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November 19, 2003

Mrs. Blanca S. Bayó
Director, Division of the Commission Clerk and
Administrative Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Re: Docket No. 000121A-TP (OSS)

Dear Ms. Bayó:

Enclosed are an original and fifteen copies of BellSouth's Response in Opposition to CLEC Coalition Motion For Clarification of the Commission's November 14, 2002 Order, which we ask that you file in the captioned docket.

A copy of this letter is enclosed. Please mark it to indicate that the original was filed and return the copy to me. Copies have been served to the parties shown on the attached Certificate of Service.

Sincerely,


J. Phillip Carver (JPC)

Enclosures

cc: All parties of record
Marshall M. Criser, III
Nancy B. White
R. Douglas Lackey

DOCUMENT NUMBER DATE

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FPSC-COMMISSION CLERK

CERTIFICATE OF SERVICE
Docket No. 000121A-TP

I HEREBY CERTIFY that a true and correct copy of the foregoing was served via

First Class U. S. Mail this 19th day of November, 2003 to the following:

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**(+) Signed Protective
Agreement**

#237366

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Performance Measurements for)
Telecommunications Interconnection,)
Unbundling and Resale)
_____)

Docket No. 000121A-TP
Filed: November 19, 2003

**BELLSOUTH'S RESPONSE IN OPPOSITION TO
CLEC COALITION MOTION FOR
CLARIFICATION OF THE COMMISSION'S NOVEMBER 14, 2002 ORDER**

BellSouth Telecommunications, Inc. ("BellSouth") hereby files its Response in Opposition to the Motion of AT&T Communications of the Southern States, LLC, DIECA Communications, Inc. d/b/a Covad Communications Company, ITC^DeltaCom Communications, Inc; MCI WorldCom, Inc., Network Telephone Corporation, and NuVox Communications, Inc. (collectively "CLECs") For Clarification of the Commission's November 14, 2002 Order, and states the following:

1. As the CLECs acknowledge in their Motion, the pertinent portion of the Commission's Order of November 14, 2002 required "BellSouth to hire a third party to ensure ... BellSouth's compliance with the requirement to assign 50% of the software capacity for changes to CLEC requests and 50% to BellSouth", ... (CLEC Motion, p. 1). Nevertheless the CLECs demand in their Motion that BellSouth not be allowed to proceed any further with the third party verification (which the CLECs mistakenly label as "the audit") without CLEC input. The CLECs also raise a number of individual issues that they contend must be included in the third party verification. The CLECs contentions, however, are completely without merit. As will be explained in further detail below, there is no requirement that the subject verification be in the form of an "audit", and there is also no requirement in the Order that the CLECs be involved in this process. Moreover, the CLECs have raised a variety of issues that are well outside of the

proper scope of the verification process, and that should not be a part of this process. Thus, the CLECs have requested that the Commission “clarify” its Order of November 14, 2002 to impose additional requirements that are clearly not a part of that Order. Therefore, the CLECs’ motion should be denied in its entirety.

2. As stated in the *Order Requiring Implementation of the End-To-End Process, Draft Version 2.1* (Order Number PSC-02-1034-FOF-TP, Issued July 30, 2002) (“Order”) BellSouth proposed to resolve an issue raised by KPMG Consulting in the context of the Third Party Test of BellSouth’s OSS (Exception 88) by offering the “50/50 plan”. (Order, pp. 5-6). The Order summarized the plan as providing that “after all scheduled defects are corrected, all regulatory mandates implemented, and all needed updated industry standards are built, ALECs and BellSouth share equally the remaining release capacity for the year”. (Order, p. 6). The Order noted that AT&T opposed this proposal, and instead contended that every single change should “require ALEC concurrence”. (Order, p. 7). In other words, AT&T claimed that the CLECs should have veto power over the entire change control process.

3. The Commission rejected AT&T’s proposal, and, instead, adopted the BellSouth 50/50 plan. In reaching this determination, the Commission noted the possibility that AT&T’s proposal would delay systemic changes that would benefit all CLECs. (Order, pp. 7-8). The Commission also observed that “ALECs will have visibility into the impacts of changes on the systems they use”. (*Id.*, p. 7). Finally, the Commission stated that “BellSouth has committed to third-party verification of capacity used and remaining after each new software release”. (*Id.*) The duty of BellSouth to obtain the verification that capacity is being allocated according to the 50/50 plan arises entirely from this portion of the Order. Thus, it is obvious that there is no requirement to perform a full fledged audit. This makes perfect sense, given the fact that BellSouth’s change control process has been thoroughly audited on a global basis as a result of

Third Party Tests under the authority of this and other State Commissions, and as part of the process whereby BellSouth ultimately received 271 approval for every state in its region.¹

Moreover, it is also clear that the Order contains absolutely no requirement that CLECs play a part in designing or monitoring the verification process.

4. The CLECs complain that, although the Order was entered on November 14, 2002, BellSouth did not notify the Commission that it was attempting to comply with this portion of the Order until August 14, 2003. (CLEC Motion, p. 1). What the CLECs overlook, however, is the obvious fact that the data cannot be verified until the data exists. The 50/50 plan went into effect on January 1, 2003. The first data that reflected BellSouth's compliance with the plan was produced on May 15, 2003, for the first quarter of 2003. Thus, the verification process obviously could not have begun until after that time. Further, the 1st Quarter 2003 Monitoring and Post Release Capacity Utilization Report review process was completed and the PwC Attestation Report was filed with the Commission on September 25, 2003, slightly more than a month after the notification.²

5. The CLECs also complain about the structure of the verification, and state that it is more similar to a financial audit than a proper change management process audit. (CLEC Motion, p. 1). Putting aside the fact that the verification process is not an audit, the structure of the process was largely the result of decisions made by the third party that reviewed the data, PriceWaterhouseCoopers ("PwC"). Under the form suggested by PwC, BellSouth provided the

¹ See, Order on Process for Third-Party Testing, *In re: Consideration of BellSouth Telecommunications, Inc.'s Entry into InterLATA Services Pursuant to Section 271 of the Federal Telecommunications Act of 1996*, FL PSC Docket No. 960786-TL (Aug. 9, 1999); Order on Petition for Third-Party Testing, *In re: Investigation into Development of Electronic Interfaces for BellSouth's Operational Support Systems*, GA PSC Docket No. 8354-U (May 20, 1999); Memorandum Opinion and Order, *Joint Application by BellSouth Corporation, et al., for Provision of In-Region, InterLATA Services in Georgia and Louisiana*, 17 FCC Rcd 9018 (2002).

² Further, the CLECs have been well apprised of this process. Conference calls were held to address Staff and CLEC questions on October 2, 2003 and November 12, 2003, and more discussions will occur in the future as the process progresses.

first quarter results referred to above in the form of a Report entitled, “Monitoring and Reporting Post-Release Capacity Utilization”, dated August 15, 2003 (“Capacity Report”), and made a series of representations concerning this Report. PwC then attested to the accuracy of these representations. (The PwC Report is Attachment 1 hereto). The Capacity Report (which is Attachment 1 to the PwC Report) states that after capacity is utilized for maintenance, regulatory mandates, and defects, 8.9% of the total capacity was utilized by BellSouth during this time period, and 30.6% was utilized by the CLECs. In other words, the CLECs actually utilized approximately three times the capacity that BellSouth utilized.

6. It is noteworthy that the CLECs have not complained about the actual results or about the content of the representations made by BellSouth, to which PwC has attested. Instead, the CLECs’ complaints focus primarily on six additional areas of inquiry that they say should have been reviewed in the verification process. Even a cursory review of these six items, however, reveals that they actually have nothing to do with the verification that BellSouth was ordered to obtain. Each of these six areas go to the general issue of forecasting the capacity that will be required to process individual change requests. As such, they are well beyond the scope of the Order’s mandate to obtain “independent verification of capacity used”. (Order, p. 7). (emphasis added).

7. The total capacity devoted to make all changes is 3000 units. One unit equals approximately 100 Release Cycle Hours.³ Devoting this amount of capacity to changes costs BellSouth approximately 108 million dollars per year. The FCC specifically ruled in the context

³ Each release cycle hour equals one hour of time attributable to planning, analysis, design, code development, testing and implementation of a change request.

of BellSouth's Five-State 271 application, that this amount of capacity is adequate to allocate for all purposes.⁴

8. Again, all of the CLECs additional questions focus on forecasting of future capacity usage. For example, the CLEC questions address which systems are the possible subject of changes (Question 2), whether the capacity is different for different systems, (Question 3), and how BellSouth forecasts the capacity that will be required for each change. (Question 1) In other words, the CLECs are arguing for a review of the systematic process whereby BellSouth forecasts how capacity will be utilized on a going-forward basis. This, however, has nothing to do with the verification that BellSouth was required to do under the Order.

9. BellSouth was required by the Order to obtain verification that the 50/50 plan is being followed. To accomplish this, BellSouth issued a report, which demonstrates that the CLECs utilized three times as much capacity as BellSouth, and PwC verified the accuracy of this report. PwC did this by reviewing the records of time that vendors actually spent to implement changes requested by the CLECs and by BellSouth. There is nothing in this process, nor should there be, to address whether BellSouth is accurately forecasting changes that will be made in the future. In point of fact, if there is a problem with the forecast process, it would appear to work in favor of the CLECs. Although BellSouth is only required to devote the same capacity to the CLECs' changes as it uses for its own, for the first quarter of 2003, the CLECs used three times as much capacity for their changes as BellSouth used. The point, however, is that the capacity forecasting process is completely unrelated to the requirements of the Order, and it is unrelated to the actual work that PwC appropriately did to verify that BellSouth is following the 50/50 plan.

⁴ Memorandum Opinion and Order, *Joint Application by BellSouth Corporation, et al., for Provision of In-Region, InterLATA Services Alabama, Kentucky, Mississippi, North Carolina and South Carolina*, WC Docket No. 02-150, 17 FCC Rcd 17595, ¶ 185 (2002).

10. The CLECs also raised three particular questions relating to defects, and they contend that BellSouth has taken some improper action in this area. The CLECs question whether time is properly being assigned to maintenance, and they also question what they allege is the “incorrect assignment of vendor hours”. Both of these issues, however, are within the scope of the verification process that is being performed by PwC. Therefore, no further action is needed.

11. Beyond this, the CLECs claim that the capacity needed for certain corrections “should not be taken from the percentage of capacity allocated to CLECs”. (CLEC Motion, p. 3). In other words, the CLECs claim that the time necessary to correct these defects should not be taken from the general pool of capacity before determining the portion that is available to be split 50/50 between BellSouth and the CLECs. Instead, the CLECs contend that the time attributable to this defect correction should be taken from BellSouth’s 50%. Again, the CLEC’s have raised an issue that is not within the scope of the ordered verification process. The Order made clear that it approved the process proposed by BellSouth, a process in which the time attributable to defect correction is taken from the general capacity before arriving at the remaining capacity, which is split between BellSouth and the CLECs. Obviously, a process in which BellSouth’s compliance with the Order is being verified is not the appropriate forum for the CLECs to challenge a process approved by the Order, with which they apparently now do not agree.

12. Finally, the CLECs also contend that the verification process should address the question of how payments (in effect, rebates) from vendors for defective software have been applied. Specifically, the CLECs contend that they should receive a portion of these payments. (CLEC Motion, p. 3). Of all the CLEC issues that are beyond the scope of the verification that BellSouth was ordered to conduct, this one is perhaps farthest afield. The issue to which the CLECs refer is that, in a single instance, BellSouth was given a rebate by a vendor, and these funds will be appropriately applied to OSS costs that would otherwise be recoverable from the


CLECs.⁵ If the CLECs actually believe that the funds were somehow misallocated, then they are free to file a complaint to this effect (although such a complaint would obviously have no merit). However, there is no basis to include this contention in the third party verification.

13. The CLECs' motion fails entirely to cite any portion of the Order that mandates their participation in the verification process. Further, the CLECs have raised nothing that should be included in the verification process that BellSouth and PwC have not included. However, the CLECs motion does vividly depict a compelling reason that they should not be more involved in the verification process: their proclivity for raising irrelevant issues and attempting to inappropriately expand the scope of the verification. If the CLECs were allowed to have, in effect, veto power over how a third party conducts its verification, then one can only assume, on the basis of their actions so far, that they would misuse this power to continue to interject inappropriate issues into the verification process ad infinitum. Again, the CLECs have no support for their demand for increased involvement in the verification process, and they have raised no issues that can appropriately be added to this process.

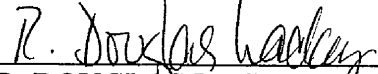
WHEREFORE, BellSouth respectfully requests the entry of an Order denying the CLECs Motion in its entirety.

⁵ These funds will be factored into the appropriate service ordering charges, which will be developed in future cost studies to determine recoverable OSS costs.

Respectfully submitted this 19th day of November, 2003.



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COUNSEL FOR BELLSOUTH
TELECOMMUNICATIONS, INC.

513634

BellSouth Telecommunications, Inc.
Examination Attestation of the
Monitoring and Reporting Post Release Capacity
Utilization Report
Released on August 15, 2003

Report of Independent Accountants

To Management of BellSouth Telecommunications, Inc.:

We have examined BellSouth Telecommunication, Inc. (the "Company") management's assertion, included in the accompanying *Report of Management Assertions on BellSouth Telecommunication's Change Control Appendix I Reporting* that the Monitoring and Reporting Post Release Capacity Utilization Report (the "Report"), dated August 15, 2003, accurately reports, by category, the number of units dedicated to Change Requests (CRs) for the first quarter of 2003 as received by BellSouth from its vendors. Management is responsible for the Company's assertions. Our responsibility is to express an opinion on the Company's assertion based on our examination.

Our examination was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants and, accordingly, included examining, on a test basis, evidence supporting management's assertion and performing such other procedures as we considered necessary in the circumstances. We believe that our examination provides a reasonable basis for our opinion.

The Report also contains by category, the number of units dedicated to CRs for the second quarter of 2003 as received by BellSouth from its vendors. Management has not yet provided an assertion related to these amounts, therefore we do not express an opinion or any other form of assurance on the second quarter 2003 amounts at this time.

In our opinion, the Assertion related to the accurate reporting, by category, the number of units dedicated to CRs in the Monitoring and Reporting Post Release Capacity Utilization Report, dated August 15, 2003, for the first quarter of 2003 as received by BellSouth from its vendors is fairly stated, in all material respects, based on the criteria set forth in the Assertion.

This report is intended solely for the information and use of BellSouth Corporation and BellSouth Telecommunications, Inc. and appropriate regulatory agencies and is not intended to be and should not be used by anyone other than these specified parties. However, this report is a matter of public record and distribution is not limited.

PricewaterhouseCoopers LLP

PricewaterhouseCoopers LLP
August 28, 2003

BellSouth Telecommunications, Inc.
675 West Peachtree Street, N.E.
Atlanta, GA 30375

*Report of Management Assertions on BellSouth Telecommunication's Change
Control Appendix I Reporting*

Management of BellSouth Telecommunications (BellSouth) asserts that the Monitoring and Reporting Post Release Capacity Utilization Report included as Attachment A, dated August 15, 2003, accurately reports, by category, the number of units dedicated to Change Requests (CR) for first quarter 2003 as received by BellSouth from its vendors based on the criteria below.

The following describes the terms "accurately" and "units" criteria:

Monitoring and Reporting Post Release Capacity Utilization Report Accuracy

BellSouth Management asserts that the Monitoring and Reporting Post Release Capacity Utilization Report accurately reports the category and number of units dedicated to the Change Requests for the first quarter 2003. As it relates to this assertion, "accurately" will be assessed according to the following processes:

- Accepting features and defects Change Request hours from BellSouth's vendors,
- Converting Change Request hours to Change Request units,
- Assigning Change Request units by Change Request category, and
- Summarizing units by Change Request category for inclusion in the Monitoring and Reporting Post Release Capacity Utilization Report.

As it relates to this assertion, "units" is defined as:

A unit is equal to 100 Change Request Development and Testing labor hours dedicated to Change Requests per the BellSouth Change Control Process Guide, dated August 26, 2003.



William Stacy
Operations Vice President

BellSouth Telecommunications, Inc.
675 West Peachtree Street, N.E.
Atlanta, GA 30375

September 10, 2003

PricewaterhouseCoopers LLP
1155 Peachtree Street, Suite 1100
Atlanta, Georgia 30309

We are providing this letter in connection with your examination of management's assertion, included as Attachment A, for the purpose of expressing an opinion as to whether the Monitoring and Reporting Post Release Capacity Utilization Report, dated August 15, 2003, accurately presents, in all material respects, by category, the number of units dedicated to Change Requests for the first quarter 2003 as received by BellSouth from its vendors, based on the criteria presented in Attachment A, as of August 15, 2002.

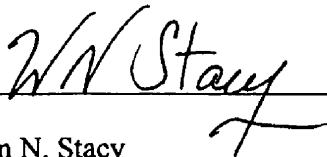
We confirm, to the best of our knowledge and belief, as of August 28, 2003, the date of your report, the following representations made to you during your engagement:

1. We are responsible for ensuring the accuracy of the Monitoring and Reporting Post Release Capacity Utilization Report, dated August 15, 2003.
2. We are responsible for the presentation of the assertions and the appropriateness of the measurement and disclosure criteria on which they are based.
3. We are responsible for establishing and maintaining effective internal controls over the reporting by category, the number of units dedicated to Change Requests in the Monitoring and Reporting Post Release Capacity Utilization Report, dated August 15, 2003.
4. We have performed an evaluation of the accuracy of the Monitoring and Reporting Post Release Capacity Utilization Report, dated August 15, 2003.
5. We have disclosed to you all known items that potentially affect the accuracy of the Monitoring and Reporting Post Release Capacity Utilization Report, dated August 15, 2003, for the first quarter 2003. Additionally, we have disclosed to you any written communications from regulatory agencies, internal auditors, and other practitioners concerning possible inaccuracies of the Monitoring and Reporting Post Release Capacity Utilization Report, dated August 15, 2003, for the first quarter 2003.

BellSouth Telecommunications, Inc.
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6. We have made available to you all information that is relevant to the Monitoring and Reporting Post Release Capacity Utilization Report, dated August 15, 2003.
7. We have disclosed and provided all exceptions or issues related to the accuracy of the first quarter 2003 of the Monitoring and Reporting Post Release Capacity Utilization Report, dated August 15, 2003, and there are no matters contradicting the assertions, including all exceptions noted, or any written communications from regulatory agencies affecting the assertions.
8. All requested documentation was provided to you without any alteration of contents.

To the best of our knowledge and belief, no events have occurred subsequent to August 28, 2003, and through the date of this letter that have an effect on the completeness and accuracy of the assertion.



William N. Stacy
Operations Vice President

Attachment A



Appendix I – Reporting Post-Release Capacity Utilization

Monitoring and Reporting Post-Release Capacity Utilization (August 15, 2003)¹

2003 Annual Release Capacity Utilization – YTD Quarterly Report										
Categories	1Q		2Q		3Q		4Q		YTD / EOY	
	Units	%	Units	%	Units	%	Units	%	Units	%
Maintenance	106.3 ^{a,b}	32.9	297.0	31.4	0	0	0	0	403.3	31.9
PSN Mandate	3	.9	14.7	1.6	0	0	0	0	17.7	1.4
Regulatory (Type 2)	40.3 ^c	12.5	0	0	0	0	0	0	40.3	3.2
Defects (Type 6)	31.3 ^d	9.7	275.7	29	0	0	0	0	307	24
Industry (Type 3)	0	0	0	0	0	0	0	0	0	0
BellSouth (Type 4)	0	0	113.1	12	0	0	0	0	113.1	8.9
CLEC (Type 5)	142.2	44	245.9	26	0	0	0	0	388.1	30.6
Total	*323.1	100	946.4	100	0	0	0	0	1269.5	100

Please note revision to 1st Quarter Actuals. 1st Quarter Actuals were corrected to include the following modifications: (1) hours worked on items that were canceled prior to Release Implementation after work was performed and (2) corrected hours reported on two items. Those capacity units are now included in the revised 1st Quarter Actuals.

^aThree Maintenance items (one item in Release 11.1 and two items in Release 12.0) were canceled prior to implementation after work was performed, those units are now reflected in the 1st Quarter Capacity Units.

^bTwo Maintenance items were revised; one item in Release 11.0c and one item in Release 12.0. Maintenance was previously reported as 106.1.

^cA Type 2 item for Release 12.0 was canceled prior to implementation after work was performed (previously reported as 39.6), those units are now reflected in the 1st Quarter Capacity Units.

^dTwo Type 6 items for Release 11.1 were canceled prior to implementation after work was performed (previously reported as 30.4), those units are now reflected in the 1st Quarter Capacity units.

¹ Depicts capacity hours for 2nd Quarter calendar year 2003. Attached to this report is a list of all Type 2, 3, 4, 5, 6 change requests that were implemented.