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EX PARTE OR LATE FILED

May 6, 2002

WRITTEN EX PARTE

Ms Marlene H. Dortch
Secretary
Federal Communications Commission
The Portals
445 12th Street, S.W.
Washington, D.C. 20554

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MAY - 6 2002

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Re: CC Docket No. 02-35

Dear Ms Dortch:

In that April 26, 2002 *ex parte*, Cbeyond describes BellSouth's April 17, 2002, *ex parte* on DS-1 Loop performance results for *Provisioning Troubles w/in 30 Days* as "misleading." To the contrary, Cbeyond has misunderstood the information provided in the earlier *ex parte*.

In its April 26, 2002 *ex parte*, Cbeyond describes BellSouth's April 17, 2002, *ex parte* on DS-1 Loop performance results for *Provisioning Troubles w/in 30 Days* as "misleading" because BellSouth "specifically excludes performance for EELS and Non-Switched Combinations" from the data BellSouth provided. To the contrary, Cbeyond misunderstood the information provided. The data Cbeyond accuses BellSouth of excluding is properly reported under a sub-metric different from the DS-1 sub-metric that was the subject of the April 17 *ex parte*. The Georgia PSC has noted that CLEC concerns about BellSouth's performance data are often due to "an apparent lack of familiarity with BellSouth's SQM." Georgia Public Service Commission Comments at 31-31, CC Docket No. 02-35.

In the April 17 *ex parte*, BellSouth provided the Staff, at the Staff's request, BellSouth's performance data for the DS-1 Loop sub-metric. BellSouth reports DS-1 Loop performance results in the ">=DS-1 Digital Loops" category.

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BellSouth reports EELs and Non-Switched Combinations, however, in the "UNE Combos Other" product category. Thus, BellSouth did not "understate" or misrepresent its performance on EELs and Non-Switched Combos; rather, BellSouth simply did not provide the results for these products in the April 17 *ex parte*. Cbeyond confused the products contained in the DS-1 sub-metric and the UNE Combo Other sub-metric. The information Cbeyond complains about can be found, properly reported, within the appropriate sub-metric, and has not been "specifically excluded," as Cbeyond alleges, from performance data.

BellSouth's performance for *Provisioning Troubles w/in 30 Days* for UNE Combos Other (which includes EELs and Non-Switched Combos) for January – March 2002 in Georgia was excellent. BellSouth met the retail analogue for each of the three months. In addition, BellSouth's performance for Cbeyond was also high. Cbeyond experienced only **** troubles out of **** provisioned circuits in January; only **** troubles out of **** circuits in February; and only **** troubles out of **** circuits in March.

To specifically address Cbeyond's concerns, BellSouth analyzed the 53 troubles for the month of February 2002 cited by Cbeyond in footnote 1. Because Cbeyond did not attach the troubles to which it referred, BellSouth analyzed all of Cbeyond's Provisioning Troubles Within 30 Days Raw Data for February 2002. It appears that Cbeyond utilized BellSouth's PMAP raw data to obtain the 53 troubles, but failed to apply the replicating instructions documented in the Raw Data User's Manual (RDUM) to determine both the accurate number of reported troubles and the product categories to which these troubles should be mapped. In the raw data for February 2002, there were 53 rows of information, 1 of which was a header column, which only leaves 52 records. Of the 52 remaining records, **** were duplicates. Correct application of the RDUM instructions excludes **** more. None of these **** records should be reflected in the measurement per the documented calculation methods in the RDUM and BellSouth's performance reports properly reflect Cbeyond's results. Had Cbeyond performed the calculations explained in this manual, it would have determined that provisioning troubles were identified on only **** circuits during February 2002, and all of these were mapped to the UNE Combos Other product category (EELs and Non-Switched Combos). Of the **** troubles that were reported, **6** were TOK/FOK, leaving only **** true troubles.

Cbeyond is correct in its assertion that BellSouth does not pay SEEMs remedies on any of the products rolled up into the UNE Combos Other product category for this metric. What Cbeyond fails to note, however, is that BellSouth is fully compliant with the SEEMs plan ordered by the Georgia Public Service Commission. Moreover, although being an active participant in the GPSC six-month review, Cbeyond also fails to note that BellSouth has not opposed the CLECs' request in the on-going Georgia PSC six-month review of performance reporting to include EELs in the SEEMs plan. .

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Finally, Cbeyond claims that it could not obtain data for November 2001, December 2001, and January 2002 because the CLEC must download and save the data each month. This is not correct. Although only the current month's data is posted on the website, Cbeyond can obtain prior months' data by contacting BellSouth. Several CLECs already have used this capability.

In accordance with Commission rules, I am enclosing one original copy of this letter with the confidential data included. I am also enclosing for public inspection two copies of this letter with those data redacted. Inquiries about access to the confidential material submitted with this letter should be directed to Laura Brennan, Kellogg, Huber, Hansen, Todd & Evans, 1615 M Street, N.W., Suite 400, Washington, D.C., 20036, 202.367.7821. Please call me if you have any questions about this filing.

Sincerely,



Kathleen B. Levitz

cc: Michelle Carey
Renee Crittenden
Ian Dillner
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