

ATTACHMENT 33

JOINT DECLARATION OF JAY M. BRADBURY
AND SHARON E. NORRIS

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

JUNE 21, 2002

IN RE:

**DOCKET TO DETERMINE THE COMPLIANCE
OF BELL SOUTH TELECOMMUNICATIONS,
INC.'S OPERATIONS SUPPORT SYSTEMS
WITH STATE AND FEDERAL REGULATIONS**

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**DOCKET NO.
01-00362**

ORDER RESOLVING PHASE I ISSUES OF REGIONALITY

This matter came before the Tennessee Regulatory Authority ("Authority" or "TRA") during a regularly scheduled Authority Conference held on May 21, 2002, for consideration of the issues adopted in Phase I of this proceeding relating to the regionality of BellSouth Telecommunications, Inc.'s ("BellSouth's") Operations Support Systems ("OSS"). The Directors also considered the *Notice of Supplemental Authority* filed by BellSouth on May 16, 2002, voting unanimously to take notice of an order released by the Federal Communications Commission ("FCC") on May 15, 2002, approving BellSouth's application pursuant to 47 U.S.C. § 271 for interLATA authority in Georgia and Louisiana.¹ Upon reviewing the record of this docket, a majority of the Directors determined that BellSouth failed to satisfy its burden of establishing that its OSS is regional.²

¹ See *In the Matter of Joint Application by BellSouth Corporation, BellSouth Telecommunications, Inc. and BellSouth Long Distance, Inc. for Provision of In-region, InterLATA Services in Georgia and Louisiana*, CC Docket No. 02-35, FCC 02-147, 2002 WL 992213 (*Memorandum Opinion and Order*) (released May 15, 2002) (hereinafter "FCC Order").

² Chairman Kyle did not vote with the majority on the regionality of BellSouth's OSS. Her comments during deliberations are set forth at footnote 103

Background

Under the Federal Telecommunications Act of 1996 and Tennessee law,³ Incumbent Local Exchange Companies ("ILECs"), such as BellSouth Telecommunications, Inc. ("BellSouth"), must provide nondiscriminatory access to their OSS to Competing Local Exchange Carriers ("CLECs").⁴ These statutes reflect a recognition that absent nondiscriminatory access to an incumbent's OSS, CLECs cannot effectively compete with ILECs. Discriminatory access to an ILEC's OSS may delay or prevent CLECs from obtaining data necessary to sign up customers, placing an order for services or facilities with the ILEC, tracking the progress of that order to completion, receiving relevant billing information from the incumbent, or obtaining prompt repair and maintenance for the elements and services it obtains from the ILEC.⁵

Procedural History

At a regularly scheduled Authority Conference held on February 21, 2001, the Authority convened TRA Docket No. 01-00362 to explore whether CLECs operating in Tennessee have nondiscriminatory access to BellSouth's OSS. The focus of Docket No. 01-00362 is "to determine whether existing data or test results derived from OSS testing in other states is reliable and applicable to Tennessee and, in those instances where reliance

³ See 47 U.S.C. § 251(c)(3); Tenn. Code Ann. § 65-4-124(a).

⁴ "[T]he term OSS refers to the computer systems, databases, and personnel that incumbent carriers rely upon to discharge many internal functions necessary to provide service to their customers." *In the Matter of Performance Measurements and Reporting Requirements for Operations Support Systems, Interconnection, and Operator Services and Directory Assistance*, FCC Docket No. 98-72, CC Docket No. 98-56; 13 FCC Rcd. 12,817 (released April 17, 1998) (*Notice of Proposed Rulemaking*) ¶9. The functions relevant to this docket are pre-ordering, ordering, provisioning, repair and maintenance and billing. Because many of the components of these functions are referred to in the record by acronyms, a glossary of such acronyms is attached hereto as Attachment A.

⁵ *Id.*

on such testing is inappropriate, to conduct necessary testing.”⁶ In establishing this docket, the Directors unanimously voted to engage an independent, third party consultant to advise the Authority on the reliability of existing data or test results and to conduct any required testing. The Authority appointed Director H. Lynn Greer, Jr. to serve as the Pre-Hearing Officer.

On May 3, 2001, the Pre-Hearing Officer issued his *First Report and Recommendation* setting forth a procedure for determining whether BellSouth’s Tennessee systems and processes operate sufficiently to provide wholesale services and elements to CLECs without impeding competition. The Pre-Hearing Officer proposed to direct the independent consultant to prepare a report consisting of the following elements: (1) identification of the systems or processes used by BellSouth’s Tennessee operations for providing services and network elements to competitors; (2) an audit of BellSouth’s Tennessee performance data; and (3) recommendations regarding performance and system testing necessary for the Authority to ascertain whether BellSouth is providing network services and elements to CLECs in Tennessee without impeding competition. The Pre-Hearing Officer also recommended that, upon completion of the consultant’s report, the Authority convene a hearing for the purpose of receiving testimony and other evidence from the consultant and interested parties. The Pre-Hearing Officer proposed that, after the conclusion of the hearing, the Authority render a decision on the consultant’s recommendation and the necessity for actual testing of BellSouth’s OSS in Tennessee. Under the Pre-Hearing Officer’s proposal, any necessary testing would be conducted after

⁶ *In re Docket to Determine the Compliance of BellSouth Telecommunications, Inc.’s Operations Support Systems with State and Federal Regulations*, TRA Docket No. 01-00362 (hereinafter “OSS Docket”) (*Order Approving First Report and Recommendation of the Pre-Hearing Officer*) pp. 2-3 (issued July 27, 2001).

the hearing. On May 14, 2001, Brooks Fiber Communications of Tennessee, Inc. ("Brooks Fiber"), MCImetro Access Transmission Services, LLC ("MCImetro") and the Southeastern Competitive Carriers Association ("SECCA") filed *Petitions to Intervene* in this docket. On September 5, 2001, the Pre-Hearing Officer granted these petitions.

At a regularly scheduled Authority Conference on May 15, 2001, the Pre-Hearing Officer recommended that the Authority direct the independent, third party consultant, once selected, to relate the testing in other states to Tennessee's systems and agreed that such a review would "verify the appropriateness, the independence and the accuracy of the testing so done."⁷ The Pre-Hearing Officer then made a motion, contingent upon the Authority's approval of the *First Report and Recommendation*, that the Executive Secretary be authorized to select and retain a qualified consultant to prepare the report proposed in the *First Report and Recommendation*.

During the May 15th Authority Conference, the Directors voted unanimously to approve the *First Report and Recommendation*. Additionally, the Directors voted unanimously to authorize the Executive Secretary to select and retain a qualified consultant, subject to approval by the Authority.

After consultation with Authority staff, the Executive Secretary determined that only one consultant, KPMG Peat Marwick ("KPMG"), possessed the experience and expertise with BellSouth's OSS necessary to fulfill the TRA's stated requisites. After several meetings with and correspondence from representatives from KPMG, however, it became clear that KPMG was unwilling to provide a report which would verify the

⁷ *OSS Docket* (Transcript from May 15, 2001 Authority Conference, pp. 31-32).

appropriateness, independence and accuracy of the OSS testing performed in Florida and Georgia.

On July 27, 2001, the Authority issued its *Order Approving First Report and Recommendation of the Pre-Hearing Officer*, memorializing the May 15th deliberations during which the *First Report and Recommendation* of the Pre-Hearing Officer was approved. The *Order* approved the proposed procedure for determining whether BellSouth's Tennessee systems and processes operate in a manner that provides wholesale services and elements to CLECs in a nondiscriminatory manner and the bifurcation of the docket into two separate phases. Phase I was to yield a report by the selected consultant consisting of the following elements: (1) identification of the systems or processes used by BellSouth's Tennessee operations for providing services and network elements to competitors; (2) an audit of BellSouth's Tennessee performance data; and (3) recommendations regarding performance and system testing necessary for the Authority to determine whether BellSouth is providing network services and elements to CLECs in Tennessee without impeding competition. The *Order* also reflected the Authority's intent to convene a hearing for the purpose of receiving testimony and other evidence from the consultant and interested parties upon completion of the Phase I report. The Authority was to render a decision on the consultant's recommendation and the necessity for testing BellSouth's OSS in Tennessee after the conclusion of the hearing. Necessary testing, if any, was to be conducted during Phase II.

On August 15, 2001, the Executive Secretary filed a Status Report informing the Directors that he was unable to retain KPMG to provide the services requested by the

Authority. At the Executive Secretary's request, this docket was placed on the August 21, 2001 Authority Conference agenda.

At the August 21st Authority Conference, the Directors deliberated upon the Executive Secretary's Status Report. A majority of the Directors determined not to engage a third party consultant, but to move forward with the Authority's own contested case.⁸ The same majority voted to amend those portions of the Pre-Hearing Officer's *First Report and Recommendation* which had proposed to engage a third party consultant to participate in Phase I of this proceeding.⁹

After this decision, the Pre-Hearing Officer scheduled a Pre-Hearing Conference to establish, with the participation of the parties,¹⁰ the issues and a procedural schedule. During this Pre-Hearing Conference, which was convened on September 6, 2001, the Pre-Hearing Officer informed the parties that the case would be bifurcated into at least two phases, with Phase I addressing the regionality of BellSouth's OSS and Phase II addressing the reliability of OSS testing completed in other states.¹¹ The Pre-Hearing Officer also informed the parties that the Procedural Schedule controlling this docket would encompass the following issues:

⁸ See *id.* (Order Amending Order Approving First Report and Recommendation of the Pre-Hearing Officer) (filed January 2, 2002) pp. 10-12.

⁹ Director Malone did not vote with the majority. Director Malone stated that he has always been and remains persuaded that the most responsible manner in which to engage an "independent" consultant was to issue a Request for Proposal ("RFP"). Further, it was Director Malone's opinion that the Authority should not retreat from its thoughtfully crafted and unanimously adopted framework for reviewing and evaluating BellSouth's OSS solely on the basis of KPMG's refusal to consult in the manner requested by the Authority. If a lesser method in which to proceed was superior to the method established by the Directors in the Order Approving the First Report and Recommendation, Director Malone was persuaded that the Authority would have initially pursued such method, irrespective of KPMG's positions. Director Malone's alternative proposals failed for lack of a second. See *OSS Docket* (Transcript of August 21, 2001 Authority Conference, pp. 31, 48).

¹⁰ The parties to this proceeding are BellSouth, AT&T Communications of the South Central States, Inc. ("AT&T"), TCG MidSouth, Inc. ("TGC"), SECCA, Brooks Fiber and MCImetro. These parties, with the exception of BellSouth, are CLECs.

¹¹ *OSS Docket* (Transcript of September 6, 2001 Pre-Hearing Conference pp. 41-42).

A. Phase I Issues – Regionality of BellSouth's OSS:

1. Using the processes, sub-processes and activities identified by the Florida and Georgia Public Service Commissions for OSS testing as a starting point, identify all the OSS processes, systems and procedures used by BellSouth to provide wholesale elements and services in Tennessee.
2. For the inventory of processes, systems and procedures identified for BellSouth's Tennessee operations in Issue 1, compare such inventory with those processes, systems, and procedures that support BellSouth's wholesale operations in Georgia and Florida. Identify those Tennessee processes, systems and procedures that:
 - a. Are the same, physically and functionally, as those used to support BellSouth's Florida operations.
 - b. Differ from those used to support BellSouth's Florida operations. Explain in detail any differences.
 - c. Are the same, physically and functionally, as those used to support BellSouth's Georgia operations.
 - d. Differ from those used to support BellSouth's Georgia operations. Explain in detail any differences.
 - e. Are significant to the development of competition in Tennessee?

(Provide a matrix classifying each Tennessee process identified in Issue I into the categories identified above.)
3. For the Tennessee processes, systems and procedures that are the same as those used to support BellSouth's Florida operations, categorize each process, system or procedure as:
 - a. Tested or scheduled for testing in Florida as part of the master test plan approved by the Florida PSC, or;
 - b. Not included in the PSC-approved master test plan for testing in Florida.
4. For the Tennessee processes, systems and procedures that are the same as those used to support BellSouth's Georgia operations, categorize each process, system or procedure as:
 - a. Tested or scheduled for testing in Georgia as part of the master test plan approved by the Georgia PSC, or;
 - b. Not included in the approved master test plan for testing in Georgia.

B. Phase II Issues – Reliance on OSS testing in Florida and Georgia and determination of the scope of OSS tests, if any, needed in Tennessee.

1. For those processes, systems or procedures deemed by the Authority to be Tennessee specific, does measurable commercial usage, such as performance data ordered by the Authority, exist in sufficient volumes to allow the Authority to determine if the process, system or procedure is being provided in a nondiscriminatory manner?
2. For those Tennessee processes, systems or procedures identified by the Authority as the same as those used to support BellSouth's Georgia or Florida wholesale operations, does measurable commercial usage exist that will allow the Authority to determine if the process, system or procedure is being provided in a nondiscriminatory manner?
3. For those Tennessee processes, systems or procedures identified by the Authority as 1) the same as those used to support BellSouth's Georgia or Florida wholesale operations, and; 2) tested or scheduled for testing in either Georgia or Florida, indicate whether the Florida and/or Georgia testing of such process is still timely and relevant?
4. Identify the processes, systems, or procedures included in the Florida master test plan but not in the Georgia master test plan. Explain why such processes were not included in the Georgia test and whether or not testing of such process[es] would have been beneficial in arriving at a final decision on the adequacy of BellSouth's OSS in that state assuming that OSS availability is required for the provision, by competitors, of both residential and business service as contemplated under 47 U.S.C. § 271(c)(1)(A) of the Telecommunications Act of 1996, Tenn. Code Ann. § 65-4-123 and other applicable state and federal statutes.
5. Identify the processes, systems, or procedures included in the Georgia master test plan but not in the Florida master test plan. Explain why such processes were not included in the Florida test and whether or not testing of such process[es] would have been beneficial in arriving at a final decision on the adequacy of BellSouth's OSS in that state assuming that OSS availability is required for the provision, by competitors, of both residential and business service as contemplated under 47 U.S.C. § 271(c)(1)(A) of the Telecommunications Act of 1996, Tenn. Code Ann. § 65-4-123 and other applicable state and federal statutes.

6. Identify the processes, systems, or procedures that should be included in a master test plan designed to evaluate the availability of OSS provisioning for both residential and business service as contemplated under 47 U.S.C. § 271(c)(1)(A) of the Telecommunications Act of 1996, Tenn. Code Ann. § 65-4-123 and other applicable state and federal statutes, but were not included in the Florida master test plan. Explain why such processes were not included in the Florida test and whether or not testing of such process[es] would be beneficial in arriving at a final decision on the adequacy of BellSouth's OSS in Florida.
7. Identify the process[es] for arriving at a final master test plan in both Florida and Georgia. Evaluate the appropriateness, independence and accuracy of such process[es].
8. Provide recommendations as to the scope of OSS tests, if any, needed in Tennessee and the reliance that can be placed on Florida and Georgia tests.¹²

The Pre-Hearing Officer's rulings from the Pre-Hearing Conference, including the issues listed above, were reflected in the *Order Establishing Issues and Procedural Schedule* issued on September 13, 2001. Consistent with this Order, on September 17 AT&T, TCG and SECCA jointly filed their discovery requests to BellSouth, including Interrogatory No. 36, which requested the following information:

From January 2001 to the present, for each individual state in BellSouth's region and for the BellSouth region as a whole, please identify the achieved flow through rate and the CLEC error excluded flow through rate, by interface (i.e., LENS, TAG, EDI, and all interfaces) for the following categories: (a) LNP; (b) UNE; (c) Business Resale; (d) Residence Resale; and (e) Total (i.e., UNE, Business Resale, and Residential Resale combined).¹³

On September 24, BellSouth filed objections to six of those discovery requests and offered compromise responses to several of the discovery requests to which it objected.

¹² *Id.* (*Order Establishing Issues and Procedural Schedule*) (issued September 17, 2001) p. 9-11.

¹³ *OSS Docket (AT&T Communications, Inc., TCG MidSouth, Inc. and Southeastern Competitive Carriers Association, First Set of Interrogatories to BellSouth Telecommunications, Inc.)* (filed September 17, 2001) p. 16.

BellSouth did not object to Interrogatory No. 36 in its September 24 filing.

On September 27, 2001, in lieu of responding to BellSouth's discovery objections, AT&T, TCG and SECCA filed a *Motion to Compel*, addressing BellSouth's objections to their five remaining Interrogatories and seeking to require BellSouth to provide answers. On October 4, 2001, BellSouth filed its *Response to Motion to Compel*, in which it asserted specific objections to the five Interrogatories listed in the *Motion to Compel*. AT&T, TCG and SECCA filed a *Motion for Protective Order* on October 1, 2001.

As discovery progressed, numerous discovery disputes arose. A Pre-Hearing Conference was held on October 9, 2001 to resolve them. At that time, the Pre-Hearing Officer informed the parties of his concerns regarding BellSouth's apparent unwillingness to make the witnesses who were involved in the third party testing of BellSouth's OSS in other states available for questioning notwithstanding BellSouth's intent to rely on such testing in this proceeding.¹⁴ The Pre-Hearing Officer also expressed concern that BellSouth would fail to present witnesses who would be able to respond to the Directors' questions about the subject matter of their testimony.¹⁵ Notwithstanding the Pre-Hearing Officer's repeated comments, BellSouth's maintained its position that the witnesses who participated in the testing from other states were employees of KPMG and Hewlett Packard and that BellSouth was not in a position to offer them as witnesses at the Hearing.¹⁶ During the October 9th Pre-Hearing Conference, the Pre-Hearing Officer granted the *Motion for Protective Order* filed by AT&T, TCG and SECCA.

¹⁴ KPMG, Pricewaterhouse and Hewlett Packard were involved in the testing of BellSouth in Georgia. In addition, a representative of Pricewaterhouse filed an attestation regarding the regionality of BellSouth's OSS.

¹⁵ *OSS Docket* (Transcript of September 6, 2001 Pre-Hearing Conference, pp. 69-70).

¹⁶ *Id.*, pp. 47, 73.

After considerable discussion, the parties resolved many of their differences on the use of discovery material from other states. The *Motion to Compel* was resolved by agreement between the parties and both the *Motion to Compel* and BellSouth's response to the *Motion to Compel* were withdrawn. The Pre-Hearing Officer dismissed BellSouth's objections as moot. On October 17, 2001, the Pre-Hearing Officer issued the *Order Resolving Discovery Disputes* reflecting his rulings at the October 9th Pre-Hearing Conference.

Consistent with the Pre-Hearing Officer's ruling, the *Proposed Protective Order* was filed on October 10, 2001. The *Proposed Protective Order* required that all documents which a party claims are confidential "must be accompanied by proof of confidentiality, that is, an affidavit showing the cause of protection under this Order. The affidavit may be reviewed by the Pre-Hearing Officer . . . for compliance with this paragraph."¹⁷

On October 22, 2001, AT&T and SECCA filed a joint *Motion for Summary Finding*.¹⁸ In the motion, AT&T and SECCA alleged that KPMG and Hewlett Packard ("HP") had not complied with discovery. The motion sought a summary finding that BellSouth cannot establish reliability without the participation of KPMG and HP in discovery, which, according to AT&T and SECCA, "is the functional equivalent of striking the third party tests."¹⁹

On October 22, 2001, BellSouth filed the Direct Testimony of Milton McElroy, Jr., BellSouth's Director of Interconnection Services. The stated purpose of his testimony was

¹⁷ *Id.* (*Protective Order*)(filed October 10, 2001), pp. 1-2.

¹⁸ After this filing, the *OSS Docket* was placed on the agenda of the regularly scheduled Authority Conference on November 6, 2001.

¹⁹ *Id.* (*Reply to Response of BellSouth to Motion of AT&T and SECCA for Summary Finding*) (filed November 1, 2001) p. 1.

to “provide this Authority with information about the Georgia and Florida OSS testing conducted by KPMG, along with that of regionality testing conducted by Pricewaterhouse Coopers.”²⁰ KPMG’s Final Report on Georgia’s OSS and a Report and “Attestation” as to the Regionality of BellSouth’s OSS conducted by PricewaterhouseCoopers L.L.P. (“PWC”) at BellSouth’s request were attached as exhibits to Mr. McElroy’s Direct Testimony. Robert L. Lattimore, a PWC accountant, provided the two-page “Attestation” of regionality.

At the October 23rd Authority Conference, the *Order Resolving Discovery Disputes* issued in this docket on October 19, 2001 was discussed.²¹ Questions regarding the discovery materials provided by BellSouth were raised and later were addressed in the Pre-Hearing Officer’s *Order Amending and Clarifying Order Resolving Discovery Disputes* (“*Discovery Dispute Order*”), which was issued on October 26, 2001. The *Discovery Dispute Order* directed BellSouth to “update the discovery responses from other states it files or has filed in Tennessee as material necessary for them to remain current becomes available.”²² It specifically defined the term “discovery responses” to include “all written responses to discovery requests as well as all testimony, including deposition testimony and pre-filed testimony.” BellSouth was further ordered to file, “[i]n conjunction with all discovery responses from other states BellSouth files or has filed in this docket, . . . an affidavit attesting as to (1) whether the discovery response is current; (2) what, if anything, in the discovery response has been updated; (3) whether the discovery response is Tennessee-specific,²³ or otherwise relevant to Tennessee; and (4) if the discovery response

²⁰ Direct Testimony of Milton McElroy, Jr. (October 22, 2001) p. 2.

²¹ Prior to this discussion, the Authority ascertained that representative of all the parties to this docket were present.

²² *Id.* (*Order Amending and Clarifying Order Resolving Discovery Disputes*) (issued October 26, 2001) p. 2.

²³ The order stated that “Tennessee-specific means that if the response had originally been submitted in Tennessee, it would have been identical.”

is otherwise relevant to Tennessee, how is it so relevant.”²⁴

On October 29, 2001, BellSouth filed its *Response of BellSouth to Motion of AT&T and SECCA for Summary Finding*. On November 2, 2001, AT&T and TCG filed *Procedural Motions of AT&T Communications of the South Central States, Inc. and TCG MidSouth, Inc.* This filing included the following motions: (1) Motion to Strike Testimony that is beyond the scope of Phase I; (2) Motion to Revise the Procedural Schedule; (3) Motion to Strike the PWC Attestation; (4) Motion to Compel PWC to submit affidavits substantiating their claims that documents produced during discovery qualify for confidential treatment; and (5) Motion to Compel BellSouth to fully respond to discovery requests. The Motion to Compel Complete Answers to specific discovery requests alleged, *inter alia*, that BellSouth had not provided a complete response to Interrogatory No. 36.

At the Authority Conference on November 6, 2001, the Pre-Hearing Officer informed the parties that a Pre-Hearing Conference originally noticed for November 6th would be held on November 8th in order to hear oral argument on the pending motions.²⁵ During the Authority Conference, BellSouth again refused to commit to making KPMG witnesses available and stated affirmatively that it did not intend to call Mr. Lattimore, the PWC partner who authored the Attestation on the regionality of BellSouth’s OSS.²⁶ The Pre-Hearing Officer reminded BellSouth that due process considerations required that witnesses involved in the production of documents which BellSouth intended to offer into evidence be in attendance at the Hearing and subject to cross-examination. BellSouth was

²⁴ *OSS Docket (Order Amending and Clarifying Order Resolving Discovery Disputes)* (filed October 26, 2001) pp. 2-3.

²⁵ Counsel for BellSouth, AT&T, TCG and SECCA attended the Authority Conference.

²⁶ *OSS Docket* (Transcript from November 8, 2001 Pre-Hearing Conference p. 12).

warned that documentary evidence that was not so supported, would be subject to being stricken.

The Pre-Hearing Officer heard oral argument on the pending motions during the November 8th Pre-Hearing Conference. Considerable discussion focused upon BellSouth's failure to respond to Interrogatory No. 36. During the Pre-Hearing Conference, BellSouth did not clearly indicate whether the requested data existed or was available, representing only that it did not know whether the requested data could be extracted in the manner suggested by AT&T.²⁷ In response, AT&T asserted that a KPMG witness who worked on the flow-through evaluation in Georgia had testified that BellSouth had the capability to provide state-specific flow-through reports. In addition, AT&T stated that BellSouth's flow-through reports are a computer program that runs on a database containing flags to identify the state referenced, a fact that could assist in the retrieval of the information.²⁸ AT&T explained that the requested information would either confirm or contradict the claim that BellSouth's ordering systems perform substantially the same from state to state for flow-through purposes.²⁹ In response, BellSouth reiterated that it did not produce flow-through reports on a state by state basis and was unsure whether it could.³⁰ After hearing considerable argument, the Pre-Hearing Officer ordered BellSouth to either produce the

²⁷ See *id.*, 61, 63-64).

²⁸ A deposition taken on September 25, 2001 in the North Carolina §271 proceedings, which BellSouth filed in this proceeding, corroborated AT&T's assertion. Steven Strickland, a KPMG employee, testified as follows:

Q: Do you know whether the LSRs or that the flow-through data that's used to create a performance measures report can be broken down by state?

A: They can . . . the underlying data can. The current report is not. . . There's a state code on each of those transactions.

(Deposition of Steven Strickland, pp. 61-62).

²⁹ *OSS Docket* (Transcript from November 8, 2001 Pre-Hearing Conference p. 56).

³⁰ *Id.*, pp. 54, 57.

requested data or file a written explanation as to why producing such data would not be technically feasible no later than November 13, 2001.³¹

During the November 8th Pre-Hearing Conference, the Report on Georgia's OSS completed by KPMG and the PWC Report and Attestation were stricken from the record.³² In addition, BellSouth was ordered to provide by November 13, 2001 a matrix as specified in the issues list included in the September 13th *Order Establishing Issues and Procedural Schedule*. The Pre-Hearing Officer also ordered BellSouth to comply with the *Order Amending and Clarifying Order Resolving Discovery Disputes*, issued on October 26, 2001, which required BellSouth to file by November 9, 2001 an affidavit attesting as to whether the discovery responses filed in this docket are current, Tennessee-specific or otherwise relevant to Tennessee. The Pre-Hearing Officer ordered BellSouth to comply with this mandate by November 13, 2001.

On November 13, 2001, BellSouth filed affidavits attesting that the discovery responses BellSouth filed in this docket are current, Tennessee-specific or otherwise relevant to Tennessee. BellSouth also filed matrices purporting to satisfy the requirements in the issues list included in the September 13th *Order Establishing Issues and Procedural Schedule*.

Notwithstanding the Pre-Hearing Officer's oral orders at the November 8th Pre-Hearing Conference, on November 13, 2001, BellSouth failed to file a response to

³¹ *Id.*, pp. 63-64.

³² In striking this evidence, the Pre-Hearing Officer cited *Consumer Advocate v. TRA and United Cities Gas Company, Inc.*, No. 01A01-9606-BC-00286 1997 WL 92079, Tenn. Ct. App. March 5, 1997) ("It is elementary that administrative agencies are permitted to consider evidence which, in a court of law, would be excluded under the liberal practice of administrative agencies. Almost any matter relevant to the pending issue may be considered, provided interested parties are given adequate notice of the matter to be considered and full opportunity to interrogate, cross-examine and impeach the source of information and to contradict the information.").

AT&T's Interrogatory No. 36 or an explanation describing why such a response is not technically feasible. BellSouth also failed to file affidavits explaining why the documents it filed as proprietary should be classified as proprietary, notwithstanding being ordered by the Pre-Hearing Officer to do so.

On November 14, 2001, the Pre-Hearing Officer issued the *Order Resolving Procedural Motions* memorializing his rulings from the November 8th Pre-Hearing Conference. Because BellSouth failed to meet the November 13th deadline for filing its response to Interrogatory No. 36, the Pre-Hearing Officer also addressed BellSouth's failure to comply with his November 8th order, observing:

Without a state-specific flow-through report, it is impossible to determine if the performance from one or more states provides performance at a level sufficient to make up for any state that may not be performing well enough to meet satisfactory standards. This is particularly important when one considers the controversy surrounding Direct Order Entry (DOE) and Service Order Negotiation System (SONGS). According to BellSouth these systems have no material difference in functionality or reporting. This information could prove important in determining the regionality of BellSouth's OSS.

In addition, BellSouth produces state-specific reports on firm order confirmation ("FOC") timeliness and rejection notice timeliness which are further broken down into totally mechanized, partially mechanized and manual. This further confirms that BellSouth has the state-specific flow through information requested by AT&T. However, there is no indication either by AT&T or in BellSouth's publicly available *Monthly State Summary* of its wholesale performance that such flow through information is available or can be generated by the type of interface as requested by AT&T. Therefore, BellSouth is only required to provide the requested information by category but not broken down by the type of interface.³³

The Pre-Hearing Officer concluded the *Order Resolving Procedural Motions* with the following directive:

³³ *OSS Docket (Order Resolving Procedural Motions)* (filed November 14, 2001) p. 24-25.

The Motion to Compel Discovery filed by AT&T and TCG is granted in part as to Interrogatory No. 36. BellSouth is ordered to provide no later than Tuesday, November 20, 2001 the achieved flow-through rate and the CLEC error excluded flow-through rate for each individual state in BellSouth's region and for the BellSouth region in total for the following categories: a) LNP; b) UNE; c) Business Resale; d) Residential Resale; and e) Total (*i.e.*, UNE, Business Resale, and Residential Resale combined).³⁴

On November 16, 2001, BellSouth filed *Supplemental Responses to Interrogatories and Requests for Production*. BellSouth's document quoted AT&T's supplemental request with regard to Interrogatory No. 36:

BellSouth states that it does not produce flow-through data on a state-specific basis. According to KPMG, however, BellSouth is capable of producing such data. BellSouth, therefore, should either produce the requested data or explain why producing such data is not technically feasible.³⁵

BellSouth then responded to AT&T's supplemental request in pertinent part that:

[it] has reviewed the Georgia Third Party Test, Florida Third Party Test Exceptions and Observations as well as the Georgia Third Party Test KPMG Consulting Flow-Through Evaluation Final Report. There is no mention of the state-specific reports or any questions about BellSouth's capability to produce state-specific Reports for Flow-through nor are there any exceptions or observations that addressed this issue . . . BellSouth's position remains the same. AT&T is misinformed on this issue. BellSouth has no record of an issue of state-specific reporting capability for Flow-Through Reports in the Flow-Through Evaluation (FT-1) conducted by KPMG in their OSS Evaluation for the Georgia Public Service Commission. Unless AT&T can identify the KPMG Exception or Observation as part of either the Georgia or Florida Third Party Test, or indicate where this capability is addressed in the Flow-Through Evaluation Final Report, BellSouth maintains that the Flow-Through Report is a regional report as indicated in the SQM. . . If technical feasibility could be determined, the development effort to implement such a measurement would require considerable programming effort and its associated costs.³⁶

³⁴ *Id.*, p. 27.

³⁵ *OSS Docket* (BellSouth's *Nonproprietary Supplemental Responses to Interrogatories and Requests for Production*, Supplemental Item No. 36) (filed November 16 2001) p. 1.

³⁶ *Id.* It is noteworthy that, notwithstanding the direction of the Pre-Hearing Officer, BellSouth's November 16, 2001 supplemental response to Interrogatory No. 36 did not explain why producing such data is not technically feasible.

On November 20, 2001, BellSouth filed a *Motion to Clarify Order Regarding AT&T Interrogatory No. 36*, arguing that “even if it were technically feasible to generate these reports, it is absolutely impossible to do so on one business day’s notice.”³⁷ BellSouth also contended that the portion of the *Order Resolving Procedural Motions* addressing Interrogatory No. 36 was inconsistent with the Pre-Hearing Officer’s oral order at the Pre-Hearing Conference on November 8, 2001 and that under Tenn. R. Civ. P. 34 it was not required to create documents not already in existence.³⁸ BellSouth claimed that it did not receive the November 14th *Order Resolving Procedural Motions* until November 16.

On November 20, 2001, BellSouth also filed a *Motion for Reconsideration* of the Pre-Hearing Officer’s order striking the Report on Georgia’s OSS completed by KPMG and the PWC Report and Attestation. BellSouth argued that because the authors of the Report on Georgia’s OSS and the PWC Report and Attestation had become available to testify, the Pre-Hearing Officer should allow the admission of that evidence. In addition, BellSouth filed the redacted testimony of Milton McElroy.

On November 21, 2001, the Pre-Hearing Officer issued the *Order Denying Motion to Clarify and Compelling Discovery*. The Pre-Hearing Officer ordered BellSouth to provide a response to Interrogatory No. 36 by November 29, 2001. On November 27, 2001, the Pre-Hearing Officer granted BellSouth’s *Motion for Reconsideration*, allowing BellSouth to offer the Report on Georgia’s OSS and the PWC Report and Attestation into evidence.

³⁷ Again, on November 20, 2001, BellSouth did not explain why producing the data requested in Interrogatory No. 36 is not technically feasible.

³⁸ It should be noted that Tenn. R. Civ. P. 34 addresses Requests for Production of Documents. The discovery request at issue is an Interrogatory. Interrogatories are governed by Tenn. R. Civ. P. 33.

On November 29, 2001, one business day before the Hearing, BellSouth filed its *Second Supplemental Responses to Interrogatories and Requests for Production*, which stated in pertinent part:

The underlying data necessary to calculate such rates does exist, in some form, inasmuch as BellSouth retains information regarding LSRs submitted and information regarding those LSRs in its databases.

Since the data does exist in some form, with the appropriate programming work, time and expenditure, a program could be created that could extract such information on a state-by-state basis.

BellSouth has researched this matter, and has instructed its affected employees to determine what would be required in order to do such programming to respond to the subject data request. In response, those BellSouth employees have indicated that if the task were begun on November 30, 2001, it would take until the first week in March, 2002, and at a substantial cost, to accomplish this task, a period of more than 90 days.³⁹

With this language, BellSouth acknowledged, for the first time in this proceeding, that the requested data existed and could be obtained.⁴⁰

The December 3 through December 6, 2001 Hearing on the Merits

The Hearing in this proceeding commenced on Monday, December 3, 2001. The parties in attendance included:

BellSouth Telecommunications, Inc. – **Guy M. Hicks, Esq.**, 333 Commerce Street, 22nd Floor, Nashville, TN 37201-3300 and **R. Douglas Lackey, Esq.**, **Lisa Foshee, Esq.**, and **E. Earl Edenfield, Jr.**, 675 West Peach Street, Suite 4300, Atlanta, GA 30375.

AT&T Communications of the South Central States, Inc. and TCG MidSouth, Inc. – **Jack W. Robinson, Jr., Esq.**, Gullett, Sanford, Robinson & Martin, 230 Fourth Avenue, North, 3rd Floor, Nashville, TN, 37219 and **Michael A. Hopkins, Esq.** and **Tami Lyn Azorsky, Esq.**, McKenna & Cuneo, L.L.P., 1900 K Street, Washington, D.C. 20006.

³⁹ *OSS Docket (BellSouth's Second Supplemental Responses to Interrogatories and Requests for Production, Supplemental Item No. 36) (filed November 29, 2001) p. 2.*

⁴⁰ Although BellSouth conceded on November 29, 2001, that the underlying data necessary to respond to Interrogatory No. 36 existed, BellSouth did not commence the process necessary to produce the information first requested on September 17, 2001 and initially ordered to be produced by the Authority on November 14, 2001.

Southeastern Competitive Carriers Association ("SECCA") – **Henry Walker, Esq.**, Boulton, Cummings, Conners & Berry, 414 Union Street, No. 1600, P.O. Box 198062, Nashville, TN 37219-8062.

MCImetro Access Transmission Services, LLC ("MCImetro") and Brooks Fiber Communications of Tennessee, Inc. ("Brooks Fiber") – **Susan Berlin, Esq.**, 6 Concourse Parkway, Atlanta, GA 30328 and **Jon E. Hastings, Esq.**, Boulton, Cummings, Conners & Berry, 414 Union Street, No. 1600, P.O. Box 198062, Nashville, TN 37219-8062.

Time Warner Telecom of the Mid-South, L.P. and NewSouth Communications – **Charles B. Welch, Jr., Esq.**, Farris, Mathews, Branan, Bobango & Hellen, 618 Church Street, Suite 300, Nashville, TN 37219.

The first issue addressed, a preliminary matter, was the unresolved procedural issue of BellSouth's response to AT&T's Interrogatory No. 36. BellSouth presented testimony from several witnesses on the availability and amount of the time purportedly required to obtain the flow-through information including BellSouth witnesses Andrew James Saville, a BellSouth director of interconnection services specializing in the development and production of performance metrics and Ronald M. Pate, a BellSouth executive who has acted as an expert witness with regard to BellSouth's Operations Support System.⁴¹

Mr. Saville testified that BellSouth possessed an existing flow-through base that would have to be modified to produce the information at issue.⁴² Mr. Saville testified that BellSouth has approximately 7,800 lines of code for flow-through but only some of the code would need to be rewritten to provide the flow-through information.⁴³ After the presentation of this testimony, BellSouth was ordered to provide the flow-through information ordered in the November 14, 2001 *Order Resolving Procedural Motions* within forty-five (45) days, by January 18, 2002.⁴⁴

⁴¹ *OSS Docket* (Transcript of Hearing, December 3, 2001, p. 140).

⁴² *Id.*, p. 146.

⁴³ *Id.*

⁴⁴ *Id.*, p. 195.

After this ruling, the Authority focused exclusively on testimony related to the regionality of BellSouth's OSS. On December 3rd, Michael W. Weeks, the KPMG executive primarily responsible for the Report on Georgia's OSS, testified on BellSouth's behalf regarding the Georgia Report. On December 4th, two of BellSouth's Directors of Interconnection Services, Milton McElroy and Ronald Pate, testified. Mr. McElroy testified about third party testing of BellSouth's OSS in Georgia and the regionality testing conducted by PWC. Mr. Pate testified that BellSouth's OSS was nondiscriminatory. Robert Lattimore, a Global Risk Management Partner at PWC, testified for BellSouth on December 5th and 6th regarding his attestation that BellSouth's OSS was regional.⁴⁵ On December 5th Ken Ainsworth, BellSouth Director of Interconnection Operations, testified regarding the regionality of the BellSouth centers that support CLEC pre-ordering, ordering and maintenance activity. Alfred Heartley, BellSouth's General Manager of Network Product Improvement, testified on December 6th regarding the performance of the provisioning, maintenance and repair of CLEC orders in Tennessee and in the region and performance variations between states. Also on December 6th, David Scollard, Manager of Wholesale Billing at BellSouth Billing, Inc., a wholly owned subsidiary of BellSouth Telecommunications, Inc., testified about BellSouth's billing system.

On December 6th, Jay M. Bradbury, AT&T's District Manager of Law and Government Affairs, testified on behalf of AT&T regarding the differences in BellSouth's

⁴⁵ During his testimony on behalf of PWC on December 5th Mr. Lattimore was provided legal representation by counsel for BellSouth. (*OSS Docket* (Transcript of December 5, 2001 Hearing, pp. 3, 5, 133)). Mr. Lattimore testified that BellSouth was his biggest client, he had spent approximately 60% of his time on work related to BellSouth over the past several years and BellSouth paid him approximately \$800,000 for his Attestation. (*Id.*, pp. 36-37). Mr. Lattimore also testified that, had BellSouth asked him, he would have been willing to appear before the TRA to present, defend and otherwise comment on the Attestation. (*Id.*, p. 138). Mr. Lattimore testified that he provided BellSouth with several drafts of his Attestation before it was finalized. (*Id.*, p.42).

OSS from state to state. Sharon Norris, a consultant with SEN Consulting, Inc. retained by AT&T, testified about the testing of BellSouth's OSS in Georgia and Florida.

Post-Hearing Filings

An *Order on Procedural Matters* was issued on December 31, 2001, memorializing the oral order requiring BellSouth to provide a response to Interrogatory No. 36 by January 18, 2002. To allow consideration of BellSouth's response to Interrogatory No. 36, the filing dates for Post-Hearing Briefs and Proposed Findings of Fact and Conclusions of Law for Phase I were extended seven (7) and twenty-one (21) days, respectively, from the date BellSouth filed its response to Interrogatory No. 36.⁴⁶

On January 8, 2002, the Pre-Hearing Officer convened a Pre-Hearing Conference to discuss Phase II of this proceeding. The parties were directed to file comments on whether revisions to the issues list were advisable.

On January 15, 2002, BellSouth filed a *Motion for Reconsideration of the Hearing Officer's Order Regarding AT&T's Interrogatory No. 36*, seeking reversal of the requirement that BellSouth respond to Interrogatory No. 36 by January 18, 2002. BellSouth argued that compliance with the arbitrary timeframe was impossible and the ruling ignored BellSouth's undisputed evidence on the time required to produce the information.

BellSouth did not file a response to Interrogatory No. 36 on January 18, 2002. At a regularly scheduled Authority Conference on February 5, 2002, a majority of the Directors determined that BellSouth failed to comply with lawful orders and/or findings of the

⁴⁶ Director Malone opined that Post-Hearing Briefs should not be submitted until the response to Interrogatory No. 36 had been produced and a determination made or an agreement reached on whether the response should become a part of the evidentiary record subject to cross-examination.

agency.⁴⁷ At the Conference, the Authority scheduled a hearing on February 20, 2002, to determine the propriety of subjecting BellSouth to a penalty, pursuant to Tenn. Code Ann. § 65-4-120, for violating or failing to comply with orders of the Authority.

On February 20, 2002, the Directors convened a hearing to consider imposing sanctions upon BellSouth pursuant to Tenn. Code Ann. § 65-4-120.⁴⁸ The Directors heard the argument of the parties and adjourned the Hearing to render a decision at a later date.

On February 21, 2002, BellSouth filed its response to Interrogatory No. 36. The parties filed their *Post-Hearing Briefs* on March 1, 2002. The post-hearing brief of AT&T, TCG, and SECCA includes an analysis of the response to Interrogatory No. 36.⁴⁹ On March 6, 2002, AT&T, TCG and SECCA filed a *Motion to Make Response to Discovery Part of the Evidentiary Record*, requesting that BellSouth's response to Interrogatory No. 36 be entered into evidence. The motion stated that BellSouth has no opposition to the admission of its response to Interrogatory No. 36 into the evidentiary record. BellSouth did not file a response to the motion. The parties filed their *Proposed Findings of Fact and Conclusions of Law* on March 15, 2002. The *Proposed Findings of Fact and Conclusions of Law* filed by AT&T, TCG and SECCA refer to BellSouth's response to Interrogatory No. 36.⁵⁰

At a regularly scheduled Authority Conference held on March 26, 2002, the Authority deliberated upon the *Motion to Make Response to Discovery Part of Evidentiary*

⁴⁷ Chairman Kyle did not vote with the majority.

⁴⁸ *Id.*, p. 9.

⁴⁹ See *id.* (Phase I Post-Hearing Brief AT&T Communications of the South Central States, Inc., TCG MidSouth, Inc. and the Southeastern Competitive Carriers Association) (filed March 1, 2002) pp. 28-30.

⁵⁰ See *id.* (Phase I Proposed Findings of Fact and Conclusions of Law of AT&T Communications of the South Central States, Inc., TCG MidSouth, Inc. and the Southeastern Competitive Carriers Association) (filed March 15, 2002) ¶ 22.

Record filed by AT&T, TCG and SECCA on March 6, 2002. Before addressing the merits of the *Motion to Make Response to Discovery Part of Evidentiary Record*, the Authority posed several questions to the parties. The Authority asked BellSouth whether it objected to the *Motion to Make Response to Discovery Part of Evidentiary Record*. BellSouth responded that it had no objection. The Authority then specifically inquired of the parties whether they were waiving their right to interrogate, cross-examine and impeach the source of the information contained in BellSouth's response to Interrogatory No. 36.⁵¹ Each party expressly waived its right to interrogate, cross-examine and impeach the source of the information contained in BellSouth's response to Interrogatory No. 36 as to Phase I, but reserved its right to interrogate, cross-examine and impeach the source of the information contained in BellSouth's response to Interrogatory No. 36 in Phase II of this proceeding. Thereafter, the Directors unanimously voted to grant the *Motion to Make Response to Discovery Part of Evidentiary Record*. The Authority issued a written order memorializing this ruling on May 15, 2002.

On May 16, 2002, BellSouth filed a *Notice of Supplemental Authority*. The notice sought to supplement the record with an order issued by the FCC on May 15 which approved BellSouth's application pursuant to 47 U.S.C. § 271 for interLATA authority in Georgia and Louisiana.

⁵¹ See *id.* (Transcript of March 26, 2002 Authority Conference, pp. 16-18); see *Consumer Advocate v. TRA and United Cities Gas Co.*, No. 01-A-01-9606-BC-00286, 1997 WL 92079 at * 3 (Tenn. Ct. App. March 5, 1997).

Findings and Conclusions

Positions of the Parties

A. BellSouth

BellSouth argues that its OSS is regional under the FCC's definition of the term "regionality," which requires ILECs such as BellSouth to prove that they provide wholesale services to competing carriers in other states through an OSS "using common interfaces, systems and procedures, and, to a large extent, common personnel."⁵² BellSouth maintains that regionality may be established with proof that competing carriers in various states share the use of a single OSS or that the OSS reasonably can be expected to behave the same way in the applicable states. BellSouth contends that because it has, throughout its nine state territory, the same electronic systems and manual processes for pre-ordering, ordering, provisioning, maintenance and repair and billing serving its own functions and those of the CLECs, its OSS is regional. Specifically, BellSouth asserts that its pre-ordering OSS is regional because they interface through TAG, RoboTAG, and LENS which serve all nine states.⁵³ BellSouth acknowledges that some of the Legacy Systems, the proprietary BellSouth systems accessed by the aforementioned pre-ordering systems, contain state-specific information, (e.g.: RSAG- the Regional Street Address Guide and Customer Service Records). BellSouth asserts, however, that this difference is irrelevant because the system acts in the same manner throughout the nine-state region regardless of the information inside.⁵⁴

⁵² *OSS Docket (BellSouth's Phase I Post-Hearing Brief)* (filed March 1, 2002) p. 2.

⁵³ *See id.*, p. 3-4; *see also Redacted Direct Testimony of Ronald Pate*, (filed November 19, 2001) p. 10.

⁵⁴ *See OSS Docket (BellSouth's Phase I Post-Hearing Brief)* (filed March 1, 2002) pp. 3-6; *see also* (Transcript of Hearing, December 4, 2001, pp. 43, 96).

BellSouth also asserts that loop makeup information is regional, despite the fact that the Legacy System used to access the information is updated in a different manner in the former South Central states, such as Tennessee, than in the former Southern Bell states.⁵⁵ BellSouth admits that manual plats are used to update Loop Facility Assignment and Control System (LFACS) in the former South Central Bell states and that Corporate Facilities Database (CFD) is used in the former Southern Bell states. BellSouth nevertheless argues that LFACS is the central place for accessing loop makeup information regardless of state and because the access to LFACS is the same, the system is regional.⁵⁶ Furthermore, BellSouth explains that in the event that information is missing from LFACS, "BellSouth personnel use a combination of Engineering Work Orders, field visits, and the plats that contain records of BellSouth's Outside Plant Facilities to complete the loop makeup data that is stored in LFACS."⁵⁷

BellSouth further asserts that its OSS for ordering is regional and that the systems, processes and centers that exist to support CLEC ordering are either the same, or are designed to function in the same manner as those used by BellSouth. In support of this contention, BellSouth relies upon the PWC Attestation report and the CLEC ordering manual.⁵⁸ While BellSouth acknowledges differences in the ordering system exist, such as the use of three Local Carrier Service Centers ("LCSCs"), it argues that such differences are not state-specific and thus, are of no consequence. As to the LCSC, BellSouth asserts that the difference in location is irrelevant because CLECs were assigned to a single LCSC

⁵⁵ *OSS Docket (BellSouth's Phase I Post-Hearing Brief)* (filed March 1, 2002) pp. 3-6; *see also Redacted Direct Testimony of Ronald Pate*, (filed November 19, 2001) pp. 2-3. -

⁵⁶ *See OSS Docket* (Transcript of Hearing, December 4, 2001, p. 146)

⁵⁷ *See OSS Docket (BellSouth's Phase I Post-Hearing Brief)* (filed March 1, 2002) p 6.

⁵⁸ *See id.*, pp. 10-11.

regardless of the state in which they did business and all personnel at the Centers attend the same training programs.⁵⁹

BellSouth asserts the comprehensive business rules and guides it produces and publishes are also regional, existing as a resource for CLECs regardless of location. BellSouth also contends that it provides regional training for CLECs regardless of the state they serve.⁶⁰

BellSouth acknowledges that the Service Order Negotiation System ("SONGS") is unique to the South Central Bell states and differs from its counterpart in the old BellSouth states, Direct Order Entry ("DOE"). Nevertheless, BellSouth asserts that there is no material difference between the two systems because they perform the same function.⁶¹

BellSouth relies upon two assertions attested to by PWC: (1) that BellSouth uses the same pre-ordering and ordering OSS throughout its nine-state region to support wholesale CLEC activity and (2) that BellSouth's DOE and SONGS have no material differences in the functionality or performance for service order entry by the LCSC based on the criteria established in the Report of Management Assertions and Assertion Criteria in BellSouth Telecommunications OSS.⁶² PWC's examination of the regionality of the functionality and performance of BellSouth pre-ordering and ordering OSS was based on the following criteria:

- The same Local Service Orders (LSRs), created from a single set of business rules are used for order entry.
- The Service Order Communication System (SOCS) requires the same LSR screening and validating procedure.

⁵⁹ See *id.*, pp. 7-9; see also Rebuttal Testimony of Ken Ainsworth (filed November 20, 2001) pp. 2-3.

⁶⁰ See *OSS Docket (BellSouth's Phase I Post-Hearing Brief)* (filed March 1, 2002) pp. 7-8; see also Redacted Direct Testimony of Ronald Pate (filed November 19, 2001) pp. 14-15.

⁶¹ See *OSS Docket (BellSouth's Phase I Post-Hearing Brief)* (filed March 1, 2002) pp. 9-10; see also Rebuttal Testimony of Ken Ainsworth (filed November 20, 2001) pp. 4-5.

⁶² See *OSS Docket (BellSouth's Phase I Post-Hearing Brief)* (filed March 1, 2002) pp. 7-8; see also Revised Redacted Direct Testimony of Milton McElroy (filed December 4, 2001) pp. 31-33.

- Similar processes are used for creating a Service Order.
- SOCS requires checking for and clearing order entry or initiation errors.
- Both systems output must adhere to the Service Order edits housed in SOCS.⁶³

BellSouth defines the “same” as follows:

the applications and interfaces implemented and available that are identical across the nine-state region. ‘Identical’ is one unique set of software coding and configuration (version) installed on either one or multiple computer servers that support all nine states in an equitable manner. The processes, personnel, and work center facilities are consistently available and employed across the nine-state region and there are no significant aspects to the processes, personnel, or work center facilities that would provide one state greater service level or benefit than the other states in the nine-state region.⁶⁴

BellSouth asserts that its response to AT&T’s Interrogatory No. 36, which requested state-specific flow-through data that BellSouth failed to produce prior to the Hearing, was not relevant to a determination of regionality.⁶⁵ BellSouth admits that the flow-through numbers for the different states differ, but argues that “[t]hese numbers are not, nor should they be the same. CLECs order different product mixes. It is this variation in product type and complexity that causes differences in the flow-through numbers throughout the states.”⁶⁶

BellSouth maintains that its provisioning system is regional because its LCSC Project Management organization, which coordinates large and/or complex provisioning and project implementation for CLECs, serves all CLECs throughout the nine-state region.⁶⁷ BellSouth contends that the personnel in its Network Services organization, who

⁶³ See Revised Redacted Direct Testimony of Milton McElroy (filed December 4, 2001) pp. 31-32.

⁶⁴ See *OSS Docket (BellSouth’s Phase I Post-Hearing Brief)* (filed March 1, 2002) p. 12; see also Revised Redacted Direct Testimony of Milton McElroy (filed December 4, 2001) pp. 31-32.

⁶⁵ See *OSS Docket (BellSouth’s Phase I Post-Hearing Brief)* (filed March 1, 2002) p. 29.

⁶⁶ See *id.*, p. 29; see also *(BellSouth’s Response to AT&T’s Interrogatory 36)* (filed February 21, 2002) p. 2.

⁶⁷ See *OSS Docket (BellSouth’s Phase I Post-Hearing Brief)* (filed March 1, 2002), pp. 18-20; see also Prefiled Direct Testimony of Kenneth M. Ainsworth (filed October 22, 2001) pp. 15-16.

provide provisioning, maintenance and repair services for CLECs doing business in Tennessee, do their jobs in the same manner as the Network Services employees in the other BellSouth states and that BellSouth therefore meets the definition of "sameness" the FCC established in its *Kansas/Oklahoma Order*.⁶⁸ BellSouth argues that any differences in performance from state to state result from a host of variables and state-specific considerations and these differences in performance are unrelated in any way to the sameness of BellSouth's network operations among the nine states.⁶⁹ BellSouth asserts that the functions of its Central Office Operations groups, Engineering and Construction groups, Circuit Provisioning Group (CPG) and Installation and Maintenance (I&M) groups, none of which operate on a state by state level, demonstrate the regionality of its OSS.⁷⁰

BellSouth insists that its provisioning and maintenance flows are the same across all nine states, supported by common methods, procedures and systems;⁷¹ however, BellSouth explains that it cannot be expected to achieve identical performance in each state because of many variables beyond its control. BellSouth lists several variables such as government regulations, weather, economic conditions, variation in the types of services that customers order, variation in customer physical arrangements and types of equipment, and delays caused by customers not being ready that can and do affect performance.

⁶⁸ See *OSS Docket (BellSouth's Phase I Post-Hearing Brief)* (filed March 1, 2002) pp. 18-20 (referring to *Joint Application by SBC Communications, Inc. et al., for Provision of In-Region, InterLATA Services in Kansas and Oklahoma*, FCC 01-29, 16 F.C.C.R. 6237, 2001 WL 55637 (*memorandum Opinion and Order*) (released January 22, 2001) ¶ 113); see *Prefiled Direct Testimony of Alfred Heartley* (filed October 22, 2001) p. 2.

⁶⁹ See *OSS Docket (BellSouth's Phase I Post-Hearing Brief)* (filed March 1, 2002) p. 23; see *Prefiled Direct Testimony of Alfred Heartley* (filed October 22, 2001) pp. 3-4.

⁷⁰ See *OSS Docket (BellSouth's Phase I Post-Hearing Brief)* (filed March 1, 2002) p. 23; *Prefiled Direct Testimony of Alfred Heartley* (filed October 22, 2001) pp. 6-7.

⁷¹ See *OSS Docket (BellSouth's Phase I Post-Hearing Brief)* (filed March 1, 2002) pp. 23-24; see also *Prefiled Direct Testimony of Alfred Heartley* (filed October 22, 2001) pp. 15-17.

BellSouth also states that variations in network topology can affect the validity of demand forecasts and thereby cause differences in performance results, because CLECs often do not inform BellSouth ahead of time about locations and customers that they plan to target.⁷²

BellSouth asserts that it uses a single version of each of the Legacy Systems that support provisioning, maintenance and repair, and that those systems handle CLEC and BellSouth service orders on a nondiscriminatory basis, in compliance with the FCC requirement that Bell operating companies (“BOCs”) show that components of manual processes operate pursuant to a common organizational structure, common methods and procedures and common training.⁷³ BellSouth disputes AT&T’s claim that BellSouth’s sameness showing is deficient because the work groups that handle manual processes are organized on a geographic basis. BellSouth argues that the work groups are in different locations because they need to serve local customers, not because they do their jobs differently.⁷⁴

BellSouth opposes AT&T’s presumption that the same processes must produce identical results, arguing that variables beyond BellSouth’s control (including weather, topology, local regulations and different order volumes) are the reason for any differences in results between states. BellSouth maintains that the FCC did not require in its *Kansas/Oklahoma Order* that performance in those states be the same as in Texas in order

⁷² See *OSS Docket (BellSouth’s Phase I Post-Hearing Brief)* (filed March 1, 2002) pp. 23-24; see also Prefiled Direct Testimony of Alfred Heartley (filed October 22, 2001) pp. 18-20.

⁷³ See *OSS Docket (BellSouth’s Phase I Post-Hearing Brief)* (filed March 1, 2002) pp. 24-25; see also Prefiled Rebuttal Testimony of Alfred Heartley (filed November 20, 2001) p. 4.

⁷⁴ See *OSS Docket (BellSouth’s Phase I Post-Hearing Brief)* (filed March 1, 2002) pp. 24-25; see also Prefiled Rebuttal Testimony of Alfred Heartley (filed November 20, 2001) p. 5.

for the FCC to accept Southwestern Bell Corporation's claim of OSS regionality.⁷⁵ BellSouth argues that the relevant question should be whether the systems and processes are the same, not whether the results are the same, and the FCC has determined that sameness of electronic processes may be demonstrated by showing either that the same systems or systems are used or that the systems "reasonably can be expected to behave in the same way."⁷⁶

B. AT&T, TCG, SECCA and MCI WorldCom

AT&T, TCG, SECCA and MCI WorldCom (collectively "the CLECs") argue that BellSouth's pre-ordering OSS is highly regional but has some areas that are low to moderately regional.⁷⁷ Specifically, the CLECs contend that although LENS, TAG, and RoboTAG are largely regional, the information the systems interact with can be state-specific.

The CLECs submit that the Legacy Systems, from which pre-ordering information from TAG and LENS is accessed, are not regional because the data within the systems differ by state and there are different physical systems to support different states. The CLECs argue that by its nature the systems are inherently geographic and therefore are not regional.⁷⁸ The CLECs suggest that because the Legacy Systems operate from different servers connected by different linkages that vary by state, varied response time, loads and levels of reliability may result.

⁷⁵ See *OSS Docket (BellSouth's Phase I Post-Hearing Brief)* (filed March 1, 2002) p. 25; see also *Prefiled Rebuttal Testimony of Alfred Heartley* (filed November 20, 2001) pp. 2-3.

⁷⁶ See *OSS Docket (BellSouth's Phase I Post-Hearing Brief)* (filed March 1, 2002) p. 27; see also *Prefiled Rebuttal Testimony of Alfred Heartley* (filed November 20, 2001) p. 3.

⁷⁷ See *OSS Docket (The CLECs' Phase I Post-Hearing Brief)* (filed March 1, 2002) p. 9; see also *Rebuttal Testimony of Jay Bradbury*, (filed November 20, 2001) Exhibit JMB-R3.

⁷⁸ See *OSS Docket (The CLECs' Phase I Post-Hearing Brief)* (filed March 1, 2002) p. 9-11; see also *Direct Testimony of Jay Bradbury* (filed October 22, 2001) p.9-12.

The CLECs contend that the ordering centers and the ordering systems are moderately regional, but the manual order processing is less regional.⁷⁹ In support of this contention the CLECs observe that the three LCSCs, located in Flemming Island, Florida, Atlanta, Georgia and Birmingham, Alabama, do not perform the same functions. The Flemming Island Center is predominantly responsible for answering CLEC questions while Atlanta and Birmingham process the partially mechanized and manual orders. The CLECs assert that the Atlanta LCSC handled sixty-six percent (66%) of all manually processed orders for the states of Florida and Georgia, while sixty-six percent 66% of the orders handled in Birmingham originated from the seven other BellSouth states.⁸⁰ According to the CLECs, their orders are assigned exclusively to either the Atlanta or Birmingham LCSC and because the two are not equally balanced by state the LCSCs are not regional.

The CLECs further argue that the ordering process may not be regional since SONGS is used in the former South Central Bell states, and DOE is used in the former Southern Bell states. The CLECs claim that the regionality of the ordering OSS cannot be confirmed without more information from BellSouth.⁸¹ Regarding Interrogatory No. 36, the CLECs argue that the differing results by state are further proof that the systems are not regional.⁸²

The CLECs maintain that the PWC Attestation was materially flawed in both design and execution, rendering the results unreliable.⁸³ The CLECs argue that the

⁷⁹ See *OSS Docket (The CLECs' Phase I Post-Hearing Brief)* (filed March 1, 2002) p. 10; see also Direct Testimony of Jay Bradbury (October 22, 2001) p. 8.

⁸⁰ See *OSS Docket (The CLECs' Phase I Post-Hearing Brief)* (filed March 1, 2002) p. 11; see also Direct Testimony of Jay Bradbury (October 22, 2001) p.16.

⁸¹ See *OSS Docket (The CLECs' Phase I Post-Hearing Brief)* (filed March 1, 2002) pp. 10-11; see also Direct Testimony of Jay Bradbury (October 22, 2001) p.16.

⁸² See *OSS Docket (The CLECs' Phase I Post-Hearing Brief)* (filed March 1, 2002) pp. 25-26.

⁸³ See *OSS Docket (The CLECs' Phase I Post-Hearing Brief)* (filed March 1, 2002) p. 31.

Attestation's reliability is limited by its scope, which included a review of code of different OSS systems but failed to include an analysis of the code for functional differences.⁸⁴ Furthermore, according to the CLECs, PWC reviewed the systems for sameness but was not asked to verify that these systems produced the same results. The CLECs argue that PWC failed to qualify as significant the average input times for DOE and SONGS.⁸⁵ Finally, the CLECs question the relationship between PWC and BellSouth as well as the relationship between Mr. Lattimore and BellSouth. In support of this assertion they cited that BellSouth was Mr. Lattimore's biggest customer and that he spends sixty percent (60%) of his time on the BellSouth account.⁸⁶

Standard of Review

In reviewing the evidence and arguments of the parties with regard to the issue of whether the CLECs are provided nondiscriminatory access to BellSouth's OSS, the Authority is guided by a series of FCC orders beginning in August 1996 which addresses the standards and legal obligations for the provision of OSS.⁸⁷ BellSouth is statutorily mandated to provide nondiscriminatory access to its network elements on an unbundled basis at any technically feasible point on rates, terms and conditions that are just,

⁸⁴ See *OSS Docket (The CLECs' Phase I Post-Hearing Brief)* (filed March 1, 2002) pp. 25-27, 32; see also (Transcript of December 5, 2001 Hearing, p. 56).

⁸⁵ See *OSS Docket (The CLECs' Phase I Post-Hearing Brief)* (filed March 1, 2002) p. 33; see also (Transcript of December 5, 2001 Hearing, pp. 163-64) (According to Mr. Lattimore, PWC concluded that it takes less time to enter an order into SONGS than it does to enter an order into DOE. "DOE and SONGS are two systems being used within either a partially mechanized performance metric or a manual performance metric, and we understood those to be either 36 hours for manually processed orders—and so when we look at it in the context of 36 hours, we're talking about a 3 minute difference.").

⁸⁶ See *OSS Docket (The CLECs' Phase I Post-Hearing Brief)* (filed March 1, 2002) p. 35; see also (Transcript of December 5, 2001 Hearing, p.37) (Mr. Lattimore admitted that PWC received approximately \$30 million from BellSouth during fiscal 2000 as well as \$800,000 for the attestation.).

⁸⁷ See *Application by BellSouth Corporation, et al., Pursuant to Section 271 of the Communications Act of 1934, as Amended, to Provide In-Region, InterLATA Services in Louisiana*, CC Docket No. 98-121, 13 FCC Rcd 20599, 20655, 1998 WL 712899 (*Second Louisiana Memorandum Opinion and Order*) (released October 13, 1998) ¶ 91.

reasonable and nondiscriminatory.⁸⁸ The burden is on BellSouth to prove that it does so.⁸⁹

The May 21, 2002 Authority Conference

During the May 21, 2002 Authority Conference, the Directors deliberated on the issue of whether BellSouth established that its OSS was regional. The parties in attendance at the Authority Conference included Guy M. Hicks, Esq., representing BellSouth, Henry Walker, Esq., representing SECCA, and Marsha Ward, representing MCImetro. Michael A. Hopkins, Esq., representing AT&T, appeared telephonically.

As a preliminary matter, the Authority observed that BellSouth had filed a *Notice of Supplemental Authority* on May 16, 2002 in which it sought to supplement the record in this docket with the FCC Order issued on May 15, 2002 which approved BellSouth's application pursuant to 47 U.S.C. § 271 for interLATA authority in Georgia and Louisiana.⁹⁰ The parties were asked to comment on the impact of the FCC Order on the Authority's deliberations on regionality.

BellSouth requested that the Authority take administrative notice of the FCC Order, not as supplemental evidence, but as legal authority.⁹¹ When asked about the applicability of the statutory obligation to provide an opportunity to rebut information so noticed,⁹² BellSouth responded that the CLECs had not requested an opportunity to rebut. AT&T then inquired of BellSouth's purpose in seeking administrative notice, arguing that taking

⁸⁸ See *id.*, ¶ 116; see also 47 U.S.C. § 251(c)(3); 47 U.S.C. § 271(c)(2)(B)(ii); Tenn. Code Ann. §§ 65-4-123 and 65-4-124(a).

⁸⁹ *Second Louisiana Memorandum Opinion and Order*, ¶ 91-92, 116; see also *Joint Application by SBC Communications, Inc. et al., for Provision of In-Region, InterLATA Services in Kansas and Oklahoma*, FCC 01-29, 16 F.C.C.R. 6237, 2001 WL 55637 (*memorandum Opinion and Order*) (released January 22, 2001) n.86; *Application of Ameritech Michigan Pursuant to Section 271 of the Telecommunications Act of 1996*, FCC Docket No. 97-298, 12 F.C.C.R. 20,543, 1997 WL 522784 (*Memorandum Opinion and Order*) (released August 19, 1997) ¶204; 47 U.S.C. § 271(c)(2)(B)(ii).

⁹⁰ See note 1 for full citation of the FCC Order.

⁹¹ See *OSS Docket* (Transcript of May 21, 2002 Authority Conference, pp. 21-22).

⁹² See Tenn. Code Ann. § 4-5-313(6); 65-2-109(4).

such notice of factual findings would be inappropriate at this stage of the proceedings, but the Authority could decide whether the document was controlling as legal authority.⁹³ BellSouth noted that AT&T had had the opportunity to contest the facts during the FCC proceeding. SECCA asserted that taking administrative notice of the FCC order was unnecessary, because the Authority could cite the FCC Order, as it could any other legal authority, without doing so. SECCA stated that insofar as BellSouth was requesting the Authority to recognize that the FCC Order existed, it did not oppose BellSouth's request.⁹⁴

After considering the parties' comments, the Authority unanimously voted to take notice of the FCC Order as requested. The Directors then turned to consideration of whether BellSouth established that it fulfilled its duty to provide wholesale services to competitors in a manner and quality that is the same in all material respects as equivalent services that BellSouth itself uses to provide retail services.⁹⁵ The Authority observed that in this proceeding, BellSouth elected to demonstrate that it allowed nondiscriminatory access to its network elements by showing that its systems are the same in all material respects to those systems or processes that have been tested or are being tested by an independent third party in Georgia and Florida.

In their deliberations, the Directors employed the definition of regionality provided by BellSouth's witness, Milton McElroy: that the applications and interfaces implemented and available are identical across the nine-state region. Under this definition, "identical" means one set of software coding and configuration installed on either one or multiple computer servers that support all nine states in any equitable manner.⁹⁶

⁹³ See *OSS Docket* (Transcript of May 21, 2002 Authority Conference, p. 22).

⁹⁴ See *id.*, p. 27.

⁹⁵ The Authority was not able to follow the issues list adopted during the September 6, 2001 Pre-Hearing Conference because the evidence presented did not address those issues.

⁹⁶ See *id.*, p. 32.

A majority of the Directors⁹⁷ determined that where any material OSS component is found to be not regional, then the process of which that component is a part is necessarily not regional as well. Using that construct, a majority of the Directors separately analyzed the regionality of BellSouth's pre-ordering, ordering, provisioning, repair and maintenance and billing systems.

With regard to the pre-ordering system, a majority of the Directors found, after reviewing the evidence, including the Georgia and Florida Master Test Plans, that BellSouth had successfully demonstrated the regionality of TAG, LENS, RoboTAG and LFACS. The same majority found that BellSouth failed to provide sufficient evidence that its loop make-up process, its Legacy Systems, RSAG and ATLAS are regional and BellSouth failed to provide any evidence to support its claim of regionality for many methods, processes and systems identified in the Master Test Plans, including but not limited to Fax Server, EXACT, CLEC Reports, Capacity Management, Force Models ISO Quality System and Performance Measurement Plan. Accordingly, a majority of the Directors concluded that, based on the evidentiary record, BellSouth failed to satisfy its burden of proving that BellSouth's pre-ordering system is regional.

A majority of the Directors then turned to BellSouth's ordering system, observing that BellSouth had relied upon the PWC attestation and report and the CLEC ordering manual to prove that the systems, processes and centers that exist to support CLEC ordering are either the same or designed to function in the same manner. It was noted that PWC had concluded that BellSouth's systems are regional and that there are no material

⁹⁷ Chairman Kyle did not vote with the majority on the issue of the regionality of each of the components of BellSouth's OSS. At the conclusion of the deliberations, Chairman Kyle provided a comprehensive explanation for her vote which is quoted in full at footnote 103.

differences between SONGS and DOE and its LCSC. A majority of the Directors concluded that they could not rely on the results of PWC's review of the ordering system because it was limited to sameness and did not attempt to validate whether BellSouth's systems produced substantially the same results. According to the majority, a conclusory prediction of regionality based upon sameness disregards the ultimate goal of performance evaluation. A majority of the Directors determined that without such an investigation a conclusive finding of regionality cannot be reached. The same majority, based upon their review of the Georgia and Florida test plans, determined that BellSouth proved the regionality of TAG, LENS, EDI, CSOTS and the BellSouth Business Rules for Local Ordering, but failed to provide sufficient evidence to establish that its Electronic Legacy Systems and the Manual Legacy Work Groups are regional. A majority of the Directors found that BellSouth failed to address the regionality of many of the components of its ordering system, including but not limited to the following: Corporate Real Estate Process Flow, CLEC Reports, BellSouth Force Models, Performance Measurement Plan, the API Guide, RoboTAG User Guide, LENS User Guide, EDI Specification, Products and Services Interval Guide and the LISC Business Rules Data Dictionary. The same majority concluded, based on the evidentiary record in this proceeding, that BellSouth's ordering system is not regional.

The Authority then turned to provisioning, considering first BellSouth's contentions that (1) its provisioning and maintenance flow are the same across the nine BellSouth states, supported by common methods, procedures and systems; (2) it cannot be expected to achieve identical performance in each state because of many variables beyond

its control, including weather, government relations and economic conditions; and (3) sameness of system results is not relevant because sameness may be demonstrated with proof that electronic processes use either the same systems or systems that reasonably can be expected to behave in the same way.

A majority of the Directors determined that the record demonstrated that BellSouth published a single list of Business Rules for Local Ordering, and the evidence was sufficient to establish that these rules are regional as are BellSouth's EDI, LENS and LFACS. The same majority concluded that BellSouth had not produced any evidence on such work groups as the Work Management Center (WMC) and Circuit Provisioning Group (CPG), nor has it shown that the Address/Facility Inventory Group (AFG) that supports its Tennessee operations performs the same as the Address/Facility Inventory Group that supports Georgia and Florida. A majority of the Directors concluded that in applying either a standard of expected behavior or a standard of actual performance, the latter of which is preferable, the relatively elevated degree of manual processing involved in BellSouth's provisioning systems likely results in either actual performance or expected behaviors that are dissimilar across the nine-state region. The same majority found that BellSouth failed to present sufficient evidence to demonstrate the regionality of the following OSS components: BellSouth SQM, Methods and Procedures, CLEC Facilities-Based Advisory Guide, CLEC Report on BellSouth's Website, CCSS, Complex Resale Support Group Methods and Procedures, DSAP, EXACT, Job Aid for CLEC Pending Facilities Report on BellSouth's Interconnection Website, LEO, LIST, LNP Gateway, LON, NISC, NISC Method and Procedures, ORBIT, Pending Order Status Job Aid,

Products and Service Interval Guide, RNS, SOAC, SOCS, SWITCH, TAG, API Guide, Technicians' Methods and Procedures, TIRKS, UNE Center Methods and Procedures and WFA Log Notes. Based on the foregoing, a majority of the Directors found that BellSouth's provisioning OSS is not regional.

The Authority then focused on billing, acknowledging that BellSouth views its billing and collections group as a single group located in Atlanta, Georgia and Birmingham, Alabama that uses the same processes and procedures to provide CLECs across the nine-state region with a single point of contact to establish master accounts and for billing and collection issues. A majority of the Directors concluded that, although BellSouth's view of its billing may be supportable, BellSouth failed to provide sufficient evidence necessary to determine the regionality of any of the OSS components used in BellSouth's billing services. Specifically, BellSouth failed to submit sufficient evidence to support its assertion that the following systems are regional: ACD, assignment of responsibility for function, BDATS, BIBS, BOCABS, BOCRIS, CABS, CMIA, CMTS, compliance with OBF Guidelines, Connect Direct, CRIS, customer Internet documentation, dedicated personnel assigned to task, Help Desk specifically assigned to these tasks, ICABS Internet documentation on bill re-send process. A majority of Directors determined that, based upon the evidentiary record in this proceeding, BellSouth's billing OSS is not regional.

The Authority then analyzed BellSouth's maintenance and repair OSS, comparing the positions of the parties. BellSouth contends that the TAFI system that provides CLECs with functionality is superior to its own TAFI system because the former can process both

residence and business trouble reports on the same processor. The CLECs counter that the electronic and manual Legacy Systems that support maintenance and repair functions in Tennessee have a low degree of relative regionality and that the Georgia OSS testing failed to test all of them. A majority of Directors determined that BellSouth presented no evidence to support its position, reasoning that any meaningful measure of regionality must produce comparable results. For example, according to the same majority, although BellSouth argues that its installation and maintenance work forces operate under a regional organization structure using regional training and regional methodology, BellSouth produced no evidence showing that installation and maintenance work forces serving Tennessee actually perform the same or similarly to those serving Georgia or Florida. A majority of the Directors found that BellSouth failed to provide sufficient support demonstrating the regionality of WMOC, WFA and LMOS, CO Methods and Procedures, CLEC TAFI, ECTA, I&M Methods and Procedures, ISO 9002 Audit, Joint Implementation Agreement for ECTA, LMOS, Operational Understanding, RCMAG Methods and Procedures, TAFI, UNE Center Methods and Procedures and WMC Methods and Procedures. The same majority concluded that, based on the evidentiary record in this proceeding, BellSouth's maintenance and repair OSS is not regional.

The decision of the majority on the regionality of BellSouth's OSS was based in part on evidence that was not addressed in the FCC order released on May 15, 2002, approving BellSouth's Georgia/Louisiana Section 271 application. This information included BellSouth's response to AT&T's Interrogatory No. 36, which was the subject of a heated discovery dispute. During the Authority Conference, a majority of the

Directors determined that an empirical analysis of the OSS performance data presented in BellSouth's response to Interrogatory No. 36 provided statistically significant results indicating that BellSouth provides different levels of service to CLECs in different states (attached hereto as TRA Exhibit 1). The empirical analysis addressed monthly state-specific measures of "Percent Flow Through" of CLECs' Local Number Portability orders for ten (10) months in 2001.⁹⁸ A majority of the Directors determined that this analysis revealed statistically significant disparities in Local Number Portability Percent Flow Through data across BellSouth's nine-state region which show that the pre-ordering and ordering components of BellSouth's OSS are not regional, even under BellSouth's own definition of OSS regionality.^{99, 100}

As concerning the FCC's reliance on the PWC attestation in the FCC's order approving BellSouth's Georgia/Louisiana Section 271 application, a majority of the Directors took issue with the FCC's reference to the attestation as an "audit" when Mr. Lattimore specifically testified that BellSouth did not hire PWC to perform an audit

⁹⁸ Percent Flow-Through is a measurement of the percentage of CLEC orders that "flow through" BellSouth's system electronically. Orders that do not flow through are handled manually, which adds to the time it takes BellSouth to complete the orders. BellSouth recommended "Percent Flow-Through" of CLECs' Local Number Portability as the best test of its performance. The handling of Local Number Portability orders does not depend on technical complexities associated with orders for unbundled network elements. Nor is it materially affected by interstate differences in technical complexities (e.g., UNE orders) of CLECs' wholesale orders, local weather conditions, or local permitting requirements, factors which BellSouth has relied upon to explain interstate disparities in its performance. A majority of the Directors concluded that the Local Number Portability flow-through data raises questions about BellSouth's explanation for interstate disparities in its flow-through performance data, an issue of importance because Local Number Portability is crucial to competition.

⁹⁹ BellSouth's definition of "regionality" was offered by Milton McElroy. Under his definition, "identical" means one set of software coding and configuration installed on either one or multiple computer servers that support all nine states in any equitable manner.

¹⁰⁰ AT&T introduced an exhibit during the Hearing (Exhibit No. 8) which contains state-specific Firm Order Completion (FOC) timeliness measurements for Tennessee, Georgia and Florida. AT&T introduced Exhibit No. 8 in its cross-examination of BellSouth witness Ronald M. Pate. According to AT&T, Exhibit No. 8 was prepared using data obtained from BellSouth's Interconnection Website, for the month of August 2001, and was presented as a surrogate to the state specific flow-through data requested in Interrogatory No. 36. The data contained in Exhibit No. 8 indicates a material disparity in the percent of Total Mechanized FOCs between Tennessee, Georgia and Florida which is consistent with findings of the majority of the Directors concerning the regionality of BellSouth's OSS.

assessing the regionality of BellSouth's OSS. The same majority found that PWC's attestation was seriously flawed by its failure to analyze OSS code or adequately analyze actual performance data, and by its failure to review BellSouth's highly complex ordering process for a sufficient period of time.¹⁰¹

Further, testimony from the December 3rd through 6th Hearing convinced a majority of the Directors that BellSouth had exerted inappropriate influence on PWC's attestation of the regionality of BellSouth's OSS. Such evidence included the fact that during the attestation review, BellSouth limited PWC's access to certain BellSouth employees who were in training and could not participate in the PWC review by placing balloons over their chairs. Given that the trainees were actually taking live orders, such action should have been questioned, if not challenged by PWC.¹⁰² In addition, during the December Hearing, while PWC was testifying on the merits, BellSouth's legal counsel announced that PWC was being represented by BellSouth. During the Hearing, the PWC representative, James Lattimore, testified that BellSouth was his biggest client and he spent approximately sixty percent (60%) of his time on work related to BellSouth over the past several years and BellSouth paid him approximately \$800,000 for his two-page attestation. Although, when viewed in isolation, each of the foregoing facts may not rise to a questionable level, taken together, they seriously undermine the independence and objectivity necessary for the Authority to rely upon the representation of PWC. Therefore, a majority of the Directors found that this evidence was indicative of a relationship between BellSouth and PWC that lacked independence and objectivity.

¹⁰¹ PWC's review was limited to a single month.

¹⁰² See *OSS Docket* (Transcript of Hearing, December 5, 2002, pp. 156-57).

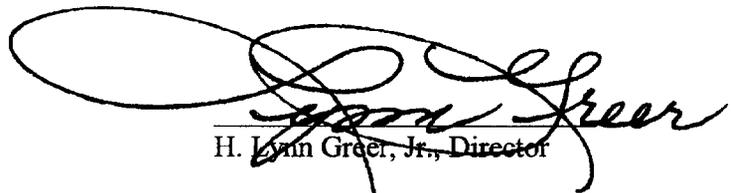
IT IS THEREFORE ORDERED THAT:

1. The Authority hereby takes judicial notice of notice of the FCC order released on May 15, 2002 approving BellSouth's application pursuant to 47 U.S.C. § 271 for interLATA authority in Georgia and Louisiana.

2. BellSouth failed to satisfy its burden of establishing that its pre-ordering, ordering, provisioning, maintenance and repair and billing systems are regional.

* * * * *

Sara Kyle, Chairman¹⁰³



H. Lynn Greer, Jr., Director



Melvin J. Malone, Director

ATTEST:



K. David Waddell, Executive Secretary

¹⁰³ Chairman Kyle did not vote with the majority on the findings that BellSouth's OSS was not regional. During deliberations, she stated:

Based on, number one, the evidentiary record of OSS, number two, my judgment, and number three, the approval of Georgia's and Louisiana's 271 application by the Federal Communications Commission, it is my vote that Bell's OSS meets the requirements of Sections 251 and 252 of the federal act and fulfills our charge from the Tennessee General Assembly to promote competition in Tennessee. This would be another step toward 271, which I feel would be of great benefit to Tennessee consumers.

TRA Exhibit 1

Docket No. 01-00362

"Percent Flow-Through" for Local Number Portability

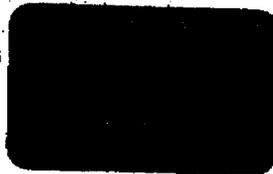
Date	Former South Central Bell States					Former Southern Bell States			
	Tennessee	Kentucky	Alabama	Mississippi	Louisiana	Georgia	Florida	N. Carolina	S. Carolina
March-01	64.08	65.09	66.67	50.00	80.80	94.91	89.08	89.86	56.19
April-01	64.26	62.41	63.64	33.33	77.78	92.90	89.28	76.73	88.31
May-01	62.72	64.78	27.27	75.00	90.00	94.51	91.54	73.13	75.34
June-01	71.89	66.19	66.67	33.33	62.50	95.39	92.12	82.38	75.88
July-01	71.76	90.93	26.92	66.67	62.22	88.07	88.37	82.56	79.29
August-01	64.11	95.05	69.23	50.00	71.88	86.28	83.88	80.22	65.99
September-01	71.79	93.60	66.67	50.00	82.17	90.83	85.71	78.25	87.39
October-01	84.18	94.62	79.31	33.33	84.07	94.18	86.81	75.06	73.49
November-01	85.19	90.44	87.23	33.33	80.50	96.23	90.04	80.80	88.96
December-01	83.48	92.50	80.00	14.29	83.15	94.36	85.67	89.71	86.71
2001 Average	72.33	82.58	63.36	43.99	77.43	92.77	88.26	76.87	79.76

Date	Regional Averages*			BST-defined
	South Central	Southern	BellSouth	Region**
March-01	69.17	77.51	72.88	89.32
April-01	66.28	86.81	75.40	80.28
May-01	69.95	83.63	76.03	90.65
June-01	66.08	86.44	75.13	91.61
July-01	63.70	84.57	72.98	86.36
August-01	70.05	84.09	78.29	84.40
September-01	72.89	85.55	78.51	86.96
October-01	75.10	82.39	78.34	89.09
November-01	76.34	89.01	81.41	91.24
December-01	70.68	84.11	76.65	87.62
2001 Average	69.82	84.41	78.36	85.65

* Calculated as the sum of a region's state-specific Percent Flow Through monthly data divided by the region's number of states (i.e., 5, 4, 9).

** Monthly data from BellSouth's response to Interrogatory No. 36.

Source: BellSouth's February 21, 2002, Response to Interrogatory No. 36



TRA Exhibit 1

Docket No. 01-00362

"Percent Flow-Through" for Local Number Portability

Date	Differences in "Percent Flow-Through" Rates						
	TN-LA	TN-GA	TN-FL	South-TN	uth-LA	th-GA	South-FL
March-01	-15.91	-30.82	-24.99	8.79	-7.12	-22.03	-18.20
April-01	-13.53	-28.85	-25.03	11.15	-2.38	-17.50	-13.88
May-01	-27.28	-31.79	-28.82	13.31	-13.97	-18.48	-15.51
June-01	9.19	-23.70	-20.43	3.44	12.63	-20.26	-18.99
July-01	9.54	-16.31	-18.61	1.22	10.76	-15.08	-15.39
August-01	-7.77	-22.17	-19.77	12.18	4.41	-9.99	-7.59
September-01	-10.38	-19.04	-13.92	6.72	-3.66	-12.32	-7.20
October-01	0.11	-10.00	-2.63	-5.84	-5.73	-15.84	-8.47
November-01	4.89	-11.04	-4.85	-3.78	0.91	-14.82	-8.63
December-01	0.33	-10.88	-2.19	-6.83	-6.50	-17.71	-8.02
2001 Average	-6.19	-20.44	-15.92	4.04	-1.06	-16.48	-11.89

Date	Differences in "Percent Flow-Through" Rates				
	Region"-BellSouth	Region"-TN	Region"-LA	Region"-GA	Region"-FL
March-01	16.44	25.23	9.32	-5.59	0.24
April-01	13.88	25.03	11.50	-3.62	0.60
May-01	14.62	27.93	0.65	-3.86	-0.89
June-01	16.48	19.92	29.11	-3.78	-0.51
July-01	13.38	14.60	24.14	-1.71	-2.01
August-01	8.11	20.29	12.52	-1.88	0.62
September-01	8.46	15.17	4.79	-3.87	1.25
October-01	10.75	4.91	5.02	-5.08	2.28
November-01	9.83	6.05	10.74	-4.99	1.20
December-01	10.97	4.14	4.47	-6.74	1.95
2001 Average	12.29	16.33	11.23	-4.11	0.46

Source: BellSouth's February 21, 2002, Response to Interrogatory No. 36

TRA Exhibit 1

Docket No. 01-00362

"Percent Flow-Through" for Local Number Portability

Single Variable Correlation Coefficients

	TN	KY	AL	MS	LA	GA	FL	NC	SC	BellSouth	"Region"
TN	1.00										
KY	0.08	1.00									
AL	0.58	-0.06	1.00								
MS	-0.83	-0.05	-0.85	1.00							
LA	0.13	-0.08	0.19	-0.04	1.00						
GA	0.37	-0.19	0.34	-0.41	0.42	1.00					
FL	-0.16	-0.08	-0.33	0.20	-0.10	0.83	1.00				
NC	0.02	0.38	-0.12	0.17	-0.72	-0.41	0.12	1.00			
SC	0.29	0.49	0.20	-0.30	-0.02	-0.28	-0.32	0.42	1.00		
BellSouth	0.64	0.30	0.59	-0.37	0.46	0.28	-0.18	0.15	0.56	1.00	
"Region"	0.17	-0.05	0.10	-0.18	0.20	0.91	0.87	-0.09	-0.26	0.20	1.00

TRA Exhibit 1

Docket No. 01-00382

"Percent Flow-Through" for Local Number Portability

scriptive Statistic	Tennessee	Kentucky	Alabama	Mississippi	Mississippi	Georgia	Florida	N. Carolina	S. Carolina
Mean	72.33	92.58	63.36	43.93	77.43	92.77	88.25	76.87	79.78
Standard Error	2.84	1.02	6.50	5.70	2.90	1.05	0.85	1.52	3.22
Median	71.73	93.15	66.87	41.67	80.25	94.27	88.73	77.49	82.64
Standard Deviation	8.97	3.21	20.54	18.02	9.18	3.32	2.69	4.82	10.18
Sample Variance	80.47	10.33	422.09	324.55	84.28	10.99	7.23	23.21	103.64
Range	22.47	11.10	60.31	60.71	27.78	9.95	8.24	12.84	32.77
Minimum	62.72	85.08	26.92	14.29	62.22	86.28	83.88	69.71	56.19
Maximum	85.19	96.19	87.23	75.00	90.00	96.23	92.12	82.55	88.98

scriptive Statistic	South Central	Southern Bell	South "Region"
Mean	69.92	84.41	76.36
Standard Error	1.22	0.97	0.82
Median	70.00	84.34	76.16
Standard Deviation	3.84	3.07	2.59
Sample Variance	14.76	9.43	6.70
Range	11.64	11.50	8.54
Minimum	63.70	77.51	72.88
Maximum	75.34	89.01	81.41

Source: BellSouth's February 21, 2002, Response to Interrogatory No. 36

TRA Exhibit 1

Docket No. 01-00362

"Percent Flow-Through" for Local Number Portability

Ordinary Least Squares Regression Analysis

Dependent Variable: Percent Flow-Through

Variable	Interpretation Aid	DF	Estimate	Std. Error	t-Value	Pr > t
Intercept	all else = 0	1	68.8403	5.0162	13.7200	<.0001
AL	relative to TN	1	-8.9650	5.0162	-1.7800	0.0781
GA	relative to TN	1	20.4400	5.0162	4.0700	0.0001
FL	relative to TN	1	15.9240	5.0162	3.1700	0.0022
KY	relative to TN	1	20.2530	5.0162	4.0400	0.0001
LA	relative to TN	1	5.1010	5.0162	1.0200	0.3128
MS	relative to TN	1	-28.3980	5.0162	-5.6600	<.0001
NC	relative to TN	1	4.5430	5.0162	0.9100	0.3681
SC	relative to TN	1	7.4290	5.0162	1.4800	0.1430
APR	relative to March	1	2.5267	5.2875	0.4800	0.6342
MAY	relative to March	1	3.1533	5.2875	0.6000	0.5528
JUNE	relative to March	1	2.2511	5.2875	0.4300	0.6716
JULY	relative to March	1	0.0989	5.2875	0.0200	0.9851
AUG	relative to March	1	3.4167	5.2875	0.6500	0.5202
SEPT	relative to March	1	5.6356	5.2875	1.0700	0.2901
OCT	relative to March	1	5.4822	5.2875	1.0300	0.3050
NOV	relative to March	1	8.5367	5.2875	1.6100	0.1108
DEC	relative to March	1	3.7756	5.2875	0.7100	0.4775

Source	DF	Sum of Sq	Mean Sq
Model	17.0000	19779.0000	1163.4496
Error	72.0000	9058.3889	125.8109
Corrected Total	89.0000	28837.0000	

Root MSE	11.2166
Dependent Mean	76.3623
Coeff Var	14.6886

F Value	9.25
Pr > F	<.0001
R-Sq	0.6859
Adj R-Sq	0.6117

Source: BellSouth's February 21, 2002, Response to Interrogatory No. 36

Acronyms

ACD = Automatic Call Distributor

ADUF = Access Daily Usage File

AFIG = Address Facility Inventory Group, located in Nashville performs the assignment functions and maintain records for copper cable and fiber facilities for Tennessee.

ATLAS (Application for Telephone number Load, Assignment and Selection): System that provides numbers for selection for telephone service.

ATLAS DID = Provides telephone numbers for Direct Inward Dialing

ATLAS MH = Provides telephone numbers for Multi-Line Hunting

BBR LO = BellSouth Business Rules for Local Ordering

BDATS = Billing Dispute Activity Tracking System (BellSouth management relies on reports generated by BDATS to track the volume of disputes and uses the information to make staffing decisions.)

BIBS = BellSouth Industrial Billing System:

We have customer records information system, or CRIS; the carrier access billing system, CABS; and a system called BIBS, which is the BellSouth industrial billing system, which is used to bill for unbundled network element usage. We use those systems to provide invoices and usage data to CLECs. These systems are physically processed in two data centers. One of those centers is in Birmingham which produces bills for Tennessee, Georgia, Alabama, Kentucky, Louisiana, and Mississippi. The other is in Charlotte, North Carolina. That center is used to produce bills and billing information for Florida, North Carolina, and South Carolina. To effectively manage the massive amounts of data processing required to keep the daily billing cycles running, customer accounts are actually segregated into twelve separate sets of databases depending on the state in which that account resides. Because of this, multiple occurrences of billing software are processed in parallel utilizing all of these databases; however, all of the software versions of CRIS, CABS, and BIBS are identical to each other and they are run on the same hardware for all states.¹

...BIBS was added as an additional enhancement to provide CLECs with switch port usage.²

While the underlying logic for CRIS, CABS and BIBS is the same throughout the nine states served by BellSouth, state-specific and CLEC-specific differences within the systems are necessary due to account for such things as:

- different rates for products between states;
- varying tax rules that may be adopted by state and local governments;
- differences in the tariffs that have been approved by the Commissions;
- CLEC-specific differences in product rates or resale discounts.

¹ Testimony of David Scollard from Transcript of Hearing, December 6, 2001, pp. 101-102.

² Prefiled Direct Testimony of David Scollard, filed October 22, 2001, p. 4.

ATTACHMENT

A

Acronyms

To account for these differences, the reference tables BellSouth uses in its billing systems must carry state-specific and CLEC-specific information. However, the systems and processes used to maintain these tables, regardless of the state, are the same as those successfully tested in Georgia.³

Q. Okay. So what functions will that new [T]apestry or IBS perform that are currently being performed by another system?

A. There are several, I guess. First, the system I described as BIBS will be replaced and the usage for unbundled switchboards will actually go through the new system.⁴

BOCABS = Business Office Carrier Access Billing System⁵ (?)

BOCRIS = Business Office Customer Record Inquiry System. An interface used within BellSouth to access CRIS and SOCS records from a single (non-windowing) terminal. (Provides service order information including Name, Address, Class of Service, Maintenance Plan, Restrictions, Features and Preferred Interexchange Carrier [PIC].): "The LCSC accesses the Business Office Customer Record Inquiry System ("BOCRIS") to obtain the CSR."⁶

BRITE = BellSouth Response Information Tracking Enabler

CABS = Carrier Access Billing System

CAFE = Common Access Front End (CAFE): A Web-based GUI to order trunks. CAFE sends ASRs to EXACT, the mainframe ordering system for ASRs.⁷

CCSS = Common Channel Signaling System

CDIA = Corporate Document and Information Access System - The BellSouth Electronic Library Service ("BELS") and the Corporate Document and Interface Access ("CDIA") systems offer web access to the documents relating to Network methods and procedures, as well as vendor related documents.

CO-FWG = Central Office - Frame Work Group

CONNECT:Direct = an electronic data feed available as either DIAL in or private line at speeds from 9.6KB to 56KB.

Through the capabilities provided by CABS, BellSouth provides bills to its IXC and retail customers in either an industry-developed print image format or in the OBF-developed Billing Data Tape (BDT) format. Print image bills can be obtained on paper, diskette or CD-ROM. BDT records can be delivered via magnetic tape (tape reels or cartridges) or Connect:direct transmission (point-to-point dedicated line data transfer).⁸

³ Prefiled Direct Testimony of David Scollard, filed October 22, 2001, p. 28.

⁴ Testimony of David Scollard from Transcript of Hearing, December 6, 2001, p. 108.

⁵ Staff assumes that this is the meaning of this acronym, although it does not appear in any testimony, nor was it addressed during the hearing.

⁶ Prefiled Direct Testimony of Ken Ainsworth, filed October 22, 2001, p. 25.

⁷ Prefiled Direct Testimony of Ronald Pate, filed October 22, 2001, p. 150.

⁸ Prefiled Direct Testimony of David Scollard, filed October 22, 2001, p. 17.

Acronyms

CMTS = Cable Modem Termination System

COSMOS (Computer System Mainframe Operations): Operations system designed to inventory and assign central office switching equipment and related facilities.⁹

CPG = Circuit Provisioning Group:

There is a Circuit Provisioning Group ("CPG") located in Nashville that designs and maintains records of facilities used for special services. The functions of the CPG are divided into low speed (less than DS1) and high capacity (DS1 and greater). The CPG designs low speed circuits and high capacity circuits. The CPG in Tennessee reports to a Director level in Tennessee, just as the CPG in Georgia reports to a Director level in Georgia. Those Directors then report to the Network Vice President for their respective state. All Network Vice Presidents report to the same Executive Vice President.¹⁰

CRIS = Customer Records Information System

CRSG = Complex Resale Support Group

CSOTS = CLEC Service Order Tracking System:

BellSouth utilizes a number of both on-line tools and centers to provide timely status information to CLECs. The CLEC Service Order Tracking System ("CSOTS") became available to CLECs in December 1999. This web-based electronic interface allows CLECs to view the status and SOCS image (excluding Remarks and Assignments) of their electronically and manually submitted service orders in SOCS. This tracking system is designed to provide CLECs with the capability to view service orders, determine order status, and track service orders.¹¹

The CLEC Service Order Tracking System User's Guide is available at the Interconnection Web site and at the CSOTS Web site. A copy of the guide is attached as Exhibit OSS-28. A computer-based tutorial for new users is also available at the CSOTS site.¹²

BellSouth performed internal user acceptance testing (UAT) of CSOTS on October 21, 1999. This test demonstrated that CSOTS was functionally ready for CLEC testing. In addition, five CLECs participated in a carrier-to-carrier Beta test of CSOTS during October 25-29, 1999. The Beta test demonstrated that CSOTS was ready for use in full production.¹³

⁹ Prefiled Direct Testimony of Alfred Heartley, filed October 22, 2001, p. 13.

¹⁰ Prefiled Direct Testimony of Alfred Heartley, filed October 22, 2001, p. 8.

¹¹ Prefiled Direct Testimony of Ken Ainsworth, filed October 22, 2001, p. 33.

¹² Prefiled Direct Testimony of Ronald Pate, filed October 22, 2001, p. 33.

¹³ Prefiled Direct Testimony of Ronald Pate, filed October 22, 2001, p. 156.

Acronyms

[A] CLEC desiring more information on retrieving service order lists for posted orders needs only to review BellSouth's Web-based CLEC Service Order Tracking System ("CSOTS") User Guide. The same procedure is used whether the CLEC is accessing service order lists for Tennessee or specific end-users in any other state. In fact, a CLEC serving end users in multiple BellSouth states can retrieve a service order list for the entire region. If a list is desired for one or more of the individual states, the CLEC can then request a separate service order list for each state by clicking the Web option for such a list.¹⁴

CTG = Complex Translations Group

CWINS = Customer Wholesale Interconnect Network Services Center – "A single CWINS Center tracks and dispatches all CLEC Special Service orders and Special Service trouble tickets for all nine BellSouth states."¹⁵

A transaction from TIRKS also creates the control steps that are tracked by the CWINS Center. The work steps are tracked in the CWINS Center using WFA/C. Upon completion of the order by the Central Office Operations and I&M forces, WFA/DI and WFA/DO send a completion transaction to WFA/C. The CWINS Center then works with the CLEC on acceptance testing and order close-out. Once closed, the order is posted to the various systems to complete the process.¹⁶

DLR = Design Layout Record; also LMOS Display Line Record (displays the customer's Line Record in LMOS)

DOE = Direct Order Entry, used by BellSouth service representatives for service order entry in Florida, Georgia, North Carolina, and South Carolina.¹⁷

DSAP = Distributed Support Application

CLECs obtain due date calculations by initiating either a pre-order or a firm order request that contains the information required to obtain a due date calculation. BellSouth's response to the CLEC provides the due date calculation based upon established timelines governing the provision of the type of service ordered. The CLEC query is submitted through TAG to the DSAP for the specific central office serving that end user customer's telephone number.¹⁸

¹⁴ Prefiled Direct Testimony of Ronald Pate, filed October 22, 2001, p. 186.

¹⁵ Prefiled Direct Testimony of Alfred Heartley, filed October 22, 2001, p. 8.

¹⁶ Prefiled Direct Testimony of Alfred Heartley, filed October 22, 2001, p. 16.

¹⁷ Prefiled Direct Testimony of Ken Ainsworth, filed October 22, 2001, p. 28.

¹⁸ Prefiled Direct Testimony of Ronald Pate, filed October 22, 2001, p. 90.

Acronyms

The LSR for a stand-alone loop is distributed to the service representative to begin service order processing. The service representative verifies the LSR for accuracy and completeness, and types information from the document into DOE or SONGS, which then processes the LSR into SOCS. The service representative ensures that the order processes to AO or Pending ("PD") status, correcting errors detected in mechanized processing, if necessary. A FOC is transmitted to the CLEC via an electronically generated facsimile. CSOTS is manually updated with order numbers, due dates, the date and time the FOC was transmitted to CLEC, and any remarks. LSRs for UNE Loops associated with LNP will be discussed later in my testimony. If the LSR is inaccurate and/or incomplete, notification is transmitted to CLEC via an electronically generated facsimile advising the CLEC that the LSR is in clarification status and the reason for that status. Information related to the LSRs placement in clarification status, e.g., date, time, reason, is typed into CSOTS.¹⁹

EBAG = Electronic Billing Administration Group

ECTA = Electronic Communications Trouble Administration:

BellSouth also offers CLECs the machine-to-machine Electronic Communications Trouble Administration ("ECTA") Gateway which provides access to BellSouth's maintenance OSS supporting both telephone-number and circuit-identified services (i.e., designed and non-designed services). It supports both resold services and UNEs. To date, BellSouth has built five ECTA interfaces for CLECs. Two of those five are currently conducting various levels of testing, and one is actively using the ECTA interface. The other two still have the capability to access ECTA, but apparently have chosen not to do so for their own internal business reasons.²⁰

BellSouth gives CLECs electronic access to its maintenance and repair OSS in a manner that far exceeds what is provided by the Web-based graphical user interface ("GUP") that Bell Atlantic had in place when it was approved by the FCC in December 1999.²¹

EDI = Electronic Data Interchange

¹⁹ Prefiled Direct Testimony of Ken Ainsworth, filed October 22, 2001, pp. 69-70.

²⁰ Prefiled Direct Testimony of Ronald Pate, filed October 22, 2001, p. 23.

²¹ Prefiled Direct Testimony of Ronald Pate, filed October 22, 2001, p. 160.

Acronyms

EXACT = Exchange Access Control and Tracking System.²²

The service representative in the LCSC inputs manually-submitted LSRs for Designed services into the Exchange Access Control and Tracking system ("EXACT") If the LSR comes in electronically and LESOG cannot issue the order, then it falls out for manual handling and the service representative issues the LSR through EXACT. The entry of the order is accomplished in substantially the same manner for both the retail and the resale/UNE situations, whether the customer belongs to a CLEC or BellSouth. Thus, it is the same customer "experience" in either case. After the service order is entered, the account team and project manager are notified by e-mail of the service order numbers and due dates. They follow up with the service centers and the end user customer or CLEC as necessary. These processes, with their substantial reliance on manual handling and paper forms, are common to both retail and CLEC complex orders. Thus, BellSouth provides to CLECs the ability to order complex services in substantially the same time and manner as it provides this ability to its retail customers and retail service representatives.²³

FACS (Facility Assignments and Control System): An online system which maintains inventories and provides automatic assignment of outside plant and central office facilities. Its modules are LFACS and SOAC.²⁴

FOMS/FUSA = Frame Operations Management System)/(Frame User assignment System Access: Stand-alone component of the SWITCH system which provides central office frame force administration and work packages.²⁵

ISO = International Standards Organization

LCSC = Local Carrier Service Center

LEO = Local Exchange Ordering System²⁶

LEO IG = Local Exchange Ordering Implementation Guide

LFACS = Loop Facility Assignment and Control System: An on-line system that performs loop plant and central office facility assignments or inventory functions.²⁷

LISC = Local Interconnection Service Center

LMOS = Loop Maintenance Operations System. BellSouth OSS used for non-designed (POTS) trouble report management

²² Prefiled Direct Testimony of Ken Ainsworth, filed October 22, 2001, p. 57.

²³ Prefiled Direct Testimony of Ronald Pate, filed October 22, 2001, pp. 149-150.

²⁴ Prefiled Direct Testimony of Alfred Heartley, filed October 22, 2001, p. 13.

²⁵ Prefiled Direct Testimony of Alfred Heartley, filed October 22, 2001, p. 13.

²⁶ Prefiled Direct Testimony of Ken Ainsworth, filed October 22, 2001, p. 10.

²⁷ Prefiled Direct Testimony of Alfred Heartley, filed October 22, 2001, p. 13.

Acronyms

LNP Gateway = The LNP Gateway is the major link in the LNP process because it supports both internal and external communications with various interfaces and processes, including the link between BellSouth and the CLECs for the electronic ordering of LNP. The electronic pre-ordering steps for LNP are the same as those for other UNEs and resale services. A clean and correct LSR for LNP is transmitted from the EDI or TAG ordering interface, then to the EDI or TAG gateways, and then to the LSR Router. The LSR Router sends LSRs for LNP to the LNP Gateway where error checks are performed for accuracy, completeness, and format. If an error is found, a reject notification is returned to the CLEC via EDI or TAG. If no errors are detected, the LSR is sent to LAUTO ("LNP Automation") for further processing. LAUTO interfaces with other BellSouth OSS to further check the LSR for validity. If an error is found, the error is recorded in the LNP Gateway database, and a clarification is returned to the CLEC. If LAUTO detects no errors and the LSR is eligible for mechanization, a service order is mechanically generated and transmitted to SOCS.²⁸

For LSRs submitted electronically, CLECs receive completion notifications ("CNs") after a service order has been posted as complete in SOCS. A completion notification includes the date on which the order was completed. When SOCS is notified by downstream systems that an order has been completed, SOCS returns the completion notification to LEO. LEO then sends the completion notification electronically to the CLEC through EDI, TAG, or LENS, depending on which interface was used to submit the order. Except in the case of xDSL-compatible loops, which are sent back via SGG. In the case of LNP, the completion notification is returned via the LNP Gateway.²⁹

LON = Local Order Number Tracking System (system used by LCSC)

LQS = Loop Qualification System

LSOG = Local Service Ordering Guidelines

M&P = Methods and Procedures

M&R = Maintenance and Repair

MLT = Mechanized Line Test

²⁸ Prefiled Direct Testimony of Ronald Pate, filed October 22, 2001, p. 134.

²⁹ Prefiled Direct Testimony of Ronald Pate, filed October 22, 2001, p. 153.

Acronyms

MOBI = Mechanized On-Line Billing System:

To determine the accuracy of orders input into DOE and SONGS, PwC reviewed the history log files maintained in SOCS. PwC documented the orders that experienced downstream system edit errors, which had to be subsequently corrected by a BellSouth service representative. PwC was unable to review SOCS history log files for some orders due to a change in the original order due date which resulted in an earlier completion of the order. The completed order history is purged from SOCS the day after an order completes. In these cases, PwC observed the final status of the order within the Mechanized On-line Billing System ("MOBP"). This allowed them to determine if the order had completed, was in pending status or had been cancelled.³⁰

MTR = Multiple Trouble Reports

NISC = Network Infrastructure Support Center (includes AFIG, CPG, CTG, TCG and RCMAG)

NSDB (Network Services Database): Stores data received from the TIRKS system and SOAC system, distributes data to operations systems such as WFA/C, and receives completions and updates from WFA/C.³¹

OBF = Ordering and Billing Forum, an industry group hosted by the Alliance for Telecommunications Industry Solutions (ATIS)

ODUF = Optional Daily Usage File

OPS-INE = Operating System-Intelligent Network Element Group

ORBIT = On-line Reference By Intranet Technology

PMAP = Performance Management and Analysis Platform

Predictor = Identifies & verifies line features on the customer's line

RCMAG = Recent Change Management Administration Group. BellSouth's work center for administering vertical services translations in central offices.

RNS = Regional Negotiation System³²

RoboTAG =

RoboTAG™ was not available at the time the Georgia test was developed. RoboTAG™ is a stand-alone product, which BellSouth sells to CLECs that choose not to develop applications to interact with the TAG gateway on their own. Currently, there are 337 CLECs/OCNs using LENS and 6 CLECs using RoboTAG™.³³

ROS = Regional Ordering System³⁴

RSAG = Regional Street Address Guide: System used by service centers during order negotiation to provide address validation.

³⁰ Prefiled Direct Testimony of Milton McElroy, filed October 22, 2001, pp. 108-109.

³¹ Prefiled Direct Testimony of Alfred Heartley, filed October 22, 2001, p. 13.

³² Prefiled Direct Testimony of Ronald Pate, filed October 22, 2001, p. 186.

³³ Prefiled Direct Testimony of Milton McElroy, p. 80.

³⁴ Prefiled Direct Testimony of Ronald Pate, filed October 22, 2001, p. 186.

Acronyms

SOAC = Service Order Analysis & Control: Transfers service orders into assignment requests that it sends to LFACS for outside plant assignments and/or to COSMOS/SWITCH for central office assignments. Formats the assignment responses from LFACS and COSMOS/SWITCH into assignments and passes them to Service Order Communications System for distribution.

Excerpt from GA Master Test Plan (Exhibit MM4 of McElroy's Prefiled Direct Testimony):

2.1.2 Provisioning (Resale)

The provisioning process begins once SOCS produces a complete and accurate service order. Once SOCS receives the order information, it is transmitted to the Service Order Analysis & Control System (SOAC). SOAC determines which downstream assignment and control systems require information necessary to complete order provisioning, based on information contained in the service order.³⁵

SOCS = Service Order Control System. Used by BellSouth to keep track of the local service order process.

SONGS = Service Order Negotiation System, used by BellSouth service representatives for service order entry in Alabama, Kentucky, Louisiana, Mississippi, and Tennessee.³⁶

SWITCH: (Not an acronym) Operations system that provides assignment and record-keeping functions to manage central office equipment, main distribution frames, facilities, and circuits.³⁷

TAFI = Trouble Analysis Facilitation Interface. Man-to-machine interface used to process non-designed customer trouble reports.

TAG = Telecommunications Access Gateway

³⁵ Prefiled Direct Testimony of Milton McElroy, Exhibit MM4 (GA Supplemental Test Plan Final Report, filed October 22, 2001, p. IV-6.

³⁶ Prefiled Direct Testimony of Ken Ainsworth, filed October 22, 2001, p. 28.

³⁷ Prefiled Direct Testimony of Alfred Heartley, filed October 22, 2001, p. 13.

Acronyms

Tapestry:

During November and December, 2001, BellSouth plans to upgrade portions of the billing systems used to bill CLECs for unbundled switch ports and port / loop combinations (including the UNE-P). This effort has been referred to in certain venues as the "Tapestry" project. BellSouth refers to this initiative as the "Integrated Billing Solution" (IBS). The changes will involve usage processing functions currently being performed by BIBS, the calculation of charges for these products currently provided within CRIS today, and accounts receivable and financial tracking internal to BellSouth. The upgrade will also provide a flexible bill formatting tool for BellSouth to use in implementing OBF-directed changes to the bill formats for switch ports as well as different tools for the Service Reps to use in better serving the CLECs. Billing information currently provided to CLECs, i.e. Daily Usage Files, OBF compliant bill formats, CSR data and Billing Data Transmissions, will continue to be provided in compliance with industry formats and standards. The current schedule (subject to change driven by the results of system testing or other implementation concerns) calls for IBS to be implemented in Mississippi, Georgia and Florida by the end of 2001. Implementation in the remaining states in BellSouth's region is scheduled to be completed in 2002.³⁸

TCG = Trunking Carrier Group

TIRKS = Trunk Inventory Record Keeping System: A number of mechanized conversion, interim, and ongoing inventory and assignment systems for facility equipment and circuit information used in trunks and Special Services operations.³⁹

WFA = Work Force Administration:

[T]he issuance of a SOCS order and generation of an engineering design for a complex designed resale service causes the Work Force Administration ("WFA") system to generate a work activity schedule. The Overall Control Office ("OCO") which is responsible for the end-to-end provisioning and processing for designed coordinated services, utilizes WFA to track critical date activities through completion of the service order. The WFA system also loads work steps to the appropriate central office and field operations for work activities related to the service order. Complex services meeting project management criteria are assigned to a Project Manager, who verifies the service order accuracy, and tracks and monitors the order to completion. The ET in the CWINS Center reviews the WFA work lists for assigned critical date activities. Critical dates normally are Screen Date ("SCR"), Frame Continuity Date ("FCD"), and Due Date ("DD"). The ET reviews the order on the assigned critical dates, verifies a correct engineering document, initiates any action that may be necessary for problem resolution, and advises the CLEC of any jeopardy condition that could affect the Due Date. As appropriate, the ET also performs operational tests with the work groups in Network Operations to verify that the service meets designed requirements.

³⁸ Profiled Direct Testimony of David Scollard, filed October 22, 2001, p. 27, footnote 1.

³⁹ Profiled Direct Testimony of Alfred Heartley, filed October 22, 2001, p. 13.

Acronyms

Before contacting BellSouth, the CLEC should first complete an analysis of the end-user's trouble to determine that the problem is in the BellSouth network or facilities before it initiates a maintenance ticket to the CWINS Center. Once a trouble ticket is sent by a CLEC, the MA or ET in the CWINS Center gathers all the pertinent information from the CLEC (including the circuit identification), enters the ticket into the WFA system, and provides the trouble report number and commitment information to the CLEC. All the designed services trouble tickets are generated in the human-to-machine WFA - Control ("WFA/C") interface, which sends the tickets to either the WFA - Dispatch In or WFA - Dispatch Out modules to be worked by either a central office work group or an outside installation and maintenance work group, respectively, except where conditions are resolved up front with the technician.⁴⁰

The issuance of the SOCS order and generation of the designed engineering document causes the WFA system to generate a work activity schedule. The CWINS Center uses this schedule to coordinate the installation, testing, and turn-up of the designed LNE. WFA is the system utilized by the OCO to track critical date activities through completion of the order. The WFA system loads work steps to the appropriate central office and field operations for activities required to complete service order activity.⁴¹

WFA/C = Work and Force Administration / Control: Directs and tracks the flow of work items to WFA/DI and WFA/DO. WFA/C facilitates communication between the WFA systems and external systems⁴²

WFA/DO = Work and Force Administration / Dispatch Out: Loads, prioritizes, and schedules work assignments of outside POTS and Special Services installation and maintenance technicians, and provides on-line tracking and status of work requests and technicians.⁴³

WFA/DI = Work and Force Administration / Dispatch In: Loads, prioritizes, and schedules work assignments of central office technicians, and provides on-line tracking and status of work requests and technicians.⁴⁴

WMC = Work Management Center - POTS service orders and trouble tickets are tracked and dispatched from the WMC located in Knoxville that performs the work management functions for Tennessee.

WFA Log Notes = "Upon completion of the cutover activity, the CLEC is notified. Log notes are entered into WFA as part of the conversion process. These log notes are time stamped in the WFA system."⁴⁵

⁴⁰ Prefiled Direct Testimony of Ken Ainsworth, filed October 22, 20001, pp. 46-48.

⁴¹ Prefiled Direct Testimony of Ken Ainsworth, filed October 22, 20001, p. 62.

⁴² Prefiled Direct Testimony of Alfred Heartley, filed October 22, 2001, p. 12.

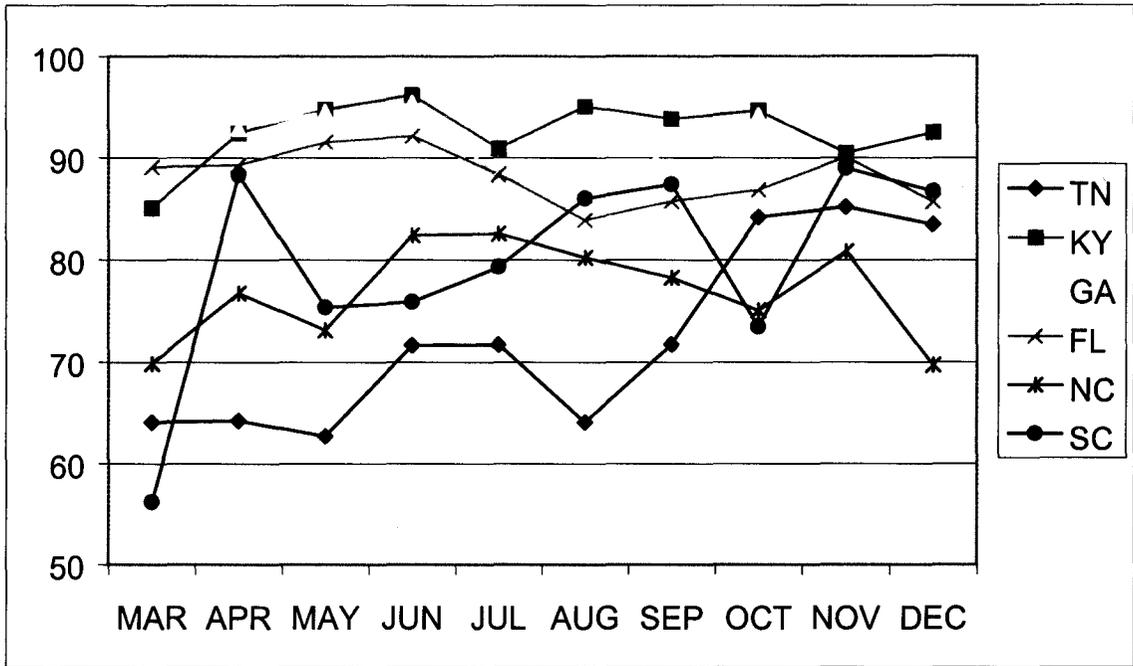
⁴³ Prefiled Direct Testimony of Alfred Heartley, filed October 22, 2001, p. 12.

⁴⁴ Prefiled Direct Testimony of Alfred Heartley, filed October 22, 2001, p. 13.

⁴⁵ Prefiled Direct Testimony of Ken Ainsworth, filed October 22, 20001, p. 63.

ATTACHMENT 34

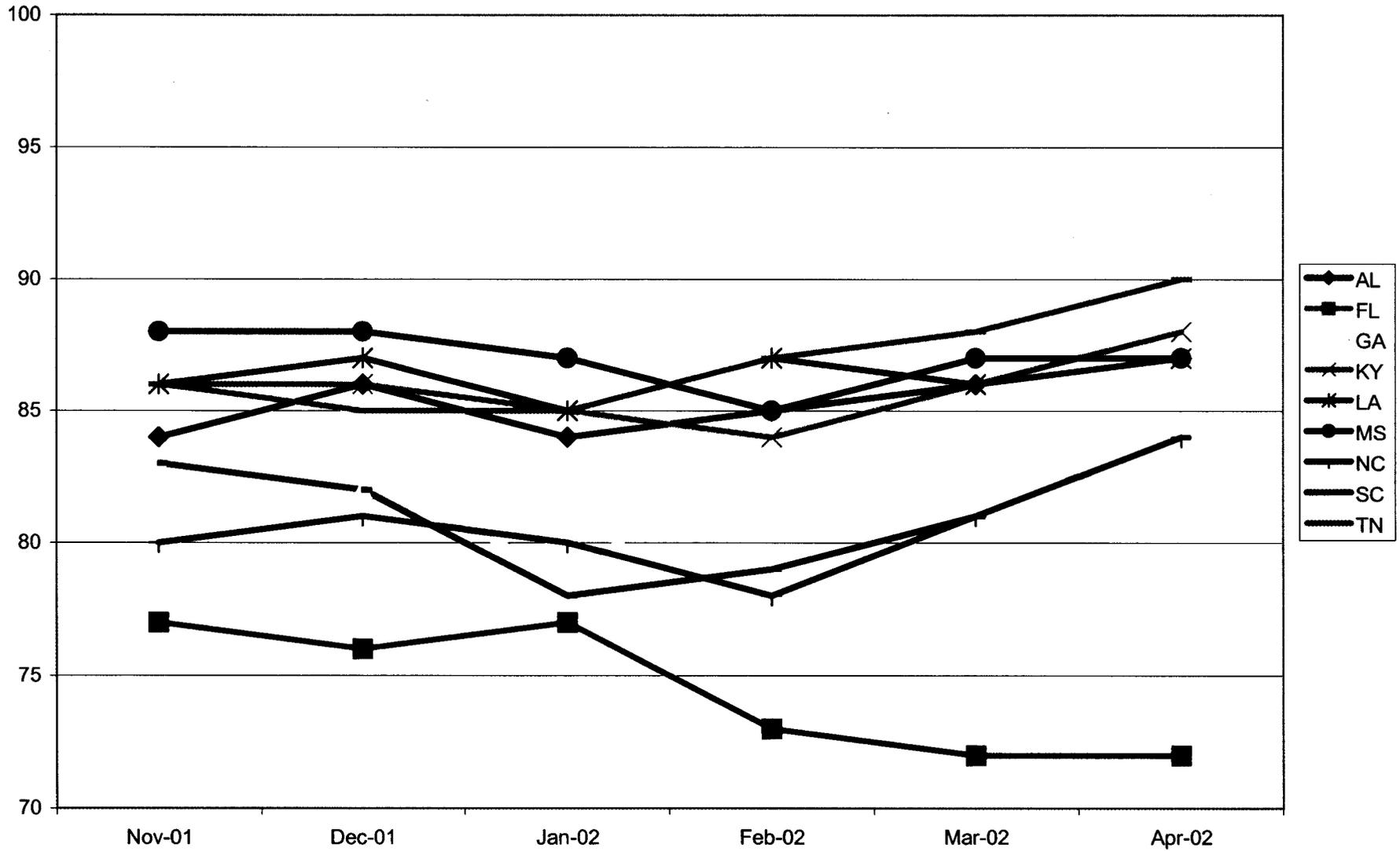
JOINT DECLARATION OF JAY M. BRADBURY
AND SHARON E. NORRIS



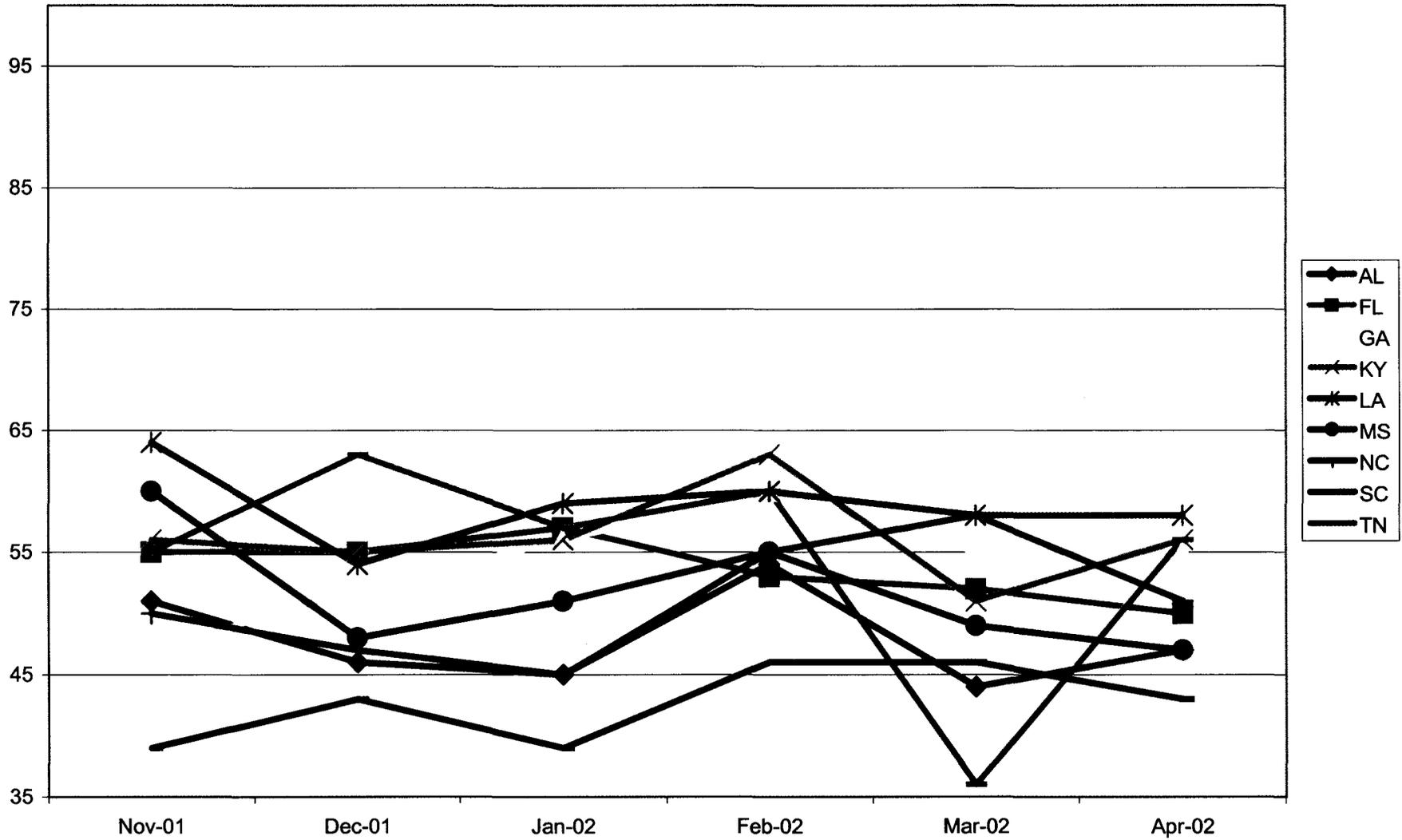
ATTACHMENT 35

JOINT DECLARATION OF JAY M. BRADBURY
AND SHARON E. NORRIS

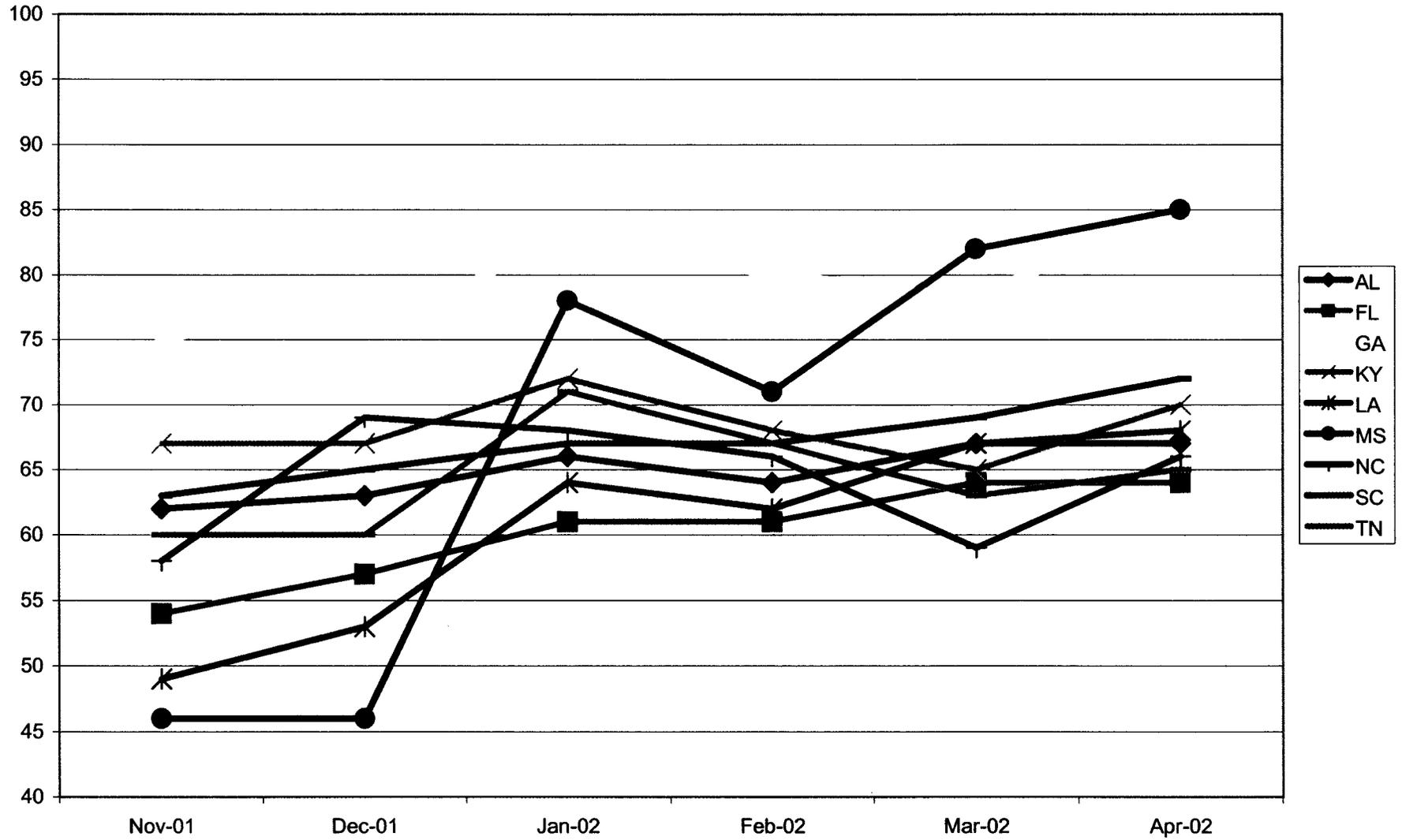
Residence % Achieved Flow Through - State Specific



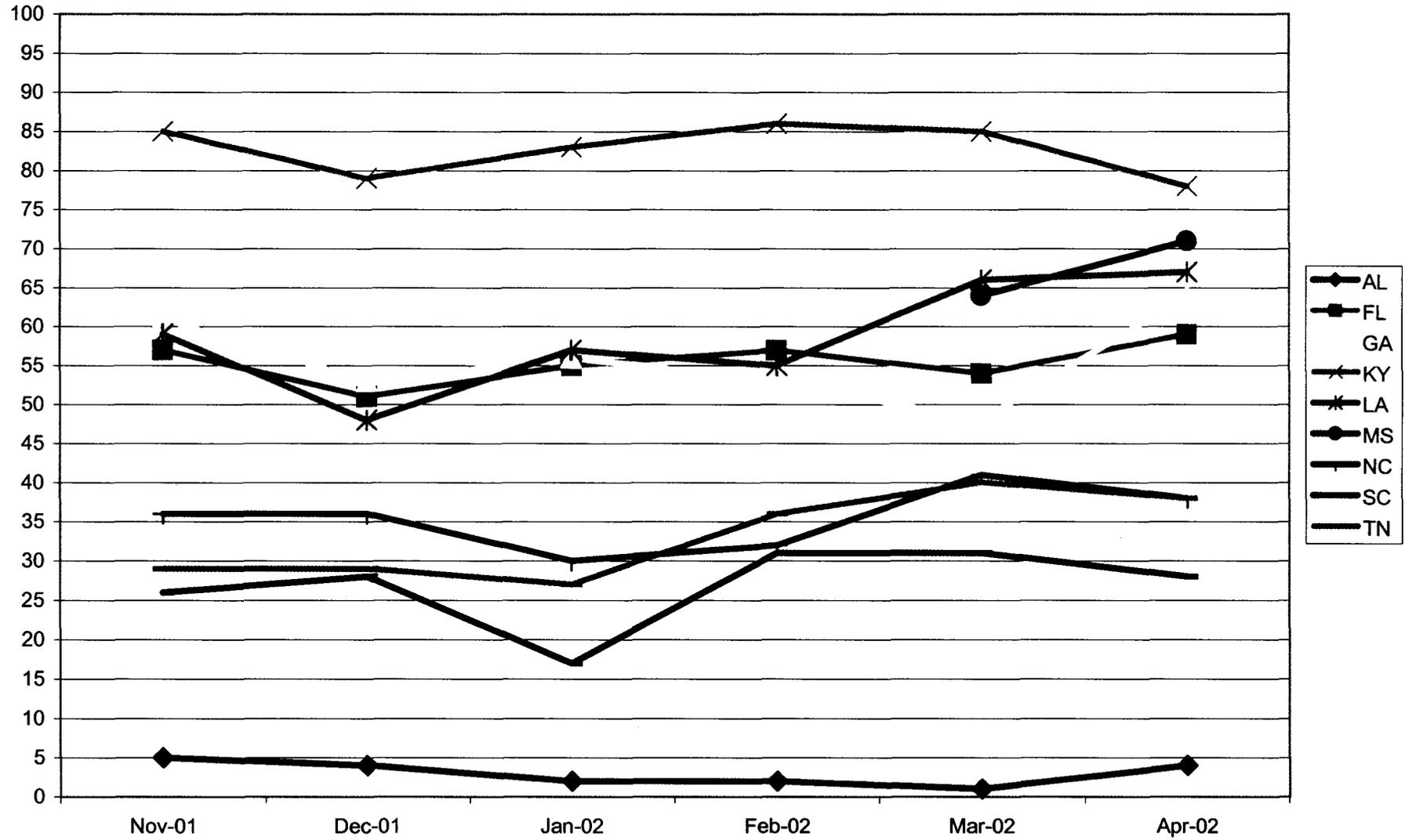
Business % Achieved Flow Through - State Specific



UNE % Achieved Flow Through - State Specific



LNP % Achieved Flow Through - State Specific



State Specific Achieved Flow Through Data
Source - Discovery Responses in TRA Docket NO. 01-00362 and Docket NO. 97-00309

Aggregate % Achieved Flow Through

	Nov-01	Dec-01	Jan-02	Feb-02	Mar-02	Apr-02
AL	79	78	80	80	81	81
FL	72	71	74	70	69	69
GA	77	78	81	81	80	82
KY	80	80	81	80	80	81
LA	82	80	83	83	83	83
MS	82	80	82	78	84	85
NC	72	75	75	74	72	77
SC	79	78	75	76	78	81
TN	79	78	81	80	77	80

Residence % Achieved Flow Through

	Nov-01	Dec-01	Jan-02	Feb-02	Mar-02	Apr-02
AL	84	86	84	85	86	87
FL	77	76	77	73	72	72
GA	83	82	79	83	83	82
KY	86	86	85	84	86	88
LA	86	87	85	87	86	87
MS	88	88	87	85	87	87
NC	80	81	80	78	81	84
SC	83	82	78	79	81	84
TN	86	85	85	87	88	90

Business % Achieved Flow Through

	Nov-01	Dec-01	Jan-02	Feb-02	Mar-02	Apr-02
AL	51	46	45	54	44	47
FL	55	55	57	53	52	50
GA	47	52	56	60	55	55
KY	56	55	56	63	51	56
LA	64	54	59	60	58	58
MS	60	48	51	55	49	47
NC	50	47	45	55	58	51
SC	39	43	39	46	46	43
TN	55	63	57	60	36	56

UNE % Achieved Flow Through

	Nov-01	Dec-01	Jan-02	Feb-02	Mar-02	Apr-02
AL	62	63	66	64	67	67
FL	54	57	61	61	64	64
GA	75	77	82	80	79	83
KY	67	67	72	68	65	70
LA	49	53	64	62	67	68
MS	46	46	78	71	82	85
NC	58	69	68	66	59	66
SC	63	65	67	67	69	72
TN	60	60	71	67	63	65

LNP % Achieved Flow Through

	Nov-01	Dec-01	Jan-02	Feb-02	Mar-02	Apr-02
AL	5	4	2	2	1	4

State Specific Achieved Flow Through Data
Source - Discovery Responses in TRA Docket NO. 01-00362 and Docket NO. 97-00309

FL	57	51	55	57	54	59
GA	61	53	56	53	48	64
KY	85	79	83	86	85	78
LA	59	48	57	55	66	67
MS					64	71
NC	36	36	30	32	41	38
SC	26	28	17	31	31	28
TN	29	29	27	36	40	38

ATTACHMENT 36

JOINT DECLARATION OF JAY M. BRADBURY
AND SHARON E. NORRIS

**Linear Trend of State Specific Percent Flow Through
November 2001 – April 2002**

State	Residence	Business	UNE	LNP
Alabama	+	+	+	+
Florida	-	-	-	+
Georgia	-	+	+	-
Kentucky	flat	-	-	+
Louisiana	flat	-	+	+
Mississippi	-	-	+	-
North Carolina	+	+	+	+
South Carolina	flat	-	+	+
Tennessee	flat	+	+	-
Nine States	2 improving 7 no change or declining	4 improving 5 declining	7 improving 2 declining	6 improving 3 declining
Five States	2 improving 3 no change or declining	2 improving 3 declining	4 improving 1 declining	4 improving 1 declining

This analysis does not concern itself with the level of performance, only the trend in performance over time.

On a nine state basis only 19 of 36 flow through trends are improving and 17 show no change or are declining.

For the five states in this filing only 12 of the 20 flow through trends are improving and 8 show no change or are declining.

Neither the absolute variance in performance between states or the variance in trend directions are consistent with BellSouth's claim that its ordering system is regional or BellSouth's claim that there is widespread and on-going improvement in its flow through performance. The existence of this "commercial data" concerning BellSouth's state specific flow through performance makes the application of the FCC's "sameness" test, which was based upon the absence of such data, inappropriate.