

**BOULT
CUMMINGS
CONNERS
& BERRY** PLC

LAW OFFICES
414 UNION STREET, SUITE 1600
POST OFFICE BOX 198062
NASHVILLE, TENNESSEE 37219

Henry Walker
(615) 252-2363
Fax: (615) 252-6363
Email: hwalker@bccb.com

December 16, 1999

RECEIVED
DEC 17 1999
TELEPHONE (615) 244-2582
FACSIMILE (615) 252-2380
INTERNET WEB <http://www.bccb.com/>
EXECUTIVE SECRETARY

David Waddell
Executive Secretary
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, TN 37243-0505

***In Re: Petition of ICG Telecom Group, Inc. for Arbitration with Bellsouth
Telecommunications, Inc. Pursuant to Section 252 of the Telecommunications
Act of 1996
Docket No. 99-00377***

Dear David:

Please accept for filing Late-Filed Exhibit 2 and Late-Filed Exhibit 4 on behalf of ICG Telecom.

Sincerely,

BOULT, CUMMINGS, CONNERS & BERRY, PLC

By:



Henry Walker, attorney for ICG

HW/nl

Attachment

cc: Guy Hicks, attorney for BellSouth

FILE

Late-Filed Exhibit 2

FILE

ICG Proposed Measurements with notations where BellSouth views the ICG measurement as unnecessary

ICG proposed measurements	BellSouth Comments	ICG Comments
I. RESALE POTS, RESALE SPECIALS AND UNEs A. Pre-Ordering/Ordering		
1. Average Response Time for OSS Pre-Order Interfaces		
2. Percent Response received within "X" Seconds - OSS Interfaces		
3. EASE Average Response Time		
4. OSS Interface Availability		
5. % Firm Order Confirmations Returned within specified time.	Not necessary. Another way to measure FOC timeliness as Measurement #6 below does.	The FCC's Louisiana II Order (CC Docket No. 98-121) noted in paragraphs 104 and 105 that competing carriers have experienced significant delays in receiving Firm Order Commitments (FOCs). As a result, the FCC stated in its Bellsouth South Carolina Order that "the new entrant may appear to be a less efficient and responsive service provider than its competitor, Bellsouth." Since the FCC repeatedly has underscored concern over Bellsouth's ability to provide a timely FOC, it is appropriate that this operational activity be measured in terms of a percentage of FOC's return within a benchmark timeframe as well in terms of average time to return a FOC, which is Measurement #6. The importance of this measurement is also highlighted by the fact that the FCC's SBC/Ameritech Merger Conditions imposed this performance measurement on Ameritech. Under the Texas Performance Measurement and Remedy Plan, this measurement is included in the calculation of enforcement mechanisms while Measurement # 6 is not used to calculate enforcement mechanisms. Therefore, the ILEC is not subjected to multiple enforcement payments if both measurements are missed.
6. Average Time to Return FOC		

ICG Proposed Measurements with notations where BellSouth views the ICG measurement as unnecessary

7. % Mechanized Completions Avail within 1 hour of completion in SORD.	Not necessary. Another way to measure Order Completion Notice timeliness as measurement #8 does. Additionally, SORD is a SBC system for which there may not be an equivalent in BellSouth.	BST's statement that this measurement is the same as Measurement #8 is incorrect. Measurement #8 marks the interval between the time the facilities were physically installed by the ILEC and the time the notification of installation was sent to the CLEC. Measurement #7 marks the interval between the completion of the order through the ILEC's operational support system and the notification of order completion sent to the CLEC. As Witness Rowling testified, physical installation of facilities is not the same as order completion in the ILEC's systems. Unless the order "completes" in these systems, operational service issues can occur, regardless whether the facilities had been physically installed. These problems include the possibility that end users would continue to receive unwarranted bills from the ILEC and the possibility that the CLEC will be unable to "claim" the end user's 911 database record. This measurement captures the activity of order completion through the system called SORD and the notification of the completion to the CLEC so that the CLEC can be assured that the downstream problems such as the ones cited above can be avoided. Although BST may not use SORD, it should be able to identify an equivalent system that serves a comparable pivotal function in BST's systems. The equivalent system may be BST's SOCS.
---	---	---

ICG Proposed Measurements with notations where BellSouth views the ICG measurement as unnecessary

7.1. % Mech. Completions Avail within 1 day of work completion	Not necessary. Another way to measure Order Completion Notice timeliness as measurement #8 does.	While Measurement 7.1 and Measurement 8 are complimentary, it is beneficial to measure an operational activity from both the perspective of a percentage completed within a specific timeframe, which is expressed in Measurement 7.1, and from the perspective of average interval, which is captured in Measurement 8. It should be noted that California's Measurement #18 monitors this operational activity by incorporating both perspectives – measuring the average interval and using a percentage with a set timeframe. In addition, the FCC's SBC/Ameritech Merger Conditions imposed this measurement on Ameritech. Under the Texas Remedy plan, Measurement 7.1 would not be subject to enforcement mechanisms while Measurement 8 would be.
8. Average Time to Return Mechanized Completions		
9. % Rejects		
10. % Mech. Rejects within 1 Hour of receipt of reject in LASR	Not necessary. Another way to measure Reject Timeliness measurement #11 does.	This measurement does not exactly replicate Measurement #11. However, there is an overlap. The issue in measurement #10 is the interval between the time the local service order (LSR) fails to pass the edits in the operational support system called LASR and the time the reject notice is returned to the CLEC. Measurement #11 captures the interval between the submission of a valid service order and the return of a reject notice to the CLEC. The start times for the two measures are different. For Measurement #10, the clock starts when the order is rejected in LASR and the clock stops when the reject notice is submitted to the CLEC. For Measurement #11, the clock starts when the order is initially submitted electronically. It should be noted that enforcement mechanisms are attached to Measurement #10 but not to Measurement #11. If the TRA were to eliminate Measurement #10, ICG would urge the Authority to consider attaching enforcement mechanisms to Measurement #11.

ICG Proposed Measurements with notations where BellSouth views the ICG measurement as unnecessary

11. Mean Time to Return Mechanized Rejects		
11.1. Mean Time to Return Manual Rejects that are Received Electronically via LEX or EDI.		
12. Mechanized Provisioning Accuracy	Not necessary. Provisioning errors would result in either Installation Trouble Reports (Meas #35, 46, 59, 89, 98) or billing adjustments as reflected in the measures below. In the NPRM, the FCC concluded ordering/provisioning errors should be measured by Installation Trouble Reports, (Docket CC 98-56, Para. 68) In practice, provisioning inaccuracies will not be captured using the Trouble Report Measurements #35, 46, 59, 89, and 98. ILECs have rejected submission of trouble reports when the problem can be traced to provisioning inaccuracies since the end user is not experiencing an out-of-service condition or static on the line. Consequently, ILECs repeatedly insist that CLECs issue supplemental orders ("supps") or new orders rather than trouble reports in order to correct a service. This measurement also would capture a specific operational area of concern that the FCC cited in its Louisiana II order. In paragraphs 216-220, the FCC addressed the fact that BellSouth "fails to acknowledge that, consistent with our rules, it is legally obligated to provide all vertical features 'that the switch is capable of providing'." This measurement would aid in ensuring that features ordered in fact were provisioned on the switch. It should be noted that a measurement for order accuracy has been included in the Pennsylvania recommendation for Bell Atlantic and is included in the performance measurements contained in the Local Competition Users Group (LCUG) Version 7.0.	While the FCC indicated in its NPRM that "trouble reports often indicate that a customer has not received the exact service ordered," it also conceded that its tentative conclusion might not be correct; and it requested comments on using trouble report measurements as a substitute for order accuracy, (Docket cc 98-56, Para 68)
13. Order Process % Flow-Through		
B. Billing		

ICG Proposed Measurements with notations where BellSouth views the ICG measurement as unnecessary

14. Billing Accuracy	Not necessary. BST has a measure of Invoice Accuracy (SQM page 46) and BST conducts multiple bill audits each month. BellSouth's Invoice Accuracy measurement reflects the accuracy of the data within billing invoices that are actually delivered to the CLEC or to the BST end-user. If a billing error is identified and a bill is rejected within the current Bill Verification process (mechanism designed to correct errors before they are released) prior to delivery to the CLEC or to a BST end-user, the error is transparent to the customer. BellSouth believes that this measure is sufficient to assess the accuracy of the invoice. Large CLEC accounts typically represent the equivalent of several hundred to several thousand end-user accounts. Billing errors based on \$ adjustments of revenue is a more accurate measure for billing than random sampling which would look at only a small percentage of the bills.	It was ICG's understanding that the purpose of this matrix was to identify proposed performance measurements that BellSouth categorized as "unnecessary." The function of this matrix was not to compare and contrast the business rules relating to the measurements proposed by BST and the measurements proposed by ICG. BST's characterization of this measurement as being "not necessary" does not appear to be an accurate reflection of its position. It appears that BST agrees with ICG that Billing Accuracy is a necessary measurement. BST's opposition is only in terms of the business rules attached to the Billing Accuracy measurement. This measurement has been expressed in various documents such as the Texas Plan and LCUG in terms of billing errors. It also has been expressed in terms of billing revenue adjustments, as BST's measurement is. Although ICG may not be overly concerned about the approach in terms of uncorrected errors as opposed to adjustments in revenue, it is concerned that BST's measurement is not reported on a state level. Instead, BellSouth's measurement Invoice Accuracy is reported on a region -wide basis. If the TRA accepted BST's measurement for billing accuracy, ICG would urge the Authority to require BellSouth to report the measure on a state level. Disaggregating the information only on a region-wide basis dilutes the data and prevents both regulators as well as CLECs from seeing variances in performance by states.
----------------------	--	---

ICG Proposed Measurements with notations where BellSouth views the ICG measurement as unnecessary

15. % of Accurate and Complete Formatted Mech. Bills	Not necessary and duplicative of Billing Accuracy (ICG #14). BST provides bills via EDI that are error free. If there is an out of balance situation, processes are stopped and errors are corrected before the bills go out.	Measurement #15 and 14 are not duplicative. As the business rules of Measurement #15 clearly state this measurement focuses on whether the ILEC's electronic transmission has conformed to its published format for EDI transmissions and whether the data is syntactically correct. Measurement #14 captures itemized billing errors, not electronic syntactical transmission errors. Since BST claims that Measurements #14 and 15 are the same, it is unclear whether BST's assertion that its bills "are error free" is a reference to the fact that that BellSouth asserts that its bills never require an adjustment due to an itemized billing error. However, if BST's claim that its bills "are error free" in transmissions via EDI, then BST is acknowledging that Measurements #14 and 15 are capturing two separate operational issues. BST's written assurance that its transmissions are error-free should be substantiated by implementing this performance measurement. If the transmissions are always error free as BST asserts, then BellSouth will never miss the benchmark.
16. % of Usage Records Transmitted Correctly	Not necessary and duplicative of Billing Accuracy. (ICG #14).	Measurements #14 and #16 are not duplicative. Measurement #14 deals with billing invoices sent to the CLEC. Measurement #16 deals with customer usage records which captures variable usage activities such as end user intraLATA toll calls. The usage is recorded and then formatted into an Electronic Message Record (EMR). The FCC NPRM on Performance Measurements recognized the value of a measurement that captured customer usage record activities. The FCC also recognized that billing invoices and customer usage records are separate issues. (See paragraph 89 of NRPM).
17. Billing Completeness	Not necessary. This measurement is one of service order completion not billing. The value of this measurement is not clear.	The value of this measurement is to help ensure that end users do not continue to receive a bill from the ILEC once they have converted to a competitive carrier. The customer who chooses to change local service providers should not be inconvenienced by double billing. BST is not correct in its comments that this measurement is one of service order completion not billing. An order can complete without posting to billing. This measurement captures timely posting within the ILEC's billing systems.
18. Billing Timeliness (Wholesale Bill)		

ICG Proposed Measurements with notations where BellSouth views the ICG measurement as unnecessary

19. Daily Usage Feed Timeliness	Not necessary. If there is an issue here, it is self correcting. It is in BST's interest to bill the CLEC for usage.	This measurement captures whether the ILEC has transmitted usage records with sufficient and accurate information to enable the CLEC to bill its end users. It is not a "self-correcting" problem as BST asserts. Usage records and invoices are different entities. BST submits invoices to the CLEC. It collects from the CLEC. It is of no inherent concern to BST whether it provides accurate and sufficient information on usage data for the CLEC to bill the appropriate end user. Inaccurate usage records that are unbillable will only harm the CLEC, not BST.
C. Miscellaneous Administrative		
21. LSC (Local Svc. Ctr.) Average Speed of Answer		

ICG Proposed Measurements with notations where BellSouth views the ICG measurement as unnecessary

22. LSC Grade of Service (GOS)	Not necessary. Another way to measure Speed of Answer as measurement #21 does.	Measurements #21 and 22 are complimentary, but ICG believes that both are necessary. Measurement #21 measures the average time the CLEC's call is held in the queue waiting to be answered by a service representative. The start time is the time the call enters the queue. The stop time is the time the call is answered by the ILEC's service representative. Should the CLEC be placed in the queue and then hang up before an ILEC representative answers, the measurement will not capture the call in the performance activity. The CLEC could have hung up because it became frustrated after waiting in the queue for over an hour or because the call became unnecessary. Measurement #22 is the percent of calls that are answered within 20 seconds. This measurement serves as a stop gap to ensure that that the ILEC can not manipulate Measurement #21 by not answering calls that have been placed in the queue for long hold times. On the other hand, Measurement #22 alone would not be sufficient. Failure to answer a percentage of calls within a specific timeframe does not capture the operational problem of lengthy call hold times. In many ways, calls to the ILEC service center is the CLEC's "lifecycle." Without being able to contact the center in an efficient manner, the CLEC will not have access to critical information regarding provisioning and maintenance issues. That lack of information will cause the end user to perceive the CLEC as being not as efficient or knowledgeable as the ILEC. It should be noted that Measurement #22 has enforcement mechanisms attached while Measurement #21 does not. Therefore, the ILEC is not liable for enforcement mechanisms for both measurements.
--------------------------------	---	--

ICG Proposed Measurements with notations where BellSouth views the ICG measurement as unnecessary

23. % Busy in the Local Service Center	Not necessary. Busy conditions are rare. Busy conditions, if present, would be a result of heavy calling volume which would be reflected in Speed of Answer measurement (ICG #21).	BST's comments are incorrect in that they imply that Measurement #21 sufficiently reflects the issue of a CLEC being unable to contact the ILEC's service center. Measurements #21 and 22 only are applicable if the CLEC is able to reach the service center. Busy conditions have plagued service centers and have caused CLECs to be unable to reach the center. Busy out trunks going into the service center would not be reflected in either Measurement #21 or 22.
24. (Local Opns. Ctr.) LOC Average Speed of Answer		
25. LOC Grade of Service (GOS)	Not necessary. Another way to measure Speed of Answer as measurement #24 does.	See ICG Comments for Measurement # 22
26. % Busy in the LOC	Not necessary. Busy conditions are rare. Busy conditions, if present, would be a result of heavy calling volume which would be reflected in Speed of Answer measurement (ICG #24).	See ICG Comments for Measurement #23
II. RESALE POTS AND UNE LOOP AND PORT COMBINATIONS COMBINED BY ILEC		
A. Provisioning		
27. Mean Installation Interval		

ICG Proposed Measurements with notations where BellSouth views the ICG measurement as unnecessary

28. % Installations completed within "X" Business Days-POTS	Not necessary. Another way to measure Installation Interval as Measurement #27 does.	While Measurement #27 and 28 are complimentary, it is beneficial from a perspective of ensuring compliance with 251 and 252 obligations that both measurements, average installation interval and percentage completed within a specified time be measured, be implemented. The FCC's Louisiana II order relays serious concerns over BellSouth's ability to install service in a timely manner. Paragraph 196 indicates that BellSouth's average interval exceeds its target installation interval. However, averages can be skewed by an unusual lengthy installation timeframe for a few orders. A measurement using a percent of orders installed within a specific time provides much needed additional information in order to fairly evaluate the ILEC's overall performance. Please note that California's performance measurements include both Percent Completed within Standard Interval and Average Completed Interval. LCUG also includes measurements capturing average interval and percent completed within a specified timeframe. In addition, Pennsylvania's recommended performance measures also include both measurements for average installation interval and percent of orders installed within a specified timeframe.
29. % SWBT Caused Missed Due Dates		

ICG Proposed Measurements with notations where BellSouth views the ICG measurement as unnecessary

30. % Company Missed Due Dates due to lack of Facilities	Not necessary. % Company Missed DD due to facilities is included in the % Company Caused Missed DD (#29). This is just a drill down of #29. The more critical issue is . "Did BellSouth miss the Due Date for ANY reason?" That is measured by #29.	The importance of this measurement has been recognized in the set of measurements produced by California, LCUG and Pennsylvania, all of which include measurements that capture the percent of missed due dates caused by lack of facilities. This measurement is in addition to a measurement for missed due dates which California, LCUG and Pennsylvania also include. When a CLEC orders service for an end user that is currently a BellSouth customer, only the CLEC, not BellSouth, can be negatively impacted by BST's inability to provision new loops to the customer. If the CLEC is faced with a lack of facilities situation, it must either delay provisioning service to the customer, forego serving the customer altogether or elect to perform what is known as a "coordinated hot cut." In a hot cut, the ILEC's facilities currently in use by the customer are "cut over" to the CLEC. Unfortunately, a hot cut significantly increases the chances that the customer will experience an out of service condition with loss of dial tone. Consequently, hot cuts are not the most advantageous method of provisioning service for competitive carriers. Although BST's comments are correct in that the critical issue is whether BST missed the due date for any reason, we have a much more informed understanding of a situation any time regulators and CLECs have a root cause analysis as to why the dates were missed. A measurement capturing missed due dates due to lack of facilities provides us with that broader understanding. See response to Measurement #30 In addition, this measurement is used to compare the timeframe for the ILEC to clear facilities for its own retail provisioning to the timeframe to clear facilities for CLEC orders. Some ILECs are under service quality obligations to clear facilities within a specified period of time for end user service requests. CLEC requests for service should be treated in a non-discriminatory manner.
31. Ave. Delay Days for Missed DD due to lack of Fac.	Not a critical measurement. While it is available in BST's SQM, it is simply a reason by reason drill-down of Delay Days for Missed Due Dates #32.	
32. Average Delay Days for SWBT Missed Due Dates		

ICG Proposed Measurements with notations where BellSouth views the ICG measurement as unnecessary

33. % SWBT Caused Missed Due Dates > 30 Days	Not necessary. This is somewhat duplicative of measures 29 and 32.	Again, ICG believes that measurements capturing average intervals as well as measurements capturing percentage within a specific timeframe are complementary but not duplicative. The combination of these measurements provide a more complete picture of operational activities.
34. # of Orders canceled after the DD caused by SWBT	Not necessary and prone to misunderstanding. Not all cancellations after ILEC caused misses are attributable to the ILEC. The key, end-user affecting, measurement is #29 – Company Caused Missed Due Dates.	The business rules of this measurement ensure that only cancelled orders that have an ILEC caused missed due date code are included in the performance calculation. While BST is correct to indicate that not all cancelled orders are caused directly by the ILEC missing the due date, practically speaking there is a very high likelihood that the fundamental cause for the order cancellation is attributable to the ILEC missed installation date. The result is the end user perceives that the CLEC is an inefficient and unprofessional service provider. The measurement is diagnostic only and does not carry any enforcement mechanisms. Its diagnostic value, however, cannot be overstated since there is such a high probability that the ILEC's actions caused the end user to reconsider the decision to go to an alternative provider. For this reason, several CLECs in North Carolina have requested that BST include this measurement.
35. % Trouble Reports within 10 Days (1-10) of Installation		
36. % No Access (Service Orders with No Access)	Not necessary. Another way to measure Company Caused Missed Due Dates (ICG #29).	ICG and other CLECs have experienced situations in which the ILEC has failed to communicate the correct address or contact name to its field personnel. Consequently, orders are missed due to "no access." This measurement provides much needed root cause analysis for missed due dates. Since missed installations are such a critical operational element, it is important that everyone has as much information as possible as quickly as possible in order to understand why due dates were missed and how to resolve problems. It is as much to BST's advantage as it is to the CLECs' to have this diagnostic measurement, which does not carry any ILEC liability for enforcement mechanisms.

ICG Proposed Measurements with notations where BellSouth views the ICG measurement as unnecessary

B. Maintenance			
37. Trouble Report Rate			
38. % Missed Repair Commitments			
39. Receipt to Clear Duration			
40. % Out of Service (OOS) < 24 Hours	BST's measure is OOS greater than 24 hours. ICG's is the inverse.		
41. % Repeat Reports in 10 days			
42. % No Access (% of Trouble Reports with No Access)	Not necessary. This is a measurement of CLEC and end-user miscommunication.		BST is incorrect in its blanket assertion that no access is caused by CLEC and end user miscommunication. ICG has experienced situations in which no access occurred because the ILEC failed to correctly identify itself as appearing on behalf of ICG. In addition, the ILEC at times has failed to provide its outside technician the correct address, suite number or contact name in spite of the fact that this information was properly submitted by ICG.
			In addition, please see ICG comments on Measurement #36.
III. RESALE SPECIALS AND UNE LOOP AND PORT COMBINATIONS COMBINED BY ILEC			
A. Provisioning			
43. Average Installation Interval			
44. % Installations completed within 20 Business Days	Not necessary. Another way to measure Installation Interval as Measurement #43 does. 20 day interval appears arbitrary.		ICG believes that measurements that capture average intervals as well as percent completed within specific timeframes are extremely useful in ensuring that discriminatory treatment is not masked and that a complete reflection of the ILEC's performance is rendered by the performance measurements. The 20 day interval is not arbitrary. The business rules state that the interval is based on the ILEC's retail provisioning interval. If BST's retail interval differs from 20 days, the benchmark can be adjusted accordingly.

ICG Proposed Measurements with notations where BellSouth views the ICG measurement as unnecessary

45. % SWBT Caused Missed Due Dates		
46. % Trouble Reports within 30 Days (1-30) of Installation		
47. % Company Missed Due Dates due to lack of Facilities	Not necessary. % Company Missed DD due to facilities is included in the % Company Caused missed DD (#45). This is just a drill down of #45. The more critical issue is .. "Did BellSouth miss the Due Date for ANY reason?" That is measured by #45.	Please see ICG's comments for Measurement #30.
48. Delay Days for Missed DDs due to lack of Facilities	Not a critical measurement. While it is available in BST's SQM (Mean Held Order Interval - Facilities Page 18), it is simply a reason by reason drill-down of Delay Days for Missed Due Dates.	Please see ICG comments to Measurement #31.
49. Delay Days for SWBT Missed Due Dates		
50. % SWBT Caused Missed Due Dates > than 30 Days	Not necessary. This is somewhat duplicative of measures 45 and 49.	Please see ICG comments to Measurement #33.
51. # of Orders canceled after the DD caused by SWBT	Not necessary and prone to misunderstanding. Not all cancellations after ILEC caused misses are attributable to the ILEC. The key, end-user affecting, measurement is #29 - Company Caused Missed Due Dates.	Please see ICG comments for Measurement # 34.
B. Maintenance		
52. Mean Time to Restore		
53. % Repeat Reports		
54. Failure Frequency		

ICG Proposed Measurements with notations where BellSouth views the ICG measurement as unnecessary

IV. UNBUNDLED NETWORK ELEMENTS (UNEs)			
A. Provisioning			
55. Average Installation Interval			
55.1. Average Installation Interval – DSL			
55.2. Average Installation Interval for Loop with LNP			
56. % Installations completed within "X" Business Days	Not necessary. Another way to measure Installation Interval as Measurement #55 does.		While Measurements #55 and 56 are complimentary, #56 details specific provisioning intervals in order to ensure parity with the ILEC. Measurement #55 carries enforcement mechanisms while #56 does not. ICG believes that both measures are beneficial in providing a complete assessment of the ILEC's performance.
56.1. % Installations completed within industry guidelines for LNP with Loop	Not necessary. Another way to measure Installation Interval as Measurement #55.2 does.		Measurement 55.2 measures the average interval for provisioning number portability. Measurement 56.1 captures whether the installation was within the LNP guidelines. The two measures are complimentary but not duplicative.
57. Average Response Time for Loop Make-Up Information	Not necessary. Loop makeup information is one step of the ordering process and the time for loop makeup is included in FOC timeliness.		This measurement is key to ordering DSL capable loops. CLECs must know the loop length as well as the presence of load coils or bridge taps. Loop make up information is not included in the FOC timeliness measurements as offered by either ICG or BellSouth.
58. % SWBT Caused Missed Due Dates			
59. % Trouble Reports within 30 Days (1-30) of Installation			
60. % Missed Due Dates due to lack of Facilities	Not necessary. % Missed DD due to facilities is included in the % Company Caused missed DD (#58). This is just a drill down of #58. The more critical issue is .."Did BellSouth miss the Due Date for ANY reason?" That is measured by #58.		Please see ICG's comments for Measurement #30.
61. Ave. Delay Days for Missed DDs due to lack of Facilities	Not a critical measurement. While it is available in BST's SQM, it is simply a reason by reason drill-down of Delay Days for Missed Due Dates #62.		Please see ICG's comments for Measurement #31.

ICG Proposed Measurements with notations where BellSouth views the ICG measurement as unnecessary

62. Ave. Delay Days for SWBT Missed Due Dates		
63. % SWBT Caused Missed Due Dates > than 30 Days	Not necessary. This is somewhat duplicative of measures 58 and 62.	Please see ICG's comments for Measurement #33.
64. # of Orders canceled after the DD caused by SWBT	Not necessary and prone to misunderstanding. Not all cancellations after ILEC caused misses are attributable to the ILEC. The key, end-user affecting, measurement is #58 – Company Caused Missed Due Dates.	Please see ICG's comments for Measurement #34.
B. Maintenance		
65. Trouble Report Rate		
66. % Missed Repair Commitments		
67. Mean Time to Restore		
68. % Out of Service (OOS) < X Hours	BST's SQM Measurement is OOS <u>greater than</u> 24 hours. (SQM Page 41)	
69. % Repeat Reports		
V. INTERCONNECTION TRUNKS		
70. % Trunk Blockage		
70.1. Count of Blocked calls excluded from % of Trunk Blockage	This measurement is not clear and would not appear to be critical.	Measurement #70, % Trunk Blockage, has numerous exclusions and carries a "HIGH" designation for Tier 1 and Tier 2 enforcement mechanisms. However, there is a concern that the large number of exclusions for Measurement #70 will mask critical trunk blockage. Regulators and CLECs wanted a more complete overall picture of trunk blockage issues without subjecting the ILEC to additional enforcement payment liabilities. Consequently, this measurement #70.1 was created in order to provide a "raw" picture of trunk blockage without exclusions. However, no enforcement mechanisms are attached to this measurement. The measurement has a diagnostic value especially since trunk blockage is a key operational issue.

Page 17 of 29

ICG Proposed Measurements with notations where BellSouth views the ICG measurement as unnecessary

VI. DIRECTORY ASSISTANCE (DA) AND OPERATOR SERVICES (OS)		
79. Directory Assistance Grade of Service	Not necessary. This is another way to measure DA Speed of Answer as reported by measurement #80	The measurements are complimentary. Measurement #79 focuses on the percent of calls answered at specified intervals while Measurement 80 focuses on the average time a caller is in the queue. Measurement #79 is a diagnostic measurement with no enforcement mechanisms. Measurement #80 has a benchmark set at the ILEC's required retail timeframe and carries enforcement mechanisms.
80. Directory Assistance Average Speed of Answer	Not necessary for detection of Non-Discriminatory Access because all calls from CLEC and BellSouth retail customers go to the same operator pool. However the FCC and state commissions have ruled that this is a required measurement.	In its Louisiana II order, the FCC stated that BellSouth did not "demonstrate that it provides access to its operator services and directory assistance in a nondiscriminatory manner." (Paragraph 245). Also, it should be noted that a CLEC's calls typically would be transported over separate trunk groups to the operator service/directory assistance tandem. Ultimately, these calls could be identified by the operator service/directory assistance pool as calls originating from a CLEC's end users. This ability to distinguish the carrier is necessary for an operator pool to separately brand the calls with the correct carrier name and to provide correct rate information specific to a particular carrier. Therefore, BST's implication that non-discriminatory treatment may not be feasible since all calls go to the same operator pool does not accurately reveal the fact that this common operator pool has the ability to distinguish calls by carrier and that therefore discriminatory treatment is feasible.
81. Operator Services Grade of Service	Not necessary. This is another way to measure Operator Svcs Speed of Answer as reported by measurement #82.	Please see ICG's comments to Measurement #79
82. Operator Services Average Speed of Answer	Not necessary for detection of Non-Discriminatory Access because all calls from CLEC and BellSouth retail customers go to the same operator pool. However the FCC and state commissions have ruled that this is a required measurement.	Please see ICG's comments to Measurement #80
83. % Calls Abandoned	Not necessary for detection of Non-Discriminatory Access because all calls from CLEC and BellSouth retail customers go to the same operator pool.	Please see ICG's comments for Measurement #80. Discriminatory treatment is feasible in spite of the common operator pool.

ICG Proposed Measurements with notations where BellSouth views the ICG measurement as unnecessary

84. % Calls Deflected	Not necessary for detection of Non-Discriminatory Access because all calls from CLEC and BellSouth retail customers go to the same operator pool.	Please see ICG's comments for Measurement #80. Discriminatory treatment is feasible in spite of the common operator pool.
85. Average Work Time	Not necessary for detection of Non-Discriminatory Access because all calls from CLEC and BellSouth retail customers go to the same operator pool. Additionally Average Work Time is an internal efficiency measurement that should not be a concern of CLECs.	Please see ICG's comments for Measurement #80. Discriminatory treatment is feasible in spite of the common operator pool. In addition, Average Work Time is a common measurement used to determine the quality of service rendered by an operator service. The length of time the operator takes to process the call will directly effect the end user's perception of customer service quality. This is not simply "an internal efficiency measurement." It is a customer service measurement that directly reflects discriminatory treatment.
86. Non-Call Busy Work Volumes	Not necessary for detection of Non-Discriminatory Access because all calls from CLEC and BellSouth retail customers go to the same operator pool.	Please see ICG's comments to Measurement #80.
VII. INTERIM NUMBER PORTABILITY (INP)		
87. % Installation Completed within X (3,7,10) Bus. Days	Not necessary. Another way to measure Installation Interval as Measurement #88 does.	ICG believes that capturing key operational activities using measurements that are based on intervals as well as percentages ensure the most accurate reflection of performance. Measurement #87 does not have enforcement mechanisms attached to it while Measurement #88 does. Consequently, the ILEC will not be liable for enforcement payments in the event that the performance fails to meet both measurements. So the value of the having both measurements is not discounted by potential financial harm to the ILEC.
88. Average INP Installation Interval		
89. % INP I-Reports within 30 Days		
90. % Missed Due Dates		

ICG Proposed Measurements with notations where BellSouth views the ICG measurement as unnecessary

VII. LOCAL NUMBER PORTABILITY (LNP)		
91. % LNP Due Dates within Industry Guidelines	Not necessary. Can be derived from Order Completion Interval Distribution (SQM Page 24).	This information can not be derived from BST's SQM Order Completion Interval Distribution. The maximum number of hours reported under the interval distribution is >24 hours. The industry guidelines as incorporated in the Texas measurement are 3 days for an old NXX and 5 days for a new NXX. Under BST's SQM, the only information a CLEC or a regulatory agency would receive is an interval of greater than 24 hours. With BST's SQM, there would not be reflection of whether the LNP took place within the industry guidelines.
92. % of time the old Service Provider releases Subscription prior to the expiration of the second 9 hour timer	Not necessary. This is a diagnostic measurement of the number porting process. The key end-user affecting measurement is % Installation Appointments Met (analogous to % Company Caused Missed Due Dates.)	Successfully porting numbers requires a several key processes to occur smoothly. The more information carriers have to pinpoint the failures to met performance levels the more quickly issues will be corrected. BST correctly points out that this measurement is diagnostic. It does not carry enforcement payments. However, its diagnostic value should not be discounted. If the only self-evident information is that the installation has been missed, the longer it will be before all parties can determine root cause analysis and implement corrective steps.
93. % of Customer account restructured prior to LNP due date	Not necessary. This is a diagnostic measurement of the number porting process. The key end-user affecting measurement is % Installation Appointments Met (analogous to % Company Caused Missed Due Dates.)	This measurement captures the operational activity surrounding "partial migrations." In a partial migration, the end user is moving some but not all of an account's phone lines to the CLEC while the remaining lines will continued to be served by the ILEC. The end user's account must be restructured so that the lines remaining with the ILEC will be billed correctly and that any directory listings will be properly handled. The type of activity surrounding a partial migration is separate from and in addition to the activity captured by % Installation Appointments Met, which is a BST measurement. No BST measurement captures the operational process associated with partial migrations.
94. % FOCs received within "X" hours		
95. Average Response Time for Non-mechanized Rejects Returned with complete and accurate codes		

ICG Proposed Measurements with notations where BellSouth views the ICG measurement as unnecessary

96. % Premature Disconnects for LNP Orders	Not necessary. BellSouth does not issue a disconnect until the activate message is received from NPAC.	Premature disconnects arising from LNP orders is a critical concern that has been raised by CLECs and regulatory agencies. This measurement centers on the ILEC prematurely removing the translations prior to the scheduled conversion time. Prematurely removing the translations will result in an out-of-service condition for the customer. An ILEC's assertion its operational procedures would prevent a problem from occurring is not sufficient to warrant discarding a measurement. Operational problems can and do occur in spite of procedural safeguards. Presumably an ILEC in fact has procedural safeguards covering every operational facet monitored by performance measurements. If BST never prematurely removes the translations, it will never fail this measurement.
97. % of Time SWBT applies the 10-digit trigger prior to the LNP Order Due Date		
98. % LNP I-Reports in 10 days		
99. Average Delay Days for SWBT Missed Due Dates		
100. Average Time of Out of Service for LNP conversions		
101. % Out of Service < 60 Minutes		
VIII. 911		

ICG Proposed Measurements with notations where BellSouth views the ICG measurement as unnecessary

102. Average Time to Clear Errors	Not necessary. Parity by design. Both BST retail and CLEC resale updates are processed by third party. CLECs who serve end-users from a CLEC switch handle their end-users' E911 updates.	The fact that BellSouth uses a third party does not preclude the need for these measurements. BST continues to submit the information for resale accounts that have converted to a CLEC. Switch based CLECs can migrate a 911 record to their control only after the ILEC has allowed the record to be "unlocked." Therefore, the switch-based CLEC is unable to claim the 911 record and make appropriate changes until the ILEC's processing is complete. Since the ILEC's control of the processes will effect the CLEC's ability to claim the 911 record and update it accordingly, these measurements are applicable. In addition, as the DMS administrator, BST has ultimate responsibility for the database.
103. % Accuracy for 911 database updates	Not necessary. Parity by design. Both BST retail and CLEC resale updates are processed by third party. CLECs who serve end-users from a CLEC switch handle their end-users' E911 updates.	Please see ICG's response to Measurement #102.
104. Average Time Required to Update 911 Database	Not necessary. Parity by design. Both BST retail and CLEC resale updates are processed by third party. CLECs who serve end-users from a CLEC switch handle their end-users' E911 updates.	Please see ICG's comments to Measurement #102.
IX. POLES, CONDUIT AND RIGHTS OF WAY		
105. % of requests processed within 35 days	Not necessary. This is not a critical measurement. In Louisiana - II, the FCC determined that BellSouth is in compliance with this check list item. CC Docket 98-121, Executive Summary and Para 174.	Since Measurements 105 and 106 directly capture whether BST is providing nondiscriminatory access to poles, conduits and rights of way, they are critical measurements. If fact, several CLECs in North Carolina have requested that BST add these types of measurements. The fact that the FCC found BST providing non-discriminatory access in Louisiana in 1998 does not preclude the possibility of current or future discriminatory practices in Tennessee.

ICG Proposed Measurements with notations where BellSouth views the ICG measurement as unnecessary

106. Average Days required to Process a Request	Not necessary. This is not a critical measurement. In Louisiana – II, the FCC determined that BellSouth is in compliance with this check list item. CC Docket 98-121, Executive Summary and Para 174.)	Please see ICC's comments to Measurement #105
X. COLLOCATION		
107. % Missed Collocation Due Dates		
108. Average Delay Days for SWBT Missed Due Dates		
109. % of Requests processed within the tariffed timelines		
XI. DIRECTORY ASSISTANCE DATABASE		
110. % of updates completed into the DA Database within 72 hours for facility based CLECs	Not necessary. In BellSouth this is parity by Design – Directory database updates from retail and wholesale customers are processed in the same batch file.	Measurements #110, 111, and 112 are important to ensure nondiscriminatory database updates. The fact that an ILEC eventually processes a common batch file that contains ILEC and CLEC updates does not prevent significant delays from occurring for the CLEC. These delays might actually occur prior to the information finally being inputted into a common batch file. These processing delays result in CLEC updates not being timely processed in the same manner as the ILEC's updates. For example, the ILEC might process a common file on 12/13/99, but that common file might contain both ILEC customer information that is being updated in a truly timely manner as well as CLEC customer information that actually should have been uploaded into the database at much earlier date. Therefore, the fact that the records are being processed in a common batch does not prevent discriminatory treatment. In addition to Texas, California, Pennsylvania, LCUG and Indiana included measurements addressing directory assistance database updates.
111. Average Update Interval for DA database for facility based CLECs	Not necessary. In BellSouth this is parity by Design – Directory database updates from retail and wholesale customers are processed in the same batch file.	Please see ICG's response to Measurement #110

ICG Proposed Measurements with notations where BellSouth views the ICG measurement as unnecessary

112. % DA Database Accuracy for Manual Updates	Not necessary. In BellSouth this is parity by Design – Directory database updates from retail and wholesale customers are processed in the same batch file.	Please see ICG's response to Measurement #110
113. % of electronic updates that flow through the DSR without manual intervention.	Not necessary. In BellSouth this is parity by Design – Directory database updates from retail and wholesale customers are processed in the same batch file. In addition, this process may not be applicable in BellSouth.	Please see ICG's response to Measurement #110
XII. COORDINATED CONVERSIONS		
114. % Pre-mature disconnects (Coordinated Cutovers)		
115. % SWBT caused delayed Coordinated Cutovers	Not a critical measurement and not necessary. Would be reflected in Customer Coordinated Conversion intervals (SQM Page 28)	BST's SQM Customer Coordinated Conversion Intervals would not reflect whether the ILEC caused coordinated cutovers to be delayed. BellSouth's measurement only captures the interval once the cutover begins. The Texas Measurement 115 captures whether the ILEC delays the start of the cutover. Under the limited business rules of the BellSouth's measurement, the ILEC could delay the start of the cutover and consequently inconvenience the end user and damage the perception of the CLEC by the end user. But the BST' measurement would not capture the problem.
116. % Missed mechanized INP conversions	Not necessary. Since the implementation of LNP, there is very little INP activity.	Unless there is no INP activity in a state, measurements capturing INP performance will continue to be appropriate.
XIII. NXX		

ICG Proposed Measurements with notations where BellSouth views the ICG measurement as unnecessary

117. % NXXs loaded and tested prior to the LERG effective date.	Not necessary. This is not an important measurement based on no complaints despite a high volume of activity.	It is unclear from BST's comments whether it is stating that no CLEC has filed a formal complaint regarding NXX loading. Regardless whether a formal complaint has been filed on this matter, the operational issue has been recognized as a significant matter by CLEC, other ILECs and regulatory agencies. Each carrier is responsible for updating its switches with new NXXs that are published in the LERG. This process became an issue involving discriminatory treatment by the ILECs when ILECs frequently failed to update their switches with the new NXXs reserved by CLECs. As a consequence, CLEC customers could not receive telephone calls from ILEC customers. Texas, California, and Indiana have included measurements on NXX loading. Please see ICG's comments to Measurement 117.
118. Average Delay Days for NXX loading and testing	Not necessary. This is not an important measurement based on no complaints despite a high volume of activity.	Please see ICG's comments to Measurement 117.
119. Mean Time to Repair	Not necessary. This is not an important measurement based on no complaints despite a high volume of activity.	Please see ICG's comments to Measurement 117.
XIV. BONA FIDE REQUEST PROCESS (BFRs)		
120. % of Requests processed within 30 Business Days	Not necessary due to low volumes. Between Jan and Sept 1999, only 48 BFRs have been received from all CLECs in all 9 states.	BellSouth's testimony in North Carolina indicates that they have received far more than 48 BFRs. In addition, CLECs in North Carolina have requested BST add measurements capturing its processing of bona fide requests. As communication technology evolves and as business plans mature, CLECs will be faced with the need to submit bona fide requests. Unless we have a means by which the ILEC is required to process these requests in a timely manner, the ILEC can hold the CLEC in abeyance by placing the request in a limbo status. Ensuring that competition thrives requires that we ensure that an evolutionary process can occur as smoothly as possible. The bona fide request is at the heart of that type of evolutionary process. Without a mechanism to ensure the timely processing of requests, we open the door to impeding progressive competition.

121. % Quotes Provided for Authorized BFRs within X(10,30,90) business days	Not necessary due to low volumes. Between Jan and Sept 1999, only 48 BFRs have been received from all CLECs in all 9 states.	Please see ICG's response to Measurement 120.
---	--	---

There are no pages 27-29.

Late-Filed Exhibit 4

COMPARISON OF THE TEXAS ENFORCEMENT PLAN AND BELL SOUTH'S ENFORCEMENT PROPOSAL

General Review:

The BellSouth's proposal to the FCC is based on the Texas Remedy Plan. However, BST's proposal is a "watered down" version of the Texas Plan.

Fewer performance measures would trigger self-executing enforcement mechanisms

The annual penalty cap is considerably lower per state

The enforcement amount per measure is considerably lower

BST's proposal would not become effective until 271 relief is granted in a state

Performance Measurements:

Texas -

The Texas Plan provides 121 measurements, of which 91 measurements are used to calculate potential enforcement mechanisms.

BellSouth -

The BellSouth proposal to the FCC outlines only 21 measurements that would be used to calculate potential enforcement mechanisms.

NOTE -

The FCC had imposed 36 performance measurements, all of which would be used to calculate potential enforcement mechanisms, as part of its merger conditions for SBC/Ameritech. The FCC merger conditions, however, recognized that the states in which SBC/Ameritech operated were imposing their own set of performance measures and enforcement mechanisms. The FCC performance measures and enforcement mechanisms overlaid the measurements and enforcement plan developed by the various state commissions.

Enforcement Mechanism Structure:

Texas -

The Texas Plan categorizes payments into Tier 1 enforcement mechanisms, which are payable to the CLEC, and Tier 2 enforcement mechanisms, which are payable to the state treasury. (See Attachment 1, "Appendix 1, Attachment 17 - Performance Remedy Plan")

The Texas Plan categorizes the performance measures, which are used to calculate potential enforcement payments as triggering Tier 1 and/or Tier 2 payments. (See Attachment 1, "Appendix 1, Attachment 17 - Performance Remedy Plan")

In addition, the measurements are further categorized as being "High," "Medium," and "Low." The monetary amounts for the Tier 1 and Tier 2 payments will vary according to the "High," "Medium" and "Low" designation. (See Attachment 1, "Appendix 1, Attachment 17 - Performance Remedy Plan")

The Texas Plan also varies the amount of the payment according to how many months the ILEC has provided substandard performance. (See Attachment 2, "Attachment 17: Performance Remedy Plan" page 10)

Texas also capped some measurements so that the monthly payment amounts could not exceed a specified dollar amount. (See Attachment 2, "Attachment 17: Performance Remedy Plan" page 10)

The monthly payment amounts vary from \$25 to \$150,000

BellSouth's FCC Proposal -

The BellSouth proposal, which was modeled after the Texas plan, provides for Tier 1 enforcement mechanisms payable to the CLEC and Tier 2 enforcement mechanisms payable to the state. (See Attachment 3, "Liquidated Damages Table for Tier 1 and Tier 2 Measures" page 75 of BellSouth's Late Filed Hearing Exhibit AJV-1, Docket 99-00430 and Docket 99-00377)

BellSouth's proposed monthly payment amounts vary according to how many months it has provided substandard performance.

BellSouth's monthly payment amounts vary from \$.10 to \$5,000

Annual Cap on Payments:

Texas -

The Texas Plan originally capped the annual payment liability for the ILEC at \$120 million. However, the FCC strongly criticized this cap as being far too low to incite compliance. Common Carrier Bureau Chief Lawrence Strickling wrote,

"In particular, the Bureau believes that the potential liability under such a plan must be high enough that an incumbent could not rationally conclude that making payments under an enforcement plan is an acceptable price to pay for hindering or blocking competition.

"As a first step, the Bureau urges SWBT to consider increasing the \$120 million cap on payments under its plan. When viewed as a percentage of SWBT's in-state gross local revenues (approximately 2.19%), this amount of potential liability may be insufficient to provide the assurances discussed above." (Attachment 4, Letter from Lawrence Strickling to Priscilla Hill-Ardoin, SBC Telecommunications)

On December 16, 1999, the annual penalty cap for SBC in Texas was raised to \$225 million, which is approximately 4.1% of SWBT's Texas local revenues.

BellSouth -

BellSouth's proposal to the FCC would cap BST's liability at \$120 million for all 9 BellSouth states.

BST proposes to cap the annual liability for Tennessee alone at \$13,000,000.

BST's approximate in-state local service revenues for Tennessee are \$1,088,000,000. A \$13 million cap would be approximately 1.2% of BST's local revenues for Tennessee. Since the FCC has serious reservations about SBC's original cap being 2.19%, BST's proposal would not provide enough of a financial incentive to provide an assurance that non-discriminatory treatment would be discouraged.

NOTE –

Considering that SBC's revenues in Texas exceed BST's Tennessee local revenues, the original cap of \$120 million may be inappropriate.

Since the Texas cap now is approximately 4.1% of SBC's Texas revenues, the TRA might want to consider a similar percentage for BST. Using \$1,088,000,000 as BST's Tennessee local revenues, a cap that approximates 4.1% would be \$44 million.

Additional Monthly Cap in Texas –

The Texas Plan also has a monthly cap of \$3 million payable to a single CLEC or \$10 million monthly payable to all CLECs. If calculated damages exceed these caps, the ILEC can initiate a show cause proceeding to demonstrate why it should not be required to pay. The ILEC would have the burden of proof to demonstrate why it would be unjust to require it to pay liquidated damages in excess of the applicable monthly threshold amounts. However, even under this process, the ILEC is financially liable for the maximum amount of \$120 million annually.

Rational for Payment Amounts under Tier 1 Damages:

Texas –

The Texas Remedy Plan indicates:

“... SWBT [Southwestern Bell Telephone] and CLEC agree that proof of damages from any ‘non-compliant’ performance measure would be difficult to ascertain and, therefore, liquidated damages are reasonable approximation of any contractual damage resulting from non-compliant performance measure. SWBT and CLEC further agree that liquidated damages payable under this provision are not intended to be a penalty.” (Attachment 2, “Attachment 17: Performance Remedy Plan, page 5).

BellSouth –

The BellSouth proposal indicates:

“Proof of damages resulting from BellSouth's failure to maintain Enforcement Measurement Compliance would be difficult to ascertain and therefore, liquidated damages are a reasonable approximation of any contractual damages. Liquidated damages under this provision are not intended to be a penalty.” (Attachment 3, pages 26-27 of BellSouth's Late Filed Hearing Exhibit AJV-1)

Availability:Texas –

The Texas performance measurements and enforcement mechanisms are available now to any CLEC.

BellSouth –

BellSouth's proposal would not go into effect in Tennessee until the FCC grants BST 271 relief in Tennessee.

Statistical Calculation:Texas –

Texas uses a modified z-test. Additionally, some measures set the performance threshold at 95% of benchmark. The Plan also employs a "K" value that exempts a specific number of missed measures from being incorporated into the payment calculation; the purpose of the "K" table is to provide another layer of "forgiveness" for the ILEC.

BellSouth-

ICG is not able to comment on the statistical calculation presented in BST's Late Filed Hearing Exhibit since the Exhibit does not provide sufficient information for a thorough analysis.

Attachments

Attachments 1, 2, and 4 are appended to the pre-filed testimony of ICG witness Gwen Rawling.

Attachment 2 is BellSouth's Late Filed Hearing Exhibit AJV-1, filed in both this docket and in the ITC-Deltacom arbitration proceeding.