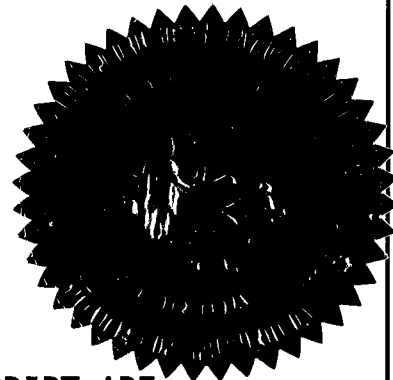


BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 001305-TP

In the Matter of

PETITION BY BELLSOUTH
TELECOMMUNICATIONS, INC. FOR
ARBITRATION OF CERTAIN ISSUES IN
INTERCONNECTION AGREEMENT WITH
SUPRA TELECOMMUNICATIONS AND
INFORMATION SYSTEMS, INC.



ELECTRONIC VERSIONS OF THIS TRANSCRIPT ARE
A CONVENIENCE COPY ONLY AND ARE NOT
THE OFFICIAL TRANSCRIPT OF THE HEARING,
THE .PDF VERSION INCLUDES PREFILED TESTIMONY.

VOLUME 1

Pages 1 through 164

PROCEEDINGS: HEARING

BEFORE: COMMISSIONER LILA A. JABER
COMMISSIONER BRAULIO L. BAEZ
COMMISSIONER MICHAEL A. PALECKI

DATE: Wednesday, September 26, 2001

TIME: Commenced at 9:30 a.m.

PLACE: Betty Easley Conference Center
Room 148
4075 Esplanade Way
Tallahassee, Florida

REPORTED BY: KORETTA E. FLEMING, RPR
Official Commission Reporter

FLORIDA PUBLIC SERVICE COMMISSION DOCUMENT NUMBER-DATE

12591 OCT-4 01

FPSC-COMMISSION CLERK

1 APPEARANCES:

2 NANCY B. WHITE, and MICHAEL TWOMEY, BellSouth
3 Telecommunications, Inc., c/o Nancy Sims, 150 South Monroe
4 Street, Suite 400, Tallahassee, Florida 32301, appearing on
5 behalf of BellSouth Telecommunications, Inc.

6 BRIAN CHAIKEN, PAUL TURNER, ADENET MEDACIER. and
7 DAVID NILSON, 2620 W. 27th Avenue, Miami, Florida 33133.

8 WAYNE KNIGHT, Florida Public Service Commission,
9 Division of Legal Services, 2540 Shumard Oak Boulevard,
10 Tallahassee, Florida 32399-0870, appearing on behalf of the
11 Commission Staff.

12

13

14

15

16

17

18

19

20

21

22

23

24

25

I N D E X

1		
2	OPENING STATEMENTS:	PAGE NO.
3	By Mr. Twomey	16
4	By Mr. Chaiken	20
5		
	WITNESSES	
6	NAME:	
7	JERRY D. HENDRIX	
8	Direct Examination by Mr. Twomey	32
	Prefiled Direct Testimony Inserted	34
9	Prefiled Rebuttal Testimony Inserted	59
	Cross Examination by Mr. Medacier	92
10	Cross Examination by Mr. Knight	139
	Redirect Examination by Mr. Twomey	153
11		
12		
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		

EXHIBITS

NUMBER:		ID.	ADMTD.
1	Supra's Composite Responses to Staff's Interrogatories	15	15
2	Composite of JDH-1 through JDH-20	57	160
3	Composite of JDH-21 through JDH-27	90	160
4	October 5, 1999 Agreement that Adopts the June 10, 1997 Agreement Between AT&T and BellSouth	121	
5	BellSouth's Responses to Supra's First Set of Interrogatories, Item No. 1	154	160
6	BellSouth's Supplemental Response to Supra's Interrogatories 1, 3, 5, 13, 16 and 22	163	163
	CERTIFICATE OF REPORTER		164

1 P R O C E E D I N G S

2 COMMISSIONER JABER: Let's go ahead and get the
3 hearing started, Mr. Knight. Read the Notice, please.

4 MR. KNIGHT: Pursuant to Notice issued August 28th,
5 2001, this time and place have been set for a hearing in Docket
6 Number 001305-TP, Petition by BellSouth Telecommunications,
7 Incorporated for Arbitration of certain issues in
8 Interconnection Agreement with Supra Telecommunications and
9 Information Systems, Incorporated.

10 COMMISSIONER JABER: Let's take appearances.

11 MS. WHITE: Nancy White and Mike Twomey for BellSouth
12 Telecommunications.

13 MR. CHAIKEN: Brian Chaiken, David Nilson, and Paul
14 Turner for Supra Telecommunications.

15 COMMISSIONER JABER: David Nelson?

16 MR. CHAIKEN: Nilson.

17 COMMISSIONER JABER: Nilson?

18 MR. CHAIKEN: N-i-l-s-o-n.

19 COMMISSIONER JABER: Thank you. And, Mr. Turner,
20 what's your first name again?

21 MR. TURNER: Paul.

22 COMMISSIONER JABER: Thank you. Mr. Knight.

23 MR. KNIGHT: Wayne Knight for the Commission and
24 Commission Staff.

25 COMMISSIONER JABER: All right. Mr. Knight, there

1 are preliminary matters?

2 MR. KNIGHT: Yes, there are. We have confidentiality
3 matters first, and the parties on September 19th, 2001, filed a
4 joint request for specified confidential classifications of
5 document number 11706-01, which are portions of the prefiled
6 testimony of Mr. Ramos, Mr. Nilson, Ms. Bentley, and
7 Mr. Zejinilovic, as well as Exhibits OAR-3 through OAR-7,
8 OAR-51, 54, 62, 61, 63, OAR-72, OAR-79 and 80, as well as 81,
9 and numbers 90 through 102, OAR-103 and 104, and DAN-2, DAN-3
10 and -4, CB-1 and CB-2 as well as AZ-2 through AZ-7.

11 The request will be ruled on or --

12 COMMISSIONER JABER: Let me ask you some questions
13 about the joint request. Is it a joint request seeking
14 confidential classification for all of those documents or are
15 the parties in agreement that those documents should be
16 afforded confidential classification?

17 MR. KNIGHT: The parties are in agreement that they
18 should be afforded confidential classification.

19 COMMISSIONER JABER: Ms. White, do you agree with
20 that?

21 MS. WHITE: That's my understanding.

22 COMMISSIONER JABER: Mr. Chaiken?

23 MR. CHAIKEN: Yes, ma'am.

24 COMMISSIONER JABER: Now, I know, Staff, your
25 recommen-- and I apologize. I didn't think about this until

1 this morning or I would have told you, your recommendation is
2 to wait and issue an order after this hearing. Since the
3 parties are in agreement, though, that the information should
4 be afforded confidential classification, is there any real
5 reason not to go ahead and make a ruling today?

6 MR. KNIGHT: No, we could make a ruling at this time.

7 COMMISSIONER JABER: Ms. Keating, you agree with
8 that, it's all right to go ahead and -- does Staff want the
9 opportunity to look at the documents? Is that it?

10 MS. KEATING: I think so, Commissioner, in view of
11 the fact that we are under the public records law, and I don't
12 believe Staff has had a full opportunity to go through every
13 single last one of these. We, of course, would take into
14 account the fact that the parties do agree.

15 COMMISSIONER JABER: All right.

16 MS. KEATING: But we want to be sure we comply with
17 the public records law as well.

18 COMMISSIONER JABER: Okay. Let's do this: We will
19 allow Staff to review the documents and issue an order by the
20 Commission subsequent to this hearing. In the meantime,
21 however, if you intend to use the confidential -- the material,
22 you need to treat it as confidential. It will be afforded
23 temporary confidential classification for purposes of the
24 hearing, and an order will be issued subsequent. And I do
25 apologize, Wayne, I didn't think about asking that until this

1 morning.

2 What's next?

3 MR. KNIGHT: Additional procedural matters, regarding
4 opening statements by the parties, we suggest they be limited
5 to ten minutes per party.

6 COMMISSIONER JABER: All right. The prehearing
7 officer has already established that opening statements will be
8 made, and they will be ten minutes per party.

9 MR. KNIGHT: Okay. There was a -- we would like to
10 combine direct and rebuttal of the witnesses.

11 COMMISSIONER JABER: Any objection to combining
12 direct and rebuttal testimony?

13 MR. CHAIKEN: No, ma'am.

14 COMMISSIONER JABER: Ms. White?

15 MS. WHITE: No. No objection.

16 COMMISSIONER JABER: Okay. Mr. Knight, what's next?

17 MR. KNIGHT: There is a -- there was a request or a
18 notification issued late yesterday for substitution of a
19 witness which Olukayode Ramos would adopt the testimony of
20 Carol Bentley.

21 COMMISSIONER JABER: Mr. Chaiken, is that still
22 correct? You would like to have Mr. Ramos adopt the testimony
23 of Ms. Bentley?

24 MR. CHAIKEN: Yes, ma'am.

25 COMMISSIONER JABER: BellSouth, any objection?

1 MS. WHITE: Well, we understand that Ms. Bentley has
2 resigned from the company, so we have no objection to that. We
3 would ask -- Mr. Twomey and I had divided up the witnesses and
4 I had Ms. Bentley and he had Mr. Ramos, so it's quite unusual
5 for two lawyers to cross one witness, but we would ask that
6 Mr. Twomey be allowed to cross on Mr. Ramos on Mr. Ramos'
7 issues and I be allowed to cross Mr. Ramos on Ms. Bentley's
8 issues.

9 COMMISSIONER JABER: Mr. Chaiken, since this request
10 came in yesterday, I think that BellSouth's request is
11 reasonable.

12 MR. CHAIKEN: I have no objection.

13 COMMISSIONER JABER: Great.

14 MS. WHITE: Thank you.

15 COMMISSIONER JABER: All right. Then, the notice of
16 substitution of witness is acknowledged and/or approved,
17 whatever it is we need to do.

18 Mr. Knight.

19 MR. KNIGHT: Supra also filed a motion to stay
20 pending compliance with the FPSC's orders for discovery.
21 BellSouth filed a -- they actually haven't gotten the response
22 into the record, but they did send us a signed e-mail copy late
23 yesterday.

24 MS. WHITE: Mr. Knight, we just filed it this
25 morning.

1 MR. KNIGHT: Okay, it has been filed.

2 COMMISSIONER JABER: All right. Let me tell ya'll
3 that I have read the Motion for a Stay, I have read BellSouth's
4 opposition to the Motion for a Stay, I have read the discovery
5 that was submitted by Supra, I've read BellSouth's responses to
6 the discovery, I've read everything that I could possibly read
7 on these issues, and I can make a ruling. I don't need to hear
8 from the parties.

9 I want to explain the ruling and what we intend to do
10 going forward. The Motion for a Stay is denied. The orders on
11 discovery issued by the prehearing officer on September 10th
12 and September 13th clearly delineated when discovery was due.
13 I think that those orders extended appropriately, so extended
14 the discovery cut-off period to allow for depositions.
15 BellSouth did file responses to discovery; Supra did not
16 conduct depositions.

17 I think that to the degree there were problems that
18 Supra felt the orders had and a motion for reconsideration
19 could have been filed of each of the orders on discovery, I
20 note that motions for reconsideration were not filed. As
21 stated earlier, I've read everything related to these issues
22 that I could read. Supra's concerns in the Motion for a Stay,
23 frankly, sounded more to me like impeachment sort of concerns
24 or necessary follow-up needs to occur with respect to
25 BellSouth's responses. And in that regard, I'm going to be

1 flexible and allow that sort of cross examination to occur.

2 If you want to follow-up on any of the responses in
3 the discovery, I would encourage you to do that when the
4 witnesses are up on the stand. I intend to be flexible. And
5 BellSouth, if you intend to make objections, I would ask that
6 you consider the fact that I'm telling you I'm going to be
7 flexible and allow for cross examination, an impeachment, and
8 anything else you deem appropriate.

9 Now, Supra, what you need to be ready to do is to
10 show me, if an objection is made, what issue your question goes
11 to. And if we need to take a break during the day so that you
12 could have a clear understanding of what issues are related to
13 those discovery responses, I will again be flexible and allow
14 that to occur, but your motion for a stay is denied.

15 COMMISSIONER JABER: Mr. Knight, what's next?

16 MR. TWOMEY: Commissioner Jaber, I'd just like to say
17 one thing for the record, because I had a statement in my
18 motion regarding one specific request in which I said that we
19 thought we had given a particular document to Supra and that we
20 could not verify that last night by the time we filed it. I
21 have since determined that we did not previously give it to
22 Supra.

23 I don't know to what extent my representation
24 impacted your ruling, but what I have done is I have asked them
25 to give me a copy of that document, I'm going to provide it to

1 Supra this morning. The witness to which that document relates
2 is Mr. Pate, who is our very last witness, so I think it gives
3 them an adequate time to look over that document before they
4 cross him, but I wanted to make sure that I put on the record
5 that we've followed-up on that issue and I'm getting the
6 document to them first thing this morning, and they can talk to
7 Mr. Pate about it, who is the last witness at the hearing.

8 COMMISSIONER JABER: Now, Mr. Twomey, thank you for
9 bringing that to my attention, and we will accommodate that as
10 well. You need to make sure that Supra has that document and
11 if we need to take Mr. Pate up last, even after Supra's case,
12 we will do that. I want you all to get together and figure
13 that out, but I intend to be flexible, all right?

14 MR. CHAIKEN: May I ask when we can expect a written
15 order?

16 COMMISSIONER JABER: A written order -- Ms. Keating,
17 is there a possibility of issuing an order today?

18 MS. KEATING: Yes, Commissioner, we can get an order
19 out on this.

20 MR. CHAIKEN: Thank you.

21 COMMISSIONER JABER: An order will be issued today,
22 Mr. Chaiken. BellSouth has an opportunity to respond. We can
23 revisit the issue tomorrow morning, if we need to.

24 MR. CHAIKEN: Thank you.

25 COMMISSIONER JABER: All right. Let me address the

1 parties before we swear in witnesses and go forward. Was there
2 anything else, Mr. Knight?

3 MR. KNIGHT: Yes. We just had the stipulated
4 exhibits of Staff.

5 COMMISSIONER JABER: Yeah, let's wait on that.
6 Anything else besides that?

7 MR. KNIGHT: No, we just wanted a copy of whatever
8 BellSouth submitted to Supra this morning.

9 COMMISSIONER JABER: Mr. Twomey, you have copies
10 available of the discovery response?

11 MR. TWOMEY: I'm not sure if Mr. Knight's referring
12 to the pleading we filed in opposition or the discovery
13 response. We haven't actually served the discovery responses,
14 that one document yet, but when we get it, we'll make a copy.

15 MR. KNIGHT: Okay.

16 COMMISSIONER JABER: Let me tell you that I note that
17 this hearing is a three-day hearing. In my opinion, that's one
18 day too long. I do intend to be flexible, but I also intend to
19 make sure that both parties are professional in the way they
20 conduct themselves in the next two days or three days, if
21 necessary.

22 I want you to remember the scope of this proceeding.
23 I want you to remember that your goal is to make sure that the
24 Commissioners have all the information and evidence they need
25 to make a ruling in this case, so you could spend the next

1 three days bickering and arguing and interrupting each other,
2 but I have to tell you it is not effective, it is
3 counterproductive.

4 So, I fully expect that you and your witnesses govern
5 yourselves in a manner that is professional. Your witnesses
6 will answer the questions with a yes or no answer first and
7 then you will elaborate -- the witness will elaborate. Your
8 witnesses are directed to answer each question as if the
9 Commissioner was asking the question, so I will take personal
10 offense to any disrespect that the person asking the question
11 receives. It will not matter to me if it's a BellSouth witness
12 or a Supra witness. I want your witnesses to pretend like
13 every question is coming from a Commissioner.

14 Parties will not interrupt each other. You will not
15 interrupt the Commissioners. You will not make unnecessary
16 objections. You will make objections that are completely
17 necessary for the record and to preserve your rights on appeal.
18 Do I make myself clear?

19 MS. WHITE: Yes, ma'am.

20 MR. CHAIKEN: Yes, ma'am.

21 COMMISSIONER JABER: Okay. Mr. Knight, you had
22 exhibits.

23 MR. KNIGHT: Exhibits -- Stipulation 1, we asked the
24 parties if they have any objections to our exhibits and no
25 objections were received, and those are for Staff's

1 interrogatories, our first set of interrogatories and first set
2 of request for production of documents to Supra.

3 COMMISSIONER JABER: All right. Stipulation 1,
4 Supra's response to Staff's first set of interrogatories and
5 Supra's response to Staff's first request for production of
6 documents shall be identified as Exhibit 1, and with no
7 objection shall be admitted into the record.

8 (Exhibit 1 identified and admitted into the record.)

9 COMMISSIONER JABER: Mr. Knight, anything before we
10 swear in witnesses?

11 MR. KNIGHT: No additional matters, Your Honor.

12 COMMISSIONER JABER: All right. Let me ask the
13 witnesses in the room to stand, please, and raise your right
14 hand. Do you affirm that the testimony evidence you are about
15 to give before the Public Service Commission in this matter is
16 the truth? Please say, "I do."

17 WITNESSES: I do.

18 COMMISSIONER JABER: Thank you. BellSouth,
19 Mr. Hendrix is your first witness?

20 MR. TWOMEY: Yes, he is.

21 COMMISSIONER JABER: Okay. Let's call Mr. Hendrix to
22 the stand.

23 MR. CHAIKEN: Excuse me, Commissioner. I thought we
24 were entitled to opening statements.

25 COMMISSIONER JABER: You absolutely are. Ten minutes

1 each.

2 MR. TWOMEY: Good morning, Commissioner. I listened
3 very carefully to what you just said about conducting ourselves
4 in a professional manner and we will do so and I know that
5 Supra will do so, but I can't hide the fact that this is a very
6 contentious proceeding. This has been a very contentious
7 relationship between the parties, and this hearing is very
8 important to BellSouth and, we believe, to consumers in
9 Florida.

10 Supra has not paid BellSouth a penny since October
11 1999, and Supra stopped paying BellSouth the month that it
12 opted into the current agreement that the parties are operating
13 under. The old AT&T/BellSouth agreement negotiated between two
14 sophisticated and reputable companies, unfortunately, did not
15 have clear language about what to do when there was nonpay,
16 because I don't think anyone at BellSouth expected AT&T to
17 simply stop paying its bills.

18 Supra has taken advantage of the lack of that such a
19 provision in its contract and has endeavored to postpone, for
20 as long as possible, the day on which it will begin operating
21 under a new agreement. The agreement should have expired in
22 June of 2000. The negotiations for the new agreement should
23 have begun in March 2000.

24 BellSouth attempted to begin such negotiations in
25 March 2000 and Supra did not respond in any way to that request

1 until June of 2000. For the next two months after June 2000,
2 BellSouth attempted to engage in meaningful negotiations with
3 Supra, but Supra simply refused to do so, although the parties
4 did have a few largely unproductive meetings. So, in September
5 2000, September 1st, BellSouth filed this petition for
6 arbitration identifying 15 issues, which are the issues that
7 had come up during the discussions between the parties.

8 In Supra's response to that petition, Supra
9 identified 51 additional issues that had never been discussed
10 by the parties during the discussions that had been going on to
11 that point. We believe the purpose for adding these issues was
12 simply to delay the proceedings. Those 51 issues were borrowed
13 verbatim largely from the MCI and AT&T arbitrations that were
14 currently pending.

15 After the parties and the Staff participated in an
16 issue identification in January 2001, Supra, for the first
17 time, raised the issue of whether the parties should conduct
18 intercompany review board meeting and move to dismiss the
19 proceeding on that basis, an issue that they obviously could
20 have brought up at anytime before that.

21 When the Commission refused to dismiss on that basis
22 but rather instructed the parties to conduct such a meeting,
23 Supra then claimed that it couldn't negotiate with BellSouth,
24 because it didn't have certain network information, another
25 delay tactic.

1 The parties eventually had meetings at the order of
2 the Commission late May, early June 2001. But again, Supra
3 refused to discuss any of the disputed issues until the very
4 last meeting, and at the very last meeting only was willing to
5 discuss those issues that they didn't think were
6 network-related. Supra filed another Motion for Stay in July
7 2001, and when that was denied and the parties appeared headed
8 toward a hearing, Supra finally issued some discovery in the
9 middle of August and has filed at least two requests for Stays
10 based on discovery disputes they've identified.

11 Now, the reason for me going through this litany is
12 to emphasize the fact that we believe that Supra's only intent
13 here is to delay this proceeding as long as possible, because
14 once we operate under a new agreement they'll have to start
15 paying their bills again, because they haven't paid us a dime.

16 Now, there are many issues in this arbitration. Many
17 of them have already been resolved by the Commission in other
18 proceedings, many of them will be resolved by the Commission in
19 generic proceedings, but there are three main issues, three
20 significant issues about which I'm very concerned.

21 One is commercial arbitration. It's an expensive,
22 lengthy process that allows non-telecommunications personnel to
23 set regulatory policy for the state of Florida; and, moreover,
24 it only addresses disputes from the perspective of two
25 companies, BellSouth and the effected company, in this case,

1 Supra. When this Commission resolves disputes between parties,
2 you take into consideration the impact on consumers, you take
3 into consideration the impact on the industry as a whole, you
4 take into consideration the impact on other CLECs, and even
5 other ILECs for precedent-setting. Commercial arbitrators have
6 no such concerns, and it is bad policy for the Commission to
7 delegate its authority effectively to commercial arbitrators to
8 set policy for this state, and Supra's request that you do so
9 should be denied.

10 Direct access to BellSouth's operational support
11 systems, instead of using all the CLEC interfaces, this is not
12 a new request from Supra. Supra asked the Commission for this
13 relief precisely in 1998 and you denied it and you said that
14 BellSouth CLEC interfaces were adequate and that Supra could
15 not have the direct access.

16 In response to that ruling, Supra opted into a
17 contract with a commercial arbitration clause and litigated the
18 issue again in an effort to end run this Commission's ruling.
19 I ask that you reaffirm your 1998 ruling and deny Supra's
20 request for direct access.

21 The last issue, and the one that is the focal point
22 of this opening statement and also one of the big issues in the
23 case is under what terms and conditions can we disconnect Supra
24 for nonpayment of nondisputed items? BellSouth believes it is
25 very important that this Commission reaffirm the same decision

1 it made in the MCI case, that we have the right to turn off
2 Supra if they do not pay their bills. And what I mean by that,
3 in particular, is the undisputed portions of their bills.

4 Supra is getting free service from BellSouth and is
5 going to continue to get free service for as long as it can
6 keep this proceeding up in the air, whether through motions for
7 reconsideration at the end of the line or further delays, if
8 they can get it. And we think you need to take a stand and
9 issue a ruling that requires them to pay their bills, like
10 every other CLEC has to pay its bills.

11 It's unfortunate that Supra has the preference that
12 it has of getting free service while every other CLEC in
13 Florida, or nearly every other CLEC, is paying its bills.
14 There are many other issues, as I've said. BellSouth's
15 position on these issues is reasonable, it's pro-competitive,
16 and I ask that you approve these issues in BellSouth's favor.

17 Thank you.

18 COMMISSIONER JABER: Mr. Chaiken.

19 MR. CHAIKEN: Good morning. BellSouth and Supra
20 Telecom are before you today for the purpose of arbitrating a
21 follow-on interconnection agreement. The parties are here at
22 the insistence of BellSouth, who has done everything possible
23 to ensure that Supra comes into this proceeding without
24 adequate information to support a fair and equitable agreement.
25 I'll get into that in a moment.

1 First, let me emphasize the importance of this
2 proceeding. Decisions regarding the terms to be placed into an
3 interconnection agreement cannot and must not be made in a
4 vacuum. Supra requests that this Commission, in making its
5 final decision, consider not only the history of the
6 relationship between BellSouth and Supra, but also consider the
7 state of competition in the Florida local telephone industry.

8 Let's begin with the party's relationship. In
9 October of 1999, Supra was finally able to adopt the
10 FPSC-approved AT&T-BellSouth interconnection agreement that
11 Supra had desired to adopt since the fall of 1997. That
12 agreement contained an alternative dispute resolution
13 provision, which required the parties to bring disputes to be
14 heard before commercial arbitrators.

15 Supra, seeking to enforce that agreement, in fact,
16 brought two disputes before said arbitrators. On June 5th
17 2001, the final and binding order of the arbitrators stated as
18 follows: In the course of these two arbitrations, the tribunal
19 has reviewed hundreds of pages of prefiled direct and rebuttal
20 testimony and thousands of pages of exhibits. The tribunal
21 also --

22 MR. TWOMEY: I'm sorry, let me just stop. I don't
23 want to interrupt his opening statement except to say that
24 before you started this morning you indicated that the matters
25 would be treated as confidential until a final ruling was made.

1 What he's reading from is confidential, and I just want the
2 record to reflect that, and I didn't want to wait until he
3 finished, because I was afraid it would be too late.

4 COMMISSIONER JABER: Mr. Chaiken, to the degree that
5 any of that information is confidential, you really actually
6 shouldn't refer -- you can refer to it generally, but not
7 divulge any of the confidential material. Do you need to take
8 a couple of minutes and show that material to BellSouth and
9 make sure it's not?

10 MR. CHAIKEN: Well, Your Honor, with all due respect,
11 we're quoting from the award which is deemed confidential. I
12 think, it's crucial to the issues in this case and, I think,
13 it's crucial to our case.

14 COMMISSIONER JABER: Can't you just give us a copy of
15 it, mark it confidential, and let us read it?

16 MR. CHAIKEN: Sure. Can I take a couple --

17 COMMISSIONER JABER: Treating it as confidential
18 means that we actually don't even read the material into the
19 record. We refer to it generally and create an exhibit that is
20 marked clearly as confidential.

21 MR. CHAIKEN: Sure. It's a couple pages. Can I take
22 a couple minutes?

23 COMMISSIONER JABER: Yes, absolutely.

24 MR. CHAIKEN: Thank you.

25 COMMISSIONER JABER: Mr. Knight, that's correct?

1 MR. KNIGHT: That is correct.

2 COMMISSIONER JABER: Is what I said correct?

3 MR. KNIGHT: That is correct.

4 There was one other matter that I wanted to mention.

5 There was a request for the showing of a tape.

6 COMMISSIONER JABER: Yes.

7 MR. KNIGHT: And we had not gone over that in the
8 preliminary matters.

9 COMMISSIONER JABER: I don't think it's a preliminary
10 matter. It was an exhibit to someone's testimony, right?

11 MR. KNIGHT: Right, it is.

12 COMMISSIONER JABER: And no one has objected to that
13 exhibit.

14 MR. KNIGHT: No, BellSouth has not objected.

15 COMMISSIONER JABER: Mr. Knight was questioning
16 whether a videotape attached to Mr. Ramos' testimony would be
17 shown, and I said it's an exhibit to the testimony and parties
18 have no objection, so why don't we go off the record and come
19 back at 10:00.

20 MS. WHITE: I apologize, Commissioner Jaber. Before
21 we do that, I guess, I'm confused. I knew the videotape was an
22 exhibit to Mr. Ramos' testimony, but I didn't realize that it
23 was actually going to be shown.

24 COMMISSIONER JABER: Okay. We're going to take a
25 break.

1 MS. WHITE: I'm sorry.

2 COMMISSIONER JABER: You all get together and talk
3 about the videotape and the confidential material. We'll come
4 back five after 10:00.

5 (Recess taken.)

6 COMMISSIONER JABER: Let's go ahead and get back on
7 the record. Mr. Chaiken, are you ready to go forward?

8 MR. CHAIKEN: Yes, ma'am. I apologize for that
9 break. Ms. Shelfer will be providing the excerpts of the
10 confidential exhibits, it's Exhibit OAR-3, that I was about to
11 read from, and I kind of lost my place, and I apologize.

12 COMMISSIONER JABER: Actually, I think, it would be
13 better if you just started over and you'll have ten minutes
14 from when you began. And for purposes of the record, OAR-3 is
15 already covered in the joint request for confidential
16 classification. A ruling will be issued subsequent to the
17 hearing with respect to permanent confidential classification,
18 but for purposes of the hearing it will be treated as
19 confidential. Go ahead.

20 MR. CHAIKEN: Fair enough. Thank you. I'll start
21 over.

22 The parties are here before you today for the purpose
23 of arbitrating a follow-on interconnection agreement. The
24 parties are here at the insistence of BellSouth, who has done
25 everything to be sure that Supra comes into the proceeding

1 without adequate information to support a fair and equitable
2 agreement. I will get to that in a moment.

3 First, let me emphasize the importance of this
4 proceeding. Decisions regarding terms to be placed into an
5 interconnection agreement cannot and must not be made in a
6 vacuum. Supra requests that this Commission, in making its
7 final decision, consider not only the history of the
8 relationship between BellSouth and Supra, but also consider the
9 state of competition in the Florida local telephone industry
10 beginning with the party's relationship.

11 In October of 1999, Supra was finally able to adopt
12 the FPSC-approved AT&T/BellSouth interconnection agreement that
13 Supra had desired to adopt since the fall of 1997. That
14 agreement contained an alternative dispute resolution
15 provision, which required the parties to bring their disputes
16 to be heard before commercial arbitrators.

17 Supra, seeking to enforce that agreement, in fact,
18 brought two disputes before said arbitrators. On June 5th,
19 2001, the final and binding award of the arbitrators was
20 issued; that is, Exhibit OAR-3. We're going to provide you
21 with excerpts of that order which, I think, are extremely
22 relevant to the proceedings here today.

23 Why is this important? For two reasons: First, it
24 evidences the great need for incentives for BellSouth to comply
25 with the Act and with the obligations it has under the

1 follow-on agreement. BellSouth -- and I don't want to get into
2 confidential information here, which is why I'm having a little
3 trouble -- (Last sentence deemed confidential by Commissioner
4 Jaber and stricken from the record.)

5 Secondly, this commercial arbitration proceeding
6 establishes a precedent of BellSouth's bad faith. Now, that
7 bad faith plays a role in this proceeding. Specifically,
8 BellSouth has refused --

9 MR. TWOMEY: Commissioner, I have to object to these
10 references to the findings in the award. The award speaks for
11 itself. The award is confidential. It's been designated as
12 confidential. He's reading into the record of the public
13 proceeding the findings of the arbitrators, and he's just done
14 it twice.

15 COMMISSIONER JABER: Let me ask you a question. Did
16 you seek confidential treatment of the entire agreement or
17 portions of the agreement?

18 MR. TWOMEY: You mean the award?

19 COMMISSIONER JABER: Well, OAR-3 is the --

20 MR. TWOMEY: The award.

21 COMMISSIONER JABER: Okay.

22 MR. TWOMEY: It's basically the written decision of
23 the arbitrators, and the answer is yes, that OAR-3, which is
24 the written decision of the arbitrators, was the subject of the
25 parties' joint request for confidential classification, and the

1 findings of the arbitrator, which are included in the award,
2 are also confidential.

3 And I thought he was going to finish his opening
4 without referencing the findings of the arbitrators, and he's
5 done it -- I had to step in. I know you didn't want me to
6 interrupt him, otherwise, the findings are a matter of public
7 record and they can never be recovered.

8 COMMISSIONER JABER: Okay. Mr. Chaiken, why don't
9 you pause and let us look at the award. Let me see it.

10 MR. KNIGHT: We've got copies we're distributing as
11 well.

12 COMMISSIONER JABER: All right. Mr. Chaiken, I have
13 in front of me the confidential exhibit, OAR -- part of OAR-3.
14 I see the provisions in the award, so do not refer to it again.
15 Make your point with regard to the relevance the award has, in
16 your opinion, on this proceeding without divulging any part of
17 the provisions, all right?

18 MR. CHAIKEN: I will do my best.

19 COMMISSIONER JABER: No, you need to do better than
20 your best, because I've just seen ya'll's best, and I'm not
21 impressed, so go ahead.

22 MR. TWOMEY: Commissioner Jaber, is there any way for
23 the transcript to be -- that sentence that he read into the
24 record right before I objected, can that be stricken from the
25 record?

1 COMMISSIONER JABER: Court reporter, the last
2 sentence that referred to the award and the finding by the
3 arbitrator, that needs to be stricken.

4 Go ahead, Mr. Chaiken.

5 MR. TWOMEY: Thank you.

6 MR. CHAIKEN: Thank you, I apologize.

7 The fact of the matter is that BellSouth has
8 specifically refused to negotiate this follow-on agreement from
9 the parties' current agreement as a base. So, think about
10 this: While Supra was engaged in intensive proceeding merely
11 to get BellSouth to comply with its current obligations,
12 BellSouth had engaged Supra in a proceeding to arbitrate this
13 new follow-on agreement, all the while while refusing to
14 negotiate from that current agreement.

15 Now, start-up companies, such as Supra, barely have
16 the resources to fight one battle at a time, much less two.
17 Now, if that were not enough, BellSouth refused to provide
18 Supra with requested network information or subject matter
19 experts, which would have allowed Supra to negotiate on an
20 equal footing with BellSouth. Furthermore, specific contract
21 language changes can have far-reaching effects, effects that
22 are arguably more pronounced upon the small competitor than
23 upon a monopoly provider.

24 For instance, MCI Metro and AT&T were the first large
25 CLECs to arbitrate interconnection agreements before this

1 Commission following the Telecom Act of 1996. It is presumable
2 that BellSouth offered them the same base contract to negotiate
3 from. Yet, in arbitration order PSC-0810-FOF-TP, this very
4 Commission held, "We believe that Section 36.1 read in
5 conjunction with other provisions in the agreement related to
6 pricing and BellSouth's obligation to provide AT&T with UNE
7 combinations is plain and unambiguous." While this language
8 appears in MCI's interconnection agreement with BellSouth, its
9 effect in that case is substantially modified by other
10 language. No such modifying language appears in the AT&T
11 agreement.

12 That's the point I'm trying to make here. Slight
13 language changes, which may not seem significant on its face,
14 end up being extremely significant when a party seeks to
15 enforce the other party's obligations. And that is why we
16 believe BellSouth has refused to allow Supra to negotiate from
17 its current FPSC AT&T/BellSouth agreement. AT&T and MCI had
18 the same language, yet MCI lost its position due to a slight
19 modification of language.

20 Yet, BellSouth is now before you asking this
21 Commission to throw out the parties' current agreement and
22 arbitrate from a completely new agreement. This would
23 extremely disadvantage Supra. Supra is familiar with its
24 current agreement and has been trying to enforce that agreement
25 for much of the last three years. Now, BellSouth would have

1 Supra enter into an agreement which it is completely unfamiliar
2 with. BellSouth, with its vast resources, is much more ready
3 and able to negotiate from a completely new agreement than
4 Supra is.

5 In the past, this very Commission has recognized that
6 BellSouth has engaged in anticompetitive activity and has even
7 opened a docket to investigate such. The entire industry -- in
8 fact, many industries have been negatively impacted by
9 BellSouth's anticompetitive activity. Anyone who has a mutual
10 fund or a retirement fund has likely felt the effects of such.

11 Billions of dollars have been invested and lost by
12 individuals who hoped to reap the benefits of competition,
13 which have not only never been realized, but instead have been
14 squashed by the ILECs nationwide; companies such as Windstar,
15 Covad, Rhythms, IDS, and even AT&T and Lucent have been
16 crippled, if not all together extinguished, by the
17 anticompetitive practices of BellSouth and the other ILECs.
18 This Commission should not let the same happen to Supra.

19 For the past five years, BellSouth has played a game
20 of hide and seek with CLECs and regulators alike. First,
21 BellSouth denies having the obligation to provide CLECs with
22 certain things, such as UNEs, collocation space, its own OSS;
23 then, when BellSouth is found by a Commission to have that
24 obligation, BellSouth delays implementation, denies it
25 outright, or claims that it has already complied.

1 Examples, other than our commercial arbitration
2 proceeding, include Supra's proceedings before this very
3 Commission regarding collocation space and edit-checking
4 capability in BellSouth's CLEC OSS LENS. Only after going
5 through prolonged enforcement proceedings has Supra been able
6 to compete with BellSouth for customers in Florida.
7 Unfortunately, Supra has not yet received from BellSouth
8 collocation or on-line edit checking ordered by the Commission
9 in proceedings that began in 1998.

10 Only our interconnection agreement can ensure Supra
11 the rights it's entitled to under the Telecommunications Act.
12 Supra does not suggest that this Commission treat BellSouth in
13 an unfair manner. Supra does suggest that this Commission
14 listen to Supra's arguments and the evidence presented in
15 coming to its decisions and not merely rely on its past
16 decisions on issues which may, on their face, appear similar or
17 the same.

18 Supra asks this Commission use the party's current
19 FPSC-approved agreement as the base agreement to which the
20 parties apply to arbitrated terms. To allow otherwise, will
21 allow BellSouth to have radically changed BellSouth's
22 obligations to Supra, including possibly the obligations Supra
23 fought so hard to enforce and yet has not received in the
24 party's commercial arbitration proceedings.

25 Thank you.

FLORIDA PUBLIC SERVICE COMMISSION

1 COMMISSIONER JABER: BellSouth, call your first
2 witness.

3 MR. TWOMEY: BellSouth calls Jerry Hendrix.

4 COMMISSIONER JABER: Go ahead, Mr. Twomey.

5 MR. TWOMEY: Thank you, Commissioner Jaber.

6 JERRY D. HENDRIX

7 was called as a witness on behalf of BellSouth
8 Telecommunications, Inc. and, having been duly sworn, testified
9 as follows:

10 DIRECT EXAMINATION

11 BY MR. TWOMEY:

12 Q Mr. Hendrix, would you please state your full name
13 and business address for the record?

14 A Yes. My name is Jerry D. Hendrix. My business
15 address is 675 West Peachtree Street, Atlanta, Georgia.

16 Q By whom are you employed?

17 A By BellSouth.

18 Q Have you previously caused to be prepared and
19 prefiled into this case direct testimony consisting of 23 pages
20 on July 27th, 2001?

21 A Yes.

22 Q Do you have any substantive additions, corrections,
23 or changes to make to that testimony at this time?

24 A No, I do not.

25 Q If I were to ask you the same questions that were

FLORIDA PUBLIC SERVICE COMMISSION

1 posed in your prefiled direct testimony would your answers to
2 those questions be the same?

3 A Yes.

4 MR. TWOMEY: I'd like to have the testimony inserted
5 into the record as if read, Madam Chairman.

6 COMMISSIONER JABER: The prefiled direct testimony of
7 Jerry Hendrix shall be inserted into the record as though read.

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 BELLSOUTH TELECOMMUNICATIONS, INC.
2 DIRECT TESTIMONY OF JERRY D. HENDRIX
3 BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION
4 DOCKET NO. 001305-TP
5 JULY 27, 2001
6
7

8 Q. PLEASE STATE YOUR NAME, ADDRESS, AND POSITION WITH
9 BELLSOUTH TELECOMMUNICATIONS, INC. (HEREINAFTER
10 REFERRED TO AS "BELLSOUTH").
11

12 A. My name is Jerry D. Hendrix. I am employed by BellSouth
13 Telecommunications, Inc. as Executive Director – Customer Markets
14 Wholesale Pricing Operations. My business address is 2180 Lake
15 Boulevard, Atlanta, Georgia 30319.
16

17 Q. PLEASE SUMMARIZE YOUR BACKGROUND AND EXPERIENCE.
18

19 A. I graduated from Morehouse College in Atlanta, Georgia, in 1975 with a
20 Bachelor of Arts Degree. I began employment with Southern Bell in
21 1979 and have held various positions in the Network Distribution
22 Department before joining the BellSouth Headquarters Regulatory
23 organization in 1985. On January 1, 1996, my responsibilities moved
24 to Interconnection Services Pricing in the Interconnection Customer
25 Business Unit. In my current position as Executive Director, I oversee

1 the negotiation of interconnection agreements between BellSouth and
2 Alternative Local Exchange Carriers ("ALECs") in BellSouth's nine-state
3 region

4

5 Q. HAVE YOU TESTIFIED PREVIOUSLY?

6

7 A. Yes. I have testified in proceedings before the Alabama, Florida,
8 Georgia, Kentucky, Louisiana, Mississippi, South Carolina Public
9 Service Commissions, the North Carolina Utilities Commission, and the
10 Tennessee Regulatory Authority.

11

12 Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

13

14 A. The purpose of my testimony is to address Issue A that the
15 Commission raised in its Supplemental Order Establishing Procedure
16 regarding the Petition by BellSouth Telecommunications, Inc.
17 ("BellSouth") arbitration of certain issues in interconnection agreement
18 with Supra Telecommunications and Information Systems, Inc.
19 ("Supra"). This issue was added by this Commission in order to
20 address the conduct of Parties in complying with Commission Order
21 No. PSC-01-1180-FOF-TI.

22

23 Q. HOW DID THE COMMISSION STATE ISSUE A?

24

25 A. The Commission stated the issue as follows:

1

2

Has BellSouth or Supra violated the requirement to Commission

3

Order PSC-01-1180-FOF-TI to negotiate in good faith pursuant

4

to Section 252(b)(5) of the Act? If so, should BellSouth or Supra

5

be fined \$25,000 for each violation of Commission Order PSC-

6

01-1180-FOF-TI, for each day of the period May 29, 2001

7

through June 6, 2001?

8

9 Q.

WHAT DID ORDER NO. PSC-01-1180-FOF-TI REQUIRE OF THE

10

PARTIES?

11

12 A.

The Commission's Order denied Supra's Motion to Dismiss but

13

specifically required the Parties to comply with the terms of the existing

14

Interconnection Agreement calling for the convening of an Inter-

15

Company Review Board meeting within 14 days of issuance of the

16

Order to discuss any and all disputed issues. The Order also required

17

that within 10 days of the completion of the Inter-Company Review

18

Board Meeting, the Parties were to notify the Commission of any

19

outstanding issues.

20

21 Q.

HAS BELLSOUTH VIOLATED THE REQUIREMENTS TO THE

22

COMMISSION'S ORDER PSC-01-1180-FOF-TI TO NEGOTIATE IN

23

GOOD FAITH PURSUANT TO SECTION 252(B)(5) OF THE ACT?

24

25

1 A. Absolutely not. The only party in violation of the Florida Public Service
2 Commission's Order is Supra. BellSouth has never raised any issues
3 with this Commission regarding Supra's negotiation tactics, as we have
4 been more interested in doing everything possible to complete the
5 negotiation and arbitration process and execute a new interconnection
6 agreement with Supra. However, in light of Supra's meritless
7 allegations, which clearly are intended to do nothing more than delay
8 this arbitration process even further, BellSouth has no choice but to
9 describe Supra's deliberate attempts to avoid negotiations and
10 execution of a new agreement. As I will set forth further in my
11 testimony, it has been Supra that has acted in bad faith in its dealings
12 with BellSouth. However, before going into specific details on the
13 results of the Inter-Company Review Board Meeting. I think it would be
14 best to provide a brief history of the negotiation process that has
15 occurred between BellSouth and Supra.

16

17 **History of Negotiation**

18

19 Q WOULD YOU PLEASE PROVIDE A BRIEF SUMMARY OF HOW THE
20 NEGOTIATION PROCESS BEGAN?

21

22 A. Certainly. On October 5, 1999 Supra adopted the Florida
23 BellSouth/AT&T Interconnection Agreement (the "AT&T Agreement").
24 While the AT&T Agreement expired by its terms on June 9, 2000,
25 Section 2.3 of the General Terms and Conditions of the AT&T

1 Agreement provides that “[U]ntil the Follow-On Agreement becomes
2 effective, BellSouth shall provide Services and Elements pursuant to
3 the terms, conditions and prices of this Agreement *that are then in*
4 *effect.*” (emphasis added) Thus, the parties are continuing to operate
5 under the terms of the AT&T Agreement until such time as a new
6 agreement is executed. Section 2.2 of the General Terms and
7 Conditions of the AT&T Agreement provides that the parties will
8 commence negotiations of a “Follow-On” agreement 180 days prior to
9 expiration of the AT&T Agreement. Pursuant to such provision, on
10 March 29, 2000, Mr. Finlen, an ALEC contract negotiator reporting to
11 me, notified Supra that BellSouth desired to commence renegotiations
12 of the parties’ interconnection agreement. (Exhibit JDH-1)

13

14 Q. WHAT WAS SUPRA’S RESPONSE TO THE MARCH 29, 2000
15 LETTER FROM BELLSOUTH REQUESTING NEGOTIATION OF A
16 “FOLLOW-ON AGREEMENT” AS CALLED FOR IN THE AT&T
17 AGREEMENT?

18

19 A. Although never specifically acknowledging the March 29, 2000
20 correspondence from BellSouth, Supra finally sent a letter regarding
21 the Parties current Interconnection Agreement on April 26, 2000 (JDH-
22 2) In its April 26, 2000 letter Mr. Olukayode Ramos, Chairman and
23 CEO of Supra, stated that BellSouth should permit Supra to utilize the
24 AT&T Agreement, which was a Florida agreement with less than two
25 months remaining on the term, for all nine states. Of course, Supra

1 was not certified in all such states, nor was the AT&T Agreement filed
2 and approved in any state other than Florida as BellSouth pointed out
3 in Mr. Finlen's response of May 3, 2000. (JDH-3) As can be seen in
4 Mr. Ramos's April 26, 2000, letter he did not mention renegotiation of
5 the soon-to-expire AT&T Agreement.

6

7 Q. WHEN WAS THE NEXT COMMUNICATION MADE BETWEEN THE
8 PARTIES REGARDING THE NEGOTIATION OF THE "FOLLOW-ON
9 AGREEMENT?"

10

11 A. On June 5, 2000, (JDH-4) Mr. Finlen again requested that Supra
12 negotiate a new Interconnection Agreement with BellSouth. The
13 purpose of this correspondence was to notify Supra that sixty-eight
14 days had passed and that Supra had failed to respond to BellSouth's
15 request for negotiations.

16

17 On June 7, 2000, Mr. Mark Buechele, Supra's counsel, claimed that
18 BellSouth had verbally agreed to allow Supra to maintain the AT&T
19 Agreement. (JDH-5) This is simply not true. In fact, BellSouth's first
20 correspondence of May 29, 2000 clearly indicates that BellSouth,
21 pursuant to the AT&T Agreement, intended to negotiate a new
22 interconnection agreement with Supra. Mr. Finlen responded to Mr.
23 Buechele on June 8, 2000, once again stating BellSouth's intent to
24 negotiate a new interconnection agreement. (JDH-6) In
25 correspondence dated June 9, 2000, and June 12, 2000, and June 19,

1 2000, Mr. Buechele indicated Supra's willingness to negotiate with
2 BellSouth, but requested to use the AT&T Agreement as a starting
3 point for negotiations for an Interconnection Agreement not only in
4 Florida, but also for Georgia and Louisiana. (JDH-7)

5

6 Q. WHAT WAS BELLSOUTH'S RESPONSE TO MR. BUECHELE
7 CORRESPONDENCE?

8

9 A. On July 3, 2000 BellSouth advised Supra that in light of the substantial
10 changes in the telecommunications industry that had taken place since
11 the negotiation of the original AT&T Agreement in 1996, BellSouth
12 believed that using the AT&T Agreement as the base agreement or
13 template would be difficult at best. (JDH-8)

14

15 Therefore, on July 20, 2000, BellSouth forwarded to Mr. Buechele and
16 Mr. Olukayode Ramos the draft agreement that AT&T and BellSouth
17 were currently negotiating as a replacement for the AT&T Agreement.
18 (JDH-9)

19

20 Q. WHAT HAPPENED AFTER FORWARDING THE NEW TEMPLATE
21 FOR SUPRA'S REVIEW?

22

23 A. Shortly after sending the new template to Supra, Mr. Finlen of
24 BellSouth contacted Ms. Kelly Kester, an attorney with Supra, to set up

25

1 a face-to-face meeting so that substantive negotiations could take
2 place.

3
4 On August 7 and 8, 2000, Pat Finlen and Parkey Jordan of BellSouth
5 traveled to Miami to meet with Supra regarding the new interconnection
6 agreement. On the first day of such meetings, Mark Buechele, Supra's
7 counsel discussed some general issues of concern to Supra. Supra
8 did not propose any contract language or comment on BellSouth's
9 proposed contract language, but simply raised a few issues that Supra
10 wanted to address. The parties then began going through the
11 proposed interconnection agreement that Mr. Finlen had forwarded to
12 Supra on July 20, 2000, starting with General Terms. It was clear that
13 Mr. Buechele had not read the proposed agreement and was not
14 prepared to discuss it. Mr. Finlen suggested that Mr. Buechele read
15 the proposed agreement and that the parties reconvene the following
16 day to discuss his comments. The meeting continued with Kelly
17 Kester, and the parties reviewed Ms. Kester's comments to the General
18 Terms and Conditions portions of the proposed agreement. During the
19 two-day meeting, the parties covered no contract language other than
20 General Terms and Conditions.

21

22 Q. AFTER THE FACE-TO-FACE MEETING IN MIAMI, WERE THERE
23 ANY ADDITIONAL NEGOTIATION SESSIONS HELD REGARDING
24 THE "FOLLOW-ON AGREEMENT?"

25

1 A. Yes. Because the window for filing for arbitration with Supra
2 concerning a new agreement was fast approaching, BellSouth set up
3 additional conference calls with Supra to negotiate the "Follow-On
4 Agreement." The first such session was to occur on August 15, 2000
5 but Supra called before the meeting and canceled the conference call.
6 The next two conference calls took place on August 18, 2000 and
7 August 25, 2000. During these sessions the parties reviewed the
8 resale attachment to the contract and identified issues that would need
9 to be presented to the Commission for resolution based upon the
10 issues raised in negotiations.

11

12 Q. WERE ANY OF THE NEGOTIATION SESSIONS INITIATED BY
13 SUPRA?

14

15 A. No. Supra did not initiate any negotiation meetings, nor did Supra ever
16 offer any contract language for the new Agreement.

17

18 Q. WHAT TOOK PLACE AFTER THE LAST NEGOTIATION SESSION
19 OF AUGUST 25, 2000?

20

21 A. On September 1, 2000 BellSouth filed a petition for arbitration of the
22 new interconnection agreement with Supra. BellSouth raised 15 issues
23 that had been discussed during the negotiations. On October 18,
24 2000, Supra filed its untimely response to BellSouth's petition, raising
25 an additional 51 issues that had never been discussed or even

1 mentioned during the Parties' negotiations. The majority of these
2 issues were copied verbatim from arbitration petitions filed previously
3 with the Commission by AT&T and MCIWorldCom.

4

5 Q. HAVE THE PARTIES DISCUSSED THE ARBITRATION ISSUES
6 SINCE THE PETITION AND RESPONSE HAVE BEEN FILED?

7

8 A. Yes, briefly. In January the parties met with the Commission Staff for
9 Issue Identification. The parties, with the assistance of the Staff,
10 modified the statement of the issues, but little negotiation occurred. In
11 fact, when BellSouth stated that most of Supra's issues had been
12 copied verbatim from the AT&T and MCIWorldCom arbitrations and
13 asked Supra what its intent was in raising the issue, Supra stated that
14 it intended exactly what AT&T and MCIWorldCom intended in raising
15 the issue, but Supra offered no further explanation of its position.

16

17 Q. DID SUPRA RAISE THE ISSUES OF THE INTER-COMPANY
18 REVIEW BOARD MEETING OR ITS NEED FOR INFORMATION
19 FROM BELLSOUTH AT THE ISSUE IDENTIFICATION MEETINGS?

20

21 A. No. However, at the meeting, the Staff instructed both parties to file
22 any proposed language for the unresolved issues by January 31, 2001.
23 Supra stated that it planned to file a motion to dismiss the arbitration
24 based upon the fact that Supra believes BellSouth has no right to file

25

1 for arbitration of the agreement with the Commission. Supra did not
2 raise any other grounds for dismissal of the petition.

3

4 **Inter-Company Review Board**

5 Q. WHEN DID THE ISSUE REGARDING THE FAILURE TO CONDUCT
6 AN INTER-COMPANY REVIEW BOARD MEETING COME TO LIGHT?

7

8 A. The first time Supra raised the issue that BellSouth failed to request the
9 Inter-Company Review Board meeting prior to filing the arbitration
10 petition was in its motion to dismiss the arbitration filed on January 29,
11 2001 with the Commission. This was after Supra filed its response to
12 the BellSouth's petition and raised an additional 51 issues. In addition,
13 on January 8, 2001 and January 23, 2001, BellSouth and Supra
14 participated in issue identification with the Commission Staff. At these
15 meetings, Supra never mentioned that the parties had not held an
16 Inter-Company Review Board meeting pursuant to the Agreement.

17

18 However, after Supra pointed out the parties' oversight regarding the
19 Inter-Company Review Board meeting in its Motion to Dismiss,
20 BellSouth began attempting to schedule such a meeting. BellSouth
21 sent its first such request to Supra on April 5, 2001. (JDH-10) Until
22 June 5, 2001, Supra refused to participate in such a meeting.

23

24 Q. WHAT WAS SUPRA'S BASIS FOR REFUSING TO HOLD AN INTER-
25 COMPANY REVIEW BOARD MEETING?

1
2 A. Supra's basis for refusing to hold an Inter-Company Review Board
3 meeting to discuss the Parties arbitration issues was that BellSouth had
4 purportedly refused to provide Supra with certain BellSouth network
5 information that Supra had previously requested. However, BellSouth
6 was unaware of Supra's position that it could not negotiate the new
7 interconnection agreement until BellSouth provided it with certain
8 network information until BellSouth received a letter dated April 4,
9 2001. (JDH-11) Although this letter from Mr. Medacier, an attorney for
10 Supra, is dated April 4, 2001, it was clearly dated incorrectly, as it
11 claimed to be in response to Ms. Jordan's April 5, 2001 letter to Supra
12 requesting that the parties schedule an Inter-Company Review Board
13 meeting.

14

15 Q. WHEN DID BELLSOUTH REALIZE THAT SUPRA WAS
16 REQUESTING INFORMATION REGARDING ITS NETWORK?

17

18 A. BellSouth's negotiating team first learned that Supra was
19 requesting information regarding its network in Mr. Medacier's misdated
20 correspondence of April 4, 2001. Attached to this correspondence was
21 a letter dated April 26, 2000 from Mr. Ramos of Supra to BellSouth. In
22 his letter of April 26, 2000, Mr. Ramos alleges that a telephone
23 conversation had occurred between the parties and that Supra was
24 requesting "all the information attached as Exhibit 'A' to this letter."
25 Notwithstanding Mr. Medacier's and Mr. Ramos' representations,

1 BellSouth had not previously been advise of Supra's position on this
2 issue or provided a copy of the template.

3

4 Q. WHAT WAS BELLSOUTH'S RESPONSE TO SUPRA'S MISDATED
5 APRIL 4, 2001 CORRESPONDENCE?

6

7 A. On April 9, 2001 BellSouth sent correspondence (JDH-12) to Supra
8 requesting clarification of the specific information Supra was
9 requesting. In this correspondence BellSouth stated that it did not
10 recall Supra having made a request for network information at the
11 meeting to discuss the "Follow-On Agreement" that took place in Miami
12 during the August 8, 2000 timeframe. BellSouth further advised Supra
13 that it was willing to discuss any network or other issues relating to the
14 new interconnection agreement as has been proposed by the Florida
15 Public Service Commission Staff.

16

17 Q. BESIDES ITS REQUEST OF APRIL 5, 2000 FOR AN INTER-
18 COMPANY REVIEW BOARD MEETING, DID BELLSOUTH ATTEMPT
19 TO SCHEDULE THE INTER-COMPANY REVIEW BOARD MEETING
20 AT OTHER TIMES?

21

22 A. Yes. On April 13, 2001, BellSouth sent correspondence (JDH-13)
23 asking Supra to participate in an Inter-Company Review Board Meeting
24 as soon as possible. On May 1, 2000 Supra refused again to meet with
25 BellSouth (JDH-14) stating that its position was that it could not

1 “engage in fruitful meetings regarding the follow-on agreement until
2 Supra is in receipt of the responsive documents to its letter of April 26,
3 2000.” In a letter dated May 9, 2001 (JDH-15), BellSouth once again
4 advised Supra that it was willing to meet via the Inter-Company Review
5 Board process to discuss any issues relevant to the “Follow-On
6 Agreement” between BellSouth and Supra.

7 **Network Information**

8 Q. WHAT WAS THE NETWORK INFORMATION THAT SUPRA WAS
9 REQUESTING IN ITS ALLEGED LETTER OF APRIL 26, 2000?

10

11 A. Exhibit A to the alleged letter of April 26, 2000 was a template that was
12 a portion of a report that had been prepared by the Increased
13 Interconnection Task Group II in January of 1996, a month before the
14 Telecommunications Act of 1996 became law, for the Network
15 Reliability Council. The part of the report that Supra sent was intended
16 to be a no more than a guide to carriers that were planning to establish
17 an interface between their networks.

18

19 Initially, BellSouth's negotiating team was unfamiliar with the template,
20 which Supra merely sent with no explanation. However, when Supra
21 finally provided BellSouth the entire Report from which the template
22 was copied, BellSouth learned that the Increased Interconnection Task
23 Group II was formed to look at network reliability issues within the
24 public switched telephone network as a result of the increasing number
25 of service providers, including wireless and cable providers, requiring

1 interconnected networks that were then forming the national
2 telecommunications network infrastructure. The introduction to the
3 template clearly states that the template should be used as a guide for
4 discussion of specific types of interconnection interfaces. It states,
5 "The following worksheet should be used during the joint planning
6 sessions between interconnecting service providers. This is an outline
7 of the minimum set of topics that need to be addressed in bilateral
8 agreements for critical interconnections."
9

10 Thus, for these templates to have any rational meaning, Supra would
11 have had to first identify the types of interconnection interfaces that it
12 planned on implementing in its network. Based on these types of
13 interconnection interfaces, BellSouth and Supra could potentially use
14 the template as a guide to ensure that they have covered all issues that
15 might arise when actually implementing the agreed-to forms of
16 interconnection.
17

18 Q. WAS THE NETWORK INFORMATION THAT SUPRA WAS
19 REQUESTING IN ITS ALLEGED LETTER OF APRIL 26, 2000
20 Reasonable?
21

22 A. No. As can be seen in the attached copy of the Increased
23 Interconnection Task Group II Report (JDH-16) provision of all possible
24 information on all topics listed in the template is impossible, and
25 Supra's request that BellSouth do so is unreasonable. In fact, as is

1 evident in BellSouth's correspondence, BellSouth stated time and time
2 again that it was impossible to determine what information Supra
3 needed just by reviewing the template, and BellSouth repeatedly asked
4 that Supra provide more details regarding the network information it
5 was hoping to receive.

6

7 Supra simply used its nonsensical request for network information as a
8 tactic to delay having to meet with BellSouth in an Inter-Company
9 Review Board meeting.

10

11 Q. IS BELLSOUTH WILLING TO PROVIDE REASONABLE AND
12 NECESSARY NETWORK INFORMATION TO SUPRA?

13

14 A. Yes. If Supra had provided BellSouth with specific information about
15 the type of interconnection interfaces it planned to implement in its
16 network and exactly what information it needed to interconnect with
17 BellSouth, then BellSouth could have provided information on how the
18 Parties needed to interconnect their respective networks. However,
19 Supra chose not to do so, but instead simply sent BellSouth the
20 template demanding that BellSouth produce all information that related
21 to over 100 vaguely defined topics, such as "tariff identification,"
22 "Interface specifications," and "network design."

23

24

25

1 Q. WHEN WAS THE NEXT INTER-COMPANY REVIEW BOARD
2 MEETING HELD AND WAS THE "FOLLOW-ON AGREEMENT WAS
3 DISCUSSED?

4

5 A. On May 29, 2001, BellSouth and Supra held an Inter-Company Review
6 Board meeting, at Supra's request, to discuss issues *unrelated* to the
7 negotiations of the new interconnection agreement. Although the
8 agenda Supra provided for the meeting referenced a discussion of the
9 "Follow-On Agreement", Supra once again stated that it would not
10 discuss the issues raised by either party in the arbitration until
11 BellSouth provided it with network information. BellSouth's
12 representatives were surprised that Supra continued to refuse to
13 discuss the issues raised in the arbitration, as on May 23, 2001, the
14 Commission released its Order requiring that the parties convene an
15 Inter-Company Review Board meeting to discuss "any and all"
16 arbitration issues.

17

18 However, Supra stated that it had prepared a more detailed request for
19 network information and that it would fax the information to BellSouth.
20 (JDH-17) BellSouth agreed to review the fax and to endeavor to obtain
21 the information requested by Supra to the extent the request was clear.
22 At the conclusion of the May 29 meeting, the parties agreed to meet
23 again on June 4, 2001, to continue discussions regarding issues
24 *unrelated* to the arbitration for the "Follow-On Agreement."

25

1 Q. WHAT TOOK PLACE AT THE JUNE 4, 2001 INTER-COMPANY
2 REVIEW BOARD MEETING?

3

4 A. The parties met via conference call as scheduled on June 4, 2001.
5 BellSouth had reviewed Supra's fax, purportedly detailing Supra's
6 information requests. While the faxed request for information was a bit
7 clearer than the previously provided template, it still contained vague
8 and ambiguous requests. Nonetheless, BellSouth agreed to pull
9 together for Supra as much of the information as it reasonably could,
10 and to provide it to Supra as soon as possible. During this meeting
11 BellSouth stated that per the Commission's Order No. PSC-01-1180-
12 FOF-TI, the Parties were required to hold an Inter-Company Review
13 Board meeting to discuss the negotiations and the issues raised by the
14 Parties in the arbitration, and that such requirement was not
15 conditioned on any information exchange. Supra again refused, stating
16 that it would not discuss ANY issues prior to its receipt of network
17 information from BellSouth.

18

19 Q. HAS BELLSOUTH RESPONDED TO SUPRA'S REQUEST FOR
20 INFORMATION THAT IT FAXED TO BELLSOUTH ON MAY 29, 2000?

21

22 A. Yes. While the requested information was vague and ambiguous,
23 BellSouth responded to Supra on July 9, 2001. Attached is the
24 information that BellSouth provided to Supra. (JDH-18)

25

1 Q. HAS SUPRA RESPONDED TO BELLSOUTH REGARDING THE
2 NETWORK INFORMATION BELLSOUTH PROVIDED?

3

4 A. No. Supra has not mentioned the information, nor has Supra offered to
5 discuss any of the arbitration issues that it previously claimed could not
6 be discussed prior to receipt of such information.

7

8

9 Q. DID SUPRA EVER AGREE TO AN INTER-COMPANY REVIEW
10 BOARD MEETING TO DISCUSS THE ARBITRATION ISSUE?

11

12 A. Late in the afternoon on June 5, 2001, Supra, via e-mail, (JDH-19)
13 requested that the parties reconvene on June 6, 2001, the last day
14 before the Parties would have been in non-compliance with the
15 Commission's Order No. PSC-01-1180-FOF-TI, to discuss a *limited*
16 number of the arbitration issues. Supra also submitted a list of the
17 issues that it would agree to discuss. (JDH-20) Even though Supra
18 agreed to discuss a limited number of Issues, 24 to be exact, the
19 Parties were able to resolve 3 issues. These were issues 2, 3, and 39.
20 In addition, of the 24 issues that were discussed at the June 6, 2001
21 Inter-Company Review Board Meeting, one of those issues, issue 64,
22 had been withdrawn at the issue Identification meetings in January of
23 2001. This left 52 issues that have not been resolved, 32 which Supra
24 refused to discuss at the June 6, 2001 Inter-Company Review Board
25 Meeting.

1

2 Q. WHAT HAS TAKEN PLACE SINCE THE JUNE 6, 2000 INTER-
3 COMPANY REVIEW BOARD MEETING?

4

5 A. On June 15, 2001 Supra sent BellSouth a redline of the General Terms
6 and Conditions of its existing interconnection agreement (rather than a
7 redline of the document that had been negotiated by the parties in
8 August and filed with this Commission along with the arbitration
9 petition). Although the parties resolved issue 2 on June 6, 2001, by
10 agreeing to include in the new interconnection agreement the same
11 confidentiality language that appeared in the AT&T Agreement, Supra's
12 redline adds language to the confidentiality section. BellSouth cannot
13 agree to these additions. Thus, as BellSouth cannot be certain
14 whether Supra is willing to accept the language to which the parties
15 agreed during the June 6 meeting, Mr. Ruscilli is filing testimony
16 regarding this issue. In addition, Supra included language in the
17 redline that is unrelated to issues in this arbitration, leading BellSouth
18 to believe that Supra has no intention of ultimately accepting language
19 from BellSouth's proposed agreement that was not disputed by either
20 party.

21

22 Q. HOW DO THE FOREGOING FACTS CONSTITUTE BAD FAITH
23 NEGOTIATIONS ON SUPRA'S PART?

24

25

1 A. It is clear from the chronology of events described above that Supra
2 has engaged in delay tactics and has at every turn failed to act in good
3 faith in negotiating a new interconnection agreement with BellSouth.
4 Supra's Motion to Dismiss, which was filed with this Commission on
5 January 29, 2001, nearly five months after BellSouth's petition for
6 arbitration was filed, and over three months after Supra filed its
7 response, was based on its claim that BellSouth failed to hold an Inter-
8 Company Review Board meeting prior to filing the arbitration petition.
9 BellSouth admits that it overlooked the provision in the AT&T
10 Agreement requiring that such a meeting be held. However, Supra
11 never requested an Inter-Company Review Board meeting during
12 negotiations, although it was fully aware of the deadline for filing the
13 arbitration petition and knew full well that BellSouth was going to file a
14 petition. Furthermore, Supra filed its response to the petition, *adding*
15 *51 issues*, without requiring an Inter-Company Review Board meeting.
16 Supra and BellSouth spent two full days with the Florida Commission
17 Staff in issue identification, and never once did Supra claim that the
18 parties had not held an Inter-Company Review Board meeting. When
19 ordered to file contract language and testimony with the Commission,
20 Supra instead ignored the Commission's instructions and chose to file
21 a Motion to Dismiss, seeking to avoid progression of the arbitration
22 proceeding and making claims that should have been made, if at all,
23 months previously. Further, when BellSouth attempted to cooperate
24 with Supra and convene an Inter-Company Review Board meeting to
25 discuss the unresolved issues, Supra imposed yet another delay tactic

1 by claiming that it could not possibly negotiate the agreement without
2 first obtaining information from BellSouth.

3

4 Once again, Supra's claim is disingenuous. The parties met several
5 times, both in person and via telephone conference, to discuss the
6 proposed agreement. Supra filed a response to the arbitration petition
7 raising issues for the Commission to resolve, and the parties met for
8 two days with the Commission Staff to frame the issues of the parties.
9 Again, not once did Supra ever claim to BellSouth or to the
10 Commission that it could not negotiate a new interconnection
11 agreement without first receiving information from BellSouth. Only after
12 BellSouth offered to hold the Inter-Company Review Board meeting did
13 Supra make this implausible claim.

14

15 Finally, and most importantly, this Commission ordered the parties to
16 convene an Inter-Company Review Board meeting to discuss the
17 arbitration issues. Neither the parties' interconnection agreement nor
18 the Order conditioned the meeting on exchange of information. As the
19 correspondence attached to my testimony clearly reflects, BellSouth
20 made numerous requests to hold such a meeting, and Supra
21 consistently refused. Only after BellSouth reminded Supra during an
22 unrelated meeting on June 4, 2001, that refusing to meet to discuss the
23 issues would result in a violation of the Commission's Order did Supra
24 agree to meet to discuss a *limited number* of the issues. **Supra to date**
25 **has continued to refuse to discuss 32 of the arbitration issues,**

1 **despite BellSouth's requests, in direct violation of the**
2 **Commission's Order.** Moreover, nearly every issue (27 of 32) Supra
3 has refused to discuss is an issue that Supra itself raised in its
4 response to BellSouth's petition. Thus, eleven (11) months after the
5 arbitration petition was timely filed, the parties are just filing testimony
6 in this proceeding due to Supra's bad faith negotiations and delay
7 tactics.

8

9 Q. PLEASE SUMMARIZE YOUR TESTIMONY?

10

11 A. In my position, I am responsible for negotiations with hundreds of
12 ALECs. While I often encounter ALECs that are not interested in
13 devoting time to renegotiations of existing agreements, Supra is the
14 only ALEC with whom I have dealt that has failed to file timely
15 pleadings, testimony and other documentation required by the
16 Commission and that has failed to comply with an express Commission
17 order requiring the parties to act. Supra's intentional delaying tactics
18 and bad faith should not have to be tolerated by BellSouth, and
19 certainly should not be tolerated by this Commission.

20

21 Q. DOES THIS CONCLUDE YOUR TESTIMONY?

22

23 A. Yes.

24

25

1 BY MR. TWOMEY:

2 Q Did you include exhibits with your prefiled direct
3 testimony, Mr. Hendrix?

4 A Yes, I did.

5 Q Those exhibits were identified as JDH-1 through
6 JDH-20, correct?

7 A That is correct.

8 Q Were these exhibits prepared by you or under your
9 direction and supervision?

10 A Yes, they were.

11 Q Are there any substantive changes, corrections to
12 these exhibits?

13 A No, there are not.

14 MR. TWOMEY: Madam Chairman, I'd like to have the
15 exhibits attached to Mr. Hendrix's direct testimony marked for
16 identification as JDH -- excuse me, as hearing Exhibit 2.

17 COMMISSIONER JABER: Let me ask Staff. These are 20
18 exhibits. For purposes of writing your recommendation is it
19 easier to have them identified as a composite exhibit or do you
20 need me to break it up a little bit?

21 MR. KNIGHT: A composite exhibit is fine.

22 COMMISSIONER JABER: Okay. JDH-1 through JDH-20
23 shall be identified as composite Exhibit 2.

24 MR. TWOMEY: Thank you.

25 (Exhibit 2 identified for the record.)

1 BY MR. TWOMEY:

2 Q Mr. Hendrix, did you also cause to be filed prefiled
3 rebuttal testimony on August 15th, 2001, consisting of 31
4 pages?

5 A Yes, I did.

6 Q Do you have any substantive additions, corrections,
7 or changes to that Rebuttal Testimony at this time?

8 A No, I do not.

9 Q If I asked you the same questions that were posed in
10 your prefiled rebuttal testimony, would your answers to those
11 questions be the same?

12 A Yes.

13 MR. TWOMEY: I'd like to have the rebuttal testimony
14 dated August 15, 2001, inserted in the record as if read, Madam
15 Chairman.

16 COMMISSIONER JABER: Okay. The prefiled rebuttal
17 testimony of Jerry D. Hendrix shall be inserted into the record
18 as though read.

19

20

21

22

23

24

25

1 BELLSOUTH TELECOMMUNICATIONS, INC.
2 REBUTTAL TESTIMONY OF JERRY D. HENDRIX
3 BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION
4 DOCKET NO. 001305-TP
5 August 15, 2001
6
7
8 Q. PLEASE STATE YOUR NAME, ADDRESS, AND POSITION WITH
9 BELLSOUTH TELECOMMUNICATIONS, INC. (HEREINAFTER
10 REFERRED TO AS "BELLSOUTH" OR "THE COMPANY").
11
12 A. My name is Jerry D. Hendrix. I am employed by BellSouth
13 Telecommunications, Inc. as Executive Director – Customer Markets
14 Wholesale Pricing Operations. My business address is 675 West
15 Peachtree Street, Atlanta, Georgia 30375.
16
17 Q. ARE YOU THE SAME JERRY D. HENDRIX WHO FILED DIRECT
18 TESTIMONY IN THIS PROCEEDING?
19
20 A. Yes.
21
22 Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?
23
24 A. The purpose of my testimony is to address several issues and
25 allegations that were raised in the direct testimony of Mr. Olukayode A.

1 Ramos of Supra Telecommunications and Information Systems, Inc.
2 (hereinafter "Supra"). These issues are:

3

4 • Mr. Ramos' assertion that it is unable to compete in the local market
5 place due to BellSouth's "non-compliance, non-cooperation, and
6 litigation tactics" behavior (Pages 7 through 10)

7 • Mr. Ramos' overview of the Relationship between the Parties
8 (Pages 11 through 15)

9 • Supra's allegation of BellSouth's willful and intentional Bad Faith
10 Negotiation Tactics (*Issue A*)

11 • Mr. Ramos' accusation that BellSouth refused to allow Supra to
12 adopt certain provisions from the Mpower Interconnection
13 Agreement (*Issue 17*)

14

15 Q. HOW IS YOUR TESTIMONY STRUCTURED?

16

17 A. After briefly discussing the relationship between the Parties, I will
18 address the two specific issues that Mr. Ramos attempted to address in
19 this proceeding. These were *Issue A* and *Issue 17*. I will then refute
20 the allegations in Mr. Ramos' direct testimony. These inflammatory
21 and false allegations do not relate directly to the issues to be resolved
22 in this proceeding. Nevertheless, because of the seriousness of these
23 allegations, BellSouth must address these false claims. Therefore, I
24 have devoted a separate section of my testimony to rebutting these
25 false allegations and providing the accurate history of the negotiations.

1 **General Overview of the Relationship between the Parties**

2 Q. BEGINNING ON PAGE 11, LINE 19 AND CONTINUING ON PAGE 12,
3 LINE 8, MR. RAMOS IMPLIES THAT THE RELATIONSHIP BETWEEN
4 SUPRA AND BELLSOUTH HAS BEEN VERY LITIGIOUS AND
5 DIFFICULT. WOULD YOU AGREE?

6
7 A. Yes. I would agree that the Parties' relationship has been very litigious
8 and difficult.

9
10 Q. SUPRA IMPLIES THAT BELLSOUTH HAS ACTED IN BAD FAITH
11 THROUGHOUT ITS RELATIONSHIP WITH SUPRA AND OFFERS A
12 RECENT RULING BEFORE A CPR INSTITUTE ARBITRAL TRIBUNAL
13 AS PROOF. WOULD YOU CARE TO COMMENT?

14
15 A. Certainly. What Mr. Ramos is referring to are two commercial
16 arbitration proceedings that took place earlier this year. These
17 proceedings were before three non-telecommunications attorneys who
18 are members of the CPR Institute. The issues and the findings in these
19 arbitrations related solely to very **specific** issues in the **existing**
20 Interconnection Agreement between BellSouth and Supra.

21
22 Significantly, nothing in these two proceedings had or has anything to
23 do with the issues that have been raised in this docket. The purpose of
24 this docket is to rule on specific issues that have been raised by the
25 Commission, BellSouth, and Supra, as they relate to the terms and

1 conditions that will be included in the follow-on Agreement. Supra has
2 merely raised the Tribunal's findings in an attempt to obfuscate the
3 Commission on the issues in this case.

4

5

Issues in this Proceeding

6

7 Issue A: *Has BellSouth or Supra violated the requirement in Commission*
8 *Order PSC-01-1180-FOF-TI to negotiate in good faith pursuant to*
9 *Section 252(b)(5) of the Act? If so, should BellSouth or Supra be*
10 *fined \$25,000 for each violation of Commission Order PSC-01-1180-*
11 *FOF-TI, for each day of the period May 29, 2001 through June 6,*
12 *2001?*

13

14 Q. WHAT DID ORDER NO. PSC-01-1180-FOF-TI REQUIRE OF THE
15 PARTIES?

16

17 A. This Order required the Parties to comply with the terms of the existing
18 Interconnection Agreement by calling for and convening of an Inter-
19 Company Review Board meeting within 14 days of issuance of the
20 Order (i.e., prior to June 7, 2001). The purpose of this meeting was to
21 discuss any and all disputed issues in this Petition for Arbitration. The
22 Order also required that within 10 days of the completion of the Inter-
23 Company Review Board Meeting, the Parties were to notify the
24 Commission of any outstanding issues.

25

1 Q. DID SUPRA ADDRESS THIS ISSUE IN ITS DIRECT TESTIMONY?

2

3 A. No. Although Mr. Ramos devotes 26 pages of his testimony to
4 “BellSouth’s willful and intentional bad faith negotiation tactics of a
5 follow-on agreement” he does not specifically address the
6 Commission’s added issue. All Mr. Ramos does is rehash Supra’s
7 Motion to Dismiss BellSouth’s Petition for Arbitration and its Status and
8 Complaint Regarding BellSouth’s Bad Faith Negotiations Tactics filed
9 with this Commission on January 26, 2001, and June 18, 2001,
10 respectively. Mr. Ramos has also attempted to confuse this
11 Commission by making numerous inflammatory and false allegations of
12 bad faith negotiations.

13

14 Supra’s Motion to Dismiss BellSouth’s Petition for Arbitration and its
15 Status and Complaint Regarding BellSouth’s Bad Faith Negotiations
16 Tactics specifically allege that BellSouth refused to a) negotiate from
17 the Parties existing agreement; b) provide information about its
18 network; and c) comply with contractual procedures before filing its
19 Petition for Arbitration.

20

21 Even though Mr. Ramos’s testimony does not specifically address
22 *Issue A*, I will focus this section of my testimony on two specific
23 sections of Mr. Ramos’s direct testimony regarding bad faith
24 negotiations. These are the Negotiating Template (Pages 33 through
25 40), including what BellSouth requests the Commission to rule

1 regarding the template, and Network Information (Pages 18 through
2 34). The remaining issue, which is the Parties failure to hold an Inter-
3 Company Review Board meeting, has been addressed extensively in
4 my direct testimony.

5

6 **Negotiating Template**

7 Q. MR. RAMOS CLAIMS THAT BELL SOUTH HAS ACTED IN BAD FAITH
8 BECAUSE IT WILL NOT NEGOTIATE FROM THE CURRENT
9 INTERCONNECTION AGREEMENT. IS THIS TRUE?

10

11 A. No, this is not true. BellSouth has not acted in bad faith just because
12 the Parties cannot agree on what template to use as a starting point for
13 negotiations. Under Supra's logic, disagreement with Supra equals
14 bad faith. This argument is nonsensical at best.

15

16 Q. DO YOU AGREE THAT SUPRA SHOULD BE ALLOWED TO BEGIN
17 NEGOTIATIONS FROM THE CURRENT AGREEMENT? (RAMOS
18 PAGE 34, LINE 23 THROUGH PAGE 36, LINE 5)

19

20 A. No. First, it was difficult, at best, to get Supra to the negotiating table.
21 It was BellSouth, and not Supra that initiated the negotiations.
22 Although Mr. Ramos attempts to provide eight reasons for using the
23 current agreement, he fails to identify any reason not to use the two
24 templates that BellSouth offered to Supra as the basis for beginning
25 negotiations.

1 Q. WHAT IS THE FIRST REASON THAT MR. RAMOS ASSERTS AS A
2 BASIS FOR USING THE CURRENT AGREEMENT AS THE
3 STARTING POINT FOR NEGOTIATIONS?
4

5 A. The first argument that Mr. Ramos makes is that BellSouth "finally"
6 allowed Supra to adopt the Current Agreement in October 1999 and not
7 in 1997 as alleged by Mr. Ramos. Mr. Ramos, in his testimony, seems
8 to be exhibiting some very selective memory. The negotiation process
9 for the adoption of the AT&T agreement began when BellSouth sent
10 Mr. Ramos a letter on March 29, 1999, requesting that Supra begin
11 negotiations pursuant to the terms of the Resale, Collocation, and
12 Interconnection agreements. A copy of this letter is attached as Exhibit
13 JDH-23.
14

15 Mr. David Dimlich, General Counsel for Supra, responded on May 21,
16 1999 by acknowledging receipt of BellSouth's correspondence and
17 advising that Supra was going to adopt the Interconnection Agreement
18 for the state of Florida that had been "negotiated between MCI and
19 BellSouth, dated June 19, 1997, for a term of three years." A copy of
20 Mr. Dimlich's letter is attached as Exhibit JDH-24.
21

22 On May 28, 1999, BellSouth responded to Supra advising that
23 BellSouth was "amenable" to Supra's request but that when adopting
24 an agreement, as Supra had requested, that it "must also adopt the
25 terms of that agreement." This meant that "the term of an agreement

1 between Supra Telecom and BellSouth adopting the BellSouth/MCI
2 Interconnection Agreement [would] be the same as set forth in Section
3 3 of the BellSouth/MCI Interconnection Agreement.” (Exhibit JDH-
4 25) Since the BellSouth/MCI Interconnection Agreement expired on
5 June 18, 2000, then any agreement adopting the BellSouth/MCI
6 Interconnection Agreement would also expire on June 18, 2000.

7
8 On August 20, 1999, Mr. Wayne Stavanja, Vice President of Regulatory
9 Relations for Supra, wrote BellSouth advising that Supra wished to
10 adopt the BellSouth/AT&T Interconnection Agreement dated June 10,
11 1997, including “all exhibits and amendments that have been
12 negotiated and executed to date between the parties.” Attached, as
13 Exhibit JDH-26, is a copy of Mr. Stavanja’s correspondence.

14
15 After several sets of correspondence, the Parties executed an
16 agreement on October 5, 1999, whereby Supra adopted the existing
17 BellSouth/AT&T Interconnection Agreement.

18
19 Q. DO YOU AGREE WITH MR. RAMOS’ POINTS TWO AND THREE
20 THAT BECAUSE OF THE RECENT COMMERCIAL ARBITRATION
21 PROCEEDINGS THAT THE EXISTING AGREEMENT SHOULD BE
22 USED AS THE BEGINNING FOR NEGOTIATIONS?

23
24 A. No. The Commercial Arbitration has nothing to do with what the Parties
25 decide to use as the starting point for negotiations. The Tribunal was

1 made up of three non-telecommunications attorneys who ruled on
2 certain **specific** issues regarding the current agreement.

3

4 Q. ON POINTS FOUR AND FIVE MR. RAMOS IMPLIES THAT IF A NEW
5 TEMPLATE WAS USED THAT IT WOULD INTERRUPT SUPRA'S
6 BUSINESS PLAN AND WOULD NOT PROVIDE SUPRA'S
7 CUSTOMERS WITH CONTINUITY IN BOTH THE TYPES OF
8 SERVICE AND THE COSTS OF SUCH SERVICE. WOULD YOU
9 CARE TO COMMENT?

10

11 A. Certainly. I'm at a loss as to why the **two** templates that were offered
12 by BellSouth to Supra during the negotiation process would interrupt
13 Supra's business plan or not provide Supra's customers with continuity,
14 nor does Mr. Ramos explain how this would happen. Mr. Ramos also
15 makes the statement that a "majority of the terms and conditions" in the
16 current agreement remain unchanged by any subsequent order or rule.
17 Mr. Ramos knows this is not true. The existing agreement was
18 negotiated over five years ago and with very few amendments. The
19 last time the agreement was revised was in February 2000 when the
20 parties agreed to incorporate a 1998 Commission Order in a complaint
21 filed by AT&T.

22

23 Since that Order, much has changed that requires the Agreement be
24 revised. The FCC has made several rulings on collocation, issued its
25 Third Report and Order, issued at least two orders on advanced

1 services, and ruled on Intercarrier compensation for ISP traffic. In
2 addition to these FCC rulings, this Commission has made a ruling on
3 collocation, numerous rulings in arbitration proceedings and just
4 recently ruled on UNE rates. Additionally, this Commission has ruled
5 on numerous issues as a result of individual arbitrations.

6

7 In addition to controlling law changing, numerous BellSouth practices
8 and service offerings have changed in the last five years. Some of
9 these are new UNEs, and new OSS interfaces, such as TAG and
10 RoboTAG®.

11

12 Q. WOULD YOU PLEASE COMMENT ON POINT NUMBER SEVEN
13 THAT MR. RAMOS MAKES ON PAGE 35, LINES 18 THROUGH 23?

14

15 A. Yes. Mr. Ramos, makes the argument the Parties should incorporate
16 the existing "terms of the Current Agreement into a Follow-On
17 Agreement." Mr. Ramos appears to be unwilling to negotiate new
18 terms and conditions for the "Follow-On Agreement," but instead wants
19 to continue using existing terms and conditions, in spite of the fact that
20 some of those terms no longer comport with existing FCC or
21 Commission rulings.

22

23 Q. ON HIS LAST POINT MR. RAMOS POINTS OUT THAT BELL SOUTH
24 AGREED TO USE THE EXISTING MCI INTERCONNECTION
25 AGREEMENT AS THE STARTING POINT FOR NEGOTIATIONS OF

1 THE NEW BELLSOUTH/MCI INTERCONNECTION AGREEMENT
2 AND THEREFORE BELLSOUTH SHOULD ALLOW SUPRA TO USE
3 ITS EXISTING AGREEMENT. DO YOU AGREE?
4

5 A. No. Although BellSouth and MCI started from the MCI template, all the
6 terms and conditions for the new BellSouth/MCI Interconnection
7 Agreement have been discussed and negotiated in great detail by the
8 Parties. On the other hand, many ALECs, including AT&T, realized
9 that their existing Interconnection Agreement was out of date and
10 agreed to use the BellSouth standard template as a blue print for
11 beginning negotiations for their new agreements.

12
13 Another item that Mr. Ramos fails to acknowledge is that BellSouth
14 initially offered the same standard Interconnection Agreement in March
15 of 2000 as the starting point for negotiations with Supra. In July of
16 2000 BellSouth also offered to begin negotiations from the current
17 working draft of the agreement that it was using to negotiate with AT&T.
18 This is the agreement that BellSouth filed with its Petition for Arbitration.

19
20 Q. DO YOU AGREE WITH MR. RAMOS'S ALLEGATION THAT SUPRA
21 REQUESTED THAT THE PARTIES BEGIN FROM THE CURRENT
22 AGREEMENT?
23

24 A. No. There is nothing in the June 7, 2000 letter (Exhibit OAR-27) that
25 Mr. Ramos refers to that requests the Parties to begin negotiations from

1 the current agreement. What the letter says is that Supra simply
2 wanted to "keep the terms of the current agreement until such time as
3 the current re-negotiations between BellSouth and AT&T were
4 concluded." Even early in the negotiation process, it was obvious that
5 Supra never had any intention of negotiating a new interconnection
6 agreement. Within this same letter, Supra advises that it wished "to
7 execute an agreement which, except for expiration date, would retain
8 the **exact same terms** as our current Interconnection Agreement."
9 [Emphasis added]

10

11 Q. DO YOU AGREE THAT IT WAS AT&T AND NOT BELLSOUTH THAT
12 DRAFTED THE 1997 INTERCONNECTION AGREEMENT.

13

14 A. No. The 1997 Interconnection agreement was drafted by both Parties
15 to the agreement, and not by one party or the other. Mr. Ramos was
16 not a party to these negotiations.

17

18 **Commission Ruling on Template**

19 Q. SINCE THE PARTIES HAVE NOT AGREED ON WHAT TEMPLATE
20 SHOULD BE USED FOR THE NEW INTERCONNECTION
21 AGREEMENT, DO YOU BELIEVE THERE ARE OTHER OPEN
22 ISSUES THAT THIS COMMISSION NEEDS TO RULE ON?

23

24 A. Yes. First, as background, BellSouth is the only party to this
25 proceeding that has filed an Interconnection Agreement for approval by

1 the Commission. This was done when BellSouth timely filed its Petition
2 for Arbitration. Normally, when a Petition for Arbitration is filed with the
3 Commission, the petitioner, which in this case was BellSouth, files a
4 copy of the Interconnection Agreement showing not only unresolved
5 issues but also any issues that have been resolved by the Parties. This
6 procedure is in accordance with 252(b)(2)(A) of the Act, which states:

7

8 A party that petitions a State commission under paragraph (1)
9 shall, at the same time as it submits the petition, provide the
10 State commission all relevant documentation concerning

- 11 (i) the unresolved issues;
12 (ii) the position of each of the parties with respect to
13 those issues; and
14 (iii) any other issue discussed and resolved by the
15 parties.

16

17 As I said in my direct testimony there were only a few negotiation
18 meetings between the Parties to discuss the Follow-On Agreement,
19 and all of those meetings were at the insistence of BellSouth. Because
20 of the limited number of negotiation sessions, BellSouth was only able
21 to identify 15 issues that it knew the Parties disagreed on. When Supra
22 finally filed its response to BellSouth's petition, Supra identified an
23 additional 51 issues. However, in addition to these 51 issues, Supra
24 also argued in its response that the Parties should have used the
25 current agreement as the basis for negotiations. This indicates that, in

1 addition to the specific issues that have been identified by both Parties
2 in this proceeding, Supra is disputing all the language in the proposed
3 Interconnection Agreement that was filed by BellSouth, even though
4 Supra never identifies or states its position on these additional issues.

5

6 Q. HAS SUPRA VIOLATED SECTION 252(b)(5) OF THE ACT?

7

8 A. Although I am not a lawyer, it appears to me that Supra has violated
9 Section 252(b)(5) of the Act, which states the following:

10

11 REFUSAL TO NEGOTIATE. – The refusal of any other party to
12 the negotiation to participate further in the negotiations, to
13 cooperate with the State commission in carrying out its function
14 as an arbitrator, or to continue to negotiate in good faith in the
15 presence, or with the assistance, of the State commission shall
16 be considered a failure to negotiate in good faith.

17

18 With the exception of the 51 issues that it did identify in its Response to
19 BellSouth's Petition for Arbitration, Supra has refused to specify what in
20 the BellSouth's proposed Interconnection Agreement it does not agree
21 with, nor has Supra proposed an Interconnection Agreement to this
22 Commission clearly showing the Parties unresolved issues. As I said,
23 above all, Supra has wanted from the beginning of the negotiation
24 process is "to execute an agreement which, except for the expiration

1 date, would retain the **exact same terms** as [the] current agreement.”
2 [Emphasis added]

3
4 By not identifying the specific terms of BellSouth's proposed
5 Interconnection Agreement, Supra failed "...to cooperate with the State
6 commission in carrying out its function as an arbitrator..." Additionally,
7 BellSouth has made several offers to continue negotiations on the new
8 Interconnection Agreement and Supra has refused "to participate
9 further in [these] negotiations.”

10

11 Q. ARE THERE ADDITIONAL SECTIONS OF THE ACT THAT SUPRA
12 HAS VIOLATED?

13

14 A. Again, although I am not a lawyer, it appears that Supra has also
15 violated Section 252(b)(4)(B) of the Act. This section states:

16

17 The State commission may require the petitioning party and the
18 responding party to provide such information as may be
19 necessary for the State commission to reach a decision on the
20 unresolved issues. If any party refuses or fails unreasonably to
21 respond on a timely basis to any reasonable request from the
22 State commission, then the State commission may proceed on
23 the basis of the best information available to it from whatever
24 source derived.

25

1 At the January 23, 2001 pre-hearing conference the Commission staff
 2 directed the Parties to file with the staff contract language on each
 3 issue. On January 31, 2001 BellSouth filed its proposed language with
 4 the Commission staff. BellSouth’s response is attached as Exhibit
 5 JDH-27.

6
 7 In direct violation of the staff’s directive Supra chose to file a Motion to
 8 Dismiss instead of proposed language for the issues identified. On
 9 May 23, 2001 the Commission denied Supra’s Motion to Dismiss. It
 10 was not until June 18, 2001, that Supra proposed any contract
 11 language to this Commission, and what Supra then proposed was
 12 simply a redline of the General Terms and Conditions of its existing
 13 Agreement. It has yet to propose language for the Commission to
 14 consider for the 14 attachments associated with its proposed
 15 agreement.

16
 17 Simply put, Supra has failed “to provide such information as may be
 18 necessary for the State commission to reach a decision on the
 19 unresolved issues.”

20
 21 Q. HOW WOULD YOU LIKE FOR THIS COMMISSION TO RULE ON
 22 WHICH TEMPLATE TO USE FOR THE PARTIES
 23 INTERCONNECTION AGREEMENT?
 24

1 A. The Commission should adopt BellSouth's proposed Interconnection
2 Agreement as the baseline for the new BellSouth/Supra
3 Interconnection Agreement and after this proceeding is concluded, the
4 Commission's rulings should be incorporated into this agreement,
5 which BellSouth filed with this Commission on September 1, 2000 with
6 its Petition for Arbitration.

7

8 **Network Information**

9 Q. HAS BELLSOUTH REFUSED TO COMPLY WITH PARAGRAPH 155
10 OF THE FCC'S FIRST REPORT AND ORDER AND 47 CFR §§
11 51.301(C)(8), 51.305(G), AS ALLEDGED BY MR. RAMOS ON PAGES
12 18 AND 19?

13

14 A. No. Although Mr. Ramos is correct that the language in the FCC's First
15 Report and Order and 47 CFR §§ 51.301(c)(8), 51.305(g) is
16 unambiguous, it seems he is unable to comprehend the plain language
17 in these regulations. The language speaks for itself. An incumbent
18 LEC must "furnish information about its network that a requesting
19 telecommunications carrier **reasonably** requires to identify the network
20 elements that it needs in order to **serve a particular customer.**"
21 [Emphasis added]

22

23 Additionally, 47 CFR § 51.305(g) only requires an incumbent LEC to
24 provide technical information about its "network facilities sufficient to
25 allow the requesting carrier to achieve interconnection" with the

1 incumbent.

2

3 These two sections only require an incumbent LEC, such as BellSouth,
4 to provide certain specific network information so Supra can serve a
5 particular customer or information about its network facilities so Supra
6 can achieve interconnection with BellSouth.

7

8 Q. SUPRA CLAIMS THAT IT HAS REQUESTED INFORMATION ABOUT
9 BELL SOUTH'S NETWORK FOR SEVERAL YEARS. WOULD YOU
10 CARE TO COMMENT?

11

12 A. Yes. Mr. Ramos advises that he initially requested information
13 regarding BellSouth's network in a letter to Mr. Marcus Cathey on June
14 22, 1998. What this 12-page letter is requesting is for BellSouth to
15 recombined unbundled network elements. Buried within this letter, on
16 page three, Supra asked for "...all the necessary information about
17 BellSouth's network to facilitate the ordering of singular and combined
18 UNES effectively." This request immediately followed a quote from 47
19 CFR § 51.301 (c)(8)(i). Nowhere in the correspondence does Mr.
20 Ramos specify what network information he's requesting, or what
21 "particular customer" he's attempting to serve. On July 2, 1998 Mr.
22 Cathey responded to Mr. Ramos and advised that BellSouth was not
23 obligated to provide recombined Unbundled Network Elements.
24 Although Mr. Cathey did not specifically address this small portion of
25 Mr. Ramos's letter, the information that Mr. Ramos was requesting was

1 readily available on BellSouth's web site, which Mr. Ramos had been
2 directed to several times for other information. At that time Supra did
3 not advise BellSouth that its July 2, 1998 letter had not been
4 responsive to all its requests.

5
6 In fact it was two years later before Supra claims that it requested
7 information regarding BellSouth's network.

8
9 In any event, as I state in my direct testimony, the negotiating team did
10 not become aware of Supra's request for network information until Mr.
11 Medacier's misdated April 4, 2001 correspondence, almost three years
12 after Supra's initial request. The negotiating team does not recall ever
13 being handed a copy of the April 26, 2000 letter while they were in
14 Miami attempting to negotiate the follow on Agreement, as alleged by
15 Mr. Ramos. Although Supra claims it initially requested network
16 information on April 26, 2000, it never followed up in writing its request
17 until January 2001 when it filed its motion to dismiss this arbitration, a
18 full nine months after the claimed letter was sent. In that time Supra
19 was able to respond to BellSouth's Petition for Arbitration and filing an
20 additional 51 issues.

21
22 Mr. Ramos has totally mischaracterized BellSouth's April 9, 2001
23 response to Supra's misdated April 4, 2001 letter. (OAR-15) What
24 BellSouth requested from Supra was clarification on the specific
25 information that Supra was requesting. In fact the letter states the

1 following:

2

3

...I am not certain what information you are asking

4

BellSouth to provide. Your Exhibit A appears to be a

5

suggested template for carriers to utilize when negotiating

6

to **interconnect** their networks. The document specifically

7

states that it should be used in joint planning sessions, and

8

it merely provides topics that should be considered and

9

discussed. Certainly, we are happy to discuss with you

10

any issues relating to the new interconnection

11

agreement... **[Emphasis added]**

12

13 Q.

DO YOU AGREE THAT BELLSOUTH WILLFULLY AND

14

INTENTIONALLY REFUSED TO PROVIDE INFORMATION ABOUT

15

ITS NETWORK IN A CALCULATED ATTEMPT TO ASSURE THAT

16

SUPRA AND ITS CUSTOMERS CANNOT RECEIVE THE SAME

17

SERVICES THAT BELLSOUTH PROVIDES TO ITSELF AND ITS

18

CUSTOMERS? (RAMOS PAGE 23, LINES 21 TO 25, THROUGH

19

PAGE 25, LINES 1 TO 23)

20

21 A.

No, I do not agree. Mr. Ramos has once again made some

22

inflammatory allegations that BellSouth is attempting to harm Supra.

23

This is simply not true. Mr. Ramos claims that BellSouth has created

24

and fortified "barriers between Supra and [its] network." However, Mr.

25

Ramos does not identify these barriers. All Mr. Ramos seems to be

1 focusing on is "direct" access to BellSouth's OSS systems including
2 RNS and ROS, not network information.

3

4 Regarding Mr. Ramos' statement that it needs to know the capability of
5 the UNEs that it currently leases from BellSouth then he simply needs
6 to access BellSouth's Interconnection Services web site. Exhibit JDH-
7 22 is an example of the type of information that is contained on the web
8 site. This document contains the technical specifications for
9 BellSouth's unbundled local loop products.

10

11 Furthermore, I find Supra's allegation that because BellSouth has not
12 provided it with the ambiguous information that it claims it needs that it
13 has not been able to identify all the issues it seeks to raise in this
14 arbitration and has been severely disadvantaged in negotiations simply
15 ludicrous. Supra was able to respond to BellSouth's Petition for
16 Arbitration without this information and in fact added 51 additional
17 issues.

18

19 Q. WOULD YOU CARE TO COMMENT ON MR. RAMOS' CLAIM THAT
20 HE HAS SOME IDEA OF WHAT BELLSOUTH IS CAPABLE OF
21 PROVIDING TO ITS CUSTOMERS (PAGE 26, LINES 1 THROUGH
22 7)?

23

24 A. Yes. How Mr. Ramos could make such a claim based on his review of
25 BellSouth's Interstate and Intrastate Access Services tariff is beyond all

1 comprehension. The reason I make this statement is that these two
2 tariffs are for BellSouth's wholesale customers, and not what BellSouth
3 currently makes available to consumers. This is just another example
4 of Mr. Ramos' misunderstanding of what BellSouth offers to its
5 customers, both retail and wholesale.

6

7 Q. DO YOU AGREE THAT BELLSOUTH'S WEB SITE IS INSUFFICIENT
8 AND ONLY PROVIDES INFORMATION REGARDING THE ALEC
9 PORTION OF THE NETWORK, WHICH BELLSOUTH MAKES
10 AVAILABLE AS ALLEGED BY MR. RAMOS ON PAGE 27, LINES 13
11 THROUGH 16 OF HIS DIRECT TESTIMONY?

12

13 A. No. Mr. Ramos is implying that BellSouth has not fully unbundled its
14 network. This is simply not true. BellSouth makes available all
15 unbundled network elements as required by the FCC's Third Report
16 and Order, and Commission Orders. BellSouth also makes available a
17 Bona Fide and New Business Request processes to ALECs. This
18 process allows ALECs to request new elements or business processes
19 that have not been previously identified. This is just another
20 inflammatory allegation by Mr. Ramos without any proof.

21

22 Q. ON PAGE 29, LINES 9 THROUGH 19, MR. RAMOS STATES THAT
23 BELLSOUTH NEVER BROUGHT A SINGLE SUBJECT MATTER
24 EXPERT TO ANY MEETINGS WITH SUPRA. IS THIS TRUE?

25

1 A. Yes. The reason BellSouth never brought a Subject Matter Expert
2 (SME) to any meetings on the follow-on Interconnection Agreement is
3 that Supra never identified what topics it wanted to discuss regarding
4 the new agreement. BellSouth's contract negotiators are fully capable
5 of discussing the Interconnection Agreement and will include SMEs in
6 negotiations when the ALEC has specific technical issues it wishes to
7 discuss. As I stated in my direct testimony Supra only made itself
8 available to discuss the new agreement when BellSouth's negotiating
9 team insisted on meeting with Supra and flew to Miami to meet with
10 Supra for two days. In addition to this two-day meeting the Parties
11 were able to hold two conference calls. Supra never requested a SME
12 be present. In fact Supra never discussed any contract language
13 except the General Terms and Conditions, and the Resale attachment.
14 These provisions do not require any technical expertise. If Supra was
15 interested in negotiating a new agreement it simply needed to inform
16 the negotiating team that it wanted to discuss a certain issue and ask if
17 BellSouth would have its SME at the meeting. Supra has failed to
18 request such a meeting.

19
20 With ALECs who actively participate in the negotiation process the
21 Parties decided in advance what topics they will be discussing and if a
22 SME is necessary then each Party will bring their representative to the
23 meeting to discuss the specific topic. Supra has never advised what
24 topic as it relates to negotiating the new agreement that it wanted to
25 discuss.

1 Q. ON PAGE 17, LINES 18 THROUGH 25, AND PAGE 18 LINES 1 AND
2 2, MR. RAMOS CLAIMS THAT BELLSOUTH ACTED IN BAD FAITH IN
3 ITS NEGOTIATIONS WITH SUPRA FOR A FOLLOW-ON
4 AGREEMENT. WOULD YOU PLEASE COMMENT?

5

6 A. Certainly. BellSouth has not acted in bad faith in its negotiations with
7 Supra for a follow-on Agreement. If any party in this negotiation has
8 acted in bad faith it has been Supra. As can be seen in my direct
9 testimony it has been Supra that:

- 10 a) failed to respond to BellSouth's request for negotiations;
11 b) never initiated any negotiation sessions;
12 c) cancelled negotiation sessions;
13 d) has not been prepared in the few meetings that BellSouth could
14 get Supra to attend during the negotiation process;
15 e) failed to offer any contract language for the new Agreement
16 during the negotiation process;
17 f) waited until after the Commission Staff instructed both Parties to
18 file proposed contract language for unresolved issues to bring up
19 the Parties failure to conduct an Inter-Company Review Board
20 meeting;
21 g) refused to discuss unresolved issues related to the follow-on
22 Agreement at several Inter-Company Review Board meetings
23 that were held prior to the June 6, 2001 meeting; and
24 h) was only willing to discuss a limited number of unresolved issues
25 related to the follow-on Agreement (i.e., the June 6, 2001

1 meeting), when Supra finally agreed to hold an Inter-Company
2 Review Board Meeting.

3

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

7

8 Q. DO YOU AGREE WITH MR. RAMOS' ALLEGATION THAT
9 BELLSOUTH WILL NOT ALLOW IT TO ADOPT A PROVISION FROM
10 ANOTHER ALECS INTERCONNECTION AGREEMENT,
11 SPECIFICALLY SECTION 9.1 OF THE GENERAL TERMS AND
12 CONDITIONS – PART A OF THE MPOWER INTERCONNECTION
13 AGREEMENT? (RAMOS PAGE 74, LINE 7 THROUGH PAGE 75 LINE
14 3)

15

16 A. Absolutely not. As I will clearly demonstrate Mr. Ramos is again
17 making another unsubstantiated claim.

18

19 Q. WHAT DOES SECTION 9.1 OF THE MPOWER INTERCONNECTION
20 AGREEMENT STATE?

21 A. This section states the following:

22 No License. No patent, copyright, trademark or other
23 proprietary right is licensed, granted or otherwise transferred by
24 this Agreement. Unless otherwise mutually agreed upon, neither
25 Party shall publish or use the other Party's logo, trademark,

1 service mark, name, language, pictures, or symbols or words
2 from which the other Party's name may be reasonably be
3 inferred or implied in any product, service, advertisement,
4 promotion, or any other publicity matter, except that nothing in
5 this paragraph shall prohibit a Party from engaging in valid
6 comparative advertising. This paragraph 9.1 shall confer no
7 rights on a Party to the service marks, trademarks and trade
8 names owned or used in connection with services by the other
9 Party or its Affiliates, except as expressly permitted by the other
10 Party.

11

12 Q. IS BELLSOUTH WILLING TO INCLUDE THE PROVISIONS OF THE
13 MPOWER INTERCONNECTION AGREEMENT IN THE FOLLOW-ON
14 AGREEMENT?

15

16 A. BellSouth is willing to include the above language from the Mpower
17 Interconnection Agreement in the follow-on Agreement. However,
18 Supra must be willing to accept all legitimately related terms and
19 conditions associated with this provision and it is still available for
20 adoption, (i.e., the Mpower agreement has not expired) then BellSouth
21 has no problem with incorporating this provision into the follow-on
22 agreement. However, in connection with the Trademark litigation in
23 which BIPCO and Supra are currently involved, should the court order
24 prohibit or restrict use of BellSouth's marks, Supra should be required
25 to comply with such order.

1 Other issues

2

3 Supra's assertion that it is unable to Compete in the Local Market Place

4 Q. MR. RAMOS OF SUPRA CLAIMS, IN HIS DIRECT TESTIMONY
5 (PAGE 6, LINES 1 THROUGH 23, AND PAGE 7, LINES 1 THROUGH
6 3) THAT SUPRA HAS BEEN UNABLE TO COMPETE BECAUSE IT
7 CAN NOT OFFER A FULL RANGE OF SERVICES, OR PROVIDE
8 SUCH SERVICES IN AS TIMELY A MANNER AS BELLSOUTH
9 DOES, AND THIS IS DUE TO BELLSOUTH'S WILLFUL AND
10 INTENTIONAL BREACHES OF THE PARTIES CURRENT
11 INTERCONNECTION AGREEMENT. IS THIS TRUE?

12

13 A. No. This is entirely false. In fact the number of lines in service to Supra
14 has increased by nearly 10,000 percent from January 2000, to June
15 2001. It is my understanding that as of the end of June 2001, Supra
16 has over 77,000 lines in service, an increase of over 48,000 lines in 4
17 months. As can be seen in Exhibit JDH-21 "Supra provides voice and
18 data (telephone service, Internet Service and messaging services)
19 service to business and residential customers." This exhibit further
20 shows that Supra is able to take customer orders on line.

21

22 Mr. Ramos' insinuation that it takes 1 to 6 weeks for BellSouth to
23 provision service is absolutely not true. In fact the average time to
24 provision service to Supra, once BellSouth has received an accurate
25 Local Service Request from Supra is less than five days for all orders

1 where a dispatch is required, and less than three days where no
2 dispatch is necessary. These provisioning intervals are based on data
3 for the three-month period of April through June 2001. More
4 importantly during the same period, less than two percent of the due
5 dates confirmed to Supra were missed due to BellSouth reasons. . This
6 is just one of many allegations that Mr. Ramos makes throughout his
7 testimony without providing any evidence to support his claims.

8

9 Q. MR. RAMOS CLAIMS THAT BELLSOUTH HAS CHOSEN LITIGATION
10 OVER COMPLIANCE WITH ALL APPLICABLE FEDERAL AND
11 STATE LAWS? DO YOU AGREE WITH THIS ALLEGATION?

12

13 A. No. Mr. Ramos cites to an appeal that was made by BellSouth
14 regarding the FCC's *Local Competition Order*. BellSouth and other
15 entities also questioned the FCC's Order. It seems that what Mr.
16 Ramos is implying is that, if BellSouth chooses to assert its legal rights,
17 then it is being anti-competitive. If any Party is litigious, it is Supra,
18 which has sued BellSouth in Federal Court, and in numerous
19 complaints before the FCC, this Commission and Commercial
20 Arbitration.

21

22 Q. MR. RAMOS ALLEGES THAT BELLSOUTH'S TACTICS OF NON-
23 COMPLIANCE AND LITIGATION MAKES IT NEARLY IMPOSSIBLE
24 FOR ALECS TO COMPETE AND "THUS MANY ALECS HAVE
25 EITHER FILED BANKRUPTCY OR WITHDRAWN FROM THE

1 MARKET.” (PAGE 7, LINES 8 AND 9) DO YOU AGREE WITH THIS
2 ALLEGATION?

3

4 A. No. In fact in the same article that Mr. Ramos draws his conclusions
5 from Annus Horribilis? However you say it, CLECs have had a bad year
6 published by CLEC.com on June 1, 2001 states that “the CLEC.com
7 directory lists 244 active, facilities based CLECs in the United States
8 and Canada” whereas a year before there were “fewer than 200
9 entries.” This represents a growth of 22 percent. This article also
10 states “less than 8 percent of the firms in the industry have filed
11 bankruptcy.” This is a small percentage when compared to the fact
12 that over half of all start-up business in the United States either end up
13 filing for bankruptcy or simply chose go out of business.

14

15 Furthermore, BellSouth has entered into over a thousand
16 interconnection agreements with various ALECs. According to this
17 Commission’s website, there are currently 447 ALECs operating in
18 Florida alone. This is just another example of Supra’s attempt to fling
19 accusations without any basis in fact.

20

21 Q. IS IT TRUE, AS MR. RAMOS CLAIMS, THAT BELLSOUTH IS
22 “REAPING TREMENDOUS BENEFITS FROM ITS...”
23 NONCOMPLIANCE WITH THE AGREEMENT AND THE LAW?

24

25 A. Absolutely not. First, BellSouth is in compliance with the agreement

1 and the law. This is yet another inventive and unsubstantiated claim by
2 Mr. Ramos. Mr. Ramos is apparently unaware that BellSouth
3 generates revenue by selling its network to ALECs. Mr. Ramos seems
4 to think that the objective of the Act was to put ILECs out of business.
5 This is not the case. As Mr. Ramos pointed out, BellSouth is a
6 profitable business. This is not due to any underhanded activities, as
7 Supra would lead this Commission to believe, but to skillful business
8 decisions that comply with all of BellSouth's covenants and all
9 applicable laws and regulations.

10

11 Q. DOES BELLSOUTH HAVE ANY INCENTIVE TO COOPERATE WITH
12 SUPRA AND ABIDE BY ALL APPLICABLE AGREEMENTS AND
13 LAWS?

14

15 A. Absolutely. BellSouth's long-standing goal is to enter the long distance
16 market. This goal can only be reached if BellSouth demonstrates to
17 this Commission and the FCC that it complies with Section 271 of the
18 Act. This Section requires that BellSouth meet specific criteria, such as
19 providing nondiscriminatory access to network elements. Mr. Ramos
20 erroneously claims that this is not sufficient incentive for BellSouth to
21 comply with the law and the Agreement. Regardless of Mr. Ramos'
22 contention BellSouth complies with all applicable laws, regulations, and
23 covenants. In order for BellSouth to maintain its profitability, it must
24 comply with applicable laws, regulations, and covenants.

25

1 Q. DOES THIS CONCLUDE YOUR TESTIMONY?

2

3 A. Yes.

4

5

6

7

8

9

10

11

12

13

14

15

16

1 BY MR. TWOMEY:

2 Q Mr. Hendrix, did your prefiled rebuttal testimony
3 also include exhibits?

4 A Yes, it did.

5 Q Were those exhibits prepared by you or under your
6 direction and supervision?

7 A Yes, they were.

8 Q Do you have any corrections or changes to any of
9 those exhibits?

10 A No, I do not.

11 MR. TWOMEY: Commissioner Jaber, I'd like to have the
12 rebuttal exhibits, which are numbered JDH-21 through JDH-27,
13 marked for identification as composite Exhibit 3, please.

14 COMMISSIONER JABER: JDH-21 through JDH-27 shall be
15 identified as composite Exhibit 3.

16 (Exhibit 3 marked for identification.)

17 MR. TWOMEY: Thank you.

18 BY MR. TWOMEY:

19 Q Mr. Hendrix, have you prepared a summary of your
20 testimony?

21 A Yes, I have.

22 Q Would you please provide that summary?

23 A Yes. I will address Issues A and B in this docket.
24 Issue A, simply put, is has either BellSouth or Supra violated
25 the requirements of the order to negotiate in good faith

1 pursuant to Section 252-B5 of the Act? And if so, should
2 BellSouth or Supra be fined \$25,000 per day for each violation
3 for the period May 29 through June 6?

4 BellSouth has negotiated in good faith and has not
5 violated the order, but rather has satisfied the requirements
6 of this order and has convened the intercompany review board
7 meetings within the 14 days as stated in such order.

8 Issue B is as to what base agreement should be used
9 to include the results of the arbitrated issues in this docket?
10 The answer is very simple. They should be placed in the
11 BellSouth filed agreement since Supra has yet to file a total
12 complete agreement.

13 That concludes my summary.

14 MR. TWOMEY: Thank you, Mr. Hendrix. Commissioner,
15 Mr. Hendrix is available for cross examination.

16 COMMISSIONER JABER: Okay.

17 MR. CHAIKEN: Commissioner, Mr. Adenet Medacier,
18 Assistant General Counsel, has entered the room, and he will be
19 handling the cross examination of Mr. Hendrix.

20 COMMISSIONER JABER: What's your name?

21 MR. MEDACIER: Adenet Medacier. Good morning.

22 COMMISSIONER JABER: Good morning. Spell that for
23 me.

24 MR. MEDACIER: Adenet, A-d-e-n-e-t, last name
25 M-e-d-a-c-i-e-r.

1 COMMISSIONER JABER: c-a-r?

2 MR. MEDACIER: c-i-e-r.

3 COMMISSIONER JABER: Thank you.

4 CROSS EXAMINATION

5 BY MR. MEDACIER:

6 Q Good morning, Mr. Hendrix.

7 A Good morning.

8 Q Isn't it true, Mr. Hendrix, that you have absolutely
9 no knowledge of the negotiations that took place between Supra
10 and BellSouth?

11 A No, that is totally not true. I have a very vast
12 knowledge of the negotiations that have taken place. In fact,
13 in my current job functions I oversee many of the negotiations
14 that go on with CLECs, and I have been doing so since 1996.

15 Q Mr. Hendrix, are you aware of the responses provided
16 by BellSouth in response to Supra's first set of
17 interrogatories produced on August 10th, 2001?

18 A Yes, I am.

19 Q If I can read from Supra's request, "Please provide
20 the name, address, telephone number, place of employment and
21 job title of any person who has, claims to have or whom you
22 believe may have knowledge or information pertaining to any
23 facts alleged in the Petition for Arbitration, BellSouth's
24 Response to Supra's Complaint and Motion to Dismiss,
25 BellSouth's Opposition to Supra's Motion to Stay, or as to any

1 fact underlying the subject matter of this action."

2 Are you following, Mr. Hendrix?

3 A Yes, I am.

4 Q Is your name listed by BellSouth as a person with
5 knowledge?

6 A No. My name is not listed there, but there was a
7 response that was filed -- initially, the following persons --
8 and I suppose this was the initial response as opposed to the
9 supplemental and my name is, in fact, mentioned there.

10 Q Thank you, Mr. Hendrix.

11 Is your name listed in BellSouth's response as a
12 person having knowledge of Issues A and B?

13 A If you're referring to the supplemental that you just
14 handed out, the answer is no. But Mr. Finlen, who is listed as
15 a second person there, Mr. Finlen is one of the negotiators in
16 my group. And as I said, on the initial responses that were
17 provided, my name is mentioned there, and I work very closely
18 with Mr. Finlen on various issues that do service.

19 Q Mr. Hendrix, I understand that you work with
20 Mr. Finlen. In all the correspondence between Supra and
21 Mr. Finlen, isn't it true that you were never copied?

22 A No, that's not true.

23 Q Which one of those correspondences were you copied
24 on?

25 A Okay. And when I say that's not true, if you -- let

1 me see, there was a letter dated April 5th of 2001. This
2 letter is from Mrs. Jordan to you, in fact.

3 Q Mr. Hendrix, if I could interrupt, I asked for
4 Mr. Finlen.

5 A I understand. Mr. Finlen is cc'd on this letter and
6 that's the reason for mentioning this letter, and I'm also cc'd
7 on this letter. There's also a correspondence dated April 9th,
8 2001. Mr. Finlen --

9 Q Before you proceed with the rest of --

10 COMMISSIONER JABER: Mr. Medacier?

11 MR. MEDACIER: Yes, ma'am.

12 COMMISSIONER JABER: The witnesses have been directed
13 to answer yes or no and then elaborate. They are entitled to
14 elaborate on their responses, and please don't interrupt the
15 witness.

16 MR. MEDACIER: Thank you.

17 A There's also a correspondence dated April 9th of 2001
18 from Mrs. Jordan to you. Again, Mr. Finlen, as well as me,
19 we're both cc'd on that letter. There's another one dated
20 April 13th, 2001. Again, this is from Mrs. Jordan to you. I
21 am also cc'd on that letter. There's a correspondence dated
22 May 1st, which is coming from Supra back to Mrs. Jordan, and I
23 am also cc'd on that letter as having knowledge about this
24 case, otherwise, I would not have been cc'd.

25 Again, I actually supervise negotiations with major

FLORIDA PUBLIC SERVICE COMMISSION

1 carriers. Supra is a major carrier. Mr. Finlen is in my
2 group, and I've been doing this since 1996. In fact, the
3 agreement that we're operating under now, I signed that AT&T
4 agreement. I not only signed it but negotiated it. The MCI
5 agreement that is in question, that negotiation is under my
6 supervision through Mr. Finlen. So, I have very much -- I have
7 a very good knowledge of the issues and the things that were
8 happening with Supra during this process.

9 BY MR. MEDACIER:

10 Q Isn't it true, Mr. Hendrix, that you were not and
11 never present at any of the intercompany review boards between
12 Supra and BellSouth?

13 A No, that's totally wrong. I've been present in many
14 of those -- in many of those meetings. The meetings that were
15 held between the 29th of May and June 4th, I was not present in
16 those meetings, but I was kept abreast of every issue and
17 talked with Mr. Finlen and talked with Mrs. Jordan about those
18 issues. And in prior intercompany meetings to that time, I was
19 present. And I was also a witness for BellSouth in other
20 dockets or in other hearings dealing with Supra.

21 Q Mr. Hendrix, I'm referring to the order issued by
22 this Commission for the parties to meet between April and June
23 of this year. Isn't it true that you are not present at those
24 intercompany review board meetings?

25 A Again, as I mentioned in my answer between May 29th

1 and June 6th or 7th, the time for those meetings, I was not
2 present in those meetings, but I believe your question was
3 whether I'd ever been present in any. And my answer is yes,
4 and I have a long history with Supra in dealing with those
5 issues and, I believe, you actually know that.

6 Q You stated that you work closely with Mr. Finlen and
7 that you met with him, I'm not sure which term you used,
8 regularly?

9 A That is correct.

10 Q Isn't it true that you don't have any record of those
11 meetings, either written or otherwise?

12 A Mr. Finlen and I are on the same floor. Our offices
13 are just feet, several feet apart. I don't know that I would
14 need to keep records of every meeting I have with all of my
15 employees.

16 COMMISSIONER JABER: So, the answer to his question
17 is you do not have notes.

18 THE WITNESS: I'm sorry.

19 COMMISSIONER JABER: This will go a lot better if you
20 answer the question and then elaborate.

21 THE WITNESS: I will.

22 A No, I do not have notes, but Mr. Finlen and I are
23 just feet apart, our offices, and he does, in fact, work in my
24 group.

25 BY MR. MEDACIER:

1 Q To your recollection, Mr. Finlen was the one who
2 physically participated in those meetings with Supra, correct?

3 A He was one of the -- yes, he was one of the members
4 there. Mrs. Jordan was also there.

5 Q Does Mr. Finlen still work for BellSouth?

6 A Yes, he does.

7 Q Isn't it true that Mr. Finlen, although he
8 participated physically in those meetings, he did not file
9 testimony in this case?

10 A Yes, you are right, he did not file, but Mr. Finlen
11 has been present in those meetings with Supra.

12 Q Was Mr. Follensbee present at those meetings, if you
13 recall?

14 MR. TWOMEY: I just want to object to the form.
15 Mr. Medacier has alternatively referred to all ICRB meetings
16 between the companies and some specific meetings in May or
17 June, and I just want to be clear as to which -- when he says
18 those meetings, I want to know which meetings he's talking
19 about.

20 COMMISSIONER JABER: Mr. Medacier, also for purposes
21 of going back and reading the transcripts, it would be easier
22 to know which meeting you are referring to and it would help
23 Staff when they're writing their recommendation, so let's try
24 to be specific on the dates of the meetings.

25 MR. MEDACIER: Okay. Yes, thank you, Madam

1 Commissioner, but I have prefixed it I am referring to the
2 meetings between May 29th and June 6th.

3 COMMISSIONER JABER: Okay. So, for the next series
4 of questions those are the dates.

5 MR. MEDACIER: Yes.

6 COMMISSIONER JABER: And when those dates change, you
7 will be clarifying it.

8 MR. MEDACIER: I will.

9 COMMISSIONER JABER: Okay.

10 MR. MEDACIER: Thank you.

11 A In response to your question, the meeting on May 29th
12 -- Mr. Follensbee was not present in that meeting, according to
13 my notes. On June 4th, I do not show him as being present in
14 that meeting.

15 BY MR. MEDACIER:

16 Q Do you have any recollection as to which BellSouth
17 representatives were present for these meetings?

18 A Yes, I do.

19 Q Can you please tell us?

20 A Yes, I can. On the 29th, Mr. Finlen, Ms. Jordan,
21 Mark Cathey, and Charlotte Donlon. On June 4th, Charlotte
22 Donlon -- in fact, it's the same four people.

23 Q Okay.

24 A The same four that I mentioned. And on June 6th, I
25 know Mrs. Jordan was there, but I do not show others in

1 attendance on my notes here.

2 Q Mr. Hendrix, isn't it true that although Mr. Finlen,
3 Mr. Cathey, Ms. Charlotte Donlon participated in these
4 meetings, none of them furnished direct or rebuttal testimonies
5 in this matter?

6 A I would agree, yes, that they were present in the
7 meetings. They did not furnish the testimony in this docket,
8 but I think it has little relevance to why we're here and what
9 the issues are, because if you look back on the history of our
10 dealings with Supra and the issues that were being addressed in
11 these various meetings, it has little to do with the reason for
12 which we are here.

13 In other words, those meetings were very -- other
14 than talking about issues, inside wire, there were xDSL issues,
15 and other issues have had little to do with the follow-on
16 agreement. In fact, Supra made it a point they were not
17 willing nor able -- not so much able; they were not willing to
18 talk about the follow-on agreement until they had received
19 network -- the information that they thought to be critical to
20 running their business.

21 Q But then, again, you were not present at these
22 meetings, correct?

23 A I'm sorry?

24 Q My question is you were not present for these
25 meetings, correct?

1 A No, I was not present for the meetings during this
2 time period, but I've been present in many meetings with Supra,
3 including intercompany review board meetings with Supra.

4 Q Mr. Hendrix, do you recall the first time Supra
5 requested that BellSouth provide information about its network?

6 A What I recall is Supra indicated that it requested --
7 I'm sorry, yes. What I recall is that Supra indicated that it
8 requested the information back in 1998 through the account
9 team. My understanding is that that was only a mention and a
10 much longer letter, I believe, in excess of ten pages, perhaps
11 12 pages.

12 Q Okay. Would the date of this letter be, to your
13 recollection, June 22nd, 1998?

14 A That sounds appropriate, yes.

15 Q Isn't it true that BellSouth did not provide any
16 information until July 9th, 2001?

17 MR. TWOMEY: I'm going to object to these questions,
18 Commissioner Jaber. They're not relevant to any issue in this
19 proceeding and, in fact, the questions on this subject were
20 raised during discovery and BellSouth raised an objection to
21 relevancy during discovery and the prehearing officer found
22 that these pieces of information were not relevant to this
23 proceeding, so I would ask that you reach the same conclusion
24 here, that they're not relevant to any of the issues.

25 MR. MEDACIER: Madam Commissioner --

1 COMMISSIONER JABER: Mr. Medacier, the objection is
2 one of relevance. Your response?

3 MR. MEDACIER: My response is that that's inaccurate.
4 I've had this response from Mr. Twomey at the deposition, and
5 he's misquoting this Commission. The order entered by the
6 Commission was that certain information were not particularly
7 important at the time we asked them, but I believe that
8 Mr. Hendrix testified to them in his direct and rebuttal
9 testimony and he even made reference to network information at
10 his deposition, and I believe that Supra has a right to cross
11 him on the statements he made in the testimonies that are
12 already in evidence.

13 COMMISSIONER JABER: Okay. Mr. Medacier, tell me
14 where in his direct and rebuttal testimony you think he's
15 already testified to this issue.

16 MR. MEDACIER: Yes, if I can have just one minute.

17 COMMISSIONER JABER: Yes. And, Mr. Twomey, tell me
18 which Order you're referring to, the September 10th Order or
19 the September 13th Order.

20 MR. TWOMEY: Commissioner Jaber, if it will save
21 time, I will stipulate that Mr. Hendrix did include statements
22 about this in his testimony. That's not the point of my
23 objection, if that will move things along. I will concede that
24 if Mr. Medacier looks, he will find statements. When Mr. Ramos
25 filed his testimony, he included a lot of issues that, quite

1 frankly, were completely irrelevant to this proceeding, but
2 they accused BellSouth of various tactics.

3 In filing our rebuttal testimony, BellSouth did not
4 think it was appropriate to simply let those statements hang
5 out there unanswered, even though they're not relevant to this
6 proceeding, so we did include the statements, but they're not
7 relevant to the issues in the proceeding.

8 In Interrogatory Number 7 of their first set, Supra
9 specifically asked the question, "State with particularity the
10 basis for BellSouth's contention on Page 2, paragraph 4,
11 BellSouth's response to Supra's Complaint and Motion to Dismiss
12 that BellSouth does not believe that Supra requested these
13 documents." Those are the network documents. Prior --

14 COMMISSIONER JABER: Mr. Twomey, what Order did you
15 refer to, the September 10th Order or the September 13th Order?

16 MR. TWOMEY: I'm sorry. I was trying to say that it
17 came out of Interrogatory -- it's the September 13th Order, and
18 it's Interrogatory Number 7 on Page 3, but the Order does not
19 say what the interrogatory was, but it's Interrogatory Number
20 7. And the finding of the prehearing officer was that the
21 question in the interrogatories was, quote, not relevant to any
22 issue in this docket.

23 COMMISSIONER JABER: All right. Mr. Medacier, did
24 you find the places in the testimony that you refer to?

25 MR. MEDACIER: Sure. Page 12 and starting on Line 7

1 of Mr. Hendrix's direct testimony, we asked this question,
2 "When did BellSouth realize that Supra was requesting
3 information regarding its network?"

4 COMMISSIONER JABER: Okay. And in rebuttal?

5 MR. MEDACIER: In rebuttal, Page 18, starting Line 8.

6 COMMISSIONER JABER: And what was your question to
7 the witness?

8 MR. MEDACIER: My question was when was he first
9 aware -- that was my first question -- that Supra requested
10 information, which is the same question, basically, we asked in
11 his Direct and also, when did BellSouth furnish the information
12 to Supra?

13 COMMISSIONER JABER: Okay. I'll allow the question.

14 MR. MEDACIER: Thank you.

15 COMMISSIONER JABER: Mr. Hendrix, do you need it
16 repeated?

17 THE WITNESS: No, I do not.

18 A June 22nd appears to be the appropriate date.

19 BY MR. MEDACIER:

20 Q Okay. Do you know what date BellSouth finally
21 provided Supra with the network information?

22 A Yes. I believe, back on July 9th, I believe, would
23 be around the time that BellSouth had given Supra what it
24 thought was some of the data that was responsive to what Supra
25 had asked, but I think the key fact here is when BellSouth

1 initially learned that Supra was not wanting to move forward
2 with negotiations because it did not have such data, BellSouth
3 made every effort to find out what in the heck are you asking
4 for, because the document that was referenced has nothing to do
5 with how you order UNEs from BellSouth to actually get into
6 business.

7 We have that information out on the web site, not
8 only for Supra but for other carriers to actually avail
9 themselves of. The document that is referenced is something
10 that was issued prior to the Act back in 1996, and it's really
11 just a template on things you need to look for when you
12 interconnect with other carriers.

13 Finally, BellSouth was not one to sign off on that
14 document. That was signed off by our mobile unit that is now a
15 part of Cingular. It had nothing do with us, BellSouth
16 Telecommunications, you know, that negotiate the agreements
17 with Supra and with other companies. And so, we were at a loss
18 as to what they were looking for; make it more clear for us so
19 we can give you what it is that you're looking for. And Supra
20 was very long in coming back, you know, wanting to --
21 identifying what was needed and how what they needed was
22 relevant to negotiating in the agreement.

23 Q Mr. Hendrix, I appreciate your elaboration on the
24 question. I did not ask, but you stated that you produced the
25 documents on July 9th. Do you remember the year?

1 A Yes, it was 2001.

2 Q Thank you.

3 You stated that the information requested by Supra
4 were not necessary to other UNEs; is that correct?

5 A I said it was not -- no, that's not right. What I
6 said was that it was not really relevant to how you would order
7 UNEs and the services that you would need to interconnect with
8 us and that you could go out on the web site and get much of
9 what you needed to actually make this interconnection work. We
10 were at a loss as to what you were looking for and how it meant
11 anything relative to the follow-on agreement.

12 Q Mr. Hendrix, isn't it true that you did not make any
13 subject matter expert available for any of those meetings to
14 explain Supra's position -- BellSouth's position to Supra?

15 A I wouldn't need -- the answer is no. BellSouth did
16 not make any subject matter experts available, because we
17 didn't need to. We've been doing this since 1996. We knew
18 what the issues were. Supra never raised issues that would
19 warrant us bringing in subject matter people to address issues.

20 If we're going to be talking just in general without
21 Supra laying out an agenda, there's nothing to ask your people
22 to come to the meetings for. It's useless. We do not have
23 resources, you know, with thousands and thousands and thousands
24 of agreements that can just sit into a meeting in case Supra
25 comes up with a question.

1 When we meet with customers to negotiate agreements,
2 we usually have a pretty firm agenda. When we meet with MCI,
3 AT&T, the two agreements that Supra has actually mentioned, we
4 schedule months in advance, and we block out whole weeks
5 because we have an agenda, and the subject matter people know
6 they have to be present. Supra never made those things
7 available to us, so we're not going to make people available
8 simply to be there in case they come up with a question.

9 COMMISSIONER JABER: Mr. Hendrix, did you ask Supra
10 for such an agenda?

11 THE WITNESS: Yes, we did.

12 COMMISSIONER JABER: On how many occasions?

13 THE WITNESS: Off the top of my head, I know at least
14 two. When we went down to meet with them in Miami, a two-day
15 meeting there; prior to that meeting, also prior to other
16 negotiation sessions once we got back from that meeting,
17 because we needed to know what are the issues. What issues
18 will we be filing 9-1, you know? What is it we do not agree
19 with? And Supra was not able to come forth with what the
20 issues were. And I'm going to tell you, in the Miami meeting
21 they hadn't even read the agreement that we had sent them to
22 prepare for that meeting so we could come up with issues.

23 COMMISSIONER JABER: Did you make the request for an
24 agenda or an understanding of what the issues were in writing
25 or orally at the Miami meeting?

1 THE WITNESS: I believe, we did. I would have to go
2 back and check through my notes, but I'm almost certain we did.
3 I'm looking back at letters that were sent to Mr. Ramos back on
4 July 20th that incorporated the agreement and it's also where
5 we compared where we were with AT&T and the agreement that we
6 were negotiating with them at the same time.

7 So, I would have to go back and look in my notes to
8 see if, in fact, we had an agenda, but I'm certain we had an
9 agenda; otherwise, you know, we would not have -- we would not
10 have gone down, because the whole purpose of the Miami meeting
11 was to walk through the agreement to get through it.

12 COMMISSIONER JABER: Okay. When you received the
13 agenda from Supra or at least some sort of indication what
14 their issues were, did you make subject matter experts
15 available?

16 THE WITNESS: We didn't need to. And the reason we
17 didn't need to, as I mentioned, most of the issues are not new.
18 When we go in and we sit down with customers, we bring in the
19 subject matter people only when they're actually needed, but
20 most of the other issues, and not being clear as to where Supra
21 wanted to actually go, we didn't need subject matter people.

22 But if we needed to add someone on by phone or if
23 they needed to call me, we have interactive pagers, we have
24 telephones, and we are always there, and we're wanting to be
25 responsive to what the customers are actually asking. And if

1 we need to set up a separate meeting to just go through Supra
2 issues, we actually do that. That is part of our process.

3 COMMISSIONER PALECKI: At the time of the meeting
4 you're referring to, were you aware that Supra had expressed a
5 preference to negotiate from its existing agreement and not
6 from the most recent standard interconnection agreement of
7 BellSouth?

8 THE WITNESS: At the time of the meeting -- let's
9 see, on -- let me get my dates right here. At the time of the
10 meeting, prior to the meeting in Florida, there were a whole
11 lot of other issues relative to using a single agreement that
12 was negotiated for a single state across the whole region.

13 Then, we understood that Supra wanted to use the
14 existing agreement to create the redline and not start with the
15 new. And we explained to Supra that there were many changes
16 that had taken place in the agreement, there were many rulings
17 that had been issued. We actually had given them our standard
18 agreement. We had also given them a redline of the -- of where
19 we were with the AT&T agreement, so we knew their intent of
20 wanting to stay with that agreement.

21 What we also knew is that AT&T and MCI, alike, had
22 problems, you know, once we got into the negotiations of
23 staying with those current agreements because of the number of
24 changes, the changes in law and similar type issues. You know,
25 as issues come up, we make every effort to keep our agreements

1 current and there were just massive changes, so, yes, we knew
2 that they wanted to stay with the old agreement. We did not
3 think it was appropriate, because it did not reflect the many
4 changes that had taken place in the industry resulting from
5 various arbitrations.

6 COMMISSIONER PALECKI: It seems like one of those
7 threshold issues like the shape of the negotiating table that
8 has prevented both parties from moving forward at all insofar
9 as these negotiations are concerned. In order to get past that
10 issue, has BellSouth ever taken the existing Supra agreement
11 and done a type and strike redline adding the massive changes
12 that it has incorporated over the years into its other
13 agreements in order to get past that issue? It would seem like
14 you should be able to take the Supra agreement and incorporate
15 changes in order to make that close enough to where you are now
16 with your standard agreement that that might have facilitated
17 some negotiations here.

18 THE WITNESS: And that is a very good point, and we
19 thought we had pretty much covered that base. Back on July
20 20th, we did, in fact, do a redline of the general terms of the
21 AT&T agreement, the one that Supra was operating under, to
22 point out the changes.

23 COMMISSIONER PALECKI: Oh, you have done that?

24 THE WITNESS: Yes.

25 COMMISSIONER PALECKI: To the agreement that Supra is

1 currently operating under?

2 THE WITNESS: Under -- for the general terms to point
3 out where we were with AT&T in the negotiation process, because
4 AT&T was very sensitive to that also, and so we made an effort
5 to make available to Supra what we had and what we had done
6 with AT&T being sensitive to the fact that Supra wanted to stay
7 under the current AT&T agreement.

8 COMMISSIONER PALECKI: And was BellSouth willing to
9 negotiate using that redline version as a starting point?

10 THE WITNESS: We were willing to negotiate using the
11 redline and pointed out that there were just massive changes
12 that had taken place in the agreement. And when you got into
13 other attachments, it was simply not possible to do, that you
14 simply had to replace the whole attachments, because of all of
15 the changes. So, for general terms it made sense, and we gave
16 Supra the redline indicating what those changes were.

17 COMMISSIONER PALECKI: Thank you.

18 COMMISSIONER JABER: Mr. Medacier.

19 MR. MEDACIER: Thank you.

20 BY MR. MEDACIER:

21 Q You said earlier that we went down to meet with
22 Supra. What is the date of that meeting you are referring to?

23 A The meeting I am referring -- yes, I do have the
24 date. That wasn't a yes or no on that one, but yes, I do have
25 a date and that was August 7th and August 8th. And when I say

1 we, Mr. Finlen is in my group, he went down with Ms. Jordan in
2 that to be a part of that meeting to try to get the
3 negotiations going. And so, I refer to we in general, because
4 Mr. Finlen is part of the team to negotiate agreements with
5 other CLEC customers.

6 Q Oh. So, when you meant we, you really meant they; is
7 that correct?

8 A No, I meant what I said. I said we. Mr. Finlen is a
9 part of my group to negotiate agreements with all CLEC
10 customers. We are a team, and we send various team members to
11 go out and do what has to be done. And the fact is as much as
12 you try to indicate that I do not understand the issues or
13 anything else about the Supra agreement, I would just very
14 plainly say that's inappropriate and it's wrong, because I
15 signed the AT&T agreement, signed the MCI agreement, and the
16 agreement that you are operating under now I actually
17 negotiated it. And I understand what the issues are with
18 Supra, just as I do with the other CLEC customers.

19 MR. MEDACIER: Madam Commissioner, just for the sake
20 of moving forward in a speedy manner, if he can just stick to a
21 simple answer, that will satisfy Supra.

22 COMMISSIONER JABER: I think, he answered the
23 question. He thinks when he answered "we" he was talking about
24 the collective company and made clear that he personally did
25 not attend the meeting. Would you agree with that,

1 Mr. Hendrix?

2 THE WITNESS: Yes, I would agree with that.

3 COMMISSIONER JABER: Now, Mr. Hendrix, I have
4 observed that you've crossed that line between elaboration and
5 defensiveness and going down roads that -- don't anticipate the
6 next question, you know? Just stick to the question. It just
7 makes for a better proceeding.

8 THE WITNESS: Okay.

9 COMMISSIONER JABER: You're -- well, I'll just leave
10 it at that.

11 THE WITNESS: Thank you.

12 COMMISSIONER JABER: Okay.

13 BY MR. MEDACIER:

14 Q Mr. Hendrix, do you have note of the August 7th and
15 August 8th meetings with Supra of any meetings regarding such
16 between you and Mr. Finlen?

17 A I'm not certain I understand the question.

18 Q After Mr. Finlen met with Supra in Miami on August
19 7th and August 8th, do you have any notes that you met with him
20 to discuss that meeting?

21 A No, I do not have notes of those meetings, but
22 Mr. Finlen and I do, in fact, talk on a regular basis as to
23 what those issues are. I'm certain we talked once he returned
24 from that meeting.

25 Q Thank you.

1 Mr. Hendrix, I'm going to refer you to the document
2 that I showed you earlier which is BellSouth response to
3 Supra's interrogatories. Do you still have that document?

4 A I'm sure I have it. Let me see if I can put my hands
5 on it.

6 MR. TWOMEY: Mr. Medacier, just so I have my version
7 of it here, are you showing him the complete response or only
8 the supplemental response?

9 MR. MEDACIER: Supplemental response.

10 MR. TWOMEY: All right.

11 BY MR. MEDACIER:

12 Q And I'm going specifically to supplemental item
13 number 5.

14 COMMISSIONER JABER: Mr. Medacier, I don't think he's
15 found it yet.

16 MR. MEDACIER: Oh, I'm sorry.

17 COMMISSIONER JABER: Do you have another copy?

18 THE WITNESS: I do not know what happened to the
19 copy, but if I can have -- wait a minute, I think I have it. I
20 have it here, I'm sorry. I have it here.

21 COMMISSIONER JABER: Go ahead.

22 BY MR. MEDACIER:

23 Q And I believe, that's the fourth page of that
24 document you will see supplemental item number 5, Page 1 of 7.

25 A Yes.

1 Q Okay. Supra requested -- states with particularity
2 the basis for BellSouth contention on Page 5 of BellSouth's
3 Response to Supra's Complaint and Motion to Dismiss filed by
4 BellSouth on July 9th, 2001, that since the old agreement was
5 negotiated with AT&T five years ago, BellSouth practices have
6 changed, the conforming law has changed, and the
7 interconnection offerings, terms, and conditions that are
8 available have changed. Accordingly, what BellSouth offered in
9 the current standard interconnection agreement as a starting
10 point for negotiation is different from than what BellSouth
11 offered as a starting point when the old AT&T agreement was
12 drafted.

13 And the BellSouth response was that, in general, "The
14 law has changed substantially since the passage of the 1996
15 Act." And it continues on to say, "Based upon these changes
16 and upon the experience BellSouth has gained in implementing
17 the Act of 1996 over the last five years, BellSouth's internal
18 process has been modified substantially as well."

19 In response at Page 2 and, I believe, you filed that
20 answer, you made the changes -- you listed the changes; is that
21 correct?

22 A That is correct.

23 Q Okay. Am I reading this right, that to the general
24 terms and condition BellSouth only made three changes in
25 policies?

1 A No. I would not agree that that is what this is
2 stating. In fact, at the very end of the opening of the
3 response under the general piece, I'm looking at the last
4 sentence in the first paragraph, it states, "While it is
5 impossible to list all of the changes that BellSouth has made
6 to its agreements since the AT&T agreement was negotiated,
7 below are some of the more prominent ones," so no, those are
8 not all of the changes in company policy since that time.

9 Q Mr. Hendrix, besides those three changes you listed,
10 are there any ones that come to mind to the general terms and
11 conditions?

12 A There are none that come to mind right at this
13 moment, but I know for certain that there are, in fact, others.

14 Q Thank you. According to you, these are the three
15 most prominent changes, but yet BellSouth is unable to redline
16 the agreement and propose it to the Commission; is that
17 correct?

18 A No, that's not correct. And when you ask is
19 BellSouth unable to redline the agreement and file such
20 agreement, if we were required to redline such an agreement we
21 would, in fact, do that. The thing is, you know, when you look
22 at an interconnection agreement it is more than just in general
23 terms. There are about 14 other attachments to that agreement,
24 so you're looking at about 500 pages in that agreement. And
25 with all of the changes it would simply be appropriate to start

1 from an agreement that is reflective of what most of those
2 changes are. So, no, that is not correct. If we were required
3 to do so, we could, but BellSouth did not view it as being
4 appropriate.

5 Q Mr. Hendrix, this Commission has compelled BellSouth
6 to list all of the changes that impact the follow-on agreement.
7 You are able to summarize them in seven pages, but yet you are
8 still referring to it as massive changes; is that correct?

9 A Okay. I don't believe -- well, first, no, that's not
10 correct. As I mentioned, at the last sentence of the opening
11 paragraph, it stated that these are many of the prominent
12 changes. And the fact that we listed those changes has nothing
13 to do with the contract language that would follow these
14 changes. When you go in and draft contract language, you know,
15 a single item may go on for pages, and that is why you have a
16 seven-page document here, but the actual agreement will
17 encompass 14 Attachments totaling some 500 pages.

18 Q Mr. Hendrix, I'm not sure if you have a copy of this
19 document, but I'm referring to Order Number 01-1846 issued by
20 this Commission on September 13th, 2001.

21 A I do not have that document with me.

22 Q Okay.

23 A Thank you.

24 Q And I'm asking you to please turn to Page 3, the last
25 paragraph. I am reading from the seventh line from the bottom.

1 "As such, BellSouth shall provide Supra with a reasonable
2 history and explanation of how it has arrived at its present
3 standard interconnection agreement and in what ways the
4 standard interconnection agreement has changed from the
5 interconnection agreement it signed with Supra in 1999." Do
6 you see that?

7 A Yes, I do see that and, I believe, BellSouth has
8 actually done that and, I believe, the seven pages that are
9 listed here highlighting those changes satisfies what is
10 required of us in this Order. I think, the Order, as it is
11 written, says a reasonable history. And as I mentioned, once
12 you get into an agreement, you're talking hundreds of pages,
13 and we provided a reasonable history of what has changed.

14 Q Mr. Hendrix, I'm still at a loss. You said you
15 provided a reasonable history? Can you please point me to it?

16 A I was pointing to the reference that you had just
17 made on item number 5, the seven pages that are listed in the
18 supplemental request filed by BellSouth highlighting what the
19 major -- or the prominent changes were, not all changes, but
20 the prominent changes were and what has taken place since the
21 signing of the previous agreement.

22 Q Mr. Hendrix, isn't it true that there is no changes
23 that you listed in your answer that affect Attachment 3 of the
24 current agreement? And when I said Attachment 3 -- I'm sorry,
25 Attachment 4, I mean provisioning and ordering.

1 A Let me ensure that I understand your question. Are
2 you asking me if I've included anything on the provisioning and
3 ordering in the seven pages that are listed here?

4 Q This is not my question. My question is of the
5 changes you listed in Page -- in your seven pages, are there
6 any effecting Attachment 4 of the parties' current agreement?

7 A And how do you -- I'm sorry, if I may ask just to be
8 sure I'm clear as to what you're asking, when you say
9 Attachment 4, at different points Attachment 4 meant different
10 things. Could you define for me what Attachment 4 is? Are you
11 speaking of billing and provisioning?

12 Q Provisioning and ordering.

13 A Provisioning and ordering.

14 MR. TWOMEY: Commissioner, could Mr. Medacier provide
15 Mr. Hendrix with a copy of Attachment 4 for the current
16 agreement so Mr. Hendrix has an opportunity to review it before
17 he responds?

18 MR. MEDACIER: That's no problem.

19 MR. TWOMEY: Thank you.

20 COMMISSIONER JABER: Mr. Medacier, and for us, you're
21 referring to an exhibit in his testimony, correct?

22 MR. MEDACIER: Yes.

23 COMMISSIONER JABER: Which exhibit number is that?
24 You can wait until you get your notebook back, it's okay.

25 MR. MEDACIER: Thank you.

1 BY MR. MEDACIER:

2 Q Mr. Hendrix, you can --

3 A Do I need to keep it? Okay.

4 COMMISSIONER JABER: What exhibit number?

5 MR. MEDACIER: Madam Commissioner, I'm not sure we
6 have listed our current agreement as an exhibit in -- that was
7 prefiled; however, I believe that it was negotiated and
8 approved by this Commission, and I will be asking this
9 Commission to take judicial notice of it.

10 COMMISSIONER JABER: Mr. Knight, do we need the
11 original agreement in the record in this case?

12 MR. KNIGHT: Yeah, I think, we have to include it on
13 the record.

14 COMMISSIONER JABER: Right, so -- but official notice
15 isn't the correct vehicle, right? We need to mark it as an
16 exhibit?

17 MR. KNIGHT: Yes, we need it as an exhibit.

18 COMMISSIONER JABER: And who should sponsor that?

19 MR. KNIGHT: Pardon?

20 COMMISSIONER JABER: Who should be the sponsor of
21 that; BellSouth, Supra, does it matter?

22 MR. KNIGHT: Doesn't matter.

23 COMMISSIONER JABER: Parties would stipulate to the
24 identification of that agreement, correct?

25 MR. TWOMEY: Yes.

1 MS. WHITE: This is the existing agreement?

2 MR. MEDACIER: The existing agreement.

3 MS. WHITE: Yes.

4 COMMISSIONER JABER: Let's go ahead and mark that as
5 Exhibit 4, and give me the date of the agreement again.

6 MR. TWOMEY: Actually, Commissioner --

7 MR. MEDACIER: It's June 10th, 1997, but adopted by
8 Supra on --

9 MR. TWOMEY: The agreement between the parties is
10 dated October 5th, 1999. It is approximately a two or
11 three-page agreement that incorporates another agreement, but
12 the agreement between Supra and BellSouth is an October 5th,
13 1999 agreement.

14 COMMISSIONER JABER: Let me make sure the parties are
15 speaking about the same agreement, though. The underlying
16 agreement was June 10th, '97. The agreement adopting that one
17 was dated October 5th, 1999. Is there agreement right there?

18 MR. MEDACIER: I believe, that's correct.

19 MR. TWOMEY: The underlying agreement you're
20 referring to, I want to be clear, because Supra and BellSouth
21 had earlier agreements, too. It is a June 10th, 1997,
22 agreement between AT&T and BellSouth that Supra adopted through
23 an agreement between BellSouth and Supra on October 5th, 1999.

24 COMMISSIONER JABER: Mr. Medacier?

25 MR. MEDACIER: Yes?

1 COMMISSIONER JABER: Is that the exhibit you are
2 about to refer the witness to?

3 MR. MEDACIER: That's correct, Commissioner.

4 COMMISSIONER JABER: Okay. Exhibit Number 4 will be
5 the October 5th, 1999 agreement that adopts the June 10th, 1997
6 agreement between AT&T and BellSouth. One of the parties --
7 and actually, Mr. Medacier, since you've got the copy, during a
8 break you will need to make copies of that exhibit and provide
9 it to the court reporter, to Staff, and to the Commissioners.

10 MR. MEDACIER: Yes, we will.

11 COMMISSIONER JABER: All right? That will be Exhibit
12 4.

13 (Exhibit 4 marked for identification.)

14 BY MR. MEDACIER:

15 Q Mr. Finlen -- I'm sorry, Mr. Hendrix, do you have an
16 answer for me?

17 A We look so much alike, it's okay to confuse me with
18 Mr. Finlen.

19 Q I didn't say that.

20 A Okay. Yes, I do have an answer. Just to restate
21 what I understand the question -- you asked if there were any
22 changes. I did not list any changes relative to the Attachment
23 4 provisioning and ordering, and I beg to differ that we did,
24 in fact, list some of the changes but, again, as I mentioned,
25 these are the prominent changes.

1 But in the seven pages that were included as the
2 response to number 5, we do in fact, mention the ordering.
3 That's at the top of Page 5, 5 of 7, which points to the OSS.
4 There are also -- I believe, there's another change that was
5 mentioned at the bottom of Page 5 that talked about the
6 ROBOTAG, the TAG, and the LENS, so there were changes, but I
7 think it's misleading to talk about the changes in Attachment
8 4, because in the AT&T agreement that Supra is operating under,
9 there is an Attachment 15, and that Attachment 15 talks about
10 the interface that was being developed by BellSouth for AT&T
11 for actually ordering services.

12 And so, you can't look at Attachment 4 in a vacuum
13 and say simply there weren't changes. Further, if you look at
14 the response the way it is drafted, it is talking about
15 prominent changes, but these prominent changes could have
16 impacts on various attachments throughout the agreement.

17 COMMISSIONER JABER: Mr. Hendrix, let me tell you
18 that your counsel will have an opportunity to ask you redirect
19 questions, so I want you to stick to responding to the direct
20 question that Mr. Medacier asks.

21 THE WITNESS: Yes, ma'am.

22 BY MR. MEDACIER:

23 Q Mr. Hendrix, I'm really sorry if I go back to my
24 former question, but can you please explain in what ways the
25 standard interconnection agreement has changed from the

1 interconnection agreement it signed with Supra in 1999? And
2 I'm quoting, specifically, directly from the Order of this
3 Commission?

4 A Yes, I can highlight many of the changes that have
5 taken place in that agreement. One is the treatment of
6 ISP-bound traffic for local interconnection given the FCC's
7 Order. There have been other UNE elements that we're obligated
8 to unbundle in our network. There have been different rates
9 and intervals for collocation. There's been the obligation to
10 provide extended links, which is also referred to as EELs and
11 to allow for the conversion of the special access to these
12 unbundled network elements based on the options the FCC has
13 laid out.

14 Q Going forward, Mr. Hendrix, are there any changes
15 attached to Attachment 5 of the agreement?

16 MR. TWOMEY: Commissioner, I'm not sure Mr. Hendrix
17 was finished with his answer when he was interrupted.

18 MR. MEDACIER: Oh. I apologize.

19 BY MR. MEDACIER:

20 Q If you're not through, you can --

21 A No, I wasn't finished.

22 Q Please go ahead, I'm sorry.

23 A The other changes are the interface systems that
24 customers can use, unlike what was in the AT&T agreement which
25 pointed to an interface system that BellSouth and AT&T were

1 working on jointly with BellSouth developing for AT&T, line
2 sharing has come into the industry and the rules are very clear
3 as to how line sharing is to be dealt with. The portability
4 has since moved to a different plateau as to -- relative to how
5 that is to be done and a time frame under which it is to be
6 done. That's just to highlight some of the changes.

7 COMMISSIONER JABER: Does that complete your answer?

8 THE WITNESS: Yes, it does.

9 COMMISSIONER JABER: We're going to take a 15-minute
10 break. Come back here at 11:45.

11 THE WITNESS: Thank you.

12 (Recess taken.)

13 COMMISSIONER JABER: Let's get back on the record.
14 Mr. Medacier.

15 MR. MEDACIER: Yes, Commissioner?

16 COMMISSIONER JABER: Go ahead. You were cross
17 examining Mr. Hendrix?

18 MR. MEDACIER: Yes, thank you very much.

19 BY MR. MEDACIER:

20 Q Mr. Hendrix, isn't it true that you mentioned earlier
21 that there were changes to OSS; is that correct?

22 A Yes, I did.

23 Q And that there were new electronic interfaces; is
24 that correct?

25 A Yes, sir, I did. And the two that I mentioned, I

1 think, I mentioned TAG and ROBOTAG.

2 Q Okay. When were those two interfaces introduced by
3 BellSouth?

4 A I do not know, perhaps one of the other BellSouth
5 witnesses could give you the date. I do not know.

6 Q To your knowledge is Supra using TAG or ROBOTAG?

7 A I'm not certain. Another witness -- I believe,
8 Mr. Pate could expound on that.

9 Q Mr. Hendrix, do you contend that LENS, which is a
10 system being used by Supra, is parity to BellSouth's own OSS?

11 A I don't believe I'm the appropriate witness to
12 address that. I believe, Mr. Pate could address that.

13 Q Mr. Hendrix, are you aware that Supra propose to
14 BellSouth that the parties use the current agreement as the
15 starting point for negotiation?

16 A Yes, I am aware that Supra wanted to use that as a
17 starting point.

18 Q And are you also aware that Supra proposed that the
19 parties use the current language as their own language as a
20 starting point for the follow-on agreement?

21 A Yes, I am. I thought that was the question I just
22 answered.

23 Q Are you also aware that Supra redlined the current
24 agreement and sent it to BellSouth?

25 A No, I don't believe Supra did. What Supra did was to

1 redline portions of the agreement and, I believe, it was to
2 general terms, but it's by far not the total agreement.

3 Q Okay. Are you aware that Supra redlined the general
4 terms and conditions and sent it to BellSouth?

5 A Yes, I am aware that you redlined those and sent
6 those to BellSouth. I'm also aware that that was part of the
7 filing that you made here.

8 Q Okay. Do you recall when -- do you know if BellSouth
9 ever redlined that agreement and sent it back to Supra?

10 A I do not recall whether BellSouth redlined that
11 agreement and sent it back to Supra, but as I mentioned
12 earlier, on September -- I'm sorry, July 20th, we provided
13 Supra a copy of where we were with AT&T since it was the AT&T
14 agreement and provided the redline where we were with them on
15 that agreement. That was July 20th of 2000.

16 Q Who is responsible to redline -- I mean, strike that.
17 If BellSouth was to redline an agreement sent by
18 Supra, who would be responsible to do that?

19 A The negotiation team assigned to Supra would
20 negotiate with Supra the terms of that agreement. It may not
21 simply be a case of red lining what Supra sent, but getting
22 Supra on the phone to ensure that we understood what the
23 parties -- we understood, one, what Supra had redlined, and
24 then work with Supra to ensure that we include in the agreement
25 what is agreeable to both parties. So, the responsibility

1 would fall on the negotiation teams, both Supra and BellSouth,
2 but the parties would have to meet to do that.

3 Q And when you refer to -- what you refer to as a
4 negotiation team, am I to understand it's Mr. Finlen,
5 Ms. Parkey Jordan, Mr. Cathey, and Ms. Charlotte Donlon?

6 A No. Mr. Finlen is the lead negotiator -- given the
7 time frame that we're talking about here Mr. Finlen is the lead
8 negotiator, and he will bring in the appropriate folks that he
9 deemed to be appropriate. Ms. Jordan is the legal -- our
10 attorney working with us on Supra.

11 Q I heard what you said, but I'm still not sure who
12 would be responsible to redline it, if any person is.

13 A There's not a person designated to simply redline.
14 What happens usually is the parties will negotiate an agreement
15 and work together. You know, if you send me a redline and I do
16 not understand, rather than just striking the language, it is
17 very helpful to simply call you to try to work through the
18 language. I'm just speaking as to how we generally do that
19 with other customers that are interested in negotiating
20 agreements. So, it's up to the parties, both Supra and
21 BellSouth, as to what steps are taken next once a redline is
22 sent by the other party.

23 Q So, am I to understand from your answers that you are
24 not aware whether BellSouth redlined the agreement or not?

25 A I am not aware, no. I am not aware as to whether we

1 redlined the agreement. We, in fact, reviewed and reviewed in
2 detail what Supra offered, but I cannot recall whether we
3 redlined that agreement, but it was, in fact, part of what you
4 had filed here.

5 Q You acknowledge that Supra sent BellSouth a redline
6 agreement, correct?

7 A Yes, I do.

8 Q Did you see it?

9 A I believe, I saw portions of it. I don't know that I
10 saw all of the pages, but I saw -- I do recall seeing portions
11 of the agreement.

12 Q Can you recall the changes made by Supra?

13 A No, I cannot, not without seeing them.

14 Q Mr. Hendrix, I'm about to show you what -- a document
15 sent to Supra from BellSouth and, I believe, it was sent to
16 Supra in July 2001. And I'm referring to OAR-61, prefiled.

17 COMMISSIONER JABER: Staff, is OAR-61 subject to
18 confidentiality?

19 MR. KNIGHT: Yes, it is.

20 COMMISSIONER JABER: So, just handle yourselves
21 accordingly. Do not disclose any of the confidential
22 information when you refer to that exhibit, Mr. Medacier.

23 MR. MEDACIER: Yes, I will.

24 MR. TWOMEY: Mr. Medacier, do you have a copy?

25 MR. MEDACIER: Yes, I do.

1 MR. TWOMEY: Thank you.

2 THE WITNESS: May I ask a clarifying question as to
3 what I have here?

4 COMMISSIONER JABER: Yes, Mr. Hendrix.

5 THE WITNESS: Thank you. Did you say this was sent
6 to you in July of 2001?

7 MR. MEDACIER: That's correct.

8 THE WITNESS: Okay.

9 COMMISSIONER JABER: What's your question,
10 Mr. Medacier?

11 BY MR. MEDACIER:

12 Q My first question is have you seen this document
13 before?

14 A I believe, I have, yes.

15 Q Can you tell this Commission whether it's the
16 document BellSouth redlined back to Supra in July 2001?

17 A I was thinking it was July of 2000, I believe, we
18 sent you a -- on July of 2000 we sent you an agreement
19 indicating where we were with AT&T on the general terms, as
20 well as with some of the other attachments. This is, in fact,
21 a redline that was sent back to Supra when I was thinking it
22 was earlier than the time period that you mentioned.

23 Q Thank you.

24 Are you aware that BellSouth agreed to negotiate the
25 follow-on agreement -- I'm sorry, strike that.

1 Are you aware that BellSouth agreed that the
2 follow-on agreement being currently negotiated is applicable in
3 not only Florida, but also Georgia and Louisiana?

4 A No, BellSouth did not agree to that.

5 Q Mr. Hendrix, I will -- and for the Commission's sake,
6 I will identify this next exhibit as OAR number 67.

7 COMMISSIONER JABER: Say that again, Mr. Medacier,
8 OAR --

9 MR. MEDACIER: 67.

10 COMMISSIONER JABER: And once again, is that a
11 confidential exhibit?

12 MR. KNIGHT: No, it isn't.

13 MR. MEDACIER: No, it is not. And for identification
14 purposes, it's November 10th, 2000 letter from attorney Parkey
15 Jordan to attorney for BellSouth -- to Kelly Kester, attorney
16 for Supra Telecom. If I may approach the witness.

17 MR. TWOMEY: Mr. Medacier, do you have a copy for me
18 or may I look at it before you show it to the witness?

19 MR. MEDACIER: Sure.

20 COMMISSIONER JABER: Mr. Medacier, OAR-67 is attached
21 to Mr. Ramos' testimony, correct?

22 MR. MEDACIER: Yes, it is.

23 COMMISSIONER JABER: And yes, you may approach the
24 witness.

25 BY MR. MEDACIER:

1 Q Mr. Hendrix, just to -- oh, I'm sorry.

2 Mr. Hendrix, just to have this on the record, can you
3 read the second paragraph of this letter for the Commission?

4 A The second paragraph?

5 Q Yes, sir.

6 A "Please contact Pat Finlen to schedule further
7 negotiations as he is Supra's assigned negotiator."

8 Q I'm sorry. Mr. Hendrix, I'm sorry, I meant the first
9 paragraph.

10 A Yes. You want me to read the whole paragraph?

11 Q Yes.

12 A "In response to your letter dated October 27th, 2000,
13 this is to confirm --" Some of this is not legible, so I'll
14 try to make out the words as I go.

15 Q Sure.

16 A "This is to confirm commencement of negotiations
17 between Supra and BellSouth for Florida, Georgia, and Louisiana
18 negotiations for Florida commence March 29th, 2000, in
19 accordance with the terms of the existing interconnection
20 agreement between Supra and BellSouth by letter dated June --"
21 and, I think, that's "-- 19th, 2000, to Mr. Buechele, requested
22 negotiations for Georgia and Louisiana; thus, negotiations for
23 these two states commence on June 19th. It is BellSouth's
24 intention that negotiations for the Florida agreement up to
25 this point have also been applicable to the Georgia and

1 Louisiana agreements."

2 Q Is Ms. Parkey Jordan an employee of BellSouth?

3 A Yes, she is. And what that letter is stating is
4 where we were up to that point that dealt mainly with the
5 general terms that would usually be copied over from one state
6 to the other with major -- with minor changes, but it's just
7 the general terms as to how the companies would actually
8 operate. So, it's not saying that the whole agreement, because
9 the rates and terms and all are totally different from state to
10 state. It's simply speaking of the general terms.

11 Q And where does it say that in the letter?

12 A I'm sorry?

13 Q Where does it say that in the letter?

14 A When it states that "thus, negotiations for these two
15 states commence on June 19th. It is BellSouth's intention that
16 negotiations for the Florida agreement up to this point --"
17 That's the key phrase, "up to this point." And all that has
18 been done was the general terms.

19 Q Are you saying from that point forward it does not
20 effect?

21 A No. What I am saying is that the agreement, as I
22 mentioned earlier, is about 500 pages with about 15 different
23 attachments, and we have general terms that are usually cut --
24 cookie-cutter from state to state with minor changes based on
25 how that state -- based on things that are unique to that

1 state, so all that is being said in this letter, since we only
2 have gotten to the general terms of the agreement, would be
3 applicable to those other states.

4 Q Thank you, Mr. Finlen -- Mr. Hendrix.

5 The changes that you mention in your answer to
6 Supra's interrogatories, can you tell this Commission if they
7 effect Attachment 6 --

8 A Okay.

9 Q -- of the interconnection agreement?

10 A I would need to know what Attachment 6 is. I can't
11 -- thank you.

12 MR. TWOMEY: Just for the record --

13 COMMISSIONER JABER: Mr. Medacier, now we need to
14 know what Attachment 6 is.

15 MR. MEDACIER: It's connectivity billing.

16 COMMISSIONER JABER: Say that again?

17 MR. MEDACIER: Connectivity billing.

18 COMMISSIONER JABER: So, this is the portion of what
19 I previously identified as Exhibit 4 related to connectivity
20 billing?

21 MR. MEDACIER: Yes, that's correct.

22 COMMISSIONER JABER: Mr. Twomey, is that what you
23 were going to ask?

24 MR. TWOMEY: Yes.

25 COMMISSIONER JABER: Okay.

1 A The answer is yes, it will -- Attachment 6 is
2 definitely impacted.

3 BY MR. MEDACIER:

4 Q And I believe that in your answer you mentioned "The
5 Supra agreement does not address billing disputes adequately.
6 BellSouth has not implemented a formal billing dispute process.
7 And number two, industry standards for billing records have
8 been developed and changed since Supra's agreement was
9 negotiated." Am I reading right?

10 A I'm not certain where you're reading from.

11 Q Page 7 of 7.

12 A Okay, I'm sorry.

13 Q Your supplemental response number 5.

14 A Okay, that's speaking of billing in general. If you
15 look in Attachment 6, if I may expound; may I?

16 COMMISSIONER JABER: Hasn't stopped you yet. Go
17 right ahead.

18 THE WITNESS: I'm sorry.

19 MR. TWOMEY: He's trying to behave himself.

20 THE WITNESS: I'm trying. May I?

21 COMMISSIONER JABER: Yes.

22 THE WITNESS: Thank you.

23 A Attachment 6 deals with a whole host of issues. They
24 deal with the meet point billing, it also deals with the
25 reciprocal comp, it deals with collocation issues, number

1 portability and, I believe, if you look through the seven pages
2 that I have here, those issues are addressed in my response to
3 this item number 5.

4 So, when I, along with AT&T, negotiated this
5 agreement, the grouping of different topics and subjects is not
6 as broad as you have just couched, you know, dealing strictly
7 with billing, because it will be impacted by many of the items
8 that are listed in this response to item 5.

9 BY MR. MEDACIER:

10 Q So, am I to understand that the answers you produced
11 to the Commission's Order are not complete?

12 A No, that is not appropriate. The answers -- the
13 answer produced is responsive to the Order, but it does not lie
14 down exactly with how you just asked me the question, because
15 the agreement is interrelated where a subject matter item may
16 impact multiple parts of that agreement.

17 Q Well, do the changes that you listed effect
18 Attachment 10?

19 A Attachment -- yes, they would.

20 Q And I am referring to, to identify it, acronyms?

21 A That is correct.

22 Q And what are the changes?

23 A I'm sorry?

24 Q What are the changes?

25 A Any changes that are made -- and when I say yes, it

1 does impact Attachment 10, any new UNE or any new order that
2 would introduce any new acronym would be added to Attachment
3 10, so you have to almost work through the agreement and then
4 come back and do Attachment 10 after you put the agreement
5 together. That was pretty much what we did when we put this
6 agreement together. So, anything that you make relative to new
7 UNEs that are being offered, new services, would have to be
8 included as part of Attachment 10.

9 Q Mr. Hendrix, how about Attachment 13 and 14? And
10 just for the sake of identification, Attachment 13 is the BAPCO
11 agreement and Attachment 14 is the Bona Fide Request Process.

12 A The answer is yes, I believe, both of those
13 attachments would be impacted. I would know less about
14 Attachment 13, because BellSouth Telecommunications is not the
15 one to negotiate that attachment, but rather it's done through
16 BAPCO and Supra.

17 As far as Attachment 14, Attachment 14 is the bona
18 fide request process, and that would be impacted because there
19 is a new process that has been added, which is the new business
20 process that would allow customers to come to us that are to
21 request services that go beyond UNEs. So those attachments, as
22 we negotiate an agreement would, in fact, be impacted.

23 Q And where did you indicate that in your answer in
24 your supplemental item -- response to item 5?

25 A That is covered, again, in the opening paragraph to

1 the response that's found at Page 1 of 7 in response item
2 number 5, the last sentence. And the key word there are
3 prominent changes.

4 Q If I can understand, your key word is saying that
5 there are more, but you have not listed them in response to the
6 Commission's order, correct?

7 A Yes. We have responded to the order, and we think we
8 have responded to the Order fully. And, I believe, if I recall
9 right now the Order language that you referenced early would
10 obligate BellSouth to provide the key changes; key wasn't the
11 word that was used, but there was another word in the Order,
12 and we think we've responded fully to that Order.

13 Q Isn't it true that -- I'm thinking back to the
14 meetings that occurred between May 29th and June 6th, I
15 believe. Isn't it true that the issues were established by the
16 Commission prior to these meetings?

17 A I would say in part yes in that the parties had an
18 obligation to meet to hold an intercompany review board to
19 address issues that would -- that were part of the arbitration
20 filing. And so, in that sense, the issues were established.

21 Q You said in part, yes. What's the part that's no?

22 A The other part is Supra never came to the meeting
23 ready to address those until the last meeting. And the
24 previous two meetings, the May 29th meeting, I believe, the
25 June 4th meeting, was spent on issues other than the issues of

1 the arbitration. I believe, DSL was an issue that was covered,
2 inside wire was an issue that was talked about in those
3 meetings and, in fact, Supra was not willing to address the
4 issues associated with the follow-on agreement because of the
5 network information that it said it needed.

6 Q And, of course, you were not present, correct?

7 A I was not present, but Mr. Finlen on my team was, in
8 fact, present and I do have notes from those meetings.

9 Q Were you aware that --

10 COMMISSIONER JABER: Mr. Medacier?

11 MR. MEDACIER: Yes, ma'am.

12 COMMISSIONER JABER: This witness has been on the
13 stand almost three hours. Do not ask questions you've asked
14 before.

15 MR. MEDACIER: Yes, right. Now I'm about to wrap up.

16 BY MR. MEDACIER:

17 Q Were you aware that Supra had a subject matter expert
18 present for -- at the meetings?

19 A If you're referring -- I do not know if -- I want to
20 answer yes or no. If you're referring to Mr. Nilson then, I
21 believe, -- let me see if he was present at those meetings.
22 I'm sorry, I do not recall Mr. Nilson's first name, but there
23 is a David mentioned as being present, if he's your subject
24 matter expert.

25 Q Mr. Hendrix, are you aware that MCI was allowed to

1 negotiate from its current agreement with BellSouth?

2 A I am aware that that was the -- yes, I am aware that
3 that was the starting point. However, we were far down the
4 road with the MCI negotiations, and if you could only see where
5 we ended up with MCI, while there was a starting point there
6 were massive changes, and I believe that agreement has, in
7 fact, since been filed here in Florida.

8 MR. MEDACIER: If the Commission can give me just one
9 minute. I do not have any further questions for this witness,
10 Commissioner. However, I'd like to move any exhibits that was
11 not prefiled that I showed Mr. Hendrix into this record.

12 COMMISSIONER JABER: Okay, we will do that,
13 Mr. Medacier, at the end of Staff's cross examination and at
14 the end of redirect.

15 MR. MEDACIER: Yes, thank you.

16 COMMISSIONER JABER: Staff, any questions?

17 MR. KNIGHT: Just a couple, Commissioner.

18 CROSS EXAMINATION

19 BY MR. KNIGHT:

20 Q You said that MCI used its current agreement as a
21 starting point for its negotiations with BellSouth?

22 A Yes. We started -- yes. We, in fact, started with
23 the MCI agreement. However, as we started down that road we
24 realized how massive the changes would actually be, and we
25 ended up just spending tons of time making changes to that

1 agreement.

2 Likewise, when we started the AT&T negotiations, we
3 provided to Supra where we were with AT&T indicating the type
4 of changes that would have to take place in the agreement, and
5 that was mainly looking at the general terms. At the time that
6 Supra requested that we start looking at the AT&T agreement, we
7 were already more than two months down the road with MCI in
8 redoing its agreement, and we were well into the window with
9 Supra.

10 And what we ended up doing with MCI really is
11 including much of the language that was in our standard,
12 because MCI realized that we had already included many of the
13 changes that had taken place in the industry and in various
14 arbitration orders.

15 Q Have you and Supra gone through that agreement as a
16 way of demonstrating why you would need to start with your
17 current agreement rather than use the existing agreement as a
18 base?

19 A We have not gone through the agreement, but that was
20 the hopes of what we were accomplishing when we sent them the
21 redline of where we were with AT&T on their agreement.

22 MR. KNIGHT: Okay. I have no further questions, Your
23 Honor.

24 COMMISSIONER JABER: Commissioners?

25 COMMISSIONER PALECKI: I have just a couple. When

1 you have massive changes such as those that you're referring
2 to, basically, that requires that you define what those massive
3 changes are with the other utility and then discuss what is
4 acceptable to them and what is not acceptable; is that correct?

5 THE WITNESS: That is correct.

6 COMMISSIONER PALECKI: And is that something that
7 you've attempted to do in this arbitration?

8 THE WITNESS: It is something that we attempted to do
9 by way of finding out as to what their issues were. When we
10 sent the initial agreement to Supra we sent them our standard.
11 And standard simply means that we have a -- we have an
12 agreement where we include all of the major rulings, the change
13 in law, and we keep it as an agreement, because there are many
14 companies that will choose to use that as their starting point
15 and not some of the older agreements. And we sent Supra a copy
16 of our standard to include all of the changes that had taken
17 place since and then, in a follow-up, redline of where we were
18 with AT&T just to demonstrate as to what those changes were.

19 COMMISSIONER PALECKI: You used the word massive
20 changes a couple of times. And the way you get through a
21 negotiation when you're talking massive is to break these
22 massive things down into much smaller parts; is that not
23 correct?

24 THE WITNESS: Yes, sir, that is correct.

25 COMMISSIONER PALECKI: And by breaking them down into

1 smaller parts, then it makes it so it's not so overwhelming for
2 either party, for BellSouth or for Supra. It doesn't seem like
3 that's occurred here, has it?

4 THE WITNESS: No. And it really hasn't. We wanted
5 very much for it to occur, because that is the way we do
6 business with all of the other thousands of agreements that we
7 have. In the segments that we will generally use are the
8 administrators attachments. We will work through the general
9 terms, we'll work through the resale attachment, we'll work
10 through the collocation attachment, we'll work through the
11 unbundled network attachment, we'll work through the billing
12 attachment, and then we'll work through other attachments.

13 There are about 15 different attachments, and those
14 are the smaller parts that makes it very manageable. And
15 usually, the section of the agreement that occupies a lot of
16 the time is the UNE section, because in the UNE section there's
17 just tons and tons of UNEs, and we need to ensure that we are
18 sensitive and that we understand what the customer is asking
19 for.

20 We were not able to get there with Supra. We
21 actually tried. Supra did not want to negotiate. They felt
22 they needed network info before they could do that, and we were
23 all baffled as to what that would actually add to the
24 negotiation process, but breaking it down in smaller chunks is
25 the appropriate way, and it is the way that we've done it since

1 1996.

2 COMMISSIONER PALECKI: Did either BellSouth or Supra
3 ask for assistance from the Public Service Commission Staff?

4 THE WITNESS: No, sir.

5 COMMISSIONER PALECKI: With all of the problems that
6 you had, even reaching the point where you're even negotiating
7 with any possibility of success why didn't you come to the
8 Commission Staff and ask for their help?

9 THE WITNESS: I think, the main reason that BellSouth
10 did not seek to get help from the Staff is because we have --
11 there are a whole host of issues with Supra dating back even
12 prior to this agreement, and there were other issues that were
13 being arbitrated or addressed in a different forum at the same
14 time.

15 We felt certain that what Supra wanted was to get the
16 AT&T agreement once it was final, and that was the reason that
17 we extended to Supra, if you want our standard, you can use our
18 standard, you know, you can adopt any other carrier agreement
19 that you want to adopt or we can negotiate our own agreement,
20 and those are options that we extend to every customer.

21 We have not had any problems with any of the other
22 customers as we've had with Supra. And, you know, with those
23 options and with us wanting to make ourselves available to talk
24 issues, we could not get Supra to the table to talk issues. We
25 simply could not do it. And it is for that reason that we were

1 hopeful that they would pick up on one of those options, but we
2 just wasn't sure how things were going to turn out, and we did
3 not ask the Staff for assistance.

4 COMMISSIONER PALECKI: And you do understand that in
5 litigating this issue before the Public Service Commission you
6 no longer control your own destiny, you're no longer
7 negotiating and, in fact, you may end up with a decision that
8 neither BellSouth nor Supra likes or would want to accept; do
9 you understand that that's the posture you're in now here
10 litigating that today?

11 THE WITNESS: Yes, sir, we do understand that. I can
12 assure you it is not BellSouth's goal to come here. We want
13 very much to negotiate with our CLEC customers, and we've done
14 well over the years in making that happen, And it's unfortunate
15 that we are here, but I do understand that our fate and the
16 results will perhaps not be something that we both want, but I
17 think many of the issues that are being addressed here are
18 issues that have been addressed by other carriers, and we are
19 hopeful that similar rulings on some of these issues would
20 carry forth.

21 COMMISSIONER PALECKI: Thank you.

22 THE WITNESS: Yes, sir.

23 COMMISSIONER JABER: Mr. Hendrix, I'm not real clear
24 on the dates negotiations began, and with your other customers
25 you clearly just stated to Commissioner Palecki that you offer

1 options and begin negotiations immediately and, in most cases,
2 those negotiations work. In those cases, those negotiations
3 occur before a petition for arbitration is filed, correct?

4 THE WITNESS: That is correct, yes.

5 COMMISSIONER JABER: Now, in this case, Supra makes
6 the argument that negotiations started after BellSouth filed a
7 petition for arbitration; is that correct?

8 THE WITNESS: That is the inference that I've drawn
9 from what they have filed, but we actually sent the letter to
10 Supra to start negotiations back on March 29th of 2000. We did
11 not file for arbitration until 9-1 of 2000, and we filed the 15
12 issues that we thought that we were not able to come to closure
13 on.

14 COMMISSIONER JABER: So, you sent a letter March
15 29th, 2000 to Supra offering what?

16 THE WITNESS: Stating that it is time for us to
17 renegotiate, and we have this window of time as set by the Act
18 for the parties to negotiate. And we also, at that time, sent
19 them a copy of our standard agreement.

20 COMMISSIONER JABER: Okay. And it's your position
21 that you did not hear back from Supra until when?

22 THE WITNESS: Supra responded in an April 26th letter
23 and they had, in that letter, requested that they be allowed to
24 use the AT&T agreement that was -- the Florida AT&T/BellSouth
25 agreement and to use that agreement for all nine states.

1 COMMISSIONER JABER: Okay. So, they responded, just
2 disagreed with what you had presented?

3 THE WITNESS: That's correct.

4 COMMISSIONER JABER: Okay.

5 THE WITNESS: And then -- I don't know, did you want
6 me to go down the list of all the dates? There is a ton.

7 COMMISSIONER JABER: Actually, I'm trying to get a
8 handle on the dates. So, March 29th, you send a letter and you
9 say it's time to negotiate.

10 THE WITNESS: That's correct.

11 COMMISSIONER JABER: On April 26th, Supra responds
12 and says we want to negotiate, but we want to use a different
13 agreement as the basis.

14 THE WITNESS: That's correct.

15 COMMISSIONER JABER: Okay. What happens next?

16 THE WITNESS: We respond to Mr. Ramos' letter on May
17 3rd stating that Supra could not use the Florida agreement in
18 all nine states, because Supra was not certified in all of
19 those states and that the agreement was effective for the state
20 of Florida.

21 COMMISSIONER JABER: Okay. So, we're on May 3rd,
22 2000.

23 THE WITNESS: That's correct.

24 COMMISSIONER JABER: Okay. What happens between --
25 I'm speaking dates, strictly dates. What happens between May

1 and September of 2000?

2 THE WITNESS: May and September of 2000 -- and I'll
3 start with the date that's -- well, there were letters that
4 went back and forth. There was another letter that went to
5 Supra indicating BellSouth's intent to use the new agreement
6 that was provided to Supra as the starting point. That was on
7 May 29th.

8 On June 5th of 2000 we sent a follow-up letter to
9 Supra notifying them that the interconnection agreement expired
10 on June 9th, and we asked them to call us to schedule a
11 meeting.

12 On June 7th we heard back from Supra. The attorney
13 for Supra sent a letter to our attorney stating that Supra
14 wanted to keep its current agreement until the new AT&T
15 agreement was finished and that they had indicated that
16 BellSouth had agreed to that and that they wanted to keep the
17 agreement for an additional three-year period without changes.

18 On June 8th, we responded to the June 7th letter
19 stating that that was not the case, that BellSouth had not
20 agreed to allow that and that -- and it was in that letter that
21 we laid out the three options where we could negotiate a new
22 agreement, sign the BellSouth standard agreement, or adopt any
23 other agreement from any of the other companies.

24 On June 9th, we had a letter back from Supra
25 indicating Supra's willingness to negotiate and that he stated

1 that Supra wanted to use the current AT&T agreement as the
2 agreement for negotiating Florida, Georgia, and Louisiana.

3 Then, on June 12th we had another letter from Supra
4 acknowledging the June 5th letter from Mr. Finlen informed that
5 he would be handling all of the negotiations. He stated that
6 Supra wanted the same terms for all states with all of the
7 changes that had been made to those agreements to conform with
8 the states.

9 COMMISSIONER JABER: Mr. Hendrix, let me just
10 expedite this a little bit. From -- would you agree with me
11 that from March 29th, 2000 until when BellSouth filed its
12 petition for arbitration, September of 2000, the parties,
13 although in disagreement, were negotiating in good faith?

14 Let me back into that question. There were numerous
15 letters between those periods between BellSouth and Supra.
16 There was correspondence between BellSouth and Supra between
17 March 29th, 2000 and September 1st, 2000 when BellSouth filed
18 its petition for arbitration.

19 THE WITNESS: That's correct.

20 COMMISSIONER JABER: And that correspondence
21 indicates negotiation --

22 THE WITNESS: Well --

23 COMMISSIONER JABER: Regardless of whether the
24 negotiations were successful, there were negotiation efforts.

25 THE WITNESS: I would say the dates that I've given

1 you thus far and what I've indicated has happened from the
2 March 29th date to this point would actually indicate that.

3 From this point, it goes downhill, at least from my
4 standpoint, because when we send agreements -- when we sent the
5 agreement and when that meeting took place in Miami, it was
6 obvious that Supra had not read the agreement, and we spent all
7 of this time and effort to get the agreement, and they've not
8 read it. They are not ready to negotiate.

9 COMMISSIONER JABER: That's the very agreement they
10 disagree with you with respect to adoption of.

11 THE WITNESS: That's correct, but there was no other
12 agreement, other than starting with the AT&T agreement, which
13 they were using, which required changes to that agreement to
14 make it current.

15 COMMISSIONER JABER: Okay. Let me ask you a final
16 question. The reason I'm asking you those questions is I'm
17 looking at the language in Issue A, and the issue as stated,
18 "Has BellSouth or Supra violated the requirement of the order
19 such that they acted in bad faith in their negotiations?" And
20 that's a serious issue. And I'm looking for evidence of bad
21 faith. And so far, what you've indicated to me is there's been
22 a lot of disagreement, perhaps an impasse, but I haven't found
23 the bad faith yet. Would you agree with me that there was
24 failed negotiation between the two of you first?

25 THE WITNESS: I would say, yes, they actually failed.

1 I would probably go a step further to say that negotiations or
2 very, very little ever took place. And it's our assessment
3 that the way things happen with things that surface at the last
4 moment, the fact that Supra had not reviewed or offered any
5 other evidence or issues that they wanted to have addressed,
6 the fact that we did not learn of their wanting to have an
7 intercompany meeting prior to us filing arbitration, and then
8 to come back to us once we filed when we start -- tried to
9 start that process and to say, well, we're not wanting to talk
10 about issues in the follow-on agreement, that is what I have a
11 problem with, because it is -- it is my job to bring closure to
12 these agreements.

13 COMMISSIONER JABER: Well, but arbitration --
14 according to the Act, petitions for arbitration don't result in
15 the cessation of negotiation, do they?

16 THE WITNESS: No, they do not.

17 COMMISSIONER JABER: And that burden is on both
18 parties, BellSouth and Supra, correct?

19 THE WITNESS: That is correct.

20 COMMISSIONER JABER: Okay. So, both parties could
21 have continued negotiations after the petition for arbitration
22 was filed.

23 THE WITNESS: Yes. And we actually made every effort
24 to try to make that happen. It is not our goal -- and this is
25 very common with many carriers, even though an arbitration is

1 filed, we try to work the issues. We would rather determine
2 where we end up and not have you wrestle with those issues.

3 COMMISSIONER JABER: Okay. Thank you, Mr. Hendrix.

4 THE WITNESS: Thank you.

5 COMMISSIONER JABER: Commissioners, any other
6 questions?

7 COMMISSIONER PALECKI: Well, when you come to
8 complete loggerheads as to what is even the starting point of
9 negotiations, isn't that time to come to a third party and ask
10 for some sort of help? It just seems to me that our Staff
11 would have been happy to come up with some middle ground
12 agreement that would have allowed both of you to get off of
13 square one, and that's where we are now; years later we're
14 still on square one. I mean, you've tried to negotiate, you're
15 at loggerheads, and no progress is being made.

16 THE WITNESS: To actually come to the last hour and
17 not have an agreement is really not an uncommon end. That
18 happens often with us and with other customers. And what we
19 end up doing is even though we may file arbitration, we know
20 what the issues are, and we file with a clear understanding
21 between the parties as to what the issues are, and that's not
22 the case here.

23 And even if we come to the last hour and do not have
24 an agreement, and the customer is wanting to get into business,
25 those same three options that were laid out for Supra are

1 available to those customers, and most customers actually avail
2 themselves of those options.

3 COMMISSIONER JABER: I think, you are completely
4 talking past Commissioner Palecki.

5 THE WITNESS: I'm sorry.

6 COMMISSIONER JABER: The very fact that you couldn't
7 figure out what the issues were should have been a signal to
8 you -- and don't let me speak for you, Commissioner Palecki --
9 should have been the signal and the time to contact Staff and
10 to facilitate the establishment of what those issues and
11 concerns were. I think that's Commissioner Palecki's point.

12 COMMISSIONER PALECKI: That's correct.

13 THE WITNESS: Okay.

14 COMMISSIONER PALECKI: I guess, I'm just expressing
15 my frustration that this has gone on for so long, and yet there
16 is a total lack of any real communication and a complete lack
17 of any kind of fruitful negotiation going on by both parties,
18 but thank you for your testimony.

19 THE WITNESS: Thank you.

20 COMMISSIONER JABER: All right. We've got Exhibits 2
21 and 3. BellSouth, any objection to Exhibits 2 and 3?

22 MR. TWOMEY: Commissioner, I've got some redirect.

23 COMMISSIONER JABER: I'm sorry, go ahead. I can't
24 imagine you have redirect for this witness. I'm sure it will
25 be short.

1 MR. TWOMEY: It will be very short.

2 REDIRECT EXAMINATION

3 BY MR. TWOMEY:

4 Q Mr. Hendrix, I think, you've done the best job you
5 can to keep dates and events in your head, but I'm handing out
6 one document that I want you to take a look at to clear
7 something up that may be confusing. This is part of composite
8 Exhibit 2. It was identified in prefiled testimony as JDH-2.
9 It is the April 26th letter from Supra to BellSouth. Do you
10 see that letter?

11 A Yes, I do.

12 Q Okay. I believe, you testified earlier that
13 BellSouth sent a letter on March 29th requesting negotiation of
14 a new agreement for Florida to replace the expiring agreement;
15 is that right?

16 A Yes, I did.

17 Q Supra sent this letter on April 26th. Does it
18 anywhere in that letter say anything about negotiating a new
19 agreement?

20 A No, it does not.

21 Q Does that letter -- is the subject of that letter
22 Supra's efforts to begin using the agreement in other states?

23 A Yes, it is.

24 Q Okay. So, Supra didn't actually respond to the
25 letter on March 29th, the letter that was sent on March 29th

1 with this letter, did they?

2 A No, it is not responsive to that.

3 Q Okay. All right. Thank you, Mr. Hendrix.

4 The next thing that's being handed out is copies of
5 discovery responses that were provided by BellSouth in this
6 docket. I'd like this marked. It's two pages. I'd like it
7 marked for identification as the next exhibit, please.

8 COMMISSIONER JABER: That would be Exhibit 5, and it
9 is BellSouth's Responses to Supra's First Set of
10 Interrogatories Item Number 1.

11 MR. TWOMEY: It is not confidential.

12 (Exhibit 5 marked for identification.)

13 BY MR. TWOMEY:

14 Q Mr. Hendrix, do you have a copy of that?

15 A Yes, I do.

16 Q All right. Mr. Medacier asked you some questions
17 about BellSouth's response to item number one earlier. Do you
18 remember those questions?

19 A Yes, I do.

20 Q Did he give you a copy of the complete response to
21 item number one or only the supplemental response?

22 A Supplemental.

23 Q Okay. I've given you both, item number one and item
24 number three, because they're related. Are you listed as a
25 witness -- as a person with knowledge about subject matters at

1 issue in the proceeding in response to item number one?

2 A Yes, I am.

3 Q And the nature and substance of the knowledge you had
4 in response to number three, BellSouth stated was in your filed
5 testimony, correct?

6 A That is correct.

7 Q What was the purpose of the supplemental response?

8 A It was -- I believe, it listed the other people that
9 had knowledge but had not filed in this case.

10 Q Okay. And, therefore, they had no testimony for
11 anybody to go look at to see what the subject matter of
12 knowledge was, correct?

13 A That is correct.

14 Q Okay. So, there would have been no reason to list
15 you on the supplemental response, correct?

16 A That is correct.

17 Q Mr. Hendrix, do you still have a copy of the redline
18 agreement that Mr. Medacier handed out?

19 A Yes, I do.

20 Q I think, he identified it as one of the exhibits that
21 had been included in the prefiled testimony of Mr. Ramos,
22 OA-61?

23 A Yes.

24 Q This has been designated as confidential, so I don't
25 want you to read any of the language directly into the record,

1 but first of all, do you know what this redline is?

2 A Yes, it is a redline, indicating what BellSouth
3 believes to be the changes that are needed to the general terms
4 of the agreement -- I'm sorry -- indicating what changes are
5 needed to the general terms of the agreement between BellSouth
6 and AT&T.

7 Q And Mr. Medacier represented it as the redline
8 version that BellSouth provided to Supra, correct?

9 A That's correct.

10 Q Now, BellSouth did, in fact, provide a redline to
11 Supra in June 2000 -- excuse me, July 2000, correct?

12 A July 2000, yes.

13 Q I'd like you to turn to Page 48 of this document.
14 And without reading it into the record, I'd like you to look at
15 the redline under Section 28.1.

16 A Yes.

17 Q Read that to yourself, and tell me after reading this
18 whether you still believe that this redline is what
19 Mr. Medacier represented it to be. And I can direct you to the
20 first sentence under 28.1.

21 A I don't believe that it does.

22 Q In fact, didn't Supra provide a redline to BellSouth
23 sometime in July -- excuse me, June of 2001 of general terms
24 and conditions?

25 A I believe that to be correct, yes.

1 Q Okay. And isn't this document that Mr. Medacier
2 represented was BellSouth's redline, in fact, Supra's redline
3 that was submitted in June of 2001?

4 A Yes. In fact, it was June 15th of the general terms
5 of the old agreement rather than the agreement that the parties
6 had worked on up to this point.

7 Q So, to the extent you were talking about BellSouth's
8 redline, Mr. Medacier did not give you a copy of BellSouth's
9 redline for you to review, did he?

10 A No, he did not.

11 Q Mr. Hendrix, why do you believe the Commission should
12 use BellSouth's filed version of the interconnection agreement
13 as the base agreement in this case as specified in Issue B?

14 A I believe, the reason is what BellSouth has done is
15 to put together an agreement that is reflective of the changes
16 that have taken place in the marketplace. It allows the CLEC
17 to avail themselves of the many benefits or awards resulting
18 from various arbitration orders; not only that, but it is
19 reflective of those orders. And to go and use an agreement
20 that is outdated that is reflective of the time that the
21 parties negotiated that agreement is, in BellSouth's mind, not
22 appropriate.

23 Q BellSouth requested a negotiation of this new
24 agreement in March of 2000, correct?

25 A That is correct.

1 Q When was the first time Supra provided a redline of
2 any kind of a proposed agreement or part of a proposed
3 agreement?

4 A I believe, it was with the filing that they made here
5 at the Commission. And I'm trying to find a date.

6 Q June 15th, 2001? Is that the one you were referring
7 to earlier?

8 A That is the date I used earlier, yes, when Supra sent
9 to BellSouth a redline of the general terms of the old
10 agreement rather than the one that the parties had been working
11 on.

12 Q Has Supra ever submitted a redline of the numerous
13 attachments that need to be filed with the general terms and
14 conditions?

15 A No, they have not.

16 Q In fact, until earlier this morning, the parties'
17 existing agreement wasn't even an exhibit in this proceeding,
18 correct?

19 A That is correct.

20 MR. TWOMEY: That's all I have. Thank you.

21 COMMISSIONER PALECKI: Mr. Hendrix, normally in these
22 arbitration proceedings we have some sort of agreement that's
23 been negotiated between the parties, and the parties come to
24 this Commission with several issues that we're asked to decide.
25 We then decide those issues, and we send the parties back with

1 instructions on how they should craft their agreement.

2 What is your expectation from this Commission in this
3 case where we have absolutely nothing to start off with? Is it
4 your expectation that the Commission craft an agreement and
5 require the parties to enter into that agreement or is it your
6 expectation that we simply answer the issues that have been
7 posed to us and then instruct the parties to go back and hammer
8 the agreement together? And the reason I ask is I'm not sure
9 you're capable of the latter.

10 THE WITNESS: I would agree. I think, it would be
11 difficult to negotiate an agreement at this point. What I
12 would like very much to see happen is to use the agreement that
13 BellSouth has filed with -- filed here, and then to incorporate
14 the result of the arbitration issues, many of which have
15 already been addressed and order the parties to incorporate
16 that as part of their agreement.

17 COMMISSIONER PALECKI: Well, whether we start off
18 with the BellSouth interconnection agreement or use some other
19 draft, it is your expectation, then, or it is your hope that
20 this Commission go ahead and forge an agreement for the
21 parties; is that correct?

22 THE WITNESS: At least much of the agreement which
23 would be formulated around the issues that will be addressed in
24 this hearing.

25 COMMISSIONER PALECKI: Thank you.

1 THE WITNESS: Yes, sir.

2 COMMISSIONER JABER: Thank you, Mr. Hendrix. All
3 right. We have Exhibits 2, 3, and 5 by BellSouth. Any
4 objection to those exhibits, Supra?

5 MR. MEDACIER: No, we do not.

6 COMMISSIONER JABER: Okay. Exhibits 2, 3, and 5
7 shall be admitted into the record.

8 (Exhibits 2, 3, and 5 admitted into the record.)

9 COMMISSIONER JABER: Supra, do you have copies of
10 Exhibit 4? Not yet, right?

11 MR. MEDACIER: It's being made.

12 COMMISSIONER JABER: Okay. We will not take up the
13 admittance of Exhibit 4 until the copies have been made and the
14 Commissioners have seen them.

15 MR. MEDACIER: That's fine.

16 MR. TWOMEY: Commissioner Jaber, I have one thing on
17 my Exhibit 2, which was the composite Exhibits 1 through 20.

18 COMMISSIONER JABER: Yes.

19 MR. TWOMEY: On the Prehearing Order, the Page 56,
20 apparently, a word processing error ends up -- JDH-17 includes
21 a description of JDH-18 and a reference, and then JDH-18 is not
22 identified. I just want to be clear that my JDH-18 is still
23 part of the record.

24 COMMISSIONER JABER: Right. Is JDH-18 the July 9th
25 2001 letter?

1 MR. TWOMEY: Yes, it is.

2 COMMISSIONER JABER: Yes, JDH-18 was included in
3 BellSouth Exhibit 2.

4 MR. TWOMEY: Thank you.

5 COMMISSIONER JABER: All right. We are going to take
6 a half an hour break now. We'll come back -- did you have
7 anything to say?

8 MR. MEDACIER: Yes, I had just a couple of recross
9 questions for Mr. Hendrix.

10 COMMISSIONER JABER: We don't do recross. We don't
11 do recross. I didn't hear anything on redirect that opened up
12 the door for recross, even if I was going to entertain it.

13 We're going to take a half an hour break. We will
14 come back at 1:30. And let me put the parties on notice, we
15 will also take a half an hour break later on in the day, so --
16 and I fully expect to go late tonight. We are going to attempt
17 to finish this hearing in two days, okay? See you back at
18 1:30.

19 MR. TWOMEY: Is Mr. Hendrix excused?

20 MR. HENDRIX: Thank you.

21 (Recess taken.)

22 COMMISSIONER JABER: Let's get back on the record.
23 Mr. Twomey, we left off with Cynthia Cox is your next witness?

24 MR. TWOMEY: That's correct. BellSouth calls Cynthia
25 Cox, although I think Mr. Medacier has a housekeeping matter to

1 address.

2 MR. MEDACIER: Good afternoon, Commissioner. When I
3 was doing the examination of Mr. Hendrix, there was one
4 document, I'm not sure if it was identified for the purpose of
5 moving it into the record, which was the supplemental response
6 that I was questioning him on. If I have not done so, I'd like
7 to have the opportunity to identify it now and move it into the
8 record.

9 COMMISSIONER JABER: Let me get some clarification
10 from you. There was the original response and the supplemental
11 response, and those were responses to interrogatories sent by
12 Supra.

13 MR. MEDACIER: Yes, that's correct.

14 COMMISSIONER JABER: Staff, that is not the same as
15 what you identified as Stipulation 1, correct? It's different.
16 Okay. Mr. Medacier, are you asking just for the identification
17 of the supplemental responses?

18 MR. MEDACIER: Actually, I'd like -- yes, yes.

19 COMMISSIONER JABER: Okay.

20 MR. TWOMEY: Just for the record, Mr. Medacier, did
21 you provide -- does that exhibit include all of the
22 supplemental responses that were provided on that date?
23 Because I know you asked them about a couple of different ones.

24 MR. MEDACIER: I believe, it does.

25 MR. TWOMEY: Okay.

1 MR. MEDACIER: I believe, it does.

2 COMMISSIONER JABER: Let me make sure I'm looking at
3 the same thing, Mr. Medacier. This would be supplemental items
4 1, 3, 5, 13, 16, 22?

5 MR. MEDACIER: Yes, that's correct.

6 COMMISSIONER JABER: That document will be identified
7 as Exhibit 6. It will be BellSouth's supplemental response to
8 Supra's interrogatory numbers that I just stated. BellSouth,
9 any objection to that exhibit?

10 MR. TWOMEY: None.

11 COMMISSIONER JABER: Okay. Exhibit 6 shall be
12 admitted into the record.

13 (Exhibit 6 identified and admitted into the record.)

14 MR. MEDACIER: And also, Madam Chairman, I think, we
15 have the copies for Exhibit Number 4.

16 COMMISSIONER JABER: Okay. Have you shared the
17 copies with Staff, the court reporter, BellSouth?

18 MR. MEDACIER: I'm sorry. I've been given a
19 negative.

20 COMMISSIONER JABER: Okay. Just remind me at the end
21 of the day.

22 MR. MEDACIER: I will.

23 COMMISSIONER JABER: We'll take up that exhibit.

24 MR. MEDACIER: Thank you. And that's all for Supra.

25 (Transcript continues in Volume 2.)

1 STATE OF FLORIDA)
2 : CERTIFICATE OF REPORTER
3 COUNTY OF LEON)

4
5 I, KORETTA E. FLEMING, RPR, Official Commission
6 Reporter, do hereby certify that the foregoing proceeding was
heard at the time and place herein stated.

7 IT IS FURTHER CERTIFIED that I stenographically
8 reported the said proceedings; that the same has been
transcribed under my direct supervision; and that this
9 transcript, constitutes a true transcription of my notes of said
proceedings.

10 I FURTHER CERTIFY that I am not a relative, employee,
11 attorney or counsel of any of the parties, nor am I a relative
or employee of any of the parties' attorneys or counsel
12 connected with the action, nor am I financially interested in
the action.

13 DATED THIS 2ND DAY OF OCTOBER, 2001.

14

15

16

17

18

19

20

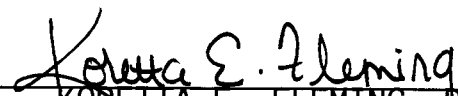
21

22

23

24

25


KORETTA E. FLEMING, RPR
FPSC Official Commissioner Reporter
(850) 413-6734