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From: Slaughter, Brenda [Brenda.Slaughter@BELLSOUTH.COM]	Friday, July 30, 2004 2:18 PM	Sent:
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Legal Department

LISA S. FOSHEE Senior Attorney

BellSouth Telecommunications, Inc. 150 South Monroe Street Room 400 Tallahassee, Florida 32301 (404) 335-0754

July 30, 2004

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

> Re: Docket No.: 040301-TP Petition of Supra Telecommunications and Information Systems, Inc. for Arbitration with BellSouth Telecommunications, Inc.

Dear Ms. Bayó:

Enclosed is BellSouth Telecommunications, Inc.'s Motion Hold Discovery in Abeyance, which we ask that you file in the captioned docket.

Copies have been served to the parties shown on the attached Certificate of Service.

Sincerely, oshe sa S. Foshee

Enclosure

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

DOCUMENT NUMBER-DATE

## CERTIFICATE OF SERVICE Docket No. 040301-TP

I HEREBY CERTIFY that a true and correct copy of the foregoing was served via Electronic Mail and U.S. Mail this 30th day of July, 2004 to the following:

Jason Rojas Jeremy Susac Staff Counsels Florida Public Service Commission 2540 Shumard Oak Blvd. Tallahassee, FL 32399-0850 Tel No. (850) 413-6179 or 6236 Fax No. (850) 413-6250 jrojas@psc.state.fl.us Jsusac@psc.state.fl.us

Ann H. Shelfer Supra Telecommunications & Information Systems, Inc. Koger Center – Ellis Building 1311 Executive Center Drive Suite 220 Tallahassee, FL 32301-5067 Tel. No. (850) 402-0510 Fax. No. (850) 402-0522 ashelfer@stis.com Brian Chaiken Supra Telecommuncations & Information Systems, Inc. 2620 S. W. 27<sup>th</sup> Avenue Miami, FL 33133 Tel. No. (305) 476-4248 Fax. No. (305) 443-1078 <u>bchaiken@stis.com</u>

# ORIGINAL

# **BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

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In Re: Petition of Supra Telecommunications and Information Systems, Inc. for arbitration With BellSouth Telecommunications, Inc.

Docket No. 040301-TP Filed: July 30, 2004

# MOTION OF BELLSOUTH TELECOMMUNICATIONS, INC. TO HOLD DISCOVERY IN ABEYANCE

BellSouth Telecommunications, Inc. ("BellSouth") hereby moves the Commission to hold all discovery (including depositions, interrogatories and document requests) in abeyance pending the resolution of BellSouth's Motion to Dismiss, filed in this docket on July 21, 2004. Such an order is within the discretion of the Pre-Hearing Officer and would best serve the interests of judicial economy.

### DISCUSSION

#### **Facts**

On July 21, 2004, BellSouth filed, in conjunction with its Answer to Supra's Amended Petition, a Motion to Dismiss Or, In the Alternative, Partial Motion to Dismiss, the Amended Petition (the "Motion"). On July 20, 2004, Supra filed a Notice of Deposition, seeking to depose a BellSouth representative on August 12, 2004. On July 23, 2004, Supra re-served its First Set of Request for Production of Documents on BellSouth.

### Analysis

Pursuant to Rule 28-106.206, the Pre-Hearing Officer retains broad latitude to "issue appropriate orders to effectuate the purposes of discovery" in pending matters. Thus, the Pre-Hearing Officer has the authority to enter an order holding all discovery in abeyance pending the resolution of BellSouth's Motion. Such an order would best serve the interests of judicial economy and conserve the parties' resources. Spending time and money on depositions and

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written discovery when the case may be summarily dismissed is wasteful – both to the parties and to the Commission Staff who will spend time reviewing filed discovery responses. Moreover, holding discovery in abeyance will not prejudice either party. This case has not been scheduled for hearing, nor is there any schedule for filing testimony. Thus, delaying discovery for a few weeks will not impede either party's development of its case, and it will conserve the resources of both the parties and the Commission.

For these reasons, BellSouth respectfully requests that the Pre-Hearing Officer hold discovery in abeyance pending resolution of BellSouth's Motion.

Respectfully submitted this 30th day of July, 2004.

BELLSOUTH TELECOMMUNICATIONS, INC.

wh

NANCY B. WHNE c/o Nancy H. Sims 150 South Monroe Street Suite 400 Tallahassee, Florida 32301-1558 (305) 347-5558

(RM) R. DOUGLAS LACKEY

**R**. DOUGLAS LACKEY E. EARL EDENFIELD, JR. LISA S. FOSHEE 675 West Peachtree Street Suite 4300 Atlanta, Georgia 30375-0001 (404) 335-0754