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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

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October 5, 2001

EX PARTE OR LATE FILED

EX PARTE

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

Re: CC Docket No. 01-277 and  
CC Docket No. 96-98

Dear Ms. Salas:

On October 4, 2001, Duane Ackerman, President and CEO, Herschel Abbott, Vice President Government Affairs, and I, met in separate meetings with Commissioner Kathleen Abernathy and her Legal Advisor Matthew Brill, Commissioner Michael Copps and his Senior Legal Advisor Jordan Goldstein, Commissioner Kevin Martin and his Legal Advisor Monica Shah Desai, and Common Carrier Bureau Chief Dorothy Attwood and her Senior Deputy Chief Jeffrey Carlisle, regarding BellSouth's Georgia and Louisiana 271 petitions. We highlighted reasons why BellSouth believes the petitions are in full compliance with the 14-point checklist and related regulatory requirements. We placed particular emphasis on the loss of market share in Georgia and Louisiana as demonstrable proof that local exchange markets in both states are irreversibly open to competition. We noted further that the loss of market share is incontrovertible evidence that BellSouth is providing CLECs with non-discriminatory access to its OSS as well as to the BellSouth services and facilities they need to compete.

We also discussed rules governing the substitution of lower priced UNEs for special access in local exchange wireline and wireless markets. We urged the Commission to make no changes to its current rules in this area pending action on

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the Commission's consideration of whether access to unbundled high-cap facilities is required under either the necessary or impair standards of Section 251(d)(2) of the Telecom Act.

The briefing materials we used are attached.

I am filing notice of the ex parte meeting described above in the dockets identified above, as required by Commission rule, and request that you associate this notice with the record of both these proceedings. If you have any questions concerning this, please call me at (202) 463-4108.

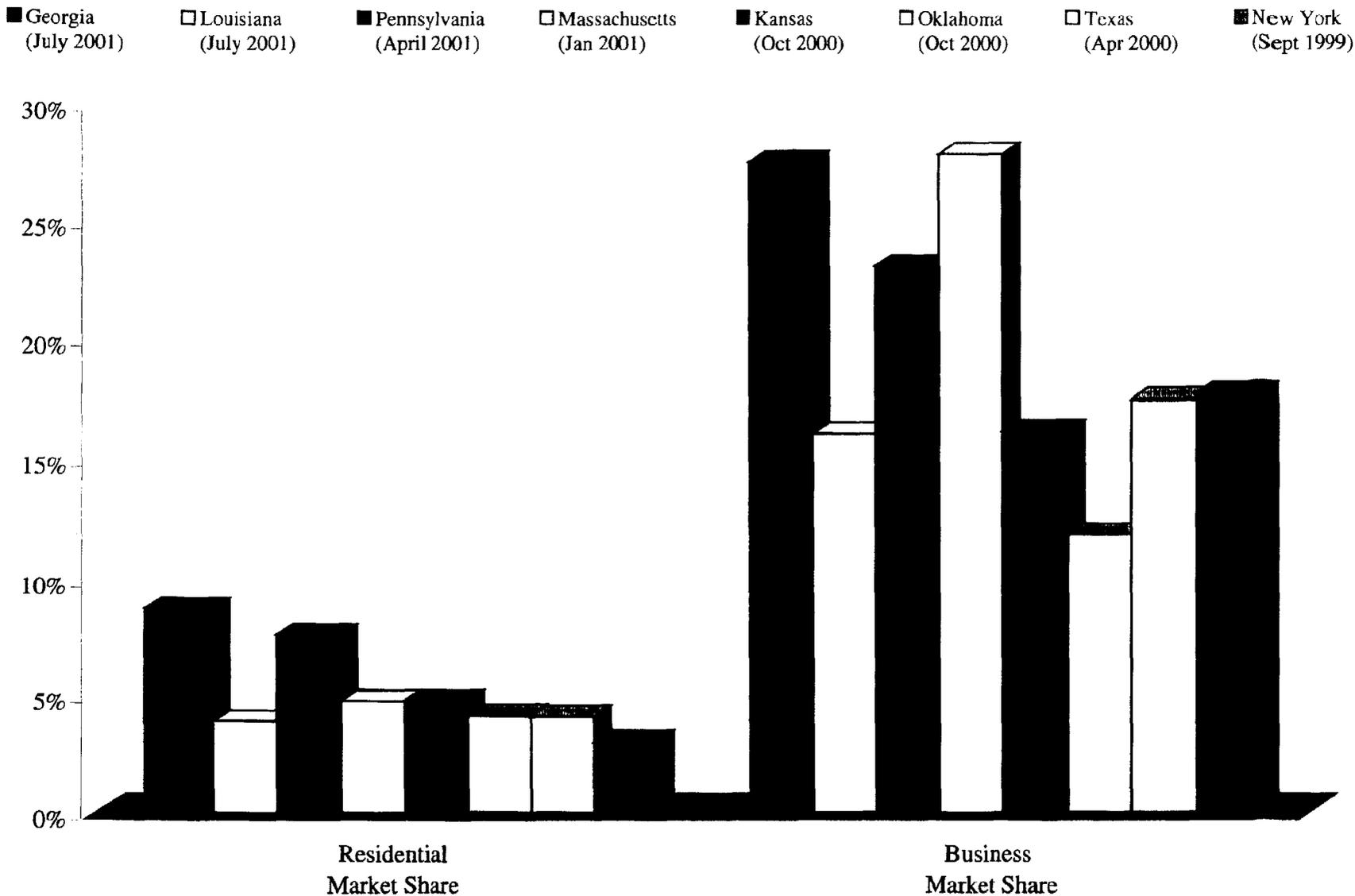
Sincerely,

*Robert J. Blaw*  
-rdj

**Attachments**

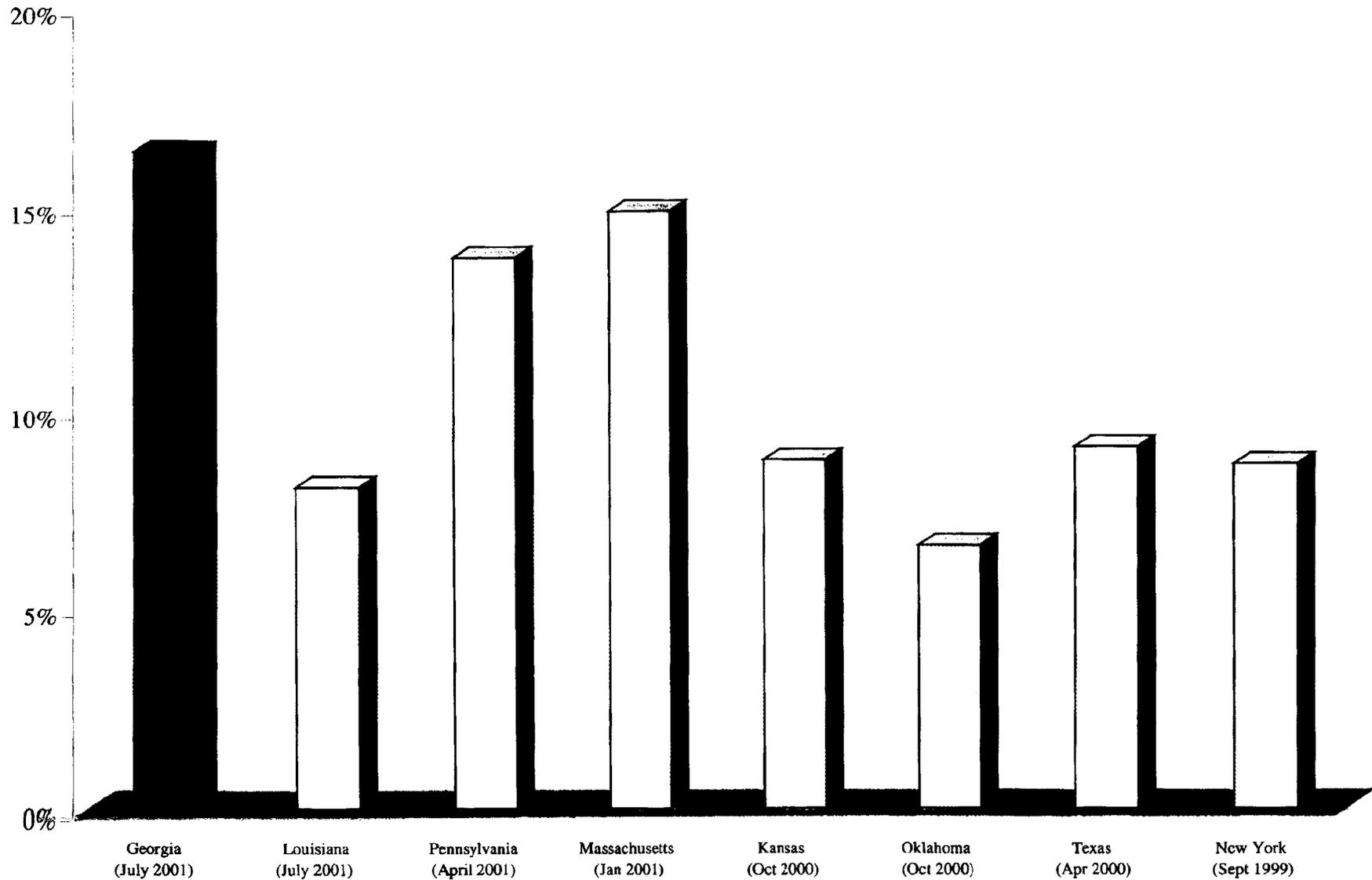
cc: Commissioner Kathleen Abernathy  
Commissioner Michael Copps  
Commissioner Kevin Martin  
Dorothy Attwood  
Jordan Goldstein  
Monica Shah Desai  
Matthew Brill  
Jeffrey Carlisle  
Jessica Rosenworcel  
Susan Pie  
James Davis-Smith (Department of Justice)  
Cynthia Lewis (Department of Justice)

## CLEC Residential and Business Market Share



Sources: BellSouth, Georgia/Louisiana 271 Application, Affidavit of Victor K. Wakeling, Tbls. 2 & 4 (FCC filed Oct. 2, 2001); Verizon, Pennsylvania 271 Application, Declaration of William E. Taylor, Att. A (FCC filed June 21, 2001) & Corrected *Ex Parte* Letter from Clint Odom, Verizon, to Magalie Salas, FCC, CC Docket No. 01-138 (FCC filed July 20, 2001); Verizon, Massachusetts 271 Supplemental Application, Att. A (FCC filed Jan. 16, 2001); SBC, Kansas/Oklahoma 271 Application, Affidavit of J. Gary Smith & Mark Johnson, Att. A (FCC filed Oct. 26, 2000); SBC, Texas 271 Application, Affidavit of John S. Habeeb, Att. A (FCC filed Apr. 5, 2000); Verizon, New York 271 Application, Declaration of William E. Taylor, Att. A (FCC filed Sept. 29, 1999).

## CLEC Market Share



Sources: BellSouth, Georgia/Louisiana 271 Application, Affidavit of Victor K. Wakeling, Tbls. 2 & 4 (FCC filed Oct. 2, 2001); Verizon, Pennsylvania 271 Application, Declaration of William E. Taylor, Att. A (FCC filed June 21, 2001) & Corrected *Ex Parte* Letter from Clint Odom, Verizon, to Magalie Salas, FCC, CC Docket No. 01-138 (FCC filed July 20, 2001); Verizon, Massachusetts 271 Supplemental Application, Att. A (FCC filed Jan. 16, 2001); SBC, Kansas/Oklahoma 271 Application, Affidavit of J. Gary Smith & Mark Johnson, Att. A (FCC filed Oct. 26, 2000); SBC, Texas 271 Application, Affidavit of John S. Habeeb, Att. A (FCC filed Apr. 5, 2000); Verizon, New York 271 Application, Declaration of William E. Taylor, Att. A (FCC filed Sept. 29, 1999).

BEFORE THE GEORGIA PUBLIC SERVICE COMMISSION

ADMINISTRATIVE SESSION

Hearing Room 110  
244 Washington Street  
Atlanta, Georgia

Tuesday, October 2, 2001

The administrative session was called to order at  
10:02 a.m., pursuant to Notice.

PRESENT WERE:

LAUREN MCDONALD, Jr., Chairman  
STAN WISE, Vice Chairman  
ROBERT DURDEN, Commissioner  
ROBERT BAKER, Commissioner  
DAVID BURGESS, Commissioner

P R O C E E D I N G S

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CHAIRMAN McDONALD: We'll move to the regular agenda, R-1, Mr. Bowles.

MR. BOWLES: R-1 is consideration of BellSouth's compliance with Section 271 of the Telecommunications Act.

Staff recommends the Commission, in Docket 6863-U, adopt staff recommendation that BellSouth has met Track A and the 14-point checklist as prescribed by Section 271 of the federal Telecommunications Act.

In Docket 7253-U, approve BellSouth's statement of generally available terms and conditions.

In Docket 8354-U, adopt the third-party test final report findings.

Although not a condition for 271 approval, according to the CLECs, these operational support system enhancements will assist them in the local market.

Staff recommends that the following OSS enhancements -- that BellSouth implement the following OSS enhancements:

Implement by January 5, 2002, a C-order by which N&D orders complete together in sequence.

Implement by November 3, 2001, migration by telephone number and name.

Implement fully fielded parsed CSRs by January 5,

1 2002.

2           Increase reject correction time limit from 10 days  
3 to 30 days by November 3, 2001.

4           Implement by -- this is a typo, it's supposed to  
5 be January 5 -- implement by January 5, 2002, electronic  
6 ordering for line splitting.

7           For the OSS upgrades listed above, staff  
8 recommends that the Commission assess penalties of \$10,000  
9 per day for every day past the implementation schedule  
10 that's spelled out in staff recommendation.

11           Staff recommends approval.

12           CHAIRMAN McDONALD: Commissioners, any questions  
13 to Mr. Bowles?

14           COMMISSIONER BURGESS: Mr. Chairman, I don't have  
15 a question but I've got some comments I'd like to make.

16           CHAIRMAN McDONALD: Commissioner Burgess.

17           COMMISSIONER BURGESS: First of all for the  
18 record, I want to once again commend the staff for the work  
19 product that they have presented to this Commission  
20 throughout the endurance of this entire process. And I want  
21 to highlight the fact that not one dollar of state funding  
22 has been utilized to receive outside consultants to help in  
23 this project. It has all been done internally here by our  
24 Commission staff and they've done an excellent job.

25           We didn't just get here today by accident. This

1 process started first back in April of 1995 with the passage  
2 of our state competition act and that act mandated that this  
3 Commission open up the local markets in Georgia to  
4 competition. In February 1996, of course, the federal  
5 Telecom Act was passed and similar duties were imposed upon  
6 this Commission.

7           And in order to accomplish the stated objectives,  
8 this Commission has developed a very comprehensive, open  
9 process to reach its conclusion now. This process has  
10 included a lot of firsts. This was the first Public Service  
11 Commission to order a Bell operating company to implement  
12 electronic operational support systems in the nation, one of  
13 the first Public Service Commissions to implement number  
14 portability here in the state of Georgia, one of the first -  
15 - the first Public Service Commission to initiate a  
16 performance assurance plan prior to a Bell operating company  
17 receiving Section 271 authority.

18           This Commission's reach has went beyond Georgia in  
19 that this Commission has held workshops throughout the  
20 southeast assisting other state commissions in preparing for  
21 their Section 271 applications.

22           This Commission has been involved in a two-year  
23 process with KPMG of evaluating the operational readiness of  
24 BellSouth's operational services to expedite switching  
25 between BellSouth customers and customers of CLECs

1 throughout the state of Georgia.

2           And these processes have opened comprehensive --  
3 have yielded some good results. Currently in our state, we  
4 have 143 competing local providers that are providing  
5 services today, they're providing services throughout the  
6 state of Georgia. We have over 39 switches operating by  
7 CLECs in our state, over 260,000 interconnection trunks.  
8 We've got over 800 collocation arrangements in this state.

9           CLECs today are providing service to nearly  
10 900,000 access lines in the state of Georgia and that's very  
11 significant because it's the highest market penetration of  
12 any state prior to a Bell operating company receiving a 271  
13 endorsement by that state. About 17 percent of BellSouth's  
14 total market now is being served by competing local carriers  
15 in Georgia, 30 percent of BellSouth's business market is  
16 served by competing carriers and nine percent is served by  
17 residential carriers.

18           And the thing that's unique about these numbers is  
19 that many of the largest CLECs here in our state have either  
20 late or limited market entry. MCI recently initiated their  
21 residential service here in the state. In the last three  
22 and a half months, they've been able to add 50,000 customers  
23 and those numbers are growing month by month because they've  
24 got a good product, they've got a good price and they've got  
25 a good marketing strategy.

1           To say that the markets in this state are not open  
2 is just untrue. Things are not perfect, but subscribers are  
3 exercising their right to choose their individual carriers.

4           A lot of carriers have raised concern about well  
5 what happens after this Commission endorses BellSouth's  
6 application, what has this Commission done to ensure that  
7 service quality levels will remain and that this competitive  
8 market will remain open? I think that this Commission has  
9 taken several initiatives. Its performance assurance plan  
10 is probably the most aggressive plan in the country.

11 BellSouth is subject to fines and penalties of over \$350  
12 million if they fail to keep performance up. They also have  
13 a tier three in our performance assurance plan that no other  
14 state in the country has that would suspend BellSouth's  
15 right to market their long distance service to potential  
16 customers. We've got in place another review of BellSouth's  
17 rates, the third review of BellSouth's costs of unbundled  
18 network elements to wholesale carriers. We've got KPMG  
19 auditing this Commission's performance measurements to some  
20 2200 measures to ensure that performance continues to  
21 remain. We've got another docket scheduled to look at  
22 BellSouth's win-back activities to ensure that they are  
23 inhibiting -- fair market practices are being utilized in  
24 selling their services and trying to win customers back from  
25 CLECs.

1           So I believe that this Commission has in place  
2 appropriate measures to ensure beyond a Section 271 approval  
3 that this market remains open. You know, I said all along  
4 personally that I would not endorse a BellSouth application  
5 for long distance authority until I thought it was right.  
6 And I made that commitment from day one. I believe that it  
7 is right and I believe it is time for this Commission to do  
8 what's right.

9           So therefore, I'm going to endorse and support the  
10 staff's recommendation and would encourage my colleagues to  
11 do likewise.

12           CHAIRMAN McDONALD: Any other Commissioner?

13           COMMISSIONER BAKER: Well, I think Commissioner  
14 Burgess has summed up in a very short period a long history  
15 covering five years of what has occurred here at the  
16 Commission. We've come a long way from when the state  
17 legislature passed our bill to open up local markets here in  
18 the state of Georgia. And I think he's hit the highlights.

19           I mean you can't argue with the fact that you have over  
20 815,000 access lines being served by CLECs. We have had the  
21 independent third-party testing that's gone on for almost  
22 two years. We have had the performance measurements in  
23 place and operational since May of this year and --

24           MR. BOWLES: March.

25           COMMISSIONER BAKER: March, thank you. -- and

1 we've had substantial penalties levied against BellSouth for  
2 non-compliance with those performance measurements. And  
3 today, the Commission's action does not mean that the CLECs'  
4 problems will be ignored or that future issues will be swept  
5 aside. We have the performance measurement review that  
6 we're going to go on -- I mean that is the perfect docket  
7 for anyone who has problems with the current measurements,  
8 to come in, to propose amendments to those measurements and  
9 to make sure that their needs are taken care of and that  
10 incentives are provided for BellSouth to continue to make  
11 the necessary improvements in order to have a more open and  
12 fair competitive market in the state of Georgia.

13           And I think Commissioner Burgess hit it on the  
14 head when he pointed out the fact that close to 30 percent  
15 of business lines are now being served by CLECs and we have  
16 close to nine percent of the residential market being served  
17 by CLECs. And that's an impressive figure that no other  
18 state in the country can match as far as the number of  
19 customers being served by CLECs.

20           So with our action today -- whatever that may be -  
21 - you know, we are going to stay fully involved in this  
22 process. In fact, Mr. Bowles has already made a promise  
23 that he is going to be just as tough as ever as far as  
24 monitoring complaints and working with the CLECs to make  
25 sure that their needs are addressed. And this Commission

1 will stay fully involved in this process, if it takes  
2 another five years.

3           It wasn't an easy process. I remember when the  
4 law was first passed, there were predictions by some of the  
5 representatives of the CLECs that we'd have a fully  
6 competitive market in one year. Well, that didn't  
7 materialize and we learned a lot about what is necessary in  
8 order to open up a network to third parties in order to  
9 allow access so that competing companies can offer service  
10 in the state of Georgia. And it's been a long road.

11           We initially had implemented resale discounts that  
12 we thought would kick off a competitive market. That really  
13 didn't jump start the process.

14           This Commission I think was very aggressive in its  
15 order regarding the availability of unbundled network  
16 elements and the pricing for those unbundled network  
17 elements for CLECs. That was a critical step in the process  
18 that allowed competitors to come into the market and take  
19 advantage of buying in pieces those elements of the network  
20 that they needed to complete their service to their  
21 customer.

22           So I think this Commission's record stands proudly  
23 for what it's done and I give a lot of credit -- most of the  
24 credit -- to the staff for what they've done as far as  
25 working with us, reviewing the information. There was an

1 enormous amount of paper filed in this last proceeding with  
2 comments on the 271 application. It takes a long time to go  
3 through all that paper. I appreciate the assistance they've  
4 offered me as far as consulting advice on the issues that  
5 have arisen.

6 So this is just one step, another step in the  
7 process. It's not the final step. I anticipate that we  
8 will still have a lot to do in the next few years as far as  
9 moving forward in the state with opening up local markets to  
10 competition and I appreciate all the help that staff has  
11 offered to me.

12 Commissioner Burgess, in his dual role as  
13 Commissioner and as Director of the Telecommunications  
14 Section, has been instrumental in this entire process and  
15 probably knows the history better than anyone else as far as  
16 what actually occurred.

17 I endorse his -- I support his position as far as  
18 the time has come. Initially, I was leaning heavily in  
19 favor of granting to the CLECs their request for whatever  
20 they needed. And I told them that and I told BellSouth  
21 that, that the pendulum was swinging in their way when we  
22 first initiated this process. And BellSouth griped and  
23 complained about what we were doing, we were excessive, we  
24 were going beyond what we should have done. But, you know,  
25 it was necessary in order to change the way business was

1 being done, to implement the state and federal legislation.

2 And we are here today at a point where we're  
3 beginning to see the fruits of all those efforts developing  
4 and hopefully benefiting Georgia consumers, because that's  
5 the ultimate objective of this whole process, is that we're  
6 not doing it just as an academic exercise to see how you  
7 deregulate a marketplace. It's a process that -- with the  
8 intent of providing competition in the market so that retail  
9 customers, both residential and commercial, can benefit from  
10 a competitive market for local service. And I think we're  
11 seeing that happen today.

12 Is it perfect? No. Are there problems? Yes.  
13 Are we going to have to keep working to straighten out those  
14 problems and keep making changes for the future? Yes.

15 But we've come a long way and I think it's time  
16 now to recognize the dramatic changes that have been made  
17 over the past several years and to recognize that the  
18 company has complied with the current FCC guidelines and 14-  
19 point checklist requirements, and just make an honest  
20 assessment of where we are today in Georgia.

21 CHAIRMAN McDONALD: Commissioner Wise?

22 (No response.)

23 CHAIRMAN McDONALD: My comments are the fact that  
24 it is a big move today. My congratulations to staff as well  
25 and Commissioner Burgess, and Commissioner Wise and

1 Commissioner Baker, because there's a lot of hours by the  
2 Commission that have been placed in this process.

3 But my commitment is again to the competitive  
4 local exchanges that are going to be out there. BellSouth  
5 is not going away from this Commission, they're moving into  
6 a wider field and I challenge them, as they understand, that  
7 they will continue to serve the CLECs in the competitive  
8 marketplace and if not, we'll see them back here at the  
9 Georgia Public Service Commission.

10 Is there -- all those in favor of the staff's  
11 recommendation on R-1, say aye.

12 VICE CHAIRMAN WISE: Aye.

13 COMMISSIONER BAKER: Aye.

14 CHAIRMAN McDONALD: Aye.

15 COMMISSIONER BURGESS: Aye.

16 CHAIRMAN McDONALD: Opposed?

17 (No response.)

18 CHAIRMAN McDONALD: The ayes have it with  
19 Commissioners Burgess, Baker, Wise and McDonald voting in  
20 the affirmative, 4-0.

C E R T I F I C A T E

I, William L. Warren, Certified Court Reporter, do hereby certify that the foregoing transcript is an accurate record of the proceedings had in the above-entitled matter at the time and place therein set forth.

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William L. Warren

The minutes of the Administrative Session were approved this \_\_\_\_\_ day of \_\_\_\_\_, 2001.

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Lauren McDonald, Jr., Chairman

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Reece McAlister,  
Executive Secretary