

ORIGINAL

Legal Department

E. EARL EDENFIELD, JR.
Senior Regulatory Counsel

BellSouth Telecommunications, Inc.
150 South Monroe Street
Room 400
Tallahassee, Florida 32301
(404) 335-0763

July 25, 2003

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Mrs. Blanca S. Bayó
Division of the Commission Clerk and
Administrative Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Re: **030349-TP (Supra \$75 Cash Back Promotion)**

Dear Ms. Bayó:

Enclosed are an original and fifteen copies of the Prehearing Statement of BellSouth Telecommunications, Inc., which we ask that you file in the captioned docket.

A copy of this letter is enclosed. Please mark it to indicate that the original was filed and return the copy to me. Copies have been served to the parties shown on the attached Certificate of Service.

Sincerely,

E. Earl Edenfield, Jr.
E. Earl Edenfield, Jr. (KA)

Enclosures

cc: All Parties of Record
Marshall M. Criser III
R. Douglas Lackey
Nancy B. White

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**CERTIFICATE OF SERVICE
DOCKET NO. 030349-TP**

I HEREBY CERTIFY that a true and correct copy of the foregoing was served via Electronic Mail and Federal Express this 25th day of July, 2003 to the following:

Linda Dodson
Staff Counsel
Florida Public Service
Commission
Division of Legal Services
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850
Tel. No. (850) 413-6216
ldodson@psc.state.fl.us

Adenet Medacier, Esq.
Jorge L. Cruz-Bustillo, Esq.
Legal Department
Supra Telecommunications and
Information Systems, Inc.
2620 S.W. 27th Avenue
Miami, Florida 33133
Tel. No. (305) 476-4240
Fax. No. (305) 443-9516
amedacier@stis.com
jorge.cruz-bustillo@stis.com

Ann Shelfer, Esq.
Supra Telecommunications and
Information Systems, Inc.
1311 Executive Center Drive
Koger Center - Ellis Building
Suite 200
Tallahassee, FL 32301-5027
Tel. No. (850) 402-0510
Fax. No. (850) 402-0522
ashelfer@stis.com

E. Earl Edenfield, Jr.
E. Earl Edenfield, Jr. (KA)

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Complaint by Supra)
Telecommunications and Information)
Systems, Inc. Regarding BellSouth's)
Alleged Use of Carrier to Carrier)
Information)

Docket No. 030349-TP

Filed: July 25, 2003

PREHEARING STATEMENT OF BELL SOUTH TELECOMMUNICATIONS, INC.

BellSouth Telecommunications, Inc. ("BellSouth"), in compliance with the Order Establishing Procedure (Order No. PSC-03-0718-PCO-TP) issued on June 17, 2002, hereby submits its Prehearing Statement for Docket No. 030349-TP.

A. Witnesses

BellSouth proposes to call the following witness to offer testimony on the issues in this docket:

<u>Witness</u>	<u>Issue(s)</u>
John A. Ruscilli (Direct and Rebuttal)	1-3
Michelle Summers and Ed Wolfe (Panel Rebuttal)	3
Ron Pate (Rebuttal)	3
Tamra Schoech (Rebuttal)	3

BellSouth reserves the right to call additional witnesses, witnesses to respond to Commission inquiries not addressed in direct and rebuttal testimony and witnesses to address issues not presently designated that may be designated by the Prehearing Officer at the prehearing conference to be held on August 4, 2003. BellSouth has listed the witnesses for whom BellSouth believes testimony will be filed, but reserves the right to supplement that list if necessary.

B. Exhibits

Ron Pate (Rebuttal):

- RP-1 Diagram of Process Flow for Pre-Ordering
- RP-2 Diagram of RNS Pre-Order/Order Flow
- RP-3 Diagram of Process Flow for Provisioning (Non-Designed Circuit)
- RP-4 Acronym List

John A. Ruscilli (Rebuttal):

- JAR-1 Line Loss Notification Report

BellSouth reserves the right to file exhibits to any testimony that may be filed under the circumstances identified in Section "A" above. BellSouth also reserves the right to introduce exhibits for cross-examination, impeachment, or any other purpose authorized by the applicable Florida Rules of Evidence and Rules of this Commission.

C. Statement of Basic Position

BellSouth has not and does not use carrier-to-carrier information or wholesale information improperly. Further, BellSouth's marketing activities comply with all applicable Commission and/or FCC rules and regulations, and Supra has presented no evidence to the contrary. Instead, Supra's entire case is based upon innuendo, speculation, mischaracterization, and a lack of understanding regarding BellSouth's Operational Support System and retail reacquisition programs.

It is BellSouth's policy to limit disclosure and the use of CPNI and wholesale

information in a manner consistent with the requirements of the FCC's rules, Section 222 of the Telecommunications Act of 1996 and any applicable state or local requirement. All employees of BellSouth who may have access to either CPNI or wholesale information receive annual training with respect to the proper and prohibited use of and access to such information. It is against BellSouth's policy for any employee or authorized representative of BellSouth to misuse wholesale information. It is also BellSouth's policy that no BellSouth personnel shall have access to any BellSouth Information Technology ("IT") system unless that person has a legitimate and authorized business purpose for such access. BellSouth adopted all of these policies to ensure that it complies with the various regulatory restrictions on the use of CPNI and carrier to carrier information. And, the Commission has determined that BellSouth has the "appropriate policies in place" regarding CPNI and wholesale information. See Order No. PSC-03-0726-FOF-TP at 47.

Supra premises its case on Supra's interpretation of a BellSouth reacquisition program called Operation Sunrise. Based on the presence of disconnect codes, this database identifies those customers who left BellSouth retail service, removes those customers who left for non-competitive reasons, presumes the remaining customers left for competitive reasons (without BellSouth's retail organizations ever being allowed access to or use of the actual disconnect codes), and generates a list of potential reacquisition customers that BellSouth provides to third-party vendors. In gathering this

information, Operation Sunrise does not identify the customer's new carrier or the services the customer will receive from the new carrier. Instead, Operation Sunrise uses network information – i.e. the fact that a customer left BellSouth's network and is no longer a BellSouth retail customer – and not any information that in BellSouth obtained through the provision of telecommunications services to a CLEC to create reacquisition lists. This disconnect information is no different than the information BellSouth provides CLECs in its PMAP line loss report. CLECs use this information to generate their own customer reacquisition lists.

Accordingly, the Commission should summarily reject Supra's campaign of misinformation and find that BellSouth complies with all Commission and FCC rules relating to the use of carrier-to-carrier or wholesale information.

D. BellSouth's Position on the Issues

Issue 1: **Whether BellSouth can share carrier-to-carrier information, acquired from its wholesale OSS and/or wholesale operations, with its retail division to market to its current and potential customers?**

Position: Wholesale information or carrier-to-carrier information is information that BellSouth has in its possession because it provides wholesale services to other telecommunications carriers. BellSouth is prohibited from using this for any purpose other than providing service to the carrier, unless it constitutes CPNI, in which case it can be used consistent with the CPNI rules. Wholesale information or carrier-to-

carrier information includes the identity of a carrier to which BellSouth is providing telecommunications services and the fact that an order has been issued and is pending that would result in the change of providers from BellSouth to another local service provider.

However, BellSouth does not use wholesale information or carrier-to-carrier information in Operation Sunrise or otherwise in identifying potential reacquisition customers. Rather, BellSouth's lists of potential reacquisition customers are based on the fact that a former BellSouth retail customer has **actually** disconnected service from the BellSouth network. Operation Sunrise does not identify the customer's new carrier or the services the customer will receive from the new carrier. Further, it is only triggered after a disconnect order has completed. Simply put, the reacquisition lists generated by Operation Sunrise and provided to third-party vendors are based entirely on BellSouth network disconnect information, which is no different than the data that BellSouth provides all CLECs in the CLEC line loss report.

As stated by the FCC in Order 03-42, issued March 17, 2003 at ¶ 27, "[w]e clarify, to the extent that the retail arm of an executing carrier obtains carrier change information through its normal channels in a form available through the retail industry, and after the carrier change has been implemented (such as in disconnect reports), we do not prohibit the use of that information in executing carriers' winback efforts."

Accordingly, BellSouth does not violate any Commission or FPSC rules in creating its reacquisition and/or marketing lists.

Issue 2: Whether BellSouth can use carrier-to-carrier information, acquired from its wholesale OSS and/or wholesale operations, to furnish leads and/or marketing data to its in-house and third party marketers?

Position: Wholesale information or carrier-to-carrier information is information that BellSouth has in its possession because it provides wholesale services to other telecommunications carriers. BellSouth is prohibited from using this for any purpose other than providing service to the carrier, unless it constitutes CPNI, in which case it can be used consistent with the CPNI rules. Wholesale information or carrier-to-carrier information includes the identity of a carrier to which BellSouth is providing telecommunications services and the fact that an order has been issued and is pending that would result in the change of providers from BellSouth to another local service provider.

However, BellSouth does not use wholesale information or carrier-to-carrier information to furnish leads and/or marketing data to any third-party or in-house marketers. The list of potential reacquisition customers generated by Operation Sunrise is based entirely on the fact that a former BellSouth retail customer has **actually** disconnected service from the BellSouth network. Operation Sunrise does not identify the new carrier of the former BellSouth customer or the services the customer will receive from the new carrier. Further, the information is gathered in Operation

Sunrise and provided to third-party vendors only after a disconnect order has completed. Simply put, the reacquisition lists generated by Operation Sunrise and provided to third-party vendors for reacquisition efforts are based entirely on BellSouth network disconnect information, which is no different than the data that BellSouth provides all CLECs in the CLEC line loss report.

As stated by the FCC in Order 03-42, issued March 17, 2003 at ¶ 27, “[w]e clarify, to the extent that the retail arm of an executing carrier obtains carrier change information through its normal channels in a form available through the retail industry, and after the carrier change has been implemented (such as in disconnect reports), we do not prohibit the use of that information in executing carriers’ winback efforts.” Moreover, there is no prohibition in providing network disconnect information as compiled by Operation Sunrise to third-party vendors for reacquisition efforts. Accordingly, BellSouth does not use wholesale information or carrier-to-carrier information through Operation Sunrise or otherwise to furnish leads and/or marketing data to any third-party or in-house marketers.

Issue 3: Has BellSouth shared and/or used carrier-to-carrier information, acquired from its wholesale OSS and/or wholesale operations, in its retail division, with its in-house marketers and/or third party marketers for marketing purposes? If such practices are improper, what penalties should be imposed?

Position: For the reasons discussed above in detail, BellSouth has not shared and/or used carrier-to-carrier information acquired from its wholesale OSS

and/or wholesale operations with its retail division or any third-party vendors. Accordingly, no penalties should be imposed against BellSouth.

E. Stipulations

None.

F. Pending Motions

BellSouth is aware of the following pending motions:

1. BellSouth's Partial Motion to Dismiss;
2. BellSouth's Motion to Strike Direct Testimony Exhibits; and
3. BellSouth's Request for Confidential Treatment regarding Supra's Direct Testimony Exhibits.

L. Objection to Expert Designation

To the extent Supra seeks to designate Mr. Nilson as an expert on the issues to be resolved at this hearing, BellSouth objects to Mr. Nilson being designated or allowed to testify as an expert on CPNI issues, Operation Sunrise, or matters related to BellSouth's Operational Support System. Mr. Nilson fails to identify any qualifications or experience that would render him an expert on these matters.

Respectfully submitted this 25th day of July, 2003.

BELLSOUTH TELECOMMUNICATIONS, INC.

Nancy B. White

NANCY B. WHITE (EA)

JAMES MEZA III

c/o Nancy H. Sims

150 So. Monroe Street, Suite 400

Tallahassee, FL 32301

(305) 347-5555

R. Douglas Lackey

R. DOUGLAS LACKEY (EA)

E. EARL EDENFIELD, JR.

Suite 4300

675 W. Peachtree St., NE

Atlanta, GA 30375

(404) 335-0763

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