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Legal Department

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COMMISSION  
CLERK

July 27, 2001

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

**RE: Docket No. 001305-TP (Supra)**

Dear Ms. Bayo:

Enclosed is an original and fifteen copies of BellSouth Telecommunications, Inc.'s Direct Testimony of John Ruscilli, Ronald M. Pate, Clyde L. Greene, Jerry Kephart, and Jerry Hendrix, 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,

*T. Michael Twomey*  
T. Michael Twomey (64)

Hendrix  
DOCUMENT NO.  
09199-01

- APP \_\_\_\_\_
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- PAI \_\_\_\_\_
- RGO \_\_\_\_\_
- SEC I \_\_\_\_\_
- SER \_\_\_\_\_
- OTH \_\_\_\_\_

Enclosures

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

Ruscilli  
DOCUMENT NO.  
09195-01

Pate  
DOCUMENT NO.  
09196-01

Kephart  
DOCUMENT NO.  
09197-01

Greene  
DOCUMENT NO.  
09198-01

**CERTIFICATE OF SERVICE**  
**Docket No. 001305-TP**

I HEREBY CERTIFY that a true and correct copy of the foregoing was served via

U.S. Mail this 27th day of July, 2001 to the following:

Wayne Knight  
Staff Counsel  
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\_\_\_\_\_  
T. Michael Twomey (LA)

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BELLSOUTH TELECOMMUNICATIONS, INC.  
DIRECT TESTIMONY OF JOHN A. RUSCILLI  
BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION  
DOCKET NO. 001305-TP  
JULY 27, 2001

Q. PLEASE STATE YOUR NAME, YOUR POSITION WITH BELLSOUTH TELECOMMUNICATIONS, INC. ("BELLSOUTH") AND YOUR BUSINESS ADDRESS.

A. My name is John A. Ruscilli. I am employed by BellSouth as Senior Director for State Regulatory for the nine-state BellSouth region. My business address is 675 West Peachtree Street, Atlanta, Georgia 30375.

Q. PLEASE PROVIDE A BRIEF DESCRIPTION OF YOUR BACKGROUND AND EXPERIENCE.

A. I attended the University of Alabama in Birmingham where I earned a Bachelor of Science Degree in 1979 and a Master of Business Administration in 1982. After graduation I began employment with South Central Bell as an Account Executive in Marketing, transferring to AT&T in 1983. I joined BellSouth in late 1984 as an analyst in Market Research, and in late 1985 moved into the Pricing and Economics organization with various responsibilities for business case analysis, tariffing, demand analysis and price regulation. I served as a subject matter expert on ISDN tariffing in various

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1 commission and public service commission (“PSC”) staff meetings in  
2 Tennessee, Florida, North Carolina and Georgia. I later moved into the State  
3 Regulatory and External Affairs organization with responsibility for  
4 implementing both state price regulation requirements and the provisions of the  
5 Telecommunications Act of 1996 (the “Act”), through arbitration and 271  
6 hearing support. In July 1997, I became Director of Regulatory and Legislative  
7 Affairs for BellSouth Long Distance, Inc., with responsibilities that included  
8 obtaining the necessary certificates of public convenience and necessity,  
9 testifying, Federal Communications Commission (“FCC”) and PSC support,  
10 federal and state compliance reporting and tariffing for all 50 states and the  
11 FCC. I assumed my current position in July 2000.

12

13 Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

14

15 A. The purpose of my testimony is to present BellSouth’s position on numerous  
16 unresolved issues contained in its Petition for Arbitration between BellSouth  
17 and Supra Telecommunications and Information Systems, Inc. (“Supra”) filed  
18 with the Florida Public Service Commission (“Commission”) on September 1,  
19 2000. I will also present BellSouth’s position on many of the additional issues  
20 raised by Supra in its response to BellSouth’s Petition for Arbitration filed on  
21 October 16, 2000. BellSouth witnesses Mr. Jerry Kephart, Mr. Ron Pate and  
22 Mr. Clyde Green will also file direct testimony in this case. In my testimony, I  
23 respond to the following issues: 1, 2, 4, 7-29, 31-32, 44-45, 49, 51-52, 59, 63,  
24 and 65-66. The wording of these issues in my testimony are the same as  
25 contained in the Commission’s July 13, 2001 Supplemental Order Establishing

1 Procedure (Order No. PSC-1475-PCO-TP. In addition, I have attached as  
2 Exhibit JAR-1 a matrix containing, where appropriate, the relevant contract  
3 language proposed by BellSouth concerning the issues in dispute in this  
4 arbitration. Because Supra has introduced issues that were not part of the  
5 original negotiations process, in several instances the contract language  
6 proposed in JAR-1 is language agreed upon between BellSouth and AT&T or  
7 MCI. Although the language references AT&T or MCI, this language is  
8 proposed to address the relevant issues in this arbitration.

9  
10 Q. HAVE THE PARTIES DISCUSSED EACH OF THESE ISSUES IN AN  
11 INTERCOMPANY REVIEW BOARD MEETING AS ORDERED BY THE  
12 COMMISSION?

13  
14 A. No. Although BellSouth attempted to engage Supra on all issues, Supra  
15 refused to negotiate the following issues that are addressed in my testimony  
16 during the Intercompany Review Board Meetings: 12, 14, 15, 18, 19, 20, 25-  
17 29, 31, 32, 44, 49, 51, and 59.

18  
19 *Issue 1: What are the appropriate fora for the submission of disputes under the new*  
20 *agreement?*

21  
22 Q. WHAT IS BELLSOUTH'S POSITION ON THIS ISSUE?

23  
24 A. BellSouth's position is that the appropriate regulatory authority should resolve  
25 disputes and that BellSouth should not be precluded from petitioning the

1 Commission for resolution of disputes under the Interconnection Agreement.  
2 BellSouth is unwilling to agree to terms and conditions that restrict or delay its  
3 ability to seek relief from the Commission when the parties are unable to  
4 resolve, among themselves, differences that may arise regarding the  
5 interconnection agreement. BellSouth simply should not be required to waive  
6 its right to have the Commission hear disputes.

7  
8 In fact, this Commission recently determined in the BellSouth/AT&T  
9 Arbitration Order in Docket No. 000731-TP “that third party arbitration is  
10 neither speedy nor inexpensive. Moreover, nothing in the law gives us explicit  
11 authority to require third party arbitration. Consequently, we find that this  
12 Commission shall resolve disputes under the Interconnection Agreement.”  
13 (Order No. PSC-01-1402-FOF-TP at page 105). Indeed, the Eighth Circuit  
14 Court has ruled that state commissions are charged with the authority to  
15 resolve disputes relating to interconnection agreements. In *Iowa Utilities*  
16 *Board v. FCC*, 120 F.3d 753, 804 (8<sup>th</sup> Cir. 1997), the Eighth Circuit  
17 determined “that state commissions retain the primary authority to enforce the  
18 substantive terms of the agreements made pursuant to Sections 251 and 252.”  
19 Further, “the state commissions plenary authority to accept or reject these  
20 agreements necessarily carries with it the authority to enforce the provisions of  
21 agreements that state commissions have approved.” *Id.*

22  
23 Even if this Commission had the legal ability to order the arbitration procedure  
24 requested by Supra and to empower the arbitrator with the ability to award the  
25 relief sought by Supra, to do so would be adverse to public policy. BellSouth

1 believes that, as a matter of policy, it is critical that interconnection agreements  
2 be interpreted consistently. One of the primary guiding principles of the Act is  
3 that carriers should be treated in a nondiscriminatory fashion. This goal cannot  
4 be reached without a means to insure that similar disputes arising under  
5 different agreements are handled in a similar fashion. Indeed, use of  
6 commercial arbitrators could produce inconsistent results in matters dealing  
7 with interconnection issues that arise between BellSouth and Alternative Local  
8 Exchange Companies ("ALECs") because different arbitrators could provide  
9 different decisions in the same related issues. On the other hand, having the  
10 Commission resolve disputes provides needed consistency in how Incumbent  
11 Local Exchange Carriers ("ILECs") and ALECs interconnect and generally  
12 deal with each other. Commission control of dispute resolution ensures that  
13 disputes between two carriers that potentially affect the entire industry are dealt  
14 with consistently. The commercial arbitration Supra seeks would make this all  
15 but impossible.

16

17 Q. WHAT HAS BEEN BELL SOUTH'S EXPERIENCE WITH COMMERCIAL  
18 ARBITRATION?

19

20 A. BellSouth's experience with commercial arbitration has proven that the process  
21 is an impractical, time-consuming and costly way to resolve interconnection  
22 disputes. Our experience shows that it is difficult to find neutral commercial  
23 arbitrators that are sufficiently experienced in the telecommunications industry  
24 so that a decision can be made expeditiously and without having to train the  
25 arbitrator on the very basics of the industry. The Commission and its staff are

1 clearly more capable to handle disputes between telecommunications carriers  
2 than are commercial arbitrators.

3

4 Further, if the parties were forced to use commercial arbitration to resolve  
5 disputes, not only is there the strong prospect of substantively inconsistent  
6 rulings, there would likely be an equally troubling inconsistency in the  
7 remedies available to different carriers that are under the Commission's  
8 jurisdiction. If a dispute were to arise between BellSouth and an ALEC, where  
9 no commercial arbitration clause existed in the Agreement, the dispute would  
10 be resolved by the Commission (as these disputes have been in the past).

11 Presumably, the Commission's decision would be informed by past decisions.

12 The Commission's decision would also be appealable, and the Commission  
13 would resolve the matter only by ordering remedies within its power.

14 However, in commercial arbitration, the arbitrator is not bound to follow  
15 Commission precedent and his decisions can only be appealed on very narrow  
16 grounds. Further, once this procedure is memorialized in an approved  
17 Agreement, other ALECs could opt into this commercial arbitration language.

18 Thus, there is a great likelihood that the commercial arbitrators would interfere  
19 with the ability of the Commission to make policy by ruling in a way that is  
20 inconsistent with the Commission's orders. There is also the certainty that at  
21 least disputes involving Supra (and perhaps disputes involving many other  
22 ALECs) would be handled in a radically different procedural manner than other  
23 disputes, which would continue to be brought before the Commission.

24



1 For all of these reasons, BellSouth contends that there should be no language in  
2 the Agreement that obligates either party to submit to commercial arbitration  
3 rather than bringing a dispute to the Commission.

4

5 ***Issue 2: What is the scope of the ability to use the other party's Confidential***  
6 ***Information that is obtained pursuant to this Interconnection Agreement?***

7

8 Q. WHAT IS BELLSOUTH'S POSTION ON THIS ISSUE?

9

10 A. Confidential Information provided under the Agreement should be utilized  
11 only in connection with the Agreement. BellSouth does not object to providing  
12 confidential information to Supra as needed. However, BellSouth expects to  
13 have such confidential information returned when the matter for which it was  
14 provided has concluded. If the same information is relevant in another  
15 circumstance, BellSouth will provide it again.

16

17 Apparently, Supra contends that it should be able to retain any confidential  
18 information it obtains from BellSouth throughout the entire term of the  
19 Agreement. Supra further contends that it should be able to use that  
20 information for any purpose, not just for the purpose it was provided.

21

22 Confidential information is, by definition, either information that is valuable  
23 because it is not widely known or information that, if known, would cause  
24 damage to the business of the owner of the information. For this reason, it is  
25 standard business practice, as well as this Commission's practices, to protect

1           this information. Supra's proposal to obtain confidential information for one  
2           purpose, but reserve the right to use it for others, is not only unjustified, it  
3           appears to reflect an intention by Supra to misuse this information. BellSouth  
4           urges the Commission to find that BellSouth's proposed language be  
5           incorporated into the Agreement so that confidential information is  
6           appropriately protected.

7  
8           ***Issue 4: Should the Interconnection Agreement contain language to the effect that***  
9           ***it will not be filed with the Florida Public Service Commission for approval prior to***  
10           ***an ALEC obtaining ALEC certification from the Florida Public Service***  
11           ***Commission?***

12

13           Q.     WHAT IS BELLSOUTH'S POSITION ON THIS ISSUE?

14

15           A.     Given that any ALEC, whether or not certified, may adopt this Agreement,  
16           BellSouth believes that language requiring certification prior to filing of the  
17           Agreement with the Commission is appropriate. The Commission has agreed  
18           with BellSouth stating "BellSouth's caution in deciding to hold filings for non-  
19           certificated entities until they obtain certification is appropriate." (Letter dated  
20           April 25, 2000, from Walter D'Haeseleer, Director, Division of  
21           Telecommunications, to Nancy Sims of BellSouth). This letter is attached to  
22           my testimony as Exhibit JAR-2. It is unclear why Supra holds this position,  
23           considering that Supra is certificated as an ALEC in Florida.

24

1 *Issue 7: Which end user line charges, if any, should Supra be required to pay*  
2 *BellSouth?*

3

4 Q. WHAT IS BELLSOUTH'S POSITION ON THIS ISSUE?

5

6 A. The FCC has authorized end user line charges be assessed to recover the cost  
7 of local number portability implementation. 47 C.F.R § 52.33(a) states:

8

9 Incumbent local exchange carriers may recover their carrier-specific  
10 costs directly related to providing long-term number portability by  
11 establishing in tariffs filed with Federal Communications Commission  
12 a monthly number-portability charge, as specified in paragraph  
13 (a)(1)....

14

15 47 C.F.R. § 52.33(a)(1) specifies that the monthly number portability charge  
16 may take effect no earlier than February 1, 1999, on a date the ILEC selects,  
17 and may end no later than five years after that date. Further, 47 C.F.R. §  
18 52.33(a)(1)(ii) states:

19

20 An incumbent local exchange carrier may assess on carriers that  
21 purchase the incumbent local exchange carrier's switching ports as  
22 unbundled network elements under section 251 of the Communications  
23 Act, and resellers of the incumbent local exchange carrier's local  
24 service, the same charges as described in paragraph (a)(1)(A) of this

1 section, as if the incumbent local exchange carrier were serving those  
2 carriers' end users.

3

4 Clearly, BellSouth is allowed to charge Supra the end user line charge  
5 associated with implementation of local number portability when Supra  
6 purchases unbundled switching from BellSouth or resells BellSouth's service.

7

8 Furthermore, Supra should be required to pay end user common line charges.  
9 FCC Rule 51.617(a) clearly states that ILECs shall assess the end user common  
10 line charge upon resellers:

11

12 Notwithstanding the provision in § 69.104(a) of this chapter that the  
13 end user common line charge be assessed upon end users, an incumbent  
14 LEC shall assess this charge, and the charge for changing the  
15 designated primary interexchange carrier, upon requesting carriers that  
16 purchase telephone exchange service for resale.

17

18 Q. HAS THE COMMISSION RECENTLY ADDRESSED THIS ISSUE IN  
19 ANOTHER PROCEEDING?

20

21 A. Yes. In fact, the Commission addressed this same issue in the arbitration  
22 complaint proceeding between BellSouth and Supra in Docket No. 001097-TP.  
23 At the July 10, 2001 Commission Agenda Session, the Commission approved  
24 the Staff's Recommendation on Issue 2, stating "BellSouth acted appropriately  
25 in billing Supra for EUCLs". As reflected in Exhibit JAR-1, the contract

1 language that BellSouth proposes for the new agreement with Supra is  
2 consistent with the contract language at issue in Docket No. 001097-TP. As  
3 such, the Commission should reach the same conclusion in this proceeding that  
4 Supra be required to pay end user line charges.

5

6 ***Issue 9: What should be the definition of "ALEC"?***

7

8 Q. WHAT IS BELLSOUTH'S POSITION ON THIS ISSUE?

9

10 A. Florida Statute 364.02 defines "Alternative local exchange telecommunications  
11 company" to mean any company certificated by the commission to provide  
12 local exchange telecommunications services in this state on or after July 1,  
13 1995. Apparently, Supra seeks to obligate BellSouth to abide by an Agreement  
14 regardless of whether the carrier is certificated (or will ever be certificated) by  
15 the Commission. As previously addressed under Issue 4, agreement language  
16 requiring certification prior to filing of the Agreement is appropriate given that  
17 any ALEC, whether or not certificated, may adopt another ALEC's Agreement.

18

19 ***Issue 10: Should the rate for a loop be reduced when the loop utilizes Digitally***  
20 ***Added Main Line (DAML) equipment?***

21

22 Q. BRIEFLY DESCRIBE DAML EQUIPMENT AND WHEN BELLSOUTH  
23 UTILIZES IT.

24

1 DAML equipment is designed for use over a copper facility. It uses Integrated  
2 Services Digital Network (ISDN) technology to electronically derive additional  
3 loops over copper facilities in a manner similar to that provided by digital loop  
4 carrier (DLC). DAML provides a two-to-one, four-to-one, or six-to-one pair  
5 gain for Plain Old Telephone Service (POTS) between the central office (CO)  
6 unit and a line powered remote unit (RU). Stated another way, instead of  
7 deriving a single loop over a single copper pair from the customer's premises  
8 to the central office, the use of DAML equipment allows up to six loop  
9 equivalents to be served over a single copper pair.

10

11 BellSouth deploys DAML equipment on a very limited basis to expand a single  
12 loop to derive additional digital channels, each of which may be used to  
13 provide voice grade service. The deployment is limited to those situations  
14 where loop facilities are not currently available for the additional voice grade  
15 loop(s).

16

17 Q. SHOULD THE RATE FOR THE UNBUNDLED LOOP BE REDUCED  
18 WHEN DAML EQUIPMENT IS USED?

19

20 A. No. The use of DAML equipment is a means to meet a request for service in a  
21 timely manner. It is not generally a more economic means of meeting demand  
22 on a broad basis than using individual loop pairs. Supra apparently believes  
23 that loops utilizing DAML equipment should be offered at a lower cost than  
24 other loops. However, costs for unbundled loops have been calculated in  
25 compliance with Federal Communications Commission rules on a forward-

1 looking basis without regard to the manner in which the customer is served  
2 (e.g., copper or digital loop carrier). Thus, the unbundled loop rates the  
3 Commission recently approved in the UNE cost docket (Docket No. 990649-  
4 TP) are appropriate and do not require any adjustment to recognize the use of  
5 DAML equipment.

6  
7 Q. WHAT SOLUTION TO THIS ISSUE DOES BELLSOUTH PROPOSE?

8  
9 A. This Commission should affirm that the rates for unbundled loops that this  
10 Commission has recently approved are appropriate for those instances where  
11 DAML equipment is used.

12  
13 ***Issue 11A: Under what conditions, if any, should the Interconnection Agreement***  
14 ***state that the parties may withhold payment of disputed charges?***

15 ***Issue 11B: Under what conditions, if any, should the Interconnection Agreement***  
16 ***state that the parties may withhold payment of undisputed charges?***

17 ***Issue 63: Under what circumstances, if any, would BellSouth be permitted to***  
18 ***disconnect service to Supra for nonpayment?***

19  
20 Q. WHAT IS BELLSOUTH'S POSITION ON THESE ISSUES?

21  
22 A. Attachment 6 of BellSouth's proposed Interconnection Agreement contains  
23 provisions to handle billing disputes between the parties. Regarding Issue 11,  
24 BellSouth contends that the parties should pay undisputed charges on a timely  
25 basis, regardless of the amount of any disputed charges. Allowing one party to

1 withhold payment of appropriately billed charges when other charges, whether  
2 appropriately or inappropriately billed, are in dispute, would enable that party  
3 to “game” the billing system to avoid paying bills.

4  
5 Regarding Issue 63, BellSouth should be permitted to disconnect service to  
6 Supra or any other ALEC that fails to pay undisputed charges within the  
7 applicable time period. BellSouth’s position is consistent with the  
8 Commission’s recent decision in the BellSouth/WorldCom Arbitration  
9 proceeding in Docket No. 000649-TP. In its Order, the Commission found that  
10 “BellSouth is within its rights to deny service to customers that fail to pay  
11 undisputed amounts within reasonable time frames. Therefore, absent a good  
12 faith billing dispute, if payment of account is not received in the applicable  
13 time frame, BellSouth shall be permitted to disconnect service to WorldCom  
14 for nonpayment.” (Order No. PSC-01-0824-FOF-TP at pp. 155-156).

15 BellSouth must be able to deny service in order to obtain payment for services  
16 rendered and/or prevent additional past due charges from accruing. It would  
17 not be a reasonable business practice for BellSouth to operate “on faith” that an  
18 ALEC will pay its bills. Indeed, a business could not remain viable if it were  
19 obligated to continue to provide service to customers who refuse to pay lawful  
20 charges.

21  
22 BellSouth must also consider that the terms and conditions of any agreement it  
23 reaches with one ALEC are subject to being adopted by another ALEC. The  
24 FCC’s Rule 51.809 requires that, subject to certain restrictions, BellSouth  
25 must, “make available without unreasonable delay to any requesting



1 telecommunications carrier any individual interconnection, service, or network  
2 element arrangement contained in any agreement to which it is a party that is  
3 approved by a state commission pursuant to section 252 of the 1996 Act, upon  
4 the same rates, terms, and conditions as those provided in the agreement.”

5 This “pick and choose” requirement makes it imperative that each executed  
6 interconnection agreement includes language that addresses disconnection of  
7 service for non-payment.

8

9 The simple way to resolve this issue is for Supra to pay undisputed amounts  
10 within the applicable time frames, and this portion of the agreement will never  
11 become an issue. BellSouth encourages the Commission to adopt BellSouth’s  
12 proposed language that permits BellSouth to disconnect an ALEC’s service if  
13 the ALEC fails to pay billed charges that are not disputed.

14

15 ***Issue 12: Should BellSouth be required to provide transport to Supra Telecom if***  
16 ***that transport crosses LATA boundaries?***

17

18 Q. WHAT IS BELLSOUTH’S POSITION ON THIS ISSUE?

19

20 A. This issue is basically a legal matter and, while I am not an attorney, a plain  
21 reading of Section 271 of the Act reveals that BellSouth is prohibited from  
22 providing interLATA facilities or services to Supra or any other carrier.

23 Neither BellSouth nor its affiliates are allowed to provide services that cross  
24 LATA boundaries prior to receiving authorization from the Federal

1           Communications Commission (“FCC”) to do so, pursuant to the requirements  
2           of Section 271 of the Act. Specifically, Section 271(a) states:

3

4                   GENERAL LIMITATION. – Neither a Bell operating company, nor  
5                   any affiliate of a Bell operating company, may provide interLATA  
6                   services except as provided within this section.

7

8           Supra contends that BellSouth should provide Supra with DS1 interoffice  
9           transport facilities between BellSouth central offices located in different  
10          LATAs. Although the DS1 facilities that Supra is requesting are Unbundled  
11          Network Elements (“UNEs”), BellSouth is prohibited by law from providing  
12          those elements across LATA boundaries. Section 271(a) of the Act provides  
13          no qualification of the nature of the service, whether retail or wholesale, in the  
14          phrase “interLATA services”.

15

16          ***Issue 13: What should be the appropriate definition of “local traffic” for purposes***  
17          ***of the parties’ reciprocal compensation obligations under Section 251(b)(5) of the***  
18          ***1996 Act?***

19          ***Issue 19: Should calls to Internet Service Providers be treated as local traffic for the***  
20          ***purposes of reciprocal compensation?***

21

22          Q.     DO YOU HAVE ANY GENERAL COMMENTS YOU CAN MAKE  
23                REGARDING THESE ISSUES?

24

1 A. Yes. For all practical purposes, the FCC has recently resolved this issue. As  
2 has been anticipated for quite some time, on April 27, 2001, the FCC issued its  
3 Order on Remand and Report and Order, FCC 01-131, In the Matter of  
4 Implementation of the Local Competition Provisions in the  
5 Telecommunications Act of 1996, CC Docket No. 96-98 April 27, 2001) and  
6 Intercarrier Compensation for ISP-Bound Traffic, CC Docket No. 99-68  
7 (“Order on Remand”). In this Order, the FCC affirmed its earlier conclusion  
8 that ISP-bound traffic is predominantly interstate access traffic that is not  
9 subject to the reciprocal compensation obligations of section 251(b)(5) but is  
10 within the jurisdiction of the FCC under section 201 of the Act. (Order at ¶1).  
11 The FCC made it clear that because it has now exercised its authority under  
12 section 201 to determine the appropriate intercarrier compensation for ISP-  
13 bound traffic, state commissions no longer have the authority to address this  
14 issue. (Order at ¶82). Therefore, this is no longer a matter that can be  
15 arbitrated in this proceeding.

16  
17 ***Issue 14: Should BellSouth pay reciprocal compensation to Supra Telecom where***  
18 ***Supra Telecom is utilizing UNEs to provide local service for the termination of***  
19 ***local traffic to Supra’s end users? If so, which end user line charges should Supra***  
20 ***be required to pay BellSouth?***

21 ***Issue 25A: Should BellSouth charge Supra Telecom only for UNEs that it orders***  
22 ***and uses?***

23 ***Issue 25B: Should UNEs ordered and used by Supra Telecom be considered part of***  
24 ***its network for reciprocal compensation, switched access charges and inter/intra***  
25 ***LATA services?***

1

2 Q. IS THE WORDING OF ISSUE 14 CONSISTENT WITH YOUR  
3 UNDERSTANDING OF HOW THE ISSUE WORDING WAS  
4 ESTABLISHED AT THE COMMISSION'S ISSUE ID?

5

6 A. No. It is my understanding that the appropriate wording of the last sentence in  
7 the Issue as stated above should be: "If so, for which UNEs should reciprocal  
8 compensation be paid?" Therefore, I will respond to the issue as it was  
9 discussed and agreed upon at the Issue ID.

10

11 Q. WHAT IS BELLSOUTH'S POSITION ON THESE ISSUES?

12

13 A. BellSouth's position is that the purpose of reciprocal compensation is to  
14 recover the costs incurred by the terminating carrier for utilizing its network.  
15 Since BellSouth does not charge Supra the end office switching rates when a  
16 BellSouth customer places a local call to a Supra end user, and Supra does not  
17 have its own network, Supra incurs no cost in terminating that call. Thus,  
18 reciprocal compensation is not appropriate.

19

20 Specifically regarding Issue 25, BellSouth and WorldCom were able to agree  
21 upon contract language and resolved this issue outside of the arbitration. In an  
22 effort to settle this issue with Supra, BellSouth is willing to offer this same  
23 language to Supra for inclusion in their interconnection agreement. Exhibit  
24 JAR-1 attached to my testimony contains BellSouth's proposed language that  
25 will resolve this issue.

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*Issue 15: What Performance Measurements should be included in the Interconnection Agreement?*

*Issue 20: Should the Interconnection Agreement include validation and audit requirements which will enable Supra Telecom to assure the accuracy and reliability of the performance data BellSouth provides to Supra Telecom?*

Q. SHOULD EITHER OF THESE ISSUES BE ADDRESSED IN THIS PROCEEDING?

A. No. Both of these issues are among the issues included in the Florida Public Service Commission’s generic Performance Measurement Docket No. 000121-TP. The Commission convened this proceeding to consider the very issues Supra seeks to arbitrate in this docket. However, the outcome of the generic proceeding will address these issues for the entire ALEC industry in Florida.

Q. HOW DOES THE GENERIC PERFORMANCE MEASUREMENT DOCKET ADDRESS ISSUES 15 AND 20 AS RAISED IN THIS ARBITRATION?

A. Both of these issues are being directly addressed in the generic performance measurements docket. To clarify, the following is an excerpt of the list of issues from the generic performance measurements docket that relate to Supra’s concerns in this docket:

Issues from Docket No. 000121-TP that pertain to measurements:

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*Issue 1.a: What are the appropriate service quality measures to be reported by BellSouth?*

*Issue 1.b: What are the appropriate business rules, exclusions, calculations, and levels of disaggregation and performance standards for each measurement?*

Issues from Docket No. 000121-TP that pertain to audits:

*Issue 24.a: Should periodic third-party audits of performance assessment plan data and reports be required?*

*Issue 25: If periodic third-party audits are required, who should be required to pay the cost of the audits?*

*Issue 27.a: Should an ALEC have the right to audit or request a review by BellSouth for one or more selected measures when it has reason to believe the data collected for a measure is flawed or the report criteria for the measure is not being adhered to?*

*Issue 27.b: If so, should the audit be performed by an independent third party?*

This generic docket is the appropriate vehicle for collaborating on the set of performance measures appropriate to the ALEC industry in Florida.

Performance measures should not be decided in individual ALEC arbitration

1 proceedings. Since all ALECs in Florida, including Supra, had the opportunity  
2 to participate in this docket, this Commission should require Supra to abide by  
3 the Commission's decision in the generic performance measurement docket.

4  
5 Q. IS THE FLORIDA PUBLIC SERVICE COMMISSION EXPECTED TO  
6 ISSUE A DECISION IN THE GENERIC PERFORMANCE  
7 MEASUREMENTS DOCKET SOON?

8  
9 A. Yes. The most recent schedule for the Generic Performance Docket No.  
10 000121-TP anticipates a recommendation by the Commission Staff on August  
11 2, 2001 and a Commission Order September 4, 2001. Thus, the Commission  
12 Order will be issued well before the September 26, 2001 hearing in this Supra  
13 Arbitration Docket.

14  
15 Q. WILL THE COMMISSION'S ORDER IN THE GENERIC DOCKET  
16 DETERMINE THE PERFORMANCE MEASUREMENTS TO BE USED  
17 FOR ALL ALECS IN FLORIDA?

18  
19 A. Yes.

20  
21 ***Issue 16: Under what conditions, if any, may BellSouth refuse to provide service***  
22 ***under the terms of the interconnection agreement?***

23  
24 Q. WHAT IS BELLSOUTH'S UNDERSTANDING OF THIS ISSUE?

25

1 A. First, let me say that BellSouth is not clear on what it is that Supra seeks to  
2 accomplish with this issue. It appears that Supra is addressing a situation  
3 wherein the parties have completed their Agreement, and then at some time in  
4 the future a new service, item or element is made available - possibly via an  
5 offer by BellSouth or as the result of a Commission order, for example. In its  
6 Response, Supra appears to contend that if this new service, item or element is  
7 not currently in the parties' Agreement, that BellSouth must provide that  
8 service, item or element to Supra without requiring an amendment to the  
9 Agreement and without receiving any compensation from Supra.

10

11 Q. WHAT IS BELLSOUTH'S POSITION ON THIS ISSUE?

12

13 A. In order to incorporate new or different terms, conditions or rates into the  
14 parties Agreement, it is imperative that an Amendment be executed. When an  
15 ALEC notifies BellSouth that it wishes to add something to or modify  
16 something in its Agreement, BellSouth negotiates an Amendment with that  
17 ALEC. Not only is this BellSouth's practice, the Act requires that BellSouth  
18 and ALECs operate pursuant to filed and approved interconnection agreements.  
19 This Commission's recent Order in Docket No. 990649-TP (UNE Pricing),  
20 appears to confirm BellSouth's position regarding the requirement for  
21 amendments to agreements. At page 473, the Commission states "Therefore,  
22 upon consideration, we find that it is appropriate for the rates to become  
23 effective when the interconnection agreements are amended to reflect the  
24 approved UNE rates and the amended agreement is approved by us."

25



1 As will be discussed in more detail in Issues 44 and 45, and except in specific  
2 instances where the Commission orders otherwise, (i.e. the Commission's  
3 Order in Docket No. 990649-TP) BellSouth's position is that the Amendment  
4 becomes effective when it is signed by both parties. The executed Amendment  
5 acts as BellSouth's authority to affect any required billing changes. It is  
6 ludicrous for Supra to contend that BellSouth must provide Supra with  
7 services, items or elements without compensation when those services, items  
8 or elements are not in Supra's Agreement.

9

10 ***Issue 17: Should Supra Telecom be allowed to engage in "truthful" comparative***  
11 ***advertising using BellSouth's name and marks? If so, what should be the limits of***  
12 ***that advertising, if any?***

13

14 Q. WHAT IS BELLSOUTH'S POSITION ON THIS ISSUE?

15

16 A. BellSouth's proposed language allows use of the other party's name in  
17 comparative advertising so long as the reference is "truthful and factual, does  
18 not infringe any intellectual property rights of the other Party and otherwise  
19 complies with all applicable laws." In fact, in Supra's Response, Supra's  
20 representation of BellSouth's position on this issue says that Supra may refer to  
21 BellSouth in comparative advertising that is truthful. However, Supra  
22 continues by saying that "BellSouth has not expressed an opinion regarding the  
23 use of BellSouth marks (i.e. trademarks, trade names, service marks and  
24 service names)." This statement by Supra is ridiculous in light of the fact that  
25 a federal court judge recently issued a preliminary injunction against Supra

1 with regards to Supra's use of BellSouth's name and trademark on billboards  
2 in violation of applicable law. It should be very clear to Supra what  
3 BellSouth's opinion is regarding inappropriate use of BellSouth marks.

4  
5 Q. WHAT DO YOU UNDERSTAND SUPRA'S POSITION TO BE ON THIS  
6 ISSUE.

7  
8 It appears that Supra is seeking the Commission's approval to violate  
9 trademark law. If this is the case, Supra's request should obviously be denied.  
10 However, as long as Supra engages in lawful comparative advertising, as  
11 BellSouth's language permits, there should be no issue. However, regardless  
12 of contract language, Supra's use of BellSouth's name and trademarks should  
13 be subject to any applicable court orders relevant to this issue.

14  
15 ***Issue 18: What are the appropriate rates for the following services, items or***  
16 ***elements set for in the proposed Interconnection Agreement?***

- 17 (A) ***Resale***  
18 (B) ***Network Elements***  
19 (C) ***Interconnection***  
20 (D) ***Collocation***  
21 (E) ***LNP/INP***  
22 (F) ***Billing Records***  
23 (G) ***Other***

24  
25 Q. WHAT IS BELL SOUTH'S POSITION ON THIS ISSUE?

1  
2 A. BellSouth's position on these issues is that the rates the Commission  
3 established in its May 25, 2001 Order in Docket No. 990649-TP are the rates  
4 that should be incorporated into the Agreement. Of course, while that docket  
5 established cost-based rates for the vast majority of elements, including  
6 conversion of tariffed services to UNEs or UNE combinations, there are a few  
7 elements that were not addressed in that docket. For example, the Commission  
8 determined that collocation rates would not be established in Docket No.  
9 990649-TP. Instead, the Commission intends to address collocation rates in a  
10 generic collocation pricing proceeding. In the interim, BellSouth proposes that  
11 BellSouth's tariffed rates, which are cost-based, be incorporated into the  
12 Agreement. Another topic that was not addressed in Docket No. 990649-TP is  
13 line-sharing rates. This Commission recently considered line-sharing rates in  
14 the MCI arbitration. BellSouth proposes that the line sharing rates the  
15 Commission established in the MCI arbitration decisions be incorporated into  
16 Supra's Agreement.

17  
18 ***Issue 26: Under what rates, terms, and conditions may Supra Telecom purchase***  
19 ***network elements or combinations to replace services currently purchased from***  
20 ***BellSouth tariffs?***

21 ***Issue 28: What terms and conditions, and what separate rates if any, should apply***  
22 ***for Supra Telecom to gain access to and use BellSouth facilities to serve multi- unit***  
23 ***installations?***

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25 Q. WHAT IS BELL SOUTH'S POSITION ON THESE ISSUES?

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A. Regarding Issue 26, BellSouth and AT&T have agreed upon language for inclusion in AT&T's Interconnection Agreement that resolved this issue. In an effort to resolve this issue with Supra, BellSouth is willing to make this same contract language available for inclusion in Supra's agreement. The proposed contract language to resolve this issue is provided in Exhibit JAR-1 attached to my testimony.

Regarding Issue 28, Mr. Kephart discusses BellSouth's position regarding the terms and conditions that should apply for Supra to gain access to and use BellSouth's facilities to serve multi-unit installations. As I stated above in response to Issue 18, the rates the Commission established in its May 25, 2001 Order in Docket No. 990649-TP are the rates that should be incorporated into the Agreement.

***Issue 21: What does "currently combines" mean as that phrase is used in 47 C.F.R. § 51.315(b)?***

***Issue 22: Under what conditions, if any, may BellSouth charge Supra Telecom a "non-recurring charge" for combining network elements on behalf of Supra Telecom?***

***Issue 23: Should BellSouth be directed to perform, upon request, the functions necessary to combine unbundled network elements that are ordinarily combined in its network? If so, what charges, if any, should apply?***

***Issue 24: Should BellSouth be required to combine network elements that are not ordinarily combined in its network? If so, what charges, if any, should apply?***

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Q. WHAT IS BELLSOUTH'S POSITION ON THESE ISSUES?

A. BellSouth's position is that it will provide combinations to Supra at cost-based rates if the elements are, in fact, already combined in BellSouth's network. That is, BellSouth will make combinations of UNEs available to Supra consistent with BellSouth's obligations under the 1996 Act and applicable FCC rules.

Q. HASN'T THE FLORIDA COMMISSION RECENTLY RULED ON THIS ISSUE IN OTHER ARBITRATION PROCEEDINGS?

A. Yes. In its Final Order on Arbitration in the BellSouth/AT&T arbitration (Order No. PSC-01-1402-FOF-TP in Docket No. 000731-TP) issued June 28, 2001, the Florida Commission concluded that:

Based on the foregoing, we find that it is not the duty of BellSouth to "perform the functions necessary to combine unbundled network elements in any manner." Rule 51.315(b) only requires BellSouth to make available at TELRIC rates those combinations requested by an ALEC that are, in fact, already combined and physically connected in its network at the time a requesting carrier places an order. Accordingly, we conclude that the phrase "currently combines" pursuant to FCC Rule 51.315(b) is limited to combinations of unbundled network elements that are, in fact, already combined and physically connected in BellSouth's network to serve a specific customer or location at the time a requesting carrier places an order. In other words, there is no physical work that BellSouth must complete in order to effect the combination that the requesting telecommunications carrier requests.

(Order at page 23.)

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2 In Order No. PSC-01-0824-FOF-TP, dated March 30, 2001, in the  
3 BellSouth/WorldCom arbitration, the Florida Commission found that  
4 “BellSouth is not required to combine unbundled network elements that are  
5 ordinarily combined in its network for ALECs at TELRIC rates.” (Order at  
6 page 35). In support of its decisions, the Florida Commission cited the Eighth  
7 Circuit Court’s July 18, 2000 ruling, wherein the Court reaffirmed its decision  
8 to vacate FCC Rules 51.315(c)-(f), stating that “[i]t is not the duty of the ILECs  
9 to ‘perform the functions necessary to combine unbundled network elements in  
10 any manner’ . . . .” (*Id.*). Finally, in Order No. PSC-01-1095-FOF-TP, dated  
11 May 8, 2001, in the BellSouth/Sprint arbitration, the Commission found that  
12 “BellSouth shall not be required to provide combinations of unbundled  
13 network elements that it ordinarily or typically combines in its network for  
14 Sprint at TELRIC rates.” (Order at page 23).

15

16 Q. WHAT IS BELL SOUTH REQUESTING OF THE COMMISSION?

17

18 A. BellSouth requests that the Commission find, consistent with its recent rulings  
19 in the AT&T, MCI, and Sprint arbitration proceedings with BellSouth, that  
20 BellSouth is only obligated to provide combinations to Supra at cost-based  
21 rates those combinations that are, in fact, already combined and physically  
22 connected in its network at the time a requesting carrier places an order.

23

24 ***Issue 27: Should there be a single point of interconnection within the LATA for the***  
25 ***mutual exchange of traffic? If so, how should the single point be determined?***

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Q. IS THIS ISSUE ALREADY BEING ADDRESSED BY THE COMMISSION IN A GENERIC DOCKET?

A. Yes. The Commission is currently considering this issue in Phase 2 of Docket No. 000075-TP. As such, the Commission should defer any decision in this immediate proceeding to its decision in Docket No. 000075-TP.

Q. SHOULD THE COMMISSION DECIDE TO RULE ON THIS ISSUE IN THIS PROCEEDING, PLEASE EXPLAIN BELLSOUTH'S POSITION ON THIS ISSUE.

A. BellSouth's position is that Supra, not BellSouth, should bear the costs caused by Supra's network design. For example, assume that Supra chooses to establish one Point of Interconnection in a LATA. BellSouth contends that Supra should be required to bear the cost of facilities that BellSouth may be required to install, on Supra's behalf, in order to carry BellSouth's traffic that originates in a BellSouth local calling area and is destined for Supra's customer located in that same local calling area to Supra's Point of Interconnection located outside of that local calling area. Supra should not be allowed to impose upon BellSouth the financial burden of delivering BellSouth's originating local traffic to a single point in the LATA when that point is outside the local calling area in which the traffic originates and terminates.

1 Q. DOES BELLSOUTH'S POSITION MEAN THAT SUPRA WOULD HAVE  
2 TO BUILD A NETWORK TO EACH BELLSOUTH LOCAL CALLING  
3 AREA, OR OTHERWISE HAVE A POINT OF INTERCONNECTION WITH  
4 BELLSOUTH'S LOCAL NETWORK IN EVERY LOCAL CALLING  
5 AREA?

6

7 A. No. Supra can build out its network that way if it chooses, but it is not  
8 required to do so. Supra can lease facilities from BellSouth or any other  
9 provider to bridge the gap between its network (that is, where it designates its  
10 Point of Interconnection) and each BellSouth local calling area. BellSouth will  
11 be financially responsible for transporting its originating traffic to a single  
12 point in each local calling area. However, BellSouth is not obligated to haul its  
13 local traffic to a distant point dictated by Supra without appropriate  
14 compensation from Supra.

15

16 Q. HOW HAS THE FCC ADDRESSED THE ADDITIONAL COSTS CAUSED  
17 BY THE FORM OF INTERCONNECTION AN ALEC CHOOSES?

18

19 A. In its First Report and Order in Docket No. 96-325, the FCC states that the  
20 ALEC must bear the additional costs caused by an ALEC's chosen form of  
21 interconnection. Paragraph 199 of the Order states that "a requesting carrier  
22 that wishes a 'technically feasible' but expensive interconnection would,  
23 pursuant to section 252(d)(1), be required to bear the cost of the that  
24 interconnection, including a reasonable profit." (Emphasis added) Further, at  
25 paragraph 209, the FCC states that "Section 251(c)(2) lowers barriers to



1 competitive entry for carriers that have not deployed ubiquitous networks by  
2 permitting them to select the points in an incumbent LEC's network at which  
3 they wish to deliver traffic. Moreover, because competing carriers must  
4 usually compensate incumbent LECs for the additional costs incurred by  
5 providing interconnection, competitors have an incentive to make  
6 economically efficient decisions about where to interconnect." (Emphasis  
7 added)

8  
9 Clearly, the FCC expects an ALEC such as Supra to pay the additional costs  
10 that it causes BellSouth to incur. If Supra is permitted to shift its costs to  
11 BellSouth, Supra has no incentive to make economically efficient decisions  
12 about where to interconnect.

13

14 ***Issue 29: Is BellSouth obligated to provide local circuit switching at UNE rates to***  
15 ***Supra to serve the first three lines to a customer located in Density Zone 1? Is***  
16 ***BellSouth obligated to provide local circuit switching at UNE rates to Supra to serve***  
17 ***four or more lines provided to a customer located in Density Zone 1?***

18 ***Issue 31: Should BellSouth be allowed to aggregate lines provided to multiple***  
19 ***locations of a single customer to restrict Supra Telecom's ability to purchase local***  
20 ***circuit switching at UNE rates to serve any of the lines of that customer?***

21

22 Q. WHAT IS BELLSOUTH'S POSITION ON THESE ISSUES?

23

24 A. These issues involve the application of FCC rules regarding the exemption for  
25 unbundling local circuit switching. When a particular customer has four or

1 more lines within a specific geographic area, even if those lines are spread over  
2 multiple locations, BellSouth is not required to provide unbundled local circuit  
3 switching to ALECs, so long as the other criteria for FCC Rule 51.319(c)(2)  
4 are met. This rule states:

5

6 (2) Notwithstanding the incumbent LEC's general duty to unbundle local  
7 circuit switching, an incumbent LEC shall not be required to unbundle  
8 local circuit switching for requesting telecommunications carriers when  
9 the requesting telecommunications carrier serves end-users with four or  
10 more voice grade (DS0) equivalents or lines, provided that the  
11 incumbent LEC provides non-discriminatory access to combinations of  
12 unbundled loops and transport (also known as the "Enhanced Extended  
13 Link") throughout Density Zone 1, and the incumbent LEC's local  
14 circuit switches are located in:

15 (i) The top 50 Metropolitan Statistical Areas as set forth in  
16 Appendix B of the Third Report and Order and Fourth  
17 Further Notice of Proposed Rulemaking in CC Docket No.  
18 96-98, and

19 (ii) In Density Zone 1, as defined in § 69.123 of this chapter  
20 on January 1, 1999.

21

22 Q. HASN'T THE FLORIDA COMMISSION RECENTLY RULED ON THIS  
23 ISSUE IN OTHER ARBITRATION PROCEEDINGS?

24

1 A. Yes. In its Final Order on Arbitration in the BellSouth/AT&T arbitration  
2 (Order No. PSC-01-1402-FOF-TP in Docket No. 000731-TP) issued June 28,  
3 2001, the Commission found “that BellSouth will be allowed to aggregate lines  
4 provided to multiple locations of a single customer, within the same MSA to  
5 restrict AT&T’s ability to purchase local circuit switching at UNE rates to  
6 serve any of the lines of that customer.” (Order at page 61)

7  
8 Q. WHAT DOES BELLSOUTH REQUEST OF THE COMMISSION?

9  
10 A. BellSouth requests this Commission reject Supra’s attempt to violate the  
11 FCC’s rules. The Commission should reach a conclusion consistent with its  
12 previous ruling. ALECs are not impaired without access to unbundled local  
13 circuit switching when serving customers with four or more lines in Density  
14 Zone 1 in the top 50 MSAs. Consequently, ALECs are not entitled to  
15 unbundled local circuit switching in these areas for any of an end user’s lines  
16 when the end user has four or more lines in the relevant geographic area, as  
17 long as BellSouth will provide the ALEC with EELs at UNE rates.

18  
19 ***Issue 32A: Under what criteria may Supra Telecom charge the tandem switching***  
20 ***rate?***

21 ***Issue 32B: Based on Supra Telecom’s network configuration as of January 31,***  
22 ***2001, has Supra Telecom met these criteria?***

23  
24 Q. IS THIS ISSUE ALREADY BEING ADDRESSED BY THE COMMISSION  
25 IN A GENERIC DOCKET?

1

2 A. Yes. The Commission is currently considering this issue in Phase 2 of Docket  
3 No. 000075-TP. As such, the Commission should defer any decision in this  
4 immediate proceeding to its decision in Docket No. 000075-TP.

5

6 Q. SHOULD THIS BE AN ISSUE IN THIS ARBITRATION?

7

8 No. As stated above, the Commission is addressing this issue in a generic  
9 proceeding. Furthermore, Supra does not utilize its own switch in Florida.  
10 The fact that Supra does not utilize its own switch to serve its customers,  
11 clearly demonstrates that Supra is unable to satisfy the criteria that its switch  
12 covers a geographic area comparable to that of BellSouth's tandem switch.

13

14 Q. WHAT DOES BELLSOUTH REQUEST OF THE COMMISSION?

15

16 A. While the Commission has addressed this same issue in previous arbitrations,  
17 the Commission is currently considering this issue in a generic docket to  
18 address all reciprocal compensation issues. Therefore, BellSouth recommends  
19 that a decision on this issue be deferred to the outcome of Docket No. 000075-  
20 TP.

21

22 *Issue 44: What are the appropriate criteria under which rates, terms or conditions*  
23 *may be adopted from other filed and approved interconnection agreements? What*  
24 *should be the effective date of such an adoption?*

1 *Issue 45: Should BellSouth be required to post on its web-site all BellSouth*  
2 *interconnection agreements with third parties? If so, when?*

3

4 Q. WHAT IS BELLSOUTH'S POSITION ON THESE ISSUES?

5

6 A. Under Part A, Section 5.1 of BellSouth's proposed Interconnection Agreement,  
7 BellSouth agrees to make available, pursuant to Section 252(i) of the 1996 Act  
8 and 47 C.F.R. § 51.809, any interconnection, service, or network element  
9 provided under any Commission-approved agreement to which BellSouth is a  
10 party at the same rates, terms and conditions as provided in that agreement.  
11 This is commonly known as the "most favored nation" or "pick and choose"  
12 option. BellSouth can require Supra to accept all terms that are legitimately  
13 related to the terms that Supra desires to adopt for itself. (See *AT&T Corp.*  
14 *Iowa Utilities Board*, 525 U.S. 366, 396, 119 S. Ct. 721, 738 (1999)).  
15 Further, 47 C.F.R. § 51.809(c) requires such adoption request must be made  
16 within a reasonable period of time after the agreement to be adopted is filed  
17 with the Commission. Thus, any existing interconnection agreement can be  
18 adopted so long as that agreement has more than six months remaining on it. If  
19 Supra adopts a third party's existing interconnection agreement, Supra's  
20 agreement will expire on the same date as that third party's agreement.

21

22 When Supra selects such terms, it should be required to amend its  
23 interconnection agreement to effectuate its adoption of these additional terms.

24 The parties' relationship is governed by the contract, and changes to the  
25 relationship should properly be affected only by amending the contract.

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Further, BellSouth's position is that the adoption or substitution of a specific provision contained in a previously approved agreement is effective on the date the amendment memorializing the adoption is signed by BellSouth and the adopting ALEC. In other words, the effective date will not be retroactive to the date when the provision became effective between BellSouth and the third party. BellSouth's authority to charge for service is governed by the execution of an agreement or amendment. Until both parties sign the agreement or amendment, there is no authority by which the rates, terms and conditions can be implemented.

BellSouth is in the process of implementing the Commission's Order in the BellSouth/WorldCom Arbitration proceeding with respect to posting filed agreements on BellSouth's website. (Order No. PSC-01-0824-FOF-TP at pp. 186-187). Although clearly not obligated by the 1996 Act, BellSouth will post its interconnection agreements with third parties on its website on or before five (5) days after the issuance date of the Commission's Order approving the agreement.

***Issue 49: Should Supra Telecom be allowed to share with a third party, the spectrum on a local loop for voice and data when Supra Telecom purchases a loop/port combination and if so, under what rates, terms and conditions?***

**Q. HAS THE COMMISSION RECENTLY RULED ON THIS ISSUE?**

1 Yes. In Order No. PSC-01-0824-FOF-TP, dated March 20, 2001, the  
2 Commission ruled that “[w]e believe the FCC requires BellSouth to provide  
3 line sharing only over loops where BellSouth is the voice provider. If  
4 WorldCom purchases the UNE-P, WorldCom becomes the voice provider over  
5 that loop/port combination. Therefore, BellSouth is no longer required to  
6 provide line sharing over that loop/port combination.

7

8 Q. WHAT DOES BELLSOUTH REQUEST OF THE COMMISSION?

9

10 A. BellSouth requests the Commission to find, consistent with the FCC and its  
11 previous rulings, that BellSouth is obligated to provide line sharing to ALECs  
12 only where BellSouth is providing the voice service. The language that  
13 BellSouth has proposed for inclusion in the Agreement is consistent with the  
14 FCC’s rules.

15

16 ***Issue 51: Should BellSouth be allowed to impose a manual ordering charge when it***  
17 ***fails to provide an electronic interface?***

18

19 Q. WHAT IS BELLSOUTH’S POSITION ON THIS ISSUE?

20

21 A. Manual ordering charges should apply when Supra places an order manually,  
22 either for its own business reasons or because BellSouth does not have an  
23 electronic interface that will allow Supra to place orders electronically. As Mr.  
24 Pate explains, BellSouth is not required to provide electronic ordering for all

1           UNEs, but Supra proposes to be charged a price for electronic ordering  
2           regardless of whether BellSouth provides that capability.

3

4           The Commission has established cost-based rates to recover the manual labor  
5           costs associated with both manual and electronic ordering in Docket No.  
6           990649-TP. Recovery of costs associated with the development and ongoing  
7           maintenance of BellSouth's electronic interfaces is being addressed in a  
8           generic OSS interface cost docket. BellSouth proposes that the rates the  
9           Commission establishes in these dockets be incorporated into the Agreement.

10

11       ***Issue 52: For purposes of the Interconnection Agreement between Supra Telecom***  
12       ***and BellSouth, should the resale discount apply to all telecommunications services***  
13       ***BellSouth offers to end users, regardless of the tariff in which the service is***  
14       ***contained?***

15

16       Q.     WHAT IS BELLSOUTH'S POSITION ON THIS ISSUE?

17

18           Consistent with the Commission's decision in its BellSouth/WorldCom  
19           Arbitration Order, BellSouth will offer Supra a resale discount on all retail  
20           telecommunications services BellSouth provides to end-user customers,  
21           regardless of the tariff in which the service is contained. (See Order No. PSC-  
22           01-0824-FOF-TP at page 28). Contract language to resolve this issue is  
23           reflected in Exhibit JAR-1 attached to my testimony.

24



1 Q. WHAT SERVICES DOES BELLSOUTH BELIEVE SUPRA IS ENTITLED  
2 TO PURCHASE AT A RESALE DISCOUNT?

3

4 A. BellSouth's position is that Supra and all ALECs are entitled to purchase  
5 BellSouth's retail telecommunications services at a resale discount.

6

7 *Issue 59: Should Supra Telecom be required to pay for expedited service when*  
8 *BellSouth provides services after the offered expedited date, but prior to BellSouth's*  
9 *standard interval?*

10

11 Q. WHAT IS BELLSOUTH'S UNDERSTANDING OF THIS ISSUE?

12

13 A. First, I must say that it is not clear to BellSouth why Supra has raised this issue.  
14 Supra has never purchased stand-alone UNE loops, the elements to which  
15 expedited charges apply. Further, Supra did not raise this issue during  
16 negotiations, nor has it raised the issue with its account team. I understand that  
17 during issue identification, Supra claimed that it intends this issue to be the  
18 same as Issue 87 in the MCI arbitration. BellSouth and MCI settled this issue  
19 with the same language that BellSouth has proposed to Supra.

20

21 Q. WHAT IS BELLSOUTH'S POSITION ON THIS ISSUE?

22

23 A. BellSouth is under no obligation to expedite service for Supra or any other  
24 ALEC. If BellSouth does so, however, Supra should be required to pay  
25 expedite charges when BellSouth expedites a service request and completes the

1 order before the standard interval expires. As I mentioned above, in an effort  
2 to settle this issue, BellSouth offered Supra the following language in  
3 BellSouth's January 31, 2001 filing with the Commission:

4 *Supra may request an expedited service interval on the local service*  
5 *request (LSR). BellSouth will advise Supra whether the requested*  
6 *expedited date can be met based on work load and resources available.*  
7 *For expedited requests for loop provisioning, Supra will pay the*  
8 *expedited charge set forth in this Agreement on a per loop basis for any*  
9 *loops provisioned in 4 days or less. Supra will not be charged an*  
10 *expedite charge for loops provisioned in five or more days, regardless*  
11 *of whether the loops were provisioned in less than the standard interval*  
12 *applicable for such loops.*

13  
14 Q. WAS THIS SAME ISSUE SETTLED BETWEEN BELLSOUTH AND  
15 WORLDCOM?

16  
17 A. Yes. In an effort to resolve this issue, BellSouth offer for inclusion in Supra's  
18 agreement, the same language that resolved this issue with WorldCom.  
19 Exhibit JAR-1 attached to my testimony contains BellSouth's proposed  
20 language.

21  
22 ***Issue 65: Should the parties be liable in damages, without a liability cap, to one***  
23 ***another for their failure to honor in one or more material respects any one or more***  
24 ***of the material provisions of the Agreement for purposes of this interconnection***  
25 ***agreement?***

1

2 Q. WHAT IS BELL SOUTH'S POSITION ON THIS ISSUE?

3

4 A. BellSouth's position is that each party's liability arising from any breach of  
5 contract should be limited to a credit for the actual cost of the services or  
6 functions not performed or performed improperly. It is common for parties to  
7 an interconnection agreement to agree to limited liability for breach of contract.  
8 Additionally, limitations of liability for breach of contract have been standard  
9 in the telecommunications industry for decades. The tariffs of BellSouth and  
10 other telecommunications service providers, for instance, commonly limit the  
11 service provider's liability. It is my understanding that limited liability is a  
12 standard clause in most carrier-to-carrier contracts in the long distance  
13 industry, as well.

14

15 Q. YOU STATED ABOVE THAT "LIMITATIONS OF LIABILITY FOR  
16 BREACH OF CONTRACT HAVE BEEN STANDARD. . .FOR DECADES."  
17 PLEASE GIVE SOME SPECIFIC EXAMPLES.

18

19 A. Both BellSouth's Florida Access Services Tariff and General Subscriber  
20 Service Tariff ("GSST") include limitations of liability. With regard to access  
21 customers, Section E2.1.3 of the Access Tariff states in part:

22 *The Company's liability shall not exceed an amount equal to the*  
23 *proportionate charge for the service for the period during which the*  
24 *service was affected.*

1           Also, with regard to business and residential customers, Section A2.5.1 of the  
2           GSST sets forth the following:

3                     *The liability of the Company for damages arising out of impairment of*  
4                     *service provided to its subscribers such as defects or failure in facilities*  
5                     *furnished by the Company or mistakes, omissions, interruptions,*  
6                     *preemptions, delays, errors or defects the provision of its services set*  
7                     *forth herein or any portion of its services, occurring in the course of*  
8                     *furnishing service or other facilities and not caused by the negligence*  
9                     *of the subscriber, or of the Company in failing to maintain proper*  
10                    *standards of maintenance and operation and to exercise reasonable*  
11                    *supervision shall in no event exceed an amount equivalent to the*  
12                    *proportionate charge to the subscriber for the period of service during*  
13                    *which such mistake, omission, interruption, preemption, delay, error or*  
14                    *defect in transmission, or defect or failure in facilities occurs.*

15           More recently, this Commission approved an additional limitation in reference  
16           to BellSouth's Y2K liability. Section A2.5.12C of the GSST states:

17                    *The Company's liability for errors or damage resulting from the*  
18                    *inability of the Company's systems to process unusual date*  
19                    *requirements, shall be limited to an amount equal to the proportionate*  
20                    *amount of the Company's billing for the period of service during which*  
21                    *the errors or damages occur.*

22  
23           There is no reason for the Commission to allow Supra to seek more damages as  
24           a result of a mistake by BellSouth than BellSouth's retail and wholesale access  
25           customers would be allowed to seek as a result of the same mistake by

1           BellSouth. Supra's position should be denied because it is inconsistent with  
2           standard practices.

3

4           ***Issue 66: Should Supra Telecom be able to obtain specific performance as a remedy***  
5           ***for BellSouth's breach of contract for purposes of this interconnection agreement?***

6

7           Q.     WHAT IS BELLSOUTH'S POSITION ON THIS ISSUE?

8

9           A.     Specific performance is a remedy, not a requirement of Section 251 of the 1996  
10           Act nor is it an appropriate subject for arbitration under Section 252.

11           BellSouth's position is consistent with the Commission's recent ruling in its  
12           BellSouth/WorldCom Arbitration Order in which the Commission found "that  
13           it is not appropriate to impose adoption of a disputed specific performance  
14           provision when it is not required under Section 251 of the Act." (Order No.  
15           PSC-01-0824-FOF-TP at page 181). Further, specific performance is either  
16           available (or not) as a matter of law. To the extent Supra can show that it is  
17           entitled to obtain specific performance under Florida law, Supra can make this  
18           showing without agreement from BellSouth. To the extent Supra, is  
19           attempting to obtain specific performance under circumstances when it is not  
20           available under Florida law, this is not justification for this demand.

21

22           Q.     DOES THIS CONCLUDE YOUR TESTIMONY?

23

24           A.     Yes.

25           #395603

## FPSC Docket No. 001305-TP BellSouth/Supra Arbitration

Issue No.	Issue Statement	Attachment/Section of Proposed Agreement	BellSouth's Proposed Contract Language to Resolve Issue
1	What are the appropriate fora for the submission of disputes under the new agreement	GT&C - Paragraph 16	Except as otherwise stated in this Agreement, the Parties agree that if any dispute arises as to the interpretation of any provision of this Agreement or as to the proper implementation of this Agreement, either Party may petition the Commission for a resolution of the dispute. However, each Party reserves any rights it may have to seek judicial review of any ruling made by the Commission concerning this Agreement.
2	What is the scope of the ability to use the other party's Confidential Information that is obtained pursuant to this Interconnection Agreement?	GT&Cs – Paragraph 18.4	The Recipient agrees to return all Confidential Information in tangible form received from the Discloser, including any copies made by the Recipient, within thirty (30) days after a written request is delivered to the Recipient, or to destroy all such Confidential Information, except for Confidential Information that the Recipient reasonably requires to perform its obligations under this Agreement or any other agreement between the Parties. If either Party loses or makes an unauthorized disclosure of the other Party's Confidential Information, it shall notify such other Party immediately and use reasonable efforts to retrieve the lost or wrongfully disclosed information.
4	Should the Interconnection Agreement contain language to the effect that it will not be filed with the Florida Public Service Commission for approval prior to an ALEC obtaining ALEC certification from the Florida Public Service Commission?	GT&Cs - Paragraph 24.15.1	Upon execution of this Agreement, it shall be filed with the appropriate state regulatory agency pursuant to the requirements of Section 252 of the Act, and the Parties shall share equally any filing fees therefor. If the regulatory agency imposes any filing or public interest notice fees regarding the filing or approval of the Agreement, Supra Telecom shall be responsible for publishing the required notice and the publication and/or notice costs shall be borne by Supra Telecom. Notwithstanding the foregoing, this Agreement shall not be submitted for approval by the appropriate state regulatory agency unless and until such time as Supra Telecom is duly certified as a local exchange carrier in such state.
5	Should BellSouth be required to provide to Supra a download of all BellSouth's Customer Service Records ("CSR")	Attachment 7 Section 2.3	BellSouth and Supra Telecom will provide access to customer service record information where the Parties have the appropriate written authorization from the customer. Neither Party shall be required to present prior written authorization from each customer to the other Party before being allowed access to customer record information. Each Party will issue the other a blanket letter of authorization that states that Supra Telecom and BellSouth will obtain the customer's permission before accessing customer records. Each Party shall retain the letters of authorization from its end users. If BellSouth desires to request a Customer Service Record ("CSR") for an Supra Telecom customer, BellSouth is required to complete a Customer Service Information Query

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Issue No.	Issue Statement	Attachment/Section of Proposed Agreement	BellSouth's Proposed Contract Language to Resolve Issue
			<p>("CSIQ") form and send via facsimile to Supra Telecom. Supra Telecom will accept CSR requests from BellSouth as acting agent for the customer (BellSouth should retain Letter of Authorization ("LOA") on file). Supra Telecom will provide the CSR and return via facsimile both the CSIQ form and the CSR within 48 hours or 2 business days, if the first of the two days falls on a Friday or a holiday. The provisioning of local service for the territory served by BellSouth is handled by Supra Telecom's work center located in Atlanta, Georgia. The work center's facsimile telephone number is (404) 329-2169. Voice inquires on the CSIQ should be directed to (404) 982-6611.</p>
7	Which end user line charges, if any, should Supra be required to pay BellSouth?	<p>Attachment 1, Sections 3.21 &amp; 3.25</p> <p>Attachment 5, Section 2.5</p>	<p>Pursuant to 47 CFR Section 51.617 recovery of charges associated with implementing Number Portability shall be as set forth in Section 2.5 of Attachment 5, incorporated herein by this reference.</p> <p>End User Line Charge. Recovery of charges associated with implementing PNP through a monthly charge assessed to end users has been authorized by the FCC. This end user line charge will be as filed in BellSouth's FCC Tariff No. 1 and will be billed to Supra Telecom where Supra Telecom is a subscriber to local switching or where Supra Telecom is a reseller of BellSouth telecommunications services. This charge will not be discounted.</p>
9	What should be the definition of ALEC?	Attachment 1, Section 2.1	ALTERNATE LOCAL EXCHANGE COMPANY ("ALEC") means a telephone company certificated by the public service commission to provide local exchange service.
10	Should the rate for a loop be reduced when the loop utilizes Digitally Added Main Line (DAML) equipment?		Contract Language not relevant to this Issue.
11A	Under what conditions, if any, should the Interconnection Agreement state that the parties may withhold payment of disputed charges?	Attachment 6, Section 1.15	<p>On a connectivity by connectivity basis and until such time as a precertification process is in place, each party agrees to notify the other party in writing upon the discovery of a billing dispute. The disputing party agrees to provide the billing party sufficient documentation to investigate the dispute and may withhold any disputed amounts supported by such documentation. Until documentation is provided all outstanding billed amounts will be considered past due. In the event of a billing dispute, the parties will endeavor to resolve the dispute within sixty (60) calendar days of the dispute notification date. Resolution of the dispute is expected to occur at the first level of management resulting in a recommendation for settlement of the</p>
11B	Under what conditions, if any, should the Interconnection Agreement state that the parties may withhold payment of undisputed charges?		

## FPSC Docket No. 001305-TP BellSouth/Supra Arbitration

Issue No.	Issue Statement	Attachment/Section of Proposed Agreement	BellSouth's Proposed Contract Language to Resolve Issue
			<p>dispute.</p> <p>If the issues are not resolved within the allotted time frame, each of the parties shall appoint a designated representative who has authority to settle the dispute and who is at a higher level of management than the persons with direct responsibility for administration of this Agreement. The designated representatives shall meet as often as they reasonably deem necessary in order to discuss the dispute and negotiate in good faith in an effort to resolve such dispute. The specific format for such discussions will be left to the discretion of the designated representatives, however all reasonable requests for relevant information made by one Party to the other Party shall be honored.</p> <p>If the Parties are unable to resolve issues related to the disputed amounts within forty-five (45) days after the parties' appointment of designated representatives, the dispute will be resolved in accordance with the dispute resolution procedure set forth in Section 16 of the General Terms and Conditions of this Agreement, incorporated herein by this reference.</p> <p>If a party disputes a charge and does not pay such charge by the payment due date, such charges shall be subject to late payment charges as set forth in Section 1.16 of this Attachment 6. If a party disputes charges and the dispute is resolved in favor of such party, the other party shall credit the bill of the disputing party for the amount of the disputed charges along with any late payment charges assessed no later than the second Bill Date after the resolution of the dispute. Accordingly, if a party disputes charges and the dispute is resolved in favor of the other party, the disputing party shall pay the other party the amount of the disputed charges and any associated late payment charges assessed no later than the second bill payment due date after the resolution of the dispute.</p>
12	Should BellSouth be required to provide transport to Supra Telecom if that transport crosses LATA boundaries.		Contract Language not relevant to this issue.
13	What should be the appropriate definition of "local traffic" for purposes of the parties' reciprocal compensation obligations under Section 251(b)(5) of the 1996 Act?	Attachment 3, Section 5.3.1.1	As clarification of this definition and for reciprocal compensation, Local Traffic does not include traffic that originates from or is directed to or through an enhanced service provider or information service provider.
14	Should BellSouth pay reciprocal compensation to Supra Telecom where Supra Telecom is utilizing UNES to provide local service for the termination of local traffic to Supra's end	Attachment 3, Section 5.3.1.2	The Parties shall provide for the mutual and reciprocal recovery of the costs for the network facilities utilized in transporting and terminating local traffic on each other's network. The Parties agree that charges for



## FPSC Docket No. 001305-TP BellSouth/Supra Arbitration

Issue No.	Issue Statement	Attachment/Section of Proposed Agreement	BellSouth's Proposed Contract Language to Resolve Issue
	users? If so, for which UNEs should reciprocal compensation be paid?		transport and termination of calls on their respective networks are as set forth in Exhibit A to this Attachment.
15	What Performance Measurements should be included in the Interconnection Agreement?	Attachment 9	
16	Under what conditions, if any, may BellSouth refuse to provide service under the terms of the interconnection agreement?		Contract Language not relevant to this issue
17	Should Supra be allowed to engage in "truthful" comparative advertising using BellSouth's name and marks? If so, what should be the limits of that advertising, if any?	GT&Cs – Paragraph 11.1	<u>Use of Mark.</u> Both Parties are strictly prohibited from any use, including but not limited to in sales and in marketing or advertising of telecommunications services, of any name, trade name, service mark or trademark (collectively, the "Marks") of the other Party. Notwithstanding the foregoing, the Party receiving a service under this Agreement may, as necessary and as the case may be, make oral and factual references to the trade name "BellSouth" or "Supra" in response to a direct individual inquiry from a particular customer or potential customer regarding the source of the underlying service or the identity of a service technician. In addition, either Party may reference the trade name "BellSouth" or "Supra" in comparative advertising so long as the reference is truthful and factual, does not infringe any intellectual property rights of the other Party and otherwise complies with all applicable laws. Further, Supra Telecom's advertising shall not reference BellSouth or BellSouth's network as the source of service provided by Supra Telecom. Marks of each Party shall include those Marks owned directly by either Party or those Marks which either Party has obtained a legal license to use.
18	What are the appropriate rates for the following services, items or elements set for in the proposed Interconnection Agreement? A) Resale B) Network Elements C) Interconnection D) Collocation E) LPN/INP F) Billing Records G) Other		Contract Language not relevant to this issue.
19	Should calls to Internet Service Providers be treated as local traffic for the purposes of reciprocal compensation?	Attachment 3, Section 5.3.1.1	As clarification of this definition and for reciprocal compensation, Local Traffic does not include traffic that originates from or is directed to or through an enhanced service provider or information service provider.

## FPSC Docket No. 001305-TP BellSouth/Supra Arbitration

Issue No.	Issue Statement	Attachment/Section of Proposed Agreement	BellSouth's Proposed Contract Language to Resolve Issue
20	Should the Interconnection Agreement include validation and audit requirements which will enable Supra Telecom to assure the accuracy and reliability of the performance data BellSouth provides to Supra Telecom?		Contract Language not relevant to this issue.
21	What does "currently combines" means as that phrase is used in 47 C.F.R.§51.315(b)?	Attachment 2, Section 2.7.1	For the purposes of this Agreement, Network Elements shall be deemed to be currently combined in BellSouth's network when such elements are in fact combined by BellSouth to provide service to a particular end user at a particular location. BellSouth will make available new, not Currently Combined EELs, combinations of Loops and transport Network Elements, in density zone 1 of the Miami, Orlando, and Ft. Lauderdale, FL; Charlotte and Greensboro, NC; New Orleans, LA; and Nashville, TN, MSAs at the rates set forth in Exhibit A, attached hereto and incorporated herein by this reference.
22	Under what conditions, if any, may BellSouth charge Supra Telecom a "non-recurring charge" for combining network elements on behalf of Supra Telecom	Attachment 2, Section 2.9	The nonrecurring rates set forth in Exhibit A of this Attachment 2 are for Currently Combined Network Elements.
23	Should BellSouth be directed to perform, upon request, the functions necessary to combine unbundled network elements that are ordinarily combined in its network? If so, what charges, if any should apply?	Attachment 3 2.4 (MCI)	<p>At MCIm's request, BellSouth shall provide Existing Combinations of Network Elements to MCIm. Existing Combinations of Network Elements are those that are actually physically connected at the time the order is placed. This includes, but is not limited to, the combination of Network Element Platform or UNE-P and the combination of Loops and Dedicated Transport. The price for these combinations of Network Elements shall be based upon applicable FCC and Commission rules and shall be set forth in Attachment 1 of this Agreement. For Existing Combinations of Network Elements, BellSouth will use its best efforts to ensure that MCIm's ability to provide services will not be disconnected, interrupted, or otherwise modified in order to migrate to MCIm</p> <p>BellSouth's provision of Existing Combinations of Loop/Dedicated Transport must comply with the following requirements:</p> <p>The Loop/Dedicated Transport combination must provide completed end-to-end Cross Connection of the channels designated by MCIm.</p> <p>The Loop/Dedicated Transport combination must provide multiplexing and/or concentration, format conversion, signaling conversion, and</p>



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Issue No.	Issue Statement	Attachment/Section of Proposed Agreement	BellSouth's Proposed Contract Language to Resolve Issue
			<p><b>Enhanced Extended Links (EELs)</b></p> <p>Where facilities permit and where necessary to comply with an effective FCC and/or Commission order, or as otherwise mutually agreed by the Parties, BellSouth shall offer access to loop and transport combinations, also known as the Enhanced Extended Link ("EEL") as defined in Section 5.3.2 below.</p> <p>Subject to the terms of Section 5.3.3, BellSouth shall offer access to loop and transport combinations, also known as the Enhanced Extended Link ("EEL"). BellSouth will provide access to the EEL in the combinations set forth in Section 5.3.4 following. This offering is intended to provide connectivity from an end user's location through that end user's SWC to MCI's collocation space, or to MCI's designated MCI network location within the LATA, where facilities exist, provided that the entire circuit meets the criteria described in Section 5.3.7.1.1-5.3.7.1.3 below. When ordering EEL combinations, MCI shall provide to BellSouth a letter certifying that MCI will provide a significant amount of local exchange service over the requested combination, as described in Section 5.3.7.1 below, and shall indicate under what local usage option MCI seeks to qualify. MCI shall be deemed to be providing a significant amount of local exchange service over the requested combination if one of the options listed in 5.3.7.1-5.3.7.3 is met.</p> <p>BellSouth shall make available to MCI those EEL combinations described in Section 5.3.4 below only to the extent such combinations are Currently Combined. Furthermore, BellSouth will make available EEL combinations to MCI in density Zone 1, as defined in 47 CFR 69.123 as of January 1, 1999, in the Miami, FL; Orlando, FL; Ft. Lauderdale, FL; MSAs regardless of whether or not such EELs are Currently Combined. Except as stated above, EELs will be provided to MCI only to the extent such network elements are Currently Combined.</p> <p><b>EEL Combinations</b></p> <p>DS1 Interoffice Channel + DS1 Channelization + 2-wire VG Local Loop</p> <p>DS1 Interoffice Channel + DS1 Channelization + 4-wire VG Local Loop</p>

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Issue No.	Issue Statement	Attachment/Section of Proposed Agreement	BellSouth's Proposed Contract Language to Resolve Issue
			<p>DS1 Interoffice Channel + DS1 Channelization + 2-wire ISDN Local Loop</p> <p>DS1 Interoffice Channel + DS1 Channelization + 4-wire 56 kbps Local Loop</p> <p>DS1 Interoffice Channel + DS1 Channelization + 4-wire 64 kbps Local Loop</p> <p>DS1 Interoffice Channel + DS1 Local Loop</p> <p>DS3 Interoffice Channel + DS3 Local Loop</p> <p>STS-1 Interoffice Channel + STS-1 Local Loop</p> <p>DS3 Interoffice Channel + DS3 Channelization + DS1 Local Loop</p> <p>STS-1 Interoffice Channel + DS3 Channelization + DS1 Local Loop</p> <p>2-wire VG Interoffice Channel + 2-wire VG Local Loop</p> <p>4wire VG Interoffice Channel + 4-wire VG Local Loop</p> <p>4-wire 56 kbps Interoffice Channel + 4-wire 56 kbps Local Loop</p> <p>4-wire 64 kbps Interoffice Channel + 4-wire 64 kbps Local Loop</p> <p style="text-align: center;"><u>Special Access Service Conversions</u></p> <p>MCIIm may not convert special access services to combinations of loop and transport network elements, whether or not MCIIm self-provides its entrance facilities (or obtains entrance facilities from a third party), unless MCIIm uses the combination to provide a significant amount of local exchange service, in addition to exchange access service, to a particular customer. If MCIIm does use special access services to provide a significant amount of local exchange service, MCIIm may convert such special access services to EELs, using either a spreadsheet or an LSR. To the extent MCIIm requests to convert any special access services to</p>

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Issue No.	Issue Statement	Attachment/Section of Proposed Agreement	BellSouth's Proposed Contract Language to Resolve Issue
			<p>combinations of loop and transport network elements at UNE prices, MCIIm shall provide to BellSouth a letter certifying that MCIIm is providing a significant amount of local exchange service (as described in this Section) over such combinations. The certification letter shall also indicate under what local usage option MCIIm seeks to qualify for conversion of special access circuits. MCIIm shall be deemed to be providing a significant amount of local exchange service over such combinations if one of the following options is met:</p> <p>MCIIm certifies that it is the exclusive provider of an end user's local exchange service. The loop-transport combinations must terminate at MCIIm's collocation arrangement in at least one BellSouth central office. This option does not allow loop-transport combinations to be connected to BellSouth's tariffed services. Under this option, MCIIm is the end user's only local service provider, and thus, is providing more than a significant amount of local exchange service. MCIIm can then use the loop-transport combinations that serve the end user to carry any type of traffic, including using them to carry 100 percent interstate access traffic; or</p> <p>MCIIm certifies that it provides local exchange and exchange access service to the end user customer's premises and handles at least one third of the end user customer's local traffic measured as a percent of total end user customer local dialtone lines; and for DS1 circuits and above, at least 50 percent of the activated channels on the loop portion of the loop-transport combination have at least 5 percent local voice traffic individually, and the entire loop facility has at least 10 percent local voice traffic. When a loop-transport combination includes multiplexing, each of the individual DS1 circuits must meet this criteria. The loop-transport combination must terminate at MCIIm's collocation arrangement in at least one BellSouth central office. This option does not allow loop-transport combinations to be connected to BellSouth tariffed services; or</p> <p>MCIIm certifies that at least 50 percent of the activated channels on a circuit are used to provide originating and terminating local dialtone service and at least 50 percent of the traffic on each of these local dialtone channels is local voice traffic, and that the entire loop facility has at least 33 percent local voice traffic. When a loop-transport combination includes multiplexing, each of the individual DS1 circuits must meet this criteria. This option does not allow loop-transport</p>

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Issue No.	Issue Statement	Attachment/Section of Proposed Agreement	BellSouth's Proposed Contract Language to Resolve Issue
			<p>combinations to be connected to BellSouth's tariffed services. Under this option, collocation is not required. MCIIm does not need to provide a defined portion of the end user's local service, but the active channels on any loop-transport combination, and the entire facility, must carry the amount of local exchange traffic specified in this option.</p> <p>In addition, there may be extraordinary circumstances where MCIIm is providing a significant amount of local exchange service, but does not qualify under any of the three options set forth in Section 5.3.7.1. In such case, MCIIm may petition the FCC for a waiver of the local usage options set forth in the June 2, 2000 Order. If a waiver is granted, then upon MCIIm's request the Parties shall amend this Agreement to the extent necessary to incorporate the terms of such waiver for such extraordinary circumstance.</p> <p>BellSouth may at its sole discretion conduct a limited audit of MCIIm records in order, to the extent reasonably necessary, to verify MCIIm's compliance with the local usage requirements. The audit shall be conducted by a third party independent auditor, and MCIIm shall be given thirty days written notice of scheduled audit. Such audit shall occur no more than one time in a calendar year. Such audits shall be conducted in accordance with Applicable Law. If, based on its audits, BellSouth concludes that MCIIm is not providing a significant amount of local exchange traffic over the combinations of loop and transport network elements, BellSouth may file a complaint with the appropriate Commission, pursuant to the dispute resolution process as set forth in the Interconnection Agreement.</p> <p>MCIIm may convert special access circuits to combinations of loop and transport UNEs pursuant to the terms of this Section and subject to the termination provisions in the applicable special access tariffs, if any.</p> <p><b>Rates</b></p> <p>Subject to Section 5.3.2 and 5.3.3 preceding, the non-recurring and recurring rates for the Existing Combinations set forth in Section 5.3.4 and other Existing Combinations of network elements will be the sum of the recurring rates for the individual network elements plus a non recurring charge set forth in Attachment 1 of this Agreement.</p>

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Issue No.	Issue Statement	Attachment/Section of Proposed Agreement	BellSouth's Proposed Contract Language to Resolve Issue
			<p>Multiplexing</p> <p>Where multiplexing functionality is required in connection with loop and transport combinations, such multiplexing will be provided at the rates and on the terms set forth in this Agreement.</p> <p>The non-recurring and recurring rates for the Other Network Element Combinations that are Currently Combined will be the sum of the recurring rates for the individual network elements plus a non recurring charge set forth in Attachment 1 this Agreement.</p> <p>UNE/Special Access Combinations</p> <p>Additionally, BellSouth shall make available to MCIIm a combination of an unbundled loop, from the customer's premise to the customer's SWC, and tariffed special access interoffice facilities. To the extent MCIIm will require multiplexing functionality in connection with such combination, BellSouth will provide access to multiplexing within the central office pursuant to the terms, conditions and rates set forth in its Access Services Tariffs. The tariffed special access interoffice facilities and any associated tariffed services, including but not limited to multiplexing, shall not be eligible for conversion to UNEs as described in Section 5.3.7.</p> <p>Rates</p> <p>The non-recurring and recurring rates for UNE/Special Access Combinations will be the the unbundled loop rates as set forth in Attachment 1 of this Agreement. Charges associated with the interoffice transport rates and multiplexing rates shall be charged separately under the Access Services Tariff.</p> <p>Port/Loop Combinations</p> <p>At MCIIm's request, BellSouth shall provide access to combinations of port and loop network elements, as set forth in Section 1.1.3 below, that are Currently Combined in BellSouth's network except as specified in Sections 1.1.1.1 and 1.1.1.2 below.</p>



Issue No.	Issue Statement	Attachment/Section of Proposed Agreement	BellSouth's Proposed Contract Language to Resolve Issue
			<p>BellSouth shall not provide combinations of port and loop network elements on an unbundled basis in locations where, pursuant to Applicable Law, BellSouth is not required to provide circuit switching as an unbundled network element.</p> <p>BellSouth shall not be required to provide circuit switching as an unbundled network element in density Zone 1, as defined in 47 CFR 69.123 as of January 1, 1999 of the Miami, FL; Orlando, FL; and Ft. Lauderdale, FL MSAs to MCI<sub>m</sub> if MCI<sub>m</sub>'s customer has 4 or more DS0 equivalent lines. Combinations of port and loop network elements provide local exchange service for the origination or termination of calls. BellSouth shall make available the following loop and port combinations at the terms and at the rates set forth below:</p> <p>BellSouth shall provide to MCI<sub>m</sub> combinations of port and loop network elements to MCI<sub>m</sub> on an unbundled basis regardless of whether or not such combinations are Existing Combinations, except in those locations where BellSouth is not required to provide circuit switching, as set forth in Section 1.1.1.2 above. The rates for Existing Combinations shall be the cost based rates set forth in Attachment 1 of this Attachment. The rates for Typical Combinations shall be negotiated by the Parties.</p> <p>In those locations where BellSouth is not required to provide unbundled circuit switching, as set forth in Sections 1.1.1.1 and 1.1.1.2, BellSouth shall provide to MCI<sub>m</sub> combinations of port and loop network elements whether or not such combinations are Existing Combinations. The rates for Existing Combinations are the market based rates as set forth in Attachment 1 of this Agreement. The rates for Typical Combinations shall be negotiated by the Parties.</p> <p>Combination Offerings</p> <p>2-wire voice grade port, voice grade loop, unbundled end office switching, unbundled end office trunk port, common transport per mile per MOU, common transport facilities termination, tandem switching, and tandem trunk port.</p> <p>2-wire voice grade DID port, voice grade loop, unbundled end office switching, unbundled end office trunk port, common transport per mile per</p>

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			<p>MOU, common transport facilities termination, tandem switching, and tandem trunk port.</p> <p>2-wire CENTREX port, voice grade loop, unbundled end office switching, unbundled end office trunk port, common transport per mile per MOU, common transport facilities termination, tandem switching, and tandem trunk port.</p> <p>2-wire ISDN Basic Rate Interface, voice grade loop, unbundled end office switching, unbundled end office trunk port, common transport per mile per MOU, common transport facilities termination, tandem switching, and tandem trunk port.</p> <p>2-wire ISDN Primary Rate Interface, DS1 loop, unbundled end office switching, unbundled end office trunk port, common transport per mile per MOU, common transport facilities termination, tandem switching, and tandem trunk port.</p> <p>4-wire DS1 Trunk port, DS1 Loop, unbundled end office switching, unbundled end office trunk port, common transport per mile per MOU, common transport facilities termination, tandem switching, and tandem trunk port</p>
24	Should BellSouth be required to combine network elements that are not ordinarily combined in its network? If so, what charges, if any, should apply?		See Language in Issue 23
25A	Should BellSouth charge Supra Telecom only for UNEs that it orders and uses?	Attachment 2, Section 1	This Attachment sets forth the Network Elements and Combinations that BellSouth agrees to offer to Supra Telecom in accordance with its obligations under Section 251(c)(3) of the Act. The specific terms and conditions that apply to the Network Elements and Combinations are described below in this Attachment 2. The prices for the Network Elements and Combinations are set forth in Exhibit A of this Attachment 2.
25B	Should UNEs ordered and used by Supra Telecom be considered part of its network for the purposes of reciprocal compensation, switched access charges and inter/IntraLATA services?		MCIm and BellSouth resolved issue without contract language.
26	Under what rates, terms and conditions may Supra Telecom		See Language in Issue 23

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	purchase network elements or combinations to replace services currently purchased from BellSouth tariffs?		
27	Should there be a single point of interconnection within the LATA for the mutual exchange of traffic? If so, how should the single point be determined?	Attachment 3, Section 2	<p>The Parties shall interconnect their networks utilizing one of the following methods in accordance with the provisions set forth in this Attachment 3.</p> <p>Interconnection by one Party at the premises of the other Party.</p> <p>BellSouth shall provide collocation to Supra Telecom pursuant to the terms set forth in Attachment 4 of this Agreement, incorporated herein by this reference. Supra Telecom may, at its option, purchase such collocation at the rates, terms, and conditions set forth in Attachment 4 of this Agreement, incorporated herein by this reference.</p> <p>Leased Facilities – where the Party requesting interconnection utilizes the facilities offered by the other Party. Such leased facilities shall be provided at the rates, terms, and conditions set forth in this Attachment 3. At Supra Telecom's request, it may lease separate facilities for the sole purpose of delivering undipped 8YY traffic from Supra Telecom's end users to BellSouth's Switching Services Port ("SSP") for dipping into BellSouth's toll free database.</p> <p>Third Party Facilities – where the Party requesting interconnection utilizes the facilities provided by a source other than the Parties to this Agreement. The Party utilizing this option shall comply with industry standards to maintain network integrity and will be solely responsible for any charges or fees assessed by the third party for use of its facilities.</p> <p>Commercial Intra-building Interconnection – where both Parties have constructed broadband facilities into a commercial building (i.e., a building that is not a telephone central office) and agree to establish a Point of Interface at such location utilizing intra-building cable.</p> <p>"Fiber Meet" is an interconnection arrangement whereby the Parties physically interconnect their networks via an optical fiber interface (as opposed to an electrical interface), at which one Party's facilities, provisioning, and maintenance responsibility begins and the other Party's responsibility ends (i.e., Point of Interface). A Fiber Meet shall be an arrangement as set forth in Section 2.9 of this Attachment 3.</p>

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			<p>Any other method determined to be technically feasible and requested by Supra Telecom shall be done pursuant to the process defined in Attachment 10 of this Agreement, incorporated herein by this reference.</p> <p>Local Tandem Interconnection. This interconnection arrangement allows Supra Telecom to establish a Point of Interconnection at BellSouth local tandems for: (1) the delivery of Supra Telecom-originated local traffic transported and terminated by BellSouth to BellSouth end offices within the local calling area as defined in BellSouth's General Subscriber Services Tariff, Section A3 served by those BellSouth local tandems; and (2) for local transit traffic transported by BellSouth for third party network providers who have also established Points of Interconnection at those BellSouth local tandems.</p> <p>When a specified local calling area is served by more than one BellSouth local tandem, Supra Telecom must designate a "home" local tandem for each of its assigned NPA/NXXs and establish trunk connections to such local tandems. Additionally, Supra Telecom may choose to establish a Point of Interconnection at the BellSouth local tandems where it has no codes homing but is not required to do so. Supra Telecom may deliver local traffic to a "home" BellSouth local tandem that is destined for other BellSouth or third party network provider end offices subtending other BellSouth local tandems in the same local calling area where Supra Telecom does not choose to establish a Point of Interconnection. It is Supra Telecom's responsibility to enter its own NPA/NXX local tandem homing arrangements into the LERG either directly or via a vendor in order for other third party network providers to determine appropriate traffic routing to Supra Telecom's codes. Likewise, Supra Telecom shall obtain its routing information from the LERG.</p> <p>Notwithstanding establishing Points of Interconnection to BellSouth's local tandems, Supra Telecom must also establish Points of Interconnection to BellSouth access tandems within the LATA on which Supra Telecom has NPA/NXX's homed for the delivery of Interexchange Carrier Switched Access ("SWA") and toll traffic, and traffic to Type 2A CMRS connections located at the access tandems. BellSouth cannot switch SWA traffic through more than one BellSouth access tandem. SWA, Type 2A CMRS or toll traffic routed to the local tandem in error will not be backhauled to the BellSouth access tandem for completion.</p>

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			<p>(Type 2A CMRS interconnection is defined in BellSouth's General Subscriber Services Tariff, Section A35.)</p> <p>BellSouth's provisioning of local tandem interconnection assumes that Supra Telecom has the necessary local interconnection arrangement with the other third party network providers subtending those local tandems as required by the Act.</p> <p><b>Fiber Meet</b> If Supra Telecom elects to establish a Point of Interconnection with BellSouth pursuant to a Fiber Meet, Supra Telecom and BellSouth shall jointly engineer and operate a Synchronous Optical Network ("SONET") transmission system by which they shall interconnect their transmission and routing of local traffic via a Local Channel facility at either the DS0, DS1, or DS3 level and shall be ordered via an Access Services Request ("ASR") in the initial phase of this offering. The Parties shall work jointly to determine the specific transmission system. The parties will work cooperatively to establish joint access to transmission overhead signals and commands for such facilities and software. However, Supra Telecom's SONET transmission must be compatible with BellSouth's equipment in the serving wire center. The Parties will work cooperatively in the selection of compatible transmission equipment and software. Fiber Meet will be used for the provision of two-way trunking unless otherwise agreed to by the Parties.</p> <p>BellSouth shall, wholly at its own expense, procure, install and maintain the agreed upon SONET equipment in the BellSouth Serving Wire Center ("BSWC").</p> <p>Supra Telecom shall, wholly at its own expense, procure, install and maintain the agreed upon SONET equipment in the Supra Telecom Serving Wire Center ("ASWC").</p> <p>The parties shall mutually agree upon a Point of Interface outside of the BSWC as a Fiber Meet point and shall make all necessary preparations to receive and to allow and enable delivery of fiber optic facilities into the Point of Interface with sufficient spare length to reach the Point of Interface. A Common Language Location Identification ("CLLI") code will be established for each Point of Interface. The code established must be a building type code. All orders shall originate from the Point of</p>

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			<p>Interface (i.e., Point of Interface to Supra Telecom, Point of Interface to BellSouth).</p> <p>The Parties shall deliver and maintain their own strands wholly at their own expense. Upon verbal request by either Party, the other Party shall allow access to the Fiber Meet entry point for maintenance purposes as promptly as possible.</p> <p>The Parties shall jointly coordinate and undertake maintenance of the SONET transmission system. Each Party shall be responsible for maintaining the components of their own SONET transmission system.</p> <p>Each Party will be responsible for (i) providing its own transport facilities to the Fiber Meet, and (ii) the cost to build-out its facilities to such Fiber Meet.</p> <p>Neither Party shall charge the other for its portion of the Fiber Meet facility between the ASWC and the BSWC used exclusively for the other Party's local traffic (i.e., the Local Channel). The Parties do not intend to utilize this arrangement for transit traffic.</p>
28	What terms and conditions and what separate rates, if any, should apply for Supra Telecom to gain access to and use BellSouth's facilities to serve multi-tenant environments?	Attachment 2, Section 5.2.3.2	In the case of BellSouth facilities serving multiple unit installations, e.g., apartments, condominiums, office buildings and office complexes, access to Sub-Loop Distribution shall be provided to Supra Telecom either by Unbundled Sub-Loop Distribution ("USL-D"), Unbundled Sub-Loop Intra-building Network Cable ("USL-INC") or Unbundled Network Terminating Wire ("UNTW") as requested by Supra Telecom, at the appropriate rate set forth in Exhibit A to this Attachment.
29	Is BellSouth obligated to provide local circuit switching at UNE rates to Supra to serve the first three lines to a customer located in Density Zone 1? Is BellSouth obligated to provide local circuit switching at UNE rates to Supra to serve four or more lines provided to a customer located in Density Zone 1?	Attachment 2, Sections 6.3.1.2 and 6.3.1.3	<p>Notwithstanding BellSouth's general duty to unbundle local circuit switching, BellSouth shall not be required to unbundle local circuit switching for Supra Telecom when Supra Telecom serves end users with four (4) or more voice-grade (DS-0) equivalents or lines in locations served by BellSouth's local circuit switches, which are in the following MSAs: Atlanta, GA; Miami, FL; Orlando, FL; Ft. Lauderdale, FL; Charlotte-Gastonia-Rock Hill, NC; Greensboro/Winston-Salem/High Point, NC; Nashville, TN; and New Orleans, LA, and BellSouth has provided non-discriminatory cost based access to the Enhanced Extended Link ("EEL") throughout Density Zone 1 as determined by NECA Tariff No. 4 as in effect on January 1, 1999.</p> <p>When BellSouth provides the local circuit switching, BellSouth will provide to</p>

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			<p>Supra Telecom , upon request, customized routing (selective routing) of calls: (i) to a requested directory assistance services platform; (ii) to a requested operator services platform; (iii) for Supra Telecom 's PIC'ed toll traffic in a two (2) PIC environment to an alternative OS/DA platform designated by Supra Telecom or (iv) to a repair center. Supra Telecom end users may use the same dialing arrangements as BellSouth end users. BellSouth shall allow Supra Telecom to commingle local and toll OS and/or DA traffic on existing OS and/or FGD trunks. Customized routing will include but not be limited to the customized routing of inter-switch traffic on a wire center basis to a port other than the standard routing used by BellSouth.</p>
31	<p>Should BellSouth be allowed to aggregate lines provided to multiple locations of a single customer to restrict Supra Telecom's ability to purchase local circuit switching at UNE rates to serve any of the lines of that customer?</p>	<p>Attachment 2, Sections 6.3.1.2 and 6.3.1.3</p>	<p>Notwithstanding BellSouth's general duty to unbundle local circuit switching, BellSouth shall not be required to unbundle local circuit switching for Supra Telecom when Supra Telecom serves end users with four (4) or more voice-grade (DS-0) equivalents or lines in locations served by BellSouth's local circuit switches, which are in the following MSAs: Atlanta, GA; Miami, FL; Orlando, FL; Ft. Lauderdale, FL; Charlotte-Gastonia-Rock Hill, NC; Greensboro/Winston-Salem/High Point, NC; Nashville, TN; and New Orleans, LA, and BellSouth has provided non-discriminatory cost based access to the Enhanced Extended Link ("EEL") throughout Density Zone 1 as determined by NECA Tariff No. 4 as in effect on January 1, 1999.</p> <p>When BellSouth provides the local circuit switching, BellSouth will provide to Supra Telecom , upon request, customized routing (selective routing) of calls: (i) to a requested directory assistance services platform; (ii) to a requested operator services platform; (iii) for Supra Telecom 's PIC'ed toll traffic in a two (2) PIC environment to an alternative OS/DA platform designated by Supra Telecom or (iv) to a repair center. Supra Telecom end users may use the same dialing arrangements as BellSouth end users. BellSouth shall allow Supra Telecom to commingle local and toll OS and/or DA traffic on existing OS and/or FGD trunks. Customized routing will include but not be limited to the customized routing of inter-switch traffic on a wire center basis to a port other than the standard routing used by BellSouth.</p>
32A	<p>Under what criteria may Supra Telecom charge the tandem-switching rate?</p>		
32B	<p>Based on Supra Telecom's network configuration as of January 31, 2001, has Supra Telecom met these criteria?</p>		<p>Contract Language is not relevant</p>

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33	What are the appropriate means for BellSouth to provide unbundled local loops for provision of DSL service when such loops are provision on digital loop carrier facilities?	Attachment 2 Section 3.10	<p>If Supra Telecom requests one or more loops served by an Integrated Digital Loop Carrier system ("IDLC"), BellSouth shall unbundle the IDLC-delivered loop, as soon as practicable, using one of the following alternative arrangements: (1) utilize existing Next Generation Digital Loop Carrier ("NGDLC") facilities; (2) utilize existing Universal Digital Loop Carrier ("UDLC"); (3) utilize existing cooper facilities that serve the distribution area or allocate new copper feeder pairs to the distribution area if spare capacity is available in the feeder route or carrier serving area; (4) utilize spare capacity of existing Integrated Network Access system or other existing IDLC that is terminated on a digital cross-connect system; (5) utilize side-door/hairpin capability of switch peripheral if the serving IDLC is terminated on a peripheral with those capabilities, or if spare capacity is available on a switch peripheral; (6) activate new IDLC or NGDLC capacity to the distribution area; or (7) convert some existing IDLC capacity to UDL. These alternative arrangements will be used where available to permit Supra Telecom to order a Loop and to provide Supra Telecom with the capability to serve end users at the same level BellSouth provides its retail customers, to the extent technically feasible.</p>
34	What coordinated cut-over process should be implemented to ensure accurate, reliable and timely cut-overs when a customer changes local service from BellSouth to Supra Telecom?	Attachment 2 Section 3.8	<p><u>Provisioning and Coordinated Cutovers</u></p> <p>The following coordination procedures shall apply when BellSouth retail service is being converted to service to be provided by Supra Telecom utilizing a SL2 local loop provided by BellSouth to Supra Telecom ; a SL2 local loop provided by BellSouth to Supra Telecom with interim or local number portability; stand alone interim number portability ordered by Supra Telecom ; and any other Service or Element that requires project coordination as set forth in this Agreement or in the BellSouth local number portability guidelines.</p> <p>Supra Telecom shall order Services and Elements as set forth in this Attachment 2 and BellSouth shall provide a Firm Order Confirmation within the interval set forth in this Agreement. When Supra Telecom desires to dictate a specific time for the coordinated cutover of a local loop ordered, Supra Telecom shall do so by requesting on the Local Service Request, Order Coordination – Time Specific and paying the appropriate rate set forth in Exhibit A, incorporated herein by this reference.</p> <p>Any coordinated conversion and associated translations requirements shall be performed so as to limit end user service outage. In all other instances of coordination the procedures set forth in this section shall apply.</p>



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			<p>For the purposes of coordinated cutovers, BellSouth shall contact Supra Telecom 24 to 48 hours prior to the conversion due date. At this contact the Parties shall agree upon a conversion time. Supra Telecom and BellSouth shall use best efforts to ensure that the actual conversion activity will occur within 30 minutes of the previously agreed upon conversion time.</p> <p>BellSouth will perform the appropriate preservice testing to determine whether Supra Telecom dial tone is being delivered to the appropriate connecting point, which may be, if appropriate, a cross connect or tie cable between BellSouth's main distribution frame and Supra Telecom's collocation space. The timing of the preservice testing is dependent upon the actual interval of the Service or Element being provided by BellSouth to Supra Telecom, but in any event, will be completed within 24 hours of the agreed upon conversion time. Where a field visit is required to provision the local loop, BellSouth will test the local loop to the Network Interface Device. Supra Telecom may request that BellSouth perform testing to the Network Interface Device when a field visit is not required for provisioning the local loop, however, Supra Telecom shall be billed for such testing at the time and materials rate set forth in BellSouth's General Subscriber Services Tariff.</p> <p>If, at the conclusion of the preservice testing, BellSouth cannot verify that Supra Telecom dial tone is being delivered to the appropriate connecting point, it will contact Supra Telecom and work cooperatively to determine and alleviate the cause of the failure.</p> <p>BellSouth will advise Supra Telecom at completion of the conversion or turn up of new services, in order for Supra Telecom to accept or reject the services being provisioned.</p> <p>Any billing credits, waivers of service charges or billing of charges for failure to perform a coordinated cutover pursuant to the procedures set forth in this section shall be as set forth in Attachment 6, incorporated herein by this reference.</p>
35	Is conducting a statewide investigation of criminal history records for each Supra Telecom employee or agent being considered to work on a BellSouth premises a security	Attachment 4 Section 11.2	Supra Telecom will be required, at its own expense, to conduct a statewide investigation of criminal history records for each Supra Telecom employee or agent being considered for work on the BellSouth Premises,

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	measure that BellSouth may impose on Supra Telecom?		for the states/counties where the Supra Telecom employee or agent has worked and lived for the past five years. Where state law does not permit statewide collection or reporting, an investigation of the applicable counties is acceptable.
38	Is BellSouth required to provide Supra Telecom with nondiscriminatory access to the same databases BellSouth uses to provision its customers?	Attachment 7, Section 1.6	Throughout the term of this Agreement, the quality of the technology, equipment, facilities, processes, and techniques (including, without limitation, such new architecture, equipment, facilities, and interfaces as BellSouth may deploy) that BellSouth provides to Supra Telecom under this Agreement must be at least equal in quality to that provided by BellSouth to itself and its affiliates. The service standards, measurements and performance incentives applicable to the interfaces are set forth in Attachment 9 of this Agreement, incorporated herein by this reference.
40	Should Standard Message Desk Interface-Enhanced (SMDI-E), Inter-Switch Voice Messaging Service ("IVMS") and any other corresponding signaling associated with voice mail messaging be included within the cost of the UNE switching port? If not, what are the appropriate charges if any?	Attachment 2, Section 6.5.17 (Local Switching)	If an Supra Telecom end user subscribes to Supra Telecom provided voice mail and messaging services, BellSouth shall redirect incoming calls to the Supra Telecom system based upon presubscribed service arrangements (e.g., busy, don't answer, number of rings) through dedicated trunks provided by Supra Telecom. In addition, BellSouth shall provide a Standard Message Desk Interface-Enhanced ("SMDI-E") interface to the Supra Telecom system. BellSouth shall support the Inter-switch Voice Messaging Service ("IVMS") capability.
41	Should BellSouth be required to provide Supra Telecom the right to audit BellSouth's books and records in order to confirm the accuracy of BellSouth's bills?	GT&Cs Section 12	<p>Audits and Inspections</p> <p>For carrier billing purposes, the Parties have agreed pursuant to Section 12 of Attachment 6, to create a process for pre-bill certification. Until such time as that process is in place, the audit process provided in this Section 12 shall apply.</p> <p>Subject to BellSouth's reasonable security requirements and except as may be otherwise specifically provided in this Agreement, Supra Telecom may audit BellSouth's books, records and other documents once in each Contract Year for the purpose of evaluating the accuracy of BellSouth's billing and invoicing. Supra Telecom may request to review any documents or records legitimately related to its billing regardless of whether or not Supra Telecom may have received such documentation or records previously. Supra Telecom may employ other persons or firms for this purpose. Such audit shall take place at a time and place agreed on by the Parties no later than thirty (30) days after notice thereof to BellSouth.</p> <p>BellSouth shall promptly correct any billing error that is revealed in an audit, including making refund of any overpayment by Supra Telecom in</p>

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			<p>the form of a credit on the invoice for the first full billing cycle after the Parties have agreed upon the accuracy of the audit results. Any Disputes concerning audit results shall be resolved pursuant to the dispute resolution procedures described in Section 16 of the General Terms and Conditions of this Agreement.</p> <p>BellSouth shall cooperate fully in any such audit, providing reasonable access to any and all appropriate BellSouth employees and books, records and other documents reasonably necessary to assess the accuracy of BellSouth's bills.</p> <p>Supra Telecom may audit BellSouth's books, records and documents more than once during any Contract Year if the previous audit found previously uncorrected net variances or errors in invoices in BellSouth's favor with an aggregate value of at least two percent (2%) of the amounts payable by Supra Telecom for Services and Elements or Combinations provided during the period covered by the audit.</p> <p>Audits shall be at Supra Telecom's expense, subject to reimbursement by BellSouth in the event that an audit finds an adjustment in the charges or in any invoice paid or payable by Supra Telecom hereunder by an amount that is, on an annualized basis, greater than two percent (2%) of the aggregate charges for the Services and Elements during the period covered by the audit.</p> <p>Upon (i) the discovery by BellSouth of overcharges not previously reimbursed to Supra Telecom or (ii) the resolution of disputed audits, BellSouth shall promptly reimburse Supra Telecom the amount of any overpayment times the highest interest rate (in decimal value) which may be levied by law for commercial transactions, compounded daily for the number of days from the date of overpayment to and including the date that payment is actually made. In no event, however, shall interest be assessed on any previously assessed or accrued late payment charges.</p> <p>Subject to reasonable security requirements, either Party may audit the books, records and other documents of the other for the purpose of evaluating usage pertaining to transport and termination of local traffic. Where such usage data is being transmitted through CABS, the audit shall be conducted in accordance with CABS or other applicable requirements.</p>

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			<p>approved by the appropriate State Commission. If data is not being transferred via CABS, either Party may request an audit for such purpose once each Contract Year. Either Party may employ other persons or firms for this purpose. Any such audit shall take place no later than thirty (30) days after notice thereof to the other Party.</p> <p>Either Party shall promptly correct any reported usage error that is revealed in an audit, including making payment of any underpayment after the Parties have agreed upon the accuracy of the audit results. Any Disputes concerning audit results shall be resolved pursuant to the dispute resolution procedures described in Section 16 of the General Terms and Conditions of this Agreement.</p> <p>The Parties shall cooperate fully in any such audit, providing reasonable access to any and all appropriate employees and books, records and other documents reasonably necessary to assess the usage pertaining to transport and terminating of local traffic.</p>
42	What is the proper time frame for either party to render bills?	Attachment 6, Section 1.8	<p><b>Issuance of Bills - General</b></p> <p>BellSouth and Supra Telecom will issue all bills in accordance with the terms and conditions set forth in this Section. BellSouth and Supra Telecom will establish monthly billing dates ("Bill Date") for each Billing Account Number ("BAN"). Each BAN shall remain constant from month to month, unless changed as agreed to by the Parties. Each Party shall provide the other Party at least thirty (30) calendar days written notice prior to changing, adding or deleting a BAN. The Parties will provide one billing invoice associated with each BAN. Each invoice must contain an invoice number (which will vary from month to month). The bill date is the only varying invoice number available on the Resale bill. On each bill associated with a BAN, the appropriate invoice number and the charges contained on such invoice must be reflected. All bills must be received by the other Party no later than ten (10) calendar days from Bill Date and at least twenty (20) calendar days prior to the payment due date, whichever is earlier. Any bill received on a Saturday, Sunday or a day designated as a holiday by the Chase Manhattan Bank of New York (or such other bank as Supra Telecom shall specify) will be deemed received the next business day. If either Party fails to receive billing data and information within the time period specified above, the payment due date will be extended by the</p>

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			<p>number of days the bill is late.</p> <p>BellSouth and Supra Telecom shall issue all CABS bills or bills in CBOS format containing such billing data and information in accordance with the most current version of CBOS, or if development time is required, within two (2) versions of the current CBOS standard. To the extent that there are no CBOS or MECAB standards governing the formatting of certain data, such data shall be issued in the format as mutually agreed upon by the parties.</p> <p>Within thirty (30) days of finalizing the chosen billing media, each Party will provide the other Party written notice of which bills are to be deemed the official bills to assist the Parties in resolving any conflicts that may arise between the official bills and other bills received via a different media which purportedly contain the same charges as are on the official bill. If either Party requests an additional copy(ies) of a bill, such Party shall pay the other Party a reasonable fee per additional bill copy, unless such copy was requested due to errors, omissions, or corrections or the failure of the transmission to comply with the specifications set forth in this Agreement.</p> <p>When sending bills via electronic transmission, to avoid transmission failures or the receipt of billing information that cannot be processed, the Parties shall provide each other with their respective process specifications. Each Party shall comply with the mutually acceptable billing processing specifications of the other. Supra Telecom and BellSouth shall provide each other reasonable notice if a billing transmission is received that does not meet such Party's specifications or that such Party cannot process. Such transmission shall be corrected and resubmitted to the other Party, at the resubmitting Party's sole expense, in a form that can be processed. The payment due date for such resubmitted transmissions will be twenty (20) days from the date that the transmission is received in a form that can be processed and that meets the specifications set forth in this Attachment 6.</p>
44	What are the appropriate criteria under which rates, terms or conditions may be adopted from other filed and approved interconnection agreements? What should be the effective	GT&Cs, Paragraph 5	BellSouth shall make available and Supra Telecom may elect to adopt pursuant to 47 U.S.C. § 252 and the FCC rules and regulations regarding such availability any interconnection, service, or network element provided under

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	date of such an adoption?		an agreement approved pursuant to 47 U.S.C. § 252. The adopted interconnection, service, or network element shall apply to the same states as such other agreement and for the identical term of such other agreement. Supra Telecom may exercise this option by delivering written notice to BellSouth, which may include a proposed amendment to this Agreement to incorporate the prices, terms and conditions, in whole or in part found in the other agreement. The Parties shall amend this Agreement pursuant to this Section within thirty (30) days after the date of such request; provided, however that in the event of a dispute between the Parties regarding the requested adoption, the Parties shall follow the Dispute Resolution Process set forth in this Agreement and the terms of such amendment as ultimately determined through such Dispute Resolution Process shall be deemed effective thirty (30) days following the date of such request.
45	Should BellSouth be required to post on its web-site all BellSouth interconnection agreements with third parties? If so, when?		Contract Language not relevant to this issue.
46	Is BellSouth required to provide Supra Telecom the capability to submit orders electronically for all wholesale services and elements?	Attachment 7, Section 1.1	BellSouth shall accept orders for Service and Elements in accordance with the Federal Communications Commission Rules or State Commission Rules. This Attachment 7 sets forth the terms and conditions under which BellSouth will provide Supra Telecom access to the following BellSouth Operations Support Systems ("OSS") functions. Access to these functions shall be via various interfaces and personnel and may be used by Supra Telecom for pre-ordering, ordering, provisioning, maintenance and repair, and billing functions, which are supported by BellSouth databases, information, and personnel. Ordering of Services and Elements shall be electronic in all instances except where electronic ordering capability has not been developed for the particular Services and Elements being ordered or in the instance where the electronic interface is temporarily unavailable. If the electronic interface is not available, orders may be sent to BellSouth via facsimile, United States Mail, or in a manner otherwise agreed to by the Parties.
47	When, if at all, should there be manual intervention on electronically submitted orders?		See Issue 46
48	Is BellSouth obligated to provide Supra Telecom with billing records? If so, which records should be provided and in what format?	Attachment 8, Section 5 of MCI contract	Customer Usage Data BellSouth shall continue to provide MCI customer usage data in the same format that it currently provides. Further, BellSouth shall provide MCI with billing records in the standard EMI format with all EMI standard fields.

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49	Should Supra Telecom be allowed to share with a third party, the spectrum on a local loop for voice and data when Supra Telecom purchases a loop/port combination and if so, under what rates, terms and conditions?		Contract Language not relevant to this issue.
51	Should BellSouth be allowed to impose a manual ordering charge when it fails to provide an electronic interface?	Attachment 1, Section 3.16	Charges for the electronic interfaces developed and implemented to access Operational Support Systems functions ("OSS") for accessing customer record information and placing local service requests for resale shall be as set forth in Exhibit A, attached hereto and incorporated herein by this reference. No manual OSS charges shall apply to local service requests submitted when BellSouth's existing electronic interfaces utilized by Supra Telecom are unavailable for reasons other than scheduled maintenance, provided the downtime does not occur outside the scheduled maintenance window; or other reasonable scheduled activities for which reasonable advance notification is provided by BellSouth, and provided the activities do not occur outside the scheduled window.
52	For purposes of the Interconnection Agreement between Supra Telecom and BellSouth, should the resale discount apply to all telecommunication services BellSouth provides to end users, regardless of the tariff in which the service is contained?	Attachment 1, Paragraph 1.1	The discount applied to Supra Telecom's purchase of BellSouth Telecommunications services for purposes of resale shall be as set forth in Exhibit A, attached hereto and incorporated herein by this reference. The discount shall be applied to the retail rate for the telecommunications service purchased by Supra Telecom. Such discount shall reflect the costs attributable to any marketing, billing, collection and other costs avoided by BellSouth as specified in the Act, by the FCC and the appropriate state public service commission.
53	How should the demarcation points for UNEs be determined?	Attachment 2, Section 2.8  Attachment 4, Section 5.5	For each Network Element, BellSouth shall provide a demarcation point (e.g., an interconnection point at a digital signal cross connect or light guide cross connect panel or a main distribution frame) and, if necessary, access to such demarcation point, which Supra Telecom agrees is suitable. However, where BellSouth provides Combinations to Supra Telecom, BellSouth may provide the existing interconnections and no demarcation point shall exist between the combined Network Elements. <u>Demarcation Point.</u> For the purposes of this Attachment, BellSouth will designate the point(s) of interconnection between Supra Telecom's equipment and/or network and BellSouth's network located as close as reasonably possible to Supra Telecom's Collocation Space. Each Party will be responsible for maintenance and operation of all equipment/facilities on its side of the demarcation point. BellSouth will not require Supra Telecom to use an intermediate interconnection arrangement in lieu of direct connection to BellSouth's network, if technically feasible. For 2-wire and 4-wire connections to BellSouth's network, the demarcation point shall be a common block on the BellSouth

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			responsible for providing, and Supra Telecom's BellSouth Certified Vendor shall be responsible for installing and properly labeling/stenciling, the common block, and necessary cabling pursuant to Section 6.4 of this Attachment 4. For all other terminations BellSouth shall designate a demarcation point on a per arrangement basis. Supra Telecom or its agent must perform all required maintenance to equipment/facilities on its side of the demarcation point, pursuant to Section 5.6 of this Attachment 4, and may self-provision cross-connects that may be required within the collocation space to activate service requests. At Supra Telecom's option, expense, and if space permits, a Point of Termination ("POT") bay or frame may be placed in the Collocation Space but shall not serve as the demarcation point, but may serve as a testing point.
55	Should BellSouth be required to provide an application-to-application access service order inquiry process for purposes of the interconnection agreement between Supra Telecom and BellSouth?		Contract Language not relevant to this issue.
57	Should BellSouth be required to provide downloads of RSAG, LFACS, PSIMS and PIC databases without license agreements and without charge?	Attachment 8, Section 2.5 from MCIIm Agreement	Database Downloads  Regional Street Address Guide(RSAG). BellSouth shall provide MCIIm with BellSouth's RSAG data through a mutually agreeable electronic means. A condition precedent to obtaining the RSAG data is that MCIIm and its affiliated local exchange carriers shall execute a single mutually
59	Should Supra Telecom be required to pay for expedited service when BellSouth provides services after the offered expedited date, but prior to BellSouth's standard interval?	Attachment 7, Section 3.14	Requests for due dates that are earlier than the BellSouth offered date will be treated as an expedite request. In order to request an expedited due date, Supra Telecom must request the expedite through the appropriate BellSouth service center on the appropriate service request form. The



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			BellSouth service center will coordinate the request internally with the appropriate groups within BellSouth in order to establish the date BellSouth will target as the offered date. The BellSouth service center will advise Supra Telecom of this date on the FOC. If the date on the FOC does not meet Supra Telecom's expedited request, Supra Telecom may escalate to the appropriate center. BellSouth may bill expedite charges for expedited due date and will advise Supra Telecom of any charges at the time the offered date is provided. BellSouth will provide an escalation list to Supra Telecom containing the names and numbers of the appropriate personnel escalations are to be referred.
60	When BellSouth rejects or clarifies a Supra Telecom order, should BellSouth be required to identify all errors in the order that caused it to be rejected or clarified?	Attachment 7, Section 3.5  Attachment 7, Section 3.15	Currently all telecommunications services for resale; unbundled network elements, and interconnection are requested via BellSouth's Local Service Request ("LSR"). The exception to this is an industry wide exception dealing with ordering interconnection local trunking which is ordered on an Access Service Request ("ASR"). Ordering procedures are as outlined in the ordering guide posted on the web. Changes or additions to ordering procedures resulting from new Services and Elements shall be provided to Supra Telecom through its account team and BellSouth's Internet website and shall comply with Exhibit A, attached hereto and incorporated herein by this reference.  When Supra Telecom orders Services and Elements pursuant to this Agreement, BellSouth shall provide notification electronically of any instances when (1) BellSouth's Committed Due Dates are in jeopardy of not being met by BellSouth on any service, (2) an order contains Rejections/Errors in any of the data element(s) fields, or (3) completion notice. When Supra Telecom orders Services and Elements pursuant to this Agreement manually, BellSouth shall provide notification in the same manner in which it was sent of any instances when an order contains Rejections/Errors in any of the data element(s) fields. Any other notification or request for manual orders shall be available through BellSouth's Internet web site. Such notice will be made as soon as the jeopardy or reject is identified.
61	Should BellSouth be allowed to drop or "purge" orders? If so, under what circumstances may BellSouth be allowed to drop or "purge" orders, and what notice should be given, if any?	Attachment 7, Section 3.5	Currently all telecommunications services for resale; unbundled network elements, and interconnection are requested via BellSouth's Local Service Request ("LSR"). The exception to this is an industry wide exception dealing with ordering interconnection local trunking which is ordered on an Access Service Request ("ASR"). Ordering procedures are as outlined in the ordering guide posted on the web. Changes or additions to ordering

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			procedures resulting from new Services and Elements shall be provided to Supra Telecom through its account team and BellSouth's Internet website and shall comply with Exhibit A, attached hereto and incorporated herein by this reference.
62	Should BellSouth be required to provide completion notices for manual orders for the purposes of the interconnection agreement?	Attachment 7, Section 3.15	When Supra Telecom orders Services and Elements pursuant to this Agreement, BellSouth shall provide notification electronically of any instances when (1) BellSouth's Committed Due Dates are in jeopardy of not being met by BellSouth on any service, (2) an order contains Rejections/Errors in any of the data element(s) fields, or (3) completion notice. When Supra Telecom orders Services and Elements pursuant to this Agreement manually, BellSouth shall provide notification in the same manner in which it was sent of any instances when an order contains Rejections/Errors in any of the data element(s) fields. Any other notification or request for manual orders shall be available through BellSouth's Internet web site. Such notice will be made as soon as the jeopardy or reject is identified.
63	Under what circumstances, if any, would BellSouth be permitted to disconnect service to Supra for nonpayment?	Attachment 6, Section 1.17.2.1	BellSouth reserves the right to suspend to terminate service for nonpayment of undisputed amounts or in the event of prohibited, unlawful or improper use of the facilities or service, abuse of the facilities by Supra Telecom
65	Should the parties be liable in damages, without a liability cap, to one another for their failure to honor in one or more material respects any one or more of the material provisions of the Agreement for purposes of this interconnection agreement?	GT&Cs, Section 10	<p>Liabilities of BellSouth - Unless expressly stated otherwise in this Agreement, the financial liability of BellSouth to Supra Telecom during any Contract Year resulting from any and all causes of action arising under this Agreement, other than those arising from BellSouth's gross negligence or willful misconduct, shall not exceed the amount due and owing by Supra Telecom to BellSouth during the Contract Year in which such cause arises or accrues.</p> <p>Liabilities of Supra Telecom - Unless expressly stated otherwise in this Agreement, the financial liability of Supra Telecom to BellSouth during any Contract Year resulting from any and all causes of action arising under this Agreement, other than those arising from BellSouth's gross negligence or willful misconduct, shall not exceed the amount due and owing by Supra Telecom to BellSouth during the Contract Year in which such cause arises or accrues.</p> <p>Each party shall, to the greatest extent permitted by Applicable Law, include in its local switched service tariff (if it files one in a particular</p>

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			<p>State) or in any State where it does not file a local service tariff, in an appropriate contract with its end users that relates to the Services and Elements provided under this Agreement, a limitation of liability (i) that covers the other Party to the same extent the first Party covers itself with respect to liability to end users and (ii) that limits the amount of damages a customer may recover to the amount charged the applicable customer for the service that gave rise to such loss.</p> <p>No Consequential Damages - NEITHER SUPRA TELECOM NOR BELLSOUTH SHALL BE LIABLE TO THE OTHER PARTY FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, RELIANCE, OR SPECIAL DAMAGES SUFFERED BY SUCH OTHER PARTY (INCLUDING WITHOUT LIMITATION DAMAGES FOR HARM TO BUSINESS, LOST REVENUES, LOST SAVINGS, OR LOST PROFITS SUFFERED BY SUCH OTHER PARTIES), REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, WARRANTY, STRICT LIABILITY, OR TORT, INCLUDING WITHOUT LIMITATION NEGLIGENCE OF ANY KIND WHETHER ACTIVE OR PASSIVE, AND REGARDLESS OF WHETHER THE PARTIES KNEW OF THE POSSIBILITY THAT SUCH DAMAGES COULD RESULT. EACH PARTY HEREBY RELEASES THE OTHER PARTY AND SUCH OTHER PARTY'S SUBSIDIARIES AND AFFILIATES, AND THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES AND AGENTS FROM ANY SUCH CLAIM ARISING ANY TIME DURING WHICH THE PARTIES ARE OPERATING UNDER THIS AGREEMENT. NOTHING CONTAINED IN THIS SECTION 10 SHALL LIMIT BELLSOUTH'S OR SUPRA TELECOM'S LIABILITY TO THE OTHER FOR (i) WILLFUL OR INTENTIONAL MISCONDUCT (INCLUDING GROSS NEGLIGENCE); (ii) BODILY INJURY, DEATH OR DAMAGE TO TANGIBLE REAL OR TANGIBLE PERSONAL PROPERTY PROXIMATELY CAUSED BY BELLSOUTH'S OR SUPRA TELECOM'S NEGLIGENT ACT OR OMISSION OR THAT OF THEIR RESPECTIVE AGENTS, SUBCONTRACTORS OR EMPLOYEES, NOR SHALL ANYTHING CONTAINED IN THIS SECTION 10 LIMIT THE PARTIES' INDEMNIFICATION OBLIGATIONS AS SPECIFIED HEREIN.</p> <p>Obligation to Indemnify – Except as provided in Section 11 (Intellectual Property Rights and Indemnification), each Party shall, and hereby agrees to defend at the other's request, indemnify and hold harmless the other</p>

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			<p>Party and each of its officers, directors, employees and agents (each, an "Indemnitee") against and in respect of any loss, debt, liability, damage, obligation, claim, demand, judgment or settlement of any nature or kind, known or unknown, liquidated or unliquidated, including without limitation all reasonable costs and expenses incurred (legal, accounting or otherwise) (collectively, "Damages") arising out of, resulting from or based upon any pending or threatened claim, action, proceeding or suit by any third Party (a "Claim") (i) alleging any breach of any representation, warranty or covenant made by such indemnifying Party (the "Indemnifying Party") in this Agreement, or (ii) based upon injuries or damage to any person or property or the environment arising out of or in connection with this Agreement that are the result of the Indemnifying Party's actions, breach of Applicable Law, or status of its employees, agents and subcontractors.</p> <p>Obligation to Defend; Notice; Cooperation - Whenever a Claim shall arise for indemnification under this Section 10, the relevant Indemnitee, as appropriate, shall promptly notify the Indemnifying Party and request the Indemnifying Party to defend the same. Failure to so notify the Indemnifying Party shall not relieve the Indemnifying Party of any liability that the Indemnifying Party might have, except to the extent that such failure prejudices the Indemnifying Party's ability to defend such Claim. The Indemnifying Party shall have the right to defend against such liability or assertion in which event the Indemnifying Party shall give written notice to the Indemnitee of acceptance of the defense of such Claim and the identity of counsel selected by the Indemnifying Party. Except as set forth below, such notice to the relevant Indemnitee shall give the Indemnifying Party full authority to defend, adjust, compromise or settle such Claim with respect to which such notice shall have been given, except to the extent that any compromise or settlement shall prejudice the Intellectual Property Rights of the relevant Indemnitees. The Indemnifying Party shall consult with the relevant Indemnitee prior to any compromise or settlement that would affect the Intellectual Property Rights or other rights of any Indemnitee, and the relevant Indemnitee shall have the right to refuse such compromise or settlement and, at the refusing Party's or refusing Parties' cost, to take over such defense, provided that in such event the Indemnifying Party shall not be responsible for, nor shall it be obligated to indemnify the relevant Indemnitee against, any cost or liability in excess of such refused compromise or settlement. With respect to any defense accepted by the Indemnifying Party, the relevant</p>

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			<p>Indemnitee shall be entitled to participate with the Indemnifying Party in such defense if the Claim requests equitable relief or other relief that could affect the rights of the Indemnitee and also shall be entitled to employ separate counsel for such defense at such Indemnitee's expense. In the event the Indemnifying Party does not accept the defense of any indemnified Claim as provided above, the relevant Indemnitee shall have the right to employ counsel for such defense at the expense of the Indemnifying Party. Each Party agrees to cooperate and to cause its employees and agents to cooperate with the other Party in the defense of any such Claim and the relevant records of each Party shall be available to the other Party with respect to any such defense.</p>
66	<p>Should Supra Telecom be able to obtain specific performance as a remedy for BellSouth's breach of contract for purposes of this interconnection agreement?</p>	<p>GT&amp;Cs, Paragraph 3.2</p>	<p>If a Party is in breach of a material term or condition of this Agreement ("Defaulting Party"), the other Party shall provide written notice of such breach to the Defaulting Party. The Defaulting Party shall have ten (10) business days from receipt of notice to cure the breach. If the breach is not cured, the Parties shall follow the dispute resolution procedure set forth in Section 16 of the General Terms and Conditions of this Agreement</p>

STATE OF FLORIDA

Commissioners:  
JOE GARCIA, CHAIRMAN  
J. TERRY DEASON  
SUSAN F. CLARK  
E. LEON JACOBS, JR.  
LILA A. JABER



DIVISION OF  
TELECOMMUNICATIONS  
WALTER D'HAESELEER  
DIRECTOR  
(850) 413-6600

**Public Service Commission**

April 25, 2000

Ms. Nancy Sims  
BellSouth Telecommunications, Inc.  
Suite 400  
150 South Monroe Street  
Tallahassee, FL 32301

Re: Filing of Negotiated Agreements

Dear Ms. Sims:

We are in receipt of your letter dated April 14, 2000 regarding the filing of negotiated agreements for non-certificated entities. You are correct that Rule 25-24.805(a) of the Florida Administrative Code and our orders require that an entity become certificated before providing alternative local exchange telecommunications service. We also understand from your letter that BellSouth filled orders from two entities that this Commission initiated show cause proceedings for apparent violations of Rule 25-24.805 F.A.C. Although in these instances we believe that BellSouth holds the responsibility for ensuring that orders for non-certificated entities are not filled, we believe that BellSouth's caution in deciding to hold filings for non-certificated entities until they obtain certification is appropriate.

You also state in your letter that BellSouth had earlier been advised by the Commission staff that all parties to an agreement should use their names as they appear on their Florida Certificate (or anticipated certificated name) and that the cover letter submitted with the agreement should have the Florida Certificated name. Since BellSouth will now be holding filings until it has proof that the entity is certificated, we trust that BellSouth will ensure that all agreements and cover letters will have the parties' Florida Certificated names.

Sincerely,

A handwritten signature in black ink, appearing to read "Walter D'Haeseleer".

Walter D'Haeseleer  
Director, Division of Telecommunications