

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for Arbitration of the Interconnection Agreement Between BellSouth Telecommunications, Inc. and Supra Telecommunications and Information Systems, Inc., pursuant to Section 252(b) of the Telecommunications Act of 1996	Docket No. 001305-TP
Complaint of Supra Telecommunications and Information Systems Regarding BellSouth's Bad Faith Negotiation Tactics	Filed: August 28, 2001

SUPRA'S MOTION TO COMPEL PRODUCTION OF DOCUMENTS REQUESTED IN ITS SECOND REQUEST FOR PRODUCTION, OVERRULE BELLSOUTH'S OBJECTIONS AND FOR A CONTINUANCE

Supra Telecommunications and Information Systems, Inc. ("Supra"), by and through its undersigned counsel, pursuant to Order Establishing Procedure (Order No. PSC-01-1401-PCO-TP dated June 28, 2001), Supplemental Order Establishing Procedure (Order No. PSC-01-1475-PCO-TP dated July 13, 2001), Rules 28-106.204 and 28-106.206 of the Florida Administrative Code as well as Florida Rules of Civil Procedure 1.350 and 1.380(d), hereby respectfully requests that that the Commission enter an Order (i) Compelling BellSouth to respond fully and completely to Supra's Second Request for Production of Documents dated August 6, 2001; (ii) Overruling BellSouth's late Objections; (iii) continuing both the deadline for discovery and the hearing in this matter; and (iv) finding that BellSouth has willfully violated the Procedural Orders issued in this matter. In support of this Motion, Supra states as follows:

ARGUMENT

1. *On June 28, 2001, the Commission issued its Order Establishing Procedure (Order No. PSC-01-1401-PCO-TP) and on July 13, 2001 issued its*

Supplemental Order Establishing Procedure (Order No. PSC-01-1475-PCO-TP). The Procedural Order issued on June 28, 2001 states in part that:

This Order is issued pursuant to the authority granted by Rule 28-106.211, *Florida Administrative Code*, which provides that the presiding officer before whom a case is pending may issue any orders necessary to effectuate discovery, prevent delay, and promote the just, speedy, and inexpensive determination of all aspects of the case.

When discovery requests are served and the respondent intends to object to or ask for clarification of the discovery request, the objection or request for clarification shall be made within ten days of service of the discovery request. This procedure is intended to reduce delay in resolving discovery disputes.

2. On August 6, 2001, Supra served upon BellSouth its Second Request for Production of Documents. According to the Procedural Order, any objections to the Discovery Requests were required to be made by August 16, 2001, and BellSouth's responses were due to be served on or before August 26, 2001. Service of the Second Request for Production of Documents was made on August 8, 2001, as evidenced by the Federal Express Receipt signed by B. Rhodes, a true copy of which is attached hereto as **Exhibit 1**. Based on the fact that BellSouth never filed its objections to Supra's discovery requests, Supra had confirmed the depositions of the following BellSouth witnesses: Cynthia K. Cox, Jerry Kephart, Clyde Green, Jerry Hendrix and Patrick Finlen during September 12 through the 14.¹ This schedule would have allowed Supra a reasonable amount of time to review the responses and documents for purposes of preparation for its depositions of BellSouth's witnesses.

3. At or about 11:29 p.m. on August 23, 2001, BellSouth faxed its objections to Supra's Second Request for Production of Documents in willful violation of the

Procedural Orders. BellSouth filed its objections 17 days after Supra filed its Request, and BellSouth inconspicuously alleged at footnote 1 that “BellSouth did not receive a copy [of Supra’s second request for production] until Monday, August 20, 2001 by fax.”²

4. BellSouth waived any objection to the production of the documents requested in Supra’s Second Request for Production because its response was untimely. *See Knowlton v. Teltrust Phones, Inc.*, 189 F.3d 1177, 1181 (10th Cir. 1999); *In re United States of America*, 864 F.2d 1153, 1156 (5th Cir. 1989) (“We readily agree with the district court that as a general rule, when a party fails to object timely to interrogatories, production requests, or other discovery efforts, objections thereto are waived.”); *Maloney v. Universalcom, Inc.*, 2001 WL 8589, *1 (E.D. La. 2001) (“Plaintiff objected to these requests, but his objections were waived because they were not timely asserted. [citations omitted]. Because plaintiff waived his objections, he must provide supplemental written responses, without objection, and make all responsive documents available”); *see also Poulos v. Naas Foods, Inc.*, 959 F.2d 69, 74 (7th Cir. 1992) (plaintiff had “already waived any objection to production by failing to object when disclosure was due”); *Marx v. Kelly, Hart & Hallman, P.C.*, 929 F.2d 8, 10, 12-13 (1st Cir. 1991) (order that objections to requests for production were waived by failure to make timely objections affirmed on appeal); *Krewson v. City of Quincy*, 120 F.R.D. 6, 7 (D. Mass. 1988); *Perry v. Golub*, 74 F.R.D. 360, 362- 63 (N.D. Ala. 1976). Therefore,

¹ Note that Cynthia K. Cox has been substituted for John Ruscilli and that Ronald Pate’s deposition date has not been agreed to as of the date of this Motion.

² Interestingly, this will not be the first instance that BellSouth would make this type of claim. Please see page 6, paragraph E of Staff Recommendations filed on April 8, 1999, in CC Docket No. 981832-TP. The Commission should apply the same reasoning that was applied in that Staff Recommendation to this instant and summarily reject BellSouth’s claim for what it is, a delay tactic and excuse for its late filing. Additionally, the document, which had been made publicly available on the FPSC’s Web site since August 7, 2001, was mailed to BellSouth and the FPSC on the same date and at the same time.

BellSouth is required to produce all documents responsive to Supra's request number two because it has waived any objections it might have had.

5. Notwithstanding that BellSouth's Objections are untimely, they are baseless, general, boilerplate and have no application to Supra's request for production of documents. Paragraphs 1 through 10 of BellSouth's objections recite BellSouth's boilerplate language, all of which are repetitive, nonsensical and patently inapplicable to the requests tendered by Supra on August 6, 2001. More importantly, with regard to the individual requests, BellSouth often made baseless objections or provided incomplete or non-responsive answers. BellSouth also set forth other specific objections on page 3 and 4 of its response that are baseless, and solely intended to delay the discovery process and prejudice Supra's ability to use the documents in the approaching depositions. As BellSouth stated, "The Commission should not permit [BellSouth] (or any party) to flout the Commission's discovery rules and Orders...It would be extremely unfair and prejudicial to [Supra] to allow [BellSouth's] failure to respond to discovery to deprive [Supra] the opportunity to review and analyze [BellSouth's] discovery responses [so that it can amend its direct testimony] or [depose BellSouth's] witnesses...Consequently, the Commission should suspend all pending deadlines indefinitely, including continuing the hearing of this matter, until [BellSouth] provides full responses to the Discovery Requests."³

6. Additionally, BellSouth's objections to Supra's discovery request are without foundation in law, reason, or any order of this Commission. At Paragraphs 4, 5, 8, 9 and 10 of its untimely objections, BellSouth objected to Supra's discovery requests as "vague,

³ See BellSouth's Motion to Compel Discovery and For A Continuance filed on August 22, 2001 in CC Docket No. 010740-TP.

ambiguous, overly broad, imprecise...”; “not relevant to the subject matter of this action”; “unduly burdensome..”; and “trade secrets.” BellSouth’s objections are insufficient as a matter of law. See *Josephs v. Harris Corp.*, 677 F.2d 985, 992 (3d Cir. 1982) (“mere statement by a party that the interrogatory [or request for production] was ‘overly broad, burdensome, oppressive and irrelevant’ is not adequate to voice a successful objection”); *St. Paul Reinsurance Co., Ltd. v. Commercial Financial Corp.*, 198 F.R.D. 508, 511-512 (N.D. Iowa 2000) (“As demonstrated, the litany of plaintiffs’ boilerplate objections are unsubstantiated because they fail to show specifically how each discovery request is burdensome, oppressive or any of the other grounds upon which they base their objections by submitting affidavits or offering evidence revealing the nature of the objections.”); *Swift v. First USA Bank*, 1999 WL 1212561, *7 (N.D. Ill. 1999) (“We also note that First USA’s objections are essentially the same baseless, often abused litany (i.e. overly broad, unduly burdensome, not reasonably calculated to lead to the discovery of admissible evidence, vague and ambiguous, etc ...), the result of which is merely to delay discovery Further aggravating an already insufficient response, First USA fails to cite a basis for their boilerplate objection, in further violation of the Federal Rules of Civil Procedure We therefore order it to produce the documents to Swift”); *Oleson v. Kmart Corp.*, 175 F.R.D. 560, 565 (D. Kan. 1997) (“The litany of overly burdensome, oppressive, and irrelevant does not alone constitute a successful objection to a discovery request.”); *Momah v. Albert Einstein Medical Center*, 164 F.R.D. 412, 417 (E.D. Pa. 1996) (“Mere recitation of the familiar litany that an interrogatory or a document production request is ‘overly broad, burdensome, oppressive and irrelevant’ will not suffice.”). Therefore, because BellSouth’s intonation of the litany, “overbroad,

unduly burdensome, ... and not likely to lead to the discovery of admissible evidence” is insufficient as a matter of law, BellSouth should be ordered to produce the requested documents.

7. Supra’s discovery requests are relevant to the issues in this cause and fall within the parameters set forth in Rule 1.280(b)(1), Florida Rules of Civil Procedure. This Commission and the parties have established a list of specific issues to be arbitrated, including Issue A. As explained below, Supra’s discovery requests are well within the scope of and are reasonably calculated to lead to the discovery of admissible evidence as the information sought thereby pertains to the specific issues listed in the Commission’s Order Establishing Procedure, the testimonies filed by BellSouth, the bad faith negotiation tactics espoused by BellSouth, the lack of parity enjoyed between Supra and BellSouth, and Supra’s requirement for **clarity and parity** in the parties’ Follow-On Agreement. Additionally, BellSouth is aware of the importance of Supra’s discovery request. Please see Supra’s Status and Complaint Regarding BellSouth’s Bad Faith Negotiations Tactics filed on June 18, 2001; Supra’s Motion to Stay Arbitration filed on July 11, 2001; and Direct Testimonies of Olukayode A. Ramos, David Nilson and Carol Bentley filed on July 27, 2001.

REQUESTS FOR PRODUCTION

REQUEST 7. Please produce all BellSouth training manuals used to train its CSRs or other personnel who work for BellSouth’s retail division and all other operations on the systems identified in Supra’s 2nd Set of Interrogatories Item Nos. 13 and 20.

REQUEST 12. All documents which evidence or reflect BellSouth’s policies and procedures regarding Supra’s PONs which sit in clarification and/or pending status for 10 days or more.

REQUEST 13. All documents which evidence or reflect any existing DS1 interoffice transport facilities between BellSouth offices across any interLATA boundaries.

REQUEST 14. Provide a process flow from start to finish for the following operations: (a) when a telephone subscriber calls an ALEC for new service and the ALEC CSR will have to use either LENS or paper LSR; (b) when a telephone subscriber calls BellSouth retail office for a new residential line; (c) when a telephone subscriber calls BellSouth retail office for a new business line (d) when a telephone subscriber calls BellSouth retail office for a new PRI/T1. The process flow should describe all the databases that the order will flow through before being finally provisioned.

REQUEST 16. Provide all maps, diagrams, videos and documents detailing BellSouth's network architecture in the State of Florida.

BellSouth's Objections: Requests 7, 12, 13, 14, and 16 of the Second Request for Production are the same or substantially the same, as requests Supra included in its First Request for Production of Documents. BellSouth filed several objections to those requests that it incorporates herein by reference.

Supra's Response: Supra is unsure whether BellSouth's objections address requests similarly numbered in Supra's First Request for Production, or whether it addresses the entirety of Supra's Second Production Request. In either case, BellSouth's objections fail to set forth a legally recognizable objection. Supra's requests in its two aforementioned pleadings are not nearly the same. BellSouth's objections are baseless and only intend to delay the discovery process. Additionally, the "several objections to those [Supra's First Request for Production of Documents] requests that it incorporates herein by reference" do not relate to the Procedural Orders issued on June 28, 2001 and July 13, 2001.

Request No. 7 is relevant to Issues 38, 46, 47, 51, 60, 61 and 62. This request is highly

relevant as it goes to the heart of this arbitration proceeding. The documents sought herein address BellSouth's flow through, OSS, and training with respect to BellSouth's own OSS. Documents that can only serve to establish Supra's position that BellSouth is not offering to provide parity and is further failing to offer to provide non-discriminatory access to its OSS.

Request No. 12 is relevant to Issues 38, 46, 47, 51, 60, 61 and 62. This request is highly relevant as it goes to the heart of arbitration proceeding as well as directly to Issue 61. The documents sought herein address BellSouth's policies and procedures regarding dropped and/or purged LSRs as well as the general parity concerns. These documents can only serve to establish Supra's position that BellSouth is not offering to provide parity and is further failing to provide non-discriminatory access to its OSS.

Request No. 13 is relevant to Issue 12. This request is highly relevant as it goes directly to the gist of this Issue. The documents sought herein seek to identify any existing DS1 interoffice transport facilities between BellSouth's offices across any interLATA boundaries. These documents can only serve to establish Supra's position that BellSouth already provides such to itself and, thus, should provide same to Supra.

Request No. 14 is relevant to Issues 38, 46, 47, 51, 60, 61 and 62. This request is highly relevant as it goes to the heart of this arbitration proceeding. The documents sought herein address the flow through between ALEC and BellSouth OSS. Documents that can only serve to establish Supra's position that BellSouth is not offering to provide parity and is further failing to provide non-discriminatory access to its OSS.

Request No. 16 is relevant to Issues 38, 46, 47, 51, 60, 61 and 62. This request is highly relevant as it goes to the parity concerns in this arbitration as well as to the provision of service to Supra's end-users in the state of Florida. The documents sought herein address BellSouth's Network Architecture throughout the state of Florida. These documents will allow Supra to know the capabilities of every BellSouth central office and allow Supra to collocate equipment that will allow Supra to best serve the needs of its customers with respect to each such central office. Furthermore, these documents will also serve to establish Supra's position that BellSouth is not offering to provide parity.

REQUEST 1. Please produce all documents that are identified in BellSouth's Response to Supra's 1st Set of Interrogatories.

REQUEST 2. For each BellSouth Central Office identified in Supra Exhibit 1 attached hereto, please produce:

- (a) the network configuration,
- (b) the security configuration,
- (c) the software configuration,
- (d) the switch type and equipment manufacturer's responsibilities, including, but not limited to, (i) written requirements; (ii) system documentation; (iii) software validation; (iv) emergency procedures and (v) emergency equipment availability,
- (e) the list of equipment and their uses,
- (f) the schematic drawing,
- (g) the network design,

- (h) the Network Operations forum references,
- (i) the provisioning information and guidelines for all services and elements that the underlying equipment identified in (d) above are capable of providing,
- (j) the SS7 and other critical service protocols,
- (k) the E911 configuration,
- (l) the route set congestion messages, parameters and gateway screening,
- (m) the diversity route identifications and verification,
- (n) the performance service level agreements with other carriers,
- (o) the contact/escalation procedures,
- (p) the maintenance procedures,
- (q) the in-depth root cause analysis of failures,
- (r) the alternate routing rearrangements,
- (s) the explicit forecasting information regarding direct traffic and subtending/transiting traffic,
- (t) the network transition (i) growth/consolidation of network elements; (ii) NPA splits; and (iii) major rehomeing, rearrangement plans,
- (u) the tones and announcements for unsuccessful call attempts,
- (v) the format of billing records data exchange including (i) statement on compliance on EMR standards or otherwise and (ii) differences between BellSouth's billing format and EMR standards,
- (w) the service level agreements,

- (x) identify protocol elements in terms of the seven layer model OSI protocol stack,
- (y) the administration configuration, and/or
- (z) any other changes made to any other configuration, for the period of June 1, 2000 through the present date,
- (aa) the number of customers that are served by BellSouth based on the following class of service: (i) residential; (ii) business; (iii) PBX trunks; (iv) interexchange; and (v) CPE Coin, and
- (bb) the number of NPA NXX used and unused.

In regards to the equipment identified in 2(e) above, please produce documents evidencing:

- (a) equipment installation practices and procedures, and
- (b) maintenance practices and procedures.

REQUEST 3. For each of the services contained in BellSouth's General Services Tariff, Private Line Services Tariff, Access Services Tariff, and Florida Price List identified in Supra Exhibit 2 attached hereto, please produce documents evidencing:

- (a) the network elements that are included on the service order, created by BellSouth's retail operations, to create each and every service, and
- (b) the USOCs with rates for all the elements identified in (a) above.

REQUEST 4. For each of the UNEs identified in Supra Exhibit 3 attached hereto, please produce documents evidencing:

- (a) the USOCs with rates,

- (b) the provisioning systems that Supra will use to submit orders for these elements, and
- (c) the applicable TELRIC cost studies.

REQUEST 5. In regards to BellSouth's "winback" and "full circle" programs, or any other similar program, please produce documents evidencing:

- (a) the program details,
- (b) the program training manual of its customer service representatives ("CSRs") and other employees working at the residential, small business and repair centers,
- (c) the number of lines that BellSouth has won back from ALECs as well as Supra, stated monthly, for the years 1999, 2000 and up to and including June 2001,
- (d) the relationship between the program and BellSouth's Authorized Partners,
- (e) the source of CPNI used for making outbound and taking inbound calls,
- (f) the BellSouth agency or department responsible for outbound and inbound calls, and
- (g) the script used for outbound and inbound calls.
- (h) the names, addresses of any independent agents, consultants, persons, or associations used in the programs. Please include all contracts, correspondence, report, and expenses associated with such agents, consultants, persons or associations.

REQUEST 6. Please produce the minutes of all meetings of the UNE-P Project Team consisting of Sandra Harris, Carla Lockerd, Frank Eberle, Jayne Sullivan, Debbie Williams, William Gullas, and/or any other person(s) from 1999 to date.

REQUEST 8. Please produce all contracts and documents that evidence the relationship between BellSouth Long Distance and BellSouth in BellSouth's entire service region.

REQUEST 9. Please produce all documents, contracts and evidence that will establish the:

- a. Relationship between BellSouth and BSCN;
- b. Types of services and elements contained in the BSCN;
- c. Rates and terms by which the services and elements; and
- d. Design of the BSCN.

REQUEST 10. Please produce all performance reports, including employee evaluations, commissioned by BellSouth on its LCSC operations from October 1999 to date.

REQUEST 11. All documents and reports, produced by any source, which evidence, include, reflect or relate to performance measurements that BellSouth provides or is required to provide by law or its own internal procedures for the five OSS functions set forth by the Telecommunications Act and the FCC.

REQUEST 15. All documents which evidence or reflect the informal investigation by the FCC into potential violations by BellSouth Corporation ("BellSouth Corp.") of section 251(c)(1) of the Communications Act of 1934, as amended, and section 51.301 of the Commission's rules, in connection with BellSouth Corp.'s alleged failure to negotiate in good faith the terms and conditions of an amendment to an interconnection agreement with Covad Communications Company relating to BellSouth Corp.'s provision of unbundled copper loops in nine states.

REQUEST 17. All documents which evidence or reflect “Initiation of Show Cause Proceeding Against BellSouth Telecommunications, Inc. for Violation of Service Standards” FPSC Docket No. 991378-TL

REQUEST 18. All documents which evidence BellSouth’s spectrum management procedures and policies as well policies and procedures that BellSouth uses to determine which services can be deployed.

BellSouth’s Objection: In accordance with the Order Establishing Procedure in this docket, “requests for production of documents, including all subparts, shall be limited to 150.” Order No. PSC-01-1401-PCO-TP at page 2. The number of requests, including subparts, contained in Supra’s First Request for Production of Documents dated January 18, 2001, exceeded on hundred and fifty (150). The limit can be modified by the Prehearing Officer, but Supra has neither requested nor received such a modification. Therefore, BellSouth is not required to respond to any additional requests for production of documents in this case.

Supra’s Response: By any stretch of the imagination, Supra does not understand why and how Supra’s First Request for Production has any relationship with Supra’s Second Requests for Production as claimed by BellSouth. Supra’s first and second production requests are entirely separate documents as the first production request was made before the procedural orders. Furthermore, BellSouth had not produced a single document in response to any of Supra’s requests, First or Second. In any event, BellSouth’s Objections are inexcusably untimely, BellSouth must respond to Supra’s requests.

Request No. 2 is relevant to Issues 38, 46, 47, 51, 60, 61 and 62. As set forth in its Response to BellSouth’s objection to Request No. 16 above, which response is

incorporated herein by reference, this Request goes directly to the parity concerns in this arbitration as well as to the provision of service to Supra's end-users in the state of Florida. The documents sought herein address BellSouth's Network Architecture throughout the state of Florida. These documents will allow Supra to know the capabilities of every BellSouth central office and allow Supra to collocate equipment that will allow Supra to best serve the needs of its customers with respect to each such central office. Furthermore, these documents will also serve to establish Supra's position that BellSouth is not providing parity. As Supra has customers in these central offices and as Supra leases the UNEs from BellSouth, Supra must know what facilities and equipment are available in those central offices to not only serve its customers appropriately, but also to design new-innovative products for those customers.

Request No. 3 is relevant to Issues 38, 46, 47, 51, 60, 61 and 62. This request is highly relevant as it goes to the heart of this arbitration proceeding. The documents sought herein address BellSouth's services, UNEs, rates, service orders and USOCs. Documents that can only serve to establish Supra's position that BellSouth is not offering to provide parity and is further failing to provide non-discriminatory access to services, UNEs, and OSS. It is Supra's position that it should be able to provide all telecommunications services that BellSouth currently provides for a fee. Additionally, BellSouth has claimed that one of the reasons why Supra could not order the UNEs in its contract is that "BellSouth did not "productionize" the UNE combinations in the amended AT&T agreement and the amended Supra agreement", it is Supra's intention to include the UNEs, rates and USOCs so identified in the parties' follow-on agreement in order to

ensure parity and clarity.

Request No. 4 is relevant to Issues 18(b), 38, 46, 47, 51, 60, 61 and 62. This request is highly relevant as it goes to the heart of this arbitration proceeding as well as to appropriate rates for network elements. The documents sought herein address Services, UNEs, OSS, USOCs, and TELRIC cost studies. Documents that can only serve to establish Supra's position that BellSouth is not offering to provide parity and is further failing to provide non-discriminatory access to services, UNEs as well as OSS. BellSouth cannot be allowed to hide behind this baseless objection as the documents obtained from this request can only be used to show a substantial disparity in both time and manner between ALEC and BellSouth OSS. Since BellSouth has claimed that one of the reasons why Supra could not order the UNEs in its contract is that "BellSouth did not "productionize" the UNE combinations in the amended AT&T agreement and the amended Supra agreement", it is Supra's intention to include the UNEs, rates and USOCs so identified in the parties' follow-on agreement in order to ensure parity and clarity.

Request No. 5 is relevant to Issues 38, 46, 47, 51, 60, 61 and 62. This request is highly relevant as it goes to the parity issue in this arbitration. The documents sought herein address BellSouth's Winback campaigns, campaigns that are only possible as a result of BellSouth's failure to provide parity and non-discriminatory access to its OSS, as non-parity results in slower and inferior service and customer dissatisfaction. BellSouth cannot be allowed to hide behind this baseless objection as the documents obtained from

this request can only be used to show a substantial disparity in time, manner, and quality between ALEC and BellSouth OSS.

Request No. 6 is relevant to Issues is relevant to Issues 26, 28, 29, 31, 32A, 33, 34, 40, 46, 47, 48, 49, 51, 52, 53, 55, 61, 62 and 63. Also see Supra's Motion to Compel and Overrule Objections to Supra's First Set of Interrogatories filed on August 23, 2001, in particular, Interrogatory No. 6.. Although this discovery request incorporates relevant information regarding the issues identified herein, Supra will address a few issues to establish its right to obtain the information requested. The UNE-P Project team was created by BellSouth in order to fulfill its obligations under the FCC UNE Remand Order. Also see page 4, line 17 to page 6, line 7 of the Direct Testimony of Ms. Becky Wellman, filed on Behalf of IDS in CC Docket No. 010740-TP dated July 23, 2001. Supra needs to have all relevant information about the UNE-P project team, some Follow-On Agreement. BellSouth has also claimed that one of the reasons why Supra could not order the UNEs in its contract is that "BellSouth did not "productionize" the UNE combinations in the amended AT&T agreement and the amended Supra agreement."

Request No. 8 is relevant to Issues 38, 46, 47, 51, 60, 61 and 62. This request is highly relevant as it goes to the parity issue in this arbitration. The documents sought herein address BellSouth's contractual relationship with its affiliated company. Documents that can only serve to establish Supra's position that BellSouth is not providing parity to Supra at the same level if not greater than that with which it provides service to itself and

its affiliates. It is Supra's intention to include language from this discovery request in the parties' follow-on agreement.

Request No. 9 is relevant to Issues 38, 46, 47, 51, 60, 61 and 62. As set forth in its Response to BellSouth's objection to Request No. 8 above, which response is incorporated herein by reference, this Request is directly related to BellSouth's willful and intentional noncompliance with the parity requirements of the Act. It is Supra's intention to include language from this discovery request in the parties' follow-on agreement.

Request No. 10 is relevant to Issues 38, 46, 47, 51, 60, 61 and 62. This request is highly relevant as it goes to the parity issue in this arbitration. The documents sought herein address BellSouth's performance reports for its LCSC, an unnecessary clog in the flow through of ALEC LSRs to BellSouth's SOCS. Documents that can only serve to establish Supra's position that BellSouth is not providing parity, understaffing of the LCSC operations and is further failing to offer to provide non-discriminatory access to its OSS. Please also see Initiation of Show Cause Against BellSouth Telecommunications, Inc. for Violation of Service Standards, CC Docket NO. 991378-TL.

Request No. 11 is relevant to Issues 38, 46, 47, 51, 60, 61 and 62. This request is highly relevant as it goes to the parity issue in this arbitration. The documents sought herein address BellSouth's performance measurements with respect to the five functions of OSS and BellSouth' obligations regarding same under the Act. Documents that can only serve

to establish Supra's position that BellSouth is not providing parity and non-discriminatory access to its OSS. Please also see Initiation of Show Cause Against BellSouth Telecommunications, Inc. for Violation of Service Standards, CC Docket NO. 991378-TL.

Request No. 15 is relevant to Issues A, 65 and 66. This request is highly relevant to Issue A and the good faith efforts, or lack thereof, elicited by BellSouth in connection with the negotiation of the parties' Follow-On Agreement. More specifically, the documents sought herein goes to establish a pattern of discriminatory behavior that BellSouth employs toward ALECs, including, but not necessarily limited to, Covad Communications Company ("Covad") and Supra. Significantly, and as noted above, the FCC has found BellSouth in violation of 251(c) of the Act for bad faith negotiations with Covad. On or about November 2, 2000, BellSouth was fined \$750,000 by the FCC for the very act it has committed against Supra. See In the Matter of BellSouth Corporation, File No. EB-900-IH-0134 Acct. No. X32080035 (Adopted October 27, 2000). Copy attached as **Supra Exhibit OAR 26**. According to the FCC:

In this Order, we terminate an informal investigation into potential violations by BellSouth Corporation (BellSouth) of section 251(c)(1) of the Communications Act of 1934, as amended, and section 51.301 of the Commission's rules, in connection with BellSouth's alleged failure to negotiate in good faith the terms and conditions of an amendment to an interconnection agreement with Covad Communications Company (Covad) relating to BellSouth's provision of unbundled copper loops in nine states. ¶1

In the Matter of BellSouth Corporation, File No. EB-900-IH-0134 Acct. No. X32080035 Order (Adopted October 27, 2000).

The significance of BellSouth's bad faith negotiations with Covad was also addressed on

page 6 of Supra's Motion to Dismiss and Exhibit C attached thereto dated January 29, 2001 and in ¶14 of BellSouth's Response in Opposition to Supra's Motion to Dismiss filed on February 6, 2001. Evidence of BellSouth's bad faith and otherwise non-compliant behavior towards ALECs supports Supra's need for the liability and specific performance clauses proposed to the Commission and further supports Supra's argument that without strong incentives, BellSouth will continue to employ bad faith practices upon Supra and other ALECs attempting to compete against BellSouth if adequate safeguards are not put in place. As the non-compliant attitude and conduct of BellSouth is directly at issue in the instant matter, the documents sought by this request are not only relevant, but necessary for Supra to support the claims it has asserted in connection with the issues identified herein.

Request No. 17 is relevant to Issues A, 65 and 66. As set forth in its Response to BellSouth's objection to Request No. 15 above, which response is incorporated herein by reference, this Request is directly related to BellSouth's discriminatory and non-compliant behavior toward ALECs and Supra. As the non-compliant attitude and conduct of BellSouth is directly at issue in the instant matter, the documents sought by this request are not only relevant, but necessary for Supra to support the claims it has asserted in connection with the issues identified herein.

Request No. 18 is relevant to Issues 33 and 49. According to the FCC:

We conclude that the incumbent LEC must provide competitive LECs with nondiscriminatory access to the incumbent LEC's spectrum management procedures and policies. The procedures and policies that the incumbent LEC uses in determining which services can be deployed

must be equally available to competitive LECs intending to provide service in an area. We believe that competitive LECs need nondiscriminatory access to such information so that the competitive LEC can independently and expeditiously determine what services and technologies it can deploy within the incumbent LEC's territory. ¶72

See FCC In the Matters of Deployment of Wireline Services Offering Advanced Telecommunications Capability in CC Docket No. 98-147 (Adopted on March 18, 1999).

BellSouth's additional Objection to REQUEST 2: BellSouth objects to Request 2' as overly broad, unduly burdensome, and not calculated to lead to the discovery of documents relevant to the issues in this proceedings.

Supra's Response: BellSouth's objection is disingenuous boilerplate objections that have no basis in these proceeding (see case law, supra). As set forth in its Response to BellSouth's objection to Request No. 2 above, which Response is incorporated herein by reference, this request relates specifically to Issues 38, 46, 47, 51, 60, 61 and 62. In addition, as the Follow-On Agreement as well as Supra's position on applicable Issues in this Arbitration Proceeding will include provisions and/or language for collocation, UNEs and UNE Combos, Rates, and other Elements, this request is relevant.

BellSouth's additional Objections to REQUESTS 5, 6, 8, 15, 17 and 18: "BellSouth objects to Requests 5, 6, 8, 10, 15, 17 and 18 because those requests seek documents that are nor relevant to any of the issues in this proceeding."

Supra's Response: Again, BellSouth's objections are disingenuous boilerplate objections that have no basis in this proceeding (see case law, supra). As set forth in its Responses to BellSouth's objections to Requests Nos. 5, 6, 8, 15, 17 and 18 above, which

Responses are incorporated herein by reference, Requests Nos. 5, 8 and 10 relate specifically to Issues 38, 46, 47, 51, 60, 61 and 62; Request No. 6 relates specifically to Issues 26, 28, 29, 31, 32A, 33, 34, 40, 46, 47, 48, 49, 51, 52, 53, 55, 61, 62 and 63; Requests Nos. 15 and 17 relate specifically to Issues A, 65 and 66; and Request No. 18 relates specifically to Issues 33 and 49. In addition, as the Follow-On Agreement as well as Supra's position on applicable Issues in this Arbitration Proceeding will include provisions and/or language regarding Parity, UNEs and UNE Combos, Spectrum Management, Dispute Resolution, and Limitation of Liability, these requests are relevant.

Wherefore, Supra respectfully requests that this Honorable Commission enter an Order:

- A. Compelling BellSouth to respond fully and completely to Supra's Second Request for Production of Documents dated August 6, 2001;
- B. Overruling BellSouth's late Objections;
- C. Continuing both the deadline for discovery and the hearing in this matter;
- D. Finding that BellSouth has willfully violated the Procedural Orders issued in this matter; and
- E. For all such further relief as is deemed equitable and just.

SUPRA TELECOMMUNICATIONS
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2620 S.W. 27th Avenue
Miami, Florida 33133
Telephone: (305) 476-4248
Facsimile: (305) 443-9516

By: Brian Chaiken
BRIAN CHAIKEN

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was served via Hand Delivery this 28th day of August 2001 to the following:

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

Nancy B. White, Esq.
C/O Nancy Sims
BellSouth Telecommunications, Inc.
150 S. Monroe Street
Tallahassee, FL 32301

Via Federal Express this 28th day of August 2001 to the following:

T. Michael Twomey, Esq.
Suite 4300, BellSouth Center
675 West Peachtree Street, N.E.
Atlanta, GA 30375
(404) 335-0710

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August 21, 2001

JIMMY GONZELEZ
(305) 443-9516

Dear JIMMY GONZELEZ:

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Delivery Time: 09:18 AM

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Ship Date: August 07, 2001

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CISCO SYSTEMS INC
500 NORTHRIDGE RD STE
700
ATLANTA, GA 303503318
US

Recipient: MIKE TWOMEY ESQ
BELLSOUTH
TELECOMMUNICATIONS IN
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EXHIBIT 1