

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Complaint of Supra
Telecommunications & Information
Systems against BellSouth
Telecommunications, Inc. for
violation of the
Telecommunications Act of 1996;
petition for resolution of
disputes as to implementation
and interpretation of
interconnection, resale and
collocation agreements; and
petition for emergency relief.

DOCKET NO. 980119-TP
ORDER NO. PSC-98-0606-PCO-TP
ISSUED: April 30, 1998

ORDER GRANTING, IN PART, AND DENYING, IN PART, MOTION TO STRIKE
PORTIONS OF AMENDED TESTIMONY

On January 23, 1998, Supra Telecommunications and Information Systems (Supra) filed a Complaint against BellSouth Telecommunications, Inc. (BellSouth) for alleged violations of the Telecommunications Act of 1996 (Act) and Petition for resolution of certain disputes between BellSouth and Supra regarding interpretation of the Interconnection, Resale, and Collocation Agreements between Supra and BellSouth (Petition). Supra also requested relief on an emergency basis. On February 16, 1998, BellSouth filed its Answer and Response to Supra's Petition. This matter has been set for hearing on an expedited basis.

On February 26, 1998, Commission staff conducted an issues identification meeting. At that meeting, a dispute arose regarding the inclusion of certain issue suggested by Supra. On March 6, 1998, the parties submitted legal memoranda on the issues in dispute, and on March 11, 1998, the parties presented oral argument on the disputed issues. By Order No. PSC-98-0416-PCO-TP, issued March 24, 1998, I excluded the additional issues proposed by Supra regarding whether BellSouth had failed to negotiate in good faith in violation of the Act, had entered into agreements containing unfair terms in violation of the Act, and had failed to give Supra access to all unbundled elements in violation of the Act. I also excluded issues regarding whether BellSouth is required to resell its billing services and dark fiber to Supra.

On April 3, 1998, Supra filed a Motion for Reconsideration of Order No. PSC-98-0416-PCO-TL. On that same day, BellSouth filed a Motion to Strike Portions of Supra's Direct Testimony of Olukayode

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Ramos. In that motion, BellSouth asserted that portions of witness Ramos's direct testimony address the issues that I excluded from this proceeding. On April 8, 1998, Supra filed amended direct testimony for witness Ramos and witness Reinke. On April 9, BellSouth filed a Motion to Strike Portions of Supra's Amended Direct Testimony. On April 10, 1998, Supra filed its response to BellSouth's Motion to Strike Portions of Amended Direct Testimony. In its response, Supra simply indicated that BellSouth's Motion to Strike was not ripe because the panel assigned to this case had not yet ruled upon Supra's Motion for Reconsideration of Order No. PSC-98-0416-PCO-TL.

At the April 17, 1998, prehearing conference in this docket, I granted Supra's request for leave to file the amended testimony of witness Ramos and Reinke. I further stated that the amended testimony remained subject to BellSouth's Motion to Strike Portions of the amended testimony. I also stated that I would defer my ruling on the Motion to Strike Portions of the Amended Testimony until the Commission panel assigned to this case had ruled upon Supra's Motion for Reconsideration of Order No. PSC-98-0416-PCO-TL. See Order No. PSC-98-0576-PCO-TP, issued April 24, 1998.

At our April 28, 1998, Agenda Conference, the Commission panel assigned to this case denied Supra's Motion for Reconsideration. In light of that ruling, my ruling on BellSouth's Motion to Strike is set forth below.

First, I find that BellSouth's April 3, 1998, Motion to Strike is moot, because Supra has been allowed to file amended testimony for witness Ramos, and BellSouth has subsequently filed a Motion to Strike Portions of that amended testimony.

As for BellSouth's April 9, 1998, Motion to Strike Portions of Amended Direct Testimony, BellSouth asks in that motion that portions of witness Ramos's amended testimony be stricken because they address the issues excluded from this proceeding by Order No. PSC-98-0416-PCO-TL. Specifically, BellSouth asks that the testimony on page 5, line 22, through page 11, line 3 be stricken, as well as the testimony on page 12, line 25 through page 13, line 1; on page 48, lines 7-11 and lines 20-22; and on page 49, lines 14-18, and lines 22-26. In addition, BellSouth asks that witness Ramos's Exhibits OAR-1, OAR-2, and OAR-3 be stricken.

Having thoroughly reviewed these portions of witness Ramos's testimony and Exhibits OAR-1, OAR-2, and OAR-3, I find that most of the information presented therein relates to the issues that have

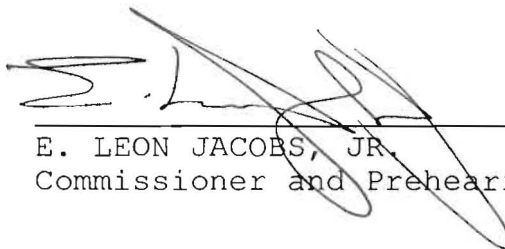
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been excluded from this proceeding. As such, the information is not relevant for consideration in this Docket. The information on page 48, lines 7-11, however, appears to have some relevance to the issues to be addressed in this docket. Therefore, I hereby grant BellSouth's Motion to Strike Portions of Amended Testimony, except as it relates to the information on page 48, lines 7-11.

Based on the foregoing, it is therefore

ORDERED by Commissioner E. Leon Jacobs, Jr., as Prehearing Officer, that BellSouth Telecommunications, Inc.'s April 9, 1998, Motion to Strike Portions of Amended Testimony is granted, in part, and denied, in part, as set forth in the body of this Order.

By ORDER of Commissioner E. Leon Jacobs, Jr., as Prehearing Officer, this 30th Day of April, 1998.



E. LEON JACOBS, JR.
Commissioner and Prehearing Officer

(S E A L)

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: 1) reconsideration within 10 days pursuant to Rule 25-22.038(2),

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Florida Administrative Code, if issued by a Prehearing Officer; 2) reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, if issued by the Commission; or 3) judicial review by the Florida Supreme Court, in the case of an electric, gas or telephone utility, or the First District Court of Appeal, in the case of a water or wastewater utility. A motion for reconsideration shall be filed with the Director, Division of Records and Reporting, in the form prescribed by Rule 25-22.060, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.