



Public Service Commission
-M-E-M-O-R-A-N-D-U-M-

DATE: July 29, 2002
TO: All Parties of Record
FROM: Jason K. Fudge, Senior Attorney, Office of the General Counsel
RE: Docket No. 000121A-TP
Six Month Review of BellSouth's Performance Assessment Plan

On July 9, 2002, all parties of record were informed that staff will hold an informal meeting to discuss proposed changes to the Performance Assessment Plan (Plan) at the following time and place:

1:00 p.m.
Wednesday, September 25, 2002
Room 166, Betty Easley Building
4075 Esplanade Way
Tallahassee, FL 32399

Any comments on the Plan should be filed by Friday, August 30, 2002, with the Division of the Commission Clerk & Administrative Services (an electronic version should also be provided to Lisa Harvey at lharvey@psc.state.fl.us).

The determination of whether a measure has failed or not appears to be well-grounded; however, the current remedy plan does not address the severity of a failure. While acknowledging that the severity of a failure is an important consideration, the Commission determined that both BellSouth's and the ALEC Coalition's remedy plans did a "poor job of estimating the extent of any discrimination" and had "fundamental flaws." (Order No. PSC-01-1819-FOF-TP, p. 162) In the same order, the Commission expressed interest in evolving to a transaction-based remedy system, with a minimum payment provision. At the same time, staff is open to other approaches, but we believe it is essential to incorporate the severity of a failure into the remedy plan.

Staff members involved in the statistical analysis and remedy plan aspects of the Plan seek specific comments and suggestions related to, but not limited to, the following:

Extent of Failure (Disparity)

- \* Consider number of disparate transactions subject to penalty payments. (e.g., For measures found to be out of compliance, use a 50% confidence level to achieve a statistically neutral result on the 2nd compliance test. Assess penalties on transactions estimated to be beyond the 50% confidence level.)
\* Consider ratio, as opposed to the difference, of ALEC to ILEC means, proportions or rates (as applicable) (e.g., The X-Plan (Hybrid Performance Assurance Plan for the Multi-State Workshop) - Late filed Exhibit 2, Part I).

Remedy Payment(s)

Pursuant to the current Plan, Tier 1 payments vary by the type of measure and the duration of non-compliance. Tier 2 payments vary by the type of measure only.

- \* Modify remedy plan to incorporate the extent of disparity
\* Should the payments be a linear or non-linear function, based on the extent of the failure or severity?
\* Possibly, revisit relative importance (weights) of submetrics or measures to determine the remedy amount (e.g., As a function of the number of transactions (A Transaction-Based Performance Plan for Florida) - Late filed Exhibit 2, Part II).

Staff suggests that comments and suggestions be presented in a conceptual manner, and if possible, with applicable mathematical formulations. For further discussion or questions, please contact Breda A. Platt (Regulatory Analyst, Div. of Competitive Markets and Enforcement) at 413-6510 or via e-mail at bplatt@psc.state.fl.us.

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