ITC^DeltaCom, KMC Telecom, Knology, and MCI, each of which independently satisfies the requirements of Track A. *See id.* ¶ 19.

In addition, facilities-based CLECs operating in Alabama serve approximately 20,000 residential access lines and at least 180,000 business access lines in the state. *See id.* ¶¶ 16-17 & Tables 1 & 2. The vast majority of these lines are served over CLECs' own facilities. *Id.*[23] Overall, BellSouth's conservative estimate is that CLECs provide local service to at least 236,000 (and probably closer to 244,000) access lines, which represent at least 25% of the business market, 3.9% of the residential market, and 11.2% of the total access lines in BellSouth's territory in Alabama. *See Stockdale Aff.* ¶¶ 16-17 & Tables 1 & 2.

Kentucky. BellSouth's satisfaction of Track A in Kentucky is equally clear. There are at least 28 facilities-based providers in Kentucky. *See id.* ¶ 27 & Table 5. Among the many facilities-based providers in Kentucky with whom BellSouth has an interconnection agreement are Adelphia Business Solutions, AT&T, ICG Communications, NewSouth Communications, and The Other Phone Company, each of which independently satisfies the requirements of Track A. *See id.* ¶ 29.

As in Alabama, moreover, CLECs competing in Kentucky are providing local telephone exchange service to residential and business subscribers exclusively or predominantly over their own facilities. *See id.* ¶¶ 26-27 & Tables 4 & 5. Facilities-based CLECs operating in Kentucky serve at least 19,000 residential access lines and at least 57,000 business access lines in the state. *See id.* Overall, BellSouth estimates that CLECs provide local service to at least 95,000 (and probably closer to 122,000) access lines. *Id.* These numbers represent at least 14.6% of the

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[23] *See Michigan Order* ¶¶ 86-104 (for purposes of Track A, service provided over UNEs is facilities-based).

business market, 4.0% of the residential market, and 7.3% of the total access lines in BellSouth's territory in Kentucky. *Id.*

Mississippi. The facts in Mississippi are similar. There are at least 29 facilities-based providers in Mississippi. *See id.* ¶ 37 & Table 8. Among the many facilities-based providers in Mississippi with whom BellSouth has an interconnection agreement are Access Integrated Networks, ITC^DeltaCom, MCI/WorldCom, NewSouth Communications, Now Communications, and The Other Phone Company, each of which independently satisfies the requirements of Track A. *See id.* ¶ 37.

CLECs competing in Mississippi are providing local telephone exchange service to residential and business subscribers exclusively or predominantly over their own facilities. *See id.* ¶ 37 & Table 8. Facilities-based CLECs operating in Mississippi serve at least 25,000 residential access lines and at least 52,000 business access lines in the state. *See id.* Overall, BellSouth estimates that CLECs provide local service to at least 110,000 (and probably closer to 128,000) access lines. *Id.* ¶¶ 36-37 & Tables 7 & 8. These numbers represent at least 13.1% of the business market, 5.5% of the residential market, and 8.0% of the total access lines in BellSouth's territory in Mississippi. *Id.*

North Carolina. BellSouth also satisfies Track A in North Carolina. At least 36 facilities-based providers are serving customers in North Carolina. *See id.* ¶ 43 & Table 11. Among the many facilities-based providers in North Carolina with whom BellSouth has an interconnection agreement are AT&T, Business Telecom (BTI), CTC Exchange Services, ICG Communications, MCI/WorldCom, NewSouth, The Other Phone Company, and Time Warner, each of which independently satisfies the requirements of Track A. *See id.* ¶ 44.

CLECs competing in North Carolina are providing local telephone exchange service to residential and business subscribers exclusively or predominantly over their own facilities. *See id.* ¶ 43 & Table 11. Facilities-based CLECs operating in North Carolina serve at least 29,000 residential access lines and at least 295,000 business access lines in the state. *See id.* Overall, BellSouth estimates that CLECs provide local service to at least 358,000 (and probably closer to 403,000) access lines. *Id.* ¶¶ 42-43 & Tables 10 & 11. These numbers represent at least 27% of the business market, 3.6% of the residential market, and 12.9% of the total access lines in BellSouth's territory in North Carolina. *Id.*

South Carolina. Finally, BellSouth plainly satisfies Track A in South Carolina as well. At least 29 facilities-based providers operate in South Carolina. *See id.* ¶ 50 & Table 14. Among the many facilities-based providers in South Carolina with whom BellSouth has an interconnection agreement are Business Telecom (BTI), Birch Telecom, ITC^DeltaCom, KMC Communications, Knology, NewSouth, Trivergent (Nuvox), and The Other Phone Company, each of which independently satisfies the requirements of Track A. *See id.* ¶ 52.

CLECs competing in South Carolina are providing local telephone exchange service to residential and business subscribers exclusively or predominantly over their own facilities. *See id.* ¶ 50 & Table 14. Facilities-based CLECs operating in South Carolina serve at least 14,000 residential access lines and at least 123,000 business access lines in the state. *See id.* Overall, BellSouth estimates that CLECs provide local service to at least 173,000 (and probably closer to 191,000) access lines. *Id.* ¶¶ 49-50 & Tables 13 & 14. These numbers represent at least 22.6% of the business market, 4.5% of the residential market, and 10.7% of the total access lines in BellSouth's territory in South Carolina. *Id.*

In sum, BellSouth clearly meets the requirements of Track A in all five states. *See* 47 U.S.C. § 271(c)(1)(A).

III. BELLSOUTH HAS ADOPTED COMPREHENSIVE AND RELIABLE STATE-APPROVED PERFORMANCE MEASUREMENTS

In the *GA/LA Order*, this Commission properly concluded both that BellSouth's SQM performance plan provided performance data that covered a "broad range of performance measures and standards" and that, "as a general matter, BellSouth's performance metric data is accurate, reliable, and useful." *GA/LA Order* ¶¶ 2, 19. Those findings apply equally here, because the expert commissions in each of these five states adopted the same SQM plan that BellSouth used in Georgia/Louisiana for purposes of assessing section 271 compliance, and the audits and other checks on data reliability that the Commission previously relied upon are also applicable here. Accordingly, there is no reason for the Commission to depart from its holding that "BellSouth's data is sufficiently reliable for purposes of conducting [its] section 271 analysis." *Id.* ¶ 20.

As explained in the affidavit of Alphonso Varner, the commissions in all five of these states have determined that the same SQM plan with which this Commission is familiar from the Georgia/Louisiana proceeding would provide a meaningful yardstick for determining nondiscriminatory performance for purposes of section 271 in their states as well. *See Varner Aff.* ¶¶ 26-55. The SCPSC's decision was typical. It determined, after a full hearing and the filing of briefs, that "[t]he SQM is reasonable, comprehensive, and complete; it readily allows

the [SCPSC] and the CLECs to monitor BellSouth's performance and to determine if BellSouth is providing nondiscriminatory service to CLECs in South Carolina." *SCPSC 271 Order* at 24.[24]

This Application is thus supported by the same detailed performance reporting process as in the Georgia/Louisiana Application. BellSouth reports measures in 12 separate categories: pre-ordering, ordering, provisioning, maintenance and repair, billing, operator services and directory assistance, database updates, E911, trunk group performance, collocation, change management, and bona fide/new business request process. *See Varner Aff.* ¶ 20. All told, BellSouth reports data for approximately 2,300 submetrics. *See id.* ¶ 21. A comprehensive explanation of BellSouth's performance measures is attached to the affidavit of Alphonso Varner. *See Varner Aff.* Exh. PM-1.

Where possible, BellSouth compares its SQM performance against the service BellSouth provides to its own retail operations. *See id.* ¶ 23. Where no such comparison is available, BellSouth tracks its wholesale performance against benchmarks "sufficient to provide an efficient competitor a meaningful opportunity to compete." *Second Louisiana Order* ¶ 134 (internal quotation marks omitted); *see Varner Aff.* ¶ 23.

BellSouth publishes comprehensive monthly performance reports on its website. *See Varner Aff.* ¶ 69. Performance data for CLECs and BellSouth retail units are available to all CLECs on an aggregate basis, and individual CLECs can access data specifically relevant to them on a password-protected basis. *See id.* Moreover, BellSouth allows CLECs to access the "raw data" underlying its measures and provides comprehensive instructions for translating those

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[24] Further, the SCPSC ordered BellSouth to include in the SQM metrics that analyzed BellSouth's responsiveness to changes initiated by CLECs pursuant to the CCP. *Id.* at 121. BellSouth is required to devote at least one payment category in the IPP to CCP responsiveness. *Id.*

data into performance results. *See id.*; *GA/LA Order* ¶ 19 n.71 ("commend[ing]" BellSouth "for opening up its raw data to competing carriers and regulators").

As this Commission expressly concluded in the *GA/LA Order*, BellSouth's data are reliable. "In view of the extensive third-party auditing, the internal and external data controls, open and collaborative nature of the metric workshops in Georgia and Louisiana, the availability of the raw performance data, BellSouth's readiness to engage in data reconciliations, and the oversight of the [state commissions], we are persuaded that, as a general matter, BellSouth's performance metric data is accurate, reliable, and useful." *GA/LA Order* ¶ 19.

The Commission should have the same confidence in the meaningfulness of BellSouth's data here. The extensive internal controls on the data, including data-integrity checks and manual validation processes, noted in the *GA/LA Order* exist here as well. *See Varner Aff.* ¶¶ 117-126. Moreover, BellSouth's performance reporting has been subject to repeated audits, and there are still no exceptions raising significant questions about the overall reliability of the data. *See id.* ¶¶ 122, 127-159 (discussing the three KPMG audits in detail). Since KPMG's third audit has progressed even further without raising any fundamental data accuracy questions, BellSouth's showing here is at least as persuasive as the one the Commission previously found adequate. *See id.* ¶¶ 138, 149-159; *GA/LA Order* ¶ 19. Moreover, it remains the case both that BellSouth's data will be subject to annual audits over the next several years and that the commissions in each of these five states, as well as those in Georgia and Louisiana, will continue to monitor BellSouth's metrics. *See Varner Aff.* ¶¶ 89, 125; *Massachusetts Order* ¶ 247.

Finally, although the January through March 2002 data that BellSouth primarily relies upon here were generated using BellSouth's Performance Measurement Analysis Platform ("PMAP") 2.6 system, with April data – which BellSouth is also providing with this Application

– BellSouth has moved to PMAP 4.0. *See Varner Aff.* ¶¶ 4, 74-110.[25] This upgrade will increase scalability, improve reliability, and streamline code, but it does not alter the measures as defined by the SQM. *Id.* ¶ 74. It also has no adverse impact on KPMG's audit, and will actually facilitate the completion of that work. *See id.* ¶ 75.

BellSouth subjected PMAP 4.0 to extensive testing before it was used to generate April 2002 data. BellSouth conducted functional testing (including testing of software code, raw data validation, and reports validation) and output validation. *See id.* ¶¶ 89-103. Moreover, KPMG has begun to audit the Version 4.0 data, and the GPSC will conduct a workshop during which interested parties can raise issues regarding Version 4.0 data. *See id.* ¶¶ 106-108. The Version 4.0 data will also be subject to all the checks upon which the Commission commented favorably in the Georgia/Louisiana proceeding, *see GA/LA Order* ¶ 19, including CLEC access to raw data, internal validation, and BellSouth's willingness to engage in data reconciliation. *See Varner Aff.* ¶ 109.

Although there are slight differences in the outputs of Version 2.6 and 4.0, this is to be expected. *See id.* ¶ 97. BellSouth has fixed known errors in Version 2.6 code, implemented enhancements to improve accuracy and product and geographic mapping, and uncovered a few previously unknown errors in the code for Version 2.6. *See id.* ¶¶ 92, 103, 286-294. Overall, however, the results are very similar, with BellSouth meeting parity in Georgia in April for 87.54% of metrics with Version 2.6, and 87.34% with Version 4.0. *See id.* ¶ 93. Moreover, when analyzed by mode of entry, the results are again remarkably similar. *See id.* ¶ 95. Additionally, many of the parity changes involved low-volume products. *See id.* ¶ 94. The fact

[25] Performance data for all four months are attached to the affidavit of Alphonso Varner. *See Varner Aff.* Exhs. PM-2 to -6 Attachs. 1-3 (January through March 2002), 6 (April 2002).

that "two version of software code, each of which was written independently based on the SQM and each of which was coded in a different software language, produced substantially similar results confirm[s] the validity of the Version 4.0 results." *Id.* ¶ 96.

IV. BELLSOUTH SATISFIES ALL REQUIREMENTS OF THE COMPETITIVE CHECKLIST IN ALL FIVE STATES

BellSouth satisfies each and every requirement of the competitive checklist in all five states. Indeed, in all substantive respects, BellSouth's showing of checklist compliance here is as good as (or even better than) the one the Commission found to be legally sufficient in the *GA/LA Order*.

BellSouth has binding legal obligations as to each of the checklist items. Those obligations are in the SGAT that BellSouth has filed in all five states and the agreements it has signed with individual CLECs. Those SGATs, as well as a matrix that identifies agreements that satisfy each checklist requirement or subrequirement, are attached to the joint affidavit of John Ruscilli and Cynthia Cox (Exhs. JAR/CKC-1 to -5 and JAR/CKC-7 to -11).

A. Checklist Item 1: Interconnection

Checklist Item 1 requires BellSouth to provide "[i]nterconnection in accordance with the requirements of sections 251(c)(2) and 252(d)(1)." *See* 47 U.S.C. § 271(c)(2)(B)(i). Section 251(c)(2) imposes upon ILECs "[t]he duty to provide, for the facilities and equipment of any requesting telecommunications carrier, interconnection with the local exchange carrier's network . . . for the transmission and routing of telephone exchange service and exchange access." *Id.* § 251(c)(2)(A). Such interconnection must satisfy three requirements. "First, an incumbent LEC must provide interconnection 'at any technically feasible point within the carrier's network.'" *GA/LA Order* App. D, ¶ 17 (quoting 47 U.S.C. § 251(c)(2)(B)). "Second, an incumbent LEC must provide interconnection that is 'at least equal in quality to that provided by the [incumbent]

to itself.'" *Id.* (quoting 47 U.S.C. § 251(c)(2)(C)). Third, "the incumbent LEC must provide interconnection 'on rates, terms, and conditions that are just, reasonable, and nondiscriminatory, in accordance with the terms of the agreement and the requirements of [section 251] and section 252.'" *Id.* (quoting 47 U.S.C. § 251(c)(2)(D); alteration in original). Technically feasible methods of interconnection include, but are not limited to, interconnection trunking, physical and virtual collocation at the premises of an ILEC, and meet-point arrangements. *Id.* App. D, ¶ 20. Section 252(d)(1) requires that the rates for such interconnection be based on "cost."

As discussed below, BellSouth meets all applicable requirements for interconnection. The Commission found BellSouth in full compliance with Checklist Item 1 in its *GA/LA Order*, and BellSouth follows procedures in Alabama, Kentucky, Mississippi, North Carolina, and South Carolina that are substantively the same as those reviewed in the Georgia/Louisiana proceeding. *Ruscilli/Cox Joint Aff.* ¶ 5. Indeed, all five state commissions found that BellSouth satisfies this checklist item. *See, e.g., KPSC 271 Order* at 11, 13 ("BellSouth meets its requirement to interconnect at any technically feasible point" and "the collocation arrangements provided by BellSouth comply with Section 251"); *MPSC 271 Order* at 24 (the "significant degree of commercial usage" in Mississippi "indicates that CLECs can and do interconnect with BellSouth's network"); *id.* at 25 ("BellSouth's evidence further demonstrates that it provides access to interconnection trunks in a manner equivalent to that which it provides to itself"); *SCPSC 271 Order* at 35, 40 (noting that commercial usage and performance data demonstrate that CLECs can interconnect and that "BellSouth provides nondiscriminatory access to collocation").

CLECs in all five states thus have access to the most fundamental prerequisite of local competition – the ability to send their customers' calls to, and receive calls from, customers of

BellSouth, and to link their networks to BellSouth's network for the mutual exchange of traffic. CLECs are able to connect their networks to BellSouth's by the most efficient means possible, including CLECs' placement of their own equipment in BellSouth's buildings.[26]

1. Methods of Interconnection

In all five states, BellSouth provides five standard means by which CLECs can interconnect their networks to BellSouth's network: (1) physical collocation; (2) virtual collocation; (3) assembly point arrangements; (4) fiber-optic meet-point arrangements; and (5) purchase of facilities from the other party. *See Milner Aff.* ¶ 12 (App. A, Tab F). Each of these interconnection arrangements is available at the line side or trunk side of the local end office switch; the trunk connection points of a tandem switch; central office cross-connect points; out-of-band signaling transfer points; and points of access to UNEs. *Id.* ¶ 11.

BellSouth provides interconnection at all technically feasible points, including the option of selecting one technically feasible interconnection point in each LATA. *Id.*; *see also Ruscilli/Cox Joint Aff.* ¶¶ 23-24; *GA/LA Order* App. D, ¶ 19; *Pennsylvania Order* ¶ 100; *New York Order* ¶¶ 63, 66-67. Moreover, a CLEC may request, via the Bona Fide Request ("BFR") process, to utilize any other interconnection point when it is determined to be technically

[26] The Commission has properly rejected Nextel's and Triton's claim that BellSouth does not satisfy Checklist Item 1 because of its treatment of calls with NPA/NXX codes in its switches that have rating points outside the BellSouth service area. *GA/LA Order* ¶¶ 207-208. As the Commission found, BellSouth does not refuse to interconnect in this situation. *Id. See also Ruscilli/Cox Joint Aff.* ¶¶ 26-30, 199. Rather, the dispute between Nextel and Triton and BellSouth involves intercarrier compensation for these calls (as well as tariff compliance), and accordingly the issue is not appropriately addressed in 271 proceedings. *Id. See also GA/LA Order* ¶ 208 (finding that "Nextel and Triton largely raise unresolved intercarrier compensation issues" and that "these issues would be more appropriately resolved in a different proceeding"). Similarly, BellSouth fully agrees that a CLEC has the right to choose a single point of interconnection and permits carriers to do so. *Ruscilli/Cox Joint Aff.* ¶¶ 23-24. The only question related to this arrangement also involves compensation, which is not a checklist compliance issue. *Id.* (citing *Pennsylvania Order* ¶ 100).

feasible. *See Milner Aff.* ¶ 11; *KS/OK Order* ¶ 232 & n.686. BellSouth will provide a preliminary analysis of a BFR within 30 days of receiving it and will fully develop the quote and specifications as soon as feasible (but not more than 90 days) after receiving the CLEC's approval to proceed. *See Ruscilli/Cox Joint Aff.* ¶ 11.

Interconnection rates, including those for collocation, have been set by the Alabama, Kentucky, Mississippi, North Carolina, and South Carolina commissions based on this Commission's TELRIC methodology. *See id.* ¶¶ 12-14 (in general), 100-102 (Alabama), 124-129 (Kentucky), 150-154 (Mississippi), 174-177 (North Carolina), 193-195 (South Carolina); *Caldwell Aff.* ¶¶ 6-26 (App. A, Tab C). Indeed, BellSouth's cost methodology used in all five states is the same as that used by BellSouth in Georgia and Louisiana, which the Commission found to produce rates that are "just, reasonable, and nondiscriminatory, and are based on cost plus a reasonable profit as required by section 252(d)(1)." *GA/LA Order* ¶ 28; *Ruscilli/Cox Joint Aff.* ¶ 14. All BFR rates proposed by BellSouth shall also be cost-based and in accordance with the TELRIC methodology (unless the CLEC agrees otherwise or the requested capability is not subject to the 1996 Act's pricing standards). *Ruscilli/Cox Joint Aff.* ¶ 11.

BellSouth provides CLECs with Multiple Tandem Access ("MTA") and local tandem interconnection. MTA provides for LATA-wide BellSouth transport and termination of CLEC-originated local and BellSouth-transported intraLATA traffic by establishing a point of interconnection at a BellSouth access tandem with routing through multiple BellSouth access tandems as required. *See Milner Aff.* ¶ 13. For local tandem interconnection, a CLEC may request either basic local tandem interconnection, which allows CLECs to terminate traffic to BellSouth's end office switches and wireless service provider switches within the area served by the tandem, or enhanced local tandem interconnection, which adds the ability to terminate traffic

to other CLEC and independent company switches in the area served by the tandem. *Id.* ¶ 61. As of March 31, 2002, BellSouth had provided more than 10,300 local tandem interconnection trunks in the BellSouth region. *Id.*

BellSouth offers CLECs various options to route local/intraLATA toll traffic and transit traffic over separate trunk groups or over a single trunk group, or over one-way or two-way trunks. *Id.* ¶¶ 15-17; *Second Louisiana Order* ¶ 64. BellSouth provisions local/intraLATA toll trunks for traffic between CLECs' end users and BellSouth's end users or wireless service providers and vice versa. *Milner Aff.* ¶ 16. Local traffic or local/intraLATA toll traffic may be delivered at the BellSouth local tandem, the BellSouth access tandem, or the BellSouth end office. *Id.* These trunks may use multi-frequency or SS7 signaling and may be one-way or two-way. *Id.*

In addition, BellSouth provides transit trunks for traffic between a CLEC and a third party such as an independent company, interexchange carrier, or another CLEC. *Id.* ¶ 17. Transit trunk groups generally are two-way trunks but may be provisioned as one-way trunks. *Id.* They may use multi-frequency or SS7 signaling. *Id.* If a CLEC chooses, additional trunk groups may be established for operator services, directory assistance, emergency services, and intercept. *Id.* ¶ 18.

In the *GA/LA Order*, this Commission concluded that "BellSouth satisfies its statutory requirements for the provisioning of collocation and provides interconnection at all technically feasible points including a single point of interconnection in Georgia and Louisiana." *GA/LA Order* ¶ 201. The same conclusion should be reached here. To carry traffic between BellSouth and CLEC locations, BellSouth has provisioned nearly 25,000 interconnection trunks from CLECs' switches to BellSouth's switches in Alabama; more than 14,000 such trunks in

Kentucky; almost 8,700 in Mississippi; more than 56,000 in North Carolina; and more than 25,700 in South Carolina. *Milner Aff.* ¶ 19. BellSouth has provided more than 15,000 two-way trunks (including transit traffic) in Alabama; more than 9,600 in Kentucky; almost 5,500 in Mississippi; more than 34,000 in North Carolina; and over 18,000 in South Carolina. *Id.* This substantial degree of commercial usage in and of itself demonstrates that CLECs can interconnect with BellSouth's network.

2. Nondiscriminatory Access to Interconnection Trunks

BellSouth is providing interconnection trunks to CLECs in Alabama, Kentucky, Mississippi, North Carolina, and South Carolina at a level of quality that is indistinguishable from that which BellSouth provides to its retail units. BellSouth follows the same installation process for CLEC interconnection trunks as it does for itself. *See Milner Aff.* ¶¶ 15, 22. Also, to ensure nondiscrimination, BellSouth provisions CLEC trunks using the same equipment, interfaces, technical criteria, and service standards that are used for BellSouth's own trunks. *See id.* ¶ 15. BellSouth also follows the same procedures for forecasting interconnection trunks for CLECs as it does for itself. *Id.* ¶ 23. *See generally New York Order* ¶¶ 64, 67-68; *Texas Order* ¶ 62. Thus, just as the Commission found in its *GA/LA Order*, BellSouth is in full compliance with the Act's nondiscrimination requirements for interconnection. *See GA/LA Order* ¶ 201.

The Commission concluded in the *GA/LA Order* that BellSouth's method of calculating trunk blockage, the Trunk Group Performance (TGP) report, "effectively assesses BellSouth's performance." *Id.* ¶ 203. That report demonstrates that, in all five states, BellSouth met or exceeded parity for trunk blockage during the period from January to March 2002. In Alabama, Kentucky, North Carolina, and South Carolina, BellSouth met or exceeded the retail analogue for all three months. *Varner Aff.* Exhs. PM-2 ¶ 33 (Alabama), PM-3 ¶ 33 (Kentucky), PM-5 ¶ 33 (North Carolina), PM-6 ¶ 33 (South Carolina). In Mississippi, BellSouth met or exceeded the

retail analogue for two of the three months. In February 2002, there was a routing translation change that caused overflow, but that change has been corrected, and the groups are currently performing at the designed levels. *Id.* Exh. PM-4 ¶ 33.

BellSouth also has met or exceeded the additional interconnection performance measures for ordering, provisioning, maintenance and repair, and billing.[27] Just as it did in Georgia and Louisiana, BellSouth met or exceeded parity with the retail analogue for the missed installation appointments measure without exception. *Id.* Exhs. PM-2 to -6 ¶ 19. And BellSouth also met or exceeded parity with the relevant retail analogue for the order completion measure without exception in Alabama, Kentucky, and Mississippi. *See id.* Exhs. PM-2 to -4 ¶ 18. BellSouth met or exceeded parity with the relevant retail analogue for the order completion measure for two out of the three months in North Carolina and South Carolina. *See id.* Exhs. PM-5 to -6 ¶ 18. Although, as discussed in the affidavit of Alphonso Varner, BellSouth recently discovered an error in PMAP 2.6 that led to it not capturing all provisioning activity for local interconnection trunks, April 2002 data generated by PMAP 4.0 (which has corrected this problem) confirms that BellSouth's performance in this area is strong. *See Varner Aff.* ¶ 294. Indeed, BellSouth met 35 of the 36 submetrics associated with these activities in the five states for April. *See id.*

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[27] *Varner Aff.* Exhs. PM-2 ¶¶ 16-28 (during the period from January to March 2002, BellSouth met or exceeded the statistical comparison for at least two of the three months for 24 of the 25 submetrics that had CLEC activity in Alabama), PM-3 ¶¶ 16-28 (during the period from January to March 2002, BellSouth met or exceeded the statistical comparison for at least two of the three months for 24 of the 24 submetrics that had CLEC activity in Kentucky), PM-4 ¶¶ 16-28 (during the period from January to March 2002, BellSouth met or exceeded the statistical comparison for at least two of the three months for 19 of the 19 submetrics that had CLEC activity in Mississippi), PM-5 ¶¶ 16-28 (during the period from January to March 2002, BellSouth met or exceeded the statistical comparison for at least two of the three months for 22 of the 22 submetrics that had CLEC activity in North Carolina), PM-6 ¶¶ 16-28 (during the period from January to March 2002, BellSouth met or exceeded the statistical comparison for at least two of the three months for 25 of the 25 submetrics that had CLEC activity in South Carolina).

3. Collocation

The provision of collocation is an essential prerequisite to demonstrating compliance with Checklist Item 1. *GA/LA Order* App. D, ¶ 20. To show compliance with its collocation obligations, a BOC must have processes and procedures in place to ensure that all applicable collocation arrangements are available on terms and conditions that are "just, reasonable, and nondiscriminatory" in accordance with section 251(c)(6) and the Commission's implementing rules. *Id.* (internal quotation marks omitted). To assess BellSouth's provision of collocation, the Commission may rely on data showing the quality of procedures for processing applications for collocation space as well as the timeliness and efficiency of provisioning collocation space. *See id.*

Just as it does in Georgia and Louisiana, BellSouth provides legally binding terms and conditions for collocation in its interconnection agreements and SGATs in Alabama, Kentucky, Mississippi, North Carolina, and South Carolina. *GA/LA Order* ¶ 205 ("We conclude that BellSouth provides legally binding terms and conditions for collocation in its interconnection agreements and SGATs."); *see also Milner Aff.* ¶ 53 & Exh. WKM-2 ¶ 7. Legally binding rates, terms, and conditions (including provisioning intervals) are also established in BellSouth's Alabama, Kentucky, Mississippi, and South Carolina access tariffs, and its FCC Virtual Collocation Tariff. *See generally Milner Aff.* Exh. WKM-2; *see also id.* ¶ 28 (noting that BellSouth affiliates obtain collocation in the same manner as CLECs).

Physical collocation of CLEC equipment is available where space permits. *See id.* ¶ 30. BellSouth offers caged, shared caged, cageless, microwave, and remote terminal collocation, all at a CLEC's option. *Id.* ¶¶ 31-36, 46-51. BellSouth also offers adjacent collocation if space in a particular premises is exhausted. *Id.* ¶¶ 37-45. If space in the initially sought premises subsequently becomes available, the CLEC may, at its option, relocate to that interior space. *Id.*

¶ 45. BellSouth gives notice to CLECs via its website when space has become available in a previously exhausted central office and will allocate newly available space pursuant to the waiting list maintained for that central office. *Id.* ¶¶ 68-72. Virtual collocation is available where space for physical collocation is legitimately exhausted or at a CLEC's request, regardless of the availability of physical collocation. *Id.* ¶¶ 53-56.

BellSouth permits the collocation of equipment that, under this Commission's definition, is "necessary" for interconnection or access to UNEs. *See* 47 U.S.C. § 251(c)(6); *Milner Aff.* Exh. WKM-2 ¶ 52; *see* Fourth Report and Order, *Deployment of Wireline Services Offering Advanced Telecommunications Capability*, 16 FCC Rcd 15435, 15443-64, ¶¶ 13-54 (2001) ("*Collocation Remand Order*"), *petitions for review denied, Verizon Tel. Cos. v. FCC*, Nos. 01-1371 & 01-1379 (D.C. Cir. June 18, 2002). BellSouth also offers CLECs the opportunity to cross-connect with other collocated CLECs in conformance with the *Collocation Remand Order*. *Milner Aff.* Exh. WKM-2 ¶ 117; *see Collocation Remand Order*, 16 FCC Rcd at 15464-78, ¶¶ 55-84. BellSouth does not impose safety requirements on CLEC equipment that are more stringent than the safety requirements it imposes on its own equipment that it locates in the premises; BellSouth also affords CLECs direct access to their equipment 24 hours a day, seven days a week, as well as access to restrooms and parking. *Milner Aff.* Exh. WKM-2 ¶¶ 134-138.

BellSouth provides interconnection points for collocation at the manhole or cable vault, which is the point as close as possible to BellSouth's premises that is accessible to both BellSouth and the CLEC. *Milner Aff.* ¶ 51; 47 C.F.R. § 51.323(d)(1). BellSouth provides two such interconnection points where there are at least two entry points available and where capacity exists. *Milner Aff.* ¶ 51; 47 C.F.R. § 51.323(d)(2).

BellSouth provisions physical and virtual collocation in accord with the intervals approved by the Alabama, Kentucky, Mississippi, and South Carolina commissions, which allow CLECs to obtain collocation in a timely manner. In North Carolina, the Commission's national default intervals apply, because the state commission has not yet approved state-specific collocation intervals. *See Milner Aff.* Exh. WKM-2 ¶¶ 15-24; *see also* 47 C.F.R. § 51.323(l) (providing that the Commission's national default intervals for physical collocation are inapplicable where "a state sets its own deadlines"). As a result, in all five states, BellSouth informs a CLEC applicant whether space is available within 10 calendar days of receiving a bona fide physical collocation application. *Milner Aff.* Exh. WKM-2 ¶ 65.

In Alabama, BellSouth will respond as to whether a CLEC's application for physical collocation in Alabama has been accepted or denied within 30 calendar days of receiving the application. *Id.* ¶ 15. BellSouth provisions caged collocation space in Alabama within 90 calendar days of receiving a firm order and cageless collocation space within 30 calendar days of receiving a firm order when preconditioned space is available and 90 calendar days of a firm order in extraordinary conditions (*e.g.*, major power plant upgrades or hazardous condition abatement). *Id.*

In Kentucky, Mississippi, and South Carolina, BellSouth informs an applicant within 10 calendar days after receipt of an application whether it has been accepted or denied. *Id.* ¶¶ 17, 19, 23. The provisioning interval for cageless physical collocation in these three states is 60 calendar days from the receipt of a firm order (90 calendar days under extraordinary conditions).

Id. The interval for caged physical collocation in Kentucky, Mississippi, and South Carolina is 90 calendar days from the date of receipt of a firm order. *Id.* [28]

In North Carolina, BellSouth informs an applicant within 10 calendar days after receipt of an application whether it has been accepted or denied. *Id.* ¶ 21. The provisioning interval for physical collocation in North Carolina, as set forth by this Commission in its national default intervals, is 76 business days from receipt of the application (91 business days if extraordinary conditions exist). *Id.*

BellSouth provides virtual collocation in all five states within 50 calendar days from the receipt of a firm order (75 calendar days under extraordinary conditions), or as agreed to by the parties. *Id.* ¶ 113.

Collocation is readily available, as evidenced by the fact that BellSouth has provisioned 316 physical collocation sites in 58 central offices in Alabama; 132 physical collocation sites in 28 central offices in Kentucky; 106 physical collocation sites in 29 central offices in Mississippi; 544 physical collocation sites in 70 central offices in North Carolina; and 272 physical collocation sites in 39 central offices in South Carolina. *Milner Aff.* ¶ 54. BellSouth has also provisioned 15 virtual collocation sites in Alabama; 2 virtual collocation sites in Kentucky; 8 virtual collocation sites in Mississippi; 78 virtual collocation sites in North Carolina; and 13 virtual collocation sites in South Carolina. *Id.* ¶ 58.

Not only is BellSouth making collocation available; it is doing so in a timely and accurate manner consistent with the intervals established by this Commission and the state commissions. In January, February, and March 2002, BellSouth met the applicable benchmarks for *every*

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[28] The interval for caged physical collocation in South Carolina is 130 calendar days under extraordinary conditions. *Milner Aff.* Exh. WKM-2 ¶ 23.

collocation measure and submetric in all five states. *See Varner Aff.* Exhs. PM-2 to -6 ¶ 12. This Commission has found this type of performance data for collocation to be compelling evidence of compliance with the 1996 Act. *See GA/LA Order* ¶ 205.

Where collocation space is exhausted for a particular central office, BellSouth will submit to the commissions in Alabama, Kentucky, Mississippi, and South Carolina detailed information, including floor plans, demonstrating the lack of space. *See Milner Aff.* Exh. WKM-2 ¶ 67.[29] In addition, BellSouth will provide any CLEC that is denied space due to exhaust a tour of the entire premises in question within 10 calendar days of the denial of space. *Id.* To help alleviate exhaust situations, BellSouth will remove unused, obsolete equipment from its premises upon reasonable request by a CLEC or order of a state commission. *Id.* ¶ 74. Collocation space is also available in single-bay increments, which further conserves space. *Id.* ¶¶ 31-32, 35.

BellSouth maintains a publicly available document on its Interconnection Website that lists all central offices where collocation space has been exhausted. BellSouth updates this document within 10 days of an event, such as space assignment for collocation or use by BellSouth, that exhausts collocation capacity in a particular premises (*i.e.*, leaves less than a single bay of collocation space). *See id.* ¶¶ 68-72. BellSouth's policy on this point satisfies its obligations as interpreted by the Commission's Enforcement Bureau. *See* Order of Forfeiture, *SBC Communications Inc. Apparent Liability for Forfeiture*, 16 FCC Rcd 10963, 10966, ¶ 10 (Enf. Bur. 2001) (finding that similar SWBT policy satisfies the requirements of 47 C.F.R. § 51.321(h)).

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[29] In North Carolina, BellSouth has been ordered by the NCUC to hold all Petitions for Waiver in abeyance pending the resolution of the generic Collocation Docket No. P-100, Sub 133j. *Milner Aff.* Exh. WKM-2 ¶ 67.

B. Checklist Item 2: Nondiscriminatory Access to Unbundled Network Elements

BellSouth satisfies Checklist Item 2 in all five states by providing "nondiscriminatory access to network elements on an unbundled basis at any technically feasible point on rates, terms, and conditions that are just, reasonable, and nondiscriminatory." 47 U.S.C. § 251(c)(3); *see id.* §§ 271(c)(2)(B)(ii), 252(d)(1).

1. Access to UNEs Generally

BellSouth has legally binding obligations in all five states to provide access to all UNEs identified by this Commission, including those added by the *UNE Remand Order*.[30] *See Milner Aff.* ¶ 62; *Ruscilli/Cox Joint Aff.* ¶ 7 & Exhs. JAR/CKC-1 to -5 Attach. C (SGATs for the five states). In all five states, BellSouth offers CLECs access to, among other things, dark fiber, subloops, local switching, tandem switching, signaling networks, call-related databases, and loop conditioning. *See Milner Aff.* ¶ 65. BellSouth also has committed to use its best efforts to obtain for CLECs, under commercially reasonable terms, intellectual property rights to each UNE necessary for CLECs to use such unbundled elements in the same manner as BellSouth. *See id.* ¶ 66.

2. UNE Combinations

This Commission previously found in the *GA/LA Order* that "BellSouth provides access to UNE combinations in compliance with Commission rules." *GA/LA Order* ¶ 199. BellSouth provides UNEs in the five application states in substantively the same manner as in Georgia and Louisiana. *See Milner Aff.* ¶ 63. And, as confirmed by actual commercial usage in the five

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[30] Third Report and Order and Fourth Further Notice of Proposed Rulemaking, *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, 15 FCC Rcd 3696 (1999) ("*UNE Remand Order*"), *petitions for review granted, United States Telecom Ass'n v. FCC*, No. 00-1012, *et al.* (D.C. Cir. May 24, 2002).

states, BellSouth continues to provide access to pre-assembled combinations of network elements, including loop and port combinations, or UNE-P, on a reasonable and nondiscriminatory basis. *See SCPSC 271 Order* at 75 ("We conclude that BellSouth discharges its obligation to provide access to UNE combinations."). *See also MPSC 271 Order* at 67-70 (discussing BellSouth's obligations to provide UNE combinations under Checklist Item 2).

As of March 31, 2002, BellSouth had 55,166 loop and port combinations in place in Alabama, 49,246 in North Carolina, 48,358 in Mississippi, 33,340 in South Carolina, and 24,705 in Kentucky. *See Milner Aff.* ¶ 92. And across BellSouth's nine-state region, BellSouth had more than 832,100 such combinations in place for CLECs. *See id.* BellSouth also provides nondiscriminatory access to combinations of unbundled loops and transport network elements, commonly referred to as Enhanced Extended Links ("EELs") in accordance with legal requirements. *See id.* ¶ 91; *see also Ruscilli/Cox Joint Aff.* ¶¶ 216-220. As of March 31, 2002, BellSouth had provided over 10,000 EELs to CLECs in BellSouth's region, including 1,166 EELs to CLECs in North Carolina, 829 in South Carolina, 373 in Alabama, 318 in Kentucky, and 46 in Mississippi. *See Milner Aff.* ¶ 91.

These UNE combinations are available to all CLECs in the five states on a legally binding basis through interconnection agreements and the SGATs. *See id.* ¶¶ 64-65. And, in accordance with the Commission's rules, BellSouth will not separate network elements it currently combines unless a CLEC requests that it do so. *See Ruscilli/Cox Joint Aff.* ¶ 21. As a practical and legal matter, BellSouth also makes access to UNEs available in a manner that allows CLECs to combine them. *See Milner Aff.* ¶ 84.[31] Moreover, BellSouth also complies

[31] BellSouth provides CLECs with a variety of means by which CLECs may combine network elements, such as collocation and assembly point arrangements. *See Milner Aff.* ¶¶ 86-

with the Commission's new combinations rules (47 C.F.R. § 51.315(c)-(f)) regarding its obligation to create new combinations for CLECs in accordance with the decision of the United States Supreme Court in *Verizon Communications Inc. v. FCC*, 122 S. Ct. 1646 (2002). BellSouth has amended its SGATs in all five states to accord with these requirements. *See Ruscilli/Cox Joint Aff.* ¶ 21 & Exhs. JAR/CKC-1 to -5 § II.D.3 & Attach. C §§ 4.1-4.8 (revised SGAT sections).

BellSouth's provision of nondiscriminatory access to UNE combinations is confirmed by BellSouth's excellent performance with respect to ordering, provisioning, and maintenance and repair of loop and port combinations in all five states covered by this Application. As to ordering, and maintenance and repair, much of that performance is discussed below in the OSS section. As to provisioning, BellSouth's performance for order completion interval ("OCI") for loop and port combinations is excellent. Indeed, in all five states, BellSouth met or exceeded the parity benchmark for every submetric for loop and port combinations between January and March 2002. *See Varner Aff.* Exhs. PM-2 to -6 ¶¶ 51-52 (B.2.1.3.1.1 - B.2.1.3.2.4).

3. Pricing of Unbundled Network Elements

In the *GA/LA Order*, this Commission conducted a thorough "bottom up" review of BellSouth's rates in Georgia and Louisiana. *GA/LA Order* ¶ 23. The Commission analyzed

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90. As discussed above, BellSouth offers a variety of physical collocation arrangements, including caged, shared cage, and cageless and shared cageless collocation, all at a CLEC's option. *See id.* ¶¶ 49-56. Also, virtual collocation is available where space for physical collocation is exhausted or at a CLEC's request regardless of the availability of physical collocation. *See id.* ¶¶ 57-59. CLECs are not required to provide their own equipment to combine UNEs; they may provide telecommunications service completely through access to the unbundled elements in BellSouth's network. *See id.* ¶ 68. In fact, CLECs are not limited to these methods of combining UNEs, but may request any other technically feasible method of access to combine UNEs consistent with the provisions of the 1996 Act, and other governing statutes and decisions. *See id.* ¶ 64.

"each issue on its own merits" and determined that, across-the-board, BellSouth's UNE rates in Georgia and Louisiana are "just, reasonable, and nondiscriminatory, and are based on cost plus a reasonable profit as required by section 252(d)(1)." *Id.* ¶¶ 24, 28.

BellSouth's UNE rates in the five states at issue here are based on the same BellSouth cost study models and methodologies as in Georgia and Louisiana. As described in detail in the affidavit of Daonne Caldwell, four states (Alabama, Kentucky, Mississippi, and South Carolina) set rates based on the same cost models that BellSouth used in Louisiana; the fifth state (North Carolina) set rates based on the cost models used in Georgia. *Caldwell Aff.* ¶ 4. In reaching those decisions, the states addressed the same CLEC arguments – involving such things as the use of "multiple scenarios" in the BellSouth Telecommunications Loop Model© ("BSTLM"), the propriety of BellSouth's loading factors, and the claim that BellSouth was double-counting certain inputs – that the Commission reviewed and rejected in the Georgia/Louisiana proceeding.

Moreover, in each of these states, as in Georgia and Louisiana, the state commission established rates only after holding extensive proceedings that were fully open to CLEC participation. The state commissions fully justified both the ultimate rates they established and the subsidiary decisions they reached in cogent written decisions that uniformly demonstrate their "commitment to TELRIC-based rates." *New York Order* ¶ 238; *Massachusetts Order* ¶ 27. The result is a full set of rates in each state that complies with the 1996 Act and this Commission's rules. *See Caldwell Aff.* ¶¶ 121-128 (Alabama), 129-148 (Kentucky), 149-167 (Mississippi), 168-190 (North Carolina), 191-201 (South Carolina); *Ruscilli/Cox Joint Aff.* ¶¶ 100-102 & Exh. JAR/CKC-1 Attach. A (Alabama), 124-129 & Exh. JAR/CKC-2 Attach. A

(Kentucky), 150-154 & Exh. JAR/CKC-3 Attach. A (Mississippi), 174-177 & Exh. JAR/CKC-4 Attach. A (North Carolina), 193-195 & Exh. JAR/CKC-5 Attach. A (South Carolina).

As in prior cases, the determinations of these expert agencies on these inherently fact-intensive questions warrant respectful and highly deferential review. The Commission should "place great weight" on the state commissions' determinations that BellSouth's rates are TELRIC-compliant. *New York Order* ¶ 238. As the Commission has explained, it does not engage in *de novo* review of rates in section 271 proceedings. Rather, its proper role is quite limited: "we will reject the application only if *basic TELRIC principles are violated* or the state commission makes *clear errors* in factual findings on matters so substantial that the end result falls outside the range that the reasonable application of TELRIC principles would produce." *Id.* ¶ 244 (emphases added); *see also Massachusetts Order* ¶ 20; *KS/OK Order* ¶ 59; *Pennsylvania Order* ¶ 55. Those extreme circumstances are not remotely present here. While the results reached in the different states here are not precisely the same, they all fall comfortably within "the range of what a reasonable application of TELRIC would produce." *GA/LA Order* ¶ 23.

Finally, even if a state commission's resolution of a particular issue were so unreasonable as to fall outside of the broad guidelines this Commission has established – which, in fact, is not the case – this Application should still be approved under the Commission's "benchmark" analysis. *See id.* ¶ 25. For each of the four states in which BellSouth used the same cost study models as in Louisiana, BellSouth's rates, benchmark favorably to the Louisiana rates the Commission has determined to be TELRIC-compliant. *See Ruscilli/Cox Joint Aff.* ¶ 19. Similarly, for North Carolina, where BellSouth used the same cost study models as in Georgia, the rates benchmark reasonably to the Georgia rates the Commission has determined to be TELRIC-compliant. *See id.*

Alabama. The rates established by the Alabama PSC comply in all respects with TELRIC principles.

During the Alabama PSC proceedings, which included the filing of extensive testimony and a full week of live hearings held in May 2001, *see APSC UNE Pricing Order* at 8 (App. D – AL, Tab 20), BellSouth relied on TELRIC-compliant models and methodologies. BellSouth employed its BSTLM, the Telcordia Switching Cost Information System ("SCIS"), and the BellSouth Simplified Switching Tool© ("SST"). *See Caldwell Aff.* ¶ 28. The TELRIC-compliant nature of each of these models, as well as the others that BellSouth employed, is described in detail in the attached affidavit of Daonne Caldwell. *See id.* ¶¶ 94-102 (BSTLM), 103-117 (SCIS, SST, and others). As noted above, these are the same cost models that are the basis of BellSouth's Louisiana rates, and which this Commission thus reviewed in the Georgia/Louisiana proceeding. *See, e.g., GA/LA Order* ¶¶ 38-42 (discussing the BSTLM and determining that the Louisiana PSC committed no error in relying upon it as used by BellSouth).

Similarly, BellSouth relied on the same cost development process for other key cost components such as the application of in-plant loading factors and the allocation of shared and common costs as this Commission reviewed in the Georgia/Louisiana proceeding. *See Caldwell Aff.* ¶ 118 ("BellSouth systematically applied the same methodology throughout its cost development process" in all states); *id.* ¶¶ 6-26 (describing the uniform TELRIC-compliant cost development process that BellSouth has consistently employed to determine both recurring and nonrecurring costs).

Recently, on May 31, 2002, the APSC issued a lengthy order addressing BellSouth's cost evidence and the issues raised by CLECs, and establishing a complete set of UNE rates. At the

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outset of its order, the APSC made clear that its intent was to adhere in all respects to this Commission's TELRIC requirements: "In determining appropriate UNE prices, the [APSC] is guided by the provisions of the Telecommunications Act of 1996 and the applicable regulations of the FCC." *APSC UNE Pricing Order* at 11 (footnote omitted).

The APSC then addressed BellSouth's cost models as well as the inputs used in those models. The APSC noted that the "models utilized by BellSouth in this proceeding are appropriate for purposes of generating TELRIC compliant rates." *Id.* at 18. As in the Georgia/Louisiana proceeding before this Commission, CLECs argued to the APSC that BellSouth should not use multiple scenarios in the BSTLM to price different kinds of loops and loop combinations. *See id.* at 20-24 (describing CLEC arguments on this point in detail). And, just as in the Georgia/Louisiana proceeding, BellSouth responded to this argument before the APSC by explaining that it used the total quantity of facilities in each scenario, and that the different scenarios reflected cost differences associated with provisioning different kinds of loops and combinations. *See id.* at 20; *Caldwell Aff.* ¶¶ 94-102, 124 (explaining that a "single scenario would understate BellSouth's costs associated with unbundled loops").

The APSC ultimately determined that it would "accept[] the use of five different scenarios for the purposes of determining TELRIC rates in this proceeding," although it pledged to investigate whether a "model which prices all elements and combinations in a single scenario can be developed." *APSC UNE Pricing Order* at 24. As discussed below, the APSC's decision to permit the use of multiple scenarios accords with that of the regulators in Kentucky, Mississippi, and South Carolina. Even more importantly, it accords with this Commission's judgment that it was "reasonable" for a state commission to set rates based on multiple BSTLM scenarios in order to prevent an "under-recovery" of costs. *GA/LA Order* ¶¶ 41-42 nn.140-42.

Accordingly, the APSC, like the Louisiana PSC before it, committed no "clear error in adopting" the multiple-scenario approach. *Id.* ¶ 42.

While adopting BellSouth's use of multiple scenarios in its BSTLM, as well as the other models employed by BellSouth, the APSC reduced recurring loop rates by 17.5%. *APSC UNE Pricing Order* at 40-41; *Caldwell Aff.* ¶ 125. The APSC also reduced BellSouth's nonrecurring costs by 50% (53% for xDSL loop nonrecurring costs). *See APSC UNE Pricing Order* at 42, 52; *Caldwell Aff.* ¶ 126. While BellSouth's original proposed rates were based on studies and inputs that are wholly TELRIC compliant, these significant APSC-ordered reductions remove any conceivable argument on that point.

BellSouth also demonstrated before the APSC that there are incremental costs associated with switch features. *See id.* ¶¶ 111-116. Switch vendors have explained that features affect the useful capacity of the switch, and the Hatfield Model itself includes a "feature loading multiplier," and thus "recognizes that call processing and features can and do cause additional switch costs." *Id.* ¶¶ 111-112. Based on BellSouth's evidence on this point, the APSC authorized a TELRIC-compliant features charge, but reduced this recurring rate by 25% off BellSouth's proposal. *See APSC UNE Pricing Order* at 40-41; *Caldwell Aff.* ¶ 125. To avoid any possible concerns about the existence of a separate features charge, however, BellSouth has amended its SGAT to include a portion of its features charge that reflects the 55% "take-rate" for vertical features into its switch port rate. *See Ruscilli/Cox Joint Aff.* ¶¶ 18, 107.

Kentucky. The KPSC has also established a full set of TELRIC-compliant rates. On October 2, 2000, BellSouth filed TELRIC cost studies for UNEs, including the UNEs created by the 1999 *UNE Remand Order*, as well as for combinations of UNEs. *See KPSC UNE Pricing Order* at 4 & n.9 (App. D – KY, Tab 17). Those studies, like the ones in Alabama, relied on the

same cost models used in Louisiana, including the BSTLM, SCIS, and the SST. *See Caldwell Aff.* ¶ 28. More generally, as in Alabama, BellSouth used the same cost development process for determining cost inputs as in Louisiana. *See id.* ¶¶ 4, 6-26, 118.

The KPSC then developed an extensive record on which to evaluate BellSouth's studies. BellSouth filed direct and supplemental testimony and updated its cost studies, and WorldCom and SECCA filed rebuttal testimony. *See KPSC UNE Pricing Order* at 5. Additionally, the parties issued several rounds of data requests to obtain discovery about BellSouth's costs. *See id.* at 6. There were also "informal conferences" held with the parties. *See id.* at 8. Moreover, because several states in BellSouth's region were evaluating BellSouth's cost studies at the same time, the KPSC's staff (along with the Alabama PSC's staff) traveled to Florida "to consult with staff of other commissions concerning cost study models, inputs and expected results." *Id.* at 6. Finally, the KPSC specifically solicited requests for a live hearing, but no party sought one. *See id.* Accordingly, the KPSC resolved the case based on the existing record, supplemented by further briefs filed in August 2001.

The KPSC issued its decision on December 18, 2001. The KPSC noted at the outset of that decision that it had "reviewed the records and decisions of other commissions in the BellSouth region regarding the development of UNE rates." *Id.* In this regard, the KPSC acknowledged that BellSouth has filed identical cost studies in multiple states, including Louisiana, and that the information in the records of those other state proceedings was "directly relevant to [its] decision." *Id.*

The KPSC then explained that there was "little, if any, dispute regarding the use of the models submitted by BellSouth." *Id.* at 8. Addressing concerns about the multiple scenarios that BellSouth used for determining loop costs in its BSTLM, the KPSC expressly rejected arguments

that BellSouth's methodology "do[es] not properly account for the current level of demand." *Id.* at 13. As discussed above, this Commission has already held that the use of this multiple-scenario approach is "reasonable" and does not create the kind of "clear error" that would warrant a finding of noncompliance with section 271. *See GA/LA Order* ¶¶ 38, 42. Additionally, to ensure that it would remain abreast of any adjustments to the BSTLM, the KPSC required BellSouth to file "any and all information required by the Florida Commission pertaining to adjustments of the BSTLM" and to apply those changes in Kentucky. *KPSC UNE Pricing Order* at 14.

The KPSC also found that BellSouth's in-plant loading factors, its fill factors, and its allocation of shared fiber and structure based on DS0 equivalents were all "reasonable." *Id.* at 15. BellSouth's methodology on these issues was the same as it presented in the Georgia/Louisiana Application, *see Caldwell Aff.* ¶¶ 4, 136-138, where this Commission found no TELRIC violation. *See GA/LA Order* ¶¶ 51-64 (discussing loading factors); *id.* ¶ 69 (noting that fill factors are outputs, not inputs, in the BSTLM used in both Louisiana and Kentucky); *see also Caldwell Aff.* ¶¶ 9-14, 94-101, 136-138 (explaining why BellSouth's methods for allocating common costs and determining in-plant factors are consistent with TELRIC). Moreover, just as this Commission did, the KPSC rejected the claim that BellSouth should use a 6.5% productivity factor, instead of the 3.1% factor relied on by BellSouth, as insufficiently supported by the evidence. *See KPSC UNE Pricing Order* at 29; *GA/LA Order* ¶ 71 n.248; *Caldwell Aff.* ¶ 142.

The KPSC also reviewed BellSouth's proposed cost of capital. The KPSC studied in detail conflicting evidence as to an appropriate cost of capital, cost of debt, and capital structure, and ultimately determined based on the evidence in the record that a 10.67% rate (as opposed to the 11.25% rate proposed by BellSouth) was appropriate based on the record evidence. *See*

KPSC UNE Pricing Order at 18-26; *see also Caldwell Aff.* ¶ 140 (discussing the KPSC's conclusion on this issue). The KPSC's decisions on other cost inputs, including depreciation and taxes, also raise no questions of TELRIC compliance. *See Caldwell Aff.* ¶¶ 139, 141, 145.

Finally, the KPSC took an additional step to guarantee that its rates were pro-competitive and consistent with, if not below, TELRIC. The KPSC adopted the results of a late-filed run of BellSouth's cost models that resulted in an additional 17.7% reduction in UNE rates. *See KPSC UNE Pricing Order* at 35 (concluding that this "late filing should significantly benefit competition in Kentucky and ultimately Kentucky ratepayers"); *Caldwell Aff.* ¶ 146. Moreover, although the KPSC expressly concluded that the rates it was setting were "reasonable, forward-looking, TELRIC-based prices," it pledged to "continually monitor" those rates to "account for all changes to BellSouth's costs." *KPSC UNE Pricing Order* at 35.

For all these reasons, the KPSC reasonably resolved all the issues presented to it. Indeed, as noted, it resolved those issues in ways that this Commission already found to be lawful in reviewing BellSouth's Louisiana rates. The KPSC's decision includes no legal or factual error, much less the kind of basic TELRIC mistake or "clear error" of fact on a crucial point that, under established precedent, would be necessary to overturn the state commission's record-based judgments on these factual issues.

Mississippi. As in Alabama and Kentucky, but based on an independent review and in a decision issued before those in the other states, the Mississippi PSC established TELRIC-compliant UNE rates only after compiling an extensive record. The MPSC set rates based on the same BellSouth cost models and studies that this Commission reviewed in the *GA/LA Order*.

The MPSC established BellSouth's UNE rates in its Docket No. 00-UA-999. In response to a BellSouth request that the MPSC open a proceeding to "update the UNE rates" the MPSC

set in 1998, to adopt rates for new UNEs added by intervening FCC orders, and to establish permanent deaveraged rates, the MPSC held three days of live hearings on cost issues, at which BellSouth presented the testimony of 12 separate witnesses. *See MPSC UNE Pricing Order* at 2 (App. D – MS, Tab 9). In that testimony, BellSouth relied on the same cost models and costing methodologies as in Alabama, Kentucky, and Louisiana. *See Caldwell Aff.* ¶ 4.

The only other party to present testimony was WorldCom, which offered the testimony of two witnesses, one of whom (Gregory Darnell) testified on every issue other than economic theory. *See MPSC UNE Pricing Order* at 6. As the MPSC explained in its Order, it was concerned about the credibility of Mr. Darnell's testimony, as he appeared to offer opinions on issues on which he conceded was "not qualified to render expert testimony"; Mr. Darnell further acknowledged that his prefiled testimony "on at least some cost issues was inconsistent and incorrect." *Id.* at 6-7 (discussing these and other concerns about the credibility of Mr. Darnell's testimony).

The MPSC issued a detailed order on October 12, 2001. That order resolved issues in a manner consistent with that of the Louisiana, Alabama, and Kentucky PSCs. In accord with the decisions of those other agencies, the MPSC rejected WorldCom's attack on the use of multiple BSTLM scenarios. The MPSC found that BellSouth "use[s] the same overall line count" in each scenario and that use of the combo scenario "would not accurately model the cost of a copper loop that is unlimited in length." *Id.* at 13.

The MPSC similarly rejected WorldCom's by-now-familiar claims about loading factors, the use of DS0 equivalents to allocate costs, and the alleged need for the use of a 6.5% productivity factor, among other things. *See id.* at 14-24. Again, these are the same complaints that this Commission reviewed in finding that BellSouth's Louisiana rates were TELRIC-

compliant, and they are the same complaints that other state commissions in BellSouth's region have reasonably rejected. Just as in Louisiana, the MPSC's resolution of these issues provides no basis to conclude that the MPSC made the sort of basic TELRIC mistake or clear factual error that would warrant overturning its careful review of this record. *See Caldwell Aff.* ¶¶ 102, 150-167.

The MPSC, moreover, adjusted other key inputs in BellSouth's cost studies. It determined that the economic lives previously effective in Mississippi, rather than the ones suggested by BellSouth, were appropriate, and that a cost of capital of 10%, as opposed to the 11.25% endorsed by BellSouth, was reasonable. *See MPSC UNE Pricing Order* at 24; *Caldwell Aff.* ¶¶ 157-158.

Like the Alabama PSC, the MPSC accepted BellSouth's showing – supported both by switch vendors and by the Hatfield Model – that switch features create incremental costs. *See Caldwell Aff.* ¶¶ 111-116. As in Alabama, moreover, BellSouth has now amended its SGAT to incorporate a percentage of this feature charge reflecting the feature take-rate in BellSouth's region into its switch port charge. *See Ruscilli/Cox Joint Aff.* ¶¶ 18, 151.

Finally, the MPSC expressly went beyond its TELRIC obligations by reducing even the reduced rates it created by adjusting BellSouth's inputs – rates that the MPSC specifically found were TELRIC-compliant – through a "competitive discount" of 10% on all loop and UNE combination recurring charges and 50% on nonrecurring charges. *See MPSC UNE Pricing Order* at 9; *Caldwell Aff.* ¶¶ 164-166. The result is rates that likely fall *below* TELRIC, or at least are at the lower edge of the TELRIC range. In either event, they certainly provide no basis to conclude that BellSouth has failed to comply with this checklist requirement in Mississippi.

South Carolina. The cost study models and methodologies in South Carolina were also the same as the ones this Commission reviewed in Louisiana. South Carolina is like Alabama, Kentucky, and Mississippi in other ways as well. As in those other states, the South Carolina PSC held open proceedings with extensive CLEC participation, after which it determined that BellSouth's studies were faithful to this Commission's requirements. Nevertheless, in order to enhance the development of local competition in South Carolina, the SCPSC also discounted certain TELRIC-compliant rates even further to provide CLECs the maximum opportunity to compete.

The SCPSC established UNE rates in Docket No. 2001-65-C, which it opened in order "to conduct a generic proceeding to update the UNE rates that the [SCPSC] established in 1998, to establish rates for additional UNEs identified by the FCC since the [SCPSC's] earlier UNE Pricing Order, and to set permanent geographically deaveraged rates for certain UNEs and combinations of UNEs." *SCPSC UNE Pricing Order* at 1-2 (App. D – SC, Tab 19).

The SCPSC's investigation of appropriate rates included the filing of testimony, briefs, and proposed orders, as well as four days of evidentiary hearings at which CLECs presented their own witnesses and were able to cross-examine BellSouth's cost witnesses. *See id.* at 2-3. At the same hearings, the office of the South Carolina Consumer Advocate presented its own witness, economist Allen Buckalew, who corroborated BellSouth's testimony that "BellSouth used reasonable input data to develop appropriate recurring and nonrecurring charges for all UNEs." *Id.* at 5; App. E – SC, Tab 16. In addition, two members of the SCPSC staff, Dr. James Spearman and Mr. David Lacoste, presented expert testimony specifically on the issues of cost of capital and depreciation. *Ruscilli/Cox Joint Aff.* Exh. JAR/CKC-22; App. D – SC, Tabs 3 (Spearman testimony) & 5 (Lacoste testimony).

The SCPSC issued its order establishing UNE rates on November 30, 2001. That order makes plain that the SCPSC's intent was to establish TELRIC-compliant rates. *See SCPSC UNE Pricing Order* at 4 ("The pricing standards the [SCPSC] must follow are set forth in the 1996 Act and applicable FCC regulations."). The SCPSC further explained that, after "thoroughly review[ing] all of the briefs and proposed orders submitted by the parties," it found that BellSouth's proposed rates conformed to TELRIC. *Id.* at 3. The SCPSC stated: "In accordance with the FCC's rules, [BellSouth's proposed] costs are based on an efficient network designed to incorporate currently available forward-looking technology . . . ." *Id.* at 5. The SCPSC did not adopt the CLEC arguments based on the use of multiple BSTLM scenarios, the propriety of using DS0 equivalents as cost allocators, input modifications to the BSTLM, and in-plant loading factor methodology. *See Caldwell Aff.* ¶¶ 195-201. The SCPSC accepted BellSouth's showing that vertical features create incremental switch costs. *See id.* ¶¶ 111-117. As in Alabama and Kentucky, BellSouth has now amended its South Carolina SGAT to include a percentage of the features charge that represents the feature take-rate into its switch port rate. *See Ruscilli/Cox Joint Aff.* ¶¶ 18, 193.

For all the reasons discussed above and in the Caldwell affidavit, and just as in the Georgia/Louisiana proceeding, these judgments are uniformly reasonable and provide no basis to overturn the record-based decisions of the SCPSC. Even if there were any doubt on that point, however, the SCPSC removed it by lowering BellSouth's rates from the ones it explicitly concluded would be TELRIC-compliant. The SCPSC held that "the rates calculated using BellSouth's models and inputs fall at the upper end of a range of reasonable TELRIC rates." *SCPSC UNE Pricing Order* at 6. Nevertheless, in order to "continu[e] the development of local competition in South Carolina," *id.*, the SCPSC discounted those TELRIC-compliant rates even

further – slashing BellSouth's recurring rates for loops and combinations by 20% (except for the DS1 digital loop, which the SCPSC discounted by 30%) and all nonrecurring rates by 50%. The SCPSC concluded that these "competitive discount[s]" produced "rates that are within, and possibly below, any reasonable TELRIC range." *Id.* In South Carolina as well, therefore, BellSouth's UNE rates support a finding of compliance.

North Carolina. Because BellSouth submitted its cost studies in North Carolina at an earlier date than it did in the other four states covered by this Application, it employed studies that mirror the ones that were used in Georgia, not those used in Louisiana. Nevertheless, this Commission has fully reviewed these same study models, as well as issues regarding BellSouth's inputs, and determined that they created no TELRIC compliance issue. Those findings apply fully here. Moreover, the NCUC, like the Georgia PSC – and all the other commissions in these five states – took significant steps to reduce BellSouth's rates from the already-compliant levels generated by BellSouth's studies and inputs. Again, therefore, BellSouth's rates create no checklist compliance issue.

The NCUC used a staggered proceeding (Docket No. P-100, Sub 133d) to establish UNE rates. That docket began in 1997 with a review of costs associated with an initial set of UNEs and continued through 2002, when issues relating to additional unbundling requirements and geographic deaveraging were decided. The NCUC undertook extraordinarily thorough reviews of each of those issues, and issued numerous lengthy decisions (many stretching to over 100 single-spaced pages) defending its reasoning as to all issues in dispute. These extensive orders are included in Appendix D – NC to this filing and are summarized in the affidavit of Daonne Caldwell and the joint affidavit of John Ruscilli and Cynthia Cox. In those orders, the NCUC reasonably resolved all the issues presented to it in a manner that conforms with this

Commission's rules – indeed, the NCUC's decisions closely track those of the Georgia PSC, which this Commission already determined to be TELRIC-compliant.

Just as in Georgia, one key issue raised by intervenors in North Carolina was whether BellSouth's Loop Model conflicted with TELRIC principles because it was allegedly based on a historical cost, not a forward-looking, methodology. As explained in Daonne Caldwell's affidavit, these claims are without merit.

First, as in Georgia, there is no merit to the claim, which some parties may raise, that the model should have included integrated digital loop carrier ("IDLC") in developing costs for *stand-alone* unbundled loops. *See Caldwell Aff.* ¶¶ 81-85. The NCUC properly declined to adopt that argument. *See id.* ¶ 84; Order Adopting Permanent Prices for Unbundled Network Elements at 21-26, *General Proceeding to Determine Permanent Pricing for Unbundled Network Elements*, Docket No. P-100, Sub 133d (NCUC Dec. 10, 1998) ("*Dec. 1998 NCUC UNE Pricing Order*") (App. D – NC, Tab 13); *see also* Order Ruling on Motions for Reconsideration and Clarification and Comments at 68, *General Proceeding to Determine Permanent Pricing for Unbundled Network Elements*, Docket No. P-100, Sub 133d (NCUC Aug. 18, 1999) (App. D – NC, Tab 17). As this Commission has recognized, IDLC is integrated directly into a switch, and can only be used to provide an unbundled loop through the use of costly work-around processes, such as "side door grooming" or "multiple switch hosting." There is thus no TELRIC violation in determining that IDLC is not a forward-looking technology for providing stand-alone loops (as opposed to loops combined with switching). *See GA/LA Order* ¶ 50 (citing the *UNE Remand Order* in concluding that "there is some evidence that technical limitations associated with unbundling a stand-alone loop from an IDLC may make IDLC more expensive than [universal digital loop carrier] in some circumstances"); *Caldwell Aff.* ¶¶ 82-83.

There is also no basis for the argument that BellSouth's loop sampling methodology does not accord with forward-looking principles. *See Caldwell Aff.* ¶¶ 30-40 (describing BellSouth's methodology in detail). In fact, contrary to the claims that some parties have made, BellSouth did not simply sample its existing loops; rather, it redesigned the loops in the sample to accord with forward-looking principles by, for instance, assuming digital loop carrier on loops over 12,000 feet and assuming the least cost gauge of copper on shorter loops. *See id.* ¶ 32. In sum, as the Commission stated in reviewing arguments about the same sampling methodology in Georgia, the "loops were redesigned to reflect forward-looking criteria rather than reproducing the existing network. Also, the sample assumed cable routes would follow existing rights-of-way and roads that BellSouth would use today if it were to place that cable. In addition, the sample size was statistically valid." *GA/LA Order* ¶ 36. Moreover, as in Georgia, the NCUC, after an extensive review, substantially altered the residential/business mix of the sampled loops (from 78.12%/21.88% to 63.75/36.25%) to ensure TELRIC compliance. *See Caldwell Aff.* ¶¶ 40, 175; *Dec. 1998 NCUC UNE Pricing Order* at 29. By itself, that change in the sample reduced loop rates by over $1.00 per month. *See Caldwell Aff.* ¶ 175.

Moreover, and again as in Georgia, this issue is only of academic interest. The attached affidavit of Jamshed Madan and Michael Dirmeier of the Georgetown Consulting Group demonstrates that, if the NCUC had adopted the Hatfield Model sponsored by AT&T/MCI and used inputs consistent with the ones the NCUC actually ordered, BellSouth's loop rates would actually have been *higher*. *See Madan/Dirmeier Joint Aff.* ¶¶ 8-9, 12, 23-24 (App. A, Tab E). The Commission found an identical showing to be persuasive evidence of TELRIC compliance in the Georgia/Louisiana proceeding. *See GA/LA Order* ¶ 37.

The NCUC also acted reasonably in determining loop inputs. The NCUC set the distribution fill factor at 44.6%, a figure that was above the one recommended by BellSouth and is comparable to those previously found reasonable by this Commission. *See Massachusetts Order* ¶ 39; *see also Caldwell Aff.* ¶¶ 35, 172; *Dec. 1998 NCUC UNE Pricing Order* at 65-66. The NCUC approved BellSouth's proposed drop lengths based on testimony that the drop lengths included in the model would likely continue in the future. *See Caldwell Aff.* ¶ 173; *Dec. 1998 NCUC UNE Pricing Order* at 48-49. As explained by the BellSouth witness in the NCUC proceeding, "'there is no basis to conclude that length of these drops would be expected to change in the future. While changes in demographics will occur over time, it is highly unlikely that such changes will be apparent within the "long run" element of this study.'" *Caldwell Aff.* ¶ 174 (quoting testimony of Wayne Gray before the NCUC). This Commission expressly approved of the Georgia PSC's identical resolution of this issue, noting that "the evidence shows that BellSouth's drop length data came from subject matter experts and reflect drop lengths anticipated for future BellSouth provisioning. This is consistent with forward-looking methodology as opposed to using average national figures that reflect embedded data." *GA/LA Order* ¶ 74; *Caldwell Aff.* ¶ 174.

The NCUC highlighted BellSouth's use of in-plant factors as a specific issue in its proceeding and, after receiving evidence, ultimately approved of BellSouth's factors, as had the Georgia PSC and other state commissions. *See Dec. 1998 NCUC UNE Pricing Order* at 50-52; *Caldwell Aff.* ¶ 178. As discussed above, this Commission has similarly concluded that adoption of BellSouth's loading factor methodology is consistent with TELRIC. *See GA/LA Order* ¶¶ 51-64. The NCUC also acted reasonably in lowering BellSouth's cost of capital to 9.96%, modifying BellSouth's tax rate, and ordering that BellSouth "use economic lives and future net

salvage values that are within the FCC-authorized ranges." *See Dec. 1998 NCUC UNE Pricing Order* at 30-37 (cost of capital), 37-41 (depreciation), 41-43 (tax rate); *Caldwell Aff.* ¶¶ 179-183 (discussing NCUC determinations on these points and noting additional adjustments made by the NCUC).

Finally, the NCUC acted reasonably in setting switching rates. *See id.* ¶¶ 54-61, 103-117 (explaining why BellSouth's switching studies are TELRIC-compliant). In North Carolina – unlike in any of the other state proceedings at issue here – AT&T argued that BellSouth's studies should employ only the switch discount applied to the initial placement of the switch. *See id.* ¶¶ 106-107. That argument is meritless, and it has been expressly rejected by this Commission. *See GA/LA Order* ¶ 82; *Caldwell Aff.* ¶¶ 108-110.[32]

The NCUC has begun a new proceeding to re-examine permanent UNE rates. Hearings in this new proceeding will commence in November 2002. The existence of this new proceeding should give the Commission added comfort that rates in North Carolina will continue to be forward-looking, and should provide no reason to attack the current rates as noncompliant. *See id.* ¶¶ 95-99.

4. Nondiscriminatory Access to OSS

This Commission recently found that "BellSouth provides competitive LECs nondiscriminatory access to its OSS and, thus, satisfies the requirements of checklist item 2." *GA/LA Order* ¶ 101. Because the OSS used in Georgia and Louisiana are the same OSS used across BellSouth's entire nine-state region, that finding is equally applicable to the five states

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[32] BellSouth recently amended its SGAT to reduce many of its nonrecurring UNE rates in North Carolina. Although the initial rates were TELRIC-compliant, they were higher than in some other BellSouth states, and BellSouth reduced them to avoid any conceivable issue. *See Ruscilli/Cox Joint Aff.* ¶ 175.

covered by this Application. Just as in Georgia and Louisiana, therefore, CLECs serving end users in those five states are provided a meaningful opportunity to compete. *Id.* Moreover, BellSouth also provides substantial evidence in this Application that its OSS are fully operational, handling commercial volumes, and functioning in compliance with the Act in all respects. As in Georgia and Louisiana, that conclusion is fully supported by each of the state commissions that conducted extensive open proceedings as to BellSouth's compliance. *See SCPSC 271 Order* at 50; *KPSC 271 Order* at 30; *MPSC 271 Order* at 39-40; *NCUC 271 Order* at 1; *APSC 271 Order* at 1. Moreover, as explained below, since BellSouth's application for section 271 relief in Georgia and Louisiana, BellSouth has continued to address CLEC concerns by improving its OSS in several significant respects. In particular, BellSouth has enhanced its change management process and improved the ability of CLEC orders to flow through BellSouth's electronic systems.

a. Regionality

In the *GA/LA Order*, this Commission reiterated the criteria for determining whether OSS evidence from other states within the BOC's region is relevant. *GA/LA Order* App. D, ¶ 32. A BOC "must explain the extent to which [it] . . . employs the shared use of a single OSS, or the use of systems that are identical, but separate." *Id.* In conducting this "sameness analysis," the Commission will look "to whether the relevant states utilize a common set of processes, business rules, interfaces, systems and, in many instances, even personnel." *Id.*; *see also KS/OK Order* ¶ 111. "[W]here a BOC has discernibly separate OSS, it must demonstrate that its OSS reasonably can be expected to behave in the same manner." *GA/LA Order* App. D, ¶ 32. Finally, "[t]he Commission will also carefully examine third party reports that demonstrate that the BOC's OSS are the same in each of the relevant states." *Id.*

BellSouth easily meets all of those criteria for both its electronic interfaces and its manual processes. Indeed, the Commission has already found that BellSouth meets this test. The Commission concluded in the *GA/LA Order* that BellSouth's "electronic processes are the same in Georgia and Louisiana" and "that its OSS in Georgia are substantially the same as the OSS in Louisiana."[33] *GA/LA Order* ¶¶ 110-111. In reaching that result, the Commission placed significant weight on PwC's sameness audit. *See id.* ¶¶ 109-111. The Commission also considered "detailed information" provided by BellSouth "regarding the 'sameness' of BellSouth's systems in Georgia and Louisiana, including their manual systems and the way in which BellSouth personnel do their jobs." *Id.* ¶ 111.

Because the OSS used by BellSouth in the five states at issue here are the same as those used in Georgia and Louisiana, the Commission's previous finding applies fully here. Moreover, as detailed below, BellSouth has again supplied substantial evidence with this Application (including the PwC audit, which applies to all nine BellSouth states) demonstrating the sameness of its electronic and manual processes across its region. *See Stacy Aff.* ¶¶ 39-78 (electronic OSS) (App. A, Tab I); *Ainsworth Aff.* ¶¶ 4-38 (manual OSS) (App. A, Tab A); *Heartley Aff.* ¶¶ 3-46 (provisioning OSS) (App. A, Tab D); *Scollard Aff.* ¶¶ 47-50 (billing OSS) (App. A, Tab H).

Moreover, the regionality of BellSouth's systems has been confirmed, at least implicitly, by all five state commissions. *See SCPSC 271 Order* at 19, 22 ("The [SCPSC] concludes that BellSouth's OSS are the same throughout its nine-state region."); *MPSC 271 Order* at 14 ("BellSouth's OSS are the same throughout its nine-state region."); *KPSC 271 Order* at 17

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[33] Notably, the Commission found the OSS used in both states were the same, notwithstanding the fact that Georgia was originally a part of the "old Southern Bell states," while Louisiana was part of the "old South Central States." *See GA/LA Order* ¶ 109 nn.361 & 364.

(noting the "functional equivalence" of BellSouth's OSS); *NCUC 271 Order* at 2 ("BellSouth has provided sufficient evidence that its OSS are the same in Georgia and North Carolina."). *See also Stacy Aff.* ¶ 42 & n.6. The Commission should afford the state commissions' findings substantial weight. *See, e.g., KS/OK Order* ¶ 107 ("We also recognize that both the Kansas and Oklahoma Commissions concluded that SWBT uses a common OSS in Kansas, Oklahoma and Texas.").

Electronic Interfaces. BellSouth provides CLECs with the same set of electronic interfaces for all CLEC resale and UNE service requests throughout BellSouth's nine-state region – all of which provide nondiscriminatory access to BellSouth's OSS.[34] *See Stacy Aff.* ¶ 41. First, BellSouth's pre-ordering and ordering interfaces for CLECs are the same across its nine-state region.[35] *See id.* ¶ 46. CLECs that choose to use BellSouth's machine-to-machine interfaces (Telecommunications Access Gateway ("TAG") or Electronic Data Interchange ("EDI")) do not need to build discrete interfaces for each state in BellSouth's region. Thus, once a CLEC has constructed its side of the pre-ordering or ordering interface, the CLEC can use that interface to submit Local Service Requests ("LSRs") for end users in any or all states in BellSouth's region. *See id.* BellSouth's side of the gateway consists of a single system that receives LSRs for the CLECs' end users in any of BellSouth's nine states. *See id. See also KS/OK Order* ¶ 112 n.312. Moreover, BellSouth's web-based, human-to-machine interface

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[34] To the extent there are separate servers for processing CLEC requests through these interfaces, the servers "use the same programming code" and are "designed to operate in an indistinguishable manner." *KS/OK Order* ¶ 111; *Stacy Aff.* ¶ 43. All of these servers use the exact same hardware running identical software. *Stacy Aff.* ¶ 43.

[35] Regardless of the CLEC's location, all transaction queries, such as the pre-ordering queries sent by the CLEC via the electronic interfaces, for example, result in BellSouth's OSS returning the same information, and in the same format, for end users residing in any one of the nine states in BellSouth's region. *See Stacy Aff.* ¶ 47.

(Local Exchange Navigation System ("LENS")) is the same in all of BellSouth's states. *See Stacy Aff.* ¶¶ 46, 175.

When using the CLEC Service Order Tracking System ("CSOTS") to obtain provisioning information, CLECs use the same procedure for accessing a list of service orders for Mississippi-specific end users, for example, that they would use for Georgia end users, or for end users in any other state in BellSouth's region. *See id.* ¶¶ 51, 288. And if a CLEC does business in several states in the region, it can retrieve a single list of service orders for all of its end users in those states. *See id.* ¶ 51. With respect to maintenance and repair functions, both of BellSouth's interfaces (Trouble Analysis Facilitation Interface ("TAFI") and Electronic Communications Trouble Administration ("ECTA")) are regional in nature. *See id.* ¶¶ 52, 318. CLECs may use either interface for end users in any of the states in BellSouth's region. *See id.* ¶ 52. If a CLEC chooses to use the machine-to-machine ECTA interface, it needs only to build one interface to BellSouth's ECTA gateway, which can then be used for any of the states in the region. *See id.* Similarly, the TAFI interface is the same across all states in BellSouth's region. *See id.*

Manual Interfaces. As explained in the affidavit of Kenneth Ainsworth, the various BellSouth centers that support CLEC manual pre-ordering, ordering, provisioning, and maintenance and repair activity all operate on a regional basis. *See, e.g., Ainsworth Aff.* ¶¶ 5-6, 8-10, 16-24; *see also Stacy Aff.* ¶ 54. Each of these centers is organized based on carriers and functionality, rather than geography. *See, e.g., Ainsworth Aff.* ¶¶ 9, 17, 19, 22-24; *MPSC 271 Order* at 11 ("Manual processes are divided and handled on the basis of carriers, not states . . . ."); *SCPSC 271 Order* at 20 (same). Moreover, each of these centers utilizes the same methods and procedures, accesses the same databases, and provides employees with the same training across all nine states in BellSouth's region. *See, e.g., Ainsworth Aff.* ¶¶ 9, 17, 19, 22-24;

MPSC 271 Order at 11 ("[T]raining of personnel and coordination of activities ensure that jobs are done in the same manner throughout the region."); *SCPSC 271 Order* at 20 (same). Thus, for example, the BellSouth center that provides manual processing (known as the Local Carrier Service Center or "LCSC") for a CLEC seeking to provide service to customers in Kentucky is the very same center that provides manual processing for that same CLEC when it seeks to provide service in Georgia or North Carolina, or any other BellSouth state. *See Ainsworth Aff.* ¶¶ 7-18. Moreover, provisioning, maintenance, and repair for CLEC orders are provided by BellSouth using the same processes, procedures, and personnel across all nine states in BellSouth's region. *See Heartley Aff.* ¶¶ 3-46.

BellSouth has also produced and published a regional set of business rules, guides, procedures, information, and job aids for CLECs. *See Stacy Aff.* ¶ 44. This information is used by CLECs – regardless of their locations in BellSouth's region – to educate, inform, and assist in the configuration of CLEC systems that will interface with BellSouth's regional OSS. *See id.* In addition, BellSouth's training programs for CLECs are conducted on a regional basis and are the same for all CLECs for all interfaces and forms. *See id.* ¶ 45.

Third-Party Regionality Audit. As the Commission explained in the *GA/LA Order*, PwC has conducted a "sameness" audit of BellSouth's electronic systems, modeled after the similar examination relied upon by this Commission in the *KS/OK Order*.[36] *See GA/LA Order* ¶ 111;

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[36] PwC's examination was conducted in accordance with "attestation standards" established by the American Institute of Certified Public Accountants ("AICPA"). *See Stacy Aff.* ¶ 64 & Exh. OSS-10 ¶ 5 (affidavit of Robert Lattimore). An "attest engagement" occurs when a practitioner, such as PwC, is engaged to issue a written communication that concludes whether the written assertion of another party, such as BellSouth, is reliable. *See id.* Under the AICPA attestation standards, an attestation examination is the highest level of assurance that can be provided on an assertion and, if positive, results in an opinion by PwC that the assertions presented are fairly stated in all material respects. *See id.* At all times, PwC acted independently

KS/OK Order ¶¶ 107-108; *see also Stacy Aff.* ¶¶ 63, 65. *See also GA/LA Order* App. D, ¶ 32 ("The Commission will also carefully examine third party reports that demonstrate that the BOC's OSS are the same in each of the relevant states."). As it did in the *KS/OK Order*, the Commission relied heavily on PwC's audit in finding that BellSouth's OSS are the same in both Georgia and Louisiana. *GA/LA Order* ¶¶ 109-111. PwC's audit was not limited to Georgia and Louisiana, but rather tested whether "the same pre-ordering and ordering OSS, processes and procedures are used to support competing LEC activity *across BellSouth's nine-state region.*"[37] *GA/LA Order* ¶ 109 (emphasis added). Thus, PwC's findings – findings that this Commission expressly relied upon in the *GA/LA Order* – are equally applicable to the five states in this Application. *See KPSC 271 Order* at 17; *MPSC 271 Order* at 12; *SCPSC 271 Order* at 20. *See also Stacy Aff.* ¶ 74 & n.10.

PwC validated two assertions in conducting its sameness analysis. First, PwC validated that BellSouth uses the "same" pre-ordering and ordering OSS throughout its nine-state region to support wholesale CLEC activity. *Id.* ¶¶ 67, 70; *GA/LA Order* ¶¶ 110-111. In reaching this conclusion, PwC examined several factors, including the consistency of applications and technical configurations used to process pre-ordering and ordering transactions in BellSouth's region, as well as the consistency of documentation of systems and processes in BellSouth's

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and in accordance with AICPA standards. And the scope and methodology of PwC's audit were thorough and intensive – representing thousands of hours of work by PwC. *See id.* Exh. OSS-10 ¶ 4.

[37] PwC defined "sameness" as (1) having identical applications and interfaces implemented and available across the nine-state region, with "identical" meaning a unique set of software coding and configuration ("version") installed on either one or multiple computer servers ("instances") that support all nine states in an equitable manner; and (2) having processes, personnel, and work center facilities consistently available and employed across the nine-state region with no significant aspects of those resources providing a greater service level or benefit in one state than in other states in the region. *See Stacy Aff.* ¶ 64 & Exh. OSS-10 ¶ 6.

LCSCs. *See Stacy Aff.* Exh. OSS-10 ¶ 7. Second, PwC validated that BellSouth's service order negotiation systems, DOE and SONGS, have no material differences in both functionality and performance for service order entry by the LCSCs. *See Stacy Aff.* ¶¶ 68, 70; *GA/LA Order* ¶¶ 110-111. PwC's analysis comparing the functionality and performance of DOE and SONGS was detailed and comprehensive. It included interviewing BellSouth subject matter experts and observing how manual entry of new orders, and processing of orders that drop out for manual handling, were performed using both DOE and SONGS.[38] *See Stacy Aff.* ¶¶ 68, 71-76 & Exhs. OSS-10 ¶ 14, OSS-11.

b. Independent Third-Party Testing

In addition to actual performance evidence, which is discussed in detail below, BellSouth's Application is supported by KPMG's independent third-party test conducted under the auspices of the Georgia PSC. *See Stacy Aff.* ¶¶ 31-38. As this Commission recently stated,

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[38] A Director of the Tennessee Regulatory Authority ("TRA") recently decided that BellSouth's OSS are not regional in nature because of performance differences in one type of analysis between BellSouth's former South Central and Southern Bell states. *See Stacy Aff.* ¶¶ 55-61. Respectfully, BellSouth submits that the Director's conclusion is flawed legally, mathematically, and factually. Contrary to his apparent understanding, this Commission has never required a BOC to demonstrate the sameness of *performance* to demonstrate the regionality of its OSS. Rather, the Commission requires only that a BOC demonstrate either the "shared use of a single OSS" or where the BOC uses identical, but separate OSS, that its OSS "*reasonably can be expected* to behave the same way in all . . . states." *KS/OK Order* ¶ 111 (emphasis added). BellSouth has unquestionably made that showing. *See Stacy Aff.* ¶ 61; *Heartley Aff.* ¶¶ 32-45 (discussing reasons why performance may vary across BellSouth states). The Director's analysis is also mathematically incorrect because it averages percentages notwithstanding the fact that the denominators, total volume, are significantly different from state to state. *See Stacy Aff.* ¶¶ 56-59. Finally, as a factual matter, the Director is proceeding under the flawed assumption that the type, complexity, and volume for the flow-through metric for the former South Central Bell and Southern Bell states are identical. *See id.* ¶ 60. But because these variations should and do exist, flow-through rates between states should be and are different. *See id.* In any event, in light of PwC's comprehensive third-party audit, BellSouth's detailed evidence, and this Commission's prior findings, there is more than sufficient evidence to support a finding that BellSouth's OSS are regional. Thus, like the NCUC, this Commission should reject such challenges to BellSouth's regionality showing. *See NCUC 271 Order* at 2 n.1.

based on its "review of the evidence in the record describing [KPMG's] test process, and on the assurances provided by the Georgia Commission, we find that the results of KPMG's test in Georgia provide meaningful evidence that is relevant to our analysis of BellSouth's OSS." *GA/LA Order* ¶ 108.

The evidence provided by this KPMG test is equally meaningful here. KPMG, acting under the supervision of the Georgia PSC, subjected BellSouth's OSS to an intensive, military-style independent third-party test. *See Stacy Aff.* ¶ 30; *GA/LA Order* ¶ 104. As originally conceived, the third-party test was intended to focus on those specific OSS areas that had not yet experienced significant commercial usage, and about which CLECs had expressed concerns. *See Stacy Aff.* ¶¶ 31-32. KPMG thus conducted the Master Test Plan ("MTP"), which focused on UNE loops, UNE switch ports, UNE-P, and combinations, and "reviewed the five OSS functions, as well as normal and peak volume testing of the OSS interfaces supporting pre-ordering, ordering, and maintenance and repair functions for both resale and UNE services." *GA/LA Order* ¶ 103; *Stacy Aff.* ¶¶ 31-33. In January 2000, the Georgia PSC ordered BellSouth to conduct additional testing in response to CLEC concerns. *See Stacy Aff.* ¶ 34; *GA/LA Order* ¶ 105. KPMG thus adopted the Supplemental Test Plan ("STP"), which included evaluations of the CCP for electronic interfaces, pre-ordering, ordering, and provisioning of xDSL-capable loops, pre-ordering, ordering and provisioning, maintenance and repair, and billing of resale services, and the processes and procedures supporting collection and calculation of performance data. *GA/LA Order* ¶ 103; *Stacy Aff.* ¶ 34. Notably, CLECs were active throughout the third-party process in Georgia – from the design of the MTP and STP all the way through the testing process. *See Stacy Aff.* ¶¶ 35-37.

Although KPMG's test was conducted in Georgia, that test also supports the present five-state Application because, as discussed above and validated by PwC, BellSouth's OSS are regional. Moreover, the state commissions here have expressly reviewed the Georgia test and concluded that it provided important evidence of BellSouth's nondiscriminatory provision of OSS in those states. *See id.* ¶ 36; *MPSC 271 Order* at 38 ("The [MPSC] concludes that, because BellSouth's OSS are the same region-wide, the [MPSC] may consider the results of the independent [third-party test] of BellSouth's OSS conducted by KPMG under the auspices of the Georgia Commission."); *SCPSC 271 Order* at 48 ("Given that BellSouth operates its OSS on a region-wide basis, we agree that the results of the Georgia [third-party test] can provide evidence where actual commercial usage is unavailable at significant volumes.") (internal quotation marks omitted); *KPSC 271 Order* at 17 ("The functional equivalence of these OSS systems, along with any other potential differences in processing that may remain undiscovered, is important due to this Commission's reliance on Georgia's performance plan including test data, third-party validation and volume testing."). *See also GA/LA Order* ¶ 111 (applying results of Georgia Third-Party Test to Louisiana Application); *KS/OK Order* ¶ 118 (noting that use of third-party data from another state as additional evidence is a "sensible and efficient approach that can avoid the delay and expense of redundant testing") (internal quotation marks omitted). Thus, where necessary to supplement BellSouth's strong commercial usage data, BellSouth may rely on KPMG's third-party test in Georgia for support.[39]

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[39] KPMG's test in Florida does not diminish the importance of the Georgia Third-Party Test in any way. As this Commission recognized, "the third-party tests in Georgia and Florida were designed differently and may vary in certain respects." *GA/LA Order* ¶ 107. And as discussed above, several of the state commissions expressly relied upon the specific design and scope of the *Georgia* test, not the *Florida* test, as additional evidence of BellSouth's nondiscriminatory OSS. In any event, the Florida Third-Party Test does not demonstrate that

c. Change Management Process

In the *GA/LA Order*, this Commission found that "BellSouth provides competing carriers an effective systems change management process to which it has adhered over time." *GA/LA Order* ¶ 194 (internal quotation marks omitted). Because the CCP found nondiscriminatory in the *GA/LA Order* is the same one used across BellSouth's region, *see Stacy Aff.* ¶ 27, this prior finding, supplemented by the evidence contained in the affidavit of William Stacy, *see id.* ¶¶ 79-170, makes clear that BellSouth's CCP provides CLECs with a meaningful opportunity to compete. Moreover, as discussed below, in the short time since BellSouth filed its February 2002 Supplemental Application in Georgia and Louisiana, BellSouth has continued to work with CLECs to improve the CCP. *See id.* ¶ 82 (summarizing BellSouth's recent improvements to the CCP). And BellSouth and CLECs are currently working together under the direction of the Georgia PSC to address several improvements to BellSouth's already nondiscriminatory CCP. *See id.* ¶ 81; *GA/LA Order* ¶ 185 n.697. In sum, BellSouth meets all established criteria for a compliant CCP, and is working hard to improve it in ways responsive to CLEC concerns.

As the Commission explained in the *GA/LA Order*, in evaluating a BOC's change management plan, the Commission examines whether the evidence demonstrates: (1) that information relating to the change management process is clearly organized and readily accessible to competing carriers; (2) that competing carriers had substantial input in the design and continued operation of the change management process; (3) that the change management plan defines a procedure for the timely resolution of change management disputes; (4) that there is a stable testing environment that mirrors production; and (5) that the BOC provides efficacious

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BellSouth's regional OSS are not compliant with the checklist. *Id.* ¶¶ 106-107; *Stacy Aff.* ¶¶ 324-329. Indeed, most of the exceptions opened by KPMG in Florida have been closed or amended with responses by BellSouth. *See GA/LA Order* ¶ 106; *Stacy Aff.* ¶ 329.

documentation for the purpose of building an electronic gateway. *GA/LA Order* ¶ 179. The Commission also examines whether a BOC has complied with the requirements of its plan. *See id.* As the Commission concluded in the *GA/LA Order*, BellSouth's region-wide CCP meets all these criteria. *See id.* ¶¶ 179-197.

Change Management Plan Organization. BellSouth's CCP "is memorialized in a single document" and "available on BellSouth's [interconnection] website" so that CLECs can review it at any time. *Id.* ¶ 180 & n.672; *Stacy Aff.* ¶ 85 & Exh. WNS-13. BellSouth also posts other documents to its website to assist CLECs in participating in the CCP. *See Stacy Aff.* ¶ 86. Because the CCP and other documents are used region-wide, BellSouth's change management plan remains "clearly organized and readily accessible to competing carriers." *MPSC 271 Order* at 61; *SCPSC 271 Order* at 69.

Competing Carrier Input. In the *GA/LA Order*, this Commission stated:

> BellSouth's Change Control Process was created with, and provides for substantial input from, competing carriers. First, the document provides for regularly scheduled change control meetings between BellSouth and competing carriers. Additionally, the Change Control Process provides for feedback from competing carriers through a process in which competing carriers rank all "[competitive] LEC affecting" change requests. Furthermore, the Change Control Process is not a static process, but rather allows participants to amend the process.

GA/LA Order ¶ 182 (alternation in original; footnotes omitted). *See also id.* ¶ 183 ("BellSouth demonstrates that the Change Control Process allows for substantial input from competing carriers because it allows competing carriers to prioritize change requests and that input, along with that of other stakeholders, is directly used to develop an overall release package."). Because BellSouth's CCP is the same across its region, those findings apply equally to the CCP for the five states covered by this Application. *See MPSC 271 Order* at 62 ("BellSouth has

provided CLECs with substantial input in the design and continued operation of the [CCP].") (internal quotation marks omitted); *SCPSC 271 Order* at 71 (same).

BellSouth's current CCP continues to be the product of substantial CLEC input, and CLECs continue to have an ongoing voice in the current direction and operation of the CCP. *See Stacy Aff.* ¶ 89. For example, this Commission noted with approval BellSouth's collaborative effort with CLECs, under the active supervision of the Georgia PSC, "to develop more transparent processes [to] enhance the usefulness of the process for both competing carriers as well as [BellSouth]," and encouraged BellSouth "to continue to accommodate competitive LEC requests." *GA/LA Order* ¶ 185 n.697.

BellSouth has done exactly that. The first phase of the Georgia PSC proceeding is largely complete, and has resulted in three additional CCP performance measures that will allow regulators and CLECs to ensure that BellSouth corrects software defects and handles change management requests in a prompt and efficient manner. *See Stacy Aff.* ¶¶ 81, 153-154.

BellSouth and CLECs are currently in the midst of the second phase of the proceeding, aimed at modifying the change management process itself, and the parties have already reached agreement on the bulk of CLEC concerns. *See id.* ¶¶ 155-156. Among the issues to which BellSouth and the CLECs have agreed are the following:

- BellSouth has agreed to CLECs' requests to expand the definition of "CLEC-affecting" changes to BellSouth's systems so that the CCP will apply to a broader array of changes. In fact, BellSouth accepted CLECs' proposed definition verbatim. BellSouth further agreed to provide CLECs with all the information CLECs contend they need to determine if a change is CLEC-affecting under the new definition. *See id.* ¶ 157.

- BellSouth has agreed to provide CLECs with additional information concerning future change capacity in order to allow them to prioritize change proposals more efficiently. For example, BellSouth has begun to provide CLECs with timely estimates of the amount of capacity required for all Type 4 (BellSouth-initiated) and Type 5 (CLEC-initiated) change requests that are candidates for prioritization.

BellSouth has also begun to provide CLECs with information on Type 2 (flow-through) change requests, as requested by CLECs. Finally, BellSouth has agreed to provide CLECs with historical capacity information for 2002 on a quarterly basis. As a result of these and other changes, CLECs will have, on a going-forward basis, both a projected-capacity view and actual-capacity view, by quarter, to enable them to compare projections with actuals. *See id.* ¶ 158.

- BellSouth has scheduled implementation of the CLECs' Top 15 change requests by the end of this year. As of June 3, 2002, nine of the CLECs' Top 15 change requests have been implemented. A tenth change request, which is being implemented in three stages, has had the first two stages completed. *See id.* ¶ 160.

In addition to the above, BellSouth and the CLECs have reached agreement on a number of other CCP issues including, but not limited to:

- Enlarging the scope of the CCP to include the "development" of new interfaces. Previously, the CCP included only the introduction of new interfaces.

- Enlarging the scope of the CCP to include changes made to relevant BellSouth documentation.

- Including a representative of the LCSC and information technology group at CCP meetings, and having the appropriate subject matter experts and project managers participate in meetings, as needed.[40]

See id. ¶ 161.

Dispute Resolution. BellSouth's CCP "defines a procedure for the timely resolution of change management disputes." *GA/LA Order* ¶ 186 (internal quotation marks omitted). *See also Stacy Aff.* ¶¶ 93-94. Use of the escalation and dispute resolution procedures under the CCP – which were agreed to by CLECs and apply to all CLECs region-wide – has been relatively rare, which is further indication that the CCP is working effectively. *See Stacy Aff.* ¶¶ 95-96; *GA/LA Order* ¶ 186. *See also MPSC 271 Order* at 61; *SCPSC 271 Order* at 69.

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[40] As may be expected, BellSouth and CLECs did not agree on every issue, and there are three such issues that have been submitted to the Georgia PSC for resolution. *See Stacy Aff.* ¶¶ 162-169.

Testing Environment. As was the case when BellSouth filed its Georgia/Louisiana Application, BellSouth offers CLECs the same two testing environments across its region. *See Stacy Aff.* ¶ 99. *See also MPSC 271 Order* at 65 ("BellSouth provides CLECs with two types of open and stable testing environments that satisfy the FCC's requirements."); *SCPSC 271 Order* at 74 (same). First, BellSouth's "original" testing environment allows competing carriers to test their systems when shifting from a manual process to an electronic interface, or when upgrading to a new industry standard. *See GA/LA Order* ¶ 187 n.701; *Stacy Aff.* ¶¶ 100-102. Second, BellSouth offers CAVE, which allows CLECs to test the ordering and pre-ordering functions of upgrades to BellSouth's various electronic interfaces. *See GA/LA Order* ¶ 187 n.701; *Stacy Aff.* ¶¶ 103-106. As this Commission found in the *GA/LA Order*, "BellSouth's [CAVE] and 'original' testing environments allow competing carriers the means to successfully adapt to changes in BellSouth's OSS." *GA/LA Order* ¶ 187 (alteration in original). Moreover, it is clear that CAVE adequately mirrors, and is physically separate from, BellSouth's production environment. *See id.* ¶¶ 187-189; *Stacy Aff.* ¶¶ 103, 106-107. *See also MPSC 271 Order* at 65; *SCPSC 271 Order* at 74. Finally, the scheduled availability of CAVE is sufficient to allow CLEC testing, *see GA/LA Order* ¶ 190, and BellSouth is currently working to expand the availability of CAVE even further, *see Stacy Aff.* ¶¶ 108-110. Ten CLECs and vendors have successfully used CAVE to test LENS, TAG, and EDI. *See id.* ¶ 104.

Moreover, as part of BellSouth's initiative to improve the CCP, BellSouth and CLECs have been discussing numerous modifications to the CAVE testing process to make it even more useful to CLECs. *See id.* ¶ 116. These proposals – many of which have now been implemented – include providing CLECs that have tested a release in CAVE with a "go/no go recommendation," and discontinuing formal testing agreements in favor of on-line procedures.

See id. ¶¶ 115, 117. And as recently as May 9, 2002, BellSouth agreed to draft change requests to allow CLECs to test using their own data. *See id.* ¶ 119. Finally, on June 4, 2002, BellSouth announced that, one week before the CAVE deployment date for Release 10.6, BellSouth will begin publishing a pre-release testing status report addressing all known release-specific, unresolved defects that affect CLECs. *See id.* ¶ 121. The report will contain information as to the nature and severity of each defect, and work-around information (if known). *See id.* BellSouth will update this report on a daily basis until the production implementation of the release. *See id.* These updates will also address any new defects affecting CLECs that are found by BellSouth's internal testing teams or by CLECs that are testing in the CAVE environment, as well as status updates on existing defects. *See id.*

Documentation Adequacy. "BellSouth provides documentation sufficient to allow competing carriers to design their systems in a manner that will allow them to communicate with BellSouth's relevant interfaces." *GA/LA Order* ¶ 191. That remains true today. Indeed, the efficacy of BellSouth's documentation for building electronic gateways is confirmed by the fact that an average of 25 CLECs use EDI and an average of 20 CLECs use TAG each month. *See Stacy Aff.* ¶ 126. *See also Texas Order* ¶ 120 (finding that "the adequacy of SWBT's documentation is demonstrated by the fact that several competing carriers have constructed and are using [the] interfaces in a commercial environment"). Furthermore, approximately 300 CLECs have established at least one electronic interface (including EDI, TAG, LENS, TAFI, and ECTA) to BellSouth's OSS, which were used in 2001 to submit more than 4.1 million electronic service requests (89% of all requests submitted) and more than 325,000 electronic trouble reports. *See id.* ¶¶ 14, 126. *See also GA/LA Order* ¶ 191 ("Numerous competitors are now using electronic interfaces for pre-ordering, ordering, and reporting troubles which is strong evidence

that the documentation is adequate."). During the first three months of 2002, the proportion of LSRs submitted electronically has increased to 93%. *See Stacy Aff.* ¶ 14.

And to ensure that the OSS documentation provided by BellSouth continues to meet the needs of CLECs, BellSouth has established a Documentation Subcommittee to discuss CLEC expectations and to consider improvements to the documentation associated with each Release. *See id.* ¶ 128. As the Commission properly explained in the *GA/LA Order*, it was confident that "BellSouth's release documentation will continue to provide competing carriers a meaningful opportunity to compete in light of the newly devised documentation subcommittee in the Change Control Process." *GA/LA Order* ¶ 196 n.753.

Adherence to the CCP. As this Commission found in the *GA/LA Order*, "BellSouth provides competing carriers an effective systems change management process to which it has adhered over time." *Id.* ¶ 194 (internal quotation marks omitted). BellSouth continues to demonstrate "a pattern of compliance with intervals established in the [CCP] for notification of a variety of system changes." *GA/LA Order* ¶ 196; *Stacy Aff.* ¶ 151. BellSouth's recent performance with respect to timely software-release notices and documentation prior to implementation of changes confirms that CLECs are provided a meaningful opportunity to compete. From January through March 2002, BellSouth met nine of the 11 submetrics with activity.[41] *See Varner Aff.* ¶ 188. BellSouth also provided all the notifications of interface outages with the 15-minute benchmark during the three-month period. *See id.*

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[41] BellSouth measures whether CLECs receive the software release notices and documentation within 30 days of the change. If that 30-day benchmark is not met, BellSouth also measures the average delay days associated with the notice or documentation. *See Varner Aff.* ¶ 188. The benchmark for the average delay days is eight days for the release notice and documentation. *See id.* In January 2002, BellSouth failed to post one release notice within the 30-day period. However, it did meet the average delay days benchmark by posting the notice

Through the CCP, BellSouth has responded to CLEC-initiated change requests in a timely fashion. Over the past four months, CLECs submitted six Type 5 change requests, two of which were sent back to the CLEC. *See Stacy Aff.* ¶ 133. One of those was ultimately cancelled by the CLEC, while the other request is still pending clarification. *See id.* With respect to the remaining four change requests, BellSouth delivered responses on all four within the time periods prescribed by the CCP. *See id. See also GA/LA Order* ¶ 192 ("BellSouth demonstrates that it validates change requests for acceptance into the process in a timely manner and in accordance with the 10-day interval specified by the Change Control Process.").

As was the case in the Georgia/Louisiana proceeding, BellSouth also moves expeditiously in implementing eligible change requests once they are prioritized through the CCP. *GA/LA Order* ¶ 193 ("BellSouth adheres to the Change Control Process by demonstrating that it implements change requests prioritized by competing carriers through the Change Control Process."). Through June 3, 2002, BellSouth has implemented 430 change requests, *see Stacy Aff.* ¶ 130, including 210 change requests in the past six months alone, *see id.* ¶ 136. Moreover, BellSouth has implemented 44 BellSouth-initiated requests and 43 CLEC-initiated requests. *See id.* And with Release 10.5 in June 2002, BellSouth implemented a number of additional system features/defects. *See id.* Moreover, BellSouth continues to correct defects within the time frames set forth in the CCP. *See id.* ¶ 130. Finally, BellSouth continues to "perform[] adequate internal testing before releasing software." *GA/LA Order* ¶ 195. *See also See Stacy Aff.* ¶¶ 140-148.

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within 26 days of the release (delayed four days from the 30-day benchmark). In February 2002, BellSouth failed to meet the 30-day interval for documentation for two releases. Once again, however, it met the average delay days benchmark by posting the documentation an average of 24 days prior to the release (delayed an average of six days from the 30-day benchmark). *See id.*