BEFORE THE KENTUCKY PUBLIC SERVICE COMMISSION

REBUTTAL TESTIMONY OF JAY M. BRADBURY

ON BEHALF OF

AT&T COMMUNICATIONS OF THE SOUTHERN STATES, INC.

AND TCG MIDSOUTH, INC.

DOCKET NO. 2000-465

FEBRUARY 20, 2001

Q. PLEASE STATE YOUR NAME AND ADDRESS.

A. My name is Jay M. Bradbury. My business address is 1200 Peachtree Street, Suite 8100, Atlanta, Georgia 30309.

Q. PLEASE DESCRIBE YOUR CURRENT POSITION AND RESPONSIBILITIES.

A. I am a District Manager in the AT&T Law and Government Affairs organization, and I provide consulting support to AT&T's business units and other internal organizations. In particular, I am involved in the negotiation and implementation of interfaces for operational support systems ("OSS") necessary to support AT&T's entry into the local telecommunications market.

Q. ARE YOU THE SAME JAY M. BRADBURY THAT FILED DIRECT TESTIMONY IN THIS CASE ON DECEMBER 20, 2000?

A. Yes, I am.

Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

A. The purpose of my testimony is to respond to the testimony of Ronald M. Pate and W. Keith Milner filed on February 6, 2001. I will address the following issues: 18, 19, 22, 23, and 24. I will correct inaccurate and misleading statements made by these witnesses in their direct testimony. I also will provide additional information in response to BellSouth's position on each of these issues. I will first address two of Mr. Pate's claims that apply to multiple issues and then respond to various claims regarding to the individual issues.

Q. ON PAGE 4 OF HIS TESTIMONY MR. PATE STATES THAT BELLSOUTH PROVIDES CLECS WITH NONDISCRIMINATORY ACCESS TO BELLSOUTH'S OSS. IS THERE ANY EVIDENTIARY SHOWING OF FACT OR ANY REGULATORY FINDING THAT PROVIDES A BASIS FOR HIS STATEMENT?

A. No. Mr. Pate is making an unsubstantiated claim. The FCC rejected BellSouth's last attempt to demonstrate that it was providing nondiscriminatory OSS access in its Second Louisiana Order on October 13,

1998.[1] BellSouth has not demonstrated in any jurisdiction since that time that it has corrected the OSS deficiencies noted by the FCC. Additionally, as this Commission knows, BellSouth withdrew from its attempt to demonstrate that it was providing nondiscriminatory access in Tennessee[2] and attempted to withdraw from this Commission's 271 investigative docket (Docket No. 96-608) as well. Mr. Pate's claim is unfounded and should be given no weight in the Commission's deliberation of this arbitration.

Q. IN MR. PATE'S TESTIMONY HE REPEATEDLY ASSERTS THAT CERTAIN ISSUES AND SUB-ISSUES "ARE NOT APPROPRIATE FOR ARBITRATION," IS HE CORRECT?

A. No. Mr. Pate incorrectly asserts that Issues 22 and 23[3] and their various sub-issues "are not appropriate for arbitration" and that "AT&T is attempting to circumvent the CCP [Change Control Process]….This would allow AT&T to gain an unfair advantage over the other CLECs…." Not only is this incorrect, as I will discuss, but this position is inconsistent with testimony given by Mr. Pate in an arbitration proceeding between BellSouth and AT&T in August 2000.

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[1] Memorandum Opinion and Order, Application of BellSouth Corp., et al. Pursuant to Section 271 to Provide In-Region, InterLATA Services in South Carolina, 13 FCC Rcd. 539 (1997), hereinafter "FCC South Carolina Order" and Memorandum Opinion and Order, Application of BellSouth Corporation, et al. for Provision of In-Region, InterLATA Services in Louisiana, 13 FCC Rcd. 20599 (1998), hereinafter "FCC Louisiana II Order".

[2] Initial Order Accepting BellSouth Telecommunications, Inc.'s Notice of Voluntary Dismissal and Withdrawal. In Re: BellSouth Telecommunications, Inc.'s Entry Into Long Distance (InterLATA) Service In Tennessee Pursuant to Section 271 of the Telecommunication Act of 1996. Docket No. 97-00309, June 1, 1999.

[3] In prior arbitrations, Mr. Pate has also held that Issue 24 is also inappropriate for arbitration although he does not repeat that claim in his direct testimony in this docket.

On page 45 of testimony which Mr. Pate filed in the AT&T-BellSouth Arbitration in North Carolina, Docket No. P-140, Sub 73 & P-646, Sub 7 (Rebuttal Exhibit JMB-R1), Mr. Pate stated that BellSouth was negotiating with CLECs, including AT&T, to include compliance with the CCP in interconnection agreements. Any issue that is appropriate for negotiation and inclusion in interconnection agreements is also appropriate for arbitration. BellSouth has shown no reason to treat these issues differently from all of the other issues that are included in this arbitration and which were subject to negotiation with the intent of inclusion in the interconnection agreement.

Mr. Pate has cited no authority for his position, but one need only look to the Telecommunications Act of 1996 to determine that it is incorrect. Telecommunications companies are to negotiate "the particular terms and conditions of agreements to fulfill the duties" imposed by Section 251 of the Telecommunications Act, including "nondiscriminatory access to network elements on an unbundled basis at any technically feasible point on rates, terms and conditions that are just, reasonable and nondiscriminatory …." Section 251(a)(1) and (c). BellSouth's obligation to provide nondiscriminatory unbundled access to its OSS necessarily includes the terms and conditions under which BellSouth may change its OSS. Establishment of an adequate change management process for OSS systems and processes is absolutely critical to CLEC success in the marketplace and is a critical

component of BellSouth's provision of non-discriminatory treatment as required by the Act.

Not only does the Telecommunications Act clearly require parties to negotiate in good faith all terms and conditions of their business relationship, but it just as clearly requires state regulatory authorities to arbitrate, without exception, all "open" or "unresolved" issues remaining after negotiation. Section 252(b)(1), 252(c). The Act therefore contemplates that issues such as change control and equivalent functionality will be negotiated between the parties and arbitrated by state regulatory authorities should those negotiations fail.

It is curious that BellSouth did not raise its concerns about appropriateness of this issue during the negotiation process, where change control and equivalent functionality for ordering and maintenance were frequently discussed. Importantly, it was during the negotiations that BellSouth asked AT&T to provide information on its desired change control process.

At least one federal court has upheld the duty of a state regulatory authority to arbitrate all issues presented in an arbitration proceeding. The U.S. District Court for the Northern District of Florida recently reviewed a decision issued by the Florida Public Service Commission in an arbitration between BellSouth and MCI. Order on Merits issued June 6, 2000 in Case

No. 4:97cv141-RH, *MCI Telecommunications Corporation, et al. vs. BellSouth Telecommunications, Inc., et al*. ("MCI Order"). The Florida PSC had refused to address an issue presented by MCI, in part, on the grounds that "the Telecommunications Act authorized arbitration only on 'the items enumerated to be arbitrated in Sections 251 and 252 of the Act, and matters necessary to implement those items.'" The Florida PSC determined that the matter presented by MCI "was not such an item." (*MCI Order* at 32.)

The federal judge rejected the FPSC's "narrow reading" of the Act's arbitration provisions, explaining that:

> the right to arbitrate is as broad as the freedom to agree; any issue on which a party unsuccessfully seeks agreement [though negotiation] may be submitted to arbitration….
> *(Id.* at 33.)

Citing Section 252(b)(4)(C) of the Act, the judge further held that when the state PSC undertook the arbitration, it was obligated to decide all issues:

> When the Florida Commission chose to act as the arbitrator in this matter, its obligation was 'to resolve each item set forth in the petition and the response, if any'.
> *(Id.* at 33-34.)

BellSouth asks this Commission not to resolve the open issue of OSS functionality. For the reasons explained above, the Commission should reject BellSouth's unlawful request.

As will be discussed further below, BellSouth, not AT&T, is attempting to circumvent the purpose of the Change Control Process and its requirements. BellSouth attempts to utilize the Change Control Process as a shield to protect it from its failures to meet its obligations under the Act and consistently makes unilateral decisions regarding the process, over the protests of the CLEC community.

Additionally, BellSouth's argument is inconsistent with its own desire to arbitrate issues that are also covered by region-wide plans. For example, BellSouth has developed its VSEEM performance measures plan which it proposes for region-wide application, yet in various jurisdictions it has also argued that this plan is ripe and appropriate for arbitration because any CLEC in any state could "pick and choose" to buy into the plan. If BellSouth's regional performance measures plan is appropriate for arbitration, it is hard to understand BellSouth's position that the Change Control Process and equivalent functionality for ordering and maintenance are not similarly ripe and appropriate for arbitration.

Issue 18: Has BellSouth provided sufficient customized routing in accordance with State and Federal law to allow it to avoid providing Operator Services/Directory Assistance ("OS/DS") as a UNE?

Issue 19: Should BellSouth provide customized OS/DA routing to AT&T for its UNE platform customers through a process that establishes common (infrastructure) elements in advance of customer orders and customer specific elements using flow-through ordering?

Q. MR. PATE AND MR. MILNER TESTIFY ABOUT BELLSOUTH'S UNDERSTANDING OF ISSUES 18 AND 19. IS BELLSOUTH'S UNDERSTANDING ACCURATE?

A. No. Mr. Pate's testimony on Issue 19 is both confusing and inaccurate, as is Mr. Milner's testimony on Issue 18. It is difficult to understand why Mr. Pate and Mr. Milner continue to misrepresent AT&T's request and position, since AT&T fully presented its position in my direct and rebuttal testimony and briefs in arbitration proceedings in North Carolina, Georgia, Florida and Tennessee. AT&T also has presented BellSouth with specific contract language detailing its requested procedures, yet Mr. Pate and Mr. Milner continue to insinuate that a single "default" routing to "unbranded" OS/DA will meet AT&T's needs. In addition, both Mr. Pate and Mr. Milner claim that electronic ordering for customer specific OS/DA routing is presently available from BellSouth. It is not.

As I discussed in my direct testimony on pages 23 through 27, the FCC clearly contemplated use of multiple customized OS/DA routings by CLECs and in its order, instructed BellSouth to accommodate the electronic ordering

of such arrangements through the uniform application of region wide "identifiers." Nevertheless, BellSouth has failed to provide electronic ordering for customer specific OS/DA routing, as discussed on pages 32 through 37 of my direct testimony.

BellSouth planned to make electronic OS/DA ordering available on an industry-wide basis in Release 8.0 of its ordering software, but in October, BellSouth made the unilateral decision to remove the capability from Release 8.0. The extremely limited OS/DA ordering capability that BellSouth belatedly attempted to provide was intended to support a very limited AT&T test, and had no commercial applicability.[4]

In their testimony in this docket, however, Mr. Milner and Mr. Pate attempt to convince this Commission that BellSouth reinstated electronic OS/DA ordering as originally planned. As stated above, this is not true. BellSouth has made no attempt to reintroduce the originally-planned capability, and in fact has been unable to provide even the limited "substitute" test support capability it attempted to introduce. In its hasty attempt to rescue Mr. Milner's inaccurate Georgia testimony by substituting a form of electronic OS/DA ordering, however limited, BellSouth provided line class codes for one office (the 5ESS in which AT&T is conducting its test) but developed the

[4] As discussed in my direct testimony, the "substitute" OS/DA ordering capability planned by BellSouth would have been limited to AT&T's UNE-P trial, in one office, using only one interface (EDI), to provide only "unbranded" BellSouth OS/DA, could not be used with live customers (even by AT&T), and would not support all possible order types.

new software, screening, and lookup tables for another office (a DMS in the same wire center available to but not being used by AT&T).

Exhibit JMB-10 of my direct testimony shows that although BellSouth corrected the errors in its programming, it will not allow AT&T to test the new software until changes in the testing agreement are negotiated. This requirement did not exist in November when BellSouth "implemented" the software and was ready to accept AT&T's test orders. BellSouth has not responded to AT&T's February 9, 2001, e-mail asking for a clarification of this new requirement. Exhibit JMB-R2. Not a single order has been processed using this supposedly available software. Thus, in Release 8.0 it is still impossible to electronically order any form of customized OS/DA routing -- just as it always has been.[5]

Q. ON PAGES 16 THROUGH 18 OF HIS TESTIMONY, MR. PATE PRESENTS AND DISCUSSES HIS EXHIBITS RMP-2, RMP-3, AND RMP-4 IN AN ATTEMPT TO DEMONSTRATE THAT BELLSOUTH HAS PROVIDED THE INFORMATION THAT AT&T IS REQUESTING AND THAT BELLSOUTH HAS MADE THAT INFORMATION AVAILABLE TO THE CLEC COMMUNITY. PLEASE COMMENT.

[5] Even had BellSouth successfully implemented this limited test ordering capability, such success would not have provided commercial production capability to any CLEC. Additionally, the test capability only would result in routing to "unbranded" BellSouth OS/DA, but BellSouth must provide

A. Mr. Pate's exhibits demonstrate clearly that BellSouth has not provided AT&T or any other CLEC with the information required to place any type of footprint request, or to submit electronically any customer-specific local service request for OS/DA routing. Further, when compared to the description of BellSouth's use of USOCs for other types of services and features, Mr. Pate's exhibits demonstrate that BellSouth is implementing software developments for electronic ordering of customer-specific OS/DA routing that are needlessly complex and fail to utilize available software and processes.

In his exhibit RMP-2, Mr. Pate provides three versions of BellSouth's proposed contract language. Only the last version (shown in the last three pages of his exhibit) is relevant because each version replaces the previous version.[6] The last section clearly reveals that BellSouth's proposal is incomplete: "3.20.10 Electronic ordering of Line Class Codes will be negotiated between the parties once Line Class Codes are established." Further reading of the proposal establishes that it provides only a process overview description, with no details as to the information required for AT&T to place a footprint request. A number of forms are referenced but neither they nor their contents are provided or offered. My Exhibit JMB-R3 shows AT&T's proposed contract language for this section, which requires

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customized routing to an alternative provider's platform if it wishes to engage in market-based pricing of its own OS/DA.

[6] These last three pages are identical to my Direct Exhibit JMB-3.

BellSouth to provide the information and processes being requested in this arbitration.

Further, BellSouth has revised its offered contract language twice since October, once on January 15, 2001, well before Mr. Pate's testimony, and again on February 12, 2001, a fact Mr. Pate was unaware of when he appeared before the Florida PSC on February 15. BellSouth's most recently offered contract language is even less specific than prior versions and has eliminated any commitments by BellSouth to implementation intervals. Exhibit JMB-R4.

Mr. Pate's exhibit RMP-3 is similar to the specification BellSouth provided to AT&T by e-mail on November 10, 2000, in its attempt to rescue Mr. Milner's inaccurate Georgia testimony, as noted on pages 35-36 of my direct testimony and page 10 above. Mr. Pate's document is dated November 16, 2000, and the Change History Log on page 4 reflects changes to the document on November 14th and 16th that were not discussed with AT&T. In any event, as discussed above, this specification clearly does not provide electronic ordering for the full range of OS/DA options available to CLECs entering BellSouth's market. Further, it needs to be pointed out that this type of specification is internal to BellSouth[7], and is not the vehicle by which BellSouth communicates business rules and interface requirements to the

[7] Note the proprietary markings "PRIVATE/PROPRIETARY: No disclosure outside BellSouth except by written agreement."

CLEC community. Information for the CLEC community is published in documents such as the BellSouth Business Rules for Local Ordering and the BellSouth EDI Specifications on BellSouth's Interconnection Services Web Site.

As I explained in my direct testimony, the FCC instructed BellSouth to accept region-wide indicators for CLECs' customized OS/DA routing. Mr. Milner's Georgia Affidavit (my Direct Exhibit 4) confirms that BellSouth easily could use Uniform Service Order Codes ("USOCs") as indicators to identify a CLEC's selection of customized OS/DA routing. As Mr. Milner explains in paragraph 17 of his affidavit, BellSouth uses USOCs, Field Identifier Codes ("FIDs"), the Line Class Code Assignment Module ("LCCAM"), and a system called MARCH, to assign Line Class Codes ("LCC") to customer specific service requests. This same process could be used to assign LCCs to CLECs' customized OS/DA routing requests. The "indicator" the FCC contemplated in its order, and which AT&T is requesting in this docket, is analogous to a USOC. BellSouth provides USOCs for all other services and elements it makes available to CLECs, and those USOCs are processed by LCCAM whether they are being used by BellSouth or a CLEC.

Rather than use USOCs for AT&T's customized OS/DA routing, however, BellSouth proposes a system unique to AT&T's Operating Company Number

and MAN code, a specific switch, and specific NPA-NXXs within that switch. The methodology proposed by BellSouth clearly does not take advantage of the much simpler USOC-based process used for all other BellSouth and CLEC service requests. Additionally, BellSouth has proposed a system unique to AT&T, to be used for specific NPA/NXXs within that switch, as though AT&T had submitted a bona fide request for an individual process rather than a Change Request for a nondiscriminatory process available to all CLECs. BellSouth was unable to implement this "solution" for one switch; attempting to implement such a process for each requesting CLEC for each switch in which the CLEC plans to do business is unwieldy and unnecessary.

Once again, it is important to remember that this software has not been demonstrated to function as designed, as AT&T has not been allowed to test it.

Mr. Pate presents a Carrier Notification letter as his exhibit RMP-4 and attempts to claim that this means that BellSouth has made OS/DA available to any CLEC. In fact, the letter grossly overstates what might have been available to AT&T if BellSouth had been successful (which it were not) in its attempt to provide limited test OS/DA ordering capability, and directs CLECs to their account team representative: "The ability to control branding on Operator Assistance and Directory Assistance using specific Line Class

Codes (LCC) was implemented for AT&T in Georgia. Other CLECs interested in this capability should contact their account team representative." On page 18 of his testimony, Mr. Pate makes the further claim that his exhibit RMP-3 without the AT&T-specific information is applicable to any CLEC. However, if you remove the AT&T-specific information from RMP-3, there is nothing left of value to any CLEC.

Q. ON PAGES 16 AND 17 OF MR. PATE'S TESTIMONY, HE IMPLIES THAT THERE IS NO INDUSTRY STANDARD FOR ORDERING OS/DA ROUTING BUT STATES THAT BELLSOUTH HAS PROVIDED AN ELECTRONIC CAPABILITY TO AT&T. PLEASE COMMENT.

A. As discussed above, Mr. Pate is absolutely wrong concerning the availability of electronic OS/DA ordering. Further, his comment regarding industry standards is irrelevant. Although the use of industry standards can meet the needs of a competitive local exchange market[8], lack of industry standards does not excuse an incumbent LEC from meeting its obligation to provide nondiscriminatory access to OSS functions.[9] Similarly, deploying an interface that merely adheres to industry standards is not sufficient to demonstrate nondiscriminatory access. A BOC must provide

[8] FCC Ameritech Order ¶ 217; FCC BA-NY Order ¶ 88
[9] FCC South Carolina Order ¶ 121, n. 362.

nondiscriminatory access to its OSS functions irrespective of the existence of, or whether it complies with, industry standards.[10]

Q. MR. MILNER'S TESTIMONY CLAIMS THAT BELLSOUTH IS NOT OBLIGATED TO PROVIDE ACCESS TO OPERATOR SERVICES AND DIRECTORY ASSISTANCE AT UNE RATES BECAUSE BELLSOUTH PROVIDES CUSTOMIZED ROUTING. IS HE CORRECT?

A. No. As I discussed in my direct testimony on pages 38-45, BellSouth does not provide commercially viable customized OS/DA routing of CLEC calls to non-BellSouth platforms. And as I discussed above, there is no documented, repeatable, reliable process for placing footprint requests or submitting customer-specific orders. In addition, there are no working OS/DA routing arrangements in place anywhere within BellSouth's nine states.

Q. PLEASE SUMMARIZE YOUR RESPONSE TO MR. PATE'S AND MR. MILNER'S TESTIMONY REGARDING ISSUES 14 AND 15.

A. BellSouth has mischaracterized AT&T's position and the FCC's orders regarding customized OS/DA routing. AT&T is entitled to customized routing, and the methods it has requested are reasonable, technically feasible, and anticipated by the FCC. BellSouth has not provided the industry with technology to route OS/DA calls to third party platforms and to take

[10] FCC Louisiana II Order ¶ 137.

advantage of different (more efficient, less costly) trunking options that might be available to it in different local exchange areas, LATAs and states through a commercially viable, timely and repeatable process. BellSouth therefore must provide CLECs with its own OS/DA as a UNE, at UNE rates.

Q. WHAT DOES AT&T REQUEST THE COMMISSION TO ORDER REGARDING THIS ISSUE?

A. AT&T asks the Commission to order BellSouth to provide AT&T with specific documented methods and procedures for each of the customized routing methods it purports to offer: unbranded at BellSouth's platform, AT&T branded at BellSouth's platform, and routed to a non-BellSouth platform using the two-part procedure requested by AT&T. The Commission also should require BellSouth to provide AT&T with ordering capability that will allow AT&T to place individual customer orders electronically, utilizing a single region-wide indicator for each routing option. The orders should flow through, and AT&T should not be required to place line class codes on any order, nor should AT&T be required to place any indicator on orders when only one arrangement exists in a given footprint area. BellSouth should be ordered to provide these capabilities within 6 months of the Commission's order.

Further, until such time as BellSouth can demonstrate that it is offering, as a practical matter, customized OS/DA routing to alternative providers, it should

be required to continue to provide its own OS/DA services to CLECs as a UNE at UNE prices.

Issue 22: Should the Change Control Process be sufficiently comprehensive to ensure that there are processes to handle at a minimum the following situations:

Issue Matrix

a) introduction of new interfaces;

b) retirement of existing interfaces;

c) exceptions to the process;

d) documentation, including training;

e) defect correction;

f) emergency changes;

g) an eight step cycle, repeated monthly;

h) a firm schedule for notifications associated with changes initiated by BellSouth;

i) a process for dispute resolution including referral to state utility commissions or courts;

j) a process for escalation of changes in process.

Other Concerns

k) Testing Support and Testing

l) Provision of a Trouble Number for Type 1 Events

m) The Ability of BellSouth to Unilaterally Cancel or Reject a CLEC Request

n) Change Review – Prioritization – Release Package Development and Approval

o) The Process of Changing the Process.

Q. ON PAGE 24, MR. PATE SUGGESTS THAT THE COMMISSION SHOULD ONLY GIVE GUIDANCE ON THESE ISSUES, RATHER THAN ORDER SPECIFIC CHANGES, IN ORDER TO AVOID STATE-TO-STATE CONFLICTS. DO YOU AGREE?

A. No. In order for the change control process to become legally binding upon BellSouth and subject to effective regulatory oversight, this Commission must specifically order BellSouth to adopt the changes requested herein, direct BellSouth to comply with the process, and should specifically place the Change Control Document under its supervision. It should be no more difficult to avoid state-to-state conflicts regarding this process than any other process incorporated into an Interconnection Agreement or into BellSouth's Statement of Generally Available Terms and Conditions ("SGAT"). If this Commission adopts BellSouth's preferred approach, however, the Change Control Process will continue to be subject to BellSouth's sole control.

Q. IN ARGUMENTS AGAINST ARBITRATING THIS ISSUE, MR. PATE MAKES NUMEROUS ASSERTIONS THAT AT&T IS

ATTEMPTING TO "CIRCUMVENT THE COLLABORATIVE PROCESS." IS THIS TRUE?

A. No. AT&T is entitled to arbitrate this issue, as I have demonstrated above. Mr. Pate mischaracterizes AT&T's actions and paints a misleading picture of the level of collaboration that exists today regarding the CCP. As BellSouth is well aware, AT&T and other CLECs continue to work with BellSouth to improve the CCP. Notably, Mr. Pate never states that AT&T is the sole CLEC requesting changes such as those sought in this arbitration.

BellSouth, not AT&T, has circumvented the process by consistently making unilateral decisions regarding the process, over the protests of the CLEC community. In fact, other CLECs have expressed dissatisfaction with BellSouth's Change Control Process, which is not as collaborative as BellSouth attempts to portray. See, for example, Rebuttal Exhibit JMB-R5, which includes MCI and Sprint e-mails indicating disagreement with BellSouth's establishment of a three month trial period for the I-CCP, the definition of defects and several other processes BellSouth had proposed. The e-mails also indicate MCI and Sprint's concurrence with AT&T's objection to BellSouth's reclassification of "defects" as "features". I have also attached minutes of the March 23, 2000 Steering Committee meeting, which lists eight items regarding which CLECs had expressed concerns (retirements, testing, documentation, notification methods, the expedited process, intervals for process steps, the definition of a defect, notification

contents). As shown in the minutes, these items were not addressed during the meeting, but were instead deferred until future meetings. Many of these issues are still under discussion today. Rebuttal Exhibit JMB-R6.

Q. CAN YOU PROVIDE EXAMPLES OF INSTANCES IN WHICH BELLSOUTH FAILED TO FOLLOW ITS OWN CHANGE CONTROL PROCESS?

A. Yes. I will provide four examples of instances in which BellSouth failed to follow the Change Control Process, although there are many more.

1. Issue 9G Business Rules: On August 30, 2000, BellSouth released Issue 9G of BellSouth's Business Rules for Local Ordering ("BBR-LO"), which it admits includes significant changes that BellSouth did not submit to the CCP. (Direct Exhibit JMB-15.) Because BellSouth circumvented the CCP, CLECs were unable to make the required coding and process changes by the proposed October 2, 2000, implementation date. BellSouth nevertheless refused to withdraw these unapproved changes and implemented the software changes on October 2, 2000. In addition to rejecting the previously valid CLEC orders impacted by these unilaterally imposed changes, BellSouth's software release also contained coding errors that caused the rejection of other types of CLEC orders. BellSouth ultimately corrected these additional errors and CLECs and BellSouth utilized manual workarounds until that CLEC coding could be accomplished.

2. Unilateral Changes to Ordering Software: In my direct testimony, I provided an example of how BellSouth unilaterally decided to remove electronic OS/DA ordering functionality from Release 8 of its ordering software, in flagrant violation of the Change Control Process. Since that time, BellSouth has unilaterally decided to make other changes to Release 9 and Release 10. At the November 13, 2000, Release 9 User Requirements Meeting, BellSouth announced that three features based on CLEC change requests and previously scheduled for Release 9 would not be included in the scope of the release, that it was probable that not all of them would even be in Release 10, and that Release 11 was yet to be scheduled. Further, BellSouth revealed that its implementation of UNE to UNE migrations (per its self-initiated CR-0030) would include only the capability to migrate from UNE-P to a UNE loop without number portability, the least likely scenario, and that if any other capability was desired, a new change request would have to be submitted. Exhibit JMB-R7 provides the minutes of the meeting, the associated change requests, and correspondence between AT&T and BellSouth related to the UNE to UNE migration feature. BellSouth later responded to AT&T's December 15, 2000, change request to obtain the UNE-P to loop with number portability migration capability that meets CLEC business needs by indicating that its previous answer was wrong and that the capability actually exists in Release 9. BellSouth however has not provided any updated documentation describing how to use that capability.

Release 9 still contains no CLEC initiated change request implementations, and CLECs attempting to use the stealth the UNE to UNE capability are forced to use trial and error to discover the proper ordering method.

3. Preferential Treatment of BellSouth-Initiated Change Requests: BellSouth recently implemented several software changes on a preferential basis, without following the Change Request Process. As shown in Exhibit JMB-R8, (a November 13, 2000, e-mail from Change Control to the CLECs forwarding BellSouth- initiated change requests 216, 217, 218 and 219), BellSouth submitted four "Type 4" (BellSouth initiated) change requests on November 13th. BellSouth targeted these changes for implementation in November 2000, in violation of the Change Control Process. None of the requests were scheduled for or subject to a prioritization review, as is required for all non-defect change requests. Various CCP log entries reflect that change requests 216, 218, and 219 were implemented as of December 20, 2000.[11] Only fixes for defects are entitled to this "fast track" treatment, yet BellSouth treated its own change requests in this preferential fashion.

4. AT&T's Requested CCP Changes: BellSouth's handling of requests to change the process following the August publication of Version 2.0 also reflects its ability to ignore the Change Control Process. I provided a full discussion of this issue on pages 59-63 of my direct testimony.

These examples explain why AT&T has asked the Commission to arbitrate this issue. CLECs have no recourse if BellSouth fails to follow the Change Control Process, and BellSouth has no incentive to follow it.

Q. WHY DOES AT&T OBJECT TO BELLSOUTH'S REFUSAL TO FOLLOW THE CHANGE CONTROL PROCESS?

A. BellSouth's unique ability to ignore the process delays work on CLEC needs and limits the overall usefulness of the Change Control Process. Every single one of these "out of process" actions are costly to CLECs, who must repeatedly beg BellSouth to provide them with competitive functionalities, must program their systems for capabilities that may or may not be provided as promised, and must constantly revise business plans in response to BellSouth's unilateral decisions. Additionally, BellSouth has ignored the process when it wants to "cut in line" ahead of CLECs to implement changes that benefit BellSouth alone, which clearly is anticompetitive.

Q. ON PAGE 36, MR. PATE BEGINS A DISCUSSION OF THE OUTCOME OF THE JANUARY 10, 2001 PROCESS IMPROVEMENT REVIEW MEETING AND SUBSEQUENT EVENTS THAT CONTINUES THROUGH PAGE 45. CAN YOU SUMMARIZE THE SIGNIFICANT OUTCOMES UPON WHICH THIS COMMISSION SHOULD FOCUS?

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[11] I was unable to find any record of 217 on the CCP Web Site.

A. Yes. This Commission should direct its attention to the new "baseline" version of the Change Control Process Document, Version 2.1.A published on February 16, 2001 and attached as Exhibit JMB-R9 as well as the new "working document" also published on February 16th, which is attached as Exhibit JMB-R10. These two documents taken together should reflect the BellSouth and AT&T/CLEC positions on the CCP Document and eliminate the need to consult several of the previous versions provided as exhibits in my and Mr. Pate's direct testimony. I say "should" because my initial scan of the new "working document" indicates that it is incomplete and in at least two cases does not reflect the CLEC's position. I have brought this issue to the attention of the BellSouth Change Control Team (Exhibit JMB-R-15) and will be discussing all of the CLEC's positions in the next Process Improvement Review Meeting on February 21, 2001.

Q. DOES THE NEW VERSION 2.1.A CCP DOCUMENT RESOLVE ANY OF THE SUB-ISSUES IN THIS ARBITRATION?

A. Yes. Of the 15 sub-issues, Version 2.1.A resolves 5 and partially resolves 2. Here is the status of the sub-issues in this arbitration following the publication of Version 2.1.A.

a) introduction of new interfaces; - OPEN

b) retirement of existing interfaces; - RESOLVED

c) exceptions to the process; - RESOLVED

d) documentation, including training; - RESOLVED

e) defect correction; - Definition – RESOLVED, Cycle Time - OPEN

f) emergency changes; - RESOLVED

g) an eight step cycle, repeated monthly; - Number of Steps – RESOLVED, Cycle Time - OPEN

h) a firm schedule for notifications associated with changes initiated by BellSouth; - OPEN

i) a process for dispute resolution including referral to state utility commissions or courts; - OPEN

j) a process for escalation of changes in process. – Cycle Time - OPEN

k) Testing Support and Testing - OPEN

l) Provision of a Trouble Number for Type 1 Events - RESOLVED

m) The Ability of BellSouth to Unilaterally Cancel or Reject a CLEC Request - OPEN

n) Change Review – Prioritization – Release Package Development and Approval - OPEN

o) The Process of Changing the Process. - OPEN

Q. MR. PATE MAKES FREQUENT REFERENCE TO THE MINUTES OF THE JANUARY 10, 2001, MEETING TO SUPPORT HIS CLAIMS. SHOULD THIS COMMISSION RELY SOLEY UPON THE CONTENTS OF THESE OR ANY OTHER CCP MEETING MINUTES IN REACHING ITS DECISIONS?

A. No. As a matter of convenience, BellSouth's CCP team prepares all CCP meeting minutes. Producing minutes for lengthy and free flowing dialogue is a difficult undertaking. I am certain that BellSouth's team does its best to produce complete, accurate and unbiased minutes, however occasionally error and bias may appear. There is no standing process for the review or approval of CCP meeting minutes. Exhibit JMB-R11 is an e-mail I sent to BellSouth asking for clarification and amendment of the January 10, 2001, minutes. Mr. Pate, who does not attend CCP meetings, and this Commission should use caution when presented with the minutes of such meetings.

Q. ON PAGE 39, MR. PATE'S TESTIMONY IMPLIES THAT ITEM 35 WAS REMOVED FROM THE BALLOT TO PLACATE AT&T. IS THIS TRUE?

A. No. I had worked hand-in-hand with the BellSouth CCP Team in the preparation of the ballot as the CLEC's representative. BellSouth's CCP Team and I had determined that the issue in item 35 – Changing the Process – was not ready to ballot, as both BellSouth's and the CLEC's positions were new or recently revised. It appears to me that in the few hours between my last conversation with the CCP Team and the initial publication of the ballot others in BellSouth vetoed the CCP Team's commitment to me. Subsequent to the publication of the ballot, I believe these other players came to understand that they had made an error in judgement.

Q. ON PAGE 40, MR. PATE STATES THAT "THE SEVEN REMAINING 'CONTESTED CONSENSUS' ITEMS, PLUS THE ITEM THAT HAD BEEN REMOVED FROM THE ORIGINAL BALLOT, WERE SCHEDULED FOR FURTHER DISCUSSION A THE NEXT MEETING TO BE HELD ON OR ABOUT FEBRUARY 21, 2001." PLEASE COMMENT.

A. This is misleading. The consensus reached as a result of the returned ballots was that all 34 items were approved and should therefore be adopted into the CCP document. However, BellSouth vetoed the CLECs' votes on seven issues and implemented its own recommendation rather than the consensus. Further as I note in my e-mail at Exhibit JMB-R15, BellSouth has failed to include all seven issues and the full CLEC recommendation regarding changing the process in the new "working document", thus attempting a preemptive veto over future discussion.

Q. ON PAGES 57-59 OF HIS TESTIMONY, MR. PATE DISCUSSES THE PRIORITIZATION MEETING, THE RELEASE PACKAGE MEETING, THE ACTIVITIES IN THE INTERVAL BETWEEN THE TWO, AND SUBSEQUENT ACTIVITIES LEADING TO IMPLEMENTATION OF A CHANGE REQUEST. IS HIS DESCRIPTION ACCURATE?

A. No. On page 57, Mr. Pate indicates that in the interval between the Prioritization Meeting and the Release Package Meeting, BellSouth "provides

requirements and the technical references to the CLECs" and conducts face-to-face meetings or conference calls "to discuss the programming and coding details for the changes." Mr. Pate is wrong. BellSouth has never conducted these activities during this interval despite CLECs' repeated requests that they do so. The e-mail at Exhibit JMB-R7 above discusses BellSouth's failure to do so prior to its recent publication of the Release 9 specifications on November 13, 2000. The CCP doesn't require the actions Mr. Pate discusses, and BellSouth doesn't perform them.

Similarly, Mr. Pate implies that BellSouth and the CLECs "jointly create the Approved Release Package." While this is indeed the desired outcome, in practice, BellSouth simply dictates the contents of the release.

On pages 58 and 59, Mr. Pate describes a notification letter process and states that: "These letters are not intended to be technical references for use by CLEC software developers. As discussed previously, BellSouth provides CLECs with this information through other sources well in advance of the formal notification." This simply isn't the experience of CLECs since the creation of the first process document in 1998. KPMG recently posted Observation 21 to the Florida PSC Web Site dealing with this very subject; KPMG observed that "The distribution of Carrier Notification information associated with the BellSouth Change Control Process is not adequate. Furthermore, in BellSouth's implementation of the process, significant

information is not included in the Carrier Notifications." There is no consistent process that provides CLECs with this type of information in a timely manner; and thus AT&T seeks the notification processes described in the "working document" Exhibit JMB-R10.

Q. IN HIS DISCUSSION OF NEW INTERFACES MR. PATE MAKES A DISTINCTION BETWEEN "INTRODUCTION" AND "DEVELOPMENT"" OF NEW INTERFACES. DOES THE CCP INCLUDE ANY SUCH DISTINCTION?

A. Mr. Pate states that the "introduction" of new interfaces is subject to the CCP but "development" of those interfaces is not. This distinction is not supported by the CCP itself, which refers only to "introduction" of interfaces.

BellSouth makes this distinction because it wants to exclude development of new interfaces and processes from the CCP (as did the old EICCP). BellSouth's continued exclusion of the development of new interfaces and processes from the CCP guarantees repeated deployment of interfaces and processes that do not meet the needs of the CLECs and are wasteful of the industry's limited resources.

On pages 60-62 of his testimony, Mr. Pate attempts to justify BellSouth's actions using excuses that are both flimsy and downright paranoid:

"BellSouth must have flexibility to develop interfaces to meet industry standards and regulatory requirements."

"new development is too critical to risk being stymied in the process by CLEC disagreement."

"the nature of the CCP is such that if developing interfaces were included in the CCP, CLECs with no intention of using such interfaces could game the process by voting for additional features and functionality that would increase the time and cost to BellSouth and rival CLECs to implement them."

This Commission should turn a deaf ear to such excuses, for which BellSouth has provided no basis in fact. CLECs – the customers of BellSouth and the ultimate beneficiaries of the Change Control Process – must be accorded an opportunity to participate in the development of interfaces and processes that will serve them.

Q. YOU HAVE STATED THAT BELLSOUTH'S EXCLUSION OF NEW INTERFACES GUARANTEES REPEATED DEPLOYMENT OF INTERFACES AND PROCESSES THAT DO NOT MEET THE NEEDS OF THE CLECS AND ARE WASTEFUL OF THE INDUSTRIES LIMITED RESOURCES. CAN YOU PROVIDE EXAMPLES?

A. Yes. AT&T's customers have been victimized by BellSouth's secretive development of new OSS interfaces, specifically, BellSouth's Local Number Portability Gateway ("LNP-GTWY") and the processes supporting local number portability ("LNP"). I discussed two examples in my direct testimony on pages 68-70.

Q. ARE THERE OTHER PROBLEMS WITH LOCAL NUMBER PORTABILITY PROCESSES AND THE LNP GATEWAY THAT RESULT FROM BELLSOUTH'S DEVELOPMENT PROCESS?

A. Yes. The local number portability processes and the LNP Gateway itself were developed by BellSouth outside the Change Control Process. In addition to the customer-impacting process problems discussed above, I will describe how the LNP Gateway also denies CLECs and regulators of BellSouth in all nine states the processes and data needed to meet business and regulatory requirements.

The LNP Gateway itself was placed into service in August/September 1998, without the first scrap of technical documentation about its operation or location in the flow of processing CLECs' LNP-related orders. Historically, BellSouth has placed systems that must communicate with other systems external to BellSouth on the "downstream" side of its Service Order Control System ("SOCS"). Examples include communication with BAPCO for directory listings, communication with its 911database vendor, and

communication with the Service Management Systems of the network signaling system and other databases such as the Line Information Database ("LIDB").

Given that the Local Exchange Ordering ("LEO") and Local Exchange Service Order Generator ("LESOG") were already in place and operational for CLEC-originated local service requests, and in the absence of any specifications about the LNP-GTWY, CLECs made the logical assumption that LNP-GTWY had also been designed and placed "downstream" from SOCS.

Many months later, however, through continued questioning associated with various anomalies in processing LNP orders, the industry discovered that the LNP-GTWY was "upstream" from SOCS. The LNP-GTWY had in fact been developed and placed in the CLEC service request process flow to replace LEO-LESOG when a CLEC service request contained a request for LNP. Without any notice to CLECs, BellSouth had placed a "router" between the CLEC interfaces (EDI, TAG and LENS) and the two possible paths a CLEC LSR could now take, the LEO-LESOG path or the LNP-GTWY path. It is impossible to measure the wasted CLEC resources and CLEC customer ill will that resulted from BellSouth's decision to develop the LNP process and LNP Gateway without CLEC input.

The LNP-GTWY path processes only LSR's that include requests to port a number away from BellSouth to a CLEC. This includes two types of LSRs: those that request migration of a loop and porting of the associated telephone number (Reqtype B) and those that request the porting of a telephone number without its associated loop. (Reqtype C)

BellSouth's development of the LNP-GTWY Reqtype B (loop + number) process does not use the same business rules that are in place in the LEO-LESOG path for migration of the loop. Further, the LNP-GTWY does not collect or report the same process data as does the LEO-LESOG path despite the fact that regulatory data requirements do not differentiate between LNP orders and "regular" orders, and the fact that CLECs' business needs for data are identical. Thus, the LNP interface and process fails to collect data that would allow CLECs and state regulatory authorities to determine whether the system provides nondiscriminatory access to CLECs, and to target improvements where necessary. Open development would have provided the opportunity to ensure that such data is collected.

Q. ARE YOU AWARE OF OTHER NEW INTERFACE DEVELOPMENT THAT BELLSOUTH IS CONDUCTING OUTSIDE OF THE CHANGE CONTROL PROCESS?

A. Yes. As discussed in my direct testimony, BellSouth is developing three maintenance interfaces: DLEC TAFI, CPSS-TA and E-Repair. While

BellSouth has "introduced" these developments to the CLEC industry through a presentation to the October 25, 2000, Monthly Status meeting, even that introduction was not in accord with the requirements of the CCP.

Additionally, BellSouth is engaged in the development of new interfaces and capabilities to support xDSL services and line sharing outside the CCP. Mr. Pate recently filed testimony in Tennessee and Georgia that addresses the extensive nature of these developments. I have attached his Georgia testimony as Exhibit JMB-R12. Once again, BellSouth has elected to allow CLECs only limited participation and input, even though these interfaces are being developed specifically for CLEC use. Exclusion of CLECs from the process typically results in an architecture that further complicates the processing of CLEC LSRs. Exhibit JMB-R13.

From the explanations and claims made in Mr. Pate's Georgia testimony, (which sounds largely like its vendor's sales pitch), it seems possible BellSouth's development of xDSL and line sharing support services could have a broader scope of applicability, perhaps to all types of CLEC orders, but Mr. Pate does not discuss the reasons BellSouth has elected not to use the existing systems for xDSL and line sharing. Those reasons include design deficiencies, unsatisfactory performance, capacity concerns, future plans to migrate all CLEC transactions to the Telcordia vendor solution, future plans to migrate BellSouth's retail transactions to the new architecture, among

others. However, since development is occurring largely out of sight of the CLEC industry without the ability for an open dialogue under the CCP, CLECs are being denied any possibility of timely evaluation and input.

Q. ON PAGE 76, MR. PATE BEGINS A DISCUSSION OF THE DEVELOPMENT OF THE CLEC TEST ENVIRONMENT, AND STATES THAT YOU ARE THE CREATOR OF MINOR ACTION ITEMS, IMPLYING THAT IN SOME WAY THIS HAS BEEN HARMFUL TO THE DEVELOPMENT EFFORT. PLEASE COMMENT.

A. Exhibit JMB-R14 shows the BellSouth-produced CLEC Test Environment User Requirements and Issue Log that BellSouth provided to CLECs in advance of the January 17th and 18th meetings. These are BellSouth's documents and they contain conflicting information that I questioned during the January 18th meeting. BellSouth's representatives to the meeting were unable to explain the various discrepancies and created action items for themselves to provide responses to the industry. The implementation date for this test environment has now slipped from the March 31, 2001, date discussed in the meetings and to which Mr. Pate refers at line 20 of page 76, until some unspecified date in the second quarter. (See Exhibit JMB-R10, page 63) Due to this slippage, BellSouth would like to defer the resolution of open items in the section of the CCP document dealing with the CLEC Test

Environment, even though many of the issues could and should be resolved in advance of its implementation.

Q. ON PAGE 78, MR. PATE DENIES THAT BELLSOUTH HAS OR WOULD EVER USE A "VETO" POWER OVER CLEC CHANGE REQUESTS. PLEASE COMMENT.

A. As discussed above, BellSouth has expressly reserved to itself a veto and has not hesitated to use it in relationship to change requests associated with changing the process (Exhibit RMP-15, page 2). Further, BellSouth even engages in "proactive" vetoing of CLEC proposals. In publishing the "working document" version of the CCP, BellSouth knowingly failed to included CLEC Recommendations. Two examples are highlighted in the e-mail attached as Exhibit JMB-R15. Additionally, BellSouth continues to reserve this same right for itself in the processing of standard change requests as in reflected in Exhibit JMB-R10 on pages 24-25.

Q. ON PAGE 79, LINES 13-16, MR. PATE NOTES THAT THERE IS A PROCESS FOR "A GROUP OF CLEC'S (BUT NOT JUST A SINGLE CLEC)" TO ESCALATE THE RESOLUTION OF DISPUTES. DOES THE CCP LIMIT CLEC'S ABILITY TO ESCALATE INDIVIDUALLY?

A. No. There is no such language, limitation or concept anywhere within the CCP Document. The first time I heard a BellSouth employee state this concept was during BellSouth's opening statement at the Florida AT&T Arbitration Hearing on February 14, 2001. This is another example of creative unilateral process revision by BellSouth.

Q. HAS THERE BEEN AN INCREASE IN CHANGE CONTROL ACTIVITY DURING 2000?

A. Yes. The emphasis placed on Change Control by the FCC in its New York and Texas 271 decisions, and by KPMG in the Georgia and Florida Third Party Tests served as an impetus to BellSouth to take change control off the back burner and turn up the heat – things have been boiling ever since. Activity, however, should not be confused with success or real improvement in meeting the CLECs' business needs. The various Change Control Logs included in Exhibit JMB-R16 provide a source of considerable information.

First, I will contrast change control in 1999 with change control in 2000 at a very high and simplistic level. In 1999, there were 14 officially recognized change requests; in 2000, there have been 257 (as of December 20, 2000).

In 1999, BellSouth submitted no change control requests, and many areas, including defects were outside the scope of the process. Here is the disposition of the 14 CLEC requests submitted in 1999.

1999 CLEC Change Request Disposition at Year End 2000

Submitted	Implemented	Cancelled	Pending	Scheduled
14	5	2	2	5 (Release 10, June 30, 2001)

The two pending change requests[12] were both submitted well over a year ago, on September 12, 1999. Despite having been accepted and prioritized, they still do not have an implementation commitment from BellSouth.

In 2000, BellSouth submitted its first ever change request, and the scope of requests BellSouth would accept expanded, including defect correction requests.

Year 2000 Change Request Disposition

	Submitted	Implemented	Cancelled	Pending	Scheduled	"New"	Defect
Total	257 **(241)**	**84**	**69**	**32**	**16**	**23**	**17**
BellSouth	**96**	**41**	**20**	**15**	**7**	**4**	**9**
CLECs	162 **(145)**	43	49	17	9	19	8

BellSouth's various Change Control logs do not reconcile to each other. Sixteen submitted change requests appear not to have been captured in any category. In constructing this matrix, I used the December 20, 2000 active log and archived log, to count the total entries in each category, count the entries identified as BellSouth initiated and then subtract to get the CLEC total – this of course assigns all missing CRs as belonging to the CLECs.

Using the 241 submissions that can be tracked using the logs we can make a number of observations.

- after two years of submitting no change requests, BellSouth is now clearly the largest single user of the process.
- BellSouth initiated CRs account for 49% of all implementations.
- a significantly higher percentage of BellSouth initiated CRs are in implemented, pending or scheduled status than are CLEC initiated requests:
  - BellSouth:65% (63 of 96)
  - CLECs 43 - 48% (69 of 145 or 69 of 162, depending on which data is used)

A further analysis of implemented BellSouth CRs reveals that 29 of the 41 or 71% were "defects", not including cases, as described above, where BellSouth implemented Type 4 changes as if they were defects, thus disguising their true nature. In contrast, only 17 (40%) of the implemented CLEC CRs originated as defects. Many of BellSouth's CRs appear to be related to KPMG findings in the two ongoing Third Party Tests. BellSouth's use of the process in this manner may not be in the best interests of the CLECs.

[12] Parsed CSRs and an electronic process for correcting dropped 411 listings.

Q. PLEASE SUMMARIZE YOUR RESPONSE TO MR. PATE'S TESTIMONY REGARDING THE CHANGE CONTROL PROCESS.

A. While Mr. Pate attempts to portray AT&T as a renegade trying to circumvent an otherwise cooperative and collaborative process, the truth is that BellSouth simply has been unable to obtain CLEC agreement for the process it proposes. As the multiple examples in my testimony illustrate, several CLECs have been asking for changes, but BellSouth continues to exercise exclusive control over the process, thus preventing true collaboration from taking place.

Mr. Pate's testimony also glosses over the deficiencies in the process by providing high-level overviews and citing obscure examples that are not indicative of the process. But as my direct and rebuttal testimony clearly illustrate, the current process is fraught with deficiencies that allow critical problems to languish, CLEC requests to be denied unilaterally, and even agreed-upon changes to move unnecessarily at a snail's pace such that months, and even more than a year, can pass before change requests are implemented.

Q. WHAT DOES AT&T REQUEST THAT THE COMMISSION DO REGARDING THIS ISSUE?

A. AT&T requests that the Commission correct these deficiencies by adopting the CLEC recommendations in the "working document" version of the CCP

attached as Exhibit JMB-R10 in the context of whatever is the then-most-current version of the Change Control document (Version 2.1.A at this writing), and by ordering BellSouth to comply with these documents.

Issue 23: What should be the resolution of the following OSS issues currently pending in the change control process but not yet provided? (The Equivalent OSS Issue)

a) parsed customer service records for pre-ordering?

b) ability to submit orders electronically for all services and elements?

c) electronic processing after electronic ordering, without subsequent manual processing by BellSouth personnel?

Q. ON PAGE 84 OF HIS TESTIMONY MR. PATE OFFERS A DEFINITION OF "PARSE." SHOULD THIS COMMISSION ADOPT MR. PATE'S DEFINITION?

A. No. Mr. Pate' definition is clearly self-serving. As I describe in my direct testimony on pages 84 and 85, industry standards call for the transmittal of parsed CSR information in response to CLEC queries, and BellSouth requires CLECs to transmit parsed information to them in compliance with those same industry standards when placing orders. Because BellSouth fails to meet industry parsing standards, Mr. Pate has attempted to define the problem away.

The Commission should reject BellSouth's attempt to provide less than parity. BellSouth exchanges (transmits and receives) parsed CSR data internally in its daily operations. BellSouth's systems thus are able automatically to populate its own retail orders, saving time and expense, and providing a greater level of accuracy. Because BellSouth provides parsed CSR data to its customer service representatives, it also is required to provide the same functionality to AT&T.

Mr. Pate argues that BellSouth has met its obligation to provide nondiscriminatory access because "BellSouth provides CLECs the CSR data in the same manner that it provides the data to itself for use by the BellSouth retail units." Pate testimony at pages 85 and 87. Mr. Pate thus attempts to introduce an artificial wholesale/retail distinction, and hopes the Commission will overlook the functionalities that BellSouth provides within its retail operations, such as parsed CSRs.

Mr. Pate also argues that AT&T can use its own systems to parse the unparsed CSR data provided by BellSouth. This argument is not only irrelevant (because it ignores BellSouth's obligation to provide parsed data on a non-discriminatory basis), but often incorrect. Only if BellSouth provides AT&T with data that contains delimiters, and also provides the rules by which the fields represented by the delimiters can be determined, can

AT&T separate BellSouth's unparsed data and place it in the appropriate fields. For example, Mr. Pate discusses the "customer's listed name" field on page 85 of his testimony. BellSouth provides this information to AT&T in one field, without delimiters, so AT&T's systems cannot parse this data. Yet BellSouth requires AT&T to submit an ordering form in which the customer name must be shown in a minimum of two fields, forcing AT&T to separate this information manually.[13] Rebuttal Exhibit JMB-R17.

Thus AT&T is unable to reliably automatically populate its service orders with the CSR information BellSouth currently provides to CLECs, but BellSouth is able to automatically populate its own service orders. Mr. Pate's new definition should be rejected.

Q. ON PAGES 88 THROUGH 90 OF HIS TESTIMONY, MR. PATE DESCRIBES HIS VIEW OF THE STATUS OF AT&T'S CHANGE REQUEST FOR PARSED CSRS. DO YOU HAVE ANY COMMENTS?

A. Yes. Mr. Pate accurately states that AT&T presented its change request for parsed CSRs via the change control process in September, 1999. However, AT&T and other CLECs first made this request to BellSouth in September, 1998, a full year earlier, as part of its requirements for the OSS99 upgrade.

[13] Mr. Pate appears to indicate in his testimony that AT&T's request is inappropriate and unnecessary because BellSouth "retains the customer's listed name as a complete field", e.g. "Pate, Ronald M." BellSouth's decision to "retain" information as one field is irrelevant. It provides its customer service

BellSouth refused to include parsed CSRs in the upgrade, and thus AT&T had to resubmit its request through change control. As Mr. Pate indicates, this was one of eleven pending change requests prioritized by the CLECs, and it received the number one ranking by the group for the TAG interface. Despite CLEC agreement on the high priority of this request, it has been languishing ever since. A review of the September 28, 1999 meeting minutes, provided in Mr. Pate's Exhibit RMP-27, shows that this change request was targeted for implementation in April, 2000. Others were requested in similar time frames, and still others were to be completed as soon as possible ("ASAP"). However, to date, BellSouth has only implemented four of the eleven change requests prioritized in September 1999, although it has implemented a total of 76 other change requests of varying types since that meeting.

Mr. Pate implies that CLEC reprioritization is the cause of this lengthy delay, rather than BellSouth's actions. Mr. Pate is wrong. BellSouth made the unilateral decision to downgrade this important request, and announced its decision to the CLECs. Thus, the March 29, 2000 change control meeting minutes (Pate Exhibit RMP-28) show that the status of AT&T's request was downgraded from "Targeted for release 4/20/2000" to "Subteam being formed to perform planning and analysis during 2000." As noted above, CLECs voted parsed CSRs as their number one priority for TAG interface

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representatives with parsed CSRs, so BellSouth's systems may automatically populate retail orders. BellSouth thus is obligated to provide AT&T with this same functionality.

changes during the September 18, 1999 meeting, and they have never re-prioritized this issue. During the September 18, 2000, Release Package Meeting, BellSouth again downgraded and delayed the implementation of this change, and now states that "Parsed CSR could possibly be implemented with Release 10.0 in May 2001." On December 5, 2000, BellSouth published its proposed schedule to the sub-team mentioned above, showing a planned implementation date of December 31, 2001, for parsed CSRs! Exhibit JMB-R18. Mr. Pate notes correctly on page 90 of his testimony that BellSouth has now informed the CLECs that this implementation date has been improved to the indefinite "summer 2001 timeframe." Therefore, due to BellSouth's unilateral control of this process, a request that has been pending for two years now has an indefinite implementation date over three years from the CLEC's original request.

(b) ability to submit orders electronically for all services and elements?

Q. MR. PATE STATES IN HIS TESTIMONY THAT NON-DISCRIMINATORY ACCESS DOES NOT REQUIRE THAT ALL LSRS BE SUBMITTED ELECTRONICALLY. HE FURTHER STATES THAT BELLSOUTH'S OWN RETAIL PROCESSES OFTEN INVOLVE MANUAL PROCESSES, AND THEREFORE THERE IS NO REQUIREMENT THAT EVERY LSR HAS TO BE SUBMITTED ELECTRONICALLY. PLEASE COMMENT.

A. Mr. Pate uses an apples-to-oranges comparison in an attempt to convince the Commission that BellSouth is treating AT&T the same as it treats itself. However, a careful reading of his testimony reveals the lack of candor in BellSouth's position. When Mr. Pate addresses AT&T's requirements, he correctly notes that AT&T wants to be able to submit all orders electronically. However, when he discusses BellSouth's own ordering capability, he broadens his terminology from actual order submission and instead uses the terms "manual processing" and "manual handling" of BellSouth orders, which are not the same thing as order submission. Additionally, although he admits that the manual processing and handling of which he speaks occur as part of the order preparation process, not as part of the order submission process, he goes on to imply that because the manual pre-ordering processes are substantially the same for both retail and CLEC orders, that BellSouth is providing an equivalent ordering process. Mr. Pate's admission is simply irrelevant to the ordering process.

AT&T does not dispute that both its requests for service and BellSouth's requests for service involve some level of manual collection of information and order preparation before input into each company's respective ordering systems. But after an order is prepared, BellSouth has the ability – which AT&T does not -- to input that order into its ordering system. What AT&T is asking for itself is to be able to submit its orders electronically, once

prepared, just as BellSouth does for its customers. BellSouth continues to refuse to provide that non-discriminatory capability.

Q. WHY IS ELECTRONIC ORDER SUBMISSION IMPORTANT TO AT&T?

A. As I stated in my direct testimony, lack of electronic ordering increases the possibility of errors, extends intervals, and increases costs. Electronic ordering allows a CLEC to populate its own databases simultaneously with providing an order to BellSouth. A manual process, however, requires two steps: an order must be provided to BellSouth, and the appropriate ordering information be separately input into AT&T's internal OSS.

Q. MR. PATE USES EXHIBITS RMP-34 AND RMP-35 TO ATTEMPT ILLUSTRATE THAT "BELLSOUTH PROVIDES CLECS THE ABILITY TO ORDER COMPLEX SERVICES IN SUBSTANTIALLY THE SAME TIME AND MANNER AS IT PROVIDES TO ITS RETAIL CUSTOMERS." PLEASE COMMENT.

A. Mr. Pate's exhibits do not achieve that goal. As the unshaded (electronic) blocks in each exhibit demonstrate, the CLEC simply does not place its orders as BellSouth does. Rather, as the two exhibits clearly indicate, BellSouth submits both its own electronic order and the CLEC's order, thereby denying CLECs the advantages of electronic order submission as described above. For Mr. Pate's diagrams actually to depict a

nondiscriminatory process, the block on Exhibit 34, presently labeled "CSA – ORDER ENTRY INTO DOE" would have to show and accurately represent input of the order by the CLEC employee into the CLEC sales and marketing interface.

Mr. Pate's exhibits reveal an additional area of discrimination. The BellSouth retail order is processed using BellSouth's new Regional Ordering System (ROS), while the CLEC order is processed using the former system, Direct Order Entry (DOE). In his description of ROS, Mr. Pate indicates ROS "utilizes software to compare <u>each</u> FID contained within the service order to corresponding SOER edits." It is highly unlikely that BellSouth would have gone to the expense of deploying a new ordering system such as ROS if it were not superior to the old one. Yet BellSouth is not using that superior capability for CLEC orders. Thus, in actuality, Mr. Pate's exhibits depict that a CLEC orders complex services in a <u>very different</u> (and discriminatory) "manner" when compared to BellSouth.

(c): Electronic processing after electronic ordering, without subsequent manual processing by BellSouth personnel.

Q. MR. PATE STATES IN HIS TESTIMONY ON PAGE 98 LINES 23-25 THAT NON-DISCRIMINATORY ACCESS DOES NOT REQUIRE THAT ALL LSRS BE SUBMITTED ELECTRONICALLY FLOW

THROUGH BELLSOUTH'S SYSTEMS WITHOUT MANUAL INTERVENTION. DO YOU AGREE?

A. Absolutely not. The Act and the FCC require that BellSouth provide non-discriminatory access to its OSS. Because all of BellSouth's orders are capable of flow through, the CLECs' orders must be provided with the same capability. Further Mr. Pate is hoping that he can sufficiently misdirect this Commission from the findings of the FCC and other state regulators in BellSouth's territory regarding BellSouth's OSS.

In 1997, the Florida Public Service Commission ("FPSC") made its own independent investigation into the OSS BellSouth was offering to the CLEC community and found them lacking. In its order that Commission established the criteria BellSouth would have to meet in order to demonstrate that its offered OSS were providing nondiscriminatory access, and determined that BellSouth must provide electronic interfaces that require no more human or manual intervention for CLECs than for BellSouth:

> Upon consideration, we believe that BellSouth is required to demonstrate to this Commission and to the FCC, that its interfaces provide nondiscriminatory access to OSS functions. Although AT&T witness Bradbury stated that there are five characteristics of a non-discriminatory interface, we find it appropriate to recognize four of those characteristics. We find that each interface must exhibit the following characteristics to be in compliance with the nondiscriminatory standards of the Act. They are: **1) the interface must be electronic. The interface must require no more human or manual intervention than is necessarily involved for BellSouth to perform a similar transaction itself;** 2) the interface

must provide the capabilities necessary to perform functions with the same level of quality, efficiency, and effectiveness as BellSouth provides to itself; 3) the interface must have adequate documentation to allow an ALEC to develop and deploy systems and processes, and to provide adequate training to its employees; and, 4) the interface must be able to meet the ordering demand of all CLECs, with response times equal to that which BellSouth provides itself. (DOCKET NO. 960786-TL; ORDER NO. PSC-97-1459-FOF-TL; ISSUED: November 19, 1997, pages 101 and 177-178, emphasis added.)

Mr. Pate, however, attempts to confuse this issue by introducing BellSouth's own definition of CLEC flow-through.

Q. HOW DOES BELLSOUTH DEFINE CLEC FLOW-THROUGH?

A. On page 99 of his testimony, Mr. Pate indicates that CLEC flow-through occurs when a "**complete and correct electronically submitted LSR is sent via one of the** CLEC **ordering interfaces** (EDI, TAG, or LENS), **flows through the mechanical edit checking** and LESOG system, is mechanically transformed into a service order by LESOG, **and is accepted by the SOCS** without any human intervention." The portions shown in bold are BellSouth's modifications to the FCC's definition of flow-through, which is discussed below.

Q. DOES MR. PATE DEFINE OR DESCRIBE BELLSOUTH'S RETAIL FLOW-THROUGH?

A. No. However, the flow-through process for BellSouth shares many commonalties with the CLEC flow-through process. The following is a description of BellSouth flow-through, using the common areas depicted in bold from the CLEC flow-through description above. Information specific to BellSouth's retail flow-through is shown in *italics*:

> *Retail* flow-through occurs when a complete and correct electronically submitted LSR is sent via one of the *retail* ordering *systems (RNS, ROS, or DOE*), flows through the mechanical edit checking, and is accepted by the Service Order Control System (SOCS).

As will be described below, <u>all</u> BellSouth orders are capable of flow through between its ordering systems and SOCS, while only some CLEC orders are allowed to do so.

Q. IS BELLSOUTH'S DEFINITION OF FLOW-THROUGH CONSISTENT WITH THE FCC'S DEFINITION?

A. No. BellSouth has significantly both embellished and restricted the FCC's definition for its own purposes. The FCC's definition is found in paragraph 107 of the LAII Order:

> A competing carrier's orders "flow through" if they are transmitted electronically through the gateway and accepted into BellSouth's back office ordering systems without manual intervention.

While BellSouth maintains that all it has done with its revision of the FCC's simple definition is to make it specific to BellSouth's systems, it has in fact introduced significant requirements beyond the FCC's.

The central concept of FCC's definition (which it should be noted addressed only flow-through for CLEC service requests) can be restated to encompass both CLEC and BellSouth retail processes without introducing any spurious restrictions:

> A service request that is input to a sales and marketing interface by the manual actions of a CLEC or BellSouth employee and subsequently sent to and accepted by BellSouth's Service Order Control System ("SOCS") without any further human intervention has flowed-through.

Using this description, it is easy to see that all BellSouth retail service requests input to BellSouth's RNS or ROS sales and marketing interfaces are capable of flow-thorough to SOCS, while only a portion of CLEC service requests sent electronically to BellSouth are allowed to do so. In exactly the same way, all BellSouth retail service requests input to the systems that preceded ROS, DOE and SONGS, were capable of flow-through.

Q. IN APRIL OF 1999, AFTER 2O MONTHS OF REPORTING FLOW THROUGH FOR ITS BUSINESS ORDERS, BELLSOUTH STOPPED REPORTING THAT DATA AND DECLARED THAT IT HAD

DISCOVERED THAT ITS RETAIL BUSINESS ORDERS DID NOT HAVE FLOW THROUGH. IS THIS A VALID ARGUMENT?

A. No. It is plain to see that all of BellSouth's retail business orders are submitted electronically and capable of flow through. The Georgia Commission in its recent order in its Performance Measures Docket, No. 7892-U, rejected the argument that BellSouth makes in this arbitration that its business retail orders are not electronic and do not flow through. The Georgia Commission has ordered BellSouth to resume reporting of this data going back to May 2000. Exhibit JMB-R19. Additionally the Georgia Order creates an Improvement Task Force to expand the scope of ALEC electronic ordering and to eliminate BellSouth system errors and designed manual fallout.

Q. MUST EVERY STEP OF THE PREORDERING AND ORDERING PROCESS BE AUTOMATED BEFORE AN ORDER CAN FLOW THROUGH?

A. No. As noted above, flow-through occurs when an order is entered into a sales and marketing order system and it flows through to SOCs. As shown in Mr. Pate's Exhibit RPM-35, there also may be a number of manual pre-ordering steps necessary to gather information for the order.

Q. MR. PATE CLAIMS ON PAGE 99 OF HIS TESTIMONY THAT TO HIS KNOWLEDGE NO FLOW-THROUGH CHANGE REQUESTS HAVE BEEN SUBMITTED TO THE CCP. IS THIS CORRECT?

A. No. It is both incorrect and irrelevant. AT&T has submitted CRs 0137 and 0160 and other CLECs have also submitted flow-through related change requests. However, this is irrelevant to BellSouth's obligation to provide nondiscriminatory OSS functionality, including flow-through ordering. This requirement was established by the Act and the implementing rules and orders of the FCC and by the orders of various state authorities, including the FPSC's 1997 Order. Further, as Mr. Pate knows AT&T and BellSouth have been engaged in on-going discussions of flow-through and order mechanization since early 1997. The most recent dialogue began August-September 1999 and continues to the present. Exhibit JMB-R20 provides copies of inter-company correspondence and meeting minutes from this on-going effort. Additionally the Georgia Order cited above (Exhibit JMB-R19) creates an Improvement Task Force to expand the scope of ALEC electronic ordering and to eliminate BellSouth system errors and designed manual fallout.

Q. MR. PATE STATES ON LINES 12-14, PAGE 100 OF HIS TESTIMONY THAT BELLSOUTH HAS CONCLUDED THAT MECHANIZING MANY LOWER-VOLUME COMPLEX RETAIL

SERVICES WOULD BE IMPRUDENT FOR ITS OWN RETAIL OPERATIONS. IS THIS RELEVANT TO FLOW-THROUGH?

A. No. Complex services are rarely totally mechanized, but this is irrelevant to the issue of flow-through. An order for a complex service may require many manual pre-ordering activities yet still flow through, as shown in Mr. Pate's Exhibit RPM-35.

As is indicated above, retail flow-through is achieved when a service request is successfully transmitted from the ordering system (RNS, ROS, DOE), and is accepted by SOCS. A review of Mr. Pate's exhibit reveals that a BellSouth employee enters an order into ROS, which transmits it to SOCS – thus flowing through. In his testimony on page 86, Mr. Pate refers to the manual pre-ordering processes that also are used to prepare these complex orders for entry into BellSouth's front-end system. His exhibit uses shaded areas to indicate steps involving manual processing. The Commission should concentrate its attention, however, on the two BellSouth activities (order entry into ROS and receipt by SOCS) that are <u>not</u> found in the shaded areas indicative of manual processing. BellSouth's own exhibit shows that these steps are electronic, and that BellSouth's own retail complex orders do flow through from its ordering systems to SOCs. CLEC orders are thus entitled to the same flow through process.

There is no retail service that BellSouth cannot order electronically. If, as Mr. Pate testifies, BellSouth had elected not to mechanize a particular retail service, then it would be impossible to order that service via the retail RNS, DOE or ROS interfaces. Yet BellSouth has never identified a single retail service that its retail service representative cannot order via input to one of these systems, although AT&T has repeatedly inquired into this issue.

In the spring of 1999, for example, BellSouth was asked to respond to a matrix identifying the interface it used to place requests for each of its retail services. In its response, BellSouth did not identify a single service that was not was not ordered via RNS, DOE, or SONGS. Rebuttal Exhibit JMB-R21 provides a copy of BellSouth's response. More recently, during the North Carolina arbitration between AT&T and BellSouth, Mr. Pate was asked whether there was any service that a BellSouth representative could not order via ROS, to which he responded that he was not aware of any such service. (Rebuttal Exhibit JMB-R22 – NC Testimony Transcript reference page 227-228). Mr. Pate confirmed his North Carolina response in the Georgia arbitration hearing Exhibit JMB-R23, Georgia Transcript at page 1107.

Q. HAVE OTHER KNOWLEDGEABLE BELLSOUTH EMPLOYEES PROVIDED TESTIMONY INDICATING THE EXISTANCE OF FLOW THROUGH FOR ORDERS PLACED USING THE DOE INTERFACE?

A. Yes. In a deposition taken on July 28, 2000, Mr. Douglas W. McDougal, discussing the importance of flow-through to the operation of the LCSC, referred directly to the importance of flow-through of the orders his employees placed using the DOE, SONGS, and LNP interfaces. This discussion may be found on pages 16-20 of his deposition, which I have attached as Rebuttal Exhibit JMB-R24. On page 17, line 16, Mr. McDougal states:

> "However, we also have flowthrough on orders that come in by fax and paper because we get tremendous of fax and paper orders, particularly from smaller CLECs. So we attribute flowthrough to once the service rep builds the order and releases the order to the downstream systems, it flows without erroring out."

It is entirely logical to believe that if orders submitted by LCSC employees using DOE are capable of flow-through, orders submitted by BellSouth retail employees using DOE or its replacement, ROS, are also flow-thorough capable.

Q. DOES BELLSOUTH DESCRIBE REASONS OTHER THAN COMPLEXITY THAT CLEC ORDERS FALL OUT FOR MANUAL PROCESSING?

A. Yes. BellSouth has created "designed fallout", which means that CLEC order fall out for manual handling for reasons other than complexity. In previous arbitrations Mr. Pate has indicated that these other reasons are described in its Service Quality Reports Performance Reports document. A

review of page 19 of that document (Rebuttal Exhibit JMB-R25) reveals at least twelve scenarios in which BellSouth has decided that orders should not flow through. The discriminatory nature of this decision is apparent in the last line of this information, which states "all but one [of the twelve non flow-through scenarios] are unique to the CLEC environment."

Q. DO YOU AGREE WITH THE STATEMENT THAT THESE SCENARIOS ARE UNIQUE TO THE CLEC ENVIRONMENT?

A. No. Although the non-flow through or manual fall-out is unique to the CLEC environment, the scenarios are not. For example, the exhibit lists several types of CLEC orders that do not flow through: CLEC orders with more than 25 business lines, expedited orders, end-user outside moves, pending order activity on account, and transfer of calls option. But these situations are not unique to CLECs. Certainly BellSouth has these types of scenarios as well, but BellSouth's resulting retail orders do not fall out for manual processing as do CLEC orders. In a deposition taken on July 20, 2000, Mr. Pate was uncertain about the "uniqueness" of these situations to the CLEC environment. On page 42 beginning at line 25 Mr. Pate states:

> "Well, I need to talk to the author on that as well. They were trying to categorize these as unique; and, frankly, they're not all unique, but most are unique. I think that's an area where we can go back and look, but the majority of these are unique to CLEC environment."

In subsequent discussion Mr. Pate agreed that many of the same situations existed for BellSouth. I have attached Mr. Pate's deposition as Rebuttal Exhibit JMB-R26.

Q. ON PAGE 100 OF HIS TESTIMONY MR. PATE DISCUSSES WHAT HE CALLS THE TWO MAIN REASONS THAT ELECTRONICALLY SUBMITTED ORDERS FALL OUT FOR MANUAL HANDLING. FIRST, THAT LESOG HAS NOT BEEN PROGRAMMED TO HANDLE REQUESTS FOR CERTAIN TYPES OF PRODUCTS AND SERVICES AND SECOND, UNIQUE CIRCUMSTANCES RELATED TO THE LSR. PLEASE COMMENT.

A. It is important to understand that the programming of LESOG is totally at BellSouth's discretion and is not limited by any industry standards or other external guidelines – it is simply BellSouth's, and BellSouth's alone, decision as to what programming to install in LESOG.[14] Ms. Terri Hudson speaking at the November 1, 2000, meeting made this point clear when she stated that there were many things BellSouth could do to improve "flow-through" for CLECs without the CLECs needing to perform any coding or take any other action. Ms. Hudson's words were paraphrased in the minutes of the meeting as part of an action item appearing on page 8 (see Exhibit RMP-13):

> BellSouth will provide a report of internal changes that have a positive impact and improve performance for CLECs, but do not

[14] This is true of all the software and system components BellSouth has introduced between the CLEC interface (EDI, TAG, LENS) the BellSouth's legacy Service Order Control System (SOCS). This includes, the LSR Router, LEO, LESOG, LNP Gateway, LAUTO, and the new "Corporate Gateway".

require coding. These changes improve "flow-through" in BellSouth and would require no vote by the CLECs.

Mr. Pate claims once again that "complexity" and "low ordering volume" don't justify programming in LEO that would provide CLECs with parity to BellSouth retail operation. In October 2000, there were 31,883 LEO LSRs subjected to designed manual fallout (10% of the total submitted), and 27,406 LEO LSRs that BellSouth's LEO system failed to process as it should have (8% of the total submitted). For the LNP-GTWY there were 5,911 LSRs subjected to designed manual fallout (28% of the total submitted), and 7,450 LSRs that the LNP-GTWY system failed to process as it should have (36% of the total submitted). Thus, in October alone 72,650 (21% or 1 out of 5) electronically submitted LSRs were subjected to manual handling by BellSouth's unilateral programming decisions. Low volume is clearly not an issue that justifies BellSouth's continuing failure to program LESOG/LNP-GTWY or fix its currently defective programming.

As discussed above, complexity is not an issue, as BellSouth provides flow-through for its own service requests.

As discussed above, the claim of uniqueness is also highly suspect, and the resulting impact on customer service of designed manual fallout is often negative rather than positive. Consider the absurdity of have LSRs that request expedited due dates fallout for manual processing, when the average

interval from when the LSR falls out to when it is claimed by a service representative ranges from 34 to 130 hours as documented in my direct testimony at page 101.

Q. THE LOCAL CARRIER SERVICE CENTER ("LCSC") HANDLES ALL MANUALLY SUBMITTED ORDERS AND ALL ELECTRONICALLY SUBMITTED ORDERS THAT FALL OUT FOR MANUAL PROCESSING. MR. PATE HAS REPORTED THAT THE PERCENTAGE OF ELECTRONICALLY SUBMITTED ORDERS HAS RISEN SIGNIFICANTLY OVER THE PAST YEAR. DOES THIS NECESSARILY MEAN THAT BELLSOUTH IS PROCESSING PROPORTIONALLY MORE CLEC ORDERS WITHOUT HUMAN INTERVENTION?

A. No. Because real flow-through for electronically submitted orders is generally low, human intervention on CLEC orders is still unreasonably high and BellSouth still relies excessively on manual processing of CLEC orders.

Let me illustrate this point with some data. In the recent Georgia Arbitration (October 31, 2000), Mr. Pate stated that a year ago, (October 1999) 49% of CLEC orders were submitted electronically and that today (October 2000) that percentage had risen to 82%. (Exhibit JMB-R23, TR page 1108. Additionally, BellSouth has provided volume and staffing data in its responses to AT&T's Interrogatories and Document Requests in both North

Carolina and Florida.[15] Combining this with information from the Monthly Flow-Through Reports, we can summarize some significant data points for each of the two months one year apart and make a number of observations.

Comparative Data October 1999 / October 2000

	OCTOBER 1999	Counts	% of Total LSRs	% of Electronic LSRs
1	Electronically submitted LSRs	110,814	52%	
2	Manually submitted LSRs	103,123	48%	
3	Total LSRs	213,937		
4	Manual Fallout LSRs	8,180		
5	Total System Error Fallout LSRs	9,590		
6	Manually handled electronic LSRs (4+5)	17,770		16%
7	Total LCSC LSRs (2+4+5)	120,893	57%	
8	LCSC Headcount	639		

	OCTOBER 2000	Counts	% of Total LSRs	% of Electronic LSRs
1	Electronically submitted LSRs	345,834	88%	
2	Manually submitted LSRs	47,961	12%	

[15] In North Carolina BellSouth's responses were to IRs 29 and 32, in Florida they are to IRs 34 and 36.

3	Total LSRs	393,795		
4	Manual Fallout LSRs	37,794		
5	Total System Error Fallout LSRs	43,446		
6	Manually handled electronic LSRs (4+5)	81,240		23%
7	Total LCSC LSRs (2+4+5)	129,201	33%	
8	LCSC Headcount	740		

While the percentage of LSRs submitted electronically did rise from 52% to 88%, the percentage of LSRs still subject to manual processing only fell from 57% to 33% and the percentage of electronically submitted LSRs subjected to manual handling actually rose from 16% to 23%. Interestingly, while the number of LSRs handled by the LCSC grew 7% (from 120,893 to 129,201), the head count required to handle those LSRs grew 16% -- even though in 1999, 85% of such orders were fully manual while in 2000, only 37% were fully manual. BellSouth still relies excessively on manual processing of CLEC LSRs and as shown above is unable to provide such manual processing in a timely manner.

Q. IN PRIOR ARBITRATIONS MR. PATE HAS CRITICIZED YOUR FLOW THROUGH ANALYSIS AS INCOMPLETE AND INACCURATE BECAUSE YOU DID NOT HAVE ACCESS TO THE UNDERLYING DATA. WHAT IS YOUR RESPONSE?

A. I disagree. The rationale Mr. Pate has used in the past for recasting my calculations is completely inappropriate.

Q. WHAT RATIONALE DID MR. PATE USE?

A. In essence, Mr. Pate's position has been that access to the underlying data is necessary to conduct flow-though analysis. To support his contention, he selected one category of the flow-through report (business resale) for one month to examine the data for factors influencing the level of orders falling out for manual handling. He concluded that orders were not falling out in this case because BellSouth had designed them to, but because two primary CLEC users of the EDI and TAG interfaces had not upgraded their interfaces to take advantage of an upgrade BellSouth had made which allowed one of the services they order to now flow through.

Q. PLEASE COMMENT ON MR. PATE'S POSITION.

A. Mr. Pate's position is inaccurate. Flow-through does not occur at the interface level (EDI, TAG, LENS). Rather, service requests are submitted at the interface level. Flow through, by Mr. Pate's definition on page 99 of his testimony occurs in BellSouth's OSS:

> "Flow through for a CLEC LSR occurs when the complete and correct electronically submitted LSR is sent via one of the CLEC ordering interfaces (EDI, TAG, or LENS), flows through the mechanical edit checking and LESOG system, is mechanically transformed into a service order by LESOG, and is accepted by SOCS without any human intervention. (emphasis added)

As is clearly indicated by Mr. Pate's own definition, flow-through occurs in BellSouth's OSS (LEO/LESOG or LNP/LAUTO), not at the interface level. Unfortunately, the CLEC has no control over what BellSouth designs to flow through its OSS. If BellSouth has designed CLEC orders to flow through in some circumstances, but not others, the responsibility and the ability to correct that problem lies with BellSouth, not with the CLECs. Therefore, BellSouth is responsible for the orders it has designed to fall out for manual handling, and the analysis submitted in my direct testimony is correct.

The specific business service mentioned by Mr. Pate in his previous testimony that BellSouth has elected to allow to flow through for EDI releases greater than 6.0 and TAG releases greater than 3.0 is series hunting. Series hunting has been electronically orderable for three years. At any time during those three years BellSouth could have provided flow through for every CLEC submitting such orders. Thus for three years BellSouth denied this capability for up to 147 CLECs when it could have provided it to all with only a change in its programming of LEO/LESOG. Instead, BellSouth has elected to provide this capability only to those CLECs that elect to perform an expensive upgrade. The orders the two CLECs Mr. Pate discusses are still accurate, complete and capable of being provided with flow through -- as they have been for three years.

Q. HAS MR. PATE'S PRIOR ANALYSIS REFUTED YOUR POSITION THAT BELLSOUTH PROVIDED UNACCEPTABLE LEVELS OF FLOW-THROUGH BUSINESS RESALE?

A. No. Even if all of Mr. Pate's assumptions had been correct, which they were not, his exercise only increased the maximum possible flow-through for TAG from 37% to a still-unacceptable rate of 56%, and EDI from 28% to a similarly unacceptable flow-through rate of 56%. These inflated numbers, which indicate that orders fall out almost half the time, still stand in stark contrast to the 100% flow through potential for BellSouth's own orders.

Q. IN THE PAST MR. PATE HAS ASSERTED THAT OVERALL FLOW THROUGH RATES ARE SKEWED BECAUSE A SMALL NUMBER OF CLECS ARE DOMINANT VOLUME USERS OF THE ELECTRONIC INTERFACES. IS HIS ARGUMENT ACCURATE OR RELEVANT?

A. No. It makes no difference if BellSouth is discriminating against one user who provides 100% of the volume, or 100 users who each contribute 1% of the volume. If the overall rate of manual fallout and BellSouth-caused system failures is unacceptable, there is no doubt that BellSouth has treated the CLEC industry in a discriminatory manner.

The data Mr. Pate uses to identify the "dominant volume users" are public. I should point out, however, that in the past Mr. Pate has been less than

thorough in his explanation of this data and the application of available knowledge about individual CLECs.

For example, totaling the number of individual horizontal lines, as Mr. Pate has suggested, will overstate the number of users of a given interface for a given product. For example, AT&T, as a user of EDI, may appear in the Business Report two times, in the UNE Report three times, in the LNP Report two times, and in the Residence Report two times in any given month. I am certain the same is true for other CLECs.

Thus, in addition to being irrelevant, Mr. Pate's conclusions, which are based on incomplete data, are wrong and misleading.

Q. PLEASE SUMMARIZE YOUR RESPONSE TO MR. PATE'S TESTIMONY REGARDING THE EQUIVALENT FUNCTIONALITY ISSUE (ISSUE 23).

A. Mr. Pate offers contradictory views on this issue. He first states that these long-outstanding issues should go through change control, then says that non-discriminatory access does not require that BellSouth provide them, and then finally tries to persuade this Commission with easily refuted evidence that BellSouth is already providing similar treatment to CLECs as it provides itself. However, as is illustrated in my responses above, this is not accurate, and BellSouth is continuing its long-standing discrimination against CLECs

in the areas of CSR parsing, electronic order submission, and order flow-through.

Q. WHAT DOES AT&T REQUEST THAT THE COMMISSION ORDER REGARDING THIS ISSUE?

A. AT&T is asking that the Commission order BellSouth to provide equivalent functional capability by providing parsed CSRS, the ability for all orders to be submitted electronically, and flow-through equal to that which BellSouth provides itself. BellSouth should be ordered to provide these capabilities within 12 months of the Commission's order.

Issue 24: Should BellSouth provide AT&T with the ability to access, via EBI/ECTA, the full functionality available to BellSouth from TAFI and WFA?

Q. AT&T HAS REQUESTED THAT BELLSOUTH PROVIDE FULL TAFI AND WFA FUNCTIONALITY VIA EBI/ECTA. HAS BELLSOUTH AGREED TO DO SO?

A. No. BellSouth argues that it already provides CLECS with non-discriminatory access to maintenance and repair OSS functions through TAFI and the ECTA Gateway, so it should not be required to meet AT&T's request.

Q. DO YOU AGREE WITH BELLSOUTH'S ASSERTION?

A. No, and neither has the FCC. As I describe in my direct testimony, the FCC concluded that none of BellSouth's repair and maintenance interfaces provide competitors with OSS functionalities equivalent to BellSouth's own capabilities. FCC Second Louisiana Order para 148.

Mr. Pate makes an unsubstantiated claim on page 105 of his testimony that BellSouth "provides CLECs with electronic access to its maintenance and repair OSS in a manner that far exceeds what is provided by the Web-based graphical user interface ("GUI") that Bell Atlantic had in place when is was approved by the FCC." This is irrelevant, given the FCC's specific finding regarding the insufficiency of the maintenance and repair OSS BellSouth makes available to CLECs.

Q. PLEASE DISCUSS THE INSUFFICIENCIES OF THE ACCESS PROVIDED BY BELLSOUTH TO ITS MAINTENANCE REPAIR OSS.

A. BellSouth provides two options for electronic trouble reporting: Trouble Analysis Facilitation Interface ("TAFI") and the Electronic Communication Trouble Administration ("ECTA"). As I describe in detail in my direct testimony, TAFI provides the broader array of functionality, but is a human-to-machine interface. ECTA, on the other hand, can be integrated into CLEC systems, but provides only a limited set of functionalities for any type of

service. CLECs are denied the ability to access the functionality of TAFI and integrate it into other systems, as BellSouth can. Therefore, BellSouth is not providing non-discriminatory access.

Q. YOU HAVE STATED THAT BELLSOUTH HAS INTEGRATED TAFI INTO ITS OTHER SYSTEMS, BUT MR. PATE IMPLIES THAT TAFI IS NOT INTEGRATABLE. HOW CAN THIS COMMISSION DETERMINE WHO IS CORRECT?

A. Mr. Pate appears to indicate that the TAFI interface can be integrated by neither BellSouth nor CLECs, thus leading a casual reader to conclude that BellSouth and CLECs share equivalent and nondiscriminatory access to TAFI. A careful reading of Mr. Pate's testimony, however, reveals that this simply is not the case. BellSouth can indeed integrate the TAFI interface with its systems, with the exception of its "sales and marketing systems."

This Commission also should note that Mr. Pate's testimony herein appears to contradict BellSouth's position in its second Louisiana 271 application before the FCC. There, BellSouth "conceded" that it failed to offer nondiscriminatory access to TAFI functionalities:

> "We also note that BellSouth concedes that it derives superior integration capabilities from TAFI than the capabilities offered to competitors. BellSouth states that TAFI is a 'human to machine interface' meaning that new entrants using TAFI cannot integrate it with the new entrant's own back office systems….BellSouth, on the other hand, is able to take advantage of its own TAFI system's capability of

> 'automatically interacting with other systems as appropriate' and its customer service representatives need not duplicate their efforts in the same way. In other words, TAFI is integrated with BellSouth's other back office systems."

FCC Second Louisiana Order, para. 151, emphasis added.

Q. ON PAGE 109 OF HIS TESTIMONY, MR. PATE CLAIMS "IF TAFI FUNCTIONALITY WAS BUILT INTO ECTA, THEN ECTA WOULD NO(T) LONGER BE (A) STANDARDS BASED INTERFACE." IS THIS CORRECT?

A. No. This is a tired and irrelevant red herring that BellSouth has raised now for over four years. Industry standards are guidelines - providing functionality over and above the guideline does not violate it, in fact doing so is one of the key methods by which the guidelines are expanded and improved. A number of parties using an interface based on industry standards modify the interface to have more functionality or operate more efficiently and then submit their work and the evidence of its value to the industry for consideration as an improvement to the standard. In fact, AT&T and BellSouth have presented such joint modifications of industry standards to the industry in the past.

Further it is important to remember, just as I discussed above in Issue 19, that although the use of industry standards can meet the needs of a competitive

local exchange market[16], lack of industry standards does not excuse an incumbent LEC from meeting its obligation to provide nondiscriminatory access to OSS functions.[17] Similarly, deploying an interface that merely adheres to industry standards is not sufficient to demonstrate nondiscriminatory access. A BOC must provide nondiscriminatory access to its OSS functions irrespective of the existence of, or whether it complies with, industry standards.[18]

Q. PLEASE SUMMARIZE YOUR RESPONSE TO MR. PATE'S TESTIMONY ON THIS ISSUE.

A. BellSouth asserted that it provides non-discriminatory access to maintenance and repair functionalities, in spite of the obviously discriminatory lack of integratable access to TAFI for CLECs as it provides for itself. Surprisingly, it asserted that TAFI was not integratable for BellSouth, in apparent direct contradiction to affidavits filed by BellSouth at the FCC and upon which the FCC based its findings in determining that BellSouth does not provide non-discriminatory access to maintenance and repair.

AT&T is in agreement with the conclusions and decisions of the orders of the FCC and the Georgia Commission. The FCC determined that BellSouth provides discriminatory access, and the Georgia Commission required

[16] FCC Ameritech Order ¶ 217; FCC BA-NY Order ¶ 88
[17] FCC South Carolina Order ¶ 121, n. 362.
[18] FCC Louisiana II Order ¶ 137.

BellSouth to provide TAFI functionality over a machine-to-machine interface, in accordance with BellSouth's report to the Commission.

Q. WHAT DOES AT&T REQUEST THAT THE COMMISSION ORDER REGARDING THIS ISSUE?

A. AT&T asks the Commission to order BellSouth to provide full TAFI functionality via the ECTA interface on an expedited schedule

Q. DOES THIS CONCLUDE YOUR TESTIMONY AT THIS TIME?

A. Yes.