

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)	
)	
Joint Application by BellSouth Corporation,)	
BellSouth Telecommunications, Inc.,)	CC Docket No. 02-35
and BellSouth Long Distance, Inc. for)	
Provision of In-Region, InterLATA Services)	
in Georgia and Louisiana)	

EVALUATION OF THE
UNITED STATES DEPARTMENT OF JUSTICE

Charles A. James
Assistant Attorney General
Antitrust Division

R. Hewitt Pate
Deputy Assistant Attorney General

Margaret A. Ward
Counsel to the Assistant Attorney General

Michael L. Katz
Deputy Assistant Attorney General

Communications with respect to this document should be addressed to:

Nancy M. Goodman
Chief

W. Robert Majure
Assistant Chief

Luin P. Fitch, Jr.
Attorney

John Henly
Jeffrey Primbrey
Economists
Economic Regulatory Section

James Davis-Smith
Paralegal

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Telecommunications and Media
Enforcement Section

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DOJ Oklahoma I Evaluation	Evaluation of the U.S. Department of Justice, <i>In re: Application of SBC Communications Inc., et al., Pursuant to Section 271 of the Telecommunications Act of 1996 to Provide In-Region InterLATA Services in the State of Oklahoma</i> , FCC CC Docket No. 97-121 (May 16, 1997), available at < http://www.usdoj.gov/atr/public/comments/sec271/sec271.htm >.
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KPMG FL OSS Test Exceptions	FL PSC Operations Support Systems Testing, BellSouth-Florida OSS Test Exceptions, <i>available at</i> < http://www.psc.state.fl.us/industry/telecomm/oss/exceptions.cfm >.
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<i>KPMG Interim Status Report</i>	KPMG Consulting, <i>BellSouth-GA OSS Testing Evaluation Interim Status Report</i> (Jan. 22, 2002), <i>attached to</i> BellSouth Varner Aff. as Tab 13.
<i>KPMG Revised Interim Status Report</i>	KPMG Consulting, <i>BellSouth-GA OSS Testing Evaluation Interim Status Report</i> (Revised) (Feb. 28, 2002), <i>attached to</i> BellSouth KPMG/Varner Aff. Revisions <i>Ex Parte</i> .
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BellSouth KPMG/Varner Aff. Revisions <i>Ex Parte</i>	BellSouth Corp., KPMG Report and Varner Affidavit Revisions, BellSouth <i>Ex Parte</i> Submission, FCC CC Docket No. 02-35 (Feb. 28, 2002).
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BellSouth Stacy/Varner/Ainsworth Aff.	Affidavit of William N. Stacy, Alphonso J. Varner, and Ken L. Ainsworth, <i>attached to</i> BellSouth Br. App. A as Tab C.
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BellSouth Stockdale Aff.	Affidavit of Elizabeth Stockdale, <i>attached to</i> BellSouth Br. App. A as Tab D.
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AT&T Comments	Supplemental Comments of AT&T Corp. in Response to BellSouth Corporation's Supplemental Brief, <i>In re: Joint Application by BellSouth Corporation, BellSouth Telecommunications, Inc. and BellSouth Long Distance, Inc. for Provision In-Region, InterLATA Services in the States of Georgia and Louisiana</i> , FCC CC Docket No. 02-35 (Mar. 4, 2002).

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Covad Comments	Comments of Covad Communications Company, <i>In re: Applications by BellSouth Corporation, et al. for Authorization to Provide In-Region, InterLATA Services in Georgia and Louisiana</i> , FCC CC Docket No. 02-35 (Mar. 4, 2002).
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WorldCom Comments	Comments of WorldCom, Inc. on the Application by BellSouth for Authorization to Provide In-Region, InterLATA Services in Georgia and Louisiana, <i>In re: Application by BellSouth for Authorization to Provide In-Region, InterLATA Services in Georgia and Louisiana</i> , FCC CC Docket No. 02-35 (Mar. 4, 2002).
WorldCom GA/LA I Reply Comments	Reply Comments of WorldCom, Inc., <i>In re: Application by BellSouth to Provide In-Region, InterLATA Services in Georgia and Louisiana</i> , FCC CC Docket No. 01-277 (Nov. 13, 2001).
WorldCom Lichtenberg Decl.	Declaration of Sherry Lichtenberg, <i>attached to WorldCom Comments as Tab A</i> .

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EVALUATION OF THE
UNITED STATES DEPARTMENT OF JUSTICE

Introduction and Summary

The United States Department of Justice (“the Department”), pursuant to Section 271(d)(2)(A) of the Telecommunications Act of 1996¹ (“the 1996 Act”), submits this evaluation of the joint application filed by BellSouth Corporation, BellSouth Telecommunications, Inc., and BellSouth Long Distance, Inc. on February 14, 2002, to provide in-region, interLATA services in Georgia and Louisiana (“Supplemental Application”).

BellSouth’s Supplemental Application to the Federal Communications Commission (“FCC” or “Commission”) is its second for the state of Georgia and its fourth for the state of Louisiana. BellSouth filed its initial joint application for long distance authority in Georgia and Louisiana in October 2001 (“Initial Application”). On November 6, 2001, the Department submitted to the FCC its evaluation of the Initial Application (“Georgia/Louisiana I Evaluation”),

¹ Pub. L. No. 104-104, 110 Stat. 56 (1996) (codified as amended in scattered sections of 47 U.S.C.).

which focused primarily on the adequacy of BellSouth's operational support systems ("OSS") and the reliability of BellSouth's performance data.² Based on concerns raised in these areas, the Department concluded that it could not fully support BellSouth's Initial Application.³ BellSouth subsequently withdrew its Initial Application from the Commission on December 20, 2001.

As the Department has explained, in-region, interLATA entry by a regional Bell Operating Company ("BOC") should be permitted only when the local markets in a state have been "fully and irreversibly" opened to competition.⁴ This standard seeks to measure whether the barriers to competition that Congress sought to eliminate with the 1996 Act have in fact been fully eliminated and whether there are objective criteria to ensure that competitive local exchange carriers ("CLECs") will continue to have nondiscriminatory access to the facilities and services they will need from the BOC in order to enter and compete in the local exchange market. In applying its standard, the Department considers whether all three entry paths contemplated by the 1996 Act -- facilities-based entry involving the construction of new networks, the use of the unbundled elements of the BOC's network ("UNEs"), and resale of the BOC's services -- are fully and irreversibly open to competitive entry to serve both business and residential customers.

This Evaluation focuses on changes in BellSouth's OSS and progress in the auditing of BellSouth's performance metrics since the filing of the Department's Georgia/Louisiana I Evaluation. The Department recognizes that additional improvements in BellSouth's OSS have been identified and will be implemented under the direction of the Georgia and Louisiana Public

² DOJ Georgia/Louisiana I Evaluation at 13-38. This Evaluation incorporates by reference the entire DOJ Georgia/Louisiana I Evaluation.

³ *Id.* at 38-39.

⁴ *See* DOJ Oklahoma I Evaluation at vi-vii, 36-51.

Service Commissions (“PSCs”), and that final completion of the metrics audit under the auspices of the Georgia PSC should further improve the accuracy and reliability of BellSouth’s performance reports. Based on this record, and subject to the Commission’s review of the concerns expressed in this Evaluation, the Department recommends that the FCC approve BellSouth’s application.

I. State Commission Section 271 Proceedings

Both the Georgia and Louisiana PSCs have filed comments supporting BellSouth’s Supplemental Application. During the past several months, the Georgia PSC has continued to work actively to create competitive conditions in the state, in part by overseeing workshops and conferences pertaining to performance measurement and enforcement, and by conducting an evaluation of the change management process.⁵ Likewise, the Louisiana PSC has continued to address BellSouth’s service quality performance measures and associated self-executing penalties, and conduct technical and collaborative workshops on operational issues.⁶

BellSouth asserts that its OSS are regional and, therefore, as the Department has previously explained, it is appropriate to take into consideration the OSS testing conducted by KPMG at the direction of the Florida PSC.⁷ This testing has continued since the Department’s Georgia/Louisiana I Evaluation was filed and, although incomplete, it has generated some results that are relevant to this application.

⁵ Georgia PSC Comments at 2-3.

⁶ Louisiana PSC Comments at 2-3.

⁷ DOJ Georgia/Louisiana I Evaluation at 6-7.

II. Entry into the Local Telecommunications Markets

In assessing whether the local markets in a state are fully and irreversibly open to competition, the Department looks first to the actual entry in a market.⁸ But the Department does not broadly presume that all three entry tracks -- facilities-based, unbundled network elements ("UNEs"), and resale -- are open or closed on the basis of an aggregate level of entry alone.⁹

Based on current data on CLEC entry in Georgia and Louisiana, the Department finds no basis to address issues beyond those discussed in its Georgia/Louisiana I Evaluation. The Department has not changed its positive assessment of the openness of markets in Georgia or Louisiana for the facilities-based and resale modes of entry.

A. Georgia

In its Georgia/Louisiana I Evaluation, the Department extended the presumption of openness to the fully-facilities-based mode of competition in Georgia based on the entry recorded there.¹⁰ Although the Department did not extend such a presumption to other modes of entry,¹¹

⁸ See DOJ Pennsylvania Evaluation at 3-4 ("The Department first looks to actual competitive entry, because the experience of competitors seeking to enter a market can provide highly probative evidence about the presence or absence of artificial barriers to entry. Of course, entry barriers can differ by types of customers or geographic areas within a state, so the Department looks for evidence relevant to each market in a state." (footnote omitted)).

⁹ See, e.g., DOJ Georgia/Louisiana I Evaluation at 7 ("Although the Department presumes that fully facilities-based competition is not hindered in a competitively significant manner based on the entry recorded in Georgia, the amount of entry does not justify extending such a presumption to other modes of entry in Georgia."); DOJ Missouri I Evaluation at 6-7 ("The Department presumes that opportunities to serve business customers by fully facilities-based carriers and resellers are available in Missouri, based on the entry efforts reflected in SBC's application. There is significantly less competition to serve residential customers. There also is less competition by firms seeking to use UNEs, including the UNE-platform, and there are some indications that a failure by SBC to satisfy all of its obligations may have constrained this type of competition." (footnotes omitted)).

¹⁰ DOJ Georgia/Louisiana I Evaluation at 7.

¹¹ *Id.*

the lack of complaints from CLECs reselling BellSouth's voice services in Georgia led to a conclusion that the resale mode of entry was open to competitors.¹²

BellSouth's Supplemental Application reports that CLECs in Georgia serve approximately 913,000 lines, or approximately 18.8 percent of the total lines in BellSouth's service area, using all modes of entry, as of December 2001.¹³ As to the use of UNEs, BellSouth's Supplemental Application includes evidence that employment of the UNE-platform has increased recently. According to BellSouth data, the share of all lines in BellSouth's service area served by CLECs via the UNE-platform has increased from 3.9 percent to 4.7 percent since its Initial Application.¹⁴ CLECs' use of the UNE-platform to serve residential customers has grown from 110,927 lines, or 3.8 percent of residential lines in BellSouth's service area, to 136,306 lines, or 4.8 percent, and to serve business customers from 79,146 lines, or 4 percent of business lines in BellSouth's service area, to 91,405 lines, or 4.6 percent.¹⁵ This growth may reflect, in part, the improvements in BellSouth's OSS since the filing of its Initial Application, as described below.

B. Louisiana

In its Georgia/Louisiana I Evaluation, the Department found that the amount of entry in Louisiana did not entitle BellSouth to a presumption of openness as to any mode of entry.¹⁶ However, based on the absence of complaints from CLECs providing service entirely over their own facilities, the Department concluded that the Louisiana market was open to fully facilities-

¹² *Id.* at 10-11.

¹³ BellSouth Stockdale Aff. at 6 tbl.2; *id.* ¶ 9.

¹⁴ See DOJ Georgia/Louisiana I Evaluation at 9; BellSouth Stockdale Aff. at 6 tbl.2, Tab 6 at 1.

¹⁵ See DOJ Georgia/Louisiana I Evaluation at 8 tbl.1, 9; BellSouth Stockdale Aff. at 6 tbl.2, Tab 6 at 1.

¹⁶ DOJ Georgia/Louisiana I Evaluation at 7.

based competition.¹⁷ The Department reached the same conclusion with respect to resale entry.¹⁸ However, with respect to entry by means of UNEs, the Department indicated that BellSouth had yet to demonstrate adequate performance in serving CLECs in Louisiana.¹⁹

BellSouth estimates that competitors in Louisiana serve approximately 227,000 lines, or approximately 8.9 percent of the total lines in BellSouth's service area, using all modes of entry, as of December 2001.²⁰ Facilities-based competition for residential customers has been strengthened by the entry of Cox Louisiana Telecom, a cable telephony provider.²¹ Furthermore, use of the UNE-platform has increased recently in Louisiana. According to BellSouth data, the share of all lines in BellSouth's service area served by CLECs via the UNE-platform has increased from 0.7 percent to 1.2 percent since its Initial Application.²² CLECs' use of the UNE-platform to serve residential customers has grown from 3,119 lines, or 0.2 percent of residential lines in BellSouth's service area, to 5,145 lines, or 0.3 percent, and to serve business customers from 15,745 lines, or 1.8 percent of business lines in BellSouth's service area, to 24,995 lines, or 2.9 percent.²³ Although the growth in entry via the UNE-platform in Louisiana may reflect, in part, improvements in BellSouth's OSS since the filing of its Initial Application, as described below, entry via the UNE-platform in Louisiana is still minimal.

¹⁷ *Id.* at 12.

¹⁸ *Id.* at 13.

¹⁹ *Id.* at 12.

²⁰ BellSouth Stockdale Aff. at 9 tbl.4; *id.* ¶ 12.

²¹ Louisiana PSC Comments at 2.

²² See DOJ Georgia/Louisiana I Evaluation at 12; BellSouth Stockdale Aff. at 9 tbl.4, Tab 8 at 1.

²³ See DOJ Georgia/Louisiana I Evaluation at 11 tbl.2, 12; BellSouth Stockdale Aff. at 9 tbl.4, Tab 8 at 1.

III. Access to BellSouth's Operations Support Systems

Since the filing of the Department's Initial Evaluation a number of developments have occurred that bear upon the concerns raised in that Evaluation regarding BellSouth's OSS.

A. Changes to Facilitate Automated Handling of CLEC Orders

The Department's Georgia/Louisiana I Evaluation stressed the importance, for competitors using UNEs, of efficient OSS that would facilitate the automated handling of orders by the CLECs and BellSouth. Since that Evaluation was filed, several important developments have occurred that should facilitate the use of UNEs. As described more extensively below, BellSouth has (1) implemented telephone number migration ("TN migration") for UNE-platform orders, (2) altered its pre-order systems to offer a more fully parsed customer service record, (3) changed its OSS so as to reduce rejects based on a double database edit to CLEC orders, and (4) improved the electronic ordering capabilities for digital subscriber line ("DSL") competitors. Although the Department is encouraged by these developments, it notes that in implementing these changes to its OSS BellSouth appears to have violated important change management principles and that this has resulted in exceptions being opened by KPMG in the Florida OSS test.²⁴

The Department's Georgia/Louisiana I Evaluation noted that BellSouth did not offer CLECs the option of ordering service based on a subscriber's telephone number (as opposed to a subscriber's complete address), a capability known as TN migration.²⁵ This feature is provided by other RBOCs.²⁶ TN migration reduces the possibility of conflicts between the addresses in an

²⁴ KPMG FL OSS Test Exception 155 at 1-2; KPMG FL OSS Test Exception 157 at 1-2.

²⁵ DOJ Georgia/Louisiana I Evaluation at 23-25.

²⁶ See, e.g., *FCC Texas Order* ¶ 178 (SBC offers TN migration).

RBOC's database and the addresses provided in CLEC orders. In response to filings by CLECs, the Georgia PSC ordered BellSouth to provide TN migration by November 3, 2001, in its order recommending approval of BellSouth's Section 271 application.²⁷ The Georgia PSC recognized that not having to enter the customer's address "will facilitate mass-market competitive entry by reducing address-related errors."²⁸ The introduction of TN migration represents an important step in upgrading BellSouth's OSS.

The procedures by which BellSouth implemented this change and other software upgrades, as discussed below, however, raise questions about BellSouth's consistency in adhering to proper change management principles.²⁹ Because of inadequate provision for CLEC testing, problems that could cause a substantial increase in the number of rejects were discovered the day before the initial release was implemented.³⁰ A single day's notice that orders should be submitted differently than BellSouth had previously indicated is not nearly sufficient to permit CLECs to modify their ordering systems. BellSouth, however, did promptly act to correct the problems and since mid-November 2001 CLECs have been able to make full use of TN migration.³¹

In December and January there were more than 325,000 UNE-platform requests submitted region-wide by numerous CLECs.³² As a result of the TN migration upgrade "the

²⁷ Georgia PSC Comments at 5.

²⁸ *Id.* at 5-6.

²⁹ *See, e.g.*, WorldCom Comments at 13-16; WorldCom Lichtenberg Decl. ¶¶ 135-39.

³⁰ *See* WorldCom Comments at 14; WorldCom Lichtenberg Decl. ¶ 136; *see also* Georgia PSC Comments at 6. On November 2, 2001, the day before the release, BellSouth had to notify CLECs to continue to include customer addresses until the software could be fixed. Georgia PSC Comments at 6. Because BellSouth was late in implementing this capability it paid \$140,000 in fines to the State of Georgia. *Id.* at 7 n.6.

³¹ *Id.* at 7.

³² *Id.*

overall reject rate for UNE-P migration requests dropped over 35% from October 2001 to January 2002 [and] address related errors for these same requests have been reduced by over 60% during this same time period.”³³ WorldCom, the leading proponent of TN migration, acknowledges that its reject rate decreased by approximately 10 percentage points.³⁴

In addition to implementing TN migration, BellSouth made a software change on February 2, 2002, whereby it ceased performing address checks on two separate, and sometimes inconsistent, address databases,³⁵ also known as a “double edit.” This change should further reduce BellSouth’s rejects of CLEC orders.

In response to the Georgia PSC’s order requiring BellSouth to provide “fully fielded parsed CSRs by January 5, 2002,” BellSouth implemented the pre-order functionality by which customer service records are parsed on its side of the interface.³⁶ The Department believes that this improvement may facilitate competitive entry by lowering the operating costs of the new entrant. It should also further reduce the costs associated with mistakes that are made when CLEC service representatives are required to retype pre-order information on orders to be sent to BellSouth.

³³ *Id.* at 8.

³⁴ *Id.* (citing WorldCom affidavit filed in Georgia PSC proceeding).

³⁵ *Id.* at 9.

³⁶ *Id.* at 12. AT&T has delayed testing of the CSR functionality until the defects acknowledged by BellSouth are corrected, but several others have tested this software in CAVE. AT&T Bradbury/Norris Decl. ¶ 17; BellSouth Stacy/Varner/Ainsworth Aff. ¶¶ 60-66 (describing testing by Birch and by Telcordia and Excelsion, two software vendors representing multiple CLECs).

However, this improvement, like that pertaining to TN migration, was introduced without adequate testing and with defects.³⁷ Although BellSouth and the Georgia PSC dispute the significance of the defects in this software,³⁸ KPMG regards them as significant and strongly criticized BellSouth for not completing important internal testing before implementing the release.³⁹ As discussed more fully below, competitive harm may occur where BellSouth does not provide for smooth transitions between software releases in accordance with appropriate change control principles.

The Department's Georgia/Louisiana I Evaluation expressed concern that the lack of electronic ordering capability for certain order types could impair the ability of DSL providers to compete with BellSouth.⁴⁰ In response to a Georgia PSC order, BellSouth deployed electronic ordering for line-splitting on January 5, 2002.⁴¹ BellSouth made electronic ordering of UDC/IDSL loops, another popular product for DSL providers, available on February 2, 2002.⁴² After receipt by BellSouth, UDC/IDSL loop orders will continue to be processed manually until May 19, 2002, when BellSouth is scheduled to implement electronic processing, which will allow

³⁷ See KPMG FL OSS Test Exception 157 at 1-2; *see also* AT&T Bradbury/Norris Decl. ¶¶ 16-42; WorldCom Lichtenberg Decl. ¶¶ 138-41.

³⁸ BellSouth Br. at 21-22; BellSouth Stacy/Varner/Ainsworth Aff. ¶¶ 67-78; Georgia PSC Comments at 12-16.

³⁹ KPMG FL OSS Test Exception 157 at 1-2 ("BellSouth internal release documentation for the above releases makes mention of the lack of sufficient time for appropriate pre-release testing within the release schedule. While the issue was noted, there was no apparent plan to mitigate the adverse impact of reduced pre-release testing. . . . BellSouth's incomplete internal software testing may affect a CLEC's ability to efficiently execute transactions with BellSouth, resulting in CLEC customer dissatisfaction.").

⁴⁰ DOJ Georgia/Louisiana I Evaluation at 16 & n.40.

⁴¹ Georgia PSC Comments at 17.

⁴² *Id.*

the orders to flow through to provisioning without manual intervention.⁴³ In the interim, DSL competitors will be able to use electronic systems for the generation of their orders instead of having to fax them to BellSouth.⁴⁴

Although the introduction of TN migration, the cessation of double database edits for customer addresses, the implementation of parsed CSRs, and the improvements in electronic ordering capabilities for DSL competitors are positive developments that should permit new entrants to operate more efficiently, the changes are so recent that their full effect is not yet reflected in the performance reports. However, BellSouth's CLEC order reject rate has significantly improved since the Department's Georgia/Louisiana I Evaluation was filed, likely due to the introduction of TN migration in November. In particular, the reject rate for UNE-platform orders has fallen from 19.38 percent in September to 14.33 percent in December 2001.⁴⁵

B. Efforts to Improve Service Order Accuracy

The Department's Georgia/Louisiana I Evaluation noted that BellSouth's performance reports indicated that its service order accuracy was substantially below the established benchmarks and that this increased the burdens on the CLECs, thereby constraining their ability to compete effectively.⁴⁶ Since that Evaluation was filed, BellSouth has implemented an intensive program to improve service order accuracy, and the data for December 2001 show it met 95 percent of the performance benchmarks for all 7 of the UNE sub-metrics and 8 of the 11 resale

⁴³ *Id.*; BellSouth Stacy/Varner/Ainsworth Aff. ¶¶ 192-94.

⁴⁴ Georgia PSC Comments at 17; BellSouth Stacy/Varner/Ainsworth Aff. ¶¶ 192-94. BellSouth still requires manual ordering of the UCL-ND product and of both ADSL loops and line sharing when conditioning is required. BellSouth Covad Issues *Ex Parte* at 2-3; *see also* Covad Comments at 4-8.

⁴⁵ BellSouth Stacy/Varner/Ainsworth Aff. ¶ 106.

⁴⁶ DOJ Georgia/Louisiana I Evaluation at 17-21.

sub-metrics.⁴⁷ BellSouth has also agreed to include the service order accuracy measure in its Self-Executing Enforcement Mechanism (“performance enforcement plan”).⁴⁸

The Georgia PSC Comments support BellSouth’s claim of improved service order accuracy, reporting that, through November 2001, BellSouth had missed the benchmark for 2 of the 3 previous months in only 4 of the 24 service order accuracy sub-metrics, and asserting that BellSouth’s December 2001 performance was equally strong.⁴⁹ Birch also supports the BellSouth claim of improved service order accuracy, but suggests that these improvements have resulted from extraordinary manual efforts that may not continue once BellSouth obtains Section 271 approval.⁵⁰

BellSouth’s ability to sustain its improved performance deserves close examination. The Georgia PSC is considering requiring BellSouth to develop an electronic process to review all partially mechanized CLEC orders so as to obtain a more reliable means of measuring service order accuracy.⁵¹ It also proposes including the revised measure in BellSouth’s performance enforcement plan.⁵² The Department supports this effort. BellSouth has agreed to make penalty payments under the existing measure until the service order accuracy measure is revised and incorporated in the plan.⁵³

⁴⁷ BellSouth Br. at 25-26; BellSouth Stacy/Varner/Ainsworth Aff. ¶¶ 159-60.

⁴⁸ BellSouth Br. at 26.

⁴⁹ Georgia PSC Comments at 18-19.

⁵⁰ Birch Comments at 7-9.

⁵¹ Georgia PSC Comments at 19.

⁵² *Id.*

⁵³ *Id.*

The significance of the improvements in BellSouth's service order accuracy is unfortunately obscured, however, by significant changes in how BellSouth has measured accuracy starting with November data.⁵⁴ These changes, which were made without prior approval of the Georgia PSC or notice to the CLECs,⁵⁵ raise two questions. The first is how to evaluate BellSouth's claim that service order accuracy has improved given such differences in the metrics.⁵⁶ In response to the Department's request, BellSouth has provided data showing performance over time using a consistent methodology in order to address whether improvement in service order accuracy actually has occurred.⁵⁷ The second question is how the FCC and state commissions can be expected to determine that BellSouth has continued to meet its obligations pursuant to Section 271 if BellSouth can unilaterally change metrics without notice to or input from interested parties. Such a practice substantially diminishes the value of an independent,

⁵⁴ See BellSouth Service Order Accuracy *Ex Parte* at 5-7 (describing substantive changes made to its service order accuracy measure); see also BellSouth Varner Aff. ¶¶ 63-67 (same).

⁵⁵ BellSouth explained publicly the changes made to its service order accuracy measure well after the fact and appears to have provided a written explanation of the changes only when directed to do so by the Georgia PSC staff. See Georgia PSC Comments at 19 n.17; see also BellSouth Service Order Accuracy *Ex Parte* at 21.

⁵⁶ In addition to changing the sampling methodology, BellSouth modified the reporting from a local service request ("LSR") to a service order ("SO") basis and added a large number of missing product categories (including UNE-platform, 2-wire analog loops, stand-alone LNP, UNE xDSL, and line sharing). BellSouth Service Order Accuracy *Ex Parte* at 3-7, 21. The change to reporting on an SO basis tends to increase reported accuracy rates for the same set of SOs, e.g., if a CLEC submits two LSRs, each of which results in two SOs, an error on one of the four SOs would yield a report of accurately handling 50 percent of the LSRs (1 of 2) but 75 percent of the SOs (3 of 4). The addition of previously omitted product types also complicates a comparison, e.g., the addition of UNE-platform tends to increase aggregate UNE performance due to the extent of their mechanization. See *id.* at 12 ("[UNE-P is] the largest category of fully mechanized orders[.]").

⁵⁷ See BellSouth Service Order Accuracy *Ex Parte* at 9-11. BellSouth has provided data restating the service order accuracy metrics for September and October 2001 using its current methodology. *Id.* at 9. These results indicate that for those months, performance is substantially better under the new method than the performance BellSouth had reported pursuant to the old method. *Id.* The Georgia PSC has found that the changes in methodology were appropriate in that they have brought BellSouth's reporting into closer conformity with the Commission's Service Quality Measurement ("SQM") plan. Georgia PSC Comments at 19 n.17. The Department does not maintain that the current measure is faulty, but is concerned rather that BellSouth made significant changes without appropriate disclosure.

third-party audit of the performance system. Future changes should be made only with public notice and the concurrence of the state commissions.

C. Improved Availability of Testing Environments

The Department's Georgia/Louisiana I Evaluation stressed the importance of a robust test environment so that CLECs may be able to ensure that their software interfaces correctly with BellSouth's OSS, particularly as changes are implemented.⁵⁸ The Department raised concerns regarding the degree of separation between BellSouth's test and production environments because certain CLECs claimed that the commingling of test and production orders had impeded their ability to test new software.⁵⁹ In addition, the limited availability of the system for testing software changes ("CAVE") was also a factor in constraining CLECs' testing.⁶⁰

The Georgia PSC believes that concerns about the adequacy of the testing environment have been adequately addressed by BellSouth.⁶¹ The Georgia PSC concludes that the CAVE test environment is sufficiently separate from the production environment even though they share the same service order processor, and states that a number of CLECs other than WorldCom have successfully used CAVE without having their test orders and production orders mixed up.⁶² The Georgia PSC also reports that the concerns expressed in the Department's Georgia/Louisiana I

⁵⁸ DOJ Georgia/Louisiana I Evaluation at 26-28.

⁵⁹ *Id.* at 26-28.

⁶⁰ *Id.* at 28.

⁶¹ Georgia PSC Comments 24.

⁶² *Id.* at 24-25.

Evaluation regarding the inability of CLECs to test EDI orders for DSL loops or to test the LENS interface have been resolved.⁶³

In the period since BellSouth's Initial Application, CLECs have used the CAVE system on numerous occasions and, according to BellSouth, have made no further claims that test or production orders have been misdirected.⁶⁴ Unfortunately, CAVE's limited availability continued to create problems since it could not be used for testing the introduction of TN migration,⁶⁵ although it was available and was used by CLECs for testing the introduction of "parsed CSRs."⁶⁶ The scheduled availability of the CAVE system, however, has been substantially improved for the balance of this year and that should facilitate its effective use by the CLECs.⁶⁷

D. Developments Regarding the Change Management Process

There are two aspects to the change management process. The first relates to the procedures governing the introduction of new software, including notice of changes to be made by BellSouth in the OSS interface, exchange of specifications necessary for recoding, and adequate opportunity for both internal and CLEC testing of the proposed release. The second component of change management is the process by which proposed changes necessary to improve the incumbent's OSS are selected for development.

⁶³ *Id.* at 25 (noting BellSouth's deployment of Release 10.3 (December 2001) and Release 10.4 (March 2002)).

⁶⁴ *See* BellSouth Stacy/Varner/Ainsworth Aff. ¶¶ 138-41.

⁶⁵ WorldCom Georgia/Louisiana I Reply Comments at 4; *see also* BellSouth Stacy GA/LA I Reply Aff. ¶ 124.

⁶⁶ BellSouth Stacy/Varner/Ainsworth Aff. ¶¶ 59-65.

⁶⁷ *See id.* ¶ 143.

The Department notes that there are outstanding KPMG exceptions covering both of these areas in the Florida OSS test.⁶⁸ The Department's Georgia/Louisiana I Evaluation expressed concern that the change management process did not prompt efficient fixes for known defects or system enhancements desired by CLECs.⁶⁹ As discussed above, BellSouth's recent introductions of new OSS features providing for TN migration and parsed CSRs were marked by its failure to provide required information to CLECs regarding the effects of the upcoming changes and, apparently, by its failure to adequately perform internal testing.⁷⁰

BellSouth and the Georgia PSC report a number of positive developments that have occurred with regard to the change management process.⁷¹ The Georgia PSC is conducting a comprehensive, two-phase examination of the change control process ("CCP").⁷² The first phase involves considering additional measures to monitor BellSouth's compliance with CCP procedures.⁷³ In this process, three measures were proposed by the industry and agreed to by the Georgia PSC staff: (1) a measure of the timeliness of correction of BellSouth software defects; (2) the percentage of change requests accepted or rejected within 10 business days; and (3) the percentage of change requests rejected for each reason allowed by the CCP.⁷⁴ The Georgia PSC

⁶⁸ KPMG FL OSS Test Exception 88 (change control process does not allow CLEC involvement in prioritization of CLEC-impacting requests); KPMG FL OSS Test Exception 155 (BellSouth failure to provide information for minor releases in accord with change control process intervals); KPMG FL OSS Test Exception 157 (BellSouth failure to follow internal testing and quality processes).

⁶⁹ DOJ Georgia/Louisiana I Evaluation at 29.

⁷⁰ See *supra* notes 29-31, 37-39 and accompanying text.

⁷¹ BellSouth Br. at 27-31; Georgia PSC Comments at 26-28.

⁷² Georgia PSC Comments at 26.

⁷³ *Id.*

⁷⁴ *Id.*

asserts that these measures will help assure that BellSouth corrects defects and handles change requests promptly and efficiently.⁷⁵

The second phase of the examination covers changes to the CCP itself, and the Georgia PSC is now reviewing CLECs' proposals and BellSouth's response.⁷⁶ BellSouth is supporting a number of the modifications proposed by the CLECs and has made its own proposals to address CLEC concerns regarding the scope of the CCP, the time required to implement changes, and the adequacy of the prioritization process.⁷⁷ The Georgia PSC concludes that BellSouth is making a good faith effort to improve the processes and correct the deficiencies that the Department identified in its Georgia/Louisiana I Evaluation, and notes that BellSouth has begun distributing a complete schedule for release implementation this year, as well as a report outlining the status of the "'top 15' change requests prioritized by CLECs" it is committed to implementing in 2002.⁷⁸

BellSouth also proposed to the Georgia PSC a process by which 40 percent of its annual release capacity would be allocated for implementing CLEC change requests and/or CLEC-driven regulatory mandates.⁷⁹ The CLECs are advocating an approach that would require implementation of all their requested changes within a certain interval.⁸⁰ Resolving this issue will be difficult and may require the Georgia PSC to balance important, conflicting interests.

⁷⁵ *Id.*

⁷⁶ *Id.*

⁷⁷ *Id.* at 26-27.

⁷⁸ *Id.* at 27.

⁷⁹ *Id.*

⁸⁰ *Id.* at 27-28; *see, e.g.*, WorldCom Comments at 22 (asserting that BellSouth should implement all prioritized changes within 60 weeks). BellSouth subsequently made a counterproposal. *See* BellSouth Stacy/Varner/Ainsworth Aff. ¶ 133.

The Department is encouraged by the positive steps taken in the area of change management and expects BellSouth to comply with whatever approach is chosen. The record in this application supports approval, but in subsequent applications the Department will continue to review closely BellSouth's OSS and change management performance.

IV. Reliability of BellSouth's Performance Data

While commending the efforts of the state commissions to develop robust sets of performance measures, the Department's Georgia/Louisiana I Evaluation expressed concern regarding the reliability of BellSouth's performance data.⁸¹ The Department discussed a number of problems affecting the accuracy of BellSouth's data, and noted that frequent restatements of data made it difficult to conclude that BellSouth's performance metrics were accurate.⁸²

BellSouth now maintains that the stability of its performance reporting systems has improved greatly as demonstrated by the fact that it restated no performance reports between September and December 2001.⁸³ The Department is encouraged that performance reports are being restated less frequently and agrees that this could indicate that the current systems are becoming more stable.⁸⁴ In and of itself, however, this reduced number of restatements is not

⁸¹ See DOJ Georgia/Louisiana I Evaluation at 30-38.

⁸² *Id.* at 32-35. Although it did not know the source of all these metrics problems, the Department observed that many appeared to result from errors in software written to implement newly ordered and changed Georgia performance measures. *Id.* at 32. As a result, some relevant data were excluded from some measures; others included data that were being processed incorrectly. *Id.* at 32.

⁸³ BellSouth Varner Aff. ¶ 25.

⁸⁴ BellSouth does, however, appear to exercise some discretion in restating data, as indicated by its decision not to re-post when "the impact [of errors] is *de minimus*." See *id.* ¶ 62. Further, data is re-posted only when corrected data can be generated. See *id.* ¶ 20.

Moreover, the current systems are being changed. BellSouth is in the process of upgrading its Performance Measurement and Analysis Platform ("PMAP") from Version 2.6 to Version 4.0. KPMG FL OSS

proof that the underlying problems that led to the former pattern of restatements have been resolved or that the current data are accurate.⁸⁵

Also, BellSouth relies heavily on KPMG's *Revised Interim Status Report* ("KPMG Status Report") on the Georgia metrics audit as support for the accuracy of its data.⁸⁶ The KPMG Report describes those parts of the audit that are complete, the status of open issues, and the items that remain to be tested. The KPMG Status Report is useful in that it provides a more complete picture of the progress that has been made toward completing the Georgia metrics audit, but it offers no conclusions regarding the reliability of BellSouth's metrics because it was not issued for that purpose. Based on its own analysis of the open issues identified in the KPMG Status Report, BellSouth maintains that they are minor enough to suggest that the items yet to be audited will "close" successfully and should not be a cause for concern.⁸⁷ As in its Initial Application, BellSouth again argues that the three phases of the audit together provide ample grounds for concluding that its metrics are accurate.⁸⁸

Test Meeting Minutes at 7-8. BellSouth maintains that this change will have minimal impact, at least in terms of the inputs and outputs, but because the upgrade includes system changes and extensive software re-coding, new data accuracy issues could arise. *See id.*

⁸⁵ Two CLECs have provided evidence that data were re-posted to the PMAP web-site at least once during the period that BellSouth cites. AT&T Bursh/Norris Decl. ¶ 16 & Attach. 1; Network Tel. Comments at 2, Exs. 1, 2. Both claim the restated data were incorrect. AT&T Bursh/Norris Decl. ¶ 16; Network Tel. Comments at 3. Furthermore, AT&T, questioning whether the lack of data restatements is proof of a lack of problems, cites a number of apparent discrepancies that it believes should have resulted in restatements. AT&T Bursh/Norris Decl. ¶¶ 18-23.

⁸⁶ BellSouth Br. at 34-36; *see also KPMG Revised Interim Status Report; KPMG Interim Status Report.*

⁸⁷ BellSouth Varner Aff. ¶ 34.

⁸⁸ BellSouth GA/LA I Br. at 24; BellSouth Br. at 34-36.

Although the number of tests KPMG reports as having been completed or deemed “satisfied” is not insignificant,⁸⁹ the audit is not complete.⁹⁰ The limited number of outstanding issues from past phases of the Georgia audit does suggest that inaccuracies discovered in the audit are being addressed and resolved,⁹¹ but the number of open exceptions and unsatisfied test criteria in past phases do not provide a basis for predicting that other significant issues will not be discovered during the third phase. Moreover, BellSouth has made many systems changes since the first two phases of the audit which affect the majority of its metrics.⁹²

On balance, the progress on the audit, coupled with the Georgia PSC’s recent judgment that the data are reliable in light of its close monitoring of the audit,⁹³ suggests that the stability and accuracy of BellSouth’s performance data are improving. However, until the Georgia metrics audit is complete or until there is additional commercial experience with the reported metrics, the Commission should not rely solely on BellSouth’s performance reports in reviewing otherwise credible complaints that BellSouth is not meeting the requirements of the Act.

⁸⁹ See *KPMG Revised Interim Status Report* at 1, 3 (indicating that the tests that comprise the first two phases of audit were largely complete); *id.* at 9, 11 (indicating that significant portions of several test segments in third phase of audit were complete).

⁹⁰ See, e.g., *id.* at 12, 14, 17 (describing progress on specific audit components).

⁹¹ The metrics audit is a “military-style” test in which testing (and, if necessary, re-testing) continues until a criterion has been satisfied.

⁹² See, e.g., *KPMG Revised Interim Status Report Audit III PMR 4 Data Integrity Status Summary* at 1-3 (identifying new measures and measures with new disaggregations); see also *supra* notes 54-57 and accompanying text.

⁹³ Georgia PSC Comments at 28-31.

V. Conclusion

BellSouth's Supplemental Application demonstrates that it has made substantial progress in addressing issues previously identified by the Department. The Department recognizes that additional improvements in BellSouth's OSS have been identified and will be implemented under the direction of the Georgia and Louisiana PSCs, and that final completion of the metrics audit under the auspices of the Georgia PSC should further improve the accuracy and reliability of BellSouth's performance reports. Based on this record, and subject to the Commission's review

of the concerns expressed in this Evaluation, the Department recommends that the FCC approve BellSouth's application.

Respectfully submitted,

/s/ Nancy M. Goodman
Nancy M. Goodman
Chief

Luin P. Fitch, Jr.
Attorney

James Davis-Smith
Paralegal

Telecommunications and Media
Enforcement Section

Charles A. James
Assistant Attorney General
Antitrust Division

R. Hewitt Pate
Deputy Assistant Attorney General
Antitrust Division

Michael L. Katz
Deputy Assistant Attorney General
Antitrust Division

Margaret A. Ward
Counsel to the Assistant Attorney General
Antitrust Division

W. Robert Majure
Assistant Chief

John Henly
Jeffrey Primbrey
Economists
Economic Regulatory Section

Antitrust Division
U.S. Department of Justice
1401 H Street, NW, Suite 8000
Washington, DC 20530
(202) 514-5621

March 21, 2002

Certificate of Service

I hereby certify that I have caused a true and accurate copy of the foregoing Evaluation of the United States Department of Justice to be served on the persons indicated on the attached service list by first class mail, overnight mail, hand delivery, or electronic mail on March 21, 2002.

/s/ Lauren J. Fishbein
Lauren J. Fishbein
Attorney
Telecommunications and Media
Enforcement Section
Antitrust Division
U.S. Department of Justice

Service List

Chairman Michael K. Powell
Commissioner Kathleen Q. Abernathy
Commissioner Michael J. Copps
Commissioner Kevin J. Martin
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

William F. Caton
Acting Secretary
Office of the Secretary
Federal Communications Commission
445 12th Street, SW
CY-B402
Washington, DC 20554

Qualex International
Portals II
445 12th Street, SW
Room CY-B402
Washington, DC 20554

Renée Crittendon
Common Carrier Bureau
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Chairman David Burgess
Commissioner Lauren McDonald
Commissioner Stan Wise
Commissioner Robert Baker
Commissioner Bob Durden
Georgia Public Service Commission
244 Washington Street
Atlanta, GA 30334-5701

Commissioner Jack A. “Jay” Blossman, Jr.
Commissioner James M. Field
Commissioner Irma Muse Dixon
Commissioner C. Dale Sittig
Commissioner Don Owen
Louisiana Public Service Commission
One American Place
Suite 1630
Post Office Box 91154
Baton Rouge, LA 70821-9154

Jonathan B. Banks
1133 21st Street, NW
Room 900
Washington, DC 20036

Michael K. Kellogg
KELLOGG HUBER HANSEN TODD &
EVANS, PLLC
1615 M Street, NW
Suite 400
Washington, DC 20036

Mary C. Albert
Vice President, Regulatory and
Interconnection
Allegiance Telecom, Inc.
1919 M Street, NW
Suite 420
Washington, DC 20036

Matthew D. Bennet
Policy Director
Alliance for Public Technology
919 18th Street NW
Suite 900
Washington, DC 20006

Charles C. Hunter
Hunter Communications Law Group
1424 16th Street, NW
Suite 105
Washington, DC 20006

David Eppsteiner
AT&T Corp.
295 North Maple Avenue
Basking Ridge, NJ 07920

Peter D. Keisler
SIDLEY AUSTIN BROWN & WOOD
1501 K Street, NW
Washington, DC 20005

Rose Mulvany Henry
Birch Telecom of the South, Inc.
2020 Baltimore Avenue
Kansas City, MO 64108

Larry E. Robbins
WYRICK ROBBINS YATES & PONTON,
LLP
4101 Lake Boone Trail
Suite 300
Raleigh, NC 27607

Robert J. Aamoth
KELLEY DRYE & WARREN, LLP
1200 19th Street, NW
Suite 500
Washington, DC 20036

Catherine Boone
Covad Communications Company
600 14th Street, NW
Suite 750
Washington, DC 20005

Patrick J. Donovan
Swidler Berlin Shereff Friedman, LLP
3000 K Street, NW
Suite 300
Washington, DC 20007

Genevieve Morelli
KELLEY DRYE & WARREN, LLP
1200 19th Street, NW
Washington, DC 20036

Marilyn H. Ash
Counsel - Legal & Regulatory Affairs
Mpower Communications Corp.
175 Sully's Trail
Suite 300
Pittsford, NY 14534

Jake E. Jennings
Vice President, Regulatory Affairs
NewSouth Communications Corp.
Two Main Street
Greenville, SC 29601

Laura H. Phillips
DOW, LOHNES & ALBERTSON, PLLC
1200 New Hampshire Ave., NW
Suite 800
Washington, DC 20036

H. Richard Juhnke
Sprint Communications Company, LP
401 9th Street, NW
Suite 400
Washington, DC 20004

Keith L. Seat
WorldCom, Inc.
1133 19th Street, NW
Washington, DC 20036

Paul Guarisco
Shirley & Ezell, LLC
2354 South Acadian Thruway
Suite F
Baton Rouge, LA 70808