

Claudia E. Davant  
State President  
Legislative and  
Regulatory Affairs

Suite 700  
101 N. Monroe Street  
Tallahassee, FL 32301  
850 425-6360  
FAX 850 425-6361  
cdavant@att.com

November 8, 2001

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COMMISSION  
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Mrs. Blanca S. Bayo, Director  
Division of Records and Reporting  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399

RE: Consideration of BellSouth Telecommunications, Inc.'s entry into  
InterLATA services pursuant to Section 271 of the Federal  
Telecommunications Act of 1996; Docket No. 960786-A-TL

Dear Mrs. Bayo:

Enclosed please find the original and 15 copies of Exhibits B and C to the Post-Hearing  
Statement of Issues and Positions and Support Brief filed by AT&T yesterday in the above-  
referenced proceeding. These copies should be inserted in the placeholders provided behind the  
filing. Copies of these exhibits were included with the distribution to the service list.

Thank you for your assistance in this matter. If you have questions, please contact Lisa  
Riley on 404-810-7812.

Sincerely,

Claudia E. Davant

- PP \_\_\_\_\_
- CAF \_\_\_\_\_
- CMP \_\_\_\_\_
- COM \_\_\_\_\_
- CTR \_\_\_\_\_ Enclosures
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LOUISIANA PUBLIC SERVICE COMMISSION

ORDER NO. U-22252 (E)

LOUISIANA PUBLIC SERVICE COMMISSION, EX PARTE

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*Docket No. U-22252, Subdocket E - In re: Consideration and review of BellSouth Telecommunications, Inc.'s preapplication compliance with Section 271 of the Telecommunications Act of 1996 and provide a recommendation to the Federal Communications Commission regarding BellSouth Telecommunications, Inc.'s application to provide interLATA services originating in-region.*

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(Decided at the Business Session held on September 19, 2001)

At the Business and Executive Session of the Louisiana Public Service Commission (the "Commission") held on September 19, 2000, the Commission considered and voted to approve Staff's Final Recommendation with respect to BellSouth's request that this Commission approve its compliance with the 14-point checklist in Section 271 of the Telecommunications Act of 1996 (the "1996 Act") as well as its Statement of Generally Available Terms and Conditions ("SGAT") filed on April 20, 2001.

This proceeding was instituted by BellSouth's April 20, 2001 filing of a Notice of Intent to File Section 271 Application with the FCC. Brief in Support of BellSouth's Pre-Application Compliance with Section 271, and Revised SGAT. In response, the Commission opened Docket No. U-22252 (Subdocket E), *In re: Consideration and review of BellSouth Telecommunications, Inc.'s preapplication compliance with Section 271 of the Telecommunications Act of 1996 and provide a recommendation to the Federal Communications Commission regarding BellSouth Telecommunications, Inc.'s application to provide interLATA services originating in-region.* The Commission published Docket No. U-22252 (E) in its April 27, 2001 Official Bulletin, inviting interested parties to intervene and establishing a schedule to receive comments from such parties. The following parties intervened in Docket No. U-22252 (E): Cox Louisiana Telcom, LLC, Sprint Communications Company, COVAD Communications, MCI WorldCom, KMC Telecom, Inc., AT&T Communications of the South Central States, SECCA, Xspedius Corporation, NewSouth Communications, and Access Integrated Network.

By June 11, 2002, the following interveners had submitted comments, and in some cases also affidavits, in response to BellSouth's April 20, 2001 filings: COVAD Communications, MCI WorldCom, KMC Telecom, Inc., AT&T, SECCA, Xspedius Corporation, New South

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Order Number U-22252 (E)  
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Communications, and Access Integrated Networks. BellSouth filed reply comments and affidavits in response to the interveners' filings on June 25, 2001.

In addition, Staff ordered BellSouth to post performance data for the month of May in the Monthly State Summary or "FCC" format by July 11, 2001, and June performance data on or before August 11, 2001. All parties were permitted to file comments regarding the May and June performance reports within 10 days after the filing of the data. *See Staff Directive on Filing Performance Data, dated July 10, 2001.* BellSouth, AT&T and COVAD provided affidavits and/or comments regarding BellSouth's May performance data, and BellSouth filed an affidavit regarding its July performance data.

On August 6, 2001, Staff issued its Proposed Recommendation. Parties were given until August 20, 2001 to provide comments to Staff's Proposed Recommendation. The following parties submitted comments: Sprint Communications, AT&T, KMC Telecom, Inc., Covad Communications Company, WorldCom, Inc., Access Integrated Networks, Inc., New South Communications Corp., Xspedius Corporation, and BellSouth. On August 31, 2001, Staff issued its Final Recommendation. In the Final Recommendation, Staff, for the reasons stated therein, recommended that the Commission find BellSouth to be in compliance with the requirements of the 1996 Act, including the checklist requirements of Section 271(c)(2)(B) and the Federal Communication Commission's orders promulgated thereunder; and, therefore that the Commission endorse the application of BellSouth to the FCC seeking authority under section 271 of the 1996 Act to provide interLATA service originating within the State of Louisiana. Staff also recommended approval of BellSouth's SGAT. Finally, Staff recommended that the Commission take certain actions in order to insure that competition in the local telecommunications market continues to flourish. To this end Staff recommended that the Commission enter a separate order amending its Rules for Competition in the Local Telecommunications Market as follows:

1. That the Commission adopt the conclusion in the Order issued by the Georgia Public Service Commission in Docket No. 10692-U, dated February 1, 2000, that "currently combines" means ordinarily combined within the BellSouth network, in the manner in which they are typically combined. Staff further recommends that the Commission find that loop/port and loop/transport combinations are ordinarily combined in BellSouth's network. Thus,

BellSouth must provide combinations of typically combined elements, even if the particular elements being ordered are not actually connected at the time the order is placed.

The recurring rate for a new combination shall be the same as the recurring rate for an exiting combination. The nonrecurring rate for a new loop/port combination shall be the sum of the nonrecurring rate for the loop and the nonrecurring rate for the port as established in Docket No. U-24714-A. The nonrecurring rate for a new loop/transport combination shall be the rate for such combination in the New Orleans MSA as modified in Docket No. U-24714-A. To the extent the Commission has not established nonrecurring rates for a particular new combination, the nonrecurring rate shall be the sum of the nonrecurring rates for the individual elements. The Commission shall reconsider these requirements immediately after any United States Supreme Court decision regarding this issue.

2. That the Commission order BellSouth to provide its ADSL service to end users over the high frequency portion of the same loop being used by a CLEC to provide voice service under the same terms and conditions that BellSouth offers the high frequency portion of its loops to CLECs in line-sharing arrangements. Staff further recommends that the CLEC shall be prevented from charging BellSouth for use of its UNE loop. Any issues regarding implementation of this recommendation shall be referred to the regional line sharing/line splitting collaborative for review and resolution. BellSouth may petition the Commission for a stay of this requirement upon presentation of evidence regarding substantial operational issues that must be resolved.

3. That the Commission prohibit BellSouth from engaging in any win back activities for 7 days once a customer switches to another local telephone service provider, including (1) prohibiting BellSouth's wholesale divisions from sharing information with its retail divisions, at any time, such as notice that certain end users have requested to switch local service providers, and (2) prohibiting BellSouth from including any marketing information in its final bill sent to customers that have switched providers.

4. That the Commission order BellSouth to waive any application fee or charges that would otherwise be due from a CLEC that decides to reconfigure its existing collocation power arrangement so as to purchase smaller increments of power from BellSouth's BDFB, rather than directly from BellSouth's main power board. Where a CLEC decided to reconfigure its collocation power so as to purchase smaller increments of power from BellSouth's BDFB, Staff



recommends that the Commission require the CLEC to submit an application to BellSouth regarding such reconfiguration and order BellSouth to respond to the application and permit the conversion with seven (7) calendar days.

Further, Staff recommends that the Commission order BellSouth to provide CLECs with an additional option by allowing CLECs to purchase power directly from an electric utility company. Under such an option, the CLEC would be responsible for contracting with the electric utility company for their own power feed and meter, and would be financially responsible for purchasing all equipment necessary to accomplish the arrangement, including inverters, batteries, power boards, bus bars, BDFBs, backup power supplies and cabling. The actual work to install this arrangement would be performed by a certified vendor hired by the CLEC. Such CLEC must comply with all applicable safety codes, including the National Electric Safety Codes, in installing this power arrangement. BellSouth shall waive any application fee or charge that would otherwise be due from a CLEC that decides to reconfigure any existing collocation power arrangement so as to purchase power directly from an electric utility company as provided herein.

5. That the Commission order BellSouth to allocate security costs on a square foot basis rather than on the basis of the number of occupants in the central office.

6. That the Commission establish a cageless collocation interval of sixty (60) calendar days for ordinary arrangements and ninety (90) calendar days for extraordinary arrangements. Such intervals shall run from date of firm order. The terms "ordinary" and "extraordinary" shall have the same meaning as is ascribed to them in General Order dated October 9, 2000. BellSouth shall be permitted to file for waiver of the applicable benchmarks in appropriate circumstances.

7. That the Commission open a docket in accordance with Commission Order No. U-22020 to review the wholesale discount rate previously established by the Commission.

8. That the Commission direct Staff to develop a monetary penalty in its six-month interim review in Docket No. U-22252-C to be imposed upon BellSouth to ensure that the implementation of fully parsed CSR data functionality occurs as scheduled. Such penalty should take effect only after BellSouth has obtained FCC approval to offer interLATA service in Louisiana.

9. That the Commission order BellSouth to implement the C-Order process no later than April 1, 2002. Further, Staff recommends that the Commission direct Staff in the six-month review process in Docket No. U-22252-C to develop a measure to track the number of premature disconnects resulting from the two-order process utilized by BellSouth for UNE-P conversions; and to include the measure in Tier-1 and Tier-2 remedies as appropriate. Such penalties to be implemented upon the FCC's approval of BellSouth's petition to provide interLATA service in Louisiana.

On September 19, 2001, this Commission considered Staff's Final Recommendation. Commissioner Jay Blossman made a motion to adopt the Final Staff Recommendation with one modification regarding the Staff's Final Recommendation that BellSouth be required to provide its ADSL service to end users over the high frequency portion of the same loop being used by a CLEC to provide voice service. Commissioner Blossman's modified this portion of the Recommendation to provide instead that Staff shall further study this issue before requiring BellSouth to provide such service. Commissioner Jimmy Field seconded the motion with Commissioner Blossman's concurrence that the motion would include a statement that BellSouth shall be generally subject to fines and penalties to be imposed by the Commission if BellSouth is found to be engaging in any anticompetitive activity related to the prohibition of the win-back activities recommended by Staff. After discussion, Commissioner Blossman's motion was unanimously approved.

Accordingly,

**IT IS THEREFORE ORDERED** that the Commission adopts Staff's Final Recommendation that BellSouth be found to be in compliance with the requirements of the 1996 Act, including the checklist requirements of Section 271(c)(2)(B) and the Federal Communication Commission's orders promulgated thereunder; and, therefore, endorse the application of BellSouth to the FCC seeking authority under section 271 of the 1996 Act to provide interLATA service originating within the State of Louisiana. The Commission also adopts Staff's recommendation that BellSouth's SGAT be approved. A copy of Staff's Final Recommendation is attached hereto.

**IT IS FURTHER ORDERED** that the Commission adopts Staff's recommendation that the Commission take action in addition to finding that BellSouth is in compliance with existing FCC requirements in order to insure that competition in the local telecommunications market

continues to flourish. To this end, the Commission adopts Staff's Recommendation that the Commission enter a separate order amending its Rules for Competition in the Local Telecommunications Market to include the additional requirements set forth in numbered paragraphs 1-9 herein, as modified to reflect with respect to numbered paragraph 2 that Staff shall be directed to further study the issue of requiring BellSouth to provide its ADSL service to end users over the high frequency portion of the same loop being used by a CLEC to provide voice service until such time as the operational and policy issues associated therewith are fully explored.

**BY ORDER OF THE COMMISSION**  
**BATON ROUGE, LOUISIANA**  
September 21, 2001

/S/ JAMES M. FIELD  
DISTRICT II  
CHAIRMAN JAMES M. FIELD

/S/ JACK "JAY" A. BLOSSMAN  
DISTRICT I  
VICE CHAIRMAN JACK "JAY" A. BLOSSMAN

/S/ DON OWEN  
DISTRICT V  
COMMISSIONER DON OWEN

/S/ IRMA MUSE DIXON  
DISTRICT III  
COMMISSIONER IRMA MUSE DIXON

SECRETARY  
LAWRENCE C. ST. BLANC

/S/ C. DALE SITTIG  
DISTRICT IV  
COMMISSIONER C. DALE SITTIG

BEFORE THE

LOUISIANA PUBLIC SERVICE COMMISSION

LOUISIANA PUBLIC SERVICE COMMISSION  
EX PARTE

DOCKET NUMBER U-22252 (E)

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In re: Consideration and review of BellSouth Telecommunications, Inc.'s preapplication compliance with Section 271 of the Telecommunications Act of 1996 and provide a recommendation to the Federal Communications Commission regarding BellSouth Telecommunications, Inc.'s application to provide interLATA services originating in-region.

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STAFF'S FINAL RECOMMENDATION

The Staff of the Louisiana Public Service Commission ("Commission") submits this Final Recommendation supporting BellSouth Telecommunications, Inc.'s ("BellSouth") entry into the interLATA service market in Louisiana.

**I. HISTORY OF SECTION 271 PROCEEDINGS IN LOUISIANA:**

**A. Initial Proceeding by the Louisiana Commission:**

On September 5, 1997, this Commission did the following: (1) voted to approve BellSouth's SGAT, subject to modifications; (2) concluded that BellSouth's SGAT met each of the 14 items of the competitive checklist; and (3) determined that BellSouth's entry into the interLATA long distance market would further the public interest. See LPSC Order No. U-22252-A, dated September 5, 1997. Thereafter, BellSouth filed with the FCC its first application under Section 271 for authorization to provide interLATA service in Louisiana. The FCC denied that application on February 4, 1998, finding that BellSouth failed to make available Contract Services Arrangements ("CSAs") for resale at a wholesale discount, and also that it failed to prove it provides nondiscriminatory access to its Operational Support Systems ("OSS"). *In the Matter of Application by BellSouth Corporation, et al. Pursuant to Section 271 of the*

*Communications Act of 1934, as amended, To Provide In-region, InterLATA Services in Louisiana*, Memorandum Opinion and Order, 13 FCC Rcd 6245 (1998) (“*First Louisiana Order*”).

Thereafter, this Commission conducted further proceedings under the 1996 Act. The Commission approved modifications to BellSouth's SGAT, including incorporation of the wholesale discount for CSAs established in Docket No. U-22252-D, and adoption on an interim basis of the Service Quality Performance Measurements established by the Georgia Public Service Commission. See LPSC Order No. U-22252-B, July 1, 1998.

On June 18, 1998, by a vote of four to one, this Commission voted to approve and support BellSouth's second application for interLATA authority in Louisiana. On October 13, 1998, the FCC denied BellSouth's second application. In its Order, however, the FCC noted that BellSouth's "application...demonstrates that significant progress has been made toward reaching the goals of the Act," and that BellSouth should be "commended ...for making significant improvements over the past 8 months since we issued the *First Louisiana Order*." *In the Matter of Application of BellSouth Corporation, BellSouth Telecommunications, Inc., and BellSouth Long Distance, Inc., for Provision of In-Region, InterLATA Services in Louisiana*, Memorandum Opinion and Order, Rel. October 13, 1998, ¶15 (“*Second Louisiana Order*”). Specifically, the FCC found that BellSouth had met six (6) checklist items and one subsection of a seventh item, but failed to provide adequate evidence of compliance with the remaining items. To assist BellSouth in future applications, the FCC set forth in detail the deficiencies in BellSouth's application and the actions BellSouth needed to take to address those deficiencies. In particular, the FCC highlighted BellSouth's failure to provide sufficient evidence, through performance data

or otherwise, that it is providing CLECs non-discriminatory access to various services, including OSS.

**B. Commission Action Since Second Louisiana Order:**

Since the denial of BellSouth's second application, this Commission has been involved in numerous dockets to further open the local telecommunications market, including generic dockets dealing with local competition issues and arbitration proceedings dealing with interconnection agreement disputes between CLECs and BellSouth. See Exhibit A to BellSouth's Original Comments. Of particular significance are this Commission's continuing work in its Docket No. U-22252-C dealing with CLEC performance measurements and the adoption of a self-executing enforcement plan, as discussed below. This Commission has also conducted a series of informal collaborative workshops in which numerous operational issues confronting BellSouth and CLECs doing business in Louisiana's local market were addressed and resolved.

*1. The SQM Docket No. U-22252-C*

At the June 17, 1998 Business and Executive Session, the Commission adopted on an interim basis the Service Quality Measurements Performance Reports ("SQM") filed by BellSouth ("BST") and ordered that a rulemaking proceeding be commenced and completed to determine final SQM for presentation at the August 19, 1998 Business and Executive Session.<sup>1</sup> Thereafter, Acadian Consulting Group was retained by the Commission to assist the rulemaking proceeding and to issue a recommendation on behalf of Staff concerning BellSouth's SQM. Acadian Consulting Group reviewed and analyzed the comments, testimony, reply comments,

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<sup>1</sup> In its October 19, 1998 Order denying BellSouth's second 271 application for Louisiana, the FCC commended this Commission for its work in this area, but noted certain inadequacies in the interim performance measurements.

and supplemental comments of e.spire, BellSouth, MCI WorldCom, Cox, Intermedia Communications, AT&T, and Sprint filed with the Commission on July 10, 1999 and July 23, 1998 and July 28, 1998. Acadian Consulting Group assisted Staff with a one-day technical conference held on July 23, 1998. After the technical conference, Acadian Consulting Group prepared Staff's initial recommendation filed on August 5, 1998 and comments on this initial recommendation were filed on August 10, 1998. Staff's final recommendation was filed with the Commission on August 12, 1998.

At the August 19, 1998 Business and Executive Session, the Commission voted to adopt the Staff's recommendation. In its August 31, 1998 General Order in Docket No. U-22252-C, in which it adopted CLEC service quality performance measurements, the LPSC ordered further workshops and technical conferences in which BellSouth, the CLEC community, and the Staff could work in a collaborative environment to resolve outstanding issues. The Commission ordered further workshops to address (1) clarification and refinement of the service quality performance measurements adopted by the LPSC in its August 28, 1998 General Order; (2) a statistical methodology to measure performance to CLECs against BellSouth's performance to its own retail end users; (3) the need for retail analogs and benchmarks to establish objective standards for performance; and (4) the need for a self-executing enforcement mechanism (SEEM) to provide meaningful incentives to BellSouth to provide appropriate performance, and to ensure swift repercussions in the event it failed to do so. See LPSC General Order, Docket No.U- 22252-C, dated August 31, 1998.<sup>2</sup>

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As stated more fully in the text herein, this Commission has done considerable work in this area, and believes that the current measurements are more than adequate to allow appropriate evaluation of BellSouth's performance.

<sup>2</sup> The following parties intervened and participated in these workshops: e.Spire, Sprint, MCI/WorldCom, AT&T, Cox, Intermedia, EATEL, and Actel. Xspedius, NewSouth and KMC did not participate in Docket U-22252-C.

From the fall of 1998 through the summer of 2000, the Commission's consultant, Acadian Consulting Group, and Staff conducted 9 workshops consisting of 26 days of technical discussions by BellSouth, the CLECs and Staff on these issues. Additionally, parties to the proceeding filed numerous rounds of comments, exhibits, and reply comments on issues addressed at the workshops.

In June 2000, the Staff issued an Interim Staff Recommendation on 69 disputed issues. On August 10, 2000, the FCC issued its Order on Reconsideration, FCC Docket No. 98-147, and adopted national default intervals for collocation provisioning that were to take effect within 60 days, in the absence of a state order adopting generally applicable state-specific standards. *See* FCC Order on Reconsideration, FCC Dkt. No. 98-147, released August 10, 2000 ("*Order on Reconsideration*").<sup>3</sup> On October 9, 2000, the Commission issued Order No. 22252-C in which it adopted the Staff's recommendations with respect to collocation issues, including the endorsement of Louisiana-specific intervals and benchmarks for physical collocation.

Parties to the workshops made significant progress towards developing permanent performance measurements; an appropriate statistical methodology to employ; appropriate retail analogues and benchmarks; and a penalty plan. *See* Staff's Final Recommendation, Docket No. U-22252-C, approved by the LPSC on February 21, 2001. The Commission voted in February of this year to adopt Staff's Final Recommendation on the remaining 67 issues in dispute. *See* Staff's Final Recommendation, Docket No. U-22252-C. The Commission's resulting Order

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<sup>3</sup> The Order on Reconsideration requires that, except to the extent a state sets its own standard, an incumbent LEC must provision physical collocation arrangements, including caged and cageless collocations, no later than 90 days after receiving a collocation application. This Commission took action in this order to set Louisiana-specific intervals for collocation based on the extensive evidence and work conducted in Docket No. U-22252-C. The Commission's Order also instructed the Staff to commence work on CLEC collocation forecasting procedures and to consider whether there should be a separate interval for cageless collocation. The Commission is still considering these issues, and Staff makes a recommendation herein to resolve those issues.



dated May 14, 2001 covered a wide range of topics, including addition of new measures, such as "hot cut" measures, additional product disaggregation to include new xDSL product services, aggressive retail analogs and benchmarks for BellSouth's pre-ordering, ordering, provisioning, maintenance and billing services to CLECs, and a comprehensive self-executing enforcement plan designed to impose significant penalties on BellSouth in the event it fails to deliver nondiscriminatory service to CLECs.

## **2. CLEC Collaborative**

At the Commission's October Business and Executive Session, Louisiana Public Service Commissioner Irma Muse Dixon directed the Staff to arrange a series of collaborative meetings to discuss issues involving Local Exchange Carriers (CLECs) in Louisiana. The purposes of the Collaboratives were two fold. First they were to assist the Commission, its Staff and interested parties in gathering information about the current process, procedures and services being used by CLECs and ILECs operating in Louisiana. Second, they were to be instrumental in developing and implementing solutions to the problems that are experienced by the parties. While the Commission Staff had some idea on certain issues for discussion, they asked for suggestions from both CLECs and Incumbent Local Exchange Carriers (ILECs) to identify additional topics that needed to be addressed. This initiative was published in the Commission's Official Bulletin dated October 13, 2000 and a notice was mailed to all CLECs on October 30, 2000. Comments were received from the following carriers: KMC Telecom, ITC DeltaCom Communications, Inc., Birch Telecom of the South, Inc., ConnectSouth Communications of Louisiana, Inc., COVAD Communications, e-Spire Communications, New South Communications Corp., MCI WorldCom Communications, Inc., USLEC Corporation, AT&T Communications of the South Central States, Cox Louisiana Telecom, L.L.C., BellSouth Telecommunications, Inc., Network

Telephone Corporation, New Edge Network, Inc., US Unwired/Xspedius Corporation and Z-Tel Communications, Inc.

A Pre-Collaborative meeting was held on December 12, 2000 wherein a procedural schedule was adopted. Participating in the Pre-Collaborative meeting were twenty-four (24) individuals representing fourteen (14) carriers. A consensus was reached on the format of the meetings and an outline of the proposed agenda items for each of the scheduled meeting dates during the months of January and February 2001.

The workshops provided an opportunity for dialogue between the CLECs and ILECs in an informal setting to discuss numerous operational issues. The issues covered at these workshops included the following: customer conversions, trunking issues, provisioning, maintenance and repair, collocation, order processing, BellSouth's Operational Support Systems, information available on BellSouth's websites, CLEC training, and access to poles, ducts and conduit. As part of this collaborative effort, BellSouth provided central office tours of its New Orleans Main Central Office that was well attended by both CLECs and the Commission. Included within this tour were examples of both virtual and physical collocations, as well as caged and cageless collocations.

The Commission Staff conducted a total of nine (9) days of collaborative workshops in an effort to further promote competition in the local telecommunications market in Louisiana. The workshops were informal in nature and allowed for open dialogue for the CLECs with numerous BellSouth Subject Matter Experts (SMEs) as well as a dialogue between and among other CLECs. Items that involved pending legal matters (i.e., arbitration issues and docketed matters) were not discussed in these forums. In each workshop, a list of Action Items was developed relative to those issues that could not be resolved during the workshop session. The

Commission held its final CLEC Workshop on May 16, 2001, which was designed to finalize pending Action Items. These Action Items were continuously monitored and updated at each workshop until they were mutually considered "resolved or closed." The Staff reminded the parties that any party may bring up any unresolved issues through the Commission's formal complaint proceeding process. To date, no such complaints have been docketed.

Numerous issues discussed at these workshops resulted in process improvements designed to further enhance existing processes. Issues involving service advocacy to the CLECs by BellSouth resulted in the creation of a Louisiana-based Service Advocacy Center designed to help complete UNE tasks for CLECs within BellSouth's Network organization. In addition, as a result of the Commission's idea for a series of informal collaborative workshop efforts to improve communications, BellSouth created a regional CLEC User Group initiative designed after the Louisiana initiative. The initial CLEC User Group meeting was held on March 22, 2001 and covered the UNE-P User Group that attracted twenty-two (22) different CLEC companies represented with thirty-two (32) participants. A second User Group Forum was held on March 29, 2001 on the topic of collocation. The CLECs have chosen to meet every two (2) months in order to continue the dialogue began with the Louisiana workshops. Future plans for additional User Groups include such topics as Resale and Facility-Based (including Data) CLECs and Training.

In addition to being a forum for two-way dialogue for issue identification and resolution, the benefits available to CLECs who attended these regional workshops included the following:

- Valuable forum on BellSouth's Network product plans.
- An inside track on UNE-P product development.
- Presentations/Discussions on topics that include emerging and future technologies.
- Continuing Education Opportunities.

The Collaborative Workshops were a huge success because they allowed the parties an opportunity to mutually identify and resolve issues in an informal forum, without the need for formal regulatory proceedings. Because BellSouth's Operational Support Systems and processes are regional in nature, all process improvements made as a result of the workshops have been a benefit to all CLECs operating within the BellSouth region. It is for this reason that BellSouth has developed the Regional CLEC User Group Forums which the Staff expects will continue to foster local competition and provide for improved and more efficient processes for all parties involved. (See Exhibit "A" for Final CLEC Collaborative Report with Exhibits).

**3. Docket No. U-24714**

This Commission first established rates for UNEs pursuant to the requirements of the 1996 Act and the FCC orders promulgated thereunder by Order U-22022/U-22093-A, dated October 24, 1997. Initially, such rates were statewide average rates, rather than geographic deaveraged rates, due to the FCC having stayed Rule 51.507(f) (the FCC's "Deaveraging Rule"). Subsequently, the FCC announced that the stay of Rule 51.507(f) would be lifted effective six months from the date of the release of its Order Regarding New Mechanism for Federal Universal Service High Cost Support Provided to Non-Rural Carriers (CC Docket No. 96-45). This Order was released November 2, 1999 ("FCC Deaveraging Order"), thus lifting the stay of the FCC's Deaveraging Rule effective May 1, 2000.

In response to the FCC Deaveraging Order, on February 4, 2000 this Commission instituted Docket U-24714, In re: Interim deaveraging of BellSouth Telecommunications, Inc., UNE Rates pursuant to FCC CC 96-45 9<sup>th</sup> Report and Order on 18<sup>th</sup> Order on Reconsideration rel. 11/2/00. In addition to Staff, the following parties intervened and participated in Docket U-

24714: BellSouth Telecommunications, Inc.; AT&T Communications of the South Central States, Inc.; Sprint Communications Company L.P.; Actel Integrated Communications Inc.; Cox Louisiana Telcom, L.L.C.; Advanced Tel, Inc.; The Small Company Committee; MCI WorldCom, Inc.; and KMC Telecom, Inc.

The parties to Docket U-24714 agreed that it would not be possible to conclude a proceeding to establish permanent cost-based deaveraged UNE rates in time to meet the May 1, 2000 deadline. Therefore, the parties entered a "Joint Stipulation Regarding UNE Deaveraging" dated March 20, 2000 that established interim deaveraged UNE rates and interim rates for certain UNE combinations for BellSouth in Louisiana. These interim rates were based on the statewide average rates established by the Commission in Order U-22022/U-22093-A, dated October 24, 1997. The Joint Stipulation provided that the interim rates would remain in effect through December 31, 2000 and was approved by the Commission in Order U-24714.

Subsequently, the Commission instituted Docket U-24714 (Subdocket A) by publication in the Official Bulletin dated March 31, 2000. The Commission republished Subdocket A on August 4, 2000 to include consideration of BellSouth's new cost studies to establish rates for UNEs and network element combinations, including those required by the FCC's Third Report and Order in CC Docket No. 96-98.<sup>4</sup> On December 13, 2000, the Commission voted to extend the date for expiration of the interim rates established in the Joint Stipulation from December 31, 2000 to September 30, 2001, or until the interim rates were replaced by permanent deaveraged UNE rates adopted by the Commission in Docket U-24714 – A.

The Administrative Hearings Division of the Commission held hearings on April 23-27, 2001 in Docket U-24714-A on all issues concerning this Commission's establishment of cost

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<sup>4</sup> *In the Matter of Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, CC Docket No. 96-98, Third Report and Order, 15 FCC Rcd 3696 ("UNE Remand Order").

based deaveraged UNE rates to comply with the requirements of the 1996 Act, as well as the FCC orders promulgated thereunder. During this hearing, the Staff presented testimony recommending that the Commission adopt rates that are *substantially less* than the rates proposed by BellSouth in that proceeding. The Administrative Hearings Division's recommendation concerning such issues is expected to be released in time for the Commission's consideration during its September 19, 2001 Business and Executive Meeting.

**4. Arbitrations**

These proceedings include arbitrations with AT&T of the South Central States, Inc. (Docket No. U-25264), MCImetro Access Transmission Services (Docket No. U-25350), Intermedia/espire Communications (Docket No. U-24659/U-24709), ITC/DeltaCom (Docket No. U-24206) and Sprint Communications (Docket No. U-25373). Hearings have been conducted in these arbitration proceedings and the parties are awaiting rulings from the Administrative Law Judges. A number of the issues raised by CLECs in this proceeding are included in these arbitrations, including particularly the AT&T and MCI arbitrations, and are more appropriately handled by this Commission in those pending proceedings.

**5. Subdocket-E:**

This proceeding was instituted by BellSouth's April 20, 2001 filing of a Notice of Intent to File Section 271 Application with the FCC, Brief in Support of BellSouth's Pre-Application Compliance with Section 271, and Revised SGAT. In response, the Commission opened Docket U-22252 (Subdocket E), *In re: Consideration and review of BellSouth Telecommunications, Inc.'s preapplication compliance with Section 271 of the Telecommunications Act of 1996 and provide a recommendation to the Federal Communications Commission regarding BellSouth Telecommunications, Inc.'s application to provide interLATA*

*services originating in-region.* The Commission published Docket U-22252-E in its April 27, 2001 Official Bulletin, inviting interested parties to intervene and establishing a schedule to receive comments from such parties. The following parties intervened in Docket U-22252-E: Cox Louisiana Telcom, LLC, Sprint Communications Company, COVAD Communications, MCI WorldCom, KMC Telecom, Inc., AT&T, SECCA, Xspedius Corporation, NewSouth Communications, and Access Integrated Networks.

By June 11, 2001, the following intervenors had submitted comments to BellSouth's April 20, 2001 filings: COVAD Communications, MCI WorldCom, KMC Telecom, Inc., AT&T, SECCA, Xspedius Corporation, NewSouth Communications, and Access Integrated Networks. BellSouth filed comments and affidavits in response to the intervenors' filings on June 25, 2001. In addition, Staff ordered BellSouth to file performance data for the month of May in the "FCC format" by July 11, 2001, and provided all parties until July 23, 2001 to comment on such data. AT&T and COVAD provided comments regarding BellSouth's May performance data.

Staff further ordered BellSouth to post its June performance data in the "FCC format" on or before August 11, 2001. Parties to the proceeding were then allowed an opportunity to provide any comments before August 21, 2001. Staff issued its Proposed Recommendation on August 6, 2001. Parties were given until August 20, 2001 to provide comments to Staff's Proposed Recommendation. The following parties provided comments: Sprint Communications, Company,L.P., AT&T Communications of the South Central States, Inc., KMC Telecom, Inc., Covad Communications Company, WorldCom, Inc., Access Integrated Networks, Inc., New South Communications Corp., Xspedius Corporation, and BellSouth Telecommunications, Inc.

II. FRAMEWORK FOR ANALYZING COMPLIANCE WITH CHECKLIST:  
LEGAL AND EVIDENTIARY STANDARDS

The FCC has clearly articulated the legal and evidentiary standards to be applied in analyzing compliance with the statutory requirements of section 271 and Staff applies those standards herein.

**A. The Applicable Legal Standard:**

In order to comply with the requirements of section 271's competitive checklist, a BOC must demonstrate that it has "fully implemented the competitive checklist in subsection (c)(2)(B)." In particular, the BOC must demonstrate that it is offering interconnection and access to network elements on a nondiscriminatory basis. Previous FCC orders addressing section 271 applications have elaborated on this statutory standard. First, for those functions the BOC provides to competing carriers that are analogous to the functions a BOC provides to itself in connection with its own retail service offerings, the BOC must provide access to competing carriers in "substantially the same time and manner" as it provides to itself. Thus, where a retail analogue exists, a BOC must provide access that is equal to (i.e., substantially the same as) the level of access that the BOC provides itself, its customers, or its affiliates, in terms of quality, accuracy, and timeliness. For those functions that have no retail analogue, the BOC must demonstrate that the access it provides to competing carriers would offer an efficient carrier a "meaningful opportunity to compete." E.g., *In the Matter of Application by SBC Communications Inc., Southwestern Bell Telephone Company, and Southwestern Bell Communications Services, Inc. d/b/a Southwestern Bell Long Distance Pursuant to Section 271 of the Telecommunications Act of 1996 to Provide In-Region, InterLATA Services in Texas*, CC



Docket No. 00-65, Memorandum Opinion and Order, 15 FCC Rcd 18354, Rel. June 30, 2000, ¶ 44 (“*Texas Order*”).

The FCC does not view the “meaningful opportunity to compete” standard to be a weaker test than the “substantially the same time and manner” standard. Where the BOC provides functions to its competitors that it also provides for itself in connection with its retail service, its actual performance can be measured to determine whether it is providing access to its competitors in “substantially the same time and manner” as it does to itself. Where the BOC, however, does not provide a retail service that is similar to its wholesale service, its actual performance with respect to competitors cannot be measured against how it performs for itself, because the BOC does not perform analogous activities for itself. In those situations, the examination of whether the quality of access provided to competitors offers “a meaningful opportunity to compete” is intended to be a proxy for whether access is being provided in substantially the same time and manner and, thus, is nondiscriminatory. *Texas Order*, ¶45.

**B. Applicable Evidentiary Standard:**

The BOC applicant retains at all times the ultimate burden of proof that its application satisfies all of the requirements of section 271, even if no party files comments challenging its compliance with a particular requirement. The evidentiary standards governing review of section 271 applications are intended to balance the need for reliable evidence against the recognition that, in such a complex endeavor as a section 271 proceeding, no finder of fact can expect proof to an absolute certainty. While a BOC is expected to demonstrate as thoroughly as possible that it satisfies each checklist item, the public interest standard, and the other statutory requirements, we reiterate that the BOC needs only to prove each element by “a preponderance

of the evidence,” which generally means “the greater weight of evidence, evidence which is more convincing than the evidence which is offered in opposition to it.” *Texas Order*, ¶47-48.

As held in the *Second Louisiana Order*, Staff must first determine whether the BOC has made a *prima facie* case that it meets the requirements of a particular checklist item. The BOC must plead, with appropriate supporting evidence, facts which, if true, are sufficient to establish that the requirements of section 271 have been met. Once the BOC has made such a showing, opponents must produce evidence and arguments to show that the application does not satisfy the requirements of section 271, or risk a ruling in the BOC's favor. *Texas Order*, ¶49.

When considering filings in opposition to the BOC's application, Staff looks for evidence that the BOC's policies, procedures, or capabilities preclude it from satisfying the requirements of the checklist item. Mere unsupported evidence in opposition will not suffice. Although anecdotal evidence may be indicative of systemic failures, isolated incidents may not be sufficient for a commenter to overcome the BOC's *prima facie* case. Moreover, a BOC may overcome such anecdotal evidence by, for example, providing objective performance data that demonstrate that it satisfies the statutory nondiscrimination requirement. *Texas Order*, ¶50.

To make a *prima facie* case that the BOC is meeting the requirements of a particular checklist item under section 271(c)(1)(A), the BOC must demonstrate that it is providing access or interconnection pursuant to the terms of that checklist item. In particular, a BOC must demonstrate that it has a concrete and specific legal obligation to furnish the item upon request pursuant to state-approved interconnection agreements that set forth prices and other terms and conditions for each checklist item, and that it is currently furnishing, or is ready to furnish, the checklist item in quantities that competitors may reasonably demand and at an acceptable level of quality.” *Texas Order*, ¶52.

The particular showing required to demonstrate compliance will vary depending on the individual checklist item and the circumstances of the application. The FCC has given BOCs substantial leeway with respect to the evidence they present to satisfy the checklist. Although the FCC orders have provided guidance on which types of evidence it finds more persuasive, the FCC has stated that "we reiterate that we remain open to approving an application based on other types of evidence if a BOC can persuade us that such evidence demonstrates nondiscriminatory treatment and other aspects of the statutory requirements." *Texas Order*, ¶ 53. In past orders the FCC has encouraged BOCs to provide performance data in their section 271 applications to demonstrate that they are providing nondiscriminatory access to unbundled network elements to requesting carriers. The FCC has concluded that the most probative evidence that a BOC is providing nondiscriminatory access is evidence of actual commercial usage. Performance measurements are an especially effective means of providing evidence of the quality and timeliness of the access provided by a BOC to requesting carriers. Staff notes in this regard that BellSouth has provided substantial performance data in support of its renewed application.

The FCC has placed special reliance on the findings of state commissions, which, like this Commission, that have established a collaborative process through which they have developed, in conjunction with the incumbent and competing carriers, (1) a set of measures, or metrics, for reporting of performance in various areas and (2) performance standards for certain functions, typically where there can be no comparable measure based on the incumbent LEC's retail performance. The FCC has strongly encouraged this type of process, because it allows the technical details that determine how the metrics are defined and measured to be worked out with the participation of all concerned parties. *Texas Order*, ¶54.

In determining whether BellSouth has satisfied each element of the competitive checklist, Staff relies in large part on performance data collected and submitted by BellSouth. Staff notes that in Docket U-22252-C, the Commission issued its May 14, 2001 General Order in which it clarified existing measures, added new measures and adopted a self executing enforcement plan. Within 45 days of this Order, or June 28, 2001, BellSouth was ordered to file a revised Service Quality Measurements document that incorporates the changes ordered by the Commission, together with a Self-Effectuating Enforcement Mechanism (SEEM) plan which incorporates the Commission's Order. Further, as provided in the Commission's Order, the Commission shall conduct a detailed review of the performance measurements and penalty plan approximately seven and one-half (7 ½) months from the date of the Order.

BellSouth is taking actions to come into compliance with the Commission's Order, and made its compliance filings on June 28, 2001. In its comments to Staff's proposed recommendation, Staff instructed BellSouth to comment upon the current status of its efforts to comply with the reporting requirements of this Commission's May 14, 2001 General Order within the timeframes and in the manner as stated in the Order. In response, BellSouth stated that with some minor exceptions, BellSouth's compliance is on track. *See BellSouth Comments*, pp. 21-22. Staff finds BellSouth's level of compliance acceptable and requests that BellSouth continue to inform the Commission of any additional compliance issues that may arise.

Additionally, and at its July 25, 2001, Business and Executive Meeting, the Commission voted to retain Acadian Consulting to conduct the six-month review. Staff intends to commence that review immediately by (1) seeking comment on BellSouth's compliance filings and (2) reviewing, with the input of the parties, the monitoring data BellSouth has been ordered to file concerning remedies paid by BellSouth under the May 14, 2001 General Order.

BellSouth has been filing performance data with the Commission since the Commission's June 17, 1998 interim adoption of the original SQMs. This performance data does not, however, contain the level of detail nor is it as comprehensive as the data that is required in order to make a *prima facie* case of compliance with the FCC. In order to address this inadequacy, BellSouth has developed and submitted in this proceeding performance data that is in a format familiar to both the FCC and Department of Justice ("DOJ"), the "FCC Format," that is based upon the SQM set forth by the Georgia Public Service Commission in its Order in Docket 7892-U. See April 20, 2001 Varner Affidavit, ¶12. According to BellSouth, the FCC format that utilizes Georgia's SQM "substantially comports" with the revised SQM that BellSouth is implementing in response to this Commission's latest order in Docket U-22252-C. *Id.* Indeed, Staff believes that the final SQM ordered by the Georgia Commission was based in large part on the Initial Recommendation issued by Staff in Docket No. U-22252-C in June of 2000.

It is Staff's opinion that the data presented by BellSouth in the FCC format is at least as detailed and complete as that ordered by this Commission and adequate for use in this proceeding. None of the intervenors have made any serious challenge to BellSouth's use of performance data in the FCC format utilizing Georgia's SQM, except to re-urge the same claims that were presented and rejected in Docket U-22252-C. For these reasons, the Staff adopts and will review for purposes of this proceeding BellSouth's performance data in the FCC format, utilizing the Georgia ordered SQM. See Texas Order, ¶56 ("in making our evaluation we will examine whether the state commission has adopted a retail analogue or a benchmark to measure BOC performance and then review the particular level of performance the state has required.").<sup>5</sup>

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<sup>5</sup> Notwithstanding its use of the FCC format herein, Staff fully expects the Louisiana SQM Reports to be revised and implemented as ordered by this Commission, and will review such filings for compliance as they are filed.

Several parties challenge the validity of certain data submitted by BellSouth, however, including performance data collected and reported pursuant to the performance measurements developed under the auspices of the Louisiana and Georgia Commissions. At least one commentator argues that this Commission should wait until BellSouth's performance data is audited before finding checklist compliance. Staff rejects this contention. Staff firmly believes that BellSouth's performance data should be audited, and indeed this Commission has ordered an annual audit for the next five (5) years. The first such audit is underway. See July 16, 2001 correspondence attached hereto as Exhibit "B." Staff does not believe that this Commission should delay resolution of this proceeding pending the outcome of the audit, which is intended as a safeguard to ensure data integrity going forward.

Staff notes that the FCC has previously rejected the contention that a BOC's data are generally invalid because they have not been audited, and thus cannot be relied upon to support its application. The data submitted by BellSouth in this proceeding has been subject to scrutiny and review by interested parties. To a large extent, moreover, the accuracy of the specific performance data relied upon by BellSouth is not contested. Where particular BellSouth data is disputed by commenters, this Commission has sufficient evidence in the record to examine the data collected and submitted by commenters in addition to BellSouth's data. *Texas Order*, ¶57.

The determination of whether a BOC's performance meets the statutory requirements necessarily is a contextual decision based on the totality of the circumstances and information before us. There may be multiple performance measures associated with a particular checklist item, and an apparent disparity in performance for one measure, by itself, may not provide a basis for finding noncompliance with the checklist. Other measures may tell a different story, and provide a more complete picture of the quality of service being provided. Whether Staff is

applying the "substantially same time and manner" standard or the "meaningful opportunity to compete" standard, the FCC has endorsed an approach that allows examination of whether any differences in the measured performance are large enough to be deemed discriminatory under the statute. For this reason, Staff notes the FCC has held that failure of individual performance measurements does not, in itself, warrant denial of this application. *Texas Order*, ¶58.

Of further importance to this proceeding, the FCC has made it clear that not all issues raised by commentators in a 271 application need to be resolved before a finding of checklist compliance can be made. Many such issues are more appropriately resolved in other proceedings. The FCC has stated in this regard that:

There will inevitably be, at any given point in time, a variety of new and unresolved interpretive disputes about the precise content of an ILEC's obligations to its competitors, disputes that our rules have not yet addressed and that do not involve per se violations of self-executing requirements of the Act. Several commentators seek to use this section 271 proceeding as a forum for the mandatory resolution of many such local competition disputes, including disputes on issues of general application that are more appropriately subjects of industry-wide notice-and-comment rulemaking. .... There may be other kinds of statutory proceedings, such as certain complaint proceedings, in which we may bear an obligation to resolve particular interpretive disputes raised by a carrier as a basis for its complaint. But the 271 process simply could not function as Congress intended if we were generally required to resolve all such disputes as a precondition to granting a section 271 application.

*Texas Order*, ¶¶23-24.

In light of the above stated FCC guidelines, Staff will not attempt to address or resolve each and every allegation made by the intervenors in this docket. Many of the issues raised by the intervenors are operational in nature and do not rise to a level of concern that would impact the issue of compliance with a checklist item. Such issues should be addressed and resolved through inter-company meetings or other collaborative processes similar to the workshops already conducted by this Commission or through the arbitration or complaint process

established by this Commission. Indeed, many of the operational type issues raised by intervenors in this proceeding were addressed in the series of informal workshops held by Staff. Further, in most instances, Staff is unable to determine based upon the record before it whether BellSouth or the CLEC or both have caused the problems or issues alleged in this proceeding.

Rather than focus on anecdotal accounts of discrete problems with BellSouth's performance alleged by certain intervenors, Staff believes it more important to review the actual performance data submitted in response to the Commission's orders to determine whether there are in fact any systemic problems that may impede the CLECs' ability to compete in the local market.<sup>6</sup> Further, Staff need not decide issues presently pending in other Commission dockets, including the generic UNE cost docket or individual CLEC arbitrations. Such issues have been briefed and argued more extensively in such dockets and for the most part should ultimately be decided therein.

In response to Staff's Proposed Recommendation, NewSouth Communications Corp. ("NewSouth") requests that the Commission prohibit BellSouth from engaging in so-called "win back" activities for seven (7) days once a customer switches to another local telephone service provider. *See* NewSouth Comments, p. 12. Staff finds NewSouth's request to be entirely appropriate and recommends that the Commission prohibit BellSouth from engaging in any win back activities for 7 days once a customer switches to another local telephone service provider, including (1) prohibiting BellSouth's wholesale divisions from sharing information with its retail divisions, at any time, such as notice that certain end users have requested to switch local service

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<sup>6</sup> Staff notes that both Covad and KMC appear to claim that their CLEC specific performance data is consistently worse than the aggregate data that BellSouth provides. *See* Covad Comments, p. 4, KMC Comments, p.3. Staff invites Covad and KMC to file a complaint with the Commission regarding any such claims. Staff will handle any such complaint on an expedited basis.



providers, and (2) prohibiting BellSouth from including any marketing information in its final bill sent to customers that have switched providers.

### III. TRACK "A" COMPLIANCE:

In this proceeding, BellSouth has elected to pursue compliance with section 271 under Track A. In order to satisfy the requirements of Track A, BellSouth must show that it:

[H]as entered into one or more binding agreements that have been approved under Section 252 specifying the terms and conditions under which the Bell operating company is providing access and interconnection to its network facilities for the network facilities of one or more unaffiliated competing providers of telephone exchange service to residential and business subscribers. Such telephone exchange service may be offered by such competing providers either exclusively over their own telephone exchange service facilities or predominately over their own telephone exchange service facilities in combination with the resale of the telecommunications services of another carrier.

47 U.S.C. § 271(c)(1)(A).

In its *Second Louisiana Order*, the FCC concluded that BellSouth had failed to make a *prima facie* showing that it satisfies the requirements of Track A based on its implemented interconnection agreements with PCS carriers in Louisiana. *Second Louisiana Order*, ¶ 24. In light of its conclusion that BellSouth did not satisfy the requirements of the competitive checklist and section 272, the FCC declined to address whether BellSouth satisfied the requirements of Track A based on its implemented interconnection agreements with competitive wireline LECs. *Id.* at ¶ 48.

In this proceeding, BellSouth has provided evidence that it meets the requirements of Track A based on its implemented interconnection agreements with competitive wireline LECs. Indeed, although various parties question the level of competition described by BellSouth in its filings, *no party challenges BellSouth's compliance with Track A.*

BellSouth has shown that as of January 2001, a total of 64 CLECs were providing local service to more than 208,000 lines in Louisiana. Numerous carriers are currently providing facilities-based service to business and residential customers in Louisiana. Among the dozens of facilities-based CLECs in Louisiana are Adelfia Business Solutions, Advanced Tel, (EATEL) Cox Louisiana Telecom, Centurytel Solutions, Xspedius, Intermedia Communications, ITC^DeltaCom, KMC Telecom, Stratos Telecom, and The Other Phone Company (Access One). Each of these carriers has an approved interconnection agreement with BellSouth, and each provides facilities-based service to either (or both) business and residential customers. See Affidavit of Victor Wakeling, at ¶17, and Exhibit VW-4. Indeed, these carriers alone serve an estimated 57,000 business lines and over 4,000 residential lines on a facilities basis. Although for purposes of Track A BellSouth relies upon all of the carriers identified in the Wakeling affidavit and its attachments and exhibits, these carriers alone establish that BellSouth is providing "access and interconnection" to "unaffiliated competing providers" of facilities-based "telephone exchange service . . . to residential and business subscribers." Therefore, BellSouth meets the requirements of Track A. See 47 U.S.C. § 271(c)(1)(A).

In further support of the level of local competition presently experienced in Louisiana, Staff takes administrative notice of the latest data on local telephone competition released by the FCC on May 21, 2001. The FCC's local competition report found that total lines reported by CLECs grew to 16.4 million (or 8.5%) of the approximately 194 million nationwide local telephone lines, representing a 93% growth in market share over the one-year period of January to December 2000. The FCC's data revealed that as of December 31, 2000, reporting CLECs had garnered 380,947 end-user lines in Louisiana, representing a fourteen percent (14%) market share. This 14% CLEC market share in Louisiana ranked third (3<sup>rd</sup>) in the nation, behind only

New York (at 20%) and Minnesota (at 15%). This same data shows that CLEC market share in Texas, a state previously granted 271 relief, totals only twelve percent (12%) by comparison.

In response to the proposed recommendation, WorldCom claims that Staff "vastly overestimates CLEC market penetration," complaining that "Staff accepts, without analysis, FCC figures purporting to show that CLECs in Louisiana have garnered a 14% market share..." See WorldCom Comments, p. 2. Staff wonders what further analysis need be done to the FCC's own figures. WorldCom certainly offers no clue. Indeed, it is Staff's understanding that these figures were compiled by the FCC using data *self-reported* by CLECs. Staff will certainly concede, however, that no portion of any figures concerning CLEC market share in Louisiana are attributable to WorldCom's efforts. Nevertheless, in its comments WorldCom does not claim that BellSouth has failed to meet the requirements of Track A.

WorldCom also suggests that the Commission delay consideration of BellSouth's application for interLATA relief until after UNE rates have been approved in Docket No. U-24714-A, because it is "impossible for Staff to make a recommendation regarding whether the yet to be approved UNE rates are TELRIC or not. See WorldCom Comments, pp.4-6; see also Sprint Comments, pp.6-7. Staff rejects this contention. Staff has proposed UNE rates in Docket No. U-24714-A that are TELRIC based and compliant with all requirements of the 1996 Act as well as the FCC regulations issued thereunder. In addition, the existing deaveraged rates that were established by stipulated agreements (including WorldCom) are TELRIC based as well.

Indeed, the Department of Justice has previously found the following:

In Louisiana, BellSouth's pricing for unbundled elements is in most respects consistent with the Department's focus on pro-competitive pricing principles.... The Department is satisfied that this method embodies the basic concepts a forward-looking cost-based pricing and is consistent with the Department's competitive standards.

Department of Justice Evaluation, December 10, 1997, p. 23.

**IV. THE COMPETITIVE CHECKLIST:**

**A. Checklist Item No. 1: Interconnection**

Checklist item 1 requires BellSouth to provide “[i]nterconnection in accordance with the requirements of sections 251(c)(2) and 252(d)(i).” See 47 U.S.C. 271(c)(2)(B)(I). Section 251(c)(2) imposes upon incumbent LECs “[t]he duty to provide, for the facilities and equipment of any requesting telecommunications carrier, interconnection with the local exchange carrier’s network...for the transmission and routing of telephone exchange service and exchange access.” See 47 U.S.C. 251(c)(2)(A). Such interconnection must be: (1) provided “at any technically feasible point within the carrier’s network; (2) equal in quality to that provided by the incumbent to itself; and (3) provided on rates, terms and conditions that are just, reasonable, and non-discriminatory in accordance with the terms and conditions of the agreement and the requirements of section 251 and 252. See Second Louisiana Order, ¶61. Technically feasible methods of interconnection include, but are not limited to, physical and virtual collocation at the premises of an ILEC. *Id.* at ¶62. This checklist item generally covers interconnection trunking and collocation, and Staff will address each area.

***1. Nondiscriminatory Access to Interconnection Trunks***

In its *Second Louisiana Order*, the FCC concluded that BellSouth had demonstrated that it has a legal obligation to provide interconnection in accordance with its rules. See *Second Louisiana Order*, fn. 210. BellSouth’s actions and performance are consistent with its previous showing, and nothing material has changed since 1998 that should cause either the FCC or this Commission to reach a different conclusion than it reached in 1998. Moreover, to carry traffic between BellSouth and CLEC locations, BellSouth has provisioned approximately 409,933

interconnection trunks from CLEC's switches to BellSouth's switches as of February 28, 2001 within the BellSouth region. *Milner Affidavit*, ¶ 16.

The FCC also concluded, however, that BellSouth had not made a *prima facie* showing that it was providing interconnection equivalent to the interconnection it provides itself. *Second Louisiana Order*, ¶74. The evidence in this proceeding demonstrates that BellSouth is providing interconnection trunks to CLECs in a manner equivalent to the interconnection it provides to itself. No CLEC that commented in this proceeding seriously contends otherwise. BellSouth follows the same installation process for CLEC interconnection trunks as it does for itself. *Milner Affidavit*, ¶19. To ensure nondiscrimination, BellSouth provisions CLEC trunks using the same equipment, interfaces, technical criteria and service standards that are used for BellSouth's own trunks. *Milner Affidavit*, ¶12.

*a. Trunk Blockage and Delays.* Most of the comments received from CLECs in this proceeding involved issues relating to trunk performance. Both AT&T and NewSouth raise issues relating to trunk blockage and alleged delays in provisioning. Specifically, NewSouth claims that BellSouth does not order and provision interconnection trunks in a timely fashion in accordance with NewSouth's forecasts of need (*NewSouth Comments*, pp. 3-4) and that BellSouth does not do an adequate job in meeting its responsibility to monitor local traffic flow and identify blockages or deflections. (*NewSouth Comments*, pp. 8-11). These issues were raised by NewSouth at the CLEC Collaborative and discussed at length. To assist in resolution of this problem, the parties, including NewSouth, agreed to and did submit fresh trunking forecasts to BellSouth. Further, although AT&T was one of the most outspoken critics of BellSouth's performance in this area, AT&T did admit during the collaborative workshops that it did not forecast any need for trunks in Louisiana over the succeeding six-month period.

Additionally, the parties discussed and reached an informal agreement for appropriate procedures to be implemented by BellSouth before disconnection of interconnection trunks due to underutilization of those trunks. We believe that the discussions and actions taken during the collaborative will go a long way towards resolving any such problems in the future.

Rather than weigh the relative merit of the parties' comments concerning specific or isolated trunking problems, Staff believes that this Commission should review the Louisiana CLEC aggregate performance data reported by BellSouth to evaluate whether BellSouth is providing interconnection equal in quality to that which it provides to itself. An analysis of such data is more probative of BellSouth's compliance with checklist item 1, than individual accounts of past problems that may have already been resolved.

Performance results under the Trunk Group Performance Aggregate Measure (MSS Item C.5.1) show that BellSouth met the approved aggregate benchmark for both April (*See Exhibit AJV-2 dated June 25, 2001, page 19*) and May (*See Exhibit AJV-2 dated July 23, 2001, page 10*) 2001. A review of the results for June (*See Supplemental Exhibit AJV-2, dated August 23, 2001, p. 10*) indicates that BellSouth again met the trunk blocking aggregate benchmark. Further, and from a provisioning standpoint, although BellSouth missed the Order Completion Interval (C.2.1) retail analogue in April (p. 16), it met or exceeded it in May (p. 7) 2001. In June, BellSouth again met the Order Completion Interval (C.2.1). From an ordering perspective, the Reject Interval and FOC Timeliness (C.1.3) benchmarks were missed in April (*See Exhibit AJV-2 dated June 25, 2001, p. 16*), but met due to improvement in May (*See Exhibit AJV-2 dated June 25, 2001, p. 7*). BellSouth again met the Reject Interval (C.1.2) and FOC Timeliness benchmark in June. Additionally, the standard for FOC and Reject Response Completeness was met in May. BellSouth again met the benchmark for FOC and Reject Response Completeness in June.

Finally, the MSS reports for May 2001 indicate that BellSouth met 100% of the maintenance and repair measures ("M&R") after demonstrating that they met 80% (8 out of 10) in April. MSS results for June 2001 indicate that BellSouth again met 100% of the M&R measurements. BellSouth met 17 of 20 (85%) of the measurements within the Local Interconnection Trunks category, which is up from 15 of 19 (79%) in May. Staff finds that such performance supports a finding of checklist compliance on Item No. 1.

*b. Pricing.* This Commission set TELRIC-based rates for interconnection in Docket No. U-22022/22093 pursuant to the 1996 Act. Those rates are being updated by this Commission in Docket No. U-24714-A, which is scheduled to conclude in September of this year.

*c. Miscellaneous Issues.* MCI and SECCA raise issues concerning BellSouth's alleged obligation to deliver at its own expense traffic originated on its network to the point of interconnection selected by the CLEC even if that traffic originates in a BellSouth local calling area different from where the CLEC point of interconnection is established. *Argenbright Affidavit*, pp. 4-8; *Gillan Affidavit*, p. 9. This issue is pending before the Commission in several arbitrations, including the MCI arbitration (Docket No. U-25350), the AT&T arbitration (Docket No. U-25264) and the Sprint arbitration (Docket No. U-25373). Staff believes that this issue is most appropriately resolved in the pending arbitrations. Further, apparently the FCC does not believe this issue to be critical to a 271 proceeding, given the fact that it has not required other ILECs to assume this obligation in other 271 proceedings. Moreover, Staff notes that Sprint has recently advised the Commission by letter dated July 11, 2001 that this issue has been resolved between BellSouth and Sprint and that AT&T has recently advised the Commission by letter dated July 25, 2001 that this issue has been resolved between BellSouth and AT&T. In response

to Staff's request BellSouth filed into the record of this proceeding the terms and conditions of the interconnection agreement that incorporate the resolution of this issue with Sprint and AT&T. See BellSouth Comments, Exh. "A".

WorldCom also argues that WorldCom should not be required to segregate local, intraLATA toll and transit traffic into separate trunk groups (*Argenbright Affidavit*, pp. 4-8); that BellSouth inappropriately requires CLECs that are providing terminating access service for IXCs to route calls to access tandems (*Argenbright Affidavit*, pp. 10-12); and that BellSouth should provide and use 2-way trunking at WorldCom's request. Each of these issues is pending in WorldCom's arbitration and Staff believes that they are most appropriately resolved in that proceeding.

## 2. Collocation

The provision of collocation is an essential prerequisite to demonstrating compliance with checklist item 1. The FCC concluded in the *Second Louisiana Order* that BellSouth "fails to make a *prima facie* showing that it can provide collocation on terms and conditions that are 'just, reasonable, and nondiscriminatory' in accordance with section 251(c)(6)." *Second Louisiana Order* at ¶65. In its second filing at the FCC, BellSouth relied on its SGAT, which referred to terms and conditions incorporated into a BellSouth Collocation Handbook. The FCC concluded that this showing failed to demonstrate *legally binding* terms and conditions for collocation, including binding provisioning intervals. *Id.* at ¶66-72. In addition, the FCC questioned the reasonableness of BellSouth's non-binding provisioning intervals. It is Staff's opinion that both of these concerns have been adequately addressed.

a. *Legally Binding Terms and Conditions.* Staff believes that BellSouth has clearly demonstrated herein that it provides legally binding terms and conditions for collocations.



BellSouth provides physical and virtual collocation consistent with Sections 271 and 251 of the Act and with the FCC's Orders in legally binding interconnection agreements. *See* Interconnection Agreement Between BellSouth and Stratos Telecom, Inc., Att. 4, BellSouth's Original Comments. In addition, BellSouth has filed a collocation tariff setting forth legally binding terms and conditions. *Louisiana Access Services Tariff*, Section E20 (approved December 13, 2000). BellSouth's SGAT filed in this proceeding also incorporates these same terms and conditions. AT&T witness Turner alleges that BellSouth can use its Collocation Handbook to unilaterally alter the terms and conditions of interconnection agreements and the collocation tariff. Staff disagrees. The terms and conditions of the parties' interconnection agreements or the collocation tariff control BellSouth's provision of collocation and if AT&T or any other party believes that BellSouth has violated those terms and conditions, appropriate enforcement action should be taken.

*b. Binding Intervals.* Further, this Commission has adopted binding provisioning intervals for collocation and established appropriate benchmarks. Specifically, the Commission ordered an Average Response Time Measure and benchmark of 95% within 10 calendar days for space availability and 95% within 30 calendar days for a full price quote. *See* General Order, p. 10, October 9, 2000, Docket U-22252-C. It also ordered an initial Average Arrangement Time measure and benchmark for normal physical and virtual collocation arrangements of 120 calendar days; and for extraordinary arrangements, 180 calendar days. After a period of six months (or effective April 9, 2001), the benchmarks were increased to 95% within 90 calendar days for ordinary physical and virtual arrangements and 95% within 120 calendar days for extraordinary arrangements. On March 15, 2001, BellSouth filed a modification to its

collocation tariff to shorten its provisioning intervals as specified in the General Order, to be effective on April 9, 2001.

BellSouth's performance data indicates that it is meeting the Commission's ordered benchmarks. As contained in the three separate collocation reports (E.1.1.1 through E.1.3.2):

1) Average Response Time, 2) Average Arrangement Time and 3) Percent Due Dates Missed, BellSouth met the approved benchmarks for 5 of the 6 sub-metrics with CLEC activity in April (p. 14) (83.3% of all measures) and met all 9 in May (p. 5) (100% of all measures). In June, BellSouth again met all (100%) measurements within the collocation category.

WorldCom witness Bomer notes that this Commission has directed Staff to consider a separate interval for cageless physical collocation in its October 9, 2000 General Order. Staff has received comments from all interested parties on this issue.

BellSouth's position is that the presence or absence of a cage is not a driving factor in the time needed to provision a collocation arrangement and that the interval for cageless physical collocation should be the same as for caged collocation. CLECs generally contend that the interval should be 60 days. Staff recommends that the provisioning interval for cageless collocation should be 60 calendar days for ordinary arrangements and 90 calendar days for extraordinary arrangements. Such intervals shall run from date of firm order. The terms "ordinary" and "extraordinary" shall have the same meaning as is ascribed to them in General Order dated October 9, 2000. CLECs are encouraged to provide BellSouth forecasts, but are not required to do so. Finally, Staff recommends that BellSouth be permitted to file for waiver of the applicable benchmarks in appropriate circumstances.

c. *Pricing* AT&T, MCI, Xspedius, and NewSouth all raise concerns about BellSouth's collocation rate elements, including particularly its security and power costs.

BellSouth offers rates for collocation that it contends are based on TELRIC methodology. These rates are contained in Attachment A to BellSouth's SGAT and in BellSouth's interconnection agreements. *See* Stratos Agmnt., Att. 4, BellSouth's Original Comments. BellSouth's rates are subject to true-up after this Commission's resolution of Docket No. U-24714-A, which this Commission expects to resolve in September of 2001. Staff notes that AT&T and MCI are parties to that cost proceeding, although Xspedius and New South elected not to participate. Staff believes that Docket No. U-24714-A is the appropriate forum for resolution of these issues.

However, the Staff does find it necessary to address the issue of whether CLEC security costs should be allocated on a per head basis or square footage basis. This issue is being addressed in this proceeding because the Staff did not address this issue in the cost proceeding. Based upon the evidence presented, Staff recommends that the Commission direct BellSouth to allocate CLEC security costs on a square footage basis.

In its Proposed Recommendation, Staff directed BellSouth to "find a way to allow CLECs to purchase smaller units of power (i.e., amps)." *Staff Proposed Recommendation, p. 30.* In response, BellSouth states that it "already allows CLECs options that include purchases of power in very small units." *BellSouth Comments, p. 7.* Specifically, BellSouth states that it offers CLECS three options for ordering power to a collocation arrangement. First, a CLEC may request power from BellSouth's Battery Distribution Fuse Bay ("BDFB") in power increments that range as low as 10 amps up to 60 amps, or any combination thereof, to each piece of equipment in its collocation space. BellSouth states that this is by far the most common means by which CLECs request power for their collocation arrangements. *Id.* Second, a CLEC may install its own BDFB in its collocation space and request power from BellSouth's BDFB in increments that range from 10 to 60 amps. Third, a CLEC may install its own BDFB inside its

collocation space and order power directly from BellSouth's main power board. A standard 225 amp power feed is required in this scenario to connect the CLEC's BDFB with BellSouth's main power board. BellSouth claims, and Staff agrees, that the use of the standard 225 amp power feed is necessary to comply with specific National Electric Safety Code requirements for electrical system coordination (Article 240-12). *Id.* at p.8.

Given that BellSouth allows CLECs to purchase power in increments of as little as 10 amps, Staff recommends that the Commission find BellSouth's collocation power options to be appropriate. It is unclear why a CLEC would elect to obtain power directly from BellSouth's main power board at a minimum of 225 amps, if the CLEC's equipment will actually use substantially less power. Any CLEC that is currently purchasing 225 amps directly from BellSouth's main power board has the option of reconfiguring such power in order to purchase smaller increments from BellSouth's BDFB. Where a CLEC decides to reconfigure its collocation power so as to purchase smaller increments of power from BellSouth's BDFB, it is Staff's opinion that the CLEC should submit an application to BellSouth regarding such reconfiguration and BellSouth should be ordered to respond to the application and permit the conversion within seven (7) calendar days. Staff further recommends that BellSouth waive any application fee or charges that are otherwise due to accomplish this conversion. The actual work to accomplish the conversion would be performed by a certified vendor hired by the CLEC. Such work should include removal of the cabling between the CLECs BDFB and BellSouth's main power board. Further, the CLEC must follow applicable National Electric Safety Code standards for running power to BellSouth's BDFB.

Further, Staff recommends that the Commission order BellSouth to provide CLECs with an additional option by allowing CLECs to purchase power directly from an electric utility

company. Under such an option, the CLEC would be responsible for contracting with the electric utility company for their own power feed and meter, and would be financially responsible for purchasing all equipment necessary to accomplish the arrangement, including inverters, batteries, power boards, bus bars, BDFBs, backup power supplies and cabling. The actual work to install this arrangement would be performed by a certified vendor hired by the CLEC. Such CLEC must comply with all applicable safety codes, including the National Electric Safety Codes, in installing this power arrangement. BellSouth shall waive any application fee or charge that would otherwise be due from a CLEC that decides to reconfigure any existing collocation power arrangement so as to purchase power directly from an electric utility company as provided herein.

Staff understands that power costs represent a significant cost to CLECs, and that the FCC has Common Carrier Docket No. 01-140 open to consider issues relating to DC power costs. Staff intends to monitor that proceeding and at its conclusion to consider any reasonable proposals for modification in this area.

*d. Miscellaneous Issues.* WorldCom and AT&T allege that BellSouth does not provide adjacent and shared collocation consistent with the FCC's orders. WorldCom witness Bomer alleges that the FCC's orders require BellSouth to provide DC power to adjacent collocation spaces, and that BellSouth refuses to do so. *Bomer Affidavit*, ¶¶21-25. This is an issue that AT&T witness Jeffrey King also raised in the pending cost docket. Such an issue should have been raised by MCI in its arbitration of a new interconnection agreement with BellSouth in Docket U-25350, rather than this proceeding. Although this issue has been raised in the cost docket, Staff believes it is more appropriately addressed here, and Staff recommends

that BellSouth be required to provide DC power to adjacent collocation sites where technically feasible, as that term has been defined by the FCC.

Mr. Bomer also contends that a CLEC must be permitted to verify BellSouth's assertion that dual entrance facilities are not available. *See* Bomer Affidavit, ¶¶32-36. Nothing in the FCC's rules or this Commission's Orders squarely addresses this issue, which appears to involve the type of "new and unresolved interpretive dispute about the precise content of an ILEC's obligations to its competitors, disputes that [the FCC's rules] have not yet addressed and that do not involve per se violations of self-executing requirements of the Act." *Texas Order*, ¶23. We agree with the FCC that a 271 proceeding is not the appropriate forum for addressing such issues which are better resolved in arbitrations or generic dockets. In this regard, we note that MCI has a pending arbitration before this Commission in which it apparently chose not to arbitrate this issue. We question why MCI should raise an issue in this proceeding that it chose not to raise before this Commission in its arbitration proceeding.

Staff finds that BellSouth meets the requirements of Checklist Item No. 1.

**B. Checklist Item No. 2: Unbundled Network Elements**

Checklist item 2 obligates BellSouth to provide access to UNEs in accordance with the requirements of sections 251(c)(3) and 252(d)(1) of the Act. Sections 251(c)(3) and 252(d)(1) in turn require BellSouth to provide "nondiscriminatory access to network elements" on an "unbundled basis at any technically feasible point" and at "rates, terms and conditions that are just, reasonable, and nondiscriminatory."

The FCC has focused its evaluation of this checklist item on "whether [the BOC] provides access to OSS and to combinations of UNEs in accordance with section 251(c)(3) and

our rules.” See Texas Order, ¶¶ 91-92. The FCC reserves its analysis of specific unbundled network elements for the separate discussions that deal with specific network elements, *i.e.*, unbundled local loops (checklist item 4), unbundled local transport (checklist item 5) and unbundled local switching (checklist item 6). See Second Louisiana Order, ¶¶ 80-84; Texas Order, ¶ 92. As part of its statutory obligation to provide nondiscriminatory access to OSS functions, a BOC must provide access that sufficiently supports each of the three modes of entry envisioned by the 1996 Act – competitor-owned facilities, unbundled network elements, and resale. Texas Order ¶ 93.<sup>7</sup>

The FCC has articulated repeatedly the legal standard by which it evaluates the sufficiency of a BOC's deployment of OSS. First, it must determine whether the BOC has deployed the necessary systems and personnel to provide sufficient access to each of the necessary OSS functions and whether the BOC is adequately assisting CLECs to understand how to implement and use all of the OSS functions available to them. Next, it determines whether the OSS functions that the BOC has deployed are “operationally ready,” as a practical matter. See Second Louisiana Order, ¶85; see also In the Matter of Application by Bell Atlantic New York for Authorization Under Section 271 of the Communications Act to Provide In-Region, InterLATA Service in the State of New York, Memorandum Opinion and Order, 15 FCC Rcd 3953, ¶ 87 (“New York Order”). For OSS functions with a retail analogue, the BOC must provide access that permits CLECs to perform these functions in “substantially the same time and manner” as the BOC.” Second Louisiana Order, ¶87; Texas Order, ¶94. For OSS functions

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<sup>7</sup> The FCC has stated that BellSouth's OSS are themselves a network element that it must unbundle and provide to competing CLECs. In addition, nondiscriminatory access to OSS is crucial to BellSouth's compliance with a number of checklist items, including the requirement that it provide nondiscriminatory access to specific network elements such as local loops, local transport and local switching, as well as the requirement that it provide nondiscriminatory access to resold services. In short, the requirement that BellSouth provide nondiscriminatory access to its OSS pervades the checklist requirements. See Second Louisiana Order, ¶ 84.

without a retail analogue (such as ordering and provisioning of unbundled network elements), the BOC must offer access "sufficient to allow an efficient competitor a meaningful opportunity to compete." *Texas Order*, ¶95. A "meaningful opportunity to compete" is assessed by a review of applicable performance standards. *Second Louisiana Order*, ¶87; *Texas Order*, ¶95.

To meet the legal standard, the FCC has developed a two-step test. Under the first inquiry, a BOC "must demonstrate that it has developed sufficient electronic interfaces (for functions that the BOC accesses electronically) and manual interfaces to allow competing carriers equivalent access to all of the necessary OSS functions." *Texas Order*, ¶97. Evidence of this standard includes the provision of specifications necessary for CLECs to build systems to communicate with the BOC's systems; disclosure of internal business rules and formatting information to ensure the CLEC's orders are processed efficiently; and proof of sufficient capacity to accommodate both current demand and projected demand for competing carrier's access to OSS functions. *Id.*

Under the second part of this test, the FCC examines performance measurements and other evidence of commercial readiness to ascertain whether the BOC's OSS is handling current demand and will be able to handle reasonably foreseeable future volumes. The FCC has repeatedly emphasized in this regard that "[t]he most probative evidence that OSS functions are operationally ready is actual commercial usage." *Second Louisiana Order*, ¶¶86 & 92 ("The most critical aspect of evaluating a BOC's OSS is the actual performance results of commercial usage"); *See also Texas Order*, ¶98; *In the Matter of Joint Application by SBC Communications Inc., Southwestern Bell Telephone Company, and Southwestern Bell Communications Services, Inc. d/b/a Southwestern Bell Long Distance for Provision of In-Region, InterLATA Services in Kansas and Oklahoma*, CC Docket 00-217, Memorandum Opinion and Order, Rel. January 22,



2001, ¶36 (“*Kansas/Oklahoma Order*”). Moreover, the FCC has expressly stated that in assessing operational readiness for Louisiana’s application, BellSouth may rely on commercial usage of its OSS in Louisiana and other states because its OSS “are essentially the same throughout its region.” *Second Louisiana Order*, ¶86; *Kansas/Oklahoma Order*, ¶¶108-9 (evidence that an ILEC’s OSS is the same in several states allows a commission to broaden the scope of its review and look to evidence of an ILEC’s performance in other states). The FCC has stated further:

We note ... that the Commission has adopted the practice of reviewing evidence from other applications and states in previous section 271 proceedings. For instance, in the First Louisiana Order we used our evaluation of BellSouth’s OSS in South Carolina as a “starting point” for our evaluation of its OSS in Louisiana. Furthermore, in the three BellSouth section 271 orders, we found performance measurements covering performance in BellSouth’s entire region to be relevant to our consideration of the individual applications. Such evidence was relevant, we explained, because BellSouth had adequately shown that it used essentially the same OSS throughout its 9-state region.

*Kansas/Oklahoma Order*, ¶38.

In the *Second Louisiana Order*, the FCC found that BellSouth’s second Louisiana application demonstrated “important progress toward meeting the statutory requirements” of checklist item 2. The FCC nevertheless concluded (1) that BellSouth failed to demonstrate that it is providing nondiscriminatory access to the pre-ordering function of OSS; and (2) that the performance measurements indicated that there were serious problems with BellSouth’s ordering interface. See *Second Louisiana Order*, ¶¶91-93.

Consistent with FCC precedent, the most persuasive evidence that BellSouth is performing satisfactorily is information gleaned from actual competitive usage in Louisiana. See, e.g., *Kansas/Oklahoma Order*, ¶105; *New York Order*, ¶89. Such information by itself can

demonstrate that a BOC is providing CLECs a meaningful opportunity to compete. Additionally, that data can be supplemented by carrier-to-carrier testing and a third party audit.

As the Department of Justice has explained, use of third-party data from another state as a further supplement to these other forms of evidence is a "sensible and efficient approach that can avoid the delay and expense of redundant testing." Department of Justice Evaluation at 28, *Kansas/Oklahoma Order*, ¶118. The data could be used as an independent basis for compliance, corroborating evidence or one of two or three other sources of information viewed collectively. It would be fundamentally contrary to the pro-competitive purposes of the 1996 Act to delay long-distance entry -- and tens, if not hundreds, of millions of dollars of consumer benefit -- simply so that another duplicative test of the same systems can be undertaken in Louisiana that would serve the same limited purpose.

In this instance, moreover, this Commission should be particularly confident about the integrity and reliability of the Georgia test of the operational systems that serve Louisiana. That test was both broad and extremely thorough, including some 1171 measures of performance; it involved a military style "test until you pass" philosophy; it was blind to the extent reasonably possible; and it was conducted by a highly regarded and independent firm under the auspices of the Georgia Commission. See Stacy Affidavit, ¶10; Varner Affidavit, ¶ 10; *New York Order*, ¶¶ 96-100 (relying on similar factors in finding a third-party test persuasive). Staff has also been given an extensive opportunity to evaluate this test and confirm its reliability.

Of course, for the Georgia test, as well as other state data, to be relevant, BellSouth's processes and systems must be the "same," as that word is used in this context. The FCC has determined that, as to electronic OSS processes, a BOC may demonstrate "sameness" by showing that CLECs either use the identical system across different states or that CLECs use

separate systems that “reasonably can be expected to behave the same way.” *Kansas/Oklahoma Order*, ¶111. As to manual processes, the FCC has emphasized evidence showing that those components operate pursuant to a common organizational structure, common methods and procedures, and common training. *See Id.* ¶113. As discussed and found above, BellSouth has made precisely those showings in these cases.

Staff finds that, in addition to the FCC’s prior findings in this regard, BellSouth has provided substantial evidence in this proceeding either that there is a shared use of a single OSS, or, it relies in part on separate systems, that the OSS can be reasonably expected to behave the same in all states. *Kansas/Oklahoma Order*, ¶¶110-116.

Where the systems are separate, BellSouth must demonstrate that its OSS reasonably can be expected to behave the same way in all three states. BellSouth meets each of these criteria. BellSouth has a single set of OSS that operate on a region-wide basis. *Stacy Affidavit*, ¶309; *Ainsworth Affidavit*, ¶¶ 4-25; *Scollard Affidavit*, ¶ 39; *Heartley Affidavit*, ¶ 4. There is a common set of processes, business rules, interfaces, systems and personnel throughout all nine states. *Id.* All electronic interfaces used by the CLECs to access BellSouth’s OSS are the same throughout the region – there is only one LENS, EDI, TAG, RoboTAG™, TAFI and ECTA. *Stacy Affidavit*, ¶ 305. For manual work in the centers, work is divided by CLEC account and product type. The work is not divided or handled according to the state in which the ordered service is to be provided. *Ainsworth Affidavit*, ¶ 10. For the provisioning and maintenance and repair, the personnel involved in these functions are trained in such a way that they will generally do their jobs in the same manner throughout the region. *Heartley Affidavit*, ¶ 4. There are common centers that coordinate the field work activities for CLEC orders, and the field personnel involved in these functions access the same systems and utilize the same processes in

all states. *See e.g.* Heartley Affidavit, ¶ 9. Moreover, there is a common organizational structure for these functions. *Id.* at ¶8. Finally, BellSouth has provided the Commission with an attestation by PricewaterhouseCoopers, LLP of the regionality of BellSouth's OSS. *See* Stacy Reply Affidavit, ¶272, Exhibits OSS-82 and OSS-83. As Mr. Stacy stated, this attestation represents the highest level of assurance that can be provided on an assertion and results in an opinion on the part of PwC that the assertions presented are fairly stated in all material respects. *Stacy Reply Affidavit*, ¶271. In Staff's opinion, this attestation tends to support the accuracy of BellSouth's claim to operate its OSS on a region-wide basis.

In contrast, AT&T claims that for purposes of establishing regionality, the FCC permits a state to rely only on data from another state that has received section 271 approval by the FCC and that no BellSouth state has received such approval. *Bradburry Affidavit*, ¶27. In contrast, BellSouth argues, and Staff agrees, that the fact that neither the Georgia Commission nor the FCC has ruled in the Georgia proceeding is irrelevant to whether the evidence in the record of this proceeding shows that BellSouth's OSS are regional. *See Cox Reply Affidavit*, ¶10. It is Staff's considered opinion that the best evidence of nondiscriminatory access to BellSouth's OSS is actual commercial usage in Louisiana. This Commission may look to the Georgia test if it believes that evidence in addition to commercial usage of OSS in Louisiana is necessary. Thus, this Commission can rely upon evidence of the Georgia test and performance where commercial volumes may not exist in Louisiana.

AT&T also claims that if the performance from state to state are different, then the processes must be different as well. *Bradburry Affidavit*, ¶¶35-37. Staff rejects this contention. AT&T's argument ignores the fact that numerous other factors beyond BellSouth's control and unrelated to the actual OSS processes can cause differences in overall performance from state to

state. Such other factors may include the weather, topology or local regulations governing such processes as excavation. *See* Heartley Affidavit, ¶¶32-36; Heartley Reply Affidavit, ¶5.

AT&T also claims that preordering and ordering performance is not the same from state to state because BellSouth's legacy systems are not the same. *Bradbury Affidavit*, ¶¶40-42. Further, AT&T claims that because organization of network work groups is divided by state, performance data from one state is not an accurate measure of performance in another state. *Id.* at ¶43. Finally, AT&T challenges the "sameness" of BellSouth's billing data since it is derived from eleven (11) different data centers. *Id.* at ¶44.

In response BellSouth states that its legacy systems use a single version of each application, which handled CLEC and BellSouth service orders on a nondiscriminatory basis throughout the nine states in BellSouth's region. While this single version of each legacy application is loaded onto two separate mainframes that are at different locations and serve different areas, those mainframes run the same software systems, and updates of both systems are made within days of each other. *Heartley Affidavit*, ¶22; *Heartley Reply Affidavit*, ¶7. Further, a CLEC in Louisiana uses the same interfaces for access to the same BellSouth OSS as a CLEC in any other state in BellSouth's region. "There is only one TAG, RoboTAG, EDI, LENS, TAFI, ECTA, ODUF, EODUF, and ADUF." *Stacy Reply Affidavit*, ¶281.

Regarding the geographic division of workgroups, BellSouth counters that such workgroups are part of the same organizational structure, all report back to the same corporate officer, are managed under the same guidelines, and undergo the same training. *Heartley Affidavit*, ¶¶4-19 & Attachs. AH-1-3; *Heartley Reply Affidavit*, ¶9. Further, BellSouth explains the "sameness" or regionality of its Local Carrier Service Centers (LCSCs) that handle pre-ordering and ordering functions for CLECs. There are three LCSC locations that utilize the same

methods and procedures, including the same physical facilities and the same personnel following the same procedures, for conducting CLEC pre-ordering and ordering functions. *Ainsworth Affidavit*, ¶10.

Finally, BellSouth points out that AT&T's claim regarding 11 separate data centers for billing purposes is simply incorrect. "BellSouth processes all of the information to create bills for CLECs in the same two data centers used to produce bills for retail customers and inter-exchange carriers. These data centers are located in Birmingham, Alabama and Charlotte North Carolina." *Scollard Reply Affidavit*, ¶9. Further, for billing purposes, BellSouth uses the same physical software for processing transactions in Louisiana that it uses in all other BellSouth states. *Id.* at ¶10.

While AT&T goes to great lengths to identify the differences in BellSouth's systems and processes, Staff tentatively determines that BellSouth has refuted such allegations sufficiently for this Commission to confirm the regionality of BellSouth's OSS.

Further, AT&T makes numerous allegations concerning the integrity of the performance data that BellSouth has submitted in this docket. *See Norris Affidavit*. These allegations range from BellSouth's refusal to discuss data issues including refusal to perform root cause analysis (*Norris Affidavit*, pp. 18-24) to claims of missing data or data that is internally inconsistent or irreconcilable. *Norris Affidavit*, pp. 15-16. In response, BellSouth presented testimony to refute each of the allegations made by AT&T. *See, e.g., Varner Affidavit*, ¶¶ 25-85.

It is Staff's opinion at this time that BellSouth has sufficiently refuted, for purposes of this proceeding, AT&T allegations concerning the integrity of the performance data that BellSouth has filed and on which it relies. Contrary to AT&T claims, the performance data does not need to be subjected to a third-party audit before it may be considered in determining

whether a BOC is compliant with a checklist item. Further, many of the issues raised by AT&T were discussed during the workshops held in Docket No. U-22252-C. It was Staff's opinion then and now that such issues should be addressed during the six-month interim review and/or the third party audit. As Staff has previously stated in the proposed recommendation, this Commission has already ordered that BellSouth's performance data be subjected to a third-party audit, which will coincide with BellSouth's filing of performance data pursuant to the SQM ordered by this Commission in its May 14, 2001 General Order.

The KPMG third-party audit will be conducted with input from any and all interested parties. Any issues that AT&T may have will be fully addressed therein. One of the issues that Staff will be considering in the context of the audit will be the extent to which formal data reconciliation procedures should be imposed upon BellSouth to ensure that each CLEC's performance data is complete and accurate.

### ***1. Pre-Ordering***

Pre-ordering is the exchange of information between BellSouth's systems and the CLEC to assist the CLEC in interacting with its end-user customer.<sup>8</sup> Pre-ordering activities enable the CLEC to submit a complete and accurate service request to BellSouth. Commercial usage evidences the fact that CLECs are using BellSouth's pre-ordering interfaces. For example, for January and February 2001, CLECs submitted 688,930 and 933,308 pre-ordering transactions via LENS and TAG, respectively. *Stacy Affidavit*, ¶146.

In the *Second Louisiana Order*, the FCC found that BellSouth did not carry its burden of proving that it provided nondiscriminatory access to OSS pre-ordering functions. "Specifically,

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<sup>8</sup> Pre-ordering generally includes the activities that a carrier undertakes with a customer to gather and verify the information necessary to formulate an accurate order for that customer. It includes the following functions: (1) street address validation; (2) telephone number information; (3) services and features information; (4) due date information; and (5) customer service record information. *See, e.g., Second Louisiana Order*, ¶ 94.

the FCC found certain deficiencies in BellSouth's pre-ordering interfaces, including that CLECs could not integrate pre-ordering and ordering interfaces and a lack of nondiscriminatory access to due dates. Staff addresses these specific allegations below.

a. *Application to Application Interfaces:* The FCC has held that a BOC must provide pre-ordering functionality through an application-to-application interface to enable CLECs to "conduct real-time processing and to integrate pre-ordering and ordering functions in the same manner as the BOC." See *Second Louisiana Order*, ¶105; *Texas Order*, ¶14. The FCC criticized BellSouth for not having an "application-to-application" interface in the *Second Louisiana Order* and because the access BellSouth provided CLECs to pre-ordering function was not integrated, as it is for BellSouth's retail operation, with their access to ordering functions. *Second Louisiana Order*, ¶96.

BellSouth currently offers CLECs in Louisiana their choice of electronic interfaces – Telecommunications Access Gateway ("TAG"), RoboTAG, and Local Exchange Navigation System ("LENS"). These interfaces provide CLECs with real time access to the same pre-ordering databases used by BellSouth's retail representatives.

TAG is BellSouth's pre-ordering application-to-application interface, and it has been made available to CLECs since the *Second Louisiana Order*. TAG, which was developed in response to specific requests from mid-sized and large CLECs, provides a standard Application Programming Interface ("API") to BellSouth's preordering, ordering and provisioning OSS. TAG is based on Common Object Request Broker Architecture ("CORBA"), which is one of the industry protocols for pre-ordering. *Stacy Affidavit*, ¶143.

For CLECs who wish to use TAG for pre-ordering, ordering and provisioning but not to develop and maintain their own TAG interface, BellSouth provides RoboTAG™. RoboTAG



provides a standardized, browser-based interface to the TAG gateway that resides on a CLEC's LAN server, and integrates pre-ordering and ordering with up-front editing. BellSouth made RoboTAG available in November 1999. *Stacy Affidavit*, ¶ 24.

Finally, for those CLECs who have made the business decision not to integrate pre-ordering, ordering and provisioning interfaces with their internal OSS, BellSouth makes available the human-to-machine Local Exchange Navigation System (LENS) interface. LENS is a web-based graphical user interface (GUI). As of January 14, 2000, LENS became a GUI to the TAG gateway. LENS uses TAG's architecture and gateway, and therefore has TAG's pre-ordering functionality for resale services and UNEs, and TAG's ordering functionality for resale services. LENS also uses TAG's ordering functionality for designed and nondesigned unbundled analog loops, digital unbundled loops, and loop/port combinations. *Stacy Affidavit*, ¶ 28.

*b. Integration:* A BOC has "enabled 'successful integration' if competing carriers may, or have been able to, automatically populate information supplied by the BOC's pre-ordering systems onto an order form...that will not be rejected by the BOC's OSS systems." *Texas Order*, ¶152. In accordance with the FCC's requirements, BellSouth provides CLECs with all the requirements necessary for integrating the BellSouth interfaces. A CLEC may integrate ordering and pre-ordering functions by integrating the TAG pre-ordering interface with the EDI ordering interface, or by integrating TAG pre-ordering with TAG ordering. *Stacy Affidavit*, ¶¶ 21-22. CLECs have successfully integrated the TAG pre-ordering interface with the EDI and TAG ordering interfaces based on the specifications provided by BellSouth. BellSouth estimates that 6 CLECs have integrated the TAG pre-ordering interface with the EDI interface and 43 CLECs have integrated TAG pre-ordering with TAG ordering. *Stacy Affidavit*, ¶ 22.

AT&T is the only CLEC that provided specific criticisms of BellSouth's access to pre-ordering functions. AT&T witness Bradbury contends that BellSouth does not provide CLECs with parsed Customer Service Record ("CSR") data, and that it fails to supply data to CLECs in a way that would allow CLECs to parse CSR data themselves. *Bradbury Affidavit*, pp. 26-29. Contrary to AT&T's allegations, BellSouth provides CLECs with the ability to parse information on the CSR using the integrateable machine-to-machine TAG pre-ordering interface. *Stacy Reply Affidavit*, ¶83. Indeed, CLECs are able to parse the information to the same level as BellSouth does for itself and CLECs can decide to do additional parsing of information by performing additional programming on their side of the interface. *Id.*

In response to Staff's proposed recommendation, both AT&T and WorldCom submitted comments concerning their ability to parse CSR data. *See AT&T Comments*, p. 22; *WorldCom Comments*, p.9. It is Staff's understanding that fully parsed CSR functionality is pending in BellSouth's Change Control Process and is scheduled to be implemented by January, 2002. Staff recommends that the Commission ensure that such implementation takes place on January 31, 2002 by instructing Staff to develop in Docket No. U-22252-C a recommended monetary penalty to ensure that the implementation of fully parsed CSR data functionality occurs as scheduled. Such penalties should take effect only after BellSouth has obtained FCC approval to offer interLATA service in Louisiana. Such a penalty should ensure that BellSouth implements this functionality even after receiving interLATA relief.

Staff finds that BellSouth is in compliance with the FCC's requirements by providing CLECs with the same CSR data stream that it provides to its own retail units.

*c. Access to Due Dates:* In the *Second Louisiana Order*, the FCC held that BellSouth failed to provide parity in access to due dates because of delays in returning firm order

confirmations (FOCs) to the CLECs. *Second Louisiana Order*, ¶¶104-105. To address this issue, BellSouth has provided the Commission with performance data in the FCC data format demonstrating that it met the applicable benchmarks for returning firm order confirmations (electronic, partially mechanized, and manual) in both April and May of 2001. See Supplemental Exhibit AJV-2, pp. 16-17.

The FCC also expressed an intent to examine BellSouth's automatic due date calculation capability in any future application. *Second Louisiana Order*, ¶106. BellSouth now provides an automatic due date calculation functionality in LENS and TAG. *Stacy Affidavit*, ¶155.

AT&T is the only commentator that raised concerns about BellSouth's access to due dates. AT&T claims that the due date calculator provides the wrong date and that for some products, no due date is calculated. *Bradbury Affidavit*, ¶¶30-31. In response, BellSouth states that it has encountered problems with its release of functionality for the calculation of due dates for resale services that did not require dispatches and for SL1 loops with LNP and SL2 loops with LNP. BellSouth further stated that it is working swiftly to "fix those problems." *Stacy Reply Affidavit*, ¶74. In its proposed recommendation, Staff instructed BellSouth to inform it of the status of its efforts to resolve any problems associated with the above described release. Further, BellSouth has explained the situations in which no due date is calculated. *Id.* at ¶75. Staff instructed BellSouth to provide further comment regarding why no due date can be calculated in such situations and/or whether there exists any system change that could provide such due date information to CLECs. BellSouth provided detailed responses to Staff's inquires. See BellSouth Comments, pp.11-12. Staff is satisfied that BellSouth is adequately addressing the issues concerning due date calculations and does not believe intervention in this area is presently warranted.

Additionally, AT&T witness makes various allegations regarding the adequacy and completeness of response times and the measurements used to measure responses. *Bradbury Affidavit*, pp. 29-31. Staff is satisfied that the performance measures adopted in this area are appropriate. See General Order dated May 14, 2001. Moreover, an analysis of the sub-metrics associated with the two subcategories (Pre-Ordering and Maintenance & Repair) within OSS indicates that BellSouth exhibited strong overall OSS performance in both April and May by meeting 82.7% (67 of 81) of the measurements with CLEC activity in April and 91.5% (75 of 82) in May. In June, BellSouth met 90.4% (75 of 83) of all OSS category measurements with CLEC activity. Relative to the Pre-Ordering portion, BellSouth demonstrated exceptional performance by meeting 87.2% (34 of 39) of measurements with CLEC activity in April and improving to 95% (38 of 40) in May. Relative to Pre-Ordering, BellSouth continued exceptional performance by meeting 95% (38 of 40) of the measurements. Relative to the Maintenance & Repair portion, BellSouth improved its results from 78.6% (33 of 42) of measurements met in April to 88.1% (37 of 42) met in May. In June, BellSouth's performance in this subcategory dropped slightly to 83.8% (31 of 37) of the measurements. Staff believes that BellSouth has demonstrated strong performance in this area.

*d. xDSL – Capable Loops:* For pre-ordering of xDSL-capable loops, BellSouth offers CLECs nondiscriminatory access to actual loop make-up information (“LMU”) through electronic<sup>9</sup> and manual processes. *Latham Affidavit*, ¶ 28-30; *Stacy Affidavit*, ¶ 166-171; see also *SWBT-KA/OK Order*, ¶ 122; *SWBT-TX Order*, ¶ 165. Manual loop qualification is available when BellSouth's electronic records do not have LMU for a particular loop. *Latham Affidavit*, ¶ 28. The loop make-up process provides CLECs with access to detailed information

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<sup>9</sup> Electronic access to loop make-up information is available through the TAG pre-ordering interface and the LENS interface.

regarding the suitability of particular loops for xDSL services, including loop length, cable length by gauge, quantity of load coils, location of load coils, quantity of bridged tap, and location of bridged tap. *Latham Affidavit*, ¶28; *Stacy Affidavit*, ¶169. Loop make-up information is contained in the Loop Facility Assignment and Control System (LFACS).

This Commission recently adopted a performance measure for access to Loop make-up information, Loop Make-up Inquiry (Manual and Electronic). These two categories contain one measurement each at the state level and are listed in BellSouth's MSS Report under General – Pre-Ordering. The results were 1 of 1 in April and 1 of 2 in May (with the one miss based on 1 CLEC activity in May). There was no CLEC activity in June relative to Item F.2.11, General Pre-Ordering. Staff will continue to monitor performance in this area.

In addition, BellSouth also offers its Loop Qualification System (LQS) to Network Service Providers to enable them to inquire as to whether POTS lines will carry BellSouth's wholesale ADSL service. While the information is not guaranteed, CLECs also have electronic access to LQS to enable them to obtain certain loop qualification information that they can use to provide whatever type of xDSL service they desire. *Stacy Affidavit*, ¶ 172. LQS provides the CLEC with an unguaranteed response as to whether an existing telephone number is served by a loop that will support ADSL service. *Id.*

BellSouth represents that CLECs have access to the same information as BellSouth's retail operations, in the same manner and within the same time frames. *Latham Affidavit*, ¶ 28; *Stacy Affidavit*, ¶ 166. Further, in February 2001, CLECs made 4,556 electronic queries for LMU. Of those queries, 99.93% were answered within 5 minutes. Although BellSouth's performance in this area is particularly noteworthy, the requirements imposed by the FCC regarding access to LMU data are much broader than that claimed by BellSouth. Although

BellSouth may provide to CLECs the same LMU data that BellSouth's retail operations utilize, BellSouth is required to provide *all* LMU data that exists anywhere in BellSouth's systems or files, regardless of whether its retail unit can or cannot utilize the data:

426. ...[T]he preordering function includes access to loop qualification information. Loop qualification information identifies the physical attributes of the loop plant (such as loop length, the presence of analog load coils and bridge taps, and the presence and type of Digital Loop Carrier) that enable carriers to determine whether the loop is capable of supporting xDSL and other advanced technologies. ...

427. We clarify that pursuant to our existing rules, an incumbent LEC must provide the requesting carrier with nondiscriminatory access to the same detailed information about the loop that is available to the incumbent, so that the requesting carrier can make an independent judgment about whether the loop is capable of supporting the advanced services equipment the requesting carrier intends to install. Based on these existing obligations, we conclude that, at a minimum, incumbent LECs must provide requesting carriers the same underlying information that the incumbent LEC has in any of its own databases or other internal records. For example, the incumbent LEC must provide to requesting carriers the following: (1) the composition of the loop material, including, but not limited to, fiber optics, copper; (2) the existence, location and type of any electronic or other equipment on the loop, including but not limited to, digital loop carrier or other remote concentration devices, feeder/distribution interfaces, bridge taps, load coils, pair-gain devices, disturbers in the same or adjacent binder groups; (3) the loop length, including the length and location of each type of transmission media; (4) the wire gauge(s) of the loop; and (5) the electrical parameters of the loop, which may determine the suitability of the loop for various technologies. Consistent with our nondiscriminatory access obligations, the incumbent LEC must provide loop qualification information based, for example, on an individual address or zip code of the end user in a particular wire center, NXX code, or on any other basis that the incumbent provides such information to itself.

428. In addition, we agree with Covad that an incumbent LEC should not be permitted to deny a requesting carrier access to loop qualification information for particular customers simply because the incumbent is not providing xDSL or other services from a particular end office. We also agree with commenters that an incumbent must provide access to the underlying loop information and may not filter or digest such information to provide only that information that is useful in the provision of a particular type of xDSL that the incumbent chooses to offer.

In its proposed recommendation, Staff instructed BellSouth to confirm through an affiant that it provides CLECs with access to all LMU data on loops existing within the state of Louisiana and the manner and processes by which CLECs can access such data. Staff noted that issues concerning the availability of LMU data, as well as the appropriate cost-based rates for access to such data is presently pending in Docket U-24714-A. *See Proposed Recommendation*, p.47. In response BellSouth did confirm through an affiant that it provides access to all loop makeup data in Louisiana. If BellSouth has electronic access to such information, it provides CLECs electronic access as well. All other such information is available via the manual loop makeup process. *See BellSouth comments*, p. 12; *Stacey Affidavit*, ¶¶ 19-32. With this additional information, Staff is satisfied that BellSouth meets the FCC's requirements regarding availability of loop makeup data.

On page 5 of its comments, Sprint claims that permitting BellSouth to file an affidavit to address Staff's issues regarding the availability of loop make up data to CLECs raises a "serious due process issue." Staff certainly did not intend to deny any party the opportunity to comment regarding any of BellSouth's filings. Indeed, throughout this proceeding, Staff has been receptive to reasonable requests for leave to file comments. Further, Sprint did not make any claims regarding this issue prior to Staff issuing its proposed recommendation. Finally, given that BellSouth carries the burden of proof regarding compliance with all requirements of section 271 of the 1996 Act, it is appropriate that it should be given full opportunity to comment.

Nevertheless, Sprint does provide certain comments regarding BellSouth's procedures for providing loop makeup data that warrants a response from Staff. First, Sprint claims that the "LFACS database is currently inadequate because all BellSouth locations are not completely loaded into the database." *Sprint Comments*, p.6. Contrary to Sprint's claims, BellSouth is not

required to load all loop makeup data into an electronic database. Rather, BellSouth must provide electronic access to all such data that is available electronically. In this proceeding, BellSouth has shown that it does. Further, Sprint claims that there is no reliable or efficient means to obtain the FRN/RESID electronically from BellSouth. *Id.* This appears to be a new issue Sprint is raising but does not appear to rise to the level of affecting compliance with any checklist item. Staff requests that Sprint raise this issue in an arbitration or complaint proceeding so that a more complete record can be developed prior to any resolution by the Commission.

## **2. Ordering Functions**

Ordering and provisioning are the processes whereby a CLEC requests facilities or services from BellSouth and then receives information, such as a reject or a confirmation that the order has been accepted. 47 U.S.C. §51.5. In general, in evaluating this item, the FCC looks primarily at the applicant's ability to return order confirmation notices, order reject notices, order completion notices and jeopardizes and its order flow through rate. *Kansas/Oklahoma*, ¶135. In the *Second Louisiana Order*, the FCC found that BellSouth failed to provide CLECs with timely access to order rejection notices, average installation intervals, order completion notices, and order jeopardy notices. *Second Louisiana Order*, ¶117. In addition, it criticized BellSouth's flow through data.

In reviewing BellSouth's performance data concerning access to OSS, as well as other checklist items, Staff is cognizant of the guidelines and framework that the FCC has established for reviewing such data:

We emphasize that we generally look at the totality of the circumstances in analyzing the OSS ordering functions. Performance disparity in one measurement or submeasurement is unlikely to result in a finding of checklist noncompliance, unless the disparity is dramatic, or absent additional evidence of competitive impact. We review each individual measurement as one part of a larger picture that informs our determination of checklist compliance or non-compliance.



*Kansas/Oklahoma Order*, ¶136. Indeed, the FCC has recognized that it is simply unrealistic and, indeed, unfair to require a BOC to meet all of the measurements all of the time:

We find that SWBT's overall performance meets the checklist requirements, even though some performance measurements indicate isolated problems for some types of unbundled loops. As explained below, we believe that the marginal disparities in some measurements are not competitively significant and do not show signs of systemic discrimination. Instead of faulting a BOC's showing for [a] checklist item, we believe such performance issues are better addressed through Performance Assurance Plan, targeted enforcement action, or carrier-initiated complaints under the Act or an interconnection agreement.

*Kansas/Oklahoma Order*, ¶181. In light of this framework, Staff will review BellSouth's performance data.

As Staff has previously noted, it will rely upon the performance data presented by BellSouth in this proceeding to determine whether BellSouth complies with the various requirements of Section 271 of the Act. An overall review of the UNE measures for Ordering, Provisioning, Maintenance and Repair and Billing indicates that BellSouth met the benchmark or retail analog for 84% and 81% of the measures during April and May 2001, respectively. While we believe this overall performance suffices for purposes of checklist compliance, Staff recommends that the Commission also direct BellSouth to work to improve its performance in certain areas. Staff believes that such improvement will occur as the result of implementation of the SEEMs plan set forth in the May 14, 2001 General Order, which Staff understands will apply to July performance data and going forward. Staff intends to closely monitor results in all categories during the 6-month review process in Docket No. 22252-C. Staff will pay particular attention to results in particular in certain categories, as discussed below and, in the event there is no improvement, Staff will consider and recommend further action. These categories include:

- Order Completion Interval (Resale and UNE-Provisioning)
- Reject Interval – Mechanized (Resale and UNE-Ordering)
- FOC & Reject Response Completeness – Mechanized (Resale and UNE-Ordering)
- FOC & Reject Response Completeness - Partially Mechanized (Resale and UNE-Ordering)
- % Flow Through Service Requests (General)
- For the UNE Loop/Port Combo product, also the % Provisioning Troubles within 30 Days and Average Completion Notice Interval
- For the xDSL product, also % Repeat Troubles within 30 Days

In its Proposed Recommendation, Staff directed BellSouth to provide its strategy for improving performance in the next three months in these categories. In response, BellSouth provided further information regarding improving performance on these measurements. See BellSouth Comments, pp. 12 et seq. This Commission will continue to review subsequent performance data in these areas during the six-month review of the SQPM Plan and, if necessary, take action prior to the conclusion of that review.

*a. Order Confirmation Notices (FOCs):* According to the MSS Reports, BellSouth met or exceeded the benchmarks for FOC Timeliness in all three categories: electronic, partially mechanized and manual. See Supplemental Exhibit AJV-2, pp. 16-17. Relative to FOC Timeliness, BellSouth met 21 of 22 benchmarks in April (See Supplemental Exhibit AJV-2, p. 23) (95.4% of the measures) and 24 of 27 of the measurements in May (See Supplemental Exhibit AJV-2, p. 17) with CLEC activity (88.9% of the measures). In June, BellSouth met 92.6% (25 of 27) of the benchmarks within all three categories of FOC timeliness (UNE/ordering). Staff commends BellSouth for this performance and expects to see it continue.

b. *Order Rejection Notices:* For the reject intervals measure in the months of April and May, BellSouth exceeded all benchmarks for partially mechanized and manual UNE orders (14 of 14). In June, BellSouth met the benchmarks again for manual orders, but met 71.4% of the benchmarks for partially mechanized orders.

For orders submitted electronically, the benchmark is 97% within 1 hour. In April, 95% of the rejected service requests were delivered within 1 hour, which was very close to the benchmark. In May, however, performance dropped to 80%. BellSouth states that it is conducting a root cause analysis and that thus far it has determined that many of the LSRs that did not meet the 1-hour benchmark were issued between 11:00 p.m. and 4:30 a.m. BellSouth states that between these hours the system is unable to process LSRs because certain of the back-end legacy systems are not in service and that these LSRs should be excluded from the measure. Finally, BellSouth notes that it is currently reviewing the scheduled down time for all systems and how that down time affects the ordering capability of the CLECs. See Supplemental Exhibit AJV-2, p. 15.<sup>10</sup> Staff will further consider performance in this area, along with any suggested modifications to the measure, in its 6-month review in Docket No. U-22252-C.

c. *FOC & Reject Response Completeness,* BellSouth met 12 of 18 benchmarks in April (See Supplemental Exhibit AJV-2, p. 25) (66.7%) (37 of 52) of the measurements in May (See Supplemental Exhibit AJV-2, p. 18) with CLEC activity (71.2%); and 63% (36 of 57) of the measurements in June. BellSouth has stated that the coding for these measures failed to include rejections that were classified as "auto clarifications," and that this coding change is in the process of being rewritten. BellSouth states further that the change is projected for completion

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<sup>10</sup> Staff notes that BellSouth has submitted its analysis and action plan for this measure. Further, in June, 96% of the electronic rejected service requests were delivered within the one-hour time period. This demonstrates significant improvement.

with August data in late September and will impact all FOC & Reject Response completeness measures. See Supplemental Exhibit AJV-2, pp.22, August 23, 2001.

*d. Order Flow Through Rates:* Competing carriers' orders "flow-through" if they are submitted electronically and pass through a BOC's ordering OSS into its back office systems without manual intervention. See Kansas/Oklahoma Order, fn. 397. The FCC traditionally uses order "flow-through" as a potential indicator of a wide range of problems that it considers in determining whether a BOC provides nondiscriminatory access to its OSS. However, the FCC does not consider flow-through rates as the sole indicium of parity and thus has not limited its analysis of a BOC's ordering processes to a review of its flow-through performance data. Instead, the FCC has held that factors that are linked to order flow-through but are more directly indicative of a BOC's OSS performance, such as a BOC's overall ability to return timely order confirmation and rejection notices, accurately process manually handled orders, and scale its systems, are relevant and probative for analyzing a BOC's ability to provide access to its ordering functions in a nondiscriminatory manner. *Id.*

AT&T witness Bradbury contends, as he has in several dockets before this Commission in the past, that BellSouth's flow through rates are inadequate, and that BellSouth does not provide electronic interfaces for a wide variety of products and services. *Bradbury Affidavit*, pp. 32-43. The FCC has consistently rejected the notion that a BOC must provide electronic ordering capabilities for all products and services and, instead requires that a BOC provide such capabilities only insofar as it provides them to itself. This Commission has acknowledged that increased electronic flow through of orders would assist competitors and has a plan in place to assist in achieving that goal. See May 14, 2001 General Order (*requiring BellSouth to submit a plan in 3 mos.*)

e. *Performance.* Staff review of BellSouth's performance in this category indicates that it is meeting expectations in some categories, but not in others. The benchmark for residential flow through on the MSS Report is 95% (in Louisiana it is 90% for an interim 6 month period and then increases to 95%). Performance results for April, May and June were 90.71%, 90.16% and 92.21%, respectively. The benchmark for LNP in the MSS Report is 85% (in Louisiana it is 80% for an interim period of 6 months and then increases to 90%). Performance results for April, May and June are 85.47%, 90.65%, and 91.83% respectively. Staff believes that current performance in these areas is satisfactory.

Performance in the UNE category is close to meeting expectations, but performance in the business category needs improvements. The benchmark for business flow through is 90% (in Louisiana it is 80% for an interim period of 6 months and then increases to 90%). Performance results for April, May and June are 61.25%, 60.15% and 57.26%, respectively. The benchmark for UNE is 85% (in Louisiana it is 80% for an interim 6 month period and increases to 90% thereafter). Performance in this area for April, May and June was 79.25%, 74.87% and 78.33%, which is close to an 80% interim benchmark. Staff understands and acknowledges that business orders are more complex than residential orders and that there is therefore much greater room for problems in flow through. Nevertheless Staff remains concerned about the business flow through rates. Staff understands that its consultant will work with BellSouth and the CLECs on a plan to improve flow through in the next six months. Staff will closely monitor this data for improvement in the six-month review, and if necessary consider and recommend further action.

### 3. *Provisioning*

a. *Hot Cuts.* Staff commends BellSouth for its performance in this area. Relative to Hot Cuts (B.2.13.1 through B.2.15.4), BellSouth met or exceeded the benchmark for all six sub-

metrics with CLEC activity in April (100%) and for all seven in May (100%). BellSouth met 100% of the Hot Cut measurements in June.

*b. Jeopardy Notices.* BellSouth has advised Staff that the calculations for this measurement are incorrect and that the coding change necessary to fix this is scheduled for September 13, 2001. See Supplemental Exhibit AJV-2, August 23, 2001. Staff will examine this measurement and performance in this area during the six-month review.

*c. Order Completion Notices.* An analysis of the Average Completion notice Interval categories within UNE Provisioning indicates that BellSouth demonstrated poor performance by meeting 0% (0 of 3) measurements with CLEC activity in April, 33.3% (2 of 6) in May and 42.9% in June. BellSouth states that this measure was not being met due to a problem in the Work Management Center. BellSouth has further detailed a specific action plan that has been implemented. See BellSouth Comments, p. 16

*d. Average Installation Intervals (or Order Completion Interval "OCI").* From a provisioning perspective, BellSouth met or exceeded approximately 71% and 79% of all UNE Order Completion Interval sub-metrics (B.2.1 through B.2.2) relative to the recommended analogue in April (p. 28) and May (p. 21), respectively. There were a total of 17 sub-metrics with CLEC activity in April and a total of 14 in May. BellSouth offers several reasons why its performance is not adequately reflected in the measurements. First, it says that a root cause analysis for OCI for Non-Dispatch orders revealed that it was offering a 0 to 2 day interval on retail non-dispatched POTS orders, but the UNE combination loop and port non-dispatched orders were receiving the same interval as "dispatched" orders. BellSouth says a permanent solution for this problem, a modification to the due date calculation process, was implemented on

June 2, 2001, and that this should correct the problem. See Supplemental Exhibit AJV-2, pp. 21-22. Staff awaits further performance reports to verify whether this has been corrected.

Additionally, BellSouth states that this measure is adversely affected by LSRs for which CLECs request intervals beyond the offered interval and do not enter an "L" code on the order. When a CLEC requests an interval beyond the interval offered by BellSouth, the CLEC is supposed to enter an "L" code on the LSR. "L" coded orders are excluded from the OCI metrics. BellSouth also filed the affidavit of Gustavo E. Bamberger addressing the effect of LSRs submitted with extended completion intervals and installation appointments missed due to end user reasons.

Finally, Staff observes that BellSouth demonstrated marked improvement in June data by meeting 90.5% (19 of 21) of the OCI (UNE/Provisioning) measures.

Staff recommends that the Commission give special attention to this measure in its 6-month review in Docket No. U-22252-C. Staff believes that BellSouth should focus its efforts on maintaining its improved performance in this area, whether by making necessary process fixes or by seeking reasonable amendments or clarifications to existing measures. In the interim and until this Commission orders otherwise, BellSouth will pay penalties if it fails to meet the applicable benchmarks/retail analogs in this area.

*e. Missed Installation Appointment.* Relative to UNE % Missed Installation Appointments (B2.18.1.1.1 through B2.18.19.2.2), BellSouth met the benchmark for all 27 sub-metrics with CLEC activity in April and for all 16 in May. In June, BellSouth met 95% (19 of 20) of all measurements with CLEC activity.

*f. UNE % Provisioning Troubles within 30 Days.* Relative to UNE % Provisioning Troubles within 30 Days (B.2.19.1.1.1 through B.2.19.19.2.2), BellSouth met the benchmark for

16 of 21 measurements with CLEC activity in April. The percentage of parity was improved from 76% to 85% in May when 17 of 20 measurements were met. The June results dropped slightly when BellSouth met 76.9% (10 of 13) of the measurements.

#### **4. Maintenance and Repair**

BellSouth offers CLECs electronic interfaces for trouble reporting, which provide CLECs with access to the maintenance and repair functions in substantially the same time and manner as BellSouth offers access for its retail customers. BellSouth offers such access through its Trouble Analysis Facilitation Interface ("CLEC TAFI") and Electronic Communications Trouble Administration ("ECTA Local"). TAFI is the same system BellSouth uses for its retail units. In the *New York Order*, the FCC found that Bell Atlantic satisfied its checklist obligation despite the fact that it did not offer CLECs a machine-to-machine maintenance and repair interface. *New York Order*, ¶215.

Through TAFI and ECTA Local, BellSouth claims that it provides CLECs electronic access to its maintenance and repair OSS in a manner that far exceeds what Bell Atlantic provided to CLECs at the time of its 271 application.

BellSouth met the applicable standard for 88% and 81% of the overall UNE Maintenance and Repair measurements for April (p. 33) and May (p. 28), respectively. In June, BellSouth met 82.7% (62 of 75) of the measurements within UNE-Maintenance and Repair. Although Staff is a little concerned about the drop in performance in May, Staff is generally satisfied with performance in this area for purposes of a finding of checklist compliance.

AT&T witness Bradbury claims that BellSouth has failed to address the FCC's concerns, and that BellSouth essentially provides CLECs with a "Hobson's choice" – use TAFI which is



effective but not efficient, or ECTA Local which is efficient but not effective. *Bradbury Affidavit*, pp. 59-63.

In response, BellSouth represents and Staff agrees that it provides access to its OSS for the maintenance and repair in compliance with the FCC requirements. Apparently, AT&T is interested in the development of a specialized interface for maintenance and repair that is not industry standard. BellSouth has instructed AT&T to make a Bona Fide Request for the interface and pay for its development in advance. Staff believes that this approach represents the most reasonable alternative for resolving any dispute regarding the development of additional interfaces. See Stacy Reply Affidavit, ¶¶195-201.

#### **5. Billing**

BellSouth provides CLECs with usage data via three means – the Optional Daily Usage File (“ODUF”); the Access Daily Usage File (“ADUF”); and the Enhanced Optional Daily Usage File (“EODUF”). These daily usage files were designed to provide CLECs with usage records for billable call events that are recorded by BellSouth’s central offices. *Stacy Affidavit*, ¶¶ 296-304. BellSouth claims these interfaces allow a CLEC to process call records in its billing systems in substantially the same time and manner that BellSouth processes these types of records in its own systems.

BellSouth met the two measurements associated with UNE Billing (B.4.1 and B.4.2) in both April and May 2001. The same results were demonstrated in June. Staff is satisfied with performance in this area, and will continue to monitor the results.

Staff is unaware of any party contending that BellSouth is not providing non-discriminatory access to billing functions. Staff notes that SECCA’s concerns regarding the pricing of ODUF and ADUF are being addressed in Docket No. U-24714-A.

**6. Miscellaneous**

Xspedius makes several complaints regarding access to BellSouth's OSS and the processes surrounding same, including: 1) BellSouth will not accept a trouble ticket from a customer disconnected during migration until the CLEC has the BellSouth repair center double check the conversion date; 2) BellSouth representatives lack adequate training; 3) BellSouth does not note all order errors at once, requiring repeated clarification of the same order; 4) BellSouth does not reconnect customers' features after they switch to the CLEC's UNE platform; and 5) BellSouth continues to bill customers after they switch to the CLEC. *Goodly Affidavit*, ¶¶ 2-5. Regarding the first allegation, we believe BellSouth adequately addresses Xspedius' issue explaining the operational problems that occurred between BellSouth and Xspedius' regarding these certain instances. *Ainsworth Reply Affidavit*, ¶¶ 52-58.

Staff believes that the second and third issues, which were discussed in the CLEC collaboratives, involve appropriate training, both on the BellSouth and CLEC end. Staff notes in this regard that BellSouth has provided evidence that some CLECs have few rejected service requests, while others may have many. Staff encourages BellSouth to continue to train its service representative and urges CLECs to take advantage of the extensive training courses and material offered by BellSouth. <sup>11</sup>

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<sup>11</sup> BellSouth has also stated that in order to lower the rejection rate for individual CLECs, it has developed an action plan template to be used in conjunction with an analysis of the pre-order and order activity of a CLEC who is performing at less than 90% on flow-through on mechanically submitted orders and has a clarification rate of 20% or higher. So far, 7 CLECs have agreed to utilize this template. Five CLECs have had presentations concerning their individual results and are currently reviewing the proposals. Meetings are being scheduled with 2 additional CLECs and 22 others are either in the final stages of the action plan preparation or data analysis. The initial results after implementation indicates a 5% overall reduction in clarifications and rejected requests. See Supplemental Exhibit AJV-2, p. 13. Staff commends this kind of collaboration and asks that BellSouth continue to keep Staff advised of the results of these efforts.

Finally, certain problems raised by Xpedius appear to involve the same premature disconnect issue that Staff discusses later in this recommendation in connection with the UNE-Platform issues. *See* text at pp. 58-59, *infra*.

In summary, Staff does not at this time believe that Xspedius' allegations reflect a systematic failure that would warrant a finding of checklist noncompliance. *See* Kansas/Oklahoma Order, ¶159.

#### 7. *Change Control Process ("CCP")*

BellSouth can show that it provides the documentation and support necessary to provide competing carriers nondiscriminatory access to its OSS by showing that it has an adequate change management process in place in Louisiana and that BellSouth has adhered to its change management process over time. *Texas Order*, ¶105.

The FCC has recognized that competing carriers need information about, and specifications for, an incumbent's systems and interfaces to develop and modify their systems and procedures to access the incumbent's OSS functions. Thus, in order to demonstrate that it is providing nondiscriminatory access to its OSS, a BOC must first demonstrate that it has deployed the necessary systems and personnel to provide sufficient access to each of the necessary OSS functions and is adequately assisting competing carriers to understand how to implement and use all of the OSS functions available to them. By showing that it adequately assists competing carriers to use available OSS functions, a BOC provides evidence that it offers an efficient competitor a meaningful opportunity to compete. As part of this demonstration, the FCC will give substantial consideration to the existence of an adequate change management process and evidence that the BOC has adhered to this process over time. *Id.* at 106.

The change management process refers to the methods and procedures that the BOC employs to communicate with competing carriers regarding the performance of, and changes in, the BOC's OSS system. Such changes may include updates to existing functions that impact competing carrier interfaces upon a BOC's release of new interface software; technology changes that require competing carriers to meet new technical requirements upon a BOC's software release date; additional functionality changes that may be used at the competing carrier's option, on or after a BOC's release date for new interface software; and changes that may be mandated by regulatory authorities. Without a change management process in place, a BOC can impose substantial costs on competing carriers simply by making changes to its systems and interfaces without providing adequate testing opportunities and accurate and timely notice and documentation of the changes. Change management problems can impair a competing carrier's ability to obtain nondiscriminatory access to UNEs, and hence a BOC's compliance with section 271(2)(B)(ii). *Id.* at 107.

In evaluating whether a BOC's change management plan affords an efficient competitor a meaningful opportunity to compete, we first assess whether the plan is adequate. In making this determination, the FCC assesses whether the evidence demonstrates: 1) that information relating to the change management process is clearly organized and readily accessible to competing carriers; 2) that competing carriers had substantial input in the design and continued operation of the change management process; 3) that the change management plan defines a procedure for the timely resolution of change management disputes; 4) the availability of a stable testing environment that mirrors production; and 5) the efficacy of the documentation that the BOC makes available for the purpose of building an electronic gateway. After determining whether

the BOC's change management plan is adequate, the FCC evaluates whether the BOC has demonstrated a pattern of compliance with this plan. *Id.* at 108.

It appears that AT&T is the only commentator that contends that BellSouth's CCP is inadequate. AT&T witness Bradbury makes numerous allegations in this regard. Staff understands that AT&T has raised each of these contentions in its arbitrations around BellSouth's region, although it elected not to raise them in its pending arbitration in Louisiana. Staff takes administrative notice of the arbitration orders from Georgia, Florida, North Carolina and Kentucky dealing with issues concerning BellSouth's Change Control Process, and concurs with the findings of the Georgia Commission that to the extent competing carriers have a dispute concerning the process, such competitor should adhere to the escalation and dispute resolution process included in the CCP Document. Staff notes that this Commission is ready to resolve any disputes that arise between BellSouth and competitive carriers that are not resolved through the Change Control Process.

Further, Staff notes that BellSouth's Change Management Processes have been subjected to third party testing in Georgia and all exceptions noted to BellSouth's processes were resolved. *See Stacy Affidavit, ¶76.*

*a. Adequacy of BellSouth's Change Control Plan:* The Staff finds that BellSouth's Change Control Process is very similar to the process of SWBT in Texas that the FCC found acceptable. Like the Texas plan, BellSouth's Change Control Process, which is the result of a collaborative efforts between BellSouth and competing carriers, provides an efficient competitor a meaningful opportunity to compete. We note that BellSouth's change management documentation is clearly organized and readily accessible to competing carriers. The basic change management process is memorialized in a single document entitled the Change Control

Process. *See* Stacy Affidavit, Exh. OSS-39. This document describes in detail the types of changes that are handled, how change requests are classified, the escalation process, the dispute resolution process, and the testing environment. KPMG found that the CCP documents clearly defined change management process responsibilities. Stacy Affidavit, 92. In addition to the CCP document, BellSouth provides CLECs with a CCP website. BellSouth posts information about the processes, including documents, such as the CCP document and forms; status information, including the change control logs, submitted change requests, implemented change requests, and cancelled change requests; and meeting information, including minutes and notices. *Id.* at 93; *see also Texas Order*, ¶110.

Staff further notes that BellSouth's Change Control Process provides for substantial input from competing carriers. Indeed, from the inception of BellSouth's Change Control Process, BellSouth has actively sought and obtained the participation of competitive carriers. BellSouth's original Electronic Interface Change Control Process ("EICCP") was established because of BellSouth's need to secure input from the CLECs regarding future enhancements to existing electronic CLEC interfaces. BellSouth sought the participation of competitive carriers, held numerous meetings with interested carriers and established a steering committee to address issues related to interface enhancements. Since this time, BellSouth's Control Processes have functioned on a region-wide basis so that the CLECs in any of the nine states in BellSouth's region may participate. *See* Stacy Affidavit, ¶¶77-78.

In response to the FCC's *New York Order* and the independent third-party test in Georgia, the EICCP was enhanced through involvement of the steering committee. The EICCP was also renamed the Change Control Process ("CCP"). The newly revised processes included

the addition of monthly status update meetings that were open to all CLECs and a formalized escalation process.

*b. Documentation Adequacy:* Further, Staff believes that BellSouth makes available sufficiently detailed interface design specifications to enable competing carriers to modify or design their systems in a manner that will enable them to communicate with the BellSouth systems and any relevant interfaces.

*c. Notification Adequacy and Timeliness:* Further, it is critical that BellSouth provide timely, complete, and accurate notice of alterations to its systems and processes. Without timely notification and documentation, competing carriers are unable to modify their existing systems and procedures or develop new systems to maintain access to BellSouth's OSS. *Texas Order*, ¶126. In assessing BellSouth's performance regarding these requirements, the FCC will examine whether BellSouth has "established a pattern of compliance with the relevant notification and documentation intervals in its Change Agreement." *Id.*

The process by which a proposed change proceeds through the CCP is detailed in the CCP document. Changes are categorized by type and BellSouth has established notification intervals for each type of change. *Stacy Affidavit*, ¶¶ 98-100. Staff concludes that BellSouth has demonstrated a pattern of compliance with its documented change management processes and procedures, allowing an efficient competitor a meaningful opportunity to compete.

*d. Testing Environment:* As an additional requirement for ensuring a sufficient change management process, BellSouth must provide competing carriers with access to a stable testing environment to certify that their OSS will be capable of interacting smoothly and effectively with BellSouth's OSS. *Texas Order*, ¶132. A BOC must provide a testing

environment that mirrors the production environment in order for competing carriers to test new releases. *Id.*

According to BellSouth, it provides CLECs with an open and stable testing environment for the machine to machine EDI and TAG interfaces. *See* Stacy Affidavit, ¶119, Exh. OSS-39, p. 56. Three CLECs used the testing environment in 1999. As of the end of December 2000, 20 CLECs have used it to test EDI. As of December 2000, 27 CLECs used it to test TAG. Before making the release of an interface available to CLECs, BellSouth completes internal testing of the release using the same testing environment that the CLECs will use. Beta testing is offered to the CLECs that are interested in assisting BellSouth in validating a Telecommunications Industry Forum change to the affected interfaces. *Id.* at 62. New carrier testing is offered to CLECs that are shifting from a manual to an electronic environment. BellSouth also offers testing to CLECs that are changing from one OBF version of EDI or TAG to another. BellSouth has explained in detail the various types of testing available to competitive carriers. *Id.* at ¶¶124-136.

Staff concludes that BellSouth's test environment affords carriers an adequate opportunity to test BellSouth's OSS changes prior to implementation. We therefore find that the testing environment BellSouth makes available provides competing carriers with a meaningful opportunity to compete.

*e. Training, Technical Assistance, and Help Desk Support:* Staff has reviewed Mr. Stacy's affidavit filed April 20, 2001 (paras. 36-75) discussing in detail the support BellSouth offers to CLECs, including documentation, training for CLECs on Electronic interfaces, and help desk support. No party raises a substantial issue regarding the adequacy of this support.



**8. UNE Combinations**

In order to satisfy checklist Item 2, BellSouth must show that it provides non-discriminatory access to combinations of network elements, including the so-called UNE-Platform (UNE-P), in accordance with FCC rules, in particular the UNE Remand Order and the Supplemental Clarification Order. BellSouth has provided evidence that it has legally binding obligations to provide access to UNEs in a manner that allows CLECs to combine those elements, including collocation and assembly point arrangements. BellSouth Original Comments, at p. 39. Additionally, BellSouth has shown that it provides access to "preassembled" combinations, that is, that it will not separate requested network elements where such elements are physically combined and providing service to a particular location. *Id.* Staff is unaware of any party contending otherwise.

In Staff's Proposed Recommendation, Staff reiterated its position that BellSouth is legally obligated to provide only those combinations that are "in fact" combined, rather than "ordinarily combined." See Staff Proposed Recommendation, pp. 64-65. In response to Staff's Proposed Recommendation, numerous parties commented regarding the "currently combines" issue, including Access Integrated Networks, Inc. ("ACCESS"). Such comments have caused Staff to reconsider its position on this issue. Under the present situation in Louisiana, CLECs can obtain and use new UNE loop/port and loop/transport combinations by initially ordering such services as special access or resale and later obtain those combinations as UNE combinations at UNE prices. This cumbersome process does nothing more than complicate the ordering process and impedes competition.

For these reasons, Staff recommends that the Commission require BellSouth to provide combinations of ordinarily combined elements in a manner consistent with the Order issued by

the Georgia Public Service Commission in Docket No. 10692-U, dated February 1, 2000. Thus, the Staff recommends that the Commission find that "currently combines" means ordinarily combined within the BellSouth network, in the manner that they are typically combined. Thus, CLECs can order combinations of typically combined elements, even if the particular elements being ordered are not actually physically connected at the time the order is placed. Staff further recommends that the Commission find that loop/port and loop/transport combinations are ordinarily combined in BellSouth's network.

Staff recognizes the fact that requiring BellSouth to combine previously uncombined UNEs will minimize, if not eliminate, any capital investment required by CLECs to compete in Louisiana's local market. In the event that the United States Supreme Court upholds the Eighth Circuit Court of Appeals' determination that ILECs have no legal obligation to combine UNEs under the 1996 Act, the Staff may recommend to the Commission that it reevaluate its decision on this issue in order to ensure that CLECs have the proper incentive to invest in their own networks in Louisiana.

Staff recommends that the recurring rate for a new combination shall be the same as the recurring rate for an existing combination. The nonrecurring rate for a new loop/port combination shall be the sum of the nonrecurring rate for the loop and the nonrecurring rate for the port as established in Docket No. U-24714-A. The nonrecurring rate for a new loop/transport combination shall be the rate for such combination in the New Orleans MSA as modified in Docket No. U-24714-A. To the extent the Commission has not established nonrecurring rates for a particular new combination, the nonrecurring rate shall be the sum or the nonrecurring rates for the individual elements.

A number of parties raise concerns about BellSouth's provisioning of UNE-Ps. See Xspedius: *Goodly Affidavit*, ¶¶3-5; WorldCom: *Lichtenberg Affidavit*, ¶¶4-9, WorldCom Comments, p. 17; NewSouth Comments, pp. 16-23. Many of these problems appear to be historical. Indeed, NewSouth states that it has signed a new interconnection agreement with BellSouth designed to cure most of these problems. NewSouth Comments, p. 6. Staff believes that reviewing the data concerning provisioning of UNE-Ps is the best way in which to judge BellSouth's performance in this area.

a. *Performance.* An analysis of UNE-P (Loop + Port Combination) data across all UNE categories (Ordering, Provisioning and Maintenance and Repair) indicates that Bellsouth met 72.7% (24 of 33) of the measurements with CLEC activity in April. Improvement was demonstrated in May with 82.5% (33 of 40) of measurements being met. Within Maintenance and Repair, BellSouth demonstrated strong performance in both April and May with 88.9% (8 of 9) and 100% (10 of 10) items met respectively. Improvement was demonstrated in May with 75% (9 of 12) and 77.8% (14 of 18) of measurements met for Ordering and Provisioning respectively. In June, BellSouth's performance across all UNE categories for the Loop-Port Combination product dropped slightly to 78% (32 of 41). BellSouth continued strong performance within Maintenance and Repair by meeting 90% (9 of 10) of the measurements. Similar performance in Provisioning was demonstrated when BellSouth met 78.9% (15 of 19) of the measurements. However, ordering results decreased to 66.7% (8 of 12).

Staff believes that implementation of the Self-Executing Enforcement plan should provide incentive to BellSouth to continue to improve in this area. Although Staff concludes that this performance is adequate for purposes of this proceeding, Staff also recommends that performance in the following areas for UNE-P in particular be monitored closely in the six-

month review in Docket No. U-22252-C: Provisioning Troubles within 30 Days and Average Completion Notice Interval-Mechanized. Further, Staff invites Xspedius, WorldCom and NewSouth to participate in the six-month review of the performance plan at which time Staff will consider what if any changes need to be made in order to ensure that BellSouth provisions UNE-P in a timely fashion.

*b. "N" and "D" Order Conversion Process.* One category of service problems raised by a number of parties is of particular concern to Staff -- BellSouth's practice of issuing two orders, a "N" order and a "D" order to provision UNE-P conversions. NewSouth raises this issue in connection with Checklist Item 2 (NewSouth Comments, pp. 16-18) as well as a host of other commentators. *See KMC: Braddock Affidavit, ¶¶5-6; WorldCom: Gibbs Affidavit, ¶¶ 17-18, Lichtenberg Affidavit, ¶¶ 11; Xspedius: Goodly Affidavit, ¶¶ 1-2.* BellSouth has responded to these complaints. *Ainsworth Affidavit, ¶47.* Staff notes that the FCC has concluded that a multiple-order conversion process is not in and of itself grounds for concern if it is working smoothly. Staff is concerned, however, about the number of complaints in this area and BellSouth's apparent failure to address the improved "C" order process referenced by AT&T witness Seigler in his affidavit. *Seigler Affidavit, p. 14.* In its Proposed Recommendation, Staff solicited further input from BellSouth concerning the magnitude of this problem and suggested process improvements. In particular, Staff directed BellSouth to provide information concerning any "C" order process and how soon it can be implemented. Proposed Recommendation, p.66.

Upon review of BellSouth's response to the Staff's request for additional information and the comments of the parties to this proceeding, the Staff recommends that the Commission order BellSouth to replace the current process of having two separate orders to convert an end user from BellSouth to a CLEC. As described above, the current process requires a Disconnect Order

be processed followed by a New order. Because these two orders are frequently not properly coordinated by either BellSouth or the CLEC, the end user may lose dial tone during the conversion process. In order to prevent or reduce the frequency of occurrence of this situation, BellSouth should be required to replace the "D" and "N" order process with the single "C" order.

Staff further recommends that the Commission order BellSouth to implement the C-Order process no later than April 1, 2002. Further Staff recommends establishing a measurement to track any premature disconnects occurring due to the 2-order process. Such measurement should carry a Tier-1 and Tier-2 penalty to be instituted upon the FCC's approval of BellSouth's petition to provide interLATA service in Louisiana. Staff will address these issues during the six-month review to be held in Docket No. U-22252-C. Staff recommends that the Commission find that BellSouth has met the requirements of checklist item no. 2.

**C. CHECKLIST ITEM 3: Poles, Ducts, Conduits and Rights-of-Way**

Section 271(c)(2)(B)(iii) of the Act provides that a BOC must offer "[n]ondiscriminatory access to the poles, ducts, conduits, and rights-of-way owned or controlled by the [BOC] at just and reasonable rates in accordance with the requirements of Section 224." Section 224 of the Act outlines state and federal jurisdiction over regulation of access to poles, ducts, conduits and rights-of-way and describes the standard for just and reasonable rates for such access. Under Rule 1.1403, a utility shall provide any carrier with nondiscriminatory access to any pole, duct, conduit or right-of-way owned or controlled by the utility. Notwithstanding this obligation, a utility may deny any telecommunications carrier access to its poles, ducts, conduits or rights-of-way where there is insufficient capacity or for reasons of safety, reliability, and generally applicable engineering principles.

The LPSC has previously held that BellSouth complied with this checklist item. In addition, in the *Second Louisiana Order*, the FCC held that BellSouth demonstrated that it has established nondiscriminatory procedures for access to poles, ducts, conduits, and rights-of-way. *Second Louisiana Order*, at ¶¶ 171-183. In Section III of the SGAT, and in various negotiated interconnection agreements, BellSouth continues to offer nondiscriminatory access to poles, ducts, conduits, and rights-of-way in a timely fashion. BellSouth's actions and performance at this time are consistent with the showing previously made to the LPSC and the FCC upon which both regulatory agencies made the determination that the statutory requirements for checklist item 3 were met. See *Second Louisiana Order*, fn. 151 ("BellSouth may incorporate by reference its showing in this proceeding for...(iii) access to poles, ducts, conduits, and rights-of-way.").

No party has challenged BellSouth's compliance in this area.

**D. CHECKLIST ITEM 4: Unbundled Local Loops**

Section 271(c)(2)(B)(iv) of the Act requires that BellSouth offer "[l]ocal loop transmission from the central office to the customer's premises, unbundled from local switching or other services." The unbundled loop is "a transmission facility between a distribution frame, or its equivalent, in an incumbent LEC central office, and the network interface device at the customer premises." The definition includes different types of loops, for example, two-wire and four-wire analog voice grade loops that are conditioned to transmit the digital signals needed to provide services such as ISDN, ADSL, HDSL, and DS-1 level signals. *Id.* Staff finds that BellSouth complies fully with this checklist item, thereby enabling CLECs to provide local service without investing large amounts of capital in facilities that connect each customer premises to the public switched telephone network. As of February 28, 2001, BellSouth has

provisioned more than 13,000 loops for 20 CLECs in Louisiana, and over 340,553 unbundled loops region-wide. *Milner Affidavit*, ¶ 82.

**1. Local Loops**

The local loop is an unbundled network element that must be provided on a nondiscriminatory basis pursuant to section 251(c)(3). BellSouth allows CLECs to access unbundled loops at any technically feasible point. *Milner Affidavit*, ¶ 81. BellSouth makes the following loop types available to CLECs: SL1 voice grade loops; SL2 voice grade loops; 2-wire ISDN digital grade loops; 2-wire ADSL loops; 2-wire HDSL loops; 4-wire HDSL loops; 4-wire DS-1 digital grade loops; 56 or 64 kbps digital grade loops; UCL; and DS3 loops. *Milner Affidavit*, ¶ 80-81; *see also Interconnection Agreement Between BellSouth and NewSouth, Att. 2*. In addition, BellSouth provides CLECs with unbundled loops served by Integrated Digital Loop Carrier (IDLC). *Milner Affidavit*, ¶ 83. Finally, CLECs may purchase additional loop types through the bona fide request process. BellSouth offers local loop transmission of the same quality and same equipment and technical specifications used by BellSouth to serve its own customers. *Milner Affidavit*, ¶ 81.

In the *Second Louisiana Order*, the FCC found that the performance data BellSouth presented on the ordering and provisioning of unbundled local loops failed to demonstrate that the access it provides to such loops is sufficient to allow an efficient competitor a meaningful opportunity to compete. Furthermore, it stated that BellSouth did not show that it could provide loop cutovers based on reasonably foreseeable demand in a timely and reliable fashion. *See Second Louisiana Order* ¶ 192-199.

To address these issues, BellSouth has provided the Commission with performance data, disaggregated by loop type, which it says demonstrates that BellSouth is providing CLECs with

unbundled loops in a manner sufficient to provide them a meaningful opportunity to compete. As the FCC has stated, a BOC can demonstrate compliance with checklist item 4 by submitting performance data evidencing the time interval for providing unbundled loops and whether due dates are met. *New York Order*, ¶ 270 & 283 (“Bell Atlantic meets the confirmed due dates of the customers of competitive carriers in the same time and manner as it meets the confirmed due dates of its retail customers.”). BellSouth has provided performance data in the FCC format for March, April and May 2001 relating to its loop provisioning and maintenance and repair functions for CLECs, disaggregated by loop type, including voice loops and loops capable of supporting high speed data. *See Texas Order*, ¶ 249.

In addition, in this proceeding BellSouth demonstrates its ability to accomplish a hot cut in a timely, accurate manner. *See discussion at p. 52, supra*. Hot cuts involve the conversion of an existing BellSouth customer to the network of a competitor by transferring the customer's in-service loop over to the CLEC's network. *Milner Affidavit*, ¶ 100. BellSouth has implemented three hot cut processes, two involving order coordination and one that does not involve such coordination. *Id.* The two processes that include order coordination are a time-specific cutover, and a non-time-specific cutover. Both of these processes involve BellSouth and the CLEC working together to establish a time for the cutover. In the third option, the CLEC merely specifies the date on which the cut is to occur but leaves the time of the cutover to BellSouth's discretion. *Milner Affidavit*, ¶¶ 101-103. These three options give the CLEC choices depending on its business plan and the needs of its end user. As the FCC noted, “[t]he ability of a BOC to provision working, trouble-free loops through hot cuts is critically important in light of the substantial risk that a defective hot cut will result in competing carrier customers experiencing service outages for more than a brief period.” *Texas Order*, ¶ 256. BellSouth contends that it



provides coordinated hot cuts in a timely manner, at an acceptable level of quality, with minimal service disruptions, and with a minimum number of troubles following installation. *See* Kansas/Oklahoma Order, ¶ 201.

AT&T Witness Berger cites numerous examples of problems with hot cuts (although she acknowledges that BellSouth and AT&T have recently on May 15, 2001 executed a Memorandum of Understanding concerning methods and procedures for "hot cuts" on a going-forward basis). Issues concerning hot-cuts were also discussed at great length in the CLEC collaboratives. As of the last meeting, none of the CLEC participants had any current problems with "hot cuts" and Staff and the parties agreed to monitor this item. Relative to Hot Cuts (B.2.13.1 through B.2.15.4), BellSouth met or exceeded the benchmark for all six sub-metrics with CLEC activity in April and for all seven in May.

AT&T also complains that BellSouth's method for addressing erroneous disconnects is not comparable to BellSouth's method for its own customers. *Berger Affidavit*, p. 12. In response, BellSouth points out the fact that AT&T has not performed any hot cuts in Louisiana. BellSouth also points out that it is AT&T who is in control of when the disconnect is completed by BellSouth in this instance. Service orders must be issued in order for BellSouth to reestablish service to the end user. This is the same process that occurs for an erroneous disconnect of a BellSouth end user and both situations are handled as a provisioning issue, rather than a maintenance issue. *Ainsworth Reply Affidavit*, ¶41.

AT&T also complains that if an erroneous disconnect occurs due to a CLEC error, BellSouth treats it like a new loop, rather than a maintenance issue, and the customer can be out of service for up to seven days. *Id.* at p. 14-15. BellSouth utilizes the same procedure when it erroneously disconnects its own end user. New service orders must be issued and are treated as a

provisioning matter, rather than a maintenance issue. Staff is unaware of any requirement that BellSouth is violating by not treating AT&T's mistakes any different from its own. It is Staff's opinion that AT&T should review its own processes to minimize or eliminate the instances in which it makes an erroneous request to BellSouth to disconnect its end user.

AT&T further objects to BellSouth's request for a four-hour window to start a conversion when a customer's service is provided over BellSouth's IDLC and that the parties disagree regarding the start and stop times. *Berger Affidavit*, pp. 12-14. Staff is not aware of any such request in this proceeding, but will address any such issues during the six-month review of the service quality measurements. AT&T also voices concern regarding the hot cut measures adopted by the Commission. Staff believes that the hot cut measures adopted by the Commission are appropriate.

KMC voices concern over the fact that BellSouth will mistakenly indicate that there are no facilities to complete an order for an unbundled loop when, in fact, there are such facilities. *Braddock Affidavit*, ¶3. Further, KMC complains that BellSouth will cancel a due date at the last minute due to a lack of facilities. *Dermint Affidavit*, ¶2. BellSouth responds to these complaints through the sworn testimony of Mr. Ainsworth. *See Ainsworth Reply Affidavit*, ¶¶ 23-25, 44. These issues were discussed at length during the collaborative workshops held by this Commission. Staff is convinced that BellSouth provisions UNE loops to CLECs in the same manner as it provisions loops to its own retail customers. The process that BellSouth goes through to determine whether facilities are available to complete a CLEC's order are the same as those that BellSouth uses to complete its own retail orders. Indeed, during the collaborative workshops, and in order to address this issue, Staff understood that the CLECs were to have submitted a Bona Fide Request to BellSouth to develop a method for provisioning loops in

which a CLEC could ascertain the availability of facilities prior to placing an order. Staff instructed the parties to comment in response to this proposed recommendation on the status of any such request. BellSouth responded that such request has been submitted as CR0461 to the Change Control Process and will be prioritized by the CLECs. *See* BellSouth Comments, p. 23.

KMC raises additional issues that were addressed in the collaborative workshops. KMC claims that BellSouth will often miss a due date for order coordinated, time-specific hot cuts to the point where KMC has stopped ordering them. *Chiasson Affidavit*, 2. BellSouth does not respond to trouble reports and refuses to act on a trouble claiming it is KMC's responsibility, only to acknowledge that it is BellSouth's problem one week later. *Id.* at 3. BellSouth responds to these allegations. *Ainsworth Reply Affidavit*, ¶¶ 48-49. These issues do not appear to indicate systemic problems that would warrant a finding of checklist non-compliance. *See* Kansas/Oklahoma Order, ¶159. Staff encourages BellSouth and KMC to resolve these issues informally or bring them to the attention of the Commission through its normal complaint process.

## 2. *Access to xDSL-capable Loops*

BellSouth must demonstrate that it offers CLECs nondiscriminatory access to xDSL-capable loops in Louisiana.<sup>12</sup> To compensate for differing parameters such as the end user's distance from his serving wire center, BellSouth offers CLECs a variety of unbundled loops that may support DSL services from the CLEC to its end user customers. These loop types are known as ADSL-capable loop; HDSL-capable loop; ISDN loop; Universal Digital Channel (UDC); Unbundled Copper Loop (UCL), Short and Long; and UCL-Nondesign (UCL-ND). *Latham Affidavit*, ¶3; *see also Interconnection Agreement Between BellSouth and COVAD*,

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<sup>12</sup> The FCC has stated that it would "find it most persuasive if future applicants under 271...make a separate and comprehensive evidentiary showing with respect to the provision of xDSL-capable loops." *New York Order*, 330.

*Amend.* § 2.2.9. As of February 28, 2001, BellSouth had provisioned 1,301 two-wire ADSL loops; 66 two-wire HDSL loops; and one (1) four-wire HDSL loop to over 20 different CLECs in Louisiana. *Milner Affidavit*, ¶ 97.

Further, Staff is aware of the fact that in response to CLEC requests for an xDSL capable loop that is similar in price and provisioning practices to an SL1, BellSouth recently began offering a “nondesignated” unbundled copper loop (“UCL-ND”). Staff believes that the UCL-ND holds the promise of spurring the deployment of advanced services to end users in Louisiana, including those located in rural areas. Staff instructed BellSouth as well as the other parties to this proceeding to provide comments in response to the proposed recommendation concerning the UCL-ND, including the circumstances surrounding its development, whether CLECs participated in its development, the pricing of the product in relation to other xDSL capable loops, the manner that it is provisioned, the number of such loops purchased by CLECs within the state of Louisiana and any outstanding or unresolved issues surrounding this loop offering. In response, BellSouth as well as other parties provided further comments regarding the UCL-ND.

In its *Texas Order*, the FCC commended the Texas state commission for developing comprehensive measures to assess SWBT's performance in provisioning xDSL-capable loops and related services in Texas. *See Texas Order*, ¶ 283. BellSouth has presented this Commission with comparable performance data, specific to xDSL loops, to demonstrate that it is providing CLECs with nondiscriminatory access to such loops. Based on this performance data, BellSouth claims that this Commission will be able to conclude, as did the FCC in the *Kansas/Oklahoma* decision, that the BOC “provisions xDSL-capable loops for competing carriers in substantially the same time and manner that it installs xDSL-capable loops for its own retail operations.” *Kansas/Oklahoma*, ¶ 185.

Staff notes the commentator Covad provided performance results from BellSouth's March 2001 MSS report and claims that the results demonstrate that BellSouth is not providing non-discriminatory access. See Covad Comments, pp. 15-22. Further, Covad filed comments to BellSouth's May performance data in the FCC format on July 23, 2001. Mr. Varner addressed Covad's initial performance criticisms in his reply affidavit at ¶¶135-155. Staff instructs BellSouth to respond to Covad and AT&T's criticisms in their comments to BellSouth's May performance data filed July 23, 2001.

In the interim, Staff makes the following comments with regard to BellSouth's performance in this area. A manual count of MSS data for April and May 2001 for all UNE measurements with CLEC activity indicates that BellSouth met 20 of 25 xDSL benchmarks in April and 19 of 27 in May. An analysis of xDSL product data across all UNE categories (Ordering, Provisioning and Maintenance & Repair) indicates that BellSouth met 80% (20 of 25) of the measures with CLEC activity in April. Results in May decreased to 70.4% (19 of 27) of all measurements being met. Within Provisioning, BellSouth demonstrated strong improvement in May with 87.5% (7 of 8) of measurements met as compared to April with 66.7% (4 of 6). Results in Ordering fell slightly from a level of 80% (8 of 10) of the measurements at parity in April to a level of 70% (7 of 10) in May. Also, results in Maintenance and Repair experienced a more serious drop from 88.9% (8 of 9) of the measurements in April to a level of 55.6% (5 of 9). Because there are only 9 submeasures in this category, Staff realizes that any miss can significantly impact the overall percentages. Staff also believes that implementation of the SEEMs will improve performance in this category. Staff believes in particular that BellSouth should pay particular attention (in addition to the FOC & Reject Completeness addressed under Checklist Item 2 generally) in the near future to its performance under the % Repeat Troubles

within 30 Days category. BellSouth improved results in June with respect to overall measurements of the xDSL product by meeting 81.5% (22 of 27) of all measurements. Within Provisioning, BellSouth demonstrated strong improvement in June by meeting 100% (9 of 9) of measurements. Within Maintenance and Repair, BellSouth demonstrated improvement by meeting 77.8% (7 of 9) measurements. Within Ordering, results fell slightly when BellSouth met 66.7% (6 of 9) measurements.

Staff intends to monitor performance in this area in the 6-month review, and will take whatever action is necessary to ensure sustained performance in this area.

### 3. *Loop Conditioning*

To further enable CLECs to provide high-speed data services to their end users, CLECs have the option of selecting the precise conditioning (i.e. loop modification) they desire on their loop. *Latham Affidavit*, ¶ 31; Access One Agmnt., Att 2, § 2.2. If a CLEC needs to have a loop conditioned, it can use BellSouth's Unbundled Loop Modification (ULM) process in order to modify any existing loop to be compatible with the CLEC's particular hardware requirements. *Latham Affidavit*, ¶ 31. The ULM process conditions the loop by the removal of any devices that may diminish the capability of the loop to deliver high-speed switched wireline capability, including xDSL service. The CLEC may select the level of conditioning it wants, and will only pay for the level of conditioning it selects. *Latham Affidavit*, ¶ 31. BellSouth will provide line conditioning upon request from a CLEC for an unbundled loop, regardless of whether or not BellSouth offers advanced services to the end-user customer on that loop. *Id.* Through January 2001, CLECs in Louisiana had made 1 request for loop conditioning. Region-wide, CLECs have made 52 requests. *Milner Affidavit*, ¶ 87.

Staff notes that the costs/rates for these ULM processes are pending in the generic UNE cost docket, Docket U-24714-A, in which Staff submitted testimony recommending rates for such processes that are dramatically lower than the rates proposed by BellSouth.

**4. Access to Line Sharing on the Unbundled Loop**

Line-sharing allows CLECs to provide high speed data service to BellSouth voice customers. BellSouth provides access to the high frequency portion of the loop as an unbundled network element. See Covad Agmt., 4/25/00 Amendment; Interconnection Agreement between BellSouth and Access One, Att. 2, Exh. C. Like SWBT, BellSouth developed the line-sharing product in a collaborative with CLECs, and is continuing to work with CLECs on an ongoing basis to resolve issues as they arise. *Williams Affidavit*, ¶ 8. As of April 1, 2001, BellSouth shows that it has provisioned 267 line-sharing arrangements in Louisiana, and 2,542 arrangements region-wide. *Milner Affidavit*, ¶ 93. In its Proposed Recommendation, Staff instructed BellSouth, as well as the other parties to this proceeding, to provide further comment regarding the line sharing collaborative referenced by Mr. Williams, including the number of meetings held, the participants, the issues that were addressed and resolved and any other issues from the collaborative that remain unresolved. Staff notes with approval the fact that BellSouth hosted 73 Line Sharing Industry Collaborative meetings during 2000 and has hosted 38 Line Sharing and Line Splitting Collaborative meetings in 2001. Of 260 Action Items, only 9 remain open. BellSouth Comments, p.29.

In a line-sharing arrangement, the high frequency portion of the loop is the frequency range above the voice band on a copper loop facility that is being used to carry analog circuit switched voice band transmission. The data signal typically is split off from the voice signal by a splitter and then delivered to a digital subscriber line access multiplexer (DSLAM) located in

the CLEC's network at its collocation space. The DSLAM converts the data signal into packets for transmission over the CLEC's network. *Williams Affidavit*, ¶ 4. BellSouth claims that it provides line-sharing in accordance with the obligations set forth in the FCC's *Line-Sharing Order* and *Line-Sharing Reconsideration Order*.<sup>13</sup> Specifically, line-sharing is available to a single requesting carrier, on loops that carry BellSouth's POTS, so long as the xDSL technology deployed by the requesting carrier does not interfere with the analog voice band transmissions. BellSouth allows line-sharing CLECs to deploy any version of xDSL that is presumed acceptable for shared-line deployment in accordance with FCC rules and will not significantly degrade analog voice service. *Williams Affidavit*, ¶ 6.

Further, BellSouth will facilitate line-splitting between CLECs using BellSouth's UNEs in full compliance with the FCC's rules. *Williams Affidavit*, ¶ 33; SGAT, II.A.9. Specifically, BellSouth facilitates line-splitting by CLECs by cross-connecting a loop and a port to the collocation space of either the voice CLEC or the data CLEC. The CLECs may then connect the loop and the port to a CLEC-owned splitter and split the line themselves. BellSouth offers the same arrangement to CLECs as that described by the FCC in the Texas 271 Order and the *Line-Sharing Reconsideration Order*. By allowing CLECs to engage in line-splitting, BellSouth's current offerings meet all FCC requirements for line splitting. *Texas Order*, ¶¶ 323-329.

AT&T witness Turner and WorldCom witness Darnell contend that for numerous reasons, BellSouth is not in compliance with the FCC's Advanced Services Order regarding line splitting and line sharing. Initially, Staff notes that neither AT&T nor WorldCom is engaged in the provision of any advanced services within the state of Louisiana.

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<sup>13</sup> *Deployment of Wireline Services Offering Advanced Telecommunications Capability and Implementation of Local Competition Provisions of the Telecommunications Act of 1996*, Third Report and Order, CLEC Docket No. 98-147 and Fourth Report and Order, CLEC Docket No. 96-98, 14 FCC Rcd 20,912 (1999) ("Line-Sharing Order");



WorldCom contends that BellSouth refuses to permit line splitting when a customer wants to receive its voice service from a CLEC and its DSL (or data) service from BellSouth. *Darnell Affidavit*, ¶¶ 7-8; *Demint Affidavit*, 10. In other words, BellSouth will not provide a customer with its retail DSL service unless that customer also purchases its voice service from BellSouth as well. Although Staff finds BellSouth's position on this issue to be rather disturbing, Staff recognizes that BellSouth's position is not contrary to the FCC's rulings on this point. In its *Line Sharing Reconsideration Order*, the FCC stated, "We deny, however, AT&T's request that the Commission clarify that incumbent LECs must continue to provide xDSL service in the event customers choose to obtain service from a competing carrier on the same line because we find that the *Line Sharing Order* contained no such requirement." *Line Sharing Reconsideration Order*, ¶26. The FCC then expressly stated that its Line Sharing Order "does not require that [LECs] provide xDSL service when they are no longer the voice provider." *Id.*

Although BellSouth appears to be within its rights to refuse to provide its xDSL service in situations where it is not the voice provider, Staff would recommend that in those situations where an end user is currently receiving, or wishes to receive in the future, voice service from a CLEC, and that end user wishes to receive xDSL service from BellSouth utilizing the same lines as the CLEC provides voice service, BellSouth should be ordered to provide its xDSL service directly to the end user via the same UNE loop that the CLEC is utilizing to provide voice service to the end user. The CLEC shall be prevented from charging BellSouth for use of its UNE loop in accordance with the Staff's recommendation. In all other respects, BellSouth shall provide its ADSL service to end users over the high frequency portion of the same loop being used by a CLEC to provide voice service under the same terms and conditions that BellSouth

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*Deployment of Wireline Services Offering Advanced Telecommunications Capability*, Order on Remand, CC Docket Nos. 98-147, 98-11, 98-26, 98-32, 98-78, 98-91 (1999)("Line-Sharing Reconsideration Order").

offers the high frequency portion of its loop to CLECs in line-sharing arrangements. Any issues regarding this recommendation should be referred to the regional line sharing collaborative for review and resolution. BellSouth may petition the Commission for a stay of this requirement upon presentation of evidence regarding substantial operational issues that must be resolved.

Further, AT&T makes several allegations regarding BellSouth's line sharing and line splitting offerings. *See Turner Affidavit*, pp. 18-32. AT&T claims that BellSouth does not provide line splitting in Louisiana and does not have methods and procedures for line splitting. It is rather difficult to square AT&T's allegations with the information provided by BellSouth regarding the line sharing arrangements provisioned in Louisiana and the testimony of BellSouth's product manager, Thomas G. Williams, who states that BellSouth presently offers line splitting and line sharing in Louisiana pursuant to procedures developed in a Line Splitting collaborative that included many CLECs, including AT&T. *Williams Reply Affidavit*, ¶6.

Staff instructed AT&T to file comments in response to the Proposed Recommendation that state whether AT&T has attempted to engage in line splitting or line sharing in Louisiana, how many orders it has submitted to BellSouth in Louisiana for such arrangements, and the status of those orders. AT&T responded that it has not attempted to engage in line splitting or line sharing in Louisiana due to BellSouth's practices. *AT&T Comments*, p. 36.

Further, AT&T claims that CLECs are precluded from offering both voice and data services to a customer because BellSouth will not provide the splitter. *Turner Affidavit*, pp. 18-29. It is Staff's understanding, however, that BellSouth is not obligated to provide the splitter in a line splitting arrangement:

We reject AT&T's argument that SWBT has a present obligation to furnish the splitter when AT&T engages in line splitting over the UNE-P. The Commission has never exercised its legislative rulemaking authority under section 251(d)(2) to

require incumbent LECs to provide access to the splitter, and *incumbent LECs therefore have no obligation to make the splitter available.*

Texas Order, 327 (emphasis added). A CLEC is free, however, to install its own splitter in its collocation space if it desires to offer both voice and data services over the same loop. *See Williams Reply Affidavit*, ¶¶ 7-9.

Contrary to AT&T's further contentions, BellSouth is not required to maintain a CLEC's UNE-P arrangement where the CLEC wants to engage in line splitting. The UNE-P arrangement consists of a combined loop and port arrangement in which a CLEC can provide voice service to an end user in competition with BellSouth without collocating any equipment in a BellSouth central office. If the CLEC wants to provide a data service to that same end user over that same loop, or wants to partner with another CLEC to engage in line splitting to provide a data service to that end user over that same loop, then the loop and port must be disconnected and both terminated to the data CLEC's collocation space with cross connections. By terminating the loop and port at the CLEC's collocation space, the line can be "split" to allow the voice traffic to proceed to one switch, while the data traffic is routed to the CLEC owned DSLAM. As Mr. Williams points out, the central office architecture for line splitting is vastly different from the relatively simple UNE-P architecture. *See Exhibits TGW-4, TGW-5 and TGW-6, attached to Williams Reply Affidavit.* BellSouth's practices in this regard appear to be in compliance with applicable FCC requirements:

For instance, if a competing carrier is providing voice service using the UNE-platform, it can order an unbundled xDSL-capable loop terminated to a collocated splitter and DSLAM equipment and unbundled switching combined with shared transport, to replace its existing UNE-platform arrangement with a configuration that allows provisioning of both data and voice services. As we described in the Texas 271 Order, in this situation, the incumbent must provide the loop that was part of the existing UNE-platform as the unbundled xDSL-capable loop, unless

the loop that was used for UNE-platform is not capable of providing xDSL service.”

*FCC Line Sharing Reconsideration Order*, ¶19.

In sum, none of the issues raised by AT&T appear to be required by FCC rule or regulation and do not affect whether BellSouth is in compliance with checklist item no. 4. In its Proposed Recommendation, Staff sought comments from the parties to this proceeding whether there are substantial unresolved issues surrounding line sharing and line splitting that would warrant this Commission's opening a generic docket for their resolution. In response, no party requested opening a generic docket. In light of this fact and apparent success of the existing collaborative efforts, Staff does not believe any generic docket should be opened at this time.

The pre-ordering, ordering, provisioning and maintenance and repair processes for the line-sharing product are very similar to the processes for xDSL-capable loops. *Williams Affidavit*, ¶ 22-27. For loop makeup information, the process is the same whether the CLEC wishes to obtain an xDSL-capable loop, or the high frequency portion of the loop. *Williams Affidavit*, ¶ 22.

BellSouth has provided the Commission with performance data specific to line-sharing in the FCC data format to demonstrate with empirical evidence its compliance with checklist item 4. An analysis of Line Sharing product data across all UNE categories (Ordering, Provisioning and Maintenance and Repair) indicates that BellSouth demonstrated strong performance in both months by meeting 87.5% (14 of 16) of the measures with CLEC activity in April, and 100% (5 of 5) in May. Relative to Line Sharing across all categories indicates performance dropped in June when BellSouth met only 57.1% (8 of 14) measurements with CLEC activity. Of the six measures missed in June, an analysis shows that in half of the cases the CLEC volume was only between 1 and 7 activities. In the other half, where there was substantial activity, BellSouth

missed the 95% benchmark, but it did achieve results in excess of 91%. Although BellSouth's performance did not achieve the stringent benchmark, it was nevertheless at a high level.

**E. CHECKLIST ITEM 5: Unbundled Local Transport**

Section 271(c)(2)(B)(v) of the competitive checklist requires a BOC to provide "[l]ocal transport from the trunk side of a wireline local exchange carrier switch unbundled from switching or other services." Interoffice transmission facilities include both dedicated transport and shared transport. *See* Second Louisiana Order, at ¶ 201. Dedicated transport is defined as "incumbent LEC transmission facilities dedicated to a particular customer or carrier that provide telecommunications between wire centers owned by incumbent LECs or requesting telecommunications carriers, or between switches owned by incumbent LECs or requesting telecommunications carriers." 47 U.S.C. 51.319(d)(1)(i). Shared transport is defined as "incumbent LEC transmission facilities shared by more than one carrier, including the incumbent LEC, between end office switches, between end office switches and tandem switches, and between tandem switches, in the incumbent LEC's network." 47 U.S.C. 51.319(d)(1)(ii).

In the *Second Louisiana Order*, the FCC concluded that, but for the deficiencies in the OSS systems noted earlier under checklist item 2 (access to unbundled network elements), BellSouth demonstrated that it provides unbundled local transport as required in Section 271. *See* Second Louisiana Order, ¶ 202. BellSouth continues to provide dedicated and shared transport between end offices, between tandems, and between tandems and end offices, and has procedures in place for the ordering, provisioning and maintenance of both dedicated and shared transport. *See* Milner Affidavit, ¶ 113; SGAT, VI; *Covad Agmnt.*, Att. 2, § 8.0. BellSouth offers both dedicated and shared transport at high levels of capacity, including DS3 and OCn levels.

*Milner Affidavit*, ¶ 113. As of February 28, 2001, BellSouth had provided 625 dedicated local transport trunks to CLECs in Louisiana and 10,565 trunks region-wide. While BellSouth cannot provide specific trunk numbers for common trunks, from July 1999 through February 28, 2001, 24 CLECs in Louisiana and 92 region-wide used common transport to some degree. BellSouth's rates for transport are consistent with the rates ordered by this Commission in LPSC Order No. U-22022/22093 dated October 24, 1997, and are subject to true-up after the LPSC's resolution of Docket U-24714-A.

It appears that WorldCom raises the only concern regarding this checklist item. WorldCom claims that BellSouth is in violation of the FCC's Local Competition Rules because BellSouth refuses to provide dedicated transport between two points on the CLEC's network or between a point that connects one CLEC's network to a point on the network of another CLEC, even where the facilities to provide such UNE's are currently in place. See *Argenbright Affidavit*, pp. 14-19. This issue is pending in WorldCom's arbitration, and it is the type of novel, interpretive issue that need not be resolved here, but is best addressed in that arbitration proceeding. Staff is unaware of any FCC precedent that requires BellSouth to provide transport between points on CLEC networks and thus does not believe it appropriate to conclude that BellSouth does not comply with checklist item 5 because of its refusal in this regard. Further, this issue is pending in MCI's arbitration proceeding, Docket U-25350, and should be resolved therein. Staff finds that BellSouth meets the requirements of checklist item no. 5.

**F. CHECK LIST ITEM 6: Unbundled Local Switching**

Checklist item 6 obligates a BOC to provide "[l]ocal switching unbundled from transport, local loop transmission, or other services." In the *Second Louisiana Order*, the FCC required

BellSouth to provide unbundled local switching that included line-side and trunk-side facilities, plus the features, functions and capabilities of the switch. See *Second Louisiana Order*, at ¶ 207. The features, functions, and capabilities of the switch include the basic switching function as well as the same basic capabilities that are available to the incumbent LEC's customers. *Id.* Additionally, local switching includes all vertical features that the switch is capable of providing, as well as any technically feasible customized routing features. *Id.*; see also *Texas Order*, at ¶ 336. The FCC requires that a BOC demonstrate in order to meet checklist item 6 that it provides (1) line-side and trunk-side facilities; (2) basic switching functions; (3) vertical features (4) customized routing; (5) shared trunk ports; (6) unbundled tandem switching (7) usage information for billing exchange access and (8) usage information for billing for reciprocal compensation. See *New York Order*, at ¶346; *Texas Order*, ¶ 339; *Kansas/Oklahoma Order*, ¶242.

In the *Second Louisiana Order*, the FCC stated that to comply with the requirements of unbundled local switching, a BOC must also make available trunk ports on a shared basis and routing tables resident in the BOC's switch, as necessary to provide access to shared transport functionality. *Second Louisiana Order*, ¶ 209; *SWBT-TX Order*, ¶ 338. The FCC also stated that a BOC may not limit the ability of competitors to use unbundled local switching to provide exchange access by requiring CLECs to purchase a dedicated trunk from an interexchange carrier's point of presence to a dedicated trunk port on the local switch. *Id.*

In the *Second Louisiana Order*, the FCC concluded that BellSouth proved that it provides, or can provide, the line-side and trunk-side facilities of the switch, the basic switching function, trunk ports on a shared basis, and unbundled tandem switching. See *Second Louisiana Order*, ¶¶ 210; 212-215; 228-29. BellSouth continues to provide unbundled switching in

accordance with the requirements of the FCC. *See* NewSouth Agmnt., Att. 3; Att. 6. BellSouth provides CLECs unbundled switching capability with the same features and functionality available to BellSouth's own retail operations, in a nondiscriminatory manner. *Milner Affidavit*, ¶ 124. This offering is proved through actual commercial usage, as BellSouth has furnished over 9,345 unbundled switch ports in Louisiana through February 28, 2001, most as part of the loop/port combination. *Milner Affidavit*, ¶ 133. BellSouth also provides CLECs with unbundled tandem switching, and unbundled packet switching in accordance with FCC rule 51.391(c)(3). *Milner Affidavit*, ¶ 131-132.

BellSouth's rates for unbundled local switching comply with this Commission's Order No. U-22022/22093. In connection with BellSouth's second Louisiana application to the FCC, the DOJ questioned BellSouth's switching and vertical features rates. *See* Second Louisiana Order. fn. 677. The LPSC is reexamining those rates in Docket No. U-24714-A, and to the extent necessary, BellSouth will true-up the rates set forth in Attachment A to the SGAT in accordance with the LPSC's decision.

Despite finding that BellSouth provided the basic switching functionality on an unbundled basis, the FCC concluded that BellSouth failed to meet its burden of proof with respect to access to vertical features; customized routing; usage information for billing exchange access; and usage information necessary for billing for reciprocal compensation. BellSouth has filed evidence herein to show that it has remedied all of the FCC's concerns.

### ***1. Vertical Features***

At the time of BellSouth's second application, the FCC and BellSouth disagreed as to whether a BOC was obligated only to offer those vertical features actually being offered to its retail customers, or all vertical features loaded in the software of the switch, whether or not the



BOC offered them on a retail basis. See Second Louisiana Order, ¶ 218-220. BellSouth now offers CLECs all vertical features that are loaded in the switch, or loaded but not currently activated. *Milner Affidavit*, ¶ 126; *COVAD Agmnt.*, Att. 2, § 7.1.1.1; SGAT, § VI.A. In addition, BellSouth will provide switch features not currently loaded in the switch pursuant to the bona fide request process provided that the CLEC is willing to pay the additional costs involved, such as additional right-to-use fees, programming costs to the manufacturer and internal costs to adapt BellSouth's systems to accept an order for the new feature. No party takes issue with BellSouth's compliance in this area.

## 2. *Customized Routing*

Customized routing allows calls from a CLEC's customer served by a BellSouth switch to reach the CLEC's operator services or directory assistance platforms. In the *Second Louisiana Order*, the FCC found deficiencies with BellSouth's offer of customized routing. First, while the FCC believed BellSouth's Advanced Intelligent Network (AIN) method of providing customized routing had "the potential to meet the requirements of the *Local Competition First Report and Order*," the FCC nevertheless discounted it for purposes of BellSouth's second application because AIN was not then being currently offered. See Second Louisiana Order, ¶ 222. BellSouth offers evidence that it now offers its AIN solution to customized routing to any CLEC that wishes to use it. See *Milner Affidavit*, ¶ 136; *Access One Agmnt.*, Att. 2, § 3.1.6; 3.4.

The FCC further indicated that BellSouth's line class code (LCC) solution for customized routing would have been acceptable had BellSouth been able to demonstrate adequately that CLECs can order this option efficiently. Specifically, the FCC held that "BellSouth should not

require the competitive LEC to provide the actual line class codes, which may differ from switch to switch, if BellSouth is capable of accepting a single code region-wide." *Second Louisiana Order*, ¶ 224. In compliance with this obligation, BellSouth has stated that it will implement one routing pattern per region for a CLEC's customers. In addition, although it is not required to do so, BellSouth voluntarily will provide a single routing pattern on a state-wide basis. This single routing pattern (whether region-wide or state-wide) can be to a BellSouth platform (branded or unbranded), a CLEC platform, or a third-party platform. *Milner Affidavit*, ¶ 144.

To avail itself of the single routing pattern, the CLEC need not put any LCC on the local service request. Such orders will be handled electronically (assuming, of course, that they would not otherwise fall out for manual handling) and therefore will need no manual intervention. *Milner Affidavit*, ¶ 145. This ordering mechanism satisfies the FCC's directive that "the easiest way for BellSouth to make this demonstration [of ordering efficiency] is to ensure that orders that include selective routing information do not require manual intervention." See *Second Louisiana Order*, at ¶ 223-225. This LCC routing arrangement is identical to that provided to the BellSouth retail units. On the retail side, BellSouth has a single region-wide routing pattern for its customers' calls that is effectuated without the service representative having to populate the LCC on the service order. Likewise, BellSouth will provide a CLEC a single routing pattern that is effectuated without the CLEC service representative having to populate the LCC on the local service request. *Milner* ¶, 146.

If, on the other hand, the CLEC chooses to have different routing options for different customers served out of the same switch, BellSouth will handle such requests on a manual basis. In this scenario, the CLEC will provide information on the LSR designating the appropriate LCCs to direct the call. Although submitted electronically, such an order will fall out for manual

handling and BellSouth will process it manually. The FCC specifically recognized that CLECs who wish to have multiple routing patterns in the same switch should bear the obligation to populate the requisite LCCs on the LSR. The FCC held as follows:

We agree with BellSouth that a competitive LEC must tell BellSouth how to route its customers' calls. If a competitive LEC wants all of its customers' calls routed in the same way, it should be able to inform BellSouth, and BellSouth should be able to build the corresponding routing instructions into its systems just as BellSouth has done for itself. If, however, a competitive LEC has more than one set of routing instructions for its customers, it seems reasonable and necessary for BellSouth to require the competitive LEC to include in its order an indicator that will inform BellSouth which selective routing pattern to use.

*Second Louisiana Order*, ¶ 224. AT&T and WorldCom dispute that BellSouth is providing adequate customized routing. See AT&T Original Comments, pp. 90-91.

Although certain parties raise concerns regarding BellSouth's customized routing options, Staff finds that BellSouth offers customized routing in compliance with the FCC's requirements. See Bradbury Affidavit, pp. 92-97; Lichtenberg Affidavit, pp. 5-6. The customized routing issues raised by AT&T in this proceeding were raised by AT&T in other states within its Section 272 arbitrations. Further, these issues appear to be pending in the generic UNE cost docket, Docket No. U-24714-A. Thus, Staff believes that any remaining issues surrounding customized routing should be addressed in that docket. Otherwise, Staff agrees with BellSouth, as well as other state commissions within BellSouth's region, that BellSouth has provided sufficient customized routing to avoid providing OS/DA as a UNE. See Milner Reply Affidavit, 96.

### **3. Usage Information Necessary for Billing for Reciprocal Compensation**

In the *Second Louisiana Order*, the FCC held that BellSouth did not provide CLECs with information necessary to bill for reciprocal compensation or, alternatively, have in place other arrangements such as a surrogate. Section 251(b)(5) requires all LECs "to establish reciprocal

compensation arrangements for the transport and termination of telecommunications.” 47 U.S.C. 251(b)(5). Without this information or other arrangements, CLECs purchasing unbundled local switching will not be able to bill and collect reciprocal compensation. See Second Louisiana Order, ¶ 232.

The FCC therefore requires that a BOC provide a purchaser of unbundled local switching with either: (1) actual terminating usage data indicating how many calls/minutes its customers received and identifying the carriers that originated those calls; or (2) a reasonable surrogate for this information. *Id.* at ¶ 233. In this regard, the FCC expressly rejected BellSouth's argument that it is not legally required to provide billing information for terminating traffic because any reciprocal compensation payments due from BellSouth are offset by payments due to BellSouth for the competitors' use of unbundled local switching to terminate traffic. *Id.* ¶ 234.

BellSouth now provides CLECs with information necessary to bill for reciprocal compensation. The Access Daily Usage File (ADUF) provides the CLEC with records for billing interstate and intrastate access charges (whether the call was handled by BellSouth or an interexchange carrier) or reciprocal compensation charges to other LECs and interexchange carriers for calls originating from and terminating to unbundled ports. *Scollard Affidavit*, ¶ 27. The BellSouth network does not have the capability to record a terminating call record when an end user served out of a BellSouth switch has placed a call to a CLEC's unbundled switch port. Because the UNE charges that would be paid by the CLEC to BellSouth for these calls offsets the reciprocal compensation charges collected for the same calls, the need for the call records is obviated. This, in effect, represents a surrogate for the records which is offered to all CLECs, obviating the need for the data. *Scollard Affidavit*, ¶ 27.

In sum, Staff concludes that BellSouth has remedied the deficiencies noted by the FCC in its *Second Louisiana Order* under checklist item no. 6.

**G. CHECKLIST ITEM 7: Access to Operator Services/Directory Assistance and E911 (and 911)**

**1. 911 and E911 Services**

Section 271(c)(2)(B)(vii) of the Act requires a BOC to provide “[n]ondiscriminatory access to 911 and E911 services.” Section 271 requires a BOC to provide competitors access to its 911 and E911 services in the same manner that a BOC obtains such access, i.e., at parity. See *Second Louisiana Order*, ¶ 235. This Commission found that BellSouth has met this requirement, and the FCC has twice concluded likewise. See *South Carolina Order*, ¶ 666-67; *Second Louisiana Order*, ¶ 235-36. Only KMC raises any issue with respect to this item, and claims generally without any supporting detail that BellSouth fails to properly process 911 information. *Demint Affidavit*, p. 7. Mr. Demint cites a single example of a facility where the wrong name and address appeared to the 911 operator. BellSouth responds that in such situations, the fault may lie with the CLEC not having provided correct information to BellSouth. See *Stacey Reply Affidavit* ¶¶268-69. Staff believes that this isolated example is not indicative of any systematic failure on BellSouth’s part. BellSouth continues to provide access to 911 and E911 services in a manner consistent with that presented to this Commission and the FCC. *Milner Affidavit*, ¶ 149.

**2. Directory Assistance/Operator Services**

Section 271(c)(2)(B)(vii)(II) and section 271(c)(2)(B)(vii)(III) require a BOC to provide nondiscriminatory access to “directory assistance services to allow the other carrier’s customers to obtain telephone numbers” and “operator call completion services,” respectively. Section

251(b)(3) of the Act imposes on each LEC "the duty to permit all [competing providers of telephone exchange service and telephone toll service] to have nondiscriminatory access to ... operator services, directory assistance, and directory listing, with no unreasonable dialing delays." In the *UNE Remand Order*, the FCC removed directory assistance and operator services from the list of required unbundled network elements. *UNE Remand Order*, at ¶¶ 441-42. To comply with the competitive checklist, however, BellSouth must make directory assistance and operator services available on rates, terms and conditions that are just, reasonable and nondiscriminatory. *Id.* at ¶¶ 470-73.

The FCC concluded in the *Local Competition Second Report and Order* that the phrase "nondiscriminatory access to directory assistance and directory listings" means that "the customers of all telecommunications service providers should be able to access each LEC's directory assistance service and obtain a directory listing on a nondiscriminatory basis, notwithstanding: (1) the identity of a requesting customer's local telephone service provider; or (2) the identity of the telephone service provider for a customer whose directory listing is requested." *Second Louisiana Order*, ¶ 241, citing 47 U.S.C. § 51.217(c)(3); *Local Competition Second Report and Order*, ¶ 130-35. Nondiscriminatory access to the dialing patterns of 4-1-1 and 5-5-5-1-2-1-2 to access directory assistance were technically feasible, the FCC concluded, and would continue. *Second Louisiana Order*, ¶ 241, citing *Local Competition Second Report and Order*, ¶ 151. The FCC specifically noted that the phrase "nondiscriminatory access to operator services" means that "...a telephone service customer, regardless of the identity of his or her local telephone service provider, must be able to connect to a local operator by dialing 'O', or 'O plus' the desired telephone number." *Id.* ¶ 112.

BellSouth provides directory assistance services to CLEC customers in the same manner as it does for its own retail subscribers. *Milner Affidavit*, ¶ 151; *Coutee Affidavit*, ¶ 10; *Access One Agmnt.*, Att. 2, § 10.4. BellSouth provides CLECs access to the Directory Assistance Access Service (DAAS) and the Directory Assistance Call Completion service (DACC) via trunks connecting the CLEC's point of interface with the BellSouth platform. *Milner Affidavit*, ¶ 151. As of February 28, 2001, CLECs in Louisiana had 145 directory assistance trunks in place between CLEC switches and BellSouth's platform. *Milner Affidavit*, ¶ 152.

CLECs can provide their local exchange customers with the same access to BellSouth's DA using the same 411 dialing pattern as BellSouth provides its retail customers. *Coutee Affidavit*, ¶ 10. The DA request will be handled in the same manner as BellSouth does for its own retail local exchange customers. The same operators, the same automated systems, and the same databases are used to provide the CLEC local exchange customer with DA. Whether the CLEC elects to brand with its name or not brand, the call is handled with the same speed, care, accuracy and quality that a BellSouth retail local exchange customer would receive. *Coutee Affidavit*, ¶ 10.

BellSouth also provides CLECs with access to the Directory Assistance Database Service (DADS) to allow CLECs to use BellSouth's subscriber listing information to set up their own directory assistance services. *Coutee Affidavit*, ¶ 11; *Access One Agmnt.*, Att. 2 § 10.5. In addition, BellSouth provides CLECs with access to the Direct Access to Directory Assistance Service (DADAS), which gives CLECs direct access to BellSouth directory assistance database so that CLECs may provide directory assistance services. *Access One Agmnt.*, Att. 2 § 10.6. All information contained in BellSouth's listing database for its own end users, CLECs' end users, and independent LECs' end users is available to CLECs in the same manner as it is available to

BellSouth itself. *Milner Affidavit*, ¶ 155. In the *Second Louisiana Order*, the FCC found that BellSouth made a *prima facie* showing that it has a concrete legal obligation to provide nondiscriminatory access to directory assistance and operator services, and that it provides access to its directory assistance database on a “read only” or “per dip” inquiry basis through its DADAS. *Second Louisiana Order*, at ¶ 243; 248.

Despite the FCC’s finding that BellSouth made a *prima facie* showing that it had a legal obligation to provide access to its directory listings database, the FCC also concluded that BellSouth failed to make a *prima facie* showing that it provides nondiscriminatory access: (1) to BellSouth-supplied operator services and directory assistance; and (2) to the directory listings in its directory assistance databases. *Second Louisiana Order*, ¶ 243. It observed in this regard, however, that “the deficiencies we identify...should be readily correctable by BellSouth.” *Id.*

First, the FCC stated that in future applications, if BellSouth chose to rely on performance data to demonstrate its compliance with this checklist item “it should either disaggregate the data or explain why disaggregation is not feasible or is unnecessary to show nondiscrimination.” *Second Louisiana Order*, ¶ 245. BellSouth has made such a showing to this Commission. Disaggregation of performance data related to directory assistance and operator services is unnecessary because BellSouth’s provision of directory assistance and operator services to CLECs is parity by design. *Milner Affidavit*, ¶ 161. BellSouth states that the flow of service orders to directory assistance or operator services platforms is exactly the same regardless of the source of the service order. *Milner Affidavit*, ¶ 161. Because calls are not differentiated between BellSouth retail calls and CLEC calls, there is no need to disaggregate performance data between the types of calls. Staff agreed in Docket No. U-22252-C that this



appeared to be parity by design and in an abundance of caution is subjecting this conclusion to an independent third-party audit.

Second, the FCC concluded that BellSouth failed to demonstrate that it complies with the FCC's rebranding requirements. The FCC directed BellSouth in future applications to demonstrate that its method of providing branding results in nondiscriminatory access by showing, for example, that the way it brands operator calls for competing carriers is the same as the way it provides access to operator services for its own customers. *Second Louisiana Order*, ¶ 247. BellSouth concludes that CLECs have four branding options: BellSouth-branded; unbranded; custom branding; and self-branding. *Milner Affidavit*, ¶ 164. As demonstrated in the discussion of Checklist item 6, BellSouth provides CLECs the ability to apply unique branding via either AIN or line class codes. *Milner Affidavit*, ¶ 170. A CLEC's use of line class codes to reach an OS/DA platform is the same as BellSouth's use of line class codes to reach its Traffic Operator Position System (TOPS), and thus BellSouth's provision of customized routing is nondiscriminatory. *Milner Affidavit*, ¶ 171.<sup>14</sup>

In addition, BellSouth provides CLECs with Operator Line Number Screening (OLNS). OLNS is a method of providing customized branding in addition to the LCC and AIN methods. *Milner Affidavit*, ¶ 164. OLNS provides a means of making information available to the OS/DA platform about the end user originating a telephone call. OLNS allows end users' calls to proceed from the end office switches to BellSouth's OS/DA platform over common trunk groups

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<sup>14</sup> In response to its second Louisiana application, MCI claimed that BellSouth's rebranding solution imposes "an unreasonable requirement that would result in a grossly inefficient and costly parallel network for each CLEC seeking branded operator services." *Second Louisiana Order*, ¶ 247. It appears to the Staff that BellSouth imposes no burden on the CLECs that it does not impose upon itself. Under the LCC method of customized routing, calls are directed at the end office switch to the requested OS/DA platform over dedicated trunks. Dedicated trunks are required because of the technical limitations of the switches. To the extent that CLECs choose the same OS/DA platform and the same branding (or unbranding) of calls, CLECs may share the transport between the end office switch and the platform. A CLEC's use of LCCs to reach an OS/DA platform is the same as BellSouth's use of

(that is, a single trunk group between an end office switch and the OS/DA platform carrying multiple service providers' traffic including calls from BellSouth's retail customers). Once the call arrives at the OS/DA platform, OLNS is used to "look up" the telephone number of the calling party in its database to determine whether and how to brand a call from that particular end user. *Milner Affidavit*, ¶ 173.

Finally, the FCC found that BellSouth failed to demonstrate that it provides subscriber listing information in its directory assistance database in a way that allows CLECs to incorporate that information into their own database. *Second Louisiana Order*, ¶ 249. According to the FCC, "to comply with this requirement BellSouth must provide a requesting carrier with all the subscriber listings in its operator services and directory assistance databases except listings for unlisted numbers." *Second Louisiana Order*, ¶ 249. BellSouth has addressed this concern. All information contained in BellSouth's listing database for its own end users, CLECs' end users, and independent LECs' end users is available to competitive carriers in the same manner as it is available to BellSouth itself. *Milner Affidavit*, ¶ 155; *Coutee Affidavit*, ¶ 11.

In conclusion, BellSouth is fully compliant with checklist item 7. BellSouth has remedied the concerns of the FCC from the *Second Louisiana Order*, and continues to provide CLECs with nondiscriminatory access to 911/E911.

#### **H. CHECKLIST ITEM 8: White Pages Directory Listings**

This Commission previously concluded that BellSouth is satisfying its obligation in Section 271(c)(2)(B)(viii) to provide "[w]hite pages directory listings for customers of the other carrier's telephone exchange service." The FCC also concluded that BellSouth is meeting this

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LCC's to reach its TOPS platform, and thus BellSouth's provision of customized routing is nondiscriminatory. *Milner Affidavit*, ¶ 167. In addition, CLECs can avail themselves of the AIN method or OLNS.

checklist item. *Second Louisiana Order*, at ¶ 252. BellSouth's actions and performance at this time are consistent with the showing previously made to this Commission and the FCC upon which both regulatory agencies made the determination that the statutory requirements for the checklist item were met. *Second Louisiana Order*, n. 151; *Milner Affidavit*, ¶ 175.

AT&T argues that there are inadequate performance measures in this area. *Bursch Affidavit*, ¶ 12. This Commission has already adopted what it views to be appropriate performance measures in its May 14, 2001 General Order.

KMC and Xspedius cite several instances where BellSouth has made mistakes in listings. *Goodly Affidavit*, pp. 4-5; *KMC Comments*, p. 8. BellSouth witness Hudson responds. ¶¶ 7-14. Staff is aware that mistakes are made on BellSouth's retail side in this area, and does not believe that the isolated events indicate a systemic failure that would overturn our previous finding. Staff finds BellSouth in compliance with checklist item no. 8.

#### **I. CHECKLIST ITEM 9: Numbering Administration**

This Commission concluded that BellSouth met this competitive checklist requirement, and the FCC agreed with that conclusion. *Second Louisiana Order*, ¶ 260-262. Since that time, NeuStar has assumed all the responsibilities of the North American Numbering Plan Administrator (NANPA). *Milner Affidavit*, ¶ 176. BellSouth no longer has any responsibility for the assignment of central office codes (NXXs) or for NPA relief planning. *Id.* Although it is no longer a CO code administrator, and no longer performs any functions with regard to number administration or assignment, BellSouth continues to adhere to all relevant industry guidelines and FCC rules, including those provisions requiring accurate reporting of data to the Code Administrator. *Milner Affidavit*, ¶ 182. For these reasons, the Commission should again conclude that BellSouth complies with this checklist item. No party contends otherwise.

**J. CHECKLIST ITEM 10: Databases and associated signaling**

Section 271(c)(2)(B)(x) of the 1996 Act requires a BOC to provide “nondiscriminatory access to databases and associated signaling necessary for call routing and completion.” In the Second Louisiana Order, the FCC required BellSouth to demonstrate that it provided requesting carriers with nondiscriminatory access to: (1) signaling networks, including signaling links and signaling transfer points; (2) certain call-related databases necessary for call routing and completion, or in the alternative, a means of physical access to the signaling transfer points linked to the unbundled database; and (3) Service Management Systems (SMS). *Second BellSouth Louisiana Order*, 267. The FCC also required BellSouth to design, create, test and deploy Advanced Intelligent Network (AIN) based services at the SMS through a Service Creation Environment (SCE). *Id.* at 272.

In the Local Competition First Report and Order, the FCC defined call-related databases as databases, other than operations support systems, that are used in signaling networks for billing and collection or the transmission, routing, or other provision of telecommunications service. *First Report and Order*, n. 1126. At that time, the Commission required incumbent LECs to provide unbundled access to their call-related databases, including but not limited to: the Line Information Database (LIDB), the Toll Free Calling database, the Local Number Portability database, and Advanced Intelligent Network database. *Id.* at ¶484. In the *UNE Remand Order*, the FCC clarified that the definition of call-related databases “includes, but is not limited to, the calling name (CNAM) database, as well as the 911 and E911 databases.” *UNE Remand Order*, ¶403.

Based on the evidence in the record, the Staff concludes that BellSouth satisfies the requirements of checklist item 10, and Staff notes that no party to this proceeding appears to have made any allegation otherwise regarding this checklist item. This finding is consistent with the finding made by the FCC in its *Second Louisiana Order*, ¶267.

**K. CHECKLIST ITEM 11: Local Number Portability**

Section 271(c)(2)(B) of the 1996 Act requires a BOC to comply with the number portability regulations adopted by the Commission pursuant to section 251. Section 251(b)(2) requires all LECs "to provide, to the extent technically feasible, number portability in accordance with requirements prescribed by the Commission." The 1996 Act defines number portability as "the ability of users of telecommunications services to retain, at the same location, existing telecommunications numbers without impairment of quality, reliability, or convenience when switching from one telecommunications carrier to another." *Id.* at §153(30). In order to prevent the cost of number portability from thwarting local competition, Congress enacted section 251(e)(2), which requires that "[t]he cost of establishing telecommunications numbering administration arrangements and number portability shall be borne by all telecommunications carriers on a competitively neutral basis as determined by the Commission." *Id.* at §251(e)(2); *see also Second Louisiana Order*, ¶274.

Pursuant to these statutory provisions, the FCC requires LECs to offer interim number portability "to the extent technically feasible." Fourth Number Portability Order, 10. The FCC also requires LECs to gradually replace interim number portability with permanent number portability. *Second Louisiana Order*, 275. The FCC has established guidelines for states to follow in mandating a competitively neutral cost-recovery mechanism for interim number

portability, and created a competitively neutral cost-recovery mechanism for long-term number portability. *Id.*

In its *Second Louisiana Order*, the FCC found that BellSouth failed to demonstrate that it provides interim number portability so that “users of telecommunications services [can] retain, at the same location, existing telecommunications numbers without impairment of quality, reliability, or convenience when switching from one telecommunications carrier to another. *Second Louisiana Order*, ¶279, citing 47 C.F.R. §52.21(k).

Staff finds that BellSouth complies with the requirements of checklist item 11. Certain parties have made allegations regarding BellSouth’s failure to provide number portability in a reliable fashion. Many of these same issues were addressed during the Collaborative Workshops with CLECs and many have already been resolved or are being resolved. Because most of these claims appear to be anecdotal in nature and have been or are being resolved, Staff does not believe that they warrant a finding of noncompliance with this checklist item. For instance, AT&T complains that BellSouth will reassign numbers that CLEC customers have ported with them. *Wilson Affidavit*, ¶¶ 26-28, 62-64. BellSouth responds however, that it has identified the specific problem and has implemented an interim manual solution to correct the problem, while a permanent software solution is being pursued. See *Ainsworth Reply Affidavit*, ¶5. AT&T also complains that certain customers that port their number upon changing service to a CLEC will experience double billing because BellSouth does not stop billing the end user. *Wilson Affidavit*, ¶¶ 31-33, 67-69. As BellSouth points out, however, this situation can be caused by either the CLEC or BellSouth. Further, BellSouth has worked to resolve these types of issues in various collaborative meetings. Finally, a CLEC can contact the Billing Resolution Group to investigate

any individual issues and work with the CLEC to resolve the matter in an expeditious manner.

See Ainsworth Reply Affidavit, ¶¶ 7-9.

In its Proposed Recommendation, Staff instructed BellSouth, and any other interested party, to provide an update regarding the status of implementing “fixes” to LNP problems and whether there are any remaining issues to be resolved by the Commission concerning such problems. In response, BellSouth states that double billing occurs in isolated instances and can be caused by both CLECs and BellSouth. Any such problems are resolved expeditiously. Further, regarding the problem of reassignment of telephone numbers, BellSouth states that it has implemented an interim manual solution that has solved the problem in its entirety and is planning a permanent fix. BellSouth Comments, pp. 33-34. Staff will continue to monitor any LNP issues and requests that the parties inform Staff of any further instances of such problems.

**L. CHECKLIST ITEM 12: Local Dialing Parity**

Section 271(c)(2)(B)(xii) requires a BOC to provide “[n]ondiscriminatory access to such services or information as are necessary to allow the requesting carrier to implement local dialing parity in accordance with the requirements of section 251(b)(3). Section 251(b)(3) imposes upon all LECs “[t]he duty to provide dialing parity to competing providers of telephone exchange service and telephone toll service with no unreasonable dialing delays.” Section 153(15) of the Act defines “dialing parity” as follows:

...a person that is not an affiliate of a local exchange carrier is able to provide telecommunications services in such a manner that customers have the ability to route automatically, without the use of any access code, their telecommunications to the telecommunications services provider of the customer’s designation...

The FCC rules that implement section 251(b)(3) provide that customers of competing carriers must be able to dial the same number of digits the BOC's customers dial to complete a local telephone call. 47 C.F.R. §§51.205, 51.207. Moreover, customers of competing carriers must not otherwise suffer inferior quality service, such as unreasonable dialing delays, compared to the BOC's customers. 47 C.F.R. §51.207.

Staff finds that BellSouth demonstrates that it provides local dialing parity in accordance with the requirements of section 251(b)(3) and thus satisfies the requirements of checklist item 12. Staff notes that no party to this proceeding has made any allegations against BellSouth concerning compliance with checklist item 12. Staff notes that the FCC previously found BellSouth to be in compliance with this checklist item and Staff is unaware of any reason why the FCC should reconsider its decision. See Second Louisiana Order, ¶¶ 296-97.

**M. CHECKLIST ITEM 13: Reciprocal Compensation**

Section 271(c)(2)(B)(xiii) of the Act requires that a BOC enter into “[r]eciprocal compensation arrangements in accordance with the requirements of section 252(d)(2).” In turn, pursuant to section 252(d)(2)(A), “a state commission shall not consider the terms and conditions for reciprocal compensation to be just and reasonable unless (i) such terms and conditions provide for the mutual and reciprocal recovery by each carrier of costs associated with the transport and termination on each carrier’s network facilities of calls that originate on the network facilities of the other carrier; and (ii) such terms and conditions determine such costs on the basis of a reasonable approximation of the additional costs of terminating such calls.

Based on the evidence in the record, Staff concludes that BellSouth demonstrates that it has entered into reciprocal compensation arrangements in accordance with the requirements of



section 252(d)(2), and thus satisfies the requirements of checklist item 13. Only MCI raises allegations concerning BellSouth's actions under checklist item 13, all of which concern issues that are currently pending in its section 252 arbitration proceeding before this Commission (Docket No. U-25350). Staff believes that MCI's issues should be resolved in the context of its arbitration proceeding and does not believe that any such issues render BellSouth in noncompliance with this checklist item. Staff notes that the FCC previously found that BellSouth was in compliance with this checklist item, and Staff is unaware of any reason or condition that should cause the FCC to reconsider its prior decision. *See* Second Louisiana Order, ¶ 299.

**N. CHECKLIST ITEM 14: Resale Obligation**

Section 271(c)(2)(B)(xiv) of the Act requires a BOC to make "telecommunications services ... available for resale in accordance with the requirements of sections 251(c)(4) and 252(d)(3). Section 251(c)(4)(A) requires incumbent LECs "to offer for resale at wholesale rates any telecommunications service that the carrier provides at retail to subscribers who are not telecommunications carriers." Section 252(d)(3) requires state commissions to "determine wholesale rates on the basis of retail rates charged to subscribers for the telecommunications service requested, excluding the portion thereof attributable to any marketing, billing, collection, and other costs that will be avoided by the local exchange carrier. Section 251(c)(4)(B) prohibits "unreasonable or discriminatory conditions or limitations" on service resold under section 251(c)(4)(A). Consequently, the Commission concluded in the Local Competition First Report and Order that resale restrictions are presumed to be unreasonable unless the LEC proves to the state commission that the restriction is reasonable and non-discriminatory. If an incumbent LEC

makes a service available only to a specific category of retail subscribers, however, a state commission may prohibit a carrier that obtains the service pursuant to section 251(c)(4)(A) from offering the service to a different category of subscribers. If a state creates such a limitation, it must do so consistent with requirements established by the Federal Communications Commission. In accordance with sections 271(c)(2)(B)(ii) and 271(c)(2)(B)(xiv), a BOC must also demonstrate that it provides nondiscriminatory access to operations support systems for the resale of its retail telecommunications services. *Texas Order*, ¶387.

Based on the record evidence, Staff concludes that BellSouth demonstrates that it makes telecommunications services available for resale in accordance with sections 251(c)(4) and 252(d)(3), and thus satisfies the requirements of checklist item 14. None of the parties to this docket make any serious contention otherwise. Staff notes that the FCC previously held that “but for deficiencies in its OSS systems, BellSouth demonstrates that it makes telecommunications services available for resale in accordance with sections 251(c)(4) and 252(d)(3).” *Second Louisiana Order*, ¶309. Staff has previously discussed and concluded that BellSouth has remedied the concerns regarding its OSS sufficient to comply with checklist item 2. *See* discussion under checklist item 2. Thus, Staff recommends that this Commission find BellSouth in compliance with checklist item 14.

In addition to the above recommendation, Staff would recommend, in accordance with Commission Order No. U-22020, a review of the wholesale discount rate previously established by the Commission.<sup>15</sup>

## V. CONCLUSION

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<sup>15</sup> In Order No. U-22020, this Commission established a wholesale discount rate of 20.72% for resale of BellSouth's unbundled retail features, functions, capabilities and services, and bundled retail services including vertical features. In addition to establishing this rate, the Commission ordered the Staff to monitor the effect of the discount adopted

For the reasons stated herein, the Staff of the Louisiana Public Service Commission recommends that the Commission find that BellSouth Telecommunications, Inc. is in compliance with the requirements of the Telecommunications Act of 1996, including the checklist requirements in section 271 (c)(2)(B) and the Federal Communications Commission's ("FCC's") orders promulgated thereunder; and, therefore, endorse the application of BellSouth Corporation, BellSouth Telecommunications, Inc. and BellSouth Long Distance, Inc. to the FCC seeking authority under section 271 of the Telecommunications Act of 1996 to provide interLATA service originating within the State of Louisiana. Staff also therefore recommends approval of BellSouth's Statement of Generally Available Terms and Conditions.

Further, Staff recommends that the Commission take action in addition to finding that BellSouth is in compliance with existing FCC requirements, in order to ensure that competition in the local telecommunications service market continues to flourish in Louisiana. To this end, Staff recommends that the Commission enter a separate order amending its Rules for Competition in the Local Telecommunications Market as follows:

1. That the Commission adopt the conclusion in the Order issued by the Georgia Public Service Commission in Docket No. 10692-U, dated February 1, 2000, that "currently combines" means ordinarily combined within the BellSouth network, in the manner in which they are typically combined. Staff further recommends that the Commission find that loop/port and loop/transport combinations are ordinarily combined in BellSouth's network. Thus, BellSouth must provide combinations of typically combined elements, even if the particular elements being ordered are not actually connected at the time the order is placed.

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and it further ordered that a review of the resale rate be undertaken within eighteen months of its implementation. Staff never undertook said review.

The recurring rate for a new combination shall be the same as the recurring rate for an exiting combination. The nonrecurring rate for a new loop/port combination shall be the sum of the nonrecurring rate for the loop and the nonrecurring rate for the port as established in Docket U-24714-A. The nonrecurring rate for a new loop/transport combination shall be the rate for such combination in the New Orleans MSA as modified in Docket No. U-24714-A. To the extent the Commission has not established nonrecurring rates for a particular new combination, the nonrecurring rate shall be the sum of the nonrecurring rates for the individual elements. The Commission shall reconsider these requirements immediately after any United States Supreme Court decision regarding this issue.

2. That the Commission order BellSouth to provide its ADSL service to end users over the high frequency portion of the same loop being used by a CLEC to provide voice service under the same terms and conditions that BellSouth offers the high frequency portion of its loops to CLECs in line-sharing arrangements. Staff further recommends that the CLEC shall be prevented from charging BellSouth for use of its UNE loop. Any issues regarding implementation of this recommendation shall be referred to the regional line sharing/line splitting collaborative for review and resolution. BellSouth may petition the Commission for a stay of this requirement upon presentation of evidence regarding substantial operational issues that must be resolved.

3. That the Commission prohibit BellSouth from engaging in any win back activities for 7 days once a customer switches to another local telephone service provider, including (1) prohibiting BellSouth's wholesale divisions from sharing information with its retail divisions, at any time, such as notice that certain end users have requested to switch local service providers,

and (2) prohibiting BellSouth from including any marketing information in its final bill sent to customers that have switched providers.

4. That the Commission order BellSouth to waive any application fee or charges that would otherwise be due from a CLEC that decides to reconfigure its existing collocation power arrangement so as to purchase smaller increments of power from BellSouth's BDFB, rather than directly from BellSouth's main power board. Where a CLEC decided to reconfigure its collocation power so as to purchase smaller increments of power from BellSouth's BDFB, Staff recommends that the Commission require the CLEC to submit an application to BellSouth regarding such reconfiguration and order BellSouth to respond to the application and permit the conversion within seven (7) calendar days.

Further, Staff recommends that the Commission order BellSouth to provide CLECs with an additional option by allowing CLECs to purchase power directly from an electric utility company. Under such an option, the CLEC would be responsible for contracting with the electric utility company for their own power feed and meter, and would be financially responsible for purchasing all equipment necessary to accomplish the arrangement, including inverters, batteries, power boards, bus bars, BDFBs, backup power supplies and cabling. The actual work to install this arrangement would be performed by a certified vendor hired by the CLEC. Such CLEC must comply with all applicable safety codes, including the National Electric Safety Codes, in installing this power arrangement. BellSouth shall waive any application fee or charge that would otherwise be due from a CLEC that decides to reconfigure any existing collocation power arrangement so as to purchase power directly from an electric utility company as provided herein.

5. That the Commission order BellSouth to allocate security costs on a square foot basis rather than on the basis of the number of occupants in the central office.

6. That the Commission establish a cageless collocation interval of sixty (60) calendar days for ordinary arrangements and ninety (90) calendar days for extraordinary arrangements. Such intervals shall run from date of firm order. The terms "ordinary" and "extraordinary" shall have the same meaning as is ascribed to them in General Order dated October 9, 2000. BellSouth shall be permitted to file for waiver of the applicable benchmarks in appropriate circumstances.

7. That the Commission open a docket in accordance with Commission Order No. U-22020 to review the wholesale discount rate previously established by the Commission.

8. That the Commission direct Staff to develop a monetary penalty in its six-month interim review in Docket No. U-22252-C to be imposed upon BellSouth to ensure that the implementation of fully parsed CSR data functionality occurs as scheduled. Such penalty should take effect only after BellSouth has obtained FCC approval to offer interLATA service in Louisiana.

9. That the Commission Order BellSouth to implement the C-Order process no later than April 1, 2002. Further, Staff recommends that the Commission direct Staff in the six-month review process in Docket No. U-22252-C to develop a measure to track the number of premature disconnects resulting from the two-order process utilized by BellSouth for UNE-P conversions; and to include the measure in Tier-1 and Tier-2 remedies as appropriate. Such penalties to be implemented upon the FCC's approval of BellSouth's petition to provide interLATA service in Louisiana.

Respectfully submitted,  
**LPSC LEGAL DIVISION**

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**Vanessa L. Caston, Esq. (BRN 22296)**  
**Brandon M. Frey, Esq. (BRN 25054)**  
Attorneys for the Commission  
P.O. Box 91154  
Baton Rouge, Louisiana 70821-9154  
Telephone: 225/342-9888  
Facsimile: 225/342-4087

BEFORE THE  
MISSISSIPPI PUBLIC SERVICE COMMISSION

DOCKET NO. 97-AD-321

MISSISSIPPI PUBLIC SERVICE  
COMMISSION

IN RE: CONSIDERATION OF THE  
PROVISION OF IN-REGION  
INTERLATA SERVICES BY  
BELLSOUTH TELECOMMUNICA-  
TIONS, INC. PURSUANT TO  
SECTION 271 OF TA 96

FINAL ORDER

COMES NOW, the Mississippi Public Service Commission ("Commission") and upon due consideration of all the evidence in this proceeding, including, but not limited to, the parties' direct and rebuttal testimonies, the revised Statement of Generally Available Terms and Conditions ("SGAT") along with the documentation in support thereof, performance data and analysis thereof, and the written comments of the parties, the Commission finds as follows:

**I. INTRODUCTION AND PROCEDURAL HISTORY**

Section 271(d) of the Telecommunications Act of 1996 ("TA 96") provides that a Bell Operating Company ("BOC") or its affiliate may apply to the Federal Communications Commission ("FCC") at any time after the date of enactment for "authorization to provide interLATA services originating in any in-region State." This section of TA 96 requires that the FCC issue within ninety (90) days a written determination either approving or denying the requested authorization. Moreover, Section 271(d)(2)(B) further provides as follows:

(B) Consultation with state commissions.--Before making any determination under this subsection, the Commission shall consult with the State commission of any State that is the subject of the application in order to verify the compliance of the Bell operating company with the requirements of subsection (c).



The Commission originally opened this Docket on June 4, 1997, to undertake its consultative role to the FCC as set forth in Section 271(d)(2)(B). On November 9, 1998, after a full evidentiary Hearing, this Commission issued an Order in this Docket finding that BellSouth had satisfied all of the requirements of the 14-point competitive checklist set forth in Section 271 of TA 96 (the "1998 Order"). This Commission also approved BellSouth's SGAT, as modified, and held that BellSouth's entry into the interLATA long distance market would further the public interest.

A number of important events have transpired since we issued our 1998 Order, including several Orders issued by the FCC regarding 271 applications to enter in-region interLATA markets in several different states as well as other proceedings at the FCC (e.g. *In the Matter of Implementation of Local Competition Provisions of the Telecommunications Act for 1996, Third Report and Order CC Docket No. 96-98, FCC 99-238, released November 5, 1999* ("UNE Remand Order")). The Commission has closely monitored each of those FCC proceedings as well as the decisions by various federal courts, including the United States Supreme Court. Additionally, during the time since we entered our 1998 Order, the Commission has closely monitored the activities by other state Commissions within BellSouth's region.

On May 22, 2001 BellSouth notified the Commission of its intention to file a Section 271 application with the FCC to provide interLATA relief in Mississippi pursuant to Section 271 of TA 96. Along with its Petition, BellSouth filed a new SGAT, performance measurement and penalty plans, comments, direct testimony, and other supporting materials. On June 15, 2001, BellSouth filed its April 2001 performance data and analysis. The Commission ordered BellSouth to continue to file updated performance data on a monthly basis pending further order of the Commission. Consequently, the Commission has now reviewed performance data on

BellSouth for the additional three months of: May 2001 (filed 7-13-01), June 2001 (filed 8-15-01) and July 2001 (filed 9-14-01).

On July 2, 2001 intervenors filed rebuttal testimony and comments regarding BellSouth's May 22, 2001 filing. BellSouth filed its reply testimony and comments on August 2, 2001, to the filings made by the intervenors on July 2, 2001. Thereafter, Intervenors filed rebuttal testimony and comments on August 10, 2001 to BellSouth's performance data and analysis filings made on June 15, 2001 (April 2001 data) and July 13, 2001 (May 2001 data). Finally, on August 21, 2001, BellSouth filed reply testimony and comments addressing the Intervenors rebuttal testimony and comments filed on August 10, 2001 concerning BellSouth's performance data.

After due consideration of all the testimony, comments, and the entire record in this matter, the Commission makes the following findings and determinations in this Docket.

## **II. COMPETITIVE LANDSCAPE**

### **A. Level of Competition**

Local competition is robust in Mississippi. As of March 2001, there were 56 competitive local exchange carriers ("CLECs") serving 10 or more local lines in BellSouth's service area in Mississippi. *Direct Testimony of Cynthia K. Cox*, filed May 22, 2001, ("Cox"), Exh. CKC-4, *Affidavit of Victor Wakeling* ("Wakeling"), Exh. VW-5. On August 24, 2001, BellSouth filed the Supplemental Affidavit of Victor K. Wakeling ("*Wakeling Supp.*") as an exhibit to the *Supplemental Direct Testimony of Cynthia K. Cox*, filed August 24, 2001, ("*Cox Supp.*") to reflect the inclusion of ISDN lines on a voice grade equivalent ("VGE") basis in its line totals to maintain consistency with a recent adjustment for ISDN to the standard FCC ARMIS reporting of BellSouth access lines. *See also, Cox Supp.* Overall, BellSouth estimates that these 56 competing carriers provide local service to some 100,000 lines, which is almost 7.0% of the total

lines in BellSouth's area in Mississippi. Approximately 46,000 of the CLEC lines are business lines, which represents 10.2% of the total business market. *Cox Supp.*, 2 and *Wakeling Supp.*, ¶ 2. Approximately 33% of the 100,000 lines are served by CLECs using their own facilities, either exclusively or in combination with BellSouth unbundled network elements ("UNEs") and/or UNE platforms (also referred to as ("UNE-Ps")). *Wakeling*, 14. BellSouth data also shows that 2,074 facilities-based lines serve residential customers. *Wakeling*, 7.

The Southeastern Competitive Carriers Association ("SECCA") challenged BellSouth's estimates of competition in Mississippi and adjusts BellSouth's data, which results in its own estimates claiming that CLEC market share is 2.3%. *Affidavit of Joseph Gillan/SECCA*, filed July 2, 2001, ("*Gillan*"), 11-12. SECCA's reworked estimates inappropriately disregard CLEC E911 listings and incorrectly rely on partial trunk data. *Reply Testimony of Cynthia K. Cox*, filed August 2, 2001, ("*Cox Reply*"), 7-8. In fact, SECCA does not even challenge BellSouth's method two analysis. Further, SECCA's revised estimate of facilities-based competition ignores recent FCC data. The FCC's biannual competition report shows that as of December 2000, the five reporting Mississippi CLECs alone served more than 69,000 end-user lines. *See Local Telephone Competition: Status As Of December 31, 2000*, (May 21, 2001) available at [http://www.fcc.gov/Bureaus/Common\\_Carrier/Reports/FCC-State\\_Link/IAD/lcom0501.pdf](http://www.fcc.gov/Bureaus/Common_Carrier/Reports/FCC-State_Link/IAD/lcom0501.pdf).

The current level of local competition in Mississippi is comparable to or greater than that in Oklahoma where Section 271 approval has already been granted. BellSouth's calculations show that it faces competition in Mississippi from CLECs, and from facilities-based CLECs in particular, at levels in Mississippi comparable to or greater than those reported by SWBT in the states where it has obtained section 271 approval. *Wakeling*, 7; *BellSouth's Comments in*

*Support of its Application for InterLATA Relief Pursuant to Section 271 of the Telecommunications Act of 1996*, filed May 22, 2001, ("*BellSouth Comments*").

Further evidence that local competition in the State has firmly taken hold is the fact that CLECs operating in Mississippi cover a wide area throughout the state. CLEC collocation is a powerful indicator of competition, because where a CLEC is collocated, it has the ability to serve numerous additional customers through access to UNEs. The record shows that as of March 2001, BellSouth had completed collocation arrangements for over 20 CLECs in Mississippi and had at least one CLEC collocated in 36 of BellSouth's wire centers. BellSouth has completed nearly 170 collocation arrangements in these wire centers. BellSouth showed that one or more completed collocations in these 36 wire centers enable CLECs to gain access to 53% and 68% respectively of BellSouth's total residence and business access lines or 57% of BellSouth's total access lines in Mississippi. *Wakeling*, 19, Exh. VW-6. These data are unchallenged by intervenors.

BellSouth's data reveal that CLECs are collocated heavily in the BellSouth wire centers with the highest customer densities. Of the total collocation arrangements, approximately 70% of the completed CLEC collocations are in 12 BellSouth wire centers that account for fully 25% of BellSouth's total access lines. Looking only at the 12 wire centers with the highest concentration of CLECs, BellSouth's unchallenged data shows that different facilities-based CLECs can compete for 22% and 34% respectively of residential and business access lines in BellSouth's territory. *See Wakeling*, 19, Exh. VW-6.

Moreover, CLECs currently are serving over 5% of the residential lines in BellSouth's area in Mississippi. Increased choices for consumers are evident from the numerous CLECs identified by BellSouth that offer residential service in Mississippi. *See Wakeling*, 22. The size

of CLEC investment in Mississippi reinforces the position that the local exchange market is irreversibly open to competition. CLECs are increasingly using the newest technologies to offer integrated communications services on a cost-effective basis. *Wakeling*, 21.

SECCA criticizes BellSouth's references to the CLEC Pathnet and the PathStar server technology as outdated examples that no longer support BellSouth's claims. SECCA notes, however, that BellSouth cited these examples simply as anecdotal evidence of local competition and investment by competitors. *Gillan*, 24. The Commission notes that SECCA did not provide any information from its members regarding competitive activity. The Commission finds that there is substantial competition regardless of changes with a particular competitor or technology.

**B. Growth of Competition**

SECCA claims that although competition is growing in Mississippi, it is not growing fast enough and notes that resale demand has been falling. *Gillan*, 13-14. However, the record shows that competition has been consistently growing in Mississippi, and that CLECs have made substantial investments in state-of-the-art facilities and the newest technologies. These factors demonstrate that the local exchange market is irreversibly open to competition. *Wakeling*, 19. In addition, even if SECCA's concerns about falling resale demand were legitimate, the Commission would not find a lack of local competition. Rather, the Commission looks to CLECs as a whole, not just to one segment of competitive carriers. *Cox Reply*, 10; *Reply Testimony of William E. Taylor, Ph.D.*, filed August 2, 2001, ("*Taylor Reply*") 21-22.

In contrast to SECCA's position, Dixie-Net claims that most of Mississippi is "void of true competition" because the majority of CLECs are resellers. *Comments of Dixie-Net Communications, LLC*, filed July 2, 2001, ("*Dixie-Net Comments*"), 9. Resale, however, can be a transitional measure used to allow competition before CLECs move to facilities-based

competition. The record shows that even though total resold lines have declined by 4% between March and May of 2001, there has been an 18% gain for UNEs during this same period, apparently associated with a migration of some resold lines to the facilities-based UNE-P offering. *Cox Reply*, 8.

Beyond showing that the Mississippi local exchange market is currently open to competition, experience shows that Bell Operating Company ("BOC") entry into the long distance markets triggers further competition across all telecommunications markets, as it has in New York and Texas. The record also shows that local competition increased in Georgia, apparently based upon the belief by some CLECs that BellSouth was close to gaining Section 271 relief in that state.<sup>1</sup> Data from New York and Texas show lowered costs and rates for consumers in both of those States following BOC entry into the long distance market.

The level of competition in Mississippi demonstrates that BellSouth has provided CLECs with access to BellSouth's network facilities and services in order to enable CLECs to deliver services over their own network facilities, over their own network facilities in combination with elements of BellSouth's network, and through the resale of BellSouth-provided service offerings. The Commission finds that local exchange competition is well established, growing, and irreversible in Mississippi.

### **III. COMPLIANCE WITH "TRACK A"**

BellSouth has submitted its application pursuant to Section 271(c)(1)(A) of TA 96. In order to satisfy Section 271(c)(1)(A) of TA 96, BellSouth must show that it:

[H]as entered into one or more binding agreements that have been approved under Section 252 specifying the terms and conditions under which the Bell operating

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<sup>1</sup> See *BellSouth Reply Comments (Performance Data)*, 5.

company is providing access and interconnection to its network facilities for the network facilities of one or more unaffiliated competing providers of telephone exchange service to residential and business subscribers. Such telephone exchange service may be offered by such competing providers either exclusively over their own telephone exchange service facilities or predominately over their own telephone exchange service facilities in combination with the resale of the telecommunications services of another carrier.

As of May 18, 2001, BellSouth has successfully negotiated, and the Commission has approved, over 230 interconnection, collocation and/or resale agreements with CLECs in Mississippi. Further, as of March 2001, a total of 56 CLECs (providing service to 10 or more lines) cumulatively provided local service to more than 100,000 lines in Mississippi. Of the 56 CLECs, 29 provide facilities-based service to business and residential customers in Mississippi. *Wakeling*, 14. In particular, Adelphia Business Solutions, Global Crossing, ITC DeltaCom, KMC Telecom, The Other Phone Company (AccessOne), and WorldCom (which includes Brooks Fiber) provide facilities-based local competition in Mississippi. *Wakeling*, 7, 17.

The Commission finds that, as a result of these Interconnection Agreements, BellSouth has established that it provides "access and interconnection" to "unaffiliated competing providers" of facilities-based "telephone exchange service . . . to residential and business subscribers." Notably, no CLEC contends otherwise. Thus, the Commission finds BellSouth in compliance with the requirements of Track A. *See* 47 U.S.C. § 271(c)(1)(A).

#### **IV. APPROVAL OF BELLSOUTH'S SGAT**

In addition to negotiating and arbitrating private agreements with new entrants, TA 96 affords incumbent local exchange companies ("ILECs") the right to prepare and file at any time an SGAT like the one filed by BellSouth in this proceeding. Section 252(f) of TA 96 provides that:

A Bell operating company may prepare and file with a State commission a statement of the terms and conditions that such company *generally offers* within that state to comply with the requirements of section 251 and the regulations thereunder and the standards applicable under this section.

47 U.S.C. § 252(f)(1) (emphasis supplied).

Once approved or permitted to take effect by the Commission, the SGAT can provide a vehicle for CLECs to use to enter the local market quickly without having to negotiate and/or arbitrate an interconnection agreement with an ILEC. The SGAT provides a set of general terms and conditions from which any competitor in Mississippi can order UNEs or can resell BellSouth services to compete with BellSouth in the local market.

In addition, a BOC may use an approved SGAT under 47 U.S.C. § 271(c)(2)(A) ("Track A"), to supplement one or more binding agreements to demonstrate full compliance with the fourteen (14) point competitive checklist under that Track. *See Evaluation of the United States Department of Justice, In re: Application of SBC Communications, Inc. et al. Pursuant to Section 271 of the Telecommunications Act of 1996 to Provide In-Region InterLATA Services in the State of Oklahoma*, CC Docket No. 97-121, ¶ 22-24 (May 16, 1997).

To be approved an SGAT must comply with Section 251 and the pricing standards for interconnection, unbundled network elements, and resale contained in Section 252(d). This is the same standard applied by this Commission for approval of arbitrated agreements. *Compare* 47 U.S.C. § 252(f)(2) *with* 47 U.S.C. § 252(c). TA 96 requires that BellSouth offer: number portability; dialing parity; access to telephone numbers, operator services, directory assistance and directory listings; access to rights of way; reciprocal compensation for the transport and termination of telecommunications services; interconnection at any technically feasible point; resale of retail services at an avoided cost discount; and access to unbundled network elements at



rates based on cost. The cost-based rates proposed by BellSouth in Docket 00-UA-999 have been incorporated by BellSouth into the revised SGAT. Upon establishment of final cost-based rates by the Commission in Docket 00-UA-999, BellSouth shall incorporate these final rates into the SGAT. Thus the rates, terms and conditions of interconnection, unbundling and resale in the SGAT comply with Sections 251 and 252(d) of TA 96.

The Commission finds that BellSouth's SGAT meets the requirements of the checklist and gives BellSouth a "concrete and specific legal obligation" to furnish each checklist item to competitors.

**V. THE REGIONALITY OF BELLSOUTH'S OPERATIONS SUPPORT SYSTEMS ("OSS")**

The FCC has held that state commissions "may conduct successful section 271 reviews . . . by building on the work of other states in their region." *SWBT-KS/OK Order*, ¶ 2. According to the FCC, where access to a particular checklist item, such as OSS, is provided through region-wide processes, both region-wide and state-specific evidence is considered in evaluation of that checklist item. *Application of BellSouth Corporation, BellSouth Telecommunications, Inc., and BellSouth Long Distance, Inc., for Provision of In-Region InterLATA Services in Louisiana*, Memorandum Opinion and Order, 13 FCC Red 20599, ¶ 56 (1998) ("*Second Louisiana Order*"). In particular, the FCC permits the use of information from another state to supplement information for other states, where the "OSS are essentially the same throughout [the BOC's] region." *Second Louisiana Order*, ¶ 86. The FCC requires either that a single OSS be used throughout the region or that separate OSS systems be identical. *SWBT-KS/OK Order*, ¶¶ 110-116.

As will be demonstrated in this Order, BellSouth has complied with all 14 points of the checklist. BellSouth's SGAT embodies the offerings that create this compliance. Thus, it is reflective of the requirements of TA 96.

The FCC has established a set of criteria to evaluate whether one state's OSS are the "same" as the OSS in another state. *SWBT-KS/OK*, ¶¶ 110-116. To be the "same," BellSouth can demonstrate either that there is a shared use of a single OSS, or that there is use of systems that are separate but identical. Where the systems are separate, BellSouth must demonstrate that its OSS reasonably can be expected to behave the same way in all of its states. BellSouth meets each of these criteria. *SWBT-KS/OK*, ¶¶ 110-116.

BellSouth demonstrates that it has a single set of OSS that operate region-wide, with a common set of processes, business rules, interfaces, systems, and personnel. *Direct Testimony of Ronald M. Pate*, filed May 22, 2001, ("*Pate*"), 9; *Direct Testimony of Ken L. Ainsworth*, filed May 22, 2001, ("*Ainsworth*"), 5; *Direct Testimony of David Scollard*, filed May 22, 2001, ("*Scollard*"), 8; *Direct Testimony of Alfred Heartley*, filed May 22, 2001, ("*Heartley*"), 2. CLECs access BellSouth's OSS through the same electronic interfaces throughout its region. *Pate*, 181-182. Manual processes are divided and handled on the basis of carriers, not states, and training of personnel and coordination of activities ensure that jobs are done in the same manner throughout the region. *Reply Testimony of Ken L. Ainsworth*, filed August 2, 2001, ("*Ainsworth Reply*"), 8-9; *Reply Testimony of Alfred Heartley*, filed August 2, 2001, ("*Heartley Reply*"), 4-5.

Additionally, the PriceWaterhouseCoopers attestation, testimony and additional report specifically verify that the OSS systems, processes, and procedures for pre-ordering and ordering are the same. The PriceWaterhouseCoopers report attested to the comparability between Direct Order Entry ("*DOE*") and Service Order Negotiation Generation System ("*SONGS*"), the two

manual order input systems used in different parts of BellSouth's region, and additionally confirmed that BellSouth's centers and workgroups for preordering and ordering receive the same training and report to the same managers. *See Pate*, Exh. OSS-74; *Reply Testimony of Ronald M. Pate*, filed August 2, 2001, ("*Pate Reply*"), 5-8; *Heartley Reply*, 4-5. The PriceWaterhouseCoopers report is as comprehensive as the Ernst and Young attestation relied on by the FCC in its Kansas/Oklahoma proceeding. The Commission disagrees with AT&T's assertion that the PriceWaterhouseCoopers report does not adequately address OSS performance, *See Rebuttal Testimony of Jay Bradbury*, filed July 2, 2001, ("*Bradbury Rebuttal*"), 26-27, and concludes that it satisfies the requirements of the FCC's regionality analysis. Just as Ernst & Young found in the SWBT-KS/OK proceeding, PriceWaterhouseCoopers found that "the interfaces and systems" BellSouth uses "process the same transactions; use the same programming code; provide the same functionality; and have the same documentation." *SWBT-KS/OK Order*, n.305.

AT&T argues that differences exist in BellSouth's OSS within its region. *Comments of AT&T of the South Central States, Inc.*, filed July 2, 2001, ("*AT&T Comments*"), 13-16; *Bradbury Rebuttal*, 21-26. First, AT&T asserts that performance may differ from state-to-state. *Bradbury Rebuttal*, 23-24. AT&T's claim is not relevant. For purposes of demonstrating "sameness", BellSouth need only provide "equivalent access to all necessary OSS functions," not identical performance in every case. *SWBT-KS/OK Order*, ¶¶ 105, 117.

Second, AT&T argues that BellSouth's legacy systems are not the same and the information in the systems varies from state-to-state. *Bradbury Rebuttal*, 23-24. As discussed above, BellSouth demonstrated that it uses identical business rules for ordering and pre-ordering, requires completion of the same fields for local service requests, and uses the same legacy

systems, other than DOE and SONGS, throughout its nine-state region. *Pate*, 185. Independent tests by PriceWaterhouseCoopers confirmed that there are no material differences in the functionality or performance of DOE and SONGS. *Pate*, Exh. OSS-74; *Pate Reply*, 5-8.

Moreover, BellSouth and CLECs have the same access to preordering information in each state. BellSouth and CLEC queries return the same data in the same format. In addition, the fact that data within the system differ with each state does not affect OSS operation. The FCC rejected a claim similar to AT&T's in its review of the Kansas/Oklahoma application. See *SWBT-KS/OK Order*, ¶ 120.

Third, AT&T suggests that because provisioning, maintenance, and repair work groups are organized geographically, different performance will occur in different states. *Bradbury Rebuttal*, 26. The FCC rejected similar claims in the Kansas/Oklahoma proceeding. *KS/OK Comments of Sprint Communications Company L.P.*, filed July 2, 2001, ("*Sprint Comments*"), 54-55. BellSouth's regional work groups report to the same regional manager and follow the same guidelines. *Heartley Reply*, 5-6. Although BellSouth's systems and procedures are the same, differences in performance do exist. The Commission recognizes that these differences are expected due to varying state requirements.

Fourth, AT&T claims that the existence of several servers throughout the region will result in differing performance. *Bradbury Rebuttal*, 26. To the extent that there are separate servers for processing CLEC requests, the servers use the same programming code and are designed to operate in an indistinguishable manner. Further, the servers use the same type of hardware running identical software. *Pate Reply*, 13-14; *Heartley Reply*, 4. The FCC rejected this argument in the *SWBT-KS/OK Order*. *SWBT-KS/OK Order*, ¶ 115. Thus, the Commission rejects this claim, as well.

The Commission concludes that BellSouth's OSS are the same throughout its nine-state region. Accordingly, to the extent the Commission seeks to supplement BellSouth's Mississippi data in determining compliance with the competitive checklist<sup>2</sup> the Commission may consider information about the competitive experience in Georgia and the independent Third Party Test ("TPT") conducted under the auspices of the Georgia Commission.

## **VI. BELLSOUTH'S MISSISSIPPI AND GEORGIA PERFORMANCE DATA**

BellSouth provided evidence of its compliance with the fourteen (14) point checklist in two parts. First, BellSouth provided sworn testimony of various BellSouth witnesses and the affidavits attached thereto demonstrating that BellSouth meets its obligations under TA 96. Second, BellSouth provided performance data for Mississippi collected in accordance with a set of performance measurements and standards (BellSouth's Service Quality Measurements "SQM" Plan) formally adopted by the Georgia Public Service Commission (the "SQM"). *See Direct Testimony of Alphonso J. Varner*, filed May 22, 2001, ("*Varner*"), Exh. AJV-1. The data were submitted pursuant to the SQM in the "FCC Data Format." (A reporting format BellSouth calls the Monthly State Summary ("MSS")).

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<sup>2</sup> Contrary to AT&T's assertions, the Georgia Third Party Test ("TPT") need not have first been used by either the FCC or the Georgia Commission in order to support a Section 271 determination by this Commission. *AT&T Comments*, 12; *Bradbury*, 19. As the FCC has noted, "the Commission has adopted the practice of reviewing evidence from other applications and states." *SWBT-KS/OK Order*, 38 (emphasis added). Indeed, AT&T's testimony from Ms. Seigler in Mississippi cites only AT&T's experience in Georgia and Florida, and WorldCom witness Ms. Lichtenberg explicitly states that Georgia evidence is relevant. *See generally Bradbury Rebuttal, Seigler exhibit ("Seigler")*; *see also Testimony of Sherry Lichtenberg/WorldCom*, filed July 2, 2001 ("*Lichtenberg Rebuttal*"), 3.

Nor does the Commission's independent analysis of TPT data require it to defer to findings of other state commissions. *AT&T Comments*, 16; *Bradbury Rebuttal*, 20. The Commission simply is relying on all relevant information in conducting its analysis. While this analysis begins with CLEC commercial usage data for Mississippi, it may also encompass the Georgia performance measurement and TPT data as evidence of BellSouth's checklist compliance. Because the Commission concludes that BellSouth's OSS are the same region-wide, the Commission can and should avail itself of evidence of commercial usage, performance data, and third party testing from any state in BellSouth's region.

BellSouth's SQM

BellSouth's SQM was adopted by the Georgia Public Service Commission ("GPSC"). Thus, BellSouth already is tracking and reporting data pursuant to this SQM for purposes of GPSC monitoring. *Varner*, 4. BellSouth's SQM provides the Commission with substantial amounts of data. The SQM contains approximately 2,200 separate metrics. BellSouth's system for its SQM, Performance Measurement Analysis Platform ("PMAP") processes the equivalent of 55 million pages of data each month.<sup>3</sup> While BellSouth's management of such a volume of data is not perfect, Mr. Varner's testimony demonstrates that CLEC claims of data inconsistencies are overstated. *See, e.g., Reply Testimony of Alphonso J. Varner*, filed Aug. 2, 2001 ("*Varner Reply*"); *Reply Testimony of Alphonso J. Varner*, filed Aug. 21, 2001 ("*Varner Further Reply*"), 4-6. Further, to the extent that problems are identified after data is posted, BellSouth provides supplemental corrections. *Varner Further Reply*, 6-8.

AT&T and WorldCom assert that BellSouth does not properly disaggregate its performance data. *See, e.g., See Rebuttal Testimony of Cheryl Bursh/AT&T* filed July 2, 2001 ("*Bursh Rebuttal*"), 20; *Rebuttal Testimony of Karen Kinard/WorldCom* filed July 2, 2001 ("*Kinard Rebuttal*"), 4-5. The Commission finds that Mr. Varner's reply testimony fully justifies the level of disaggregation and the statistical methodology used in the performance measures plan. For example, despite AT&T's claims, BellSouth has not altered the disaggregation for the Cooperative Acceptance Testing measure, despite AT&T's claims. *Varner Reply*, 64. Further, despite AT&T's and WorldCom's requests, the Commission finds it

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<sup>3</sup> BellSouth also submitted a proposed "permanent" SQM. *See Varner*, Exh. AJV-2. Unlike BellSouth's SQM submitted as attachment AJV-1 to Mr. Varner's direct testimony, which is supported by a substantial record, the record, at this time, does not support the adoption of the proposed "permanent" SQM. Therefore, we defer reaching any decision on the proposed "permanent" SQM until it is raised by the Commission or BellSouth in a future

is not appropriate to disaggregate both compliance and remedy reporting to the same level.

*Varner Reply*, 42. AT&T questions the integrity of BellSouth's data because, for example, there is a difference in completed orders in the Missed Installation Appointment metric and the Average Completion Notice Interval raw data. *AT&T Comments*, 3; *Rebuttal Testimony of Sharon E. Norris (Data Integrity)/AT&T*, filed July 2, 2001 ("*Norris Rebuttal (Data Integrity)*"), 11-12. As BellSouth points out, the metrics have different definitions, which justifies different numbers of completed orders. *Varner Further Reply*, 31.

Additionally, AT&T argues that BellSouth has modified its SQM data without notice to CLECs or approval of the Commission in Georgia. *Bursh Rebuttal*, 7. BellSouth has shown that it only made the usual clarifications required to implement an order, such as wording changes to clarify the measurements. *Varner Reply*, 56-57. Moreover, the clarifications made by BellSouth are a logical and appropriate way to capture data pursuant to the order.

AT&T argues that BellSouth refuses to provide CLECs or the Commission with "raw" performance data. *AT&T Comments*, 35; filed July 2, 2001, *Norris Rebuttal ("Norris Rebuttal (Data Integrity)")*, 6-7; *Bursh Rebuttal*, 23-25. However, in May 2001, BellSouth began producing and publishing CLEC-specific "raw data." The Commission is persuaded that release of "early stage" data could compromise confidentiality through disclosure of CLEC-specific information.

AT&T and Sprint also claim that BellSouth's performance data have not been audited by KPMG as requested by the Georgia Commission. *AT&T Comments*, 36; *Sprint Comments*, 2-3. BellSouth's performance data will be audited on an annual basis by an independent audit firm.

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proceeding.

Additionally, KPMG has already conducted one – and will conduct another – metrics evaluation in connection with the Georgia TPT. *Pate Reply*, 71-72.

Finally, AT&T suggests that fines paid by BellSouth to the Georgia Commission based on shortcomings in its performance data demonstrate poor performance. *Norris Rebuttal (Data Integrity)*, 4-5. Based upon the evidence, BellSouth has satisfactorily explained that the penalties largely reflect measurement coding problems, random occurrences, or flawed measurements. For example, 88% of the fines for Tier 1 resulted from three measures: LNP Average Disconnect Timeliness, Order Completion Interval – Loop/Port Combo, and Order Completion Interval – POTS. The first measure does not truly reflect the users' experience because the LNP disconnect has been effected long before the measure indicates that it has been. BellSouth missed the second metric due to two problems. The first was a coding problem with a legacy system. This problem has been addressed with an interim solution, and a permanent solution will be implemented in October 2001. The other problem with the second metric and the entire reason that BellSouth missed the third metric was due to the incorrect inclusion of orders in the OCI data where CLECs requested a longer than normal OCI. Like the first measure, no performance problem is indicated. The remaining payments were for measures that BellSouth ordinarily has met. *Varner Further Reply*, 9-13. Similarly, 97% of the fines under Tier 2 result from three measures. Two of these measures, LNP Disconnect Timeliness and Order Completion Interval—POTS are the same measures discussed under Tier 1. The problem with the third measure, OSS Average Response Interval, is confined to the HAL/CRIS system. The HAL/CRIS problem was fixed on July 27, 2001. *Varner Further Reply*, 13. We reject AT&T's interpretation of these fines as an indictment of BellSouth's performance based on its performance data as a whole.



Thus, the Commission adopts BellSouth's SQM, *see Varner, Exh. AJV-1*, as the permanent SQM for use in Mississippi until such time as BellSouth requests, or the Commission on its own motion chooses, to revisit those standards. The Commission further finds that BellSouth's performance measurement data as reported via the SQM are accurate and reliable measures to evaluate BellSouth's checklist compliance.

**BellSouth's Self Effectuating Enforcement Mechanism ("SEEM")**

In addition to the SQM, BellSouth proposed an enforcement plan (BellSouth's Self Effectuating Enforcement Mechanism "SEEM" Plan). The Communications Act of 1934 does not require a self-effectuating enforcement plan. Consequently, the existence of such an enforcement plan is not a prerequisite to compliance with the competitive checklist. Rather, it is a factor that the FCC will consider in assessing whether the RBOC's entrance into the interLATA market would serve the "public interest." The FCC, however, has held that "the fact that a BOC will be subject to performance monitoring and enforcement mechanisms would constitute probative evidence that the BOC will continue to meet its section 271 obligations and that its entry would be consistent with the public interest." *Second Louisiana Order*, ¶ 363; *see also SWBT-KS/OK Order*, ¶ 269. The primary purpose of a voluntary self-effectuating enforcement mechanism is, according to the FCC, to ensure that RBOCs continue to provide nondiscriminatory performance after it has received the so-called "carrot" of long distance approval.

According to the FCC, "evidence that a BOC has agreed in its interconnection agreements to performance monitoring" (including performance standards, reporting requirements, and appropriate self-executing enforcement mechanisms) "would be probative evidence that a BOC will continue to cooperate with new entrants, even after it is authorized to

provide in-region, interLATA services." *Second Louisiana Order*, ¶¶ 363-64. As a practical matter, every grant of interLATA authority to date has required an enforcement mechanism.

BellSouth's SEEM plan is designed to generate significant payments by BellSouth when discriminatory performance that materially affects a CLEC's ability to compete occurs. SEEM consists of two levels of enforcement mechanisms, Tier 1 and Tier 2. Payments under Tier 1 are made directly to the CLECs every month and are designed to compensate an individual CLEC when materially discriminatory performance by BellSouth would likely harm that CLEC's ability to compete. Where materially discriminatory performance occurs in consecutive months, the Tier 1 payment per failure increases. Tier 2 is designed to require additional payments if materially disparate performance is more widespread and persistent. Consequently, payments are based on performance for the CLEC industry averaged over three months, and penalties are paid to the Mississippi State Treasury or other State agency as designated by this Commission.

*Varner*, 77-82.

Any payment under BellSouth's SEEM procedure is determined by multiplying a per transaction fee by the appropriate volume of transactions. The Commission believes that BellSouth's "transaction" based approach is significantly better than an approach where penalties are based on individual measurements because BellSouth's method is scalable (i.e., the more transactions where disparate performance is detected, the higher the penalty). The Commission further believes that any voluntary, self-effectuating remedy plan should contain an absolute monetary cap. In agreeing to a voluntary enforcement plan, BellSouth or any ILEC has to balance its responsibilities to its shareholders and its customers. In this case, BellSouth's customers include both CLECs and retail customers. The purpose of this voluntary enforcement plan is to prevent "backsliding" when BellSouth obtains interLATA relief in Mississippi.

BellSouth has proposed an absolute cap of 36% of BellSouth's net revenue in Mississippi. The Commission finds that this is a more than adequate deterrent to "backsliding" and balances the interest of each group of stakeholders. *Varner*, 82-85.

In cases where there is no retail analog, that is, where BellSouth does not provide the same service or a comparable service in its retail operations, the Commission finds that the proper approach is to use a "benchmark." The benchmark should be set at the minimum level required to permit an efficient competitor a meaningful opportunity to compete. An affected volume is therefore determined by a simple comparison of the performance provided to the individual CLEC to the benchmark applicable to the SEEM measurement. If performance does not meet the benchmark, penalties would apply to the number of transactions by which BellSouth missed the benchmark. *Varner*, 67-69.

For those enforcement sub-metrics where BellSouth provides a similar service to its retail operations, the calculations are more complicated due to the need to apply statistical tests. That is, BellSouth will measure how it performed on the retail analog, and BellSouth will measure how it performed when it provided the relevant service to the CLECs. If the results show that BellSouth provided better service to the CLECs, the inquiry is at an end. If, on the other hand, there is a question about whether BellSouth provided nondiscriminatory service, a statistical analysis must be undertaken to determine whether there was actually disparate treatment and whether the treatment would materially affect a CLEC's ability to compete. We approve the statistical analysis described by Dr. Mulrow because it is consistent with the transaction-based approach of BellSouth's plan. *Varner*, 68-70.

The test for materiality under the BellSouth approach depends on a parameter referred to as "delta" in the statistical formula. The delta provides a way to determine whether a difference

in performance measurements indicates that a difference in performance provided by BellSouth to itself and to a CLEC is material and should trigger the application of penalties. The value of delta is based on a judgment of materiality. We propose to use the BellSouth value for delta for the first six months of SEEM's application. We will determine if any adjustment should be made. *Varner, 70-73.*

SEEM measurements should be key measures in areas that actually affects customers. BellSouth's measurement set is patterned after those used in New York and Texas, and the Commission finds that the proposed SEEM measurements are generally appropriate. However, the LNP disconnect timeliness metric does not currently capture the time BellSouth actually disconnects a customer. This does not properly account for customers' actual experience because the measure does not recognize the importance of triggers and their effect on the LNP process, even though such orders account for the vast majority of LNP orders. *Varner Reply, 128.* In fact, LNP orders that involve the use of a trigger allow customers who are about to be ported to make and receive telephone calls as soon as the LSMS message is sent to all SCPs, even though BellSouth has not yet disconnected the customers from its translations in the BellSouth host switch. *Varner Reply, 128-28.* Thus, the Commission finds that this measure should be excluded from SEEM.

The structure of an enforcement plan should include clearly articulated, pre-determined measurements and standards that encompass a comprehensive range of carrier-to-carrier performance and that measure key outcomes where a failure to produce that outcome would have a direct, significant effect on customers. The enforcement plan should not include measures that are interrelated because that simply penalizes BellSouth two, three or four times for the same problem. The FCC has rejected the argument that all measures used to monitor performance be

included in an enforcement plan. *Bell Atlantic-New York*, ¶ 439. Consequently, the Commission finds that the enforcement plan does not need to include all measurements that the Commission adopts in the SQM.

The SEEM measurements often aggregate several SQM sub-metrics. This may have a disproportionate affect on BellSouth. Thus, the Commission finds that, in some cases where a SEEM standard is in Tier 2, it may be appropriate to use a different standard from the SQM since Tier 2 is supposed to address chronic, persistent, material disparity. Also, due to the potentially large effect of small sample sizes, the Commission finds that benchmarks should be adjusted when universes are small, according to common statistical practice.

It is not necessarily appropriate for a state commission to order BellSouth to implement a self-executing remedy plan without BellSouth's consent, and there may be perfectly adequate state laws and regulatory authority procedures available to address any violations by BellSouth. Nevertheless, the FCC appears to have made implementation of enforcement mechanisms a practical condition of 271 relief. The FCC believes such a plan would be an additional incentive to ensure that BellSouth continues to comply with the competitive checklist after interLATA relief is granted. See *Bell Atlantic-New York*, ¶¶ 429-430; *SWBT-TX Order*, ¶¶ 420-421; *SWBT-KS/OK Order*, 269. Moreover, BellSouth has provided this Commission with any requisite consent to adopt a voluntary enforcement plan by proposing the SEEM plan. The Commission therefore adopts BellSouth's SEEM plan, as modified in our discussion of the plan above, and, although the plan is self-effectuating, the Commission will monitor BellSouth's compliance under SEEM.

As for the timing of the implementation of the plan, the Commission finds that the desire for long distance relief, which is an immediate goal of BellSouth's, has to be viewed as a

powerful incentive for BellSouth to meet its obligations under Section 251 of the Act, including providing nondiscriminatory access to its OSS. The concept of performance penalties has been developed as an additional incentive for continued compliance after long distance authority is granted. Therefore, it is appropriate that no part of the enforcement mechanism proposal take effect until the plan is necessary to serve its purpose, i.e., until after BellSouth exercises a grant of interLATA authority. Thus, the Commission finds that any necessary payments of penalties will commence only after BellSouth exercises a grant of interLATA authority in Mississippi.

## **VII. THE FOURTEEN POINT CHECKLIST**

The record reflects that BellSouth has committed substantial amounts of personnel, resources and procedures to provide the items contained in the fourteen (14) point competitive checklist. Further, BellSouth has developed and incorporated into the SGAT comprehensive performance standards and measurements that demonstrate that BellSouth is providing nondiscriminatory access to CLEC customers. We discuss below how BellSouth has satisfied each of the items in the fourteen (14) point checklist.

### **Checklist Item 1: Interconnection in accordance with the requirements of Sections 251(c)(2) and 252(d)(1):**

Checklist item 1 requires provision of "[i]nterconnection in accordance with the requirements of sections 251(c)(2) and 252(d)(1)." 47 U.S.C. § 271(c)(2)(B)(i). Section 251(c)(2) imposes upon incumbent LECs "[t]he duty to provide, for the facilities and equipment of any requesting telecommunications carrier, interconnection with the local exchange carrier's network . . . for the transmission and routing of telephone exchange service and exchange access." 47 U.S.C. § 251(c)(2)(A). "Such interconnection must be: (1) provided 'at any technically feasible point within the carrier's network;' (2) 'equal in quality to that provided by

the incumbent to itself or ... [to] any other party to which the carrier provides interconnection;’  
and (3) provided ‘on rates, terms and conditions that are just, reasonable, and non-discriminatory  
in accordance with the terms and conditions of the agreement and the requirements of [sections  
251] and section 252.’” *See Second Louisiana Order*, ¶ 61. Technically feasible methods of  
interconnection include, but are not limited to, physical and virtual collocation at the premises of  
an ILEC. *Id.*, ¶ 62. Section 252(d)(i) provides that a just and reasonable rate for interconnection  
must be nondiscriminatory and cost-based, and may include a reasonable profit. 47 U.S.C. §  
252(d)(i).

*a. Nondiscriminatory Access to Interconnection Trunks*

Checklist item 1 requires that BellSouth “provide[] competing carriers with  
interconnection trunking . . . that is equal in quality to the interconnection [BellSouth] provides  
to its own retail operations, and on terms and conditions that are just, reasonable and  
nondiscriminatory.” *Application of Verizon New England Inc., Bell Atlantic Communications,  
Inc., (d/b/a Verizon Long Distance), NYNEX Long Distance Company (d/b/a Verizon Enterprise  
Solutions) and Verizon Global Networks Inc., for Authorization To Provide In-Region InterLATA  
Services in Massachusetts, Memorandum Opinion and Order*, CC Docket No. 01-9, ¶ 183 (rel.  
Apr. 16, 2001) (“*Verizon-MA Order*”). In Mississippi, BellSouth has provisioned approximately  
6,745 interconnection trunks from CLECs’ switches to BellSouth’s switches as of March 31,  
2001, and 3,595 two-way trunks (including transit traffic) to 14 different CLECs. *Direct  
Testimony of W. Keith Milner* filed May 22, 2001 (“*Milner*”), 18. This significant degree of  
commercial usage indicates that CLECs can and do interconnect with BellSouth’s network.

The evidence submitted by BellSouth demonstrates that its Interconnection Agreements  
subject it to a legal obligation to provide interconnection in accordance with FCC rules, as the

FCC previously held in the *Second Louisiana Order*, ¶ 75 and n.210. BellSouth's evidence further demonstrates that it provides access to interconnection trunks in a manner equivalent to that which it provides to itself. BellSouth follows the same installation process and uses the same equipment, interfaces, technical criteria, personnel and service standards for both CLECs and itself. *Milner*, 14-25.

Performance data submitted by BellSouth belie Access Integrated's assertion that "BellSouth has yet to offer 'interconnection' to CLECs 'that is at least equal in quality,'" Comments of *Access Integrated Networks, Inc.*, filed July 2, 2001, ("*Access Integrated Comments*"), 4-5, 8-9. For April, May, and June 2001, BellSouth met the approved standard for the Trunk Group Performance measure for trunk blocking. In April 2001, it also met 12 of 14 benchmarks for ordering, provisioning, maintenance and repair, and billing for local interconnection trunks and in May 2001 it met 11 of 14 benchmarks. See *Supplemental Direct Testimony of Alphonso J. Varner, Exhibit AJV-5*, filed Aug. 15, 2001 ("*Varner Further Supp., Exh. AJV-5*"), 5-9. June 2001 data indicate that BellSouth also met 10 of 14, or 71 %, of the submetrics. For the months of April, May, and June there were a total of 7 sub-metrics with CLEC activity all three months, and BellSouth made the benchmark/retail analogue during all these months for 6 of the 7 sub-metrics. See *Varner Further Supp., Exh. AJV-5, 5-9*.

BellSouth explained its April 2001 problems with the FOC timeliness performance measure for local interconnection trunks as arising when CLECs rescheduled Local Service Requests ("LSRs"). BellSouth's new procedures ensure that LSRs are completed within the specified timeframe, and it met this benchmark for May and June 2001. *Varner Further Supp., Exh. AJV-5, 6*. Thus, the Commission concludes that BellSouth has resolved this issue.



In May 2001, BellSouth missed the benchmark for service order accuracy of local interconnection trunks with ten (10) circuits or more. BellSouth notes that May was the first month that this benchmark was implemented, and it only missed the benchmark by 1%. *Varner Further Supp.*, Exh. AJV-5, 7. The Commission agrees with BellSouth that 94% service order accuracy is sufficiently high that it would not detrimentally affect CLECs' ability to compete.

The Commission similarly finds that the other benchmarks missed by BellSouth do not warrant a finding of checklist noncompliance. The remaining benchmarks either involved so little data as to be statistically inconclusive or have been addressed by new BellSouth procedures. *Varner Further Supp.*, Exh. AJV-5, 5-9.

WorldCom asserts that BellSouth is not in compliance with this checklist item because BellSouth must use a single trunk to exchange local and intraLATA toll traffic and transit traffic with a CLEC. *Comments of WorldCom*, filed July 2, 2001, ("*WorldCom Comments*"), 4-5; *Rebuttal Testimony of Mark Argenbright/WorldCom filed July 2, 2001 ("Argenbright Rebuttal")*, 10-11. As an initial matter, BellSouth's offer of the "super group" trunking alternative should resolve WorldCom's concerns. *Reply Testimony of David P. Scollard, filed Aug. 2, 2001 ("Scollard Reply")* *Reply Testimony of W. Keith Milner* filed Aug. 2, 2001 ("*Milner Reply*"), 2.

WorldCom also states that BellSouth should allow CLECs to use interconnection trunks to send access traffic to BellSouth end offices because otherwise, CLECs' ability to compete for tandem provider services is limited. *WorldCom Comments*, 5; *Argenbright Rebuttal*, 11-14. If CLECs delivered terminating switched access traffic to BellSouth end offices over local interconnection trunks, BellSouth would not have the necessary information to bill for its services. Call records do not contain information necessary to allow BellSouth to distinguish access traffic from local traffic. *Scollard*, 3. The Commission concludes that BellSouth's

unwillingness to rely on CLECs' "self-reports" of usage, as proposed by WorldCom, does not constitute a failure to meet its statutory obligations. Further, the FCC previously determined that BellSouth's conduct is consistent with FCC rules: BellSouth "offers routing of local and intra-LATA traffic over a single trunk group. Access traffic, as well as other traffic utilizing BellSouth's intermediary tandem switching function, is routed via a separate trunk group . . . . BellSouth, therefore, establishes that it has a legal obligation to provide interconnection *consistent with our rules.*" *Second Louisiana Order*, ¶ 75 (emphasis added). Therefore, there is no basis for a finding of noncompliance with this checklist item.

WorldCom states that BellSouth should be required to use the two-way trunks that it provides to CLECs. *WorldCom Comments*, 5-6; *Argenbright Rebuttal*, 14-15. FCC rules require only that "[i]f technically feasible, an incumbent LEC shall provide two-way trunking upon request." 47 C.F.R. § 51.305(f). Pursuant to the FCC's *Local Competition Order*, BellSouth does, in fact, provide two-way trunking where technically feasible if the CLEC does not have sufficient traffic to justify use of separate one-way trunks. *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996; Interconnection Between Local Exchange Carriers and Commercial Mobile Radio Service Providers, First Report and Order*, 11 FCC Rcd 15499, ¶ 219 (1996) ("*Local Competition Order*"). See *Scollard Reply*, 2-4; *Cox Reply*, 28. Thus, BellSouth's conduct satisfies its obligations under the FCC's rules. See *Cox Reply*, 29.

AT&T claims that CLEC customers experience higher rates of call blocking than BellSouth customers, due in part to BellSouth's "policy" of limiting trunks for CLECs. *Rebuttal Testimony of Kenneth L. Wilson/AT&T*, filed July 2, 2001 ("*Wilson Rebuttal*"), 8-19; *AT&T Comments*, 90-92. The Commission is satisfied that BellSouth does not have a policy of limiting

trunks available to CLECs. *Milner Reply*, 5-6. Further, BellSouth's performance data, discussed above, indicates that BellSouth's trunk blocking measure is at parity for April, May, and June 2001.

AT&T and Dixie-Net allege that BellSouth does not properly augment trunks as needed to handle increased traffic. *Wilson Rebuttal*, 20-22; *AT&T Comments*, 92-94; *Dixie-Net Comments*, 7-8. BellSouth claims that the vast majority of shortcomings in trunk augmentation are due to poor forecasting by CLECs or to a failure by the CLEC to inform BellSouth about expected spikes in traffic. As BellSouth explains, trunk forecasting involves a dialogue meant to support a common understanding of, and expectations for, planned servicing of trunks. However, BellSouth claims that many CLECs, such as AT&T, have declined to participate in the trunk forecasting process and no evidence has been presented to the contrary. Thus, the Commission concludes that trunk blockage arising from failure to properly utilize trunk forecasting procedures does not constitute noncompliance by BellSouth with checklist item 1.

AT&T complains of delays in BellSouth's trunk provisioning. *Wilson Rebuttal*, 20-21. BellSouth, however, argues that many of the delays in trunk augmenting are attributable to AT&T, including failure to provide timely Firm Order Confirmations ("FOCs") on reciprocal trunk orders; failure to provide accurate Connecting Facility Assignment ("CFA") information; and failure to revise its due dates when AT&T delays BellSouth due to FOC or CFA issues. BellSouth indicates that it has attempted to meet with AT&T to address these issues, but AT&T has been unavailable. *Milner Reply*, 14-15. There is nothing in the record to the contrary by AT&T. Therefore, the Commission concludes that delays attributable to a CLEC are not cause for a finding of checklist noncompliance.

AT&T describes a situation where it experienced difficulty with a trunk repair. *Wilson Rebuttal*, 24 and Exh. K LW-8. BellSouth responds that AT&T twice submitted a trouble ticket for the wrong trunk group. When BellSouth addressed the first trouble ticket, AT&T reported the "problem fixed," even when that was not the case. When BellSouth and AT&T isolated the source of the trouble condition, BellSouth resolved the problem by 9:00 a.m. on April 4, 2001, less than one day after the trouble was first correctly reported. *Milner Reply*, 22-23. The Commission finds BellSouth's performance fully responsive.

AT&T claims that BellSouth performs unannounced trunk disconnections for trunks with low utilization. *AT&T Comments*, 94. In response, BellSouth argues that it contacts CLECs to determine anticipated traffic levels before disconnecting trunks due to low usage. If the capacity is unneeded, BellSouth and the CLEC negotiate a disconnect date. *Milner Reply*, 16. BellSouth also notes that it permits CLECs to submit a "binding forecast," which commits the CLEC to purchase, and BellSouth to provide, a specified volume of trunks regardless of the volume of traffic on such trunks. *Milner Reply*, 13. The Commission finds that such management is an appropriate measure to utilize network resources efficiently.

**b. Collocation**

The provision of collocation is an essential prerequisite to demonstrating compliance with checklist item 1. To show that it complies with its collocation obligations, BellSouth must have processes and procedures in place to ensure that all applicable collocation arrangements are available on terms and conditions that are "just, reasonable, and nondiscriminatory" in accordance with Section 251(c)(6) and the FCC's implementing rules. *See Second Louisiana Order*, ¶¶ 183-84; *SWBT-TX Order*, at ¶ 64. The Commission also may rely on data showing the quality of procedures for processing applications for collocation space, as well as the timeliness

and efficiency of provisioning collocation space. *See Second Louisiana Order*, ¶¶ 61-62; *SWBT-TX Order*, ¶ 64.

BellSouth presented interconnection agreements, its Mississippi collocation tariff, and the SGAT it filed in this proceeding to establish that it has legally binding collocation terms and conditions, consistent with Sections 271 and 251. *Reply Testimony of A. Wayne Gray* filed Aug. 2, 2001 ("*Gray Reply*"), 3-4. Regarding physical collocation, BellSouth offers caged, shared cage, and cageless collocation, at a CLEC's option. *Direct Testimony of A. Wayne Gray* filed May 22, 2001, ("*Gray*"), 13. BellSouth also offers adjacent collocation if space in a particular premises is legitimately exhausted. *Gray*, 20. Virtual collocation is also available where space for physical collocation is legitimately exhausted, or at a CLEC's request regardless of the availability of physical collocation. *Gray*, 36. BellSouth also makes physical and virtual collocation available in its remote terminals. *Gray*, 26. BellSouth permits the collocation of equipment that is necessary for interconnection or access to UNEs in the provision of telecommunications services. *Gray*, 10.

BellSouth's commercial usage and performance data demonstrate that BellSouth provides nondiscriminatory access to collocation. As of March 31, 2001, BellSouth had provisioned 163 physical collocation arrangements for over 20 different CLECs in Mississippi and 6 virtual collocation arrangements. Another 15 physical collocation arrangements are underway. In addition, CLECs are collocated in 36 of the 205 central offices in Mississippi. *Milner*, 27-28. Further, BellSouth has met the applicable benchmarks for every collocation measure and sub-metric over the past four months—March – June 2001. *Varner Further Supp. Exh. AJV-5*, 4. This type of collocation performance data is compelling evidence of compliance with TA 96's interconnection requirements. *See Application by SBC Communications Inc., Southwestern Bell*

*Telephone Company and Southwestern Bell Communications Services, Inc. d/b/a Southwestern Bell Long Distance Pursuant to Section 271 of the Telecommunications Act of 1996 To Provide In-Region, InterLATA Services in Texas, Memorandum Opinion and Order, 15 FCC Rcd 18354, ¶ 64 (2000) ("SWBT-TX Order").*

WorldCom recommends that the Commission establish physical cageless collocation intervals for BellSouth that are shorter than the intervals for provisioning physical caged collocation and virtual collocation. *WorldCom Comments*, 6-14; *Rebuttal Testimony of Phillip A. Bomer/WorldCom* filed July 2, 2001 ("*Bomer Rebuttal*"), 7-20. The performance data shows that BellSouth provisions collocation within the existing time frames established by this Commission. *Vurner Further Supp.*, Exh. AIV-5, 5-6. This satisfies BellSouth's collocation interval obligations for the purposes of checklist compliance. *See SWBT-TX Order*, ¶ 73.

WorldCom further requests that the Commission require BellSouth to provide a firm cost quotation within fifteen days of receiving a collocation application. *WorldCom Comments*, 14-15; *Bomer Rebuttal*, 18-20. The Commission approved an Application Response interval of thirty (30) business days from receipt of a Bona Fide Application in adopting the intervals contained in Section E20 of the BellSouth Access Services Tariff. This remains a reasonable interval for collocation arrangements provided on an individual case basis ("ICB"). As CLECs adopt standardized collocation pricing in their Interconnection Agreements, the importance of maintaining a thirty (30) business day response interval significantly decreases.

WorldCom seeks Direct Current ("DC") power for CLEC equipment in adjacent collocation space. *WorldCom Comments*, 15-17; *Bomer Rebuttal*, 20-27. FCC Rules do not require the provision of DC power to an adjacent collocation arrangement. *See* 47 C.F.R. § 51.323(k)(3); *Gray Reply*, 65-73. To the contrary, for purposes of Section 271, an ILEC "may

have a legitimate reason to exercise some measure of control over design or construction parameters," including the imposition of "reasonable safety and maintenance requirements." *Deployment of Wireline Services Offering Advanced Telecommunications Capability, First Report and Order and Further Notice of Proposed Rulemaking*, FCC 99-48, 14 FCC Rcd 4761, ¶ 44 (1999) ("*Advanced Services Order*"). BellSouth's DC power restriction is a reasonable safety requirement, permitted under the FCC's rules. The Commission further notes that BellSouth faces the same power limitations in its own adjacent collocation space and remote terminal sites. *Gray Reply*, 65-73. Thus, BellSouth is treating all CLECs in a just, reasonable, and nondiscriminatory manner. Therefore, this issue does not impact BellSouth's compliance with checklist item 1. *Rebuttal Testimony of Steven G. Turner/AT&T*, filed July 2, 2001 ("*Turner Rebuttal*").

AT&T raises a number of concerns with BellSouth's Collocation Handbook. *Turner Rebuttal*, 39-49. However, collocation is governed by Interconnection Agreements reviewed and approved by the Commission, which may not be "unilaterally" changed by BellSouth or a CLEC, despite AT&T's concerns. As discussed above, BellSouth has submitted Interconnection Agreements, its FCC tariff, its Mississippi tariff, and its SGAT, all of which evidence BellSouth's legally binding obligations with respect to physical and virtual collocation. *Gray Reply*, 2-11. BellSouth has not relied upon its collocation Handbook as evidence of a legally binding obligation.

AT&T alleges that BellSouth places collocation space as far as possible from interconnection frames to increase CLECs' collocation costs. *Turner Rebuttal*, 38. BellSouth's reservation of space is done pursuant to rights granted under FCC rules. These same space reservation rights are available to CLECs on a nondiscriminatory basis as well. *Gray Reply*, 34-

36. BellSouth brought to the Commission's attention the fact that AT&T's witness, Mr. Turner, conceded in testimony before the Alabama Commission that he did not visit a single central office, inspect a single collocation arrangement, or review a single BellSouth floor plan in support of his allegation. *See* Transcript, Docket No. 25835, at 2664 (Al. Public Service Commission, June 25, 2001). Unsubstantiated conjecture does not support a finding of checklist noncompliance. *See SWBT-KS/OK Order*, ¶ 234.

AT&T claims that BellSouth fails to offer off-site adjacent collocation. *Turner Rebuttal*, 45-46. Notably, AT&T itself concedes that FCC rules do not explicitly require offsite adjacent collocation. *Id.* Rather, the FCC requires, on-site adjacent collocation where space within an ILEC's premises is legitimately exhausted.

AT&T also alleges that BellSouth fails to offer shared collocation "pursuant to the terms and conditions agreed to by the competitive LECs." *Advanced Services Order*, ¶ 41. BellSouth provides shared collocation by contracting with a "host" CLEC, which in turn contracts directly with other "guest" CLECs to share the collocation cage. AT&T remains free to negotiate with BellSouth if it desires a different collocation arrangement. *Gray Reply*, 27-28. BellSouth complies fully with its shared collocation obligations.

*c. Pricing of Interconnection*

Rates for interconnection and collocation must be consistent with the requirements of Section 251(c)(2)(D) and 252(d)(1). *Verizon-MA Order*, ¶ 200. Section 251(c)(2) requires ILECs to provide interconnection "on rates, terms, and conditions that are just, reasonable, and nondiscriminatory." 47 U.S.C. § 251(c)(2). Section 252(d)(1) requires state determinations regarding the rates, terms, and conditions of interconnection to be based on cost and to be nondiscriminatory, and allows the rates to include a reasonable profit. 47 U.S.C. § 252(d)(1).



BellSouth's cost-based interconnection rates were set by this Commission using the FCC's Total Element Long Run Incremental Cost ("TELRIC") methodology in Docket No. 97-AD-544, and are being updated in Docket No. 00-UA-999. BellSouth's collocation rates are based on cost studies prepared consistent with the FCC's TELRIC methodology. *See Cox, Exh. CKC-45, Attach. A.* BellSouth's SGAT contains rates as proposed by BellSouth in Docket No. 00-UA-999. These rates are subject to true-up upon the Commission's resolution of Docket No. 00-UA-999.

AT&T and WorldCom argue that BellSouth should bear the cost of transporting traffic originated on BellSouth's network to the competitor's point of interconnection ("POI"), even when the POI is not in the same local calling area as the BellSouth customer and the CLEC customer. *See, e.g., Argenbright Rebuttal, 4-9; WorldCom Comments, 4; Turner Rebuttal, 46-69; AT&T Comments, 84-89.* The FCC rules require that BellSouth provide a single point of interconnection. BellSouth meets this obligation. *Milner, 15.* Thus, the Commission concludes that this issue is not related to checklist compliance, but rather one that can be dealt with in the context of arbitration proceedings. *See SWBT-KS/OK Order, ¶ 239.*

AT&T and WorldCom express concern about BellSouth's charges for space preparation and central office renovation. *Turner Rebuttal, 34; Bomer Rebuttal, 31-34.* BellSouth's current space preparation rate structure is consistent with the FCC's TELRIC methodology. This rate structure is included in BellSouth's SGAT and in several signed Interconnection Agreements. The Commission is currently reviewing these rates as part of Docket No. 00-UA-999, which is the appropriate forum in which to address such issues. To the extent the current TELRIC rates change, BellSouth has committed to update its rates. *Cox, 25.*

Finally, AT&T asserts that BellSouth is double recovering its costs of providing DC power. *Turner Rebuttal*, 35. BellSouth responds that, historically, there have been two power related physical collocation charges: a recurring power rate and an ICB nonrecurring power construction charge. These were two separate charges for power, each of which addressed different costs. However, BellSouth now offers a standard recurring power rate that includes both the old recurring power rate and an incremental recurring amount to recover the nonrecurring power construction charges. This rate is based on forward-looking long-run incremental costs. *Gray Reply*, 26-27. Therefore, BellSouth is not, nor has it ever been, double-recovering its DC power costs.

This Commission found BellSouth in compliance with checklist item I in its 1998 Order. Based on its review of the foregoing evidence, the Commission concludes that BellSouth's actions and performance are consistent with its previous showing. BellSouth again meets the requirements of this checklist item.

**Checklist Item 2: Nondiscriminatory access to network elements in accordance with the requirements of section 251(c)(3) and 252(d)(1):**

This checklist item reflects BellSouth's general obligation under Section 251(c)(3) to provide nondiscriminatory access to network elements on an unbundled basis at any technically feasible point under just and reasonable rates, terms, and conditions. In accordance with recent FCC decisions, because many of the UNEs BellSouth provides are addressed under other checklist items herein, the Commission will discuss those UNEs under those checklist items. The discussion here will address BellSouth's OSS and UNE combinations. As discussed in more detail below, BellSouth provides CLECs with nondiscriminatory access to OSS in compliance with TA 96 and FCC orders.

*a. Standard for Evaluating Sufficiency of OSS*

The FCC has articulated consistently the legal standard by which it evaluates the sufficiency of a BOC's deployment of OSS. First, it must determine whether the BOC has deployed the necessary systems and personnel to provide sufficient access to each of the necessary OSS functions and whether the BOC is adequately assisting CLECs to understand how to implement and use all of the OSS functions available to them. Next, it determines whether the OSS functions that the BOC has deployed are "operationally ready," as a practical matter. *See Second Louisiana Order, ¶ 85; see also Bell Atlantic Order, ¶ 87.* For OSS functions with a retail analogue, the BOC must provide access that permits CLECs to perform these functions in "substantially the same time and manner" as the BOC. *Second Louisiana Order, ¶ 87; SWBT-TX Order, ¶ 94.* For OSS functions without a retail analogue (such as ordering and provisioning of unbundled network elements), the BOC must offer access "sufficient to allow an efficient competitor a meaningful opportunity to compete." *SWBT-TX Order, ¶ 95.* A "meaningful opportunity to compete" is assessed by a review of applicable performance standards. *Second Louisiana Order, ¶ 87; SWBT-TX Order, ¶ 95.*

To meet the legal standard, the FCC has developed a two-part test. Under the first inquiry, a BOC "must demonstrate that it has developed sufficient electronic interfaces (for functions that the BOC accesses electronically) and manual interfaces to allow competing carriers equivalent access to all of the necessary OSS functions." *SWBT-TX Order, ¶ 97.* Evidence of this standard includes the provision of specifications necessary for CLECs to build systems to communicate with the BOC's systems; disclosure of internal business rules and formatting information to ensure the CLEC's orders are processed efficiently; and proof of

sufficient capacity to accommodate both current demand and projected demand for competing carriers' access to OSS functions. *SWBT-TX Order*, ¶ 97.

Under the second part of this test, the FCC examines performance measurements and other evidence of commercial readiness to ascertain whether the BOC's OSS is handling current demand and will be able to handle reasonably foreseeable future volumes. The FCC has repeatedly emphasized in this regard that "[t]he most probative evidence that OSS functions are operationally ready is actual commercial usage." *Second Louisiana Order*, ¶ 86; *see also* ¶ 92; *see also SWBT-TX Order*, ¶ 98. Moreover, in assessing operational readiness for Mississippi's application, BellSouth may rely on commercial usage of its OSS in Mississippi and other states because the Commission has concluded that BellSouth's OSS are the same throughout its region.

In the *Second Louisiana Order*, the FCC found that BellSouth's application demonstrated "important progress toward meeting the statutory requirements" of checklist item 2. The FCC nevertheless concluded: (1) that BellSouth failed to demonstrate that it is providing nondiscriminatory access to the pre-ordering function of OSS; and (2) that the performance measurements, for example, the flow-through rates, indicate that there are serious problems with BellSouth's ordering interface. *See Second Louisiana Order*, ¶ 91-9.

As discussed below, we conclude that, since the time of the *Second Louisiana Order*, BellSouth has made significant enhancements and improvements to its OSS. BellSouth has developed electronic interfaces and manual interfaces that give CLECs equivalent access to BellSouth's OSS functions. In addition, BellSouth's OSS are operationally ready. In sum, the Commission believes that BellSouth provides CLECs with nondiscriminatory access to OSS in compliance with TA 96 and FCC orders.

**b. The Georgia TPT**

The Commission concludes that, because BellSouth's OSS are the same region-wide, the Commission may consider the results of the independent TPT of BellSouth's OSS conducted by KPMG under the auspices of the Georgia Commission. BellSouth submitted data from KPMG's comprehensive TPT to provide additional evidence of its compliance with checklist item 2. That test, initiated by the Georgia Commission in 1999, is a comprehensive performance metrics evaluation. KPMG evaluated BellSouth across 1,175 test points in the Master Test Plan/Supplemental Test Plan ("MTP/STP")/Flow-through categories, and released a favorable Final Report and an opinion letter summarizing its conclusions. *KPMG Master Test Plan Final Report, Supplemental Test Plan Final Report and Flow-Through Evaluation; Pate, 160.* Specifically, KPMG concluded "that no deficiencies creating potentially material adverse impacts on competition currently exist in the Test categories of Pre-Ordering, Billing, Maintenance and Repair, Capacity Management, Change Management and Flow-Through." Further, in the Ordering and Provisioning categories, KPMG noted that "all evaluation criteria have been satisfied except those in three areas . . . ." *Pate, 159.* For these three areas, KPMG stated that the Georgia Commission would "be able to monitor these issues on an ongoing basis through performance measures and/or penalty plans in place to address [them]." *Id., 160.* BellSouth states that it has since addressed KPMG's concerns and, where necessary, has implemented process improvements to ensure future compliance. *BellSouth's Reply Comments in Support of its Application for InterLATA Relief Pursuant to Section 271 of the Telecommunications Act of 1996, filed Aug. 2, 2001, ("BellSouth Reply Comments"), 15.* In sum, BellSouth satisfied over 96% of the test criteria. *Pate, 8, 193.*

AT&T makes five procedural claims regarding the TPT: (1) the TPT did not appropriately evaluate whether BellSouth's actual production systems could handle CLEC orders (*Rebuttal Testimony of Sharon E. Norris (TPT)/AT&T* filed July 2, 2001 ("*Norris Rebuttal (TPT)*"), 25); (2) KPMG used subjective analysis, did not verify BellSouth's statements, and had undue influence in the test (*Norris Rebuttal (TPT)*, 23); (3) KPMG did not properly disaggregate test results (*Norris Rebuttal (TPT)*, 36-39); (4) KPMG's statistical analysis was incomplete (Bell); and (5) KPMG improperly used its professional judgment to override certain GPSC standards. *Norris Rebuttal (TPT)*, 43-44; see also *Sprint Comments*, 6-7 (criticizing the artificial testing environment, particularly for volume testing).

First, BellSouth states that KPMG did not improperly use subjective analysis. Rather, KPMG adhered to a recognized standard of independent verification through all steps of the test. *Pate Reply*, 144. In addition, the test plans KPMG used to conduct its analysis were approved by the GPSC and CLECs, not by BellSouth. *Id.*, 29-31. Further, BellSouth notes that KPMG's exercise of professional judgment in conducting the Georgia test is consistent with the process used in all of the TPTs conducted by KPMG in New York and Texas and has been approved by the FCC. *Id.*, 35. The statistical test used by KPMG in Georgia is comparable to the third party tests conducted in New York, and the scope of the test is comparable to both New York and Texas, each of which are states in which the BOC has received Section 271 relief. Therefore, we reject AT&T's claims regarding the Georgia TPT.

**c. Nondiscriminatory Access to OSS**

CLECs need nondiscriminatory access to an incumbent's OSS to formulate and place orders for network elements or resale services, to install service to their customers, to maintain and repair network facilities, and to bill customers. *SWBT-TX Order*, ¶ 92. We find that

BellSouth provides nondiscriminatory access to its OSS for preordering, ordering, provisioning, maintenance and repair, and billing. Mr. Pate's testimony established that BellSouth has met its obligation to provide CLECs with access to the information and functions in BellSouth's OSS in substantially the same time and manner as BellSouth's access for its retail systems. It also demonstrated that CLECs using these interfaces are afforded a meaningful opportunity to compete in Mississippi.

In evaluating BellSouth's OSS, this Commission views Section 251 as the minimum standard that BellSouth must meet to seek permission to enter the in-region interLATA long distance market. Having found in our 1998 Order that BellSouth met that minimum standard, we now find that BellSouth has demonstrated that it has continued to upgrade and enhance its OSS, to the benefit of CLECs seeking to serve customers in Mississippi.

**Pre-ordering.** Pre-ordering is the exchange of information between BellSouth's systems and the CLEC to assist the CLEC in interacting with its end-user customer. In its *Second Louisiana Order*, the FCC found that BellSouth did not carry its burden in proving that it provided nondiscriminatory access to OSS pre-ordering functions. Specifically, the FCC found certain deficiencies in BellSouth's pre-ordering interfaces, including that CLECs could not integrate pre-ordering and ordering interfaces, and a lack of nondiscriminatory access to due dates. Performance data for June 2001 shows that BellSouth met the relevant benchmark or retail analog for 38 out of 40 submetrics related to preordering. *BellSouth Reply Comments (Performance Data)*, 2; *Varner Further Supp.*, Exh. AJV-5. We find that BellSouth has rectified the deficiencies identified in the *Second Louisiana Order*, and has further modified its OSS to comply with obligations that have arisen since 1998.

Application-to-Application Interfaces and Integration. The FCC has held that a BOC must provide pre-ordering functionality through an application-to-application interface to enable CLECs to "conduct real-time processing and to integrate pre-ordering and ordering functions in the same manner as the BOC." See *Second Louisiana Order*, ¶ 105; *SWBT-TX Order*, ¶ 14. The FCC criticized BellSouth in the *Second Louisiana Order* for not having an "application-to-application" interface and because the access BellSouth provided CLECs to the pre-ordering function was not integrated with their access to ordering functions as it is for BellSouth's retail operation. *Second Louisiana Order*, ¶ 96.

BellSouth has addressed the FCC's previously expressed concerns and provides integratable interfaces. BellSouth offers CLECs three different interfaces that provide real time access to the same pre-ordering databases utilized by BellSouth's retail operations: (1) Telecommunications Access Gateway ("TAG"); (2) RoboTAG™; and (3) Local Exchange Navigation System ("LENS"). The FCC, in footnote 565 of its Texas Order, confirmed that interfaces like BellSouth's Electronic Communications Trouble Administration ("ECTA") interface are not required when the BOC provides equivalent access in another manner (such as TAFI): "a BOC is not required, for the purpose of satisfying checklist Item 2, to implement an application-to-application interface for maintenance and repair functions – provided it demonstrates that it provides equivalent access to its maintenance and repair functions in another manner." *SWBT-TX Order*, n.565. The TAFI and ECTA interfaces fall under the Change Control Process ("CCP"). On April 18, 2000, AT&T submitted the first request through the CCP for changes to the ECTA interface. This change request (CR0012) is currently under consideration within the CCP. Thus far, no change request for TAFI has been submitted. *Pate*, 130-131.



We note that BellSouth's different interface options support each of the three modes of competitive entry, namely competitor-owned facilities, unbundled network elements, and resale. First, TAG provides CLECs a standard Application Programming Interface ("API") to BellSouth's pre-ordering, ordering, and provisioning OSS. Second, RoboTAG™ provides a standardized, browser-based interface to the TAG gateway that resides on a CLEC's LAN server and thereby eliminates the need for CLECs to develop and maintain their own TAG interface. Third, LENS is a human-to-machine, web-based graphical user interface ("GUI") to the TAG gateway. LENS uses TAG's architecture and gateway and therefore has TAG's pre-ordering and ordering functionality for resale and UNEs. Therefore, we conclude that BellSouth provides CLECs with all the technical specifications necessary for integrating these BellSouth interfaces with the CLECs' own systems. However, several commenters allege that BellSouth's application-to-application interfaces are inadequate. Below, we address the most serious of those allegations.

AT&T alleges that BellSouth's answering times for CLECs are slower than the answering times for BellSouth's retail customers. *Rebuttal Testimony of Denise C. Berger*, filed July 2, 2001 ("*Berger Rebuttal*"); *Bradbury Rebuttal*, 39-41. However, we agree with Mr. Ainsworth's explanation that the data relied upon by AT&T do not accurately depict the current situation, largely due to BellSouth's creation of a new call center that enables it to answer such calls faster and more effectively. Indeed, the performance data show that CLEC answering times for April 2001 were significantly better (95.63 seconds) than the answering times for BellSouth's retail customers in the Retail Service Center (118.91 seconds). *Ainsworth Reply*, 7. We are also encouraged that BellSouth's CLEC answering times continue to improve, as evidenced by the decrease of average CLEC answering time to 49.77 seconds in May, compared to an average

answering time of 121.54 seconds for BellSouth's retail customers. *Ainsworth Reply*, 7. For June, both CLEC and BellSouth retail answering times increased marginally, with CLECs at 65.3 seconds and BellSouth at 134.12 seconds. Therefore, we support BellSouth's strategy of creating additional Local Carrier Service Centers ("LCSCs"), and conclude that BellSouth responds to CLECs in a nondiscriminatory manner and is, therefore, in compliance with the statutory requirements.

AT&T also criticizes the pre-ordering response times for Customer Service Record ("CSR") via LENS. *Bradbury Rebuttal*, 39. However, we are satisfied that BellSouth has addressed this issue by releasing an upgrade to the CSR format and retrieval response time on July 27, 2001. *Varnier Reply*, 130-31; *Pate Reply*, 92. We expect that this upgrade, Release 9.4, will expedite the response interval for CSRs and therefore should address any concerns expressed by the CLECs. Thus, BellSouth's current performance, coupled with these enhancements, demonstrate that BellSouth's pre-ordering response times are nondiscriminatory.

AT&T has also criticized BellSouth's pre-ordering OSS for not providing CSR information parsing (i.e., dividing CSR information into specific data fields) to CLECs in the same manner as BellSouth's retail operations. *Bradbury Rebuttal*, 30-34. However, we note that the FCC has specifically rejected this same argument by AT&T in approving SBC's Section 271 application for Texas. *SWBT-TX Order*, n.413. Therefore, we conclude that BellSouth satisfies the FCC's requirements since it provides CLECs the ability to parse CSRs themselves, as SWBT did in Texas when the FCC approved its Section 271 application. *Pate Reply*, 93. However, the Commission understands that the fully parsed CSR functionality is pending in BellSouth's Change Control Process ("CCP") and is scheduled to be implemented in January,

2002. *Pate Further Reply*, 8. The Commission is thus requiring BellSouth to meet a January 31, 2002 implementation deadline for this functionality to further assist competition in Mississippi.

AT&T and NewPhone allege that LENS suffers outages and is not functional for significant periods of time. *Bradbury Rebuttal*, Exh. *Rebuttal Testimony of Bernadette Seigler*, ("Seigler Rebuttal"), 23-24; *Dry Letter*, 1-2. Like the FCC, this Commission looks at the totality of the circumstances in judging OSS performance. *See, e.g., SWBT-KS/OK Order*, ¶ 138; *Verizon-MA Order*, ¶ 65. We find that, despite a number of LENS outages between March 1, 2001 and June 30, 2001, under the totality of the circumstances test, BellSouth satisfies its Section 271 obligations by providing nondiscriminatory access to pre-ordering functions. In reaching this conclusion, we note that LENS was available 97.27%, 98.2%, 92.77% and 96.45% of the time in March, April, May and June 2001, respectively. *Pate Reply*, 183.

Finally, AT&T also argues that BellSouth does not measure the proper interval for Pre-Ordering OSS Response Time. *Bradbury Rebuttal*, 38. Contrary to AT&T's suggestion, we find, based on Mr. Varner's testimony, that BellSouth's SQM measures pre-ordering response time exactly as AT&T's witness recommends. *Varner Reply*, 129. We note that BellSouth is in the process of implementing the changes to move the measurement point, and we conclude that BellSouth's performance is sufficient.

In sum, because these interfaces permit CLECs to "conduct real-time processing and to integrate pre-ordering and ordering functions in the same manner as the BOC," we find that BellSouth has more than met its obligations with respect to electronic interfaces. *See Second Louisiana Order*, ¶ 105; *SWBT-TX Order*, ¶ 14.

Access to Due Dates. In its *Second Louisiana Order*, the FCC held that BellSouth failed to provide parity in access to due dates because of delays in returning firm order confirmations

("FOCs") to the CLECs. *Second Louisiana Order*, ¶ 104-105. In addition, the FCC expressed interest in the development of a due date calculator. Since the *Second Louisiana Order*, BellSouth has introduced an automatic due date calculation functionality in LENS and TAG. *Pate Reply*, 86. Moreover, BellSouth further enhanced the electronic due date calculator on June 4, 2001. BellSouth establishes that not only is access nondiscriminatory, but calculation of due date intervals for CLEC end users is computed using the same guidelines as for BellSouth retail customers, except for UNEs, which BellSouth does not use in its retail operations. *Pate Reply*, 88.

With respect to FOCs, BellSouth has returned over 98% of mechanized UNE FOCs within 3 hours, far exceeding the 95% benchmark, in April, May, and June. For partially mechanized orders, the benchmark was 85% returned within 36 hours for April, and changed to 85% in 18 hours for May and June. BellSouth has routinely exceeded this benchmark with well over 90% returned within the 18/36 hour benchmark. Similarly, BellSouth exceeded the 85% benchmark for manually submitted orders, returning more than 97% of manually submitted UNE FOCs within 36 hours during April, May, and June. *Varner Further Supp.*, AJV-5, 16-17.

NewPhone and Telepak complain of delays in due date intervals for the activation of resale services. We disagree with these commenters, however, since in June 2001 BellSouth implemented enhancements to due date calculations for several order types, including resale orders. *Pate Reply*, 86-87.

Loop Makeup Information. BellSouth provides CLECs with nondiscriminatory access to the same detailed information about the loop that is available to BellSouth. BellSouth establishes that, using the functionality in TAG or LENS, CLECs can request loop makeup information on existing facilities that are owned by the requesting CLEC or BellSouth, on new or

spare facilities that are owned by BellSouth, or can create and cancel reservations for new or spare facilities owned by BellSouth. *Pate*, 86. In June 2001, for example, CLECs submitted 5,005 regional electronic queries for loop makeup information, and BellSouth completed 100% of those queries within five minutes. *See Pate Reply*, 100. Based on this evidence, we are persuaded that BellSouth provides CLECs with nondiscriminatory access to loop makeup information.

In addition, BellSouth provides manual loop makeup inquiry. A CLEC initiates the manual loop make-up process by submitting a request for loop make-up information either to its account team ("AT") or the Complex Resale Support Group ("CRSG"). The AT or CRSG forwards the request to the appropriate Service Advocacy Center ("SAC"). The SAC physically looks through BellSouth's Central Office ("CO") records to gather the loop make-up information. The SAC sends the loop make-up information back to the CRSG or AT, who in turn provides this information to the CLEC. *Direct Testimony of Wiley (Jerry) G. Latham*, filed May 22, 2001, ("*Latham*"), 14-15.

We reject AT&T's allegations that BellSouth does not provide AT&T with direct access to loop makeup information in LFACS and that BellSouth's enhancements to loop makeup inquiry responses were available only in selected areas. *Berger Rebuttal*, 19; *Bradbury Rebuttal*, 111. First, BellSouth's performance data establishes that BellSouth makes the LFACS information available on a timely and nondiscriminatory basis both manually and electronically. Second, as of March 31, 2001, BellSouth's new loop makeup software, LFACS 27.0, had been implemented in all BellSouth locations. *Pate Reply*, 98. Accordingly, we find that BellSouth satisfies the statutory requirement by providing CLECs with the same access to loop makeup information that BellSouth provides to itself.

We also reject Sprint's argument that BellSouth violates FCC requirements since CLECs must perform an unnecessary manual operation that increases the provisioning interval for loop makeup information by three days if loop makeup information is not available for a particular customer through TAG or LENS. *Affidavit of Theresa J. Jasper/Sprint*, filed June 29, 2001 ("*Jasper*"). The FCC requires only nondiscriminatory access to loop makeup information, and, contrary to Sprint's assertion, does not require that detailed information about loops be available electronically or that no manual operations be involved. *UNE Remand Order*, ¶ 427. Because both CLECs and BellSouth's retail operations must submit manual loop makeup requests when there is no electronic access to loop makeup information for a particular retail service or product, we find that the service inquiry process for loop makeup information for CLECs is accomplished in substantially the same time and manner as for services offered to BellSouth's retail customers. *Pate Reply*, 105.

**Ordering and Provisioning.** BellSouth's ordering and provisioning systems accumulate and format the information, such as pre-ordering information, needed to enter an order in BellSouth's Service Order Communication System ("SOCS"). In addition to TAG, RoboTAG™, and LENS, BellSouth provides CLECs with another industry-standard electronic ordering interface: Electronic Data Interface ("EDI"). As explained below, we conclude that BellSouth provides nondiscriminatory access to the ordering and provisioning functionalities of OSS.

In Texas, the FCC concluded that SWBT provided nondiscriminatory access to ordering functions by showing the following: (1) it is able to return timely order confirmation and rejection notices; (2) its systems flow-through a high percentage of orders without manual handling, at a rate that is comparable overall to the flow-through rate for its retail services; (3)

the mechanized orders that do not flow-through are handled in a reasonably prompt and accurate manner; (4) the mechanized and manual components of its ordering systems are scalable to accommodate increasing demand; (5) it provides jeopardy notices in a nondiscriminatory manner; and (6) it provides timely confirmation notices. *SWBT-TX Order*, ¶ 170.

Although the FCC's *Second Louisiana Order* criticized BellSouth's performance on certain ordering measures, including flow-through and average installation intervals, we conclude that BellSouth's performance has improved significantly and that BellSouth's performance data from commercial usage of its ordering interfaces demonstrate compliance with all of the criteria identified in the Texas decision. We address each of these areas in detail below.

Order Flow-Through. A competing carrier's orders "flow through" if they are transmitted electronically through the gateway and accepted into BellSouth's back office ordering systems without manual intervention. *Second Louisiana Order*, ¶ 107. In the *Second Louisiana Order*, the FCC concluded that the "substantial disparity between the flow-through rates for BellSouth's orders and those of CLECs, on its face demonstrates lack of parity." *Id.*, ¶ 109.

We conclude that BellSouth has addressed the FCC's concerns about BellSouth's flow-through for ordering and provisioning. Indeed, KPMG's evaluation of BellSouth's flow-through and overall functionality and scalability of BellSouth's ordering interfaces determined that BellSouth satisfied all of the test criteria. We further note that, as the FCC has recognized, a relatively low flow-through rate for certain types of orders is not, in and of itself, an indication that CLECs are being denied access to BellSouth's ordering systems. *SWBT-TX Order*, ¶ 181. We conclude that BellSouth's provision of FOCs and rejects in a timely manner, particularly in the partially mechanized and manual categories, is compelling evidence of nondiscriminatory performance.

We disagree with the numerous arguments advanced by AT&T and WorldCom regarding BellSouth's "excessive" use of manual processing to handle CLEC orders. First, total mechanization of all service requests is not even possible as a practical matter. *Reply Testimony of Ronald M. Pate*, filed Aug. 21, 2001, ("*Pate Further Reply*"), 4. In recognition of this fact, the FCC has consistently stated that a BOC need not provide for electronic ordering of all products and services. Second, we agree with BellSouth that these allegations are overstated since designed manual fall-out affects only 8-9% of all electronic LSRs, and any manual processing from errors affects only 12-13% of electronic LSRs. *Pate Reply*, 126; *Varner Further Supp.*, Exh. AJV-5, 11. Additionally, we note that BellSouth's manual processes promptly and efficiently address service requests. *BellSouth Reply Comments (Performance Data)*, 7.

WorldCom claims that it experiences a high order reject rate. *WorldCom Reply Comments in Response to BellSouth's SQM Filings*, ("*WorldCom Reply Comments*"), 3. However, WorldCom itself caused 99.82% of the manual order clarifications it experienced. The few orders that BellSouth erroneously clarified were promptly addressed by the LCSC when brought to BellSouth's attention. *Reply Testimony of Ken L. Ainsworth*, filed Aug. 21, 2001, ("*Ainsworth Further Reply*"), 3-4. BellSouth has developed an action plan template to assist individual CLECs in lowering their rejection rate. The initial implementation shows a 5% overall reduction in clarifications and rejected orders for participating CLECs. *Varner Further Supp.*, Exh. AJV-5, 11-12.

WorldCom criticizes BellSouth's 10-day policy for CLECs to resubmit clarified or rejected LSRs, and seeks an increase to a 30-day time period. *WorldCom Reply Comments*, 3-5. BellSouth notes that WorldCom's request stands in stark contrast to the 3 hour standard for returning mechanized FOCs to CLECs to which BellSouth is held. We agree with BellSouth that



a 30-day delay would not be beneficial to end user customers. *Ainsworth Further Reply*, 4. The 10-business day interval is an appropriate length of time for CLECs to review clarified or rejected LSRs.

We also reject various commenters' claims that a high rate of CLEC orders fall out for manual processing while BellSouth retail can submit electronic LSRs that flow-through up to 100% of the time. *Bradbury Rebuttal*, 54. We address these arguments below.

First, we note that CLECs and BellSouth do not utilize identical front-end systems, and the flow-through rates therefore cannot be properly compared. Second, we reject the data AT&T has provided regarding BellSouth's flow-through percentages and means of calculating such rates. *Bradbury Rebuttal*, 46-48. In contrast to AT&T's methodology, BellSouth's rebuttal testimony established that the FCC has accepted BellSouth's use and definition of flow-through. *Pate Reply*, 119-20. BellSouth includes a chart summarizing flow-through percentages from March 2000 through June 2001, excluding LNP, and the chart reveals that the flow-through rates during this period ranged from 86.11% to 92.03%. *Pate*, 109.

Third, we also reject AT&T's assertion that BellSouth's retail operations have flow-through capability that is far superior to that provided to CLECs since BellSouth does not use UNEs. *Bradbury Rebuttal*, 54. We note, however, that a comparison can be made between CLEC and BellSouth residential flow-through rates, and such a comparison reveals that AT&T's assertion is inaccurate. Specifically, CLEC residential resale and BellSouth residential service requests flow-through rates are both over 90% and vary by less than 3%. *Pate Reply*, 131. Therefore, we conclude that BellSouth complies with the statutory requirements.

Fourth, although BellSouth has introduced new versions of its interfaces, some CLECs have chosen not to implement those flow-through enhancements. We are satisfied that

BellSouth's efforts to continue to implement additional flow-through improvements, particularly its work with the Flow-Through Improvement Task Force, demonstrate BellSouth's commitment to competition and Section 271 compliance. *Pate Reply*, 132-35.

Finally, AT&T questions the adequacy of the Georgia TPT's testing of flow through. *Norris Rebuttal (TPT)*, 25-32. However, BellSouth demonstrated that KPMG's Percent Flow Through Service Request test was sufficient and in full compliance with the Georgia Commission's requirements. *Pate Reply*, 143-144.

Order Status Notices and Average Installation Intervals. In the *Second Louisiana Order*, the FCC found that BellSouth failed to provide CLECs with timely access to ordering functionality, specifically order rejection notices, FOC notices, average installation intervals, order completion notices, and order jeopardy notices. *Second Louisiana Order*, ¶ 117. We note that BellSouth has implemented, and the Commission has now adopted, performance measurements that specifically track the timeliness of ordering notifications to CLECs. Moreover, BellSouth has provided this Commission with performance data pursuant to these measurements that demonstrates that BellSouth provides such notices in a timely manner.

In April, May, and June BellSouth met 94%, 96%, and 97% of all reject metrics in Mississippi. For all FOCs, BellSouth met 98%, 96% and 98% of all metrics, for April, May, and June. BellSouth's performance data demonstrate that BellSouth is providing CLECs nondiscriminatory installation intervals. For residential retail dispatch, CLECs' average installation intervals were 6.36 days and 5.63 days in May and June, while BellSouth retail was 6.75 days and 6.10 days for May and June. The residential retail non dispatch interval for CLECs was 1.39 days in May and 1.21 days in June, compared to 0.96 days and 0.86 days for BellSouth retail. For the UNE-P dispatch orders, the average installation interval for CLECs in

May was 1.06 days against a BellSouth retail analog of 0.99 days. *Varnier Further Supp.*, Exh.

AJV-5, 21.

With regard to missed installation appointments, for residential resale non-dispatch in May, CLECs and BellSouth retail were both at 0.01% missed installation appointments. In June, missed installation appointments for residential resale non dispatch for CLECs was 0.08%, while BellSouth retail ran 0.01%. These performance results clearly indicate parity of performance between CLECs and BellSouth retail.

AT&T argues that BellSouth provides jeopardy notices for its retail customers three to seven days sooner than for CLECs. *AT&T Comments*, 46. KPMG, however, found that BellSouth satisfied all test criteria for EDI and TAG electronic jeopardy notifications. *Pate*, 123-24. AT&T also alleges that BellSouth incorrectly calculates intervals for Jeopardy Notification. However, BellSouth has acknowledged the error in this calculation, and is implementing programming changes to correct this calculation later in 2001. *Varnier Reply*, 132. We are satisfied that these changes will rectify AT&T's complaint regarding this calculation.

Finally, the Commission disagrees with AT&T's assertion that BellSouth does not provide total order cycle time to CLECs at parity with its own retail processes. *Bradbury Rebuttal*, 72. The FCC, in evaluating SWBT's Section 271 applications for Kansas and Oklahoma, found SWBT to be in compliance with the statute even though SWBT had "not satisfied the six-hour benchmark in two of the last four months in [Kansas and Oklahoma], SWBT has returned manual rejection notices, on average, between three and nine hours in Kansas and between three and ten hours in Oklahoma . . . . Absent any clear evidence of discrimination or competitive harm, we find that this performance also demonstrates compliance with our requirements." *SWBT-KS OK Order*, ¶ 142. Likewise, the Commission finds no

evidence that BellSouth's performance adversely affects CLECs' ability to compete. Therefore, we conclude that AT&T's allegations are misplaced and that BellSouth satisfies the FCC requirements.

Ordering and Provisioning Functionality for UNEs. As part of the nondiscrimination requirement for ordering and provisioning of UNEs that have no retail analogue, a BOC must demonstrate that it offers access sufficient to provide an efficient competitor a meaningful opportunity to compete. *Second Louisiana Order*, ¶ 134. As noted above, BellSouth has provided this Commission with performance data (compared against applicable benchmarks) pursuant to the measures now adopted by the Commission that demonstrate that BellSouth processes orders for UNEs in a nondiscriminatory manner. In addition, KPMG tested both the functionality and the scalability of BellSouth's ordering interfaces in the Georgia TPT. Taken together, BellSouth's performance data and KPMG's Final Report provide additional evidence that BellSouth is providing nondiscriminatory access to its ordering OSS.

The FCC expressed concern that BellSouth did not provide CLECs with the ability to order combinations of UNEs where the CLEC does the combining. *Second Louisiana Order*, ¶ 141. We are satisfied that BellSouth has remedied this concern because CLECs can order individual UNEs or UNE-P electronically via EDI, TAG, or LENS. *Pate*, 96-97. BellSouth offers both collocation and assembly point as a means for CLECs to combine individual UNEs. Moreover, if the CLEC is ordering UNE-P for an end-user customer with existing service, the only pre-ordering step required is validation of the address. *Id.* Therefore, we conclude that CLECs have sufficient ability to order combinations of UNEs that require the CLEC to do the combining.

The FCC also indicated that it requires evidence demonstrating BellSouth's ability to process orders for partial migrations in such a way as to provide an efficient competitor a meaningful opportunity to compete. *Second Louisiana Order*, 144. Today, CLECs can order both initial and subsequent partial migrations electronically. CLECs have been able to send LSRs for resale or UNE initial partial migrations since BellSouth implemented EDI in December 1996. In March 1999, BellSouth enhanced the capabilities of EDI, TAG and LENS to assist CLECs with electronic ordering of subsequent partial migrations. *Pate*, 95-96. We conclude that the fields BellSouth added are industry standard enhancements and that these enhancements fully address the FCC's concerns.

AT&T and WorldCom maintain that BellSouth's procedures for UNE-P conversion caused loss of dial tone to customers. *Seigler*, 7-9; *Rebuttal Testimony of Sherry Lichtenberg*, filed July 2, 2001, ("*Lichtenberg Rebuttal*"), 5; *Kinard Rebuttal*, 7; *WorldCom Reply Comments*, 3. We agree with BellSouth that these arguments do not demonstrate systemic problems, but rather reflect isolated instances. For example, BellSouth has converted over 3,139 end users from BellSouth to AT&T using the UNE-P conversion process. From these 3,139 conversions, only *three* customers lost service during conversion. See *Ainsworth Reply*, 16-17. Similarly, BellSouth's success rate at converting UNE-P customers to WorldCom is 99.89% using WorldCom's own numbers. Of the 0.11% of WorldCom customers to lose dial tone, less than 8% could be attributed to the UNE-P conversion. For all CLECs, from June 22 to July 7, 2001 BellSouth converted 99.75% of its UNE-P migrations without loss of dial tone. From July 18 to August 2, 2001, BellSouth converted 99.82% UNE-P orders without loss of dial tone. *Ainsworth Further Reply*, 2-3. We find that WorldCom's assertion that BellSouth's "Trouble After Service Order Completion" metric overstates the problem of dialtone losses because a large number of

the dialtone loss problems are wrongly classified as "Trouble Not Found" or "CPE" is misleading. *Kinard Rebuttal*, 2. Mr. Varner's reply testimony established that if there were an alarmingly high volume of premature Trouble Not Found or CPE reports, the problem would appear in BellSouth's Customer Trouble Report Rate measurement under the product category of loop/port combinations. *Varner Reply*, 93. However, the BellSouth Monthly State Summary ("MSS") reports in Mississippi indicate that BellSouth received trouble reports on less than 2% of the loop/port combination orders in Mississippi in April, May, and June 2001. *Varner Reply*, 93-94.

WorldCom also argues that some orders were erroneously rejected because the representatives failed to recognize the proper UNE-P transaction type or that BellSouth representatives did not add the product code to the order during manual processing. *Lichtenberg Rebuttal*, 8. We are satisfied that BellSouth has addressed this problem by providing refresher training for all LCSC representatives on May 18, 2001. *Ainsworth Reply*, 19. We would expect that BellSouth will continue to provide such refresher training in the future as it is needed.

Notwithstanding the success of BellSouth's current procedures, WorldCom suggests that BellSouth should be required to implement a single "C" conversion order. *WorldCom Reply Comments*, 4. As noted above, BellSouth already processes more than 99% of WorldCom's orders without incident. Further, other RBOCs do not utilize the requested single-order process. Nonetheless, at the request of CLECs, BellSouth is investigating the possibility of using a single "C" conversion order process. *Pate Further Reply*, 8. The Commission finds that BellSouth has demonstrated that it provides a virtually seamless transition of UNE-P Orders; thus, it meets the requirements of this checklist item. Nevertheless, and although not required for Section 271 compliance, the Commission finds that the single "C" order would reduce the chance that end-

user customers will lose dial tone when converting from BellSouth to a CLEC. The current process used by BellSouth of having two separate orders to convert an end-user from BellSouth to a CLEC, though working, can apparently be improved for the benefit of the end-user. Therefore, the Commission requires BellSouth to implement the single "C" order process by no later than May 1, 2002. WorldCom also seeks other changes to the ordering process. *WorldCom Reply Comments*, 4-5. First, WorldCom requests the ability to order based on customer name and telephone number. BellSouth already has targeted this change for implementation. *Pate Further Reply*, 8. Second, WorldCom requests that BellSouth provide a fully parsed and fielded CSR. BellSouth already provides CLECs with the same data stream it provides to its retail units. Thus, BellSouth already meets its obligations. Nonetheless, BellSouth plans to implement parsing in response to a CLEC change request. *Pate Further Reply*, 8. As noted earlier herein, the Commission is requiring BellSouth to implement the fully parsed CSR functionality by January 31, 2002.

Finally, WorldCom argues that BellSouth must provide real-time ordering using an interactive agent. *WorldCom Reply Comments*, 5. WorldCom initially requested this functionality in 1998, but requested postponement in February 1999. When the change request was resubmitted in September 2000, the CLEC members of the Change Control Process prioritized it 21<sup>st</sup> out of 36 change requests. *Pate Further Reply*, 9. In light of the low prioritization, BellSouth's decision to suspend development of the interactive agent is appropriate.

Capacity. We find that BellSouth's production environment has sufficient capacity to process current and projected order volumes. BellSouth's extensive commercial usage of its OSS, in conjunction with the data demonstrating the performance of those systems, demonstrate

that BellSouth's systems have sufficient capacity to process current and projected volume. Therefore, we reject WorldCom's and AT&T's allegations that claim otherwise. *Bradbury Rebuttal*, 74; *Lichtenberg Rebuttal*, 6-9. Importantly, since the Georgia TPT, BellSouth increased the capacity of its production environment, and BellSouth routinely performs extensive volume tests to ensure that BellSouth's production environment has sufficient future capacity.

We also disagree with AT&T's argument that EDI outages undermine BellSouth's claims regarding production capacity. *Bradbury Rebuttal*, 74-75. We agree with BellSouth that the outages have no relation to EDI's capacity, and that the EDI outages occurred on rare instances because one of BellSouth's EDI vendors notified BellSouth it would no longer serve as BellSouth's EDI translator. We are satisfied that BellSouth takes all outages seriously and that the systems currently provide CLECs nondiscriminatory access to its OSS.

Line Splitting. The FCC recently clarified that "the Line Sharing Reconsideration Order does not require Verizon to have implemented an electronic OSS functionality to permit line splitting." *Verizon-MA Order*, ¶ 173. Therefore, we reject AT&T's assertion that BellSouth must provide electronic OSS for CLEC line splitting orders, and find that BellSouth is in full compliance with FCC requirements since it is able to accept CLEC manual line splitting orders. *Pate Reply*, 109. We further note that, despite already meeting the FCC's requirements, BellSouth is developing a mechanized ordering capability. *Pate Reply*, 109.

In sum, the FCC has clearly stated that it does not hold the BOCs to a standard of perfection and will not hold BOCs accountable for CLEC errors. Rather, the agency will look at the totality of circumstances in evaluating OSS. *SWBT-TX Order*, ¶¶ 176; *SWBT-KS/OK Order*, ¶¶ 138, 146; *Verizon-MA Order*, ¶ 65, 75. Therefore, we conclude that the data and TPT



demonstrate that BellSouth satisfies its Section 271 obligations for ordering and provisioning UNEs.

**Maintenance and Repair.** CLECs may access maintenance and repair information in substantially the same time and manner as BellSouth. BellSouth offers such access through its Trouble Analysis Facilitation Interface ("TAFI") and Electronic Communications Trouble Administration ("ECTA"). Similar to Bell Atlantic in New York, BellSouth satisfies the maintenance and repair checklist obligation because it provides CLECs with access to maintenance and repair functions in substantially the same time and manner as it offers them to its retail units. Specifically, BellSouth's retail units use TAFI, which BellSouth also provides to CLECs. Below we address specific CLEC assertions regarding the adequacy of BellSouth's maintenance and repair OSS, and conclude that BellSouth satisfies this aspect of checklist item 2.

AT&T alleges that TAFI and ECTA are not equivalent to the systems utilized by BellSouth's own retail operations. *AT&T Comments*, 46-47; *Bradbury Rebuttal*, 129-131. Specifically, AT&T argues that BellSouth is able to integrate TAFI with its own back office systems, but that CLECs cannot. AT&T also asserts that although ECTA is a machine-to-machine interface, it does not provide nondiscriminatory access to maintenance and repair functions and is, therefore, inferior to TAFI.

We disagree with AT&T's assertions. Notably, the FCC does not require BOCs to provide a machine-to-machine maintenance and repair interface. As explained in the FCC's *Bell Atlantic-NY Order*, although BOCs must provide "maintenance and repair functionality in substantially the same time and manner that it provides the functionality to itself," this standard does not require BOCs to provide an integratable, application-to-application interface for

maintenance and repair. *BA-NY Order*, ¶ 215. Pursuant to this standard, the FCC determined that Bell Atlantic had satisfied its checklist obligation even though it did not offer CLECs an application-to-application interface. *BA-NY Order*, ¶ 215. More recently, in the *SWBT-TX Order*, the FCC reaffirmed that position, stating that "a BOC is not required, for the purpose of satisfying checklist item 2, to implement an application-to-application interface for maintenance and repair functions." *SWBT-TX Order*, n.565.

We find further support for our conclusion in a 1999 letter from Mr. Lawrence Strickling, Chief of the FCC's Common Carrier Bureau. In that letter, Mr. Strickling clarified that the FCC's *Second Louisiana Order* did not conclude that TAFI's lack of integration constituted a failure to provide nondiscriminatory access. To determine nondiscriminatory access to maintenance and repair functions, the FCC reviews performance data reflecting the timeliness of the BOC's interfaces used for maintenance and repair functions, the timeliness of its repair work, and the quality of the repair work. See *Verizon-MA Order*, ¶ 96. BellSouth's repair interfaces are available for CLECs. In the three months for which this Commission has performance data, CLEC TAFI was available 100% of the time, and BellSouth answered CLEC calls to the maintenance center in less time than it took to answer BellSouth retail calls. Therefore, because BellSouth provides equivalent maintenance and repair OSS to CLECs by providing CLECs with exactly the same TAFI maintenance and repair functionality as is provided to its retail operations, it satisfies its checklist obligation.

**Billing.** BellSouth provides CLECs with usage data in three ways: (1) the Optional Daily Usage File ("ODUF"); (2) the Access Daily Usage File ("ADUF"); and (3) the Enhanced Optional Daily Usage File ("EODUF"). These daily usage files provide CLECs with records for billable call events recorded by BellSouth's central offices. *Scollard*, 5. These data allow a

CLEC to process call records in its billing systems in substantially the same time and manner that BellSouth processes these types of records in its own systems. *Pate*, 25-26.

In all three months for which this Commission has performance data, BellSouth's invoice accuracy for CLECs exceeded that for BellSouth's retail units. In addition, BellSouth provided invoices faster to CLECs than to BellSouth retail units. See *Varner Supp.*, Exh. AJV-5, Section B.4.2. KPMG also tested BellSouth's usage files in the Georgia TPT, and found all of the ODUF and ADUF test criteria satisfied. *Pate*, Exh. OSS 64-66; MTP, VI-B-14 – VI-B-20.

AT&T alleges that, BellSouth's procedures for establishing Billing Account Numbers ("BANS") are "overly burdensome" or "difficult." *AT&T Comments*, 56. BellSouth demonstrated that the problems encountered were directly attributable to AT&T. First, AT&T did not follow BellSouth's documented process for establishing BANS. *Scollard Reply*, 14. Second, AT&T did not communicate its plan for requesting new UNE-P service in additional states to BellSouth in a timely manner. If AT&T had communicated the plan in advance, as opposed to the time that they wanted to begin issuing orders, the process would not have been difficult or burdensome. *Scollard Reply*, 14-15. Currently, there are about 190 BANS established for CLECs in Mississippi and well over 3,000 BANS in the BellSouth region, demonstrating that the BANS process is efficient and effective when the proper procedures are followed. *Scollard Reply*, 15. Accordingly, the Commission finds that AT&T's allegations are without merit.

AT&T questions the validity of KPMG's billing testing. *Norris Rebuttal (TPT)*, 14-15. The test, including the overall design and use of data, properly and effectively reviewed BellSouth's provision of billing services to CLECs. *Pate Reply*, 136-139. As described in Mr. Pate's reply testimony, the Georgia TPT for OSS issues is more than adequate, and both KPMG

and BellSouth have fully addressed concerns raised by the CLECs. More importantly, the extensive commercial usage of BellSouth's billing systems demonstrates compliance with this checklist item. As Mr. Scollard testified, BellSouth processes over 236 billing records in Mississippi each month. *Scollard, 19.*

**Change Management Process.** An ILEC may demonstrate that it provides the documentation and support necessary to provide CLECs with nondiscriminatory access to its OSS by showing that it has in place an adequate change management process to which it adheres over time. In judging the adequacy of a BOC's change management process, the FCC examines whether: (1) the information relating to the change management process is clearly organized and readily accessible to competing carriers; (2) competing carriers had substantial input in the design and continued operation of the change management process; (3) the change management plan defines a procedure for the timely resolution of change management disputes; (4) an adequate testing environment is available; and (5) the documentation the BOC makes available for the purpose of building an electronic gateway is effective. *See SWBT-TX Order, ¶ 108; BA-NY Order, ¶ 107-110.* As discussed in detail below, based on BellSouth's performance data, the results of the Georgia TPT and the testimony presented to us, we conclude that BellSouth's change management process, embodied in its written Change Control Process ("CCP") document, satisfies the requirements of this checklist item. We detail our conclusions below by reviewing the most serious CLEC allegations regarding the change management process.

**Alleged "Veto" Power.** The FCC requires that competing carriers have "substantial input" in the design and operation of the change management process. *See BA-NY Order, ¶ 124-125.* The FCC has made clear that this standard requires BOCs to "accommodate a variety of

interests with any given change release," but that, invariably, some competing carriers will be "less than satisfied with any given change." *BA-NY Order*, ¶ 124-125.

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AT&T argues that BellSouth has used its alleged veto power over the written CCP document to thwart CLEC participation in the CCP and has used the process to favor BellSouth-initiated changes. We find this assertion to be without merit. Mr. Pate's testimony established that, as of May 4, 2001, BellSouth has implemented (or is in the process of implementing) 85 CLEC-initiated change requests, but has implemented (or begun implementing) only 48 BellSouth-initiated change requests. *Pate*, 74. We are also satisfied, based on the record before us, that BellSouth and the CLECs have made a concerted effort to incorporate all reasonable requests for change in the CCP.

Mr. Pate's testimony further demonstrated that BellSouth has provided CLECs with "substantial input in the design and continued operation of the change management process." We note that BellSouth first sought CLEC input into the CCP in October 1997, and has held numerous meetings with CLECs since that time. The steering committee that developed, approved, and signed the original BellSouth Electronic Interface Change Control Process ("EICCP"), which was the predecessor process to the current CCP, was comprised of representatives of AT&T, WorldCom, Sprint, e.spire, LCI, and Intermedia. *Pate*, 42.

The current CCP document specifies the procedures BellSouth must follow when reviewing change requests. We are satisfied that where BellSouth has declined to adopt a CLEC change request, it has complied with the procedures specified in the CCP document by providing a reason for its decision, such as that the proposed change: (1) is counter to the industry standard; (2) is not currently feasible; or (3) would require BellSouth to make a substantial financial investment for limited potential utilization by the CLEC community as a whole. *Pate Reply*, 46-

47. Finally, the dispute resolution mechanism in the CCP document allows any party to seek mediation of a dispute, or to file a complaint with the Commission relating to any dispute arising under the plan. Thus, it ultimately is the Commission that has the veto power, or the final say with regard to issues related to the CCP.

Therefore, while some CLECs remain dissatisfied with certain aspects of BellSouth's CCP, the FCC does not require that BOCs achieve unanimous support for their CCPs; it only requires that BOCs give competitors an opportunity to provide "substantial input" into the change management process—including access to escalation and dispute resolution procedures—which we find that BellSouth consistently has done. Indeed, after examining BellSouth's change management process, KPMG found that it was "one of the many categories in which no deficiencies creating potentially material adverse impacts on competition currently exist." See *KPMG Master Test Plan*, CM-1-1-4, p. VIII-A-20.

BellSouth's Compliance With The Requirements Of The CCP. AT&T also alleges that BellSouth does not treat CLEC change requests pursuant to the CCP's requirements and makes changes to its OSS without adhering to the CCP. Specifically, AT&T alleges, *inter alia*, that BellSouth fails to provide CLECs with information regarding internal processes, makes unilateral changes to planned implementations, and fails to utilize the process to implement new interfaces. *AT&T Comments*, 48.

The record does not support AT&T's arguments. We find that BellSouth has consistently given CLECs an opportunity to provide "substantial input" in the CCP. We are satisfied that the CCP protects the rights of CLECs since it includes escalation and dispute resolution procedures to ensure that specific allegations of wrongdoing can be dealt with fairly and efficiently.

Alleged Failure to Meet Stated CLEC Needs. AT&T alleges that BellSouth has failed to

meet a number of stated CLEC needs, by, *inter alia*: (1) not establishing a "go/no go decision point;" (2) not providing parsed CSRs; (3) not implementing change requests; (4) not giving CLECs an opportunity to meet with BellSouth decision-makers; (5) not maintaining a stable test environment; and (6) not providing CLECs with an adequate opportunity to test changes prior to implementation. *Bradbury Rebuttal*, 96-99. We find that these allegations do not undermine the overall sufficiency of BellSouth's change management process. We address below AT&T's primary claims, including allegations involving the go/no go decision point, testing, and the introduction of new interfaces. We address the issue of parsed CSR data later in this section.

Go/No Go Decision Point. AT&T claims that the CCP lacks a "go/no go" decision point provision, which would ensure that CLECs are not forced prematurely to cut over to a new release. *Bradbury Rebuttal*, 96. While we agree that BellSouth's CCP document does not contain a specific "go/no go" provision, we believe that the CCP document is adequate because it includes a versioning policy, as well as a notification schedule designed to keep CLECs up to date on the implementation of new interfaces and program release upgrades. *Pate Reply*, 57-58. BellSouth has explained that because BellSouth supports two versions of interface programs at all times (*i.e.*, the "current" version and the "new" version), CLECs need not switch to the new version unless they are ready to make the transition. In addition, in June 2001, BellSouth and the CLECs agreed to incorporate a new release management schedule into the latest version of the CCP in order to increase the advanced notification CLECs receive regarding implementation of new interfaces and program releases. *Pate Reply*, 58. Therefore, because the CCP's versioning policy and notification schedule already achieve the same goal as a "go/no go" provision, we find that AT&T's criticism is unwarranted.

Testing Environment. BOCs must provide CLECs "with access to a stable testing environment such that [its] OSS will be capable of interacting smoothly and effectively with [the ILEC's] OSS," and provides "a testing environment that mirrors the production environment in order for competing carriers to test the new release." *SWBT-TX Order*, ¶ 132. The FCC requires that ILECs provide a CLEC with access to a "stable testing environment to certify that [its] OSS will be capable of interacting smoothly and effectively with [the ILEC's] OSS." *SWBT-TX Order*, ¶ 132. As explained below, we find that BellSouth's current test environment and its new optional CLEC Application Verification Environment ("CAVE") satisfy the FCC's requirements.

BellSouth provides CLECs with two types of open and stable testing environments that satisfy the FCC's requirements. The first of these testing environments is used when CLECs shift from a manual to an electronic environment, or when the CLEC is upgrading its electronic interface from one industry standard to the next. Mr. Pate's reply testimony established that this environment allows CLECs to perform various types of testing, including: (1) application connectivity testing; (2) API testing; (3) application testing; (4) syntax testing; (5) validity testing; and (6) service readiness testing. *Pate*, 67-69; 72. In the *KPMG Georgia Test*, KPMG found that, in connection with OSS-99, BellSouth satisfactorily provided functional testing environments to CLECs for all supported interfaces, thereby demonstrating that the testing environment is stable and capable of certifying whether a CLEC's OSS will interact smoothly and effectively with an ILEC's OSS. *Supplemental Test Plan*, CM-2-1-6, p. VII-A-22.

We reject AT&T's argument that BellSouth provides neither a stable test environment nor an adequate opportunity to test OSS changes prior to implementation. The CAVE testing environment mirrors BellSouth's production environment. We are satisfied that CAVE is



adequate and that BellSouth's case-by-case determinations about whether a minor release will be available for CAVE testing by CLECs satisfies the requirements of this checklist item, particularly since BellSouth informs the CLECs of its determinations on a case-by-case basis.

*Pate Reply, 78.*

Similarly, we conclude that AT&T's allegations regarding BellSouth's refusal to beta test CAVE are mistaken. Importantly, Mr. Pate's reply testimony established that BellSouth undertook carrier-to-carrier beta testing with a vendor that provided TAG interfaces to five CLECs in April 2001. *Pate Reply, 78.* Moreover, CAVE is now available to any CLEC to test LENS Release 9.4, two CLECs already have expressed an interest in doing so, and CLECs need not perform carrier-to-carrier beta testing of CAVE before using it. *Pate Reply, 78-79.*

Furthermore, we disagree with AT&T's claim that KPMG improperly excluded CAVE from the Georgia TPT. The Georgia TPT showed that even before the implementation of the optional CAVE, BellSouth provided an open and stable testing environment that satisfied the FCC's requirements. We agree with BellSouth that CAVE is, therefore, best viewed as an optional testing environment that provides CLECs with choices and capabilities beyond those required by any FCC rule or policy.

**Introduction of New Interfaces.** AT&T charges that BellSouth has brought numerous new interfaces online since the initiation of the CCP, but has not included them in the CCP. *Bradbury Rebuttal, 130.* We do not address this claim in detail here since this issue was resolved in BellSouth's favor in an AT&T-BellSouth arbitration in Kentucky (case No. 2000-465, issued 5/16/2001, p. 12-13), and no other CLEC has raised it. *Pate, 56.*

**Results of the Florida TPT.** A key component of an effective change management process is the existence of a forum in which both competing carriers and the BOC can work

collaboratively to improve the method by which changes to the BOC's OSS are implemented.”

*SWBT-TX Order*, ¶ 117. AT&T argues that the ongoing KPMG Florida third-party OSS tests have revealed numerous problems with BellSouth's CCP. *Bradbury Rebuttal*, 104-108; *Norris Rebuttal (TPT)*, 16-17. Although KPMG has issued exceptions pertaining to the CCP, we are satisfied that these issues arose in the context of ongoing improvements to the systems, as explained in greater detail below.

BellSouth's CCP continues to evolve, and BellSouth is working to implement KPMG's recommendations in an effort to further improve its CCP. BellSouth has remedied the issue related to Florida Exception 26 (process for handling document defects), and KPMG, after working with the Florida Commission, issued a Disposition Statement that formally closed Exception 26. *Pate Reply*, 76. Similarly, BellSouth has implemented changes in its handling of EDI outage notification information in order to satisfy the concerns related to Exception 12 (system outage procedures), and KPMG is currently retesting. *Pate Reply*, 70-72.

In addition, BellSouth is working with CLEC participants in the CCP on issues pertaining to Exception 23 (distribution of carrier notification letters pertaining to the CCP). *Pate Reply*, 72-76. We note that carrier notifications are currently under active consideration by the CCP, and in the coming weeks, the CCP participants will vote on final language for the CCP document. *Pate Reply*, 76. We are satisfied that BellSouth is working on this issue in good faith, and we do not believe that this exception should delay BellSouth's provision of long distance services to consumers in Mississippi.

**d. UNE Combinations**

In its UNE Remand Order, the FCC found that BOCs presently have no obligation to combine network elements for CLECs when those elements are not currently combined in the

BOC's network. As the FCC made clear, Rule 51.315(b) applies to elements that are "in fact" combined, stating that "[t]o the extent an unbundled loop is in fact connected to unbundled dedicated transport, the statute and our rule 51.315(b) require the incumbent to provide such elements to requesting carriers in combined form." *UNE Remand Order*, ¶ 480. The FCC declined to adopt a definition of "currently combines" that would include all elements "ordinarily combined" in the incumbent's network.

BellSouth has explained that it provides access to UNEs in a manner that allows requesting carriers to access preexisting combinations of network elements as well as to combine UNEs for themselves. BellSouth provides CLECs with a variety of means by which CLECs may combine network elements, including (1) physical collocation; (2) virtual collocation; (3) assembly point arrangements; and (4) any other technically feasible method of combining UNEs requested in the bona fide request process. *Milner*, 30-31; 41. In addition, except upon request, BellSouth will not separate requested network elements where such elements are physically combined to the particular location the CLEC wishes to serve. SGAT, § II.D.3.

SECCA contends that BellSouth's UNE combination policy places CLECs at a competitive disadvantage and forces CLECs to pay higher costs because BellSouth refuses to combine elements for CLECs at cost-based rates that it combines for itself. *Gillan*, 33-36. Similarly, AT&T suggests that "currently combines" in Rule 315(b) requires BellSouth to combine any and all network elements for CLECs if those elements are currently combined anywhere in BellSouth's network. *Rebuttal Testimony of Richard T. Guepe/AT&T*, filed July 2, 3001, ("*Guepe Rebuttal*"), 9-14.

The FCC in its *Local Competition Order* promulgated a set of rules governing the combination of network elements, specifically Rules 315(b)-(f). Rule 315(b) provides that an

ILEC will not separate elements that it currently combines, and 315(c) provides that an ILEC must combine previously uncombined elements at a CLEC's request. In 1997, the United States Court of Appeals for the Eighth Circuit invalidated Rule 315(c), finding such requirements to be prohibited by Section 251(c)(3) of TA 96. *Iowa Utilities Board v. FCC*, 120 F.3d 753 (8th Cir. 1997). The Eighth Circuit refused to reinstate those rules. *Iowa Utilities Bd. v. F.C.C.*, 219 F.3d 744 (8th Cir. 2000). The United States Supreme Court has recently granted *certiorari* to consider whether regulators can require ILECs to combine previously uncombined elements. *Verizon Communications, Inc. v. F.C.C.*, 121 S.Ct. 877 (U.S. Jan 22, 2001) (No. 00-511); *WorldCom, Inc. v. Verizon Communications, Inc.*, 121 S.Ct. 877 (U.S. Jan 22, 2001) (No. 00-555); *General Communications, Inc. v. Iowa Utilities Bd.*, 121 S.Ct. 879 (U.S. Jan 22, 2001) (No. 00-602); *AT&T Corp. v. Iowa Utilities Bd.*, 121 S.Ct. 878 (U.S. Jan 22, 2001); (No. 00-590); *F.C.C. v. Iowa Utilities Bd.*, 121 S.Ct. 878 (U.S. Jan 22, 2001) (No. 00-587). Thus, there is no requirement today for BellSouth to combine elements for CLECs.

BellSouth provides UNE combinations to CLECs at cost-based prices if the elements are combined and capable of providing service at a particular location. *Cox Reply*, 36-45. If a BellSouth customer switches to a CLEC and requires the same UNEs for service, the CLEC will be charged the cost-based rates for those combined elements used in serving that customer as required by FCC rules. However, if a CLEC customer is a new phone customer or switches services such that new elements are required, BellSouth is under no obligation to combine the new network elements at a cost-based rate. To combine elements not already combined, BellSouth passes the costs on to all customers in the form of non-recurring charges for its own retail customers, and in the form of "glue charges" for CLEC customers. *Cox Reply*, 37-42. Thus, BellSouth's policy is not discriminatory under the law today.

Although the Commission recognizes that Section 271 does not require BellSouth to provide new combinations of UNEs, CLECs have pointed out, however, that they can currently get new combinations in Mississippi by initially ordering such services as special access or resale and later converting those services to UNE combinations. This process appears to simply add a layer of unnecessary work and serves to complicate the ordering process. Consequently, the Commission orders BellSouth to provide combinations of ordinarily combined elements in a manner consistent with the Order issued by the Georgia Public Service Commission in Docket No. 10692-U, dated February 1, 2000. Pursuant to the Georgia Commission's Order, CLECs can order combinations of ordinarily combined elements, even if the particular elements being ordered are not actually physically connected at the time the order is placed.

The recurring rates for such new combinations shall be the same as the recurring rate for an existing combination. The nonrecurring rate for a new loop/port combination shall be the sum of the nonrecurring rate for the loop and the nonrecurring rate for the port. The nonrecurring rate for a new loop/transport combination shall be the sum of the nonrecurring rate for the loop and the nonrecurring rate for transport. To the extent that the Commission has not established nonrecurring rates for a particular new combination, the nonrecurring rate shall be the sum of the nonrecurring rates for the individual elements being ordered.

Because the use of new combinations may have an adverse affect on capital investment by CLECs in Mississippi, the Commission may reconsider its decision on this issue if the United States Supreme Court upholds the Eighth Circuit Court of Appeals' determination that ILECs have no legal obligation to combine UNEs under TA 96.

**Checklist Item 3: Nondiscriminatory access to network elements in accordance with the requirements of section 251(c)(3) and 252(d)(1):**

Section 271(c)(2)(B)(iii) provides that a BOC must offer "[n]ondiscriminatory access to the poles, ducts, conduits, and rights-of-way owned or controlled by the [BOC] at just and reasonable rates in accordance with the requirements of Section 224." The Commission has held previously that BellSouth complied with this checklist item. Additionally, in the *Second Louisiana Order*, the FCC held that BellSouth demonstrated that it has established nondiscriminatory procedures for access to poles, ducts, conduits, and rights-of-way. *Second Louisiana Order*, ¶ 171-183.

No commenter has raised any concerns with respect to checklist item 3. Moreover, in Section III of the SGAT, and in various negotiated Interconnection Agreements, BellSouth continues to offer nondiscriminatory access to poles, ducts, conduits, and rights-of-way in a timely fashion. BellSouth's actions and performance at this time are consistent with the showing previously made to the Commission and the FCC upon which both regulatory agencies made the determination that the statutory requirements for checklist item 3 were met.

We conclude that BellSouth demonstrates that it provides nondiscriminatory access to its poles, ducts, conduits, and rights-of-way at just and reasonable rates in accordance with section 271(c)(2)(B)(iii).

**Checklist Item 4: Local Loop transmission from the central office to the customer's premises, unbundled from local switching or other services:**

Section 271(c)(2)(B)(iv) requires that BellSouth offer "[l]ocal loop transmission from the central office to the customer's premises, unbundled from local switching or other services." The unbundled loop is "a transmission facility between a distribution frame, or its equivalent, in

an incumbent LEC central office, and the network interface device at the customer premises.”

BellSouth data indicates that as of March 31, 2001, BellSouth has provisioned almost 6,000 loops for CLECs in Mississippi. *Milner*, 47.

*a. Local Loops*

The local loop is an unbundled network element that must be provided on a nondiscriminatory basis pursuant to Section 251(c)(3). BellSouth makes several loop types available to CLECs (e.g., SL1 and SL2 voice grade loops; 2-wire ISDN digital grade loops; 2-wire ADSL loops). *Milner*, 46-47. In addition, BellSouth provides CLECs with unbundled loops served by Integrated Digital Loop Carrier (“IDLC”). *Milner*, 48-51. BellSouth also allows CLECs to purchase additional loop types through the bona fide request (“BFR”) process. *Milner*, 47. BellSouth’s submissions indicate that it allows CLECs to access unbundled loops at any technically feasible point, and provides local loop transmission of the same quality as it provides to itself and uses the same equipment and technical specifications used by BellSouth to serve its own customers. *Milner*, 46-47. BellSouth has provided almost 6,000 unbundled local loops to CLECs in Mississippi and over 350,000 unbundled local loops to CLECs in BellSouth’s nine-state region. *Milner Reply*, 24. BellSouth indicates that the vast majority of these loops were provisioned with number porting. *Id.*

In reviewing a BOC’s performance for stand-alone loop provisioning, the Commission looks to the average Order Completion Interval (“OCI”); Missed Installation Appointments; Trouble Reports After Provisioning; and Mean Time To Repair. See *Verizon-MA Order*, ¶ 111. For OCI, BellSouth data for April, May, and June shows that it met or exceeded the retail analog in all of the categories where CLEC activity was reported in April, May, and June 2001. *Varner Supp.*, Exh. AJV-5; *Varner Further Supp.*, Exh. AJV-5. For Missed Installation Appointments,

BellSouth met or exceeded the retail analog for all sub-metrics for which CLEC data was reported in May and June 2001. BellSouth also met or exceeded the retail analog for all sub-metrics for loops on Percent Provisioning Troubles in 30 Days for April and met seven (7) out of eight (8) in May. Finally, for Missed Repair Appointments and Maintenance Average Duration, BellSouth met or exceeded the retail analog for 100% of those sub-metrics for which there is CLEC activity for April, May, and June. *Varner Supp., Exh. AJV-5.*

For loop-port combinations, for May 2001, BellSouth data shows that it met or exceeded the retail analog for OCI and Missed Installation Appointments for five (5) of the six (6) sub-metrics within these measures, and met all submetrics in June. For the one sub-metric that BellSouth missed in May, it did so by only 0.16%. Such a minimal shortfall does not warrant a finding of checklist noncompliance. BellSouth met or exceeded the retail analogue on all four (4) Percent Provisioning Troubles Within 30 Days loop-port sub-metrics where there was CLEC activity for April, May, and June 2001. BellSouth met or exceeded the Maintenance Average Duration retail analogue for both loop/port combination sub-metrics in April, May, and June. Finally, in May 2001, BellSouth met the retail analogue for OCI for all loop-port combinations with greater than ten (10) or less than ten (10) circuits.

BellSouth and CLEC end users experience troubles at roughly the same rate. For example, BellSouth met the applicable performance standards for April, May, and June 2001, satisfying 94%, 89%, and 94% of the UNE maintenance and repair measurements in those months, respectively. *See Varner Supp., Exh. AJV-5, Section B.3.2.* In addition, the performance data demonstrates that BellSouth repairs problems CLECs experience in virtually the same time that it takes to repair problems for its retail customers. *Varner Supp., Exh. AJV-5, Section B.3.5.*



Finally, in virtually every case, there are fewer repeat troubles on CLEC end-user lines than on BellSouth end-user lines. Of particular significance, BellSouth's performance met the applicable analogue for all repeat troubles performance measures for the month of June 2001. In addition, for the other months, BellSouth met the retail analogue for loop-port combinations, xDSL-capable loops (non-dispatch), ISDN-capable loops (both dispatch and non-dispatch), and 2-wire analog loops Design (both dispatch and nondispatch). See *Varner Supp.*, Exh. AJV-5, Attach. 1A, Section B.3.4.

***b. Hot-cuts***

Hot-cuts involve the conversion of an existing BellSouth customer from BellSouth's network to the network of a competitor by transferring the customer's in-service loop over to the CLEC's network. *Milner*, 57-63. As the FCC noted, "[t]he ability of a BOC to provision working, trouble-free loops through hot-cuts is critically important in light of the substantial risk that a defective hot-cut will result in competing carrier customers experiencing service outages for more than a brief period." *SWBT-TX Order*, ¶ 256.

BellSouth has implemented three hot-cut processes, two involving order coordination and one that does not. *Milner*, 57. The first process, a time-specific cutover—includes order coordination between BellSouth and the CLEC. For this first process, the CLEC requests both the due date and a specific time for the cutover to commence. The second process, a non-time specific cutover, also includes order coordination with BellSouth. For this process, however, the CLEC requests the date for cutover. Before the cutover, the CLEC and BellSouth agree to a specific time for the cutover to commence. Under the third process, the CLEC merely specifies the date on which the cut is to occur but leaves the time of the cutover to BellSouth's discretion. *Milner*, 57-58.

BellSouth's performance data for April, May, and June 2001 shows that BellSouth met the benchmark for every single hot-cut provisioning sub-metric, with one exception. The exception in May was the Percent Provisioning Troubles within 7 Days of a Hot-cut sub-metric. For that sub-metric, BellSouth reported that only 3 hot-cuts experienced a trouble within 7 days. In addition, BellSouth completed 100% of the hot-cuts on time specific SL2 loops and non-time specific SL2 loops in less than fifteen minutes for April, May, and June 2001. *See Varner Supp.*, Exh. AJV-5, Attach. 1A, 21-22.

AT&T raises a variety of concerns about BellSouth's hot-cut procedures. As BellSouth points out, however, AT&T and BellSouth executed a Memorandum of Understanding ("MOU") on April 16, 2001 setting forth a mutually agreeable hot-cut provisioning process. BellSouth states that the hot cut processes agreed to in this MOU are now used for all CLECs. *Milner Reply*, 24. Thus, as a fundamental matter, the Commission is not persuaded that AT&T's complaints about a hot-cut process it freely negotiated warrant a finding of checklist noncompliance.

AT&T specifically complains about an "operational disagreement" regarding IDLC and BellSouth's hot-cut performance metrics. *Berger*, 20-22. BellSouth confirms its opinion that conversions involving IDLC facilities should not be worked as time-specific hot-cuts, but rather should have a four-hour window within which to start the conversion. Nonetheless, BellSouth continues to count IDLC hot-cuts as time specific if so ordered by the CLEC. *Milner Reply*, 28-29. AT&T thus has not identified conduct that warrants a finding of checklist noncompliance.

AT&T also alleges that BellSouth refuses to check the availability of Connecting Facility Assignments ("CFAs") prior to issuing a FOC. *AT&T Comments*, 68-71; *Berger*, 17-18. BellSouth attributes AT&T's complaints to AT&T's poor record keeping. *Milner Reply*, 27.

When AT&T orders an unbundled network element, such as an unbundled loop, AT&T specifies the CFA to which BellSouth should connect the unbundled loop. AT&T frequently submits LSRs for an unbundled loop specifying CFAs that are already in use for other unbundled loops. To resolve this matter, BellSouth has agreed to provide AT&T access to CFA information within LFACS in a future update to that mechanized system. *See Pate Reply*, 147-149. Until that update is completed, BellSouth provides AT&T with a report that is updated at least three times a week showing the status of each CFA between BellSouth's network and AT&T's collocation arrangements. *Milner Reply*, 27-28. We find that AT&T's ability to check the status of CFAs before submitting its LSR to BellSouth satisfactorily addresses AT&T's concerns.

KMC alleges that, in some instances, when it supplements a conversion order to change the due date, the disconnect portion of the order is processed on the original due date, causing what KMC characterizes as an erroneous disconnect. *Testimony of Alex Vanderwerff/KMC*, filed July 2, 2001 ("*Vanderwerff*"), 3-4. BellSouth attributes part of the problem to KMC's supplementing or making changes to its LSRs very close to the original due date. As BellSouth has informed KMC, if KMC were to contact BellSouth's Customer Wholesale Interconnection Network Services ("CWINS") center when KMC supplements the due date less than 24 hours before the original due date, it would reduce greatly the likelihood of an early disconnect. *Milner Reply*, 30-31. Further, BellSouth and KMC have been holding monthly operational meetings for the past two years. *Milner Reply*, 30-31. The Commission concludes that BellSouth's procedures give KMC the opportunity to resolve any hot-cut problems. Thus, KMC's complaint of isolated occurrences does not warrant a finding of noncompliance for this checklist item.

KMC also complains about chronic outages. *Vanderwerff*, 3. The record shows that BellSouth maintains a chronic problem resolution group in place in the BellSouth CWINS center

to work with CLECs to identify and resolve chronic troubles. Further, BellSouth's and KMC's monthly operational meetings provide a forum to investigate and resolve issues as they may arise. *Ainsworth Reply*, 25-26. Thus, the Commission again concludes that BellSouth's procedures give KMC the opportunity to resolve these concerns. Isolated occurrences do not support a finding of noncompliance for this checklist item.

Finally, KMC complains that BellSouth fails to complete the requisite disconnect work in BellSouth's switches for one in five orders. *Vanderwerff*, 3. BellSouth's process requires the CWINS technician to release the disconnect order in the BellSouth switch as soon as the CLEC accepts the conversion order as complete. This ensures that disconnect orders are processed in a timely manner. KMC's problems appear to arise because KMC fails to call BellSouth and accept the conversion. In April 2001, for example, BellSouth completed 34 conversion orders for KMC in Georgia. For 17 of these orders, KMC took over 16 hours to contact BellSouth to accept the order. On five of the orders, KMC never contacted BellSouth and the orders were closed by default. *Ainsworth Reply*, 25-26. The record indicates that the problems KMC raises likely result from its own conduct, and therefore we reject KMC's complaint.

AT&T claims that BellSouth's method of addressing erroneous disconnects caused by AT&T's error differs from how BellSouth addresses erroneous disconnects of its own customers. *AT&T Comments*, 71-72; *Berger*, 22-23. To the contrary, the Commission finds that BellSouth handles erroneous disconnects as a provisioning issue for both its own customers and for CLECs. *Ainsworth Reply*, 27-28.

AT&T and WorldCom recommend imposing new hot-cut performance metrics. AT&T recommends adding metrics addressing whether the process was completed in a timely manner. *AT&T Comments*, 65; *Berger*, 25-28. WorldCom would add several measures related to hot-cut

performance as well as xDSL provisioning and testing measures. *Kinard Rebuttal*, 23-27. Mr. Varner's testimony describes how BellSouth's existing performance measurements address these issues. *Varner Reply*, 103. The Commission agrees with BellSouth that additional performance measures are not needed. Obviously, the Commission can revisit this matter in the future if the facts warrant such step.

The Commission finds that BellSouth has met, and in some cases gone beyond, the explicit requirements delineated by the FCC related to this checklist item. BellSouth complies with this checklist item because it has demonstrated that it "provisions hot-cuts in sufficient quantities, at an acceptable level of quality, and with a minimum of service disruption." *BA-NY Order*, ¶ 291; *Verizon-MA Order*, ¶ 159; *SWBT-KS/OK Order*, ¶ 199.

*c. Access to Sub-loop Elements*

A sub-loop unbundled network element is an existing portion of the loop that can be accessed at accessible points on the loop. This includes any technically feasible point near the customer premises, such as the pole or pedestal, the network interface device ("NID"), or minimum point of entry to the customer's premises, the feeder distribution interface, the Main Distributing Frame, remote terminals and various other terminals. *Milner*, 52.

In addition to the unbundled loops themselves, BellSouth offers CLECs nondiscriminatory access to sub-loop elements. *Milner*, 52-53. No CLEC challenges BellSouth's provision of access to sub-loop elements. BellSouth offers loop concentration/multiplexing; loop feeder; loop distribution; intrabuilding network cable; and network terminating wire as sub-loop elements. *Id.* CLECs can request additional sub-loop elements via the bona fide request process. As of March 31, 2001, BellSouth has provided CLECs over 500 sub-loop elements region-wide. *Milner*, 52-53.

**d. Access to xDSL-capable Loops**

A BOC must "provision[] xDSL-capable loops for competing carriers in substantially the same time and manner that it installs xDSL-capable loops for its own retail operations." *SWBT-KS/OK Order*, ¶ 185. In its Texas 271 decision, the FCC commended the Texas state commission for developing comprehensive measures to assess SWBT's performance in provisioning xDSL-capable loops and related services in Texas. *See SWBT-TX Order*, ¶ 283. BellSouth submitted comparable performance data, specific to xDSL loops, demonstrating that it is providing CLECs with nondiscriminatory access to such loops.

BellSouth offers CLECs a variety of unbundled loops that may support DSL services. These loop types are: ADSL-capable loop; HDSL-capable loop; ISDN loop; Universal Digital Channel ("UDC"); Unbundled Copper Loop ("UCL"), Short and Long; and UCL-Nondesign ("UCL-ND"). *Latham*, 2. As of March 31, 2001, BellSouth had provisioned 497 two-wire ADSL loops and 28 two-wire HDSL loops in Mississippi. *Milner*, 56.

For pre-ordering of xDSL-capable loops, BellSouth offers CLECs access to loop make-up information ("LMU") through electronic and manual processes. BellSouth further demonstrates that CLECs have access to the same information as BellSouth's retail operations, in the same manner and within the same time frames. *Latham*, 14-16; *Pate*, 85-91; *see also SWBT-KS/OK Order*, ¶ 122; *SWBT-TX Order*, ¶ 165. As of March 2001, CLECs made 141 electronic queries for LMU in Mississippi, and 4,283 region-wide. *Milner*, 55.

In addition, BellSouth offers its Loop Qualification System ("LQS") to Network Service Providers to enable them to inquire electronically as to whether basic local exchange lines will support BellSouth's wholesale ADSL service. LQS provides the CLEC with an unguaranteed

response as to whether an existing telephone number is served by a loop that will support ADSL service. *Pate*, 89-90.

To further enable CLECs to provide high-speed data services to their end users, CLECs have the option of selecting the precise loop conditioning they desire through BellSouth's Unbundled Loop Modification ("ULM") process. The ULM process removes any devices that may diminish the capability of the loop to deliver high-speed switched wireline capability. CLECs only pay for the level of conditioning they select. BellSouth provides ULM upon request for an unbundled loop, regardless of whether or not BellSouth offers advanced services to the end-user customer on that loop. *Latham*, 15-17. Through March 2001, CLECs in Mississippi had not made any requests for loop conditioning, although CLECs region-wide have made 59 requests. *Milner*, 51-52.

In April, May, and June of this year, BellSouth met or exceeded the retail analogue for Percent Missed Installation Appointments for xDSL where there was CLEC activity; Percent Provisioning Troubles Within 30 Days; and Missed Repair Appointments. Furthermore, the Maintenance Average Duration for CLECs was the same as or shorter than BellSouth retail for all xDSL sub-metrics for April, May, and June. See *Varner Supp.*, Exh. AJV-5; *Varner Further Supp.*, Exh. AJV-5.

With respect to timeliness of loop installation, BellSouth data shows that it met the benchmark in April and June, and missed the benchmark in May by one day. Although this was slightly above the 7-day target for provisioning, there were only 4 xDSL loops provisioned in May. See *Varner Supp.*, Exh. AJV-5; Attach. 1A, 17, 22, 24, 35-36. BellSouth met or exceeded the benchmark for this sub-metric in June 2001. See *Varner Further Supp.*, Exh. AJV-5, 38.

The Commission finds that BellSouth's level of performance allows CLECs a meaningful opportunity to compete.

*e. Access to Line Sharing on the Unbundled Loop*

Line-sharing allows CLECs to provide high speed data service to BellSouth voice customers. BellSouth must provide line-sharing in accordance with the obligations set forth in the FCC's *Line-Sharing Order* and *Line-Sharing Reconsideration Order*. See *Deployment of Wireline Services Offering Advanced Telecommunications Capability and Implementation of Local Competition Provisions of the Telecommunications Act of 1996*, Third Report and Order CC Docket No. 98-147 and Fourth Report and Order, CC Docket No. 96-98, 14 FCC Rcd 20912 (1999) ("*Line Sharing Order*"); *Deployment of Wireline Services Offering Advanced Telecommunications Capability, Order on Remand*, CC Docket Nos. 98-147, 98-11, 98-26, 98-32, 98-78, 98-91 (1999) ("*Line Sharing Reconsideration Order*"). BellSouth has produced evidence showing that it has complied fully with these requirements. *Reply Testimony of Thomas G. Williams*, filed Aug. 2, 2001 ("*Williams Reply*"), 2-17.

BellSouth provides access to the high frequency portion of the loop as an unbundled network element. Like SWBT, BellSouth developed the line-sharing product in a collaborative effort with CLECs and is continuing to work cooperatively with the CLECs on an ongoing basis to resolve issues as they arise. *Direct Testimony of Thomas G. Williams*, filed May 22, 2001, ("*Williams*"), 3. The pre-ordering, ordering, provisioning and maintenance and repair processes for the line-sharing product are very similar to the processes for xDSL-capable loops. *Williams*, 19-22. For loop makeup information, the process is the same whether the CLEC wishes to obtain an xDSL-capable loop, or the high frequency portion of the loop. *Williams*, 17. As of



April 1, 2001, while BellSouth had not provisioned any line-sharing arrangements in Mississippi, BellSouth had provisioned 2,542 such arrangements region-wide. *Milner*, 54-55.

BellSouth makes line-sharing available to a single requesting carrier, on loops that carry BellSouth's plain old telephone service ("POTS"), so long as the xDSL technology deployed by the requesting carrier does not interfere with the analog voice band transmissions. BellSouth allows line-sharing CLECs to deploy any version of xDSL that is presumed acceptable for shared-line deployment in accordance with FCC rules and that will not significantly degrade analog voice service. *Williams*, 9.

AT&T claims that BellSouth's provisioning of line sharing is discriminatory because BellSouth does not provide xDSL service to customers who receive their voice service from a CLEC. *Turner Rebuttal*, 22. The FCC has repeatedly rejected AT&T's argument. *See, e.g., Line-Sharing Reconsideration Order*, ¶ 26; *SWBT-TX Order*, ¶ 330 ("we reject AT&T's argument that we should deny this application on the basis of SWBT's decision to deny its xDSL service to customers who choose to obtain their voice service from a competitor that is using the UNE-P. Under our rules, the incumbent LEC has no obligation to provide xDSL service over this UNE-P carrier loop"); *see also Williams Reply*, 3-6. Thus, BellSouth is in compliance with FCC rules in its provisioning of line sharing.

AT&T further alleges that the FCC's *Line Sharing Reconsideration Order* obligates BellSouth to offer CLECs an integrated splitter Digital Subscriber Line Access Multiplexer ("DLSAM") line card at DSLAM-capable BellSouth remote terminals. *AT&T Comments*, 65-66; *Turner Rebuttal*, 23. BellSouth responds that AT&T is really seeking to require BellSouth to provide unbundled packet switching despite the fact that the FCC has already declined to impose such a duty except in limited situations. With the exception of a small number of test systems,

none of the remote terminals that BellSouth has deployed at present have the capability to make use of the card. *Milner Reply*, 31-34.

Notably, the FCC does not require an ILEC to allow a CLEC to collocate its line cards in the ILEC's DSLAM. Verizon did not allow such an arrangement in Massachusetts, and its application for interLATA relief was approved. Moreover, the FCC is explicitly considering this issue in its Advanced Services docket, thereby confirming that there is no current obligation for BellSouth to allow CLECs to collocate line cards. *See Deployment of Wireline Services Offering Advanced Telecommunications Capability And Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, Third Further Notice of Proposed Rulemaking*, FCC 01-26, 2001 FCC LEXIS 413, ¶ 14 (2001).

BellSouth demonstrates that its position on NGDLC does not limit CLECs to line sharing only over copper facilities, despite AT&T's allegation. *Turner Rebuttal*, 23-25. BellSouth provides a number of alternatives by which a CLEC can serve its customers. These include self-provisioning fiber optic cable, installing a DSLAM in its own cabinetry rather than the remote terminal, and acquiring only the unbundled loop distribution sub-loop element. *Milner Reply*, 34. The Commission concludes that BellSouth's position does not foreclose CLECs from serving customers regardless of whether those customers are served over copper loops.

AT&T claims that BellSouth refuses to deploy splitters one line at a time. *AT&T Comments*, 58; *Turner Rebuttal*, 20-21. As an initial matter, BellSouth correctly states that it has no obligation to provide splitters for line splitting or for line sharing, and thus, there are no requirements as to the increments of lines that BellSouth must offer. Nonetheless, BellSouth voluntarily provides line splitters at the request of data CLECs to provide line sharing to CLEC

customers. *Williams Reply*, 11-12. The Commission concludes that BellSouth is not required to deploy splitters as requested by AT&T.

*f. Access to Line-Splitting*

BellSouth demonstrates that it facilitates line-splitting between CLECs using UNEs acquired from BellSouth in full compliance with the FCC's rules. *Williams*, 25-28. BellSouth offers the same arrangement to CLECs as that described by the FCC in the *Texas 271 Order* and the *Line-Sharing Reconsideration Order*. See *SWBT-TX Order*, ¶ 323-329. Specifically, BellSouth facilitates line-splitting by CLECs by cross-connecting a loop and a switch port to the collocation space of either the voice CLEC or the data CLEC. The CLECs may then connect the loop and the switch port to a CLEC-owned splitter and split the line themselves. *Williams*, 25-28.

WorldCom criticizes BellSouth's unwillingness to permit line splitting between itself and a CLEC providing voice services. *WorldCom Comments*, 25-26; *Rebuttal Testimony of Greg Darnell*, filed July 2, 2001 ("*Darnell Rebuttal*"), 8-9. The FCC has several times rejected CLEC arguments on this point. See, e.g., *Line-Sharing Reconsideration Order*, ¶ 26; *SWBT-TX Order*, ¶ 330. BellSouth is not required to provide DSL services on CLEC loops as sought by WorldCom.

AT&T notes that BellSouth will not charge CLECs UNE-P rates for a line splitting arrangement. *AT&T Comments*, 64; *Turner, Rebuttal*, 20-22. However, BellSouth shows that its conduct is consistent with FCC precedent. In its Section 271 decision in the Kansas/Oklahoma proceeding, the FCC held that "if a competing carrier is providing voice service using the UNE-P, it can order an unbundled xDSL-capable loop terminated to a collocated splitter and DSLAM equipment and unbundled switching combined with shared transport, to *replace its existing*

*UNE-platform arrangement with a configuration that allows provisioning of both data and voice services.*" *SWBT-TX Order*, ¶ 325 (emphasis added). Thus, the FCC recognized that once the loop and port are used to provide line splitting, as opposed to a simple voice arrangement, the "UNE-P" no longer exists. The arrangements are fundamentally different. Provisioning separate loop and port network elements to a CLEC eliminates the efficiencies derived from a UNE-P provisioned arrangement. *Williams Reply*, 1-10, 13. It would be unreasonable for BellSouth to charge the same rate for line splitting that it charges for a UNE-P for voice service.

Similarly, BellSouth demonstrates that the FCC has rejected any requirement that the BOC own the splitter in a line splitting arrangement. This claim, raised by AT&T, *Turner Rebuttal*, 11, is belied by the fact that no BOC in any state for which Section 271 authority has been granted owns the splitter in a line splitting arrangement. Furthermore, the FCC has ruled that the ILEC is *not* required to do so. *See e.g. SWBT-TX*, ¶ 327 ("we reject AT&T's argument that SWBT has a present obligation to furnish the splitter when AT&T engages in line splitting over the UNE-P"). In addition, the FCC has rejected AT&T's contention that BellSouth's policy to provide the splitter in a line sharing arrangement but not in a line splitting arrangement is somehow "discriminatory." *SWBT-TX Order*, ¶ 329. Accordingly, the Commission rejects AT&T's contentions on this issue.

AT&T asserts that line splitter installations result in a disruption of service to the customer. *Turner Rebuttal*, 14, 17-18. BellSouth responds that wiring a working loop to a splitter will always require a minimal disruption of service. Only where there are no wiring changes required can there be no service disruption. *Williams Reply*, 10-11. This does not evidence noncompliance with this checklist item.

BellSouth has demonstrated that it satisfies the standard of providing CLECs with a "meaningful opportunity to compete."

**Checklist Item 5: Local transport from the trunk side of a wireline local exchange carrier switch unbundled from switching or other services:**

Section 271(c)(2)(B)(v) of the competitive checklist requires a BOC to provide "[l]ocal transport from the trunk side of a wireline local exchange carrier switch unbundled from switching or other services." Interoffice transmission facilities include both dedicated transport and shared transport. *See Second Louisiana Order*, ¶ 201. Dedicated transport is defined as "incumbent LEC transmission facilities dedicated to a particular customer or carrier that provide telecommunications between wire centers owned by incumbent LECs or requesting telecommunications carriers, or between switches owned by incumbent LECs or requesting telecommunications carriers." 47 U.S.C. 51.319(d)(1)(i). Shared transport is defined as "incumbent LEC transmission facilities shared by more than one carrier, including the incumbent LEC, between end office switches, between end office switches and tandem switches, and between tandem switches, in the incumbent LEC's network." 47 U.S.C. 51.319(d)(1)(ii).

BellSouth provides dedicated and shared transport between end offices switches, between tandem switches, and between tandem switches and end office switches, and has procedures in place for the ordering, provisioning and maintenance of both dedicated and shared transport. *See Milner*, 65-66; *Cox Reply*, 49-51. BellSouth offers dedicated transport at high levels of capacity, including DS3 and OCn levels. *Milner*, 65. As of March 31, 2001, BellSouth had provided 224 dedicated local transport trunks to CLECs in Mississippi. *Milner*, 66-67.

WorldCom alleges that BellSouth does not provide, as a UNE, dedicated transport that (1) connects two points on a CLEC's network (e.g., two network nodes or a network node and a

switch), or (2) connects a point on a CLEC's network to a point on the network of a different CLEC where the facilities to provide such UNEs are currently in place. *WorldCom Comments*, 26-28; *Argenbright Rebuttal*, 15-20. The FCC has required ILECs to provide unbundled transport to an interexchange carrier's point of presence, *WorldCom Comments*, 28 (citing *Local Competition Order*). As BellSouth states, however, it does not follow that BellSouth is required to provide dedicated transport among CLECs. The FCC, in the *Local Competition Order*, held that ILECs need not construct new transport facilities where they do not currently exist. *Local Competition Order*, ¶ 440; see also *Cox Reply*, 49-51.

In light of the foregoing, the Commission finds BellSouth in compliance with this checklist item.

**Checklist Item 6: Local switching unbundled from transport, local loop transmission, or other services:**

Checklist item 6 obligates a BOC to provide "[l]ocal switching unbundled from transport, local loop transmission, or other services." In the *Second Louisiana Order*, the FCC required BellSouth to provide unbundled local switching that included line-side and trunk-side facilities, plus the features, functions and capabilities of the switch. See *Second Louisiana Order*, ¶ 207. The features, functions, and capabilities of the switch include the basic switching function as well as the same basic capabilities that are available to the incumbent LEC's customers. *Id.* Additionally, local switching includes all vertical features that the switch is capable of providing, as well as any technically feasible customized routing features. *Id.*; see also *SWBT-TX Order*, ¶ 336. The FCC requires that a BOC demonstrate in order to meet checklist item 6 that it provides: (1) line-side and trunk-side facilities; (2) basic switching functions; (3) vertical features; (4) customized routing; (5) shared trunk ports; (6) unbundled tandem switching;

(7) usage information for billing exchange access; and (8) usage information for billing for reciprocal compensation. See *Bell Atlantic Order*, ¶ 346; *SWBT-TX Order*, ¶ 339; *SWBT-KS/OK Order*, ¶ 242.

In the *Second Louisiana Order*, the FCC stated that to comply with the requirements of unbundled local switching, a BOC must also make available trunk ports on a shared basis and routing tables resident in the BOC's switch, as necessary to provide access to shared transport functionality. *Second Louisiana Order*, ¶ 209; *SWBT-TX Order*, ¶ 338. The FCC also stated that a BOC may not limit the ability of competitors to use unbundled local switching to provide exchange access by requiring CLECs to purchase a dedicated trunk from an interexchange carrier's point of presence to a dedicated trunk port on the local switch. *Id.*

BellSouth provides CLECs unbundled switching capability with the same features and functionality available to BellSouth's own retail operations, in a nondiscriminatory manner. *Milner*, 67-69. BellSouth proves this offering through actual commercial usage, as it has furnished over 8,566 unbundled switch ports in Mississippi through March 31, 2001, and 303,257 region-wide; most as part of the loop/switch port combination. *Milner*, 72.

**a. Vertical Features**

BellSouth offers CLECs all vertical features that it offers to its customers. In addition, BellSouth will provide switch features currently loaded but not currently activated and features not currently loaded in the switch pursuant to the bona fide request process provided that the CLEC is willing to pay the additional costs involved. *Milner*, 68-69.

**b. Customized Routing**

Customized routing allows calls from a CLEC's customer served by a BellSouth switch to reach the CLEC's choice of operator services or directory assistance platforms. As discussed

later herein, BellSouth offers two solutions for customized routing to any CLEC that wishes to use it; namely Line Class Codes and AIN. *See Milner*, 72-74. The Commission therefore finds that BellSouth demonstrates that it has remedied all outstanding issues identified by the FCC in the *Second Louisiana Order* with respect to customized routing.

**c. Usage Information Necessary for Billing for Reciprocal Compensation**

Section 251(b)(5) requires all LECs "to establish reciprocal compensation arrangements for the transport and termination of telecommunications." 47 U.S.C. 251(b)(5). Without this information (e.g., usage data) or other arrangements, CLECs purchasing unbundled local switching will not be able to bill and collect reciprocal compensation. *See Second Louisiana Order*, ¶ 232. The FCC, therefore, requires that a BOC provide a purchaser of unbundled local switching with either: (1) actual terminating usage data indicating how many calls/minutes its customers received and identifying the carriers that originated those calls; or (2) a reasonable surrogate for this information. *Id.* ¶ 233.

BellSouth provides CLECs with information necessary to bill for reciprocal compensation. The Access Daily Usage File ("ADUF") provides the CLEC with records for billing interstate and intrastate access charges (whether the call was handled by BellSouth or by an interexchange carrier) or reciprocal compensation charges to other LECs and interexchange carriers for calls originating from and terminating to unbundled ports. *Scollard*, 20.

Notably, no CLEC has challenged BellSouth's compliance with this checklist item. In light of this fact, and the evidence in the record, we conclude that BellSouth has met this checklist item.



**Checklist Item 7: Nondiscriminatory access to network elements in accordance with the requirements of section 251(c)(3) and 252(d)(1):**

***a. 911 and E911 Services***

Section 271(c)(2)(B)(vii) requires a BOC to provide “[n]ondiscriminatory access to -- 911 and E911 services.” Section 271 requires a BOC to provide competitors access to its 911 and E911 services in the same manner that a BOC obtains such access, *i.e.*, at parity. *See Second Louisiana Order*, ¶ 235. This Commission found that BellSouth has met this requirement, and the FCC has twice concluded likewise. *See South Carolina Order*, ¶ 666-67; *Second Louisiana Order*, ¶ 235-36. BellSouth continues to provide access to 911 and E911 services in a manner consistent with that presented to this Commission and the FCC. *Milner*, 79-81. Performance data show that BellSouth met the benchmark/retail analogue requirements in April, May and June 2001. *See Varner Further Supp.*, Exh. AJV-5, 44. Finally, no commenter has raised any concerns with respect to 911 and E911 services. Thus, we conclude that BellSouth demonstrates that it provides nondiscriminatory access to 911 and E911 services in accordance with Section 271(c)(2)(B)(vii)(I).

***b. Directory Assistance/Operator Services***

In order to comply with checklist item 7, BellSouth must show that it provides access to Directory Assistance (“DA”) services so that CLECs’ customers can obtain telephone numbers and operator call completion services on a nondiscriminatory basis. 47 U.S.C. § 271(c)(2)(B)(vii)(II) and (III). Section 251(b)(3) of TA 96 imposes on each LEC “the duty to permit all [competing providers of telephone exchange service and telephone toll service] to have nondiscriminatory access to . . . operator services, directory assistance, and directory listings, with no unreasonable dialing delays.” In the *UNE Remand Order*, the FCC removed directory

assistance and operator services from the list of required unbundled network elements. *UNE*

*Remand Order*, ¶ 441-42

The FCC concluded in the *Local Competition Second Report and Order* that the phrase “nondiscriminatory access to directory assistance and directory listings” means that “the customers of all telecommunications service providers should be able to access each LEC’s directory assistance service and obtain a directory listing on a nondiscriminatory basis, notwithstanding: (1) the identity of a requesting customer’s local telephone service provider; or (2) the identity of the telephone service provider for a customer whose directory listing is requested.” *Second Louisiana Order*, ¶ 241, citing 47 U.S.C. § 51.217(c)(3); *Local Competition Second Report and Order*, ¶ 130-35. The FCC further determined that nondiscriminatory access to the dialing pattern of 411 to access directory assistance were technically feasible, and would continue. *Second Louisiana Order*, ¶ 241, citing *Local Competition Second Report and Order*, ¶ 151. The FCC specifically noted that the phrase “nondiscriminatory access to operator services” means that “a telephone service customer, regardless of the identity of his or her local telephone service provider, must be able to connect to a local operator by dialing ‘0’, or ‘0 plus’ the desired telephone number.” *Id.*, ¶ 112.

BellSouth provides directory assistance services to CLEC customers in the same manner as it does for its own retail subscribers. *Milner*, 78; *Affidavit of Douglas R. Coutee*, filed May 22, 2001, (“*Coutee*”), 6. Calls from a CLEC customer served by a BellSouth switch reaches the CLEC’s choice of operator services or directory assistance platforms through customized routing provided by BellSouth. Although in the *Second Louisiana Order* the FCC found slight deficiencies with BellSouth’s offer of customized routing, the FCC believed that BellSouth’s Advanced Intelligent Network (“AIN”) method of providing customized routing had “the

potential to meet the requirements of the *Local Competition First Report and Order*." The FCC nevertheless discounted it for purposes of BellSouth's second application because AIN was not then being currently offered. *Second Louisiana Order*, ¶ 222. BellSouth now offers its AIN solution for customized routing to any CLEC that wishes to use it. *Milner*, 72-74. Thus, BellSouth has remedied this concern.

The FCC further indicated that BellSouth's line class code ("LCC") solution for customized routing would have been acceptable had BellSouth been able to demonstrate adequately that CLECs can order this option efficiently. Specifically, the FCC held that "BellSouth should not require the competitive LEC to provide the actual line class codes, which may differ from switch to switch, if BellSouth is capable of accepting a single code region-wide." *Second Louisiana Order*, ¶ 224. In compliance with this obligation, BellSouth will implement one routing pattern per region for a CLEC's customer. In addition, although it is not required to do so, BellSouth voluntarily will provide a single routing pattern on a statewide basis. This single routing pattern (whether region-wide or state-wide) can be to a BellSouth platform (branded or unbranded), a CLEC platform, or a third-party platform. *Milner*, 76.

To avail itself of the single routing pattern, the CLEC need not put any LCC on the local service request. Such orders will be handled electronically (assuming, of course, that they would not otherwise fall out for manual handling) and therefore will need no manual intervention. *Milner*, 77. This ordering mechanism satisfies the FCC's directive that "the easiest way for BellSouth to make this demonstration [of ordering efficiency] is to ensure that orders that include selective routing information do not require manual intervention." See *Second Louisiana Order*, ¶ 223-225. This LCC routing arrangement is identical to that provided to the BellSouth retail units. On the retail side, BellSouth has a single region-wide routing pattern for its customers'

calls that is effectuated without the service representative having to populate the LCC on the service order. Likewise, BellSouth will provide a CLEC a single routing pattern that is effectuated without the CLEC service representative having to populate the LCC on the local service request. *Milner, 77.*

If, on the other hand, the CLEC chooses to have different routing options for different customers served out of the same switch, BellSouth will handle such requests on a manual basis. In this scenario, the CLEC will provide information on the LSR designating the appropriate exception routing plan to be used to direct the call. The FCC specifically recognized that CLECs who wish to have multiple routing patterns in the same switch should bear the obligation to populate the requisite LCCs on the LSR. The FCC held as follows:

We agree with BellSouth that a competitive LEC must tell BellSouth how to route its customers' calls. If a competitive LEC wants all of its customers' calls routed in the same way, it should be able to inform BellSouth, and BellSouth should be able to build the corresponding routing instructions into its systems just as BellSouth has done for itself. If, however, a competitive LEC has more than one set of routing instructions for its customers, it seems reasonable and necessary for BellSouth to require the competitive LEC to include in its order an indicator that will inform BellSouth which selective routing pattern to use.

*Second Louisiana Order, ¶ 224.* The Commission finds that BellSouth provides customized routing in full compliance with FCC orders and the Act.

Moreover, BellSouth has shown that it provides CLECs access to the Directory Assistance Access Service ("DAAS") and the Directory Assistance Call Completion service ("DACC") via trunks connecting the CLEC's point of interface with the BellSouth platform. *Milner, 82.* As of March 31, 2001, CLECs in Mississippi had 40 directory assistance trunks in place between CLEC switches and BellSouth's platform. *Milner, 82.*

CLECs can provide their local exchange customers with the same access to BellSouth's DA service using the same 411 dialing pattern as BellSouth provides its retail customers. *Coulee*, 10. The DA request will be handled in the same manner as BellSouth does for its own retail local exchange customers. The same operators, the same automated systems, and the same databases are used to provide the CLEC local exchange customer with DA. Whether the CLEC elects to brand with its name or to not brand, the call is handled with the same speed, care, accuracy, and quality that a BellSouth retail local exchange customer would receive, as discussed further below. *Coulee*, 10.

BellSouth also provides CLECs with access to Directory Assistance Database Service ("DADS") to allow CLECs to use BellSouth's subscriber listing information to set up their own directory assistance services. *Coulee*, 11. In addition, BellSouth provides CLECs with access to Direct Access to Directory Assistance Service ("DADAS"), which gives CLECs direct access to BellSouth's directory assistance database so that CLECs may provide directory assistance services. The Commission finds that all information contained in BellSouth's listing database for its own end users, CLECs' end users, and independent LECs' end users is available to CLECs in the same manner as it is available to BellSouth itself. *Milner*, 83.

The FCC has stated that in future applications, if BellSouth chooses to rely on performance data to demonstrate its compliance with this checklist item, "it should either disaggregate the data or explain why disaggregation is not feasible or is unnecessary to show nondiscrimination." *Second Louisiana Order*, ¶ 245. BellSouth has made a showing to this Commission that disaggregation of performance data related to directory assistance and operator services is unnecessary because BellSouth's provision of directory assistance and operator services to CLECs is parity by design. *Milner*, 86. The flow of service orders to directory

assistance or operator services platforms is exactly the same regardless of the source of the service order. *Milner*, 87. Because there is no differentiation between calls from BellSouth's retail customers and calls from CLECs' customers, there is no need to disaggregate performance data between the types of calls.

Additionally, as ordered by the FCC, BellSouth has demonstrated that it provides subscriber listing information in its directory assistance database in a way that allows CLECs to incorporate that information into their own databases. *Second Louisiana Order*, ¶ 249. BellSouth now provides a requesting carrier with all the subscriber listings in its operator services and directory assistance databases except listings for unlisted numbers.

AT&T attempts to show that BellSouth does not satisfy the requirements of checklist item 7 because it allegedly does not provide customized routing. *AT&T Comments*, 102-103. AT&T admits that the FCC has found that BellSouth complies with checklist item 7. *AT&T Comments*, 102. Moreover, AT&T concedes that BellSouth has proposed certain technologies and has implemented procedures that provide CLECs access to customized OS/DA routing. *AT&T Comments*, 102. Nonetheless, AT&T claims that BellSouth fails to provide customized routing for any CLEC in its territory and that BellSouth provides an inadequate ordering process for customized OS/DA routing. *AT&T Comments*, 102-03.

AT&T is the only party that has complained about customized routing. *Milner Reply*, 35. BellSouth has addressed AT&T's concerns, both through direct negotiations with AT&T and in multiple arbitration proceedings. *Id.* That BellSouth provides customized routing in compliance with checklist item 7 has been confirmed in several orders issued by the state regulatory bodies that have been involved in these arbitration proceedings. *Id.* In fact, these orders confirm that BellSouth provides customized routing capability in compliance with the FCC's order. *Id.*

BellSouth and AT&T have reached agreement on a procedure that would entail one default routing plan per state and that would include multiple pre-assigned routing options. *Id.* at 35-36. The multiple routing options will be built into the BellSouth switches where CLEC service is requested. *Id.* The BellSouth switch will be able to route the OS/DA traffic for AT&T end users to different platforms, as prescribed by AT&T. *Id.*, 36. The routing as prescribed by AT&T will be the default routing for its end users in each of those classes of service. *Id.*

This Commission finds that BellSouth has expended much time and effort to ensure that AT&T can utilize customized routing. BellSouth has provided information on its CLEC website that enables AT&T and other CLECs to order customized routing. *Milner Reply*, 37. Before BellSouth posted the ordering information on its website, it provided AT&T with detailed ordering procedures. AT&T concurred in these procedures during the above-referenced negotiations. *Id.* In short, BellSouth has provided CLECs, including AT&T, several methods and technologies by which they can order and obtain customized routing.

For its part, Access Integrated argues that BellSouth does not provide directory assistance in compliance with checklist item 7. Ms. Sparks, who handles the telephone services for one of Access Integrated's customers, has stated that when she contacted BellSouth after having discovered her company had been deleted from directory assistance, BellSouth said that her company would not be listed unless it returned to BellSouth as a customer. *Access Integrated Comments*, 11-12 and Ex. D. It is clear to this Commission that the problem described by Ms. Sparks is a random event and not representative of the overall service BellSouth provides Access Integrated and its customers. Nevertheless, BellSouth has acknowledged that its records indicate that the Disconnect ("D") Order discontinuing billing from BellSouth with respect to Ms. Spark's company was completed on August 24, 2000. *Ainsworth Reply*, 30. The associated New

("N") Order to establish billing for Access Integrated also completed August 24, 2000, but encountered a post completion billing error that required manual correction. *Ainsworth Reply*, 30. The correction was completed on September 19, 2000, and processed to downstream systems including OS/DA. Ms. Spark's company was listed in the OS/DA database at that time. *Ainsworth Reply*, 30. Although the delay in correcting the error was excessive in this case, the same scenario can happen to a BellSouth end user, to a customer of BellSouth's affiliates, or during processing of any order through BellSouth's legacy systems.

The Commission finds that such an isolated instance, which could just as easily have affected a BellSouth customer, is not evidence of noncompliance. To the contrary, the evidence presented in this proceeding shows that BellSouth provides nondiscriminatory access to customized routing to CLECs both as a legal and as a practical matter under terms and conditions that are just, reasonable, and nondiscriminatory, all in accordance with FCC rules. Thus, the Commission finds that BellSouth has remedied the concerns identified by the FCC in the *Second Louisiana Order*, and that BellSouth is fully compliant with this checklist item requirement.

**c. Branding/OLNS Technology**

Although the FCC found in the *Second Louisiana Order* that BellSouth failed to demonstrate that it complies with the FCC's rebranding requirements, the FCC also stated that any deficiencies should be easily remedied by BellSouth. *Second Louisiana Order*, ¶ 243. The FCC directed BellSouth in future applications to demonstrate that its method of providing branding results in nondiscriminatory access by showing, for example, that the way it brands operator calls for competing carriers is the same as the way it provides access to operator services for its own customers. *Second Louisiana Order*, ¶ 247. We find that BellSouth is in full compliance with the FCC's rebranding requirements. Specifically, CLECs have four



branding options: (1) BellSouth-branded; (2) unbranded; (3) custom branding; and (4) self-branding. *Milner*, 73. As demonstrated in the discussion of checklist item 6, BellSouth provides CLECs the ability to apply unique branding via either the AIN method for customized routing or the line class code method of customized routings. *Milner*, 74. A CLEC's use of line class codes to reach an OS/DA platform is the same as BellSouth's use of line class codes to reach its Traffic Operator Position System ("TOPS"), and thus BellSouth's provision of customized routing is nondiscriminatory. *Milner*, 91-92.

In addition, while it is not required to do so to comply with FCC rules or Section 271, BellSouth provides CLECs with Operator Line Number Screening ("OLNS"). OLNS is another method through which BellSouth offers CLECs an opportunity to provide either unbranded or CLEC-specific branded service from BellSouth's own platform, in addition to the LCC and AIN methods for customized routing. *Milner*, 91-92. OLNS provides a means of making information available to the OS/DA platform about the end user originating a telephone call. OLNS allows end users' calls to proceed from the end office switches to BellSouth's OS/DA platform over common trunk groups (that is, a single trunk group between an end office switch and the OS/DA platform carrying multiple service providers' traffic including calls from BellSouth's retail customers). Once the call arrives at the OS/DA platform, OLNS is used to "look up" the telephone number of the calling party in its database to determine whether and how to brand a call from that particular end user. *Milner*, 91-92.

AT&T alleges that BellSouth's OLNS technology is inadequate. *AT&T Comments*, 104-05. Specifically, AT&T complains that BellSouth implements flawed OLNS routing in that CLEC customers reach service operators identified as "BellSouth" even though the CLEC has requested CLEC branding. AT&T also claims that when its customers dial "0," they have been

given service options using BellSouth's branding. *AT&T Comments*, 104-05. To address these concerns, BellSouth made enhancements to OLNS in June of 2001. Thus, effective June 2001, all branded CLEC directory assistance callers are appropriately identified when they arrive at the DA operator. *Milner Reply*, 38. The operators are provided the CLEC's name for each caller, which will enable the operators to identify themselves with the name of the correct CLEC. Furthermore, the menu options presented to the CLEC's customers when dialing "0" have been modified to eliminate all references to any BellSouth services. *Milner Reply*, 38-39. Hence, this concern has been remedied.

AT&T's Mr. Bradbury also claims that BellSouth does not provide the proper means to request branding for OS/DA services, citing the exception filed by KPMG on June 12, 2001. *Bradbury Rebuttal*, 117. The Commission finds that this allegation is incorrect. On July 16, 2001, BellSouth's Mr. Milner and Mr. Bradbury reached agreement on the Interconnection Agreement language regarding how AT&T would prepare its LSR for particular end users requesting customized branding for OS/DA. *Milner Reply*, 37-38. This agreement settles any remaining dispute between BellSouth and AT&T with respect to the ordering of OS/DA. *Milner Reply*, 38.

The Commission finds that BellSouth has corrected the problems found by the FCC with respect to the rebranding requirements under checklist item 7 in the *Second Louisiana Order*. BellSouth has shown in this proceeding that it provides branding of operator calls for CLECs' customers in the same way BellSouth provides branding for its own customers, and the Commission therefore finds that BellSouth is in full compliance with this checklist requirement.

**d. Call Set-Up Time**

AT&T claims that the set-up time when dialing a "0" is greater for a CLEC customer than for a BellSouth customer. *AT&T Comments*, 104-05. However, AT&T has not rebutted BellSouth's argument that AT&T's erroneous conclusion is due exclusively to the fact that AT&T employed a flawed methodology when comparing call set-up times. *Milner Reply*, 39. It is therefore uncontroverted that any call set-up time for a BellSouth customer and a CLEC's customer that is served from the same switch will be identical, although the set-up time may vary across different switch types. *Id.* As AT&T has failed to provide any evidence that it compared end users that were served by the same switch, the result of AT&T's test is irrelevant to these proceedings, and the Commission finds that BellSouth has shown that it complies with checklist item 7.

**Checklist Item 8: Nondiscriminatory access to network elements in accordance with the requirements of section 251(c)(3) and 252(d)(1):**

Section 271(c)(2)(B)(viii) requires BellSouth to provide "[w]hite pages directory listings for customers of the other carrier's telephone exchange service." BellSouth must provide white page listings for competitors' customers with the same accuracy and reliability that it provides for its own customers. *Second Louisiana Order*, ¶ 256. BellSouth's actions and performance at this time are consistent with the showing previously made to this Commission and to the FCC upon which both regulatory agencies made the determination that the statutory requirements for the checklist item were met. *Milner*, 92-93; *Second Louisiana Order*, n.151.

KMC alleges that BellSouth omitted some customers from the phone book. KMC further asserts that one of these customers has filed a lawsuit against KMC concerning this issue. *Vanderwerff*, 5. BellSouth responds that only one instance of a CLEC listing error or complaint

in Mississippi has been brought to BellSouth's attention. Corrective steps have been taken to resolve the problem for future issues of the directory. *Reply Testimony of Terrie Hudson*, filed Aug. 2, 2001, ("*Hudson Reply*"), 3. Moreover, the lawsuit raised by KMC has been dismissed against all defendants, including KMC. *Id.* BellSouth states that all other allegations raised by KMC relate to the proceedings before the Georgia Commission and are either without merit or have been adequately addressed in other forums. *See Hudson Reply*, 4. The Commission is persuaded by BellSouth's evidence that KMC's claims of isolated incidents do not support a finding of noncompliance for this checklist item.

Thus, the Commission concludes that BellSouth has met this checklist item.

**Checklist Item 9: Nondiscriminatory access to network elements in accordance with the requirements of section 251(c)(3) and 252(d)(1):**

Previously, the Commission found that BellSouth met this competitive checklist requirement and the FCC agreed with that conclusion. *Second Louisiana Order*, ¶ 260-262. Since that time, NeuStar has assumed all the responsibilities of the North American Numbering Plan Administrator ("NANPA"). *Milner*, 93. BellSouth no longer has any responsibility for the assignment of central office codes (NXXs) or for NPA relief planning. *Id.* Although it is no longer a central office code administrator, and no longer performs any functions with regard to number administration or assignment, BellSouth continues to adhere to all relevant industry guidelines and FCC rules. *Milner*, 97. Notably, no CLEC has filed comments questioning BellSouth's compliance with this checklist item. For these reasons, BellSouth demonstrated that it complies with checklist item 9.

**Checklist Item 10: Nondiscriminatory access to network elements in accordance with the requirements of section 251(c)(3) and 252(d)(1):**

Section 271(c)(2)(B)(x) requires BellSouth to offer “[n]ondiscriminatory access to databases and associated signaling necessary for call routing and completion.” In the *Local Competition First Report and Order*, the FCC identified signaling networks and call-related databases as network elements, and concluded that LECs must provide for the exchange of signaling information between LECs necessary to exchange traffic and access call related databases. *See* 47 C.F.R. § 51.319.

BellSouth offers CLECs the very same access to signaling and call-related databases as BellSouth uses, allowing calls to or from CLEC customers to be set up just as quickly and routed just as efficiently as calls to or from BellSouth customers. BellSouth therefore complies with the requirements for affording nondiscriminatory access to these components of BellSouth's network.

***a. Signaling Networks***

When a CLEC purchases unbundled local switching from BellSouth, it automatically obtains the same access to BellSouth's switching network as BellSouth provides itself. *Milner*, 98. BellSouth provides nondiscriminatory access to its signaling networks, including Signal Transfer Points (“STP”), Signaling Links, and Service Control Points (“SCP”). *Milner*, 99. BellSouth provides Signaling System 7 (“SS7”) network service to CLECs for their use in furnishing SS7-based services to their own end users or to the end users of another CLEC that has subtended its STP to the signaling network of the interconnecting CLEC. *Id.* As of April 24, 2001, three CLECs had connected directly to BellSouth's signaling network in Mississippi.

**b. Call-Related Databases**

BellSouth provides CLECs with nondiscriminatory access to a variety of call-related databases. Specifically, BellSouth offers access to its Line Information Database ("LIDB"); Toll Free Number Database; Local Number Portability database; Calling Name Delivery database ("CNAM"); Advanced Intelligent Services Feature Database; and the 911/E911 databases. In addition, BellSouth provides access to a Service Control Point ("SCP"), which is a network element where call related databases reside. SCPs also provide operational interfaces to allow for provisioning, administration, and maintenance of subscriber data and service application data. *Milner*, 102-110. Each of these databases is available to a requesting CLEC in the same manner and via the same signaling links to the databases that are used by BellSouth for itself. BellSouth maintains that all of the information in these databases is kept in accordance with the confidentiality requirements of TA 96, 47 U.S.C. § 222.

BellSouth's region-wide LIDB processed more than 1.5 billion queries from CLECs and others during the period from January 1997 through December 2000. As of April 1, 2001, BellSouth has 70 CNAM customers, consisting of both CLECs and independent LECs, across BellSouth's region. From January 1997 through March 31, 2001, CLECs and other service providers across BellSouth's region completed approximately 8.2 billion queries to BellSouth's Toll Free Number database. *Milner*, 103-106.

Both the Commission and the FCC in its *Second Louisiana Order* ruled that BellSouth had demonstrated that it satisfies the requirements of checklist item 10. *Second Louisiana Order*, ¶ 267. No CLEC has filed comments questioning BellSouth's compliance. The Commission concludes that BellSouth has once again demonstrated that it complies with checklist item 10.

**Checklist Item 11: Nondiscriminatory access to network elements in accordance with the requirements of section 251(c)(3) and 252(d)(1):**

Section 271(c)(2)(B)(xi) requires that BellSouth comply with the number portability regulations adopted pursuant to Section 251, which state that all LECs must "provide, to the extent technically feasible, number portability in accordance with requirements prescribed by the Commission." 47 U.S.C. § 251(b)(2). Local number portability enables customers of facilities-based CLECs to retain existing telephone numbers "without impairment in quality, reliability, or convenience." 47 U.S.C. § 153(30). This feature works by utilizing a centralized database that houses all ported numbers and provides proper routing of calls to and from these numbers. When a customer requests that a number be ported, both BellSouth and the CLEC must take certain actions in order to enable the customer to make and receive calls using the ported number. *Varner Reply*, 127.

In Mississippi, as of March 31, 2001, BellSouth has ported 20,754 business directory numbers and 35 residence directory numbers. *Milner*, 113. Region-wide, BellSouth has ported 1,113,649 business directory numbers and 133,703 residence directory numbers as of the same date. *Id.* BellSouth has converted 88 out of 205 central offices, which accounts for 69% of lines in Mississippi, from interim number portability to permanent local number portability. *Milner*, 112. An additional thirty-eight offices will be equipped for permanent local number portability in third quarter 2001. *Milner*, Attach. E, *Affidavit of Dennis Davis*, 9-10. BellSouth provides permanent number portability through the use of the Location Routing Number ("LRN") methodology, which the FCC held would satisfy its performance criteria established for LNP.

In addition, BellSouth has met the implementation schedule for permanent number portability established in the FCC's orders, as modified at BellSouth's request. Further,

BellSouth has worked proactively with the industry to expand the implementation of LNP beyond the scope of the original FCC order. Finally, BellSouth has processed bona fide LNP service requests in accordance with the FCC rules and regulations. *BellSouth Comments*, 63.

In nearly all cases, BellSouth met the benchmarks for provision of both permanent and interim number portability during April, May, and June. *See Varner Further Supp.*, Exh. AJV-5, 45. For example, for all order types, mechanized, partially mechanized and non-mechanized, BellSouth met the LNP benchmark for Reject Interval in April and May for all categories having activity. For FOC Timeliness, BellSouth met the LNP benchmark for 2 of the 3 sub-metrics – missing the mechanized benchmark because 1 of 4 orders submitted electronically in May did not receive a FOC within the 3 hour benchmark. For June 2001 BellSouth met all FOC Timeliness LNP measures with activity. BellSouth achieved flow-through rates for LNP in excess of the 85% benchmark in May 2001. With respect to provisioning, BellSouth missed no LNP installation appointments in May 2001, which was better than the performance for the applicable BellSouth retail analogue during the same time periods. *See Varner Supp.*, Exh. AJV-5, Attach. 1A, 12-14, 43.

Although AT&T asserts that BellSouth has occasionally missed the LNP disconnect timeliness benchmark, *Wilson Rebuttal*, 40-46, the current measure does not accurately capture the end user experience. *Varner Reply*, 127-29. Thus, although BellSouth may not have met the benchmark for LNP disconnect timeliness, the Commission finds that BellSouth's other performance data demonstrate compliance.

KMC argues that BellSouth does not have a measure that accurately reflects BellSouth's LNP performance and its impact on CLEC end users. *Vanderwerff*, 3. Most LNP benchmarks accurately measure the effect on end users. However, because BellSouth agrees that the focus of



any measure should be on customer affecting activities, which is not currently the case under Provisioning Measure P-13, BellSouth has agreed to reexamine this measure with the Commission and the Georgia PSC. *Varner Reply*, 123-24.

KMC also asserts that BellSouth does not complete LNP translations after having physically installed T-1 lines by the FOC date. *Vanderwerff*, 3. Once the T-1 is installed, as long as KMC has placed a valid order for LNP and received an FOC, the responsibility for number port activation lies completely with KMC. *Ainsworth Reply*, 25. Thus, KMC's complaint does not demonstrate noncompliance with this checklist item by BellSouth.

*a. Reassigned Numbers And Double Billing*

Access Integrated alleges that BellSouth claimed that certain numbers requested by an Access Integrated customer were unavailable, even though the numbers allegedly were disconnected or temporarily out of service when Access Integrated called them. *Access Integrated Comments*, Ex. L. BellSouth uses the same number assignment policy to administer telephone numbers for itself, its end users, its affiliates and CLECs. *Ainsworth Reply*, 31. For residential numbers that have been disconnected, normally a 90-day waiting period is required prior to the numbers being made available for reassignment. The waiting period for business numbers is normally one year. Such a policy is meant to ensure that the next customer assigned a particular number is not unduly inconvenienced with calls intended for the customer previously assigned that same number. The numbers sought by Access Integrated's customer had not completed the requisite waiting period. *Ainsworth Reply*, 31.

AT&T claims that a telephone number ported to AT&T is sometimes erroneously reassigned to a new BellSouth line. *AT&T Comments*, 75. BellSouth reports that this problem was not discovered in its current form until the last quarter of 2000. BellSouth devised an

interim manual solution in January 2001, which will remain in effect until BellSouth develops a permanent software solution. *Ainsworth Reply*, 2-3. Additionally, BellSouth began working with CLECs to verify all numbers ported since January 2000. *Ainsworth Reply*, 3. The evidence indicates BellSouth's efforts ensure that this problem will not recur in the future, and thus does not warrant a finding of noncompliance.

**b. Incoming Calls**

AT&T maintains that at times some business customers lose the ability to receive calls from BellSouth customers. AT&T speculates that the problem occurs because BellSouth does not perform translations work on switches that cannot implement an automatic "trigger" at the time the number is ported from BellSouth. *AT&T Comments*, 76-77. In its Texas Order, the FCC rejected arguments almost identical to those pursued by AT&T. *SWBT-TX Order*, ¶¶ 371-72. Further, to ensure efficient number portability, BellSouth utilizes triggers for the majority of number porting orders. For directory numbers that cannot be handled mechanically (i.e., using a trigger order), such as Direct Inward Dialing ("DID") to a Private Branch Exchange ("PBX"), BellSouth utilizes Project Teams and special Project Managers to handle large and complex conversions. *Milner Reply*, 41. Finally, BellSouth presented evidence that at least one of AT&T's complaints involved a customer assigned to an AT&T NPA/NXX code that had never been a BellSouth end user. *Milner Reply*. Thus, this telephone number would not have been involved in any number porting from BellSouth's network to AT&T's network.

Further, BellSouth's submissions indicate that many of the problems experienced by AT&T are caused by AT&T's erroneously providing different number porting company codes on LSRs AT&T provides to BellSouth than the company codes AT&T provides to the Number Porting Administration Center ("NPAC"). *Milner Reply*, 43. BellSouth informed AT&T of this

problem, but, initially, AT&T did not make the necessary corrections. AT&T has trained its work center representative responsible for using the incorrect codes. *Milner Reply*, 44-45.

On June 20, 2001, AT&T advised BellSouth that it was changing the company code it had sent to NPAC to match the code used on the LSRs sent to BellSouth. Rather than continuing to wait for AT&T to provide new LSRs on the incorrect number ports, BellSouth is now in the process of manually handling these corrections. This includes over 300 numbers that were incorrectly ported by AT&T. *Milner Reply*, 45. The Commission concludes that these problems do not present conduct by BellSouth that would warrant a finding of noncompliance with this checklist item.

**c. Partial Ports**

AT&T alleges that BellSouth does not properly port numbers where a customer chooses to migrate only some of its lines to a CLEC, especially if the customer ports the main number used by BellSouth for billing. AT&T maintains that BellSouth may not be able to handle the call if the customer later wants to change features or call for repair services. *AT&T Comments*, 78. BellSouth notes that AT&T provides no specific examples to support its allegation, and thus BellSouth is unable to specifically address any concerns. Nonetheless, BellSouth has a detailed process for provisioning a partial port of a customer's service, which is posted on its Internet website. CLECs carrying out a partial number port must inform BellSouth on the LSR which billing number will be ported and which telephone number the customer wishes to use as BellSouth's new billing number. Unless the CLEC provides this information, the efficiency of the partial port process will be negatively impacted. *Ainsworth Reply*, 4-5. The Commission rejects AT&T's unsupported assertions.

**d. Caller ID**

AT&T alleges that BellSouth has not implemented appropriate capabilities in its SS7 network to enable caller identification features. *AT&T Comments*, 78-79. BellSouth has been in the process of implementing ten-digit Global Title Translation ("GTT") since March 2001. The GTT technology allows a carrier to handle calls involving advanced telecommunications services, such as Automatic Callback and Caller Name Delivery. The update will be completed in Mississippi by October 12, 2001. *Milner Reply*, 45-46. Pending completion of this update, BellSouth has offered AT&T two interim solutions to update BellSouth's CNAM database, both of which are electronic. Rather than using the two electronic methods provided by BellSouth, AT&T insists that BellSouth update the CNAM database by manually entering the customer names. *Milner Reply*, 46-47. The Commission concludes that BellSouth offers suitable interim procedures, and that the update will resolve this issue.

**e. Snap Back Services**

Customers sometimes change their minds about switching their local service provider from BellSouth to a CLEC. Where a change in providers already has occurred, the service should be returned immediately to BellSouth, according to AT&T, especially if AT&T "experiences an unexpected facility problem that prevents provision of service to the customer in question." *AT&T Comments*, 80. This reversion is known as "snap back."

AT&T is in control of when a number is ported, as BellSouth does not perform the activation of the number port. Once AT&T has ported a customer's number in NPAC, BellSouth requires that an order be issued to port the customer back to BellSouth. If AT&T discovers that the customer changed his or her mind, or that AT&T has problems that will not allow it to provide service to the customer, AT&T should notify BellSouth prior to the scheduled port date.

Moreover, in either of these situations, AT&T should not perform the number port activation.

Once AT&T does port a number, however, BellSouth needs an order from the customer if it wishes to return to BellSouth. *Ainsworth Reply*, 5. Such a policy does not in any way indicate noncompliance with checklist item 11.

**f. Staffing of Support Centers**

AT&T alleges that only two BellSouth representatives are trained to handle LNP issues. *AT&T Comments*, 81-82; *Berger*, 23-24. According to BellSouth, CLECs control when a number ports, thus a large BellSouth staff is not necessary. In addition, BellSouth employs over 400 persons trained in LNP processes to provide assistance before any CLEC accepts responsibility of the ported number. BellSouth has an additional center, staffed by 13 employees trained in LNP processes, to assist with post-port problems. Finally, BellSouth has a process to handle emergency situations on a 24-hour, 7 day a week basis. *Ainsworth Reply*, 29.

BellSouth provides number portability without causing any impairment in quality, reliability, or convenience to CLEC customers. The Commission therefore finds that BellSouth is in compliance with checklist item 11.

**Checklist Item 12: Nondiscriminatory access to network elements in accordance with the requirements of section 251(c)(3) and 252(d)(1):**

Local dialing parity ensures that CLECs' customers are able to place calls within a given local calling area by dialing the same number of digits as a BellSouth end user without unreasonable dialing delays. In the *Second Report and Order*, the FCC held "that local dialing parity will be achieved upon implementation of the number portability and interconnection requirements of section 251." *Implementation of the Local Competition Provisions of the*

*Telecommunications Act of 1996*, Second Report and Order and Memorandum Opinion and Order, 11 FCC Rcd 19392, 19430, 71 (1996).

CLEC end users are not required to use access codes or to dial additional digits to complete local calls to BellSouth customers and visa versa. End user customers of CLECs that are being served via the UNE platform will have available to them local dialing plans in the same manner as BellSouth's retail customers. The interconnection of the BellSouth network and the network of the CLEC is seamless from the end user perspective. BellSouth's actions and performance at this time are consistent with the showing previously made to this Commission and to the FCC upon which both regulatory agencies made the determination that the statutory requirements for the checklist item were met. *Second Louisiana Order*, n.251; *Milner*, 114-115. No CLEC has questioned BellSouth's compliance with this checklist item. BellSouth demonstrated that it complies with checklist item 12.

**Checklist Item 13: Reciprocal compensation arrangements in accordance with the requirements of Section 252(d)(2):**

Checklist item 13 requires that a BOC's access and interconnection include: "[r]eciprocal compensation arrangements in accordance with the requirements of section 252(d)." In the Texas Section 271 decision, the FCC found SWBT in compliance with this checklist item because it "(1) has in place reciprocal compensation arrangements in accordance with section 252(d)(2), and (2) is making all required payments in a timely fashion." *SWBT-TX Order*, ¶ 379.

Rates for reciprocal compensation are set forth in Attachment A to the SGAT. See *Cox*, Exh. CKC-45, Attach. A. Moreover, BellSouth makes reciprocal compensation payments to CLECs in a timely fashion. BellSouth's actions and performance at this time are consistent with

the showing previously made to this Commission and the FCC upon which both regulatory agencies made the determination that the statutory requirements for the checklist item were met. *Second Louisiana Order*, n.151.

WorldCom asserts that virtual Foreign Exchange ("FX") traffic must be treated as local traffic subject to the payment of reciprocal compensation in order for BellSouth to satisfy checklist item 13. *WorldCom Comments*, 32-33; *Argenbright Rebuttal*, 27-35. BellSouth responds by noting that virtual FX traffic is not local traffic. *Cox Reply*, 60. Further, SBC satisfied checklist item 13 in Texas, even though FX traffic is not treated as local traffic subject to the payment of reciprocal compensation in that State. *SWBT-TX Order*, ¶ 379; see *Arbitration Award, Proceeding to Examine Reciprocal Compensation Pursuant to Section 252 of the Telecommunications Act of 1996*, Docket No. 21982 (Texas Public Service Comm'n July 2000) ("The Commission finds that to the extent that FX-type and 800 traffic do not terminate within a mandatory local calling scope, they are not eligible for reciprocal compensation"); see also *Cox Reply*, 56-64. The Commission agrees that FX traffic is long distance traffic and therefore not subject to reciprocal compensation. Given that the Texas Public Service Commission agrees that Virtual FX traffic should be treated in a manner consistent with BellSouth's position, and that SBC has long distance approval in Texas, we do not find BellSouth's position on this issue cause for noncompliance. Further, to the extent that this issue is raised as part of an arbitration, it will be addressed in that proceeding.

WorldCom also argues that BellSouth does not comply with requirements related to tandem interconnection compensation because BellSouth insists that a CLEC must provide both geographic comparability and similar functionality in order to be entitled to compensation at the tandem interconnection rate. *WorldCom Comments*, 29-32. BellSouth acknowledges that a

CLEC must only demonstrate geographic comparability to receive the tandem interconnection rate. *Cox Reply*, 54. Further, the FCC recently established a phased-in interim regime that will govern intercarrier compensation for ISP-bound traffic over the next three years. *Cox Reply*, 54-55. In its Order, the FCC made clear that intercarrier compensation payments under the interim regime are not subject to the reciprocal compensation obligations in Section 251 of the Act. *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, CC Docket No. 96-98, *Intercarrier Compensation for ISP-Bound Traffic*, CC Docket No. 99-68, Order on Remand and Report and Order (rel. Apr. 27, 2001). The FCC gave individual ILECs the ability to opt into the FCC's scheme if the ILEC agreed to exchange all Section 251(b)(5) traffic at the designated ISP compensation rates. BellSouth chose to opt into this arrangement, so the issue raised by WorldCom is relevant only to the extent that a "CLEC declines BellSouth's offer to exchange 251(b)(5) traffic at the same rate as ISP traffic." *Cox Reply*, 55.

In accordance with Sections 271 and 252(d)(2), BellSouth has established just and reasonable rates for reciprocal compensation, thereby ensuring that CLECs and BellSouth receive mutual and reciprocal recovery of costs associated with the transport and termination of local calls.

**Checklist Item 14: Nondiscriminatory access to network elements in accordance with the requirements of section 251(c)(3) and 252(d)(1):**

Checklist item 14 requires that CLECs be allowed to resell BellSouth's services on a nondiscriminatory basis. *SWBT-TX Order*, ¶ 93. The telecommunications services that BellSouth provides CLECs for resale are identical to the telecommunications services BellSouth furnishes its own retail customers. BellSouth offers its services for resale at a Commission-approved discount of 15.75% for business and residential services. BellSouth's electronic



interfaces allow resellers to access pre-ordering, ordering, provisioning, maintenance, and repair and billing functions for resold services in an efficient and nondiscriminatory manner. *BellSouth Comments*, 26-28.

BellSouth's performance data shows that BellSouth has provided services for resale to CLECs in Mississippi in April, May, and June in substantially the same time and manner as for BellSouth's retail customers. For example, based on the Mississippi May and June MSS data with the new FOC Timeliness Benchmark of  $\geq 85\%$  FOCs within 18 hours, BellSouth was in parity for all Partially Mechanized resale products and all UNE products except xDSL, for which there was not a statistically significant sample size. *Varnier Reply*, 121-22. In May, BellSouth issued FOCs for about 19,850 Resale LSRs, again meeting the benchmark for 99% of the FOCs. 17,833 of the Resale FOCs were fully mechanized with 99% of those meeting the 3-hour benchmark. For the month of June 2001, BellSouth issued FOCs for 19,208 Resale LSRs in Mississippi and met the relevant benchmark on 97% of all FOCs. Of the 19,208 LSRs, 16,816 were fully mechanized with 98% meeting the 3-hour benchmark, clearly exceeding the 95% target. *See Varnier Further Supp.*, Exh. AJV-5, 48-49.

During the month of April 2001, there were 2,078 rejected LSRs, either mechanically or manually processed, with 2,014 or 97% meeting the benchmark. The benchmark for electronic rejects is 97% within 1 hour. Of all orders, 63% were processed electronically, and 96% of those orders met the 1-hour benchmark. In May 2001, a total of 2,450 Resale LSRs were rejected, with 95% meeting the relevant benchmarks. About 62% of the rejected LSRs were totally mechanized, with 94% meeting the 1-hour benchmark. In June 2001, a total of 2,717 Resale LSRs were rejected, with 96% meeting the relevant benchmarks. About 63% of the rejected

LSRs were totally mechanized, with 96% meeting the 1-hour benchmark. *See Varner Further Supp.*, Exh. AJV-5, 49.

Moreover, for April and May 2001, BellSouth data shows that it is in parity for the LNP – Missed Installation Appointments metric. *Varner Reply*, 126. In May 2001, BellSouth met the applicable benchmark for resale Reject Interval and FOC Timeliness in 16 of the 19 categories for which data was reported. *See Varner Supp.*, Exh. AJV-5, Attach. 1A, 1-2.

The Commission finds that these performance measures refute AT&T's claim that BellSouth does not provide nondiscriminatory access to its OSS, and that it therefore does not satisfy the requirements of checklist item 14. *See AT&T Comments*, 107.

SECCA asserts that no meaningful competition has emerged for resale because of unattractive economics and because resale does not permit a carrier to innovate, or to offer integrated local/long-distance service packages. *Gillan*, 16, 18. To satisfy checklist item 14, BellSouth only has to demonstrate the availability of resale services in compliance with §§ 251(c)(4) and 252(d)(3). As BellSouth affiant Ms. Cox correctly notes, "whether resale permits a carrier to offer integrated packages is irrelevant to a determination of BellSouth's compliance under checklist item 14." *Cox Reply*, 67. BellSouth's performance data, its SGAT, and its existing Interconnection Agreements show that CLECs are allowed to resell BellSouth services in compliance with the pertinent sections. *Cox Reply*, 67, 69.

Dixie-Net seeks an increase in the resale discount. *Dixie-Net Comments*, 9. Similarly, although NewPhone and Annox did not file for intervention in this proceeding, both parties submitted letters to the Commission echoing Dixie-Net's request, and further suggesting that a resale discount of 32% would be appropriate for BellSouth. *Cox Reply*, 68 n.20. NewPhone and Annox state that Verizon and SBC have agreed to implement discount rates of 32% for resold

residential services. The parties call for BellSouth to demonstrate why a discount of 32% or more for its residential services should not be required.

In Docket 96-AD-0559, after a thorough examination of the evidence, this Commission established a resale discount of 15.75%. *Cox Reply*, 68. NewPhone, Annox, and Dixie-Net offer no evidence to support a change to the 32% discount from the rate established by the Commission. As such, any request for a review of the discount rate is more appropriately addressed in a generic proceeding. Further, the discount rate implemented by Verizon and SBC was simply a temporary promotional offer, unrelated to the Section 252(d)(3) avoided-costs standard for the wholesale discount. *BellSouth Reply Comments*, 102.

In its 1998 Order, the Commission found BellSouth in compliance with this checklist item. BellSouth continues to meet the requirements of this checklist item, and the Commission therefore finds again that BellSouth satisfies checklist item 14.

#### **VIII. CONCLUSION**

The Mississippi local market is irrevocably open to competition. BellSouth provides CLECs with products and services covering all fourteen (14) points of the competitive checklist, as demonstrated by the record in this proceeding. BellSouth is in compliance with the requirements of the TA 96 and FCC orders.

IT IS THEREFORE, ORDERED as follows:

1. BellSouth meets the Track A requirements as contained in Section 271(c)(1)(A) of TA 96.
2. BellSouth's revised SGAT, which went into effect by operation of law on July 22, 2001, satisfies the requirements of Sections 251 and 252(d) of TA 96, and is hereby formally approved under Section 252(f) of TA 96.

3. BellSouth's SQM (Exh. AJV-1 to *Varner*) is adopted as the permanent SQM until such time as the Commission chooses, or BellSouth requests, to revisit these standards.

4. BellSouth shall comply with its SEEM plan, with the exception of the LNP Average Disconnect Interval metric, as monitored by the Commission. The payment of any necessary penalties under the SEEM plan will commence only after BellSouth exercises an FCC grant of interLATA authority in Mississippi.

5. BellSouth meets and is in compliance with the fourteen (14) point competitive checklist contained in Section 271(c)(2)(B)(i)-(xiv) of TA 96.

Chairman Nielsen Cochran voted Aye; Vice Chairman Michael Callahan voted Aye; and Commissioner Bo Robinson voted Aye.

SO ORDERED by the Commission on this the 4<sup>th</sup> day of October, 2001.

MISSISSIPPI PUBLIC SERVICE COMMISSION



Nielsen Cochran  
NIELSEN COCHRAN, CHAIRMAN

Michael Callahan  
MICHAEL CALLAHAN, VICE CHAIRMAN

Bo Robinson  
BO ROBINSON, COMMISSIONER

Attest: A True Copy

Brian U. Ray  
Brian U. Ray, Executive Secretary