

ORIGINAL

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June 12, 2003

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COMMISSION
CLERK

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

Re: **030349-TP (Supra \$75 Cash Back Promotion)**

Dear Ms. Bayó:

Enclosed is an original and fifteen copies of BellSouth Telecommunications, Inc.'s Motion for Continuance and/or Rescheduling, which we ask that you file in the captioned docket.

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

Sincerely,

James Meza III
James Meza III (LA)

Enclosures

AUS _____
CAF _____
CMP _____
COM _____
CTR _____
ECR _____
GCL _____
OPC _____
MMS _____
SEC 1 _____
OTH _____

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

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FPSC-COMMISSION CLERK

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CERTIFICATE OF SERVICE
DOCKET NO. 030349-TP

I HEREBY CERTIFY that a true and correct copy of the foregoing was served via
Electronic Mail and First Class U.S. Mail this 12th day of June, 2003 to the following:

Linda Dodson
Staff Counsel
Florida Public Service
Commission
Division of Legal Services
2540 Shumard Oak Boulevard
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James Meza III (KA)

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition of Supra Telecommunications and Information Systems, Inc., for Expedited Review and Cancellation of BellSouth's \$75 Cash Back Promotion Tariffs (T-030132) and For Investigation into BellSouth's Promotional Pricing and Marketing Practices) Docket No. 030349-TP
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) Filed: June 12, 2003

**BELLSOUTH TELECOMMUNICATIONS, INC.'S
MOTION FOR CONTINUANCE AND/OR RESCHEDULING**

Pursuant to Florida Rule of Civil Procedure 1.460 and Rule 28-106.204, Florida Administrative Code, BellSouth Telecommunications, Inc. ("BellSouth") files this Motion for Continuance and/or Rescheduling ("Motion"), seeking an Order from the Florida Public Service Commission ("Commission") continuing and/or rescheduling the hearing in the above-listed case. In support, BellSouth states the following:

1. In Order No. 03-0671-PCO-TP ("Order"), the Prehearing Officer denied Supra Telecommunications and Information Systems, Inc.'s ("Supra") request for expedited treatment and set the hearing of the above-captioned matter for August 29, 2003.

2. Prior to the issuance of the Order, Staff inquired as to BellSouth's availability to conduct the hearing of this matter on August 29, 2003. Staff also informed BellSouth that the next available hearing date other than August 29th was in February 2004. In response to Staff's inquiry, BellSouth informed Staff that its primary counsel in the matter, Mr. Kip Edenfield, as well as its primary witness on the issues germane to Supra's Complaint (as now for the Amended Complaint), Mr. John Ruscilli, had a **preexisting** conflict on August 29, 2003. Specifically, BellSouth informed Staff that Mr. Ruscilli and Mr. Edenfield are participating in the Section 252 arbitration proceeding

between BellSouth and DeltaCom before the Tennessee Regulatory Authority (“TRA”) on that date.

3. BellSouth’s defense of this case would be jeopardized and prejudiced without the ability of BellSouth’s selected witness and trial attorney to participate in the hearing of this matter due to a preexisting conflict before another regulatory agency. In addition, such prejudice is unwarranted because BellSouth has no control over the Commission’s calendar or the lack of any hearing dates between August 29, 2003 and February 2004.

4. Moreover, BellSouth submits that the Commission’s calendar is fluid and that additional dates may have become available since BellSouth’s conversation with Staff. For instance, in Docket No. 981834-TP (Generic Collocation Docket) on June 3, 2003, the parties agreed and the Commission approved of the bifurcation of the August hearing of the matter, which resulted in the selection of two days in late October or early November 2003 for the hearing of certain issues. The selection of these additional hearing dates in October/November was after BellSouth understood that the next available hearing date, other than August 29th, was in February 2004. Thus, while BellSouth appreciates the Commission’s workload and is not challenging the statements made by Staff, BellSouth submits that an earlier alternative hearing date may have subsequently become available to conduct this one-day hearing.

5. Furthermore, Supra would not be prejudiced by the rescheduling of the hearing date as the Prehearing Officer has already rejected Supra’s request for expedited treatment, finding that Supra did not “allege any emergency basis on which to

evaluate the necessity of having an expedited schedule.” Order at 2. Indeed, in its Amended Complaint, Supra does not even request expedited review.

6. BellSouth's motive in filing this request for a continuance or rescheduling is not to delay the matter. Rather, BellSouth is simply attempting to allow its selected attorney and witness to participate and assist in the defense of this case.

7. Undoubtedly, Supra will argue in response to this Motion that BellSouth is a large company with many witnesses and lawyers that could substitute for Mr. Edenfield and Mr. Ruscilli.¹ Whether or not other attorneys or witnesses are available does not remedy BellSouth's concerns as BellSouth should have the right to present its case with the witnesses and lawyers of its choosing, especially when the BellSouth has no control over the Commission's calendar or the fact that its selected witness and attorney have a preexisting conflict with another regulatory agency. Simply put, BellSouth should not be substantively prejudiced or penalized as a result of the Commission's compacted trial calendar.

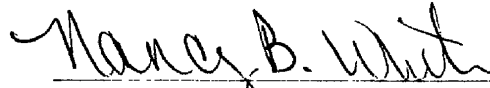
8. Pursuant to Florida Rule of Civil Procedure 1.460, BellSouth understands that, at this time, Mr. Ruscilli is unavailable only from September 3-5, 2003, as he is a witness in the BellSouth/DeltaCom Section 252 arbitration proceeding, which is scheduled to be tried before this Commission on those dates.

9. BellSouth has contacted Supra and reports that Supra opposes the instant Motion.

¹ It should be noted that Supra's ratio of in-house lawyers to access lines is greater than BellSouth's ratio.

WHEREFORE, BellSouth respectfully requests that the Commission grant its Motion for Continuance and/or Rescheduling and schedule the hearing date of this matter for a date that allows its selected attorney and witnesses to participate.

Respectfully submitted this 12th day of June, 2003.



NANCY B. WHITE (WA)

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