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February 20, 2002

Mrs. Blanca S. Bayo
Director, Division of the Commission Clerk
And Administrative Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399

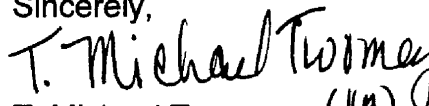
RE: Docket No. 001305-TP (Supra)

Dear Ms. Bayo:

Enclosed is an original and fifteen copies of BellSouth Telecommunications, Inc.'s Opposition to Supra's Motion for Rehearing in Docket No. 001305-TP; Motion for the Appointment of a Special Master; Motion for Indefinite Deferral; Motion for Oral Argument, which we ask that you file in the captioned docket.

A copy of this letter is enclosed. Please mark it to indicate that the original was filed and return the copy to me. Copies have been served on the parties shown on the attached Certificate of Service.

Sincerely,


T. Michael Twomey (UA)

Enclosures

cc: All Parties of Record
Marshall M. Criser III
Nancy B. White
R. Douglas Lackey

DOCUMENT NUMBER - DATE

02030 FEB 20 2002

FPSC-COMMISSION CLERK

CERTIFICATE OF SERVICE
Docket No. 001305-TP

I HEREBY CERTIFY that a true and correct copy of the foregoing was served via

Facsimile and U.S. Mail this 20th day of February, 2002 to the following:

Wayne Knight
Staff Counsel
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T. Michael Twomey (LTS)

(+) Signed Protective Agreement

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for Arbitration of the Interconnection)	
Agreement Between BellSouth Telecommunications,)	Docket No. 001305-TP
Inc. and Supra Telecommunications & Information)	
System, Inc., Pursuant to Section 252(b) of the)	Filed: February 20, 2002
Telecommunications Act of 1996.)	
_____)	

**BELLSOUTH'S OPPOSITION TO SUPRA'S MOTION
FOR REHEARING IN DOCKET NO. 001305-TP; MOTION FOR THE
APPOINTMENT OF A SPECIAL MASTER; MOTION FOR INDEFINITE
DEFERRAL; MOTION FOR ORAL ARGUMENT**

BellSouth Telecommunications, Inc. ("BellSouth") opposes Supra Telecommunications & Information Systems, Inc.'s ("Supra") motion for rehearing, for the appointment of a special master, for indefinite deferral and for oral argument. While Supra's motion is replete with shrill and conclusory rhetoric, it is utterly devoid of any substance or legitimate analysis. It is nothing more than a desperate and baseless effort to postpone the Commission's vote on a Staff Recommendation with which Supra is apparently dissatisfied. The Commission should reject the motion in its entirety and proceed with a decision on the merits of this case.

1. The Motion Does Not Allege Any Improper Actions In This Docket.

The primary basis for Supra's motion is its ad nauseam recital of certain actions that allegedly occurred in Docket No. 001097-TP. BellSouth has addressed those issues in that docket and will not repeat its entire position again in this filing. But, two points should be made. First, Supra offers no evidence that any improper activities took place in this docket. Whether certain actions were taken or not taken in another docket does not supply a justification for bringing this docket to a halt. Supra alleges no specific conduct

by BellSouth or the Commission Staff that affected either the hearing or the Staff Recommendation. Even Supra's motion can point to nothing more than an "opportunity to prejudice Supra." Motion at p. 6. But, speculation is not grounds for a re-hearing. There is absolutely no evidence that Ms. Logue or any other member of the Staff made any improper contacts with BellSouth. Moreover, even a cursory review of the Staff Recommendation reveals that Ms. Logue did not participate in the Staff's evaluation of the various disputed issues. Under these circumstances, Supra offers literally nothing to support its sweeping request that the Commission start this case again.

Second, as a matter of fact, Supra's allegations of improper conduct are false. As set forth in more detail in the Affidavit of Nancy Sims (attached hereto), there is no merit to Supra's allegations of cooperation between BellSouth and the Staff in this docket. See Affidavit of N. Sims at ¶¶ 9, 10, 13.¹ In contrast to Ms. Sims's sworn statements, Supra's motion is based on nothing more than conjecture. The Commission should not delay action in this docket based on Supra's unsupported claims of possible irregularities in this docket.

Supra has filed its motion solely for purposes of harassment and delay in contravention of Section 120.595, Florida Statutes. This is not the first time that Supra has made accusations with no legal basis or jurisdiction. In Order No. PSC-98-1467-FOF-TP, issued on October 28, 1998, this Commission found that Supra had made allegations of misconduct concerning a BellSouth employee without any factual or legal

¹ Ms. Sims also demonstrates that there was no improper behavior by BellSouth in Docket No. 001097-TP. Although the issues in that docket are not related to this docket, BellSouth is compelled to respond to the groundless and inflammatory allegations concerning Ms. Sims.

support. While the Commission denied BellSouth's request for sanctions, the Commission stated that "further pursuit by Supra of such legally and factually deficient theories shall not be considered lightly." *Id.* at p.10. Supra has ignored the Commission's admonition and once again filed a pleading solely intended to harass BellSouth and delay the decision making process of the Commission. Supra's flagrant disregard of the Commission's previous order should not be tolerated.

2. Supra's Claims of Institutional Bias Are Unfounded.

Supra claims that the Staff is biased against it because the Staff did not agree with Supra's interpretation of the Eleventh Circuit's decision in BellSouth Telecommunications, Inc. v. MCImetro Access Transmission Services, Inc., Case Nos. 00-12809, 00-12810, 2002 WL 27099 (11th Cir. Jan. 10, 2002) ("MCImetro"). BellSouth's position on the impact of that decision on this case are set forth in the brief filed with the Commission on February 19, 2002. BellSouth will not repeat its arguments here.² Regardless of the Commission's ultimate conclusions on the issue, however, Supra has not demonstrated "institutional" or any other type of bias by the Staff. The Staff simply did not accept Supra's interpretation of the Eleventh Circuit case. That disagreement is not proof of bias. If disagreement with a party were the same as bias, then the Staff would be considered biased against every party in every proceeding where the Staff does not agree with that party. Supra is grasping at straws in an effort to delay this case.

Because Supra cannot demonstrate any "institutional" or other bias by the Staff, its request for the appointment of special masters is also improper. Supra has not offered

² BellSouth incorporates its Supplemental Brief Addressing Issue 1 (filed February 19, 2002) by reference.

any legitimate reason for this Commission to delegate its authority to third parties. Innuendo and rumor should not be the basis for this Commission to depart from its normal practices and procedures. Throughout this case, the Commission and the Staff have acted professionally and have given both parties every opportunity to present arguments and evidence in support of their respective positions. Nevertheless, at every turn, Supra has attempted to manufacture disputes and delays that would postpone the parties' transition from their existing agreement to the follow-on agreement.

3. Supra's Motion Is Not Timely And Does Not Warrant Oral Argument.

By its own admission, Supra was aware of the issues related to Docket 001097-TP no later than October 5, 2001. Supra was also plainly aware of Ms. Logue's initial assignment to this docket because it was a matter of public record. Whether she was in attendance at the hearing September 26-27, 2001 is a fact observable to all who attended. Nevertheless, Supra deliberately waited until the very last minute to make its false and outrageous claims with the obvious intent to delay the vote in this case. Supra appears to have calculated that the Commission would be unwilling to proceed in this case if Supra waited to raise these issues on the eve of the scheduled vote. The Commission should not reward these antics by giving Supra the only relief it truly wants – a further delay of these proceedings. Moreover, nothing in Supra's motion justifies oral argument in this case.

CONCLUSION

BellSouth respectfully requests that the Commission deny the motion and proceed with its consideration of this matter at the next Agenda.

Respectfully submitted, this 20th day of February, 2002.

BELLSOUTH TELECOMMUNICATIONS, INC.

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for Arbitration of the Interconnection) Docket No. 001305-TP
Agreement Between BellSouth Telecommunications,)
Inc. and Supra Telecommunications & Information)
System, Inc., Pursuant to Section 252(b) of the)
Telecommunications Act of 1996.)
_____)

State of Florida
County of Leon

Affidavit of Nancy H. Sims

Before me, the undersigned authority, personally appeared Nancy H. Sims, who stated that she is currently the Director of Regulatory Relations for BellSouth Telecommunications, Inc.-Florida ("BellSouth-Florida"), and further states the following:

1. My title is Director of Regulatory Relations for BellSouth-Florida. I have held that title since 1994.
2. My business address is 150 South Monroe Street, Suite 400, Tallahassee, Florida 32301.
3. On or about May 2, 2001, Kim Logue sent me an e-mail. I could not open the e-mail and did not know what it contained.
4. I telephoned Kim Logue to advise her that I could not open her e-mail. She told me that she had drafted suggested cross-examination questions for BellSouth's witnesses in Docket No. 001097, that she would fax those questions to me and that she wanted me to advise her which BellSouth witness

could respond to which question. I was not aware at that time that there would be questions for Supra included.

5. When I received the fax from Ms. Logue, I discovered that she had included possible cross-examination questions for Supra's witness. I conferred with my counsel, telephoned Ms. Logue and advised her that I did not believe it was appropriate for me to see questions designed for Supra. I agreed to let Ms. Logue know which of the BellSouth witnesses could answer the questions for BellSouth.

6. I did not look at the questions intended for Supra and, in fact, I threw them away. I did not share those questions with any BellSouth witness or attorney.

7. I reviewed Ms. Logue's draft cross-examination questions for BellSouth and advised her which witness could address which question. I did not discuss the relevance, quality or substance of the draft questions with Ms. Logue. I merely advised her to which BellSouth witness the questions could be directed.

8. I did not have any substantive discussions or contact with Ms. Logue about Docket No. 001097-TP.

9. I did not have any substantive discussions or contact with Ms. Logue about Docket No. 001305-TP.

10. I never received any private documents from Ms. Logue at any time during the pendency of Docket No. 001305-TP.

11. At no time have I met with Ms. Logue after hours or outside the Commission setting.

12. At no time have I received documents from Ms. Logue, with the exception of the draft cross-examination questions in Docket No. 001097-TP.

13. At no time did anyone at BellSouth draft cross-examination questions for the Staff or the Commission in either Docket No. 001097-TP or Docket No. 001305-TP.

14. At no time, have I had a "secret" or "illicit" relationship with Ms. Logue. My only relationship with Ms. Logue has been on a professional basis.

15. I have had no inappropriate communications with Ms. Logue.

16. Further Affiant sayeth not.

Dated this 20th day of February, 2002.

Nancy H. Sims
Nancy H. Sims

Sworn to and subscribed
before me this 20th day of February, 2002

Tanya W. Lynn
Notary Public (Signature)

Tanya W. Lynn
Notary Public (Printed Name)

Personally Known ☒ or Produced Identification _____

Identification Produced _____

