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September 3, 2004

Mrs. Blanca Bayo, Director
Division of Commission Clerk and Administrative Services
Florida Public Service Commission
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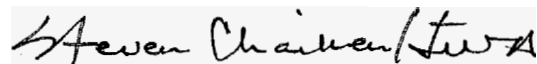
RE: Docket No. 980119-TP - SUPRA'S POST HEARING BRIEF

Dear Mrs. Bayo:

Enclosed are the original and fifteen (15) copies of Supra Telecommunications and Information Systems, Inc.'s (Supra) Post Hearing Brief 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

09711 SEP-3 3

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 3rd day of September 2004 to the following:

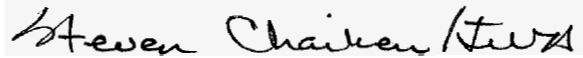
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By: Steven Chaiken

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Complaint by 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: September 3, 2004

**SUPRA TELECOMMUNICATIONS AND INFORMATION
SYSTEMS, INC.'S POST-HEARING STATEMENT**

Supra Telecommunications and Information Systems, Inc. ("Supra") hereby files this Post-Hearing Statement, pursuant to the Order Establishing Procedure (Order No. PSC-04-0120-PCO-TP) issued February 3, 2004.

ISSUE 1

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

SUMMARY OF SUPRA'S POSITION

*** The Commission ordered BellSouth to modify either EDI or LENS¹ so that Supra's customer service representatives can immediately identify an error, prior to submitting an order, while obtaining information from a customer that is still on the phone.² ***

DISCUSSION

On July 22, 1998, the Commission ordered that:

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.³

¹ See Order No. PSC-00-0288-PCO-TP at p. 9 and p. 10.

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

³ Order No. PSC-98-1001-FOF-TP at p. 44.

In order to truly understand what the Commission ordered, it is important to define what the phrases “modify the ALEC ordering systems” and “provide the same online edit checking capability” mean.

EDI or LENS

“Modify the ALEC ordering systems” means that BellSouth should modify the already existing ordering interfaces contemplated by the parties’ interconnection agreement at the time (i.e. EDI and LENS).

We know this was what the Commission meant because the Commission said so when it clarified this phrase in its order issued October 28, 1998:

BellSouth shall provide Supra with this same capability through the ordering interfaces provided to it, as identified in the parties’ agreement.⁴

First, the only interfaces provided to Supra at that time were EDI and LENS. Second, the only interfaces identified in the parties’ agreement were EDI and LENS. BellSouth witness Mr. Pate even admitted that that these were the only 2 interfaces that existed at the time.⁵

Just to emphasize the point, the Commission made this non-issue crystal clear (no less than four times) in its order issued February 11, 2000:

In our proceeding, only the LENS and EDI interfaces were actually addressed in the record. Our decision was based upon the evidence of the capabilities of only these ALEC interfaces.⁶

It is clear, however, from the surrounding passages that only we only considered the LENS and EDI interfaces.⁷

[W]e acknowledge that the only ALEC ordering interfaces that we addressed in our proceeding were the LENS and EDI interfaces.⁸

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

⁵ See 7/7/04 Deposition Transcript of Ronald Pate at p. 20 ln. 3 - 11.

⁶ Order No. 00-0288-PCO-TP at p. 10. (emphasis added)

⁷ Order No. 00-0288-PCO-TP at p. 10.

⁸ Order No. 00-0288-PCO-TP at p. 11.

[I]n 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.⁹

This is important because BellSouth may try to claim that it somehow complied with the Commission's orders by creating a new interface, TAG.

Q: And what did BellSouth do after July 22, 1998, in order to comply with this provision of this order?

A: Well, BellSouth's whole initial approach, which is an item under discussion throughout these orders, is we took TAG, Telecommunications Access Gateway, and we focused our energies into the development of that machine-to-machine interface to satisfy the requirements of this order.¹⁰

Despite the fact that BellSouth was to modify either LENS or EDI, BellSouth focused its energies into the development of TAG. However, as noted by the Commission, the TAG interface was not even considered in these hearings.¹¹ The Commission did state at one time that it might consider further proceedings to determine whether TAG met the Commission's intent.¹² However, in an effort to avoid unnecessary proceedings, the Commission decided to await the results of the KPMG third-party-test.¹³

⁹ Order No. PSC-00-0288-PCO-TP at p. 11.

¹⁰ 7/7/04 Deposition Transcript of Ronald Pate at p. 20 lns. 12 - 19.

¹¹ See Order No. PSC-03-1178-PAA-TP at p. 8.

¹² See *Id.*

¹³ See *Id.* See also Order No. PSC-00-1777-PCO-TP at p. 7 where in the Commission held:

Due to the technical complexity of the primary issue to be determined, we will postpone any administrative hearing on whether or not BellSouth's OSS provide on-line edit checking capability until the third-party OSS testing is completed in order to avoid duplicative proceedings. Once that testing is done, the information and determinations made in that proceeding will be employed in this Docket to the fullest extent possible. We note that both BellSouth and Supra are parties to Docket No. 981834-TP. Once third-party OSS testing is completed, we will consider whether the third-party testing of BellSouth's OSS has resolved the issue in dispute, or whether we should proceed to a hearing in this Docket to address any unresolved matters, including the issue of whether BellSouth timely complied with our post-hearing orders. Therefore, this Docket shall remain open pending the outcome of the third-party OSS testing being conducted in Dockets Nos. 960786-TL and 981834-TP.

The TPT has now concluded. Incorporating the findings of the test in this Docket, we find that the TPT did, in fact, resolve this issue, thus negating the need for further proceedings.¹⁴

As there have been no proceedings to determine whether TAG met the Commission's intent, any mention of TAG in this proceeding is nothing but a red herring and the ALEC ordering systems BellSouth was ordered to modify are only EDI and LENS.

PRE-SUBMISSION OF ORDERS/ IMMEDIATELY IDENTIFY ERRORS

It is also important to define what was meant by the phrase "provide the same online edit checking capability". In the context of this docket, on-line edit checking refers to the ability of Supra customer service representatives to immediately identify errors, prior to submitting an order, while the customer is still on the telephone. Again, we know this because the Commission said so in its October 1998 order:

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.¹⁵

BellSouth's witness, Mr. Pate, agreed that this type of on-line edit checking can only refer to on-line edits prior to submission of an order.

Q: Would you agree with me that immediately identifying errors in an order being worked can only mean and refer to edits being performed prior to submission of the order?

A: I'm rereading this for one second, please. As implied here by a service representative or immediately identified, yes, I agree with you.¹⁶

Q: And in this paragraph, specifically just the paragraph we just referenced, this is talking about on-line edits prior to submitting an order to BellSouth; correct?

¹⁴ Order No. PSC-03-1178-PAA-TP at p. 8.

¹⁵ Order No. PSC-98-1467-FOF-TP at p. 18. (emphasis added)

¹⁶ 8/4/04 Hearing Transcript p. 149 ln. 21 - p. 150 ln. 1.

A: That's the way I would interpret that now, today.¹⁷

Thus, the Commission defined BellSouth's obligation. In order for this Commission to find that BellSouth has timely complied with the Commission's previous orders it must have found that BellSouth modified either LENS or EDI by December 31, 1998 so that Supra customer service representatives had on-line edit checking capabilities to immediately identify an error, prior to submitting an order, while a customer is still on the line.

BellSouth attempts to mislead the Commission into believing this is a 271 non-discriminatory access argument. However the parties' interconnection agreement and the Commission's order are not about non-discriminatory access to on-line edits under section 271, but rather are about BellSouth's obligation to actually provide Supra on-line edits at parity with BellSouth's on-line edits as required by the parties' interconnection agreement and the Commission's interpretation and orders relating to that agreement.

BellSouth argues that the "Commission specifically ordered BellSouth in the October 1998 Order to provide Supra with the same ordering interaction capabilities of RNS with FUEL and SOLAR, but not the actual implementation of such a system. ... Rather, BellSouth was required to provide Supra with the capability to implement on-line edits."¹⁸

However, Mr. Pate admitted that simply "providing access to the capability to implement edits is not the same as actually providing the edits themselves".¹⁹ Mr. Pate also conceded that none of the Commission's orders ever even used the word "implement".²⁰

BellSouth then hinges its argument on the fact that the Commission stated "we shall not require BellSouth to duplicate its RNS and DOE interfaces at Supra's premises."²¹ However, the

¹⁷ 8/4/04 Hearing Transcript p.150 lns. 22 - 25.

¹⁸ 5-26-04 Rebuttal Testimony of Ronald Pate at p. 4 lns. 11 - 18.

¹⁹ See 7-7-04 Deposition Transcript of Ronald Pate at p. 70 ln. 25 - p. 71 ln. 3 and 8/4/04 Hearing Transcript at p. 159 ln. 16 - p. 160 ln. 1.

²⁰ See 7-7-04 Deposition Transcript of Ronald Pate at p. 44 ln. 2 - p. 45 ln. 6.

following colloquy at Mr. Pate's deposition makes clear that BellSouth can still comply with the Commission's order and provide Supra with same capabilities of RNS and DOE without duplicating BellSouth's RNS and DOE interfaces.

Q: By using the business rule to create the online edit checking capability, Supra would not be duplicating RNS and DOE, is that correct?

A: You would not duplicate the exact system, but you would duplicate the functionality that it is performing, so that's what I mean by no/yes. ... Yes, you duplicate the functionality that's being performed by the edits.

Q: So by implementing the business rule, we would have the same capabilities that RNS and DOE provide for BellSouth, not actually duplicating RNS and DOE?

A: Yes.²²

Q: And if my interpretation of the Commission order is that when it says "BellSouth should provide Supra with the capability," meant that BellSouth should go to Supra and implement the business rules, is that something BellSouth could have done?

A: Is it technically possible to do that? The answer is yes.²³

Thus, there can be no doubt that BellSouth could have complied with the Commission's orders by implementing the business rules and providing Supra with the same capabilities of RNS and DOE without actually duplicating RNS and DOE at Supra's premises. BellSouth chose not to. Rather, BellSouth chose to interpret the Commission's orders in a manner in which BellSouth was ordered to do nothing.

ISSUE 2

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

²¹ 5-26-04 Rebuttal Testimony of Ronald Pate at p. 4 ln. 24 – p. 5 ln. 1 (*citing* October 1998 Order at p. 21).

²² 7/7/04 Deposition Transcript of Ronald Pate at p. 38 lns. 7 – 19.

²³ 7/7/04 Deposition Transcript of Ronald Pate at p. 39 ln. 20 - p. 40 ln.2.

SUMMARY OF SUPRA'S POSITION

*** No. BellSouth's own witness, Mr. Ronald Pate, admitted that BellSouth did not modify either EDI or LENS to provide Supra with the same on-line edit checking capabilities that BellSouth provides to itself as was ordered by this Commission. ***

DISCUSSION

BellSouth's own witness Mr. Ronald Pate admitted at his deposition that BellSouth has not modified either LENS or EDI to comply with the Commission's orders in this docket.

Q: So as far as LENS goes, BellSouth did nothing after July 22, 1998 – BellSouth did nothing to LENS system after July 22, 1998 to comply with this order?

A: Nothing specific to this order. I mean, there's change to the LENS system, but nothing specific to this order.

Q: And is the same true for EDI?

A: Yes and no. We did one thing that impacted EDI and that was the SOER edits, the Service Order Edit Routine edits. That was not a modification to EDI, I want to be clear on that...²⁴

A: With respect to the July '98 order, as modified by the October order, if I can say it that way, we did not do anything specific to LENS.²⁵

Mr. Pate again admitted at the hearing that BellSouth did not modify LENS to comply with the Commission's orders in this docket.

Q: Okay. Let me make sure I understand. Would it be correct to say that BellSouth did not mimic the on-line edit checking capability it has with RNS with FUEL and SOLAR?

A: That's correct.²⁶

Mr. Pate also again admitted at the hearing that BellSouth did not modify EDI to comply with the Commission's orders in this docket.

Q: And let me make sure I understand. You also stated earlier that BellSouth did not modify its EDI interface to mimic the on-line edit checking capability as BellSouth has with RNS in its FUEL and SOLAR databases?

²⁴ 7/7/04 Deposition Transcript of Ronald Pate at p. 20 ln. 23 - p. 21 ln. 8.

²⁵ 7/7/04 Deposition Transcript of Ronald Pate at p. 33 lns. 23 – 25.

²⁶ 8/4/04 Hearing Transcript at p.168 ln. 24 - p. 169 ln. 3.

A: That's correct.²⁷

Moreover, BellSouth even admitted that it is technically feasible for BellSouth to provide Supra such edits, rather than simply providing Supra with the capability to implement such edits itself.²⁸ As BellSouth did not modify LENS or EDI and did not implement the business rules to provide Supra with the same on-line edit checking capabilities that BellSouth has, though admittedly technically feasible to do so, BellSouth has not made available to Supra the on-line edit checking capabilities as required by the Commission's orders in this docket.

ISSUE 3

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

SUMMARY OF SUPRA'S POSITION

*** No. The KMPG test only looked at CLECs' 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.

DISCUSSION

The KMPG test only looked at CLECs' overall access to BellSouth's OSS post-submission of orders and did nothing whatsoever to address the issue in this docket regarding whether BellSouth provisioned on-line edit checking, pre-submission of orders. First, BellSouth's witness could not point to a single reference in the KPMG report specifically referencing the issue of on-line edit checking.

²⁷ 8/4/04 Hearing Transcript at p. 169 lns. 13 - 17.

²⁸ See 7/7/04 Deposition Transcript of Ronald Pate at p. 40 lns. 1 - 16, p. 62 lns. 8 - 12, and 8/4/04 Hearing Transcript at p. 160 lns. 9 - 12.

Q: Do you know if the KPMG report specifically references online edit checking capability anywhere?

A: Not that I recall. That wasn't a reference.²⁹

Mr. Pate confirmed this fact at the hearing.

Q: And you'd agree with me that at your deposition you testified that you weren't aware to a single reference to on-line edit checking capability in the KPMG report; is that correct?

A: That's correct. And I stand by the statement today based on that question you asked. There's not a specific reference to on-line edits in this report that I could find.³⁰

Mr. Pate elaborated and proceeded to admit that there is no way of even knowing whether KPMG actually even put on-line edits on when they built a machine-to-machine interface.

Q: And you agreed with me at your deposition that the KPMG test wasn't designed to test the issue of on-line edits prior to a CLEC's CSR submitting an order to BellSouth; isn't that correct?

A: What I agreed and the similar question you asked to me in the deposition was, to my knowledge, there was not a test specifically structured for that purpose. That does not mean that when they built the machine-to-machine interface that they didn't put some on-line edits themselves, KPMG -- I have no way of knowing that. They could have put them on there.³¹

Mr. Pate also admitted that the KPMG third party test did not result in any determination whatsoever regarding the pre-submission of a CLEC order on-line checking capability, the very issue in this docket.

A: Not pre-submission. I just stated earlier, that was not the design of the test.³²

Mr. Pate further agreed that the KPMG test was neither designed to test nor determine whether BellSouth provided the same on-line edit checking capabilities.

Q: But there's nothing, no results, no specific findings or anything to the like which suggests or evidences that KPMG actually did create a system which provided the same online edit checking capabilities, same type and manner that BellSouth's RNS provides when it interacts with FUEL and Solar?

²⁹ 7/7/04 Deposition Transcript of Ronald Pate at p.54 lns.6 - 8.

³⁰ 8/4/04 Hearing Transcript at p. 156 lns. 10 - 16.

³¹ 8/4/04 Hearing Transcript at p. 156 ln. 17 - p. 157 ln. 1.

³² 7/7/04 Deposition Transcript of Ronald Pate at p. 57 lns.22 - 23.

A: The tests were not specifically designed for that. That's what I said to you.

Q: So my answer is, that's correct?

A: That's correct.³³

As the KPMG test does not reference on-line edit checking, was not designed to nor tested pre-submission of order on-line edits, and as there is no way of knowing whether KPMG even included on-line edits, the third party test performed by KPMG in Dockets Nos. 980786 and 981834 does not resolve any issues in this proceeding.

ISSUE 4

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

SUMMARY OF SUPRA'S POSITION

*** No. The record is void of any evidence whatsoever indicating BellSouth has complied with its obligations, much less timely complied. ***

DISCUSSION

The only evidence the Commission considered in rendering its October 21, 2003 decision was the KPMG third party test. As shown above, this test was neither designed to nor did test the issue in this docket of on-line edit checking capability pre-submission of an order. As such, this evidence does not and cannot support a finding that BellSouth timely complied with the Commission's orders in this docket. Furthermore, BellSouth even admits that it failed to modify either LENS or EDI as required. BellSouth also admits that it could have, but chose not to, implement the business rules and provide Supra with the same on-line edit capabilities that BellSouth has, without duplicating RNS and DOE. As such there is simply no evidence in this record which the Commission can rely upon to support a finding that BellSouth has complied, much less complied in a timely manner, with the Commission's orders in this docket.

³³ 7/7/04 Deposition Transcript of Ronald Pate at p. 58 lns. 16 - 25.

Respectfully submitted this 3rd day of September 2004.

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