

demonstrated that: (1) it returns timely FOC and reject notices; (2) BellSouth's systems flow-through a high percentage of orders without manual handling; (3) the mechanized orders that do not flow-through BellSouth's systems are handled in a reasonably prompt and accurate manner; (4) the mechanized and manual components of BellSouth's ordering systems are scalable to accommodate increasing demand; (5) BellSouth provides jeopardy notices in a nondiscriminatory manner; and, (6) BellSouth provides timely completion notices. See *SWBT-TX Order*, ¶ 170.

**Functional Acknowledgements**

BellSouth provided timely Functional Acknowledgements for CLEC orders during March through June 2001 as shown below.<sup>16</sup>

Mar-01	99.20%	59,944
Apr-01	99.99%	22,453
May-01		
Jun-01	96.90%	58,137

Mar-01	99.86%	84,777
Apr-01	100.00%	125,898
May-01	99.99%	183,966
Jun-01	99.96%	127,390

<sup>16</sup> Docket No. 7892-U; F.12.1.1 and F.12.1.2.

For EDI and TAG interfaces, BellSouth missed the Commission's benchmark for functional acknowledgement timeliness only once from March through June 2001. BellSouth provided timely functional acknowledgements in excess of the Commission's benchmark in July as well for both EDI and TAG.

### **FOC Timeliness**

CLEC criticisms of BellSouth's FOC and reject timeliness performance are not supported by BellSouth's performance data. For LSRs submitted electronically, the benchmark is 95% for the FOCs returned within 3 hours. In March, April, May and June 2001, over 96%, 94%, 96% and 94%, respectively, of all mechanized UNE FOCs were returned within 3 hours. BellSouth did not meet the following sub-metrics for FOC timeliness:

B.1.9.3/ Loop + Port Combinations (June)

B.1.9.12/ 2 wire Analog Loop w/LNP Design (March, April, May and June)

B.1.9.5/ xDSL (ADSL, HDSL and UCL) (May and June)

B.1.9.8/ 2 wire Analog Loop Design (March-May)

B.1.9.15/ Other Non Design (June)

The data shows that for B.1.9.3, B.1.9.5 and B.1.9.15, BellSouth missed the Commission's benchmark by less than two percent in those instances (Loop + Port Combinations- 94.52%; xDSL – 93.81% (May) and 94.58% (June); Other Non Design – 94.52%. For B.1.9.12, BellSouth has determined that many of the LSRs were submitted

between 11:00 p.m. and 4:30 a.m. at which time the downstream legacy systems are unavailable for processing and a FOC cannot be returned.<sup>17</sup>

For Partially mechanized LSRs, the Commission set the benchmark at 85% returned within 36 hours for March and April 2001, and the Commission raised the standard to 85% returned within 18 hours for May and June 2001. In March, April, May and June 2001, BellSouth returned 98%, 97%, 98% and 97% respectively, of all UNE FOCs within the specified time period. BellSouth passed all the FOC sub-metrics for partially mechanized LSRs in March, April and May and in June missed only B.1.11.12 – 2W Analog Loop w/LNP Design (81.06%), B.11.13- 2W Analog Loop w/LNP Non-Design (73.87%), and B.11.17 – LNP Standalone (83.93%). BellSouth met the benchmark for all three of these sub-metrics in July 2001. This data shows that BellSouth provides timely FOCs for partially mechanized orders. For Non-Mechanized LSRs, BellSouth met all the metrics for UNEs for the months March through June 2001.

The Commission finds unconvincing NewSouth's claim that it received FOCs within 24 hours for only 80% of its orders in February 2001. According to BellSouth, in March and April 2001, the average FOC interval for NewSouth's electronic LSRs was less than 15 minutes. For partially mechanized LSRs, although BellSouth missed the benchmark in February, BellSouth has presented evidence that it returned a FOC within

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<sup>17</sup> *Stacy Performance Affidavit* ¶ 64. BellSouth contends that for LSRs submitted electronically, BellSouth's FOC and reject timeliness performance is understated because it reflects LSRs issued when the back-end legacy systems are out of service, even though, according to BellSouth, such hours should be excluded from the measurement consistent with the SQM. BellSouth also claims that, with the implementation of May 2001 data, BellSouth changed the time stamp identification for the start and completed time of the interval for these measurements. However, with this change, BellSouth was unable to identify multiple issues of the same version of the LSRs that may be rejected (fatal rejects), which should be excluded from the measurement. BellSouth indicates that it continues to investigate and will implement programming changes to address both of these issues. *Stacy Performance Reply Affidavit* ¶ 140.

24 hours on 100% of partially mechanized LSRs in March and returned a FOC in less than 24 hours on all but two of the partially mechanized LSRs submitted by NewsSouth in April. *Stacy Performance Reply Affidavit*, ¶ 185.

### **Reject Timeliness**

Performance metrics B.1.4 – B.1.8 examine the “Reject Intervals” for the months of March through June 2001.<sup>18</sup> For LSRs submitted electronically, the benchmark is 97% within 1 hour. In March, April, May and June 2001 BellSouth provided reject notices in 1 hour on 91%, 97%, 70%, and 88%, respectively, of all UNE rejected service requests. BellSouth did not meet the benchmark for the following sub-metrics:

B.1.4.3 Loop + Port Combination (March, May and June)

B.1.4.13 2 wire Analog Loop w/LNP non-design (June)

B.1.4.12 2 wire Analog Loop w/LNP Design (April)

B.1.4.8 2 wire Analog Loop Design (March, April and May)

B.1.4.15 Other Non Design (March, April, May and June)

B.1.4.17 LNP (Standalone) (March, April, May and June)

BellSouth conducted a detailed root cause analysis for March and April of the process for electronic rejects. During this analysis BellSouth determined that of the 441 LSRs that did not meet the one-hour benchmark, 183 were issued between 11:00 p.m. and 4:00 a.m. Of the 183 LSRs, 179 would have met the one-hour interval, if the other systems had been available. These 179 LSRs, 41% of all missed LSRs, would have made

the one-hour benchmark.<sup>19</sup> The Commission also notes that the volumes in several sub-metrics were relatively small (B.1.4.13 - four LSRs; B.1.4.12 - 18 LSRs), which makes it difficult to draw any conclusions from the data. It is also worth noting that in many of the sub-metrics for which BellSouth failed to meet the Commission's reject interval benchmark on electronically submitted LSRs, relatively few LSRs were actually rejected. For example in July 2001, only 4.52% of electronically submitted LSRs for standalone LNP and 13.30% of electronically submitted LSRs for the Loop + Port Combination were rejected.

For partially mechanized LSRs, BellSouth returned a reject notice by the Commission approved benchmark on 98%, 99%, 97% and 98% of all UNE rejected service requests for the months March, April, May and June 2001. For the month of May, the interval was reduced from 24 to 18 hours. In March and April 2001 BellSouth, met all the sub-metrics. For the months of May and June, BellSouth missed the following sub-metrics:<sup>20</sup>

B.1.6.2 Local Interoffice Transport (May and June)

B.1.6.12 2 wire analog Loop w/LNP Design (June)

B.1.6.13 2 wire analog Loop w/LNP Non-Design (June)

B.1.6.17 LNP Standalone (June)

Although the data reflects that in June BellSouth missed sub-metrics for B.1.6.12, B.1.6.13 and B.1.6.17, BellSouth met the benchmark in two of these sub-metrics in July

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<sup>18</sup> Docket No. 7892-U Performance Measurements.

<sup>19</sup> *Stacy Performance Affidavit* ¶ 55.

2001. Additionally, for B.1.6.2 the volume of transactions was relatively small in May (6 LSRs) and June (8 LSRs), which does not produce a statistically conclusive benchmark comparison.

For Non Mechanized LSRs, BellSouth returned a reject notice within 24 hours on 96%, 96%, 97%, and 97% of all UNE rejected service requests in March, April, May and June 2001, respectively. BellSouth missed the following sub-metrics:

B.1.8.5 xDSL (March)

B.1.8.7 Line Sharing (March)

B.1.8.10 2 wire analog Loop w/INP Design

For xDSL orders, BellSouth returned 25 of the 31 LSRs that were rejected in March. One additional LSR would have met the sub-metric. Additionally, for line-sharing, BellSouth returned 27 of 33 LSRs within the benchmark. One additional LSR within the benchmark would have brought this sub-metric into compliance. Since only five LSRs for 2 wire Loop w/INP Design were ordered, the Commission finds that the numbers are not significant enough to produce a statistically conclusive comparison. Furthermore, BellSouth met the Commission's reject interval benchmarks for manually submitted xDSL and line sharing orders in more recent months, returning a reject notice in 24 hours on 96.08% of xDSL orders and 97.06% of line sharing orders in July 2001.

That BellSouth has failed to return some FOCs or reject notices in a timely manner "appears to have little competitive impact." See *SWBT-KA/OK Order*, ¶ 138. Furthermore, in some instances, BellSouth barely missed the Commission-approved

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<sup>20</sup> Docket No. 7892-U Performance Measurements.

benchmark. For example, in June 2001 BellSouth returned a reject notice on 96.97% of electronically submitted LSRs in the UNE Other Design category within one hour, which was only slightly below the Commission-approved benchmark of 97% within one hour. Similarly, in June 2001, BellSouth returned a FOC on 94.52% of electronically submitted LSRs for Loop +Port combinations within three hours, which was barely missed the Commission-approved benchmark of 95% within three hours. *See SWBT-KA/OK Order*, ¶ 134 (where a BOC misses benchmarks by small margins, such current performance disparities have a negligible competitive impact). Additionally, one of KCI's criteria was to test if the TAG interface provided timely Fully Mechanized rejects.<sup>21</sup> KCI made a finding that BellSouth satisfied that criteria.<sup>22</sup> Under the circumstances, the Commission finds that BellSouth provides competing carriers with timely order rejection notices in a manner that allows CLECs a reasonable opportunity to compete.

### **Flow-through**

The Commission finds that BellSouth has addressed the FCC's concerns in the *Second Louisiana Order* regarding flow-through. The record shows that BellSouth has made considerable strides to increase the level of order flow-through. KCI's evaluation of BellSouth's flow-through and overall functionality and scalability of BellSouth's ordering interfaces determined that BellSouth satisfied all of the applicable test criteria.<sup>23</sup> As the FCC has recognized, a relatively low flow-through rate for certain types of orders is not, in and of itself, an indication that CLECs are being denied access to BellSouth's ordering systems. *SWBT-TX Order*, ¶ 181.

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<sup>21</sup> KCI MTP, O&P-2-3-2a.

<sup>22</sup> KCI Final Report, MTP page V-B-12.

While not perfect, BellSouth's flow-through performance is comparable to the flow-through achieved by other BOCs that have been granted in-region, interLATA authority by the FCC. For example, in Massachusetts, the commercial data from September through December 2000 revealed average total flow-through rates for Verizon, ranging from 46-49 percent for resale orders and 51-55 percent for UNE orders. *See Verizon-MA Order*, ¶ 78. In the Pennsylvania Consultative Report to the FCC, commercial data shows total flow-through rates for resale ranging from 44-56 percent and 54-58 percent for UNE Orders in Pennsylvania.<sup>24</sup> By contrast, between April through June 2001, BellSouth's "achieved" average total flow through rates for residence range from approximately 80-84 percent, for business from 39-42 percent, and 57-63 percent for UNE orders. For "regular" flow-through rates, BellSouth metrics show 90-91 percent for residence, 57-64 percent for business and 74-80 percent for UNE orders. Furthermore, the Commission notes that BellSouth's LNP flow through performance has exceeded the Commission's benchmark of 85% in March, April, May, and June 2001. Finally, the Commission agrees with BellSouth that its flow-through rates should improve as a result of the Flow-Through Improvement Task Force created at the direction of the Commission in Docket No. 7892-U.

With respect to the type of orders that can be ordered electronically, the Commission finds that UNE-P can be ordered electronically with either series completion or multi-line hunting, notwithstanding NewSouth's claims to the contrary. To the extent NewSouth or any other CLEC wants the ability to order electronically UNE-P with circular hunting, a change request should be submitted to the CCP. As to Cbeyond's

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<sup>23</sup> See KCI Flow-Through Evaluation Final Report.

<sup>24</sup> Consultative Report of the Pennsylvania PUC to the FCC at fn 202.

complaints about the lack of electronic ordering of DS1 UNE combinations, such electronic access is being developed under the auspices of the CCP and should be implemented later this year. In the meantime, as a result of the Commission's decision in Docket No. 11901-U, CLECs can continue to submit an ASR for access services that can be converted to EELs on an interim basis.

Although AT&T, WorldCom, and Birch complain about BellSouth's allegedly "excessive" use of manual processing to handle CLEC orders, the FCC accepts that not all CLEC service requests flow-through. Indeed, the FCC has recognized that some service requests properly could be designed to fall out for manual processing. *SWBT-TX Order*, ¶ 180; *Bell Atlantic-NY Order*, n. 488. Furthermore, the Commission does not find credible AT&T's allegation that "more than 70,000" LSRs fell out for manual handling in March 2001 due to BellSouth's system. As BellSouth correctly points out, this figure includes LSRs that fell out due to CLEC errors; the number of LSRs that fell out for manual handling by design in March 2001 was approximately 30,000. *Stacy OSS Reply Affidavit*, ¶ 60. The evidence reflects that designed manual fall-out affects only 8-9% of all electronic LSRs, and any manual processing from errors affects only 12-13% of electronic LSRs. *Id. at* ¶ 111.

Although Birch questions BellSouth's service accuracy results, Birch did not provide any specific information by which the Commission could draw any reasonable conclusion as to the number of errors that might have occurred or how many of these errors might have been caused by Birch. BellSouth points out that, in an effort to assist Birch during the first few months, it submitted UNE-P requests. BellSouth dedicated two LCSC representatives to assist Birch with its order issuance questions and issues.

*Ainsworth Reply Affidavit*, ¶ 32. Furthermore, the Commission notes that BellSouth met five of the six sub-metrics in the Service Order Accuracy measure for unbundled network elements in May 2001 and five of the seven sub-metrics for this measure in June 2001.

### **Jeopardy Notices**

One factor that the FCC considers in assessing nondiscriminatory access to ordering functions is the timeliness within which a BOC provides jeopardy notices (*i.e.*, notice that a service installation due date will be missed). *SWBT-TX Order*, ¶184. The Commission established a measure -- Average Jeopardy Notice Interval -- which requires that BellSouth give a least 48 hours notice on 95% of the orders placed in jeopardy. BellSouth's performance data reflects that BellSouth routinely satisfies this measure in most sub-metrics each month.<sup>25</sup>

However, BellSouth has advised the Commission that it cannot rely upon this measure because the average jeopardy notice interval captures the time interval between when the jeopardy notice is sent and when the jeopardy condition is cleared, when it should capture the time interval between the sending of the jeopardy notice and the original due date. BellSouth has informed the Commission that it is in the process of implementing coding and system changes to address these problems.

The Commission does not believe that the absence of reliable jeopardy notice performance data precludes a finding that BellSouth is providing nondiscriminatory access to OSS ordering functions. First, the timeliness by which BellSouth provides jeopardy notices has not been an issue raised by many CLECs, which the Commission

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<sup>25</sup> Docket No. 7892-U Performance Measures (B.2.10.3).

finds is an indication that BellSouth is providing timely jeopardy notices. The Commission would have expected the CLECs to raise the issue if that were not the case. Second, it is important to note that relatively few orders are actually placed in jeopardy by BellSouth. For, example, for the months of March through June 2001, only between .29% and .53% of all Loop + Port Combination orders were placed into jeopardy.<sup>26</sup> Third, even when an order is placed in jeopardy, BellSouth rarely misses its installation appointments or at least does not do so with any greater frequency for the CLECs than for its retail customers, as is discussed in greater detail below. This means that BellSouth has been able to manage its workload effectively so that the due date is not missed, even on those orders placed in jeopardy. Under the circumstances, the Commission concludes that BellSouth is providing jeopardy notices in a manner that provide CLECs a meaningful opportunity to compete.

**(iii) Provisioning Functions**

The Commission finds that BellSouth is providing nondiscriminatory access to provisioning functions. The record establishes that BellSouth provisions CLEC orders in substantially the same time and manner as retail orders. *See Memorandum Opinion and Order, In re: Application of Verizon New England, Inc., et al., For Authorization to Provide In-Region, InterLATA Services in Massachusetts*, CC Docket No. 01-9, ¶ 90 (April 16, 2001) (“*Verizon-MA Order*”); *SWBT-TX Order*, ¶ 194.

During the months of March through June 2001, BellSouth met or exceeded the recommended analogue for UNE Order Completion Interval (“OCI”) sub-metrics 69%, 79%, 90%, and 83% respectively. The Commission reviewed OCI metric for Loop +

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<sup>26</sup> Docket No. 7892-U Performance Measures (B.2.5.3).

Port Combinations, Other Design and Other Non Design sub-metrics in Checklist Item 2.

Other UNE provisioning sub-metrics will be reviewed in each individual checklist item.

For the period of March through June 2001, BellSouth's performance with respect to Loop + Port submetrics was as follows:

March: BellSouth met 2 of 4 Loop + Port sub-metrics;  
 April: BellSouth met 3 of 4 Loop + Port sub-metrics;  
 May: BellSouth met 3 of 3 Loop + Port sub-metrics;  
 June: BellSouth met 3 of 4 Loop + Port sub-metrics;<sup>27</sup>

BellSouth did not meet the applicable analogues in the months March-June 2001 for the following sub-metrics:

B.2.1.3.1.1 Loop+Port Combo/<10 circuits/dispatch (March)

B.2.1.3.1.2 Loop+Port Combo/<10 circuits/non-dispatch<sup>28</sup> (March, April and June)

Mar-01				
Apr-01				
May-01	1.04	451,147	1.07	7,823
Jun-01				

<sup>27</sup> Docket No. 7892-U Performance Measurements (B.2.1.3.1.1, B.2.1.3.1.2, B.2.1.3.2.1 and B.2.1.3.2.2)

<sup>28</sup> Docket No. 7892-U Performance Measures.

BellSouth performed a root cause analysis for OCI Non-Dispatch orders that revealed that BellSouth was offering a 0-2 day interval on retail non-dispatched plain old telephone system ("POTS") orders, but the UNE Loop+ Port combination non dispatched orders were receiving the same interval as dispatched orders. BellSouth implemented a permanent solution on June 2, 2001, which modified the due date process calculation which corrects the problem for all products.

For the period March through June 2001, BellSouth met the retail analogue for OCI for Loop+Port combinations with 10 or more circuits (both dispatch and nondispatch). For those Loop+Port combinations with less than 10 circuits (both dispatch and nondispatch), BellSouth failed to meet the analogue in March for dispatched orders and for non-dispatched orders BellSouth missed the sub-metric in March, April and June. However, according to the Gertner/Bamberger Study, BellSouth would have met the applicable retail analogue in both categories but for improperly "L"-coded orders and customer-caused misses.<sup>29</sup> The Gertner/Bamberger study addressed the effect of LSRs submitted with extended completion intervals and installation appointments missed due to end user reasons. All LSRs seeking extended interval should receive an "L" code status. This would exclude these LSRs from the OCI measurement. Gertner/Bamberger examined the order completion data to determine the effect on measures for March for both not properly "L" coding these orders and end user appointment misses. Moreover, in April - June 2001, BellSouth's performance improved, as BellSouth met the applicable retail analogue for Loop+Port combinations with less than 10 circuits with a dispatch. Additionally, Commission expects BellSouth's performance for Loop+Port combinations

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<sup>29</sup> See *Gertner/Bamberger Affidavit*, Table 3A.

with less than 10 circuits with no dispatch to continue in the positive trend, as it did in August 2001, when BellSouth met the applicable retail analogue.

With respect to OCI for Other Design and Other Non Design sub-metrics, BellSouth missed the retail analogue in March and April 2001. However, BellSouth met or exceeded the retail analogue in these metrics for May, June and July of 2001.

The Commission does not find any evidence to support Birch's claim that BellSouth is inappropriately coding missed due dates as the fault of the subscriber when BellSouth really caused the error. Furthermore, BellSouth denies Birch's claims and contends that it conducts quality reviews of its processes and coding of CLEC requests to ensure that accurate and appropriate coding is applied. *Ainsworth Reply Affidavit* ¶ 27.

### **Missed Installation Appointments**

For the months of March through June 2001, BellSouth performance with respect to Missed Installation Appointment standards was as follows:<sup>30</sup>

March:	BellSouth met 28 of 31 Loop sub-metrics;
April:	BellSouth met 30 of 32 Loop sub-metrics;
May:	BellSouth met 22 of 22 Loop sub-metrics;
June:	BellSouth met 26 of 32 Loop sub-metrics;

In particular, BellSouth met the Missed Installation Metric for all Loop + Port sub-metrics except for B.2.18.3.1.2/Loop + Port Combinations/<10 circuits/Non-Dispatch for the months of March and April. In March 2001, BellSouth missed only .11% of the CLEC orders compared to .03% for its retail customers and for April 2001, BellSouth missed .05% for CLECs and .02% retail customers. This data shows that

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<sup>30</sup> Docket No. 7892-U Performance Measurements (B.2.18)

BellSouth meets CLECs installation appointments in the same timeframe as it does for its own retail customers.

NewSouth's complaints about BellSouth's allegedly excessive missed installation appointments and percent orders placed in jeopardy are based upon January 2001 data. However, more current data indicates that BellSouth's performance has improved. For example, in May 2001, BellSouth did not miss a single installation appointment for NewSouth in Georgia, while BellSouth's jeopardy performance reflected similar improvement. *Stacy Performance Reply Affidavit*, ¶ 186. As to AT&T's claims concerning BellSouth's alleged failures in provisioning local number portability, the Commission is not persuaded that BellSouth unilaterally changes the due dates requested by AT&T Broadband. Although AT&T alludes to a five-day provisioning interval for local number portability, BellSouth notes that the due date for number portability, based on industry standards, is three business days from the receipt of an accurate and error free LSR for non-complex services. *Ainsworth Reply Affidavit* ¶¶ 18-20.

The Commission finds no basis to conclude that BellSouth has violated its interconnection agreement with Cbeyond in the provisioning of HDSL circuits, as Cbeyond contends. The Commission is satisfied with BellSouth's explanation of events and finds it particularly noteworthy that, when asked by BellSouth to provide examples of alleged improper provisioning by BellSouth, Cbeyond apparently was unable to do so. *Milner Reply Affidavit* ¶¶ 56-61.

(iv) **Maintenance and Repair**

The Commission finds that BellSouth provides nondiscriminatory access to maintenance and repair interfaces. Based on the availability and timeliness of BellSouth's maintenance and repair interfaces, the timeliness of its repair work, and the quality of the repair work, the Commission concludes that BellSouth is providing maintenance and repair work for CLECs at the same level of quality that it provides for retail customers. *Verizon-MA Order*, ¶ 96; *SWBT-TX Order*, ¶ 209.

BellSouth's performance data reveals that its maintenance and repair interfaces are available. For example, in May, June, and July 2001, the availability of the TAFI interface met or exceeded the Commission's 99.5% availability benchmark. The same is true for all of BellSouth's other maintenance and repair interfaces, the availability of which exceeded the Commission's 99.5% availability benchmark in all three months.

BellSouth also provides timely maintenance and repair responses. In May, June, and July 2001, for example, the response interval experienced by CLECs accessing BellSouth's maintenance and repair systems was comparable to BellSouth retail. However, for certain measures that capture the legacy system access times for maintenance and repair functions, the percentage of requests received in less than four seconds was greater for BellSouth retail than for the CLECs. Examples would be CRIS / <= 4 sec. / Region (D.2.4.1.1) (March, April, May, June and July) as well as LNP / <= 4 sec. / Region (D.2.4.6.1) (March, April & May). Nevertheless, the Commission believes that these measures must be read in context.

First, the Commission notes that the difference in the percentage of responses received in less than four seconds was, for the most part, extremely small. For example, CLECs received 94.76% of their responses in less than four seconds from the CRIS

legacy system, as compared to 95.81% for BellSouth retail in June 2001. In July 2001, CLECs received 95.04% of their responses from CRIS in less than four seconds, as compared with 95.82% for BellSouth retail. In the Commission's view, a difference of this magnitude between the percentages of responses received within four seconds by BellSouth retail and the CLECs does not significantly impact the CLECs' ability to compete.

Second, the Commission notes that BellSouth reports its response interval performance based on the percentage of responses received in less than four seconds, the percentage of responses received in less than ten seconds, and the percentage of responses received in more than ten seconds. As a result, looking at only one of these intervals in isolation can be misleading. For example, with respect to the CRIS legacy system, while the percentage of requests received in less than four seconds was greater for BellSouth retail than for the CLECs in every month since March, CLECs have received a greater percentage of requests from CRIS in less than ten seconds than was the case for BellSouth retail during the same time period.

The only maintenance and repair average response interval sub-metrics in which BellSouth's performance has been continually better for BellSouth retail than for the CLECs are D.2.4.5.1, D.2.4.5.2, and D.2.4.5.3 (LMOSupd/Region). However, even though BellSouth has not met the applicable retail analogue for these sub-metrics, the differences in the response interval between BellSouth retail and the CLECs is relatively slight. For example, in July 2001, BellSouth retail received 99.83% of its responses from LMOSupd in less than 10 seconds, while CLECs received 99.67% of their responses in less than 10 seconds. The Commission believes that, when viewed as a whole, the

performance data reflect that CLECs are receiving timely responses from BellSouth's Maintenance and Repair OSS, notwithstanding some slight differences in the percentage of requests received by CLECs and BellSouth retail.

There is no merit to AT&T's argument concerning the alleged discriminatory nature of the electronic trouble reporting systems BellSouth provides to competitors (*i.e.*, TAFI and ECTA). This is the same argument that the Commission considered and rejected in Docket No. 11853-U, in which it found that BellSouth was providing nondiscriminatory access to its maintenance and repair functions. Furthermore, contrary to AT&T's allegations, the FCC does not require a BOC to provide a machine-to-machine maintenance and repair interface. *Bell Atlantic-NY Order*, ¶ 215; *SWBT-TX Order*, n. 565.

In finding that BellSouth is providing nondiscriminatory access to maintenance and repair interfaces, the Commission also reviewed the Missed Repair Appointments, Maintenance Average Duration, and % Repeat Troubles within 30 days performance measures.

#### **Missed Repair Appointments**

BellSouth met 11 out of 13 Missed Repair Appointment analogues for all UNE sub-metrics for March 2001, 16 out of 16 for April 2001, 16 out of 17 for May 2001 and 15 out of 18 for June 2001.<sup>31</sup> The only sub-metric that BellSouth missed for 2 months during the period March through June 2001 was B.3.1.9.2/ 2 wire Analog Loop/Non-Design/Non-Dispatch. BellSouth missed only 3 out of the 29 repair appointments for May and 3 out of 39 for June 2001.

**Maintenance Average Duration**

BellSouth met 11 out of 13 Maintenance Average Duration analogues for all UNE sub-metrics for March, 15 out of 16 sub-metrics for April, 17 out of 17 sub-metrics for May and 18 out of 18 for June.<sup>32</sup> The only sub-metric that was missed for 2 months during March through June 2001 was B.3.3.2.2/ Local Interoffice Transport/Non-Dispatch, which shows 10 orders in March and 9 in April. Such a small universe does not provide a statistical conclusive comparison with retail analogue.

**% Repeat Trouble within 30 days**

BellSouth met 10 out of 13 % Repeat Trouble within 30 days analogues for all UNE sub-metrics for March 2001, 13 out of 16 for April 2001, 17 out of 17 for May 2001 and 17 out of 18 for June 2001.<sup>33</sup> BellSouth did not miss the same sub-metric twice during the months March through June 2001.

(v) **Billing Functions**

The Commission finds that BellSouth is providing nondiscriminatory access to billing functions. The Commission concludes that BellSouth provides complete and accurate reports on the service usage of CLEC customers in substantially the same time and manner that BellSouth provides for itself. The Commission also concludes that BellSouth provides complete and accurate wholesale bills in a manner that gives CLECs a meaningful opportunity to compete. *Bell Atlantic-NY Order*, ¶ 226; *SWBT-TX Order*, ¶

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<sup>31</sup> Docket No. 7892-U Performance Measurements (B.3.1)

<sup>32</sup> Docket No. 7892-U Performance Measurements (B.3.3)

<sup>33</sup> Docket No. 7892-U Performance Measurements (B.3.4)

210. BellSouth met the Invoice Accuracy metric for March through July 2001 and the Mean Time to deliver Invoices-(CRIS) metric for April through July 2001.<sup>34</sup>

AT&T questions alleged instances of duplicate billing after customers have left BellSouth, although AT&T provides no specific examples of instances where double billing has actually occurred. BellSouth does not dispute that duplicate billing does, on occasion, occur. However, either BellSouth or the CLEC can be the cause of the problem, and the Commission notes that BellSouth has worked diligently to resolve any instances of duplicate billing and has a work group assigned to investigate and correct such problem. *Ainsworth Reply Affidavit*, ¶¶ 7-9.

The Commission is not persuaded by AT&T's claims that BellSouth's procedures for establishing Billing Account Numbers ("BANS") are "overly burdensome" or "difficult." Such claims do not seem credible given that there are nearly 700 BANS in place in Georgia and well over 3,000 region wide and given that BellSouth is unaware of any other CLEC that has complained about the procedures for establishing BANS. *Scollard Reply Affidavit*, ¶¶ 2-6.

Nor is the Commission persuaded by DeltaCom's complaint that BellSouth has failed to "disclose call flow record identification" associated with UNE-P. BellSouth notes that this information is contained in documentation routinely provided to CLECs and is available on BellSouth's website, which was recently updated to add information on the details for which types of usage records can be expected on daily usage files provided by BellSouth. *Scollard Reply Affidavit*, ¶ 7.

**(b) Third - Party Test**

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<sup>34</sup> Docket No. 7892-U Performance Measurements (B.4.1 and B.4.2)

On March 20, 1999, the Commission issued an Order establishing an independent, third-party test of BellSouth's OSS, concluding that such a test was "a worthwhile endeavor" that would aid CLEC entry into the local market in Georgia. *See* Order on Petition for Third-Party Testing, Docket No. 8354-U, p. 1 (May 20, 1999). Because of its prior involvement in overseeing the development of BellSouth's OSS, the Commission concluded that it had the expertise and knowledge to conduct a "focused audit on those areas where BellSouth has not yet experienced significant commercial usage, and where CLECs have expressed concerns regarding operational readiness ...." *Id.* at 2. The Commission established a testing plan, including identifying the areas, OSS functions, and interfaces to be tested, which would provide it "additional information necessary for it to render an informed opinion with regard to BellSouth's compliance with its OSS obligations under Section 271 of the 1996 Telecommunications Act." *Id.* BellSouth subsequently filed the Master Test Plan ("MTP") and Flow-Through Evaluation Plan consistent with the Commission's Order, which the Commission adopted on June 28, 1999, after all interested parties had the opportunity to comment.

In response to CLEC comments, the Commission issued an order on January 12, 2000, which required the development of a Supplemental Test Plan ("STP"). The purpose of the STP was to address the implementation of OSS '99, OSS functions associated with xDSL capable loops and resale services, as well as the processes and procedures for the collection and calculation of performance data. BellSouth filed the STP on January 24, 2000 with revisions filed on March 2, 2000 and again on March 17, 2000 following receipt of CLEC comments. On June 29, 2000, the Commission entered

an order establishing standards and benchmarks that would govern both the MTP and the STP.

Consistent with the MTP and STP, KCI tested BellSouth's wholesale operations (i.e., those operations selling local services and support to other local service providers, or CLECs) for almost two years based upon the following domains: pre-ordering, ordering and provisioning, maintenance and repair, change management, and performance measurements (or metrics). Within each domain, specific methods and procedures were applied to evaluate BellSouth's performance *with* specific test targets. Version 1.0, Master Test Plan Final Report, at II-4; Version 1.0, Supplemental Test Plan Final Report, at II-4.

On March 20, 2001, KCI filed its Final Reports and Opinion Letter. In the Final Reports, each evaluation criteria set forth in the MTP, STP, and Flow-Through Plan was analyzed individually with its own associated result and comment. The results fell into one of four categories: Satisfied, Not Satisfied, No Result Determination Made, or Not Complete. KCI found that a test criterion was "Satisfied" if KCI's analysis demonstrated that the criterion met a quantitative, qualitative, parity, or other parameter established for purposes of the test. By contrast, a test criterion was assigned a "Not Satisfied" if KCI concluded that the criterion failed to meet a quantitative, qualitative, parity, or other parameter established for purposes of the test. In certain cases, KCI was unable to make a result determination -- for example, because of a statistically insignificant sample size or because of the absence of a threshold that could be used for evaluation purposes -- in which case the criterion was assigned a "No Result Determination Made" result. Finally,

in the case of certain metrics where testing is ongoing, the test criterion result was found to be "Not Complete."

In its Final Reports and Opinion Letter, KCI found that BellSouth had satisfied all of the evaluation criteria related to pre-ordering, maintenance and repair, billing, and change management. KCI found that BellSouth had satisfied the vast majority of the evaluation criteria related to metrics, although it concluded that BellSouth had not satisfied four such criteria related to its statistical evaluation and noted that testing on a limited number of metrics evaluation criteria was continuing. Finally, KCI found that BellSouth had satisfied the vast majority of the ordering and provisioning evaluation criteria, although it identified three specific areas that were not satisfied, which, in KCI's opinion, "could potentially have a material adverse impact on a CLEC's ability to compete effectively." KCI Opinion Letter at 2. These areas were: timeliness of responses to fully mechanized orders; timeliness and accuracy of clarifications to partially mechanized orders; and accuracy of translation from external (CLEC) to internal (BellSouth) service orders resulting in switch translation and directory listing errors. *Id.* At the same time, however, KCI also noted the Commission's ability "to monitor these issues on an ongoing basis through the performance measures and/or penalty plans in place that address the timeliness of BellSouth's responses, service order accuracy, and percent of provisioning troubles within 30 days." *Id.*

The Commission disagrees with the CLECs' criticisms of the scope of the Georgia third-party test. While the scope of the third-party test in Georgia may be different from third-party test conducted elsewhere, such differences are immaterial. *See SWBT-TX Order*, ¶ 103 (rejecting argument that Southwestern Bell Telephone

Company's 271 application is "inadequate" because "the third party test in Texas was less comprehensive than the test executed by KPMG in New York, with respect to the Bell Atlantic Section 271 process"). This Commission recognized, as has the FCC, that actual "commercial usage" should be the primary factor in evaluating nondiscriminatory access. As a result, the Commission originally structured the third-party test as a "focused, supervised audit" of BellSouth's OSS because of the extensive commercial usage that BellSouth's OSS experienced since the Commission first began examining BellSouth's systems in 1995. *Docket No. 8354-U*. The Commission subsequently expanded the scope of the Georgia third-party test in response to CLEC concerns. The voluminous nature of KCI's Final Reports evidences the depth and breadth of the third-party test in Georgia.

No party disputes the qualifications or experience of KCI to oversee an independent, third-party OSS test. KCI conducted the third-party testing in New York and Massachusetts and was retained to do similar testing in Pennsylvania, New Jersey, five states in the former Ameritech region, and all thirteen states in the Qwest region. *Docket No. 8354-U*; Deposition of Michael Weeks at 54. The FCC treated KCI's final reports in New York and Massachusetts as "persuasive evidence" of OSS readiness, due in no small measure to KCI's involvement. *See Bell Atlantic-NY Order*, ¶ 100; *Verizon-MA Order*, ¶ 46.

The functions performed by KCI in conducting the third-party test in Georgia were substantially similar to the functions KCI performed in both New York and Massachusetts. As was the case in both New York and Massachusetts, KCI served as an independent third party that placed itself in the position of an actual market entrant in

Georgia. See *Bell Atlantic-NY Order*, ¶ 100; *Verizon-MA Order*, ¶ 46; see also Version 1.0, Master Test Plan Final Report, at II-5 (KCI established “a psuedo-CLEC” as part of the Georgia test in order “to live the CLEC experience”).

Similarly, as was the case in both New York and Massachusetts, KCI generally employed a military-style test in Georgia. See *Bell Atlantic-NY Order* ¶ 98; *Verizon-MA Order* ¶ 46. Under this approach, when testing in Georgia revealed that a BellSouth process, document, or system did not satisfy a particular test criterion, BellSouth generally would implement a fix and KCI would retest the process, document, or system until satisfied. In certain cases when a fix was not implemented and no further testing or analysis was possible, KCI would assign the test criterion a “Not Satisfied.” Docket No. 8354-U, Tr. at 102-103.

The Commission finds unpersuasive AT&T’s criticism that KCI improperly based certain of its conclusions upon the exercise of professional judgment. For example, in the exercise of its professional judgment, KCI found as satisfied evaluation criterion PRE-1-3-6, which tested whether the TAG interface provides timely pre-order responses from BellSouth’s ATLAS-MLH back-end system, because responses were received in an average of 1.0 second, even though there was no comparable BellSouth retail data. Version 1.0 Master Test Plan Final Report at IV-A-17. KCI correctly concluded that an average response time of 1.0 second for pre-ordering information was timely, particularly when KCI’s standard for pre-order response timeliness was an average of eight seconds. Version 1.0 Master Test Plan Final Report at IV-A-17; Docket No. 8354-U, Tr. at 31-32. Furthermore, the Commission finds that the exercise of professional judgment by KCI in conducting the Georgia test is consistent with the