

ORIGINAL

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August 15, 2001

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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 Rebuttal Testimony of Cynthia Cox, 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 (k1)

Enclosures

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

10021-01 thru 10025-01

APP \_\_\_\_\_  
CAF \_\_\_\_\_  
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**CERTIFICATE OF SERVICE**  
**Docket No. 001305-TP**

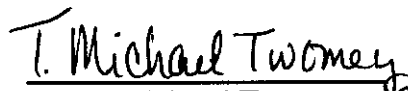
I HEREBY CERTIFY that a true and correct copy of the foregoing was served via

Federal Express this 15th day of August, 2001 to the following:

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T. Michael Twomey (KA)

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BELLSOUTH TELECOMMUNICATIONS, INC.  
REBUTTAL TESTIMONY OF CYNTHIA K. COX  
BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION  
DOCKET NO. 001305-TP  
AUGUST 15, 2001

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

A. My name is Cynthia K. Cox. 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 EDUCATIONAL BACKGROUND AND EXPERIENCE IN THE TELECOMMUNICATIONS INDUSTRY.

A. I graduated from the University of Cincinnati in 1981, with a Bachelor of Business Administration degree in Finance. I obtained a Master of Science degree in Quantitative Economics from the Georgia Institute of Technology in 1984. I then joined Southern Bell in the Rates and Tariffs organization with the responsibility for demand analysis. In 1985, my responsibilities expanded to include administration of selected rates and tariffs, including preparation of tariff filings. In 1989, I accepted an assignment in the North Carolina

1 regulatory office where I was BellSouth's primary liaison with the North  
2 Carolina Utilities Commission Staff and the Public Staff. In 1993, I moved to  
3 BellSouth's Governmental Affairs department in Washington D.C. While in  
4 this office, I worked with national organizations of state and local legislators,  
5 NARUC, the Federal Communications Commission ("FCC") and selected  
6 House delegations from the BellSouth region. In February 2000, I was  
7 appointed Senior Director for State Regulatory.

8

9 Q. HAVE YOU PREVIOUSLY FILED TESTIMONY IN THIS PROCEEDING?

10

11 A. No. However, due to scheduling conflicts, I am adopting all of the testimony  
12 that John Ruscilli has pre-filed in this proceeding. Throughout my rebuttal  
13 testimony, when referring to the pre-filed direct testimony, I will refer to it as  
14 my direct testimony.

15

16 Q. HAVE YOU TESTIFIED IN OTHER ARBITRATION PROCEEDINGS IN  
17 BELLSOUTH'S REGION?

18

19 A. Yes. As BellSouth's policy witness in other arbitration proceedings I have  
20 testified before various state commissions, including this Commission on the  
21 some of same issues that are being addressed in this proceeding.

22

23 Q. WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY?

24

25

1 A. The purpose of my rebuttal testimony is to respond to portions of the testimony  
2 filed on behalf of Supra Telecommunications and Information Systems, Inc.  
3 (“Supra”) witnesses Mr. Olukayode A. Ramos, Mr. David Nilson, and Ms.  
4 Carol Bentley filed with the Florida Public Service Commission  
5 (“Commission”) on July 30, 2000.

6  
7 Q. DO YOU HAVE ANY GENERAL COMMENTS REGARDING THE  
8 TESTIMONY FILED BY SUPRA’S WITNESSES?

9  
10 A. Yes. Throughout their testimony, Supra witnesses Mr. Nilson and Mr. Ramos  
11 ask the Commission to order the inclusion of liquidated damages provisions as  
12 the means to provide incentives for BellSouth’s compliance with the  
13 Commission’s rules and orders. Although I am not a lawyer, it is my  
14 understanding that the Commission does not have the authority to take such  
15 action absent BellSouth’s concurrence. As the Commission is aware, state law  
16 and Commission procedures are available, and are appropriate, to address any  
17 breach of contract situation should it arise. Furthermore, the Commission is  
18 actively addressing the issue of penalties associated with the level of  
19 performance BellSouth provides to ALECs. The outcome of Docket No.  
20 000121-TP will appropriately address Supra’s concerns in these areas.

21  
22 Q. ARE THERE FPSC DECISIONS FROM OTHER PROCEEDINGS THAT  
23 ARE RELEVANT TO SEVERAL OF THE ISSUES RAISED BY SUPRA?

24  
25

1 A. Yes. As the Commission is aware, several of the “unresolved” issues that  
2 Supra included in its response to BellSouth’s Petition for Arbitration are  
3 identical to the issues contained in the arbitration proceedings between  
4 BellSouth and AT&T and BellSouth and MCI/WorldCom, Docket Nos.  
5 000731-TP and 000649-TP, respectively. Since the time that Supra included  
6 these issues in its arbitration proceeding, the Commission has either issued its  
7 Order resolving the issue or BellSouth and AT&T or MCI/WorldCom have  
8 settled the issue outside of the arbitration proceeding. As such, for issues 1,  
9 11A, 11B, 63, 21, 22, 23, 24, 29, 31, 44, 52 and 59 discussed in my testimony,  
10 BellSouth has offered Supra the same language consistent with the  
11 Commission’s order or the language agreed to in the settlement of the issue  
12 with AT&T and/or MCI/WorldCom. Given these circumstances, BellSouth  
13 believes that Supra should be satisfied with the options that BellSouth has  
14 offered and such issues should be resolved.

15  
16 ***Issue 1: What are the appropriate fora for the submission of disputes under the new***  
17 ***agreement?***

18  
19 Q. ON PAGE 67, MR. RAMOS CONTENDS THAT SINCE “COMMERCIAL  
20 ARBITRATORS HAVE THE ABILITY TO ASSESS DAMAGES” AND  
21 “THE COMMISSION DOES NOT”, BELLSOUTH WOULD HAVE AN  
22 INCENTIVE TO COMPLY WITH THE PROVISIONS OF THE  
23 INTERCONNECTION AGREEMENT. DO YOU AGREE?

24  
25

1 A. No. Supra seems to imply that the only way to get BellSouth to comply with  
2 the provisions of the interconnection agreement is through damages that could  
3 be assessed by commercial arbitrators. Contrary to Mr. Ramos' claims,  
4 BellSouth fully intends to comply with the terms of the interconnection  
5 agreement regardless of whether or not it would be subject to claims for  
6 damages.

7  
8 As I stated in my direct testimony, BellSouth's experience with commercial  
9 arbitration has proven that the process is an impractical, time-consuming and  
10 costly way to resolve interconnection disputes. Our experience shows that it is  
11 difficult to find neutral commercial arbitrators that are sufficiently experienced  
12 in the telecommunications industry so that a decision can be made  
13 expeditiously without having to train the arbitrator on the very basics of the  
14 industry.

15  
16 As such, the Commission should reach the same conclusion as it did in its June  
17 28, 2001 Order in the BellSouth and AT&T arbitration proceeding. In its  
18 Order, the Commission found "that third party arbitration is neither speedy nor  
19 inexpensive. Moreover nothing in the law gives us explicit authority to require  
20 third party arbitration. Consequently, we find that this Commission shall  
21 resolve disputes under the Interconnection Agreement." (Order No. PSC-01-  
22 1402-FOF-TP at page 105). The Commission and its staff are clearly more  
23 capable to handle disputes between telecommunications carriers than are  
24 commercial arbitrators.

25

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

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

6

7 Q. IN ADDRESSING SUPRA'S POSITION ON THESE TWO ISSUES, MR.  
8 RAMOS ASKS THE COMMISSION TO REQUIRE BELL SOUTH TO  
9 PROVISION SERVICES TO AN ALEC, WHETHER CERTIFICATED OR  
10 NOT. IS THIS APPROPRIATE?

11

12 A. No. Mr. Ramos appears to ignore the fact that the Commission has expressly  
13 concurred in the appropriateness of BellSouth's position to hold  
14 interconnection agreement filings for non-certificated entities until they obtain  
15 certification. (See Exhibit JAR-2 attached to my direct testimony). Supra has  
16 presented no reason for the Commission to reach a different conclusion in this  
17 proceeding. As I discussed in my direct testimony, it is unclear to BellSouth  
18 why Supra holds this position, considering that Supra is certificated as an  
19 ALEC in Florida.

20

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

23

24 Q. IN RESPONSE TO THIS ISSUE, MR. NILSON CITES VARIOUS  
25 PARAGRAPHS FROM THE FCC'S UNE REMAND ORDER, THE FCC'S



1 LOCAL COMPETITION ORDER AND THE FCC'S *CALLS* ORDER. DO  
2 THESE ORDERS SUPPORT SUPRA'S POSITION ON THIS ISSUE?

3

4 A. No. It appears that Mr. Nilson does not understand which costs are recovered  
5 through the rates Supra pays BellSouth for the UNEs it purchases. Mr. Nilson  
6 apparently believes that the cost-based UNE rates approved by this  
7 Commission somehow override any recovery mechanism established by the  
8 FCC for the recovery of interstate costs. The UNE rates charged to Supra do  
9 not compensate BellSouth for the interstate-allocated costs of the subscriber  
10 loops. As such, the FCC has authorized end user line charges be assessed to  
11 recover the interstate-allocated cost portion of the local loop and for the cost of  
12 local number portability implementation. The FCC specified that BellSouth  
13 can assess these end-user line charges on CLECs.

14

15 Q. HAS THE COMMISSION RECENTLY ADDRESSED THIS ISSUE IN  
16 ANOTHER PROCEEDING?

17

18 A. Yes. Since the filing of my direct testimony, the Commission has issued its  
19 Order regarding this same issue in an arbitration complaint proceeding between  
20 BellSouth and Supra in Docket No. 001097-TP. In its Order, the Commission  
21 found "that BellSouth appropriately billed Supra for EUCLs." (*See* Order No.  
22 PSC-01-1585-FOF-TP issued July 31, 2001 at page 7). As reflected in Exhibit  
23 JAR-1 attached to my direct testimony, the contract language that BellSouth  
24 proposes for the new agreement with Supra is consistent with the contract  
25 language at issue in Docket No. 001097-TP. As such, the Commission should

1 reach the same conclusion in this proceeding and require Supra to pay end user  
2 line charges.

3

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

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

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

10

11 Q. IN ADDRESSING THESE ISSUES, MS BENTLEY APPEARS TO ARGUE  
12 THAT SUPRA SHOULD BE ALLOWED TO WITHHOLD PAYMENT OF  
13 UNDISPUTED CHARGES BILLED BY BELLSOUTH, AND AVOID  
14 DISCONNECTION, WHILE BELLSOUTH SHOULD NEVER BE  
15 ALLOWED TO WITHHOLD PAYMENT TO SUPRA. PLEASE  
16 COMMENT.

17

18 A. It appears that Supra wants to “have its cake and eat it too”. The language  
19 BellSouth proposes would enable both parties to withhold payment of  
20 appropriately disputed charges. BellSouth contends that the parties should pay  
21 undisputed charges on a timely basis, regardless of the amount of any disputed  
22 charges. Allowing one party to withhold payment of all charges, not just those  
23 that are in dispute, would enable that party to “game” the billing system to  
24 avoid paying bills.

25

1 Q. PLEASE RESPOND TO MS. BENTLEY'S CONTENTION ON PAGE 14,  
2 LINE 18, THAT BELLSOUTH'S PROPOSED LANGUAGE WILL GIVE  
3 BELLSOUTH THE ABILITY TO "TAKE WHATEVER ACTION IT  
4 DESIRES WHEN IT SO DESIRES."

5  
6 A. BellSouth's proposed language clearly states that BellSouth could disconnect  
7 for nonpayment of *undisputed* amounts. Furthermore, BellSouth's position is  
8 consistent with the Commission's recent decision in the BellSouth/WorldCom  
9 Arbitration proceeding in Docket No. 000649-TP. In its Order, the  
10 Commission found that "BellSouth is within its rights to deny service to  
11 customers that fail to pay undisputed amounts within reasonable time frames.  
12 Therefore, absent a good faith billing dispute, if payment of account is not  
13 received in the applicable time frame, BellSouth shall be permitted to  
14 disconnect service to WorldCom for nonpayment." (Order No. PSC-01-0824-  
15 FOF-TP at pages 155-156). BellSouth must be able to deny service in order to  
16 obtain payment for services rendered and/or prevent additional past due  
17 charges from accruing. It would not be a reasonable business practice for  
18 BellSouth to operate "on faith" that an ALEC will pay its bills. Indeed, a  
19 business could not remain viable if it were obligated to continue to provide  
20 service to customers who refuse to pay lawful charges.

21  
22 As I stated in my direct testimony, BellSouth must also consider that the terms  
23 and conditions of any agreement it reaches with one ALEC are subject to being  
24 adopted by another ALEC. The FCC's Rule 51.809 requires that, subject to  
25 certain restrictions, BellSouth must, "make available without unreasonable

1 delay to any requesting telecommunications carrier any individual  
2 interconnection, service, or network element arrangement contained in any  
3 agreement to which it is a party that is approved by a state commission  
4 pursuant to section 252 of the 1996 Act, upon the same rates, terms, and  
5 conditions as those provided in the agreement.” This “pick and choose”  
6 requirement makes it imperative that each executed interconnection agreement  
7 includes language that addresses disconnection of 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. ON PAGE 20 LINES 7-16, MR. NILSON ATTEMPTS TO DISCUSS  
19 “BELLSOUTH’S VIEW” OF THIS ISSUE. IS HIS UNDERSTANDING OF  
20 BELLSOUTH’S POSITION CORRECT?

21

22 A. No. As I discussed in my direct testimony, this issue is basically a legal matter  
23 and, while I am not an attorney, a plain reading of Section 271 of the Act  
24 reveals that BellSouth is prohibited from providing interLATA facilities or  
25 services to Supra or any other customer. Neither BellSouth nor its affiliates

1 are allowed to provide services that cross LATA boundaries prior to receiving  
2 authorization from the Federal Communications Commission (“FCC”) to do  
3 so, pursuant to the requirements of Section 271 of the Act. Specifically,  
4 Section 271(a) states:

5

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

9

10 The only interLATA services that BellSouth can provide without FCC  
11 approval are out-of-region services, and incidental services. The transport  
12 services Supra is requesting do not fit either of these exceptions. Supra  
13 erroneously contends that BellSouth should provide Supra with DS1 interoffice  
14 transport facilities between BellSouth central offices located in different  
15 LATAs because interoffice transport is an unbundled network element  
16 (“UNE”). Although the DS1 facilities that Supra is requesting are UNEs,  
17 BellSouth is still prohibited by law from providing those elements across  
18 LATA boundaries. Section 271(a) of the Act provides no qualification of the  
19 nature of the service, whether retail or wholesale, in the phrase “interLATA  
20 services”.

21

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

1 Q. IN RESPONSE TO THIS ISSUE, MR. NILSON CLAIMS (PAGES 25-33)  
2 THAT SUPRA SHOULD BE COMPENSATED FOR THE COST TO  
3 SUPRA TO TERMINATE CALLS ON BEHALF OF BELLSOUTH.  
4 PLEASE RESPOND.

5

6 A. BellSouth agrees that Supra should be compensated for the cost it incurs in  
7 terminating calls and in essence that is exactly what BellSouth's has proposed.  
8 Since BellSouth does not charge Supra the end office switching rates when a  
9 BellSouth customer places a local call to a Supra end user, and Supra does not  
10 have its own network, Supra incurs no cost in terminating that call. Thus, it is  
11 inappropriate for Supra to receive any additional compensation for costs it does  
12 not incur.

13

14 Q. WHAT IS THE NET IMPACT ON THE PARTIES OF BELLSOUTH'S  
15 PROPOSAL VERSUS SUPRA'S PROPOSAL?

16

17 A. From an administrative standpoint, BellSouth's proposal is more efficient and  
18 cost effective for both parties. Under BellSouth's proposal, both parties avoid  
19 the expenses associated with billing the other party for the same amounts of  
20 money. Under Supra's proposal, BellSouth would incur the expense of billing  
21 Supra for end office switching, and Supra would incur the expense of billing  
22 BellSouth for reciprocal compensation that is equal to the end office switching  
23 amount that BellSouth billed Supra. This back and forth billing is totally  
24 unnecessary and is avoided under BellSouth's proposal.

25

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

3

4 Q. IN RESPONSE TO THIS ISSUE, MR. RAMOS CONTENDS (PAGE 71)  
5 THAT BELLSOUTH SHOULD BE OBLIGATED TO PROVIDE SUPRA  
6 WITH ANY REQUESTED SERVICES EVEN IF THE RATES, TERMS  
7 AND CONDITIONS FOR SUCH SERVICES HAVE NOT BEEN  
8 DETERMINED. PLEASE RESPOND.

9

10 A. Supra's position is nonsensical. It is ludicrous for Supra to contend that  
11 BellSouth must provide Supra with services, items or elements without  
12 compensation when those services, items or elements are not in Supra's  
13 Interconnection Agreement. In order to incorporate new or different terms,  
14 conditions or rates into the parties Agreement, it is imperative that an  
15 Amendment be executed. When an ALEC notifies BellSouth that it wishes to  
16 add something to or modify something in its Agreement, BellSouth negotiates  
17 an Amendment with that ALEC if the agreement has not expired. Not only is  
18 this BellSouth's practice, but the Act requires that BellSouth and ALECs  
19 operate pursuant to filed and approved interconnection agreements.  
20 Furthermore, this Commission's recent Order in the generic UNE cost  
21 proceeding appears to confirm BellSouth's position regarding the requirement  
22 for amendments to agreements (Order No. 01-1181-FOF-TP issued May 25,  
23 2001). At page 473, the Commission states "Therefore, upon consideration,  
24 we find that it is appropriate for the rates to become effective when the  
25 interconnection agreements are amended to reflect the approved UNE rates and

1 the amended agreement is approved by us.” Given this fact, there will never be  
2 a case where BellSouth provides a service to Supra that is not part of its  
3 Interconnection Agreement. To do otherwise as Supra requests, and not  
4 include all of the services that BellSouth provides to Supra in its  
5 Interconnection Agreement would circumvent the “pick and choose”  
6 opportunity of other ALECs. Additionally, if BellSouth did provide services to  
7 Supra not covered by the agreement, there would be no language to turn to in  
8 cases of a dispute over what was provided or how it was provided.

9

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

13

14 Q. ON PAGE 78, MR. RAMOS CLAIMS THAT THE NONRECURRING  
15 RATES FOR THE MIGRATION OF EXISTING BELLSOUTH  
16 CUSTOMERS TO AN ALEC THAT WERE ESTABLISHED BY THE  
17 COMMISSION IN ITS 1998 ORDER SHOULD BE INCLUDED IN THE  
18 AGREEMENT. IS THIS APPROPRIATE?

19

20 A. Absolutely not. The rates referenced by Mr. Ramos are outdated and have  
21 been replaced with new Commission-approved cost-based rates. The  
22 Commission established cost-based rates for migrating tariffed services to  
23 UNEs in Order No. PSC-01-0824-FOF-TP issued May 25, 2001. The  
24 Commission should reject Supra’s request to incorporate any rates other than  
25 those recently established by this Commission.



1 *Issue 21: What does “currently combines” mean as that phrase is used in 47 C.F.R.*  
2 *§ 51.315(b)?*

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

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

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

11

12 Q. ON PAGES 36-37, MR. NILSON ARGUES AT LENGTH THAT THE  
13 COMMISSION, IN ITS RECENT ARBITRATION DECISIONS, FAILED TO  
14 DISTINGUISH BETWEEN “CURRENTLY COMBINES” AND  
15 “CURRENTLY COMBINED”. SHOULD THIS ARGUMENT CAUSE THE  
16 COMMISSION TO REVERSE ITS PREVIOUS DECISIONS ON THESE  
17 ISSUES?

18

19 A. No. This Commission has heard this issue argued at length in the Intermedia,  
20 AT&T, WorldCom and Sprint arbitration proceedings, and has ruled  
21 consistently that BellSouth is only obligated to provide combinations to  
22 ALECs at cost-based rates for those combinations that are, in fact, already  
23 combined and physically connected in its network at the time a requesting  
24 carrier places an order. Further, in its UNE Remand Order the FCC expressly

25

1 declined to interpret “currently combines” in the manner Supra is suggesting.  
2 The Eighth Circuit Court has also ruled consistent with the rulings of this  
3 Commission and with BellSouth’s position. Whether one uses the term  
4 “currently combines” or “currently combined”, does not change the  
5 Commission’s decision. Nothing that Supra has presented warrants the  
6 Commission to change its previous position on these issues, which is that  
7 BellSouth is only obligated to provide combinations to Supra at cost-based  
8 rates for those combinations that are, in fact, already combined and physically  
9 connected in its network at the time a requesting carrier places an order.

10

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

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

18

19 Q. ON PAGE 84, MR. NILSON CLAIMS THAT BELLSOUTH HAS NOT  
20 PROVEN THAT BELLSOUTH MAKES ENHANCED EXTENDED LOOPS  
21 (“EELS”) AVAILABLE AT TELRIC RATES. PLEASE RESPOND.

22

23 A. Apparently, Mr. Nilson has not seen the Commission’s May 25, 2001 Order,  
24 which established cost-based rates for new EELs. As I discussed in my direct  
25 testimony, the Commission should reach a conclusion consistent with its

1 previous ruling. ALECs are not impaired without access to unbundled local  
2 circuit switching when serving customers with four or more lines in Density  
3 Zone 1 in the top 50 MSAs. When a particular customer has four or more lines  
4 within a specific geographic area, even if those lines are spread over multiple  
5 locations, BellSouth is not required to provide unbundled local circuit  
6 switching to ALECs, so long as the other criteria for FCC Rule 51.319(c)(2)  
7 are met. Consequently, ALECs are not entitled to unbundled local circuit  
8 switching in these areas for any of an end user's lines when the end user has  
9 four or more lines in the relevant geographic area, as long as BellSouth will  
10 provide the ALEC with EELs at UNE rates. Issue 31 is the exact same issue  
11 raised by AT&T in its arbitration with BellSouth, and the Commission should  
12 render the same decision it did there.

13

14 ***Issue 33: What are the appropriate means for BellSouth to provide unbundled local***  
15 ***loops for provision of DSL service when such loops are provisioned on digital loop***  
16 ***carrier?***

17

18 Q. ON PAGES 95-96, MR. NILSON CONTENDS THAT BELLSOUTH  
19 SHOULD BE REQUIRED TO PROVIDE SUPRA THE ABILITY TO  
20 ORDER PACKET SWITCHING AS A UNE AT TELRIC RATES  
21 "WHEREVER BELLSOUTH DEPLOYS LOCAL SWITCHING OVER  
22 DLCfacilities." PLEASE RESPOND.

23

24 A. It appears that Mr. Nilson believes that BellSouth is obligated to provide  
25 unbundled packet switching at cost-based rates solely because Supra chooses to

1 utilize UNE-P as its market entry strategy. His comment on page 95 that the  
2 “FCC did not adequately address the needs of carriers who choose their  
3 entrance strategy to be solely UNE Combination based” is without merit and  
4 misplaced. Supra’s use of UNE-P and its ability to offer DSL service are not  
5 dependent upon Supra’s ability to order a “packet switching UNE”. Supra has  
6 the ability to provide DSL service to its end users served by UNE-P.

7  
8 ALECs are not precluded from offering DSL service where Digital Loop  
9 Carrier (“DLC”) is deployed. When BellSouth provides ADSL service where  
10 DLC is deployed, BellSouth must locate Digital Subscriber Line Access  
11 Multiplexer (“DSLAM”) equipment at the DLC remote terminal (“RT”).  
12 Through the collocation process, currently offered by BellSouth, an ALEC that  
13 wants to provide xDSL where DLC is deployed also can collocate DSLAM  
14 equipment at BellSouth DLC RT sites. This allows the ALEC to provide the  
15 high speed data access in the same manner as BellSouth. BellSouth will  
16 attempt in good faith to accommodate any ALEC requesting such collocation  
17 access at a BellSouth DLC RT site that contains a BellSouth DSLAM. In the  
18 very unlikely event that BellSouth cannot accommodate collocation at a  
19 particular RT, where a BellSouth DSLAM is located, BellSouth will unbundle  
20 the BellSouth packet switching functionality at that RT in accordance with  
21 FCC requirements.

22  
23 In its UNE Remand Order, the FCC expressly declined “to unbundle specific  
24 packet switching technologies incumbent LECs may have deployed in their  
25 networks.” (§ 311). Consistent with FCC Rule 51.319(c)(5) regarding packet

1 switching, BellSouth is only required to provide unbundled packet switching  
2 when all of the following conditions have been satisfied:

3

- 4 1) The incumbent LEC has deployed digital loop carrier systems,  
5 including but not limited to, integrated digital carrier or universal  
6 digital loop carrier systems; or has deployed any other system in which  
7 fiber optic facilities replace copper facilities in the distribution section  
8 (e.g. end office to remote terminal, pedestal or environmentally  
9 controlled vault);
- 10 2) There are no spare copper loops capable of supporting the x DSL  
11 services the requesting carrier seeks to offer;
- 12 3) The incumbent LEC has not permitted a requesting carrier to deploy a  
13 Digital Subscriber Line Access Multiplexer at the remote terminal,  
14 pedestal or environmentally controlled vault or other interconnection  
15 point, nor has the requesting carrier obtained a virtual collocation  
16 arrangement at these subloop interconnection points as defined under  
17 Section 51.319(b); and,
- 18 4) The incumbent LEC has deployed packet switching capability for its  
19 own use.

20

21 Because all of the above conditions have not been satisfied, BellSouth is not  
22 obligated to unbundled packet switching.

23

24

25

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

4

5 Q. ON PAGE 83, MR. RAMOS CLAIMS THAT SUPRA SHOULD BE ABLE  
6 TO ADOPT A *SINGLE* RATE, TERM OR CONDITION FROM OTHER  
7 FILED AND APPROVED INTERCONNECTION AGREEMENTS. PLEASE  
8 COMMENT.

9

10 A. Consistent with the Supreme Court's decision, BellSouth can require Supra or  
11 any other ALEC to accept all terms that are legitimately related to the terms  
12 that Supra desires to adopt for itself. (See *AT&T Corp. Iowa Utilities Board*,  
13 525 U.S. 366, 396, 119 S. Ct. 721, 738 (1999)). If Supra's position is  
14 adopted, Supra could likely choose to incorporate into its agreement the lowest  
15 rates and the most favorable terms for individual elements from the entire  
16 universe of approved interconnection agreements without any obligation to  
17 include all of the terms that are legitimately related to the single element being  
18 adopted.

19

20 In addition, as discussed under Issue 16, when Supra selects such terms, it  
21 should be required to amend its interconnection agreement to effectuate its  
22 adoption of these additional terms. The parties' relationship is governed by the  
23 contract, and changes to the relationship should properly be affected only by  
24 amending the contract.

25

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

10

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

14

15 Q. ON PAGE 111, MR. NILSON STATES THAT BELLSOUTH SHOULD BE  
16 REQUIRED TO ALLOW SUPRA ACCESS TO THE SPECTRUM ON A  
17 LOCAL LOOP FOR VOICE AND DATA WHEN SUPRA PURCHASES A  
18 LOOP/PORT COMBINATION. DOES BELLSOUTH'S POSITION ON  
19 THIS ISSUE PREVENT SUPRA'S ACCESS TO THE HIGH FREQUENCY  
20 PORTION OF THE LOOP?

21

22 A. No. When Supra purchases UNE-P from BellSouth, it becomes the owner of  
23 all the features, function and capabilities that the switch and loop is capable of  
24 providing. This includes calling features and capabilities, carrier pre-  
25 subscription, the ability to bill switched access charges associated with this

1 service, and access to both the high and low frequency spectrums of the loop.

2

3 Q. MR. NILSON STATES ON PAGE 113 THAT BELL SOUTH SHOULD BE  
4 REQUIRED TO CONTINUE TO PROVIDE DSL SERVICES FOR  
5 CUSTOMERS THAT SWITCH TO SUPRA'S VOICE SERVICES. IS THIS  
6 APPROPRIATE?

7

8 A. No. BellSouth has no obligation to provide its DSL service on a line where it  
9 is not the voice provider. The FCC addressed this issue in its line sharing order  
10 and clearly stated that incumbent carriers are not required to provide line  
11 sharing to requesting carriers that are purchasing UNE-P combinations. Again,  
12 in the Line Sharing Reconsideration Order, the FCC stated, "We deny,  
13 however, AT&T's request that the Commission clarify that incumbent LECs  
14 must continue to provide xDSL service in the event customers choose to obtain  
15 service from a competing carrier on the same line because we find that the Line  
16 Sharing Order contained no such requirement." *See In Re: Deployment of*  
17 *Wireline Services Offering Advanced Telecommunications Capability*, Order  
18 No. FCC 01-26 in CC Docket Nos. 98-147, 96-98 (Release January 19, 2001)  
19 at ¶26. The FCC then expressly stated that the *Line Sharing Order* "does not  
20 require the [LECs] provide xDSL service when they are no longer the voice  
21 provider." *Id.*

22

23 In addition, this Commission has previously ruled "While we acknowledge  
24 WorldCom's concern regarding the status of the DSL service over a shared  
25 loop when WorldCom wins the voice service from BellSouth, we believe the



1 FCC addressed this situation in its Line Sharing Order.” The FCC states, “We  
2 note that in the event that the customer terminates its incumbent LEC provided  
3 voice service, for whatever reason, the competitive data LEC is required to  
4 purchase the full stand-alone loop network element if it wishes to continue  
5 providing xDSL service.” FCC 98-147 and 96-98 ¶ 72. We believe the FCC  
6 requires BellSouth to provide line sharing only over loops where BellSouth is  
7 the voice provider. If WorldCom purchases the UNE-P, WorldCom becomes  
8 the voice provider over that loop/port combination. Therefore, BellSouth is no  
9 longer required to provide line sharing over that loop/port combination.” (See  
10 Order No. PSC-01-0824-FOF-TP issued March 20, 2001 at page 51). Contrary  
11 to Mr. Ramos’ position, the Commission should again find, consistent with the  
12 FCC and its previous rulings, that BellSouth is not obligated to provide DSL  
13 services for customers who switch to Supra’s voice services. Nothing  
14 precludes Supra from entering into a line splitting arrangement with another  
15 carrier to provide DSL services to Supra’s voice customers. The language that  
16 BellSouth has proposed for inclusion in the Agreement is consistent with the  
17 FCC’s rules and this Commission’s decisions.

18

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

23

24 Q. ON PAGE 92, MR. RAMOS CONTENDS THAT BELLSOUTH IS  
25 ATTEMPTING TO “DISCRIMINATE AGAINST SUPRA BY DENYING IT

1 THE RIGHT TO RESELL SERVICES INCLUDED IN BELLSOUTH'S  
2 FEDERAL AND STATE ACCESS TARIFFS, EVEN WHEN BELLSOUTH  
3 OFFERS THOSE SERVICES TO END USERS. IS HE CORRECT?

4  
5 A. No. As I stated in my direct testimony BellSouth will offer Supra, in its  
6 capacity as an ALEC, a resale discount on all retail telecommunications  
7 services BellSouth provides to end-user customers, regardless of the tariff in  
8 which the service is contained. BellSouth's position is consistent with the  
9 Commission's decision in the BellSouth/WorldCom Arbitration Order issued  
10 March 30, 2001. (See Order No. PSC-01-0824-FOF-TP at page 28). Contract  
11 language to resolve this issue is reflected in Exhibit JAR-1 attached to my  
12 direct testimony.

13

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

17

18 Q. ON PAGE 97, MR. RAMOS STATES "IF BELLSOUTH IS ABLE TO  
19 EXPEDITE ORDERS FOR ITS CUTOMERS, IT MUST ALSO DO SO FOR  
20 SUPRA'S CUSTOMERS." IS BELLSOUTH REFUSING TO EXPEDITE  
21 ORDERS UPON REQUEST FROM SUPRA?

22

23 A. Absolutely not. BellSouth has proposed language to Supra that enables Supra  
24 to request expedited due dates. It appears, however, that Supra does not want  
25 to pay for the costs incurred by BellSouth to expedite due dates. Just as

1 BellSouth charges its end users for expedited due dates, it is appropriate for  
2 Supra to pay these same expedite charges. BellSouth is under no obligation to  
3 provide service on an expedited basis. However, if BellSouth does so at  
4 Supra's request, Supra should be required to pay expedite charges when  
5 BellSouth expedites a service request and completes the order before the  
6 standard interval expires. As I mentioned in my direct testimony, in an effort to  
7 settle this issue, BellSouth offered Supra the following language in BellSouth's  
8 January 31, 2001 filing with the Commission:

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

18

19 Q. DOES THIS CONCLUDE YOUR TESTIMONY?

20

21 A. Yes.

22 #404500