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July 31, 2003

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

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**RE: Docket No. 030349-TP -  
SUPRA's NOTICE TO WITHDRAW ITS LETTER OF INTENT TO  
CLASSIFY CERTAIN PORTIONS OF DIRECT TESTIMONY AND  
EXHIBITS AS CONFIDENTIAL AND RESPONSE TO BELLSOUTH'S  
REQUEST FOR CONFIDENTIALITY**

Dear Mrs. Bayo:

Enclosed is the original and seven (7) copies of Supra Telecommunications and Information Systems, Inc.'s (Supra) Notice To Withdraw Its Letter Of Intent To Classify Certain Portions Of Direct Testimony And Exhibits As Confidential And Response To Bellsouth's Request For Confidentiality 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,

*Jorge Cruz-Bustillo/VWA*

Jorge Cruz-Bustillo  
Assistant General Counsel

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**CERTIFICATE OF SERVICE**  
**Docket No. 030349-TP**

**I HEREBY CERTIFY** that a true and correct copy of the foregoing was served via Facsimile, Hand Delivery, U.S. Mail and/or Federal Express this 31<sup>st</sup> day of July 2003 to the following:

Ms. Linda Dodson, Esq.  
Staff Counsel  
Division of Legal Services  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0850

Ms. Nancy B. White, Esq.  
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By: Jorge Cruz - Bustillo / JWA  
JORGE CRUZ-BUSTILLO

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In re: Complaint by Supra Telecommunications ) Docket No.: 030349  
And Information Systems, Inc., regarding )  
BellSouth's Use of Carrier to Carrier Information )  
\_\_\_\_\_ ) Filed: July 31, 2003

**SUPRA TELECOMMUNICATIONS AND INFORMATION SYSTEMS, INC.'S  
SUPRA'S NOTICE TO WITHDRAW ITS LETTER OF INTENT TO CLASSIFY  
CERTAIN PORTIONS OF SUPRA'S DIRECT TESTIMONY AND CERTAIN  
EXHIBITS AS CONFIDENTIAL**

**AND  
RESPONSE TO BELLSOUTH'S REQUEST FOR CONFIDENTIALITY**

COMES NOW, Supra Telecommunications and Information Systems, Inc.'s ("Supra") files this Notice of Withdrawal of Intent to classify certain direct testimony and exhibits as confidential. Supra also files, herein, a Response to BellSouth Request for Specified Confidential Classification filed on July 21, 2003.

**BACKGROUND**

On June 30, 2003, Supra filed a Letter of Intent to claim confidentiality for portions of Supra's Direct Testimony and certain exhibits: Nos. DAN6 (Document is entitled -- Competitive Landscape Operating Requirements. This is the Sunrise training material provided by Dick Anderson, a BellSouth employee, in Arbitration V. Bate Stamped 000015-000690); DAN9 (Operation Sunrise Program Overview Document. June 14, 2001, Version E. This material was provided by BellSouth in Arbitration V. Bate stamped 001049-001060); DAN10 (BellSouth document demonstrating how switchers are contacted. This material was provided by BellSouth in Arbitration V. Bate Stamped 001061-001114); DAN18 (Deposition of Michelle Summers was taken October 9, 2002 in Arbitration V. Bate Stamped 001549-001667); DAN19 (Deposition of Conrad Ponder was taken on June 5, 2002 in Arbitration V. Bate Stamped 001668-001836);

DAN20 (Deposition of Richard A. Anderson was taken on June 12, 2002 in Arbitration V. Bate Stamped 001837-001930).

On July 1, 2003, Supra filed a second Letter of Intent to claim confidentiality for Exhibit Nos. DAN8 (Operation Sunrise Program Overview Document. April 27, 2000 version D. This material was provided by BellSouth in Arbitration V. Bate Stamped 000987-001048); DAN13 (Residential Customer Flow / Share Tracking. This material was provided by BellSouth in Arbitration II. Bate Stamped 001117-001118); DAN14 (ALEC Pre-ordering Interface Flow. This exhibit is derived from #DAN17. This material was provided by BellSouth in Arbitration II. Bate Stamped 001119-001125); DAN 17 (Deposition of Ron Pate. This deposition was taken on March 2001 in Arbitration II. Bate Stamped 001128-001548).

#### **NOTICE OF WITHDRAWAL OF INITIAL INTENT TO DESIGNATE**

In Supra's Pre-hearing Statement, Supra identified certain information to be designated as confidential in David Nilson's Direct Testimony and such was redacted from the pre-filed testimony.

On July 25, 2003, BellSouth filed its Rebuttal Testimony in which it made public how it utilizes the **Harmonize feed** to extract service orders, that originate from CLEC LSRs for the conversion of customers, on a nightly basis from SOCS. By making the same information public that Supra intended on filing as confidential, the information can no longer be considered confidential. See PSC-02-0663-CFO-TP (in which the Commission concluded that information made public, irrespective of any intended claims of confidentiality, remains public. BellSouth appealed this order to the First District Court of Appeal and its appeal was dismissed).

After saying as little as possible in its direct testimony, BellSouth, in its rebuttal testimony, publicly explains in detail how its wholesale operation, which is responsible for competitive conversions, sends a notification regarding the impending switch of a customer to its retail marketing group on a nightly basis via the Harmonize feed. Ms. Summer's states: "The disconnect or change order originates from the CLEC's local Service Request (LSR)." RT, Pg. 4, Lines 21-22. Mr. Ruscilli goes on to confirm that the issuance of a Firm Order Confirmation (FOC) allows the "creation of a service order for processing" through SOCS. RT, Pg. 9, Lines 16-21. It is this "service order" that is extracted on a nightly basis from SOCS and used to "notify" BellSouth's MKIS of the target customer for reacquisition. "MKIS then matches the telephone number associated with the disconnect order [i.e. in reality a "change" order] to BellSouth's former customer service record for that number in CRIS [i.e. Customer Records Information System]." Summers' RT, Page 14, L 13-14. "MKIS uses this information to generate a list of leads." Summers' RT, Page 14, L 17. "These leads are then supplied to a direct mail vendor." Summers' RT, Page 14, L 17-18. The list of customers switching to Supra is clearly the sort of proprietary information for which Congress intended to protect by enacting 47 USC § 222.

But for BellSouth's status as the executing carrier, BellSouth would not have any knowledge of the switch to Supra or to any other competitor. The prohibition against the use of carrier-to-carrier information to trigger marketing efforts is intended to prevent the executing carrier (i.e. BellSouth) from direct marketing to the customer that just switched away from BellSouth to the new upstart or competitor. If BellSouth wishes to target this customer, the source used by its retail operations for triggering the marketing efforts must

originate from an external source that is available to all competitors and must contain the names and numbers of those customers switching away from BellSouth. The line loss report, provided to a CLEC: (1) does not contain the names or numbers of the BellSouth customers that have switched away from BellSouth, (2) is not an external source (i.e. independent retail source and available throughout the retail industry), and (3) is not available to all competitors so that those competitors could also target those same customers leaving BellSouth.

Accordingly, in this case, Supra seeks to withdraw its intent to designate as confidential those portions of its Direct Testimony and exhibits that have already been made public by BellSouth.

The following items were originally requested to be designated as confidential, but because of BellSouth's public disclosures, Supra hereby files its Notice of Withdrawal of its intent to so designate as confidential. This information is already public and should not be designated confidential:

- Page 12, L 10-12 (This redacted sentence is the same as BellSouth public admission that both a CLEC service order, that is the product of a CLEC LSR, and a BellSouth retail order for service follow the same provisioning process flow).
- Page 13, L 1-12 (This information was made public by BellSouth explanation regarding how a CLEC LSR becomes a service order which is then extracted from SOCS)
- Page 15, L 9, 10 and 11 (BellSouth repeatedly uses the terms "Sunrise" throughout its testimony and as such the term is public).

- Page 16, L 1-27 (All of this information regarding Ms. Summers employment status with BellSouth is publicly disclosed in her rebuttal testimony, so is the explanation regarding what is Operation Sunrise).

- Page 17, L 16-25 (The redacted language explaining the Harmonize feed, what it does and why it was developed was all made public by BellSouth in both Mr. Ruscilli's and Ms. Summers' testimonies).

- Page 18, L 4-19, 24-26 (All of the information regarding the fact that the Harmonize feed is connected to SOCS is included in BellSouth's rebuttal testimony).

- Page 20, L 5-21, 25-34 (All of the information originally redacted regarding BellSouth's use of CAR and CARE is included in BellSouth's rebuttal testimony).

- Footnote 9, page 20, was mistakenly designated as confidential. It should be un-redacted because it simply references an exhibit.

- Page 21, L 2-10, 13-25 (All of the information originally redacted regarding BellSouth's use of CAR and CARE is included in BellSouth's rebuttal testimony).

- Page 26, L 4, 5, 19 (The words Sunrise and Harmonize were originally designated as confidential, but BellSouth public admission make these terms public).

- Page 27, L 6-13, 20-29 (This information discussing what type of information is maintained in CRIS and in SIW is included in BellSouth's public rebuttal testimony).

- Page 28, L 4-15 (This information regarding what type of information is extracted from SOCS on a nightly basis using the Harmonize feed is included in BellSouth's public rebuttal testimony).
- Page 28, portions of L 17-18, 19-23, 28-32, 35 (The term Sunrise was already made public. The Sunrise Table that houses the information extracted from SOCS is also included in BellSouth's public rebuttal testimony).
- Page 29, L 1-5, 8 (This information that the Harmonize was developed for the sole purpose of supporting Operation Sunrise was made public in BellSouth's rebuttal testimony).
- Page 29, L 9-14 (This information simply explains that MKIS, BellSouth's internal marketers, gets its notification of the customer's switch from the Harmonize feed. This has all been admitted to publicly in BellSouth's rebuttal testimony).
- Page 29, L 17 (The words Harmonize and Sunrise have already been made public in BellSouth's rebuttal testimony).
- Page 29, L 22-37 (This language regarding the fact that information of a customer, that has switched, is provided to a third party for marketing purposes was made public by BellSouth. In fact, BellSouth admitted much more stating that they provide the name, address, working telephone number, account number and language preference – to the marketing vendor shortly after the CLEC service order is created within SOCS).
- Page 30, L 1-5 (This information simply identifies that BellSouth in fact uses direct mail vendors. This has been publicly admitted to in BellSouth's rebuttal testimony).
- Page 30, L 11 (The term Harmonize was made public).

- Page 30, L 13-25 (This information simply confirms that the only source for reacquisition targets MKIS utilizes is the Harmonize feed. This was confirmed by BellSouth in its rebuttal testimony).

- Page 30, L 28-39, Page 31, L 1-2 (This information regarding the fact that the Harmonize feed cannot distinguish between a CLEC service order and a BellSouth retail service order and that both orders are processed the same is acknowledged in BellSouth's rebuttal testimony).

- Page 31, L 7 (The term "Sunrise" is already public).

- Page 31, L 10-12 (This information regarding the fact that CLECs do not have access to the Harmonize feed or any of the Operation Sunrise databases is publicly admitted to by BellSouth in its rebuttal testimony).

- Page 31, L 16 (The term "Sunrise" is already public).

- Page 32, L 10, 11, 17, 20 (Each line contains only a single term originally designated as confidential, but the term Harmonize was already made public by BellSouth in its rebuttal testimony).

- Page 33, L 2 (The term Harmonize is already public).

The above information originally redacted and intended to be designated as confidential have been made public by BellSouth and should remain public.

#### Exhibits

In addition to the Direct Testimony, Supra has also designated the following exhibits in their entirety as confidential: #DAN6; #DAN7, #DAN8, #DAN9, #DAN 10, #DAN13; #DAN 14; #DAN17, #DAN 18, #DAN19, #DAN20; #DAN-RT-2. Supra

cannot articulate a line-by-line justification for why this information is proprietary because none of the information is actually proprietary.

The only basis for Supra's request to designate certain items as confidential arises from a non-disclosure provision in Supra and BellSouth's prior interconnection agreement. The prior interconnection agreement required that all disputes be resolved in commercial arbitration. The non-disclosure provision of the prior agreement operates to keep confidential substantive matters regarding the merits in a proceeding before arbitrators. The confidentiality stems only from the parties' agreement that the proceedings remain confidential, it does not stem from the fact that something might actually be proprietary.

BellSouth in this instance has made public the substance of Operation Sunrise and how the Harmonize feed actually works, including, but not limited to, what MKIS does with the notifications of the switch and what specific information is then forwarded to outside vendors for marketing purposes. Accordingly, how can BellSouth claim confidentiality over documents that accurately explain how Operation Sunrise and the Harmonize feed actually function, after publicly admitting to these practices? Also, the documentation is necessary to corroborate or, if necessary, impeach BellSouth's representations during the evidentiary hearing.

Likewise, given the public acknowledgment of these practices, it is unreasonable to suggest that any depositions regarding how Operation Sunrise and the Harmonize feed actually work cannot also be public. The depositions are necessary to either corroborate or, if necessary, impeach BellSouth's witnesses regarding the accuracy of how the systems actually work. This being the case, Supra files this Notice to withdraw its initial

intent to so designate those exhibits explaining Operation Sunrise and the Harmonize feed. Supra will leave to BellSouth to justify line-by-line why specific information within these exhibits are confidential proprietary information after explaining in detail how the systems and programs actually work in its public rebuttal testimony. Those exhibits that should remain public are:

(1) DAN6 (Document is entitled -- Competitive Landscape Operating Requirements. This is the Sunrise training material provided by Dick Anderson, a BellSouth employee, in Arbitration V. Bate Stamped 000015-000690);

(2) DAN7 (BellSouth meeting minutes and accompanying documentation regarding overall Sunrise project. This material was provided by BellSouth in response to a request for production in Arbitration V. Bate Stamped 000691-000986.

(3) DAN8 (Operation Sunrise Program Overview Document. April 27, 2000 version D. This material was provided by BellSouth in Arbitration V. Bate Stamped 000987-001048). (This document is an earlier draft of the current Document governing Operation Sunrise).

(4) DAN9 (Operation Sunrise Program Overview Document. June 14, 2001, Version E. This material was provided by BellSouth in Arbitration V. Bate stamped 001049-001060); (This is the current document governing Operation Sunrise. BellSouth admits to its existence and describes how its works, but then seeks to strike this document from being entered into evidence. This document is necessary to corroborate or, if necessary, impeach BellSouth's representations during the evidentiary hearing).

(5) DAN10 (BellSouth document demonstrating how switchers are contacted. This material was provided by BellSouth in Arbitration V. Bate Stamped 001061-

001114); (This document further elaborates how Operation Sunrise operates – again, necessary to corroborate or impeach if necessary).

(6) DAN12 (CLEC Ordering Process Flow. This material was provided by BellSouth in Arbitration II. Bate Stamped 001116); (BellSouth seeks to introduce its own flow chart describing the same process, not filed under confidentiality. The rebuttal testimony explains publicly how the CLEC LSR is translated into a “service order” and it is this “service order” that is harvested from SOCS, via the Harmonize feed, on a nightly basis – again, necessary to corroborate or impeach if necessary).

(7) DAN13 (Residential Customer Flow / Share Tracking. This material was provided by BellSouth in Arbitration II. Bate Stamped 001117-001118); (This information mirrors the information made public by BellSouth regarding the flow of an order into Sunrise – again, necessary to corroborate or impeach if necessary).

(8) DAN14 (ALEC Pre-ordering Interface Flow. This exhibit is derived from #DAN17. This material was provided by BellSouth in Arbitration II. Bate Stamped 001119-001125) (BellSouth seeks to introduce its own flow chart describing the same process, not filed under confidentiality. - again, necessary to corroborate or impeach if necessary).

(9) DAN 17 (Deposition of Ron Pate. This deposition was taken on March 2001 in Arbitration II. Bate Stamped 001128-001548). (The information regarding Operation Sunrise and Harmonize has already been made public - again, necessary to corroborate or impeach if necessary).

(10) DAN18 (Deposition of Michelle Summers was taken October 9, 2002 in Arbitration V. Bate Stamped 001549-001667); (The information regarding Operation

Sunrise and Harmonize has already been made public - again, necessary to corroborate or impeach if necessary).

(11) DAN19 (Deposition of Conrad Ponder was taken on June 5, 2002 in Arbitration V. Bate Stamped 001668-001836); (The information regarding Operation Sunrise and Harmonize has already been made public - again, necessary to corroborate or impeach if necessary).

(12) DAN20 (Deposition of Richard A. Anderson was taken on June 12, 2002 in Arbitration V. Bate Stamped 001837-001930). (The information regarding Operation Sunrise and Harmonize has already been made public - again, necessary to corroborate or impeach if necessary).

(13) DAN-RT-2 (Deposition of Ruscilli, taken in June 2002, admitting that he had never heard of Operation Sunrise). (The information regarding Operation Sunrise and Harmonize has already been made public - again, necessary to corroborate or impeach if necessary).

Accordingly, in this case, Supra seeks to withdraw its intent to designate as confidential those exhibits regarding information that have already been made public by BellSouth.

### **RESPONSE**

The only basis for Supra's request to designate certain items as confidential arises from a non-disclosure provision in Supra and BellSouth's prior interconnection agreement. The prior interconnection agreement required that all disputes be resolved in commercial arbitration. The non-disclosure provision of the prior agreement operates to keep confidential substantive matters regarding the merits in a proceeding before

arbitrators. The confidentiality stems only from the parties' agreement that the proceedings remain confidential, it does not stem from the fact that something might actually be proprietary.

BellSouth in this instance has made public the term and substance of Operation Sunrise and how the Harmonize feed actually works. Accordingly, any documents fully explaining Operation Sunrise and the Harmonize feed are necessary to corroborate or, if necessary, to impeach BellSouth's representations of how these systems and practices actually work. Without these documents BellSouth would be free to make any representations it like without the fear that there testimony will be undermined. It is critical to this proceeding that these documents not be stricken.

This being the case, none of the exhibits BellSouth seeks to make confidential actually contain any proprietary information – especially after BellSouth's public disclosures.

Accordingly, Supra respectfully requests that this Commission deny BellSouth's request for specified confidential classification.

Respectfully Submitted this 31<sup>st</sup> day of July 2003.

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