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BELLSOUTH TELECOMMUNICATIONS, INC.
DIRECT TESTIMONY OF PATRICK C. FINLEN
BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION
DOCKET NO. 001097-TP
FEBRUARY 23, 2001

Q. PLEASE STATE YOUR NAME, ADDRESS, AND POSITION WITH
BELLSOUTH TELECOMMUNICATIONS, INC. (HEREINAFTER
REFERRED TO AS "BELLSOUTH").

A. My name is Patrick C. Finlen. I am employed by BellSouth as a
Managing Director in the Customer Markets, Wholesale Pricing
Operations Department. My business address is 675 West Peachtree
Street, Atlanta, Georgia 30375.

Q. PLEASE DESCRIBE YOUR CURRENT RESPONSIBILITIES.

A. I currently have the responsibilities of negotiating local interconnection
contracts with Competitive Local Exchange Companies ("CLECs") and
supervising other negotiators in this Department. Besides being the
BellSouth negotiator for the original 1997 Supra Telecommunications
and Information Systems, Inc. ("Supra") Agreement, I have overall
responsibility for numerous other negotiations including, but not limited

1 to, AT&T, MCI/WorldCom, ITC^DeltaCom, Adelphia, Level 3,
2 NewSouth, Intermedia, and Time Warner.

3

4 Q. PLEASE SUMMARIZE YOUR BACKGROUND AND EXPERIENCE.

5

6 A. I received a Master of Arts Degree in Public and Private Management
7 in 1994, and a Bachelor of Arts Degree in Accounting in 1985 from
8 Birmingham-Southern College in Birmingham, Alabama. I also have an
9 Associate of Science degree in Data Processing from Jefferson State
10 Junior College in Birmingham, Alabama. I began employment with
11 South Central Bell in 1977, and have held various positions in the
12 Network Operations, Consumer Forecasting, Marketing, and
13 Regulatory Departments before assuming my current responsibilities in
14 the Customer Markets Wholesale Pricing Department.

15

16 Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

17

18 A. The purpose of my testimony is to address several issues that were
19 raised in the Complaint of BellSouth Telecommunications, Inc. against
20 Supra Telecommunications and Information Systems, Inc. for
21 Resolution of Billing Disputes. These issues include the following:

- 22 • Which Agreement between BellSouth and Supra applies to
23 the billing dispute at issue in this Arbitration; and
24 • The provisions of the applicable Agreement that allow
25 BellSouth to bill Supra for the End User Common Line

1 Charge, secondary service charges, and for changes in
2 service, unauthorized local service changes, and
3 reconnections.
4

5 **Issue 1. Should the rates and charges contained (or not contained) in the**
6 **1997 AT&T/BellSouth Agreement apply to the BellSouth bills at**
7 **issue in this Docket?**
8

9 Q. IS THE BELLSOUTH/AT&T INTERCONNECTION AGREEMENT
10 APPLICABLE TO THE BILLS IN DISPUTE IN THIS PROCEEDING?
11

12 A. Absolutely not. As I will explain in my testimony, this Agreement was
13 not effective until after the timeframe of the bills in dispute. The
14 applicable Agreement in this dispute is the 1997 BellSouth/Supra
15 Resale Agreement (Exhibit PCF-1). In my testimony, I will explain the
16 reasons that this Agreement is applicable by describing the history
17 behind each Agreement executed between BellSouth and Supra.
18

19 Q. WHEN DID SUPRA FIRST BECOME A BELLSOUTH WHOLESALE
20 CUSTOMER?
21

22 A. On May 28, 1997, BellSouth and Supra executed a Resale Agreement
23 for the resale of BellSouth's telecommunications services. On July 24,
24 1997, a Collocation Agreement was also executed between Supra and
25 BellSouth. An Interconnection Agreement between BellSouth and

1 Supra was successfully executed on October 31, 1997. All of these
2 Agreements were filed and approved by the various state Public
3 Service Commissions.

4
5 Q. WHAT TYPES OF SERVICES DID SUPRA ORDER DURING THE
6 TIMEFRAME OF THE BILLS IN DISPUTE?

7
8 A. To my knowledge, Supra only ordered resold services pursuant to the
9 1997 BellSouth/Supra Resale Agreement. Mr. Morton of BellSouth will
10 address Supra's specific ordering patterns in more detail. However,
11 due to claims made by Supra, we also need to discuss the
12 Interconnection Agreement.

13
14 Q. PLEASE EXPLAIN THE PROCESS AND TIMELINE FOR THE
15 NEGOTIATION OF THE INTERCONNECTION AGREEMENT WITH
16 SUPRA.

17
18 A. On Friday, October 17, 1997, Supra contacted Gregg Beck at
19 BellSouth requesting negotiation of an interconnection agreement with
20 BellSouth. Mr. Beck sent to Mr. Ramos a copy of a sample letter to
21 request negotiations for a Local Interconnection Agreement with
22 BellSouth and a copy of the rates listed in BellSouth's standard
23 Interconnection Agreement. On Monday, October 20, 1997, Mr. John
24 Reinke, Vice President - Engineering, at Supra followed up with a letter
25 to Mr. Beck asking the status of negotiations (Exhibit PCF-2). On

1 Monday, October 20, 1997, BellSouth sent Mr. Ramos a letter (PCF-3)
2 along with the draft template of the Interconnection Agreement. Once
3 Mr. Ramos received the draft Interconnection Agreement template, he
4 promptly signed and faxed it to BellSouth, where it was received on
5 October 21, 1997.

6
7 On October 21, 1997, I called Mr. Ramos and asked if he truly wanted
8 to execute an agreement this soon. I asked if he had any questions
9 regarding the agreement or if he needed some time to review or have
10 his attorney review the agreement. He indicated he was satisfied with
11 the agreement and was ready to sign. I also advised Mr. Ramos that
12 he had signed the interconnection template and that we would need to
13 modify it to reflect Supra's name and contact information. I populated
14 the BellSouth Interconnection Agreement template and changed ALEC
15 and ALEC-1 to Supra Telecommunications and Information Systems. I
16 saved the file in a "Zip Format" and e-mailed it to Mr. Ramos for
17 execution. A copy of this e-mail is attached as Exhibit PCF-4.

18
19 On Thursday, October 23, 1997, Mr. Ramos called and advised that he
20 could not open the "Zip File" and would I send him a hard copy of the
21 Interconnection Agreement. I went back to the BellSouth
22 Interconnection Agreement template and changed ALEC and ALEC-1
23 to Supra Telecommunications and Information Systems. That
24 afternoon I sent via Federal Express to Mr. Ramos the hard copy of the

25

1 Interconnection Agreement for his signature accompanied by my
2 transmittal letter (Exhibit PCF-5).

3

4 On the morning of Saturday, October 25, 1997, Mr. Ramos paged me.
5 I promptly called Mr. Ramos from my residence and asked how I could
6 help him. He wanted to know where he could find the rate for DS3
7 service in his contract. I advised him that I didn't know at that time, but
8 I would be happy to advise him on Monday, October 27, 1997, when I
9 got back to my office. On October 27, 1997, I called Mr. Ramos and
10 advised that DS3 service was not contained in the agreement but that
11 he could purchase this service out of the Access Service tariff. He
12 seemed satisfied with this answer.

13

14 Mr. Ramos executed the agreement on Monday, October 27, 1997,
15 and promptly sent it via Federal Express to me for the BellSouth
16 representative's signature. This means that only ten days had passed
17 from Supra's request for an Interconnection Agreement, which was at
18 that time 295 pages long, with BellSouth, to its execution by Supra. On
19 Friday, October 31, 1997, Jerry Hendrix signed the agreement on
20 behalf of BellSouth.

21

22 Q. WAS THIS RAPID NEGOTIATION PROCESS TYPICAL FOR SUPRA
23 IN PREVIOUS NEGOTIATIONS WITH BELL SOUTH?

24

25

1 A. Yes. On Wednesday, July 16, 1997, Mr. Ramos requested "to begin
2 the negotiations process to reach a mutually acceptable Physical
3 Collocation Agreement with BellSouth." On July 16, 1997, Mr. Gregg
4 Beck sent a copy of the standard BellSouth Physical Collocation
5 contract that was to be used for negotiations. On Monday July 21,
6 1997, Mr. Ramos executed the Physical Collocation agreement and
7 forwarded it to BellSouth for execution.

8

9 Q. WAS THERE A DIFFERENCE IN THE INTERCONNECTION
10 AGREEMENT THAT WAS E-MAILED TO MR. RAMOS ON OCTOBER
11 21, 1997 AND THE ONE HE EXECUTED ON OCTOBER 27, 1997?

12

13 A. Yes. The documents were different. As I stated above, on October 21,
14 1997, I changed the BellSouth template to reflect Supra's name and the
15 notices section of the General Terms and Conditions. When Supra
16 could not open the "Zip" file, I went back to the BellSouth template and
17 reinserted Supra's name and notice information into the document.
18 However, unbeknownst to me, the template had been revised.

19

20 Q. WHEN WAS THE INCONSISTENCY BETWEEN THE OCTOBER 21,
21 1997 "ZIP" VERSION OF THE DOCUMENT AND THE DOCUMENT
22 THAT WAS SENT TO SUPRA ON OCTOBER 23, 1997
23 DISCOVERED?

24

25

1 A. On August 17, 1998, Supra's outside counsel Ms. Suzanne Summerlin,
2 sent a letter to Ms. Mary Jo Peed, Esq. And Ms. Nancy White, Esq., of
3 BellSouth requesting that BellSouth make available to Supra the
4 combinations contained in the October 21, 1997 BellSouth/Supra
5 Interconnection Agreement that was e-mailed by myself to Supra
6 (Exhibit PCF-6). Initially, I could not understand the difference in what
7 was being asserted by Supra in its letter of August 17, 1998 and what
8 was in my files as the executed agreement between the two
9 companies. I went back to the e-mail and re-opened the "Zip" file and
10 saw that there was indeed a difference in the two documents.
11

12 Q. WHAT WAS BELLSOUTH'S REACTION TO FINDING THAT THERE
13 WAS AN INCONSISTENCY BETWEEN THE TWO DOCUMENTS?
14

15 A. On August 21, 1998, Mary Jo Peed of BellSouth sent Ms. Summerlin a
16 letter admitting that there was an inconsistency between the document
17 that was e-mailed to Mr. Ramos on October 21, 1997 and what was
18 executed between Supra and BellSouth, on October 27, 1997 and
19 October 31, 1997 respectively. Included in this correspondence was an
20 amendment to the filed BellSouth/Supra Interconnection Agreement so
21 that the language that was in dispute could be incorporated into the
22 Interconnection Agreement. Thus, at the time BellSouth became
23 aware of the discrepancy, BellSouth offered to amend the Agreement,
24 retroactively to the date of execution to conform the Agreement to the
25 document originally sent to Mr. Ramos.

1

2 Q. DID SUPRA EXECUTE THE AMENDMENT THAT WAS FORWARDED
3 TO IT SO THAT THE LANGUAGE IN QUESTION COULD BE
4 INCORPORATED INTO THE BELLSOUTH/SUPRA
5 INTERCONNECTION AGREEMENT?

6

7 A. No. Supra chose instead to file a Petition with the various Public
8 Service Commissions to set aside the Interconnection Agreement that
9 had been filed with and approved by those Public Service
10 Commissions. The Florida Public Service Commission refused to hear
11 Supra's petition regarding BellSouth's alleged contract fraud and, on
12 June 1, 1999, issued Order No. PSC-99-1092-FOF-TP, directing "the
13 parties to submit a corrected agreement at their earliest convenience"
14 (Exhibit PCF-7). The Georgia Public Service Commission on March 16,
15 1999 in Docket Nos. 8338-U and 10331-U stated "The Commission
16 also finds that there is not sufficient reason to believe that BellSouth
17 acted intentionally in filing the incorrect version of the agreement."

18

19 Q: DID THIS REVISION "MATERIALLY" ALTER THE
20 BELLSOUTH/SUPRA INTERCONNECTION AGREEMENT THAT WAS
21 SENT TO SUPRA ON OCTOBER 21, 1997?

22

23 A. Absolutely not. The change was one of clarification. The original
24 Interconnection Agreement had the following language, whereas the
25 October 23, 1997 version did not:

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2. Unbundled Service Combinations (USC)

2.1.1 Where BellSouth offers to Supra Telecommunications and Information Systems, Inc., either through a **negotiated arrangement** or as a result of **an effective Commission order**, a combination of network elements priced as individual unbundled network elements, the following product combination will be made available. All other requests for unbundled element combinations will be evaluated via the Bona Fide Request Process, as set forth in Attachment 9. [Emphasis added]

2.1.2 2-Wire Analog Loop with 2-Wire Analog Port – Residence

2.1.3 2-Wire Analog Loop with 2-Wire Analog Port – Business

2.1.4 2-Wire Analog Loop with 2-Wire Analog Port – PBX

2.1.5 2-Wire Analog Loop with 2-Wire DID or 4-Wire DID

2.1.6 BellSouth will conform to the technical references contained in this Attachment 2 to the extent these requirements are implemented by equipment vendors and

1 consistent with the software generic releases purchased
2 and installed by BellSouth.

3

4 As can be seen above, this language does not obligate BellSouth to
5 provide Supra with combined Unbundled Network Elements. At the
6 time the agreement was being negotiated, there was no Commission or
7 FCC Order requiring BellSouth to provide combinations of Unbundled
8 Network Elements nor had BellSouth entered into a negotiated
9 arrangement to provide such combinations with Supra or any other
10 CLEC.

11

12 Q. DID THIS CLARIFICATION AFFECT THE RESALE AGREEMENT?

13

14 A. Absolutely not. The language that is referenced above is included in
15 the Interconnection portion of the Agreement and does not involve
16 Resale at all.

17

18 Q. WAS THE CORRECTED VERSION OF THE BELL SOUTH/SUPRA
19 INTERCONNECTION AGREEMENT FILED WITH THE FLORIDA
20 PUBLIC SERVICE COMMISSION?

21

22 A. Yes. The corrected version of the Interconnection Agreement was filed
23 with the Florida Public Service Commission on September 23, 1999.
24 This agreement was retroactive to October 1997.

25

1 Q. IS THE BELLSouth/SUPRA INTERCONNECTION AGREEMENT
2 APPLICABLE TO THE BILLS IN DISPUTE IN THIS PROCEEDING?

3

4 A. No. The BellSouth/Supra Interconnection Agreement is not applicable
5 to this dispute. As I stated above, the applicable Agreement is the
6 1997 BellSouth/Supra Resale Agreement. Once again, it should be
7 noted that there was no change or revision to the BellSouth/Supra 1997
8 Resale Agreement.

9

10 Q. HAS SUPRA ADOPTED A DIFFERENT INTERCONNECTION
11 AGREEMENT AND RESALE AGREEMENT SINCE THE EXECUTION
12 OF THE AFOREMENTIONED AGREEMENTS?

13

14 A. Yes. Supra adopted the BellSouth/ AT&T Interconnection Agreement.
15 This agreement includes provisions for resale and interconnection.

16

17 Q. ON WHAT DATE DID THE ADOPTION OF THIS AGREEMENT
18 BECOME EFFECTIVE?

19

20 A Supra's adoption of the BellSouth/AT&T Interconnection Agreement
21 became effective on October 5, 1999. The Commission on November
22 30, 1999 approved this Agreement.

23

24

25

1 Q. DOES THE BELLSOUTH/AT&T INTERCONNECTION AGREEMENT
2 CONTAIN ANY PROVISIONS REGARDING RETROACTIVITY THAT
3 WOULD APPLY IN THIS ARBITRATION?
4

5 A. Absolutely not. As I stated above, Supra's adoption of this Agreement
6 became effective on October 5, 1999 and is, therefore, not applicable
7 to this dispute.
8

9 Q. DOES THE COMMISSION HAVE JURISDICTION IN THIS MATTER
10 ACCORDING TO THE 1997 BELLSOUTH/SUPRA RESALE
11 AGREEMENT?
12

13 A. Although I am not an attorney, I believe the Commission does have
14 jurisdiction in this matter. Section XI of the 1997 BellSouth/Supra
15 Resale Agreement states that, "the parties agree that if any dispute
16 arises as to the interpretation of any provision of this Agreement or as
17 to the proper implementation of this Agreement, **the parties will**
18 **petition the applicable state Public Service Commission** for a
19 resolution of the dispute." [Emphasis added]
20

21 Q. WHAT AGREEMENT GOVERNED SUPRA'S RESELLING OF
22 SERVICES DURING THE TIMEFRAME OF THE BILLS IN DISPUTE?
23
24
25

1 A. The May 1997 BellSouth/Supra Resale Agreement governed Supra's
2 reselling of services from May 1997 until October 5, 1999 when Supra
3 adopted the BellSouth/AT&T Interconnection Agreement.

4

5 Q. WHAT TYPES OF SERVICES DID SUPRA ORDER DURING THE
6 TIMEFRAME OF THE BILLS IN DISPUTE?

7

8 A. To my knowledge, Supra only ordered resold services pursuant to the
9 1997 BellSouth/Supra Resale Agreement. Mr. Morton of BellSouth will
10 address Supra's specific ordering patterns in more detail.

11

12 **Issue 2. Did BellSouth bill Supra appropriately for End-User Common**
13 **Line Charges pursuant to the BellSouth/Supra interconnection**
14 **and resale agreement?**

15

16 Q. PLEASE DESCRIBE THE ISSUE REGARDING END USER COMMON
17 LINE CHARGE ("EUCL").

18

19 A. Supra claims that it should never have been billed this end user line
20 charge. This claim is unfounded under the provisions of the 1997
21 BellSouth/Supra Resale Agreement and the FCC rule 47 C.F.R. §
22 57.617.

23

24 Q. WHAT DOES THE 1997 BELL SOUTH/SUPRA RESALE AGREEMENT
25 STATE REGARDING END USER COMMON LINE CHARGES?

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A. The 1997 BellSouth/Supra Resale Agreement states, in Section VII (L):

Pursuant to 47 CFR Section 51.617, the Company will bill the charges shown below which are identical to the EUCL rates billed by BST to its end users.

Furthermore, Section IV (B) of the 1997 BellSouth/Supra Resale Agreement states, in part, that, "Resold services are subject to the same terms and conditions as are specified for such services when furnished to an individual end user of the Company in the appropriate section of the Company's Tariffs." The EUCL charge is included in BellSouth's FCC Tariff No. 1, Section 4.6 (A) (Exhibit PCF-8), which states:

End User Access Service and Federal Universal Service charges, as set forth in 4.7, following, will be billed to the end user subscriber of the associated local exchange service, **including, where applicable, a reseller of the associated local exchange service**, in which case the reseller shall be deemed an end user for the purposes of application of such charges. Presubscribed Interexchange Carrier Charges (PICCs) may also apply as described in Section 3. [Emphasis added]

1

2 Q. WHAT HAS THE FCC RULED REGARDING END USER COMMON
3 LINE ("EUCL") CHARGES?

4

5 A. In 47 C.F.R § 51.617 (a) (1999), (Exhibit PCF-9), the FCC states,
6 "Notwithstanding the provision in § 69.104(a) of this chapter that the
7 end user common line charge be assessed upon end users, **an**
8 **incumbent LEC shall assess this charge**, and the charge for
9 changing the designated primary interexchange carrier, **upon**
10 **requesting carriers that purchase telephone exchange service for**
11 **resale**. The specific end user common line charge to be assessed will
12 depend upon the identity of the end user served by the requesting
13 carrier." [Emphasis added]

14

15 Q. HAVE THESE FACTS REGARDING EUCL CHARGES BEEN
16 EXPLAINED TO SUPRA?

17

18 A. Yes. On March 11, 2000, Ms. Carol Bentley of Supra sent a letter to
19 Ms. Shirley Flemming of BellSouth regarding the billing dispute
20 between our companies (Exhibit PCF-10). Ms. Bentley quoted 47
21 C.F.R. § 51.617 (b), which states, "When an incumbent LEC provides
22 telephone exchange service to a requesting carrier...for resale, the
23 incumbent LEC shall continue to assess the interstate access
24 charges...other than the end user common line charges, upon
25 **interexchange carriers...**" [Emphasis added] (Exhibit PCF-9). On

1 March 20, 2000, Lynn Smith of BellSouth responded to this and several
2 other letters sent by Supra (Exhibit PCF-11). In her response, Ms.
3 Smith stated that, "we agree that Supra Telecom is registered as an
4 interexchange carrier; however, in this instance **Supra Telecom is**
5 **acting as a local service provider** in the resale of local service, and
6 **therefore, the EUCL charges are appropriately billed.**" [Emphasis
7 added]

8
9 Furthermore, on April 10, 2000, Ms. Bentley sent a letter to me in which
10 she claimed that Ms. Smith, in her March 30, 2000 letter, "summarily
11 dismisses our claim on the basis of a contract that does not apply."
12 (Exhibit PCF-12) This is completely untrue, as can be seen in Ms.
13 Smith's letter (Exhibit PCF-11) which I discussed above. On April 28,
14 2000, I responded to Ms. Bentley's April 10, 2000 letter (Exhibit PCF-
15 13). I explained, as Ms. Smith had in her March 30, 2000 letter, that,
16 "[e]ven though Supra may be acting as an interexchange carrier, Supra
17 is providing local exchange service as an...(ALEC) by reselling
18 retail...services. **As a local reseller, Supra is responsible for the**
19 **payment of the EUCL charge to BellSouth.**" [Emphasis added]

20 Furthermore, I quoted from the BellSouth FCC Tariff No. 1, Section 4.6,
21 which states, in part, "End User Access Service charges...will be billed
22 to the end user subscriber of the associated local exchange service."
23 (Exhibit PCF-8) As a reseller of local exchange service, Supra is
24 considered the "end user subscriber" and should, therefore, be
25 responsible for the EUCL charge.

1

2 **Issue 3. Did BellSouth bill Supra appropriately for changes in services,**
3 **unauthorized local service changes, and reconnections**
4 **pursuant to the BellSouth/Supra interconnection and resale**
5 **agreements?**

6

7 Q. PLEASE DESCRIBE THE ISSUE REGARDING CHARGES FOR
8 CHANGES IN SERVICES, UNAUTHORIZED LOCAL SERVICE
9 CHANGES, AND RECONNECTIONS.

10

11 A. Supra claims that it should not be charged for unauthorized changes in
12 a customer's service. I will refer to these unauthorized changes as
13 "slamming". BellSouth contends that the Agreement and the BellSouth
14 General Subscriber Service Tariff contain provisions for the billing of
15 these "slamming" charges.

16

17 Q. WHAT IS "SLAMMING"?

18

19 A. "Slamming" is the changing of an end-user's local and/or long distance
20 service without their authorization.

21

22 Q. WHAT DOES THE RESALE AGREEMENT STATE REGARDING
23 "SLAMMING"?

24

25 A. The Agreement addresses "slamming" in Section VI (F), which states:

1
2 If the Company determines that an unauthorized
3 change in local service to Reseller has occurred, the
4 Company will reestablish service with the appropriate
5 local service provider and **will assess Reseller as**
6 **the OLEC initiating the unauthorized change, an**
7 **unauthorized change charge** similar to that
8 described in F.C.C. Tariff No. 1, Section 13.3.3.
9 Appropriate nonrecurring charges, as set forth in
10 Section A4. of the General Subscriber Service Tariff,
11 will also be assessed to Reseller. [Emphasis added]
12

13 BellSouth has billed these "slamming" charges appropriately according
14 to the provisions mentioned above.
15

16 Q. HAS BELL SOUTH EXPLAINED THESE PROVISIONS REGARDING
17 "SLAMMING" CHARGES TO SUPRA?
18

19 A: Yes. In my letter of April 28, 2000 (Exhibit PCF-13), I explained that the
20 Other Charges and Credits ("OC&C"), which include "slamming", "are
21 for unauthorized change charges where end users have stated they
22 were switched to Supra without their permission." I further explained
23 that, "BellSouth properly billed Supra this charge in order to recover its
24 cost of switching the end user back to their appropriate local service
25 provider."

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Q. HAVE END USERS RAISED COMPLAINTS AGAINST SUPRA FOR "SLAMMING"? IF SO, IN WHAT TIMEFRAME WERE THESE COMPLAINTS RAISED?

A. Yes, in 1997 many end users raised complaints with the Florida Public Service Commission against Supra for "slamming". In Docket No. 971527-TX (Exhibit PCF-14), The Florida Public Service Commission stated that, "As of January 8, 1998, the Commission reported 201 complaints relating to unauthorized switching by Supra."

Q. WHAT WERE THE FINDINGS OF THE FLORIDA PUBLIC SERVICE COMMISSION REGARDING COMPLAINTS AGAINST SUPRA FOR "SLAMMING"?

A. The Florida Public Service Commission in Docket No. 971527-TX (Exhibit PCF-14) issued an Order to Show Cause on February 12, 1998 regarding complaints of "unauthorized switching of local telephone service and misleading solicitation practices" by Supra. In this Order the Commission said:

We find that Supra's apparent conduct in unauthorized switching of local telecommunications services and failing to timely respond to the staff inquires has been willful in the sense intended by Section 364.285, ORDER NO. PSC-98-0279-PCO-

TX DOCKET NO.971527-TX PAGE 3 Florida Statutes, and thus,
that conduct rises to a level warranting that a show cause order
be issued. Therefore, we order Supra to show cause in writing
within 20 days of the issuance of this Order why it should not be
fined in the amount of \$55,500 for apparent violation of Rule 25-
4.043, *Florida Administrative Code*. And \$402,000 for apparent
violation of Rule 25-24.820(1)(a), *Florida Administrative Code*....

**Issue 4. Did BellSouth bill Supra appropriately for secondary service
charges pursuant to the BellSouth/Supra interconnection and
resale agreements?**

Q. PLEASE DESCRIBE THE ISSUE REGARDING SECONDARY
SERVICE CHARGES.

A. Supra claims that it should not be charged for authorized changes in a
customer's service. I will refer to these authorized changes as
"secondary service charges". BellSouth contends that the Agreement
and the BellSouth General Subscriber Service Tariff contain provisions
for the billing of these secondary service charges.

Q. WHAT ARE "SECONDARY SERVICE CHARGES"?

A. According to Section A4.1 of the General Subscriber Service Tariff
(Exhibit PCF-15), "Secondary service charge applies **per customer**

1 **request** for the receiving, recording, and processing of customer
2 requests to change services or add new or additional services"
3 [Emphasis added] The General Subscriber Service Tariff also states,
4 in Sections A4.2.4 (A) to A4.2.4 (C) (Exhibit PCF-15),
5

6 A. The Secondary Service Charge will not apply if a
7 Line Connection charge or Line Change Charge
8 is applicable.

9 B. The Secondary Service Charge applies for
10 adding or rearranging:

- 11 1. Custom Calling Service
- 12 2. Prestige® Communications service
- 13 3. Grouping Service
- 14 4. RingMaster® service
- 15 5. TouchStar® service
- 16 6. Customized Code Restriction
- 17 7. Customer requested directory listing changes
- 18 8. Remote Call Forwarding
- 19 9. Other features or services for which the Line Connection
20 Charge and Line Change Charge are not applicable.

21 C. The Secondary Service Charge applies for:

- 22 1. **Transfers of Responsibility**
- 23 2. Changing from residence to business service and vice
24 versa. The business charge applies when changing to
25 business and the residence charge applies when changing to

1 residence. If the telephone number changes the Line
2 Change charge applies in lieu of the Secondary Service
3 Charge.

4 3. Rearrangement of drop wire, protector, and/or network
5 interface. Additionally, Premises Work Charges will apply.

6 4. Installing a Network Interface jack, at the customer's
7 request, on existing service. Additionally, Premises Work
8 Charges will apply. [Emphasis Added]

9

10 Q. WHAT DOES THE 1997 BELL SOUTH/SUPRA RESALE AGREEMENT
11 STATE REGARDING "SECONDARY SERVICE CHARGES"?

12

13 A. The 1997 BellSouth/Supra Resale Agreement states in Section IV (B),
14 that "Resold services are subject to the same terms and conditions as
15 are specified for such services when furnished to an individual end user
16 of the Company in the appropriate section of the Company's Tariffs."
17 BellSouth has billed these "other charges and credits" appropriately
18 according to the provisions mentioned above.

19

20 Q. HAS BELL SOUTH EXPLAINED THESE PROVISIONS REGARDING
21 "SECONDARY SERVICE CHARGES" TO SUPRA?

22

23 A. Yes. In my letter of April 28, 2000 (Exhibit PCF-13), I stated that the
24 Other Charges and Credits ("OC&C"), which include secondary service

25

1 charges, "are for changes in service [from BellSouth to Supra] that
2 Supra...authorized."

3

4 Q. HAS SUPRA EVER ALLEGED THAT BELL SOUTH BILLED SUPRA
5 INAPPROPRIATELY PRIOR TO THIS PROCEEDING?

6

7 A. Yes. On page 39 of Order No. PSC 98-1001-FOF-TP, Docket No.
8 980119 (Exhibit PCF-16), Supra claimed that BellSouth had
9 inappropriately billed approximately \$686,500 in charges, including
10 secondary service charges and unauthorized change charges.
11 However, the Commission ruled that Supra was not entitled to a refund.
12 The Commission specifically stated on page 37 of this Order (Exhibit
13 PCF-16):

14 We note that the resale agreement between Supra
15 and BellSouth specifically states that Supra may
16 resell the tariffed local exchange services contained
17 in Bellsouth's tariff subject to the terms and conditions
18 agreed upon in the resale agreement.

19

20 Q. PLEASE SUMMARIZE YOUR TESTIMONY.

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22 A. Supra claims that BellSouth owes Supra total of \$305,560.04, plus
23 interest. This claim is based on issues involving resale that were raised
24 by Supra prior to its adoption of the BellSouth/AT&T Interconnection
25 Agreement. Therefore, these issues were governed by the 1997

1 Resale Agreement, which was in effect at that time. As discussed
2 herein, BellSouth has applied these charges appropriately and no
3 refund or credit should be issued to Supra.

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5 Q. DOES THIS CONCLUDE YOUR TESTIMONY?

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7 A. Yes.

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Agreement Between BellSouth Telecommunications, Inc. and Supra Telecommunication & Information Systems, Inc. Regarding The Sale of BST's Telecommunications Services to Reseller For The Purposes of Resale

THIS AGREEMENT is by and between **BellSouth Telecommunications, Inc.**, ("BellSouth or Company"), a Georgia corporation, and **Supra Telecommunications & Information Systems, Inc.** ("Reseller"), a Florida corporation, and shall be deemed effective as of June 1, 1997.

WITNESSETH

WHEREAS, BellSouth is a local exchange telecommunications company authorized to provide telecommunications services in the state of Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, and Tennessee; and

WHEREAS, Reseller is or seeks to become an alternative local exchange telecommunications company authorized to provide telecommunications services in the states of Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, and Tennessee; and

WHEREAS, Reseller desires to resell BellSouth's telecommunications services; and

WHEREAS, BellSouth has agreed to provide such services to Reseller for resale purposes and pursuant to the terms and conditions set forth herein;

NOW, THEREFORE, for and in consideration of the mutual premises and promises contained herein, BellSouth and Reseller do hereby agree as follows:

I. Term of the Agreement

A. The term of this Agreement shall be two years beginning June 1, 1997 and shall apply to all of BellSouth's serving territory as of June 1, 1997 in the state(s) of Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, and Tennessee.

B. This Agreement shall be automatically renewed for two additional one year periods unless either party indicates its intent not to renew the Agreement. Notice of such intent must be provided, in writing, to the other party no later than 60 days prior to the end of the then-existing contract period. The terms of this Agreement shall remain in effect after the term of the existing agreement has expired and while a new agreement is being negotiated.

C. The rates pursuant by which Reseller is to purchase services from BellSouth for resale shall be at a discount rate off of the retail rate for the telecommunications service. The discount rates shall be as set forth in Exhibit A, attached hereto and incorporated herein by this reference. Such discount shall reflect the costs avoided by BellSouth when selling a service for wholesale purposes.

II. Definition of Terms

A. **CUSTOMER OF RECORD** means the entity responsible for placing application for service; requesting additions, rearrangements, maintenance or discontinuance of service; payment in full of charges incurred such as non-recurring, monthly recurring, toll, directory assistance, etc.

B. **DEPOSIT** means assurance provided by a customer in the form of cash, surety bond or bank letter of credit to be held by the Company.

- C. **END USER** means the ultimate user of the telecommunications services.
- D. **END USER CUSTOMER LOCATION** means the physical location of the premises where an end user makes use of the telecommunications services.
- E. **NEW SERVICES** means functions, features or capabilities that are not currently offered by BellSouth. This includes packaging of existing services or combining a new function, feature or capability with an existing service.
- F. **OTHER LOCAL EXCHANGE COMPANY (OLEC)** means a telephone company certificated by the public service commissions of the Company's franchised area to provide local exchange service within the Company's franchised area.
- G. **RESALE** means an activity wherein a certificated OLEC, such as Reseller subscribes to the telecommunications services of the Company and then reoffers those telecommunications services to the public (with or without "adding value").
- H. **RESALE SERVICE AREA** means the area, as defined in a public service commission approved certificate of operation, within which an OLEC, such as Reseller, may offer resold local exchange telecommunications service.

III. General Provisions

- A. Reseller may resell the tariffed local exchange and toll telecommunications services of BellSouth contained in the General Subscriber Service Tariff and Private Line Service Tariff subject to the terms, and conditions specifically set forth herein. Notwithstanding the foregoing, the exclusions and limitations on services available for resale will be as set forth in Exhibit B, attached hereto and incorporated herein by this reference.

BellSouth shall make available telecommunications services for resale at the rates set forth in Exhibit A to this agreement and subject to the exclusions and limitations set forth in Exhibit B to this agreement. It does not however waive its rights to appeal or otherwise challenge any decision regarding resale that resulted in the discount rates contained in Exhibit A or the exclusions and limitations contained in Exhibit B. BellSouth reserves the right to pursue any and all legal and/or equitable remedies, including appeals of any decisions. If such appeals or challenges result in changes in the discount rates or exclusions and limitations, the parties agree that appropriate modifications to this Agreement will be made promptly to make its terms consistent with the outcome of the appeal.

- B. The provision of services by the Company to Reseller does not constitute a joint undertaking for the furnishing of any service.
- C. Reseller will be the customer of record for all services purchased from BellSouth. Except as specified herein, the Company will take orders from, bill and expect payment from Reseller for all services.
- D. Reseller will be the Company's single point of contact for all services purchased pursuant to this Agreement. The Company shall have no contact with the end user except to the extent provided for herein.

E. The Company will continue to bill the end user for any services that the end user specifies it wishes to receive directly from the Company.

F. The Company maintains the right to serve directly any end user within the service area of Reseller. The Company will continue to directly market its own telecommunications products and services and in doing so may establish independent relationships with end users of Reseller.

G. Neither Party shall interfere with the right of any person or entity to obtain service directly from the other Party.

H. Current telephone numbers may normally be retained by the end user. However, telephone numbers are the property of the Company and are assigned to the service furnished. Reseller has no property right to the telephone number or any other call number designation associated with services furnished by the Company, and no right to the continuance of service through any particular central office. The Company reserves the right to change such numbers, or the central office designation associated with such numbers, or both, whenever the Company deems it necessary to do so in the conduct of its business.

I. The Company may provide any service or facility for which a charge is not established herein, as long as it is offered on the same terms to Reseller.

J. Service is furnished subject to the condition that it will not be used for any unlawful purpose.

K. Service will be discontinued if any law enforcement agency advises that the service being used is in violation of the law.

L. The Company can refuse service when it has grounds to believe that service will be used in violation of the law.

M. The Company accepts no responsibility to any person for any unlawful act committed by Reseller or its end users as part of providing service to Reseller for purposes of resale or otherwise.

N. The Company will cooperate fully with law enforcement agencies with subpoenas and court orders for assistance with the Company's customers. Law enforcement agency subpoenas and court orders regarding end users of Reseller will be directed to Reseller. The Company will bill Reseller for implementing any requests by law enforcement agencies regarding Reseller end users.

O. The characteristics and methods of operation of any circuits, facilities or equipment provided by any person or entity other than the Company shall not:

1. Interfere with or impair service over any facilities of the Company, its affiliates, or its connecting and concurring carriers involved in its service;
2. Cause damage to their plant;
3. Impair the privacy of any communications; or

4. Create hazards to any employees or the public.

P. Reseller assumes the responsibility of notifying the Company regarding less than standard operations with respect to services provided by Reseller.

Q. Facilities and/or equipment utilized by BellSouth to provide service to Reseller remain the property of BellSouth.

R. White page directory listings will be provided in accordance with regulations set forth in Section A6 of the General Subscriber Service Tariff and will be available for resale.

S. BellSouth will provide customer record information to the Reseller provided the Reseller has the appropriate Letter(s) of Authorization. BellSouth may provide customer record information via one of the following methods: US mail, fax, telephone or by electronic interface. BellSouth will provide customer record information via US mail, fax or telephone on an interim basis only.

Reseller agrees to compensate BellSouth for all BellSouth incurred expenditures associated with providing such information to Reseller. Reseller will adopt and adhere to the BellSouth guidelines associated with each method of providing customer record information.

T. BellSouth's retail voice mail service shall be available for resale at rates, terms and conditions as mutually agreed to by the parties.

IV. BellSouth's Provision of Services to Reseller

A. Reseller agrees that its resale of BellSouth services shall be as follows:

1. The resale of telecommunications services shall be limited to users and uses conforming to the class of service restrictions.

2. To the extent Reseller is a telecommunications carrier that serves greater than 5 percent of the Nation's presubscribed access lines, Reseller shall not jointly market its interLATA services with the telecommunications services purchased from BellSouth pursuant to this Agreement in any of the states covered under this Agreement. For the purposes of this subsection, to jointly market means any advertisement, marketing effort or billing in which the telecommunications services purchased from BellSouth for purposes of resale to customers and interLATA services offered by Reseller are packaged, tied, bundled, discounted or offered together in any way to the end user. Such efforts include, but are not limited to, sales referrals, resale arrangements, sales agencies or billing agreements. This subsection shall be void and of no effect for a particular state covered under this Agreement as of February 8, 1999 or on the date BellSouth is authorized to offer interLATA services in that state, whichever is earlier.

3. Hotel and Hospital PBX service are the only telecommunications services available for resale to Hotel/Motel and Hospital end users, respectively. Similarly, Access Line Service for Customer Provided Coin Telephones is the only local service available for resale to Independent Payphone

Provider (IPP) customers. Shared Tenant Service customers can only be sold those telecommunications services available in the Company's A23 Shared Tenant Service Tariff.

4. Reseller is prohibited from furnishing both flat and measured rate service on the same business premises to the same subscribers (end users) as stated in A2 of the Company's Tariff except for backup service as indicated in the applicable state tariff Section A3.

5. If telephone service is established and it is subsequently determined that the class of service restriction has been violated, Reseller will be notified and billing for that service will be immediately changed to the appropriate class of service. Service charges for changes between class of service, back billing, and interest as described in this subsection shall apply at the Company's sole discretion. **Interest shall be at a rate as set forth in Section A2 of the General Subscriber Service Tariff and Section B2 of the Private Line Service Tariff for the applicable state**, compounded daily for the number of days from the back billing date to and including the date that Reseller actually makes the payment to the Company may be assessed.

6. The Company reserves the right to periodically audit services purchased by Reseller to establish authenticity of use. Such audit shall not occur more than once in a calendar year. Reseller shall make any and all records and data available to the Company or the Company's auditor's on a reasonable basis. The Company shall bear the cost of said audit.

B. Resold services can only be used in the same manner as specified in the Company's Tariff. Resold services are subject to the same terms and conditions as are specified for such services when furnished to an individual end user of the Company in the appropriate section of the Company's Tariffs. Specific tariff features, e.g. a usage allowance per month, shall not be aggregated across multiple resold services. Resold services cannot be used to aggregate traffic from more than one end user customer except as specified in Section A23. of the Company's Tariff referring to Shared Tenant Service.

C. Reseller may resell services only within the specific resale service area as defined in its certificate.

D. Telephone numbers transmitted via any resold service feature are intended solely for the use of the end user of the feature. Resale of this information is prohibited.

E. No patent, copyright, trademark or other proprietary right is licensed, granted or otherwise transferred by this Agreement. Reseller is strictly prohibited from any use, including but not limited to sales, marketing or advertising, of any BellSouth name or trademark.

V. Maintenance of Services

A. Reseller will adopt and adhere to the standards contained in the applicable BellSouth Work Center Interface Agreement regarding maintenance and installation of service.

B. Services resold under the Company's Tariffs and facilities and equipment provided by the Company shall be maintained by the Company.

- C. Reseller or its end users may not rearrange, move, disconnect, remove or attempt to repair any facilities owned by the Company, other than by connection or disconnection to any interface means used, except with the written consent of the Company.
- D. Reseller accepts responsibility to notify the Company of situations that arise that may result in a service problem.
- E. Reseller will be the Company's single point of contact for all repair calls on behalf of Reseller's end users. **The parties agree to provide one another with toll-free contact numbers for such purposes.**
- F. Reseller will contact the appropriate repair centers in accordance with procedures established by the Company.
- G. For all repair requests, Reseller accepts responsibility for adhering to the Company's prescreening guidelines prior to referring the trouble to the Company.
- H. The Company will bill Reseller for handling troubles that are found not to be in the Company's network pursuant to its standard time and material charges. The standard time and material charges will be no more than what BellSouth charges to its retail customers for the same services.
- I. The Company reserves the right to contact Reseller's customers, if deemed necessary, for maintenance purposes.

VI. Establishment of Service

- A. After receiving certification as a local exchange company from the appropriate regulatory agency, Reseller will provide the appropriate Company service center the necessary documentation to enable the Company to establish a master account for Reseller. Such documentation shall include the Application for Master Account, proof of authority to provide telecommunications services, an Operating Company Number ("OCN") assigned by the National Exchange Carriers Association ("NECA") and a tax exemption certificate, if applicable. When necessary deposit requirements are met, the Company will begin taking orders for the resale of service.
- B. Service orders will be in a standard format designated by the Company.
- C. When notification is received from Reseller that a current customer of the Company will subscribe to Reseller's service, standard service order intervals for the appropriate class of service will apply.
- D. The Company will not require end user confirmation prior to establishing service for Reseller's end user customer. Reseller must, however, be able to demonstrate end user authorization upon request.
- E. Reseller will be the single point of contact with the Company for all subsequent ordering activity resulting in additions or changes to resold services except that the Company will accept a request directly from the end user for conversion of the end user's service from Reseller to the Company or will accept a request from another OLEC for conversion of the end user's service from the Reseller to the other LEC. The Company will notify Reseller that such a request has been processed.

F. If the Company determines that an unauthorized change in local service to Reseller has occurred, the Company will reestablish service with the appropriate local service provider and will assess Reseller as the OLEC initiating the unauthorized change, an unauthorized change charge similar to that described in F.C.C. Tariff No. 1, Section 13.3.3. Appropriate nonrecurring charges, as set forth in Section A4. of the General Subscriber Service Tariff, will also be assessed to Reseller.

These charges can be adjusted if Reseller provides satisfactory proof of authorization.

	Nonrecurring Charge
(a) each Residence or Business line	\$19.41

G. The Company will, in order to safeguard its interest, require Reseller to make a deposit to be held by the Company as a guarantee of the payment of rates and charges, unless satisfactory credit has already been established. Any such deposit may be held during the continuance of the service as security for the payment of any and all amounts accruing for the service.

H. Such deposit may not exceed two months' estimated billing.

I. The fact that a deposit has been made in no way relieves Reseller from complying with the Company's regulations as to advance payments and the prompt payment of bills on presentation nor does it constitute a waiver or modification of the regular practices of the Company providing for the discontinuance of service for non-payment of any sums due the Company.

J. The Company reserves the right to increase the deposit requirements when, in its sole judgment, the conditions justify such action.

K. In the event that Reseller defaults on its account, service to Reseller will be terminated and any deposits held will be applied to its account.

L. In the case of a cash deposit, interest at the rate of six percent per annum shall be paid to Reseller during the continuance of the deposit. Interest on a deposit shall accrue annually and, if requested, shall be annually credited to Reseller by the accrual date.

VII. Payment And Billing Arrangements

A. When the initial service is ordered by Reseller, the Company will establish an accounts receivable master account for Reseller.

B. The Company shall bill Reseller on a current basis all applicable charges and credits.

C. Payment of all charges will be the responsibility of Reseller. Reseller shall make payment to the Company for all services billed. The Company is not responsible for payments not received by Reseller from Reseller's customer. The Company will not become involved in billing disputes that may arise between Reseller and its customer. Payments made to the Company as payment on account will be credited to an accounts receivable master account and not to an end user's account.

D. The Company will render bills each month on established bill days for each of Reseller's accounts.

E. The Company will bill Reseller, in advance, charges for all services to be provided during the ensuing billing period except charges associated with service usage, which charges will be billed in arrears. Charges will be calculated on an individual end user account level, including, if applicable, any charges for usage or usage allowances. BellSouth will also bill all charges, including but not limited to 911 and E911 charges, telecommunications relay charges, and franchise fees, to Reseller.

F. The payment will be due by the next bill date (i.e., same date in the following month as the bill date) and is payable in immediately available funds. Payment is considered to have been made when received by the Company.

If the payment due date falls on a Sunday or on a Holiday which is observed on a Monday, the payment due date shall be the first non-Holiday day following such Sunday or Holiday. If the payment due date falls on a Saturday or on a Holiday which is observed on Tuesday, Wednesday, Thursday, or Friday, the payment due date shall be the last non-Holiday day preceding such Saturday or Holiday. If payment is not received by the payment due date, a late payment penalty, as set forth in I. following, shall apply.

G. Upon proof of tax exempt certification from Reseller, the total amount billed to Reseller will not include any taxes due from the end user. Reseller will be solely responsible for the computation, tracking, reporting and payment of all federal, state and/or local jurisdiction taxes associated with the services resold to the end user.

H. As the customer of record, Reseller will be responsible for, and remit to the Company, all charges applicable to its resold services for emergency services (E911 and 911) and Telecommunications Relay Service (TRS) as well as any other charges of a similar nature.

I. If any portion of the payment is received by the Company after the payment due date as set forth preceding, or if any portion of the payment is received by the Company in funds that are not immediately available to the Company, then a late payment penalty shall be due to the Company. The late payment penalty shall be the portion of the payment not received by the payment due date times a late factor. The late factor shall be as set forth in Section A2 of the General Subscriber Service Tariff and Section B2 of the Private Line Service Tariff.

J. Any switched access charges associated with interexchange carrier access to the resold local exchange lines will be billed by, and due to, the Company. No additional charges are to be assessed to Reseller.

K. The Company will not perform billing and collection services for Reseller as a result of the execution of this Agreement. All requests for billing services should be referred to the appropriate entity or operational group within the Company.

L. Pursuant to 47 CFR Section 51.617, the Company will bill the charges shown below which are identical to the EUCL rates billed by BST to its end users.

Monthly Rate

- | | | |
|----|-----------------------------------|---------------|
| 1. | Residential | |
| | (a) Each Individual Line or Trunk | \$3.50 |
| 2. | Single Line Business | |
| | (b) Each Individual Line or Trunk | \$3.50 |
| 3. | Multi-line Business | |
| | (c) Each Individual Line or Trunk | \$6.00 |

M. In general, the Company will not become involved in disputes between Reseller and Reseller's end user customers over resold services. If a dispute does arise that cannot be settled without the involvement of the Company, Reseller shall contact the designated Service Center for resolution. The Company will make every effort to assist in the resolution of the dispute and will work with Reseller to resolve the matter in as timely a manner as possible. Reseller may be required to submit documentation to substantiate the claim.

VIII. Discontinuance of Service

A. The procedures for discontinuing service to an end user are as follows:

1. Where possible, the Company will deny service to Reseller's end user on behalf of, and at the request of, Reseller. Upon restoration of the end user's service, restoral charges will apply and will be the responsibility of Reseller.
2. At the request of Reseller, the Company will disconnect a Reseller end user customer.
3. All requests by Reseller for denial or disconnection of an end user for nonpayment must be in writing.
4. Reseller will be made solely responsible for notifying the end user of the proposed disconnection of the service.
5. The Company will continue to process calls made to the Annoyance Call Center and will advise Reseller when it is determined that annoyance calls are originated from one of their end user's locations. The Company shall be indemnified, defended and held harmless by Reseller and/or the end user against any claim, loss or damage arising from providing this information to Reseller. It is the responsibility of Reseller to take the corrective action necessary with its customers who make annoying calls. Failure to do so will result in the Company's disconnecting the end user's service.

B. The procedures for discontinuing service to Reseller are as follows:

1. The Company reserves the right to suspend or terminate service for nonpayment or in the event of prohibited, unlawful or improper use of the facilities or service, abuse of the facilities, or any other violation or noncompliance by Reseller of the rules and regulations of the Company's Tariffs.
2. If payment of account is not received by the bill day in the month after the original bill day, the Company may provide written notice to Reseller, that additional applications for service will be refused and that any pending orders for service will not be completed if payment is not received by

the fifteenth day following the date of the notice. If the Company does not refuse additional applications for service on the date specified in the notice, and Reseller's noncompliance continues, nothing contained herein shall preclude the Company's right to refuse additional applications for service without further notice.

3. If payment of account is not received, or arrangements made, by the bill day in the second consecutive month, the account will be considered in default and will be subject to denial or disconnection, or both.

4. If Reseller fails to comply with the provisions of this Agreement, including any payments to be made by it on the dates and times herein specified, the Company may, on thirty days written notice to the person designated by Reseller to receive notices of noncompliance, discontinue the provision of existing services to Reseller at any time thereafter. In the case of such discontinuance, all billed charges, as well as applicable termination charges, shall become due. If the Company does not discontinue the provision of the services involved on the date specified in the thirty days notice, and Reseller's noncompliance continues, nothing contained herein shall preclude the Company's right to discontinue the provision of the services to Reseller without further notice.

5. If payment is not received or arrangements made for payment by the date given in the written notification, Reseller's services will be discontinued. Upon discontinuance of service on a Reseller's account, service to Reseller's end users will be denied. The Company will also reestablish service at the request of the end user or Reseller upon payment of the appropriate connection fee and subject to the Company's normal application procedures. Reseller is solely responsible for notifying the end user of the proposed disconnection of the service.

6. If within fifteen days after an end user's service has been denied no contact has been made in reference to restoring service, the end user's service will be disconnected.

IX. Liability

A. The liability of the Company for damages arising out of mistakes, omissions, interruptions, preemptions, delays errors or defects in transmission, or failures or defects in facilities furnished by the Company, occurring in the course of furnishing service or other facilities and not caused by the negligence of Reseller, or of the Company in failing to maintain proper standards of maintenance and operation and to exercise reasonable supervision shall in no event exceed an amount equivalent to the proportionate charge to Reseller for the period of service during which such mistake, omission, interruption, preemption, delay, error or defect in transmission or defect or failure in facilities occur. The Company shall not be liable for damage arising out of mistakes, omission, interruptions, preemptions, delays, errors or defects in transmission or other injury, including but not limited to injuries to persons or property from voltages or currents transmitted over the service of the Company, (1) caused by customer-provided equipment (except where a contributing cause is the malfunctioning of a Company-provided connecting arrangement, in which event the liability of the Company shall not exceed an amount equal to a proportional amount of the Company billing for the period of service during which such mistake, omission, interruption, preemption, delay, error, defect in transmission or injury occurs), or (2) not prevented by customer-provided equipment but which would have been prevented had Company-provided equipment been used.

B. The Company shall be indemnified and saved harmless by Reseller against any and all claims, actions, causes of action, damages, liabilities, or demands (including the costs, expenses and reasonable

attorneys' fees, on account thereof) of whatever kind or nature that may be made by any third party as a result of the Company's furnishing of service to Reseller.

C. The Company shall be indemnified, defended and held harmless by Reseller and/or the end user against any claim, loss or damage arising from the use of services offered for resale involving:

1. Claims for libel, slander, invasion of privacy or infringement of copyright arising from Reseller's or end user's own communications.
2. Claims for patent infringement arising from acts combining or using Company services in connection with facilities or equipment furnished by the end user or Reseller.
3. All other claims arising out of an act or omission of Reseller or its end user in the course of using services.

D. Reseller accepts responsibility for providing access for maintenance purposes of any service resold under the provisions of this Tariff. The Company shall not be responsible for any failure on the part of Reseller with respect to any end user of Reseller.

X. Treatment of Proprietary and Confidential Information

A. Both parties agree that it may be necessary to provide each other during the term of this Agreement with certain confidential information, including trade secret information, including but not limited to, technical and business plans, technical information, proposals, specifications, drawings, procedures, customer account data and like information (hereinafter collectively referred to as "Information"). Both parties agree that all Information shall either be in writing or other tangible format and clearly marked with a confidential, private or proprietary legend, or, when the Information is communicated orally, it shall also be communicated that the Information is confidential, private or proprietary. The Information will be returned to the owner within a reasonable time. Both parties agree that the Information shall not be copied or reproduced in any form. Both parties agree to receive such Information and not disclose such Information. Both parties agree to protect the Information received from distribution, disclosure or dissemination to anyone except employees of the parties with a need to know such Information and which employees agree to be bound by the terms of this Section. Both parties will use the same standard of care to protect Information received as they would use to protect their own confidential and proprietary Information.

B. Notwithstanding the foregoing, both parties agree that there will be no obligation to protect any portion of the Information that is either: 1) made publicly available by the owner of the Information or lawfully disclosed by a nonparty to this Agreement; 2) lawfully obtained from any source other than the owner of the Information; or 3) previously known to the receiving party without an obligation to keep it confidential.

XI. Resolution of Disputes

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, the parties will petition the applicable state Public Service Commission for a resolution of the dispute. However, each party reserves any rights it may have to seek judicial review of any ruling made by that Public Service Commission concerning this Agreement.

XII. Limitation of Use

The parties agree that this Agreement shall not be proffered by either party in another jurisdiction as evidence of any concession or as a waiver of any position taken by the other party in that jurisdiction or for any other purpose.

XIII. Waivers

Any failure by either party to insist upon the strict performance by the other party of any of the provisions of this Agreement shall not be deemed a waiver of any of the provisions of this Agreement, and each party, notwithstanding such failure, shall have the right thereafter to insist upon the specific performance of any and all of the provisions of this Agreement.

XIV. Governing Law

This Agreement shall be governed by, and construed and enforced in accordance with, the laws of the State of Georgia, without regard to its conflict of laws principles.

XV. Arm's Length Negotiations

This Agreement was executed after arm's length negotiations between the undersigned parties and reflects the conclusion of the undersigned that this Agreement is in the best interests of all parties.

XVI. More Favorable Provisions

A. The parties agree that if ---

1. the Federal Communications Commission ("FCC") or the Commission finds that the terms of this Agreement are inconsistent in one or more material respects with any of its or their respective decisions, rules or regulations, or

2. the FCC or the Commission preempts the effect of this Agreement, then, in either case, upon such occurrence becoming final and no longer subject to administrative or judicial review, the parties shall immediately commence good faith negotiations to conform this Agreement to the requirements of any such decision, rule, regulation or preemption. The revised agreement shall have an effective date that coincides with the effective date of the original FCC or Commission action giving rise to such negotiations. The parties agree that the rates, terms and conditions of any new agreement shall not be applied retroactively to any period prior to such effective date except to the extent that such retroactive effect is expressly required by such FCC or Commission decision, rule, regulation or preemption.

B. In the event that BellSouth, either before or after the effective date of this Agreement, enters into an agreement with any other telecommunications carrier (an "Other Resale Agreement") which provides for the provision within the state(s) of Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, and Tennessee of any of the arrangements covered by this Agreement upon rates, terms or conditions that differ in any material respect from the rates, terms and conditions for such arrangements set forth in this Agreement ("Other Terms"), BellSouth shall be deemed thereby to have offered such other Resale

Agreement to Reseller in its entirety. In the event that Reseller accepts such offer, such Other Terms shall be effective between BellSouth and Reseller as of the date on which Reseller accepts such offer.

C. In the event that after the effective date of this Agreement the FCC or the Commission enters an order (a "Resale Order") requiring BellSouth to provide within the state(s) of Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, and Tennessee any of the arrangements covered by this agreement upon Other Terms, then upon such Resale Order becoming final and not subject to further administrative or judicial review, BellSouth shall be deemed to have offered such arrangements to Reseller upon such Other Terms, in their entirety, which Reseller may only accept in their entirety, as provided in Section XVI.E. In the event that Reseller accepts such offer, such Other Terms shall be effective between BellSouth and Reseller as of the date on which Reseller accepts such offer.

D. In the event that after the effective date of this Agreement BellSouth files and subsequently receives approval for one or more intrastate tariffs (each, a "Resale Tariff") offering to provide within the state(s) of Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, and Tennessee any of the arrangements covered by this Agreement upon Other Terms, then upon such Resale Tariff becoming effective, BellSouth shall be deemed thereby to have offered such arrangements to Reseller upon such Other Terms, which Reseller may accept as provided in Section XVI.E. In the event that Reseller accepts such offer, such Other Terms shall be effective between BellSouth and Reseller as of the date on which Reseller accepts such offer.

E. The terms of this Agreement, other than those affected by the Other Terms accepted by Reseller, shall remain in full force and effect.

F. **Corrective Payment.** In the event that --

1. BellSouth and Reseller revise this Agreement pursuant to Section XVI.A, or

2. Reseller accepts a deemed offer of an Other Resale Agreement or Other Terms, then BellSouth or Reseller, as applicable, shall make a corrective payment to the other party to correct for the difference between the rates set forth herein and the rates in such revised agreement or Other Terms for substantially similar services for the period from the effective date of such revised agreement or Other Terms until the date that the parties execute such revised agreement or Reseller accepts such Other Terms, plus simple interest at a rate equal to the thirty (30) day commercial paper rate for high-grade, unsecured notes sold through dealers by major corporations in multiples of \$1,000.00 as regularly published in *The Wall Street Journal*.

XVII. Notices

A. Every notice, consent, approval, or other communications required or contemplated by this Agreement shall be in writing and shall be delivered in person or given by postage prepaid mail, address to:

BellSouth Telecommunications, Inc.

Reseller

OLEC Account Team
3535 Colonnade Parkway, Room E4E1
Birmingham, AL 35243

O.A. Ramos
269 Giralda Avenue
Suite 203
Coral Gables, FL 33134

or at such other address as the intended recipient previously shall have designated by written notice to the other party.

B. Where specifically required, notices shall be by certified or registered mail. Unless otherwise provided in this Agreement, notice by mail shall be effective on the date it is officially recorded as delivered by return receipt or equivalent, and in the absence of such record of delivery, it shall be presumed to have been delivered the fifth day, or next business day after the fifth day, after it was deposited in the mails.

XVIII. Amendments

This Agreement may be amended at any time upon written agreement of both parties.

XIX. Entire Agreement

This Agreement sets forth the entire understanding and supersedes prior agreements between the parties relating to the subject matter contained herein and merges all prior discussions between them, and neither party shall be bound by any definition, condition, provision, representation, warranty, covenant or promise other than as expressly stated in this Agreement or as is contemporaneously or subsequently set forth in writing and executed by a duly authorized officer or representative of the party to be bound thereby.

BellSouth Telecommunications, Inc.

Reseller

BY: _____
Signature

BY: _____
Signature

NAME: _____
Printed Name

NAME: _____
Printed Name

TITLE: _____

TITLE: _____

DATE: _____

DATE: _____

EXHIBIT "A"

APPLICABLE DISCOUNTS

The telecommunications services available for purchase by Reseller for the purposes of resale to Reseller end users shall be available at the following discount off of the retail rate.

<u>STATE</u>	<u>RESIDENCE</u>	<u>DISCOUNT</u>	<u>BUSINESS</u>
ALABAMA	17%		17%
FLORIDA	21.83%		16.81%
GEORGIA	20.3%		17.3%
KENTUCKY	16.79%		15.54%
LOUISIANA*	20.72%		20.72%
MISSISSIPPI	15.75%		15.75%
NORTH CAROLINA	21.5%		17.6%
SOUTH CAROLINA	14.8%		14.8%
TENNESSEE**	16%		16%

* Effective as of the Commission's Order in Louisiana Docket No. U-22020 dated November 12, 1996.

** The Wholesale Discount is set as a percentage off the tariffed rates. If OLEC provides its own operator services and directory services, the discount shall be 21.56%. These rates are effective as of the Tennessee Regulatory Authority's Order in Tennessee Docket No. 90-01331 dated January 17, 1997.

Type of Service	AL		FL		GA		KY		LA	
	Resale?	Discount?	Resale?	Discount?	Resale?	Discount?	Resale?	Discount?	Resale?	Discount?
1 Grandfathered Services	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
2 Contract Service Arrangements	Yes	No	Yes	Yes	Yes	No	Yes	No	Yes	No
3 Promotions - > 90 Days	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
4 Promotions - < 90 Days	Yes	No	Yes	No	Yes	No	No	No	Yes	No
5 Lifeline/Link Up Services	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
6 911/E911 Services	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	No
7 N11 Services	Yes	Yes	Yes	Yes	Yes	Yes	No	No	No	No
8 Non-Recurring Charges	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes

Type of Service	MS		NC		SC		TN	
	Resale?	Discount?	Resale?	Discount?	Resale?	Discount?	Resale?	Discount?
1 Grandfathered Services	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
2 Contract Service Arrangements	Yes	No	Yes	Yes	Yes	No	Yes	Yes
3 Promotions - > 90 Days	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No
4 Promotions - < 90 Days	Yes	No	No	No	Yes	No	No	No
5 Lifeline/Link Up Services	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
6 911/E911 Services	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
7 N11 Services	No	No	No	No	Yes	Yes	Yes	Yes
8 Non-Recurring Charges	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No

Additional Comments:

- 1 Grandfathered services can be resold only to existing subscribers of the grandfathered service.
- 2 Where available for resale, promotions will be made available only to end users who would have qualified for the promotion had it been provided by BellSouth directly.
- 3 Lifeline/Link Up services may be offered only to those subscribers who meet the criteria that BellSouth currently applies to subscribers of these services.
- 4 In Louisiana and Mississippi, all Contract Service Arrangements entered into by BellSouth or terminating after the effective date of the Commission Order will be subject to resale without the wholesale discount. All CSAs which are in place as of the effective date of the Commission order will not be eligible for resale.
- 5 In North Carolina, only those Contract Service Arrangements entered into after April 15, 1997 will be available for resale.



BellSouth Telecommunications, Inc
 FPSC Docket No. 001097-TP
 Exhibit PCF-2
 Page 1 of 1

Phone: (305) 443-3710
 Fax: (305) 443-1078
 P.O. Box 1441221
 Coral Gables, FL 33134-41
 WWW & Email:
 www.supratelecoms.com
 sales@supratelecoms.com

Supra Telecom & Information Systems, Inc.

John Reinke
 269 Giralda Ave, Suite 203
 Coral Gables, FL 33134

October 20, 1997

Gregg Beck
 Interconnection Services
 675 W Peachtree St. NE
 34S91
 Atlanta, GA 30375

Dear Mr. Beck:

This is a follow up to our application for Local Interconnection Agreement sent on 10/17/97. Please let me know if you have received it and how the process is coming along. As this is vital for the forward movement of our company. You can reach me at 305-443-3710, ext. 240.

Sincerely,

John Reinke
 V-P Engineering

cc: O. A. Ramos

Enclosure

October 20, 1997

VIA FEDERAL EXPRESS

Supra Telecommunications and Information Systems, Inc.
269 Jiralda Avenue
Coral Gables, FL 33134

Dear Mr. Ramos:

Thank you for your request to negotiate the provisions for local interconnection. BellSouth would be pleased to enter into negotiations with Supra Telecommunications & Information Systems, Inc. with the intent of developing a mutually acceptable agreement for these services. BellSouth is currently negotiating with many companies in this regard, and has successfully negotiated agreements with over one hundred carriers.

As such, enclosed for your review is a copy of BellSouth's Standard Interconnection Agreement. This agreement should provide you with an understanding of the terms, conditions, and rates associated with the provision of BellSouth's local access services relative to local interconnection.

Once you have had the opportunity to review this document, please contact Pat Finlen to discuss any questions or comments you may have relative to the Interconnection Agreement. He can be reached on (404) 927-8389

Sincerely,

Jennette C. Fields
Manager-Interconnection Services

Enclosure.

cc: Pat Finlen, Manager-Interconnection Services

000-00
Subject: Interconnection Agreement
Creator: Patrick Finlen /AL,BRAM03

Date: 11/11/97
Contents:

Item 1

FROM: Patrick C. Finlen /AL,BRAM03 / Undisplayable address parts
TO: Kay Ramos /Internet kayramos@supra.com

BellSouth Telecommunications, Inc.
FPSC Docket No. 001097-TP
Exhibit PCF-4
Page 1 of 1

Item 2

Mr. Ramos,

It was a pleasure talking with you this afternoon. As you requested attached is an electronic copy of a revised BellSouth Standard Interconnection Agreement. The revisions contained in the attached are:

Attachment 1 (Resale) - Agreed to under separate agreement
Attachment 4 (Collocation) - Agreed to under separate agreement
ALEC-1 replaced with Supra Telecommunications and Information Systems, Inc.

The agreement is made up of numerous "WORD" files. These files have been compressed into one file in order to speed delivery to you via the Internet. The filename for the compressed file is AGREEMNT.ZIP. I've also enclosed a copy to PKUNZIP.EXE so you can un-compress the file. Once you've downloaded the files to your computer simply go to your DOS prompt and type C:[Drive Letter and location of where you downloaded the files]pkunzip *.zip. This will un-compress the file. You will have 24 files. One will be the compressed file, another will be the PKUNZIP.EXE file, and 22 "WORD" files which will be the agreement. The signature page is in the file called TERMCOND.DOC.

Once you have reviewed the documents please contact me so we can coordinate our signing's and prepare a package for filing with the Commissions.

Please call me should you have any problems uncompressing the files or have any further questions regarding the agreement. I can be reached at (404) 927-8389.

I look forward to speaking with you soon.

Sincerely,

Pat Finlen
Manager - Interconnection Services

Item 3

This item is of type PKZip archive and cannot be displayed as TEXT

Item 4

This item is of type BINARY FILE and cannot be displayed as TEXT

October 23, 1997

VIA FEDERAL EXPRESS

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

Dear Mr. Ramos:

Enclosed herein for your review is an Interconnection Agreement between BellSouth and Supra Telecommunications and Information Systems, Inc. This agreement contains the terms, conditions, and rates associated with the provision of BellSouth's local access services relative to local interconnection in the BellSouth states, (i.e., Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, and Tennessee).

Once you have had the opportunity to review this document, please sign the two enclosed signature pages and send them back to me in overnight mail. After I receive both signature pages I will have our representative sign the pages for BellSouth and send you an original page back to you for your files. BellSouth will then file the Agreement with the appropriate Public Service Commissions.

Please contact me to discuss any questions or comments you may have relative to the Agreement. I can be reached at (404) 927-8389.

Sincerely,

Pat C. Finlen
Manager - Interconnection Services

Enclosure

cc: Jerry Hendrix, Director-Interconnection Services



STIS

Supra Telecom & Information Systems, Inc.

AUG 19 1998

Phone: (305) 443-1111
Fax: (305) 443-1111
1610 S.W. 27th Ave
Miami, FL 33133
Email: sales@stis.com
www.stis.com

U.S. MAIL-REG. RELATIONS
TALLAHASSEE, FL

BellSouth Telecommunications,
FPSC Docket No. 001097-TP
Exhibit PCF-6
Page 1 of 4

August 17, 1998

VIA FAX: (305) 577-4491

Nancy B. White, Esq.
and Mary Jo Peed, Esq.
c/o Ms. Nancy Sims
BellSouth Telecommunications, Inc.
150 South Monroe Street, Suite 400
Tallahassee, Florida 32301

Dear Nancy and Mary Jo:

I wish to address several matters that are pending between Supra Telecommunications & Information Systems, Inc., and BellSouth Telecommunications, Inc., that need to be resolved.

1. Regarding the issue of Supra's desire to physically collocate in the North Dade Golden Glades and the West Palm Beach Gardens' central offices, it is Supra's position that there is adequate space for Supra to physically collocate its Class 5 switches and other necessary equipment. I would like to set up a meeting to discuss the results of the walk-throughs and the revised central office maps and Supra's specific desires regarding space in each of these central offices.

In addition, when you and I met a few weeks ago, you stated you would obtain specific information regarding any problems with meeting the Florida Public Service Commission's three month deadline for each of Supra's applications for physical collocation. We need to have specific information regarding whether BellSouth intends to meet the deadline for each application or exactly why the deadline cannot be met for each application.

2. Regarding the issue of what equipment Supra intends to physically collocate in the 17 BellSouth central offices that Supra has applied for, it is Supra's intention to physically collocate equipment that will provide information services as well as basic telecommunications services. The "information services" equipment that Supra intends to physically collocate includes equipment that can provide anything traditionally considered "information services," as well as anything considered an "enhanced service," Internet services, etc. The specific equipment has been identified on the physical collocation applications that have already been approved by BellSouth. It is Supra's position that the Telecommunications Act and the FCC's

REGULATORY-ATLA
MIAMI LEGAL

First Report and Order provide legal support for Supra's right to physically collocate this type of equipment in BellSouth's central offices. Supra would like an immediate clarification from BellSouth regarding whether BellSouth intends to object to any of Supra's equipment being physically collocated on the basis of any theory so that Supra may apply for a decision on this matter at the Florida Public Service Commission.

3. Regarding the issue of Supra's right to obtain combinations of unbundled network elements from BellSouth, it is Supra's position that Supra's interconnection agreement provides authority for Supra to obtain these combinations. The attached Section from Supra's interconnection agreement specifically provides Supra this right. To the extent BellSouth intends to rely on the fact that the version of the Interconnection Agreement filed by BellSouth with the Florida Public Service Commission does not include this particular section, Supra wishes to inform BellSouth that the draft agreement that Mr. Finlen provided Mr. Ramos and which Mr. Ramos signed immediately (according to Mr. Finlen's testimony), and that Mr. Finlen provided Supra by e-mail immediately prior to producing the final version for signing, included this provision. If there is a difference between the draft version agreed to and the version filed with the Commission (other than the removal of the Collocation and Resale Agreements which had been entered into separately and the insertion of Supra's name in appropriate spaces), Supra suggests that any such difference should not exist and BellSouth may wish to inquire internally as to how that might have happened.

Therefore, Supra would like to be informed immediately as to the prices for the combinations of unbundled network elements set out in Supra's Interconnection Agreement and the time frames in which they can be provided.

You will note that this letter is not being copied to the Commission Staff at this time to permit BellSouth and Supra the opportunity to work these matters out. However, this is a very narrow window of opportunity. If we do not hear from you on these issues within the next day or two, Supra will be forced to pursue relief at the Commission. Thank you for your attention to these matters.

Sincerely,



Suzanne F. Summerlin

SFS:ss

ACCESS TO UNBUNDLED NETWORK ELEMENTS

BellSouth Telecommunications.
FPSC Docket No. 001097-TP
Exhibit PCF-6
Page 3 of 4

1. Introduction

- 1.1.1 BellSouth shall, upon request of Supra Telecommunications and Information Systems, Inc., and to the extent technically feasible, provide to Supra Telecommunications and Information Systems, Inc. access to its unbundled network elements for the provision of Supra Telecommunications and Information Systems, Inc.'s telecommunications service.
- 1.1.2 Access to unbundled Network Elements provided pursuant to this Agreement may be connected to other Services and Elements provided by BellSouth or to any Services and Elements provided by CLEC itself or by any other vendor.
- 1.1.3 CLEC may purchase unbundled Network Elements for the purpose of combining Network Elements in any manner that is technically feasible, including recreating existing BellSouth services.
- 1.1.4 In all states of BellSouth's operation, when CLEC recombines unbundled Network Elements to create services identical to BellSouth's retail offerings, the prices charged to CLEC for the rebundled services shall be computed at BellSouth's retail price less the wholesale discount established by the Commission and offered under the same terms and conditions as BellSouth offers the service.
- 1.1.5 CLEC will be deemed to be "recombining elements to create services identical to BellSouth's retail offerings" when the service offered by CLEC contains the functions, features and attributes of a retail offering that is the subject of properly filed and approved BellSouth tariff. Services offered by CLEC shall not be considered identical when CLEC utilizes its own switching or other substantive functionality or capability in combination with unbundled Network Elements in order to produce a service offering. For example, CLEC's provisioning of purely ancillary functions or capabilities, such as Operator Services, Caller ID, Call Waiting, etc., in combination with unbundled Network Elements shall not constitute a "substantive functionality or capability" for purposes of determining whether CLEC is providing "services identical to BellSouth's retail offering."

2. Unbundled Service Combinations (USC)

10/13/97

- 2.1.1 Where BellSouth offers to Supra Telecommunications and Information Systems, Inc. , either through a negotiated arrangement or as a result of an effective Commission order, a combination of network elements priced as individual unbundled network elements, the following product combination will be made available. All other requests for unbundled element combinations will be evaluated via the Bona Fide Request Process, as set forth in Attachment 9.
- 2.1.2 2-Wire Analog Loop with 2-Wire Analog Port - Residence
- 2.1.3 2-Wire Analog Loop with 2-Wire Analog Port - Business
- 2.1.4 2-Wire Analog Loop with 2-Wire Analog Port - PBX
- 2.1.5 2-Wire Analog Loop with 2-Wire DID or 4-Wire DID
- 2.1.6 BellSouth will conform to the technical references contained in this Attachment 2 to the extent these requirements are implemented by equipment vendors and consistent with the software generic releases purchased and installed by BellSouth.
- 3. Unbundled Loops
 - 3.1.1 BellSouth agrees to offer access to unbundled loops pursuant to the following terms and conditions and at the rates set forth in Attachment 11.
 - 3.2 Definition
 - 3.2.1 The loop is the physical medium or functional path on which a subscriber's traffic is carried from the MDF, DSX, LGX or DCS in a central office or similar environment up to the termination at the NID at the customer's premise. Each unbundled loop will be provisioned with a NID.
 - 3.2.2 The provisioning of service to a customer will require cross-office cabling and cross-connections within the central office to connect the loop to a local switch or to other transmission equipment in co-located space. These cables and cross-connections are considered a separate element.
 - 3.2.3 BST will offer voice loops in two different service levels - Service Level One (SL1) and Service Level Two (SL2). SL1 loops will be non-designed, will not have test points, and will not come with any Order Coordination (OC) or Engineering Information/circuit make-up data (EI). Since SL1 loops do not come standard with OC, these loops will be activated on the due date in the same manner and time frames that BST normally activates POTS-type loops for its customers.

10/15/97

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition of Supra
Telecommunications and
Information Systems, Inc. to set
aside 2/3/98 order approving
resale, interconnection and
unbundling agreement with
BellSouth Telecommunications,
Inc., and to approve agreement
actually entered into by parties.

DOCKET NO. 981832-TP

In re: Petition of Supra
Telecommunications and
Information Systems, Inc. to
initiate investigation into
unfair practices of BellSouth
Telecommunications, Inc. in
negotiating agreements with
alternative local exchange
carriers (ALECs) and in filing
such agreements with the Florida
Public Service Commission.

DOCKET NO. 981833-TP
ORDER NO. PSC-99-1092-FOF-TP
ISSUED: June 1, 1999

The following Commissioners participated in the disposition of
this matter:

JOE GARCIA, Chairman
J. TERRY DEASON
SUSAN F. CLARK
JULIA L. JOHNSON
E. LEON JACOBS, JR.

ORDER DENYING MOTIONS TO DISMISS OR
IN THE ALTERNATIVE, TO STRIKE PETITIONS AS SHAM

BY THE COMMISSION:

These dockets were opened upon the filing of two petitions by
Supra Telecommunications and Information Systems, Inc. (Supra) to:
(1) set aside Order Number PSC-98-0206-FOF-TP, issued February 3,
1998, approving a resale, interconnection and unbundling agreement
with BellSouth Telecommunications, Inc. (BellSouth) and approve the
agreement actually entered into by the parties; and (2) initiate an
investigation into unfair practices of BellSouth in negotiating

RECEIVED

JUN 01 1999

VIA FAX - REG. RELATIONS
TALLAHASSEE, FL

HQ REGULATORY-ATLA
MIAMI LEGAL

FAX ☒ FED ☒ KR

ORDER NO. PSC-99-1092-FOF-TP
DOCKETS NOS. 981832-TP, 981833-TP
PAGE 2

agreements with alternative local exchange carriers (ALECs) and in filing such agreements with this Commission. On February 1, 1999, BellSouth filed Motions to Dismiss, Or in the Alternative, to Dismiss Petitions as Sham. On April 16, 1999, BellSouth filed Supplements to Motion to Dismiss Supra's Petition.

The facts, as alleged by Supra and not disputed by BellSouth, are that Supra executed the first agreement received from BellSouth in October of 1997. Thereafter, BellSouth informed Supra that this agreement was a draft and that a modified agreement with certain specified changes, such as the addition of Supra's name to the contract, would be prepared. This "final" agreement was executed by Supra. BellSouth then submitted an agreement to the Commission for approval and an order approving the agreement was issued on February 3, 1998. However, the agreement submitted to the Commission for approval was not the same as the one executed by Supra.

Supra alleges that the agreement submitted by BellSouth included amended attachments that Supra did not agree to and about which Supra was not informed. According to Supra, this substitution constitutes fraud or gross negligence on the part of BellSouth. It is BellSouth's position that the difference in the attachments was simply an error. However, if this is the case or if BellSouth is willing to make the correct substitutions, it is not clear why the parties have been unable to bring an amended agreement to the Commission for approval, nor is it clear why Supra is asking that the entire contract be replaced.

Supra's first petition, filed in Docket No. 981832-TP, seeks the following relief: (1) a hearing before the full Commission; (2) an investigation into BellSouth's contract practices; (3) a site visit to the Interconnection Department of BellSouth to determine which equipment was used to create the contracts in dispute; (4) a finding of fraud and gross negligence as well as violations of Section 251 and 252 of the Act by imposing unreasonable, discriminatory conditions and limitations on the provision of services; (5) to vacate the order approving the interconnection agreement with BellSouth; (6) to replace that agreement with the agreement filed by Supra with the complaint; (7) to inform other states of BellSouth's actions in entering into interconnection agreements; and (8) to reprimand BellSouth and impose monetary sanctions for failure to file the true interconnection, resale agreement.

Supra's other petition filed in Docket No. 981833-TP requests that this Commission conduct a hearing to fully investigate the change in the attachments to the agreement, what procedures are in place to prevent recurrence, and the extent this conduct and other

ORDER NO PSC-99-1092-FOF-TP
DOCKETS NOS. 981832-TP, 981833-TP
PAGE 3

abuses have been perpetuated against Supra and other ALECs. Supra requests the following relief: (1) a finding that gross negligence or willful fraud occurred; (2) the establishing of procedures for investigating BellSouth's contracting practices; (3) informing other states of BellSouth's actions in entering into interconnection agreements; (4) if fraud is proven, referral to Attorney General's Office for antitrust investigation; and (5) reprimand of BellSouth and imposition of monetary sanctions.

We believe that Supra's pleadings do not state causes of action on which this Commission may grant relief. In the pleading filed in Docket No. 981832-TP, Supra requests a full Commission hearing and an investigation, including a site visit with Supra to the "Interconnection Department of BellSouth." The purpose of the requested proceedings are to prevent agreements from being altered in the future and determining which computer was used to alter the agreement. The ultimate determination sought by Supra is a finding that BellSouth committed gross negligence or willful fraud when it substituted the attachments to Supra's agreement. We believe that we have the authority to set a matter for hearing and to fully investigate matters if they are within the Commission's jurisdiction. However, matters of contract fraud and gross negligence in contracts are matters for the courts, not this Commission. Our role in approving contracts between local exchange companies (LECs) and alternative local exchange companies (ALECS) is limited to matters related to the provision of competitive services, such as terms and conditions of interconnection and resale. The Commission has consistently declined to rule on more general contract matters, such as the content of a liability clause or the imposition of damages. See, Docket No. 960757-TP - Petition by Metropolitan Fiber Systems of Florida, Inc. for arbitration with BellSouth Telecommunications, Inc. concerning interconnection rates, terms, and conditions, pursuant to the Federal Telecommunications Act of 1996; Docket No. 960847-TP - Petition by AT&T Communications of the Southern States, Inc. for arbitration of certain terms and conditions of a proposed agreement with GTE Florida Incorporated concerning interconnection and resale under the Telecommunications Act of 1996; and Docket No. 960980-TP - Petition by MCI Telecommunications Corporation and MCI Metro Access Transmission Services, Inc. for arbitration of certain terms and conditions of a proposed agreement with GTE Florida Incorporated concerning resale and interconnection under the Telecommunications Act of 1996. Accordingly, we decline to act on that portion of Supra's petitions that seeks a finding of fraud or gross negligence.

Supra also requests that Order No. PSC-98-0206-FOF-TP, issued February 3, 1998, be vacated. The above-cited order is the order approving BellSouth and Supra's agreement for resale,

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DOCKETS NOS. 981832-TP, 981833-TP
PAGE 4

interconnection and unbundling. While the Commission may have such authority, absolutely nothing in the pleading explains why it would be appropriate to vacate the entire agreement. Supra also asks us to approve the agreement that it filed with the petition. Clearly, the Commission has the authority to approve or not approve the agreement. However, BellSouth states that the parties may have a disagreement as to the meaning of part of the agreement that was substituted. We believe that the parties should conclude their discussions and negotiations concerning the substitution of the attachments to the agreement and if they cannot reach an agreement on the terms to be amended to reflect the correct agreement, they may bring their dispute to the Commission for arbitration. We do not believe that vacating the previous order is appropriate.

Included in the relief sought in the first pleading (Docket No. 981832-TP) is Supra's request that this Commission contact all of the states in which BellSouth operates and inform them of BellSouth's conduct. The Commission can do this, but so can Supra. In fact, Supra filed the same complaints with the Georgia Commission. See, Georgia Public Service Commission Order issued March 16, 1999, in Dockets Nos. 8338-U and 10331-U. We believe that Supra is perfectly capable of bringing these issues to the attention of the other states, if it has not already done so.

Finally, Supra requests the imposition of a fine for BellSouth's violation of Section 364.07, Florida Statutes, by failing to file the true or correct agreement. The subject contract is a resale, interconnection and unbundling agreement entered into under Section 251 of the Act, not an "intrastate interexchange service contract" subject to the provisions of Section 364.07, Florida Statutes, as Supra argues. Thus, Supra's request that the Commission fine BellSouth for willful violation of Section 364.07, Florida Statutes, by failing to file the correct agreement, is not a request on which relief may be granted.

Based on the foregoing, we dismiss on our own motion the first petition, Petition of Supra to Set Aside 2/3/98 Order Approving Resale, Interconnection and Unbundling Agreement Between BellSouth Telecommunications and Supra Telecommunications; And to Approve Agreement Actually Entered Into By the Parties, for failure to state a cause of action on which relief may be granted. However, the parties are directed to bring a corrected agreement to the Commission at their earliest convenience and if the parties cannot agree on the corrections, the dispute as to those terms should be brought to this Commission for arbitration.

In the pleading in Docket No. 981833-TP, Supra seeks to have this Commission conduct a hearing and investigate Supra's allegation of gross negligence or fraud in contract actions with

ORDER NO. PSC-99-1092-FOF-TP
DOCKETS NOS 981832-TP, 981833-TP
PAGE 5

Supra and other ALECs. Similar to the first pleading, Supra requests a hearing and investigation, sanctions and notice to other states. In addition, if the Commission were to conclude that there was fraud, Supra requests that the matter be referred to the Attorney General's Office. As discussed above, the determination of fraud or gross negligence is a matter within the purview of the courts, not of this Commission. Further, we have had no indication from other ALECs that there is a problem with BellSouth's substituting attachments to contracts. This is so even though Supra sent a letter to 75 ALECs apprising them of this docket and encouraging them to check their agreements. Based on the foregoing and for the same reasons stated above in the discussion on Docket No. 981832-TP above, we also find it appropriate to dismiss this petition.

Further, because we dismiss Supra's pleadings on our own motion, BellSouth's Motions to Dismiss or in the Alternative, to Strike Supra's Petitions as Sham Pleadings, are moot.

CONCLUSION

Based on the foregoing, the Commission on its own motion hereby dismisses Supra's petitions without prejudice. We find that Supra has failed to file petitions on which the Commission may grant relief. The petitions shall be dismissed with leave for the parties to file a corrected copy of the agreement for approval, or a request for arbitration on the changed portions of the contract that remain in dispute.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that on our own motion, we dismiss the petitions filed by Supra Telecommunications and Information Systems, Inc., for failure to state a cause of action on which relief may be granted. It is further

ORDERED that the motions filed by BellSouth Telecommunications, Inc. are moot. It is further

ORDERED that these dockets shall remain open.

By ORDER of the Florida Public Service Commission this 1st day of June, 1999.

BLANCA S. BAYÓ, Director
Division of Records and Reporting

ORDER NO. PSC-99-1092-FOF-TP
DOCKETS NOS. 981832-TP, 981833-TP
PAGE 6

By: /s/ Kay Flynn
Kay Flynn, Chief
Bureau of Records

This is a facsimile copy. A signed
copy of the order may be obtained by
calling 1-850-413-6770.

(S E A L)

CB

ORDER NO. PSC-99-1092-FOF-TP
DOCKETS NOS. 981832-TP, 981833-TP
PAGE 7

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Any party adversely affected by the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or 2) judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or the First District Court of Appeal in the case of a water and/or wastewater utility by filing a notice of appeal with the Director, Division of Records and Reporting and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.

EFFECTIVE: JULY 1, 2000

4 - End User Access Service (Cont'd)

BellSouth Telecommunications, Inc
 FPSC Docket No. 001097-TP
 Exhibit PCF-8
 Page 1 of 1

(A) Minimum Period

(B) Cancellation of Application

(C) Changes to Orders

(D) Allowance for Interruptions

(E) Temporary Suspension of Service

4.6 Rate Regulations

(B) For each local exchange service provided as remote call forwarding residential service or remote call forwarding business service under the General Subscriber Service Tariffs, End User Access Service and Federal Universal Service charges do not apply. (C)
(C)

★ ★ ★ ★ ★

[Page 56]

TELECOMMUNICATION

CHAPTER I--FEDERAL COMMUNICATIONS COMMISSION--(CONTINUED)

PART 51--INTERCONNECTION--Table of Contents

Subpart G--Resale

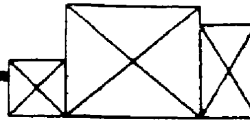
Sec. 51.617 Assessment of end user common line charge on resellers.

(a) Notwithstanding the provision in Sec. 69.104(a) of this chapter that the end user common line charge be assessed upon end users, an incumbent LEC shall assess this charge, and the charge for changing the designated primary interexchange carrier, upon requesting carriers that purchase telephone exchange service for resale. The specific end user common line charge to be assessed will depend upon the identity of the end user served by the requesting carrier.

(b) When an incumbent LEC provides telephone exchange service to a requesting carrier at wholesale rates for resale, the incumbent LEC shall continue to assess the interstate access charges provided in part 69 of this chapter, other than the end user common line charge, upon interexchange carriers that use the incumbent LEC's facilities to provide interstate or international telecommunications services to the interexchange carriers' subscribers.

Legal & Regulatory
Telephone: (305) 443-3710
Fax: (305) 441-9318
2620 S. W. 27th Avenue
Miami, FL 33133
www.stis.com

Retyped for Electronic Transmission



Telecom

Supra

March 11, 2000

Shirley Flemming
BellSouth Network & Carrier Services
600 North 19th Street
Birmingham, AL 35203

RE: Billing Dispute – BST Tracking Number 20934 - \$306,559.94

Ms. Flemming:

This letter serves to document our discussions during a conference call held on February 23, 2000 between BellSouth and Supra Telecom. In attendance for the call were Mr. Kay Ramos and Ms. Carol Bentley of Supra Telecom and Ms. Karen Bates and Ms. Shirley Flemming of BellSouth.

Supra Telecom has defined the dispute in two categories: 1) FCC Access charges and 2) Charges for Processing Changes Services and Charges for Unauthorized Local Service Changes and Reconnections. BellSouth offered arguments against disputed items in four categories: 1) FCC Access Charges, 2) FCC LNP Charges, 3) Charges for Processing Changes in Service and 4) Charges for Unauthorized Local Service Changes and Reconnections. Any further discussion will refer to the disputed items in terms of the four categories offered by BellSouth, however, both items 1 and 2 may also be referred to as "End User Common Line Charges".

BellSouth offered as evidence against disputed items one and two, the FCC Tariff number one which refers to USOCs and tariffs for End User Common Line Charges. Supra Telecom counters this evidence with the odds of Federal Regulations (CFR) Title 47, Volume 3, part 51, section 51.617, paragraph b, which states:

When an incumbent LEC provides telephone exchange service to a requesting carrier at wholesale rates for resale, the incumbent LEC shall continue to assess the interstate access charges provided in part 69 of this chapter, other than the end user common line charge, upon interexchange carriers that use the incumbent LEC's facilities to provide interstate or international telecommunications services to the interexchange carriers; subscribers.

Since Supra Telecom is registered as an acting as an interexchange carrier, these charges are inappropriate. In this scenario, the FCC has characterized this type of charge as "double dipping". As such, Supra Telecom stands by disputed amounts categorized as "End User Common Line Charges".

BellSouth offered as evidence against disputed item number three, the General Subscriber Service Tariff sections A4.2 and A4.3. This tariff describes charges that apply to changes in end

user services such as adding or rearranging features or lines. Nowhere in this tariff, does it describe changing an end user's local exchange carrier as being a "change in service". As such, Supra Telecom stands by its dispute for amounts categorized as "Charges for Processing Changes in Service".

BellSouth offered as evidence against disputed item number four, the FCC Tariff Number One, Section 13.3.3, part c, paragraph 2, which states:

When an end user or location provider or its authorized agent denies requesting a change in IC subscription, as submitted by an IC, and the IC is unable to produce proof of verification, the IC will be assessed an unauthorized subscription change charge, as applicable, to correct the unauthorized change.

Clearly, this refers to unauthorized changes to end users' long distance carries. As such, Supra Telecom stands by its dispute for amounts categorized as "Charges for Unauthorized Local Service Changes and Reconnections".

Please provide approval for this dispute, totaling \$305,559.94. When approval is received, Supra Telecom will assess interest charges per our interconnection agreement at a rate of 1.5% per month, compounded daily. At that time Supra Telecom will provide BellSouth with instructions for remitting funds via wire transfer to our account.

Please don't hesitate to contact me, should you require additional information.

Sincerely,

Carol Bentley

Carol Bentley
CFO

Cc: Karen Bates - BellSouth

ERT#53/03140001.doc

March 30, 2000

Ms. Carol Bentley
Chief Financial Officer
Supra Telecom
2620 S. W. 27th Avenue
Miami, FL 33133

Dear Ms. Bentley:

This is in response to letters from Supra Telecommunications dated December 20, 1999, February 10, 2000, two letters dated March 11, 2000 and to your letter of March 22, 2000, regarding the same subjects. The subjects include: a billing dispute regarding charges for changes in service (for both authorized changes as well as the charges for unauthorized changes in service), end user common line charges and a request for an adjustment (to include interest) for taxes billed to Supra. It is BellSouth's understanding that Supra has based its disputes primarily on the rationale that if a service is not included in the BellSouth/Supra Interconnection Agreement, BellSouth is not authorized to charge for services that Supra orders from BellSouth's General Subscribers Services Tariff (GSST) and FCC Tariff No. 1. BellSouth has thoroughly investigated the disputes covered in these letters with the following findings.

First, BellSouth believes that it has appropriately charged Supra for services Supra ordered from BellSouth's GSST, Private Line and FCC tariffs. Supra's October 23, 1997 Interconnection Agreement clearly states, on Page 2 of Attachment 7, that "any switched access charges associated with interexchange carrier access to the resold local exchange lines will be billed by, and due to BellSouth." Furthermore, that Agreement states that "Pursuant to 47 CFR Section 51.617, BellSouth will bill Supra Telecommunications and Information Systems, Inc. end user common line charges identical to the end user common line charges BellSouth bills its end users." In addition, Section III of the June 1, 1997 Resale Agreement provides that Supra "may resell the tariffed local exchange and toll telecommunications services of BellSouth contained in the General Subscriber Services Tariff and Private Line Service Tariff subject to the terms, and conditions specifically set forth herein." Even after Supra signed its new contract (AT&T Adoption), which was effective October 5, 1999, the only services that Supra ordered were under the Resale provisions of the Agreement. These services are, and always have been, ordered from the GSST and/or Private Line Tariffs. It is illogical for Supra to order discounted services out of the GSST and Private Line tariffs and believe that the related terms and conditions of those tariffs do not apply, i.e., that Supra will get the services for free.

Furthermore, the Interconnection and Resale Agreement between Supra and BellSouth represent contracts governing local interconnection and resale of local services. It stands to reason that Interstate access and related services are not addressed in detail in a contract dedicated to local service, and are appropriately addressed by the FCC No. 1 Tariff.

The following addresses each individual dispute, together with BellSouth's position regarding the dispute:

1. Charges for processing changes in service and unauthorized local service changes/reconnections.

Supra disputed \$33,352.94 for changes in service Supra admits it authorized. A total of \$48,917.69 was disputed for unauthorized change charges where the end user stated that it had not placed a request with Supra to switch its local service to Supra. This charge covers the cost of switching the end user back to the original local service provider. This dispute thus totals \$82,272.25 and covers billing for these charges from September 2, 1997 through December 2, 1999.

BellSouth believes that these change charges have been appropriately billed to Supra; therefore the dispute is denied. The charges for unauthorized changes are valid unless Supra is able to provide BellSouth with a Letter of Authorization from the end user.

2. End User Common Line Charges (EUCL). The USOCs applicable to the EUCL issue are 9ZR, 9LM, 9LA, 9ZEPR, 9ZEPR, LNPCX AND LNPCP.

Supra disputed \$224,287.79 for EUCL charges authorized by Supra.

Again, BellSouth believes that it has appropriately billed Supra for these services; therefore the dispute is denied. These charges are found in FCC Tariff No. 1, references 13.3.21 and 4.7.C & D. As requested, BellSouth has reviewed the code of Federal Regulations (CFR) Title 47, Volume 3, part 51, section 51.617, paragraph b and we agree that Supra Telecom is registered as an interexchange carrier; however, in this instance Supra Telecom is acting as a local service provider in the resale of local service, and therefore, the EUCL charges are appropriately billed. This dispute covers billing for these charges from September 2, 1997 through December 2, 1999.

3. Taxes

Supra disputed \$61,866.05 for taxes billed plus interest in the amount of \$33,080.01 for a total dispute in the amount of \$94,946.06. BellSouth applied tax credits, including interest credits to the following March 2, 2000 BANs:

306-Q82-2670	\$61,505.36
561-Q82-2670	1,242.75
904-Q82-2670	45.94
Total Adjustment	\$62,794.05

Supra's Interconnection Agreement in effect at the time Supra was billed taxes (September 1997 through February 1998) does not address interest payment by either of the parties. As acknowledged in your March 11, 2000 letter to Karen Bates, BellSouth credited Supra's March 2, 2000 accounts with \$928.00 interest credit. While BellSouth does not believe that it owes the additional interest credit requested by Supra, in order to resolve this issue, BellSouth is willing to credit Supra's April 2, 2000 accounts with the additional sum of \$32,152.01.

Finally, Supra is correct that the Interconnection Agreement between BellSouth and Supra does not permit BellSouth to refuse Supra's orders for non-payment of undisputed charges. BellSouth apologizes for this misunderstanding in its February 10, 2000 letter. BellSouth's records indicate that as of the date of this letter, Supra's outstanding balance due and payable is \$66,911.39. BellSouth would appreciate an immediate payment to clear this balance.

If you have additional questions, please contact me at 205-714-0010.

Very truly yours,

Lynn A. Smith
Operations Assistant Vice President



Retyped for electronic transmission



From the Desk of:
Carol Bentley
Chief Financial Officer
Direct Line: (305) 476-4284
Email: www.cbentley@stis.com

April 10, 2000

Pat Finlen
Room 34S92 BellSouth Center
675 West Peachtree Street, N.E.
Atlanta, GA 30375

Sent via FAX: 404-529-7839

Dear Mr. Finlen:

Supra Telecom has two outstanding billing disputes with BellSouth. The first dispute addresses taxes that were inappropriately billed. Supra Telecom followed the dispute resolution process outlined in our current interconnection agreement. BellSouth has approved this billing adjustment in the amount of \$61,866.05. BellSouth also approved an additional billing adjustment for interest incurred on the taxes in the amount of \$33,080.01. The total billing adjustment for this item is \$94,946.01. The interest was calculated through January 2, 2000. Since the funds have not been refunded to us yet, there is an additional interest charge for another three months.

The second billing adjustment request covers two areas, Other Charges and Credits, for \$82,272.25 and EUCL charges for \$224,287.79, for a total of \$306,559.94. Interest has not been calculated on this amount yet, but is estimated at about \$150,000.00.

In a letter from the office of BellSouth AVP Lynn Smith, dated March 30, 2000, our billing adjustment request is denied based on referrals to terms and conditions from a contract that is not in effect. The author of the letter does not dispute the material that we provided to substantiate our claim (in letter from Supra Telecom, dated March 11, 2000 addressed to Ms. Shirley Flemming, copy attached). The author summarily dismisses our claim on the basis of a contract that does not apply.

It would seem at this point, Supra Telecom and BellSouth need only agree upon which contract applies to our business relationship. Clearly, since we have adopted the AT&T Agreement, that is the relevant agreement.

Pat, as our BellSouth Lead Contract Negotiator, I need for you to resolve this matter immediately. As of this date, BellSouth is owing Supra Telecom in excess of \$550,000.00, of which \$94,946.06 has been approved. Supra Telecom hereby demands that the portion of the billing dispute that has been approved be immediately transferred via wire transfer

Corporate Headquarters: 2620 SW 27th Ave. ■ Miami FL. ■ (305) 476-4284 ■
Executive Office Fax: (305) 443-1078 ■ www.stis.com

• Page 2

April 10, 2000

to our account. Supra Telecom further demands that the remaining claim be resolved and refunded no later than Monday, April 17, 2000.

Sincerely,
Carol Bentley
Carol Bentley

cc: Claude Morton, BellSouth
Lynn Smith, BellSouth
Shirley Flemming, BellSouth
Olukayode A. Ramos, Supra Telecom
Mark E. Buechele, General Counsel for Supra Telecom

Attachments

ERT#53 04110002 doc



BellSouth Interconnection Services

April 28, 2000

Ms. Carol Bentley
Chief Financial Officer
Supra Telecom and Information Systems, Inc.
2620 SW 27th Avenue
Miami, Florida 33133-3005

Dear Ms. Bentley:

This is in response to your April 10, 2000 letter concerning two billing disputes between our companies. You asked which contract should apply for our business relationship. The AT&T/BellSouth Interconnection Agreement, which Supra Telecom and Information Systems, Inc. (Supra) adopted October 5, 1999, is the contract that is in effect today. However, because your billing disputes are for the time period of September 1997 through and including December 1999, your former agreements are appropriate for addressing these billing disputes until the effective date that Supra adopted the AT&T Interconnection Agreement. The effective dates of the former agreements are June 1, 1997 through October 5, 1999 for your Resale Agreement and October 23, 1997 through October 5, 1999 for your Interconnection Agreement. On October 5, 1999 these agreements were replaced with your current Adoption Agreement. Therefore, the Resale Agreement and the original Interconnection Agreement shall apply to all billing in dispute that occurred between June 1, 1997 and October 4, 1999 and the Adopted AT&T Interconnection Agreement shall apply to all billing in dispute that occurred between October 5, 1999 and the present.

The first billing dispute regards taxes that were billed to Supra for services it purchased from BellSouth. As stated in Mr. Morton's letter of March 30, 2000, Supra has been credited \$61,866.05 on its March 2, 2000 billing from BellSouth. Supra was also given an additional adjustment to its April 2, 2000 billing for the amount of \$33,080.01, which was interest on the alleged incorrect billing of taxes. Your demand that BellSouth wire these monies to Supra after BellSouth has made billing adjustments to your accounts is inappropriate since the adjustment in the form of credits have already been applied. While BellSouth does not believe that it owes the additional interest credit requested by Supra, in order to resolve this issue, BellSouth is willing to credit Supra's May 2, 2000 accounts with the additional sum of \$928.00.

The second billing dispute covers two areas; billing of the End User Common Line Charge (EUCL) to Supra, and the billing of "Other Charges and Credits" (OCC) for resold services. The amount claimed by Supra as inappropriate billing is \$224,287.79 for the EUCL portion of the dispute and \$82,272.25 the OCC segment, which totals \$306,559.94. In addition to these monies you also claim that BellSouth owes Supra interest on this amount, which you estimate at about \$150,000.

As BellSouth has advised Supra on numerous occasions, the billing of the EUCL is appropriate. You are simply incorrect in asserting that because Supra also acts "as an interexchange carrier", that "these charges are inappropriate." Even though Supra may be acting as an interexchange carrier, Supra is providing local exchange service as an Alternative Local Exchange Carrier (ALEC) by reselling BellSouth's retail telecommunications services. As a local reseller, Supra is responsible for the payment of the EUCL charge to BellSouth. Section 4.6(A) of the BellSouth FCC Tariff No. 1 is very clear that resellers are responsible for payment of the EUCL. This section states:

End User Access Service charges, as set forth in 4.7, following, will be billed to the end user subscriber of the associated local exchange service, including, where applicable, a reseller of the associated local exchange service, in which case the reseller shall be deemed an end user for purposes of application of such charges. Presubscribed Interexchange Carrier Charges (PICCs) may also apply as described in Section 3. [Emphasis added]

Further, FCC rules require that resellers pay EUCL to the incumbent LEC (see C. F. R. Section 51.617(a)).

The next portion of your second billing dispute involves OCC that BellSouth has billed to Supra. These OC&C charges of \$33,352.94 are for changes in service that Supra has admitted it authorized, and \$49,917.69 billed to Supra for unauthorized change charges where end users have stated they were switched to Supra without their permission. BellSouth properly billed Supra this charge in order to recover its cost of switching the end user back to their appropriate local service provider.

BellSouth has thoroughly investigated these billing disputes and has found that Supra was appropriately billed. Therefore, these billing disputes are denied.

Carol, it has come to my attention that Supra is delinquent in the amount of \$101,386.45 for its Resale accounts. If payment of this amount is not received by May 15, 2000, BellSouth will no longer accept orders from Supra for additional services. If full payment, in available funds, of your regulated charges is not received by May 25, 2000, your end-users' services will be interrupted.

WARNING:

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Initiation of Show Cause Proceedings against Supra Telecommunications & Information Systems for violation of Rule 24-4.043, Florida Administrative Code, Response to Commission Staff Inquiries, and violation of Rule 24-24.820, Revocation of a Certificate. DOCKET NO. 971527-TX
ORDER NO. PSC-98-0279-PCO-TX
ISSUED: February 12, 1998

The following Commissioners participated in the disposition of this matter:

JULIA L. JOHNSON, Chairman
J. TERRY DEASON
SUSAN F. CLARK
JOE GARCIA
E. LEON JACOBS, JR.

ORDER TO SHOW CAUSE

BY THE COMMISSION:
BACKGROUND

Supra Telecommunications and Information Systems (Supra) was granted Alternative Local Exchange Certificate No. 4861 on June 21, 1997. On September 3, 1997, the Commission staff received two complaints alleging unauthorized switching of local telephone service. By October 21, 1997, there were 63 similar complaints. The complaints primarily involved unauthorized switching of local telephone services and misleading solicitation practices. As of January 8, 1998, the Commission reported 201 complaints relating to unauthorized switching by Supra. Additionally, Supra had failed to respond to Commission staff inquiries regarding the complaints.

Supra representatives met with staff and tendered a settlement proposal. Although, we are not approving the settlement proposal, we believe that Supra is ORDER NO. PSC-98-0279-PCO-TX DOCKET NO. 971527-TX PAGE 2 committed to resolving this matter based on its representations to our staff and to us at the January 20, 1998, Agenda Conference. At this time, however, Supra has not adequately resolved all outstanding customer complaints or provided sufficient responses to the Commission

regarding those complaints. We will, therefore, issue our show cause order at this time, with the understanding that we fully expect Supra to work with our staff to resolve all outstanding matters, including its solicitation practices.

SHOW CAUSE

Rule 25-4.043, *Florida Administrative Code*, Response to Commission Staff Inquiries, requires that, The necessary replies to inquiries propounded by the Commission's staff concerning service or other complaints received by the Commission shall be furnished in writing within fifteen (15) days from the date of the Commission inquiry. Supra either has failed to respond to or has responded in an untimely manner to numerous staff inquiries. Thus, we find that it appears that Supra has violated Rule 25-4.043, *Florida Administrative Code*.

Rule 25-24.820 (1)(a), *Florida Administrative Code*, provides for the revocation of a certificate for violation of the terms and conditions upon which the certificate was originally granted. Supra asserted in its application for certification that it possessed adequate managerial expertise to operate as an alternative local exchange carrier (ALEC.) We believe that the great number of complaints for alleged slamming and misleading solicitation violations received by this agency in a very short period of time constitutes evidence of an apparent lack of managerial capability to provide satisfactory ALEC service in Florida, an apparent violation of Rule 25-24.820(1)(a), *Florida Administrative Code*.

By Section 364.285, *Florida Statutes*, we are authorized to impose upon any entity subject to our jurisdiction a penalty of not more than \$25,000 for each day a violation continues, if such entity is found to have refused to comply with or to have willfully violated any lawful Commission rule or order, or any provision of Chapter 364, *Florida Statutes*. Utilities are charged with knowledge of our rules and statutes. Additionally, [i]t is a common maxim, familiar to all minds, that ignorance of the law will not excuse any person, either civilly or criminally. *Barlow v. United States*, 32 U.S. 404, 411 (1833). In Order No. 24306, issued April 1, 1991, in Docket No. 890216-TL, having found that the company had not intended to violate the rule, we nevertheless found it appropriate to order it to show cause why it should not be fined, stating that, In our view, willful implies intent to do an act, and this is distinct from intent to violate a rule.

We find that Supra's apparent conduct in unauthorized switching of local telecommunications services and failing to timely respond to staff inquiries has been willful in the sense intended by Section 364.285, ORDER NO. PSC-98-0279-PCO-TX DOCKET NO. 971527-TX PAGE 3 *Florida Statutes*, and thus, that conduct rises to a level warranting that a show cause order be issued. Therefore, we order Supra to show cause in writing within 20 days of the issuance of this Order why it should not be fined in the amount of \$55,500 for apparent violation of Rule 25-4.043, *Florida Administrative Code*, and \$402,000 for apparent violation of Rule 25-24.820(1)(a), *Florida Administrative Code*. Pursuant to Section 364.285, *Florida Statutes*, any payment of fines shall be forwarded to the Office of the Comptroller for deposit in the State General Revenue Fund.

Based on the foregoing, it is, therefore,

ORDERED by the Florida Public Service Commission that Supra Telecommunications & Information Systems shall show cause, in writing, within 20 days of the issuance of this Order why it should not be fined \$55,500 for apparent violation of Rule 25-4.043, *Florida Administrative Code*, and \$402,000 for apparent violation of Rule 25-24.820(1)(a), *Florida Administrative Code*, or have its Certificate No. 4861 cancelled. It is further

ORDERED that any response to the Order to Show Cause filed by Supra Telecommunications & Information Systems shall contain specific allegations of fact and law. It is further

ORDERED that any response to the Order to Show Cause shall be filed with the Director of the Division of Records and Reporting within 20 days of issuance of this Order. It is further

ORDERED that upon receipt of Supra Telecommunications & Information Systems response to the

Order to Show Cause, and upon its request for a hearing, further proceedings will be scheduled by the Commission, at which time Supra Telecommunications & Information Systems will have an opportunity to contest the allegations in the body of this Order. It is further

ORDER NO. PSC-98-0279-PCO-TX DOCKET NO. 971527-TX PAGE 4 ORDERED that if Supra Telecommunications & Information Systems fails to file a timely response to the Order to Show Cause, such failure shall constitute an admission of the facts alleged in the body of this Order and a waiver of any right to a hearing. It is further

ORDERED that if Supra Telecommunications & Information Systems fails to respond to this Order within 20 days of its issuance date, the fine shall be deemed assessed. It is further

ORDERED that the Commission shall forward any fine payment received to the Office of the Comptroller for deposit in the Florida General Revenue Fund, pursuant to Section 364.295, Florida Statutes. It is further

ORDERED that if Supra Telecommunications & Information Systems fails to respond to this Order and does not pay the fine within (5) business days after the expiration of the show cause response period, its certificate shall be cancelled. It is further

ORDERED that in the event Supra Telecommunications & Information Systems certificate is cancelled, all certificated local exchange companies shall discontinue providing local exchange telecommunications service to Supra Telecommunications & Information Systems for resale. It is further

ORDERED that this docket shall remain open.

By ORDER of the Florida Public Service Commission this 12th day of February, 1998.

/s/ Blanca S. Bayó
BLANCA S. BAYÓ, Director

Division of Records and Reporting

This is a facsimile copy. A signed copy of the order may be obtained by calling 1-850-413-6770.

(S E A L)

JRB

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

ORDER NO. PSC-98-0279-PCO-TX DOCKET NO. 971527-TX PAGE 5 The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

This order is preliminary, procedural or intermediate in nature. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, as provided by Rule 25-22.037(1), Florida Administrative Code, in the form provided by Rule 25-22.036(7)(a) and (f), Florida Administrative Code. This petition must be received by the Director, Division of Records

ISSUED July 12, 1999

BY Joseph P. Lacher, President - FL
Miami, Florida

EFFECTIVE July 27, 1999

BellSouth Telecommunications, Inc.
FPSC Docket No. 001097-TP
Exhibit PCF-15
Page 1 of 2

A4. SERVICE CHARGES

A4.1 Definitions

SERVICE CHARGE

Service Charge is a nonrecurring charge or charges applying to the ordering, installing, moving, changing, rearranging or furnishing of telecommunication services or facilities. Service Charges are categorized as:

- Line Connection Charge
- Line Change Charge
- Secondary Service Charge
- Premises Work Charge

Line Connection Charge (First Line and/or Additional Line) applies for establishing an exchange access line or trunk. The charge includes service ordering, central office work, exchange access line work and a standard voice miniature six position network interface.

Line Change Charge (First Line and/or Additional Line) applies per line to miscellaneous customer requested changes on existing service for, but not limited to, number change and suspend/restore.

Secondary Service Charge applies per customer request for the receiving, recording, and processing of customer requests to change services or add new or additional services.

Premises Work Charge is a nonrecurring charge based on the labor time and miscellaneous materials required to rearrange the drop wire, protector and/or network interface.

CUSTOMER REQUEST

The term "per customer request" as used in this section shall be defined as a customer request for service that is ordered at the same time to be provided on the same date, the same premises, the same system, and the same account.

NETWORK INTERFACE

The network interface is a FCC approved standard registration program jack which is used at the demarcation point as a means of connection between the telecommunications network and the customer's inside wire and/or equipment.

DEMARCATON POINT

The point of demarcation and/or interconnection between Company communications facilities and the customer's terminal equipment, protective apparatus or wiring at a subscriber's premises. Company-installed facilities at, or constituting, the demarcation point shall consist of wire or a jack conforming to Subpart F of Part 68 of the Federal Communications Commission's rules.

A4.2 Application of Charges

A4.2.1 General

A. Except as provided hereinafter, the following are subject to service charges:

1. All classes of Basic Exchange Service
2. ESSX-1 Service
3. ESSX[®] service/Digital ESSX[®] service/MultiServ[®] service/MultiServ[®] PLUS service/BellSouth[®] Centrex service
4. Centrex Service

Note 1: Premises is defined in Section A1. of this Tariff.

ISSUED July 12, 1999

BY Joseph P. Lacher, President - FL
Miami, Florida

EFFECTIVE July 27, 1999

A4. SERVICE CHARGES

BellSouth Telecommunications, Inc.
FPSC Docket No. 001097-TP
Exhibit PCF-15
Page 2 of 2

A4.2 Application of Charges (Cont'd)

A4.2.3 Line Change Charge Application (Cont'd)

D. The Line Change Charge applies: (Cont'd)

2. For each change of station number for Centrex-CO, ESSX[®] service, Digital ESSX[®] service, MultiServ[®] service, MultiServ[®] PLUS service, *and BellSouth[®] Centrex service* and for each change in the operation of a NAR for ESSX-I. This charge is applicable in addition to the appropriate charge for station number changes when a change of basic exchange telephone number is requested coincident with a change of station number.
3. For each line or trunk, or for each NAR on ESSX-I being restored after service is temporarily denied for nonpayment.
4. For each line or trunk, for each NAR on ESSX-I being temporarily suspended at the request of a customer.
5. For changing from loop start to ground start and vice versa and for changing from a line to a trunk and vice versa, for changes in direction, etc.
6. For changing from Foreign Central Office Service to home wire center and vice versa.

A4.2.4 Secondary Service Charge Application

A. The Secondary Service Charge will not apply if a Line Connection Charge or Line Change Charge is applicable.

B. The Secondary Service Charge applies for adding or rearranging:

1. Custom Calling Service
2. Prestige[®] Communications service
3. Grouping Service
4. RingMaster[®] service
5. TouchStar[®] service
6. Customized Code Restriction
7. Customer requested directory listing changes
8. Remote Call Forwarding
9. Other features or services for which the Line Connection Charge and Line Change Charge are not applicable.

C. The Secondary Service Charge applies for:

1. Transfers of responsibility.
2. Changing from residence to business service and vice versa. The business charge applies when changing to business and the residence charge applies when changing to residence. If the telephone number changes the Line Change Charge applies in lieu of the Secondary Service Charge.
3. Rearrangement of drop wire, protector, and/or network interface. Additionally, Premises Work Charges will apply.
4. Installing a Network Interface jack, at the customer's request, on existing service. Additionally, Premises Work Charges will apply.

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; and
petition for emergency relief.

DOCKET NO. 980119-TP
ORDER NO. PSC-98-1001-FOF-TP
ISSUED: July 22, 1998

The following Commissioners participated in the disposition of
this matter:

J. TERRY DEASON
JOE GARCIA
E. LEON JACOBS, JR.

APPEARANCES:

Suzanne Fannon Summerlin, Esquire, 1311-b Paul Russell
Road, #201, Tallahassee, Florida 32301.
On behalf of Supra Telecommunications & Information
Systems, Inc.

Nancy B. White, Esquire, 150 South Monroe Street, Suite
400, Tallahassee, Florida 32301.
On behalf of BellSouth Telecommunications, Inc.

Beth Keating, Esquire, and John Bowman, Esquire, 2540
Shumard Oak Boulevard, Tallahassee, Florida 32399-0850.
On behalf of Commission staff.

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ORDER NO. PSC-98-1001-FOF-TP
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the Interconnection Agreement states that BellSouth has every right to expect payment for services rendered to Supra in a timely manner. The agreement also indicates that the payment will be due by the next bill date and is payable in immediately available funds. The witness further asserted that the agreement states that if payment is not received by the bill day in the month after the original bill day, BellSouth may provide written notice to Supra that additional applications for service will be refused and that any pending orders for service will not be completed unless payment is received fifteen days after the date of the notice.

Witness Finlen argued that BellSouth has not acted inappropriately or anticompetitively in its billing of charges to Supra. Witness Finlen also contended that Supra has not adhered to the requirements of its agreement regarding payment. The witness stated that Supra has failed to pay its bill in a timely manner on several occasions, and has a history of paying late and with funds that are not immediately available. Witness Finlen also testified that on several occasions Supra failed to keep payment arrangements to which it had committed.

Supra's witness Ramos responded that Supra has paid its bills to BellSouth in a prompt manner and has complied with the payment arrangements made with BellSouth in a timely manner. Furthermore, Supra witness Ramos argued that Supra has never issued a check with insufficient funds. While witness Ramos contended that BellSouth has a right to call the bank to determine if funds are available, he argued that he believes the burden lies with the issuer of the check to ensure that it is not returned.

DETERMINATION

Based on the evidence, it is apparent that, on occasion, Supra did not pay its bills to BellSouth in accordance with its agreement. Section VII of Supra's agreement with BellSouth governs payment and billing arrangements. Therefore, we hereby order Supra to pay all of its bills pursuant to the terms and conditions in its Agreements with BellSouth.

As for Supra's request that we require BellSouth, with a Commission staff person's oversight, to investigate Supra's billing dispute, we do not find that an additional investigation into Supra's billing disputes is necessary. Based on the record, Supra was asked to provide a breakdown of the overcharges, but failed to provide evidence to substantiate the refund amount it requests. In view of the lack of support for Supra's requested refund, we shall not require BellSouth to refund Supra \$686,512.96.

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bills its customers in advance. Witness Finlen also stated that this would require BellSouth to modify its billing systems to accommodate an additional way to bill for the same service.

DETERMINATION

Upon consideration, we find that BellSouth has properly applied Sections A2.3.8A and A2.3.8B of its General Subscriber Services Tariff to Supra. As such, we shall not require BellSouth to modify its tariff, nor shall we require BellSouth to adjust its bills to Supra. Based upon the evidence, we do not find that the requested changes are warranted. [We note that the resale agreement between Supra and BellSouth specifically states that Supra may resell the tariffed local exchange services contained in BellSouth's tariff subject to the terms and conditions agreed upon in the resale agreement.]

V.

BILLING AND PAYMENTS

In this section, we discuss whether the way that BellSouth has actually billed Supra is appropriate and whether Supra has paid its bills to BellSouth in a timely manner.

Supra's witness Ramos asserted that Supra has continuously tried to operate responsibly in its relationship with BellSouth. Witness Ramos testified that Supra has, however, had billing disputes with BellSouth since Supra initiated operations. Witness Ramos asserted that when Supra disputed its bill, BellSouth informed Supra that it would not consider adjustments to the bill. Instead, asserted the witness, BellSouth told Supra it would have to seek relief from us.