



Telephone: (850) 402-0510

Fax: (850) 402-0522

www.supratelecom.com

1311 Executive Center Drive, Suite 220
Tallahassee, FL 32301-5027

November 30, 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 No. 040301-TP -
SUPRA'S EMERGENCY MOTION FOR RECONSIDERATION OF THE
PRE-HEARING OFFICER'S ORDER TO GRANT BELLSOUTH
CONTINUANCE**

Dear Mrs. Bayo:

Enclosed are the originals and fifteen (15) copies of Supra Telecommunications and Information Systems, Inc.'s (Supra) Emergency Motion For Reconsideration Of The Pre-Hearing Officer's Order To Grant Bellsouth Continuance to be filed in the above 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 Vice President, Legal Affairs

DOCUMENT NUMBER-DATE

12721 NOV 30 04

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, E-Mail, Hand Delivery, and/or U.S. Mail this 30th day of November 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: November 30, 2004

SUPRA'S EMERGENCY MOTION FOR RECONSIDERATION

Supra Telecommunications and Information Systems, Inc. ("Supra"), pursuant to Rule 25-22.0376, hereby files its Motion for Reconsideration of the Prehearing Officer's ruling granting BellSouth's Emergency Motion for Continuance. As Supra has already fully prepared for trial, traveled to Tallahassee with its attorneys and witness, and for the reasons set forth below, Supra will be severely prejudiced if any continuance is granted. Supra's counsel is currently in Tallahassee and requests that the full Commission hear oral argument on this matter on December 1, 2004.

ARGUMENT

Supra initially filed its Petition in this Docket on April 5, 2004, seeking resolution of a contractual dispute, or, in the alternative, requesting that the Commission set a rate for UNE-P to UNE-L conversions. Between that date and the present date, every CLEC in the state of Florida had an opportunity to petition to intervene in this docket. None did. In Order No. PSC 04-0959-PCO-TP, issued October 1, 2004, this Commission established that the hearing in this docket would take place on December 1 and 2, 2004. Less than 48 hours before the hearing was set to begin, BellSouth filed its Emergency Motion for Continuance. At approximately 1:04 p.m. today, filed its Response to BellSouth's Emergency Motion for Continuance ("Response"), requesting the

Commission deny BellSouth's request, or, in the alternative, set an interim UNE-P to UNE-L conversion rate subject to true up.

At approximately 2:39 p.m., without having been afforded oral argument, Supra received an e-mail notification of the prehearing officer's decision granting BellSouth's Motion and continuing this hearing indefinitely. Supra believes that the Commission could not have fully considered the merits of Supra's Response in 1 hour and 35 minutes, particularly without hearing any oral argument.

This ruling contradicts the Commission's previous acknowledgement of the need for the setting of a new rate, and for such to be done on an expedited basis. At the September 21, 2004 Agenda hearing on Supra's Motion to Establish an Interim Rate, the following colloquy took place:

COMMISSIONER DEASON: Well, there's been a request
13 for an interim rate. It's been determined that it's not
14 appropriate, at least at this time, to address that. After the
15 conclusion of the hearing that commences on December the 1st
16 if we make a determination that there needs to be some type of
17 a rate established on a going-forward basis, when and how do we
18 do that? And is it in the context of a complaint or is it
19 new docket, or how do we address that procedurally?
20 MR. DOWDS: It's our belief it would be done in his
21 proceeding.

See September 21, 2004 Agenda hearing transcript at pg. 14.

COMMISSIONER DAVIDSON: If there is no rate and we
9 have to set a rate, the setting of that rate will also occur in
10 this docket; whether to set a rate will, will occur. **I mean,**
11 **this is not going to get postponed for a year.**
12 MR. SUSAC: No, Commissioner, you are correct.

Id. at pg. 18 (Emphasis added).

As Supra has fully prepared for this hearing, traveled to Tallahassee and spent valuable time and resources in an attempt to adjudicate an issue which is within the jurisdiction of this Commission, Supra would be severely prejudiced should it have to wait any longer before proceeding to trial, having to re-prepare, and re-incur the costs it has already expended.

The Prehearing officer did not take any oral argument in granting BellSouth's request and Supra has been prejudiced already as a result of now preparing the instant motion rather than preparing for trial. As this Commission had previously scheduled the hearing in this Docket to take place on December 1 and 2, and as the parties have agreed that the hearing could be accomplished in one day, with that day being December 2, 2004, Supra requests that the full Commission hear oral argument on this Emergency Motion on the morning of December 1, 2004.

CONCLUSION

For the reasons stated hereinabove and in Supra's Response in Opposition to BellSouth's Emergency Motion for Continuance, the prehearing officer's decision to continue this hearing should be reversed. In the alternative, on the assumption that the Commission's decision to defer resolution of the parties' disagreement over the rate to be paid by Supra over the next year or more was not intended to constitute a ruling on the merits in favor of BellSouth,¹ the Commission should immediately establish interim rates, to be subject to true up upon the establishment of permanent rates.

¹ Because the Commission has deferred resolving Supra's Complaint, Supra expects that if it converts any UNE-P lines to UNE-L between now and the establishment of a rate in a generic docket, it will have no choice but to pay the unreasonable rate that BellSouth has demanded.