

by the California Commission (to the extent they could independently establish a public interest concern cognizable by this Commission), we conclude that Pacific Bell's entry into the long distance market will benefit consumers and competition.

21. We also note that commenters urge the Commission to perform a price squeeze analysis regarding rates for DS1 and DS3 loops, DSL transport, and payphone lines. The Commission has reviewed the commenters' evidence of a price squeeze, however, and determined that, even if the Commission accepted their assertions that a price squeeze analysis is mandated by section 271's public interest requirement, no price squeeze is present here. The commenters' price squeeze claims are insufficient to demonstrate the existence of a price squeeze that dooms them to failure under the standard articulated by the D.C. Circuit in *Sprint v. FCC*. Therefore, the Commission concludes that there is no evidence in the record that warrants disapproval of this application based on allegations of a price squeeze, whether couched as discrimination under checklist item 2 or a violation of the public interest standard.

22. The Commission also finds that the performance monitoring and enforcement mechanisms developed in California, in combination with other factors, provide meaningful assurance that Pacific Bell continue to satisfy the requirements of section 271 after entering the long distance market.

23. The Commission concludes that approval of this application is consistent with the public interest. From our extensive review of the competitive checklist, which embodies the critical elements of market entry under the Act, we find that barriers to competitive entry in California's local exchange market have been removed, and that the local exchange market is open to competition.

24. *Section 271(d)(6) Enforcement Authority.* The Commission concludes that, working with the California Commission, we will closely monitor Pacific Bell's post-approval compliance to ensure that Pacific Bell does not "cease[] to meet the conditions required for [section 271] approval." We stand ready to exercise our various statutory enforcement powers quickly and decisively if there is evidence that market opening conditions have not been sustained.

Federal Communications Commission.

**William F. Caton,**

*Deputy Secretary.*

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## FEDERAL COMMUNICATIONS COMMISSION

[WC Docket No. 02-307; FCC 02-331]

### Joint Application by BellSouth Corporation, BellSouth Telecommunications, Inc., and BellSouth Long Distance, Inc. for Provision of In-Region, InterLATA Services in Florida and Tennessee

**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 Florida and Tennessee. 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 December 30, 2002.

**FOR FURTHER INFORMATION CONTACT:** Christine Newcomb, Attorney-Advisor, Wireline Competition Bureau, at (202) 418-1573 or via the Internet at [cnewcomb@fcc.gov](mailto:cnewcomb@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. 02-307, FCC 02-331, adopted December 18, 2002, and released December 19, 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 September 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 Florida and Tennessee.

2. *The State Commissions' Evaluations.* The Florida Public Service Commission (Florida Commission), and the Tennessee Regulatory Authority (Tennessee Authority) (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 October 10, 2002. It recommended approval of the application subject to the Commission's resolving certain concerns expressed by the Department of Justice, specifically, BellSouth's change management process for operations support systems (OSS), and its policy on restating erroneously reported performance data.

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 Florida and Tennessee. The record demonstrates that competitive LECs serve some business and residential customers using predominantly their own facilities in each of the states.

## Primary Issues in Dispute

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 Florida and Tennessee 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 Florida and Tennessee 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 principles would produce. After reviewing commenters' criticisms of BellSouth's hot cut charges for SL-2 loops, expedite order charge, promotional tariffs, inflation recovery methodology, and loading factors, the Commission concludes that Florida and Tennessee 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 two 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 and Multistate Section 271 Orders*, 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 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.

11. *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.

12. *Checklist Item 13—Reciprocal Compensation.* Based on the evidence in the record, the Commission concludes that BellSouth has in place reciprocal compensation arrangements in accordance with the requirements of section 252(d)(2) of the Act in compliance with checklist item 13.

13. *Checklist Items 1, 3, 5, 6, 7, 8, 9, 10, 12, and 14.* An applicant under section 271 must demonstrate that it complies with checklist item 1 (interconnection), item 3 (access to poles, ducts, and conduits), item 5 (unbundled transport), item 6 (unbundled local switching), item 7 (911/E911 access and directory assistance/operator services), item 8 (white pages directory listings), item 9 (numbering administration), item 10 (databases and associated signaling), item 12 (local dialing parity), 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 1, 3, 5, 6, 7, 8, 9, 10, 12, and 14 in the two states.

14. *Section 272 Compliance.* BellSouth provides evidence that it maintains the same structural separation and nondiscrimination safeguards in

Florida and Tennessee as it does in Alabama, Kentucky, Mississippi, North Carolina, South Carolina, 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.

15. *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.

16. *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.

**William F. Caton,**

*Deputy Secretary.*

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#### FEDERAL HOUSING FINANCE BOARD

[No. 2002-N-14]

RIN 3069-AB23

#### Monthly Survey of Rates and Terms on Conventional One-Family Non-farm Mortgage Loans

**AGENCY:** Federal Housing Finance Board.

**ACTION:** Notice of methodological changes to the Monthly Survey of Rates and Terms on Conventional One-