

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

INVESTIGATION CONCERNING THE)
PROPRIETY OF INTERLATA SERVICES)
BY BELL SOUTH TELECOMMUNICATIONS,) CASE NO. 2001-105
INC., PURSUANT TO THE)
TELECOMMUNICATIONS ACT OF 1996)

O R D E R

This Order addresses the May 18, 2001 Request for Clarification filed by AT&T Communications of the South Central States, Inc. ("AT&T"), sets out procedural filing dates as discussed in an informal teleconference on June 26, 2001, and addresses the status of other procedural matters.

In its request, AT&T asked for clarification of the Commission's intent to follow an approach involving state-specific third party testing, with regard to the type of evidence sought to determine BellSouth's compliance with the requirements of Section 271 of the Telecommunications Act ("the Act"). AT&T also requested that the Commission reaffirm its procedural requirements as established in the April 26, 2001 Order, and further requested that the Commission not allow BellSouth to "circumvent" Section 271 requirements by filing the PriceWaterhouse Coopers ("PWC") attestation report. Finally, AT&T requested that the Commission clarify that performance measures hearings will be concluded prior to the Section 271 hearing.

The Commission does not consider BellSouth's filing of the PWC audit and attestation report an attempt by BellSouth to "circumvent" Section 271 requirements.

The Commission acknowledges that the burden is on BellSouth to prove that it has complied with the requirements of the Fourteen Point Checklist contained in 47 U.S.C. § 271(c)(2)(B). If BellSouth chooses to rely on evidence other than that recommended by Staff, it does so in full awareness that Staff may consider the evidence filed is insufficient to enable it to advise the Commission regarding BellSouth's compliance. Beyond such recommendations, however, neither the Commission nor the Staff should dictate the type of proof to be filed by BellSouth.

As stated in the April 23, 2001 informal conference memorandum, attached to the Commission's April 26, 2001 Order, Staff advised BellSouth that "end-to-end" analysis of competitive local exchange carrier ("CLEC") orders would enable Staff to draw valid conclusions about the parity of BellSouth's OSS performance in Kentucky. BellSouth has subsequently advised Staff and parties to this record that it intends to rely on the performance data testing in Georgia, along with the attestation report by PWC stating that BellSouth's OSS are regional in nature, and that end-to-end volume testing of Kentucky-specific orders should not be necessary.

At an informal conference on May 10, 2001, BellSouth presented a detailed explanation of the PWC audit, at which time Staff expressed interest in reviewing the data collected by PWC, and upon which the accounting firm based its report. BellSouth agreed to consider the matter and to discuss it with PWC to see if the background data could be supplied for Staff review. As of this date, BellSouth has not supplied the background data requested at the informal conference and has not filed an explanation for its failure to do so. BellSouth should respond to Staff's informal data request.

Regardless of BellSouth's decision as to the platform of evidence it will rely upon for its proof, Staff will evaluate the evidence and make final recommendations to the Commission following the scheduled hearings.

In the informal conference on June 26, 2001, parties were advised that a performance measures or performance standards hearing will be conducted during the week of September 24, 2001 as a proceeding separate from the Section 271 compliance hearing, which will be held the week of October 22, 2001. This information should provide clarification regarding the issue of performance measures as requested by AT&T. In the timetable set out below, BellSouth is requested to identify, by location in the previously filed testimony and exhibits, its proposed performance standards which will be evaluated at the September 24, 2001 hearing.

Procedural dates with which the parties must comply, most of which were discussed and agreed upon in the June 26, 2001 informal conference, are contained in the ordering paragraphs below:

IT IS THEREFORE ORDERED that:

1. AT&T's Request for Clarification is approved to the extent set out herein.
2. On or before July 20, 2001, BellSouth shall respond in the record to the informal data request by Commission Staff regarding the workpapers compiled by PWC in the course of its attestation audit and report.
3. Procedural dates for all parties are established as follows:
 - a. On or before July 13, 2001, CLECs shall file rebuttal evidence to BellSouth's May 18, 2001 filing and any other material filed to date, including the April 2001 performance data from Georgia testing filed on or about June 10, 2001.

b. On or before July 13, 2001, BellSouth shall file Georgia performance data and testimony for May 2001.

c. On or before July 16, 2001, all data requests from parties shall be filed.

d. On or before July 20, 2001, BellSouth shall specifically identify, by location in previously filed testimony and exhibits, its proposed performance measures so that all other parties may comment thereon prior to the performance standards hearing. If BellSouth needs to supplement its filings regarding proposed performance standards, it shall do so at this time.

e. On or before July 30, 2001, BellSouth shall file rebuttal evidence to the July 13, 2001 filings by CLECs, and CLECs shall file rebuttal evidence to the May 2001 performance data.

f. On or before August 5, 2001, responses to the July 16, 2001 data requests are due.

g. On or before August 10, 2001, BellSouth shall file Georgia performance data and testimony for June 2001.

h. On or before August 20, 2001, CLECs shall file rebuttal evidence regarding BellSouth's performance measures proposal and any surrebuttal evidence to BellSouth's July 30, 2001 filing. Also, BellSouth shall file rebuttal evidence to CLECs' July 30, 2001 filings.

i. On or before August 27, 2001, CLECs shall file rebuttal evidence to June 2001 performance data and any supplemental evidence regarding April and May 2001 performance data.

j. On or before September 10, 2001, BellSouth shall respond to CLECs' performance data and performance measures rebuttal.

k. On September 24, 2001, at 9:00 a.m., Eastern Daylight Time, the Commission shall commence a public hearing regarding BellSouth's performance measures in Hearing Room 1 of the Commission's offices at 211 Sower Boulevard, Frankfort, Kentucky, and shall continue until completed.

l. On or before October 15, 2001, simultaneous briefs shall be filed regarding the performance measures hearing.

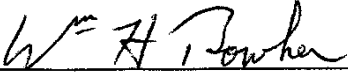
m. On October 22, 2001, at 9:00 a.m., Eastern Daylight Time, the Commission shall commence a public hearing regarding BellSouth's compliance with the requirements of Section 271 of the Act in Hearing Room 1 of the Commission's offices at 211 Sower Boulevard, Frankfort, Kentucky, and shall continue until completed.

n. On or before November 12, 2001, simultaneous briefs shall be filed regarding the Section 271 compliance hearing.

Done at Frankfort, Kentucky, this 13th day of July, 2001.

By the Commission

ATTEST:

Deputy 
Executive Director