plan data and reports is appropriate and, as
23 such, has included in its SQM as Appendix C, a BellSouth audits policy.

1 This is consistent with the proposal attached as Exhibit PWS-1 to Florida
2 Commission Staff witness Mr. Stallcup in his direct testimony. However
3 BellSouth's measurement data is produced by a regional system and
4 managed by the same regional organization. To the extent possible,
5 audits should be conducted regionally since many of the processes and
6 programs are the same from state to state.

7
8 Q. IF SO, HOW OFTEN SHOULD AUDITS BE CONDUCTED, AND HOW
9 SHOULD THE AUDIT SCOPE BE DETERMINED? (ISSUE 24.b)

10
11 A. As stated in Appendix C of the BellSouth SQM, "if requested by a Public
12 Service Commission or by an ALEC exercising contractual audit rights,
13 BellSouth will agree to undergo a comprehensive audit of the current year
14 aggregate level reports for both BellSouth and the ALEC(s) for each of the
15 next five (5) years (2001-2005), to be conducted by an independent third
16 party". "BellSouth, the PSC and the ALEC(s) shall jointly determine the
17 scope of the audit. This is consistent with the proposal attached as Exhibit
18 PWS-1 to Florida Commission Staff witness Mr. Stallcup in his direct
19 testimony.

20
21 Q. IF PERIODIC THIRD-PARTY AUDITS ARE REQUIRED, WHO SHOULD
22 BE REQUIRED TO PAY THE COST OF THE AUDITS? (ISSUE 25)

23

1 A. As stated in Appendix C of the BellSouth SQM, "the cost shall be borne
2 50% by BellSouth and 50% by the ALEC or ALEC(s). This is consistent
3 with the proposal attached as Exhibit PWS-1 to Florida Commission Staff
4 witness Mr. Stallcup in his direct testimony.

5

6 Q. WHO SHOULD SELECT THE THIRD-PARTY AUDITOR IF A THIRD-
7 PARTY AUDIT IS REQUIRED? (ISSUE 26)

8

9 A. As stated in Appendix C of the BellSouth SQM, "the independent third
10 party auditor shall be selected with input from BellSouth, the PSC, if
11 applicable, and the ALEC(s)". This is consistent with the proposal
12 attached as Exhibit PWS-1 to Florida Commission Staff witness Mr.
13 Stallcup in his direct testimony.

14

15 Q. SHOULD AN ALEC HAVE THE RIGHT TO AUDIT OR REQUEST A
16 REVIEW BY BELL SOUTH FOR ONE OR MORE SELECTED
17 MEASURES WHEN IT HAS REASON TO BELIEVE THE DATA
18 COLLECTED FOR A MEASURE IS FLAWED OR THE REPORT
19 CRITERIA FOR THE MEASURE IS NOT BEING ADHERED TO? (ISSUE
20 27.a)

21

22 A. No. BellSouth provides the ALECs with the raw data underlying many of
23 the BellSouth Service Quality Measurements reports as well as a user

1 manual on how to manipulate the data into reports. The ALECs can use
2 this raw data to validate the results in the BellSouth Service Quality
3 Measurements reports posted every month on the BellSouth web site.
4 This raw data was described in more detail in Issue 3 above.

5
6 Q. IF SO, SHOULD THE AUDIT BE PERFORMED BY AN INDEPENDENT
7 THIRD PARTY? (ISSUE 27.b)

8
9 A. No. As I testified previously, additional audits beyond the yearly
10 comprehensive audit are not necessary. Therefore, the question of who
11 should perform the audit the audit is moot.

12
13 Nevertheless, if the Commission determines that such an audit is
14 necessary, an independent third party should perform the audit. The
15 auditing firm should be selected by the ALEC and BellSouth. If parties
16 cannot agree on the selection of an auditing firm, Staff can select the
17 auditor.

18
19 Q. SHOULD BELLSOUTH BE REQUIRED TO RETAIN PERFORMANCE
20 MEASUREMENT DATA AND SOURCE DATA, AND IF SO, FOR HOW
21 LONG? (ISSUE 28)

22

1 A. As I testified previously, Exhibit DAC-2 explains the enormous scope of
2 data addressed here that must be maintained by the PMAP system.
3 BellSouth proposes to retain this data for a period not to exceed 18
4 months. The retention of this volume of data longer than 18 months would
5 represent tremendous cost to BellSouth in data storage and, therefore,
6 would be unreasonable and overly burdensome.

7

8 Q. DOES THIS CONCLUDE YOUR TESTIMONY?

9

10 A. Yes

1 BELLSOUTH TELECOMMUNICATIONS, INC.
2 REBUTTAL TESTIMONY OF DAVID A. COON
3 BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION
4 DOCKET NO. 000121-TP
5 MARCH 21, 2001

6
7 Q. PLEASE STATE YOUR NAME, YOUR POSITION WITH BELLSOUTH
8 TELECOMMUNICATIONS, INC. ("BELLSOUTH") AND YOUR
9 BUSINESS ADDRESS.

10
11 A. My name is David A. Coon. I am employed by BellSouth as Director –
12 Interconnection Services for the nine-state BellSouth region. My
13 business address is 675 West Peachtree Street, Atlanta, Georgia 30375.

14
15 Q. ARE YOU THE SAME DAVID COON WHO FILED DIRECT TESTIMONY
16 IN THIS PROCEEDING?

17
18 A. Yes I am.

19
20 Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

21
22 A. The purpose of my testimony is to respond to certain issues raised by
23 ALEC witnesses Ms. Cheryl Bursh, Ms. Karen Kinard, and Mr. Tom Allen
24 in this proceeding in their direct testimonies.

25

1 Q. PLEASE SUMMARIZE YOUR REBUTTAL.

2

3 A. My rebuttal testimony will address four major points. These major points
4 are as follow:

- 5 • The ALECs propose an absurd number of performance
6 measurements that go far beyond the most extreme definition of
7 what is necessary for this Commission to satisfy itself that
8 BellSouth is providing non-discriminatory performance to the
9 ALECs. In addition, the proposed standards, either retail analogs
10 or benchmarks, are arbitrary.
- 11 • The ALECs' proposal involves a level of complexity and volume
12 that would make it virtually impossible to implement in any
13 reasonable timeframe.
- 14 • The ALECs' proposal also includes requirements for additional
15 audits that as a practical matter simply cannot be accomplished.
- 16 • The ALECs' enforcement plan goes far beyond any reasonable
17 attempt to provide additional incentives to perform. In fact, the
18 ALECs' plan is so excessive that the enforcement mechanism
19 becomes a major new revenue stream for the ALECs even if
20 BellSouth is providing a non-discriminatory level of service to the
21 ALECs.

22

23 The following section is associated with Issues 1A, 1B, 2A, 2B, 3A, 9,
24 12A, 12B, and 12C.

25

1 Q. LET'S BEGIN BY DEFINING SOME OF THE TERMS THAT ARE GOING
2 TO BE USED IN THIS TESTIMONY, SUCH AS MEASUREMENT
3 CATEGORIES, MEASUREMENTS AND SUB-METRICS.
4

5 A. A measurement category is a major grouping of the measures
6 themselves. Measurement categories are Operations Support Systems,
7 Ordering, Provisioning, Maintenance & Repair, Billing, E911, Operator
8 Services/Directory Assistance, Database Update Information, Trunk
9 Group Performance, Collocation and Change Management.

10
11 Measurements fall within measurement categories and are such things
12 as Percent Missed Installation Appointments (in the Provisioning
13 category) and Firm Order Confirmation Timeliness (in the Ordering
14 category). There are 71 measurements in the BellSouth SQM.

15
16 A sub-metric is the term applied to the result of disaggregating the
17 measurement into a multitude of sub-parts where performance data is
18 actually captured. For instance, Percent Missed Installation
19 Appointments is sub-divided into such sub-metrics as Percent Missed
20 Installation Appointments - Resale Residence, dispatch, < 10 circuits or
21 Percent Missed Installation Appointments – 2 wire Analog Loop. When
22 this disaggregation is completed the end result is approximately 1200
23 sub-metrics in the BellSouth SQM.
24

1 Collectively, all of these terms can be referred to as performance
2 measurements.

3

4 Q. SHOULD THE FLORIDA PUBLIC SERVICE COMMISSION CONSIDER
5 THE MEASUREMENTS PROPOSED BY MS. KINARD IN HER DIRECT
6 TESTIMONY AS A REASONABLE MECHANISM FOR MONITORING
7 BELL SOUTH'S PERFORMANCE?

8

9 A. No. If there is no other single reason for rejecting what the ALECs have
10 proposed, the simple fact that their plan would require a review of almost
11 75,000 sub-metrics (as opposed to approximately 1200 proposed by
12 BellSouth) every month should be sufficient basis for rejecting the
13 ALECs' plan out of hand. Indeed, under Ms. Kinard's proposal, the
14 Commission would be faced with the daunting proposition of sifting
15 through 74,695 sub-metrics each month to assess BellSouth's
16 performance, just for the aggregate Alternative Local Exchange Carrier
17 (ALEC) industry. Adding the sub-metrics for individual ALECs would
18 make this number truly astounding and even more unworkable, if that
19 were possible. One has to wonder what the Commission would do with
20 this volume of data if it were filed with the Commission each month.

21

22 Q. AREN'T PERFORMANCE MEASURES AN APPROPRIATE WAY TO
23 MEASURE PARITY?

24

1 A. Certainly. Performance measurements are an appropriate means for the
2 Florida Public Service Commission to determine if BellSouth is serving
3 the ALECs in a manner similar to BellSouth retail. By reviewing objective
4 results for the performance measurements proposed by BellSouth, the
5 Commission can appropriately compare results for ALECs against
6 BellSouth retail results.

7
8 Essentially there are two parts of the equation that generate these
9 objective results. First you have to decide what you are going to
10 measure (for instance, order completion intervals, which is a
11 measurement in the general measurement category of Provisioning).
12 Then you have to determine the levels of disaggregation at which these
13 measurements are going to be applied. For instance, you might look at
14 order completion intervals for two wire analog loops and you might also
15 look at order completion intervals for Resale Residence > 10 circuits.
16 BellSouth's SQM filed with my direct testimony provides appropriate
17 measurements and disaggregation levels, and results in about 1200 sub-
18 metrics.

19
20 However Ms. Kinard has proposed that the Commission evaluate a
21 myriad of measurements and sub-metrics that go far beyond that
22 necessary to assess BellSouth's performance.

23

24 Q. LETS TURN TO THE NUMBER OF MEASUREMENTS FIRST. MS.
25 KINARD SPENDS SEVERAL PAGES OF HER DIRECT TESTIMONY

1 DISCUSSING THE RELATIONSHIP BETWEEN BELLSOUTH'S
2 INTERIM NOVEMBER 2000 SQM, ADDITIONAL PERFORMANCE
3 MEASURES ORDERED IN GEORGIA, FIVE NEW MEASUREMENTS
4 BEING DEVELOPED IN GEORGIA AND THE TEXAS PLAN
5 MEASUREMENTS REQUIRED BY THE TENNESSEE REGULATORY
6 AUTHORITY IN THE ITC^DELTACOM ARBITRATION. WOULD YOU
7 COMMENT ON THESE MEASURES?

8
9 A. Yes. Ms. Kinard obviously didn't have the benefit of the new SQM that
10 BellSouth filed in this proceeding when she prepared her direct
11 testimony. A quick review of the additional measurements she has
12 proposed (as compared to BellSouth's November 2000 SQM) will show
13 that a number of the measurements that Ms. Kinard wants have been
14 included in the current SQM. For instance, with regard to the additional
15 measurements proposed in Georgia, 13 of the 16 new measurements (or
16 80%) mentioned by Ms. Kinard are included in the new BellSouth SQM in
17 Florida. They are:

- 18
19 • Average Response Time for Loop Makeup Information (Manual &
20 Mechanized)
21 • Acknowledgement Timeliness
22 • Acknowledgement Completeness.
23 • Firm Order Confirmation and Reject Response Completeness
24 • Coordinated Customer Conversion – Average Recovery Time.
25 • Cooperative Acceptance Testing Attempts vs. Requested by ALECs.

- 1 • Recurring Charge Completeness.
- 2 • Non-recurring Charge Completeness.
- 3 • Mean Time to Notify ALECs of Network Outages.
- 4 • Mean Time to Notify ALECs of Interface Outages.
- 5 • Average Database Update Interval.
- 6 • Average Database Update Accuracy.
- 7 • NXX and LRNs loaded and tested by LERG date.

8

9 Q. CAN YOU EXPLAIN WHY BELLSOUTH HAS OMITTED THREE OF
10 THE 16 GEORGIA MEASURES THAT MS. KINARD REFERENCES
11 IN HER TESTIMONY?

12 A. Yes. These measurements, and brief explanations of why BellSouth
13 does not believe these measurements are necessary, are as follow:

14

15 1. % Completions/Attempts w/o Notice or < 24 Hours Notice. Basically
16 this measurement has been proposed because sometimes BellSouth
17 works an ALEC order without giving what the ALEC considers to be
18 appropriate notice. Since the issue here is to measure parity, it is difficult
19 to see how this measurement captures any information about the level of
20 service BellSouth provides to the ALEC.

21

22 BellSouth currently has five separate provisioning measurements
23 (Provisioning P1 – P5) that deal with order completion intervals, held
24 orders and completion notices. These measures provide information for
25 determining how well BellSouth is doing in this area of provisioning. This

1 proposed measure is an example of a measurement of a portion of the
2 ordering and provisioning process. It attempts to combine FOC
3 timeliness, % installation appointments met and OCI into one.
4

5 2. BFRs processed in 30 business days.

6 3. BFR Quotes provided in X days. The Georgia Commission ordered
7 BellSouth to add measurements to the SQMs reflecting the percentage of
8 Bona Fide Requests processed within thirty days and the percentage of
9 quotes provided for Bona Fide Requests within certain intervals.

10 However, during the period of January 2000 through October 2000,
11 BellSouth received only seven Bona Fide Requests from ALECs across
12 the entire-region. While BellSouth could report its performance with
13 respect to Bona Fide Requests on a manual basis, it is impossible to
14 draw any conclusions about BellSouth's performance based upon such a
15 limited number of transactions. Therefore BellSouth does not believe it
16 appropriate or reasonable to add these measurements at this time.
17

18 Q. MS. KINARD'S MENTIONS FIVE ADDITIONAL MEASURES THAT
19 BELL SOUTH WAS DEVELOPING AT THE TIME OF THE GEORGIA
20 PROCEEDING. CAN YOU DESCRIBE WHAT IS HAPPENING WITH
21 THOSE ADDITIONAL MEASUREMENTS?
22

23 A. The five additional measurements mentioned by Ms. Kinard have been
24 included in the current SQM filed with my direct testimony. They are:
25

- Service Inquiry with Firm Order (Manual)

- 1 ● Loop Makeup Inquiry (Manual and Electronic)
- 2 ● Timeliness of Change Management Notices
- 3 ● Percentage Functional Acknowledgements Returned on Time
- 4 ● Percentage Troubles within 7 Days of Hot Cut

5

6 Q. ON PAGES 7-8 OF HER TESTIMONY, MS. KINARD LISTS 26 TEXAS
7 PLAN MEASUREMENTS THAT THE TENNESSEE REGULATORY
8 AUTHORITY REQUIRED BELLSOUTH TO PROVIDE AS A RESULT OF
9 THE DELTACOM ARBITRATION. CAN YOU ADDRESS BELLSOUTH'S
10 POSITION ON THESE MEASUREMENTS?

11

12 A. Yes. I have several points I would like to make here. First, several of the
13 measurements ordered by the TRA are already included in BellSouth's
14 SQM. Second, for the balance of the measurements, the ALECs offer no
15 rationale for including the measurements other than the fact that the
16 Tennessee Regulatory Authority has ordered them in an arbitration
17 between BellSouth and DeltaCom. Next, I would note that the
18 Tennessee Regulatory Authority's order concerning these measurements
19 is still the subject of an active Motion for Reconsideration in the
20 DeltaCom arbitration in Tennessee. A final disposition has not yet been
21 determined. Finally, on March 12, 2001, the Tennessee Regulatory
22 Authority established a new generic performance measurements docket,
23 Docket No. 01-00193. Although it indicated that it would adopt, as a base
24 the performance measurements, benchmarks, and enforcement
25 mechanisms, ordered in the DeltaCom arbitration, the bottom line is that

1 there is still a lot of work to be done in Tennessee before a final set of
2 performance measurements and enforcement mechanisms are
3 established. This Commission should make its own decision on these
4 measurements, rather than relying on another commission whose work is
5 not yet done.

6
7 Q. MS. KINARD SEEMS TO ASKING THIS COMMISSION TO SIMPLY
8 INCORPORATE, WITHOUT ANY CRITICAL ANALYSIS,
9 MEASUREMENTS ADOPTED IN OTHER JURISDICTIONS. IS IT
10 APPROPRIATE TO SIMPLY ADOPT MEASUREMENTS BECAUSE
11 THEY WERE ADOPTED IN OTHER STATES?

12
13 A. Absolutely not. In fact, the FCC has not required identical measurements
14 in the cases where it has approved interLATA authority for SBC and
15 Verizon. Although many of the products and services are similar across
16 ILECs, the method by which those products and services are delivered
17 and the Operations Support Systems and Legacy Systems that serve as
18 the foundation for delivery of those products and services may differ
19 among ILECs. The primary goal of these performance measures, as I
20 testified previously, is to provide this Commission with sufficient
21 measurements to determine that BellSouth is providing non-
22 discriminatory treatment to the ALECs. BellSouth's Service Quality
23 Measurements satisfy that goal.

24

1 Q. TURNING TO SPECIFIC ADDITIONAL MEASURES THAT THE ALECS
2 EVIDENTLY WANT INCLUDED, ON PAGES 10-24 OF HER DIRECT
3 TESTIMONY, MS. KINARD DISCUSSES A NUMBER OF MEASURES
4 THAT THE ALECS EVIDENTLY SUPPORT. CAN YOU ADDRESS
5 THESE ADDITIONAL MEASURES?
6

7 A. Yes. Beginning on page 10, Ms. Kinard lists 40 measurements that the
8 ALECs claim should be added to the BellSouth SQM. In response,
9 BellSouth notes that 20 of Ms. Kinard's proposed 40 measurements
10 (50%) are already encompassed in the new BellSouth SQMs. In fact,
11 many of these measurements Ms. Kinard advocates are duplicative of the
12 measures added as a result of the earlier described proceeding in
13 Georgia. There are, however, some measures that BellSouth simply
14 disagrees should be included among the performance measures. In
15 some instances, BellSouth disagrees because the item Ms. Kinard wants
16 to include measures something that existing measures already touch
17 upon. In other cases, the proposed measurement is simply inappropriate
18 or unneeded. I have already discussed one of these, Percent
19 Completions/Attempts without Notice or with Less Than 24 Hours Notice.
20 On the following pages of my testimony I will discuss the remaining
21 measurements that have been proposed by Ms. Kinard, but which should
22 not be included.
23
24
25
26

1 Measurements:

- 2 1. OP – Mean Time to Provide Response to Request for BellSouth-to-
3 ALEC Trunks
- 4 2. OP – Percent Responses to Request for BellSouth-to-ALEC Trunks
5 Provided within 7 Days
- 6 3. OP – Percent Negative Responses to Requests for BellSouth-to-
7 ALEC Trunks

8 BellSouth's response: The primary focus of these measurements is to
9 determine whether there was sufficient trunking capacity from the
10 BellSouth network to the ALEC switch when traffic is increased
11 substantially, such as might occur when an Internet Service Provider is
12 switched to the ALEC. Each of the measurements purports to measure
13 responses to requests made by the ALECs for trunking. Since BellSouth
14 has no way of knowing when this is going to occur, it hardly seems fair to
15 have a measurement related to BellSouth's success in meeting an
16 unanticipated demand. The best solution is not to have another set of
17 measurements, but to require an accurate forecast by the ALEC of traffic
18 requirements – well before the ALEC serves the Internet Service
19 Provider.

20

21 In connection with this proposed measurement, later in her testimony Ms.
22 Kinard discusses having trunking relief levels at 50%. To propose that
23 we build a trunk arrangement that would provide every ALEC with 50%
24 spare capacity in the trunk group is not efficient nor is it in the best
25 interest of the Florida customer.

1 4. OP – Order Accuracy

2 BellSouth's response: This metric is supposed to capture whether
3 BellSouth has improperly changed an ALEC order as a result of its
4 manual handling of the order. BellSouth's existing measurements,
5 Percent Provisioning Troubles within 30 Days of Service Order Activity
6 and Invoice Accuracy are both reflective of the accuracy of BellSouth's
7 order completions. That is, if BellSouth messes up an order through its
8 manual handling of the order, that fact will be captured and reported in
9 these other measures. The FCC agreed with this position in FCC 98-72,
10 ¶ 68, in stating "We believe, therefore, that this measurement
11 (Percentage of Troubles in 30 Days for New Orders) will provide
12 information about whether the incumbent LEC processed the order
13 accurately. Accordingly, we propose that incumbent LECs measure the
14 Percentage of Troubles in Thirty Days for New Orders as a substitute for
15 LCUG's proposed measurement of Percentage Orders Processed
16 Accurately. We believe that the Percentage of Troubles in Thirty Days for
17 New Orders will provide the information sought by LCUG, but will be a
18 less burdensome measurement than measuring order accuracy". In
19 other words, the ALECs have tried to get the FCC to approve this
20 measure and it has refused, finding that the other measures accurately
21 reflect the concern that the ALECs want measured.

22
23 5. OP – Percent of Orders Cancelled or Supplemented at the Request
24 of the ILEC

25 BellSouth's response: The focus of BST activities is on complying with

1 meeting the due date on the original order, not asking the ALEC to
2 supplement or cancel the order. Ms. Kinard seems to suggest that
3 BellSouth will ask an ALEC to supplement or cancel an order just so that
4 a due date won't be missed. It is not obvious what would be ascertained
5 from this particular measurement, since BellSouth could, and no doubt
6 would, have a bona fide reason for asking for a supplementary order that
7 would not be captured or revealed by this statistic. Therefore, this
8 measurement is not necessary.

9
10 6. OP – Percent of Coordinated Cuts Not Working as Initially
11 Provisioned

12 BellSouth's response: BellSouth is adding a new "hot cut" measurement,
13 % provisioning troubles within 7 days of a completed service order, as
14 discussed on page 3-20 of Exhibit DAC-1, attached to my direct
15 testimony. An ALEC can report a trouble as soon as the service order is
16 completed. In most instances, services that do not work should be
17 identified and resolved during the cutover process before the order is
18 completed in the system. If it is not, it is captured in the sub-metric that
19 BellSouth has already added, and the sub-metric proposed by the ALECs
20 is simply a duplication of what is already available.

21
22 7. OP – Mean Time to Restore a Customer to the ILEC

23 8. OP – Percent of Customers Restored to the ILEC

24 BellSouth's response: These measures relate to customers who were
25 going to be switched to the ALECs but who were not because of a

1 problem in the porting process. The measures would record the time that
 2 lapses before the customer is returned to service with BellSouth and the
 3 percent of customers that are returned. It is impossible to draw any
 4 meaningful conclusions from these two measurements. The porting of
 5 the customer may have failed because of something the ALEC did or
 6 failed to do. To the extent that these measurements were intended to
 7 quantify problems in the "hot cut" process, there are already measures
 8 that relate to this topic, including measures such as % Provisioning
 9 Troubles, Customer Trouble Report Rate, % Missed Installation
 10 Appointments, Coordinated Customer Conversion, Average Order
 11 Completion Interval and Maintenance Average Duration.

12
 13 9. OP – Call Abandonment Rate – Ordering and Provisioning

14 10. MR – Call Abandonment Rate – Maintenance

15 BellSouth's response: BellSouth's measurements, Speed of Answering
 16 in the Ordering Center and Average Answer Time – Repair Center,
 17 measure the average time a customer is in queue when calling the
 18 ordering and repair centers. Both the ALEC proposed measurements
 19 and the existing BellSouth measurements assess how quickly an
 20 incoming call is answered. There is no reason for these additional
 21 measurements proposed by the ALECs.

22
 23 11. OP – Percent Successful xDSL Service Testing

24 12. OP – (disaggregation or new metric) – Percent Completion of Timely
 25 Loop Modification/Conditioning on xDSL Loops

1 BellSouth's response: BellSouth has added DSL level disaggregation to
2 its existing and new measurements with this proceeding. The two
3 measurements above address issues that are already measured by
4 BellSouth's provisioning measurements, such as order completion
5 interval and percent missed installation appointments.

6
7 13. BL – Percent Billing Errors Correct in X Days

8 14. BL – Percent On-Time Mechanized Local Service Invoice Delivery

9 BellSouth response: BellSouth currently provides measurements that
10 address these issues. They are B-1, Invoice Accuracy and B-2, Mean
11 Time to Deliver Invoices. In addition to the measurements, BellSouth
12 conducts monthly audits by the Billing Verification Group that evaluates
13 samples of bills to check accuracy, compliance, etc. BellSouth believes
14 that these measures provide adequate information to assess BellSouth's
15 billing processes.

16
17 15. MI – Percent Response Commitments Met On Time

18 BellSouth's response: Evidently this metric will measure the time
19 between when a question is posed to a BellSouth "help desk" and when
20 the answer is received by the ALEC. On pages 19-20 of her testimony,
21 Ms. Kinard alleges "ALECs should not have to wait days for BellSouth to
22 respond to a problem that has totally stalled production of orders for the
23 ALEC". While the ALECs may properly be concerned about the time
24 BellSouth takes to respond to a question, this particular measure would
25 be dependent on a completely manual process of tracking the

1 responsiveness of BellSouth service representatives. Who would record
2 when the question was asked? How would disputes about what the
3 question was, or when it was asked be resolved? This issue would be
4 better worked through contract negotiations on an individual basis rather
5 than develop a group of measures for all ALECs.

6
7 16. CM – Percent ILEC vs. ALEC Changes Made

8 BellSouth's response: Absolutely no useful information can be achieved
9 through this measurement. It asks what percentage of BellSouth
10 proposed changes are accepted versus ALEC proposed changes. The
11 change control process has a method of escalating any disputes about
12 whether a proposed change was properly rejected. This measurement
13 would tell nothing about the relative merits or demerits of any proposal.
14 Suppose the ALECs submitted a number of change requests that are
15 technically infeasible to accomplish. BellSouth believes that the purpose
16 of change management is to work together as a team and prioritize the
17 requirements for the good of all participants. With that in mind measuring
18 anything other than the process is unnecessary. The BellSouth
19 measurements included with this filing are results focused and are the
20 only ones necessary to provide a parity comparison of the change
21 management process.

22

1 17. OSS – Percent Software Certification Failures

2 18. OSS – Software Problem Resolution Timeliness

3 19. OSS – Software Problem Resolution Average Delay Days

4 BellSouth's response: BellSouth believes that the testing arrangements
5 made available with any software update are adequate to resolve these
6 issues before the software is loaded. Further, the change management
7 process is more suitable to establish methods and procedures for
8 software updates. Participating in that process would eliminate the need
9 for these proposed measures.

10

11 Q. TURNING FROM THE MEASUREMENTS THEMSELVES TO ANOTHER
12 TOPIC, ON PAGE 31 OF HER DIRECT TESTIMONY, MS. BURSH
13 ALLEGES THAT "THE DATA AND REPORTS SHOULD BE MADE
14 AVAILABLE ON THE 15TH DAY OF EACH MONTH". HOW DO YOU
15 RESPOND?

16

17 A. As I testified previously, BellSouth believes posting these reports and the
18 underlying data for by the 30th day of the month for the preceding month's
19 activity is appropriate. Due to the sheer volume and size of these
20 reports, just considering the measurements proposed by BellSouth,
21 posting by the 15th as suggested by Ms. Bursh is simply impossible. Ms.
22 Bursh offers not one shred of evidence that it is critical to have the
23 reports by the 15th of each month, or even that it could be done. As I
24 testified in my direct testimony, the fact that very few ALECs even access

1 their reports is an indication that most ALECs would rather use their
2 resources to focus on their customers rather than focus on the data.

3
4 In its' proposal the FPSC Staff recommended posting by the 20th day.
5 Once again, BellSouth objects to setting as an objective, the 20th day for
6 posting these reports. In the past, the 20th day was occasionally
7 achievable because of a much lower volume of ALEC-specific data and
8 performance measurement reports. Today, there are approximately 155
9 ALECs operating in Florida. There are 105 ALEC specific reports
10 included in the BellSouth SQMs that are posted on the BellSouth web site
11 and 129 BellSouth/ALEC aggregate level reports. If all 155 ALECs were
12 to request reports each month this would equate to 155 ALECs times 105
13 reports (16,275 reports) plus the 129 aggregate reports for a total of
14 16,404 reports posted on a monthly basis in Florida. In addition there is a
15 very significant volume of underlying raw data. BellSouth makes every
16 effort to validate the reports before posting. Given this volume, BellSouth
17 believes posting on the 30th day of the month is reasonable.

18
19 With regard to the raw data, the web-site I mentioned does allow ALECs
20 to access electronically the raw data underlying those reports to the
21 extent such reports are derived from BellSouth's Performance
22 Measurement Analysis Platform (PMAP). The format of this raw data is
23 a flat file that can quickly be imported into a spreadsheet or a database
24 management program for further analysis and processing by the ALEC.
25 These reports will include the most critical ordering, provisioning, and

1 maintenance & repair measurements in which ALECs generally are
2 interested, including, but not limited to, FOC Timeliness, Reject Interval,
3 Percent Missed Installation Appointments, Average Completion Interval
4 Order Completion Interval Distribution, Missed Repair Appointments,
5 Customer Trouble Report Rate, and Maintenance Average Duration.

6
7 While every performance report is available electronically, BellSouth does
8 not have the capability to make available electronically the raw data that
9 is used to generate reports outside of PMAP. This would include the raw
10 data for the regional reports that are not specific to a single ALEC, which
11 cannot be efficiently generated electronically. The measurements that
12 reflect the Speed of Answer in the Ordering Center and Speed of Answer
13 in the Maintenance Center are good examples. These measurements
14 reflect the time during which a call is in queue until a BellSouth
15 representative answers the call. These work centers are regional in
16 nature and serve all ALECs, which means that hundreds of thousands of
17 calls are received each month. Although each call is individually timed
18 and the averages for the month are posted in the SQM reports, it is not
19 possible to electronically identify each and every ALEC call underlying
20 these SQM reports.

21
22 Q. ON PAGE 32 OF HER TESTIMONY, MS. BURSH ALLEGES THAT 1)
23 "THE ILEC SHOULD MAINTAIN A CURRENT AND ACCURATE USER'S
24 MANUAL TO SUPPORT ALECS IN ACCESSING AND INTERPRETING
25 THE RAW DATA" AND 2) "THE ILEC SHOULD ALSO PROVIDE A

1 KNOWLEDGEABLE SINGLE POINT OF CONTACT WITH WHOM
2 ALECS CAN CONFER TO RESOLVE QUESTIONS ABOUT
3 ACCESSING THE RAW DATA..." HOW DO YOU RESPOND?
4

5 A. BellSouth already complies with both of these positions. BellSouth
6 currently posts a comprehensive User Manual on the same web site as
7 the performance reports and raw data that explains in detail all aspects of
8 the raw data reflected in Ms. Bursh's comments. Furthermore, BellSouth
9 has always had a single point of contact for questions regarding the raw
10 data and User Manual, and in fact, AT&T has utilized both the User
11 Manual and single point of contact extensively during the past couple of
12 years.
13

14 Q. ON PAGES 24 AND 25 OF HER TESTIMONY, MS. KINARD ALLEGES
15 THE NEED FOR PERIODIC PERFORMANCE MEASUREMENT
16 REVIEWS BY THIS COMMISSION. HOW DO YOU RESPOND?
17

18 A. As I testified previously, BellSouth concurs in the need for periodic
19 reviews and BellSouth supports the proposed review process set forth in
20 Section 3.0, Modifications to Measures, in the FPSC Staff proposal.
21

22 Q. ON PAGE 25 OF HER TESTIMONY, MS. KINARD OFFERS AN
23 EXPLANATION OF BUSINESS RULES AND WHY THEY ARE
24 IMPORTANT IN METRIC DEFINITION. HOW DO YOU RESPOND?
25

1 A. I generally agree with Ms. Kinard's explanation of the need for, and the
2 importance of business rules. However I take exception to her claim on
3 page 25, lines 23-25, that the "the business rules need to be detailed
4 enough that a third party can use them to recreate BellSouth's
5 performance measurement reports using BellSouth's raw data." If Ms.
6 Kinard is suggesting the user manual needs to be duplicated as part of
7 the business rules in the SQM, since one would require both the business
8 rules and the user manual for an ALEC to reproduce BellSouth's
9 performance measurement reports from the raw data, I would certainly
10 object. I do not believe that the business rules need contain the details in
11 the raw data user manual, only the business logic to apply to the user
12 manual to produce reports from raw data. The fact is the business rules
13 should be targeted at helping the reader to understand the measurement.
14 If the reader is interested in further detail such as recreation of the metric
15 from raw data, these relevant details should be kept in a separate
16 document.

17
18 Q. IN HER EXHIBIT KK-1, ATTACHED TO HER TESTIMONY, MS. KINARD
19 ADDRESSES 12 PAGES OF CHANGES TO BUSINESS RULES,
20 EXCLUSIONS, CALCULATIONS AND STANDARDS THAT SHE
21 ALLEGES SHOULD BE EFFECTED IMMEDIATELY. HOW DO YOU
22 RESPOND?

23
24 A. In the SQM that I filed with my direct testimony, we presented our current
25 view of the appropriate business rules associated with the measurements

1 that we proposed. Ms. Kinard's analysis is based on an older SQM and
2 the revisions we have in our new SQM addressed a number of her
3 concerns. For instance, in connection with the measurement identified as
4 OSS-1, Average Response Time and Response Interval, BellSouth now
5 provides this measurement in the manner that she requested. As for her
6 other comments, to the extent that they are still relevant to the current
7 SQM, BellSouth's existing business rules are clear, concise, and
8 appropriate. As I have already testified, the SQM attached to my direct
9 testimony as Exhibit DAC-1 is a new SQM that has been modified to
10 incorporate changes proposed by KPMG, as part of the Georgia and
11 Florida testing, as well as the Georgia and Louisiana Commission orders.

12
13 It is interesting that changes advocated by Ms. Kinard are similar to the
14 changes that BellSouth and a coalition of ALECs discussed extensively in
15 the generic performance measurement dockets in Louisiana and Georgia
16 for the past 2 years. Many of the ALECs participating in those dockets
17 are the same ALECs involved in this generic proceeding in Florida. Ms.
18 Kinard is simply re-hashing old issues and offers no substantive reason
19 why BellSouth's business rules should be changed.

20
21 Q. TURNING TO A NEW SUBJECT, ON PAGES 27 – 34 OF HER
22 TESTIMONY, MS. KINARD DISCUSSES THE APPROPRIATE LEVELS
23 OF DISAGGREGATION ASSOCIATED WITH THE ALECS' PROPOSED
24 PERFORMANCE MEASUREMENTS. WHAT IS 'DISAGGREGATION'

1 AND HOW DO YOU RESPOND TO THE DISAGGREGATION
2 PROPOSED BY MS. KINARD?

3
4 A. As I stated in my direct testimony, the term disaggregation refers to the
5 breakdown, for reporting purposes, of measurements into specific sub-
6 metrics, such as products, activity types, and volumes. Achieving an
7 appropriate level of disaggregation is important because measurements
8 and reporting frequently occur only at this level. However, it is also
9 important that the disaggregation not be so granular and so detailed so
10 as to completely obfuscate performance. Using an analogy, one would
11 not view an artist's painting by focusing only on the individual brush
12 strokes. Yet the ALECs' proposal does just that by taking the comparison
13 point at which BellSouth's performance is evaluated to extremes.

14
15 As I stated previously, the ALEC plan includes approximately 75,000 sub-
16 metrics, compared to approximately 1200 sub-metrics in BellSouth's plan.
17 The level of disaggregation in the two plans principally accounts for this
18 difference.

19
20 Q. PLEASE GIVE AN EXAMPLE TO ILLUSTRATE WHAT YOU MEAN.

21
22 A. Starting at line 23 of page 27 of her direct testimony, and continuing on
23 for several pages, Ms. Kinard refers to her exhibit KK-2 and, later, KK-3,
24 as containing the levels of disaggregation proposed by the ALECs.

25

1 Referring to the second page of Exhibit KK-3, Measure 1, Mean Held
2 Order Interval & Distribution Intervals is the first in a series of
3 measurements of the provisioning process. On this exhibit, Ms. Kinard
4 refers to Exhibit KK-2 as containing the disaggregation for this
5 measurement. Exhibit KK-2 requires that the Mean Held Order
6 measurement category be broken down according to:

- 7 • 41 types of products. (per section G)
- 8 • 13 levels of geography (per Section D, item 4) Florida has 11
9 MSAs, one non-MSA for all areas of rural Florida not in an MSA
10 and a final geographic level for the state in total.
- 11 • 3 levels of volumes (per Section D, Item 3) for 1-5 lines, 6-14 lines
12 and 15+ lines.
- 13 • 3 levels of dispatch status (per Section D, Item 2) representing
14 Dispatch In, Dispatch Out, and what Ms. Kinard calls Non
15 Dispatch.

16 This means there are 41 times 13 times 3 times 3 = 4,797 sub-metrics for
17 the single measurement of Mean Held Order Interval & Distribution
18 Interval. This is absurd.

19
20 Q. IN THE EXAMPLE ABOVE, YOU USE JUST ONE MEASUREMENT
21 CATEGORY, MEAN HELD ORDER INTERVAL & DISTRIBUTION
22 INTERVALS TO DEMONSTRATE THE EFFECT OF
23 DISAGGREGATION. USING A SIMILAR ANALYSIS FOR ALL
24 MEASUREMENT CATEGORIES, HOW MANY SUBMETRICS ARE THE
25 ALECS PROPOSING FOR THE ENTIRE MEASUREMENT PLAN?

1 A. The ALECs' measurement plan consists of an incredible 74,695 sub-
2 metrics as I mentioned earlier. And that is just for the ALEC aggregate
3 each month. The details are in my exhibit DAC-R1 attached to my
4 rebuttal testimony. In this exhibit, I summarize the disaggregation for
5 each measurement category using a method similar to the example
6 above.

7
8 Each of these 74,695 sub-metrics for the ALEC aggregate must then be
9 compared against some standard, either a retail analog or a benchmark.
10 Essentially the Commission is faced with the monthly comparison of
11 nearly 150,000 numbers to evaluate BellSouth's performance to the
12 ALEC industry as a whole. If the Commission is interested in
13 performance for one or more ALECs individually, the comparisons
14 multiply.

15
16 Q. FOR COMPARISON, HOW MANY SUB-METRICS ARE IN THE
17 SERVICE QUALITY MEASUREMENT PLAN PROPOSED BY
18 BELLSOUTH?

19
20 A. As mentioned above, there are approximately 1,200 sub-metrics in
21 BellSouth's proposal for the ALEC aggregate. Exhibit DAC-2R, attached
22 to my rebuttal testimony lists each sub-metric specified by BellSouth's
23 SQM. As above, these measurements are for the ALEC industry as a
24 whole. Approximately 1,200 sub-metrics each month is more than
25 sufficient for the Commission to evaluate BellSouth's performance.

1 Q. ON PAGE 27 OF HER TESTIMONY, MS. KINARD DISCUSSES THE
2 NEED FOR DISAGGREGATION IN GENERAL THEN ALLEGES THAT
3 "COVAD'S TESTIMONY (COVAD WITNESS TOM ALLEN) DISCUSSES
4 FURTHER THE NEED FOR XDSL AND LINE SHARING/SPLITTING
5 DISAGGREGATION". HOW DO YOU RESPOND?

6
7 A. As I testified in detail in my direct testimony, BellSouth agrees with Ms.
8 Kinard that performance data must be disaggregated into specific
9 categories so as not to mask disparate treatment. BellSouth believes
10 that the disaggregation set forth in its SQMs, attached as Exhibit DAC-1
11 to my direct testimony, more than adequately provides the appropriate
12 level of disaggregation. However, her allegation regarding Covad's
13 requirement for further disaggregation for xDSL and Line
14 Sharing/Splitting is unfounded. Covad is not proposing anything that
15 BellSouth does not already measure in its SQM. BellSouth currently
16 measures the delivery of loops in measurement P-3; Percent Missed
17 Installation Appointments of its Service Quality Measurements document
18 in Exhibit DAC-1 of my direct testimony. This measurement is the
19 percentage of total orders processed for which BellSouth is unable to
20 complete the service orders on the committed due dates. The DSL loops
21 will be provided in a separate disaggregation of this measurement.
22 Covad's concern, therefore, is already addressed in BellSouth's SQM.

23

1 Q. ON PAGES 32-34 OF HER TESTIMONY, MS. KINARD DISCUSSES
2 ANALOGS AND BENCHMARKS ASSOCIATED WITH THE ALEC'S
3 PERFORMANCE PLAN. CAN YOU COMMENT ON HER REMARKS?
4

5 A. Initially, I would note that her comments deal with the ALEC plan, not the
6 BellSouth plan. Since BellSouth has asked the Commission to adopt it's
7 plan rather than the ALECs' plan, discussing the ALEC plan's
8 benchmarks and analogs isn't particularly appropriate. However,
9 BellSouth would note that Ms. Kinard simply presents her analogs and
10 benchmarks without any critical analysis to support the conclusions she
11 has reached. Anticipating that the ALECs might try to make the same
12 claim with regard to BellSouth's analogs and benchmarks, BellSouth
13 would note that its recommendations are the result of several years work
14 and have been conformed to the results reached in Georgia. While
15 BellSouth agrees, as it stated earlier, with the principle that simply having
16 another state approve something does not necessarily mean it is
17 appropriate for Florida, the fact that Georgia has approved these analogs
18 and benchmarks should bear some weight.
19

20 Q. YOU HAVE SPENT CONSIDERABLE TIME DISCUSSING ALL THE
21 MODIFICATIONS, I.E. NEW MEASURES, CHANGES TO MEASURES,
22 ETC., THAT MS. KINARD PROPOSES ON BEHALF OF THE ALEC
23 COALITION. CAN YOU SUMMARIZE, IN BASIC TERMS, WHAT THE
24 REAL IMPACT WOULD BE IN ORDERING ADDITIONAL
25 MODIFICATIONS TO THE BELLSOUTH SQM?

1

2 A. Yes. As I explained in detail in my direct testimony and in Exhibit DAC-2
3 attached to my direct testimony, changes to BellSouth's SQMs are a
4 monumental task, which BellSouth wants to impress on all of the parties
5 to this proceeding. It is not just a matter of throwing a switch or adding a
6 line of code to a program. BellSouth is committed to making all the
7 changes necessary, including the addition of the new measurements
8 resulting from the Georgia and Louisiana Orders, which are incorporated
9 in the new SQM attached to my direct testimony as Exhibit DAC-1.
10 However, these modifications will take until the end of 2001 to complete
11 in their entirety. If this Commission decides to order any of the additional
12 new measures or changes to existing measurements, i.e. levels of
13 disaggregation, changes to business rules, changes to analogs or
14 benchmarks, proposed by Ms. Kinard, representing the ALEC Coalition in
15 Florida, the time and resources required by BellSouth to incorporate
16 these changes will be significant.

17

18 I do not want to suggest that BellSouth is unwilling to do what this
19 Commission believes to be appropriate, but it is clear that the ALECs
20 haven't given any thought to the complexity of what they are requesting
21 or what it would take to accomplish it. This does not represent
22 unwillingness on BellSouth's part to be responsive, it is simply based on
23 the sheer magnitude of the effort. Let us not lose sight of the fact that the
24 purpose of performance measurements is to provide this Commission
25 with sufficient data on which to identify disparate treatment, not measure

1 microscopically every single detail of BellSouth's operations. BellSouth's
2 proposed SQMs provide 1200 sub-metrics, whereas the ALEC's proposal
3 expands this to 74,695 sub-metrics. These sub-metrics are the
4 foundation upon which this Commission and Commission Staff will have
5 to perform an analysis each and every month to determine disparate
6 treatment. At issue is the question: ' How much data is enough?' As I
7 testified previously, BellSouth's SQMs are the result of years of work and
8 refinement. They represent a comprehensive set of performance
9 measurements that are more than sufficient for this Commission to
10 identify monitor BellSouth's performance in Florida.

11
12 Q. TURNING TO THE QUESTIONS OF AUDITS, ON PAGE 36 OF HER
13 TESTIMONY, MS. KINARD ALLEGES THAT COSTS FOR ANNUAL
14 AUDITS SHOULD BE BORNE BY BELLSOUTH. HOW DO YOU
15 RESPOND?

16
17 A. In Appendix C of the BellSouth SQMs, attached as Exhibit DAC-1 to my
18 direct testimony, BellSouth specifies that the cost of the annual audits
19 shall be borne 50% by BellSouth and 50% by the ALECs. BellSouth
20 should not be held responsible for the entire cost of these annual audits.
21 BellSouth has already invested significant resources and dollars, under
22 the direction of the Georgia and Florida Commissions, in the validation
23 and testing of BellSouth's performance measures by an independent
24 third-party, KPMG. Ms. Kinard, in her testimony on page 36, cites from
25 the FCC order approving Verizon's 271 application that "an important

1 characteristic of Verizon's Amended Performance Assurance Plan was
2 reasonable assurance that the reported data is accurate". BellSouth
3 believes that the audits and testing conducted in Georgia and Florida
4 satisfy the "reasonable assurance" characteristic of that FCC order. In
5 fact, in a March 20, 2001 letter to the Georgia Commission regarding the
6 status of the KPMG testing in Georgia, Michael W. Weeks, Managing
7 Director of KCI, propounds "it should be noted that, in our judgment,
8 inaccuracies in (BellSouth's) metrics reporting would not in and of
9 themselves have a materially adverse impact on competition".
10 Therefore, costs associated with additional annual audits should be
11 shared equally between BellSouth and the ALECs as stated in the
12 BellSouth Audit Policy in Appendix C.

13
14 Q. ON PAGES 36-39 OF HER TESTIMONY, MS. KINARD DISCUSSES IN
15 DETAIL THE NEED FOR MINI-AUDITS? HOW DO YOU RESPOND?

16
17 Ms. Kinard proposes, on page 37 of her testimony, that "each ALEC
18 would be limited to auditing three single measures/sub-measures or one
19 domain area (pre-order, ordering, provisioning, maintenance or billing)
20 during the audit year". She also states proposes that "mini-audits could
21 not be requested by an ALEC while the OSS third party test or an annual
22 audit was being conducted (that is, before completion)". Consider, for a
23 moment, the true implications of Ms. Kinard's proposal. As I testified
24 previously, there are over 80 ALECs in Florida that currently have the
25 BellSouth SQMs as part of their interconnection agreements. If each of

1 those ALECs were allowed 3 mini-audits a year as proposed by Ms.
2 Kinard, that would equate to 240 audits per year in Florida alone. If the
3 annual comprehensive audit takes 6 months to complete (a conservative
4 estimate based on comprehensive audits in Georgia and Florida), there
5 are only 6 months left for mini-audits. This means 40 mini-audits a month
6 or approximately 2 per day. Once again, I am only talking about audits
7 associated with the ALECs in Florida. If expanded to include the over
8 800 ALECs in the region, this would equate to 400 mini-audits per month
9 of the 6 month mini-audit period, (20 audits per day). Compound this by
10 her proposal to include a domain area, which could, i.e., include as many
11 as 15 measures in the ordering domain or 12 measures in the
12 provisioning domain or even the nearly 75,000 sub-metrics I discussed
13 earlier. This is entirely unreasonable, especially considering the fact that
14 on page 38 of her testimony, Ms. Kinard proposes that BellSouth would
15 pay 50% of the costs for the mini-audits.

16
17
18 The following section is associated with Issues 9, 11a, 11b, 11.c, 11.c.3,
19 11.c.4, 12a, 12b, 12c, 12.c.3, 12.c.4, 19a, 19b, 20, 21

20
21 Q. HOW WOULD YOU GENERALLY DESCRIBE THE ENFORCEMENT
22 PLAN AS PROPOSED BY MS. BURSH IN HER DIRECT TESTIMONY?

23
24 A. The ALECs' proposed enforcement plan is simply an elaborate, complex
25 mechanism designed to transfer money from BellSouth to the ALECs at a

1 rapid rate, irrespective of the quantity of transactions for which alleged
2 disparate treatment occurred, and with virtually no limit to the amount.

3
4 Q: IN MS. BURSH'S DIRECT TESTIMONY, BEGINNING AT LINE 6 OF
5 PAGE 2, SHE ALLEGES THAT SHE WILL "DESCRIBE WHY THE
6 REMEDY PLAN PROPOSED BY THE ALECS IS THE APPROPRIATE
7 PLAN FOR THIS COMMISSION TO ADOPT...". DO YOU AGREE WITH
8 MS. BURSH THAT THE ALEC PLAN IS THE APPROPRIATE PLAN
9 FOR THIS COMMISSION TO ADOPT?

10 No. BellSouth's proposed penalty plan¹, when compared to the ALEC
11 proposed penalty plan, is the appropriate penalty plan for this
12 Commission to adopt for the following reasons:

BellSouth Proposed Penalty Plan

- BellSouth's penalty plan includes a fixed cap on BellSouth's liability.
- The BellSouth plan recognizes that not all metrics are treated equal, and that all are not equally important to ALECs, by offering greater remedies

ALEC Coalition Proposed Penalty Plan

- The ALEC penalty plan has no cap on BellSouth's liability and would require BellSouth to make payments beyond reason.
- The ALEC's plan is Inclusive of all measures carrying equal weight despite the fact that all measures do not have the same impact on customers. As an

¹ BellSouth's penalty plan consists of two parts. In Exhibit DAC-1, attached to my direct testimony, the measurements pages contain a section labeled SEEM that explains how the measurement is addressed in the penalty plan. Also attached to my direct testimony is an Exhibit DAC-6 that explains the calculations and fee schedules.

for certain measurements than others - UNE Installation Intervals and Average Response Interval – OSS, for example.

example, the ALECs apparently believe missing several seconds on the Average Response Interval – OSS is as important as missing the Installation Appointment for a UNE Loop by several days.

- BellSouth’s plan is based on a complete statistical methodology jointly developed by statisticians representing BellSouth and statisticians representing the CLEC Coalition in Louisiana.
- The BellSouth plan is swift and self-executing and requires no additional regulatory involvement.
- The BellSouth plan ties the penalty payments to the economic severity of a performance disparity.
- The ALEC plan is based on a statistical methodology that is incomplete as discussed in detail in BellSouth witness, Dr. Mulrow’s testimony.
- The ALEC plan requires additional regulatory involvement on two levels, the requirement for Root Cause Analysis and the imposition of a procedural cap.
- The ALEC plan uses an arbitrary function of the test statistic that has no relation to the likely economic value, as discussed in Dr. Taylor’s rebuttal testimony.

1

2

1 Q. ON PAGE 5, LNS. 2-5, OF HER TESTIMONY, AT&T WITNESS BURSH
2 STATES THAT "REMEDIES MUST BE SIGNIFICANT ENOUGH TO
3 ENSURE THAT IT IS MORE BENEFICIAL FOR BELLSOUTH TO
4 COMPLY WITH THE PERFORMANCE STANDARDS THAN TO PAY
5 THE REMEDIES FOR NON-COMPLIANCE". HOW DO YOU
6 RESPOND?

7

8 A. I agree with Ms. Bursh to a point. Indeed, this is a point that Dr. Taylor
9 discusses in his rebuttal testimony. If this Commission finds it necessary
10 to adopt a remedy structure in Florida, this remedy structure should be
11 designed to identify deficiencies in BellSouth's performance in meeting
12 the parity requirements of the Act and compel BellSouth to correct those
13 deficiencies. BellSouth's proposed remedy plan, which I described in my
14 direct testimony, fulfils this obligation.

15

16 Q. ONE AREA OF DIFFERENCE BETWEEN THE ALEC PLAN AND
17 BELLSOUTH'S PLAN APPEARS TO BE THE NUMBER OF MEASURES
18 THAT ARE SUBJECT TO PENALTIES. MS. BURSH, ON PAGE 10 OF
19 HER TESTIMONY CONTENDS, "BECAUSE THE SUB-MEASURES
20 MONITOR KEY AREAS OF ALEC AND BELLSOUTH ACTIVITY, ALL
21 SUB-MEASURES PROPOSED BY THE ALECS ARE INCLUDED IN
22 THE DETERMINATION OF REMEDY PAYMENTS". CAN YOU
23 COMMENT ON THIS?

24

1 A. Yes. This is a one of the most onerous aspects of the ALECs' plan, for
2 several reasons.

3
4 The first reason is the number of sub-metrics to which penalties are
5 attached. As I described on earlier in my testimony, the ALECs are
6 proposing 74,695 performance measurements and sub-metrics for the
7 ALECs in aggregate. In other words, there are approximately 75,000
8 metrics eligible for remedy payments each month and those are only the
9 Tier 2 measures or the industry aggregate measures that I have
10 discussed previously. It is difficult to believe that the ALECs actually
11 expect this Commission or anyone to accept the notion that there are
12 75,000 "key measures," particularly since these "key measures" only
13 address the ALEC industry in the aggregate. Presumably, based on Ms.
14 Bursh's analysis, she will then argue that there are millions of "key
15 measures" when we talk about individual ALECs.

16
17 To illustrate the absurdity of such a claim, let's look at an example. For
18 Tier 1 payments to the 155 ALECs operating in Florida, there would be
19 some multiple of the approximate 74,696 aggregate metrics assessed
20 each month for penalty payments. All ALECs do not operate in all areas
21 of Florida, nor do all ALECs provide all 41 products. However if one
22 considers only the provisioning and maintenance measurement
23 categories and further assumes that the average ALEC operates in 25%
24 of areas of Florida and that the average ALEC provides 25% of the
25 products, there would be nearly 665,000 metrics assessed each month

1 for penalty payments at the Tier 1 level. That would simply be
2 unmanageable by everybody, whether we are talking about BellSouth,
3 the Commission or the ALECs.

4
5 Q. WHAT IS THE PRIMARY IMPACT OF HAVING SUCH AN EXTREME
6 NUMBER OF SUB-METRICS SUBJECT TO PENALTY?

7
8 A. In basic terms, the impact will be more penalty payments.

9
10 Q. PLEASE EXPLAIN

11
12 A. The ALECs have proposed 75,000 sub-metrics and presumably a failure
13 on any one would trigger a penalty. Obviously the more sub-metrics, the
14 more opportunities to have penalties imposed. The ALECs have already
15 turned the situation with one-way traffic to ISPs into a revenue
16 opportunity. With this many sub-metrics, they would soon turn
17 performance measures into a line of business.

18
19 Voluntary self-effectuating remedies should only apply to the key,
20 outcome oriented measures. Furthermore, imposition of voluntary, self-
21 effectuating penalties on every measure will impermissibly subject
22 BellSouth to being penalized more than once for a single act or failure to
23 act because many of the measures that the ALECs would suggest are
24 integrally interrelated to one another. In other words, failure to meet
25 some measures will necessarily mean failure to meet other measures.

1 Having a penalty associated with each measure will, thus, result in
2 multiple penalties for a single failure. As an example, the ALEC plan
3 proposes the following measurements for Provisioning:

- 4 • % Jeopardies
- 5 • Mean Held Order Interval
- 6 • % Orders Completed on Time

7
8 An ALEC order that cannot be installed on time due to a facility shortage
9 would affect all three of these measurements. In other words, a single
10 event could create penalty payments for three different measurements.
11 This could be particularly troublesome if an ALEC's marketing plan is
12 focused on a discrete geographic area such as an office park or high-rise
13 where a concentrated marketing effort would likely create facility
14 shortages.

15
16 Q. SHOULD REMEDIES APPLY TO PERFORMANCE MESURES THAT
17 ARE SHOWN TO BE DUPLICATIVE OF OR "HIGHLY CORRELATED"
18 WITH OTHER MEASURES?

19
20 A. I agree with Ms. Bursh's answer on page 11 of her testimony that the
21 answer to this question is no. However I disagree with Ms. Bursh's
22 allegation on page 11, lines 16-17 that "data and methods are lacking to
23 omit any measure at this time." On page 12, lines 7 and 8, Ms. Bursh
24 states that "An industry-developed correlation analysis should be
25 developed to make valid correlation determinations." Presumably she

1 would have BellSouth measured and penalized on interdependent
2 measures until the industry could work this out. That just isn't
3 reasonable.

4
5 On lines 20 and 21 of page 12 Ms. Bursh repeats this theme by stating
6 "An industry-developed correlation analysis needs to be developed and
7 implemented." BellSouth attempted to do just that in the Louisiana
8 workshops. There was not agreement in that proceeding and I expect
9 any industry effort in this proceeding would not resolve the issue,
10 especially since the ALECs have a financial incentive to have as many
11 sub-metrics as possible in an enforcement plan.

12
13 Whereas Ms. Bursh advocates a time-consuming data correlation study,
14 common sense is really all that is necessary. As I described above, if a
15 facility is not available, 3 measurements can be affected. Similarly, if a
16 repair appointment is missed, the measurements of Maintenance
17 Average Duration and Out of Service Greater than 24 hours are affected.

18
19 Q. AGAIN TURNING TO ANOTHER SUBJECT, ON PAGE 14 OF HER
20 TESTIMONY, MS. BURSH ALLEGES THAT DISAGGREGATION FOR
21 PERFORMANCE REPORTING AND COMPLIANCE DETERMINATION
22 SHOULD BE THE SAME. DO YOU AGREE?

23
24 A. No. Performance reporting serves the purpose of allowing the
25 determination to be made that BellSouth is meeting its commitments

1 under Sections 251 and 252 of the TeleCom Act. The purpose of the
2 enforcement plan is to ensure that BellSouth does not “backslide” once it
3 obtains interLATA relief. The FCC has clearly recognized that in the
4 latter case only a limited number of key measures need be examined.
5 For instance, the FCC specifically stated:

6
7 We also believe that the scope of performance covered by
8 the Carrier-to-Carrier metrics is sufficiently comprehensive,
9 and that the New York Commission reasonably selected
10 key competition-affecting metrics from this list for inclusion
11 in the enforcement plan. We disagree with commenters
12 who suggest that additional metrics must be added to the
13 plan in order to ensure its effectiveness, and note that the
14 New York Commission has considered and rejected similar
15 arguments. (footnotes omitted) NY, Para 439, FCC 99-404,
16 12/22/99.

17
18 Once again, the ALECs have a significant financial incentive for justifying
19 the inclusion of as many sub-metrics as possible in a voluntary
20 enforcement plan. The FCC clearly does not agree with the ALECs.

21
22 Q. ANOTHER CRUCIAL DIFFERENCE BETWEEN THE ALEC PLAN AND
23 BELL SOUTH PLAN APPEARS TO BE THE WAY IN WHICH REMEDY
24 PAYMENTS ARE ASSESSED. PLEASE EXPLAIN THIS DIFFERENCE.

25

1 A. With out attempting to replicate here the analyses of Dr. Mulrow and Dr.
2 Taylor, I will say that the fundamental difference is that BellSouth's plan is
3 volume sensitive and assesses penalties that will properly reflect the
4 harm the ALEC has suffered. While BellSouth's plan would result in
5 lower penalties where ALECs have very few transactions, BellSouth's
6 plan actually provides for higher penalties than the ALEC plan once
7 volumes grow.

8

9 The ALEC plan, on the other hand, provides for the possibility of
10 disproportionately large penalty payments even when there is a very low
11 volume of transactions.

12

13 In addition, BellSouth's plan recognizes that certain measurements have
14 a larger impact on an ALEC's ability to compete. For instance, while
15 taking a few seconds more to return an address validation may present a
16 problem that problem is clearly not as serious as missing a collocation
17 due date. BellSouth's plan takes this into account while the ALEC plan
18 does not.

19

20 Q. ANOTHER AREA OF DIFFERENCE BETWEEN THE ALEC PLAN AND
21 BELL SOUTH'S PLAN IS THE USE OF AN ABSOLUTE CAP.
22 ACCORDING TO MS. BURSH, ON PAGE 27, LINE 20, OF HER
23 TESTIMONY, "CLECS DO NOT SUPPORT AN ABSOLUTE CAP ON
24 REMEDY PAYMENTS". DO THE ALECS PROPOSE ANY CAP?

25

1 A. No. The ALECs' plan appears to include a provision allowing BellSouth
2 to seek regulatory relief from excessive penalties, but does not propose a
3 cap and therefore implies that penalties should be imposed without limit.
4 This is absurd. A voluntary penalty plan should not be so onerous as to
5 potentially cripple the ILEC economically. This would result in a
6 detrimental effect, not only on BellSouth's performance to the ALECs, but
7 also on BellSouth's retail operations. In the final analysis, the Florida
8 consumer would surely suffer.

9
10 Q. DOES BELLSOUTH'S REMEDY PLAN PROPOSE A CAP AND IF SO,
11 WHY?

12
13 A. Yes, an absolute cap. Any voluntary, self-executing remedy plan
14 adopted by the Commission should contain an absolute monetary cap. In
15 agreeing to a voluntary enforcement plan, BellSouth or any ILEC has to
16 balance it's responsibilities to it's shareholders and it's customers. In this
17 case, it's customers include both ALECs and others. BellSouth cannot
18 be required to jeopardize it's ability to fulfill it's responsibilities to all of
19 these groups solely for the benefit of one group. That is what an un-
20 capped plan would do. Beyond this, it should be recalled that the
21 purpose of this voluntary enforcement plan is to prevent "backsliding"
22 when BellSouth obtains interLATA relief in Florida. The cap that
23 BellSouth has proposed would have equated to approximately 300 million
24 dollars based on 1999 net revenue. Clearly, this is a more than adequate

1 deterrent to “backsliding” and balances the interest of each group of
2 stakeholders.

3

4 Q. IS THERE ANY PRECEDENT FOR BELL SOUTH'S PROPOSAL TO
5 USE AN ABSOLUTE CAP?

6

7 A. Yes. The FCC has now approved enforcement plans for four states and
8 in each instance has imposed an absolute cap such as the one proposed
9 here.

10

11 It is important to remember that no matter what the cap, ALECs will retain
12 the right to pursue other legal remedies under federal and state antitrust
13 laws, before state and federal agencies and federal and state courts of
14 law. As the FCC has repeatedly stated, a self-executing enforcement
15 plan is not intended to be “the only means of ensuring that [the RBOC]
16 continues to provide nondiscriminatory service to competing carriers. In
17 addition to the [financial dollars] at stake ... [the RBOC] faces other
18 consequences if it fails to sustain a high level of service to competing
19 carriers, including: federal enforcement action pursuant to section
20 271(d)(6); ... and remedies associated with antitrust and other legal
21 actions.” See Bell Atlantic Order, at ¶435.

22

23 Q. ON PAGE 34 OF HER TESTIMONY, MS. BURSH ALLEGES THE NEED
24 FOR VALIDATION OF TIER 1 AND TIER 2 REMEDY PAYMENTS.
25 HOW DO YOU RESPOND?

1 A. As I testified previously, BellSouth agrees with the proposal set forth by
2 the FPSC Staff in Section 4.6.5 of Exhibit PWS-1 in Mr. Stallcup's direct
3 testimony. Although Ms. Bursh suggests that remedy payments be
4 validated on a random basis, BellSouth's approach is a more structured
5 approach. At the end of each calendar year, BellSouth will have its
6 independent auditing and accounting firm certify that all penalties under
7 Tier 1 and Tier 2 Enforcement Mechanisms were paid and accounted for
8 in accordance with Generally Accepted Accounting Principles.

9
10 Q. ON PAGE 35 OF HER TESTIMONY, MS. BURSH ALLEGES THAT
11 "ROOT CAUSE ANALYSIS IS A USEFUL PROCEDURE FOR BUILDING
12 ACTION PLANS FOR UNACCEPTABLE PERFORMANCE AND
13 SHOULD BE INCORPORATED WITHIN A PERFORMANCE
14 MEASUREMENT SYSTEM, BUT IT CANNOT SERVE AS A VEHICLE
15 FOR DELAYING OR OTHERWISE AVOIDING PAYMENT OF
16 IDENTIFIED PERFORMANCE FAILURES". HOW DO YOU RESPOND?

17
18 A. Ms. Bursh's allegation is somewhat confusing. A Root Cause Analysis,
19 by its very nature, is both time consuming and resource intensive. As I
20 testified previously, an enforcement plan, when and if it becomes
21 effective, should function automatically (that is, be self-effectuating) and
22 avoid administrative burdens for the ALEC, BellSouth and the
23 Commission. Conducting a root cause analysis is an administrative
24 process that is both burdensome and unnecessary given that
25 enforcement will provide the incentive to automatically correct significant

1 disparate treatment. This 'self-correction' process is a key by-product of
2 enforcement. BellSouth has the information necessary to identify
3 problems and the incentive, by virtue of enforcement penalties, to correct
4 those problems. There is no need to devote additional commission and
5 BellSouth resources formalizing a process that is not required.

6
7 Q. AS PROPOSED BY MS. BURSH ON PAGE 39 OF HER TESTIMONY,
8 SHOULD THIS COMMISSION ADOPT THE ALEC PROPOSED
9 PERFORMANCE INCENTIVE PLAN, VERSION 2.0?

10
11 A. No. As I testified previously, BellSouth's proposed plan is the appropriate
12 plan for this Commission to adopt for the following reasons:

- 13 • It is a comprehensive plan crafted on sound principles.
- 14 • The Multi-Tiered Structure serves to insure BellSouth will continue to
15 provide service parity by escalating penalties for continued violations.
- 16 • The plan recognizes that not all metrics are treated equal, and that all
17 are not equally important to ALECs, by offering greater remedies for
18 certain measurements than others - UNE Installation Intervals and
19 Average Response Interval – OSS, for example.
- 20 • Remedies escalate with increased disparity and the increased
21 certainty of disparity.
- 22 • Statistical methodology adopted by BellSouth is very sensitive to
23 identifying systematic disparate treatment, thereby insuring that
24 BellSouth will provide nondiscriminatory performance.

- 1 • Adoption of the balancing critical value methodology makes remedies
2 more available in emerging markets thereby insuring that BellSouth
3 will not ignore new entrants.

4

5 The ALECs' proposal, on the other hand, has some glaring problems.

6 For example:

- 7 • Inclusion of all measures carrying equal weight despite the fact that all
8 measures do not have the same impact on customers. As an
9 example, the ALECs apparently believe missing several seconds on
10 the Average Response Interval – OSS is as important as missing the
11 Installation Appointment for a UNE Loop by several days.
- 12 • Basing a decision about parity on a level of disaggregation that does
13 not compare 'like-to-like'
- 14 • Building a remedy plan based solely on the output of a statistical
15 methodology that is flawed as discussed further in Dr. Mulrow's
16 Rebuttal Testimony.
- 17 • Tier-1 and Tier-2 remedies have conflicting concepts. Tier-1 remedies
18 are based on a "Per Measure" which ignores market penetration. In
19 contrast, Tier-2 penalties are driven exclusively by market penetration.
- 20 • Fixed "consequence" dollars or a flat dollar amount per transaction
21 missed. Once the measurement is missed for a given month, the
22 consequences do not increase if performance worsens. This would
23 render the plan ineffective.

24

1 Last, and most importantly, BellSouth's remedy plan was designed
2 specifically to work in conjunction with BellSouth's mechanized SQM
3 platform to mechanically deliver remedies based on identified disparate
4 treatment. To implement a new remedy plan now would nullify the years
5 of effort and costs entailed by BellSouth to deliver a self-effectuating
6 enforcement plan and would therefore delay significantly BellSouth's
7 ability to deliver performance remedies.

8

9 Q. DOES THIS CONCLUDE YOUR TESTIMONY?

10

11 A. Yes

1 BY MR. LACKEY:

2 Q Mr. Coon, do you have a summary of your prefiled Direct
3 and Rebuttal testimony?

4 A Yes, I do.

5 Q Would you please give it?

6 A Good afternoon, Mr. Chairman, Commissioners. The
7 purpose of this proceeding is to define the service quality
8 measurements necessary to ensure that BellSouth is providing
9 service to the ALECs in a nondiscriminatory manner and to
10 consider enforcement measures that could be used to prevent any
11 backsliding on BellSouth's part after we get into the interLATA
12 business.

13 You are going to be presented with three different
14 plans that the parties claim accomplish these goals. There is
15 the Staff's strawman plan, BellSouth's plan, and finally the plan
16 proposed by the ALECs. The Staff's plan and BellSouth's are very
17 similar. However, the plans offered by the ALECs are a complete
18 departure from Staff's and BellSouth's plans. And they are a
19 complete departure from what's already been done in this hearing
20 in Louisiana and Georgia.

21 Let me begin with our plan. First, our proposed
22 service quality measures are compiled in a complete comprehensive
23 and well-documented plan. It includes 71 separate categories
24 that will show BellSouth's performance in service provided to the
25 Florida's ALECs in critical areas.

1 BellSouth's voluntary enforcement plan then focuses on
2 key measures and submetrics contained in BellSouth's service
3 quality measurements plan. It includes enforcement features
4 which will ensure BellSouth is providing service at parity after
5 intraLATA relief is obtained.

6 Indeed, BellSouth's voluntary enforcement plan puts 36
7 of its annual net income at risk. This is the same percentage of
8 net income adopted by Southwestern Bell and Verizon in their
9 plans Verizon approved by the FCC.

10 BellSouth's proposal, as I mentioned, is very close to
11 the plan submitted by Staff in this proceeding and is similar to
12 the plan adopted by the Georgia Public Service Commission. We
13 also have some improvements in our plan, and we have submitted
14 some things that we didn't think appropriate in the Georgia plan.

15 With regard to the improvements, the service quality of
16 measurements proposed here by BellSouth include 13 additional
17 measurements that were not a part of Staff's strawman plan. In
18 addition, BellSouth's SQMs include six products that were not a
19 part of Staff's plan.

20 In other words, while we do not agree with everything
21 in Staff's plan, we have added measurements that will make the
22 plan stronger and even more comprehensive. I am asking the
23 Commission to reject the plan proposed by the ALECs. Although,
24 there are differences between the Staff's plan and BellSouth's
25 plan, both of these are based on identifying a reasonable number

1 of measures and submetrics that test performance. These plans
2 provide about 1,200 submetrics that will have to be monitored
3 each month that evaluate our performance for the ALEC industry.

4 If the Commission needed no other reason to reject the
5 ALEC plan, the ALEC plan would require the monitoring of at least
6 75,000 individual measurements and submetrics each month. I
7 cannot imagine dealing with that number of reports each month.
8 No wonder Georgia rejected a similar proposal.

9 Moreover, not only do the ALECs propose thousands upon
10 thousands of measures, they propose penalty payments for every
11 single measurement, payments that may bear no relationships to
12 the injury that they suffer.

13 For instance, a number of their measurements have
14 benchmarks against which our performance is compared. If
15 BellSouth were to fall as low as 90% on one of their 75,000
16 measurements that have benchmarks, BellSouth would have to write
17 the ALECs a check for \$25,000. Some enterprising ALEC may turn
18 collecting penalties into a business case, if the Commission were
19 to approve such a plan.

20 Are there still other reasons to adopt BellSouth's plan
21 and reject the ALECs' plan? Yes. First, there are the practical
22 issues associated with implementation and administration.
23 BellSouth's proposal can be implemented this year.

24 Key components of the plan, the system's programs, data
25 acquisition have already been audited by KPMG for nearly two

1 years. BellSouth has already implemented in Georgia a plan very
2 similar to that being proposed here in Florida. The ALECs' plans
3 have none of these strengths. Based on the thousands and
4 thousands of metrics proposed by the ALECs, it is impossible to
5 tell when such a plan could be implemented, if ever.

6 Next, BellSouth's plans have not been dreamed up just
7 for this proceeding. BellSouth has been working with state
8 commissions, state commissions' staff, the ALECs, the FCC, the
9 Department of Justice for three years on these plans. They have
10 been reviewed, scrutinized, evaluated, tested. None of that is
11 true for the ALEC plan.

12 Let me say a little more about the enforcement plan
13 that we are proposing. We call this plan our SEEM plan for
14 Self-Effectuating Enforcement Mechanism. One of the most
15 significant parts of this plan is that it is completely
16 automatic. The measurements are taken, a decision is made as to
17 whether BellSouth has provided nondiscriminatory performance, and
18 if not, the penalty is paid automatically.

19 Further, SEEM has a multitiered structure that
20 addresses the individual ALEC and the ALEC industry as a whole in
21 Florida. The first tier pays liquidated damages directly to an
22 individual ALEC when affected by BellSouth's disparate
23 performance in one of 57 key measurements.

24 Tier 2 pays damages to the state of Florida as a result
25 of providing poor performance to the ALEC industry as a whole,

1 rather than the individual ALECs. The payments are rendered in
2 proportion to the number of transactions so that the greater the
3 activity receiving the noncompliant performance, the greater the
4 payment.

5 This is in sharp contrast to the ALEC plan proposed
6 here, which calls for a flat payment, regardless of the number of
7 transactions. That is, our plan has a virtue of scalability. As
8 volumes go up, increases in failures will also result and
9 increases in penalties. With the ALEC plan, if the measure is
10 missed, a huge payment is made, and it's over. Indeed, in
11 BellSouth's view the ALEC plan, when boiled down to its
12 essential, is nothing more than a complex mechanism designed to
13 transfer money from BellSouth to the ALECs at a rapid rate with
14 virtually no limit to the amount.

15 This should not be the goal in this proceeding. This
16 is a complicated and a very detailed docket. There are numerous
17 issues here that have occupied the better part of two years in
18 Commission-sponsored industry workshops here and in other states.
19 But despite all the complexities of the issues in this
20 proceeding, the differences between the parties can be summed up
21 in a simple phrase: How much is enough?

22 The ALEC coalition's main theme is more, more
23 measurements, more product disaggregation, more penalties, more
24 money. Scan attention is paid to whether the ALEC is actually
25 doable. On the other hand, BellSouth believes its proposed set

1 of expanded measurements, combined with the SEEM plan, will
2 provide the Commission with the information necessary to monitor
3 performance and assure nondiscriminatory treatment in a manner
4 that actually can be implemented. That ought to be a goal of
5 this proceeding.

6 Thank you.

7 MR. LACKEY: Mr. Chairman, the witness is available.

8 CHAIRMAN JACOBS: Thank you. Do we have an order
9 that you'd like to go in, ALECs? Okay, Ms. McNulty.

10 MS. McNULTY: Thank you, Chairman.

11 CROSS EXAMINATION

12 BY MS. McNULTY:

13 Q Good afternoon, Mr. Coon.

14 A Good afternoon, Ms. McNulty, how are you?

15 Q You're familiar with the interim metrics for the
16 Florida third-party test; are you not?

17 A Yes, ma'am, I am.

18 Q Those measures were set for purposes of conducting a
19 third-party test, but there has not been an evidentiary
20 proceeding in Florida regarding those interim measurements, have
21 there?

22 A Well, I guess, I'd have to disagree with that, because
23 we had a series of hearings and, I believe, we had two orders on
24 that. I'm not sure whether that qualifies as an evidentiary
25 hearing or not.

1 Q Is it correct that we had workshops, but we did not
2 have an evidentiary hearing?

3 A Well, as you know, I'm not an attorney, but I remember
4 sitting here, I think, on three separate occasions defending our
5 plan in front of the Commission.

6 Q That would have been through proposed agency action
7 but not through an evidentiary hearing like this?

8 A We're talking semantics. I don't know.

9 Q How about subject to check, would you agree?

10 A Again, that's a legal question. You could ask one of
11 the attorneys, I guess, I really don't know.

12 Q Exhibit DAC-1 is BellSouth's proposal for its SQM; is
13 that correct?

14 A Yes, it is.

15 Q There are a number of different types of measures in
16 there; there are a number of measures regarding ordering. One
17 measure is O-8 reject interval. In BellSouth's proposed O-8
18 reject interval is for partially mechanized orders and those that
19 fall out for manual handling, correct?

20 A Yes, that's correct.

21 Q And for those partially mechanized orders, afterhours
22 times is specifically excluded, and BellSouth has an 18-hour
23 benchmark for partially-mechanized orders; is that correct?

24 A Yes, we do.

25 Q So, for unique groups, the following hours are

1 excluded: Monday through Friday, 6:00 p.m. to 8:00 a.m. and
2 Friday from 6:00 p.m. until 8:00 a.m. Monday. Do you follow me?

3 A Yes, I do.

4 Q So, if a partially-mechanized order for UNEs is
5 received by BellSouth on Monday at 8:00 a.m., BellSouth has 18
6 hours or until Tuesday 4:00 p.m. to meet its benchmark; is that
7 correct?

8 A That's correct. And that is similar to the exclusions
9 -- it's awful hard to get people to work on an order that
10 requires manual handling, if there's nobody there to do it. This
11 is similar to that measurement which has been used in Texas.
12 They use very similar hours.

13 Q But the hours I stated are correct for that example; is
14 that right?

15 A Yes, you're correct.

16 Q Let's take another example of the same type. If at
17 noon on Friday BellSouth receives a partially-mechanized order
18 for UNEs, is it correct that Bell has until Tuesday at 10:00 to
19 meet that benchmark; yes or no?

20 A Well, I'd have to go through the math.

21 Q I'll help you with the math. If it starts at noon on
22 Friday, it would go from noon on Friday, which is six hours from
23 noon till it closes at 6:00 p.m. and 10 hours on Monday, which
24 would be from 8:00 a.m. to 6:00 p.m., plus two more hours on
25 Tuesday to get a total of 18 hours.

1 A Yes, you're correct.

2 Q Thank you. So, that 18-hour benchmark that you have in
3 place could really stretch into almost four days; is that
4 correct?

5 A That's true. And let me just say that this particular
6 measurement we debated at some length, you probably recall, back
7 in Georgia.

8 Q I was not participating in Georgia, so I don't recall.

9 A These are the benchmarks that were ordered in that
10 proceeding after all parties presented their views.

11 Q I'm going to move on to firm order confirmation reject.
12 You would agree that every LSR, which is a Local Service Request,
13 should receive a response in the form of a reject or a firm order
14 confirmation?

15 A Except for those -- yes, I would agree, except for
16 those that are cancelled by the ALEC.

17 Q And you have a proposed measure O-11 for firm order
18 confirmation and reject response completeness. And in that
19 proposed measure which, basically, states that a response is
20 expected from BellSouth for every Local Service Request
21 transaction; is that right?

22 A That's correct.

23 Q Does BellSouth's proposed measure account for all
24 electronic LSRs that are not cancelled by an ALEC? In other
25 words, are there any lost orders that would be missed by

1 BellSouth's measure?

2 A My understanding is no, it would not exclude -- let me
3 say it in a positive manner. Yes, it would account for all
4 electronically-submitted LSRs.

5 Q Could you repeat your response?

6 A I agree with you.

7 Q Thank you.

8 I'm going to move on now to 0-12, which is speed of
9 answer in the ordering center. And this particular measure
10 measures the average time an ALEC is in queue, and they're in
11 line in queue at the LCSC; is that right?

12 A Yes, that's correct.

13 Q And the LCSC stands for?

14 A Local Carrier Service Center.

15 Q So, an ALEC calls the LCSC when it has ordering
16 questions; is that right?

17 A It typically calls the LCSC if there are problems in
18 submitting an order, which is either done through electronic
19 means or through a fax and, for whatever reason, has difficulty
20 in understanding the directions.

21 Q And sometimes, ALECs call the LCSC even when they have
22 their own customer on the line; is that correct?

23 A I don't know.

24 Q BellSouth proposes this as a diagnostic?

25 A Yes, that's correct.

1 Q So, diagnostic has no benchmark or retail analog; is
2 that right?

3 A True. It's a trackable measure. It's one where we
4 will provide data. And again, as we discussed before, the
5 ordering center in the LCSC is not a call center, unlike the
6 business office and like the consumer business office or the
7 business -- Small Business business office. The ALECs have
8 ability to submit orders using the fax machine, EDI, LENS, TAG,
9 any number of interfaces. And the ordering center is there,
10 basically, to help where they can't understand the methods and
11 procedures that we publish. The retail, the business office that
12 we have that cater to our residential or business customers, they
13 all have to call into the call center, and that's why we don't
14 propose it be a parity measurement.

15 Q But it's used for the ALEC to call BellSouth when the
16 ALEC needs help.

17 A This particular ordering center, you're correct.

18 Q Okay. So this means, because it's a diagnostic, that
19 there is no performance standard that BellSouth is held
20 accountable for meeting?

21 A Yes.

22 Q You are aware, aren't you, that Verizon and SBC have
23 benchmarks to measure the speed of answer in the ordering center?

24 A No, I'm not.

25 Q Would you agree, subject to check?

1 A Yes, I'll agree with you.

2 Q BellSouth also has a number of provisioning measures.

3 A Quite a few.

4 Q Some of them relate to what's called the hot cut
5 process. What I'd like to do is just kind of walk through the
6 process and see whether or not you generally agree that this is a
7 process that takes place.

8 First, an ALEC would send an LSR, then BellSouth would
9 send an FOC, which would tell the ALEC when the cut is supposed
10 to happen. Prior to the cut, the ALEC must do necessary
11 preparation in its switch so the customer will receive dial tone
12 when the loop is cut over. And then it would send a create
13 message to the NPAC, which is Number Portability Administration
14 Center, to prepare for porting the customer's number. At the
15 appointed hour, BellSouth swings the loop to the ALEC, then
16 notifies the ALEC of the cutover. And generally, the ALEC tests
17 the loop, accepts it, and then activates the LNP number. Would
18 you generally agree that that's the process?

19 A Well, I think, you're leaving out about 14 or 15 steps
20 that BellSouth goes through. If it's a coordinated customer
21 conversion, the ALEC representative, typically, is involved. So,
22 it's not necessarily a situation where we simply decide at 10:00
23 in the day to cut over a loop and then call you later.
24 Typically, it's a coordinated process. That's the purpose of
25 this particular measurement.

1 Q But you did agree in your deposition that this
2 generally was the process; did you not?

3 A Yes, it's generally the process. It's a hot cut.

4 Q Now, I'd like to talk about possible problems that are
5 related to the hot cut. One area of possible problems comes when
6 there are what's called early cuts. And that's situations when
7 the ALEC hasn't done the translations yet, and then the result
8 could be that the customer is out and the customer loses dial
9 tone; are you familiar with that?

10 A Yes, I am.

11 Q If translations are done, the customer won't be able to
12 receive incoming calls; is that correct?

13 A Correct.

14 Q Another area of potential problems would be involving
15 late cuts. And in those situations, the customer has a vendor
16 ready, the ALEC is ready, and then nothing happens. So then, the
17 ALEC has to reschedule and the customer is probably going to be
18 unhappy; is that a potential problem?

19 A I would think so, yes, which is why we have our hot cut
20 timeliness measurement.

21 Q And then, another area of potential problems could be
22 that there's no notification of a cut at all. And that's where
23 the customer has a dial tone and can make calls, but the customer
24 cannot receive calls, because the number has not been ported.
25 Would you agree that that also could be a potential problem?

1 A Could you say that again, please?

2 Q It's where the customer has a dial tone and can make
3 calls, but the customer cannot receive calls because the number
4 has not been ported. And that's in the situation where there's
5 been no notification of a cut?

6 A Well, I don't know that that would always result when
7 you don't have a notification of a cut. It could result in the
8 fact that the CLEC, for whatever reason, didn't port the number,
9 even though there was a notification.

10 Q I'm talking about the instances where there's no
11 notification by BellSouth of a cut that this could be a potential
12 problem.

13 A It could be, yes.

14 Q Okay. ALECs have proposed a measure called percent
15 completion attempts without notice or with less than 24-hour
16 notice, and that's in KK-4, Page 16. Are you familiar with that?

17 A Very familiar with it, yes.

18 Q And this proposed measure would measure the times
19 BellSouth gives ALECs short notice or no notice on a cutover. If
20 an ALEC doesn't have enough notice, an ALEC may have difficulty
21 in scheduling of vendors; is that correct?

22 A Could be. And that could occur, whether they have
23 notice or not.

24 Q If you provide five hours notice, which is less than 24
25 hours, it's probable that an ALEC may have difficulty finding a

1 vendor to get to a customer present at that point and time?

2 A And that's a possibility. If we provided five days
3 notice, it could also happen.

4 Q If BellSouth gives little or no notice of a cut, the
5 customer may be taken out of service; isn't that true?

6 A Yes, that could happen. I think, the real issue here
7 in the percent completions attempt without notice is the fact
8 that an FOC has been returned, if I understand the real meaning
9 of this particular measurement. FOC is Firm Order Confirmation,
10 which is basically a confirmation that says, yes, we received the
11 LSR and here's the due date. We have a measurement for that. We
12 already have it in place, and we talked about it a little bit
13 earlier. So, the reason -- one of the main reasons why we think
14 this particular measurement is superfluous --

15 Q But the Georgia Commission ordered this proposal,
16 didn't it?

17 A Yes, they did. And we had the same discussion there
18 with the Georgia Commission, and we will have the same discussion
19 again in about three or four months with the Georgia Commission.
20 We just don't think it's necessary.

21 Q But nevertheless, the Georgia Commission did order it?

22 A They did.

23 Q In your deposition, you state that BellSouth uses two
24 measures, P6 and P6-A to provide similar types of information; do
25 you recall that?

1 A I don't think I would have said it in those terms, but
2 they both relate to hot cuts. One deals with the timeliness,
3 which is P6-A. If we said we're going to do it at 3:10 on
4 Tuesday afternoon and we actually do it within 15 minutes. The
5 other, P6, really determines or is measuring how long did it take
6 us to do it once we started. So, one is a timeliness, and the
7 other is the interval.

8 Q Well, let's talk about that for a minute. P6-A only
9 measures whether or not the cut actually begins on time, but it
10 doesn't really measure when it is completed; is that correct?

11 A Yes. The P6-A measurement, which is the proper term
12 for it is coordinated customer conversions hot cut timeliness
13 percent within interval and average interval, basically, gets it
14 if -- as I stated earlier, if we start the cutover at the
15 appointed time. The P6 measurement, which is what you're getting
16 at, is the one that says, all right, if you started it, how long
17 did it take? And there's a 15-minute benchmark for that, so that
18 would get it to conclusion.

19 Q Let me ask a different question. If an ALEC is given
20 very little notice of a cutover, for example, five hours, but the
21 ALEC succeeds in scrambling to locate a vendor at the last
22 minute, none of Bell's measures would capture the situation,
23 would it?

24 A Well, actually both of the measures would capture the
25 interval and they would capture the timeliness. You're getting

1 back to the point that, in your example, if we did not provide
2 notice, you're really getting back to the FOC measurement. And
3 you're right, it wouldn't capture it, the particular fact that we
4 gave it to you in less than 24 hours, but by the same token--

5 Q So, it wouldn't capture the fact that the ALEC had to
6 expend extra resources to meet the cutover time?

7 A Well, let me finish my answer, and I'll answer your
8 question.

9 The ALEC, in many cases, submits an LSR on short
10 notice. And we could meet -- we could return the FOC within the
11 benchmark, we could do the cutover when you requested it for your
12 end user, and do everything right and still miss this particular
13 measurement.

14 Example, you could have sent us an LSR, let's say, 36
15 hours prior to the time that you wanted to have the cutover. We
16 return the FOC in little more than 12 hours, we have not given
17 you 24 hours notice. And yet, we've met the FOC interval and we
18 did the cutover in time.

19 Q Mr. Coon, let me ask you this question a different way.
20 Which BellSouth measure captures BellSouth sending an FOC shortly
21 before the cutover?

22 A Which measurement captures the FOC shortly before the
23 cutover? How would you define shortly?

24 Q Less than 24 hours.

25 A None of them do.

1 Q Thank you.

2 I'm going to look at now at P4, the average completion
3 interval, and this is also provisioning.

4 COMMISSIONER JABER: Ms. McNulty, may I interrupt so I
5 do not lose this thought?

6 MS. McNULTY: Certainly.

7 COMMISSIONER JABER: Mr. Coon, in your last response,
8 are you suggesting that you would be penalized for actually
9 complying with the ALECs' request ahead of time?

10 THE WITNESS: Yes, Commissioner Jaber, that's my point
11 exactly. We could be doing everything right in terms of
12 returning the response given when the ALEC submitted the LSR and
13 meet the cutover date and still fail this particular measurement.

14 If the ALEC were to submit an LSR today and the cutover
15 were due Wednesday at noon, as an example, well, that's less than
16 48 hours right away. And if we were to return the FOC -- let's
17 assume it took us 12 hours to return the FOC, for whatever
18 reason, we could have made the firm order confirmation interval
19 benchmark. And let's assume that we carried out the
20 provisioning, the cutover on time, we could have met that
21 measurement, but we would have failed this particular one. So,
22 we did what they wanted, and we failed this particular
23 measurement.

24 And the thing that's really problematic about it, if I
25 remember the benchmark here it's 98% of the time -- you cannot

1 miss this measurement more than 2%, in other words. It's
2 considered a failure subject to penalties under the ALEC's
3 proposal.

4 COMMISSIONER JABER: And the measurement would be,
5 in this hypothetical, that actual connection within 24 hours?

6 THE WITNESS: Could you say that again, please?

7 COMMISSIONER JABER: You said you would still fail,
8 even if you delivered the ALEC request within 12 hours, and
9 that's because the measurement in that hypothetical was that you
10 would deliver the ALEC request within, like, 24 hours.

11 THE WITNESS: Well, let me say it a different way.
12 Let's assume that the ALECs submitted -- it's now 3:15 on Monday.
13 Let's assume that for whatever reason the ALEC submitted an order
14 that was due noon on Wednesday so that's, what, 45 hours,
15 something like that. Let's assume it takes us until 3:00
16 tomorrow to return the FOC. It could have been a
17 manually-submitted LSR.

18 We would have returned the LSR on time, in my
19 hypothetical example, and my benchmarks may be off here a little
20 bit. And let's assume that we carried out the cutover on time on
21 Wednesday. But because we did not return within 24 hours, due to
22 the fact that the LSR was submitted so late by the ALEC, we would
23 have failed this particular measurement.

24 COMMISSIONER JABER: All right. And how can we fix
25 that concern in establishing the measurement?

1 THE WITNESS: I think, the fix is in place, and that is
2 the firm order confirmation measurement. If the ALEC knows that
3 they're going to have a customer request that's going to be due
4 in two or three or four days, then, we need to give us enough
5 time to provide the firm order confirmation and to install a
6 service, return the FOC. We've got that measurement already in
7 place.

8 COMMISSIONER JABER: Okay.

9 BY MS. McNULTY:

10 Q Mr. Coon, your hypothetical was called an expedited
11 order, which usually requires an acceleration fee, isn't it?

12 A That I don't know.

13 Q You don't know?

14 A No, I don't.

15 Q Who would know?

16 A Probably your account executives or somebody that's in
17 the sales side of the business.

18 Q Would Mr. Pate know?

19 A He'll be here. He possibly may, I don't know.

20 Q P4 measures the amount of time it takes BellSouth to
21 provide service for the CLEC or its own customers. BellSouth
22 measures the time from the time the FOC is issued until the time
23 of completion; is that right?

24 A Yes, that's correct.

25 Q And BellSouth analogs are based on Bell's retail

1 performance, with the exception of xDSL?

2 A Correct.

3 Q Which is measured from the time the order is submitted
4 until the time the order is completed?

5 A It's measured from the time a valid order is received
6 until the order is -- service is delivered and the order is
7 completed.

8 Q So, if the average completion interval is reported as
9 being the same, in fact, from the time the order to completion is
10 longer for the ALEC than for BellSouth? I could walk you through
11 an example.

12 A Was there a question there? I'm sorry, I didn't --

13 Q Why don't I set it up as an example, that might be
14 easier.

15 A Okay.

16 Q For one to five loops for service level one, 2-wire
17 analog loops, the target interval for returning a FOC is the same
18 day or the next day; is that correct?

19 A Well, it would depend on the firm order confirmation
20 benchmark. If it's submitted electronically, it's the one we
21 were just talking about here. It's 95% of the time within three
22 hours.

23 Q That's different than your product interval guide?

24 A Yes. The product interval guide is a target. It
25 assumes a lot of things, one of which is normal business,

1 facility of availability, and a number of other things, but our
2 benchmark on firm order confirmation is as stated here in this
3 SQM.

4 Q You have a measure called P7 cooperative accepted
5 testing percent of xDSL loops tested, and this is an xDSL
6 provisioning measure. In P7, cooperative acceptance testing
7 involves testing an xDSL loop to ensure that it works properly,
8 right?

9 A That's the intent of it, yes. It's to measure that the
10 ALEC and BellSouth try to perform a cooperative test.

11 Q Under BellSouth's measure P7, the loop will be
12 considered cooperatively tested when the BellSouth technician
13 places a call to the ALEC representative to initiate cooperative
14 testing and jointly performs a test with the ALEC?

15 A Yes, that's the definition.

16 Q And P7 considers the number of successful cooperative
17 tests for xDSL lines, divided by the number of tests requested;
18 is that correct?

19 A Correct.

20 Q Does successful test include the times tested and the
21 lines working?

22 A I'm sorry, does successful testing include the --

23 Q The number of times it was tested and that the lines
24 are working?

25 A No. It just assumes a test was performed. It says,

1 basically, a cooperative test performed. If you're talking about
2 the first test, the second test and third test, no, it's not like
3 that.

4 Q Well, if an ALEC requests the test and the technician,
5 for whatever reason, doesn't do the test, it's not included in
6 your measure?

7 A It would count as a miss, yes.

8 Q If the technician does the test and it does not work
9 properly, that's not counted as a successful test?

10 A No, it isn't. The reason it's not is because it could
11 -- the reason the line may not have performed properly, it may
12 have been attributable to something other than BellSouth. That
13 would be reported in another measurement, which would be the
14 percent of provisioning troubles within 30 days, which is also in
15 our SQM. This just simply -- the intent of this measurement
16 basically is to ensure that both ends get together and try to
17 test out a facility.

18 Q When we talk about deconditioning loops, we mean
19 removing things like bridge taps, filters, load coils, range
20 extenders and repeaters; in other words, doing things that are
21 necessary to provide clean copper loop; is that right?

22 A Yes, that's correct.

23 Q And BellSouth's proposed P-4, captures the interval for
24 deconditioning and provisioning of xDSL loops?

25 A Yes. In P-4 where loop conditioning is required for

1 xDSL, our benchmark is 14 days. And if there is no conditioning
2 required for xDSL, it's seven days.

3 Q Does BellSouth condition the loop before it sends the
4 FOC?

5 A Well, I'll say yes and no. The loop may already be
6 capable of provisioning or providing DSL services. It may have
7 been one that's located relatively close to a central office
8 within 18,000 feet, typically, which typically does not require
9 load coils, so it would be capable of providing a service.

10 But in many cases, as the customers are further and
11 further away from the central office or they're served on digital
12 loop carrier, it will require some special activity. So, it just
13 depends on the location of the customer and the facility that
14 serves that particular end user.

15 Q Well, for those loops that need work, like --
16 decondition-- need conditioning, in those instances, when
17 BellSouth sends an FOC, does it send it before it conditions the
18 loop?

19 A Does it send it before it conditions the loop?

20 Q Yes.

21 A Typically, yes, because it's going to take us longer
22 time to decondition the loop than it would to return an FOC.

23 Q BellSouth has also proposed a number of other measures.

24 CHAIRMAN JACOBS: Ms. McNulty, is this a good break
25 point?

1 MS. McNULTY: Well, probably, within five minutes I'll
2 be done.

3 CHAIRMAN JACOBS: Okay.

4 BY MS. McNULTY:

5 Q There are some other measures BellSouth proposes, in
6 particular CM-5, which is notification of CLEC interface outages
7 and MNR-7, which is mean time to notify CLEC of network outages.
8 In both of these measures, BellSouth verifies either an interface
9 outage or a network outage, correct?

10 A That's correct.

11 Q The time it takes for BellSouth to verify such an
12 outage isn't included in your measures, are they?

13 A No, they're not. It does take us time to determine if
14 there's a problem that's reported, either in the interface or in
15 the network. In order to communicate the information
16 intelligently and to cut to our customers, the ALECs and others,
17 we need to know what it is. So, we have to verify what is out
18 and, in many cases, we try to estimate the restoral time.

19 Q And none of the BellSouth measures captures that
20 verification time?

21 A No, they don't.

22 Q ALECs are proposing percent software certification
23 failures measure and software problem resolution timeliness
24 measures. In the percent software certification failures concern
25 the relative number of times that BellSouth rules out a new piece

1 of software that doesn't work properly. And the software problem
2 resolution timeliness and average delay days concerns how swiftly
3 Bell fixes the problem. Are you familiar with those measures?

4 A Yes, I am.

5 Q This type of information is not captured in any
6 BellSouth measurement; is that correct?

7 A No, they're not. You're right, they're not included.

8 And the reason we think that they're inappropriate, I'd have to
9 go to the proposal, which is in Ms. Kinard's Exhibit KK-4, which
10 is attached to her -- I believe, it was her Direct testimony.

11 Let me -- before I get into this, the bigger picture, this entire
12 process is a subprocess of the change management process. Change
13 management is typically where you have to add new features in
14 software capabilities associated with a -- that are required or
15 requested by the CLECs or have been instituted to make our
16 systems operate more efficiently.

17 So, we're talking about measuring a subpart of a larger
18 process. But for these particular measurements, I'm just looking
19 at Page -- I needed to wear my glasses, I guess, today -- Page 45
20 of Exhibit KK-4. And there's a couple exclusions here. This is
21 one of the reasons why we have problems with some of these
22 measurements. The exclusions -- the only one that's there is
23 CLEC caused software failure with notification and agreement from
24 the CLEC. What happens if there's no notification? What happens
25 if there's no agreement?

1 If you looked at the benchmark, we've got to correct
2 all these things within 24 hours or 72 hours and no more than
3 one-tenth of one percent of the tested transaction, which is
4 presumably what the ALEC would be running through their test,
5 should it result in any kind of a failure. Again, the bigger
6 picture here is that this is part of change management process.
7 We don't think we need to have two or three new measurements
8 processes that will capture that particular process.

9 Q But changed management doesn't screen out all failures
10 or problems prior to implementing a software program or software
11 change, does it?

12 A I don't think it could.

13 Q And has BellSouth ever had a software problem with its
14 interfaces that have kept ALECs from placing orders or accessing
15 query types?

16 A I don't know from personal experience, but I suspect
17 that we probably have had a problem or two.

18 Q And really, the only way to test your theory and to
19 test whether or not it's correct is to incorporate this measure,
20 isn't it?

21 A No, I disagree. I don't think we need to have this.

22 Q But the only way to verify that Bell never has any
23 problems is to incorporate it as a measure.

24 A Again, it could be part of the change management
25 process. Mr. Pate can talk about that at length.

1 Q I'm going to move on to my last group of questions, and
2 they're regarding geographic disaggregation. BellSouth provides
3 disaggregation at the MSA level in Louisiana, doesn't it?

4 A Yes, we do. We do not think it's appropriate. I can't
5 remember a single question -- I've been in this job for over two
6 years -- that has ever come about from any Commission, any
7 Commission Staff member or, for that matter, any of the CLECs
8 operating in Louisiana relative to MSA disaggregation.

9 Q But the Louisiana -- but you're providing it in
10 Louisiana; yes?

11 A Yes, we are.

12 Q And in your deposition you responded that technically
13 Bell is capable of providing disaggregation at the MSA level in
14 Florida, didn't you?

15 A Yes, we can. If we can find computers big enough, we
16 can probably do it.

17 MS. McNULTY: Thank you. No further questions.

18 CHAIRMAN JACOBS: Thank you. We'll take a break, come
19 back in 15 minutes.

20 (Recess taken.)

21 CHAIRMAN JACOBS: We'll go back on the record. There
22 has been some inquiry as to how late we'd work today. I've
23 convinced my colleagues that we could take off early today,
24 relatively early, 5:00, and then let's do an analysis. And then,
25 in the morning I'd like for us to start at 9:00.

1 And when we get started, let's take a survey and see
2 how we're looking tomorrow in terms of the cross examination, and
3 we can make a determination as to how late we'll go tomorrow.
4 We're flexible. We can go late tomorrow, but we'd like to avoid
5 that, if we can keep things pretty much on schedule so that we
6 can shoot for Friday ending. We do need to complete it by
7 Friday. So, we'll take that survey in the morning, and then
8 we'll make a decision as to how late we'll go tomorrow.

9 And with that, Ms. McNulty, I think, you were done?

10 Ms. Boone.

11 MS. BOONE: Thank you.

12 CROSS EXAMINATION

13 BY MS. BOONE:

14 Q Cathy Boone for Covad Communications. How are you,
15 Mr. Coon.

16 A Fine, Ms. Boone.

17 Q Now, I notice that there's a lot of discussion in your
18 testimony about what the Georgia Commission has done; is that
19 right?

20 A There is some discussion and testimony about what
21 Georgia and other commissions have done, that's correct.

22 Q Okay. And particularly, I think, that you like the
23 parts of the Georgia Commission order regarding some of the
24 benchmarks; is that correct? I think, that's something you've
25 highlighted.

1 A That we like or we highlighted?

2 Q That you do like.

3 A No, I wouldn't say we necessarily like them. I mean,
4 there's some of them that are very -- extremely difficult for us
5 to achieve. My only point is that these issues have been heard
6 in at least two states in our area, one in which was Georgia.
7 And we talk about what's done in New York, we talk about what's
8 done in Texas, some other states. Here's a little -- here's some
9 history a little closer to home, that's the reason why we --

10 Q Okay. But is it fair to --

11 A -- mentioned Georgia.

12 Q Sorry, I didn't mean to interrupt you.

13 Is it fair to say that you've incorporated into the SQM
14 and the remedies plan that you filed here some of the benchmarks
15 that were ordered by the Georgia Commission?

16 A I would say we've incorporated nearly all of them.

17 Q Okay. And when you had this hearing -- we had a
18 hearing in front of the Georgia Commission, you were not in favor
19 of those benchmarks; is that correct?

20 A That's correct.

21 Q Now, if I told you, for example, that the Georgia
22 Commission had recently issued or -- had recently voted to set
23 the xDSL loop rate at \$44.69, would you think that's something
24 that the Florida Commission should adopt?

25 A No, no more than if Texas has a benchmark of 98% or 99%

1 or 100% should be adopted here in Florida.

2 Q Exactly. What we need to do is analyze each measure,
3 each metric, and each benchmark on its own weight and its own
4 merit, correct?

5 A What would be appropriate for the state of Florida and
6 the Florida Commission.

7 Q So, that's what you're asking the Florida Commission to
8 do today?

9 A Yes, ma'am.

10 Q Now, one of the things that's of concern to CLECs is
11 how often BellSouth gives a CLEC a firm order confirmation with a
12 delivery date. Are you familiar with that process? Yes?

13 A Yes, I am.

14 Q Would you agree with me that you believe your P-4
15 measurement measures that?

16 A Well, the P-4 measurement is order completion interval
17 and has nothing to do with the order confirmation.

18 Q I'm sorry, P-3.

19 A P-3, yeah, is the missed installation appointment.

20 Q Yes. Does that measure how often you deliver a FOC and
21 then meet the installation appointment?

22 A Well, the percent missed installation appointments, as
23 the name implies, is once we've established the due date, what
24 percentage of time did we miss that due date.

25 Q If BellSouth changes the due date that it gives to a

1 CLEC, is it captured within this measure?

2 A No, it isn't, and I don't know of instances where we
3 change the due date.

4 Q For example, if BellSouth asks a CLEC to supplement an
5 order, it would then require the CLEC to file a new LSR creating
6 a new delivery date; is that correct?

7 A Yes, that's correct. And typically the reason that we
8 have got to have an order supplemented is because we were unable
9 to meet the first due date, which is captured in this particular
10 measurement. So, we're talking about one commitment on one
11 service order that we missed it. If we missed it, we take the
12 hit.

13 Q So, on the first service order, in that instance --
14 Covad has sent BellSouth an LSR, and you give us a delivery date
15 of Friday, and then you send a supplement back -- or a
16 clarification back to Covad saying you need to clarify this order
17 and change the due date. Are you saying that that would count as
18 a miss under P-3?

19 A I guess, it would depend on the reasons why the --
20 first of all, why the supplement was sent back. Was it an
21 attempt to install a service and the CLEC's or the ALEC's end
22 user was not there, where we have to reestablish a new date? We
23 were there ready to deliver the service, and your customer may
24 not have been there. It depends on the circumstances.

25 Q Right. When it's end user caused, there's an exclusion

1 in P-3, so it would not be counted.

2 A Well, it's not an exclusion, it's separately measured.
3 It's counted in the total missed appointment, and we capture it
4 differently. We separate -- of the total missed appointments, we
5 have a measurement that's got the total and then we have a
6 measurement that has of the total how much was end user or ALEC
7 caused.

8 Q But BellSouth would not be penalized for the end
9 user-caused missed appointments?

10 A No, should not be.

11 Q Now, if BellSouth of its own volition, without a
12 different service order LSR being delivered by Covad, changes the
13 delivery date, is it captured as a miss in P-3?

14 A I can't think of -- no, it would not be, but I can't
15 think of an instance where that would happen without having
16 caused a miss to begin with when the first commitment.

17 Q So, you're capturing a miss by missing the first
18 commitment when you don't deliver the loop on Friday, and then
19 you've sent Covad a new delivery date for Monday. Is that the
20 scenario you're talking about?

21 A Yes. If Covad were to submit an order, let's assume
22 that it's due next Monday and, for whatever reason, we can't make
23 Monday and the new due date is on Wednesday, we have a missed
24 appointment for Monday.

25 Q And then, if you make it for Wednesday you're,

1 obviously, clear under P-3?

2 A It wouldn't be counted here.

3 Q Oh, it wouldn't be counted at all?

4 A No, sir -- no, ma'am.

5 Q It's okay.

6 A I'm sorry.

7 Q So, when you miss it once -- what if you miss it that
8 second time, that's not counted?

9 A No, that's what I just said, it wouldn't be counted the
10 second time.

11 Q And if you miss it the third time, it's not counted?

12 A That's correct.

13 Q So, everytime that Covad has instances of two or more
14 FOCs, delivery dates, then you're not counting whether or not you
15 perform on any of those subsequent times?

16 A That's correct. The intent of this is did we make the
17 first commitment to the customer. That's the intent of this
18 entire measurement.

19 Q Now, on Page 14 of your Rebuttal testimony, on Line 2
20 -- do you have it?

21 A Sure.

22 Q You state "Ms. Kinard seems to suggest that BellSouth
23 will ask an ALEC to supplement or cancel an order just so a due
24 date won't be missed." That's one of the concerns you expressed;
25 is that correct?

1 A Well, that's -- yes, that's the point. I think, that's
2 the point that you're getting at is if we -- if we know we're not
3 going to miss a due -- if we know we're not going to make Mondays
4 due dates, then we'll call up the ALEC and say, whoops, can't
5 make Monday, can you change it to Wednesday? Well, that's not
6 the way the measurement works.

7 If the FOC committed due date was Monday and we
8 missed it, we missed it.

9 Q Now, I think, with Ms. McNulty, you were talking a
10 little bit about hot cuts and if a CLEC had submitted an LSR that
11 required you to perform a hot cut, say, the next day; do you
12 recall that line of questioning she was discussing with you?

13 A Yes, I do.

14 Q And you said that that was why we couldn't measure when
15 FOC dates or delivery dates were returned in less than 24 hours,
16 and that's because a CLEC has asked for performance in less than
17 24 hours; is that right?

18 A That would be one scenario. We could have done
19 everything correctly. We could have returned the FOC in time, we
20 could have done the cutover on time and, depending on when the
21 order was submitted by the ALEC, we may not have been able to
22 return the FOC in the 24-hour window.

23 I mean, the only instance I can think of where that
24 would occur -- where that particular -- getting back to
25 Commissioner Jaber's question a little bit earlier, is if we --

1 if you sent us -- if the ALEC sent us an LSR on Monday and it was
2 due next Monday and we didn't return the FOC until Friday, but
3 that would be captured in our FOC measurement. We missed the
4 firm order confirmation benchmark.

5 If you sent us an LSR and you wanted an order due --
6 let's say, today is Wednesday and it's 4:00 and the order was due
7 -- today's Monday at 4:00, the order is due Wednesday at 3:00, I
8 mean, you should be expecting to get some kind of a notification
9 very quickly.

10 Q When a CLEC submits an LSR, the CLEC is obligated to
11 put in the due date; is that correct?

12 A I honestly don't know. I'm not that familiar with the
13 operations or the ordering systems.

14 Q Would you take that subject to check?

15 A Yeah, that seems reasonable.

16 Q And would you agree with me that in the product and
17 services interval guide there are a list of intervals and that a
18 CLEC has to capture the interval from that guide, calculate the
19 date and place it in the LSR and send it to BellSouth?

20 A I don't think that's -- no, I don't think that's true.
21 The target -- the product and services interval guide is a
22 target. It's not a commitment. It assumes -- as I mentioned a
23 little bit earlier, it assumes that we've got the facility, it
24 assumes normal business operations. I don't know that the ALEC
25 is required to put that particular date in the LSR when it's

1 submitted.

2 Q Okay.

3 A But I will candidly say I'm not that familiar with that
4 part of the business.

5 Q Maybe one of our operational witnesses can discuss that
6 later on. But can you tell us here today if Covad could place an
7 order with an LSR for a DSL loop and set tomorrow as the delivery
8 date whether that would be an acceptable LSR or would that be
9 rejected?

10 A I don't know.

11 Q Maybe we'll try it.

12 Now, I'd like to talk a little bit about order
13 completion interval. Would you agree with me that there are two
14 aspects to delivering a loop; that is, delivering it on time and
15 delivering one that is working. Would you agree with that?

16 A Yes, certainly.

17 Q And would you agree from a customer's perspective if a
18 loop is delivered on time but not working, it really isn't
19 delivered?

20 A I would agree with that.

21 Q And would you agree with me that if a loop is delivered
22 that's working but it's not on time, it's not going to be that
23 satisfactory either?

24 A Well, we're talking degrees of -- we're talking shades
25 of gray; yes, we would certainly miss the order completion

1 interval, the missed appointment. We might not have a trouble on
2 provisioning, however, unlike the first instance or the first
3 hypothetical that you provided.

4 Q One of the measurements that the ALEC coalition is
5 proposing here is to measure how many of the loops that BellSouth
6 performs joint acceptance testing on -- I'm talking about xDSL
7 loops now -- how many of those loops actually, you know,
8 successfully pass the test on time. Are you aware of that
9 measurement?

10 A That's the -- yes, I am. The percent successful xDSL
11 service testing; is that the one you're referring to?

12 Q That's correct. And that's different than your
13 measurement, because the BellSouth proposed measurement just
14 measures whether you do the test, right?

15 A It measures a successful test.

16 Q Well, a successful test means that the -- your
17 technician has called the 1-800 number, correct?

18 A No. We actually do a test, and it's got to be
19 successful. That's may understanding how that measurement works.

20 Q What is that test?

21 A It's either a short or some kind -- I'm really not
22 sure. I don't know whether it's a frequency test or --

23 Q Okay, but -- okay, so you're actually -- what you're
24 saying is what you consider successful is that you have conducted
25 the test that is requested by the CLEC, right?

1 A Yes.

2 Q And what you are not counting is whether that loop
3 works?

4 A Well, I -- that's partially correct. What we're
5 testing, and my understanding of the operations of the xDSL loop
6 test, is does it meet the transmission characteristics for an
7 xDSL loop? And there are certain parameters about resistance and
8 frequency returns and a number of things that I'm not that well
9 versed in. But when it's connected to the customer's equipment
10 or it's connected to the ISP, it may not work, but not have
11 anything to do with the facility itself.

12 Q And you recognize that what the CLECs are asking for in
13 this docket is for you to cooperatively test with CLECs and to
14 measure how often BellSouth's loops pass those tests. You're
15 aware of that?

16 A Well, it's a bit confusing to me about how the
17 measurement's structured because, if I'm not mistaken, this is in
18 Ms. Kinard's exhibit, I believe.

19 Q Yes, it is.

20 A Could you help me with the page number, please?

21 Q I could, if I had her testimony.

22 A I found it. It's Page 25.

23 Q Okay. Sorry about that.

24 A KK-4, Page 25.

25 Q Right. So, again, what the ALECs are asking for is for

1 you to participate in the joint acceptance testing, which you've
2 agreed to do, because you all are proposing a measure on that,
3 right?

4 A Yes, we are.

5 Q And all we're saying is that you add one final step,
6 which is to see if you actually pass the test, right?

7 A Well, that's not really clear to me about how this
8 measurement would work. And I'm just looking at Exhibit KK-4,
9 Page 25, and there are no exclusions. It talks about a
10 successful test the first attempt, the second attempt, the third
11 attempt.

12 I'm not sure which ones of these are supposed to be
13 measured, but if I look down at the retail analog and benchmark
14 down at the bottom, it says 99 1/2% of loops should pass on the
15 first series of tests, 99 1/2%. And, I would assume, if it
16 doesn't pass then in implementing this particular measurement, it
17 would be presumed to be BellSouth's fault and that this doesn't
18 seem to be reasonable to me.

19 Q Sir, are you saying you would accept this measurement
20 with an exclusion for problems that are not BellSouth's fault?

21 A Well, I guess, what I'm saying is really two things:
22 One is I don't know -- I think, this measurement is superfluous,
23 because we already have -- we have a percent cooperatively tested
24 measurement in place, so I'm not sure what this particular one is
25 adding.

1 Q The measurement you propose tests how many loops you
2 are conducting the test on, and the measurement that the ALEC
3 coalition proposes measures how many loops are cooperatively
4 tested and pass that testing.

5 A Well, let's go back and look at -- let's just look at
6 the measurement that we have in place. And, I believe, we had
7 this very discussion in Georgia, if I'm not mistaken.

8 Q I think, we did.

9 A And if I look at the calculation, I'm looking at my
10 Exhibit DAC-1, Page 322, which is a P-7 measurement. And I'm
11 looking in the calculation. It basically says total number of
12 successful xDSL cooperative tests where cooperative testing was
13 requested, so I think we already have it. I think, we're meeting
14 your needs, at least I hope so.

15 Q Well, I think, there is some lack of clarity about the
16 word successful, because I believe when Ms. McNulty asked you and
17 then again when I asked you just now, you indicated that you were
18 not going to consider it a miss just because BellSouth doesn't
19 pass the cooperative testing. If you believe that that's how
20 this measurement is going to be enforced and counted, then I
21 believe that we need to make a clarification of that.

22 A Well, let's look at the business rules in the
23 measurement that you're proposing. Again, I'm back on KK-4, Page
24 25. And unless I'm missing something here, the wording in the
25 business rules are the same as what we have in our measurement

1 P-7.

2 Q Correct, I agree with you.

3 A So, we want to have another measurement in the same
4 thing? Is that what you're saying?

5 Q Well, I believe, that the difference is the way it's
6 calculated and then the benchmark, which makes it a different
7 measurement. I think, it was -- it remains the same in the
8 description so that it can be consistent with the fact that we
9 want you to A, cooperatively test and B, pass.

10 A And again, I believe, that's what our measurement P-7
11 does, it measures a successful test. Looks like the only
12 difference is the analog benchmark is 95% of BellSouth's proposal
13 versus 99 1/2% for -- on the first test, 99 1/2 of the time, the
14 first time you try it, it works. That's what this benchmark
15 says.

16 Q Well, now, Mr. Coon, that's a different issue, because
17 what we're trying to figure out right now is whether your measure
18 does what we need it to do or not. The level of the benchmark is
19 a separate discussion that we'll get into in just a second, but
20 if I could focus you on the actual measure, are you saying that
21 BellSouth is willing to measure how many of its loops pass
22 cooperative testing or is BellSouth willing to measure that?

23 A Well, not only are we willing to do it, we're doing it.
24 That's what P-7 does.

25 Q Okay. So, in Georgia when I asked you about this and

1 you said there were three different measurements that actually
2 capture this information, do you still believe that's the case?

3 A Yes. I think, that the -- I don't remember saying
4 three different measurements, but certainly the measurement of
5 percent troubles within 30 days of service order activity, which
6 is our measurement P-8 would -- if you have a problem after the
7 service order is delivered, it would capture a trouble.

8 Q Now, that will not capture -- that will capture how
9 many problems there are within 30 days after delivery date, but
10 it will not capture whether the loop was working on the day it
11 was delivered; is that correct?

12 A That's incorrect, it would.

13 Q It would, because it -- how?

14 A Because the P-8 measurement is percent provisioning
15 troubles within 30 days of service order completion, which means
16 if you have a trouble on day zero up through day 30, it would be
17 in this particular measurement.

18 Q And you're assuming that it's working when it's
19 delivered?

20 A Well, if it isn't, it would show up as a percent
21 provisioning troubles within 30 days of service order completion.

22 Q But if we want to diagnose at the time of delivery
23 whether the loop is working, and unlike voice service where you
24 can hear a dial tone, you cannot hear anything on xDSL line,
25 that's why CLECs have proposed this cooperative testing

1 arrangement. Are you familiar with that?

2 A Well, I guess, I'm a little confused here about this
3 whole discussion because, again, I come back to what you're
4 proposing in your measurement percent successful xDSL loops
5 cooperatively tested, and I read our measurement, P-7, which is
6 the same wording, almost identically, it's just the words are
7 inverted, and we have it.

8 Q Except that your benchmark measures how many are
9 tested, and our benchmark measures how many pass the test.

10 A Okay. Let's refer back to our measurement, P-7. Look
11 under calculation. There's a term there that says, "A equals
12 total number of successful xDSL cooperative tests."

13 Q I see that. And you believe that means not whether you
14 have successfully participated in the test but whether you have
15 successfully passed the test?

16 A It means whether we have tested the loop and is it
17 compliant with the DSL product; in other words, does it have the
18 -- and again, I'm not an electronics expert, but does it have the
19 proper resistance design, the proper frequency spectrum, that's
20 passed through the loop and so on.

21 Q Okay. And those are internal BellSouth measurements.
22 So, are you measuring in this loop whether BellSouth has met its
23 own testing parameters or whether BellSouth has met those that it
24 does with cooperative testing with CLECs?

25 A I don't know that it would be -- I think, you're

1 incorrect in saying it's an internal BellSouth testing objective.
2 I've not looked at the tariff for xDSL, but I would suspect that
3 there's something in there that says for an xDSL loop it must
4 have certain electrical characteristics, and I would assume that
5 that's what would derive this particular test as being
6 successful.

7 CHAIRMAN JACOBS: Excuse me. May I ask a question? In
8 the business rules it indicates that for P-7, the BellSouth tech
9 will call the CLEC tech -- I should say a center for the CLEC --
10 in that the CLEC would actually conduct tests over this line,
11 over this loop. Is that what's anticipated for this acceptance
12 testing?

13 THE WITNESS: Chairman Jacobs, I'm not exactly sure how
14 the process works, whether it's a two-way test, whether it's a
15 loop test, whether it's a loop around. I don't know.

16 CHAIRMAN JACOBS: Okay. Thank you.

17 BY MS. BOONE:

18 Q Mr. Coon, if you're not sure how it works, how can you
19 be sure that it captures what the CLECs are asking for?

20 A Because the people that do the testing told me that's
21 what they do. They test out -- they make sure that it's
22 compliant with the DSL spec. Now, how they do it, what kind of
23 meter they use, where they put the short on, who's running what
24 test equipment, I don't know.

25 Q Okay. If we can just look really -- I'm about to move

1 off this subject, because I think we've gone as far as we can go,
2 but if you look at P-7 at your calculation on your proposed
3 measure, the way you calculate it is the number of successful
4 xDSL cooperative tests where it's requested, and that number is
5 divided by the number of tests requested by the CLEC; is that
6 correct?

7 A Yes, and scheduled in the reporting period, yes.

8 Q Right. Now, if this measure only measures whether
9 BellSouth believes it's successful from its own testing, then if
10 that's what you're measuring, then you are not measuring a
11 successful completion of a cooperative test; would you agree with
12 that?

13 A No, I would not.

14 Q Okay.

15 A If it's a cooperative test, I think, two parties are
16 involved here. I don't see any clarity, any additional clarity,
17 in the measurement that you're proposing.

18 Q Well, we require that you actually pass the test.
19 That's the clarity we're looking for. Would you agree that
20 BellSouth will agree to cooperatively test and measure whether it
21 passes the test on time? Yes or no?

22 A Yes, I would agree, and we already have that in place.
23 We've got that measurement in place.

24 Q Now, I think, we talked some -- you talked some with
25 Ms. McNulty very briefly about the loop conditioning. Now, you

1 believe that loop conditioning, that the interval that that takes
2 is captured within the order completion interval; is that
3 correct?

4 A Well, the definition in the order completion interval,
5 and I'm looking at measurement P-4 in my Exhibit DAC-1, is from
6 the time a valid order was received until the order is completed
7 and the standard, in this particular case for xDSL, because it's
8 a different type of a facility. It's seven days without and 14
9 days with conditioning, so the answer to your question is yes,
10 that that conditioning time would be included in that interval.

11 Q I have to return for one second to P-7. I don't want
12 to confuse you, but I have one more question I just saw here.
13 Would you return to P-7 for a moment?

14 A I'm there.

15 Q Now, would you agree that BellSouth has proposed that
16 for this measurement, which you believe measures how many times
17 you successfully pass a cooperative test with Covad, for example,
18 you have proposed that you be penalized, not in Tier 1, but only
19 in Tier 2.

20 A That's correct.

21 Q So, for this loop delivery -- critical loop delivery
22 information upon which Covad builds its business, Covad would be
23 entitled to no penalties under your remedies proposal; is that
24 right?

25 A Well, for this particular measurement, you're correct.

1 We think that the relative volume of DSL is such that an industry
2 aggregate would incent us to perform at an adequate level.
3 However, if you were to flip back to the page -- let's just go
4 back to the measurement right behind it, P-8, which is percent
5 provisioning within 30 days of the service order completion. To
6 the extent that the test was not done properly, it did not detect
7 problems in the service, the service was completed and turned up
8 with errors, it didn't work, it would be picked up in this
9 measurement P-8, percent provisioning troubles. And that would
10 be a Tier 1 penalty, which means that Covad would be compensated.

11 COMMISSIONER JABER: Mr. Coon, were you done with
12 your response?

13 THE WITNESS: Yes, I am.

14 COMMISSIONER JABER: I finally understand the
15 distinction counsel is trying to make in your definition under
16 calculation, and I don't know if it's just a wording -- a
17 wordsmithing difference, so maybe you could clarify it for me.

18 I can read this as a calculation for how many times
19 you're successful in participating in a cooperative test, but if
20 I'm understanding your testimony correctly, that's not what you
21 mean. Would you agree that your calculation is supposed to
22 represent the number of times BellSouth successfully delivers the
23 loop?

24 THE WITNESS: Commissioner Jaber, are we talking about
25 measurement P-7?

1 COMMISSIONER JABER: Yes. I'm back on P-7. I'm
2 looking under calculation.

3 THE WITNESS: I don't know that I would agree with
4 that. And the reason I do, when you say successfully delivers
5 the loop, there is a slight distinction between successfully
6 delivering the loop and performing a successful cooperative test.

7 COMMISSIONER JABER: Yes, there is and, I think, that
8 that's what counsel was asking you about. So you are, in fact,
9 then, performing two different calculations.

10 THE WITNESS: Well, I believe, your question would
11 really go to the heart of the measurement P-8, which is percent
12 provisioning troubles, which would basically say did the loop
13 work correctly when it was hooked up?

14 COMMISSIONER JABER: Okay. Let's go back to P-7. I am
15 trying to focus on what counsel was asking you about. Is the
16 calculation in P-7 different from the calculation that the ALECs
17 would propose that would be to determine the number of successful
18 delivery of the ALEC request?

19 THE WITNESS: Again, I don't see any difference between
20 these two measurements, the one the ALECs are requesting versus
21 what we have in place.

22 COMMISSIONER JABER: The ALECs, if I understand their
23 proposal correctly, want to determine the total number of
24 successful delivery by BellSouth of the ALEC request; is that
25 your understanding?

1 THE WITNESS: This particular measurement --

2 COMMISSIONER JABER: Is that your understanding of
3 what the ALECs want?

4 THE WITNESS: I think, that's what they're getting at.
5 This particular measurement, I'm not sure captures that.

6 COMMISSIONER JABER: Okay. That's what I needed to
7 know. And that's because this measurement is only supposed to
8 tell us the success rate for BellSouth participating in a
9 cooperative test.

10 THE WITNESS: That's correct.

11 COMMISSIONER JABER: Okay.

12 THE WITNESS: And that's exactly what the measurement
13 proposed by the ALECs capture.

14 COMMISSIONER DEASON: Let me ask the question at this
15 point. How do you define successful xDSL cooperative test? And
16 I'm on P-7.

17 THE WITNESS: Commissioner Deason, again, I am not that
18 well-versed in the operations -- the test that the operations
19 people perform. I can only speculate that what that means is
20 that the test passed the DSL criteria. I don't know what they
21 are, other than the fact that they're some kind of electrical
22 characteristics that a DSL circuit has to have.

23 COMMISSIONER DEASON: Okay. Are you saying if the
24 test is conducted and it does not pass that it is then captured
25 within P-8?

1 THE WITNESS: Well, I think -- I don't know. If it
2 doesn't -- if the service is turned up -- let me answer it this
3 way: If the service is tested, if the order is completed, if the
4 customer has a -- and then the customer has a trouble after the
5 order has been completed, that would be captured in P-8, that
6 would be a trouble associated with a service order within 30
7 days.

8 COMMISSIONER DEASON: Okay. Now, are you changing
9 your testimony from earlier? Because I earlier heard you say
10 that it's zero to 30 days, which means it could be the first
11 second of the first moment from that point on for 30 days and it
12 gets captured within P-8, and I'm trying to understand the
13 distinction.

14 THE WITNESS: No, I'm not changing my testimony. I'm
15 sorry for miscommunicating. If the service was completed and if
16 there's a trouble reported on the due date on up to 30 days, it's
17 captured in two different places. That trouble report's captured
18 in two different places. It's captured as a trouble report
19 within 30 days, because it occurred within the 30-day window
20 after the service order was completed. And it's also captured
21 back in one of our maintenance measurements, maintenance and
22 repair measurements, called customer trouble report rate.

23 COMMISSIONER DEASON: So, if there is an unsuccessful
24 test -- back to P-7 -- if there is an unsuccessful test, that
25 service is not considered provisioned and P-8 would not be

1 activated?

2 THE WITNESS: If there is an unsuccessful test --

3 COMMISSIONER DEASON: There's no provisioning, then if
4 there's no --

5 THE WITNESS: I don't believe the order would be
6 completed, no, sir.

7 CHAIRMAN JACOBS: Is there a witness who would have
8 direct knowledge of how this acceptance test would operate?

9 THE WITNESS: Chairman Jacobs, I don't believe we --
10 yes, we do. We have a witness, I think, who will be here later
11 on who may be able to speak to that.

12 CHAIRMAN JACOBS: Okay. Because it strikes me there
13 could be yet a third interpretation of how this would work. If
14 you read the definition, arguably, you could show this as being
15 successful if your tech's call to the CLEC tech was completed and
16 the CLEC goes off and does whatever they do. And, in fact, it
17 might even show successful if the CLEC's tech conducts tests that
18 fail, if you look at the definition as it's --

19 THE WITNESS: That's correct. I'm sorry.

20 CHAIRMAN JACOBS: So, if you would give me the name
21 again of that witness.

22 THE WITNESS: I believe, it's going to be Mr. Latham.

23 CHAIRMAN JACOBS: Okay. Thank you.

24 BY MS. BOONE:

25 Q Now, is he going to be familiar enough with the various

1 measurements that he's going to be able to explain to us what
2 would trigger a miss under any of these?

3 A No, I don't believe that Mr. Latham will be familiar
4 with the measurements. I think, he will be very familiar with
5 the process. He may not know what the operations people do in
6 turning up a circuit, but in answer to Chairman Jacobs' question,
7 he's the only person I can think of that will be part of this
8 proceeding that would know about it.

9 COMMISSIONER DEASON: He might get a quick education,
10 hadn't he?

11 THE WITNESS: I understand that.

12 MR. LACKEY: I suspect I can warrant that.

13 BY MS. BOONE:

14 Q Now, let's move on to loop conditioning, which we had
15 talked about. You just testified a little while ago that when a
16 CLEC orders a loop that needs some work done to support DSL,
17 BellSouth will measure it in its order completion interval; is
18 that correct?

19 A Well, they measure in a number of different places, but
20 the completion of the order would be measured in this order
21 completion interval measurement.

22 Q Okay. And that measurement starts when BellSouth
23 issues a FOC date, correct?

24 A Correct.

25 Q Okay. So that measurement, the clock starts when we

1 get the FOC or the delivery date and it ends when you deliver the
2 loop, right?

3 A Yes, that's correct. It ends when the order is
4 completed by the technician.

5 Q Okay. And we don't know whether that order is actually
6 working at that time or not?

7 A Well, no, I think, we do. I think, we -- that's part
8 of the provisioning process. We typically don't turn up services
9 and complete orders that don't work.

10 Q Okay. Then, can you explain why there are these high
11 rates of troubles and repeat troubles on loops, particularly xDSL
12 loops?

13 A No, I can't. Well, there's a lot of things that go
14 into an xDSL loop, not just a facility. There are a lot of
15 things associated with DSL service.

16 Q Okay. And the DSL service part of it is the ALEC's
17 responsibility. So, if they're trouble tickets, that has to do
18 with just the loop's facility, right?

19 A It should be. It could be the ISP, it could be the
20 customer premise equipment, it could be any number of things, and
21 it could also be the loop.

22 Q Okay.

23 A If it's the loop, of course, it's our problem.

24 Q Now, would you agree with me that if work done to
25 actually condition the loop, if that were done before the FOC

1 date were issued, it would not be captured in this interval?

2 A Before the FOC date -- no, it would not. And that
3 would fall in the category of a seven-day without conditioning,
4 because the only instance I can think of where that would occur
5 is if we have a forecast or have some knowledge that we've had to
6 go out to a feed or route or a distribution point and deload and
7 condition one loop; we typically don't do one, we'll do two or
8 three or four or we'll do a half dozen. There's some breakeven
9 point.

10 We try to avoid having to go out there and open up
11 splices multiple times, if we have a pretty good feeling that
12 that facility will be used for DSL. So, in that case, the order
13 completion interval, the benchmark should be seven days, because
14 it didn't require conditioning for that particular order.

15 Q Okay. You're aware that the ALECs have proposed a
16 separate measure, just to measure performance on conditioning,
17 right?

18 A Yes, I am.

19 Q And that measure is because we don't believe that the
20 conditioning is adequately captured in your P-4 measure; is that
21 what you understand to be our position?

22 A Well, I'm not sure why you want that particular
23 measurement, but -- because it's already part of the order
24 completion interval.

25 MS. BOONE: I have an exhibit I'd like to pass out,

1 which -- how are we labeling these?

2 CHAIRMAN JACOBS: This is a -- I assume you want to
3 mark it for --

4 MS. BOONE: Yes, sir.

5 CHAIRMAN JACOBS: This will be Exhibit 17.

6 MS. BOONE: I'll ask you to just take a look at that,
7 if you would.

8 MR. LACKEY: Can we see if he can identify this
9 document?

10 CHAIRMAN JACOBS: Yes, we do need to get a title.
11 Ms. Boone, do you have a title for this?

12 MS. BOONE: Yes. It's an e-mail message from BellSouth
13 to Covad.

14 (Exhibit 17 marked for identification.)

15 BY MS. BOONE:

16 Q Mr. Coon, are you familiar with Cathy Compton?

17 A No, I'm not.

18 Q Do you have any dealings with the CRSG group --

19 A No, I don't.

20 Q -- at BellSouth?

21 Do you have any knowledge of how the CRSG group
22 explains to CLECs what the process is for obtaining conditioning?

23 A I do not, no.

24 Q Okay. Now, you've just testified that the conditioning
25 actually takes place after the FOC date is issued and therefore,

1 it is captured in your measure P-4; is that correct?

2 A That's my understanding, yes.

3 Q Okay. If you would look down the first page of this
4 document --

5 MR. LACKEY: Wait a minute, Your Honor -- Mr. Chairman.

6 CHAIRMAN JACOBS: Just a moment.

7 MR. LACKEY: I asked if this document was going to be
8 identified by -- I mean, we have no authentication, no nothing.
9 I don't know what this document is, and I don't think the witness
10 knows either, or at least he didn't seem to indicate that he knew
11 who the people were or what the process is. I don't think she
12 can cross examine him on a document that hasn't been properly
13 authenticated.

14 MS. BOONE: Mr. Chairman, I would simply say that
15 BellSouth rarely puts forward the witnesses that have any actual
16 experience with the operations at BellSouth, thereby, making it
17 virtually impossible for any of the ALECs to authenticate
18 documents in that way. I will say it's an admission of a party
19 opponent and is, therefore, exempt from the hearsay rule. And, I
20 think, that I should be entitled to ask the witness about
21 different information presented by a different BellSouth person.

22 MR. LACKEY: Well, I don't know how she can say this is
23 an admission of a party since we don't know what it is. I mean,
24 it's a piece of paper.

25 MS. BOONE: I just have to reiterate that, I believe,

1 BellSouth relies on hearsay in every docket I've ever been a
2 party to, unauthenticated records, et cetera, and I'd ask for --
3 you know.

4 CHAIRMAN JACOBS: Okay. Here's how I'd like to
5 proceed. In the case of our record, we do have to adhere to the
6 rules of procedure. As to this witness, if you're going to
7 elicit his opinion on it, it probably would be good to elicit his
8 level of awareness with this document. As to its ultimate
9 admissibility, we'd have to address that at the time that you
10 propose it for admission into the record, but I think you've been
11 put on to notice as to the objections that will be raised if you
12 want to admit this into the record.

13 MR. LACKEY: Mr. Chairman, I certainly don't want to be
14 difficult about this, and I notice that it's 20 of 5:00, and you
15 said that we would, I think, quit at 5:00. I would be happy to
16 have the witness take this exhibit over the evening, call whoever
17 these people are and see whatever he can ascertain about it. If
18 he can authenticate it and say it's one of ours and he knows the
19 people, I won't have an objection, then. It's just that I've
20 never seen this before and he hasn't either.

21 CHAIRMAN JACOBS: Very well. Ms. Boone?

22 MS. BOONE: I have no objection to that. I'll observe
23 my objection until he comes back tomorrow. Thank you.

24 CHAIRMAN JACOBS: Okay.

25 MS. BOONE: I would like to ask you some questions

1 about this, so what I will do is move on to another element of my
2 cross examination and allow you to look over it tonight and
3 follow-up on it, if you will, and then we'll come back to that in
4 the morning.

5 CHAIRMAN JACOBS: Very well. Thank you.

6 BY MS. BOONE:

7 Q Now, I believe, that you've also proposed that
8 BellSouth should not be required to file its reports under either
9 the SQM or the VSEEM reports until the 30th of the month; is that
10 right?

11 A Yes, that's correct.

12 Q Okay. And you understand that the Staff proposal had
13 placed that at the 20th of the month?

14 A The 20th, if I'm not mistaken.

15 Q Okay. And the ALECs are asking that they be posted on
16 the 15th of the month?

17 A That's what my understanding is, yes.

18 Q And that's the time in which they are now posted; is
19 that correct?

20 A That's the time when they're posted preliminarily.

21 Q And what does that mean?

22 A That means the reports are put up on the web site on or
23 about the 15th of the month. In some cases, there may be
24 revisions to them, but our commitment is to have them by the end
25 of the month complete.

1 Q Now, under your proposal, if Covad had a particular
2 problem or was experiencing a particular serious issue, let's
3 say, with loop order completion intervals, something important
4 like loop delivery in February, under your proposal, BellSouth
5 would not actually report that data until March 30th; is that
6 right?

7 A Yes. The current reporting is that for the month of
8 February the data would not be finalized until the end of the
9 proceeding -- the end of the following month, which would be
10 March 30th.

11 Q Okay. Now, one of the purposes of reporting this data,
12 would you agree, is so that ALECs can recognize a problem and
13 bring it to the Commission's attention; do you agree with that?

14 A I think, that's one of the peripheral benefits of
15 having this performance measurement. However, if the ALECs -- I
16 would assume that the ALECs are reporting and recording their own
17 data. And in reality, there are very few measurements that we
18 report on that the ALECs cannot report on should they want to do
19 it themselves by making records in their own systems of problems.
20 So, I don't know that if Covad is having a problem with service
21 delivery or loop testing or whatever, and you've got your own
22 ways of dealing with that, they don't depend on us.

23 Q But if we use BellSouth data to evidence that problem,
24 there is less debate about the data; would you agree? BellSouth
25 won't protest, for example.

1 A No, I would agree. I think, if you were willing to use
2 our data which has been audited and it's ready for
3 implementation, yes, we would agree.

4 Q But by proposing that you don't actually have to file
5 the reports until the 30th of the month you are, in effect,
6 imposing what could be a two-month delay on capturing that data?

7 A Well, I don't know how it could be two months, because
8 we don't get the data for February until the first part of March.
9 If you're talking about the results of the first of February not
10 being posted for the first -- February 1st not being posted until
11 March 30th, you're correct, but we can't process our systems
12 until the end of the month as closed.

13 Q So, you're saying that you're not collecting any data
14 as the month is going along. You're not warehousing data like
15 normal --

16 A No, we are. We are collecting data as the month goes
17 on. In some systems, in other systems, we have to wait until the
18 end of the month closes. And let me -- we're talking about why
19 the 30th, let me take the opportunity to clarify why I say the
20 30th.

21 We process -- there's an exhibit in my testimony that
22 talks about the number of records that we process. Our PMAP
23 system is three tera bytes in size. The entire size of the
24 Internet is about three tera bytes. We process about 70 million
25 records every month. That's on our current set of measurements.

1 And if what's being proposed by the ALECs is adopted,
2 in part or in whole by the Commission, I'm not sure when we can
3 deliver the service, but given that we happen to get this data
4 and process it, and get it accurately, we think the 30th of the
5 month is accurate, and we think it's appropriate. And quite
6 frankly, as one of the Staff discovery items asked, how many
7 people are actually taking advantage of this wonderful system
8 that we have out there to get this data? It's less than 10% of
9 the ALECs every month that even look at the data, even log in to
10 look at it.

11 Q Do you happen to know if Covad is one of those?

12 A No, I don't. I would suspect you probably are.

13 Q Now, would your difficulty in dealing with the data be
14 one of the reasons you have not yet filed or posted on the web
15 site the data ordered by the Georgia Commission that BellSouth
16 purported that it was going to put up there on the 21st?

17 A Ms. Boone, I'm not sure. The order went into effect
18 March 1st. The data for the month of March would have been
19 posted some time in April. I thought there was information out
20 there.

21 Q Is that one of the reasons that you have not yet
22 collected and posted the data requested by the Louisiana Public
23 Service Commission?

24 A I don't believe there's been an order in the Louisiana
25 Public Service Commission yet.

1 Q But you have to --

2 A I know there's been a Staff recommendation. We
3 typically don't want to act on Staff recommendations until we
4 have the order.

5 Q But they have asked you for data pulls; is that
6 correct?

7 A I don't know.

8 Q On Page 33 of your Rebuttal, you discuss the ALEC
9 penalty plan, and you made reference again to it in your opening.
10 One of your quotes is that, quote, "The ALEC penalty plan would
11 require BellSouth to make payments beyond reason." And that's
12 your view, right?

13 A Yes, I think, it would.

14 Q And, I believe, you also stated that you're worried
15 that there are some ALECs out there who may turn penalties into a
16 business plan. I believe, that's a quote from your summary; is
17 that correct?

18 A That certainly is a possibility.

19 Q Okay. So, let me see if I understand this. You
20 believe that there is an ALEC here in Florida that has gotten
21 together funding in a business plan and that has gotten authority
22 from this Commission to be a CLEC, has implemented its business
23 plan, has gotten customers, has weathered storms of the market,
24 has dealt with capital financing issues, and is now just waiting
25 for this Commission to enter a performance plan; is that your

1 testimony?

2 A Well, that's what this is all about is to get a -- just
3 to get a performance plan, yes.

4 Q But you believe there are ALECs out there that are
5 solely in the business, at this point, to collect penalties from
6 BellSouth?

7 A No, I don't think that at all. All I'm saying is if we
8 create an opportunity to have a very, very large revenue stream
9 for a very, very small number of transactions, if that
10 possibility exists, somebody could take advantage of it.

11 Q And you believe there are ALECs out there that will
12 incorporate this as part of their business plan?

13 A I think, it's a possibility, yes.

14 Q Do you think that -- I believe, you also talked about
15 the fact that the ALEC plan was just intended to transfer money
16 from BellSouth to the ALECs; is that what your testimony was?

17 A Yes.

18 Q And do you think that the ALECs represented here are
19 legitimately in business in Florida to provide service?

20 A I think, so.

21 Q And do you think the ALECs here have legitimately gone
22 forward with their business plans to provide telecommunications
23 service here?

24 A Yes, I do.

25 Q And do you believe they've been doing that since the

1 1996 Act here in Florida?

2 A All of the ALECs, I don't know.

3 Q Well, and do you believe they'll be doing it between
4 now and the time when this plan goes into effect, if the
5 Commission decides it should?

6 A I would hope so, yes.

7 Q Now, you'd agree with me that performance is in
8 BellSouth's hands.

9 A I think performance, to a large degree, is in
10 BellSouth's hands, if you're talking about BellSouth performance.
11 I think, there are some aspects of it that are shared.

12 Q With the CLECs.

13 A With the ALECs, that's correct.

14 Q And would you agree with me that by excluding from
15 these measures certain occurrences of ALEC-caused problems, in a
16 large part, the ALEC proposal has protected BellSouth from
17 exactly those kinds of problems?

18 A There aren't very many that are excluded in the ALEC
19 proposal.

20 Q Okay. And do you believe that your plan has excluded
21 the right amount of ALEC-caused problems?

22 A No. I think, there are still some -- and when you say
23 ALEC-caused problems, I still think that there are some areas in
24 our plan where the ALEC can create some problems that we're not
25 capturing adequately, we're not excluding.

1 Q Okay. And if we take all of those exceptions, all of
2 those ALEC-caused problems, the vast majority of BellSouth
3 performance is in BellSouth's hands; is that right?

4 A Yes, I would agree with that.

5 Q And to a large extent, performance is based on your
6 willingness to perform; would you agree with that?

7 A Yes, mm-hmm.

8 Q Financial resources you put into performance; would you
9 agree with that?

10 A Yes, I would.

11 Q Would you agree that it also has to do with the systems
12 you put in place to enable your performance?

13 A Generally, yes.

14 Q So, when you speak about being concerned about the
15 transfer of money, you recognize that there are numerous steps
16 BellSouth can take, even under the ALEC plan?

17 A Yes, I do. But let me give you some examples of what
18 I'm talking about. I think, it will make this crystal clear.

19 We've talked about how the ALEC plan is structured to assess
20 penalties at every step of every process in 75,000 measurements.

21 One clear example, if you look at Ms. Bursh's testimony
22 on Exhibit CLB-1, it's on Page 46 of 52. We'll have an
23 opportunity to talk about this later, but the ALECs have proposed
24 a calculation of penalties that are based on some degree of
25 something called a quadratic equation.

1 And without getting into a whole lot of detail about
2 what this quadratic equation does, it basically looks at a
3 statistical test to determine whether the service being provided,
4 whether there's a retail analog that's being provided at parity.
5 And that's a very loose definition.

6 But if the statistical test and the point at which the
7 Type 1, Type 2 errors are balanced is exactly the same number,
8 you get a z over z star, in her exhibit here, of one. What this
9 means is a service was provided at parity using exactly what the
10 CLECs wanted -- the ALECs wanted -- in terms of the measurement.
11 And you'll see that there's a penalty payment due, \$2,500 per
12 measurement, whether there's one transaction or a hundred. This
13 is retail analogs I'm talking about.

14 If you go back about three pages to Page 48, there's a
15 similar table for 95% benchmark. Presumably, in this particular
16 case, the benchmark at 95% was that determined to provide the
17 ALECs with a meaningful opportunity to compete. So, if we make
18 the benchmark a 95%, guess what, \$2,500 payment per
19 measurement. That's one of the reasons that I conclude that this
20 plan is designed to transfer money, irrespective of the actual
21 harm incurred.

22 Q Do you think it's necessary to have penalties in place
23 to encourage BellSouth to improve its performance?

24 A No, I don't. And the reason I don't is because we
25 don't have penalties in place now, and the Commission's been

1 monitoring our activity for the better part of two years. They
2 know very well what our performance has been, and I'll leave it
3 up to the Commission to determine whether we've been providing
4 service equitably. I would submit that we have, and there are no
5 penalties in place today.

6 Q So, you think a penalty plan's completely unnecessary?

7 A I don't think it's -- I think it's -- how can I best
8 say this? The FCC has indicated that they will look favorably
9 upon a 271 application, if it's accompanied by enforcement. So,
10 I think, it's probably a requirement to ensure post-271
11 compliance. Again, if you look at the data today, draw your own
12 conclusions, are we providing parity of service today? I submit
13 we are. There's no penalty plan in place.

14 Q So, if you get 271 authority in Florida, can we expect
15 to see you back in front of this Commission asking to have the
16 penalty plan removed?

17 A You're asking me to speculate. I don't think I should
18 do that, because I don't know.

19 Q Okay. Do you think it should be removed, if it's
20 imposed at some point?

21 A I don't know.

22 Q For a couple of your analogs, I believe, you borrowed
23 from the Georgia Commission order and proposed for DSL loops,
24 ADSL provided to retail; is that right?

25 A Yes, that's correct.

1 Q Now, it's my understanding that BellSouth has two
2 different ADSL products, and one is similar to a line-shared
3 product, and that's what's called your industrial or your
4 consumer product; and the second is a stand-alone loop that is
5 called your business product. Are you familiar with those?

6 A Unfortunately, no, I'm not.

7 Q Do you know which one of these you propose to measure?

8 A No, I don't. It's whatever we call retail ADSL. I'm
9 not sure what falls in that category.

10 Q Well, neither am I, and that's what I'm trying to
11 figure out. I think, there would be different intervals for what
12 you do for a line-shared loop that only requires central office
13 wiring and what you might do for another type of loop.

14 A Okay, you're talking about completion intervals?

15 Q Well, I'm talking about -- I believe, you used this
16 analog in a number of instances. It is in the -- it's in a lot
17 of repair intervals.

18 A You mentioned intervals, and I was just wanting to
19 remind the Commission, once again, that the order completion
20 interval for DSL is a benchmark of 7 to 14 days, it's really not
21 timed to it.

22 Q I'm sorry, take a look at MR3, maintenance average
23 duration. This will give a good idea. Do you believe that you
24 should compare xDSL loops to ADSL provided to retail? And I
25 agree, that sounds reasonable, but what I'm trying to figure out

1 is which retail is that?

2 A I don't know.

3 COMMISSIONER JABER: Ms. Boone, what page were you
4 on?

5 MS. BOONE: MR3, which is 4-6 of Coon Exhibit 1.

6 COMMISSIONER JABER: I have it, thank you.

7 BY MS. BOONE:

8 Q Are you familiar with how BellSouth provides its own
9 retail service generally to DSL retail?

10 A Not really. I think, Mr. Latham could probably speak
11 to that much better than I.

12 Q For example, in one of the discovery responses you were
13 asked to provide information about measuring certain performance
14 for your DSL retail for a period of five months. Did you see
15 that response?

16 A I don't recall it.

17 Q Okay. There wasn't information for average completion
18 notice interval. You don't happen to know why that was, do you?

19 A There was no information?

20 Q There was no information for that.

21 A Could you direct me to the exhibit, please?

22 Q Yeah, it's 63 of the ALEC interrogatories. I have a
23 copy right here.

24 A I have it. No, I don't.

25 Q And there's, likewise, no information for average

1 jeopardy notice intervals; is that right?

2 A I don't have the particular attachment, but I don't
3 know why it would have been excluded.

4 Q Okay. Now, you don't believe that if you report late
5 -- make late reports of this data you should be penalized; is
6 that correct?

7 A That's correct.

8 Q And you don't believe if you make inaccurate reports
9 you should be penalized, correct?

10 A I don't think we've said that. Let me go back and
11 review my testimony.

12 Q Page 21, Direct.

13 A Yes, I think, you're correct. We don't believe we need
14 to be penalized. However, if the Commission deems it necessary,
15 we have, on the next Page 22, for every day that reports are late
16 we believe the \$400 per day for the aggregate would be
17 appropriate.

18 Q What about if they're inaccurate?

19 A Well, I guess, the question is how do you determine if
20 a report is inaccurate? I think, the intent ought to be to make
21 sure the reports are correct and not penalize us for trying to
22 correct them when we determine that they are inaccurate.

23 Q Okay. What do you think BellSouth's incentive for
24 getting reports correct and on time would be without penalties?

25 A Well, we're going to have an annual audit. We've been

1 undergoing a lot with KPMG, as you all know, for the better part
2 of two years. And we need to pass the audit. We would like to
3 pass the audit.

4 Q Do you believe that provides BellSouth with ample
5 incentive to provide accurate on time monthly reports of ALEC --
6 performance for ALECs in Florida?

7 A Yes, I think, it does. I think, the fact that we're
8 going to have a comprehensive audit, as we have been working for
9 a better part of two years on, is a very good incentive to do
10 that. It's part of our audit plan. We have a performance
11 measurements quality assurance plan that, I believe, we've filed
12 in discovery. We've got a number of initiatives to make sure our
13 reports are accurate.

14 Q Well, what if BellSouth knew, for example, let's say,
15 the Commission comes out with an order in June and BellSouth is
16 planning, at some point later that fall, to file for 271 relief,
17 but it knew that in several key areas, like, let's say, DSL loop
18 delivery it was failing to meet parity measurements. Would
19 BellSouth have an incentive, then, to delay reporting that data?

20 A No, I don't think so. And the reason I don't think
21 that would be a good incentive is because it is going to be our
22 plan to have the data that we do file audited, so to the extent
23 that we don't have accurate data would probably not be in our
24 best interest.

25 Q Okay, but if you delayed reporting the data and you are

1 able to obtain 271 relief in the interim, that would not be in
2 your interest?

3 A Are you talking about delays or are you talking about
4 inaccurate reporting?

5 Q Both.

6 A Well, again, the data -- we know we're going to have to
7 go through an audit. Again, we've been audited for two years
8 almost now and, I think, that's an adequate incentive; that,
9 coupled with the fact that we have an audit plan in our SQM,
10 Appendix C. We have the performance measurement assurance
11 program that's in place. I think, we've got a number of
12 mechanisms in place to ensure that our reports are accurate.

13 MS. BOONE: That's all I have until we can go back over
14 the other exhibit or I can continue with my line of cross on that
15 issue.

16 CHAIRMAN JACOBS: Very well. That would make this a
17 good stopping point, then. As I said, we'll begin tomorrow
18 morning at 9:00 a.m., and we'll begin again with Mr. Coon. Is
19 there other direct? Very well. Then, we'll proceed from there.
20 Thank you very much. We're in recess.

21 (Transcript continued in sequence in Volume 3.)

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1 STATE OF FLORIDA)

2 : CERTIFICATE OF REPORTER

3 COUNTY OF LEON)

4

5 I, KORETTA E. STANFORD, RPR, Official Commission
6 Reporter, do hereby certify that the Hearing in Docket No.
7 000121-TP was heard by the Florida Public Service Commission at
8 the time and place herein stated.

9 IT IS FURTHER CERTIFIED that I stenographically
10 reported the said proceedings; that the same has been transcribed
11 under my direct supervision; and that this transcript, consisting
12 of 223 pages, Volume 2 constitutes a true transcription of my
13 notes of said proceedings and the insertion of the prescribed
14 prefiled testimony of the witnesses.

15 I FURTHER CERTIFY that I am not a relative, employee,
16 attorney or counsel of any of the parties, nor am I a relative or
17 employee of any of the parties' attorneys or counsel connected
18 with the action, nor am I financially interested in the action.

19 DATED THIS 30TH DAY OF APRIL, 2001.

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