BellSouth's entry into the interLATA market will force the IXCs to protect their long distance market share and, accordingly, encourage them to invest in Mississippi and to place infrastructure in this State. Unfortunately, these intervenors still operate under perverse financial incentives to delay, not facilitate, the development of local competition for residence and business customers in Mississippi. As conceded by Sprint witness Ms. Closz on cross-examination, by blocking BellSouth's entry into the long distance market, the IXCs protect that market from the substantial competition that BellSouth's entry will most assuredly bring.

When faced with the prospect of genuine competition for their long distance customers, the long-distance companies will respond quickly by offering bundled local and long distance service to Mississippi consumers. In this respect, BellSouth's entry into the interLATA market should serve as a catalyst for greater competition in the local market and greater availability of one-stop shopping for consumers.

The Commission finds the Intervenors' arguments to require "effective competition" in the local markets as a prerequisite to interLATA relief under section 271 to be unpersuasive. TA 96 contains no "effective competition" standard or other competitive threshold requirement for BellSouth entry into the interLATA market; therefore, any such prerequisite would "limit or extend the terms used in the competitive checklist" in contradiction to TA 96. Despite the efforts of the intervenors to the contrary, in enacting the Federal Act, Congress refused to condition BOC entry on an ambiguous, controversial, and largely unmeasurable standard.

The evidence presented in support of this docket clearly demonstrates that the public interest, convenience, and necessity will be served by BellSouth's entry in the interLATA

market. Consistent with the objectives of the Federal Act, greater long distance competition will lower prices, provide greater consumer choice, improve service and product quality and variety, and encourage more innovation and technological advancement. BellSouth's entry into the interLATA long distance market in Mississippi will also be a catalyst for more competition in the local services market. These twin benefits will have a very real, positive impact on Mississippi's economy and the lives of its citizens. In contrast, the concerns of the Intervenors about the effects of BellSouth's entry are addressed by the protections contained in TA 96 and have not been seen in other interLATA markets where ILECs (or their affiliates) compete for customers. Supported by this evidence, and for the other reasons stated above, the Commission finds that BellSouth's entry in the interLATA market in Mississippi is consistent with the public interest, convenience, and necessity.

III. APPROVAL OF BELLSOUTH'S SGAT

In addition to negotiating and arbitrating private agreements with new entrants, TA 96 affords incumbent local exchange companies ("ILECs") the unconditional right to prepare and file at any time an SGAT like the one filed by BellSouth in this proceeding. Section 252(f) of TA 96 provides that:

> A Bell operating company may prepare and file with a State commission a statement of the terms and conditions that such company generally offers within that state to comply with the requirements of section 251 and the regulations thereunder and the standards applicable under this section.

47 U.S.C. § 252(f)(1)(emphasis supplied).

Once approved or permitted to take effect by the Commission, the SGAT can provide the proper vehicle for CLECs to use to enter the local market quickly without having to

negotiate and/or arbitrate an interconnection agreement with an ILEC. The SGAT provides a set of general terms and conditions from which any competitor in Mississippi can order unbundled network elements ("UNEs") or resell BellSouth services to compete with BellSouth in the local market.

An SGAT is also an important step that can be used by a BOC to help obtain authorization to provide in-region interLATA services. A BOC may use an effective SGAT to demonstrate its compliance with the application process described in 47 U.S.C § 271(c)(2)(B) ("Track B"), which requires a BOC to show that such an SGAT has been approved or has been permitted to take effect. A BOC also may use an approved SGAT under 47 U.S.C. § 271(c)(2)(A) ("Track A"), to supplement one or more binding agreements to demonstrate full compliance with the fourteen (14) point competitive checklist under that Track. *See* Evaluation of the United States Department of Justice, *In re: Application of SBC Communications, Inc. et al. Pursuant to Section 271 of the Telecommunications Act of 1996 to Provide In-Region InterLATA Services in the State of Oklahoma*, CC Docket No. 97-121, at 22-24 (May 16, 1997).[2]

We may not approve BellSouth's SGAT unless it complies with Section 251 and the pricing standards for interconnection, unbundled network elements, and resale contained in Section 252(d). This is the same standard to be applied by this Commission for approval of arbitrated agreements. *Compare* 47 U.S.C. § 252(f)(2) with 47 U.S.C. § 252(e). These

[2] The Commission makes no determination here as to the appropriate Track under which BellSouth should seek interLATA approval from the FCC. Through the facts gathered during this hearing and through the on-going information-gathering process established by the Commission, the Commission will inform the FCC about the market conditions in Mississippi at the time BellSouth files for interLATA relief, thus allowing the FCC to make the proper determination regarding the legal sufficiency of the Track BellSouth ultimately chooses to follow.

provisions require BellSouth to offer number portability; dialing parity; access to telephone numbers, operator services, directory assistance and directory listings; access to rights of way; reciprocal compensation for the transport and termination of telecommunications services; interconnection at any technically feasible point; resale of retail services at an avoided cost discount; and access to unbundled network elements at rates based on cost. The rates adopted by the Commission in Docket 97-AD-544 have been incorporated into the Statement revised by BellSouth, and thus the rates, terms and conditions of interconnection, unbundling and resale in the Statement comply with Sections 251 and 252(d) of the Act.

The complete set of functions, capabilities and services made available to CLECs by the legal obligations imposed on BellSouth in Sections 251 and 252(d) are identical to the items contained in the fourteen (14) point competitive checklist in Section 271(c)(2)(B). Accordingly, a finding by the Commission that BellSouth's SGAT satisfies the obligations under Sections 251 and 252(d) necessarily includes a finding that the SGAT meets the fourteen (14) point competitive checklist under Section 271.

The fourteen (14) point competitive checklist Congress set out in Section 271(c)(2)(B) is a thorough and comprehensive list of requirements that, as a practical matter, open the local exchange market to competition. The checklist was substituted for requirements in previous bills that looked to some measure of local competition as a prerequisite to long distance entry. *See* 141 Cong. Rec. S8195 (daily ed. June 12, 1995) (statement of Sen. Pressler) (noting that the competitive checklist "was proposed by staff as a compromise between the 'actual and demonstrable' and [MFJ Section] VIII(c) tests that had been used last year and the concept of a date certain standard which was utilized in my initial chairman's draft"). Because the

fourteen (14) point competitive checklist sets out Congress' precise requirements for the functions and capabilities that BOCs must make available to new entrants in the local exchange market, Congress expressly prohibited adding to the competitive checklist it had established. 47 U.S.C. § 271(d)(4).

In its Order denying Ameritech Michigan's application for interLATA authority in Michigan, the FCC held that a BOC satisfies the checklist when it "actually furnishes the item at rates and on terms and conditions that comply with the Act." *Michigan Order*, 12 FCC Rcd. 20543 ¶ 110. In the event a competitor has not requested a checklist item, a BOC must show that it has a "concrete and specific legal obligation to furnish the item upon request" and "is presently ready to furnish each checklist item in the quantities that competitors may reasonably demand and at an acceptable level of quality." *Id.* Although evidence of actual commercial usage may be presented to satisfy the checklist, the BOC need not depend upon CLECs to take each checklist item. Rather, a BOC may show through testing the availability of facilities and services CLECs have chosen not to order. *Id.*

The Commission finds that BellSouth has satisfied the competitive checklist. In Mississippi, BellSouth has a "concrete and specific legal obligation" to furnish each checklist item to competitors. This obligation is embodied in BellSouth's Commission-approved interconnection agreements and BellSouth's Statement, which the Commission previously permitted to go into effect. BellSouth also has demonstrated its ability to furnish each checklist item, given the undisputed evidence that BellSouth is currently providing all of the

checklist items. In addition, BellSouth has conducted internal testing of its ability to provide checklist items, which underscores their availability from BellSouth.[3]

The Commission recognizes that problems have been experienced in implementing various interconnection agreements with BellSouth. However, such problems are not to be unexpected in a new and complex undertaking such as that associated with the opening of the local market. And, without trivializing the service problems experienced by some CLECs, they must be put in context and proportion, particularly since BellSouth has successfully provisioned the vast majority of the unbundled elements and resold services in place in BellSouth's region today without incident. That perspective was provided by BellSouth witness Mr. Milner, who stated:

> To put these complaints into perspective, these intervenors have in all likelihood named every single problem encountered as they and BellSouth began the highly complex tasks of service resale, network element unbundling and network interconnection.
>
> . . .
>
> [W]hile this Commission may hear during these proceedings of a handful of cases where customer service was affected, it would likely not hear from the intervenors of the nearly 100,000 access lines being resold across BellSouth's nine state region. The intervenors will also likely not mention the nearly 200,000 services being resold or the thousands of interconnection trunks in service. Indeed, the intervenors ignore the overwhelming preponderance of successes that have been experienced. . .
>
> .
>
> Next, as is the case of Mr. Miller's testimony for Brooks Fiber, while some intervenors are in fact not making use of some of the unbundled network elements, services for resale and forms of interconnection which BellSouth makes available, that is the result of choices made by those intervenors.

[3] The quantities of items provided by BellSouth as reflected in this Order are based upon the evidence that was presented at the Hearings held in this Docket last year. The Commission recognizes that these quantities have increased over time and that BellSouth will present the most current data and information available concerning the number of checklist items in service at the time when BellSouth submits its application to the FCC for interLATA authority in Mississippi.

The Commission agrees with the perspective offered by Mr. Milner. While the Commission does not trivialize the complaints offered by the intervenors, we must conclude that, in the context of the entire record in this proceeding, these complaints do not compel us to reject BellSouth's SGAT.

In counterpoint to much of the testimony from the IXCs, the Commission acknowledges the candid testimony of Brooks Fiber witness Gene Miller who testified that, despite the complexity necessarily involved in opening local markets to competition, BellSouth had cooperated with Brooks Fiber's efforts to enter the local market in Mississippi. On cross examination, he testified:

> Q. But overall, do you believe that the BellSouth employees in Mississippi have demonstrated to you, really, a commitment to providing Brooks with the level of service that they require to succeed in Mississippi?
>
> A. I think overall, yes.

Further, in response to a question from Vice Chairman Robinson, Mr. Miller stated: "But just generally speaking, my experience is, I have to say that Bell has been cooperating with us." Mr. Miller did not attribute any bad faith on BellSouth's part as a reason for any "start-up" problems experienced by Brooks. Rather, he testified that innovative technologies inherent in opening the local market to competition were the primary cause of any problems to date. Further, when asked whether he had detected "any maligning of [Brooks'] business by BellSouth management or employees" when Brooks acquired a customer from BellSouth, he stated, "No."

Furthermore, operational perfection is not the standard. As the FCC noted in its Ameritech Michigan Order, "holding Ameritech to an absolute-perfection standard is not required by the terms of the competitive checklist." *Michigan Order*, 12 FCC Rcd 20692 ¶ 278. *See* Letter from William Kennard to The Honorable John McCain and the Honorable Sam Brownback, at 2 (March 20, 1998) ("Nondiscriminatory access requires BOCs to show that 'parity' has been achieved, not 'perfection'").

IV. THE FOURTEEN POINT CHECKLIST

The record reflects that BellSouth has committed substantial personnel, resources and procedures to provide the items contained in the fourteen (14) point competitive checklist. Further, BellSouth has developed and incorporated into the SGAT comprehensive performance standards and measurements that demonstrate that BellSouth is providing nondiscriminatory access to CLEC customers. We discuss below how BellSouth has satisfied each of the items of the fourteen (14) point checklist.

Checklist Item 1: Interconnection in accordance with the requirements of Sections 251(c)(2) and 252(d)(1)

Interconnection permits the exchange of local traffic between the networks of BellSouth and a CLEC over trunks terminated at specified interconnection points. Section I of BellSouth's SGAT provides for complete and efficient interconnection of requesting telecommunications carriers' facilities and equipment with BellSouth's network. BellSouth also has revised its SGAT to allow CLECs to interconnect at BellSouth's local tandem switches.

Section 251(c)(2) requires ILECs to provide for the interconnection of the facilities of a CLEC with the ILEC's network at any technically feasible point at least equal in quality to

that provided by the ILEC to itself or any other party to which the ILEC provides interconnection, at rates, terms, and conditions that are just and reasonable and non discriminatory. Section 252(d)(1) provides that the just and reasonable rate for interconnection must be based on the cost of providing interconnection, non discriminatory, and may include a reasonable profit.[4]

BellSouth's SGAT offers a reasonable means of interconnection for any company electing to operate under the terms, conditions and prices of the SGAT, which are consistent with orders of this Commission. For interconnection arrangements that are not described in the SGAT, a CLEC may take advantage of the Bona Fide Request process to request such arrangements. BellSouth presented unrefuted testimony that, as of July 30, 1997, it had installed approximately 26,720 interconnection trunks from CLECs' switches to BellSouth's switches in BellSouth's nine (9) state region, including 626 trunks in Mississippi.

The Commission concludes that BellSouth has met this checklist item.

Checklist Item 2: **Nondiscriminatory access to network elements in accordance with the requirements of sections 251(c)(3) and 252(d)(1)**

This checklist item reflects BellSouth's general obligation under Section 251(c)(3) to provide nondiscriminatory access to network elements on an unbundled basis at any technically feasible point under just and reasonable rates, terms, and conditions. Since many of the unbundled network elements BellSouth will provide are addressed under other checklist items herein, the Commission will discuss those specific elements under those issues. The

[4] The Commission analyzes the sufficiency of all rates contained in the SGAT under Checklist Item No. 2 below.

discussion here will briefly address the: (a) rates contained in the SGAT; (b) collocation issues; and (c) operations support systems.

a. ***The Rates Contained in the SGAT for Interconnection and Unbundled Network Elements Comply With Section 252(d)***

The pricing standards in Section 252(d) of TA 96 require that the rates for interconnection and unbundled network elements be based upon cost. In meeting this requirement, BellSouth's SGAT has been revised to incorporate the rates established by this Commission in Docket 97-AD-544. In its August 25, 1998 Order in Docket 97-AD-544, the Commission established rates based upon BellSouth's Total Element Long Run Incremental Cost studies that used BellSouth's existing network configuration recalculated to reflect forward-looking costs. These rates were modified to reflect cost factors adjusted by the Commission. The Commission found that the rates for interconnection and unbundled network elements it had established in Docket 97-AD-544 were "just and reasonable," "based on cost," and "nondiscriminatory," as required by TA 96. Because these same rates have been incorporated into BellSouth's SGAT, the Commission makes the same finding here.

b. ***Collocation***

While not specifically mentioned as a checklist item, Section 251(c)(6) charges BellSouth with the duty to provide for the physical collocation of equipment necessary for interconnection or access to UNEs at rates, terms and conditions that are just and reasonable. This process will allow a CLEC access to BellSouth's switching offices, for example, so that the CLEC may place its switches alongside BellSouth's equipment. BellSouth will provide virtual collocation where physical collocation is not practical for technical reasons or because of space limitations.

Mr. Milner testified that BellSouth has descriptions and procedures in place for the ordering, provisioning and maintenance of collocation arrangements. BellSouth has reached agreement with several new entrants on the rates, terms and conditions of collocation. As of August 31, 1997 BellSouth had 299 collocation arrangements (both virtual and physical) in place or in progress throughout its region, with seven of those arrangements in Mississippi.

We find that BellSouth has demonstrated its ability to provide collocation arrangements to CLECs. Therefore, BellSouth has met its collocation obligations under Section 251(f)(6).

c. *Operations Support Systems ("OSS")*

BellSouth's electronic interfaces, through which the CLECs must access necessary OSS, permit the CLECs to access those systems in a nondiscriminatory manner. Not only did the testimony of BellSouth's witness, Ms. Gloria Calhoun, establish that BellSouth's OSS provide CLECs with the functionalities they need to provide local telecommunications services in competition with BellSouth, her testimony also demonstrated that the CLECs who desire access to these OSS have adequate access to them.

BellSouth's electronic interfaces provide nondiscriminatory access to BellSouth's OSS in the manner required by TA 96 and the FCC in its August 8, 1996 Interconnection Order. ("First Report and Order") The FCC has stated that the CLECs must have access to the ILEC's OSS "in substantially the same time and manner that an incumbent can for itself." (See, FCC First Report and Order at ¶ 518). Further, the FCC also required ILECs to provide access to OSS "under terms and conditions that would provide an efficient competitor with a meaningful opportunity to compete." (Id. at ¶ 315). Ms. Calhoun's testimony confirmed that

BellSouth's electronic interfaces provide CLECs with access to BellSouth's OSS for pre-ordering, ordering, maintenance and repair, and billing that is substantially the same as, and in many cases better than, that which it provides to its own personnel supporting BellSouth's retail customers.

In the hearing room, Ms. Calhoun presented a live demonstration of three CLEC interfaces -- the Local Exchange Navigation System ("LENS") and Electronic Data Interchange (" EDI"), which are pre-ordering and ordering interfaces, respectively, as well as the Trouble Analysis Facilitation Interface (" TAFI"), a repair interface. At the conclusion of this live demonstration, pursuant to the Commission's Order of October 27, 1997, BellSouth kept the connection to its CLEC interfaces active and available for use during the cross-examination of Ms. Calhoun on the demonstration.

In evaluating these interfaces, the Commission has been careful to distinguish between the legal standard that BellSouth must meet to show compliance with the requirements of Section 251 and the contractual commitments agreed to by BellSouth to accommodate the desires of certain large CLECs, such as AT&T. The fact that BellSouth provided AT&T, for example, with machine-to-machine interfaces in December 1997 does not mean that such interfaces are a prerequisite to providing nondiscriminatory access to OSS for all CLECs. Indeed, everyone apparently agrees that only the large CLECs are likely to commit the resources necessary to utilize such machine-to-machine interfaces.

We find Section 251 to be simply the minimum standard that BellSouth must meet to seek permission to enter the in-region interLATA long distance market. Although that minimum standard has already been reached, BellSouth has presented evidence which

demonstrates that it has continued to upgrade and to enhance its operations support systems. We do not construe the continuing improvement of certain aspects of BellSouth's interfaces to mean that the systems do not already fulfill the requirements of the competitive checklist. We briefly discuss BellSouth's interfaces and related issues below.

Pre-ordering

Ms. Calhoun's testimony established that BellSouth's electronic interfaces for pre-ordering comply fully with the requirements of TA 96 and with the FCC's August 8, 1996 Interconnection Order. The LENS interface permits CLECs to obtain, in substantially the same time and manner as BellSouth, the following information: (1) address validation; (2) telephone number selection, including special number assignment;(3) product and service selection; (4) due date information; and (5) customer record information.

Ms. Calhoun attached copies of the actual screens from LENS, the Regional Negotiation System ("RNS") (BellSouth's retail system for most retail residence orders) and the Service Order Negotiation System ("SONGS") (BellSouth's retail system for business customers) to her pre-filed testimony. These screens specifically illustrated the substantially similar manner in which BellSouth and CLECs access BellSouth's pre-ordering databases. Ms. Calhoun also included "screen shots" of the EDI-PC ordering interface as Calhoun Direct Exhibit GC-2 to her direct testimony and as Calhoun Rebuttal Exhibit GC-1 to show the substantially similar manner in which CLECs can access BellSouth's databases for ordering resold services and certain unbundled network elements.

We find that in many respects, LENS is superior to BellSouth's retail systems. LENS offers CLECs real-time, interactive access, using prompts and screen displays, to pre-ordering

information through a single interface that CLECs may use region-wide for both residence and business service support. In contrast, for processing its own retail orders in Mississippi, BellSouth personnel must use at least two systems, one supporting residence (RNS) and one supporting business (SONGS).

In addition to developing LENS for use by the CLEC industry, BellSouth has provided AT&T with EC-LITE, a customized pre-ordering interface designed to AT&T's specifications, which goes beyond the requirements of TA 96. BellSouth's willingness to accommodate AT&T with this customized pre-ordering interface is not proof that LENS is deficient. The Commission recognizes that, although AT&T criticizes LENS as being a non-industry standard interface, there is currently no industry standard for pre-ordering. Thus, even AT&T's own customized interface will not be an industry-standard interface.

Ordering and Provisioning

BellSouth's ordering and provisioning systems accumulate and format the information, such as pre-ordering information, needed to enter an order in BellSouth's Service Order Control System ("SOCS"). Without repeating the detailed discussion of these systems set forth in Ms. Calhoun's testimony, the Commission notes that BellSouth offers two industry-standard ordering interfaces, depending upon the type of service ordered. The first is the EDI interface for resale orders and simple unbundled network elements, such as unbundled loops and ports. The second is the Exchange Access Control and Tracking System (EXACT), which is used for access orders submitted by interexchange carriers and by CLECs for interconnection trunking and other complex unbundled elements.

EDI is the electronic interface sanctioned by the national Ordering and Billing Forum (OBF) for local service request communications. EDI permits CLECs to order for resale thirty-four (34) retail services that account for the majority of BellSouth's retail revenue. These orders can be entered without manual intervention. EDI also can be used to support orders for unbundled local loops, unbundled ports, interim number portability, and local loop/interim number portability combinations. Since the hearings, EDI Version 7.0 has been implemented, which has additional edit and electronic reject notification capabilities. The EDI interface is available to any CLEC, and, to accommodate smaller CLECs, BellSouth worked with a third-party software vendor -- Harbinger -- to develop an "off-the-shelf" PC-based EDI package that can be used with very little development effort.

Additionally, EDI allows CLECs to place orders for four "complex" services, such as PBX trunks and SynchroNet® service. Other complex services, not currently supported by EDI, such as SmartRing® service, are handled in the same manner by BellSouth for both BellSouth's CLEC customers and BellSouth's retail customers. Many complex services ordered by BellSouth's retail customers involve a significant amount of manual paper work and telephone calling. It should be self-evident that the fact that a CLEC customer may have to experience this same manual ordering process for these same services does not place the CLEC at a competitive disadvantage with BellSouth.

BellSouth's existing EXACT interface also allows CLECs to order interconnection trunking and other more infrastructure-type unbundled network elements. The EXACT ordering system is the same industry-standard interface used by BellSouth for processing access service requests from interexchange carriers.

BellSouth's ordering systems for CLECs are fully operational. The EXACT interface has been available since approximately 1985, and CLECs are currently using EXACT to process orders for local interconnection trunking and unbundled loops. BellSouth's EDI interface has been available since December 1996; EDI itself has been in commercial use for almost thirty (30) years. LENS has been available since April 1997.

BellSouth's CLEC ordering and provisioning systems are capable of processing a sufficient number of orders to permit meaningful competition in Mississippi. At the time of the hearings, the combined capacity of the EDI and LENS ordering systems, including the mechanized order generation capability in LESOG, was verified as being at least 5,000 local service requests per day, which was the capacity for which this system was initially designed based on forecasted ordering volumes supplied by CLECs themselves to BellSouth. Additional capacity is available for rapid turn-up that would at least double this capacity.

Ms. Calhoun testified that CLEC ordering activity to date has not come close to approaching the forecasted volume. Compliance with TA 96 does not require BellSouth to build out capacity for which there is no reasonable expectation of use at this time. BellSouth will continue to size its systems based upon ordering volumes from the CLEC's input.

Maintenance and repair

CLECs may access maintenance and repair information in substantially the same time and manner as BellSouth. For designed circuits, BellSouth provides CLECs with the same industry-standard, real-time electronic trouble reporting interface that has been available to interexchange carriers since 1995. In addition, at AT&T's request, BellSouth has developed a

local exchange trouble reporting system similar to the existing interexchange carrier gateway, known as the Electronic Communications Gateway.

CLECs also have access to the same local exchange service trouble reporting system that BellSouth uses for its retail customers -- the TAFI system. The TAFI system, which analyzes troubles, initiates testing, and provides CLECs with recommendations for clearing the trouble, is the same as the TAFI system used by BellSouth. In fact, in some respects CLECs' access to BellSouth's TAFI system is superior to the access that BellSouth provides to itself. The only difference is an electronic -- and nearly instant -- security check that verifies that a CLEC is accessing only its customers' information.

BellSouth's maintenance and repair interfaces are fully operational. As stated above, the electronic trouble reporting interface for designed circuits has been available since December 1995. The CLEC TAFI system has been available since March 28, 1997 and was thoroughly tested before being offered to CLECs. As Ms. Calhoun testified, from March 17 through April 16, 1997, a group of BellSouth repair attendants used the CLEC version of TAFI to successfully process about 10,000 trouble reports from real customers utilizing a single CLEC TAFI processor. The CLEC version of TAFI worked in the same time and manner as BellSouth's TAFI. As of August 31, 1997, thirteen (13) CLECs have entered trouble reports via TAFI. TAFI training is provided in the Birmingham training lab. BellSouth maintains a weekly training schedule for TAFI for CLECs and provides CLECs with an extensive TAFI User Guide.

BellSouth's CLEC maintenance and repair systems are capable of handling a sufficient volume to permit meaningful competition in Mississippi. At the time of the hearings, TAFI

could support 130 simultaneous users with a volume of 2,600 troubles handled per hour. BellSouth also has a "hot spare" processor for TAFI that can be activated almost immediately if needed that would substantially increase such capacity. The current capacity far exceeds usage to date and forecasted usage in the immediate future.

Billing

BellSouth provides CLECs with an electronic interface for customer billable usage data transfer known as the Billing Daily Usage File. The specific types of data include intraLATA toll, billable local calls, billable feature activations, operator services and WATS/800 Service. The file provides billable call detail records in a Bellcore-supported, industry-standard format known as Exchange Message Record (EMR) format and is offered with several methods of data delivery. BellSouth also has revised its SGAT to provide CLECs with access to the Access Daily Usage File ("ADUF"), which provides CLECs with records for billing intrastate and interstate access when they purchase unbundled switching from BellSouth.

CLECs have electronic access to daily billable usage data in substantially the same time and manner as BellSouth. BellSouth runs its billing system five work days a week. Usage processing begins each morning, and the billing system cycle completes the following morning with the creation of actual bills. For CLECs that establish electronic data transmission capability with BellSouth, the usage is then transmitted immediately.

BellSouth's billing interface is fully operational and is capable of handling a sufficient volume to permit meaningful competition in Mississippi. The interface was thoroughly tested before being offering to CLECs, and BellSouth conducts individual tests with each CLEC

prior to their establishing a daily production feed and BellSouth is prepared to conduct additional testing in a "live" mode, if the CLEC so desires.

Since these daily billable usage files are generated through the same mainframe-based systems that have been used to bill for the IXCs for some time, there are no constraints to its capacity to process daily usage files for CLECs. In fact, Ms. Calhoun testified that the average daily message volumes delivered to CLECs during June 1997 was 33,753 messages per day for the BellSouth-region.

Intervenors' OSS complaints

Several of the intervenors criticized BellSouth's electronic interfaces. In the context of this Order, the Commission cannot -- and need not -- address each of the criticisms raised by the intervenors. On the whole, we find that the intervenors' concerns have been amply rebutted by the evidence in this matter, most of it in the form of testimony and exhibits provided by BellSouth witness Ms. Calhoun and during the intervenors' extensive cross examination of Ms. Calhoun at the hearing. The Commission will, however, address a few of the criticisms of BellSouth's interfaces herein.

The competitive checklist contains a fourteen-point list of the items Congress decided would open the local market to competition. For the most part, the content of the checklist is supplied by Sections 251 and 252. This Commission has had prior experience with these sections gained through the AT&T arbitration proceeding and now through this proceeding. That experience provides the Commission with a large base of experience to bring to the task of applying the checklist's requirements to the real world.

Various intervenors focused their efforts on demonstrating perceived deficiencies in the ordering capabilities of LENS, while ignoring EDI and EXACT, which are BellSouth's industry-standard ordering interfaces. As Ms. Calhoun repeatedly emphasized, however, BellSouth, along with the industry, recommends EDI for ordering. Currently, the primary function of the LENS interface is to obtain real-time, interactive access to the pre-ordering information in substantially the same time and manner as BellSouth's access to the same information. The fact that LENS for ordering does not yet provide all the capabilities available through the industry standard EDI ordering interface does not detract from the pre-ordering capabilities available through LENS. The ordering capabilities provided through LENS go beyond the requirements of TA 96.

The intervenors generally claim that BellSouth's interfaces cannot be deemed satisfactory until they have undergone "real world" experience to fully test the capacity of these systems. This appears to the Commission to be simply another way of adding a "market share" requirement to the 1996 Act. "Real world" experience advocated by the CLECs presupposes some percentage of actual market penetration by the CLECs before BellSouth could be allowed in the interLATA market. We simply do not accept such a market share argument.

Based upon the foregoing review of the evidence, the Commission concludes that BellSouth provides CLECs with access to the information and functions in BellSouth's OSS in substantially the same time and manner as BellSouth's access for its retail systems, and that CLECs using these interfaces are, thus, afforded a meaningful opportunity to compete in Mississippi.

Checklist Item 3: **Non discriminatory access to the poles, ducts, conduits, and rights-of-way owned or controlled by the BOC at just and reasonable rates in accordance with the requirements of Section 224:**

In Section III of the SGAT, BellSouth offers access to poles, ducts, conduits and rights-of-way to any CLEC via a standard license agreement. As of September 15, 1997, nine (9) CLECs in Mississippi had executed license agreements with BellSouth to allow them to attach their facilities to BellSouth's poles and place their facilities in BellSouth's ducts and conduits. It is undisputed that BellSouth has developed procedures for processing requests by CLECs for access to BellSouth's poles, ducts, conduits and rights-of-way.

Further, the Commission observes that BellSouth has been providing cable television companies and power companies with access to poles, ducts, conduits and rights-of-way in Mississippi and throughout its region for many years. No party to this proceeding introduced any evidence to dispute BellSouth's testimony that access to poles, ducts, conduits and rights-of-way is functionally available from BellSouth. Accordingly, the Commission finds that BellSouth has met this checklist item.

Checklist Item 4: **Local Loop transmission from the central office to the customer's premises, unbundled from local switching or other services:**

The local loop is a dedicated facility (e.g., a cable pair) from the customer's premises to the main distribution frame of the serving central office. In Section IV of the SGAT, BellSouth offers several loop types that CLECs may request to meet the needs of their customers. Should a CLEC request loops that are not contained in the SGAT, the CLEC may use the Bona Fide Request ("BFR") process to obtain such additional loop types. In addition

to the unbundled loops, CLECs may also request loop cross connects, loop concentration in the central office and access to Network Interface Devices ("NIDs").

BellSouth has technical service descriptions outlining the availability of unbundled loops and subloop elements, and BellSouth has implemented procedures for the ordering, provisioning, and maintenance of unbundled loops and subloop elements. As of July, 1997, BellSouth had provided 4,316 unbundled loops to CLECs in its region but none had been requested by CLECs in Mississippi. BellSouth, however, does not have to depend on a CLEC to actually order each checklist item that BellSouth generally offers to prove that each item is available. BellSouth has conclusively shown that not only does it offer unbundled loops in its Mississippi SGAT, it has actually provisioned those loops elsewhere in its region. Accordingly, the Commission finds that BellSouth has met this checklist item.

Checklist Item 5: **Local transport from the trunk side of a wireline local exchange carrier switch unbundled from switching or other services:**

There are two types of local transport -- dedicated and common. Common transport is also referred to as shared transport. Dedicated transport is used exclusively by a single carrier for the transmission of its traffic whereas common transport is shared among BellSouth and CLECs and may connect a BellSouth end office to another BellSouth end office or to a BellSouth tandem. BellSouth offers unbundled local transport in Section V of its SGAT, with optional channelization for such local transport from the trunk side of its switch. Dedicated transport is typically used to connect a CLEC switch to BellSouth's network. BellSouth offers dedicated transport for use by CLECs at DS0, DS1 and DS3 transmission levels in Mississippi. BellSouth offers common transport to carry the traffic of more than a single

company for the transmission of their aggregate traffic. BellSouth offers common transport between all BellSouth tandems and the BellSouth switches that subtend those tandems.

Mr. Milner testified that BellSouth has descriptions outlining both dedicated and common interoffice transport, and has procedures in place for the ordering, provisioning and maintenance of these services. Further, BellSouth has tested its methods and procedures for these services and has demonstrated its ability to place these facilities in service and generate a timely and accurate bill for them. As of July 30, 1997, BellSouth had installed 20 trunks providing dedicated interoffice transport for CLECs in Mississippi and had provided 877 trunks regionwide.

Thus, the record clearly demonstrates that unbundled local transport is functionally available from BellSouth. Therefore, the Commission concludes that BellSouth has met this checklist item.

Checklist Item 6: **Local switching unbundled from transport, local loop transmission, or other services:**

Mr. Varner testified that local switching is the network element that provides the functionality required to connect the appropriate originating lines or trunks wired to the main distributing frame, or to the digital cross connect panel, to a desired terminating line or trunk. The most common local switching capability involves the line termination (port) and the line side switching (dial tone) capability in the central office.

The functionality includes all of the features, functions, and capabilities provided for the given class of service, including features inherent to the switch and the switch software and includes vertical features, such as Call Waiting. It also provides access to additional capabilities, such as common and dedicated transport, out-of-band signaling, 911, operator

services, directory services, and repair service. The CLEC, in purchasing unbundled local switching, will determine which vertical features it wishes to activate and which additional unbundled elements it wishes to use in conjunction with the unbundled switching.

Mr. Milner testified that BellSouth has technical service descriptions and procedures in place for the ordering, provisioning and maintenance of its unbundled local switching. As of July 30, 1997, although BellSouth did not have any unbundled switch ports in service in Mississippi, it did have 20 unbundled switch ports in service in its region, which evidences the functional availability of unbundled local switching from BellSouth. It is clear, therefore, that BellSouth offers local switching, unbundled from transport and local loop transmission.

Intervenor witness Gillan, at least initially, criticized BellSouth's offering of the unbundled local switching element as insufficient, because the element was offered only on an unbundled basis and not in combination with the unbundled loop. He testified that, pursuant to C.F.R. § 51.315(b), BellSouth had to allow new entrants access to the "*preexisting* combination of the loop and switch." (emphasis in original) The combination of network elements referred to by Mr. Gillan has been referred to as the "UNE platform."

Although Mr. Gillan did not testify live at the hearing, he did file an "Addition" to his prefiled direct and rebuttal testimonies in which he expressly acknowledged that "the FCC rule which had prohibited BellSouth from separating network elements is no longer effective (at least until further judicial review)." As discussed below, the Eighth Circuit's recent Order does resolve this matter.

On October 14, 1997, the United States Court of Appeals for the Eighth Circuit issued an Order on Petitions for Rehearing in Iowa Utils. Bd. v. FCC in which the court vacated C.F.R. § 51.315(b) and § 51.315(c)-(f) as well. The court held:

> Section 251(c)(3) requires an incumbent LEC to provide access to the elements of its network only on an unbundled (as opposed to a combined) basis. Stated another way, 251(c)(3) does not permit a new entrant to purchase the incumbent LEC's assembled platform(s) of combined network elements (or any lesser combination of two or more elements) in order to offer competitive telecommunications services. To permit such an acquisition of already combined elements at cost based rates for unbundled access would obliterate the careful distinctions Congress has drawn in subsections 251(c)(3) and (4) between access to unbundled network elements on the one hand and the purchase at wholesale rates of an incumbent's telecommunications retail services for resale on the other.

(Order on Rehearing, p. 3.) (emphasis supplied) The court expressly held that new entrants that order unbundled network elements must combine those elements themselves and cannot place that responsibility on the incumbent LEC. (Order on Rehearing, p. 2.)

The record demonstrates that BellSouth has made unbundled switching functionally available to CLECs and that BellSouth has met this checklist item.

Checklist Item 7: Nondiscriminatory access to (a) 911 and E911 services; (b) directory assistance services to allow the other carrier's customers to obtain telephone numbers; and (c) operator call completion services:

BellSouth offers CLECs nondiscriminatory access to 911 and E911 service within Mississippi. In all situations, a CLEC's customer is able to dial "911" in the same manner as BellSouth's end user customers. BellSouth enables a CLEC customer to have 911 call routing to the appropriate Public Safety Answering Point (PSAP). BellSouth provides and validates customer information to the PSAP. BellSouth uses its service order process to update and