BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

December 10, 2003

IN RE: BELLSOUTH'S MOTION TO MODIFY STATEMENT OF GENERALLY AVAILABLE TERMS: AMENDMENT TO SELF-EFFECTUATING ENFORCEMENT MECHANISMS	)))))	Docket No. 03-00597

RESPONSE OF COMPSOUTH TO BELLSOUTH'S MOTION TO MODIFY SEEM PLAN

Competitive Carriers of the South, Inc. ("CompSouth")[1] files this response to the "Motion to Modify SEEM Plan" filed on October 28, 2003 by BellSouth Telecommunications, Inc. ("BellSouth"). BellSouth's Motion should be denied by the Tennessee Regulatory Authority ("Authority" or "TRA") because (1) BellSouth remains obligated to provide non-discriminatory access to line sharing both under the FCC's *Triennial Review Order*[2] and under section 271 of the Telecommunications Act of 1996; and (2) excusing BellSouth from providing non-discriminatory access to line sharing under the SEEM Plan is against the public interest and the purpose of the SEEM Plan.[3]

---

[1] The members of CompSouth include: Access Integrated Networks, Inc., Access Point Inc., AT&T, Birch Telecom, Cinergy Communications Company, Covad Communications Company, IDS Telecom LLC, ITC^DeltaCom, KMC Telecom, LecStar Telecom, Inc., MCI, Momentum Business Solutions, Network Telephone Corp., NewSouth Communications Corp., NuVox Communications Inc., Talk America Inc., Xspedius Communications, and Z-Tel Communications.

[2] Federal Communications Commission ("FCC") released its *Report and Order and Order on Remand and Further Notice of Proposed Rulemaking (FCC-03-36). In the Matter of Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers, et al*, CC Docket No. 01-338, *et al.*, FCC 03-36 (rel. Aug. 21, 2003) ("*Triennial Review Order*" or "*TRO*").

[3] BellSouth's Motion was also filed prematurely. In an Order issued on August 29, 2002, in Docket No. 97-00309, the Authority approved a Settlement Agreement in which BellSouth agreed not to seek modification of the SEEM Plan until December 1, 2003. *In re. BellSouth Telecommunications, Inc's*

I. The Purpose of the SEEM Plan is to Discourage Anti-Competitive Behavior, Encourage Fair and Effective Competition, and Enforce BellSouth's 271 Obligations.

BellSouth's motion is based on the assertions that the SEEM plan is "voluntary" and that it exists solely to enforce BellSouth's section 251 obligations.[4] Both assertions are wrong. The Authority ruled more than three years ago that it has the power under federal and state law, as well as the duty, to adopt performance measures and self-effectuating enforcement mechanisms. *In re: Petition for Arbitration of ITC^DeltaCom Communications, Inc. With BellSouth Telecommunications, Inc. Pursuant to the Telecommunications Act of 1996,* Interim Order of Arbitration Award, TRA Docket No. 99-00430 (August 11, 2000) ("Interim Order"). In that proceeding, BellSouth argued that the Authority lacked jurisdiction to adopt and enforce liquidated damages, a position which the Authority expressly overruled (and which BellSouth subsequently abandoned). *See id.* BellSouth's SEEM Plan is therefore hardly "voluntary," and it is not limited to BellSouth's 251 obligations. BellSouth itself recognized that a self-executing enforcement mechanism "is intended as an incentive for ...carriers such as BellSouth to avoid 'backsliding' after interLATA authority is granted."[5] As the Authority said in adopting a SEEM Plan in the ITC^DeltaCom arbitration,

---

Entry Into Long Distance (InterLATA) Service in Tennessee Pursuant to Section 271 of the Telecommunications Act of 1996, Order Approving Settlement Agreement, TRA Docket No. 97-00309 (August 29, 2002). BellSouth's Motion was filed October 28, 2003, in direct violation of the Order and the Settlement Agreement. Although the agency could justifiably dismiss the Motion on that basis alone, BellSouth would presumably re-file the Motion immediately, now that December 1 has passed.

[4] BellSouth's Motion at ¶ 1 (Asserting that "line sharing is no longer an unbundled network element that incumbent LECs are required to offer pursuant to Section 251 of the Act. For this reason, BellSouth should be relieved of any further obligation to pay SEEM penalties that relate to the provision of line sharing.")

[5] *In re: Generic Docket on Performance Measurements*, Testimony of BellSouth witness David A. Coon, Docket No. 01-00193, at 4 (July 16, 2001); *See also In re. Generic Docket on Performance Measurements*, Docket No. 01-00193, Comments of BellSouth Telecommunications, Inc., Docket No. 01-00193, at 6

> [O]nce BellSouth receives 271 approval, there will be no incentive for BellSouth to provide services in a competitively neutral manner. It is, therefore, incumbent upon this Authority to adopt enforcement mechanisms that will ensure that BellSouth's network and systems in Tennessee are open to CLECs in a nondiscriminatory manner.

Interim Order at 13.

In contravention of its own previous advocacy, BellSouth now attempts to avoid any relationship to its section 271 obligations or the jurisdictional basis of the SEEM Plan. In its Motion, BellSouth asserts that "a measurement plan is simply a mechanism that can be utilized to ensure that an RBOC meets its obligations under 251."[6] The reason BellSouth feels obliged to divorce the SEEM Plan from enforcement of BellSouth's 271 obligations and the Authority's jurisdiction is because BellSouth remains obligated to provide non-discriminatory access to line sharing both under the *Triennial Review Order* and section 271 of the Telecommunications Act of 1996.

II. BellSouth is Still Obligated to Provide Non-Discriminatory Access to Line Sharing Provisioning, Maintenance and Repair.

A. The *Triennial Review Order* requires BellSouth to continue providing access to Line Sharing.

(April 6, 2001) (stating that "These proposed enforcement mechanisms provide powerful incentives for BellSouth to maintain a level of performance for all CLECs that is at least equal to the level of performance provided to BellSouth's retail customers in Tennessee.") In the same document, BellSouth stated it "recognizes that the Authority will and should require a set of comprehensive performance measurements and self-effectuating enforcement mechanisms." *Id.*

[6] BellSouth's Motion at ¶ 2.

BellSouth is not a benevolent monopoly. It *only* provides access to line sharing because it has been and remains obligated to do so.[7] Indeed, the FCC expressly outlined the ILECs' continuing line sharing obligations in the *Triennial Review Order*:

> In order to implement the line sharing transition plan described above, we find that it is necessary to reinstate certain rules concerning the HFPL . . . . Incumbent LECs must condition loops to enable requesting carriers to access the HFPL . . . . incumbent LECs must provide physical loop test access points ***on a nondiscriminatory basis*** for the purpose of loop testing, maintenance, and repair activities."[8]

Accordingly, BellSouth remains obligated to provision, maintain and repair line sharing on a non-discriminatory basis under the terms of the *Triennial Review Order*. Notably, on December 9, 2003, the Alabama Public Service Commission, by a 3-0 margin, voted to accept the Recommendation of the Commission's Legal Division that BellSouth's Motion to Modify SEEM Plan, and the relief requested by BellSouth, be denied by the Commission until the transitional period specified in the *Triennial Review Order* ends.[9]

B. Section 271 of the Telecommunications Act of 1996 also requires that BellSouth provide access to line sharing.

BellSouth is also obligated to provide access to line sharing under section 271 of the Telecommunications Act. The FCC stated in the *Triennial Review Order* that "section 271 requires BOCs to provide unbundled access to elements not required to be unbundled under section 251 . . ."[10] The FCC went on to state that "BOCs must continue

[7] BellSouth's Motion at ¶¶ 6 and 7 (outlining the *Triennial Review Order's* grandfathering of existing line sharing customers and the continuing availability of line sharing during a three (3) year transition period).

[8] *TRO* at ¶ 268 (emphasis added).

[9] This decision was made in Docket No. 25835. Neither an Order nor transcript is currently available.

[10] *TRO* at ¶ 659.

to comply with any conditions required for approval consistent with changes in the law."[11] There can be no question that section 271 checklist item number four requires the Bells to provide access to line sharing. Checklist item 4 requires the Bells to provide access to "local loop transmission from the central office to the customer's premises, *unbundled from local switching or other services*."[12] The HFPL is clearly a form of loop transmission – loop transmission that the Bells themselves routinely use to provide xDSL services separately from narrowband voice services.[13] Indeed, in describing the high frequency portion of the loop in the *Line Sharing Order*, the FCC stated that "requesting carriers may access unbundled loop functionalities, such as *non-voiceband transmission frequencies, separate from other loop functions*" – distinguishing the high frequency loop transmission path from the narrowband frequencies used for circuit switched voice services.[14] Thus, in light of the clear statutory language in section 271, checklist item number four, there is no question that the Bell companies remain under a statutory obligation to offer unbundled HFPL loop transmission to competitors.

A long line of FCC 271 orders confirms the ***continuing*** obligation of Bell companies to offer unbundled access to HFPL loop transmission after section 271 approval. Since the Bells first implemented access to line sharing, the FCC has consistently looked at the non-discriminatory availability of line sharing as part of its

---

[11] *TRO* at ¶ 665.

[12] *See* 47 U.S.C § 271(c)(2)(B)(iv) (emphasis added).

[13] In other words, Bell customers typically purchase narrowband voice services without also purchasing xDSL, and pay a separate monthly fee in order to add xDSL services to their local loop.

[14] *See Deployment of Wireline Services Offering Advanced Telecommunications Capability*, Third Report and Order in CC Docket No. 98-147 Fourth Report and Order in CC Docket No. 96-98, FCC 99-355, 14 FCC Rcd. 20912, 20923 at ¶18 (1999).

review of RBOC compliance with checklist item number four.[15] To this day, months after its decision to eliminate the line sharing UNE, and even <u>after</u> the rules in the FCC's *Triennial Review Order* have become effective, the FCC continues to look at the non-discriminatory availability of line sharing as an integral component of its checklist item four analysis in section 271 proceedings[16] – even where the section 271 application at issue was filed more than a month <u>after</u> the FCC voted to eliminate the line sharing UNE *and* the FCC Order granting the application was issued two weeks <u>after</u> the *Triennial Review Order* became effective.[17] In that Order, the FCC continued to consider non-discriminatory access to line sharing under checklist item number four:

> ¶ 142: Based on the evidence in the record, we conclude, consistent with the state commissions, that SBC provides unbundled local loops in accordance with the requirements of section 271 and our rules. Our conclusion is based on our review of SBC's performance for all loop types, which include voice-grade loops, xDSL-capable loops, digital loops, and high capacity loops, as well as our review of SBC's processes for hot cut provisioning, and ***line sharing*** and line splitting.
>
> . . . .
>
> ¶ 145. ***Line Sharing*** *and Line Splitting.* Based on the evidence in the record, we find that SBC provides nondiscriminatory access to the high frequency portion of the loop (***line sharing***). SBC's performance data for line shared loops demonstrate that it is generally in compliance with the parity and benchmark measures established in the application states[18]

---

[15] *See, e.g., Joint Application by SBC Communications, Inc., et al., for Provision of In-Region InterLATA Services in Kansas and Oklahoma,* Memorandum Opinion and Order, CC Docket No. 00-217, FCC 01-29, ¶¶214-219 (2001)

[16] *See Application by Qwest Communications International, Inc., for Authorization to Provide In-Region, InterLATA Services in Minnesota,* Memorandum Opinion and Order, WC Docket No. 03-90, FCC 03-142, ¶53, and App. C, ¶50-51; *Application by SBC Communications, Inc., et al., for Authorization to Provide In-Region, InterLATA Services in Michigan,* Memorandum Opinion and Order, WC Docket No. 03-138, FCC 03-228, ¶¶133-143; *and Application by SBC Communications, Inc., et al., for Authorization to Provide In-Region, InterLATA Services in Illinois, Indiana, Ohio and Wisconsin*, Memorandum Opinion and Order, WC Docket No. 03-167, FCC 03-243, issued October 15, 2003, ¶¶133-143.

[17] *See id* at ¶1.

[18] *Id.* (emphasis added).

Manifestly then, non-discriminatory access to line sharing remains a requisite to 271 approval after the Triennial Review, and consequently, a requisite to compliance with 271 "back-sliding" provisions.[19] Despite a change in the law relied upon by BellSouth, BellSouth remains under a continuing obligation under section 271 of the Telecommunications Act of 1996 to provide non-discriminatory access to line sharing.

C. Line Sharing is a Checklist Number Four Item.

BellSouth has argued in other states, and will no doubt argue to the Authority in the future, that line sharing is not a "loop transmission" under checklist item number four.[20] However, both the FCC and BellSouth itself have repeatedly categorized line sharing under checklist number four. In every FCC 271 Order granting BellSouth long distance authority, the FCC placed line sharing and line splitting in the section of the Order considering checklist item number four.[21] More importantly, BellSouth placed line sharing and line splitting in every one of its own briefs to the states and to the FCC under

---

[19] *TRO* at ¶¶ 659 and 665.

[20] *See In Re. Performance Measures for Telecommunications Interconnection, Unbundling and Resale*, BellSouth Telecommunications, Inc.'s Reply in Support of Motion to Modify SEEM Plan, Docket No. 7892-U, at ¶¶15-17, 22 (December 4, 2003) ("BellSouth's Georgia Reply"); *In the Matter of: Investigation Concerning the Propriety of InterLATA Services by BellSouth Telecommunications, Inc., Pursuant to the Telecommunications Act of 1996*, BellSouth's Reply to the Response of CLEC's to BellSouth's Motion to Modify SEEM Plan, Case No. 2001-105, at ¶¶13-15, 20 (November 19, 2003) ("BellSouth's Kentucky Reply"); *In re Application of BellSouth Telecommunications, Inc. to Provide In-Region InterLATA Services Pursuant to Section 271 of the Telecommunications Act of 1996*, BellSouth's Reply to CLEC's Response to BellSouth's Motion to Modify IPP Plan, Docket No. 2001-209-C, at ¶¶14-16, 21 (November 13, 2003) ("BellSouth's South Carolina Reply"); *In re: Consideration of the Provision of In-Region InterLATA Services by BellSouth Telecommunications, Inc. Pursuant to Section 271 of TA 96*, BellSouth's Reply to the Response of Certain CLEC's to BellSouth's Motion to Modify SEEM Plan, Docket No. 1997-AD-0321, at ¶¶14-16, 21 (November 14, 2003) ("BellSouth's Mississippi Reply"); *See also In Re: Investigation into the establishment of operations support systems permanent incumbent local exchange Telecommunications companies*, BellSouth's Reply to CLEC's Response to BellSouth's Motion to Modify SEEM Plan, Docket No. 000121A-TP, at ¶¶14-16, 21 (November 14, 2003) (BellSouth subsequently withdrew its Motion and Reply in Florida on November 21, 2003) ("BellSouth's Florida Reply").

[21] A spreadsheet providing citations and quotations from FCC 271 Orders is attached hereto as Exhibit A.

checklist item number four.[22] Having briefed line sharing as a checklist number four item, it is disingenuous for BellSouth now to assert that line sharing is *not* a check list number four item. BellSouth cannot admit this, of course, because to do so would admit that BellSouth continues to have an obligation to provide access to line sharing under section 271. *TRO* at ¶¶ 653-55. Instead, in its filings in other states, BellSouth spends several paragraphs arguing that loops and line sharing are separate UNEs under 251, therefore they cannot both fall under "local loop transmission facilities" in checklist item number four. *See* BellSouth's Georgia Reply, ¶¶15-17, 22; BellSouth's Kentucky Reply, ¶¶13-15, 20; BellSouth's South Carolina Reply, ¶¶14-16, 21; BellSouth's Mississippi Reply, ¶¶14-16, 21; BellSouth's Florida Reply ¶¶14-16, 21. The HFPL (line sharing) is repeatedly categorized under checklist item number four by both BellSouth and the FCC because the HFPL is a "local loop transmission facilities" under 271(c)(2)(B)(iv). Accordingly, as long as BellSouth continues to offer long distance, it must provide access to line sharing. Because, in BellSouth's own words, "the purpose of the enforcement provisions of the [SEEM] plan is to prevent 'backsliding' after BellSouth obtains

[22] See e.g., *In the Matter of: Joint Application by BellSouth Corporation, BellSouth Telecommunications, Inc., and BellSouth Long Distance, Inc. for Provision of In-Region, InterLATA Services in Florida and Tennessee*, Brief in Support of Application by Bellsouth for Provision of In-Region, Interlata Services in Florida and Tennessee, WC 02-307, filed September 20, 2002 at pp. 96-99; *In the Matter of: Joint Application by BellSouth Corporation, BellSouth Telecommunications, Inc., and BellSouth Long Distance, Inc. for Provision of In-Region, InterLATA Services in Alabama, Kentucky, Mississippi, North Carolina and South Carolina*, Brief in Support of Application by Bellsouth for Provision of In-Region, Interlata Services in Alabama, Kentucky, Mississippi, North Carolina and South Carolina, WC 02-150, filed June 20, 2002 at pp. 114-116; *In the Matter of: Joint Application by BellSouth Corporation, BellSouth Telecommunications, Inc., and BellSouth Long Distance, Inc. for Provision of In-Region, InterLATA Services in Georgia and Louisiana*, Brief in Support of Application by Bellsouth for Provision of In-Region, Interlata Services in Georgia and Louisiana,, CC 01-277, filed October 2, 2001 at pp. 112-114.

authority to provide interLATA service",[23] BellSouth's Motion to Modify the SEEM Plan to remove line sharing should be denied.

D. BellSouth's Obligation to Provide Non-Discriminatory Access to Line Sharing Under Section 271 is Independent of its Obligation to Provide Access Under Section 251.

BellSouth has also asserted elsewhere, and again, will no doubt argue before the Authority, that it is "illogical" for the FCC to lift the obligation of ILECs to provide access to line sharing as a UNE only to maintain an RBOC's obligation to maintain access under section 271. *See* BellSouth's Georgia Reply, ¶¶2, 13; BellSouth's Kentucky Reply, ¶¶2, 12; BellSouth's South Carolina Reply, ¶¶2, 13; BellSouth's Mississippi Reply, ¶¶3, 13; BellSouth's Florida Reply, ¶¶2, 13. Despite BellSouth's reasoning, however, the FCC expressly held that "BOC obligations under section 271 are not necessarily relieved based on any determination we make under section 251 unbundling analysis." *TRO* at ¶ 655. Moreover, the FCC expressly addressed the question of the apparent illogic of a statutory scheme in which the FCC could cease the requirement of an RBOC to provide access to a UNE under 251, and yet continue the identical requirement under section 271:

> 659. In interpreting section 271(c)(2)(B), we are guided by the familiar rule of statutory construction that, where possible, provisions of a statute should be read so as not to create a conflict. So if, for example, pursuant to section 251, competitive entrants are found not to be "impaired" without access to unbundled switching at TELRIC rates, the question becomes whether BOCs are required to provide unbundled switching at TELRIC rates pursuant to section 271 (c)(2)(B)(vi). In order to read the provisions so as not to create a conflict, we conclude that **section 271 requires BOCs to provide unbundled access to elements not required to be unbundled under section 251**, but does not require TELRIC pricing. This interpretation allows us to reconcile the interrelated terms of the Act so

[23] BellSouth Telecommunications, Inc. Brief of the Evidence, FPSC Docket 000121-TP, filed May 31, 2001, p. 1.

> that one provision (section 271) does not gratuitously reimpose the very same requirements that another provision (section 251) has eliminated.

TRO at ¶ 659 (emphasis added).

In short, although the <u>*price*</u> for a "de-listed" UNE may change, if that UNE falls under 271 (c)(2)(B)(iii)-(vi), the obligation to provide non-discriminatory <u>*access*</u> remains. BOCs who continue to sell long distance must continue to provide non-discriminatory access to all checklist items "de-listed under 251,"[24] including line sharing under checklist item number four. Whether BellSouth thinks that statutory scheme is illogical or not, it is the law.

III. Because BellSouth Remains Obligated to Provide Non-Discriminatory Access to Line Sharing, the SEEM Plan Should Continue to Enforce that Obligation.

In accordance with the purposes of the SEEM Plan and the continuing obligation of BellSouth to provide non-discriminatory access to line sharing, BellSouth's Motion should be denied. It is strongly in the public interest that the customers of CompSouth are protected from discriminatory treatment by BellSouth. What BellSouth is really asking this Authority to do is grant BellSouth unfettered discretion to treat line sharing customers of CLECs in any manner it sees fit. The SEEM plan is necessary for the very reasons that underlie the Authority's jurisdiction: discouraging anti-competitive behavior and encouraging fair and effective competition. As long as BellSouth is obligated to provide parity treatment to its competitors and its competitors' customers, plans like the SEEM Plan are required to enforce that obligation.

IV. Conclusion

For these reasons, BellSouth's "Motion to Modify SEEM Plan" should be denied.

[24] With the exception of checklist item numbers 1 and 2, as these items are directly tied to section 251 UNEs.

Respectfully submitted,

BOULT, CUMMINGS, CONNERS & BERRY, PLC

By:______________________________

Henry Walker
414 Union Street, Suite 1600
P.O. Box 198062
Nashville, Tennessee 37219
(615) 252-2363

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Response to BellSouth's Motion to Modify SEEM Plan has been furnished by U.S. Mail this 10th day of December, 2003:

Martha M. Ross-Bain
AT&T
1200 Peachtree Street, Suite 8100
Atlanta, Georgia 30309

Jon E. Hastings
Boult Cummings Conners Berry, PLC
P.O. Box 198062
Nashville, Tennessee 37219-8062

Charles B. Welch
Farris, Matthews, et al.
618 Church Street, #300
Nashville, Tennessee 37219

Dana Shaffer
XO Communications, Inc.
105 Malloy Street
Nashville, Tennessee 37201

Henry Walker

EXHIBIT A

STATE	FCC DOCKET NO.	FCC PROCEEDING	PAGE	PARA	
AL, KY, MS, NC and SC	WC Docket No. 02-150	FCC 02-260	143-144	249	Because BellSouth's performance data show that it installs line-sharing arrangements in accordance with the standards approved by the state commissions, we reject Covad's reliance on BellSouth's alleged failure to provision line-sharing arrangements within the time frame specified in its interconnection agreement with Covad. Given that BellSouth's line-sharing provisioning intervals for its retail customers and competitive LECs are comparable, and recognizing BellSouth's timeliness performance during the relevant period in Georgia, we find that BellSouth's installation performance does not warrant a finding of checklist noncompliance.
AL, KY, MS, NC and SC	WC Docket No. 02-150	FCC 02-260	144	250	We also reject Covad's claim that BellSouth's line-sharing provisioning and maintenance and repair performance precludes a grant of long distance authority. Although BellSouth's performance with regard to certain measures-customer trouble reports within 30 days of installation and repeat trouble reports within 30 days of maintenance or repair-is out of parity in certain months, we find these disparities in reported performance do not warrant a finding of checklist noncompliance.
AL, KY, MS, NC and SC	WC Docket No. 02-150	FCC 02-260	145	250	BellSouth generally performed at or above parity with regard to line-sharing maintenance, as measured by its trouble report rate for line-sharing arrangements, during the relevant period. In these circumstances, we conclude that BellSouth's customer trouble report and repeat trouble report rates for line sharing do not support a finding of checklist noncompliance.
AL, KY, MS, NC and SC	WC Docket No. 02-150	FCC 02-260	H-27	50	On December 9, 1999, the Commission released the *Line Sharing Order*, which introduced new rules requiring BOCs to offer requesting carriers unbundled access to the high-frequency portion of local loops (HFPL)
AL, KY, MS, NC and SC	WC Docket No. 02-150	FCC 02-260	H-27	51	To determine whether a BOC makes line sharing available consistent with Commission rules set out in the *Line Sharing Order*, the Commission examines categories of performance measurements identified in the *Bell Atlantic New York* and *SWBT Texas Orders*.
MI	WC Docket No. 03-138	FCC 03-228	73	127	Our conclusion is based on our review of Michigan Bell's performance for all loop types, which include voice grade loops, xDSL-capable loops, digital loops, high capacity loops, as well as our review of Michigan Bell's processes for hot cut provisioning, and line sharing and line splitting.
MI	WC Docket No. 03-138	FCC 03-228	78	133	*Line Sharing and Line Splitting.* Based on the evidence in the record, we find, as did the Michigan Commission, that Michigan Bell provides nondiscriminatory access to the high frequency portion of the loop (line sharing.) Michigan Bell had approximately 73,000 high frequency portion of the loop (HFPL) UNEs in service as of the end of 2002. Michigan Bell's performance data for the line shared loops demonstrate that it is generally in compliance with the parity and benchmark measures established in Michigan.
MI	WC Docket No. 03-138	FCC 03-228	81	140	…the Michigan Commission required Michigan Bell to establish procedures for migrations from line sharing to line splitting, line sharing to UNE-P, and UNE-P to line splitting.

STATE	FCC DOCKET NO.	FCC PROCEEDING	PAGE	PARA	
FL and TN	WC Docket No. 02-307	FCC 02-331	68	132	As in past Section 271 orders, our conclusion is based on a review of BellSouth's performance for all loop types, including voice grade loops, x-DSL capable loops, high capacity loops, and digital loops, as well as our review of BellSouth's hot cut, line-sharing and line splitting processes.
FL and TN	WC Docket No 02-307	FCC 02-331	77-78	144	*Line Sharing* We find, as did the state commissions, that Bellsouth offers nondiscriminatory access to the high frequency portion of the loop in Florida and Tennessee BellSouth has provisioned 2,850 line sharing arrangements in Florida and 931 linesharing arrangements in Tennessee, as of July 2002. We recognize that BellSouth's performance in Florida and Tennessee, with respect to one installation timeliness measure...was out of parity for several months We note, however, that the data under another installation timeliness metric-percent missed installation appointments-shows that BellSouth generally provisioned line shared loops in timely fashion during the relevant period. Accordingly, we find that BellSouth's provisioning of line-shared loops satisfies checklist item 4. Should Bellsouth's performance in this area deteriorate, we will pursue appropriate enforcement action.
FL and TN	WC Docket No. 02-307	FCC 02-331	D-30	50	On December 9, 1999, the Commission released the *Line Sharing Order*, which introduced new rules requiring BOCs to offer requesting carriers unbundled access to the high-frequency portion of local loops (HFPL.)
FL and TN	WC Docket No 02-307	FCC 02-331	D-30	51	To determine whether a BOC makes line sharing available consistent with Commission rules set out in the *Line Sharing Order*, the Commission examines categories of performance measurements identified in the *Bell Atlantic New York* and *SWBT Texas Orders*.
AL, KY, MS, NC and SC	WC Docket No. 02-150	FCC 02-260	130	232	As in past Section 271 orders, our conclusion is based on a review of BellSouth's performance for all loop types, including voice grade loops, x-DSL capable loops, high capacity loops and digital loops, as well as our review of BellSouth's hot cut, line-sharing and line splitting processes.
AL, KY, MS, NC and SC	WC Docket No. 02-150	FCC 02-260	143	248	*Line Sharing.* We find, as did the state commissions, that Bellsouth offers nondiscriminatory access to the high frequency portion of the loop in each applicable state. We note that competitive LECs in Mississippi and South Carolina have not yet ordered any line-sharing arrangements from Bellsouth. Because order volumes for line-shared loops are low in each of the states, we look to BellSouth's line-sharing performance in Georgia to inform our analysis. We further note that no party has alleged that BellSouth's line-sharing offerings in Mississippi and South Carolina fail to provide nondiscriminatory access to high frequency portion of the loop.