

BEFORE THE  
FLORIDA PUBLIC SERVICE COMMISSION

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In the Matter of

CONSIDERATION OF BELLSOUTH DOCKET NO. 960786A-TP  
TELECOMMUNICATIONS, INC.'S ENTRY  
INTO INTERLATA SERVICES PURSUANT  
TO SECTION 271 OF THE FEDERAL  
TELECOMMUNICATIONS ACT OF 1966.

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TELECOMMUNICATIONS, INC.'S ENTRY  
INTO INTERLATA SERVICES PURSUANT  
TO SECTION 271 OF THE FEDERAL  
TELECOMMUNICATIONS ACT OF 1966.  
(THIRD PARTY OSS TESTING).

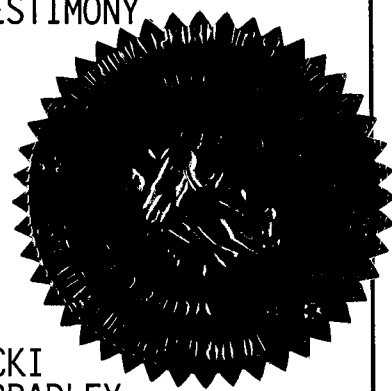
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PETITION OF COMPETITIVE CARRIERS DOCKET NO. 981834-TP  
FOR COMMISSION ACTION TO SUPPORT  
LOCAL COMPETITION IN BELLSOUTH  
TELECOMMUNICATIONS, INC.'S SERVICE  
TERRITORY.

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PROCEEDINGS: SPECIAL AGENDA CONFERENCE

BEFORE: CHAIRMAN LILA A. JABER  
COMMISSIONER J. TERRY DEASON  
COMMISSIONER BRAULIO L. BAEZ  
COMMISSIONER MICHAEL A. PALECKI  
COMMISSIONER RUDOLPH "RUDY" BRADLEY

DATE: Monday, September 9, 2002



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TIME: Commenced at 9:30 a.m.  
Concluded at 10:45 a.m.

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

REPORTED BY: LINDA BOLES, RPR  
Official FPSC Reporter  
(850) 413-6734

1 PARTICIPATING:

2 BETH KEATING, FPSC General Counsel's Office.

3 LENNIE FULWOOD, MICHAEL BARRETT, KEVIN BLOOM, TODD  
4 BROWN, DAVID DOWDS, LAURA KING, TOBEY SCHULTZ, SALLY SIMMONS,  
5 LISA HARVEY and CARL VINSON, FPSC Division of Competitive  
6 Markets and Enforcement.

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## P R O C E E D I N G S

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2 CHAIRMAN JABER: Good morning. Commissioners, we  
3 have two items on special agenda today. The first has been  
4 referred to as Track A.

5 Ms. Keating, do you have an introduction, general  
6 introduction?

7 MS. KEATING: Just a brief one, Madam Chairman.

8 This first item is staff's recommendation addressing  
9 the issues considered at hearing Track A regarding BellSouth's  
10 compliance with the 271 checklist.

11 I should emphasize that these recommendations address  
12 only the issues at hearing, not BellSouth's compliance with the  
13 requirement to provide nondiscriminatory access to its  
14 operational support systems.

15 As such, in many places where staff has recommended  
16 compliance with a checklist item, staff notes that your  
17 ultimate conclusion as to what your recommendation to the FCC  
18 will be is contingent upon your recommendation in Track B.

19 We've got a couple of suggested modifications for  
20 Issue 18. We can take those up now or we can wait, if you  
21 prefer to go issue by issue.

22 CHAIRMAN JABER: Commissioners, I prefer to go issue  
23 by issue, but, unless anyone has strong feelings about that.  
24 Okay.

25 Issue A.

1 MS. KEATING: Commissioners, this issue addresses the  
2 Commission's role in this process. And as it's pretty clearly  
3 outlined in Section 271(d)(1)(B), the FCC has to consult with a  
4 state commission regarding an RBOC's 271 application. Thus,  
5 your role is to advise the FCC as to whether you believe  
6 BellSouth has complied with Section 271 requirements.

7 You may also advise them of any other additional  
8 steps that you think may be necessary for full compliance with  
9 the Act, as well as those things that may be necessary to  
10 further competition in the State of Florida.

11 CHAIRMAN JABER: Ms. Keating, I think there's been a  
12 lot of confusion from time to time with respect to what the  
13 role of state commissions is in regard to the 271 process, and  
14 if I could just ask you a couple of questions to seek to  
15 clarify what that role is a little bit further for the purposes  
16 of the record, I think that would be helpful.

17 The ultimate approval for 271 is within the purview  
18 of the FCC; is that correct?

19 MS. KEATING: That is correct.

20 CHAIRMAN JABER: Now it's my understanding that state  
21 commissions serve in a consultative role with respect to the  
22 application that BellSouth will file at the FCC.

23 MS. KEATING: That's correct.

24 CHAIRMAN JABER: So our decision today, whether it's  
25 up or down at the end of the day, is a recommendation to the

1 FCC that they can accept or reject.

2 MS. KEATING: That is correct.

3 CHAIRMAN JABER: One of the things you say in Issue  
4 A, I think you cite to a Verizon -- no, it's the Ameritech  
5 order in terms of the state commission advising the FCC on the  
6 level of competition. You try to distinguish between the state  
7 commission's role to identify whether a Bell company has met  
8 the 271 checklist as opposed to how much of the market share is  
9 served by competitive providers. Can you give me a little bit  
10 more information on that?

11 MS. KEATING: Well, I think based on the FCC  
12 decisions and the Act, your role as far as addressing the  
13 271 application is to go strictly through the requirements of  
14 Section 271 and make a determination of whether or not the  
15 RBOC, and in this case BellSouth, has met those requirements.  
16 There's nothing to preclude you from giving some additional  
17 information to the FCC, but in the long run what they're going  
18 to look at is whether or not you recommend that they've passed  
19 the specific 271 requirements.

20 CHAIRMAN JABER: And as we go through the issues --  
21 in fact, that's the case, there are things that via agreement  
22 by the ALECs and the Commission and to some degree BellSouth  
23 and KPMG, there were elements related to the master test plan  
24 that perhaps were outside the scope of 271 but the Commission  
25 at an earlier time agreed to provide that information to the

1 FCC.

2 MS. KEATING: That's correct.

3 CHAIRMAN JABER: Can you -- off the top of your head  
4 can you think of examples like that? Is line sharing an  
5 example of that?

6 MS. KEATING: I think line sharing is one of those  
7 things that's up in the air but that we are looking at.

8 CHAIRMAN JABER: Okay. Commissioners, do you have  
9 any questions on Issue A or a motion?

10 COMMISSIONER BAEZ: I have a question. I'm trying to  
11 understand exactly or trying to draw the line where, where our  
12 recommendation ends. Because it's a consultative role, even  
13 though a recommendation today may come out a certain way, is  
14 it, does it have a life after, in the gap leading up to whether  
15 the FCC approves an application or not? Are we continuously --  
16 would you contemplate what staff have contemplated continuously  
17 forwarding information, relevant information to or is this just  
18 it's today and we will --

19 MS. KEATING: Not formally. And it's our  
20 understanding that, or at least as we have contemplated it,  
21 that some sort of transmittal letter would forward your  
22 decision to the FCC and, thereafter, the FCC may have  
23 questions. But we had not contemplated any formal action.

24 COMMISSIONER BAEZ: It's not incumbent on us to, to  
25 continue -- okay. Thank you.

1 CHAIRMAN JABER: Say what you said though with  
2 respect to the questions. What is the role of the state  
3 commission informally?

4 Because this is a consultative role, I would expect  
5 that if the FCC staff has any questions, that certainly the  
6 door is open for them to seek those answers from state staff.

7 MS. KEATING: That's our understanding and our  
8 interpretation of the law.

9 COMMISSIONER JABER: And that there is no prohibition  
10 with respect to those communications.

11 Okay. Commissioners, any questions on Issue A or a  
12 motion?

13 COMMISSIONER DEASON: If there are no other  
14 questions, I can move staff on Issue A.

15 COMMISSIONER BAEZ: Second.

16 CHAIRMAN JABER: There is a motion to approve staff  
17 on Issue A and a second. All those in favor, say aye.

18 (Unanimous affirmative vote.)

19 CHAIRMAN JABER: Issue A is approved.

20 Issue 1.

21 MS. SIMMONS: Issue 1 concerns whether or not  
22 BellSouth is providing access and interconnection to ALECs who  
23 are in turn providing service to residential and business  
24 customers either predominantly or exclusively over their own  
25 facilities.



1           We are recommending that BellSouth has passed this  
2 particular item.

3           CHAIRMAN JABER: Ms. Simmons, going back to a  
4 question I asked earlier, I think this is the issue where we  
5 can flush that out a little bit more.

6           The Standard under 271(c)(1)(A) is whether the Bell  
7 company meets the requirements of the section and that it  
8 entered into one or more binding agreements with an ALEC.

9           MS. SIMMONS: That's a part of it, yes.

10          CHAIRMAN JABER: What's the other part?

11          MS. SIMMONS: The -- there are a few different things  
12 enumerated. It talks about one or more binding agreements,  
13 BellSouth currently providing access and interconnection, and  
14 then the third part, in turn, that ALECs are providing service  
15 to residential and business customers either exclusively or  
16 predominantly over their own facilities.

17          CHAIRMAN JABER: Okay. And although I understand  
18 from staff's recommendation it's not a requirement that we show  
19 the ALEC market share, I think it is a proven sanity check.  
20 And even if it's a matter of illustration, can you walk me  
21 through the three different percentages that are offered by the  
22 FCC, the ALECs and BellSouth?

23          MS. SIMMONS: Sure, I can do that. Pretty much what  
24 we have is BellSouth indicating that the overall ALEC market  
25 share is in the ten percent neighborhood. Of course, this was

1 at the time of the hearing which was held last year.

2 The FCC had estimated as of the end of 2000 a market  
3 share of roughly eight percent. And the ALEC witnesses in this  
4 proceeding, specifically Witness Golan was in the five percent  
5 neighborhood for overall ALEC market share.

6 CHAIRMAN JABER: The FCC's analysis of the ALEC  
7 market share in Florida is eight percent?

8 MS. SIMMONS: That's correct. That's the figure as  
9 of December 31st, 2000.

10 CHAIRMAN JABER: Is that an annual status of  
11 competition report that the FCC issues?

12 MS. SIMMONS: I believe so.

13 CHAIRMAN JABER: Okay.

14 MS. SIMMONS: All right.

15 CHAIRMAN JABER: Commissioners, do you have any  
16 questions on this issue or a motion?

17 COMMISSIONER DEASON: I can move staff on Issue 1.

18 COMMISSIONER BRADLEY: Second.

19 CHAIRMAN JABER: There's a motion and a second to  
20 approve staff on Issue 1. All those in favor, say aye.

21 (Unanimous affirmative vote.)

22 CHAIRMAN JABER: Issue 1 is approved.

23 Issue 2.

24 MR. FULWOOD: Issue 2 addresses whether BellSouth  
25 provides collocation, appropriate collocation intervals, local

1 tandem interconnection, use of PLU factors, meet point billing  
2 data and other issues associated with interconnection.

3 Staff recommends that BellSouth has met the  
4 obligation to provide interconnection and should pass Checklist  
5 Item 1.

6 CHAIRMAN JABER: Mr. Fulwood, these were some of the  
7 elements that BellSouth failed the first time.

8 MR. FULWOOD: Yes.

9 CHAIRMAN JABER: And in your professional opinion you  
10 think they've satisfied these different points such that you're  
11 recommending that it, that Bell be passed for network blockage  
12 and local tandem interconnection and two-way trunking?

13 MR. FULWOOD: In accordance to the testimony on the  
14 record, yes.

15 CHAIRMAN JABER: Commissioners, do you have any  
16 questions or a motion?

17 COMMISSIONER DEASON: I just have a quick question.  
18 Maybe you can help me with my memory a little bit.

19 There is -- isn't there a docket that we have  
20 concerning collocation cost and rates, and what's the status of  
21 that, if that is the case?

22 MR. FULWOOD: Yes. There is a docket, Docket Number  
23 990321. We have Issue ID on that docket on September 12th,  
24 which is this Thursday. That will address issues regarding  
25 some of the operational issues and possibly some of the pricing

1 issues with the Issue ID that would be established. But  
2 currently looking at how BellSouth -- looking at this 271 and  
3 the testimony, you have to look at what current FCC rules and  
4 state rules are in order. And in concurrence with that,  
5 BellSouth has passed. We can't hold them accountable for what  
6 we're going to set forth in this next generic collocation.

7 COMMISSIONER DEASON: And BellSouth is in compliance  
8 with the existing rules; correct?

9 MR. FULWOOD: Yes.

10 CHAIRMAN JABER: We can hold them accountable  
11 prospectively. Whatever results out of that docket --

12 MR. FULWOOD: Right. Whatever results. But I'm  
13 saying we can't foresee what's going to come in the future and  
14 hold, possibly try to hold them accountable for that.

15 COMMISSIONER DEASON: I can move staff's  
16 recommendation on Issue 2.

17 COMMISSIONER BRADLEY: Second.

18 CHAIRMAN JABER: There's a motion and a second to  
19 approve staff on Issue 2. All those in favor, say aye.

20 (Unanimous affirmative vote.)

21 CHAIRMAN JABER: Issue 2 is approved.

22 Issue 3.

23 MR. BLOOM: Commissioners, Issue 3 deals with whether  
24 or not BellSouth provides nondiscriminatory access to all  
25 unbundled network elements and whether or not they do so at

1 TELRIC-based prices.

2 This was an issue that BellSouth did not pass in  
3 1997; however, based on the record that was assembled for this  
4 proceeding, it is staff's belief that they do now pass this  
5 checklist item.

6 CHAIRMAN JABER: Mr. Bloom, with respect to the  
7 FCC versus Verizon decision --

8 MR. BLOOM: Yes, ma'am.

9 CHAIRMAN JABER: -- regardless of the, Bell's  
10 compliance with the record as it existed at the time of this  
11 hearing, going forward Bell has got to comply with the terms  
12 set forth in FCC versus Verizon; right?

13 MR. BLOOM: That would be correct, ma'am.

14 CHAIRMAN JABER: And to the degree they do not,  
15 what's the state commission's ongoing role in that regard?

16 MR. BLOOM: The same oversight that you would have  
17 for them for any other requirement that they have under federal  
18 law. If they're found by you not to be in compliance, you have  
19 the range of options that's available to you.

20 I would point out, Commissioner, I think this is on  
21 Page 105, the FCC has specifically found -- or it starts at  
22 105 and continues on to Page 106 -- that the 271 proceeding is  
23 to examine performance of the carrier at a, at a point in time.  
24 So BellSouth was compliant with the rules at the time. If you  
25 find subsequently that they're not, that would be another

1 matter. But there's no testimony in the record as to what --  
2 and this deals with the issue of glue charges.

3 CHAIRMAN JABER: But if the standard is different --  
4 and not necessarily with this issue, let's say any other issue  
5 because of court cases that have come to conclusion -- the FCC,  
6 I would think, has the flexibility to apply, probably the  
7 responsibility to apply the law as it exists at the time that  
8 271 is filed with the FCC.

9 MS. KEATING: I would assume that they take the  
10 current state of the law into consideration.

11 CHAIRMAN JABER: Okay. Commissioners, any other  
12 questions on this issue?

13 COMMISSIONER DEASON: I can move staff on Issue 3.

14 COMMISSIONER BAEZ: Second.

15 CHAIRMAN JABER: There's a motion and a second to  
16 approve staff on Issue 3. All those in favor, say aye.

17 (Unanimous affirmative vote.)

18 CHAIRMAN JABER: Issue 3 is approved.

19 Issue 4.

20 MR. BARRETT: Commissioners, Issue 4 concerns whether  
21 BellSouth is providing nondiscriminatory access to poles, duct,  
22 conduits and rights-of-way owned or controlled by BellSouth.  
23 And staff is recommending that BellSouth meets the requirements  
24 of this checklist.

25 COMMISSIONER DEASON: This was an item which

1 BellSouth met at the first 271 hearing; correct?

2 MR. BARRETT: That is correct.

3 CHAIRMAN JABER: Questions or a motion?

4 COMMISSIONER DEASON: Move staff.

5 COMMISSIONER BAEZ: Second.

6 CHAIRMAN JABER: There's a motion and a second to  
7 approve staff on Issue 4. All those in favor, say aye.

8 (Unanimous affirmative vote.)

9 CHAIRMAN JABER: Issue 4 is approved.

10 Issue 5.

11 MS. KING: Issue 5 addresses whether or not BellSouth  
12 provides all currently required forms of unbundled loops.

13 BellSouth met the requirements of this checklist item in 1997.

14 Based on staff's review of the record, staff believes that

15 BellSouth again meets the requirements of this checklist item.

16 CHAIRMAN JABER: Remind me what the status of  
17 USTA versus FCC -- isn't this the one where just last week the  
18 court declined a motion for a stay?

19 MS. KEATING: I have to confess, Madam Chairman, I'm  
20 not positive.

21 CHAIRMAN JABER: I think, Mr. Dowds --

22 MR. DOWDS: Yes.

23 CHAIRMAN JABER: -- we had this discussion.

24 MR. DOWDS: The FCC and three other parties had asked  
25 the DC Circuit to stay its order, and also they petitioned for

1 rehearing. The petitions for rehearing were denied, but they  
2 did stay the line, their decision on the line sharing order  
3 until, I believe, early January.

4 CHAIRMAN JABER: Okay. So this is another example,  
5 Ms. Keating, of whatever the state of the law will be is what  
6 the FCC has to apply.

7 MS. KEATING: I would assume so.

8 COMMISSIONER DEASON: Move staff on Issue 5.

9 COMMISSIONER BRADLEY: Second.

10 CHAIRMAN JABER: Motion and a second. All those in  
11 favor, say aye.

12 (Unanimous affirmative vote.)

13 CHAIRMAN JABER: Issue 5 is approved.

14 Issue 6.

15 MR. DOWDS: Issue 6 pertains to whether or not  
16 BellSouth has brought a nondiscriminatory access to interoffice  
17 transport. There is very little testimony in opposition to the  
18 claim that they do.

19 The only counterclaim was by a CLEC witness who  
20 argued that BellSouth should be obligated to provide  
21 interoffice transport even in situations where the transport is  
22 not from a BellSouth office. An example would be the transport  
23 between two CLEC switches.

24 This is the same issue the Commission addressed in  
25 the WorldCom/BellSouth arbitration, and we see no need for the



1 Commission to relitigate it here.

2 CHAIRMAN JABER: Commissioners, any questions on this  
3 issue?

4 COMMISSIONER DEASON: No. I can move staff on Issue  
5 6.

6 COMMISSIONER BRADLEY: Second.

7 CHAIRMAN JABER: Motion and a second on Issue 6. All  
8 those in favor, say aye.

9 (Unanimous affirmative vote.)

10 CHAIRMAN JABER: Issue 6 is approved.

11 Issue 7.

12 MR. BLOOM: Commissioners, Issue 7 has to do with  
13 whether or not BellSouth provides unbundled local switching  
14 that is separate from transport and whether or not they bill  
15 for unbundled local switching on a usage-sensitive basis.

16 Your, your review of BellSouth's petition in 1997  
17 found that they did not comply with this checklist item.  
18 However, the evidence in the record suggests that they have  
19 overcome or they have met the requirements that they did not  
20 meet in 1997.

21 CHAIRMAN JABER: Questions, Commissioners?

22 COMMISSIONER DEASON: Move staff on Issue 7.

23 COMMISSIONER BRADLEY: Second.

24 CHAIRMAN JABER: Motion and a second to approve staff  
25 on Issue 7. All those in favor, say aye.

1 (Unanimous affirmative vote.)

2 CHAIRMAN JABER: Issue 7 is approved.

3 Issue 8.

4 MR. FULWOOD: Issue 8 addresses whether BellSouth  
5 provides nondiscriminatory access to 911, E911, directory  
6 assistance, directory listing and operator call services in  
7 accordance with 271.

8 In the other 271 docket BellSouth did fail directory  
9 listings, but there was no testimony filed in this docket  
10 saying that they did not pass directory listings. So based  
11 upon no, no conflict, we feel that BellSouth passed this issue.

12 CHAIRMAN JABER: There was testimony from KMC on that  
13 issue, wasn't there?

14 MR. FULWOOD: Regarding directory listings?

15 CHAIRMAN JABER: Or am I thinking of a subsequent  
16 issue?

17 MR. FULWOOD: Yeah. KMC found no position and no  
18 real testimony on that.

19 CHAIRMAN JABER: Okay. Commissioners, any questions?

20 COMMISSIONER DEASON: Move staff on Issue 8.

21 COMMISSIONER PALECKI: Second.

22 CHAIRMAN JABER: Motion and a second to approve staff  
23 on Issue 8. All those in favor, say aye.

24 (Unanimous affirmative vote.)

25 CHAIRMAN JABER: Issue 8 is approved.

1 Issue 9.

2 MR. BROWN: Issue 9 addresses whether BellSouth  
3 currently provides white pages directory listings for customers  
4 of other carriers pursuant to Section 271.

5 They passed this checklist item back in '97, and  
6 staff recommends that they, they have met the requirements to  
7 pass it again here today.

8 COMMISSIONER DEASON: Move staff on Issue 9.

9 COMMISSIONER BAEZ: Second.

10 CHAIRMAN JABER: Motion and a second to approve staff  
11 on Issue 9. All those in favor, say aye.

12 (Unanimous affirmative vote.)

13 CHAIRMAN JABER: Issue 9 is approved.

14 Issue 10.

15 MR. BARRETT: Commissioners, Issue 10 concerns  
16 271 Checklist Item Number 9, and the subject of that is the  
17 access to telephone numbering resources.

18 I would point out, also, that BellSouth passed this  
19 checklist item in 1997 and we're recommending that they pass it  
20 as well today.

21 CHAIRMAN JABER: Questions on this issue,  
22 Commissioners?

23 COMMISSIONER DEASON: If there are no questions, I  
24 can move staff on Issue 10.

25 COMMISSIONER PALECKI: Second.

1 CHAIRMAN JABER: Motion and a second to approve staff  
2 on Issue 10. All those in favor, say aye.

3 (Unanimous affirmative vote.)

4 CHAIRMAN JABER: Issue 10 is approved.

5 Issue 11.

6 MR. FULWOOD: Issue 11 addresses whether BellSouth  
7 currently provides nondiscriminatory access to databases  
8 associated with call routing and completion. Staff recommends  
9 that BellSouth does pass this issue.

10 CHAIRMAN JABER: Questions, Commissioners?

11 COMMISSIONER DEASON: If there are no questions, I  
12 can move staff on Issue 11.

13 COMMISSIONER PALECKI: Second.

14 CHAIRMAN JABER: Motion and a second to approve staff  
15 on Issue 11. All those in favor, say aye.

16 (Unanimous affirmative vote.)

17 CHAIRMAN JABER: Issue 11 is approved.

18 Issue 12.

19 MR. BARRETT: Commissioners, Issue 12 addresses  
20 whether BellSouth is providing number portability.

21 And this item passed as well in 1997, and staff is  
22 recommending that BellSouth meets the requirement of this  
23 checklist item today.

24 CHAIRMAN JABER: Commissioners, I had a lot of  
25 trouble with, with respect to the discussion on the oddball NXX

1 codes, and I'm wondering if staff can give us an example, you  
2 know, of that scenario.

3 If I'm understanding -- here's my concern so you  
4 could address it in your comments. If I understand the concept  
5 and the concern well enough, worst-case scenario, it could, the  
6 fact that oddball codes may not be portable could lead to  
7 impeding competition if we're not careful in addressing that  
8 scenario.

9 MR. BARRETT: Commissioner, that's a valid concern.  
10 However, I wanted to point out to you that in the  
11 Georgia/Louisiana order the FCC found that the occurrence of  
12 such inhibitions, if you will, was de minimus. Those were the  
13 words that the FCC used.

14 CHAIRMAN JABER: Well, let's set that aside for a  
15 moment though because we also have an ongoing obligation to  
16 make sure that Florida has a competitive market in the local  
17 sector.

18 MR. BARRETT: Uh-huh.

19 CHAIRMAN JABER: And I've always viewed our  
20 responsibility as identifying what impediments to competition  
21 in the local market are and making sure that we've done our job  
22 in the identification and the removal of those impediments.

23 So set aside what passes muster for the FCC for a  
24 moment. Give me an example of an oddball code, how it can be  
25 portable and what goes wrong when it's not portable.

1           MR. BARRETT: Sure. One of the concerns that AT&T  
2 raised was a certain NXX code that BellSouth implemented for  
3 the convenience of its billing or central or, excuse me,  
4 business office contacts. In other words, BellSouth had a  
5 particular NXX code that would work statewide, a seven-digit  
6 number that would funnel all the calls into a BellSouth service  
7 center.

8           One of the things that BellSouth is doing is, is they  
9 are or the record indicates that they are getting away from  
10 that. They are terminating those NXX codes in favor of  
11 800 numbers. So that was one of the specific concerns that  
12 AT&T raised. And staff is satisfied that, that Bell's actions  
13 would take care of that particular occurrence. That's just one  
14 example.

15           CHAIRMAN JABER: Okay. Ms. Simmons, tell me -- walk  
16 me through a scenario of how a new company that wants to  
17 provide service to a company that has a specific code, a  
18 specific phone number and they'd like to keep that phone  
19 number, are they able to switch carriers and keep the phone  
20 number?

21           MS. SIMMONS: Typically, yes. There, there is one  
22 instance, however, besides what Mr. Barrett just described,  
23 which was basically kind of a, really what BellSouth is doing  
24 to provide service to its own customers as far as, you know,  
25 conveniences in terms of reaching service representatives, that

1 sort of thing. That's one area.

2 But in addition there's a little bit of concern about  
3 a retail offering which BellSouth provides called Zip Connect.  
4 With Zip Connect, my understanding of it is that you can dial a  
5 specific number, for instance, an example that's frequently  
6 used is with a pizza, a pizza chain, for instance, whereby you  
7 could dial one specific number and that call is routed to the  
8 store that is closest to you, the store, restaurant, whatever  
9 that is closest to you to take care of your particular order  
10 that you're trying to place. So you're trying to, you know,  
11 call ahead for a pizza kind of thing. It's a very specialized  
12 kind of offering. However, there is a little bit of concern  
13 that to the extent BellSouth is offering that to one of their  
14 customers, that same kind of service apparently could not be  
15 provided by an ALEC using that same number. That's my  
16 understanding of it.

17 But as I said, I'd like to emphasize it's a very  
18 specialized kind of service. It is not your normal situation  
19 where a customer wants to port a number.

20 So on the basis of it being something that is done  
21 infrequently, however, no dispute, there are customers that  
22 have this service, but it is done infrequently, I don't believe  
23 it's a serious impediment.

24 CHAIRMAN JABER: Okay. And to the degree it ever  
25 does become an impediment, our ongoing complaint procedures can

1 address those concerns.

2 MS. SIMMONS: Most definitely.

3 CHAIRMAN JABER: Okay. Commissioners, do you have --

4 COMMISSIONER PALECKI: I just wanted to follow up on  
5 that.

6 What are the problems associated with the portability  
7 of that sort of number?

8 MS. SIMMONS: Commissioner, to be honest, I don't  
9 know if any other staff members have information on this, but I  
10 am not conversant on the technical aspects and what, in fact,  
11 is making it a problem and making it impossible to port the  
12 number. I've not actually seriously looked at that to  
13 understand exactly what is the difficulty. I don't know if any  
14 of the other staff members have any basis for commenting.

15 MR. BARRETT: Commissioner, the record did not give  
16 us any level of detail in answering that. I could offer you  
17 speculation, but I could offer you nothing from the record that  
18 would answer your question.

19 COMMISSIONER PALECKI: Thank you. Just for -- not  
20 for purposes of our vote here today but for future purposes, I  
21 would like staff to communicate with BellSouth to find out what  
22 are the problems with portability with that sort of a phone  
23 arrangement. And if there are no technical problems that  
24 prevent portability, perhaps it's something that could be  
25 solved.



1 CHAIRMAN JABER: Commissioners, any other questions?

2 COMMISSIONER PALECKI: With that, I can move the  
3 staff's recommendation.

4 COMMISSIONER DEASON: Second.

5 CHAIRMAN JABER: There's a motion and a second to  
6 approve staff on Issue 12. All those in favor, say aye.

7 (Unanimous affirmative vote.)

8 CHAIRMAN JABER: Issue 12 is approved.

9 Issue 13.

10 MR. BARRETT: Commissioners, Issue 13 addresses  
11 Checklist Item Number 12. The subject of Checklist Item Number  
12 12 is nondiscriminatory access to services and information  
13 necessary to implement local dialing parity.

14 Local dialing parity basically in laymen's terms  
15 means an ILEC -- if you dial a number with an ALEC at  
16 seven digits, you would dial the same digits, no access codes,  
17 nothing of that sort.

18 This checklist item passed in 1997 and staff is  
19 recommending that it pass again today.

20 COMMISSIONER DEASON: Move staff on Issue 13.

21 COMMISSIONER BAEZ: Second.

22 CHAIRMAN JABER: Motion and a second to approve staff  
23 on Issue 13. All those in favor, say aye.

24 (Unanimous affirmative vote.)

25 CHAIRMAN JABER: Issue 13 approved.

1 Issue 14.

2 MR. BLOOM: Commissioners, Issue 14 has to do with  
3 whether or not BellSouth engages in reciprocal compensation  
4 arrangements pursuant to the Act.

5 BellSouth did pass this checklist item in 1997, and  
6 it's staff's recommendation that they pass it in 2002.

7 There were two issues raised by the ALEC parties that  
8 were not considered in 1997: One was the issue of compensation  
9 of the tandem switching rate, and the other was compensation  
10 for virtual NXX traffic. Both of those issues were resolved by  
11 this Commission in your reciprocal compensation docket.

12 COMMISSIONER DEASON: Move staff on Issue 14.

13 COMMISSIONER BAEZ: Second.

14 CHAIRMAN JABER: There's a motion and a second to  
15 approve staff on Issue 14. All those in favor, say aye.

16 (Unanimous affirmative vote.)

17 CHAIRMAN JABER: Issue 14 is approved.

18 Issue 15.

19 MS. KING: Issue 15 addresses whether or not  
20 BellSouth is providing nondiscriminatory access to resale  
21 services in accordance with the Act, FCC rules and orders and  
22 the FPSC's orders.

23 BellSouth did not satisfy the requirements of this  
24 checklist item in '97, but staff believes they have since met  
25 those requirements.

1 CHAIRMAN JABER: Questions on Issue 15,  
2 Commissioners, or a motion?

3 COMMISSIONER DEASON: I can move staff on Issue 15.

4 COMMISSIONER BRADLEY: Second.

5 CHAIRMAN JABER: There's a motion and a second to  
6 approve staff on Issue 15. All those in favor, say aye.

7 (Unanimous affirmative vote.)

8 CHAIRMAN JABER: Issue 15 is approved.

9 Issue 16.

10 MR. SCHULTZ: Issue 16 addresses whether or not  
11 BellSouth provides intraLATA toll dialing parity throughout  
12 Florida.

13 This is a checklist item that BellSouth met in the  
14 first 271 hearing and staff recommends they pass it this time.

15 COMMISSIONER DEASON: Move staff on Issue 16.

16 COMMISSIONER BAEZ: Second.

17 CHAIRMAN JABER: There is a motion and a second to  
18 approve staff on Issue 16. All those in favor, say aye.

19 (Unanimous affirmative vote.)

20 CHAIRMAN JABER: Issue 16 is approved.

21 Issue 17.

22 MR. BROWN: Issue 17 addresses whether the answers to  
23 Issues 2 through 15 are yes and, if so, whether those  
24 requirements have been met in a single agreement or through a  
25 combination of agreements.

1 Staff believes that the answers to Issues 2 through  
2 15 are yes and BellSouth can meet those requirements through a  
3 combination of agreements.

4 COMMISSIONER DEASON: Move staff on Issue 17.

5 COMMISSIONER PALECKI: Second.

6 CHAIRMAN JABER: There's a motion and a second to  
7 approve staff on Issue 17. All those in favor, say aye.

8 (Unanimous affirmative vote.)

9 CHAIRMAN JABER: Issue 17 is approved.

10 And, Ms. Keating, you said there's a modification on  
11 Issue 18.

12 MS. KEATING: Yes, Madam Chairman. We've sort of  
13 struggled a little bit with exactly what to call your decision  
14 here today because of your consultative role.

15 Identified here we had our standard language which  
16 was "final order." But the more we thought about it, the more  
17 we thought that's probably not the appropriate terminology in  
18 view of the fact that we don't believe your decision is  
19 appealable. We've looked at things that other state  
20 commissions --

21 CHAIRMAN JABER: Well, I think -- isn't it more that  
22 our decision is not the final word?

23 MS. KEATING: Correct. Correct. It is merely a  
24 recommendation to the FCC. You're not the ultimate decision  
25 maker.

1           We've looked at some of the things that other states  
2 have called it and we've looked at the exact language in the  
3 Act as far as what the Commission's role is. And we recommend  
4 that the phrase "final order" be replaced with "consultative  
5 opinion."

6           CHAIRMAN JABER: How does, how does this vote get  
7 communicated to the FCC? What's the process there?

8           MS. KEATING: Well, that's something else we'd like  
9 your guidance on today. We've always contemplated that a  
10 transmittal letter would be prepared and then that would  
11 forward not only the decisions from Track A but also from Track  
12 B, and then whatever other decisions you believe you would like  
13 to send for the FCC's consideration.

14           We thought about that maybe in the interest of  
15 administrative efficiency it could be a letter simply signed by  
16 the Chairman, but it's, it's at the Commission's discretion,  
17 however you would like for us to proceed. We'd actually like  
18 your direction on that.

19           COMMISSIONER BAEZ: Is that consistent with how other  
20 states have, have proceeded?

21           MS. KEATING: Yes. They --

22           COMMISSIONER BAEZ: A transmittal letter with  
23 attachments?

24           MS. KEATING: I believe that's consistent.

25           CHAIRMAN JABER: That, that was my question. But

1 what orders -- what decisions did other states send to the FCC?  
2 Is it the state commission that sends the decisions to the FCC  
3 or is it the Bell company? How does all that work?

4 MS. KEATING: Well, BellSouth would file whatever it  
5 feels is appropriate. But the state commission in its  
6 consultative role can also send whatever it feels is necessary  
7 to fully fulfill its role under the Act. And that's purely at  
8 each state commission's discretion.

9 COMMISSIONER PALECKI: Ms. Keating, what role have  
10 state commissions played at the FCC proceedings after the  
11 states issue their consultative opinions? Have any states  
12 played an active role? Have there been any states that have  
13 intervened or been, obtained party status?

14 MS. KEATING: I'm not really aware of any and I don't  
15 believe staff is aware of any state commissions that have been  
16 true active participants. Now they may answer questions that  
17 the FCC has about the state's recommendation, but I don't  
18 believe any state has actively gone up there to advocate.

19 CHAIRMAN JABER: Commissioners, with respect to  
20 giving staff guidance on whether it should be a transmittal  
21 letter, that would be my preference, and let me tell you why.

22 I would like to communicate to the FCC and perhaps to  
23 the parties via letter, by copy of the letter that this is our  
24 opinion with respect to serving our obligation under 271 and  
25 providing a recommendation to the FCC, but that in our opinion,

1 and I ask your guidance here, in our opinion competition is a  
2 process, that in no way does this decision and even the FCC's  
3 ultimate consideration of the 271 application mean that  
4 competition magically appears, that it's an ongoing process  
5 between state commissions, the companies and the FCC to  
6 continue to remove impediments that stand in the way of  
7 facilitating a competitive environment, and that we look  
8 forward to a cooperative approach with the FCC in meeting not  
9 only our obligations under the Act, but also our obligations  
10 under state law.

11           And certainly sending BellSouth a very strong signal  
12 that this state commission takes seriously its obligations and  
13 that in no way is it over for BellSouth. If anything, this  
14 allows us to operate under a more secure framework from  
15 understanding what is expected from the FCC and making sure  
16 that BellSouth continues to keep its systems open and  
17 accessible to competitive providers.

18           And I would also take an opportunity in that  
19 transmittal letter to emphasize the importance of the  
20 performance measurements docket and our discretion with respect  
21 to increasing penalties where appropriate. Those are just some  
22 thoughts off the top of my head.

23           COMMISSIONER DEASON: Madam Chairman, I tend to agree  
24 with that. But it's also my, my opinion, and maybe we can  
25 discuss it to some extent here, that, that if we go through the

1 remainder, this one issue and then the issues in Track B, and  
2 if it is the ultimate outcome that the Commission is going to  
3 recommend to the FCC that BellSouth be granted 271 authority, I  
4 think that is a procompetitive move in and of itself and I  
5 think that will foster more competition. I don't know if that  
6 needs to be in our transmittal letter or not. But I do think  
7 that, that we've obtained evidence that shows that in other  
8 states where there has been approval, that competition has  
9 increased. And we do know that giving customers more choice is  
10 a procompetitive move and just by allowing BellSouth their  
11 271 authority will give customers more choice in their long  
12 distance, in their long distance market.

13           So I think that while we have an ongoing obligation  
14 to continue to monitor the progress of competition, that I also  
15 think that what we're doing here today is a procompetitive  
16 move.

17           CHAIRMAN JABER: I think that's very appropriate to  
18 add in the letter. But Commissioner Deason just reminded me I  
19 think it's worth having a discussion of the fact that there  
20 were differences between the way Florida conducted its review  
21 under 271 and the testing with other states.

22           And I think it's worth pointing out, Ms. Keating and  
23 Mr. Dowds, all of you please feel free to join in, that  
24 Florida, it's my understanding, is the last state in the  
25 BellSouth region to take a vote on this recommendation to the



1 FCC.

2 And, Commissioners, in my humble opinion, that's not  
3 a bad thing. I think that that indicates that Florida took its  
4 time. And that's not, that's not to say that other states  
5 didn't. I am comfortable with the pace that Florida moved in  
6 engaging in the thorough review that, that our staff  
7 participated in. I'm comfortable with the way the OSS test  
8 plan was designed.

9 Could you elaborate on some of the differences? And  
10 maybe Ms. Harvey knows what some of those differences are.

11 Ms. Harvey, did states like Louisiana conduct their  
12 own test plan?

13 MS. HARVEY: Louisiana did not conduct an OSS test.

14 CHAIRMAN JABER: Georgia did.

15 MS. HARVEY: That's correct.

16 CHAIRMAN JABER: But there's a major difference  
17 between the -- and, again, it worked for them. I mean, this is  
18 not to say that one is better than the other. We all had to  
19 reach our own comfort level. And there was a major difference  
20 between the Georgia test and the Florida test; right?

21 MS. HARVEY: Initially when Georgia started their  
22 testing there were many differences between the two. The  
23 openness of the Georgia test initially was different from what  
24 was done in Florida. That evolved over time and it became more  
25 open as, as the test progressed.

1           CHAIRMAN JABER: Okay. And, Ms. Keating, this is the  
2 second time this Commission is considering BellSouth's  
3 271 application?

4           MS. KEATING: That is correct. The Commission  
5 considered it first in 1997.

6           CHAIRMAN JABER: Okay. Commissioners, any other  
7 feedback on the transmittal letter? By silence, is there a  
8 consensus that the decision should go up with the transmittal  
9 letter?

10          COMMISSIONER BAEZ: I don't have a problem with the  
11 transmittal letter. I actually had a question, and I imagine  
12 this is stating the obvious, but I would suggest that we do  
13 have some, a good level of detail setting out what our process  
14 was. And to the extent that, that any of our previous  
15 discussions on OSS and, and, as well as the hearing track can  
16 be gleaned from other orders as well, I think that some, some  
17 kind of logic or expose the logic behind the process and the  
18 way that we've chosen to do it.

19          COMMISSIONER PALECKI: I would hope that we would  
20 have that level of detail in the order itself where we set  
21 forth -- as is set forth in the staff recommendation.

22          COMMISSIONER BAEZ: Aah, but it's not an order. I  
23 guess it's a --

24          COMMISSIONER PALECKI: All right. In our  
25 consultative opinion.

1           COMMISSIONER BAEZ: Well, I think -- no. And, again,  
2 I mean, I agree with you, I think that's got to be contained in  
3 it. But to the extent that, you know, the top paper, as is  
4 commonly, as happens so often, you know, it's the first -- the  
5 letter of transmittal is probably going to count for most of  
6 the, most of the initial attention. And I think that we need  
7 to, we need to take that opportunity to set out exactly what,  
8 what it was that we were trying to accomplish and why we chose  
9 to accomplish it this way.

10           CHAIRMAN JABER: Any other -- I hear consensus that a  
11 transmittal letter can go with the direction given by  
12 Commissioner Deason, Commissioner Baez. I think, Commissioner  
13 Palecki, the only thing Commissioner Baez is suggesting is in  
14 some succinct fashion --

15           COMMISSIONER BAEZ: Yes.

16           CHAIRMAN JABER: -- that it, you know, in a first  
17 document illustrate what the Florida process was.

18           COMMISSIONER PALECKI: Absolutely. And I have no  
19 objection to that.

20           CHAIRMAN JABER: Yeah. I think that sets the  
21 framework.

22           COMMISSIONER PALECKI: I guess my only concern would  
23 be that I would hate to see a transmittal letter of seven or  
24 eight pages. You know, I think we want to be relatively  
25 concise.

1 CHAIRMAN JABER: Well, Ms. Keating is going to write  
2 it. And you're not going to make it seven to eight pages.

3 MS. KEATING: Oh, no, ma'am. I'll make it as long as  
4 y'all want or as brief.

5 COMMISSIONER PALECKI: Or as short.

6 MS. KEATING: As brief.

7 COMMISSIONER BAEZ: Question, Madam Chairman. In  
8 terms of process, do we have to outline at this point what  
9 orders, what the attachments to the transmittal letter are  
10 going to be?

11 MS. KEATING: That would be helpful. We'd like some  
12 guidance on that. I think it's pretty obvious the decisions --

13 COMMISSIONER BAEZ: There are some, yes, but --

14 MS. KEATING: -- from A and B should be on there.  
15 But then the question becomes do you include the performance  
16 measures decision, the decision in the UNE docket?

17 CHAIRMAN JABER: Well, I think it's important to  
18 remember whose burden it is. It's not our application that's  
19 going to go up to the FCC. It's going to be the Bell company.

20 So in terms of, Commissioners, what orders I think  
21 should be enclosed for purposes of the, the initial  
22 correspondence from the state commission, I think it should be  
23 the, the documents that come out of today's votes, plural, you  
24 know, hearing Track A and hearing Track B.

25 COMMISSIONER BAEZ: As well as --

1           CHAIRMAN JABER: Hearing Track A and then the OSS  
2 Track B.

3           COMMISSIONER BAEZ: Well, by that, by that you  
4 mean -- for instance, there are several, there are several  
5 issues that we just voted on that, that carry with them, as a  
6 basis for approval carry with them the fact that we had a  
7 previous, that we had a previous proceeding, whether it was a  
8 generic proceeding or an arbitration proceeding, that kind of  
9 basis for making a decision in essence saying we already  
10 decided this. I mean, it would seem to me that that probably  
11 needs to be included as well because it somehow becomes part of  
12 the record of our decision.

13           I know it's going to get, you know, the pile is going  
14 to get high. I understand that. And perhaps to the extent  
15 that they've already been filed with the FCC, maybe we can just  
16 reference them for, for practical purposes. But certainly, you  
17 know, a previous decision that becomes the basis for this needs  
18 to be included somewhere.

19           CHAIRMAN JABER: You included a lot of discussion in  
20 footnotes --

21           COMMISSIONER BAEZ: Exactly.

22           CHAIRMAN JABER: -- and that referenced orders. Is  
23 it sufficient to just continue to include the footnotes in this  
24 decision or should the underlying order go up as well?

25           MS. KEATING: My personal opinion, I think it would

1 be sufficient to keep it in the footnotes.

2 COMMISSIONER BAEZ: Just a reference.

3 MS. KEATING: Or even to put it, to refer to them in  
4 the transmittal letter itself. Because you are correct, if we  
5 start including --

6 COMMISSIONER BAEZ: I mean, you know, in that  
7 situation we're --

8 MS. KEATING: We'd be paying a lot of postage.

9 COMMISSIONER BAEZ: We're working off of previous  
10 decisions. If we need to reference them, we'll reference them.  
11 I don't know about the physical transmission.

12 CHAIRMAN JABER: Right. I think this should be  
13 easily referenced. And I think we should make reference to our  
14 web site in the transmittal letter because all of those orders  
15 are, you can download those orders, and certainly the FCC knows  
16 how to take advantage of them.

17 But what about the UNE orders? Again, my opinion on  
18 that is that's -- BellSouth can take care of sending up the UNE  
19 orders, but what have other states done?

20 MS. KEATING: I think some of them have included  
21 that, but that was because the decisions were made together. I  
22 mean, it's certainly not anything that's imperative or directly  
23 a part of the 271 checklist. But we had sort of tossed around  
24 the idea. I don't think anybody feels real strongly about  
25 sending that one up.

1           COMMISSIONER BAEZ: I think we can probably treat  
2 them the same way, I mean, any references. And, again, it  
3 seems to me we're, we're really discussing -- it seems that  
4 we're generally in agreement to obviously have references to  
5 all of these orders, certainly the ones that become the basis  
6 of our decisions.

7           But, you know, we're really discussing how, how big a  
8 truck we need to rent to send it up there, you know. I don't  
9 have a problem with not having all the paper attached  
10 physically, but --

11           COMMISSIONER PALECKI: My preference, and it's not a  
12 very strong preference, but my preference is that we try to  
13 keep it simple and just send our consultative opinion.  
14 Literally there could be dozens of orders upon which we have  
15 based our decision today upon. Some of the more recent ones  
16 such as the UNE order come immediately to mind. But there are  
17 orders over the past six years that we could include if we, you  
18 know, if we decided we're going to include everything.

19           So my thought is it would be preferable just to keep  
20 it very simple, include the, the letter of transmittal and the  
21 order itself in today's, on today's vote only.

22           CHAIRMAN JABER: Okay.

23           COMMISSIONER DEASON: That's fine by me.

24           CHAIRMAN JABER: All right. Ms. Keating, I think you  
25 can consider that entire discussion as a modification to Issue

1 18.

2 Is there any other guidance you need from us as we  
3 sit here as a group?

4 MS. KEATING: I don't think so. I think that we've  
5 got a pretty good idea of what to put together.

6 CHAIRMAN JABER: Okay. Commissioners, I need a  
7 motion on Issue 18 as it's been modified.

8 COMMISSIONER DEASON: Do we need to go ahead and vote  
9 on Issue 18 before we do Track B or should we wait or does it  
10 make any difference?

11 MS. KEATING: I think you can go ahead and vote on 18  
12 because it does only close the docket if you approve staff's  
13 recommendation on B.

14 COMMISSIONER DEASON: Okay. I can move staff's  
15 recommendation on B.

16 CHAIRMAN JABER: As modified.

17 COMMISSIONER DEASON: As modified.

18 COMMISSIONER BRADLEY: Second.

19 CHAIRMAN JABER: Okay. There's a motion and a second  
20 to approve staff on Issue 18 as modified. All those in favor,  
21 say aye.

22 (Unanimous affirmative vote.)

23 CHAIRMAN JABER: Issue 18 is approved.

24 The attachment, Ms. Keating, I thought could provide  
25 additional references to the FCC. I think some of that would



1 be appropriate to pull out in a letter, but I'll leave that up  
2 to you all.

3 Part B.

4 (Pause.)

5 CHAIRMAN JABER: Staff, you have a general  
6 introduction?

7 MR. VINSON: Commissioners, staff's recommendation  
8 addresses the Commission's evaluation of BellSouth's operation  
9 support systems and their compliance with the requirements of  
10 Section 271 of the Act.

11 Section 271 requires BellSouth to provide OSSes for  
12 ALECs' use that are operationally ready and perform  
13 appropriately, that provide nondiscriminatory access and that  
14 are adequately documented and supported.

15 As you know, the Commission has relied on three  
16 methods for assessing the adequacy of BellSouth's operation  
17 support systems. First, the Commission directed the  
18 development of a master test plan for third-party testing. In  
19 late 1999 the master test plan was developed collaboratively by  
20 staff, KPMG Consulting, ALECs and BellSouth, and was approved  
21 by the Commission.

22 KPMG Consulting was selected to conduct the test and  
23 testing began in 2000. The testing process was open with ALEC  
24 participation via interviews with KPMG Consulting to point out  
25 problem areas and through direct involvement in test

1 transactions. ALECs also participated in weekly update  
2 meetings and discussions.

3 Thirty months of comprehensive testing were completed  
4 in 2002, and on July 30th KPMG Consulting presented its final  
5 report. This report provides the results of the transaction  
6 tests and process review tests.

7 Staff has brought recommendations for three of the  
8 outstanding exceptions in recent weeks, which the Commission  
9 approved. Staff does not believe the remaining exceptions  
10 constitute a significant barrier to local competition.

11 The performance measures tests are still in progress  
12 and are due to be completed late next month. A supplemental  
13 written report on those tests is expected in November. Staff's  
14 analysis of the test results is located behind the OSS test tab  
15 in staff's recommendation on Issue 1.

16 Secondly, to assess BellSouth's operation support  
17 systems the Commission required KPMG Consulting to provide an  
18 analysis of BellSouth's recent track record at meeting the  
19 Commission-approved OSS benchmarks and analogs. This analysis  
20 of January through March 2002 results was provided as Appendix  
21 G of KPMG Consulting's July 30th, 2002, report.

22 Staff's analysis is found behind the commercial data  
23 review tab of Issue 1. Staff believes the commercial data  
24 analysis supports the overall test results and the conclusion  
25 that BellSouth's systems meet the requirements of Section 271.

1 Third and finally, at the request of ALECs, the  
2 Commission conducted an ALEC experience workshop on  
3 February 18th, 2002, where ALECs made presentations to the  
4 Commission detailing operations problems and other concerns  
5 regarding BellSouth's OSS. Staff has analyzed the information  
6 presented at the workshop and in formal comments which included  
7 over 50 OSS-related issues. Staff's analysis summary is found  
8 behind the ALEC experience tab in Issue 1.

9 Staff believes the significant issues raised by the  
10 workshop were either addressed by the OSS test or by planned  
11 OSS changes. Staff believes any other issues raised do not  
12 represent significant barriers to local competition. And  
13 staff's analysis of ALEC issues is located behind the ALEC  
14 experience tab.

15 In summary, staff believes that all three methods of  
16 evaluating BellSouth's operation support systems employed by  
17 the Commission support the conclusion that BellSouth's systems  
18 meet the requirements of Section 271 of the 1996 Telecom Act.

19 And, Commissioners, I do have a minor editing  
20 correction to bring to your attention, if you'd like to go over  
21 that now.

22 CHAIRMAN JABER: Let's go ahead and do that now.

23 MR. VINSON: Okay. This correction occurs  
24 eight times on six different pages, with the first page being  
25 Page 59 of the recommendation.

1           In the final sentence on that page the words  
2 "workshop TR" should be replaced with the word "completion," so  
3 that the sentence reads, "Upon completion of the performance  
4 measures test, any significant unresolved issues will be  
5 brought before the Commission for resolution."

6           That same correction, Commissioners, occurred --

7           COMMISSIONER BRADLEY: Repeat that, please.

8           MR. VINSON: Yes. The words "workshop TR" should be  
9 stricken and replaced with the word "completion," so that it  
10 reads, "Upon completion of the performance measures test."

11          COMMISSIONER BRADLEY: Okay.

12          MR. VINSON: Okay. On Page 90, the same correction  
13 occurs in the last sentence of the first paragraph. I'm sorry,  
14 Commissioners, I skipped Page 89. It occurs there in the last  
15 sentence of the paragraph, of the first paragraph, and in the  
16 second paragraph in the final sentence, also.

17          On Page 90 the same correction is needed in the final  
18 sentence of paragraph one. On Page 91, the same correction in  
19 the final sentence of paragraphs one and two. On Page 92 --

20          CHAIRMAN JABER: Hang on, Carl.

21          MR. VINSON: Okay.

22          COMMISSIONER BRADLEY: Just a minute. Where is it on  
23 Page 91?

24          MR. VINSON: 91, it's the final sentence of both  
25 paragraphs right at the beginning of each of those sentences.

1 On Page 92 it occurs in the final sentence of the first  
2 paragraph.

3 COMMISSIONER BRADLEY: Page 92?

4 MR. VINSON: And on Page 93 in the second paragraph,  
5 the final sentence again, same correction.

6 COMMISSIONER BRADLEY: I missed that last one.  
7 What's the last one?

8 MR. VINSON: Page 93 in the second paragraph, the  
9 final sentence.

10 And with that correction, staff is available for  
11 questions on Issue 1. Also present with us today is Dave  
12 Wirsching of KPMG Consulting, who served as project manager.

13 CHAIRMAN JABER: Commissioners, I have questions sort  
14 of spread out. I'm wondering if it's more efficient,  
15 Mr. Vinson, to just ask all of the questions related to the  
16 entire document. Commissioners, do you have a preference here?

17 COMMISSIONER DEASON: That's fine with me.

18 CHAIRMAN JABER: Okay. How many total exceptions  
19 remain?

20 MR. VINSON: Commissioners, at the end of the testing  
21 for the transaction test and the process and procedures test  
22 there were nine outstanding exceptions.

23 CHAIRMAN JABER: And --

24 MR. VINSON: There are, of course, still exceptions  
25 related to the performance measures test that are in progress.

1           CHAIRMAN JABER: Okay. With respect to the nine, I  
2 note that some of those you've brought recommendations back to  
3 us at agenda like the change control program, and we have  
4 directed BellSouth to address those concerns by filing a plan  
5 or we've made certain directives that have yet to be  
6 implemented or are in the process of being implemented. But  
7 the exceptions stay open until when?

8           MR. VINSON: The exceptions will remain open. There  
9 will be no further testing or closing of exceptions among those  
10 nine. In the performance measures testing we will, of course,  
11 still be closing exceptions as they're resolved.

12          CHAIRMAN JABER: Well, overall then walk me through  
13 the PSC's ongoing role with respect to monitoring the  
14 implementation of the directives related to some of those  
15 exceptions.

16          MR. VINSON: The specific one you mentioned, the  
17 action plan was presented by BellSouth for improving  
18 performance under the flow-through, ordered flow-through  
19 measure, and staff will be monitoring those results.

20          Staff has also or staff also recommended the increase  
21 of the fine or the Tier 2 payment associated with that  
22 particular measure, and staff will be observing what the  
23 apparent impact of that increase has been.

24          The other recommendations that staff recently brought  
25 to the Commission regarded the change control process. And

1 there are some new metrics that have been ordered, and staff  
2 will observe the implementation of those metrics and carefully  
3 monitor the results that those apparently bring, particularly  
4 the 60-week change control implementation cycle.

5 Staff will continue to monitor other forums in the  
6 change control process to keep our finger on the pulse of how  
7 things are progressing there. And there will be other  
8 opportunities where staff can monitor BellSouth's performance  
9 through the, performance measures through the results and  
10 observing the trend that may develop.

11 CHAIRMAN JABER: So am I correct, if we send the  
12 recommendation up to the FCC with the nine exceptions,  
13 recognizing that we've taken action since the identification of  
14 the exceptions, we're not precluded as a state commission from  
15 adjusting the penalties even further to --

16 MR. VINSON: No, I don't believe we are.

17 CHAIRMAN JABER: -- obtain compliance; is that  
18 correct?

19 MR. VINSON: Correct.

20 CHAIRMAN JABER: When do -- do you have --  
21 Ms. Harvey, do you have a schedule in your mind of when the  
22 monitoring cycle should be and when you report back to the  
23 Commission how BellSouth's performance is ongoing?

24 MS. HARVEY: Commissioner, we will, we will monitor  
25 the metrics on an ongoing basis. We receive those results

1 every month and we will be looking at those and looking at  
2 trends. And if there's something that we are uncomfortable  
3 with, we will certainly bring it back to your attention with a  
4 recommendation perhaps to increase the penalty in order to get  
5 corrective action.

6 CHAIRMAN JABER: Or to take any other action that may  
7 be appropriate, modifying any sort of agreement, directing  
8 BellSouth to take certain corrective action, is that all within  
9 our discretion?

10 MS. HARVEY: Yes. Yes, Chairman.

11 Also, we have a six-month review that is underway now  
12 for the performance metrics. And every six months we will  
13 review the metrics to make sure that they are the appropriate  
14 metrics to make sure that the benchmarks or analogs are  
15 appropriate and to make sure that the penalties are in place.  
16 But if something between the six-month period looks out of  
17 sorts, we can certainly bring that to your attention as well.

18 CHAIRMAN JABER: And is it uncommon -- I guess when  
19 we started this process I thought that a recommendation should  
20 not go up with outstanding exceptions. But as I have monitored  
21 the other state commissions' 271 compliance opinions, I see  
22 that there were outstanding exceptions. So that's, that's  
23 standard practice?

24 MS. HARVEY: That's correct.

25 CHAIRMAN JABER: Does the FCC speak to those



1 exceptions?

2 MS. HARVEY: I believe they, they may speak to the  
3 magnitude or the, or the fact of whether or not those issues  
4 are systemic or not.

5 CHAIRMAN JABER: Have they denied 271 approval based  
6 on outstanding exceptions?

7 MS. HARVEY: Not to my knowledge.

8 CHAIRMAN JABER: Are the exceptions that you all have  
9 identified, are they consistent, unique with your observations  
10 with other state commissions?

11 MS. HARVEY: I believe they're consistent with, with  
12 other states' findings. And I will note that the other open  
13 exceptions also deal with issues that we can monitor through  
14 performance measures.

15 COMMISSIONER PALECKI: I have a follow-up question on  
16 that.

17 It appears that we have adequate tools available to  
18 us to ensure that the evaluation criteria that have previously  
19 not been satisfied do become satisfied under the action plans  
20 that have been filed by BellSouth. It also appears that with  
21 regard to the performance measures, OSS, we will have adequate  
22 tools available to us. But if we do at some point determine  
23 that there is a systemic problem that inhibits the CLECs'  
24 ability to compete, could this Commission through an agenda  
25 conference and vote and subsequent order inform the FCC that

1 we've identified a problem?

2 MR. VINSON: Commissioner, I believe we could, and  
3 that would be our intention. If we observe through the  
4 monitoring Ms. Harvey described, we could bring a  
5 recommendation to the Commission. And also presumably CLECs  
6 would be -- are open and able to file complaints with the  
7 Commission specifically on a problem that they're experiencing,  
8 and staff would, of course, take action there.

9 COMMISSIONER PALECKI: Thank you.

10 CHAIRMAN JABER: On Page 25, Mr. Vinson, you discuss  
11 Exception 121 and the fact that this Commission ordered  
12 BellSouth to file a plan outlining the steps to improve  
13 flow-through rates for each level of disaggregation including  
14 local number portability. You've received the plan by now?

15 MR. VINSON: Yes, we have, Commissioner.

16 CHAIRMAN JABER: How does it look? Have you had an  
17 opportunity to take a look at it and analyze it or --

18 MR. VINSON: Yes, we have. Staff is satisfied with  
19 the plan, Commissioner. I think the, the ultimate test will be  
20 the results that BellSouth is able to produce with their  
21 attempted improvements.

22 CHAIRMAN JABER: Through the implementation?

23 MR. VINSON: Yes.

24 CHAIRMAN JABER: And this is, this is an example  
25 where we doubled the self-executing payment.

1 MR. VINSON: Yes.

2 CHAIRMAN JABER: Even though we ordered the plan, we  
3 still doubled the payments if compliance is not reached with  
4 flow-through.

5 MR. VINSON: Correct.

6 CHAIRMAN JABER: Okay. And we can keep increasing  
7 those penalties. Is there like a maximum on the penalty amount  
8 we can impose?

9 MR. VINSON: There -- yes, sir. Yes, ma'am. There  
10 is a 39 percent cap on that of total operating revenues that  
11 was involved in your 000121A order.

12 CHAIRMAN JABER: 39 percent of BellSouth's operating  
13 revenues?

14 MR. VINSON: Yes. Florida operating revenues.

15 CHAIRMAN JABER: Okay. On Page 29, one of the things  
16 that continue to trouble staff, it looks like, and it's a  
17 concern that was raised by ALECs a few times, related to the  
18 disconnect of the main telephone number of a multiline account.  
19 And through the discussion, staff, you say, well, but that's  
20 probably not going to be encountered in an actual commercial  
21 experience.

22 Can you -- give me an example of a request to  
23 disconnect a main telephone number with a multiline account.  
24 Would that be for a business establishment that has different  
25 phone numbers for their employees but a main number that is

1 transferrable to the employees?

2 MR. VINSON: Correct. Particularly in the instance  
3 of a customer who is making, if you will, a trial of the ALEC  
4 services. They may transfer a few lines rather than their main  
5 line that customers know and use and that they depend on  
6 primarily for contact with customers. They may choose to test  
7 with a less significant phone number. And we did not believe  
8 that this scenario would be indicative of what usually occurs  
9 in commercial practice.

10 CHAIRMAN JABER: What normally occurs in commercial  
11 practice then?

12 MR. VINSON: As I said, a customer would test the  
13 waters with an ALEC and potentially transfer a few numbers and  
14 subscribe to some services on a trial basis.

15 CHAIRMAN JABER: But in an openly competitive market  
16 you don't see, you don't think that telephone companies will  
17 market packages and discounts based on the entire package of  
18 service transferring to a competitive provider?

19 MR. VINSON: They certainly may. However, the point  
20 is just that the capability should exist and KPMG Consulting  
21 was correct in testing for that. And there is a change control  
22 correction in place or on schedule for correcting that problem;  
23 however, it's not the typical transaction that takes place.

24 CHAIRMAN JABER: Okay. So said differently, there's  
25 a penalty in place, there's a process in place that has to be

1 implemented when BellSouth gets that kind of request?

2 MR. VINSON: Correct.

3 CHAIRMAN JABER: And you don't expect it to happen  
4 often?

5 MR. VINSON: No. No.

6 CHAIRMAN JABER: Okay. On Page 65, Long Account Team  
7 Resolution Intervals, you encourage ALECs to use the existing  
8 escalation procedures whenever their inquiries are not  
9 responded to in an efficient fashion, and you acknowledge that  
10 there is some problem here with BellSouth internally responding  
11 in a more timely fashion to ALEC inquiries.

12 Is there something we can go ahead and require now or  
13 informally ask staff to work on outside this proceeding?

14 MS. HARVEY: Chairman, as a matter of fact, the ALECs  
15 have brought up this issue in the 000121 docket, which is the  
16 six-month review of the performance metrics, asking if we would  
17 put in place a metric monitoring this. And so we are looking  
18 at the possibility of doing that.

19 CHAIRMAN JABER: Okay. I would very much like to see  
20 that happen because if I am requesting from my, from a new  
21 company to switch service, I know as an end-use customer I'm  
22 going to get really frustrated with that whole process, and  
23 it's not going to matter to me if my new ALEC provider says,  
24 well, you know, I'm waiting on BellSouth. So it wouldn't  
25 matter. And I could, I could see customer dissatisfaction

1 working negatively against the ALEC for a delay caused by  
2 BellSouth. I don't think the end-use customer would be patient  
3 enough to care where the cause was.

4 MS. HARVEY: I understand your concern.

5 CHAIRMAN JABER: Okay. And then finally on Page 87,  
6 but actually throughout the entire recommendation, Ms. Harvey,  
7 you talk about some issues being resolved through the  
8 collaborative. And, you know, I'm a believer in the  
9 collaborative process and certainly I'm hearing good things  
10 about the implementation of Commissioner Jacobs' idea. It's a  
11 very good process.

12 But to the degree issues are not resolved through the  
13 collaborative, is there a sufficient way, an expeditious way to  
14 bring those matters to the staff and then to the Commission for  
15 timely resolution? I don't want them hanging out in the  
16 collaborative forever.

17 MS. HARVEY: Our intent, Chairman, was to monitor  
18 what's happening in the collaborative on an ongoing basis. And  
19 if we see that issues aren't being taken up in an expeditious  
20 manner, to bring them back to you.

21 CHAIRMAN JABER: Okay. Do you know if there are some  
22 issues that need to come back to us?

23 MS. HARVEY: Not at this point.

24 CHAIRMAN JABER: There are no issues at this point or  
25 you're --

1 MS. HARVEY: There are no issues that need to come  
2 back to you at this point.

3 CHAIRMAN JABER: Okay. Commissioners, those were the  
4 only questions I had.

5 COMMISSIONER DEASON: Madam Chairman, if there are no  
6 other questions, I can move staff's recommendation on Issue 1.

7 CHAIRMAN JABER: We may be able to do it all  
8 together. Is there a second on Issue 1 or -- there are only  
9 two issues in the attachments, two issues, Ms. Harvey; right?

10 MS. HARVEY: That's correct.

11 CHAIRMAN JABER: The attachments and all of the  
12 discussion with respect to the test are included in those two  
13 issues. Do you still want to take them separately,  
14 Commissioner?

15 COMMISSIONER DEASON: I don't mind. I can make a  
16 motion to approve issues -- both issues.

17 CHAIRMAN JABER: Okay.

18 MS. KEATING: Madam Chairman?

19 CHAIRMAN JABER: Yes.

20 MS. KEATING: If I may, I need to make the same  
21 correction on Issue 2 that I made on Issue 18 in the previous  
22 recommendation.

23 CHAIRMAN JABER: Which is -- go ahead.

24 MS. KEATING: "Final order" should be changed to  
25 "consultative opinion."

1 CHAIRMAN JABER: There's a motion to approve staff on  
2 Issues 1 and Issues 2 on Track B, and that will include the  
3 modification that this is a consultative opinion that will be  
4 included in the transmittal letter to the FCC. Is there a  
5 second?

6 COMMISSIONER BAEZ: I can second.

7 CHAIRMAN JABER: There's a motion and a second to  
8 approve staff on Issues 1 and Issue 2 as modified. All those  
9 in favor, say aye.

10 (Unanimous affirmative vote.)

11 CHAIRMAN JABER: Issues 1 and 2 are approved. And  
12 that concludes the discussion on Track B.

13 Is there anything else we need to do?

14 MS. KEATING: None that I'm aware of, Madam Chairman.

15 CHAIRMAN JABER: Okay. Commissioners, this concludes  
16 special agenda for this morning. Thank you.

17 (Special Agenda concluded at 10:45 a.m.)  
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1 STATE OF FLORIDA     )  
2                             :             CERTIFICATE OF REPORTER  
3 COUNTY OF LEON        )

4

5             I, LINDA BOLES, RPR, Official Commission  
6 Reporter, do hereby certify that the foregoing proceeding was  
heard at the time and place herein stated.

7             IT IS FURTHER CERTIFIED that I stenographically  
8 reported the said proceedings; that the same has been  
transcribed under my direct supervision; and that this  
9 transcript constitutes a true transcription of my notes of said  
proceedings.

10            I FURTHER CERTIFY that I am not a relative, employee,  
11 attorney or counsel of any of the parties, nor am I a relative  
or employee of any of the parties' attorneys or counsel  
12 connected with the action, nor am I financially interested in  
the action.

13                            DATED THIS 11TH DAY OF SEPTEMBER, 2002.

14

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