104. These enormous volumes of manually processed orders would be disturbing in any event. However, the volumes are particularly significant because they demonstrate little change in the percentage of all LSRs submitted to BellSouth (whether electronically or manually) that flow through its systems. As shown in the "leaky pipe" charts attached hereto as Attachment 16, the percentage of all LSRs that were fully mechanized in December 2001 was only 57 percent – little improvement from the 55 percent rate in March 2000. BellSouth's own witness, Mr. Stacy, agreed in a deposition last September that "it is unlikely that there will be significant improvement in manual fallout by design in the foreseeable future." *See* Bradbury Reply Decl, ¶ 53 & n.22 (quoting transcript of September 28, 2001 deposition of William N. Stacy). Even more recently, BellSouth's Project Manager for its Flow-Through Improvement Task Force advised CLECs that they could expect even greater volumes of LSRs to fall out for manual processing as CLECs gain market share, and the volumes and mixes of orders change.

105. Thus, as CLECs ramp up for mass-market entry, the already-heavy workload of the LCSC will vastly increase. That will only worsen the already-poor performance of the LCSC in processing manual fall-out – resulting in even longer delays in the return of status notices, more errors by LCSC representatives in re-keying such orders, even slower responses of the LCSC to CLEC inquiries regarding the status of orders, greater costs to the CLECs and their customers, and more provisioning errors.

106. Notwithstanding these facts, BellSouth argues that its flow-through rates "are comparable to, or better than, those the Commission has seen in the past." Application at 25. Comparisons of BellSouth's rates to those of other RBOCs, however, are irrelevant. For

purposes of determining whether BellSouth is providing nondiscriminatory access, the only relevant comparison is between the flow-through rate for electronically submitted CLEC orders and the rate (nearly 100 percent) for orders that BellSouth submits in its own retail operations.

107. In addition, the comparison made by BellSouth is unreliable. BellSouth compares its Achieved Flow-through Rate (which, as previously stated, measures manual fall-out caused by BellSouth system design or system error) with flow-through rates of Verizon and SBC. Stacy/Varner/Ainsworth Aff., ¶¶ 93-97. However, the Verizon flow-through rates cited by BellSouth are total flow-through rates that include *all* electronically submitted orders in its analysis.[36] Thus, it is hardly surprising that Verizon's rates are lower than BellSouth's Achieved Flow-Through Rates, since the latter exclude CLEC-caused fall-out from the denominator used to calculate the rate.

108. Similarly, the SBC flow-through rates used by BellSouth in its analysis are not a proper basis for comparison. The SBC rate simply includes orders that SBC has designed to flow-through and orders that, although not designed to flow-through, would flow through if submitted by SBC's retail operations. Moreover, unlike the BellSouth Achieved Flow-Through

[36] *See Pennsylvania 271 Order*, ¶ 49; *Massachusetts 271 Order*, ¶ 78. It is precisely because Verizon's rate – the "total flow-through rate" *does* include "CLEC error" that Verizon has argued that these rates do not reflect the capacity of its systems to achieve even higher flow-through rates. *See, e.g., New York 271 Order*, ¶¶ 167-168.

rate, the SBC rate (PM 13) does *not* exclude manual fall-out due to "CLEC error."[37] In short, BellSouth's comparison is an "apples-to-oranges" comparison that proves nothing.

109. BellSouth also asserts that the variation in its Achieved Flow-Through Rates among individual CLECs shows that its "systems are capable of flowing through orders at even higher rates tha[n] are currently achievable." Stacy/Varner/Ainsworth Aff., ¶ 99. However, the underlying premise of BellSouth's argument – that CLEC errors are the source in the variation in rates – is erroneous. As previously stated, the Achieved Flow-Through rate *already excludes* manual fall-out caused by CLEC errors. It includes only manual fall-out due to BellSouth system design or system errors. Furthermore, the variation in rates among individual CLECs simply reflects the differences in the mixes of order types from CLEC to CLEC (and the discriminatory effect that BellSouth system design and system errors have on certain types of CLEC business plans and entry strategies).

110. BellSouth also asserts that a comparison of manual handling of CLEC orders in Georgia to that in Arkansas show that "Overall, the level of manual handling of CLEC orders in Georgia and Louisiana is low." Stacy/Varner/Ainsworth Aff., ¶¶ 100-101. Like its flow-through comparison, BellSouth's comparison of its "level of manual handling" with that of other RBOCs is irrelevant. For purposes of flow-through, the only proper comparison is between the level of manual handling for electronically-submitted CLEC orders and the same level for

[37] The SBC flow-through measurement cited by BellSouth is SBC's Performance Measurement 13 ("Order Process Percent Flow Through"), which includes not only all orders that SBC has designed to flow through ("MOG-eligible" orders), but also all CLEC orders that fall out by design but would flow through SBC's EASE system (which is used by SBC representatives to submit retail orders) if they were submitted by SBC as a retail order. *See* Stacy/Varner/Ainsworth Aff., ¶ 96; *Texas 271* Order, ¶ 180; *Kansas/Oklahoma 271 Order*, ¶¶ 145-146. A copy of SBC's business rule defining PM 13 is attached hereto as Attachment 17.

BellSouth's retail orders (which is virtually zero percent, given BellSouth's almost-100 percent retail flow-through rate).

111. In any case, BellSouth's comparison of the "levels of manual handling" of itself and SBC is of no value because the total volumes of FOCs in Arkansas used in BellSouth's analysis are small – barely 10 percent of those in Georgia. *Id.*, ¶ 100. Furthermore, the analysis includes FOCs even for manually submitted (non-mechanized) LSRs – not simply FOCs for electronically submitted orders. If the analysis is limited to the latter, the percentage of partially mechanized FOCs to all FOCs for electronically submitted orders (*i.e,* the rate of manual processing of electronically submitted orders) in Arkansas is, in fact, lower than BellSouth's. For example, according to SBC's performance report, in July 2001 SBC issued a total of 6,463 FOCs for electronically submitted LSRs in Arkansas, of which 1,526 were for orders that required manual intervention. Thus, SBC's rate of manual processing for that month was 23.6 percent. By contrast, according to BellSouth's performance reports, for July 2001 BellSouth reported a total of 74,685 FOCs, of which 53,548 were fully mechanized, 17,506 were partially mechanized, and 3,631 were non-mechanized. Of the 71,054 FOCs that were mechanized (fully or partially), 17,506 FOCs – or 24.6 percent – were partially mechanized. In short, BellSouth's attempt to portray its "level rate of manual handling" as substantially lower than SBC's is both flawed and highly misleading.

112. Finally, the inadequacy of BellSouth's flow-through performance continues to be confirmed by KPMG in its third-party testing in Florida. Mr. Bradbury described numerous exceptions and observations issued by KPMG in this area in his previous testimony. *See* Bradbury Opening Decl., ¶¶ 112-113; Bradbury Reply Decl., ¶ 65. Although a number of exceptions and

observations described in that testimony have since been closed by KPMG, numerous others still remain open – and KPMG has opened *additional* exceptions and observations finding deficiencies in BellSouth's performance.

113. For example, KPMG's Exception 86, which found that KPMG was not receiving *any* FOCs for 11 to 15 percent of LSRs that it submitted electronically, still remains open. *See* Bradbury Opening Decl., ¶ 112 & Att. 27. Even after retesting twice for purposes of this exception, KPMG found that the flow-through rate for residential transactions was 10 percentage points below the 95 percent benchmark.[38]

114. More recently, KPMG issued two exceptions after it found that approximately 40 to 50 percent of LSRs that it submitted fell out for manual intervention (and KPMG did not receive "flow-through FOCs" for these LSRs), even though all of the LSRs were purportedly designed to flow through.[39]

115. Little more than a week ago, KPMG issued an observation finding that BellSouth's flow-through documentation contains incomplete and inconsistent information regarding the product flow-through capabilities of BellSouth's OSS. These inconsistencies, KPMG found, "may lead to CLEC errors and inaccurate CLEC resource planning, which could increase end-to-end transaction processing time and lead to decreased CLEC customer satisfaction."[40]

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[38] KPMG Second Amended Exception 86, dated February 22, 2002 (attached hereto as Attachment 18).

[39] KPMG Exception 136, dated January 15, 2002 (attached hereto as Attachment 19); KPMG Exception 121, dated November 13, 2001 (attached hereto as Attachment 20).

[40] KPMG Observation 167, dated February 22, 2002 (attached hereto as Attachment 21).

116. KPMG has also issued two exceptions finding deficiencies in the flow-through information provided by BellSouth. In one exception, KPMG found that BellSouth had not provided KPMG with the flow-through classification information for DSL orders which CLECs are entitled to receive upon request; KPMG found that the lack of such information "could result in an increased order error rate, resulting in a CLECs's inability to identify ordering problems in a timely manner."[41] In another exception, KPMG found that KPMG could not replicate the number of "auto clarifications" set forth in BellSouth's Service Quality Measurement report.[42]

117. KPMG has also found, and continues to find, serious deficiencies in the performance and procedures of the LCSC. More than four months ago, for example, KPMG opened four separate exceptions finding that: (1) the LCSC did not return timely FOCS on orders that it had submitted by fax or by electronic mail – and did not return FOCS on a substantial

[41] KPMG Exception 122, dated November 13, 2001 (attached hereto as Attachment 22).

[42] KPMG Exception 124, dated December 5, 2001 (attached hereto as Attachment 23). KPMG issued Exception 124 because, after it replicated BellSouth's original June 2001 flow-through report, BellSouth re-posted the report, indicating to KPMG that coding changes had taken place. This measure remains in testing. Further, during a conference call regarding its Florida test on February 27, 2002, KPMG confirmed that it had not yet conducted its data integrity audit of BellSouth's reported flow-through data. KPMG also stated that it would conduct the audit only for flow-through data reported for future months, rather than for previous months, because: (1) KPMG had been unable to obtain from BellSouth the methodology that BellSouth used to report LNP flow-through rates: and (2) KPMG had been unable to perform an audit of non-LNP reported flow-through data in the existing version (version 2.6) of PMAP. For these reasons, KPMG decided to examine three months of data after PMAP 4.0 has been implemented in March 2002. In Georgia, KPMG's replication of the flow-through report started with August 2001 data and is in re-testing and the data integrity portion of the test is on "hold" waiting for business rules from BellSouth. *See* KPMG January 22, 2002 Interim Status Report – Data Integrity Status Summary and SQM Status Summary. Therefore, none of the flow-through data on which BellSouth has relied in its previous or current application to this Commission for Section 271 authority in Georgia and Louisiana have been successfully validated

percentage of the orders in a timely manner; (2) the LCSC did not have adequate guidelines for call tracking and call resolution by the LCSC; and (3) the LCSC did not provide accurate data on FOCs and rejection notices for LSRs that KPMG had manually submitted. *See* Bradbury Decl., ¶ 113 & Atts. 29, 31 (KPMG Exceptions 90 and 110); Bradbury Reply Decl, ¶ 65 n.29 & Att. 19 (KPMG Exception 116). Each of these exceptions remains open.

118. In January 2002, KPMG issued four additional exceptions finding that it was not receiving FOCs and rejection notices in a timely fashion for partially mechanized LSRs that it had submitted via the LENS, TAG, EDI, and RoboTAG™ interfaces. BellSouth failed to meet the applicable benchmark (return of the partially mechanized FOCs or rejection notices within 10 hours of submission of the LSR) for 47 percent of the LSRs that were submitted via LENs, 25 percent of the LSRs submitted via EDI, 13 percent of the LSRs submitted via RoboTAG™, and 5 percent of the orders submitted via TAG. As KPMG noted in each exception, receipt of these notices is a "critical factor in a CLEC's ability to process service requests and meet customer needs. Delays in receipt of [these notices] could negatively impact the timeliness of the ordering process, resulting in decreased CLEC customer satisfaction."[43]

B. BellSouth Has Not Shown That Its Performance With Respect To Service Order Accuracy Is Adequate.

119. When LSRs fall out for manual processing, the accurate re-entry of those orders into BellSouth's systems by its LCSC is critical to a CLEC's ability to compete.

[43] KPMG Exception 129, dated January 3, 2002 (attached hereto as Attachment 24); KPMG Amended Exception 131, dated January 15, 2002 (attached hereto as Attachment 25); KPMG Exception 134, dated January 7, 2002 (attached hereto as Attachment 26); KPMG Exception 140, dated January 28, 2002 (attached hereto as Attachment 27).

Inaccuracies in such manual re-entry can cause delays and errors in the provisioning of the LSR, resulting in customer dissatisfaction.

120. BellSouth acknowledges that service order accuracy was one of the Commission Staff's concerns regarding its prior application, but asserts that its service order accuracy performance has "continued to improve" as the result of its "significant commitment to service order accuracy." Application at 1, 4, 25. BellSouth, however, still has not shown that its rate of service order accuracy is adequate.

121. In claiming improved performance, BellSouth relies on its reported data for December 2001, which show that its service order accuracy rate exceeded the applicable 95 percent benchmark for all seven UNE service order accuracy sub-metrics and 8 of the 11 resale sub-metrics. Application at 26; Stacy/Varner/Ainsworth Aff., ¶¶ 159-160. A single month's performance, however, is not sufficient to demonstrate that BellSouth has permanently improved its previous poor performance. *See* Bradbury Opening Decl, ¶ 115 (describing low service order accuracy rates reported for August 2001). Indeed, in November 2001 BellSouth failed to meet four of the 11 resale sub-metrics and 2 of the 7 UNE sub-metrics. Only in December 2001 that BellSouth first met all of the benchmarks for the UNE sub-metrics. In fact, December marked the only month in which BellSouth met the metric for one such sub-metric (loops non-design/less than 10 circuits) for the entire year. Varner Supp. Aff., Exh. PM-7 (B.2.34.2.1.2).

122. Moreover, BellSouth's reported service order accuracy rates for December also cannot be regarded as reliable. BellSouth admits that it changed its method for calculating service order accuracy beginning with the November 2001 data. *See* Stacy/Varner/Ainsworth Aff., ¶ 158; Varner Supp. Aff., ¶¶ 68-69. BellSouth made this change unilaterally, without the

concurrence or knowledge of the CLECs. In fact, BellSouth's new application marked the first occasion on which BellSouth notified CLECs of this change in methodology.

123. In view of the recent unilateral change in its methodology, BellSouth's claim of "improved" performance rings hollow. For example, BellSouth has not presented data showing what the rates for months prior to November 2001 would have been if they had been calculated and reported under its new methodology. Thus, BellSouth has not provided the data necessary to determine whether its recent performance actually represents an improvement over previous months. Furthermore, as discussed in the Bursh/Norris Supplemental Declaration, and the Supplemental Declaration of Robert Bell, BellSouth's new methodology is flawed in several respects.

124. Indeed, BellSouth's reported December data are contrary to both testing results and AT&T's real-world experience. In its testing in Georgia, for example, BellSouth failed KPMG's test on the accuracy of partially mechanized orders. *See* Norris Decl., ¶ 35; Bradbury Opening Decl., ¶ 120; Stacy Aff., ¶ 445. Furthermore, as reported in the Supplemental Declaration of Bernadette Seigler, BellSouth representatives have made errors on a number of AT&T's UNE-P orders that have fallen out for manual processing, with resulting errors in provisioning. More disturbingly, despite its professed commitment to service order accuracy, BellSouth has responded to AT&T's complaints about these errors by asserting that BellSouth does not consider such errors to be a problem as long as any resulting errors in provisioning are fixed by 5:00 p.m. on the same day.

125. BellSouth cites certain measures that it has taken, such the establishment of "Quality Programs" and the inclusion of the service order accuracy measure in its SEEMS penalty

plans, as evidence that its service order accuracy rate will be adequate in the future. *See* Stacy/Varner/Ainsworth Aff., ¶¶ 155-161. It is premature, however, to assume that these measures will be effective, since many of them were established only recently. *E.g., id.*, ¶ 154 ("LCSC Service Order Quality Review Group" was established in September and October 2001 for the Birmingham and Atlanta LCSCs, respectively).

126. Moreover, based on BellSouth's testimony, it appears that two of the "Quality Control Groups" established by BellSouth review service orders for accuracy only *after* they have been released to SOCs by the BellSouth service representative. *Id.*, ¶¶ 153-154. An effective review program, however, would seek to prevent erroneous orders from being released in the first place – and that can only be achieved if the review is conducted before the service order is released. Finally, BellSouth's inclusion of a service order accuracy measure in SEEMS will not serve to encourage (much less ensure) adequate performance, for the reasons stated in the Bursh/Norris Supplemental Declaration.

C. BellSouth Has Not Returned Timely and Complete Status Notices.

127. BellSouth has not shown that it provides the timely and complete status notices that CLECs need to order to know, and to be able to tell their customers, the status of orders. Without such notices, a CLEC cannot provide the same level of service and information to their customers as BellSouth can provide to its retail customers. The Commission has thus recognized that timely and complete status notices are critical to a CLEC's ability to compete effectively. *Second Louisiana 271 Order*, ¶ 117; *New York 271 Order*, ¶ 187.

128. BellSouth still does not provide timely FOCs or rejection notices for electronically submitted LSRs that fall out for manual processing. As previously indicated, it

takes BellSouth 18 hours, on average, to return a FOC or rejection notice for partially mechanized orders.[44] By contrast, BellSouth takes an average of only 15 minutes to send a FOC or rejection notice when the LSR falls out and is processed electronically.

129. BellSouth asserts that, because it returns FOCs and rejection notices "mechanically" to a CLEC whenever an order is manually processed, a CLEC is "not necessarily" harmed. Stacy/Varner/Ainsworth Aff., ¶ 99. BellSouth, however, fails to consider the harm that a CLEC incurs due to the 18-hour delay in the return of these notices – including the need for the CLEC to contact the LCSC in order to ascertain the status of the LSR during this period. Moreover, if the LSR has been rejected, the 18-hour return time will delay the resubmission of the LSR and the actual provisioning of the order. As a result of these problems, the CLEC incurs additional costs that deny it the advantages of electronic ordering.

130. As previously stated, KPMG has issued numerous exceptions and observations finding that BellSouth was not returning FOCs and rejection notices on partially mechanized LSRs in a timely manner (¶¶ 112-113, *supra)*. Moreover, KPMG issued an observation last October finding that BellSouth was not providing *complete* FOCs or completion notices for xDSL LSRs submitted via the LENS interface. *See* Bradbury Reply Decl., ¶ 65 & Att. 21. That observation remains open. And only last Friday, KPMG issued a new observation finding that KPMG had not received timely completion notices ("CNs") submitted via the EDI and TAG interfaces. Delay in the return of CNs, KPMG found, "could prevent a CLEC from

[44] BellSouth's reported performance data do not reflect its actual performance in returning these notices, because BellSouth has unilaterally excluded any "non-business hours" (*i.e.*, hours outside of the LCSC's published hours of operation) from its calculation of the timeliness of FOCs and rejections notices. *See* Bradbury Opening Decl., ¶¶ 127-134.

effectively processing a customer's service request or responding to customer inquiries, resulting in a decrease in CLEC customer satisfaction."[45]

131. Finally, BellSouth still has failed to show that it provides jeopardy notices in a timely manner. As BellSouth acknowledges, the data on jeopardy notice intervals that it reports (which are as long as 400 hours) are "not meaningful," because they are not measured accurately. *See* Varner Supp. Aff., ¶ 76; Bradbury Opening Decl., ¶¶ 142-143. Because notice of order jeopardies is "critical" to a CLEC that has previously received a committed due date from BellSouth, BellSouth cannot show that it is providing nondiscriminatory access to its OSS. *See Second Louisiana 271 Order*, ¶¶ 131, 133.

D. BellSouth's Rate of Provisioning Accuracy Remains Poor.

132. Both AT&T's experience, and the KPMG third-party testing in Florida, show that BellSouth's rate of provisioning accuracy is poor. As described in the Supplemental Declaration of Bernadette Seigler, BellSouth has committed provisioning errors for a large number of AT&T's UNE-P orders, due to inputting errors by BellSouth representatives on manually processed orders and to errors in BellSouth's systems.

133. KPMG's testing confirms BellSouth's poor rate of provisioning accuracy. In its Exception 112, issued on October 1, 2001, KPMG concluded that "BellSouth's systems or representatives have not consistently provisioned service and features as specified in orders submitted by KPMG Consulting." Bradbury Opening Decl, ¶ 155 & Att. 42 at 1. KPMG found that BellSouth had correctly updated only 54 percent of CSRs accurately to reflect updated information in the LSR. In many of the remaining (and erroneously-updated) 46 percent of CSRs,

[45] KPMG Observation 169, issued March 1, 2002 (attached hereto as Attachment 28).

the products and features were inconsistent with the pre-completion CSR and/or the LSR submitted to BellSouth. *Id.* As KPMG noted, such "mishandling of customer requests will negatively impact a customer's view of a CLEC's service quality." *Id.*, Att. 42 at 12.

134. Exception 112 remains open today. Even after reviewing BellSouth's response to the exception, KPMG found that BellSouth updated only approximately 70 percent of the reviewed CSRs were updated accurately.[46] KPMG then conducted retesting and found that BellSouth had updated only 77 percent of the reviewed CSRs accurately.[47] Even this performance reflects poor provisioning accuracy. CLECs cannot hope to attract and retain customers if nearly 25 percent of their customers do not receive the services and features that they ordered, since the customer is likely to blame any errors on the CLEC.[48]

135. Two other KPMG exceptions regarding provisioning accuracy, which KPMG issued in late June and early July 2001, remain open. In Exception 76, KPMG found that in 27 percent of situations where lines were disconnected, BellSouth placed the wrong intercept message on the line. As a result, callers to the customer's former customer were told that (for example) the number had been changed to a non-published number or was being checked for trouble, rather than be told the new number (as the customer had expected). Norris Decl., ¶ 31. Exception 84 found that BellSouth failed to use the proper codes when provisioning switch

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[46] KPMG Amended Exception 112, dated November 30, 2001 (attached hereto as Attachment 29).

[47] KPMG Second Amended Exception 112, dated January 28, 2002 (attached hereto as Attachment 30).

[48] In Observation 82, KPMG similarly found that BellSouth's systems or representatives did not update CSRs consistently following a change in the status of a customer's account. That observation remains open. *See* Amended Observation 82, dated November 13, 2001 (attached hereto as Attachment 31).

translations, which would mean that the services and features which the customer had requested to receive (or cancel) would not be accurately provisioned (or removed). KPMG found that this problem would "result in a decrease in customer satisfaction" and "negatively impact a customer's view of a CLEC's ability to provide quality service." *Id.* When KPMG conducted retesting for purposes of these exceptions, it found that BellSouth's rate of provisioning errors was even *worse* than that found in the original exceptions.[49]

136. These KPMG exceptions thus corroborated KPMG's finding in its separate third-party test in Georgia that serious problems existed with respect to provisioning accuracy. *See id.*, ¶¶ 32-38. KPMG, however, has issued an additional exception and observation in recent months finding further deficiencies in BellSouth's performance. In Exception 130, KPMG found that "BellSouth's systems or representatives did not consistently provision service in a timely manner for orders submitted by KPMG." In both its initial testing and re-testing, KPMG found that BellSouth was provisioning more than 11 percent of LSRs on a due date other than that specified on the FOC.[50]

137. In Observation 152, KPMG found that BellSouth failed to use the proper codes when provisioning Operator Services/Directory Assistance. KPMG again found that such mishandling of orders "will negatively impact a customer's perception concerning the CLEC's

[49] When KPMG conducted retesting for purposes of Exception 76, it found that BellSouth provisioned only 45 percent of the orders accurately – in contrast to the 73 percent rate determined in the original testing. *See* KPMG Amended Exception 76, dated February 5, 2002 (attached hereto as Attachment 32). Similarly, when KPMG conducted retesting for purposes of Exception 84, it found that BellSouth was not accurately provisioning features and services in the switch for 86 percent of the telephone numbers validated. This error rate (14 percent) was even *higher* than the 9.5 percent rate found in KPMG's original testing. *See* KPMG Amended Exception 84, dated November 15, 2001, at 1, 5 (attached hereto as Attachment 33).

ability to provide quality service."[51] Less than two weeks ago, KPMG changed this Observation to an Exception after it found that BellSouth was incorrectly provisioning more than *40 percent* of OS/DA services incorrectly – and was not even following its own procedures that required call-through tests to ensure proper provisioning.[52]

III. BELLSOUTH STILL HAS NOT ESTABLISHED, OR ADHERED TO, AN ADEQUATE CHANGE CONTROL PROCESS.

138. BellSouth contends that, as a result of actions that it has recently taken (or promises to take), its change control process is now "an effective mechanism for CLECs to request improvements in BellSouth's OSS." Application at 27. That is incorrect. Although some of the actual or promised modifications to the CCP are welcome, they do not change the fundamental flaws in the CCP that deny CLECs a meaningful opportunity to compete.

139. BellSouth groups its actual or proposed changes to the CCP into five categories: (1) changes designed to make the CCP "more effective, more efficient and more 'user friendly' for the CLECs"; (2) modifications of the CCP "in response to CLECs' needs and to facilitate their ability to make use of BellSouth's OSS"; (3) implementation of additional performance measures to monitor BellSouth's CCP performance; (4) implementation of "the top priority change requests"; and (5) "implementing and expanding availability of the non-production CAVE environment." Stacy/Varner/Ainsworth Aff., ¶ 108. Many of the changes described by

[50] KPMG Amended Exception 130, dated January 28, 2002 (attached hereto as Attachment 34).

[51] KPMG Observation 152, dated December 5, 2001 (attached hereto as Attachment 35).

[52] KPMG Exception 156, dated February 22, 2002 (attached hereto as Attachment 36).

BellSouth (such as provision of information regarding status of change orders and release capacity) will be of benefit to CLECs – assuming that BellSouth lives up to its commitments.[53]

140. Nonetheless, BellSouth's claims of improvements should be greeted with skepticism. Many of the modifications that BellSouth describes are, in fact, changes that CLECs have previously requested but that BellSouth failed to implement. For example:

- The "user-friendly" changes to Change Control Meetings described by BellSouth (Stacy/Varner/Ainsworth Aff., ¶ 110) have been requested by CLECs since 1998.

- Although BellSouth now promises to make representatives from its Technology Group and Customer Care organizations available at CCP meetings, it could have (and should have) done so long ago. *See id.*, ¶ 112. Furthermore, although BellSouth promises to make subject matter representatives available at CCP meetings "upon CLEC request and with two weeks' advance notice" when BellSouth has rejected a change request, that commitment is illusory, because this process was part of the CCP even before BellSouth filed its previous application last September. *Id.*, ¶ 113.[54] Although CLECs have continuously objected to the two-week advance notice requirement, BellSouth has refused to alter it.

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[53] Some of the changes may actually hinder CLECs, depending on the circumstances. For example, although BellSouth's creation of special CCP subcommittees may serve as a useful vehicle for addressing certain issues (*see* Stacy/Varner/Ainsworth Aff., ¶ 111), BellSouth also has previously used such subcommittees on occasion to delay implementation of CLEC-requested changes through a "divide-and-conquer" strategy of creating disagreement among the participating CLECs. In addition, despite repeated requests by CLECs for coordination of the scheduling of the meetings of these special groups so that CLEC representatives can attend each group meeting, BellSouth continues to schedule meetings of some of these groups on the same day and at the same time. For example, BellSouth scheduled meetings of the Flow-Through Task Force and the UNE-P User Groups to occur at the same time on February 27, 2002.

[54] BellSouth's promise to reorganize the job responsibilities of its Operation Assistant Vice President to allow him to "focus his energies on Change Control" (Stacy/Varner/Ainsworth Aff., ¶ 114) will undoubtedly benefit CLECs, because the current OAVP acknowledged last September that he devoted – at most – "less than five percent" of his time to the Change Control Process. *See* Transcript of Deposition of Dennis L. Davis, dated September 19, 2001, at 6-7 (attached hereto as Attachment 37).

- Although BellSouth implemented a process to distribute the BellSouth Business Rules for Local Ordering earlier to CLECs (*id.*, ¶ 116), that implementation came only after years of requests by CLECs for longer lead times.

- Although BellSouth began providing CLECs in December 2001 with a coding matrix associated with each of its releases (*id.*, ¶ 117), CLECs have been requesting such a matrix since BellSouth changed the format of its business rules documentation more than two years ago. BellSouth originally agreed to provide the matrix beginning in February 2001 – ten months before it actually did so.

- CLECs have long requested release capacity and sizing information, but BellSouth did not even "propose" to provide it until November 2001. *See id.*, ¶ 126.

- Although BellSouth promises to provide a quarterly tracking report in an Excel format to allow the CLECs to manipulate the data (*id.*, ¶ 109), BellSouth previously provided such data in that format until approximately 18 months ago – when BellSouth unilaterally changed to a PDF format (which prevented CLECs from mechanically analyzing the data).

141. Furthermore, the timing of BellSouth's modifications is suspect. Some of the modifications were implemented shortly before BellSouth filed its previous Section 271 application in September. Others, such as BellSouth's "40 percent proposal" (discussed below), were made after the issue of change control was raised by a number of CLECs and the Department of Justice in response to that application.

142. Even leaving aside these factors, however, BellSouth's actual and proposed modifications are insufficient. They do not alter the defects in the CCP that deny CLECs a meaningful opportunity to compete. *See* Bradbury Opening Decl., ¶¶ 170-236. Even after implementation of the proposed changes, BellSouth continues to have a veto power over change requests; BellSouth makes the final decision regarding the prioritization of proposed changes; BellSouth continues to decide the scheduling of the implementation of changes; a

substantial backlog of change requests still exists; the testing environment that BellSouth provides remains inadequate; and BellSouth continues to violate the very change control process that it promises to improve. Thus, for example, although BellSouth's provision of information regarding the status of change requests is useful, it does not alter the fact that BellSouth alone determines what changes will be implemented, and when.

143. As shown below, despite the modifications that BellSouth describes in its new application, the CCP remains inadequate under the criteria established by the Commission to determine whether a change management process give an efficient competitor a meaningful opportunity to compete. *See* Bradbury Opening Decl., ¶ 171. First, CLECs are still denied meaningful input in the design and operation of the CCP. Second, BellSouth does not provide a stable testing environment that mirrors production. Third, the scope of the CCP remains inadequate. Fourth, BellSouth does not provide inadequate documentation. In addition, BellSouth has continued to fail to comply with the CCP, both before and after its modifications.[55]

A. CLECs Still Do Not Have Substantial Input In the Design and Operation of the Change Control Process.

144. Contrary to BellSouth's assertion, the various modifications that it proposes do not "ensure that its change control process provides CLECs with 'substantial input in the design and continued operation of the change management process.'" Application at 27 (quoting *Texas 271 Order*, ¶ 108). These modifications still leave BellSouth with the sole power

[55] The modifications implemented or proposed by BellSouth also do not provide a procedure for the timely resolution of change management disputes – thus failing another of the Commission's criteria. *See* Bradbury Opening Decl, ¶¶ 207-208.

to decide the changes that will be implemented, the priority in which any changes will be implemented, and the timing of the implementation of changes.

145. BellSouth's total control over these decisions is evidenced by the current status of change requests. First, a substantial backlog of change requests exists. As of February 20, 2002, for example, BellSouth has not implemented 93 change requests for features and 33 defect change requests. The status of the 93 pending feature requests is as follows:

- 29 of the requests are "New." Under the CCP, "new" request is a change request that has been received by the BellSouth Change Control Manager, but has not yet been validated. Although the interval for validation under the CCP is 10 business days, BellSouth did not meet that timetable for any of them. Three of the requests were filed in 2000 (one as long ago as August 2000), and 13 were filed during 2001.

- 17 of the requests are "Pending." A "pending" request is a change request that has been accepted by the BellSouth Change Control Manager and scheduled for change review and prioritization. Two of these requests were submitted in September 2000, and more than two-thirds of the requests were submitted more than six months ago.

- 32 of the requests are "Candidate Requests." A "Candidate Request" is a change request that has completed the change review and prioritization process and is ready to be scheduled to be implemented in a release. More than half of the requests were originally submitted in 1999 or 2000. Two of the requests were submitted in September 1999. All but one of the "Candidate Requests" have remained in this status since April 2001.

- 15 of the requests are "Scheduled." A "scheduled" request is a change request that has actually been scheduled for implementation through a BellSouth release. For all but one of these requests, the scheduled implementation date is more than 18 months (and as long as 32 months) since the date on which the request was originally filed. Two of the requests were originally submitted in August 1999; the majority of the remaining requests were submitted before September 2000.

Of these 93 pending feature requests, 56 are Type 5 (CLEC-initiated), 32 are Type 4 (BellSouth-initiated), and 5 are Type 2 (regulatory). Tables summarizing these change requests are attached hereto as Attachment 38.

146. BellSouth's published 2002 Release Schedule calls for implementation of only 24 Type 2-5 changes. At that rate of implementation, the 93 pending feature requests will not be completed until 2005. None of the BellSouth-proposed modifications to the CCP – even BellSouth's proposal to implement the "Top 15" requests in 2002 (discussed below) – suggests that this pace of implementation will increase.

147. The status of the 33 pending defect change requests is as follows:

- One defect change request is New.
- 18 of the defect change requests are Validated. A "validated" request is a change request on which BellSouth has performed an internal analysis and determined that the defect is a validated defect. Four of these requests were submitted at least 13 months ago (one in September 2000), and more than half were submitted more than six months ago.
- 14 of the defect change requests are Scheduled. For two of these requests, the scheduled implementation date will occur at least 120 days after the request was filed, even though the maximum possible period permitted by the CCP for implementation of defect change requests is 120 days from submission.[56] For all but two of the remaining 12 requests, the intervals between the submission and scheduled implementation dates are between 51 and 65 days.

Tables summarizing these defect change requests are attached hereto as Attachment 39.

148. <u>Second</u>, BellSouth has implemented only a limited number of CLEC-initiated change requests. Last November, Mr. Stacy testified that as of October 15, 2001, BellSouth had implemented 32 CLEC-initiated requests and 33 BellSouth-initiated requests since

the inception of the CCP since the inception of the change control process.[57] Moreover, the 32 implemented CLEC changes were out of a total of 153 such requests, while the 33 implemented BellSouth requests were out of a total of only 99 BellSouth requests.

149. This backlog of change requests, and BellSouth's failure to implement them, seriously impedes the CLECs' ability to compete. As the following examples illustrate, the delays in implementation of these requests result in increased costs for CLECs and their customers, delays in the provisioning of service, and customer dissatisfaction.

- Change Request 0135, which AT&T submitted on August 9, 2000, requests that BellSouth provide CLECs with the ability to submit a single mechanized order to combine a customer's telephone numbers or lines into a single account, or to change the customers' main listing, in the case of subsequent partial migrations.[58] Currently, CLECs must send multiple orders manually to do so. This procedure increases CLECs' costs and the likelihood of error. Although AT&T's change request was prioritized by the CLECs in April 2001, BellSouth has not scheduled it for implementation.

- Change Request 0215, submitted by AT&T on November 8, 2000, requests that BellSouth implement functionality that would enable CLECs to migrate customers "in bulk from UNE to UNE" on a single order – as, for example,

[56] Under the CCP, BellSouth is required to implement a defect change request within 120 days when it is "low impact," within 90 days when it is "medium impact," and within 10 days when it is "high impact."

[57] *See* Reply Affidavit of William N. Stacy filed November 13, 2001, in CC Docket No. 01-277, ¶ 63 ("Stacy Reply Aff."). BellSouth calculated the number of implemented CLEC requests by looking as far back as June 1999; the BellSouth requests were implemented beginning in April 2000. In other words, BellSouth took approximately three years to implement roughly the same number of change requests for CLECs that it was able to implement for itself within two years. *See id.*, Exh. OSS-7.

[58] A partial migration occurs when a customer migrates some of its lines to a CLEC but retains BellSouth as its LEC for the remaining lines. A business customer, for example, might decide to "take a chance" on a CLEC by transferring some of its lines to the CLEC, while retaining BellSouth as its carrier for the remaining lines while it assesses the CLEC's performance. A "subsequent partial migration" occurs when a customer that has previously migrated some of its lines to the CLEC migrates the remainder to the CLEC.

when a CLEC currently providing customers with service through the UNE Platform wishes to provide them with the same service using UNE loops with Local Number Portability ("LNP") instead. Although prioritized, this request has not yet been scheduled for implementation. Under the proposed change, the CLEC would send a spreadsheet/bulk migration order listing these customers to BellSouth with the pertinent customer-specific information – a procedure that would reduce costs to CLECs. BellSouth already provides such a process for the bulk conversion of customers from resale to the UNE platform; the change request simply seeks implementation of the same process for conversions from UNE-P to UNE-L with LNP. By contrast, current procedures require that CLECs send a separate order for each such "UNE to UNE" customer, thereby increasing CLECs' costs.

- Change Request 0443, submitted by Birch on June 29, 2001, requested that BellSouth provide CLECs with billing completion notices ("BCN") which would notify CLECs that their orders have been completed through BellSouth's billing systems. Currently, if an LSR does not match the data in BellSouth' CRIS billing database, the LSR will be placed into a "hold line" for manual work. As a result, BellSouth might erroneously continue to bill the customer, causing double-billing of the same telephone numbers by BellSouth and the CLEC (a problem that the customer will likely blame on the CLEC) and causing the customer to receive BellSouth's branding for OS/DA. Without a billing completion notice, the CLEC also risks double billing the customer (or foregoing revenues) because it does not know when billing for the customer has been switched from BellSouth to the CLEC and, therefore, when it may properly begin billing the customer. BellSouth, however, initially refused to consider this change request on the ground that the request involved a billing issue that it regarded as outside the scope of the CCP. After CLECs protested BellSouth's position, BellSouth allowed the request to remain in the CCP but has taken no action on the request (claiming that an industry solution is needed).[59]

- Change Request 0461, submitted by BellSouth on August 16, 2001, seeks implementation of functionality enabling CLECs to perform a check on the availability of facilities for "hot cut" orders before the issuance of a FOC. Because of the current lack of such functionality, CLECs such as AT&T often do not receive notice that facilities are unavailable until they receive a jeopardy notices shortly before the scheduled "cut." As a result, the original due date must be rescheduled, causing inconvenience to the customer (with resulting customer dissatisfaction). In addition, last-minute cancellations can result in increased costs to customers, who often have their equipment vendors on-site

[59] Although BellSouth claims that an industry solution is necessary, Verizon has been providing billing completion notices in its region for at least two years. *New York 271 Order*, ¶ 188.

when "cuts" are scheduled. If the "cut" is cancelled at the last minute, the customer's vendor may charge the customer both for that site visit *and* for the additional site visit that will be necessary when the "cut" is rescheduled. By contrast, a "pre-FOC facilities check" would enable the CLEC to ensure – before any FOC is issued – that facilities are available and that service will be installed for the customer on the due date provided on the FOC.

- Change Request 0625, submitted by Birch, requests the implementation of functionality that would automatically remove the ADL 11 USOC from the CSRs of customers migrating from BellSouth to a CLEC. BellSouth currently rejects CLEC UNE-P orders for customers with an ADL 11 USOC on their CSRs and requires that the USOC be removed from the CSR before BellSouth will process the order. As described in the Supplemental Declaration of Bernadette Seigler, this removal procedure requires the CLEC to notify its customer, who must then advise its network service provider, who must then contact BellSouth. The current process is unmanageable and unrealistic, delays the provisioning of service, and increases costs for CLECs and their customers. It also discourages customers from signing up for a CLEC's UNE-P service. By contrast, automated removal of the ADL 11 USOC would ensure prompt provisioning, save costs, and increase customer satisfaction. There is no technical reason why BellSouth cannot promptly implement such a functionality. BellSouth itself submitted a Type 2 (regulatory) request on September 14, 2001, to remove a different ADL USOC from the CSR, and implemented it in November 2001.

150. BellSouth's failure to implement the 33 backlogged "defect" change requests also substantially hinders the CLECs' ability to compete. For example, 7 of these defect change requests involve the seven existing defects in the parsed CSR functionality acknowledged by BellSouth. *See* Attachment 39 hereto, at 3. As previously described, the manual "workarounds" that CLECs must use until these defects have been corrected impose a significant burden on CLECs. (¶ 23, *supra.*)

151. Third, even when it agrees to implement a change request, BellSouth is slow to do so. BellSouth stated last November that the *average* time from submission to implementation of a change request was 164 days for a CLEC change request – as opposed to 60

days for a change request initiated by BellSouth. Stacy Reply Aff., ¶¶ 67-68.[60] BellSouth's figures are, if anything, understated. For example, as Attachment 38 demonstrates, four pending Type 5 feature request changes were filed in August 1999 – two and one-half years ago – and two of those requests have not yet even been scheduled for implementation.

152. BellSouth's poor performance is further confirmed by the releases that BellSouth has implemented to date in 2002 – Release 10.3, which was implemented on January 5; Release 10.3.1, which was implemented on February 2; and Release 10.3.2, which was implemented on February 9. As will be seen in Attachment 40 hereto, some of the change requests that were implemented were originally submitted as long ago as 1999. Even some of the defect change requests included in these releases were submitted 120 to 140 days before their actual implementation. *See* Attachment 40.[61]

153. BellSouth asserts that it "is committed to implementing highly prioritized items on a timely basis consistent with available resources," and that it "has offered to commit to a process that would fairly allocate available resources toward implementing change requests." Stacy/Varner/Ainsworth Aff., ¶ 125. An effective change management process, however, does

[60] BellSouth has claimed that the average time for implementation of CLEC requests is longer because the data for its own requests do not include the time that BellSouth takes to prepare its requests. Stacy Reply Aff., ¶ 68. This explanation is illogical, because the figure for CLEC requests also does not include preparation time. In any event, the exclusion of preparation time can hardly explain a 104-day difference.

not involve "allocation of resources," but rather the timely implementation of changes according to their priority. This requires that CLEC change requests (Type 5) and BellSouth changes (Type 4) be considered together, with full knowledge of their size, scope, and difficulty, and scheduled for implementation according to their prioritization under a clearly defined period.

154. None of the various modifications or proposals made by BellSouth accomplish this result. Indeed, they leave BellSouth with the same exclusionary powers that it has exercised so often in the past.

155. **The 40% Solution.** As BellSouth states, in November 2001 BellSouth offered to "allocate 40% of its annual release capacity for implementing CLEC changes," and/or what BellSouth described as "CLEC-driven mandates," with the remaining 60 percent to be used for other purposes (including "25-30% for BellSouth features and change requests" and "approximately 25%" for defect and maintenance requests). *See* Application at 30; Stacy/Varner/Ainsworth Aff., ¶ 126. Although BellSouth professes to be "disappointed" that the CLECs rejected this proposal (Stacy/Varner/Ainsworth Aff., ¶ 133), the CLECs' position should come as no surprise to BellSouth.

156. The CLECs rejected this "40% solution" because it simply perpetuated the status quo. Although BellSouth proposed purported to set aside 40 percent of BellSouth's annual

[61] One of these defect change requests was Change Request 459, submitted on August 15, 2001, to correct the CLECs' inability to view Billed To Number data, Pending Service Order data, and Local Service Freeze indicators in the CSR. *See* Stacy/Varner/Ainsworth Aff., Exh. SVA-35. CLECs had previously been able to view these data until July 2001, when BellSouth implemented a release intended to improve the response times to CSR queries. *See* Bradbury Opening Decl., ¶¶ 52-54. BellSouth did not correct the problem, however, until it implemented Release 10.3.1 on February 2. Thus, BellSouth took 140 days to correct a problem for which it was solely responsible.

release capacity "CLEC changes" and "CLEC-driven mandates," it was clear that the determination of what changes would be included in that 40 percent would be determined exclusively by BellSouth.[62] Moreover, BellSouth acknowledged in an *ex parte* letter to the Commission on November 30, 2001, that it was *already* allocating 40 percent of its "software" to CLEC change requests.[63] Thus, it appeared that BellSouth was proposing to render the same performance that it had delivered in the past.

157. BellSouth's proposal also was deficient because BellSouth provided no basis for its suggestion that a 40 percent allocation was sufficient to meet the needs of CLECs. As previously indicated, changes should be implemented according to their importance, not according to an allocation formula. As KPMG recently stated in criticizing the 40% Solution, "predetermined capacity allocations may not be sufficient to address necessary changes to the BellSouth OSS (e.g., CLEC Driven mandates that comprise more than 40% of annual release capacity, Defect corrections that comprise more than 25 percent annual release capacity)."[64] The 40 percent allocation would limit the implementation of CLEC-requested changes even when the

[62] BellSouth's inclusion of "CLEC-driven mandates" in the 40 percent rendered its proposal even more unacceptable. Although BellSouth never defined the term, "CLEC-driven mandate" would appear to include any order issued by a regulatory agency requiring BellSouth to comply with its obligations under the 1996 Act when such enforcement was requested by a CLEC. Even if the requirement was not sought by a CLEC, BellSouth's proposal left it free to classify the requirement as "CLEC-driven" when it wished to do so.

[63] *See ex parte* letter from Sean A. Lev (counsel for BellSouth) to Magalie Roman Salas in CC Docket No. 01-277, dated November 30, 2001, Attachment at 16 ("Forty percent of software capacity (*i.e.*, total hours to develop, test, & implement system features) during 2001 was utilized to address CLEC requests submitted directly via the CCP prioritization process and as state/federal mandates").

[64] *See* KPMG Second Amended Exception 88, dated January 28, 2002, at 6 (attached hereto as Attachment 41).

changes were given such a high priority that additional resources were warranted. Conversely, the 25 to 30 percent allocation given to BellSouth's change requests overlooks the fact that CLECs may assign a high priority to a change even if it is formally proposed by BellSouth. Thus, BellSouth's proposal could operate to limit the implementation of changes desired by CLECs regardless of whether BellSouth or the CLECs filed a request for the change. As a result, the existing backlog of change requests (described below) would simply continue.

158. BellSouth asserts that, rather than continue discussions of its 40% proposal in the context of the CCP, the CLECs "instead decided to raise these issues in connection with the GPSC's review of the CCP process," where they filed written comments rejecting the proposal on January 30, 2002. Stacy/Varner/Ainsworth Aff., ¶¶ 130, 132-133. This assertion is untrue. The CLECs filed their comments – which included a red-lined version of the CCP that clearly rejected BellSouth'' proposal – pursuant to the request of the GPSC Staff during workshops conducted as part of the GPSC's six-month review of performance measurements on December 10, 2001. The Staff specifically requested that the CLECs submit a redlined version of the CCP document on January 30, 2002. BellSouth was fully aware of the GPSC Staff's request well before the CLECs made their filing.

159. Indeed, at the CCP committee meeting held on January 22, 2002, AT&T requested that BellSouth agree to include the CLECs' redlined version of the CCP document on the agenda for the next CCP meeting. AT&T pointed out that nothing in the GPSC Staff's request precluded BellSouth and the CLECs from discussing the red-lined version, and attempting

to reach agreement regarding changes in the CCP, through direct CCP meetings.[65] BellSouth, however, rejected AT&T's request. Instead, at 5:20 p.m. on February 11, 2002, BellSouth (in an obvious reaction to the CLECs' red-lined version) sent an e-mail to CLECs that expanded the agenda for the next CCP meeting – scheduled for the following day, February 12 – to include discussion of its "release capacity planning" proposal (the "50/50 proposal" discussed below).[66]

160. **The 50/50 Solution.** In response to the CLECs' rejection to its "40% Solution," BellSouth now proposes that, after Type 2, 3, and 6 features have been slotted for a release, "at least 50%" of the remaining capacity would be allocated for CLEC-initiated change requests on an annual basis – with the remainder to be used for BellSouth-initiated change requests. Stacy/Varner/Ainsworth Aff., ¶ 133.[67] This proposal, however, is as inadequate as its predecessor. As in the case of the "40% Solution," BellSouth alone would determine what CLEC-initiated change request would fall within the 50 percent allocation. Furthermore, like the 40 percent allocation, the 50 percent allocation would consider CLEC-initiated and BellSouth-initiated requests separately, rather than as part of a single prioritization process. Thus, the allocation could limit the implementation of the requests that CLECs desire.

161. This "50/50 Solution" could leave the CLECs in a worse position than would be the case under the 40 percent solution. In theory, at least, the 40 percent solution would allocate 40 percent of annual release capacity to CLEC change requests, with the

[65] *See, e.g.*, electronic mail message from Jay Bradbury (AT&T) to BellSouth Change Control, dated January 30, 2002 (attached hereto as Attachment 42)

[66] *See* Stacy/Varner/Ainsworth Aff., ¶ 133; electronic mail message from BellSouth Change Control to CLECs, dated February 11, 2002, and response thereto from Jay M. Bradbury (AT&T), dated February 12, 2002 (attached hereto as Attachment 43).

remainder assigned to other types of change requests. Under the 50/50 proposal, however, CLEC-initiated requests would be allocated "at least 50 percent" only of the capacity remaining *after* Types 2, 3, and 6 features have been slotted for a release. Thus, for example, if implementation of Types 2, 3, and 6 changes consumed 40 percent of all release capacity, and BellSouth allocated the remainder equally between Type 4 and Type 5 change requests, CLEC-initiated requests would be allocated only 30 percent (50% of 60%) of the total capacity. In fact, based on the number and type of change requests set forth in BellSouth's 2002 Release Capacity Schedule, BellSouth has set aside only *13 percent* of that capacity for implementation of CLEC-initiated charges through its November 16, 2002, release.[68]

162. As part of its 50/50 Solution, BellSouth also proposes "implementing *as many of the CLEC top priority Types 4 and 5 features as possible* in that remaining capacity in 60 weeks." Stacy/Varner/Ainsworth Aff., ¶ 133 (emphasis added). As BellSouth acknowledges, this proposal is a counterproposal to the proposal made in January by the CLECs (which BellSouth rejected) that the implementation of Type 4 and Type 5 changes occur no later than 60 weeks from prioritization of the change. *See id.*, ¶¶ 132-133.

163. Although BellSouth's counterproposal is a step in the right direction, its inclusion of the phrase "as possible" renders it meaningless. The current CCP already leaves

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[67] Under the BellSouth CCP, regulatory changes are classified as Type 2, industry standard changes as Type 3, and defect changes (changes to correct defects) as Type 6.

[68] The February 22, 2002 version of BellSouth's Change Control 2002 Release Schedule calls for implementation of a total of 85 change requests during 2002 through BellSouth's Release 11.0, which is scheduled for implementation on November 16, 2002. Of the 85 change requests, 51 are Type 6 (Defect) requests and 13 are Type 2 and 3 requests. Only 11 of the requests (13 percent of the total) are Type 5 (CLEC-initiated); 10 of the requests (12 percent of the total) are Type 4 (BellSouth-initiated).

BellSouth with the power to decide – unilaterally -- whether implementation of change requests within a particular time period is "possible." BellSouth has used that power to delay implementation for unreasonably long periods of one or two years (or more), simply because it unilaterally determined that implementation at an earlier time was not "possible" from its standpoint. CLECs proposed an unequivocal 60-week deadline for implementation precisely to curb that power and ensure that BellSouth would implement Type 4 and 5 change requests in a timely manner. Under BellSouth's proposal, BellSouth would still be able to delay implementation of change requests beyond the 60-week period simply by declaring that additional implementation was not "possible."

164. Both the "40 Percent Solution" and the "50/50 Solution" would thus still leave BellSouth free to make the final decisions regarding prioritization, scheduling, and implementation through its internal processes – from which CLECs are entirely excluded. *See* Bradbury Decl., ¶ 183. KPMG, in its first Exception Report on the prioritization process, criticized BellSouth's internal prioritization process because it precludes CLECs from involvement in the final prioritization decisions and thus "inhibits one of the primary objectives of the CCP – 'to allow for mutual impact assessment and resource planning to manage and schedule changes.'" *See* KPMG Exception 88, dated July 19, 2001 (Attachment 44 to Bradbury Opening Decl.). Although KPMG issued two amendments to Exception 88 since last July, the exception remains open – and KPMG's concerns persist.[69]

[69] *See* KPMG Second Amended Exception 88, at 4 (Attachment 44 hereto) (expressing concern that, by restricting CLEC participation in the prioritization process to "CLEC affecting" decisions as it defines that term, BellSouth has precluded CLEC involvement in "issues that impact CLEC operations").

165. BellSouth recently made clear that, despite its modifications to the CCP, it is determined to exclude CLECs from its internal prioritization process. In a recent filing where it provided "green line" comments and changes in response to the CLECs' redlined version of the CCP, BellSouth rejected a CLEC proposal that "Designated CLEC Co-Moderators" participate in BellSouth's internal change management process meetings. BellSouth stated that it would not support the proposal "because it still needs to conduct internal meetings to run its business without CLEC participation."[70]

166. BellSouth has promised in its application to implement "the CLECs' current top 15 change requests" during 2002. *See* Stacy/Varner/Ainsworth Aff., ¶ 124; Application at 29. Although that promise, if kept, would certainly be welcomed by the CLECs, it does not alter BellSouth's total control over prioritization and implementation. To the contrary, BellSouth's promise reflects its total control to determine what change requests it is willing to implement, and when. Furthermore, BellSouth's promise does not address the implementation of change requests *after* 2002, or the extent to which BellSouth will implement change requests in 2002 that the CLECs prioritize lower than their "Top 15." Aside from its meaningless promise to implement as many Type 4 and 5 change requests "as possible" within 160 days of prioritization, BellSouth does not impose time limits for implementation of any requests except the "Top 15."

B. The Scope of the CCP Remains Inadequate.

167. None of the various modifications to the CCP proposed by BellSouth alters the inadequate scope of the CCP. *See* Bradbury Decl., ¶¶ 201-206. BellSouth continues to

[70] *See ex parte* letter from Kathleen B. Levitz (BellSouth) to Magalie Roman Salas, dated February 27, 2002 ("BellSouth February 27 *ex parte*"), Attachment at 17.

interpret the CCP to encompass only *interfaces* – and not, for example, LEO and LESOG (the editing and formatting systems on BellSouth's side of the gateway) and BellSouth's back-end legacy systems.[71] As a result, BellSouth is free to implement changes to its linkage and legacy systems without following the requirements of the CCP, even when changes to those systems could have a major impact on CLECs' operations. Similarly, BellSouth continues to take the position that neither the development of new interfaces nor the replacement of its OSS are within the scope of the CCP, notwithstanding the importance of these matters to effective CLEC operations. Bradbury Opening Decl., ¶¶ 203-204.

168. BellSouth further limits the scope of the CCP by taking the position that it does not regard billing within the scope of the CCP – even though the CCP document makes clear that the CCP encompasses billing. *See, e.g.*, Stacy/Varner/Ainsworth Aff., Exh. SVA-38 at 13. In the recent "green-line" version of the CCP that it sent to the CLECs, BellSouth stated that it would not support inclusion of billing within issues to the CCP, except to the extent that "certain ordering or pre-ordering requests to the CLEC interfaces may result in changes to the Billing system and testing." BellSouth February 27 *ex parte*, Attachment at 13-14. Changes to BellSouth's billing systems, however, are important to CLECs regardless of their cause.

[71] BellSouth, for example, states that it did not implement a change request for implementation of a single "C" order because " BellSouth's internal systems are not subject to the CCP." Stacy/Varner/Ainsworth Aff., ¶ 191. Indeed, in October 2000 BellSouth cancelled a change request (Change Request 087) filed by Sprint for the single "C" order process on the ground that the request was outside the scope of the CCP. BellSouth now promises to implement the single "C" process in Georgia, Louisiana, Florida, and Mississippi on April 6-7, 2002, with the implementation schedule for the remaining BellSouth states still "under advisement." *Id.* The fact that BellSouth is implementing the process in some states, but others, demonstrates the discretion that it can exercise in the absence of an effective CCP. The selective, State-by-State implementation also belies BellSouth's assertion that its OSS are regionwide. *See* Bradbury Opening Decl., ¶¶ 261-273.

169. Finally, BellSouth continues to limit the number of releases implementing change requests to three each year – a practice that unduly delays implementation of changes that CLECs need. The size and timing of releases should be driven by demand and CLEC need.

C. BellSouth's Test Environment Remains Inadequate.

170. Although BellSouth claims that it has made (or will make) modifications to expand the availability of its CAVE test environment, those modifications will not result in the adequate and stable test environment that CLECs need in order to have a meaningful opportunity to compete. *See* Application at 30; Stacy/Varner/Ainsworth Aff., ¶¶ 135-144. For example, BellSouth proposes no changes to its alternative, "original" test environment – which does not mirror the production environment (since it is not an "end-to-end" process) and can be used only for implementing a new interface (including a conversion from one industry standard version of an interface to another). *See* Bradbury Opening Decl, ¶¶ 211, 213.

171. Even BellSouth's actual and promised modifications to CAVE fail to remove most of the deficiencies in CAVE that have precluded CAVE from constituting an adequate and stable test environment. Most notably, CAVE does not mirror the actual production environment. BellSouth continues to insist that CLECs using CAVE submit order-using codes identifying the transactions as *BellSouth*-originated, not CLEC originated. BellSouth limits the number of CLECs that may use CAVE simultaneously, and the types of test scenarios that CLECs may test in CAVE. And BellSouth does not make CAVE available for all versions of EDI used in actual production. These arbitrary restrictions do not mirror the commercial production environment used by CLECs. *Id.*, ¶¶ 215-216.

172. BellSouth has eliminated two of the previous inadequacies in the CAVE testing environment. BellSouth now states that a functionality "will always be available in CAVE" once that functionality has been released and installed in CAVE. This new policy thus removes BellSouth's previous, arbitrary limitation on the use of CAVE to 30 days after implementation of a release. Stacy/Varner/Ainsworth Aff., ¶¶ 142-143; Bradbury Opening Decl., ¶ 217.[72]

173. Furthermore, BellSouth recently announced that it has added LENS to the CAVE environment. Stacy/Varner/Ainsworth Aff., ¶ 144; Bradbury Opening Decl, ¶ 219 (describing BellSouth's previous refusal to include LENS in CAVE). However, CLECs will not be able to begin using LENS in CAVE until March 25, 2002. Stacy/Varner/Ainsworth Aff., ¶ 144. Moreover, although BellSouth now is adding LENS to CAVE, it continues to exclude its RoboTAG™ interface from CAVE. That exclusion is highly improper. There is no basis for excluding RoboTAG™ from CAVE while, at the same time, including LENS – which, like RoboTAG™, is a human-to-machine interface programmed for the CLECs by BellSouth. Users of RoboTAG™ should not be forced to perform live testing on their customers' orders to find programming errors by BellSouth associated with new releases.

174. CLECs critically need an adequate and stable test environment to test changes in BellSouth's OSS. Even when such changes have been requested by CLECs, they will

[72] It is unclear whether BellSouth has altered its policy that CLECs may begin testing software in CAVE only beginning 30 days prior to the implementation of the release. *See* Bradbury Opening Decl., ¶ 216. In its third-party testing in Florida, KPMG issued an Observation criticizing this restriction because it "limits the CLEC testing window" and "may not allow CLECs the opportunity to adequately test their interface changes." KPMG Observation 147, dated November 30, 2001 (attached hereto as Attachment 45).

prove to be of no value to CLECs if they do not function properly. Only an adequate and stable test environment will enable the CLECs to determine before actual implementation whether the changes work as intended. If such an environment does not exist, CLECs will be required to expend valuable time and resources after implementation of the change to have the problems corrected, and their operations may be disrupted.

175. It is precisely because it has *not* provided an adequate and stable test environment that, on numerous occasions, BellSouth has implemented software with serious flaws. As previously discussed, the TN migration and parsed CSR functionality recently implemented by BellSouth proved to have serious deficiencies. Due to problems with BellSouth's July 2001 release, CLECs were unable for seven months to view certain data on the CSR (such as Pending Service Order information) to which they previously had access. In 2000, BellSouth's software for the ordering of operator services and directory assistance, and for queries for loop make-up information, was implemented with numerous flaws that had a negative impact on CLEC operations. In each such case, the unavailability of a suitable testing environment prevented these errors from being detected before the software was implemented. Such unavailability is compounded by the problem – confirmed by KPMG in an Exception issued today – of BellSouth's failure to conduct adequate *internal* testing of its own prior to implementing a release.[73]

[73] *See* KPMG Exception 157, dated March 4, 2002 (attached hereto as Attachment 61) (finding that "BellSouth does not follow its software testing and quality processes"). In its third-party testing in Florida, KPMG also found that BellSouth had not implemented system fixes for a particular defect in all of the versions of its TAG interfaces. That omission resulted in rejections of LSRs submitted by KPMG, which was using a version of TAG in which the fix had not been implemented. *See* KPMG's Observation 148, issued November 30, 2001.

D. BellSouth Continues To Provide Inadequate Documentation To CLECs.

176. CLECs can place orders successfully and efficiently only if BellSouth provides them with adequate, complete, and reliable OSS documentation. Even if a CLEC is able to build an interface using BellSouth's documentation, it may still experience order rejections or manual fall-out if BellSouth's documentation is flawed. Adequate documentation is also essential to enable CLECs to modify their systems to reflect any changes made by BellSouth without disruption to their operations or rejection of their orders.

177. As in its previous application, BellSouth provides no evidence that its documentation is adequate, but simply gives a brief description of various OSS documentation (some of which it attaches to its Application). *See, e.g.,* Stacy/Varner/Ainsworth Aff., ¶¶ 10-19. Nor is the adequacy of BellSouth's documentation shown by the third-party testing of KPMG in Georgia and Florida. In the Georgia test, KPMG did not conduct a comprehensive review of the substance or quality of BellSouth's documentation, and did not even evaluate the then-most current version of BellSouth's pre-ordering and ordering documentation. Bradbury Opening Decl., ¶¶ 225-226.

178. In its third-party test in Florida, KPMG has found numerous deficiencies in the BellSouth OSS documentation. Mr. Bradbury described the then-open KPMG exceptions and observations noting such deficiencies in his Opening Declaration last October in CC Docket No. 01-227. *Id.*, ¶ 227. Three of the KPMG exceptions and observations that he described still remain open. Since the filing of Mr. Bradbury's testimony, KPMG has opened additional exceptions and observations finding that BellSouth's documentation is inadequate. In the exceptions and observations that are still open, KPMG has determined that:

- Issue 9K of the BellSouth Business rules for Local Ordering ("BBR-LO") does not provide specific business rules on how to issue an order for the partial migration of an end user's account, forcing CLECs to go through a multi-step process. (KPMG Exception 16, dated March 5, 2001)

- The BBO-LO for Local Ordering, OSS '99, Issue 9L, fails to define a process for an unbundled loop (REQTYP A) migration from one CLEC to another. (KPMG Exception 49, dated April 24, 2001)

- BellSouth's error responses were inconsistent with the BBR-LO, OSS '99, Issue 9L, for conversion of accounts (retail, resale, and UNE-P) to line sharing accounts. (KPMG Exception 75, dated June 28, 2001)

- Although the BBR-LO state that the BellSouth Account Team has a role in numerous specified ordering scenarios, BellSouth's documentation does not describe that role in the context of the CLEC ordering process. (KPMG Exception 148, dated February 11, 2002)

- BellSouth's ordering documents do not provide adequate instructions on how to submit an order for Centrex service. (KPMG Observation 164, issued February 13, 2002)

- BellSouth's documentation regarding its Account Team/CLEC Care Team procedures is unclear. (KPMG Observation 165, issued February 18, 2002)

- BellSouth's User Guides contain incorrect references to Account Teams that could "delay a CLEC's ability to order local services properly and have issues resolved in a timely manner, leading to an increase in customer dissatisfaction." (KPMG Observation 166, issued February 13, 2002)

- BellSouth's flow-through documentation contains incomplete and incorrect information regarding the product capabilities of the BellSouth OSS. (KPMG Observation 167, issued February 22, 2002)

In each of these exceptions and observations, KPMG emphasized that BellSouth's inadequate documentation could impede the CLEC's ability to compete by causing errors and rejections, delays, an increase in CLECs' costs, and customer dissatisfaction.[74]

[74] KPMG Exception 148 and KPMG Observations 164 through 167 are attached hereto as Attachments 21 and 46. KPMG Exceptions 16, 49, and 75 were previously submitted by AT&T in Attachment 52 to Mr. Bradbury's Opening Declaration.

E. BellSouth Has Exhibited a Pattern of Noncompliance With the CCP.

179. Although it claims to be "committed to make the CCP work efficiently and effectively" (Stacy/Varner/Ainsworth Aff., ¶ 108), BellSouth's discussion of the change management issue does not address the extent to which it has actually complied with the CCP . The Commission, however, has stated that one of the factors that it considers in its analysis of a change management plan is "whether the BOC has demonstrated a pattern of compliance with this plan." *New York 271 Order,* ¶ 112; *Pennsylvania 271 Order,* App. C, ¶ 43.

180. BellSouth has good reason for failing to discuss this issue. BellSouth has continued to demonstrate the consistent pattern of *noncompliance* with the CCP that AT&T described in its response to BellSouth's previous application. *See* Bradbury Opening Decl., ¶¶ 228-235. The following examples of BellSouth's conduct since its last application demonstrate its persistent disregard of the CCP, to the detriment of its competitors.

181. **Failure to provide business rules and user requirements in accordance with the time intervals required by the CCP.** On numerous occasions, BellSouth has failed to provide its OSS documentation to the CLECs in accordance with the CCP's required time intervals. For example, the CCP requires that BellSouth provide CLECs with the business rules associated with minor releases at least five weeks prior to production. *See* Stacy/Varner/Ainsworth Aff., ¶ 116. Although BellSouth claims to have implemented this requirement in "the summer of 2001" (*id.*), it issued the business rules for the parsed CSR functionality to be implemented in Release 10.3 (which BellSouth classified as a minor release) only *three weeks* prior to implementation – and only after repeated complaints from CLECs. *See*

¶¶ 17-19, *supra*. This violation of the CCP clearly impaired the CLECs' ability to conduct adequate testing prior to the actual implementation date.

182. Similarly, BellSouth drafted user requirements for Release 10.4 features on December 13, 2001. BellSouth provided final user requirements for Release 10.4 on January 29, 2002. However, under the CCP, BellSouth was required to provide the draft user requirements on November 10, 2001, and the final user requirements on November 17, 2001. Thus, BellSouth issued the draft requirements more than a month late, and the final requirements more than two months late.

183. BellSouth also violated the CCP's interval requirements when it issued additional draft user requirements to Release 10.4 (for Change Request 0657 and 0651). Under the CCP, BellSouth was required to issue the draft user requirements by November 10, 2001, and the final user requirements by November 17, 2001. However, BellSouth did not even provide the *draft* user requirements until February 13-14, 2002 – *three months late.*

184. BellSouth also has announced plans to issue documentation on dates that are already past the deadlines established by the CCP. BellSouth has announced that its pre-order business rules, version 12B (associated with release 10.4) will be available to CLECs on March 8, 2002 (a one-week postponement from the date that BellSouth originally announced). However, under the CCP, BellSouth should have already issued these rules by February 16, 2002. In addition, BellSouth advised CLECs that it would provide business rules for Change Request 0657 on February 22, 2002 – which is 6 days later than the applicable deadline under the CCP.

185. In its third-party testing, KPMG expressly found that the late issuance of these rules violated the requirements of the CCP. Although KPMG initially issued an observation

limited to the late issuance of the rules regarding the parsed CSR, it recently changed the Observation to an Exception – a more serious problem – in view of the above-described additional violations of the CCP intervals. KPMG found that BellSouth's failure to abide by the intervals "delays CLECs' development, testing, and implementation of release features. Therefore, CLECs are unable to benefit from enhancements and corrections to the BellSouth OSS in a timely manner."[75]

186. **Issuance of "clarifications" to business rules without following CCP procedures.** In February 2002, BellSouth issued an "updated" version of Issue 10.3.1 – 10.4 of its BBR-LO. Many of the changes made by BellSouth, although classified as "clarifications," had a potential impact on CLECs' EDI coding or their methods and procedures for coding. 25 of the various "clarifications" had never been submitted through the CCP, which requires the submission of a defect change request (Type 6) when BellSouth wishes to revise its documentation. Moreover, 45 of the changes listed in the updated documents listed internal BellSouth change control numbers that did not correspond to the numbers of change requests submitted by BellSouth under the CCP – indicating that BellSouth had also made these changes without following CCP procedures.[76]

[75] *See* KPMG Exception 155, issued February 19, 2002 (attached hereto as Attachment 47); KPMG Observation 154, issued December 12, 2001 (attached hereto as Attachment 48).

[76] *See* electronic mail message from Bernadette Seigler (AT&T) to BellSouth Change Control, dated February 11, 2002 (attached hereto as Attachment 49). BellSouth initially asserted that the "clarifications" were mere "format changes," not "content changes" subject to the CCP. However, BellSouth subsequently admitted that at least some of the "clarifications" were code-impacting changes that "probably" should have gone through the CCP. *See* electronic mail message from Bernadette Seigler to BellSouth Change Control Manager, dated March 1, 2002 (attached hereto as Attachment 50).

187. **Late publication of "workarounds" for defects in the parsed CSR functionality.** Stacy/Varner/Ainsworth Aff., ¶ 67. BellSouth did not follow the procedures of the CCP for informing CLECs of the workarounds that it has developed for the 7 "low impact" defects to its new parsed CSR functionality that have not yet been implemented. The CCP requires that BellSouth publish workarounds for defects that it classifies as "low impact" within three business days after publication of the change request. BellSouth filed defect change requests for these defects on January 31, 2002, but did not publish the workarounds for them until February 15, 2002 – fifteen calendar days later. As cumbersome as the workarounds are (*see* ¶ 23, *supra*), BellSouth's violation of the CCP denied CLECs, for more than a week, the information they needed to use them – and avoid the order rejections that the defects might cause.

188. **Abuse of the CCP in the submission of change requests regarding the parsed CSR.** On February 7, 2002, BellSouth filed two change requests (0651 and 0652) that proposed the implementation of additional fields in the parsed CSR functionality. In its requests, BellSouth classified the requests as Type 4 (BellSouth-initiated). However, on February 12, 2002, BellSouth reclassified these change requests as Type 2 (regulatory), claiming that the changes were being implemented pursuant to an order of the Florida Public Service Commission. Copies of the change requests, as resubmitted and revised on February 12, 2002, are attached hereto as Attachments 7 and 8.

189. On February 21, 2002, however, BellSouth advised the CLECs that it was again reclassifying these change requests as Type 5 – *CLEC*-initiated change requests – even

though they had been submitted by BellSouth.[77] On the following day, February 22, 2002, BellSouth sent the CLECs a letter asking them to *ballot* "on whether BST should proceed with the implementation of CR0651 in Release 10.4" on March 23, 2002. BellSouth further stated that it was not proceeding with the implementation of the two fields associated with CR0651.[78]

190. BellSouth's conduct constitutes a flagrant disregard of the CCP. First, BellSouth reclassified the requests *twice* after their initial submission, without providing an adequate basis for doing so. Second, BellSouth unilaterally classified change requests that it was submitting as CLEC-initiated requests -- which it has no right to do under the CCP.[79]

191. Third, after it classified the requests as Type 5, BellSouth called for balloting on the issue of their implementation – even though the CCP provides for balloting only for changes to the CCP itself, not for implementation of proposed changes. The "balloting" is also unnecessary because the fields in question were already included in the specifications for the parsed CSR that BellSouth previously agreed to implement pursuant to discussions with the CLECs in late 2000. *See* ¶ 27, *supra.* BellSouth's request for "balloting" is clearly an attempt to escape its commitment to the CLECs, any of whose unconditional participation in the balloting

[77] BellSouth also published a Change Control Log on February 21, 2002, that listed the new reclassification of the requests as Type 5. Copies of the relevant pages of the Log are attached hereto as Attachment 51.

[78] *See* electronic mail message from BellSouth Change Management Team to CLECs, dated February 22, 2002 (attached hereto as Attachment 52).

[79] BellSouth's previous classification of the change requests as Type 2 (regulatory) was also highly questionable. As its justification for classifying the changes as Type 2, BellSouth contended that the six fields must be parsed under regulatory mandate from the FPSC in an arbitration proceeding (FPSC Docket No. 000731). However, the Florida PSC's orders in that proceeding were issued in June and September 2001. Thus, parsing for these six fields should have been provided in BellSouth's January 5, 2002 release of its CSR parsing functionality..

could be cited by BellSouth as a concession that it had previously had no obligation to implement the fields in question. Finally, although the CCP requires that any Type 4 or Type 5 requests be prioritized *before* they are scheduled for implementation, BellSouth scheduled the change requests for implementation on March 23, 2002, before it even discussed them with the CLECs in change control meetings.[80]

192. In addition to these examples of noncompliance, KPMG has found in its Florida third-party testing that BellSouth does not adhere to the CCP.[81] In Observation 124, KPMG found that BellSouth failed to comply with the procedures required by the CCP for changing and correcting defects in CLEC-impacting documentation. Bradbury Reply Decl., ¶ 66 & Att. 23. That observation remains open. In fact, in its recent retesting of Observation 124, KPMG found that BellSouth was *still* failing to follow these requirements, and that this failure

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[80] *See* electronic mail message from Bernadette Seigler (AT&T) to Dennis Davis (BellSouth) and BellSouth Change Control Manager, dated February 22, 2002 (attached hereto as Attachment 53). BellSouth similarly requested on February 22, 2002, that CLECs agree to implement one of its Type 4 requests even though the request had not yet been prioritized by the CLECs as required by the CCP. *Id.* In a letter to the CLECs dated February 27, 2002, BellSouth asserted that its previous reclassifications of the change requests as Type 4 and Type 2 had been "in error," and that it was now classifying them as Type 5 because they were part of the original user requirements spec sheet." Letter from BellSouth Change Management Team to Bernadette Siegler and CLECs, dated February 27, 2002 (attached hereto as Attachment 54). BellSouth's explanation borders on the frivolous. As previously stated, BellSouth has no right under the CCP to classify a change request that *it* submits as Type 5. Furthermore, although it states that it was "in error" in classifying the request as a Type 2 request, the inclusion of the fields in question was clearly part of the parsing required by the Florida and Georgia PSCs. *See* ¶ 15 & fn. 7, *supra.*

[81] BellSouth's disregard of the CCP is further reflected in its reported monthly performance data. BellSouth has frequently failed to meet the benchmarks for these metrics regarding the timeliness of releases and notices of releases. *See* Varner Supp. Aff., Exhs. PM-1 (performance measures CM-1 and CM-2), PM-2 (CM-3A and CM-4), and PM-3 (CM-3A and CM-4). Thus, BellSouth's agreement to implement new performance measurements regarding its CCP performance is of questionable value, particularly since it has not agreed to include them in its SEEMS penalty plans. *See* Stacy/Varner/Ainsworth Aff., ¶¶ 119-122 & Exh. SVA-37.

"may present a CLEC from properly developing an OSS to interconnect with BellSouth and, thereby, deter competition."[82]

193. In recent months, KPMG has issued additional exceptions and observations confirming BellSouth's constant lack of compliance with the CCP. As previously noted, in its Exception 155 KPMG found that BellSouth did not issue business rules for the CSR parsing functionality five weeks in advance of implementation, as required by the CCP. In Exception 123, KPMG found that BellSouth was improperly classifying change requests as features, rather than as defects – thereby avoiding the time deadlines imposed by the CCP for resolution of defects.[83]

F. Conclusion

194. BellSouth's CCP is so deficient that any modifications that operate to the CLECs' benefit are welcome. Some of the modifications that BellSouth has made, or proposes to make, will benefit the CLECs. However, as long as BellSouth retains its power to make the final, exclusive determination as to what change requests will be implemented, and when – a power that BellSouth's modifications does not alter – the CCP will not afford competitors a meaningful opportunity to compete. In order to meet it OSS obligations under the Act, BellSouth must make additional, substantial revisions in the CCP, including the following:

- Implementation targets for all types of changes should be included. This will ensure that the proper level of resources is committed to support the implementation of changes. Type 4 and Type 5 changes should be implemented no later than 60 weeks after their prioritization.
- A "go/no go vote" process should be implemented. This will ensure that a scheduled change will go forward only with the CLECs' consent and that

[82] KPMG Amended Observation 124, dated February 11, 2002 (attached hereto as Attachment 55).

[83] KPMG Exception 123, dated November 30, 2001 (attached hereto as Attachment 56).

CLECs can stop a planned change that may cause problems in the OSS, based on testing or on a review of documentation when testing is unavoidable. *See* Bradbury Opening Decl., ¶ 186.

- In sizing and sequencing change requests prioritized by the CLECs, BellSouth should begin with the top-priority items and continue down through the list until the capacity constraints have been reached for each future release. This will ensure that CLECs have a meaningful voice in prioritization, and that the priorities assigned by the CLECs will be implemented.

- A new position should be created within the CCP, the "Designated CLEC Co-Moderator." That person would function as a co-moderator in presenting and monitoring the progress of pending change requests and within the BellSouth internal process.

- CLECs should be given the opportunity to meet directly with the BellSouth managers who make the final decisions on implementation and prioritization of change requests, along with their subject matter experts ("SMEs"). This will ensure that CLECs can discuss change requests directly with the BellSouth personnel who actually make the final decisions on change requests and their SMEs, rather than merely with "go-betweens."

- BellSouth should be required to provide CLECs with a written explanation whenever it rejects a proposed change request. This will assist the CLECs in determining whether a valid basis exists for the rejection. In any case where BellSouth rejects a proposed change request, its explanation should not simply be that the change is "against policy" (an explanation that BellSouth has frequently given in the past). Instead, BellSouth should explain precisely why the change was rejected. In addition, BellSouth should be required to make "requests for additional information" about a change request only when it legitimately needs such information – and not to use such requests as a means of delaying or thwarting CLEC-initiated change requests.

- No arbitrary limitation should be placed on the number of BellSouth releases each year. This will ensure that changes are not unduly delayed by a limited number of releases, and that changes will be implemented more according to demand and CLEC need.

- BellSouth should not consider any internally generated change requests unique to the CLEC wholesale OSS within its internal process until after the request has been subject to prioritization by the CLECs. Thus, the scope of the CCP should be expanded to include: (1) the development of new interfaces; and (2) changes to linkage systems such as LEO and LESOG, and BellSouth's legacy systems. This will ensure that the CCP encompasses all changes to the OSS that directly affect CLECs.

- The existing definition of "CLEC affecting changes" subject to the CCP should be amended to clarify that it is broad, rather than restrictive, in nature. The definition should make clear that the BellSouth linkage and legacy systems above are also "CLEC affecting." CLECs should be provided notice and an opportunity to test when these systems are changed.

- The CCP should be amended to make clear that it includes changes to BellSouth's billing systems. As previously stated, notwithstanding the language of the CCP document, BellSouth currently (and erroneously) maintains that billing is outside the scope of the CCP.

- The materials ("Change Review Package") that BellSouth is required to distribute before a change review meeting should include not only a schedule of releases, but a description of the capacity of each release. This will ensure that the CLECs will learn in advance of any capacity limitations of the release.

- Each quarter, BellSouth should provide a release capacity forecast covering the remainder of the current calendar year and the following calendar year, including descriptions of the items to be included in each future release. The quarterly report that BellSouth has agreed to provide, by contrast, would encompass only year-to-date capacity used for CLEC requests, and the next scheduled release – not other future releases. Stacy/Varner/Ainsworth Aff., ¶ 126.

- The CAVE testing environment should be upgraded to meet the CLECs' needs as stated in the original change request and subsequently determined to be required by use of CAVE as implemented. BellSouth should not require CLECs to use codes other than their own in the testing environment, or limit the number of participating CLECs or test scenarios used in that environment.[84]

Most importantly, before it can be found to be in compliance with its OSS obligations, BellSouth must demonstrate a pattern of compliance with the CCP.

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[84] The CLECs' entire proposal for changes to the CCP is reflected in the red-lined version of the CCP document that they submitted to the GPSC on January 30, 2002. A copy of that document is attached hereto as Attachment 57.

IV. BELLSOUTH HAS NOT SHOWN THAT ITS OSS ARE OPERATIONALLY READY TO PROVIDE NONDISCRIMINATORY ACCESS.

195. BellSouth's latest application does not, and cannot, demonstrate that its OSS is operationally ready to provide nondiscriminatory access. First, BellSouth cannot properly rely on its reported performance data to support a claim of operational readiness. As described in the Supplemental Bursh/Norris Declaration, such data continue to suffer from data integrity problems that preclude its use as an accurate measure of BellSouth's performance. BellSouth's unilateral modification of its method of calculating service order accuracy, its unilateral exclusion of "non-working hours" from its calculation of the timeliness of FOCs and rejection notices on partially mechanized orders, and its repeated changes to its reported flow-through data for June through August 2001 are but a few examples of BellSouth's attempts to manipulate its performance data to its benefit. *See* Bradbury Reply Decl., ¶¶ 36-46.

196. Furthermore, even as reported, BellSouth's performance data show that its OSS is not operationally ready. The data show, for example, that an unacceptably high percentage of electronically-submitted CLEC LSRs fall out for manual processing due to BellSouth system design and system errors. The data also show that BellSouth still takes an average of 18 hours to return FOCs and rejection notices.

197. The lack of operational readiness of the OSS is further confirmed by AT&T's own experience. The Supplemental Declaration of Bernadette Seigler describes numerous deficiencies in the OSS that have been revealed in AT&T's efforts to provide service through the UNE platform. These problems include disconnection of service, interface outages, provisioning errors, errors made by BellSouth's LCSC in re-entering partially mechanized LSRs

into BellSouth's systems, and delays in the processing of UNE-P orders for customers who have an ADSL USOC appearing on their customer service record.

198. BellSouth cannot compensate for the absence of supporting, reliable commercial data by relying on third-party testing of its OSS by KPMG. KPMG's third-party testing in Georgia was not sufficiently comprehensive or rigorous to serve as an accurate measure of whether BellSouth is providing nondiscriminatory access, particularly in comparison to the testing that KPMG has conducted in Florida. *See* Norris Decl., ¶¶ 55-78.

199. BellSouth itself has previously stated that if this Commission did not accept the Georgia test as sufficient proof, BellSouth would "back up and use Florida testing as its proof."[85] KPMG's Florida test, however, lends no support to BellSouth's claim that its OSS is operationally ready. KPMG has found numerous deficiencies in BellSouth's OSS in the course of the Florida testing. Our Declaration has previously described some of these problems in the context of pre-ordering, ordering, and provisioning. In addition, there is currently one open exception regarding daily usage files ("DUFs") and four open exceptions regarding the accuracy and timeliness of invoices sent to CLECs. Two observations and one exception that KPMG has issued regarding the adequacy of BellSouth's maintenance and repair systems also remain open.

200. Moreover, the Florida test is not yet complete. A table showing the status of the KPMG Florida test, based on KPMG's status report issued January 31, 2002 (the latest such report currently available), is attached hereto as Attachment 58. An enormous number of

[85] Intra-Agency Memorandum, In the Matter of Investigation Concerning the Propriety of Provision of InterLATA Services by BellSouth Telecommunications, Inc., Pursuant to the Telecommunications Act of 1996, Kentucky Public Service Commission Case No. 2001-105 (May 16, 2001), at 2.

deficiencies in the OSS found by KPMG in its Florida test have not been fixed or resolved. As of March 1, 2002, 53 Exceptions and 27 Observations remained open in the Florida test. Although KPMG had previously been scheduled to complete Phase I of its test (which includes pre-ordering, ordering, maintenance and repair, and portions of billing) and file a final report on Phase I on March 20, 2001, that schedule was recently revised to provide for publication of KPMG's report by June 21, 2002.[86] Even if KPMG completes all other aspects of its testing by June 21, it is not clear at this stage whether it will complete its testing of BellSouth's performance measures by that date..

201. Finally, KPMG's volume testing in Florida have not shown that its OSS have sufficient capacity to be operationally ready. KPMG has separately attempted to conduct volume testing of BellSouth's electronic and manual systems. Only recently, however, did KPMG complete even the two days scheduled for "normal volume" testing of the electronic systems. Those "normal volume" tests were completed only after KPMG retested "Day 1" of the test three times, and retested "Day 2" one time. Although KPMG conducted "peak" volume testing on the electronic systems last week, BellSouth's LENS interface failed to pass the test. Moreover, KPMG has not conducted the stress testing that it has scheduled for these systems.

202. KPMG's "normal volume" testing of BellSouth's manual systems has been equally problematic. KPMG retested Day 1 of testing for these processes four different times

[86] On February 27, 2002, the Florida PSC issued an order rescheduling the workshop for discussion of the Phase I report from April 17, 2002, to July 12, 2002, due to "delays in the testing schedule." FPSC Order No. PSC-02-0253-PCO-TP, issued February 27, 2002, in FPSC Docket Nos. 960786B-TL and 981834-TP, at 2. On the same day, the FPSC issued a Case Assignment and Scheduling Record that, in addition to rescheduling the workshop, provided for publication of the test report on June 21, 2002.

before it declared testing of that day to be completed. Day 2 of the "normal volume" testing of those processes has not yet begun. And KPMG has not yet conducted the peak volume testing or the stress testing that it has scheduled for the manual systems. For both the electronic and manual systems, KPMG's peak volume and stress testing tests will be critical to determining the capacity of BellSouth's systems to handle mass-market volumes of CLEC orders.

203. In view of these developments, it is hardly surprising that KPMG has issued exceptions and observations finding deficiencies in the OSS that call the capacity of the OSS into serious question. For example, Exception 116 found that on nearly 25 percent of the LSRs submitted manually, BellSouth issued erroneous or inconsistent responses. Bradbury Reply Decl., ¶ 65 & Att. 19. This exception is still open.

204. More recently, KPMG has issued two new observations which find deficiencies indicating capacity problems with BellSouth's electronic interfaces. In Observations 135 and 136, KPMG found that during its volume test it did not receive timely responses to pre-order queries submitted via the LENS and RoboTAG™ interfaces. Even when KPMG conducted additional volume testing, the average response times to some pre-ordering queries were as high as 10.18 seconds when it used LENS, and 47.25 seconds when it used RoboTAG™. When KPMG conducted further volume testing of LENS, it still found that certain pre-ordering response times on LENS, and all of the pre-ordering response times on RoboTAG™, still failed to meet parity standards.[87] Given the problems found by KPMG, it is premature to conclude that

[87] KPMG Second Amended Observation 135, dated February 18, 2002 (attached hereto as Attachment 59); KPMG Second Amended Observation 136, dated February 18, 2002 (attached hereto as Attachment 60).

BellSouth's OSS have sufficient capacity to process projected commercial volumes effectively and without a degradation of quality.

CONCLUSION

205. BellSouth's latest (and fifth) application once again fails to show that it is providing nondiscriminatory access to its OSS. BellSouth's performance remains deficient in a number of critical areas, including flow-through, manual processing, and provisioning accuracy. Although BellSouth recently implemented changes intended to correct its failure to provide equivalent parsing functionality and equivalent due date functionality, sufficient commercial experience with these functionalities will be required before it can be determined whether they are adequate to provide nondiscriminatory access. Finally, BellSouth's change control process continues to deny CLECs a meaningful opportunity to compete. The modifications made or promised by BellSouth to the CCP, while useful in some respects, do not remove the fundamental flaws in the process – including BellSouth's control of prioritization and implementation of change requests.