

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of
BellSouth Corporation's Offer of
Comparably Efficient
Interconnection to
Payphone Service
Providers
Implementation of the Pay Telephone
Reclassification and Compensation
Provisions of the Telecommunications
Act of 1996

CC Docket No. 96-128

ORDER

Adopted: April 15, 1997

Released: April 15, 1997

By the Deputy Chief, Common Carrier Bureau:

TABLE OF CONTENTS

Table with 2 columns: Section Title and Paragraph Number. Includes sections like I. INTRODUCTION, II. BACKGROUND, III. SERVICE DESCRIPTION, IV. COMPLIANCE ISSUES, V. CONCLUSION, VI. ORDERING CLAUSE.

I. INTRODUCTION

1. On November 22, 1996, pursuant to the requirements of the Commission's orders in the payphone rulemaking proceeding,¹ BellSouth Corporation (BellSouth) filed a comparably efficient interconnection (CEI) plan for payphone service.² In that proceeding, the Commission directed each Bell Operating Company (BOC) to file an initial CEI plan describing how it will comply with the Commission's Computer III³ CEI equal access parameters and nonstructural safeguards for the provision of payphone services.⁴ BOCs must make available on a nondiscriminatory basis the regulated basic services they provide to independent payphone service providers (PSPs) and to the BOCs' own payphone operations to provide payphone services.⁵

2. The Commission issued a public notice of BellSouth's CEI plan on November 27, 1996.⁶ On December 30, 1996, six parties filed comments opposing the plan.⁷ BellSouth

¹ Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996, CC Docket No. 96-128, Report and Order, FCC 96-388 (rel. Sept. 20, 1996) (Payphone Order), appeal docketed sub nom., Illinois Public Telecommunications Assn. v. FCC and United States, Case No. 96-1394 (D.C. Cir., filed Oct. 17, 1996), Erratum (rel. Sept. 27, 1996), recon., FCC 96-439 (rel. Nov. 8, 1996) (Reconsideration Order); Order, DA 97-678 (Common Carrier Bur. rel. Apr. 4, 1997) (Clarification Order).

² BellSouth Comparably Efficient Interconnection Plan for Payphone Services (filed Nov. 22, 1996) (BellSouth CEI Plan).

³ Amendment of Section 64.702 of the Commission's Rules and Regulations, CC Docket No. 85-229, Phase I, 104 FCC 2d 958 (1986) (Phase I Order), recon., 2 FCC Rcd 3035 (1987) (Phase I Reconsideration Order), further recon., 3 FCC Rcd 1135 (1988) (Phase I Further Reconsideration Order), second further recon., 4 FCC Rcd 5927 (1989) (Phase I Second Further Reconsideration), Phase I Order and Phase I Reconsideration Order vacated, California v. FCC, 905 F.2d 1217 (9th Cir. 1990) (California I); Phase II, 2 FCC Rcd 3072 (1987) (Phase II Order), recon., 3 FCC Rcd 1150 (1988) (Phase II Reconsideration Order), further recon., 4 FCC Rcd 5927 (1989) (Phase II Further Reconsideration Order), Phase II Order vacated, California I, 905 F.2d 1217 (9th Cir. 1990); Computer III Remand Proceedings, 5 FCC Rcd 7719 (1990) (ONA Remand Order), recon., 7 FCC Rcd 909 (1992), pets. for review denied, California v. FCC, 4 F.3d 1505 (9th Cir. 1993) (California II); Computer III Remand Proceedings: Bell Operating Company Safeguards and Tier 1 Local Exchange Company Safeguards, 6 FCC Rcd 7571 (1991) (BOC Safeguards Order), recon. dismissed in part, Order, CC Docket Nos. 90-623 & 92-256, FCC 96-222 (rel. May 17, 1996); BOC Safeguards Order vacated in part and remanded, California v. FCC, 39 F.3d 919 (9th Cir. 1994) (California III), cert. denied, 115 S.Ct. 1427 (1995) (referred to collectively as the Computer III proceeding).

⁴ Payphone Order at para. 202.

⁵ See id. at paras. 146, 200-204.

⁶ Pleading Cycle Established for Comments on BellSouth's Comparably Efficient Interconnection Plan for Payphone Service Providers, Public Notice, CC Docket No. 96-128, DA 96-2005, released Nov. 27, 1996.

submitted reply comments on January 15, 1997. For the reasons discussed below, we approve BellSouth's CEI plan.

II. BACKGROUND

3. The payphone rulemaking proceeding implemented section 276 of the Communications Act of 1934, as amended.⁸ Section 276 directed the Commission to prescribe a set of nonstructural safeguards for BOC payphone service to implement the statute's requirements that any BOC that provides payphone service: (1) shall not subsidize its payphone service directly or indirectly from its telephone exchange or exchange access service operations; and (2) shall not prefer or discriminate in favor of its payphone service.⁹ The 1996 Act provided that such safeguards must, at a minimum, include the nonstructural safeguards adopted in the Computer III proceeding.¹⁰

4. In the Payphone Order, the Commission determined that the Computer III and Open Network Architecture (ONA)¹¹ nonstructural safeguards would "provide an appropriate regulatory framework to ensure that BOCs do not discriminate or cross-subsidize in their provision of payphone service."¹² Accordingly, the Commission required the BOCs to file

⁷ Comments of the American Public Communications Council (APCC Comments); AT&T's Comments On BellSouth's Comparably Efficient Interconnection Plan (AT&T Comments); Comments of the Competitive Telecommunications Association (CompTel Comments); Comments of the Inmate Calling Service Providers Coalition (ICSPC Comments); Comments of Oncor Communications, Inc. (Oncor Comments); and Comments of the Southeastern Public Communications Coalition to BellSouth's Proposed CEI Plan (SPCC Comments). APCC filed an errata to its comments on December 31, 1996. ICSPC filed an errata to its comments on December 31, 1996.

⁸ 47 U.S.C. § 276. Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996 Act), codified at 47 U.S.C. §§ 151 et seq. Hereinafter, all citations to the 1996 Act will be to the 1996 Act as it is codified in the United States Code. The 1996 Act amended the Communications Act of 1934. We will refer to the Communications Act of 1934, as amended, as "the Communications Act" or "the Act."

⁹ 47 U.S.C. § 276(b)(1)(C).

¹⁰ 47 U.S.C. § 276(b)(1)(C).

¹¹ See Filing and Review of Open Network Architecture Plans, 4 FCC Rcd 1 (1988) (BOC ONA Order), recon., 5 FCC Rcd 3084 (1990) (BOC ONA Reconsideration Order); 5 FCC Rcd 3103 (1990) (BOC ONA Amendment Order), erratum, 5 FCC Rcd 4045, pets. for review denied, California v. FCC, 4 F.3d 1505 (9th Cir. 1993), recon., 8 FCC Rcd 97 (1993) (BOC ONA Amendment Reconsideration Order); 6 FCC Rcd 7646 (1991) (BOC ONA Further Amendment Order); 8 FCC Rcd 2606 (1993) (BOC ONA Second Further Amendment Order), pet. for review denied, California v. FCC, 4 F.3d 1505 (9th Cir. 1993) (collectively referred to as the ONA Proceeding).

¹² Payphone Order at para. 199. In addition, the Commission subsequently adopted accounting safeguards for BOC and incumbent LEC provision of payphone service on an integrated basis. See Implementation of the Telecommunications Act of 1996: Accounting Safeguards Under the Telecommunications Act of

"CEI plans describing how they will comply with the Computer III unbundling, CEI parameters, accounting requirements, CPNI requirements as modified by section 222 of the 1996 Act, network disclosure requirements, and installation, maintenance, and quality nondiscrimination requirements."¹³ Obtaining approval of its CEI plan is one of the criteria a BOC must meet before its payphone operations may receive compensation for completed intrastate and interstate calls using a payphone under the new compensation plan established in the payphone proceeding.¹⁴

5. The Payphone Order required BOCs to "provide tariffed, nondiscriminatory basic payphone services that enable independent [payphone service] providers to offer payphone services using either instrument-implemented 'smart payphones' or 'dumb' payphones that utilize central office coin services,¹⁵ or some combination of the two in a manner similar to the LECs."¹⁶ Those tariffs must be filed with the applicable state regulatory commission.¹⁷ Additionally, BOCs must file with the Commission tariffs for unbundled features or functions that are either used by a BOC's payphone affiliate to provide payphone service or offered by the BOC to unaffiliated PSPs on an unbundled basis.¹⁸

1996, CC Docket No. 96-150, Report and Order, FCC 96-490, para. 100 (rel. Dec. 24, 1996) (Accounting Safeguards Order).

¹³ Payphone Order at para. 199. In its notice of proposed rulemaking regarding the CPNI and other customer information provisions of the 1996 Act, the Commission concluded that its previously established CPNI requirements would remain in effect, pending the outcome of that rulemaking, to extent that they do not conflict with the CPNI provisions of the 1996 Act. See Implementation of the Telecommunications Act of 1996: Telecommunication Carriers' Use of Customer Proprietary Network Information and Other Customer Information, CC Docket No. 96-115, 11 FCC Rcd 12513, 12529 (1996) (CPNI NPRM).

¹⁴ Reconsideration Order, at para. 132. In addition to an approved CEI plan, in order to receive compensation, the Reconsideration Order requires that "a LEC must be able to certify the following: (1) it has an effective cost accounting manual ("CAM") filing; (2) it has an effective interstate CCL tariff reflecting a reduction for deregulated payphone costs and reflecting additional multiline subscriber line charge ("SLC") revenue; (3) it has effective [intrastate] tariffs reflecting the removal of charges that recover the costs of payphones and any intrastate subsidies; (4) it has deregulated and reclassified or transferred the value of payphone customer premises equipment ("CPE") and related costs as required in the [Payphone Order]; (5) it has in effect intrastate tariffs for basic payphone services (for "dumb" and "smart" payphones); and (6) it has in effect intrastate and interstate tariffs for unbundled functionalities associated with those lines." Id. at para. 131.

¹⁵ A "smart" payphone has capabilities programmed into it that perform certain functions, such as rating calls or collecting or returning coins. A "dumb" payphone does not have such capabilities, but must instead rely on central office controls to collect and return coins or perform other functions.

¹⁶ Reconsideration Order at para. 162.

¹⁷ Id.

¹⁸ Payphone Order at paras. 146-148; Reconsideration Order at paras. 162-163; Clarification Order at para. 8.

III. SERVICE DESCRIPTION

6. BellSouth will conduct its payphone operations through a corporate entity that is distinct from its basic service operations.¹⁹ The new entity, BellSouth Public Communications, Inc. (BSPC), is a wholly owned subsidiary of BBS Holdings, Inc., which itself is a wholly owned subsidiary of BellSouth Telecommunications, Inc., the provider of basic services and the entity to whom the CEI obligations attach.²⁰

7. BellSouth states that it offers two payphone services -- 1) Public Telephone Access Service for customer premises equipment (CPE) (PTAS); and 2) SmartLine Service for Public Telephone Access (SmartLine).²¹ For purposes of this order, PTAS service will also be referred to as "customer owned, coin operated telephone" or "COCOT" service, and SmartLine service will be referred to as "coin line" service.

8. The PTAS service is a local exchange service provided for use with customer-provided coin-operated or noncoin-operated public telephones that are frequently referred to as "smart sets."²² According to BellSouth, the PTAS is a standard Dial Tone First (DTF) exchange line service that is offered on a two-way or outward-only basis.²³ For PTAS, BellSouth provides the carriage and completion of all local dialed calls, including operator service functions.²⁴ The service may be offered as a flat rate or measured local service, depending upon the jurisdiction.²⁵ BellSouth states that billed number screening is a mandatory feature associated with its PTAS service.²⁶ Various central office blocking and operator screening options are also available with PTAS.²⁷ BellSouth states that it will also

¹⁹ BellSouth CEI Plan at 3.

²⁰ Id.

²¹ Id. at 5.

²² Id. at 5.

²³ See Letter from Ben G. Almond, Executive Director-Federal Regulatory, BellSouth, to William F. Caton, Acting Secretary, FCC, filed March 7, 1997, at 3 (BellSouth March 7 Ex Parte).

²⁴ Id.

²⁵ Id.

²⁶ Id. Billed number screening prevents calls made from phones being billed to the payphone (e.g., collect calls to the payphone, calls charged to third party numbers, etc.). Letter from Michael K. Kellogg to Mary Beth Richards, Deputy Bureau Chief, Common Carrier Bureau, FCC filed March 25, 1997 at 2.

²⁷ BellSouth March 7 Ex Parte at 3. These blocking options include blocking of 1+DDD, 10XXX 011+, 101XXXX011+, and 7 digit local calls. Id. The screening option enables screening information to be sent to the operator to prevent operator assisted sent-paid calls from being billed to the line. Id.

provide central office blocking of 900, 976, and N11 calls placed from payphone sets.²⁸ PSPs may also obtain international call blocking for PTAS from BellSouth's federal tariff.²⁹ BellSouth offers answer supervision as an optional feature for PTAS service in Florida only.³⁰ BellSouth represents that an operator cannot perform coin control functions on a PTAS line.³¹ According to BellSouth, tariffs for its PTAS service have been in effect in all of its states since 1985.³²

9. BellSouth states that its SmartLine service is a standard DTF coin line for customer-provided pay telephones that are commonly referred to as "dumb sets."³³ According to BellSouth, this service can be provided on a two-way or an outward-only basis.³⁴ SmartLine service may be offered as a flat rate or measured local service, depending upon the jurisdiction.³⁵ The SmartLine service will be provided on a DTF basis to allow end users to dial certain calls without requiring coin deposits -- e.g., 911, local directory assistance, and nonsent paid calls.³⁶ BellSouth will provide central office blocking of 900, 976, and N11 calls.³⁷ SmartLine service includes: (1) operator call screening to alert the operator that the call is originating from a SmartLine service line and may require special handling and billing treatment; (2) billed number screening; and (3) coin signaling (coin collect and coin return).³⁸ BellSouth's operator system will handle 0-intraLATA toll calls and 0+ local calls from SmartLine Service lines.³⁹ All 10XXX 0+ or 101XXXX 0+ dialed intraLATA toll calls will

²⁸ Id.

²⁹ Id.

³⁰ See id. and Letter from Ben G. Almond, Executive Director-Federal Regulatory, BellSouth, to William Caton, Acting Secretary, FCC, filed March 20, 1997, Attachment at 3 (BellSouth March 20 Ex Parte).

³¹ BellSouth CEI Plan at 5.

³² Id.

³³ Id.

³⁴ Id.

³⁵ BellSouth March 7 Ex Parte at 2.

³⁶ Id.

³⁷ Id.

³⁸ Id. Coin collect is used when a call has been completed and coin return is used if a call is not completed because the called number is not answered or is busy. Id.

³⁹ Id.

be routed to the dialed carrier.⁴⁰ As with the PTAS service, international call blocking is available through the BellSouth federal tariff.⁴¹ According to BellSouth, state tariffs for its SmartLine service are in effect in all of BellSouth's states.⁴²

10. BellSouth also lists additional services that will be available to all PSPs. These are local usage detail and coin refund and repair referral service.⁴³

IV. COMPLIANCE ISSUES

A. CEI Plan Requirements

11. The Commission's CEI requirements were originally established in the Computer III proceeding, in which the Commission adopted a regulatory framework to govern the provision of integrated enhanced and basic services by the BOCs.⁴⁴ As applied in the payphone context, the CEI requirements are designed to give independent PSPs equal and efficient access to the regulated basic payphone services that the BOCs use to provide their own payphone services.⁴⁵ BOCs also must provide payphone services to independent PSPs on a nondiscriminatory basis as required in the payphone rulemaking proceeding.⁴⁶ The

⁴⁰ Id.

⁴¹ Id.

⁴² BellSouth CEI Plan at 5-6.

⁴³ Id. at 6. Local usage detail is provided for use with BellSouth's usage based local calling plans. BellSouth March 20 Ex Parte, Attachment at 3. With coin refund and repair referral service, BellSouth will receive end user claims on behalf of the independent PSP of coins lost within a set or accept notifications of sets in need of repairs. Id. BellSouth will then issue customer credits or refunds, or inform the independent PSP of the repair need as appropriate. Id.

⁴⁴ See Phase I Order, 104 FCC 2d at 1026, para. 128. Requiring BOCs to file CEI plans was one of the nonstructural safeguards adopted by the Commission, in lieu of structural separation, to prevent cross-subsidization and discrimination. As a first step in implementing the Computer III framework, the Commission permitted the BOCs, which remained subject to various structural separation requirements, to offer individual enhanced services on an integrated basis following approval of service-specific CEI plans. BOCs were required to describe in their CEI plans: (1) the enhanced service or services to be offered; (2) how the underlying basic services would be made available for use by competing enhanced service providers; and (3) how the BOCs would comply with the other nonstructural safeguards imposed by Computer III. See Phase I Order, 104 FCC 2d at 1034-59, paras. 142-200.

⁴⁵ See Payphone Order at paras. 146, 200-204.

⁴⁶ See Reconsideration Order at paras. 163-165.

Commission, in its Computer III proceeding, established nine specific CEI requirements,⁴⁷ which are discussed below. BellSouth has described in its submissions how it will satisfy each of these nine requirements. We review below BellSouth's CEI plan with respect to each of these requirements.

1. Unbundling of Basic Services

12. The Payphone Order deregulated LEC payphones and classified those payphones as CPE.⁴⁸ In addition to providing tariffed coin service so competitive payphone providers can offer payphone services using either 'smart payphones' or 'dumb' payphones that utilize central office coin services, a LEC must also tariff unbundled payphone features that the LEC uses or provides on an unbundled basis.⁴⁹ Moreover, BOCs, but not other LECs, must unbundle additional network elements when requested by payphone providers based on the specific criteria established in the Computer III and ONA proceedings.⁵⁰

13. The Payphone Order requires BOCs to file CEI plans that explain how they will unbundle basic payphone services.⁵¹ Specifically, a BOC must indicate how it plans to unbundle, and associate with a specific rate element in the tariff, the basic services and basic service functions that underlie its provision of payphone service.⁵² Nonproprietary information used by the BOC in providing the unbundled basic services must be made available as part of CEI.⁵³ In addition, any options available to the BOC in the provision of such basic services or functions must be included in the unbundled offerings.⁵⁴

14. According to SPCC, BellSouth's description of its plan to unbundle its payphone line access services is inadequate.⁵⁵ SPCC states that although BellSouth's plan describes the payphone line access it intends to provide to payphone providers, the plan fails to offer any information concerning the constituent elements of payphone line access or the

⁴⁷ Phase I Order, 104 FCC 2d at 1039-1043, paras. 154-166.

⁴⁸ Payphone Order at para. 142.

⁴⁹ Id. at paras. 146-148; Reconsideration Order at paras. 162-163; Clarification Order at para. 8.

⁵⁰ Payphone Order at 148; Reconsideration Order at para. 165.

⁵¹ Payphone Order at para. 204.

⁵² Id. (citing Phase I Order, 104 FCC 2d at 1040). See also Reconsideration Order at para. 213.

⁵³ Payphone Order, at para. 204 (citing Phase I Order, 104 FCC 2d at 1040).

⁵⁴ Id. See also Reconsideration Order at para. 213 (citing Phase I Order at 1040, para. 158).

⁵⁵ SPCC Comments at 10.

service which is currently provided to its own payphone operations.⁵⁶ SPCC asserts that if BellSouth does not disclose the services to which it currently subscribes or the constituent elements of the service, the Commission cannot evaluate whether BellSouth has sufficiently unbundled its service offerings.⁵⁷ Both APCC and SPCC contend that the BOCs must unbundle and tariff the features that they provide to their own payphone services.⁵⁸ APCC further argues that BellSouth must tariff "the basic payphone line" separately from network services and unbundled features.⁵⁹

15. BellSouth responds that the Commission did not require unbundling of existing services beyond the coin line service that the Commission permitted to be filed in the state tariff.⁶⁰ According to BellSouth, "there are no payphone-specific, network-based, unbundled features and functions provided to others or taken by BellSouth's payphone operations that are tarified by BellSouth at the intrastate level."⁶¹

16. We find that BellSouth's plan satisfies the CEI unbundling requirement required in the payphone rulemaking proceeding. The payphone rulemaking proceeding requires the BOCs to offer transmission services that enable unaffiliated PSPs to offer payphone services using smart, dumb, or inmate payphones.⁶² In addition, consistent with the requirements of the payphone rulemaking proceeding, BOCs must provide, on a tarified basis, the unbundled features and functions that they provide to unaffiliated PSPs or to their own payphone operations.⁶³ BellSouth's plan, as supplemented, satisfies these requirements. We note, however, that BellSouth may choose to unbundle additional payphone-specific features and functions, the states may require further unbundling, or independent PSPs may request

⁵⁶ SPCC Comments at 11.

⁵⁷ Id.

⁵⁸ APCC Comments at 8 and SPCC Comments at 12.

⁵⁹ APCC Comments at 8.

⁶⁰ BellSouth Reply at 8.

⁶¹ Letter from Ben G. Almond, Executive Director-Federal Regulatory, BellSouth to William Caton, Acting Secretary, FCC, filed April 9, 1997 (BellSouth April 9 Ex Parte). BellSouth notes, however, that it will file a federal tariff for answer supervision for Florida, pursuant to the requirements of the Clarification Order. Id. See also infra at Section IV.A.7.

⁶² Payphone Order at para. 146.

⁶³ Reconsideration Order at para. 146.

additional unbundled features and functions through the ONA 120-day service request process.⁶⁴ Any network-based, payphone-specific features and functions offered on an unbundled basis must comply with the tariffing and CEI requirements of the payphone proceeding, Computer III, and ONA.

17. We reject APCC's contention that BellSouth must unbundle the "'basic payphone line' separately from network services and unbundled features."⁶⁵ As noted in the Clarification Order, the Commission's payphone orders "do not require that LECs unbundle more features and functions from the basic payphone line . . . than the LEC provides on an unbundled basis."⁶⁶ In the Clarification Order, we stated that, for example, if a BOC provides answer supervision bundled with the basic payphone line, the BOC is not required either to unbundle that service from its state tariff for payphone service, or to tariff that service at the federal level. If the LEC, however, provides answer supervision, separately, on an unbundled basis, either to affiliated or unaffiliated PSPs, the LEC must tariff that feature in both the state and federal jurisdictions.⁶⁷ Thus, BellSouth is not required at this time to unbundle from its basic payphone service offerings any features that BellSouth does not offer on an unbundled basis to itself or to others.⁶⁸ Independent payphone providers may seek further unbundling by making a request pursuant to the ONA process.⁶⁹

⁶⁴ Clarification Order at para. 8. n.23.

⁶⁵ APCC Comments at 8.

⁶⁶ Clarification Order at para. 16 (citing Payphone Order at para. 148; Reconsideration Order at para. 165).

⁶⁷ Clarification Order at para. 16. That Order clarified that the unbundled features and functions addressed in the payphone rulemaking proceeding are network services similar to basic service elements ("BSEs") under the ONA regulatory framework. BSEs are defined as optional unbundled features that an enhanced service provider may require or find useful in configuring its enhanced service. Id. at para. 17 (citing Filing and Review of Open Network Architecture Plans, Phase I, Memorandum Opinion and Order, FCC 88-381, 4 FCC Rcd 1 (1988) ("BOC ONA Order"). In this case, the unbundled features are payphone-specific, network-based features and functions used in configuring unregulated payphone operations provided by PSPs or LECs. Some of the LECs use terms such as tariffed "options" and "elective features" to refer to network services that other LECs call features and functions. The Clarification Order concluded that "[o]ptions and elective features must be federally tariffed in the same circumstances as features and functions must be federally tariffed, depending on whether they are provided on a bundled basis with the basic network payphone line (state tariff), or separately on an unbundled basis (federal and state tariffs)." Id. (citing Application of Open Network and Nondiscrimination Safeguards to GTE Corporation, 11 FCC Rcd 5558 (1995)).

⁶⁸ Payphone Order at paras. 146-148.

⁶⁹ Id. at para. 148.

2. Interface Functionality

18. The interface functionality requirement obligates the BOC to make available standardized hardware and software interfaces that are able to support transmission, switching, and signaling functions identical to those used by the BOC's payphone service.⁷⁰

19. BellSouth represents that it will satisfy this requirement by having BSPC purchase and utilize the same tariffed services that are available to other providers of payphone services.⁷¹ We find that BellSouth's CEI plan comports with the interface functionality requirement established by the Commission.

3. Resale

20. The resale requirement established in Computer III obligates a "carrier's enhanced service operations to take the basic services used in its enhanced service offerings at their unbundled tariffed rates as a means of preventing improper cost-shifting to regulated operations and anticompetitive pricing in unregulated markets."⁷² Based on the requirement in the Payphone Order and the Reconsideration Order, any basic services provided by a BOC to its payphone affiliate, as well as any payphone service provided to others, must be available on a nondiscriminatory basis to other payphone providers.⁷³

21. BellSouth represents that BSPC will "subscribe to the tariffed services at the same tariffed rates as any other subscriber to these services."⁷⁴ We find that BellSouth has met the resale requirement.

4. Technical Characteristics

22. This requirement obligates a carrier to provide basic services with technical characteristics that are equal to the technical characteristics the carrier uses for its own payphone services.⁷⁵

⁷⁰ Id. at paras. 202-03; Phase I Order, 104 FCC 2d at 1039, para. 157.

⁷¹ BellSouth CEI Plan at 4.

⁷² Phase I Order, 104 FCC 2d at 1040, para. 159.

⁷³ Payphone Order at para. 200; Reconsideration Order at para. 211.

⁷⁴ BellSouth CEI Plan at 6.

⁷⁵ Payphone Order at paras. 199-207; Reconsideration Order at paras. 218-220; and Phase I Order, 104 FCC 2d at 1041, para. 160.

23. BellSouth represents that its payphone operations will use the same basic services as its payphone competitors, and that there will be no difference in the technical characteristics of those services.⁷⁶ We find that BellSouth's CEI plan comports with the technical characteristics requirement established by the Commission.

5. Installation, Maintenance, and Repair

24. The Payphone Order requires BOCs to describe in their CEI plans how they will comply with the nondiscrimination requirements in Computer III and ONA regarding the quality of service, installation, and maintenance.⁷⁷ This requirement ensures that the time periods for installation, maintenance, and repair of the basic services and facilities included in a CEI offering to unaffiliated PSPs are the same as those the carrier provides to its own or its affiliated payphone service operations.⁷⁸ BOCs also must satisfy reporting and other requirements showing that they have met this requirement.⁷⁹

25. In its CEI plan, BellSouth represents that its payphone operations will use the same ordering methods for service maintenance as other payphone service operators and that all service and maintenance requests will be processed through the same systems.⁸⁰ According to BellSouth, its payphone operations will be subject to the same scheduling procedures and time periods, as any other PSP.⁸¹ BellSouth notes that its Private Payphone Provider Handbook, which it provides to PSPs, contains a description of its service order procedures, installation procedures and schedules, and repair procedures.⁸² BellSouth represents that BSPC has its own field service personnel who install, repair, and maintain BSPC's payphone sets and ancillary equipment, and, therefore, BellSouth will only provide tariffed access lines and services to BSPC on the same terms and conditions as provided to other PSPs.⁸³

⁷⁶ BellSouth CEI Plan at 6-7.

⁷⁷ Payphone Order at para. 207.

⁷⁸ Id. at para. 203; Phase I Order, 104 FCC 2d at 1041, para. 161.

⁷⁹ The Payphone Order does not impose any new continuing reporting requirement because BOCs are already subject to reporting requirements pursuant to Computer III and ONA. BOCs must report on payphone services as they do for basic services. Phase I Order, 104 FCC 2d at 1041, para. 161. BellSouth must provide quarterly reports on installation and maintenance of its basic services. Id. at 1055-1056, paras. 192-193.

⁸⁰ BellSouth CEI Plan at 11.

⁸¹ Id. at 7.

⁸² Id. at 11.

⁸³ Id. at 11.

26. APCC argues that BellSouth's CEI plan does not provide sufficient detail about how it will provide installation, maintenance, and repair.⁸⁴ APCC contends that BellSouth's reference to its Private Payphone Provider Handbook is inadequate for CEI purposes, and that BellSouth should incorporate this handbook into its plan if it is going to rely on these procedures.⁸⁵ With respect to service order processing, APCC asserts that in the past independent PSPs have experienced difficulties when a location provider changes from a BellSouth payphone to an independent PSP's payphone.⁸⁶ APCC claims that in the past when an independent PSP ordered service for a location to install a payphone to replace an existing BellSouth payphone, BellSouth personnel would not connect the new payphone without first checking to see if the BellSouth payphone was under a contract.⁸⁷ According to APCC, disputes between BellSouth's payphone division and the location provider over whether an existing contract remains in force should not prevent the connection of a new payphone.⁸⁸ APCC argues that BellSouth should be required to refile its CEI plan specifying the procedures it will follow to ensure that there are no discriminatory practices when its payphones are replaced by independent PSP payphones.⁸⁹

27. Further, APCC contends that "any approval of BellSouth's CEI plan should be explicitly conditioned on its commitment not to share personnel" with BSPC when performing installation, repair, and maintenance functions.⁹⁰ According to APCC, BellSouth's plan also is deficient because it fails to make clear whether it will follow nondiscriminatory practices with respect to the location of the demarcation point.⁹¹ APCC asserts that although no interface may have been installed yet, a demarcation point can and should be identified to determine at what point wire maintenance should be charged separately to BSPC as "inside wire" maintenance and at what point wire maintenance may be included as part of the tariffed access service.⁹² According to APCC, the BellSouth Private Payphone Provider Handbook states that BellSouth will provide inside wiring installation and repair on a time and materials

⁸⁴ APCC Comments at 17.

⁸⁵ Id.

⁸⁶ Id. at 19-20.

⁸⁷ Id. at 19.

⁸⁸ Id.

⁸⁹ Id. at 20.

⁹⁰ Id. at 18.

⁹¹ Id.

⁹² Id. at 18-19. APCC attaches to its comments a letter which APCC alleges shows that BellSouth may be following an inconsistent policy regarding its demarcation point. Id. at Attachment I.

basis to independent PSPs.⁹³ APCC argues that BellSouth's CEI plan should state that BellSouth will also charge BSPC for such installation and repair on a time and materials basis.⁹⁴

28. In its reply, BellSouth further clarifies that as a separate entity, BSPC's personnel will contact the same BellSouth service center through the same channels of communication that are available to other PSPs (i.e., same phone number and same fax number).⁹⁵ BellSouth states that it has attached a current copy of its Private Payphone Provider Handbook to its reply.⁹⁶ BellSouth represents that it will follow the procedures described in the handbook on a nondiscriminatory basis.⁹⁷ Further, BellSouth represents that it will handle all displacement situations identically.⁹⁸ According to BellSouth, lines ordered by any PSP, whether BSPC or any other, will be installed as ordered on a nondiscriminatory basis.⁹⁹ With respect to the demarcation point issue, BellSouth represents that it intends "to satisfy and comply with the demarcation point requirements for payphones provided by [BSPC] or independent payphone providers, in accordance with" the Payphone Order and the Reconsideration Order.¹⁰⁰

29. We conclude that BellSouth's CEI plan, together with the representations that BellSouth has made in this proceeding, provide sufficient detail on the procedures it will employ to ensure that the installation, maintenance, and repair functions will be performed on a nondiscriminatory basis. For example, APCC has raised concerns about the sharing of personnel who perform installation, repair, and maintenance functions.¹⁰¹ BellSouth represents that BSPC has its own field service personnel who install, repair, and maintain BSPC's payphone sets, and, therefore, BellSouth will only provide tariffed access lines and services to

⁹³ Id. at 18.

⁹⁴ Id.

⁹⁵ BellSouth Reply at 25.

⁹⁶ Id. at 25 n.70. BellSouth notes, however, that because the handbook is updated on a regular basis, it is provided as an example, but is not incorporated into the plan, since modifications to the handbook might require approval as amendments to the CEI plan. Id.

⁹⁷ Id. at 25.

⁹⁸ Id. at 26.

⁹⁹ Id.

¹⁰⁰ Letter from Ben G. Almond, Executive Director-Federal Regulatory, BellSouth, to William Caton, Acting Secretary, FCC (filed April 1, 1997) (BellSouth April 1 Ex Parte).

¹⁰¹ APCC Comments at 18.

BSPC on the same terms and conditions as provided to other PSPs.¹⁰² According to BellSouth, the time intervals for providing installation, maintenance and repair will be the same for all PSPs. BellSouth represents that it will adhere to the Commission's demarcation point requirements. BellSouth further represents that it will provide installation, maintenance and repair on a nondiscriminatory basis. We note that while BellSouth's Payphone Provider Handbook is not part of its CEI plan, BellSouth has an affirmative, continuing obligation to ensure that its ordering, order processing, maintenance, and other services offered to PSPs are provided on a nondiscriminatory basis to affiliated and unaffiliated PSPs. We find that the record evidence with respect to BellSouth's installation, maintenance, and repair procedures for PSPs satisfies our CEI requirements.

6. End-User Access

30. With regard to payphone services, this parameter requires the BOC to provide to all end users the same network capabilities to activate or obtain access to payphone services that utilize the BOC's facilities. This parameter also requires the BOC to provide all end users equal opportunities to obtain access to basic network facilities.¹⁰³

31. BellSouth represents that its payphone operations will purchase and utilize the same tariffed services available to all other PSPs.¹⁰⁴ BellSouth, therefore, maintains that end users of its payphone services will not have available to them any network features, including abbreviated dialing or special signaling, that are not also available to end users of other PSPs.¹⁰⁵ We find that BellSouth's CEI plan comports with the end-user access requirement established by the Commission.

7. CEI Availability

32. This requirement obligates a carrier's CEI offering to be available and fully operational on the date that it offers its corresponding payphone service to the public. The requirement also requires the carrier to provide a reasonable time prior to that date when prospective users of the CEI offering can use the CEI facilities and services for purposes of

¹⁰² BellSouth CEI Plan at 11.

¹⁰³ See Phase I Order, 104 FCC 2d at 1041, para. 162; Payphone Order at para. 199.

¹⁰⁴ BellSouth CEI plan at 7.

¹⁰⁵ Id.

testing their payphone service offerings.¹⁰⁶ Past decisions also have referred to this as the 90-day notice requirement.¹⁰⁷

33. The payphone rulemaking proceeding established the following tariffing requirements for LECs. LECs must file tariffs in the states for basic payphone services that enable independent PSPs to offer payphone services using either smart or dumb payphones and for any unbundled features that the LECs provide to their payphone operations or to others.¹⁰⁸ LECs are not required to file tariffs for the basic payphone line for smart and dumb payphones with the Commission.¹⁰⁹ As stated in the Clarification Order, LECs are required to file federal tariffs for payphone-specific, network-based features and functions "only if the LEC provides them separately and on an unbundled basis from the basic payphone line, either to its own payphone operations or to others"¹¹⁰

34. The Clarification Order also granted all LECs a limited waiver of the federal tariffing requirements for unbundled features and functions that a LEC must meet before it is eligible to receive payphone compensation. Pursuant to this waiver, LECs must file interstate tariffs for unbundled features and functions within 45 days of the release date of the Clarification Order, with a scheduled effective date of no later than 15 days after the date the tariff is filed.¹¹¹ In addition, each BOC was required to file, by April 10, 1997, a written ex parte document that advises the Commission on the status of intrastate tariffs for the features and functions that it has not yet federally tariffed, and stating that it commits to filing federal tariffs for such features and functions within 45 days of the release date of the Order.¹¹²

¹⁰⁶ Phase I Order, 104 FCC 2d at 1041, para. 163. The testing period is necessary "to balance the conflicting interests of the carrier, which should have a reasonable period to develop, test, and 'de-bug' its CEI offerings before making them publicly available, and other CEI users, such as competitors, that might suffer an unfair competitive disadvantage if carriers were able to test and perfect their . . . services -- particularly, their interconnection with the basic underlying facilities -- while withholding those same basic facilities from others." Id.

¹⁰⁷ See, e.g., Bell Operating Companies' Joint Petition for Waiver of Computer II Rules, Ameritech's Request for Waiver Related to Minor Amendment to Ameritech's Plan to Provide Comparable Efficient Interconnection to Providers of Voice Mail Messaging Service, CCBPol 96-23, Order, DA 96-1894 (rel. Nov. 14, 1996) (Ameritech Minor Amendments).

¹⁰⁸ See Clarification Order, at para. 8.

¹⁰⁹ Reconsideration Order at paras. 162-163.

¹¹⁰ Clarification Order at para. 18.

¹¹¹ Clarification Order at paras. 21.

¹¹² Id. at para. 22.

35. BellSouth represents that tariffs for both its PTAS and SmartLine services are in effect in all of its states.¹¹³ With respect to the testing period requirement, BellSouth states that the tariffed services to be used by its own payphone operations have been available to potential payphone competitors for, in most cases, anywhere from two to eleven years.¹¹⁴ Therefore, BellSouth maintains that payphone competitors have already had ample opportunity to engage in any necessary testing.¹¹⁵ According to BellSouth, no purpose would be served by now specially designating an additional time period for testing.¹¹⁶ BellSouth notes that in this context the establishment of a testing period prior to its offering of payphone service to the public is not practical, since BellSouth already offers payphone services to the public using the facilities and functionalities listed in the tariffs.¹¹⁷ Therefore, BellSouth asserts that the imposition of a service testing period before it could use the tariffed services in its payphone operations would require it to discontinue payphone service for the duration of the testing period.¹¹⁸

36. According to APCC, BellSouth's CEI plan is deficient because it has not filed any federal tariffs with its plan.¹¹⁹ APCC claims that the only service LECs are not required to tariff at the federal level is the basic payphone line for smart and dumb payphones.¹²⁰ Furthermore, both SPCC and APCC claim that the Commission should not rely on the illustrative state tariffs filed by BellSouth, because the rates listed in those tariffs are not representative of the rates charged throughout BellSouth's region.¹²¹ Moreover, APCC asserts that the state tariffs that BellSouth did attach to its plan are not complete or up-to-date.¹²² According to APCC, the Florida PTAS service tariff, which BellSouth attached as an

¹¹³ BellSouth CEI Plan at 8. BellSouth represents that its PTAS service has been fully operational and available in all of its states pursuant to tariff that have been in effect since 1985. Id. With respect to its SmartLine service, BellSouth represents that tariffs for this service became effective in Mississippi in 1993; in Alabama, Florida, Georgia, Kentucky, North Carolina, and South Carolina in 1994; and in Tennessee and Louisiana in October and November of 1996. Id. at 6 n.10.

¹¹⁴ BellSouth CEI Plan at 8.

¹¹⁵ Id.

¹¹⁶ Id.

¹¹⁷ Id.

¹¹⁸ Id. at 9.

¹¹⁹ APCC Comments at 6-7.

¹²⁰ Id. at 7.

¹²¹ SPCC Comments at 6-7 and APCC Comments at 7.

¹²² APCC Comments at 7.

illustrative tariff with its CEI plan, is not the most recent version, and many of the relevant rates are cross-referenced to tariff pages that were not included in the CEI filing.¹²³ APCC also notes that BellSouth's Florida SmartLine service tariff provides that the service "will be provided from central offices where facilities are available."¹²⁴ APCC asserts that BellSouth must disclose the areas in which SmartLine service is unavailable, and how many payphones it has installed in such areas.¹²⁵ APCC contends that to the extent that BSPC has new or embedded payphones in such areas, it must be required to convert such payphones to the PTAS service.¹²⁶ Otherwise, APCC asserts that BellSouth would be in the position of providing SmartLine service to BSPC while claiming that it is unavailable to independent PSPs.¹²⁷ AT&T argues that BellSouth should be required to amend its CEI plan to clarify that SmartLine service will be available to non-BellSouth PSPs at every central office where such service is provided to BSPC.¹²⁸ In response to BellSouth's statement that the testing period requirement does not apply in the payphone context, SPCC contends that a testing period is still appropriate, "once BellSouth has properly unbundled its services."¹²⁹

37. BellSouth responds that APCC misreads the Commission's tariffing and unbundling requirements.¹³⁰ BellSouth states that the Commission did not require the unbundling of existing services beyond the coin line service that it permitted to be filed with the states.¹³¹ Therefore, BellSouth states that there are no additional features or functions to be unbundled, and, therefore, there are no applicable federal tariffs.¹³² In responding to concerns about the deficiencies in the illustrative state tariffs, BellSouth concedes that a portion of one of the submitted sample tariffs has been superseded.¹³³ BellSouth, however, represents that it has attached to its reply a "copy of the current tariff for both of [its

¹²³ Id.; see also SPCC Comments at 6 (asserting that the Florida tariff BellSouth attached as an illustrative tariff was amended more than a year and a half ago).

¹²⁴ APCC Comments at 13 (quoting BellSouth's coin line tariff).

¹²⁵ Id. at 14.

¹²⁶ Id.

¹²⁷ Id.

¹²⁸ AT&T Comments at 3-4 and AT&T Reply at 4.

¹²⁹ SPCC Comments at 17.

¹³⁰ BellSouth Reply at 8.

¹³¹ Id.

¹³² Id.

¹³³ Id. at 15 n. 40.

payphone] services in all of [its] states."¹³⁴ BellSouth also responds to concerns about its SmartLine service tariff offering being limited to central offices where facilities are available.¹³⁵ BellSouth states that "BSPC will buy tariffed services subject to the same tariff limitations as any other provider."¹³⁶ Thus, BellSouth represents that "in the handful of instances whereby [BellSouth] is currently offering payphone service using dumb sets out of central offices where SmartLine is not available, such locations will be converted to smartset installations and BSPC will buy the same standard line that is available to all other providers."¹³⁷

38. We find that BellSouth's plan complies with the CEI availability requirement.¹³⁸ We reject APCC's argument that BellSouth must file a federal tariff for all payphone service features and functions except for the basic access line for its PTAS and SmartLine services. As stated in the Clarification Order, BOCs need only submit federal tariffs for payphone-specific network-based features and functions if the BOC provides them separately and on an unbundled basis from the basic payphone line either to its payphone operations or to others.¹³⁹ BellSouth represents that it will file federal tariffs, in accordance with the requirements of the Clarification Order, for answer supervision, which it tariffs as an unbundled feature in Florida for use with either independent PSP lines or line side terminated private branch exchange (PBX) trunks.¹⁴⁰ We reject as well APCC's and SPCC's contention that BellSouth may not rely on illustrative or sample tariffs. We do not require carriers to file a complete set of tariffs with their CEI submissions. Sample or illustrative tariffs are sufficient.¹⁴¹ In any event, this argument is moot because BellSouth represents that it has supplemented its CEI plan with copies of all of its current tariffs for the states in its region.

¹³⁴ Id.

¹³⁵ Id. at 23.

¹³⁶ Id. at 24.

¹³⁷ Id.

¹³⁸ We note that, because we are also relying on the states to review LEC tariffs for basic payphone services, our conclusion that BellSouth has satisfied the CEI availability requirement does not represent a determination that BellSouth's basic payphone services are tariffed in accordance with the requirements of section 276. See also infra at Section IV.D.2.

¹³⁹ Clarification Order, at para. 18.

¹⁴⁰ BellSouth April 9 Ex Parte.

¹⁴¹ See Phase I Order, at 1055, para. 190 ("The CEI Plan must also include sample state and federal tariffs for the Basic Interconnection Charge and the distance-sensitive transmission charges that satisfy our CEI pricing requirements") (emphasis added).

39. We also conclude that BellSouth is not required to identify in its CEI plan specific geographic areas where coin line service is not available or to state whether BellSouth has any payphones in such areas or what type of service, coin line or COCOT, is being provided. BellSouth's illustrative state coin line tariff provides that coin line service will be provided where facilities are available.¹⁴² BellSouth represents that BSPC will buy the same tariffed services subject to the same tariff limitations as any other provider. We find that the illustrative state tariff together with BellSouth's representation provide adequate information concerning the availability of its coin line service for purposes of our CEI plan requirements.

40. Finally we grant Bellsouth's request not to enforce the 90-day notice requirement for BellSouth's provision of its coin line and COCOT services. Therefore, BellSouth may provide and continue to provide its coin line and COCOT services through the use of the CEI offering described herein for such services without first providing ninety days for unaffiliated carriers to test such services. This waiver is reasonable in this context because, unlike the provision of a new enhanced service, BellSouth has been offering its coin line and COCOT services for some time.¹⁴³ To bar BellSouth from continuing to offer COCOT and coin line services for a period of ninety days would result in a suspension of service. BellSouth is not, however, relieved of its obligation under this parameter to permit unaffiliated PSPs to conduct testing, if deemed necessary, of the COCOT and coin line CEI offerings. For purposes of approving this CEI plan, we waive the prohibition that bars BellSouth's payphone operations from using BellSouth's COCOT and coin line services before such testing is accomplished. If and when other basic payphone services are deployed, BellSouth must make testing capability available to unaffiliated PSPs at the same time that such capability is available to BellSouth.¹⁴⁴

8. Minimization of Transport Costs

41. This requirement obligates carriers to provide competitors with interconnection facilities that minimize transport costs.¹⁴⁵

42. BellSouth represents that its payphone operations subscribe to the same tariffed services as other PSPs and that they are not collocated with BellSouth's basic network

¹⁴² BellSouth CEI plan, Appendix B at A7.8.1.

¹⁴³ Id. at 8 and 6 n.10.

¹⁴⁴ Id.

¹⁴⁵ Payphone Order at paras. 202-03; Phase I Order, 104 FCC 2d at 1042, para. 164.

services.¹⁴⁶ Consequently, BellSouth states that there are no differences in transmission costs.¹⁴⁷

43. As a corollary to its general argument that the Commission should require BellSouth to reduce the rates for its PTAS service, SPCC asserts that BellSouth must reduce its PTAS service rates in states other than Florida in order to comply with the minimization of transport costs requirement.¹⁴⁸ SPCC argues that the Commission should require BellSouth to significantly lower its rates for PTAS service in its region so that they are equal to the Florida PTAS rates, which SPCC contends are BellSouth's single line business rates in that state.¹⁴⁹ SPCC asserts that such a reduction is consistent with BellSouth's Computer III obligation to reduce transport costs to its competitors.¹⁵⁰ SPCC argues that the "principle of Computer III requires BOCs to reduce transmission costs [in this instance, PTAS rates] to its competitors where the BOCs' own interconnection [SmartLine] gives it an unfair cost advantage."¹⁵¹ According to SPCC, BellSouth's statement that it will subscribe to the same tariffed services as other PSPs does not suffice in this instance because "independent PSPs cannot realistically interconnect to the local network through SmartLine."¹⁵² BellSouth responds that "[t]he Commission has repeatedly affirmed that its minimization of transport requirement is met when a carrier charges its own operations the same tariffed rate for its access facility as it charges all other service providers."¹⁵³

44. In the Computer III Phase I Order, where the Commission established the minimization of transport costs requirement, the Commission discussed this requirement in the context of advantages that a LEC might gain because it was collocating the equipment of its enhanced service operations while not giving others the same access.¹⁵⁴ In this instance, SPCC has not indicated that BSPC's use of the SmartLine service involves any type of equipment collocation, which would provide BSPC with an advantage in terms of transport

¹⁴⁶ BellSouth CEI Plan at 9.

¹⁴⁷ Id.

¹⁴⁸ SPCC Comments at 9.

¹⁴⁹ Id.

¹⁵⁰ Id. (citing Phase I Order, 104 FCC 2d at 1042).

¹⁵¹ Id. at 9.

¹⁵² Id.

¹⁵³ BellSouth Reply at 19 (citing BellSouth Plan for Comparably Efficient Interconnection for Voice Messaging Services, 3 FCC Rcd 7284, para. 42 (1988)).

¹⁵⁴ Phase I Order, 104 FCC 2d at 1042, para. 164.

costs. Consequently, BellSouth's compliance with the minimization of transport costs requirement does not require a reduction in BellSouth's PTAS rates. We find that BellSouth's CEI plan comports with the minimization of transport costs requirement established by the Commission.

9. Recipients of CEI

45. This requirement prohibits a BOC from restricting the availability of its CEI offering to any particular class of customer or PSP.¹⁵⁵

46. BellSouth represents that the basic service tariffs to which BSPC and other PSPs will subscribe contain no class of customer restrictions and are available to any customer for any lawful purpose.¹⁵⁶ We find that BellSouth has proposed to provide service to CEI recipients in compliance with the Commission's requirements.

B. Other Nonstructural Safeguards

47. In addition to the CEI requirements established in Computer III, and applied to BOC provision of payphone services in the Payphone Order,¹⁵⁷ a BOC that provides payphone services must comply with requirements regarding the use of customer proprietary network information (CPNI), disclosure of network information, and nondiscrimination reporting.¹⁵⁸

1. Customer Proprietary Network Information

48. The Payphone Order requires BellSouth to explain how it will comply with the Computer III CPNI safeguards,¹⁵⁹ to the extent they are not inconsistent with section 222 of the Communications Act, as amended.¹⁶⁰ Although the requirements of section 222 became effective immediately upon enactment, the Commission has initiated a proceeding to consider regulations interpreting and specifying in more detail a telecommunications carrier's obligations under this provision.¹⁶¹ The Commission has concluded that its existing CPNI

¹⁵⁵ Payphone Order at paras. 202-03; Phase I Order, 104 FCC 2d at 1042, para. 165.

¹⁵⁶ BellSouth CEI Plan at 10.

¹⁵⁷ Payphone Order at para. 202. See also, Reconsideration Order at para. 210.

¹⁵⁸ Phase II Order, 2 FCC Rcd at 3082, paras. 73-75.

¹⁵⁹ See Phase II Order, 2 FCC Rcd at 3095, para. 156.

¹⁶⁰ Payphone Order, at para. 205 (citing 47 U.S.C. § 222 and CPNI NPRM).

¹⁶¹ CPNI NPRM, 11 FCC Rcd at 12514, para. 2.

regulations remain in effect, pending completion of the CPNI rulemaking, to the extent they do not conflict with section 222.¹⁶²

49. In its CEI plan, BellSouth represents that it will not disclose the CPNI of any PSP to any other PSP, including BSPC, without the PSP's authorization.¹⁶³ According to BellSouth, aggregate CPNI will be made available to BellSouth's payphone service operation, if at all, only pursuant to the conditions of section 222(c)(3) of the Communications Act, as amended.¹⁶⁴ We find that BellSouth's plan comports with the CPNI requirements.

2. Network Information Disclosure

50. The Payphone Order requires BellSouth to disclose to the payphone services industry information about network changes and new network services that affect the interconnection of payphone services with BellSouth's network.¹⁶⁵ BellSouth must make that disclosure at the "make/buy" point, that is, when BellSouth decides whether to make or to procure from an unaffiliated entity any product whose design affects or relies on the network interface.¹⁶⁶ BellSouth must provide that information to members of the payphone services industry that sign a nondisclosure agreement within 30 days after the execution of the nondisclosure agreement.¹⁶⁷ BellSouth also must publicly disclose technical information about a new or modified network service twelve months prior to the introduction of that service.¹⁶⁸

51. In the Payphone Order, the Commission waived the notice period for disclosure of network information relating to the "basic network payphone services" in order to ensure that payphone services are provided on a timely basis consistent with the other deregulatory

¹⁶² Id., at para. 3 (noting that, to the extent that the 1996 Act requires more of a carrier, or imposes greater restrictions on a carrier's use of CPNI, the statute governs).

¹⁶³ BellSouth CEI Plan at 12. BellSouth represents that "CPNI related to the basic telecommunications services to which any payphone service provider subscribes is treated as "presumptively restricted" and will not be available to or accessible by any other payphone service provider, including BellSouth's own operation, absent affirmative direction otherwise by the subscribing payphone service provider." Id.

¹⁶⁴ Id.

¹⁶⁵ Payphone Order at para. 206.

¹⁶⁶ Phase II Order, 2 FCC Rcd at 3086, para. 102.

¹⁶⁷ Id. at 3091-3093, paras. 134-140.

¹⁶⁸ Id. at 3092, para. 136. We note that, under the Commission's rules, if a BOC is able to introduce the service within twelve months of the make/buy point, however, it may make public disclosure at the make/buy point. It may not, however, introduce the service earlier than six months after the public disclosure.

requirements of that order.¹⁶⁹ Pursuant to this waiver, network information disclosure on the basic network payphone services must have been made by the BOCs no later than January 15, 1997.¹⁷⁰

52. BellSouth states that it has previously made appropriate disclosure of interface information related to the tariffed services covered by its payphone CEI plan.¹⁷¹ BellSouth represents that it began offering its SmartLine service in 1993, and that it published its network disclosure notice for that service in 1992.¹⁷² BellSouth further represents that it will comply with the Commission's established network disclosure rules in its provision of new services or network changes that affect the interconnection or interoperability of payphone services with the network.¹⁷³ We find that BellSouth's CEI plan comports with the Commission's network information disclosure requirements.

3. Nondiscrimination Reporting

53. In the Payphone Order, the Commission directed the BOCs to comply with the Computer III and ONA requirements regarding nondiscrimination in the quality of service, installation, and maintenance.¹⁷⁴ Specifically, BOCs are required to file the same quarterly nondiscrimination reports, and annual and semi-annual ONA reports, with respect to their basic payphone services that they file for other basic services to ensure that the BOCs fulfill the commitments made in their CEI plans with respect to the nondiscriminatory provision of covered service offerings, installation and maintenance.¹⁷⁵

54. In addition to the installation and maintenance procedures described above in Section IV.A., BellSouth states that it will begin including services provided to payphone

¹⁶⁹ Payphone Order at para. 146.

¹⁷⁰ See id.

¹⁷¹ BellSouth CEI Plan at 12.

¹⁷² Letter from Ben G. Almond, Executive Director-Federal Regulatory, BellSouth, to William Caton, Acting Secretary, FCC, filed March 21, 1997, at 5-6 (BellSouth March 21 Ex Parte).

¹⁷³ BellSouth CEI Plan at 12.

¹⁷⁴ Payphone Order at para. 207.

¹⁷⁵ See Payphone Order at para. 207; BOC ONA Reconsideration Order, 5 FCC Rcd 3084, 3096, Appendix B (1990), BOC ONA Amendment Order, 5 FCC Rcd 3103 (1990), Erratum, 5 FCC Rcd 4045, pets. for review denied, California II, 4 F.3d 1505 (9th Cir. 1993), recon., 8 FCC Rcd 7646 (1991), BOC ONA Second Further Amendment Order, 8 FCC Rcd 2606 (1993), pet. for review denied, California II, 4 F.3d 1505 (9th Cir. 1993); Phase II Order, 2 FCC Rcd at 3082, para. 73; and Filing and Review of Open Network Architecture Plans, CC Docket No. 88-2, Memorandum Opinion and Order, Phase I, 6 FCC Rcd 7646, 7649-50 (1991).

service operators in its periodic ONA nondiscrimination reports.¹⁷⁶ We find that BellSouth's CEI plan comports with the Commission's nondiscrimination reporting requirements.

C. Accounting Safeguards

55. In the Payphone Order and the Accounting Safeguards Order, the Commission concluded that it should apply accounting safeguards identical to those adopted in Computer III to BOCs providing payphone service on an integrated basis.¹⁷⁷ Pursuant to Computer III, the BOCs must adhere to certain accounting procedures to protect ratepayers from bearing misallocated costs. These safeguards consist of five principal elements: 1) the establishment of effective accounting procedures, in accordance with the Commission's Part 32 Uniform System of Accounts requirements and affiliate transactions rules, as well as the Commission's Part 64 cost allocation standards; 2) the filing of cost allocation manuals (CAMs) reflecting the accounting rules and cost allocation standards adopted by the BOC; 3) mandatory audits of carrier cost allocations by independent auditors, who must state affirmatively whether the audited carriers' allocations comply with their cost allocation manuals; 4) the establishment of detailed reporting requirements and the development of an automated system to store and analyze the data; and 5) the performance of on-site audits by Commission staff.¹⁷⁸ BellSouth must comply with these accounting safeguards. We note that the approval granted to BellSouth in this order is contingent upon the CAM amendments associated with BellSouth's provision of payphone service going into effect.

D. Other Issues

1. Sufficiency

56. APCC, CompTel, ICSPC, SPCC, and AT&T generally assert that BellSouth's CEI plan insufficiently describes how it intends to comply with the CEI parameters; therefore, these parties request that the Commission require BellSouth to either amend or refile its plan.¹⁷⁹ As discussed elsewhere in this order, however, we find that BellSouth adequately complies with each of the required parameters.

¹⁷⁶ BellSouth CEI Plan at 11.

¹⁷⁷ Payphone Order at paras. 157, 199, 201; Accounting Safeguards Order at para. 100.

¹⁷⁸ BOC Safeguards Order, 6 FCC Rcd at 7591, para. 46.

¹⁷⁹ APCC Comments at 2-3; CompTel Comments at 1-4; ICSPC Comments at 2; SPCC Comments at 4; and AT&T Reply at 1-2.