

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Petition by Supra Telecommunications and Information Systems, Inc. for arbitration with BellSouth Telecommunications, Inc. | DOCKET NO. 040301-TP
| ORDER NO. PSC-04-1153-PCO-TP
| ISSUED: November 19, 2004

ORDER DENYING
SUPRA TELECOMMUNICATIONS AND INFORMATION SYSTEMS, INC.'S MOTION TO
FILE DISCOVERY ONE DAY LATE

BY THE COMMISSION:

This Order is issued pursuant to the authority granted by Rule 28-106.211, Florida Administrative Code, which provides that the presiding officer before whom a case is pending may issue any orders necessary to effectuate discovery, prevent delay, and promote the just, speedy and inexpensive determination of all aspects of the case.

I. Case Background

On June 23, 2004, Supra Telecommunications and Information Systems, Inc. (Supra) filed a Motion For Leave to file its First Amended Petition for Arbitration with BellSouth Telecommunications, Inc. (BellSouth). The Motion was granted and on July 21, 2004, BellSouth filed its Answer and Response to Supra's Amended Petition For Arbitration.

On November 8, 2004, Supra filed a Motion for Leave to File Discovery One Day Late (Motion). Supra claims that during the November 3 – 4, 2004, deposition, it obtained information that warrants further discovery regarding the application of a cross-connect in a UNE-P to UNE-L conversion.

On November 15, 2004, BellSouth responded to Supra's Motion stating that Supra has failed to establish why any discretion should be invoked in Supra's favor. BellSouth argues that in accordance with the Order Establishing Procedure No. PSC-04-0809-PCO-TP, issued on August 19, 2004, all discovery must be "completed," and not propounded, by November 5, 2004. BellSouth also argues that discovery will not even be completed before the close of the hearing. Further, BellSouth disagrees with Supra's justification for the additional time because Supra's discovery requests could have been asked at the November 3 – 4, 2004 deposition. Last, BellSouth contends that Supra's discovery request originates from a document drawn by Supra's own witness during that deposition, and that Supra's failure to ask the appropriate questions cannot serve as a basis to propound additional discovery past the discovery cut-off date.

DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

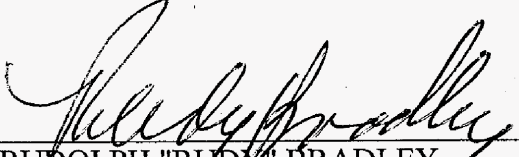
II. Ruling

In light of the above arguments and review of the discovery at issue, Supra's Motion is hereby denied. Supra can ask the presiding officer at hearing for some leeway to pose questions contained in its most recent discovery request on cross-examination.

Based on the foregoing, it is

ORDERED by Rudolph "Rudy" Bradley, as Prehearing Officer, that Supra Telecommunications & Information Systems, Inc.'s Motion for Leave to File Discovery One Day Late is denied.

By ORDER of Commissioner Rudolph "Rudy" Bradley, as Prehearing Officer, this 19th day of November, 2004


RUDOLPH "RUDY" BRADLEY
Commissioner and Prehearing Officer

(SEAL)

JLS

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

ORDER NO. PSC-04-1153-PCO-TP
DOCKET NO. 040301-TP
PAGE 3

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.0376, Florida Administrative Code; or (2) judicial review by the Florida Supreme Court, in the case of an electric, gas or telephone utility, or the First District Court of Appeal, in the case of a water or wastewater utility. A motion for reconsideration shall be filed with the Director, Division of the Commission Clerk and Administrative Services, in the form prescribed by Rule 25-22.060, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.