

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Proposed Rule 25-24.845,) DOCKET NO. 970882-TI
 F.A.C., Customer Relations; Rules)
 Incorporated, and proposed amend-) Filed: February 3, 1998
 ments to Rules 25-4.003, F.A.C.,)
 Definitions; 25-4.110, F.A.C.,)
 Customer Billing; 25-4.118,)
 F.A.C., Interexchange Carrier)
 Selection; 25-24.490, F.A.C.,)
 Customer Relations; Rules)
 Incorporated.)

SUPRA TELECOMMUNICATIONS & INFORMATION SYSTEMS, INC.'S
 MOTION TO STRIKE PORTIONS OF PUBLIC COUNSEL'S EXHIBIT
 IDENTIFIED AS "REP-1A" AND TO PROHIBIT CERTAIN TESTIMONY

Supra Telecommunications & Information Systems, Inc.,
 ("Supra" hereafter) by and through its undersigned counsel, moves
 the Prehearing Officer, Chairman Julia Johnson, to strike
 portions of an exhibit, identified as REP-1A, sponsored by the
 Office of Public Counsel's Witness R. Earl Poucher and to
 prohibit certain testimony. As grounds for its motion, Supra
 states as follows:

1. The Office of Public Counsel served copies of Exhibit
 REP-1A on the parties to this proceeding very late on Friday,
 January 30, 1998, subsequent to the prehearing conference that
 was held on January 23, 1998, and less than seven days prior to

the hearing scheduled for Friday, February 6, 1998.

2. Supra has not intervened in this proceeding and has not,
 up to this point, had any participation in this proceeding.

3. In Docket No. 971527-TX (entitled "Initiation of Show
 Cause Proceedings for Violations of Rule 25-4.043, Florida
 Administrative Code, Response to Commission Staff Inquiries, and

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 FPSC-BUREAU OF RECORDS

DOCUMENT NUMBER-DATE
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 FPSC-RECORDS/REPORTING

Violation of Rule 25-24.820, Revocation of a Certificate"), the Commission decided, at its January 8, 1998, Agenda Conference, to issue an order to Supra to show cause in writing why it should not be fined or have its certificate cancelled for violation of Commission rules based on customer complaints the Commission has received regarding alleged unauthorized switches in local telephone service. The Commission has not yet issued its show cause order memorializing this decision.

4. Supra has not been given the opportunity to file its written response to the show cause order nor has Supra been given the opportunity to have a hearing in which it can put on its case regarding the allegations in these customer complaints.

5. The full Commission will conduct this investigation/rulemaking hearing and will be expected to review and consider all evidence and hear and consider all testimony and comments.

6. It is a violation of Supra's fundamental due process rights to permit any party, Public Counsel or the Attorney General or any other party or interested person, to submit in this investigation/rulemaking proceeding copies of customer complaints when Supra has not been given an opportunity to defend itself.

7. It is likewise a violation of Supra's fundamental due process rights to permit any testimony related to customer complaints that are the subject of the outstanding show cause proceeding. Any customer complaint for which Supra has been show caused will be addressed in the show cause proceeding.

8. This investigation/rulemaking proceeding is not a show

cause proceeding. It is merely a proceeding to investigate and discuss the appropriateness of Commission-proposed rule changes and changes suggested by other parties to address the "slamming" problem. This proceeding was not intended to, and in fact will not, provide any party, such less a telecommunications carrier that has not intervened, the elements of due process that are legally essential to enforcement action by the Commission or any agency. It is a violation of Supra's due process rights to permit anyone to testify regarding allegations by third parties or to submit copies of customer complaints without having provided Supra as the target of such allegations and complaints the opportunity to depose those customers well ahead of time, the opportunity to be able to challenge the validity of the complaints by discovery and by cross-examination, as well as the opportunity to present its own witnesses in its defense.

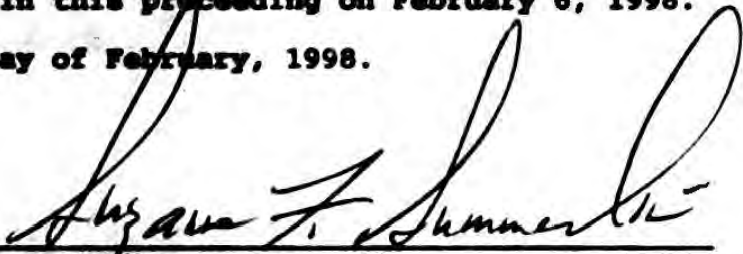
9. To state that this proceeding will not result in any fine or penalty being levied on Supra does not change the fact that the same Commission that will conduct Supra's show cause hearing will have been exposed to a tremendous amount of evidence and possibly testimony without the concurrent opportunity for Supra to test the validity of the evidence and testimony by conducting cross-examination and all of the other incidents of due process. As this proceeding cannot afford Supra basic due process in the nature of adequate notice and opportunity to defend itself, the Commission must not read or consider the portions of Public Counsel's Exhibit REP-1A that relate to Supra nor hear testimony related to Supra or permit the entry of such

exhibits or testimony into the record.

10. While it may be perfectly appropriate for the Commission to consider customer complaints of unauthorized switches in telecommunications service that have been previously submitted to the Commission and resolved by the Commission either in a settlement process or following a show cause hearing, as well as customer complaints that are not the subject of a show cause proceeding, the only appropriate forum for the consideration of outstanding complaints against Supra is the show cause proceeding in Docket No. 971527-TX.

WHEREFORE, Supra requests that the Prehearing Officer order Public Counsel to modify its Exhibit REP-1A to exclude any copies of or references to customer complaints against Supra and to order that no party or interested person will be permitted to testify against Supra regarding outstanding customer complaints that are the subject of the show cause proceeding in Docket No. 971527-TX at the hearing in this proceeding on February 6, 1998.

DATED this 3rd day of February, 1998.



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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by facsimile(*), hand delivery(**), and/or U.S. Mail to the following parties this 3rd day of February, 1998.

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