BELLSOUTH

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April 18, 2002

VIA HAND DELIVERY

David Waddell, Executive Secretary
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, TN 37238

Re: *Generic Docket to Establish UNE Prices for Line Sharing per FCC 99-355 and Riser Cable and Terminating Wire as Ordered in TRA Docket No. 98-00123*
Docket No. 00-00544

Dear Mr. Waddell:

Enclosed are the original and thirteen copies of BellSouth's Motion for Reconsideration of the TRA First Initial Order of April 3, 2002. Copies of the enclosed are being provided to counsel of record.

Very truly yours,

Joelle J. Phillips

JJP:ch

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BEFORE THE TENNESSEE REGULATORY AUTHORITY
Nashville, Tennessee

In Re: *Generic Docket to Establish UNE Prices for Line Sharing per FCC 99-355 and Riser Cable and Terminating Wire as Ordered in TRA Docket No. 98-00123*

Docket No. 00-00544

BELLSOUTH TELECOMMUNICATIONS, INC.'S MOTION FOR RECONSIDERATION OF THE TRA FIRST INITIAL ORDER OF APRIL 3, 2002

Pursuant to Tenn. Code Ann. §§ 4-5-317(a) and 65-2-114, BellSouth Telecommunications, Inc. ("BellSouth") respectfully petitions the Tennessee Regulatory Authority ("Authority" or "TRA") to reconsider certain portions of the Authority's April 3, 2002 First Initial Order ("Order") in this proceeding. Specifically, BellSouth seeks reconsideration on the Authority's decision to require BellSouth to provide "splitters" one port at a time to Competitive Local Exchange Carriers ("CLECs"), to provide splitters both with and without "bantam" jacks, to provision DSL within certain time frames, to set the rates for SL1s and UCLs at the same level, and to require BellSouth to install dual purpose line cards for CLECs. Each of these issues is discussed in more detail below.[1]

[1] At Footnote 22 of its April 3, 2002 Order, the Authority notes that it did not consider or analyze the costs and rates proposed by BellSouth for certain elements in this proceeding because the other parties had not had an opportunity to reply to BellSouth's filing regarding such elements, which was first made on August 8, 2001 Since those elements are presumably elements that the CLECs need and want in the provisioning of their service, the Authority did not eliminate those elements from consideration in this proceeding. Instead, BellSouth understands, the Authority will in fact take up those elements at a later point in these proceedings. Consequently, BellSouth will not seek reconsideration of that portion of the decision at this time.

I. Providing "splitters" one port at a time should not be required.

One of the decisions made by the TRA in connection with line sharing was that BellSouth should provide splitters to CLECs "one port at a time." BellSouth respectfully requests that the TRA reconsider this portion of its decision, and allow BellSouth to provide splitters to CLECs in minimum increments of 24 splitters.

Line sharing, of course, addresses the situation where BellSouth provides an end user with voice service, while a data CLEC provides the end user with data service. Since the end user sends all of his or her calls, whether voice or data, over a single loop it is necessary to separate the voice stream from the data stream in order to route the two different types of traffic to the appropriate place. A splitter is a physical piece of equipment that is used to break this single combined voice and data stream into two separate voice and data streams. The combined stream comes in to the splitter from the direction of the end user's premises, and the voice stream is then redirected to BellSouth's central office switch, and the data stream is redirected to the data CLEC's collocation arrangement.

The issue addressed by the TRA involves the quantity of "splitters" that a CLEC must purchase at a time. BellSouth offered to provide splitters in groups of 24, which would provide the CLEC with capacity to serve up to 24 DSL customers. The CLECs, however, wanted to purchase the splitters one at a time.

It appears that the Authority's decision was based on a misunderstanding of the current situation regarding the existence of splitters in BellSouth's network. At

page 25 of its Order, the Authority states: "Given that ILECs own splitters for their data affiliates to use in providing xDSL services, ILECs should offer CLECs ILEC-owned and maintained splitter options for xDSL services pursuant to Tenn. Code Ann. § 65-4-124(a)." This conclusion is factually incorrect and is not supported by the record. BellSouth does not use splitters in its network for itself or for any data affiliate. When BellSouth provides both voice and data service to a customer, BellSouth does not use a splitter such as that contemplated here. BellSouth separates the voice stream from the data stream in its DSLAM (a piece of equipment that performs a number of functions, including the splitting of the signal), which BellSouth locates either in its own central office, or in the remote terminal serving the end user. BellSouth, pursuant to FCC order however, is not required to "unbundle" its DSLAM, absent specific circumstances not relevant in this proceeding. See Paragraphs 300-313, *In the Matter of Implementation of the Local Competition Provisions of the Telecommunications Act of 1996,* CC Docket No. 96-98, *Third Report and Order and Fourth Further Notice of Proposed Rulemaking,* 15 FCC Rcd 3696 (1999). CLECs are free to locate their own DSLAMs in the CLEC's collocation arrangement in the central office, or in the remote terminal, as the CLEC deems appropriate. If the CLEC chooses to collocate its own DSLAM, a splitter is required because the end user's signal must be split in order to route the voice portion and the data portion of the end user's service to

two different service providers. Therefore, splitters are not used in BellSouth's network and are necessitated solely because of the CLECs' needs.

BellSouth purchases splitters, which it does not use for its own services and has to obtain solely for the benefit of CLECs, in units that provide capacity to split either 96 or 144 loops. Although splitters are an expensive piece of equipment, as is reflected in the record in this proceeding, in an effort to accommodate the interests of the CLECs, BellSouth offered to sell splitters to the CLECs in increments of 24. This means that if a CLEC wanted to obtain splitters in a central office, BellSouth would have to purchase a piece of equipment that provides the capacity to split a minimum of 96 lines. BellSouth would only charge the CLEC for 24 splitters, or one fourth of the capacity of the equipment that BellSouth was required to purchase in order to serve that CLEC. That is, the CLEC would pay for 24 splitters, and BellSouth would have to absorb the cost of the remaining 72 splitters until another CLEC came along and wanted to purchase all or part of the remaining splitters in that piece of equipment.

The Authority's Order, however, goes well beyond that, requiring BellSouth to assume risks related to cost recovery that are simply inappropriate. The Authority has ordered that CLECs be allowed to purchase these splitters one at a time. This means that if a CLEC orders a splitter, and if no splitters are currently found in the relevant BellSouth central office, BellSouth has to purchase and install a shelf of at least 96 splitters to provide that one splitter to the CLEC. The natural

corollary is that BellSouth, which doesn't use splitters in its network, has to carry the cost of the other 95 splitters until another CLEC comes along and orders a second splitter. If that never happens, BellSouth will never recover the cost of the unused splitters that it was required to purchase in order to be able to provide to the CLEC a single splitter, since in the absence of more demand, the rate that the CLEC pays for the one splitter will not cover the cost of the shelf.

BellSouth is willing to provide splitters in groups of 24, and assume the risk of covering the costs of the remaining 72 splitters. BellSouth is not, however, willing to voluntarily sell the splitters one at a time and assume the risk of never recovering the cost of the remaining 95 splitters. In this situation, since BellSouth is entitled to recover its costs of providing service to the CLECs, irrespective of which costing theory one advocates or adopts, and since there is not a shred of evidence in the record that supports a finding that BellSouth would have a reasonable opportunity to recover the costs of the splitters it would be required to purchase to provide a CLEC with a single splitter, the Authority should reconsider its decision to require the provision of splitters one port at a time.

2. **The Authority should reconsider its decision to require BellSouth to provide splitters to CLECs with and without Bantam test jacks.**

In addition to requiring BellSouth to provide CLECs with splitters one port at a time, the Authority has also ordered BellSouth to provide the CLECs with the option of purchasing the splitter with and without a bantam test jack. BellSouth respectfully requests that the Authority reconsider its order on this point.

BellSouth described above how splitters are purchased in groups of 96 or 144 splitters. The bantam test jacks are a physical piece of equipment that is purchased in the same quantities, and which sits directly on top of the shelf where the splitters are installed. Functionally, a bantam test jack looks just like a headphone jack on a piece of stereo equipment, and it is used to test whether a signal is reaching the splitter. Like the headphone jack on one's stereo receiver that turns off the speakers when the headphone plug is inserted into the headphone jack, the bantam jack disconnects the DSLAM and other equipment from the loop when a test device is plugged in. Thus, when a technician inserts a piece of test equipment into the jack, he or she can determine whether there are problems on the loop without the DSLAM and other equipment potentially interfering with that test. Having determined whether or not the problem is on the loop, the technician will know whether to test the DSLAM and the other equipment as a source of any problem.

Currently, BellSouth installs the bantam test jacks at the same time the splitter shelves are installed, and BellSouth's Network Circuit Capacity Management system inventories these splitters (and its associated bantam jack) in BellSouth's Broadband Capacity Tracking System. If BellSouth were required to offer the CLECs the option of purchasing splitters with or without bantam test jacks, these systems would have to be modified to allow for additional manual processes that would be necessary in order to have some individual splitters

ordered without bantam test jacks and others ordered with the test jacks. Such a requirement presents two problems that should be considered before such work is ordered. First, the CLECs have complained incessantly about the errors that manual processes have supposedly interjected into other BellSouth/CLEC operations. If the CLECs really believe that to be the case, this process will interject additional manual processes with the same attendant risks. Second, none of these costs have been considered in the cost studies undertaken to this point and if included, may have a significant impact on the cost of splitters purchased by the CLECs. That, of course, cannot be known with certainty until such cost studies could be completed, but simple logic dictates that interjecting additional manual processes will increase the costs of doing business for both BellSouth and the CLECs.

The Authority should therefore reconsider its position on this matter. The Authority should require one alterative or the other, but not both. BellSouth would be perfectly willing to live with a solution that grandfathered the existing bantam test jacks, and ordered the provisioning of splitters in the future without test jacks at all, if the CLECs were willing to order the splitters without the test facilities. It is clear, however, that neither BellSouth nor the CLECs are going to be satisfied with a solution that requires both, which will simply increase the cost of doing business for all parties.

3. **The Authority should reconsider its findings at pages 18 through 22 of its Order regarding SL1 loops and UCL.**

In this proceeding, BellSouth proposed rates for 2- and 4-wire long and short UCLs. In its analysis, the Authority concluded, in rejecting BellSouth's proposal, that there is no reason to justify why the cost "of a 2-wire copper loop in the Permanent Prices Docket should differ from the cost of a 2-wire UCL short or long in this docket..." The Authority's conclusions regarding the non-designed SL1 and the designed UCL Long and Short loops are in error and should be reconsidered.

The SL1 offering is intended to support plain old telephone service ("POTS") and is not guaranteed to support DSL services. Specifically, the SL1 offering is a non-designed loop that can be provided on either copper or fiber. BellSouth does not offer a voice grade service specifically on a copper facility. Rather, BellSouth offers a voice grade loop that may or may not be provisioned on copper facilities. Further, starting with an SL1 voice grade loop that happens to be provisioned on all-copper facilities and removing load coils and bridged tap from those copper facilities does not automatically convert the line into a designed UCL. Indeed, a UCL has to have a test port added, and has to be designed, attributes that an SL1 does not require. Equating an SL1 that has no load coils or bridged tap to the designed UCL is simply erroneous, and consequently any conclusion that there is no basis for a difference in the price of the two different offerings is wrong. Equating the two simply deprives BellSouth of the opportunity to recover its costs, as it is allowed to do by law. Moreover, the Authority cannot simply ignore the

fact that the UCL is designed. BellSouth and the CLECs have negotiated the attributes of these loops into hundreds of interconnection agreements. Therefore, BellSouth is required to provide a test point and to perform the design work needed to provision UCLs according to these contractual obligations.

In short, the Authority's Order at the indicated pages requires BellSouth to provide designed loops at prices that have been established for non-designed loops. Since designing the loop is a step that requires work, and causes BellSouth to incur costs, the Authority's decision to equate the ULC offering with the SL1 offering is clearly incorrect and should be reconsidered.

4. **The provisioning intervals ordered by the Authority for the provisioning of line sharing to CLECs should be reconsidered.**

At page 34 of its Order, the Authority begins a discussion of the appropriate time interval for ILECs to provide line sharing to CLECs. On page 36 of the Order, the Authority sets out specific time frames in which BellSouth is to provide line sharing, grouped according to the number of loops ordered and whether the loops involved need conditioning. BellSouth seeks reconsideration of this portion of the Authority's order.

In the first instance, this docket was noticed for the purpose of determining prices for certain things such as line sharing and access to sub-loop elements such as Intrabuilding Network Cable, sometimes referred to as "riser cable". Determination of the appropriate provisioning intervals for line sharing under various circumstances was not part of that notice. As the Authority will recall, BellSouth

filed its direct testimony in this case, but the other parties chose not to do so, waiting instead until rebuttal to interject a myriad of issues into this proceeding. Their rebuttal testimony was filed only five days before the hearing in this proceeding commenced, and BellSouth was not allowed prefiled rebuttal, but was required to address issues "on the fly" during the course of the hearing. BellSouth's direct testimony did not address provisioning intervals, and this subject should not have been taken up by the Authority in this proceeding. Indeed, in this proceeding, the Authority has no record upon which to base any factual finding regarding the appropriate intervals for the provisioning of line sharing.

The facts upon which the Authority's Order appears to rest are found in footnote 98 of the Authority's Order. That footnote cites to a response that BellSouth made to a Staff data request on August 6, 2001, which followed the hearing in this docket by approximately ten (10) months. The difficulty that arises is that the information contained in the response to the data request does not support the conclusions the Authority has reached.

The data request was broken into two sections. The top section provided data related to a specified type of service and provided a provisioning interval for that service, grouped by the quantity of loops ordered. The bottom portion of the response addressed other services, and simply provided a minimum provisioning interval. The Authority simply took the grouping of loops from the top portion of the response, used the provisioning intervals reflected in that section, and created,

without any evidence at all, two additional grouping of loops for which conditioning was required.

The difficulty presented by these actions is that the information provided in the top portion of the response only related to BellSouth's residential ADSL service, which should have been apparent from the description of the service provided. With regard to residential ADSL service, such service is not offered until and unless the residential loop qualifies for DSL service. That is, the loops represented in the top half of that response do not require conditioning at all. Those loops were already capable of providing DSL service without any conditioning being necessary. Using the loop groupings contained in that response, which represent loops that required no conditioning, to then determine provisioning intervals for loops that require conditioning has absolutely no basis in fact, even if this were an appropriate proceeding in which to set such intervals.

Therefore, BellSouth respectfully requests that the Authority reconsider its Order regarding the provisioning intervals appropriate for line sharing and defer that issue to another more appropriate docket where evidence can be provided to aid in the determination of such intervals.

5. **The Authority should reconsider that portion of its Order requiring BellSouth to install dual-purpose line cards for use in Next Generation Digital Loop Carrier systems.**

As the Authority knows, on April 10, 2002, BellSouth filed a motion seeking a stay of this portion of the Authority's Order, as it impacted the installation of

dual-purpose line cards. In that motion, BellSouth set forth the reasons why it was not possible to provide what the Authority had ordered. BellSouth incorporates that pleading as fully as if set out herein. BellSouth relies on that pleading, and the other arguments made previously regarding this matter, rather than reciting them again here. In essence, the Next Generation Digital Loop Carrier ("NGDLC") dual-purpose line cards that BellSouth has been ordered to provide - and that would presumably be compatible with BellSouth's existing systems - do not presently exist. In any event, BellSouth cannot be compelled to provide that functionality to the CLECs.

6. **The Authority should reconsider that portion of its Order dealing with the electronic ordering of LMU information.**

At pages 40 through 42 of its Order, the Authority addressed the issue of Loop Make Up information. Essentially the Authority correctly cited the FCC's orders requiring that the CLECs have access to the same underlying information that the ILECs have in their own databases or internal records regarding loops, but then the Authority reached a conclusion that is inconsistent with the FCC's orders. Specifically, the Authority ordered BellSouth to charge CLECs requesting LMU $0.76 as an interim rate for both electronic and manual LMU information until BellSouth makes a showing that electronic access to LMU is available to all CLECs in Tennessee (and until the Authority establishes permanent rates for manual and electronic access to LMU information) The consequence of this portion of the order

is to deny BellSouth the opportunity to recover the costs of services it provides to CLECs.

In a paragraph not cited by the Authority, the FCC made it clear that BellSouth is not obligated to do more for the CLECs than it does for itself. In Paragraph 429 of the FCC's 319 UNE Remand Order, which the Authority relies upon in reaching its conclusions, the FCC stated:

> We disagree, however, with Covad's unqualified request that the Commission require incumbent LECs to catalogue, inventory, and make available to competitors loop qualification information through automated OSS even when it has no such information available to itself. If an incumbent LEC has not compiled such information for itself, we do not require the incumbent to conduct a plant inventory and construct a database on behalf of requesting carriers....

Therefore, BellSouth is not required to provide electronic access to all LMU information, but only that information to which BellSouth has such access. In this regard, attached hereto is the affidavit of Ronald Pate, which states that such electronic access is available to CLECs.[2] Moreover, Mr. Pate demonstrates in his affidavit that from February 2001 through January 2002, in Tennessee BellSouth processed 3721 electronic requests for LMU information while only processing 61 manual requests for LMU information. There is simply no factual basis to conclude that LMU information is not electronically available to CLECs in Tennessee. Consequently, since a manual effort to look up data regarding a loop is clearly more costly than one done electronically, requiring that BellSouth charge the same

[2] Mr. Pate's Direct Testimony filed in this proceeding also stated that such electronic access is available to CLECs.

amount for either an electronic or a manual LMU does not allow BellSouth to recover its relevant costs. There was ample evidence in the record as to the cost of providing LMU information manually, and the Authority should adopt that evidence and provide separate electronic and manual LMU rates.

WHEREFORE, BellSouth respectfully requests that the Tennessee Regulatory Authority reconsider its Order entered April 3, 2002 in the referenced docket as outlined above and, upon such reconsideration, amend that Order to resolve the issues that BellSouth has raised.

Respectfully submitted, this the 18th day of April, 2002.

BELLSOUTH TELECOMMUNICATIONS, INC.

Guy M Hicks by Joelle Phillips with permission

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BEFORE THE
TENNESSEE REGULATORY AUTHORITY

Nashville, Tennessee

In re: *Generic Docket to Establish UNE Prices for Line Sharing per FCC 99-355 And Riser Cable and Terminating Wire as Ordered in TRA Docket No. 98-00123 Docket 00-00544*

AFFIDAVIT OF RONALD M. PATE
ON BEHALF OF BELLSOUTH

I, Ronald M. Pate, being duly sworn, deposes and says:

1. I am employed by BellSouth Telecommunications, Inc. ("BellSouth") as a Director, Interconnection Services. In this position, I handle certain issues related to local interconnection matters, primarily operations support systems ("OSS"). My business address is 675 West Peachtree Street, Atlanta, Georgia 30375.
2. The purpose of this affidavit is to show that BellSouth provides nondiscriminatory access to Loop Makeup Information ("LMU") to all CLECs in Tennessee.
3. In the summer of 2000, BellSouth enhanced the TAG and LENS pre-ordering interfaces to provide CLECs with electronic access to the loop makeup information ("LMU") that is contained in the Loop Facilities Assignment and Control System ("LFACS").[1] This electronic access provides CLECs with the LMU that they may use to qualify loops for the high-speed services they choose

[1] On February 12, 2001, BellSouth enhanced RoboTAG™ to provide CLECs with electronic access to loop makeup information.

to offer, including ADSL, HDSL, and Line Sharing. BellSouth accesses the same LMU, in substantially the same manner, from LFACS.

4. BellSouth released the functionality for electronic access to loop makeup information on July 29, 2000, and interested CLECs were contacted in order to beta test the functionality before the general release into the production environment. Upon the successful conclusion of beta testing, BellSouth released the loop makeup inquiry functionality to all CLECs on November 18, 2000.

5. Electronic access to LMU information contained in LFACS is available to all CLECs through TAG, RoboTAG™, or LENS. As required by the FCC and cited in the Authority's Order dated November 20, 2001, BellSouth provides the CLECs with nondiscriminatory access to the same detailed information about the loop that is available to BellSouth. In other words, if BellSouth has electronic access to the detailed information required for loop qualification, that information is provided to the CLEC electronically.

6. Likewise, when some of the LMU information has not been entered into the LFACS database, both BellSouth and CLECs must submit a manual LMU service inquiry. Each time a manual service inquiry is performed, the results of that service inquiry are automatically loaded into the LFACS database.

7. Further, in December 2000, BellSouth began tracking the usage by CLECs of access to electronic LMU information. As shown by the numbers for the twelve month period of February 2001 through January 2002 referenced in ¶8 herein, and in the table below, the CLECs have made extensive use of this access and have received timely responses.

Month	Total queries for electronic LMU in TN	% within 5 minutes	% Within 1 Minute[2]
Feb-01	255	100%	N/A
Mar-01	242	100%	N/A
Apr-01	238	100%	N/A
May-01	160	100%	N/A
Jun-01	287	100%	N/A
Jul-01	496	100%	N/A
Aug-01	404	100%	100%
Sep-01	322	100%	99.1%
Oct-01	387	100%	93.5%
Nov-01	305	100%	98.4%
Dec-01	201	100%	98.0%
Jan-02	424	100%	99.8%

8. In summary, from February 2001 through January 2002, BellSouth processed 3721 electronic requests for LMU from CLECs in Tennessee. During this same time period, only 61 manual LMU requests were processed by CLECs in Tennessee. Mechanized LMU reports are available as part of the Monthly State Summary ("MSS") Reports on BellSouth's interconnection website at http://www.interconnection.bellsouth.com/mss/index.html. Attached as Exhibit RMP-1, is an Excel document that contains information provided on the website. To obtain the information contained in RMP-1, access the above-referenced website and then click on the "MSS Charts" column for Tennessee. Then choose TN.F.2.2.xls for the chart shown in the exhibit, which depicts the actuals through January 2002.

[2] This measurement did not become official until August 2001.

9. Therefore, BellSouth has shown that it provides nondiscriminatory access to LMU information, including electronic LMU information.

Ronald M. Pate

SWORN TO AND SUBSCRIBED BEFORE ME
THIS 17 DAY OF April, 2002

Janice E Padgett
Notary Public

Notary Public, Gwinnett County, Georgia
My Commission Expires Feb. 19, 2004

Exhibit RMP-1

Tennessee, February 2001 - January 2002
General - Pre-Ordering
Loop Makeup Inquiry (Electronic)

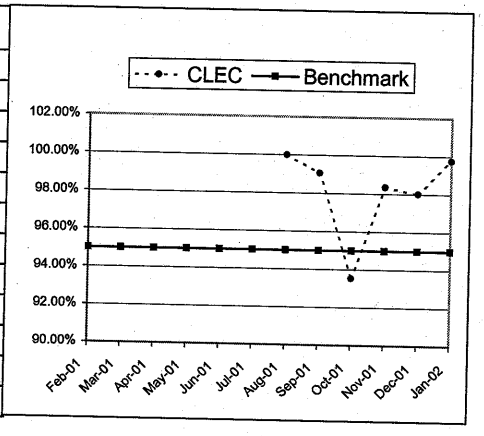
(% of Service Inquiries for Electronic Loop Makeup completed within 1 minute)

Numerator indicates total number of electronic loop makeup service inquiries in the reporting period completed within 1 minute.

Volume indicates total number of loop makeup service inquiries in the reporting period.

F.2.2 **Loops/TN (%)**

	Benchmark	Numerator	Volume	CLEC	Numerator	Volume	StDev	ZScore	Equity
Feb-01	95.00%								
Mar-01	95.00%								
Apr-01	95.00%								
May-01	95.00%								
Jun-01	95.00%								
Jul-01	95.00%								
Aug-01	95.00%			100.00%	404	404			YES
Sep-01	95.00%			99.07%	319	322			YES
Oct-01	95.00%			93.54%	362	387			NO
Nov-01	95.00%			98.36%	300	305			YES
Dec-01	95.00%			98.01%	197	201			YES
Jan-02	95.00%			99.76%	423	424			YES



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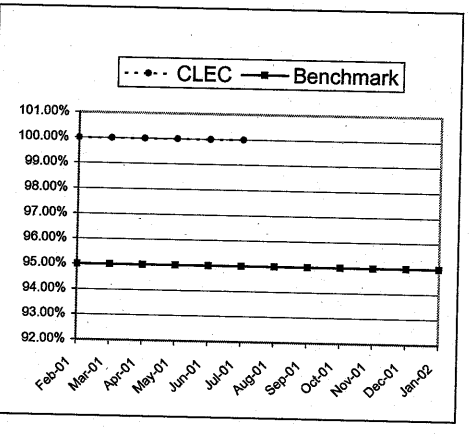
Note 1: Data prior to August 2001 measured within 5 minutes. See report F.2.2.X for historical data

F.2.2.X **Loops/TN (%)**

	Benchmark	Numerator	Volume	CLEC	Numerator	Volume	StDev	ZScore	Equity
Feb-01	95.00%			100.00%	255	255			YES
Mar-01	95.00%			100.00%	242	242			YES
Apr-01	95.00%			100.00%	238	238			YES
May-01	95.00%			100.00%	160	160			YES
Jun-01	95.00%			100.00%	287	287			YES
Jul-01	95.00%			100.00%	496	496			YES
Aug-01	95.00%								
Sep-01	95.00%								
Oct-01	95.00%								
Nov-01	95.00%								
Dec-01	95.00%								
Jan-02	95.00%								



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CERTIFICATE OF SERVICE

I hereby certify that on April 18, 2002, a copy of the foregoing document was served on the parties of record, via the method indicated:

[ ] Hand
[X] Mail
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