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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Complaint of Supra Telecommunications & Information Systems against BellSouth Telecommunications, Inc. for violation of the Telecommunications Act of 1996; petition for resolution of disputes as to implementation and interpretation of interconnection, resale and collocation agreements; petition for emergency relief.

Docket No.: 980119-TP
Dated: January 31, 2000

SUPRA TELECOMMUNICATIONS & INFORMATION SYSTEMS' MOTION FOR ORAL ARGUMENT ON STAFF RECOMMENDATION REGARDING BELL SOUTH'S NOTICE OF COMPLIANCE

SUPRA TELECOMMUNICATIONS & INFORMATION SYSTEMS, INC. ("Supra Telecom"), by and through its undersigned counsel and pursuant to Rule 25-22.058, Florida Administrative Code, hereby files this Motion for Oral Argument on Commission Staff's recommendation on BellSouth's Notice of Compliance with Order No. PSC-98-1001-FOF-TP, and as grounds therefore states as follows:

1. On or about January 23, 1998, Supra Telecom filed a complaint against BellSouth seeking an interpretation of certain agreements between the parties and alleging that BellSouth had failed to comply with certain aspects of the parties' interconnect, collocation and resale agreements. On or about April 30, 1998, a hearing was held before this Commission regarding Supra Telecom's complaint. On or about July 22, 1998, this Commission issued a final order on Supra Telecom's complaint in Order No. PSC-98-1001-FOF-TP, for which the parties moved for reconsideration and/or clarification, which was granted in part in Order No. PSC-98-1467-FOF-TP, which required in part that BellSouth modify LENS to provide for the same online edit

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checking capability available to BellSouth's retail ordering systems by December 31, 1998.

2. BellSouth made no effort to comply with the online edit checking capability requirement. Indeed on February 1, 1999, BellSouth filed a Response To Notice Of Supra Telecommunications And Information Systems, Inc., in which on page 2 (at paragraph 5) BellSouth claims that: "With the exception of the online edit checking capability (which is on appeal), BellSouth has complied with the Orders."

3. Despite the fact that nothing changed since February 1, 1999 with respect to BellSouth providing online edit checking capability, in April 1999 BellSouth filed a Notice of Compliance which is the subject of the instance Staff Recommendation.

4. BellSouth's Notice of Compliance was not a motion or petition under the applicable rules of procedure. Nevertheless, the Notice of Compliance requested an evidentiary hearing to resolve BellSouth's alleged compliance with the online edit checking capability and other mandates of the Commission's prior orders in this docket. On or about May 3, 1999, Supra Telecom served and subsequently filed a response to BellSouth's Notice of Compliance in which Supra Telecom asked this Commission not to render a ruling on BellSouth's Notice of Compliance, or in the alternative to conduct an evidentiary hearing on the matter.

5. To date, BellSouth has submitted no evidence in support of its Notice of Compliance, rather solely providing unsworn statements of counsel. To date, only Supra Telecom has submitted sworn declarations and/or affidavits in support of its position that BellSouth has not complied with this Commission's prior orders.

6. Due to the exceptional nature of this case^{1/} and the February 1, 2000² deadline imposed by the United States District Court for the Northern District of Florida, Supra Telecom finds it necessary to request Oral Argument. The Commission was directed by the United States District Court for the Northern District of Florida to make a determination on whether BellSouth had complied with the Commission's Order.

7. Supra Telecom had no real opportunity to request oral argument previously since the Notice of Compliance was not a procedurally proper vehicle. Moreover, both Supra Telecom and BellSouth requested hearings on the issues raised therein. Supra Telecom's concern arises over the lack of evidence used by staff to support its recommendation. No evidentiary hearing was requested or conducted by staff, since both BellSouth and Supra Telecom believed that such a hearing might be necessary.³

8. The only discovery conducted by Staff on this matter consisted of interrogatories, which were not served until September 24, 1999, and which not even address the issues upon which the Staff recommends that BellSouth is in compliance. Thereafter, Staff conducted an informal mediation session in which the parties primarily discussed the technical capabilities of TAG and LENS.⁴ At that meeting, Staff requested additional information from BellSouth, which was to include "all online edit checks" performed by RNS. Not only did BellSouth fail to

¹ Staff states in its recommendation of 1/20/00 in Docket No. 980119-TP, page 5, "[W]e are unaware of any other Notice of Compliance ever filed with or ruled upon by the Commission."

² See footnote 1 of staff's 1/20/00 recommendation in Docket No. 980119-TP, page 3.

³ See BellSouth's Notice Of Compliance at pg. 5; Supra Telecom's Response To Notice Of Compliance at pg. 12.

⁴ See Staff 11/15/99 memo advising of the 11/22/99 informal meeting.

provide the list of "online edit checking capabilities" in its December 10, 1999, response to Staff, but BellSouth did not even address or acknowledge that this information had been requested. Supra Telecom is not aware of Staff conducting a hands-on comparison of BellSouth's RNS with either TAG or the current LENS interface. Nowhere in this record has BellSouth produced an exhaustive list of the online edit checking capabilities of RNS. Therefore, Staff had no basis to even suggest that "it is a close call"⁵ on whether BellSouth has met the requirement to provide online edit checking capability. The record is also insufficient on the other items set forth in Staff's recommendations. Supra Telecom is prepared to argue these items.

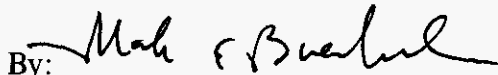
9. It appears that Staff did not adequately plan the schedule of events necessary to ensure that all aspects of due process were addressed for this docket. No meeting was held between the parties and no notice was provided by staff to the parties on its course of action to address BellSouth's motion. At this point in time, neither party can file a motion for reconsideration, nor can staff prepare a recommendation for the Commission to address before the February 1, 2000, deadline. While Supra Telecom acknowledges it filed a response to Staff's interrogatories six days late, Staff had those responses prior to that date and the questions asked of Supra Telecom failed to address most of the issues set forth in Staff's current recommendation. It is within the Commission's discretion to grant oral argument to any party in a proceeding under Section 120.57, Florida Statutes. Because the lack of due process and the potential harm to Supra Telecom arising from Staff's summary disposition of this matter, Supra Telecom strongly believes that oral argument is necessary and appropriate.

⁵ See Staff recommendation of 1/20/00 in Docket No. 980119-TP, page 11.

WHEREFORE, SUPRA TELECOMMUNICATION & INFORMATION SYSTEMS, INC., respectfully requests the Commission to grant oral argument on the Staff's recommendation on BellSouth's Notice Of Compliance with final orders previously entered in this docket.

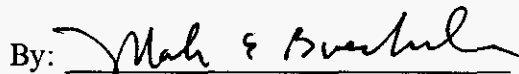
Respectfully Submitted this 31st day of January, 2000.

MARK E. BUECHELE, ESQ.
Supra Telecommunications &
Information Systems, Inc.
2620 S.W. 27th Avenue
Miami, FL 33133
Tel: (305) 476-4212
Fax: (305) 443-1078

By: 
MARK E. BUECHELE
Fla. Bar No. 906700

CERTIFICATE OF SERVICE

I HEREBY Certify that a true and correct copy of the foregoing has been furnished by hand-delivery upon NANCY WHITE, ESQ. (Attorney For BellSouth), 150 South Monroe Street, Suite 400, Tallahassee, Florida 32301 and BETH KEATING, ESQ. (FPSC Staff), 2540 Shumard Oak Boulevard, Tallahassee, Florida; and via U.S. Mail on AMANDA GRANT, BellSouth Telecommunications, Inc., Regulatory & External Affairs, 675 West Peachtree Street, N.E., Room 38L64, Atlanta, Georgia 30375; this 31st day of January, 2000.

By: 
MARK E. BUECHELE
Fla. Bar No. 906700