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July 10, 2002

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th St., SW, CY-B402
Washington, DC 20554

RE: In the Matter of Joint Application of BellSouth Corporation, BellSouth Telecommunications, Inc., and BellSouth Long Distance, Inc. for Provision of In-Region, InterLATA Services in Alabama, Kentucky, Mississippi, North Carolina and South Carolina; WC Docket No. 02-150

Dear Ms. Dortch:

Enclosed is the Mississippi Public Service Commission's Consultative Report. The Consultative Report recommends that BellSouth Telecommunications, Inc. be granted authorization under Section 271 of the Telecommunications Act to provide in-region interLATA service in Mississippi.

Sincerely,

George M. Fleming
General Counsel

GMF:cl

Enclosure

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

In the Matter of

Joint Application of BellSouth Corporation, BellSouth Telecommunications, Inc., and BellSouth Long Distance, Inc. for Provision of In-Region, InterLATA Services in Alabama, Kentucky, Mississippi, North Carolina and South Carolina

WC Docket No. 02-150

CONSULTATIVE REPORT OF
THE MISSISSIPPI PUBLIC SERVICE COMMISSION

I. Introduction and Executive Summary

The Mississippi Public Service Commission ("Mississippi Commission") welcomes this opportunity to assist the Federal Communications Commission ("FCC") in its review of BellSouth's pending Section 271 application.

We strongly recommend that the Commission approve BellSouth's application to provide interLATA services originating in Mississippi. Mississippi's local market is irrevocably open to competition, and Mississippi's consumers will benefit considerably if BellSouth's application is granted, as it should be. We base our recommendation on our own investigation of BellSouth's statutory compliance as well as the significant evidence that BellSouth's performance has improved even further in the months since we issued our Final Order recommending Section 271 approval last fall. *See* Final Order, *Consideration of the Provision of In-Region InterLATA Services by BellSouth Telecommunications, Inc. Pursuant to Section 271 of TA 96*, Docket No. 97-AD-321 ("*Final 271 Order*").

While Section 271 contains many technical requirements (all of which, we believe, BellSouth has met), the bottom line here is straightforward. Companies that want to offer Mississippi consumers a choice in local service can do so. We are convinced that today CLECs have a fair chance to win and serve customers in Mississippi. That, in the end, was the question for the Mississippi Commission, and it is (and should be) the question for the FCC. We believe that the FCC will find that the answer to that question is "yes," and we are happy to be able to contribute our unique perspective on market conditions and BellSouth's performance in Mississippi to this proceeding.

We issued our final decision on Section 271 compliance on October 4, 2001. At that time, we unanimously concluded in a 117-page order that BellSouth has satisfied both Track A and the fourteen (14) point competitive checklist. The Mississippi Commission's *Final 271 Order* is in the record of this proceeding, and we now expressly reaffirm the conclusions that we reached there. This Evaluation should be read as a supplement to the *Final 271 Order*, and the FCC is respectfully referred to the *Final 271 Order* for a complete treatment of Section 271 compliance issues.

The conclusions reached in the *Final 271 Order* were the result of a great deal of hard work by the Mississippi Commission and the Public Utilities Staff (Staff). We opened Docket 97-AD-321 to review BellSouth's Section 271 compliance more than five (5) years ago, in June 1997. In November 1998, we issued an order in that docket determining that, based on our then-current understanding of Section 271 requirements, BellSouth had satisfied the competitive checklist.

Since that 1998 decision, we have closely monitored developments under Section 271, including decisions by the FCC fleshing out the details of Section 271 compliance and federal

court opinions interpreting the Telecommunications Act of 1996 ("TA 96"). Additionally, we have reviewed the activities of other state Commissions within BellSouth's region. In this regard, we note that seven state Commissions in BellSouth's region have now independently recommended Section 271 approval, each after holding extensive and open proceedings. By themselves, those consistent recommendations, coupled with the decisions of both the FCC and the Department of Justice in the Georgia/Louisiana proceeding, strongly support the conclusion that BellSouth has now met all legal requirements and that its markets are open to competition. It is hard to imagine that all nine of these independent bodies, including the FCC, uniformly reached the wrong conclusion as to BellSouth's compliance with Section 271.

Having followed developments both at the federal level and in other states, we were well-prepared to evaluate BellSouth's evidence when, on May 22, 2001, the company filed its Notice of Intent to File a Section 271 Application. BellSouth's notice was a comprehensive filing that addressed all aspects of Section 271. It included detailed testimony from ten (10) witnesses, comments outlining BellSouth's compliance with all relevant statutory requirements, proposed performance measure and penalty plans, a new SGAT, and other materials.

We then held an open proceeding in which all interested parties could participate. Numerous interested parties, including AT&T, WorldCom, the Southeastern Competitive Carriers Association ("SECCA"), KMC Telecom, Telepak, and Dixie-Net, filed testimony and/or comments.

Together with the Staff, we then reviewed the very lengthy and detailed record created by the parties, including the concerns that CLECs raised. In our *Final 271 Order*, we discussed those concerns, but ultimately concluded that none created a barrier to statutory compliance. No party sought reconsideration of any part of our order. Under Mississippi law, Mississippi Code

Ann. § 77-3-65, any party was entitled to petition for rehearing if it believed that we overlooked a key point, and AT&T in fact did seek rehearing when we issued our prior Section 271 order several years ago. The absence of such a petition for rehearing following our October 4, 2001 *Final 271 Order* provides added support for our belief that the reasoning in our order is sound and that our ultimate recommendation was and is correct.

As we mentioned above, we have continued to monitor BellSouth's statutory compliance since issuing our October 2001 order. Based on that continued monitoring, we are pleased to report that BellSouth's compliance with Section 271 is even clearer today than it was when we adopted the *Final 271 Order*.

First, in the *Final 271 Order*, we imposed two obligations on BellSouth that, though not conditions of Section 271 compliance, were designed to ensure that BellSouth's systems would improve in ways responsive to CLEC concerns. Those two obligations involved the introduction of a parsed CSR functionality and a "Single C" UNE-Platform conversion process. *See Final 271 Order*, at 43-44, 55-56. BellSouth has now met those requirements in Mississippi. Indeed, in response to CLEC requests, BellSouth has now implemented an enhancement to its parsed CSR so that it now includes hunting features. Significantly, no CLEC has raised any arguments to us alleging that BellSouth's implementation of these improvements is deficient, and BellSouth has provided significant evidence with its current FCC application demonstrating that these enhancements improve the service it is providing to CLECs. *See* Stacy Aff. ¶¶ 204-208, 257-260; Ainsworth Aff. ¶ 223 (stating that "Single C" conversion has improved BellSouth's conversion accuracy rate from 99.76% to 99.91%).

In addition, since issuing our *Final 271 Order*, we have required the filing of monthly performance reports, which, through March 2002, were required to be accompanied by a detailed

analysis of the performance data. We have reviewed these materials closely. The monthly performance filings, as well as the material furnished with BellSouth's application, establish that BellSouth's performance has improved since last October. For instance, while the numbers available at the time of the *Final 271 Order* suggested that LENS was available between 92-98% of the time, more current information indicates that BellSouth routinely meets the 99.5% benchmark for LENS availability. *See* Application, at 78 (citing results from January through March 2002 data). Similarly, BellSouth's service order accuracy rates have gone up noticeably since its filing with us last year. *See id.* at 86-87 (noting that BellSouth met 19 of 20 UNE submetrics for service order accuracy in January through March 2002). BellSouth has added service order accuracy to its SEEM plan in Mississippi, which gives us confidence that this improved performance will continue.

BellSouth is required to serve the performance material it provided to the Mississippi Commission on all parties to our section 271 proceeding, and no party has claimed that BellSouth's data demonstrates that it is no longer in compliance. We also note that no party has filed a pleading with us since the issuance of the *Final 271 Order* arguing that BellSouth's performance data is inaccurate or fails to provide a meaningful yardstick for BellSouth's performance. We have committed to reviewing BellSouth's performance measures periodically. As the FCC has recognized, there are sufficient safeguards in place (including third-party audits, internal review processes, access to raw data, and the availability of reconciliations) to ensure the data's continued reliability. *See Georgia/Louisiana Order*, ¶¶ 16-20.

We are also pleased that BellSouth has made significant improvements in change management, and has accepted many CLEC proposals to make that process even more effective.

The changes that BellSouth has made over the past months are substantial, and they should make it even easier for CLECs to compete throughout BellSouth's region.

The remainder of this Evaluation is organized as follows. First, we will discuss the robust state of local competition in Mississippi. Second, we will address the Mississippi Commission's decision to adopt BellSouth's SQM and SEEM plans, and our firm and continuing belief that those plans provide a meaningful measure of BellSouth's performance. Third, we will explain the Mississippi Commission's conclusions as to some key operations support systems ("OSS") issues that have been contested in prior proceedings, and why the Mississippi Commission's findings are even more correct today. Finally, we will discuss the Mississippi Commission's pricing proceeding and how we carefully applied the FCC's pricing rules to all issues in dispute based on the record created by the parties.

The Mississippi Commission will also respond to comments, as appropriate, at the reply stage of this proceeding.

II. Competition is Growing in Mississippi

The door to local competition is open in Mississippi. During the proceedings before the Mississippi Commission last year, BellSouth submitted testimony showing that CLECs served approximately 100,000 lines, or 7% of the market. *See Final 271 Order*, at 3-4. BellSouth now reports that, using a conservative methodology, CLECs have gained at least 8% and likely closer to 9.2% of the market. *See* Stockdale Aff. ¶¶ 36-38. It is notable that, even though Mississippi is a rural state, CLECs now serve at least 5.5% of the residential market in Mississippi, more than in any of the other states covered by BellSouth's application. *See id.*

The competitive trend in Mississippi is thus one of steady growth. There is every reason to believe that trend will continue. Multiple CLECs have invested in fiber and/or switching

facilities in Mississippi, and CLECs are collocated in 29 wire centers that allow them to serve 51% of the access lines in BellSouth's areas of Mississippi. *See id.* ¶¶ 39-41. Additionally, WorldCom is now offering its "Neighborhood" plan to residential consumers in Mississippi. That fact demonstrates MCI's understanding that BellSouth's OSS will support broad-based entry in Mississippi and that UNE rates in the state are cost-based and pro-competitive. We look forward to other carriers, including AT&T, committing the resources to offering additional competitive choices to Mississippi consumers. The markets are open, and it is now up to particular carriers to decide to serve the citizens of Mississippi.

In short, the evidence "on the ground" in Mississippi shows healthy and growing local competition. As in other states, approval of this application will spur that competition by providing incentives for the major long-distance carriers to compete harder in the local market to protect their long-distance customer base. Consistent evidence, summarized by BellSouth in its application, shows that long-distance approval leads to increased competition in both local and long-distance markets. *See* Application, at 138-41.

III. BellSouth's Performance and Remedy Plans Provide Meaningful and Comprehensive Data and Ensure that BellSouth Will Not Engage in Backsliding

A. Performance Metrics

During our Section 271 proceedings, BellSouth proposed that its checklist performance be measured using the same service quality measurement ("SQM") plan that had been approved by the Georgia Commission. We accepted that proposal. *See Final 271 Order,* at 18.

As the FCC has found, the Georgia SQM was "developed in an open, collaborative proceeding conducted by the Georgia Commission." *Georgia/Louisiana Order,* ¶ 16. The SQM contains more than 2,200 submetrics covering all relevant areas of performance in a highly disaggregated manner. In our judgment, as well as the judgment of the FCC, the Georgia

Commission, and state Commissions throughout BellSouth's region, the SQM provides a comprehensive and reliable measure of BellSouth's checklist compliance. *See Final 271 Order*, at 15-18.

There is good reason to believe that the data reported through the SQM is and will continue to be "accurate and reliable," as we concluded last October. *Id.* at 18. As the FCC stated in the *Georgia/Louisiana Order*, there are extensive external and internal checks on the reliability of BellSouth's data, including three Georgia audits, the availability of both raw data and CLEC-specific data to competitors, BellSouth's internal validation processes, and BellSouth's willingness to reconcile data with individual CLECs. *See Georgia/Louisiana Order*, ¶¶ 16-20; Varner Aff. ¶¶ 117-166.

Additionally, BellSouth's established practice of correcting data where "problems are identified" provides added confidence here. *Final 271 Order,* at 15. We recognize that no data collection the size of the SQM can be perfect. BellSouth, however, has been up-front with us in identifying data problems as they arise. BellSouth has continued to be forthright about such issues in its pending Section 271 application. Having reviewed that filing, we agree with BellSouth's assessment that existing data issues are minor. *See* Varner Aff. ¶¶ 284-308.

We also are aware that BellSouth has recently moved from the PMAP 2.6 platform for processing SQM data to the PMAP 4.0 platform. *See* Varner Aff. ¶ 74. We commend BellSouth for investing the significant resources necessary to improve its performance metrics processing, which should ease auditing, improve reliability, and increase capacity. *See id.* Although PMAP 4.0 is an important advance for the future, it was first used to generate performance reports for April 2002. For earlier months, including the ones mostly at issue here, BellSouth is relying on

the PMAP 2.6 system that the FCC and multiple state Commissions, including the Mississippi Commission, have already found to be generally reliable.

BellSouth also convincingly demonstrates that it went through extensive validation processes before putting the PMAP 4.0 system into use. *See id.* ¶¶ 89-96. BellSouth followed a detailed test plan in doing that validation, and the results under PMAP 2.6 and 4.0 are remarkably similar, with a 0.2 percentage point difference in overall parity for all Georgia submetrics with activity in April 2002, and very similar results by mode of entry as well. *See id.* ¶¶ 93, 95. The similarity of those results provides additional reason to credit the reliability of the PMAP 4.0 data. BellSouth has also properly noted that the PMAP 4.0 data will be subject to all the validation procedures that the FCC viewed favorably in the Georgia/Louisiana case. *See id.* ¶ 109.

Additionally, pursuant to a joint BellSouth/CLEC proposal, the Georgia Commission will be conducting workshops and receiving comments to review the PMAP upgrade. *See id.* ¶ 107. We will monitor that proceeding (as well as the results of KPMG's audit of PMAP 4.0 data and other checks on data accuracy) and review carefully the conclusions that the Georgia Commission reaches to determine if any regulatory response in Mississippi is appropriate. This is an issue that is well under control at the state level, and that in any event is not relevant to the vast bulk of the data that BellSouth has presented here. To date, no complaints have been filed with us regarding BellSouth's PMAP 4.0 data or any aspect of BellSouth's performance reporting for Mississippi since the issuance of our *Final 271 Order*.

B. Performance Assurance Plan

As with the SQM plan, we adopted a performance assurance plan based on the one that was implemented in Georgia and that this Commission reviewed in the Georgia/Louisiana

proceeding. After receiving testimony on this issue, we decided that the BellSouth SEEM plan was appropriate for Mississippi because it is "designed to generate significant payments by BellSouth when discriminatory performance . . . materially affects a CLEC's ability to compete." *Final 271 Order*, at 19.

In all the fundamentals, this plan is the same one that, in Georgia, the FCC concluded would "provide sufficient incentives to foster post-entry checklist compliance." *Georgia/Louisiana Order*, ¶ 293. We see no reason why the FCC would reach a different conclusion here. *See Final 271 Order*, at 21-22; Application, at 141-43.

Additionally, while we agreed to use BellSouth's "delta" values (the same ones adopted by the Louisiana Commission), we did so only for the first six months after Section 271 approval. At that point, we will "determine if any adjustment should be made." *Final 271 Order*, at 21. We have also committed to "monitor BellSouth's compliance under SEEM" and make changes to the plan as a whole as appropriate. *Id.* at 22; *see Georgia/Louisiana Order*, ¶ 294 (anticipating that continuing state reviews would ensure that performance measures and penalties "most accurately reflect actual commercial performance in the local marketplace").

Of course, part of that monitoring will be our keeping abreast of proceedings in Georgia and other states involving BellSouth's performance metrics and SEEM plan. We recognize that proceedings in other states may be instructive as we continue to work to make local competition grow in our state.

III. BellSouth's Region-Wide OSS Offers CLECs a Meaningful Opportunity To Compete

Because the FCC has viewed OSS as a critical aspect of checklist compliance, our *Final 271 Order* addressed BellSouth's OSS in significant detail. *See Final 271 Order*, at 10-15, 36-67. In assessing BellSouth's systems, we used the FCC's tests. We asked whether BellSouth

has "deployed the necessary systems and personnel to provide sufficient access to each of the necessary OSS functions and whether [BellSouth] is adequately assisting CLECs to understand how to implement and use all of the OSS functions available to them." *Id.* at 36 (citing *Second Louisiana Order*, ¶ 85). We also looked at whether BellSouth's OSS functions were "operationally ready," as a practical matter. *Id.*

The *Final 271 Order* states in detail our reasons for finding that those standards are met here as to each aspect of OSS that the FCC has evaluated in its orders. In the end, we reached a simple and, we believe, proper conclusion. There was simply no compelling evidence that any of the issues raised impeded CLECs from doing business in Mississippi on a level playing field. There will always be some glitches in complex systems, and we do not doubt that there will always be room for improvement. The record before us, though, showed us that, on the whole, CLECs that choose to do so can compete in Mississippi using BellSouth's systems and facilities.

We will not burden the FCC by repeating the issue-by-issue analysis that led us to that firm conviction. Instead, we will focus this supplemental discussion on a few issues that may be particularly relevant.

A. The Regionality of BellSouth's OSS

In the *Final 271 Order*, we applied the FCC test for determining whether OSS functions are the "same" across BellSouth's region. We asked if there was a "shared use of a single OSS" or, alternatively, if there was the "use of systems that are separate but identical." *Final 271 Order*, at 11 (citing *SWBT-KS/OK Order*, ¶¶ 110-116). We also required BellSouth to give us evidence that, "[w]here the systems are separate," [BellSouth's] OSS reasonably can be expected to behave the same way in all of its states." *Id.*

BellSouth provided the necessary evidence. It filed detailed sworn testimony showing that it met the FCC test. BellSouth's testimony showed that it has "a single set of OSS that operate region-wide, with a common set of processes, business rules, interfaces, systems, and personnel." *Id.* BellSouth also provided us with the same PriceWaterhouseCoopers attestation that the FCC found persuasive in the Georgia/Louisiana proceeding. *See id.* at 12-13; *Georgia/Louisiana Order*, ¶¶ 109-111. Previewing the result that the FCC reached in that case, we found that the PriceWaterhouseCoopers report "is as comprehensive as the Ernst & Young attestation relied on by the FCC in its Kansas/Oklahoma proceeding" and that it shows that BellSouth's systems were in fact the same under the FCC test. *Final 271 Order*, at 12; *Georgia/Louisiana Order*, ¶ 111.

In our view, this issue has now been conclusively resolved by the FCC's *Georgia/Louisiana* decision. Mississippi, like Louisiana, is an "old South Central Bell state," while Georgia is an "old Southern Bell state." The FCC's decision that BellSouth's OSS are "the same" in Georgia and Louisiana, therefore, applies to Mississippi as well. That is particularly the case given that the PriceWaterhouseCoopers review that both the Mississippi Commission and the FCC have relied upon covers all nine BellSouth states, not just Georgia and Louisiana.

B. Third-Party Testing

Because BellSouth's OSS are the same throughout its region, it was appropriate for us to rely on the Georgia Third-Party Test, as well as performance results in Georgia, in evaluating OSS issues. *See Georgia/Louisiana Order,* ¶ 111.

During the Mississippi proceedings, BellSouth provided significant evidence about the Georgia Third-Party Test, including all the key test documents, and we were able to review the results of that test carefully.

We concluded, again just like the FCC in the Georgia/Louisiana proceeding, that the Georgia test "provides meaningful evidence that is relevant to . . . analysis of BellSouth's OSS." *Id.* ¶ 108. The evidence presented to us demonstrated that the KPMG test in Georgia was a "comprehensive" and independent evaluation that, using a military-style test philosophy, assessed BellSouth "across 1,175 test points." *Final 271 Order*, at 38. BellSouth satisfied nearly all of those test points, including all of the evaluation criteria in the important areas of pre-ordering, billing, maintenance and repair, capacity management, change management, and flow-through. *See id.*

In the few areas where BellSouth did not pass, BellSouth demonstrated that it had implemented process improvements since the test concluded and that state Commissions would be able to monitor future performance. *See id.* The FCC agreed with that assessment in finding BellSouth's OSS satisfactory in the Georgia/Louisiana proceeding. In combination with BellSouth's consistently strong performance data, this test bolsters our belief that BellSouth has met its statutory burden as to OSS.

C. Change Management

We studied the important question of change management carefully during our Section 271 proceeding. Our order discusses in detail our conclusions as to CLEC complaints about BellSouth's Change Control Plan ("CCP"). *See Final 271 Order*, at 61-67. The view expressed in our order is the same as the one the FCC reached in the Georgia/Louisiana proceeding. There, the FCC rejected many of the same CLEC arguments that we discussed in our earlier decision,

including BellSouth's alleged "veto power," the lack of a "go/no go" decision point, and BellSouth's alleged failure to comply with the terms of its plan. *See id.*; *Georgia/Louisiana Order*, ¶¶ 181, 184, 192-197.

Additionally, this is an area where BellSouth's performance has improved measurably since we issued our order. Those changes target issues that were raised both during our Section 271 docket and in the prior FCC proceedings. *See Final 271 Order*, at 64 (listing CLEC issues). BellSouth now provides a parsed CSR, and has implemented most of the CLECs' other top priority changes (with the rest to be completed during 2002). It has enhanced opportunities to meet with BellSouth "decision-makers" and other BellSouth personnel as part of the CCP. It has added more time for testing before a release is issued, and has proposed other changes to its "CAVE" environment. It has also established a "go/no go" recommendation process for CLECs. *See* Stacy Aff. ¶ 82 (listing many recent improvements). Each of those changes is welcome. Each responds to issues that CLECs raised before us. Additionally, BellSouth provides significant evidence that it consistently meets plan deadlines over recent months. *See id.* ¶¶ 130-151.

We also understand that the Georgia Commission is holding workshops and will resolve the remaining few issues that divide BellSouth and the CLECs. That process should provide a proper forum to resolve these issues, and should insure that BellSouth's CCP continues to improve. We are confident, however, that the current process, which is even better than the one the FCC approved in the Georgia/Louisiana proceeding, offers CLECs a meaningful opportunity to compete.

V. Mississippi Rates Are Based on TELRIC

UNE rates in Mississippi are not only consistent with the FCC's TELRIC requirements, they are likely at the lower end of the TELRIC range or "indeed possibly below, any reasonable range that would be produced by TELRIC." Final Order, at 9, *Generic Proceeding to Establish BellSouth Telecommunications, Inc.'s Interconnection Services, Unbundled Network Elements and Other Related Elements and Services*, Docket No. 00-UA-999 (Oct. 12, 2001) ("*Final Pricing Order*"). In setting rates, we adopted BellSouth's pricing models, but adjusted significant inputs, including cost of capital, to ensure compliance, and adopted a "competitive discount" of ten percent (10%) on all loop and UNE combination recurring rates and fifty percent (50%) on all nonrecurring rates. *See id.*

In our view, those significant discounts off rates that we believed already fell "within a reasonable TELRIC range" remove any possible concern that rates would be above TELRIC. *Id.* In this regard, we emphasize that we promised that, if "any CLEC or BellSouth wish for this Commission to consider further evidence regarding BellSouth's costs of provisioning UNEs," we would "entertain a petition by the parties to consider this evidence and may decide whether to update UNE rates based upon such further evidence." *Id.* at 10. No one has filed a petition, nor did any party seek reconsideration by us, or appeal our pricing decision to federal court under Section 252 of the TA 96. Those facts support our belief that there is no valid argument that the rates we set are above the TELRIC range.

The *Final Pricing Order* is in the record of this proceeding, and we reaffirm today the conclusions we reached there. We wish to emphasize just a few points here.

First, in our pricing decision, we were guided by the FCC's pricing rules, and made every effort to apply those rules faithfully. As we explained at the very beginning of our decision,

"The pricing standards this Commission must follow are set forth in the TA 96 and applicable FCC regulations." *Id.* at 4. We stated that "the FCC required forward-looking costs to be calculated assuming that, at any given time, the ILEC uses 'the most efficient network architecture, sizing technology, and operating decisions that are operationally feasible and currently available to the industry.'" *Id.* at 5 (quoting *Local Competition Order*, 11 FCC Rcd. 15499, ¶ 620 (1996)).

Second, we applied those FCC rules to the specific record developed before us by the parties. This is important because the FCC has stated that its "role in considering a section 271 application is to review the record in the state UNE rate proceeding." *Georgia/Louisiana Order*, ¶ 49. There is no one magic TELRIC rate. Rather, our task under the statute and the FCC's orders was to "independently set[] rates based on federally established guidelines" and the record evidence presented to us. *Id.* ¶ 24.

In Mississippi, that record included sworn testimony from twelve (12) separate BellSouth witnesses, each of whom addressed a specific area of expertise. BellSouth's witnesses included "costing experts, network experts, product managers for unbundled loops and line splitting, and experts eminently qualified to perform cost of capital analyses and studies to determine the economic lives of BellSouth's assets." *Final Pricing Order*, at 6.

In contrast, the CLECs that participated in the hearing and presented testimony relied almost totally on a single witness whose testimony was suspect. That witness conceded that he did not have experience provisioning UNEs or network functions, was not an accountant, lawyer, or engineer, had never designed a cost model, and was not qualified to do a depreciation study. *See id.* On multiple occasions, he was also forced to admit that his testimony was not wholly accurate. *See id.* at 7. While we considered his arguments on the merits despite these issues, a

fair understanding of the record should reflect the fact that BellSouth's evidence was more credible than this opposing evidence.

Third, we believe that our substantive resolution of disputed issues in this proceeding accords with the judgment of other state Commissions in BellSouth's region and with the FCC's *Georgia/Louisiana Order*. Having reviewed that recent FCC order, it appears to us that the issues presented in our proceeding are largely the same ones that were presented to the FCC in that case. As our order reflects, issues raised in our proceeding included multiple BSTLM scenarios, in-plant factors, alleged double-counting of inflation, and the claim that BellSouth should have used a 6.5% percent productivity factor. All of these same arguments appear to have been made and were rejected in the FCC decision.

For these reasons, we believe that the rates we established are within (or possibly below) the TELRIC range and consistent with Section 271.

VI. Conclusion

We are grateful for this opportunity to participate in this important proceeding for Mississippi consumers. We recommend that the FCC grant this application, which will bring significant competitive benefits to the economy of our state.

Respectfully Submitted,

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Counsel for
Mississippi Public Service Commission

CERTIFICATE OF SERVICE

I, George M. Fleming, Counsel for the Mississippi Public Service Commission, hereby certify that a copy of the foregoing Consultative Report of the Mississippi Public Service Commission has been served upon counsel for BellSouth Corporation, the Department of Justice, Alabama Public Service Commission, Kentucky Public Service Commission, North Carolina Public Service Commission, and South Carolina Public Service Commission, via the United States Mail, postage prepaid, this 10th day of July, 2002.

George M. Fleming