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August 30, 2001

Mrs. Blanca S. Bayó
Director, Division of the Commission
Clerk and Administrative Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Re: Docket No. 001305-TP (Supra-BellSouth Arbitration)

Dear Mrs. Bayó:

Enclosed is an original and fifteen copies of BellSouth Telecommunications, Inc.'s Opposition to Supra's Motion to Compel which we ask that you file in the above-referenced matter.

A copy of this letter is enclosed. Please mark it to indicate that the original was filed and return the copy to me. Copies have been served to the parties shown on the attached Certificate of Service.

Sincerely,

T. Michael Twomey
T. Michael Twomey (KA)

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

DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

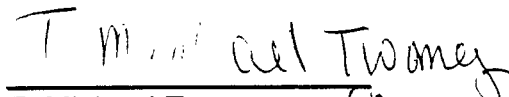
**CERTIFICATE OF SERVICE
Docket No. 001305-TP**

I HEREBY CERTIFY that a true and correct copy of the foregoing was served via
Hand-Delivery* and/or Federal Express this 30th day of August, 2001 to the following:

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T. Michael Twomey (CA)

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for Arbitration of the Interconnection)	
Agreement Between BellSouth Telecommunications,)	Docket No. 001305-TP
Inc. and Supra Telecommunications & Information)	
System, Inc., Pursuant to Section 252(b) of the)	Filed: August 30, 2001
Telecommunications Act of 1996.)	
_____)	

BELLSOUTH'S OPPOSITION TO MOTION TO COMPEL

BellSouth Telecommunications, Inc. ("BellSouth") submits its Response to Supra Telecommunications & Information Systems, Inc.'s Motion to Compel. For the reasons discussed in detail below, the Florida Public Service Commission ("Commission") should deny Supra's Motion.

BACKGROUND

In the Supplemental Order Establishing Procedure, PSC-01-1401-PCO-TP, dated July 13, 2001, the Commission identified the issues that are the subject of this docket. On August 10, 2001, Supra served BellSouth with its First Set of Interrogatories upon BellSouth. Pursuant to PSC-01-1401-PCO-TP, BellSouth filed its objections to Supra's discovery on August 10, 2001. These objections consisted of general objections as well as specific objections to Interrogatory Nos. 1, 2, 4, 5, 6, 7, 8, 9, 11, 12, and 13. BellSouth's responses to Supra's discovery are being filed today under separate cover and include response to those interrogatories to which no objection was made and limited responses to certain interrogatories to which a limited objection was made. Supra's Motion is without merit and should be denied.

DISCUSSION

Supra's Motion assumes, incorrectly, that BellSouth will provide no responses to the Interrogatories served on August 10, 2001. Although BellSouth submitted appropriate objections to certain interrogatories, either in whole or in part, on August 20, 2001 (i.e., with ten days as required by the procedural order in this case), BellSouth is submitting its responses to the interrogatories today (i.e., within twenty days as required by the procedural order). Therefore, to the extent that Supra seeks to compel responses to interrogatories to which BellSouth has not objected, either in whole or in part, that motion is premature and unnecessary.

The following discussion addresses the issue of whether BellSouth's specific objections to the discovery should be overruled, as requested by Supra. For the reasons set forth below, Supra's motion should be denied.

INTERROGATORIES 1 & 2

BellSouth objected to these Interrogatories on the grounds that they were overly broad and unduly burdensome. Subject to that objection, however, BellSouth agreed to identify "certain employees with knowledge about, and certain documents relating to, the issues that are in dispute in this proceeding." See BellSouth's Objections at 3. Indeed, in its timely responses filed today, BellSouth has identified certain BellSouth employees with knowledge of the facts related to the issues remaining in this docket.

Supra's interrogatories are overly broad for two reasons. First, the scope of this proceeding is limited to the remaining issues in dispute and BellSouth has agreed to identify employees and documents that relate to those issues. Interrogatory Nos. 1 and 2, however, are not limited to the remaining issues in this proceeding, and instead, encompass issues or facts that are not the subject of the pending arbitration. In particular,

Supra seeks identification of “any person” who has knowledge or information about “any facts” alleged in the Petition for Arbitration, and certain other pleadings BellSouth filed in this docket. These pleadings include statements that do not in any way relate to the issues that remain in dispute in this proceeding. Therefore, interrogatories seeking the identification of employees with “any” knowledge of these irrelevant facts cannot be considered interrogatories that are reasonably calculated to lead to the discovery of relevant admissible evidence.

Second, BellSouth has thousands of employees. Dozens of these employees may have some knowledge of one or more facts that have been alleged in the various pleadings. Identification of all such employees would be an extremely burdensome, but more importantly, an unnecessary task. BellSouth has identified those employees with the most knowledge about the issues that remain in dispute in this proceeding. Those employees are available for deposition by Supra. In fact, depositions of many of these employees have already been scheduled. The issues presented to this Commission concern the appropriate terms and conditions that the parties will include in their new interconnection agreement. The purpose of discovery in this proceeding is to assist the parties and the Commission in resolving those issues. Discovery should not be used to create unnecessary work and expense for either party.

INTERROGATORY 4

In this request, Supra seeks a description of the Product Commercialization Unit (“PCU”) and the names of employees in that department. Supra claims that Interrogatory 4 is relevant to numerous issues. None of the issues identified by Supra concerns language about the PCU. Indeed, the majority of the issues identified concern disputes

between the parties about particular contractual obligations will be included in the new follow-on agreement. The past practices and activities of the PCU are not relevant to this Commission's decisions on those issues. The remaining issues are so plainly unrelated to the PCU that the inclusion of those issues in the list is absurd. For example, what possible relevance could the PCU or its employees have to Issue 63 ("Under what circumstances, if any, would BellSouth be permitted to disconnect service to Supra for nonpayment?")?

According to Supra, it plans to "include some language regarding this department in the follow-on agreement." That statement is no basis for permitting the discovery because Supra has not, in fact, proposed language regarding the PCU in the follow-on agreement that is at issue in this proceeding and the time for doing so has passed. Moreover, the reference to whether Supra could order certain UNEs in its existing or prior agreement has nothing to do with the issues in this proceeding. This case is not a complaint case in which the Commission is being asked to adjudicate past facts (aside from Issue A, to which Interrogatory 4 plainly does not relate).

INTERROGATORY 5

Supra's motion to compel a response to this request assumes, incorrectly, that BellSouth will not provide a response. In fact, BellSouth has timely responded to this request today to the extent it had not objected. Supra should review the response. Supra apparently does not challenge BellSouth's objection to producing information related to changes in the law or changes to interconnection agreements (which are a matter of public record). BellSouth stands by those objections.

INTERROGATORY 6

This request seeks information relating to a pleading BellSouth filed in February 6, 2001 in response to Supra's Motion to Dismiss. That motion has already been addressed by the Commission. Moreover, the specific information sought by the request relates to negotiation meetings that occurred prior to May 29, 2001 (the first day of the period related to Issue A). Therefore, the information is not relevant to Issue A. Supra mischaracterizes Issue A as concerning "BellSouth's failure to negotiate, in good faith, the parties' Follow-On Agreement." Motion to Compel at p. 6. Issue A is not that broad. It specifically concerns the conduct of the parties during the period between May 29, 2001, and June 6, 2001. The remainder of Supra's discussion of this interrogatory attempts to raise other allegations of bad faith by BellSouth, all of which are specifically denied. But, more significantly, those allegations are not before the Commission in this docket. Therefore, discovery aimed at trying to prove such allegations is improper and should not be permitted.

INTERROGATORY 7

This requests seeks information related to a statement included in BellSouth's pleading filed on February 6, 2001. Once again, Supra wants to conduct discovery to attempt to dispute BellSouth's version of the facts related to certain matters that Supra has raised in other contexts but that are not at issue in this docket. In other words, the discovery does not seek any information that, if provided, could be used by the parties or the Commission to resolve any of the outstanding issues. Plainly, Supra does not accept the Commission's prior determination that allegations of bad faith will be limited to the time period between May 29, 2001, and June 6, 2001. The discovery plainly seeks

information that is not within the scope of the issues in this docket. BellSouth should not be required to respond to such discovery.

INTERROGATORY 8

With this request, Supra seeks discovery of facts related to negotiations between BellSouth and other ALECs regarding the negotiation of agreements. That request is not relevant to any issue in this docket. The Commission will decide whether BellSouth or Supra engaged in bad faith negotiations during the period between May 29, 2001 and June 6, 2001. The conduct of negotiations between BellSouth and other companies could not possibly be relevant to that issue. Supra cannot prove that BellSouth acted improperly during the period between May 29, 2001 and June 6, 2001 by introducing evidence of negotiations between BellSouth and other carriers. Therefore, the Commission should not require BellSouth to respond to this request.

INTERROGATORY 9

Supra uses its discussion of this request to spout repetitive claims that BellSouth has acted in bad faith with other carriers. BellSouth denies those allegations. But, more to the point of Supra's motion, Supra offers no legitimate reason for the discovery to be permitted. As discussed in BellSouth's immediately preceding response, the information Supra seeks is not relevant to Issue A or any other issue in this proceeding.

INTERROGATORY 11

Supra claims that this request, which seeks a list of "the number of resale access lines, UNE access lines and BellSouth's access lines in the State of Florida for the years 1998, 1999, 2000 and up to and including June 2001" divided into various categories. In its motion, Supra argues that such information "depicts the inability of the ALEC

community to operate as facility-based providers.” While BellSouth strongly disagrees that the information sought would “depict” what Supra claims it will, the more germane discussion concerns the total irrelevance of the information to any of the issues in this docket. While Supra claims that the information “is directly related to BellSouth’s compliance with the Telecommunications Act of 1996” the simple fact is that BellSouth’s general compliance with its obligations in the Telecommunications Act of 1996 is not an issue that the Commission has before it in this proceeding. This docket concerns the specific terms and conditions that will be included in the parties’ new agreement.

INTERROGATORY 12

This request, which seeks the same information set forth in Interrogatory 11 stated in terms of lines “won back” from ALECs, is improper for the reasons set forth above in BellSouth’s discussion of Interrogatory 11. Moreover, this case contains not a single issue that even approaches the issue of “win back” or other marketing programs. The discovery should not be permitted.

INTERROGATORY 13

This docket does not include an issue that raises the question of the process by which a customer may be switched to BellSouth. Moreover, the question is so broad as to be impossible to fully respond to because Supra seeks information related to the transmission of “any information” through “any computer” within BellSouth.

CONCLUSION

For the foregoing reasons, Supra’s Motion to Compel should be denied, in its entirety and the Commission should sustain BellSouth’s objections to the discovery requests that were the subject of Supra’s motion.

Respectfully submitted, this 30th day of August, 2001.

BELLSOUTH TELECOMMUNICATIONS, INC.

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