

**ORIGINAL**

**Matilda Sanders**

**From:** Smith, Debbie N. [Debbie.N.Smith@BellSouth.COM]  
**Sent:** Tuesday, January 18, 2005 2:40 PM  
**To:** Filings@psc.state.fl.us  
**Cc:** Edenfield, Kip; Fatool, Vicki; Slaughter, Brenda ; Nancy Sims; Holland, Robyn P; Bixler, Micheale; Linda Hobbs  
**Subject:** Florida Docket No. 040301-TP  
**Importance:** High

- A. Debbie Smith  
 Legal Secretary for E. Earl Edenfield, Jr.  
 BellSouth Telecommunications, Inc.  
 c/o Nancy Sims  
 150 South Monroe, Rm. 400  
 Tallahassee, FL 32301-1558  
 (404) 335-0772  
 debbie.n.smith@bellsouth.com
- B. Docket No. 040301-TP: In Re: Petition of Supra Telecommunications and Information Systems, Inc. for arbitration with BellSouth Telecommunications, Inc.
- C. BellSouth Telecommunications, Inc.  
 on behalf of E. Earl Edenfield, Jr.
- D. 5 pages total in PDF format
- E. BellSouth's Opposition to Supra's Request for Oral Argument.

<<BellSouth's Opposition.pdf>>

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FPSC-COMMISSION CLERK

E. EARL EDENFIELD, JR.  
Senior Attorney

BellSouth Telecommunications, Inc.  
150 South Monroe Street  
Room 400  
Tallahassee, Florida 32301  
(404) 335-0763

January 18, 2005

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

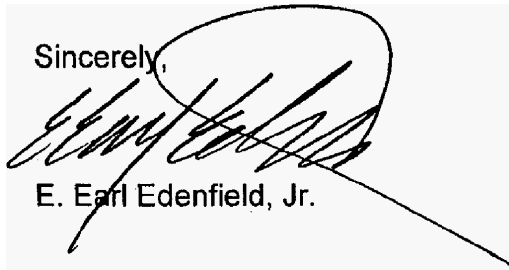
**Re: Docket No.: 040301-TP  
Petition of Supra Telecommunications and Information Systems, Inc. for  
Arbitration with BellSouth Telecommunications, Inc.**

Dear Ms. Bayó:

Enclosed is BellSouth's Opposition to Supra's Request for Oral Argument, 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,



E. Earl Edenfield, Jr.

Enclosure

cc: All Parties of Record  
Marshall M. Criser III  
Nancy B. White  
R. Douglas Lackey

DOCUMENT NUMBER-DATE

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**CERTIFICATE OF SERVICE  
Docket No. 040301-TP**

I HEREBY CERTIFY that a true and correct copy of the foregoing was served via Electronic Mail and U.S. Mail this 18th day of January, 2005 to the following:

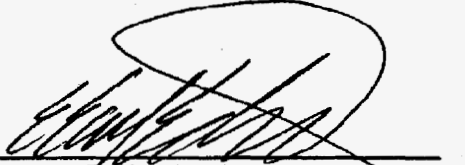
Jason Rojas  
Jeremy Susac  
Staff Counsels  
Florida Public Service Commission  
2540 Shumard Oak Blvd.  
Tallahassee, FL 32399-0850  
Tel No. (850) 413-6179 or 6236  
Fax No. (850) 413-6250  
[jrojas@psc.state.fl.us](mailto:jrojas@psc.state.fl.us)  
[Jsusac@psc.state.fl.us](mailto:Jsusac@psc.state.fl.us)

Ann H. Shelfer  
Supra Telecommunications &  
Information Systems, Inc.  
Koger Center – Ellis Building  
1311 Executive Center Drive  
Suite 220  
Tallahassee, FL 32301-5067  
Tel. No. (850) 402-0510  
Fax. No. (850) 402-0522  
[ashelfer@stis.com](mailto:ashelfer@stis.com)

Brian Chaiken (+)  
Supra Telecommunications &  
Information Systems, Inc.  
2620 S. W. 27<sup>th</sup> Avenue  
Miami, FL 33133  
Tel. No. (305) 476-4248  
Fax. No. (305) 443-1078  
[bchaiken@stis.com](mailto:bchaiken@stis.com)

**To receive discovery related material only**

John Duffey  
Division of Competitive  
Markets & Enforcement  
Florida Public Service Commission  
2540 Shumard Oak Blvd.  
Tallahassee, FL 32399-0850  
Tel No. (850) 413-6828  
[jduffey@psc.state.fl.us](mailto:jduffey@psc.state.fl.us)



E. Earl Edenfield, Jr.

(+) Signed Protective Agreement

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: January 18, 2005

**BELLSOUTH'S OPPOSITION TO SUPRA'S REQUEST FOR ORAL ARGUMENT**

BellSouth Telecommunications, Inc. ("BellSouth") files this opposition to the Request for Oral Argument ("Request") filed by Supra Telecommunications and Information Systems, Inc. ("Supra") on January 13, 2005.<sup>1</sup> For the reasons set forth below, the Florida Public Service Commission ("Commission") should reject Supra's Request.

**DISCUSSION**

BellSouth's objection to Supra's Request is straightforward; Supra has waived any rights to request oral argument on the *Renewed Motion* because Supra failed to comply with mandatory Commission Rules. Specifically, requests for oral argument are governed by Commission Rule 25-22.058, which provides in relevant part:

(1) The Commission may grant oral argument upon request of any party to a Section 120.57, Florida Statutes, formal hearing. A request for oral argument **shall** be contained on a separate document and **must** accompany the pleading upon which argument is requested. The request shall state with particularity why oral argument would aid the Commission in comprehending and evaluating the issues before it. **Failure to file a timely request for oral argument shall constitute a waiver thereof.** [Emphasis added]

Clearly, there are a number of mandatory prerequisites and jurisdictional hurdles for requesting an oral argument. For instance, any request for oral argument **must accompany** (as a separate

<sup>1</sup> Supra's Request for Oral Argument is directed towards Supra's Renewed Motion for Interim Rate for UNE-P to UNE-L Conversions Based on Change of Circumstances ("*Renewed Motion*") filed on January 3, 2005.

document) the underlying pleading upon which oral argument is being sought; otherwise, the request for oral argument has been waived.


In this proceeding, Supra filed the *Renewed Motion* on January 3, 2005. It was incumbent upon Supra (indeed mandatory) to file any request for oral argument on January 3, 2005 and have any such request accompany the *Renewed Motion*. In its Request, Supra attempts to gloss-over the fact that it has not complied with the procedural and jurisdictional requirements of Commission Rule 25-22.058. (Request at ¶ 3) Instead, Supra argues that by attaching the *Renewed Motion* to the Request (instead of vice-versa 10 days before), that Supra has met the requirements of the Rule. Such an interpretation is a mockery of the Rule and is contrary any rational reading of the Rule's clear language. Therefore, Supra has failed to satisfy the procedural and jurisdictional prerequisites for requesting oral argument and has, by its own malfeasance, waived any such right as per the Rule.

Even if Supra did meet the procedural and jurisdictional prerequisites for requesting oral argument (which they have not), Supra still has not met the burden of demonstrating how oral argument would be of any assistance in resolving the *Renewed Motion*. In short, the *Renewed Motion* is itself a procedurally-flawed pleading and oral argument will not change the fact that the *Renewed Motion* is nothing more than an untimely and unfounded motion for reconsideration. Therefore, Supra has failed to satisfy the procedural and jurisdictional prerequisites for requesting oral argument and has, by its own malfeasance, waived any such right as per the Rule.


WHEREFORE, for the reasons set forth herein, BellSouth respectfully requests that the Commission deny Supra's Request for Oral Argument.

Respectfully submitted this 18<sup>th</sup> day of January 2005.

BELLSOUTH TELECOMMUNICATIONS, INC.



NANCY B. WHITE  
c/o Nancy Sims  
150 South Monroe Street, Suite 400  
Tallahassee, Florida 32301  
(305) 347-5558



R. DOUGLAS LACKEY  
E. EARL EDENFIELD JR.  
675 West Peachtree Street  
Suite 4300  
Atlanta, Georgia 30375  
(404) 335-0763

567833