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MAR 15 2000
FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

March 15, 2000

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
The Portals
445 12th St. SW
Washington, D.C. 20554

Re: Written Ex Parte in CC Docket No. 98-121 and
CC Docket No. 98-56

Dear Ms. Salas:

This is to inform you that BellSouth Corporation made a written ex parte today to Mr. John Stanley of the Common Carrier Bureau's Policy and Program Planning Division. We also sent copies of the ex parte to Jake Jennings; Claudia Fox and Daniel Shiman of that Division. The ex parte is entitled "BST VSEEMS: LPSC Impact Model and Plan Summary." Attached to this document are: (1) Language included in an interconnection agreement that incorporates BellSouth's VSEEMs proposal; (2) a copy of a BellSouth filing made in LPSC Docket Number U-22252C that included the BellSouth Remedy Model and LA forecast; (3) a calculation of payouts that would have occurred for the the three-month interval of September through November, 1999, if the VSEEMSIII plan had been in effect; and (4) a copy of a set of slides BellSouth used in a presentation made to the Louisiana Public Service Commission staff on February 7, 2000. This information has been submitted in response to the staff's request.

Pursuant to Section 1.1206(b)(1) of the Commission's rules, I am filing two copies of this notice and that written ex parte presentation in both the dockets

identified above. Please associate this notification with the record in both those proceedings.

Sincerely,

Kathleen B. Levitz

Kathleen B. Levitz

Attachments

cc: John Stanley (w/o attachment)
Jake Jennings (w/o attachment)
Claudia Fox (w/o attachment)
Daniel Shiman (w/o attachment)

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March 15, 2000

Mr. John Stanley
Policy and Program Planning Division
Common Carrier Bureau
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

Written Ex Parte in CC Docket No. 98-121 and
CC Docket No. 98-56

Dear Mr. Stanley:

Attached is a compy of a document entitled "BST VSEEMS: LPSC Impact Model and Plan Summary." Attached to this document are copies of:

(1) Language included in an interconnection agreement that incorporates BellSouth's VSEEMSIII proposal;
(2) A BellSouth filing made in LPSC Docket Number U-22252C that included the BellSouth Remedy Model and LA forecast;
(3) A calculation of payouts that, had the VSEEMSIII plan been in effect, would have occurred for the three-month interval of September through November, 1999, based upon actual performance data for four metrics included in the VSEEMS III plan; and
(4) A set of slides BellSouth used in a presentation made to the Louisiana Public Service Commission staff on February 7, 2000.

If after reviewing this attachment you conclude that you need additional information, please call me at (202) 463-4113.

In compliance with Section 1.1206(b)(1) of the Commission's rules, I have today filed with the Secretary of the Commission two copies of this written ex parte

presentation for both CC Docket No. 98-56 and CC Docket No. 98-121 and requested that it be associated with the record of both dockets.

Sincerely,

Kathleen B. Levitz

Attachment

cc: Jake Jennings
Claudia Fox
Daniel Shiman

BST VSEEMIII
LPSC Impact Model and Plan Summary

BellSouth has conducted a series of discussions with the FCC staff since the second petition for 271 relief for Louisiana was denied. In its order denying that petition, the FCC stated that it believed that a system of self-effectuating enforcement measures should be established by BellSouth in the public interest, to insure that BellSouth does not backslide in providing services provided for the CLECs after 271 authority is granted. The plan described in this document is the third iteration of BellSouth's efforts to comply with that directive. The plan incorporates FCC desired characteristics, addresses CLEC comments and considers the collaborative work effort by the LPSC, NYPSC and TXPUC.

BellSouth is committed to opening the local market to entry by others and firmly believes that it has taken the steps necessary to do this. As a result, BellSouth proposes a comprehensive plan that utilizes progressive statistical methods to assess parity of service for a key set of outcome-based measures. The plan contains both monetary and non-monetary incentives for BellSouth to perform well and remedies for the individual CLEC and the CLEC industry when BellSouth does not perform well, escalates with failure magnitude and duration, and renders payment within 30 days after the reporting period.

The proposal we now present is a voluntary proposal of BellSouth, which will take effect under BellSouth's contracts with the CLECs. The VSEEMIII plan is a part of the 'pick and choose' clause in Section 16 included in each BellSouth Interconnection Agreements. This section reads:

> 16. Modification of Agreement
>
> 16.1 BellSouth shall make available, pursuant to 47 USC § 252 and the FCC rules and regulations regarding such availability, to CLEC-1 any interconnection, service, or network element provided under any other agreement filed and approved pursuant to 47 USC § 252. The Parties shall adopt all rates, terms and conditions concerning such other interconnection, service or network element and any other rates, terms and conditions that are interrelated or were negotiated in exchange for or in conjunction with the interconnection, service or network element being adopted. The adopted interconnection, service, or network element and agreement shall apply to the same states as such other agreement and for the identical term of such other agreement.

Existing Interconnection Agreements do not contain liquidated damages, therefore there is no requirement for VSEEMIII to be additive or supplemental. VSEEMIII Contract language can be found in Attachment #1.

The pages to follow will describe the following:

- VSEEMIII guiding principles
- Key measures
- Statistical Testing and Benchmarks
- Process for translating non-compliance into remedies
- Enforcement Structure
- LPSC Remedy Impact Model
- Actual Results for September through November 1999

Bellsouth's Voluntary Self-Effectuating Enforcement Mechanism (VSEEM) plan is comprehensively crafted based on the following principles:

- Inclusion of key, outcome oriented measures
- Designed to prevent Bellsouth "backsliding" on CLEC service
  - Comprehensive plan that is "Meaningful" and "Significant"
  - Monetary remedies escalate with the magnitude of failure
  - Monetary remedies escalate with the duration of the failure
  - Non-monetary consequences are incorporated in the plan
- Addresses all CLECs in operation; large and small
- Addresses the CLEC Industry
- Uses sound statistical procedures
  - Compares "like-to-like" with deep disaggregation
  - Solves the problem of 'random variation'
  - Procedures do not 'mask discrimination'
  - Methodology for balancing Type I and Type II Errors
- Minimizes opportunities for 'Gaming'
  - Structured so that CLECs will not prefer Remedies over Quality Service
- Swift and Self-Executing
  - Interest paid on remedy rendered for each date past due
- Not applied until after 271 approval in a specific state
- Fairly simple to implement and monitor

Enforcement Structure

Multi-Tiered

The multi-tiered structure of VSEEMIII serves as a powerful incentive for BellSouth to maintain high levels of performance that is at least equal to services provided to BellSouth's retail customers, for all CLECs after 271 approval. Tiers 1 and 2 are monetary in nature, and Tier-3 is an escalating point representing the ultimate non-monetary incentive for BST. Each Tier operates independently, so the onset of a Tier-2 remedy will not cease payout on Tier-1 remedies, nor willTier-3's onset affect payments on Tiers 1 or 2.

Tier-1 Enforcement Mechanisms means self-executing liquidated damages paid directly to an individual CLEC when BellSouth delivers non-compliant performance on an any one of the VSEEM measures for any month as calculated by BellSouth. Tier-1 contains 37 submetrics, which are all evaluated and payable on a monthly basis.

Tier-2 Enforcement Mechanisms means Assessments paid directly to a state Public Service Commission ("Commission") or its designee. Tier 2 Enforcement Mechanisms are triggered by three consecutive monthly failures in a quarter in which BellSouth performance is out of compliance or does not meet the benchmark for the aggregate of all CLEC data as calculated by BellSouth for a particular VSEEM measure. Tier-2 contains 42 submetrics, which are all evaluated monthly and payable on a quarterly basis.

Tier-3 Enforcement Mechanisms means the voluntary suspension of additional marketing and sales of long distance services triggered by excessive repeat failures of specific sub-measures. Tier-3 is triggered by three consecutive monthly failures in a quarter in which BellSouth performance is out of compliance or does not meet the benchmark for the aggregate of all CLEC data as calculated by BellSouth. Tier-3 contains 12 submetrics, which are all evaluated monthly; however, when any 5 of the 12 experience three consecutive failures in a calendar quarter, Tier-3 is triggered. BellSouth will receive Tier-3 relief when 2 of the 5 failed submetrics show favorable performance for two consecutive months.

Tier-2 and Tier-3 are appropriately triggered when there is a pattern of disparity. Hence, the call for quarterly assessments. BellSouth recognizes that the source of a disparate pattern is not always due to providing sub-standard service, but may be due to improvement initiatives where the root cause is the 'learning curve', not targeted discrimination.

In summary, Tier-1 addresses the individual CLEC, Tier-2 and Tier-3 address the CLEC industry. Tier-1 serves the interest of individual CLECs (if a failure in service occurs and parity is not being provided, the CLEC is compensated based on the individual performance received.). Tier-2 and Tier-3 verify that parity is being provided on an overall basis. All Tiers operate independent of each other, ensuring that any harm will not go without remedy.

Escalating Remedies

BellSouth's multi-tiered approach to remedies is in itself self-escalating. However, the fee schedules for Tier-1 show how failure duration is remedied, Tier-2 is also shown in the tables below.

Table-1

LIQUIDATED DAMAGES TABLE FOR TIER-1 MEASURES

PER AFFECTED ITEM						
	Month 1	Month 2	Month3	Month4	Month 5	Month 6
Ordering	$40	$50	$60	$70	$80	$90
Provisioning	$100	$125	$175	$250	$325	$500
Provisioning UNE (Coordinated Customer Conversions)	$400	$450	$500	$550	$650	$800
Maintenance and Repair	$100	$125	$175	$250	$325	$500
Maintenance and Repair UNE	$400	$450	$500	$550	$650	$800
LNP	$150	$250	$500	$600	$700	$800
IC Trunks	$100	$125	$175	$250	$325	$500
Collocation	$5,000	$5,000	$5,000	$5,000	$5,000	$5,000

Table-2

VOLUNTARY PAYMENTS FOR TIER-2 MEASURES

	Per Affected Item
OSS Pre-Ordering	$20
Ordering	$60
Provisioning	$300
UNE Provisioning (Coordinated Customer Conversions)	$875
Maintenance and Repair	$300
UNE Maintenance and Repair	$875
Billing	$1.00
LNP	$500
IC Trunks	$500
Collocation	$15,000

Mode of Entry

VSEEMIII addresses both Resellers and Facilities-based providers. For Resellers, products are grouped by POTS and Design services. For the Facilities-based providers, products are grouped by UNE Loop and Port Combinations, UNE Loop, IC Trunks and Collocation.

Much focus has been given the UNE categories reflecting the voice-based CLECs and data-based CLECs. BellSouth believes it equally important to provide service parity to both types. The plan is designed such that discrimination is not masked, so for the data-based CLECLs ordering xDSL services, any harm will surface in the UNE Loop category.

BellSouth is exploring the potential to provide DSL disaggregation for reporting purposes; however, any remedy for such services is already contained in the UNE Loop category.

Annual Caps

BellSouth is placing $625M at risk in the nine state region. In the BA order, the FCC found it reasonable "... to compare the maximum liability level to ... net revenues derived from local exchange service ...". BellSouth has placed $625M at risk, which represents 20% of net revenue from local exchange service. Like BA, the Net Revenue figure was derived from ARMIS data, and represents total operating revenue less operating expenses and operating taxes. While Bell Atlantic's maximum liability equated to 36% of net revenue, BellSouth believes its Tier-3 non-monetary offering (of suspending marketing of long distance services) is invaluable; far exceeding 16% of net revenue. The table below shows the dollars at risk for the BellSouth region:

AL - $54M	MS - $44M
FL - $122M	NC - $77M
GA - $131M	SC - $47M
KY - $34M	TN - $57M
LA - $59M	
Regional Total - $625M	

It is BellSouth's desire not to reach the maximum liability; however, in the event the monthly payout exceeds the cumulative maximum liability, BellSouth will make a proportional payout to all parties harmed. It is likely that Tier-3 would have been triggered before reaching such a point, thus providing an appropriate incentive for BellSouth to take immediate corrective action.

Swift and Self-Executing Remedies

BellSouth is committed to making swift payment when it has failed to provide parity of service, or failed a benchmark. Payment will be rendered to individual CLECs and the state designated agency 30 days after the reporting cycle. Reports are currently available on the 15th of each month for the prior month's performance. In the event, payment is not rendered on time, interest will be payable at the maximum rate allowable by state law. Interest payments are included in the maximum liability. Bellsouth believes interest paid (on past due remedy payments) override any need to make payments on past due reports.

Auditing

At the end of each calendar year, BellSouth will have its independent auditing and accounting firm certify that the results of all Tier-1 and Tier-2 Enforcement Mechanisms were paid and accounted for in accordance with Generally Accepted Account Principles (GAAP).

Key Measurement Set

The measurement set included in the VSEEM plan are key, outcome oriented measures. BellSouth decided on these measures by looking at the collaborative work between ILECs, CLECs and State Commissions in NY and TX. Additionally, BellSouth notes that many of the measures are interrelated, and it would be particularly difficult to repeatedly provide disparate service for a measure without it surfacing through to those measures identified in the VSEEMIII plan.

Collaborative efforts in both NY and TX resulted in either a "critical" measurement set, or a prioritized set of "high, medium, low". These commissions charged the CLECs with communicating the measurement set that is most 'customer impacting'. BellSouth's experience in providing access to IXCs, combined with the outcome of prioritized measures from NY and TX, and preliminary correlation studies has resulted in BellSouth's offering of a key set of customer impacting metrics.

Below are the measures included in the plan. The list represents the combination of Tier-1, Tier-2 and Tier-3 submetrics.

VSEEMIII Sub-Metrics

- Percent Response Received within "X" seconds – Pre-Order OSS
- OSS Interface Availability
- Order Process Percent Flow-Through (Mechanized only)
- FOC Timeliness (Mechanized only)
- Reject Interval (Mechanized only)
- Order Completion Interval (Dispatch only) – Resale POTS
- Order Completion Interval (Dispatch only) – Resale Design
- Order Completion Interval (No Dispatch only) – UNE Loop and Port Combos
- Order Completion Interval ('w' code orders, Dispatch only) – UNE Loops
- Order Completion Interval (Dispatch only) – IC Trunks
- Percent Missed Installation Appointments – Resale POTS
- Percent Missed Installation Appointments – Resale Design
- Percent Missed Installation Appointments – UNE Loop and Port Combos
- Percent Missed Installation Appointments – UNE Loops
- Percent Provisioning Troubles within 4 Days - Resale POTS
- Percent Provisioning Troubles within 4 Days - Resale Design
- Percent Provisioning Troubles within 4 Days - UNE Loop and Port Combos
- Percent Provisioning Troubles within 4 Days - UNE Loops
- Customer Trouble Report Rate – Resale POTS
- Customer Trouble Report Rate – Resale Design
- Customer Trouble Report Rate - UNE Loop and Port Combos
- Customer Trouble Report Rate - UNE Loops
- Percent Missed Repair Appointments – Resale POTS
- Percent Missed Repair Appointments - Resale Design
- Percent Missed Repair Appointments - UNE Loop and Port Combos
- Percent Missed Repair Appointments - UNE Loops
- Maintenance Average Duration – Resale POTS
- Maintenance Average Duration – Resale Design
- Maintenance Average Duration - UNE Loop and Port Combos
- Maintenance Average Duration - UNE Loops
- Maintenance Average Duration – IC Trunks
- Percent Repeat Troubles within 30 Days – Resale POTS
- Percent Repeat Troubles within 30 Days – Resale Design
- Percent Repeat Troubles within 30 Days - UNE Loop and Port Combos
- Percent Repeat Troubles within 30 Days - UNE Loops
- Billing Timeliness

- Billing Accuracy
- Usage Data Delivery Timeliness
- Usage Data Delivery Accuracy
- Percent Trunk Blockage
- LNP Disconnect Timeliness
- LNP Percent Missed Installation Appointments
- Coordinated Customer Conversions for UNE Loops w/o INP
- Percent Missed Collocation Due Dates

Statistical Testing and Benchmarks

BellSouth supports the use of a statistical test when analogous processes or services exist between BellSouth and CLEC. BellSouth advocates the Truncated-z test, which is an outcome of 12+ months of collaboration under the direction of the Louisiana PSC Staff. The Truncated-z test was developed by BellSouth independent statisticians and Dr. Colin Mallows of AT&T Research Laboratories, but who also represented the CLEC participants. The statistical testing proposed by BellSouth is not limited to a specific number of data points, hence it is applicable to any range of CLEC activity (large and small). For situations where there is no BellSouth analogous process or service offering, benchmarks are established to determine compliance by comparing the CLEC result against a predefined benchmark.

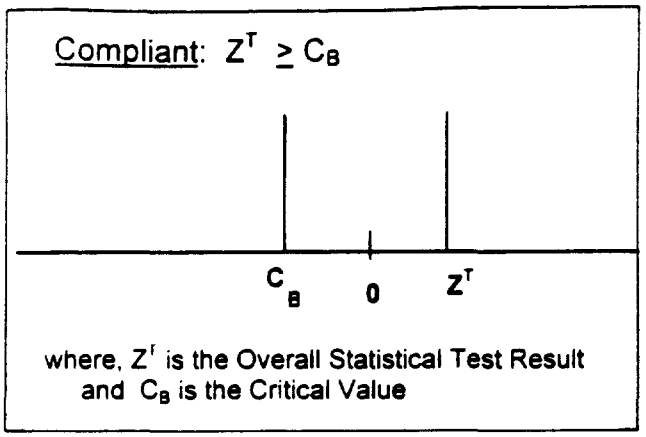
A statistical test will be performed on all but six (6) of the above submetrics. These six submetrics will be benchmarked. They are: FOC Timeliness, Reject Timeliness, LNP Disconnect Timeliness, LNP Percent Missed Installation Appointments, Coordinated Customer Conversions for UNE Loops w/o INP, and Percent Missed Collocation Due Dates.

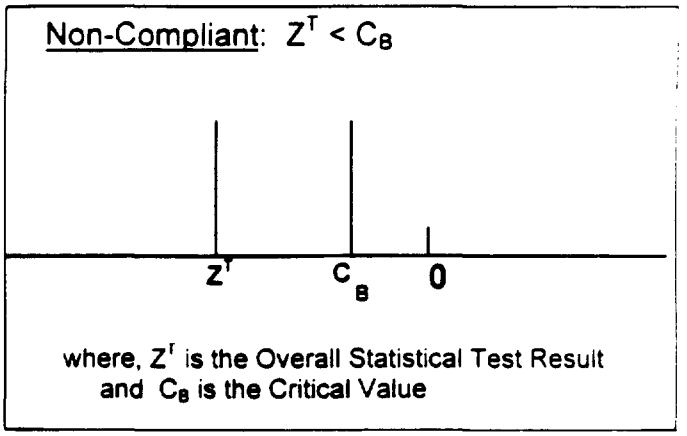
For those measures that are statistically tested, testing is performed at deep levels of disaggregation. For example, provisioning disaggregation include:

- Market Segment – Residential and Business
- Order Type – New, Change, Transfer
- Field Work – Dispatch, No-Dispatch
- Circuit Count – less than 10 lines, greater than 10 lines
- Time of Month – first half, second half
- Geography – state, wire center

Positive test results suggest parity or superior service is being provided the CLEC. In these cases, the positive value is truncated to zero (0), so that BellSouth is not given credit for potentially superior performance for the CLEC. Negative test results suggest there has been some disparate treatment in service. These test results (negative values and zeros) are then aggregated to produce an overall test statistic (Z^T) for the state that speaks to statistical significance in ILEC/CLEC performance differences. Overall statistical test results are reported for the key measurement set.

The overall statistical test result (Z^T) does not by itself tell us whether or not BellSouth is providing service parity. Z^T scores only tell us that there is a statistically significant difference in performance results. It is only when the overall test statistic result (Z^T) is compared to a critical value (c) that one can determine compliance or non-compliance. That is, if the z-score is greater than c ($z \geq c$) one can conclude compliance. On the other hand, if the z-score is less than c ($z < c$), one can conclude non-compliance.





The critical value, c, serves as a reference point from which to measure success or failure. However, using a critical value to determine parity may result in false-positive or false-negative test results. Stated another way, the possibility exists that one could conclude that a) BellSouth is favoring its own customers when it does not, and b) BellSouth does not favor its own customers when it does.

BellSouth supports the concepts of a balancing critical value. The balancing concept makes the probability of receiving the false-positive/false-negative test results (described above) relatively equal, by incorporating the idea of materiality.

In summary, the overall test statistic speaks to statistical significance in performance, and the balancing critical value addresses practical significance. Both are needed to make a decision about parity of service. The statistical test adopted by BellSouth, coupled with a balancing critical value, solves many problems that the CLECs and other ILECs correct for in their remedy plans.

Process for Translating Noncompliance into Remedies

The process for translating disparate / non-compliant performance into remedies involve three key steps. They are:

- Determine the magnitude of the failure
- Determine the number of transactions to be remedied
- Assess failure duration

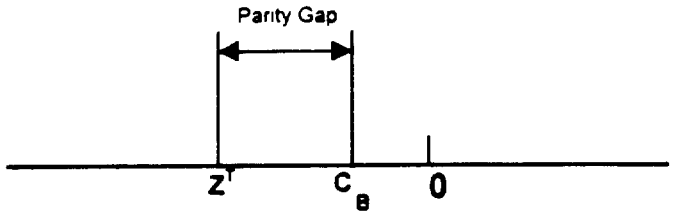
The deciding factor regarding the CLEC's competitive status is based on the statistical procedures noted above, or predefined benchmarks. With this, it can be stated that there is a 'statistical and practical significant' difference in performance. BellSouth goes further to refine this "difference" in terms of magnitude, recognizing that the level of harm increases the farther we depart from some reference point; parity or benchmark. Incorporating failure magnitude ensures any CLEC harmed in any way is remedied appropriately, hence, answering the question, 'by how much did we fall short'. Once failure magnitude is determined, the affected volume is determined; answering the question, 'on what do we pay'. Finally, considerations are made for repeat or extended duration failures to ensure the remedy payment grows with the duration of a particular failure.

Failure Magnitude

To answer the question, "By how much did we fall short?" we must look at the absolute difference between the overall statistical test result (Z^T) and the balancing critical value (C_B). BellSouth refers to this difference as the Parity Gap.

Non-Compliant: $Z^T < C_B$

Parity Gap: $| Z^T - C_B |$



where, Z^T is the Overall Statistical Test Result
and C_B is the Critical Value

In summary, examples might be:

#1 Z^T = -2.5 and C_B = -1.5 yielding a Parity Gap of 1.0
#2 Z^T = -4.0 and C_B = -2.0 yielding a Parity Gap of 2.0
#3 Z^T = -3.5 and C_B = -0.5 yielding a Parity Gap of 3.0
#4 Z^T = -5.8 and C_B = -1.8 yielding a Parity Gap of 4.0

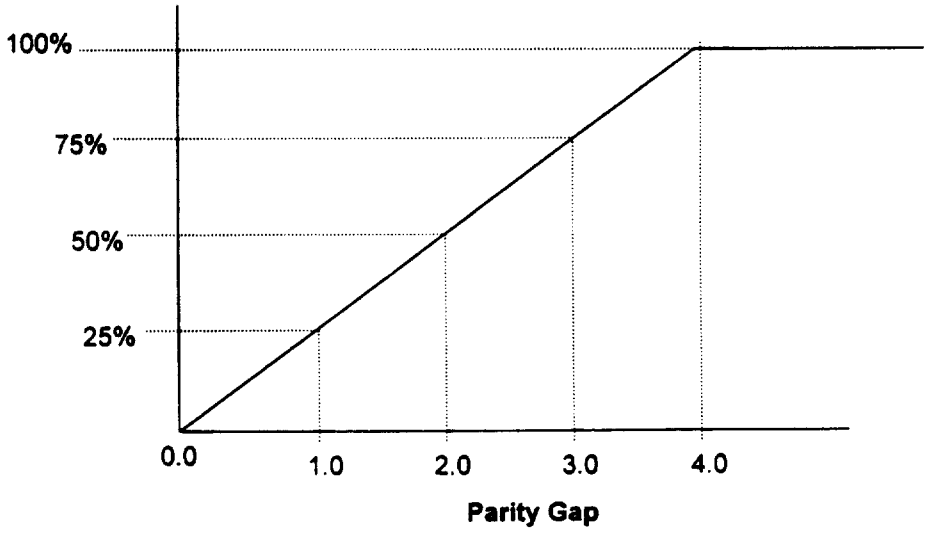
It's clear that a parity gap of 4.0 is four times worse than that of 1.0, so the question then becomes, 'what does a parity gap of 1,2, 3 or 4 really mean?'.

Determining Affected Volume

Because BellSouth's remedy plan is payable on the number of CLEC transactions, we have to translate the parity gap into something meaningful in terms of number of transactions subject to payment. We do this by letting the parity gap (failure magnitude) dictate the proportion of the volume affected with linear growth.

The "Volume Proportion" is determined by taking the parity gap and dividing by 4. This equates to a linear distribution with a slope of ¼.

Volume Proportion



Looking at the above examples, the proportion of the volume payable would be:

#1 Z^T = -2.5 and C_B = -1.5 yielding a Parity Gap of 1.0 ... 25%
#2 Z^T = -4.0 and C_B = -2.0 yielding a Parity Gap of 2.0 ... 50%
#3 Z^T = -3.5 and C_B = -0.5 yielding a Parity Gap of 3.0 ... 75%
#4 Z^T = -5.8 and C_B = -1.8 yielding a Parity Gap of 4.0 ... 100%

Parity gaps of 4.0 or greater will result in 100% of the volume activity being subject to payment.

Inherent to probabilistic theory is the fact that payment will be rendered, even when BellSouth is providing parity or even superior service. BellSouth desires not to render substantial payments when providing service and mitigates this condition by using a linear function with a slope of 1/4 in prescribing the volume proportion used to determine the affected volume. It is then reasonable for BellSouth to make small payments when providing service parity, and gradually more as disparate service becomes more apparent.

Now that we know the proportion of the volume that will be payable, we refer back to the testing performed at deep levels of disaggregation within the state, to determine affected volume. Because negative values are the only unadjusted values when generating the overall (state level) test statistic, activity in these negative areas are only considered when assessing remedies.

Affected volume is determined by multiplying the volume proportion times the CLEC activity in areas with negative test results. For example, if the volume proportion is determined to be 75% and a negative test result exist in an area having 400 transactions; 300 of those transactions will be remedied (75% * 400).

Monetary Remedy

Questions that have been answered up to this point have been

- Was parity of service provided the CLEC?
- If not, how far did BellSouth fall short of providing parity?
- On what will BellSouth remedy the CLEC?

This leaves, 'how much will BellSouth pay?'.

Affected volumes for both Tiers 1 and 2 are based on the number of transactions contained in an area where the statistical test results are negative. The affected volume is then multiplied by a dollar amount from the fee schedule to calculate total payment. Remedies are paid on a per transaction basis, as described above. BellSouth believes this approach serves as one measure against gaming the system, because neither BellSouth nor the CLEC can predetermine where the transaction may fall.

Again, pulling from the Tier-1 fee schedule, if in the example where affected volume of 300 represented provisioning UNE Loops, the remedy payment would be $12,000 for a first month failure.

Table-1

LIQUIDATED DAMAGES TABLE FOR TIER-1 MEASURES

PER AFFECTED ITEM						
	Month 1	Month 2	Month3	Month4	Month 5	Month 6
Provisioning UNE (Coordinated Customer Conversions)	$400	$450	$500	$550	$650	$800

BENCHMARK MEASUREMENTS

As indicated earlier, six measures will be benchmarked. These measures represent both means and proportions. They are:

Means Measures	Proportion Measures
➢ FOC Timeliness ➢ Reject Timeliness ➢ LNP Disconnect Timeliness ➢ Coordinated Customer Conversions for UNE Loops without INP	➢ LNP Percent Missed Installation Appointments ➢ Percent Missed Collocation Due Dates

Benchmarks for Mean measures are stated in the form of a target (i.e., 95% within "X"). For Reject Timeliness, this would read '95% of Rejected Orders will be returned within 1 hour'.

Benchmarks for Proportion measures are an exact statement of the commitment (i.e., "X%"). For LNP Percent Missed Installation Appointments, this would read 'No more than 9% of LNP installations will be missed'.

For both types of benchmarks, adjustments will be made for small sample sizes (with the exception of Collocation). Small sample size adjustments was a concept proposed by AT&T and subsequently adopted by BellSouth for samples ranging from 5 to 30. The adjustment table below is based on 95% confidence bounds, which considers 5% for random variation.

Small Sample Size Table
(95% Confidence)

Sample Size	Equivalent 90% Benchmark	Equivalent 95% Benchmark
5	60.00%	80.00%
6	66.67%	83.33%
7	71.43%	85.71%
8	75.00%	75.00%
9	66.67%	77.78%
10	70.00%	80.00%
11	72.73%	81.82%
12	75.00%	83.33%
13	76.92%	84.62%
14	78.57%	85.71%
15	73.33%	86.67%

Sample Size	Equivalent 90% Benchmark	Equivalent 95% Benchmark
16	75.00%	87.50%
17	76.47%	82.35%
18	77.78%	83.33%
19	78.95%	84.21%
20	80.00%	85.00%
21	76.19%	85.71%
22	77.27%	86.36%
23	78.26%	86.96%
24	79.17%	87.50%
25	80.00%	88.00%
26	80.77%	88.46%
27	81.48%	88.89%
28	78.57%	89.29%
29	79.31%	86.21%
30	80.00%	86.67%

Adjustments based on 95% confidence bounds is appropriate when handling small sample sizes. The 95% confidence bound has been endorsed by the CLECs in assessing other features/conditions of a Performance Measurement / Remedy package, and should be used in handling small sample sizes.

Failure to meet a benchmark will result in payment on the proportion of transactions that failed the benchmark. For example:

#1 Reject Timeliness – Benchmark is 95% within 1hour, CLEC result is 93% within 1 hour. Payment will be made on 2% (95% - 93%) of all CLEC transactions.

#2 LNP Percent Missed Installation Appointments – Benchmark is ≤ 9%, CLEC result is 12%. Payment will be made on 3% (12% - 9%) of all CLEC transactions.

BellSouth has adjusted the approach to remedy measures benchmarked in the form of a target to be more consistent with the approach for proportion measures.

VSEEMIII Results

There have been many debates as to whether or not BellSouth would hit the 'cap' under severe disparate conditions. The hypothetical model created around LPSC assumptions clearly show that not only does the potential exist, but the probability of triggering a Tier-3 suspension exists as well. Additionally, actual remedy results are provided for September through November 1999.

Simulated Data

In January 2000, the Louisiana PSC set forth various assumptions from which BellSouth and CLECs were to apply to their respective remedy models. (See Attachment #2) Fifteen disparity distributions were created under the LPSC assumptions, ranging from superior service to severely disparate service. The distributions are:

Distribution Number	Disparity Level			
	Better	None	Medium	Severe
1	100.00%	0.00%	0.00%	0.00%
2	50.00%	50.00%	0.00%	0.00%
3	0.00%	100.00%	0.00%	0.00%
4	50.00%	0.00%	50.00%	0.00%
5	33.33%	33.33%	33.33%	0.00%
6	33.33%	33.33%	0.00%	33.33%
7	0.00%	50.00%	50.00%	0.00%
8	25.00%	25.00%	25.00%	25.00%
9	50.00%	0.00%	0.00%	50.00%
10	33.33%	0.00%	33.33%	33.33%
11	0.00%	50.00%	0.00%	50.00%
12	0.00%	0.00%	100.00%	0.00%
13	0.00%	33.33%	33.33%	33.33%
14	0.00%	0.00%	50.00%	50.00%
15	0.00%	0.00%	0.00%	100.00%

When assessing forecasted data for one month (June 2003) of Tier-1, BellSouth shows that the VSEEMIII plan performs as expected. That is, as disparity levels increase (i.e., magnitude of the failure) so does

the remedy amount. Also shown are figures for Tier-2 and the probability of triggering a Tier-3 remedy (when assuming equal disparity distributions over a quarter).

Disparity Distribution	[a]June 2003 Tier-1	[c] Tier-2	[d]Probability of Tier-3 for a Quarter
1	$ 29.15	$ 0.00	0%
2	$ 150.53		0%
3	$ 1,098.74	$ 73.00	0%
4	$ 358,016.89	$ 1,608,942.00	0%
5	$ 303,175.61	$ 1,506,375.00	0%
6	$ 662,936.97	$ 5,300,457.00	7%
7	$ 529,297.21	$ 3,807,690.00	0%
8	$ 867,827.67	$ 6,943,424.00	28%
9	$1,401,324.50	$ 8,329,774.00	96%
10	$1,461,319.96	$ 9,278,153.00	99%
11	$2,171,273.22	$14,467,477.00	100%
12	$1,758,902.22	$13,156,352.00	100%
13	$1,994,074.49	$12,553,156.00	100%
14	$3,458,110.04		100%
15	$3,907,322.39	$63,999,322.00	100%

NOTE:
a) Tier-1 figures do not consider escalating remedies over time.
b) The increase between distributions 3 and 4 is due to the benchmark measures having no failures in distributions 1 through 3.
c) Tier-2 figures are drawn from the five Scenarios detailed in Attachment #2, and do not necessarily reflect June 2003 forecast volumes.
d) Tier-3 probability uses the forecasted volumes for May, June and July 2003.

As designed, BellSouth's payout is close to zero when providing 'superior' service, and grows appropriately when providing severely disparate service. Additionally, a 28% probability of triggering Tier-3 when disparity is equally distributed (from better than performance to severe) serves as a sufficient incentive for BellSouth to continue to provide a high quality of service.

To understand what happens over time, the LPSC created five scenarios. These scenarios capture various mixtures of the above disparity distributions to compare the mechanisms of various CLEC remedy plans over time. The scenarios and monthly VSEEMIII payments are detailed in the attached document, but summarized below along with the probability of triggering a Tier-3 remedy at least one time in the year 2003.

LPSC Scenarios

	Distribution Number			
	Quarter 1	Quarter 2	Quarter 3	Quarter 4
Stationary	8	8	8	8
Almost Stationary	4	5	6	7
Almost Stationary	9	10	11	12
Improving	15	13	11	9
Degrading	1	3	5	7

VSEEMIII Total Payments with Tier-3 Probability

		Year 2003	Probability of at least one Tier-3 Remedy
Stationary Scenario #1			
Total Tier-1 Payment	$	41,281,429	
Total Tier-2 Payment	$	28,619,332	
Total Payment	***$***	***69,900,761***	***73%***
Almost Stationary Scenario #2			
Total Tier-1 Payment	$	17,424,445	
Total Tier-2 Payment	$	12,223,464	
Total Payment	***$***	***29,647,909***	***7%***
Almost Stationary Scenario #3			
Total Tier-1 Payment	$	103,597,631	
Total Tier-2 Payment	$	45,231,755	
Total Payment	***$***	***148,829,386***	***100%***
Improving Scenario #4			
Total Tier-1 Payment	$	132,569,929	
Total Tier-2 Payment	$	101,723,892	
Total Payment	***$***	***234,293,821***	***100%***
Degrading Scenario #5			
Total Tier-1 Payment	$	6,442,149	
Total Tier-2 Payment	$	5,050,204	
Total Payment	***$***	***11,492,354***	***0%***

Under the scenarios defined by the LPSC, sufficient remedy payments will be made. Furthermore, the probability of triggering a Tier-3 remedy (at least once) exists for all scenarios except one.

Actual Data – September through November 1999

BellSouth took three months of actual data (September through November 1999) and calculated Tier-1 and Tier-2 remedy payments. Details can be found in Attachment #3

	Tier-1	Tier-2
Sept '99	$ 207,500.00	
Oct '99	$ 411,625.00	
Nov '99	$ 795,725.00	$ 11,004,600.00

These figures are derived from only 4 of the 14 Tier-1 measures. Stated another way, 8 of 37 submetrics. So the figures shown reflect a very minimum perspective of what BST would have paid out for these three months. While September through November is not an actual calendar quarter, the Tier-2 figure is an indication of what the remedy amount would have been if this were (say) October through December results.

The question of whether BST would make remedy payments under the VSEEMIII plan should no longer be of issue.

ATTACHMENT #1

ATTACHMENT B

Service Performance Measurements And Enforcement Mechanisms

1. **Scope**

This Attachment includes Enforcement Measurements with corresponding Enforcement Mechanisms applicable to this Agreement.

2. **Reporting**

2.1 In providing services pursuant to this Agreement, BellSouth will report its performance to CLEC-1 in accordance with BellSouth's Service Quality Measurements, which are contained in this Attachment as Exhibit A and in accordance with BellSouth's Enforcement Measurements, which are contained in this Attachment as Exhibit B.

2.2 BellSouth will make performance reports available to CLEC-1 on a monthly basis. The reports will contain information collected in each performance category and will be available to CLEC-1 through some electronic medium to be determined by BellSouth. BellSouth will also provide electronic access to the raw data underlying the performance measurements. Within thirty (30) days of execution of this Agreement, BellSouth will provide a detailed session of instruction to CLEC-1 regarding access to the reports and to the raw data as well as the nature of the format of the data provided.

3. **Modifications to Measurements**

3.1 Service Quality Measurements

3.1.1 BellSouth will update the Service Quality Measurements contained in Exhibit A of this Attachment each calendar quarter. BellSouth will not delete any Service Quality Measurement without prior written consent of CLEC-1. CLEC-1 may provide input to BellSouth regarding any suggested additions, deletions or other modifications to the Service Quality Measurements. BellSouth will provide notice of all changes to the Service Quality Measurements via BellSouth's internet website.

3.1.2 Notwithstanding the foregoing, BellSouth may, from time to time, be ordered by a regulatory or judicial body to modify or amend the Service Quality Measurements. BellSouth will make all such changes to the Service Quality Measurements pursuant to Section

16.5 of the General Terms and Conditions of this Agreement, incorporated herein by reference.

3.1.3 Notwithstanding any other provision of this Agreement, in the event a dispute arises regarding the modification or amendment of the Service Quality Measurements, the parties will refer the dispute to the Commission.

3.2 Enforcement Measurements and Statistical Test

3.2.1 In order for BellSouth to accurately administer the Enforcement Measurements contained in Exhibit B of this Attachment, the Enforcement Measurements shall be modified or amended only if BellSouth determines such modification or amendment is necessary. However, BellSouth will not delete any Enforcement Measurement without prior written consent of CLEC-1. BellSouth will notify CLEC-1 of any such modification or amendment to the Enforcement Measurements via BellSouth's internet website.

3.2.2 Notwithstanding the foregoing, BellSouth may, from time to time, be ordered by a regulatory or judicial body to modify or amend the Enforcement Measurements and/or Statistical Test. BellSouth will make all such changes to the Enforcement Measurements and/or Statistical Test pursuant to Section 16.5 of the General Terms and Conditions of this Agreement, incorporated herein by reference.

3.2.3 Notwithstanding any other provision of this Agreement, in the event a dispute arises regarding the modification or amendment of the Enforcement Measurements and/or Statistical Test, the parties will refer the dispute to the Commission.

4. Enforcement Mechanisms

4.1 Purpose

This section establishes meaningful and significant enforcement mechanisms voluntarily provided by BellSouth to verify and maintain compliance between BellSouth and CLEC-1's operations as well as to maintain access to Operational Support System (OSS) functions. This section provides the terms and conditions for such self-effectuating enforcement mechanisms.

4.2 Effective Date

The enforcement mechanisms set forth in this section shall only become effective upon an effective FCC order, which has not been stayed, authorizing BellSouth to provide interLATA telecommunications service under section 271 of the Act within any given state. Tier-2 and Tier-3 Enforcement Mechanisms set forth in this section shall only become effective upon an effective FCC order, which has not been stayed, authorizing BellSouth to provide interLATA telecommunications services under section 271 of the Act within a particular state and shall only apply to BellSouth's performance in any state in which the FCC has granted BellSouth interLATA authority.

4.3 Definitions

4.3.1 Enforcement Measurement Elements means the performance measurements set forth in Exhibit B, attached hereto and incorporated herein by this reference.

4.3.2 Enforcement Measurement Benchmark means a competitive level of performance negotiated by BellSouth used to compare the performance of BellSouth and CLEC-1 where no analogous process, product or service is feasible. See Exhibit B.

4.3.3 Enforcement Measurement Compliance means comparing performance levels provided to BellSouth retail customers with performance levels provided by BellSouth to the CLEC customer, as set forth in Exhibit C, attached hereto and incorporated herein by this reference.

4.3.4 Test Statistic and Balancing Critical Value is the means by which enforcement will be determine using statistically valid equations. See Exhibit C.

4.3.5 Cell is the point (below the wire center level) at which like-to-like comparisons are made. For example, all BellSouth retail POTS services, for residential customers, requiring a dispatch in a particular wire center, at a particular point in time will be compared directly to CLEC-1 resold services for residential customers, requiring a dispatch, in the same wire center, at a particular point in time. When determining compliance, these cells can have a positive or negative value. See Exhibit C.

4.3.6 Affected Volume means that proportion of the total CLEC-1 volume or CLEC Aggregate volume for which remedies will be paid.

4.3.7 Parity Gap refers to the incremental departure from a compliant-level of service. (See Exhibit D). This is also referred to as "diff" in the Statistical paper (See Exhibit C).

4.3.8 Tier-1 Enforcement Mechanisms means self-executing liquidated damages paid directly to CLEC-1 when BellSouth delivers non-compliant performance of any one of the Enforcement Measurement Elements *for* any month as calculated by BellSouth.

4.3.9 Tier-2 Enforcement Mechanisms means Assessments paid directly to a state Public Service Commission ("Commission") or its designee. Tier 2 Enforcement Mechanisms are triggered by three consecutive monthly failures in a quarter in which BellSouth performance is out of compliance or does not meet the benchmarks for the aggregate of all CLEC data as calculated by BellSouth for a particular Enforcement Measurement Element.

4.3.10 Tier-3 Enforcement Mechanisms means the voluntary suspension of additional marketing and sales of long distance services triggered by excessive repeat failures of those specific submeasures as defined in Exhibit D attached hereto and incorporated herein by this reference.

4.4 Application

4.4.1 The application of the Tier-1, Tier-2, and Tier-3 Enforcement Mechanisms does not foreclose other non-contractual legal and regulatory claims and remedies available to CLEC-1.

4.4.2 Proof of damages resulting from BellSouth's failure to maintain Enforcement Measurement Compliance would be difficult to ascertain and, therefore, liquidated damages are a reasonable approximation of any contractual damage. Liquidated damages under this provision are not intended to be a penalty.

4.5 Methodology

4.5.1 Tier-1 Enforcement Mechanisms will be triggered by BellSouth's failure to achieve Enforcement Measurement Compliance or Enforcement Measurement Benchmarks for the State for a given Enforcement Measurement Element in a given month based upon a test statistic and balancing critical value calculated by BellSouth utilizing BellSouth generated data. The method of calculation is attached hereto as Exhibit D and incorporated herein by this reference.

4.5.1.1 Tier-1 Enforcement Mechanisms apply on a per transaction basis for each negative cell and will escalate based upon the number of consecutive months that BellSouth has reported non-compliance.

4.5.1.2 Fee Schedule for Tier-1 Enforcement Mechanisms is shown in Table-1 attached hereto as Exhibit E and incorporated herein by this reference. Failures beyond Month 6 (as set forth in Table 1) will be subject to Month 6 fees.

4.5.2 Tier-2 Enforcement Mechanisms will be triggered by BellSouth's failure to achieve Enforcement Measurement Compliance or Enforcement Measurement Benchmarks for the State in a given calendar quarter based upon a statistically valid equation calculated by BellSouth utilizing BellSouth generated data. The method of calculation is attached hereto as Exhibit D and incorporated herein by reference.

4.5.2.1 Tier- 2 Enforcement Mechanisms apply, for an aggregate of all CLEC data generated by BellSouth, on a per transaction basis for each negative cell for a particular Enforcement Measurement Element.

4.5.2.2 Fee Schedule for Total Quarterly Tier-2 Enforcement Mechanisms is show in Table-2 attached hereto as Exhibit E and incorporated herein by this reference.

4.5.3 Tier-3 Enforcement Mechanisms will be triggered by BellSouth's failure to achieve Enforcement Measurement Compliance or Enforcement Measurement Benchmarks for a State in a given calendar quarter. The method of calculation for specified submeasures is identical to the method of calculation for Tier-2 Enforcement Mechanisms as described above. The specific submeasures which are the mechanism for triggering and removing a Tier-3 Enforcement Mechanisms are described in more detail in Exhibit D attached hereto and incorporated herein by this reference.

4.6 <u>Payment of Tier-1 and Tier-2 Amounts</u>

4.6.1 If BellSouth performance triggers an obligation to pay Tier-1 Enforcement Mechanisms to CLEC-1 or an obligation to remit Tier-2 Enforcement Mechanisms to the Commission, BellSouth shall make payment in the required amount on or before the thirtieth (30th) day following the due date of the performance measurement report for the month in which the obligation arose.

4.6.2 For each day after the due date that BellSouth fails to pay CLEC-1 the required amount, BellSouth will pay interest to CLEC-1 at the maximum rate permitted by state law.

4.6.3 For each day after the due date that BellSouth fails to pay the Tier-2 Enforcement Mechanisms, BellSouth will pay the Commission an additional $1,000 per day.

4.6.4 If CLEC-1 disputes the amount paid to CLEC-1 for Tier-1 Enforcement Mechanisms, CLEC-1 shall submit a written claim to BellSouth within sixty (60) days after the date of the performance measurement report for which the obligation arose. BellSouth shall investigate all claims and provide CLEC-1 written findings within thirty (30) days after receipt of the claim. If BellSouth determines CLEC-1 is owed additional amounts, BellSouth shall pay CLEC-1 such additional amounts within thirty (30) days after its findings along with interest paid at the maximum rate permitted by law.

4.6.5 At the end of each calendar year, BellSouth will have its independent auditing and accounting firm certify that the results of all Tier-1 and Tier-2 Enforcement Mechanisms were paid and accounted for in accordance with Generally Accepted Account Principles (GAAP).

4.7 Limitations of Liability

4.7.1 BellSouth will not be responsible for CLEC-1 acts or omissions that cause performance measures to be missed or fail, including but not limited to accumulation and submission of orders at unreasonable quantities or times or failure to submit accurate orders or inquiries. BellSouth shall provide CLEC-1 with reasonable notice of such acts or omissions and provide CLEC-1 any such supporting documentation.

4.7.2 BellSouth shall not be obligated for Tier-1, Tier-2 or Tier 3 Enforcement Mechanisms for non-compliance with a performance measure if such non-compliance was the result of an act or omission by CLEC-1 that is in bad faith.

4.7.3 BellSouth shall not be obligated to pay Tier-1 Enforcement Mechanisms or Tier-2 Enforcement Mechanism for non-compliance with a performance measurement if such non-compliance was the result of any of the following: a Force Majeure event as set forth in the General Terms and Conditions of this Agreement; an act or omission by CLEC-1 that is contrary to any of its obligations under its Interconnection Agreement with BellSouth; an act or omission by CLEC-1 that is contrary to any of its obligations under the Act, Commission rule, or state law; an act or

omission associated with third-party systems or equipment; or any occurrence that results from an incident reasonably related to the Y2K problem.

4.7.4 It is not the intent of the Parties that BellSouth be liable for both Tier-2 Enforcement Mechanisms and any other assessments or sanctions imposed by the Commission. CLEC-1 will not oppose any effort by BellSouth to set off Tier-2 Enforcement Mechanisms from any additional assessment imposed by the Commission.

4.7.5 Payment of any Tier-1 or Tier-2 Enforcement Mechanisms shall not be considered as an admission against interest or an admission of liability or culpability in any legal, regulatory or other proceeding relating to BellSouth's performance. The payment of any Tier-1 Enforcement Mechanisms to CLEC-1 shall release BellSouth for any liability associated with or related to the service performance measurement for the month for which the Enforcement Mechanisms was paid to CLEC-1.

4.7.6 CLEC-1 acknowledges and argues that the Enforcement Mechanisms contained in this attachment have been provided by BellSouth on a completely voluntary basis in order to maintain compliance between BellSouth and CLEC-1. Therefore, CLEC-1 may not use the existence of this section or any payments of any Tier-1 or Tier-2 Enforcement Mechanisms under this section as evidence that BellSouth has not complied with or has violated any state or federal law or regulation.

4.8 Enforcement Mechanism Caps

4.8.1 BellSouth's liability for the payment of Tier-1 and Tier-2 Enforcement Mechanisms shall be collectively capped at $625M per year for the entire BellSouth region as set forth below.

AL - $54M	MS - $44M
FL - $122M	NC - $77M
GA - $131M	SC - $47M
KY - $34M	TN - $57M
LA - $59M	
Regional Total - $625M	

4.8.2 If BellSouth's liability for the payment of Tier-1 and Tier-2 Enforcement Mechanisms exceed the caps referenced in this attachment, CLEC-1 may commence a proceeding with the Commission to demonstrate why BellSouth should pay any amount in excess of the cap. CLEC-1 shall have the burden of proof to demonstrate why, under the circumstances, BellSouth should have additional liability.