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BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

In re: Investigation into the Establishment of Operations Support Systems Permanent Performance Measures for Incumbent Local Exchange Telecommunications Companies
/

Docket No.: 000121-TP

Date: November 5, 2001

COMMENTS OF THE JOINT ALECS ON BELLSOUTH'S PROPOSED PERFORMANCE PLAN

On September 10, 2001, the Commission issued Order No. PSC-01-1819-FOF-TP (the "Order"), in which it directed BellSouth to prepare and submit a performance plan that would conform to the decision memorialized in the Order.

In the Order, the Commission authorized the Staff to approve a conforming plan administratively. However, the Commission recognized that aspects of the Order would require interpretation. The Commission established a procedure whereby parties would have an opportunity to respond to BellSouth's proposed plan by submitting written comments and by participating in workshops on the subject. In this manner, the Commission provided the parties with opportunities to object to non-conforming aspects of BellSouth's proposed plan and to participate in the development of alternative, conforming provisions.

On October 4, 2001, BellSouth distributed to Staff and parties a partial draft of its proposed plan. The partial draft contained no information concerning the penalty methodology that BellSouth intended to incorporate.

Staff conducted an initial workshop on BellSouth's first, partial draft on October 15, 2001. Based on the ALECs' need for an opportunity to review the entire plan prior to submitting comments, at Staff's suggestion BellSouth and certain ALECs filed a joint motion to revise the procedural schedule to allow written comments to be filed following BellSouth's submission of a complete

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proposal on October 25, 2001.

Also during the initial workshop of October 15, 2001, the ALECs learned that they and BellSouth hold vastly different interpretations of the provisions of the Order governing the penalty calculation methodology that BellSouth is to develop. The ALECs believe the Order requires BellSouth to prepare a plan incorporating a measure-based penalty provision that would be adjusted to calculate varying penalties for different measures, reflecting the relationships in the penalty mechanism that BellSouth supported at hearing, but that also would increase the levels of penalties as a function of increasing severity, as in the measure-based plan that the Joint ALECs supported throughout the case. BellSouth was interpreting the Order to require BellSouth to develop a penalty mechanism that would not increase monetary penalties as a function of increasingly severe violations of the standards in the plan–thereby yielding a "flat fee" schedule of penalties. On October 29, 2001, Z-Tel, AT&T, MCI WorldCom and Covad filed a Motion for Clarification/Alternative Suggestion for Reconsideration on the Commission's Own Motion, in which Movants brought the differing interpretations to the Commission's attention.

On October 25, 2001, BellSouth distributed its "proposed final" performance plan.

AT&T, WorldCom and Covad hereby submit their joint comments on BellSouth's proposed plan. (Attached). The attached comments encompass the measures proposed by BellSouth and the penalty section of the plan.[1]

With respect to the attached comments on the penalty section, consistent with the position articulated in the pending Motion for Clarification, the premise underlying these comments is that the Commission intended to require BellSouth to develop a penalty mechanism under which penalties

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[1]In separate comments being submitted this date, Z-Tel endorses and adopts the comments of Joint ALECs that address the measures section of BellSouth's proposed plan. Z-Tel provides separate comments on the penalty portion of the proposed plan.

would increase with increased severity of BellSouth's poor performance.

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BellSouth's Service Quality Measurement Plan

The Joint ALECs have reviewed BellSouth's SQM filed on October 25, 2001, and their comments are attached. Based on the review, the Joint ALECs do not believe the BellSouth SQM filed on October 25 complies with Order No. PSC-01-1819-FOF-TP, issued September 10, 2001 for the reasons specified within the attachment.

BellSouth should be required to make the specified modifications to comply with the Commission's order as soon as possible.

BellSouth FL SQM Compliance Issues[1]

METRIC	Why Non-Compliant	Fix Required
OSS-1:Average Response Time and Response Interval (Pre-ordering/Ordering)	(1) Business Rules: Definition is not the same as ordered. (Order, p. 42) (2) Reporting Structure: Interface types should be listed under reporting structure. (Order, p. 63) This is how BST reports on this metric, but it was not noted in the reporting structure of the metric.	(1) Start second paragraph of Business Rules with definition ordered by FPSC: "The date/time stamp shall begin when BST receives a query at the **BellSouth Gateway** and shall end when the query is transmitted from the BST Gateway." (2) Add: Interface Type (TAG, LENS) under reporting structure.
OSS-2: Interface Availability	(1) BellSouth's proposed business rules limit reportable outages even further than original rules. This does not comport with FPSC's order to "reduce limitations on what is an outage." (Order, p. 43) (2) Reporting Structure: Interface types should be listed under reporting structure. (Order , p. 63) This is how BST reports on this metric, but it was not noted in the reporting structure of the metric. (3) Disaggregation: ROBOTAG is not listed with other OSS interfaces. (Order, p. 43).	(1) Business Rules: Add ALEC suggested language below because FPSC order did not provide specific information.) Delete redlining through second bullet and replace with: "Reported outages include periods where ALECS are (1) unable to transmit transaction (an order or a query) through the interface because a segment of the route to the backend system is down or (2) time outs/system error messages are occurring as frequently as one in every six transactions." Also BST needs to define timeouts: Time outs are queries not receiving expected

[1] The ALECs continue to seek review of all changes BST makes now and in the future during the six-month review cycles to the BST SQM. The ALECs' acceptance or silence regarding some of the changes in the BST SQM filing should not construed to allow future SQM changes without ALEC input.

		response, even an error message, after XXX (suggest 120 seconds). (2) Add Interface type to reporting structure. (3) ALECs accept BST's explanation on why Robotag availability is not in its control.
OSS-3: Interface Availability (M&R)	(1) Reporting Structure: Does not specify interface/system. (Order, p.63) BST does report by Interface Type but this reference is missing from the Report Structure section of the metric.	(1) Add Interface Type: ECTA and TAFI to reporting structure.
PO-1: Loop Makeup Response Interval – Manual	(1) Exclusions: BST added business hours exclusions not included in the SQM. The Commission did not order or approve those added business hour exclusions. (2) Business Rules: BST added "valid" before Service Inquiry.	(1) Delete business hour exclusions added by BST but not approved by the FPSC. (2) Delete "valid" or define (for discussion) "valid" as used in the metric.
O-9: FOC Timeliness	(1) Business Rule: BST did not include PSC ordered requirement on facilities checks before issuing confirmations. (Order, pg. 47) (2) Business Rules: BST failed to add ASR process as required by FPSC. (Order, p. 47) (3) Benchmark: The Order is inconsistent with respect to the required benchmark. Page 48 requires the benchmark to be changed to 36 hours. Page 71 allows it to be 48 hours. (4) Exclusions: BST added business hour exclusions that were neither ordered or approved by the FPSC.	(1) Add to Business Rules: "BST shall conduct electronic facilities checks to ensure due dates delivered in FOCs can be relied on." (2) BST needs to describe process for issuing a FOC for an ASR. (3) Change benchmark to 36 hours. (4) Delete non-approved additional business hour exclusions.
O-10: Service Inquiry With LSR FOC Response Time - Manual	(1) Business Rules: BST added "valid" before Service Inquiry.	(1) Delete "valid" or define (for discussion) "valid" as used in the metric
O-13: LNP-Percent Rejected Service Requests	(1) BST deleted entire metric without approval or order of the FPSC	(1) ALECs do not object provided it is added to disaggregation in O-7.

O-14: LNP Average Reject Interval[2]	(1) BST deleted entire metric without approval or order of the FPSC.	(1) ALECs do not object provided it is added to disaggregation in O-8.
O-15: LNP FOC[3]	(1) BST deleted entire metric without approval or order of the FPSC.	(1) ALECs do not object provided it is added to disaggregation in O-9.
P-1: Mean Held Order Interval & Distribution Intervals	(1) Exclusions: BST added information for test order exclusion which was not required or approved by the FPSC. (2) BST has correctly noted that the retail analog for EELs as "TBD," but it has listed a retail analog for line splitting, which should also be "TBD,: (Order, p. 73)	(1) Change may be acceptable to ALECs only if BST provides explanation that ensures that non-test (commercial) orders with these codes will not be excluded from this order as well. (2) The retail analog for Line Splitting should be "TBD."
P-3: Percent Missed Installation Appointment	(1) Business Rules: Current language does not reflect that subsequent missed appointments shall be included in the calculation of this metric. (Order, p. 51) Additionally, the current language does not reflect that the MIA measure should capture time-specific appointments when the specific time is missed. (2) BST has correctly noted "TBD" as the interval for EELs but Line Splitting analog should also be "TBD." (Order, p. 75). (3) BST has not added a new metric for loop modification or conditioning as ordered by the PSC or disaggregated for xDSL loops with and without conditioning, with ordered benchmarks. (Order, 16-17)	(1) Replace P-3 with P-3A that negates these omissions. (2) The retail analog for Line Splitting should be "TBD." (3) BST should implement ALECs' proposed conditioning metric or at least add benchmarks of ≤ 5 days with and ≤12 without conditioning. The interval of 12 days appears inconsistent with the 95% conditioned in 5 business day intervals on page 86.
P-4: Average Completion Interval & Order Completion Interval Distribution	(1) Business Rules: Current language does not reflect that the end point for the interval is when the Completion Notice is sent back to the ALEC. (Order, pg. 52) (2) Calculation: The calculation of the interval is incorrect. (Order, pg. 52) (3) Benchmarks: BST has listed retail analogs	(1) Under Business Rule state: "End time for the interval is when the completion notice is returned to the ALEC."

[2] Measure not required if LNP transactions included in the Average Reject Interval Measure.
[3] Measure not required if LNP transactions included in the FOC Timeliness Measure.

	for EEL and line splitting but the analogs should be TBD. (4) Benchmarks: BST has provided a retail analog for xDSL when the PSC adopted benchmarks for loops with and without conditioning. (Order, pg. 53)	(2) Under Calculation, change for Completion Interval: a = "Date completion notice sent." (3) BST on OCI uses DS1/DS3 Interoffice Channels as the retail analog. This was not ordered by the FPSC and ALECs do not believe this is an appropriate analog. As FPSC knows, ALECs proposed a benchmark. ALECs are willing to suggest retail analog to study for 6-month review process. For line splitting, BST has proposed Parity with ADSL, but ALECs believe the appropriate retail analog should be parity with retail line sharing. (4) Benchmark: Delete reference to Retail ADSL or make clear that the applicable interval should be <ins>< 5 days without and 12 days with conditioning.</ins> The interval of 12 days appears inconsistent with the 95% conditioned in 5 business day intervals on page 86.
P-4A Average Order Completion & Completion Notice Interval Distribution	This measure is not necessary if P-4 is modified as specified in the Order.	(1) Delete this metric if above business rule and calculation changes are made.
P-5: Average Completion Notice Interval	(1) Business Rules: The end time for non-mechanized orders should be the time from the fax machine or server via LON	(1) Add sentence describing the end time for non-

	and **not the update to C-SOTS.** (Order, pg. 54). (2) Exclusions: Additional language added to test order exclusion was not ordered by the FPSC. (3) Benchmark: BST includes a retail analog for EELs and Line Splitting, which should be "TBD." (Order, pg. 71)	mechanized order. Delete phrase about update to C-SOTS. (2) Acceptable to ALECs only if BST provides explanation that ensures that non-test (commercial) orders with these codes will not be excluded from this order as well. (3) The retail analog for EELs and Line Splitting should be "TBD."
P-6: % Completion Attempts Without Notice or <24 Hours Notice	(1) Definition: The first sentence does not comport with measurement's intent. (2) Benchmark: BST's proposed benchmark is diagnostic. This is inconsistent with required benchmark of ≤5%. (Order, p. 85)	(1) Delete first sentence of business rule because unsuccessful and successful service delivery with at least 24 hours notice should be included in the denominator of the calculation. (2) Change benchmark to ≤ 5%.
P-8: Successful Cooperative Acceptance Testing - % of xDSL Loops Tested	(1) Definition: First sentence negates the FPSC's order's required definition of successful in the second paragraph. (Order, pg. 57). (2) Calculation: Should match FPSC order in better describing that the loop has to pass the cooperative testing to be considered a successful test. (Order, pg. 56) (3) Benchmarks: BST does not adopt language ordered by FPSC. (Order, pg. 56) .	(1) Delete first sentence. (2) Change to a = Total number of **XDSL receiving and passing** cooperative testing... (3) Change benchmark to "95% of Lines Tested Successfully Passing Cooperative Testing."
P-9: % Provisioning Troubles Within 30 Days of Service Order Completion	(1) Exclusions: Language added after Ttest Order exclusion was not ordered by the FPSC.	(1) Change may be acceptable to ALECs only if BST provides explanation that ensures that non-test (commercial) orders with these codes will

		not be excluded from this order as well.
P-11: Service Order Accuracy	(1) Definition: "Sample of" should be deleted from the one sentence in the definition. The FPSC did not specify how the metric should be implemented.	(1) BST should move toward testing all orders for accuracy. If for an interim period BST needs to use sampling, it should describe the numbers of samples and random sampling process for products covered by the metric.
P-10: Total Service Order Cycle Time[4]	(1) Exclusions: BST added information after Test Orders that was not ordered by the FPSC.	(1) Change may be acceptable to ALECs only if BST provides explanation that ensures that non-test (commercial) orders with these codes will not be excluded from this order as well.
P-12: LNP Missed Installation Appointment[5]	(1) BST deleted entire metric without order of the FPSC.	(1) ALECs do not object provided it is added to P-3 disaggregation.
P-14: LNP Total Service Order Cycle Time[6]	(1) BST deleted entire metric without order of the FPSC.	(1) ALECs do not object provided it is added to P-13 disaggregation.
M&R-1: Missed Repair Appointments	(1) Exclusion: BST addition of LMOS – Code 7(Test OK), Code 8 (found OK-In), code 9 (Found OK-Out) was not ordered by FPSC. WFA – No Trouble Found (NTF) was not ordered by FPSC.	(1) Excluding repairs coded as "no trouble found" could provide an incentive for BST to omit or overlook a trouble in order to bolster its performance. ALECs have to pay for trouble reports so incentive already exists for them not to report troubles

[4] This measure is not supported by ALECs. ALECs recommend a change to the interval for OCI measure.
[5] Measure not required if LNP transactions included in Missed Installation Appointment
[6] This measure is not supported by ALECs. ALECs recommend a change to the interval for OCI measure.

		that did not exist.
M&R-2:Customer Trouble Report Rate	(1) Exclusion: BST addition of LMOS – Code 7(Test OK), Code 8 (found OK-In), code 9 (Found OK-Out) was not ordered by FPSC. WFA – No Trouble Found (NTF) was not ordered by FPSC.	(1) Excluding repairs coded as "no trouble found" could provide an incentive for BST to omit or overlook a trouble in order to bolster its performance. ALECs have to pay for trouble reports so incentive already exists for them not to report troubles that did not exist.
M&R-3: Maintenance Average Duration	(1) Exclusion: BST addition of LMOS – Code 7(Test OK), Code 8(found OK-In), code 9(Found OK-Out) was not ordered by FPSC. WFA – No Trouble Found(NTF) was not ordered by FPSC. Excluding repairs coded as "no trouble found" could provide an incentive for BSTBST to omit or overlook a trouble in order to bolster its performance.	(1) Excluding repairs coded as "no trouble found" could provide an incentive for BST to omit or overlook a trouble in order to bolster its performance. ALECs have to pay for trouble reports so incentive already exists for them not to report troubles that did not exist.
M&R-4: Percent Repeat Troubles Within 30 Days	(1) Exclusion: **BST** addition of LMOS – Code 7(Test OK), Code 8(found OK-In), code 9(Found OK-Out) was not ordered by FPSC. WFA – No Trouble Found(NTF) was not ordered by FPSC. Excluding repairs coded as "no trouble found" could provide an incentive for BST to omit or overlook a trouble in order to bolster its performance.	(1) Excluding repairs coded as "no trouble found" could provide an incentive for BST to omit or overlook a trouble in order to bolster its performance. ALECs have to pay for trouble reports so incentive already exists for them not to report troubles that did not exist.
M&R-5: Out of Service > 24 Hours	(1) Exclusion: BST addition of LMOS – Code 7(Test OK), Code 8(found OK-In), code 9(Found OK-Out) was not ordered by FPSC. WFA – No Trouble Found(NTF) was not ordered by FPSC. Excluding repairs coded as "no trouble found" could provide an incentive for BSTBST to omit	(1) Excluding repairs coded as "no trouble found" could provide an incentive for BST to omit or overlook a trouble in order

	or overlook a trouble in order to bolster its performance.	to bolster its performance. ALECs have to pay for trouble reports so incentive already exists for them not to report troubles that did not exist.
M&R-6: Average Answer Time – Repair Center	(1) Benchmark: BST does not note standard ordered by FPSC.	(1) Benchmark sections should note "Parity with Retail."
B1: Invoice Accuracy	(1) Business Rules: The FPSC ordered BST to report the number of bills and bill adjustments to the current metrics not just make raw data available. (Order pg.58)	(1) BST needs to change last sentence in business rules to state: "The number of ALEC bill adjustments for the reporting month will be noted in the individual ALEC and ALEC aggregate reports."
B2: Mean Time to Deliver Invoices	(1) Disaggregation: BST is not disaggregating by state. (Order, pg. 66)	(1) BST should specify that disaggregation will be "Geographic-state"
B3: Usage Data Delivery Accuracy	(1) Calculation: FPSC required measure to reflect records rather than data packs. BST retains formula for packs despite FPSC order. (Order, pg. 60) .	(1) References to "Pack" should be eliminated to alleviate confusion concerning what is actually being monitored. (2)
B-9: Percent Daily Usage Feed Pack Failure Errors Corrected in X Days	(1) Business Rules and Definition: BST has not implemented ALEC proposed metric that separately measures timeliness for making both DUF and Invoice corrections. BST is only measuring correction of DUF/ADUF errors and only correction of data packs not the content errors on individual records that is pointed out to it in ALEC requests for adjustment. (Order, pp. 18-19)	(1) Use ALEC metric (may break into separate DUF/Invoice metric guideline pages for clarity: Calculations: **DUF/ADUF:** Percent of timely corrections to DUF content and formatting errors. -a divided by b.

		Type I: a = Percent of DUF/ADUF customer bill impacting errors corrected in 24 hours. a = Percent corrected in 5 days. b = Total Customer Impacting DUF/ADUF Record Errors Submitted for Correction. **Type II:** a =Percent of non-customer effecting DUF/ADUP Record errors corrected in 3 business days; a = Percent of in 10 business days b = Total Number of Non-customer impacting DUF/ADUF record error for which ALEC sought correction. **Invoice** a = Total Number of Invoice Adjustments Made in 45 Days. a = Total Number of Invoice Adjustments Requested.
OS-2: Speed to Answer Performance/Percent Answered in "X" Seconds - Toll	(1) Definition: The FPSC did not order or approve BST's modification from 10 to 30 to the threshold for when calls should be answered	(1) Definition: Change 30 to 10 seconds as approved by the FPSC.
DA-2: Speed to Answer	(1) Definition: The FPSC did not order or	(1) Definition: Change

Performance/Percent Answered in "X" Seconds - DA	approve BST's modification from 12 to 20 seconds for the threshold of when calls should be answered.	from 20 to 12 seconds as approved by the FPSC.
TGP-1: Trunk Group Performance--Aggregate	(1) Exclusions: BST unilaterally added 3 exclusions: 1) Trunks groups blocked due to ALEC network/equipment failure, 2) Trunk groups blocked due to ALEC delayed or refused orders, 3) Trunks groups blocked due to unanticipated significant increases in ALEC traffic. The FPSC did not order or approve these additions.	(1) Delete three new exclusions. ALECs have no way to verify BST's appropriate use of these exclusions. ALECs do not have incentive to refuse orders when calls to their customers are blocking. Trunks should be designed to handle a certain level of unanticipated increases in traffic and BST does not define 'significant."
TGP-2: Trunk Group Performance--ALEC Specific	(1) Exclusions: BST unilaterally added 3 exclusions: 1) Trunks groups blocked due to ALEC network/equipment failure, 2) Trunk groups blocked due to ALEC delayed or refused orders, 3) Trunks groups blocked due to unanticipated significant increases in ALEC traffic. A process for accurately assigning blockage due to ALEC fault has not been established. Therefore, the exclusions should be removed. The FPSC did not order or approve these additions.	(1) Delete three new exclusions. ALECs have no way to verify BST's appropriate use of these exclusions. ALECs do not have incentive to refuse orders when calls to their customers are blocking. Trunks should be designed to handle a certain level of unanticipated increases in traffic and BST does not define 'significant."
C-2: Collocation – Average Arrangement Time	(1) Business Rules do not include end time for collocation delivery as required by the FPSC. (Order, pg. 60).	(1) Add: "Further, a collocation should not be considered complete until the ALEC accepts the collocation and associated cable assignment information is provided." (Order, pg. 60)
C-3: Collocation – Percent of Due Dates Missed	(1) Disaggregation: Missing "Virtual-Combined." (Order, pg. 84)	(1) Add "Virtual - Combined" to disaggregation.

CM-1: Timeliness of Change Management Notice	(1) Benchmarks: BST's proposed benchmark does not comply with the FPSC order. (Order, pg. 84)	(1) Change benchmark to 98% on time per interval for the type of notice in Change Management Process. These intervals are longer than 30 days for some types of releases. References to 30 days should be excluded from metric.
CM-2: Change Management Notice Average Delay Days	See above.	Actual notice intervals will be used to calculate 5 days or less late.
CM-3: Timeliness of Documents Associated With Change	(1) Benchmarks: BST's proposed benchmark does not comply with the FPSC order. (Order, pg. 84)	(1) Change benchmark to 98% on time per interval for the type of documentation in Change Management Process. These intervals are longer than 30 days for some types of releases. References to 30 days should be excluded from metric.
CM-4: Change Management Documentation Average Delay Days	See above.	Actual notice intervals will be used to calculate 5 days or less late.

REMEDY PLAN COMMENTS

4.2 Application

In paragraph 4.2.2 of the remedy plan BellSouth attempts to unilaterally place legal limitations on the use of information generated under the remedy plan. Similarly, in Paragraph 4.2.3 BellSouth attempts to use Tier 2 remedies to offset any other penalties ordered by the Commission outside of the plan. Neither limitation was ordered by the Commission. *Order*, p. 172-175. Consequently, these two paragraphs are out of compliance with the remedy plan ordered by the Commission and should be deleted.

4.3.1.2 Methodology

In paragraph 4.3.1.2 of its proposed plan BellSouth states, "When a measurement has five of more transactions for the ALEC, calculations will be performed to determine remedies according to the methodology described in the remainder of this document." This implies that if there are fewer than five transactions, BellSouth will not perform calculations to determine remedies according to the methodology described in the document. This limitation was not ordered by the Commission for parity measures, but was instead unilaterally inserted by BellSouth. Therefore, it should be removed from the plan.

Fee Schedule Appendix A

In its Order, the Commission directed BellSouth to develop a remedy plan that was measured-based; remedies were to vary by type of measures and duration for Tier 1 and type of measure for Tier 2; the relevant relationships between the various measures-based remedy payments were to be consistent with the relative relationships between the various Bellsouth proposed, transaction-based remedy payments; Tier 1 remedies shall be set such that the average Month 1 remedy approximates the $2,500 minimum payment recommended by the ALEC Coalition; and Tier 2 remedies are applicable after three consecutive months of violations, as proposed by BellSouth. *Order* at p 202.

The ALEC Coalition does not believe that the Fee Schedule proposed by BellSouth complies with the Commission's Order.

I. **Remedies Do Not Escalate With Increased Severity of A Violation**

Without exception, every performance plan sponsored in this docket featured a penalty mechanism under which the amount of the penalty would increase with an increase in the severity of the identified violation. The Joint ALECs believe the reason is obvious. We see evidence of this in everyday life. If the penalty for exceeding the speed limit by 5 miles an hour were $100 dollars and the penalty for exceeding the speed limit by 30 miles an hour were also $100, then speeders would have an incentive to speed more -- or violate the law to a greater degree. Obviously, traveling 30 miles over the speed limit poses a greater threat to public safety than does driving 5 miles over the speed limit so higher penalties are imposed to deter the more damaging behavior.

The same reason explains why, in every known enforcement scheme, the penalty for an offense increases with the severity of the offense. Here, the purpose of a penalty mechanism is to overcome BellSouth's incentive to discriminate against its competitors (or its lack of incentive to remedy performance problems). To incent BellSouth to provide parity service, penalties must increase with the severity of the violation. If they do not, BellSouth's incentive to perform at parity or closer to parity is entirely diminished. If the penalty is set at a low amount that remains fixed, without regard to increases in the severity of the poor performance, the plan, instead of acting as a deterrent, will instead perversely provide BellSouth with an incentive to discriminate as severely as possible.

The ALECs interpret the Commission's Order to require BellSouth to develop a measure based remedy plan that would include a severity component. At no point in the Staff Memorandum of August 2, 2001; the agenda conference of August 14, 2001; or in

Order No. PSC-01-1819-FOF-TP, did the Staff or Commission state that BellSouth is to exclude "severity" as a component of the penalty calculation in the plan it is to submit. (The fact that the Commission concluded that it could not approve the BellSouth "parity gap" methodology for measuring severity and would therefore direct BellSouth to implement a measure-based plan "for now" says nothing about eliminating the severity feature, as the severity concept is a fundamental component of a measure-based plan and all measure-based plans proposed by the parties included a severity feature. Nor does the average $2500 penalty prescribed by the order preclude a severity component, as the ALECs' proposal of minimum and maximum penalties per measure could account for severity while conforming to this requirement.)

In fact, in the absence of a calculation methodology that ties the amount of the penalty to the severity of the offense, and given the average $2500 penalty prescribed by Order No.PSC-01-1819-FOF-TP, BellSouth could pay a low "flat" amount and discriminate as severely as it pleases. For example, if the Commission approves the penalty levels contained in BellSouth's post-order submission, and BellSouth subsequently were to were to fail an interconnection submeasure, which could result in no orders being processed, over an entire year, the total penalty paid by BellSouth to the ALEC would be $34,050. In other words, eliminating the relationship of "severity" to the penalty calculation would effectively eviscerate the plan.
Consequently, a severity component must be included in the plan or the remedies must be increased to a level that will incent BellSouth to provide parity service to ALECs.

II. <u>The Remedies Are Not Significant Enough To Motivate BellSouth</u>

The per-submeasure remedy amounts proposed by BellSouth are totally inadequate. These remedy amounts are set at such a level that BellSouth would never feel compelled to perform. As an example, BellSouth failed to provide compliant support in handling rejections for UNE-P orders in August. Given BellSouth's proposed remedy model, the consequence would only be $455.00. Even if BellSouth consistently performed at this level for the next five months, BellSouth is only liable for $5400.00. Untimely handling of rejections directly impacts ALEC customers. As long as a customer's request is in the rejection status, no due date can be determined. Poor performance in handling rejections will ultimately result in lost business for the ALEC.

II. Recommended Severity Adjustment Factor

The ALEC Coalition believes that the remedy calculations proposed in their plan are valid and should be used in conjunction with the measure based plan adopted by the Commission. The quadratic equation in the ALEC PIP does not confuse statistical certainty with severity. Nevertheless, as a possible alternative, ALECs propose a severity adjustment factor (SAF) that would multiply the remedy dollar amounts in BellSouth's proposed plan. The ALECs proposed remedy severity calculation is

Final Remedy Amount = (SAF) x (BST Remedy Amount).

The SAF measures the size of the observed discrimination and nothing else—not statistical significance, not sample size, not submetric category, and not duration (number of consecutive months of failure). Consequently, the Final Remedy Amount maintains both the submetric category distinctions and the duration adjustments built into BellSouth's proposed plan.

For mean measures, the appropriate measure of severity is $(\bar{X}_C - \bar{X}_I)/SD_I$, the ratio of the difference in the observed means to the ILEC standard deviation. This formulation eliminates the unit of measurement. We propose the severity adjustment factor (assuming that large values indicate poor service):

$$\text{SAF} = 12\ (\bar{X}_A - \bar{X}_I)/SD_I.$$

If large values indicate good service, the sign of SAF should be reversed.

For proportion measures with a standard of parity, we propose an analogous formula (again assuming that large values indicate poor service):

$$\text{SAF} = 12\ (p_A - p_I)/\sqrt{p_.(1-p_.)},$$

where $p_.$ is the combined proportion across the ILEC and ALEC data.

For proportions with a benchmark standard, we propose

$$\text{SAF} = 12\ (B - p_A)/(1-B),$$

where B is the benchmark.

The ALECs believe that the inclusion of the SAF is necessary to achieve the goals of the remedy plan as the Commission intended. The SAF will increase the remedies in BellSouth's proposed fee schedule to a level that will provide BellSouth with the necessary incentive to provide ALECs with parity service as required by the Act. If the severity factor is not included, the remedy amounts to which BellSouth could potentially be subjected will have not provide the necessary incentive to perform at parity for ALECs and its own retail operations.

Accordingly, the ALECs believe that the SAF they propose is appropriate for inclusion in the remedy plan and is consistent with the Commission's intent to establish a plan that would deter BellSouth from providing ALECs with discriminatory service.

Statistical Formulas and Technical Description Appendix D

BellSouth incorrectly implemented the delta function ordered by the Commission. The delta function provides for a smooth decrease in delta as the ALEC sample size increases because comparisons between ALEC and BellSouth results become more precise with increasing sample size. Because truncated Z is an aggregate statistic, the relevant sample size for use with the delta function is the total ALEC sample size—summed over the cells being aggregated. Instead, BellSouth proposed to compute separate deltas for every cell (p. D-17), resulting in inflated values of delta that do not reflect the cumulative information obtained from aggregation. BellSouth should have used the delta function to compute a single delta for each submeasure based on the total ALEC sample size.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of Comments of the Joint ALECs on Bellsouth's Proposed Performance Plan has been furnished by hand delivery(*) or U.S. mail on this 5th day of November, 2001 to:

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