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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.

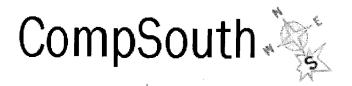
Sincerely yours,

Douglas F. Brent

enclosure

DFB:jms

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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 nondiscriminatory performance in its state can and are being effectively removed unilaterally by 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

	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

Consultant to CompSouth

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## 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