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Public Service Commission

October 17, 1997

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Mr. William F. Caton
Office of the Secretary
Federal Communications Commission
Room 222, 1919 M Street N.W.
Washington, D.C. 20554

Dear Mr. Caton:

In compliance with Public Notice, DA 97-2112, dated September 30, 1997, The Public Service Commission of South Carolina files these comments in support of BellSouth Telecommunications, Inc., and BellSouth Long Distance, Inc. filings for provision of in-region, interlata service in South Carolina.

If I can be of further assistance or provide additional information, please feel free to contact me.

Sincerely,

Gary E. Walsh
GARY E. WALSH
DEPUTY EXECUTIVE DIRECTOR

GEW:ng

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BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

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IN RE:

Application by BellSouth Corporation,)
BellSouth Telecommunications, Inc.,)
and BellSouth Long Distance, Inc.,) CC Docket No. 97-208
for provision of In-Region, InterLATA)
Services in South Carolina)

COMMENTS OF THE
PUBLIC SERVICE COMMISSION OF SOUTH CAROLINA

The Public Service Commission of South Carolina ("Commission") submits these Comments for the purpose of fulfilling its statutorily mandated consultative duties as set forth under Section 271(d)(2) of the Telecommunications Act of 1996 ("Act"). As explained below, the Commission has determined (i) that the Application of BellSouth Corporation, BellSouth Telecommunications, Inc., ("BST"), and BellSouth Long Distance, Inc. ("BSLD"), together referred to as "BellSouth," has satisfied the Act's requirements under 47 U.S.C. Section 271(c) for authority to provide interLATA services in South Carolina, and (ii) that BellSouth's entry into the interLATA long distance market in South Carolina is in the public interest. Therefore, the above-referenced application should be approved.

I. THE ROLE OF THE COMMISSION IN FULFILLING ITS STATUTORILY
MANDATED DUTIES UNDER THE ACT

The Commission is mandated under the Act with advising the Federal Communications Commission ("FCC") on BellSouth's Application. 47 U.S.C. §271(d)(2)(B). The Commission established Docket No. 97-101-C in March 1997 to investigate BellSouth's planned application.

Throughout the course of Docket No. 97-101-C, the Commission was guided by two goals: executing the responsibilities vested in it under the Act and promoting the development of competitive telecommunications markets in the interest of South Carolina consumers. These twin objectives are precisely compatible, for the Commission's own policy goals are precisely the ones Congress intended through the 1996 Act: to open all telecommunications markets to new competitors and new services as rapidly as possible for the benefit of South Carolina consumers.

With these goals in mind, and with the encouragement of the FCC and United States Department of Justice, the Commission conducted its investigation into the activities of BellSouth in South Carolina, the steps taken by BellSouth to facilitate the entry of competitive local exchange carriers ("CLECs") into the local market, and the likely impact of BellSouth's provision of interLATA services upon South Carolina consumers. All interested parties were invited to participate in this investigation. Numerous entities did present their views, including large and

small interexchange carriers, alternative providers of exchange access services, cable television companies, an employee group, and the Consumer Advocate for the State of South Carolina. These parties submitted extensive comments and testimony to the Commission, and also exchanged and responded to interrogatories and requests for production of documents. In addition, the Commission's Staff issued its own data requests and investigated all relevant issues, including operations support systems. At the public hearing held July 7 - 10, 1997, witnesses were presented to the Commission and subjected to cross-examination, allowing the Commission to judge their credibility.

It should be emphasized that the paper record cannot capture the full breadth of the Commission's investigation. In addition to reading the parties' written submissions, the Commission held four days of hearings in which nineteen witnesses testified and were subjected to extensive cross-examination by other parties and the Commission itself. The Commission's determinations of credibility of the evidence are reflected in the findings of Order No. 97-640, which is attached as Exhibit 1 to these Comments. Finally, the Commission has relied on its status as an expert agency, fully aware of the facts and circumstances surrounding the developments of the telecommunications industry, which this Commission regulates in the State of South Carolina.

Having given all parties an opportunity to participate in its proceedings, and having searched for all relevant evidence,

the Commission believes that the record of Docket No. 97-101-C (which has been presented to the FCC as part of BellSouth's Application) is sufficient for the FCC to make its determinations regarding BellSouth's satisfaction of the requirements of 47 U.S.C. §271(c).

The Commission has noted the new evidence presented by BellSouth in its Application regarding the activities of CLECs in South Carolina since July 1997. Other parties may raise new issues or new facts through Comments in this proceeding. It is our belief that Congress gave the State commissions an important role in Section 271 proceedings, and, as already noted, the FCC and U.S. Department of Justice have recognized that role by inviting State commissions to conduct in-depth investigations. We believe that our role would be greatly diminished if a party is allowed to hold back evidence until after the State Commission has ruled and still have it considered in the FCC's proceeding. In order for the State commissions to carry out their responsibilities under the Act effectively, we believe that the finality of our investigations must be respected. The Commission believes, therefore, that any attempt by a party to raise new issues or present new facts that could have been presented in Docket No. 97-101-C should be rejected by the FCC.

The issue of BellSouth's interLATA entry generated great interest in South Carolina. Throughout the proceedings, however, the Commission focused upon and was guided by the facts available to it. After carefully weighing all the available evidence, the

Commission unanimously, by a 7-0 vote, concluded that BellSouth has satisfied the Act's requirements under Section 271(c) to provide interLATA services in South Carolina and that interLATA entry would benefit South Carolina consumers of long distance and local telephone service. The Commission expects that the FCC will give appropriate weight to the Commission's statutory role, comprehensive investigation, and considered determinations.

II. REVIEW OF COMPETITION IN SOUTH CAROLINA

In evaluating BellSouth's eligibility to apply for interLATA relief, the Commission carefully considered, among other things, the business plans of those companies seeking the right to provide local dialtone services in South Carolina. The Commission drew upon its experience reviewing interconnection agreements and applications for certification to provide local service as a lens for viewing the evidence gathered in Docket No. 97-101-C. Based upon all this information, the Commission unanimously found that none of BellSouth's potential competitors are taking any reasonable steps toward implementing any business plan for facilities based local service to business and residential customers in South Carolina. Order No. 97-640 at 19.

As explained in Order No. 97-640, AT&T made clear in its arbitration proceeding before the Commission that it has no specific plans to provide facilities-based competition to BellSouth in South Carolina. One of Sprint's witnesses in Docket No. 97-101-C, Mr. David E. Stahly, discounted "potential

entrants' hopes, wishes, and plans" to compete, while offering no suggestion that Sprint has taken any specific steps to enter BellSouth's local markets in South Carolina. Stahly Testimony at 131. MCI witnesses likewise were silent regarding MCI's plans to compete in South Carolina.

Even ACSI -- the one company that stated it has placed facilities in South Carolina -- has no intention of serving residential customers. Rather, ACSI's witness Mr. James C. Falvey stated that ACSI serves "commercial customers." Mr. Falvey further explained in response to questioning by members of the Commission that ACSI's delays in moving to compete as a switch-based local carrier in South Carolina (which will extend at least into 1998) have been due to ACSI's business decision to allocate its resources elsewhere, not any failure of BellSouth to meet its obligations under the Act. Falvey Testimony at 325, 356-60.

BellSouth has presented evidence in its Application regarding the activities of CLECs in South Carolina since July 1997. These CLECs include ITC DeltaCom and Time Warner, who did not participate in the Commission's proceedings. The Commission is unaware of any actual facilities-based service to business and residential customers in South Carolina in spite of the Commission's determination that the local market is open to facilities based competition.

III. BELLSOUTH'S SATISFACTION OF THE ACT'S CHECKLIST
REQUIREMENTS UNDER SECTION 271(C)(2)

The Commission has concluded that BellSouth has satisfied Section 271(c)(2). In order to determine BellSouth's compliance or non-compliance with the 14 checklist items described in 47 U.S.C. §271(c)(2), the Commission carefully reviewed the full record submitted by BellSouth and other parties. It is the Commission's determination that BellSouth is in compliance with each of the 14 checklist items.

A. Pricing Issues

Because of the importance of pricing issues to the development of local competition in South Carolina and the Commission's exclusive responsibility for setting local rates, the Commission has given special attention to reviewing the rates included in BellSouth's Statement of Generally Available Terms and Conditions (SGAT). This review of rates contained in the SGAT falls solely within the power of the State Commission. After a State commission has fulfilled this role, the FCC should give substantial weight to the determination made by the State Commission in the course of making its own assessments under Section 271. See Petition of the State Commission Parties and the National Association of Regulatory Utility Commissioners for Issuance and Enforcement of the Mandate, Iowa Utilities Board v. Federal Communications Commission, No. 96-3321 (8th Cir. filed Sept. 17, 1997).

In order to ensure that local competition is not delayed

while a full review of BellSouth's cost studies is conducted, the Commission has followed the example set by the FCC in its August 8, 1996 Order, and by the Michigan Commission and other States, and treated rate-setting under the Act as an ongoing process. Specifically, the Commission has reviewed and approved BellSouth's rates as cost-based in accordance with Section 252 of the Act when subject to true-up following the Commission's determination in the pending cost proceeding, Docket No. 97-374-C. The Commission's cost proceeding is scheduled to be completed by January 20, 1998.

As explained in Order No. 97-640, the Commission's true-up requirement provides CLECs with rates that are even more attractive than those required under the Act. If the Commission's cost proceeding reveals that BellSouth's current rates for interconnection and unbundled network elements are too high, CLECs who have placed orders will receive retroactive refunds. If, however, the cost proceeding results in higher rates for interconnection and network elements, CLECs will retain the benefit of having been undercharged for the duration of the contract and will not be required to reimburse BellSouth for any services purchased pursuant to that contract. The Commission believes that this is a fair and appropriate way of implementing the Act's requirement of cost-based rates in a way which will encourage new local telephone competition in South Carolina. The true-up process gives CLECs a special incentive to contract quickly for services from BellSouth, so as to lock in rates that

are no more than, and may even be less than, BellSouth's forward-looking costs.

BellSouth's 14.8% discount for resold local services likewise offers interested CLECs another way to compete in South Carolina. The Commission established that rate in the AT&T arbitration, Docket No. 96-358-C, based upon appropriate adjustments to BellSouth's study of costs that reasonably can be avoided when BellSouth sells its services at wholesale. These adjustments included taking account of costs which would be avoided due to direct routing of calls to AT&T. Order No. 97-189, at 13-14.

The Commission also determined in the AT&T arbitration that it is appropriate for BellSouth to charge the retail rate less the 14.8% discount where a CLEC wishes to order unbundled network elements in a manner that produces an existing BellSouth retail service and the CLEC does not wish to undertake the job of combining the elements. Order No. 97-189, at 10-11. This is a pricing issue within the sole jurisdiction of the State Commission. Moreover, any other rule would gravely endanger the policies of the Commission respecting pricing of intrastate telecommunications services in South Carolina. If a CLEC could obtain the network elements comprising a BellSouth retail service at cost-based rates under Section 252(d)(1) of the Act, BellSouth would be unable to charge its end user customers higher rates for the same retail service, even if authorized to do so by the Commission. CLECs would purchase network elements where

retail prices are high relative to service-specific costs under the orders of this Commission, and they would take advantage of the 14.8% discount where retail prices are set at low levels relative to service-specific costs.

Turning to the issue of pricing for contract service arrangements ("CSAs"), we believe that our policy is the only reasonable way to implement the Act's resale provisions. CSAs are negotiated to reflect a competitive situation in the local market that affects a particular customer, not a class of customers. Moreover, resale discounts under the Act reflect the marketing, billing, collection and other costs avoided by BellSouth when it provides services to CLECs, rather than to end-user customers. Because CSAs, unlike ordinary retail offerings, are individually negotiated arrangements, BellSouth does not bear ordinary marketing costs with respect to these services. It would be impossible for the Commission to determine on a case-by-case basis what additional discount, if any, is necessary to account for BellSouth's potential cost savings with respect to a particular CSA. What is clear, however, is that if applied to CSAs, the 14.8% resale discount applicable to BellSouth's generally available retail offerings would greatly overstate the costs avoided by BellSouth and in many cases might require BellSouth to sell services to CLECs at rates that are below BellSouth's costs. The Commission believes that any further wholesale discount would be unreasonable and inappropriate under the standards of Sections 251 and 252.

Finally, the Commission determined in the AT&T arbitration that although BellSouth must make contract service arrangements (known as "special assemblies" or "CSAs") available to resellers, resellers should "not receive a further discount below the contract service arrangement rate," but rather "should receive the same rate as the CSA customer." Order No. 97-189, at 4. BellSouth's statement follows the Commission's holding by offering CSAs to resellers "at the same rates, terms and conditions offered to BellSouth's end users." Statement §XIV.B.2.

The Commission's approval of BellSouth's pricing of CSAs, like the Commission's decision to set a 14.8% wholesale discount for other services, is a matter squarely within the intrastate jurisdiction of the Commission.

B. The CLEC's Position

The Commission has always taken very seriously its responsibility to supervise the local telecommunications markets in South Carolina, thus we believe it to be a key fact that we have received no complaint charging that BellSouth has failed to live up to its obligations under any interconnection agreement in South Carolina. We believe that if CLECs have genuine issues concerning BellSouth's satisfaction of the Act's requirements, those issues would have been raised through the complaint mechanisms that are designed for and normally used by carriers for that purpose. Further, after thorough examination of the paper record and extensive questioning of live witnesses, the

conclusion was reached that the accusations levied by the CLECs did not override BellSouth's evidence of compliance with the checklist.

In some cases, parties in Docket No. 97-101-C sought to reopen issues already decided by the Commission or the FCC. For example, even though the Commission had issued Order No. 97-189 to establish cost-based pricing for unbundled network elements in the AT&T arbitration, AT&T sought to raise the issue as an objection to BellSouth's checklist compliance.

In other instances, parties asked the Commission to hold BellSouth to a standard of operational perfection that is not found in the Act and cannot reasonably be expected of any carrier. For example, Sprint argued that BellSouth had not fulfilled its checklist obligation to supply nondiscriminatory access to network elements because, for a variety of apparently unrelated reasons, there had been some delays in filling certain Sprint orders in Florida. Closz Testimony at 101-06. Sprint did not file a complaint regarding any of these incidents with the Florida Commission, and it appears that those incidents were resolved cooperatively by Sprint and BellSouth. Id. The fact that a resolution was reached indicates that BellSouth appears to be meeting its duty of remedying problems that arise to ensure nondiscriminatory access to the BellSouth network in accordance with the Act.

The Commission heard other arguments that appear to be straightforward attempts to block additional competition by

BellSouth that would benefit South Carolina consumers. For example, AT&T argued that BellSouth could not demonstrate its compliance with checklist item (1) because neither AT&T nor any other CLEC had ordered a sufficient number of interconnection trunks in South Carolina. Hamman Testimony at 144. This argument seems to ignore the fact that no carrier, including BellSouth, has the ability to force other carriers to place orders. Moreover, the Act's checklist requires only that BellSouth make items available for CLECs to order (which BellSouth has done), not that CLECs accept BellSouth's offer.

Similarly, although AT&T offered no testimony regarding its own local service plans in South Carolina or elsewhere, or the requirements of other CLEC's, AT&T nonetheless argued that BellSouth's LENS OSS interface has adequate capacity to meet CLEC's needs. Bradbury Testimony at 234. Such claims have no merit given BellSouth's evidence that its OSS interfaces (and other OSS systems) have abundant excess capacity today, and AT&T has provided no credible evidence to back up its claims that unspecified levels of future demand will overwhelm BellSouth's systems. See Order No. 97-640 at 37-38.

For the above reasons and those more fully explained in Order 97-101, we have concluded that BellSouth has satisfied the requirements of Section 271(c)(2).

IV. BELLSOUTH'S INTERLATA ENTRY WOULD SERVE THE PUBLIC INTEREST BY PROMOTING BOTH LOCAL AND LONG DISTANCE COMPETITION IN SOUTH CAROLINA

The Commission unanimously determined that BellSouth's entry into the interLATA long distance market in South Carolina is in the public interest. As discussed earlier, the Commission has been guided by two goals: executing the responsibilities vested in it under the Act and promoting the development of competitive telecommunications markets in the interest of the South Carolina consumer. It has sought in all its deliberations under the new Act to foster competition among service providers in South Carolina.

The Commission believes that South Carolina consumers would benefit from the choices resulting from additional interLATA competition in South Carolina. After examining the local market conditions, we also believe that a key ingredient in providing the consumer greater choice in that market is to allow BellSouth into interLATA long distance market. This decision will stimulate additional competition by encouraging other companies to provide local service more quickly to South Carolina consumers.

Should BellSouth be granted the authority to provide interLATA long distance services, the major long distance companies and other CLECs will be compelled to offer South Carolina consumers bundled packages of local and long distance services. The winner will be the South Carolina consumer. This determination is further supported by the recent experience with

the provision of long distance by SNET and GTE as well as by the experience with the provision of long distance by independent local exchange carriers in South Carolina.

Real competition will result in lower long distance rates for the average customer, not just for large businesses or other high-volume customers. The consumer will have access to an immediate benefit of competition through BellSouth's filing of a proposed tariff which set rates below those of AT&T for intrastate, interLATA services. This discounting in rates will lead other carriers to respond by lowering their current rates.

The Commission believes that it has sufficient powers to prevent BellSouth from inappropriately raising long distance prices and to address any additional competitive concerns that have been raised. In addition, the Commission intends to use these powers to the extent appropriate to encourage real competition. The FCC possesses similar powers to protect consumers within the interstate jurisdiction.

The Commission does not take lightly the concerns of those who say that granting interLATA relief under Section 271 will remove a "carrot" that ensures BellSouth's prompt satisfaction of its obligations under Sections 251 and 251 of the Act. We believe that this carrot serves to hasten compliance with the 14-point competitive checklist. Now that BellSouth has met this requirement, they should be allowed to enter the interLATA toll market. Continued enforcement of Sections 251 and 252 should be accomplished by using the many "sticks" that are

available to Federal and State regulators under the Act and State Law.

Having fully assessed the status of the local telephone markets in South Carolina, the Commission has concluded that any CLEC that is genuinely interested in offering local service on a facilities basis or as a reseller (or both) can do so. There are currently no barriers to entry into BellSouth's South Carolina markets. The Commission will be vigilant to ensure that no barriers present themselves in the future.

V. SUMMARY

Because we believe that South Carolina residents who reside in local territory served by BellSouth should not be deprived of an additional choice for their long distance carrier, because we have concluded that BellSouth has met the statutory requirements placed upon it, because we have determined that the local market is open to any CLEC which is interested in business opportunities in South Carolina, and because the Commission has the sufficient power and the concern for South Carolina Consumers to continue to ensure vigilant oversight of the telecommunications market, we respectfully request that the FCC affirm the findings by the Public Service Commission of South Carolina in Order No. 97-101-C and approve the above-referenced application.

BEFORE
THE PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA
DOCKET NO. 97-101-C- ORDER NO. 97-640

July 31, 1997

In RE: Entry of BellSouth) ORDER ADDRESSING STATEMENT
Telecommunications, Inc.,) AND COMPLIANCE WITH SECTION
into InterLATA Toll Market) 271 OF THE TELECOMMUNICATIONS
) ACT OF 1996

I. INTRODUCTION

This matter comes before the Public Service Commission of South Carolina (the "Commission") in connection with (1) a request by BellSouth Telecommunications, Inc. ("BST") under Section 252(f) of the Telecommunications Act of 1996 (the "Act") that the Commission approve BST's Statement of Generally Available Terms and Conditions (the "Statement"); and (2) the Commission's review of BST's preapplication compliance with Section 271 of the Act.

By its request, BST asks the Commission (1) to issue an order under Section 252(f) approving its Statement and; (2) in its consultative role under Section 271(d)(2)(B), to find that BST's Statement satisfies the 14-point competitive checklist in 47 U.S.C. § 271(c)(2)(B) and that BellSouth Long Distance, Inc.'s

("BSLD") entry into the interLATA long distance market in South Carolina is in the public interest.

In Order No. 97-223, the Commission established a docket to consider BST's entry into the interLATA market pursuant to Section 271 of the Act. Pursuant to this Order, BST filed on April 1, 1997, a Notice of Intent to File An Application Under Section 271 of the Act with the Federal Communications Commission for authority to provide in region InterLATA services in South Carolina on or after August 1, 1997. In connection with and in support of its notice, BST filed the testimony of Alphonso Varner and Robert Scheye. BSLD filed the testimony of James C. Harralson, Dr. Michael J. Raimondi, Dr. Frank Hefner and Dr. William E. Taylor. Petitions to Intervene were filed by Sprint Communications Co., L.P. ("Sprint"), LCI International, Inc. ("LCI"), South Carolina Cable Television Association ("SCCTA"), MCI Telecommunications Corporation ("MCI"), Communication Workers of America, ("CWA"), AT&T Communications of the Southern States, Inc. ("AT&T"), The Consumer Advocate for the State of South Carolina ("Consumer Advocate"), American Communications Services Inc. ("ACSI"), South Carolina Competitive Carriers Association ("SCCCA"), and South Carolina Telephone Coalition ("SCTC"). In Order No. 97-465, the Commission denied the petition of Vanguard Cellular Systems, Inc. to intervene out of time. On May 30, 1997, BST filed its statement of Generally Available Terms and Conditions ("Statement" or "SGAT"). In Order No. 97-530, the

Commission denied MCI's Petition for a Declaratory Order stating that Section 271(d)(2)(B) of the Act, (Track "B") was unavailable to BST and that BST could not proceed under Section 271 (d)(2)(A) of the Act (Track "A"). In Order No. 97-551, the Commission held that BSLD was a party of record to this proceeding with the right to cross-examine witnesses for all parties with the exception of BST witnesses.

A public hearing in this docket was held in the Commission's hearing room, beginning on July 7, 1997, with the Honorable Guy Butler presiding. BST was represented by Harry M. Lightsey, III, William F. Austin, William J. Ellenberg, II, and Edward L. Rankin, III. BST presented the testimony of Alphonso Varner, Gloria Calhoun, William Stacy, Keith Milner, Jane Sosebee and Robert Scheye. BSLD was represented by Dwight F. Drake and Kevin A. Hall. BSLD presented the testimony of James G. Harralson, Dr. Mike J. Raimondi, Dr. Frank Hefner, and Dr. William E. Taylor.

Sprint was represented by William R. Atkinson and Darra W. Cothran. Sprint presented the testimony of Melissa Closz and David Stahly. LCI International was represented by Frank R. Ellerbee, III. LCI presented no witnesses. MCI was represented by John M. S. Hoefler and Marsha A. Ward. AT&T Communications was represented by Francis P. Mood, Kenneth McNeely, Steve Matthews and Michael Hopkins. AT&T presented the testimony of John Hamman and Jay Bradbury. MCI and AT&T jointly presented the testimony of Don J. Wood and Dr. Thomas R. Beard. The SCCTA was

represented by Mitchell Willoughby and Craig Collins. SCCTA presented no witnesses. The CWA was represented by Herbert Buhl. The CWA presented the testimony of Jerry D. Keene. The Consumer Advocate was represented by Elliott F. Elam. The Consumer Advocate presented the testimony of Allen G. Buckalew. ACSI was represented by Russell B. Shetterly, Jr. ACSI presented the testimony of James C. Falvey. Mr. Falvey adopted the pre-filed testimony of Riley M. Murphy. The SCTC was represented by John Bowen. SCTC presented no witnesses. The SCCCA was represented by Frank R. Ellerbee, III. AT&T, SCCCA & MCI jointly presented the testimony of Joseph Gillan. The Commission's Staff was represented by F. David Butler.

II. SUMMARY OF COMMISSION'S FINDINGS

As discussed below in more detail, the Commission finds that BST's Statement makes available to competitive local exchange carriers ("CLECs") in South Carolina each of the functions, capabilities, and services that the Act requires in order to allow them to enter the local exchange market. These functions, capabilities and services--and their associated rates--that BST must make available pursuant to Sections 251 and 252(d) of the Act are identical to the items contained in the 14-point competitive checklist in Section 271. Therefore, in finding that BST's Statement, as modified, satisfies BST's obligations under Sections 251 and 252(d), the Commission simultaneously concludes that the Statement meets the competitive checklist in Section

271(c)(2)(B). On July 18, 1997, the United States Court of Appeals for the Eighth Judicial Circuit released its opinion reviewing the interconnection rules of the FCC. See Iowa Utilities Board v. FCC, Order No. 96-3321 (July 18, 1997). As a result of the developments in this area and the possibility of further changes, the Commission finds that language should be added to the Statement which provides that the Statement will be subject to revision to the extent necessary to comply with any final legislative, regulatory or judicial orders or rules that affect the rights and obligations created by the Statement. Further, the Commission finds that BSLD's entry into the interLATA market in South Carolina will be in the public interest. Thus, when consulted by the Federal Communications Commission ("FCC") upon BellSouth's application for authority to enter the interLATA market in South Carolina, the Commission will advise the FCC that BST is in compliance with the requirements of the competitive checklist and that BSLD's entry into the interLATA market is in the public interest.

The Act requires only that BST make available the functions, capabilities and services in compliance with Section 251 and 252(d); it does not require that they be implemented on any particular scale or in any particular quantity. Although not all of the functions, capabilities and services in the Statement have been requested by CLECs for use in South Carolina, there is ample evidence in this record that BST has actually provided each item

described in the 14-point competitive checklist in its nine-state region. BST has further demonstrated that it is functionally able to provide the same items in South Carolina when ordered by a CLEC.

The Commission approves BST's Statement, as modified, so that BSLD may take the first step in the process it must follow to obtain interLATA authority--the filing of an application with the FCC. There is no serious dispute that BSLD's entry into the interLATA market in South Carolina will bring significant consumer benefits to that market. BSLD testified that it has filed a proposed tariff with initial basic MTS rates will be at least 5% lower than the corresponding rates of the largest interexchange carrier. The Commission reasonably concludes that long distance competitors will be compelled to respond with lower rates of their own.

Moreover, BST's entry will release the interexchange carriers from the current prohibition under the Act against the joint packaging of local and long distance service. BellSouth is also required under the Act to implement 1+ intraLATA toll dialing simultaneously with its entry into interLATA long distance. These requirements will free all competitors in South Carolina to finally offer the simplified "one-stop" shopping that customers want. BSLD's entry into the interLATA market will give BSLD's customers the same opportunity as customers of other South Carolina local telephone companies (i.e., GTE in Myrtle Beach and

Sumter; Sprint-United in Beaufort and Greenwood; Rock Hill Telephone Co. in Rock Hill and York) to choose one provider for all their telecommunications needs.

Finally, allowing BST entry into the interLATA market in South Carolina will provide appropriate incentives for the major competitive providers of local exchange service to begin construction of facilities-based networks of their own and to encourage the construction of facilities based networks by others.

The Commission has carefully considered the numerous claims and concerns raised by the Intervenors in this proceeding both in opposition to approval of the Statement and to a finding by this Commission that BSLD entry into the interLATA market will be in the public interest. In arguing that BSLD entry into the interLATA market is premature, Intervenors raise concerns consisting of (1) alleged requirements for approval of BST's Statement that are in addition to the statutory requirements for checklist compliance; (2) policy and legal arguments already litigated and resolved by this Commission; and (3) economic arguments already heard by Congress and resolved by the unambiguous provisions of the Act, which requires only that the local market be open to competition and not subject to any particular degree of actual competition.

The local market is open to competition once the incumbent LEC has made the functions, capabilities and services described

in Section 251 (and summarized in the competitive checklist under Section 271) available to competitors. This docket is not the place to reargue policy issues regarding the appropriate circumstances under which Bell entry into the interLATA market should proceed. Congress has spoken to this issue. Rather, the Commission finds that it should use this docket as the vehicle to move forward as expeditiously as possible to attain the ultimate goal of the Act--competition in all telecommunications markets in South Carolina. Accordingly, as set forth in more detail below, the Commission approves BST's Statement, as modified, and finds that BSLD's entry into the interLATA market in South Carolina is in the public interest.

III. SUMMARY OF TESTIMONY

Al Varner:

BST presented the testimony of Alphonso Varner, Senior Director for Regulatory Policy & Planning for BST. Mr. Varner provided an overview of the requirements BST must meet to achieve in region interLATA relief. Specifically, Mr. Varner defined the 14 point checklist requirements under Section 271(c)(2)(b) of the Act and explained how BST's Statement satisfies all the requirements of the checklist. Witness Varner also summarized why BellSouth's entry into the interLATA market is beneficial for the consumers of South Carolina and is in the public interest. Mr. Varner emphasized that BellSouth's entry into the intraLATA market would accelerate competition in the local market.