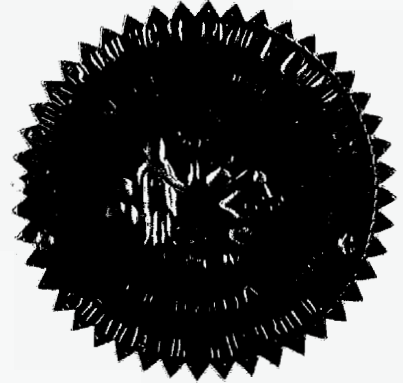


BEFORE THE  
FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 980119-TP

In the Matter of

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.



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PROCEEDINGS: PREHEARING CONFERENCE

BEFORE: J. TERRY DEASON  
Prehearing Officer

DATE: Monday, July 19, 2004

TIME: Commenced at 1:30 p.m.  
Concluded at 2:05 p.m.

PLACE: Betty Easley Conference Center  
**Room 152**  
4075 Esplanade Way  
Tallahassee, Florida

REPORTED BY: JANE FAUROT, RPR  
Chief, Office of Hearing Reporter Services  
FPSC Division of Commission Clerk and  
Administrative Services  
(850) 413-6732

DOCUMENT NUMBER: DAT

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## 1 APPEARANCES:

2 JAMES MEZA, III, ESQUIRE, BellSouth  
3 Telecommunications, Inc., 150 South Monroe Street, Suite 400,  
4 Tallahassee, Florida 32301-1556, appearing on behalf of  
5 BellSouth Telecommunications, Inc.

6 STEVE CHAIKEN, Supra Telecommunications & Information  
7 Systems, Inc., 2620 S.W. 27th Avenue, Miami, Florida 33133,  
8 appearing on behalf of Supra Telecommunications & Information  
9 Systems, Inc.

10 PATTY CHRISTENSEN, ESQUIRE, FPSC General Counsel's  
11 Office, 2540 Shumard Oak Boulevard, Tallahassee, Florida  
12 32399-0850, appearing on behalf of the Commission Staff.

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

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2 COMMISSIONER DEASON: Call the prehearing conference  
3 to order.

4 Could I have the notice read, please?

5 MS. CHRISTENSEN: By notice issued July 7th, 2004,  
6 this time and place have been set for a prehearing conference  
7 in Docket Number 980119, in re: Complaint of Supra  
Telecommunications and Information Systems, Inc. against  
BellSouth Telecommunications, Inc. for violation of the  
Telecommunications Act of 1996; the petition for resolution of  
disputes as to implementation and interpretation of  
interconnection, resale, and collocation agreements; and  
petition for emergency relief.

The purpose of this prehearing conference is as set  
forth in the notice.

COMMISSIONER DEASON: Thank you. Take appearances.

MR. MEZA: Jim Meza on behalf of BellSouth.

MR. CHAIKEN: Steve Chaiken on behalf of Supra.

MS. CHRISTENSEN: Patricia Christensen on behalf of  
the Commission.

COMMISSIONER DEASON: Thank you.

Ms. Christensen, do we have any preliminary matters?

MS. CHRISTENSEN: Yes, Commissioner, we have several  
pending motions that at the Commissioner's discretion we can  
address at this time. The first motion that staff would like

1 to address is Supra's motion for leave to amend its prehearing  
2 statement. My understanding is that there is no objection from  
3 the parties. Essentially, Supra reworked its prehearing  
4 statement to address some fact, law, and policy questions that  
5 it had listed in the original version separately to be  
6 incorporated under the enumerated issues, and these have been  
7 reflected in the draft prehearing order that has been provided  
8 to the parties and the Commissioner.

9 COMMISSIONER DEASON: I take it there is no  
10 objection, Mr. Meza?

11 MR. MEZA: Correct.

12 COMMISSIONER DEASON: Show then that motion is  
13 granted.

14 MS. CHRISTENSEN: Commissioner, the second motion  
15 that staff would like to address is Supra's motion to shorten  
16 time to provide discovery responses, and in the alternative,  
17 motion for continuance. I believe there is disagreement  
18 between the parties on this motion, and at the Commissioner's  
19 discretion you can hear argument on that or we can --

20 COMMISSIONER DEASON: Yes, I will allow the moving  
21 party to discuss that motion at this time. And understand I  
22 have read the motion, but you may summarize it and present what  
23 you think is relevant at this point. And then, Mr. Meza, I  
24 will let you address that, as well.

25 MR. MEZA: Thank you.

1 MR. CHAIKEN: There are two outstanding motions which  
2 I think could be resolved hand-in-hand, Commissioner.

3 COMMISSIONER DEASON: Very well.

4 MR. CHAIKEN: And it is our alternative suggestion,  
5 which would be to find the next available date for hearing.  
6 Supra would make available Mr. Nilson for deposition and has  
7 offered that to BellSouth, should they like to take his  
8 deposition. The discovery Supra has propounded was issued on  
9 July 13th. Supra believes if BellSouth is not required to  
10 respond within a sufficient period of time prior to the  
11 hearing, Supra will be prejudiced in not being able to compel  
12 better answers, if need be, prior to the hearing.

13 COMMISSIONER DEASON: Well, I have a question. Given  
14 the extensive history in this proceeding, why is it that you  
15 filed this discovery in what appears to be late in the process?

16 MR. CHAIKEN: It was filed after the deposition of  
Mr. Pate was taken, and as a result of questions and answers  
that were provided during that deposition.

19 COMMISSIONER DEASON: And when was the deposition of  
20 Mr. Pate?

21 MR. CHAIKEN: I believe it was July 7th.

22 COMMISSIONER DEASON: July the 7th, 2004?

23 MR. CHAIKEN: That's correct.

24 COMMISSIONER DEASON: Why was that deposition  
25 scheduled so late in this proceeding?

1 MR. CHAIKEN: The parties attempted to provide mutual  
2 dates for deposition so we could conduct the deposition of both  
3 Mr. Stahly and Mr. Pate on the same date. That was the  
4 mutually acceptable date to both parties.

5 COMMISSIONER DEASON: Okay. Mr. Meza, you may  
6 address the motion.

7 MR. MEZA: Yes. Thank you, sir. First, BellSouth  
8 opposes this late attempt to seek additional discovery. This  
9 actual protest has been pending since November of 2003. This  
10 case has been continued once already. And if you take a  
11 cursory review of the discovery that Supra is seeking to  
12 propound, there isn't any evidence that is directly related to  
13 any statement made by Mr. Pate in his deposition. It doesn't  
14 even refer to the deposition in any single question.

15 All of these questions could have been asked in the  
16 eight months that this proceeding has been pending, or the six  
17 years that the entire proceeding has been pending, but Supra  
18 for some reason has chosen to wait until approximately two and  
19 a half or three weeks before the hearing to ask this discovery.

20 None of the facts have changed. This case is about  
21 whether or not BellSouth complied with the 1998 order about  
22 providing on-line edit checking capability, and there just  
23 simply isn't any reason for the delay or for BellSouth to use  
24 its resources on the eve of a hearing responding to discovery  
25 that should have been asked a long time ago.

1           And I will refer you to Exhibit B, Interrogatories 47  
2 and 48, as an example of the types of questions that Supra is  
3 now asking. Please identify if and how TAG works with LENS.  
4 Which is Interrogatory 47. Similarly, Interrogatory 48 reads,  
5 "Please identify if and how TAG works with EDI."

6           Those are generic questions that have nothing to do  
7 with Mr. Pates' deposition, that Supra should have asked  
8 before, has asked in some fashion before, and is also apparent  
9 from Mr. Pates' testimony. But I highlight these  
10 interrogatories to show you that there is nothing unique about  
11 them. There is no reason to either continue the hearing or to  
12 force BellSouth to otherwise respond to discovery that is  
13 dilatory.

14           COMMISSIONER DEASON: Okay. Supra, do you wish to  
15 close on the argument?

16           MR. CHAIKEN: Yes. Are we talking about both motions  
17 here?

18           COMMISSIONER DEASON: Yes.

19           MR. CHAIKEN: Sure.

20           COMMISSIONER DEASON: Now, you are talking about your  
21 motion to shorten the time for discovery and, in the  
22 alternative, to extend the hearing date.

23           MR. CHAIKEN: Okay. If I can wait to respond on the  
24 substitution issue?

25           MR. MEZA: I'm sorry, I would like to present my

1 argument. I have not addressed that.

2 MR. CHAIKEN: I won't address that issue, then.

3 COMMISSIONER DEASON: We're not on the question of  
4 substituting witness. This is strictly on the motion  
5 concerning discovery response and, in the alternative, to delay  
6 the hearing.

7 MR. CHAIKEN: Yes. My only response would be that it  
8 is either issues that BellSouth has already responded to as  
9 counsel has just alluded to, which wouldn't be any prejudice to  
10 BellSouth in responding in a shortened period of time, or a  
11 continuance would be available if it did require such, so Supra  
12 has no other response to that.

13 COMMISSIONER DEASON: Very well. Staff, do you have  
14 anything to add at this point?

15 MS. CHRISTENSEN: Commissioners, I believe that this  
16 is solely within the prehearing officer's discretion. We would  
17 just note that the order establishing procedure does state that  
18 the hearing in this docket is set for August 4th, 2004, and  
19 unless authorized by the prehearing officer for good cause  
20 shown, all discovery shall be completed by July 28th, 2004.  
21 And, further, this order is issued pursuant to the authority  
22 granted by Rule 28-106.211, Florida Administrative Code, which  
23 provides that the presiding officer before whom a case is  
24 pending may issue any orders necessary to effectuate discovery,  
25 to prevent delay, and to promote the just, speedy, and



1 inexpensive determination of all aspects of the case.

2 COMMISSIONER DEASON: Thank you. I would note that  
3 both parties have known the procedural schedule for this case  
4 for sometime and that this case is going to go to hearing as  
5 scheduled. Parties should have acted accordingly when they  
6 made their plans for discovery in this case. So, therefore,  
7 the motion is denied in terms of shortening discovery  
8 responses, and, in the alternative, it is denied for the  
9 request to extend the hearing date.

10 Okay. We have another preliminary matter concerning  
11 substitution, is that correct?

12 MS. CHRISTENSEN: That is correct. Supra has filed a  
13 notice of substitution of witness and adoption of testimony.  
14 Staff would recommend that that be treated as a motion and be  
15 argued as such.

16 COMMISSIONER DEASON: Supra, it is your motion, you  
17 may proceed.

18 MR. CHAIKEN: Mr. Nilson is the witness we intend to  
19 have substitute and adopt the testimony of Mr. Stahly. Mr.  
20 Nilson has been involved in this docket since its inception.  
21 Due to Supra's limited resources at the time pursuant to the  
22 procedural order in this docket, Mr. Nilson was allocated to  
23 other matters involving Supra. Since that time he has become  
24 available as those matters have been resolved.

25 Supra would note that a notice of substitution of

1 witnesses is not uncommon, and, in fact, I have copies here  
2 which I can provide to staff and the Commissioner if he is so  
3 inclined. One, in fact, filed by BellSouth, a notice of  
4 substitution of witness in a prior case.

5 COMMISSIONER DEASON: Yes, you may provide that.

6 MR. CHAIKEN: And I will also provide a copy of a  
7 notice of substitution done by Sprint in another matter  
8 BellSouth has already been provided a copy of these,  
Commissioner.

Mr. Nilson is intricately involved in this docket.  
11 He knows the facts of this case, and it is not uncommon to  
12 substitute witnesses. Additionally, Mr. Nilson resides in  
13 Miami-Dade County where counsel for Supra is, whereas Mr.  
14 Stahly resides in Kansas. For convenience and expense  
15 purposes, obviously Mr. Nilson is a better witness for Supra.

16 COMMISSIONER DEASON: Okay. Thank you. Mr. Meza,  
17 you may respond.

18 MR. MEZA: Yes, sir. As I have previously stated,  
19 this case has been pending since November of 2003, and this is  
20 Supra's protest. They have initiated the proceeding. They  
21 selected Mr. Stahly to file direct testimony in April 2004  
22 wherein he talks about Supra's position and provides his  
23 background and experience, which he says consists of testifying  
24 in over 60 proceedings over the region. He is qualified,  
25 apparently, to talk about telecommunications issues.

1           Supra subsequently filed rebuttal testimony of  
2 Mr. Stahly, again opining about Supra's position on the issues  
in May of 2001, and made Mr. Stahly available for deposition on  
July 7th of 2004 in this case wherein BellSouth's counsel was  
able to understand the basis for Mr. Stahly's testimony,  
written testimony, which he admitted that he drafted, and which  
allowed BellSouth's counsel to understand the scope of his  
knowledge regarding Mr. Stahly's written testimony.

Two business days after I took his deposition, Supra  
seeks to replace Mr. Stahly with Mr. Nilson and provides no  
reason to. And I do agree with counsel that this Commission  
has allowed for the substitution of witnesses in the past, but  
only for cause, or theoretically only for cause. And I will  
note that the notice of substitution of witness that counsel  
has provided to you from BellSouth makes it clear that the  
original BellSouth witness was unavailable for the hearing,  
thereby requiring the need of adoption of witness testimony.

There is no allegation made here that Mr. Stahly is  
unavailable for the hearing. He made no indication in his  
deposition a week ago that that was the case, and BellSouth  
would be prejudiced by having to cross another witness about  
what Mr. Stahly admits that he drafted.

And if I may approach, I would like to explain to you  
a little bit further by giving you an example, an excerpt from  
the deposition testimony to sort of put this into context.

1 COMMISSIONER DEASON: Very well.

2 MR. MEZA: Thank you. I refer you to Page 13 where  
3 Mr. Stahly unequivocally states on Line 5 that he wrote his  
4 testimony and that two other people reviewed it, Mr. Bustillo  
5 and Mr. Chaiken, and he didn't know about Mr. Nilson. So there  
6 is no doubt that Mr. Stahly wrote his testimony.

7 If you go to the second page attached, you will see  
8 colloquy between Mr. Stahly and I over whether or not the  
9 contract from 1997 is really at issue in this case or whether  
10 we are just interpreting the Commission's order. And Mr.  
11 Stahly admitted that the underlying contract is not at issue in  
12 this proceeding, and that we are debating what the Commission  
13 meant in its orders, and that he has never even read the  
14 contract.

15 I have a strong belief that at this hearing you are  
16 going to hear not what Mr. Stahly said. You are going to hear  
17 Mr. Nilson testify that this case is really about what the  
18 contract required. And that to me is patently unfair and  
19 prejudices BellSouth. They chose Mr. Stahly to represent them  
20 in this case. He filed two sets of testimony, was made  
21 available for deposition approximately three weeks before the  
22 hearing, took a position in this deposition where he said he  
23 never even read the contract, and now through the substitution  
24 of a witness without identifying any cost for the substitution  
25 they are going to try to rehabilitate their case and impeach

1 their own witness.

2 BellSouth is ready to go to trial. They are ready to  
3 go to trial on what Witness Stahly wrote about, what Mr. Stahly  
4 was deposed about, but BellSouth should not be required to have  
5 to interpret or to ask Mr. Nilson how he interprets Mr.  
6 Stahly's testimony.

7 COMMISSIONER DEASON: Mr. Chaiken, you may close on  
8 your argument.

9 MR. CHAIKEN: Sure. First, I would like to point the  
10 court, the Commission to the Sprint notice of substitution  
11 which similarly provides no explanation for the reason for  
12 substitution.

13 COMMISSIONER DEASON: Do you know if there was any  
14 objection filed to this notice in this docket?

15 MR. CHAIKEN: I'm not aware if there was an objection  
16 filed. Furthermore, Supra at the time they filed the notice of  
17 adoption requested or inquired as to BellSouth if they would  
18 like to take Mr. Nilson's deposition, and we said we would make  
19 him available for them for such purposes. Again, adopting  
20 someone's testimony is not an uncommon practice in front of the  
21 Commission. It has been done on numerous occasions. And I see  
22 no reason why we should not be allowed to do so here.

23 COMMISSIONER DEASON: Well, Mr. Chaiken, I'm little  
24 bit perplexed. In your previous motion you indicated that  
25 there was a deposition held of a witness and that you had

1 engaged in further discovery, and that you were seeking to have  
2 that discovery responded to out of time, or in the alternative  
3 to delay the hearing. And now you are indicating that you  
4 would graciously provide Mr. Nilson for depo this late in the  
5 proceeding.

6 Do you believe that then that deposition, if Mr.  
7 Nilson was made available, would then result in the need for  
8 further discovery and the need to delay this hearing?

9 MR. CHAIKEN: I can't speak on behalf of BellSouth of  
10 whether additional discovery would be required. Again, my  
11 proposal in the beginning was that an extension on the hearing  
12 would resolve both matters in case such was necessary.

13 COMMISSIONER DEASON: Staff, do we know if this  
14 notice of substitution of witness filed by Sprint in Docket  
15 000075 was -- there was any objection filed to that?

16 MS. CHRISTENSEN: Commissioner, I have not had the  
17 opportunity to look up that specific notice of substitution.

18 COMMISSIONER DEASON: Can you explain Commission  
19 practice in the past in regards to substitution of witnesses?

20 MS. CHRISTENSEN: Certainly. It has been  
21 inconsistent as between whether or not it has been filed as a  
22 motion or a notice of substitution of counsel. BellSouth's  
23 usual practice has been to file them as motions; other  
24 companies have done them as notice of substitution of  
25 witnesses. Generally speaking, however, if they are done as a

1 notice of substitution of witnesses, all the parties are in  
2 agreement, there is no opposition to the substitution of the  
3 witness as we have in this matter. There is not a consistency  
4 in practice. I can provide, if the Commissioner would like,  
5 staff's opinion as to the appropriateness of substitution  
6 versus a motion for substitution.

7 COMMISSIONER DEASON: Please do so.

8 MS. CHRISTENSEN: It is staff's opinion that this  
9 Commission, and particularly the Commissioner as prehearing  
10 officer, has issued an order establishing procedure which sets  
11 forth the procedure for this matter, one being that the  
12 witnesses will be identified and that prehearing testimony will  
13 be filed by those witnesses. Since that is incorporated into  
14 an order, and once the parties have committed to that witness  
15 and it being part of an order, they must seek relief from that  
16 order.

17 Therefore, we feel it is appropriate that they do so  
18 by a motion. Although this has not been previously addressed  
19 squarely on its face before the Commission, we feel that that  
20 is the best practice since it is a requirement of a prehearing  
21 order, and that it is within the prehearing officer's sound  
22 discretion for good cause shown to allow such substitution. If  
23 the parties agree to it, or if the parties disagree to it, then  
24 it is within the prehearing officer's discretion to make a  
25 determination of whether or not the prehearing officer feels

1 that it is appropriate to allow the substitution.

2 COMMISSIONER DEASON: Very well.

3 Mr. Chaiken, is Mr. Stahly available for the hearing  
4 on the 4th?

5 MR. CHAIKEN: I believe he can be. I have not  
6 discussed it with him since we talked about having the notice  
7 filed.

8 COMMISSIONER DEASON: Very well. Well, I suggest you  
9 discuss that with him. And my decision is going to be to deny  
10 the notice of substitution and rely upon staff's recitation of  
11 the practice that we have followed. I would note that there  
12 has been no cause shown for the need for substitution, and that  
13 I believe it would be prejudicial against BellSouth's case to  
14 make such a substitution without good cause so late in the  
15 proceeding.

16 Any other preliminary matters?

17 MS. CHRISTENSEN: Commissioner, at this time staff is  
18 not aware of any other preliminary matters, and we would  
19 suggest then proceeding through the draft prehearing order  
20 section-by-section.

21 COMMISSIONER DEASON: Okay. Do the parties have any  
22 preliminary parties that have not yet been addressed?

23 Mr. Meza.

24 MR. MEZA: I don't know if this is the appropriate  
25 time, but I would like to suggest that opening statements be



1 allowed.

2 COMMISSIONER DEASON: Okay. I think we will get to  
3 that in due course. Well, we can go ahead and discuss that now  
4 since you have raised it. You wish to have opening statements,  
5 is that correct?

6 MR. MEZA: Yes, sir. I believe in this type of case  
7 with the limited number of witnesses that will be present that  
8 it won't unnecessarily delay the hearing to allow counsel to  
9 have opening statements lasting no longer than ten minutes to  
10 frame the issues for your consideration.

11 COMMISSIONER DEASON: Ten minutes is sufficient in  
12 your estimation?

13 MR. MEZA: Yes, sir.

14 COMMISSIONER DEASON: Mr. Chaiken, do you have a  
15 position on opening statements?

16 MR. CHAIKEN: Supra has no objection to that.

17 COMMISSIONER DEASON: Okay. Staff, then make an  
18 indication in the prehearing order that opening statements will  
19 be allowed, a limitation of ten minutes per side.

20 MS. CHRISTENSEN: Yes, sir.

21 COMMISSIONER DEASON: Very well.

22 Mr. Chaiken, do you have any other preliminary  
23 matters?

24 MR. CHAIKEN: No, Commissioner.

25 COMMISSIONER DEASON: Okay. Thank you.

1           We will then proceed through the draft prehearing  
2 order. It is my practice to proceed through the draft in rapid  
3 fashion, and as we proceed if any party has any question or  
4 concern, correction, deletion or addition, or whatever that  
5 needs to be discussed, please indicate and we will spend  
6 whatever time is necessary to get that matter addressed.

7           Having said that, we will begin with Section I,  
8 conduct of proceedings.

9           Section II, case background.

10           MS. CHRISTENSEN: Commissioner, staff notes that Mr.  
11 Chaiken had some suggested language that he would like to see  
12 go into the case background. There was an earlier e-mail that  
13 I had passed around to the parties that indicates the language  
14 that would be included at the top specifically referring to the  
15 federal court grants BellSouth's motion seeking an abatement to  
16 allow this Commission to determine its compliance with the  
17 orders issued in this docket, et cetera, that staff would  
18 insert into the case background at the appropriate section in  
19 the second paragraph.

20           COMMISSIONER DEASON: Okay. So you are amenable to  
21 making this change, correct?

22           MS. CHRISTENSEN: I'm amenable to making that change,  
23 and have provided the language to both parties, and neither  
24 party has an objection to the suggested language change.

25           COMMISSIONER DEASON: Very well. Given that there is

1 no objection, and staff is amenable to doing so, please insert  
2 the additional language as you have indicated.

3 MS. CHRISTENSEN: Yes, sir.

4 COMMISSIONER DEASON: Section III, confidential  
5 information. Section IV, post-hearing procedures. Section V,  
6 prefiled testimony and exhibits. Section VI, order of  
7 witnesses. It is the intent of the parties and staff to have  
8 direct followed by rebuttal, is that correct?

9 MS. CHRISTENSEN: That is my understanding, and I  
10 believe that would be on the same witnesses. There is only two  
11 witnesses in this, so I understand that it would be direct  
12 followed immediately by rebuttal.

13 COMMISSIONER DEASON: Very well.

14 MS. CHRISTENSEN: And I would also note that  
15 initially we had indicated in here the adoption, but based on  
16 the prehearing officer's ruling today we would change that back  
17 to Mr. Stahly's testimony.

18 COMMISSIONER DEASON: Yes, please do. Okay.

19 Section VII, basic positions. Section VIII, issues  
20 and positions. We will begin with Issue 1. Issue 2. Issue 3.  
21 Issue 4. Section IX, exhibit list. Section X, proposed  
22 stipulations.

23 Staff, is there anything here that we need to address  
24 at this time in the proposed stipulations?

25 MS. CHRISTENSEN: I believe all the stipulations are

1 unaffected by the ruling today. I believe those all are still  
2 valid stipulations.

3 COMMISSIONER DEASON: Okay. Do the parties have any  
4 comments on proposed stipulations? Hearing none, we will  
5 proceed then to Section XI, pending motions. I believe we have  
6 addressed all pending motions at this time, is that correct?

7 MS. CHRISTENSEN: That is correct, and we would  
8 suggest leaving the pending motion section blank and moving  
9 those to the appropriate rulings.

10 COMMISSIONER DEASON: Very well. I think that would  
11 be appropriate. Okay. We do have one -- under Section XII we  
12 have one matter under pending confidentiality matters, is that  
13 correct?

14 MS. CHRISTENSEN: That is correct. There is a  
15 pending claim of confidentiality that has been filed by Supra.  
16 We note that since this involves some of the discovery that  
17 will be subject to the stipulations, we would like to forewarn  
18 the parties that since those will be used at a hearing that a  
19 request for confidential treatment must be filed within 21 days  
20 of the hearing. At this point there is nothing to rule on, but  
21 we would like to make sure that the parties are aware of that  
22 so that they don't miss their deadline for that.

23 COMMISSIONER DEASON: And this information will  
24 remain confidential until it is ruled upon or until the  
25 information is returned, is that correct?

1 MS. CHRISTENSEN: That is correct.

2 COMMISSIONER DEASON: Okay. So if any of this  
3 information is to be utilized at the hearing, it must treated  
4 as confidential, correct?

5 MS. CHRISTENSEN: Yes, Commissioner, it should be  
6 treated as confidential during the hearing and until a ruling  
7 can be made. However, we would caution that if no request is  
8 filed within 21 days, it may then become subject to public  
9 disclosure.

10 COMMISSIONER DEASON: Very well. Do the parties  
11 understand that?

12 MR. MEZA: Yes, sir.

13 COMMISSIONER DEASON: Mr. Chaiken, do you understand  
14 that?

15 MR. CHAIKEN: Yes, Commissioner.

16 COMMISSIONER DEASON: Very well. Okay. We will  
17 proceed then to Section XIII, decisions that may impact  
18 resolution of issues. Section XIV, rulings will be amended  
19 consistent with the rulings made here today.

20 MS. CHRISTENSEN: Yes, sir.

21 COMMISSIONER DEASON: Okay. And I believe that  
22 brings us to the end of the draft prehearing order. Is there  
23 anything else to be brought before the prehearing officer at  
24 this time. \*Mr. Meza?

25 MR. MEZA: No, sir.

1 COMMISSIONER DEASON: Mr. Chaiken?

2 MR. CHAIKEN: Nothing from Supra.

3 COMMISSIONER DEASON: Staff, do you have anything?

4 MS. CHRISTENSEN: No further matters.

5 COMMISSIONER DEASON: Okay. Staff, I would like to  
6 compliment you on a very well-written draft prehearing order.  
7 And we have already indicated that there will be opening  
8 statements limited to ten minutes per side, and we are going to  
9 take direct testimony followed by rebuttal. And we have at  
10 this point a total of two witnesses that each will be appearing  
11 on direct and then rebuttal.

12 MS. CHRISTENSEN: That is correct.

13 COMMISSIONER DEASON: And this matter is scheduled  
14 for one day of hearing, and I trust that all parties agree one  
15 day is sufficient to hear this matter.

16 MR. MEZA: Yes, sir.

17 MR. CHAIKEN: More than sufficient.

18 COMMISSIONER DEASON: Very well. Staff agrees with  
19 that, as well?

20 MS. CHRISTENSEN: Yes, sir.

21 COMMISSIONER DEASON: Okay. Thank you all for your  
22 participation in this prehearing conference. This prehearing  
23 conference is adjourned. Thank you.

24 MR. MEZA: Thank you, sir.

25 (The prehearing conference concluded at 2:05 p.m.)

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STATE OF FLORIDA     )  
  
                                  :  
  
COUNTY OF LEON     )


CERTIFICATE OF REPORTER

I, JANE FAUROT, RPR, Chief, Office of Hearing Reporter Services, FPSC Division of Commission Clerk and Administrative Services, do hereby certify that the foregoing proceeding was heard at the time and place herein stated.

IT IS FURTHER CERTIFIED that I stenographically reported the said proceedings; that the same has been transcribed under my direct supervision; and that this transcript constitutes a true transcription of my notes of said proceedings.

I FURTHER CERTIFY that I am not a relative, employee, attorney or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorney or counsel connected with the action, nor am I financially interested in the action.

DATED THIS 21st day of June, 2004.



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JANE FAUROT, RPR  
Chief, Office of Hearing Reporter Services  
FPSC Division of Commission Clerk and  
Administrative Services  
(850) 413-6732