

BEFORE THE COMMONWEALTH OF KENTUCKY

PUBLIC SERVICE COMMISSION

CASE NO. 2001-105

March 6, 2002

IN THE MATTER OF )  
Investigation Concerning the Propriety of )  
InterLATA Services By BellSouth )  
Telecommunications, Inc. Pursuant to the )  
Telecommunications Act of 1996. )

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COMMENTS REGARDING THE IMPACT OF BELLSOUTH'S SUPPLEMENTAL  
GEORGIA/LOUISIANA SECTION 271 APPLICATION TO THE FEDERAL  
COMMUNICATIONS COMMISSION ON BEHALF OF  
AT&T COMMUNICATIONS OF THE SOUTH CENTRAL STATES, L.L.C.,  
AND TCG OHIO, INC.

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AT&T Communications of the South Central States, L.L.C. and TCG Ohio, Inc. (collectively "AT&T") provide the following comments in response to the Kentucky Public Service Commission's ("Commission's") Staff Data Request issued February 25, 2002. As requested, AT&T also submits the Supplemental Comments and accompanying Declarations it filed with the Federal Communications Commission ("FCC") on March 4, 2002 in response to BellSouth Telecommunications, Inc.'s ("BellSouth's") second Georgia/Louisiana 271 application to the FCC.<sup>1</sup>

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<sup>1</sup> BellSouth's February 14, 2002 filing was styled as a "supplemental" filing which provides evidence on certain issues and adopted "*in toto*" BellSouth's October 2001 filing. AT&T's Supplemental Comments adopt a similar approach.

BellSouth's supplemental Section 271 filing for Georgia and Louisiana does not demonstrate that BellSouth has addressed the five areas of concern that led to BellSouth's withdrawal of the Georgia/Louisiana application in December 2001. As described in detail in AT&T's Supplemental Comments to the FCC, rather than take steps necessary to address the FCC's concerns, BellSouth has spent the scant seven weeks between its withdrawal and refiling simply dressing up the record. Indeed, the changes or modifications that BellSouth claims to have implemented have failed to remedy the identified deficiencies.

More importantly, this Commission cannot merely rely on BellSouth's refiled Georgia/Louisiana application to the FCC in its evaluation of BellSouth's compliance with Section 271 in Kentucky. As a preliminary matter, BellSouth has failed to demonstrate that its Operations Support Systems ("OSS") are sufficiently regional to warrant such reliance. Furthermore, OSS test results from Georgia are no longer timely and performance data continues to be unreliable and inaccurate. Finally, BellSouth has not addressed key issues critical to the development of competition to Kentucky.

**I. BELLSOUTH'S SUPPLEMENTAL FCC FILING DOES NOT REMEDY THE DEFICIENCIES IDENTIFIED IN ITS FIRST GEORGIA/LOUISIANA 271 APPLICATION**

Rather than face yet another 271 rejection at the FCC, BellSouth withdrew its previous 271 application for Georgia and Louisiana on December 20, 2001. In its letter of withdrawal, BellSouth identified five concerns raised by the FCC staff:

- The timeliness of evidence demonstrating that competing local exchange carriers ("CLECs") could integrate or have successfully integrated pre-ordering and ordering functionality;
- BellSouth's performance on service order accuracy;
- The accuracy of certain performance data;

- The timeliness of evidence on the “double FOC” performance issue related to the due date calculator; and
- The timeliness of evidence related to the allocation of resources in the Change Control Process.<sup>2</sup>

FCC Chairman Michael Powell expressed his broader concerns regarding the “adequacy of [BellSouth’s] operational support systems, the integrity of its performance data and its change management process and related issues.”<sup>3</sup> As one state commission recently explained regarding BellSouth’s withdrawal:

Although BellSouth contends steadfastly that its July 30, 2001 [Tennessee], Section 271 application was compliant when filed and remains so today, this position is severely weakened, if not obliterated, by BellSouth’s withdrawal of its joint Georgia and Louisiana 271 application before the FCC. . . . Given the “extensive conversation and collaboration” between BellSouth and the FCC and BellSouth’s withdrawal, it is reasonably doubtful that the joint application, as submitted, satisfied the requirements of the Act and FCC precedent.<sup>4</sup>

Some seven weeks after its withdrawal, BellSouth re-filed its 271 application for Georgia and Louisiana with the FCC. Although the President of BellSouth Georgia first claimed that “refiling is not about going back and making changes. It’s about providing additional data so the FCC staff has a high comfort level,”<sup>5</sup> BellSouth now claims that it has made changes to its FCC

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<sup>2</sup> December 20, 2001 *ex parte* filing on behalf of BellSouth, CC Docket No. 01-271 at 1 (“*Withdrawal Letter*”).

<sup>3</sup> Statement of FCC Chairman Michael Powell on withdrawal of BellSouth’s 271 application for Georgia and Louisiana, December 20, 2001 (“*Powell’s Statement*”).

<sup>4</sup> Initial Order of Hearing Officer on BellSouth’s Telecommunications, Inc.’s January 28, 2002, Petition to Establish Procedural Schedule, *In Re: BellSouth Telecommunications, Inc.’s Entry Into Long Distance (InterLATA) Service in Tennessee Pursuant to Section 271 of the Telecommunications Act of 1996*, Tennessee Regulatory Authority Dckt. No. 97-00309 at 8-9 (March 1, 2002) (footnote omitted).

<sup>5</sup> *Company Plans to Refile After Gathering More Data for the FCC*, Augusta Chronicle (Dec. 21, 2001) (quoting BellSouth Georgia President Phil Jacobs).

filtering in an attempt to meet the FCC's requirements. As outlined in AT&T's Supplemental Comments and Declarations, BellSouth's efforts have failed to remedy the deficiencies identified by FCC Chairman Powell,<sup>6</sup> the United States Department of Justice,<sup>7</sup> and CLECs in BellSouth's first Georgia/Louisiana 271 application.

**Parsing Functionality** As AT&T's Supplemental Comments to the FCC explain, BellSouth has not successfully integrated its pre-ordering and ordering functionality because it still fails to provide CLECs equivalent access to "parsed" customer service records ("CSRs").<sup>8</sup> Although BellSouth has implemented a parsing functionality for CLECs since the withdrawal of its first Georgia/Louisiana application, the functionality has been wrought with defects and still does not provide the functionality being sought by CLECs for several years. Indeed, BellSouth's so-called "implementation" also fails to provide parsing for numerous fields, many of which are critical to the ordering process. While BellSouth claims that its new parsing functionality is "commercially available," actual commercial experience has not yet demonstrated that it really works. Furthermore, BellSouth has presented no evidence of whether CLECs operating in Kentucky have been able to successfully integrate pre-ordering and ordering functionality using

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<sup>6</sup> See *Powell's Statement*.

<sup>7</sup> See Evaluation of the United States Department of Justice, *In the Matter of Joint Application by BellSouth Corporation, BellSouth Telecommunications, Inc., and BellSouth Long Distance, Inc., for Provision of In-Region, InterLATA Services in Georgia and Louisiana ("DOJ Evaluation")*, CC Dckt. No. 01-277, released Nov. 6, 2001 at 13-38.

<sup>8</sup> BellSouth claims in its Response to Motion for Additional Proceedings in this docket that "[n]o CLEC controverted the evidence that BellSouth's interfaces can be integrated" in the state proceedings. BellSouth Telecommunications, Inc.'s Response to Motion for Additional Proceedings, filed February 21, 2002 in KPSC Case No. 2001-105 at 3. BellSouth is incorrect. AT&T presented evidence to this Commission regarding BellSouth's failure to provide equivalent access to parsed CSRs. See Rebuttal Testimony of Jay M. Bradbury, filed July 9, 2001 in KPSC Case No. 2001-105 at 38-42; see also Post-Hearing Brief on Behalf of AT&T Communications of the South Central States, Inc. and TCG Ohio, Inc., filed November 16, 2001 in KPSC Case No. 2001-105 at 72-73.

the limited parsing BellSouth provides. BellSouth has only recently, on the eve of refiling its 271 application, offered assistance to CLECs attempting to utilize parsing. Thus, it is unlikely that CLECs operating in Kentucky have yet had the opportunity to utilize this assistance. Kentucky should not accept statements that parsing has been implemented in Georgia and Louisiana; Kentucky should demand data to demonstrate that parsing works and allows CLECs to compete.

**Manual Processing** As detailed in AT&T's Supplemental Comments and Joint Supplemental Declaration of Jay M. Bradbury and Sharon E. Norris, BellSouth continues to deny CLECs nondiscriminatory access to ordering and provisioning functions because it continues to place excessive reliance on manual processing. For example, 21 percent of all electronically-submitted local service requests ("LSRs") in December 2001 fell out for manual processing either because of design decisions by BellSouth or BellSouth system errors. Meanwhile, BellSouth's retail operations enjoy nearly 100 percent flow through capability. As the Joint Supplemental Declaration of Bradbury and Norris explains, the rate of BellSouth-caused manual fall-out has shown *no* improvement, despite BellSouth's claims. Manual processing of LSRs results in delay, errors in order completion, and increased cost to CLECs, problems that will only increase exponentially as CLEC volumes increase with mass-market entry.

**Service Order Accuracy** BellSouth's claim that its performance on service order accuracy has improved since the withdrawal of its first Georgia/Louisiana 271 application to the FCC is highly suspect. Service order accuracy is a key area because accurate re-entry of manually processed orders by BellSouth is critical to CLECs' ability to compete. BellSouth bases its claim of "improvement" on service order accuracy rates from November and December 2001. As explained in AT&T's Supplemental Comments to the FCC and supporting

Declarations, these rates are not reliable because they were calculated using a new questionable methodology unilaterally adopted by BellSouth which has not been audited by KPMG Consulting, Inc. (“KCI”). Moreover, BellSouth reports its data for service order accuracy in Kentucky on a regional basis. As a result, this Commission cannot ascertain whether any claimed “improvement” on service order accuracy has taken place in Kentucky.

**Data Integrity** As explained in detail in the Joint Supplemental Declaration of Sharon Norris and Cheryl Bursh before the FCC, BellSouth’s performance data continue to suffer from data integrity problems that preclude its use as an accurate indicator of BellSouth’s performance.<sup>9</sup> BellSouth’s unilateral modification of its method for calculating service order accuracy, discussed above, as well as its unilateral decision to exclude “non-working hours” from its calculation of the timeliness of firm order confirmations (“FOCs”) and rejection notices provide two examples of BellSouth’s efforts to manipulate its performance data. Moreover, the types of data discrepancies described by AT&T in Ms. Norris’s testimony adopted by Mr. Timmons continue to exist. The data reports BellSouth produces are not reliable. Indeed, open data integrity issues in the Georgia third-party test have yet to be resolved and KCI has eight open exceptions in Florida concerning data integrity problems.<sup>10</sup> Meanwhile, despite BellSouth

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<sup>9</sup> Evidence in this docket further details BellSouth’s continuous problems with data integrity. See Rebuttal Testimony of Sharon E. Norris (*Data Integrity*), filed July 9, 2001 in KPSC Case No. 2001-105 at 7-16 (discussing missing data in BellSouth’s reports, discrepancies in BellSouth’s reported data, and inappropriately excluded data); see also Supplemental Rebuttal Testimony of Sharon E. Norris, filed August 27, 2001 in KPSC Case No. 2001-105 at 13-19; AT&T’s Post-Hearing Brief at 12-19.

<sup>10</sup> Norris *Data Integrity* Rebuttal at 21-22 (discussing open data integrity exceptions in Georgia and Florida); see also AT&T’s Post-Hearing Brief at 19-20. Currently KCI has identified 5 deficiencies related to data integrity in its Georgia audits (the more important of which (Audit III) is barely started) and 8 deficiencies are currently open in its Florida review of data integrity.

claims, critical audits of BellSouth's data in Georgia are barely underway and thus provide no assurance of the reliability of BellSouth's performance data.

**Due Date Functionality** BellSouth has failed to show that it has remedied the consistently recurring problems CLECs have with obtaining accurate due dates. Equivalent access to due dates is critical to competition because CLEC customers, like BellSouth customers, expect the CLEC to be able to tell them the date on which service will be installed while they are on the line. Recognizing the importance of the due date functionality, the FCC stated in its *Second Louisiana Order* that it would "closely examine BellSouth's automatic due date calculation capability in any future application."<sup>11</sup> While BellSouth asserts that it has recently implemented software enhancements that would remedy problems with its due date calculator, CLECs and this Commission have reason to be skeptical of this yet unproven "fix." Indeed, as detailed in AT&T's Supplemental Comments to the FCC, two previous attempts undertaken by BellSouth to fix problems with its due date calculator were unsuccessful. Until proven by substantial commercial usage and comprehensive testing, this latest so-called "fix" cannot be relied upon.

**Change Control Process** As outlined fully in AT&T's Supplemental Comments to the FCC, BellSouth's Change Control Process ("CCP") remains fundamentally flawed, despite modifications made by BellSouth since it withdrew its first Georgia/Louisiana 271 application. BellSouth retains "veto power" over all proposed changes to its OSS, as well as the power to determine what change requests will be implemented, when they will be implemented, and the

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<sup>11</sup> Memorandum Opinion and Order, *In the Matter of Application by BellSouth Corporation, et al., Pursuant to Section 271 of the Communications Act of 1934 as Amended to Provide In-Region, InterLATA Services in Louisiana*, 13 FCC Red. 20,599 ¶¶ 104-06 (F.C.C. Oct. 13, 1998) (No. CC 98-121, FCC 98-271) ("*Second Louisiana Order*").

final prioritization.<sup>12</sup> BellSouth's test environment remains inadequate because it still does not mirror the production environment.<sup>13</sup> Furthermore, BellSouth's proven record of disregarding the CCP has contributed to the current backlog of more than 125 CLEC change requests. While such serious defects in both the structure and the implementation of the CCP continue to exist, BellSouth fails to give CLECs a meaningful opportunity to compete.

In sum, BellSouth has not addressed the deficiencies the FCC identified in the Georgia/Louisiana application BellSouth withdrew in December. Those areas of concern remain areas of concern for Georgia and Louisiana. More importantly, they remain areas of concern in Kentucky where BellSouth has not even submitted state-specific data to demonstrate compliance with Section 271.

**II. THIS COMMISSION SHOULD NOT RELY SOLELY ON BELLSOUTH'S GEORGIA/LOUISIANA APPLICATION TO THE FCC IN ITS EVALUATION OF BELLSOUTH'S COMPLIANCE WITH SECTION 271 IN KENTUCKY**

This Commission should not merely rely on the modifications or so-called "improvements" BellSouth claims to have made in its second Georgia/Louisiana 271 application to the FCC. The FCC looks to the state commission to "provide the factual information gathered and relied upon . . . concerning changes that have occurred since the previous application was filed."<sup>14</sup> Proper resolution of factual issues is critical because, as the FCC cautioned, it "expects applicants to remedy deficiencies identified in prior orders before filing a new section 271

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<sup>12</sup> Evidence filed in this docket also illustrates the deficiencies with BellSouth's CCP. Bradbury Rebuttal at 96-111; Transcript of Hearing before the KPSC, October 2001, Vol. 3 at 304-10; *see also* AT&T's Post-Hearing Brief at 63-69.

<sup>13</sup> CLECs using the RoboTAG interface are still forced to perform live testing on their customers' orders because RoboTAG is excluded from BellSouth's test environment.

<sup>14</sup> *Second Louisiana Order* ¶ 21.



application, or face the possibility of summary denial.”<sup>15</sup> Moreover, the FCC has explained that its “analysis will always start with actual performance toward competitors *in the applicant state*.”<sup>16</sup> Indeed, “evidence of satisfactory performance in another state cannot trump convincing evidence that an applicant fails to provide nondiscriminatory access to a network element in the applicant state.”<sup>17</sup> Accordingly, this Commission should require BellSouth to demonstrate that the deficiencies identified in its first Georgia/Louisiana 271 application have indeed been successfully remedied in Kentucky and that BellSouth meets the requirements of the Act in Kentucky.

This Commission should not rely solely on BellSouth’s Georgia/Louisiana application to the FCC because BellSouth has failed to demonstrate that its OSS are sufficiently regional.<sup>18</sup> In addition to the fact that BellSouth’s OSS are not physically uniform from state to state,<sup>19</sup> BellSouth has admitted to this Commission that the actual performance of its OSS can and does vary from state to state, and these variations can be substantial.<sup>20</sup>

Indeed, BellSouth’s achieved flow through rates provide a compelling example of the wide variation in the performance of BellSouth’s OSS from state to state. The matrix below sets

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<sup>15</sup> *Second Louisiana Order* ¶ 5.

<sup>16</sup> Memorandum Opinion and Order, *In the Matter of Joint Application by SBC Communications Inc., Southwestern Bell Tel. Co., and Southwestern Bell Communications Services, Inc., d/b/a Southwestern Bell Long Distance for Provision of In-Region, InterLATA Services in Kansas and Oklahoma*, 16 FCC Rcd. 6237 ¶ 36 (F.C.C. Jan. 22, 2001) (No. CC 01-29, FCC 00-217) (“*SWBT Kansas/Oklahoma Order*”) (emphasis added).

<sup>17</sup> *SWBT Kansas/Oklahoma Order* ¶ 36.

<sup>18</sup> Bradbury Rebuttal at 23-32; AT&T’s Post-Hearing Brief at 24-28.

<sup>19</sup> Bradbury Rebuttal at 27-29.

<sup>20</sup> Tr. Vol. 4 at 241, 243.

forth the ranges of achieved flow through rates from March to December 2001.<sup>21</sup> Specifically, the stated percentages equal the difference between the highest and lowest achieved flow through rate experienced by any state for the particular month and product category (residential resale, business resale, UNEs, aggregate of non-LNP products, and LNP).<sup>22</sup> These ranges represent the extent to which BellSouth's achieved flow through rates vary in its nine-state region.

**Achieved Flow Through Rates  
Range of Variance  
(High State Rate minus Low State Rate)**

<b>Month (2001)</b>	<b>Residential Resale</b>	<b>Business Resale</b>	<b>UNE</b>	<b>Aggregate Non-LNP</b>	<b>LNP</b>
March	12.43%	16.36%	16.37%	12.12%	68.00%
April	11.05%	33.03%	20.72%	11.61%	74.00%
May	10.11%	11.80%	15.38%	10.49%	69.00%
June	14.00%	16.53%	22.23%	14.50%	78.00%
July	16.66%	27.80%	16.26%	14.03%	69.00%
August	12.93%	14.43%	30.33%	19.43%	83.00%
September	8.40%	23.25%	16.63%	13.31%	82.00%
October	9.96%	12.96%	17.63%	12.05%	80.00%
November	11.30%	24.77%	28.00%	10.48%	80.00%
December	11.56%	20.71%	30.46%	8.88%	75.00%
<b>Avg. Range</b>	<b>11.84%</b>	<b>20.16%</b>	<b>21.40%</b>	<b>12.69%</b>	<b>75.80%</b>

Clearly, the average monthly variance range for this ten month period is significant for each product type, especially for more commercially attractive products in business resale, UNEs, and LNP (over 20 percent, 21 percent, and 75 percent respectively). Given the wide disparity in flow

<sup>21</sup> The data from which this matrix was created was produced by BellSouth in a proceeding before the Tennessee Regulatory Authority dealing specifically with the issue of the regionality of BellSouth's OSS. See Tennessee Regulatory Authority Dckt. No. 01-00362.

<sup>22</sup> For example, in the "Report: Percent Flow Through Service Requests (State Summary - UNE) Report Period: December 2001," filed with the Tennessee Regulatory Authority, the state with the highest rate of "Percent Achieved Flowthrough" was Georgia, with 76.76%. The state with the lowest rate was Mississippi, with 46.30%. Thus, the range of variance between all states for UNE "Percent Achieved Flowthrough" in December 2001 equaled 30.46% (i.e., 76.76% minus 46.30%).

through performance, this Commission cannot assume that flow through rates submitted to the FCC for Georgia and Louisiana would necessarily reflect those of Kentucky. Moreover, the wide disparity in performance across the region undercuts any claim by BellSouth that its systems are regional.

The appropriateness of using performance data and test results from Georgia in Kentucky is further undermined by testimony given before the Tennessee Regulatory Authority (“TRA”) in December 2001. Mr. Lattimore from PricewaterhouseCoopers (“PWC”) testified before the TRA that in his opinion it is not appropriate to use the regionality attestation issued by PWC in support of the argument that BellSouth’s performance data from one state (such as Georgia) could be used as a surrogate for performance data in another state (such as Tennessee).<sup>23</sup> In the same proceeding, Mr. Weeks from KCI testified that the Georgia test was “designed to be state specific”<sup>24</sup> and it would give him “cause for pause” if the test results were used in a state other than Georgia.<sup>25</sup> Mr. Lattimore also refused to subscribe to BellSouth’s argument that the third-party test results from Georgia would be applicable to the wholesale systems in another state, in this case Tennessee.<sup>26</sup> Rather, Mr. Lattimore repeatedly stated “[t]hat’s an argument that BellSouth is making, and that’s not an argument I’m making.”<sup>27</sup> Given the wide disparity in the

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<sup>23</sup> Transcript of Hearing before the Tennessee Regulatory Authority (“*TRA Transcript*”), 12/5/01 at 34-35. (attached as Exhibit 1). This public statement is consistent with statements in the deposition of Mr. Lattimore filed under protective order in this proceeding.

<sup>24</sup> Exhibit 1, *TRA Transcript* 12/03/01 at 68.

<sup>25</sup> Exhibit 1, *TRA Transcript* 12/03/01 at 27 (referencing testimony before the North Carolina Utilities Commission, Nov. 1, 2001, Vol. 6 at 137-38).

<sup>26</sup> Exhibit 1, *TRA Transcript* 12/5/01 at 7-10.

<sup>27</sup> Exhibit 1, *TRA Transcript* 12/5/01 at 9.

performance of BellSouth's OSS, and the testimony of Mr. Lattimore and Mr. Weeks in Tennessee, this Commission should decline to rely on data and test results from Georgia in its evaluation of BellSouth's OSS in Kentucky.

Indeed, to the extent the Commission intends to rely on OSS testing in another state to determine BellSouth's compliance, AT&T already has provided the Commission with compelling evidence regarding the inadequacies of the Georgia test and the more appropriate reliance on the Florida test.<sup>28</sup> Most importantly, the Florida test continues to uncover significant OSS problems. As of March 1, 2002, there were 27 open observations, and 53 open exceptions in the Florida OSS test. The Florida test, although more comprehensive and rigorous than the Georgia third-party test, is not yet complete. Phase I of the Florida test (which includes pre-ordering, ordering, maintenance and repair, and portions of billing) was scheduled to be complete in March 2002. That schedule, however, was recently revised to provide for publication of KCT's report by June 21, 2002.

This Commission should not rely solely on the Georgia/Louisiana application and supplemental application. The ongoing Florida test raises serious questions about BellSouth's Section 271 compliance. Moreover, BellSouth has not submitted Kentucky-specific data. Available evidence on flow through alone demonstrates that BellSouth's systems do not perform similarly throughout the region. Accordingly, this Commission should await Kentucky-specific data that establishes Section 271 compliance in Kentucky.

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<sup>28</sup> See Rebuttal Testimony of Sharon E. Norris (*Third-Party Test*), filed July 9, 2001 at 5-52; see also AT&T's Post-Hearing Brief at 22-62.

### **III. BELLSOUTH HAS NOT ADDRESSED KEY ISSUES CRITICAL TO THE DEVELOPMENT OF COMPETITION IN KENTUCKY**

In addition to failing to address deficiencies identified by the FCC, BellSouth has failed to address other issues that hinder competition in Kentucky. In order to convert customers from BellSouth service to a CLEC UNE-P service, BellSouth uses two separate internal orders. A new or “N” order accomplishes the conversion to UNE-P, while a disconnect or “D” order disconnects the customer’s service from BellSouth service. Problems arise when BellSouth’s procedures fail to ensure that the two orders are related and coordinated. If BellSouth does not process the orders in the proper sequence, the customer’s service is disconnected pursuant to the “D” order before the customer has been converted to the CLEC UNE-P service pursuant to the “N” order. Failure to coordinate the “N” and “D” orders results in customers’ loss of dial tone.<sup>29</sup>

As discussed in AT&T’s Supplemental Comments to the FCC and the Supplemental Declaration of Bernadette Seigler, AT&T continues to experience numerous loss of service problems and additional UNE-P provisioning problems due to BellSouth’s inadequate migration process, in both Georgia and Florida, the two states in the BellSouth region where AT&T is using UNE-P to provide service to its business customers. AT&T believes that many of these problems are caused by the separation of the N and D orders.

The incidents of loss of service or impaired service for newly migrated AT&T UNE-P customers puts AT&T and other CLECs at a significant competitive disadvantage. Loss of service or impaired service is disruptive to customers, causing inconvenience and loss of

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<sup>29</sup> Evidence in this docket details CLEC customers’ numerous experiences of loss of dial tone caused by the separation of the N and D Orders. *See* Affidavit of Bernadette Seigler, Exhibit JMB-2 to Pre-filed Testimony of Jay Bradbury, filed July 9, 2001 ¶ 9 (describing the number of loss of service incidents for AT&T as a “pattern that has become much too familiar”); Testimony of Sherry Lichtenberg, filed July 9, 2001 at 4-6 (explaining MCI Worldcom’s concerns regarding significant instances of loss of dial tone surrounding the conversion to UNE-P).

business. Furthermore, BellSouth's role in causing the loss of service is largely hidden from the customer's view. Recognizing the importance of this issue, the Georgia Public Service Commission ordered BellSouth to implement a single "C" order to eliminate the dual order problem by January 4, 2002. Unfortunately, BellSouth's implementation of the new single C order is not expected in Georgia until mid-March 2002, if then. In Kentucky, however, BellSouth does not plan to implement the single C order process until August 2002. While BellSouth continues to use the problematic two-order process to migrate customers to UNE-P rather than the single C order, unpredictability and unreliability remain in the conversion process.

BellSouth's own performance data illustrate its deficient performance. A review of its most recent Monthly State Summary ("MSS") report (December) reveals that, even with its flawed reporting methodology and unreliable data, BellSouth failed to provide non-discriminatory support for 16% of the 582 sub-metrics which had both a performance standard and CLEC activity. In two critical areas, flow through and change management, BellSouth's performance was abysmal. BellSouth missed the flow through benchmark for Residence, Business and UNE. It missed 2 of the 3 change management measures.

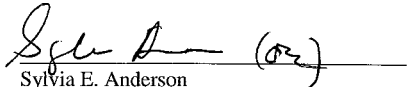
BellSouth also failed to meet 34% of the metrics for mechanized UNE rejections. For the FOC and Reject Completeness - Multiple Responses measure, BellSouth failed 50% of the time for fully mechanized LSRs, 47% of the time for partially mechanized LSRs and 25% of the time for non-mechanized LSRs. The rate at which CLEC customers experience troubles is also an area of deficient performance. Metrics that measure customer troubles compare the number of customers experiencing trouble with the total number of customers' lines. For ISDN customers' lines, BellSouth's trouble rate is .38, while CLEC's customers trouble rate is 1.90. Other

comparisons indicate similar disparities, for line sharing BellSouth had a trouble rate of 1.53, while CLECs had 7.78; for other designed UNE services BellSouth was 2.12, while CLECs had 9.51; and for Other UNE non-designed, BellSouth was .79, while the CLEC trouble rate was 5.22.

### CONCLUSION

The record before this Commission to date is not sufficient to establish that BellSouth has satisfied the Section 271 checklist in Kentucky. Accordingly, this Commission should at least keep the record open in this case throughout the FCC's evaluation of BellSouth's second Georgia/Louisiana application. The filings requested by the Commission thus far are the initial FCC filings from BellSouth and the CLECs. The Commission should recognize that the FCC record continues to develop until the date of decision or withdrawal of the application. For example, BellSouth, as well as AT&T have already filed *ex parte* materials at the FCC supplementing the documents this Commission has requested. The Commission should require all parties to file all materials submitted to the FCC and upon completion of the FCC process the Commission should assess the state of the evidence required to demonstrate Section 271 compliance in Kentucky. At that time, armed with another Department of Justice evaluation and an FCC decision, the Commission can determine the timing of additional proceedings necessary to evaluate BellSouth's compliance with the Section 271 checklist in Kentucky.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Sylvia E. Anderson", is written over a horizontal line. To the right of the signature, the initials "(S)" are written in a similar cursive style.

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**Counsel for AT&T Communications of the South  
Central States, LLC and TCG of Ohio, Inc.**

# **Exhibit 1**

**KPSC Docket No. 2001-105  
AT&T Comments  
March 6, 2002**



1 BEFORE THE TENNESSEE REGULATORY AUTHORITY

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IN RE: )

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DOCKET TO DETERMINE THE ) DOCKET NO.

4 ) 01-00362

COMPLIANCE OF BELL SOUTH )

TELECOMMUNICATIONS, INC.'S )

5 )

OPERATIONAL SUPPORT SYSTEMS )

WITH STATE AND FEDERAL )

6 )

REGULATIONS

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TRANSCRIPT OF PROCEEDINGS

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Wednesday, December 5, 2001

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VOLUME III A

12 -----

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APPEARANCES:

14

For BellSouth Mr. Guy M. Hicks  
Telecommunications: Ms. Lisa S. Foshee  
Mr. E. Earl Edenfield, Jr.

15

16

For AT&T: Mr. Michael A. Hopkins  
Mr. Jack Robinson, Jr.

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18

For SECCA and Access Mr. Henry Walker

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Integrated Networks:

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For MCI: Ms. Susan Berlin

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Reported By:

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Carol A. Nichols, RDR, CRR, CCR

1 that they would want to factor into.

2 Q. Well, what my question was, in your opinion  
3 since you wrote the report, is it appropriate to use  
4 your attestation, your opinion in support of the  
5 argument that performance data in Georgia can be used as  
6 a surrogate performance data in Tennessee?

7 DIRECTOR GREER: Yes or no?

8 THE WITNESS: I heard yes or no. And I  
9 feel like I'm in the same box of wanting to explain how  
10 it could be used --

11 DIRECTOR GREER: You can explain  
12 anything you want to. You just need to answer the  
13 question with a yes or no. Then you've got whatever  
14 time you need.

15 THE WITNESS: Well, I feel compelled  
16 for purposes of keeping the same answer that's in the  
17 deposition, because he read the question the exact same  
18 way, is no, but then explaining how it fits in.

19 DIRECTOR MALONE: Then answer the  
20 question and explain.

21 THE WITNESS: The answer to the  
22 question -- did you read it exactly the same as in the  
23 deposition?

24 DIRECTOR MALONE: Director Greer, I'm  
25 going to ask that you direct this witness -- the

1 question has been asked time and again. This witness is  
2 the witness that's put up on this attestation. We have  
3 no other witness. The question has been asked. I think  
4 to keep asking Mr. Hopkins to restate the same question  
5 at some point has got to be inappropriate.

6 DIRECTOR GREER: He's asked it several  
7 times. So your answer is no?

8 THE WITNESS: My answer is no.

9 DIRECTOR GREER: And you may explain  
10 your answer if you feel a need to explain it any further  
11 than you already have.

12 THE WITNESS: I don't think I can -- I  
13 don't know how to explain it any further than I already  
14 have.

15 DIRECTOR MALONE: For the sake of the  
16 record, you said that you wanted to explain, and I'm  
17 trying to understand your testimony. Your previous  
18 responses were sort of -- they weren't clear. So you  
19 have the opportunity, having answered the question, to  
20 explain.

21 THE WITNESS: All right. Then let me  
22 try this. The only -- speaking to the attestation,  
23 itself, and the assertions as they are currently defined  
24 around similar systems being used and similar processes  
25 being used, the thing that is different from state to

1 state is the underlying data that's contained within  
2 each state. We're talking about addresses, telephone  
3 numbers, products that might be sold in that state,  
4 things that are unique. And what I'm saying is, that is  
5 the part that we did not test. And for me to say that  
6 it is appropriate to -- one argument could be that it's  
7 the same system that's pulling information from the same  
8 database, though it contains different data elements or  
9 data contents within each field, meaning it's an address  
10 or USOC or something that's different.

11 And the point there is that that is the  
12 only -- that's the only part that we determined was  
13 different. But we weren't asked to test for that. So  
14 that's my explanation, I guess. And so since the data  
15 contained in those databases affects performance data,  
16 that's what -- okay. I mean I don't know what else to  
17 say.

18 BY MR. HOPKINS:

19 Q. So you didn't test whether the -- you claim  
20 that the systems are the same, but you didn't test if  
21 those same systems produce the same results from state  
22 to state?

23 A. True. That's correct.

24 Q. Let's talk about PWC's relationship with  
25 BellSouth. Is BellSouth your biggest client personally?

BEFORE THE TENNESSEE REGULATORY AUTHORITY

IN RE: )  
)  
DOCKET TO DETERMINE THE ) DOCKET NO.  
COMPLIANCE OF BELL SOUTH ) 01-00362  
TELECOMMUNICATIONS, INC.'S )  
OPERATIONAL SUPPORT SYSTEMS )  
WITH STATE AND FEDERAL )  
REGULATIONS )

---

TRANSCRIPT OF PROCEEDINGS

Monday, December 3, 2001

VOLUME I A

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APPEARANCES:

For BellSouth Telecommunications: Mr. Guy M. Hicks  
Ms. Lisa S. Foshee  
Mr. R. Douglas Lackey  
Mr. E. Earl Edenfield, Jr.

For AT&T: Mr. Michael A. Hopkins  
Mr. Jack Robinson, Jr.  
Ms. Tami Lyn Azorsky

For SECCA and Access Integrated Networks: Mr. Henry Walker

For MCI: Ms. Susan Berlin  
Mr. Jon E. Hastings

For Time-Warner: Mr. Charles B. Welch

For KPMG: Mr. William B. Hill, Jr.  
Mr. Jesse L. Fenner  
Ms. Angela D. Simpson

Reported By:  
Susan D. Delac, RPR, CCR

1 DIRECTOR GREER: Are you talking about  
2 both tests you're doing in the BellSouth region or are  
3 you talking about the Georgia test only?

4 THE WITNESS: Well, it would apply  
5 either way. I mean, you could do that analysis  
6 vis-a-vis Georgia, you could do that analysis vis-a-vis  
7 Florida, either one or both even, actually.

8 DIRECTOR GREER: What would you  
9 recommend?

10 THE WITNESS: Well, the conservative  
11 thing to do would be to analyze both. Because time has  
12 passed and things have changed since Georgia, which is  
13 going to be the case with all of these tests.  
14 Certainly look at both, and that would be the most  
15 conservative thing to do. That would give you the most  
16 information, would give you the most facts.

17 DIRECTOR GREER: I think my last  
18 question is, when you went into these tests, were they  
19 ever intended, either of the two tests, intended to be  
20 tests for the region or were they state specific?

21 THE WITNESS: They were designed to be  
22 state specific, both cases.

23 DIRECTOR GREER: Thank you. Does the  
24 staff have any questions? Or do the Directors have any  
25 questions?

BEFORE THE TENNESSEE REGULATORY AUTHORITY

IN RE: )  
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1 that the design of the test was for Georgia and that  
2 the report was to be used by the Georgia Commission in  
3 its proceedings.

4 **Q. And you explicitly tried to keep BellSouth**  
5 **from using the Georgia report in other jurisdictions,**  
6 **did you not?**

7 **A.** I don't know that we did anything active to  
8 keep them from doing it.

9 **Q. But you put language in the report that**  
10 **would prevent that from happening, did you not?**

11 **A.** We put language in the report that  
12 suggested that we believed that it should be used for  
13 Georgia alone.

14 **Q. And, in fact, you told the North Carolina**  
15 **Commission just a few weeks ago that it gave you, I**  
16 **believe you said, quote, cause for pause that the --**  
17 **that it's being used in another jurisdiction in a way**  
18 **that you didn't intend for it to be used and in a way**  
19 **that you explicitly tried to keep from happening. Do**  
20 **you recall saying that to the North Carolina**  
21 **Commission?**

22 **A.** I remember the first part of that, I don't  
23 remember the last part of that. But if you have my  
24 transcript, I will trust that you properly represented  
25 it.



PLACE: Dobbs Building, Raleigh, North Carolina

DATE: November 1, 2001

DOCKET NO.: P-55, Sub 1022

TIME IN SESSION: 9:15 A.M. TO 12:35 P.M.

BEFORE: Chair Joanne Sanford, Presiding  
Commissioner J. Richard Conder  
Commissioner Robert V. Owens, Jr.  
Commissioner Sam J. Ervin, IV  
Commissioner James Y. Kerr, II

IN THE MATTER OF:

Application of BellSouth Telecommunications  
Inc. to Provide in-Region InterLATA Service  
Pursuant to Section 271 of the  
Telecommunications act of 1996

VOLUME 6

A P P E A R A N C E S :

FOR BELLSOUTH TELECOMMUNICATIONS, INC.

Edward L. Rankin, III  
Andrew D. Shore  
BellSouth Telecommunications, Inc.  
PO Box 30188  
Charlotte, NC 28230-0188

E. Earl (Kip) Edenfield, Jr.  
Lisa S. Foshee  
R. Douglas Lackey  
675 West Peachtree Street, Suite 4300  
Atlanta, Georgia 30375-0747

NORTH CAROLINA UTILITIES COMMISSION

1  
2  
3 that we have shared with the Georgia Commission.  
4 which we felt, given what their objectives were,  
5 some of our thoughts about what, you know, they  
6 might should consider for testing and--

7 COMMISSIONER ERVIN: And were these just  
8 random thoughts, or did you sit down and make a  
9 complete systematic list or what?

10 THE WITNESS: No, we did not do a complete  
11 systematic, you know, these are all the possible  
12 things you could ever think about testing.

13 COMMISSIONER ERVIN: That was not done?

14 THE WITNESS: That--that was not done.

15 COMMISSIONER ERVIN: Okay. Well, tell me what  
16 was--

17 THE WITNESS: What we were trying to do was to  
18 respond to mostly the Strickland letter and--and  
19 help them think about those issues. I think that  
20 in terms--if the question you're asking me is how  
21 should you guys go about thinking about it--about  
22 the Georgia record sitting here in another  
23 jurisdiction. I think that, in the first place, as  
24 we say in our report, we never intended the Georgia  
25 report to be used by other than the Georgia  
26 Commission. That's clear on the first page on our  
27 disclaimers. And so it gives us a little bit of

1  
2  
3 cause for pause that it's being used in another  
4 jurisdiction in a way that we didn't intend for it  
5 to be used and in a way that we explicitly tried to  
6 keep from happening.

7 But given that that's happened, I think you  
8 need to make your own assessment of the areas that  
9 weren't evaluated in the Georgia test. And it's a  
10 fairly straight forward mapping exercise, which I'm  
11 sure others have already done for you.

12 COMMISSIONER ERVIN: And if they haven't, I'm  
13 fairly confident that they will.

14 THE WITNESS: And look at those areas for  
15 which there was no record developed in Georgia.  
16 And ask yourself whether there are areas there that  
17 you feel, as a Commission, that you would like to  
18 have some record on. And I--I would remind the  
19 Commission that there's three legs to this stool.  
20 Any time you look at a record, there is what the  
21 third-party independent tester observed in the  
22 course of their actions. There is what the company  
23 puts forward as its commercial experience all day,  
24 every day, in its advocacy case. And then there's  
25 what the CLPs put forth as their experience all  
26 day, every day. And I think, you know, you will  
27 look at all three of those. That the third party



1 cross.

2 MR. HOPKINS: Thank you, sir.

3

4 CONTINUATION OF CROSS-EXAMINATION

5 BY MR. HOPKINS:

6 Q. Mr. Lattimore, are you familiar with the  
7 purpose of this docket?

8 A. I think it was described to me yesterday,  
9 yes. I think I have a general understanding.

10 Q. Let me, just for your information -- in the  
11 September 13th order, it says, "The stated purpose of  
12 this docket is to determine whether existing data with  
13 test results derived from OSS testing in other states is  
14 reliable and applicable to Tennessee and in those  
15 instances where reliance on such testing is  
16 inappropriate to conduct necessary testing."

17 A. Okay.

18 Q. So we both have a clear understanding?

19 A. That's good.

20 Q. Now if this Authority came to PWC and asked  
21 PWC to investigate the third party -- whether the  
22 third-party test results in Georgia were applicable to  
23 the current wholesale operations in Tennessee, would you  
24 have structured your investigation differently than your  
25 attestation that you did for BellSouth?

1 A. Yes.

2 Q. What would you have done?

3 A. Well, the difference is -- if I could answer  
4 this in this way, I mean BellSouth drafted these  
5 assertions that I was asked to conduct my examination  
6 against. If you were asking me to do something, that's  
7 kind of for a different purpose, so I'd want to get with  
8 you to understand what you're looking for and what your  
9 objectives were, and we would come up with maybe a  
10 different type of assertions that we'd want to perform  
11 our examination against.

12 Q. Well, I just stated what this -- had a  
13 hypothetical on what the purpose would be, to  
14 investigate whether third-party test results in Georgia  
15 were applicable to the current wholesale operations in  
16 Tennessee. Does that mean your attestation doesn't go  
17 to that issue?

18 A. I guess I would need to look into that more.  
19 I mean just sitting right here, I can't really just  
20 answer that off the top of my head as to what would be  
21 required.

22 Q. When BellSouth engaged you to do this  
23 attestation, was it your understanding that the  
24 attestation would be used as the basis of an argument to  
25 bring the third-party test from another state to apply

1 it in different states?

2 A. Yes.

3 Q. Isn't that what I just asked you, whether  
4 third-party test results in Georgia would be applicable  
5 to the wholesale systems in Tennessee?

6 A. That's an argument that BellSouth is making,  
7 and that's not an argument I'm making. They wrote  
8 assertions that they asked me to examine, and that's  
9 what I examined.

10 Q. So are you saying that your attestation  
11 shouldn't be used for that argument?

12 A. No, I'm not saying that at all.

13 Q. But your attestation wasn't designed to  
14 support that argument?

15 A. Again, that's an argument BellSouth would  
16 make, not me.

17 Q. I'm asking you.

18 A. I know you're asking me, and I believe I  
19 have answered that question.

20 Q. Well, I'm not sure if you did. Are you  
21 saying that in your opinion, you shouldn't use your  
22 attestation to determine whether the test results in  
23 Georgia are applicable in Tennessee?

24 A. That's the same question you asked before,  
25 and I think I answered it, you know, that it's an

1 argument that PWC would not make. We are asked to  
2 examine internal assertions that BellSouth made, and  
3 that's what we examined.

4 Q. Okay. I understand. Now if you were to  
5 conduct this kind of investigation that I mentioned  
6 before, would you have investigated whether test orders  
7 were handled the same as CLEC orders in Tennessee? Do  
8 you understand my question?

9 A. Yeah. I need you to repeat that one again.

10 Q. If you were to investigate whether the test  
11 results were applicable, the test results in Georgia  
12 were applicable to wholesale operations in Tennessee,  
13 would you have investigated whether the test orders were  
14 handled the same as CLEC orders in Tennessee?

15 A. Not in that context. Again, we've got to  
16 work from the assertions that BellSouth has drafted.

17 Q. I think you misunderstood my question.

18 A. Okay. Help me.

19 Q. What I'm saying is this hypothetical: If  
20 the Authority had come to you and said, I want you to  
21 investigate whether the third-party test results in  
22 Georgia were applicable to the current wholesale  
23 operations in Tennessee. We're operating in that  
24 environment, okay?

25 A. Okay. So we're in hypothetical land here?