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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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Petition for Emergency Relief of Supra )  
Telecommunications and Information )  
Systems, Inc., Against BellSouth )  
Telecommunications, Inc. )

Docket No. 980800TP DS AND )  
REPORTING )  
Filed: November 12, 1998 )

SUPRA TELECOMMUNICATIONS & INFORMATION SYSTEMS, INC.'S  
RESPONSE TO BELL SOUTH TELECOMMUNICATIONS, INC.'S  
MOTION FOR RECONSIDERATION BY THE FULL COMMISSION

Supra Telecommunications and Information Systems, Inc., ("Supra") hereby files this Response to BellSouth Telecommunications, Inc.'s ("BellSouth's") Motion for Reconsideration By the Full Commission ("Motion") of Order No. PSC-98-1417-PCO-TP ("Order") issued October 22, 1998. Pursuant to Florida Public Service Commission ("the Commission" or the "FPSC" hereafter) Rule 25-22.060(1), Florida Administrative Code, Supra moves the Commission to deny BellSouth's Motion and in support thereof, states the following:

1. The appropriate standard of review to be applied by the Commission when determining whether to grant a motion for reconsideration is whether the motion for reconsideration sets forth a point of fact or law that the Commission overlooked or

did not consider in making its decision. See Diamond Cab Co. v. King, 146 So.2d 889 (Fla. 1962) and Pingree v. Ouaintance, 394 So.2d 161 (Fla. 1st DCA 1981). A motion for reconsideration should not be used to reargue matters that have already been addressed by the Commission.

2. In its motion for reconsideration, BellSouth simply restates all of the arguments it raised in the oral argument held

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AFA \_\_\_\_\_  
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CAF \_\_\_\_\_  
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on September 22, 1998, regarding this matter before the three-member Commission panel assigned to this docket. BellSouth does not offer any point of fact or issue of law that was not addressed by the parties and other telecommunications carriers participating in the oral argument, by the staff in its recommendation regarding the oral argument, and by the Commission itself in its Order No. PSC-98-1417-PCO-TP.

3. BellSouth **again** raises the "first come, first served" rule as a reason why the Commission should not grant Supra priority in the North Dade Golden Glades and the West Palm Beach Gardens Central Offices. BellSouth argues **again** that Supra should not be able to improve its position ahead of other telecommunications carriers by filing a complaint against BellSouth when it was denied physical collocation by BellSouth. BellSouth argues **again** that Supra should have had to wait until BellSouth got good and ready to file its Petition for Waiver with the Florida Public Service Commission before Supra could argue about BellSouth's denial of Supra's request for physical collocation. BellSouth **again** argues that Supra should have had to wait until another alternative local exchange carrier (ALEC) decided to actually pursue the matter before Supra should be allowed to come to the Commission and put on its case that there is enough space in these two central offices. BellSouth argues **again** that Supra's efforts in filing its complaint should benefit other carriers who chose not to file complaints, and who simply accepted BellSouth's denials of their requests for physical

collocation.

4. The only conclusion to be drawn is that it is BellSouth's position that BellSouth, and BellSouth alone, should determine when and if any ALEC or other telecommunications carrier will be permitted to physically collocate in a BellSouth central office. BellSouth's position seems to be that BellSouth, and BellSouth alone, should determine when and if BellSouth must comply with the requirement of obtaining a waiver from a state commission prior to denying requests for physical collocation as provided in the Telecommunications Act of 1996. BellSouth's position effectively translates to the proposition that an ALEC or other telecommunications carrier has no right to contest at the Florida Public Service Commission BellSouth's denial of physical collocation unless that ALEC or carrier happens to be the first in line to make a request for physical collocation at a particular central office. Of course, BellSouth has made it clear that it will not divulge what company has requested physical collocation in any central office and what the outcome of such requests have been. If an ALEC happens to be later in line and the first requester chooses not to pursue the issue, BellSouth has no need to worry about doing anything because every other company will be denied physical collocation and, under BellSouth's plan, will not even be permitted to file a complaint about it at the state commission. BellSouth's position is that BellSouth may deny requests for physical collocation without even taking the minimum steps provided in the Telecommunications Act

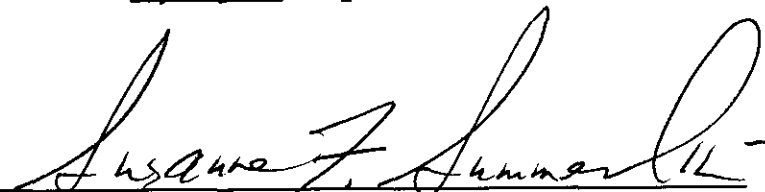
of 1996 to review its central offices to determine which central offices it believes are space-limited and file the necessary petitions for waiver with the state commissions and present its case for exemption from the Act's physical collocation requirements. Under BellSouth's plan, only a very foolish ALEC or other carrier will ever file any complaint regarding a denial of a request for physical collocation at the Florida Public Service Commission because, if they do not happen to be first in line, they will have expended their money, time, human resources, and efforts for the benefit of other companies. This is exactly the result BellSouth desires--to effectively remove any obligations or liabilities BellSouth may have regarding the physical collocation provisions of the Telecommunications Act of 1996.

5. BellSouth's arguments lead to a completely nonsensical result that would violate fundamental federal and state constitutional principles of due process. If a carrier cannot file a complaint with the state commission and obtain the relief it is legally entitled to under the Telecommunications Act of 1996, then that Act is not worth the paper it is written on. Such a decision would, in effect, permit BellSouth to continue to willfully and illegally deny requests for physical collocation without any consequences.

6. As BellSouth has raised no point of fact or law that was not considered by the Commission panel in its issuance of Order

No. PSC-98-1417-PCO-TP, the Commission should deny BellSouth's motion for reconsideration by the full Commission panel.

Respectfully submitted this 12<sup>th</sup> day of November, 1998.

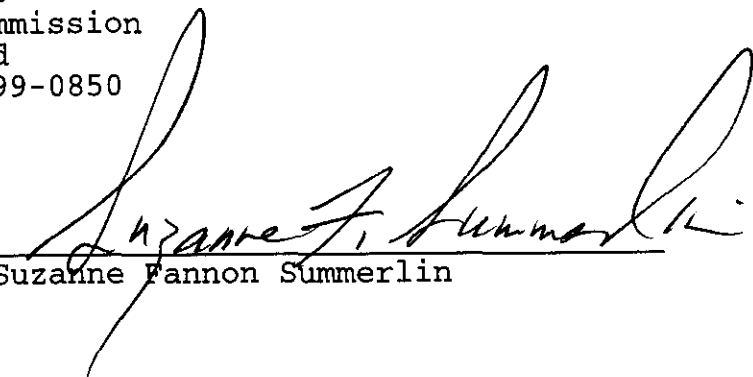
  
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Florida Bar No. 398586

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. Mail or \*hand delivery to the following parties of record this 12<sup>th</sup> day of November, 1998:

BellSouth Telecommunications, Inc.  
c/o Nancy H. Sims  
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Florida Public Service Commission  
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Tallahassee, Florida 32399-0850

  
Suzanne Fannon Summerlin