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August 27, 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 040301 –TP
SUPRA’S MOTION TO COMPEL PRODUCTION OF DOCUMENTS BY
BELLSOUTH IN FURTHERANCE OF SUPRA’S FIRST REQUESTS FOR
PRODUCTION**

Dear Mrs. Bayo:

Enclosed are the original and fifteen (15) copies of Supra Telecommunications and Information Systems, Inc.’s (Supra) Motion to Compel Production of Documents by Bellsouth in Furtherance of Supra’s First Requests For Production 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,

Brian Chaiken
Executive V.P. Legal Affairs

DOCUMENT NUMBER-DATE

09435 AUG 27 8

FPSC-COMMISSION CLERK

CERTIFICATE OF SERVICE

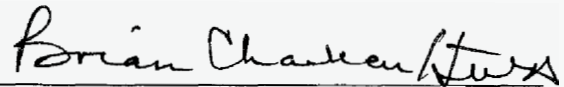
Docket No. 040301-TP

I HEREBY CERTIFY that a true and correct copy of the following was served via Facsimile and E-Mail this 27th day of August 2004 to the following:

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

*Nancy White
c/o Ms. Nancy H. Sims
BellSouth Telecommunications, Inc.
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/ 476-4248
Facsimile: 305/ 443-1078



By: Brian Chaiken

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition of Supra)	
Telecommunications and Information)	Docket No. 040301-TP
Systems, Inc.'s for arbitration)	
with BellSouth Telecommunications, Inc.)	Filed: August 27, 2004
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**SUPRA'S MOTION TO COMPEL PRODUCTION OF DOCUMENTS BY BELLSOUTH
IN FURTHERANCE OF SUPRA'S FIRST REQUESTS FOR PRODUCTION**

Supra Telecommunications and Information Systems, Inc. ("Supra"), pursuant to Florida Rules of Civil Procedure 1.350 and 1.380(d), and the Florida Administrative Code, Section 25-22.034, moves for entry of an Order compelling BellSouth Telecommunications, Inc. ("BellSouth") to produce all documents sought in Supra's First Requests for Production (the "Document Request"), dated July 22, 2004. The following grounds support this Motion:

STANDARD FOR DISCOVERY

Florida Rule of Civil Procedure 1.280(b)(1) provides that "[p]arties may obtain discovery regarding any matter, not privileged, that is relevant to the subject matter of the pending action, whether it relates to the claim or defense of the party seeking discovery or the claim or defense of any other party[.]" FL.R.Civ.P. 1.280(b)(1). This rule is "to be applied as broadly and liberally as possible," Hickman v. Taylor, 329 U.S. 495, 506 (1947), such that it includes "any matter that bears on, or that reasonably could lead to other matter that bears on, any issue that is or may be in the case." Rosbach v. Rundle, 128 F.Supp.2d 1348, 1353 (S.D. Fla. 2000) (citation omitted).

The discovery requested by Supra in this matter bears on BellSouth's claims that this Commission has already set a UNE-P to UNE-L conversion rate, which could expedite resolution of this docket.

GENERAL BACKGROUND

1. On July 22, 2004, Supra served the Document Request upon BellSouth.
2. On August 23, 2004 BellSouth served the Response of BellSouth Telecommunications, Inc. to Supra Telecommunications And Information Systems, Inc.'s First Request for Production of Documents (Nos. 1-2) (the "**Response**"), a copy of which is **Exhibit A** hereto.
3. BellSouth objected to and failed to provide any responsive documents to either of the two document requests Supra propounded.
4. Supra has made numerous requests to BellSouth to discuss this matter and offered to accept a list of responsive documents so as to limit the universe of Supra's search for publicly available documents, assuming that such responsive documents were, in fact, publicly available. Supra has yet to hear from BellSouth, and can no longer wait for a response.

ARGUMENT

REQUEST NO. 1: Please provide all testimonies, transcripts, exhibits, orders and any related documents in FPSC Docket No. 990649-TP (BellSouth Track) which specifically support BellSouth's claim that the FPSC has already set a UNE-P to UNE-L conversion rate in excess of \$57.00.

BELLSOUTH'S RESPONSE: BellSouth objects to this request on the grounds that is overly broad and unduly burdensome. BellSouth further objects to this request on the grounds that such documents are a matter of public record before the Florida Public Service Commission and are as publicly available to Supra as they are to BellSouth.

ARGUMENT: BellSouth asserts that the FPSC in Docket No. 990649-TP set a UNE-P to UNE-L conversion rate in excess of \$57.00. If true, Supra's complaint and request to set such a rate would be moot. In order to determine the veracity of BellSouth's contention, Supra propounded Document Request Number 1 above. BellSouth objects to this request, first on the

grounds that it is overly broad and unduly burdensome. BellSouth, in order to prove that such a rate has previously been set by the Commission, must provide such information. BellSouth cannot sit back and surprise Supra with such information at a hearing, crippling Supra's ability to respond. Supra is entitled to the requested materials which support BellSouth's claim.

BellSouth then objects to the above request on the grounds that the request seeks information and documents equally available to Supra as a matter of public record. Such an objection is not a proper objection. See St. Paul Reinsurance Co., Ltd. v. Commercial Fin. Corp., 198 F.R.D. 508, 511 (N.D. Iowa 2000) (stating that "with respect to this objection, courts have unambiguously stated that this exact objection is insufficient to resist a discovery request."); City Consumer Servs. v. Horne, 100 F.R.D. 740, 747 (D. Utah 1983) (stating that it is "not usually a ground for objection that the information is equally available to the interrogator or is a matter of public record.") (citing Petruska v. Johns-Manville, 83 F.R.D. 32, 35 (E.D. Pa. 1979)); Associated Wholesale Grocers, Inc. v. U.S., 1989 WL 110300, *3 (D. Kan. June 7, 1989) (stating that defendant's argument of equal accessibility is not sufficient to resist discovery) (citing City Consumer Services). As such, this BellSouth objection is meritless. Moreover, Supra does not believe BellSouth's assertion is correct. In order for Supra to disprove this assertion, Supra would have to pour through every document in Docket No. 990649-TP. However, it is reasonable to assume BellSouth believes it does have a basis to support its contention and BellSouth should be compelled to disclose such basis and provide the supporting documents to Supra, or at a minimum identify such documents so Supra can locate such documents itself.

WHEREFORE, Supra requests that the Commission hear and consider this Motion, and thereupon enter an Order compelling BellSouth to produce all documents responsive to Document Request Number 1, and for such other and further relief that the Commission deems appropriate.

Respectfully submitted this 27th day of August 2004.

By: Brian Chaiken
BRIAN CHAIKEN, ESQ.
FBN: 0118060

SUPRA TELECOMMUNICATIONS AND
INFORMATION SYSTEMS, INC.
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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition of Supra Telecommunications)
and Information Systems, Inc.'s for) Docket No.: 040301-TP
arbitration with BellSouth)
BellSouth Telecommunications, Inc.)
_____ Filed: August 23, 2004

**BELLSOUTH TELECOMMUNICATIONS, INC.'S OBJECTIONS AND
RESPONSES TO SUPRA TELECOMMUNICATIONS
AND INFORMATION SYSTEMS, INC.'S FIRST REQUEST FOR PRODUCTION
OF DOCUMENTS (NOS. 1-2)**

BellSouth Telecommunications, Inc. ("BellSouth"), pursuant to Rule 28-106.206, Florida Administrative Code, and Rules 1.340 and 1.280, Florida Rules of Civil Procedure, hereby files the following Objections and Responses to Supra's First Request for Production of Documents, dated July 22, 2004.

GENERAL OBJECTIONS

1. BellSouth objects to the requests for production to the extent they seek to impose an obligation on BellSouth to respond on behalf of subsidiaries, affiliates, or other persons that are not parties to this case on the grounds that such requests for production are overly broad, unduly burdensome, oppressive, and not permitted by applicable discovery rules.

2. BellSouth objects to these requests for production to the extent they are intended to apply to matters other than those subject to the jurisdiction of the Commission. BellSouth objects to such requests as being irrelevant, overly broad, unduly burdensome, and oppressive.

3. BellSouth objects to each and every request for production and instruction to the extent that such request or instruction calls for information that is exempt from

discovery by virtue of the attorney-client privilege, work product privilege, or other applicable privilege.

4. BellSouth objects to these requests insofar as they are vague, ambiguous, overly broad, imprecise, or utilize terms that are subject to multiple interpretations but are not properly defined or explained for purposes of these requests for production. Any answers provided by BellSouth in response to the requests will be provided subject to, and without waiver of, the foregoing objection.

5. BellSouth objects to these requests for production insofar as they are not reasonably calculated to lead to the discovery of admissible evidence and are not relevant to the subject matter of this action. BellSouth will attempt to note in its responses each instance where this objection applies.

6. BellSouth objects to providing information to the extent that such information is already a matter of public record before this or another state commission or federal regulatory agency; or is otherwise available as a matter of public record; e.g., is available on a publicly accessible website.

7. BellSouth objects to Supra's discovery requests, instructions and definitions, insofar as they seek to impose obligations on BellSouth that exceed the requirements of the Florida Rules of Civil Procedure or Florida Law. BellSouth will provide information responsive to Supra's discovery in the manner specified by this Commission.

8. BellSouth objects to these requests for production, insofar as any

of them are unduly burdensome, expensive, oppressive, or excessively time consuming as written.

9. BellSouth is a large corporation with employees located in many different locations in Florida and in other states. In the course of its business, BellSouth creates countless documents that are not subject to Commission or FCC retention of records requirements. These documents are kept in numerous locations that are frequently moved from site to site as employees change jobs or as the business is reorganized. Therefore, it is possible that not every document has been identified in response to these requests. BellSouth will conduct a search of those files that are reasonably expected to contain the requested information. To the extent that the requests purport to require more, BellSouth objects on the grounds that compliance would impose an undue burden or expense.

10. BellSouth objects to each and every request for production to the extent that the information requested constitutes "trade secrets". To the extent that Supra requests proprietary confidential business information, BellSouth will make such information available in accordance with a protective agreement, subject to any other general or specific objections contained herein.

11. BellSouth objects to any discovery request that seeks to obtain "all" of particular documents, items, or information to the extent that such requests are overly broad and unduly burdensome. Any answers provided by BellSouth in response to this discovery will be provided subject to, and without waiver of, the foregoing objection.

SPECIFIC OBJECTIONS AND RESPONSES

BellSouth Telecommunications, Inc.
Florida Public Service Commission
Docket No. 040301-TP
Supra's 1st Request for Production
July 22, 2004
Item No. 1
Page 1 of 1

REQUEST: Please provide all testimonies, transcripts, exhibits, orders, and any related documents in FPSC Docket No. 990649-TP (BellSouth Track) which specifically support BellSouth's claim that the FPSC has already set a UNE-P to UNE-L conversion rate in excess of \$57.00.

RESPONSE: BellSouth objects to this request on the grounds that is overly broad and unduly burdensome. BellSouth further objects to this request on the grounds that such documents are a matter of public record before the Florida Public Service Commission and are as publicly available to Supra as they are to BellSouth.

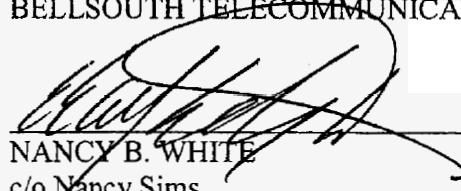
BellSouth Telecommunications, Inc.
Florida Public Service Commission
Docket No. 040301-TP
Supra's 1st Request for Production
July 22, 2004
Item No. 2
Page 1 of 1

REQUEST: Please provide all documents identified in BellSouth's Response to Supra's First Set of Interrogatories.

RESPONSE: BellSouth objects to this request on the grounds that it seeks documents that are already in Supra's possession, custody or control as they were provided in the Florida Public Service Commission Docket 990649-TP proceeding.

Respectfully submitted this 23rd day of August, 2004.

BELLSOUTH TELECOMMUNICATIONS, INC.

fc

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