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July 15, 2004

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

**RE: Docket No. 980119-TP -
SUPRA'S MOTION FOR LEAVE TO AMEND
PREHEARING STATEMENT**

Dear Mrs. Bayo:

Enclosed are the original and fifteen (15) copies of Supra Telecommunications and Information Systems, Inc.'s (Supra) Motion For Leave To Amend Prehearing Statement to be filed in the captioned docket.

A copy of this letter is enclosed. Please mark it to indicate that the original was filed and return it to me.

Sincerely,

Steven Chaiken
Assistant General Counsel

DOCUMENT NUMBER-DATE
07687 JUL 15 04
FPSC-COMMISSION CLERK

CERTIFICATE OF SERVICE

Docket No. 980119-TP

I HEREBY CERTIFY that a true and correct copy of the following was served via E-mail, Hand Delivery, Facsimile, and/or U.S. Mail this 15th day of July 2004 to the following:

Patti Christensen

*Office of the General Counsel
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850*

Nancy White/James Meza III

*BellSouth Telecommunications, Inc.
c/o Ms. Nancy H. Sims
150 South Monroe Street, Suite 400
Tallahassee, FL 32301-1556*

SUPRA TELECOMMUNICATIONS
AND INFORMATION SYSTEMS, INC.
2620 S. W. 27th Avenue
Miami, FL 33133
Telephone: 305/ 476-4239
Facsimile: 305/ 443-1078

Steven Chaiken

By: Steven Chaiken

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Complaint of Supra Telecommunications and)
Information Systems, Inc. against BellSouth)
Telecommunications, Inc. for violation of the)
Telecommunications Act of 1996; petition for)
resolution of disputes as to implementation and)
interpretation of interconnection, resale and)
collocation agreements; and petition for)
emergency relief.)
_____)

Docket No. 980119-TP

Filed: July 15, 2004

MOTION FOR LEAVE TO AMEND
SUPRA TELECOMMUNICATIONS AND INFORMATION
SYSTEMS, INC.'S PREHEARING STATEMENT

Supra Telecommunications and Information Systems, Inc. ("Supra"), by and through its undersigned counsel, hereby files this Motion for Leave to Amend its Prehearing Statement filed on July 9, 2004. In support thereof, Supra states as follows:

Upon filing its Prehearing Statement, Supra was informed by Staff that Questions of Fact, Law and Policy, raised in paragraphs D, E, and F on pages 6 and 7 of Supra's Prehearing Statement, are normally addressed under the appropriate issues. Based on this understanding and subsequent deliberations, Supra amended its Prehearing Statement to comply with Staff's directive. Florida Rule of Civil Procedure 1.190 states:

A party may amend a pleading once as a matter of course at any time before a responsive pleading is served or, if the pleading is one to which no responsive pleading is permitted and the action has not been placed on the trial calendar, may so amend it any time within 20 days after it is served. Otherwise a party may amend a pleading only by leave of court or by written consent of the adverse party. If a party files a motion to amend a pleading, the party shall attach the proposed amended pleading to the motion. Leave of court shall be given freely when justice so requires. F.R.C.P. 1.190

The Prehearing Statement is a pleading to which no responsive pleading is permitted, and no action is required to be placed on the trial calendar. As such, Supra believes it should be

permitted to amend this pleading as of right. However, in abundance of caution, and since the Prehearing Conference is set for July 19, 2004, pursuant to F.R.C.P. 1.190, Supra files the instant motion seeking leave to amend its Prehearing Statement. As stated above, "leave of court shall be given freely when justice so requires." Neither party will be prejudiced by the granting of this motion.

As such, Supra hereby requests leave to amend its Prehearing Statement. A true copy of Supra's proposed Amended Prehearing Statement is attached hereto.

WHEREFORE, for the foregoing reasons, Supra respectfully requests that this Commission grant Supra leave to amend its Prehearing Statement.

RESPECTFULLY SUBMITTED this 15th day of July 2004.

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_____)

Docket No.: 980119-TP

Filed: July 15, 2004

**SUPRA TELECOMMUNICATIONS AND INFORMATION
SYSTEMS, INC.'S AMENDED PREHEARING STATEMENT**

Supra hereby files this Pre-hearing Statement, pursuant to the Order Establishing Procedure (Order No. PSC-04-0120-PCO-TP) issued February 3, 2004.

A. **Known Witnesses:** Supra has pre-filed the testimony of the following witnesses:

<u>Witness</u>	<u>Issues</u>
1. David Stahly (Direct and Rebuttal) * Supra employee	1-4

Supra reserves the right to call additional witnesses, including, but not limited to witnesses to respond to Commission inquiries not addressed in direct or rebuttal testimony and to address issues not presently designated that may be designated by the Pre-Hearing Officer at the Pre-Hearing Conference to be held on July 19, 2004. Supra reserves the right to supplement this witness list if necessary.

B. **Known Exhibits:**

Depositions:

Deposition of Ronald Pate was taken July 7, 2004 in this proceeding.

Official Notice of PSC Orders:

Order No. PSC-98-1001-FOF-TP issued July 22, 1998

Order No. PSC-98-1467-FOF-TP issued October 28, 1998

Order No. PSC-00-0288-PCO-TP issued February 11, 2000

Order No. PSC-00-0798-FOF-TP issued April 24, 2000

Order No. PSC-00-1777-PCO-TP issued September 28, 2000

Order No. PSC-03-1178-PAA-TP issued October 21, 2003

Discovery Responses:

All of BellSouth's discovery responses in this docket (to both Staff's and Supra's discovery).

All of Supra's discovery responses in this docket (to both Staff's and BellSouth's discovery).

Agreements:

Resale Interconnection and Unbundling Agreement between Supra and BellSouth. (Filed November 24, 1997 in Docket No. 971555-TP)

Rebuttal Exhibits:

Supra reserves the right to file exhibits with any additional testimony that may be filed under the circumstances identified above. Supra also reserves the right to introduce exhibits for cross-examination, impeachment, or any other purpose authorized by the applicable Florida Rules of Evidence and Rules of this Commission.

C. Basic Position:

This Commission is vested with the power to promulgate rules and enforce its orders. Thus, Supra calls on the Commission to enforce its original order in this docket and require BellSouth to provide the same on-line edit checking capabilities to Supra that BellSouth provides

to itself. Supra is not asking this Commission to do something new; rather, Supra is only asking that this Commission insist that BellSouth comply with this Commission's original order. By enforcing the order, the Commission can help CLECs provide a higher quality of service which will lead to higher customer satisfaction with the CLEC – and, in turn, with the competitive environment as a whole. This Commission ordered BellSouth to modify its CLEC ordering systems (i.e. LENS or EDI) to provide the same on-line edit checking capabilities to Supra that BellSouth provides to itself.

To date, BellSouth has still not modified LENS or EDI to provide Supra and other CLECs with the same on-line edit checking capability that BellSouth's RNS system provides to itself.

Issue 1: What did the Florida Public Service Commission order regarding on-line edit checking capability in this docket?

Position.

In Order No. PSC-98-1001-FOF-TP, issued July 22, 1998 (“July 22nd Order”), the Commission ordered BellSouth to modify LENS to provide the same on-line edit checking capabilities to Supra that BellSouth provides to itself.

“BellSouth shall modify the ALEC ordering systems so that the systems provide the same online edit checking capability to Supra that BellSouth's retail ordering systems provide.”¹

In Order No. PSC-98-1467-FOF-TP, issued October 28, 1998 (“October 28th Order”), the Commission denied BellSouth's Motion for Reconsideration and confirmed its earlier finding in the July 22nd Order that BellSouth must provide the same on-line edit checking capability to Supra that it provides to itself and that BellSouth bore the burden of providing that capability. The Commission specifically stated that while BellSouth does not have to provide Supra with the

¹ See Order No. PSC-98-1001-FOF-TP at 44.

exact same duplicate interfaces that it uses, BellSouth must provide Supra with the exact same capabilities as its systems.

“As set forth in our order, BellSouth’s FUEL and Solar databases have simultaneous interaction with BellSouth’s ordering interfaces, so that errors in an order being worked by a service representative are immediately identified. If an error is identified, the BellSouth service representative can make corrections before the order is completed. BellSouth shall provide Supra with this same capability through the ordering interfaces provided to it, as identified in the parties’ agreement.”²

In Order No. PSC-00-0288-PCO-TP, issued February 11, 2000 (“February 11th Order”), the Commission made clear that the ordering interfaces which BellSouth was ordered to modify were LENS and EDI.

“... in rendering our decision based on the evidence in the record of the available interfaces, we intended, at that time, that BellSouth provide the online edit checking capability through either LENS or EDI. Therefore, BellSouth has not complied with the specific requirements in our Orders in this Docket.”³

The on-line edit checking capability the Commission was referring to was the ability to complete on-line edits while the customer was still on the phone and prior to the submission of an order.

“... BellSouth’s FUEL and Solar databases have simultaneous interaction with BellSouth’s ordering interfaces, so that errors in an order being worked by a service representative are immediately identified. If an error is identified, the BellSouth service representative can make corrections before the order is completed. BellSouth shall provide Supra with this same capability through the ordering interfaces provided to it, as identified in the parties’ **agreement**.”⁴ (Emphasis added.)

Issue 2: Has on-line edit capability been made available in the manner required by the Commission’s prior orders in this docket?

² See Order No. PSC-98-1467-FOF-TP at 18.

³ See Order No. 00-0288-PCO-TP at 11.

⁴ See Order No. PSC-98-1467-FOF-TP at 18.

Position: No. BellSouth, the party with the obligation to perform the modification, has not modified either LENS or EDI to provide Supra with the same on-line edit checking capabilities that BellSouth provides to itself as was ordered by this Commission. The Commission ruled in Order No. PSC-03-1178-PAA-TP, issued October 21, 2003, (“October 21st Order”) that BellSouth was providing “sufficient on-line editing capability”⁵ and that BellSouth had complied on a timely basis with the on-line edit checking requirements set forth in Order No. PSC-98-1001-FOF-TP.

The Commission’s conclusion in Order No. PSC-03-1178-PAA-TP, issued October 21, 2003, is not only in direct conflict with the Commission’s final, non-appealable order of February 11, 2000, but it is based upon an irrelevant third party test which did not test whether BellSouth was providing the same on-line edit checking capability to CLECs.

Issue 3: Did the third party test performed by KPMG in Dockets Nos. 980786 and 981834 resolve any issues in this proceeding?

Position: Absolutely not. While the instant proceeding focuses on whether BellSouth is providing Supra Telecom with on-line edit checking capabilities that BellSouth itself has, the KPMG third party testing did not conduct any study to determine whether BellSouth was providing the same on-line edit checking capability to CLECs through LENS or EDI as it provides to itself. Specifically, the KPMG study only looked at CLEC’s overall access to BellSouth’s OSS post-submission of orders and did nothing whatsoever to address the issue in this docket regarding whether BellSouth was provisioning on-line edit checking, pre-submission of orders, to CLECs. In fact, KPMG made no specific findings whatsoever related to on-line edit checking. Therefore, the Commission cannot rely on the KPMG proceeding as a substitute for its own judgment (after a hearing and considering evidence) three years earlier to make a

⁵ See Order No. PSC-03-1178-PAA-TP at 6.

determination as to whether BellSouth provided Supra with on-line edit checking as ordered in the Commission's July 22nd and October 28th Orders.

Furthermore, the issue of whether the KPMG Third Party Test can be used as a substitute for the Commission's own judgment and as a basis to reverse the Commission's final, non-appealable order issued February 11, 2000 must be addressed. The Commission should not reverse its own independent judgment with that of a Third Party Test concluded nearly three years later. The Commission should not relieve BellSouth of its obligations, absent a finding based on actual evidence comparing the on-line edit checking capabilities which BellSouth has provided to itself and to CLECs via EDI and LENS.

Issue 4: Has BellSouth timely complied with the Commission's previous orders in this docket?

Position: No. BellSouth has yet to comply with the Commission's previous orders, much less timely complied. In Order No. PSC-00-0288-PCO-TP, issued February 11, 2000, this Commission unequivocally determined that BellSouth had still failed to comply with the requirement to provide Supra with the same on-line edit checking capability that BellSouth provided to itself. The order stated:

"Based on the foregoing, we find that BellSouth has complied with all portions of our final decision in this case, Order No. PSC-98-1001-FOF-TP, issued July 22, 1998, as clarified by Order No. PSC-98-1467-FOF-TP, issued October 28, 1998, except for the specific requirements that BellSouth should provide Supra with on-line edit checking capability by December 31, 1998."⁶

The Commission should again order BellSouth to modify LENS and EDI to give Supra the same ordering capability that BellSouth's RNS system provides itself. In the alternative, this

⁶ See Order No. PSC-00-0288-PCO-TP, at 12.

Commission should impose a penalty on BellSouth, for violating Commission orders, under §364.285, Florida Statutes and find that BellSouth failed to comply with Commission orders until at the earliest February 11, 2000.

D. Questions of Fact.

No additional questions of fact.

E. Questions of Law.

No additional questions of law.

F. Policy Questions.

No additional policy questions.

G. Statement of issues that have been stipulated.

None.

H. Statement of all pending motions.

None.

I. Statement identifying the party's pending requests for confidentiality.

None.

J. Statement of requirement that cannot be complied with.

None.

K. Statement identifying any decision or pending decision that has or may preempt or otherwise impact the Commission's ability to resolve any of the issues or the relief requested.

None.

L. Objections to a witness' qualification as an expert.

None.

Respectfully submitted this 15th day of July 2004.

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