



Public Service Commission  
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COMMISSION CLERK

DATE: NOVEMBER 7, 2001

TO: DIRECTOR, DIVISION OF THE COMMISSION CLERK & ADMINISTRATIVE SERVICES (BAYÓ)

FROM: DIVISION OF LEGAL SERVICES (F. BANKS, B. KEATING, HELTON)  
DIVISION OF COMPETITIVE SERVICES (SIMMONS) SAS  
DIVISION OF REGULATORY OVERSIGHT (HARVEY, VINSON)

RE: DOCKET NO. 960786B-TL - CONSIDERATION OF BELLSOUTH TELECOMMUNICATIONS, INC.'S ENTRY INTO INTERLATA SERVICES PURSUANT TO SECTION 271 OF THE FEDERAL TELECOMMUNICATIONS ACT OF 1996.

DOCKET NO. 981834-TP - PETITION OF COMPETITIVE CARRIERS FOR COMMISSION ACTION TO SUPPORT LOCAL COMPETITION IN BELLSOUTH TELECOMMUNICATIONS, INC.'S SERVICE TERRITORY.

AGENDA: 11/19/01 - REGULAR AGENDA - PROCEDURAL MATTER- INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: THESE DOCKETS ARE CONSOLIDATED FOR PURPOSES OF OSS TESTING. ALTHOUGH A PANEL IS ASSIGNED TO DOCKET NO. 981834-TP, THE FULL COMMISSION SHOULD VOTE ON THE ISSUES HEREIN BECAUSE THE DOCKETS HAVE BEEN CONSOLIDATED FOR THIS PURPOSE.

FILE NAME AND LOCATION: S:\PSC\LEG\WP\960786B.RCM

CASE BACKGROUND

On December 10, 1998, the Florida Competitive Carriers Association (FCCA), the Telecommunications Resellers, Inc. (TRA), AT&T Communications of the Southern States, Inc. (AT&T), MCImetro Access Transmission Services, LLC (MCImetro), Worldcom Technologies, Inc. (Worldcom), the Competitive Telecommunications

DOCUMENT NUMBER-DATE

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Association (Comptel), MGC Communications, Inc. (MGC), and Intermedia Communications Inc. (Intermedia) (collectively, "Competitive Carriers") filed their Petition of Competitive Carriers for Commission Action to Support Local Competition in BellSouth's Service Territory.

On December 30, 1998, BellSouth Telecommunications, Inc. (BellSouth) filed a Motion to Dismiss the Petition of the Competitive Carriers for Commission Action to Support Local Competition in BellSouth's Service Territory. BellSouth requested that the Commission dismiss the Competitive Carriers' Petition with prejudice. On January 11, 1999, the Competitive Carriers filed their Response in Opposition to BellSouth's Motion to Dismiss. By Order No. PSC-99-0769-FOF-TP, issued April 21, 1999, the Commission denied BellSouth's Motion to Dismiss. In addition, the Commission denied the Competitive Carriers' request to initiate a rulemaking proceeding to establish expedited dispute resolution procedures for resolving interconnection agreement disputes. The Commission also directed staff to provide more specific information and rationale for its recommendation on the remainder of the Competitive Carriers' Petition.

On May 26, 1999, the Commission issued Order No. PSC-99-1078-PCO-TP, which granted, in part, and denied, in part, the petition of the Florida Competitive Carriers' Association to support local competition in BellSouth's service territory. Specifically, the Commission established a formal administrative hearing process to address unbundled network elements (UNE) pricing, including UNE combinations and deaveraged pricing of unbundled loops. The Commission also ordered that Commissioner and staff workshops on Operations Support Systems (OSS) be conducted concomitantly in an effort to resolve OSS operational issues. The Commission stated that the request for third-party testing (TPT) of OSS was to be addressed in these workshops. These workshops were held on May 5-6, 1999. The Commission also ordered a formal administrative hearing to address collocation and access to loop issues, as well as costing and pricing issues.

On May 28, 1999, FCCA and AT&T filed a Motion for Independent Third-Party Testing of BellSouth's OSS. BellSouth filed its Response to this Motion by the FCCA and AT&T on June 16, 1999. That same day, FCCA and AT&T filed a Supplement to the Motion for Third-Party Testing. On June 17, 1999, ACI Corp. (ACI) filed a Motion to Expand the Scope of Independent Third-Party Testing. On

June 28, 1999, BellSouth responded to the Supplement filed by FCCA and AT&T. On June 29, 1999, BellSouth responded to ACI's Motion to Expand the Scope of Independent Third-Party Testing. By Order No. PSC-99-1568-PAA-TP, issued August 9, 1999, the Commission denied the motion. Upon its own motion, the Commission approved staff's recommendation to proceed with Phase I of third-party testing of BellSouth's OSS. Phase I of third-party testing required a third party, in this case KPMG Consulting LLC, to develop a Master Test Plan (MTP) that would identify the specific testing activities necessary to demonstrate nondiscriminatory access and parity of BellSouth's systems and processes.

By Order No. PSC-00-0104-PAA-TP, issued January 11, 2000, the Commission approved the KPMG MTP and initiated Phase II of third-party testing of BellSouth's OSS. On February 8, 2000, by Order No. PSC-00-0260-PAA-TP, the Commission approved interim performance metrics to be used during the course of testing to assess the level of service BellSouth is providing to ALECs. By Order No. PSC-00-0563-PAA-TP, issued March 20, 2000, the Commission approved the retail analogs/benchmarks and the statistical methodology that should be used during the OSS third-party testing.

By Order No. PSC-00-2451-PAA-TP, issued December 20, 2000, the Commission approved revised interim performance metrics, benchmarks and retail analogs to be used during the third-party OSS testing. The revised interim metrics were ordered to address several changes made to BellSouth's initial set of interim metrics approved by Order No. PSC-00-0260-PAA-TP. The revised interim metrics included corrections to the business rules used to calculate the metrics and additional levels of detail allowing the metrics to capture BellSouth's performance on newer services such as Local Number Portability (LNP). Since Order No. PSC-00-2451-PAA-TP, BellSouth has issued additional changes to its revised interim metrics in other jurisdictions. By Order No. PSC-01-1428-PAA-TL, issued July 3, 2001, the Commission approved additional changes to update metrics and retail analogs and provide additional levels of disaggregation.

On September 5, 2001, AT&T notified Commission staff of concerns that had arisen in other states regarding BellSouth's allegedly preferential treatment at its Local Carrier Service Centers (LCSCs) of local service requests (LSRs) from certain ALECs, including KPMG Consulting. They indicated that these same concerns may be at work in the Florida test, such that the OSS test

results in Florida might be tainted. Upon notification of AT&T's concerns, staff immediately obtained the work papers referenced by AT&T from the other state, and informally investigated the allegations through discussions with BellSouth and KPMG. The results of staff's investigation were shared with AT&T on September 12 and September 14, 2001. On September 18, 2001, AT&T Communications of the Southern States, Inc., AT&T Broadband Phone of Florida, LLC and TCG South Florida, Inc. (collectively "AT&T") filed a Motion Requesting Investigation into BellSouth Telecommunications Inc.'s Conduct in Processing Certain Local Service Requests and Retiring of Key OSS Systems. On October 1, 2001, BellSouth filed its Response to AT&T's Motion. This recommendation addresses AT&T's Motion.

#### JURISDICTION

Section 271(a) of the Telecommunication Act of 1996 (Act) provides that a Regional Bell Operating Company (RBOC) may not provide interLATA services except as provided in Section 271. Section 271(d) of the Act provides, in part, that prior to making a determination under Section 271, the Federal Communications Commission (FCC) shall consult with the State commission of any State that is the subject of a Section 271 application in order to verify the compliance of the RBOC with requirements of Section 271(c). In addition, Section 120.80(13)(d), Florida Statutes, provides that the Commission can employ processes and procedures as necessary in implementing the Act. Therefore, this Commission has jurisdiction in evaluating BellSouth's OSS through third-party testing, which will enable it to consult with the FCC when BellSouth requests 271 approval from the FCC.

DISCUSSION OF ISSUES

ISSUE 1: Should AT&T's Motion to Investigate BellSouth's Conduct in the OSS Testing (Motion) be granted?

RECOMMENDATION: No. Staff believes that AT&T's Motion to Investigate BellSouth's Conduct in the OSS Testing should be denied. Staff has investigated AT&T's allegation that BellSouth's preferential treatment of certain LSRs had an adverse impact on the Florida OSS test. Staff has concluded that the impact on the Florida test is nonexistent. In addition, staff believes that BellSouth is clearly required to notify ALECs of ALEC-affecting changes relating to LENS, EDI, TAG, TAFI, ECFA and CSOTS. However, none of these systems have been retired. Therefore, staff believes that there is no reason for concern that the results of the Florida OSS test may lack integrity or be tainted. (F. BANKS, HARVEY)

STAFF ANALYSIS:

ARGUMENTS

AT&T

A. Preferential Treatment Allegations

In its Motion, AT&T requests that the Commission investigate whether or not concerns raised in other states regarding discriminatory preferential treatment of LSRs from KPMG have had any impact on the Florida OSS Test. AT&T asserts that through its discovery efforts in Section 271 proceedings in North and South Carolina, it discovered that BellSouth provided discriminatory preferential treatment in processing certain local service requests (LSRs).

AT&T states that pursuant to Section 252(c)(3) of the Act and Section 364.16(3), Florida Statutes, BellSouth has an obligation to provide ALECS with nondiscriminatory access to network elements including BellSouth's OSS. AT&T states that discriminatory treatment by BellSouth potentially taints the OSS test underway in Florida.

AT&T indicates that with respect to the Florida OSS test, BellSouth has not at any time informed ALECs of BellSouth's discriminatory preferential treatment at its LCSCs during the OSS

test. AT&T explains that it did not learn of BellSouth's preferential treatment at BellSouth LCSCs (Local Carrier Service Centers) until AT&T obtained discovery documents in North Carolina on August 8, 2001, regarding a regionality study performed by PWC of BellSouth's OSS. AT&T contends that BellSouth admitted that LSRs in certain states were given discriminatory preferential treatment. AT&T believes that LSRs submitted by KPMG as part of Florida's OSS test were affected by the practice of preferential treatment. AT&T states that subsequently, BellSouth represented to PriceWaterhouse Coopers (PWC) that it had ceased this practice in one of the LCSCs and that this practice would be discontinued in the other LCSC immediately.

#### B. Replacement of OSS Systems

AT&T also requests that the Commission investigate whether BellSouth has plans to replace many key OSS systems over the next eighteen months with new systems, without advising the ALEC community of the critical changes. In the North Carolina 271 proceeding, AT&T states that it learned that BellSouth had made plans to replace many of its key OSS with new systems. AT&T asserts that several of BellSouth's OSS systems tested during the OSS test are scheduled to be phased out by the end of 2001 and that many others are scheduled to be replaced by the end of 2002. AT&T states that BellSouth has no intention of notifying ALECs of this OSS transition plan through the change control process or otherwise. Therefore, AT&T believes that this Commission should investigate BellSouth's OSS replacement plan to determine what impact it may have on OSS test.

### BellSouth

#### A. Preferential Treatment Allegations

In its Response, BellSouth asserts that in mid-2000, this Commission and the Georgia Public Service Commission (GPSC) adopted standards to be used in connection with the OSS test in these states. In order to meet the standards established by this Commission and the GPSC, BellSouth states that it took steps to increase the workforce in the LCSC. BellSouth explains that in order to meet benchmarks that had been established in Florida and Georgia, for a short period of time, priority was given to all LSRs submitted manually from these states in at least one of BellSouth's

LCSCs. The priority for manual LSRs from Florida and Georgia was started in the August-September 2000, time frame and ended in the April 2001, time frame. BellSouth explains that LSRs were prioritized by the benchmarks established by the state commissions.

BellSouth contends that this priority given was utilized until additional representatives could be hired and trained to handle the increased workload of the expedited regulatory standards. BellSouth asserts that once additional representatives were hired and trained that this priority process was discontinued. BellSouth contends that performance data compiled on Reject Timeliness and FOC Timeliness does not indicate that preferential treatment has had any adverse effect on the OSS test. Further, BellSouth states that the disaggregated categories with significant volumes reveal that for the period January through March of 2001, BellSouth's performance has been consistent across all nine states. BellSouth believes that even if AT&T's allegations are true, which it believes is not correct, any disparity in performance would have ended in April of 2001. BellSouth contends that this practice ended before the time frame in which BellSouth began to compile data for consideration of its compliance with Section 271.

#### B. Replacement of OSS Systems

BellSouth asserts that AT&T's contention that this Commission should investigate BellSouth's conduct in the OSS test because it plans to replace certain systems is unfounded. BellSouth states that it should be allowed to assess its systems to determine whether the systems need upgrading or replacement. Further, BellSouth alleges that it has not attempted to hide its plans to upgrade its systems. BellSouth states that AT&T has known about the existence of its plans for several months. BellSouth contends that with regard to ALEC notification, the Change Control Process (CCP) provides that BellSouth is required to notify ALECs of the "ALEC Affecting Changes" related to certain interfaces. BellSouth states that although AT&T contends that BellSouth was required to provide notice of the changes, none of the systems discussed at the South Carolina hearing are subject to change control.

#### Staff's Analysis and Recommendation

The issue before the Commission is to determine whether BellSouth failed to comply with the nondiscrimination requirements

of the Act by providing preferential treatment in the OSS test and whether BellSouth was required to provide notice to the ALECs regarding the replacement of its OSS systems.

#### A. Preferential Treatment Allegations

According to documents obtained by staff prior to the filing of AT&T's Motion, staff had determined that from April through July of 2001, PWC was hired by BellSouth to provide an attestation as to whether BellSouth's operational support systems used to provide preordering and ordering functions to ALECs are regional in nature. The notes from PWC's investigation were provided to AT&T pursuant to discovery requests in the North Carolina proceeding in late August 2001. This discovery request for PWC interview notes is the basis for AT&T's assertion that the Florida OSS test results may not be reliable.

Staff conducted an informal investigation of the allegations. Additional information was obtained from both KPMG and BellSouth. On September 5, 2001, AT&T distributed a pleading it had filed in Tennessee where AT&T alleged that the OSS test results in Florida were tainted. These allegations were based on documents obtained during the 271 proceedings in North Carolina and South Carolina. Staff notes that AT&T made these allegations about the Florida test in Tennessee without attempting to gain the facts from the Florida Commission, or KPMG. Upon notification of AT&T's concerns, staff immediately obtained the work papers referenced in the Tennessee filing and informally investigated the allegations through discussions with BellSouth and KPMG. The results of staff's investigation were shared with AT&T on September 12 and September 14, 2001. AT&T filed its Motion Requesting Investigation into BellSouth's conduct on September 18, 2001. Staff also notes that a similar motion was filed by AT&T with the Georgia Commission on September 11, 2001, involving the same allegations regarding the Georgia test.

During staff's evaluation, two issues were identified from the PWC work papers, which might raise concern as to whether the Florida test was impacted. The first issue relates to the PWC interviews with the Birmingham Resale Order Department and the Birmingham UNE Order Department. In those interviews, PWC determined that a higher processing priority was being given to Florida and Georgia manual orders. PWC closed this issue on May 1, 2001, upon reviewing documentation that supports a change in the



process to eliminate priority processing for Florida and Georgia UNE and resale manual orders. Staff determined that this priority processing did not have any impact on the Florida OSS Test since orders for the OSS test were not processed in the Birmingham LCSC or the Birmingham UNE Order Department.

The second issue related to the PWC interviews conducted with the Atlanta Complex Order Department. In those interviews, PWC determined that a higher processing priority may have been given to manual third-party testing orders. PWC closed the issue on May 1, 2001, upon reviewing documentation that supports a change in BellSouth processes to stress First In, First Out processing only. KPMG did not begin sending orders for the Florida third-party test until mid-March 2001. This issue of preferential treatment was remedied by April 2001. Therefore, for the Florida OSS test, this situation may have existed, but only for a period of 45 days. During the 45 days in March and April, approximately 100 orders were sent by KPMG to BellSouth for manual processing. Of those 100 orders, only 50 were sent to the Complex Order Department, which is the focus of this PWC issue.

Staff concluded that there were approximately three observations/exceptions relating to manual orders placed by KPMG during this 45-day period. BellSouth failed the timeliness criteria relating to these orders. Therefore, it does not appear that BellSouth succeeded in giving more timely service to the OSS testing orders if that was their intent. Staff notes that all three of these observations/exceptions remain open today and are currently being retested. Finally, only 62% of manual transaction testing has been completed at the time of this filing. The orders that were placed in March and April of 2001 are a very small portion of the whole manual test. The total number of orders cannot be discussed at this time in order to protect test blindness. These issues raised by PWC were resolved to their satisfaction and the final attestation was published by PWC on May 16, 2001.

#### B. Replacement of OSS Systems

Staff also informally investigated the issue regarding BellSouth's plans to replace key OSS prior to this filing ever being made. Staff reviewed the testimony in the South Carolina proceeding and additionally reviewed the document in question, which BellSouth has asserted is confidential. Staff believes and,

in fact, expects that from a business perspective, BellSouth would proactively review and evaluate its support systems on a regular basis in order to determine which systems need modification or replacement. Apparently BellSouth has done this and created a planning document with a list of systems and potential retirement dates.

BellSouth's obligation to inform the ALECs of BellSouth retirements is specified in the Change Control Process. The Change Control Process, Version 2.6 issued September 10, 2001, states the following on page 56:

As active interfaces are retired, BellSouth will notify the CLECs through the Change Control Process and post a CLEC Notification Letter to the web six (6) months prior to the retirement of the interface. BellSouth will have the discretion to provide shorter notifications (30-60 days) on interfaces that are not actively used and/or have low volumes. BellSouth will consider a CLEC's ability to transition from an interface before it is scheduled for retirement. BellSouth will ensure that its transition to another interface does not negatively impact a CLEC's business.

BellSouth will only retire interfaces if an interface is not being used, or if BellSouth has a replacement for an interface that provides equal or better functionality for the CLEC than the existing interface.

According to the Change Control Process manual, this document was developed jointly by representatives from both BellSouth and ALECs.

Page 15 of the Change Control Process (CCP) states that this process covers ALEC-affecting changes for the following interfaces: LENS, EDI, TAG, TAFI, ECTA, and CSOTS. The CCP defines ALEC-affecting changes as any change that requires the ALECs to modify the way they operate or to rewrite system code.

Staff believes that the document in question is not authoritative or correct since BellSouth has failed to meet the retirement dates reflected for the year 2001. There has been no claim of harm to AT&T or other ALECs. AT&T does not allege that any of the retirements contemplated in the document in question

have occurred. As such, there has been no failure on the part of BellSouth to properly notify ALECs.

If BellSouth is contemplating a change to or retirement of an interface that is ALEC-affecting, staff fully expects that BellSouth would comply with the documented Change Control policies and procedures that require ALEC notification. Additionally, staff would also expect BellSouth to comply with Change Control objectives that call for mutual impact assessment and resource planning to manage schedule changes.

### Conclusion

Staff has investigated AT&T's allegation that BellSouth's preferential treatment of certain LSRs had an adverse impact on the Florida OSS test. Staff has concluded that the impact to the Florida test is nonexistent. Staff believes that BellSouth's timeliness failures make it evident that BellSouth did not skew the FPSC tests results and that if preferential treatment occurred, it was only for a very limited time early in the testing process. Staff believes that there is no reason for concern that the results of the Florida OSS test may lack integrity or be tainted.

Despite AT&T's allegation that BellSouth was required to and failed to notify the ALECs of its plans to retire and replace certain OSS systems, AT&T has not shown that BellSouth was required to provide this notification. Staff believes that BellSouth's obligation to inform the ALECs of BellSouth's retirements of OSS systems is specified in the Change Control Process. According to the Change Control Process, staff believes that BellSouth is clearly required to notify ALECs of ALEC-affecting changes relating to LENS, EDI, TAG, TAFI, ECFA and CSOTS. However, none of these systems have been retired.

DOCKET NO. 960786B-TL  
DATE: November 7, 2001

**ISSUE 2**: Should these Dockets be closed?

**RECOMMENDATION**: No. These Dockets should remain open pending the outcome of the Third-Party OSS Testing. (F. BANKS)

**STAFF ANALYSIS**: These Dockets should remain open pending the outcome of the Third-Party OSS Testing.