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March 16, 2001

Mrs. Blanca S. Bayó
Director, Division of Records and Reporting
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Re: Docket No. 001097-TP
Complaint of BellSouth against Supra

Dear Ms. Bayó:

Enclosed is an original and fifteen copies of Rebuttal Testimony of Patrick C. Finlen for BellSouth, which we ask that you file in the above-referenced matter.

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,

Nancy B. White
Nancy B. White (RA)

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

DOCUMENT NUMBER-DATE

03399 MAR 16 2001

FPSC-RECORDS/REPORTING

CERTIFICATE OF SERVICE
Docket No. 001097-TP

I HEREBY CERTIFY that a true and correct copy of the foregoing was served via U. S. Mail this 16th day of March, 2001 to the following:

Lee Fordham
Staff Counsel
Florida Public Service
Commission
Division of Legal Services
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Brian Chaiken
Supra Telecommunications &
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Nancy B. White (KA)

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BELLSOUTH TELECOMMUNICATIONS, INC.
REBUTTAL TESTIMONY OF PATRICK C. FINLEN
BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION
DOCKET NO. 001097-TP
MARCH 16, 2001

Q. PLEASE STATE YOUR NAME, ADDRESS, AND POSITION WITH BELLSOUTH TELECOMMUNICATIONS, INC. (HEREINAFTER REFERRED TO AS "BELLSOUTH").

A. My name is Patrick C. Finlen. I am employed by BellSouth as a Managing Director in the Customer Markets, Wholesale Pricing Operations Department. My business address is 675 West Peachtree Street, Atlanta, Georgia 30375.

Q. ARE YOU THE SAME PATRICK C. FINLEN WHO FILED DIRECT TESTIMONY IN THIS PROCEEDING?

A. Yes.

Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

A. The purpose of my testimony is to address the issue raised in the Direct Testimony of Ms. Carol Bentley of Supra. This issue is which

1 Agreement between BellSouth and Supra applies to the billing dispute
2 at issue in this Arbitration.

3

4 Q. IS SUPRA'S ADOPTION OF THE BELLSOUTH/AT&T
5 INTERCONNECTION AGREEMENT ("BELLSOUTH/AT&T
6 AGREEMENT") APPLICABLE TO THE BILLS IN DISPUTE IN THIS
7 PROCEEDING AS CLAIMED BY MS. CAROL BENTLEY IN HER
8 DIRECT TESTIMONY, PAGE 3, LINES 2 THROUGH 6?

9

10 A. Absolutely not. As I explained in my direct testimony, this Agreement
11 was not effective until after the timeframe of the bills in dispute. The
12 applicable Agreement in this dispute is the 1997 BellSouth/Supra
13 Resale Agreement (Exhibit PCF-1 to my direct testimony).

14

15 Q. IN HER DIRECT TESTIMONY, MS. BENTLEY REFERS TO SECTION
16 16, SUBSECTION B OF THE 1997 BELLSOUTH/SUPRA RESALE
17 AGREEMENT (PAGE 2, LINES 13 THROUGH 25). WOULD YOU
18 CARE TO COMMENT ON HER INTERPRETATION OF THIS
19 SECTION?

20

21 A. Certainly. Pursuant to 47 C.F.R § 51.303 and Section 252(i) of the
22 Telecommunications Act of 1996, this Section 16, Subsection B
23 allowed Supra to adopt sections of Commission-approved Resale
24 Agreements executed between BellSouth and any third-party for the
25 purpose of ensuring that BellSouth treated all CLECs with parity. Ms.

1 Bentley claims that Supra's adoption of any such third-party Agreement
2 would be applicable to Supra's bills retroactive to the effective date of
3 that third-party Agreement. If this were correct, the BellSouth/AT&T
4 Agreement, which was effective as of June 1997, would apply to Supra
5 as of its original effective date and would, therefore, apply retroactively
6 to the bills in this dispute.

7

8 Ms. Bentley's interpretation of this language is selective and entirely
9 false. Section 16, Subsection B states, in part,

10

11 In the event that Reseller [Supra] accepts such offer, such Other
12 Terms shall be effective between BellSouth and Reseller **as of**
13 **the date on which the Reseller accepts such offer"**
14 [Emphasis added].

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16 Ms. Bentley ignored this sentence in her interpretation of the
17 language, even though she did include it in her direct testimony (page
18 2, lines 23 through 25). According to this language, Supra's
19 adoption of the BellSouth/AT&T Agreement became effective on
20 October 5, 1999 on a going-forward basis. Therefore, the
21 BellSouth/AT&T Agreement **could not** be applied retroactively to
22 Supra's bills in dispute in this proceeding. Instead, since the bills in
23 dispute are for the time period of May 1997 until October 5, 1999, the
24 applicable Agreement is the 1997 BellSouth/Supra Resale
25 Agreement.

1

2 Q. MS. BENTLEY CITES SECTION XVI, SUBSECTION F OF THE 1997
3 BELLSOUTH/SUPRA RESALE AGREEMENT TO SUPPORT HER
4 CLAIM THAT BELLSOUTH MUST MAKE CORRECTIVE PAYMENTS
5 TO SUPRA. HOW DO YOU RESPOND TO THIS CLAIM?

6

7 A. Ms. Bentley claims in her direct testimony, on page 3, lines 13 through
8 16, that,

9

10 since...the effective date of the new agreement's
11 [BellSouth/AT&T Agreement] more favorable terms is June 10,
12 1997, BellSouth must make a corrective payment...for charges
13 billed [under the 1997 BellSouth/Supra Resale Agreement] that
14 no longer apply [under the terms of the BellSouth/AT&T
15 Agreement].

16

17 As I explained above, this is simply not true. The BellSouth/AT&T
18 Agreement did not become effective until October 5, 1999. The bills in
19 dispute are for the time period of May 1997 until October 5, 1999.
20 Therefore, the applicable agreement in this dispute is the 1997
21 BellSouth/Supra Resale Agreement.

22

23 Q. PLEASE SUMMARIZE YOUR TESTIMONY.

24

25

1 A. As I have shown repeatedly in this testimony, as well as my direct
2 testimony, the applicable agreement in this dispute is the 1997
3 BellSouth/Supra Resale Agreement. The time period of the bills in
4 dispute is May 1997 to October 5, 1999. The BellSouth/AT&T
5 Agreement cannot apply because it did not become effective until
6 October 5, 1999 and only governs those charges made after October 5,
7 1999. BellSouth has applied all the charges in dispute appropriately
8 and no refund or credit should be issued to Supra.

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10 Q. DOES THIS CONCLUDE YOUR TESTIMONY?

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12 A. Yes.

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