STATE OF GEORGIA

COUNTY OF FULTON

BEFORE ME, the undersigned authority, duly commissioned and qualified in and for the State and County aforesaid, personally came and appeared Alphonso J. Varner, BellSouth Telecommunications, Inc., being by me first duly sworn deposed and said that:

He is appearing as a witness before the Kentucky Public Service Commission in "Investigation Concerning the Propriety of InterLATA Services by BellSouth Telecommunications, Inc. Pursuant to the Telecommunications Act of 1996," KY PSC Case No. 2001-105, and if present before the Commission and duly sworn, his direct testimony would be set forth in the annexed transcript consisting of /// pages and 5 exhibit(s).

Alphonso J. Varner

SWORN TO AND
SUBSCRIBED BEFORE ME
this the 15th day of May, 2001.

NOTARY PUBLIC

My Commission expires:

MICHEALE F. HOLCOMB
Notary Public, Douglas County, Georgia
My Commission Expires November 3, 2001

BELLSOUTH TELECOMMUNICATIONS, INC.

DIRECT TESTIMONY OF ALPHONSO J. VARNER

BEFORE THE KENTUCKY PUBLIC SERVICE COMMISSION

CASE NO. 2001-105

MAY 18, 2001

Q. PLEASE STATE YOUR NAME, YOUR POSITION WITH BELLSOUTH TELECOMMUNICATIONS, INC. ("BELLSOUTH") AND YOUR BUSINESS ADDRESS.

A. My name is Alphonso J. Varner. I am employed by BellSouth as Senior Director in Interconnection Services. My business address is 675 West Peachtree Street, Atlanta, Georgia 30375.

Q. PLEASE PROVIDE A BRIEF DESCRIPTION OF YOUR BACKGROUND AND EXPERIENCE.

A. I graduated from Florida State University in 1972 with a Bachelor of Engineering Science degree in systems design engineering. I immediately joined Southern Bell in the division of revenues organization with the responsibility for preparation of all Florida investment separations studies for division of revenues and for reviewing interstate settlements.

Subsequently, I accepted an assignment in the rates and tariffs organization with responsibilities for administering selected rates and tariffs including preparation

of tariff filings. In January 1994, I was appointed Senior Director of Pricing for the nine-state region. I was named Senior Director for Regulatory Policy and Planning in August 1994. In April 1997, I was named Senior Director of Regulatory for the nine-state BellSouth region, and I accepted my current position in March 2001.

Q. HOW IS YOUR TESTIMONY ARRANGED?

A. My testimony is divided into the following sections:

I. Executive Summary
II. Interim Service Quality Measurements ("Interim SQM")
III. BellSouth's Response to Third Party Test
IV. BellSouth's proposed Permanent Service Quality Measurements ("Permanent SQM") and Self-Effectuating Enforcement Mechanism ("SEEM") or Penalty Plan

Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

A. The purpose of my testimony is to do the following:

- Describe the Interim SQM that BellSouth will use in this proceeding to prove that BellSouth provides nondiscriminatory performance for Competitive Local Exchange Carriers ("CLECs") in Kentucky.
- Respond to a few of the small number of "not satisfied" and "not complete"

items from the third party test conducted in Georgia by KPMG. Mr. Pate describes how that test was favorable for BellSouth, and responds to the few "not satisfied" items that I do not address.

- Describe BellSouth's proposed Permanent SQM and SEEM and explain why the Kentucky Public Service Commission ("Commission") should adopt BellSouth's Permanent SQM and SEEM.

I. EXECUTIVE SUMMARY

Q. PLEASE PROVIDE AN EXECUTIVE SUMMARY OF YOUR TESTIMONY.

A. As the Commission knows, BellSouth must demonstrate that it provides nondiscriminatory performance to CLECs as a prerequisite to the receipt of permission to compete in the interLATA market. My testimony presents the Interim SQM upon which the Commission can rely in this proceeding. I also explain why it is reasonable to conclude that BellSouth meets its obligations under the Telecommunications Act of 1996 ("the Act").

In addition, I propose a Permanent SQM that will provide this Commission with a manageable and reasonable way to monitor BellSouth's performance on a permanent basis. Last, I explain and support BellSouth's proposed SEEM or penalty plan.

Now I would like to elaborate on each part of my testimony. In Part II, I introduce BellSouth's Interim SQM. The Interim SQM is Exhibit AJV-1 and is the same

SQM recently adopted by the Georgia Public Service Commission ("GPSC"). BellSouth proposes that the Commission use the Interim SQM, and data collected pursuant to the Interim SQM, to assess BellSouth's compliance with the competitive checklist. The Interim SQM contains more than enough data for the Commission to evaluate BellSouth's performance. Overall, the Interim SQM has about 1,800 data points.

Part III of my Testimony provides detailed results of analyses conducted by BellSouth on the results of KPMG's test criteria from Georgia that are "not satisfied" or "not complete" in the final report. When reviewing these analyses, it is critical to remember that the test criteria discussed herein are only dealing with a small fraction of the test criteria that KPMG analyzed. The overwhelming majority of KPMG's criteria were satisfied in the test. As described in Mr. Pate's testimony, 1171 tests were conducted by KPMG. Of these tests, only 20 (less than 2%) were identified as "not satisfied." KPMG did not complete work on 25 tests so they were rated "not complete" by KPMG. Work continues on these criteria and they should ultimately fall into either the satisfied or not satisfied classification. All of the remaining 1126 criteria (about 96%) were either satisfied or KPMG determined that no report was required. Mr. Pate describes the test conducted by KPMG in his testimony so I will not repeat that explanation here.

In Part IV of my testimony, I present BellSouth's proposed Permanent SQM. As the Commission knows, in conjunction with assessing BellSouth's compliance with its 271 obligations, the Commission will use this proceeding to establish a permanent set of performance measurements for Kentucky.

Obviously, because the Commission will establish a Permanent SQM in this proceeding, data collected in accordance with that SQM will not be available for use in this proceeding. Hence, BellSouth has introduced the Interim SQM to ensure that the Commission has the data it needs to determine whether BellSouth is meeting the nondiscriminatory performance standard in an expeditious timeframe.

The Permanent SQM is a more easily usable document than the Interim SQM. The Permanent SQM provides all of the data the Commission needs in order to monitor BellSouth's performance. It provides this data using fewer data points than the Interim SQM, which makes the Permanent SQM a more useful tool. Don't be misled by the size of the Permanent SQM. It is a comprehensive document supported by a massive database. The database supporting the Permanent SQM contains 2.5 Terabytes of data. The entire Internet in 1999 contained 3 Terabytes of data. Believe it or not, some will try to convince this Commission that more data is needed. I think the facts belie any such claim.

Last, I introduce BellSouth's SEEM plan. Regarding SEEM, the Federal Communications Commission ("FCC") has repeatedly said that a penalty plan is not required for interLATA relief. However, the facts are that every grant of interLATA relief has contained a penalty plan. As a practical matter, a penalty plan appears to be required for interLATA entry and we have proposed one. The SEEM proposed here is a comprehensive and generous plan. It addresses every significant aspect of BellSouth's performance for CLECs. The SEEM obligates BellSouth to pay up to 36% of its net revenue in Kentucky in penalties,

an enormous amount. There can be no doubt that this plan is more than sufficient to meet any reasonable requirement for an additional performance incentive.

In summary, in this proceeding, BellSouth will have shown that it is meeting its obligations under the competitive checklist, and has proposed a reasonable and comprehensive SQM and a generous self-effectuating penalty plan. Simply, there is no reason to continue to deny consumers in Kentucky the benefits of BellSouth's interLATA entry.

II. THE INTERIM SQM

Q. BRIEFLY DESCRIBE AN SQM DOCUMENT.

A. The Act ([§ 271, 47 U.S.C.271, Part III, subparagraph (B)] as interpreted by the FCC in its First Report and Order (FCC 96-325 dated 8-8-96)), obligates BellSouth to provide CLECs with nondiscriminatory access to the items specified in the 14-point checklist, including Operations Support Systems ("OSS"). In cooperation with the GPSC and the participating CLECs throughout BellSouth's nine-state region, BellSouth has developed a comprehensive set of performance measures which are collectively referred to as the SQM Plan.

Whenever performance data is produced, it must comport with a specific set of requirements. The SQM defines those requirements including such parameters as the service performance data to be collected, the method of calculation, the

amount of detail or levels of disaggregation for each measurement and the applicable benchmark and/or retail analog for comparison.

Q. PLEASE DEFINE SOME OF THE TERMS THAT ARE GOING TO BE USED IN THIS TESTIMONY, SUCH AS MEASUREMENT CATEGORIES, MEASUREMENTS AND SUB-METRICS.

A. A measurement category is a major grouping of the measurements themselves. There are a total of 11 measurement categories, including Operations Support Systems/Pre-Ordering, Ordering, Provisioning, Maintenance & Repair, Billing, E911, Operator Services/Directory Assistance, Database Update Information, Trunk Group Performance, Collocation and Change Management.

The terms “measurements” and “measures” are used synonymously in my testimony. Measurements (or measures) are sub-parts of the measurement categories and include such things as “Percent Missed Installation Appointments” (in the Provisioning category) and “Firm Order Confirmation Timeliness” (in the Ordering category). There are a total of 75 measurements in the interim BellSouth SQM, and each one falls under one of the 11 measurement categories.

”Sub-metric” is the term applied to the result of disaggregating each of the measurements into a multitude of sub-parts where performance data is actually captured. For instance, I have identified “Order Completion Interval” as a measurement in the “Provisioning” measurement category. “Order Completion

Interval ("OCI")" is further broken down into sub-metrics such as "Order Completion Interval – 2-wire Analog Loop, Design, dispatch." What this means is that BellSouth collects the OCI performance data for 2-wire analog loops in a number of categories, including those that involve engineering design work and a "dispatch". For instance, if BellSouth reports an OCI of 3 days for a Unbundled Network Element ("UNE") 2-wire analog order from a CLEC that required design work and a dispatch, the data will be grouped under this sub-metric, together with all other similar data involving orders that have the same characteristics. Another example of a sub-metric would be "Percent Missed Installation Appointments – 2-wire Analog Loop Design." Essentially, every missed installation appointment for a CLEC order involving the installation of a 2-wire analog loop that required engineering design work on the loop would be captured in this sub-metric. When this disaggregation is completed, the end result is that the Interim SQM provides for about 1,800 sub-metrics that quantify BellSouth's performance for CLECs in the BellSouth SQM.

To facilitate comparison to BellSouth's performance for its retail customers, approximately 700 sub-metrics quantifying BellSouth's performance for its retail customers are produced. There is a difference in the number of sub–metrics for BellSouth, when compared to approximately 1,800 for the CLECs, because some of the CLEC sub-metrics are recorded for diagnostic purposes only and also because some of the CLEC sub-metrics are compared against benchmarks, rather than BellSouth analogs. An "analog" is used when BellSouth provides a comparable service to its own retail customers. When no such comparable service exists, a "benchmark" is used instead of an "analog." A benchmark is a

target, such as answering 85% of all calls within 45 seconds or something similar. A sub-metric recorded for "diagnostic purposes only" means basically that no benchmark or analog exists. It is provided as an analysis tool for CLECs.

Collectively, all of the terms described above can be referred to as performance measurements.

The term "measurements" is not only used in the SQM, it is also used in BellSouth's enforcement plan, or SEEM. The measurements to which penalties apply are uniquely defined under SEEM. In some cases, the measurements are the same as a sub-metric in the SQM, while in other cases the SEEM measurement is an aggregation of several sub-metrics in the SQM. To avoid confusion, I will use the term "SEEM measurement" when referring to measurements as defined under SEEM.

Q. DESCRIBE THE INTERIM SQM PURSUANT TO WHICH BELLSOUTH WILL PROVIDE PERFORMANCE DATA FOR THIS PROCEEDING.

A. The Interim SQM provides a mechanism to collect performance data on the processes that must be measured to support an application for interLATA authority with the FCC. BellSouth has adopted a format for data presentation similar to that used by Verizon to support its successful interLATA application in New York. This format was found acceptable by the FCC and the Department of Justice ("DOJ"). As with any other presentation of performance data, the data in this format must be defined by a specific SQM. As an Interim SQM, BellSouth

has utilized the SQM set forth by the GPSC in its Order in Docket 7892-U, dated January 12, 2001, to define the data that will be produced in a format familiar to the FCC and DOJ. That SQM is attached as Exhibit AJV-1. Some of the measurements required by the Georgia SQM will not be implemented until June 2001. Consequently, the number of measurements for which data is provided will increase until June 2001. For brevity, I will refer to the presentation of data according to the Interim SQM as the "FCC format."

BellSouth requests that this Commission adopt the FCC format and the underlying Interim SQM, for purposes of its 271 decision and for any recommendation this Commission makes to the FCC. The Interim SQM will be effective until such time as BellSouth has fully implemented a Commission Order establishing a Permanent SQM. See, *Application by SBC Communications, Inc., Southwestern Bell Telephone Company, and Southwestern Bell Communication Services, Inc. d/b/a Southwestern Bell Long Distance Pursuant to Section 271 of the Telecommunications Act of 1996 to Provide In-Region, InterLATA Services in Texas,* CC Docket No. 00-65, Memorandum Opinion and Order, Released June 30, 2000 ("SWBT Order-TX"), para. 56, which states, "In making our evaluation we will examine whether the state commission has adopted a retail analog or a benchmark to measure BOC performance and then review the particular level of performance the state has required."

Q. EXPLAIN THE CONTENTS OF THE INTERIM SQM DOCUMENT AND HOW TO READ IT.

A. An SQM document is a comprehensive and detailed description of BellSouth's performance measurements that are calculated to evaluate the quality of service delivered to BellSouth's customers, both wholesale and retail. The SQM is divided into eleven (11) measurement categories, each one representing a different group of measurements relating to a specific area of BellSouth's service performance for CLECs. For instance, Section 1 contains six (6) distinct measurements dealing with access to Operations Support Systems for both pre-ordering and maintenance & repair. Section 2 contains fifteen (15) measurements specifically directed at all phases of the ordering process. Another section deals with provisioning, and so forth. The end result is eleven measurement categories totaling 75 measurements. When these measurements are applied or "disaggregated" as BellSouth has proposed, there are about 1,800 sub-metrics reflecting the performance provided to CLECs by BellSouth.

In addition, there are three (3) appendices, A-C. Appendix A, Reporting Scope, provides service groupings by categories, i.e., service order activity type, pre-ordering query type, maintenance query type, etc. Appendix B, Glossary of Acronyms and Terms, is just that, a glossary that provides definitions for the most commonly used acronyms and terms found throughout the document. Finally, Appendix C, BellSouth Audit Policy, sets forth BellSouth's audit policy for both internal and external audits of performance measurements.

Q. CAN YOU ILLUSTRATE WHAT IS CONTAINED IN EACH OF THE MEASUREMENTS WITHIN THE ELEVEN SECTIONS BY PROVIDING AN EXAMPLE?

A. Yes. Please refer to the first measurement labeled “OSS-1” of Exhibit AJV-3 and the material related to that measurement. As you can see, this measurement, and all of the measurements, begins with a “Definition” that briefly describes exactly what the measurement is designed to demonstrate. In this case, the measurement calculates the average response time for queries submitted from pre-ordering Interfaces, such as LENS, TAG and RNS, to certain legacy systems. These queries are submitted by the CLEC and by BellSouth retail representatives to assess feature availability, validate addresses or telephone numbers, reserve telephone numbers, and determine appointment availability.

Following the definition are any “Exclusions” that identify certain characteristics or external factors that for various reasons should be excluded from the measurement. In this case there are none. However, if you look at the measurement labeled “Loop Makeup – Response Time – Manual” in Exhibit AJV-3, there is an example of an exclusion. Specifically, the exclusion for that measurement covers electronically submitted loop makeup inquiries. Obviously, it would be inappropriate to include electronically submitted inquiries in a measurement of inquiries submitted manually.

Returning to my discussion of the components of the measurement labeled OSS-1, next comes the “Business Rules” that describe the components of the measurement and how they interact. An example that is reflected under this measurement is the way the “start” and “stop” times are defined for the measurement.

Under the heading of “Calculation” is the actual mathematical formula for producing the measurement. This section also identifies each component of the formula, e.g., in this particular case, a = Date & Time of Legacy Response and b = Date & Time of Legacy Request.

The next section is labeled “Report Structure.” The report structure provides a definition of the key dimensions of the report. For instance, in the example of the OSS Response Interval, OSS-1, OSS Response is a measurement of the response interval for the aggregate of all CLECs in the BellSouth Region. As a result, its report structure is a regional structure, as opposed to a CLEC-specific or a product-specific structure.

Following “Report Structure” is the “Data Retained” section that describes key elements of data for each measurement that are processed and retained from the back-end OSSs and Legacy Systems in order to produce the reports, i.e., the data must be correlated by month and there must be rules built into the structure of the data that defines methods for accessing the OSS and Legacy Systems.

BellSouth proposes to retain this data for a period not to exceed 18 months. The retention of this volume of data longer than 18 months would unnecessarily add to the tremendous size and cost to BellSouth in data storage without materially enhancing the value of the data, and, therefore, would be unreasonable and overly burdensome. As I stated in my summary, the size of the database already approaches the size of the Internet in 1999.

Finally, the section entitled, “SQM Disaggregation – Analog/Benchmark,” defines how each measurement is broken-down into sub-metrics in the report, i.e., in this case, by OSS and Legacy System, and the standard to which BellSouth compares each sub-metric of that measurement in order to detect disparate treatment. In this case, because there is not a retail analog for this function, BellSouth uses a benchmark of 95% in 6.3 seconds or less.

Q. PLEASE ILLUSTRATE HOW THE LEVEL OF DISAGGREGATION AFFECTS THE NUMBER OF SUB-METRICS IN AN SQM.

A. Achieving an appropriate level of disaggregation is obviously important. Indeed, reporting of the raw data frequently occurs only at this level. To illustrate, please refer to the measurement P-4, Order Completion Interval (OCI) & Order Completion Interval Distribution of Exhibit AJV-3. OCI measures how long it takes BellSouth to install a service, once a valid service order has been generated. Exhibit AJV-3 contains the SQM disaggregation and reporting level for this measurement. The first line of this table shows a line for Resale Residence and a retail analog of Retail Residence. This means that OCIs for services to be resold to a residence customer by a CLEC (Resale Residence) are compared to OCIs for services sold by BellSouth at retail to its residence customers (Retail Residence). This single comparison, however, is further broken down into sub-metrics of: 1) Dispatch < 10 circuits; 2) Dispatch $\geq$ 10 circuits; 3) Non-dispatch < 10 circuits; and 4) Non-Dispatch $\geq$ 10 circuits. These additional levels of disaggregation are reflected under the Report Structure section of the SQM for this measurement. Thus, there are 4 “volume” and

"dispatch" levels of disaggregation in this instance. There are a total of 20 lines or products on the SQM Level of Disaggregation, meaning that there are approximately 20 times 4 (or approximately 80) sub-metrics of BellSouth's performance for CLECs for the single measurement, P-4, Order Completion Interval. In addition, BellSouth must produce another set of 80 sub-metrics reflecting BellSouth's performance for its retail customers for a total of 160 sub-metrics in this case.

III. BELLSOUTH RESPONSE TO THIRD PARTY TEST

Q. BRIEFLY DESCRIBE WHAT IS CONTAINED IN THIS SECTION.

A. This section refers to the Georgia Third Party Testing results and BellSouth's response to those results. The testing process is described in Mr. Pate's testimony so I won't repeat that description here. In addition, Mr. Pate discusses certain of the results. The results showed that we achieved a 96% success rate. There were, however, some items that were not satisfied or not complete in the test. I explain some of those criteria here.

Q WHY IS THIRD PARTY TESTING USED AT ALL AS AN EVALUATION TOOL?

A. Actual live commercial results measured against the SQM provide the best tool for analyzing BellSouth's performance. Third Party Testing is used only as an evaluation tool when actual commercial usage is unavailable at significant

volumes. When commercial volume is not available, Third Party Testing is used to fill the gap.

As the FCC noted in ¶86 of the LAII Order, "[t]he most probative evidence that OSS functions are operationally ready is actual commercial usage." Continuing, and referring to the Ameritech Michigan Order, the FCC noted that, in the absence of commercial usage, it will consider carrier-to-carrier testing, independent third-party testing, and internal testing. As commercial usage of BellSouth's OSS increases, dependence on third party testing will become unnecessary.

Q. HAS THE FCC MADE OTHER OBSERVATIONS REGARDING THIRD PARTY TESTING?

A. Yes, The FCC has been most instructive in its Orders, both approving and denying previously filed 271 applications. BellSouth finds the following excerpt particularly relevant to this proceeding:

- In ¶118 of its Memorandum Report and Order in CC Docket No. 00-217, released January 22, 2001, approving the Joint Application by SBC Communications, Inc., Southwestern Bell Telephone Company, and Southwestern Bell Communications Services, Inc., d/b/a Southwestern Bell Long Distance for Provision of In-Region, InterLATA Services in Kansas and Oklahoma (hereinafter referred to as "SWBT Order-KS/OK"), the FCC stated, "In prior section 271 orders, we have held that third party tests can provide critical information about the functionality and

performance of a BOC's OSS. We have not, however, stated that checklist compliance cannot be proven without a third party test of an applicant's OSS. Indeed, we emphasize that our analysis of an applicant's OSS rests on a wide range of evidence, of which evidence from third party tests is but one part. The need to rely on a third party test is reduced in this instance because SWBT has established the relevance of its Texas OSS. We agree with the Department of Justice that, in this respect, SWBT's is a "sensible and efficient approach that can avoid the delay and expense of redundant testing."

Q. WHICH "NOT SATISFIED" ITEMS FROM THE GEORGIA THIRD PARTY TEST DO YOU ADDRESS?

A. In this section of my testimony, the "not satisfied" items that I address are:

- Timeliness of Functional Acknowledgement – EDI
- Timeliness of Rejects and Clarifications – EDI
- Timeliness of Firm Order Confirmations
- Accuracy and Timeliness of Partially Mechanized Orders, and
- Expected Responses – ADSL – Manual

When I discuss the performance metrics audit, I address the four not satisfied items from that audit. The remaining "not satisfied" items are addressed by Mr. Pate.

Q. WHAT IS A "NOT SATISFIED" CRITERIA IN THE THIRD PARTY TEST?

A. When KPMG personnel performed their testing, they retested items that did not initially pass their test criteria until the item either passed the criteria, the test was determined not to be needed, or the test was closed. At the close of the test any items that had not passed KPMG's test criteria, and for which no further testing was planned, were labeled "not satisfied" by KPMG. Where the GPSC established standards for a particular measurement, KPMG used that standard to determine whether the test criteria was satisfied or not. Where no GPSC standard existed, KPMG established its own standard.

Q. PLEASE DESCRIBE THE TEST THAT KPMG PERFORMED FOR THE FIRST ITEM: TIMELINESS OF FUNCTIONAL ACKNOWLEDGEMENT – EDI.

A. As part of its third party test, KPMG performed a normal volume performance test and a peak volume performance test. The objective of these tests was to evaluate BellSouth's OSS performance associated with ordering at specified volumes. The normal volume performance test evaluated BellSouth's ability to accurately and quickly process orders using the EDI and TAG interfaces under "normal" year-end 2001 projected load conditions. The peak volume performance test evaluated BellSouth's ability to accurately and quickly process orders using the EDI and TAG interfaces under "peak" year-end 2001 projected transaction load conditions. The projected load conditions were based on region-wide load factors, as the electronic interfaces are regional in nature. The results for the TAG interface satisfied the criteria; however, during these two tests, KPMG found that the EDI interface did not return functional acknowledgments in a timely manner for fully mechanized orders (orders that flowed through without

manual handling) for UNEs (O&P 3-3-1 and O&P 4-3-1). The standard applied by KPMG in the test for the return of functional acknowledgments was 95% of functional acknowledgments received in less than 30 minutes.

Q. YOU REFER TO O&P 3-3-1 AND O&P 4-3-1, PLEASE EXPLAIN WHAT THESE REFER TO.

A. When KPMG performed its test, it assigned certain criteria using a unique numbering scheme. One of the categories of the test was Ordering & Provisioning, which KPMG identified as O&P in their numbering scheme. A specific test within a category is identified by a specific number. For example, O&P 3-3-1 and O&P 4-3-1 are assigned to a specific test by KPMG. For additional information on the test, see Mr. Pate's testimony.

Q. WHAT IS A FUNCTIONAL ACKNOWLEDGEMENT IN EDI AND HOW IS IT MEASURED?

A. Functional acknowledgments are transmitted between BellSouth and CLECs using EDI for the purpose of notification. The receipt of any EDI transaction by BellSouth or the CLEC requires an acknowledgment. The functional acknowledgment indicates whether a transaction was accepted or rejected. In the case of rejection, the nature of the error is also provided.
The timeliness of a functional acknowledgment for EDI is measured from the time a document enters the EDI translator software until the functional acknowledgment is transmitted to the CLEC. At the time KPMG performed the

normal volume performance and the peak volume performance tests, the infrastructure for EDI limited the turnaround time for functional acknowledgments. Specifically, the EDI architecture utilized by BellSouth's EDI system was only capable of returning batches of data to CLECs within 90 minutes in a peak volume environment at the time of the test. It is also worth noting that, at the time of this test, no benchmark had been adopted by the Georgia Commission. However, BellSouth had set its own internal standard at that time to return 75% of functional acknowledgements within 90 minutes.

Q. PLEASE DESCRIBE WHETHER EDI FUNCTIONAL ACKNOWLEDGMENTS ARE STILL AN ISSUE.

A. In January 2001, BellSouth upgraded the infrastructure for EDI in order to shorten the response time capability of the interface. A sample of data from April 9 to 23, 2001 shows that average response time for functional acknowledgements was 1.14 minutes, and that BellSouth was returning 100% of functional acknowledgements within 30 minutes for the upgraded EDI interface.

KPMG also tested the timeliness for functional acknowledgments for EDI during KPMG's functional and production volume tests for orders for UNEs. During these tests, KPMG did receive timely functional acknowledgements, and the evaluation criteria (O&P 1-3-1 and O&P 10-3-1) for these tests were satisfied. This means that the problem that KPMG encountered was limited to the peak volume test. The EDI upgrade has corrected that problem.

For these reasons, BellSouth believes that the issues raised by these "not satisfied" criteria have been corrected, and that BellSouth's actual performance for functional acknowledgments returned via EDI for CLECs today should not have a material adverse impact on their ability to compete.

Q. PLEASE DESCRIBE THE NEXT ITEM YOU LISTED: TIMELINESS OF REJECTS AND CLARIFICATIONS – EDI.

A. As previously stated, KPMG performed functional tests of EDI. One objective of the test was to evaluate the functionality of BellSouth's systems in processing local service requests ("LSRs") for UNEs and resale services. Specifically, KPMG tested EDI to determine if this interface returned timely error information (fatal rejects and auto clarifications) for fully mechanized LSRs, identified as MTP O&P 1-3-2a and STP PO&P 11-3-2a in KPMG's Report. In the test, KPMG required 97% of fully mechanized errors to be received within one hour.

Q. WHAT WERE KPMG'S RESULTS?

A. In the initial test of UNE orders, KPMG received 18% of fully mechanized errors in one hour. During a retest of UNE orders in January 2001, performance improved to 84% of fully mechanized errors received within one hour. In addition, another 5% were received within two hours. For resale services, KPMG's results for the initial test was 9% of fully mechanized errors received in less than one hour. During KPMG's retest of resale services orders in January 2001, KPMG received 85% of the fully mechanized errors within one hour.

Another 8%, for a total of 93%, were received within two hours.

Q. WHAT WERE THE RESULTS OF BELLSOUTH'S ANALYSIS?

A. As part of its analysis on these criteria, BellSouth investigated 16 orders, 11 for resale services and 5 for UNEs. BellSouth found that, although KPMG was supposed to submit only orders that flowed-through BellSouth's systems in this test, three of the orders fell out for manual handling, therefore delaying the return of the error information. These three orders fell out because KPMG made errors. Another order that KPMG believes it sent could not be located after considerable searching and BellSouth believes this order may not have been sent. According to BellSouth's records, BellSouth returned the error information for one of the other orders within 45 minutes, which is clearly within the one-hour interval. BellSouth found the error information was indeed delayed for three of the sixteen orders because of EDI routing and mapping problems. These EDI routing and mapping problems have been resolved by software changes.

BellSouth does agree that the remaining eight orders received delayed responses. As discussed previously, in January 2001, BellSouth upgraded EDI enabling it to return fatal rejects and clarifications faster. This upgrade would have allowed four of the eight orders to receive timely responses had KPMG sent them after the upgrade to EDI. Three of the remaining four test responses in these criteria were delayed because of the downstream LEO system. At the time of the test, a few CLECs were making unusual and large queries, which slowed LEO's response times. In March 2001, BellSouth modified LEO so that it now is

able to process large queries and send faster responses. The remaining response was delayed because of a LEO outage.

Given the changes BellSouth has made and the necessary modifications to KPMG's test, the number of orders that would not pass KPMG's test would be much lower today. These improvements are clearly evident in BellSouth's commercial performance results.

Q. WHAT DOES BELLSOUTH'S COMMERCIAL PERFORMANCE DEMONSTRATE?

A. BellSouth's actual commercial performance in this area shows that it is returning error and clarification information to CLECs in a timely manner. For Georgia, in February 2001, BellSouth returned 97.21% of the rejects for resale residential LSRs, 98.28% of the rejects for resale business LSRs, 97.56% of the rejects for "other" LSRs and 100% of the rejects for Local Number Portability ("LNP") within one hour, exceeding the benchmark used by KPMG in the test. Also in February, BellSouth returned 96.30% of the rejects for UNE combinations, which, though falling slightly below the benchmark, should not have a materially adverse impact on a CLEC's ability to compete.

Q. PLEASE DESCRIBE THE NEXT TEST: TIMELINESS OF FIRM ORDER CONFIRMATIONS – TAG.

A. The next "not satisfied" condition concerns KPMG's functional test of the TAG

interface (O&P 2). One area that KPMG evaluated was whether TAG provided timely firm order confirmations ("FOCs") for flow-through orders for UNEs (O&P 2-3-3a). The benchmark that KPMG used for this measure is that 95% of FOCs for flow-through orders must be returned within three hours.

During a retest in January 2001, KPMG tested 45 orders in this category. Of those orders, KPMG received 84% (38 orders) of FOCs for orders submitted via TAG within 3 hours. The seven orders that did not receive FOCs within 3 hours fell out for manual handling. In fact, FOCs for five of these seven orders were received within 24 hours. These seven orders were partially mechanized orders; however, KPMG treated them as fully mechanized orders. The delays in providing FOCs for these orders occurred because they were designed to fall out of the mechanized system for manual handling. These seven orders should have been excluded from this test, as they were not fully mechanized orders and KPMG's benchmark only applied to mechanized orders. Had these seven orders been excluded, 100% of the FOCs for orders submitted in the test would have been received within three hours.

Q. PLEASE DISCUSS WHETHER FOC TIMELINESS FOR TAG IS STILL AN ISSUE.

A. Although KPMG did not perform another functional test of TAG, it did perform normal volume, peak volume, and production volume tests of TAG. During these tests, BellSouth returned timely FOCs via TAG. These evaluation criteria (O&P 3-3-4, O&P 4-3-4, and O&P 10-3-4) are satisfied in KPMG's report.

BellSouth's actual commercial performance for CLECs in this area has shown significant improvement, and demonstrates that BellSouth currently is returning FOCs in a timely manner. For Georgia, in February 2001, BellSouth returned 99.20% of the FOCs for resale residential orders, 99.42% of the FOCs for resale business, 100% of the FOCs for LNP and 97.52% of the FOCs for UNE combos within three hours, clearly exceeding KPMG's benchmark.

Q. PLEASE DESCRIBE THE NEXT AREA: ACCURACY AND TIMELINESS OF PARTIALLY MECHANIZED ORDERS.

A. Orders for certain complex resale services and UNEs may be transmitted electronically via EDI or TAG, but are designed to fall out for manual handling. In order to enable CLECs to submit some complex LSRs electronically, rather than by fax or mail, BellSouth designed the EDI and TAG ordering interface to accept LSRs for these services. After these LSRs are transmitted to BellSouth electronically, they are handled as if they had been faxed or mailed to the Local Carrier Service Center ("LCSC"). These orders are sometimes referred to as "partially-mechanized." KPMG's report shows 10 "not satisfied" evaluation criteria for tests involving partially mechanized orders. The "not satisfied" criteria for partially mechanized orders can be divided into two areas: accuracy and timeliness. I will discuss both areas.

Q. PLEASE DESCRIBE HOW PARTIALLY MECHANIZED ORDERS ARE HANDLED.

A. Partially mechanized orders are processed by service representatives in BellSouth's LCSC just like manually-submitted orders. The LCSC now consists of three locations due to the volume of orders. For the year 2000, the LCSC processed an average of 99,122 manual and partially mechanized LSRs per month.

As of April 1, 2001, there were 1033 BellSouth employees in the LCSC, including the 919 service representatives who process the manual and partially mechanized LSRs. From December 1998 through November 2000, the LCSC more than doubled its trained service representative headcount (i.e. 130% increase) to the 919 that are employed today. BellSouth has continuously increased the work force and productivity of the LCSC to meet actual and forecasted demand, increasing complexity of the orders being worked, and tighter processing requirements, such as the benchmarks for returning FOCs, rejects, and clarifications.

Q. HOW HAS BELLSOUTH ADDRESSED IMPROVEMENT IN THIS AREA?

A. As a result of the LCSC's growth in personnel, the increased complexity of the orders handled by the LCSC service representatives, and the tighter benchmarks for performance, BellSouth recognized the need to improve the accuracy and timeliness of its handling of partially-mechanized orders. BellSouth has established a group within the LCSC to improve accuracy and timeliness, which is called the "Quality and Accuracy Team" which is now composed of approximately 35 people. The purpose of the team is to support the LCSC in

achieving higher levels of accuracy that lead to increased efficiency, improved flow through, increased customer satisfaction, and fewer complaints, expedites, and escalations. For example, the team has helped the LCSC improve the handling of LSRs that drop out for manual handling due to errors. The LCSC monitors the progress of these LSRs using a daily report. From September 1, 2000, when the team began its work, to March 28, 2001, there were 92% fewer LSRs on the daily report. Currently, the average number of days it takes to clear them is 4 or less.

The team identifies problems by closely monitoring the work at the LCSC and looking for trends. If, for example, repeat problems are caused by an LCSC service representative, the representative will be coached by the team. If the problems are caused by a CLEC, the team works with that CLEC's customer service manager who will contact the CLEC and propose corrections.

Another way to increase accuracy and timeliness for partially mechanized orders is to reduce the amount of manual handling involved in processing them. Although not always practical, the surest solution, of course, is to increase the number of LSRs that flow through the systems rather than fall out for manual handling. With this in mind and as a result of the Georgia Commission's Order of January 12, 2001 in Docket No. 7892-U, BellSouth and the CLECs formed a cooperative "flow through improvement task force." The objective of the task force is to enhance the flow through of electronic orders, document those enhancements, and develop a schedule for implementing the enhancements. The task force is operating as a subcommittee of the Change Control Process

("CCP") as discussed in Mr. Pate's testimony. The CLECs and BellSouth first discussed the formation of the task force at the regularly-scheduled monthly status meeting of the CCP on February 28, 2001. The first meeting of the task force occurred on March 19, 2001.

Q. WHAT DOES BELLSOUTH'S RECENT PERFORMANCE INDICATE REGARDING ACCURACY AND TIMELINESS FOR PARTIALLY-MECHANIZED ORDERS?

A. If BellSouth does not fulfill orders accurately and timely, then it will be reflected in the Accuracy of the Billing, measured by Invoice Accuracy. According to BellSouth's performance measurements results for Invoice Accuracy, these partially mechanized issues do not have a disproportionate impact on CLEC customers. The invoice accuracy results for February 2001 were better for CLECs than for BellSouth's retail end users, yielding 99.70% accuracy.

Q. PLEASE DESCRIBE THE NEXT TEST: EXPECTED RESPONSES – ADSL – MANUAL.

A. KPMG performed a functional evaluation of the pre-ordering and ordering processes for xDSL products as delivered to CLECs through BellSouth's manual processes (PO&P 12). Specifically, KPMG tested BellSouth's ability to provide the expected responses (PO&P 12-2-1). KPMG's standard is that 99% of the expected responses should be received by the CLEC.

Q. WHAT WERE KPMG'S RESULTS OF THIS TEST?

A. Of the 1,006 total transactions that KPMG submitted, 951 (94.5%) received the appropriate responses from BellSouth. Specifically, KPMG submitted 447 pre-order loop makeup service inquiries and LSR service inquiries to BellSouth's Complex Resale Support Group ("CRSG") via e-mail. KPMG received 417 acknowledgments (93%) for these transactions. In addition, KPMG sent 559 total pre-order loop make-up service inquiries and LSR service inquiries via facsimile. Of the 275 loop makeup service inquiries that KPMG submitted via facsimile, 252 (92%) received the subsequent expected responses (confirmation or error) from BellSouth. As a result, KPMG issued Exception 134. For the 284 LSR service inquiries that KPMG submitted via facsimile, 282 (99%) received the expected responses (FOCs, rejects, or clarifications), which met KPMG's standard.

Q. WHAT DID BELLSOUTH FIND REGARDING KPMG'S RESULTS?

A. In Exception 134, KPMG identified 55 transactions where they did not receive the expected response. BellSouth's investigation of those 55 pre-order loop makeup service inquiries and LSR service inquiries that KPMG claimed did not receive the expected responses is as follows:

- Three of the inquiries, purchase order numbers X1P16, X002A10019, and X031A10117, were acknowledged.
- One transaction was recalled before BellSouth could do anything with it.

- Twenty-two of the inquires were rejected. Because KPMG should have considered a rejection to be an acknowledgment that BellSouth received the inquiry, KPMG should not have expected additional acknowledgments for the 22 transactions that BellSouth rejected. BellSouth believes that it handled these 22 transactions correctly. Nevertheless, on March 22, 2001, BellSouth changed its process. Now when BellSouth sends an e-mail rejection, it also states that it is acknowledging the inquiry.
- Four inquires, that KPMG state were not acknowledged, according to BellSouth's records were never received by BellSouth.
- On six inquires KPMG erroneously expected a FOC. BellSouth disagreed because these orders were rejected back to KPMG. Because KPMG did not resolve these errors and return the orders to BellSouth, KPMG should not have expected FOCs. BellSouth believes that it handled these 6 inquiries correctly.
- Two of the loop makeup service inquiries for which KPMG expected FOCs were never received by BellSouth according to BellSouth records.
- Two loop makeup service inquiries were labeled "version 01." When a CLEC issues an LSR, the CLEC assigns a Purchase Order Number ("PON"). If the LSR must be modified, the CLEC will simply increment the version number instead of issuing a new PON. BellSouth's records show that it did not receive these, although KPMG may have sent them as "version 00".
- BellSouth investigated 13 loop makeup service inquiries for which KPMG received the makeup information, but no prior FOC from the LCSC. On 12 inquiries BellSouth erroneously sent the loop makeup information to

KPMG before the LCSC sent the corresponding FOCs. 1 loop makeup service inquiry was cancelled by the LCSC because the LCSC returned the related LSR to KPMG for clarification. Because KPMG had not resolved the problems with the LSR in a timely manner, the LCSC properly canceled it. This process is outlined in the LEO Guide, volume 1. On February 5, 2001, BellSouth changed its process whereby the loop makeup information is not sent to a CLEC until after the FOC has been generated. This resolved the issues encountered in handling these orders.

- Finally, KPMG believed that 2 LSR service inquiries should have received subsequent responses (FOCs, clarifications, or rejects) from BellSouth. BellSouth disagreed because it sent KPMG a clarification for one LSR service inquiry. As discussed above, because KPMG should have considered a clarification to be an acknowledgment that BellSouth received the inquiry, KPMG should not have expected an acknowledgment for this inquiry. BellSouth's records show that it did not receive the other LSR service inquiry, although KPMG may have sent it with a different version number.

Q. WHAT DOES BELLSOUTH'S ANALYSIS INDICATE?

A. After analyzing these 55 transactions, BellSouth believes that only 12 transactions, the 12 inquiries for which the CRSG sent the loop makeup information to KPMG before the LCSC sent the corresponding FOCs, did not receive the expected responses. Therefore, 98.81% of the transactions received

the expected responses, which, rounded, meets KPMG's standard. In addition, BellSouth believes that the changes and modifications it has made for handling the responses to these inquiries should prevent any material adverse impact on competition.

Q. TURNING TO THE "NOT COMPLETE" CRITERIA FROM KPMG'S TEST, WHAT DOES YOUR TESTIMONY ADDRESS?

A. Now, I will address the criteria labeled as "not complete" by KPMG. All of these criteria were in the part of the test dealing with performance measurements.

Q. WHAT ARE "NOT COMPLETE" CRITERIA?

A. A "not complete" occurred, when the third party test was closed, but some test criteria had not been completed by KPMG. Work continues on those criteria and KPMG is expected to issue a supplemental report indicating whether these remaining criteria were satisfied.

Q. PLEASE DESCRIBE THE FIRST THREE "NOT COMPLETE" CRITERIA THAT YOU ADDRESS: PERCENT REJECTED SERVICE REQUESTS, REJECT INTERVALS AND FIRM ORDER CONFIRMATION TIMELINESS.

A. The first set of "not complete" conditions concern the Ordering and Provisioning Performance Measures Evaluation (O&P – 7). This evaluation provided for "(1)

Calculation and Reporting Validation, and (2) Data Comparison, for ordering and provisioning-related SQMs produced by BellSouth."

For O&P 7-1-3 (Percent Rejected Service Requests), O&P 7-2-3 (Reject Interval), and O&P 7-3-3 (Firm Order Confirmation Timeliness), KPMG compared Hewlett Packard-provided data to the corresponding BellSouth raw data for the months of August 2000 – November 2000. KPMG found discrepancies in time stamps for LSRs Sent/Received, Reject/Clarification Requested, and FOC for the TAG and EDI interfaces and issued Draft Exceptions 176 and 178 to BellSouth.

Draft Exception 176 identified six discrepancies for the EDI interface. BellSouth responded to the exception on March 12, 2001:

- Two discrepancies were due to incorrect test procedures on the part of KPMG.
- Four discrepancies were unresolved, as information identifying the causes of the delays was no longer available. Because of this, BellSouth requested KPMG to test the most recent month's data.

Draft Exception 178, based on October 2000 and November 2000 data, identified a total of nineteen discrepancies for the EDI and TAG interfaces. BellSouth responded to the exception on March 23, 2001 as follows:

- Eleven discrepancies were due to incorrect test procedures on the part of KPMG. For example, KPMG sent multiple instances of the same

PON/version combination. Only one instance is permitted. Another example was where KPMG was not available to resolve the data when BellSouth had it ready, but KPMG recorded the time when they received it.

- Three discrepancies were due to errors in BellSouth data. BellSouth was not accurately capturing the timestamp when FOCs were sent manually. Corrective measures were implemented in January 2001.
- Five discrepancies were unresolved, as information identifying the causes of the delays was no longer available.

For each case where historical information was available for analysis, BellSouth either found no discrepancies in time stamps, or implemented corrective measures to address the issues.

Q. CAN YOU EXPLAIN WHETHER RESPONDING TO OCTOBER 2000 DATA IN MARCH 2001 IS A REASONABLE TIMEFRAME?

A. Data is not available until some time after the end of the data month. KPMG first must assimilate and review the data to determine if a problem occurred. If so, KPMG issues an observation. If KPMG believes a problem exists, it issues a Draft Exception and allows BellSouth time to review the process and/or data to determine the cause and take corrective action. In many instances, BellSouth and KPMG can resolve the issue and the Draft Exception will be clears and goes away. However, in some instances, KPMG and BellSouth may disagree on the resolution. If so, KPMG will file the Exception with the GPSC and BellSouth will simultaneously file a response to the Exception with the GPSC. If, at a later

time, KPMG agrees with and/or accepts BellSouth's response, KPMG will amend the Exception filed with the GPSC. Sometimes this process can be resolved more quickly than others.

Q. PLEASE DESCRIBE THE "NOT COMPLETE" CRITERIA FOR THE TWO MEASURES: AVERAGE JEOPARDY NOTICE INTERVAL AND PERCENTAGE OF ORDERS GIVEN JEOPARDY NOTICES (O&P 7-6-3).

A. This set of "not complete" conditions concern O&P 7-6-3 (Average Jeopardy Notice Interval and Percentage of Orders Given Jeopardy Notices). In this test, KPMG issued Exception 128 for one service order in the month of October 2000, where the KPMG-collected value for "completion date" did not match the BellSouth-reported value. BellSouth submitted a response to this exception on March 13, 2001.

BellSouth concluded that this discrepancy was due to a business rule in the "Service Order Control System ("SOCS") daily fixed fielded extract," a standard extract of data from SOCS that feeds all downstream systems. In certain instances, the final disposition of a service order is not updated in the extract to allow the appropriate changes in PMAP.

Q. EXPLAIN WHAT STEPS BELLSOUTH HAS TAKEN TO RESOLVE THIS ISSUE.

A. To resolve this issue, BellSouth is in the process of building another extract from SOCS that duplicates the original one but removes all business rules and extracts

every service order in SOCS each time it is run. An initial estimate for completing this work is under development, and implementation is expected to take a minimum of eight weeks.

Q. WHAT WAS THE OBJECTIVE OF THE NEXT SECTION OF NOT COMPLETE CRITERIA: DATA COLLECTION AND STORAGE VERIFICATION AND VALIDATION REVIEW (PMR 1)?

A. This “not complete” condition concerns the Data Collection and Storage Verification and Validation Review (PMR 1). The objective of this review was to evaluate the key policies and procedures for collecting and storing both the raw data that BellSouth uses to create SQM reports and the preliminary data that BellSouth uses to produce the raw data.

Q. PLEASE DESCRIBE KPMG’S ASSERTION THAT BELLSOUTH DID NOT PROVIDE SUFFICIENT DATA FOR CREATING HISTORICAL SQM REPORTS.

A. This “not complete” condition is identified as PMR 1-2-1 in the Report. KPMG reported that BellSouth did not provide sufficient data for re-creating any prior month's historical SQM report. It suggested that the raw data, early-stage data, and the SQM reports be retained for a sufficient length of time to support any audits that might be required by the GPSC. KPMG reported its findings in Exception 79.

Q. WHAT WAS BELLSOUTH’S RESPONSE TO KPMG’S FINDINGS?

A. BellSouth provided its latest response to this exception on March 6, 2001, in which it proposed the following data retention policy:

> "It is the policy of BellSouth Performance Measurements to retain the early-stage data for a period of eighteen months to facilitate detailed audits of PMAP reports. 'Early-stage data' is defined as that which is extracted from source systems (CABS, CRIS, EXACT, WFA, SOCS, LMOS, etc.) and maintained as ASCII flat files for the purpose of generating SQM reports. 'Early-stage' data is further defined as source system data that is transmitted manually for said purpose. The mechanical flat files and the manual files of early-stage data will be retained for a period of eighteen months."
>
> BellSouth will retain PMAP raw data for a minimum of three years. 'PMAP raw data' is defined as that which is available for download for the current month from the BellSouth website. Further, BellSouth will retain for three years the monthly aggregate database, i.e., that which has been processed and normalized from raw data, and the resources necessary to re-create the SQM reports from that database.

BellSouth believes that implementation of this policy, combined with current data retention practices, allows a full and complete opportunity to audit BellSouth's performance results in a meaningful way.

Q. PLEASE DESCRIBE THE NEXT AREA WHERE TEST RESULTS ARE NOT COMPLETE: METRICS DEFINITION DOCUMENTATION AND IMPLEMENTATION VERIFICATION AND VALIDATION REVIEW (PMR 2).

A. Next, KPMG had “not complete” conditions in the Metrics Definition Documentation and Implementation Verification and Validation Review (PMR 2). This review evaluated the definitions of the SQMs and the associated descriptions of the calculations in the October 22, 1999, version of BellSouth's Georgia SQM documentation.

Q. WHAT WERE THE FIRST SET OF FINDINGS UNDER PMR 2?

A. The first group of findings was identified as PMR 2-2-3, 2-2-4, 2-21-3 and 2-21-4. In Exception 133, KPMG found that BellSouth did not compute its OSS Interface Availability SQM in accordance with the definitions and business rules that appear in the Service Quality Measurements Georgia Performance Reports (SQM Reports) for Pre-Ordering and Maintenance and Repair.

Q. WHAT ENHANCEMENTS HAS BELLSOUTH MADE TO TRACK AND MEASURE OSS PERFORMANCE?

A. BellSouth agreed that the definitions and business rules in the Georgia SQMs for Interface Availability (OSS-2 and OSS-3) were not worded such that the intended interpretation was clear. BellSouth has rewritten the definitions and business rules and has submitted them to KPMG for their review. Once closure on this

exception is reached, BellSouth will incorporate the clarified definitions and business rules into the SQM, which will satisfactorily close this test.

Further, BellSouth indicated that an internal analysis of performance data revealed that not all assets had been appropriately mapped to Renaissance Enterprise Management ("REM"), the tool used to compile trouble report data. BellSouth subsequently corrected January data and implemented the following plan of action to ensure future compliance:

- Completed detailed review of REM assets and linkages to applications
- Established additional linkages, where appropriate
- Established procedure for reporting transport outages directly associated with specific applications
- Enhanced Project Management Organization ("PMO") to better manage the internal change control process
- Dedicated resources to manage business requirements
- Established a process for monthly review of REM assets
- Established a process for periodic internal audits
- Established a process for monthly reconciliation of CLEC-reported and REM-reported outages.

Q. PLEASE EXPLAIN THE OTHER GROUP OF "NOT COMPLETE" CRITERIA UNDER PMR 2.

A. The next criteria are identified as PMR 2-4-2, 2-4-3, 2-5-2 and 2-5-3. In Exception 122, KPMG stated that "Definitions and Business Rules in the Service Quality Measurements Georgia Performance Reports (SQM Reports) are incomplete or inaccurate for the FOC Timeliness and Reject Interval Ordering Service Quality Measurements."

KPMG indicated that the time stamps from EDI, LENS, and TAG should be used in the calculation of these measurements as per the business rules. However, KPMG found that the time stamps from the LEO system are used in such calculations. Program change requests have been scheduled that will enable BellSouth to capture time stamps from EDI, LENS, and TAG for calculation of the FOC and reject intervals. These program change requests are scheduled for implementation on June 1, 2001. Even though the time stamps are moved such that responses will take longer, BellSouth expects to meet the performance benchmark.

Q. PLEASE DESCRIBE THE METRIC DATA INTEGRITY VERIFICATION AND VALIDATION REVIEW (PMR 4) OF THE KPMG REPORT.

A. KPMG had “not complete” criteria on the Metrics Data Integrity Verification and Validation Review (PMR 4). This review evaluated the accuracy and completeness of the SQM raw data produced by BellSouth during recent months. The evaluation also assessed the adequacy and completeness of the related data transfer process and the internal controls on the processes.

Q. FOR PMR 4-1-1, KPMG STATED THAT THE RAW DATA USED IN THE

CALCULATION OF BELLSOUTH SQM REPORTS ARE NOT ACCURATELY DERIVED FROM OR SUPPORTED BY THEIR COMPONENT EARLY-STAGE DATA. CAN YOU EXPLAIN THESE DISCREPANCIES?

A. One “not complete” criterion is identified as PMR 4-1-1 in the Report. In Exception 89.3, KPMG stated that "raw data used in the calculation of BellSouth SQM reports are not accurately derived from or supported by their component early-stage data" for OSS Response Interval – Pre-Ordering.

BellSouth provided an amended response to this exception on February 23, 2001. It was determined that the discrepancies were due to invalid negative numbers generated by middleware used by LENS, TAG, RNS, and ROS to produce the measure. Source system teams are currently working to correct or eliminate generation of these invalid values. BellSouth estimates that implementation of the required changes will be completed by third quarter 2001.

Although BellSouth does not dispute these discrepancies, the magnitude of the differences is minute, as demonstrated in the table below.

Discrepancy Grouping	***Difference***
Total Number of Accesses	0.021%
Total Access Time in Milliseconds	0.060%
Total Number of Access > Six Seconds	0.068%

The small differences reflected in the above table should not have a material impact on competitors or competition.

Q. WHAT WERE KPMG'S FINDINGS AND BELLSOUTH'S RESPONSE ON THE NEXT SET OF NOT COMPLETE CRITERIA UNDER PMR 4?

A. The next set of "not complete" criteria is identified as PMR 4-3-1, 4-3-2, 4-4-1, 4-4-2, 4-5-1 and 4-5-2 in the Report. KPMG stated in Exception 131 that "BellSouth's raw data used in the calculation of the BellSouth Ordering SQM reports is not accurately derived from or supported by its component early-stage data" for Percent Rejected Service Requests, Reject Interval, and FOC Timeliness.

In a response provided to KPMG on February 23, 2001, BellSouth clarified 23 of the 24 PON discrepancies with valid business and technical explanations. The remaining PON discrepancy was due to the inability of BellSouth's performance measurement system to properly capture FOC timestamps for orders in LEO with manual FOCs. A program change was implemented on February 1, 2001 to address this issue. KPMG is reevaluating these test criteria, using data for February 2001. An amended response was sent on April 30, 2001, that fundamentally responded to all the re-evaluating of this test criteria.

For the month tested, October 2000, only 0.97% of the LSRs received in LEO were given a manual FOC. Therefore, the impact on reported results and on local competitors is negligible.

Q. WHAT WERE KPMG'S FINDINGS AND BELLSOUTH'S RESPONSE ON ITEM PMR 4-13-1?

A. KPMG could not replicate the BellSouth-reported SQMs for Percent Provisioning Troubles within 30 Days of Service Order Activity, as stated in Exception 86.1. Therefore, it could not validate the accuracy and completeness of the associated raw data, as defined by PMR 4-13-1. Upon successful closure of Exception 86.1, KPMG will reevaluate this test criterion.

Change requests to correct the irregularities associated with Percent Provisioning Troubles within 30 Days of Service Order Activity in PMAP were implemented in March 2001. KPMG successfully replicated November 2000 and December 2000 data by simulating the programming changes. Retesting will be conducted on a recent month's data.

Q. WHAT WERE KPMG'S FINDINGS AND BELLSOUTH'S RESPONSE ON PMR 4-38-1 AND 4-39-1?

A. The next set of "not complete" criteria is PMR 4-38-1 and 4-39-1. In Exception 89.2, KPMG states that "raw data used in the calculation of BellSouth SQM reports are not accurately derived from or supported by their component early-stage data" for the Trunk Group Service Report and the Trunk Group Service Detail.

For the test month of September 1999, BellSouth and KPMG results for the CLEC aggregate and BellSouth Retail varied an average of 1.72% and 1.21%, respectively. These discrepancies, therefore, should have no material impact on local competition.

KPMG found that BellSouth-reported derived raw data values do not agree with the KPMG-calculated values for these measurements. BellSouth implemented a program change in January 2001, to address the cause of the discrepancies identified.

Q. PLEASE DESCRIBE THE LAST AREA: CALCULATION AND REPORTING VERIFICATION AND VALIDATION REVIEW (PMR 5) WHERE NOT COMPLETE CRITERIA REMAIN.

A. The last set of “not complete” criteria involved the Calculation and Reporting Verification and Validation Review (PMR 5). This review evaluated the accuracy of the information produced by BellSouth's SQM report production processes. In this evaluation, KPMG determined whether BellSouth's SQM calculations were accurately reported for the aggregate of all CLECs and for BellSouth retail in October 1999. KPMG based its evaluations on the raw data and computation instructions provided by BellSouth. This evaluation complemented the related Performance Measures Evaluation conducted under the *Master Test Plan*, which focused on the SQMs reported for the KPMG test CLEC for all months of the transaction-testing period.

Q. WHAT WERE KPMG'S COMMENTS AND BELLSOUTH'S RESPONSE IN THIS AREA?

A. The "not complete" criterion is PMR 5-11-2 in KPMG's Report. KPMG stated in Exception 86.1 that it could not replicate "BellSouth's reported SQM." This included Percent Provisioning Troubles within 30 days of Service Order Activity in the provisioning non-trunks category for the CLEC Aggregate and BellSouth Retail.

Program change requests to correct the irregularities associated with Percent Provisioning Troubles within 30 Days of Service Order Activity in PMAP were implemented in March 2001. KPMG successfully replicated November 2000 and December 2000 data by simulating the programming changes. Retesting will be conducted on a recent month's data.

Q. PLEASE DESCRIBE THE STATISTICAL EVALUATION OF TRANSACTIONS TEST METRICS INCLUDED IN THE KPMG SUPPLEMENTAL TEST REPORT.

A. Section F of the Supplemental Test Plan Final Report addresses KPMG's test to evaluate BellSouth's service performance for KPMG's test CLEC using statistical methods to compare BellSouth's performance for CLECs' standards established in July 2000 by the Georgia PSC. The actual data tested was for the months of December 1999 and January – February 2000. Obviously, the standards were set about six months after the data was collected. As a result, not surprisingly,

this comparison revealed issues that have been addressed and corrected over time, as will be shown below.

Table VIII-6.1 in Section F.2.3 of the Report provides a Test Cross-Reference for the criteria used in the metrics evaluation with Table VIII-6.3 in Section F.3.1 providing the result and comments for that evaluation. My comments will address the sections that are listed with "Not Satisfied" results. Table VIII-6.4 of the Report provides the Detail of Results for Resale criteria. Table VIII-6.5 shows the Detail of Results for UNE evaluation. Table VIII-6.6 provides the Detail of Results (Other). I will refer to the appropriate item number of each section from the report with my comments.

KPMG listed their results in 10 groupings (6-1-1 to 6-1-4, 6-2-1 to 6-2-4, and 6-3-1 to 6-3-2 with 6-3-2 not completed) and established their own criteria that 90% of the individual tests would have to meet or exceed the standards effective in Georgia in July 2000 to receive a satisfied for the test section. Even with the retroactive application of the July 2000 standards, BellSouth successfully satisfied five (5) of the nine (9)-completed categories that have been reported. The five categories that BellSouth received a satisfied rating were: 1) Resale – Ordering; 2) Resale - Maintenance & Repair; 3) Resale – Billing; 4) UNE – Maintenance & Repair, and 5) UNE - Billing. The following paragraphs will demonstrate that BellSouth significantly has improved its overall performance in the remaining four categories (PMR 6-1-2, 6-2-1, 6-2-2, and 6-3-1) since the evaluations were conducted over a year ago. These four categories are currently designated as "not complete" in KPMG's report. As a result, the

previous findings of KPMG should not significantly impact a CLEC's ability to compete.

Q. PLEASE DESCRIBE THE RESALE – PROVISIONING (PMR 6-1-2) COMPARISON INCLUDED WITH THIS REVIEW.

A. For Category PMR 6-1-2, 14 of the 28 tests were listed as Below Standard in this section. The 14 items are as follows:

- Items 10, 11, and 13 – These criteria evaluated the Order Completion Interval for Residence Resale in the Non-Dispatch category. BellSouth has determined that these orders were receiving a dispatch interval, instead of the non-dispatch interval they should have received. This will be addressed in the next system update currently scheduled for June 2, 2001. In the interim period until the system update can be implemented, the majority of these orders are being updated on a manual basis, with February 2001 data showing a significant improvement to a 1.7 day average for the CLECs compared with a 1.0 for BellSouth.
- Items 15 – 20 compared the Average Jeopardy Notice Interval for Residence and Business Resale to a benchmark of greater than or equal to 48 hours. When KPMG conducted functional testing, BellSouth provided timely jeopardy notifications on the EDI and TAG interfaces. These results are reflected in O&P 1-3-5, 2-3-5, V-A-17, V-B-17, which satisfied the standard. BellSouth is currently meeting this benchmark for February 2001 for all Residence and Business Resale orders.

- Items 24 – 26 compared the percent jeopardies for Residence Resale to the BellSouth Residence and Business analog from the July 2000 Order. BellSouth currently is meeting this measurement for February 2001 with the percentage of Residence orders receiving jeopardies at 0.92% compared with the BellSouth retail analog of 1.46%.
- Item 29 is for Residence Resale Dispatch Missed Installation Appointments. BellSouth currently is meeting this measurement for February 2001 with the percentage of Residence missed orders at 7.22% compared with BellSouth analog at 11.64%.
- Item 30 compared the Residence Resale Non Dispatched Missed Installation Appointments for the test CLEC in January 2000 with the July 2000 retail analog. While there was only one (1) missed test CLEC order out of 14, the statistical score showed an out of parity condition as a result of the low volume of CLEC orders. In February 2001, the comparison was 0.18% for CLEC aggregate and 0.05% for BellSouth. In other words, BellSouth successfully completed over 99.8% of the scheduled orders for all CLECs and BellSouth retail in this category.

Q. PLEASE DESCRIBE THE RESULTS FOR THE UNE – ORDERING COMPARISON (6-2-1) FROM THIS REPORT.

A. For Category PMR 6-2-1, the items in this category with unsatisfactory results (2, 4, 6-9, 16, 17, 19, and 21) were in the Partially Mechanized category. Since February 2000, BellSouth has taken action to improve its performance in this area in order to improve the timeliness and meet the benchmarks of 85% within

24 hours for the average reject interval and 85% within 36 hours for FOC used by KPMG. The following Georgia data for February 2001 shows that BellSouth is meeting KPMG's benchmark for all of these test items.

- Reject Interval

Item	Product	February 2001 Data
2	2W Analog Loop-Design	90.77%
4	2W Analog Loop Non-design	100%
6	Loop + Port Combo	87.87%
7	Switch Ports	No Orders
8	2W Analog INP Loop-Design	No Orders
9	2W Analog INP Loop-Non-Design	No Orders

- Firm Order Confirmation

16	2W Analog Loop-Design	No Orders
17	2W Analog Loop Non-design	No Orders
19	Loop + Port Combo	88.27%
21	Switch Ports	No Orders

Q. PLEASE DESCRIBE THE UNE – PROVISIONING (PMR 6-2-2) COMPARISON INCLUDED WITH THIS REVIEW.

A. For category PMR 6-2-2, KPMG determined that the following items did not meet their criteria:

- Items 22, 23, 25, 26 are Order Completion Interval comparisons for Non-Dispatched orders. The BellSouth retail analog of Residence and Business contains a large quantity of switch-based orders. Approximately 70% of the BellSouth non-dispatched orders are switch-based orders and complete within one day. Beginning with March 2001 data, switch-based orders will be disaggregated for comparison in this category. In addition, for loop and port combinations, an incorrect scheduling matrix was corrected in February 2001. This should bring the OCI for loop and port combinations into parity with the BellSouth retail analog.
- Items 31 and 40 compare the percent jeopardies for loop and port combinations and analog loops to the BellSouth residence and business analog from the July 2000 Order. The loop and port combinations met the ordered analog in February 2001 with the percent jeopardies for the CLEC aggregate at 0.40% compared with the BellSouth retail analog of 1.83%.
- Items 42 - 52 compared the Average Jeopardy Notice Interval for loop and port combinations, switch ports, and analog loops to a benchmark of greater than or equal to 48 hours. BellSouth currently is meeting this benchmark for February 2001 for all orders in these categories.
- Items 53 – 60 are for Missed Installation Appointments for Non-Dispatch orders in the loop and port combinations / switch port areas. In February 2001, the comparison was 0.10% for CLEC aggregate and 0.05% for BellSouth. In other words, BellSouth successfully completed over 99.9% of the scheduled orders for all CLECs and BellSouth retail in this category.

The following February 2001 data shows BellSouth is meeting parity for the majority of these test items.

Order Completion Interval

Item	Product		February 2001 Data
	22/23/25	Loop + Port Combo-Non-Design	4.39 CLEC / 0.96 BST
	26	Switch Ports Non-Design	No Orders
	Jeopardy		
	31	Loop + Port Combo	0.56% CLEC / 1.59% BST
	40	2W Analog Loop Non-Design	7.28% CLEC / 1.59% BST
	Jeopardy Notice Interval		
	42/43	Loop + Port Combo	100%> 48 Hours
	44-46	Switch Ports	No Orders
	47/48	UNE Other Non-Design	No Orders
	49/50	2W Analog Loop Design	100%> 48 Hours
	51/52	2W Analog Loop Non-Design	100%> 48 Hours
	Missed Installation Appointments		
	53/56/59	Loop + Port Combo Non-Design	0.10% CLEC/0.05%BST
	54/57/60	Switch Ports Non-Design	No Orders

Q. PLEASE DESCRIBE THE RESULTS FOR THE OTHER (BILLING) (PMR 6-3-1) COMPARISON FROM THIS REPORT.

A. Item 1 compared the Usage Data Delivery Completeness for the test CLEC to the regional results for BellSouth. The January 2000 results were approximately 1% difference between the test CLEC at 99% and BellSouth retail at 100%. The same difference existed in the February 2000 data but due to the smaller sample size was given an 'at standard' rating. In February 2001, the CLEC aggregate results exceeded the BellSouth retail analog with a 99.5% for the CLEC and 99.2% for the BellSouth analog.

Items 4 – 6 compared the timeliness of the data delivery with items 7 and 8 comparing the average interval for that delivery. While February 2001 indicates a less than equity situation, BellSouth has investigated that problem and has traced it to an 800 billing issue that has now been resolved.

Item	SQM	February 2001 Data
1	Usage Data Delivery Comp	99.50% CLEC / 99.19% BST
4/5/6	Usage Data Delivery Time	97.14% CLEC / 97.60% BST
7/8	Mean Time to Deliver Usage	3.71 day CLEC / 2.61 day BST

Q. WHAT WOULD BE THE STATUS OF THESE TESTS IF THEY USED FEBRUARY 2001 DATA AS THE COMPARISONS?

A. If all of these tests were rerun with February 2001 data as the basis for the results, 37 of the 53 Below Standard tests would be considered At Standard. Those 37 tests would have satisfied the Resale Provisioning (PMR 6-1-2) and UNE Ordering (PMR 6-2-1) sections. Of the remaining 16 tests, 7 would be

satisfied with the OCI change for switch-based orders and DSAP matrix that would satisfy the UNE Provisioning (PMR 6-2-2) criteria. The Billing section (PMR 6-3-1) should be satisfied with April 2001 results that implemented the 800 billing updates.

Q. WITH REGARD TO THE KPMG TEST, WHAT DOES YOUR TESTIMONY DEMONSTRATE?

A. First, I need to reiterate that I address about 3% of the test criteria. Of all 1171 criteria in the test, about 2% (20) were “not satisfied” and about 2% (25) were “not complete”. At least some of the “not complete” items will be closed as satisfied. The remaining criteria were either satisfied or KPMG did not issue a finding on the test.

My testimony shows that many of the conditions that caused the few not satisfied items have been corrected. Consequently, the small number of not satisfied criteria would be even smaller today. Also, the “not complete” analyses indicate that a considerable number of these criteria will be closed as satisfied.
For the items addressed in my testimony, there can be no doubt that KPMG’s tests show that BellSouth has no deficiencies that would create a material adverse impact on competition.

IV: BELLSOUTH’S PERMANENT SQM AND SEEM.

Q. WHAT ROLE DOES THE PERMANENT SQM HAVE IN THIS PROCEEDING?

A. The appropriate service quality measures to be reported by BellSouth are those contained in BellSouth's Permanent SQM, which I have attached as Exhibit AJV-2. BellSouth's measurements are the result of several years of work with direction provided by state commissions, the FCC, and DOJ, plus input from various CLECs. This SQM is more than adequate to allow the Commission and the CLECs to monitor BellSouth's performance and to determine that BellSouth is providing nondiscriminatory service to CLECs in Kentucky. As previously discussed, data captured pursuant to the proposed Permanent SQM will not be available for use in this proceeding and, consequently, the Commission should rely on the Interim SQM for purposes of making a recommendation regarding BellSouth's interLATA entry application.

Q. HOW DOES BELLSOUTH'S PERMANENT SQM DIFFER FROM THE INTERIM SQM?

A. First, either the Interim or Permanent SQM will provide the Commission all of the data it needs to monitor BellSouth's performance for CLECs. However, the principal benefit of the Permanent SQM is that data will be provided in a much easier-to-use form that the Interim SQM. The main drawback to the Interim SQM is that it provides the data in a far too disaggregated detailed fashion. For example, the Interim SQM contains about 1,800 sub-metrics while the Permanent SQM contains approximately 1,200 sub-metrics. Aside from three out of 75 measurements that are excluded from the Permanent SQM, all of the same transactions are reflected in both SQMs. The Interim SQM provides a much finer level of detail than the Commission will probably need in order to

perform meaningful analyses. The Permanent SQM provides the data in a much more usable grouping while not detracting from the Commission's ability to monitor performance.

The differences between the Permanent and Interim SQMs fall into the following four categories:

1. Differences in measurements reflected;
2. Differences in levels of product disaggregation;
3. Differences in retail analogs/benchmarks; and
4. Differences in measurements included in SEEM.

I describe each of these differences in more detail later. However, I believe the differences in no way hinder the Commission's ability to determine whether BellSouth is performing appropriately under either SQM. The Permanent SQM is simply easier to use.

Q. WHY DID BELLSOUTH EXCLUDE FOUR MEASUREMENTS CONTAINED IN THE INTERIM SQM FROM THE PERMANENT SQM?

A. These measurements, and brief explanations of why BellSouth does not believe these measurements are necessary, are as follow:

1. <u>% Completions/Attempts w/o Notice or < 24 Hours Notice</u>. Basically, CLECs requested this measurement because sometimes BellSouth works a CLEC order without giving what the CLEC considers to be appropriate notice. The

CLECs' requested measure is an example of a measurement of a portion of the ordering and provisioning process. It attempts to combine FOC timeliness, % installation appointments met and OCI into one measurement. Because the issue here is to measure parity, it is difficult to see how this measurement captures any information about the level of service BellSouth provides to the CLEC.

BellSouth currently has five separate provisioning measurements (Provisioning P1 – P5) that deal with order completion intervals, held orders and completion notices. These measures provide sufficient information for determining how well BellSouth is doing in this area of provisioning.

2. Bona Fide Requests processed in 30 business days. – The Interim SQM has measurements reflecting the percentage of BFRs processed within thirty days and the percentage of quotes provided for BFRs within certain intervals. However, during the period of January 2000 through October 2000, BellSouth received only seven BFRs from CLECs across the entire region. While BellSouth could report its performance with respect to BFRs on a manual basis, it is impossible to draw any conclusions about BellSouth's performance based upon such a limited number of transactions. Therefore, BellSouth does not believe it appropriate or reasonable to add these measurements at this time.

3. BFR Quotes provided in X days. See response to 2 above.

4. Service Order Accuracy. There is no practical way to produce this measurement. It can only be produced by an extensive manual process which would be unreliable. Samples or universes of orders would have to be selected and reviewed manually to determine whether errors existed. It is inappropriate to create a measurement that can't be produced reliably.

Q. ARE THERE OTHER DIFFERENCES IN THE LIST OF MEASUREMENTS BETWEEN THE TWO SQMs?

A. Yes. There are five other measurements that appear in the Interim SQM that are not in the Permanent SQM. These measurements are:

- O-13 LNP Percent Rejected Service Request
- O-14 LNP Reject Interval
- O-15 LNP Firm Order Confirmation
- P-12 LNP Percent Missed Installation Appointments
- P-14 LNP Total Service Order Cycle Time

In this case, the performance data is not omitted from the Permanent SQM, it is simply reflected differently. Instead of showing this data as a separate measurement for LNP, the data is simply reflected for LNP as a disaggregated product under another measurement. For example, measurement O-13 is included under measurement O-7, Percent Rejected Service Requests. Following is a list of where the data for these measurements in the Interim SQM appear in the Permanent SQM:

- O-13 LNP included in O-7
- O-14 LNP included in O-8
- O-15 LNP included in O-9
- P-12 LNP included in P-3
- P-14 LNP included in P-10

No data is omitted by excluding these LNP measurements.

Q. PLEASE EXPLAIN THE DIFFERENCES IN PRODUCT DISAGGREGATION BETWEEN THE INTERIM AND PERMANENT SQM.

A. The first area of difference involves 2-Wire Analog Loops. In the Permanent SQM, 2-Wire Analog Loops are disaggregated two ways based on whether engineering work is required (i.e., Non-Design or Design). In addition to these two levels of disaggregation, the Interim SQM further disaggregates 2-Wire Analog Loops into four additional categories as follows:

- 2-Wire Analog Loops w/INP Design
- 2-Wire Analog Loops w/INP Non-Design
- 2-Wire Analog Loops w/LNP Design
- 2-Wire Analog Loops w/LNP Non-Design

These four additional classifications are unnecessary for the following reasons:

BellSouth has hardly any interim number portability ("INP"). Thus, little if any data will appear in the two INP classifications required by the Interim SQM. For LNP, BellSouth provides data for LNP as a separate category. The data in the

LNP category allows the Commission to monitor performance on LNP orders. These additional 2-Wire Analog Loop disaggregations will not help the Commission monitor performance.

The next difference is that the INP standalone category was not included in the Permanent SQM. As stated earlier, little, if any data would exist for this category since BellSouth provides hardly any INP.

The last product difference is that the Permanent SQM adds two categories:

- UNE Digital Loops smaller than DS1; and
- UNE Digital Loops – DS1 or larger.

Q. WHAT IS THE PURPOSE OF DISAGGREGATING MEASUREMENTS?

A. Disaggregation provides CLECs with a separate view of performance for a specific part of BellSouth's business. To illustrate, in some measurements, residence results are shown separate from business results. In some measurements, another common level of disaggregation is by product. For example, results for 2-wire analog loops are shown separately from ISDN loops. The rationale for a specific level of disaggregation should be a determination that such detail is necessary to evaluate nondiscriminatory performance. The most common way to assess this need is to determine whether a unique retail analog or benchmark is needed for a specific product separate from all other products. Another consideration should be the volume of transactions that would be

reflected for the specific product. If the volume is low, the additional disaggregation provides no significant additional information.

Levels of disaggregation have been the principal sources of growth and complexity in the SQM. Adding new levels of disaggregation have as much effect on measurement production as adding new measurements.

Q. WHY SHOULDN'T FURTHER DISAGGREGATION BE REQUIRED? WON'T MORE INFORMATION HELP THE COMMISSION ASSESS WHETHER BELLSOUTH IS PROVIDING NONDISCRIMINATORY SERVICE?

A. As I have said, the level of disaggregation is a very important component of BellSouth's SQM or, for that matter, any other measurement system. It is extremely important in determining whether the measurement report is a useful tool in identifying discriminatory treatment or simply, a collection of unnecessary data. There are 66 measurements identified in the "Table of Contents" of BellSouth's Permanent SQM. Data for these measurements are collected based on sub-metrics defined by levels of disaggregation for each measurement. The end result is the breakdown of these 66 measurements into the approximately 1,200 sub-metrics of performance for CLECs actually produced by BellSouth. As you can see, the disaggregation level can generate a tremendous number of sub-metrics if it is not handled properly. BellSouth's proposal provides more than a sufficient number of sub-metrics to detect any nondiscriminatory treatment. Further disaggregation will result in tremendous amounts of additional data with no appreciable value.

Q. CAN CLECs FURTHER DISAGGREGATE THE DATA PROVIDED BY BELLSOUTH IF THEY ARE NOT SATISFIED WITH THE DISAGGREGATION THAT BELLSOUTH PROVIDES?

A. Yes, if the comparison of results does not require a unique BellSouth retail analog. BellSouth makes available the raw data utilized for many of the measurements and a comprehensive raw data user manual. This data and the user manual allow the CLECs to build customized reports and further disaggregate reports based on individual CLEC needs. I know of no other local exchange company that provides similar tools to the CLEC community.

Q. PLEASE EXPLAIN THE DIFFERENCES IN RETAIL ANALOGS OR BENCHMARKS BETWEEN THE INTERIM AND PERMANENT SQMS.

A. A comparison of the differences in retail analogs or benchmarks between the two SQMs is provided in Exhibit 5. Exhibit 5 also contains the rationale for each difference. As you can see on the Exhibit, the differences actually make the Permanent SQM a more useful and reasonable document.

Q. WILL THE PROPOSED PERMANENT SQM BE MORE MANAGEABLE THAN THE INTERIM SQM?

A. Yes. While there is no doubt that the Interim SQM is more than adequate for a Commission to determine whether nondiscriminatory access is being provided to the CLECs, BellSouth believes it is too detailed to use in Kentucky on a

permanent basis. Event though the Permanent SQM is less detailed than the interim, it contains a massive amount of data, i.e., approximately 1,200 sub-metrics representing CLEC performance and an additional 600 sub-metrics representing BellSouth retail performance. In certain instances, sub-metrics are reported at the individual CLEC level and are also aggregated into totals for all CLECs in the state. As can be seen from the scope of the "measurement categories" I have identified above, every area of BellSouth's operations is addressed, and in some cases, the same activity is measured multiple times and in several different ways. However, the Interim SQM contains significantly more sub-metrics.

In fact, the Permanent SQM may already be too large for a Commission to use it effectively. This is a point that the Commission should not take lightly. In evaluating the adequacy of BellSouth's Permanent SQM, the Commission should assess it relative to the purpose for which it is being created. In particular, the SQM should be sized, in terms of its scope and complexity, to permit the Commission to analyze the data for determining compliance with the Act. The key point here is that <u>too much data</u> renders the reports useless for their intended purpose.

Now, the CLECs will no doubt continue to ask for more measurements or changes to existing ones. If past experience is any teacher, they will propose thousands upon thousands of additional sub-metrics. Essentially, if allowed to have their way, they will simply paralyze the process and make the entire issue of service quality measurements unworkable.

BellSouth is not suggesting that the Commission should not consider what the CLECs have to say. BellSouth merely suggests that, based on prior experience, the CLECs may ask for things that simply cannot be accomplished in any reasonable time and that have no significant incremental benefit in terms of determining whether BellSouth is providing nondiscriminatory treatment.

Q. HOW IS DATA FOR BELLSOUTH'S PERMANENT SQM COLLECTED AND HOW ARE THE RESULTS REPORTED?

A. As I mentioned earlier in my testimony, BellSouth has been involved in developing an SQM for several years as a result of work being done in states such as Louisiana and Georgia. In connection with the development of the SQM, in early 1998, BellSouth began designing a system that could be used to collect, process, and report performance data to correspond to the performance measurements reflected in the SQMs. This system is called BellSouth's PMAP. PMAP was fully deployed in March 1999, and it has since been continually enhanced. Importantly, PMAP is designed to work with BellSouth's SQM. Additions or modifications to BellSouth's SQM require corresponding enhancements and changes to PMAP.

I wish to make it clear that BellSouth is not saying that it has developed a system to collect data that only relates to its Permanent SQM. However, everyone should recognize that with any SQM, whether it is BellSouth's, the CLECs' or someone else's, the data has to be collected and if it can't be done electronically, there is simply no way to gather all of the data that has to be analyzed and

reported. As other states have given BellSouth direction regarding the appropriate SQM to use, BellSouth's data collection process has been adapted to those measures. BellSouth's collection process can be modified to collect additional (or different) data, but each change requires modifications to PMAP. The practical effect of adopting a plan with 75,000 or more sub-metrics, which is what the CLECs have proposed in other states, must be considered and weighed in terms of the data collection problems against the incremental benefit the additional sub-metrics would provide.

Q. HAS BELLSOUTH'S WORK IN DEVELOPING PMAP BEEN RECOGNIZED BY ANY INDEPENDENT ENTITIES?

A. Yes. PMAP is recognized as a leading data collection and reporting system. It was nominated for the 2000 Computerworld Smithsonian Award, which recognizes outstanding accomplishments in the computing field. The following language was cited in the nomination of PMAP for this award: "BellSouth's PMAP data warehouse represents an extraordinary accomplishment in transferring legacy system data elements into meaningful performance measurement information for its wholesale customers and regulators. BellSouth sets the industry standard for performance measurement data management."

BellSouth has made a tremendous commitment to PMAP. Currently, there are in excess of 200 full-time personnel dedicated exclusively to the PMAP system, which includes development, maintenance, testing, etc. BellSouth continues to augment this work group, as necessary.

The PMAP system is extremely complex. This complexity is created by the sheer size of the database, multiple data sources feeding PMAP and the programming necessary to produce measurement reports.

Q. CAN YOU DESCRIBE THE SIZE OF THE DATABASE?

A. Yes. For example, 86 million records composing 110 Gigabytes of data had to be transported and processed to produce March 2001 data. To put this in perspective, one page of my testimony would require about 2 Kilobytes of storage. PMAP, therefore, processes the equivalent of 55 million pages each month. In other words, considering that a typical case of copy paper contains 8 packages of 500 sheets each, totaling 4,000 sheets, PMAP processes approximately the equivalent of 13,750 cases of paper each month.

In addition to monthly processing, data must be stored for multiple months in the PMAP database. The current PMAP database is approximately 2.5 Terabytes in size. This translates to 1.25 billion pages of text documents or the equivalent of 312,500 cases of paper. To put this into perspective, a 1999 study by Sarnoff Corporation on behalf of the US government put the size of the entire Internet in 1999 at approximately 3 Terabytes (http://*www.wavexpress.com/faq.html*). Obviously because of the already enormous size of the database, the addition of any new reporting requirements must be carefully evaluated to insure that they provide real value.

Lastly, and most importantly, BellSouth's performance measurements have nearly exhausted the capability of the existing PMAP system. As a result, BellSouth is implementing a next generation PMAP platform (PMAP-NG) which is currently in development. When implemented, PMAP-NG will start processing the data on a daily basis as opposed to taking a snapshot of all the data once a month and then processing that data over a two-week period, which is what PMAP does currently. Consequently, BellSouth estimates that PMAP-NG will process 1,250 million records composing over 400 Gigabytes of data and the PMAP-NG database is estimated to be 4.5 Terabytes in size.

Q. WHAT IS BELLSOUTH CURRENTLY USING PMAP TO DO?

A. Currently, PMAP is being updated to generate performance reports based on the SQM adopted in Georgia which defines the Interim SQM. These reports are available to CLECs across BellSouth's region. PMAP is used to maintain the raw data files used to generate such reports. Reports are produced on a CLEC-specific and CLEC-aggregate basis for each BellSouth state and on a regional basis, with applicable information concerning BellSouth's retail performance. The raw data maintained in PMAP is CLEC-specific and allows each CLEC to drill down to the individual service order or the individual trouble ticket. Each CLEC can download its raw data file and create a spreadsheet to assess its performance data.

Q. PLEASE DESCRIBE THE COMPLEXITY OF SOME OF THE PROCESSES FOR ACCUMULATING DATA IN PMAP.

A. PMAP data feeds come from many disparate information systems that use different operating platforms, data structures, and identifier codes. Moving the data from one database to another is not a straightforward task. For example, the data structures for one database may use a “day-month-year” format while another uses a “month-day-year” format. If there are 5 million records that must be moved from one database to the other, every one of the records must have its date structure changed before it is read into the other database. Similarly, if a record’s time stamp in one system uses a time stamp that goes down to milliseconds, while another uses hundredths of a second, the time stamp must be converted to a common format before moving it into the new database. In PMAP, multiple checks such as these must be performed on all 86 million records before the data can be transported into the PMAP database.

In addition, many performance reports require correlating bits and pieces of data from different groups and their associated systems within BellSouth. As an example, consider the work groups that perform the functions of Ordering, Provisioning, and Maintenance & Repair. Data that is important to the Ordering group may be largely irrelevant to the Provisioning and the Maintenance and Repair groups. An example is the time stamp on the receipt of the Local Service Request (LSR) and the completion date on the Service Order. The LSR receipt time stamp is a key piece of information for the Ordering group since this group is measured on Firm Order Confirmation intervals and this measurement depends on the time the LSR is received. The LSR time stamp is not meaningful to the Provisioning Group and it is not relevant to one of the major systems used by the Provisioning Group, the SOCS. This is because the Provisioning Group and

SOCS operate on a Service Order, not an LSR. Conversely, the Service Order completion date (date when service is installed) is not captured by the systems of the Ordering Group. Yet, both the LSR receipt time stamp and the Service Order Completion date are required for the measurement of Total Service Order Cycle Time. Complication arises from the need to properly identify and extract these key bits and pieces of data from each system and associate them so that correct information can be provided. As an additional example, the identification of a certain type of product might require the extraction of characters 89-93 out of a 110-character Provisioning code and cross-referencing it against characters 20-22 of a 40 character Ordering code before the final product identification can be made. These are but a few examples of the ever-increasing list of complexities associated with accumulating data for PMAP.

Q. DOES THIS COMPLEXITY HAVE ANY IMPACT ON BELLSOUTH'S POSITION THAT "CHANGES", IF THEY HAVE TO BE MADE, SHOULD ONLY BE MADE WHERE THE CHANGE PROVIDES A SIGNIFICANT INCREMENTAL IMPROVEMENT IN ASSESSING NON-DISCRIMINATORY PERFORMANCE?

A. Certainly. Because of the complexity associated with making changes in BellSouth's PMAP system, it becomes both extremely costly and time consuming for BellSouth to implement any ordered changes. As I stated previously, the purpose of performance measurements is to provide this Commission with sufficient data to decide whether or not BellSouth is providing nondiscriminatory treatment to the CLECs. To require BellSouth to absorb the cost and development time to make changes in PMAP, simply to appease the CLECs,

without thoroughly analyzing whether such changes significantly improve this Commission's ability to determine disparate performance, is both unreasonable and not consistent with the requirements of the Act.

Q. PLEASE ELABORATE FURTHER ON THE IMPACTS OF ADDING NEW PERFORMANCE MEASURES OR MODIFYING EXISTING MEASURES IN TERMS OF PMAP.

A. Whenever a new performance measurement or level of disaggregation is added to the BellSouth SQM or when the existing SQM is modified, corresponding changes must be made to PMAP as I have just indicated. In most cases, a modification to a measurement has the same effect as a new measurement. Each existing measurement represents the requirements in a state commission's order. Since state commission requirements may vary from state to state, modifying a measurement in one state and not in the other states in BellSouth's region necessitates the duplication of measurements in PMAP based on the ordered differences. Each new or modified performance measurement also necessitates the development of new viewing formats on BellSouth's web-site. What may appear to be a simple request to add or modify a measurement nearly always involves a much larger effort. The impacts to PMAP of adding or modifying the SQMs can be roughly categorized along three dimensions: (i) development impacts; (ii) operational impacts; and (iii) system impacts, which I will discuss in more detail below.

Q. DESCRIBE WHAT YOU MEAN BY THE DEVELOPMENT IMPACTS.

A. The development impacts address the requirements definition, software development, and unit/system testing that must occur from end-to-end to report the new information required by a new performance measure. Generating a new performance measurement or modifying an existing measurement would impact the PMAP system from a development standpoint in the following manner (assuming the data is not currently warehoused in the PMAP database): (i) the measurement or enhancement must be designed in sufficient detail to identify the data required for the measure; (ii) once the required data has been determined, the source systems (e.g., LEO, LON, SOCS, etc.) containing the data must be identified; (iii) the source system programmers must modify the programs that extract the data from their database and place it into a file available to PMAP; (iv) the automated extract computer programs that PMAP uses to acquire/reformat/transform the above source system file must be modified; (v) the computer programs that group, transform, and aggregate the data in a meaningful manner must be created and any interdependencies identified and validated; (vi) the audit trail processing that tracks record counts as the data moves through the various stages of PMAP must be modified; (vii) the computer programs which search the databases and build the reports must be created; and (viii) the new reports must be unit tested for accuracy, and then system tested in a stepwise manner (regression testing) to ensure the changes have not adversely affected the existing reports.

Q. WHAT ARE THE OPERATIONAL IMPACTS?

A. Operational impacts are concerned with how the processing cycle is impacted by the addition of computer processing routines. Generating a new performance measurement or modifying an existing measurement would affect the PMAP system from an operational standpoint in the following manner: (i) the impacts to the current time-constrained processing window must be evaluated (i.e., can BellSouth still produce all reports within the current window and still report monthly results in a reasonable period of time); (ii) the production processes, such as job processing order, processing automation programs, and integrity checks must be evaluated and modified; (iii) service level agreements with the source data owners must be arranged so that BellSouth can receive the data in a timely manner; and (iv) the bandwidth of the current data network to allow BellSouth to move all the information across the existing network in a timely manner must be assessed.

Q. DESCRIBE THE SYSTEM IMPACTS.

A. The system impacts address requirements for additional disk space, database changes, processor loading, system reporting, security and staffing. Generating a new performance measurement or modifying an existing measurement would impact the PMAP system from a systems standpoint in the following manner: (i) the Development, Test, and Production databases must be modified to provide new space in the databases to place the new data; (ii) data storage requirements must be reviewed to ensure that BellSouth has available disk storage capacity for both the data itself and any mirrored data; (iii) the database and web security tables must be updated to reflect who should have access to the new reports; (iv)

system loading assessments must be made to see whether the extra report processing requires the addition of more processors so that processing windows can be met; (v) the tape backup system must be examined to ensure that the data can be safely backed up in a timely manner; and (vi) an assessment must be made of the labor resources required to perform the new development.

Q. HOW SHOULD THE COMMISSION VIEW CHANGES TO THE SQM?

A. All that BellSouth is suggesting is that the Commission should take into account the fact that the process we are talking about is incredibly complex. The CLECs have been represented in every state proceeding that has brought the SQM to its present position. Now they are simply going from state to state, taking another bite at the apple and trying to get subsequent commissions to give them something that another commission would not. There may be CLECs in this proceeding that did not participate in Louisiana or Georgia, but it is impossible to claim, given the level of participation by CLECs in those proceedings, that their interests were not adequately represented. Given all the various components and requirements for valid ongoing delivery of performance data and reports described above, this Commission should only add new measurements or modify existing ones if absolutely necessary.

Q. WHAT WOULD BE THE IMPACT IN TERMS OF PRODUCING RESULTS IF SIGNIFICANT CHANGES ARE MADE IN THE PRESENT SQM?

A. Changes to PMAP are made in scheduled releases and these releases are limited in size to allow the necessary time not only for development of the software changes, but also time for significant testing to assure that the new release will not negatively impact performance data that is already being produced. It is unrealistic and unreasonable to assume that any change can be made in PMAP to accommodate new measures or modify existing measurements in 30 days, 60 days or even 90 days. BellSouth must be allowed sufficient time to evaluate, develop, test and schedule any new measures or measurement modifications that impact the PMAP system. In evaluating any proposed changes, the Commission should evaluate whether the change results in an incremental benefit that aids in the detection of discriminatory treatment, versus the delay that will occur in obtaining such reports. There is clearly a trade-off.

Again, it is not BellSouth's intent to try to argue that the process has advanced to a point where no changes can be made. That is not the case. BellSouth will do what it is lawfully directed to do, but it wants to insure that all parties involved understand that this is not a simple process or one that is accomplished overnight.

Q. WHERE, WHEN, AND IN WHAT FORMAT SHOULD BELLSOUTH PERFORMANCE DATA AND REPORTS BE MADE AVAILABLE?

A. Performance reports are currently available electronically on a monthly basis via BellSouth's web-site at https://pmap.bellsouth.com. Further, BellSouth commits

to having these reports posted by the 30th day of the month for the preceding month's activity in HTML format. Data pursuant to the Permanent SQM will be made available on the same PMAP website.

Today, there are over 70 operational CLECs in Kentucky. There are 105 specific reports per CLEC included in the BellSouth SQM that are posted on the BellSouth web site and 129 BellSouth retail and CLEC aggregate level reports (data for the aggregate of all CLECs). A report contains performance data for multiple related sub-metrics. If all 70 CLECs were to request reports each month, this would equate to 70 CLECs times 105 reports (7,350 reports) plus the 129 aggregate reports for a total of 7,479 reports posted on a monthly basis in Kentucky. Supporting these reports is the huge volume of underlying raw data used to calculate the individual sub-metrics including 18 months of historical source data. BellSouth makes every effort to validate the reports before posting. Given this kind of volume, and the purpose of performance data, BellSouth believes posting on the 30th day of the month is more than reasonable.

With regard to the raw data, the web-site I mentioned does allow CLECs to access electronically the raw data underlying those reports to the extent such reports are derived from BellSouth's PMAP. The format of this raw data is a flat file that can quickly be imported into a spreadsheet or a database management program for further analysis and processing by the CLEC. These reports will include the highest profile ordering, provisioning, and maintenance & repair measurements in which CLECs generally are interested, including, but not limited to: FOC Timeliness, Reject Interval, Percent Missed Installation Appointments,

Average Completion Interval & Order Completion Interval Distribution, Missed Repair Appointments, Customer Trouble Report Rate, and Maintenance Average Duration.

While every performance report is available electronically, BellSouth does not have the capability to make available electronically the raw data that does not reside in PMAP. The measurements that reflect the Speed of Answer in the Ordering Center and Speed of Answer in the Maintenance Center are good examples. These measurements reflect the time during which a call is in queue until a BellSouth representative answers the call. These work centers are regional in nature and serve all CLECs, which means that hundreds of thousands of calls are received in these centers each month. Although each call is individually timed and the averages for the month are posted in the SQM reports, it is not possible to electronically identify each and every CLEC call underlying these SQM reports.

Q, WHEN SHOULD ALL THE MEASUREMENTS PROPOSED BY BELLSOUTH IN EXHIBIT AJV-2 BE AVAILABLE?

A. Assuming that the Commission issues an order adopting the Permanent SQM proposed by BellSouth in this proceeding, BellSouth will produce all data and measurements in conformance with BellSouth's proposal by the end of fourth quarter 2001.

Q. SHOULD A REVIEW PROCESS BE INSTITUTED TO CONSIDER REVISIONS TO THE PERFORMANCE MEASUREMENTS THAT ARE ORDERED BY THIS COMMISSION?

A. Yes. During the first two years of implementation, BellSouth proposes to participate in six-month review cycles starting six months after the date the Commission order in this proceeding is implemented by BellSouth. A collaborative work group, which will include BellSouth, interested CLECs and the Commission will review the SQM for any desired additions, needed deletions or other modifications. After two years from the date of the order, the review cycle may, at the discretion of the Commission, be reduced to an annual review.

These reviews are not the exclusive means to address changes in the SQM. From time-to-time, BellSouth could be ordered by the Commission to modify or amend the SQM or enforcement measurements if experience indicated that a change was required. Nothing will preclude any party from participating in any proceeding involving BellSouth's SQM or enforcement measures or from advocating that those measures be modified.

Q. SHOULD PERIODIC THIRD-PARTY AUDITS OF SQM DATA AND REPORTS BE REQUIRED?

A. Yes, within reason. BellSouth believes that third-party audits of the SQM data and reports are appropriate and, as such, has included in its SQM as Appendix C, a BellSouth audits policy. However, BellSouth’s measurement data is

produced by a regional system and managed by the same regional organization. Therefore, to the extent possible, audits should be conducted regionally since many of the processes and programs are the same from state to state.

Q. HOW OFTEN SHOULD AUDITS BE CONDUCTED, AND HOW SHOULD THE AUDIT SCOPE BE DETERMINED?

A. As stated in Appendix C of the Permanent SQM, "If requested by a Public Service Commission or by a CLEC exercising contractual audit rights, BellSouth will agree to undergo a comprehensive audit of the current year aggregate level reports for both BellSouth and the CLEC(s) for each of the next five (5) years (2001-2005), to be conducted by an independent third party auditor…. BellSouth, the PSC and the CLECs shall jointly determine the scope of the audit."

Q. IF PERIODIC THIRD-PARTY AUDITS ARE REQUIRED, WHO SHOULD BE REQUIRED TO PAY THE COST OF THE AUDITS?

A. Again, as Appendix C of the Permanent SQM provides, BellSouth proposes that "the cost shall be borne 50% by BellSouth and 50% by the CLECs." The CLEC's half of the cost could be shared by all CLECs participating in the audit. Because the audit is for the benefit of the CLECs, it seems reasonable that they help pay for it.

Q. WHO SHOULD SELECT THE THIRD-PARTY AUDITOR IF A THIRD-PARTY AUDIT IS REQUIRED?

A. As stated in Appendix C of the Permanent SQM, BellSouth proposes that "the independent third party auditor shall be selected with input from BellSouth, the PSC, if applicable, and the CLEC(s)." Again, the parties with a real interest in the audit should participate not only in paying for the audit, but in selecting the auditor. This certainly includes BellSouth and the CLECs, and BellSouth would welcome the Commission's assistance in selecting an auditor.

Q. SHOULD A CLEC HAVE THE RIGHT TO AUDIT OR REQUEST A REVIEW BY BELLSOUTH FOR ONE OR MORE SELECTED MEASURES WHEN IT HAS REASON TO BELIEVE THE DATA COLLECTED FOR A MEASURE IS FLAWED OR THE REPORT CRITERIA FOR THE MEASURE IS NOT BEING ADHERED TO?

A. No, such a request is unnecessary. An audit is not needed to validate the data collected for a measure. BellSouth provides the CLECs with the raw data underlying many of BellSouth's SQM reports as well as a user manual on how to manipulate the data into reports. The CLECs can use this raw data to validate the results in the BellSouth SQM reports posted every month on the BellSouth web site. In addition, please recall that an annual audit will be performed.

Enforcement Mechanisms – SEEM

Q. WHAT IS THE PURPOSE OF A SELF-EFFECTUATING ENFORCEMENT MECHANISM?

A. The FCC has made it clear that the primary, if not sole, purpose of a voluntary self-effectuating enforcement mechanism is to guard against Regional Bell Operating Company (RBOC) "backsliding" after the RBOC begins to provide interLATA services. That is, the mechanism provides additional incentives to ensure that the RBOC continues to provide nondiscriminatory performance after it has received the so-called "carrot" of long distance approval.

Nothing in the Act requires a self-effectuating enforcement plan. The FCC has acknowledged as much in its orders. In its August 1996 Local Competition Order, the FCC notes that several carriers advocated performance penalties. *See Local Competition Order, 11 FCC Rcd at 15658 [¶ 305].* The FCC did not adopt such performance penalties in the Local Competition Order. Instead, the FCC acknowledged the wide variety of remedies available to a CLEC when it believes it has received discriminatory performance in violation of the Act; s*ee FCC's Local Competition Order ¶ 129, 11 FCC Rcd. at 15565 (emphasizing the existence of sections 207 and 208 FCC complaints for damages, as well as actions under other laws and common law)*. The FCC "encourage[d]" the States only to adopt reporting requirements for ILECs. Id.

Furthermore, in its October 13, 1998 Order regarding BellSouth's Section 271 application for Louisiana, the FCC reiterated that the existence of such an enforcement plan is not a pre-requisite to compliance with the competitive checklist, but rather is a factor that the FCC will consider in assessing whether the RBOC's entrance into the interLATA market would serve the "public interest." See FCC's Louisiana II Order, at ¶363 and n.1136. The FCC stated that

"evidence that a BOC has agreed in its interconnection agreements to performance monitoring" (including performance standards, reporting requirements, and appropriate self-executing enforcement mechanisms) "would be probative evidence that a BOC will continue to cooperate with new entrants, even after it is authorized to provide in-region, interLATA services." Id. at ¶¶363-64. As a practical matter, every grant of interLATA authority to date has required an enforcement mechanism. BellSouth is proposing such a plan here. More recently, in its order approving Bell Atlantic's entry into long distance in New York, the FCC analyzed Bell Atlantic's performance plan "solely for the purpose of determining whether the risk of post-approval non-compliance is sufficiently great that approval of its section 271 application would not be in the public interest." Bell Atlantic Order, at ¶433 n.1326.

Q. DOES THE COMMISSION HAVE AUTHORITY TO ORDER IMPLEMENTATION OF A SELF-EFFECTUATING REMEDY PLAN WITHOUT BELLSOUTH'S CONSENT?

A. Although I am not a lawyer, and this issue will ultimately have to be addressed by lawyers who can explain the legal reasoning behind it, my understanding is that it is not appropriate for a state commission to order BellSouth to implement a self-executing remedy plan without BellSouth's consent. My understanding is based on the fact that enforcement mechanisms are not required by the Act or by any FCC rule. To the extent that any breach of contract issue should arise, there are perfectly adequate state laws and regulatory authority procedures available to address such situations. BellSouth's SQMs are fully enforceable through

regulatory authority complaints in the event of BellSouth's failure to meet such measurements.

Q. WHEN DOES BELLSOUTH PROPOSE THAT THE SEEM PLAN BE IMPLEMENTED AND BECOME EFFECTIVE?

A. Under BellSouth's proposal, any necessary payment of penalties for Kentucky CLECs that have incorporated the plan into their interconnection agreements will commence at such time as BellSouth exercises a grant of interLATA authority in Kentucky.

The FCC appears to have made implementation of enforcement mechanisms a practical condition of 271 relief. The FCC believes such a plan would be an additional incentive to ensure that BellSouth continues to comply with the competitive checklist after interLATA relief is granted. (*See* Bell Atlantic New York, ¶ 429-430; Southwestern Bell Texas Order, ¶ 420-421; Southwestern Bell Kansas/Oklahoma Order, ¶ 269) Enforcement mechanisms and penalties, however, are neither necessary nor required to ensure that BellSouth meets its obligations under Section 251 of the Act, and the FCC has never indicated otherwise.

In fact, the desire for long distance relief, which is an immediate goal of BellSouth's, has to be viewed as a powerful incentive for a Bell Operating Company ("BOC") to meet its obligations under Section 251 of the Act, including providing nondiscriminatory access to its OSS. The concept of performance

penalties, on the other hand, has been developed as an additional incentive for continued compliance after long distance authority is granted. Therefore, it is appropriate that no part of the enforcement mechanism proposal take effect until the plan is necessary to serve its purpose, i.e., until after BellSouth exercises a grant of interLATA authority.

Q. PLEASE GIVE AN OVERVIEW OF BELLSOUTH'S PROPOSED ENFORCEMENT MECHANISM.

A. BellSouth's proposed SEEM is reflected in Exhibit AJV-3. Exhibit AJV-3 includes an overview of SEEM followed by Appendix A, the Fee Schedule; Appendix B, the SEEM Sub-metrics; Appendix C, the Statistical Methodology; Appendix D, the Technical Description; and Appendix E, the SEEM Remedy Procedure. BellSouth's SEEM is designed to generate significant payments by BellSouth when discriminatory performance that materially affects a CLEC's ability to compete occurs. SEEM consists of two levels of enforcement mechanisms, Tier 1 and Tier 2. Tier 1 payments are made directly to the CLECs and Tier 2 payments are made to a state agency.

Q. HOW WAS THE SEEM DEVELOPED?

A. Like the SQM, SEEM has evolved over the past several years. Because the purpose of SEEM was related to interLATA relief, initial impetus was created by the FCC and DOJ to develop such a plan, even though the FCC could not compel the creation of the plan. Over the years, the SEEM proposal was

developed in workshops involving CLECs, BellSouth and commission staffs, principally in Louisiana, and in meetings with the FCC and DOJ.

Q. HOW ARE PENALTY PAYMENTS CALCULATED UNDER THE SEEM?

A. The method of calculating payments is illustrated in Appendix E of Exhibit AJV-3, "BST SEEM Remedy Procedure." The payment is determined by multiplying the fee per transaction from Appendix A of Exhibit AJV-3 by the appropriate volume of transactions. The volume of transactions is calculated as described in Appendix E of Exhibit AJV-3. This is, of course, a significant difference between the plan the CLECs' usually offer, which usually includes penalties based on individual measurements rather than individual transactions. We believe our "transaction" based approach is significantly better because it is scalable (i.e., the more transactions where disparate performance is detected, the higher the penalty).

Q. HOW IS THE AFFECTED VOLUME OF TRANSACTIONS DETERMINED WHERE A BENCHMARK APPLIES?

A. For those services where there is no retail analog, that is, where BellSouth does not provide the same service or a comparable service in its retail operations, the proper approach is to use a "benchmark". The benchmark should be set at the minimum level required to permit an efficient competitor a meaningful opportunity to compete.

The affected volume is determined by a simple comparison of the performance provided to the individual CLEC to the benchmark applicable to the SEEM measurement. If performance does not meet the benchmark, penalties would apply to the number of transactions by which BellSouth missed the benchmark. For example, assume BellSouth could be late in returning no more than 10 FOCs in a month to meet the material nondiscrimination benchmark. Further assume that BellSouth returned 13 FOCs late in that month. BellSouth would pay a penalty on 3 transactions, which is the number of missed FOCs in excess of the 10 defined as material nondiscriminatory performance. This number of transactions by which BellSouth missed the performance standard, 3 in the above example, is called the affected volume.

Q. HOW IS THE AFFECTED VOLUME OF TRANSACTIONS DETERMINED WHERE A RETAIL ANALOG APPLIES?

A. For those enforcement sub-metrics where BellSouth provides a similar service to its retail operations, the calculations are more complicated due to the need to apply statistical tests. That is, BellSouth will measure how it performed on the retail analog, and BellSouth will measure how it performed when it provided the relevant service to the CLECs. If the results show that BellSouth provided better service to the CLECs, the inquiry is at an end. If, on the other hand, there is a question about whether BellSouth provided nondiscriminatory service, a statistical analysis, described in BellSouth witness, Dr. Mulrow's testimony, would be undertaken to determine whether there was actually disparate treatment and whether the treatment would materially affect a CLEC's ability to compete. An

example of the calculation is included in Exhibit AJV-3 under “BST SEEM Remedy Procedure.”

Q. CAN YOU ELABORATE ON YOUR DISCUSSION OF PERFORMANCE COMPARISON FOR RETAIL ANALOGS?

A. Yes, as I said earlier, to compare performance where the standard is a retail analog requires use of a sophisticated statistical test, described in Dr. Mulrow’s testimony. The basic statistical test described therein is used to determine whether any apparent discrimination is statistically significant. If it is not, then the matter would be at an end. However, there is a further question if any apparent difference is statistically significant. That additional question is whether the perceived discrimination is material. The test for materiality that BellSouth proposes is also described in Dr. Mulrow’s testimony. However, in order for Dr. Mulrow to conduct the test, BellSouth had to furnish Dr. Mulrow with one parameter to use in his analysis. That parameter is referred to as “delta” in the statistical formula.

Because it is a source of controversy, some discussion of “delta” is appropriate here. In general terms, the parameter “delta” is used to establish the difference in the BellSouth and CLEC statistical means that should be regarded as material. In other words, the delta provides a way to determine whether a difference in performance measurements indicates that a difference in performance provided by BellSouth to itself and to a CLEC is material and should trigger the application of penalties.

Q. WHY IS IT NECESSARY TO ESTABLISH A VALUE TO BE USED TO DETERMINE MATERIALITY?

A. In the FCC's Bell Atlantic Order, it was noted that random variation is inherent in the ILEC's process of providing interconnection and access to unbundled network elements ("UNEs"). Consequently, the FCC recognized the appropriateness of determining whether or not a difference is, in fact, material. Remember, the standard that applies here is whether BellSouth provides service in substantially the same time and manner to CLECs and itself. Without a materiality component, any statistically significant difference in performance would be considered substantial, which is not the case. BellSouth's use of the delta takes into account this very circumstance and creates a standard to determine when the variation should be treated as material.

The statistical test discussed by Dr. Mulrow cannot determine the parameter delta because a pure statistical analysis will only yield a conclusion as to whether or not the difference between two results is statistically significant. The fact, however, that there is a statistical difference between results does not necessarily mean that the difference in the two results is material. Because the objective of SEEM is to detect any service differences that could affect a customer's choice of service provider, a materiality measure is appropriate.

Q. WHAT DELTA VALUES DOES BELLSOUTH USE IN SEEM?

A. In the Statistician's report *Statistical Techniques For The Analysis And Comparison Of Performance Measurement Data* filed with the testimony of Dr. Mulrow in this docket, the statisticians noted that the delta values should be different when evaluating individual CLEC results and CLEC Aggregate results. BellSouth addresses this by using a delta value of 1.0 to evaluate individual CLEC performance (Tier 1), and a delta value of 0.5 to evaluate CLEC aggregate results (Tier 2).

Q. WHAT DOES THIS MEAN?

A. Using Dr. Mulrow's formulas, this means that individual CLEC results within one-half standard deviation of BellSouth's results are not materially different. Likewise, the delta value for Tier 2 means that a difference of results within one-quarter standard deviation is not material. I say one-half and one-quarter because Dr. Mulrow's formulas take the assigned delta and divide the delta in half to get the number of standard deviations involved. BellSouth believes that its parameter choices, based on its reasoned business judgment, are appropriate.

To illustrate, suppose the average OCI for BellSouth residential services is 2 days with a standard deviation of one day. That means that 68% of BellSouth's OCIs would fall in a range of one day and three days. Now suppose that the mean for the CLECs was two days, two hours. Just looking at the two numbers, assuming the difference was statistically significant, would suggest that the CLECs were receiving discriminatory treatment. However, because the CLEC

number falls within half of a standard deviation determined by BellSouth's results, the difference would not be material in my example.

Q. WHY HAS BELLSOUTH SELECTED THE VALUES FOR THE PARAMETER DELTA THAT YOU HAVE DESCRIBED?

A. The values for "delta" that I have recommended are consistent with the order by the Louisiana Public Service Commission in Docket U-22252, Subdocket C. The Louisiana Commission after several years of proceedings, determined that delta should be set at 1.0 for Tier 1 and 0.5 for Tier 2 on an interim basis in order to establish historical evidence as to the appropriateness of these values for delta. This is a perfectly logical approach here in Kentucky as well. As BellSouth suggested above, there is no absolutely "right" delta, which means that some experience will have to be gained in order to adjust it to the level that appropriately balances the interests of the parties. Setting delta too low, however, will simply result in a shift of money from BellSouth to the CLECs, even if BellSouth is providing nondiscriminatory service to the CLECs.

Q. WHEN SHOULD THE SELECTION OF DELTA BE REVIEWED?

A. BellSouth recommends that the values of delta be reviewed after a period of six months to determine their validity and to make any necessary adjustments. This recommendation comes after nearly two years of workshops in Louisiana, and analyses involving CLECs, BellSouth and the Louisiana Commission. Given the

complexity of this exercise, it would be beneficial to utilize the efforts of all parties in Louisiana instead of repeating those efforts in Kentucky.

Q. CHANGING SUBJECTS, WHAT ARE THE APPROPRIATE ENFORCEMENT MEASURES TO BE REPORTED BY BELLSOUTH FOR SEEM?

A. The SEEM measurements set are generally key measures in areas that affect customers. This measurement set is patterned after those used in New York and Texas. The New York plan resulted in a "critical" measurement set, and the Texas plan identified a prioritized set of "high, medium, low" impact measures. As I understand it, the New York and Texas Commissions charged the CLECs with identifying the measurement set that was the most "customer impacting."

BellSouth's experience in providing access to IXCs, combined with the outcome of prioritized measures from New York and Texas, has resulted in BellSouth offering a similar key set of customer-impacting metrics. These enforcement measurements are listed in the Permanent SQM, Exhibit AJV-2, and summarized in Exhibit AJV-3. As an example, please refer once again to measurement P-3: Percent Missed Installation Appointments in Exhibit AJV-2, and in particular the SEEM sections listed for this measurement. Percent Missed Installation Appointments is an indicator of BellSouth's ability to achieve commitments to its customers. The SEEM Measure table indicates that this is a Tier 1 and a Tier 2 measurement. Specific SEEM measurements for this SQM measurement category are listed in the SEEM Disaggregation Table for 7 product categories. When these product categories are compared to the retail analog, and if

materially disparate performance is detected, a penalty amount is calculated as previously described.

Q. SHOULD THE PERFORMANCE STANDARDS TO BE APPLIED IN THE REMEDY PLAN DIFFER FROM THE PERFORMANCE STANDARDS THAT APPLY TO MEASURE NONDISCRIMINATORY PERFORMANCE IN THE PERFORMANCE MEASUREMENT PLAN?

A. Yes, in some cases. The SEEM measurements often aggregate several SQM sub-metrics, which may necessitate using a slightly different standard. Similarly, where a SEEM standard is in Tier 2, it may be appropriate to use a different standard from the SQM since Tier 2 is supposed to address chronic, persistent, material disparity.

Q. HOW SHOULD THE COMMISSION DETERMINE THE MEASUREMENTS TO INCLUDE IN AN ENFORCEMENT MECHANISM?

A. The structure of an enforcement plan should include clearly articulated, pre-determined measurements and standards that encompass a comprehensive range of carrier-to-carrier performance. The enforcement plan should only include measurements of key outcomes where a failure to produce that outcome would have a direct, significant effect on competition. The enforcement plan should not include measures that are interrelated because that simply penalizes BellSouth two, three or four times for the same problem, which is just not

appropriate. The enforcement plan clearly should not include all measurements that the Commission adopts in the SQM.

Q. CAN YOU ELABORATE ON THE TREATMENT OF PERFORMANCE MEASURES THAT ARE SHOWN TO BE DUPLICATIVE OF OR "CORRELATED" WITH OTHER MEASURES?

A. Generally, remedies should not apply to performance measures that are shown to be duplicative of or "correlated" with other measures. It would be inappropriately punitive to require BellSouth to pay (at minimum) twice for the same act or inaction. Attached, as Exhibit AJV-4, is a matrix which shows measurements in the Permanent SQM that BellSouth feels are duplicative or are correlated with other measures. While the overlap is not always absolute, the measures are clearly related and, to avoid an inappropriate duplication, only one of each class of interdependent measures should be used. To do otherwise would subject BellSouth to the possibility of making multiple payments for the same failure.

Q. ARE THERE OTHER REASONS WHY TIER 1 OF SEEM SHOULDN'T INCLUDE ALL OF THE MEASUREMENTS THAT ARE IN THE SQM?

A. Yes, although the question of the interdependence of the measures is clearly a very important reason, other reasons include the fact that Tier 1 payments are made to individual CLECs. Thus, only those measurements that can be calculated on a CLEC-specific basis can be included. In other instances, the

measurement is simply a diagnostic measurement or measures a process that is in parity by design and obviously should not be included as a SEEM measurement.

Q IS THERE ANY AUTHORITY FOR YOUR POSITION THAT SEEM SHOULD NOT INCLUDE ALL MEASUREMENTS IN THE SQM?

A. Yes. The FCC rejected the argument that all measures used to monitor performance be included in an enforcement plan by stating:

> We also believe that the scope of performance covered by the Carrier-to-Carrier metrics is sufficiently comprehensive, and that the New York Commission reasonably selected key competition-affecting metrics from this list for inclusion in the enforcement plan. We disagree with commenters who suggest that additional metrics must be added to the plan in order to ensure its effectiveness, and note that the New York Commission has considered and rejected similar arguments. Bell Atlantic Order, at ¶439.

Q. DO SMALL UNIVERSES PRESENT ANY PARTICULAR PROBLEMS IN THE KIND OF ANALYSIS YOU ARE DISCUSSING?

A. Yes, and this issue is important as it addresses the question of whether benchmarks should be adjusted when universes are small, due to the fact that only a limited number of transactions occurred. This is a legitimate concern because it is possible that BellSouth is delivering compliant performance but the compliant performance is not recognized when performance is based on small

universes. As an example, if a metric has a benchmark of 90%, and a CLEC has 9 transactions, then each of the 9 transactions must meet the standard for the sub-metric. If there is just one failure, the actual performance is 88.8% (8 divided by 9). BellSouth proposes a 95% Confidence Small Sample Size table as listed in Exhibit AJV-3, Section E, page 42 to adjust benchmarks for a small universe.

Q. PLEASE EXPLAIN HOW THE SMALL SAMPLE SIZE TABLE WORKS.

A. The small sample size table simply identifies what the benchmark should be when the number of transactions is small. For example, assume a measurement normally has a 95% benchmark, but there were only five transactions in a given month. In this case, missing only one transaction would result in an 80% performance level. The small sample size table would adjust the benchmark from 95% to 80% for a universe of 5 transactions. This is a common statistical practice.

Q. YOU PREVIOUSLY STATED THERE WERE TWO TIERS OF SEEM PAYMENTS. WHAT IS THE PURPOSE OF TIER 1 PAYMENTS?

A. Payments under Tier 1 are designed to compensate an individual CLEC when materially discriminatory performance by BellSouth would likely harm that CLEC's ability to compete. Thus, Tier 1 payments are made directly to the affected CLEC each month. Where materially discriminatory performance occurs in consecutive months, the Tier 1 payment per failure increases. The SEEM

measurements that could trigger payments under Tier 1 cover all of the key outcomes that could have a material impact on a CLEC's ability to compete.

Q. PLEASE DESCRIBE THE AREAS OF PERFORMANCE ADDRESSED BY TIER 1 OF SEEM.

A. The areas of performance addressed are as follows:

Firm Order Confirmation (FOC) – A FOC is a notification to the CLEC that an LSR that it sent to BellSouth has passed all of the edits and that a service order to complete the request has been generated. Both timeliness and completeness are measured.

Reject – A reject is a notice to the CLEC that an LSR did not pass an edit and identifies the edit that it did not pass. Both timeliness and completeness are measured.

Missed Installation Appointments – These measurements monitor whether BellSouth completes the installation of services by the committed due date.

Average Order Completion Interval - These measurements monitor the amount of time it takes BellSouth to install service after a FOC has been generated.

Coordinated Customer Conversion - These measurements track BellSouth's performance in cutting over unbundled loops.

Provisioning Troubles within 30 Days – These measurements indicate the level of accuracy on BellSouth completed orders. If a service was not installed properly, the customer would likely report a trouble within the first 30 days.

Missed Repair Appointments – These measurements address whether BellSouth is keeping committed appointments to repair customer's service.

Customer Trouble Report Rate – These measurements monitor whether BellSouth is providing the same quality of service to CLECs that it provides to its retail customers based on initial and repeated direct or referred troubles reported within a calendar month.

Maintenance Average Duration – These measurements allow a CLEC to determine if BellSouth clears troubles in equivalent time frames for CLEC customers as it does for its retail customers.

Repeat Troubles – These measurements indicate whether BellSouth and CLEC customers are experiencing recurring troubles at a disparate rate.

Trunk Group Performance – This measurement compares the extent to which BellSouth originated calls to CLECs customers are blocked compared to calls to BellSouth retail customers.

Collocation – This measurement monitors whether BellSouth is providing collocation space by the committed due date.

Q. WHAT SEEM MEASUREMENTS DETERMINE WHETHER PAYMENTS UNDER TIER 1 ARE REQUIRED?

A. The measurements to be included in Tier 1 are listed in BellSouth's SEEM, attached as Exhibit AJV-3 to my testimony.

Q. WHY IS THE SET OF MEASUREMENTS YOU PROPOSE FOR TIER 1 APPROPRIATE?

A. The purpose of SEEM is to assess an automatic, timely and meaningful penalty where significant key processes are materially disparate between BellSouth and CLECs. As you can see, every key process where CLEC-specific data is available that directly affects the CLECs customers is addressed by Tier 1 of SEEM.

Q. SHOULD THERE BE ADDITIONAL REMEDIES FOR DISCRIMINATORY ILEC PERFORMANCE THAT AFFECTS MORE THAN ONE CLEC?

A. BellSouth's proposal provides for additional remedies when BellSouth delivers non-compliant performance that affects more than one CLEC over a consecutive three-month period. Tier 1 applies to each individual CLEC and Tier 2 applies to performance for all CLECs. Nothing further should be required. BellSouth will pay every CLEC to which it has delivered non-compliant performance in a particular month. Any suggestion that additional monthly penalties should apply just because more than one CLEC is involved ignores the basic nature of plan, which is transaction-based.

Q. WHAT IS THE PURPOSE OF TIER 2 OF SEEM?

A. Tier 2 is designed to require additional payments if materially disparate performance is more widespread and persistent. Consequently, payments are based on performance for the CLEC industry averaged over three months.

As with the Tier 1 structure, the Tier 2 enforcement plan should include clearly articulated pre-determined measurements and standards that encompass a comprehensive range of carrier-to-carrier performance. However, Tier 2 enforcement metrics should focus on those processes where recurring failures can have a significant effect on the CLEC industry. The resulting penalty is paid to the Kentucky State Treasury or other State agency as designated by this Commission.

Q. PLEASE DESCRIBE FURTHER WHEN PAYMENTS UNDER TIER 2 OCCUR.

A. BellSouth's Tier 2 methodology is based on a failure in a Tier 2 sub-metric for three consecutive months such as January, February, March or February, March, April. BellSouth proposes that when there is an indication of materially disparate treatment at the CLEC aggregate level for a Tier 2 sub-metric for three consecutive months, the affected volumes for the three-month period will be averaged and multiplied by the appropriate penalty fee per item to arrive at the amount of the remedy. As an example, consider the 4-month period February, March, April and May. Assume that the CLEC industry received service below the standard for a Tier 2 sub-metric for each of these months. Using the three month averaging, the affected volumes for the months of February, March and April would be averaged and multiplied by the appropriate Tier 2 penalty per item to arrive at a remedy amount. Then, the affected volumes for the months of March, April and May would be averaged and multiplied by the appropriate Tier 2 penalty to arrive at the next month's remedy amount.

BellSouth strongly believes that at least three months of data should be used in order to determine a pattern of persistent disparate treatment to the CLEC industry. Because many factors can affect performance, use of one month's data is not sufficient to determine persistent disparate treatment. Also, payments are made to individual CLECs under Tier 1 each month. Tier 2 payments are in addition to the Tier 1 payments.

Q. WHAT SEEM MEASUREMENTS ARE INCLUDED IN TIER 2 OF SEEM?

A. The measurements to be included in Tier 2 are noted in BellSouth's SEEM, attached as Exhibit AJV-3 to my testimony.

Q. HOW WERE THE MEASUREMENTS FOR TIER 2 ESTABLISHED?

A. The basis for Tier 2 begins with Tier 1. As I stated earlier, Tier 1 addresses key outcomes. All Tier 1 SEEM measurements are included in Tier 2. In addition, Tier 2 adds 18 additional measurements, most of which are only measured for CLECs in the aggregate.

Q. WHAT TYPE OF CAP, IF ANY, IS APPROPRIATE FOR INCLUSION IN THE ENFORCEMENT PLAN?

A. Any voluntary, self-effectuating remedy plan adopted by the Commission should contain an absolute monetary cap. In agreeing to a voluntary enforcement plan, BellSouth or any ILEC has to balance its responsibilities to its shareholders and

its customers. In this case, BellSouth's customers include both CLECs and retail customers. BellSouth should not be required to jeopardize its ability to fulfill its responsibilities to all of these groups solely for the benefit of one group, as might be the result of an un-capped plan. Again, the purpose of this voluntary enforcement plan is to prevent "backsliding" when BellSouth obtains interLATA relief in Kentucky. The absolute cap that BellSouth proposes would equate to 36% of BellSouth's net revenue in Kentucky. Clearly, this is a more than adequate deterrent to "backsliding" and balances the interest of each group of stakeholders.

Also, you can see that operation of enforcement mechanisms is very complex and there is little experience in applying them. An absolute cap provides a fail-safe to prevent the mechanisms from spiraling out of control. Such a mechanism is even more necessary in these early stages of enforcement mechanism implementation.

Q. IS THERE ANY PRECEDENT FOR BELLSOUTH'S PROPOSAL TO USE AN ABSOLUTE CAP?

A. Yes. The FCC has now approved enforcement plans for five states and in each instance has imposed an absolute cap such as the one BellSouth proposes here.

Q. YOU HAVE REFERRED TO BELLSOUTH'S PROPOSAL AS AN ABSOLUTE CAP. WHAT OTHER TYPES OF CAP PROPOSALS HAVE YOU SEEN?

A. The only other proposal that I have encountered is a so-called procedural cap. However, the procedural cap is not a cap at all as I will explain later.

Q. PLEASE COMPARE AN ABSOLUTE CAP TO A PROCEDURAL CAP.

A. The BellSouth enforcement plan sets an automatic financial cap (absolute cap) based on a meaningful percentage of BellSouth's net revenues in Kentucky. A procedural cap, on the other hand, only determines the point at which the ILEC is permitted to seek relief from additional penalties from the state commission. Thus, the procedural cap is not really a cap at all, but rather a threshold that must be reached before the process of setting a cap begins.

A procedural cap would simply defer the determination of the absolute cap. Furthermore, the proceedings, testimony, analyses, filing of evidence, and hearing needed to set an absolute cap after a procedural cap has been reached could take months. During this time, the penalty payments would presumably continue, leading to the potential for irreversible financial damage to BellSouth. For example, assume that a procedural cap is set at 36% of BellSouth's net revenue and that cap is reached in September of a particular year, so BellSouth asks to be relieved of any further payments. During the months that would be needed to determine where the absolute cap should be set, penalties would continue to accrue. If the Commission were to ultimately determine that 36% is an appropriate absolute cap, how would the payments in excess of this amount made during the pendency of the proceeding be recovered? (i.e., it is unlikely that the CLECs would voluntarily return any excess payments.)

While BellSouth strongly disagrees with the concept of a procedural cap, if the Commission deems this approach necessary, the Commission should structure the process to reduce the prospect of irreversible financial harm to BellSouth. BellSouth recommends that (1) the procedural cap or threshold should be set well below what any reasonable absolute cap might be, and (2) after the procedural cap is reached, penalty payments above the procedural cap should be suspended until the Commission sets the absolute cap.

In any event, it is important to remember that the self-effectuating cap in the enforcement plan is not an overall cap on BellSouth's liability for performance failures. As the FCC has pointed out, a penalty plan is not "the only means of ensuring that [the RBOC] continues to provide nondiscriminatory service to competing carriers." *Bell Atlantic Order*, ¶ 435. Thus, any characterization of the enforcement cap as an absolute cap on BellSouth's liability for performance failures is misleading.

Q. WHAT IS THE APPROPRIATE VALUE OF AN ABSOLUTE CAP?

A. As I stated previously, BellSouth believes that the appropriate value of the absolute cap should be 36% of BellSouth's net revenues resulting from its Kentucky operations. This 36% cap is consistent with the cap amounts approved by the FCC in approving the long distance applications of SBC-Texas and Bell Atlantic and more recently in the Kansas and Oklahoma applications.

Q. FOR WHAT PERIOD SHOULD THE ABSOLUTE CAP APPLY?

A. BellSouth believes that an absolute cap should be applied on an annual basis.

Q. WHEN SHOULD BELLSOUTH BE REQUIRED TO MAKE PAYMENTS FOR TIER 1 AND TIER 2 NONCOMPLIANCE, AND WHAT SHOULD BE THE METHOD OF PAYMENT?

A. Tier 1 payments would be sent to the affected CLEC by the 15th of the second month following the month for which disparate performance is detected. In other words, payment would be rendered by the 15th of March for January performance.

Tier 2 payments would be sent to the Kentucky State Treasury or designated state agency by the 15th of the second month following the three months average for which disparate performance is detected. In other words, payment would be rendered by the 15th of May for January through March performance.

Q. SHOULD BELLSOUTH BE REQUIRED TO PAY INTEREST IF BELLSOUTH IS LATE IN PAYING A CLEC THE REQUIRED AMOUNT FOR TIER 1?

A. Yes, at a reasonable level. BellSouth's enforcement proposal provides for the payment of interest for each day BellSouth fails to make penalty payments. BellSouth proposes to pay the CLEC interest calculated at six (6) percent simple interest per annum for each day after the due date that BellSouth fails to pay the CLEC the required amount.

Q. WHAT IS THE APPROPRIATE PROCESS FOR HANDLING TIER 1 DISPUTES REGARDING PENALTIES PAID TO A CLEC?

A. If a CLEC disputes the amount paid to the CLEC under Tier 1 enforcement mechanisms, BellSouth proposes that the CLEC submit a written claim to BellSouth within sixty (60) days after the date of the performance measurement report from which the dispute arose. BellSouth shall investigate all claims and provide the CLEC with written findings within thirty (30) days after receipt of the claim. If BellSouth determines the CLEC is owed additional amounts, BellSouth shall pay the CLEC such additional amounts within thirty (30) days after its findings along with six (6) percent simple interest per annum. However, the CLEC shall be responsible for all administrative costs associated with resolution of disputes that result in no actual payment being owed by BellSouth.

BellSouth further proposes that this dispute process include provisions to discourage submitting frivolous disputes, where the amount in dispute is negligible or where it is consistently determined that the penalty payment already provided by BellSouth is correct.

Q. WHAT IS THE APPROPRIATE MECHANISM FOR ENSURING THAT ALL PENALTIES UNDER TIER 1 AND TIER 2 ENFORCEMENT MECHANISMS HAVE BEEN PAID AND ACCOUNTED FOR?

A. At the end of each calendar year, BellSouth will have an independent auditing and accounting firm certify that all penalties under Tier 1 and Tier 2 enforcement

mechanisms were paid and accounted for in accordance with Generally Accepted Accounting Principles.

Q. WHAT LIMITATION OF LIABILITY, IF ANY, SHOULD BE APPLICABLE TO BELLSOUTH?

A. BellSouth should not be obligated for penalties under Tier 1 or Tier 2 enforcement mechanisms for noncompliance with a performance measurement if such noncompliance was the result of any of the following: a Force Majeure event; an act or omission by a CLEC that is contrary to any of its obligations under its Interconnection Agreement with BellSouth; an act or omission by a CLEC that is contrary to any of its obligations under the Act, Commission rule, or state law; or an act or omission associated with third-party systems or equipment.

Q. SHOULD REGULATORY PROCEEDINGS TO AFFIRM OR MODIFY REMEDY PAYMENTS BE AUTOMATICALLY TRIGGERED WHEN THE PAYMENTS EXCEED A CERTAIN AMOUNT?

A. No. BellSouth's SEEM plan is a self-executing remedy plan. Should BellSouth fail to meet the specific measurements ordered, the penalties and remedies of each tier become effective. As each tier is triggered, the penalties provide increasing financial incentives for BellSouth to remedy these issues. To require an automatic regulatory proceeding when penalty payments reach a certain amount would place an unnecessary burden on both the Commission and on

BellSouth, and does nothing to speed up resolution of the issues. Further, there are other legal remedies available to the CLECs should the issues not be resolved after exhaustion of the remedies available under the two tiers.

Q. SHOULD BELLSOUTH BE PENALIZED WHEN BELLSOUTH FAILS TO POST THE PERFORMANCE DATA AND REPORTS TO THE WEB SITE BY THE DUE DATE?

A. No. BellSouth should not be subjected to an automatic penalty for the late posting of reports. While BellSouth will make every reasonable effort to make every deadline imposed upon it, with the volume of data and reports that I discussed above, it would be foolish to assume that there will never be a problem posting a report. However, there is little evidence that late reporting is harmful to the CLECs or to the Commission. Furthermore the increasing complexity of the measurements and sub-metrics, the volume of data processed and the validation of reports prior to posting impose additional burdens on BellSouth that should not be subjected to a penalty. Although BellSouth will make every effort to complete this substantial undertaking by the due date each month, BellSouth should not be automatically penalized every time it fails in this effort. Certainly, if there was some systemic failure in posting reports there could be some need for Commission overview until the problem is resolved, but merely missing a filing date by a day or two should not be cause for concern.

Q. WHAT IS THE APPROPRIATE DEFINITION OF “AFFILIATES” FOR PURPOSES OF BELLSOUTH’S REPORTING OF PERFORMANCE RESULTS

IN ITS SQM REPORT?

A. The appropriate definition of the term “affiliate” is the definition in the Act. The term “Affiliate” is defined in the Act as follows:

> AFFILIATE - The term “affiliate” means a person that (directly or indirectly) owns or controls, is owned or controlled by, or is under common ownership or control with, another person. For purposes of this paragraph, the term “own” means to own an equity interest (or the equivalent thereof) of more than 10 percent. (47 U.S.C. 153(1))

Q. UNDER WHAT CIRCUMSTANCES WOULD IT BE APPROPRIATE TO COMPARE BELLSOUTH’S PERFORMANCE TO ITS AFFILIATE CLEC WITH BELLSOUTH’S PERFORMANCE TO OTHER CLECs?

A. The only possible BellSouth affiliate data that might be appropriately considered is that which is necessary to make a meaningful, “apples-to-apples” comparison between CLECs and any BellSouth affiliate that is in a position comparable to that of the CLECs. It makes no sense to scrutinize data that relates to BellSouth affiliates whose business is not comparable to CLEC business, for example, BellSouth International’s provision of service in Venezuela. Thus, the only affiliate data that might properly be considered is that which relates to a BellSouth-affiliated CLEC. For example, if a BellSouth-affiliated CLEC that is certified to provide local service were operating within the BellSouth ILEC’s certificated service territory in a state, it would be appropriate to consider the performance that BellSouth provides to this CLEC in that state. Performance

data for an affiliated CLEC will produce in the same manner as data for any other CLEC.

Q. IN ITS ORDERS GRANTING INTERLATA AUTHORITY, HOW HAS THE FCC USED AFFILIATE DATA?

A. In its Bell Atlantic New York Order, the FCC discussed basing the retail analog on the performance that the BOC provides to "itself, its customers or its affiliates". At the same time, the FCC held that nondiscriminatory access had been demonstrated because there was "no statistically significant difference between Bell Atlantic's provision of service to competitive LECs and its own retail customers…." (emphasis added) (*See* Bell Atlantic New York Order, ¶ 58; *see also* Southwestern Bell Kansas/Oklahoma Order, ¶ 58) In other words, performance to affiliates did not play any specific role in the FCC's comparative analysis.

For example, the FCC found that Bell Atlantic provided nondiscriminatory access to interconnection trunking because the trunking that it provides to CLECs "is equal in quality to the interconnection that Bell Atlantic provides to its own retail operations…." (*See* Bell Atlantic New York Order, ¶ 68; *see also* Southwestern Bell Texas Order, ¶ 67; Southwestern Bell Kansas/Oklahoma Order, ¶ 223) Likewise, the FCC found that Bell Atlantic was compliant with Checklist Item 6 (unbundled local switching) based upon a finding that "the features, functions and capabilities of the switch [provided to the CLEC] include the basic switching function as well as the same basic capabilities that are available to the incumbent LEC's customers." (*See* Bell Atlantic New York Order, ¶ 343; *see also*

Southwestern Bell Texas Order, ¶ 339; Southwestern Bell Kansas/Oklahoma Order, ¶ 242) In a third example, the FCC found that Bell Atlantic was compliant with Checklist Item 7 (911 and E911) based on the conclusion that Bell Atlantic had satisfied the requirement to "maintain the 911 database entries for competing LECs with the same accuracy and reliability that it maintains the database entries for its own customers." (*See* Bell Atlantic New York Order, ¶ 349; *see also* Southwestern Bell Texas Order, ¶ 344; Southwestern Bell Kansas/Oklahoma Order, ¶ 255).

Thus, a review of these orders makes it clear that, in order to determine whether a retail analog has been met, the FCC simply compared, in a statistically valid manner, the performance provided to CLECs to the performance that the BOC provided to its retail customers. Performance related to affiliates played no role in this analysis.

Q. HAVE OTHER STATE COMMISSIONS IN BELLSOUTH'S TERRITORY ADDRESSED THE ISSUE OF AFFILIATE PERFORMANCE DATA?

A. Yes. In its January 12, 2001 ruling in Docket No. 7892-U, the GPSC refused to adopt a proposal for comparisons between the performance for CLECs and the performance for the BellSouth affiliate, concluding that if a CLEC believes that BellSouth is showing preference to its affiliate, the CLEC may file a complaint with the Commission. (GPSC Order at p. 13).

On February 12, 2001, in Docket No. U-22252, Subdocket C, the Louisiana PSC

approved its Staff's Final Recommendation that included a proposal for a possible future review of affiliate data. Thus, the Commission recommended that if the activity in Louisiana of BellSouth's affiliated CLEC reaches a certain threshold, then it should be reviewed in the context of future audits to determine whether there is any statistically significant indication of discriminatory treatment. The Staff recommended no other action at this time, and the Louisiana PSC concurred.

Q. IN LIGHT OF THE ABOVE, WHAT DOES BELLSOUTH PROPOSE?

A. As with all other CLECs, BellSouth will produce measurements for its CLEC, both individually and in the aggregate. The BellSouth-affiliated CLEC will receive the same treatment, use the same systems, receive the same measurements and be entitled to the same remedies as any other CLEC operating in BellSouth's service territory. In addition, when developing the aggregate CLEC data to use in determining performance for purposes of the enforcement mechanism, the performance of the BellSouth-affiliated CLEC will be included. Further, BellSouth will produce periodic performance results for its affiliated CLEC just as it does for any other CLEC operating in its territory.

Thus, the Commission will have the necessary information to allow it to evaluate BellSouth's performance to its CLEC relative to all other CLECs. Regarding what it should do with this information, the Commission could reasonably adopt either the Georgia approach (i.e., no action) or the Louisiana approach (i.e., using the data to monitor only, at least for the time being). The Commission should not,

however, unnecessarily complicate the plan by prematurely attempting to tie BellSouth-affiliate performance to the voluntary enforcement plan based on concerns about the hypothetical occurrence of future discrimination.

Q. SHOULD BELLSOUTH'S PERFORMANCE TO ITS AFFILIATES BECOME A STANDARD FOR COMPARISON WHERE THAT PERFORMANCE IS SUPERIOR TO BELLSOUTH'S PERFORMANCE TO ITS RETAIL CUSTOMERS?

A. No. Only in limited circumstances is BellSouth's performance to its affiliates even relevant to BellSouth's performance to CLECs. In the Bell Atlantic Order, the FCC set forth once again the standards that apply to determine whether a BOC has met the competitive checklist in §272(c)(2)(b). Specifically, "the BOC must demonstrate that it is offering interconnection and access to network elements on a nondiscriminatory basis." (¶ 44). Reiterating its prior Orders, the FCC stated the analysis that is required to make this determination:

> [F]or those functions the BOC provides the competing carriers that are analogous to the functions a BOC provides to itself in connection with its own retail service offerings, the BOC must provide access to competing carriers in 'substantially the same time and manner' as it provides to itself. Thus, where a retail analog exists, a BOC must provide access equal to (i.e., substantially the same as) the level of access that the BOC provides itself, its customers or its affiliates, in terms of quality accuracy and timeliness. For those functions that have no retail analog, the BOC must

demonstrate that the access it provides to competing carriers would offer an efficient carrier 'a meaningful opportunity to compete'. (*Id*.)

The satisfaction of the "meaningful opportunity to compete" standard is frequently demonstrated by meeting a performance benchmark. In the Bell Atlantic case, the FCC specifically approved the New York Commission's use of performance benchmarks for functions for which there are no retail analogs. (Order, ¶ 57).

Thus, the performance that BellSouth provides to itself only comes into play in the context of the specific application of a retail analog. When a sub-metric is based upon a benchmark, this is simply not an issue. Further, although the language quoted-above discusses basing the retail analog on the performance that the BOC provides to "itself, its customers or its affiliates," the test actually applied by the FCC in the Bell Atlantic case focuses almost exclusively on the BOC's retail service offerings. Specifically, in that case, the FCC held that nondiscriminatory access had been demonstrated because there was "no statistically significant difference between Bell Atlantic's provision of service to competitive LECs and its own retail customers . . .."(¶ 58).

Q. DOES THIS CONCLUDE YOUR TESTIMONY?

A. Yes.