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2650 AEGON CENTER | 400 WEST MARKET STREET | LOUISVILLE, KENTUCKY 40202-3377
(502) 568-9100 PHONE | (502) 568-5700 FAX | WWW.SKP.COM

DOUGLAS F. BRENT
502-568-5734
Brent@skp.com

October 16, 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 an October 13, 2005 letter sent by CompSouth to Mr. Alphonso Varner of BellSouth. This letter is reply to a letter from BellSouth dated September 22, 2005 which BellSouth has filed in the record of this proceeding.

The October 13 letter, like an earlier letter we filed with the Commission on September 7, discusses serious problems with BellSouth's performance measures reporting and payments required under the SEEM plan. The more recent letter is to further clarify CompSouth's position. CompSouth has asked that all nine state commissions in the BellSouth region be made aware of this communication.

The electronic version of this filing is identical to the paper copy being filed with the Commission. Please return an electronic receipt indicating receipt of this filing by your office.

Sincerely yours,



Douglas F. Brent



October 13, 2005

Members include:

ACCESS Integrated Networks, Inc.

Access Point, Inc.

AT&T

Birch Telecom

*Cinergy Communications
Company*

Covad

Dialog Telecommunications

IDS Telcom

InLine

ITC^DeltaCom

LecStar Telecom, Inc.

MCI

Momentum Telecom, Inc.

Navigator Telecommunications

Network Telephone Corp.

Nuvox Communications, Inc.

Supra Telecom

TalkAmerica

Trinsic Communications, Inc.

Xspedius Communications

**National association
members include:**

CompTel

PACE

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

Dear Mr. Varner:

Thank you for your September 22, 2005 response to CompSouth's September 7, 2005 letter regarding concerns with performance measures reporting and SEEM payments. However, several of your responses appear to indicate confusion or misunderstanding of CompSouth's letter. The purpose of this letter is to respond to BellSouth's letter and further clarify for you and the regulatory commissions the concerns and position of CompSouth.

In its September 7 letter, CompSouth presented three areas of concern. For ease of reference, I will provide CompSouth's concern, BellSouth's response, and CompSouth's reply to BellSouth's response.

Issue 1—CLEC agreement to PMAP coding changes

CompSouth's September 7, letter

CompSouth stated its disagreement with BellSouth that it had agreed to coding changes, specifically noting that for two of the audit findings (findings 54 and 55) it had requested a re-audit by a third party to determine if problems identified in these two issues had been corrected.

BellSouth's September 22 response to CompSouth letter

BellSouth stated in its response that it found this issue truly baffling. It noted that in the CompSouth letter it was stated that "the CLECs who responded to the Liberty audit report asked for affidavits to be filed in response to many of the audit findings to affirm that the problems had been corrected." BellSouth goes on to say that it is inconsistent to ask for affirmation that the problems have been corrected and now complain because BellSouth made the necessary coding changes to make the requested corrections.

BellSouth also stated in its response that it had explained in its September 8th affidavit it explained why a re-audit was unnecessary for findings 54 and 55.

CompSouth's response to BellSouth's September 22 letter

CompSouth's position on this issue is not inconsistent. CompSouth did not complain because BellSouth made coding changes. To reiterate, CompSouth made the following two points on this issue its previous letter:

1. "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."
2. "CLECs do not have access to details of BellSouth's coding changes, and thus do not have the information necessary to agree to them."

Certainly, CompSouth members are aware that BellSouth must make coding changes to correct some of the findings of the audit. However, CompSouth wants to make it absolutely clear that it had no access to these coding changes, and thus certainly did not (and could not) agree that the changed code was accurate and appropriate.

Regarding BellSouth's comments that it had explained in its September 8th affidavit why a re-audit was unnecessary for findings 54 and 55, CompSouth disagrees that BellSouth explained why a re-audit was unnecessary. Members of CompSouth have reviewed BellSouth's affidavit and it does not contain an adequate explanation. More specifically, it does not contain information that satisfies the following concerns which were included in the CLEC Coalition's June 23, 2005 comments regarding Liberty Consulting Group's audit in Florida:

"Further, due to the complexity and significance of the issues in two findings (Findings 54 and 55), CLECs believe that affidavits are insufficient and thus a re-audit is necessary. These findings differ because Liberty was not in position to isolate the causes of the problems that it encountered. Across findings 52, 54, and 55, Liberty uncovered at least four errors in BellSouth's parity test calculation procedures, resulting in seven distinct RQs. Because of the interdependence among the steps of these calculations, it was impossible for Liberty to verify that it had even identified the complete list of problems causing findings 54 and 55, much less that BellSouth's RQs would resolve the issues. In particular, even though Liberty concludes Finding 54 with the statement, "Liberty believes that if these changes are properly implemented, the issues will be resolved," that cannot be the case because there were still 71 Z-score differences remaining after Liberty's best attempts to reconcile its calculations with BellSouth's erroneous ones.

Given the critical importance of the calculations addressed in findings 54 and 55, the accuracy and completeness of BellSouth's changes must be validated. ***However, without a definitive list of the problems, the only way to verify that they have been resolved is to replicate BellSouth's new calculations.*** Therefore, the CLEC Coalition recommends that Liberty be commissioned to conduct a limited re-audit to replicate and validate the Z-score and balancing critical value calculations previously found in error (on new data months if necessary)."

Further, CompSouth notes that in BellSouth's affidavit, it combined the response for finding 52 with findings 54 and 55. Therefore, CompSouth recommends that finding 52 be added to the scope of the re-audit.

Finally, the findings for which the CLEC Coalition asked for a re-audit are among the primary contributors to the extremely significant overpayments which BellSouth is reporting and for which it is implementing adjustments. The size of the adjustments alone warrants careful scrutiny by an independent auditor and the Florida Commission, in addition to the issues described above.

Issue 2----BellSouth has implemented a unilateral, unauthorized, and inappropriate method of alleged SEEM over-payment recovery by offsetting adjustments due to BellSouth in one state by denying payment of penalties owed to CLECs in another state.

CompSouth's September 7, letter

CompSouth's letter described its concerns that BellSouth has implemented a unilateral, unauthorized, and inappropriate method of alleged SEEM over-payment recovery by offsetting adjustments due to BellSouth in one state by denying payment of penalties owed to CLECs in another state.

CompSouth also pointed out that this practice removes the self-effectuating incentives put in place by state commissions as BellSouth can incur penalties in a state but make no associated penalty payments.

BellSouth's September 22 response to CompSouth letter

1. BellSouth emphasized that it applies the SEEM plan individually for each state. BellSouth stated that its systems are designed to calculate both the SQM results and SEEM payments for each state separately and as dictated by the SQM and SEEM plans approved by that state's Commission or Authority.
2. BellSouth then described its current practice of adding together the SEEM Tier 1 amounts generated by each plan in each state and transferring a single payment to a CLEC. It states that no state's plan, or order approving such plan addresses (much less prohibits) BellSouth from making payments in this manner.
3. BellSouth then stated that CompSouth's characterization that it is inappropriate to make a single payment each month instead of making multiple payments that add to the same amount is at best, illogical.
4. BellSouth also stated that if it makes an overpayment to a CLEC, it has every right to expect the amount of the overpayment to be immediately returned to BellSouth, and CLECs are in no way entitled to retain the amount of any overpayment except as specifically agreed to by BellSouth.
5. BellSouth appeared to indicate that its practice of netting payments between states is not new.

6. BellSouth stated that the practice is not prohibited by any plan **and has no impact whatsoever on the plan's purpose.** (emphasis added by CompSouth)
7. BellSouth also advised that for those CLECs where it does not appear that the overpayments identified by the Liberty findings can be recovered timely, BellSouth will request a one-time payment to clear the negative balance for those findings.

CompSouth's response to BellSouth's September 22 letter

Due to the quantity of BellSouth statements regarding this issue, CompSouth has numbered each BellSouth statement and its corresponding response.

1. BellSouth emphasized that it applies the SEEM plan individually for each state. However, it does not describe what "applies" means. Clearly it does **not** mean that it actually pays CLECs according to the SEEM plans for each state. BellSouth stated that its systems are designed to calculate both the SQM results and SEEM payments for each state separately and as dictated by the SQM and SEEM plans approved by that state's Commission or Authority. CompSouth did not assert that BellSouth **could not calculate** SQM and SEEM payments separately and as dictated by the plans approved by each state, but that BellSouth **did not make** SEEM payments as dictated by the plans approved by each state.
2. Despite the fact that this item had not been raised by CompSouth, BellSouth goes to some lengths to describe its (purely administrative) practice of issuing one payment per CLEC for all SEEM payments due in the region for that month. Incredulously, it then attempts to parlay that administrative task of one payment per CLEC into rationale for usurping Commission-approved state-specific SEEM plans designed to prevent discriminatory service to CLECs at a state level. It states that no state's plan addresses (much less prohibits) BellSouth from making payments in this manner.

BellSouth appears to indicate that if a Commission order directs a company to take a certain action (in this case, BellSouth to pay state specific penalties), the order must also explicitly direct that company that it must not unilaterally decide not to take that action, or that it is not actually required to pay the penalties calculated for that state. CompSouth agrees that the current plans did not contemplate (and therefore did not explicitly address) that BellSouth might try to deny payments that its own calculation process determined were due pursuant to a Commission-approved state specific SEEM plan. In fact, CompSouth is unaware of BellSouth raising this issue in regulatory proceedings as it has other off-set issues. (For example, see items 20 and 30 of the SEEM non-technical matrix in Docket 000121A in Florida which contain BellSouth's failed attempts to have other types of off-sets included in the SEEM plan.) Clearly, if BellSouth had raised the issue of offsets between states in the regulatory proceedings which developed and modified the SEEM plan, the decision of each Commission (**whether or not to permit BellSouth to deny penalty payments in its state to correct errors BellSouth made in other states**) would have been included in its order and the associated SEEM plan.

3. BellSouth stated that CompSouth's characterization that it is inappropriate to make a single payment each month instead of making multiple payments that add to the same

amount is at best, illogical. As an initial matter, CompSouth made no such characterization. First, it **did not raise** the issue of single vs. multiple payments as its letter was not concerned with administrative matters. Further, and more importantly, the payments would **not equal** to the same amount, which is CompSouth's point.

For example, it is CompSouth's position that if it is determined that a CLEC had been overpaid \$50,000 in penalties in Florida, but that BellSouth owed it only \$25,000 for the current payment month in Florida, then the remaining \$25,000 would be taken from future Florida penalty payments due to that CLEC. If however, BellSouth owed that CLEC \$25,000 in penalties in other state, the CLEC would be paid the \$25,000 it was owed. BellSouth's position is that if a CLEC had been overpaid \$50,000 in penalties in Florida, but that BellSouth owed it only \$25,000 for the current payment month in Florida, but also owed it \$25,000 for the current payment month in another state, the CLEC would be paid nothing for either state. In this example, using CompSouth's methodology would result in a payment to the CLEC of \$25,000 for the current payment month, and BellSouth's methodology would result in a payment of \$0 to the CLEC. Importantly, CompSouth's methodology also ensures that the integrity and effectiveness of each state's SEEM plan remains intact.

4. The SEEM plan does not support BellSouth's position that "it has every right to expect the amount of overpayment to be immediately returned to BellSouth." Section 4.4.7 of the Florida SEEM Plan states "any adjustments for underpayment or overpayment will be made in the next month's payment cycle after the recalculation is made." It does not state that CLECs "return" overpayments to BellSouth.
5. BellSouth appears to indicate that its practice of netting payments between states is not new; stating that "The method by which BellSouth is handling these overpayments is the same method that BellSouth has used for the past few years to handle adjustments in PARIS when there has been a previous SEEM overpayment by BellSouth to a CLEC." BellSouth did not indicate when it changed to this practice, however a review of previous Tier 1 penalty reports by a member of CompSouth demonstrated that adjustments in a state which exceeded the current month's penalty payments had been carried over to the second month in that state, **not** netted against other states. CompSouth was not aware that BellSouth had instituted a practice of netting payments earlier; obviously if it had known, CompSouth would have raised its concerns at that time. As BellSouth is aware, CLECs are dissatisfied with the current level of information available about reposting and adjustments and requested improvements during the SQM/SEEM review in Florida. Additionally, in its July 13, 2005 letter to BellSouth, the Florida staff indicated it will initiate a task force to seek ways to improve BellSouth's reposting practices and procedures, which include adjustments.
6. BellSouth stated that this practice (not paying penalties due in one state pursuant to that state's SEEM plan in order to collect for alleged overpayments it has made in another state) **has no impact whatsoever on the plan's purpose.** (emphasis added). However, the SEEM plans were put in place for the purpose of providing financial incentives to BellSouth to provide non-discriminatory service to CLECs. Therefore, to conclude that the removal of these incentives (by permanently withholding payments due under the plan) has no impact on the plan's purpose simply defies logic.

7. BellSouth raised a new issue in its response, stating that for those CLECs where it does not appear that the overpayments identified by the Liberty findings can be recovered timely, BellSouth will request a one-time payment to clear the negative balance for those findings. As was pointed out in the response to item 4 above, the SEEM plan does not support BellSouth's position. Section 4.4.7 of the Florida SEEM Plan states "any adjustments for underpayment or overpayment will be made in the next month's payment cycle after the recalculation is made." It does not state that CLECs "return" overpayments to BellSouth.

Issue 3—CLEC request for status and/or explanation of adjustments for certain audit findings.

CompSouth's September 7, letter

CLECs requested that BellSouth provide either the status of adjustments resulting from implementation of certain findings or a detailed explanation of why no adjustments for underpayment of CLECs resulted from the findings implementation.

BellSouth's September 22 response to CompSouth letter

In its response, BellSouth indicated:

- That its two affidavits provides the information requested
- That it was not the case that those findings favoring BellSouth had been implemented while those favoring CLECs had not
- That all retroactive adjustments for the audit necessitated by BellSouth's reposting policy were calculated simultaneously
- That BellSouth cannot identify the amount of retroactive adjustment that is attributable to a specific finding

CompSouth's response to BellSouth's September 22 letter

CompSouth finds BellSouth's response both confusing and inadequate. First, the affidavits did not provide the detailed information requested. (See Attachment 1 for CompSouth comments on a finding-specific basis). Second, both the audit report and BellSouth's affidavits indicate that fixes for some findings were implemented during and some after the audit, not simultaneously, as is indicated above (See, for example, BellSouth's statements regarding finding 53, which indicate that the item was corrected in June 04 and that SEEM adjustments were implemented in June 04, while its statement regarding 54 indicates retroactive adjustments were made with June 05 data). Third, CompSouth does not understand how BellSouth conducts and quantifies the impact of changes for the PMAP change notification process to determine whether reposting of results and calculation of SEEM payments is necessary, but cannot quantify or identify the amount of an adjustment that is attributable to a specific finding.

CLECs will raise these issues in the upcoming workshop to be held by the Florida staff regarding BellSouth's implementation of audit findings (See Florida staff September 30, 2005 letter to

BellSouth for items to be addressed in the workshop). Additionally, you may respond in writing at snor22@aol.com or at the following address:

SEN Consulting
PO Box 658
Loganville, GA 30052

Sincerely,



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

Liberty Fndg. #	Liberty Audit Finding	Liberty Comments	BST Affidavit Status/Comments Note: CompSouth comments in italics
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-% troubles within 7 days of completed service order.	“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)	Corrected in April 2004 (RQ 4128). Only 2 of 3,434 records affected. Impact analysis was conducted on May 2003 data. <i>--Please clarify—what is 2 and what is 3,434? --Why use May 03 data month? -- Why large difference in impact between BellSouth and Liberty?</i>
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 Missed Initial Installation Appointments) results	“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 Report of the Audit)	Corrected May 2005 (RQ 6033). BST reported that CLECs were impacted by less than 0.01% in Florida and Tenn. <i>--Need better explanation-back-up analysis—see Appendix D of new SQM-Determination of when reposting policy applies for approach and level of detail to be provided --What month(s) were reviewed for possible reposting and why?</i>
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.)	Corrected in March 2004 (RQ4989). It was determined that there was less than 0.06% change in the overall results of this metric with only 112 lines affected for the CLECs in the entire BellSouth region. <i>--What was Florida impact? --What does “lines affected” mean? --What month(s) were reviewed for possible reposting and why?</i>
27	BellSouth incorrectly included certain record change orders in the calculation of P-3, P-4, and P-9 measurement	“Because these orders do not require any actual provisioning activity, their inclusion in the measurement calculations may artificially	Corrected in May 2005 (RQ 6033). BST found 25,771 records in the April data month and none in May. It was determined that

	results.	improve reported results.” (Page 155 of Final Report of the Audit)	there was no overall change to the results of this metric with less than a .01% effect on results. <i>--Need better explanation-detail on back-up analysis—see Appendix D of new SQM-Determination of when reposting policy applies for approach and level of detail to be provided</i> <i>-Which of the 3 metrics has .01% result?</i> <i>--What were results of other two metrics?</i> <i>-- What month(s) were reviewed for possible reposting and why?</i>
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)	Corrected May 2005 (RQ 6059). It was determined that the results for this metric for Florida for December 04 would have changed from 99.5712% to 99.573% with this update. <i>--Is the comparison above for P7 or P7C—what is result for other metric?</i> <i>--Need better explanation-detail on back-up analysis—see Appendix D of new SQM-Determination of when reposting policy applies for approach and level of detail to be provided</i>
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)	Corrected with February 2005 data (RQ6111). BST said there were no occurrences of a CLEC with the 5 transactions required by the SEEM small volume table.
35	BellSouth did not include certain wholesale products in its calculation of	“BellSouth was not including 2-wire ISDN designed loops without number portability or	Corrected with February 05 data. (RQ6111). BST said there were no occurrences of a

	the SEEM remedy payments for the P-9 (Percent Provisioning Troubles within 30 Days of Service Order Completion) measure.	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)	CLEC with the 5 transactions required by the SEEM small volume table. <i>--Was this before or after BST included the previously excluded products?</i>
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)	In its response, BellSouth characterized the difference between the SQM and SEEM plans (the omission of UNE-P dispatch from 3 SEEM measures) as a “discrepancy” and an “error”. <i>--When BellSouth discovers errors in SEEM which are in its favor, it issues adjustments for the overpayment. This underpayment to CLECs should be handled the same way.</i>
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)	Corrected with April 2004 data. (RQ4871) BST said in May 2004 only 6 records were affected region-wide(despite Liberty’s findings of “large discrepancies” in 11/03 data.) <i>Why not use month of detection for analysis? If used, what would Florida results have been for that month? What does records affected mean?</i>
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)	Implementation of corrections not yet complete. <i>--Why was RQ 5673 not verified, as it was implemented in 11/04?</i>
43	BellSouth included special access services in some of its retail analog calculations during the audit period and,	“The changes in the results at the sub-metric level were significant.” (Page 174 of Final Report of the Audit)	Corrected with January 2004 data month. BST did not retain impact analysis to validate that reposting was not required.

	after correcting the calculations, failed to perform a complete analysis to determine whether reposting was necessary.		<i>--If raw data is maintained, why can't BellSouth re-conduct an impact analysis?</i>
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)	<p>Corrected in June 2004. The previous three months were rerun and SEEM adjustments made in June 2004.</p> <p><i>--Why does BellSouth only go back three months for this item corrected in June 2004 but in items 54 and 55 go back 5 months for items corrected in June 2005? (same rules should apply to both—in both cases detection obviously preceded correction.</i></p> <p><i>--What were the 2004 adjustment amounts?</i></p>