

## **SUMMARY**

On May 1, 2001 the Georgia Public Service Commission (“Commission”) voted to adopt a Procedural and Scheduling Order to initiate a review of BellSouth Telecommunications, Inc. (“BellSouth”) compliance with section 271 of the 1996 Federal Telecommunications Act. The Order approved by the Commission provided all interested parties with the opportunity to file initial comments on June 30, 2001; and reply comment were due on July 16, 2001. In response to the Commission’s directive, BellSouth and Competing Local Exchange Carriers (“CLECs”) submitted exhaustive comments.

After conducting an extensive review of the comments filed and application of the review standards established by the Federal Communications Commission (“FCC”), the Commission at its October 2, 2001 Administrative Session, found that BellSouth had met the competitive checklist set forth in section 271 of the 1996 Federal Telecommunications Act. The Commission based its finding on the totality of the evidence submitted by the parties. Since the passage of the 1995 State Telecommunication and Competition Development Act and the 1996 Federal Telecommunications Act, the Commission has conducted critically important proceedings concerning BellSouth’s section 271 compliance open to participation by all interested parties. The Commission has provided for third-party testing of BellSouth’s Operations Support Systems (“OSS”) offerings. In addition, the Commission has

adopted a broad range of performance measures and standards and initiated a Performance Assurance Plan designed to create a financial incentive for both, pre-entry and post-entry compliance with section 271.

As a result of the Commission's directives, BellSouth has undertaken the necessary steps to open its local exchange market to competition in Georgia. The FCC has repeatedly stated in its previous Orders that the most probative evidence to demonstrate that local markets are irreversibly open is commercial usage. The Commission finds that as of July, 2001, CLECs served over 815,000 local lines in BellSouth's Georgia service area. This total includes over 715,000 facilities-based access lines. BellSouth is providing more than 261,000 interconnection trunks and 700 collocation nodes to CLECs. In addition BellSouth is providing more than 228,000 unbundled local loops, including more than 84,000 stand-alone unbundled local loops and more than 144,000 unbundled loops provided as part of an unbundled network element platform (UNE-P). There is also an active resale market in Georgia. BellSouth provides more than 100,000 resold local exchange lines, including 27,000 business lines and 73,000 residential lines. These results bear out the fact that BellSouth has made extensive efforts to open its local markets in compliance with the requirements of the Act.

## **I. OVERVIEW OF GEORGIA PUBLIC SERVICE**

### **COMMISSION PROCEEDINGS TO OPEN THE LOCAL MARKET**

#### **A. Introduction**

Since 1995, the Georgia Public Service Commission has been actively involved in opening the local telephone market to competition. Through numerous dockets, which will be highlighted herein, and hands-on participation in implementing its decisions, the Commission has worked hard to bring competition to local consumers in Georgia and to ensure that BellSouth has complied, and will continue to comply, with its obligations under state and federal law. The Commission's efforts have been successful, as both resale and facilities-based local competition is thriving in Georgia.

### **B. Statutory History**

The Georgia General Assembly passed the Telecommunications and Competition Development Act of 1995, effective July 1, 1995 (hereinafter the "State Act"). O.C.G.A. § 46-5-160 et seq. The purpose of the State Act was to establish a new regulatory model for telecommunications services in Georgia to reflect the transition to a reliance on market-based competition as the best mechanism for the selection and provision of needed telecommunications services with the most efficient pricing.

The United States Congress passed the Telecommunications Act of 1996 in February 1996 (hereinafter the "Federal Act"). Sections 251 and 252 of the Federal Act imposed certain obligations on Incumbent Local Exchange Carriers ("ILECs") to open the local markets to competition. Section 271 of the Federal Act set forth the checklist of obligations with which ILECs must comply in order to be granted access to in-region, interLATA markets.

### **C. Commission Dockets**

#### **Docket No. 5777-U: Filing Requirements for Notification of Alternative Regulation**

This docket established guidelines for local exchange companies holding Certificates of Authority prior to July 1, 1995, which elected to be “alternatively regulated” under the State Act. Electing alternative regulation provided pricing flexibility for most telecommunications services to ILECs. The Commission issued its Order on May 16, 1995.

#### **Docket No. 5778-U: Filing Requirements for New Telecommunications Certificates of Authority**

On May 16, 1995, the Commission established guidelines for CLECs seeking Certificates of Authority to provide competing local service in Georgia. The Commission issued a Supplemental Order on October 24, 1996, clarifying the procedures for interim status of these certificates and the reports to be filed for review prior to granting permanent CLEC certificates.

#### **Docket No. 5840-U: Long Term Number Portability**

This docket was one of the first dockets opened by the Commission to implement the provisions of the State Act. The Commission scheduled a series of workshops, open to all industry participants, beginning in August 1995. During the course of the workshops, the Commission charged the industry with the following responsibilities:

Developing the data base solution criteria for Local Number Portability (“LNP”); soliciting bids from vendors; selecting a vendor; and, establishing implementation plans and schedules. On January 8, 1996, at the direction of the Commission, the Industry Selection Team issued its report and recommendation. Once the plan was adopted, the industry committee set about implementing LNP under the Commission’s supervision. Due to the involvement and foresight of the Commission on this issue, LNP was implemented in Georgia in compliance with the implementation schedule adopted by the FCC. The industry committee established by the Commission became the Southeastern LLC, and pioneered much of the developmental work for LNP on a national level.

**Docket No. 6352-U: Petition by AT&T Communications of the Southern States, Inc. to Establish Resale Rules, Rates, Terms and Conditions and the Initial Unbundling of Services**

In this docket, the Commission established the wholesale discounts applicable to BellSouth residential and business local exchange services that are resold by CLECs. The docket was initiated in late 1995, before the passage of the Federal Act. The Commission set discount levels and terms and conditions in early 1996. The Commission set the wholesale discounts at 17.3% for business service and 20.3% for residence service. The Commission also determined appropriate rates, terms and conditions applicable to the resale of BellSouth's retail services. The Commission conducted five days of hearings on this matter, generating a transcript in excess of 1,000 pages. During the course of the docket, the Commission also addressed electronic interfaces for access to BellSouth's OSS, finding that BellSouth was required to provide

access for the following OSS functions: (1) pre-ordering; (2) ordering; (3) provisioning; (4) maintenance and repair; and (5) billing.

**Docket No. 6759-U: Petition by MFS Communications Company, Inc. for Arbitration of Interconnection Rates, Terms and Conditions with BellSouth**

In a twenty-five-page order issued on November 8, 1996 in an arbitration initiated by MFS, the Commission established interim rates for unbundled loops offered by BellSouth. The Commission also resolved issues relating to the rates, terms and conditions for collocation and information services.

**Docket No. 6801-U: Petition by AT&T Communications of the Southern States, Inc. for Arbitration of Interconnection Rates, Terms and Conditions with BellSouth**

On December 4, 1996, the Commission issued its ninety-six page Order in an arbitration initiated by AT&T Communications of the Southern States, Inc. ("AT&T"). The Commission conducted four days of hearings in this matter and reviewed prefiled direct and rebuttal testimony from the parties, including voluminous cost exhibits. The Commission resolved numerous issues, including: (1) resale of contract service arrangements; (2) branding of operator services; (3) customized routing via line class codes; (4) unbundling of network elements; and (5) rates for unbundled network elements.

**Docket No. 6865-U: Petition by MCI Telecommunications Corporation for Arbitration of Interconnection Rates, Terms and Conditions with BellSouth Telecommunications, Inc. under the Telecommunications Act of 1996**

On December 8, 1996, the Commission issued its 112-page order, which was supplemented on April 9, 1997, resolving numerous arbitration issues raised by MCI. Again, this arbitration presented the Commission with the opportunity to address many critical issues regarding local competition while the Federal Act was still in its implementation infancy. Some of the issues the Commission addressed in this arbitration included: (1) resale of grandfathered N11/911/E911 and Linkup/Lifeline services; (2) access to OSS, including receipt of customer service records; (3) unbundling of dark fiber; and (4) collocation.

**Docket No. 6958-U: Petition of Sprint Communications Company L.P. for Arbitration of Interconnection Rates, Terms and Conditions with BellSouth Telecommunications, Inc. Under the Telecommunications Act of 1996**

The Commission issued its twenty-five page order in this docket on January 14, 1997. Sprint Communications Company L.P.'s ("Sprint") arbitration was the last in the series of initial arbitrations that addressed many of the crucial issues surrounding local competition. In this proceeding, the Commission addressed, among others, the following issues: (1) the scope of a CLEC's "opt in" rights under Section 252(i); (2) points of interconnection; and (3) trunking arrangements.

**Docket No. 6863-U: In re: BellSouth Telecommunications, Inc.'s Entry Into InterLATA Services Pursuant to Section 271 of the Telecommunications Act**

The Commission's assessment of BellSouth's compliance with the requirements of Section 271 of the Federal Act began in September 1996 with the establishment of Docket No. 6863-U, which was one of the first such proceedings in the country. The Commission issued a series of questions to BellSouth, and in early January of 1997 BellSouth filed its responses. Since 1997, the Commission has spent an enormous amount of time conducting formal hearings, holding collaborative workshops, and reviewing tens of thousands of pages of filed materials concerning BellSouth's compliance with Section 271. The Commission held 18 days of hearings in March, July, and August 1997, generating a transcript that is 5900 pages in length.

On October 15, 1998, the Commission Staff entered its 160-page Report and Opinion, the purpose of which was to assess "the compliance of BellSouth Telecommunications, Inc ... with the checklist requirements of Section 271 of the Telecommunications Act of 1996." Of the 14-point checklist, the Staff recommended approval of BellSouth on seven checklist items; made no determination on four checklist items; and declined to recommend BellSouth on three checklist items. The Staff also proposed a schedule pursuant to which BellSouth would file supplemental information responding to each area of concern raised by the Staff for further consideration by the Commission. By November 1998, BellSouth had filed all such requested information. The Staff further concluded that on or before the date BellSouth files its application for in-region long distance authority with the FCC, BellSouth must provide the Commission with an actual and complete copy of its FCC filing.



On May 7, 2001, the Commission entered a procedural schedule for the filing of written comments addressing BellSouth's compliance with Section 271. Initial comments were filed on May 31, 2001, and reply comments were filed on July 16, 2001. The Commission has received thousands of pages of comments and supporting materials from BellSouth and interested parties.

**Docket No. 7253-U: BellSouth Telecommunications, Inc.'s Statement of Generally Available Terms and Conditions Under Section 252(f) of the Telecommunications Act of 1996**

On January 22, 1997, BellSouth filed its first Statement of Generally Available Terms and Conditions ("SGAT") setting forth the terms and conditions pursuant to which BellSouth would make available interconnection, services, rates and related items required under sections 251, 252 and 271 of the Federal Act. Sixteen CLECs intervened in the proceeding and were given a full and fair opportunity to participate. The Commission opened Docket No. 7253-U to consider the SGAT, and consolidated it with Docket No. 6863-U for purposes of maintaining a single record of the proceedings. After a hearing and a thorough consideration of the evidence presented, the Commission issued a 35-page order that rejected BellSouth's SGAT, and set forth the requirements that would need to be met for BellSouth's SGAT to be approved. The Commission kept the docket open to review future SGAT filings.

On June 6, 1997, BellSouth filed a revised SGAT with the Commission. The Commission set a procedural schedule and conducted extensive hearings on the revised SGAT during the summer of 1997. On October 29, 1997, the Commission issued an

Interim Order allowing BellSouth's revised SGAT to take effect. At the same, the Commission set forth additional steps that BellSouth must take to further its efforts under Sections 251 and 252 of the Federal Act. The Commission explicitly provided that allowing the SGAT to take effect had "no preclusive or precedential effect on any BellSouth application for interLATA services under Section 271, especially in view of the additional development needed for such items as OSS electronic interfaces and performance standards." (Order, at 4). Thus, the Commission made clear that it intended to stay involved in the development of a competitive market despite the fact that it was allowing the SGAT to take effect.

Subsequent to the Commission's October 29, 1997 Order, BellSouth made a series of filings to comply with the Commission's directives. These filings included a Second Revised SGAT, Contract Service Arrangements, a revised Collocation Handbook, and BellSouth's Service Quality Measurements ("SQMs"). The Commission allowed interested parties to submit written comments on BellSouth's Second Revised SGAT. After extensive review of these comments, the Commission issued its sixty-one page Final Decision on July 23, 1998, which approved BellSouth's Second Revised SGAT in accordance with Section 252(f) of the Federal Act. However, the Commission ordered a number of modifications to BellSouth's SGAT, including: (1) adding language stating that the Commission would continue to monitor the implementation of LNP and that LNP would be incorporated into SGAT when available; (2) adding language requiring Commission review of standard licensing agreements and monitoring of the timeliness of the provision of access to poles, ducts and conduit; (3) requiring the continued submission by BellSouth of OSS progress reports in Docket No. 8354-U and

the performance measurement reports in Docket No. 7892-U; (4) incorporating procedures for disconnecting resellers; (5) requiring Commission approval of any changes to BellSouth's SGAT; and (6) requiring that BellSouth notify the Commission in writing when it determines there is insufficient space available at a certain location to accommodate a request for physical collocation. In August and September 1998 BellSouth made several filings to comply with the Commission's July 23, 1998 Order. BellSouth has since filed with the Commission several revisions to its SGAT to incorporate decisions of the Commission and the FCC.

**Docket No. 7061-U: Review of Cost Studies, Methodologies, and Cost-based Rates for Interconnection and Unbundling of BellSouth Telecommunications Services**

In 1997, the Commission initiated a docket to adopt a cost methodology and establish rates for unbundled network elements and interconnection services. Several pre-hearing conferences and informal workshops were held to review the various cost models presented by the parties in this case. Numerous data requests were served and answered by the parties. Fifteen intervenors participated in the hearing, which took place in September 1997 lasting five days. The transcript (including exhibits) exceeded 6,000 pages, and the Commission entered a 65-page order establishing rates for unbundled network elements and interconnection services in December 1997, noting that "[t]he setting of these rates concludes a substantial leg of the journey toward full competition in the telecommunications marketplace in Georgia." (Order, at 3).

Importantly, the Commission conducted an independent analysis of the evidence in the case prior to adopting a cost methodology. Ultimately, while the Commission

adopted BellSouth's cost models, it made significant modifications to BellSouth's inputs in establishing rates consistent with FCC rules. For example, the Commission set an unbundled loop rate of \$16.51, a rate comparable to the FCC proxy rate of \$16.09.

**Docket No. 8354-U: Investigation Into Development of Electronic Interfaces for BellSouth's Operations Support Systems**

One of the most hotly contested issues surrounding BellSouth's entry into in-region long distance is the degree to which it is providing nondiscriminatory access to its OSS. Access to OSS was one of the main topics of discussion in numerous arbitration hearings, and in the hearings addressing BellSouth's SGAT during 1996 and 1997. On October 30, 1997, the Commission issued an order in Docket No. 7253-U directing the Staff to conduct a technical workshop on OSS, including any proposed enhancements, and to submit a report to the Commission. As a result, the Commission initiated the above-styled docket for the purpose of further addressing CLEC concerns about access to BellSouth's OSS.

Informal workshops were held in December 1997. CLECs were encouraged to submit written comments setting forth the enhancements to BellSouth's OSS they believed were necessary. After considering these comments and attending the workshops, the Commission Staff submitted its Report on December 23, 1997, identifying approximately 100 OSS-related items that the Staff believed BellSouth needed to implement. Parties to this docket, including seven intervenors, had the opportunity to comment on the report.

After receiving these comments, the Commission held a three-day hearing for the purpose of “discuss[ing] and propos[ing] any necessary enhancements to BellSouth’s operations support systems which will aid entry by competitive local exchange companies ... into the local market, and to ensure that the systems meet the spirit and the intent of the Telecommunications Act of 1996.” (Order, at 2). The Commission “focused upon the practical aspects of meeting the spirit and intent of the Act in general, and in particular the identification of any necessary enhancements to BellSouth’s OSS which will aid entry by CLECs into the local market.” (Order, at 4). In June 1998, the Commission approved the Staff’s Report as “reasonable and appropriate.” (Order, at 19).

Once again, the Commission chose to remain involved in the process to ensure that BellSouth fulfilled its obligations and implemented the modifications the Commission believed to be necessary to the development of the competition in Georgia. The Commission also ordered BellSouth to file joint progress reports with the CLECs to apprise the Commission on the status of each of the issues. Through the end of 1999, BellSouth held monthly conference calls with the CLECs to discuss progress on each of the issues. After the conference calls, detailed monthly reports were submitted to the Commission.

On May 20, 1999, the Commission ordered BellSouth to conduct an independent, third-party test of the readiness of specific aspects of BellSouth’s OSS, and related electronic interfaces, documentation, and processes supporting local market entry by CLECs in Georgia. The May 20, 1999 Order specified that the third-party testing should focus on the following service delivery methods: (1) unbundled network element analog

loops with and without number portability; (2) unbundled switching ports; and (3) unbundled loop/port combinations. The May 20, 1999 Order also identified the OSS functions to be evaluated and called for normal- and peak-volume testing of BellSouth's interfaces supporting these functions for resale and unbundled network element services.

On January 12, 2000, the Commission issued an order requiring BellSouth to include additional third-party testing of aspects of BellSouth's OSS supporting local market entry by CLECs in Georgia. This additional testing, which was developed following receipt of CLEC comments, included an independent review of: (1) BellSouth's Electronic Interface Change Control Process; (2) pre-ordering, ordering, and provisioning of xDSL-capable loops; (3) pre-ordering, ordering and provisioning, maintenance and repair, and billing of resale services, and (4) processes and procedures supporting the collection and calculation of performance data.

KPMG Consulting, Inc. ("KCI") was retained to conduct the test of BellSouth's OSS. Under the test plan approved by the Commission, KCI filed periodic interim reports outlining the status of the third-party test. The Commission required that copies of the interim reports be served on parties in the docket, and parties were given the opportunity to file a written response to the interim reports. KCI also conducted regular conference calls in which CLECs were invited to participate concerning the status of the third-party test. On March 20, 2001, KCI submitted its Final Report, and a hearing was held on April 30, 2001, in which interested parties were permitted to participate.

**Docket No. 7892-U: Performance Measurements for Telecommunications  
Interconnection, Unbundling and Resale**

In October 1997, the Commission opened a docket seeking input from the industry on various issues relating to performance measurements for BellSouth. Numerous CLECs intervened in the case, and the Commission conducted hearings lasting two days resulting in a transcript exceeding 700 pages in length.

On December 30, 1997, the Commission entered its decision establishing 19 specific performance measurements for BellSouth. The Commission also required that BellSouth file monthly reports documenting its performance. As stated by the Commission, “[p]erformance reports will also assist the Commission in continuing to assess what performance measures are necessary and helpful to the Commission as it strives to meet its obligations in the environment of deregulation and as competition continues to grow in the local exchange markets in Georgia.” (Order, at 26). BellSouth began filing performance data with the Commission in early 1998, and began formal reporting based on the Commission’s requirements in August 1998.

The Commission also accepted its obligation to monitor BellSouth’s on-going compliance with the performance measurements. Specifically, the Commission’s December 30, 1997 order established a dispute resolution process for issues relating to performance measures and reporting. The process provides for joint efforts by the parties to reach resolution in the first instance and an expedited mediation process before the Commission if the parties are unable to resolve their dispute.

In June 2000, the Commission initiated a second phase of the docket in order to refine BellSouth’s performance measurements for interconnection, unbundling, and resale and to establish appropriate enforcement mechanisms. The Commission

conducted hearings in which numerous CLEC intervened and presented testimony. The hearings lasted four days resulting in a transcript exceeding 1,100 pages in length.

On January 12, 2001, the Commission entered its order establishing new performance measurements for BellSouth as well as identifying the applicable benchmark or retail analog against which BellSouth's performance would be judged. The Commission adopted a number of measurements proposed by CLECs. The Commission also adopted a comprehensive enforcement plan comprised of three levels: Tier I enforcement mechanisms, which are triggered when BellSouth fails on any one of the Tier I measurements for a particular month and which results in penalties paid directly to the individual CLECs; Tier II enforcement mechanisms, which are triggered when BellSouth fails at the CLEC aggregate level on any one of the Tier II measurements for three consecutive months and which result in fines paid to the State; and Tier III enforcement mechanisms, which requires that BellSouth discontinue marketing long distance service in Georgia until such time as BellSouth's performance improves. Under the Commission's plan, enforcement payments are capped at an amount equal to 44% of BellSouth's net revenues in Georgia, which equals approximately \$340 million.

On August 24, 2001, the Commission established a procedural and scheduling order for the six-month review of Commission approved performance measures. The Commission will hold a collaborative workshop to modify the enforcement mechanisms, SQMs and applicable analogues and benchmarks as deemed necessary by the Commission.



**Docket No. 10692-U: In re: Generic Proceeding to Establish Long-Term Pricing Policies for Unbundled Network Elements**

This docket was initiated in May 1999 in order to establish long-term pricing policies for combinations of unbundled network elements and to establish recurring and nonrecurring rates for certain combinations. Testimony was filed and hearings were held in July 1999, and the Commission issued its order on February 1, 2000 establishing both the combinations of unbundled network elements BellSouth is obligated to provide and the rates at which they must be provided. Specifically, the Commission held that BellSouth must provide any combination of elements that are “ordinarily combined” in BellSouth’s network. The Commission also held that such combinations must be provided either at the rates set by the Commission for the combinations priced in the docket, or at the sum of the stand-alone prices of the network elements, which make up the combination or combinations that were not specifically priced by the Commission in the docket. As a result of the Commission’s decision in this docket, the recurring rate for the loop-port combination in Georgia is \$14.34. In such geographically dense areas as Atlanta, the recurring rate for the UNE-P is only \$12.59.

**Docket No. 11900-U: In re: Investigation of BellSouth Telecommunications, Inc.’s Provision of Unbundled Network Elements for the xDSL Service Providers**

In March 2000, the Commission opened this docket to examine BellSouth’s provisioning of unbundled network elements to CLECs that provide DSL and other advanced services in Georgia. The Commission conducted workshops in which

numerous CLECs participated. In January 2001, the Commission conducted formal hearings to consider rates, terms and conditions for unbundled xDSL loops, loop conditioning, line sharing, and line splitting. The hearings last four days resulting in a transcript exceeding 1,500 pages in length.

On June 11, 2001, the Commission rendered its decision in the docket. The Commission accepted a settlement agreement executed by BellSouth and various CLECs in which the parties agreed to resolve a number of the issues in dispute. The Commission also established nonrecurring rates for unbundled xDSL loops, loop conditioning, and line sharing.

**Docket No. 13542-U: In re: Generic Proceeding on Point of Interconnection and Virtual FX Issues**

In March 2001, the Commission established this expedited docket to consider issues relating to points of interconnection and compensation for virtual foreign exchange (“FX”) service. Numerous CLECs intervened in the docket and filed testimony, and the Commission conducted hearings in May 2001. On July 23, 2001, the Commission decided that CLECs may choose the point of interconnection and may choose to interconnect at a single point in the LATA. Additionally, BellSouth is responsible for the costs of transporting its originating traffic to the CLEC’s Point of Interconnection. The Commission also found that reciprocal compensation is not due for Virtual FX traffic.

**Docket No. 14361-U: Generic Proceeding to Review Cost Studies, Methodologies, Pricing Policies and Cost Based Rates for Interconnection and Unbundling of BellSouth Telecommunications, Inc.'s Network**

On August 21, 2001, the Commission established a Procedural and Scheduling Order to set Cost-based rates for all Unbundled Network Elements and Unbundled Network Element Combinations. A technical workshop in connection with this docket is scheduled for October 30, 2001. Hearings before the Commission are scheduled for December 10-12, 2001.

**D. Interconnection Agreements**

Since the passage of the Federal Act, BellSouth has executed, and the Commission has approved, over 400 interconnection agreements in Georgia. This number alone demonstrates the great strides the Commission has made to open the local market to competition.

In November 1997, the Commission adopted procedures to resolve complaints arising out of interconnection agreements. These procedures provide for resolution of any complaints by a hearing officer and also provide for a preliminary hearing within five (5) days of the filing of the complaint to resolve, among other things, the question of whether immediate relief is necessary. To date, only two CLECs have availed themselves of these expedited dispute resolution procedures. The implementation of the procedures demonstrates both the Commission's commitment to staying actively

involved in the interconnection agreements it approves and its desire to resolve carrier disputes in an effective and expeditious manner.

Although the vast majority of the interconnection agreements executed by BellSouth have been voluntarily negotiated, various CLECs have petitioned the Commission for arbitration under Section 252 of the Federal Act. The Commission has fully accepted its obligation to arbitrate issues regarding interconnection agreements and, rather than delegating such duties to a hearing officer, has conducted arbitration hearings before the full Commission. The following is a brief overview of the arbitration proceedings in which the Commission has entered written orders in the past two years. The previous section discussed some of the major arbitrations conducted prior to this time.

**Docket No. 10418-U: Interconnection Agreement Between MediaOne Telecommunications of Georgia, LLC and BellSouth Telecommunications, Inc.**

On December 28, 1999, the Commission issued its Order in this arbitration proceeding initiated by MediaOne Telecommunications of Georgia, LLC (“MediaOne”). The Commission held that BellSouth must provide access to unbundled network terminating wire and set forth the appropriate rates, terms, and conditions for such access in multi-dwelling units. The Commission also held that BellSouth’s Calling Name Database (“CNAM”) is an unbundled network element that must be provided at cost-based rates.

**Docket No. 10767-U: Petition by ICG Telecom Group, Inc. for Arbitration of an Interconnection Agreement with BellSouth Telecommunications, Inc. Pursuant to Section 252(b) of the Telecommunications Act of 1996**

On February 11, 2000, the Commission issued its Order in this arbitration proceeding initiated by ICG Telecom Group, Inc. (“ICG”). The Commission resolved such issues as: (1) the payment of reciprocal compensation for ISP-bound traffic; (2) the appropriate application of the tandem switching rate; and (3) the provision of Enhanced Extended Links (“EELs”).

**Docket No. 10854-U: Petition by ITC^DeltaCom Communications, Inc. for Arbitration of its Interconnection Agreement with BellSouth Telecommunications, Inc. pursuant to the Telecommunications Act of 1996.**

On July 5, 2000, the Commission issued its Order in this arbitration proceeding initiated by ITC^DeltaCom Communications, Inc. (“DeltaCom”). The Commission resolved such issues as: (1) access to IDLC-delivered loops; (2) provisioning intervals for cageless collocation; (3) recovery of OSS costs; and (4) audits of Percent Local Usage (“PLU”) and Percent Interstate Usage (“PIU”) factors.

**Docket No. 11644-U: Petition by BellSouth Telecommunications, Inc. for Arbitration of its Interconnection Agreement with Intermedia Communications, Inc. pursuant to the Telecommunications Act of 1996.**

On September 26, 2000, the Commission issued its Order in this arbitration proceeding initiated by Intermedia Communications, Inc. (“Intermedia”). The

Commission resolved such issues as: (1) conversion of virtual to physical collocation; (2) unbundled access to packet switching; (3) rates, terms, and conditions for frame relay service; and (4) the establishment of local calling areas.

**Docket No. 11853-U: Petition of AT&T for Arbitration of its Interconnection Agreement with BellSouth Telecommunications, Inc. pursuant to the Telecommunications Act of 1996.**

On April 24, 2001, the Commission issued its Order in this arbitration on eighteen unresolved issues including: (1) the terms and conditions under which AT&T can purchase UNEs or combinations currently purchased from BellSouth's tariffs; (2) access to Multiple Dwelling Units (MDUs); (3) loops for DSL services and (4) customized routing of operator services and directory assistance ("OS/DA").

**Docket No. 11901-U: Petition of MCI Communications Company for Arbitration of its Interconnection Agreement with BellSouth Telecommunications, Inc. pursuant to the Telecommunications Act of 1996**

On March 7, 2001, the Commission issued its Order in this arbitration proceeding initiated by MCI. The Commission resolved such issues as: (1) unbundling of Operator Services and Directory Assistance; (2) the unbundling of dedicated transport between locations designated by MCI, including SONET rings in BellSouth's network; (3) use of two-way trunks; (4) inter-carrier compensation for voice calls over IP telephony; and (5) collocation.

**Docket No. 12444-U: Petition of Sprint Communications, Inc. for Arbitration of its Interconnection Agreement with BellSouth Telecommunications, Inc. pursuant to the Telecommunications Act of 1996.**

On June 1, 2001, the Commission issued its Order in this arbitration proceeding initiated by Sprint. The Commission resolved issues concerning augmentation intervals for collocation and should customer calling features be made available as UNEs on a stand-alone basis.

**II. BELLSOUTH'S COMPLIANCE WITH TRACK A**

**A. Overview**

In order for a Bell Operating Company ("BOC") to obtain in-region, interLATA authority, the BOC must first demonstrate that it satisfies the requirements of either 47 U.S.C. § 271(c)(1)(A) (Track A) or 47 U.S.C. § 271(c)(1)(B) (Track B). To satisfy the requirements of Track A, a BOC must have interconnection agreements with one or more competing providers of "telephone exchange service ... to residential and business subscribers." For purposes of Track A, "such telephone service may be offered ... either exclusively over [the competing provider's] own telephone exchange service facilities or predominantly over [the competing provider's] own telephone exchange facilities in combination with the resale of the telecommunications services of another carrier." 47 U.S.C. § 271(d)(3)(A). The FCC has concluded that when a BOC relies upon more than one competing provider, Track A does not require each carrier to provide service to both

residential and business subscribers. *See* Memorandum Opinion and Order, *In re: Application of BellSouth Corporation, et al., for the Provision of In-Region, InterLATA Services in Louisiana*, CC Docket No. 98-121, FCC 98-271, ¶¶ 46-48 (Oct. 13, 1998) (“*Second Louisiana Order*”).

**B. Comments of BellSouth**

BellSouth asserts that it has satisfied the requirements of Track A, noting that the local telephone market in Georgia is robust and continues to grow. As of May 22, 2001, BellSouth states that it has successfully negotiated, and the Commission has approved, over 377 interconnection, collocation, or resale agreements with Competing Local Exchange Carriers (“CLECs”) in Georgia. *Schaller Affidavit*, ¶ 7. Of these, BellSouth has interconnection agreements with 54 facilities-based providers that serve 10 or more access lines. *Schaller Affidavit*, ¶ 15. Among the many facilities-based providers in Georgia are MediaOne Telecom, MCImetro Access Transmission Services (includes WorldCom and MFS), Mpower Communications Corp. (“Mpower”), Teleport Communications, XO Communications, Inc. (“XO”), and Intermedia. *Schaller Affidavit*, ¶ 17.

According to BellSouth, CLECs competing in Georgia are providing local telephone exchange service to residential and business subscribers exclusively and predominantly using their own facilities. The 54 facilities-based CLECs operating in Georgia served approximately 138,000 residential access lines and approximately 527,000 business access lines in the State as of April 2001. In addition, CLECs served another approximately 115,000 access lines on a resale basis. *Schaller Affidavit*, Exh. DS-4. Overall, BellSouth estimates that, as of April 2001, CLECs provided local service



to more than 780,000 access lines, which represents approximately 28% of the business market and 16.0% of the total access lines in BellSouth's territory in Georgia. *Schaller Affidavit*, ¶ 15 (as revised).

BellSouth also points to CLEC collocation arrangements in Georgia as further evidence of the extent to which CLECs are providing facilities-based service throughout the State. As of April 2001, BellSouth had completed nearly 745 collocation arrangements, with at least one collocation arrangement completed in 89 of BellSouth's wire centers. *Schaller Affidavit*, ¶ 20, Exh. DS-6. CLECs are collocated heavily in the BellSouth wire centers with greater density. Of the total collocation arrangements, approximately 51% of the completed CLEC collocation arrangements are located in 18 BellSouth wire centers that serve approximately 30% of BellSouth's total access lines in Georgia. From these 18 wire centers alone, according to BellSouth, different facilities-based CLECs can reach 25% and 43% of residential and business access lines in BellSouth's territory, respectively. According to BellSouth, the 89 wire centers that have one or more completed collocation arrangements enable facilities-based CLECs to reach 87% and 92% of BellSouth's total residence and business access lines, respectively. *Schaller Affidavit*, ¶ 20, Exh. DS-6.

BellSouth also notes the substantial investments made by facility-based CLECs in telecommunications infrastructure in Georgia. According to BellSouth, facilities-based CLECs have built high capacity state-of-the-art transmission facilities utilizing fiber optic cable that service the central business districts of Georgia metropolitan areas. *Schaller Affidavit*, ¶¶ 21-22. CLECs in Georgia are increasingly using the newest technologies,

e.g. voice-over-DSL (VoDSL), “softswitch” IP and microwave systems, to offer integrated communications services on a cost-effective basis. *Schaller Affidavit*, ¶ 22.

Finally, BellSouth argues that the high level of local competition in Georgia has been recognized by the FCC, which found that, as of December 31, 2000, only six states had more absolute end-user lines served by CLECs than Georgia – California, Florida, Illinois, New York, Pennsylvania, and Texas. *See Local Telephone Competition: Status as of December 31, 2000*, Industry Analysis Division, Common Carrier Bureau, FCC, May 2001, Table Six (“*FCC Local Competition Report*”). In terms of market share, only New York and Texas had a higher CLEC market share than Georgia – two states in which the BOC has been granted interLATA authority. *Id.* According to BellSouth, the relative level of access lines served by CLECs is higher in Georgia today than it was in either New York, Massachusetts, Texas, Kansas, or Oklahoma when Bell Atlantic and SBC Communications applied for and were subsequently granted long distance authority in those states. BellSouth asserts that CLECs have secured a greater share of both the residential and business markets in Georgia than was the case in any state where a BOC has been granted interLATA relief. *Schaller Affidavit*, ¶ 24.

**C. CLEC Comments**

In its initial comments, Cbeyond Communications, LLC (“Cbeyond”) argues that BellSouth does not qualify under Track A because it has not fully satisfied the checklist requirements. AT&T and Southeastern Competitive Carriers Association (“SECCA”) argue that BellSouth’s assertions concerning the level of competitive entry in Georgia “significantly overstates the facts,” claiming that the CLEC market share in the State is only between 4.5% and 5.7%. AT&T and SECCA also assert that the decline in resale

activity suggests that resale competition is neither viable nor irreversible. *Gillan Affidavit* ¶¶5-24.

**D. Discussion**

The record establishes that BellSouth has satisfied the requirements of Track A. BellSouth has entered into, and this Commission has approved, over 400 interconnection agreements with CLECs in Georgia. The Commission finds that Intermedia, MediaOne, WorldCom, Mpower, Teleport, and XO all provide telephone exchange service either exclusively or predominantly over their own facilities to residential and business subscribers. These facts were uncontested, and, thus, BellSouth has demonstrated compliance with the requirements of Track A.

The Commission disagrees with Cbeyond's argument that BellSouth cannot satisfy Track A because it has not satisfied the 14-point competitive checklist. The FCC has held that Track A compliance is a distinct issue from checklist compliance. *Application of Ameritech Michigan Pursuant to Section 271 of the Communications Act of 1934, as amended*, CC Docket No. 97-137, 12 FCC Rcd 20543, ¶ 105 (1997) ("Ameritech-MI Order"); see also *Joint Application by SBC Communications, Inc., Southwestern Bell Tel. Co., and Southwestern Bell Communications Services, Inc., d/b/a Southwestern Bell Long Distance for Provision of In-Region, InterLATA Services in Kansas and Oklahoma*, Memorandum Opinion and Order, FCC 01-29, CC Docket No. 00-217, ¶ 8 (Jan. 22, 2001) ("SBC-KS/OK Order").

The Commission is not persuaded by AT&T and SECCA's arguments concerning the extent of competitive entry in Georgia. The *FCC Local Competition Report* indicates that 93% of the zip codes in Georgia had at least one CLEC providing service as

compared to the U.S. average of 58%. Georgia was tied for third in the number of large CLECs (over 10,000 lines in service) reporting to the FCC. According to the *FCC Local Competition Report*, the 19 CLECs reporting in Georgia had a market share of 10.3% as of December 2000, which greatly exceeds the current market share estimates offered by AT&T and SECCA.<sup>1</sup>

Finally, the Commission's Docket No. 5778-U Local Service Indicator Report compiles the number of access lines for CLECs in Georgia. This report indicates that for the end of June over 726,000 access lines were reported in service by certificated CLECs in Georgia with only 55% of the CLECs reporting.<sup>2</sup> This data confirms the reasonableness of BellSouth's estimates.

#### **E. Conclusion**

The Commission concludes that BellSouth has demonstrated compliance with the requirements of Track A.

### **III. BELLSOUTH'S COMPLIANCE WITH THE COMPETITIVE CHECKLIST**

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<sup>1</sup> The FCC noted the likelihood that the number of lines being served by CLECs was "understated" as a result of the reporting threshold, which allows smaller, but still significant CLECs to avoid having to report to the FCC the number of lines they serve. In light of such "understatement," there is no reason to believe that the CLEC market share in Georgia as of December 2000 was less than 10.3% and every reason to believe that this market share is currently considerably higher, particularly with the passage of time and increased competitive activity by such carriers as WorldCom as well as new entrants to the Georgia local market.

<sup>2</sup> Docket No. 5778-U Report, October 04,2001.

Section 271(c)(2)(B) sets forth 14 checklist items. In evaluating whether a BOC has complied with the 14-point competitive checklist, the FCC has stated that it does not apply a standard of perfection but rather will look at the totality of circumstances. *SWBT-KA/OK Order*, ¶ 136. Under this standard, disparity in one performance measurement is unlikely to result in a finding of noncompliance. Rather, each individual measurement should be reviewed as one part of a larger picture in determining compliance or noncompliance. *SWBT-KS/OK Order*, ¶¶ 138 & 146; *see also* Memorandum Opinion and Order, *Application by SBC Communications, Inc., et al., Pursuant to Section 271 of the Telecommunications Act of 1996 To Provide In-Region, InterLATA Services in Texas*, 15 FCC Rcd 18354, ¶ 176 (2000) (“*SWBT-TX Order*”). Based on the totality of the circumstances as presented here, the Commission finds that BellSouth has demonstrated compliance with the 14-point competitive checklist.

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

**(1) Overview**

Checklist Item 1 requires a BOC to provide “[i]nterconnection in accordance with the requirements of sections 251(c)(2) and 252(d)(i).” *See* 47 U.S.C. 271(c)(2)(B)(I). Section 251(c)(2) imposes upon incumbent local exchange carriers (“ILECs”) “[t]he duty to provide, for the facilities and equipment of any requesting telecommunications carrier, interconnection with the local exchange carrier’s network ... for the transmission and routing of telephone exchange service and exchange access.” *See* 47 U.S.C. 251(c)(2)(A). Such interconnection must be: (1) provided at any technically feasible point within the carrier’s network; (2) equal in quality to that provided by the incumbent to itself; and (3) provided on rates, terms and conditions that are just, reasonable, and

non-discriminatory in accordance with the terms and conditions of the agreement and the requirements of Sections 251 and 252. *See Second Louisiana Order*, ¶ 61. Technically feasible methods of interconnection include, but are not limited to, physical and virtual collocation at the premises of an ILEC. *Id.* at ¶ 62.

A BOC satisfies Checklist Item 1 by providing CLECs with interconnection at any technically feasible point within its network. Interconnection trunks provisioned by the BOC are one common method of interconnection, which must be at least equal in quality to the interconnection the ILEC provides for itself, on rates terms and conditions that are just, reasonable and nondiscriminatory. 47 U.S.C. § 251(c)(2). The FCC has interpreted this “just, reasonable, and nondiscriminatory” requirement to mean that the ILEC must provide interconnection to a competitor in a manner no less efficient than the manner in which the ILEC provides the comparable function to its own retail operations. *See First Report and Order, In re: Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, CC Docket No. 96-98, FCC 96-325 ¶ 218 (Aug. 8, 1996) (“*First Report and Order*”). The FCC has identified trunk group blockage data, installation intervals, and maintenance and repair intervals as evidence of whether a BOC has satisfied Checklist Item 1. Memorandum Opinion and Order, *Application by Bell Atlantic New York for Authorization Under Section 271 of the Communications Act To Provide In-Region, InterLATA Service in the State of New York*, 15 FCC Rcd. 3953, ¶¶ 63-65, 67-68 (1999) (“*Bell Atlantic-NY Order*”); *SWBT-KA/OK Order*, ¶¶ 223-224.

Another common means of interconnection is collocation. To show compliance with its collocation obligations, a BOC must have processes and procedures in place to ensure that all applicable collocation arrangements are available on terms and conditions

that are “just, reasonable, and nondiscriminatory” in accordance with Section 251(c)(6) and the FCC’s implementing rules. *See Second Louisiana Order*, ¶¶ 183-84; *SWBT- TX Order*, ¶ 64. To assess a BOC’s provision of collocation, the FCC relies on data showing the quality of procedures for processing applications for collocation space, as well as the timeliness and efficiency of provisioning collocation space. *See Second Louisiana Order*, ¶¶ 61-62; *SWBT-TX Order*, ¶ 64.

**(2) BellSouth Comments**

**(a) Point(s) of Interconnection**

BellSouth asserts that it satisfies Checklist Item 1 by providing five standard means by which CLECs can interconnect their networks to BellSouth’s network: (1) physical collocation; (2) virtual collocation; (3) assembly point arrangements; (4) fiber optic meet point arrangements; and (5) purchase of facilities from another party. Each of these interconnection arrangements is available at the line side or trunk side of the local switch, the trunk connection points of a tandem switch; central office cross-connect points; out-of-band signaling transfer points; and points of access to UNEs. *Milner Affidavit*, ¶ 10. BellSouth provides interconnection at all technically feasible points, including the option of selecting one technically feasible interconnection point in each LATA. *Milner Affidavit*, ¶ 9. Moreover, a CLEC may request, through the Bona Fide Request Process (“BFR”), any other technically feasible interconnection point. *Milner Affidavit*, ¶ 9.

BellSouth provides CLECs with Multiple Tandem Access (“MTA”) and local tandem interconnection. *Milner Affidavit*, ¶¶ 11 & 45. BellSouth also offers CLECs various options to route local/intraLATA toll traffic and transit traffic over separate trunk

groups or over a single trunk group, or over one-way or two-way trunks. *Milner Affidavit*, ¶ 12. In addition, BellSouth provides transit trunks for traffic between a CLEC and a third party such as an independent company, interexchange carrier, or another CLEC. *Milner Affidavit*, ¶¶ 14-15.

BellSouth notes that, in its *Second Louisiana Order*, the FCC concluded that BellSouth had demonstrated that it has a legal obligation to provide interconnection in accordance with the FCC's rules. *See Second Louisiana Order*, ¶ 75, n. 210. BellSouth asserts that, in order to carry traffic between BellSouth and CLEC locations, BellSouth has provisioned approximately 105,948 interconnection trunks from CLECs' switches to BellSouth's switches as of March 31, 2001, and 80,347 two-way trunks (including transit traffic) to 40 different CLECs in Georgia. *Milner Affidavit*, ¶ 16. According to BellSouth, this significant degree of commercial usage in and of itself demonstrates that CLECs can interconnect with BellSouth's network.

**(b) Interconnection Trunking**

BellSouth asserts that it is providing interconnection trunks to CLECs at a level of quality that is indistinguishable from that which BellSouth provides its retail units. According to BellSouth, it follows the same installation process for CLEC interconnection trunks as it does for itself; provisions CLEC trunks using the same equipment, interfaces, technical criteria and service standards that are used for BellSouth's own trunks; follows the same procedures for forecasting interconnection trunks for CLECs as it does for itself; and designs interconnection facilities to meet the same technical criteria and service standards that are used in its own network. *Milner Affidavit*, ¶¶ 12 & 19-20.



BellSouth also points to performance data on trunk blockage, trunk installation, and trunk maintenance and repair to establish that it has satisfied Checklist Item 1. Between March 2001 and May 2001, BellSouth's Order Completion Interval ("OCI") for CLEC trunks was comparable to that for BellSouth's retail trunks in two of the three months, and in one month (March), the CLECs enjoyed a shorter average installation time for trunks than did BellSouth. With respect to other key performance measures, BellSouth met or exceeded the applicable retail analogues for Percent Missed Installation Appointments, Percent Provisioning Troubles within 30 days, and Missed Repair Appointments for interconnection trunks in March, April, and May 2001. *See Monthly State Summary, Docket No. 7892-U.*

**(c) Collocation**

BellSouth notes that it offers collocation on rates, terms and conditions that are just, reasonable and nondiscriminatory as evidenced by its legally binding interconnection agreements and its SGAT. *Milner Affidavit*, ¶ 36; *Gray Affidavit*, ¶ 3. BellSouth has provisioned 745 collocation sites in the State, and CLECs are collocated in 89 of BellSouth's central offices. *Schaller Affidavit*, ¶ 20. BellSouth also asserts that, not only is it making collocation available, it is doing so in a timely and accurate manner consistent with the intervals established by this Commission in Docket No. 7892-U. *Milner Affidavit*, ¶ 40; *Gray Affidavit*, ¶ 4. In March, April, and May 2001, BellSouth notes that it met the applicable benchmarks for every collocation measure and submetric. *See Monthly State Summary, Docket No. 7892-U.*

As required by the FCC, BellSouth offers caged, shared cage, cageless and shared cageless collocation, all at a CLEC's option. *Gray Affidavit*, ¶ 13. BellSouth also offers

adjacent collocation if space in a particular premises is legitimately exhausted. *Gray Affidavit*, ¶ 20. Virtual collocation is available where space for physical collocation is legitimately exhausted, or at a CLEC's request regardless of the availability of physical collocation. *Gray Affidavit*, ¶ 36. BellSouth also makes physical and virtual collocation available in its remote terminals. *Gray Affidavit*, ¶ 26.

**(3) CLEC Comments**<sup>3</sup>

**(a) Point(s) of Interconnection**

AT&T and BroadRiver question BellSouth's policies regarding points of interconnection. Specifically, AT&T states that BellSouth improperly requires CLECs that do not have interconnection points in each BellSouth local calling area to bear the cost of hauling BellSouth traffic over the CLEC network outside the local calling area where the call originates and terminates. *AT&T Comments*, Item #1, at 7. BroadRiver challenges BellSouth's alleged refusal to incorporate or discuss modifications to the parties' interconnection agreement, consistent with the terms in other interconnection agreements. *BroadRiver Comments* at 4-5.

**(b) Trunk Provisioning**

CLECs challenge three main aspects of BellSouth's trunk provisioning. First, they assert that BellSouth is tardy in augmenting trunk groups or improperly refuses to

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<sup>3</sup> As part of its Reply Comments filed on July 16, 2001, SECCA attached Affidavits of John Cheek, Jerry Willis, and Mary Haynsworth Campbell of NuVox Communications, Elina Padfield and James Tadlock of XO, James Falvey of e.spire Communications, and James Hvidas of US LEC of Georgia, Inc. The Commission believes that these affidavits could and should have been submitted on May 31, 2001, as part of the parties' Direct Comments. By waiting to submit these affidavits until its Reply Comments, SECCA denied BellSouth the opportunity to respond and prevented the Commission from obtaining all the information necessary to assess SECCA's claims. Under the circumstances, the Commission believes that these affidavits should be given little weight.

augment trunks upon request. *Fury Affidavit* ¶¶ 8-17; *Wilson Affidavit* ¶¶ 25-26 & 30-33. NewSouth Communications Corp. (“NewSouth”) argues that BellSouth almost never performs trunk augmentations to reciprocal trunk groups despite NewSouth’s forecasts demonstrating a need for additional trunks and has delayed filling trunk orders or refused to augment trunk groups upon request (or declined to do so unless NewSouth first identified the customers to be added). *Fury Affidavit* ¶¶ 8-17. AT&T asserts that BellSouth has not made sufficient efforts to provide adequate interconnection trunks or to augment trunks behind tandems. According to AT&T, in April 2001, BellSouth took 30 days to fill trunk orders for itself but 35 days for CLECs and 56 days for AT&T. AT&T further asserts that BellSouth has delayed 17 AT&T trunk orders for more than 30 days and that provisioning delays have forced AT&T to delay turning up its switches. *Wilson Affidavit*, ¶¶ 30-33.

Second, AT&T asserts that CLECs have experienced unacceptable and discriminatory levels of trunk blockage. *Wilson Affidavit* ¶¶ 21-24 & 39. AT&T points to performance data indicating that eight interconnection trunk groups and seven trunk groups behind tandem switches had blocking over 2% in March, with two interconnection trunk groups having blockage over 10%. AT&T also states that certain interconnection trunks in January and February had blocking rates over 10%. AT&T contends that its customers in Atlanta have experienced numerous blocking problems and that BellSouth’s retail customers do not experience the same blockage because BellSouth handles its own calls differently. *Wilson Affidavit*, ¶¶ 21-24.

Third, AT&T alleges that BellSouth imposes limits on the number of trunks AT&T may connect to BellSouth’s tandems and purportedly disconnects AT&T trunks

with little or no warning. According to AT&T, such alleged practices are unreasonable and discriminatory. *Wilson Affidavit*, ¶¶ 34-35 & 39.

**(c) Collocation**

AT&T and NewSouth contend that BellSouth's collocation offering does not comply with the FCC's requirements in several respects. For example, AT&T asserts that BellSouth retains the unilateral right to change the terms and conditions of collocation by revising its Collocation Handbook. *Turner Affidavit* ¶¶ 41-50. AT&T and NewSouth also challenge certain aspects of BellSouth's recovery of the costs of HVAC upgrades and electrical power, *Turner Affidavit*, ¶¶ 52-58; *NewSouth Comments* at 12-13; *Beasley Affidavit*, ¶¶ 3-10, and AT&T similarly claims that BellSouth can impose discriminatory costs on CLECs for power cabling by locating their cages far from key interconnection frames. *Turner Affidavit*, ¶¶ 59-66. Finally, AT&T criticizes BellSouth's practices with respect to shared-cage and adjacent collocation, insisting that such practices do not comply with FCC requirements. *Turner Affidavit*, ¶¶ 67-68 & 70-72.

**(d) Other Issues**

Certain CLECs raise additional interconnection-related issues. At a broad level, Access Integrated Networks, Inc. ("Access Integrated") takes issue with the FCC's ruling that the word "equal" in Section 251(c)(2) of the Federal Communications Act means "substantially the same" or a "meaningful opportunity to compete." Access Integrated also questions whether Congress improperly delegated legislative power to the FCC and challenges BellSouth's compliance with Checklist Item 1 based upon alleged, "misconduct" in competing against Access. *Access Integrated Comments*, Section I.

Finally, Cbeyond states that BellSouth is breaching its interconnection agreement by failing to connect UNE loops to special access circuits or to convert special access multiplexers to UNE multiplexers, and by charging third-party SS7 providers additional charges for CLEC calls. *Cbeyond Comments*, at 9-11.

**(4) Discussion**

**(a) Point(s) of Interconnection**

The Commission concludes that the evidence in the record establishes that BellSouth provides equal-in-quality interconnection on terms and conditions that are just and reasonable in accordance with the requirements of sections 251(c)(2) and 252(d)(1), as required by Checklist Item 1. No CLEC disputes that BellSouth provides interconnection at any technically feasible point in its network, although AT&T raises the issue of whether BellSouth should bear the cost of transporting traffic originated on BellSouth's network to the competitor's point of interconnection, even when the interconnection point is not in the same local calling area as the BellSouth customer. The Commission has resolved this issue in Docket No. 13542-U by ordering BellSouth to bear the cost of transporting its originating traffic to the CLECs point of interconnection in the LATA, regardless of whether the CLEC's point of interconnection is in the same local calling area as the call originated and terminated, and BellSouth filed a revised SGAT on August 27, 2001 that incorporated the Commission's decision in the docket. Additionally, CLECs may request interconnection trunks by submitting an Access Service Request ("ASR") to BellSouth's Interconnection Purchasing Center.

The Commission finds unconvincing BroadRiver's complaint that BellSouth has "refused" to renegotiate BroadRiver's Interconnection Agreement to incorporate certain

language on the Point of Interconnection and Virtual FX issues. The Commission concludes that it was reasonable for the parties to wait until a final Commission decision in Docket No. 13542-U prior to amending their interconnection agreement.

**(b) Trunk Provisioning**

BellSouth's performance data demonstrate that BellSouth is providing interconnection trunks to CLECs equal in quality to that provided by BellSouth to itself. This data illustrates that the timeframe for BellSouth's installations and maintenance of CLEC interconnection trunks is comparable to the timeframe for BellSouth's installation and maintenance for its own retail operations. With respect to the key interconnection performance measures, BellSouth consistently has improved its ability to pass the metrics relating to trunk provisioning. For the months of March to June 2001, BellSouth met the Performance metrics for Order Completion Interval, Percent Missed Installation Appointments, Percent Provisioning Troubles Within 30 Days, and Missed Repair Appointments for interconnection trunks with one exception. For the one exception, BellSouth failed to meet the performance metric for C.2.1 "Order Completion Interval" in the month of April 2001.

BellSouth's performance during March to June 2001 has been as follows:

#### ORDER COMPLETION INTERVAL<sup>4</sup>

C.2.1	P-4	Local Interconnection Trunks/GA (days)		
<b>Benchmark/Analogue: Parity w Retail</b>	<b>BST Measure</b>	<b>BST Volume</b>	<b>CLEC Measure</b>	<b>CLEC Volume</b>
Mar-01	33.57	70	33.43	46
<b>Apr-01</b>	<b>28.47</b>	<b>100</b>	<b>38.52</b>	<b>81</b>
May-01	28.21	143	31.77	65
Jun-01	26.32	143	26.00	93

While the data for April shows an almost 10 day difference in installation time, BellSouth provided an investigation that reveals 6 of the 81 orders in this sub-metric had intervals greater than 98 days that were requested by the CLEC. Removal of these orders would reduce the CLEC interval to 30.7 days.<sup>5</sup> While these data show some differences, the Commission does not believe it prevents the CLECs from a meaningful opportunity to compete.

With respect to trunk blockage, the following is BellSouth's performance under the Commission's trunk blockage measure "Trunk Group Performance Aggregate" for the months of March through July 2001:

<sup>4</sup> Docket No. 7892-U Performance Measurements.

<sup>5</sup> Stacy Performance Measurements Affidavit) ¶ 37.

## TRUNK GROUP PERFORMANCE AGGREGATE<sup>6</sup>

C.5.1	TGP-1	GA	
Benchmark/Analogue: >0.5% dif 2 consec hrs	BST Measure	BST Volume	CLEC Measure
Mar-01			1
Apr-01			1
May-01			0
Jun-01			2
Jul-01			0

Although the CLEC blockage benchmark was exceeded during the hours of 7:00 a.m. and 8:00 a.m. in March and April 2001, the Commission is persuaded by BellSouth's explanation that such blockage problems were attributable to the lack of trunks in two reciprocal trunk groups between BellSouth and one CLEC. *Stacy Performance Reply Affidavit*, ¶ 88. Additionally, the blockage benchmark was exceeded during the hours of 9:00 p.m. and 10:00 p.m. and 10:00 p.m. and 11:00 p.m. for June 2001 for the CLECs. Although the Commission has not received an explanation for this blockage, BellSouth met the applicable CLEC blockage benchmark in May, July, and most recently August 2001. The Commission also noted that individual CLECs have not experienced significantly disparate levels of trunk blockage as evidenced by the relatively small amounts of Tier I penalties BellSouth has paid under this measure.

Furthermore, there is evidence in the record that CLECs have been the cause of at least some of the trunk blockage problems by providing poor trunk forecasts or failing to inform BellSouth about expected increases in traffic volume. For example, although NewSouth complains about its experience with a trunk group in Baton Rouge, BellSouth notes that traffic volumes on this trunk group almost tripled in a one-month period

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<sup>6</sup> Docket No. 7892-U Performance Measurements.



without NewSouth providing any advance notice of this expected increase. *Milner Reply Affidavit*, ¶ 11. The Commission does not believe that CLEC-caused trunk blockage constitutes grounds to find that BellSouth is not in compliance with Checklist Item 1.

The Commission is not persuaded by AT&T's argument that BellSouth has a "policy" of limiting trunks for CLECs. BellSouth denies that it has any such policy, and the Commission believes that BellSouth has adequately explained that the so-called "policy" to which AT&T refers was merely a temporary solution to an isolated situation in South Florida. *Milner Reply Affidavit*, ¶¶ 25-26 & 49-55.

Nor is the Commission persuaded by AT&T's complaints about delays in BellSouth's trunk provisioning. The evidence establishes that such delays were caused, at least in part, by AT&T's failure to: (1) provide timely Firm Order Confirmations ("FOCs") on reciprocal trunk orders; (2) provide accurate Circuit Facility Assignment ("CFA") information; and (3) revise its due dates when BellSouth was delayed due to FOC or CFA issues. BellSouth also claims that AT&T was not ready on due dates of orders AT&T placed with BellSouth in Georgia in 48% of the cases through June 2001, which could have contributed to delays in trunk provisioning. *Milner Reply Affidavit*, ¶¶ 21-23.

AT&T's complaint about alleged unannounced trunk disconnections also is unconvincing. As BellSouth has explained, CLEC trunks are not disconnected due to low usage without the CLEC being first contacted to determine if greater future traffic is expected. *Milner Reply Affidavit*, Exh. WKM-18. BellSouth's policy specifically gives the CLEC the opportunity to demonstrate the need for the excess capacity, and, if the capacity is indeed excess, BellSouth and the CLEC will negotiate a disconnect date. The

Commission agrees with BellSouth that the network should be maintained in the most efficient manner possible, which includes preventing the underutilization of facilities. As BellSouth points out, to the extent a CLEC wants to retain underutilized trunks, that CLEC may submit a “binding forecast,” which commits the CLEC to purchase and BellSouth to provide a specified volume of trunks regardless of the volume of traffic on such trunks. *See Milner Reply Affidavit*, ¶¶ 34-15 & 47-48.

(c) **Collocation**

The Commission finds that BellSouth’s commercial usage and performance data demonstrate that BellSouth is providing nondiscriminatory access to collocation. In the *Second Louisiana Order*, the FCC expressed concern that BellSouth “fails to make a *prima facie* showing that it can provide collocation on terms and conditions that are ‘just, reasonable, and nondiscriminatory’ in accordance with section 251(c)(6).” *Second Louisiana Order*, ¶ 65. The FCC concluded that BellSouth’s reliance on its SGAT, which referred to terms and conditions set forth in BellSouth’s Collocation Handbook, failed to demonstrate *legally binding* terms and conditions for collocation, including binding provisioning intervals. *Id.* at ¶¶ 66-72. In addition, the FCC questioned the reasonableness of BellSouth’s non-binding provisioning intervals. *Id.*

Since the *Second Louisiana Order* this Commission has established reasonable collocation provisioning intervals to which BellSouth has consistently adhered. These provisioning intervals as well as other rates, terms, and conditions of BellSouth’s provision of collocation are governed by interconnection agreements reviewed and approved by this Commission as well as BellSouth’s SGAT, which constitute “legally binding” obligations on BellSouth’s part with respect to collocation. The Commission

finds that BellSouth has remedied the collocation concerns previously expressed by the FCC.

Furthermore, BellSouth met the applicable benchmarks for *every* collocation measure and sub-metric in March, April, May, and June 2001.<sup>7</sup> Consistent with the FCC's views, the Commission believes BellSouth's collocation performance data is compelling evidence that BellSouth is complying with the Act's interconnection requirements. *See SWBT-TX Order*, ¶ 64.

AT&T's reliance upon BellSouth's Collocation Handbook in challenging BellSouth's compliance with Checklist Item 1 is misplaced. As BellSouth has explained, the Collocation Handbook is only a resource guide to aid CLECs seeking to collocate with BellSouth; it does not control the rates, terms, or conditions of BellSouth's provision of collocation nor is it the "legally binding document" upon which BellSouth relies for 271 purposes. *Gray Reply Affidavit*, ¶¶ 5-56. AT&T does not criticize the collocation terms and conditions set forth in BellSouth's interconnection agreements or SGAT, which contain BellSouth's legally binding obligations with respect to collocation.

Although AT&T alleges that BellSouth intentionally places collocation space as far as possible from the interconnection frames specifically to increase CLECs' collocation costs, the Commission finds that there is no evidence to support this allegation. The same is true with respect to AT&T's claim that BellSouth fails to meet the requirements of the FCC's rules by not offering off-site adjacent collocation and not providing shared collocation in the appropriate manner. The Commission notes that the FCC's rules do not require "off-site adjacent location." Nor do the FCC's rules require

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<sup>7</sup> Docket No. 7892-U Performance Measurements [Average Response Time (E.1.1.1 and E.1.1.2), Average Arrangement Time (E.1.2.1-E.1.2.5) and % Due Dates Missed (E.1.3.1 and E.1.3.2)].

shared collocation in the manner urged by AT&T. *Deployment of Wireline Services Offering Advanced Telecommunications Capability, First Report and Order and Further Notice of Proposed Rulemaking*, FCC 99-48, 14 FCC Rcd 4761, ¶ 41 (1999) (“*Advanced Services Order*”). The Commission believes that BellSouth provides collocation consistent with the FCC’s rules and has complied fully with its collocation obligations.

Although both AT&T and NewSouth complain about the charges for physical collocation, the Commission finds that that BellSouth’s space preparation fees and charges for DC power are consistent with the Commission’s Order in Docket No. 7061-U. The Commission will revisit collocation fees and charges in Docket No. 14361-U in which the Commission has issued a Procedural and Scheduling Order with hearings contemplated in December 2001. In the meantime, the Commission notes that BellSouth filed revised interim collocation rates with its latest SGAT on August 27, 2001, which result in lower non-recurring collocation rates.

**(d) Other Issues**

In the Commission’s view, the other interconnection-related issues raised by the CLECs do not warrant a finding that BellSouth has failed to comply with its obligations under Checklist Item 1. This is not the proper forum to consider Access Integrated’s complaints about the FCC’s rules or the conduct of Congress in adopting the Federal Act.

Although concerned about Access Integrated’s allegations of misconduct by BellSouth in attempting to “win back” customers who have left BellSouth, the Commission notes that many of the affidavits filed by Access Integrated involve incidents that occurred almost one year ago. Furthermore, BellSouth has responded to each instance of alleged misconduct raised by Access Integrated, some of which

BellSouth disputes, and described in detail the steps BellSouth has taken to ensure that such incidents do not reoccur. *Ruscilli Reply Affidavit*, JAR-1, at 2. The Commission is reviewing BellSouth's "win back" efforts in greater detail in Docket No. 14232-U and will establish guidelines and limitations where necessary.

The Commission finds unconvincing Cbeyond's allegations that BellSouth has violated the parties' Interconnection Agreement. Furthermore, although Cbeyond complains that BellSouth has breached the terms of the parties' agreement by imposing additional third-party provider SS7 charges for non-local intrastate calls, the tariff about which Cbeyond complains was withdrawn in Georgia. *Ruscilli Reply Affidavit*, ¶¶ 12-14.

**(5) Conclusion**

The Commission concludes that BellSouth has demonstrated compliance with Checklist Item 1.

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

**(1) Overview**

Pursuant to Checklist Item 2, a BOC is required to provide "nondiscriminatory access to network elements" on an "unbundled basis at any technically feasible point" and at "rates, terms and conditions that are just, reasonable, and nondiscriminatory." 47 U.S.C. § 271(c)(2)(B)(ii). Section 252(c)(3) of the Telecommunications Act of 1996 requires that BellSouth provide CLECs with access to unbundled network elements at any technically feasible point and must allow CLECs to combine these elements to provide telecommunications services. 47 U.S.C. § 252(c)(3). Both the FCC and this

Commission have held that a CLEC's ability to use unbundled network elements, as well as combinations of network elements, is integral to promoting competition in the local telecommunications market.

In evaluating compliance with Checklist Item 2, the FCC has focused primarily on access to OSS. *See SWBT-TX Order*, ¶¶ 91-92; *SWBT-KA/OK Order*, ¶ 45. The FCC has stated that a BOC's OSS are themselves network elements that must be unbundled and provided to CLECs. In addition, nondiscriminatory access to OSS is crucial to a BOC's compliance with a number of checklist items, although the FCC reserves its analysis of specific unbundled network elements for the separate discussions that deal with specific network elements, *i.e.*, unbundled local loops (checklist item 4), unbundled local transport (checklist item 5) and unbundled local switching (checklist item 6). *See Second Louisiana Order*, at ¶¶ 80-84; *SWBT-TX Order*, ¶ 92. In short, the requirement that a BOC provide nondiscriminatory access to its OSS is essential to satisfying the requirements of the competitive checklist. *See Second Louisiana Order*, at ¶ 84.

CLECs need nondiscriminatory access to an ILEC's OSS to formulate and place orders for network elements or resale services, to install service to their customers, to maintain and repair network facilities, and to bill customers. *SWBT-TX Order*, ¶ 92. OSS includes the systems, information and personnel that support network elements or services offered for resale. *Bell Atlantic-NY Order*, ¶¶ 81-85, n. 202. For OSS functions with analogous BOC retail services, the BOC must provide access that permits CLECs to perform functions in "substantially the same time and manner" as the BOC retail representatives. *SWBT-TX Order*, ¶ 94; *Bell Atlantic-NY Order*, ¶ 85. For OSS functions that have no retail analogue, the FCC will examine whether they are "sufficient to allow

an efficient competitor a meaningful opportunity to compete.” *SWBT-TX Order*, ¶ 95; *Bell Atlantic-NY Order*, ¶ 86. A “meaningful opportunity to compete” is assessed by a review of applicable performance standards. *Second Louisiana Order*, ¶ 87; *SWBT-TX Order*, ¶ 95.

The FCC has articulated the legal standard by which it evaluates the sufficiency of a BOC’s deployment of OSS. First, it must determine whether the BOC has deployed the necessary systems and personnel to provide sufficient access to each of the necessary OSS functions and whether the BOC is adequately assisting CLECs to understand how to implement and use all of the OSS functions available to them. Next, it determines whether the OSS functions that the BOC has deployed are “operationally ready,” as a practical matter. *See Second Louisiana Order*, ¶ 85; *see also Bell Atlantic-NY Order*, ¶ 87.

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

Under the second part of this test, the FCC examines performance measurements and other evidence of commercial readiness to ascertain whether the BOC's OSS is handling current demand and will be able to handle reasonably foreseeable future volumes. The FCC has emphasized in this regard that "[t]he most probative evidence that OSS functions are operationally ready is actual commercial usage." *Second Louisiana Order*, ¶ 86; ¶ 92 ("The most critical aspect of evaluating a BOC's OSS is the actual performance results of commercial usage"); *see also SWBT-TX Order*, ¶ 98. In the absence of commercial usage, the FCC will consider carrier-to-carrier testing, independent third party testing, and internal testing to demonstrate commercial readiness. *Id.* at ¶ 86.

(2) **BellSouth Comments**

(a) **Nondiscriminatory Access to OSS**

BellSouth asserts that it provides nondiscriminatory access to its OSS for pre-ordering, ordering, provisioning, maintenance and repair, and billing. To process manual and partially mechanized local service requests ("LSRs"), BellSouth has six main CLEC centers. *Ainsworth Affidavit*, ¶ 4. The Local Carrier Service Center ("LCSC") handles the pre-ordering and ordering portion of a local request submitted manually or as a result of mechanized fallout, and passes this information along to either the BellSouth Customer Wholesale Interconnection Network Service Center ("CWINS") or the Data Customer Support Center ("DCSC"). The CWINS or DCSC handles the provisioning or maintenance portion of a local request. Some centers, such as the Complex Resale Support Group ("CRSG"), the Intelligent Network Service Center ("INSC"), the Local Interconnection Service Center ("LISC") and the DCSC, interface with a variety of



centers to provide a particular type of service. Each of these centers utilizes the same methods and procedures, accesses the same databases, and receives the same training in support of CLECs across all nine states. *Ainsworth Affidavit*, ¶ 4. There are more than 1,000 employees in BellSouth's LCSC operations, which, for the year 2000, processed an average of 99,122 LSRs each month. *Ainsworth Affidavit*, ¶ 9.

In addition, BellSouth makes available to CLECs electronic interfaces to access BellSouth's OSS, which, according to BellSouth, are being used today at significant commercial volumes. *OSS Affidavit of William Stacy*, ¶ 171 ("*Stacy-OSS Affidavit*"). According to BellSouth, CLECs submitted over 1,000,000 pre-ordering transactions and over 290,000 LSRs in March 2001. *Stacy-OSS Affidavit*, ¶ 172. In the first quarter of 2001, the number of OCNs using Electronic Data Interchange ("EDI") ranged from 26 to 36 and the number using the Telecommunications Access Gateway ("TAG") ranged from 59 to 71.<sup>8</sup> *Id. at* ¶ 39. BellSouth asserts that the significant number of users of EDI and TAG, combined with the high commercial usage of the interfaces, demonstrates that BellSouth's OSS are operationally ready. BellSouth also asserts that the operational readiness of its OSS was confirmed by the third-party OSS test conducted by KCI. *Id. at* ¶ 440.

Consistent with FCC requirements, BellSouth asserts that it provides the documentation and support necessary to provide competing carriers nondiscriminatory access to its OSS. BellSouth states that it provides CLECs with a variety of different means by which CLECs can learn about BellSouth's systems and processes, including written guides and manuals; training classes; web-based training; and help desks. *Stacy-*

*OSS Affidavit*, ¶ 26-43. BellSouth's business rules for placing electronic and manual LSRs are contained in the *BellSouth Business Rules for Local Ordering* or the *Local Exchange Ordering Implementation Guide*, depending on which software release the CLEC is using. According to BellSouth, it also has made the Universal Service Ordering Codes ("USOCs") and Field Identifiers ("FIDs") available in the USOC Manual available in several formats on BellSouth's interconnection website, including a format that allows CLECs to download and import the manual into commonly-used database programs. *Stacy-OSS Affidavit*, ¶¶ 29-34. BellSouth offers a variety of training classes for CLECs, and has conducted over 300 training classes since 1998. For the year 2000, BellSouth offered over 100 training classes offered. These classes were attended by more than 1,100 individuals representing 152 CLEC companies. *Stacy-OSS Affidavit*, ¶ 44. The average CLEC ranking of the effectiveness and efficiency of BellSouth's training classes was a 4.6 out of a possible 5. *Stacy-OSS Affidavit*, ¶ 55.

**(i) Pre-Ordering Functions**

Pre-ordering is the exchange of information between BellSouth's systems and the CLEC to assist the CLEC in interacting with its end-user customer. Pre-ordering generally includes those activities that a carrier undertakes with a customer to gather and verify the information necessary to formulate an accurate order for that customer. It includes the following functions: (1) street address validation; (2) telephone number information; (3) services and features information; (4) due date information; and, (5) customer service record information. *See Second Louisiana Order at* ¶ 94.

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<sup>8</sup> According to BellSouth, the OCN is an alphanumeric code assigned by the National Exchange Carrier Association, and some CLECs, particularly those operating in more than one state, have more than one OCN.

BellSouth currently offers CLECs their choice of electronic interfaces – TAG, RoboTAG™, and Local Exchange Navigation System (“LENS”) – which provide CLECs with real time access to the same pre-ordering databases used by BellSouth’s retail representatives. BellSouth’s pre-ordering interfaces allow CLECs to perform the following functions: (1) retrieve customer service records; (2) validate addresses; (3) select and reserve telephone numbers; (4) determine services and features available to a customer; (5) obtain due date availability; (6) access loop qualification information; and, (7) view a customer’s directory listing. *Stacy-OSS Affidavit*, ¶ 132. According to BellSouth, commercial usage provides evidence that CLECs are using BellSouth’s pre-ordering interfaces. For example, for January and February 2001, CLECs submitted 688,930 and 933,308 pre-ordering transactions via LENS and TAG, respectively. *Stacy-OSS Affidavit*, ¶ 137.

The FCC has held that a BOC must provide pre-ordering functionality through an application-to-application interface to enable CLECs to “conduct real-time processing and to integrate pre-ordering and ordering functions in the same manner as the BOC.” *See Second Louisiana Order*, ¶ 105; *SWBT-TX Order*, ¶ 14. The FCC previously criticized BellSouth for not having an “application-to-application” interface. *Second Louisiana Order*, ¶ 96. However, since the *Second Louisiana Order*, BellSouth asserts that it has made available TAG, which is a pre-ordering application-to-application interface. TAG, which was developed in response to specific requests from mid-sized and large CLECs, provides a standard Application Programming Interface (“API”) to BellSouth’s pre-ordering, ordering and provisioning OSS. TAG is based on Common

Object Request Broker Architecture (“CORBA”), which is one of the industry protocols for pre-ordering. *Stacy-OSS Affidavit*, ¶¶ 17-18.

For CLECs wishing to use TAG for pre-ordering, ordering and provisioning but not to develop and maintain their own TAG interface, BellSouth provides RoboTAG™. RoboTAG™ provides a standardized, browser-based interface to the TAG gateway that resides on a CLEC’s LAN server, and integrates pre-ordering and ordering with up-front editing. BellSouth made RoboTAG™ available in November 1999. *Stacy-OSS Affidavit*, ¶ 20.

Finally, BellSouth offers the graphical user interface (“GUP”) LENS. LENS is an option for those CLECs that have made the business decision not to integrate pre-ordering, ordering and provisioning interfaces with their internal OSS. LENS is a web-based GUI. As of January 14, 2000, LENS became a GUI to the TAG gateway. LENS uses TAG’s architecture and gateway, and therefore has TAG’s pre-ordering functionality for resale services and UNEs, and TAG’s ordering functionality for resale services. LENS also uses TAG’s ordering functionality for designed and nondesigned unbundled analog loops, digital unbundled loops, and loop-port combinations. *Stacy-OSS Affidavit*, ¶¶ 22-23.

During pre-ordering, BellSouth asserts that it provides CLECs with nondiscriminatory access to the same detailed loop makeup information (“LMU”) that is available to its retail units either electronically or manually. *Stacy-OSS Affidavit*, ¶ 86; *SWBT-KA/OK Order*, ¶ 121 (BOC must provide CLECs with access to all the same detailed information about the loop that is available to itself). BellSouth provides this information electronically through TAG and LENS, by which CLECs can access the

information contained in the Loop Facility Assignment and Control System (“LFACS”). Using the functionality in TAG or LENS, CLECs can request loop makeup information on existing facilities that are owned by the requesting CLEC or BellSouth, on new or spare facilities that are owned by BellSouth, or can create and cancel reservations for new or spare facilities owned by BellSouth. BellSouth asserts that it successfully beta-tested electronic access to LMU with four CLECs before its general release to the industry in February 2001. *Stacy-OSS Affidavit*, ¶ 164.

According to BellSouth, CLECs are making full use of BellSouth’s electronic access to LMU. In January 2001, CLECs region-wide issued 2,572 queries for electronic LMU, and 4,556 queries in February 2001. *Stacy-OSS Affidavit*, ¶ 89. In March 2001, CLECs issued 4,841 electronic queries for loop makeup information. BellSouth completed 100% of those inquiries within 5 minutes, which is well above the applicable benchmark established by the Commission. In April and May 2001, CLECs submitted 1,576 and 879 electronic queries for loop makeup information, respectively, and BellSouth completed 100% of those queries within 5 minutes in each month. *See* Monthly State Summary, Docket No. 7892-U.

**(ii) Ordering Functions**

Ordering is the process whereby a CLEC requests facilities or services from BellSouth and then receives information such as a confirmation indicating that the order has been accepted. 47 C.F.R. § 51.5. In addition to TAG, RoboTAG™, and LENS, BellSouth offers EDI, which is an industry-standard electronic ordering interface. According to BellSouth, actual commercial usage of BellSouth’s ordering OSS has been extensive. In 2000, CLECs sent 2,886,673 LSRs to BellSouth electronically. In March

2001, BellSouth received over 290,000 LSRs through electronic interfaces. *Stacy-OSS Affidavit*, ¶ 172. As of March 2001, 32 CLECs were using EDI; 59 were using TAG; and 281 were using LENS. *Id. at*, ¶ 171.

BellSouth asserts that its performance data shows that CLECs can have a high level of confidence that LSRs submitted to BellSouth will receive either a FOC or a reject notice. For example, in April 2001, the bulk of the mechanized LSRs BellSouth received were for loop-port combinations and Other Non-Designed elements (10,031 and 7,483 orders, respectively). BellSouth returned either a FOC or a reject notice on 95.77% of the mechanized loop-port combination LSRs and 99% of the mechanized other non-designed LSRs, both of which exceeded the Commission's benchmark. *See Monthly State Summary*, Docket No. 7892-U.

BellSouth also asserts that it provides CLECs with FOC and reject notices in a timely manner. According to BellSouth, it provided mechanized FOCs within the benchmark for loop-port combinations and Other Non-Design in both March and April 2001. In addition, BellSouth provided timely FOCs for partially mechanized and manual orders for every product category for which there was data in both March and April. *Id.*

With respect to reject intervals, BellSouth points out that it met the benchmark for mechanized reject intervals in March 2001 for ISDN loops; 2-wire analogue loops /Non-Design; and 2-wire analogue loops w/LNP/Design. In April 2001, BellSouth met the benchmark for loop-port combinations; ISDN loops; 2-wire analog loops/Non-Design; and Other-Design. Moreover, in April 2001, 95.10% of the rejected LSRs for Other-Non-Design receive a reject notice in one hour, which is very close to the 97% benchmark. In March and April 2001, BellSouth met the reject benchmark for *all*

partially mechanized LSRs. With respect to manual LSRs, BellSouth met the benchmark for all but xDSL and line sharing in March; in April and May 2001, BellSouth met the benchmark for both of these categories.

BellSouth asserts that its performance data also demonstrate that BellSouth provides CLECs with parity of service with respect to order flow-through. *BellSouth Direct Comments* p. 29; *see Second Louisiana Order*, ¶ 116. A competing carrier's LSRs "flow through" if they are transmitted electronically through the gateway and accepted into BellSouth's back office ordering systems without manual intervention. *Second Louisiana Order*, ¶ 107. BellSouth argues, as the FCC has recognized, that a relatively low flow-through rate for certain orders is not, in and of itself, an indication that CLECs are being denied access to BellSouth's ordering systems. *BellSouth Direct Comments* p. 29; *see SWBT-TX Order*, ¶ 181. BellSouth argues that it is providing FOCs and rejects in a timely manner, particularly in the partially mechanized and manual categories, which, according to BellSouth, is compelling evidence of nondiscriminatory performance. *BellSouth Direct Comments*, ps. 28-29; *see SWBT-TX Order*, ¶ 181 ("a BOC's ability to return timely order confirmation and rejection notices, accurately process manually held orders and scale its systems is more relevant and probative for analyzing the BOC's ability to provide access to its ordering functions than a simple flow-through analysis").

As required by the FCC, BellSouth points out that it has implemented the ability to process orders for partial migrations in such a way as to provide an efficient competitor a meaningful opportunity to compete. *BellSouth Direct Comments*, p. 30; *see Second Louisiana Order*, ¶ 144. Today, CLECs can order both initial and subsequent partial migrations electronically. CLECs have been able to send LSRs for resale or UNE

initial partial migrations since BellSouth implemented EDI in December 1996. In March 1999, BellSouth enhanced the capabilities of EDI, TAG and LENS to assist CLECs with electronic ordering of subsequent partial migrations. *Stacy-OSS Affidavit*, ¶¶ 176-78. The fields BellSouth added are industry standard enhancements, which, according to BellSouth, fully address the FCC's concerns about partial migrations.

BellSouth also provides electronic ordering for xDSL and line-sharing. According to BellSouth, the processes for ordering unbundled xDSL-compatible loops and line-sharing are analogous to those for ordering unbundled loops. After conducting carrier-to-carrier testing with four CLECs, and correcting the defects uncovered in that testing, BellSouth released the electronic ordering capability for xDSL loops into production for all CLECs on February 12, 2001. *Stacy-OSS Affidavit*, ¶¶ 183-88. BellSouth made electronic ordering for line-sharing available in September 2000. BellSouth offered carrier-to-carrier testing to all CLECs participating in the line-sharing collaborative, but only one CLEC engaged in testing this capability with BellSouth. *Stacy-OSS Affidavit*, ¶¶ 189-91.

**(iii) Provisioning Functions**

Provisioning involves the exchange of information between telecommunications carriers where one executes a request for a set of products and services, or UNEs, or combination thereof from the other with attendant acknowledgments and status reports. 47 C.F.R. § 51.5. BellSouth states that there are no separate provisioning interfaces because provisioning is internal to BellSouth once the order has been submitted. Indeed, for most orders from CLECs, according to BellSouth, the provisioning systems and



processes are the same as those BellSouth uses for its own retail orders. *BellSouth Direct Comments*, p. 31.

While there are no separate provisioning interfaces, BellSouth provides CLECs with jeopardy notifications, order completions, and other order status information. *Stacy-OSS Affidavit*, ¶¶ 233-49; *See also Bell Atlantic-NY Order*, ¶ 185 (BOC must allow CLECs access to order status and jeopardy information). BellSouth asserts that it provides these notices in a timely manner. *BellSouth Direct Comments*, p. 31.

**(iv) Maintenance and Repair Functions**

BellSouth asserts that it offers CLECs electronic interfaces for trouble reporting, which provide CLECs with access to the maintenance and repair functions in substantially the same time and manner as BellSouth offers access for its retail customers. *See SWBT-KA/OK Order*, ¶¶ 161-162 (BOCs must furnish CLECs with access to all of the repair and maintenance OSS functions the BOCs provide to themselves). BellSouth offers such access through its Trouble Analysis Facilitation Interface (“CLEC TAFI”) and Electronic Communications Trouble Administration (“ECTA Local”). TAFI is the same system BellSouth uses for its retail units. According to BellSouth, TAFI and ECTA Local provide CLECs electronic access to maintenance and repair OSS in a manner that far exceeds what Bell Atlantic provided to CLECs at the time of its 271 application. *Stacy-OSS Affidavit*, ¶ 131.

According to BellSouth, CLECs are using these interfaces in commercially significant volumes. In 2000, 31 CLECs used TAFI to enter 251,900 trouble reports. *Stacy-OSS Affidavit*, ¶ 22. In addition, KCI found that BellSouth had satisfied all of the

evaluation criteria related to maintenance and repair functions. KPMG Final MTP Report, Section VIII.

BellSouth asserts that its end users and CLEC end users experience troubles at roughly the same rate. CLECs had fewer customer trouble reports in March, April, and May for loop-port combinations (dispatch and non-dispatch) and all sub-metrics of 2-wire analog loops as compared to the applicable BellSouth retail analogue. In addition, BellSouth performed above the applicable retail analogue in most months for xDSL (dispatch and non-dispatch) loops and line sharing. *See* Monthly State Summary, Docket No. 7892-U.

When CLEC customers experience a problem with their service, BellSouth asserts that it repairs the problem in virtually the same time that it takes to repair problems for its retail customers. In March 2001, BellSouth met or exceeded the retail analogue for Missed Repair Appointments in 11 of the 13 product categories for which data was reported. In April 2001, BellSouth met or exceeded the retail analogue for Missed Repair Appointments in every sub-metric for which data was reported, including the two sub-metrics BellSouth missed in March. *Id.* BellSouth met or exceeded the retail analogue for Missed Repair Appointments in 16 of 17 product sub-metrics for which data was reported in May 2001. *Id.*

On Maintenance Average Duration, BellSouth asserts that it met or exceeded the retail analogue in 11 of the 13 sub-metrics for which data was reported in March 2001. In April 2001, BellSouth met or exceeded the retail analogue for Maintenance Average Duration in 15 of the 16 sub-metrics for which data was reported; the exception was local interoffice transport – nondispatch, for which there were less than 10 maintenance and

repair opportunities in April. *Id.* In May 2001, BellSouth met or exceeded the retail analogue for Maintenance Average Duration in every product category for which data was reported. *Id.*

Finally, BellSouth asserts that in virtually every case in which it fixes a trouble, CLEC end-user lines experience less repeat troubles than BellSouth end-user lines. BellSouth notes that it met or exceeded the retail analogue for Percent Repeat Troubles Within 30 Days for 10 out of 13 of the sub-metrics for which data was reported in April 2001. Of particular significance, BellSouth's performance met the applicable analogue for loop-port combinations, xDSL-capable loops, and 2-wire analog loops (both dispatch and nondispatch). *Id.* BellSouth met or exceeded the retail analogue for Percent Repeat Troubles Within 30 Days in all 17 of the sub-metrics for which data was reported in May. *Id.*

(v) **Billing Functions**

For those services for which BellSouth bills its retail and interexchange carrier customers, BellSouth asserts that it uses the same systems to generate billing information for competing carriers that it uses for its own retail operations. *Scollard Affidavit*, ¶ 5. BellSouth provides CLECs with usage data by three means: the Optional Daily Usage File ("ODUF"); the Access Daily Usage File ("ADUF"); and, the Enhanced Optional Daily Usage File ("EODUF"). These daily usage files were designed to provide CLECs with usage records for billable call events that are recorded by BellSouth's central offices. *Id.* BellSouth asserts that these interfaces allow a CLEC to process call records in its billing systems in substantially the same time and manner that BellSouth processes these types of records in its own systems. *BellSouth Direct Comments*, p. 34.

According to BellSouth, there is a high level of commercial usage of BellSouth's billing processes by CLECs. Region-wide, BellSouth produces approximately 5,500 bills a month for approximately 338 different CLECs. *Scollard Affidavit*, ¶ 24. BellSouth asserts that its performance data demonstrates BellSouth's ability to provide billing functionality in substantially the same time and manner BellSouth provides such information to itself and carrier bills in a manner that gives competing carriers a meaningful opportunity to compete. In March, April, and May 2001, BellSouth's invoice accuracy for CLECs exceeded that for BellSouth's retail units. In addition, while it took BellSouth .04 days longer in March to deliver invoices to CLECs than to the retail units, BellSouth provided invoices faster to CLECs than to BellSouth retail units in April and May. *See Monthly State Summary*, Docket No. 7892-U.

**(b) Third-Party Test**

In addition to the levels of commercial usage of BellSouth's OSS, BellSouth contends that the independent third-party test conducted by KCI provides further evidence of BellSouth's compliance with Checklist Item 2. KCI evaluated BellSouth's OSS based upon 1,175 evaluation criteria, concluding "that no deficiencies creating potentially material adverse impacts on competition currently exist in the Test categories of Pre-Ordering, Billing, Maintenance and Repair, Capacity Management, Change Management and Flow-Through." Further, in the Ordering and Provisioning categories, KCI noted in its opinion letter that "all evaluation criteria have been satisfied except those in three areas...." *KCI March 20, 2001 Letter to Commission in Docket No. 8254-U*, p. 2; *see Stacy-OSS Affidavit*, ¶¶ 159-160. For those three areas, KCI noted that the

Commission would “be able to monitor these issues on an ongoing basis through performance measures and/or penalty plans in place to address [them].” *Id.*

According to BellSouth, the majority of the criteria KCI found to be not satisfied can be classified into two main groups. First, the results of certain unsatisfied criteria have been supplanted by commercial data, primarily because of changes BellSouth has made to its OSS and processes since the KCI test was concluded. Because commercial data is more probative than testing, BellSouth insists that KCI’s findings on these criteria are less significant. *Stacy-OSS Affidavit*, ¶ 306.

A second group of criteria relates to the accuracy of partially mechanized orders. While BellSouth does not dispute that this is an important factor for CLECs, BellSouth takes issue with KCI’s interpretation of the test data for these criteria as they relate to the actual impact to the CLEC’s end user. According to BellSouth, KCI’s view of order accuracy overstates the actual customer impact by counting one error on an LSR that contains multiple items as a wholly incorrect LSR rather than assessing the impact of the one error in the context of the other ordered items. *Stacy-OSS Affidavit*, ¶ 307.

Nevertheless, BellSouth insists that it has recognized the need to improve the accuracy and timeliness of its manual handling of orders. In response to this need, BellSouth has established the Quality and Accuracy Team, which is composed of approximately 35 people. The purpose of the team is to support the LCSC in achieving higher levels of accuracy that lead to increased efficiency, improved flow through, increased customer satisfaction, and fewer complaints, expedites, and escalations. According to BellSouth, the team monitors LSR fallout to help the LCSC improve the handling of LSRs that drop out for manual handling due to errors. BellSouth notes that,

from September 1, 2000, when the Quality and Accuracy team began its work, to March 28, 2001, the number of LSRs requiring monitoring by the team was reduced by 92%. *Stacy-OSS Affidavit*, ¶ 330. Increasing the number of LSRs that flow through, rather than fall out for manual handling, will improve the accuracy and timeliness for partially mechanized orders.

In response to this Commission's January 12, 2001 Order in Docket No. 7892-U, BellSouth and the CLECs formed a cooperative Flow Through Improvement Task Force. The objective of the task force is to enhance the flow through of electronic orders, document those enhancements, and develop a schedule for implementing the enhancements. The task force is operating as a subcommittee of the Change Control Process (“CCP”) and has held on-going meetings. *Stacy-OSS Affidavit*, ¶ 333.

BellSouth also notes that, if it does not complete orders in an accurate and timely manner, this failure would result in inaccurate billing, which would be captured by the Invoice Accuracy performance measure reported by BellSouth. According to BellSouth’s performance measurements results for the Invoice Accuracy measure, these partially mechanized issues do not have a disproportionate impact on CLEC customers. *Stacy-OSS Affidavit*, ¶ 334.

BellSouth insists that it has taken KCI’s issuance of the “not satisfied” criteria seriously and has conducted an extensive analysis of each such criterion. The results of this analysis are set forth in detail in the *Stacy-OSS Affidavit*, ¶¶ 311-436. BellSouth asserts that it has addressed KCI’s concerns and, where necessary, has implemented process improvements to ensure future compliance. BellSouth contends that its

performance data demonstrate that BellSouth is providing a level of service that gives CLECs a meaningful opportunity to compete in the local market.

(c) **Change Management Process**

BellSouth asserts that its change management process satisfies Checklist Item 2, which requires that a BOC demonstrate that it has in place an adequate change management process to which it adheres over time. Specifically, according to BellSouth: (1) information relating to the change management process is clearly organized and readily accessible to CLECs; (2) CLECs had substantial input in the design and continued operation of the change management process; (3) the change management plan defines a procedure for the timely resolution of change management disputes; (4) the change management process provides for the availability of a stable testing environment that mirrors production; and, (5) the documentation BellSouth makes available for the purpose of building an electronic gateway is useable. *Stacy-OSS Affidavit*, ¶¶ 97-98; *Stacy Performance Measurements Affidavit*, ¶¶ 42-63.

As part of its third-party test, KCI tested BellSouth's change management process. KCI found that BellSouth had satisfied each evaluation criteria related to change management. KCI Final MTP Report, at VIII-A-15 – VIII-A-23. In particular, KCI found that the information relating to change management is organized and readily accessible to CLECs. *Id.*

Although BellSouth's change management process has evolved since it first began in 1997, BellSouth points out that CLECs have had substantial input throughout the process. *Stacy-OSS Affidavit*, ¶¶ 64-78. The change management process is memorialized and set forth in a single document and is available at BellSouth's change

control website. *Id. at* ¶¶ 79-80. The current document was updated by vote of the members of the CCP and issued on May 18, 2001. *Id. at* ¶ 78.

In March and May 2001, BellSouth provided 100% of its change management documentation on time and only missed two of the change management performance measures for which data was reported. BellSouth asserts that its overall change management performance, coupled with the improvement initiatives it is undertaking to improve its performance on those measures for which it did not meet the applicable benchmark, dictate that the Commission should find that BellSouth's notification and documentation timeliness is sufficient to allow an efficient competitor a meaningful opportunity to compete.

BellSouth also asserts that its versioning process satisfies the requirements of the FCC, which has held that a satisfactory versioning process is essential to a BOC's demonstration that its change management plan affords competing carriers a meaningful opportunity to compete. *SWBT-TX Order*, ¶ 115. BellSouth's process contains a versioning policy that enables CLECs to transition to newer versions of its electronic interfaces on a schedule that is convenient for them. *Stacy-OSS Affidavit*, ¶ 102. BellSouth's policy is to support two industry standard versions of these electronic interfaces. *Stacy-OSS Affidavit*, ¶ 103. Whenever BellSouth retires a version of these interfaces, BellSouth will notify the CLECs 120 days in advance. A CLEC, however, may inform the CCP that it needs an extension by explaining how the retirement date affects its business. *Id. at* ¶ 105. BellSouth claims that its versioning policy provides CLECs with significant assurance that changes to the interfaces will not disrupt CLECs' use of BellSouth's OSS. *SWBT-KA/OK Order*, ¶ 167 ("versioning enhances SWBT's



change management plan by providing significant additional assurance that changes will not disrupt competing carriers' use of the SWBT's OSS").

BellSouth also asserts that it provides CLECs with an open and stable testing environment for the machine-to-machine electronic interfaces. *Stacy-OSS Affidavit*, ¶¶ 107-16. As of December 2000, more than 20 CLECs have utilized this test environment. *Stacy-OSS Affidavit*, ¶ 107. On April 23, 2001, BellSouth released a new testing environment for functional testing called the CLEC Application Verification Environment ("CAVE"). CAVE mirrors the production environment to ensure that new hardware and software releases facilitate successful order flow before the new releases are introduced to the production environment. *See Stacy-OSS Affidavit*, ¶ 117. CAVE allows testing of all major releases. BellSouth has implemented a CAVE help desk available from 8:00 a.m. to 5:00 p.m., Eastern Time, Monday through Friday, excluding BellSouth holidays. CLECs have access to CAVE 24 hours a day. *Stacy OSS Affidavit*, ¶ 125. BellSouth argues that CAVE satisfies the FCC's requirement that a BOC provide CLECs "with access to a stable testing environment to certify that [its] OSS will be capable of interacting smoothly and effectively with [the BOC's] OSS," and provides "a testing environment that mirrors the production environment in order for competing carriers to test the new release." *SWBT-TX Order*, ¶ 132.

**(d) Performance Measures and Data Integrity**

As required by this Commission, BellSouth has developed a comprehensive set of performance measures, which collectively are referred to as its SQM. BellSouth asserts that the SQM provide this Commission with an effective means to evaluate the quality

and timeliness of the access provided by BellSouth to CLECs. *Stacy Performance Affidavit*, ¶ 3.

In connection with the development of the SQM in early 1998, BellSouth began designing a system that could be used to collect, process, and report performance data to correspond with the performance measures reflected in the SQM. This system is called the Performance Measurements Analysis Platform (“PMAP”). Fully deployed in March 1999, BellSouth has continually enhanced PMAP such that the majority of the SQM values are processed, calculated, and reported through the PMAP platform. BellSouth employs a variety of smaller, special-purpose tools and manual processes to calculate and report the remaining SQM values. All SQM values are reported each month on BellSouth’s PMAP website (<https://pmap.bellsouth.com>), including those values not currently calculated by PMAP. *Stacy Performance Reply Affidavit*, ¶ 5.<sup>9</sup>

In accordance with this Commission’s December 1997 Order in Docket No. 7892-U, BellSouth designed the PMAP platform to produce raw data files containing the detailed, CLEC-specific transaction information underlying each applicable SQM report. BellSouth makes raw data available to CLECs via its PMAP website and has been doing so for years. In order to assist the CLECs in downloading, interpreting, and using the raw data, BellSouth publishes the Raw Data Users Manual and posts this document to the PMAP website. This document is updated as necessary to reflect any changes made to the reported metrics. *Id. at* ¶¶ 14-15.

BellSouth asserts that its performance data is verified and validated in four ways to maintain the integrity of the data and ensure that no data is lost. First, according to

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<sup>9</sup>To underscore the size of the PMAP database, BellSouth notes that the current PMAP database is nearly the size of the entire Internet in 1999. *Stacy Performance Reply Affidavit* ¶ 10.

BellSouth, its systems have internal quality assurance controls. BellSouth's systems execute a number of validation checks to ensure that no records are lost between databases from the legacy systems to PMAP staging. In addition, raw data validation scripts are used to ensure that the raw data made available to CLECs can be used to produce the PMAP reports posted to the website. *Id. at* ¶ 24.

Second, BellSouth points out that it has implemented manual data validation processes within and between data processes that are applied to both BellSouth data and CLEC data. These validation processes can be divided into two categories – code validation and business validation. In the first process, the data production team analyzes and validates the code and verifies the computer programming to ensure that the data is produced in accordance with the code. The second validation process involves the Data Analysis team, which is a group of business analysts who perform reasonableness checks on the data. For example, they may review data for the current month compared to the previous month to see if volumes or volume changes are reasonable from a business standpoint. The Data Analysis team also ensures that accurate SQM definitions, business rules, and exclusions are applied to the data. Similarly, experts in the field (Network Operations, LCSC) review the performance results to validate the reasonableness of the results. *Id. at* ¶ 25.

Third, BellSouth points to the stringent review of its performance data generation process conducted by KCI at the direction of this Commission. KCI conducted a metrics evaluation in connection with the Georgia third-party test. Although in some cases the measures that KCI evaluated were different than the measures in the current SQM, BellSouth contends that the systems that were audited are the same as those from which

the current SQM is reported. At the time KCI submitted its final reports, BellSouth notes that it had satisfied 401 of 420 data integrity test criteria, with most of the remaining criteria being adjudged as not complete. KCI currently is conducting a supplemental audit of BellSouth's performance metrics to address those measures that have been added or changed since the first audit. *Id. at* ¶¶ 26-27.

Finally, BellSouth notes that an independent auditor will audit BellSouth's performance data annually pursuant to this Commission's orders in Docket No. 7892-U. According to BellSouth, these audits will continue to ensure the integrity of BellSouth's performance data. *Id. at* ¶ 28.

**(e) UNE Combinations**

BellSouth asserts that it provides access to unbundled network elements in a manner that allows requesting carriers to access combinations of network elements as well as to combine unbundled network elements for themselves, consistent with requirements of the FCC and this Commission. *Milner Affidavit*, ¶ 67; *SWBT-KA/OK Order*, ¶ 171. BellSouth provides CLECs with a variety of means by which CLECs may combine network elements, including collocation and assembly point arrangements. *Milner Affidavit*, ¶ 67. In addition, in accordance with the Commission's order in Docket No. 10692-U, BellSouth provides combinations of network elements that are ordinarily combined in BellSouth's network and will not separate requested network elements where such elements are physically combined and providing services to a particular location, unless requested to do so. SGAT, § II.E.3.

BellSouth notes that it has implemented electronic ordering capability for the loop-port combination. This capability first became available with flow through for

AT&T in March 1998. *Stacy-OSS Affidavit*, ¶ 179. In February 1999, BellSouth implemented the electronic ordering and flow-through of loop-port combinations for all CLECs. CLECs can use EDI, TAG or LENS to order this combination. *Id.*

According to BellSouth, CLECs order other combinations of network elements manually. For example, the process for ordering combinations of unbundled loops and transport network elements, commonly referred to as an Extended Enhanced Loop (“EEL”), is the same as for any designed service using the manual ordering process. *Ainsworth Affidavit*, ¶ 113. In order to convert special access facilities to EELs, the CLEC must self-certify that it is providing a significant amount of local exchange traffic over the loop/transport combination. BellSouth asserts that it does not make auditing a precondition to converting special access to UNEs, although BellSouth reserves the right to audit the CLEC’s records to verify the type of traffic being transmitted over the loop/transport network element combination. If, based on the audit, BellSouth concludes that a CLEC is not providing a significant amount of local traffic over the facilities, BellSouth may file a complaint with the appropriate regulatory authority. SGAT, § II.E.3.

**(3) CLEC Comments**

**(a) Nondiscriminatory Access to OSS**

CLECs raise a number of issues concerning whether BellSouth is providing nondiscriminatory access to its OSS. Several CLECs complain that BellSouth’s electronic interfaces are often down and express concern that the interfaces may not be able to process increasing volumes of orders. *See, e.g., Davis Affidavit* ¶ 11; *Conquest Reply Affidavit*, Exh. 1. For example, Access Integrated states that it experienced

numerous outages from November 1, 2000 through May 25, 2001. *Access Integrated Comments*, Exs. M, 1. AT&T contends that BellSouth fails to receive LSRs because of OSS unavailability due to unexpected downtime, extended maintenance, and restricted processing hours. *Beck Affidavit* ¶¶ 18-25. AT&T suggests that BellSouth often keeps the EDI system offline beyond the typical maintenance periods without notification or permission and that BellSouth's use of weekends to conduct maintenance interferes with AT&T Broadband's busiest install period. *Beck Affidavit*, ¶¶ 22-23. Furthermore, AT&T claims BellSouth automatically shuts down its EDI system for processing each day between 9 p.m. and midnight, although BellSouth tells AT&T that EDI will be available 24/7 except for routine maintenance. Requests entered during that time are rejected due to "submission" date errors. *Beck Affidavit*, ¶¶ 24-25.

AT&T suggests that BellSouth's ENCORE system lacks sufficient capacity to process projected order volumes and that EDI continues to suffer outages and delays. AT&T asserts that EDI has experienced over 20 outages since April 2001 and that LENS is unstable. *Bradbury Affidavit* ¶¶ 79-80; *Seigler Affidavit* ¶¶ 40-43. WorldCom expresses concern that BellSouth's OSS is not yet operationally ready to accept commercial volumes of UNE-P orders, claiming that 365 of its orders were erroneously rejected purportedly because of sporadic shutdowns of back office systems. *Lichtenberg Affidavit* ¶¶ 3-7.

CLECs also complain about the extent to which BellSouth provides assistance to CLECs. AT&T states that LCSC incoming call hold times do not meet the SQM standard and that BellSouth provides CLECs with "second class" customer support in that answering times for CLECs have been at least three times longer than what

BellSouth provides its retail business customers. *Bradbury Affidavit* ¶¶ 39-40; *Beck Affidavit* ¶¶ 37-38. Covad Communications, Inc. (“Covad”) also asserts that BellSouth has failed to develop step-by-step supporting documentation to explain sufficiently the unique inputs necessary to order an xDSL loop via LENS and that because KCI test did not test LENS, there is no evidence to support the conclusion that BellSouth has met its obligation to provide functional, operationally ready OSS for CLECs. *Davis Affidavit* ¶¶ 12-14.

(i) **Pre-ordering functions**

AT&T makes a number of claims regarding BellSouth’s pre-ordering OSS. First, AT&T alleges that BellSouth does not provide CLECs with parsed Customer Service Record (“CSR”) data and fails to supply data to CLECs in a way that would allow them to parse CSR data themselves. *Bradbury Affidavit*, ¶¶ 24-25. Specifically, AT&T contends that BellSouth does not provide CLECs with parsed CSR data with delimiters and the business rules by which BellSouth applies the delimiters. AT&T states that CLECs requested parsed CSRs in September 1998, and that although the original target date for implementation was April 2000, BellSouth’s current estimate indicates that parsed CSRs will not be available until January 14, 2002. *Bradbury Affidavit*, ¶¶ 25 & 28. AT&T also suggests that the size and format of certain CLEC ordering interfaces are not compatible with CSRs. As a result, according to AT&T, CLECs cannot electronically populate the LSR but must manually parse and input the data. *Bradbury Affidavit*, ¶ 26.

Second, AT&T contends that BellSouth’s assignment of due dates continues to suffer from the same deficiencies previously identified by the FCC, namely the alleged

lack of parity due date calculation in the pre-ordering interface and delays allegedly caused by BellSouth's extensive reliance upon manual processing. *Bradbury Affidavit*, ¶¶ 30-32. AT&T expresses concern about the response time for CSR inquiries, which, according to AT&T, takes an average of 12 seconds. AT&T states that BellSouth has implicitly conceded that such response time is excessive and that KCI identified this as an area of concern. *Bradbury Affidavit*, ¶¶ 36-37. In addition, AT&T contends that KCI has not retested BellSouth's current OSS to ascertain whether the change request, as implemented, has corrected the deficiency in the pre-order due date calculator noted during the third-party testing. *Bradbury Affidavit*, ¶ 31.

WorldCom also complains that it does not have access to the electronic system BellSouth representatives use to determine a customer's special access number ("SAN"), and asserts that BellSouth will not provide updated lists. WorldCom states that BellSouth's suggestions of obtaining customers' SANs through a manual lookup, from FOCs, or through LENS are impractical, particularly for large commercial volumes of orders. WorldCom states that it should not be required to go through the change control process to get a better mode of access to SANs. *Lichtenberg Affidavit*, ¶¶ 11-16.

**(ii) Ordering Functions**

CLECs raise numerous issues regarding BellSouth's ability to process CLEC orders. AT&T contends that in a significant percentage of cases, BellSouth does not comply with the interconnection agreement's requirement that BellSouth respond to LSRs within 24 hours of submission. *Beck Affidavit*, ¶ 28. AT&T also claims that in March 2001, more than 70,000 electronic CLEC LSRs fell out for manual processing allegedly because of BellSouth system design or system errors. *Bradbury Affidavit*, ¶ 32.



AT&T makes two claims regarding BellSouth's processing of FOCs. AT&T asserts that BellSouth failed to return FOCs in a timely manner in March and April 2001 – an assertion echoed by NewSouth, which claims that it failed to receive FOCs within 24 hours on approximately 20% of its orders in February 2001. *Berger Affidavit*, ¶¶ 22-23; *Fury Affidavit*, ¶ 27. AT&T also argues that BellSouth unilaterally changed the business rules for FOCs to exclude non-business hours and suggests that BellSouth should be required to check the CFA before returning a FOC. *Bradbury Affidavit*, ¶¶ 65-66; *Berger Affidavit*, ¶¶ 25-26.

NewSouth argues that due to an EDI problem, a percentage of NewSouth FOCs cannot be related to the right order and that NewSouth must manually compare orders and FOCs. *Fury Affidavit*, ¶ 26. Birch Telecom of the South, Inc. ("Birch") asserts that the Commission should reevaluate the benchmark for FOCs and reject timeliness for partially mechanized orders, flow-through, and the Average Completion Interval measurement. *Birch Comments*, pp. 6-9.

CLECs also make several arguments regarding parity with respect to ordering. AT&T claims that the March 2001 data shows BellSouth "generally completes its own electronic orders in about half the time it takes BellSouth to complete CLEC electronic orders." *Bradbury Affidavit*, ¶¶ 75-77. NewSouth contends that an excessive number of its orders are placed in jeopardy, claiming that in January 2001, 18% of NewSouth's orders were placed in jeopardy while less than 3% of BellSouth's retail non-design orders went into jeopardy in the same period. NewSouth Comments, pp. 22-23. KMC Telecom, Inc. ("KMC") argues that BellSouth lost approximately 20% of the orders submitted by KMC in Augusta. *Weiss Affidavit*, ¶¶ 9-10.

CLECs raise several problems with the ordering of the UNE-P. NewSouth claims that it has experienced problems submitting mechanized orders for UNE-P with hunting and that BellSouth supplied NewSouth with incorrect USOCs to order UNE-P. *Fury Affidavit*, ¶¶ 23 and 38. NewSouth states that it began submitting UNE-P orders in November 2000 and argues that it experienced a high level of erroneous clarifications and inaccurate (or nonexistent) completion notices. NewSouth further claims that BellSouth provided it with inaccurate instructions concerning USOCs to use when submitting UNE-P orders. *NewSouth Comments*, pp. 16-17. AT&T contends that BellSouth's business rules do not specify which USOCs should be used to populate the requisite field on the LSR to reflect that UNE-P is a measured service and that there are inconsistencies in the use of certain fields for PBX and UNE-P orders. *Seigler Affidavit*, ¶¶ 27-30. In addition, AT&T asserts that a last minute change from "as is" to "as specified" for UNE-P orders added an inordinate number of steps to the ordering process. *Seigler Affidavit*, ¶ 31.

KMC, WorldCom, and AT&T allege problems exist with rejected orders. According to KMC, BellSouth drops approximately 20-30% of KMC's orders. *KMC Comments*, p. 3. WorldCom argues that its orders were erroneously rejected because BellSouth representatives failed to recognize that they were a proper UNE-P transaction type and because a BellSouth representative did not add the product code to the order during manual processing. *Lichtenberg Affidavit*, ¶8. WorldCom also contends that BellSouth has improperly implemented local PIC freezes, thereby causing four WorldCom orders to be rejected. *Lichtenberg Affidavit*, ¶ 18. In addition, AT&T asserts

that BellSouth does not provide consistent or complete business rules for USOCs, which allegedly causes erroneous order rejections. *Seigler Affidavit*, ¶26.

Several CLECs express concern regarding manual processing and the alleged lack of flow through by BellSouth. AT&T complains that BellSouth's retail operations can submit electronic orders for all products, services, and transactions, but CLECs must use manual processing for certain orders. *Bradbury Affidavit*, ¶¶ 42-45. According to AT&T, manual processing for CLEC LSRs takes on average 18 hours versus the electronic processing used by BellSouth, which takes less than 15 minutes. *Bradbury Affidavit*, ¶¶ 47 and 55. AT&T also asserts that CLECs are constrained because fall out rates are high (25%), especially when CLECs submit LSRs for LNP and business resale, even though, according to AT&T, BellSouth can submit electronic LSRs that can flow through up to 100% of the time. *Bradbury Affidavit*, ¶¶ 50-53. Similarly, Cbeyond argues that BellSouth retail can order special access electronically via an ASR, but BellSouth requires CLECs to order DS-1 UNEs manually. Cbeyond Comments, pp. 17-18. Covad asserts that BellSouth, unlike other ILECs, does not permit electronic ordering of IDSL/UDC loops. *Davis Affidavit*, ¶ 15. AT&T states that BellSouth is not providing electronic ordering capability for line splitting, in alleged violation of this Commission's orders. *Turner Affidavit*, ¶ 23.

CLECs also express concern that manual processing increases errors. Birch Comments, pp. 10-11. AT&T also states that electronic LSRs that do not flow-through face the risk of input errors in manual processing and that electronic LSRs that fall out for manual processing are delayed and have later due dates. *Bradbury Affidavit*, ¶¶ 48 and 50. In particular, AT&T argues that manual fall-out rates impact the receipt of FOC

notices, rejection notices, and jeopardy notices. *Bradbury Affidavit*, ¶¶ 68-74. WorldCom contends that extensive manual processing by BellSouth poses potential problems for increased WorldCom order volumes. *Lichtenberg Affidavit*, ¶ 7.

**(iii) Provisioning Functions**

Access Integrated, Birch, AT&T, BroadRiver, Cbeyond, and NewSouth all complain about BellSouth's provisioning. Access Integrated insists that BellSouth engages in discriminatory conduct with regard to installation, provisioning, and maintenance and repair performance and argues that BellSouth will continue to do so as long as its retail and wholesale operations are inextricably connected. *Access Integrated Comments*, Sec. II, Conclusion, Exs. A, B. Birch argues that BellSouth is inappropriately coding missed due dates on LSRs as end user reasons when in fact BellSouth was unable to provision the service by the due date, which, according to Birch, skews BellSouth's performance data. *Birch Comments*, p. 12.

AT&T alleges that BellSouth delays in processing customer changes to AT&T Broadband and that AT&T has received completion notices for work not done. *Gibbs Affidavit*, ¶¶ 55-56; *Beck Affidavit*, ¶¶ 3, 6-17 and 29. BroadRiver claims that BellSouth provisions special access DS-1 circuits more quickly to itself than it provisions DS-1 UNE or EELs combinations to CLECs. *BroadRiver Comments*, pp. 6-7. In addition, Cbeyond argues that BellSouth violates its interconnection agreement by providing 2-wire HDSL circuits instead of the 4-wire DS-1 loops ordered by Cbeyond. *Cbeyond Comments*, pp. 20-21.

**(iv) Maintenance and Repair Functions**

AT&T states that it is impossible to find the proper group to repair out-of-service conditions. *Seigler Affidavit*, ¶ 15. In addition, AT&T states that BellSouth has failed to address the FCC's concerns about BellSouth's maintenance and repair functions provided via TAFI and ECTA. According to AT&T, BellSouth essentially provides CLECs with a Hobson's choice for maintenance and repair: TAFI which is effective but not efficient, or ECTA which is efficient but not effective. *Bradbury Affidavit*, ¶¶ 85 and 92-94.

**(v) Billing Functions**

AT&T and DeltaCom were the only CLECs to raise an issue regarding BellSouth's billing. AT&T questions alleged instances of duplicate billing after customers have left BellSouth and complains about BellSouth's procedures for establishing Billing Account Numbers ("BANS"), while DeltaCom insists that BellSouth has failed to disclose call flow record identification on the UNE-P. *Conquest Affidavit*, ¶ 6.

**(b) Third-Party Test**

AT&T levels numerous criticisms of the third-party test conducted by KCI in Georgia. AT&T complains about the scope and conduct of the test, alleging that KCI worked for BellSouth, and not the Commission, and accusing BellSouth of developing the Georgia OSS test plan, rather than KCI. *Norris (Evaluation of KPMG Test) Affidavit*, ¶¶ 37-38 and ¶ 103

According to AT&T, KCI's evaluation of the CCP cannot be accepted as a clean bill of health because essential BellSouth processes were not in place. *Bradbury Affidavit*, ¶¶ 132-136. AT&T also argues that KCI should not have concluded, based on its professional judgment, that BellSouth's change management procedures are adequate

because, according to AT&T, such procedures do not afford CLECs adequate input or notice. *Norris (Evaluation of KPMG Test) Affidavit*, ¶¶ 33-38. AT&T also states that KCI failed to interview CLECs and failed to review the adequacy of BellSouth's processes from a CLEC's point of view. *Norris (Evaluation of KPMG Test) Affidavit*, ¶¶ 41-43; *Bradbury Affidavit*, ¶136. AT&T complains that the system tested by KCI handles fewer than 20% of CLEC order volume. *Gibbs Affidavit*, ¶ 12.

AT&T asserts that KCI should not have relied on certain BellSouth statements concerning OSS system performance in reaching its conclusions without verifying these statements. *Norris (Evaluation of KPMG Test) Affidavit*, ¶¶ 39-40. In addition, AT&T claims that KCI's report provides no evidence regarding the timeliness or accuracy of BellSouth's responses to orders at the disaggregated service levels ordered by the Commission. *Norris (Evaluation of KPMG Test) Affidavit*, ¶¶ 45-50. AT&T also criticizes KCI's inclusion of rejection data on pre-ordering tests that, according to AT&T, masked the actual time of performance of BellSouth's systems. *Norris (Evaluation of KPMG Test) Affidavit* ¶ 51. AT&T disputes the results of the objective Pre-ordering and Ordering and Provisioning tests because of KCI's use of statistical methodology to evaluate the test results. *Norris (Evaluation of KPMG Test) Affidavit*, ¶21.

AT&T claims that BellSouth failed to satisfy 20 of KCI's tests, each of which AT&T insists is critical to ensuring that CLECs can compete in Georgia. *Norris (Evaluation of KPMG Test) Affidavit*, ¶ 60. AT&T also contends that KCI's test did not include all areas of testing that have been included in other states. *Norris (Evaluation of KPMG Test) Affidavit*, ¶67. AT&T expresses concern that KCI did not measure

BellSouth's parity of performance in providing service to CLECs compared to the service BellSouth provides to itself and its affiliates and that KCI failed to evaluate the adequacy of certain aspects of BellSouth's OSS interfaces. *Norris (Evaluation of KPMG Test) Affidavit* ¶¶ 68 & 72. In particular, AT&T claims that KCI evaluated only six UNEs for ordering, provisioning, and billing activities and did not include digital UNEs, EELs, customized routing of Operator Services and Directory Assistance, and line-sharing. *Norris (Evaluation of KPMG Test) Affidavit*, ¶ 75.

AT&T argues that KCI failed to test adequately certain performance measures. AT&T states that KCI failed to test BellSouth's manual support systems, *Norris (Evaluation of KPMG Test) Affidavit*, ¶¶ 79-81, and that KCI's testing did not include any metrics evaluations for LNP activities, which were deficiencies identified in Florida. *Norris (Evaluation of KPMG Test) Affidavit*, ¶¶ 83-84. AT&T claims that KCI's OSS testing failed to measure adequately how well BellSouth provides information to CLECs regarding network outages, which was a deficiency identified in Florida. *Norris (Evaluation of KPMG Test) Affidavit*, ¶87.

AT&T raises a number of issues regarding the ongoing OSS testing in Florida. First, AT&T states that the testing of BellSouth's OSS in Florida has produced 41 exceptions and 23 observations in areas excluded from the Georgia third-party test. *Norris (Evaluation of KPMG Test) Affidavit*, ¶ 82. Second, AT&T argues that the Florida testing has shown that BellSouth has deficient relationship management practices with CLECs. *Norris (Evaluation of KPMG Test) Affidavit*, ¶ 89. Third, AT&T contends that the Florida test identified nine other observations and eight other exclusions in areas in which the Georgia test did not show deficiencies, *Norris (Evaluation of KPMG Test)*

*Affidavit*, ¶93, and that the Florida test identified some of the same deficiencies KCI identified – and apparently resolved – in the Georgia OSS test. *Norris (Evaluation of KPMG Test) Affidavit*, ¶ 97.

Sprint also criticizes the KCI tests. First, Sprint claims BellSouth cannot rely on the third-party test because KCI conducted volume testing in an artificial test environment, which is a criticism also leveled by AT&T and other CLECs. Sprint Comments, pp. 6-7. Second, Sprint states that the Commission cannot determine whether BellSouth has satisfied its obligations under Section 271 of the Telecommunications Act of 1996 without completion of the KCI audit and without additional performance data. Sprint Comments, pp. 3-4.

AT&T argues that the Georgia 1000 Test that it conducted was more accurate and useful than the Georgia third-party test because its test is a more accurate reflection of the real-world environment. *Gibbs Affidavit*, ¶14. AT&T states that the multiple phases required in the Georgia 1000 Test were caused by BellSouth. *Gibbs Affidavit*, ¶¶ 16-17. According to AT&T, BellSouth’s performance was inadequate during the test and BellSouth missed almost every performance benchmark established for the testing. *Gibbs Affidavit*, ¶¶ 33-34.

**(c) Change Management**

AT&T, Covad, and other CLECs raise several issues regarding the CCP. AT&T argues that BellSouth exercises veto power over the CCP, overrides CLEC priorities, and does not respond to CLEC requests. AT&T also alleges that BellSouth does not have a “go/no go” decision point prior to the implementation of new software releases, in



addition to other specific complaints. *Bradbury Affidavit*, ¶¶ 97-100, 102-108, 111, 114, 116, 120-131 and 151.

AT&T also contends that BellSouth has failed to address 14 issues submitted by AT&T through the CCP since August 1999 and that overall, there are a total of 45 unaddressed changes pending. *Bradbury Affidavit*, ¶114. AT&T argues that BellSouth refused to consider AT&T suggested changes to the CCP at the monthly status meetings and instead conducted separate meetings on these issues. *Bradbury Affidavit*, ¶ 108. AT&T also complains that BellSouth fails to provide draft/final requirement changes to its OSS interfaces to CLECs in a timely fashion, that BellSouth's CLEC Application Verification Environment (CAVE) itself remains untested, and that CAVE has never been used in pre-release testing and has only been beta tested by one user. *Bradbury Affidavit*, ¶¶ 116 and 120. Finally, AT&T states that BellSouth does not use the CCP for development of new interfaces and thus new interfaces do not meet CLEC needs. *Bradbury Affidavit*, ¶ 109.

**(d) Performance Measures and Data Integrity**

AT&T asserts that BellSouth's performance data are inaccurate and that BellSouth does not make raw data available to CLECs. *Bursh Affidavit*, ¶¶ 18-20; *Norris (GA SQM) Affidavit*, ¶¶ 38-40. Similar claims were raised by Covad. According to AT&T, BellSouth's SQM reports and PMAP are missing significant amounts of data, including 450 LSRs. *Norris (GA SQM) Affidavit*, ¶ 43. AT&T asserts that it cannot reconcile the November 2000 UNE-P data with data in the PMAP. *Norris (GA SQM) Affidavit*, ¶16. AT&T also states that AT&T and BellSouth conducted a UNE-Port Loop Combination Test which revealed numerous problems in BellSouth's PMAP and that

BellSouth refused to discuss the problems or to conduct a root cause analysis. *Norris (GA SQM) Affidavit*, ¶¶ 19-21.

AT&T also claims that BellSouth incorrectly states that the benchmark for partial mechanized FOCs is 36 hours (*Berger Affidavit*, ¶ 21), that BellSouth unilaterally changed business rules in the SQM filed in Georgia (*Berger Affidavit*, ¶ 23), and that BellSouth's performance measures are incorrect because they do not measure the entire pre-ordering time, including the TAG or LENS processing time. *Bradbury Affidavit*, ¶ 34. AT&T also complains that, without notice or authorization, BellSouth modified various measures in its April 2001 SQM ordered by the Commission in its Performance Measurement Plan (adopting BellSouth's May 2000 SQM) to be incorporated into BellSouth's future SQMs (*Bursh Affidavit*, ¶¶ 5-10), that BellSouth failed to comply with specific Commission directives relating to certain performance measures (*Bursh Affidavit*, ¶¶ 14-15), that BellSouth did not disaggregate the results of its performance report for March 2001 for several measures to the level ordered by the Commission (*Bursh Affidavit*, ¶¶ 15-17), and that BellSouth has not submitted any reports on certain of the measures ordered by the Commission. *Bursh Affidavit* ¶¶ 17-18.

Birch asserts that BellSouth corrects service order errors by issuing new service orders and that these are not captured under the current SQM and thus BellSouth's performance is inflated. *Birch Comments*, p. 13. In addition, Birch argues that instances of no dial tone at conversion are not reported because the LCSC has no access to trouble reporting so these instances of loss of dial tones are not included in the SQM. *Birch Comments*, pp. 14-15. Cbeyond claims that BellSouth has no established measures or benchmarks for DS-1 UNE Combinations, DS-1 interoffice channels, or DS-1 local

channels (*Cbeyond Comments*, p. 7), and that BellSouth provisioning intervals for DS-1 UNE combinations (EELs) DS-1 local channels and DS-1 UNE interoffice channels are provided in longer intervals than the BellSouth retail equivalent, special access. *Cbeyond Comments*, pp. 13-16.

**(e) UNE Combinations**

AT&T, Birch, NewSouth, and WorldCom claim that numerous end-user customers experienced a loss of dial tone during UNE-P conversions. *Birch Comments*, pp. 14-15; *NewSouth Comments*, pp. 17-18; *Fury Affidavit*, ¶ 44; *Seigler Affidavit*, ¶¶ 11-13. These CLECs attribute the loss of dial tone condition to the process used by BellSouth when a customer is converted to the UNE-P. *Seigler Affidavit*, ¶14.

**(f) UNE Pricing**

WorldCom makes a number of allegations regarding BellSouth's pricing. First, WorldCom challenges the cost-based nature of BellSouth's deaveraged UNEs and asserts that the Commission has not yet established cost-based rates for various unbundled network elements. *WorldCom Comments*, Item #2, at 8-a. BellSouth's deaveraged UNEs were established by an industry stipulation that was sponsored by, among other parties, Worldcom and that was approved by the Commission in Docket Nos. 7061-U and 10692-U on April 4, 2000. WorldCom also asserts that BellSouth's prices are not based on the FCC's "scorched node" model, but rather on BellSouth's loop model, which, according to WorldCom, is not based on most efficient network design as required by the FCC's pricing rules. *WorldCom Comments*, Item #2, at 6.

WorldCom and SECCA complain that BellSouth's rates for access to Daily Usage File information (e.g., ADUF and ODUF) are too high and need to be updated.

*WorldCom Comments*, p. 6, *Gillan Affidavit*, ¶¶ 28-31. WorldCom asserts that the Commission should conduct a cost study of the nonrecurring costs for new UNE combinations because only an interim rate has been established. WorldCom also states that the Commission should revise the rate development for BellSouth analog loop/port combinations so that it is based on more forward-looking fallout rates. *WorldCom Comments*, pp. 7-8.

**(4) Discussion**

**(a) Nondiscriminatory Access to OSS**

There can be little doubt that nondiscriminatory access to OSS is one of the most critical prerequisites to competition in the local exchange market, and this Commission has been actively engaged for almost six years in shaping the development of the interfaces BellSouth offers to provide CLECs with access to its OSS. The Commission first addressed BellSouth's OSS in Docket No. 6352-U and held numerous technical workshops and hearings on these systems in Docket No. 8354-U, which ultimately led to the third-party test of BellSouth's OSS conducted by KCI under the Commission's direction.

Based on the evidence in the record as well as the monthly performance data reported by BellSouth, the Commission finds that BellSouth is providing nondiscriminatory access to its OSS. The Commission concludes that BellSouth has deployed the necessary systems and personnel to provide sufficient access to each of the necessary OSS functions and has adequately assisted CLECs in understanding how to implement and use the OSS functions available to them. Furthermore, the Commission believes that the deployed OSS functions are operationally ready as a practical matter,

which is demonstrated by the actual commercial usage, carrier-to-carrier testing, as well as the independent third-party test conducted by KCI. *See SWBT/TX Order*, ¶¶ 96-98; *Bell Atlantic-NY Order*, ¶¶ 87-89.

With regard to the allegations by AT&T, Covad, DeltaCom, and Access Integrated questioning the stability of BellSouth's interfaces, the FCC consistently has stated that it will look at the totality of the circumstances in judging OSS performance. *See, e.g., SWBT-KS/OK Order*, ¶ 138; *Verizon-MA Order*, ¶ 65. While BellSouth acknowledges that LENS has experienced system outages, such outages appear to be short in duration and limited in scope. As BellSouth notes, the full outages and degraded or slow service outages of LENS in May 2001 represented less than one percent of total LENS availability time. The same is true for EDI, which experienced full outages and degraded or slow service outages in May 2001 that represented approximately one percent of total EDI availability time. *See Stacy OSS Reply Affidavit*, ¶¶ 192-209.

The Commission does not share AT&T's view that the outages experienced by EDI reflect a lack of sufficient capacity. Rather, it appears that the outages about which AT&T complains were the result of the migration to a new EDI translator after BellSouth was notified that its vendor would not support the former EDI translator. While outages occurred during the transition, it does not appear that such outages were related to capacity issues or "increasing demand" as AT&T has suggested. *See Stacy OSS Reply Affidavit*, ¶¶ 190-191.

The evidence contradicts Access Integrated's claims concerning outages with RoboTAG™. As BellSouth points out, the records submitted by Access Integrated

identify outages on certain days when, in actuality, the interfaces were fully functional on those days. *Stacy OSS Reply Affidavit*, ¶ 212.

Although AT&T argues that the answer times for CLECs are slower than the answer times for BellSouth's retail customers, BellSouth's performance data reflects that its answer time in the LCSC has improved.

#### AVERAGE SPEED OF ANSWER<sup>10</sup>

F.4.1	O-12	Region (seconds)		
Benchmark/Analogue: Parity w Retail	BST Measure	BST Volume	CLEC Measure	CLEC Volume
Mar-01	131.32	7,292,561	148.27	40,869
Apr-01	118.91	6,771,891	95.63	37,691
May-01	121.54	7,152,910	49.77	43,526
Jun-01	134.12	6,948,605	65.30	33,796
Jul-01	199.33	6,834,494	59.15	44,292

The data reflects that the average speed of time has decreased from 148.27 seconds in March 2001 to approximately 60 seconds in July 2001. The answering time experienced by CLECs on April through July 2001 was significantly better than the answering time for BellSouth's retail customers.

The Commission is not convinced by Covad's claim that BellSouth has failed to provide sufficient information necessary for electronic ordering of xDSL loops through LENS. The Commission notes that such information is contained in numerous documents that BellSouth makes available to CLECs as well as through CLEC training courses, both on line and in person. *Stacy OSS Reply Affidavit*, ¶¶ 5-11. Covad argues that since KCI did not test LENS or the capabilities to order xDSL loops electronically,

the evidence does not support the conclusion that BellSouth has met its obligation to provide nondiscriminatory access to OSS. *Davis Affidavit*, ¶¶ 6-14. The Commission disagrees with Covad's position. As the FCC has noted, a BOC may rely upon carrier-to-carrier testing to establish that OSS functions are operationally ready. *SWBT-TX Order*, ¶ 98; *Bell Atlantic-New York Order*, ¶ 89. BellSouth conducted beta testing of its electronic xDSL ordering functionality with several CLECs, including Covad, and the Commission concludes that such testing is evidence of operational readiness.

(i) **Pre-Ordering Functions**

The Commission finds that BellSouth provides nondiscriminatory access to pre-ordering functions. In particular, the Commission concludes that: (1) CLECs are able to use application-to-application interfaces to perform pre-ordering functions; (2) CLECs are able to integrate BellSouth's pre-ordering and ordering interfaces; (3) BellSouth's pre-ordering systems provide reasonably prompt response times; (4) BellSouth's pre-ordering systems are consistently available in a manner that affords CLECs an opportunity to compete; and, (5) BellSouth provides CLECs with nondiscriminatory access to pre-ordering functions to determine whether a loop is xDSL capable. *See SWBT-TX Order*, ¶ 147; *Bell Atlantic-New York Order*, ¶ 128.

In accordance with the FCC's requirements, the Commission finds that BellSouth provides CLECs with all the requirements necessary for integrating BellSouth's interfaces. *SWBT-TX Order*, ¶ 152. According to the FCC, a BOC has "enabled 'successful integration' if competing carriers may, or have been able to, automatically populate information supplied by the BOC's pre-ordering systems onto an order form ... that will not be rejected by the BOC's OSS systems." *SWBT-TX Order*, ¶ 152. Although

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<sup>10</sup> Docket No. 7892-U Performance Measures.

the FCC previously expressed concern about the ability of CLECs to integrate BellSouth's pre-ordering and ordering functions, *Second Louisiana Order*, ¶ 96, BellSouth had addressed this concern. In particular, CLECs may integrate ordering and pre-ordering functions by integrating the TAG pre-ordering interface with the EDI ordering interface, or by integrating TAG pre-ordering with TAG ordering. *Stacy-OSS Affidavit*, ¶ 10. BellSouth estimates that 6 CLECs have successfully integrated the TAG pre-ordering interface with the EDI interface and 43 CLECs have successfully integrated TAG pre-ordering with TAG ordering. *Stacy-OSS Affidavit*, ¶ 19.

With respect to AT&T's arguments concerning the parsing of CSRs, AT&T raised and the Commission resolved this issue in Docket No. 11853-U. Consistent with the Commission's Order in Docket No. 11853-U as well as its October 2, 2001 decision in Docket 6863-U, the parsing capability AT&T seeks will be implemented in January 2002. In the interim, the Commission concludes that the current access to CSRs offered by BellSouth, including what BellSouth provides to CLECs from a parsing standpoint, is nondiscriminatory.

The Commission is not persuaded by AT&T's argument that BellSouth does not provide accurate due date calculations. Although AT&T correctly notes that the FCC found in its *Second Louisiana Order* that BellSouth's LENS interface did not have an automatic due date calculation, BellSouth subsequently made significant changes to its pre-ordering interfaces and has implemented an electronic due date calculator in LENS that allows CLECs to view an installation calendar and obtain an automatically-calculated estimated due date. Furthermore, while an estimated due date calculation would not be provided in the pre-ordering mode in certain situations when a LSR falls



out for manual handling, service requests that require manual handling are impacted the same with respect to due dates whether they originate from a BellSouth retail customer or a CLEC. *Stacy OSS Reply Affidavit ¶¶ 53-58.* Therefore, the Commission concludes that this does not result in discrimination.

### **Interface Response Times and Availability**

The Commission finds that BellSouth has demonstrated that it provides requesting carriers access to its pre-ordering functionality in a manner that allows an efficient competitor a meaningful opportunity to compete. Performance data from March through June 2001 reflects that BellSouth systems consistently met the established benchmark for interface availability Metric for all pre-ordering interfaces.<sup>11</sup>

Additionally, BellSouth has consistently met the retail analogue for Average Response Interval except for D.1.3.5.1 and D.1.3.5.2, Average Response Interval – [CLEC (LENS)/ HAL/CRIS / (Region)], which AT&T points out in its comments.<sup>12</sup>

D.1.3.5.1	OSS-1	HAL/CRIS/Region (seconds)		
<b>Benchmark/Analogue</b>	<b>BST</b>	<b>BST</b>	<b>CLEC</b>	<b>CLEC</b>
<b>RNS - CRSACCTS + 2s</b>	<b>Measure</b>	<b>Volume</b>	<b>Measure</b>	<b>Volume</b>
<b>Mar-01</b>	<b>3.37</b>	<b>2,356,086</b>	<b>13.95</b>	<b>838,130</b>
<b>Apr-01</b>	<b>3.36</b>	<b>2,139,039</b>	<b>12.32</b>	<b>625,553</b>
<b>May-01</b>	<b>3.68</b>	<b>2,308,194</b>	<b>12.61</b>	<b>807,325</b>
<b>Jun-01</b>	<b>u3.66</b>	<b>2,461,808</b>	<b>13.09</b>	<b>583,242</b>

<sup>11</sup> Docket No. 7892-U Performance Measures (D.1.1.1-D.1.1.8).

<sup>12</sup> Docket No. 7892-U Performance Measures.

D.1.3.5.2	OSS-1	HAL/CRIS/Region (seconds)		
<b>Benchmark/Analogue</b>	<b>BST Measure</b>	<b>BST Volume</b>	<b>CLEC Measure</b>	<b>CLEC Volume</b>
<b>ROS - CRSOCSR+ 2s</b>				
<b>Mar-01</b>	<b>3.24</b>	<b>521,496</b>	<b>13.95</b>	<b>838,130</b>
<b>Apr-01</b>	<b>3.18</b>	<b>511,268</b>	<b>12.32</b>	<b>625,553</b>
<b>May-01</b>	<b>3.17</b>	<b>497,166</b>	<b>12.61</b>	<b>807,325</b>
<b>Jun-01</b>	<b>3.23</b>	<b>448,716</b>	<b>13.09</b>	<b>583,242</b>

The Commission agrees with AT&T that BellSouth's pre-ordering response time for HAL/CRIS access via LENS has been longer for CLECs than for BellSouth retail. However, the Commission concludes that this difference has not materially impacted the competitiveness of the Georgia local market. Furthermore, BellSouth implemented an upgrade to the CSR format in Release 9.4 on July 28, 2001, that BellSouth states will expedite the retrieval response time for CSRs. *Stacy OSS Reply Affidavit* ¶ 61. The Commission notes that in August 2001 the pre-ordering response time for access to CSRs via LENS was 1.41 seconds, compared to more than 3 seconds for BellSouth retail. The Commission will continue to monitor the average response interval for CSRs to ensure that BellSouth meets the Commission's benchmark and believes that the Tier II penalties for failure to meet this benchmark should provide adequate incentive for BellSouth to continue to improve its performance.

As it relates to the OSS Pre-ordering Response Interval for TAG, BellSouth has informed the Commission that the Time stamp for TAG has not yet been moved outside the firewall. Therefore, the Commission's parity test, which is retail +2 seconds, is working to BellSouth's benefit. The Commission concludes it is still acceptable to rely on the pre-ordering response data provided in this metric but 2 seconds must be backed out of the results.

The results for Average Response Interval-CLEC (TAG) reveal that by subtracting two seconds from BellSouth's retail performance results in at most a 2 second difference in pre-ordering response times for CLECs.<sup>13</sup> This difference does not adversely affect a competing carrier from obtaining pre-ordering information through the TAG interface. The Commission notes that BellSouth has moved the time stamp outside the firewall for August performance data.

The Commission does not agree with WorldCom that BellSouth has failed to provide adequate access to special access numbers ("SAN") to CLEC customers. BellSouth provides CLECs with four methods by which they can access the SAN numbers and that, to the extent WorldCom is not satisfied with these four options, it may submit a change request through the CCP, which WorldCom has done. *Stacy OSS Reply Affidavit*, ¶¶ 50-52.

#### **Access to Loop Qualification Information**

The Commission also finds that BellSouth provides pre-ordering Loop Make-Up ("LMU") information electronically through TAG and LENS, by which CLECs can access the information contained in the Loop Facility Assignment and Control System ("LFACS").

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<sup>13</sup> Docket No. 7892-U Performance Measures (D-1.4.1.1-D.1.4.9.2).

# **LOOP MAKEUP INQUIRY ELECTRONIC<sup>14</sup>**

F.2.2.1	PO-2	Loops/GA (%)		
Benchmark/Analog: >= 95% w in 5 min	BST Measure	BST Volume	CLEC Measure	CLEC Volume
Mar-01			100.00%	1,945
Apr-01			100.00%	1,576
May-01			100.00%	879
Jun-01			100.00%	1,602

As the data shows, from March through June 2001, BellSouth completed 100% of the electronic inquiries by CLECs for LMU information within 5 minutes. In the Commission's, January 12, 2001 Order in Docket No. 7892-U, the Commission increased the benchmark to 95% returned within 1 minute, which took effect in August 2001. In August 2001, BellSouth met this increased benchmark as well.

BellSouth's performance in providing LMU information manually also has satisfied the Commission's standards. In May, June, and July 2001, BellSouth returned 100% of manual requests for LMU information within three business days, which exceeded the benchmark of 95% returned within three business days.<sup>15</sup> Although BellSouth did not meet this benchmark in either March or April 2001, these appear to be isolated incidents, particularly when viewed in comparison to BellSouth's more recent performance.

## **(ii) Ordering Functions**

The Commission finds that BellSouth provides nondiscriminatory access to OSS ordering functions. In particular, the Commission concludes that BellSouth has

<sup>14</sup> Docket No. 7892-U Performance Measures.

<sup>15</sup> Docket No. 7892-U Performance Measure; F.2.1.1.

demonstrated that: (1) it returns timely FOC and reject notices; (2) BellSouth's systems flow-through a high percentage of orders without manual handling; (3) the mechanized orders that do not flow-through BellSouth's systems are handled in a reasonably prompt and accurate manner; (4) the mechanized and manual components of BellSouth's ordering systems are scalable to accommodate increasing demand; (5) BellSouth provides jeopardy notices in a nondiscriminatory manner; and, (6) BellSouth provides timely completion notices. *See SWBT-TX Order*, ¶ 170.

### **Functional Acknowledgements**

BellSouth provided timely Functional Acknowledgements for CLEC orders during March through June 2001 as shown below.<sup>16</sup>

F.12.1.1	O-1	EDI/Region (%)		
Benchmark/Analogue: ≥ 90%w in 30 min	BST Measure	BST Volume	CLEC Measure	CLEC Volume
Mar-01			99.20%	59,944
Apr-01			99.96%	22,453
May-01			89.62%	96,463
Jun-01			96.90%	58,137

F.12.1.2	O-1	TAG/Region (%)		
Benchmark/Analogue: ≥ 95%w in 30 min	BST Measure	BST Volume	CLEC Measure	CLEC Volume
Mar-01			99.86%	84,777
Apr-01			100.00%	125,898
May-01			99.99%	183,966
Jun-01			99.96%	127,390

<sup>16</sup> Docket No. 7892-U; F.12.1.1 and F.12.1.2.

For EDI and TAG interfaces, BellSouth missed the Commission's benchmark for functional acknowledgement timeliness only once from March through June 2001. BellSouth provided timely functional acknowledgements in excess of the Commission's benchmark in July as well for both EDI and TAG.

### **FOC Timeliness**

CLEC criticisms of BellSouth's FOC and reject timeliness performance are not supported by BellSouth's performance data. For LSRs submitted electronically, the benchmark is 95% for the FOCs returned within 3 hours. In March, April, May and June 2001, over 96%, 94%, 96% and 94%, respectively, of all mechanized UNE FOCs were returned within 3 hours. BellSouth did not meet the following sub-metrics for FOC timeliness:

B.1.9.3/ Loop + Port Combinations (June)

B.1.9.12/ 2 wire Analog Loop w/LNP Design (March, April, May and June)

B.1.9.5/ xDSL (ADSL, HDSL and UCL) (May and June)

B.1.9.8/ 2 wire Analog Loop Design (March-May)

B.1.9.15/ Other Non Design (June)

The data shows that for B.1.9.3, B.1.9.5 and B.1.9.15, BellSouth missed the Commission's benchmark by less than two percent in those instances (Loop + Port Combinations- 94.52%; xDSL – 93.81% (May) and 94.58% (June); Other Non Design – 94.52%. For B.1.9.12, BellSouth has determined that many of the LSRs were submitted

between 11:00 p.m. and 4:30 a.m. at which time the downstream legacy systems are unavailable for processing and a FOC cannot be returned.<sup>17</sup>

For Partially mechanized LSRs, the Commission set the benchmark at 85% returned within 36 hours for March and April 2001, and the Commission raised the standard to 85% returned within 18 hours for May and June 2001. In March, April, May and June 2001, BellSouth returned 98%, 97%, 98% and 97% respectively, of all UNE FOCs within the specified time period. BellSouth passed all the FOC sub-metrics for partially mechanized LSRs in March, April and May and in June missed only B.1.11.12 – 2W Analog Loop w/LNP Design (81.06%), B.11.13- 2W Analog Loop w/LNP Non-Design (73.87%), and B.11.17 – LNP Standalone (83.93%). BellSouth met the benchmark for all three of these sub-metrics in July 2001. This data shows that BellSouth provides timely FOCs for partially mechanized orders. For Non-Mechanized LSRs, BellSouth met all the metrics for UNEs for the months March through June 2001.

The Commission finds unconvincing NewSouth's claim that it received FOCs within 24 hours for only 80% of its orders in February 2001. According to BellSouth, in March and April 2001, the average FOC interval for NewSouth's electronic LSRs was less than 15 minutes. For partially mechanized LSRs, although BellSouth missed the benchmark in February, BellSouth has presented evidence that it returned a FOC within

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<sup>17</sup> *Stacy Performance Affidavit* ¶ 64. BellSouth contends that for LSRs submitted electronically, BellSouth's FOC and reject timeliness performance is understated because it reflects LSRs issued when the back-end legacy systems are out of service, even though, according to BellSouth, such hours should be excluded from the measurement consistent with the SQM. BellSouth also claims that, with the implementation of May 2001 data, BellSouth changed the time stamp identification for the start and completed time of the interval for these measurements. However, with this change, BellSouth was unable to identify multiple issues of the same version of the LSRs that may be rejected (fatal rejects), which should be excluded from the measurement. BellSouth indicates that it continues to investigate and will implement programming changes to address both of these issues. *Stacy Performance Reply Affidavit* ¶ 140.

24 hours on 100% of partially mechanized LSRs in March and returned a FOC in less than 24 hours on all but two of the partially mechanized LSRs submitted by NewsSouth in April. *Stacy Performance Reply Affidavit*, ¶ 185.

### **Reject Timeliness**

Performance metrics B.1.4 – B.1.8 examine the “Reject Intervals” for the months of March through June 2001.<sup>18</sup> For LSRs submitted electronically, the benchmark is 97% within 1 hour. In March, April, May and June 2001 BellSouth provided reject notices in 1 hour on 91%, 97%, 70%, and 88%, respectively, of all UNE rejected service requests. BellSouth did not meet the benchmark for the following sub-metrics:

B.1.4.3 Loop + Port Combination (March, May and June)

B.1.4.13 2 wire Analog Loop w/LNP non-design (June)

B.1.4.12 2 wire Analog Loop w/LNP Design (April)

B.1.4.8 2 wire Analog Loop Design (March, April and May)

B.1.4.15 Other Non Design (March, April, May and June)

B.1.4.17 LNP (Standalone) (March, April, May and June)

BellSouth conducted a detailed root cause analysis for March and April of the process for electronic rejects. During this analysis BellSouth determined that of the 441 LSRs that did not meet the one-hour benchmark, 183 were issued between 11:00 p.m. and 4:00 a.m. Of the 183 LSRs, 179 would have met the one-hour interval, if the other systems had been available. These 179 LSRs, 41% of all missed LSRs, would have made



the one-hour benchmark.<sup>19</sup> The Commission also notes that the volumes in several sub-metrics were relatively small (B.1.4.13 - four LSRs; B.1.4.12 - 18 LSRs), which makes it difficult to draw any conclusions from the data. It is also worth noting that in many of the sub-metrics for which BellSouth failed to meet the Commission's reject interval benchmark on electronically submitted LSRs, relatively few LSRs were actually rejected. For example in July 2001, only 4.52% of electronically submitted LSRs for standalone LNP and 13.30% of electronically submitted LSRs for the Loop + Port Combination were rejected.

For partially mechanized LSRs, BellSouth returned a reject notice by the Commission approved benchmark on 98%, 99%, 97% and 98% of all UNE rejected service requests for the months March, April, May and June 2001. For the month of May, the interval was reduced from 24 to 18 hours. In March and April 2001 BellSouth, met all the sub-metrics. For the months of May and June, BellSouth missed the following sub-metrics:<sup>20</sup>

B.1.6.2 Local Interoffice Transport (May and June)

B.1.6.12 2 wire analog Loop w/LNP Design (June)

B.1.6.13 2 wire analog Loop w/LNP Non-Design (June)

B.1.6.17 LNP Standalone (June)

Although the data reflects that in June BellSouth missed sub-metrics for B.1.6.12, B.1.6.13 and B.1.6.17, BellSouth met the benchmark in two of these sub-metrics in July

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<sup>18</sup> Docket No. 7892-U Performance Measurements.

<sup>19</sup> *Stacy Performance Affidavit* ¶ 55.

2001. Additionally, for B.1.6.2 the volume of transactions was relatively small in May (6 LSRs) and June (8 LSRs), which does not produce a statistically conclusive benchmark comparison.

For Non Mechanized LSRs, BellSouth returned a reject notice within 24 hours on 96%, 96%, 97%, and 97% of all UNE rejected service requests in March, April, May and June 2001, respectively. BellSouth missed the following sub-metrics:

B.1.8.5 xDSL (March)

B.1.8.7 Line Sharing (March)

B.1.8.10 2 wire analog Loop w/INP Design

For xDSL orders, BellSouth returned 25 of the 31 LSRs that were rejected in March. One additional LSR would have met the sub-metric. Additionally, for line-sharing, BellSouth returned 27 of 33 LSRs within the benchmark. One additional LSR within the benchmark would have brought this sub-metric into compliance. Since only five LSRs for 2 wire Loop w/INP Design were ordered, the Commission finds that the numbers are not significant enough to produce a statistically conclusive comparison. Furthermore, BellSouth met the Commission's reject interval benchmarks for manually submitted xDSL and line sharing orders in more recent months, returning a reject notice in 24 hours on 96.08% of xDSL orders and 97.06% of line sharing orders in July 2001.

That BellSouth has failed to return some FOCs or reject notices in a timely manner "appears to have little competitive impact." *See SWBT-KA/OK Order*, ¶ 138. Furthermore, in some instances, BellSouth barely missed the Commission-approved

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<sup>20</sup> Docket No. 7892-U Performance Measurements.

benchmark. For example, in June 2001 BellSouth returned a reject notice on 96.97% of electronically submitted LSRs in the UNE Other Design category within one hour, which was only slightly below the Commission-approved benchmark of 97% within one hour. Similarly, in June 2001, BellSouth returned a FOC on 94.52% of electronically submitted LSRs for Loop +Port combinations within three hours, which was barely missed the Commission-approved benchmark of 95% within three hours. *See SWBT-KA/OK Order*, ¶ 134 (where a BOC misses benchmarks by small margins, such current performance disparities have a negligible competitive impact). Additionally, one of KCI's criteria was to test if the TAG interface provided timely Fully Mechanized rejects.<sup>21</sup> KCI made a finding that BellSouth satisfied that criteria.<sup>22</sup> Under the circumstances, the Commission finds that BellSouth provides competing carriers with timely order rejection notices in a manner that allows CLECs a reasonable opportunity to compete.

### **Flow-through**

The Commission finds that BellSouth has addressed the FCC's concerns in the *Second Louisiana Order* regarding flow-through. The record shows that BellSouth has made considerable strides to increase the level of order flow-through. KCI's evaluation of BellSouth's flow-through and overall functionality and scalability of BellSouth's ordering interfaces determined that BellSouth satisfied all of the applicable test criteria.<sup>23</sup> As the FCC has recognized, a relatively low flow-through rate for certain types of orders is not, in and of itself, an indication that CLECs are being denied access to BellSouth's ordering systems. *SWBT-TX Order*, ¶ 181.

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<sup>21</sup> KCI MTP, O&P-2-3-2a.

<sup>22</sup> KCI Final Report, MTP page V-B-12.

While not perfect, BellSouth's flow-through performance is comparable to the flow-through achieved by other BOCs that have been granted in-region, interLATA authority by the FCC. For example, in Massachusetts, the commercial data from September through December 2000 revealed average total flow-through rates for Verizon, ranging from 46-49 percent for resale orders and 51-55 percent for UNE orders. *See Verizon-MA Order*, ¶ 78. In the Pennsylvania Consultative Report to the FCC, commercial data shows total flow-through rates for resale ranging from 44-56 percent and 54-58 percent for UNE Orders in Pennsylvania.<sup>24</sup> By contrast, between April through June 2001, BellSouth's "achieved" average total flow through rates for residence range from approximately 80-84 percent, for business from 39-42 percent, and 57-63 percent for UNE orders. For "regular" flow-through rates, BellSouth metrics show 90-91 percent for residence, 57-64 percent for business and 74-80 percent for UNE orders. Furthermore, the Commission notes that BellSouth's LNP flow through performance has exceeded the Commission's benchmark of 85% in March, April, May, and June 2001. Finally, the Commission agrees with BellSouth that its flow-through rates should improve as a result of the Flow-Through Improvement Task Force created at the direction of the Commission in Docket No. 7892-U.

With respect to the type of orders that can be ordered electronically, the Commission finds that UNE-P can be ordered electronically with either series completion or multi-line hunting, notwithstanding NewSouth's claims to the contrary. To the extent NewSouth or any other CLEC wants the ability to order electronically UNE-P with circular hunting, a change request should be submitted to the CCP. As to Cbeyond's

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<sup>23</sup> See KCI Flow-Through Evaluation Final Report.

<sup>24</sup> Consultative Report of the Pennsylvania PUC to the FCC at fn 202.

complaints about the lack of electronic ordering of DS1 UNE combinations, such electronic access is being developed under the auspices of the CCP and should be implemented later this year. In the meantime, as a result of the Commission's decision in Docket No. 11901-U, CLECs can continue to submit an ASR for access services that can be converted to EELs on an interim basis.

Although AT&T, WorldCom, and Birch complain about BellSouth's allegedly "excessive" use of manual processing to handle CLEC orders, the FCC accepts that not all CLEC service requests flow-through. Indeed, the FCC has recognized that some service requests properly could be designed to fall out for manual processing. *SWBT-TX Order*, ¶ 180; *Bell Atlantic-NY Order*, n. 488. Furthermore, the Commission does not find credible AT&T's allegation that "more than 70,000" LSRs fell out for manual handling in March 2001 due to BellSouth's system. As BellSouth correctly points out, this figure includes LSRs that fell out due to CLEC errors; the number of LSRs that fell out for manual handling by design in March 2001 was approximately 30,000. *Stacy OSS Reply Affidavit*, ¶ 60. The evidence reflects that designed manual fall-out affects only 8-9% of all electronic LSRs, and any manual processing from errors affects only 12-13% of electronic LSRs. *Id. at* ¶ 111.

Although Birch questions BellSouth's service accuracy results, Birch did not provide any specific information by which the Commission could draw any reasonable conclusion as to the number of errors that might have occurred or how many of these errors might have been caused by Birch. BellSouth points out that, in an effort to assist Birch during the first few months, it submitted UNE-P requests. BellSouth dedicated two LCSC representatives to assist Birch with its order issuance questions and issues.

*Ainsworth Reply Affidavit*, ¶ 32. Furthermore, the Commission notes that BellSouth met five of the six sub-metrics in the Service Order Accuracy measure for unbundled network elements in May 2001 and five of the seven sub-metrics for this measure in June 2001.

### **Jeopardy Notices**

One factor that the FCC considers in assessing nondiscriminatory access to ordering functions is the timeliness within which a BOC provides jeopardy notices (*i.e.*, notice that a service installation due date will be missed). *SWBT-TX Order*, ¶184. The Commission established a measure -- Average Jeopardy Notice Interval -- which requires that BellSouth give a least 48 hours notice on 95% of the orders placed in jeopardy. BellSouth's performance data reflects that BellSouth routinely satisfies this measure in most sub-metrics each month.<sup>25</sup>

However, BellSouth has advised the Commission that it cannot rely upon this measure because the average jeopardy notice interval captures the time interval between when the jeopardy notice is sent and when the jeopardy condition is cleared, when it should capture the time interval between the sending of the jeopardy notice and the original due date. BellSouth has informed the Commission that it is in the process of implementing coding and system changes to address these problems.

The Commission does not believe that the absence of reliable jeopardy notice performance data precludes a finding that BellSouth is providing nondiscriminatory access to OSS ordering functions. First, the timeliness by which BellSouth provides jeopardy notices has not been an issue raised by many CLECs, which the Commission

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<sup>25</sup> Docket No. 7892-U Performance Measures (B.2.10.3).

finds is an indication that BellSouth is providing timely jeopardy notices. The Commission would have expected the CLECs to raise the issue if that were not the case. Second, it is important to note that relatively few orders are actually placed in jeopardy by BellSouth. For, example, for the months of March through June 2001, only between .29% and .53% of all Loop + Port Combination orders were placed into jeopardy.<sup>26</sup> Third, even when an order is placed in jeopardy, BellSouth rarely misses its installation appointments or at least does not do so with any greater frequency for the CLECs than for its retail customers, as is discussed in greater detail below. This means that BellSouth has been able to manage its workload effectively so that the due date is not missed, even on those orders placed in jeopardy. Under the circumstances, the Commission concludes that BellSouth is providing jeopardy notices in a manner that provide CLECs a meaningful opportunity to compete.

**(iii) Provisioning Functions**

The Commission finds that BellSouth is providing nondiscriminatory access to provisioning functions. The record establishes that BellSouth provisions CLEC orders in substantially the same time and manner as retail orders. *See* Memorandum Opinion and Order, *In re: Application of Verizon New England, Inc., et al., For Authorization to Provide In-Region, InterLATA Services in Massachusetts*, CC Docket No. 01-9, ¶ 90 (April 16, 2001) (“*Verizon-MA Order*”); *SWBT-TX Order*, ¶ 194.

During the months of March through June 2001, BellSouth met or exceeded the recommended analogue for UNE Order Completion Interval (“OCI”) sub-metrics 69%, 79%, 90%, and 83% respectively. The Commission reviewed OCI metric for Loop +

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<sup>26</sup> Docket No. 7892-U Performance Measures (B.2.5.3).

Port Combinations, Other Design and Other Non Design sub-metrics in Checklist Item 2.

Other UNE provisioning sub-metrics will be reviewed in each individual checklist item.

For the period of March through June 2001, BellSouth's performance with respect to Loop + Port submetrics was as follows:

March: BellSouth met 2 of 4 Loop + Port sub-metrics;  
April: BellSouth met 3 of 4 Loop + Port sub-metrics;  
May: BellSouth met 3 of 3 Loop + Port sub-metrics;  
June: BellSouth met 3 of 4 Loop + Port sub-metrics;<sup>27</sup>

BellSouth did not meet the applicable analogues in the months March-June 2001 for the following sub-metrics:

B.2.1.3.1.1 Loop+Port Combo/<10 circuits/dispatch (March)

B.2.1.3.1.2 Loop+Port Combo/<10 circuits/non-dispatch<sup>28</sup> (March, April and June)

B.2.1.3.1.2	P-4	Loop+Port Combos/<10circuits/Non- Dispatch/GA (days)		
Benchmark/Analogue :	BST	BST	CLEC	CLEC
R&B	Measure	Volume	Measure	Volume
Mar-01	1.01	459,162	2.63	7,563
Apr-01	1.07	450,624	1.93	5,723
May-01	1.04	451,147	1.07	7,823
Jun-01	0.88	436,345	1.53	10,179

<sup>27</sup> Docket No. 7892-U Performance Measurements (B.2.1.3.1.1, B.2.1.3.1.2, B.2.1.3.2.1 and B.2.1.3.2.2)

<sup>28</sup> Docket No. 7892-U Performance Measures.



BellSouth performed a root cause analysis for OCI Non-Dispatch orders that revealed that BellSouth was offering a 0-2 day interval on retail non-dispatched plain old telephone system (“POTS”) orders, but the UNE Loop+ Port combination non dispatched orders were receiving the same interval as dispatched orders. BellSouth implemented a permanent solution on June 2, 2001, which modified the due date process calculation which corrects the problem for all products.

For the period March through June 2001, BellSouth met the retail analogue for OCI for Loop+Port combinations with 10 or more circuits (both dispatch and nondispatch). For those Loop+Port combinations with less than 10 circuits (both dispatch and nondispatch), BellSouth failed to meet the analogue in March for dispatched orders and for non-dispatched orders BellSouth missed the sub-metric in March, April and June. However, according to the Gertner/Bamberger Study, BellSouth would have met the applicable retail analogue in both categories but for improperly “L”-coded orders and customer-caused misses.<sup>29</sup> The Gertner/Bamburger study addressed the effect of LSRs submitted with extended completion intervals and installation appointments missed due to end user reasons. All LSRs seeking extended interval should receive an “L” code status. This would exclude these LSRs from the OCI measurement. Gertner/Bamburger examined the order completion data to determine the effect on measures for March for both not properly “L” coding these orders and end user appointment misses. Moreover, in April - June 2001, BellSouth’s performance improved, as BellSouth met the applicable retail analogue for Loop+Port combinations with less than 10 circuits with a dispatch. Additionally, Commission expects BellSouth’s performance for Loop+Port combinations

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<sup>29</sup> See *Gertner/Bamberger Affidavit*, Table 3A.

with less than 10 circuits with no dispatch to continue in the positive trend, as it did in August 2001, when BellSouth met the applicable retail analogue.

With respect to OCI for Other Design and Other Non Design sub-metrics, BellSouth missed the retail analogue in March and April 2001. However, BellSouth met or exceeded the retail analogue in these metrics for May, June and July of 2001.

The Commission does not find any evidence to support Birch's claim that BellSouth is inappropriately coding missed due dates as the fault of the subscriber when BellSouth really caused the error. Furthermore, BellSouth denies Birch's claims and contends that it conducts quality reviews of its processes and coding of CLEC requests to ensure that accurate and appropriate coding is applied. *Ainsworth Reply Affidavit* ¶ 27.

### **Missed Installation Appointments**

For the months of March through June 2001, BellSouth performance with respect to Missed Installation Appointment standards was as follows:<sup>30</sup>

March:	BellSouth met 28 of 31 Loop sub-metrics;
April:	BellSouth met 30 of 32 Loop sub-metrics;
May:	BellSouth met 22 of 22 Loop sub-metrics;
June:	BellSouth met 26 of 32 Loop sub-metrics;

In particular, BellSouth met the Missed Installation Metric for all Loop + Port sub-metrics except for B.2.18.3.1.2/Loop + Port Combinations/<10 circuits/Non-Dispatch for the months of March and April. In March 2001, BellSouth missed only .11% of the CLEC orders compared to .03% for its retail customers and for April 2001, BellSouth missed .05% for CLECs and .02% retail customers. This data shows that

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<sup>30</sup> Docket No. 7892-U Performance Measurements (B.2.18)

BellSouth meets CLECs installation appointments in the same timeframe as it does for its own retail customers.

NewSouth's complaints about BellSouth's allegedly excessive missed installation appointments and percent orders placed in jeopardy are based upon January 2001 data. However, more current data indicates that BellSouth's performance has improved. For example, in May 2001, BellSouth did not miss a single installation appointment for NewSouth in Georgia, while BellSouth's jeopardy performance reflected similar improvement. *Stacy Performance Reply Affidavit*, ¶ 186. As to AT&T's claims concerning BellSouth's alleged failures in provisioning local number portability, the Commission is not persuaded that BellSouth unilaterally changes the due dates requested by AT&T Broadband. Although AT&T alludes to a five-day provisioning interval for local number portability, BellSouth notes that the due date for number portability, based on industry standards, is three business days from the receipt of an accurate and error free LSR for non-complex services. *Ainsworth Reply Affidavit* ¶¶ 18-20.

The Commission finds no basis to conclude that BellSouth has violated its interconnection agreement with Cbeyond in the provisioning of HDSL circuits, as Cbeyond contends. The Commission is satisfied with BellSouth's explanation of events and finds it particularly noteworthy that, when asked by BellSouth to provide examples of alleged improper provisioning by BellSouth, Cbeyond apparently was unable to do so. *Milner Reply Affidavit* ¶¶ 56-61.

(iv) **Maintenance and Repair**

The Commission finds that BellSouth provides nondiscriminatory access to maintenance and repair interfaces. Based on the availability and timeliness of BellSouth's maintenance and repair interfaces, the timeliness of its repair work, and the quality of the repair work, the Commission concludes that BellSouth is providing maintenance and repair work for CLECs at the same level of quality that it provides for retail customers. *Verizon-MA Order*, ¶ 96; *SWBT-TX Order*, ¶ 209.

BellSouth's performance data reveals that its maintenance and repair interfaces are available. For example, in May, June, and July 2001, the availability of the TAFI interface met or exceeded the Commission's 99.5% availability benchmark. The same is true for all of BellSouth's other maintenance and repair interfaces, the availability of which exceeded the Commission's 99.5% availability benchmark in all three months.

BellSouth also provides timely maintenance and repair responses. In May, June, and July 2001, for example, the response interval experienced by CLECs accessing BellSouth's maintenance and repair systems was comparable to BellSouth retail. However, for certain measures that capture the legacy system access times for maintenance and repair functions, the percentage of requests received in less than four seconds was greater for BellSouth retail than for the CLECs. Examples would be CRIS / <= 4 sec. / Region (D.2.4.1.1) (March, April, May, June and July) as well as LNP / <= 4 sec. / Region (D.2.4.6.1) (March, April & May). Nevertheless, the Commission believes that these measures must be read in context.

First, the Commission notes that the difference in the percentage of responses received in less than four seconds was, for the most part, extremely small. For example, CLECs received 94.76% of their responses in less than four seconds from the CRIS

legacy system, as compared to 95.81% for BellSouth retail in June 2001. In July 2001, CLECs received 95.04% of their responses from CRIS in less than four seconds, as compared with 95.82% for BellSouth retail. In the Commission's view, a difference of this magnitude between the percentages of responses received within four seconds by BellSouth retail and the CLECs does not significantly impact the CLECs' ability to compete.

Second, the Commission notes that BellSouth reports its response interval performance based on the percentage of responses received in less than four seconds, the percentage of responses received in less than ten seconds, and the percentage of responses received in more than ten seconds. As a result, looking at only one of these intervals in isolation can be misleading. For example, with respect to the CRIS legacy system, while the percentage of requests received in less than four seconds was greater for BellSouth retail than for the CLECs in every month since March, CLECs have received a greater percentage of requests from CRIS in less than ten seconds than was the case for BellSouth retail during the same time period.

The only maintenance and repair average response interval sub-metrics in which BellSouth's performance has been continually better for BellSouth retail than for the CLECs are D.2.4.5.1, D.2.4.5.2, and D.2.4.5.3 (LMOSupd/Region). However, even though BellSouth has not met the applicable retail analogue for these sub-metrics, the differences in the response interval between BellSouth retail and the CLECs is relatively slight. For example, in July 2001, BellSouth retail received 99.83% of its responses from LMOSupd in less than 10 seconds, while CLECs received 99.67% of their responses in less than 10 seconds. The Commission believes that, when viewed as a whole, the

performance data reflect that CLECs are receiving timely responses from BellSouth's Maintenance and Repair OSS, notwithstanding some slight differences in the percentage of requests received by CLECs and BellSouth retail.

There is no merit to AT&T's argument concerning the alleged discriminatory nature of the electronic trouble reporting systems BellSouth provides to competitors (*i.e.*, TAFI and ECTA). This is the same argument that the Commission considered and rejected in Docket No. 11853-U, in which it found that BellSouth was providing nondiscriminatory access to its maintenance and repair functions. Furthermore, contrary to AT&T's allegations, the FCC does not require a BOC to provide a machine-to-machine maintenance and repair interface. *Bell Atlantic-NY Order*, ¶ 215; *SWBT-TX Order*, n. 565.

In finding that BellSouth is providing nondiscriminatory access to maintenance and repair interfaces, the Commission also reviewed the Missed Repair Appointments, Maintenance Average Duration, and % Repeat Troubles within 30 days performance measures.

#### **Missed Repair Appointments**

BellSouth met 11 out of 13 Missed Repair Appointment analogues for all UNE sub-metrics for March 2001, 16 out of 16 for April 2001, 16 out of 17 for May 2001 and 15 out of 18 for June 2001.<sup>31</sup> The only sub-metric that BellSouth missed for 2 months during the period March through June 2001 was B.3.1.9.2/ 2 wire Analog Loop/Non-Design/Non-Dispatch. BellSouth missed only 3 out of the 29 repair appointments for May and 3 out of 39 for June 2001.

**Maintenance Average Duration**

BellSouth met 11 out of 13 Maintenance Average Duration analogues for all UNE sub-metrics for March, 15 out of 16 sub-metrics for April, 17 out of 17 sub-metrics for May and 18 out of 18 for June.<sup>32</sup> The only sub-metric that was missed for 2 months during March through June 2001 was B.3.3.2.2/ Local Interoffice Transport/Non-Dispatch, which shows 10 orders in March and 9 in April. Such a small universe does not provide a statistical conclusive comparison with retail analogue.

**% Repeat Trouble within 30 days**

BellSouth met 10 out of 13 % Repeat Trouble within 30 days analogues for all UNE sub-metrics for March 2001, 13 out of 16 for April 2001, 17 out of 17 for May 2001 and 17 out of 18 for June 2001.<sup>33</sup> BellSouth did not miss the same sub-metric twice during the months March through June 2001.

**(v) Billing Functions**

The Commission finds that BellSouth is providing nondiscriminatory access to billing functions. The Commission concludes that BellSouth provides complete and accurate reports on the service usage of CLEC customers in substantially the same time and manner that BellSouth provides for itself. The Commission also concludes that BellSouth provides complete and accurate wholesale bills in a manner that gives CLECs a meaningful opportunity to compete. *Bell Atlantic-NY Order*, ¶ 226; *SWBT-TX Order*, ¶

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<sup>31</sup> Docket No. 7892-U Performance Measurements (B.3.1)

<sup>32</sup> Docket No. 7892-U Performance Measurements (B.3.3)

<sup>33</sup> Docket No. 7892-U Performance Measurements (B.3.4)

210. BellSouth met the Invoice Accuracy metric for March through July 2001 and the Mean Time to deliver Invoices-(CRIS) metric for April through July 2001.<sup>34</sup>

AT&T questions alleged instances of duplicate billing after customers have left BellSouth, although AT&T provides no specific examples of instances where double billing has actually occurred. BellSouth does not dispute that duplicate billing does, on occasion, occur. However, either BellSouth or the CLEC can be the cause of the problem, and the Commission notes that BellSouth has worked diligently to resolve any instances of duplicate billing and has a work group assigned to investigate and correct such problem. *Ainsworth Reply Affidavit*, ¶¶ 7-9.

The Commission is not persuaded by AT&T's claims that BellSouth's procedures for establishing Billing Account Numbers ("BANS") are "overly burdensome" or "difficult." Such claims do not seem credible given that there are nearly 700 BANS in place in Georgia and well over 3,000 region wide and given that BellSouth is unaware of any other CLEC that has complained about the procedures for establishing BANS. *Scollard Reply Affidavit*, ¶¶ 2-6.

Nor is the Commission persuaded by DeltaCom's complaint that BellSouth has failed to "disclose call flow record identification" associated with UNE-P. BellSouth notes that this information is contained in documentation routinely provided to CLECs and is available on BellSouth's website, which was recently updated to add information on the details for which types of usage records can be expected on daily usage files provided by BellSouth. *Scollard Reply Affidavit*, ¶ 7.

**(b) Third - Party Test**

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<sup>34</sup> Docket No. 7892-U Performance Measurements (B.4.1 and B.4.2)



On March 20, 1999, the Commission issued an Order establishing an independent, third-party test of BellSouth's OSS, concluding that such a test was "a worthwhile endeavor" that would aid CLEC entry into the local market in Georgia. *See* Order on Petition for Third-Party Testing, Docket No. 8354-U, p. 1 (May 20, 1999). Because of its prior involvement in overseeing the development of BellSouth's OSS, the Commission concluded that it had the expertise and knowledge to conduct a "focused audit on those areas where BellSouth has not yet experienced significant commercial usage, and where CLECs have expressed concerns regarding operational readiness ...." *Id.* at 2. The Commission established a testing plan, including identifying the areas, OSS functions, and interfaces to be tested, which would provide it "additional information necessary for it to render an informed opinion with regard to BellSouth's compliance with its OSS obligations under Section 271 of the 1996 Telecommunications Act." *Id.* BellSouth subsequently filed the Master Test Plan ("MTP") and Flow-Through Evaluation Plan consistent with the Commission's Order, which the Commission adopted on June 28, 1999, after all interested parties had the opportunity to comment.

In response to CLEC comments, the Commission issued an order on January 12, 2000, which required the development of a Supplemental Test Plan ("STP"). The purpose of the STP was to address the implementation of OSS '99, OSS functions associated with xDSL capable loops and resale services, as well as the processes and procedures for the collection and calculation of performance data. BellSouth filed the STP on January 24, 2000 with revisions filed on March 2, 2000 and again on March 17, 2000 following receipt of CLEC comments. On June 29, 2000, the Commission entered

an order establishing standards and benchmarks that would govern both the MTP and the STP.

Consistent with the MTP and STP, KCI tested BellSouth's wholesale operations (i.e., those operations selling local services and support to other local service providers, or CLECs) for almost two years based upon the following domains: pre-ordering, ordering and provisioning, maintenance and repair, change management, and performance measurements (or metrics). Within each domain, specific methods and procedures were applied to evaluate BellSouth's performance *with* specific test targets. Version 1.0, Master Test Plan Final Report, at II-4; Version 1.0, Supplemental Test Plan Final Report, at II-4.

On March 20, 2001, KCI filed its Final Reports and Opinion Letter. In the Final Reports, each evaluation criteria set forth in the MTP, STP, and Flow-Through Plan was analyzed individually with its own associated result and comment. The results fell into one of four categories: Satisfied, Not Satisfied, No Result Determination Made, or Not Complete. KCI found that a test criterion was "Satisfied" if KCI's analysis demonstrated that the criterion met a quantitative, qualitative, parity, or other parameter established for purposes of the test. By contrast, a test criterion was assigned a "Not Satisfied" if KCI concluded that the criterion failed to meet a quantitative, qualitative, parity, or other parameter established for purposes of the test. In certain cases, KCI was unable to make a result determination -- for example, because of a statistically insignificant sample size or because of the absence of a threshold that could be used for evaluation purposes -- in which case the criterion was assigned a "No Result Determination Made" result. Finally,

in the case of certain metrics where testing is ongoing, the test criterion result was found to be “Not Complete.”

In its Final Reports and Opinion Letter, KCI found that BellSouth had satisfied all of the evaluation criteria related to pre-ordering, maintenance and repair, billing, and change management. KCI found that BellSouth had satisfied the vast majority of the evaluation criteria related to metrics, although it concluded that BellSouth had not satisfied four such criteria related to its statistical evaluation and noted that testing on a limited number of metrics evaluation criteria was continuing. Finally, KCI found that BellSouth had satisfied the vast majority of the ordering and provisioning evaluation criteria, although it identified three specific areas that were not satisfied, which, in KCI’s opinion, “could potentially have a material adverse impact on a CLEC’s ability to compete effectively.” KCI Opinion Letter at 2. These areas were: timeliness of responses to fully mechanized orders; timeliness and accuracy of clarifications to partially mechanized orders; and accuracy of translation from external (CLEC) to internal (BellSouth) service orders resulting in switch translation and directory listing errors. *Id.* At the same time, however, KCI also noted the Commission’s ability “to monitor these issues on an ongoing basis through the performance measures and/or penalty plans in place that address the timeliness of BellSouth’s responses, service order accuracy, and percent of provisioning troubles within 30 days.” *Id.*

The Commission disagrees with the CLECs’ criticisms of the scope of the Georgia third-party test. While the scope of the third-party test in Georgia may be different from third-party test conducted elsewhere, such differences are immaterial. *See SWBT-TX Order*, ¶ 103 (rejecting argument that Southwestern Bell Telephone

Company's 271 application is "inadequate" because "the third party test in Texas was less comprehensive than the test executed by KPMG in New York, with respect to the Bell Atlantic Section 271 process"). This Commission recognized, as has the FCC, that actual "commercial usage" should be the primary factor in evaluating nondiscriminatory access. As a result, the Commission originally structured the third-party test as a "focused, supervised audit" of BellSouth's OSS because of the extensive commercial usage that BellSouth's OSS experienced since the Commission first began examining BellSouth's systems in 1995. *Docket No. 8354-U*. The Commission subsequently expanded the scope of the Georgia third-party test in response to CLEC concerns. The voluminous nature of KCI's Final Reports evidences the depth and breadth of the third-party test in Georgia.

No party disputes the qualifications or experience of KCI to oversee an independent, third-party OSS test. KCI conducted the third-party testing in New York and Massachusetts and was retained to do similar testing in Pennsylvania, New Jersey, five states in the former Ameritech region, and all thirteen states in the Qwest region. *Docket No. 8354-U*; Deposition of Michael Weeks at 54. The FCC treated KCI's final reports in New York and Massachusetts as "persuasive evidence" of OSS readiness, due in no small measure to KCI's involvement. *See Bell Atlantic-NY Order*, ¶ 100; *Verizon-MA Order*, ¶ 46.

The functions performed by KCI in conducting the third-party test in Georgia were substantially similar to the functions KCI performed in both New York and Massachusetts. As was the case in both New York and Massachusetts, KCI served as an independent third party that placed itself in the position of an actual market entrant in

Georgia. *See Bell Atlantic-NY Order*, ¶ 100; *Verizon-MA Order*, ¶ 46; *see also* Version 1.0, Master Test Plan Final Report, at II-5 (KCI established “a psuedo-CLEC” as part of the Georgia test in order “to live the CLEC experience”).

Similarly, as was the case in both New York and Massachusetts, KCI generally employed a military-style test in Georgia. *See Bell Atlantic-NY Order* ¶ 98; *Verizon-MA Order* ¶ 46. Under this approach, when testing in Georgia revealed that a BellSouth process, document, or system did not satisfy a particular test criterion, BellSouth generally would implement a fix and KCI would retest the process, document, or system until satisfied. In certain cases when a fix was not implemented and no further testing or analysis was possible, KCI would assign the test criterion a “Not Satisfied.” Docket No. 8354-U, Tr. at 102-103.

The Commission finds unpersuasive AT&T’s criticism that KCI improperly based certain of its conclusions upon the exercise of professional judgment. For example, in the exercise of its professional judgment, KCI found as satisfied evaluation criterion PRE-1-3-6, which tested whether the TAG interface provides timely pre-order responses from BellSouth’s ATLAS-MLH back-end system, because responses were received in an average of 1.0 second, even though there was no comparable BellSouth retail data. Version 1.0 Master Test Plan Final Report at IV-A-17. KCI correctly concluded that an average response time of 1.0 second for pre-ordering information was timely, particularly when KCI’s standard for pre-order response timeliness was an average of eight seconds. Version 1.0 Master Test Plan Final Report at IV-A-17; Docket No. 8354-U, Tr. at 31-32. Furthermore, the Commission finds that the exercise of professional judgment by KCI in conducting the Georgia test is consistent with the

process utilized in all of the third-party tests conducted by KCI in other states. Docket No. 8354-U, Tr. at 33-34.

Equally unpersuasive is AT&T's suggestion that KCI failed to "seek input from CLECs" as part of the third-party test. *Bradbury Affidavit* ¶ 136. Although KCI did not "interview" CLECs, as Mr. Weeks explained, KCI consulted with its "subject matter experts who have many years of experience with CLECs and ILECs in their operations ...." Docket No. 8354-U, Tr. at 33 & 50. Furthermore, throughout the Georgia third-party test, KCI conducted regular telephone conference calls in which CLECs were able to participate and frequently did so. Thus, the Commission does not agree with AT&T that KCI failed to review the adequacy of BellSouth's processes from a CLEC's point of view.

The Commission also does not agree with AT&T's criticism of KCI for finding certain pre-ordering timeliness test criteria to be satisfied, even though there was a "statistically significant" difference between the timeliness of pre-ordering transactions received by CLECs and by BellSouth's retail operations. That KCI received a particular pre-order response in an average of 1.0 second, while BellSouth retail received a response in an average of 0.5 seconds overlooks that these pre-ordering test criteria were designed to evaluate pre-ordering timeliness. As Mr. Weeks explained, a pre-ordering response time of one second is "more than reasonable" and, in KCI's view, was "timely." Docket No. 8354-U, Tr. at 28 and 84. In any event, as the FCC has noted, a difference of less than one second between the response time for CLECs and an applicable benchmark is not "competitively significant." *See Verizon-MA Order*, ¶ 53, n. 154 (noting that Verizon's average response time to reject EDI pre-order queries in one month was 0.68

seconds longer than the applicable benchmark, which, according to the FCC, was not “competitively significant”).

The Commission rejects the argument put forth by Sprint and other CLECs that the Commission cannot make a determination about BellSouth’s compliance with the requirements of Section 271 of the 1996 Act until KCI’s metrics test is done. The Commission agrees with KCI that “inaccuracies in metrics reporting would not in and of themselves have a materially adverse impact on competition.” KCI Opinion Letter at 2. A CLEC’s ability to compete in Georgia is affected by the level of its access to pre-ordering, ordering and provisioning, maintenance and repair, and billing functionality of BellSouth’s OSS. If a CLEC has access to such functionality, the CLEC can compete effectively in the local market. A CLEC’s ability to compete in the local market in Georgia is not affected by performance metrics, which serve as a tool for this Commission and CLECs to ensure compliance with regulatory requirements.

Although several CLECs criticize the manner in which KCI conducted volume testing, such criticisms are unconvincing. As part of its third-party test, KCI conducted five volume tests, the purpose of which was to evaluate BellSouth’s OSS associated with specified volumes of pre-ordering and ordering activities. The TAG/EDI “normal” volume test evaluated BellSouth’s performance by sending approximately 35,000 orders with 118,000 associated pre-orders on two occasions over a ten-hour period. *See* Version 1.0 Master Test Plan Final Report at V-C-6 (describing pre-ordering volume test (PRE-4) and ordering volume test (O&P-3) being executed concurrently). The TAG/EDI “peak” volume test evaluated BellSouth’s performance by sending approximately 43,000 orders with 118,000 associated pre-orders on two occasions over an eight-hour period. *See*

Version 1.0 Master Test Plan Final Report at V-C-6 (describing pre-ordering volume test (PRE-5) and ordering volume test (O&P-4) being executed concurrently). The fifth volume test occurred in BellSouth's production environment and was conducted at the production environment's stated capacity level. *See* Version 1.0 Master Test Plan Final Report at V-J-1 (describing ordering volume test (O&P-10)).

The first four volume tests evaluated BellSouth's ability to accurately and quickly process pre-orders and orders using the EDI and TAG interfaces under "normal" and "peak," year-end 2001 projected transaction load conditions in the Reengineered Services, Installation and Maintenance Management System ("RSIMMS") environment, which is a test facility used by BellSouth prior to the third-party test. *See* Version 1.0 RSIMMS and ENCORE Systems Review at 1-2. The revised MTP filed by KCI reflected that volume testing would be conducted in RSIMMS rather than in the ENCORE production environment. Docket No. 8354-U, Tr. at 231-232. In fact, the MTP directed that KCI evaluate RSIMMS to determine if the hardware and software configurations mirrored those of ENCORE, except where additional hardware or software had been created to support the specified test volume. KCI conducted this evaluation and concluded "that, except for specific preauthorized changes that were made in RSIMMS to support the requirements of the volume test, the applications implemented in the RSIMMS environment mirrored those of BellSouth's ENCORE production system." *Id.* at 5.

That certain volume testing was conducted in the RSIMMS test environment does not detract from the actual performance of BellSouth's OSS. BellSouth's OSS have been handling commercial volumes for years and are currently processing 15,000 to



20,000 LSRs per day. KCI conducted testing in the production environment (not RSIMMS) during which time BellSouth's OSS processed nearly 22,000 LSRs in an eight-hour period. KCI's testing confirmed that, even at these volumes, BellSouth's OSS provided timely Functional Acknowledgments, timely and accurate FOCs, timely and accurate pre-order responses, and accurate order error and clarifications, which caused KCI to find that BellSouth had satisfied each of the 21 evaluation criteria associated with the production performance test. *Stacy OSS Reply Affidavit*, ¶¶ 186-187.

Furthermore, while AT&T argues that RSIMMS "is not equal to BellSouth's production environment," *Norris Affidavit*, ¶ 11, this argument overlooks that BellSouth has subsequently made substantial upgrades to its production environment. As a result of such upgrades, the capacity of BellSouth's production environment currently *exceeds* the capacity of RSIMMS at the time of the third-party test. *Stacy OSS Reply Affidavit*, ¶ 188. Since the production environment has been upgraded such that its capacity now exceeds that of RSIMMS, KCI's testing gives ample assurance that BellSouth's OSS can handle "real-world CLEC volumes." This is precisely the conclusion reached by KCI, which noted that there was "sufficient demonstration" that, once the production environment was scaled consistent with what was in RSIMMS, "the tests would have had the same results as the RSIMMS test." Docket No. 8354-U, Tr. at 225.

The Commission does not believe that the KCI test should be disregarded in favor of the Georgia 1000 Test, as urged by AT&T. The purpose of the Georgia 1000 Test was to validate both BellSouth's and AT&T's ordering, provisioning, billing requirements, and procedures for UNE-P. The purpose was not to generate data to judge BellSouth's performance. Furthermore, the Commission notes that at least some of the

problems encountered during the Georgia 1000 Test were attributable to AT&T, which makes it difficult, if not impossible, to use the Georgia 1000 Test as a means to evaluate whether BellSouth “is providing non-discriminatory access to its UNE-P in a real-world production environment,” as AT&T contends.

The Commission recognizes that, on September 12, 2001, AT&T filed a petition seeking an investigation into BellSouth’s “conduct in processing certain LSRs and retiring key OSS systems.” In its petition, AT&T alleges that, in connection with discovery in other states, AT&T has uncovered documents which, according to AT&T, establish that certain of BellSouth’s LCSCs “engaged in the discriminatory practice of giving LSRs from Georgia priority over LSRs from certain other BellSouth states throughout 2000, and at least one LCSC maintained this practice for several months in 2001 until April of this year.” Petition at 5. Furthermore, AT&T alleges that “BellSouth plans to replace many of its key OSS with new systems over the next eighteen months” but “has no plans of alerting CLECs to this OSS transition plan through the change control process or otherwise.”

Even assuming that BellSouth gave preference to LSRs from Georgia during the third-party test, the Commission does not agree that such allegations “cast significant doubt regarding whether BellSouth is meeting its obligations to provide CLECs with non-discriminatory access to its OSS ....” The question before this Commission is whether BellSouth has complied with its statutory obligations in Georgia. That BellSouth may have treated LSRs from Georgia different than LSRs from Mississippi or Tennessee has little bearing, if any, on the answer to this question.<sup>35</sup>

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<sup>35</sup> BellSouth does not deny that, at least for some period of time, it gave priority to LSRs from Georgia and Florida that required manual handling. See BellSouth’s Response to AT&T’s Petition.

Furthermore, the Commission never envisioned that the third-party test would supplant actual commercial usage in assessing BellSouth's compliance with the requirements of Section 271. In fact, in its May 20, 1999 in Docket No. 8354-U, the Commission established the third-party test "to discuss and propose any necessary enhancements" to BellSouth's OSS as well as to assist the Commission in "arriving at its final recommendation to the FCC on the operational readiness of BellSouth's OSS." Because of the Commission's extensive involvement in overseeing the development of BellSouth's OSS, the Commission rejected conducting a "full third party audit of all interfaces and services" and elected instead to order "a focused audit on those areas where BellSouth has not yet experienced significant commercial usage. Docket No. 8354-U, May 20, 1999, Order at 2.

The best evidence of whether BellSouth is meeting its nondiscriminatory obligations with respect to OSS is the performance data BellSouth reports each month as well as the extent to which CLECs have been able to enter and compete successfully in the local market in Georgia utilizing the systems BellSouth offers. This is consistent with the approach espoused by the FCC, which considers a third-party test to be instructive when "there is little evidence of commercial usage, or may otherwise strengthen an application where the BOC's evidence of commercial usage is weak or its otherwise challenged by competitors." *SWBT-TX Order*, ¶ 98. Thus, in the Commission's

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However, according to BellSouth, it did so while it was increasing its workforce in the LCSC, while at the same time meeting the benchmarks established by this Commission and the Florida Commission. Although the priority for Georgia and Florida orders was supposed to cease by December 2000, it apparently continued in the Birmingham LCSC until April 2001. *Id.* Furthermore, the Commission notes that BellSouth has submitted performance data from all nine states in its region which reflect that whatever priority was given to manual orders in Georgia and Florida was short-lived and caused very little disparity in BellSouth's actual performance between or among states.

assessment of whether BellSouth's OSS are operationally ready as required by Section 271, the most probative evidence is "actual commercial usage" of those systems, not the third-party test. *See Second Louisiana Order*, ¶ 86; *SWBT-TX Order*, ¶ 98; *see also* Memorandum Opinion and Order, *In re: Application of Verizon Pennsylvania, Inc. et al., for Authorization to Provide In-Region, InterLATA Services in Pennsylvania*, CC Docket No. 01-138, ¶ 50 (Sept. 19, 2001) ("Commercial data demonstrates that Verizon electronic interfaces support a robust volume of commercial activity in Pennsylvania").

The Commission is not convinced by AT&T's claim that any preferential treatment of Georgia LSRs during the KCI third-party test has "tainted" the performance data that BellSouth reports each month. With the exception of the metrics evaluation, which is on going, the third-party test concluded in March 2001. Consequently, it is difficult to see how any "preferential treatment" during the third-party test affects the validity of BellSouth's performance data collected and reported after the test was over. Furthermore, KCI has already replicated many of BellSouth's performance reports and is continuing that effort under the Commission's direction. There is no evidence, and AT&T does not even allege, that KCI's metrics evaluation was or could be affected by BellSouth allegedly giving "preferential treatment" to LSRs submitted as part of the third-party test. To the extent AT&T has concerns about KCI's metrics evaluation, however, such concerns can be addressed in connection with the hearing that the Commission intends to conduct once that evaluation is complete.

The Commission agrees with AT&T that an objective of the third-party test was for the test to be "blind" so that KCI could "live the CLEC experience." However, because transactions arrive on dedicated telephone circuits, the owners of which are

known to BellSouth, and because each transaction includes a CLEC's unique identification codes, KCI acknowledged that it was "virtually impossible" for the test to be "truly blind."<sup>36</sup> For this reason, KCI instituted certain procedures during the Georgia third-party test to help ensure that it would not afford to BellSouth preferential treatment that would not be available to a real CLEC. These procedures – such as requiring that all documents provided to KCI be generally available to all CLECs, and that any training courses attended by KCI personnel for test purposes be available to all CLECs – have been endorsed by the FCC. *Verizon-MA Order*, ¶ 45.

Although not specifically alleged in its Petition, AT&T appears to suggest that BellSouth gave preference to KCI orders during the third-party test. *See* Petition at 2 (alleging that "BellSouth's LCSCs had an established practice of providing discriminatory preferential treatment to CLEC LSRs based on the location and identity of the CLEC"). However, any such preferential treatment would not detract from the underlying value of the test itself. Presumably, if BellSouth had given a higher priority to KCI orders in the LCSC (which the Commission certainly would not condone had such preferential treatment, in fact, occurred), only the results evaluating the timeliness of BellSouth's responses for orders that required manual handling would be skewed. As set forth in the MTP and the STP, BellSouth's manual processes were not the focus of the Georgia third-party test, and the testing of these manual processes was limited to partially mechanized LSRs and manual xDSL orders (including manual loop makeup).

As a result, if BellSouth gave priority to KCI orders in the LCSC during the Georgia third-party test, the timeliness by which BellSouth returned FOCs or reject

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<sup>36</sup> KCI Final Report, MTP page II-7.

notices on KCI's partially mechanized orders and manual xDSL orders as well as BellSouth's accuracy on such orders would be overstated. However, in assessing whether BellSouth is providing nondiscriminatory access to its OSS functions, the Commission does not rely upon the third-party test results for these purposes. In other words, in determining whether BellSouth is providing nondiscriminatory access to its OSS, the timeliness by which BellSouth returned FOCs to KCI on manual LSRs submitted in late 2000 or early 2001 is not as probative as BellSouth's FOC timeliness performance for the entire CLEC industry as reflected in more recent performance data. The same is true for service order accuracy, which was a concern identified by KCI in its Final Report and which the Commission continues to monitor on an ongoing basis through BellSouth's monthly performance reports.

In the Commission's view, the Georgia third-party test has served the purposes for which it was intended. KCI's testing identified problem areas that BellSouth has either fixed or which the Commission will continue to monitor through performance data. As a result of KCI's testing, BellSouth has upgraded its OSS, modified its methods and procedures, and otherwise implemented system improvements that "will aid entry by competitive local exchange companies [] into the local market ...." May 20, 1999 Order.

The results of the third-party test only serve to underscore the commercial readiness of BellSouth's OSS.<sup>37</sup>

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<sup>37</sup> The Commission is not persuaded by AT&T's allegations concerning a proprietary plan by BellSouth "to replace many of its key OSS with new systems over the next eighteen months." Petition at 8. As BellSouth has explained, the allegedly "secret" plan to replace its OSS is actually a "sunset list" of systems to be retired sometime in the future that was disclosed by BellSouth in its prefiled testimony in Alabama. Furthermore, as is clear from the South Carolina testimony upon which AT&T relies, the sunset list is a planning tool, and is not a "concrete" schedule as to when systems are going to be retired. Under the CCP, BellSouth is obligated to provide notification of "CLEC Affecting Changes" related to specified CLEC interfaces. The Commission fully expects BellSouth to comply with its obligations to the extent it replaces any of these specified interfaces.

**(c) Change Management**

The Commission finds that the CCP is an effective means by which BellSouth communicates with CLECs regarding the performance of and changes to the OSS that affect interconnection and market access. The Commission finds that the CCP is an adequate systems change management process to which BellSouth has adhered over time. *Bell Atlantic-NY Order*, ¶ 102; *SWBT-TX Order*, ¶ 1-6. Although BellSouth acknowledges that it has not always adhered strictly to the requirements of the CCP, such as mistakenly removing a change request for electronic ordering of customer specific OS/DA from Release 8.0 and failing to submit certain business rule changes to the CCP, *see Stacy OSS Reply Affidavit*, ¶¶ 24-26, the Commission believes that these incidents are isolated and should not obscure the concrete steps BellSouth has taken to implement changes to its OSS through the CCP.

The CCP has changed over time. However, as the FCC has noted, “We do not expect any change management process to remain static. Rather, a key component of an effective change management process is the existence of a forum in which both competing carriers and the BOC can work collaboratively to improve the method by which changes to the BOC’s OSS are implemented.” *SWBT-TX Order*, ¶ 117. This is certainly the case in Georgia, where the CCP has evolved in an effort to address CLEC’s and the Commission’s concerns and to implement recommendations by KCI. BellSouth’s change management process has changed since it first began in 1997, CLECs have had substantial input into the process throughout. The change management process is memorialized and set forth in a single document and is available at

BellSouth's change control website.<sup>38</sup> The current document was updated by vote of the members of the Change Control Process and issued on May 18, 2001. Although AT&T criticizes the CCP on a number of levels, the Commission does not find such criticisms to be persuasive. For example, the Commission does not agree with AT&T that BellSouth has "veto" power over the CCP. In instances in which BellSouth has declined to adopt a CLEC request, BellSouth provides a reason for its response consistent with the CCP procedures, which also contain a process for escalation and dispute resolution, including the opportunity for either BellSouth or the requesting CLEC to bring the issue to this Commission. Furthermore, BellSouth notes that, of the seven issues AT&T claims BellSouth "vetoed," five of the issues were subsequently adopted unanimously by the CCP, including BellSouth; one issue was passed by the CCP, including BellSouth, with only AT&T dissenting; and one issue remains open as BellSouth continues to review it within the CCP. *Stacy OSS Reply Affidavit*, ¶¶ 17-23.

The Commission also does not agree with AT&T that the CCP is deficient because it lacks a "go/no-go decision point" to "ensure that CLECs are not forced prematurely to cut over to a new release." *Bradbury Affidavit*, ¶ 111. The CCP it employs a different process to accomplish the same result. Specifically, the CCP includes a notification schedule approved by the CCP which is designed to keep CLECs informed about the implementation of new interfaces and program release updates. This notification schedule, in conjunction with BellSouth's policy of maintaining support of two (2) versions of industry standard interfaces, more than adequately addresses AT&T's concerns.

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<sup>38</sup> See *Stacy-OSS Affidavit*, ¶¶ 79-80.



Additionally, KCI tested BellSouth's Change Management process associated with the release of OSS 99. KCI's objective was to assess: 1) the adequacy, accuracy, and timeliness of BellSouth's OSS '99 change management procedures and release documentation; 2) the availability of interface testing support and functioning test environments during the OSS '99 release; and 3) to evaluate BellSouth's management of changes related to the production of its Service Quality Measurements, including changes in the various legacy/source systems used to provide data for SQM calculations. KCI found that BellSouth met all of the Evaluation Criteria for Change Management.<sup>39</sup> The Commission will continue to monitor the CCP as part of its the 6-month review of all Performance measures and enforcement mechanisms. During this 6-month review, CLECs will have the opportunity during the collaborative to provide any proposed changes to the group for consideration.

**(d) Performance Measures and Data Integrity**

The Commission concludes that BellSouth has provided "reasonable assurance" that its performance data is reported "in a consistent and reliable manner." *Bell Atlantic-NY Order*, ¶ 442. As part of the third-party test in Georgia, KCI independently replicated BellSouth's performance reports from raw data submitted by BellSouth, in order to identify and investigate any discrepancies, and will continue to do so for the next several months. Consistent with its January 12, 2001 Order in Docket No. 7892-U, this Commission is conducting an annual review of BellSouth's data and performance measures, which also will be subjected to an independent third-party audit. These review

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<sup>39</sup> KCI's Supplemental Test Plan Final Report filed on March 20, 2001. Pages VII-A-17-VII-A-28; Table VII-1.3 and Pages VIII-C-10-VIII-C-14; Table VIII3.3.

and monitoring mechanisms are even more stringent than those in place in New York, which the FCC found to be satisfactory. *Bell Atlantic-NY Order*, ¶ 442; *see also Verizon-MA Order*, ¶ 247 (noting the value of audits in maintaining data integrity).

As the Commission noted in its order adopting the SQMs, the performance measures and enforcement plan “are still largely untested.” Given the relative newness of some of these measures and given that BellSouth is reporting performance data on more than 2,200 sub-metrics each month, it is unrealistic to expect “perfection” in BellSouth’s performance reporting. PMAP processes over 80 million records each month, and with the work involved in producing the volume of aggregate and CLEC-specific performance reports required by the Commission, it is not surprising that coding errors and reporting problems have occurred. However, BellSouth states that these problems are largely isolated and either have been or are being addressed, and the Commission does not believe that such problems undermine the “integrity” of BellSouth’s performance data.

As BellSouth has previously advised the Commission, there are two performance measures upon which this Commission should not rely in determining whether BellSouth has satisfied the requirements of the competitive checklist. *Stacy Performance Affidavit*, ¶¶ 67; *Stacy Performance Reply Affidavit*, ¶ 118. These measures are: (1) Firm Order Confirmation and Reject Response Completeness; and (2) P-2 Average Jeopardy Notice Interval, which the Commission has previously addressed. With respect to the FOC and Reject Completeness Measure, BellSouth has indicated that auto clarifications are not being captured correctly on fully mechanized LSRs and that a coding problem exists with partially mechanized LSRs, which causes FOC and Reject Response Completeness

performance to be reported incorrectly. However notwithstanding this problem, Commission notes that few, if any, complaints have been received from CLECs concerning lost FOCs or reject notices, nor is there evidence BellSouth has lost CLEC orders.

While not affecting the overall integrity of BellSouth's data, there are issues with other performance measures that must be taken into consideration in evaluating BellSouth's performance. For example, open questions remain concerning Measure P-9 (% Provisioning Troubles within 30 Days of Service Order Completion), for which KCI has been unable to replicate precisely the performance data reported by BellSouth. However, the differences between KCI's and BellSouth's calculations are relatively small. For example, as BellSouth notes, for March 2001 data, the percent of troubles within 30 days would be either 4.31% as calculated by BellSouth or 4.41% as calculated by KCI. *Stacy Performance Reply Affidavit*, ¶ 71. Although issues concerning this measure will be resolved in connection with KCI's metrics audit, the Commission finds that it can rely upon BellSouth's results in the interim given that the difference in the calculations is less than two-tenths of one percent.

The Commission also finds it can rely upon BellSouth's results for FOC and Reject notice timeliness, even though there are ongoing issues associated with moving timestamps which have caused minor problems with reporting data. For example, because not all of the timestamps have been moved correctly, the actual FOC or Reject notice interval is slightly longer than the reported interval. However, this problem affects a small percentage of orders, and the difference in the interval is in the magnitude of several seconds, which is not material to a benchmark stated in terms of hours.

Furthermore, as a result of a coding problem associated with the handling of fatal rejects, the FOC and Reject interval for mechanized orders appears longer than it actually is, which negatively impacts the results and which must be taken into account in assessing BellSouth's performance.

Some of the data issues raised by the CLECs appear to relate more to the complexity of producing and properly interpreting BellSouth's performance data. Production and interpretation of the data requires extensive knowledge of the SQMs, including the applicable definitions, business rules and exclusions, as well as an understanding of how to replicate BellSouth's performance using the raw data BellSouth provides. The Commission notes, for example, that many of Covad's concerns about the "integrity" of BellSouth's performance data appear to be attributable to an apparent lack of familiarity with BellSouth's SQM. *See Stacy Performance Reply Affidavit*, ¶¶ 141-184.

The same is true for many of AT&T's "data integrity" issues. For example, although AT&T points to alleged discrepancies between the data in the Reject Interval and Flow Through reports, different business rules and classification criteria are used to process these two reports, which explains the differences in these results. *Id.* at ¶¶ 32-35. Similarly, AT&T's allegation that the January 2001 disaggregated Flow Through report for one of AT&T's operating companies identified 56 Local Service Requests ("LSRs"), while the aggregate section identified only 7, overlooks the LSRs submitted via LENS. When the LSRs submitted via both EDI and LENS are considered, the totals in the disaggregated and aggregated Flow Through reports both equal 56. *Stacy Performance Reply Affidavit*, ¶¶ 50-52. Likewise, AT&T's claim that BellSouth improperly excludes

partially mechanized orders from the Average Completion Notice Interval ignores that, because this is a provisioning measure, no distinction is made in the method by which the order is placed. As a result, the partially mechanized orders and fully mechanized orders are included together, and BellSouth states that it is measuring 100% of the electronic completion notices, not 35% as alleged by AT&T. *Id. at* ¶¶ 54 & 60.

However, to the extent Covad, AT&T, or any other CLEC is concerned about the integrity of BellSouth's performance data, the Commission has had in place for more than three years a process to resolve any disputes related to "performance measures and reporting." In its May 6, 1998 Order in Docket No. 7892-U, the Commission required BellSouth to assemble a joint investigative team when a performance dispute arises, the purpose of which is to "conduct a root-cause analysis to determine the source of the problem, if one exists, and then develop a plan for remedying it." Under the Commission's Order, any dispute that cannot be resolved between the two companies may be brought to the Commission's attention by the filing of a complaint. It is noteworthy that, to date, no CLEC has availed itself of these procedures.

AT&T's accusation that BellSouth has modified its performance measurements in violation of the Commission's orders and without notice to CLECs is not properly a subject of this proceeding. Although BellSouth denies AT&T's accusations, such issues should be considered as part of the Commission's annual review of the SQMs and the enforcement plan in Docket No. 7892-U. The same is true for Birch Telecom's argument that the Commission should re-evaluate the benchmarks for certain measures and modify the Average Completion Interval measure and Cbeyond's complaint about the lack of "established performance measures" for certain unbundled network elements

ignore that the current performance measures and benchmarks were approved by this Commission.

Other performance issues identified by the parties are immaterial or have since been corrected by BellSouth. For example, AT&T points to discrepancies between: (1) the mechanized and non-mechanized orders reported by BellSouth for purposes of certain ordering measures and for flow-through analysis; and (2) the count of orders reflected in BellSouth's aggregate flow through report and detailed error flow through analysis. While not disputing that differences exist, BellSouth asserts that its flow-through results are correct and that the differences about which AT&T complains are a function of minor inconsistencies between measures and the limited purpose for which the detailed error flow through analysis was prepared. *Stacy Performance Reply Affidavit*, ¶¶ 36-43. The Commission is not persuaded that such differences impact the service provided by BellSouth to CLECs in Georgia.

Nor is the Commission persuaded by CLEC complaints that BellSouth's performance data are flawed because UNE-P results are included in both the UNE-P and Non-Design Other categories for purposes of the ordering measures and because BellSouth has failed to provide disaggregated line sharing performance data. BellSouth has addressed both of these issues, and BellSouth's performance data for July reflects that UNE-P data has been reported in the correct categories for ordering purposes and includes BellSouth's line sharing performance.

(e) **UNE Combinations**

In the *Second Louisiana Order*, the FCC expressed concern that BellSouth did not provide CLECs with the ability to order combinations of UNEs. *Second Louisiana Order*, ¶ 141. BellSouth has addressed this concern, as CLECs can now order loop-port combinations electronically via EDI, TAG, or LENS. *Stacy-OSS Affidavit*, ¶ 179. If the CLEC is ordering a loop-port combination for an end-user customer with existing service, the only pre-ordering step required is validation of the address. *Id.* at 180.

Several CLECs insist that BellSouth's procedures for UNE-P conversions cause customers to lose dial tone. However, the evidence reflects that the instances of lost dial tone as the result of BellSouth's use of a "D" (or disconnect) order and an "N" (or new) order for UNE-P conversions are isolated occurrences. Based on the information provided by AT&T, Birch, and WorldCom, BellSouth had completed 17,746 UNE-P conversions for these three carriers, only 45 of which involved a loss of dial tone (.002%). *Ainsworth Reply Affidavit*, ¶ 40. Particularly telling is WorldCom's experiences with its recent launch of residential service in Georgia. Of the 3400 UNE-P orders submitted by WorldCom as of May 31, 2001, MCI WorldCom itself acknowledges that only two customers lost dial tone during the conversion process. *Lichtenberg Affidavit*, ¶ 17. While any loss of dial tone is regrettable, two instances of lost dial tone out of 3,400 UNE-P conversions (or .0006%) does not indicate a systemic problem. However, the Commission shares the CLECs concerns that this process should be improved to minimize the potential of future problems as UNE-P becomes a more viable solution to provide service to residential customers in Georgia. To address these concerns, the Commission will order BellSouth to implement a "C" order by which N and D orders complete together in sequence by January 5, 2002.

With respect to AT&T and WorldCom's argument that some UNE-P orders were erroneously rejected because the BellSouth representatives failed to recognize the proper UNE-P transaction type or failed to add the product code during manual processing, this problem has been addressed. BellSouth has stated that, once it became aware of the problem, it took measures to correct the problem, and refresher training for all LCSC representatives was completed on May 23, 2001. As Worldcom concedes, after the completion of the refresher training, the problem was remedied. *Lichtenberg Affidavit*, ¶ 9.

**(f) UNE Pricing**

The Commission finds that the rates BellSouth charges for unbundled network elements and interconnection services are "just and reasonable" as required by the Federal Act and are consistent with the FCC's pricing rules. The Commission disagrees with WorldCom's suggestion that the rates established by this Commission in Docket Nos. 7061-U and 10692-U are not cost-based. While technology has changed and BellSouth's costs may need to be updated, this Commission has convened Docket No. 14361-U for this very purpose.

The Commission also disagrees with WorldCom's assertion that the rates for new UNE combinations and recurring and nonrecurring rates for unbundled network elements required by the FCC's *Third Report and Order* are not "cost based" because the Commission "never held a proceeding to evaluate" these rates. These rates were ordered by this Commission based upon the same cost models, cost methodology, and adjustments adopted in Docket Nos. 7061-U and 10692-U, in which WorldCom and other CLECs had ample opportunity to participate. WorldCom also will have the



opportunity to participate in Docket No.14361-U, at which time the Commission will revisit BellSouth's rates.

With respect to WorldCom's and SECCA's argument that BellSouth's daily usage file rates are not cost-based, the Commission believes this issue is moot. On August 27, 2001, BellSouth filed a revised SGAT, which included lower rates for BellSouth's daily usage files in order to address WorldCom's and SECCA's concerns.

All rates approved by this Commission in various cost dockets and arbitrations are available in BellSouth's SGAT, which the Commission approved in its Administrative Session on October 2, 2001. By doing so, the Commission necessarily determined that such rates comply with the requirements of the Section 252(d) of the Telecommunications Act and the FCC's pricing rules.

**(5) Conclusion**

The Commission finds that BellSouth has demonstrated compliance with Checklist Item 2.

**C. Checklist Item 3--Poles, Ducts, Conduits and Rights-of-Way**

**(1) Overview**

Checklist Item 3 requires that a BOC provide "[n]ondiscriminatory access to the poles, ducts, conduits, and rights-of-way owned or controlled by the [BOC] at just and reasonable rates in accordance with the requirements of Section 224." Section 224 of the Act outlines state and federal jurisdiction over regulation of access to poles, ducts, conduits, and rights-of-way and describes the standard for just and reasonable rates for such access.

**(2) BellSouth Comments**

BellSouth processes CLEC requests for access to poles, ducts, conduits and rights-of-way through the Competitive Structures Provisioning Center (“CSPC”). *Kinsey Affidavit*, ¶ 4. To gain access to poles, ducts, conduits, and rights-of-way, a CLEC must execute a license agreement with BellSouth. BellSouth asserts that the license agreement sets out the terms and conditions applicable to all licenses granted to the CLEC. CLECs may execute license agreements on a state-wide or region-wide basis. *Kinsey Affidavit*, ¶ 5. After execution of a license agreement, a CLEC may submit an application to attach to or occupy specific structures or rights-of-way owned or controlled by BellSouth. BellSouth states that it evaluates all CLEC requests according to widely-accepted standards regarding capacity, safety, reliability, and general engineering. *Kinsey Affidavit*, ¶ 7. When an application is approved, BellSouth grants a license to the CLEC to attach to or occupy BellSouth’s requested poles, ducts, conduits, or rights-of-way. Multiple licenses may be granted under a single CLEC license agreement; however, separate license applications must be submitted for each set of poles, ducts, conduits, or rights-of-way to which access is desired. *Kinsey Affidavit*, ¶ 9.

According to BellSouth, CLECs may gain access to geographic-specific engineering information regarding poles, ducts, conduits, or rights-of-way either by requesting that BellSouth provide the information to them, or they may seek access to BellSouth’s records. *Kinsey Affidavit*, ¶ 11. If the CLEC wishes to view BellSouth’s records, BellSouth will make paper copies available at a Records Maintenance Center within five business days. If the CLEC instead chooses to receive the records through the

mail, BellSouth has committed to accomplish this within twenty business days, including the time required for handling and mailing. *Id.*

If BellSouth requires additions to its own facilities, BellSouth states that these proposed additions are handled internally using the same criteria and processes that are used for evaluating a CLEC request. According to BellSouth, it does not reserve space for its own future business needs or give itself a preference when assigning space, and BellSouth insists that it does not favor itself over other carriers when provisioning access to poles, ducts, conduits, and rights-of-way. According to BellSouth, the same workforce evaluates all requests for access to these structures using the same criteria regardless of whether the request was made by a CLEC or BellSouth. *Kinsey Affidavit*, ¶ 16. Moreover, BellSouth uses a mechanized scheduling system designed to ensure parity. To assure nondiscriminatory treatment, the identity of the party requesting work is kept anonymous when authorization details are entered into the system. Scheduling, therefore, according to BellSouth, is the same whether the requesting party is BellSouth or a CLEC. *Id.* at ¶ 18.

BellSouth notes that, as of May 21, 2001, 52 Georgia CLECs have license agreements with BellSouth. As of the same date, 29 of those CLECs have made 921 applications through the CSPC for access to BellSouth's poles, ducts, conduits, and rights-of-way. *Milner Affidavit*, ¶ 79.

**(3) CLEC Comments**

No CLEC filed comments addressing BellSouth's compliance with Checklist Item 3.

**(4) Discussion**

Based on the evidence in the record, the Commission finds that BellSouth has conclusively demonstrated that it is providing nondiscriminatory access to its poles, ducts, conduits, and rights-of-way at just and reasonable rates, terms, and conditions in accordance with the requirements of Section 224. In the *Second Louisiana Order*, the FCC held that BellSouth demonstrated that it has nondiscriminatory procedures for access to poles, ducts, conduits, and rights-of-way as required by Checklist Item 3. *Second Louisiana Order*, ¶¶ 171-183. In Section III of the SGAT, and in various negotiated interconnection agreements, BellSouth continues to offer nondiscriminatory access to poles, ducts, conduits, and rights-of-way within reasonable time frames. The Commission finds that BellSouth's actions and performance with respect to this checklist item remain consistent with the showing previously made to the FCC with respect to this checklist item.

**(5) Conclusion**

The Commission concludes that BellSouth has demonstrated compliance with Checklist Item 3.

**D. Checklist Item 4--Unbundled Local Loops**

**(1) Overview**

Checklist Item 4 requires that the BOC provide "[l]ocal loop transmission from the central office to the customer's premise, unbundled from local switching or other services." This access enables CLECs to provide local service without investing large amounts of capital in facilities that connect each customer premises to the public switched telephone network. A BOC has the obligation to provision different types of

loops, including voice grade loops, loops capable to transmitting the digital signals needed to provide such services as Integrated Services Digital Network (“ISDN”), Asymmetrical Digital Subscriber Line (“ADSL”), and High-bit-rate Digital Subscriber Line (“HDSL”). *Verizon-MA*, ¶ 121.

In evaluating a BOC’s compliance with Checklist Item 4, the FCC will consider a BOC’s performance in the aggregate (*i.e.*, by all loop types) as well as its performance for specific loop types. In particular, the FCC will consider order processing timeliness, provisioning timeliness, provisioning quality, and maintenance and repair. In so doing, the FCC looks for any pattern of systemic performance disparities that may result in competitive harm or otherwise may deny CLECs a meaningful opportunity to compete. *Verizon-MA*, ¶¶ 121-122. The FCC also will evaluate the BOC’s processes for installing and maintaining loops, the capabilities of the BOC’s workforce, and employee training. *Id.* at ¶ 122.

**(2) BellSouth Comments**

**(a) Access To Voice Grade Loops**

BellSouth states that it offers numerous loop types to CLECs, including Service Level 1 (SL1) voice grade loops, Service Level 2 (SL2) voice grade loops, 2-wire ISDN digital grade loops, 56 or 64 kbps digital grade loops, as well as various high capacity and xDSL-capable loops. *See* SGAT, Attachment C. In addition, BellSouth allows CLECs to access unbundled loops at any technically feasible point with access to all the features, functions and capabilities of the loop and provides CLECs with unbundled loops served by Integrated Digital Loop Carrier (“IDLC”). *Milner Affidavit*, ¶¶ 81 and 85. BellSouth asserts that it offers local loop transmission of the same quality and same equipment and

technical specifications used by BellSouth to serve its own customers. *Id.* at ¶ 83. As of March 31, 2001, BellSouth states that it has provisioned over 87,000 loops for CLECs in Georgia. *Id.* at ¶ 82.

According to BellSouth, its performance data on the ordering and provisioning of unbundled local loops demonstrates that the access it provides to such loops is nondiscriminatory and sufficient to allow an efficient competitor a meaningful opportunity to compete. For example, with respect to average order completion interval (“OCI”), BellSouth reported CLEC data in 17 sub-metrics related to 2-wire analog loops in April 2001. BellSouth notes that it met or exceeded the retail analogue in 13 of the 17 sub-metrics. *See Monthly State Summary, Docket No. 7892-U.*<sup>40</sup>

To fully understand and analyze OCI for loops, BellSouth hired the firm of Lexecon, Inc., to assess the impact on the average completion interval for unbundled loops caused by CLEC requested due dates that are beyond BellSouth’s standard provisioning intervals (so called “L” code orders) and customer-caused misses. As reflected in the Affidavit of Messrs. Gertner and Bamberger, when BellSouth’s performance data is adjusted to account for “L” codes and customer-caused misses, BellSouth meets the applicable retail analogue for OCI for 2-wire analog loop/< 10 circuits that involve a dispatch. According to BellSouth, three of the other submetrics for which BellSouth originally missed the analogue (non-design/<10 circuits/non-dispatch; non-design w/INP/<10 circuits/non-dispatch; and, non-design w/LNP/<10 circuits/non-

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<sup>40</sup> BellSouth missed the retail analogue for the following four categories: 2-wire Analog Loop Design/<10 circuits/Dispatch; 2-wire Analog Loop Non-Design/<10 circuits/Non-Dispatch; 2-wire Analog Loop w/INP Non-Design/ < 10 circuits/Non-Dispatch; 2-wire Analog Loop Non-Design w/LNP Non-Design/<10 circuits/Non-Dispatch.

dispatch) come much closer into parity, and hence the difference loses competitive significance as a result of the study. Stacy PM Affidavit ¶¶ 135-142.

For Missed Installation Appointments, BellSouth states that it met or exceeded the retail analogue for 15 of the 17 2-wire analog loop sub-metrics for which CLEC data was reported in March 2001. In April 2001, BellSouth improved its performance and met the retail analogue for 100% of the 18 sub-metrics for which there was CLEC data. BellSouth's performance for loops on Percent Provisioning Troubles in 30 Days is comparable to its performance on Missed Installation Appointments. In March 2001, BellSouth met or exceeded the retail analogue for 100% of the 16 sub-metrics with CLEC data; in April 2001, BellSouth performed at parity for 15 out of the 16 sub-metrics with data. Finally, according to BellSouth, Maintenance Average Duration was significantly less for CLECs than for BellSouth retail in both March and April 2001.<sup>41</sup>

In March and April 2001, BellSouth met the retail analogue for OCI for loop-port combinations with 10 or more circuits (both dispatch and nondispatch). For those loop-port combinations with less than 10 circuits (both dispatch and nondispatch), BellSouth failed to meet the analogue in March 2001. However, according to the Gertner/Bamberger Study, BellSouth would have met the applicable retail analogue in both categories but for improperly "L"-coded orders and customer-caused misses. *Gertner/Bamberger Affidavit*, Table 3A. Moreover, in April 2001, BellSouth's performance improved, as BellSouth met the applicable retail analogue for loop-port combinations with less than 10 circuits with a dispatch as well as loop-port combinations

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<sup>41</sup> For example, BellSouth notes that in April, the maintenance average duration for BellSouth retail was 23.11 hours, while the average duration for CLEC 2-wire analog loop/Design/Dispatch was 5.53 hours. *See* Monthly State Summary, Docket No. 7892-U.

with ten or more circuits (both dispatch and nondispatch). This trend continued in May 2001. *See* Monthly State Summary, Docket No. 7892-U

On Missed Installation Appointments, BellSouth met or exceeded the retail analogue in March and April 2001 for three of the four loop-port combination sub-metrics. Monthly State Summary, Docket No. 7892-U. On the fourth sub-metric (<10 circuits/non-dispatch), BellSouth notes that the difference between retail and CLEC performance in April 2001 was only .03%, which, according to BellSouth, is not a competitively significant difference. *Id.* In May 2001, BellSouth met or exceeded the retail analogue for all four loop-port combinations sub-metrics with respect to Missed Installation Appointments.

BellSouth asserts that it performed equally well on Percent Provisioning Troubles Within 30 days. In March 2001, BellSouth met or exceeded the retail analogue for 3 of the 4 loop-port combination sub-metrics. On the fourth sub-metric (<10 circuits/non-dispatch), BellSouth's performance to its retail units was only approximately one percentage point better than its performance to its CLEC customers. BellSouth met the retail analogue for this measure in April and May 2001. Finally, BellSouth met or exceeded the Maintenance Average Duration retail analogue for both dispatch and non-dispatch loop-port combinations in March, April, and May 2001. *Id.*

**(b) Access To xDSL-capable Loops**

BellSouth asserts that it offers CLECs nondiscriminatory access to xDSL-capable loops in Georgia. To compensate for differing parameters such as the end user's distance from the serving wire center, BellSouth offers CLECs a variety of unbundled loops that may support DSL services provided by the CLEC to its end user customers. These loop



types include: ADSL-capable loop; HDSL-capable loop; ISDN loop; Universal Digital Channel (“UDC”); Unbundled Copper Loop (“UCL”), Short and Long; and, UCL-Nondesign (“UCL-ND”). *Testimony of Wiley (Jerry) G. Latham*, Docket No. 11900-U. As of March 31, 2001, BellSouth had provisioned 3,484 two-wire ADSL loops, 130 two-wire HDSL loops, and 33 four-wire HDSL loops in Georgia. *Milner Affidavit*, ¶ 99.

For pre-ordering of xDSL-capable loops, BellSouth asserts that it offers CLECs nondiscriminatory access to actual loop make-up information through electronic and manual processes. *Testimony of Ronald Pate*, Docket No. 11900-U; *Stacy Affidavit*, ¶¶ 85-91. Manual loop qualification is available when BellSouth’s electronic records do not have LMU for a particular loop. *Testimony of Ronald Pate*, Docket No. 11900-U. The loop make-up process provides CLECs with access to detailed information regarding the suitability of particular loops for xDSL services, including loop length, cable length by gauge, quantity of load coils, location of load coils, quantity of bridged tap, and location of bridged tap. *Stacy-OSS Affidavit*, ¶¶ 159-162. Loop make-up information is obtained from the Loop Facility Assignment and Control System (“LFACS”), and BellSouth asserts that CLECs have access to the same loop make-up information as BellSouth’s retail operations, in the same manner and within the same time frames. *Stacy Affidavit*, ¶ 86.

In addition, BellSouth also offers its Loop Qualification System (“LQS”) to Network Service Providers to enable them to inquire as to whether POTS lines will support BellSouth’s wholesale ADSL service. While the information is not guaranteed, CLECs also have electronic access to LQS to enable them to obtain certain loop qualification information that they can use to provide whatever type of xDSL service they

desire. *Stacy-OSS Affidavit*, ¶¶ 165-66. LQS provides the CLEC with a non-guaranteed response as to whether an existing telephone number is served by a loop that will support ADSL service. *Id.*

To further enable CLECs to provide high-speed data services to their end users, BellSouth states that CLECs have the option of selecting the precise conditioning (*i.e.*, loop modification) they desire on a loop. *Milner Affidavit*, ¶ 88. If a CLEC needs to have a loop conditioned, it can use BellSouth's Unbundled Loop Modification ("ULM") process in order to modify any existing loop to be compatible with the CLEC's particular hardware requirements. *See Testimony of Jerry Latham*, Docket No. 11900-U. The ULM process conditions the loop by the removal of any devices that may diminish the capability of the loop to deliver high-speed switched wireline capability, including xDSL service. BellSouth will provide line conditioning for an unbundled loop upon request from a CLEC, regardless of whether BellSouth offers advanced services to the end-user customer on that loop. *Id.*

With respect to timeliness of loop installation, in March, April, and May 2001, BellSouth met the applicable retail analogue for OCI for all xDSL loop sub-metrics for which there was any CLEC volume. Moreover, in April and May 2001, BellSouth provisioned xDSL loops without conditioning within the Commission's 7-day benchmark. In addition, in March, April, and May 2001, BellSouth met or exceeded the retail analogue for Percent Missed Installation Appointments for xDSL<10 circuits/Dispatch, the only sub-metric for which there was CLEC data. *See Monthly State Summary*, Docket No. 7892-U.

BellSouth asserts that it not only delivers service in a timely manner, but it also does so without any more technical problems than the service BellSouth delivers to its retail orders. While BellSouth did not meet the retail analogue in March and May 2001 for Percent Provisioning Troubles Within 30 Days for xDSL<10 circuits (the only category for which there was CLEC data), CLECs only experienced troubles on less than 3% of the loops each month. Thus, even though BellSouth did not meet the analogue, BellSouth claims that it still performed at a high level for CLECs and their end users. Given the uniformly high level of performance, BellSouth argues that the slight difference in performance is competitively insignificant. *BellSouth Direct Comments p. 50.*

When CLECs did experience trouble on xDSL-capable loops, BellSouth asserts that it handled the troubles in the same time and manner as it handled the troubles for its retail units. BellSouth met or exceeded the retail analogue for Missed Repair Appointments for both xDSL sub-metrics in March, April, and May 2001. Furthermore, the Maintenance Average Duration for CLECs was the same as or shorter than BellSouth retail for all xDSL sub-metrics for March, April, and May 2001. *See Monthly State Summary, Docket No. 7892-U.*

**(c) Hot Cut Conversions**

BellSouth asserts that it accomplishes “hot cuts” in a timely, accurate manner with a minimum number of troubles following installation. Hot cuts involve the conversion of an existing BellSouth customer to the network of a competitor by transferring the customer’s in-service loop over to the CLEC’s network. *Milner Affidavit*, ¶ 102. BellSouth has implemented three hot cut processes, two involving order

coordination and one that does not involve such coordination. *Id.* The two processes that include order coordination are a time-specific cutover and a non-time-specific cutover. Both of these processes involve BellSouth and the CLEC working together to establish a time for the cutover. In the third option, the CLEC merely specifies the date on which the cut is to occur but leaves the time of the cutover to BellSouth's discretion. *Milner Affidavit*, ¶¶ 103-105. According to BellSouth, these three options give the CLEC choices depending on its business plan and the needs of its end user.

BellSouth notes that in March, April, and May 2001, BellSouth performed above the benchmark for every hot cut sub-metric. In particular, in April 2001, BellSouth completed 100% of the hot cuts on time specific SL1 loops and non-time specific SL2 loops in less than fifteen minutes. In addition, BellSouth performed the cutovers correctly, with less than 2% of the cut loops experiencing troubles within 7 days. *See Monthly State Summary*, Docket No. 7892-U. BellSouth insists that it provides coordinated hot cuts in a timely manner, at an acceptable level of quality, with minimal service disruptions, and with a minimum number of troubles following installation. *See SWBT-KA/OK Order*, ¶ 201; *Verizon-MA Order*, ¶ 110 (BOC demonstrates compliance by providing hot cuts in a timely manner, at an acceptable level of quality, with minimal service disruptions, and with a minimum of troubles following installation).

**(d) Access to Subloop Elements**

In addition to the unbundled loops themselves, BellSouth states that it offers CLECs nondiscriminatory access to sub-loop elements. *Milner Affidavit*, ¶ 90. A sub-loop unbundled network element is an existing portion of the loop that can be accessed at accessible points on the loop. This includes any technically feasible point near the

customer premises, such as the pole or pedestal, the network interface device (“NID”) or minimum point of entry to the customer’s premises, the feeder distribution interface, the Main Distributing Frame, remote terminals, and various other terminals. *Milner Affidavit*, ¶ 90. BellSouth offers loop concentration/multiplexing, loop feeder, loop distribution, intrabuilding network cable, and network terminating wire as subloop elements. *Id.* CLECs can request additional subloop elements via the bona fide request process. As of March 31, 2001, BellSouth has provided CLECs over 500 subloop elements region-wide. *Milner Affidavit*, ¶ 91.

(e) **Line Sharing**

Line-sharing allows CLECs to provide high speed data service to BellSouth voice customers. BellSouth states that it provides access to the high frequency portion of the loop as an unbundled network element in accordance with the FCC rules. *See Deployment of Wireline Services Offering Advanced Telecommunications Capability and Implementation of Local Competition Provisions of the Telecommunications Act of 1996*, Third Report and Order, CLEC Docket No. 98-147 and Fourth Report and Order, CLEC Docket No. 96-98, 14 FCC Rcd 20,912 (1999); *Deployment of Wireline Services Offering Advanced Telecommunications Capability*, Order on Remand, CC Docket Nos. 98-147, 98-11, 98-26, 98-32, 98-78, 98-91 (1999) (“*Line-Sharing Reconsideration Order*”). Specifically, according to BellSouth, line-sharing is available to a single requesting carrier, on loops that carry BellSouth’s POTS, so long as the xDSL technology deployed by the requesting carrier does not interfere with the analog voice band transmissions. BellSouth states that it allows line-sharing CLECs to deploy any version of xDSL that is presumed acceptable for shared-line deployment in accordance with FCC rules and will

not significantly degrade analog voice service. *Id.* Like SWBT, BellSouth developed the line-sharing product in a collaborative effort with CLECs and claims that it is continuing to work cooperatively with the CLECs on an ongoing basis to resolve issues as they arise. *Testimony of Thomas G. Williams*, Docket No. 11900-U. As of April 1, 2001, BellSouth had provisioned 574 line-sharing arrangements in Georgia and had provisioned 2,542 such arrangements region-wide. *Milner Affidavit*, ¶ 95.

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

BellSouth asserts that it provisions line sharing in a timely, accurate and nondiscriminatory manner. *See Verizon-MA Order*, ¶ 114 (“a successful BOC applicant could provide evidence of BOC-caused missed installation due dates, average installation intervals, trouble reports within 30 days of installation, mean time to repair, trouble report rates and repeat trouble report rates”). In March, April, and May 2001, BellSouth asserts that it provided CLECs engaged in line sharing far better service on order completion interval for CLEC line sharing than it did for its retail units. In addition, according to BellSouth, it performed better on missed installation appointments for CLECs engaged in line splitting than it did for its own retail units in March, April, and May 2001 and met the applicable retail analogue for percent provisioning troubles within 30 days and maintenance average duration in all three months.

**(f) Line Splitting**

BellSouth states that it will facilitate line splitting between CLECs using BellSouth's unbundled network elements in full compliance with the FCC's rules. *Williams Testimony*, Docket No. 11900-U. Specifically, BellSouth facilitates line splitting by CLECs by cross-connecting a loop and a port to the collocation space of either the voice CLEC or the data CLEC. The CLECs may then connect the loop and the port to a CLEC-owned splitter and split the line themselves. BellSouth offers the same arrangement to CLECs as that described by the FCC in the *SWBT-TX Order* and the *Line-Sharing Reconsideration Order*. See SGAT, Sec. II.B.9.b. By allowing CLECs to engage in line splitting, BellSouth asserts that its current offerings meet all FCC requirements for line splitting. *SWBT-TX Order*, ¶¶ 323-329.

**(3) CLEC Comments**

**(a) Access To Voice Grade Loops**

AT&T and KMC raise various ordering and provisioning issues with respect to unbundled loops, primarily with respect to the hot cut conversion process. These issues are discussed in greater detail in subsection (c) below.

**(b) Access to xDSL Capable Loops**

Several CLECs complain that BellSouth's ordering and provisioning procedures for xDSL-capable loops do not meet the requirements of the checklist. Covad argues that Performance Measure P-9 (Percent Provisioning Troubles) demonstrates BellSouth's failure to provision loops in a nondiscriminatory manner, claiming that 2.23% of CLEC stand-alone xDSL loops had trouble within 30 days of installation, compared with 0.0% percent of those for BellSouth ADSL retail. *Davis Affidavit*, Att. 3. Similarly, Covad states that BellSouth has failed to meet the Commission's 7-day benchmark for

provisioning stand-alone xDSL loops that do not require conditioning because, according to Covad, BellSouth's xDSL provisioning takes on average 9.5 business days.

Covad also questions BellSouth's maintenance and repair of xDSL capable loops. Covad argues that BellSouth resolves "trouble tickets" on its own stand-alone xDSL loops in an average of 4.78 hours, but takes much longer to resolve Covad trouble tickets. *Davis Affidavit*, ¶23, Att. 6. Covad also complains that BellSouth systematically favors its retail operations since the ISDN loops it provides to Covad are five times as likely to experience trouble within 30 days of provisioning. *Davis Affidavit*, Att. 3.

**(c) Hot Cut Conversions**

AT&T and KMC make a number of claims regarding BellSouth's hot-cut conversion performance. AT&T argues that BellSouth's hot cut process fails to provide a timely hot cut schedule on which AT&T and its customers can rely. For example, AT&T claims that BellSouth failed to return hot cut FOCs in 24 hours and should conduct a facilities check before issuing a FOC. *Berger Affidavit*, ¶13. AT&T also complains about BellSouth's performance with respect to a memorandum of understanding executed by the parties concerning hot cut conversion procedures and BellSouth's request for a four-hour window to start a conversion when a customer's service is provided over BellSouth IDLC. *Berger Affidavit*, ¶29. AT&T also claims that the majority of AT&T's Local Number Portability hot cuts were handled as partially mechanized. *Berger Affidavit*, ¶20.

KMC states that it must monitor BellSouth personnel for 3-4 days in advance of hot cut with number porting, *Johnson Affidavit*, ¶ 7, and that BellSouth often misses firm appointment times to cutover a loop. *Weiss Affidavit*, ¶ 11. KMC also points to problems



with supplementing loop orders, particularly with respect to erroneous disconnects, and accuses BellSouth of failing to complete the requisite translations work in its switches for roughly one in five KMC orders. *Weiss Affidavit*, ¶ 9.

**(d) Access to Sub-Loop Elements**

AT&T raises a number of issues regarding access to Multiple Dwelling Units (“MDUs”), which AT&T claims represent approximately 38% of the Georgia telecommunications market. AT&T contends that it lacks meaningful access to sub-loop elements. This access is needed to access tenants in MDUs. AT&T also states that it has been compelled repeatedly to seek assistance from the Georgia Commission in order to force BellSouth to grant AT&T such access. *Neumann Affidavit*, ¶¶ 6 and 15-27. In addition, AT&T argues that BellSouth has adopted delay tactics for testing the single point of interconnection (including prolonged selection of vendor and cessation of testing until Interconnection Agreement signed) (*Neumann Affidavit*, ¶¶ 29-30; AT&T Comm. CLI # 4, 11) and that BellSouth imposes procedures for MDU access that are vague, inefficient, and often contrary to language of interconnection agreements. *Neumann Affidavit*, ¶¶ 34-46.

**(e) Line Sharing**

AT&T contends that BellSouth must provide line sharing over Next Generation Digital Loop Carrier (“NGDLC”) systems and that BellSouth will not allow CLECs to install cards into BellSouth DSLAMS. *Turner Affidavit*, ¶ 33. Covad claims that BellSouth has not provided line-shared loops to CLECs in three days, as required in the Line Sharing Amendment to the Covad/BellSouth Georgia Interconnection Agreement. *Davis Affidavit*, Att. 3, 7, 8.

**(f) Line Splitting**

AT&T argues that BellSouth discontinues providing advanced services to a customer that elects to receive voice service from a CLEC. This, according to AT&T, “inhibits CLEC entry into the market for advanced services.” *Turner Affidavit*, ¶ 31. AT&T also claims that BellSouth will only provide line splitting for a new customer if the CLEC provides the splitter. AT&T argues that BellSouth’s refusal to provide the splitter effectively precludes CLECs from offering new customers voice and data over same loop. *Turner Affidavit*, ¶¶ 17-19. AT&T argues that BellSouth improperly provides access to line splitting only when BellSouth loses the voice service for a customer on a line-shared loop. *Turner Affidavit*, ¶ 22. AT&T also complains that BellSouth refuses to deploy splitters one line at a time and contends that BellSouth will not charge UNE-P rates for UNE-P when it is part of line splitting and that BellSouth does not provide the same level of support for UNE-P line splitting as it does for UNE-P voice services. *Turner Affidavit*, ¶¶ 27-30.

**(4) Discussion**

**(a) Access To Voice Grade Loops**

The Commission finds that BellSouth is providing nondiscriminatory access to voice grade loops. Consistent with directives of the FCC, this finding is based upon the length of time it takes BellSouth to provision a voice grade loop, the extent to which BellSouth misses loop installation appointments, the percentage of voice grade loops provisioned to CLECs that need repair within the first seven days, and the length of time it takes BellSouth to complete necessary repairs. *See Bell Atlantic-NY Order*, ¶¶ 270 & 283 (performance measurements showing provisioning intervals and success in meeting

due dates are instructive in proving nondiscriminatory access); *SWBT-TX Order*, ¶ 249; *Verizon-MA Order*, ¶ 111; *SWBT-KA/OK Order*, ¶ 208 (FCC continues to rely primarily upon missed installation intervals and average installation intervals). The record reflects that BellSouth's performance with respect to these activities, while not perfect, is sufficient to warrant a finding of compliance with the requirements of Checklist Item 4. *Cf. Second Louisiana Order*, ¶¶ 192-199 (finding that BellSouth failed to provide sufficient performance data to demonstrate compliance with this checklist item).

For OCI, BellSouth reported CLEC data in 16 sub-metrics related to 2-wire analog loops in March 2001. BellSouth met or exceeded the retail analogue in 11 of the 16 sub-metrics. In April, BellSouth met or exceeded the retail analogue in 12 of the 16 sub-metrics. In May, BellSouth met or exceeded the retail analogue for all of sub-metrics for which there was CLEC data, and in June BellSouth met or exceeded the retail analogue in 10 of the 11 sub-metrics for which data was reported.<sup>42</sup>

For March and April 2001 OCI Metrics, BellSouth hired the firm of Lexecon, Inc., to assess the impact on the average completion interval for unbundled loops caused by CLEC requested due dates that are beyond BellSouth's standard provisioning intervals (so called "L" code orders) and customer-caused misses. As reflected in the Affidavit of Messrs. Gertner and Bamburger, when BellSouth's performance data is adjusted to account for "L" codes and customer-caused misses, BellSouth met the applicable retail analogue for OCI for 2-wire analog loop/< 10 circuits that involve a dispatch for March 2001. Additionally, BellSouth met that measure for May-July 2001. As noted above, BellSouth has brought the non-design/<10 circuits/non-dispatch, non-

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<sup>42</sup> Docket No. 7892-U Performance Measures March and April (B.2.1.8.1.1 thru B.2.1.13.1.2; May and June (B.2.1.8.1.1 thru B.2.1.13.2.4).

design w/INP/<10 circuits/non-dispatch and non-design w/LNP/<10 circuits/non-dispatch submetrics much closer into parity from the March through April 2001, time period. The Commission agrees with BellSouth that the difference loses competitive significance as a result of the study. BellSouth OCI performance for Analog loops significantly increased in May and June 2001. BellSouth missed only 1 sub-metric (B.2.1.13.1.4) in June 2001 and met all of the sub-metrics in May 2001.

For Missed Installation Appointments, BellSouth met or exceeded the retail analogue for 100% of the sub-metrics of 2-wire analog loops for which CLEC data was reported in April and May 2001. In June 2001, BellSouth met or exceeded the retail analogue in 11 of these 14 sub-metrics of 2-wire analog loops.<sup>43</sup> For two of the submetrics that BellSouth missed in June 2001, the number of CLEC LSRs was 2 for B.2.18.9.2.1 and 6 for B.2.18.11.1.1. Such a small universe of orders does provide a statistically significant sample for comparison.

With respect to the percentage of voice grade loops provisioned to CLECs that required repair within the first seven days, the Commission established a benchmark of less than or equal to 5%. BellSouth met this benchmark in March, April, May, and June 2001.<sup>44</sup>

As the Commission explained in Checklist Item 2, the only Maintenance and Repair sub-metric that BellSouth missed for 2 months during March-June 2001 was B.3.1.9.2/ 2 wire Analog Loop/Non-Design/Non-Dispatch. BellSouth missed only 3 out of the 29 repair appointments for May 2001 and 3 out of 39 for June 2001.

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<sup>43</sup> Docket No. 7892-U Performance Measurements (B.2.18.8 thru B.2.18.13).

<sup>44</sup> Docket No. 7892-U Performance Measure % Provisioning Trouble within 7 days-Hot Cut.

Additionally, for Maintenance Average Duration, in March, April, May, and June 2001, BellSouth met or exceeded the retail analogue for 100% of the 2-wire analog loop sub-metrics for which CLEC data was reported.

Finally, for Out of Service > 24 hours, in March-June 2001, BellSouth met or exceeded the retail analogue for 100% of the 2-wire analog loop submetrics for which CLEC data was reported.

**(b) Access to xDSL Capable Loops**

The Commission finds that BellSouth is providing nondiscriminatory access to xDSL capable loops. This finding is based upon the length of time it actually takes BellSouth to provision an xDSL capable loop, the extent to which BellSouth misses loop installation appointments, the percentage of voice grade loops provisioned to CLECs that need repair during the first 30 days, the length of time it takes BellSouth on average to repair a troubled xDSL loop, and the frequency with which CLECs have to make repeated requests for xDSL loop repairs. *See Verizon-MA Order ¶¶ 130-153.* The Commission concludes that the evidence in the record reflects that BellSouth's performance with respect to these activities, while not perfect, is sufficient to warrant a finding of compliance with the requirements of Checklist Item 4.

With respect to timeliness of xDSL loop installation without conditioning, the data reveals the following<sup>45</sup>:

B.2.2.2	P-4	xDSL (ADSL, HDSL, and UCL) Loop w/o Conditioning/GA (days)		
<b>Benchmark/Analogue: 7 days</b>	<b>BST Measure</b>	<b>BST Volume</b>	<b>CLEC Measure</b>	<b>CLEC Volume</b>

<sup>45</sup> Docket No. 7892-U Performance Measure (B.2.2.2).

<b>Mar-01</b>		<b>9.50</b>	<b>126</b>
Apr-01		4.49	92
May-01		6.74	212
Jun-01		5.09	132
Jul-01		4.75	127

BellSouth's performance in provisioning xDSL loops without conditioning is within the Commission's benchmark of 7 business days for April-July of 2001.

In March, April, May, and June 2001, BellSouth met or exceeded the retail analogue for Percent Missed Installation Appointments for xDSL<10 circuits/Dispatch, the only sub-metric for which there is CLEC data.<sup>46</sup> BellSouth is meeting Installation appointments for CLECs at a greater rate than its retail customers.

With respect to Percent Provisioning Troubles Within 30 Days for xDSL<10 circuits (the only category for which there was CLEC data), BellSouth did not meet the applicable retail analogue in April or May 2001, although BellSouth did so in March and June 2001. However, CLECs only experienced troubles within the first 30 days on fewer than 3% of the loops in April and approximately 5% in May.<sup>47</sup> Given this relatively high level of performance, the Commission concludes that slight difference in performance is competitively insignificant.

As to the length of time it takes BellSouth on average to repair a trouble on an xDSL loop, the Maintenance Average Duration for CLECs was the same as or shorter than BellSouth retail for all xDSL sub-metrics in March, April, May, and June 2001.<sup>48</sup> As to the frequency with which CLECs have to make repeated requests for xDSL loop repairs, although BellSouth missed the applicable retail analogue for Percent Repeat

<sup>46</sup>Docket No. 7892-U Performance measure (B.2.18.5.1.1).

<sup>47</sup>Docket No. 7892-U Performance measure (B.2.19.5.1.1).

Troubles Within 30 Days in April 2001, BellSouth met the analogue in March, May and June 2001.<sup>49</sup>

Additionally, at the request of Data CLECs in Docket No. 7892-U, the Commission approved a % Cooperative Test Attempts for xDSL SQM.<sup>50</sup> This SQM measures the percentage of time BellSouth performs the test at the request of the CLEC. The Commission set a benchmark of 95% or greater.

B.2.33.1	P-8	xDSL (ADSL, HDSL and UCL)/GA (%)		
	<b>BST Measure</b>	<b>BST Volume</b>	<b>CLEC Measure</b>	<b>CLEC Volume</b>
Mar-01			91.35%	289
Apr-01			98.80%	344
May-01			98.15%	379
Jun-01			99.18%	245

The data reflects that BellSouth exceeded the benchmark for April – June 2001 and missed the mark in March 2001.

Covad questions the “veracity” of BellSouth’s xDSL performance data. The Commission previously addressed this issue in connection with Checklist Item 2 and agrees with BellSouth that many of Covad’s questions concerning BellSouth’s performance data result from Covad’s apparent unfamiliarity with the SQM. Indeed, in response to an August 1, 2001 letter to this Commission from Covad, the Commission Staff held a face-to-face meeting with BellSouth and Covad to discuss various issues, which included performance measures. At the conclusion of the meeting, Covad obtained satisfactory explanations to all SQM concerns. The Commission also is not persuaded about the reliability of Covad’s performance data included with its comments.

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<sup>48</sup> Docket No. 7892-U Performance measures (B.3.3.5.1 and B.3.3.5.2).

<sup>49</sup> Docket No. 7892-U Performance measures (B.3.4.5.1 and B.3.4.5.2).

For example, BellSouth points out that Covad apparently counts repeat troubles toward the calculation of results for Percent Troubles Reported With 30 Days, which is inconsistent with the business rules set forth in the SQM. BellSouth has raised other questions about how Covad's internal assessment of BellSouth's data was calculated, and, as a result, the Commission is hesitant to rely upon such data to draw any conclusions about BellSouth's xDSL loop performance. *Stacy Performance Reply Affidavit*, ¶¶ 141-184.

With respect to ISDN timeliness of loop installation, in March through June 2001, BellSouth met the applicable retail analogue for OCI for all ISDN loop sub-metrics for which there was any CLEC volume.<sup>51</sup> Moreover in the period of March through June 2001, BellSouth met or exceed the retail analogue for Percent Missed Installation Appointments for UNE ISDN/< 10 circuits/Dispatch, the only sub-metric for which there was CLEC data.

While BellSouth did not meet the retail analogue in April through June 2001 for Percent Provisioning Troubles Within 30 Days for ISDN<10 circuits (the only category for which there was CLEC data), CLECs only experienced troubles on less than 2% of the loops each month.

When CLECs did experience trouble on ISDN loops, BellSouth handled the troubles in the same time and manner as it handled the troubles for its retail units. BellSouth met or exceeded the retail analogue for Missed Repair Appointments for both ISDN sub-metrics in March-June 2001. Furthermore, the Maintenance Average Duration

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<sup>50</sup> Docket No. 7892-U Performance measure (B.2.33.1).

<sup>51</sup> Docket No. 7892-U Performance measures (B.2.1.6)



for CLECs was the same as or shorter than BellSouth retail for both ISDN sub-metrics for March-June 2001.

(c) **Hot Cut Conversions**

The Commission agrees with the FCC that “[t]he ability of a BOC to provision working, trouble-free loops through hot cuts is critically important in light of the substantial risk that a defective hot cut will result in competing carrier customers experiencing service outages for more than a brief period.” *SWBT-TX Order*, ¶ 256. The Commission finds that BellSouth has satisfied its hot cut obligations.

In March-June 2001, BellSouth met the benchmark for every single hot cut sub-metric. BellSouth completed 99.31% of the hot cuts on time specific SL2 loops and 100% on non-time specific SL2 loops in less than fifteen minutes in March; 98.21% of the time specific SL2 loops and 98.85% of the non-time specific SL2 loops in less than 15 minutes in April; 99.02% of the hot cuts on time specific SL2 loops and 99.63% on non-time specific SL2 loops in less than fifteen minutes in May; and, 98.94% of the hot cuts on time specific SL2 loops and 100% on non-time specific SL2 loops in less than fifteen minutes in June.<sup>52</sup> In addition, BellSouth performed the cutovers correctly, meeting the Commission’s benchmark for Percent Provisioning Troubles Within Seven Days in all four months. Although AT&T argues that the hot cut conversion measures adopted by the Commission are “inadequate,” *AT&T Reply Comments*, p. 37, the record presented in this matter does not appear to support such a finding. In any event, this is an issue more properly addressed in the workshops to be held in October in Docket No. 7892-U.

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<sup>52</sup> Docket No. 7892-U Performance Measures (B.2.14.2 and B.2.14.4).

The Commission is not persuaded by AT&T's complaints about BellSouth's hot cut procedures as they relate to a Memorandum of Understanding ("MOU") recently executed by the parties as a result of the Hot Cut Reconciliation Process directed by the Commission on August 5, 2000, in Docket No. 7892-U. This is particularly true given that AT&T's complaints about the MOU appear to be largely hypothetical and are not based on specific and concrete actions by BellSouth, which AT&T claims violate the terms of the MOU. That the parties may have an "operational disagreement" regarding IDLC does not constitute grounds to find BellSouth in non-compliance with Checklist Item 4. Furthermore, the Commission also expects this issue to be addressed as part of the workshops to be held in October in Docket No. 7892-U.

In Docket No. 11901-U, the Commission resolved the issue underlying AT&T's allegation that BellSouth refuses to check the availability of facilities prior to issuing a FOC. In that proceeding, the Commission held that any request for BellSouth to check facility availability should be pursued through the CCP. Furthermore, the Commission notes that BellSouth provides through its interconnection website a report containing AT&T's CFA assignments, which allows AT&T to check the status of its CFA before submitting an LSR. *Milner Reply Affidavit*, ¶ 71.

Although the Commission is concerned by KMC's claim that customers have been disconnected during the hot cut conversion as a result of problems in supplementing a conversion order, KMC has not provided the Commission with adequate information to evaluate such claims. Also, BellSouth submitted evidence that many of the erroneous disconnect problems appear to be due, at least in part, to KMC supplementing its LRSs multiple times, often with changes coming very close to the original due date. BellSouth

states that it has established procedures to ensure that erroneous disconnects do not occur, which the Commission finds to be satisfactory. *Milner Reply Affidavit*, ¶ 75.

The Commission finds unconvincing KMC's claim that BellSouth often misses the firm appointment time to cutover a loop. Again, KMC has provided little evidence to substantiate this claim. Moreover, BellSouth claims that of the 93 orders BellSouth worked for KMC in May 2001, there were no due dates missed for BellSouth reasons, and 16 missed for KMC delays. *Milner Reply Affidavit*, ¶ 76.

Equally unconvincing is KMC's complaint that BellSouth fails to complete the requisite disconnect work in its switches for one in five orders. Again, no specific evidence has been submitted by KMC to support this claim, which BellSouth strongly disputes. Furthermore, BellSouth has presented evidence that the problems experienced by KMC were due to KMC's failure to call BellSouth and accept the conversion. *Milner Reply Affidavit*, ¶ 77.

**(d) Access to Sub-Loop Elements**

Although AT&T has raised a number of issues concerning access to sub-loop elements, the Commission believes that BellSouth has adequately addressed each of these issues. Particularly telling in the Commission's view is that while BellSouth installed 40 access terminals for AT&T at an apartment complex in Atlanta, since December 2000 AT&T has not ordered any unbundled network terminating wire ("UNTW") pairs associated with those terminals and has not requested any additional access terminals. *Milner Reply Affidavit*, ¶¶ 84-89. Under such circumstances, the Commission is not convinced that BellSouth has delayed AT&T's entry into the MDU market, as AT&T alleges.

The Commission addressed the issue of access to sub-loop elements in the MDU environment in its decisions in Docket Nos. 10418-U and 11853-U. The Commission expects BellSouth to comply with the terms of the interconnection agreements that embody those decisions and will continue to monitor the situation to ensure that such is the case. However, in the meantime, the Commission does not believe that AT&T's complaints about access to sub-loop elements warrants a finding of noncompliance by BellSouth with Checklist Item 4.

**(e) Line Sharing**

The Commission finds that line sharing can be ordered from and provisioned and maintained by BellSouth in a timely, accurate, and nondiscriminatory manner as required by Checklist Item 4. BellSouth met all of the FOC and reject timeliness benchmarks for line sharing in March, April, May, and June 2001 except for Reject Interval/ Non-Mechanized for the month of March where the performance was 81.82%, with the benchmark being 85%. The same is true with respect to provisioning of line sharing, where BellSouth met or exceeded the OCI, Percent Missed Installation Appointments, and Percent Provisioning Troubles Within 30 days for line sharing in March, April, May, and June 2001.<sup>53</sup> Finally, although in June 2001 BellSouth's retail ADSL had fewer missed repair appointments than CLEC's line sharing involving a dispatch, BellSouth met or exceeded the retail analogue on this measure in both April and May 2001.<sup>54</sup>

BellSouth also had a lower maintenance average duration for CLEC line sharing than for its retail orders in April, May, and June 2001. *See SWBT-KS/OK Order*, ¶ 215; *Verizon-MA Order*, ¶ 114.

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<sup>53</sup> Docket No. 7892-U Performance Measures OCI (B.1.7.3.1 and B.1.7.3.2); % MIA(B.2.18.7.1.1 and B.2.18.7.1.2); and % Provisioning Trouble within 30 days (B.2.19.7.1.2).

The Commission rejects AT&T's argument that BellSouth fails to satisfy Checklist Item 4 because it does not provide xDSL service to customers who receive their voice service from a CLEC. The FCC considered and rejected this same argument in approving SBC's application for in-region, interLATA authority in Texas. *SWBT-TX Order*, ¶ 330 (“[W]e reject AT&T's argument that we should deny this application on the basis of SWBT's decision to deny its xDSL service to customers who choose to obtain their voice service from a competitor that is using the UNE-P. Under our rules, the incumbent LEC has no obligation to provide xDSL service over this UNE-P carrier loop”).

The Commission also rejects AT&T's argument that BellSouth is not in compliance with FCC rules by failing to offer CLECs the option to install integrated splitter/DSLAM line cards into DSLAM-capable BellSouth remote terminals to facilitate remote site line sharing. *See AT&T Reply Comments*, p. 35. This issue was resolved in Commission Docket No. 11900-U. Furthermore, the FCC is presently considering this issue in connection with a pending notice of proposed rulemaking.

**(g) Line Splitting**

Although it does not appear that any CLEC has ordered line splitting from BellSouth, the Commission is persuaded that BellSouth has the necessary procedures in place to accept and provision such orders when they are actually placed. AT&T's complaints about BellSouth's line splitting offering have been largely addressed by the Commission in its decisions in Docket No. 11900-U, and the Commission notes that BellSouth filed a revised SGAT on August 27, 2001 which incorporated those decisions.

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<sup>54</sup> Docket No. 7892-U Performance Measure (B.3.2.7.1 and B.2.3.7.2).

Notwithstanding AT&T's claims to the contrary, the Commission concludes that there is no requirement that BellSouth implement electronic ordering for line splitting as a prerequisite to compliance with Checklist Item 4. The FCC approved Verizon's application for in-region, interLATA authority in Massachusetts, even though Verizon had not yet "implemented an electronic OSS functionality to permit line splitting." *Bell Atlantic-MA*, ¶ 180. Furthermore, the Commission ordered BellSouth to deploy the electronic ordering capability for line splitting no later than January 5, 2002.

**(4) Conclusion**

The Commission concludes that BellSouth has demonstrated compliance with Checklist Item 4.

**E. Checklist Item 5--Unbundled Local Transport**

**(1) Overview**

Checklist Item 5 requires a BOC to provide "[l]ocal transport from the trunk side of a wireline local exchange carrier switch unbundled from switching or other services." 47 U.S.C. § 271(c)(2)(B)(v). According to the FCC, interoffice transmission facilities include both dedicated transport and shared transport. *Second Louisiana Order*, ¶ 201. The FCC concluded that an ILEC must provide unbundled dedicated transport or transmission facilities between the carrier's central offices or between such offices and those of competing carriers. *First Report and Order*, ¶ 440. The FCC further concluded that an ILEC also must provide all technically feasible capacity-related transmission services, such as DS-1, DS-3, and OC-n transport. *Third Report and Order, In re: Implementation of the Local Competition Provisions of the Telecommunications Act of*

1996, CC Docket 96-98, 15 FCC Rcd 3696, ¶¶ 323 and 326 (Nov. 5, 1999) (“*Third Report and Order*”); *Bell Atlantic-NY Order*, n. 1041.

**(2) BellSouth Comments**

BellSouth asserts that it provides dedicated and shared transport between end offices, between tandems, and between tandems and end offices, and has procedures in place for the ordering, provisioning, and maintenance of both dedicated and shared transport. *Milner Affidavit*, ¶ 121. BellSouth offers dedicated transport at high levels of capacity, including DS-1, DS-3, and OC-n levels. *Milner Affidavit*, ¶ 118. For dedicated transport, to the extent technically feasible, BellSouth provides requesting carriers access to digital cross-connect system functionality in the same manner that BellSouth provides it to interexchange carriers. *Milner Affidavit*, ¶ 118. When BellSouth provides common (shared) transport, BellSouth permits CLECs purchasing shared transport to use the same routing tables resident within BellSouth’s switches.

As of March 31, 2001, BellSouth had provided 2,375 dedicated local transport trunks to CLECs in Georgia. While BellSouth cannot provide specific trunk numbers for common trunks, from July 1999 through March, 2001, there were 46 CLECs in Georgia and 92 region-wide that used common transport to some degree. *Milner Affidavit*, ¶¶ 123-124.

**(3) CLEC Comments**

No CLEC filed comments addressing BellSouth’s compliance with Checklist Item 5.

**(4) Discussion**

The Commission finds that BellSouth is providing unbundled local transport consistent with the requirements of Checklist Item 5. In the *Second Louisiana Order*, the FCC concluded that, but for the deficiencies in BellSouth's OSS noted under Checklist Item 2 (which the Commission finds BellSouth has adequately addressed), BellSouth demonstrated that it provides unbundled local transport as required by Checklist Item 5. *See Second Louisiana Order*, ¶ 202. The Commission analyzed the Ordering, Maintenance and Repair and Billing sub-metrics relating to UNEs, including Local Interoffice Transport as part of its review under Checklist Item 2 and found that BellSouth met Checklist Item 2. For the months of March through June 2001, BellSouth met the provisioning OCI sub-metric (B.2.1.2.1.1) Local Interoffice Transport/<10 circuits Dispatch, which was the only sub-metric with CLEC usage.

**(5) Conclusion**

The Commission concludes that BellSouth has demonstrated compliance with Checklist Item 5.

**F. Checklist Item 6--Unbundled Local Switching**

**(1) Overview**

Checklist item 6 requires a BOC to provide "[l]ocal switching unbundled from transport, local loop transmission, or other services." 47 U.S.C. § 271(c)(2)(B)(vi). The FCC requires a BOC to provide unbundled local switching that includes line-side and trunk-side facilities, plus the features, functions, and capabilities of the switch. *See Second Louisiana Order*, ¶ 207. The features, functions, and capabilities of the switch include the basic switching function as well as the same basic capabilities that are



available to the BOC's customers. *Id.* Additionally, local switching includes all vertical features that the switch is capable of providing, as well as any technically feasible customized routing features. *Id.; see also SWBT-TX Order*, ¶ 336.

The FCC has held that BOCs must permit CLECs to purchase unbundled local switching in a manner that permits competing carriers to offer, and bill for, exchange access and the termination of local traffic. *First Report and Order* ¶ 363, n. 772. Accordingly, the BOC must demonstrate that it offers equivalent access to billing information for this checklist item.

The FCC also has held that a BOC must make available trunk ports on a shared basis and routing tables resident in the BOC's switch, as necessary to provide access to the shared transport functionality. *Second Louisiana Order*, ¶ 209. Lastly, a BOC may not limit a CLEC's ability to use unbundled local switching to provide exchange access by requiring CLECs to purchase a dedicated trunk for an interexchange carrier's point of presence to a dedicated trunk port on the local switch. Therefore, to satisfy its obligation under this checklist item, a BOC must demonstrate compliance with these unbundled local switching requirements. *Bell Atlantic-NY Order*, ¶ 346; *SWBT-TX Order*, ¶ 336.

**(2) BellSouth Comments**

BellSouth asserts that it complies with its unbundled local switching obligations by providing: (1) line-side and trunk-side facilities; (2) basic switching functions; (3) vertical features (4) customized routing; (5) shared trunk ports; (6) unbundled tandem switching; (7) usage information for billing exchange access; and, (8) usage information for billing for reciprocal compensation. BellSouth makes available trunk ports on a

shared basis and routing tables resident in the BOC's switch, as necessary to provide access to shared transport functionality. Moreover, BellSouth does not require CLECs to purchase a dedicated trunk from an interexchange carrier's point of presence to a dedicated trunk port on the local switch. BellSouth also provides requesting CLECs with Feature Group D signaling, where requested and technically feasible. *Milner Affidavit*, ¶ 132.

According to BellSouth, it provides CLECs unbundled switching capability with the same features and functionality available to BellSouth's own retail operations, in a nondiscriminatory manner. *Id.* at ¶¶ 126-127. BellSouth points to actual commercial usage, as BellSouth has furnished over 333 unbundled switch ports in Georgia through March 31, 2001, and 388 region-wide. *Id.* at ¶ 135. BellSouth also provides CLECs with unbundled tandem switching and unbundled packet switching in accordance with FCC rule 51.391(c)(3). *Id.* at ¶¶ 133-134.

BellSouth asserts that it offers CLECs all vertical features that are loaded in the switch or that are loaded but not currently activated. *Id.* at ¶ 128. In addition, BellSouth will provide switch features not currently loaded in the switch pursuant to the bona fide request process, provided that the CLEC is willing to pay the additional costs involved in loading such features, such as additional right-to-use fees, programming costs to the manufacturer and internal costs to adapt BellSouth's systems to accept an order for the new feature. *Id.*; see *Second Louisiana Order*, ¶ 220 (BOC may require CLECs to request vertical switching features through a formal, finite process that would give the BOC an opportunity to determine their feasibility and develop the procedures for offering those features).

BellSouth asserts that it provides nondiscriminatory access to technically feasible customized routing functions, which allow calls from a CLEC's customer served by a BellSouth switch to reach the CLEC's operator services or directory assistance platforms. BellSouth provides customized routing using two methods – AIN and Line Class Codes (“LCC”). *Milner Affidavit*, ¶ 137. According to BellSouth, each of these methods provides CLECs with customized routing functionality in accordance with the FCC's rules and orders and are the same two methods of customized routing offered by SWBT in Texas. *SWBT-TX Order*, ¶¶ 340-341.

BellSouth's AIN method uses a database of the CLEC's routing choices queried during the call set up. The AIN method of customized routing allows the use of the AIN “hub” concept, which yields several advantages such as (1) allows the use of appropriate AIN “triggers” for all call types rather than only a limited set of call types; (2) allows even those end office switches that are not AIN-capable to use the AIN customized routing solution; and (3) optimizes the use of trunk groups by allowing the carriage of customized routing traffic over common trunk groups between the end office and the AIN hub. *Milner Affidavit*, ¶ 138.

BellSouth states that it completed end-to-end call-through testing of the AIN method on June 14, 2000. BellSouth then completed all methods and procedures for the service offering during the third quarter 2000, and posted a Market Service Description for the product to the interconnection website on October 23, 2000. To date, no CLEC has requested BellSouth's AIN method for customized routing, although BellSouth stands ready to provide it. *Id.* at ¶¶ 140-141. As BellSouth notes, the FCC believed BellSouth's AIN method of providing customized routing had “the potential to meet the

requirements of the *Local Competition First Report and Order*,” although at the time of the *Second Louisiana Order* AIN was not then being currently offered. See *Second Louisiana Order*, ¶ 222. That is no longer the case, according to BellSouth, as the AIN solution for customized routing is available to any CLEC that wishes to use it. *Milner Affidavit*, ¶ 141.

The LCC method, which is the method by which BellSouth routes its own end users’ calls, allows end user calls to be routed via the use of an LCC in the switch. *Id.* at ¶ 142. For example, a CLEC’s end users served by a BellSouth switch are configured such that when the end user dials 0-, a Line Attributes Table points to another table, a Position Table for 0- calls. This table in turn identifies a trunk group to the appropriate operator services platform. *Id.* at ¶ 142. In essence, according to BellSouth, the LCC directs an end user’s call to whatever trunk group has been designated as appropriate by the carrier. A separate LCC is not needed for each end user function, but rather the same LCC can be used for multiple subscribers. The same LCC connects each of them to the same destination for the same type of call. *Id.* at ¶ 142.

BellSouth asserts that it permits CLECs to purchase switching in a manner that permits them to offer, and to bill for, exchange access and termination of local traffic. To enable CLECs to do such billing, BellSouth states that it provides a purchaser of unbundled local switching with either: (1) actual terminating usage data indicating how many calls/minutes its customers received and identifying the carriers that originated those calls; or (2) a reasonable surrogate for this information when actual usage data is unavailable. *Scollard Affidavit* ¶¶ 20-27.

According to BellSouth, it has developed various Daily Usage Files (“DUF”) that provide CLECs with usage records for call events that are recorded by BellSouth’s central offices. These products are identical in all of the states in BellSouth’s region. Two separate interfaces are available from which this information can be obtained. First, the Optional Daily Usage File (“ODUF”) contains information on billable transactions for resold lines, interim number portability accounts and unbundled switch ports. For end users who are served by resold lines, interim number portability or unbundled switch ports, a CLEC can use the ODUF to bill for usage events associated with calls placed by those end users. Beginning in December 1998, BellSouth enhanced ODUF to include usage records for local calls originating from a CLEC’s flat-rated lines ordered as resale. BellSouth refers to this ODUF option as the Enhanced ODUF, or EODUF. Second, the Access Daily Usage File (“ADUF”) provides the CLEC with records for billing interstate and intrastate access charges (whether the call was handled by BellSouth or an interexchange carrier) and reciprocal compensation charges to other LECs and interexchange carriers for calls originating from and terminating to unbundled switch ports. *Id.* at ¶¶ 25-26.

The BellSouth network does not have the capability to record a terminating call record when an end user served out of a BellSouth switch has placed a call to a CLEC’s unbundled switch port. Because the UNE charges that would be paid by the CLEC to BellSouth for these calls offsets the reciprocal compensation charges collected for the same calls, the need for the call records is obviated. This, in effect, represents a surrogate for the records that is offered to all CLECs obviating the need for the actual call record data. *Id.* at ¶ 27.

During April 2001, BellSouth provided over 171 million DUF records to 230 different CLECs in its region with about 55 million of those records going to 68 CLECs in Georgia. The DUF interfaces allow a CLEC to process call records in its billing systems in substantially the same manner and timeframes as BellSouth processes these types of records in its own systems. *Id.* at ¶ 29.

**(3) CLEC Comments**

AT&T, the only CLEC to contest BellSouth's performance with respect to this checklist item, argues that BellSouth has not complied with Checklist Item 6 because it has not provided a working customized routing arrangement for any CLEC in its territory. Furthermore, according to AT&T, BellSouth has failed to provide an adequate ordering process for customized routing.<sup>55</sup> AT&T Direct Comments, Checklist Item #6, p. 1.

**(4) Discussion**

The Commission finds that BellSouth is providing unbundled local switching consistent with the requirements of Checklist Item 6. In its *Second Louisiana Order*, the FCC concluded that BellSouth proved that it provides, or can provide, the line-side and trunk-side facilities of the switch, the basic switching function, trunk ports on a shared basis, and unbundled tandem switching. *See Second Louisiana Order*, ¶¶ 210, 212-215 and 228-29. The Commission finds that BellSouth continues to provide unbundled switching in accordance with the FCC's requirements. Although finding that BellSouth provided the basic switching functions on an unbundled basis, the FCC held in the

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<sup>55</sup> AT&T also complains about BellSouth's implementation of the Originating Line Number Screening ("OLNS") platform for OS/DA, which is a complaint also raised by AT&T under Checklist Item 7. The Commission addresses the OLNS issue in connection with Checklist Item 7.

*Second Louisiana Order* that BellSouth failed to meet its burden of proof with respect to access to vertical features, customized routing, usage information for billing exchange access, and usage information necessary for billing for reciprocal compensation. The Commission finds that BellSouth has remedied each of the FCC's concerns.

With respect to AT&T's allegations concerning customized routing, the Commission has previously held in Docket Nos 11853-U and 11901-U that BellSouth "met the requirement for customized routing through the LCC and AIN methods." *See, e.g., Order, In re: Petition of AT&T Communications of the Southern States, Inc., et al., for Arbitration of Certain Terms and Conditions of Proposed Agreement with BellSouth Telecommunications, Inc.*, Docket No. 11853-U, p. 12 (April 20, 2001). The Commission believes that AT&T has not offered any reason for this Commission to reach a different finding here.

AT&T does not appear to dispute that BellSouth has implemented the technologies and procedures that provide CLECs with access to customized routing, but instead argues that BellSouth cannot comply with Checklist Item 6 because "BellSouth has not provided a single working customized routing arrangement for any CLEC in its territory." *AT&T Comments*, CI 7, p. 1; *Bradbury Affidavit*, ¶ 138. This argument is without merit. As the FCC has made clear, actual commercial usage is not required to establish checklist compliance. *See Ameritech-MI Order*, ¶ 110 (concluding that "a BOC 'provides' a checklist item if it actually furnishes the item at rates and on terms and conditions that comply with the Act or, *where no competitor is actually using the item*, if the BOC makes the checklist item available as both a legal and a practical matter." *Emphasis added*). Consistent with the Commission's prior decisions on this issue, the

Commission finds that customized routing is available from BellSouth both as a legal matter and a practical one.

The Commission previously addressed, in Docket No. 11853-U, the process by which customized routing should be ordered efficiently. This process entails one default routing plan per state with multiple pre-assigned routing options. The multiple routing options will be built into the BellSouth switches where CLEC service is requested. The BellSouth switch will be able to route the OS/DA traffic for AT&T end users to different platforms, as prescribed by AT&T, and the routing will be the default routing for its end users in each of those classes of service. *Milner Reply Affidavit*, ¶ 119. While the parties disagreed about the LCC information that AT&T must include on an LSR for the customers that it chooses not to route through the default plan, the Commission resolved this issue in its decision on BellSouth's Motion for Clarification and Reconsideration in Docket No. 11853-U. The Commission expects BellSouth to comply fully with the Commission's decision, and in the event that is not the case, AT&T can bring this matter to the Commission's attention.

**(5) Conclusion**

The Commission concludes that BellSouth has demonstrated compliance with Checklist Item 6.

**G. Checklist Item 7 – 911, Directory Assistance, Operator Services**

**(1) Overview**

Checklist Item 7 requires that a BOC provide nondiscriminatory access to 911 and enhanced 911 ("E-911"), operator call completion, and directory assistance services.



*Second Louisiana Order*, ¶¶ 235, 239 and 244. The FCC has found that a BOC must provide CLECs access to its 911 and E-911 services in the same manner that a BOC obtains such access for itself. Specifically, the BOC must maintain the 911 database entries for CLECs with the same accuracy and reliability that it maintains this database for its own customers and must be in compliance with the FCC rules implementing Section 251(b)(3). *Bell Atlantic-NY Order*, ¶ 349; *SWBT-TX Order*, ¶ 344. Although operator assistance and directory assistance services (“OS/DA”) are no longer network elements that must be provided on an unbundled basis under specified circumstances, the FCC has held that OS/DA still must be provided in accordance with Sections 201(b) and 202(a), which require that rates and conditions are just and reasonable and not unreasonably discriminatory.

**(2) BellSouth Comments**

BellSouth states that access to 911 and E911 services in Georgia is provided through existing tariffs to local government bodies. According to BellSouth, once these local government bodies select a particular type of 911 service, BellSouth provides customers of CLECs with access to the 911 service selected for the area in which they reside, in a manner identical to the 911 service supplied to BellSouth's own customers.

*Sapp Affidavit*, ¶ 5.

With basic 911 service, a 911 call is routed to a centralized answering location known as a Public Safety Answering Point (PSAP). The attendant at the PSAP obtains the pertinent information that identifies the call and the caller's need and dials a 7-digit or 10-digit number, as appropriate, to transfer the caller to that agency. The calling party's emergency information is verbally relayed to the responding agency and a unit is

dispatched to the caller's location. BellSouth explains that its E-911 service is a full featured electronic system that provides major enhancements to 911 service, including: (1) selective routing electronically of 911 emergency calls from a 911 tandem to the proper PSAP based on the Emergency Services Number ("ESN") routing code that has been assigned to the caller's address; and (2) the name and address associated with the calling party's telephone number is displayed on the display at the PSAP. *Sapp Affidavit*, ¶¶ 6-7.

According to BellSouth, when a reseller or facilities-based CLEC customer dials 911, the call is treated just like that of any BellSouth customer. BellSouth routes the CLEC customer's E911 call to the appropriate PSAP, and it provides and validates the necessary customer information to the PSAP. A 911 call is also treated just like that of any BellSouth customer. In the case of 911, the reseller or facilities-based CLEC must deliver the ANI of their customer to the correct PSAP just as BellSouth is required to do. *Id.* at ¶ 9.

When a CLEC purchases the UNE-P or when it purchases BellSouth's local service for resale to its customers, BellSouth states that 911 service is included, and BellSouth provides and maintains the service. Facilities-based providers have their own switch and are responsible for getting the 911 call to the appropriate PSAP or, if E911, to the appropriate BellSouth 911 tandem. They are also responsible for getting their customer information in the BellSouth 911 database in the proper format. *Sapp Affidavit*, ¶ 10. According to BellSouth, it updates and maintains the database that supports 911 and E-911 services in a nondiscriminatory manner. *Id.* at ¶ 11.

BellSouth asserts that it has had procedures in place since early 1996 for CLECs to connect their switches to BellSouth's E911 tandems. As of March 31, 2001, CLECs had requested and BellSouth had provided some 1,272 E911 trunks in Georgia, and in its nine-state region, BellSouth had a total of 4,400 trunks in service connecting CLEC switches to BellSouth's E911 tandems. *Id.* at ¶ 23.

According to BellSouth, as of March 31, 2001, 35 facilities-based CLECs in Georgia were sending BellSouth mechanized updates for inclusion in the 911 database. Within BellSouth's entire nine-state region, 66 facilities-based CLECs were sending such mechanized updates. Because the methods and procedures that allow other carriers, including independent LECs, to access BellSouth's E911 and 911 updating capabilities have been in place for some time, BellSouth states that for CLECs to obtain such updating has become routine and no end-to-end testing of E-911 database updating was necessary. *Id.* at ¶ 24.

BellSouth also asserts that it provides nondiscriminatory access to OS/DA by providing directory assistance services to CLEC customers in the same manner as it does for its own retail subscribers. *Milner Affidavit*, ¶ 156; *Coutee Affidavit*, ¶ 6. BellSouth states that it provides CLECs access to the Directory Assistance Access Service ("DAAS") and the Directory Assistance Call Completion service ("DACC") via trunks connecting the CLEC's point of interface with the BellSouth platform. *Milner Affidavit*, ¶ 156. As of March 31, 2001, CLECs in Georgia had 569 directory assistance trunks in place between CLEC switches and BellSouth's platform. *Milner Affidavit*, ¶ 157.

BellSouth also notes that CLECs can provide their local exchange customers with the same access to BellSouth's DA service using the same 411 dialing pattern as

BellSouth provides its retail customers. *Coutee Affidavit*, ¶ 10; *Bell Atlantic-NY Order*, ¶ 352. According to BellSouth, the DA request will be handled in the same manner as BellSouth does for its own retail local exchange customers. The same operators, the same automated systems, and the same databases are used to provide the CLEC local exchange customer with DA. Whether the CLEC elects to brand with its name or not brand, the call is handled with the same speed, care, accuracy and quality that a BellSouth retail local exchange customer would receive. *Coutee Affidavit*, ¶ 10.

BellSouth states that it also provides CLECs with access to the Directory Assistance Database Service (“DADS”) to allow CLECs to use BellSouth’s subscriber listing information to set up their own directory assistance services. *Coutee Affidavit*, ¶ 11. In addition, BellSouth provides CLECs with access to the Direct Access Directory Assistance Service (“DADAS”), which gives CLECs direct access to BellSouth directory assistance database so that CLECs may provide directory assistance services. All information contained in BellSouth’s listing database for its own end users, CLECs’ end users, and independent LECs’ end users is available to CLECs in the same manner as it is available to BellSouth itself. *Milner Affidavit*, ¶ 159-160.

According to BellSouth, CLECs have four branding options: BellSouth-branded; unbranded; custom branding; and self-branding. *Milner Affidavit*, ¶ 169. BellSouth provides CLECs the ability to apply unique branding via customized routing – either through the AIN method or the LCC method. As described under Checklist Item 6, the LCC method, which is the method by which BellSouth routes its own end users’ calls, allows end user calls to be routed via the use of a LCC in the switch. *Milner Affidavit*, ¶ 142. BellSouth asserts that a CLEC’s use of LCCs to reach an OS/DA platform is the

same as BellSouth's use of LCCs to reach its Traffic Operator Position System ("TOPS"), and thus BellSouth's provision of customized routing is nondiscriminatory. *Milner Affidavit*, ¶ 142 & 170.

BellSouth also states that it provides CLECs with an additional means to brand end users' calls - Operator Line Number Screening ("OLNS"). While OLNS is not a type of customized routing, it is a method of providing customized branding in addition to the LCC and AIN methods. *Milner Affidavit*, ¶ 178. According to BellSouth, OLNS provides a means of making information available to the OS/DA platform about the end user originating a telephone call. OLNS allows end users' calls to proceed from the end office switches to BellSouth's OS/DA platform over common trunk groups (that is, a single trunk group between an end office switch and the OS/DA platform carrying multiple service providers' traffic including calls from BellSouth's retail customers). Once the call arrives at the OS/DA platform, OLNS is used to "look up" the telephone number of the calling party in its database to determine whether and how to brand a call from that particular end user. *Milner Affidavit*, ¶ 178.

### **(3) CLEC Comments**

Access Integrated and Z-Tel Communications, Inc. ("Z-Tel") raise two issues regarding BellSouth's provision of directory assistance. Access Integrated claims that BellSouth is not providing nondiscriminatory access to directory assistance, pointing to a situation with one customer whose information had been deleted from directory assistance. Access Integrated Comments, Sec. III, Conclusion, Ex. D. In addition, Z-Tel contends that 10% of Z-Tel customers are not contained in the DA database. Z-Tel Comments, p. 13.

Z-Tel argues that BellSouth's OLNS is not branded properly, and that the BellSouth name remains on the voice tree. Z-Tel Comments, pp. 14-15. Similarly, WorldCom states that BellSouth has incomplete CLEC branding for operator services using OLNS and that the BellSouth name is on the voicemail tree or there is no branding. *Lichtenberg Affidavit*, ¶10. AT&T raises similar concerns, complaining that BellSouth's OLNS is inadequate and does not work correctly in conjunction with the UNE-P based on a test conducted by AT&T. *Bradbury Affidavit*, ¶146.<sup>56</sup>

**(4) Discussion**

Based on the uncontested evidence in the record, the Commission finds that BellSouth is providing nondiscriminatory access to 911 and E-911. The FCC previously concluded that BellSouth had successfully demonstrated compliance with this aspect of Checklist Item 7. *See Second Louisiana Order*, ¶¶ 235-36. BellSouth has presented evidence that it continues to provide access to 911 and E-911 services in a manner consistent with that presented to the FCC, and no party in this proceeding contends otherwise. *Milner Affidavit*, ¶¶ 151-153.

As to OS/DA, this Commission has previously determined that BellSouth is not required to offer these services on an unbundled basis because it provides customized routing as required by the FCC. However, BellSouth still must establish that it provides nondiscriminatory access to OS/DA, which means that CLEC customers must be "able to access each LEC's directory assistance service and obtain a directory listing on a

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<sup>56</sup> In challenging BellSouth's compliance with Checklist Item 7, AT&T raises a number of the same issues regarding BellSouth's provision of customized routing that it raised in connection with Checklist Item 6. *Bradbury Affidavit*, ¶¶ 137-140 and 142. Because the Commission previously addressed these issues in finding that BellSouth has demonstrated compliance with Checklist Item 6, these same issues will not be addressed again here.

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

In its *Second Louisiana Order*, the FCC found that BellSouth made a *prima facie* showing that it has a concrete legal obligation to provide nondiscriminatory access to OS/DA, and that it provides access to its directory assistance database on a "read only" or "per dip" inquiry basis through its DADAS. *Second Louisiana Order*, ¶¶ 243 and 248. Nevertheless, the FCC concluded that BellSouth failed to make a *prima facie* showing that it provides nondiscriminatory access: (1) to BellSouth-supplied operator services and directory assistance; and (2) to the directory listings in its directory assistance databases. *Second Louisiana Order*, ¶ 243. It observed in this regard, however, that "the deficiencies we identify . . . should be readily correctable by BellSouth." *Id.*

First, the FCC stated that in future applications, if BellSouth chose to rely on performance data to demonstrate its compliance with this checklist item "it should either disaggregate the data or explain why disaggregation is not feasible or is unnecessary to show nondiscrimination." *Second Louisiana Order*, ¶ 245. This Commission has

previously held that disaggregation of performance data related to OS/DA is unnecessary. BellSouth's provision of directory assistance and operator services to CLECs is parity by design by virtue of the fact that the flow of service orders to directory assistance or operator services platforms is exactly the same regardless of the source of the service order. *Milner Affidavit*, ¶¶ 166 and 168. Because calls are not differentiated between BellSouth retail calls and CLEC calls, there is no need to disaggregate performance data between the types of calls. BellSouth is reporting its performance data in the manner required by this Commission.

Second, the FCC held that in future applications, BellSouth must show that its method of providing branding results in nondiscriminatory access. *Second Louisiana Order*, ¶ 247. The Commission believes that BellSouth has made this showing and that its methods of providing branding fully comply with the FCC's requirements.

The Commission concludes that BellSouth has adequately addressed the problem identified by AT&T, WorldCom, and Z-Tel concerning the branding of BellSouth's OLNS which resulted in their customers being given service options under BellSouth's brand when the customers dialed "0." BellSouth addressed this problem with an enhancement to OLNS that was implemented on June 15, 2001, as a result of which all branded CLEC directory assistance callers are appropriately identified when they arrive at the directory assistance operator. The operators are provided the CLEC name for each caller, which enables the operators to identify themselves correctly. Furthermore, the menu options presented to the CLEC customers when dialing "0" have been modified to eliminate all references to any BellSouth services. *Milner Reply Affidavit*, ¶¶ 121-122.



WorldCom acknowledges that this enhancement to OLNS has resolved its concerns. WorldCom Reply Comments, p. 3. However, AT&T contends otherwise, arguing that by virtue of eliminating the BellSouth brand to remove the options for an AT&T customer to have his or her call routed to “BellSouth residence service and repair” or “BellSouth business service and repair,” BellSouth has provided AT&T with “inferior capability” for OS/DA service. The Commission disagrees because the capability for automatic routing of calls to a service or repair center is not an OS/DA function. BellSouth’s obligation under this checklist item is to permit an end user customer to obtain the same operator services and directory assistance regardless of the identity of the customer’s local telephone service provider or the identity of the local telephone service provider for a customer whose directory listing is requested – an obligation with which the Commission concludes BellSouth has complied.

With respect to Z-Tel’s allegation that BellSouth does not update properly Z-Tel customer account information in BellSouth’s directory assistance databases, the Commission finds that Z-Tel has not provided sufficient information to support such allegations. The Joint Affidavit of Jennifer Adams, Douglas Forster, and Margaret Rubino filed on behalf of Z-Tel refers to a sample of Z-Tel customers whose names and telephone numbers were allegedly omitted from BellSouth directory assistance database. However, Z-Tel did not provide a copy of the sample or identify the customers’ names and telephone numbers, which would be required in order for BellSouth to investigate and for this Commission to evaluate fully Z-Tel’s claims.

Nor is the Commission persuaded by Access Integrated’s argument that BellSouth has not satisfied the requirements of Checklist Item 7 based upon a single incident, which

occurred almost one year ago. BellSouth has explained the circumstances surrounding the incident in question and points out that the problem experienced by Access Integrated's customer was caused by a post-completion error, which can occur for both BellSouth's retail customers and CLEC end users. *Ainsworth Reply Affidavit*, ¶ 162. In any event, the Commission does not believe this one isolated occurrence warrants a finding of noncompliance by BellSouth with the requirements of Checklist Item 7.

**(5) Conclusion**

The Commission concludes that BellSouth has demonstrated compliance with Checklist Item 7.

**H. Checklist Item 8 -- White Pages Directory Listings**

**(1) Overview**

Checklist Item 8 requires that a BOC provide "[w]hite pages directory listings for customers of the other carrier's telephone exchange service." Section 271(c)(2)(B)(viii). According to the FCC, the term "white pages" refers to the local exchange directory that includes the residential and business listings of the customers of the local exchange provider and this term includes, at a minimum, the subscriber's name, address, telephone number, or any combination thereof. *Bell Atlantic-NY Order*, ¶¶ 357-359. The FCC has found that a BOC satisfies the requirements of Checklist Item 8 by demonstrating that it: (1) provides nondiscriminatory appearance and integration of white page directory listings to CLEC customers; and, (2) provides white page listings for competitors' customers with the same accuracy and reliability that it provides its own customers. *SWBT-TX Order*, ¶ 352-354.

**(2) BellSouth Comments**

BellSouth asserts that it provides CLECs with white pages directory listings for the CLECs' customers that include the subscriber's name, address and telephone number. *Barretto Affidavit*, ¶ 7. According to BellSouth, the CLECs' white pages listings are fully integrated with BellSouth's listings and are identical in size, font, and typeface. *Barretto Affidavit*, ¶ 16. BellSouth asserts that the CLECs' listings are maintained with the same accuracy and reliability as BellSouth's own customer listings and that it has implemented procedures to minimize the potential for errors by allowing CLECs to review and edit their customers' listings. *Barretto Affidavit*, ¶¶ 20-21.

**(3) CLEC Comments**

AT&T claims that BellSouth cannot satisfy Checklist Item 8 because directory listing orders are excluded from the Missed Installation Appointment and Average Completion Interval measures. AT&T Comments, Item #8, p. 1. KMC argues that BellSouth does not comply with Checklist Item 8 because it fails to process directory listing information in an accurate and reliable manner and that BellSouth does not provide KMC enough time to review the proofs. *Johnson Affidavit*, ¶ 8; *Weiss Affidavit*, ¶ 17. Specifically, KMC claims that in October 2000, BellSouth changed its procedures for submitting directory listings without adequate notice to KMC. *Johnson Affidavit*, ¶ 9. In addition, according to KMC, BellSouth printed an incorrect number for KMC Telecom in the most recent BellSouth white pages, KMC Comments, p. 8, and in April 2001, BellSouth "lost" KMC's customers' directory listings for the prior year. *Weiss Affidavit*, ¶17.

**(4) Discussion**

The Commission finds that BellSouth provides nondiscriminatory appearance and integration of white page directory listings to CLEC customers. The processes by which BellSouth sends directory listing orders to BellSouth Advertising and Publishing Company are identical for BellSouth and CLEC customers. The Commission also finds that BellSouth provides white page listings for competitors' customers with the same accuracy and reliability as its own retail customers. BellSouth has met the Commission's benchmark for update accuracy for directory listings and directory assistance in March, April, May, and June 2001.<sup>57</sup> The directory listing database does not differentiate between CLEC or BellSouth retail listings. Therefore, the database achieves parity by design. Furthermore, the FCC previously concluded that BellSouth met this checklist item. *Second Louisiana Order*, ¶ 252. BellSouth has presented evidence that its actions and performance at this time are consistent with the showing previously made to the FCC upon which the FCC made the determination that the statutory requirements for the checklist item were met. *Second Louisiana Order*, n. 151; *Milner Affidavit*, ¶ 180.

The Commission does not agree with AT&T that BellSouth cannot satisfy Checklist Item 8 because directory listing orders are excluded from the Missed Installation Appointment and Average Completion Interval measures. BellSouth's directory listing performance is currently captured and reported in the Average Database Update Interval and Percent Database Update Accuracy measures approved by this Commission. To the extent AT&T believes those measures should be changed or that new measures should be adopted, such issues should be addressed in the October 2001 workshops that the Commission will hold in Docket No. 7892-U.

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<sup>57</sup> Docket No. 7892-U Performance Measure (F.13.1.2).

Nor does the Commission agree with KMC that BellSouth has failed to satisfy Checklist Item 8 because of alleged problems experienced with listings for KMC's customers. BellSouth has presented evidence refuting many of KMC's allegations and suggesting that some of the problems experienced by KMC were KMC's own doing. *Hudson Reply Affidavit*, ¶¶ 7-10. Although BellSouth acknowledges that the name of one KMC customer was misprinted in the white pages directory, *Hudson Reply Affidavit*, ¶¶ 12-13, the Commission does not believe that one isolated incident shows noncompliance with Checklist Item 8.

**(6) Conclusion**

The Commission concludes that BellSouth has demonstrated compliance with Checklist Item 8.

**I. Checklist Item 9--Numbering Administration**

**(1) Overview**

Checklist Item 9 requires that a BOC provide nondiscriminatory access to telephone numbers for assignment to other carriers' telephone exchange service customers. 47 U.S.C. § 271(c)(2)(B)(ix). The checklist also mandates compliance with numbering "guidelines, plan or rules" after they have been established. *Id.*

**(2) BellSouth Comments**

BellSouth notes that, in its *Second Louisiana Order*, the FCC concluded that BellSouth met this competitive checklist requirement. *Second Louisiana Order*, ¶¶ 260-262. Since that time, NeuStar has assumed all the responsibilities of the North American Numbering Plan Administrator ("NANPA"). *Milner Affidavit*, ¶ 181. BellSouth no

longer has any responsibility for the assignment of central office codes (NXXs) or for NPA relief planning. *Milner Affidavit*, ¶ 184. Although it is no longer a CO code administrator, and no longer performs any functions with regard to number administration or assignment, BellSouth asserts that it continues to adhere to all relevant industry guidelines and FCC rules, including those provisions requiring accurate reporting of data to the Code Administrator.

**(3) CLEC Comments**

No CLEC filed comments addressing BellSouth's compliance with Checklist Item 9.

**(4) Discussion**

The Commission finds that BellSouth complies with the FCC's number assignment rules and the Industry Numbering Committee Central Office Code Assignment guidelines as required by this checklist item. The FCC previously determined that BellSouth complied with Checklist Item 9, and the Commission has not been presented with any evidence that would warrant a contrary finding here.

**(5) Conclusion**

The Commission concludes that BellSouth has demonstrated compliance with Checklist Item 9.

**J. Checklist Item 10--Databases and Associated Signaling**

**(1) Overview**

Checklist Item 10 requires a BOC to offer "[n]ondiscriminatory access to databases and associated signaling necessary for call routing and completion." 47 U.S.C. § 271(c)(2)(B)(x). In its *First Report and Order*, the FCC identified signaling networks

and call-related databases as network elements, and concluded that LECs must provide the exchange of signaling information between LECs necessary to exchange traffic and access call related databases. *See* 47 C.F.R. 51.319. The FCC requires a BOC to demonstrate that it provides nondiscriminatory access to: (1) signaling networks, including signaling links and signaling transfer points; (2) certain call-related databases necessary for calling routing and completion, or in the alternative, a means of physical access to the signaling transfer points linked to the unbundled database; and, (3) Service Management Systems (“SMS”). *SWBT-TX Order*, ¶ 362. In addition, a BOC must design, create, test, and deploy AIN-based services through the SMS through a Service Creation Environment. *Id.*

**(2) BellSouth Comments**

BellSouth asserts that it complies with Checklist Item 10 by offering CLECs the very same access to signaling and call-related databases as BellSouth has, thereby allowing calls to or from CLEC customers to be set up just as quickly and routed just as efficiently as calls to or from BellSouth customers. When a CLEC purchases unbundled local switching from BellSouth, it automatically obtains the same access to BellSouth’s switching network as BellSouth provides itself. *Milner Affidavit*, ¶¶ 190-191. BellSouth asserts that it also provides nondiscriminatory access to its signaling networks, including Signal Transfer Points (“STP”), Signaling Links, and Service Control Points (“SCP”). *Id.* at ¶ 190. In addition, BellSouth provides SS7 network service to CLECs for their use in furnishing SS7-based services to their own end users or to the end users of another CLEC that has subtended its STP to the signaling network of the interconnecting CLEC. *Id.* at ¶192. SS7 signaling is available between CLEC switches, between CLEC switches and

BellSouth switches, and between CLEC switches and the networks of other carriers connected to BellSouth's SS7 network. *Id.* BellSouth argues that the 13 CLECs connecting directly to its signaling network in Georgia as of April 24, 2001, demonstrate its availability. *Milner Affidavit*, ¶ 197.

BellSouth also asserts that it provides CLECs with nondiscriminatory access to a variety of call-related databases. Specifically, BellSouth offers access to its Line Information Database ("LIDB"); Toll Free Number Database; Local Number Portability database; Calling Name Delivery database ("CNAM"); Advanced Intelligent Services Feature Database; and the 911/E911 databases. *Id.* at ¶ 198. In addition, BellSouth provides access to a Service Control Point ("SCP"), which is a network element where call related databases can reside. *Id.* at ¶ 199. SCPs also provide operational interfaces to allow for provisioning, administration and maintenance of subscriber data and service application data. *Id.* Each of these databases is available to a requesting CLEC in the same manner and via the same signaling links to the databases that are used by BellSouth itself consistent with the confidentiality requirements of the Act. 47 U.S.C. § 222.

The LIDB is a transaction-oriented database accessible through Common Channel Signaling networks such as the SS7 network. It contains records associated with end user line numbers and special billing numbers. According to BellSouth, access to LIDB is at present through a third-party "signaling hub" provider or interexchange carrier directly connected to BellSouth's signaling network. LIDB queries are billed to the third party, and not to the CLEC. CLECs can access the LIDB database once the CLEC has put required signaling links in place. *Milner Affidavit*, ¶ 200. BellSouth asserts that it



enables CLECs to update customer information in the LIDB in substantially the same time and manner as its retail operations. *Id.*

CNAM enables the called end user to identify the calling party by a displayed name before the call is answered (often referred to as a “caller-ID service”). CNAM Service Query is BellSouth’s service that allows a CLEC to query BellSouth’s Calling Name database. When a call is made, the calling party’s name, date, and time of call are retrieved from the SCP database and delivered to the end user’s premises between the first and second ring for display on compatible customer premise equipment. When a CLEC purchases unbundled local switching from BellSouth, BellSouth asserts that access to the CNAM database will be identical to that used by BellSouth in the same switch. When a CLEC operates its own switching center, access to the CNAM database is obtained through the SS7 network. The CLEC accesses the SCP through the BellSouth STP or by connecting the CLEC’s STP to the BellSouth STP and then to the BellSouth SCP. CLECs that deploy their own switching facilities are able to access BellSouth’s SS7 network for each of their switches through a signaling link between their switches and BellSouth’s STP in the same manner as BellSouth connects its own switches to the STP. The same features, functions, and capabilities that are available to BellSouth are available to the CLEC. *Milner Affidavit*, ¶¶ 201-03.

Access to BellSouth’s Toll Free Number and Number portability databases allow a CLEC to access the databases for purposes of switch query and database response. BellSouth’s Toll Free Number database provides the CLEC information required to determine the appropriate routing to a toll-free number such as an 800 or 888 number,

and access is provided via the Routing Service, which is a default porting service, or the Query service. *Id.* at ¶¶ 205-206.

The Automatic Location Identification/Data Management System (ALI/DMS) database contains end user information (including name, address, telephone information and sometimes special information from the local service provider or end user) used to determine to which Public Safety Answering Point a call should be sent. *Id.* at ¶ 214. According to BellSouth, it offers CLECs a data link to the ALI/DMS database or permits CLECs to provide their own datalinks to the database. *Id.*

BellSouth asserts that it offers CLECs three different means of access to its call-related databases. The first type of access allows a CLEC whose switches are SS7-capable to attach those switches to BellSouth's STPs and then to the BellSouth call-related databases. The second option is for a CLEC whose switches are SS7-capable to attach those switches to a third party's STPs. The third party's STPs would then be attached to BellSouth's STPs, and then to BellSouth's call-related databases. Finally, the third method allows access by any CLEC whose switches are not capable of supporting SS7 protocols. According to BellSouth, because there is little demand for the third option, it is only available via the bona fide request process. *Milner Affidavit*, ¶¶ 208-210.

BellSouth also asserts that it provides CLECs with nondiscriminatory access to its SMS associated with the databases described above. *Id.* at ¶ 220. SMS is defined as a computer database or system that is not part of the public switched network, but that, among other things: (1) interconnects to the SCP and sends to that SCP the information and call processing instructions needed for a network switch to process and complete a

telephone call; and, (2) provides telecommunications carriers with the capability of entering and storing data regarding the processing and completing of a telephone call. In essence, the SMS is used to create, modify, or update the information in the call-related databases. According to BellSouth, CLECs are provided with the information necessary to format data and enter it into the various databases using the associated SMS. Also, CLECs have the same access as BellSouth to develop AIN services using SMS. *Milner Affidavit*, ¶ 224.

BellSouth argues that the commercial usage of its call-related databases demonstrates that it is providing nondiscriminatory access to the databases. For example, BellSouth's region-wide LIDB processed more than 1.7 billion queries from CLECs and others during the period from January 1997 through March 2001. *Milner Affidavit*, ¶ 200. As of April 1, 2001, BellSouth has 70 CNAM customers, consisting of both CLEC and independent LECs, across BellSouth's region. *Id.* at ¶ 204. From January 1997 through March 31, 2001, CLECs and other service providers across BellSouth's region completed approximately 8.2 billion queries to BellSouth's Toll Free Number database. *Id.* at ¶ 213.

**(3) CLEC Comments**

No CLEC filed comments addressing BellSouth's compliance with Checklist Item 10.

**(4) Discussion**

The Commission finds that BellSouth is providing nondiscriminatory access to its signaling networks, call-related databases, SMS, and AIN services as required by this checklist item. In its *Second Louisiana Order*, the FCC held that BellSouth had satisfied the requirements of Checklist Item 10, *Second Louisiana Order*, ¶ 267, and the

Commission has not been presented with any evidence that would warrant a contrary finding here.

**(5) Conclusion**

The Commission concludes that BellSouth has demonstrated compliance with Checklist Item 10.

**K. Checklist Item 11-- Number Portability**

**(1) Overview**

Checklist Item 11 requires a BOC to comply with the number portability rules adopted by the FCC pursuant to Section 251 of the Telecommunications Act of 1996. 47 U.S.C. § 271(c)(2)(B)(xi). Section 251(b)(2) of the 1996 Act requires all carriers to “provide, to the extent technically feasible, number portability in accordance with the requirements prescribed by the FCC.” Number portability is defined as “the ability of users of telecommunications services to retain, at the same location, existing telecommunications numbers without impairment of quality, reliability or convenience when switching from one telecommunications carrier to another.” 47 C.F.R. § 153(30). The FCC has clarified that number portability support network services, features, and capabilities existing at the time number portability is implemented. Also, number portability must provide migration to location and service portability and must not result in any degradation in service quality or network reliability when customers switch carriers. 47 C.F.R. §§ 52.23(a)(5) and (a)(7).

**(2) BellSouth Comments**

BellSouth asserts that it ensures CLEC customers won from BellSouth are able to retain their telephone numbers without impairment of quality, reliability, or convenience. *Davis Affidavit*, ¶ 6. According to BellSouth, every number ported by BellSouth represents one or more BellSouth lines lost to a CLEC – proving the CLECs’ ability to compete directly against BellSouth. In Georgia, as of March 31, 2001, BellSouth had ported 407,242 access lines using LNP. *Milner Affidavit*, ¶ 230. Region-wide, BellSouth had ported 1,853,439 access lines as of the same date. *Id.*

BellSouth asserts that it has met all the FCC’s requirements with respect to number portability. According to BellSouth, it has: (1) provided number portability through the use of the Location Routing Number (LRN) methodology, which the FCC found would satisfy its performance criteria; (2) met the implementation schedule for permanent number portability established in the FCC’s orders, as modified at BellSouth’s request; (3) proactively worked with the industry to expand the implementation of LNP beyond the scope of the FCC’s initial order; and, (4) processed bona fide LNP service requests in accordance with the FCC rules and regulations. *Davis Affidavit*, ¶ 6.

According to BellSouth, by the end of the first quarter 2000, it had deployed LNP in a total of 1452 of its 1653 end offices (87.8%) throughout its territory. By the end of first quarter 2000, more than 97.0% of the access lines served by BellSouth (in excess of 26 million access lines) were LNP capable. By March 31, 2000, 199 out of 200 BellSouth switches (99.5%) and 98.9% of BellSouth’s access lines in Georgia were LNP capable. *Davis Affidavit*, ¶ 14.

Under the FCC’s rules, after implementation of LNP in the initial 100 MSAs, each LEC must make number portability available in additional MSAs within six months

after a bona fide request (BFR) has been received from another telecommunications carrier. BellSouth has received only one such request, and BellSouth states that this single Georgia office will be equipped for LNP by July 30, 2001. *Davis Affidavit*, ¶¶ 13-14.

In support of its position that it has complied with Checklist Item 11, BellSouth points to the Commission-approved performance measures that capture BellSouth's provision of both permanent and interim number portability. According to BellSouth, in nearly all cases, BellSouth has met the benchmarks established by the Commission for these measures. For example, for partially mechanized orders (which is the primary means by which standalone LNP is ordered), BellSouth met the LNP benchmark for Reject Interval and FOC Timeliness in both March and April 2001. BellSouth achieved flow-through rates for LNP in excess of the Commission-approved 85% benchmark in March, April and May 2001. With respect to provisioning, BellSouth missed less than 1% of LNP installation appointments in March, April, and May 2001, which was better than the performance for the applicable BellSouth retail analog during the same time periods. *See* Monthly State Summary, Docket No. 7892-U.

**(3) CLEC Comments**

NewSouth contends that BellSouth has satisfied the requirements of Checklist Item 11. By contrast, AT&T claims that BellSouth is not in compliance with this checklist item because errors in porting numbers result in a loss of long distance service for end users. *Beck Affidavit*, ¶ 34. In addition, AT&T states that its customers – particularly business customers – have lost the ability to receive calls from BellSouth customers because BellSouth fails to perform translation work on its switch at the time a

number is ported. *Wilson Affidavit*, ¶¶ 53-54. Similarly, KMC argues that BellSouth errs by performing only a partial disconnect when porting numbers leaving the end user unable to receive calls approximately 20% of the time. *Weiss Affidavit*, ¶¶ 12-13. AT&T also asserts that BellSouth has had difficulty porting a subset of a customer's numbers. *AT&T Comments*, Item #11, p. 3. To remedy these problems, AT&T states that it has had to develop a manual work-around to ensure BellSouth does translation work on due date. *Wilson Affidavit*, ¶ 54.

AT&T claims that BellSouth has had chronic number reassignment problems such as erroneously reassigning a number ported to AT&T or another CLEC to a new BellSouth line and that such problems are rare among BellSouth customers. *Wilson Affidavit*, ¶¶ 60-61; *Gibbs Affidavit*, ¶¶ 46-48.

AT&T also contends that BellSouth has two LNP-related billing problems. First, AT&T states that BellSouth makes errors when porting numbers, with the result that the customer continues to receive a bill from BellSouth even when the end user is no longer a BellSouth customer. *Wilson Affidavit*, ¶¶ 64-65. Second, AT&T argues that BellSouth cannot issue correct bills if an end user's main number is ported to AT&T, but other end user numbers remain with BellSouth. *Wilson Affidavit*, ¶¶ 67-68.

Finally, DeltaCom contends that BellSouth has not satisfied Checklist Item 11 because it has failed to respond to correspondence by DeltaCom regarding numbers that are flagged as not being portable in the Local Exchange Routing Guide ("LERG"), even though other NPA-NXX's for the same switch are listed as portable.

**(4) Discussion**

The Commission finds that BellSouth is providing local number portability consistent with the requirements of Section 251(b)(2) and applicable FCC regulations. The Commission finds that BellSouth has allowed end-user customers who switch carriers to retain existing telephone numbers “without impairment in quality, reliability, or convenience,” as required by this checklist item.

In its *Second Louisiana Order*, the FCC found that BellSouth had not satisfied Checklist Item 11, in part, because of BellSouth’s failure to demonstrate that it was “adequately coordinating unbundled loops with its provision of number portability.” *Second Louisiana Order*, ¶ 279. Specifically, the FCC required BellSouth to present performance data on the average completion intervals for number portability ordered without unbundled loops and the average completion intervals for number portability ordered in conjunction with unbundled loops. *Id.* at ¶ 283. The Commission finds that BellSouth has met this requirement and, consistent with the Commission’s January 12, 2001 order in Docket No. 7892-U, reports average order completion interval data for standalone unbundled loops, unbundled loops with both interim number portability (“INP”) and LNP. In addition, BellSouth reports performance data for standalone INP and LNP.

BellSouth’s performance data reflect that for partially mechanized LSRs (which is the primary means by which standalone LNP is ordered) BellSouth met the LNP Reject Interval benchmark for March, April, May, and July 2001 and missed the benchmark for June. For non-mechanized LSRs, BellSouth met the LNP reject benchmark for March, April, May, and June 2001.



Additionally, BellSouth met the FOC Timeliness sub-metric for mechanized LNP (standalone) LSRs on March, May, and July 2001 and missed the benchmark on April and June 2001. Also, BellSouth only missed the FOC Timeliness sub-metric for LNP (standalone) LSRs on June 2001. Finally, for non-mechanized LNP (standalone) LSRs, BellSouth met this sub-metric for the months of March through July 2001.

The data for Average Installation interval for LNP reveals the following:

B.2.1.17.1.1	P-4	LNP (Standalone)/<10 circuits/Dispatch/GA (days)		
Benchmark/Analogue: R&B (POTS)	BST Measure	BST Volume	CLEC Measure	CLEC Volume
Mar-01	6.69	57,418		
Apr-01	6.97	54,318		
May-01	6.27	46,379	9.26	19
<b>Jun-01</b>	<b>5.33</b>	<b>46,070</b>	<b>9.72</b>	<b>25</b>
Jul-01	5.64	46,024	0.5	4

B.2.1.17.1.2	P-4	LNP (Standalone)/<10 circuits/Non- Dispatch/GA (days)		
Benchmark/Analogue: R&B (POTS)	BST Measure	BST Volume	CLEC Measure	CLEC Volume
Mar-01	0.97	456,789		
Apr-01	1.06	449,408		
<b>May-01</b>	<b>1.03</b>	<b>448,006</b>	<b>1.8</b>	<b>1193</b>
<b>Jun-01</b>	<b>0.87</b>	<b>433,899</b>	<b>1.7</b>	<b>1277</b>
Jul-01	0.95	416,150	0.64	1331

BellSouth met the LNP (Standalone)/<10 circuits/Dispatch standards for the months of May and July 2001 and missed the standard in June 2001. For LNP (standalone)/<10

circuits/Non-Dispatch sub-metric, which is how most LNP LSRs are provisioned, BellSouth met the standard in July 2001 and missed the May 2001 standard by .77 days and June 2001 by .83 days.

Additionally, BellSouth met all of the Missed Installation Appointment submetrics for the months of March through June 2001 by missing less than 1% of **all** CLEC appointments, which was better than the performance for the applicable BellSouth retail analogue during the same time periods.

The Commission concludes that as a general rule, CLECs are ordering and BellSouth is provisioning and maintaining number portability in a reasonably accurate and timely manner, but the Commission remains concerned with the entire LNP process. AT&T correctly notes BellSouth's failure to meet the LNP Disconnect Timeliness measure as reported by BellSouth. The Commission has agreed to study this measure further in Docket No. 7892-U to ensure that BellSouth is capturing and reporting LNP data in a manner that accurately reflects the end user's experience. In the interim, the Commission directed BellSouth to report LNP disconnect data under four different measures. In this instance, however, it is not appropriate to base a decision of checklist compliance upon a single measure that the Commission may ultimately decide not to retain.

With respect to AT&T's complaint that when a telephone number was ported to AT&T, the number is sometimes erroneously reassigned to a new BellSouth line, BellSouth devised an interim manual solution by January 2001 to correct the problem after it was discovered in the last quarter of 2000. According to BellSouth, in order to ensure that ported numbers are not mistakenly reassigned, this manual workaround will

continue until a permanent solution has been implemented. In addition, BellSouth began working with the CLECs to verify all numbers that have been ported since January 2000, which should minimize, if not eliminate the problem about which AT&T complains. *Ainsworth Reply Affidavit*, ¶¶ 4-6.

The Commission is not persuaded by AT&T's argument that BellSouth fails to comply with Checklist Item 11 because certain business customers with Direct Inward Dial ("DID") trunks connected to their private branch exchange ("PBX") lose the ability to receive calls from BellSouth customers when their numbers are ported from BellSouth. The FCC considered and rejected an almost identical argument in approving SWBT's application for in-region, interLATA authority in Texas. *SWBT-TX Order*, ¶ 372. Furthermore, BellSouth states that, for some directory numbers that cannot be handled mechanically, such as DID to a PBX referenced by AT&T, BellSouth has in place a process that calls for the formation of a Project Team to handle the conversion. BellSouth also has established specific Project Managers to address those orders that are large and complex to ensure that such orders are worked properly and that conversions are accurately handled. *Milner Reply Affidavit*, ¶¶ 125-126. The Commission finds BellSouth's approach to be a reasonable one.

The evidence reflects that some of the problems at issue in AT&T's complaints about BellSouth's process for handling number portability are not the fault of BellSouth. For example, some of AT&T's complaints involve customers who were not served by BellSouth and whose numbers were not ported from BellSouth's network to AT&T's network. BellSouth cannot properly be held responsible for such problems. *Milner Reply Affidavit*, ¶ 130. Other issues raised by AT&T appear to have been caused by

AT&T erroneously providing company codes for number porting on LSRs sent to BellSouth that were not the same codes AT&T provides to the Number Porting Administration Center (“NPAC”). *Id.*

AT&T does not provide any specific examples of BellSouth failing to properly port a number when a customer chooses to migrate only some of its lines to a CLEC, particularly when the ported number happens to be the main number used by BellSouth for billing. In these situations, as BellSouth has explained, if the customer later wants to change features or call in a repair on the lines AT&T maintains, BellSouth may not be able to handle the call. As a result, BellSouth’s procedures, which are available on the web, require a CLEC carrying out a partial port to inform BellSouth on the LSR of the billing number to be ported and the telephone number the customer wishes to use as BellSouth’s new billing number. *Ainsworth Reply Affidavit*, ¶ 12. The Commission agrees with BellSouth that a CLEC’s failure to follow these procedures is not evidence of noncompliance by BellSouth.

With respect to DeltaCom’s contention regarding numbers that are flagged as not being portable in the LERG even though other NPA-NXX’s for the same switch are listed as portable, the Commission finds BellSouth’s explanation reasonable. BellSouth explains that: (1) most of the codes identified by DeltaCom involve NPA splits and are correct in the LERG at this time; (2) other codes involve mass calling codes and are marked in the LERG as being portable consistent with industry guidelines; and, (3) DeltaCom has included offices and NPA/NXXs that are subject of BFRs for porting capability, none of which is in Georgia. *Milner Reply Affidavit*, ¶¶ 133-134.

In approving SWBT's application for in-region, interLATA authority in Texas, the FCC rejected certain parties' unsupported allegations that SWBT failed to provide LNP in a reliable manner as evidence of noncompliance with Checklist Item 11. *SWBT-TX Order*, ¶ 371-372. Likewise, in approving Bell Atlantic's application for in-region, interLATA authority in New York, the FCC found that Bell Atlantic complied with this checklist item, even though carriers alleged that number portability was not experienced by customers with CLEC-issued telephone numbers and was not provided in a timely manner. *Bell Atlantic-NY Order*, ¶ 369-371. In both cases, the FCC concluded that the allegations were largely unsupported and were not indicative of a systemic failure of the BOC to provide number portability.

The same is true here. The problems alleged with respect to number portability are largely unsupported and do not evidence a systemic inability on BellSouth's part to provide number portability in a manner required by the FCC. Particularly telling are the reply comments of NewSouth, which compliment BellSouth for its handling of a project that entailed the porting of 20,000 numbers for a single NewSouth customer and which conclude that BellSouth has satisfied the requirements of Checklist Item 11.

**(6) Conclusion**

The Commission concludes that BellSouth has demonstrated compliance with Checklist Item 11.

**L. Checklist Item 12 – Local Dialing Parity**

**(1) Overview**

Checklist Item 12 requires a BOC to provide access or interconnection which includes “nondiscriminatory access to such services or information as are necessary to

allow the requesting carrier to implement local dialing parity in accordance with the requirements of section 251(b)(3).” 47 U.S.C. § 271(c)(2)(B)(xii). Local dialing parity ensures that CLEC customers are able to place calls within a given local calling area by dialing the same number of digits as a BOC end user without unreasonable dialing delays. *Bell Atlantic-NY Order*, ¶ 372.

**(2) BellSouth Comments**

BellSouth asserts that it provides CLECs with local dialing parity in accordance with this checklist item. According to BellSouth, CLEC end users are not required to use access codes or additional digits to complete local calls to BellSouth customers and visa versa. *Milner Affidavit*, ¶ 232. Furthermore, BellSouth asserts that CLEC end user customers do not experience unreasonable post-dial delays. *Id.* at ¶ 234. BellSouth insists that the interconnection of the BellSouth network and the network of the CLEC is seamless from the end user perspective, as the Act intended. *Id.*

**(3) CLEC Comments**

No CLEC filed comments addressing BellSouth’s compliance with Checklist Item 12.

**(4) Discussion**

The Commission finds that BellSouth is providing nondiscriminatory access to services that are necessary to allow a requesting carrier to implement local dialing parity in accordance with the requirements of Section 251(b)(3). In its *Second Louisiana Order*, the FCC held that BellSouth complied with this checklist item, *Second Louisiana Order*, ¶ 296, and the Commission has not been presented with any evidence that would cause the Commission to reach a contrary result here.

**(5) Conclusion**

The Commission concludes that BellSouth has demonstrated compliance with Checklist Item 12.

**M. Checklist Item 13 – Reciprocal Compensation**

**(1) Overview**

Checklist item 13 requires that a BOC's access and interconnection include "[r]eciprocal compensation arrangements in accordance with the requirements of section 252(d)." According to the FCC, a BOC will be found in compliance with this checklist item if it "(1) has in place reciprocal compensation arrangements in accordance with section 252(d)(2), and (2) is making all required payments in a timely fashion." *SWBT-TX Order*, ¶ 379.

**(2) BellSouth Comments**

BellSouth asserts that, in accordance with sections 271 and 252(d)(2), it has established just and reasonable rates for reciprocal compensation, thereby ensuring that CLECs and BellSouth receive mutual and reciprocal recovery of costs associated with the transport and termination of local calls. BellSouth charges the reciprocal compensation rates approved by this Commission in Docket No. 7061-U. Moreover, BellSouth makes reciprocal compensation payments to CLECs in a timely fashion. *Milner Affidavit*, ¶ 236.

**(3) CLEC Comments**

AT&T asserts that BellSouth cannot establish compliance with this checklist item because it does not pay reciprocal compensation for internet service provided ("ISP") traffic. *AT&T Comments, Item # 13, p. 1*. Cbeyond contends that BellSouth fails to comply with this checklist item because it allegedly has imposed non-reciprocal rates for

the origination and termination of local calls by restructuring its SS7 signaling rates. *Cbeyond Comments*, pp. 42-44. Finally, WorldCom insists that virtual FX traffic must be treated as local traffic subject to the payment of reciprocal compensation in order for BellSouth to satisfy Checklist Item 13.

**(4) Discussion**

The record demonstrates that BellSouth has complied with Checklist Item 13. In its *Second Louisiana Order*, the FCC found BellSouth in compliance with these obligations, and there is no evidence that would warrant a contrary finding here.

AT&T's argument that BellSouth cannot establish compliance with this checklist item until it "pays reciprocal compensation for ISP traffic" is inconsistent with prior FCC decisions. The FCC has repeatedly held that inter-carrier compensation for ISP traffic "is not governed by section 251(b)(5), and, therefore, is not a checklist item." *Bell Atlantic-NY Order*, ¶ 377.

Cbeyond's argument that BellSouth allegedly has imposed non-reciprocal rates for the origination and termination of local calls by restructuring its SS7 signaling rates is unconvincing. First, as BellSouth points out, it has not changed any SS7 signaling rates in Georgia because the tariff to which Cbeyond objects was withdrawn. *Ruscilli Reply Affidavit*, ¶¶ 12-14 and 20. Second, the rates BellSouth charges for the use of its signaling network are distinct from BellSouth's reciprocal compensation obligations, which pertain to the compensation carriers pay for the transport and termination of telecommunications traffic. *See* 47 U.S.C. § 251(b)(5).

There is no merit to WorldCom's argument that FX traffic must be treated as local traffic subject to the payment of reciprocal compensation in order for BellSouth to



satisfy Checklist Item 13. In Docket No. 13542-U, this Commission held that FX traffic is not subject to reciprocal compensation, and the Commission expects BellSouth and the CLECs to comply with the Commission's decision.

**(5) Conclusion**

The Commission concludes that BellSouth has demonstrated compliance with Checklist Item 13.

**N. Checklist Item 14 – Resale**

**(1) Overview**

Checklist Item 14 requires a BOC to make “telecommunications services ... available for resale in accordance with the requirements of sections 251(c)(4) and 252(d)(3).” 47 U.S.C. § 271(c)(2)(B)(xiv). Section 251(c)(4) imposes on LECs the duty to offer for resale “any telecommunications service that the carrier provides at retail to subscribers who are not telecommunications carriers.” 47 U.S.C. § 251(c)(4). As the FCC made clear in its *Second Louisiana Order*, a BOC must demonstrate that it provides nondiscriminatory access to its OSS for the resale of its retail telecommunications services in order to satisfy this checklist item.

**(2) BellSouth Comments**

BellSouth asserts that the telecommunications services it provides CLECs for resale are identical to the services BellSouth furnishes its own retail customers. BellSouth offers its services for resale at the Commission-approved discounts of 17.3% for business and 20.3% for residential services, and does not impose any unreasonable or discriminatory conditions on resale. SGAT, Section XIV, Attachment H.

BellSouth points to its performance data to establish that it provides services for resale to CLECs in Georgia in substantially the same time and manner as for its retail customers. For example, according to BellSouth, CLECs reselling BellSouth's services have a high level of confidence that LSRs submitted to BellSouth will receive either a FOC or a reject notice. *See* Monthly State Summary, Docket No. 7892-U. In April 2001, BellSouth met the applicable benchmark for resale Reject Interval and FOC Timeliness in 16 out of the 22 sub-metrics for which data was reported. In May 2001, BellSouth met the benchmarks for resale in 21 out of the 22 sub-metrics for which data was reported. The remaining three sub-metrics, while below the applicable benchmark, still demonstrate high performance by BellSouth. For example, on mechanized residence resale orders, BellSouth returned a reject notice within one hour 95.15% of the time in April 2001, which was slightly below the Commission's benchmark of 97% rejects returned within one hour. Likewise, for non-mechanized ISDN orders, BellSouth returned a FOC within 36 hours 84.21% of the time in April 2001, which was only slightly below the Commission's benchmark of 85% FOCs returned within 36 hours. *Id.* BellSouth notes that, as the FCC has recognized, where a BOC misses benchmarks by small margins, such current performance disparities have a negligible competitive impact. *SWBT-KA/OK Order*, ¶ 134.

In addition, BellSouth asserts that it completes resale orders for CLECs in a comparable timeframe to its retail orders. For example, in April 2001, BellSouth reported OCI data for 18 sub-metrics of resale orders; BellSouth met the applicable retail analogue in 16 of these 18 sub-metrics. In May 2001, BellSouth met the applicable retail analogue for resale OCI in 15 of the 17 sub-metrics for which data was reported.

Similarly, in April and May 2001, BellSouth reported Missed Installation Appointment data for 17 categories of resale orders; BellSouth met the applicable retail analogue in 14 of these 17 categories. *Id.* In some of the resale categories for which BellSouth missed the applicable retail provisioning analogue, the difference between BellSouth's performance for the CLECs and for its own retail operation was slight. For example, on residence resale orders involving less than 10 circuits without a dispatch in April 2001, BellSouth missed 0.05% of the installation appointments on such orders. For this same time period, BellSouth missed 0.02% of the installation appointments for its residential customers. BellSouth notes that missing less than 1% of installation appointments for CLECs engaged in resale, while not quite as good as BellSouth's retail performance, cannot be said to have an adverse impact on competition.

Furthermore, according to BellSouth, it not only delivers service in a timely manner, but also generally does so with no more technical problems than service BellSouth delivers to its retail units. For example, in April 2001, BellSouth reported data for Percent Provisioning Troubles within 30 days for 18 sub-metrics of resale orders; BellSouth met the applicable retail analogue in 14 of these 18 sub-metrics. BellSouth's performance improved in May 2001, as BellSouth met the retail analogue for Percent Provisioning Troubles within 30 days for 15 of the 17 sub-metrics of resale orders.

**(3) CLEC Comments**

AT&T claims that BellSouth cannot satisfy Checklist Item 14 because BellSouth does not provide nondiscriminatory access to its OSS. AT&T Comments, Item #14, p. 1. Sprint argues that BellSouth has not satisfied Checklist Item 14 because KCI has not completed its audit of BellSouth's performance data. Sprint Comments, p. 19.

**(4) Discussion**

In its *Second Louisiana Order*, the FCC concluded that but for deficiencies in its OSS, BellSouth demonstrated that it provided resale in accordance with the requirements of this checklist item. *Second Louisiana Order*, ¶ 319. As previously discussed in connection with Checklist Item 2, the Commission finds that BellSouth has corrected the OSS deficiencies identified by the FCC and is providing nondiscriminatory access to its OSS. This conclusion is bolstered by BellSouth's performance data, which reflects that BellSouth is providing nondiscriminatory access to its OSS for the resale of its retail telecommunications services, notwithstanding AT&T's claims to the contrary.

**Reject Timeliness**

Performance metrics A.1.4-A.1.8 examine the Reject Intervals for the months March through June 2001.<sup>58</sup> For resale LSRs submitted electronically, the benchmark is 97% within 1 hour. In March, April, May, June, and July 2001, BellSouth provided reject notices in 1 hour on 94%, 95%, 88%, 92%, and 95% respectively of all UNE reject service requests. The only sub-metric BellSouth missed is A.1.4.1, Residence. While below the benchmark, BellSouth still demonstrates a high performance level. BellSouth returned a reject notice in one-hour 94% in March, 95% in April, 88% in May, 92% in June and 95% in July.

For partially and non-mechanized LSRs BellSouth met the applicable benchmark for Resale reject timeliness:

March:	5 out of 8 sub-metrics;
April:	5 out of 7 submetrics;
May:	9 out of 9 sub-metrics;
June:	8 out of 9 sub-metrics;
July:	8 out of 9 sub-metrics

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<sup>58</sup> Docket No. 7892-U Performance Measures

The only sub-metric that was missed in June and July 2001 was A.1.8.5 Reject Interval/Non-Mechanized Centrex, which shows 5 LSRs in June and 11 LSRs in July. Such a small universe does not provide a statistical conclusive comparison with retail analogue.

### **FOC Timeliness**

Performance metrics A.1.9-A.1.13 examines mechanized, partially mechanized and non-mechanized FOC Timeliness intervals for resale LSRs. Again, BellSouth demonstrated a high performance level by having met:

March:	11 out of 13 sub-metrics;
April:	10 out of 13 sub-metrics;
May:	11 out of 11 sub-metrics;
June:	11 out of 11 sub-metrics;
July:	10 out of 10 sub-metrics

### **Order Completion Interval**

BellSouth also provisions CLECs resale LSRs in substantially the same time and manner as retail LSRs. During the months of March through July 2001, BellSouth met the recommended analogue for the following OCI sub-metrics:

March:	16 out of 18 sub-metrics;
April:	16 out of 18 sub-metrics;
May:	15 out of 17 sub-metrics;
June:	15 out of 17 sub-metrics;
July:	14 out of 16 sub-metrics

The sub-metric that BellSouth consistently failed is shown below:<sup>59</sup>

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<sup>59</sup> Docket No. 7892-U Performance Measures

A.2.1.1.1.2	P-4	Residence/<10 circuits/Non- Dispatch/GA (days)		
	<b>BST Measure</b>	<b>BST Volume</b>	<b>CLEC Measure</b>	<b>CLEC Volume</b>
<b>Mar-01</b>	<b>0.93</b>	<b>427,004</b>	<b>2.08</b>	<b>23,396</b>
<b>Apr-01</b>	<b>1.03</b>	<b>423,941</b>	<b>1.60</b>	<b>23,528</b>
<b>May-01</b>	<b>1.00</b>	<b>423,591</b>	<b>1.48</b>	<b>27,588</b>
<b>Jun-01</b>	<b>0.85</b>	<b>411,570</b>	<b>1.14</b>	<b>22,946</b>
<b>Jul-01</b>	<b>0.94</b>	<b>394,809</b>	<b>0.82</b>	<b>20,271</b>

As previously discussed in Checklist Item 2, BellSouth determined the same “L” code problems that exist for UNEs exist for Resale.<sup>60</sup> Failure of CLECs to properly “L” code appropriate orders and missed appointments for CLEC customer reasons negatively impact performance results. The residence sub-metric results show a positive trend with BellSouth exceeding the analogue in July 2001 as well as August 2001.

### **Missed Installation Appointments**

Similarly, in March through June 2001, BellSouth met the applicable Missed Installation appointment retail analogue 17 out of 18 sub-metrics in March, 14 out of 17 for April and May, and 14 out of 18 for June. The sub-metrics that BellSouth consistently missed are A.2.11.1.2/Residence/<10circuits/Non-Dispatch(March-June) and A.2.11.2.1.1/Business/ <10circuits/Dispatch (April-June). For the Residence/<10 circuits/Non-Dispatch sub-metric, BellSouth missed on average .11% for CLECs compared to .04% of installation appointments for its retail customers. Likewise for the Business/<10 circuits/ Dispatch sub-metric, BellSouth met 96% of the CLECs installation appointments compared to 97% for its retail customers. This shows that BellSouth is

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<sup>60</sup> *Stacy Performance Affidavit* ¶ 187.

making CLEC appointments in reasonably the same time and manner than it does for its retail customers.

### **Missed Repair Appointments**

Performance metric A.3.1 examines the percentage of missed repair appointments for resale LSRs. Again, BellSouth demonstrated a high performance level by having met:

March:	10 out of 12 sub-metrics;
April:	12 out of 12 sub-metrics;
May:	11 out of 12 sub-metrics;
June:	10 out of 12 sub-metrics;
July:	10 out of 11 sub-metrics

Additionally, BellSouth did not fail the same sub-metric twice in the months of March-July 2001.

Sprint's argument that BellSouth has not satisfied Checklist Item 14 because KCI has not completed its audit of BellSouth's performance data is without merit. There is no audit requirement under this or any other checklist item. In approving Bell Atlantic's entry into the in-region, interLATA market in New York, the FCC noted, "with approval that the performance data used in the enforcement mechanism in New York appears to be subject to regular scrutiny." *Bell Atlantic-NY Order*, ¶ 442. In particular, the FCC observed that the New York Commission had replicated performance reports from raw data, would continue to investigate any discrepancies, and would perform annual reviews of Bell Atlantic's data and performance measures, which, according to the FCC, would "provide reasonable assurance that the data will be reported in a consistent and reliable

manner.” *Id.* Importantly, the FCC never required that Bell Atlantic’s performance data be fully audited in order to satisfy the competitive checklist.

In this case, KCI conducted an extensive evaluation of the processes and other operational elements associated with BellSouth’s production of performance metrics, finding that the vast majority of the test criteria related to data integrity were satisfied. The KCI test provides additional assurance that BellSouth’s performance data is being reported in “consistent and reliable manner,” even though a limited number of metrics evaluation criteria are still being tested. The Commission’s review and on-going monitoring mechanisms of BellSouth’s performance measurements provide additional assurance of reliable and accurate performance data, which are similar to those in New York at the time Bell Atlantic’s application was approved. In short, the Commission sees no need to wait for KCI to complete its metrics evaluation before deciding whether BellSouth has satisfied the requirements of Section 271.

**(6) Conclusion**

The Commission concludes that BellSouth has demonstrated compliance with Checklist Item 14.

**IV. PERFORMANCE REPORTING AND ENFORCEMENT MECHANISMS**

The Commission has been proactive in monitoring BellSouth’s performance in Georgia. Approximately four years ago, the Commission opened Docket No. 7892-U to seek input from the industry on various issues relating to performance measurements for



BellSouth. The Commission first established performance measurements for BellSouth in an order entered on December 30, 1997 in Docket No. 7892-U. The Commission established these measurements based in large part upon input from the industry. The Commission has also established an expedited dispute resolution mechanism in the event BellSouth and a CLEC are unable to agree on BellSouth's performance reporting. In addition, the Commission provided audit rights of performance measurements to CLECs as well as the Commission. BellSouth began filing performance data with the Commission in early 1998, and began formal reporting of its performance in August 1998.

In June 2000, the Commission initiated a proceeding to re-examine BellSouth's performance measurements. Extensive hearings were held, in which numerous CLECs participated. On January 12, 2001, the Commission entered an order in Docket No. 7892-U, which established new performance measurements for BellSouth, identified applicable benchmark or retail analogues for such measures, ordered yearly audits at the request of CLECs or the commission, adopted comprehensive enforcement mechanisms in the event BellSouth's performance was deficient and provided for a 6-month review of performance measures, analogue/benchmarks, change management process, and the enforcement mechanisms plan. Additionally, the Commission ordered BellSouth to file a "root cause analysis" and a corrective action plan if BellSouth were to fail any sub-metric twice in any 3 consecutive months. Many aspects of the performance measurements and enforcement mechanisms adopted by the Commission were proposed by the CLECs.

Consistent with the Commission's January 12, 2001 Order, BellSouth currently reports its performance under approximately 2200 sub-metrics each month that are set forth in BellSouth's SQM. The SQM covers BellSouth's performance on key functions essential to an open competitive local market; pre-ordering, ordering, provisioning, maintenance and repair, billing interconnection trunks, collocation, operator services and directory assistance, database updates, E911, Change Management, and Bona Fide or New Business Requests. Associated with most of these measurements are standards – either benchmarks or retail analogues – adopted by the Commission with input from the industry.

In its *Second Louisiana Order*, the FCC encouraged BOCs seeking in-region, interLATA authority to adopt enforcement mechanisms that would help guard against backsliding following Section 271 relief. *Second Louisiana Order* ¶ 64. The FCC subsequently identified five key characteristics of an effective enforcement plan. *See Bell Atlantic-NY Order*, ¶ 433. The enforcement plan adopted by the Commission in Docket No. 7892-U complies fully with the FCC's requirements.

First, the Commission's enforcement plan provides BellSouth with a meaningful and significant incentive to comply with the Commission's designated performance standards. *See Bell Atlantic-NY Order*, ¶ 433. Under the plan, BellSouth has at risk 44% of its net revenue in Georgia, which, as a percentage, is significantly higher than the amounts placed at risk in enforcement plans previously endorsed by the FCC. The penalty structure under the Commission's enforcement plan has three tiers. Tier I penalties are designed to compensate individual CLECs when sub-standard performance by BellSouth would likely impact a CLEC's ability to compete. Tier I penalties are paid

to individual CLECs on a transaction basis for specified metrics, and from March through July 2001, BellSouth paid approximately \$15.6 million in Tier I payments. Tier II penalties, which are paid to the Georgia State Treasury, are aimed at chronic performance problems and are triggered by three consecutive misses in specified Tier II sub-metrics. From March through July 2001, BellSouth paid approximately \$14.3 million in Tier II penalties to the Georgia State Treasury.<sup>61</sup>

Under Tier III of the Commission's enforcement plan, if BellSouth fails to meet 12 of 26 specified metrics for three consecutive months, BellSouth will be required to cease marketing interLATA services until all 12 of the failed sub-metrics show favorable results for three consecutive months. Tier III is a non-monetary based consequence that offers a powerful incentive for BellSouth to meet its performance obligations, since it would result in BellSouth having to exit the very market BellSouth is seeking permission to enter. The penalty that applies under Tier III, in addition to the 44% of revenues that BellSouth has at risk under Tiers I and II, makes the enforcement plan in Georgia one of the most stringent in the country.

The second factor that the FCC has identified in evaluating an effective enforcement plan is whether the plan is based on clearly articulated, pre-determined measures that encompass a comprehensive range of carrier-to-carrier performance. *See Bell Atlantic-NY Order*, ¶ 438. The Commission's enforcement plan was adopted based

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<sup>61</sup> Both Tier I and Tier II payments by BellSouth include penalties paid under Measure P-13 (Average Disconnect Timeliness Interval). Penalties under this metric have amounted to approximately \$9.3 million, which represents approximately 31% of the total Tier I and Tier II penalties paid by BellSouth to date. On August 7, 2001, the Commission voted to suspend Measure P-13, including any future Tier I and Tier II payments under this measure and directed BellSouth to begin reporting performance and calculating penalty payments under four different measures relating to LNP disconnect timeliness. The Commission will resolve issues surrounding these measures in connection with its ongoing review of BellSouth's SQM.

upon input from BellSouth as well as affected CLECs and is tied to specified performance metrics set forth in BellSouth's SQM. Each performance metric in the SQM has clearly articulated business rules, lists the applicable exclusions, and states the applicable benchmark or retail analogue. Consistent with the approach in New York and other states, the Commission's enforcement plan focuses on "key competition-affecting metrics," since adverse performance in these areas would have the most significant impact on end-user customers. *Id.*

Third, according to the FCC, an effective enforcement plan must be reasonable and sanction poor performance. *See Bell Atlantic-NY Order*, ¶ 440. The enforcement plan adopted by the Commission is designed both to compensate individual CLECs for poor performance as well as to penalize BellSouth for industry-affecting performance issues. In addition, with Tier III, the Commission's enforcement plan contains added incentive for BellSouth to perform.

Fourth, according to the FCC, an effective enforcement plan must be self-effectuating and not leave the door open unreasonably to litigation and appeal. *See Bell Atlantic-NY Order*, ¶ 433. BellSouth pays penalties under the Commission's enforcement plan monthly when it fails to provide satisfactory performance, and such payments are triggered without any action by the Commission or the CLECs. Although the Commission's enforcement plan contains a provision by which BellSouth may petition the Commission to be relieved of payments under the plan due to factors beyond BellSouth's control, BellSouth has not sought relief under this provision in the seven months the enforcement plan has been in effect.

Finally, the FCC has indicated that there must be reasonable assurances that the reported data is accurate. *See Bell Atlantic-NY Order*, ¶ 433. The performance data used in the Commission's enforcement plan has been and continues to be the subject of regular scrutiny. As part of the third-party test in Georgia, KCI independently replicated many of BellSouth's performance reports from raw data submitted by BellSouth, and this replication effort is continuing under the Commission's direction. In addition, the Commission has initiated the first of its annual reviews of BellSouth's data and performance measures, as well as the enforcement plan itself, with a technical workshop scheduled for October 17-18, 2001. The Commission also has put in place audit procedures that allow CLECs to request an annual audit of BellSouth's aggregate performance reports. As the FCC has previously indicated, "These review and monitoring mechanisms provide reasonable assurance that the data will be reported in a consistent and reliable manner." *See Bell Atlantic-NY Order*, ¶ 442.

The Commission finds that the performance measurements and enforcement plan it has ordered complies fully with the requirements established by the FCC. The Commission believes that the performance measurements and enforcement plan will provide incentives sufficient to foster continued checklist compliance by BellSouth after it has obtained in-region, interLATA authority in Georgia. Given that the performance measurements and enforcement mechanisms have been in place in Georgia since March 2001, the Commission concludes that its plan is effective in practice.

## **V. CONCLUSION**

The Georgia Public Service Commission has demonstrated an unwavering commitment to opening the local market in the State of Georgia. The Georgia

Commission's efforts to ensure an open local market in the State began more than six years ago and continue to this day. From pricing, to OSS, to performance measures and enforcement mechanisms, the Commission has examined every area critical to facilitating competitive entry in the local market. The Commission has been called upon and has not hesitated to make difficult decisions to ensure that local competition is a lasting reality in Georgia. The most recent example concerns the Commission's decision on October 2, 2001 to require that BellSouth make certain OSS enhancements to further facilitate competitive entry, many of which were specifically requested by MCI WorldCom to aid its ability to provide local exchange service to residential customers in the State.

By every measure, the Commission's efforts have been successful. The level of competitive activity in the local market in Georgia is impressive and is continuing to grow. Even local residential competition, while not as widespread as competition for business customers, is firmly in place in Georgia and will only continue to flourish.

The Georgia Commission believes that it is now time for the long distance market in Georgia to be opened to full competition. After monitoring the local market for more than six years and after considering an extensive record to evaluate BellSouth's compliance with the requirements of Section 271, the Commission has found that BellSouth has done what Section 271 requires – namely, BellSouth has irrevocably opened its local market in Georgia to competition. Accordingly, the Commission recommends that the FCC approve BellSouth's application for in-region, interLATA authority in Georgia so that residents of the State can enjoy the benefits of full competition.