

ORIGINAL

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From: Smith, Debbie N. [Debbie.N.Smith@BellSouth.COM]
 Sent: Wednesday, February 16, 2005 2:39 PM
 To: Filings@psc.state.fl.us
 Cc: Fatool, Vicki; Slaughter, Brenda ; Nancy Sims; Holland, Robyn P; Bixler, Micheale; Linda Hobbs; Edenfield, Kip
 Subject: Florida Docket No. 040301-TP
 Importance: High
 Attachments: opposition.pdf

- A. Debbie Smith
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 c/o Nancy Sims
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- 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 Motion for Reconsideration.

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ORIGINAL

E. EARL EDENFIELD, JR
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February 16, 2005

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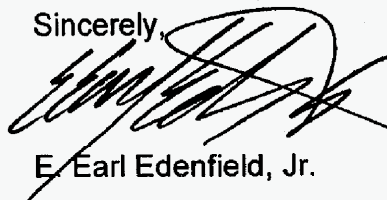
**Re: Docket No.: 040301-TP
Petition of Supra Telecommunications and Information Systems, Inc. for
Arbitration with BellSouth Telecommunications, Inc.**

Dear Ms. Bayó:

Enclosed is BellSouth's Opposition to Supra's Motion for Reconsideration, 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 16th day of February, 2005 to the following:

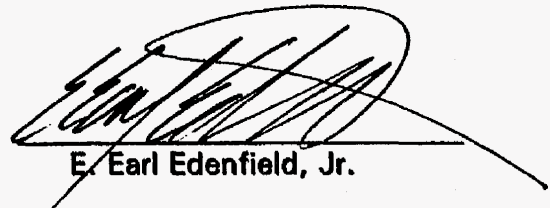
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To receive discovery related material only

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E. Earl Edenfield, Jr.

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: February 16, 2005
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BELLSOUTH'S OPPOSITION TO SUPRA'S MOTION FOR RECONSIDERATION

BellSouth Telecommunications, Inc. ("BellSouth") files this opposition to the Motion for Reconsideration of Order Granting Consolidation of Docket Numbers 040301-TP and 041338-TP, and Denying Motion for Partial Final Summary Order and Motion for Reconsideration¹ ("*Motion for Reconsideration*") filed by Supra Telecommunications and Information Systems, Inc. ("Supra") on February 9, 2005. For the reasons set forth below, the Florida Public Service Commission ("Commission") should reject Supra's *Motion for Reconsideration*.

BACKGROUND

The nightmare continues. In yet another procedural debacle, Supra has now asked for what is effectively a reconsideration of the denial of an improper reconsideration. BellSouth will not re-state here the litany of reasons as to why Supra's prior motion for reconsideration (the "*Renewed Motion*") was improper, but will merely adopt (as if fully set forth herein) the Opposition to the Renewed Motion for Interim Rate for UNE-P to UNE-L Conversions Based on Change of Circumstances filed by BellSouth in this docket on January 10, 2005. The *Motion for Reconsideration* suffers from the same deficiencies as the *Renewed Motion*; thus, the Commission should deny the *Motion for Reconsideration*.

¹ Order No. PSC-05-0157-PCO-TP dated February 8, 2005 ("February 8 Order").

Further, the *Motion for Reconsideration* has been rendered moot by a couple of events. First, this complaint proceeding (040301-TP) has been consolidated with the Generic Hot Cut Docket (041338-TP). In the new consolidated proceeding, the parties do yet have an issues list and it is uncertain as to whether the parties agree on the structure (i.e., a blended rate versus the bifurcated rate Supra proposes). In fact, the Commission determined that the issues upon which Supra seeks summary disposition “are virtually identical to the Joint CLEC’s petition in Docket 041338-TP.” (February 8 Order at 4) Thus, Supra is seeking a determination as a matter of law as to the structure and rate for a hot cut rate without all the parties in the consolidated proceeding having been afforded due process to respond to Supra’s request. At this point, Supra’s request for a determination as a matter of law as to the structure and rate for a hot cut is premature. Second, Supra has agreed to pay the rates in their contract going forward with a true up, if necessary. Clearly, the *Motion for Reconsideration* has been rendered moot by this agreement...unless, of course, Supra is now backing away from that agreement. Because Supra has not advised BellSouth that Supra is reneging on the agreement, the *Motion for Reconsideration* should be rejected as moot.

Finally, the *Motion for Reconsideration* should be rejected because it fails to meet the legal standard applicable to reconsideration motions. The *Motion for Reconsideration* is substantively deficient in that it offers no argument not previously considered, and rejected, by the Commission, nor does it any point of fact or law that the Commission overlooked or failed to consider in rendering the February 8 Order. Indeed, the entirety of Supra’s *Motion for Reconsideration* simply restates the contractual arguments regarding Sections 3.1 and 22.1 of the Interconnection Agreement’s (“ICA”) General Terms and Conditions...nothing more, nothing less. Supra also contends that BellSouth attempted to “intentionally mislead” the Commission.


(*Motion for Reconsideration* at 6). BellSouth is past the point of engaging Supra's puerile diatribe and will not here, except to say that, once again, Supra is wrong. In short, Supra offers nothing to contradict the Commission's finding that "an issue of fact exists as to whether an appropriate rate for a UNE-P to UNE-L conversion is contained in the parties' ICA." Therefore, the Commission should deny Supra's *Motion for Reconsideration*.

CONCLUSION

For the reasons set forth herein, BellSouth respectfully requests that the Commission deny Supra's *Motion for Reconsideration*.

Respectfully submitted this 16th day of February 2005.

BELLSOUTH TELECOMMUNICATIONS, INC.



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