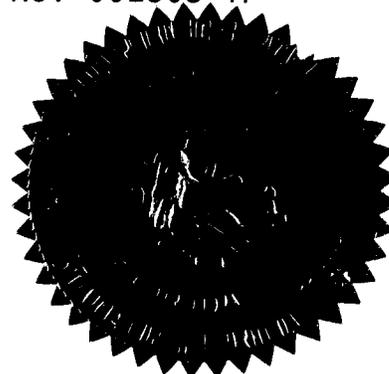


BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 001305-TP

In the Matter of

PETITION BY BELLSOUTH
TELECOMMUNICATIONS, INC. FOR
ARBITRATION OF CERTAIN ISSUES IN
INTERCONNECTION AGREEMENT WITH
SUPRA TELECOMMUNICATIONS AND
INFORMATION SYSTEMS, INC.



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VOLUME 7

Pages 945 through 1086

PROCEEDINGS: HEARING

BEFORE: COMMISSIONER LILA A. JABER
COMMISSIONER BRAULIO L. BAEZ
COMMISSIONER MICHAEL A. PALECKI

DATE: Thursday, September 27, 2001

TIME: Commenced at 9:30 a.m.

PLACE: Betty Easley Conference Center
Room 148
4075 Esplanade Way
Tallahassee, Florida

REPORTED BY: TRICIA DeMARTE
Official FPSC Reporter
(850) 413-6736

APPEARANCES: (As heretofore noted.)

DOCUMENT NUMBER-DATE

FLORIDA PUBLIC SERVICE COMMISSION

12597 OCT-4 01

FPSC-COMMISSION CLERK

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P R O C E E D I N G S

(Transcript follows in sequence from Volume 6.)

DAVID A. NILSON

continues his testimony under oath from Volume 6:

CONTINUED DIRECT EXAMINATION

BY MR. MEDACIER:

Q Mr. Nilson, did you file rebuttal testimony in this case?

A I did.

Q Do you have any corrections to make at this time?

A I do not.

Q Did you file exhibits to your rebuttal testimony?

A No, I did not.

MR. MEDACIER: Supra is moving Mr. Nilson's rebuttal testimony into evidence.

COMMISSIONER JABER: Prefiled rebuttal testimony of Mr. Nilson shall be inserted into the record as though read.

1 SUPRA TELECOMMUNICATIONS & INFORMATION SYSTEMS, INC.

2 REBUTTAL TESTIMONY OF DAVID A. NILSON

3 BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

4 DOCKET 00-1305

5 AUGUST 15, 2001

6

7 **Q PLEASE STATE YOUR NAME AND ADDRESS**

8 A. My name is David A. Nilson. My address is 2620 SW 27th Avenue,
9 Miami, Florida 33133.

10

11 **Q BY WHOM ARE YOU EMPLOYED AND IN WHAT CAPACITY?**

12 A. I am the Chief Technology Officer of Supra Telecommunications and
13 Information Systems, Inc. ("Supra").

14

15 **Q ARE YOU THE SAME DAVID A. NILSON WHO FILED DIRECT**
16 **TESTIMONY IN THIS DOCKET?**

17 I am.

18

19 **Q WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

20 A. The purpose of my testimony is to address the issues identified in this
21 proceeding. My testimony is filed in rebuttal to direct testimony filed in this
22 proceeding by Mr. John Ruscilli, Mr. Jerry Kephart and Mr. Jerry Hendrix of
23 BellSouth Telecommunications, Inc.

1 Specifically, I will rebut BellSouth's direct testimony in regard to issues 7, 8, 10,
2 12, 13, 14, 19, 21, 22, 23, 24, 25, 27, 28, 29, 31, 32, 33, 34, 40, 49, and 53.

3 **Issue A. Has BellSouth or Supra violated the requirement to Commission**
4 **Order PSC-01-1180-FOF-TI to negotiate in good faith pursuant to Section**
5 **252(b)(5) of the Act? If so, should BellSouth or Supra be fined \$25,000 for**
6 **each violation of Commission Order PSC-01-1180-FOF-TI, for each day of**
7 **the period May 29, 2001 through June 6, 2001?**

8

9 **Q DO YOU HAVE ANY GENERAL COMMENTS ON THE ISSUE OF**
10 **BELLSOUTH'S BAD FAITH?**

11 A. Although Supra's CEO Olukayode Ramos has addressed this issue at
12 length, I feel compelled to also mention a few things. BellSouth's bad faith is
13 evident from the direct testimony filed by their witnesses. Whenever costs for a
14 given service or feature are uncertain, for example in collocation space
15 preparation for items priced on an Individual case Basis ("ICB"), new network
16 elements or combinations, etc., BellSouth insists on an interim rate and a
17 retroactive "true-up". Repeatedly in their testimony, and negotiations, BellSouth
18 seeks to preserve this protection for itself, while denying it to Supra.

19

20 **Q HOW DOES BELLSOUTH'S PROPOSALS NEGATIVELY AFFECT**
21 **SUPRA?**

22 A. In numerous cases, BellSouth witnesses seek to deny Supra this same
23 protection that they insist upon for themselves. Over and over BellSouth "offers"

1 to defer certain contract issues to future FPSC orders without either adopting any
2 interim rate, or making allowance for true-up if the final FPSC order differs from
3 the interim rate. In effect, BellSouth seeks to deny Supra its legitimate revenue in
4 its entirety at best, or until some future date at least. Either way, Supra is
5 deprived of important working capital. Furthermore, BellSouth has established a
6 solid record¹ of making use of its "legal right" to seek both regulatory and legal
7 appeals that serve to further extend the implementation date of any order that goes
8 against it.

9 Supra must be afforded the same protections that BellSouth seeks for
10 itself. Rates that are implemented on day one of the Agreement, not a dangling
11 promise of a solution in the distant future, after exhausting all possible regulatory
12 and judicial appeals, followed by an enforcement action. In those cases where a
13 permanent rate cannot be set at this time, an interim rate subject to true-up should
14 be provided to Supra.

15

16

17 **Issues 7 & 8: Should Supra be required to pay the end user line charges**
18 **requested by BellSouth?**

19 **Q IN HIS DIRECT TESTIMONY, MR. RUSCILLI ARRIVES AT THE**
20 **CONCLUSION THAT SUPRA SHOULD PAY END USER LINE**

¹ FPSC Dockets 98-0119-TP, 98-0800-TP, et al., [REDACTED]
[REDACTED]

1 ("EUCL") CHARGES BASED ON FPSC ORDERS IN DOCKET 00-
2 1097-TP. WHAT IS WRONG WITH HIS CONCLUSION.

3 A. In Docket 00-1097, the Commission dealt with EUCL charges on
4 customer bills represented as being billed as resold lines only. This contract must
5 deal also with lines provided both as UNE combinations and as UNE loops
6 delivered to Supra's Class 5 switches (regardless of circuit type). For customer
7 circuits billed as UNE Combinations or UNE loops, the ILEC has been fully
8 compensated for all costs and overheads. The ILEC is not due further cost
9 recovery.

10

11 **Issue 10: Should the rate for a loop be reduced when the loop utilizes**
12 **Digitally Added Main Line (DAML) equipment?**

13

14 **Q MR. RUSCILLI TESTIFIES THAT DAML "ALLOWS UP TO SIX**
15 **LOOP EQUIVALENTS TO BE SERVED OVER A SINGLE COPPER**
16 **PAIR". ARE DAML SERVED LOOPS EQUIVALENT TO BARE**
17 **COPPER?**

18 A. No. DAML served loops do not provide all the features, capabilities and
19 functions of a copper loop. In my direct testimony I explained the negative
20 effects DAML on high speed modems in common use for Internet access.
21 DAML electronics have higher failure rates than bare copper, high speed DSL
22 services cannot be provisioned over customer lines served by DAML.

1 Mr. Ruscilli does not deal with the added support costs to Supra for complaints of
2 static, total loss of dialtone caused by lightning, and the fact that BellSouth does
3 not even identify to Supra when the technology has been deployed to a Supra
4 customer, increasing troubleshooting costs.

5 In notifying Supra that a customer line is being served by DAML, BellSouth
6 would have to admit that it disconnects ALEC circuits already in operation to
7 supply this sub-standard loop in order to provide services to its own customers. It
8 is not inconceivable that BellSouth would put ALEC customers on DAML to
9 provide a clean line for their own customers. When a Supra employee added an
10 additional line to their home, (305-693-9140), Supra technicians were on hand to
11 install the new line and perform inside wiring. This line was initially placed in
12 service on a standard copper loop. Within 4 days, this line was causing problems
13 of heavy static, and the customer began learning that people calling their home
14 were actually being routed to another person's home. When Supra technicians
15 returned to the scene, it was immediately obvious that this line had been
16 disconnected and re-provisioned over DAML facilities in violation of the
17 Supreme Court order in *AT&T v. Iowa Utilities Bd.*, 525 U.S. 366, 119 S. Ct. 721
18 (Iowa Utilities Board II) at pg. Pg. 395. The customer continued to have
19 problems with calls being routed to the other line served by DAML, and being
20 randomly disconnected in the middle of a conversation.

21 This temporary solution remained in place for over half a year, and Supra's costs
22 to service this customer were negatively impacted by BellSouth.

23

1 **Q. DID THE RECENT FLORIDA GENERIC UNE DOCKET DEAL WITH**
2 **LINE SHARING VIA DAML TECHNOLOGY?**

3 A. No. Copper and DLC served loops were considered but not DAML. By
4 Mr. Ruscelli's testimony, Supra could be charged six times for the one loop
5 between the central office and the customer premise. This scheme provides
6 BellSouth undue enrichment and must be eliminated.

7

8 **Issue 12: Should BellSouth be required to provide transport to Supra**
9 **Telecom if that transport crosses LATA boundaries?**

10

11 **Q MR. RUSCILLI MAKES AN ARGUMENT THAT SECTION 271 OF**
12 **THE ACT PROHIBITS BELLSOUTH FROM PROVIDING THIS**
13 **NETWORK ELEMENT TO SUPRA. WHAT IS WRONG WITH HIS**
14 **ARGUMENT?**

15 A. BellSouth is very quick to quote from section 271 in denying Supra the its
16 request for dedicated transport across LATA boundaries. However while Supra
17 acknowledges that BellSouth is itself precluded from providing services to end
18 users across LATA boundaries, Supra is not. BellSouth dare not dispute that
19 Interoffice transport is a UNE, leased to a ALEC who assumes exclusive rights to
20 the use of that element. Once that network element is leased to Supra, it is Supra,
21 not BellSouth that provides services across the UNE facility. This is consistent
22 with the *First Report and Order on Local Competition* at ¶ 449 where the FCC
23 declared it "**essential**" for a new entrant to obtain unbundled access to interoffice

1 facilities that carry interLATA traffic. It is not inconsistent with Section 271 of
2 the Act, which prohibits BellSouth from providing services across LATA
3 boundaries. Such service would be provided by Supra across unbundled facilities
4 leased from BellSouth.

5

6 **Q HAS BELLSOUTH DENIED THE EXISTENCE OF SUCH**
7 **FACILITIES?**

8 A. No they have not.

9

10 **Q HAS BELLSOUTH CLAIMED THAT IT WOULD BE TECHNICALLY**
11 **INFEASIBLE TO PROVIDE THIS NETWORK ELEMENT?**

12 A. No they have not.

13

14

15 **Issue 13: What should be the appropriate definition of "local traffic" for**
16 **purposes of the parties' reciprocal compensation obligations under Section**
17 **251(b)(5) of the 1996 Act?**

18 **Issue 19: Should calls to Internet Service Providers be treated as local traffic**
19 **for the purposes of reciprocal compensation?**

20

21 **Q. HAS MR. RUSCILLI ACCURATELY REPRESENTED THIS ISSUE?**

22

1 A. Not at all. Once again BellSouth's bad faith shows in this issue.
2 BellSouth is expecting Supra to adopt language that would forgo the interim
3 measures ordered by the FCC in favor of the language that represents where the
4 FCC would like to be on this issue in the future. While we have guidance from
5 the FCC on the future, we have clear and effective orders from the FCC that
6 reciprocal compensation be paid for ISP-bound traffic in the interim. The interim
7 rates for this compensation are tied to the rate of compensation for voice traffic,
8 as ultimately arbitrated in this Follow-on agreement.

9

10 Q MR. RUSCILLI ARGUES THIS COMMISSION NO LONGER HAS
11 THE AUTHORITY TO ADDRESS THIS ISSUE. IS HE CORRECT?

12 A. This is a ridiculous and disingenuous argument. Mr. Ruscilli is apparently
13 confused by the FCC order. The FCC has exercised its right to set a national rate
14 preventing state commissions from setting a different rate. The FCC has done
15 nothing that prevents a state commission from ordering the FCC rates into
16 specific interconnection agreements. The plain and unambiguous language of ¶
17 82 of *Intercarrier Compensation for ISP-Bound Traffic*, CC Order 01-131 in
18 Docket 99-68 that Mr. Ruscilli cites clearly applies to the very circumstances of
19 this arbitration. It states:

20 82. The interim compensation regime we establish here
21 applies as carriers re-negotiate expired or expiring
22 interconnection agreements. It does not alter existing
23 contractual obligations, except to the extent that parties are
24 entitled to invoke contractual change-of-law provisions. This
25 Order does not preempt any state commission decision
26 regarding compensation for ISP-bound traffic for the period

1 prior to the effective date of the interim regime we adopt here.
 2 Because we now exercise our authority under section 201 to
 3 determine the appropriate intercarrier compensation for ISP-
 4 bound traffic, however, state commissions will no longer have
 5 authority to address this issue. For this same reason, as of the
 6 date this Order is published in the Federal Register, carriers may
 7 no longer invoke section 252(i) to opt into an existing
 8 interconnection agreement with regard to the rates paid for the
 9 exchange of ISP-bound traffic.² Section 252(i) applies only to
 10 agreements arbitrated or approved by state commissions
 11 pursuant to section 252; it has no application in the context of
 12 an intercarrier compensation regime set by this Commission
 13 pursuant to section 201.³ (Emphasis Added)

14
 15 This commission does not have authority to set its own rates, but it certainly has
 16 the authority to order the FCC interim rates to be memorialized within the
 17 Follow-on agreement. Mr. Ruscilli's arguments should be ignored.

18

19 **Q WHAT SPECIFIC RATES HAVE BEEN ORDERED BY THE FCC?**

20 A. Again quoting from of *Inter-carrier Compensation for ISP-Bound Traffic*,
 21 CC Order 01-131 in Docket 99-68 ¶ 98:

² CC Order 01-131 footnote - 47 U.S.C. § 252(i) (requiring LECs to “make available any interconnection, service, or network element provided under an agreement approved under this section” to “any other requesting telecommunications carrier”). This Order will become effective 30 days after publication in the Federal Register. We find there is good cause under 5 U.S.C. § 553(d)(3), however, to prohibit carriers from invoking section 252(i) with respect to rates paid for the exchange of ISP-bound traffic upon publication of this Order in the Federal Register, in order to prevent carriers from exercising opt in rights during the thirty days after Federal Register publication. To permit a carrier to opt into a reciprocal compensation rate higher than the caps we impose here during that window would seriously undermine our effort to curtail regulatory arbitrage and to begin a transition from dependence on intercarrier compensation and toward greater reliance on end-user recovery.

³ CC Order 01-131 footnote - In any event, our rule implementing section 252(i) requires incumbent LECs to make available “[i]ndividual interconnection, service, or network element arrangements” to requesting telecommunications carriers only “for a reasonable period of time.” 47 C.F.R. § 51.809(c). We conclude that any “reasonable period of time” for making available rates applicable to the exchange of ISP-bound traffic expires upon the Commission’s adoption in this Order of an intercarrier compensation mechanism for ISP-bound traffic.

1 This Order on Remand and Report and Order addresses the
2 concerns of various parties to this proceeding and responds to
3 the court's remand. The Commission exercises jurisdiction over
4 ISP-bound traffic pursuant to section 201, and establishes a
5 three-year interim intercarrier compensation mechanism for the
6 exchange of ISP-bound traffic that applies if incumbent LECs
7 offer to exchange section 251(b)(5) traffic at the same rates.
8 During this interim period, intercarrier compensation for ISP-
9 bound traffic is subject to a rate cap that declines over the three-
10 year period, from \$.0015/mou to \$.0007/mou. The Commission
11 also imposes a cap on the total ISP-bound minutes for which a
12 LEC may receive this compensation under a particular
13 interconnection agreement equal to, on an annualized basis, the
14 number of ISP-bound minutes for which that LEC was entitled
15 to receive compensation during the first quarter of 2001,
16 increased by ten percent in each of the first two years of the
17 transition. If an incumbent LEC does not offer to exchange all
18 section 251(b)(5) traffic subject to the rate caps set forth herein,
19 the exchange of ISP-bound traffic will be governed by the
20 reciprocal compensation rates approved or arbitrated by state
21 commissions.
22

23 **Q ARE YOU SUPRISED MR. RUSCILLI ATTEMPTS TO MISLEAD**
24 **THIS COMMISSION ON THIS ISSUE?**

25 A. Mr. Ruscilli puts forth the same policy that BellSouth fought to have
26 adopted by the FCC in this Docket. BellSouth lost its argument and must be
27 compelled to drop this bad-faith tactic and agree to pay the interim rates ordered
28 by the FCC.

29 Again, BellSouth makes its misleading argument without fear of any
30 consequences. Supra is at a loss as to how this could be considered to be
31 proceeding in anything other than bad faith.

32

1 **Issue 14: Should BellSouth pay reciprocal compensation to Supra Telecom**
2 **where Supra Telecom is utilizing UNEs to provide local service (i.e.**
3 **unbundled switching and the unbundled local loop) for the termination of**
4 **local traffic to Supra's end users?**

5 **Issue 25A: Should BellSouth charge Supra Telecom only for UNEs that it**
6 **orders and uses?**

7 **Issue 25 B: Should UNEs ordered and used by Supra Telecom be considered**
8 **part of its network for reciprocal compensation, switched access charges and**
9 **inter/intra LATA services?**

10

11 **Q HAS BELLSOUTH CITED A SINGLE LEGAL AUTHORITY IN**

12 **DEFENSE OF ITS POSITION ON THESE ISSUES?**

13 A. No they have not. All Mr. Ruscilli quotes is "BellSouth's position" in
14 defense of the position they have taken. This position is identical to the one taken
15 in its comments to the FCC in regard to the *First Report and Order* CC order 96-
16 325, in 1996. Yet lacking a single legal authority, BellSouth, in bad faith,
17 attempts to force Supra to adopt contract language representing "BellSouth's
18 position", a position not supported by any legal authorities.

19

20 **Q ARE YOU SUPRISED BY BELLSOUTH'S UNSUPPORTABLE**

21 **"POSITION"?**

22 A. Not any longer. Supra has had to endure countless situations of
23 "BellSouth's policy" for everything from advanced services to collocation to UNE
24 combinations that represent positions BellSouth failed to prevail upon before the

1 FCC and FPSC⁴. Apparently if BellSouth can get a ALEC to agree to
2 "BellSouth's position", even if that position is not supported by law, they will
3 attempt to do so. Even if that position has already been defeated and there is legal
4 authority against it.

5

6 Caveat Emptor.

7

8

9

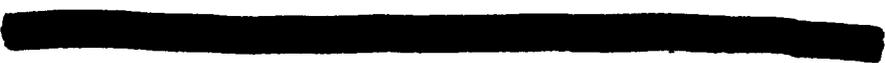
10 **Issue 21: What does "currently combines" mean as that phrase is used in 57**
11 **C.F.R. § 51.315(b)(Network Elements and Combinations, Attachment 2,**
12 **Section 2.7.1)?**

13 **Issue 23: Should BellSouth be directed to perform, upon request, the**
14 **functions necessary to combine unbundled network elements that are**
15 **ordinarily combined in its network? If so, what charges, if any, should**
16 **apply?**

17 **Issue 24: Should BellSouth be required to combine network elements that are**
18 **not ordinarily combined in its network? If so, what charges, if any, should**
19 **apply?**

20

21 **Q HAS MR. RUSCILLI TESTIMONY ADDRESSED ANY OF THESE**
22 **QUESTIONS?**



1 A. Only within the narrow context of the proceedings of the recently
2 concluded BellSouth / AT&T arbitration (Order No PSC-01-1402-FOF-TP in
3 Docket No. 00-0731).

4

5 **Q IS SUPRA CURRENTLY SUBJECT TO THE RULING PRESENTED**
6 **IN ORDER PSC-01-1402-FOF-TP?**

7 A. No we are not.

8

9 **Q IS THERE ANY BASIS FOR THIS COMMISSION TO RE-CONSIDER**
10 **ITS RULING IN DOCKET 00-0731-TP?**

11 A. Yes. Unfortunately this case is subject to numerous technical and
12 procedural errors committed by the parties subject to this order. The Commission
13 can only rule on evidence place before it, consistent with prevailing law. It would
14 truly be a travesty if Supra was forced to accept language developed in an
15 arbitration where one or more of the parties committed errors.

16

17 **Q CAN YOU PROVIDE EXAMPLES OF THESE ERRORS?**

18 A. Certainly. Issue 27 shows just such an error that caused BellSouth to
19 prevail simply because AT&T failed to provide a defense of its position.

20 **ISSUE 27:** Should the Commission or a third party
21 commercial arbitrator resolve disputes under the
22 Interconnection Agreement?

23 **RECOMMENDATION:** The Commission should resolve
24 disputes under the Interconnection Agreement. (FUDGE)

25 **POSITIONS OF THE PARTIES:**

1 **AT&T:** AT&T **did not file** a post-hearing statement addressing
2 this issue.

3 **BELLSOUTH:** BellSouth cannot be required to use
4 commercial arbitrators. The Commission must resolve
5 disputes brought before it and cannot unilaterally delegate
6 that responsibility. Furthermore, BellSouth's experience with
7 commercial arbitration in t h e resolution of disputes under the
8 1996 Act has been expensive and unduly lengthy in nature.

9 **STAFF ANALYSIS:** AT&T raised this issue in its initial
10 Petition for Arbitration. However, AT&T did not present any
11 evidence on this issue at hearing or in its brief. Therefore, in
12 accordance w i t h Prehearing Order No. PSC-01-0324-PHO-
13 TP, **staff believes AT&T waives its position on this issue.**
14 (Emphasis Added)
15

16 Based on its own experience with commercial arbitration against BellSouth,
17 Supra knows it has sufficient evidence to provide a credible defense of this issue
18 and that Supra can prevail over BellSouth on this issue.

19 For BellSouth to even suggest that Supra be bound to the result of a BellSouth /
20 AT&T docket in which AT&T failed to offer a defense is ridiculous.

21

22 **Q WERE THERE SPECIFIC ERRORS IN DOCKET 00-0731 (AT&T**
23 **ISSUE #4) THAT SHOULD LEAD THIS COMMISSION TO**
24 **RECONSIDER AND / OR REVERSE ITS ORDER IN DOCKET 00-**
25 **0731.**

26 A. Absolutely.

27

28 **Q CAN YOU OFFER AN EXAMPLE OF WHERE AT&T FAILED TO**
29 **PROPERLY DEFEND ITS POSITION?**

1 A. Yes. Quoting from the Staff recommendation (at page 24-25) approved by
2 the Commission illustrates the following problem with AT&T defense:

3 While BellSouth's testimony focuses on the legal requirement
4 imposed by FCC Rule 51.315(b) (that is, whether BellSouth is
5 legally required to perform the functions necessary to combine
6 UNEs that are typically combined in its network f o r AT&T),
7 AT&T's testimony looks past this debate. Instead AT&T witness
8 Gillan focuses on why this Commission should require
9 BellSouth to do so in the state of Florida.

10
11 To begin, it would seem that the central legal issue
12 concerns the limits of the Commission's discretion - that
13 is, may the Commission evaluate BellSouth's obligation
14 on its merits, or must the Commission sanction BellSouth's
15 proposal, without regard f o r the consequences to Florida
16 consumers. . . I believe the Commission has the authority
17 to judge the issue on the merits. (Gillan TR 223) (emphasis
18 in original)
19

20 Here the staff points to AT&T's failure to properly address BellSouth's arguments
21 regarding FCC Rule 51.315(b). Instead AT&T argues that the Commission has
22 the authority to judge the issue on the merits, without properly presenting the
23 merits of the case to the Commission. In my direct testimony, Supra presents
24 legal authority in defense of our position, something staff feels AT&T failed to
25 do.

26

27 **Q ARE THERE ANY OTHER AREAS THAT SUPPORT**
28 **RECONSIDERATION ON THIS MATTER?**

29 A. Yes. Staff offered a recommendation to the Commission not consistent
30 with prevailing law. Specifically at page 25:

31 Staff does not believe this Commission's obligations under the

1 law can accommodate the urging of AT&T in this regard. While
2 the Commission may impose additional requirements consistent
3 with federal law, the Commission should not impose
4 requirements that conflict with federal law. Though staff
5 recognizes that a higher level of efficiency may result from
6 BellSouth combining UNEs, it is clearly not consistent with
7 prevailing law to order such combining, absent agreement
8 between the parties.
9

10 As well intentioned as it may be, staff does **not** cite specific federal law that
11 would be violated if AT&T were to prevail. They cannot, because it does not
12 exist. The FCC has specifically declined to offer definitions of "currently
13 combines" as stated in the staff analysis. Indeed this area is fraught with
14 undefined terms and vacated provisions. Should this Commission seek to
15 accommodate Supra's urging in this matter, it would be doing so in areas **where**
16 **there is no prevailing law, definition, or Rule subsections that are currently**
17 **vacated.** The FCC empowered the state commissions in ¶ 22 of *The First Report*
18 *and Order on Local Competition* CC Order 96-325.

19 22. In this regard, this Order sets minimum, uniform,
20 national rules, but also relies heavily on states to apply these
21 rules and to exercise their own discretion in implementing a
22 pro-competitive regime in their local telephone markets.
23

24 In its recommendation staff erred in stating "the Commission should not impose
25 requirements that conflict with federal law." The FCC has recognized that state
26 commissions "share a common commitment to creating opportunities for efficient
27 new entry into the local telephone market." And provide for state commissions to
28 "ensure that states can impose varying requirements."
29

1 42. The decisions in this Report and Order, and in this
2 Section in particular, benefit from valuable insights provided by
3 states based on their experiences in establishing rules and taking
4 other actions intended to foster local competition. Through
5 formal comments, *ex parte* meetings, and open forums,⁵ state
6 commissioners and their staffs provided extensive, detailed
7 information to us regarding difficult or complex issues that they
8 have encountered, and the various approaches they have
9 adopted to address those issues. Information from the states
10 highlighted both differences among communities within states,
11 as well as similarities among states. Recent state rules and
12 orders that take into account the local competition provisions of
13 the 1996 Act have been particularly helpful to our deliberations
14 about the types of national rules that will best further the
15 statute's goal of encouraging local telephone competition.⁶
16 **These state decisions also offered useful insights in**
17 **determining the extent to which the Commission should set**
18 **forth uniform national rules, and the extent to which we**
19 **should ensure that states can impose varying requirements.**
20 Our contact with state commissioners and their staffs, as well as
21 recent state actions, make clear that **states and the FCC share**
22 **a common commitment to creating opportunities for**
23 **efficient new entry into the local telephone market.** Our
24 experience in working with state commissions since passage of
25 the 1996 Act confirms that we will achieve that goal most
26 effectively and quickly by working cooperatively with one
27 another now and in the future as the country's emerging
28 competition policy presents new difficulties and opportunities.

⁵ CC Order 96-325 Footnote -- Public forum held on March 15, 1996, by FCC's Office of General Counsel to discuss interpretation of sections 251 and 252 of the Telecommunications Act of 1996; public forum held on July 9, 1996, by FCC's Common Carrier Bureau and Office of General Counsel to discuss implementation of section 271 of the Telecommunications Act of 1996.

⁶ CC Order 96-325 Footnote -- *See, e.g.*, Petition of AT&T for the Commission to Establish Resale Rules, Rates, Terms and Condition and the Initial Unbundling of Services, Docket No. 6352-U (Georgia Commission May 29, 1996); AT&T Communications of Illinois, Inc. *et al.*, Petition for a Total Local Exchange Wholesale Service Tariff from Illinois Bell Telephone Company, Nos. 95-0458 and 95-0531 (consol.) (Illinois Commission June 26, 1996); Hawaii Administrative Rules, Ch. 6-80, "Competition in Telecommunications Services," (Hawaii Commission May 17, 1996); Public Utilities Commission of Ohio Case No. 95-845-TP-COI (Local Competition) (Ohio Commission June 12, 1996) and Implementation of the Mediation and Arbitration Provisions of the Federal Telecommunications Act of 1996, Case No. 96-463-TP-UNC (Ohio Commission May 30, 1996); Proposed Rules regarding Implementation of §§ 40-15-101 *et seq.* Requirements relating to Interconnection and Unbundling, Docket No. 95R-556T (Colorado Commission April 25, 1996) (one of a series of Orders adopted by the Colorado Commission in response to the local competition provisions of the 1996 Act); Washington Utilities and Transportation Commission, Fifteenth Supplemental Order, Decision and Order Rejecting Tariff Revisions, Requiring Refiling, Docket No. UT-950200 (Washington Commission April 1996).

1
2 Indeed, in 1996 the Florida Public Service Commission filed comments quite
3 contrary to staff's recommendation in 00-0731: (First Report and Order at ¶ 65:

4 65. Some state commissions recommend that, if the FCC
5 does establish explicit requirements, states should be allowed to
6 impose different requirements. For example, the Illinois
7 Commission urges the FCC to adopt a process by which states
8 may seek a waiver from the national regulations, upon a
9 showing of need.⁷ **The Ohio and Florida Commissions**
10 **recommend that the FCC adopt explicit requirements that**
11 **states could choose to adopt, but that states would have the**
12 **option of developing their own requirements.**⁸ Under the
13 proposal recommended by the Ohio Commission, existing state
14 regulations that are consistent with the 1996 Act would be
15 "grandfathered."⁹ In addition, if a state failed to adopt any rules
16 regarding competitive entry into local markets within a
17 specified time, the FCC rules would be binding.¹⁰ (Emphasis
18 Added)

19
20 In this light the Commission has the authority to set policy as defined by
21 *United States v. Jones*, 109 U.S. 513 (1883), *Supra* urges this Commission to
22 reconsider its prior position regarding these three crucial issues, in light of
23 *Supra*'s factual and legal arguments.

24

⁷ CC Order 96-325 Footnote -- Illinois Commission comments at 13; *accord* AT&T comments at 11; ACTA comments at 2-4.

⁸ CC Order 96-325 Footnote -- Florida Commission comments at 2-3; Ohio Commission comments at 4-5; *accord* NYNEX reply at 4.

⁹ CC Order 96-325 Footnote -- Ohio Commission comments at 4-5; *accord* NARUC comments at 6-7.

¹⁰ CC Order 96-325 Footnote -- Ohio Commission comments at 4-5.

1 Finally the strongest arguments against the staff recommendation that this
2 Commission **not** make findings that contradict or apply Federal law is found in
3 Justice Thomas footnote 10 in *AT&T v. Iowa Utilities Bd.*, 525 U.S. 366, 119 S.
4 Ct. 721 (Iowa Utilities Board II). While the FCC has failed to specifically address
5 the issue, it falls upon the state commissions to set specific rulemaking on it.
6 Specifically, footnote 10 provides:

7 Justice Thomas notes that it is **well settled that state officers**
8 **may interpret and apply federal law, see, e.g., *United States***
9 ***v. Jones*, 109 U.S. 513 (1883), which leads him to conclude**
10 **that there is no constitutional impediment to the**
11 **interpretation that would give the States general authority,**
12 **uncontrolled by the FCC's general rulemaking authority,**
13 **over the matters specified in the particular sections we have**
14 **just discussed. *Post*, at 12—13. But constitutional impediments**
15 **aside, we are aware of no similar instances in which federal**
16 **policymaking has been turned over to state administrative**
17 **agencies. The arguments we have been addressing in the last**
18 **three paragraphs of our text assume a scheme in which**
19 **Congress has broadly extended its law into the field of**
20 **intrastate telecommunications, but in a few specified areas**
21 **(ratemaking, interconnection agreements, etc.) has left the**
22 **policy implications of that extension to be determined by**
23 **state commissions, which—within the broad range of lawful**
24 **policymaking left open to administrative agencies—are beyond**
25 **federal control. Such a scheme is decidedly novel, and the**
26 **attendant legal questions, such as whether federal courts**
27 **must defer to state agency interpretations of federal law, are**
28 **novel as well.¹¹ (Emphasis Added)**
29

30 The Supreme Court has recognized no constitutional impediments to
31 the States' rights to interpret and apply Federal law "...uncontrolled by the

¹¹ CC Order 96-325 Footnote -- Note 10 of *AT&T v. Iowa Utilities Bd.* 525 US. 366 (1999).

1 FCC's general rulemaking authority," thereby allowing this Commission to
2 rule, under the interconnection agreement, in the absence of federal rules.

3

4

5 **Issue 27: Should there be a single point of entry within each LATA for the**
6 **mutual exchange of traffic? If so, how should the single point be established**
7 **determined?**

8

9 **Q DOES BELLSOUTH'S POSITION ON THIS ISSUE REPRESENT**

10 **GOOD FAITH OR BAD FAITH?**

11 A. Bad Faith. BellSouth's primary position is that no decision on this matter
12 be made until the conclusion is reached in Docket 00-0075. This is a blatantly
13 anti-competitive tactic designed to delay Supra's collocation efforts once again.
14 Supra is currently moving forward with collocation in 24 BellSouth central
15 offices in LATA 460 (Southeast Florida). This LATA is currently served by three
16 tandem switches located in two central offices.

17 Supra's position is that BellSouth, not Supra, should bear the costs caused by
18 BellSouth's network design. Supra will bear its own costs on its own side of the
19 point of interconnection.

20 Mr. Ruscilli, I assume, is arguing that parity is established by Supra bearing its
21 own cost of transporting BellSouth customer traffic to Supra end offices **and** to
22 carry BellSouth customer traffic from BellSouth end offices to the point(s) of

1 Interconnection. Such a travesty was never envisioned by the Act, which requires
2 each carrier to "bear its own costs to the point of interconnection."

3

4

5 **Q HAS MR. RUSCILLI EXPRESSED HIS COMPANY'S POSITION**
6 **WITH SUFFICIENT PRECISION TO UNDERSTAND HIS POSITION?**

7 A. Frankly, no. Although my previous answer reflects what I assume his
8 position to be.

9 The specific question is whether or not there should be a single point of
10 interconnection per Local Access Transport Area ("LATA"). Newton's Telecom
11 Dictionary 15th Edition, defines LATA as "Local Access Transport Area, also
12 called Service areas by some Bell Operating Companies. One of 196 local
13 geographical areas in the US within which a local telephone company may offer
14 telecommunications services."

15 Newton's does **not** offer a definition for Mr. Ruscilli's term "local calling area",
16 and that leaves one to be rather confused as to BellSouth's position on this issue.
17 Does Mr. Ruscilli mean a LATA, or an exchange (i.e. Rate Center)? Since there
18 is no support in the Act for requiring a ALEC to interconnect Rate Center
19 (Exchange) by Rate Center, we look to Newton's for the definition of "Local Call"
20 which is "Any call within the local service area of the calling phone. Individual
21 local calls may or may not cost money." So it would appear that Mr. Ruscilli
22 means LATA when he uses the non-standard term. Even so his arguments make

1 no sense whatsoever, no does he cite to a single legal authority to substantiate his
2 position.

3 On the one hand, Mr. Ruscilli states that "Supra should be required to bear the
4 cost of facilities that BellSouth may be required to install, on Supra's behalf, in
5 order to carry BellSouth's traffic that originates in a BellSouth central office
6 located in a BellSouth local calling area and is destined for Supra's customer
7 located in that same calling area to the point of Interconnection located outside of
8 that local calling area. What this statement has to do with the question being
9 answered is beyond me.

10 The question deals with whether there should be one, or more, points of
11 interconnection within a LATA. As such, and relying on Newton, the BellSouth
12 origination, Supra terminating customers and the point of interconnection would
13 all be within a single LATA, there is no discussion of the point of interconnection
14 being outside the serving LATA. Mr. Ruscilli makes no sense whatsoever.

15

16 **Q IN HIS DIRECT TESTIMONY, MR. RUSCILLI ASKS THE**
17 **QUESTION "DOES BELLSOUTH'S POSITION MEAN THAT SUPRA**
18 **WOULD HAVE TO BUILD A NETWORK TO EACH BELLSOUTH**
19 **LOCAL CALLING AREA, OR OTHERWISE HAVE A POINT OF**
20 **INTERCONNECTION WITH BELLSOUTH'S LOCAL NETWORK IN**
21 **EVERY LOCAL CALLING AREA?" WHAT IS WRONG WITH HIS**
22 **ANSWER.**

1 A. He answers the question "No", and then describes a process by which
2 "Supra can lease facilities from BellSouth or any other provider to bridge the gap
3 between its network (that is, where it designates its Point of Interconnection) and
4 each BellSouth local calling area."

5 Where I come from, that's called building a network, and thus the answer Mr.
6 Ruscilli gives in his text is in direct contradiction with his answer "No." He
7 should have said "Yes".

8 He then goes on to state "BellSouth will be financially responsible for
9 transporting its originating traffic to a single point in each local calling area."
10 Eureka! That **is** actually responsive to the question asked. From that one
11 sentence alone, if it were not for all of the other conflicts in his testimony, I would
12 assume that Supra and BellSouth are in agreement on this issue.

13 Then Mr. Ruscilli drops the other shoe again and writes "However BellSouth is
14 not obligated to haul its local traffic to a distant point dictated by Supra without
15 appropriate compensation from Supra." Where did THAT come from? Once
16 again BellSouth is totally non-responsive to the question.

17 **Q WHAT CAN YOU INFER FROM MR. RUSCILLI'S TESTIMONY ON**
18 **THIS SUBJECT?**

19 A. BellSouth is not serious. Obfuscation, confusion, clarification all equate
20 to the same thing -- delay. And each day BellSouth can delay a ALEC like Supra
21 from collocating represents another pile of dollars with which to arm the war
22 chest against Supra and all other ALECs.

1 This Commission has already sat in judgment over BellSouth's illegal attempts to
2 deny Supra Collocation space (Docket 98-0800-TP), it has yet to deal with the
3 horrors BellSouth appears to be readying to delay Supra due to interconnection
4 "issues." On January 5, 1999 this commission found BellSouth had improperly
5 refused Supra Collocation space and awarded Supra the right to collocate Class 5
6 switches in the contested offices.

7 Despite the fact BellSouth exhausted all of their appeals, Supra has still not been
8 able to collocate in those two offices **to this date.**

9 After delaying until July, 1999 because it was seeking collocation exemptions that
10 would not have applied to Supra because of this Commission's order, BellSouth
11 cancelled 6 Docket requests for collocation exemption before this commission
12 (the so called Florida Exemption Docket) and represented to this Commission that
13 all applicants would be granted collocation. Supra's received a bona fide
14 collocation application response, and a price tag of approx. \$350,000 per office,
15 half up front, balance subject to true-up which is a willful and blatant overcharge
16 per our Interconnection agreement. BellSouth refused in August 2000 to comply
17 with the FCC's *Order on Reconsideration and Second Further Notice of Proposed*
18 *Rulemaking in the Matter of Deployment of Advanced Wireline Services* (CC
19 order 98-147) and begin collocation space preparation in the presence of a billing
20 dispute between the parties.

21 [REDACTED]

22 [REDACTED]

23 [REDACTED]

1 [REDACTED]
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[Redacted]

Further to BellSouth's means, motives, and opportunity to create barriers to entry where none should exist:

[Redacted]

1
2
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7

8 **Q HOW IS THIS GERMANE TO THIS ISSUE?**

9 A. BellSouth has a proven track record of dealing with Supra in bad faith. .
10 As early as April 26, 2000, Supra requested from BellSouth information about
11 BellSouth's network (Not BellSouth's unilateral rules for interconnection which
12 was what was supplied), in an honest effort to make sure the weak, undocumented
13 and vague requirements for interconnection were memorialized properly, for the
14 first time, in this Supra's third Interconnection agreement with BellSouth. The
15 documents that were requested were from the Telcordia (formerly BellCore)
16 Increased Network Reliability Task Force Template. BellSouth refused Supra
17 this information until two weeks ago, and then sent Supra information relevant to
18 a ALEC's network, not the information requested by Supra.
19 Throughout this entire process BellSouth has offered to provide Supra with
20 sufficient information to negotiate the interconnection portion of the agreement by
21 "allowing" Supra to talk to Ms. Parkey Jordan, Esq., Legal Counsel, Mr. Patrick
22 Finlen, Chief Contract Negotiator, and Now Mr. Ruscilli who appears to be one of
23 BellSouth's Chief Regulatory Witnesses.

1 It is prima facie evidence of BellSouth bad faith dealings with Supra that **not once**
2 has BellSouth provided requested documents, provided a real live engineer to talk
3 through the issues in "joint network planning" as required by the Act.

4 To now present Mr. Ruscilli as BellSouth's witness for POI interconnection when
5 it is obvious that Mr. Ruscilli refuses to take a solid position is simply, for lack of
6 a better phrase, bad faith.

7 At this point I doubt that a true solution to this issue can be resolved, as we **still**
8 have no clue as to what BellSouth's position is on these issues. I can only assume
9 it is opposite that of Supra's. Mr. Ruscilli is a practiced witness, the record shows
10 he testifies in all high profile regulatory cases, he is an accomplished debater, and
11 yet he cannot determine whether we agree or disagree on this issue.

12 As a result, neither can I. This is an incredible waste of time and resources,
13 deliberately calculated to win BellSouth and additional, valuable delay at Supra's
14 expense.

15

16 **Q IS THERE ANYTHING ELSE YOU WISH TO COMMENT ON THIS**
17 **ISSUE?**

18 A. Unfortunately, yes. Despite Mr. Ruscilli's regulatory experience, despite
19 his familiarity with FCC orders, his blatant misunderstanding of
20 telecommunications practices and procedures shows through. In addition to his
21 rambling and confused argument regarding the POI, Mr. Ruscilli testifies to how
22 the FCC addressed the additional costs caused by the form of interconnection an
23 ALEC chooses. He then tries to apply 251(d)(1) and 251(c)(2) to his confusion

1 regarding cost of transport to the POI. Somehow he tries to equate transport out
2 of the LATA (which is **not** an issue in this arbitration, and something he testified
3 BellSouth is precluded by section 271 from providing anyway) with the
4 requirements of 252(d)(1).

5 To set the record straight, here is what the FCC held on technically feasible
6 methods of interconnection in the First Report and Order at ¶ 550.

7 **Physical and virtual collocation are the only methods**
8 **of interconnection or access specifically addressed in section**
9 **251.** Under section 251(c)(6), incumbent LECs are under a duty
10 to provide physical collocation of equipment necessary for
11 interconnection unless the LEC can demonstrate that physical
12 collocation is not practical for technical reasons or because of
13 space limitations. In that event, the incumbent LEC is still
14 obligated to provide virtual collocation of interconnection
15 equipment. Under section 251, the only limitation on an
16 incumbent LEC's duty to provide interconnection or access to
17 unbundled elements at any technically feasible point is
18 addressed in section 251(c)(6) regarding physical collocation.
19 Unless a LEC can establish that the specific technical or space
20 limitations in subsection (c)(6) are met with respect to physical
21 collocation, we conclude that incumbent LECs must provide for
22 any technically feasible method of interconnection or access
23 requested by a competing carrier, including physical
24 collocation.¹² If, for example, we interpreted section 251(c)(6)
25 to limit the means of interconnection available to requesting
26 carriers to physical and virtual collocation, **the requirement in**
27 **section 251(c)(2) that interconnection be made available "at**
28 **any technically feasible point" would be narrowed**
29 **dramatically to mean that interconnection was required**
30 **only at points where it was technically feasible to collocate**
31 **equipment.** We are not persuaded that Congress intended to
32 limit interconnection points to locations only where collocation
33 is possible. (Emphasis Added)
34

¹² CC Order 96-325 Footnote -- Because we require incumbent LECs to offer virtual collocation in addition to physical collocation, we reject the suggestion of ACTA that the cost of converting from virtual to physical collocation be borne by the incumbent LEC. See ACTA comments at 16.

1 BellSouth, by selecting Mr. Ruscilli to testify on this issue is most assuredly
2 guilty of bad faith tactics, once again, intended to delay and commit tortious harm
3 upon Supra Telecom.

4

5 **Issue 29: Is BellSouth obligated to provide local circuit switching at UNE**
6 **rates to allow Supra Telecom to serve (a) the first three lines provided to a**
7 **customer located in Density Zone 1 as defined and / or determined in the**
8 **UNE docket and (b) 4 lines or more?**

9 **Issue 31: Should BellSouth be allowed to aggregate lines provided to multiple**
10 **locations of a single customer to restrict Supra Telecom's ability to purchase**
11 **local circuit switching at UNE rates to serve any of the lines of that**
12 **customer?**

13

14 **Q HOW DO YOU RESPOND TO MR. RUSCILLI'S TESTIMONY ON**
15 **THESE ISSUES?**

16 A. Once again Mr. Ruscilli spouts BellSouth "policy" as if it were an
17 effective FCC order. He states:

18 When a particular customer has four or more lines **within a**
19 **specific geographic area, even if those lines are spread over**
20 **multiple locations,** BellSouth is not required to provide
21 unbundled local circuit switching to ALECs, so long as the
22 other criteria for FCC Rule 51.319(c)(2) are met. (Emphasis
23 Added.)

24

25 Despite Mr. Ruscilli's vast regulatory experience as a professional witness for
26 BellSouth, he fails to cite a single legal authority to support his allegations
27 highlighted in the passage above.

1 He cannot.

2 No such legal authority exists.

3

4 **Q MR. RUSCILLI ONCE AGAIN CITES THE FPSC ORDER PSC-01-**
5 **1402-FOF-TP IN DOCKET 00-0731 (AT&T / BELLSOUTH**
6 **ARBITRATION) AS LEGAL AUTHORITY TO DENY SUPRA'S**
7 **POSITION. IS THIS ORDER BINDING UPON SUPRA?**

8 A. No, it is not. And I once again object to BellSouth's bad faith attempt to
9 refusal to provide Supra with necessary network information and cost studies so
10 as to allow Supra to fully support its position on this issue. Furthermore, Supra
11 should not be bound to the arguments raised by AT&T on this issue in Docket 00-
12 0731. In that proceeding, as in this one, BellSouth can find no legal authority,
13 save the FPSC ruling in that proceeding, to support its position. Mr. Ruscilli
14 offers no evidence that "ALECs are not impaired without access to unbundled
15 local circuit switching when serving customers with four lines or less in Density
16 Zone 1 in the top 50 MSAs." Mr. Ruscilli offers no evidence whatsoever that
17 there is one single, much less several providers of unbundled local switching,
18 other than BellSouth, in the Orlando, Ft Lauderdale, and Miami MSA's (or
19 **anywhere** else in Florida for that matter).

20 Mr. Ruscilli misrepresents the current state of law by surreptitiously slipping in
21 "the relevant geographic area" in conjunction with the FCC's "four or more lines",
22 and misrepresenting "as long as BellSouth **will** provide the ALECs with EELs at
23 UNE rates." When the remanded Rule 319 **clearly** states "the incumbent LEC

1 **provides** non-discriminatory access to combinations of unbundled loops and
2 transport (also known as the "Enhanced Extended Link")"
3 Mr. Ruscilli has presented no evidence that BellSouth actually **does** provide non-
4 discriminatory access to EELS at UNE rates, and it is Supra's contention that he
5 cannot provide this evidence because BellSouth is not, and will not for the
6 foreseeable future, provide such non-discriminatory access. Once BellSouth
7 provides proof that it is, in fact, providing non-discriminatory access to EELs at
8 UNE rates, BellSouth still should not be able to combine a single customers lines
9 at multiple locations in order to deny a ALEC the right to local circuit switching
10 at UNE rates. To hold otherwise is to allow BellSouth to impede competition,
11 and will only serve to hurt consumers.

12 Mr. Ruscilli incorrectly quotes FCC Rule 51.319. In at least four places his
13 version¹³ of Rule 319 differs from the actual text as published in Appendix C of
14 *The UNE Remand Order* 99-238. Intentional or careless, he misquotes the Rule
15 in his testimony.

16

17 **Q ON PAGE 33 OF HIS DIRECT TESTIMONY MR. RUSCILLI WRITES**
18 **"BELLSOUTH REQUESTS THIS COMMISSION REJECT SUPRA'S**
19 **ATTEMPT TO VIOLATE THE FCC'S RULES. " WHAT ARE YOUR**
20 **COMMENTS ON HIS PLEA?**

¹³ DT Ruscilli, pg 32.

1 A. Mr. Ruscilli references no such specific rule or law anywhere in his
2 testimony. Even his bastardized version of Rule 319 contains no such language.
3 Mr. Ruscilli is unable to reference a single legal authority to support his plea.
4 He cannot.
5 None exist.
6 Supra would request this Commission look past Mr. Ruscilli's patently
7 disingenuous attempts to manipulate the outcome of this arbitration with false
8 statements and misrepresentations of the state of the law, and instead look to
9 Supra's position as documented in my direct testimony.

10

11

12 **Issue 32 A: Under what circumstances may Supra charge for Tandem rate**
13 **switching?**

14 **Issue 32 B : Does Supra meet the criteria based on Supra's network of June**
15 **1, 2001?**

16

17 **Q IN HIS DIRECT TESTIMONY ON PAGE 34, MR. RUSCILLI ONCE**
18 **AGAIN TAKES THE POSITION THAT SUPRA SHOULD BE MADE**
19 **TO WAIT, WITHOUT COMPENSATION OF ANY SORT, UNTIL**
20 **THE CONCLUSION OF DOCKET 00-0075-TP, ALREADY IN**
21 **PROCESS NEARLY ONE AND A HALF YEARS. WHAT IS YOUR**
22 **COMMENT?**

23 A. Again, here is another example of BellSouth's bad faith tactics against
24 ALECs. BellSouth seeks to exercise its monopoly powers in the State of Florida

1 to provide itself financial protection in the form of interim rates and retroactive
2 true-ups, while "offering" Supra nothing, except more delays, and uncertain
3 outcomes, coupled with certain regulatory and judicial appeals certain to further
4 delay, all the while obtaining services from Supra for FREE because of its refusal
5 to negotiate interim rates and provide a proper true-up for Supra. The tactic of
6 delay without compensation is so prevalent, and so widespread as to be, again,
7 bad faith.

8

9 **Q ON PAGE 34 OF MR. RUSCILLI STATES "FURTHERMORE, SUPRA**
10 **DOES NOT UTILIZE ITS OWN SWITCH IN FLORIDA. THE FACT**
11 **THAT SUPRA DOES NOT UTILIZE ITS OWN SWITCH TO SERVE**
12 **ITS OWN CUSTOMERS, CLEARLY DEMONSTRATES THAT**
13 **SUPRA IS UNABLE TO SATISFY THE CRITERIA THAT ITS**
14 **SWITCH COVERS A GEOGRAPHIC AREA COMPARABLE TO**
15 **THAT OF BELLSOUTH'S TANDEM SWITCH." HOW DO YOU**
16 **RESPOND TO THIS?**

17 A. Disingenuous is far to mild a term to describe the multitude of
18 misrepresentations Mr. Ruscilli makes in this one paragraph.

19 First, Supra has well over 70,000 customers in Florida served via UNE
20 combinations, a fact Mr. Ruscilli could, should and probably does know. As
21 Senior Director for State Regulatory (SIC), Mr. Ruscilli should and probably does
22 know that when Supra or any other ALEC leases UNE Switch Ports, it leases the

1 "exclusive access or use of an entire element" as reaffirmed by the FCC in its
2 conclusion to the *First Report and Order* at ¶ 356

3 356. We confirm our tentative conclusion in the NPRM that
4 section 251(c)(3) permits interexchange carriers and all other
5 requesting telecommunications carriers, to purchase unbundled
6 elements for the purpose of offering exchange access services,
7 or for the purpose of providing exchange access services to
8 themselves in order to provide interexchange services to
9 consumers.¹⁴ Although we conclude below that we have
10 discretion under the 1934 Act, as amended by the 1996 Act, to
11 adopt a limited, transitional plan to address public policy
12 concerns raised by the bypass of access charges via unbundled
13 elements, we believe that our interpretation of section
14 251(c)(3) in the NPRM is compelled by the plain language of
15 the 1996 Act. As we observed in the NPRM, section
16 251(c)(3) provides that requesting telecommunications
17 carriers may seek access to unbundled elements to provide a
18 "telecommunications service," and exchange access and
19 interexchange services are telecommunications services.
20 Moreover, section 251(c)(3) does not impose restrictions on
21 the ability of requesting carriers "to combine such elements
22 in order to provide such telecommunications service[s]."¹⁵
23 Thus, we find that there is no statutory basis upon which we
24 could reach a different conclusion for the long term.
25 (Emphasis added).

26
27 357. We also confirm our conclusion in the NPRM that, for the
28 reasons discussed below in section V.J, carriers purchase
29 rights to exclusive use of unbundled loop elements, and thus,
30 as the Department of Justice and Sprint observe, such carriers,
31 as a practical matter, will have to provide whatever services are
32 requested by the customers to whom those loops are dedicated.
33 This means, for example, that, if there is a single loop
34 dedicated to the premises of a particular customer and that
35 customer requests both local and long distance service, then
36 any interexchange carrier purchasing access to that
37 customer's loop will have to offer both local and long

¹⁴ 96-325 footnote -- See NPRM at paras. 159-65.

¹⁵ 96-325 footnote -- 47 U.S.C. § 251(c)(3).

1 **distance services.** That is, interexchange carriers purchasing
 2 unbundled loops will most often not be able to provide solely
 3 interexchange services over those loops.
 4

5 358. We reject the argument advanced by a number of
 6 incumbent LECs that section 251(i) demonstrates that
 7 requesting carriers using unbundled elements must continue to
 8 pay access charges. Section 251(i) provides that nothing in
 9 section 251 "shall be construed to limit or otherwise affect the
 10 Commission's authority under section 201."¹⁶ We conclude,
 11 however, that our authority to set rates for these services is not
 12 limited or affected by the ability of carriers to obtain unbundled
 13 elements for the purpose of providing interexchange services.
 14 Our authority to regulate interstate access charges remains
 15 unchanged by the 1996 Act. What has potentially changed is
 16 the volume of access services, in contrast to the number of
 17 unbundled elements, interexchange carriers are likely to demand
 18 and incumbent LECs are likely to provide. When interexchange
 19 carriers purchase unbundled elements from incumbents, they are
 20 not purchasing exchange access "services." **They are**
 21 **purchasing a different product, and that product is the right**
 22 **to exclusive access or use of an entire element.** Along this
 23 same line of reasoning, we reject the argument that our
 24 conclusion would place the administration of interstate access
 25 charges under the authority of the states. When states set prices
 26 for unbundled elements, they will be setting prices for a
 27 different product than "interstate exchange access services."
 28 Our exchange access rules remain in effect and will still apply
 29 where incumbent LECs retain local customers and continue to
 30 offer exchange access services to interexchange carriers who do
 31 not purchase unbundled elements, and also where new entrants
 32 resell local service.¹⁷ (Emphasis added)
 33

34 Even Mr. Ruscilli should have known and must admit, that Supra "owns" 70,000
 35 unbundled switch ports in BellSouth territory.
 36

¹⁶ 96-325 footnote -- 47 U.S.C. § 251(i).

¹⁷ 96-325 footnote -- The application of our exchange access rules in the circumstances described will continue beyond the transition period described at *infra*, Section VII.

1 Q WHAT ELSE IS FALSE ABOUT MR. RUSCILLI'S TESTIMONY?

2 A. Given his position, and access within BellSouth, Mr. Ruscilli should know
3 that his company has been found guilty of illegally impeding Supra's collocation
4 attempts before the FPSC in 1998, in an aborted settlement before the FCC in
5 1999, [REDACTED] and now in a second case pending
6 before the FCC enforcement division. Mr. Ruscilli does not mention these things
7 while misrepresenting the true reason BellSouth has not raised a finger to
8 provision Supra collocation: it is afraid of what will happen to its business if
9 Supra is allowed to execute its collocation plan.

10

11 Q WHY IS THAT?

12 A. Despite the history of BellSouth's actions in intending to harm Supra,
13 Supra has been able to market itself and grow by 70,000 new customers in a year
14 that has seen ALEC after ALEC fold or file bankruptcy.
15 They know Supra's deployment plans, and if Mr. Ruscilli did proper research he
16 would have been forced to admit the following:

- 17 1. BellSouth operates a total of 9 tandem offices in the State of Florida.
- 18 2. These Tandem offices form the core point of interconnection for all
19 ALECs and IXC's operating in BellSouth's Florida Region.
- 20 3. That an ALEC who were to collocate a telephone switch such as the
21 Lucent 5ESS or Nortel DMS 500 in each of those 9 BellSouth Tandem
22 offices would not only cover a comparable geographic area to BellSouth,

1 **but it would cover an area IDENTICAL to BellSouth**, serve all
2 customer over the **SAME** trunk facilities and end user loops as BellSouth.

3 4. Supra has been granted collocation of either a Lucent 5ESS or Nortel
4 DMS 500 switch in each of the BellSouth Tandem offices in the state of
5 Florida, and the Miami Red Road and Fort Lauderdale Plantation Local
6 Tandems as well.

7 I find it incredible that BellSouth would make the statement regarding Supra's
8 lack of a switch in light of Florida Docket 98-0800-TP [REDACTED]

9 [REDACTED] I further find it impossible to believe that
10 Mr. Ruscilli not only is aware of these issues, but I would not be surprised if he
11 doesn't receive daily briefings on the status of the legal proceedings initiated
12 against BellSouth by Supra.

13

14 This then, is yet another bad faith attempt to deny Supra what it is entitled to, to
15 appear to hide its evil intent, practices and policies from this Commission, and
16 outright misrepresent the truth to further its anti-competitive programs against
17 Supra.

18

19 Once again, disingenuous is far too mild a term for the misrepresentations in Mr.
20 Ruscilli's direct testimony.

21

22 **Q DOES THIS END YOUR REBUTTAL OF MR. RUSCILLI'S DIRECT**
23 **TESTIMONY?**

1 A. It should, but unfortunately it does not.

2 Mr. Ruscilli states on page (2) of his direct testimony which issues his testimony
3 covers. In this list he claims he will address issue 8 and 28. I can find nothing in
4 testimony on Issue 8, and no new argument for issue 28 other than to push for
5 adoption of the rates set forth in the Commission's May 25, 2001 Order in Docket
6 No. 990649-TP.

7 In the abundance of caution, Supra would keep its rebuttal testimony open on
8 these issues in case it turns out that the testimony BellSouth transmitted to Supra
9 is in anyway different from the officially filed copies of Mr. Ruscilli's testimony.
10 Otherwise Supra would expect that the Staff recommendation reflect that Bell
11 South has abandoned its defense of these two issues by its showing.

12

13 **Issue 28: What terms and conditions, and what separate rates, if any, should**
14 **apply for Supra Telecom to gain access to and use BellSouth facilities to**
15 **serve multi-unit installations?**

16

17 **Q IN HIS DIRECT TESTIMONY, MR. JERRY KEPHART STATES**
18 **THAT SUPRA REFUSED TO DISCUSS ISSUES 28, 33, 34, 40, AND 53.**
19 **WERE YOU PRESENT IN ANY OF THE INTRA COMPANY**
20 **REVIEW BOARDS WERE THESE ISSUES WERE TO BE**
21 **DISCUSSED AND SUPRAS POSITION ON THIS ISSUE WAS**
22 **PRESENTED TO BELLSOUTH?**

1 A. I was, in fact I attended all of Supra's planning meetings, drafted and
2 published the meeting minutes.

3

4 **Q WAS MR. KEPHART PRESENT AT ANY OF THESE MEETINGS?**

5 A. No he was not and therefore has no independent knowledge of what was
6 said.

7

8 **Q SHOULD MR. KEPHART HAVE BEEN PRESENT AT THE ICRB**
9 **MEETINGS?**

10 A. I cannot answer authoritatively for BellSouth, but in my opinion, yes he
11 should have.

12

13 **Q WHY IS THAT?**

14 We have been dealing with a certain BellSouth position on this issue that has just
15 flip-flopped with Mr. Kephart's testimony. The Final order in Docket 99-0649
16 (ORDER NO. PSC-01-1181-FOF-TP, Investigation into pricing of unbundled
17 network elements.) was issued May 25, 2001. The proposal outlined in Mr.
18 Kephart's testimony could have been supplied anytime since then, potentially
19 allowing this issue to close before bringing to this Commission. This is yet
20 another example of BellSouth's bad faith dealings with Supra -- they had a
21 solution to the problem and held that through the meetings, conference calls, and
22 ("ICRB") meetings held in late May and June.

1 Q WHAT IS INCORRECT ABOUT MR. KEPART'S STATEMENTS OF
2 SUPRA POSITION?

3 Supra has never refused to discuss any issues. However, as is covered more fully
4 in Mr. Ramos' testimony, it has been well over a year since Supra began
5 requesting information necessary for **Supra** to learn enough about BellSouth's
6 network in order to propose language regarding various aspects of
7 interconnection, a subject that has been covered poorly, virtually non-existent in
8 the past two Supra / BellSouth Interconnection agreements. BellSouth has
9 steadfastly refused to provide such information using a variety of indirect ploys
10 such as "Why don't you look on our website?", "Supra you don't need this
11 information", "Here is what you **must** do", "that information is proprietary and we
12 are not going to give it to you." The most insidious thing is that after Pat Finlen
13 verbally replied that he would provide Supra with the requested information, he
14 now no longer remembers the request or his answers in response to it. His boss,
15 Jerry Hendrix, testifies on page 12 of his direct testimony "However, BellSouth
16 was unaware of Supra's position that it could not negotiate the new
17 interconnection agreement until BellSouth provided it with certain network
18 information until BellSouth received a letter dated April 4, 2001(JDH-11).

19

20 This is just not true.

21

22 While Supra has become accustomed to this behavior on issues jointly handled
23 between Pat Finlen and Jerry Hendrix, it is time for someone to call into question

1 the veracity of what Jerry Hendrix testifies to or else the effectiveness with which
2 he communicates with his subordinates. I personally sat in on at least two
3 telephone calls where Pat Finlen made all of the quotes above. To now claim that
4 they knew nothing of this requirement is a total falsehood.

5

6 The only logical conclusion one must assume from this is that BellSouth does not
7 want to give Supra this information. Its employees responsible for the negotiation
8 of a Follow On Agreement ignored the request, and planned to get away with it
9 because they expected Supra to adopt the recently arbitrated AT&T BellSouth
10 ICA. Now that it has become obvious that BellSouth has not supplied the
11 information, they are trying to shift blame onto Supra, by claiming Supra's sole
12 intent is to delay these proceedings. Of course, BellSouth fails to point out that a
13 delay in these proceedings only harms Supra, as the terms of the Follow On
14 Agreement will apply retroactively to the expiration date of the parties' current
15 agreement. Supra is still being billed at the over-inflated rates in its current
16 agreement, thereby causing its financial statements to overstate its current
17 liabilities.

18

19 The bottom line is that Supra refused to negotiate at a disadvantage to BellSouth,
20 when Supra was legally entitled to the information we requested. Supra merely
21 expressed its intention to defer discussion on these issues until after BellSouth
22 provided the information, if ever. Supra **never** made the statements Mr. Kephart
23 attributes to it, and he has no independent knowledge of what was said.

1

2 **Q THAT SAID, HOW DOES BELLSOUTH'S PROPOSAL STAND UP?**

3 A. The problem with it is that it does not comply with CC Order 99-238, the

4 *UNE Remand Order* at pg. 5:

5 • Subloops. Incumbent LECs must offer unbundled access to
6 subloops, or portions of the loop, at any accessible point.
7 Such points include, for example, a pole or pedestal, the
8 network interface device, the minimum point of entry to the
9 customer premises, and the feeder distribution interface
10 located in, for example, a utility room, a remote terminal, or a
11 controlled environment vault. The Order establishes a
12 rebuttable presumption that incumbent LECs must offer
13 unbundled access to subloops at any accessible terminal in
14 their outside loop plant.

15
16 • **To the extent there is not currently a single point of**
17 **interconnection that can be feasibly accessed by a**
18 **requesting carrier, we encourage parties to cooperate in**
19 **any reconfiguration of the network necessary to create**
20 **one.** If parties are unable to negotiate a reconfigured single
21 point of interconnection at multi-unit premises, we require the
22 incumbent to construct a single point of interconnection that
23 will be fully accessible and suitable for use by multiple
24 carriers. (Emphasis Added)

25
26 What BellSouth has proposed are a series of **two or more** points of
27 interconnection, one reserved for BellSouth and another for the entire ALEC
28 community. Mr. Kephart attempts to justify this position by claiming security and
29 reliability issues will all ALECs having access to the BellSouth terminal.
30 Surprisingly so, he fails to discuss how all his concerns aren't embodied in the
31 second (ALEC) terminal as the rule is now proposed.

32 As Supra was able to prove in its recent commercial arbitrations with BellSouth,
33 BellSouth will stop at nothing to deliberately harm Supra. Allowing BellSouth to

1 maintain two sets of terminals, and then requiring the ALEC to install their own,
2 third terminal is not in compliance with the *UNE Remand Order*, and raises the
3 potential for anti-competitive behavior. ¶ 225:

4 **225. We further note that SBC proposes to avoid difficulties**
5 **associated with competing carriers serving multi-unit**
6 **premises by eliminating multiple demarcation points in**
7 **favor of a single demarcation point, which, according to**
8 **SBC, would remedy competitive LECs' concerns.**¹⁸ OpTel
9 similarly suggests that the incumbent should provide a single
10 point of interconnection at or near the property line of multi-unit
11 premises.¹⁹ OpTel further maintains that the cost of any
12 network reconfiguration required to create a point of
13 interconnection that would be accessible to multiple carriers
14 should be shared by all the carriers concerned.²⁰ (Emphasis
15 Added)

16
17
18 226. Although we do not amend our rules governing the
19 demarcation point in the context of this proceeding, **we agree**
20 **that the availability of a single point of interconnection will**
21 **promote competition.**²¹ **To the extent there is not currently**
22 **a single point of interconnection that can be feasibly**
23 **accessed by a requesting carrier, we encourage parties to**
24 **cooperate in any reconfiguration of the network necessary**
25 **to create one. If parties are unable to negotiate a**
26 **reconfigured single point of interconnection at multi-unit**
27 **premises, we require the incumbent to construct a single**
28 **point of interconnection that will be fully accessible and**

¹⁸ CC Order 99-238 footnote -- SBC Reply Comments at 9 (citing OpTel Comments at 10; Teligent Comments at 3).

¹⁹ CC Order 99-238 footnote -- OpTel Comments at 10.

²⁰ CC Order 99-238 footnote -- *Id.*

²¹ CC Order 99-238 footnote -- *See* 47 C.F.R. § 68.3.

1 **suitable for use by multiple carriers.**²² Any disputes
2 regarding the implementation of this requirement, including the
3 provision of compensation to the incumbent LEC under
4 forward-looking pricing principles, shall be subject to the usual
5 dispute resolution process under section 252.²³ We emphasize
6 that this principle in no way diminishes a carrier's right to access
7 the loop at any technically feasible point, including other points
8 at or near the customer premises. We also note that unbundling
9 inside wire, and access to premises facilities in general, present
10 specific technical issues, and that we have sought additional
11 comment on these issues in our *Access to Competitive Networks*
12 proceeding.²⁴ If the record developed in that proceeding
13 demonstrates the need for additional federal guidance on legal
14 or technical feasibility issues related to subloop unbundling, we
15 will provide such additional guidance, consistent with the
16 policies established in this Order. (Emphasis Added)
17

18 BellSouth's position is not in compliance with the FCC recommendation. Supra
19 stands ready to participate in the reconfiguration of the network to effect this. If
20 BellSouth does not wish to negotiate on this issue, the FCC has offered up an
21 effective order "**we require the incumbent to construct a single point of**
22 **interconnection that will be fully accessible and suitable for use by multiple**
23 **carriers.**" So either BellSouth negotiates this issue with Supra to come to a
24 mutually agreeable solution, or BellSouth should build the SPOI ("Single Point of
25 Interconnection") as **required** by the FCC.

26

²² CC Order 99-238 footnote -- The incumbent is obligated to construct the single point of interconnection whether or not it controls the wiring on the customer premises.

²³ CC Order 99-238 footnote -- See 47 U.S.C. § 252

²⁴ CC Order 99-238 footnote -- See generally *Competitive Networks Notice* at paras. 49-51 and 65-67.

1 Q IN HIS DIRECT TESTIMONY ON PAGES 9-12 MR. KEPHART
2 PAINTS A DISASTER PRONE PICTURE. WHAT IS THE TRUE AND
3 CORRECT SOLUTION TO THIS PROBLEM?

4 A. BellSouth already has a mandate to unbundle its OSS and supply it to
5 competitors. BellSouth managers such as Mr. Ronald Pate still seem to
6 mistakenly believe OSS unbundling merely means supplying access to the
7 underlying data, not the **functions** contained within BellSouth's OSS interfaces.
8 BellSouth continues to maintain that its ALEC OSS provides ALECs with the
9 same functionality in the same time and manner as BellSouth's retail OSS, despite
10 overwhelming evidence to the contrary. I wonder how BellSouth can continue to
11 justify the cost of maintaining, updating and testing these ALEC OSS systems,
12 including the costs of staffing its LCSC to deal with problems associated
13 therewith, when all that is necessary is to allow ALECs to access the very same
14 OSS that BellSouth's retail departments use. I can only guess that the costs of
15 keeping these dual systems is justified by the fact that the degraded OSS provided
16 to ALECs prevents them from being able to deliver the same quality, timely
17 service that BellSouth retail can, and thereby allows BellSouth to maintain its
18 revenue base. -The bottom line is that BellSouth **MUST** unbundle **its own OSS**
19 and supply it to ALECs. [REDACTED]

20 [REDACTED]

21 [REDACTED]
22 [REDACTED]
23 [REDACTED]
24 [REDACTED]
25 [REDACTED]

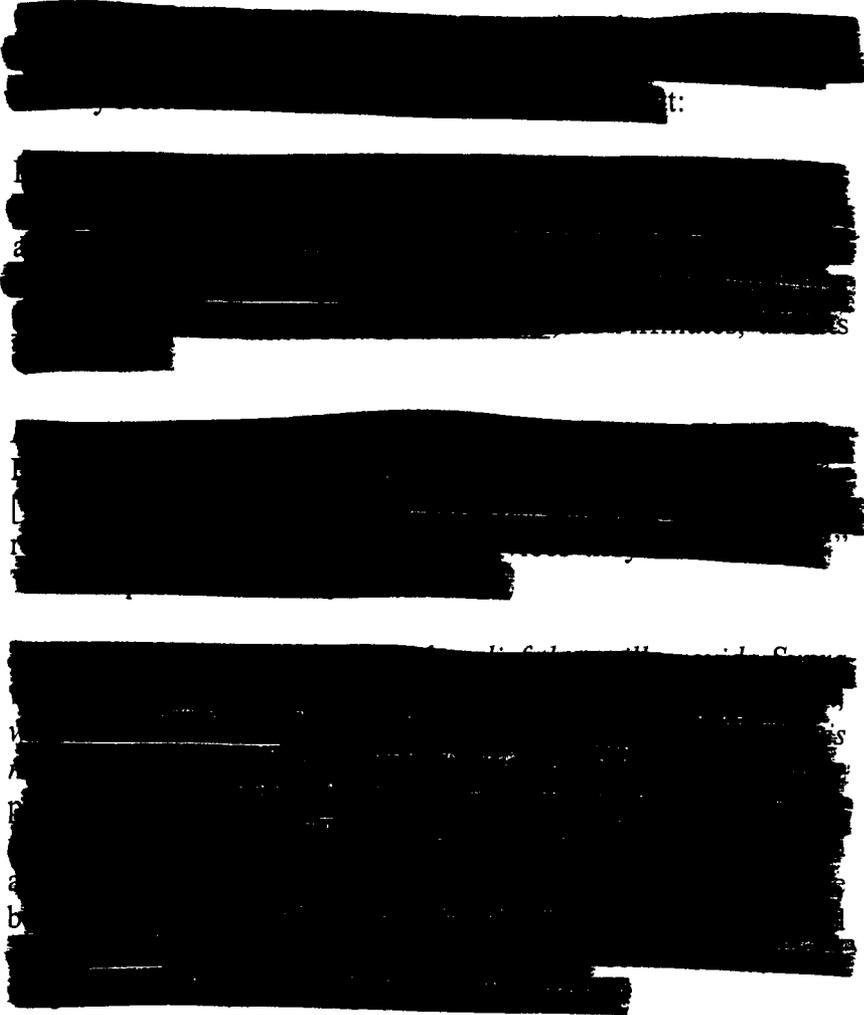
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29 Q MR. KEPHART PAINT A BLEAK DISMAL PICTURE WHERE
30 "TECHNICIANS FROM ANY AND EVERY ALEC IN FLORIDA
31 WALK INTO AN EQUIPMENT ROOM IN A HIGH RISE BUILDING
32 AND START APPROPRIATING PAIRS AND FACILITIES FOR ITS
33 OWN USE, WITHOUT CONSULTING WITH ANYONE AND
34 WITHOUT ANY OBLIGATION TO KEEP APPROPRIATE
35 RECORDS SO THAT THE NEXT PERSON IN THE ROOM KNOWS
36 WHAT BELONGS TO WHOM." IS THIS ANYTHING MORE THAN

1 **INFLAMMATORY TALK INTENDED TO PETRIFY THIS**
2 **COMMISSION INTO TAKING NO ACTION?**

3 A. That's exactly what it is. Talk. BellSouth has already solved this issue
4 two years ago with the 709 order. Currently ALECs in Florida do all of their own
5 work directly on the main distribution frame, policies have been worked out,
6 access granted, standards published.

7

8 This has not yet caused any network to "fall apart." BellSouth requires the
9 installation crews to be BellSouth certified , and all work is inspected.

10

11 **Q WHAT DOES SUPRA REQUEST OF THIS COMMISSION?**

12 A. Supra requests that this commission ignore Mr. Kephart's position and
13 take its guidance from Supra's position as set forth in my direct testimony.

14

15

16 **Issue 33: What are the appropriate means for BellSouth to provide**
17 **unbundled local loops for provision of DSL service when such loops are**
18 **provisioned on digital loop carrier facilities?**

19

20 **Q HOW DOES MR. KEPHART'S TESTIMONY AFFECT THE**
21 **NEGOTIATION BETWEEN THE PARTIES?**

22 A. We have been dealing with a certain BellSouth position on this issue that
23 has just flip-flopped with Mr. Kephart testimony. The Final order in the *UNE*

1 *Remand order* CC order 99-0238 was issued January 12, 2000. The proposal
2 outlined in Mr. Kephart's testimony could have been supplied anytime since then,
3 potentially allowing this issue to close before bringing to this Commission. This
4 is yet another example of BellSouth's bad faith dealings with Supra -- they had a
5 solution to the problem and held that through the meetings, conference calls, and
6 ("ICRB") meetings held in late May and June.

7

8 **Q IS SUPRA SATISFIED WITH MR. KEPHART'S ANSWER?**

9 A. Only as far as it goes. BellSouth has omitted one of the three facets -
10 Unbundled Access to the packet switching UNE in cases where an xDSL
11 compatible loop cannot be provisioned over existing copper facilities. BellSouth
12 has chosen language that effectively enables them to escape their requirement to
13 unbundle packet switching for Supra in all cases without providing Supra any
14 guarantees that its customers will receive xDSL service on the same terms and
15 conditions that BellSouth provides itself and its affiliates.

16 The FCC recognized the precarious position that the LEC could choose to
17 exercise anti-competitive behavior by using its monopoly position against an
18 ALEC like Supra " **the incumbent LEC can effectively deny competitors entry**
19 **into the packet switching market.**" BellSouth, by its proposed contract
20 language has flocked directly to language intended to deny Supra access to the
21 packet switching UNE while placing no limits upon its requirement to provide
22 xDSL loop capability on the same terms it supplies itself and its affiliates.

23 In CC Order 99-238 at ¶ 313 the FCC held:

1 **313. We do find, however, one limited exception to our**
2 **decision to decline to unbundle packet switching.** Access to
3 packetized services to provide xDSL service requires “clean”
4 copper loops without bridge taps or other impediments.²⁵
5 Furthermore, xDSL services generally may not be provisioned
6 over fiber facilities. In locations where the incumbent has
7 deployed digital loop carrier (DLC) systems, an uninterrupted
8 copper loop is replaced with a fiber segment or shared copper in
9 the distribution section of the loop. **In this situation, and**
10 **where no spare copper facilities are available, competitors**
11 **are effectively precluded altogether from offering xDSL**
12 **service if they do not have access to unbundled packet**
13 **switching.²⁶ Moreover, if there are spare copper facilities**
14 **available, these facilities may not meet the necessary**
15 **technical requirements for the provision of certain advanced**
16 **services.** For example, if the loop length exceeds 18,000 feet,
17 the provision of ADSL service is technically infeasible. **When**
18 **an incumbent has deployed DLC systems, requesting**
19 **carriers must install DSLAMs at the remote terminal**
20 **instead of at the central office in order to provide advanced**
21 **services.** We agree that, if a requesting carrier is unable to
22 install its DSLAM at the remote terminal or obtain spare copper
23 loops necessary to offer the same level of quality for advanced
24 services, **the incumbent LEC can effectively deny**
25 **competitors entry into the packet switching market. We find**
26 **that in this limited situation, requesting carriers are**
27 **impaired without access to unbundled packet switching.**
28 **Accordingly, incumbent LECs must provide requesting**
29 **carriers with access to unbundled packet switching in**
30 **situations in which the incumbent has placed its DSLAM in**
31 **a remote terminal.** This obligation exists as of the effective
32 date of the rules adopted in this Order. The incumbent will be
33 relieved of this unbundling obligation only if it permits a
34 requesting carrier to collocate its DSLAM in the incumbent’s
35 remote terminal, on the same terms and conditions that apply to
36 its own DSLAM. Incumbents may not unreasonably limit the

²⁵ CC Order 99-238 footnote -- See Ohio PUC Comments at 14-15; Covad Comments at 40; Northpoint Comments at 19; Rhythms Comments at 15-16.

²⁶ CC Order 99-238 footnote -- Level 3 Comments at 23; NorthPoint Comments at 18-19; Rhythms Comments at 27.

1 deployment of alternative technologies when requesting carriers
2 seek to collocate their own DSLAMs in the remote terminal.
3 (Emphasis Added.)
4
5

6

7 Accordingly, (and recognizing BellSouth has refused to provide technical
8 information responsive to Supras requests in this matter **for well over a year**),
9 Supra requests that this Commission order BellSouth to include language such
10 that BellSouth **must** provide Supra with unbundled access to BellSouth packet
11 switching (and collocated DSLAM, a.k.a. BellSouth's tariffed xDSL transport
12 product) **at Supra's option**, whenever Supra's requests for unbundled xDSL loops
13 cannot be provided within the standard interval and BellSouth has collocated its
14 own DSLAMs in the serving remote terminal.

15 Simply saying Supra may collocate its own DSLAM "...even if that means that
16 room inside the remote terminal must be augmented or that the remote terminal
17 itself must be expanded or replaced to make room for Supra's or another ALEC's
18 DSLAM.

19 Supra has had an effective order from this Commission granting it collocation in
20 the North Dade Golden Glades, and West Palm Beach Gardens central offices
21 since December 1998. BellSouth has effectively denied Supra this collocating by
22 regulatory and Judicial appeals, contract rate violations, ignoring effective orders
23 from commercial arbitrators to provide collocation in these offices by June 15,
24 2001. These are the two tandem offices for LATA 460, arguably the most
25 profitable and desirable LATA in the nine state region. This is prima facie

1 evidence that BellSouth, when properly motivated to deny entrance to a
2 competitor can and will use any and all means to exercise its monopoly powers to
3 **" effectively deny competitors entry into the packet switching market."**

4 Supra seeks to avoid following BellSouth into the trap it is attempting to set in
5 this case by providing unbundled packet switching to Supra **at Supras option,**
6 not BellSouth's, whenever the end user is served via DLC and BellSouth has
7 deployed its own DSLAMs in a given remote terminal.

8

9 BellSouth is in a position to delay nearly forever collocation in a remote terminal
10 for reasons associated with budget shortages, lack of sufficient setback or right of
11 way to effect expansion, local zoning and permitting issues, in addition to outright
12 refusal to implement effective Commission orders. By proving contractual
13 support for the FCC's third prong on this issue, the FPSC assures Supra of Judicial
14 support in the implementation of the interconnection agreement in areas where the
15 FPSC itself lacks that authority to effectively compel BellSouth to honor its
16 responsibilities.

17

18 This authority is within the authority granted to the state commissions by the
19 FCC. In the *First Report and Order* at ¶ 135-136:

20

21 135. Under the statutory scheme in sections 251 and 252, **state**
22 **commissions may be asked by parties to define specific**
23 **terms and conditions governing access to unbundled**
24 **elements, interconnection, and resale of services beyond the**
25 **rules the Commission establishes in this Report and Order.**
26 **Moreover, the state commissions are responsible for setting**

1 **specific rates in arbitrated proceedings. For example, state**
2 **commissions in an arbitration would likely designate the**
3 **terms and conditions by which the competing carrier**
4 **receives access to the incumbent's loops.** The state
5 commission might arbitrate a description or definition of the
6 loop, the term for which the carrier commits to the purchase of
7 rights to exclusive use of a specific network element, and the
8 provisions under which the competing carrier will order loops
9 from the incumbent and the incumbent will provision an order.
10 The state commission may establish procedures that govern
11 should the incumbent refurbish or replace the element during
12 the agreement period, and the procedures that apply should an
13 end user customer decide to switch from the competing carrier
14 back to the incumbent or a different provider. In addition, the
15 state commission will establish the rates an incumbent charges
16 for loops, perhaps with volume and term discounts specified, as
17 well as rates that carriers may charge to end users.

18
19 136. State commissions will have similar responsibilities with
20 respect to other unbundled network elements such as the switch,
21 interoffice transport, signalling and databases. **State**
22 **commissions may identify network elements to be**
23 **unbundled, in addition to those elements identified by the**
24 **Commission, and may identify additional points at which**
25 **incumbent LECs must provide interconnection, where**
26 **technically feasible.** State commissions are responsible for
27 determining when virtual collocation may be provided instead
28 of physical collocation, pursuant to section 251(c)(6). States
29 also will determine, in accordance with section 251(f)(1),
30 whether and to what extent a rural incumbent LEC is entitled to
31 continued exemption from the requirements of section 251(c)
32 after a telecommunications carrier has made a bona fide request
33 under section 251. Under section 251(f)(2), states will
34 determine whether to grant petitions that may be filed by certain
35 LECs for suspension or modification of the requirements in
36 sections 251(b) or (c). (Emphasis Added.)

37
38
39 Supra hopes this Commission will exercise its rights to foster local competition
40 and grant Supra this protection from BellSouth's obvious and shameful attempts
41 to "effectively deny [Supra] entry into the packet switching market" by its

1 proposed language on this issue and its failure to be responsive to Supra's request
2 for production of documents (the Interconnection template) that would have led to
3 proper discovery in this matter.

4 The FCC empowers state commissions with this responsibility in the *first Report*
5 *and Order* at ¶ 137:

6 137. The foregoing is a representative sampling of the role that
7 states will have in steering the course of local competition.
8 **State commissions will make critical decisions concerning a**
9 **host of issues involving rates, terms, and conditions of**
10 **interconnection and unbundling arrangements, and**
11 **exemption, suspension, or modification of the requirements**
12 **in section 251. The actions taken by a state will significantly**
13 **affect the development of local competition in that state.**
14 Moreover, actions in one state are likely to influence other
15 states, and to have a substantial impact on steps the FCC takes
16 in developing a pro-competitive national policy framework.
17 (Empahasis Added)

18
19

20

21 **Issue 34: What coordinated cut-over process should be implemented to**
22 **ensure accurate, reliable and timely cut-overs when a customer changes local**
23 **service from BellSouth to Supra Telecom**

24

25 **Q HAS BELL SOUTH EVER PROPOSED THE COORDINATED HOT**
26 **CUT PROCESS TO SUPRA AT ANY TIME IN THE PAST?**

27 A. Certainly not in terms of proposed language for this follow-on
28 interconnection agreement. However it was denied and described by the UNE

1 loop product manager, Jerry Latham, to me and to Supra in general prior to our
2 adoption of the AT&T / BellSouth interconnection agreement on October 5, 1999.

3

4 **Q ARE THERE ANY DIFFERENCES OR OMISSIONS IN MR.**
5 **LATHAM'S AND MR. KEPHART'S PROPOSALS REGARDING THE**
6 **COORDINATED HOT CUT?**

7 A. Absolutely. Mr. Kephart's proposal leaves serious omissions in the
8 process. Contrary to Mr. Kephart's testimony, I believe those omissions, can,
9 will, and likely have been the source of the countless times "BellSouth exhibited a
10 pattern of failure that has resulted in the level of service outage alleged to have
11 been experienced by Supra end users."²⁷ I can personally testify that the loss of
12 dialtone is not alleged, it is quite real and I have experienced the phenomonum at
13 the homes of my own family members. I can clearly see where Mr. Kephart's
14 proposed language allows and encourages such service outages by failing to
15 actually maintain any coordination at all. I repeat, Mr. Kephart's proposed
16 languages effects coordination between **no one**. It is this fundamental issue we
17 seek the support of this Commission in altering.

18

19 First, according to face to face meetings and documents supplied by Mr. Latham,
20 BellSouth's initial proposal to Supra on this matter involved the link up of the
21 ALEC (which could then include various departments as necessary), the

²⁷ DT Kephart pg. 20.

1 BellSouth frame technician and the BellSouth personnel effecting local switch
2 translations and Local number portability translations.

3

4 Mr. Kephart's beautifully documented procedure starts with the BellSouth frame
5 technician receiving a call from person or persons unknown (I can assure you its
6 NOT the ALEC in his example), **and then hanging up the phone!!!!** I fail to
7 see the coordination when the parties controlling the transfer are not in
8 communications with each other.

9

10 Let's face it, most of the time a BellSouth retail customer converts to an ALEC,
11 they want to keep their existing number. Therefore the number must be "ported"
12 to the ALEC. This is effected through Global Title Translations at a national
13 level such that **after** the conversion, the nationwide, multicarrier SS7 signaling
14 network ubiquitously **knows** that the number no longer resides on the BellSouth
15 switch with SS7 point code abcd, but that it reside on the ALEC switch with point
16 code zxyw. Once that change is made, and it propagates through the SS7
17 network, the number is ported to the new switch.

18

19 Based on my description above, it should be obvious the importance of
20 coordinating this aspect of the cutover. Imagine if this step is done 8 hours, 24
21 hours, 48 hours early or later.

22

1 If done early, the ALEC switch translation may not be in place to handle it and
2 calls will, effectively, drop off into a black hole. If done early and the ALEC
3 translation are in place, the switch will respond as it should and switch the call ...
4 into thin air.

5

6 If done late, other strange things occur. If done late, and the BellSouth switch
7 translations are not yet backed out (After all if the loop is moved no calls will be
8 coming in...) the **BellSouth** switch will improperly and incorrectly handle the call
9 and switch the call ... into thin air. If done late and the BellSouth switch
10 translation has already been backed out the call will be routed to a **BellSouth** that
11 has no clue what to do with it and the caller ends up in a black hole.

12

13 The timing and propagation of LNP translations, if initiated at the same time as
14 BellSouth and ALEC switch translations are changed, will result in undefined
15 response for some period of time as perhaps both switches are correct, but there
16 will be some uncertainty as to which switch the incoming call will be routed to
17 depending upon where the call originates from and LNP propagation delays to the
18 SS7 STP/SCP serving that switch.

19

20 My testimony on this subject assumes a perfect world. But translations repeated
21 over and over for a customer base of 70,000 customers and growing daily results
22 in even small fractional percentage of failures affecting hundreds of customers.
23 Supra's customer base is now so large that it is no longer a hit or (hopefully) miss

1 question. Even tiny percentages of errors affect large numbers of Florida
2 telephone subscribers.

3

4 In the case where any **one** of the three translations is done partially wrong, the
5 permutations of possible responses rises astronomically. To put forth a policy on
6 coordinated hot cut, without live coordination, and live testing of LNP translation,
7 not just an ANAC test is absolutely essential when the RBOC is performing LNP
8 translations as part of the loop cutover.

9

10 **Q WHAT DOES SUPRA WANT THIS COMMISSION TO DO?**

11 A. Supra expects this Commission to recognize Mr. Kephart's proposal for
12 what it is. A good starting point, only. This procedure needs the additional
13 refinements and assurances originally promised by BellSouth and illustrated by
14 my testimony above to provide the superior and seamless service to Florida
15 customers that will lead to dramatically reduced numbers of customer support,
16 complaint calls and FPSC complaints against Supra because of BellSouth's
17 actions.

18 This Commission should recognize that BellSouth is not properly motivated to
19 achieve this superior level of service because of its proven tendency to engage in
20 anti-competitive behavior against ALECs. As I testified to in my direct
21 testimony, the holy grail, 271 approval bears less weight than one would think
22 simply because BellSouth is **already** collecting the lion's share of every long

1 distance penny in the State of Florida, without 271 approval, via its access charge
2 mechanism. Supra looks to this Commission for support in this matter.

3

4 **Issue 40: Should Standard Message Desk Interface-Enhanced ("SMDI-E")**
5 **and Inter-Switch Voice Messaging Service ("IVMS"), and any other**
6 **corresponding signaling associated with voice mail messaging be included**
7 **within the cost of the UNE switching port? If not, what are the appropriate**
8 **charges, if any?**

9

10 **Q MR. KEPHART MAKES CERTAIN REPRESENTATION ABOUT**
11 **SMDI IN HIS TESTIMONY. IS MR. KEPHART A CREDIBLE**
12 **WITNESS IN THIS CASE.**

13 A. Not in my opinion.

14 Mr. Kephart begins his testimony on SMDI by making a huge mistake. He
15 testifies that SMDI-E and SMDI are the same thing. This is horribly wrong and I
16 would doubt every other word Mr. Kephart writes on this subject.

17

18 A simple reading of BellSouth's own Access Tariff (unfortunately and incorrectly
19 the **only** place to research these products due to BellSouth's failure to incorporate
20 them in various ICA's including Supras.)

21

1 Q WHAT IS THE DIFFERENCE BETWEEN SMDI AND SMDI-E
2 (ENHANCED) AND WHAT IS INCORRECT IN MR. KEPHART'S
3 TESTIMONY ON THIS MATTER?

4 A. SMDI is essentially Called party / calling party ID service. Intended to
5 support voicemail services that have calls forwarded to them, it provides calling
6 party number and name ("CNAM") information in a digital format. Since calls
7 are forwarded into a hunt group at the voicemail system, that system needs to
8 know, on whose behalf to record the incoming message. So SMDI also supplies
9 the number of the called party and the CNAM information as well. This enables
10 the voicemail system to immediately determine for whom the call was intended and
11 transfer the recorded message into that subscriber's voicemail box. It is this very
12 requirement to know the called party that makes SMDI essential. Caller ID is just
13 not enough to operate voicemail systems today.

14

15 SMDI provides the reason the call was forwarded to voicemail (line busy, no
16 answer, etc.) and can provide other information to the voicemail system, but
17 these five items are the primary ones needed.

18

19 Additionally SMDI is a two way protocol. Once the voice mail system records a
20 message, it sends its own signal **back** to the switch to allow the switch to enable
21 an audible or visible Message waiting Indicator ("MWI")

22

23 Q OK, IF THAT IS SMDI, WHAT IS SMDI-ENHANCED ("SMDI-E")

1 A. I believe what Mr., Kephart wanted to say in the first line of his testimony
2 is that SMDI-E is BellSouth's term for the industry standard Inter-Switch Voice
3 Messaging Service ("ISVM") protocol jointly supported by Lucent Technologies,
4 Nortel Networks, and Siemens Systems.

5 ISVM / SMDI-E uses the facilities and message sets of the SS7 network to
6 transmit SMDI from one switch to another connected to the voicemail platform.
7 This allows distributed networks to be built without having to tie a voicemail
8 system to each and every switch.

9

10 **Q MR. KEPHART TESTIFIES THAT SMDI AND SMDI-E / ISVM ARE**
11 **USED TO PROVIDE AN INFORMATION SERVICE, NOT A**
12 **TELECOMMUNICATIONS SERVICE. HOW DO YOU RESPOND TO**
13 **THAT.**

14 A. First of all I'm not clear what this has to do with anything in this docket. I
15 see it as another BellSouth attempt to obfuscate what should be a crystal clear
16 issue.

17

18 However I will agree with Mr. Kephart that voicemail meets the statutory
19 definition for an information (or advanced / enhanced) service as defined by the
20 Act. However there is not explicit rule that would support the fact that it can
21 **only** be an information service.

22

1 I also agree with the Florida Commission's ruling in order PSC-97-0294-FOF-TP
2 in Docket 96-1230-TP that voicemail is a telecommunications service based on
3 the same reasoning that led to this commissions ruling.

4

5 I also feel the North Florida district court ruling that overturned this Commissions
6 ruling was flawed by an assumption that something had to be either a
7 telecommunications or information service exclusively. That assumption has no
8 basis in reality, and I believe that had MCI not struck a private deal with Sprint,
9 and appealed, this Commissions original order could have been upheld on appeal.

10

11 The FCC recognized this in its *Fifth Report and Order on the Deployment of*
12 *advanced wireline Services* previously cited in both my testimony and that of Mr.
13 Ramos. In that order the y FCC found that Advanced Services were also
14 Telecommunications services.

15

16 So Mr. Kephart appears to but taking a notable, but incorrect black or white
17 stance on what has clearly turned out to be a grey issue.

18

19 **Q WHAT IS MR. KEPHART MISSING TOTALLY IN HIS**
20 **TESTIMONY.**

21 A. Mr. Kephart paints SMDI as a special services access product. Supra
22 maintains, as set forth in my direct testimony, that SMDI is one of the "features,
23 functions and capabilities" of the unbundled local switching port. The software to

1 support SMDI and ISVM (SMDI-E) is part of the base generic software load of
2 Lucent, Nortel and Siemens switches. SMDI-E uses the SS7 signaling network
3 which is also considered part of the UNE switch port. It is apparent from a plain
4 reading of the previous interconnection agreement between the parties that at the
5 time the ICA was drafted, both BellSouth and AT&T agreed with my position
6 because they documented BellSouth's requirement to supply same to AT&T
7 ubiquitously regardless of whether resale, UNE combinations etc, were used to
8 provision the service. BellSouth also knows the importance to Supra's business
9 plan (and the exact number of voice mailboxes that Supra will close on
10 BellSouth's VMS platforms) should this issue be resolved in Supra's favor. That
11 is why they are fighting this issue. Not because they are right, but because Supra
12 needs it and is entitled to it.

13

14

15 **Issue 49 : Should Supra Telecom be allowed to share, with a third party, the**
16 **spectrum on a local loop for voice and data when Supra Telecom purchases a**
17 **loop/port combination and if so, under what rates, terms and conditions?**

18

19 **Q MR. RUSCILLI ONCE AGAIN CITES TO FPSC ORDER PSC-01-0824-**
20 **FOF-TP IN HIS SOLE SUPPORT ON THIS ISSUE. IS THIS ORDER**
21 **BINDING UPON SUPRA?**

22 A. No it is not, Mr. Ruscilli should know that. This is yet another example of
23 BellSouth's bad faith treatment of Supra in this issue.

1

2 Since he fails to make a single substantive defense of BellSouth's position I would
3 request the staff to find that BellSouth failed to make a defense of its position and
4 recommend resolution in favor Supra per my direct testimony.

5

6 Further Supra request this Commission take further steps against BellSouth for its
7 anti-competitive behavior against Supra, all other ALECs and Network Service
8 Providers and the people of Florida on this issues. BellSouth's robber baron
9 tactics must be punished so as to prevent further re-occurrences of these abusive
10 tactics.

11

12 **Issue 53 : How should the demarcation points for access to UNEs be**
13 **determined?**

14

15 Q MR. KEPHART TESTIFIES THAT IT IS "BELLSOUTH'S
16 POSITION" THAT BELLSOUTH BELIEVE IT HAS THE RIGHT TO
17 DESIGNATE THE POINT OF DEMARCATION FOR ACCESS TO
18 UNES. HOW DO YOU RESPOND.

19 A. Once again, this issue shows BellSouth bad faith approach in its
20 negotiation with Supra. Mr. Kephart is either incompetent, or is intentionally
21 misrepresenting the plain and unambiguous language of the Act and the *First*
22 *Report and Order* in this matter.

23

1 Mr. Kephart cites not one single legal authority to support his position. His
2 opinions and theories just do not warrant further discussion. My direct testimony
3 cites to the prevailing law on this issue.

4

5 **Q IS THERE ANY OTHER ISSUE NOTEWORTHY IN MR. KEPHART'S**
6 **TESTIMONY?**

7 A. Yes. I found it remarkable that the one thing I agreed with in Mr.
8 Kephart's testimony is his contradiction of Witness Ruscilli's wild theories as to
9 Supra having to compensate BellSouth for network facilities on the BellSouth
10 side of the point of interconnection / demarc when he states "Each party should be
11 responsible for maintenance and operation [and cost] of all equipment / facilities
12 on its side of the demarcation point."

1 BY MR. MEDACIER:

2 Q Mr. Nelson, did you prepare a summary for this
3 Commission?

4 A I did.

5 Q Can you please go ahead.

6 A Commissioners, good afternoon. We are here today
7 seeking arbitration on certain rates, terms and conditions of
8 our existing interconnection agreement with BellSouth for the
9 purposes of arriving at a follow-on agreement that allows Supra
10 to execute our business plan according to our rights under
11 existing law. In doing so, we seek plain and unambiguous
12 language in this new agreement, because it has become our
13 experience that where there is a lack of clarity, BellSouth's
14 own actions are to deny Supra our contractual and legal rights
15 for as long as possible attempting to force Supra to either
16 give up our rights or litigate to have them restored. Such
17 delays for clarification do not impair BellSouth's business
18 plan; on the contrary, it enhances it.

19 It is undeniable that over the past four years during
20 the pendency of two different interconnection agreements
21 BellSouth has denied Supra access to an effective OSS
22 presenting Supra with an OSS that is incapable of even ordering
23 the various services promised by the contract between the
24 parties, much less the ability to offer our customers the same
25 ordering experience for our customers as BellSouth provides for

1 customers of its own retail division, a right promised Supra in
2 the First Report and Order on local competition.

3 It is undeniable that for the past four years and two
4 agreements BellSouth has denied Supra the ability to offer
5 services via unbundled network element combinations and
6 collocation. Despite this Commission having ruled in Supra's
7 favor, we have subsequently had to have the issues heard before
8 the FCC Enforcement Division, commercial arbitrators, and
9 issues still exist between the parties over what the contract
10 says about pricing on specific elements on collocation and UNE
11 combinations.

12 And it is undeniable that BellSouth has incorrectly
13 billed Supra for a variety of issues, and that lack of clarity
14 in the contract has impeded resolution of the issues. And it
15 is undeniable that the courts and the FCC have taken new
16 interpretations of the Telecom Act since the last contract was
17 signed.

18 We seek to eliminate these problems in this our third
19 interconnection agreement with BellSouth. The issue of using
20 DAML on Supra's lines arises out of our customer complaints and
21 dissatisfaction. BellSouth is well aware of that problem and
22 speaks to it in their production. Under the existing rules,
23 Supra is powerless to prevent or control such customer
24 dissatisfaction related to DAML equipment. The result is
25 complaints to this Commission by Florida consumers.

1 The issue regarding the provision of DSL services is
2 similarly the subject of consumer complaints here and to the
3 FCC. Our customers do not understand why switching to Supra
4 for voice service means they cannot purchase DSL service from
5 BellSouth. The various issues regarding unbundled network
6 elements and combinations reflect the pain that Supra has
7 endured over the past four years just trying to implement these
8 processes. That this Commission has already heard these issues
9 is undeniable. This is one of the three market entry
10 strategies, and I will be surprised if every ALEC in Florida
11 doesn't come before you for arbitration of these issues.

12 BellSouth seeks to take away what we were allowed to
13 do in our 1997 and 1999 interconnection agreements. The
14 current state of the law is before the Supreme Court of the
15 United States. And the FCC is silent on certain aspects. In
16 1997 and 1998, this issue was also before the Supreme Court.
17 The prevailing law was beneficial to ALECs, and BellSouth
18 refused to move forward until the Supreme Court was heard.
19 Today, BellSouth believes the prevailing law is beneficial to
20 BellSouth. So despite the fact that the issue is again before
21 the Supreme Court, BellSouth rushes to implement what may be
22 flawed laws. ALECs have been offered the short end of the
23 stick once again. We suggest a more reasoned approach and
24 unique arguments from those presented by AT&T and MCI in their
25 arbitrations.

1 The issue on coordinated cut-over processes intended
2 to help eliminate recent increases in customer lost dial tone
3 during or shortly after conversion. Our experience in this
4 area is not good, and we are informed that the conversion to
5 UNE-P will be far more disruptive. We intend to be proactive
6 in preventing future customer complaints in this regard.

7 The issues regarding end user line charges, local
8 traffic, traffic to Internet service providers, reciprocal
9 compensation under those definitions, calls to Internet service
10 providers, single or multiple points of interconnection per
11 LATA, UNE rates, terms and conditions, including access to
12 multitenant premises, Supra's right to charge tandem switching
13 rates are all intended to reduce or eliminate future litigation
14 on these issues by providing plain and unambiguous language in
15 the agreement. Our goal is clarity and compliance with the
16 law.

17 These issues are resolvable. Indeed, I personally
18 have worked very hard on these issues behind the scenes and
19 expected to resolve a great many of them over the past few
20 weeks, only to become disappointed with the result. I ask for
21 your wisdom in granting Supra our rights under the law.

22 MR. MEDACIER: Mr. Nilson is now available for cross
23 examination.

24 COMMISSIONER JABER: Thank you. Mr. Twomey.

25 MR. TWOMEY: Yes. Thank you.

CROSS EXAMINATION

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BY MR. TWOMEY:

Q Mr. Nilson, would you agree with me that the end user common line charge, which is in Issue 7, is a charge that is appropriate when Supra orders resale services?

A I would. I believe this Commission has already found so in Docket 1097 recently.

Q I'm sorry, did you start -- I couldn't hear whether you started with a yes, did you?

A Yes.

Q Okay. Thank you. Mr. Nilson, do you agree with me that if Supra were to obtain access to BellSouth's RNS system, that the system would have to be modified to accommodate wholesale orders?

A No. Perhaps your billing system would have to be modified but not RNS itself.

Q I'm sorry, what was that qualification at the end?

A Perhaps certain assumptions you made in your billing system would cause that system to need to be modified, but I don't believe anything in RNS or the ordering process would have to be modified.

COMMISSIONER JABER: Mr. Nilson, pull the microphone right up to you. There you go.

MR. TWOMEY: May I approach the witness, please.

BY MR. TWOMEY:

1 Q Mr. Nilson, I'm about to hand you a copy of your
2 deposition that was taken on Friday, September 7th. I'd like
3 you to read the question and the answer beginning on Page 71,
4 Line 17.

5 A "Question: Let's try to break it down. The
6 BellSouth service representative accessing RNS and sitting in
7 her area to do her work, can she place an order -- he or she
8 place an order of a wholesale product using RNS?

9 Answer: Not RNS. She can in ROS, but that's a
10 limitation that was defined by the programmer that created it.
11 I mean, it's not inherently difficult to change that, or it
12 shouldn't be inherently difficult to change that."

13 Q Did you misunderstand my question at the deposition?

14 A Not at all. I think my answer at deposition and my
15 answer today are completely consistent. I indicated that a
16 change was necessary, and that change is in the billing system.
17 There's no rational or reasonable reason why the same service
18 that I order under resale has to be ordered fundamentally
19 functionally different as a wholesale product. That's a
20 limitation that BellSouth designed into the system, one that
21 might some day be considered anticompetitive.

22 Q All right. Well, I just want to make sure that I'm
23 clear on your position. If Supra were given access to RNS,
24 could Supra order a wholesale product and have that product
25 provisioned and billed properly without modification to

1 BellSouth's existing systems?

2 A It could be provisioned properly without
3 modification.

4 Q Could it be billed properly without modification?

5 A I highly doubt it.

6 Q Does Supra want its orders billed properly, its
7 services billed properly?

8 A Yes.

9 Q So does Supra want BellSouth to modify whatever
10 systems need to be modified if you are granted direct access?

11 A Supra would like all such mistakes corrected.

12 Q So you're asking this Commission to order BellSouth
13 not only to give you direct access but also to modify existing
14 systems for that direct access to be useful to you; correct?

15 A Well, Mr. Twomey, I think you're aware that we
16 haven't had a fundamental exchange in technical detail, so I'm
17 not clear on exactly what it is I am asking. But if there is a
18 constraint in your system that causes this problem that puts us
19 at a disadvantage, yes, I think it should be repaired.

20 Q Mr. Nilson, with respect to Issue 10, the DAML issue,
21 capital D-A-M-L, you have raised a concern about the impact
22 that the use of DAML may have on modem speed; correct?

23 A Absolutely.

24 Q And BellSouth has testified that it has addressed
25 that issue with its vendor; isn't that right?

1 A BellSouth has testified and produced production of
2 documents that indicates that a solution is pending. We have
3 not been able to identify just exactly how large the problem
4 is, nor how effective BellSouth's solution is in terms of
5 replacing capital equipment that's out in the plant with new
6 and upgraded systems.

7 We were able to identify that no such solution exists
8 for the 4-to-1 systems, nor is there a planned date for when
9 such system will go into place. We received no information on
10 the 8-to-1 systems, and from the information that was provided,
11 I don't believe there's a solution in place for the 6-to-1
12 systems either. So while technically there's a theoretical
13 solution, in practice our customers are still having problems.

14 Q Mr. Nilson, would you agree with me that on Issues
15 12, interLATA transport facilities; 13, reciprocal compensation
16 for ISP-bound traffic; 14, which is --

17 A Reciprocal comp to UNE -- for UNE provision circuits.

18 Q Correct. Issue 19, ISP-bound traffic; Issue 21, 22,
19 23, and 24, which concern combinations of network elements,
20 that the parties have a disagreement in those issues with the
21 interpretation of various FCC orders?

22 A No, I would not.

23 Q Do you think the parties are in agreement on how
24 those FCC orders ought to be interpreted?

25 A Well, per your suggestion, we met at 8:30 this

1 morning, and I believe there's potential solutions on the table
2 for Issues 13, 19, and 21, as we did not finally resolve those
3 this morning. But again, as BellSouth indicated earlier, I am
4 also hopeful.

5 Q Well, let me be clear. And I don't -- I didn't mean
6 to disregard the idea that there might be settlement
7 discussions going on. My question was, as long as there is a
8 dispute, would you agree with me that it's largely a dispute
9 over the interpretation of the FCC rules for those issues?

10 MR. MEDACIER: I do not have an objection, but the
11 question that he asked opens the door for privileged settlement
12 discussions between the parties. So I just want to warn my
13 witness not to go into those discussions.

14 Q Let me try to break it down. Maybe I've tried to
15 grab too much at the same time. For Issues 13 and 19, which
16 are ISP-bound traffic issues, would you agree with me that the
17 parties have at least in the testimony that's been filed a
18 disagreement over how the FCC rules ought to be interpreted?

19 A I would agree that the testimonies that have been
20 filed are in disagreement. I would indicate that the
21 difference between the parties is not as great as it would
22 appear just from the reading of the testimony based on
23 discussions that have gone on since then.

24 Q And on Issues 23 and 24, which are combination of
25 UNEs, on Issues 23 and 24, would you agree with me that the

1 parties appear to have a disagreement over the interpretation
2 of applicable FCC rules?

3 A No, I would not.

4 Q Mr. Nilson, did you hear Mr. Ramos testify that --
5 were you here for Mr. Ramos's testimony?

6 A I was.

7 Q Did you hear him testify that Supra did not have a
8 switch operational in Florida as of January 31, 2001?

9 A I did.

10 Q You disagree with his statements?

11 A To the extent that when Supra leases unbundled
12 network elements from BellSouth we have the exclusive right to
13 use those facilities, I would, yes, disagree with him in that
14 regard. I think he understood your question to be one of, has
15 Supra collocated or installed outside of collocation a Class 5
16 switching element? In that regard, he is absolutely 100
17 percent correct.

18 On the contrary, Supra has well over 100,000
19 customers on unbundled switching ports, and under those
20 conditions, I would disagree with his statement.

21 Q So as it regards to Issue 32, which concerns the
22 circumstances under which a CLEC is entitled to the tandem
23 interconnection rate, it's your testimony that leasing a port
24 from BellSouth qualifies as having a switch which serves a
25 geographically comparable area?

1 A I think you're putting words in my mouth. I
2 testified to this issue, and I didn't say anything in regards
3 to that. I think what you're leveraging on is my answer to
4 Staff's interrogatories or perhaps BellSouth's interrogatories,
5 I forget which one it was, in which I answered the question of
6 Supra's switching facilities in the state of Florida.

7 My testimony on Issue 32 was much more direct in that
8 Supra's been granted the rights of collocation in each and
9 every single one of BellSouth's tandem offices in the state of
10 Florida for the collocation of a Class 5 switch. And it's on
11 that basis that I indicate that we're entitled to charge the
12 tandem switching rate once those switches are installed and
13 operational. And I think you well know that Supra's position
14 is that BellSouth has denied us that collocation right, and
15 we're in the process of trying to assert that right.

16 Q Well, let's look at 32B, Mr. Nilson. The question --
17 the issue as the Commission has framed it is, "Based on Supra
18 Telecom's network configuration as of January 31, 2001, has
19 Supra Telecom met these criteria?"

20 A Yes.

21 Q And is it your testimony that based on January 31,
22 2001 -- as of January 31, 2001, Supra had a switch in service
23 in Florida that served a geographically comparable area to
24 BellSouth's tandem switches?

25 A No, we did not. However, the interconnection

1 agreement we're in the process of negotiating or arbitrating is
2 an interconnection agreement that has to serve the needs of
3 both parties for the next three years. And I would hate to be
4 sitting here three years from now saying that BellSouth was
5 still denying us collocation. I think we will have switching
6 equipment installed prior to the expiration of this
7 interconnection agreement, and therefore, the interconnection
8 agreement needs to speak to that issue.

9 Q Well, we have two separate issues, Mr. Nilson. We
10 have 32A and 32B, don't we?

11 A You're correct.

12 Q And 32A asks the more general question that I think
13 you're just discussing, which is, what are the criteria;
14 correct?

15 A That's correct.

16 Q Issue 32B, however, is a very specific issue that
17 concerns the network for Supra as of January 31, 2001; correct?

18 A That's correct.

19 Q Have you seen the prehearing statement that Supra
20 submitted in this case?

21 A I have.

22 Q Do you know that -- well, without -- let's see if we
23 can do this in a hurry. Do you know that in that prehearing
24 statement Supra answers the question, "Based on Supra Telecom's
25 network configuration as of January 31, 2001, has Supra Telecom

1 met these criteria"? Supra answers that question in the
2 affirmative, with a yes. Is that consistent with what your
3 understanding is?

4 MR. MEDACIER: I don't have an objection, but if he
5 can use the document to refresh --

6 THE WITNESS: I don't have the document.

7 MR. TWOMEY: May I approach the witness?

8 COMMISSIONER JABER: Yes.

9 MR. TWOMEY: The question is on Page 34; the answer
10 is on the following page.

11 COMMISSIONER JABER: Mr. Twomey, for the record you
12 have just shown the witness the prehearing order and pointed
13 out to him Issue 32B?

14 MR. TWOMEY: Yes, I have. And I'm not going to do
15 this like we would with a deposition transcript cite. I just
16 want to know if he looks at that, does he believe that the
17 statement attributed to Supra in the prehearing order is an
18 accurate representation of Supra's position on this issue.

19 A Absolutely, I do, but I think you have
20 mischaracterized what's in the prehearing statement with what
21 you said. As I read it, the prehearing statement on Issue 32B
22 says, "Yes; when," and that's the crucial word there "when
23 Supra Telecom's switches serve a geographic area comparable to
24 that served by BellSouth's tandem switch, then Supra Telecom
25 should be permitted to charge tandem rate elements." I don't

1 see any inconsistency there.

2 Q Well, Mr. Nilson, as a matter of fact, the answers
3 that Supra gave to Issue 32A and 32B are identical, are they
4 not?

5 A They are.

6 Q Are Issues 32A and 32B identical?

7 A The issues are different; the answer is the same. I
8 think that's not unusual. BellSouth offered the same answer
9 for Issues 21, 22, 23, and 24.

10 Q Mr. Nilson, Issue 34 concerns the coordinated
11 cut-over process.

12 A Yes.

13 Q What language has Supra proposed to resolve this
14 issue?

15 A I was certain I wouldn't get into confidential
16 settlement issues. I believe we're very, very close to
17 resolving this issue.

18 Q Let me try it this way. Have you proposed any
19 language in any pleading or any document or in any filing that
20 has been made up through today?

21 A Ask the question again.

22 Q Have you -- is there any document in the record in
23 this proceeding, whether it's testimony, an exhibit to
24 testimony, or any other piece of paper that Supra has filed
25 where you have set forth proposed language for Issue 34?

1 A No, I don't believe so. On the other hand, I don't
2 think this will be an open issue by this time next week.

3 Q Well, Mr. Nilson, in your rebuttal testimony you
4 criticized Mr. Kephart's proposed language as being only a good
5 start; isn't that right?

6 A That's correct. And I believe your witness,
7 Mr. Ruscilli, also contradicted Mr. Kephart. As a matter of
8 fact, I'm convinced Mr. Ruscilli contradicts Mr. Kephart. You
9 know, as a matter of fact -- well, I can't get into that.
10 That's confidential, I guess.

11 Q Mr. Nilson, let's talk very briefly about Issue 49.

12 A Yes.

13 Q This issue concerns whether Supra should be allowed
14 to line share; correct?

15 A That's correct.

16 Q And that's -- the question there is whether Supra
17 ought to be able to let another CLEC use the high-frequency
18 portion of the loop when Supra has purchased the loop as an
19 unbundled product; isn't that right?

20 A That's incorrect.

21 Q Okay. Well, let's read the issue. Can you read the
22 issue? Do you have the issue statement with you in your
23 testimony?

24 A I do. But in the interest of saving time, I would
25 make the correction to what you said as being not to allow

1 Supra to line share with another CLEC but to line share with
2 another telecommunications carrier.

3 Q Well, let me just read it to remove any confusion.
4 The issue statement in the prehearing order says, "Should Supra
5 Telecom be allowed to share with a third party, the spectrum on
6 a local loop for voice and data when Supra Telecom purchases a
7 loop/port combination, and if so, under what rates, terms and
8 conditions?" Do you see that?

9 A I agree. And I contend that "third party" includes
10 BellSouth or, in other parts of Florida, Sprint and GTE as
11 well, as well as all CLECs. Thus, I made the statement
12 "telecommunications carriers."

13 Q So would you include within Issue 49 the question of
14 whether BellSouth has an obligation to offer its tariffed ADSL
15 service to end users when Supra has purchased an unbundled
16 loop?

17 A I certainly did, to the extent that BellSouth should
18 not be permitted to disconnect DSL service already in operation
19 simply when a customer converts their voice service to Supra.

20 Q So that's a dispute between the parties that you'd
21 like the Commission to resolve; is that right?

22 A Well, we both looked to Paragraph 26 in the FCC's
23 order. BellSouth looks to the top part of the paragraph and
24 Supra to the bottom. They're both addressed in Paragraph 26.

25 Q My specific question was, you want this Commission to

1 issue an order resolving this dispute; correct?

2 A Yes.

3 Q Mr. Nilson, are you familiar with what a line and
4 station transfer is?

5 A Why don't you define it for me?

6 Q Are you familiar with what BellSouth refers to as a
7 line and station transfer where a customer's serving loop might
8 be rearranged either at the remote terminal or at another point
9 between the central office and the home?

10 A I know such activity takes place, yes.

11 Q Do you know if -- when BellSouth does a line and
12 station transfer, the customer may be out of service for a few
13 moments as a result of that work being done?

14 A I know it can happen. I also know it's possible to
15 do such a line and station transfer without putting the
16 customer out of service by first making the new connection and
17 then breaking the old. It's not always possible. It depends
18 on the circumstances of the transfer.

19 Q Is it your opinion that when BellSouth performs a
20 line and station transfer that requires the customer to be
21 momentarily out of service, that if that customer happens to be
22 a CLEC customer, that repair activity is a violation of the
23 Telecom Act?

24 A No. Mr. Twomey, I think what my testimony clearly
25 stated was that in regards to the Supreme Court of the United

1 States order in AT&T versus Iowa Utilities Board, that the
2 disconnection of already connected elements strictly for the
3 purpose of placing undue costs on a start-up or entrant or CLEC
4 is what we're objecting to. In the case of what we're
5 objecting to, the mere fact that the customer converts to Supra
6 Telecom is what causes their service to be disconnected, not a
7 repair activity, not a line and station transfer, the fact that
8 they want to pay a lower rate for their voice services.

9 Q Now, the customer can keep BellSouth DSL service if
10 Supra resells that service; right?

11 A That does not seem to be correct. I have certainly
12 heard your testimony to the fact. We have customers who have
13 within the last 7 to 14 days filed FCC complaints regarding
14 this very measure. They are ostensibly, at least as far as
15 BellSouth can see on BellSouth systems, provisioned as resale.
16 Although you are well aware of the dispute between the parties,
17 whether Supra's lines are provisioned versus UNE combinations
18 versus resale. Our customers' DSL service are being
19 disconnected, and your systems think they're resold customers.

20 Q Mr. Nilson, it's Supra's position, is it not, that if
21 BellSouth is compelled to provide ADSL service to a Supra end
22 user served over UNE-P, that Supra also wants to collect some
23 revenue for the high-frequency portion of the loop; isn't that
24 right?

25 A I recall that was brought up in the May 29th

1 InterCompany review board meeting between the parties. I also
2 recall that the very instant that subject was brought up, we
3 were immediately informed that our customers would no longer be
4 able to have DSL service if they were provisioned under UNE
5 combinations. In fact, you were going to instigate an even
6 larger investigation into the larger issue of providing DSL to
7 any customer for which you were not the provider of voice
8 services. That issue has grown larger since May 29th to the
9 point where our customers are actually being disconnected.

10 Q Perhaps my question was imprecise. Let me try it
11 again. It is Supra's position that if BellSouth provides ADSL
12 service to an end user when Supra has purchased the loop in a
13 UNE-P arrangement, Supra expects BellSouth to pay Supra for the
14 high-frequency portion of the loop; correct?

15 A Again, I'll say, we did raise that issue in the
16 May 29th InterCompany review board meeting.

17 Q I'm not asking whether you raised it in the meeting.
18 I'm asking you what your position is today on that question.

19 A If you would let me finish my answer, I think you
20 would hear it. I said we raised that issue in the May 29th
21 InterCompany review board. The very fact that we raised that
22 issue has caused us even larger problems that far outshadow the
23 issue of line sharing compensation. I would not be the final
24 answer on that authority. I will have you know that I regret
25 us ever bringing it up at that meeting for the --

1 MR. TWOMEY: Madam Chairman, I don't want to be -- I
2 know it's late in the day, but I have asked the question twice,
3 and I've actually let him give his answer twice because he told
4 me I would get to the point, and I still don't have an answer
5 to the question.

6 COMMISSIONER JABER: And, Mr. Twomey, you have
7 interrupted him again --

8 MR. TWOMEY: I'm sorry.

9 COMMISSIONER JABER: -- so now we have to wait
10 longer.

11 Mr. Nilson is the answer to the question, yes, but
12 you've changed your mind now?

13 THE WITNESS: The answer is -- the answer is subject
14 to other details of the relationship and the rules and
15 regulations for --

16 COMMISSIONER JABER: Had you at any point taken the
17 position that Supra was entitled to compensation for line
18 sharing?

19 THE WITNESS: Yes, we did on May 29th.

20 COMMISSIONER JABER: All right. And has that
21 position changed today? It's a simple yes-or-no answer.

22 THE WITNESS: I don't think so. I know I'm willing
23 to look at it under advisement.

24 COMMISSIONER JABER: Mr. Twomey, follow-up on that.

25 BY MR. TWOMEY:

1 Q Mr. Nilson, is this Issue 49?

2 A Pardon me?

3 Q Are we talking about Issue 49?

4 A Yes.

5 Q Is there anybody else providing testimony in this
6 case on Issue 49 other than you for Supra?

7 A I can't answer that question. I don't know.
8 Obviously, if it was, it would be Mr. Ramos.

9 MR. TWOMEY: That's all I have.

10 COMMISSIONER JABER: Mr. Nilson, so then does your
11 testimony mean that you no longer have a disagreement on Issue
12 49, that you all are willing to withdraw Issue 49?

13 THE WITNESS: No, ma'am, I do not mean that --

14 COMMISSIONER JABER: You just stated what your
15 position --

16 THE WITNESS: -- but I am willing to continue
17 discussion with BellSouth on resolving this issue.

18 COMMISSIONER JABER: So for purposes of the record,
19 as of today, you don't know what your position is on Issue 49?

20 THE WITNESS: Let me say for the purpose of the
21 record at this time that Supra would assert its rights to
22 recover line sharing revenues as ordered by this Commission in
23 Docket 990649.

24 COMMISSIONER JABER: Okay. Mr. Twomey, you were
25 done?

1 MR. TWOMEY: I didn't understand his last question, I
2 mean, his last answer.

3 COMMISSIONER JABER: Was the response to the last
4 question, Mr. Nilson, that you would accept the Commission's
5 finding in the docket that you stated?

6 THE WITNESS: Yes, ma'am.

7 BY MR. TWOMEY:

8 Q Mr. Nilson, is it your testimony that the Commission
9 set a rate for the ILEC using the high-frequency portion of the
10 loop when the CLEC has the loop under a UNE-P? Is that your
11 testimony?

12 A No, it is not, but I don't think the rate should be
13 any different when the relationship is inverted.

14 MR. TWOMEY: Okay. That's all I have.

15 COMMISSIONER JABER: Staff.

16 MR. KNIGHT: Commissioners, we have a redacted
17 version of Exhibit 1 that we'd like to hand out.

18 COMMISSIONER JABER: Okay. Now, this will replace
19 the original Exhibit 1; right?

20 MR. KNIGHT: Correct.

21 COMMISSIONER JABER: Mr. Knight, the copies have been
22 passed out.

23 MR. KNIGHT: Okay.

24 CROSS EXAMINATION

25 BY MR. KNIGHT:

1 Q Hello, Mr. Nilson.

2 A Good afternoon.

3 Q If you could, turn to Page 4 and 5 of Exhibit 1.

4 A Yes, sir, I'm there.

5 Q Would you agree that in this response you cite
6 Section 95 of FCC Order 01-131?

7 A Yes, sir.

8 Q I'm going to paraphrase the second and third
9 sentences of Section 95, and then I'll get to my question. The
10 order states, we believe that the interim compensation regime
11 that we adopt herein should reduce carriers' reliance on
12 carrier-to-carrier payments as they recover more of their costs
13 from end users while avoiding a flash cut to bill and keep.

14 Outside of what I paraphrased here, the order
15 specifically mentioned the time frame of 36 months, I believe,
16 on the top of Page 4. Would you agree that the FCC's proposed
17 compensation regime over a 36-month period is not a flash cut
18 to bill and keep?

19 A I would indeed. And I would support the FCC's
20 36-month proposal as a solution to this problem.

21 Q Do you believe that BellSouth is proposing a flash
22 cut to bill and keep?

23 A That depends on at what point in time you ask the
24 question. I do believe that the direct testimony that was
25 offered in this case indicated just exactly that. Without

1 divulging confidential information, I think this is an issue
2 where the parties are very nearly on agreement.

3 Q Okay. Do you believe that the FCC's interim
4 compensation regime should reduce carriers' reliance on
5 company-to-company payments?

6 A I'm sorry, could you repeat that?

7 Q Certainly. Do you believe that the FCC's interim
8 compensation regime should reduce carriers' reliance on
9 company-to-company payments?

10 A I'm not certain on your use of the word "should."
11 What I will say in answer to your question is that the FCC's
12 36-month interim proposal does diminish over the 36-month
13 period any potential compensation on this. If you're asking me
14 if the word "should" implies what the FCC's ultimate decision
15 must be, I'm not certain I have a clear opinion on that.

16 Q Okay. Would Supra's proposal reduce the carriers'
17 reliance in carrier-to-carrier payments?

18 A Yes. We would be seeking to implement the FCC's
19 recommendation on the 36-month interim period.

20 Q Okay. All right. Going back to Page 5, and I'm
21 paraphrasing, but would you agree that it states, the contract
22 language from the existing agreement cannot be used and that
23 new language as ordered by the FCC must be included?

24 A I'm sorry, where are we?

25 Q We're on Page 5 of the first full paragraph.

1 A I agree. Yes, I do agree with that. The language in
2 the current contract does not delineate traffic destined for
3 Internet service providers as either being handled any
4 differently from any other intercarrier compensation. And I
5 know it's been a source of dispute between BellSouth and other
6 companies whether the lack of such language indicates they're
7 obligated to pay such reciprocal compensation or not. So in
8 the interest of clarity, my statement is that the existing
9 language is not good. It's not going to lead to a harmonious
10 relationship between the parties.

11 Q So you're saying that from the -- that language from
12 the current agreement can't be used, but are you proposing to
13 use other language from the current agreement?

14 A We have proposed that -- I would support language in
15 the contract that mirrored the interim rules specifically
16 outlined by the FCC in 01-131.

17 Q Okay. All right. If you could, turn to Page 11 for
18 me, please. And let me know when you've read the short passage
19 there.

20 A I've read it.

21 Q Okay. Would you agree that your statement there
22 basically says that this Commission should order compliance by
23 all parties in its decisions?

24 A I'm sorry, I didn't hear the whole question.

25 Q Would you agree that your statement there basically

1 says that this Commission should order compliance by all
2 parties in its decisions?

3 A I do. And not being as experienced in the variety of
4 issues that are brought before this Commission, I apologize if
5 that's not an effective solution. But from our position, I've
6 seen two things. Our contract was adopted, as you know, from
7 AT&T. That contract was arbitrated before this Commission, and
8 there were two large, effective orders rendered on it. One was
9 980604 and the other one was 980810.

10 As I recall, certain elements of the order in
11 980604 were identified by the Commission as being effective
12 without the need for parties to negotiate into the contract
13 language supporting that order. Other issues, for example, in
14 980810 regarding unbundled network element combinations were,
15 as I understand it, left to the implementation by the parties.
16 We've had an extreme amount of difficulty in implementing those
17 provisions, yet the provisions that were ordered by the
18 Commission seemed to be respected by both sides very clearly.

19 I was making a suggestion to the Commission to
20 consider this approach in future orders where they have the
21 leeway, the latitude, and the legal right to do so that might
22 eliminate future appeals and other issues, cut down the
23 workload.

24 Q Well, there are several issues that are before the
25 Commission today that are identical to issues in generic

1 proceedings; namely, Issues 13, 19, 27, and 32. Would you
2 agree with that?

3 A Thirteen, 19 --

4 Q Twenty-seven and 32.

5 A Twenty-seven, and what was the final one?

6 Q Thirty-two.

7 A That's correct.

8 Q If this Commission ordered compliance in its generic
9 dockets, how would that affect the issues here today?

10 A Supra would agree to compliance with generic orders
11 in any of those cases. I think the main issue of consideration
12 between us now is, one of those dockets has probably been in
13 process for 18 months. I don't know when it will conclude.
14 The contract needs to have some controlling language for the
15 interim period until that generic docket is concluded.
16 Specifically, again, without getting into confidential
17 information, I think on Issues 13, 19, 27, the parties have
18 taken that type of recommendation to heart in their settlement
19 proposals.

20 Q Okay. All right. If we could, turn to Issue 51.

21 A I'm sorry?

22 Q Issue 51, we're looking at Issue 51. And there I
23 believe it's phrased, "Should BellSouth be allowed to impose a
24 manual ordering charge when it fails to provide an electronic
25 interface?"

1 I believe we're handing out a recently filed
2 WorldCom/BellSouth interconnection agreement, and I'll ask you
3 to read a portion of that aloud in just a moment.

4 MR. KNIGHT: I'd like to request that this be marked
5 as the next exhibit, the excerpt from the BellSouth/WorldCom
6 agreement.

7 COMMISSIONER JABER: That would be Exhibit 31,
8 "Excerpt from MCI/BellSouth Interconnection Agreement."

9 (Exhibit 31 marked for identification.)

10 BY MR. KNIGHT:

11 Q Mr. Nilson.

12 A Yes, sir.

13 Q Could you please read aloud the highlighted sentence
14 on the document I've handed to you.

15 A "BellSouth may only charge manual nonrecurring
16 ordering charges if it does not provide an electronic ordering
17 process for its retail representatives."

18 Q Do you believe the highlighted sentence is responsive
19 to resolving Issue 51?

20 A Supra would be overjoyed to resolve that issue with
21 that language.

22 Q If BellSouth were to agree to that language, would
23 you be willing to withdraw that issue?

24 A I believe we would, subject to check with my
25 superior.

1 COMMISSIONER JABER: This would be Issue 51 for the
2 record?

3 MR. KNIGHT: Yes, it would be. Those are all the
4 questions we have, Commissioner.

5 COMMISSIONER JABER: Commissioners.

6 COMMISSIONER PALECKI: No questions.

7 COMMISSIONER JABER: Redirect.

8 MR. MEDACIER: Thank you.

9 REDIRECT EXAMINATION

10 BY MR. MEDACIER:

11 Q Mr. Twomey asked you a few questions regarding end
12 user common line charges. Do you recall?

13 A Yes.

14 Q When are those charges applicable?

15 A End user common line charges are appropriately
16 charged by BellSouth upon any ALEC under the conditions of the
17 ALEC purchasing a line under resale. They are not
18 appropriately charged by BellSouth upon an ALEC who is
19 provisioning circuits either under unbundled network element
20 combinations or purchasing unbundled network elements and then
21 combining them with their own network equipment.

22 Q Do you know how Supra orders most of its orders?

23 A I'm sorry?

24 Q Do you know how Supra orders most of its LSRs?

25 A Unbundled network element combinations.

1 Q Have we ever been able to do that?

2 A No. We've had a great deal of trouble doing that.

3 Q Without naming any proceedings, do you know of any
4 proceedings where BellSouth was found to have denied Supra the
5 ability to order UNEs and UNE combinations?

6 A Absolutely.

7 Q Do you know any of BellSouth's systems that are USOCs
8 driven?

9 MR. TWOMEY: Let me object to this question.

10 THE COURT REPORTER: Could you repeat that question,
11 please.

12 MR. MEDACIER: Do you know of any BellSouth's retail
13 systems that are USOCs driven?

14 COMMISSIONER JABER: Mr. Nilson, before you answer
15 that, is there any objection?

16 MR. TWOMEY: The objection I had is, I'm not sure
17 it's relating to any question I asked on cross, but if I'm
18 forgetting something, then please correct me.

19 MR. MEDACIER: It relates to RNS and ROS modification
20 questions asked by Mr. Twomey to Mr. Nilson.

21 COMMISSIONER JABER: For the record and for your
22 witness, lay that groundwork. Ask him if he recalls his
23 testimony to Mr. Twomey's question and then seek your answer.

24 MR. MEDACIER: Thank you.

25 BY MR. MEDACIER:

1 Q Do you recall Mr. Twomey asking you questions
2 regarding modification to ROS -- to RNS? I'm sorry. RNS.

3 A I do.

4 Q How does Supra order services from LENS?

5 A Supra orders service from LENS by supplying the
6 appropriate USOC codes, which is essentially a part number to
7 BellSouth.

8 Q Are you aware if BellSouth has any of its internal
9 systems using USOCs?

10 A Yes. Both RNS and ROS as well as DOE, SONGS, and
11 SOCS are all USOC-driven. Some of those systems hide the fact
12 from the person on the telephone with the customer. Then that
13 would be the case of RNS which mainly presents an English
14 language interface to the CSR. Whereas, ROS has the option to
15 either turn the USOC display on or off. But behind the scenes,
16 they all are USOC-driven.

17 Q Would a BellSouth CSR use USOC to win back a Supra
18 customer?

19 A Yes.

20 Q If Supra was given direct access to BellSouth OSS,
21 would BellSouth be able to modify its USOCs for its billing
22 system?

23 A Certainly. And I'm not 100 percent certain that they
24 would even need to do that, but certainly, there's a number of
25 approaches that would solve the problems that they have with

1 their billing.

2 Q And what are the systems being used by BellSouth to
3 win back Supra customers?

4 A RNS and ROS.

5 Q Do you recall Mr. Twomey asking you questions
6 regarding collocation of switches?

7 A I do.

8 Q Does Supra have any switches in BellSouth central
9 offices?

10 A Not at this time.

11 Q Has Supra been awarded collocation of switches in
12 different proceedings?

13 A This Commission awarded Supra --

14 COMMISSIONER JABER: Wait a second. Does this relate
15 to OAR-3?

16 MR. MEDACIER: No -- oh, yes, it's going to, but I
17 will caution the witness once we hit that point.

18 COMMISSIONER JABER: Okay.

19 BY MR. MEDACIER:

20 Q Without naming any confidential proceedings, has
21 there been any proceedings where Supra has been awarded
22 collocation of switches?

23 A BellSouth itself has accepted Supra's applications
24 for collocation in several central offices. Supra was awarded
25 collocation rights in the North Dade Golden Glades and West

1 Palm Beach Garden central office by this Commission in Docket
2 980800. I believe the final order on that was released
3 sometime early in January in 1999.

4 We participated in what became known as the Florida
5 exemption dockets, and that's a long list of dockets. It's
6 99-- I don't remember all the dockets. There's probably about
7 six of them. And as a result of the FCC's advance services
8 order which changed the rules for collocation, including inline
9 collocation, BellSouth withdrew those dockets and awarded --
10 "awarded" is probably not the right word, but granted Supra's
11 application for collocation in four offices. And there is an
12 additional proceeding that's documented in my Exhibit DAN-3
13 which also goes to further awards.

14 Q And why is it that Supra until today is not able to
15 collocate its switches?

16 A We still have disputes over the specific prices
17 BellSouth is charging Supra for the make-ready work in the
18 collocation space.

19 Q Turning your attention now to line sharing. Do you
20 recall questions by Mr. Twomey on this particular subject?

21 A Yes.

22 Q Without naming the actual proceeding, is this -- is
23 line sharing being considered by any judicial body as an issue
24 between the parties?

25 A I know for certain it's been considered in one case

1 and possibly as well before the FCC. I'm not certain about
2 that.

3 Q Do you recall questions by Mr. Twomey regarding
4 disconnections of -- I'm sorry, loss of dial tone to customers
5 during conversion process?

6 A Yes.

7 Q Have you come across any situations where Supra's
8 customers filed complaints to the FPSC or the FCC or
9 consequently complained to Supra itself about loss of dial
10 tone?

11 A Yes, I have.

12 Q And in these instances when they lose dial tone, do
13 you remember who they blame?

14 A I can remember specific instances where our customer
15 service reps talked to the customer and tried to assure them
16 that we were doing the best we could to get the dial tone
17 restored, and that the problem had happened in BellSouth, and
18 we were working with BellSouth to get the problem restored.

19 The sidelight to all of this is that we deal with an
20 organization at BellSouth called the LCSC which has private --
21 I believe they're unlisted numbers, and in any event, they
22 don't accept telephone calls from the general public. We have
23 had instances where we conveyed this information to customers.
24 They turned around and dialed the publicly available numbers
25 for BellSouth, which would be the -- end up connecting them to

1 the BellSouth retail division. At which point, they were told
2 that their service was caused because Supra had issued a
3 disconnect order.

4 Now, the fact of the matter is, Supra issued a
5 conversion order. The fact that Supra's conversion order gets
6 disassociated into a D and an N, which is a disconnect and a
7 new order, oftentimes -- and I know those two orders are
8 supposed to be tied together when they go through the system,
9 but there have been numerous instances where the disconnect
10 order would get worked, and then due to some other eligibility
11 reason, like the customer had BellSouth paging service,
12 BellSouth.net Internet service or something of the like, the
13 new order couldn't get processed because there was a problem
14 with the customer service record. So the customer was left
15 with disconnected service while those, you know, associated
16 eligibility issues were sorted out. This could last for days,
17 weeks in some cases.

18 Q Do you recall being asked questions by Mr. Twomey
19 regarding charges for accessing high-frequency portion of its
20 loops?

21 A Yes, I do.

22 Q Do you know if BellSouth charges CLECs for accessing
23 high-frequency portion of their loops?

24 A Yes, they do.

25 Q In your discussion with BellSouth regarding this

1 subject, has BellSouth proposed waiver of those charges when
2 Supra owns the voice portion of the loops?

3 A Could you repeat that?

4 Q Has BellSouth proposed that Supra waive those
5 charges?

6 A Yes.

7 Q Do you believe that Supra should have the same right
8 as BellSouth to charge carriers who access its high-frequency
9 portion of the loops?

10 A I do. But like I said, the last time we brought that
11 issue up, the response began by disconnecting our customers'
12 DSL service, and a cost/benefit analysis of line sharing versus
13 massive customer dissatisfaction due to disconnected DSL was
14 never done before I opened my mouth the last time, and I'm
15 being a little cautious about saying I still agree with that
16 position.

17 MR. MEDACIER: Okay. No further questions.

18 COMMISSIONER JABER: Thank you, Mr. Nilson. You may
19 be excused.

20 THE WITNESS: Thank you.

21 (Witness excused.)

22 COMMISSIONER JABER: Were you done?

23 MR. MEDACIER: Yes.

24 COMMISSIONER JABER: Exhibits. Supra, 29 and 30 are
25 your exhibits. Without objection, Exhibits 29 and 30 are

1 admitted into the record.

2 (Exhibits 29 and 30 admitted into the record.)

3 COMMISSIONER JABER: Staff, 31 is yours.

4 MR. KNIGHT: Correct.

5 COMMISSIONER JABER: Without objection, Exhibit 31 is
6 admitted into the record.

7 (Exhibit 31 admitted into the record.)

8 COMMISSIONER JABER: Supra your next witness, please.

9 It's Zejinilovic?

10 MR. MEDACIER: Correct.

11 MR. KNIGHT: Commissioner, I think we should -- we
12 might want to go ahead and address Issue 1, and have it
13 reclassified as being confidential or partially -- Exhibit 1,
14 I'm sorry, as being partially confidential.

15 COMMISSIONER JABER: Yeah. I thought I did that, but
16 just in case we have not, for purposes of the record, Staff
17 Exhibit 1 has been replaced with a redacted version of the
18 responses, and it should be noted that it is now a confidential
19 exhibit, partially confidential. Can you give me some page
20 numbers so that --

21 MR. KNIGHT: It's Page 39 and 40, or sections of Page
22 39 and 40.

23 COMMISSIONER JABER: Okay. Sections of Pages 39 and
24 40 are afforded confidential classification until further
25 ruling by the Commission.

1 Mr. Zejinilovic, have you been sworn?

2 THE WITNESS: No, ma'am.

3 (Witness sworn.)

4 COMMISSIONER JABER: Thank you.

5 ADNAN ZEJINILOVIC

6 was called as a witness on behalf of Supra Telecommunications
7 and Information Systems, Inc., and, having been duly sworn,
8 testified as follows:

9 DIRECT EXAMINATION

10 BY MR. TURNER:

11 Q Mr. Zejinilovic, are you the same individual who
12 caused to be filed rebuttal testimony in this matter on
13 August 15, 2001, consisting of 15 pages?

14 A Yes, I am.

15 Q At this time, do you have any changes or
16 modifications to that rebuttal testimony?

17 A No, I don't.

18 Q If I were to ask you the same questions today, would
19 you have the same answers?

20 A Yes.

21 MR. TURNER: Madam Commissioner, at this time I'd
22 move to have Mr. Zejinilovic's rebuttal testimony moved into
23 the record.

24 COMMISSIONER JABER: The prefiled rebuttal testimony
25 of Adnan Zejinilovic shall be inserted into the record as

1 though read.

2 BY MR. TURNER:

3 Q Mr. Zejinilovic, did you have any exhibits that were
4 attached to your rebuttal testimony?

5 A I believe they are confidential.

6 COMMISSIONER JABER: Get right into the microphone
7 for me and speak.

8 THE WITNESS: I believe they are confidential.

9 COMMISSIONER JABER: Okay. Are Exhibits AZ-1 through
10 AZ-7 attached to your rebuttal testimony?

11 THE WITNESS: Yes.

12 COMMISSIONER JABER: Are they all confidential
13 documents?

14 MR. TWOMEY: I don't believe AZ-1 is, but let me --
15 when we did our joint filing, we did not identify AZ-1 as
16 confidential, but we did identify the other ones as
17 confidential.

18 COMMISSIONER JABER: Okay. Exhibit 32 will be
19 identified for AZ-1.

20 (Exhibit 32 marked for identification.)

21 COMMISSIONER JABER: Do you agree with Mr. Twomey's
22 statement, Supra?

23 MR. MEDACIER: Yes.

24 MR. TURNER: Yes, Supra does. And at this time,
25 Madam Commissioner, Supra would propose to have AZ-1 moved into

1 the record, Exhibit AZ-1.

2 COMMISSIONER JABER: Let's do that after he
3 testifies. We'll do it at the very end.

4 MR. TURNER: Okay.

5 COMMISSIONER JABER: Exhibit 32 is AZ-1.
6 Exhibit 33 will be a composite, AZ-2 through AZ-7, and that
7 will be a confidential exhibit until ruling by this Commission.

8 (Exhibit 33 marked for identification.)

9 COMMISSIONER JABER: Go ahead, Mr. Turner.

10 BY MR. TURNER:

11 Q Mr. Zejinilovic, do you have any changes to any of
12 your exhibits?

13 A No, I don't.

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1 BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

2 DOCKET NUMBER 001305-TP

3 REBUTTAL TESTIMONY OF ADNAN ZEJNILOVIC

4 ON BEHALF OF

5 SUPRA TELECOMMUNICATIONS & INFORMATION SYSTEMS, INC.

6 AUGUST 15, 2001

7
8
9 **Q. PLEASE STATE YOUR NAME AND ADDRESS.**

10 **A.** My name is Adnan Zejnilovic. My business address is 2620 SW 27th Avenue,
11 Miami, Florida 33133.

12
13 **Q. WHO ARE YOU EMPLOYED BY AND WHAT IS YOUR POSITION?**

14 **A.** I am the Chief Information Officer of Supra Telecommunications and Information
15 Systems, Inc. ("Supra").

16
17 **Q. WHAT ARE YOUR PRESENT RESPONSIBILITIES?**

18 **A.** As CIO of Supra, I am responsible for all aspects of Supra's Information
19 Technology.

20
21 **Q. PLEASE PROVIDE INFORMATION ON YOUR BACKGROUND AND
22 EXPERIENCE.**

23 **A.** In 1988, I received a Bachelor of Science Degree in Computer Science with a
24 Minor in Mathematics from Lander College in Greenwood, South Carolina. I pursued
25 my graduate studies at the Florida Institute of Technology in Melbourne, Florida where I
was offered a full teaching assistantship. In 1990, I received my Master of Science

1 Degree in Computer Science specializing in Artificial Intelligence, in particular, Fuzzy
2 Logic and Expert Systems. I co-authored and presented a scientific paper "The Role of
3 Fuzzy Expert Systems in the Textile Industry" at the 1990 Conference and Exhibition of
4 Electronics in Textiles, in Clemson, SC. This paper is a direct result of my Master's
5 Thesis "Fuzzy Expert Systems in the Textile Industry" published by the Florida Institute
6 of Technology in 1990.

7 I continued my graduate studies at the Florida Institute of Technology and was
8 admitted to the Ph. D. program in 1991. By the end of 1992, I successfully completed all
9 the coursework for the Ph. D. program.

10 In January of 1993, I decided to leave academia to pursue a career in industry. I
11 joined IBAX Healthcare Systems of Longwood, FL as a Senior Software Specialist. My
12 responsibilities were to design and implement a database driven compiler for the
13 Information Automat Rules Language used for medical logic. This was done under a
14 UNIX operating system using Attribute Grammars, compiler generators, Purdue
15 Compiler Construction Tool Set and C language.

16 In 1994, I joined Financial Data Planning Corporation of Miami, FL as a Senior
17 Programmer Analyst. I developed pensions and life insurance decision support software
18 using Visual C++, Visual Basic and Microsoft Access under Windows NT.

19 From 1995 to 1999, I worked at Omega Research Inc. of Miami, FL. I was
20 responsible for the design and development of real-time client-server software for
21 reading/browsing news stories and images from a variety of data feeds. I developed a
22 state-machine to classify the incoming raw data packets into news stories/images. This
23 was done in Visual C++, C-tree, and Microsoft Access under Windows NT.

24 I joined Supra as a consultant in 1999 to work on the billing module. In 2000, I
25 was offered the CIO position by Mr. Ramos and have been working in that capacity ever
since.

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Q. WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY?

A. The purpose of my Rebuttal Testimony is rebut the Direct Testimony of BellSouth's Pate with respect to issues regarding parity and the technical disadvantages that Supra is facing when using BellSouth's Interfaces. I want to compare technical capabilities of LENS¹, RNS², and ROS³ and identify disadvantages that Supra is facing when using LENS. I also want to address how BellSouth's programming changes in any of their systems adversely affect Supra.

Q. WHAT IS LENS AND WHAT ARE ITS TECHNICAL CAPABILITIES?

A. LENS is a web-based TAG⁴ interface. It is a menu driven system that has the capability to perform inquiry functions, and process requests for various products, features and services offered by BellSouth. Supra's customer service representatives use LENS to place Local Service Requests to BellSouth. These could be either requests for new service or inquiries about the existing orders. From our experience with LENS, it is a very unreliable system with chronic and unpredictable outages. **See Composite Exhibit AZ 1.** What compounds the problem is the fact that BellSouth often makes programming enhancements to LENS without ever notifying Supra. As a result, Supra's customer service representatives enter erroneous orders that are returned back to Supra for clarifications. One example is a simple change of the existing URL⁵ for a particular page. Another would be LENS crashes for no apparent reasons. Often, these crashes were accompanied with TAG error messages.

¹ LENS - Local Exchange Navigation System
² RNS - Regional Negotiation System
³ ROS - Regional Ordering System
⁴ TAG - Telecommunication Access Gateway
⁵ URL - Universal Resource Locator

1 BellSouth's client applications LENS and RoboTAG communicate with TAG
2 through TAG API⁶. From there, the information is routed through LEO⁷ and then on to
3 LESOG⁸. Provided that the information entered passes edit checks in LEO and LESOG,
4 it is routed on to SOCS⁹. In case LEO/LESOG find erroneous information, the order is
5 routed to the LCSC¹⁰ live representative. They either complete the order and send it to
6 SOCS for final processing or send it back to Supra as a clarification. The same is true
7 for any EDI client applications – they are routed through TAG interface as well. Please
8 see **Exhibit AZ 2**.

9
10 **Q. WHAT IS TAG API AND WHAT ARE ITS TECHNICAL CAPABILITIES?**

11 **A.** Software systems are very complex by nature. In general terms, a software
12 system is composed of a vast number of modules. A module is composed of one or
13 more functions. In order to interface two software systems, it is necessary to have an
14 entry point to that system. This is normally a function. Usually, a subset of functions is
15 made available as a library called an Application Programming Interface ("API"). Thus,
16 via any API, any software developer can quickly gain a necessary understanding of the
17 main functionality/capability of the software he or she is trying to interface their software
18 with. The complexities of the entire system are reduced to the set of exposed functions.
19 TAG is an API.

20
21
22
23 ⁶ API - Application Programming Interface - a collection of functions that are
24 purposely exposed for another program (client) to use. Normally, these
25 functions are considered the only entry point to another module thus
abstracting the system details from the client program

⁷ LEO - Local Exchange Ordering

⁸ LESOG - Local Exchange Service Order Generator

⁹ SOCS - Service Order Control System - generates service orders or provides
information pertaining to pending service orders

¹⁰ LCSC - Local Carrier Service Center

1 TAG API is a C++ class library designed to allow client applications to interface
 2 with the TAG Gateway. The TAG Gateway connects to appropriate TAG Gateway
 3 Servers (Pre-Ordering and Ordering) in the BellSouth OSS. Thus, the TAG API provides
 4 an entry point to BellSouth's OSS exposing only the following functionality: basic
 5 request validation, security, server connection management, and encryption and
 6 decryption of information being transmitted. The following table depicts Pre-Order and
 7 Order requests available through TAG:

Pre-Order	Order
Address Validation	Loop Services Order Request
Service Availability Queries	Loop Services with Interim Number Portability Order Request
Appointment Scheduling Queries	Interim Number Portability Order Request
Customer Record Queries	Resale Order Request
Telephone Number Assignment Queries	Retail/Bundled Order Request
	Directory Listing and Assistance Order Request
	PORT Services Order Request
	LOOP/PORT Combination Services Order Request
	Purchase Order Number List
	Service Order Status Query

21 **Table 1. Pre-Ordering and Ordering Requests**

22 BellSouth's documentation pertaining to TAG Gateway mentions a so-called
 23 Throttle Control designed to prevent flooding and to monitor request rates. **Exhibit AZ**
 24 **3.** In order to design their functions correctly, TAG API users (CLEC programmers)
 25 should be aware of the restrictions that may be imposed by this module. It would be
 very interesting to obtain statistics pertaining to threshold values above which orders

1 are being queued and/or or rejected. The next logical question to pose is whether
2 BellSouth routes its own orders through the Throttle Control? Please see **Exhibit AZ 4**.

3 BST documentation talks very little about the Throttle Control – just a sentence
4 or two. I understand that Supra has requested information about BellSouth's network,
5 but BellSouth has refused to provide such information. The Throttle Control is likely
6 limiting the number of orders that a CLEC can place onto BSTs system. We (CLEC
7 programmers) do not know this number (the threshold value).

8 **Q. IS TAG A MACHINE-TO-MACHINE INTERFACE?**

9 **A.** TAG API is a C++ class library and is designed to interface two software
10 systems. For an interface to be a machine-to-machine ("M2M"), it cannot have any
11 human interaction. The limitations are imposed by the hardware and software
12 configurations of the two systems.

13 As a library, TAG API is not a M2M. A library is just a set of files, with text (code)
14 written in C++ computer language. A software programmer, on the CLEC side, would
15 need to write a program that would call functions in TAG API for the purpose of gaining
16 entry into the underlying system, which in this case would be the TAG Gateway Servers
17 (Pre-Ordering and Ordering) in the BellSouth OSS. Once the code is written and
18 compiled, and is being used in the run time, the TAG API would play the role of a M2M
19 Interface. Once in binary form, the TAG API becomes an entry/exchange point from
20 one system to another thus satisfying one of the M2M conditions.

21 However, as the two systems being interfaced are on one side a CLEC built
22 system, and on the other side the BellSouth OSS, we need to take into consideration
23 BellSouth's OSS as a whole. On one end we have a CLEC system that in run time is
24 being interfaced with the BellSouth system. While TAG API satisfies the condition of an
25 electronic interface, it is very important to understand that the underlying system does

1 not truly qualify as a "machine" due to the information flow through the LEO/LESOG
2 systems. These systems are not always capable of completing the transaction at hand
3 without human interaction. Most of the time, the orders end up in the LCSC in front of a
4 human operator. This clearly disqualifies the TAG API from being a true M2M.

5 What we are dealing with is a portion of Supra's system and a portion of
6 BellSouth's system. Once Supra generates a request, it is electronic from that point on
7 and does not require human interaction. However, on BellSouth's end it fails to satisfy
8 this condition because there is a significant potential for human interaction
9 (LEO/LESOG).

10

11 **Q. WHAT IS RNS AND WHAT ARE ITS TECHNICAL CAPABILITIES?**

12 **A.** RNS is a distributed client server application designed to interface with several
13 legacy systems and process real-time service requests. **Exhibit AZ-5.** In addition to
14 retrieving data from the mainframe systems, it also retrieves data from the OASIS¹¹
15 database. It was originally developed and tested in 1991. Since 1994, it has been in
16 use in all of BellSouth's locations. The system architecture, as described in BellSouth's
17 Regional Negotiation System Technical Architecture Document, dated June 22, 2000,
18 attached here to as **Exhibit AZ-6**, can be broken down to the following two layers:

- 19
- Server Layer
 - Presentation (Client) Layer
- 20

21 The hardware platform (server) on which RNS runs is SUN E3500 under Solaris
22 2.6 Operating System. The Server Layer can be further broken down into three major
23 components:

24

25 ¹¹ OASIS - Obtain Available Services Information System - a database containing information about available features and rates in the customer serving central office switch.

- 1 • Boot/Desktop Server
- 2 • Application Server
- 3 • Database Server

4 Both Boot/Desktop Server and Application server are configured to support a
5 60:1 user to server ratio. A fail over strategy exists in these servers to handle failures of
6 X Terminals.

7 The Database Server can handle around 25 simultaneous user requests.
8 Depending on the number of users in a particular facility, BellSouth's database servers
9 are located in the facility or being shared as remote servers via wide area network
10 known as BOSIP.

11 For the Pre-Ordering, RNS server polls OASIS database hubs such as CRIS¹² to
12 get customer records, RSAG¹³ for address validation, ATLAS¹⁴ for available telephone
13 numbers, and DSAP¹⁵ for due date availability.

14 The two main databases in RNS – OASIS and OPI are Informix 7.30.uc5
15 databases that run on the Sun Solaris operating system 2.6. The OASIS database is a
16 read only database and consists of 18 tables that are populated with the information
17 from the above mentioned mainframe applications/hubs as well as with the information
18 from yet another mainframe application called COFFI¹⁶ which contains information on
19 products and services. The data in the OASIS database is used to complete Pre-
20 Ordering.

21 The OPI database consists of three tables, service orders and other type of
22 contracts that are stored in this database in case they cannot be sent in real time to the

24 ¹² CRIS - Customer Records Information System - provides customer account and
billing information

25 ¹³ RSAG - Regional Street Address Guide

¹⁴ ATLAS - Application for Telephone Number Load Administration and Selection

¹⁵ DSAP - Distributed Support Application

1 mainframe applications. The data in the OPI is used for the Ordering process. The OPI
2 database communicates with legacy systems such as DOE¹⁷ and SOCS via OPI¹⁸
3 Navigator contracts.

4 In addition to OASIS and OPI, another database, AMOS is used by the RNS
5 system. Its contents are downloaded via file transfer protocol into memory files to each
6 of the eight data center servers. The AMOS database contains records pertaining to
7 BellSouth's cellular customers and long distance customers. Thus, RNS systems have
8 this information at its disposal. Please see **Exhibit AZ-5**.

9

10 **Q. WHAT IS NAVIGATOR?**

11 **A.** Navigator is a proprietary BellSouth system designed to provide load balancing
12 (among servers), data routing, conversion and transport, error recovery and event
13 tracing functions. It provides an API that exposes functions for invoking and responding
14 to contracts.

15

16 **Q. WHAT IS THE OUTPUT OF RNS AND WHERE DOES IT FEED TO?**

17 **A.** The output of the RNS system is a Service Order that is fed directly to SOCS, as
18 opposed to first going through a TAG server, then through LEO, then through LESOG,
19 and then, perhaps, through manual handling. This Service Order is also known as
20 ZCRD FID. See Anderson Consulting Document ZCRD 191093 System Requirements
21 Document Version 14, dated October 17, 2000, attached hereto as **Exhibit AZ-7**. Within
22 the RNS system a so-called ZCRD data structure is created for processing of
23

24

24 ¹⁶ COFFI - Central Office Features File Interface

25 ¹⁷ DOE - Direct Order Entry

25 ¹⁸ OPI - Ordering Process Interface - an application that issues update
Navigator contracts to appropriate mainframe systems at the close of the user
contact.

1 information. It is populated with the information from the following sources: IMAT, ZTRK,
2 SOLAR¹⁹, RNS screens (Bill Name and Address Window, Credit Information Window,
3 Deposit Window) and RSAG.

4 The ZCRD data structure becomes ZCRD FID once it is placed on a service
5 order that is sent to SOCS. In order to by pass the SOER²⁰ error checking the blank
6 fields in the ZCRD structure are replaced with plus signs. That is how a ZCRD record
7 becomes a ZCRD FID which is in essence, a Service Order.

8 The ZCRD data structure consists of the five following sections:

- 9 • Basic Customer and Order Information Fields
- 10 • The IMAT section populated by IMAT search
- 11 • Future fields
- 12 • The ZTRK section populated by an Equifax hit or the Credit Questionnaire
- 13 • The MCC Letter fields section

14 The SOCS routes service orders to SOAC²¹ whose function is to distribute the
15 orders to appropriate databases/systems such as:

- 16 • MARCH²² - where Service Orders are converted into data format compatible with
17 the switch data format
- 18 • LFACS²³ - database containing the information on loops and facilities.
- 19 • COSMOS²⁴ - contains data relevant to Central Office i.e. new numbers,
20 equipment inventory etc.

21

22

23 ¹⁹ SOLAR - Service Order Language Analysis Routines

24 ²⁰ SOER - Service Order Edit Routine

²¹ SOAC - Service Order Analysis Center

²² MARCH - Message and Recent Change

25 ²³ LFACS - Loop Facility Assignment Control System

²⁴ COSMOS - Computer System for Mainframe Operations

1 **Q. WHAT IS THE RNS PRESENTATION LAYER?**

2 **A.** The presentation layer runs under X11 Windows with Motif as a window
3 manager. These terminals run off of Boot/Desktop servers. In the event of X terminal
4 failure, the Boot/Desktop server re-routes it to a back up Boot/Desktop Server. In
5 addition to X Terminals, there are numerous PCs that use X Windows emulators to run
6 the application.

7 **Q. WHAT IS ROS?**

8 **A.** ROS is a Regional Ordering System used to provision business/retail customers.
9 It is used by BellSouth's Retail Business Service representatives for Pre-Ordering and
10 Ordering. The information flow is similar to the one in ROS with the exception that the
11 only database in the system is the OPI database.

12

13

14 **Q. COULD YOU COMPARE LENS AND RNS?**

15

16 **A.** Yes. While RNS is a very stable, robust and reliable system, LENS does not
17 come close to it. LENS is not reliable, nor robust at all, because it goes down too many
18 times a day.

19

20 Please see the following instances of LENS problems that occurred solely on August
21 14th 2001:

22

23

24 PON= STICVR191019 EN= 5614837256 Number of Lines= 0 Remark=
25 2001-08-14 10:45:46 4055 sof00222 sync contract failed: Response timed out

26

27

28 PON= STICVR191021 EN= 5617933198 Number of Lines= 0 Remark=
29 2001-08-14 10:55:07 4020 sof00222 sync contract failed: TCP/IP Socket
30 connection failure.

31

32

33 PON= STICVR191026 EN= 9544347969 Number of Lines= 0 Remark=
34 2001-08-14 11:15:44 4055 sof00222 sync contract failed: Response timed out

1 PON= STICVR191027 EN= 5613332615 Number of Lines= 0 Remark=
2001-08-14 11:17:06 4020 sof00222 sync contract failed: TCP/IP Socket
2 connection failure.

3 PON= STICVR191029 EN= 9543822457 Number of Lines= 0 Remark=
4 2001-08-14 11:18:24 4020 sof00222 sync contract failed: TCP/IP Socket
4 connection failure.

5 PON= STICVR191030 EN= 9549876654 Number of Lines= 0 Remark=
6 2001-08-14 11:18:32 4020 sof00222 sync contract failed: TCP/IP Socket
6 connection failure.

7 This is only a small portion of the problems that happened on August 14, 2001.

8 Lens is not efficient either because:

- 9
- 10 • It is too slow.
 - 11 • Orders for certain area codes (954, 786 and 305) cannot be processed. Error
12 messages that are given are: "Not Enough Telephone Numbers of Issuing
13 Order", etc.
 - 14 • Certain types of orders like Transfers, Remote Call Forwarding, and Converting
15 ISDN lines cannot be done.
 - 16 • Human Factor: LCSC - service representatives who are responsible for solving
17 LENS problems only take 5 or 6 PONs each time. They do not want to do more.
18 Each time Supra's people call the LCSC they are placed in a long queue before
19 they reach a representative.
 - 20 • There is no error/disaster recovery in place for LENS.

21 On the other hand, RNS is a very stable and reliable system:

- 22 • The boot desktop server has a minimum of two disks. The first disk contains all
23 the directories and file structure and all of that is mirrored onto the second disk.
24 In addition, each boot server has a list of its clients (x-terminals) that they
25 service. In case of a boot/desktop server, a functional server takes over the x-
terminals of the failed server.

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- The application server has a minimum of three disks. In addition to the first disk containing all the directories and file structure, and the mirror image of it on the second disk, a third disk is used to log daily sessions of each service representative with the RNS thus creating a historical log file for each service representative.
 - The database servers contain a minimum of five disks. The primary and secondary disk are used for directory and file structure and a mirror of the same. The two databases, OASIS and OPI each have their own disk, and the fifth disk is a mirror of the two disks containing the databases.

11 The Navigator handles all failures of either an application server or a database
12 server through its routing/load balancing program. It is apparent that the RNS is a
13 superior system compared to LENS.

14

15 **Q. HOW COULD SUPRA BENEFIT FROM THESE SYSTEMS?**

16 **A.** According to the Telecommunications Act of 1996, the FCC²⁵ requires ILECs²⁶ to
17 make their OSS²⁷ available to CLECs²⁸. The FCC mandates the communication
18 between the ILECs and CLECs be done electronically without human interaction. From
19 my testimony it is clear that the information coming from Supra (and for that matter any
20 other CLEC) is going through a different path than BellSouth's information. In fact,
21 information from Supra is usually reviewed by human operators in the LCSC, which is a
22 direct violation of the FCC mandate.

23

24

25 ²⁵ FCC - Federal Communication Commission

²⁶ ILEC - Incumbent Local Exchange Carriers

²⁷ OSS - Operational Support Systems

²⁸ CLEC - Competitive Local Exchange Carriers

1 Supra needs full access to the RNS and ROS systems, including the source
2 code. Also, whenever BellSouth makes any changes to the source code, Supra should
3 be notified of this. Furthermore, we request the table layouts and an API to BOCRIS
4 database. This would help Supra achieve parity with BellSouth. In order to accomplish
5 this, it would be necessary to:

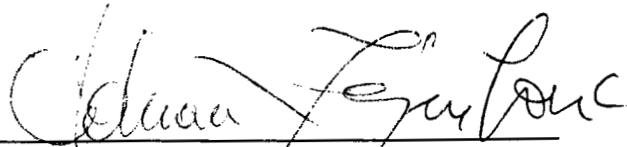
- 6 ● Configure and install a boot/desktop RNS/ROS server in Supra's facilities.
- 7 ● Configure and install an application RNS/ROS server in Supra's facilities. This
8 application server would access the remote databases in Data Centers via the
9 WAN.
- 10 ● Wire Supra into BellSouth's WAN (BOSIP²⁹).

11 For the presentation layer, Supra would use PC terminals. An x-terminal
12 emulator software would be necessary (Hummingbird eXceed) to access the RNS/ROS
13 boot server.

24
25
²⁹ BOSIP - BellSouth Open Systems Interconnect Platform

1 Q. DOES THIS CONCLUDE YOUR TESTIMONY?

2 A. Yes.

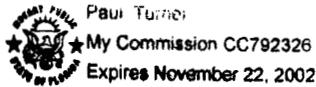
3
4 
5 Adnan Zejnilovic

6 STATE OF FLORIDA)
7) SS:
8 COUNTY OF MIAMI-DADE)

8 The execution of the foregoing instrument was acknowledged before me this
9 15 day of August, 2001, by Adnan Zejnilovic, who is personally known to me or
10 who produced _____ as identification and who did take an oath.

11 My Commission Expires:

11 
12 NOTARY PUBLIC
13 State of Florida at Large



14 Print Name:

1 BY MR. TURNER:

2 Q Would you please go ahead with your summary.

3 A Yes. Good afternoon everybody. In my summary, I
4 would like to concentrate on the issues regarding parity and
5 disadvantages from the technical point of view that Supra is
6 facing when interfacing with BellSouth.

7 It is my understanding that BellSouth admitted that
8 human-to-machine process does not meet the nondiscriminatory
9 definition by the FCC. From Mr. Pate's testimony, I have
10 learned that BellSouth's position on this issue is
11 substantially same time and manner. I would like to argue the
12 time. Once Supra generates a request, it is in electronic form
13 from that point on, and it does not require human interaction.
14 However, on BellSouth's end, it fails to satisfy this condition
15 as there's a significant potential for human interaction
16 through LEO, LESOG, and LCSC. Any human interaction will
17 result in significant time delay. Thus, we cannot talk about
18 the parity here.

19 Due to human interaction, information is entered
20 twice. Again, anytime there's human interaction, there's room
21 for error. Also, transactions from Supra do not follow the
22 same path as do the transactions that originate in BellSouth.
23 Supra's transactions go through a maze of subsystems, most of
24 the time being kicked off to LCSC requiring human interaction.

25 Through my testimony, I have shown that the

1 Q What issues are you testifying on in this case?

2 A I believe it's Issue 38.

3 Q Are you testifying on any other issues?

4 A No, sir.

5 Q Mr. Zejinilovic, on Page 4 of your testimony, you say
6 that software systems are very complex by nature. In general
7 terms, a software system is composed of a vast number of
8 modules. In that statement, you were referring specifically to
9 the TAG API software system; correct?

10 A No. I was referring to software in general. Most
11 software systems are very complex, consisting of modules, and
12 then modules are broken down in functions. Each function is
13 built to do one task. And this pertains, of course, to TAG
14 because it's software as well.

15 Q Would that also apply to RNS?

16 A Sure.

17 Q And ROS?

18 A Sure. If it's software, yes.

19 Q Now, modifications to -- well, let me back up.

20 Software systems that BellSouth has in place for the purpose of
21 provisioning orders feed data and obtain data from various
22 other systems within BellSouth; correct?

23 A Yes.

24 Q And those system are also complex; correct?

25 A Yes.

1 Q And the network, if you will, of those systems and
2 what they do with and to one another for processing an order,
3 would you characterize that as a complex system?

4 A Yes.

5 Q And modifications to that system, if they had to be
6 made, could be very substantial; correct?

7 A I'm not aware of the technical details of the
8 underlying systems they are describing, so I can't answer that
9 question.

10 Q Well, let's try it with an example. For example,
11 when BellSouth submits a retail service order through ROS or
12 RNS -- let's use ROS as an example. When that order goes in,
13 it's going to eventually cause a bill to be rendered to the
14 customer; correct?

15 A I suppose so.

16 Q And if you want to change the system to make
17 something else happen rather than a BellSouth bill being
18 generated, wouldn't you think that would be a substantial
19 change to the system?

20 A Well, in software, you can keep the existing
21 functionality and then add a new one without ever affecting the
22 existing functionality. It depends on the complexity of this
23 new functionality. It could be a substantial change, or it
24 could be a minor change. It all depends on the requirements
25 that are laid in front of the technical team.

1 Q Do you profess to have familiarity with BellSouth's
2 RNS and ROS systems?

3 A Very little, from the documentation that was supplied
4 to me.

5 Q So your statements in your testimony about those
6 systems are based on, what did you just say, very little
7 familiarity with those systems?

8 A I would say general familiarity.

9 Q Is it general familiarity or very little familiarity?

10 A What is the difference between the two?

11 Q Is there any difference?

12 A I'm sorry. When I say "little" or "general," I was
13 given manuals for ROS and RNS, technical manuals, that were
14 done by Andersen Consulting, or I believe they are called
15 Accenture now. And I read through them, and this is my
16 knowledge of your systems, but intricate details of the system
17 itself, I do not know.

18 Q Did you use the RNS system or the ROS system?

19 A No, sir.

20 Q On Page 11 of your testimony at Lines 20 to 25, and I
21 believe actually it goes on to Page 12, you've got a list of
22 some system outages. Do you see that?

23 A Yes.

24 Q Now, help me with this. Where did you get the
25 information that's listed on Line 20?

1 A I got it from the LENS system. Whenever LENS goes
2 down, we get error reports.

3 Q Okay. So this is a report you got back from LENS?

4 A Yes.

5 Q Now, the second entry there says, "TCP/IP socket
6 connection failure;" correct?

7 A Yes.

8 Q LENS is accessed through the Internet, isn't it?

9 A Well, we have LAN-to-LAN connection, and we also have
10 Internet connection.

11 Q Okay. Which connection were you using that generated
12 this report?

13 A I don't remember. We file reports as they happen,
14 and then, you know, I used this one as an example of that
15 particular day.

16 Q Now, if the Internet connection was down, could you
17 get a report error like this that says the TCP/IP socket
18 connection failure?

19 A No.

20 Q I'm sorry?

21 A I don't think so.

22 Q You don't think so?

23 A No.

24 Q Could you get an error like this if you were having a
25 problem on Supra's side of the house?

1 A No.

2 Q Well, what does TCP/IP socket connection failure
3 mean? Under what circumstances do you get that error message?

4 A When a connection fails to -- what this is referring,
5 you have a socket through which you communicate with another
6 system, so when you have a failure on that socket, then you get
7 an error like this.

8 Q All right. When you say you have a socket between
9 two systems, are you talking about a Supra system and BellSouth
10 system?

11 A Yes, sir.

12 Q So all this TCP/IP socket connection failure means is
13 that the connection between BellSouth and Supra was
14 interrupted?

15 A Yes, sir.

16 Q And couldn't that happen because of something on
17 Supra's side?

18 A It could, but then we would know. It would be
19 different. It would be one of our servers went down and we
20 would know. We would be able to identify which one particular
21 server and further down socket went down. This, we were not
22 able to identify which one, so we concluded that it was on the
23 other side.

24 Q I thought you told me a few minutes ago you weren't
25 sure where this data came from when I asked you about whether

1 it was from the LAN or the Internet.

2 A Again, I don't know for sure whether it was from LAN
3 or from the Internet because every day we log reports due to
4 the frequent outages.

5 Q On Page 13 of your testimony --

6 A Yes, sir.

7 Q -- you've got one question that appears on that page,
8 and the second sentence of your answer says, "The FCC mandates
9 the communication between the ILECs and CLECs be done
10 electronically without human interaction." Do you see that?

11 A Yes.

12 Q What FCC order are you referring to?

13 A I believe -- I don't know the specific order. I
14 believe I read the FCC documentation, and I made a reference to
15 it, but the specific order, I do not know.

16 Q You are aware that Supra has requested direct access
17 to BellSouth's systems, operational support systems, in this
18 proceeding; correct?

19 A Yes.

20 Q Supra wants to use RNS and ROS; correct?

21 A Yes.

22 Q Have you done any analysis of what modifications to
23 RNS and ROS would have to be made for those systems to be used
24 for wholesale products?

25 A No, because I don't have the documentation.

1 Q Didn't you tell me you had the documentation
2 regarding RNS and ROS --

3 A I take that back.

4 Q I'm sorry. Let me --

5 A Okay.

6 Q I want to make sure that she gets everything down
7 that I say and that you say.

8 A Sure.

9 Q Even if you know what I'm going to ask you, just hang
10 on.

11 A Okay.

12 Q You do have the documentation for RNS and ROS;
13 correct?

14 A Yes, yes.

15 Q Okay. My question that I had asked you was, have you
16 made any analysis of what changes would have to be made to
17 BellSouth's systems to permit those systems to accommodate
18 wholesale orders? Your last response to me was that you didn't
19 have the documentation. So I want to know --

20 A Okay. What I meant, sir, is, I do not have technical
21 documentation that would allow me to do this analysis. The
22 documentation that I have is to give you a general knowledge of
23 the system, how it operates and what different subsystems are
24 involved. But for me to make this analysis, I would need more
25 detailed and more technical documentation.

1 Q Do you agree that modifications to BellSouth's
2 systems will be required to allow them to provide -- to accept
3 wholesale orders?

4 MR. TURNER: Madam Commissioner, I granted BellSouth
5 some leeway on this, but I have to object that this is outside
6 the scope of Mr. Zejinilovic's rebuttal testimony. He has not
7 proffered any testimony or any exhibits regarding direct access
8 to BellSouth's OSS.

9 COMMISSIONER JABER: Mr. Twomey, the objection is
10 that your questions are outside the scope of rebuttal. Your
11 response.

12 MR. TWOMEY: My response is a few things. Number
13 one, I don't believe the scope of cross examination is limited
14 to the scope of the testimony.

15 COMMISSIONER JABER: Oh, yes, it is.

16 MR. TWOMEY: Okay. My second response is that I
17 asked him what issue he was testifying on. He said Issue 38,
18 which is, is BellSouth required to provide Supra with
19 nondiscriminatory access to the same databases, which is the
20 issue he's testifying about. And he's also testified about RNS
21 and ROS as preferred to LENS, and I think I'll have to be able
22 to ask him what things have to be done to this system.

23 COMMISSIONER JABER: Okay. Where in his testimony do
24 you believe your question goes to? Where do you believe he
25 testifies to Issue 38?

1 MR. TWOMEY: Well, I asked him if he testified to
2 Issue 38 and he said he did. Actually, I asked him what issue
3 he testified to and he said 38.

4 COMMISSIONER JABER: Yeah, I heard that.

5 MR. TWOMEY: His testimony doesn't say which issues
6 he's testifying on. That's why I asked him the question.

7 COMMISSIONER JABER: Let me ask the witness. Where
8 in your testimony do you testify to Issue 38 specifically?

9 THE WITNESS: I don't.

10 COMMISSIONER JABER: Well, how --

11 THE WITNESS: I believe that the first part of my --
12 I believe that the introduction, or the purpose of my
13 testimony, speaks about me wanting to compare technical
14 capabilities of BellSouth's systems in identifying
15 disadvantages that Supra is facing when we use them.

16 COMMISSIONER JABER: Supra, you've listed the issues
17 through your prehearing statement and then through the
18 Prehearing Officer in the prehearing order, and I note that
19 there were other issues listed, but your witness said that he
20 only testifies to Issue 38. So I'm going to allow questions
21 related to Issue 38.

22 Go ahead, Mr. Twomey.

23 MR. TWOMEY: I think it is really my last question.

24 BY MR. TWOMEY:

25 Q Mr. Zejinilovic, would you agree that modifications

1 to BellSouth's systems are required in order for those existing
2 retail systems to accommodate orders for wholesale products?

3 A No.

4 Q What's the basis for your statement that there's no
5 modification required?

6 A Because BellSouth uses these systems to place orders
7 to customers that are win-backs for BellSouth. I don't think
8 they would need to do anything. Meaning, the customers who are
9 already Supra customers and went back to BellSouth, I don't
10 think that they would need to do anything special for Supra to
11 make changes. The only part that I would see changes being
12 made from my understanding of your systems is in the billing
13 module.

14 MR. TWOMEY: Okay. That's all I have.

15 COMMISSIONER JABER: Staff.

16 MR. KNIGHT: No questions.

17 COMMISSIONER JABER: Commissioners.

18 COMMISSIONER PALECKI: No questions.

19 COMMISSIONER JABER: Redirect.

20 MR. TURNER: Thank you. I just have a few questions.

21 REDIRECT EXAMINATION

22 BY MR. TURNER:

23 Q Mr. Zejinilovic, do you remember when Mr. Twomey
24 asked you questions from your rebuttal testimony on Page 11 at
25 the bottom of the page from the error messages from LENS?

1 A Yes.

2 Q Specifically, looking at 22 -- at Lines 22 and 23,
3 the TCP/IP socket connection failure.

4 A Yes.

5 Q Do you know if this is a Supra or BellSouth message?

6 A I believe it's a BellSouth message, and that's what I
7 answered before, because we would have known that it was on our
8 side by our server failing or our socket failing. Keep in mind
9 that we have a full-time IT staff that monitors these machines
10 and systems all the time, so we would have known and reported
11 it.

12 Q If the Internet connection between LENS and the
13 BellSouth server was down, would this message be able to come
14 back to Supra?

15 A Can you repeat your question again, please.

16 Q If the Internet connection between the LENS server
17 and BellSouth's server was down, would this message be able to
18 come back to Supra?

19 A No. We couldn't connect, simply.

20 Q If the LAN-to-LAN, L-A-N-hyphen-L-A-N, was down,
21 would Supra get this message?

22 A Yes.

23 Q If Supra was down, would Supra get this message?

24 A No, it would be different.

25 MR. TURNER: I have no further questions.

1 COMMISSIONER JABER: Thank you, Mr. Zejinilovic.

2 THE WITNESS: Thank you.

3 COMMISSIONER JABER: Thanks for your testimony.

4 (Witness excused.)

5 COMMISSIONER JABER: Exhibits. Supra.

6 MR. TURNER: Yes. At the time Supra would like to
7 move into evidence the nonconfidential Exhibit AZ-1.

8 COMMISSIONER JABER: Exhibits 32 and 33 without
9 objection shall be admitted into the record.

10 (Exhibit 32 and 33 admitted into the record.)

11 COMMISSIONER JABER: Supra, let me ask you before we
12 call the final witness, in the prehearing order, it indicates
13 that there were several exhibits omitted from Mr. Ramos's
14 testimony. Let me make sure I have that straight. I'm looking
15 at Page 64, starting at Page 64 of the prehearing order.

16 And, Staff, you correct this if we're wrong.

17 OAR-48 was omitted. That means it was withdrawn?

18 MR. KNIGHT: That was our understanding. It was
19 withdrawn.

20 MR. TURNER: In compiling the exhibits for his
21 testimony, Supra decided to withdraw those exhibits after the
22 list was already provided, so we just omitted it.

23 COMMISSIONER JABER: Okay. Well, let's make sure the
24 record reflects that. OAR-48 was withdrawn. OAR-52 was
25 withdrawn. OAR-53 was withdrawn. OAR-64 was withdrawn.

1 OAR-73 was withdrawn. OAR-91 was withdrawn.

2 Is that it?

3 MR. TURNER: That is all that I'm aware of.

4 COMMISSIONER JABER: Staff, do you agree?

5 MR. KNIGHT: We agree.

6 (Transcript continues in sequence with Volume 8.)

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1 STATE OF FLORIDA)
2 : CERTIFICATE OF REPORTER
3 COUNTY OF LEON)

4
5 I, TRICIA DeMARTE, Official Commission Reporter, do hereby
6 certify that the foregoing proceeding was heard at the time and
7 place herein stated.

8 IT IS FURTHER CERTIFIED that I stenographically
9 reported the said proceedings; that the same has been
10 transcribed under my direct supervision; and that this
11 transcript constitutes a true transcription of my notes of said
12 proceedings.

13 I FURTHER CERTIFY that I am not a relative, employee,
14 attorney or counsel of any of the parties, nor am I a relative
15 or employee of any of the parties' attorneys or counsel
16 connected with the action, nor am I financially interested in
17 the action.

18 DATED THIS 3rd DAY OF OCTOBER, 2001.

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TRICIA DeMARTE
FPSC Official Commission Reporter
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