



**Presentation to
Federal Communications Commission:**

**BellSouth §271 Checklist
Violations**

WC Docket 02-307

December 4-5, 2002

OVERVIEW

KMC Telecom/FCC Meeting on BellSouth §271 Application

- **Overview of Issues**
 - **BellSouth's Performance in both provisioning and repair of loops continues to be horrendous - and is even worse than in other BellSouth States.**
 - **BellSouth has failed to pay millions of dollars in intercarrier compensation that is properly due and owing, dating back to June 2000.**
 - **There can be no facilities-based competition without competitor access to the last mile and ILEC payment of intercarrier compensation.**

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FACT SHEET

➤ **KMC Local Business Service**

✓ **Services**

- **Voice, Data, Internet and Enhanced Services**

✓ **Network**

- **KMC operates local networks in 35 mid-size cities**
- **\$1 Billion invested**
 - 35 Lucent 5ESS Switches
 - 35 Lucent PSAX Soft-switches
 - 2,400 local fiber miles deployed
 - 140 ILEC collocations

✓ **Market**

- **Local Presence of Sales, Service and Customer Support**
 - Over 2.8 Million lines in service (DS-0 equivalents)
 - \$175 Million in Revenue (2001)

KMC Telecom Tier III Markets

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Creative Solutions with a Proven Track Record



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BellSouth Has Failed to Provide Access to Loops in Accordance with Checklist Item iv.

- BellSouth's Performance Data Reveals Extremely Poor Access and Service.
 1. BellSouth's performance in several critical areas is consistently poor in both Florida and Tennessee.
 2. BellSouth's performance is much worse than what the Commission condoned in prior BellSouth proceedings.
 3. The Commission cannot reasonably continue to excuse BellSouth performance or accept promises of future compliance.

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Competitor Orders Are Subjected to Facility Problems As Much As Seven Times More Often:

Percent of Orders Placed in Jeopardy Status Digital Loops DS-1 and Above (All CLEC Orders, Mechanized)		
Florida		
Month	BellSouth	CLECs
August	10%	67%
September	10%	73%
Tennessee		
August	29%	73%
September	24%	81%
Compare to Georgia		
January-March 2002	4%	53%

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BellSouth performance in Georgia and Louisiana following 271 approval has already dramatically declined.

- Nearly 40% more CLEC orders are now placed in jeopardy status in Georgia:

Percent of Orders Placed in Jeopardy Status Digital Loops DS-1 and Above (All CLEC Orders, Mechanized)		
Georgia		
	BellSouth	CLECs
January – March 2002	4%	53%
August 2002	13%	73%
Louisiana		
August 2002	21%	79%

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Georgia and Louisiana Performance Decline (Continued)

- KMC orders have been hit even harder:

Percent of KMC Orders Placed in Jeopardy Status Digital Loops DS-1 and Above August, 2002		
State	BellSouth	KMC
Georgia	13%	75%
Louisiana	21%	100%

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BellSouth's Missed Installation Performance is Unacceptable

- In both Florida and Tennessee, BellSouth has missed more DS-1 and higher installs for competitors than for its retail customers in each of the past *five* months.
- In August, BellSouth missed nearly *six times* as many DS-1 and higher installations for competitors in Florida, and over twice as many in Tennessee.
- In September, BellSouth missed over *three times* as many DS-1 and higher installations for competitors in both Florida and Tennessee.
- The Florida and Tennessee performance is much worse than in prior applications, where it was not out of parity in most of the states.

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Inadequate Installation Quality

- With respect to provisioning troubles within 30 days of installation, BellSouth admits that it "has not met the benchmarks in Florida," and provided equally poor performance in Tennessee.

Percent of Provisioning Troubles within 30 days (CLEC Aggregate Data) UNE Digital Loops					
Below DS-1			DS-1 and Above		
Florida			Florida		
Month	BellSouth	CLECs	Month	BellSouth	CLEC
August	5%	8%	August	6%	10%
September	4%	7%	September	2%	12%
Tennessee			Tennessee		
August	5%	6%	August	4%	19%
September	4%	7%	September	4%	17%
Compare to Georgia and Louisiana					
Oct. '01 – Feb. '02		1-2%			7-8%

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BellSouth's repair performance is equally discriminatory following the initial post-install period

- The CLEC Customer Trouble Report Rate exceeded BellSouth retail in ***every month*** this year for Digital Loops in Florida.
- For Tennessee, BellSouth missed parity in 26 of the 28 categories this year and the *trouble report rate was five-to-seven times higher* for designed loops in September.
- Competitors suffered between 14% and 25% repeat troubles in Florida in the most recent three months on DS-1 and higher loops.
- Repeat trouble rate for competitors' DS-1 loops reached 29% in Tennessee in the July-September timeframe.

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BellSouth has failed to comply with the checklist by failing to compensate KMC Telecom as required by the Act and the Parties' interconnection agreement.

- To meet checklist item one, an ILEC must satisfy each of the three elements set forth in section 251(c)(2) of the Act, which require an ILEC to actually provide the following (per *New York 271 Order*, para. 63):
 1. Interconnection at any technically feasible point within its network;
 2. That is at least equal in quality to that provided by the local exchange carrier to itself; and
 3. On rates, terms, and conditions that are just, reasonable, and nondiscriminatory, *in accordance with the terms of the agreement* and the requirements of sections 251 and 252.
- An ILEC does not demonstrate compliance with checklist item thirteen merely by entering into an agreement for the payment of mutual reciprocal compensation; instead, an ILEC also must compensate carriers as set forth in such agreements. (*Texas 271 Order*, para. 379)