### ATTACHMENT B

BellSouth Telecommunications, Inc. FPSC Docket No. 001305-TP Request for Confidential Classification Page 1 of 1 4/23/02

### REQUEST FOR CONFIDENTIAL CLASSIFICATION OF CONFIDENTIAL BELLSOUTH INFORMATION IN THE LETTER AND EXHIBITS I THROUGH IX OF SUPRA'S CHAIRMAN AND CEO, OLUKAYODE A. RAMOS FILED APRIL 1, 2002, IN FLORIDA DOCKET NO. 001305-TP

### **TWO REDACTED COPIES**

DOCUMENT NUMBER- EATE 04494 APR 23 8 FPSC-COMMISSION CLERK



1311 Executive Center Drive, Suite 200 Tallahassee, Fl 32301-5027



April 1, 2001

BAND DELIVERY DATE 4-1-02 TIME

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

### RE: Docket No. 001305-TP – Supra's Letter to Commissioner Michael A. Palecki

Dear Mrs. Bayo:

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Enclosed is the original and seven (7) copies of Supra Telecommunications and Information Systems, Inc.'s (Supra) Notice of Service of its Letter to Commissioner Palecki and exhibits in the above captioned docket.

A copy of this letter is enclosed. Please mark it to indicate that the original was filed and return it to me.

Sincerely,

Chaben

Brian Chaiken General Counsel

Scanned: Vicki Micheale Evelyn Kinda

DOCUMENT NUMPER PATE 04494 APR 23 8. FPSC-COMMISSION CLERK



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2620 S.W. 27th Avenue Miami, FL 33133

Olukayode A. Ramos Chairman & CEO Email: kayramos@stis.com Telephone: (305) 476-4220 Fax: (305) 476-4282

April 1, 2002

Commissioner Michael A Palecki Florida Public Service Commission 2540 Shumard Oak Boulevard Tallahassee, FL 332399

### Re: What Does Bell Owe Supra v. What Does Supra Owe Bell

Honorable Commissioner Palecki:

Supra feels compelled to write this letter, as it is troubled by some Commission e mails recieved on Friday, March 29, 2002 as part of Supra's public records request to the
FPSC. Of particlar concern are two e-mails dated Friday, March 1, 2002. The two e mails are attached to this letter as Exhibits I and II.

The first e-mail was exchanged between the Commission's General Counsel '7 (Harold McLean) and Legal Division Chief (Beth Keating), and was forwarded to you V and your assistant Katrina Tew. That e-mail begins by reciting a request from you for 9 information about how much does Supra owe BellSouth versus how much does 10 BellSouth owe Supra. It appears that the Commission wanted this information in 11 anticipation of the Tuesday, March 5, 2002 Agenda Conference in Docket No. 00-1305. 12 The first c-mail has a response from Beth Keating which appears to have been sent at 13 9:25 a.m. on March 1, 2002, stating as follows: 14

15 "The first one's easy -

16(This amount does not include17any amounts accrued since the commercial arbitration for service18provided by BellSouth to Supra)

- $\frac{2}{2}$  The second is somewhat less clear.
- 2.2.

24 <u>See Exhibit L</u>

The e-mail from Beth Keating to Harold McLean was then forwarded to you by Harold  $A_{4}$  McLean with the question: "Commissioner, is this what you are asking for?"

277The first e-mail apparently did not answer your question because at approximately27712:07 p.m. later that same day, Harold McLean sent another e-mail to your assistant335Katrina Tew which stated as follows:

- 30"Katrina, the answer is 'yes' -- \$4.2 million. Bell claims a much higher31amount due, however, 'between 50 and 70 million'. Lets talk this
- 32 afternoon."
  - <u>See</u> Exhibit II.

Commissioner Michael A Palecki Florida Public Service Commission 04/01/2002 Page 2 of 7

Apparently the second e-mail answered your question as Katrina Tew then responded back to Harold McLean by stating: "Sounds good. I'm here the rest of the day. Feel free to call or drop in whenever. Thanks again!"

Supra is troubled with the false information contained in the bolded portion of Ms. Keating's and Mr. McLean's emails. The commercial arbitration proceedings between the parties are to be confidential. In fact, BellSouth has vigorously litigated this matter in order to keep such confidential. Although Supra disputes the fact that the Awards themselves are confidential, Supra is shocked and upset to learn that Mr. McLean and Ms. Keating forwarded to you false results of the commercial arbitration proceedings between the parties that was provided to these individuals by BellSouth. Although Supra has submitted, under confidential cover, the arbitration award in Arbitrations I and II, in Docket No. 001305-TP (see Supra Exhibit OAR3), it has not submitted any other arbitration award to the Commission, nor is it aware that BellSouth has submitted such. Supra is extremely concerned that BellSouth has violated the parties' agreement, not to mention reversing its own legal argument regarding the confidentiality of the commercial arbitration stration steps are submitted to respond to set the record straight.

The questions and answers were obviously relevant and significant to the Commission's decision-making process on March 5th otherwise they would not have been important enough to discuss just prior to the Agenda conference. Moreover, an underlying theme of BellSouth during the evidentiary hearing in Docket 00-1305 was that Supra was withholding payment under the current agreement and that BellSouth was allegedly not being paid. In this regard I refer you to the comments of Chairman Jaber on September 27, 2001 during the evidentiary hearing in Docket No. 00-1305, wherein she stated as follows:

As a Commissioner, help me understand why I should be convinced that you are acting in —how is it that I'm convinced that you have an incentive to enter into negotiations for a follow-on agreement? It sounds like you're in a win-win situation. You're operating under an existing agreement that expired, but you can do that according to the Act, and you haven't paid BellSouth because you've got this billing dispute. What incentive do you have to negotiate a new agreement? See Hearing Transcript of September 26 and 27, 2001 at page 764, line 22 to page 765, line 5.

Accordingly, prior to the March 5th Agenda, the Commission was under the impression (albeit it a false impression), that Supra purportedly owes BellSouth \$4.2 million under an arbitration award and in total between \$50 and \$70 million.

Supra is troubled by the two e-mails for various reasons. First, the statements made therein were blanketly false. Second, the information referenced has never been made a part of the record in Docket No. 00-1305. Moreover, the only record of any amounts claimed due between BellSouth and Supra exists in Docket No. 00-1097 wherein Supra has claimed amounts in the range of over \$300,000. Supra is also troubled

Commissioner Michael A Palecki Florida Public Service Commission 04/01/2002

Page 3 of 7

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by the fact that BellSouth obviously provided substantive ex-parte information to the Commission Staff which is reflected in Harold McLean's statement that: "Bell claims a much higher amount due, however, 'between 50 and 70 million'."

BellSouth has no incentive to see Supra succeed and in fact has taken almost every step possible to put Supra out of business.

A result which would have obviously sent cheers in
the halls of BellSouth. Of course, most of the difference in the above billing has been
passed on to Florida consumers in the form of cheaper telephone service. Thus Supra's
refusal to be bullied by BellSouth's erroneous billing has only benefited Florida
consumers.

With the respect to the alleged "facts" set forth the two above reference e-mails (which apparently only reflect an ex-parte skewed view from BellSouth), the following is a more actual answer to the question you posed as to how much did Supra owe BellSouth on March 1, 2002. The true answer, are described in further detail below, is actually pothing.

First, on October 22, 2001, the Arbitration Tribunal issued its Final Award in consolidated arbitrations I and II.

In this regard I refer you to page 4 of the Final Award dated October 22, 2001, a copy of which is attached hereto as Exhibit III. After the issuance of this award,

Attached as Exhibit IV

BellSouth's Michael Twomey

attached Exhibit V.

Second, on February 4, 2002, the Tribunal issued an Order styled Interpretation of Award in Consolidated Arbitrations III and IV. A copy of which is attached as Exhibit VI.

2. See pages 2-3 of Exhibit VI.

Attached as Exhibit VII Twomey then: important to mention that if Mr. McLean and/or Ms. Keating had contacted both parties on March 1, 2002 instead of just BellSouth, they would have been provided with the

Commissioner Michael A Palecki Florida Public Service Commission 04/01/2002 Page 4 of 7 accurate information (or at least Supra's response to your inquiry). 1 Third, regarding BellSouth's bills for the period June 2001 to December 2001, on 2 pages 4-8 of Exhibit VI, the Tribunal ruled that: 3 45 6 7 ŕ Emphasis added. See page 8 of Exhibit VI. 5 10 1.1 11 17 13 14 It may be useful for the Commissioner to attend that hearing and/or 15 send a representative. I am confident that BellSouth will not object to the Commission's 16 attendance as it will go to support whatever monetary claims BellSouth has against 17 Supra. Attached as Exhibit IX is the Scheduling Order regarding the hearing. Supra will 18 forward to you any Award issued by the Tribunal pursuant to that hearing. 19 Fourth, as could be seen from first, second and third above, BellSouth has no 20 right to seek enforcement against Supra because Supra does not owe BellSouth any. 21 money. 22 23 1.2. 24 25 26 27 28 (a) 3.9 30 31 (b) 3233 BN 35 35 (c) 3.7 3¥ 35 (d` 40 4

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### Commissioner Michael A Palecki Florida Public Service Commission 04/01/2002

Page 6 of 7

- c. The similarity of Chairman Jaber's statement during the evidentiary hearing in Docket 001305-TP and Ms. Keating's and Mr. McLean's emails of March 1, 2002.
- d. If Ms. Keating and Mr. McLean contacted BellSouth to obtain information, why didn't they also contact Supra to verify whatever information was provided by BellSouth?
- e. How many of these false information are out there in the Commission, that are damaging to Supra and are favorable for BellSouth?
- f. Why did Ms. Keating and Mr. McLean (both attorneys) provide false information on the eve of the crucial vote on Staff Recommendation regarding Docket 001305-TP?

If it were a BellSouth employee that provided false information to Ms. Keating and Mr. McLean, Supra will like to know the names of such employees. If not BellSouth employee(s) that provided this information, then Supra is at a loss why Ms. Keating and Mr. McLean will provide this false information to Commissioner Palecki on the eve of the crucial vote on Staff Recommendation regarding Docket 001305-TP. In whatever way and/or means Ms. Keating and Mr. McLean came up with the false information they provided to Commissioner Palecki and his assistant. Supra has been prejudiced. Ms. Keating's and Mr. McLean's emails contain false information damaging to Supra. How many of such false information has been provided by the General Counsel – Mr. McLean and Legal Division Chief – Ms. Keating to aid Commissioners in deciding issues between Supra and BellSouth? Only Mr. McLean and Ms. Keating can answer this question as Supra is embarrassed, tired and frustrated.

There is still pending the issue of Ms. Kim Logue sending cross-examinations questions to BellSouth's Director of Regulatory Affairs – Ms. Nancy Sims that Chairman Jaber described as a "mistake or lack of judgment" (Supra does not agree) at the March 5, 2002 Agenda Conference. According to Chairman Jaber,

And I know that what Ms. Kim Logue did that I now can say definitely, because we have the affidavit from Ms. Sims, was completely inappropriate, and for that I want to publicly apologize to you. I want to apologize to you on behalf of this agency and on behalf of staff, because it was completely wrong to send crossexamination questions prior to the hearing.

Agenda Conference Transcript at page 41, lines 2-10

But, BellSouth, I want to send you a strong message too. It was inappropriate for you to receive the cross-examination questions, not just Supra's questions, but you should have returned BellSouth's questions too.

Agenda Conference Transcript at page 41, lines 11-15

But we've lived and we've learned, and those kinds of things will not happen anymore. It's for that reason we will have a rehearing in the complaint docket. Agenda Conference Transcript at page 41, lines 16-19

And the other place I think that we've let someone down, to some degree, I think

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Commissioner Michael A Palecki Florida Public Service Commission 04/01/2002 Page 7 of 7

> I've let staff down, or we've let staff down. Whatever Ms. Logue did, whatever she was thinking, I have to believe there was a lack of staff training, because it is wrong to send out cross-examination questions on the eve of the hearing. I have to believe she didn't realize it was wrong, so that's where we failed. But live and learn.

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#### Agenda Conference Transcript at page 42, lines 7-16

One person's mistake or lack of judgment should not reflect on the entire agency or the years of technical expertise that's here.

Agenda Conference Transcript at page 52, lines 18-20.

Are Mr. McLean's and Ms. Keating's emails (Exhibits I and II) who are both attorneys in charge of providing legal advice to Commissioners and the Commission staff, another "mistake or lack of judgment"? Is providing false information to a Commissioner and/or the Commission proper or improper? An honest mistake is one thing, but repeated material misrepresentations and bias is another. When will this Commission hold Commission Staff and BellSouth accountable?

We hope that the information we have provided herein will assist Commissioner Palecki with whatever prompted him to make the inquiry as well as to better understand the relationship between Supra and BellSouth. We have provided BellSouth a copy of this letter so they will have an opportunity to confirm and/or deny any portion of the information contained herein. If you have any questions or would like to view and/or review additional documents regarding BellSouth's bills to Supra or any other matter, please feel free to contact me at (305) 476-4220.

Respecti Olukavade A. Ramos Chairman and CEO

CC: Chairman Lila A. Jaber; Commissioners Braulio Baez, Terry Deason and Rudolph Bradley; Docket 001305-TP; General Counsel - Harold McLean; and Division Chief, Legal - Ms. Beth Keating (FPSC) State Attorney's Office Mr. Michael Twomey (BellSouth)

#### Michael A. Palecki

To: Beth Keating

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From: Harold McLean Friday, March 01, 2002 11:24 AM Sent: Katrina Tew; Michael A. Palecki To: Subject: FW: supra/bellsouth Commissioner, is this what you are asking for? -----Original Message-----From: Beth Keating Sent: Friday, March 01, 2002 9:25 AM To: Harold McLean Subject: RE: supra/bellsouth Sorry, for the delay. Tried to catch you vesterday before you left. The first one's easy - from the commercial arbitration, (This amount does not include any amounts accrued since the commercial arbitration for service provided by BellSouth to Supra) The second is somewhat less clear. Before she went home sick yesterday, Patty left me a note that indicated in the complaint docket Lee is confirming this again for me, because the note wasn't entirely clear and Beth S. said she thought the amount was more like \$256,000. I'll get back to you on this second number as soon as 12. I get confirmation from Lee. -----Original Message-----From: Harold McLean Sent: Friday, March 01, 2002 8:22 AM

Subject: supra/bellsouth

Hey, I need those numbers I asked you about yesterday -- the what does bell owe supra v. what does supra owe bell -- for Commissioner Palecki.

	EXHIBIT
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### Katrina Tew

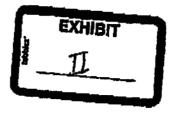
From:	Eatrina Taw
Sent	Friday, March 01, 2002 12:54 PM
To:	Harold MeLean
Subject	RE: Your question

Sounds good. I'm here the rest of the day. Feel free to call or drop in whenever. Thanks again:

-----Original Message-----From: Harold McLean Sent: Friday, March 01, 2002 12:07 PM To: Katrina Tew Subject: Your question

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Katrina, the answer is 'yes' -- \$4.2 million. Bell claims a much higher amount due, however, 'between 50 and 70 million'. Lets talk this afternoon.



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# FINAL AWARD OF THE TRIBUNALIN CONSOLIDATED ARBITRATIONS EXHIBIT III

## **ENTIRE DOCUMENT REDACTED**

Page 11-15



FROM: LOCATION: MTRANS, 8, BANK OF AMERICA/FLX TO: SUPRA TELECOMMUNICATIONS 6, INFORMATION SYSTEMS, INC. 2528 SW 27TH AVE OPERATING ACCOUNT 33133-3005 MIAMI, FL ATTN: RONKE SHOOBOLA DATE: 020228 :: From: Bank of America, Wire Transfer Services Wire Transfer Advice Date: 28-FEE-2002, Account:

> SUPRA TELECOMMUNICATIONS INFORMATION SYSTEMS, INC. 2520 SW 27TH AVE OPERATING ACCOUNT MIAMI, FL 33133-3005 Attn: RONKE SHOODOLA

Please contact us at 1-800-577-9473 (WIRE) if you have any questions about this wire transfer. Thank you for using Bank of America Wire Transfer Services.

This transaction was debited today in the amount of 

Our Ref: 028228005372

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Sending Bank:

External Ref:

Beneficiarys Bank;

Beneficiary: NNNN

IMAD=20020228L187039C008469

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SUPRA TELECOMMUNICATIONS INFORMATION SYSTEMS, INC. 2520 SW 27TH AVE OPERATING ACCOUNT MIAMI, FL 33133-3005 AMSOUTH BIRMINGHAM, AL BELLSOUTH

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82-27-62 10:23 04-01-02 12:23

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# **INTERPRETATION OF AWARD IN CONSOLIDATED ARBITRATIONS III AND IV**

## **EXHIBIT VI**

## **ENTIRE DOCUMENT REDACTED**

Page 17-28

**BankofAmerica** 

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	FROM: LOCATION: MTR	ANS, 0, BANK OF AMERICA	a/flx	
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6	INFORMATION	SYSTEMS, INC.		
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10	Please contact us at	1-800-577-9473 (WIRE)	if you have any questions about	t
10	this wire transfer.	Thank you for using B	ank of America Wire Transfer Serv	vices.
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16	Beneficiarys Bank:		AMSOUTH	
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RECEIVED FROM: RECEIVED FROM: +3054431078

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----Original Message-----From: Twomey Esq., Mike [mailto:Mike.Twomey@bellsouth.com] Sent: Thursday, February 28, 2002 1:18 PM To: 'Turner, Paul ' Subject: RE: Supra ſ We received the wire transfer this morning. 2 Mike 3 ----Original Message-----4 From: Turner, Paul ς To: 'Twomey Esq., Mike' Sent: 2/28/02 10:16 AM 6 Subject: RE: Supra -1 •2 Mike: i, Supra's records indicate that the wire transfer has been completed. . . . Please 1 . confirm. 1 1 Thanks. 13 Paul 15 ----Original Message-----1.2 From: Twomey Esq., Mike [mailto:Mike.Twomey@bellsouth.com] . . Sent: Monday, February 18, 2002 12:54 PM To: 'pturner@stis.com'; 'bchaiken@stis.com'; To: 'pturner@stis.com'; 'bchaiken@stis.com' 👋 Subject: Supra Wiring details: AMSOUTH Bank  $\gamma^{(\ell)}$ 1900 5th Avenue N " " FO Box 11007 2<sup>3</sup> Birmingham, AL 35288 Bank ABA 🖱 🐔 BellSouth Account # T. Michael Twomey Senior Regulatory Counsel BellSouth Corporation mike.twomey@bellsouth.com (email) EXHIBIT mtwomeyl@imcingular.com (ipage) 404.335.0750 (voice) VIII 404.614.4054 (fax) \*\*\*\*\*\*\*\*\*

"The information transmitted is intended only for the person or entity to which it is addressed and may contain confidential, proprietary, and/or privileged material. Any review, retransmission, dissemination or other use of, or taking of any action in reliance upon, this information by persons or entities other than the intended recipient is prohibited. If you received this in error, please contact the sender and delete the material from all computers."

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"The information transmitted is intended only for the person or entity to which it is addressed and may contain confidential, proprietary, and/or privileged material. Any review, retransmission, dissemination or other use of, or taking of any action in reliance upon, this information by persons or entities other than the intended recipient is prohibited. If you received this in error, please contact the sender and delete the material from all computers."

### BEFORE THE CPR INSTITUTE FOR DISPUTE RESOLUTION ARBITRAL TRIBUNAL

# SUPRA TELECOMMUNICATIONS & INFORMATION SYSTEMS, INC.,

Claimant,

V,

. . . .

Arbitrations III & IV

BELLSOUTH TELECOMMUNICATIONS, INC.,

Respondent.

### SCHEDULING ORDER ON DISPUTES CONCERNING BELLSOUTH'S INVOICES FOR THE PERIOD JUNE THROUGH DECEMBER 2001

### ARBITRAL TRIBUNAL

M. Scott Donahey John L. Estes Campbell Killefer



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1	Supra Telecommunications and Information Systems, Inc. ("Supra") has
(). ().	contended that the restated invoices submitted by BellSouth Telecommunications, Inc.
<u> </u>	("BellSouth") on February 28, 2002, to Supra are neither in the proper format nor provide
2.4	the necessary information required in the Unanimous Award of the Tribunal in
<u>م</u>	Consolidated Arbitrations III and IV, dated December 21, 2001 (the "Award"), as
6	clarified in the Interpretation of Award in Consolidated Arbitrations III and IV, dated
Ĩ	February 4, 2002 (the "Interpretation"). BellSouth concedes that it had not produced the
9	required usage data on the date ordered, but that it anticipated producing the required data
9	by March 15, 2002.
10	The Award provides in pertinent part:
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17 Award, , § VI, B, 2 at 23-24.

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Interpretation, § III, A, at 8.

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The Tribunal therefore orders that an in person hearing will be held at the Georgian Terrace Hotel, Atlanta, Georgia, beginning at 9:30 a.m., Tuesday, April 2, 2002, solely to deal with the issues of 1) whether BellSouth has produced the required access and usage data and 2) whether BellSouth has produced billing statements that comply with the Award. The Tribunal requests that BellSouth make arrangements for rooms for the arbitrators for the nights of April 1 and 2 and for a room in which to hold the hearing.

. . . . . .

The Tribunal is prepared to receive evidence at the hearing from both BellSouth and Supra in the form of oral testimony and of documentary evidence, so long as that documentary evidence has been produced to the other side as of the date of this order. BellSouth may reply only to the billing issues which have been raised by Supra, any such reply to be furnished no later than noon, E.S.T., March 28, 2002. Any exhibits should be premarked and exchanged by the parties no later than 5:00 p.m. E.S.T., March 28, 2002. BellSouth shall use exhibit numbers 1 - 200, and Supra shall use exhibit numbers 301-500. Evidence may be submitted on the following subjects only:

- 1. Are invoices submitted in CABS format?
- 2. What does CABS require as far as information disclosed in the bills?
- 3. Is BellSouth required to follow the Telcordia CBOS standards?
- 4. Does the contract Interconnection Agreement require BellSouth to follow the Telcordia CBOS standards? If so, in what sections of the Interconnection Agreement?
- 5. What do the Telcordia CBOS standards require?
- 6. Is BellSouth in compliance with such standards?
- 7. Has BellSouth billed Supra as a facilities-based provider using the appropriate UNE and UNE combination rates?
- 8. Has BellSouth provided Supra with the following usage data:
  - a. Completed Calls
  - b. Use of Feature Activations for Call Return, Repeat Dialing, and Usage Sensitive Three Way Calling

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- c. Rated Calls to Information Providers Reached Via BellSouth Facilities
- d. Calls to Directory Assistance Where BellSouth Provides Such Service to a Supra Customer
- e. Calls Completed Via BellSouth-Provided Operator Services Where BellSouth Provides Such Service to Supra's Local Service Customer originating from Supra's customer or billed to Supra

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- f. For BellSouth-Provided Centrex Service, Station Level Detail
- g. Records Shall Include Complete Call Detail and Complete Timing Information

Interconnection Agreement, Annex 7, §§ 3.1 and 3.2.

- 9. Has BellSouth provided Recorded Usage Data in the EMR format and by category, group, and record type as specified in Appendix II of Annex 7?
- 10. Has BellSouth provided the Working Telephone Number of the call originator on each EMR call?
- 11. Are end user customer usage records and station level detail records in packs in accordance with EMR standards?

Interconnection Agreement, Annex 7, §§ 4.1-4.3.

- 12. Has BellSouth furnished switched access usage data, including interstate and intrastate access service data?
- 13. Has BellSouth furnished data covering local exchange service?
- 14. Has BellSouth furnished data covering long distance service?
- 15. Has BellSouth provided switched access usage data necessary for Supra to bill Interexchange carriers?

FPSC Order No. PSC-98-0810-FOF-TP.

It is so ordered.

DATED: March 21, 2002

Mr. Scott Donahey For the Unanimous Tribunal

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