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ELECTRONIC FILING

September 8, 2005

Ms. Elizabeth O'Donnell
Executive Director
Kentucky Public Service Commission
P.O. Box 615
Frankfort, KY 40602

RE: 2004-00391 – CompSouth's Concerns with BellSouth's Reporting and Payments

Dear Ms. O'Donnell:

The undersigned is local counsel to CompSouth and to several CompSouth members who are parties to the referenced case. Transmitted herewith for electronic filing is a September 7, 2005 letter sent by CompSouth to BellSouth. This letter discusses serious problems with BellSouth's performance measures reporting and payments required under the SEEM plan. CompSouth has asked that all nine state commissions in the BellSouth region be made aware of this communication. Please return an electronic receipt indicating receipt of this filing by your office.

Sincerely yours,

Douglas F. Brent

enclosure

DFB:jms

CompSouth

Members include:

ACCESS Integrated Networks, Inc.
Access Point, Inc.
AT&T
Birch Telecom
Cinergy Communications Company
Covad
Dialog Telecommunications
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National association members include:

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September 7, 2005

VIA OVERNIGHT MAIL

Mr. Alphonso Varner
Asst. Vice-President Interconnection Services
BellSouth Telecommunications, Inc.
675 West Peachtree Street
Atlanta, Georgia 30375

Re: BellSouth's August 15, 2005 PMAP Notification

Dear Mr. Varner:

Several members of CompSouth have serious concerns with issues regarding BellSouth's performance measures reporting and Self Effectuating Enforcement Mechanism (SEEM) payments. CompSouth urgently requests that BellSouth take action as indicated below to correct these problems. On August 15, BellSouth issued a notice on its PMAP website that included several statements that require a response:

First, BellSouth indicated that CLECs had agreed to coding changes. This is not accurate. To be clear, the CLECs who responded to the Liberty Consulting Audit Report asked for affidavits to be filed in response to many of the audit findings to affirm that the problems had been corrected and also asked that BellSouth provide its analysis which substantiated the correction. CLECs do not have access to details of BellSouth's coding changes, and thus do not have the information necessary to agree to them. Significantly, for Findings 54 and 55, the CLECs and the Florida PSC staff requested a re-audit by an independent third party be conducted to determine if the problems in these findings had indeed been resolved. Clearly such a request does not indicate agreement to coding changes. CLECs reiterate their request that the re-audit be conducted as soon as possible after implementation of corrections is completed.

Second, BellSouth's notification stated, "If a CLEC has a negative balance resulting from a previous overpayment by BellSouth, then The Transmitted Balance by OCN Report in the PARIS report folder will contain any adjustments that will be carried over to the next payment cycle." While this statement is the appropriate and approved method for handling overpayments, this is not BellSouth's practice. It is the CLECs' experience that the Transmitted Balance Reports, which are reported by state, do not reflect the adjustments to be carried over to the next payment cycle. Instead, BellSouth offsets these remaining adjustments from one state by penalty payments owed in another state. Indeed, BellSouth has implemented a unilateral, unauthorized, and inappropriate method of overpayment recovery which must be stopped immediately.

Each state commission in BellSouth's territory has ordered the implementation of a SEEM plan to assure that CLECs receive nondiscriminatory access to BellSouth's OSS to ensure that BellSouth meets its obligation to provide unbundled access, interconnection, and resale to CLECs in a nondiscriminatory manner, and to measure BellSouth's performance over time to detect and correct any degradation of service provided to CLECs. However, BellSouth has turned that premise on its head by not paying Tier 1 penalties owed pursuant to Commission order in one state if it decides that it has overpaid penalties in another state. Tier 2 penalties may be impacted as well. The results are obvious.

Although state commissions have established plans to deter poor performance, BellSouth has taken it upon itself to eliminate that ability when it decides it has overpaid in one state and offsets payments in a second state by amounts owed in the first state. For example, a certain CLEC from CompSouth should have received penalty payments for BellSouth's June 2005 performance in Alabama, Georgia, Louisiana, Mississippi, North Carolina, and South Carolina. Yet the report provided to this CLEC by BellSouth indicates that these payments have been "transmitted" to this CLEC, ***but they have not and will not be paid***, according to BellSouth, because BellSouth has decided that this CLEC has been overpaid in Florida. As a result, the self-effectuating incentives state commissions put in place for BellSouth to provide non-discriminatory performance in its state can and are being effectively removed unilaterally by BellSouth. BellSouth's unauthorized and inappropriate practice must be stopped immediately, and penalty payments which have been withheld by BellSouth must be paid immediately.

Third, although BellSouth's notification appears to indicate that it has made the changes required by the audit (and indeed indicates on other PMAP reports that these changes have resulted in adjustments (in BellSouth's favor) of $3,581,806.00 in Florida and $1,587,488.07 in Tennessee), CLECs have been provided no information on the implementation of findings which result in adjustments in their favor, despite numerous audit findings which indicated that such adjustments would likely need to occur. Below are several such findings. CLECs request that BellSouth provide either the status of adjustments resulting from implementation of these findings or a detailed explanation of why no adjustments for underpayment of CLECs resulted from the findings implementation.

Liberty Finding #	**Audit Finding**	**Liberty Comments**
21	For the time period of this audit BellSouth was inappropriately excluding non-coordinated hot cuts from the calculation of the measure results for P-7C	"However, given the large percentage of hot cut orders not included in the reported results, Liberty believes the effect was likely to be significant." (Page 149 of Final Report of the Audit)
23	BellSouth was misclassifying certain orders with a "PR-17" (cancelled order) error code thereby incorrectly excluding these orders from the calculation of the P-3 (Percent	"It is difficult for Liberty to determine the exact impact these misclassified service orders had on the reported results at a sub-metric or CLEC specific level." (Page 150 of Final

	Missed Initial Installation Appointments) results	Report of the Audit)
25	BellSouth incorrectly excluded the majority of the hot cut orders from the calculation of the P-7C measures and excluded a smaller subset of orders from the P-7 measure.	"Liberty did not determine the precise effect of this defect on the reported P-7 and P-7C measures during the audit period. However, given the large number of records that were affected, it is likely to have had a significant impact on the reported results." (Page 153 of Final Report of the Audit.)
27	BellSouth incorrectly included certain record change orders in the calculation of P-3, P-4, and P-9 measurement results.	"Because these orders do not require any actual provisioning activity, their inclusion in the measurement calculations may artificially improve reported results." (Page 155 of Final Report of the Audit)
28	BellSouth incorrectly excluded orders from the calculation of the P-7 and the P-7C measures that were properly included in the other in-scope provisioning measures.	"In addition, the inconsistency between the completion dates of the same orders…may indicate errors in those measures like P-3, P4, and P9." (Page 156 of Final Report of the Audit)
33	During its calculation of the monthly SEEM results in PARIS, BellSouth incorrectly excluded transactions from the retail analog of the resale ISDN product for the P-3, P-4, and P-9 measures.	"The number of orders incorrectly excluded is a significant percentage of the total orders reported." (Page 162 of Final Report of the Audit)
35	BellSouth did not include certain wholesale products in its calculation of the SEEM remedy payments for the P-9 (Percent Provisioning Troubles within 30 Days of Service Order Completion) measure.	"BellSouth was not including 2-wire ISDN designed loops without number portability or 2-wire UDC capable loops in its calculation of the SEEM remedy payments for the P-9 measure." (Page 164 of Final Report of the Audit)
36	The SQM and SEEM levels of disaggregation as documented in Bellsouth's SQM Plan were inaccurate and misleading for the UNE-P product for the P-3, P-4, and P-9 measures.	"Liberty found that the UNE-P dispatch orders are dropped from the PARIS calculations of SEEM payments." (Page 166 of the Final Report of the Audit)
37	BellSouth incorrectly classified UNE Line Splitting orders as UNE-P orders when calculating its results for the P-3, P-4, and P-9 measures.	"Liberty added line-splitting to the audit work plan so that Liberty could investigate the large discrepancy between the ordering volume reported for this product… and the volumes reported for the P-3 and P-4 results." (Page 166 of the Final Report of the Audit)
42	BellSouth did not properly align the product IDs for troubles and the lines on which they occurred for M&R-2, causing mismatches and resulting in assignment of either the troubles or the lines to the wrong sub-measure in SQM reports and SEEM remedy payment calculations.	"Liberty determined in its remedy payment replication that it was not able to match troubles with lines for about 2 percent of the wire center/CLEC product group combinations". (Page 173 of Final Report of the Audit)
43	BellSouth included special access services	"The changes in the results at the sub-metric

	in some of its retail analog calculations during the audit period and, after correcting the calculations, failed to perform a complete analysis to determine whether reposting was necessary.	level were significant." (Page 174 of Final Report of the Audit)
53	BellSouth did not make remedy payments for failures associated with the O-3 and O-4 (Percent Flow-Through Service Requests Summary and Detail) measures in accordance with the SEEM Administrative Plan.	"Some CLECs may have foregone remedy payments due to this failure." (Page 200 of Final Report of the Audit)

CompSouth requests a response to this letter in 10 days describing the specific actions BellSouth intends to take to satisfy these requests.

Sincerely,

Sharon E. Norris

Sharon E. Norris
Consultant to CompSouth

cc:
Mr. Robert Culpepper, BellSouth
Alabama Public Service Commission
Florida Public Service Commission
Georgia Public Service Commission
Kentucky Public Service Commission
Louisiana Public Service Commission
Mississippi Public Service Commission
North Carolina Utilities Commission
South Carolina Public Service Commission
Tennessee Regulatory Authority