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November 13, 2001

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

VIA COURIER

Magalie Roman Salas
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: Reply Comments of Birch Telecom of the South, Inc. on Joint Application of BellSouth Corporation, et al.'s to Provide In-Region, InterLATA Services in Georgia and Louisiana (Docket No. CC-01-277)

Dear Ms. Salas:

Enclosed please find an original and two (2) copies of the redacted version of Birch Telecom of the South, Inc.'s ("Birch") Reply Comments in the above proceeding. Please note that Birch is filing a confidential portion of the submission and a redacted version of the entire submission in this docket.

If you have any questions, please call the undersigned at (202) 955-6668.

Sincerely,



Robert N. Felgar

RNF/mjo
Enclosure

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ORIGINAL

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)
Joint Application by BellSouth)
Corporation, BellSouth)
Telecommunications, Inc. and)
BellSouth Long Distance, Inc.)
for Provision of In-Region,)
InterLATA Services in Georgia)
and Louisiana)

CC Docket No. 01-277

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REPLY COMMENTS OF BIRCH TELECOM OF THE SOUTH, INC.

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November 13, 2001

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Telecommunications, Inc. and) CC Docket No. 01-277
BellSouth Long Distance, Inc.)
for Provision of In-Region,)
InterLATA Services in Georgia)
and Louisiana)

REPLY COMMENTS OF BIRCH TELECOM OF THE SOUTH, INC.

Birch Telecom of the South, Inc. (“Birch”) files these reply comments in opposition to BellSouth’s Section 271 application for Georgia and Louisiana (“Application”) pursuant to the Public Notice (DA 01-2286) issued October 2, 2001.

I. INTRODUCTION AND SUMMARY

Birch, in its comments, demonstrated that BellSouth’s Application should be denied on two grounds. First, the performance reported by BellSouth was inaccurate and inflated for a number of key measurements, especially flow through. Second, some of BellSouth’s important target benchmarks were set considerably lower than the performance benchmarks approved by the Commission in other Section 271 orders, and are insufficient to ensure CLECs future nondiscriminatory access to unbundled network elements.

These reply comments clarify that BellSouth’s low flow through rate is a serious impediment to Birch’s ability to compete, since it magnifies the effect of BellSouth’s inability to accurately process partially mechanized service orders. BellSouth’s inability to accurately process these orders forces Birch to devote substantial resources to correcting BellSouth’s errors. Frequently, when Birch fails to catch a BellSouth error, BellSouth provisions the order incorrectly. Thus, if it were not for Birch’s efforts to mop up

BellSouth's mistakes, BellSouth would be provisioning orders incorrectly significantly more than its performance results suggest.

The impact of BellSouth's low flow through rate and service order errors goes further than simply requiring Birch to needlessly devote resources to correct BellSouth's mistakes. As a result of BellSouth's poor performance for flow through and service order accuracy, Birch markets only the simplest business and residential products and services in Georgia. Birch does not have confidence that BellSouth's systems will allow it to successfully market more complex products and services. By contrast, in Texas and other SBC states where flow through and service order accuracy are not as significant a problem, Birch markets an assortment of complex products and services, including integrated voice/data access over a T-1 line and Birch's own DSL product. The importance of this effect cannot be overlooked. BellSouth's poor performance has reduced competition by discouraging entry into certain segments of the market and by weakening CLECs by reducing their market opportunities and ultimately their profitability. The ultimate losers are Georgia consumers who are denied the benefits of competitive advanced services.

The flaws in BellSouth's application, however, extend beyond BellSouth's poor performance. The Georgia performance measurement standards themselves are flawed. There are no performance measurements in Georgia that encourage service order accuracy, and the benchmark for flow through is lower than in other states where Section 271 applications have been approved. The absence of effective performance measurement standards means that BellSouth's poor performance is likely to persist well into the future.

In addition to the flaws discussed above, there are a number of other problems which warrant denying the Application. BellSouth appears to systemically fail to issue jeopardy notices; the Georgia performance measurements for FOC timeliness are not

sufficiently demanding; and BellSouth’s performance regarding the average completion interval is overstated due to the fact that the performance measurement is improperly defined. Finally, Birch has demonstrated that BellSouth’s reported results for a number of key performance measurements are simply wrong and cannot be trusted. For all of these reasons, BellSouth fails to satisfy Checklist Item Number 2, which requires “nondiscriminatory access to network elements.” 47 U.S.C. § 271(c)(2)(B)(ii).

II. BELLSOUTH’S FLOW THROUGH RATE IS UNACCEPTABLY LOW

Birch demonstrated in its comments that BellSouth’s flow through rate for Birch did not improve by more than 40% in the month of July as BellSouth claimed. Sauder Decl., ¶¶ 8-22. BellSouth reported that UNE-P flow through for Birch for the months of May, June and July was 54.04%, 62.75% and 94.20%, respectively. In fact, BellSouth’s flow actual through rate for Birch in July was approximately 57%. *Id.*, ¶ 21.

Birch knew that BellSouth’s reported flow through rate for Birch for July was inflated in significant part because BellSouth reported ** ** flow through LSRs in the flow through report, but only ** ** FOCs under the electronically handled FOC timeliness measurement. *Id.*, ¶ 11. BellSouth’s explanation for the discrepancy—that there was a system change in July under which supplement orders to cancel initial orders were considered flow through orders—is simply not credible.¹ It assumes that Birch cancelled ** ** or 38.47% of its BellSouth region-wide orders in July. Sauder Decl., ¶ 13. In fact, Birch typically cancels less than 2% of its monthly orders.²

¹ See also Evaluation of the Department of Justice, CC Docket No. 01-277, at 37-38 n.128 (November 6, 2001) (“DOJ Evaluation”).

² Birch canceled ** * orders region-wide for September and ** ** orders region-wide for October.

Birch was also aware that BellSouth's flow through rate was exaggerated because Birch sometimes received a second FOC transaction from BellSouth containing a new due date. *Id.*, ¶¶ 19-21. This suggests that BellSouth's mechanized system is flawed in that it sometimes provides incorrect due dates. In those instances, manual handling is required to correct the incorrect due dates and provide Birch with a corrected due date. *Id.* Despite the apparent need for manual handling to correct FOC due dates, BellSouth often counts the LSRs as flowing through. In July, ** ** LSRs (out of ** ** LSRs that were reported as flowing through) received multiple FOCs. In August, ** ** LSRs out of ** ** received multiple FOCs. *See* Attachment 1. And most recently, in September, ** ** LSRs out of ** **, received multiple FOCs.³ *See* Attachment 2. These multiple FOCs show that BellSouth's OSS has due date calculation problems.

BellSouth recently restated its Birch-specific flow through results and found that the Georgia specific flow through rate for the month of July was approximately 69%.⁴ This is much closer to Birch's estimate of 57% (based on the numbers reported by BellSouth to Birch) but is still overstated. Birch has no way of evaluating the accuracy of the restated results since BellSouth has not informed Birch of the methodology it used to calculate the new flow through rate. A possible explanation for why BellSouth is still overstating its flow through results is that it still counts LSRs with multiple FOCs as flowing through.

BellSouth's reported flow through rates for Birch for August and September also confirm that BellSouth's flow through performance is inadequate. BellSouth reported that the Birch-specific flow through rate for August was approximately 61%; in September it was

³ The number of orders reported as flowing through comes from BellSouth's restatement of July flow through on October 25, 2001. BellSouth *ex parte*, CC Docket No. 01-277 (October 25, 2001) ("*October 25, 2001 Flow-Through Ex Parte*").

⁴ BellSouth *ex parte*, CC Docket No. 01-277 (November 6, 2001).

just under 60%.⁵ Thus, Bellsouth's Birch specific flow through rates have not improved in recent months.⁶

BellSouth's reported UNE flow through rate in Georgia for all CLECs for September was 79.33%.⁷ Thus, at best, approximately 20% of UNE orders are partially mechanized.⁸ Note, however, that BellSouth could very well have miscalculated its September flow through performance since it may have included orders with multiple FOCs or made other errors.

When considering whether BellSouth's flow through rate is sufficient, the Commission should compare BellSouth's performance to SBC's performance in Texas, not SBC's performance in Kansas and Oklahoma. According to *BellSouth's November 2, 2001 OSS/Manual Handling Ex Parte*, BellSouth's flow through rates for all orders designed to flow through (not just UNEs) range from 69% to 90%.⁹ BellSouth shows that its flow through results are similar to those in Kansas and Oklahoma but well short of flow through rates in Texas.¹⁰ The comparison to Kansas and Oklahoma is inapposite. The Commission approved the Kansas and Oklahoma applications despite the low flow through rates in

⁵ Birch's review of the BellSouth reported data shows Birch Georgia-specific flow through rates in August at 60.75% and in September at 60.34%.

⁶ Representatives from BellSouth and Birch signed the "Birch Telecommunications Action Plan" in July. Attachment 3. An important goal of the plan was to achieve by September a flow through rate for Birch of 80%. *Id.* at 5. Unfortunately BellSouth's reported flow through rate for Birch in September was 60.34% with no sign of improving.

⁷ BellSouth *ex parte*, CC Docket No. 01-277 (Nov. 1, 2001) ("*November 1, 2001 Monthly Performance Summary Ex Parte*").

⁸ This only includes orders that are designed to flow through and excludes orders with CLEC errors. The percentage of partially mechanized orders would be higher if orders that are not designed to flow through are also included in the calculation.

⁹ BellSouth *ex parte*, CC Docket No. 01-277 (Nov. 2, 2001) ("*November 2, 2001 OSS/Manual Handling Ex Parte*").

¹⁰ SBC's flow through rates in Texas range between 97% and 99%. *Id.*

significant part because SBC proved that its OSS was regional and through its performance in Texas that its systems were capable of high flow through rates. *Joint Application by SBC Communications, Inc. Southwestern Bell Telephone Company, Southwestern Bell Communications Service, Inc. d/b/a Southwestern Bell Long Distance for Provision of In-Region, InterLATA Services in Kansas and Oklahoma*, Memorandum Opinion and Order, CC Docket No. 00-217, FCC 01-29 (Jan. 22, 2001) (“*Kansas/Oklahoma Order*”). Unlike Southwestern Bell (“SWBT”), however, BellSouth has no precedent on which to hang its hat. BellSouth has never demonstrated that its systems are capable of high flow through rates.

Similarly, a comparison of BellSouth’s flow through rates to those of Verizon in Pennsylvania and Massachusetts is inappropriate. BellSouth observes that its reported flow through rate for UNE-P is between 64% and 80%. *November 2, 2001 OSS/Manual Handling Ex Parte*. Verizon’s flow through rate for UNE-P in Pennsylvania and Massachusetts is between 66% and 71%. *Id.* Once again, the suggestion is that BellSouth’s flow through rates are similar to an RBOCs that has been granted Section 271 approval.

The Commission, however, explained that “Bell Atlantic’s systems are capable of providing high levels of order flow through, but are dependent, in part, on the performance of competing carriers.” *Application by Bell Atlantic New York for Authorization Under Section 271 of the Communications Act to Provide In-Region, InterLATA Service in the State of New York*, Memorandum Opinion and Order, 15 FCC Rcd 3953, ¶ 166 (1999) (“*New York Order*”). Such dependence stems from the fact that when CLECs commit errors in their orders, Bell Atlantic manually corrects the errors rather

than rejecting them.¹¹ These manual corrections are counted as partially mechanized orders, thus lowering the flow through rate. *Id.* BellSouth, however, simply rejects CLEC orders with errors without attempting any corrections. Thus, one would expect that, everything else being equal, BellSouth's flow through rates would be higher than Verizon's flow through rates. Accordingly, BellSouth should be required to have a higher flow through rate than Verizon.

III. BELLSOUTH'S INTERNAL SERVICE ORDER ERRORS DENY BIRCH A MEANINGFUL OPPORTUNITY TO COMPETE

The Commission has said that flow through rates are not an end in themselves, but rather a tool used to indicate a wide range of possible deficiencies in an RBOC's OSS that may deny an efficient competitor a meaningful opportunity to compete in a local market." *Penn. Order*, ¶ 48. In this case, however, BellSouth's low level of flow through magnifies a problem with BellSouth's OSS of fundamental importance to Birch and other CLECs. BellSouth's manual processes are woefully inadequate; BellSouth routinely makes mistakes with internal service orders when orders are handled manually. This is in stark contrast to the performance achieved by other RBOCs with respect to service order accuracy.¹²

¹¹ Verizon manually corrects CLEC errors thus reducing the flow through rate in New York, Pennsylvania and Massachusetts. *New York Order*, ¶ 166; *Application of Verizon Pennsylvania Inc., Verizon Long Distance, Verizon Enterprise Solutions, Verizon Global Networks Inc., and Verizon Select Services Inc. for Authorization To Provide in-Region, InterLATA Services in Pennsylvania*, Memorandum Opinion and Order, CC Docket No. 01-138, FCC 01-269, ¶ 49 (September 19, 2001) ("*Penn. Order*"); *Application of Verizon New England Inc., Bell Atlantic communications, Inc. NYNEX Long Distance Company And Verizon Global Networks Inc., for Authorization to Provide In-Region, InterLATA Services in Massachusetts*, Memorandum Opinion and Order, 16 FCC Rcd 8988, ¶ 78 (2001) ("*Mass. Order*").

¹² See e.g., *Mass. Order*, ¶ 81 ("Verizon is timely and accurately processing orders that do not flow through.").

A. BellSouth’s Reported Results for Internal Service Order Accuracy Fail to Meet the Applicable Benchmark

The performance measurement standard establishes a benchmark of 95% accuracy. In the five months from May through September, BellSouth has not once met the benchmark and was close only in the month of May.¹³ In August, BellSouth’s accuracy for “Loops non-design < 10 circuits” was 64.36%¹⁴ In September BellSouth’s accuracy was 79.33%.¹⁵ The Department of Justice (“DOJ”) and KPMG have both acknowledged BellSouth’s failure to meet the internal service order benchmark for UNEs for June and July in both Georgia and Louisiana.¹⁶ Moreover, as discussed below in Section III. B., the performance measurement for service order accuracy fails to capture a number of serious flaws in a number of important respects.

AT&T agrees that BellSouth’s service order accuracy is atrocious. AT&T observed that “BellSouth only seeks to maintain a 70% rate of service order accuracy – thus creating the possibility of errors in re-entering as many as 30% of partially mechanized and manually submitted orders. Its own reported performance data show that errors by its service representatives are frequent.” Comments of AT&T to Joint Application by BellSouth Corporation, et al. for Provision of In Region, InterLATA Services in Georgia and Louisiana CC Docket No. 01-277 (October 22, 2001) at 23.

¹³ Varner Exhibits PM-2,3,4 (for May-July results); BellSouth *ex Parte*, CC Docket No. 01-277 (Oct. 3, 2001) (August results) (“*October 3, 2001 Monthly Performance Summary Ex Parte*”); BellSouth *ex Parte*, CC Docket No. 01-277 (Nov. 1, 2001) (September results) (“*November 1, 2001 Monthly Performance Summary Ex Parte*”).

¹⁴ *October 3, 2001 Monthly Performance Summary Ex Parte*. Birch believes, and as described by BellSouth participants in the recent Georgia six-month review workshop, that UNE-P orders are included in the “Loop non-design” disaggregation.

¹⁵ *November 2, 2001 Monthly Performance Summary Ex Parte*.

¹⁶ DOJ Evaluation at 17 n.51.

The Commission approved Bell Atlantic’s application in New York despite the fact that, according to the service order accuracy performance measurement, Bell Atlantic was achieving very low service order accuracy. Bell Atlantic argued that the metric was flawed because “it attributes to Bell Atlantic as errors all differences between the original competing carrier order and the order information entered into its service order processor.” *New York Order*, ¶ 173. Thus it “counts as Bell Atlantic errors those cases where Bell Atlantic has fixed an error in a competing carrier order.” *Id.* The Commission agreed. *Id.*, ¶ 174. However, the same flaw cannot be relied upon by BellSouth since BellSouth’s systems and procedures call for the rejection of all CLEC orders that contain errors; BellSouth does not fix orders that contain errors.

Bell Atlantic reported that if it adjusted the service order accuracy measurement to account for the fact that Bell Atlantic corrects CLEC errors, it would receive a score of 87% for service order accuracy. *New York Order*, ¶ 184 n.548. Similarly, in Massachusetts Verizon reported service order accuracy ranging from 82% to 99%,¹⁷ and in Pennsylvania Verizon reported service order accuracy of 85% to 99%.¹⁸ All of these reported results are much higher than those recently reported by BellSouth.

B. Birch’s Experience With BellSouth’s Internal Service Order Accuracy is Consistent With BellSouth’s Reported Results

Birch employs five ILEC Process Monitors (“IPMs”)¹⁹ for the exclusive purpose of “hand-holding” Birch’s orders through the provisioning process and correcting as many

¹⁷ *Mass. Order*, ¶ 81 and n.251.

¹⁸ *Penn. Order*, ¶ 49 n.190.

¹⁹ Birch’s IPMs are paid at a higher rate than a standard provisioner and are more experienced employees tasked to perform high level problem-solving exercises for those BellSouth orders that contain errors.

service order errors introduced by BellSouth that they are able to detect.²⁰ The spreadsheet in Attachment 4, represents a two week snapshot²¹ of one IPM's log of activity related to BellSouth service order errors.²² As the log illustrates, the Birch IPM has performed the tedious task of tracking specific customers, customer telephone numbers, order dates, PON numbers and the specific errors that occurred during the transition from the Birch-produced LSR to the BellSouth re-typed internal service order. Note that several orders contain multiple errors.

Birch conducted an analysis of this one IPM's log to derive the percentage of BellSouth service orders for Georgia that contained errors that were *actually* caught by Birch. During the October 15 through 26, 2001 time period, this Birch IPM found errors on and made corrections to ** **²³ BellSouth service orders.²⁴ During that same two-week period, Birch provisioned ** ** orders in Georgia of which 40% or ** ** were

²⁰ Presumably, service order errors only occur on partially mechanized orders. However, as CLECs have no indication of whether an order is fully or partially mechanized, as a matter of standard practice, Birch IPMs review every single order in CSOTS, including mechanized orders, to ensure that the information Birch provided on the LSR and the order appearing in CSOTS are identical. The accompanying flow charts depict the time interval it takes Birch IPMs to perform this function, ten minutes per order on average.

²¹ The two-week snapshot was derived from the time period between October 15 and 26, 2001. This is merely illustrative of any given time period for any given IPM at Birch.

²² This particular Birch IPM is assigned to Georgia orders, and all of the orders contained on the log are Georgia-specific.

²³ Birch IPMs utilize two mechanisms to report service order corrections to BellSouth. The first is the "HiTops" e-mailbox. The second is a phone call to the LCSC. Although not specifically documented on the IPM log, Birch IPMs make an average of 4 additional calls per day to the LCSC to correct service order errors that are deemed more complicated and require urgent response time usually attributable to a nearing due date. Thus, the ** ** service order figure includes the average of 4 calls per day to the LCSC.

²⁴ Although many of the orders contained multiple errors, Birch did not include that impact in this analysis.

manually handled by BellSouth.²⁵ Therefore, Birch found errors on 28.17%²⁶ of the manual service orders handled by BellSouth in Georgia.²⁷ The effect of this high rate of internal service errors is exacerbated by the fact that 40% of Birch's orders are partially mechanized.

Birch has no choice but to devote substantial resources to catch and fix these errors if it is to successfully avoid customer frustration due to incorrect provisioning of their orders. Had Birch not implemented its IPM strategy, it would be out of business in the BellSouth region today due to BellSouth's provisioning errors that would cause a poor conversion experience for a significant percentage of Birch's customer base.

It is interesting to note that BellSouth dismisses its service order accuracy problems as insignificant and suggests that these errors are not customer-affecting.²⁸ Contrary to what BellSouth might believe, the lack of provisioning complaints before a regulatory body does not tell even part of the story. All of the activity performed by Birch's IPMs takes place *before* a customer's service is provisioned. Rather than accepting BellSouth's conclusion that these errors are not customer-affecting based on irrelevant performance measurement data, the Commission should instead consider that Birch is

²⁵ This portion of the analysis assumes that 100% of the mechanized orders were error-free on the BellSouth side, which is not always the case.

²⁶ 28.17% represents ** ** orders found to contain errors out of ** ** orders manually handled by BellSouth for the October 15 through 26, 2001, time period. There are four other IPMs that examine BellSouth manual Service Orders created for Birch orders pertaining to other BellSouth states. Based on an evaluation of the detail periodically prepared by the other IPMs, Birch has every reason to believe that the error rate of 28.17% is accurate in a broad sense as well as for this specific illustration. Therefore for the month of October, all Birch IPMs corrected in excess of ** ** BellSouth manual service orders (** ** BellSouth Service Order Errors per IPM X 5 IPMs X 2 to expand the two week period into a month).

²⁷ Note that the 28.17% figure underestimates the percentage of internal service order errors since the figure only includes errors that Birch catches.

²⁸ BellSouth Brief in Support of Application, BellSouth Corporation, et al, CC Docket No. 01-277 (October 2, 2001) ("BellSouth Brief) at 81.

forced to employ substantial resources to insulate its customers from BellSouth-caused provisioning errors to the best of its ability.

C. BellSouth’s Excessive Reliance on Manual Intervention and Poor Track Record of Service Order Accuracy Materially Increases Birch’s Costs and Ultimately Denies Birch a Meaningful Opportunity to Compete

BellSouth’s internal service order errors and poor flow through performance have forced Birch to implement various strategies to guard against massive provisioning problems and customer distrust.²⁹

1. Birch Employs Additional Provisioning Headcount Exclusively to Manage BellSouth Service Order Errors

In an effort to manage the BellSouth service order accuracy problems, Birch has been forced to increase the cost of its provisioning organization dedicated to BellSouth by 48.93%.³⁰ As discussed above, Birch employs five IPMs for the exclusive purpose of correcting Birch’s service order errors. This is a glaring example of how BellSouth’s inefficiencies are thrust upon Birch unnecessarily. It is an expense that should be shouldered by BellSouth, not Birch.

²⁹ Despite the Birch efforts described herein, service order accuracy errors still affect Birch end users. Attachments 5 and 6 outline ** ** August and ** ** September errors that affected Georgia end users. The data depicts instances where BellSouth needed to issue correction service orders to fix BellSouth caused service order errors.

³⁰ Birch employs 13 provisioners in its BellSouth provisioning center that only prepare and submit to BellSouth local service requests for all conversion, move, add and change activities. The annual cost of these provisioners is ** **. The annual cost of 5 IPMs is ** **. The IPMs’ sole responsibility is to detect and rectify service order errors introduced by BellSouth. Therefore, the cost of Birch’s provisioning organization is 48.93% (** **) greater than it would be otherwise if this BellSouth error problem did not exist.

2. Birch's IPMs Constantly Prevent Provisioning Errors

Attachment 7 depicts a particular Birch customer's provisioning experience prior to conversion. The customer, ** is a South Carolina based company with 67 locations and ** ** lines³¹ that wanted to convert to Birch. The spreadsheet in Attachment Seven represents the same information provided on the IPM log in Attachment 4, including the internal service order errors introduced by BellSouth in transition from the Birch LSR. BellSouth made errors on its internal service orders for 32 out of the 67 orders generated to provision this account, resulting in a 47% error rate.³² Correcting the 32 internal service order errors required 31 phone calls to the LCSC and approximately 10 hours of the IPM's time.³³ Note that Birch submitted the 32 orders correctly originally. Birch would be more forgiving of BellSouth's errors if the orders for this customer had been for complex services. However, each of these orders were simple, UNE-P based POTS services. Had Birch not taken extraordinary and pre-emptive measures to prevent provisioning errors for this important Birch customer, not only would the customer's conversion experience have been a nightmare, the customer would have logically (although incorrectly) blamed Birch for the poor experience.

Attachment 8 further details the efforts undertaken by the Birch IPM to correct just one service order (out of 32) containing errors in the ** ** conversion process. This example is indicative of what happens to orders submitted for Birch's customers every day. The snap shot depicted in Attachment 4 contains 31 more

³¹ At least one of ** ** locations is in Savannah, Georgia, as referenced in Attachment 8.

³² Attachment 8 illustrates the exercise performed by the Birch IPM to correct just one of the 32 orders that contained BellSouth-caused errors.

³³ For this example, the IPM actually had to re-correct additional errors made on the internal service orders, after the initial errors had been addressed. Unfortunately, this is not uncommon in the correction process.

customers identical to ** that were saved from an error-filled conversion experience by a Birch IPM. Attachment 8 amplifies the process by which a Birch IPM corrects every single service order error for every single customer listed on the IPM log in Attachment 4. This log could be produced for the other four IPMs utilized by Birch and the result would be the same: evidence of customer after customer that is shielded from an unsuccessful conversion experience because a Birch IPM corrected the BellSouth-imposed service order errors prior to the customer's service being provisioned.

Although Birch has attached a dollar value to the IPMs, it is painfully clear that the value they add by routinely preventing disastrous conversion experiences for Birch customers cannot be measured in dollars and cents, but rather is an intangible that Birch cannot truly nor fully quantify.

The negative impact of BellSouth's service order errors on CLECs' customers is not the benchmark to use to assess whether BellSouth's service order accuracy errors impede competition, as BellSouth suggests. Rather, the proper assessment is how these inefficiencies impede a CLEC's provisioning process to the point of being unable to provision service at parity with BellSouth retail. BellSouth retail does not have to contend with its vendor/competitor re-typing its customer's orders and introducing errors on a material amount of those orders. Without Birch's IPMs, *nearly 30%* of all orders manually handled by BellSouth would be provisioned incorrectly due to BellSouth-caused errors.³⁴ Birch simply cannot afford to rely on BellSouth's inefficient, excessive manual handling to get the job done. Birch should not have to bear the brunt of BellSouth's provisioning inefficiencies in the way described herein. BellSouth should be held accountable for and

³⁴ Even with the efforts undertaken by the Birch IPMs, there are still orders that do get provisioned with BellSouth-caused errors. *See* Attachments 5 and 6.

remedy its inherent service order quality problems that in turn force needless inefficiencies on Birch, before BellSouth is ever granted 271 approval.³⁵

3. Birch Must Routinely Request Extended Due Dates to Account for Extra Provisioning Time Required to Correct BellSouth Service Order Errors

Birch requested extended due dates on nearly 100% of its conversion orders to provide extra time for Birch provisioners to correct BellSouth's service order errors. Attachment 9 hereto is a flow chart depicting the life of a Birch order if handled by BellSouth on a mechanized basis compared to the life of a Birch order if handled by BellSouth on a partially mechanized basis. This flow chart amplifies the additional time it takes Birch to provision orders that have internal service order errors. As the flow chart in Attachment 9 illustrates, the average interval from the submission of an LSR by Birch to FOC receipt, on a mechanized basis, is 16 minutes per order. In contrast, the average interval from LSR submission just to service order correction, for an order that is manually handled by BellSouth, is *3 hours and 56 minutes per order*.³⁶

4. Inherent Deficiencies in CSOTS Further Lengthens the Provisioning Time for Birch Customers

Birch also requests extended due dates because of the deficiencies in the CLEC Service Order Tracking System ("CSOTS"). Birch's IPMs utilize CSOTS to verify the accuracy of BellSouth's service orders. Several inherent problems prevent Birch IPMs to

³⁵ At a bare minimum, the cost associated with the quality control of BellSouth's service orders should be borne by BellSouth and not Birch. BellSouth should be required to prove significant improvements in its service order error rates prior to gaining 271 approval.

³⁶ Attachment 9. This calculation is on a business hour basis. However, this level of performance is not guaranteed under the SQM framework, as BellSouth is currently only required to return 85% of partially mechanized orders within 10 business hours. Currently, there is nothing to prevent BellSouth from decreasing its performance to this lower level, immediately following 271 approval.

verify the service order integrity on a real-time basis. First, CSOTS is only updated once every 24 hours. Thus, if Birch submits an LSR at 10:00 a.m., the BellSouth-generated service order cannot be viewed until after 6:00 p.m.—after hours that evening. As evidenced herein, the high percentage of BellSouth service order errors necessitates Birch's practice of reconciling each service order with the LSR. Since Birch cannot access the CSOTS information real-time, the service order reconciliation cannot occur until the next business day after the LSR is submitted. As a result, it is nearly impossible for Birch to offer same-day or next-day due dates to its customers for even the basic set of UNE-P orders that it provisions. Because Birch cannot be sure as to which of its orders will fall out for manual handling, and because Birch is not able to perform same-day corrections, Birch must request extended due dates for all of its customers to ensure that service order errors are caught prior to being provisioned.

In addition, internal service orders in CSOTS are often represented inaccurately. Often, a Birch IPM has a printed service order from CSOTS and discovers errors during the reconciliation process. The Birch IPM will then call the LCSC only to have the LCSC representative report that no error is present from its view of the service order. In this instance, it is a complete waste of the Birch IPM's time to report errors to the LCSC. There is evidently a system problem in CSOTS that again requires Birch to extend due dates and therefore needlessly extend the time in which service to Birch customers is provisioned.

Finally, service orders in CSOTS do not always reflect corrections made to the initial service orders. If an error is discovered during the reconciliation process, the Birch IPM reports it to the LCSC. The LCSC representative will then make the corrections to the service order. As a quality control measure, Birch will again reconcile the internal

service order to the original LSR. If the IPM observes in CSOTS that the corrections have not been made, the IPM will call the LCSC to confirm that the corrections will indeed be made prior to order completion. The response frequently given by the LCSC is that the corrections were made on the previous day when the errors were reported. If CSOTS fails to update the service order, Birch cannot confirm that these corrections were made. Despite these difficulties with CSOTS, Birch is in no position to abandon the reconciliation process described herein because it must contend with a BellSouth service order error rate of nearly 30%. The CSOTS deficiencies further impede Birch in that the IPMs are prevented from performing their quality control role as effectively as they could. Since Birch is ultimately responsible to its end users for an accurate conversion experience, the only way to effectively insulate its customers is to extend due dates and attempt to uncover service order errors and manage through CSOTS's unreliability. As a result, Birch's customers cannot be provisioned as timely as BellSouth's retail customers because Birch must allow for additional time – generally two business days – to correct BellSouth's mistakes and deal with BellSouth's system deficiencies.

5. BellSouth's Performance with Respect to Service Order Accuracy is Far Worse Than SWBT

Birch offers service in both the SWBT region and the BellSouth region. Attachment 10 compares the manual intervention process Birch encounters for orders processed by the two RBOCs. The primary difference is that SWBT's error rate on internal service orders is only 5%.³⁷ Moreover, Birch's order volumes in the SWBT region far exceed those in BellSouth region. If Birch experienced on its volumes in the SWBT region

³⁷ It is important to note that Birch offers and orders a much more complex set of products to its customers in the Southwestern Bell region and that Birch attributes a large part of the 5% fall out rate there to the provisioning of such complex orders.

a sustained level of the 40% manually handled order rate and a nearly 30% service order error rate, it would likely not be in business today. Prior to gaining Section 271 approval in Texas, Kansas and Oklahoma, SWBT's benchmark for flow through was set at parity with the flow through provided to SWBT's retail organization. The parity measurement disincentivizes SWBT from handling CLEC orders manually by requiring SWBT to provide flow through rates to CLECs at or near parity with SWBT retail, or pay stiff remedy payments for failure to provide the same. Unlike SWBT's performance, BellSouth's performance does not provide the same meaningful opportunity to compete that this Commission determined previously for SWBT in each of the states in which it granted 271 authority to SWBT.

Significantly, Birch does not have an IPM analogue in its SWBT-dedicated provisioning group. SWBT's service order accuracy and flow through rates are sufficiently high that Birch does not have to deploy additional resources for the exclusive purpose of overseeing its provisioning of manually handled orders.

6. Birch's Costs Per Order are Substantially Higher as a Result of the Errors and Inefficiencies in BellSouth's Ordering Process

Attachment 9 shows that on average Birch IPMs spend an additional 40 minutes per order dealing with service order errors. Birch spends ten minutes reconciling the Birch submitted LSR to the BellSouth service order; twenty minutes correcting the service order error; and ten minutes confirming that the service order corrections have been accurately made by BellSouth. This additional time spent reconciling, correcting, and validating the corrections is obviously only *after* the IPM is able to discover the errors. Because of the shortcomings of BellSouth's CSOTS, service order errors are not typically discovered the same day the FOC is issued. It is typically the next day. This additional time and

dedication of the Birch IPMs to error correction effectively doubles the direct provisioning cost of partially mechanized orders.

Birch's average cost of base provisioning activities is ** ** per order.³⁸

Factoring in the additional cost of the Birch IPMs for error correction activities adds an additional ** ** per partially mechanized order³⁹, or nearly a 100% increase over the base provisioning cost.

7. Birch's Higher Per Orders Costs and its Lack of Confidence in BellSouth's Ordering Systems Have Prevented Birch From Expanding its Marketing Efforts

A prime example of Birch's inability to expand other aspects of its business is the basic product set offered by Birch in the BellSouth region. Recall from Birch's initial comments that over 95% of all Birch orders processed in the BellSouth region are simple, POTS based UNE-P orders.⁴⁰ Birch's lack of confidence in BellSouth's provisioning process has prevented Birch from rolling out complex product offerings to its customers or potential customers in the BellSouth region. Although Birch would like nothing more than to be able to offer a more complex, competitive set of products to its customers in the

³⁸ The [REDACTED] figure is arrived at as follows:

Annual Cost of Birch provisioners handling BellSouth	**	**
Monthly Cost ([REDACTED])	**	**
Total September Order Volume – BellSouth Orders	**	**
Base Provisioning Cost/Order ([REDACTED])	**	**

³⁹ The [REDACTED] figure is arrived at as follows:

Annual Cost of IPMs – 100% BellSouth	**	**
Monthly Cost ([REDACTED])	**	**
September Partially Mechanized Orders	**	**
IPM Cost/Partially Mech. Order ([REDACTED])	**	**

⁴⁰ Comments of Birch Telecom of the South, Inc. to Joint Application by BellSouth Corporation, et al. for provision of In-Region, Interlata services in Georgia and Louisiana, CC Docket No. 01-277 (October 22, 2001) at 16 (“Birch Comments”).

BellSouth region, Birch's fear of the provisioning impacts and problems is too great at this time.

When compared to Birch's experience in the SWBT region, the overall impact to Birch's ability to compete with a more complex set of products becomes clear. Birch began processing simple, POTS-based UNE-P orders in the SWBT region in May 1999. Eight months later, in January 2000, Birch was able to begin offering and provisioning more complex products. Although the decision to roll out more complex products was driven by Birch's own business plan, Birch also had the confidence in its ability to engage in cooperative resolution of operational problems with SWBT and was able to find a way to make the provisioning process work for these products.⁴¹ Birch's business plan in the BellSouth region was (and still is) to expand its product offerings once it reached a level of operational stability with its initial, simplified product set. To date, this has not occurred. Nearly eleven months after its launch in the BellSouth region, Birch's confidence in BellSouth's provisioning process has only diminished. This lack of confidence is directly attributable to BellSouth's unstable provisioning process, based on Birch's actual experience with horrendous flow through rates and staggering service order error rates.

Although BellSouth has indicated that it is taking steps to improve its service order accuracy performance,⁴² such improvement has yet to be seen. Furthermore, this Commission has repeatedly made clear that a "BOC's promises of future performance to address particular concerns raised by commenters have no probative value in demonstrating

⁴¹ Recall that Birch supported SWBT's 271 applications in Kansas, Missouri and Oklahoma later in 2000.

⁴² BellSouth Brief at 81-82; Varner Aff. ¶ 153.

its present compliance with the requirement of section 271. Paper promises do not and cannot satisfy an RBOC's burden of proof."⁴³

It has been almost six years since the passage of the Telecommunications Act of 1996 and BellSouth continues to rely excessively on manual processes and forces CLECs like Birch also to rely on excessive manual processes that are costing Birch additional time and resources. The result is that a normally efficient provider like Birch a meaningful opportunity to compete. Despite the \$1.6 billion dollar upgrades to BellSouth's OSS systems, Birch still experiences a mere 60% flow through rate. Despite BellSouth's claim that it is retraining its service representatives who enter BellSouth's internal service orders, Birch experienced the nearly 30% service order error rate as recently as October. Although at least one CLEC commented favorably on BellSouth improvements in UNE-P ordering and provisioning,⁴⁴ this CLEC does process the same volume of orders as Birch, not operate outside of the BellSouth region, and does not have any other point of reference from which to draw. Birch's experience in the SWBT region is that RBOCs can provide competitors a meaningful opportunity to compete. Birch asserts that RBOCs like BellSouth must be denied 271 authority unless and until it fully satisfies Checklist Item Number 2.

IV. BELLSOUTH'S OSS SYSTEM OUTAGES MATERIALLY IMPACT BIRCH'S ABILITY TO COMPETE

As evidenced in the Affidavit of Mel Wagner, Jr., and further discussed in Birch's initial comments, Birch has experienced multiple failures of BellSouth's

⁴³ *Michigan Order*, ¶ 55.

⁴⁴ See Comments of NewSouth Communications Corp., Application of BellSouth Corporation Pursuant to Section 271 of the Telecommunications Act of 1996 to Provide In-Region InterLATA Services in Georgia and Louisiana, CC Docket No. 01-277 (Oct. 22, 2001) at 3-5.