REGIONAL RESOURCE
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# Update on Competition in the Telecommunications Industry

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## Introduction

While the telecommunications industry's reputation has been tarnished by WorldCom's struggles, an overcrowded marketplace, and artificially high stock prices, telecom companies and state and federal regulators continue to cooperate in order to provide new services to consumers. This *Regional Resource* serves as an update to *Telecommunications Competition in Southern States*, a *Special Series Report* published by the Southern Legislative Conference (SLC) in January 2001. It addresses the issue of Regional Bell Operating Companies (RBOCs), such as BellSouth, SBC Communications and Verizon, being allowed to offer long-distance telephone service in states in which they are the primary local-service carrier.[1] The process of gaining approval and the effects of increased local-service and long-distance competition are being felt across the 16-state region of the SLC, in which consumers in 14 of the states now have increased competition in their long-distance and local-service markets. Furthermore, regulatory agencies and telecom companies in states in which consumers do not yet have this option currently are working on creating opportunities for more competition for consumers.

Today's telecom regime was formed by the Telecommunications Act of 1996. This legislation requires companies which have virtual local-service monopolies to prove on a state-by-state basis that they have opened their markets to local competition from smaller companies before they are allowed to offer long-distance service. The 1996 Act requires RBOCs to fulfill the terms of a 14-point checklist. In practical experience, doing so consists of satisfying state regulatory authorities that the incumbent carrier is allowing competitors to utilize its infrastructure and/or buy service from it at a reasonable cost. After gaining the support of the state public service commission (PSC), incumbent carriers must then submit an application to the Federal Communications Commission (FCC), which relies heavily on both the opinions of the state body as well as the Antitrust Division of the United States Department of Justice (DOJ) before reaching a verdict. Initial decisions on applications were overwhelmingly negative, with the tide turning in 2001, when the incumbent carriers (SBC and Verizon) received the go-ahead in a total of seven states. Verizon, the country's largest service provider, scored the first success, winning permission to offer long-distance service in New York in 1999. SBC followed suit in Texas nine months later, and as of January 2003, incumbent carriers in 35 states had been approved, with an additional three cases pending.

## Challenges

The theory behind Section 271 of the 1996 Act held that the lure of big long-distance revenue would suffice to drive competition in local markets; however, change has been somewhat slow. While increases in competition have occurred, few states' consumers have been overwhelmed by the level of competition. In some cases, local markets can function as dependable revenue generators for RBOCs, while rates have been driven down for long-distance service, for which competition has been fierce for more than a decade. Furthermore, some argue that RBOCs have little incentive to allow competition for this reason and because there has been little cost in ignoring statutory and regulatory requirements. Companies simply treat fines as a cost of doing business.[2] This lax enforcement of rules and regulations has led to an atmosphere of uncertainty that has hindered capital accumulation for smaller companies. In addition to the well-publicized troubles of WorldCom, the decline of smaller, but still established carriers such as WinStar, Teligent and e.spire, all of which have declared bankruptcy, receives little national media attention, yet still plays a large role in the travails of the industry.

One response to the continuing domination of RBOCs was a campaign to break them up into smaller entities. This gained momentum at the state level in 2001, with regulators in Illinois, Maryland, Minnesota, Pennsylvania and New Jersey all considering this tactic. The Pennsylvania regulatory authorities initially ordered Verizon to separate its retail and wholesale divisions, but in the end opted for a lesser change in the form of functional separation, with Verizon continuing to operate as one company but with its wholesale and retail operations required to function separately. [3] Separation became an issue in some SLC states as well. AT&T filed a petition in Florida asking for the structural separation of BellSouth, while Verizon was forced to fight a bill in Maryland that would have changed its structure in that state.

Due to a weakening economy and more competition, the country's four major local phone companies currently are weathering a storm. After seven years of deregulation, almost two decades of cellular phone availability, four years of broadband Internet service, and lowered wholesale rates, the RBOCs are finding that offering long-distance service is not a panacea for their financial woes. Regulatory authorities in several large states, such as Texas and California, have slashed the rates RBOCs are allowed to charge competitors to use their networks. The resulting lower rates have aided competitors, especially larger operators such as AT&T and WorldCom, whose Neighborhood Plan has gained more than 1 million subscribers in its first six months of availability. However, FCC Chairman Michael Powell has signaled that the Commission will alter rules so that carriers such as MCI (a unit of WorldCom) and AT&T will have to use their own facilities rather than relying on Verizon, BellSouth and SBC.[4]

## Growth of Competition

Not all the news is bad. Texas Public Utilities Commissioner Brett Perlman maintains that local markets have, in fact, opened up as a result of the Telecom Act's Section 271, and that his state's main provider, SBC, "has generally met performance standards."[5] Texas monitors its incumbent carriers monthly and has utilized a quick dispute resolution system to streamline complaint procedures and adjudicate accordingly. SBC and other major companies must submit quarterly reports on key performance measures.

While perhaps not yet reaching the levels expected in 1996, when the Act was passed, there has been a significant increase in competition among telecom carriers. Data from the FCC shows that, as of June 2002, end-user customers obtained local telephone service over almost 22 million competitive local exchange carrier (CLEC) lines, compared to 167 million incumbent local exchange carrier (ILEC) lines. Although ILECs still command a huge majority of phone lines, total CLEC access lines increased 14 percent during the second half of 2001, from 17.3 million lines to 19.7 million. The first half of 2002 brought a further 10 percent increase, from 19.7 million lines to 21.6 million lines. During this time period, CLECs provided only 21 percent of their switched access lines by reselling other carriers' services (down from 43 percent in December 1999), and about 50 percent by means of unbundled network element (UNE) loops. CLECs serviced the remaining 29 percent by means of their own facilities. Furthermore, at least one competitive carrier served local telephone service customers in 67 percent of the country's zip codes as of the end of June 2002, an increase of 7 percentage points from the previous year. Almost 91 percent of the country's households are located in these zip codes.[6]

In addition, over one-half of reported CLEC lines served small business and residential customers, while these customers made up about 75 percent of ILEC lines. Competitive carriers serve every state, and competition has not been limited to states with large populations. New York, Texas and California report the largest number of CLEC lines, respectively, but smaller states, such as Rhode Island and Utah, have larger CLEC shares than more populous states, such as Florida and Ohio. Ten or more CLECs reported offering service to local telephone customers in 14 states.

## Judicial Issues

The U.S. Supreme Court upheld the current (TELRIC) system of telecom pricing in May 2002, overturning a lower court decision.[7] In short, the Supreme Court ruled that the FCC could set Bell prices based on future cost estimates, rather than the Baby Bells' past costs of building their systems, a decision which could lead to increased competition as new carriers will not be burdened with such a high cost of entry into the market. The Court also upheld the right of state regulators to require RBOCs to offer their networks at wholesale prices. "TELRIC appears to be a reasonable policy for now, and that is all that counts," explained Justice David Souter.[8] The Court also upheld the right of state PSCs to require Bell companies to offer networks wholesale prices, an optimal outcome for competitive carriers, since state regulators have been able to lower wholesale prices without threats from incumbents to file lawsuits finding this action unconstitutional. While many competitive carriers feel that the Supreme Court's actions have revived confidence in the Telecom Act, RBOCs argue that the pricing scheme fails to take into account massive past investment in infrastructure and provides a disincentive for competitors to build their own networks. Although the Court acknowledged this point, it ruled that the FCC mechanism was a reasonable attempt at implementing the intent of Congress when the Act was passed.

## Approval of Section 271 Applications

In the last two years, the FCC has approved considerably more section 271 applications than in previous years. Table 1 shows the situation in SLC states.

**Section 271 Applications Filed in SLC States (As of January 4, 2003)**

| State | Filed by | Status | Date Filed | Date Resolved |
|---|---|---|---|---|
| Alabama | BellSouth | Approved | 6/20/02 | 9/18/02 |
| Arkansas | SBC | Approved | 8/20/01 | 11/16/01 |
| Florida | BellSouth | Approved | 9/20/02 | 12/19/02 |
| Georgia | BellSouth | Approved | 2/14/02 | 5/15/02 |
| Kentucky | BellSouth | Approved | 6/20/02 | 9/18/02 |
| Louisiana | BellSouth | Approved | 2/14/02 | 5/15/02 |
| Maryland | Verizon | Pending | 12/18/02 | Due By 3/19/2003 |
| Mississippi | BellSouth | Approved | 6/20/02 | 9/18/02 |
| Missouri | SBC | Approved | 8/20/01 | 11/16/01 |
| North Carolina | BellSouth | Approved | 6/20/02 | 9/18/02 |
| Oklahoma | SBC | Approved | 10/26/00 | 1/22/01 |
| South Carolina | BellSouth | Approved | 6/20/02 | 9/18/02 |
| Tennessee | BellSouth | Approve | 9/20/02 | 12/19/02 |
| Texas | SBC | Approved | 4/5/00 | 6/30/00 |
| Virginia | Verizon | Approved | 8/01/02 | 10/30/02 |
| West Virginia | Verizon | Pending | 12/18/02 | Due By 3/19/2003 |

table 1

Source: *www.fcc.gov/Bureaus/Common_Carrier/in-region_applications*, accessed January 6, 2003.

Incumbent carriers have been approved to offer long-distance service in 14 of the 16 SLC states. Ten of these states were granted service in 2002, with service in only four, Arkansas, Missouri, Oklahoma and Texas, (all SBC states) available prior to that year. Verizon filed applications for Maryland and West Virginia, the two SLC states in which the dominant carrier has not yet gained approval, in December 2002. Competitive carriers continue to contest the FCC's recent willingness to approve RBOC service, but SBC, BellSouth and Verizon have convinced both the Commission and state authorities that they have fully completed the requirements and are acting in good faith to address any further issues. Other companies have not experienced such good fortune before the FCC. Western carrier QWEST had yet to gain approval in any of its states until December 2002. While BellSouth, the predominant carrier in nine of the 16 SLC states, experienced setbacks before the FCC in previous years, 2002 brought the company unprecedented success in gaining permission to offer long-distance service, becoming the first carrier to offer such service throughout its entire territory. Despite this success, the company did experience some adversity in 2002. BellSouth came under scrutiny in some states, such as in Tennessee, where it ran into trouble for a pricing program for small businesses. The Florida Public Service Commission reprimanded the company in April 2002 for anti-competitive behavior as rivals accused BellSouth of disconnecting high-speed Internet service customers who attempted to switch to competitors for voice service.[9]

## The Latest Data

While many believe that criticism from consumers and state regulatory agencies regarding ILECs domination of the "last mile" of telephone line (that which constitutes the final connection to the end user's telephone) has long been justified, CLECs are making considerable progress in end-user service. Table 2 shows that competing carriers now serve more than 5 percent of lines in 10 of the 13 reporting SLC states, and more than 10 percent of lines in four states, a marked improvement over previous years.

Texas, in which SBC has offered long-distance service since June 2000, leads the SLC in this category, with over 16 percent of its end-user switched access lines served by CLECs. Georgia, where BellSouth is the main carrier, ranks second with over 13 percent, while, surprisingly, Virginia, in which Verizon only recently gained Section 271 approval, comes in third, with over 11 percent. Oklahoma ranks high as well, with 10 percent. Of the reporting SLC states, Mississippi and Louisiana have the smallest share of CLEC participation, with 1.7 and 4.5 percent, respectively. The SLC averages an almost 10 percent competitive carrier share, just below the 11.4 percent national average. Over this six-month period, SLC states increased their share of end-user switched access lines served by competitors from 9 percent to 10 percent, an impressive increase for such a short period of time. However, SLC states did not keep up with the rest of the country, as the national average rose from 10.2 percent to 11.4 percent. Due to their large populations, Texas and Florida predictably lead the SLC in total number of lines, both incumbent- and competitor-operated. Texas is first and Florida second in both categories, with Georgia third in competitive carrier lines and Mississippi last among states which reported.

| End-User Switched Access Lines Served By Reporting Local Exchange Carriers (As of June 30, 2002) | | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| | ILECs | CLECs | Total | CLEC Share | ILECs | CLECs | Total | CLEC Share |
| State | December 31, 2001 | | | | June 30, 2002 | | | |
| Alabama | 2,381,574 | 117,159 | 2,498,733 | 4.7 | 2,330,940 | 118,721 | 2,449,661 | 4.8 |
| Arkansas | 1,363,454 | # | # | # | 1,304,659 | # | # | # |
| Florida | 11,019,972 | 866,809 | 11,886,781 | 7.3 | 10,603,872 | 1,035,417 | 11,639,289 | 8.9 |
| Georgia | 4,723,842 | 600,087 | 5,323,929 | 11.3 | 4,604,834 | 704,651 | 5,309,485 | 13.3 |
| Kentucky | 2,759,067 | # | # | # | 2,141,611 | # | # | # |
| Louisiana | 2,440,988 | 93,107 | 2,534,095 | 3.7 | 2,428,935 | 115,220 | 2,544,155 | 4.5 |
| Maryland | 3,660,869 | 158,999 | 3,819,868 | 4.2 | 3,488,961 | 232,793 | 3,721,754 | 6.3 |
| Mississippi | 1,332,389 | 43,578 | 1,375,967 | 3.2 | 1,332,853 | 22,966 | 1,355,819 | 1.7 |
| Missouri | 3,328,130 | 262,947 | 3,591,077 | 7.3 | 3,262,072 | 279,342 | 3,541,414 | 7.9 |
| North Carolina | 5,023,740 | 302,044 | 5,325,784 | 5.7 | 4,942,113 | 328,715 | 5,270,828 | 6.2 |
| Oklahoma | 1,873,489 | 160,186 | 2,033,675 | 7.9 | 1,822,278 | 203,028 | 2,025,306 | 10.0 |
| South Carolina | 2,276,681 | 72,035 | 2,348,716 | 3.1 | 2,253,384 | 121,331 | 2,374,715 | 5.1 |
| Tennessee | 3,289,154 | 268,222 | 3,557,376 | 7.5 | 3,232,548 | 247,056 | 3,479,604 | 7.1 |
| Texas | 11,365,441 | 2,166,033 | 13,531,474 | 16.2 | 11,006,831 | 2,170,914 | 13,177,745 | 16.5 |
| Virginia | 4,436,193 | 537,753 | 4,973,946 | 10.8 | 4,276,468 | 558,206 | 4,834,674 | 11.5 |
| West Virginia | 967,218 | # | # | # | 940,483 | # | # | # |
| SLC* Total | 57,152,462 | 5,648,959 | 62,801,421 | 9.0 | 55,586,089 | 6,138,360 | 61,724,449 | 9.9 |
| US Total | 172,628,691 | 19,653,441 | 192,282,132 | 10.2 | 167,472,318 | 21,644,928 | 189,117,246 | 11.4 |

table 2

#Data withheld to maintain firm confidentiality.
*Excluding Arkansas, Kentucky, and West Virginia, SLC states in which CLECs did not report.
*Source*: Federal Communications Commission, Industry Analysis and Technology Division, Wireline Competition Bureau. *Local Telephone Competition: Status as of December 31, 2001*, July 2002; Federal Communications Commission, Industry Analysis and Technology Division, Wireline Competition Bureau. *Local Telephone Competition: Status as of June 30, 2002,* December 2002.

Table 3 demonstrates the decisive increase in the competitive carrier share of end-user lines from December 1999 to June 2002.
In this area, even though SLC states have experienced increased competition, their rates of increase continue to lag behind the national average. In December 1999, Florida led SLC states in this category, with CLECs claiming 6 percent of end-user switched lines. A year later, Texas experienced an explosive growth in competition, perhaps as a result of SBC's approval to offer long-distance service within the state. CLECs in Texas increased their share from 4 percent to 13 percent, a figure which led the region. In December 2001, Texas remained at the forefront of the region, with a 16 percent share among CLECs in the state, and the most current figures reflect Texas' strong showing as well. Other states with a 10 percent or greater share for competitive carriers are Georgia, Virginia and Oklahoma, with 13 percent, 11.5 percent and 10 percent, respectively. Virginia has experienced the largest increase during the last two and one-half years, with CLEC shares leaping from 2 percent to 11.5 percent, a 475 percent increase. Texas and Maryland were the only other SLC states to post increases greater than the national average, with 312 percent and 215 percent, respectively. Competitive carriers in other SLC states have fared marginally well. Florida's strong initial numbers have stagnated somewhat, but growth continues slowly. On the other hand, Mississippi's share of less than 2 percent is less than half of its 1999 share of 4 percent. Alabama also experienced a decrease. Furthermore, the gap seems to be expanding. While the regional average increase for the two-and-one-half-year period was 122 percent, the national increase was 175 percent. Possible factors in the gap between the South and the rest of the country include dominant Southern incumbent BellSouth's failure to receive approval from the FCC for long-distance service until 2002 and a relative lack of large metropolitan areas in some SLC states.

**Increase in CLECs' Share of End-User Switched Access Lines**
**December 1999 to June 2002**

| State | December 1999 | December 2000 | December 2001 | June 2002 | Percent Change |
|---|---|---|---|---|---|
| Alabama | 5 | 4 | 4.7 | 4.8 | -4.0 |
| Arkansas | # | # | # | # | # |
| Florida | 6 | 6 | 7.3 | 8.9 | 48.3 |
| Georgia | 5 | 8 | 11.3 | 13.3 | 166.0 |
| Kentucky | 2 | 3 | # | # | # |
| Louisiana | 3 | 3 | 3.7 | 4.5 | 50.0 |
| Maryland | 2 | 4 | 4.2 | 6.3 | 215.0 |
| Mississippi | 4 | 4 | 3.2 | 1.7 | -57.5 |
| Missouri | 3 | 6 | 7.3 | 7.9 | 163.3 |
| North Carolina | 3 | 4 | 5.7 | 6.2 | 106.6 |
| Oklahoma | # | 5 | 7.9 | 10.0 | 100.0^ |
| South Carolina | # | 4 | 3.1 | 5.1 | 27.5^ |
| Tennessee | 4 | 6 | 7.5 | 7.1 | 77.5 |
| Texas | 4 | 13 | 16.2 | 16.5 | 312.5 |
| Virginia | 2 | 7 | 10.8 | 11.5 | 475.0 |
| West Virginia | # | # | # | # | # |
| SLC Total* | 3.6 | 5.9 | 7.1 | 8.0 | 122.2 |
| U.S. Total | 4 | 8 | 10 | 11 | 175.0 |

table 3

#Data withheld to maintain firm confidentiality.
*Excluding SLC states in which CLECs did not report in these years.
^Since December 2000.
*Source*: Federal Communications Commission, Industry Analysis and Technology Division, Wireline Competition Bureau. *Local Telephone Competition: Status as of December 31, 2001*, July 2002; Federal Communications Commission, Industry Analysis and Technology Division, Wireline Competition Bureau. *Local Telephone Competition: Status as of June 30,2002*, December 2002.

Competitive carriers continue to make inroads in almost all SLC states. Their prevalence may be measured by the number of zip codes in which they are present, or by the number of carriers which provide a certain zip code with service. Table 4 demonstrates the latter. While many areas continue to be entirely dependent on the incumbent carrier, the number of zip codes in which CLEC service is provided is increasing. Texas leads SLC states, with 10 or more competitive carriers offering service in more than one-third of its zip codes, while Florida follows closely, with 10 or more CLECs operating in 27 percent of its zip codes. Georgia ranks third, with 15 percent of its zip codes served by 10 or more CLECs, while North Carolina was fourth with 7 percent. While having few areas with a plethora of competitive carriers, other states feature them throughout their territory. Unique to the region, all of Maryland's zip codes are served by CLECs, while only 9 percent of Florida's are served solely by the incumbent carrier. On the other end of the spectrum, West Virginia's citizens have access to telephone competition in only 1 percent of the state's zip codes, with 99 percent of the state's zip codes served only by the incumbent, Verizon. Arkansas and Kentucky also are poorly served by CLECs, although SBC and BellSouth, respectively, have received approval to offer long-distance service in these states. Almost 80 percent of Kentucky zip codes contain no competitive carrier service, while no competitors operate in almost 70 percent of Arkansas zip codes. Overall, the region's averages closely mirror national averages in this category, with 6 percent of zip codes nationwide served by 10 or more CLECs, while the same number of competitive carriers offer service to just under 6 percent of SLC zip codes.

**Percentage of Zip Codes with CLECs (As of June 30, 2002)**

| State | Number of CLECs | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| | Zero | One-Three | Four | Five | Six | Seven | Eight | Nine | 10 or More |
| Alabama | 39 | 46 | 12 | 3 | 3 | 0 | 0 | 0 | 0 |
| Arkansas | 69 | 31 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Florida | 9 | 28 | 8 | 6 | 5 | 5 | 6 | 5 | 27 |
| Georgia | 26 | 29 | 4 | 6 | 7 | 6 | 5 | 3 | 15 |
| Kentucky | 79 | 21 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Louisiana | 26 | 45 | 7 | 4 | 4 | 7 | 7 | 0 | 0 |
| Maryland | 0 | 49 | 12 | 14 | 13 | 11 | 0 | 0 | 0 |
| Mississippi | 10 | 88 | 2 | 0 | 0 | 0 | 0 | 0 | 0 |
| Missouri | 49 | 30 | 6 | 6 | 3 | 3 | 3 | 0 | 0 |
| North Carolina | 18 | 55 | 6 | 4 | 3 | 2 | 2 | 2 | 7 |
| Oklahoma | 44 | 31 | 7 | 8 | 6 | 3 | 0 | 0 | 0 |
| South Carolina | 31 | 40 | 6 | 6 | 5 | 7 | 5 | 0 | 0 |
| Tennessee | 42 | 32 | 8 | 10 | 6 | 2 | 0 | 0 | 0 |
| Texas | 17 | 23 | 5 | 3 | 3 | 3 | 5 | 5 | 36 |
| Virginia | 28 | 48 | 6 | 6 | 6 | 4 | 1 | 0 | 0 |
| West Virginia | 99 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | |
| SLC Total | 37 | 37 | 6 | 5 | 4 | 3 | 2 | 1 | 5 |
| Nationwide | 33 | 38 | 7 | 5 | 4 | 3 | 2 | 2 | 6 |

table 4

*Source*: Federal Communications Commission, Industry Analysis and Technology Division, Wireline Competition Bureau. *Local Telephone Competition: Status as of June 30, 2002*, December 2002.

Incumbent carriers often criticize their competitors for targeting only larger businesses, which pay higher rates and therefore offer a larger profit margin. Statistics show that, at least in the South, this criticism is somewhat justified. Table 5 demonstrates that CLECs in the Southern states do tend to focus on larger businesses, although several SLC states ranked higher than the national average in serving smaller firms and homes. Mississippi leads the region, with an impressive 95 percent of its competitive carriers serving residences and small businesses. Texas claims the second spot, with a noteworthy 65 percent, while Virginia comes in third, with 62 percent. Statistics suggest that competitive carriers in Alabama and North Carolina, however, prefer to focus on larger firms, with only 19 percent and 13 percent of those states' CLECs serving consumers and small businesses, respectively. While CLEC service to residential and small business customers falls well behind the national average of 51 percent, SLC states are beginning to close the gap. CLECs in every reporting SLC state, except for Missouri and Virginia, increased their share of service to residences and small firms.

CLECs continue to compete using the three methods at their disposal: resale, unbundled network elements (UNEs) and owning their own networks (facilities-based). UNEs, which are parts of the incumbent's network which may be purchased separately by competitors under the terms of the Telecom Act, are increasingly viewed as the best first step toward establishing an independent network. A pure facilities-based strategy often is not feasible because of the formidable capital costs. On the other hand, CLECs may

**Percentage of Lines Provided to Residential and Small Business Customers (As of June 30, 2002)**

| State | ILECs | CLECs | Total | ILECs | CLECs | Total |
|---|---|---|---|---|---|---|
| | December 31, 2001 | | | June 30, 2002 | | |
| Alabama | 8 | 8 | 79 | 83 | 19 | 80 |
| Arkansas | 86 | # | # | 87 | # | # |
| Florida | 82 | 30 | 78 | 82 | 34 | 78 |
| Georgia | 77 | 50 | 74 | 78 | 53 | 75 |
| Kentucky | 82 | # | # | 82 | # | # |
| Louisiana | 80 | 11 | 78 | 81 | 41 | 79 |
| Maryland | 67 | 25 | 65 | 69 | 30 | 67 |
| Mississippi | 81 | 57 | 81 | 81 | 95 | 82 |
| Missouri | 85 | 43 | 82 | 86 | 33 | 82 |
| North Carolina | 80 | 12 | 76 | 82 | 13 | 77 |
| Oklahoma | 86 | 45 | 83 | 87 | 51 | 83 |
| South Carolina | 82 | 4 | 79 | 82 | 28 | 79 |
| Tennessee | 84 | 15 | 79 | 84 | 26 | 80 |
| Texas | 87 | 58 | 82 | 86 | 65 | 82 |
| Virginia | 70 | 72 | 70 | 72 | 62 | 71 |
| West Virginia | 81 | # | # | 79 | # | # |
| SLC Total* | 80 | 33 | 77 | 81 | 42 | 78 |
| Nationwide | 78 | 48 | 75 | 78 | 51 | 75 |

table 5

#Data withheld to maintain firm confidentiality.

*Excluding Arkansas, Kentucky, and West Virginia, SLC states in which CLECs did not report.

*Source*: Federal Communications Commission, Industry Analysis and Technology Division, Wireline Competition Bureau. *Local Telephone Competition: Status as of December 31, 2001*, July 2002; Federal Communications Commission, Industry Analysis and Technology Division, Wireline Competition Bureau. *Local Telephone Competition: Status as of June 30,2002*, December 2002.

begin with UNEs and operate like a facilities-based provider without huge capital outlays. The FCC began a review program of UNE policies in December 2001. It examined the framework under which incumbents make their network elements available to competitors. BellSouth testified before the Commission that, due to options open to CLECs to reach new customers, incumbents should be allowed to reduce the current list of UNEs and reserve the right to maintain their number at the new, lower level.[10]

Table 6 shows the extent to which each method is utilized in each Southern state. Competitive carriers are expanding their networks in many states, with CLECs in Oklahoma leading the way in infrastructure ownership within the Southern region. Competitive carriers in Oklahoma own their own networks 57 percent of the time, far exceeding the national average of 29 percent. Virginia's and Florida's CLECs also surpass the national average, with 39 percent and 29 percent, respectively. The SLC average, however, still falls below the national average by 5 percentage points.

**CLEC-Reported End-User Switched Access Lines (As of June 30, 2002)**

| State | CLEC-Owned | UNEs | Resold Lines | Total | Percent CLEC-Owned |
|---|---|---|---|---|---|
| Alabama | 6,224 | 89,202 | 23,296 | 118,721 | 5.2 |
| Arkansas | # | # | # | # | # |
| Florida | 302,498 | 482,398 | 250,521 | 1,035,417 | 29.2 |
| Georgia | 161,286 | 417,718 | 125,647 | 704,651 | 22.9 |
| Kentucky | # | # | # | # | # |
| Louisiana | 23,908 | 45,716 | 45,596 | 115,220 | 20.7 |
| Maryland | 30,217 | 119,286 | 83,290 | 232,793 | 13.0 |
| Mississippi | # | 17,541 | # | 22,966 | # |
| Missouri | 49,944 | 156,725 | 72,673 | 279,342 | 17.8 |
| North Carolina | 75,081 | 139,874 | 113,760 | 328,715 | 22.8 |
| Oklahoma | 114,963 | 45,251 | 42,813 | 203,028 | 56.7 |
| South Carolina | 7,432 | 66,487 | 47,412 | 121,331 | 6.1 |
| Tennessee | 55,904 | 129,682 | 61,470 | 247,056 | 22.6 |
| Texas | 405,593 | 1,541,888 | 223,433 | 2,170,914 | 18.7 |
| Virginia | 221,293 | 244,021 | 92,892 | 558,206 | 39.6 |
| West Virginia | # | # | # | # | # |
| SLC Total* | 1,454,343 | 3,495,789 | 1,182,803 | 6,138,360 | 23.7 |
| Nationwide | 6,236,438 | 10,930,145 | 4,478,346 | 21,644,928 | 28.9 |

table 6

#Data withheld to maintain firm confidentiality.
*Excluding Arkansas, Kentucky, and West Virginia, SLC states in which CLECs did not report.
*Source*: Federal Communications Commission, Industry Analysis and Technology Division, Wireline Competition Bureau. *Local Telephone Competition: Status as of June 30, 2002*, December 2002.

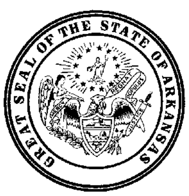
## State Section

While consumers in most SLC states now have some choice regarding local service as well as long-distance providers, some states have seen more competition than others. The following section reviews telecommunications developments in the individual SLC states.

### Alabama

**Incumbent RBOC:** BellSouth
**Permitted to offer long-distance service:** Yes

BellSouth, Alabama's dominant incumbent carrier, filed before the state Public Service Commission on May 8, 2002. According to the company, which serves almost 2 million customer lines in the state, 102 competitors operate in Alabama, with 100 others authorized to do so by the Public Service Commission. Competitors serve 250,000 customer lines and had gained more than 12 percent of the market in the state, as well as 35 percent of the small business market. BellSouth filed a joint application for Alabama and four other states before the FCC in June 2002 and was approved in September of the same year. The long-distance market in Alabama is presumed to be worth $1.2 billion, and BellSouth is expecting to secure a 20 percent to 25 percent share in its new long-distance markets. Competitor AT&T responded by offering customers in Alabama 30 minutes of free long distance a month.



### Arkansas

**Incumbent RBOC:** SBC Communications
**Permitted to offer long-distance service:** Yes

After struggling for two years, SBC finally had its application approved by the state Public Service Commission in 2001. Arkansas regulators worked with their counterparts in Missouri and Texas to approve the application. After state approval, SBC's application was originally rejected in September 2001 by the U.S. Department of Justice Antitrust Division, which advises the FCC on Section 271 petitions. SBC's subsequent joint application with Missouri succeeded, and the company launched service in November 2001. The FCC approved the application with some trepidation. "Today's decision is the closest of calls," said Commissioner Michael Copps, a claim echoed by rival companies, which served just over 10 percent of Arkansas' phone lines at the time of the decision. As of November 2001, SBC controlled 1 million of Arkansas' 1.4 million lines.[11] The FCC reported in the same month that competitors served almost 100,000 lines in the state, with 40 percent of those being residential.[12] Competition started slowly, but one company, Sage Telecom, served 14,000 customers as of January 2002. It doubled its customer base in a span of two months, primarily focusing on residential customers in Little Rock and Fort Smith.[13]

### Florida

**Incumbent RBOC:** BellSouth
**Permission to offer long-distance service:** Yes

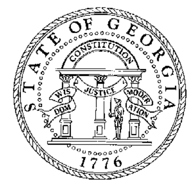
BellSouth's application was approved by the FCC in December 2002, but the company had to overcome some adversity before permission was granted. BellSouth suffered a setback when it had to agree to pay fines in July 2001 for violating performance standards over the past few years. Hearings before the PSC began in 1997, when staff and the commissioners agreed that BellSouth's infrastructure was not sufficiently open to competitors. The PSC finally gave its approval in September 2002, after a six-year review process including three years of extensive systems testing. Two positive recommendations came from PSC staff - one based on the results of third-party testing done by consulting firm KPMG on the accessibility of the company's operational support systems (OSS) to competitors, the other based on the 14-point checklist.[14]

Even after giving the go-ahead, the Commission will continue to monitor the incumbent's customer service. This is in response to fears shared by competitors such as Orlando-based Florida Digital Network that BellSouth will have little reason to work with them once an incumbent has FCC approval to offer long distance. Assuming that BellSouth would gain approval, WorldCom introduced an unlimited local and long-distance package in some parts of the state for around $50 a month in order to compete with BellSouth in the future.

Competitive carriers controlled over 18 percent (or 1.3 million lines) of the Florida local telephone market as of September 2002, primarily consisting of business customers. Despite the CLECs relatively strong showing, analysts believe that BellSouth's future competition in the state will come from cable companies. In fact, AT&T declined to offer residential service in the state, citing low profit margins, but will continue to offer voice service for businesses. Many Florida competitors have argued that UNE prices are still too high to make a profit offering local service in the state, even though the PSC lowered the prices that BellSouth could charge to lease portions of its networks in September 2002. On the other hand, telecom firms regard Florida as a lucrative long-distance market because of its large number of immigrants who place numerous and frequent international calls.[15]

Although BellSouth is Florida's largest local service provider, only 40 percent of the state (measured geographically) is BellSouth territory, encompassing the entire East Coast and parts of the Panhandle and Central Florida.

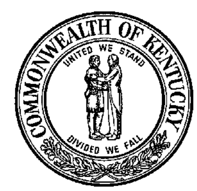
## Georgia




**Incumbent RBOC:** BellSouth
**Permission to offer long-distance service:** Yes

After SBC abandoned its efforts to offer local service in the Atlanta area in March 2001, competition in local markets in Georgia seemed to be decreasing. However, as a result of KPMG's extensive testing of BellSouth's operating support systems (OSS) in the state and other factors, the state Public Service Commission gave the incumbent permission to offer long-distance service to Georgia consumers in May 2002. Previous years were not as kind to the Atlanta-based company, which chose to withdraw its request for approval in Georgia in December 2001 because the FCC almost certainly would have rejected it on grounds of insufficient access for competitors. This had an adverse effect on the company's earnings, since it had projected $350 million to $400 million in long-distance revenue by the end of 2002. BellSouth was compelled to lower its 2002 revenue projections and its stock dipped 6 percent as a result.[16] The company also had to fight allegations that its representatives approached customers who switched to competitors within 24 hours of the change, slowing its campaign to win back customers from competitors. AT&T sought to convince the PSC to split up BellSouth into retail and wholesale units but was unsuccessful. In the end, BellSouth paid over $7 million in fines for falling short of standards for handling competitors' requests. However, the incentive to improve performance paid off, as Georgia and Louisiana were the first states in which BellSouth succeeded in pressing its case that competition was alive and well in the South.

## Kentucky



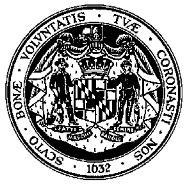

**Incumbent RBOC:** BellSouth
**Permission to offer long-distance service:** Yes

Kentucky consumers now have the opportunity to choose BellSouth for long-distance service as a result of the FCC's September 2002 approval of the RBOC's application. According to BellSouth, CLECs provide facilities-based local service to 93,000 lines in the state.[17]

## Louisiana


**Incumbent RBOC:** BellSouth
**Permission to offer long-distance service:** Yes

BellSouth's application for Georgia included Louisiana as well, but while the Commission rated the company's service in both states highly enough to grant approval, it was not without reservations. Some competitors, such as AT&T expressed concerns about the incumbent's support operations, but the FCC gave the application unanimous approval. As of May 2002, there were 70 long-distance competitors in the state, including Gonzales-based Eatel, which offers DSL Internet service as well as long-distance service. In December 2002, the state PSC ruled that BellSouth must continue to offer DSL service to consumers who switch to a competitor for local phone service. Competitors praised the decision, which they believe will promote competition in the state.



### Maryland

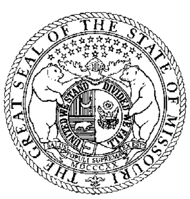
**Incumbent RBOC:** Verizon
**Permission to offer long-distance service:** No

Maryland is one of the few SLC states in which consumers do not yet have the option of choosing the incumbent provider for long-distance service. Verizon notified the state PSC in April 2002 that it was planning on filing an application, and hearings began in late October 2002. The company then filed with the FCC in December 2002. CLECs provide more than 466,000 local phone lines in Maryland through their own facilities and leased facilities to both businesses and residential consumers. Competitors serve over 11 percent of the total market in Verizon's Maryland territory, and more than 200 CLECs are licensed to operate in the state, with 60 actively competing. There are 580 collocation agreements, with CLECs having access to almost 85 percent of Verizon's lines in Maryland.[18]

### Mississippi

**Incumbent RBOC:** BellSouth
**Permission to offer long-distance service:** Yes

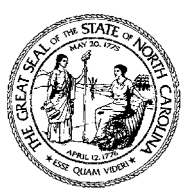
BellSouth, which offers local service to 86 percent of the state, was granted permission to sell long-distance service to Mississippi residents in September 2002. The company operates 1.3 million customer lines in the state. Expecting BellSouth to enter the long-distance market in 2002, Clinton-based competitor WorldCom launched a new service called The Neighborhood in April of the same year. WorldCom signed up almost 1 million customers in five months throughout the country for this plan, which offers local and long-distance billing together on one invoice. Competitors offer 85,000 lines through their own facilities in Mississippi.[19]



### Missouri

**Incumbent RBOC:** SBC Communications
**Permission to offer long-distance service:** Yes

The state PSC endorsed SBC's application in August 2001 for the second time. The U.S. Department of Justice rebuffed the company's first attempt, prompting a withdrawal before the embarrassment of a FCC rejection. Southwestern Bell (an SBC subsidiary) operated 3.7 million lines in Missouri as of August 2001, or 73 percent of the total. At the time of approval, competitors held 465,000 lines, or about 15 percent.[20]



### North Carolina

**Incumbent:** BellSouth
**Permission to offer long-distance service:** Yes

BellSouth, which provides about 50 percent of the state's 5 million customer lines, began offering long-distance service in September 2002 after the FCC cleared its application for North Carolina (and four additional states) in the same month. It won approval from the state Utilities Commission over objections from AT&T and other competitors. Competitors provide facilities-based local service to more than 350,000 lines in the state.[21]

### Oklahoma

**Incumbent RBOC:** SBC Communications
**Permission to offer long-distance service:** Yes

Consumers in Oklahoma have enjoyed choice in their long-distance service for more than two years, with approval from the FCC coming in January 2001. Service commenced in March of that year. Competition has been strong in Oklahoma, with companies such as Birch Telecom, one of the few firms which competes with SBC for local service, making inroads in the state with service in Tulsa and Oklahoma City. Cox Communications also offers local service in the state capital, investing more than $150 million to upgrade its network in the state's largest city. Cox is now 100 percent facilities-based in the state, a rare feat among CLECs. AT&T also quickly offered incentives to keep its customers as SBC began competing in the long-distance market. With this level of competition in a relatively small market, however, not every small carrier could survive, and PSINet closed its Oklahoma City office in summer 2001, later going bankrupt.[22]

## South Carolina

**Incumbent:** BellSouth
**Permission to offer long-distance service:** Yes

After reportedly losing more than 30 percent of its small business customers to CLECs, BellSouth received approval from the FCC to offer long-distance service in South Carolina in September 2002. Long-distance service in the state is an $800 million a year business. CLECs offer facilities-based local service to 143,000 lines in the state.[23]

## Tennessee

**Incumbent:** BellSouth
**Permission to offer long-distance service:** Yes

Tennesseans, like their counterparts in Florida, awaited a decision from the FCC on whether they would have more choice in long-distance providers until December 2002, when BellSouth received permission to offer service in both states. Service began on December 30, 2002. The company originally appeared before the Tennessee Regulatory Authority (TRA) in 1999 but withdrew its application before a decision was reached. TRA directors voted to have an outside consultant examine a study of BellSouth conducted by the Florida PSC and to determine its applicability to operations in Tennessee.[24] The TRA had hoped to use Georgia's OSS tests as an example, but Florida was a compromise choice. At the same time, competitors agreed to cancel public hearings on BellSouth's entry. At the end of 2001, competitors held 260,000 non-residential lines, but in 20 Tennessee metro areas CLECs control more than half of the small-business market. BellSouth provides 2.7 million connections for local phone service, about three-quarters of the state's total.[25] In February 2002, a group of competitors asked the TRA to grant them access to BellSouth's switching capabilities and, in April of the same year, the regulatory authority developed standards for the incumbent in order to deter shoddy service if it were to be granted long-distance service. Among other requirements, BellSouth will have to keep 99 percent of repair appointments requested by competitors.[26]

The Tennessee market for long-distance service is valued at about $1 billion. At the end of 2001, CLECs controlled 12 percent of total lines, but about 32 percent of commercial lines.[27] The TRA unanimously backed BellSouth's request in late August 2002, and a study conducted by TeleNomics Research found that Tennessee residents could save as much as $493 million a year through competition.[28]

## Texas

**Incumbent RBOC:** SBC Communications
**Permission to offer long-distance service:** Yes

Texas became the first SLC state in which the incumbent provider was allowed to offer long-distance service in June 2000, second only after New York. Within the first four months of offering service, SBC signed up 1 million customers in Texas and competition remains strong.

## Virginia

**Incumbent RBOC:** Verizon
**Permission to offer long-distance service:** Yes

The FCC granted Verizon permission to offer long-distance service to its Virginia customers in October 2002. The DOJ expressed some reservations, but Verizon was finally able to begin offering service in its first SLC state. As in Georgia and Florida, consulting firm KPMG undertook a review of the incumbent carrier and presented its report to the State Corporations Commission in March 2002. KPMG found that Verizon had fulfilled 538 of 545 criteria.[29] Verizon claimed that as of June 2002 competitors provided more than 763,000 local lines in the state, accounting for 22 percent of total lines and handling more than 14 billion minutes of local phone service. Verizon's operating support systems are the same in Virginia, West Virginia, Maryland and Washington, D.C.[30] Among other competitors, WorldCom disputed the FCC's approval, questioning whether Verizon had sufficiently opened its local service to competition. On the other hand, competitors such as Cavalier Telephone welcome Verizon to the Virginia long-distance market.[31]

## West Virginia

**Incumbent RBOC:** Verizon

**Permission to offer long-distance service:** No

In November 2002, Verizon appeared before the Public Service Commission of West Virginia, where the OSS is the same as in Virginia, a state in which Verizon has had success in convincing the Commission that it meets the requirement of the Telecom Act. At the hearings, competitors such as Wheeling-based StratusWave testified that Verizon has failed to meet several conditions on the 14-point checklist, with service reliability the largest factor. High rates charged by Verizon to competitors also emerged as a theme; however, Verizon agreed to cut those rates by an average of 17 percent.[32] CLECs serve about 37,000 local lines to businesses and consumers in the Charleston area. More than 100 CLECs are licensed in the state, but only 20 were operating as of June 2002. The largest competitor in the state is FiberNet, which has connected more than 30,000 lines, still less than 3 percent of Verizon's total.[33] Several competitors have failed in their attempts to offer local service in West Virginia, where a lack of large metropolitan areas makes profit difficult. In December 2002, Verizon finally submitted a Section 271 application before the FCC. The case must be resolved by March 2003.

## Conclusion

Much has changed since the passage of the Telecommunications Act of 1996. Although revenues are down, the $230 billion telephone business continues to be an essential part of the life of consumers. As the FCC approves an increasing number of Section 271 applications, competition is slowly on the rise across the SLC states, with only two yet to receive approval. Every state in the region has experienced some level of local service competition, with BellSouth becoming the first of the major carriers to offer long-distance service in each state in which it is the predominant carrier. While the Southern region continues to make progress in its level of telecom competition, it still trails the national averages in most categories. Some of this discrepancy can be traced to the lack of major cities in some Southern states, since competitive carriers often target businesses first. Another possibility is the thoroughness of state regulatory agencies in their review of incumbent carriers' petitions. All of this further proves that telecommunications is a very difficult business in which to become established. So far, only the strongest competitors have survived, but RBOCs have been forced to re-appraise their offerings and priorities, providing better value to consumers both in the South and the rest of the United States.

## Endnotes


[1] Also known as Baby Bells, these companies were formed after the court-ordered break-up of AT&T. Verizon (formed by the merger of Bell Atlantic and GTE) is the dominant local service provider in the Mid-Atlantic and northeastern states; BellSouth in the southeast; SBC in the Great Lakes region, southern plains states, Texas and California; and Qwest in the Rocky Mountain states and some of the Midwest and West Coast. As of December 2002, SBC had plans to discontinue the use of the names of its regional operating divisions- Ameritech, Pacific Bell, Southwestern Bell, etc., in favor of focusing on the SBC moniker.

[2] Ende, Neil S. "The New Robber Barons." *PhonePlus Magazine*, April 5, 2002.

[3] Sunderland, Kim. "Pennsylvania Regulators Order 'Functional' Separation of Verizon." *PhonePlus Magazine*, March 22, 2001.

[4] Bajaj, Vikas. "Four Major Local-Phone Companies Face Tough Situation." *The Dallas Morning News*, October 4, 2002.

[5] Sunderland, Kim. "School of Hard Rocks." *PhonePlus Magazine*, August 22, 2001.

[6] Federal Communications Commission. *Local Telephone Competition: Status as of June 30, 2002,* December 2002.

[7] TELRIC (total element long run incremental cost) is the current, court-approved wholesale pricing system, which is based on future costs, rather than the Bell companies' past costs of infrastructure construction.

[8] Ratner, Andrew. "Justices Affirm FCC's Plan for Local Phone Competition." *The Baltimore Sun*, May 14, 2002.

[9] Knight Ridder News Service. "BellSouth Practices Under Investigation." *The News and Observer*, Raleigh, North Carolina, May 9, 2002.

[10] *BellSouth Says Scope of Required Network Unbundling Should Be Capped and Trimmed*. BellSouth Press Release, April 5, 2002.

[11] "SBC Gets FCC Nod. Firm Cracks State Long-Distance Market." *Arkansas Democrat-Gazette*, Little Rock, Arkansas, November 17, 2001.

[12] Sunderland, Kim. "SBC Passes Double Green Lights For Long Distance." *PhonePlus Magazine*, November 19, 2001.

[13] Minton, Mark. "SW Bell, Rivals Vie in Local-Phone Markets." *Arkansas Democrat-Gazette*, Little Rock, Arkansas, January 10, 2002.

[14] Winter, Christine. "BellSouth Picks Up PSC Staff Approval." *Orlando Sentinel*, August 28, 2002.

[15] Winter, Christine. "In Long Distance, A Tough Road." *Sun-Sentinel*, Fort Lauderdale, Florida, September 15, 2002.

[16] Luke, Robert. "BellSouth Hits New Snag." *The Atlanta Journal-Constitution*, December 21, 2001.

[17] *Federal Communications Commission Authorizes BellSouth to Provide Long-Distance Service in Five States*. FCC Press Release, September 18, 2002.

[18] *Verizon Asks PSC to Support Company's Request to Offer Long Distance in Maryland*. Verizon Press Release, April 12, 2002.

[19] Schoenberger, Robert. "BellSouth Gets OK to Extend Reach." *The Clarion-Ledger*, Jackson, Mississippi, September 19, 2002.

[20] Lieb, David. "PSC Endorses SW Bell's Bid to Enter Long-Distance Market." *Jefferson City News Tribune*, Jefferson City, Missouri, August 29, 2001.

[21] Egbert, Dan. "BellSouth Cleared For Long Distance." *The News and Observer*, Raleigh, North Carolina, September 19, 2002.

[22] Colberg, Sonya. "PSINet Files For Bankruptcy." *The Daily Oklahoman*, Oklahoma City, Oklahoma, June 20, 2001.

[23] "Five Questions." *The State*, Columbia, South Carolina, June 21, 2002.

[24] Brass, Larisa. "BellSouth Closes in on Tenn. Long Distance." *The Knoxville News- Sentinel*, Knoxville, Tennessee, August 8, 2002.

[25] Carlson, Kathy. "Phone Companies Argue Legality of BellSouth Offer." *The Tennessean*, Nashville, Tennessee, February 7, 2002.

[26] Carlson, Kathy. "TRA Approves Standards for BellSouth Long Distance." *The Tennessean*, Nashville, Tennessee, April 17, 2002.

[27] Carlson, Kathy. "BellSouth Green-lighted for Long Distance." *The Tennessean*, Nashville, Tennessee, May 16, 2002.

[28] Watson, Mark. "BellSouth Gets LD Blessing." *The Commercial Appeal*, Memphis, Tennessee, August 27, 2002.

[29] Edwards, Greg. "Verizon Moves Step Closer." *Richmond Times-Dispatch*, Richmond, Virginia, March 5, 2002.

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[31] McCance, McGregor. "Verizon Expands Service." *Richmond Times-Dispatch*, Richmond, Virginia, November 13, 2002.

[32] Balow, Jim. "Verizon Attempts to Show West Virginia Officials Openness to Competition." *The Charleston Gazette*, Charleston, West Virginia, November 8, 2002.

[33] Balow, Jim. "Verizon Seeks Support For Long Distance." *The Charleston Gazette*, Charleston, West Virginia, June 12, 2002.

This Regional Resource was prepared for the membership of the Southern Legislative Conference (SLC) by Douglas Jacobson, SLC Research Associate.

The SLC is a non-partisan, non-profit organization serving Southern state legislators and their staffs. First organized in 1947, the SLC is a regional component of The Council of State Governments, a national organization which has represented state governments since 1933. The SLC is headquartered in Atlanta, Georgia.