

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of: )  
)  
Investigation Concerning the ) CASE NO. 2001-105  
Propriety of InterLATA Services )  
By BellSouth Telecommunications, Inc. )  
Pursuant to the Telecommunications )  
Act of 1996 )

**BELLSOUTH TELECOMMUNICATIONS, INC.'S RESPONSE TO AT&T'S  
REQUEST FOR CLARIFICATION**

BellSouth Telecommunications, Inc. ("BellSouth") hereby responds to the Request for Clarification filed by AT&T on May 17, 2001. In its so-called "request for" AT&T asks the Kentucky Public Service Commission ("Commission") to ignore the procedural schedule established in the April 26, 2001 Order and unilaterally order additional third party testing without the benefit of an evidentiary record. Ironically, while AT&T accuses BellSouth of "endeavoring to circumvent the requirements of the April 26, 2001, Order," (Request, at 3), it is really AT&T that is asking the Commission to ignore the procedural schedule and issue a unilateral decision that additional third party testing is appropriate. The Commission should reject AT&T's position because it is nothing more than an attempt to put the proverbial cart before the horse. AT&T argues, in essence, that the Commission should delay any consideration of BellSouth's 271 application pending further third party testing because, in AT&T's opinion, BellSouth's evidence about access to OSS will be deficient. In lieu of having a hearing and actually reviewing the evidence, AT&T wants the Commission to conclude summarily that BellSouth cannot meet its burden of proof with regard to its provision of

nondiscriminatory access to OSS and thus that the Commission's schedule is premature. This position is unsustainable. AT&T's Request flouts the schedule established by the Commission and thus should be denied.

In addition, AT&T asks the Commission to "clarify" that it intends to conclude its permanent performance measures docket in advance of the hearing on BellSouth's 271 compliance. Again, AT&T is asking the Commission to make a unilateral ruling without the benefit of an evidentiary record. For this reason, the Commission also should deny AT&T's Request.

### **DISCUSSION**

#### I. BELL SOUTH HAS SUBMITTED THE PRICE WATERHOUSE COOPER'S ATTESTATION IN ACCORDANCE WITH THE COMMISSION'S PROCEDURAL SCHEDULE.

AT&T's concern that BellSouth is "endeavoring to circumvent the requirements of the April 26, 2001, Order" could not be further from the truth. To the contrary, BellSouth is making every effort to provide the Commission with all of the evidence upon which BellSouth intends to rely to prove its compliance with the competitive checklist. As the Commission explicitly recognized in its April 26 Order, one crucial component of BellSouth's case is the so-called "regionality" component. It is incumbent on BellSouth to prove to the Commission that BellSouth's OSS are region-wide systems so that the Commission can rely, to the extent it deems it necessary, on evidence from other states to assess BellSouth's compliance with section 271. To meet this burden of proof, BellSouth filed with the Commission, on May 18, the testimony of Ken Ainsworth, Ron Pate (who sponsored the Price Waterhouse Coopers ("PWC") attestation), Alfred Heartley, and David Scollard to demonstrate to the Commission that

BellSouth's OSS (including pre-ordering, ordering, provisioning, maintenance and repair, and billing) are the same throughout BellSouth's region.

This testimony is directly responsive to Issue 4 (and subparts) in the April 26 Order. BellSouth is at a loss as to how AT&T could argue that BellSouth is attempting to circumvent the process by providing the information that the Commission requested.

II. BELLSOUTH HAS PRESENTED THE COMMISSION THE EVIDENCE NECESSARY FOR IT TO RENDER A DECISION ON BELLSOUTH'S COMPLIANCE WITH THE COMPETITIVE CHECKLIST.

A. The PWC Attestation Is One Piece Of BellSouth's Regionality Case And Should Be Considered As Such By The Commission.

AT&T next argues that BellSouth should not be permitted to submit the PWC Attestation because the April 26 Order "contemplates that BellSouth will provide *Kentucky specific* OSS third party test information to the Commission as part of BellSouth's 271 compliance filing." (Request, at 3)(emphasis added). AT&T's position is based on a blatant mischaracterization of the Commission's Order. The Commission did *not* order BellSouth to provide evidence of Kentucky-specific OSS testing as AT&T claims. Rather, what the Commission correctly requested was evidence from BellSouth as to whether it planned to rely on the Georgia third party test, and, if so, whether the Georgia test was applicable to Kentucky systems and processes. (Order, at 4). The Commission recognized that BellSouth has the right to rely on work done in other states *provided that* it can prove to the Commission that its systems are regional. In its Order, the Commission gave BellSouth the opportunity to present such proof.

BellSouth provided the Commission with the proof of the regionality of its OSS in its May 18 filing. As evidenced by BellSouth's filing, the PWC Attestation is one piece of BellSouth's regionality case. BellSouth agrees with AT&T that a review of OSS

encompasses systems, databases and personnel. Consequently, BellSouth's regionality case has several components. Mr. Ken Ainsworth demonstrates to the Commission that BellSouth's processes for handling manual LSRs and orders are the same throughout its 9 state operating region. Mr. Pate demonstrates that the electronic systems are the same region-wide. As part of his testimony, Mr. Pate sponsors the PWC Attestation, which is an independent third party verification that the DOE and SONGS systems are the same. Mr. Heartley describes the region-wide processes used for provisioning and maintenance and repair. Finally, Mr. Scollard discusses the regionality of the billing systems. This testimony, when read together, proves that every component of BellSouth's OSS is region-wide and therefore that the Commission can, and should, rely on the Georgia third party test.

In addition to mischaracterizing the Commission's Order, AT&T also mischaracterizes BellSouth's position on the PWC Attestation. Contrary to the statements in AT&T's request, BellSouth has not taken the position that OSS comparability is limited to a review of DOE/SONGS. As evidenced by its filing, BellSouth understands that it must prove to this Commission that every component of its OSS are regional. BellSouth has made such a showing. The PWC Attestation, however, plays an important role in that showing in that it provides the Commission with assurances from a third party that there are no material differences between DOE and SONGS. The Commission should consider the PWC Attestation as proof for that which

it was intended to show – namely, that the Commission can rely on the Georgia test because DOE and SONGS are the same.<sup>1</sup>

For the Commission’s information, while BellSouth believes the PWC Attestation to be thorough and complete, BellSouth is in the process of conducting additional work with PWC to address further some of the questions that were raised during the informal conference. Specifically, PWC is undertaking additional work on timeliness and accuracy of DOE and SONGS. PWC will complete a statistically valid timeliness evaluation of order submission using a stopwatch methodology to collect data and results. These results will be disaggregated to Resale, UNE and Complex product levels across the various service order activity types. In addition, PWC will use the orders from the timeliness observation to complete an accuracy evaluation based on service order fallout errors. PWC will categorize errors and compare error rates between orders submitted through DOE and orders submitted through SONGS.

B. The Commission Does Not Need To Conduct Additional Third Party Testing.

1. *The Commission Does Not Need an Independent Consultant To Review OSS Evidence.*

AT&T argues that the Commission should follow the Tennessee Regulatory Authority and engage an independent third party consultant to determine if additional testing is necessary. (Request, at 5). BellSouth respectfully submits that this Commission need not adopt this model. BellSouth has provided the Commission with all of the evidence necessary to support its regionality case. This Commission and its Staff

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<sup>1</sup> AT&T also criticizes the PWC Attestation because the “assertions contained therein were written by BellSouth.” (Request, at 3). Surely a company as big as AT&T is familiar with the concept of the attestation that is recognized by national industry bodies and conducted in accordance with stringent standards and practices.

have the expertise to review the evidence, as well as the evidence that will be submitted by the other parties, and make a determination as to whether BellSouth's OSS are in fact the same throughout its region. Engaging an independent third party to conduct this analysis will unnecessarily delay the Commission's consideration of BellSouth's 271 application without adding any expertise that the Commission and its Staff do not already possess.

*2. The Georgia Test Is Complete For Purposes Of Assessing Compliance With The Competitive Checklist.*

AT&T claims that the Commission should not rely on the Georgia test because it is not complete at this time. (Request, at 4). Again, AT&T is skewing the facts to suit its purpose. As evidenced by BellSouth's May 18 filing, KPMG has issued a favorable final report in the Georgia test. All that remains to be done is for KPMG to finish its evaluation of certain of BellSouth's performance metrics. As evidenced by the Georgia Commission's procedural schedule, however, the Georgia Commission does not consider the conclusion of the metrics evaluation to have any bearing on its assessment of BellSouth's compliance with the competitive checklist. Thus, it should not impact this Commission's use of the Georgia test for assessing checklist compliance either.

*3. Commercial Usage Is The Most Probative Evidence of Compliance With The Competitive Checklist.*

Because its goal is to delay consideration of BST's 271 application, AT&T attempts to create the impression that BellSouth cannot prove its case without Kentucky-specific third party testing. (Request, at 6). As FCC orders demonstrate, however, the most compelling evidence of compliance is commercial usage. The FCC has stated repeatedly that "the most probative evidence that OSS functions are operationally ready

is actual commercial usage in the state for which the BOC seeks 271 authorization.” *SWBT KA/OK Order*, p. 105. It is only in cases in which actual commercial data is unavailable that other means of proof are relevant. In those situations, the FCC will consider “the results of carrier-to-carrier testing, independent third party testing, and internal testing in assessing the commercial readiness of a BOC’s OSS.” *Id.*

Competition in the local market is thriving in Kentucky. As BellSouth demonstrated in its filing, as of March 31, 2001, a total of 70 operational CLECs were providing local service to more than 95,000 lines in Kentucky, or approximately 7.3% of the market. In addition, BellSouth had signed over 500 agreements with CLECs in Kentucky. To further demonstrate commercial usage, BellSouth will submit to the Commission performance data evidencing both commercial usage of BellSouth’s OSS and the level of performance with which BellSouth provides CLECs access to its OSS. BellSouth expects its Kentucky-specific performance data to demonstrate that BellSouth’s OSS are operationally ready and that it, therefore, is complying with the competitive checklist. For those limited areas for which there is no commercial usage, the Georgia Third Party Test will provide the Commission with all of the additional evidence it needs.

4. *BellSouth will submit the results of the Georgia Third Party Test To the Commission for Consideration.*

To the extent that BellSouth does not present commercial usage or carrier-to-carrier testing to support its position that it is providing nondiscriminatory access to OSS, BellSouth will submit the results of the Georgia Third Party Test to sustain its burden of proof. The Commission can and should rely on the results of the Georgia Third Party

OSS Test. In fact, the FCC has commended states for “building on the work of other states in their region” when assessing a 271 application. *See SWBT KA/OK Order*, p. 2.

As discussed above, for such reliance to be appropriate, BellSouth will need to demonstrate to the Commission that its OSS used in Kentucky are the same systems, offering the same functionality, as its OSS in Georgia. *Id.* at 35. To prove this fact, BellSouth will demonstrate that the OSS used in Kentucky, using common interfaces, systems, procedures and personnel, are the same OSS used in Georgia. BellSouth has made this evidentiary showing. Assuming the Commission accepts BellSouth’s assertion that it uses the same OSS in Kentucky as it does in Georgia and the rest of the BellSouth region, the Commission will have at its disposal all of the evidence developed by KPMG in the Georgia test. The Commission then can rely on Kentucky-specific commercial usage, carrier-to-carrier testing, as well as the results of the Georgia test to assess BellSouth’s provision of nondiscriminatory access to its OSS.

AT&T attempts to bolster its claim that the Commission should delay consideration of BellSouth’s 271 application by arguing that the Commission should wait for the completion of the third party test in Florida rather than rely on the Georgia test.<sup>2</sup> AT&T’s argument is without merit. First, and most fundamentally, the appropriate place for consideration of this question is *in this hearing*. BellSouth contends that the Georgia

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<sup>2</sup> AT&T’s suggestion that BellSouth should wait on the Florida test is ironic in light of the comments AT&T has made to the Florida Commission about the inadequacies of the Florida test. During the April 24, 2001 issue identification in Docket No. 960786-TL, AT&T stated, among other things, that the Florida test is not sufficient because “KPMG is not making any evaluation of BellSouth’s OSS for ordering or provisioning of line-splitting.” The message to be gleaned from statements such as these is that AT&T will tell this Commission to wait on the Florida test at the same time it tells the Florida Commission that the Florida test is insufficient. Based on its comments to the Florida Commission, it is no stretch to assume that if this Commission waited on the Florida test, AT&T would come to the Commission at the conclusion of the test and inform it that it needed to conduct its own third party testing because Florida didn’t do enough. AT&T’s rhetoric should be seen for what it is – a delay tactic.



test will provide the Commission with the evidence it needs to support BellSouth's 271 application to the FCC. BellSouth will rely on the Georgia test to sustain its burden of proof. The Commission will have every opportunity to assess the adequacy of the test and to come to its own conclusion as to whether it provides the Commission with the evidence it needs to make a favorable recommendation. There is absolutely no reason, however, to delay consideration of BellSouth's application because AT&T thinks BellSouth should prove its case in another way. As AT&T will no doubt reiterate, the burden of proof is BellSouth's – if BellSouth is prepared to prove to the Commission that the Georgia test (in conjunction with other relevant evidence) supports its case, BellSouth should have that opportunity and should have that opportunity as soon as possible.

Moreover, the Georgia test meets all of the criteria established by the FCC in its decision on Bell Atlantic's New York application. Specifically, in the Georgia test, as in the New York test, KPMG was an independent tester; conducted a military-style test; made efforts to place itself in the position of an actual market entrant; and made efforts to maintain blindness when possible. In compliance with FCC decisions, the Georgia test is a focused test that appropriately concentrates on the specific areas of BellSouth's OSS that had not experienced significant commercial usage. As set forth in the Master Test Plan, the test covered all five core OSS processes (pre-ordering; ordering; provisioning; maintenance and repair; and billing); electronic interfaces to the OSS (TAG, EDI, TAFI, ECTA, ODUF, ADUF, CRIS and CABS); UNE analog loops (with and without number portability); UNE switched ports; UNE business and residence port-loop combinations; LNP; and normal and peak volume testing of the electronic interfaces for pre-ordering, ordering, and maintenance and repair using a representative mix of resale services and

UNE transactions. The Georgia test also provides for an audit of BellSouth's flow-through Service Request Report for the latest three months of data.

In a Supplemental Test Plan ("STP"), the Georgia Commission expanded the test to include an assessment of the change management process as it applied to the implementation of Release 6.0 ("OSS99"); an evaluation of pre-ordering, ordering and provisioning of xDSL loops; a functional test of resale pre-ordering, ordering, provisioning, maintenance and repair, and billing transactions for the top 50 electronically orderable retail services available for resale that have not experienced significant commercial usage; and an evaluation of the processes and procedures for the collection and calculation of performance data. In all, the Georgia Test covered over 1,170 test criteria.

The Georgia test included significant opportunity for CLEC input. The Georgia Commission considered input from the CLECs when designing the scope of the test plan. Moreover, CLECs had the opportunity to file comments on the Master Test Plan and the Supplemental Test Plan, as well as KPMG's periodic status reports. Beginning January 20, 2000, KPMG invited the CLECs to participate in weekly conference calls to discuss the status of the test, including exception resolution, and to entertain any questions from the CLECs about the progress of the test.

On March 20, 2000, KPMG issued its final report to the Georgia Commission. Less than 2% of the test criteria were deemed "not satisfied." For those small number of test criteria that were not satisfied, KPMG found that "the Commission will be able to monitor these issues on an ongoing basis through the performance measures and/or penalty plans in place that address the timeliness of BellSouth responses, service order

accuracy, and percent provisioning troubles within 30 days.”<sup>3</sup> The Kentucky Commission will have the same performance measures and data upon which to monitor BellSouth's on-going compliance.

In addition, the Georgia test is comparable in scope to the third party tests conducted in New York and Texas that the FCC has approved. The Georgia test included the same functionality review of OSS Business processes as New York and Texas. In addition, all three tests assess OSS scalability. All three tests included normal volume and peak testing of the interfaces. Moreover, the Georgia test reviewed all documentation for maintenance, updates and communication, as did New York and Texas. Like New York and Texas, the Georgia test assessed change management including the notice and completion intervals; release versioning policy; defect management process; and OSS interface development review. All three tests included functional testing of pre-ordering and ordering. All three tests provisioned orders, evaluated provisioning processes, and tested the performance of specific provisioning measures. Georgia and New York tested basic functionalities of maintenance and repair, and included a M&R process parity evaluation. In some cases, the Georgia test went beyond the tests in New York and Texas. For example, the Georgia test included manual ordering for xDSL loops while the New York test did not. Moreover, the Georgia test included a more extensive performance metrics evaluation than either New York or Texas.

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<sup>3</sup> See Letter to Leon Bowles from Michael W. Weeks, March 20, 2001, p. 2.

5. *The Georgia Test provides the Commission with the evidence its needs to supplement evidence of commercial usage.*

The appropriate place for the Commission to assess the thoroughness and the validity of the Georgia Third Party Test is in the hearing on BellSouth's 271 compliance. Therefore, while BellSouth will respond briefly to the issues raised in AT&T's Exhibit E to its Request ignore regarding the adequacy of the Georgia test, BellSouth will reserve its right to full rebuttal for the hearing process.

The Florida test evaluates parity:

BellSouth will provide the Commission with an extensive amount of performance data. Pursuant to the Interim SQM, the Commission will have the opportunity to compare BellSouth's wholesale performance to its retail performance or established benchmarks. This data will provide the Commission with the ability to assess whether BellSouth is providing parity. A third party parity evaluation is unnecessary.

Testing of OSS99:

This AT&T complaint exemplifies the fact that AT&T will never agree that it is time to review BellSouth's compliance with the Act. Instead, AT&T will always argue that there is some change in the industry that necessitates delay. From AT&T's perspective, this is a foolproof strategy because the telecommunications industry is always changing – new technology, new products, new competitors. To argue that the Commission should wait for the change to stop is to argue that the Commission should never move forward.

A third party test, by its nature, must test a snapshot in time. BellSouth enhanced its OSS during the Georgia test, and is enhancing its OSS during the Florida test. The fact that things change during or after the test does not diminish the probative value of the

test – if it did, no third party test would ever have value. The fact that the systems have evolved since the Georgia test should not impact the Commission’s use of the test.

Moreover, with respect to OSS99, BellSouth tested the OSS99 change management pursuant to the STP in the Georgia test. During the test, BellSouth satisfied all of the test criteria. In addition, BellSouth will demonstrate to the Commission significant commercial usage of OSS99 in Kentucky and throughout BellSouth’s region. Finally, BellSouth and AT&T conducted a successful carrier-to-carrier test of OSS99 in the fourth quarter of 1999, a fact AT&T ironically fails to mention in its filing.

Thus, BellSouth will present the Commission with probative evidence of the operational readiness of OSS99, including commercial usage, beta testing, and third party testing.

Volume and Stress Testing:

In Georgia, the volume testing was conducted in an environment that mirrored production – the RSIMMS environment. It has the same functionality and operates in the same way as the BellSouth ENCORE systems. In a Hearing before the Georgia Public Service Commission, KPMG testified that “I think its that we believe, based on the work we did, that the production environment could be scaled in a way that RSIMMS was --- to a level that is consistent with what was in RSIMMS. We believe the application testing that was done against RSIMMS is representative of the behavior of the system as it would have existed in the production environment.” (Transcript, Docket No. 8354-U, p. 225, ln. 5-11).

### End-to-End Testing:

This AT&T complaint is a classic case of putting form over substance. The Florida test plan explicitly does refer to “end-to-end” testing, while the Georgia test plan does not. Notwithstanding that fact, however, KPMG conducted end-to-end testing in Georgia. Specifically, KPMG submitted orders into the preordering OSS, and subsequently applied the results of these inquiries to formulate orders, many of which were provisioned and billed. Once through that process, KPMG created troubles on the transactions and sent them through maintenance and repair. Thus, while the Georgia test plan did not use the term “end-to-end,” KPMG evaluated whether, in AT&T’s terms, “when you put them all together, the car runs.”

### Manual processes:

The Georgia functional testing included BellSouth’s performance on partially mechanized orders, which are those that are submitted electronically but fall out for manual handling. Thus, a large percentage of BellSouth’s manual orders were indeed included in this testing process. Partially mechanized orders were tested, among other things, for timeliness and accuracy. In addition, the Georgia Commission added a manual order process evaluation for xDSL and manual loop makeup in the STP.

Moreover, there is significant commercial usage of BellSouth’s manual OSS. In the five South Central Bell states in BellSouth’s region, for example, BellSouth processes 20,000 partially mechanized and manual orders for CLECs per month. Because the commercial usage is so high, BellSouth will rely on commercial data and performance data to demonstrate its compliance with the Act for most manual orders, making third party testing unnecessary.

#### Ability of CLECs to Build Interfaces:

Once again, the significant commercial usage of BellSouth's CLEC interfaces obviates the need for third party testing in this area. There are 36 CLECs using EDI, 65 CLECs using TAG, and 287 CLECs using LENS. Because CLECs are using these interfaces in commercially significant numbers, additional verification of a CLEC's ability to build the interface is unnecessary.

#### Independence of Test:

Despite AT&T's insinuation to the contrary, the Georgia test was fully independent. The Georgia Commission ordered BellSouth to hire credible and reputable firms to conduct the process. To fulfill this mandate, BellSouth hired KPMG, the firm that conducted the third party tests in both New York and Massachusetts. KPMG acted at all times as required by independent auditing standards. In addition, the Georgia Commission stayed involved in the testing process and oversaw the entire test, including the drafting of the MTP and the STP. Test managers wrote both the core test documents and other documentation for the test. Moreover, for many parts of the test, KPMG acted as a pseudo-CLEC, submitting blind orders as if it were an active CLEC. Simply, there are no grounds upon which AT&T can make a credible case that the Georgia test was biased. Notably, AT&T did not question KPMG about its independence at the Georgia hearing, understanding, most likely, that KPMG's answers would not have supported AT&T's claim.

#### Significant CLEC Participation:

The Georgia test contained significant opportunities for CLEC participation. KPMG held weekly conference calls with CLECs, conducted numerous CLEC

interviews, and posted all exceptions and meeting minutes to a website accessible to all CLECs. In addition, CLECs supplied test scenarios for the test plan and KPMG used CLECs to submit selected orders on its behalf (e.g. LNP and xDSL). Finally, the Georgia Commission conducted a hearing on the test to give CLECs the opportunity to question KPMG about the test. At the conclusion of the hearing, all interested parties had the opportunity to submit written comments addressing the test and KPMG's conclusions. In short, CLECs actively were involved in all phases of the test process.

Performance Measures Review:

In Georgia, KPMG is conducting a metrics evaluation of BellSouth's performance measures adopted by the Commission. As part of this evaluation, KPMG will validate the accuracy of calculation and reporting of metrics for BellSouth retail. KPMG also will compare CLEC results to BellSouth retail analogues or benchmarks, whichever is applicable, including applying the statistical test for comparative purposes. This evaluation will be sufficient to ensure that BellSouth's performance is collected and reported accurately. As previously discussed, however, the Georgia Commission will proceed with its evaluation of BellSouth's compliance with section 271 without the completion or results of the metrics review.

With respect to an assessment of the adequacy of the measures themselves, such an assessment appears to be duplicative of work that will be done by this Commission, both in this docket and in its permanent performance measurements docket. In other words, while the Florida Commission certainly is entitled to ask KPMG to conduct an adequacy review of performance measurements, BellSouth contends that any of the state



commissions in its region is fully capable of conducting such an analysis based on its own expertise and that an assessment by a third party is unnecessary.

Results of Georgia Test:

During the course of its 271 proceeding, this Commission will have the opportunity to review every aspect of the Georgia test, including but not limited to the test plans, the test methodology, the thoroughness of the review, and the exception process. At the conclusion of that review, BellSouth will ask the Commission to make a decision on the adequacy of the test as an element of proof of BellSouth's provision of nondiscriminatory access to OSS. At that time, the Commission can choose to accept or reject the test. Now, however, is not the time for such a decision.<sup>4</sup>

One of the main reasons AT&T continues to criticize the Georgia test is, no doubt, the fact that KPMG's final report was so favorable. Out of 1171 test criteria, BellSouth has now satisfied over 95% of them. The test criteria that BellSouth satisfied include all of the test criteria related to Change Management for OSS99. It also is critical for this Commission to remember that it will have both performance measurements and a penalty plan in place to monitor BellSouth's on-going Kentucky-specific compliance with its obligations. Thus, while AT&T's criticisms will no doubt continue, the Commission always consider AT&T's comments in the context of the favorable results of the test.

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<sup>4</sup> AT&T also included a matrix of problems it claims were fixed in Georgia and were raised again in Florida. Suffice it to say that AT&T is overreaching. BellSouth believes these issues are appropriate for the hearing. Should the Commission be interested in a point-by-point rebuttal of Exhibit E, however, BellSouth will be happy to provide such a document.

III. THE COMMISSION SHOULD NOT WAIT FOR THE CONCLUSION OF ITS PERMANENT PERFORMANCE MEASUREMENTS DOCKET TO ASSESS BELL SOUTH'S COMPLIANCE WITH SECTION 271.

In a last effort to delay the Commission's consideration of BellSouth's 271 application, AT&T contends that the Commission cannot move forward until it completes its permanent performance measurements docket, and until BellSouth submits data in accordance with those measurements. Once again, AT&T's position is not sustainable. While the Commission's permanent performance measurements docket is extremely important, it is not an impediment to moving forward in the 271 case. As evidenced by its May 18 filing, BellSouth is providing the Commission with a comprehensive set of performance measurements, adopted by the Georgia Commission with substantial CLEC input (the "Interim SQM"), as well as performance data captured in accordance with those measurements. The Commission can adopt these measurements on an interim basis and rely on them for purposes of assessing BellSouth's compliance with section 271.

AT&T's criticisms of this approach are without merit. First, AT&T claims that the Interim SQM is "inadequate." (Request, at 7). The facts indicate otherwise. The Interim SQM contains about 1,800 data points including a multitude of product disaggregations. The pure volume of data produced in accordance with the Interim SQM will provide the Commission more than enough data to evaluate BellSouth's wholesale performance. AT&T also claims that use of the Interim SQM constitutes "future promises" and thus will not suffice at the FCC. (Request, at 7). This also is incorrect. BellSouth has requested the Commission to adopt the Interim SQM on an interim basis until such time as permanent measures are adopted and implemented. Thus, the measures

will be established and operating in Kentucky – they will not constitute “future behavior.”

In a further attempt to support its position, AT&T mischaracterizes orders from both the Tennessee Regulatory Authority and the North Carolina Utilities Commission. (Request, at 8). AT&T’s implication that both regulatory bodies held that each would rely on permanent measures for purposes of 271 is wrong. The TRA established a generic docket to consider the adoption of performance measurements, but did not condition approval of a 271 application on completion of that docket. Moreover, while the NCUC did establish a 271 hearing date to allow for the completion of the permanent performance measurements docket, the Chair specifically noted in the Order “it is, of course, a controverted point as to what degree BellSouth should rely on another state’s performance measures....” (Order, at 6). This hardly can be construed as a finding that the NCUC has decided to rely on the permanent measures for purposes of 271.

The other important point that AT&T fails to mention, not surprisingly, is that waiting on data collected pursuant to permanent measures would mean, as a practical matter, that the Commission could not consider BellSouth’s 271 application for at least a year. Given the enormous complexity of implementing performance measurements (including drafting business rules, writing code, and programming the systems), it typically takes BellSouth at least six months to implement a set of measurements after an order is issued and another six weeks before data is available pursuant to the ordered set of measurements. Thus, if the Commission starts the permanent measures proceeding this summer, and issues an order in September or October, it would be at least March before BellSouth would likely implement the measures and the end of April before

BellSouth would report data. This delay is unnecessary and undesirable from the standpoint of the development of competition.

There is no doubt that BellSouth has the obligation to prove to the Commission its compliance with the competitive checklist. A crucial component of that proof is performance data. The Interim SQM will provide the Commission with the ability to analyze an enormous quantity of performance data while simultaneously bringing the benefits of long distance competition to the consumers of Kentucky as soon as possible.

Respectfully submitted,

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