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October 14, 2004

Marlene H. Dortch, Secretary
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, DC 20554

Re: *Ex Parte Presentation*,
Performance Measurements and Standards for Interstate Special Access Services,
CC Docket No. 01-321
Non-Accounting Safeguards of Sections 271 and 272,
CC Docket No. 96-149
Section 272(f)(1) Sunset of BOC Separate Affiliate and Related Requirements,
WC Docket No. 02-112
BellSouth Section 272 Audit, EB Docket No. 03-197

Dear Ms. Dortch:

This letter is in response to the *Written Ex Parte Presentation* submitted by the Joint Competitive Industry Group ("JCIG") on September 3, 2004.¹ The JCIG *ex parte* communication was composed of a cover letter and a number of attachments that describe JCIG's latest proposal for special access metrics. In the letter, JCIG states that, "[i]n the spirit of compromise, JCIG has attempted to find a middle ground between the proposal BellSouth filed in April of this year and the original JCIG proposal."² However, an examination of the revised JCIG plan reveals that it is anything but a compromise.

The new JCIG plan includes only a handful of changes to JCIG's previous plan, and at least some of these changes are only cosmetic. For example, in the new JCIG plan, each measurement has been renamed in a manner that is consistent with the nomenclature used in BellSouth's plan. On the other hand, the new JCIG plan also includes changes to the level of disaggregation for each of JCIG's ten proposed measurements, i.e., JCIG has substantially

¹ Letter from Joint Competitive Industry Group to Marlene H. Dortch, Secretary, FCC, CC Docket No. 01-321, and attached *ex parte* presentation (dated Sept. 3, 2004) ("JCIG *ex parte*").

² *Id.*, letter at 1

increased the level of disaggregation from that which was in its original proposal, which already had significantly more measures than BellSouth's proposal. This additional disaggregation results in a drastic increase in the number of submetrics per measurement, and has the total effect of more than doubling the number of submetrics in the JCIG plan (i.e., from 448 submetrics to 914).³ These changes also make JCIG's current proposal considerably more complicated than its original plan, and dramatically increase the difficulty and expense that BOCs would encounter in attempting to administer the JCIG plan, without adding any value. Finally, these changes result in a plan with so many measures that it would be virtually useless as a monitoring tool. Clearly, this aspect of JCIG's plan is not a "compromise." Further, JCIG inexplicably fails to offer any justification for this massive expansion of its proposed plan.

Also, JCIG's *ex parte* presents a comparison of its current proposed plan to BellSouth's proposed measurement plan (Attachment B), which appears to be designed to highlight the similarities between these two plans. BellSouth would note in response that there are still at least two significant, across-the-board, differences in the two proposals. One, the JCIG plan uses exclusively a benchmark standard; BellSouth's plan uses the parity standard required by Section 272(e). Two, the BellSouth plan includes both special access service and switched access service; JCIG's plan does not apply to switched access.

Further, BellSouth would also note that the JCIG plan continues to have ten measurements, twice the number in BellSouth's proposal. BellSouth has already explained at length in previous *ex parte* presentations⁴ the reasons for its belief that these additional measurements are duplicative of the measurements that BellSouth has proposed, or otherwise unnecessary. Therefore, BellSouth will not reiterate its comments on these additional JCIG measures. It is, however, important to note that the inclusion in the JCIG plan of twice as many measurements as there are in the BellSouth plan continues to represent a significant difference, and certain does not reflect any compromise.

In addition to the above general comments, BellSouth provides below a discussion of each of the ten JCIG measurements. Each discussion describes the changes (or lack of changes) from the original JCIG measure to the current iteration. Each discussion also identifies the primary differences in BellSouth's plan and the current JCIG plan. Again, BellSouth believes that five of the measures proposed by JCIG are unnecessary. Accordingly, BellSouth has not proposed a measure similar to any of these measures.⁵ In the five instances in which BellSouth's plan has a comparable measure,⁶ BellSouth has set forth below the significant differences that remain between the JCIG measurement and the BellSouth measurement.

³ As used throughout this letter, the term "disaggregation" refers to the submetrics necessary to capture data points for both the carrier and for the retail analog.

⁴ See Letter from J. Phillip Carver to Marlene H. Dortch, dated July 9, 2004; Letter from J. Phillip Carver to Marlene Dortch, dated August 6, 2004.

⁵ These measures include OVRD2, MADL2, AIO12, PPOD2 and RTRR2.

⁶ The measures in the JCIG plan that have comparable measures in BellSouth's plan are FOCT2, PIAM2, NITR2, CTRR2 and MAD2.

1. FOCT2 (Formerly SA-1)

Changes to the Original JCIG Measure

The timeliness portion of this measurement is largely unchanged from the previous measurement SA-1 proposed by JCIG. However, JCIG has deleted the SA-2 measure and added in its place a completeness portion to the FOCT2 measurement, which is the approach proposed by BellSouth. Originally, BellSouth proposed a measurement for ordering (FOCT2) that consisted of two parts, timeliness and completeness. JCIG proposed two ordering measures (SA-1 and SA-2). The first of these two is comparable to the timeliness portion of BellSouth's measure. The second is essentially redundant, and any value that it might have would be provided more efficiently by the completeness calculation proposed by BellSouth. JCIG apparently has recognized this fact, and has deleted the second measure for this reason.

Beyond this, the most significant change to this measurement is the substantial expansion of the level of disaggregation, which makes it even less like the BellSouth measurement than the original. The disaggregation used in BellSouth's measure results in 16 submetrics. The original JCIG proposal had considerably more disaggregation, and included 40 submetrics.⁷ The new, more extensive disaggregation proposed by JCIG results in 140 submetrics.

Differences Between BellSouth's Measure and the Current JCIG Measure

There continue to be a number of significant differences between the BellSouth ordering measure and JCIG's newly proposed measure:

- 1) The JCIG measure continues to state specifically that a facilities check will be performed. As explained in BellSouth's *ex parte* of August 6, 2004,⁸ BellSouth plans to provide a facilities check, but does not believe that this operational step is appropriately identified as part of the definition of the measurement.
- 2) The JCIG plan continues to include projects, while the BellSouth plan excludes projects.
- 3) As with every measurement, JCIG has proposed a benchmark, while BellSouth utilizes a parity standard.
- 4) There appears to be one additional difference, although it is unclear from the description of JCIG's plan in the attachment portion of the *ex parte*. JCIG proposes to measure the "Percent within Standard Interval."⁹ JCIG then lists as the "standard interval" a finite number of days for each service category. The number of days listed for each category is consistent with each of BellSouth's standard intervals. These intervals, however, are not consistent in all instances with the standard intervals of other BOCs. Moreover, standard intervals can change. Thus, it is unclear whether

⁷ There were 40 submetrics for JCIG's measure SA-1. The (now deleted) SA-2 had an additional 64 submeasures.

⁸ BellSouth Aug. 6 *ex parte* at 9.

⁹ JCIG *ex parte*, Attachment A at 4.

JCIG is proposing that a “standard interval” be used, which would vary from BOC to BOC (and in the event of a subsequent change) or if, alternatively, JCIG is proposing intervals of a set number of days, which would apply even if they differ from the standards used by some BOCs at any given time.

2. OVRD2 (Formerly SA-3)

Changes to the Original JCIG Measure

Again, the most significant change is that JCIG has increased the level of disaggregation, resulting in an increase from 64 to 120 submetrics. The only other changes made by JCIG are very minor changes to the exclusions.

Differences Between BellSouth’s Measure and the Current JCIG Measure

BellSouth’s plan does not include an OVRD2 measure.

3. PIAM2 (Formerly SA-4)

Changes to the Original JCIG Measure

JCIG has made three changes:

- 1) JCIG has made a minor calculation change: the prior measurement was based on the percentage of circuits completed, while the current measurement is based on the percentage of orders completed. This measure should allow either circuits or orders, depending on the business practices of the respective company.
- 2) JCIG also appears to have made a significant change in that the previous version of this measure did not allow the use of the “Customer Not Ready” (“CNR”) exclusion unless the carrier was given an opportunity to correct the situation. This requirement appears to have been deleted.
- 3) As with every measure, JCIG has increased the disaggregation and, consequently, the number of submetrics. In this case, the submetrics have been increased from 16 to 40.

Differences Between BellSouth’s Measure and the Current JCIG Measure

- 1) JCIG proposes a benchmark; BellSouth proposes a parity standard.
- 2) JCIG proposes to disaggregate the reporting so that there are separate categories for percent installation appointments met—with CNR consideration and for appointments met—without CNR consideration.

- 3) JCIG's original plan had 16 submetrics, as does BellSouth's plan. JCIG's plan now has more disaggregation, which results in 40 submetrics.

4. MADL2 (Formerly SA-5)

Changes to the Original JCIG Measure

- 1) JCIG's increase in disaggregation for this measure increases the number of submetrics from 128 to 280.
- 2) JCIG has made a minor addition to the previous list of exclusions.
- 3) JCIG has made a significant deletion from the previous list of exclusions. Specifically, JCIG has removed the exclusion from its original proposal of orders submitted during weekends or holidays.

Differences between BellSouth's Measure and the Current JCIG Measure

BellSouth's plan does not include an MADL2 measure.

5. AIOI2 (Formerly SA-6)

Changes to the Original JCIG Measure

- 1) JCIG has made a minor change to the calculation.
- 2) JCIG has expanded the disaggregation, which increases the number of submetrics from 24 to 40.

Differences Between BellSouth's Measure and the Current JCIG Measure

BellSouth's plan does not include an AIOI2 measure.

6. Measure PPOD2 (Formerly SA-7)

Changes to the Original JCIG Measure

- 1) JCIG has made minor changes in the exclusions and in the calculations.
- 2) More notably, JCIG has added additional disaggregation that increases the number of submetrics from 112 to 160.

- 3) JCIG has changed the calculation measurement element from circuits to orders. As with PIAM2, this measure should allow either circuits or orders, depending on the business practices of the respective company.

Differences Between BellSouth's Measure and the Current JCIG Measure

BellSouth's plan does not include a PPOD2 measure.

7. Measure NITR2 (Formerly SA-8)

Changes to the Original JCIG Measure

The only significant change is that the level of disaggregation has been increased, and the number of submetrics has correspondingly been increased from 8 to 20.

Differences Between BellSouth's Measure and the Current JCIG Measure

- 1) The JCIG plan utilizes benchmarks for comparison purposes; the BellSouth plan utilizes a parity standard.
- 2) The JCIG plan has more disaggregation.
- 3) The BellSouth plan has two exclusions that are not in the JCIG plan. Specifically:
 - Trouble reports that do not require physical repair work.
 - Troubles outside of BellSouth's control.

8. CTRR2 (Formerly SA-9)

Changes to the Original JCIG Measure

There appear to be only three changes in the revised JCIG plan, and one may not be a substantive change:

- 1) The increase in disaggregation has increased the number of submetrics from 4 to 20.
- 2) JCIG has removed from the list of exclusions "informational tickets," but has kept the exclusion for administrative trouble reports. BellSouth considers administrative reports to include informational tickets. Thus, it is likely that this change in the JCIG exclusion is not substantive, but that JCIG is now including informational tickets in the larger category of administrative trouble reports, as does BellSouth.
- 3) JCIG has changed the measure from an annualized failure rate to a monthly failure rate and changed the benchmark from 10% per year to 83% per month. This

benchmark, however, has not really changed since .83% per month is equal to 10% per year.

Differences Between BellSouth's Measure and the Current JCIG Measure

- 1) The JCIG plan utilizes benchmarks for comparison purposes; the BellSouth plan utilizes a parity standard.
- 2) The BellSouth plan has four exclusions that are not in the JCIG plan:
 - Trouble reports that require repair work.
 - Troubles outside of BellSouth's control.
 - Reciprocal Services.
 - Tie Circuits.
- 3) The JCIG plan has more disaggregation.

9. MAD2 (Formerly SA-10)

Changes to the Original JCIG Measure

- 1) JCIG has changed the level of disaggregation to increase the number of submetrics from 12 to 50.
- 2) JCIG has changed the calculation of the interval to begin when the trouble report is received, rather than when it is submitted. This change makes the calculation more reasonable, and is consistent with BellSouth's proposal for this measure.
- 3) JCIG has removed the exclusion for circuit monitoring. However, as with the change to the exclusion in CTRR2 (discussed above), this may simply be a wording change i.e., this exclusion may now be subsumed under the exclusion for administrative trouble reports.
- 4) JCIG has made one other, minor change in the calculation.
- 5) JCIG has added repeat reports to the measure.

Differences Between BellSouth's Measure and the Current JCIG Measure

- 1) The JCIG plan utilizes benchmarks for comparison purposes; the BellSouth plan utilizes a parity standard.
- 2) Exclusions are included in the BellSouth plan but not in the JCIG plan. Specifically,
 - Employee-initiated trouble reports.
 - Troubles outside BellSouth's control.
 - Tie Circuits.
 - Reciprocal trunks.

- 3) BellSouth's plan has 16 submetrics. As a result of greater disaggregation, the JCIG plan has increased from 12 to 50 submeasures.

10. RTRR2 (Formerly SA-11)

Changes to the Original JCIG Measure

- 1) JCIG has changed the disaggregation to increase the number of submetrics from 4 to 20.
- 2) JCIG has made two minor changes to the exclusions, one of which, the deletion of informational tickets, may be only a wording change (as described above in reference to measure CTTR2).

Differences Between BellSouth's Measure and the Current JCIG Measure

BellSouth's plan does not include a RTRR2 measure.

Conclusion

Based on the above, it is clear that JCIG has made few substantive changes to its proposal that could accurately be categorized as constituting a compromise. In fact, JCIG has made few significant changes of any sort to its plan. Moreover, the most significant changes that JCIG has made function principally to increase the number of submetrics in the JCIG plan, which makes it more complicated, and more difficult and expensive for both the BOCs and the FCC to administer. At the same time, most of the significant differences that previously existed between BellSouth's plan and the original JCIG plan still remain.¹⁰ Thus, BellSouth continues to propose that its plan be adopted for the reasons set forth above, as well as the reasons previously provided.

Respectfully submitted,



J. Phillip Carver

¹⁰ These differences were discussed at length in the BellSouth *ex parte* presentations identified above in footnote 4.

Ms. Marlene H. Dortch
October 14, 2004
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