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From: Slaughter, Brenda [Brenda.Slaughter@BellSouth.com]
 Sent: Thursday, July 29, 2004 4:37 PM
 To: Filings@psc.state.fl.us
 Cc: Meza, James; Linda Hobbs; Fatool, Vicki; Holland, Robyn P; Bixler, Micheale; Nancy Sims
 Subject: Docket 040353-TP
 Importance: High

- A. Brenda Slaughter
 Legal Secretary for James Meza III
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 c/o Nancy Sims
 150 South Monroe, Rm. 400
 Tallahassee, Florida 32301-1558
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brenda.slaughter@bellsouth.com
- B. Docket No. 040353-TP: Petition of Supra Telecommunications and Information Systems, Inc. to Review and Cancel BellSouth's Promotional Offering Tariffs Offered in Conjunction With Its New Flat Rate Service Known as Preferred Pack
- C. BellSouth Telecommunications, Inc.
 on behalf of James Meza III
- D. 7 pages total
- E. BellSouth Telecommunications, Inc.'s Emergency Motion to Suspend Proceedings or Motion for Extension of Time

Brenda Slaughter (sent on behalf of James Meza III)
 BellSouth Telecommunications, Inc.
 Suite 4300 - Legal Department

CMP 675 W. Peachtree Street
COM Atlanta, GA 30375-0001
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CTR _____
ECR _____
GCL <<040353-TP Emergency Motion.pdf>>
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July 29, 2004

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

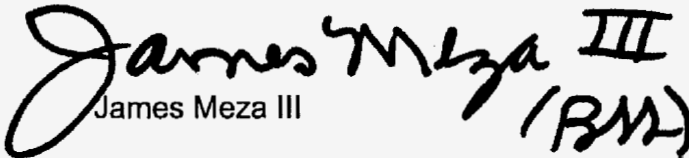
Re: Docket No.: 040353-TP

Dear Ms. Bayó:

Enclosed is BellSouth Telecommunications, Inc.'s Emergency Motion to Suspend Proceedings or Motion for Extension of Time, which we ask that you file in the captioned docket.

Copies have been served to the parties shown on the attached Certificate of Service.

Sincerely,


James Meza III
(BM)

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. 040353-TP**

I HEREBY CERTIFY that a true and correct copy of the foregoing was served via
First Class U.S. Mail and Electronic Mail this 29th day of July, 2004 to the following:

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(*) Signed Protective Agreement


James Meza III
(Bss)

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition of Supra Telecommunications)	Docket No. 040353-TP
And Information Systems, Inc. to Review)	
And Cancel BellSouth's Promotional)	
Offering Tariffs Offered in Conjunction With)	
Its New Flat Rate Service Known as)	
<u>Preferred Pack</u>)	Filed: July 29, 2004

**BELLSOUTH TELECOMMUNICATIONS, INC.'S
EMERGENCY MOTION TO SUSPEND PROCEEDINGS OR
MOTION FOR EXTENSION OF TIME**

BellSouth Telecommunications, Inc. ("BellSouth"), pursuant to Rule 28-106.204, Florida Administrative Code, requests that the Florida Public Service Commission ("Commission") suspend any pending motions and discovery in the above proceedings until after the issuance of the Commission's Proposed Agency Action ("PAA") scheduled in this proceeding and any subsequent protest or, in the alternative, grant BellSouth an extension of time until August 17, 2004 to file a response to Supra Telecommunications and Information Systems, Inc.'s ("Supra") Motion for Final Summary Order. In support of this Motion, BellSouth states the following:

1. Supra initiated this proceeding on April 20, 2004, and BellSouth filed its response on May 17, 2004. No testimony has been filed by any party and, to date, no hearing has been scheduled.

2. Since the inception of this proceeding, Supra has inundated BellSouth with three sets of discovery consisting of interrogatories, requests for admissions, and requests for production. In addition, Commission Staff has issued at least two sets of discovery to BellSouth.

3. Under the current CASR, Commission Staff is scheduled to issue a recommendation on the matters raised in Supra's Complaint on August 27, 2004, and the Commission is scheduled to vote on this recommendation on September 7, 2004. This course of procedure is identical to the procedure utilized by the Commission in resolving Florida Digital Network, Inc.'s ("FDN") emergency request that the Commission suspend BellSouth's Key Customer Tariff in Docket No. 020119-TP.

4. On July 27, 2004, Supra filed its Motion for Final Summary Order, asserting that there were no genuine issues of material fact and that Supra was entitled to judgment as a matter of law. However, on this same date, Supra propounded over 69 Requests for Admissions to BellSouth in its Third Set of Requests for Admissions and also requested that BellSouth provide dates for depositions in this docket. BellSouth's response to the Motion for Final Summary Order is currently due on August 3, 2004.

5. Because the Commission is scheduled to issue a PAA on the matters in the Complaint on September 7, 2004, BellSouth requests that Commission suspend BellSouth's obligation to respond to Supra's pending discovery requests as well as to Supra's Motion for Summary Final Order until after the issuance of the PAA and any subsequent protest. Upon receipt of the PAA, the parties will be able to assess the Commission's proposed findings, assess whether to protest such findings, and then narrow the scope of discovery and the issues to be decided at an ultimate hearing. Accordingly, it could be a waste of BellSouth's time and resources to respond to discovery and substantive

motions that could be rendered moot or at least modified upon the issuance of a PAA.

6. No party would be prejudiced by this request because this PAA procedure is the exact procedure the Commission has followed in other tariff complaints. In addition, Supra is not prohibited from reasserting its motion or discovery after the issuance of the PAA and thus would not be harmed by the instant request. Finally, any claim by Supra that competition is being harmed by the subject promotions is pure speculation because the number of customers receiving all of the subject promotions since January 2004 is substantially less than 5,000 and Supra has provided no evidence that any of these customers were former Supra customers.

7. Accordingly, BellSouth requests that the Commission suspend BellSouth's obligation to respond to all pending motions and discovery requests until after the issuance of the PAA on September 7, 2004 and any potential protest of that PAA.

8. Alternatively, BellSouth requests an extension of time until August 17, 2004 to substantively respond to Supra's Motion for Summary Final Order for the following reasons.

9. First, although Supra faxed the Motion for Summary Final Order to BellSouth's Tallahassee office near the close of business on July 27, 2004, due to internal computer problems, BellSouth's counsel did not receive the Motion until July 29, 2004.

10. Second, the undersigned counsel will be in Tallahassee from August 2-4, 2004 to participate in the Commission's August 3, 2004 agenda conference as well as the hearing in Docket No. 980119-TP, which involves Supra and BellSouth.

11. Third, BellSouth has rebuttal testimony due in Docket 031125-TP due on August 12, 2004.

12. Fourth, BellSouth needs the additional time to prepare competing affidavits to rebut the allegations in Supra's Motion. Any affidavit will address the fallacies in Supra's arguments as well as present policy considerations that the Commission must consider in evaluating Supra's Complaint and the Motion for Final Summary Order.

13. Fifth, for the reasons set forth in Paragraph 6 above, Supra will not be prejudiced by the brief extension of time.

14. Accordingly, if the Commission denies BellSouth's request that it be relieved of responding to discovery and Supra's substantive motions until after the issuance of the PAA and any protest, BellSouth requests, in the alternative, that it be granted an extension until August 17, 2004 to file its opposition to Supra's Motion for Final Summary Order.

15. BellSouth has contacted Supra's counsel and reports that Supra objects to this Motion.

16. Finally, because of the undersigned's travel schedule and upcoming hearing in Docket No. 980019-TP, BellSouth requests emergency consideration of this Motion.

“

Respectfully submitted this 29th day of July, 2004.

BELLSOUTH TELECOMMUNICATIONS, INC.

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