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February 9, 1999

VIA EXPRESS MAIL

BLANCA BAYO
Director of Records & Reporting
Division of Records & Reporting
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850
(850) 413-6770

Re: **Supra v. BellSouth, Docket No. 980800-TP**

Dear Ms. Bayo:

Please find enclosed for filing an original and fifteen (15) copies of the Petitioner Supra Telecommunication & Information Systems, Inc.'s Response To BellSouth's Motion To Strike Portions Of Supra's Motion For Reconsideration. Please also find enclosed an extra copy of the filing, for which we request that you stamp with the filing date and return in the enclosed postage pre-paid, self-addressed envelope.

If you have any questions or comments, please feel free to contact me at (305) 531-5286.

- ACK _____
- AFA _____
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- CTR _____
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- LIN 3
- OPC _____
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- SEC 1
- WAS _____
- OTH _____

Sincerely,

Mark E. Buechele

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DOCUMENT NUMBER-DATE

01935 FEB 15 99

FPSC-RECORDS/REPORTING

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

Petition For Emergency Relief By Supra)
Telecommunications & Information Systems,)
Inc. Against BellSouth Telecommunications,)
Inc. Concerning Collocation And)
Interconnection Agreements)
_____)

Docket No.: 980800-TP

**SUPRA'S RESPONSE TO BELLSOUTH'S
MOTION TO STRIKE PORTIONS OF
SUPRA'S MOTION FOR RECONSIDERATION**

PETITIONER, SUPRA TELECOMMUNICATIONS & INFORMATION SYSTEMS, INC. ("Supra"), by and through its undersigned counsel, and pursuant to Florida Administrative Code, Rule 25-22.037, hereby files and serves this its Response To BellSouth's Motion To Strike Portions Of Supra's Motion For Reconsideration, and in support thereof states as follows:

1. At the October 21, 1998 hearing BELLSOUTH TELECOMMUNICATIONS, INC. ("BellSouth") offered no substantive evidence that the Ascend equipment could not transmit voice calls and/or otherwise provide telecommunications services. Only Supra present evidence to the Commission on this issue, and the evidence present by Supra was that the Ascend equipment not only could directly provision PBX voice customers, but also that Supra intended to use the equipment to more cheaply provision PBX voice traffic as compared to a traditional class 5 central office switch. Notwithstanding the fact that BellSouth offered nothing but a blank statement contradicting Supra, this Commission ruled that the Ascend equipment could not provision voice traffic.

DOCUMENT NUMBER-DATE

01935 FEB 15 88

2. This Commission erred on its ruling regarding the Ascend equipment because the absence of evidence presented by BellSouth was not "sufficiently relevant and material that a reasonable man would accept it as adequate to support the conclusion reached" and could not "establish a substantial basis of fact from which the fact at issue [could] reasonably be inferred." See DeGroot v. Sheffield, 95 So.2d 912, 916 (Fla. 1st DCA 1957); see also Agrico Chemical Co. v. State of Florida Dept. of Environmental Reg., 365 So.2d 759, 763 (Fla. 1st DCA 1979); Ammerman v. Florida Board of Pharmacy, 174 So.2d 425, 426 (Fla. 3d DCA 1965).

3. In its Opposition To Motion For Reconsideration And Motion To Strike Portions Of Supra's Motion, BellSouth does not identify a single shred of evidence presented which supports its naked contention that the Ascend equipment cannot provide telecommunications services. Rather BellSouth asks this Commission to strike a press release from Ascend which unequivocally demonstrates that the Ascend equipment was designed for and intended to be a multi-function box that can directly provision PBX voice traffic.

4. It is undisputed that the Ascend equipment was designed and intended to provision PBX voice traffic and thus it would be a travesty to rule to the contrary. During the hearing Mr. Nilson was unable to answer every question advanced regarding the Ascend equipment. BellSouth argues that Mr. Nilson should have been more prepared. This contention is somewhat ludicrous given the fact that BellSouth has yet to present a single shred of evidence that the Ascend equipment cannot provision voice traffic. Nobody can ever be expected to memorize the specifications of every piece of equipment. For this Commission to cite Mr. Nilson's inability to remember every bit of minutia about the Ascend equipment on an essentially

undisputed fact, is simply unfair without giving Supra the opportunity to present the Ascend press release as a late-filed exhibit. Accordingly, Supra has demonstrated good cause for allowing the Ascend press release as a late-filed exhibit.

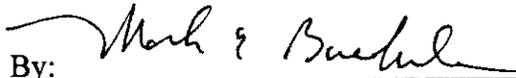
5. Although BellSouth claims that it should be entitled to object and/or otherwise cross-examine the witness on the exhibit, the exhibit simply restates the testimony of Mr. Nilson, but with greater detail (particularly on the few questions Mr. Nilson could not answer). More importantly, BellSouth has not to date presented a single shred of evidence to demonstrate that the Ascend equipment does not and cannot provision voice traffic. Indeed, BellSouth will not even take this position in the instant motion because BellSouth must concede that the Ascend equipment can provision voice traffic. BellSouth's response and motion does not seek the truth, but rather exults form over substance in an attempt to perpetuate an erroneous ruling. Accordingly, BellSouth has not been and cannot be prejudiced by the late-filed exhibit since BellSouth cannot seriously dispute the voice capability of the Ascend equipment.

6. Accordingly, for the reasons stated above, BellSouth's motion to strike should be denied.

WHEREFORE Petitioner SUPRA TELECOMMUNICATIONS & INFORMATION SYSTEMS, INC. hereby files and serves this its Response To BellSouth's Motion To Strike Portions Of Supra's Motion For Reconsideration, and respectfully requests that this Commission deny the instant motion of BELLSOUTH TELECOMMUNICATIONS, INC.

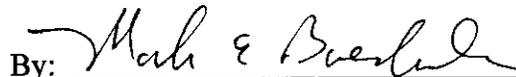
Respectfully Submitted this 9th day of February, 1999.

MARK E. BUECHELE, ESQ.
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Information Systems, Inc.
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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 U.S. Mail upon NANCY WHITE, ESQ., 150 South Monroe Street, Suite 400, Tallahassee, Florida 32301 and BETH KEATING, ESQ., 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, this 9th day of February, 1999.

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