

ORIGINAL

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August 22, 2003

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 Opposition to Supra's Motion to Compel, 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 (LA)

Enclosures

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

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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 Federal Express this 22nd day of August, 2003 to the following:

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James Meza III

James Meza III (KA)

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Complaint by Supra) Telecommunications and Information) Systems, Inc. Regarding BellSouth's) Alleged Use of Carrier to Carrier) <u>Information</u>)	Docket No. 030349-TP Filed: August 22, 2003
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**BELLSOUTH'S OPPOSITION TO
SUPRA'S MOTION TO COMPEL**

BellSouth Telecommunications, Inc. ("BellSouth") submits this opposition to Supra's Telecommunications and Information Systems, Inc.'s ("Supra") Motion to Compel Answer and Responses to Supra's First Set of Interrogatories and Request for Production of Documents (collectively referred herein as "Discovery"). For the following reasons, the Florida Public Service Commission ("Commission") should deny Supra's Motion to Compel.

1. Supra propounded the Discovery to BellSouth on August 8, 2003. Pursuant to Order No. PSC-03-0718-PCO-TP ("Prehearing Order"), BellSouth served its objections to the Discovery on August 12, 2003, and Supra filed its Motion to Compel on August 15, 2003, even though the Prehearing Order established that BellSouth's response to the Discovery was not due until August 18, 2003.

2. On August 18, 2003, Supra provided BellSouth a one-day extension of time in which to respond to the Discovery, and, on August 19, 2003, BellSouth provided its responses to the Discovery. Thus, as an initial matter, the majority of the issues raised in Supra's Motion to Compel are now moot.

3. For instance, regarding Interrogatory No. 1, Supra requested that BellSouth "identify for the Florida region, how many disconnect orders are the product of

an in-bound call to BellSouth's retail Customer Service Representatives ("CSR") in which the CSR assigned a Disconnect Reason Code ("DCR") identifying that the retail customer is 'changing local service providers.'" See Supra's First Set of Interrogatories and Requests for Production, which are collectively attached hereto as Exhibit A. In support of the Motion, Supra argued only that "[n]o discovery has been provided" See Motion at 3. Of course, BellSouth's response was not due on the date Supra filed its Motion. Subsequent to the filing of the Motion, BellSouth provided the following response: "There is no specific disconnect reason code that identifies when a retail customer is 'changing local service providers.' Thus, BellSouth is unable to identify the corresponding associated disconnect orders." See BellSouth's Response, which is attached hereto as Exhibit B. Accordingly, BellSouth has provided Supra with a timely, complete, and accurate response to Interrogatory No. 1, thereby rendering Supra's Motion to Compel moot.

4. Similarly, regarding Interrogatory No. 2, Supra appeared to ask for the number of disconnect orders that were generated from CLEC LSRs (either manual or electronic) from June 9, 2002 to June 9, 2003. See Exhibit A. BellSouth objected to this Interrogatory on the grounds that it was "vague and ambiguous and consists primarily of sentence fragments." See BellSouth's Objections, which are attached hereto as Exhibit C. Subject to this objection and to the additional objection that the request was irrelevant and not likely to lead to the discovery of admissible evidence, BellSouth informed Supra in its response that it was "compiling information responsive to this interrogatory and will provide a response as soon as possible." See Exhibit B. Thus, Supra's Motion is

moot as to this Interrogatory as well because BellSouth intends to provide a response once it has compiled responsive information.¹

5. Likewise, as to Interrogatory Nos. 3, 4, and 5, the sole basis for Supra's Motion to Compel was that "[n]o discovery has been provided." See Exhibit A. As with Interrogatory No. 1, Supra's Motion to Compel was premature because BellSouth provided timely, complete, and accurate responses to each of these Interrogatories. See Exhibit B. Accordingly, Supra's Motion to Compel is moot.

6. Regarding Requests for Production No. 1, Supra is requesting the records for sales and marketing campaigns that BellSouth maintains pursuant to 47 C.F.R. 64.2009(c). See Exhibit A. The Florida Public Service Commission Staff ("Staff") requested the same information in its Second Set of Discovery to BellSouth and has provided BellSouth an extension until August 22, 2003 to produce the requested information. BellSouth will provide Supra with the same information it provides Staff subject to the execution of a nondisclosure agreement that BellSouth has already provided to Supra. Accordingly, Supra's Motion to Compel is moot. See Exhibit B.

7. In Request for Production No. 2, Supra sought a copy of the "extract file" and "Harmonize Database" that is taken from SOCS on a nightly basis as part of Operation Sunrise for a one-week period between June 9, 2002 and June 9, 2003. See Exhibit A. Similarly, regarding Request for Production No. 3, Supra sought a copy of the "temporary table" used in Operation Sunrise for the same one-week period between June 9, 2002 and June 9, 2003. Id. BellSouth objected to these request on the grounds that it may require BellSouth to produce documents that do not exist; however, subject to this

¹ BellSouth needed additional time to compile responsive information to this and other requests due to the 10 calendar day response time set forth in the Prehearing Order and the undersigned's travel schedule as a result of depositions in this matter.

objection, BellSouth advised Supra that it has no responsive documents because the “extract file” and the “temporary table” for any week in the time period in question has been purged. See Exhibit B. Thus, Supra’s Motion to Compel as to these requests is moot.

8. In Request No. 4, Supra is seeking a copy of the data contained in the Permanent Table used in Operation Sunrise for a one-week period between June 9, 2002 and June 9, 2003. See Exhibit A. BellSouth objected to this request on the grounds that it may require it to create documents that do not exist; however, subject to this objection, BellSouth informed Supra that it “is still determining whether it can compile documents responsive to this request.” See Exhibit B. BellSouth has subsequently determined that it can provide the requested information and will provide a response as soon as possible, subject to the execution of a nondisclosure agreement. Thus, as with the other Discovery requests, Supra’s Motion to Compel is moot.

9. Finally, in Request for Production No. 5, Supra is seeking from SOCS, 10 CLEC initiated “change” orders and 10 BellSouth retail initiated disconnect orders for the same one-week time period used in Requests for Production Nos. 2, 3, and 4. See Exhibit A. BellSouth objected to this request on the following grounds: (1) it is irrelevant and not likely to lead to the discovery of admissible evidence; and (2) it may require BellSouth to create documents that do not exist. See Exhibit B. In addition, BellSouth informed Supra in its response that SOCS does not contain any service orders for the time period in question. Id. Moreover, even if the information did exist in SOCS, BellSouth could not retrieve the information from SOCS without a service order number, which

Supra has not provided. Accordingly, BellSouth is unable to provide a response to the specific request as written.

CONCLUSION

For all of these reasons, BellSouth respectfully requests that the Commission deny Supra's Motion to Compel.

Respectfully submitted this 22nd of August, 2003.

BELLSOUTH TELECOMMUNICATIONS, INC.

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