

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

Petition of Supra Telecommunications and Information Systems, Inc., for a Generic Proceeding to Arbitrate Rates and Selected Terms and Conditions of Interconnection Agreements with BellSouth Telecommunications, Inc.) Docket No. 980155-TP) Filed: January 30, 1998)

PETITION OF SUPRA TELECOMMUNICATIONS AND INFORMATION SYSTEMS, INC., FOR A GENERIC PROCEEDING TO ARBITRATE RATES, TERMS AND CONDITIONS OF INTERCONNECTION WITH BELLSOUTH TELECOMMUNICATIONS, INC., OR IN THE ALTERNATIVE, PETITION FOR ARBITRATION OF INTERCONNECTION AGREEMENT

Supra Telecommunications and Information Systems, Inc., ("Supra") hereby files this petition for a generic proceeding to arbitrate the rates, terms and conditions of interconnection with BellSouth Telecommunications, Inc., ("BellSouth"), or in the alternative, petitions for arbitration of Supra's individual interconnection agreement with BellSouth, and as grounds therefor states as follows:

I. BACKGROUND

Supra is a Florida corporation certificated by the Florida Public Service Commission as an alternative local exchange

ACK _____ company. BellSouth is a Georgia corporation providing local
AFA _____ exchange telecommunications services in Florida, Alabama,
APP _____
CEN _____ Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South
CIN _____ Carolina, and Tennessee. Supra is also certificated as an
CIR _____ alternative local exchange telecommunications company in the
EAG _____
LIT _____ eight other states in which BellSouth operates.

LIN _____ With the passage of the Telecommunications Act of 1996, 47
GFC _____ U.S.C. Sections 251 and 252, the U.S. Congress made a powerful
RCH _____

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statement that consumers have a right to choose among competing companies for their local telephone services, just as they now choose which of numerous competitors will provide their long distance services. The Telecommunications Act represents Congress' recognition of the great benefits to consumers of competition and its intention that these benefits will flow in the immediate future to consumers for local telephone services. The Telecommunications Act, therefore, places very serious and specific obligations on BellSouth, as the Incumbent Local Exchange Carrier, toward new entrants into the local exchange services market. The terms of the Telecommunications Act are very specific regarding the negotiation of interconnection agreements between telecommunications carriers and incumbent local exchange carriers. The Act is also specific in giving telecommunications carriers the opportunity to petition state commissions to arbitrate issues that the carriers cannot resolve between themselves.

It may be an overstatement of the obvious, but the Commission must remember that BellSouth has all the weapons-- market share, billions in resources, already smoothly-functioning operational support systems, name recognition, a great number of employees, a tremendous history of experience in the telecommunications industry, everything--and new entrants have nothing but the rights given them under the Telecommunications Act to give them any crack at competing with this incumbent local exchange carrier to give consumers choices in the provision of

their local telephone services. The Congress recognized that this is the battle that would be pitched between the incumbent local exchange companies and the new entrants and for that reason gave the state commissions authority to resolve disputes between them.

The Telecommunications Act gives a right to each telecommunications carrier to enter into good faith negotiations with the incumbent local exchange carrier to determine the rates, terms and conditions of interconnection agreements. However, if incumbent local exchange carriers will not negotiate in good faith as required by the Telecommunications Act, the Act gives the telecommunications carriers the right to petition the state commissions for arbitration of interconnection agreements.

**II. PETITION FOR A GENERIC PROCEEDING TO ESTABLISH RATES,
TERMS AND CONDITIONS OF INTERCONNECTION WITH
BELLSOUTH TELECOMMUNICATIONS, INC.**

Supra petitions the Florida Public Service Commission to hold a generic proceeding to establish the rates, terms and conditions of interconnection with BellSouth Telecommunications, Inc. Such a proceeding would be noticed by the Commission to all Florida-certificated alternative local exchange telecommunications carriers offering them the opportunity to participate with the statement that the decisions in the generic proceeding would bind BellSouth and all Florida-certificated alternative local exchange telecommunications carriers. Any "customizing" of interconnection agreements that individual carriers chose to seek that did not violate the arbitrated rates, terms and conditions

would still be available to those individual carriers. In support of its petition, Supra states as follows:

1. The Florida Public Service Commission has traditionally used generic proceedings to address issues of broad industry significance. Practically every major development in the telecommunications industry has involved a generic proceeding at the Florida Public Service Commission.

2. The rates, terms and conditions of interconnection with BellSouth Telecommunications, Inc., are issues of broad significance to the entire telecommunications industry.

3. BellSouth has communicated across the board that the rates set and the decisions made by the Florida Public Service Commission in the arbitration proceedings between BellSouth and AT&T, MCI, and Metropolitan Fiber Systems, Inc., form the basic position that BellSouth will take in all future discussions or "negotiations," and that these positions will not be altered.

4. The gravamen of the Telecommunications Act is to facilitate the entry of telecommunications carriers into the local exchange telecommunications market to provide competitive choices to consumers in this market in the immediate future. The Act provides a statutory basis for the negotiation and arbitration of interconnection agreements between telecommunications carriers and incumbent local exchange carriers, as well as for the oversight and dispute resolution role of the state commissions.

5. The Telecommunications Act demands the active and good

faith negotiation by the incumbent local exchange carriers with new entrants into the local exchange telecommunications market. In the absence of this good faith negotiation, the state commissions are empowered to arbitrate the rates, terms and conditions of interconnection agreements.

6. BellSouth has established a track record of not negotiating in good faith with new entrants in the telecommunications market. See the Letter of BellSouth Employees to Supra dated January 15, 1998, attached hereto. This is merely one piece of written evidence that BellSouth takes the position that the rates, terms and conditions set in the AT&T, MCI, and Metropolitan Fiber Systems, Inc., arbitration proceedings by the Florida Public Service Commission are the rates, terms and conditions that will be available from BellSouth for all telecommunications carriers subsequently requesting interconnection. Supra's experience is not unusual in that many other telecommunications carriers have attempted to negotiate with BellSouth and have been told, basically, you can have what AT&T or MCI got or you can have our standard interconnection agreement. Many conversations between BellSouth employees and other telecommunications carriers reflect this same BellSouth sentiment.

7. The Telecommunications Act does not preclude the state commissions from combining proceedings to facilitate arbitration decisions, and even encourages state commissions to handle these proceedings in the most efficient manner possible.

8. It is a denial of basic due process and the rights granted telecommunications carriers under the Telecommunications Act, as well as the Florida Administrative Procedures Act, not to permit all telecommunications carriers who desire it to participate in the ongoing arbitration proceeding between BellSouth and AT&T, MCI, and Metropolitan Fiber Systems/WorldCom in Dockets Nos. 960757-TP, 960833-TP, and 960846-TP when it is BellSouth's stated position that these decisions will definitely determine the terms and conditions of all subsequent interconnection agreements.

9. The decisions already rendered by the Florida Public Service Commission in Dockets Nos. 960833-TP, 960846-TP and 960916-TP have clearly determined the substantial rights of a whole class of telecommunications carriers as evidenced by BellSouth's letter attached hereto. The decisions rendered by the Florida Public Service Commission in the ongoing proceeding in Dockets Nos. 960757-TP, 960833-TP, and 960846-TP will also determine the substantial rights of a whole class of telecommunications carriers as to rates, terms and conditions in future interconnection agreements--in other words, the Commission's decisions in both the earlier proceeding and the ongoing proceeding constitute statements of broad policy and general applicability, i.e., "rules." As neither proceeding has comported with the rulemaking requirements of the Administrative Procedures Act as set forth in Chapter 120, Florida Statutes, including notice to all affected parties and the opportunity to

fully participate, the decisions already made, as well as those to be made, constitute invalid rules.

10. The universal effect of these decisions may not be the intention of the Florida Public Service Commission, but the Commission must not ignore the fact that BellSouth's practice is to apply them in that manner.

11. BellSouth has consistently demonstrated an unwillingness to negotiate even with the largest and most powerful telecommunications carriers operating in the State of Florida. The attached letter merely memorializes the position that has consistently been taken with telecommunications carriers who have approached BellSouth. The pricing of services, unbundled network elements, and collocation, as well as the basic requirements for interconnection, including access to and pricing of electronic interface and operational support systems, are subjects that are equally important to all telecommunications carriers and should be determined in a proceeding that will give all carriers, true new entrants as well as the major carriers, an adequate opportunity to address the incumbent local exchange carrier's cost studies, models and data and operational systems in an effective fashion. This will permit the Commission to set the rates, terms and conditions of interconnection, services and network elements in a fair, just and reasonable manner.

12. The practical reality of the process the Commission has engaged in and is currently undergoing is that the only alternative local exchange carriers who will have input as to the

rates, terms and conditions available from BellSouth are those who were involved in the earlier proceedings that resulted in the December 31, 1996, **Final Order on Arbitration for Consolidated Dockets Nos. 960833-TP, 960846-TP and 960916-TP** and those involved in the continuing arbitration proceedings in Dockets Nos. 960757-TP, 960833-TP, and 960846-TP (or AT&T, MCI, Sprint, ACSI, and Metropolitan Fiber Systems/WorldCom).

13. Supra strongly urges the Commission to defer any decision in Dockets Nos. 960757-TP, 960833-TP, and 960846-TP until it has held a generic proceeding in which all Florida-certificated alternative local exchange telecommunications carriers may participate to arbitrate BellSouth's rates, terms and conditions of interconnection, services, and network elements.

III. SUPRA'S ALTERNATIVE PETITION FOR ARBITRATION ON AN INDIVIDUAL BASIS

In the event the Commission does not choose to hold a generic proceeding, Supra petitions the Commission to arbitrate its individual interconnection agreement with BellSouth and as grounds therefor incorporates all of Sections I and II above and all issues raised in its Complaint Against BellSouth and Petition for Resolution of Disputes with BellSouth filed with the Commission in a separate docket on January 23, 1998, as well as the following:

1. Supra is a new entrant in every sense of the word. Supra has only been certificated as an alternative local exchange

telecommunications company in Florida within this last year. Supra is a new corporation just entering into the provision of local exchange telecommunications services. Supra is a minority owned business with a large percentage of minority employees. Supra has made very substantial financial investments to put itself in the position to provide high quality local exchange telecommunications services. Supra's business plan is to provide local exchange telecommunications services primarily to residential customers.

2. Supra initially entered into a Resale Agreement with BellSouth effective June 1, 1997. Supra executed a Collocation Agreement with BellSouth July 24, 1997. Neither of these agreements were negotiated in good faith since BellSouth offered one choice only and indicated that there would be no negotiation of the rates, terms and conditions within the offered agreements.

In September 1997, Supra sent a letter to BellSouth formally requesting BellSouth to negotiate the rates, terms, and conditions of an interconnection agreement. Supra was contacted by representatives of BellSouth who informed Supra that Supra had the choice of three agreements, the one arbitrated by AT&T, the one arbitrated by MCI, or the "standard interconnection agreement." Supra could choose either of the agreements arbitrated by AT&T and MCI, but could not alter those agreements in any way. Supra was then told by BellSouth employees that there would be no meaningful negotiation regarding the standard interconnection agreement, however, if Supra did not like the

rates in any one of the three agreements, Supra could execute the agreement and later go to the Commission about the rates. Prior to sending the letter requesting formal negotiations, Supra had made substantial investments in preparation for providing local exchange service, including purchasing substantial equipment, hiring employees, and obtaining space for its operations. Supra was not in a position to be able to simply sit one hundred and thirty-five days and then ask the Commission for arbitration. Supra had been specifically informed by BellSouth employees that BellSouth "did not change one letter of its standard interconnection agreement" and that, if Supra knew what was good for it, it would simply take one of the three available agreements. Supra could not financially afford to make futile attempts to negotiate when Supra had been repeatedly informed that no alteration of the agreements would be possible. Supra was informed that the AT&T agreement was the "best" of the three. Supra relied on the representations of the BellSouth employees it interacted with and, accordingly, Supra signed the AT&T agreement.

3. Pursuant to Part A, Section 11, of the Interconnection Agreement between Supra and BellSouth:

Except as otherwise stated in this Agreement, the Parties agree that if any dispute arises as to the interpretation of any provision of this Agreement or as to the proper implementation of this Agreement, either party may petition the Commission for resolution of the dispute. However, each party reserves any rights it may have to seek judicial review of any ruling made by the Commission concerning this Agreement.

4. Supra has experienced an incredible number of problems in its relationship with BellSouth from the very beginning. Supra has tried to resolve these problems with BellSouth unsuccessfully. BellSouth constantly demands payment of its bill by Supra, but has handicapped Supra's operations so effectively that Supra has been able to collect only a fraction of its own billings. Supra has lost approximately one million dollars to date. If Supra does not receive immediate effective intervention by the Commission in this situation, Supra will not be able to continue to provide local telecommunications services to Florida consumers. Supra will be unable to make the enormous financial investment necessary to build its own facilities-based operations. In short, Supra will have been put out of business by BellSouth.

5. If BellSouth is permitted to avoid its duty to negotiate in good faith by seducing smaller, less sophisticated, competing carriers into signing interconnection agreements by telling them in so many words that "AT&T and MCI have done the best they could and you can have theirs or you can have our "standard" agreement, but you are crazy if you think you can negotiate something better than AT&T or MCI with us," then the Telecommunications Act is not worth the paper its written on.

6. BellSouth has violated its duty to negotiate in good faith with Supra, which resulted in Supra's signing the Interconnection Agreement without having any meaningful

opportunity to negotiate the rates, terms, and conditions in it.

BellSouth is charging Supra rates that exceed BellSouth's retail rates to its own customers. This is a direct violation of the Telecommunications Act's requirement that the incumbent local exchange carrier provide all of its services and unbundled network elements for resale at "wholesale rates" to other telecommunications carriers.

7. Because of the cascading torrent of problems BellSouth has created for Supra, Supra's tremendous losses, and Supra's awareness that the rates being charged by BellSouth will not permit it to build its own facilities-based network, or even continue its resale operations, Supra has been compelled to pursue relief from the Resale, Collocation, and Interconnection Agreements.

8. BellSouth refused, by and through its employees, to negotiate in good faith the rates it would charge Supra to permit Supra to provide local exchange services both by resale and by purchase of unbundled network elements. The resale rates BellSouth is charging Supra are the rates that this Commission set in the arbitration proceeding between BellSouth and AT&T, MCI, and Sprint. Supra challenges the validity of these rates as Supra had no opportunity to negotiate or arbitrate these rates. The rates and charges Supra has been given by BellSouth for interconnection and the purchase of unbundled network elements are the rates and charges that were set in the arbitration proceeding between BellSouth and AT&T, MCI, and Sprint. Supra

also challenges these rates and charges on the basis that Supra has been given no opportunity to negotiate or arbitrate these rates and charges. In many circumstances, the rates and charges for unbundled network elements exceed the retail rates and charges BellSouth charges to its own end use customers. By no stretch of the imagination can these rates and charges be characterized as the "fair, just and reasonable" rates and charges BellSouth is required to charge other telecommunications carriers pursuant to the Telecommunications Act.

9. Supra's business plan is to provide local exchange telecommunications services primarily to residential customers. BellSouth's rates and charges will require Supra to pay a nonrecurring charge for each local loop that is much greater than BellSouth charges BellSouth's own end use customers. There are other instances of BellSouth charging exorbitant application and installation fees for various network elements, as well as for physical and virtual collocation. These rates, charges and fees of BellSouth will make it economically prohibitive for Supra to purchase unbundled network elements to provide local exchange services to Supra's customers comparable to those provided by BellSouth.

10. Supra wishes to have the Commission arbitrate its interconnection agreement with BellSouth so that Supra can address the many issues raised in its experience with BellSouth. A number of these issues are delineated in Supra's Complaint Against BellSouth and Petition for Resolution of Disputes filed

in a separate docket on January 23, 1998 (and hereby incorporated herein). BellSouth has failed to properly implement the provisions of the Resale, Collocation, and Interconnection Agreements in numerous ways including, but not limited to: billing, telephone number availability, notification requirements, requiring manual processing of orders, not permitting Supra to use BellSouth's electronic interface, discriminatory provisioning, ordering, installation, maintenance, repair, and other functions, BellSouth's employees' unresponsive and anti-competitive attitudes and communications to customers, and BellSouth's refusal to offer for resale to Supra a portion of its dark fiber.


IV. REQUESTED RELIEF

Supra requests the Commission to take the following actions:

A. To establish a generic proceeding in which all Florida-certificated alternative local exchange telecommunications carriers may participate to arbitrate BellSouth's rates, terms and conditions of interconnection, services and network elements.

B. In the alternative, Supra requests that the Commission arbitrate Supra's interconnection agreement with BellSouth to determine the rates, terms and conditions of interconnection, services and network elements.

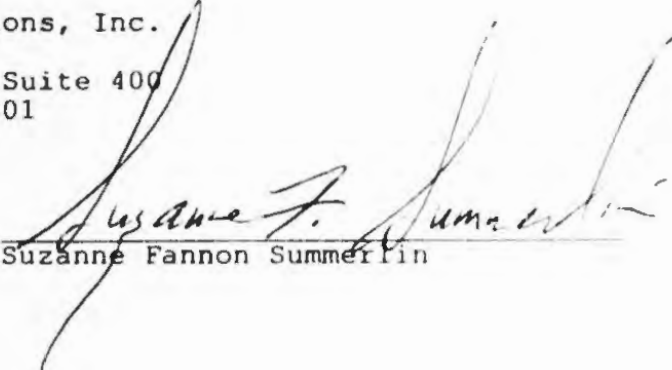
Respectfully submitted this 30th day of January, 1998.


Suzanne Fannon Summerlin
Attorney for Supra Telecommunications
and Information Systems, Inc.
1311-B Paul Russell Road, Suite 201
Tallahassee, Florida 32301
(850) 656-2288
Florida Bar No. 398586

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the
foregoing has been furnished by U.S. Mail or hand delivery to the
following parties of record this 30th day of January, 1998:

BellSouth Telecommunications, Inc.
c/o Nancy H. Sims
150 South Monroe Street, Suite 400
Tallahassee, Florida 32301


Suzanne Fannon Summerlin



BellSouth Telecommunications, Inc.
Room 34891 BellSouth Center
676 West Peachtree Street, N.E.
Atlanta, Georgia 30375

January 15, 1998

Mr. Kay Ramos
Supra Telecommunications and Information Systems, Inc.
Suite 203
269 Girdale Avenue
Coral Gables, FL 33134

Dear Mr. Ramos:

This is in response to our conversation of January 9, 1998 regarding the unbundled network element rates that are contained in your Interconnection Agreement with BellSouth. The rates for unbundled network elements in Florida (Attachment 11, Exhibit 2-FL) were set by the Florida Public Service Commission, in Order No. PSC-98-1579-FOF-TP and are permanent rates. These rates are the result of arbitration between BellSouth and AT&T, MCI, and Sprint Communications. Therefore, BellSouth has little, if any ability to agree to rates different than those set forth in the Agreement executed by your company.

The term of your agreement including all rates, terms and conditions is for two years being October 23, 1997. As the agreement is implemented, if further clarifications are necessary or new items need to be added to the agreement, negotiations would then be appropriate. With the exception of the rates, if you have any specific provisions of the agreement that you find unclear or troublesome, I would be happy to discuss these further with you. As stated in the Agreement, the parties should not expect to commence negotiations on a new agreement until the April, 1999 time frame.

Please call me should you have any questions regarding the above. I can be reached at (404) 927-8369.

Sincerely,

A handwritten signature in cursive script that reads "Pat".

Pat C. Finlen
Manager - Interconnection Services

cc: Jerry Hendrix - Director - Interconnection Services