

*Frequency of Response:* On occasion reporting requirements; Third party disclosure.

*Total Annual Burden:* 203 hours.

*Total Annual Costs:* \$10,000.

*Needs and Uses:* Amendments to the Commission's Rules governing Low Power Radio and Automated Maritime Telecommunications System (AMTS) operations in the 216–217 MHz band require manufacturers of low power radio service (LPRS) equipment to include a statement covering the use of the equipment to ensure that television stations, which may be effected, are made aware of the location of potential harmful interference from AMTS operations.

Federal Communications Commission.

**Marlene H. Dortch,**

Secretary.

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## FEDERAL COMMUNICATIONS COMMISSION

[WC Docket No. 02–150; FCC 02–260]

### 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

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice.

**SUMMARY:** In the document, the Federal Communications Commission (Commission) grants the section 271 application of BellSouth Corporation, *et al.* (BellSouth) for authority to enter the interLATA telecommunications market in the states of Alabama, Kentucky, Mississippi, North Carolina, and South Carolina. The Commission grants BellSouth's application based on its conclusion that BellSouth has satisfied all of the statutory requirements for entry, and opened its local exchange markets to full competition.

**DATES:** Effective September 27, 2002.

**FOR FURTHER INFORMATION CONTACT:** Aaron Goldberger, Attorney-Advisor, Wireline Competition Bureau, at (202) 418–1591 or via the Internet at [agoldber@fcc.gov](mailto:agoldber@fcc.gov). The complete text of this Memorandum Opinion and Order is available for inspection and copying during normal business hours in the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC 20554.

Further information may also be obtained by calling the Wireline Competition Bureau's TTY number: (202) 418–0484.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Memorandum Opinion and Order in WC Docket No. 02–150, FCC 02–260, adopted September 18, 2002, and released September 18, 2002. The full text of this order may be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone 202–863–2893, facsimile 202–863–2898, or via e-mail [qualexint@aol.com](mailto:qualexint@aol.com). It is also available on the Commission's Web site at [http://www.fcc.gov/Bureaus/Wireline\\_Competition/in-region\\_applications](http://www.fcc.gov/Bureaus/Wireline_Competition/in-region_applications).

### Synopsis of the Order

1. *History of the Application.* On June 20, 2002, BellSouth filed an application, pursuant to section 271 of the Telecommunications Act of 1996, with the Commission to provide in-region, interLATA service in the states of Alabama, Kentucky, Mississippi, North Carolina, and South Carolina.

2. *The State Commissions' Evaluations.* The Alabama Public Service Commission (Alabama Commission), the Kentucky Public Service Commission (Kentucky Commission), the Mississippi Public Service Commission (Mississippi Commission), the North Carolina Utilities Commission (North Carolina Commission), and the South Carolina Public Service Commission (South Carolina Commission) (collectively, state commissions), following an extensive review process over a number of years, advised the Commission that BellSouth had met the checklist requirements of section 271 and has taken the statutorily required steps to open its local markets in each state to competition. Consequently, the state commissions recommended that the Commission approve BellSouth's in-region, interLATA entry in their evaluations and comments in this proceeding.

3. *The Department of Justice's Evaluation.* The Department of Justice filed its evaluation of BellSouth's application on July 30, 2002. It recommended approval of the application subject to the Commission's review of, among other things, BellSouth's change management process for operations support systems (OSS). The Department of Justice stated that BellSouth had made substantial progress in addressing issues that it had previously identified.

### Primary Issues in Dispute

4. *Compliance with Section 271 (c) (1) (A).* The Commission concludes that BellSouth demonstrates that it satisfies the requirements of section 271 (c)(1)(A) based on the interconnection agreements it has implemented with competing carriers in Alabama, Kentucky, Mississippi, North Carolina, and South Carolina. The record demonstrates that competitive LECs serve some business and residential customers using predominantly their own facilities in each of the states.

5. *Checklist Item 2—Unbundled Network Elements.* Based on the record, the Commission finds that BellSouth has provided “nondiscriminatory access to network elements in accordance with the requirements of sections 251(c)(3) and 252(d)(1)” of the Act in compliance with checklist item 2.

6. The Commission finds that BellSouth's UNE rates in each of the five states are just, reasonable, and nondiscriminatory, and are based on cost plus a reasonable profit as required by section 252(d)(1). Thus, BellSouth's UNE rates in Alabama, Kentucky, Mississippi, North Carolina, and South Carolina satisfy checklist item 2. The Commission has previously noted that different states may reach different results that are each within the range of what a reasonable application of TELRIC would produce. After reviewing commenters' criticism of loop rate issues, switching rate issues, Daily Usage File (DUF) rates, and BellSouth's non-recurring OSS charge, the Commission concludes that the state commissions followed basis TELRIC principles and there is insufficient evidence to demonstrate that the state commissions committed clear error.

7. Pursuant to this checklist item, the Commission finds that BellSouth also provides nondiscriminatory access to network elements in a manner that allows other carriers to combine such elements themselves. In addition, BellSouth demonstrates that it provides to competitors combinations of already-combined network elements. Accordingly, BellSouth provides UNEs, including UNE combinations, in the five states in the same manner as the Commission approved in Georgia and Louisiana.

8. The Commission also concludes that BellSouth meets its obligation to provide access to its OSS—the systems, databases and personnel necessary to support network elements or services. Based on the evidence presented in the record, the Commission finds that BellSouth provides nondiscriminatory access to each of the primary OSS

functions (pre-ordering, ordering, provisioning, maintenance and repair, billing, and change management and technical assistance). BellSouth provides access to its OSS in a manner that enables competing carriers to perform the functions in substantially the same time and manner as BellSouth or, if there is not an appropriate retail analogue in BellSouth's systems, in a manner that permits an efficient competitor a meaningful opportunity to compete.

9. Specifically, regarding change management, the Commission finds that, since the *BellSouth Georgia/Louisiana Section 271 Order*, BellSouth has continued to improve the adequacy of its plan by broadening its scope and by increasing the role of competitive LECs in the process. While the Commission finds that problems still exist with respect to BellSouth's adherence to the change management process, the Commission finds those problems—generally, the quality of software releases and the number of change requests awaiting implementation—are not sufficient to warrant a finding of checklist noncompliance.

#### Other Checklist Items.

10. *Checklist Item 1—Interconnection.* Based on the evidence in the record, the Commission finds that BellSouth demonstrates that it provides interconnection in accordance with the requirements of section 251(c)(2), and as specified in section 271 and applied in the Commission's prior orders. Pursuant to this checklist item, BellSouth must allow other carriers to interconnect their networks to its network for the mutual exchange of traffic, using any available method of interconnection at any available point in BellSouth's network. BellSouth's performance generally satisfies the applicable benchmark or retail comparison standards for this checklist item.

11. *Checklist Item 4—Unbundled Local Loops.* BellSouth demonstrates that it provides unbundled local loops in accordance with the requirements of section 271 and our rules in that it provides "local loop transmission from the central office to the customer's premises, unbundled from local switching or other services." More specifically, BellSouth establishes that it provides access to loop make-up information in compliance with the *UNE Remand Order* and nondiscriminatory access to stand alone xDSL-capable loops and high-capacity loops. Also, BellSouth provides voice grade loops, both as new loops and through hot-cut conversions, in a

nondiscriminatory manner. Finally, BellSouth has demonstrated that it has a line-sharing and line-splitting provisioning process that affords competitors nondiscriminatory access to these facilities.

12. *Checklist Item 5—Unbundled Transport.* Section 271(c) (2) (B) (v) of the competitive checklist requires a BOC to provide "local transport from the trunk side of a wireline local exchange carrier switch unbundled from switching or other services." The Commission concludes, based upon the evidence in the record, that BellSouth demonstrates that it provides unbundled local transport, in compliance with the requirements of checklist item 5.

13. *Checklist Item 8—White Pages Directory Listings.* Based on the record, the Commission finds that BellSouth provides white page directory listings for customers of the other carrier's telephone exchange service and permits competitive providers of telephone exchange service and toll service to have access to directory listings in compliance with checklist item 8.

14. *Checklist Item 10—Databases and Associated Signaling.* BellSouth has demonstrated that it provides "nondiscriminatory access to databases and associated signaling necessary for call routing and completion" in compliance with the requirements of checklist item 10.

15. *Checklist Item 11—Number Portability.* Section 251(b)(2) requires all LECs "to provide, to the extent technically feasible, number portability in accordance with requirements prescribed by the Commission." Based on the evidence in the record, we find that BellSouth complies with the requirements of checklist item 11.

16. *Checklist Item 12—Local Dialing Parity.* Based on the evidence in the record, the Commission concludes that BellSouth provides nondiscriminatory access to such services or information as are necessary to allow the requesting carrier to implement local dialing parity in accordance with the requirements of section 251(b)(3) of the Act in compliance with checklist item 12.

17. *Checklist Items 3, 6, 7, 9, 13 and 14.* An applicant under section 271 must demonstrate that it complies with checklist item 3 (access to poles, ducts, and conduits), item 6 (unbundled local switching), item 7 (911/E911 access and directory assistance/operator services), item 9 (numbering administration), item 13 (reciprocal compensation), and item 14 (resale). Based on the evidence in the record, the Commission concludes that BellSouth demonstrates that it is in

compliance with checklist items 3, 6, 7, 9, 13, and 14 in the five states.

18. *Section 272 Compliance.* BellSouth provides evidence that it maintains the same structural separation and nondiscrimination safeguards in Alabama, Kentucky, Mississippi, North Carolina, and South Carolina as it does in Georgia and Louisiana, states in which BellSouth has already received section 271 authority. Therefore, the Commission concludes that BellSouth has demonstrated that it is in compliance with the requirements of section 272.

19. *Public Interest Analysis.* The Commission concludes that approval of this application is consistent with the public interest. It views the public interest requirement as an opportunity to review the circumstances presented by the applications to ensure that no other relevant factors exist that would frustrate the congressional intent that markets be open, as required by the competitive checklist, and that entry will therefore serve the public interest as Congress expected. The Commission finds that barriers to competitive entry in the local exchange markets have been removed and that the local exchange markets in each state are open to competition. The Commission also finds that the performance monitoring and enforcement mechanisms developed in each state, in combination with other factors, provide meaningful assurance that BellSouth will continue to satisfy the requirements of section 271 after entering the long distance market.

20. *Section 271(d)(6) Enforcement Authority.* Working with each of the state commissions, the Commission intends to closely monitor BellSouth's post-approval compliance to ensure that BellSouth continues to meet the conditions required for section 271 approval. It stands ready to exercise its various statutory enforcement powers quickly and decisively in appropriate circumstances to ensure that the local market remains open in each of the states.

Federal Communications Commission.

**Marlene H. Dortch,**

*Secretary.*

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