

ORIGINAL

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September 3, 2003

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03 SEP -3 PM 4:32
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 Response to Supra Telecommunications and Information Systems, Inc.'s Motion to Publicly Disclose all Information related to Operation Sunrise, 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.

RECEIVED & FILED
JH
FPSC-BUREAU OF RECORDS

Sincerely,

James Meza III
James Meza III

Enclosures

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

AUS
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COM *3*
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SEC *1*
OTH

DOCUMENT NUMBER-DATE

08215 SEP-3 8

FPSC-COMMISSION CLERK

**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 3rd day of September, 2003 to the following:

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James Meza III

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)
Information)

Docket No. 030349-TP

Filed: September 3, 2003

**BELLSOUTH'S RESPONSE TO SUPRA'S MOTION TO
PUBLICLY DISCLOSE ALL INFORMATION
RELATED TO OPERATION SUNRISE**

BellSouth Telecommunications, Inc. ("BellSouth") submits this response to Supra Telecommunications and Information Systems, Inc.'s ("Supra") Motion to Publicly Disclose All Information Related to Operation Sunrise Immediately Upon the Issuance of a Final Order in this Docket ("Motion to Disclose" or "Motion"). In support, BellSouth states the following:

1. On August 26, 2003, Supra provided the undersigned via e-mail with an unsigned version of the Motion to Disclose. The e-mail stated that Supra would file the Motion to Disclose on August 27, 2003. To the best of BellSouth's knowledge, however, the Motion has never been filed with the Commission. In an abundance of caution, BellSouth files this response to the unsigned and not-filed Motion to Disclose.

2. Currently, the Commission has issued three orders granting BellSouth's request to treat certain information related to Operation Sunrise as confidential: Order No. PSC-03-0982-CFO-TP; Order No. 03-0921-CFO-TP; and Order No. PSC-03-0806-CFO-TP. Generally speaking, BellSouth sought confidential classification for the identified documents on the basis that (1) BellSouth and Supra were required to keep the documents confidential pursuant to a prior Interconnection Agreement because they were disclosed in a confidential commercial arbitration proceeding conducted pursuant to that

agreement; and (2) the information constituted “confidential proprietary business information” under Section 364.183, Florida Statutes. The Commission granted the requests, finding inter alia that the “material described herein is proprietary business information in accordance with Section 364.183, Florida Statutes, and Rule 25-22.006, Florida Administrative Code. Disclosure of this information would give BellSouth’s competitors an unfair advantage in future negotiations.” See Order No. PSC 03-0982-CFO-TP at 3.

3. BellSouth also has several requests for confidential treatment and notices of intent related to the same type of information pending.

4. The basis of Supra’s Motion to Disclose is simple: The Commission should reverse its finding that certain information that has already been declared confidential should become public upon a finding that BellSouth violated “Commission Orders, Florida Statutes, and/or federal law.” See Motion at 1. The Commission should reject this argument for the following reasons:

5. First, Supra’s Motion to Disclose is premature. The fundamental predicate of the Motion to Disclose is that the Commission must first find that Operation Sunrise somehow violates federal or state law. There has been no such finding and if and until such a finding is made, the Commission should refuse to consider or simply dismiss Supra’s request.

6. Second, in effect, Supra is asking that the Commission reconsider its decision to treat certain information and certain types of information as confidential. However, the time period for filing such a request for the majority of the Commission’s orders granting BellSouth’s request for confidential classification has expired pursuant to

Rule 25-22.0376, Florida Administrative Code. This rule requires a party who is adversely affected by a non-final order to file a motion for reconsideration within 10 days after issuance of the order. Supra has failed to abide by this rule for PSC Order No. 03-0921-CFO-TP and PSC Order No. 03-0806-CFO-TP. Thus, Supra's Motion to Disclose is procedurally defective.

7. Third, Supra is incorrect in its statement that “[i]n the absence of the parties’ prior non-disclosure provision, BellSouth cannot articulate a basis for why information regarding its illegal practice is proprietary.” See Motion at 2. As an initial matter, BellSouth does not have an “illegal practice.” Further, BellSouth has specifically requested that the Commission grant the subject information confidential classification on the independent grounds that the information in question constitutes “confidential proprietary business information” because disclosure of that information would cause competitive harm to BellSouth. See BellSouth’s July 21, 2003 Request for Confidential Classification. Indeed, in Order No. PSC-03-0921-CFO-TP, issued on August 11, 2003, the Commission addressed and rejected the same argument Supra raises in the Motion to Disclose:

While the information may be the subject of a non-disclosure agreement between the parties as alleged by Supra, BellSouth has sufficiently alleged that the information fits the definition of proprietary confidential business information. Furthermore, it does not appear that the specific information at issue here has been previously disclosed. Disclosure of this information would give BellSouth’s competitors an unfair advantage in future negotiations. As such, BellSouth’s Requests for Confidential Classification of Document Nos. 05813-03, 05872-03, and 06173-03 (x-ref 06516-03) are hereby granted.

See Order No. PSC-03-0921-CFO-TP at 3-4.

8. Fourth, the parties are contractually obligated to keep all information produced in arbitration proceedings confidential. There are no exceptions to this rule and BellSouth has vigorously honored and sought to enforce this mutual obligation. Further, BellSouth produced the subject information pursuant to and with the expectation that the information would be treated as confidential. It is contrary to the parties' rights and obligations under the prior Interconnection Agreement for the Commission to now eviscerate those rights and obligations.

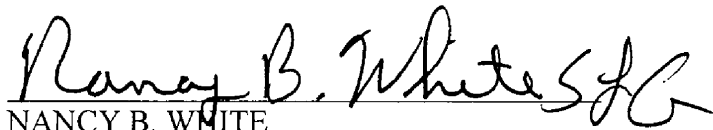
9. Fifth, contrary to Supra's argument, BellSouth is not using the non-disclosure agreement in the prior Interconnection Agreement as a "shield" to prevent the disclosure of "illegal conduct." If the Commission finds that Operation Sunrise violates any state or federal law, the order making that finding and the reasons therein would be a matter of public record.

CONCLUSION

For the foregoing reasons, BellSouth requests that the Commission deny Supra's Motion to Disclose.

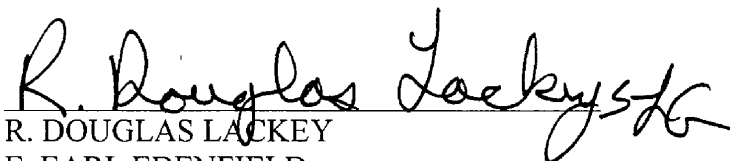
Respectfully submitted this 3rd of September 2003.

BELLSOUTH TELECOMMUNICATIONS, INC.



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