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7-4 PM 2:17

February 4, 1999

**BY HAND DELIVERY**

Ms. Blanca Bayo, Director  
Division of Records and Reporting  
Room 110, Easley Building  
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2540 Shumard Oak Blvd.  
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Re: Docket Nos. 981642-TP and 981745-TP

Dear Ms. Bayo:

Enclosed for filing on behalf of e.spire Communications, Inc. in the above captioned dockets are an original and fifteen copies of the following documents:

1. Revised Direct Testimony of Dr. Marvin Kahn on behalf of e.spire Communications, Inc.; 01459-99

ACK \_\_\_\_\_ Inc.: 01460-99

AFA \_\_\_\_\_  
AFP \_\_\_\_\_ 3. Revised Direct Testimony of C. William Stipe, III on behalf of e.spire Communications, Inc.; 01461-99

CAF \_\_\_\_\_  
CML Stipaya 4. Revised Direct Testimony of James C. Falvey on behalf of e.spire Communications, Inc.; 01462-99  
CTR \_\_\_\_\_

EAG \_\_\_\_\_  
LEG 3 The direct testimony of Dr. Kahn and Mr. Falvey is being revised to reflect the recent Supreme Court decision.

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Ms. Blanca Bayo  
February 4, 1999  
Page 2

Please acknowledge receipt of these documents by stamping the extra copy of this letter "filed" and returning the same to me.

Thank you for your assistance with this filing.

Sincerely,

A handwritten signature in cursive script, reading "Norman H. Horton, Jr.", with a large, stylized flourish at the end.

Norman H. Horton, Jr.

NHH/amb  
Enclosures

cc: James C. Falvey, Esq.  
Parties of Record



**CERTIFICATE OF SERVICE**  
**Docket Nos. ~~921942-TP~~ and ~~921745-TP~~**

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**BEFORE THE  
STATE OF FLORIDA  
PUBLIC SERVICE COMMISSION**

In the Matter of )

)  
Petition by E.SPIRE COMMUNICATIONS, INC., )  
and ACSI LOCAL SWITCHED SERVICES, INC. and )  
AMERICAN COMMUNICATION SERVICES, )  
OF TAMPA, INC., and AMERICAN COMMUNICATION )  
SERVICES OF JACKSONVILLE, INC. )  
for Arbitration of an Interconnection Agreement )  
with BELL SOUTH TELECOMMUNICATIONS, )  
INC. Pursuant to Section 252(b) of the )  
Telecommunications Act of 1996 )

Docket No. 981745-TP

**REVISED  
DIRECT TESTIMONY  
OF JAMES C. FALVEY  
ON BEHALF OF  
E.SPIRE COMMUNICATIONS, INC.**

**FEBRUARY 4, 1998**

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ATTACHMENT 1 (NRCs)

ATTACHMENT 2 (PLACEHOLDER RATE PROPOSAL)

**Introduction**

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**Q. PLEASE STATE YOUR NAME, TITLE AND BUSINESS ADDRESS FOR THE RECORD.**

A. My name is James C. Falvey. I am Vice President – Regulatory Affairs for e.spire Communications, Inc. (“e.spire”), which formerly was known as American Communications Services, Inc. or “ACSI”. My business address is 133 National Business Parkway, Suite 200, Annapolis Junction, Maryland 20701.

**Q. PLEASE DESCRIBE YOUR PROFESSIONAL EXPERIENCE AND BACKGROUND.**

A. Prior to joining e.spire as Vice President – Regulatory Affairs in 1996, I practiced law as an associate with the Washington, D.C. firm of Swidler & Berlin. In the course of my practice, I represented Competitive Local Exchange Carriers (“CLECs”), Interexchange Carriers (“IXCs”), and cable operators before state and federal regulators. Prior to my employment at Swidler & Berlin, I was an associate in the Washington, D.C. office of the law firm of Johnson & Gibbs, where I practiced in the area of antitrust litigation. I graduated from Cornell University in 1985 with honors and received my law degree from the University of Virginia School of Law in 1990. I am admitted to practice law in the District of Columbia and Virginia.

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

A. The purpose of my testimony is to present e.spire’s business position on each of the unresolved issues presented for arbitration in this proceeding. My testimony will be supported by technical testimony submitted by my colleague, Bill Stipe,

1       and by testimony of Tony Mazraani of e.spire relating to packet-switched  
2       services. Also, expert economic testimony concerning facilities, interconnection  
3       and pricing issues will be presented on e.spire's behalf by Dr. Marvin Kahn of  
4       Exeter Associates, Inc.

5       **Q.     PLEASE DESCRIBE E.SPIRE'S BUSINESS.**

6       A.     e.spire, through its operating subsidiaries, provides competitive access and local  
7       exchange services in thirty-eight separate local markets across the United States,  
8       including Miami/Fort Lauderdale, Tampa and Jacksonville in Florida. e.spire has  
9       constructed local fiber optic networks and installed state-of-the-art Lucent 5ESS  
10      local exchange switches in each of these Florida cities. In that sense, e.spire  
11      functions as what is commonly referred to as a Competitive Local Exchange  
12      Carrier or "CLEC". e.spire also provides long distance services, Internet access  
13      services, and a wide array of data communications services nationwide, such as  
14      Frame Relay and ATM services.

15             e.spire provides these services using a combination of its own fiber optic  
16      transmission facilities, equipment collocation, Unbundled Network Elements  
17      ("UNEs") obtained from Incumbent Local Exchange Carriers ("ILECs"), and the  
18      resale of ILEC local exchange services and long distance services of facilities-  
19      based IXCs.

20      **Q.     HAS E.SPIRE INTERCONNECTED WITH BELL SOUTH?**

21      A.     Yes. e.spire and BellSouth executed an initial local interconnection agreement  
22      covering eight states in the BellSouth operating territory in July 1996 (the "ACSI-  
23      BellSouth Interconnection Agreement"). The ACSI-BellSouth Interconnection

1       Agreement was scheduled to expire on September 1, 1998, but has been extended  
2       by mutual agreement of the parties until a successor agreement is executed.

3       Pursuant to that initial ACSI-BellSouth Interconnection Agreement, e.spire has in  
4       fact established collocation arrangements and interconnected with BellSouth at  
5       numerous points. We have been exchanging Local Traffic for termination,  
6       purchasing UNEs and reselling local services for over two years under that  
7       agreement.

8       **Q.    BRIEFLY DESCRIBE THE PARTIES' EFFORTS TO NEGOTIATE A**  
9       **SUCCESSOR INTERCONNECTION AGREEMENT.**

10      A.    As the expiration date of the initial ACSI-BellSouth Interconnection Agreement:  
11       approached, e.spire made a new request for interconnection to BellSouth pursuant  
12       to the terms of Sections 251-252 of the Telecommunications Act of 1996 ("1996  
13       Act" or "Act"). The parties conducted numerous meetings and conference calls to  
14       discuss literally hundreds of contract issues. Many draft agreements were  
15       exchanged. In our view, both parties negotiated in good faith, and most issues  
16       were successfully resolved through negotiation. Not surprisingly, however, the  
17       parties were unable to agree on a number of critical points, and e.spire is seeking  
18       Commission resolution of the disputed issues by arbitration in accordance with  
19       the terms of Section 252 of the 1996 Act.

20      **Q.    PLEASE DESCRIBE HOW THE ISSUES ARE PRESENTED, AND HOW**  
21      **E.SPIRE WOULD LIKE THEM TO BE RESOLVED.**

22      A.    The final draft version of the successor interconnection agreement between e.spire  
23       and BellSouth (hereafter referred to simply as the "Agreement") is attached to the



1       e.spire Petition for Arbitration as Attachment A thereto. The Agreement is  
2       structured in a modular manner, and is comprised of the following discrete  
3       sections:

4               **General Terms and Conditions**

- 5  
6       - Part A: Terms and Conditions  
7       - Part B: Definitions  
8       - Part C: Schedule of e.spire Operating Subsidiaries  
9

10              **Attachments**

- 11  
12       - 1: Resale  
13       - 2: Unbundled Network Elements  
14       - 3: Local Interconnection  
15       - 4: Collocation  
16       - 5: Numbering and Number Portability  
17       - 6: OSS, Ordering, Provisioning, Maintenance and Repair  
18       - 7: Billing  
19       - 8: Rights of Way/Pole Attachments  
20       - 9: Bona Fide Requests  
21       - 10: Performance Standards/Measurements  
22       - 11: Rates  
23       - 12: Directory Listings  
24       - 13: LIDB  
25       - 14: Blanket Letter of Authorization  
26       - 15: Standard Intervals  
27

28              We have organized our issues according to each such discrete section, and  
29       I have prepared my testimony to proceed in the same order. When you examine  
30       the draft Agreement, you will note the interposition of language which is shaded  
31       in gray. The shaded areas represent contract language which remains in dispute,  
32       and will need to be finalized after the Commission renders its decision in this  
33       arbitration. The non-shaded language has been agreed-upon by the parties, and  
34       will be incorporated into the final agreement as indicated, unless otherwise agreed  
35       by the parties.

1                   Finally, I note that where I use capitalized terms in my prepared  
2 testimony, I intend to use them as defined herein or in the draft Agreement.

3   **Q.   DO YOU HAVE ANYTHING TO ADD BEFORE DISCUSSING THE**  
4   **INDIVIDUAL ISSUES RAISED?**

5   A.   Yes. I believe that most of the issues presented have not been squarely addressed  
6 by the Commission previously. Others, – pricing concerns for example – may  
7 look more familiar to the Commission. However, we respectfully request that the  
8 Commission consider each such issue anew. We think a fresh look at previously  
9 considered areas is appropriate for several reasons: (i) they may have been  
10 inadequately presented or lost in the midst of issues raised in the initial  
11 arbitrations and costing dockets; (ii) we now have the benefit of two years actual  
12 operating experience against which to test the earlier determinations; (iii)  
13 e.spire's business plans have evolved, requiring a new emphasis on different  
14 elements and arrangements; and (iv) the telecommunications is a rapidly  
15 changing industry, and yesterday's decisions may not fit today's circumstances.

16                   **General Terms and Conditions**

17   **Q.   WERE THE PARTIES ABLE TO SUCCESSFULLY NEGOTIATE A SET**  
18   **OF GENERAL TERMS, CONDITIONS AND DEFINITION?**

19   A.   I am pleased to report that we were able to reach agreement on the vast majority  
20 of issues relating to general terms and conditions of the contract, as well as the  
21 applicable definitions. However, we were not able to resolve disagreements  
22 relating to: (i) term of the agreement; (ii) the scope of MFN provisions; (iii)  
23 imposition of liquidated damages; (iv) establishment of a fresh look period; (v)

1       availability of commercial arbitration; (vi) subpoenas processing; and (vii)  
2       reformation due to changes in applicable law. We also were unable to agree on  
3       the definitions applicable to the terms "Local Traffic" and "Tandem Switch" as  
4       used in the Agreement.

5       **Q.   WHAT IS THE DISAGREEMENT OVER THE TERM OF THE**  
6       **AGREEMENT?**

7       A.   BellSouth believes that the Agreement should be for a minimum term of two  
8       years in order to avoid the need to initiate negotiation of the replacement  
9       agreement within a year after the effective date. e.spire shares BellSouth's  
10       concern, and its desire to avoid a need to begin negotiations again within the next  
11       year, but we believe that a shorter one year term is required *if* BellSouth does not  
12       agree to a Most Favored Nation ("MFN") clause that mirrors and complies with  
13       Section 252(i) of the Act and the Federal Communications Commission's  
14       ("FCC") "pick and choose" rule which was reinstated by the United States  
15       Supreme Court in its January 25, 1999 decision in *AT&T v. Iowa Utilities Board*.

16               Interconnection issues are evolving rapidly. New technical developments  
17       such as xDSL are creating new requirements. In addition, policy evolution in  
18       proceedings involving Section 271 long distance reentry, "Section 706 Advanced  
19       Telecommunications Services" developments, and the like, are steadily causing  
20       the ILECs to offer new services and elements they had previously denied offering.  
21       In short, e.spire cannot afford to take the competitive business risk that BellSouth  
22       will offer substantially better terms to other carriers during the term of the  
23       Agreement.

1   **Q.    HOW DOES THE TERM ISSUE RELATE TO E.SPIRE'S REQUEST FOR**  
2   **AN MFN PROVISION?**

3   A.    Unless e.spire can be assured that it can "pick and choose" or "opt in" to the  
4       improved terms of other interconnection agreements, as provided for in both  
5       Section 252(i) and FCC Rule 51.809, then a longer term agreement would not  
6       place e.spire at competitive risk. The two year term of e.spire's initial  
7       interconnection agreement with BellSouth worked fine, because that agreement  
8       incorporated an MFN clause that allowed e.spire to "pick and choose", as  
9       contemplated by Section 252(i) and FCC Rule 51.809. To date, BellSouth has  
10      refused to include a similar provision in the replacement agreement and, in so  
11      doing, has refused to meet its obligations under Section 251(i) and the FCC's  
12      reinstated "pick and choose" rule.

13   **Q.    WHAT IS AN "MFN" PROVISION?**

14   A.    An MFN clause allows a carrier to replace a provision of its own interconnection  
15      agreement with a corresponding provision of another interconnection agreement.  
16      In conjunction, the FCC's "pick and choose" rule also allows carriers to opt-in to  
17      a provision of another carrier's interconnection agreement in a way that expands  
18      the scope of the carrier's original interconnection agreement. Thus, the ability to  
19      "pick and choose" provides e.spire with a critical competitive safeguard because it  
20      prevents an ILEC from providing preferential interconnection arrangements to  
21      some carrier(s) to the detriment of carrier(s) with previously executed  
22      interconnection arrangements. Since contracts are used in place of tariffs for local  
23      interconnection, the MFN clause is the key remaining protection against

1 nondiscriminatory conduct by ILECs in establishing interconnection agreements.

2 As I have mentioned, the need for an MFN is recognized in the Act itself, by way  
3 of Section 252(i), which entitles all carriers to elect any terms and conditions of  
4 interconnection agreements between BellSouth and other telecommunications  
5 carriers.

6 **Q. EXPLAIN E.SPIRE'S MFN PROPOSAL.**

7 A. e.spire believes it is entitled to an MFN clause which would enable it to replace  
8 any term in its agreement with a more favorable term taken from another  
9 interconnection agreement that BellSouth reaches with an e.spire competitor.

10 Consistent with Section 252(i) and FCC Rule 51.809, the MFN clause  
11 incorporated into the initial ACSI-BellSouth Interconnection Agreement allowed  
12 e.spire to select any discrete rate, term or condition of another agreement to  
13 replace the corresponding provision of its own agreement. This type of MFN  
14 provision was not unique to the ACSI-BellSouth Interconnection Agreement, as  
15 similar "pick and choose" MFN clauses were incorporated into many other  
16 BellSouth interconnection agreements, including, for example, agreements  
17 reached with Sprint as recently as 1997.

18 To date, BellSouth has taken the extreme position that an MFN should  
19 enable e.spire only to replace its agreement in its entirety by assuming the "entire  
20 agreement" of another carrier without change.

21 **Q. WHAT IS WRONG WITH THE BELL SOUTH "ENTIRE AGREEMENT"**  
22 **APPROACH?**

1     A.     First and foremost, BellSouth's position is contrary to federal law. Section 252(i)  
2           of the 1996 Act and FCC Rule 51.809 obligate BellSouth to allow requesting  
3           carriers, such as e.spire, the right to "pick and choose" "any individual  
4           interconnection, service, or network element arrangement contained in any  
5           agreement to which [BellSouth] is a party that is approved by a state Commission  
6           pursuant to section 252 of the Act, upon the same rates, terms, and conditions as  
7           those provided in the agreement."

8                 By contrast, BellSouth's "entire agreement" approach enables the ILEC to  
9           insert "poison pills" anywhere in an extremely lengthy agreement which makes it  
10          effectively unavailable to other carriers.

11                For example, assume that BellSouth sets up an "Advanced Services"  
12          Affiliate. Under the "entire agreement" approach, BellSouth would be able to  
13          give such Affiliate preferential terms for access to UNEs at Remote Terminals,  
14          but make that option effectively unavailable to others by providing that local  
15          service Resale is unavailable under that agreement, or by stating that the option is  
16          available only if you elect to interconnect in every BellSouth LATA. The  
17          opportunity for mischief is great, and a critical competitive safeguard is lost.

18                In the end, however, it is clear that the United States Supreme Court has  
19          had the final word on this issue. BellSouth's position is directly at odds with the  
20          Court's *Iowa Utilities Board* decision and fails to recognize its obligations under  
21          Section 252(i) of the Act and FCC Rule 51.809. Thus, the Commission should  
22          find that agreement should incorporate an MFN clause, as proposed by e.spire. In

1       so doing, the Commission could remove any concern over the two year term  
2       proposed by BellSouth.

3       **Q.     WHAT IS THE DISPUTE CONCERNING THE ASSESSMENT OF**  
4       **LIQUIDATED DAMAGES?**

5       A.     e.spire signed one of the first region-wide local interconnection agreements with  
6       BellSouth under the 1996 Telecommunications Act. More importantly, unlike  
7       most carriers which have entered such agreements, e.spire is providing both  
8       facilities-based and resale-based competitive local exchange services across the  
9       BellSouth region. Thus, we now have more than two years of actual hands-on  
10      experience with trying to order and install both local resale services and UNEs  
11      such as unbundled local loops from BellSouth.

12            To date, it has not worked well. In our experience, BellSouth continues to  
13      provide pre-ordering, ordering and installation for both resale services and UNEs  
14      which are not at parity to the equivalent functions that it provides to itself or the  
15      explicit requirements of our contract. For example, our initial agreement stated  
16      expressly that consumers would not be out-of-service for more than five (5)  
17      minutes during cutovers to unbundled Loops with Interim Number Portability  
18      ("INP"), but BellSouth has not in fact consistently adhered to that standard. The  
19      same can be said of numerous other functions such as return of Firm Order  
20      Commitments ("FOCs") and Committed Due Dates ("CDDs"), standard  
21      provisioning intervals, and collocation intervals. I observe that this experience is  
22      not limited to e.spire. The FCC repeatedly determined in recent Section 271

1 proceedings that BellSouth's nonperformance prevents it from satisfying key  
2 elements of the so-called "competitive checklist".

3           These are not isolated annoyances. The lack of dependable performance  
4 has been systemic and continuous, and has severely impeded e.spire's ability to  
5 deploy services and compete. BellSouth's failure to provision unbundled Loops  
6 with INP, for example, effectively caused e.spire to stop marketing services using  
7 2-wire unbundled Loops to consumers. BellSouth's failures in loop cutover  
8 performance reflected poorly on e.spire, and – as a new entrant – e.spire could not  
9 afford risking further damage to its reputation.

10           However, BellSouth's erratic performance is not surprising since there are  
11 few consequences for it. Under our initial agreement, if BellSouth failed to  
12 perform, our only recourse was to file complaints with regulators. Although  
13 e.spire attempted to pursue this course, the remedy is not effective since the lead  
14 time to resolution is very long (complaints have been pending for nearly two  
15 years), and the damages (particularly damage to reputation) which resulted are  
16 very difficult to calculate.

17           e.spire believes strongly that some form of self-executing penalty is  
18 required in order to create an incentive for BellSouth to perform as promised.  
19 BellSouth will never consistently deliver parity in service levels if there is no  
20 immediately apparent penalty for failure to honor that commitment. The situation  
21 will only improve if BellSouth employees at all levels realize that sanctions will  
22 be imposed immediately and automatically if they fail to provide the promised  
23 level of service.



1           Our proposal is to establish a set of agreed performance measurements.  
2           After evidentiary hearings in Georgia and Louisiana, stemming partly from e.spire  
3           complaints, BellSouth established performance measurements which e.spire finds  
4           acceptable. However, to give those measurements meaning, we propose to define  
5           the failure to (i) meet a prescribed interval, or (ii) provide service at parity as  
6           established by the Performance Measurements, as a Specified Performance  
7           Breach. As importantly, Liquidated Damages would be assessed automatically  
8           upon the occurrence of any such Specified Performance Breach. We believe that  
9           this approach is most likely to encourage BellSouth to provide high quality,  
10          dependable service, and to avoid the necessity of filing countless performance-  
11          related complaints with regulators.

12          Liquidated Damages are intended to deter sub-par BellSouth service.  
13          e.spire would hope that they would not actually have to be imposed because they  
14          succeed in encouraging BellSouth to provide service at parity. Notably, the FCC  
15          has recommended self-enforcing penalties as a means to ensure service quality  
16          after RBOCs obtain permission to reenter the long distance market.

17   **Q.   WHAT IS THE SCOPE OF E.SPIRE'S LIQUIDATED DAMAGES**  
18   **PROPOSAL?**

19   A.   Although our request for a system of Specified Performance Breaches and  
20   Liquidated Damages is first addressed in the General Terms and Conditions of the  
21   Agreement, the issue recurs in many of the Attachments. Our view is that  
22   Liquidated Damages should be imposed for failure to provide Resale Services at  
23   parity ( Attachment 1), UNEs as committed (Attachment 2), Interconnection that is

1 equal in quality (Attachment 3), Ordering, Provisioning, and Repair at parity  
2 (Attachment 6), etc.

3 **Q. WHAT IS "FRESH LOOK"?**

4 A. "Fresh Look" is the term used to describe a period prescribed by regulators during  
5 which customers who purchased services from monopoly service providers (or  
6 when only limited choice was available) may opt-out of long term contracts  
7 without termination liability in order to establish service with a new market  
8 entrant. The FCC, for example, established a "fresh look" period for 800 Service  
9 customers when AT&T first lost its monopoly over toll-free services. California  
10 and Ohio also adopted "fresh look," and, here in Florida, the Commission has a  
11 "fresh look" rulemaking currently underway. If the Commission's goal is to spur  
12 local competition, "fresh look" will serve that purpose. The Pennsylvania  
13 Commission even went so far as to automatically switch some End Users who had  
14 not previously been given a competitive choice. A "fresh look" policy is an  
15 acknowledgement that customers of long term agreements with monopolies  
16 entered those arrangements when little or no choice was available, and should not  
17 be denied the benefits of competition when it develops.

18 **Q. WHAT IS E.SPIRE'S "FRESH LOOK" PROPOSAL?**

19 A. e.spire's sales efforts have been frustrated by the fact that BellSouth enticed many  
20 customers to enter into long term agreements for the purchase of local services  
21 before they had a choice of LECs. While many such customers are interested in  
22 converting to e.spire services, the applicable early termination penalties  
23 effectively preclude them from doing so.

1           Thus, our proposal is that consumers who wish to convert to e.spire  
2 services should be permitted to terminate their BellSouth long term (one year or  
3 more) agreements without fault or penalty for a period consistent with the term of  
4 the e.spire-BellSouth Agreement that results from this arbitration proceeding.

5           We believe that this proposal is both pro-consumer and pro-competitive. I also  
6 note that "fresh-look" periods for conversion to CLEC services have been adopted  
7 in other states.

8   **Q.   WHAT IS THE DISPUTE CONCERNING THE AVAILABILITY OF**  
9   **BINDING COMMERCIAL ARBITRATION?**

10   A.   e.spire believes that either party that believes that the other has breached the  
11 agreement should be able to seek redress from any of the following: (i) a  
12 regulatory agency with jurisdiction; (ii) a court with jurisdiction; or (iii) through  
13 binding AAA-based commercial arbitration. BellSouth disagrees with making  
14 commercial arbitration available where the Parties are able to seek State  
15 commission arbitration.

16           Commercial arbitration is available under the initial ACSI-BellSouth  
17 Interconnection Agreement, and e.spire has found it to be a useful tool. For  
18 disputes which are common to multiple states covered by such a region-wide  
19 interconnection agreement, e.spire has found it to be more efficient to present the  
20 issues to a single commercial arbitration panel, rather than relitigating the  
21 identical dispute in front of eight separate state Commissions. e.spire, for  
22 example, has filed a AAA arbitration against BellSouth seeking resolution of a  
23 dispute over reciprocal compensation payments in several states.

1    **Q.    PLEASE EXPLAIN THE DISPUTE REGARDING THE PROCESSING OF**  
2    **SUBPOENAS AND PLACEMENT OF INTERCEPT DEVICES.**

3    A.    The situation is simple. Since e.spire is purchasing resale services and UNEs  
4    from BellSouth, either party could receive a subpoena for records relevant to the  
5    associated End Users, or a government order compelling the placement of a  
6    wiretap or similar intercept device. e.spire believes that each party should bear its  
7    own costs of complying, while BellSouth believes that e.spire should pay the  
8    costs incurred by *both* parties of complying.

9               Compliance with such government requirements is a cost of doing  
10   business, and BellSouth should include such costs in the cost studies supporting  
11   the establishment of its Resale and UNE prices. Indeed, to my knowledge,  
12   BellSouth did *not* identify such costs as "avoided costs" in computing the  
13   wholesale discount for Resale services, so to charge e.spire again for processing  
14   costs would amount to a double-recovery.

15   **Q.    WHAT IS THE DISAGREEMENT OVER THE EFFECT OF CHANGES**  
16   **IN APPLICABLE LAW?**

17   A.    Both Parties agree that the Agreement should be reformed as necessary to  
18   conform to changes in applicable law, such as court decisions, FCC rulings, or  
19   state Commission requirements. The dispute is over timing. e.spire believes that  
20   the Agreement should be conformed as soon as any such change in law becomes  
21   "*effective*". By contrast, BellSouth believes that the changes should not be made  
22   until the change in law become "*nonappealable*". BellSouth's proposal could  
23   deny either party the benefit of important FCC or Commission determinations –

1       such as anticipated reforms to accelerate the deployed of Advanced  
2       Telecommunications Services – for years, while appeals are pending. It is no  
3       secret that BellSouth and other RBOCs are inclined to appeal adverse orders.  
4       Indeed, the disaffected party would be encouraged to file appeals just to avoid  
5       reforming its interconnection agreements as necessary to comply. Accordingly,  
6       the Agreement should be reformed as soon as the change in law is final and  
7       effective (*i.e.*, not stayed).

8                               **Total Service Resale**

9  
10    **Q.    DID THE PARTIES AGREE UPON RATES, TERMS AND CONDITIONS**  
11    **APPLICABLE TO TOTAL SERVICE RESALE?**

12    A.    The terms specifically applicable to resale by e.spire of BellSouth's retail local  
13    exchange services are included in Attachment 1 to the draft Agreement. Although  
14    there were many items to negotiate, we were able to close nearly all disputes.  
15    However, a few items remain which must be decided by the Commission.  
16    Namely, the availability of certain services for Resale at wholesale rates; terms o.  
17    Customer Specific Arrangements, simultaneous resale of flat and measured rate  
18    services to selected End Users; application of liquidated damages; expedite  
19    charges; notification for missed due dates; notification of conversion of "win  
20    back" customers, and notification of maintenance contracts.

21    **Q.    WHAT IS THE SPECIFIC DISPUTE CONCERNING RESALE OF CSAs?**

22    A.    The Parties have agreed that BellSouth must make its CSAs available for resale  
23    by e.spire at the retail rate minus the prescribed wholesale discount. The  
24    unresolved issues relate to the terms and conditions applicable to such CSA resale

1 arrangements. Specifically, the unresolved language relates to the application of  
2 non-recurring early termination charges and the universe of customers to whom  
3 such CSAs may be resold.

4 **Q. WHAT IS E.SPIRE'S POSITION ON THE ASSESSMENT OF EARLY**  
5 **TERMINATION CHARGES?**

6 A. This issue concerns the treatment of customers of CSAs that wish to convert to  
7 e.spire services during the term of their existing CSA. Simply put, provided that  
8 e.spire agrees to execute a valid assumption letter and undertake all of the affected  
9 End User's financial obligations, e.spire believes that BellSouth should be  
10 prohibited from imposing any early termination, roll-over, service rearrangement  
11 or similar non-recurring charges on either the End User or e.spire. Since e.spire is  
12 agreeing to honor the existing terms of the CSA without change (excepting  
13 application of the avoided cost, resale discount), BellSouth is not disadvantaged  
14 financially by the change, and only a nominal resale service order charge should  
15 apply. This approach is consistent with the FCC's interpretation of BellSouth's  
16 resale obligations as expressed in the BellSouth Section 271 application orders.

17 **Q. IN E.SPIRE'S VIEW, TO WHOM SHOULD YOU BE ALLOWED TO**  
18 **RESELL BELL SOUTH CSAs?**

19 A. This issue relates to the treatment of End Users that do not currently have CSAs  
20 with BellSouth, but would benefit from entering CSAs on the same terms that  
21 BellSouth has them made available to other consumers. e.spire believes that it  
22 should be able to resell CSAs to any similarly situated End User, provided of  
23 course that e.spire is willing to execute an agreement to honor the terms of the

1 CSA as the customer-of-record. Any other result would discriminate between like  
2 End Users in violation of all notions of common carrier obligations. It would also  
3 be anti-competitive because it would limit e.spire's sales efforts to those  
4 customers which already have signed long term agreements with BellSouth.  
5 Again, e.spire's proposal is consistent with the FCC's view of BellSouth's  
6 obligations as expressed in the BellSouth Section 271 application orders.

7 **Q. EXPLAIN THE DISPUTE OVER SIMULTANEOUS RESALE OF FLAT**  
8 **AND MEASURED SERVICES.**

9 A. BellSouth proposes to prohibit e.spire from furnishing both flat and measured rate  
10 services on the same business premise to the same End Users. This treatment  
11 reflects a tariff restriction that BellSouth has in place against business customers  
12 simultaneously ordering both flat and measured services to a single premise.  
13 e.spire is willing to agree to BellSouth's proposed restriction as a general matter.  
14 However, we do not believe that it should apply to an "as is" conversion of local  
15 services provided to existing customers. "As is" conversions are those where a  
16 customer's existing services are switched over without change. Where such "as  
17 is" conversions involve customers that currently receive both flat and measured  
18 service at a single premise, we believe that the existing service mix should be  
19 "grandfathered".

20 **Q. WHY SHOULD "AS IS" CONVERSIONS BE GRANDFATHERED AND**  
21 **IMMUNE FROM THE RESTRICTION?**

22 A. Although BellSouth has existing tariff prohibitions against the simultaneous use  
23 of flat and measured service at a single business premise, we have discovered in

1       the marketplace that BellSouth commonly does not enforce this restriction against  
2       its own End Users. In such instances, e.spire's requests to make an "as is"  
3       conversion is refused because it would violate the tariff restriction. This  
4       effectively precludes e.spire from providing the same mix of services to the  
5       affected End User that BellSouth in fact offers to that customer. Worse yet, it  
6       puts e.spire in the untenable position of policeman of BellSouth's failure to  
7       enforce its own tariffs. We ask only to step into BellSouth's shoes where it has  
8       chosen to effectively waive any tariff restrictions and provide both flat and  
9       measured services in the past. To do otherwise would be discriminatory and  
10      anticompetitive.

11   **Q.   WHAT IS THE DISPUTE OVER PERFORMANCE STANDARDS AND**  
12   **LIQUIDATED DAMAGES?**

13   A.   This is the same problem that I alluded to earlier, and I will not re-state the point.

14   **Q.   WHY DOES E.SPIRE OBJECT TO THE APPLICATION OF EXTRA OR**  
15   **SPECIAL CHARGES WHEN IT ASKS BELL SOUTH TO EXPEDITE**  
16   **INSTALLATION OF CERTAIN ORDERS FOR RESALE SERVICES?**

17   A.   It is a matter of equity. For two years, BellSouth has routinely missed the Due  
18   Date for installation of orders for resale orders, but pays absolutely no penalty for  
19   its non-performance. It would be unfair to require e.spire to pay extra for early  
20   delivery, but impose no penalty upon BellSouth for late delivery. If reasonable  
21   intervals were established, and Liquidated Damages were imposed for  
22   nonperformance, we would consider reasonable expedite charges.



1    **Q.    YOU HAVE LISTED SEVERAL ISSUES RELATING TO**  
2       **NOTIFICATIONS E.SPIRE WISHES TO RECEIVE FROM BELL SOUTH**  
3       **IN CONNECTION WITH ITS PROVISION OF RESALE SERVICES.**  
4       **PLEASE EXPLAIN THAT SITUATION.**

5    A.    A steady and reliable exchange of critical information is required to ensure that  
6       good service quality to End Users is maintained. End Users have a right to be  
7       fully informed of the status of their orders, not to be left out-of-service by  
8       surprise, and not to be double-billed for services due to a change in LECs. In  
9       order to honor these customer commitments, e.spire needs certain information  
10       which BellSouth refuses to provide. Namely:

- 11           •    e.spire has requested "prompt notification of any installation due  
12                dates for Resale Services that are in jeopardy of being missed."  
13                This information is required to keep End Users informed of the  
14                status of their orders, and advise them if a cutover will happen later  
15                than promised or expected.
- 16           •    e.spire has requested that BellSouth provide "prompt notification  
17                to e.spire of all cutovers of Resale Services to e.spire End Users."  
18                Timely notification of the actual (as opposed to expected)  
19                conversion date is required so that we can assume responsibility  
20                for the customer's services, and initiate customer service and  
21                billing functions.
- 22           •    e.spire has requested prior notification, and e.spire approval, when  
23                BellSouth desires to begin providing its local services to "win-

1                   back” customers, including notification of the planned date that the  
2                   customer will be switched back to BellSouth’s services. This  
3                   information is required to avoid double-billing the customer for  
4                   services in the month of conversion, and to provide customer  
5                   service functions.

- 6                   •   e.spire requests advance notice, “whenever reasonably possible,”  
7                   of any contact that BellSouth initiates with End Users of e.spire for  
8                   maintenance purposes. Simply put, the End Users in question are  
9                   customers of e.spire, not of BellSouth. Any maintenance work  
10                  performed by BellSouth would be performed by BellSouth as a  
11                  customer or agent of e.spire, and e.spire would presumably be  
12                  accountable for the resulting charges. Thus, e.spire should receive  
13                  advance notice so that it can direct and approve the effort. In the  
14                  interest of ensuring quality service, we have specifically exempted  
15                  emergency services from this requirement.

16                  BellSouth’s refusal to provide this information is disturbing. There is little  
17                  question that the information is readily available, can be conveyed easily, and  
18                  would be useful in providing high quality service to customers of resale services.  
19                  Thus, either BellSouth simply does not want to be bothered, or it perceives a  
20                  competitive advantage to be gained by refusing to cooperate. Either way, the  
21                  affected End Users deserve more.

22                                   **Unbundled Network Elements**

1    **Q.    WHAT RELIEF DOES E.SPIRE SEEK RELATING TO BELL SOUTH'S**  
2    **PROVISION OF UNBUNDLED NETWORK ELEMENTS?**

3    A.    The current state of the negotiations between the parties related to the  
4    provisioning of UNEs is included as Attachment 2 to the draft Agreement. In  
5    some instances, BellSouth has refused to make requested UNEs available. Other  
6    times, BellSouth has offered to make them available only on a case-by-case basis  
7    pursuant to the cumbersome Bona Fide Request ("BFR") process, or has not  
8    provided pricing.

9           In this testimony, I will identify the types of network elements that e.spire  
10   is seeking to obtain from BellSouth pursuant to Section 251(c)(3) of the Act and  
11   that BellSouth, thus far, has not agreed to provide – and, in the case of the  
12   Extended Loop, has not agreed to *continue* to provide. In addition to the  
13   Extended Loop, I will explain why e.spire must have unbundled access to xDSL-  
14   compatible loops, xDSL-equipped loops, 4-wire digital DS-1 and 56/64 kbps  
15   capable loops, fiber DS-3 loops, Dark Fiber loops, and a "Bit-Stream Loop".

16           In addition to these loop elements, I also will explain e.spire's need to  
17   have **unbundled access** to Sub-Loop elements. Sub-Loop unbundling is critical to  
18   bringing competition to customers currently served by BellSouth's IDLC-  
19   delivered loops.

20           I also will discuss several items related – and essential – to e.spire's  
21   effective use of BellSouth's UNEs as part of its own advanced  
22   telecommunications service offerings. Among these items, is the need for the  
23   Commission to establish TELRIC-based Non-Recurring Charges ("NRCs") for

1       BellSouth's loop conditioning efforts. I also will explain why the Commission  
2       should compel BellSouth to provide e.spire with electronic access to information  
3       that will enable e.spire to identify whether loops are capable of supporting xDSL  
4       and other advanced services.

5               Beyond the loop, I will explain e.spire's need for unbundled access to  
6       high-capacity interoffice transport facilities and interoffice Dark Fiber – at  
7       prescribed cost-based rates. I also will discuss e.spire's need for unbundled  
8       access to certain functionalities in common configurations or "combination  
9       UNEs".

10              With regard to provisioning, I will explain why the Commission should  
11       not allow BellSouth to backslide from the five minute coordinated cutover  
12       interval voluntarily agreed to in its initial interconnection agreement with e.spire.  
13       In addition, I will explain why this Commission should impose Liquidated  
14       Damages on BellSouth for failures to meet specified performance intervals.

15              Finally, I will explain why the Commission should require BellSouth to  
16       offer volume and term discounts and to allow e.spire to convert its special access  
17       facilities to Extended Loop UNEs.

18    **Q.   PLEASE EXPLAIN WHAT "ADVANCED TELECOMMUNICATIONS**  
19    **SERVICES" ARE AND WHY E.SPIRE NEEDS UNBUNDLED ACCESS**  
20    **TO BELL SOUTH UNEs IN ORDER TO PROVIDE THEM.**

21    **A.**    So called "Advanced Telecommunications Services" have garnered enormous  
22       attention at the FCC during the past year. While Section 706 of the 1996 Act  
23       provides a definition for "advanced telecommunications capability" and the FCC

1 is in the midst of conducting an inquiry and a rulemaking that likely will shed  
2 light on the types of services that such capability will make possible, the scope of  
3 services that fall into the category of advanced services is not perfectly clear at  
4 this time. Indeed, the scope of services that fall within this category is likely to  
5 evolve just as the technology that makes such services possible evolves.

6           However, the FCC's recently issued *Advanced Services Order* makes it  
7 certain that "xDSL" services – which make possible the delivery of "broadband"  
8 services, such as high-speed Internet access, over existing copper pairs – are  
9 Advanced Telecommunications Services. xDSL technology also makes it  
10 possible to derive two separate high speed digital channels (one voice and one  
11 data, for instance) over a single existing copper loop facility. The FCC's  
12 *Advanced Services Order* also makes it certain that packet switched data services,  
13 such as Frame Relay, also come under the rubric of Advanced  
14 Telecommunications Services.

15           Although most of the attention thus far given to xDSL services has been at  
16 the federal level, Section 706 of the 1996 Act charges the FCC *and each State*  
17 *Commission* to "encourage the deployment on a reasonable and timely basis of  
18 advanced telecommunications capability to all Americans." With xDSL, the case  
19 for state jurisdiction is obvious. xDSL is a loop technology not unlike ISDN or  
20 other capacity-increasing applications – the service is provided by hanging  
21 electronics on customers' existing local loops. These electronics, which consist  
22 of a modem at the customer's premise and a Digital Subscriber Line Access  
23 Multiplexer or "DSLAM" located at the Central Office or Remote Terminal, give

1       End Users high-speed broadband access to the Internet and enable them to  
2       simultaneously use the same line for separate voice and data transmissions.

3               BellSouth has begun rolling out several types of xDSL services in various  
4       parts of its service territory. Because xDSL service requires “clean copper loops”  
5       generally under 18,000 feet in length, it may not be technically possible to  
6       provide xDSL service ubiquitously at this time. A clean copper loop is one  
7       without electronic impediments such as loading coils and bridged taps. In many  
8       cases a loop may be cleaned or “conditioned” for xDSL service, by removing  
9       such impediments. Nevertheless, not all of BellSouth’s existing loops are “xDSL-  
10      capable” – some cannot be conditioned and others are just too long to support  
11      current xDSL technology. Moreover, the cost of loop conditioning and xDSL  
12      electronics may not make it economically feasible – even for BellSouth – to  
13      provide xDSL service outside of dense urban and suburban markets.

14              e.spire also is planning to roll-out xDSL service offerings. To accelerate  
15      the pace and maximize the scope of this roll-out, e.spire needs unbundled access  
16      to BellSouth’s conditioned loops – and xDSL-equipped loops. In most cases,  
17      e.spire anticipates that it will transition xDSL customers served via BellSouth’s  
18      DSLAMs to its own DSLAMs. However, as I will explain later, it may take time  
19      before some of that transitioning is technically or economically feasible. To  
20      facilitate its xDSL service roll-out and its own deployment of DSLAMs, e.spire  
21      also will need nondiscriminatory access to physical loop specification information  
22      which BellSouth uses to determine whether a loop is xDSL-capable.

1           In sum, to promote the most widespread availability of xDSL services, this  
2           Commission should require BellSouth to provide (i) nondiscriminatory access to  
3           loop information and (ii) unbundled access to both loops that are conditioned for  
4           xDSL service and to loops that are conditioned and connected to BellSouth  
5           DSLAMs. Such action will not only ensure that e.spire will be able to bring  
6           xDSL services to a broader customer base; by providing BellSouth with a  
7           wholesale UNE market for its DSLAMs, it also will allow BellSouth to justify  
8           additional and more widespread deployment of such equipment.

9   **Q.   TO PROVIDE ADVANCED SERVICES, WHAT KINDS OF LOOPS DOES**  
10 **E.SPIRE NEED FROM BELL SOUTH?**

11   A.   As I just discussed in my overview of Advanced Telecommunications Services,  
12       e.spire needs unbundled access to conditioned or clean copper loops for the  
13       purpose of providing xDSL services through its own DSLAMs. Specifically,  
14       e.spire has sought – and BellSouth has not unequivocally agreed to provide –  
15       unbundled access to an assortment of conditioned or “xDSL-Compatible” loops  
16       including, but not limited to 2-Wire ADSL-Compatible, 2-Wire HDSL-  
17       Compatible, 4-wire HDSL-Compatible, and 4-Wire SDSL-Compatible loops, at  
18       predesignated TELRIC based rates. Although BellSouth agreed generally to  
19       provide ADSL and HDSL “capable” loops under certain circumstances, it balked  
20       at agreeing to terms, conditions and pricing which make them available to e.spire  
21       in a manner which is nondiscriminatory and would provide e.spire with a  
22       meaningful opportunity to compete in the market for such Advanced  
23       Telecommunications Services.

1    **Q.    IS BELL SOUTH'S POSITION CONSISTENT WITH FCC ORDERS**  
2           **THAT HAVE ESTABLISHED AND CONFIRMED THAT BELL SOUTH**  
3           **HAS AN AFFIRMATIVE OBLIGATION TO CONDITION LOOPS SO**  
4           **THAT COMPETITORS CAN PROVIDE ADVANCED**  
5           **TELECOMMUNICATIONS SERVICES?**

6    A.    No. Back in its 1996 *Local Competition Order*, the FCC found that ILECs such  
7           as BellSouth have an affirmative obligation under the 1996 Act to condition loops  
8           so that competitors can provide Advanced Telecommunications Services over the  
9           ILECs' ubiquitous loop plant. Significantly, this aspect of the *Local Competition*  
10          *Order* was left unscathed by the Eighth Circuit's review of FCC's decision and  
11          was reaffirmed by the FCC in its August 1998 *Advanced Services Order*. In fact,  
12          in its *Iowa Utilities Board* decision, the Eighth Circuit explicitly endorsed the  
13          FCC's view that the obligations imposed by Sections 251(c)(2) and 251(c)(3) of  
14          the Act include modifications to ILEC facilities – such as loop conditioning – to  
15          the extent necessary to accommodate interconnection or access to network  
16          elements.

17                 In light of these decisions – and this Commission's charge under Section  
18                 706 of the Act to promote the deployment of Advanced Telecommunications  
19                 Services, e.spire believes that BellSouth should be required to incorporate  
20                 provisions regarding its affirmative obligation to condition loops into its  
21                 interconnection agreement with e.spire.

22    **Q.    SHOULD BELL SOUTH PROVIDE E.SPIRE WITH ELECTRONIC**  
23           **ACCESS TO INFORMATION THAT WOULD ALLOW IT TO**



**DETERMINE WHETHER EXISTING LOOP PLANT IS xDSL-  
CAPABLE?**

A. Yes. Again, it is well established that BellSouth has an affirmative obligation under the 1996 Act to provide e.spire with nondiscriminatory access to its Operations Support Systems or "OSS". This includes an obligation to provide e.spire with electronic access to information that BellSouth has regarding the physical specifications of its loop plant. Such information is essential for determining whether clean copper is in place or, if electronic impediments exist on the loop, whether the loop can be conditioned for advanced applications by removing them, and whether the loop is of a length that will support currently available xDSL applications.

Rather than provide e.spire with electronic access to loop information BellSouth likely already has at its disposal, BellSouth would rather force e.spire to engage in an expensive and dilatory game of hide and seek by which e.spire requests information on a loop and BellSouth manually processes the request and sends technicians into the field to examine the loop. Obviously, such a process is both wasteful and anticompetitive if BellSouth already has the information in loop inventories and databases. Although BellSouth offered to provide e.spire with an one-time "snapshot" of existing xDSL-capable loops, that offer is sorely deficient because it does not account for the steady upgrade of relevant facilities, and does not afford e.spire equivalent access to the information as is made available to BellSouth's own sales and provisioning organizations.

1           The FCC already has recognized this problem and has proposed, in its  
2           ongoing *Advanced Services Rulemaking*, additional OSS rules that explicitly will  
3           make clear that the OSS unbundling obligations of BellSouth and other ILECs  
4           include an obligation to provide competitors with nondiscriminatory access to  
5           information regarding the physical specifications of their loop plant. As you  
6           know, this Commission need not reward BellSouth's reluctance to provide e.spire  
7           with nondiscriminatory access to loop OSS by waiting for the FCC to issue its  
8           own "slap on the hand". Nothing in this Commission's rules and orders, or the  
9           FCC's rules and orders, or the Act itself, suggests that BellSouth should be able to  
10          play an expensive and time-consuming game of hide and seek designed to keep  
11          important information from its competitors. Indeed, under Section 706 of the Act,  
12          the Commission has an affirmative legal obligation to ensure that BellSouth  
13          gathers and makes such information readily available.

14   **Q.   HOW SHOULD BELL SOUTH RECOVER ITS COSTS FOR**  
15       **CONDITIONING ITS LOOP PLANT SO THAT IT CAN SUPPORT xDSL**  
16       **AND OTHER ADVANCED SERVICES APPLICATIONS?**

17   **A.   BellSouth should be permitted to establish a TELRIC NRC for loop conditioning.**  
18       **Because the FCC already has determined that loop conditioning is an integral part**  
19       **of BellSouth's loop unbundling obligation, any charge BellSouth imposes for**  
20       **loop conditioning must be consistent with the FCC's prescribed TELRIC pricing**  
21       **methodology. In the event that BellSouth has not yet completed the necessary**  
22       **TELRIC cost studies, e.spire believes that BellSouth's current installation rates to**

1 its own End Users, minus the prescribed avoided cost wholesale discount, should  
2 be established in this proceeding as interim rates (but without a true-up).

3 **Q. HOW WILL E.SPIRE, IN TURN, RECOVER THE COSTS ASSOCIATED**  
4 **WITH ITS PAYMENT OF THESE NRCs?**

5 A. Naturally, e.spire, like BellSouth, must recover these costs – over time – in its  
6 End User rates. That is why it is so important that these NRCs be established at  
7 predetermined cost-based rates. However, assuming that recovery of these costs  
8 is spread over a two-year period (which is the customer churn rate e.spire  
9 generally assumes for NRC cost-recovery purposes), e.spire should receive a  
10 proportional credit for loop conditioning NRCs paid to BellSouth on loops that  
11 revert back to BellSouth (by way of a customer “win-back”) or are transferred to  
12 another competitor within two years’ time. By establishing a two-year recovery  
13 period for loop conditioning NRCs, this Commission can reduce the risks for all  
14 carriers that incur considerable expenses in making loops compatible with  
15 advanced services technologies. In so doing, the Commission, consistent with its  
16 Section 706 mandate, will provide an incentive for carriers to enter the new  
17 advanced services market.

18 Such a system for crediting loop conditioning NRCs is critical to avoid  
19 anti-competitive gamesmanship. If CLECs such as e.spire are required to pay the  
20 full cost of loop conditioning, and include the cost in their rate structure, while the  
21 second carrier to compete (either BellSouth or another CLEC) can avoid the loop  
22 conditioning expense altogether, than rational carriers will avoid being “first to  
23 market,” and may target only “win-back” sales. Such an outcome clearly is

1 inconsistent with the Section 706 mandate to the Commission to encourage the  
2 deployment of Advanced Services.

3 **Q. DOES E.SPIRE NEED UNBUNDLED ACCESS TO xDSL-EQUIPPED AS**  
4 **WELL AS xDSL-COMPATIBLE LOOPS?**

5 A. Yes. If this Commission, consistent with its Section 706 mandate, wishes to  
6 accelerate the pace and expand the scope of CLECs' deployment of advanced  
7 services, such as xDSL, it must require BellSouth to offer unbundled access both  
8 to loops that have been conditioned so that they are compatible with xDSL  
9 technologies (*i.e.*, "xDSL-Capable") *and* to loops that are conditioned and  
10 connected to BellSouth's own xDSL electronics (*i.e.*, "xDSL-Equipped"). In  
11 other words, BellSouth must offer unbundled access to loops connected to its own  
12 DSLAMs. In its *Advanced Services Order*, the FCC already has determined that  
13 ILEC equipment used to provide advanced services must be unbundled pursuant  
14 to Section 251(c)(3). Although the FCC currently is considering whether it will  
15 permit BellSouth and other ILECs to move such equipment to separate advanced  
16 services affiliates outside the scope of Section 251(c), the simple fact is that the  
17 Act and current FCC rules and decisions require BellSouth to unbundle its  
18 DSLAM-Equipped loops and other equipment essential to providing advanced  
19 services.

20 This Commission should uphold current law and should require BellSouth  
21 to provide for unbundled access to its DSLAM-Equipped loops in its  
22 interconnection agreement with e.spire. Consistent with the Commission's charge  
23 under Section 706, such action will promote the deployment of advanced services

1 in at least three ways. First, as is the case with other unbundling requirements,  
2 unbundled access to BellSouth DSLAM-Equipped loops provides e.spire with a  
3 means to provide xDSL services to customers served from End Offices where  
4 economics do not yet justify e.spire's placement of its own redundant DSLAM.  
5 Second, in cases where BellSouth deploys IDLCs, it may not be technically  
6 possible for a CLEC to provide customers with the same quality of service unless  
7 BellSouth's DSLAM is used on an unbundled basis. Third, given the current  
8 scarcity of physical collocation space, there may not be room available to  
9 collocate e.spire's own DSLAM in a given End Office or Remote Terminal.  
10 Finally, by providing BellSouth with a wholesale market for its DSLAMs,  
11 BellSouth's investment risks are reduced and, in turn, it can economically justify  
12 the deployment of DSLAMs in Central Offices where it may not otherwise have  
13 done so.

14 **Q. WHEN BELL SOUTH ALREADY HAS AN xDSL-EQUIPPED LOOP IN**  
15 **PLACE, SHOULD E.SPIRE BE ABLE TO PURCHASE EITHER THE**  
16 **VOICE OR DATA CHANNEL AND NOT BE REQUIRED TO PURCHASE**  
17 **THE ENTIRE xDSL-EQUIPPED LOOP?**

18 **A.** Yes. One of the most significant advances offered by xDSL technology is that, by  
19 funneling traffic into separate voice and data channels, an End User may  
20 simultaneously use the same line for voice and data traffic. Since separate digital  
21 channels are made available by the use of xDSL technology, each channel is  
22 capable of being separately unbundled as a separate network element. For  
23 example, a customer with developing data needs may want to take advantage of

1 e.spire's expansive Frame Relay network, but may prefer to stay with the same  
2 voice service they have used for the past hundred years.

3 Nonetheless, BellSouth has refused e.spire's request for "Loop Spectrum  
4 Unbundling" in which consumers are free to choose separate carriers for each  
5 available digital channel. Why should BellSouth be able to block a customer  
6 from doing this? Clearly, it should not. If a customer wants to choose a CLEC,  
7 such as e.spire for data services, but wishes to remain with BellSouth for its voice  
8 services, BellSouth should be required to accommodate the wishes of that  
9 customer.

10 Any barriers to such an arrangement are merely regulatory, not technical,  
11 and the Commission should not create regulatory restrictions that impede  
12 consumer choice. The issues presented by "Loop Spectrum Unbundling" are not  
13 so complex as they might appear. The Commission merely would have to  
14 establish how to divide the costs of the loop and DSLAM between the two  
15 carriers – after the DSLAM, voice traffic would be routed to the voice carrier's  
16 circuit switched network and data traffic would be sent to the data carrier's packet  
17 switched network.

18 **Q. HOW SHOULD THE COSTS OF THE LOOP BE APPORTIONED**  
19 **BETWEEN SERVING LECs WHEN xDSL LOOP SPECTRUM IS**  
20 **UNBUNDLED?**

21 **A.** In fact, BellSouth already has filed a tariff at the FCC which suggests how this  
22 should be done. In its federal xDSL tariff, BellSouth is able to offer highly  
23 attractive rates on xDSL services because it apparently assigns all of the costs

1 associated with an xDSL-Equipped loop to the voice side. If this Commission  
2 were to accept such an allocation, data carriers would pay virtually nothing for  
3 their use of the data channel on an xDSL-Equipped loop and they, too, could offer  
4 consumers the same artificially low xDSL service rates that BellSouth offers  
5 through its FCC tariff. This way, consumers will have a choice in data products  
6 and carriers and – if they choose BellSouth for voice services and a competitive  
7 carrier for data services – they will pay BellSouth directly *and only once* for the  
8 underlying costs of an xDSL-Equipped loop. The Commission should ensure that  
9 these separate voice and data channels are not artificially “tied” together by  
10 regulatory constraints that are unnecessary from a technical perspective.

11 **Q. WHAT IS THE DISPUTE CONCERNING RESALE OF VOICE**  
12 **SERVICES IN A SITUATION WHERE xDSL LOOP SPECTRUM IS**  
13 **UNBUNDLED?**

14 A. We simply seek a clarification that we have the option of providing our own  
15 facilities-based services over the data channel, while simultaneously reselling  
16 BellSouth exchange services over the voice channel.

17 **Q. ARE THERE OTHER UNEs THAT E.SPIRE NEEDS TO PROVIDE ITS**  
18 **ADVANCED DATA SERVICES?**

19 A. Yes. In order to provide Frame Relay, ATM and similar advanced packet  
20 switched services, e.spire requires unbundled access to elements of BellSouth's  
21 packet switched network. However, I will discuss these Frame Relay UNEs later  
22 in connection with my discussion of interconnection of the e.spire and BellSouth  
23 packet switched networks.

1    **Q.     SHIFTING FOCUS SLIGHTLY, PLEASE EXPLAIN WHY BELL SOUTH**  
2           **SHOULD BE REQUIRED TO PROVIDE E.SPIRE WITH UNBUNDLED**  
3           **ACCESS TO SUB-LOOP ELEMENTS.**

4    A.     The main arguments in favor of Sub-Loop Unbundling is that it will provide  
5           competitive carriers – and consumers – with more options, and enable  
6           competition carriers to serve consumers more efficiently. Indeed, in its ongoing  
7           *Advanced Services Rulemaking*, the FCC tentatively has concluded that it will  
8           include Sub-Loop Unbundling in its revised and expanded minimum national  
9           unbundling standards. This Commission does not need to wait for the FCC to act,  
10          as it has ample authority in its own right to mandate Sub-Loop Unbundling  
11          requirements.

12                 Because of BellSouth's heavy deployment of IDLCs in Remote Terminals,  
13           Sub-Loop Unbundling – and Remote Terminal Collocation, which I will discuss  
14           later in this testimony – are essential to e.spire's efforts to bring xDSL services to  
15           consumers. By using its authority to impose Sub-Loop Unbundling requirements,  
16           this Commission also will promote competitive investment in optical Feeder plant  
17           and Concentration equipment, as CLECs with sufficient traffic volume through a  
18           Remote Terminal clearly will want to install their own optical Feeder plant and  
19           Concentration devices to reduce costs and save consumers money.

20   **Q.     WHAT IS "SUB-LOOP UNBUNDLING"?**

21   A.     By "Sub-Loop Unbundling," we are referring to the ability to order discrete  
22           components of an end-to-end loop as separate network elements. Specific Sub-  
23           Loop elements requested by e.spire include the Network Interface Device



1 ("NID"), Sub-Loop Distribution plant, Concentration equipment (*i.e.*, DLC,  
2 IDLC, DSLAM, Multiplexing) at the Remote Terminal and Sub-Loop Feeder  
3 plant. Generally speaking, Feeder facilities connect the Central Office to a  
4 Remote Terminal, while Distribution facilities connect the Remote Terminal to  
5 the End User premise.

6 Requiring Sub-Loop Unbundling facilitates efficient network design and  
7 development. For example, it may be economic in places for e.spire to construct  
8 its own fiber optic Feeder facilities, but not to replace the existing ILEC  
9 Distribution plant. By requiring Sub-Loop Unbundling in such a situation, the  
10 Commission would simultaneously encourage competitive deployment of  
11 competitive, state-of-the-art Feeder facilities, while avoiding the unnecessary and  
12 uneconomic duplication and stranding of ILEC Distribution plant.

13 Perhaps even more importantly, Sub-Loop Unbundling is critical to the  
14 competitive deployment of Advanced Telecommunications Services. As I will  
15 explain in a moment, competitors may otherwise be foreclosed from offering  
16 advanced services where Integrated Digital Loop Carriers ("IDLCs") are  
17 deployed remotely in BellSouth's network.

18 **Q. WHAT WAS BELL SOUTH'S RESPONSE TO E.SPIRE'S REQUEST FOR**  
19 **SUB-LOOP UNBUNDLING?**

20 **A.** BellSouth simply refused to make Sub-Loop unbundling available in most states.  
21 In other areas, it offered to provide it only on a BFR basis or failed to provide  
22 predesignated TELRIC-based prices.

1           Notably, despite claims made by BellSouth to the contrary only two years  
2 ago, there is no question that Sub-Loop unbundling is technically feasible in  
3 many, if not most areas. Indeed, BellSouth already makes it available on a  
4 limited basis in several states. The technology does not differ materially from  
5 state to state.

6   **Q.   WHY WILL SUB-LOOP UNBUNDLING BE PARTICULARLY**  
7       **IMPORTANT WITH RESPECT TO LOOPS DELIVERED THROUGH**  
8       **REMOTE IDLCs?**

9   A.   As I discussed earlier, current xDSL technology generally does not work on loops  
10 longer than 18,000 feet. Many loops delivered through remote IDLCs exceed that  
11 length. In such cases, xDSL services can only be provided by connecting a  
12 DSLAM to Sub-Loop Distribution plant at the Remote Terminal. Unless the  
13 Commission requires Sub-Loop unbundling of BellSouth's Distribution plant and  
14 Remote Terminal collocation, there may be many cases where BellSouth's choice  
15 in network architecture makes it the only carrier capable of offering xDSL  
16 services to customers. Without any need to respond to competitive pressure,  
17 BellSouth may forego additional investment in favor of keeping customers on its  
18 current highly profitable mix of services and consumers may not only be denied a  
19 choice in xDSL service providers – they may be denied access to xDSL services  
20 altogether.

21   **Q.   WHAT IS THE RELEVANCE OF REMOTE TERMINAL**  
22       **COLLOCATION?**

1     A.     In order to interconnect with the Distribution Sub-Loop element, e.spire may need  
2           to collocate its equipment at the BellSouth Remote Terminal. This is an issue I  
3           will address more fully later in my discussion of disputed Collocation issues.

4     **Q.     IS THERE ANOTHER WAY IN WHICH THE COMMISSION CAN**  
5           **ENSURE THAT COMPETITORS – AND CONSUMERS – ARE NOT**  
6           **DISADVANTAGED BY TECHNICAL CONSTRAINTS CAUSED BY**  
7           **BELLSOUTH'S CHOICE IN NETWORK ARCHITECTURE?**

8     A.     Yes, and because Sub-Loop Unbundling and Remote Terminal collocation may  
9           not always be technically or economically feasible, e.spire believes that both Sub-  
10          Loop Unbundling and a "Bit-Stream UNE" (also referred to as a "Shared Loop")  
11          should be adopted to ensure that consumers have access to competitive data  
12          service offerings. The FCC currently is considering whether to define a Bit-  
13          Stream UNE as a national minimum unbundling requirement. This Commission  
14          need not wait for the FCC to act. Rather, it can define a functional UNE that  
15          provides a broadband channel between the End User customer premise and the  
16          CLEC's Point of Presence, and offers CLECs the *functionality* that enables them  
17          to provide broadband services to End Users, regardless of the loop or Centra.  
18          Office technology used by BellSouth.

19                 By adopting this technology-neutral Bit-Stream UNE approach, the  
20          Commission will allow CLECs to obtain access to End Users to provide any kind  
21          of advanced services currently available, or that may be developed in the future.  
22          Because the Bit-Stream UNE approach is not tied to any particular technology or  
23          network design, it also reduces ILECs' ability to manipulate technology to

1        anticompetitive effect. Most importantly, however, the Bit-Stream UNE provides  
2        an alternative entry strategy for CLECs in situations where technical difficulties  
3        and disputes defeat or delay the ability to obtain other UNEs such as xDSL-  
4        Capable loops, xDSL-Equipped loops and Sub-Loop elements dependant on  
5        Remote Terminal collocation. Notably, BellSouth has refused e.spire's request  
6        for a Bit-Stream UNE outright.

7                In sum, the Commission should require BellSouth to provide e.spire with  
8        unbundled access to a broadband channel to End Users, regardless of the loop  
9        technologies and configurations it chooses to deploy. By doing so, the  
10       Commission will provide an alternate solution that will be immediately available,  
11       even in cases where disputes over Sub-Loop Unbundling or access to loop  
12       information remain unresolved.

13    **Q.    MOVING TO HIGH-CAPACITY LOOPS AND OTHER LOOP ISSUES,**  
14       **PLEASE EXPLAIN WHY BELL SOUTH SHOULD BE REQUIRED TO**  
15       **MAKE 4-WIRE DIGITAL DS-1 AND 56/64 KBPS CAPABLE LOOPS**  
16       **AVAILABLE.**

17    **A.    BellSouth's loop unbundling obligation does not differ with regard to the capacity**  
18       **of or technology used in specific loops. Yet in e.spire's view, BellSouth has not**  
19       **agreed to provide e.spire with unbundled access to 4-wire DS-1 and 56/64 kbps**  
20       **loops at TELRIC-based rates. I will discuss pricing issues more fully later.**

21    **Q.    SHOULD BELL SOUTH ALSO BE REQUIRED TO UNBUNDLE FIBER**  
22       **DS-3, OC-3, OC-12, OC-48, OC-96 AND SONET LOOPS?**

1     A.     Yes. Apparently, BellSouth would like force e.spire to replicate its high capacity  
2           loop plant. This, however, is nothing other than a crude road-block designed to  
3           close off UNEs as a method of entry into the high-end market. Indeed, nothing in  
4           the Act or in FCC and state Commission rules interpreting it suggests that  
5           BellSouth can choose to unbundle some loops and not others. BellSouth cannot  
6           unilaterally pick and choose which loops it is willing to unbundle.

7                     A DS-1, DS-3 or OC-3 loop going to an office building meets the  
8           requirements for unbundling just the same as a 2-wire analog loop going to a  
9           home. Moreover, as BellSouth is well aware, it is precisely these facilities that  
10          e.spire requires to provide e.spire's flagship "Platinum" products – which  
11          currently are generating strong consumer demand. Ratepayers financed the  
12          construction of all kinds of BellSouth loops – they should not be denied a choice  
13          in carriers simply because their telecommunications needs call for high capacity  
14          loops that are highly profitable for BellSouth.

15                    Like 2-wire analog and 4-wire digital DS-1 loops, a fiber loop constitutes  
16          an essential network element which must be unbundled pursuant to the FCC's  
17          minimum national unbundling standards. This Commission should act to protect  
18          consumer choice and bolster competition by requiring BellSouth to incorporate  
19          the appropriate terms and conditions for unbundling all types of high capacity  
20          loops in its interconnection agreement with e.spire.

21     **Q.     WHERE DARK FIBER EXISTS IN BELL SOUTH'S LOOP PLANT,**  
22           **SHOULD BELL SOUTH BE REQUIRED TO MAKE IT AVAILABLE TO**  
23           **E.SPIRE AS A UNE?**

1     A.     Yes. I must state that we are not entirely clear on BellSouth's position on this  
2           point. BellSouth has agreed to make Dark Fiber loops available, but is not clear  
3           that the commitment extends to all states, or that it will make them available at  
4           predefined TELRIC-based prices. e.spire requests that BellSouth's obligation be  
5           made explicit.

6           The FCC currently is considering whether to incorporate a Dark Fiber  
7           UNE into its minimum national unbundling standards. As I have said before, this  
8           Commission need not wait for the FCC to act. The only reason why BellSouth  
9           refuses to unbundle Dark Fiber in its loop plant is because it has decided that it is  
10          more advantageous to stymie its competitors' every move than it is to make  
11          money on its unlit loop plant by leasing it as a UNE. The Commission should not  
12          countenance such obstructive behavior. If BellSouth will not cooperate during the  
13          ongoing transition from a monopoly to a competitive paradigm, then this  
14          Commission must act to wrest the vestiges of monopoly from its control. By  
15          requiring BellSouth to unbundle Dark Fiber in its loop plant, the Commission can  
16          ensure that ratepayers have access to all parts of the network that BellSouth built  
17          with ratepayer dollars over the course of a century. If carriers, such as e.spire  
18          have unbundled access to Dark Fiber loop plant, these ratepayers will be offered  
19          more options – usually at better rates – than if BellSouth were permitted to shield  
20          parts of its loop plant from competitors.

21     Q.     **WITH REGARD TO ALL LOOP TYPES, SHOULD BELL SOUTH BE**  
22           **REQUIRED TO GEOGRAPHICALLY DEAVERAGE ITS LOOP RATES?**

1           In light of the Supreme Court's recent decision reinstating the FCC's  
2       geographic deaveraging rule, I urge the Commission to consider the issue  
3       immediately in this proceeding, as BellSouth's loop pricing has become a major  
4       barrier to competitive entry. We believe that the anticompetitive impact of  
5       BellSouth's high rates for unbundled loops can be substantially ameliorated by  
6       compelling BellSouth to bring its UNE rates into compliance with FCC Rule  
7       51.507(f) which requires the establishment of different UNE prices that reflect  
8       geographic cost differences in at least three geographic zones.

9           Independent of that requirement, I also note that BellSouth has affirmed  
10      the advisability of pricing its facilities on a geographically deaveraged basis  
11      where it faces competitive pressure itself. Specifically, BellSouth has  
12      incorporated the use of three density zones in its special access tariffs as a way to  
13      compete with e.spire and other CLECs in the market for dedicated access circuits.

14   **Q.   WILL HIGHER LOOP RATES OUTSIDE DENSE, URBAN AREAS**  
15       **IMPEDE THE INTRODUCTION OF FACILITIES-BASED**  
16       **COMPETITION THERE?**

17   **A.**   No. Recall that BellSouth has itself filed deaveraged special access rates. e.spire  
18       simply proposes to match BellSouth's own cost structure, and the resulting rate  
19       structure that BellSouth has established. Thus, e.spire's relatively higher loop  
20       rates in low density areas will match-up with BellSouth's costs, and both will be  
21       able to compete fairly there.

22   **Q.   BELLSOUTH CURRENTLY PROVIDES E.SPIRE WITH EXTENDED**  
23       **LOOPS. IN LIGHT OF BELLSOUTH'S REFUSAL TO AGREE TO**

1       **CONTINUE OFFERING AN EXTENDED LOOP UNE, SHOULD THE**  
2       **COMMISSION REQUIRE BELL SOUTH TO CONTINUE TO MAKE**  
3       **EXTENDED LOOPS AVAILABLE ON AN UNBUNDLED BASIS?**

4       A.     Yes. It is exceedingly important that this Commission require BellSouth to  
5       continue to make Extended Loops available on an unbundled basis. Indeed, the  
6       United States Supreme Court recently affirmed regulators' authority to require  
7       ILECs to provision UNEs in combination. Moreover, the Court reinstated an  
8       FCC rule which prohibits ILECs from tearing apart combinations that already are  
9       in place in the network.

10           Extended Loops provide an important functionality – composed of loop,  
11       multiplexing and transport – that can allow CLECs to reach customers served  
12       from BellSouth End Offices in which they have not yet collocated. Thus,  
13       Extended Loops provide a way for competitors to test markets and to expand both  
14       traditional and advanced competitive service offerings to new areas in advance of  
15       collocation (if it seems likely that the customer base served from the End Office  
16       can justify the expense involved with additional equipment purchases and a new  
17       collocation arrangement) or in lieu of collocation (if such expenses cannot be  
18       justified). Moreover, by maximizing the number of customers that can be reached  
19       through a single collocation arrangement, Extended Loops can help alleviate  
20       collocation space constraints in BellSouth's End Offices.

21           BellSouth voluntarily agreed to provide Extended Loops to e.spire in the  
22       parties' initial ACSI-BellSouth Interconnection Agreement. Now BellSouth  
23       refuses to offer Extended Loops in the successor Agreement, and threatens to tear



1       apart Extended Loops that already are in place. Once again, there simply is no  
2       sound justification for BellSouth's position. Moreover, it cannot be squared with  
3       the Supreme Court's January 25, 1999 *Iowa Utilities Board* decision which  
4       affirms regulators' authority to require combinations and the FCC's rule which  
5       prevents ILECs from tearing them apart.

6               Additionally, I note that the FCC currently is considering whether to  
7       incorporate the Extended Loop into minimum national unbundling standards. The  
8       Kentucky Commission already has decided that BellSouth must keep existing  
9       elements combined, as would be the case with an Extended Loop UNE. The  
10      Maryland and Texas Commissions have ordered the Extended Loops be made  
11      available and the New York Commission is considering whether Bell Atlantic  
12      must offer its tariffed Extended Loop as a UNE, but some form of Extended Loop  
13      will be available there as well. This Commission, too, should define Extended  
14      Loop as a UNE which BellSouth must make available to its competitors at  
15      TELRIC-based rates.

16             To ensure that defining an Extended Loop UNE will have its intended  
17      effect, the Commission should make clear that an Extended Loop can incorporate  
18      any type of loop, including the high-capacity DS-1, DS-3 and xDSL loops  
19      described above, and any type of transport. For example, an Extended Loop  
20      featuring a 4-Wire Digital Loop in conjunction with a DS-1 Dedicated Transport  
21      is essential to e.spire's efforts to expand the reach of its Frame Relay network.  
22      Finally, because the functionality defined does not differ on the basis of whether  
23      the loop component of the Extended Loop UNE employs "home run" copper or a

1 remote DLC configuration, BellSouth attempts to limit access on the basis of that  
2 technology-based distinction – or any other – also should be prohibited.

3 **Q. SHOULD BELL SOUTH BE REQUIRED TO PERMIT E.SPIRE TO**  
4 **CONVERT SPECIAL ACCESS FACILITIES TO EXTENDED LOOP**  
5 **UNEs?**

6 A. Yes. Despite having provisions for Extended Loops incorporated into its  
7 Commission-approved interconnection agreement with BellSouth, e.spire has  
8 experienced considerable difficulty – including long term delays – ordering  
9 Extended Loops from BellSouth. To expedite market entry, e.spire, in many  
10 cases, bypassed wrangling with BellSouth by purchasing the same functionality  
11 from BellSouth in the form of tariffed Special Access. However, the costs of  
12 purchasing Special Access facilities from BellSouth's Access Tariff greatly  
13 exceed the TELRIC-based rates that would apply to the same functionality if  
14 ordered as an Extended Loop UNE.

15 In short, BellSouth should not be permitted to drive up its competitors'  
16 costs by refusing to abide by the terms of an interconnection agreement that this  
17 Commission has approved. If the Commission agrees that BellSouth should be  
18 required to renew – and for the first time effectively implement – its contractual  
19 obligation to furnish Extended Loops to e.spire, e.spire asks the Commission to  
20 take corrective action by which it explicitly finds that BellSouth must  
21 accommodate e.spire requests to convert Special Access Services into UNEs.

22 Importantly, e.spire believes that such action follows clearly from the  
23 Supreme Court's affirmation of regulators' authority to require ILECs to provide

1       UNE combinations and reinstatement of the FCC's rule prohibiting ILECs from  
2       tearing apart combinations that already are in place in their networks.

3               Specifically, e.spire requests that the Commission compel BellSouth to  
4       cooperate in implementing a Special Access Migration Plan to convert existing  
5       Special Access Services designated by e.spire to UNEs. Under the Migration  
6       Plan, the Parties would establish an agreed conversion timetable and implement it  
7       within thirty (30) days of the Effective Date of the Agreement.

8               Critically, under the Migration Plan, the normal NRCs for provisioning of  
9       UNEs should not apply. Instead, (i) where no physical changes to the network are  
10      required, NRCs should be limited to the direct incremental cost of processing a  
11      service order, and (ii) where a physical rearrangement is required (*i.e.*,  
12      connections to e.spire Physical Collocation space), the normal UNE NRCs should  
13      be applied net of credits for the NRCs, previously paid by e.spire to BellSouth for  
14      provisioning the associated Special Access Services.

15   **Q.   MOVING NOW TO THE TOPIC OF INTEROFFICE TRANSPORT,**  
16       **PLEASE EXPLAIN WHY BELL SOUTH SHOULD BE REQUIRED TO**  
17       **PROVIDE UNBUNDLED ACCESS TO HIGH-CAPACITY INTEROFFICE**  
18       **TRANSPORT AT PREDETERMINED COST-BASED RATES.**

19   **A.   Although BellSouth has agreed in principle to make high capacity dedicated**  
20       **transport options available, it has not offered pricing for those facilities.**  
21       BellSouth's position seemingly is that e.spire must seek prices on an ICB basis  
22       pursuant to the BFR process. This process is cumbersome, uncertain, and does  
23       not facilitate rational business planning.

1           BellSouth's unbundling obligations are not limited by the capacity of the  
2           UNEs to which its competitors seek access. As is true for the various loop types,  
3           with regard to interoffice transport, BellSouth simply does not have the authority  
4           to choose unilaterally which varieties it will unbundle and which it will not. The  
5           FCC already has concluded that ILECs must provide all technically feasible  
6           transmission capabilities, such as DS-1, DS-3, OC-3, OC-12, OC-48 and OC-96,  
7           that a competing carrier could use to provide telecommunications services.  
8           Moreover, e.spire's desire to obtain unbundled access to optical and other high-  
9           capacity interoffice transport, including SONET, should not trigger an ICB  
10          pricing mechanism by which BellSouth continuously seeks to end-run the cost-  
11          based pricing requirements of the 1996 Act. There is absolutely no valid reason  
12          why a high-capacity interoffice transport UNE cannot be set at a predetermined  
13          TELRIC-based rate. BellSouth's insistence on ICB pricing in this and other areas  
14          is just another way in which it anticompetitively seeks to drive-up competitors'  
15          costs and keep End User prices artificially high. The Commission can and should  
16          put an end to these practices by finding that (1) BellSouth cannot impose  
17          unilaterally limitations on the capacity of interoffice transport – and other UNEs –  
18          it is obligated to offer, and (2) ICB pricing is inappropriate for interoffice  
19          transport – and other UNEs.

20   **Q.   SHOULD BELL SOUTH BE REQUIRED TO PROVIDE E.SPIRE WITH**  
21   **COST-BASED UNBUNDLED ACCESS TO OPTICAL AND SONET**  
22   **INTERFACES?**

1     A.     Yes. Without unbundled access to these interfaces at predetermined cost-based  
2     prices, e.spire will not be able to efficiently interconnect its state of the art  
3     network to BellSouth's own optical and SONET facilities. BellSouth already has  
4     agreed to unbundle these facilities for another requesting carrier. However, it has  
5     insisted that prices be determined on an ICB basis through the BFR process. As I  
6     have said repeatedly, ICB pricing is a mechanism by which BellSouth attempts to  
7     skirt the cost-based pricing standards of the 1996 Act and drive up its  
8     competitors' costs. The Commission should put an end to this practice, mandate  
9     cost studies and establish predetermined TELRIC-based prices for optical and  
10    SONET interfaces and all other UNEs.

11   **Q.     CAN BELL SOUTH LIMIT THE FACILITIES TO WHICH**  
12   **INTEROFFICE TRANSPORT IS CONNECTED?**

13   A.     No. The FCC has concluded that an ILEC may not limit the facilities to which  
14   interoffice transport facilities are connected. This means that BellSouth must  
15   provide interoffice facilities between its own wire centers or those of a  
16   competitor, or between its own switches or those of a competitor. The FCC's  
17   rules require that ILECs must provide all technically feasible transmission  
18   capabilities, and that the ILEC may not limit the facilities to which such  
19   interoffice transport facilities are connected.

20   **Q.     HAS BELL SOUTH ATTEMPTED TO LIMIT THE FACILITIES**  
21   **BETWEEN WHICH IT PROVIDES INTEROFFICE TRANSPORT?**

22   A.     Yes. BellSouth has not agreed to a proposed definition of Dedicated Transport  
23   which would provide e.spire "local channel" interoffice transport. Local channel

1 interoffice transport is a transmission facility (the capacity of which can range  
2 from DS-0 to OC-48 and above) that connects a BellSouth Serving Wire Center  
3 ("SWC") and a CLEC's POP. BellSouth argues that it simply is not required to  
4 provide interoffice transport between such facilities. However, the FCC's rules  
5 make no such exception. As I just explained, ILECs, such as BellSouth, may not  
6 limit the facilities to which interoffice transport facilities are connected – nor may  
7 they limit the capacity of such facilities. In its recent *Second Louisiana Section*  
8 *271 Order*, the FCC emphasized that BellSouth must offer transport between all  
9 BellSouth Central Offices, BellSouth End Offices and BellSouth Tandems, and  
10 Bell Central Offices and IXC/CLEC POPs. According to the FCC, this includes  
11 transmission between BellSouth End Offices and SWCs and between its SWCs  
12 and IXC/CLEC POPs.

13 **Q. MUST LOCAL CHANNEL INTEROFFICE TRANSPORT BE OFFERED**  
14 **AT TELRIC RATES?**

15 A. Yes. Like all other UNEs, interoffice transport facilities – regardless of capacity  
16 – must be offered to competitors at cost-based prices. BellSouth's attempts to  
17 impose ICB pricing or, in some cases, retail rates, must be rejected. As I have  
18 said before, BellSouth's frequent attempts to resort to ICB pricing are baldly  
19 designed to inhibit new entry by CLECs. There is no reason why BellSouth  
20 cannot produce forward-looking cost studies that will aid this Commission in  
21 setting appropriate and certain rates.

22 **Q. SHOULD BELL SOUTH BE REQUIRED TO MAKE AVAILABLE**  
23 **INTEROFFICE DARK FIBER AT COST-BASED RATES?**

1     **A.     Yes. BellSouth's response to e.spire's request for access to interoffice Dark Fiber**  
2     **was to offer it in a few states, but not all, and either to not provide pricing**  
3     **elsewhere, or not provide TELRIC-based prices. Again, for the same reasons that**  
4     **Dark Fiber should be unbundled when it exists in BellSouth's loop plant, it also**  
5     **should be unbundled wherever it exists in BellSouth's interoffice transport**  
6     **network. As I discussed earlier, the FCC currently is considering whether to**  
7     **define Dark Fiber as a UNE. It is well within this Commission's authority to do**  
8     **so on its own. Doing so would promote competitive entry by facilities-based**  
9     **CLECs such as e.spire who could buy and hang their own electronics on the un-lit**  
10    **fiber leased from BellSouth. Such action also would ensure BellSouth a return on**  
11    **facilities that otherwise might be used for nothing other than a depreciation**  
12    **expense. Again, in anticipation of excessive BellSouth pricing, I also urge the**  
13    **Commission to establish predetermined cost-based prices and affirmatively**  
14    **prohibit BellSouth from imposing an ICB pricing scheme for Dark Fiber transport**  
15    **facilities.**

16    **Q.     TURNING TO COMBINATION UNEs, PLEASE EXPLAIN WHY**  
17    **BELLSOUTH SHOULD BE REQUIRED TO PROVIDE THE UNE**  
18    **COMBINATIONS LISTED IN SCHEDULE 1 TO ATTACHMENT 2 TO**  
19    **THE AGREEMENT.**

20    **A.     e.spire requested – and BellSouth refused – that several common facility**  
21    **configurations be made available as preordained UNE Combinations. They are**  
22    **listed in Schedule V to Attachment 2 to the draft Agreement.**

1           As I already have mentioned, the Supreme Court's *Iowa Utilities Board*  
2       decision confirms that the FCC – and the states – have the authority to require  
3       ILECs to provide UNE combinations. Moreover, that same decision reinstated an  
4       FCC rule which prevents ILECs from tearing apart existing combinations.

5           Aside from the clear legal basis for a decision requiring BellSouth to  
6       provide access to UNE combinations, there are many compelling policy reasons  
7       why the Commission should require BellSouth to offer these common network  
8       configurations on an unbundled basis. First – as Commissions in Kentucky,  
9       Maryland and Texas have found – is that there is no valid, common sense reason  
10      why BellSouth should be permitted to take apart that which already is combined  
11      and then impose on its competitors a charge for putting it all back together again.  
12      The only valid reason for dismantling BellSouth network configurations is so that  
13      they can be connected with e.spire or another competitor's facilities. BellSouth's  
14      current policy of tearing apart network configurations and requiring collocation to  
15      reconnect the pieces is simply anticompetitive and wasteful. Consumers  
16      ultimately foot the bill. They should not be made to pay to rebuild network  
17      configurations that they already have paid to put in place.

18           A second policy reason for mandating the Combinations set forth in  
19      Schedule 1 to Attachment 2 is that, by packaging common network configurations  
20      in a single UNE, the Commission offers competitors more options for bringing  
21      competitive service offerings to consumers. More options for competitors  
22      translates into more options for consumers. Perhaps the best way to illustrate this  
23      point is to look at the Unbundled Local Loop UNE itself. The loop UNE includes



1       the NID, Distribution, Concentration and Feeder Sub-Loop elements. By  
2       combining each of these components into a single functional UNE, the FCC and  
3       the state Commissions have made it easier for competitors to take on entrenched  
4       incumbents like BellSouth. e.spire does not have to install – or, even worse, have  
5       BellSouth install – cross-connects between the NID and distribution plant,  
6       between the distribution plant and concentration equipment and so on – those  
7       connections are already there. Accordingly, the “loop” definition is somewhat  
8       arbitrary; and creating new loop elements such as the Extended Loop is consistent  
9       with prior practice of including several loop components into a single UNE.

10               Oddly, BellSouth does not argue that the Unbundled Loop is a  
11       “combination” that it cannot be made to provide. Rather, BellSouth argues – for  
12       equally implausible reasons – that it should not be made to separate the  
13       combination of elements that comprise the loop UNE for the purpose of Sub-Loop  
14       Unbundling. This transparent conflict in positions taken by BellSouth suggests  
15       that its arguments against offering UNE combinations, on the one hand, and  
16       dismantling combinations to accommodate facilities placed by competitors, on the  
17       other, cannot be squared.

18               The fact of the matter is that the FCC and this Commission both can order  
19       BellSouth to unbundle UNEs that incorporate one piece of equipment or several.  
20       And, as demonstrated by the presence of a NID UNE and a loop UNE in the  
21       FCC’s national minimum unbundling standards and by Sub-Loop Unbundling  
22       required in some states, BellSouth can be required to unbundle UNEs that also are  
23       incorporated into functionalities that are themselves separately defined as a UNE.

1 Again, e.spire respectfully requests that this Commission use its authority – the  
2 same authority already exercised by state commissions in Kentucky, New York,  
3 Texas and Maryland – to ordered BellSouth to make available UNE  
4 Combinations, as requested by e.spire.

5 **Q. HOW WOULD THE CREATION OF UNE COMBINATIONS AND**  
6 **EXTENDED LOOP RELIEVE THE PROBLEM OF EXHAUSTION OF**  
7 **PHYSICAL COLLOCATION SPACE?**

8 A. These options alleviate the need for CLECs to collocate in each End Office,  
9 thereby reducing the demand for limited space.

10 **Q. IS THE COMMISSION'S ABILITY TO REQUIRE BELL SOUTH TO**  
11 **COMBINE UNEs LIMITED BY THE EIGHTH CIRCUIT COURT OF**  
12 **APPEALS' INTERPRETATION OF THE 1996 ACT?**

13 A. No. The Eighth Circuit has never addressed the scope of this Commission's or  
14 any other state Commission's ability to require an incumbent, such as BellSouth  
15 to unbundle combinations. Indeed, in light of the Eighth Circuit's *Shared*  
16 *Transport* decision and the Supreme Court's *Iowa Utilities Board* decision, it is  
17 quite clear that this Commission can define UNEs to include combinations or it  
18 can require UNE combinations.

19 **Q. SHOULD BELL SOUTH BE PRECLUDED FROM ASSESSING SPECIAL**  
20 **"RE-COMBINATION" CHARGES?**

21 A. Yes. BellSouth should be precluded from assessing combination NRCs or "glue  
22 charges" for the simple reason that it incurs no additional costs when it offers  
23 UNEs in combination. As my pre-school daughter could tell you, there is no need

1       for “glue” when there is nothing to stick together. By prohibiting BellSouth from  
2       pulling the pieces apart, the Commission can obviate the need for “glue”.

3               Because the costs of UNEs are fully reflected in rates set by this  
4       Commission, allowing BellSouth to impose a “glue charge” merely would  
5       validate one of the many ways in which BellSouth seeks to double-recover from  
6       competitors – and End Users. BellSouth certainly should be permitted to recover  
7       its legitimate costs – but, it should do so only once. Thus, the NRCs for UNE  
8       Combinations should be limited to an incremental service order processing  
9       charge.

10    **Q.    WITH REGARD TO PROVISIONING, SHOULD BELL SOUTH BE**  
11       **ALLOWED TO BACKSLIDE FROM PROVISIONS IN ITS CURRENT**  
12       **INTERCONNECTION AGREEMENT WITH E.SPIRE AND ITS OWN**  
13       **CLAIMS MADE TO THE FCC THAT IT MUST AND CAN PERFORM**  
14       **COORDINATED LOOP CUTOVERS IN FIVE MINUTES OR LESS?**

15    **A.    Once again, the only reason the parties are at an impasse is because BellSouth, at**  
16       **nearly every turn, seeks to make it difficult, if not impossible for competitors to**  
17       **compete. Here, we are arguing over whether BellSouth should be required to**  
18       **renew the five minute coordinated loop cutover provisioning interval it**  
19       **voluntarily agreed to two years ago in the ACSI-BellSouth Interconnection**  
20       **Agreement. In real terms, what this argument boils down to is the amount of time**  
21       **a customer who chooses to switch from BellSouth will be without phone service.**

22               How much time would you be willing to go without phone service? For a  
23       huge premium, BellSouth offers a 15 minute window for each access line. That

1 would mean that a customer with as few as 32 access lines would have lines out  
2 of service for an entire (eight hour) business day. Obviously, business, safety and  
3 convenience each suggest that this interval should be shorter and as close to a  
4 flash-cut as possible. And BellSouth's own data suggests that it can be. Indeed,  
5 BellSouth reported to the FCC as part of the Section 271 application process that  
6 it performs coordinated cutovers of ULLs without number portability, *on average*,  
7 in under four and a half minutes. This record suggests that meeting a five minute  
8 coordinated cutover interval with number portability is not only possible, but that  
9 it also is reasonable.

10 If competition is to prosper, customers must be assured that, if they choose  
11 to switch to e.spire – or back to BellSouth, that they will be out of service for only  
12 five minutes or less per line. Otherwise, the cost of lost calls will discourage or  
13 prevent customers from switching and competition from taking hold. Indeed, as I  
14 will discuss in detail later as part of my discussion of general Ordering and  
15 Provisioning requirements, the interval actually should be is far less than five (5)  
16 minutes per line for multiple line installations.

17 **Q. DOES BELLSOUTH'S SL1/SL2 LOOP PROVISIONING STRUCTURE**  
18 **ADEQUATELY ADDRESS THIS PROBLEM?**

19 A. No, it does not. Although e.spire's technical witness, Bill Stipe, will explore this  
20 issue further, it should be noted that nowhere in BellSouth's SL1/SL2 proposal  
21 does BellSouth propose to meet a reasonable interval for loop provisioning.  
22 Instead, BellSouth proposes a "15 minute to one hour" interval – per line – and  
23 intends to extract a non-cost-based premium for meeting a 15 minute interval. On

1       an SL1 loop, this premium is set forth in a separate “manual order coordination”  
2       surcharge. On an SL2 loop, the premium evidently is wrapped into the grossly  
3       inflated basic NRC. Notably, BellSouth has not proposed to offer the five minute  
4       cutover interval – which it agreed to in the ACSI-BellSouth Interconnection  
5       Agreement and which it represents to the FCC that it meets regularly – at any  
6       price.

7               BellSouth also proposes to extract a per line premium for allowing e.spire  
8       to schedule 30 minute conversion windows for its customers – otherwise,  
9       customers would be forced to accept a four (4) hour conversion window. Under  
10      the ACSI-BellSouth Interconnection Agreement, the costs of affording Florida  
11      End Users this common courtesy were built into the basic NRC. Now, on both  
12      the SL1 and SL2, BellSouth proposes to extract a non-cost-based premium for it.

13             There is no legal basis on which BellSouth can propose to extract non-cost  
14      based premiums for performing cutovers within five (5) minutes and for  
15      performing them within a pre-set 30 minute window. Florida End Users deserve  
16      no lower level of service. To ensure that they are not forced to accept and pay a  
17      non-cost-based premium for BellSouth’s proposed inferior level of service, the  
18      Commission should renew the loop cutover provisions incorporated into the  
19      ACSI-BellSouth Interconnection Agreement. To be sure, e.spire is willing to pay  
20      BellSouth its costs of provisioning loops. However, all of BellSouth’s costs must  
21      be set out in forward-looking cost studies that should result in this Commission  
22      setting a single, rational TELRIC-based NRC for provisioning loops.

1    **Q.    SHOULD BELLSOUTH BE OBLIGATED TO PROVIDE FOCs FOR**  
2    **LOOP ORDERS WITHIN 4 HOURS OF SUBMISSION BY E.SPIRE?**

3    A.    Yes. An industry standard has evolved which requires ILECs to return FOCs  
4           within four (4) hours for orders submitted via an *electronic* interface, and within  
5           twenty-four hours for orders submitted *manually*. e.spire submits that BellSouth  
6           should be required to conform to this industry standard. The Act requires that  
7           BellSouth's FOC provisioning intervals be nondiscriminatory. Unless BellSouth  
8           can provide conclusive data demonstrating that it makes its own retail customers  
9           wait more than four (4) hours before it can confirm an order, there is no legal  
10          basis on which BellSouth should refuse e.spire's request.

11                Adopting these FOC intervals also would give BellSouth an additional  
12           incentive to continue developing its OSS so that End Users are not penalized for  
13           switching from BellSouth. Again, BellSouth data supplied to the FCC in support  
14           of its Louisiana Section 271 application suggest that the goal is reasonable and  
15           attainable. There, BellSouth represented that it provided FOCs within 24 hours  
16           for 93 percent of accurate business resale orders submitted electronically and 99  
17           percent of accurate residential orders submitted electronically. Customers have a  
18           right to switch from BellSouth, and, under the 1996 Act, BellSouth must allow  
19           them to do so as quickly as it would process a similar order for new services from  
20           BellSouth. I will add to this discussion later in my discussion of general Ordering  
21           and Provisioning requirements.

22   **Q.    SHOULD A FAILURE BY BELLSOUTH TO PROVIDE ACCESS TO**  
23   **UNE<sub>s</sub> AT PARITY, AS ESTABLISHED BY THE PERFORMANCE**

**MEASUREMENTS BE CLASSIFIED AS A SPECIFIED PERFORMANCE  
BREACH AND TRIGGER THE IMPOSITION OF LIQUIDATED  
DAMAGES?**

A. Yes. There is a former BellSouth customer at the receiving end of every missed interval – they should not be penalized for switching from BellSouth. Automatic and meaningful penalties for non-performance are the best way to ensure that BellSouth is opening its network and competing fairly, as provided for in the Act.

**Q. SHOULD BELL SOUTH BE REQUIRED TO OFFER VOLUME AND  
TERM DISCOUNTS FOR UNEs CONSISTENT WITH THOSE  
AVAILABLE FOR ITS SPECIAL ACCESS SERVICES?**

A. Yes. In cases where e.spire proposes to purchase UNEs in volumes greater or in terms longer than those contemplated in the base pricing established for particular UNEs, discounts reflecting the economies of scale that result should apply. Volume and term discounts are consistent with the cost-based pricing mandate of the Act and the way in which BellSouth prices many of its retail services. Without volume and term discounts, it is possible that retail rates through BellSouth CSAs may be less than wholesale rates on UNEs that e.spire uses to provide a competitive service offering. By requiring BellSouth to incorporate such discounts into its interconnection agreement with e.spire, this Commission can prevent this form of price discrimination and ensure that high volume consumers have a choice in local service providers.

**Q. ARE THERE ANY OTHER ISSUES TO BE RESOLVED REGARDING  
UNEs?**

1     A.     Yes. During the negotiation, e.spire asked BellSouth to expressly commit, in  
2           connection with the provision of each discrete UNE, that such UNEs would  
3           continue to be made available to e.spire on terms which are no less favorable than  
4           those provided to any BellSouth Affiliate or any other Telecommunications  
5           Carrier. Despite the unambiguous requirement of Section 251(c)(3) of the Act,  
6           which requires ILECs to provide "nondiscriminatory access" to UNEs, BellSouth  
7           refused to agree to e.spire's proposed language. We are gravely concerned by  
8           BellSouth's refusal to commit to nondiscriminatory treatment on a going-forward  
9           basis, and we ask the Commission to order inclusion of e.spire's proposed  
10          language in the Agreement.

11 **Circuit Switched Interconnection**

12 Q. WHAT AREAS OF DISAGREEMENT EXIST WITH RESPECT TO THE  
13 INTERCONNECTION OF CO-CARRIER NETWORKS FOR THE  
14 MUTUAL EXCHANGE OF TRAFFIC?

15     A.     There are two principal areas of disagreement. The first relates to the  
16           applicability and pricing of Reciprocal Compensation for traditional circuit-  
17           switched traffic. The second relates to the terms applicable to interconnection of  
18           packet-switched networks. We also have not resolved how to define "equal in  
19           quality" and how to establish performance breaches.

20 Q. WHY IS IT NECESSARY FOR E.SPIRE TO INTERCONNECT WITH  
21 BELL SOUTH FOR THE PURPOSE OF EXCHANGING LOCAL  
22 TRAFFIC?



1     A.     Since e.spire is a new market entrant with plans to expand its facilities based local  
2           telecommunications services within BellSouth's territory, many of the calls  
3           placed by e.spire's customers on e.spire's local network are made to or received  
4           from BellSouth's customers. e.spire must interconnect with ILECs such as  
5           BellSouth for the purpose of exchanging such traffic. Thus, pursuant to the terms  
6           of a local interconnection agreement, the parties must agree to exchange Local  
7           Traffic and provide "Transport and Termination" to their respective End Users.  
8           Absent such arrangements, e.spire customers would not be able to call BellSouth  
9           customers, and vice versa. As Congress recognized in enacting the Act, complete  
10          and nondiscriminatory local interconnection arrangements are fundamental to the  
11          implementation of any competitive local telephone network.

12    **Q.     WHAT IS TRANSPORT AND TERMINATION?**

13    A.     "Transport" and "Termination" are the two primary network functions involved in  
14           the exchange of Local Traffic between telecommunications carriers. The FCC  
15           has defined "Transport," for purposes of establishing reciprocal compensation  
16           arrangements, as the "transmission of terminating traffic that is subject to section  
17           251(b)(5) [of the Act] from the interconnection point between the two carriers to  
18           the terminating carrier's end office switch that directly serves the called party."  
19           The FCC has defined "Termination" for purposes of Section 252(b)(5) as "the  
20           switching of traffic . . . at the terminating carrier's end office switch (or  
21           equivalent facility) and delivery of that traffic from that switch to the called  
22           party's premises."

1           Although Transport and Termination require essentially the same network  
2 functions, the FCC treats them as distinct for legal and regulatory purposes. The  
3 major reason for this distinction is that while alternative arrangements often exist  
4 for the provision of transport between two carriers' networks, a service provider  
5 typically has no practical alternative for termination of local calls other than use  
6 of the called party's carrier. This is especially true when the called party's carrier  
7 is the ILEC in the region. In the context of the proposed interconnection  
8 arrangements at issue here, "Transport and Termination" refers to the delivery by  
9 a telecommunications carrier of Local Traffic to its End Users where the Local  
10 Traffic was routed to it at the agreed Point of Interconnection by another carrier  
11 on whose network the traffic originated.

12   **Q.   PLEASE EXPLAIN WHY COMPENSATION FOR TRANSPORT AND**  
13   **TERMINATION OF LOCAL TELECOMMUNICATIONS TRAFFIC IS**  
14   **AN IMPORTANT ISSUE?**

15   A.   As described above, the Transport and Termination of Local Traffic is critical to  
16 the business of a CLEC such as e.spire. While the network architecture for  
17 accomplishing such an exchange of Local Traffic is critical, the compensation  
18 exchanged between interconnected local companies for providing the services is  
19 equally important. Simply put, physical interconnection is useless unless the  
20 resulting exchange of Local Traffic is made on fair and economic terms. Section  
21 252(d) of the Act requires that rates, terms and conditions associated with  
22 Reciprocal Compensation be just and reasonable.

1           It also is important to understand that ILECs such as BellSouth have an  
2           incentive to demand excessive compensation arrangements from CLECs such as  
3           e.spire. BellSouth owns and operates essential bottleneck local exchange  
4           facilities that are required to reach BellSouth's local exchange customers. In the  
5           absence of government intervention, BellSouth possesses ample monopoly power  
6           to demand compensation arrangements which are uneconomic, and which unfairly  
7           favor BellSouth's local exchange operations.

8           Fortunately, both Congress and the FCC have taken steps to restrain  
9           BellSouth's potential misuse of its monopoly power in this area. Sections 251  
10          and 252 of the Act, and the FCC's rules implementing them, require BellSouth to  
11          interconnect with e.spire for purposes of exchanging, transporting and terminating  
12          each other's Local Traffic. Importantly, Section 252 guarantees the "recovery by  
13          *each carrier* of costs associated with the Transport and Termination on each  
14          carrier's network facilities of calls that originate on the network facilities of the  
15          other carrier." Both the Act and FCC rules implementing it require that BellSouth  
16          and e.spire formulate a nondiscriminatory compensation arrangement which is  
17          reciprocal (*i.e.*, two-way) and provides for a mutual recovery of associated costs.  
18          It is up to the Commission in this proceeding to enforce and implement these  
19          requirements.

20          The state Commission in reviewing the proposed compensation scheme  
21          should not approve the proposed rates unless such rates allow for mutual recovery  
22          by each party of the costs associated with Transport and Termination of traffic on  
23          each party's respective networks. Since ILEC and CLEC network infrastructure

1 differ, reasonable compensation terms would reflect different costs that are  
2 derived from different network configurations. Such is the case with BellSouth  
3 and e.spire's network configurations, and therefore the costs associated with  
4 Transport and Termination of traffic by each LEC are different.

5 **Q. HOW DOES THE ACT ADDRESS THIS ISSUE?**

6 A. The 1996 Act incorporates three critical notions which are intended enable new  
7 entrants to provide competitive local services to customers within and incumbents  
8 local service areas. First, the Act makes clear that the pricing for Transport and  
9 Termination must be truly cost-based. Specifically, Section 252(c)(2)(A)(i) of the  
10 Act requires that prices be based on a "reasonable approximation of the *additional*  
11 *costs of terminating such calls.*" Second, Section 252 (d)(2)(A)(i) of the Act also  
12 makes explicit that the recovery of the costs of providing local Transport and  
13 Termination services must be "mutual and reciprocal." Last, but not least, under  
14 the express terms of Section 251(c)(2)(D) of the Act, ILECs such as BellSouth  
15 have a legal duty to interconnect with all other telecommunications companies on  
16 rates, terms and conditions which are "just, reasonable, and nondiscriminatory."  
17 This precludes BellSouth from demanding compensation arrangements which  
18 discriminate in favor of itself or its affiliates.

19 **Q. WHAT IS BELL SOUTH'S POSITION WITH RESPECT TO HOW**  
20 **RECIPROCAL COMPENSATION ARRANGEMENTS FOR TRANSPORT**  
21 **AND TERMINATION OF LOCAL TRAFFIC SHOULD BE**  
22 **ESTABLISHED?**

1     **A.     BellSouth prefers a Reciprocal Compensation rate structure which takes an**  
2           **“elemental” approach. Different charges are assigned to the use of interoffice**  
3           **“Transport,” “End Office Termination,” and “Tandem” switching. e.spire does**  
4           **not object to the use of this rate structure as it applies to BellSouth’s charges to**  
5           **e.spire. e.spire also does not object to BellSouth’s proposed Reciprocal**  
6           **Compensation rate level, as they apply to BellSouth’s charges to e.spire.**

7                 **However, BellSouth suggests that the same rate structure and rate levels**  
8           **should be utilized by e.spire when charging Reciprocal Compensation to**  
9           **BellSouth. e.spire strenuously objects to this proposal. As I will explain**  
10           **hereafter, BellSouth’s proposed rate structure – while fine for BellSouth – does**  
11           **not accurately reflect the way that e.spire’s network is designed and the manner in**  
12           **which e.spire incurs costs in providing Transport and Termination to BellSouth.**  
13           **Similarly, BellSouth’s proposed rate levels would not enable e.spire to recover the**  
14           **costs which it incurs in providing Transport and Termination to BellSouth.**

15                 **In order to be consistent with the requirements of Act, e.spire believes that**  
16           **any Reciprocal Compensation arrangements must meet three discrete tests. First,**  
17           **Reciprocal Compensation rates, if any, should recover the TELRIC of providing**  
18           **Transport and Termination. This subject is addressed more fully elsewhere herein**  
19           **and in the testimony prepared on e.spire’s behalf by Dr. Marvin Kahn. Second,**  
20           **e.spire has the right to employ a Reciprocal Compensation rate structure which**  
21           **reflects the costs e.spire itself incurs. Third, e.spire has the right to establish rates**  
22           **at a level which assures recovery of these costs. One alternative is to mirror the**  
23           **rate levels proposed by BellSouth. However, in the alternative, e.spire may**

1 provide its own cost study to determine its rates. We have chosen the latter  
2 course.

3 **Q. WHAT RECIPROCAL COMPENSATION SYSTEM WOULD BE**  
4 **APPROPRIATE?**

5 A. As I mentioned earlier, the Transport and Termination rate should be established  
6 at the associated TELRIC cost as established through a review of forward-looking  
7 cost studies – a subject to which I defer to Dr. Kahn’s testimony. Perhaps more  
8 importantly, however, it is imperative that we have the option to elect *different*  
9 compensation rates to be billed by both carriers. This would allow for both  
10 parties to recover the actual costs associated with the Transport and Termination  
11 of traffic on their respective networks, which as I mentioned are configured and  
12 operate differently. e.spire should not be forced to accept the rate proposed by  
13 BellSouth, which does not compensate it for the costs of Transport and  
14 Termination of traffic on its network. Otherwise, BellSouth will glean an unfair  
15 competitive advantage simply through an exchange of Local Traffic, even if the  
16 amount of traffic exchanged is in balance.

17 It is particularly important that the compensation rate be technologically  
18 neutral. What matters is that each party is compensated for its costs of providing  
19 area-wide termination of Local Traffic delivered to it by the other party at the  
20 Point of Interconnection. The network architecture selected by the service  
21 provider is irrelevant.

22 **Q. WHAT ARE THE COMPETITIVE BENEFITS TO BASING**  
23 **COMPENSATION ON TELRIC?**

1     **A.**     As noted by the FCC in its *Interconnection Order*, the TELRIC methodology is  
2             based on forward-looking, economic costs which replicate, to the extent possible,  
3             the conditions of a competitive market. Basing the compensation rate on each  
4             carrier's TELRIC also levels the playing field between the larger incumbent LECs  
5             such as BellSouth and the interconnecting carriers. Because TELRIC is pre-  
6             established, larger carriers are limited in their ability to force other carriers to  
7             interconnect at unreasonably high or low rates, which do not reflect the carrier's  
8             forward-looking costs.

9             TELRIC also permits the Commission to take into account the advanced  
10            technology used by interconnecting carriers. In the *Interconnection Order*, the  
11            FCC concluded that state Commissions may establish rates for Transport and  
12            Termination that vary according to whether traffic is routed through a Tandem  
13            switch or directly to an End Office. States were given specific authorization to  
14            consider whether new technologies, such as CI EC SONET ring networks,  
15            perform functions equivalent to the ILEC's Tandem switch, thereby requiring the  
16            higher price generally paid for calls transported or terminated on the ILECs'  
17            Tandem switches. This option is of particular significance to carriers such as  
18            e.spire whose switches provide functionality covering that of a Tandem and an  
19            End Office.

20    **Q.**     **WHAT ARE E.SPIRE'S SPECIFIC OBJECTIONS TO BELL SOUTH'S**  
21             **PROPOSED RATE STRUCTURE FOR TRANSPORT AND**  
22             **TERMINATION?**

1     **A. BellSouth has attempted to create a rate structure which gives it an inherent**  
2     **advantage. BellSouth's network employs a "hub and spoke" architecture in which**  
3     **numerous BellSouth End Offices subtend a BellSouth Tandem Switch. Thus, if a**  
4     **CLEC delivers traffic to the Tandem for delivery to a BellSouth End User, the**  
5     **call is switched by Tandem, routed over trunk-side interoffice Transport facilities,**  
6     **and then delivered to the End Office Switch for "Termination." This elemental**  
7     **approach enables BellSouth to collect three (3) separate charges.**

8             **But e.spire has configured its network in a fundamentally different**  
9     **manner. We normally install a single large switch and fiber optic SONET ring in**  
10    **a local area that performs two distinct functions. First, for "on net" traffic**  
11    **delivered to the e.spire switch, we will switch the traffic once and then transport**  
12    **the call relatively long distances over line-side transport facilities to reach any**  
13    **End User anywhere in the local area. For "off-net" traffic, we switch the traffic at**  
14    **the e.spire switch and then transport the calls to e.spire's collocated equipment at**  
15    **an ILEC End Office, where it is routed over Unbundled Loop facilities for**  
16    **termination. In the latter situation, the ILEC End Offices effectively sub-tend**  
17    **e.spire's "Tandem" switch. The bottom line is that e.spire's single local switch**  
18    **provides the same essential functionality as the ILEC Tandem to an**  
19    **interconnecting carrier – i.e., the ability to deliver traffic to the carrier's customers**  
20    **anywhere in the local area.**

21            **Nevertheless, BellSouth wants to classify e.spire's switch as exclusively**  
22    **an "End Office," and pay e.spire only the charges which BellSouth itself collects**  
23    **for its End Office element. In this manner, BellSouth seeks to reap a windfall for**



1 every minute of traffic exchanged. Through this sleight-of-hand, BellSouth is  
2 able to craft an asymmetric system of Reciprocal Compensation in which it would  
3 profit handsomely even when the traffic exchanged for termination is in perfect  
4 balance!

5 It is hard to imagine a more anticompetitive outcome. Congress carefully  
6 crafted a system of mutual traffic exchange which was intended to prevent ILECs  
7 from using their monopoly power to extract such one-way compensation.  
8 BellSouth's plan is neither "reciprocal" nor "symmetrical". BellSouth's proposal  
9 would undo the Congressional plan and poison the model for local competition.

10 **Q. DOES THE E.SPIRE SWITCH PERFORM THE SAME OR SIMILAR**  
11 **FUNCTIONS AS THE BELL SOUTH TANDEM SWITCH?**

12 A. Absolutely. It is critical to understand that both parties are providing the same  
13 service to the other party. If e.spire delivers Local Traffic to the BellSouth local  
14 Tandem switch, BellSouth will terminate the call to any of its End Users located  
15 anywhere within the local exchange boundary. Similarly, if BellSouth delivers  
16 Local Traffic to the e.spire switch, e.spire will terminate the call to any e.spire  
17 End User located anywhere within its local service area. In that respect, the  
18 e.spire switch functions simultaneously as a Tandem and an End Office switch.  
19 The e.spire switch represents state-of-the-art technology which enables the  
20 Company to serve the entire service area in the most efficient and technologically-  
21 advanced manner. While it may be true that BellSouth has elected to use a  
22 different, less efficient switching architecture, the end-to-end service is virtually  
23 identical.

1    **Q.    IS BELL SOUTH'S PROPOSED RECIPROCAL COMPENSATION RATE**  
2    **STRUCTURE IN THE PUBLIC INTEREST?**

3           No. Acceptance of BellSouth's proposal would create at least two perverse  
4           incentives. First, it would penalize carriers such as e.spire for deploying the most  
5           economically suitable switching systems available, and encourage them to utilize  
6           out-moded Tandem-End Office switch configurations in their place. Second, it  
7           would encourage carriers to deploy both Tandem and End Office switches even  
8           where it is technically inefficient, thereby artificially driving up the cost of  
9           service. Third, to the extent that such an architecture would be prohibitively  
10          expensive for most CLECs, it would ultimately provide the ILEC with another  
11          artificial market advantage.

12                 The BellSouth proposal is intended to turn its inefficient network design  
13           into an unfair competitive advantage. While e.spire does not believe that  
14           BellSouth should be penalized for its selection of its network architecture, neither  
15           should it be rewarded for it. Certainly, e.spire should not be penalized for  
16           deploying state-of-the-art network facilities in BellSouth's local service areas.

17   **Q.    IS E.SPIRE'S INVESTMENT IN ITS SWITCH AS COSTLY AS THE**  
18   **INVESTMENT MADE BY BELL SOUTH IN ITS TANDEM SWITCHING?**

19    A.    Based simply on our understanding of the list prices for Tandem and End Office  
20           switches commonly used by BellSouth, we believe that our switching cost is  
21           actually larger than that made by BellSouth on a relative basis.

22   **Q.    DOES THE ACT REQUIRE TREATMENT OF E.SPIRE'S LOCAL**  
23   **SWITCH AS AN END OFFICE RATHER THAN A HYBRID WHICH**

**EMPLOYS QUALITIES OF TANDEM SWITCHING AND END OFFICE SWITCHING?**

A. No, the Act only requires that ILECs enter into Reciprocal Compensation arrangements with CLECs that provide for mutual recovery of the costs incurred by such carriers for the Transport and Termination of traffic. In interpreting the Act, the FCC determined that state Commissions "shall . . . consider whether new technologies (*e.g.*, fiber ring or wireless networks) perform functions similar to those performed by an incumbent LEC's Tandem switch and thus, whether some or all calls terminating on the new entrant's network should be priced the same as the sum of Transport and Termination via the incumbent LEC's Tandem switch."

Notably, a number of state Commissions have concluded that an interconnecting carrier's single switch is the equivalent of both the ILEC's Tandem and End Office switches. State Commissions have held that it is not necessary that the interconnecting carrier duplicate the ILEC's traditional "hub and spoke" architecture. For example, the Illinois Commerce Commission held that TCG should be compensated at the Tandem rate, because its switch serves a geographic area comparable to or greater than the area served by Ameritech's switch. The Commission found that TCG was not required to duplicate Ameritech's architecture, since "applying such a narrow standard is contrary to the pro-competitive policy of the Act and FCC order which clearly recognize that competitive local exchange carriers should be encouraged to take full advantage of the capabilities of new technology when designing their networks." The Commission further found that TCG's switch performed both Tandem and End

1 Office functions. The Commission held that it was not necessary to establish a  
2 precise correspondence between TCG's switch and Ameritech's Tandem switch.  
3 TCG was entitled to the Tandem rate, because its switch served a geographic area  
4 at least as great as Ameritech's and performed Tandem functions. Other states  
5 such as Arizona, Pennsylvania, Maryland and Texas have reached similar  
6 conclusions.

7 Based on the geographic coverage and functionalities performed by one  
8 e.spire switch, there is no justification for BellSouth's proposal to treat the e.spire  
9 switch as an End Office for purposes of assessing Reciprocal Compensation.  
10 e.spire should be compensated at a single "blended" Tandem rate for calls  
11 originated on BellSouth's network and terminated on e.spire's network.

12 **Q. WHAT RATE LEVEL DOES E.SPIRE PROPOSE TO CHARGE**  
13 **BELLSOUTH FOR TRANSPORT AND TERMINATION?**

14 A. We have offered to charge a single "blended" region-wide (all BellSouth states)  
15 rate of \$0.009 per minute of use. We believe that this charge of slightly less than  
16 a penny per minute of use fairly reflects our cost of terminating BellSouth's local  
17 traffic. I understand that the proposed rate also matches the one BellSouth  
18 previously agreed to with another CLEC - KMC - on a region-wide basis. I also  
19 observe that e.spire's proposed rate is substantially lower than BellSouth's own  
20 rates for terminating Switched Access traffic.

21 **Q. ARE THERE ANY OTHER DISAGREEMENTS RELATING TO THE**  
22 **PAYMENT OF RECIPROCAL COMPENSATION?**

1     A.     Yes. e.spire believes that calls placed to Internet Service Providers ("ISPs")  
2           should be classified as "Local Traffic" subject to the payment of Reciprocal  
3           Compensation. By contrast, BellSouth refuses to treat such calling as "local" and  
4           refuses to compensate e.spire for terminating such calling on BellSouth's behalf.

5     **Q.     WHY DO YOU BELIEVE THAT CALLS PLACED TO ISPS SHOULD BE**  
6           **TREATED AS "LOCAL TRAFFIC" FOR THESE PURPOSES?**

7     A.     There are a number of reasons why I believe that calls terminated by e.spire to  
8           ISPs fit the contractual definition of "local" traffic.

9           First, while this matter is more appropriate for legal briefing, the FCC has  
10          repeatedly ruled that ISPs are End Users that may order their inbound services  
11          under local exchange tariffs. Indeed, e.spire's ISP customers all ordered service  
12          from e.spire pursuant to e.spire's applicable local exchange tariffs. Specifically,  
13          the FCC has stated in its Access Charge Reform order that "[a]s a result of the  
14          decisions the Commission made in the *Access Charge Reconsideration Order*,  
15          ISPs may purchase services from incumbent LECs under the same intrastate  
16          tariffs available to End Users." The FCC also has noted that:

17                         ISPs do pay for their connections to incumbent LEC networks by  
18                         purchasing services under state tariffs. Incumbent LECs also  
19                         receive incremental revenue from Internet usage through higher  
20                         demand for second lines by consumers, usage of dedicated lines by  
21                         ISPs, and subscriptions to incumbent LEC Internet access services.  
22                         To the extent that some intrastate rate structures fail to compensate  
23                         incumbent LECs adequately for providing service to customers  
24                         with high volumes of incoming calls, incumbent LECs may  
25                         address their concerns with state regulators.  
26

27                         In addition, the FCC has consistently viewed dial-up calls to ISPs as  
28          consisting of two components: "telecommunications" and "information." For

1 instance, the FCC stated in its *Universal Service Order* that “[w]e agree with the  
2 Joint Board’s determination that Internet access consists of more than one  
3 component. Specifically, we recognize that Internet access includes a network  
4 component, which is the connection over an LEC network from a subscriber to an  
5 Internet Service Provider, in addition to the underlying information service.” The  
6 FCC also observed that “[w]hen a subscriber obtains a connection to an Internet  
7 service provider via voice grade access to the public switched network, that  
8 connection is a telecommunications service and it is distinguishable from the  
9 Internet service provider’s service offering.” Thus, in a switched communications  
10 system, the service termination point generally is the point at which the common  
11 carrier service ends and user-provided service begins, *i.e.*, the interface point  
12 between the communications system equipment and the user equipment, under  
13 applicable tariffs.

14 This view of ISP calls was reinforced by Congress in the 1996 Act where  
15 it carefully defined “telecommunications” as something distinct from  
16 “information services.” Indeed, the FCC has observed in its Universal Service  
17 Report to Congress that “Congress intended ‘telecommunications service’ and  
18 ‘information service’ to refer to separate categories of services” despite the  
19 appearance from the End User’s perspective that it is a single service because it  
20 may involve telecommunications components.

21 Second, a call placed over the public switched network normally is  
22 considered “terminated” when it is delivered to the exchange bearing the called  
23 telephone number. Call termination occurs when a connection is established

1       between the caller and the telephone exchange service to which the dialed number  
2       is assigned, answer supervision is returned, and a call record is generated. This is  
3       true whether the call is received by a voice grade phone, a fax machine, an  
4       answering machine, or, as in this case, an ISP modem. Indeed, the FCC has  
5       defined call termination for purposes of reciprocal compensation obligations as  
6       “the switching of traffic . . . at the terminating carrier’s end office switch . . . and  
7       delivery of that traffic from that switch to the called party’s premises.” There is  
8       no question that e.spire is providing terminating switching services and is  
9       terminating the calls to the ISP.

10               Third, I note that the customers originating the calls to the ISPs over  
11       BellSouth’s local network order service from BellSouth pursuant to local  
12       exchange tariffs. Moreover, BellSouth bills the calls placed by its customers to  
13       ISPs as “local” calls.

14               Fourth, BellSouth routes calls placed by its End Users to ISPs served by  
15       e.spire over the trunk groups expressly reserved for the exchange of “local”  
16       traffic. Separate trunk groups are available for interexchange calls, and BellSouth  
17       uses them to transmit access services traffic. When BellSouth routes calls to  
18       e.spire over the “local” traffic trunk groups, e spire completes the traffic in good  
19       faith per BellSouth’s instructions, and justifiably expects to be compensated for  
20       the service.

21               Finally, BellSouth’s refusal to compensate e.spire for terminating ISP  
22       traffic is inconsistent with BellSouth’s own treatment of such traffic. BellSouth  
23       itself treats calls to ISPs as “intrastate” when compiling cost studies and making

1 jurisdictional separations. BellSouth should not be able to reclassify traffic  
2 jurisdictionally on a unilateral basis for its own benefit in each situation.

3 **Q. DOES THE FCC'S RECENT ORDER REGARDING THE GTE DSL**  
4 **TARIFF HAVE ANY IMPACT ON E.SPIRE'S POSITION?**

5 A. No. The *GTE DSL Tariff Order* was limited to a dedicated service, and  
6 specifically did not address dial-up calls. All of e.spire's traffic constitutes dial-  
7 up traffic and is therefore not impacted by this order.

8 **Q. DOES E.SPIRE INCUR COSTS IN TERMINATING THIS TRAFFIC FOR**  
9 **BELLSOUTH?**

10 A. Yes. In fact, e.spire has incurred, and continues to incur, substantial costs related  
11 to the provision of Transport and Termination for this traffic. e.spire, like other  
12 CLECs, has invested a great deal of money in the development of facilities that  
13 are capable of handling this traffic. Since e.spire, like other LECs, is prohibited  
14 from charging ISPs switched access charges, when e.spire is not compensated for  
15 Transport and Termination of this traffic under the Reciprocal Compensation  
16 provisions of its Agreement with BellSouth, e.spire is not compensated at all.  
17 Effectively, e.spire will be forced to provide free Transport and Termination of  
18 ISP traffic to BellSouth's customers. This would be an impossible situation for  
19 e.spire, and an unjustifiable windfall for BellSouth. Obviously, such an outcome  
20 is not only unfair and inequitable, but also anticompetitive.

21 **Q. HAVE THERE BEEN DECISIONS BY STATE COMMISSIONS IN THE**  
22 **BELLSOUTH REGION THAT CLASSIFY DIAL-UP CALLS PLACED TO**



**ISPS AS "LOCAL" FOR PURPOSES OF PAYING RECIPROCAL  
COMPENSATION?**

1           **A. Yes. In fact, on September 15, 1998, this Commission issued a decision which**  
2  
3           **specifically addressed the issue of "whether ISP traffic should be treated as local**  
4  
5           **or interstate for purposes of reciprocal compensation . . ." After reviewing all of**  
6           **the arguments, the Commission stated, "while there is some room for**  
7           **interpretation, we believe the current law weighs in favor of treating the traffic as**  
8           **local, regardless of jurisdiction, for purposes of the Interconnection Agreement.**  
9           **Moreover, the Commission noted, among other things, that BellSouth rates the**  
10           **traffic of its own ISP customers as local traffic, and that "[i]t would hardly be just**  
11           **for BellSouth to conduct itself in this way while treating WorldCom differently."**

12                 **Similarly, on October 19, 1998, the Hearing Officer presiding over the**  
13           **e.spire/BellSouth complaint before the Georgia Public Service Commission**  
14           **("Georgia Commission") issued an Initial Decision in favor of e.spire. In this**  
15           **Initial Decision, the Hearing Officer found, among other things, that ISP traffic is**  
16           **Local Traffic subject to reciprocal compensation, and that e.spire is contractually**  
17           **entitled to collect the \$0.0087 per minute rate from BellSouth.**

18                 **Also, on November 4, 1998, the North Carolina Utilities Commission**  
19           **("North Carolina Commission") issued an order wherein it held that the**  
20           **"reciprocal compensation provision contained in the Interconnection Agreement**  
21           **between Intermedia and BellSouth is fully applicable to telephone exchange**  
22           **service calls that terminate to ISPs when the originating caller and the called**

1       number” are in the same local calling area. Thus, the North Carolina Commission  
2       ordered BellSouth to pay reciprocal compensation for all such calls.

3               Notably, these decision are consistent with the decisions of more than 20  
4       other states that have determined that termination of calls placed to ISPs are  
5       subject to the payment of reciprocal compensation.

6       **Q.     WHAT RELIEF ARE YOUR SEEKING FROM THE COMMISSION?**

7       A.     e.spire requests that the Commission: (1) determine that calls terminated to ISPs  
8       are subject to reciprocal compensation; and (2) approve the e.spire proposed rate  
9       for reciprocal compensation of \$0.009.

10      **Q.     ARE THERE ANY OTHER UNRESOLVED ISSUES RELATED TO**  
11      **INTERCONNECTION OF THE PARTIES' CIRCUIT SWITCHED**  
12      **NETWORKS FOR THE PURPOSE OF MUTUAL TRAFFIC**  
13      **EXCHANGE?**

14      A.     Yes. The Parties have not agreed to a definition of service quality to be  
15      incorporated into the agreement. e.spire proposes a definition that requires each  
16      party to provide interconnection at service levels that are “equal in quality” to that  
17      which are provided to itself or other affiliated entities. Specifically, the language  
18      proposed by e.spire defines “equal in quality” to mean “the same technical criteria  
19      and service standards that a party uses in its own network, including the same or  
20      equivalent interface specifications, provisioning, installation, maintenance,  
21      testing, repair intervals, call blocking incidence, grade of service and transmission  
22      clarity.” This definition is reasonable and consistent with the requirements  
23      imposed on ILECs such as BellSouth by Section 251(c) of the Act. Moreover, the

1 obligations of providing interconnection that is "equal in quality" are reciprocal  
2 and therefore requires e.spire to provide interconnection at service levels that are  
3 not required by the Act.

4 In order to ensure that e.spire is receiving parity in the functionality of  
5 interconnection it receives from BellSouth, e.spire requests that BellSouth design  
6 its interconnection methods and facilities so that they are capable of meeting the  
7 same performance criteria that BellSouth requires for its own network. BellSouth  
8 is the incumbent in the market and has years of knowledge that enable it to build a  
9 robust network. The added requirements for equal technical criteria and  
10 performance quality are intended to ensure that the interconnection services  
11 ordered by e.spire provide the same level of service that BellSouth relies on in  
12 running its local network. It is e.spire's intention that equality in service criteria  
13 and technical specifications will help e.spire construct a network that is as  
14 versatile and flexible as that constructed by BellSouth.

15 **Q. DOES THE SAME DISPUTE DISCUSSED EARLIER RELATING TO**  
16 **PERFORMANCE MEASUREMENT AND LIQUIDATED DAMAGES**  
17 **APPLY TO INTERCONNECTION TRUNKING?**

18 **A.** Yes. Once again, e.spire believes that failure to provide service at parity as  
19 established by the agreed Performance Measurements should trigger the  
20 assessment of Liquidated Damages. BellSouth disagrees.

21 **Frame Relay UNEs and Interconnection**

1    **Q.    PLEASE DESCRIBE E.SPIRE'S PACKET-SWITCHING OPERATIONS**  
2       **IN BELL SOUTH'S TERRITORY.**

3    A:    e.spire plans to compete with BellSouth's Frame Relay services both by reselling  
4       BellSouth's own Frame Relay services *and* by providing service to End Users  
5       over e.spire's own Frame Relay Network. e.spire has deployed 48 Newbridge  
6       Asynchronous Transfer Mode ("ATM") packet switches nationwide. Where we  
7       deploy our own Frame Relay facilities, we plan to use a mixture of our own  
8       Frame Relay switches and fiber optic transport facilities, *and* complement them  
9       with components of BellSouth's network purchased as UNEs.

10   **Q:   WHAT ACTION MUST THE COMMISSION TAKE TO FACILITATE**  
11       **E.SPIRE'S DEPLOYMENT OF COMPETITIVE FRAME RELAY**  
12       **SERVICES?**

13   A:    Two portions of the draft Agreement require attention. First, the parties must  
14       establish cost-based interconnection arrangements. Since Frame Relay services  
15       are public packet-switched networks, such interconnection is required to enable  
16       Frame Relay customers of e.spire and BellSouth to send messages to one another.  
17       It is the data equivalent of interconnection for the Transport and Termination of  
18       mutually exchanged voice traffic. Second, e.spire requests that several new UNEs  
19       be prescribed by unbundling components of the BellSouth Frame Relay network  
20       and making them available at cost-based rates. As is the case with the voice  
21       network, such UNEs are necessary to round-out e.spire's own facilities, and  
22       expand the coverage of the e.spire Frame Relay network.

1    **Q.     PLEASE DESCRIBE THE STATUS OF INTERCONNECTION**  
2    **NEGOTIATIONS WITH BELL SOUTH.**

3    A.     Interconnection of Frame Relay networks was not included in the original ACSI-  
4           BellSouth Interconnection Agreement. However, we recently negotiated an  
5           amendment to that Agreement which facilitates physical interconnection, but  
6           results in some double-charging to e.spire, and does not provide the cost-based  
7           rates that we require in order to compete on a level playing field with BellSouth  
8           for the long term. e.spire agreed to this approach on a temporary basis in order to  
9           get into business, but it does not afford an acceptable long-term solution.

10   **Q.     WHAT WAS E.SPIRE'S POSITION DURING THE MOST RECENT**  
11   **NEGOTIATIONS?**

12   A.     e.spire's position consistently has been that BellSouth's obligations, embodied in  
13           Section 251(c)(3) and Section 252(d)(2) of the Act, require that BellSouth  
14           provide Frame Relay network interconnection and access to Frame Relay UNEs  
15           at cost-based rates. The FCC's August 1998 *Advanced Services Order* confirms  
16           e.spire's position.

17   **Q:     WHAT ARE THE RELEVANT ELEMENTS OF THE BELL SOUTH**  
18   **NETWORK WHICH REQUIRE UNBUNDLING?**

19   A:     Frame Relay services, ATM and other packet-switched services employ a form of  
20           packet-switching that is capable of supporting packetized data, voice, and video  
21           communications. Access to packet switching is over a dedicated digital circuit  
22           through a Frame Relay Access Device ("FRAD") or similar interface device at the  
23           user end. A Frame, ATM, or other packet switch is the equipment that routes and

1 forwards the packetized messages to the addressee(s) designated in the frames.

2 Access to the user side of the packet switch is via a User-Network Interface

3 ("UNI") port, and access to the common network (*i.e.*, carrier) side of the packet

4 switch is via a Network-Network Interface ("NNI") port. A "Data Link

5 Connection Identifier" or "DLCI" and a Committed Information Rate" is

6 necessary to establish the Permanent Virtual Circuit" ("PVC") for transport of the

7 packet traffic. e.spire respectfully requests that the Commission order BellSouth

8 make each of these UNEs available at TELRIC-based rates.

9 **Q. HAVE ANY OTHER STATE COMMISSIONS RULED ON WHETHER**  
10 **TELRIC PRICING APPLIES TO UNEs AND INTERCONNECTION**  
11 **USED TO PROVIDE FRAME RELAY SERVICES?**

12 A. Yes. On October 29, 1998, the Colorado Public Utilities Commission ("Colorado  
13 Commission") ruled that the rates for UNEs required to provide Frame Relay  
14 services must be priced at nondiscriminatory cost-based rates in accordance with  
15 Section 252(d) of the Act. Specifically, the Colorado Commission held that cost-  
16 based rates apply to the transport and termination of packet-switched traffic and  
17 the establishment of the access link to a Frame Relay End User. As for the NNI  
18 port, the Colorado Commission recognized the equivalent functionality of the  
19 unbundled port element utilized in providing unbundled transport for voice  
20 switched services, and held that the NNI port charges established in its costing  
21 proceeding be applicable to the NNI ports used to provide switched transport for  
22 Frame Relay services as well.

1   **Q.    WHAT IS YOUR CURRENT UNDERSTANDING OF BELL SOUTH'S**  
2   **POSITION?**

3   A.    It is my understanding that BellSouth proposes that e.spire pay for NNI  
4   interconnection services at retail rates out of its tariff for the interLATA portion  
5   of traffic exchanged between the Parties. In addition to providing NNI as a retail  
6   service at tariffed rates, BellSouth proposes that e.spire pay a monthly recurring  
7   charge for each PVC established between the parties, to serve the Parties  
8   respective End Users of Frame Relay services. This proposal is inadequate for  
9   three reasons: (i) the rates set forth in the tariff are not cost-based in accordance  
10   with Section 252(d); (ii) the tariff does not allow for reciprocal recovery of costs  
11   by both carriers as required by Section 252(d)(2) of the Act; (iii) the monthly  
12   PVC charge is not cost-based; and (iv) as currently structured, the combination  
13   of the PVC, port and transport charges double-charges e.spire for interconnection.

14   **Q.    CAN YOU EXPLAIN WHY IT IS CRITICAL THAT YOU**  
15   **INTERCONNECT WITH BELL SOUTH AT COST-BASED RATES?**

16   A.    In enacting the local interconnection requirements of the 1996 Act, Congress  
17   neutralized one of the key barriers to the emergence of a competitive local  
18   market. Due to its historic monopoly power in the local market, the vast majority  
19   of customers receive their local services from ILECs such as BellSouth. Just as  
20   in the circuit switched world, unless our packet switched customers can  
21   communicate with BellSouth's customers, very few customers would be willing  
22   to purchase local service from e.spire, or any other CLEC for that matter. This is  
23   equally true of circuit switched and packet switched services. Thus, if we want to

1 offer a truly competitive *local* Frame Relay service offering at competitive prices.  
2 e.spire must interconnect with BellSouth to exchange local packet switched  
3 traffic, as well as transmit and rate interLATA traffic. Of course, as with voice  
4 services, it is critical that this interconnection be established at cost-based rates to  
5 avoid having anticompetitive pricing that would effectively void the  
6 interconnection obligation. e.spire's expert economist witness, Marvin Kahn,  
7 will provide additional explanation of e.spire's position in his own testimony.

8 **Q. WAS THE TELECOMMUNICATIONS ACT WRITTEN PRIMARILY**  
9 **WITH THE PUBLIC SWITCHED NETWORK IN MIND AS THE**  
10 **NETWORK IN WHICH NEW COMPETITION WOULD DEVELOP**  
11 **RATHER THAN FRAME RELAY NETWORKS?**

12 A. No. The FCC has specifically ruled that the Telecommunications Act was  
13 intended to be "technologically-neutral", and that the Section 251(c)  
14 interconnection requirements apply equally to circuit switched *and* packet  
15 switched data networks such as Frame Relay.

16 **Q. WHAT COMPENSATION ARRANGEMENT DOES E.SPIRE PROPOSE**  
17 **FOR THE INTERCONNECTION OF ITS FRAME RELAY NETWORK**  
18 **WITH THAT BELLSOUTH?**

19 A. Tony Mazraani, in his testimony, describes the nature of the Frame Relay  
20 interconnection e.spire seeks in detail. As he makes clear, there are three  
21 components to the interconnection e.spire seeks: (i) NNI ports at the e.spire and  
22 BellSouth Frame Relay switches that will be interconnected, (ii) the transmission  
23 or transport facility between the ports, and (iii) the process of setting up the



1        DLCIs for every link (or “PVC”) that traverses the physical interconnection. This  
2        third element, the customer access link or UNI, is the functional equivalent of the  
3        unbundled loop for voice switched services.

4                The port and transmission facilities can carry both intraLATA (local) and  
5        interLATA PVCs. This arrangement is more efficient and is administratively  
6        manageable, as Tony Mazraani explains. Under such an arrangement, the parties  
7        would determine, using a Percent Local Circuit Use (or “PLCU”) factor, as  
8        described below, to allocate the costs of the port and transmission facilities to the  
9        intraLATA and interLATA jurisdictions. As you will see, e.spire proposes a  
10       different rate structure for the two jurisdictions, which would be applied to the  
11       percentage of the TELRIC-based charges for the intraLATA and interLATA  
12       jurisdictions, respectively.

13               e.spire’s compensation proposal for this interconnection is based upon  
14       concepts of reciprocity inherent in Sections 251(b)(5) and 251(c)(2) of the Act.  
15       In addition, e.spire’s proposal is based upon the cost based pricing standards of  
16       Section 252(d) of the Act.

17       **Q.        WHAT RATE STRUCTURE DOES E.SPIRE PROPOSE FOR**  
18       **INTRALATA TRAFFIC?**

19       A.        e.spire believes that the costs for the transport facility between NNI ports should  
20       be shared evenly by the parties, to the extent that the facility is used to exchange  
21       local (intraLATA) Frame Relay traffic. For transport, those costs should be the  
22       same as the TELRIC-based rates for direct trunked transport of facilities-based  
23       circuit switched services. Where BellSouth provisions that facility, e.spire’s cost

1       should be 50 percent of TELRIC-based rates for dedicated transport, to the extent  
2       that facility is used for local Frame Relay traffic. Similarly, both BellSouth and  
3       e.spire should bear the burden of providing their own respective NNI ports, as is  
4       common practice in the industry for the provisioning of interconnection trunks for  
5       voice switched traffic between local carriers.

6               Reciprocity in each case is appropriate because the NNI ports and the  
7       interconnection trunks are dedicated facilities such that there is no economical  
8       way to measure the volume and directionality of traffic over the bi-directional  
9       PVCs. Moreover, the functionality performed by both parties is the same.  
10      Accordingly, the best surrogate is to assume the traffic is flowing equally in each  
11      direction.

12   **Q.   HOW DOES YOUR BASIC COMPENSATION PROPOSAL FOR THE**  
13       **TRANSPORT AND THE NNI PORTS CHANGE TO THE EXTENT THE**  
14       **INTERCONNECTION IS USED TO TRANSPORT INTERLATA FRAME**  
15       **RELAY TRAFFIC?**

16   **A.   At least until BellSouth can provide interLATA service, e.spire proposes that**  
17       **BellSouth may charge e.spire for the NNI port at BellSouth's switch and the**  
18       **interconnection transport facility between the carriers' switches up to the**  
19       **percentage of non-local use of the facilities. In these circumstances, the facilities**  
20       **are used for "transmission and routing of exchange access" as contemplated in**  
21       **Section 251(c)(2) of the Act either: (1) e.spire is acting as a provider of**  
22       **interLATA service itself, or (2) BellSouth and e.spire are jointly providing the**  
23       **equivalent of exchange access service for a third-party interexchange Frame**

1       Relay provider. Because e.spire will be acting as a provider of exchange access  
2       services to others and itself, it is entitled to interconnection for that purpose under  
3       Section 251(c)(2) and pricing under the standards of Section 252(d) of the Act for  
4       the non-local portion of interconnection transport and the BellSouth NNI. That  
5       provision covers all interconnection for either telephone exchange service or  
6       exchange access service. Such interconnection should be priced at TELRIC-  
7       based rates.

8       **Q.   HOW SHOULD THE COSTS OF ESTABLISHING DLCIs BE**  
9       **ALLOCATED BETWEEN THE PARTIES?**

10      A.   As Tony Mazraani explains in his testimony, each party will have to establish a  
11      DLCI at its NNI port for each PVC that traverses the interconnection facility. For  
12      local PVCs, each party should bear its own costs of establishing these DLCIs.  
13      For interLATA PVCs, e.spire is willing to pay BellSouth's costs to establish the  
14      DLCI on BellSouth's end, but at TELRIC-based or other incremental cost-based  
15      rates. As Mr. Mazraani explains, establishment of the DLCI is a one-time activity  
16      performed at the time each PVC is set-up. Accordingly, the only charge for the  
17      DLCI or set-up piece should be a non-recurring charge. Unlike the NNI port and  
18      the interconnection facility, e.spire believes any recurring charges for DLCI  
19      establishment are unwarranted and unsupported by costs incurred by BellSouth.  
20      Therefore, there should be not monthly recurring charge for PVCs, as proposed  
21      by BellSouth.

1    **Q.    HOW DOES E.SPIRE PROPOSE THE PARTIES DETERMINE THE**  
2    **EXTENT TO WHICH INTERCONNECTION FACILITIES ARE USED**  
3    **FOR LOCAL FRAME RELAY?**

4    A.    e.spire proposes that all intraLATA Frame Relay traffic be considered local. In  
5    other words, where both End User locations are in the same LATA, PVCs  
6    between those locations should be treated as local. Treating something less than  
7    all intraLATA Frame Relay traffic as local would be inconsistent with  
8    BellSouth's own retail tariff for Frame Relay services. Unlike its voice services,  
9    BellSouth's Frame Relay tariff makes no geographic distinctions (*i.e.*, local  
10    versus non-local) among its intraLATA Frame Relay services, meaning, in effect,  
11    that the entire LATA is local. e.spire, too, plans to make no geographic  
12    distinctions among its intraLATA Frame Relay services. To determine how  
13    much of the traffic between Frame Relay switches is local, e.spire proposes that  
14    the parties simply take the total number of PVCs over the transport facilities  
15    between the switches divided into the number of local PVCs over that transport  
16    facility. The result is what e.spire calls the Percent Local Circuit Use, or  
17    "PLCU." Given that PVCs are dedicated and the traffic over the PVCs is not  
18    measured, using the PLCU is a reasonably cost-effective approach.

1     **Q.   WHAT PRICING METHODOLOGY OR METHODOLOGIES ARE**  
2           **APPROPRIATE FOR ESTABLISHING COMPENSATION FOR**  
3           **TRANSPORT AND TERMINATION OF LOCAL**  
4           **TELECOMMUNICATION TRAFFIC?**

5     A.   Under Section 252(d)(2) of the 1996 Act, the terms and conditions for Transport  
6           and Termination of traffic are just and reasonable if (1) they provide for the  
7           mutual and reciprocal recovery of costs, and (2) costs are determined on the basis  
8           of a reasonable approximation of the additional costs of terminating calls. The  
9           Act does not preclude arrangements that waive mutual recovery, such as bill-and-  
10          keep arrangements (Section 252(d)(2)(B)). Each party is entitled to recover its  
11          *net* additional cost in terminating the other party's traffic. Since the local traffic  
12          exchanged in a Frame Relay application is balanced (because the channel both  
13          ways is always "on"), the costs should be equivalent, and no exchange of billing  
14          is required.

15                 The facilities in BellSouth's network on the end-user side of the NNI port  
16                 – the access link and UNIT – are recovered from its End User customers on a  
17                 dedicated basis through flat rate monthly charges. The same is true with e.spire's  
18                 End User charges and network. Since the carriers thus will fully recover their  
19                 costs for both originating and terminating Frame Relay traffic through End User  
20                 monthly charges, there are no additional costs for which compensation will be  
21                 necessary.

1    **Q.     WITH AN INTERLATA PVC, HOW WILL BELL SOUTH BE**  
2           **COMPENSATED FOR THE PIECE OF THE FRAME RELAY LINK ON**  
3           **ITS END USER'S SIDE OF THE NNI PORT?**

4    A.    As Tony Mazraani indicates in his testimony, the interconnection of Frame Relay  
5           networks, in this case, BellSouth's and e.spire's, is very similar in structure to the  
6           interconnection of a CLEC's and ILEC's circuit switched service networks. The  
7           transport which interconnects both Frame Relay "clouds" and circuit switched  
8           networks is similar to the transport which enables a facilities-based CLEC to  
9           originate and terminate voice communications with BellSouth's customers in  
10          other LATAs. For example, a circuit switched call that originates on e.spire's  
11          network and is bound for a BellSouth customer in another LATA, is terminated  
12          by the Serving Wire Center and then routed to the appropriate Central Office or  
13          Tandem where it is then handed off and transported by the customer's  
14          interexchange carrier to BellSouth's network for exchange access services.

15                 As discussed elsewhere in my testimony, in such instances e.spire is either  
16                 providing exchange access services for itself or on behalf of other interexchange  
17                 carriers. With Frame Relay services, the transmission of packet-switched  
18                 communications between LATAs is essentially the same. Specifically, in the  
19                 case of an e.spire Frame Relay End User originating a call that is bound for a  
20                 BellSouth Frame Relay customer in another LATA, the call would first terminate  
21                 to e.spire's Frame Relay switch and then be handed off either to the End User's  
22                 Frame Relay IXC or to e.spire, where e.spire is providing exchange access

1 services on behalf of itself. It would then be terminated to BellSouth via the NNI  
2 for exchange access services.

3 **Q. WHICH NETWORK ELEMENTS MUST BELL SOUTH PROVIDE**  
4 **ACCESS TO ON AN UNBUNDLED BASIS SO THAT E.SPIRE CAN**  
5 **PROVIDE COMPETITIVE EXCHANGE ACCESS SERVICES TO ITS**  
6 **FRAME RELAY END USERS WITH INTERLATA PVCs THAT**  
7 **TERMINATE TO BELL SOUTH FRAME RELAY END USERS?**

8 A. In order to provide exchange access services to its Frame Relay End Users,  
9 e.spire must have unbundled access to transport, NNI port, and the access link to  
10 BellSouth Frame Relay End Users' premises. In order for e.spire's customers to  
11 complete packet-switched communications to BellSouth's Frame Relay  
12 customers, e.spire must have access to the customer's premise via BellSouth's  
13 network infrastructure. As with the circuit-switched example, BellSouth is  
14 entitled to compensation for providing access to UNEs of its Frame Relay  
15 infrastructure utilized by e.spire to terminate packet-switched telecommunications  
16 services to BellSouth's End Users.

17 **Q. COULD E.SPIRE PROVIDE EXCHANGE ACCESS SERVICES TO ITS**  
18 **FRAME RELAY CUSTOMERS WITHOUT UNBUNDLED ACCESS TO**  
19 **BELL SOUTH'S NNI PORT, TRANSPORT AND THE CUSTOMER**  
20 **ACCESS LINK?**

21 A. No. Without access to each of these elements, e.spire would not be able to  
22 complete Frame Relay switched communications to BellSouth End Users for  
23 which PVCs have been established. The PVC, once established, extends from

1 e.spire's proprietary Frame Relay network to BellSouth's End User's premises.  
2 This virtual link requires transport in the form of xDSL compatible  
3 interconnection services between the parties' Frame Relay networks, access to  
4 BellSouth's Frame Relay switches and access links from BellSouth's Frame  
5 Relay switches to its customers' premise equipment. As described in Tony  
6 Mazraani's testimony, the PVC is established by setting up pairs of DLCIs in  
7 both parties' networks. Therefore, the PVC which is utilized to provide switched  
8 Frame Relay services between the parties utilizes the infrastructure of both  
9 parties' Frame Relay networks to complete transmissions from one Frame Relay  
10 customer to the other.

11 Any interruption in this infrastructure would prevent the Frame Relay  
12 transmission from reaching the destination which is pre-specified by the DLCIs at  
13 the request of the End Users. Therefore, e.spire requires unbundled access to the  
14 network infrastructure of BellSouth which supports the PVC from the Frame  
15 Relay switch to BellSouth's network demarcation point at its Frame Relay  
16 customer's premises. BellSouth refers to this demarcation point as the Network  
17 to User Interface or "UNI" which is functionally the equivalent of the NID for  
18 voice switched services. The combination of the PVC and network infrastructure  
19 utilized by BellSouth between the Frame Relay Switch and the UNI is commonly  
20 referred to as the customer's access link. The customer access link must be  
21 unbundled in order for Frame Relay transmissions to be completed between the  
22 parties. Without unbundled access to these three UNEs, e.spire will not be able to



1 provide exchange access services on behalf of itself or other carriers to  
2 BellSouth's Frame Relay End Users.

3 **Q. IS THERE PRECEDENT TO SUPPORT COMMISSION ACTION**  
4 **DEFINING THE FRAME RELAY CUSTOMER ACCESS LINK AS AN**  
5 **UNBUNDLED NETWORK ELEMENT SUBJECT TO THE CONDITIONS**  
6 **OF SECTION 251 AND 252 OF THE ACT?**

7 A. Yes. In its first report and order implementing the provisions of the Act, pursuant  
8 to Section 251(d) of the Act, the FCC enacted rules to implement the Act which  
9 set forth a minimum list of UNEs and recognized the state Commissions' authority  
10 to further define UNEs in accordance with Section 252(e) of the Act. The Eighth  
11 Circuit upheld the FCC's rules defining the legal standard of review for defining  
12 a new unbundled network element and the state Commissions' authority to  
13 require further unbundling consistent with the FCC's rules. And, finally, the  
14 Supreme Court recently affirmed regulators' authority to require ILECs to  
15 provide UNE combinations. Thus, whether defined as a discrete UNE or as a  
16 UNE combination, this Commission clearly has the authority to require BellSouth  
17 to provide TELRIC-based unbundled access to Frame Relay Access Links.

18 **Q. PLEASE SUMMARIZE E.SPIRE'S PROPOSAL FOR COST-BASED**  
19 **FRAME RELAY INTERCONNECTION?**

20 A. Each party should be responsible for recovering the costs for the UNIT (or its  
21 equivalent) on its network and its End User's loop or access link from its End  
22 Users. The Commission should order BellSouth to provide unbundled access to  
23 its customer's access link from the Frame Relay switch to the UNI. Pricing

1       should be at TELRIC-based rates. The DS1 or DS3 circuit between Frame Relay  
2       switches should be set at the cost-based rates adopted for Dedicated Transport. In  
3       the absence of TELRIC-based rates for NNI ports, the Commission should grant a  
4       surrogate. Thus, e.spire proposes that the NNI ports should be priced at the  
5       TELRIC-based rate for local switching ports. In the absence of TELRIC-based  
6       rates for DLCI establishment, e.spire submits that a surrogate of one-half of the  
7       incremental Non-Recurring Charge ("NRC") for PVCs in BellSouth's Frame  
8       Relay tariff. Since, as Tony Mazraani explains, each PVC requires two DLCIs,  
9       one half of the PVC NRC is an appropriate surrogate, as both e.spire and  
10      BellSouth will establish one DLCI in every PVC carried over the interconnection.

**Collocation**

**Q.   WHAT ISSUES REMAIN TO BE RESOLVED IN CONNECTION WITH  
PHYSICAL COLLOCATION OPTIONS?**

14    A.   The availability of Physical Collocation space – and the terms upon which such  
15       space is made available – is one of the hottest topics in the interconnection area.  
16       In light of the ILECs' reticence to cooperate in combining UNEs, Physical  
17       Collocation arrangements often provide the only satisfactory means to obtain  
18       access to UNEs. Without dwelling on the subject, our experience is that Virtual  
19       Collocation is a very poor alternative. Flexibility is sorely limited, and reliance  
20       on the ILEC for service is less than ideal. Indeed, the sudden interest in  
21       Advanced Telecommunications Services has made Physical Collocation issues  
22       even more important, since Physical Collocation may be the only feasible way to  
23       interconnect with UNEs required to provide ADSL services.

1           The problems with Physical Collocation fall into five general categories:  
2           (i) space is scarce or unavailable in many critical Central Offices; (ii) the expense  
3           of Physical Collocation is so high as to create a barrier to entry outside of major  
4           business centers; (iii) delays in obtaining Physical Collocation arrangements are  
5           impeding market entry substantially; (iv) restrictions on the types of equipment  
6           permitted in the Collocation space sometimes prevents efficient networking; and  
7           (v) restrictive work rules unduly drive up operational costs. The FCC currently is  
8           tackling those issues in its Advanced Services Rulemaking, but e.spire believes  
9           that state Commissions can resolve many of the issues without federal  
10          involvement.

11           I am happy to report that we made significant progress on some of these  
12          issues during our negotiations. For example, BellSouth – to its credit – agreed for  
13          the first time to make available “cageless” collocation (in shared space), allow  
14          limited “sharing” of collocation cages, to provide such cageless space without a  
15          minimum space requirement and to charge e.spire only its pro rata portion of  
16          Space Preparation Fees, even if it is one first collocated carrier at a particular  
17          Central Office. These are very important developments.

18           However, as I will discuss hereafter, a number of critical issues remain to  
19          be resolved. And Commission action is required to insure that limitations on  
20          Collocation alternatives do not become a key barrier to the development of local  
21          competition.

1    **Q.    SHOULD E.SPIRE BE PERMITTED TO SUBLEASE ITS PHYSICAL**  
2           **COLLOCATION SPACE TO OTHER TELECOMMUNICATIONS**  
3           **CARRIERS?**

4    A.    Yes. There are several measures that the Commission can and should take to  
5           ensure that competitors can collocate more efficiently and effectively. Requiring  
6           BellSouth to allow for shared cage collocation and cage subleasing of existing and  
7           future collocation space are two of them. Recognizing that current ILEC Physical  
8           Collocation practices constitute one of the most formidable barriers to competitive  
9           entry, the FCC and many state Commissions already are considering mandating  
10          shared cage collocation and cage subleasing. In comments filed in the FCC's  
11          *Advanced Services Rulemaking*, even some ILECs supported these alternatives to  
12          traditional collocation.

13                By requiring BellSouth to allow competitors, such as e.spire to share cages  
14           with and sublease Physical Collocation space to other telecommunications  
15           carriers, this Commission can reduce collocation expenses and increase the  
16           efficiency of End-Office space utilization significantly – both results will lead to  
17           an increase in competitive service alternatives available to End Users. Shared  
18           cage collocation and subleasing reduce competitors' collocation expenditures by  
19           allowing them to split overhead costs with other carriers. Shared cages and  
20           subleasing also will help maximize the number of carriers that can collocate in a  
21           Central Office by allowing carriers the flexibility to more closely match their  
22           space procurement with their actual needs. e.spire and other competitors have  
23           been forced by BellSouth to secure at least 100 square feet of collocation space –

1       in many cases, there is extra space in competitors' cages that, unless subleased to  
2       another competitor, would be wasted. By maximizing the number of competitors  
3       that can collocate in a Central Office, shared cage collocation and subleasing also  
4       conserve scarce collocation space in BellSouth's Central Offices. To ensure that  
5       all of these benefits are realized, the Commission should require BellSouth to  
6       incorporate provisions allowing for shared cage collocation and cage subleasing  
7       in its interconnection agreement with e.spire.

8       **Q. IF THE COMMISSION DECLINES TO ENDORSE A GENERAL**  
9       **SUBLEASING REQUIREMENT, SHOULD AN EXCEPTION BE MADE**  
10       **TO ALLOW E.SPIRE TO SUBLEASE ITS EXISTING PHYSICAL**  
11       **COLLOCATION SPACE?**

12      A. Yes. As I just explained, e.spire and many other CLECs have been forced to take  
13      Physical Collocation space from BellSouth in 100 square foot minimums with 50  
14      square foot additional increments. In this arbitration proceeding, e.spire hopes  
15      that the Commission will take action to eliminate BellSouth's arbitrary and  
16      potentially wasteful minimum space requirements. To the extent the Commission  
17      eliminates or reduces BellSouth's minimum space requirements, e.spire believes  
18      that the Commission also should allow e.spire to sublease its existing Physical  
19      Collocation space, so that e.spire no longer is penalized by the exceedingly large  
20      minimums imposed by BellSouth in the past.

21      **Q. SHOULD E.SPIRE BE ABLE TO ESTABLISH ADJACENT**  
22      **COLLOCATION ARRANGEMENTS WITH BELL SOUTH?**

1     A.     Yes. Adjacent Collocation is an attractive alternative to Physical Collocation that  
2           has been approved by some states and currently is being considered for  
3           incorporation into national collocation requirements by the FCC. There are two  
4           general varieties of Adjacent Collocation. With the first, "Adjacent On-Site  
5           Collocation", the ILEC builds a structure on the same property as the Central  
6           Office and permits CLECs to place their equipment in this structure. The ILEC  
7           then provides a connection for CLEC equipment to the Main Distribution Frame  
8           ("MDF") in the Central Office. The second form of Adjacent Collocation,  
9           "Adjacent Off-Site Collocation" involves the construction or rental by either the  
10          ILEC or CLEC of property near the Central Office, but not on the same property  
11          as the Central Office. Carriers establish a Mid-Span Meet that connects the  
12          CLEC's equipment to the Central Office and the MDF therein. Adjacent  
13          Collocation provides CLECs with the same functionality as direct Physical  
14          Collocation while alleviating space exhaust and security concerns, and Physical  
15          Collocation overpricing concerns. Having this alternative available will give  
16          CLECs more opportunity to optimize the available collocation arrangements, and  
17          their own resources.

18                 Despite these benefits, BellSouth has not agreed to incorporate provisions  
19                 allowing for Adjacent Collocation in its interconnection agreement with e.spire.  
20                 Although, BellSouth's reasons for refusing to agree to the use of Adjacent  
21                 Collocation are not clear, I should point out that BellSouth's position is directly at  
22                 odds with its position on Remote Terminal collocation, as articulated by  
23                 BellSouth in comments filed in the FCC's *Advanced Services Rulemaking*. There,

1       BellSouth argued against the FCC's tentative conclusion that Remote Terminal  
2       collocation must be made available by ILECs and argued that "cross-box to cross-  
3       box" collocation should be used instead. As I understand it, cross-box to cross-  
4       box collocation is the same thing as adjacent collocation. If BellSouth can offer  
5       Adjacent Collocation at the remote terminal, there is no valid reason why it  
6       should be allowed to foreclose competitors from using Adjacent Collocation at  
7       End Offices.

8               In light the benefits that can be gained by allowing CLECs to use Adjacent  
9       Collocation and with BellSouth's own indirect admission that such an option is  
10      both useful and feasible, the Commission should require that provisions that allow  
11      for Adjacent Collocation be incorporated into the e.spire/BellSouth  
12      interconnection agreement. Further, with respect to "Adjacent Off-Site  
13      Collocation", the Commission should make clear that the cost of the Mid-Span  
14      Meet must be shared by BellSouth and e.spire.

15   **Q.   SHOULD BELL SOUTH BE ABLE TO IMPOSE RESTRICTIONS ON**  
16   **THE TYPES OF EQUIPMENT THAT E.SPIRE CAN COLLOCATE?**

17   A.   No. The issue here is whether compliance with "NEBS Level 1" safety standards  
18       is sufficient to protect the public switched network. e.spire believes that it is and  
19       it is willing to comply with NEBS safety standards to the extent that BellSouth  
20       complies with those standards itself. However, e.spire is not willing to accept  
21       BellSouth's attempt to unilaterally impose NEBS performance and reliability  
22       standards – or any other stamps of approval on its collocated equipment.  
23       Permitting such policing by BellSouth gives it undue control over its

1 competition's network deployment – in terms of both timing and equipment  
2 choices. There are no valid reasons why BellSouth should have any role in  
3 mandating the performance and reliability standards of its competitors. Similarly,  
4 there are no valid reasons why compliance with NEBS performance standards and  
5 completion of associated testing should provide BellSouth with another means by  
6 which it can obstruct competitors efforts to collocate equipment. e.spire has  
7 experienced first-hand the mischief that RBOCs can create by abusing such  
8 requirements to delay CLEC equipment deployment. Simply put, except where  
9 safety is an issue, BellSouth should not be permitted to dictate our choice of an  
10 equipment vendor.

11 **Q. SHOULD E.SPIRE BE REQUIRED TO UTILIZE A CERTIFIED**  
12 **VENDOR TO PERFORM INSTALLATION, PROVISIONING AND**  
13 **MAINTENANCE WORK IN ITS OWN COLLOCATION SPACE?**

14 **A.** No. There is no valid reason why BellSouth, as it proposes, should be able to  
15 require e.spire to hire a BellSouth-certified vendor to work on e.spire's own  
16 equipment in e.spire's own collocation space. This simply is another unjustifiable  
17 BellSouth position that serves no purpose other than to obstruct competitor's  
18 efforts to collocate and drive up the costs of doing so. e.spire has every interest  
19 hiring and will make every effort to hire vendors that properly will perform  
20 installation, provisioning and maintenance work on its collocated equipment. In  
21 some cases, e.spire may use the same vendors used by BellSouth. In others, it  
22 will not. In all cases, e.spire will seek to avoid paying a premium for using a  
23 "BellSouth certified" vendor. The choice of which outside vendors will work in



1 e.spire's collocation space should be e.spire's alone. BellSouth has no right to set  
2 e.spire's outside sourcing standards – the Commission should reject its attempt to  
3 do so. e.spire particularly objects to BellSouth's refusal to agree to e.spire's  
4 desire to use its own employees for this work.

5 **Q. SHOULD E.SPIRE BE REQUIRED TO PAY BELL SOUTH FOR A**  
6 **SECURITY ESCORT AND/OR INSTALLATION OF SECURITY**  
7 **CAMERAS OR COMPUTERIZED TRACKING SYSTEMS TO MONITOR**  
8 **E.SPIRE EMPLOYEES AND VENDORS WHEN ACCESSING OR**  
9 **WORKING IN E.SPIRE'S COLLOCATION SPACE?**

10 **A.** No. BellSouth should not be permitted to complicate collocation and raise its  
11 competitors costs by unilaterally imposing completely unnecessary monitoring  
12 expenses on its competitors. Again, we are talking about e.spire employees and  
13 vendors in e.spire's space. Here, too, e.spire has every reason to make sure that  
14 there is no unauthorized entry or activity in its collocation space. However, the  
15 security concerns involved are exclusively e.spire's. Nevertheless, e.spire has  
16 offered to indulge BellSouth's desire to maintain an Orwellian degree of control  
17 over leased Central Office space by allowing BellSouth, at its own expense, to use  
18 cameras and tracking systems to monitor activity in e.spire's collocation space. If  
19 such solutions are implemented, strict confidentiality requirements will be  
20 required to ensure that BellSouth does not misuse information gleaned from  
21 monitoring e.spire's activities. The Commission may decide that consumers will  
22 be better off if such unnecessary costs are avoided altogether. In any event, I urge

1       the Commission to find that BellSouth may not impose unnecessary monitoring  
2       costs on e.spire and, in turn, on its customers.

3       **Q.   HAS E.SPIRE BEEN ABLE TO REACH AN AGREEMENT WITH**  
4       **BELLSOUTH ON STANDARDIZED PROCEDURES REGARDING**  
5       **SPACE AVAILABILITY INFORMATION AND EXHAUST**  
6       **NOTIFICATION?**

7       A.   No. The issue here is whether e.spire has a right to access information necessary  
8       to plan its business strategy in general and collocation strategy in particular.  
9       What e.spire seeks, and what BellSouth has not agreed to provide, is a monthly  
10      space availability report for its central offices and remote terminals. In its  
11      *Advanced Services Rulemaking*, the FCC already has tentatively concluded that  
12      ILECs must provide CLECs with information on the availability and use of  
13      collocation space in ILEC End Offices. This conclusion is consistent with FCC  
14      precedent which establishes that competitors should have access to the same  
15      information that ILECs have access to.

16               Commission action requiring BellSouth to report on space utilization will  
17      significantly aid e.spire in developing collocation plans. In instances where space  
18      is not available in e.spire's Central Office of choice, e.spire will know to apply for  
19      a Virtual Collocation arrangement, collocate in a nearby Central Office so that  
20      Extended Loop facilities can be used, collocate at an off-site location, or negotiate  
21      or subleasing arrangement with another CLEC. In sum, accurate, publicly  
22      available summary reports on collocation space utilization will enable CLECs to  
23      more efficiently identify collocation alternatives for the End Offices in which they

1        need to collocate. Under the Act, BellSouth has an obligation to provide e.spire  
2        with nondiscriminatory access to this information. This Commission can ensure  
3        that BellSouth does so by incorporating provisions for a monthly collocation  
4        space utilization report in the e.spire/BellSouth interconnection agreement.

5                Another aspect of this dispute over collocation space information centers  
6        on the means by which e.spire is notified of BellSouth's inability to meet its  
7        Physical Collocation requests. What e.spire seeks, and what BellSouth has not  
8        agreed to provide, is notification within 30 days of such an event and same or next  
9        day service of any waiver petition filed with the Commission, complete with all  
10       attachments (including floor plans). These requests are reasonable and necessary  
11       to allow e.spire to quickly explore alternatives for collocation plans that, at that  
12       point, already could be set back by more than 30 days. Space exhaust is a  
13       potentially serious impediment to ubiquitous facilities-based competition; one of  
14       the ways in which this Commission can alleviate the negative impact caused by  
15       space exhaust is to ensure that competitors are advised of the problem as quickly  
16       as possible.

17    **Q.    SHOULD BELLSOUTH BE PERMITTED TO ESTABLISH INTERVALS**  
18       **OF 120 DAYS – PLUS TIME FOR OBTAINING GOVERNMENT**  
19       **PERMITS – UNDER “ORDINARY” CONDITIONS AND 180 DAYS –**  
20       **PLUS TIME FOR OBTAINING GOVERNMENT PERMITS – UNDER**  
21       **“EXTRAORDINARY” CONDITIONS FOR CONSTRUCTION OF**  
22       **ENCLOSED COLLOCATION CAGES?**

1     A.     No. These intervals are far too long to support competitive market entry and they  
2           are unnecessary as a technical matter. In addition, exclusion of time attributable  
3           to obtaining government permits introduces an unreasonable level of uncertainty.  
4           The Commission should reject BellSouth's proposed intervals and adopt in their  
5           place, the approach agreed to by Southwestern Bell and its competitors and  
6           approved by the Texas Commission. Under the provisioning intervals agreed to  
7           in the Texas Section 271 collaborative proceeding, Southwestern Bell must  
8           provision collocation space within 35 business days. e.spire also urges the  
9           Commission to adopt a Liquidated Damages provision like that contained in  
10          Southwestern Bell's interconnection agreement with AT&T. Under that  
11          agreement, AT&T has the right to Liquidated Damages when Southwestern Bell  
12          misses provisioning intervals. Under Texas Commission rules, all CLECs have a  
13          right to obtain Liquidated Damages from Southwestern Bell for missed  
14          collocation provisioning intervals. In sum, e.spire urges the Commission to adopt  
15          the Texas model for collocation intervals and liquidated damages. Doing so will  
16          provide BellSouth with a tangible incentive to provision collocation arrangements  
17          in a timely and predictable manner that is necessary for competition to take hold  
18          and for consumers to gain a choice in local carriers.

19     **Q.     SHOULD BELL SOUTH BE REQUIRED TO MAKE CAGELESS**  
20           **COLLOCATION SPACE AVAILABLE WITHIN 30 DAYS OR RECEIPT**  
21           **OF A BONA FIDE REQUEST FROM E.SPIRE?**

22     A.     Yes. Since no construction is required for cageless collocation, there simply is no  
23           reason why such arrangements cannot be provisioned in 30 days or less. Despite

1       this, BellSouth insists that the provisioning intervals for "caged" and "cageless"  
2       collocation should be the same. This position is patently unreasonable and serves  
3       no purpose other than to delay e.spire's entry into BellSouth's local markets. The  
4       Commission should reject such anticompetitive and dilatory tactics and require  
5       that the reasonable 30 day interval proposed by e.spire be incorporated into its  
6       interconnection agreement with BellSouth.

7       **Q.   SHOULD BELL SOUTH BE REQUIRED TO REIMBURSE E.SPIRE FOR**  
8       **ITS REASONABLE, DEMONSTRABLE AND MITIGATED EXPENSES**  
9       **INCURRED AS A DIRECT RESULT OF BELL SOUTH'S FAILURE TO**  
10       **DELIVER COLLOCATION SPACE WITHIN THE REQUIRED**  
11       **INTERVALS?**

12      **A.   Yes. If the Commission declines to adopt automatic Liquidated Damages for**  
13       BellSouth failures to meet provisioning intervals, it, nevertheless, should require  
14       BellSouth to reimburse e.spire for its reasonable, demonstrable and mitigated  
15       expenses incurred as a direct result of BellSouth's failure to deliver collocation  
16       space with the required interval. Unless BellSouth has such an incentive to  
17       provision collocation in a timely manner, the "best efforts" it promises likely will  
18       delay competition and deny consumers the choices and savings that competition  
19       promises to bring. To ensure that BellSouth actually uses its best efforts, the  
20       Commission should incorporate into the e.spire/BellSouth interconnection  
21       agreement a provision under which BellSouth must reimburse e.spire for its  
22       reasonable, demonstrable and mitigated expenses incurred as a direct result of  
23       BellSouth's failure to deliver collocation space with the required interval.

1    **Q.    SHOULD E.SPIRE BE ALLOWED TO ORDER “CAGED”**  
2       **COLLOCATION SPACE OF ANY SIZE WITH NO MINIMUM SPACE**  
3       **REQUIREMENT?**

4    A.    Yes. As I explained earlier, BellSouth’s policy of requiring 100 square foot  
5       minimum and 50 square foot additional increments is arbitrary and wasteful.  
6       Because efficient space utilization is critical to supporting competitive entry, this  
7       Commission should reject minimum square footage requirements and should  
8       require BellSouth to allow CLECs to take only the space they need. Even if the  
9       Commission is convinced that there is some benefit to be gained by allotting  
10      collocation space in standard-sized parcels, the minimum size measures should be  
11      reduced. GTE, for example, recently agreed with e.spire to establish a 25 square  
12      foot minimum for collocation space, with 25 foot increments for addition of  
13      space. e.spire believes that the GTE approach represents a reasonable compromise  
14      position.

15   **Q.    SHOULD BELL SOUTH BE REQUIRED TO CREDIT NRCs PAID BY**  
16       **E.SPIRE FOR ESTABLISHING VIRTUAL COLLOCATION DUE TO**  
17       **UNAVAILABLE SPACE WHEN PHYSICAL COLLOCATION SPACE**  
18       **LATER BECOMES AVAILABLE?**

19   A.    Yes. e.spire should *not* be required to pay NRCs twice in instances where it was  
20      forced to establish Virtual Collocation temporarily while waiting for BellSouth to  
21      make Physical Collocation space available. Significantly, BellSouth agrees with  
22      e.spire in principle. What the parties disagree on is BellSouth’s desire to put a  
23      time limit on the availability of such a credit. Specifically, BellSouth takes the

1 position that credits should be available only if Physical Collocation space  
2 becomes available within 180 days of submission of the order for Virtual  
3 Collocation. e.spire urges the Commission to reject BellSouth's attempt to  
4 impose such a limitation because there simply is no justifiable legal or policy  
5 reason for it.

6 Indeed, BellSouth's 180 day window should be rejected because it  
7 provides BellSouth with no incentive to expedite and, in fact, a perverse incentive  
8 to delay provisioning of Physical Collocation. For example, in Georgia today, for  
9 example, a number of e.spire requests for Physical Collocation already have been  
10 pending for over 180 days. For competition to take hold and prosper, BellSouth  
11 must have every incentive to accommodate competitors' requests for Physical  
12 Collocation. Accordingly, e.spire asks the Commission to reject BellSouth's  
13 proposed time limitation and require – without time limitation – BellSouth to  
14 credit NRCs paid by e.spire for Virtual Collocation in instances where it was  
15 forced to establish Virtual Collocation temporarily while waiting for BellSouth to  
16 make Physical Collocation space available.

17 **Q. WHAT FACTOR SHOULD BE APPLIED TO THE SQUARE FOOTAGE**  
18 **OF SPACE ACTUALLY OCCUPIED BY E.SPIRE EQUIPMENT TO**  
19 **COMPENSATE BELL SOUTH FOR USE OF COMMON AREAS?**

20 **A.** e.spire does not object to paying its fair share for use of common space in  
21 BellSouth Central Offices. However, it does object to paying more than that – as,  
22 BellSouth has asked it to do by proposing a contribution factor of 2.5.  
23 BellSouth's proposed contribution factor is so excessively high that it likely

1 would result in competitors paying all of BellSouth's share of common space  
2 costs, with enough left over to wallpaper the common space with hundred dollar  
3 bills. Obviously, competitors and consumers should not have to pay such a  
4 premium. Indeed, the Act prohibits it. Collocation must be provided at cost-  
5 based rates. Although the science of establishing these rates is rough, the fact that  
6 GTE sought a 0.5 contribution factor in its collocation agreement with e.spire  
7 should indicate that BellSouth's figure – which is five times as high – simply  
8 bears no reasonable relation to cost. The Commission should reject this attempt  
9 by BellSouth to drive up its competitors costs – and, indirectly, consumer rates.  
10 *At most*, a 0.5 contribution factor should be incorporated into the interconnection  
11 agreement between e.spire and BellSouth.

12 **Q. SHOULD E.SPIRE BE ALLOWED A “WALK-THROUGH”**  
13 **VERIFICATION WHEN BELL SOUTH DENIES IT COLLOCATION**  
14 **SPACE IN A CENTRAL OFFICE DUE TO ALLEGED**  
15 **UNAVAILABILITY OF SPACE?**

16 A. Yes. By subjecting BellSouth to the possibility of having to demonstrate space  
17 exhaustion in a face-to-face, on premises meeting, this Commission likely would  
18 eliminate many disputes over space exhaust. The FCC already recognized that  
19 allowing for such tours could act as a valuable deterrent against false claims of  
20 space exhaustion and has tentatively concluded in its *Advanced Services*  
21 *Rulemaking* that competitors should be permitted to verify ILEC claims of space  
22 exhaust by requesting a walkthrough. Indeed, the record in that proceeding shows  
23 that ILEC claims of space exhaust often are factually incorrect. BellSouth,



1       however, has not agreed to allow e.spire to verify claims of space exhaust by  
2       visual inspection. e.spire believes that BellSouth's position lacks any credible  
3       legal or policy justification and should be rejected by the Commission. To  
4       provide a deterrent against false claims of space exhaustion, the Commission  
5       should incorporate into the e.spire/BellSouth interconnection agreement  
6       provisions that allow e.spire to tour BellSouth offices to visually verify claims of  
7       space exhaust.

8       **Q.    SHOULD E.SPIRE BE ABLE TO ASSIGN ITS RIGHTS AND**  
9       **OBLIGATIONS UNDER THE COLLOCATION AGREEMENT TO A**  
10       **CORPORATE PARENT, SUBSIDIARY OR AFFILIATE WITHOUT**  
11       **OBTAINING THE PRIOR CONSENT OF BELL SOUTH?**

12      A.    Yes. To be clear, e.spire does not dispute BellSouth's right to be notified of such  
13       assignments. However, BellSouth's position that e.spire must obtain consent  
14       from it prior to making such assignments is preposterous. Surely, BellSouth  
15       would not give e.spire the right to approve or reject its own corporate transactions  
16       – it should not be permitted to use its unequal bargaining power to impose reverse  
17       conditions on e.spire. Because there is no valid legal or policy justification for  
18       BellSouth's position, the Commission should reject and strike it from the  
19       interconnection agreement between e.spire and BellSouth.

20      **Q.    SHOULD E.SPIRE BE PERMITTED TO SELF-SUPPLY A DIRECT**  
21       **CROSS-CONNECTION TO ANOTHER COLLOCATED**  
22       **TELECOMMUNICATIONS CARRIER IN THE SAME BELL SOUTH**  
23       **CENTRAL OFFICE?**

1     A.     Yes. The Commission should specify that BellSouth may not limit e.spire's  
2           efforts to cross-connect collocated equipment – either within the same collocation  
3           area or between different areas of the same Central Office. The Texas  
4           Commission already has adopted rules that require ILECs to allow CLECs to  
5           install their own cross-connections, even in instances where two CLEC  
6           collocation arrangements are located on separate floors or are otherwise  
7           noncontiguous. The Texas rules also specify that the CLECs *themselves* are  
8           allowed to perform all installation associated with the cross-connects. The FCC  
9           currently is considering whether to incorporate similar rules in its national  
10          collocation rules.

11                 BellSouth's attempt to impose restrictions on cross-connects lacks any  
12          legal, policy or technical justification. Moreover, BellSouth's attempt to insert  
13          itself into the process is just another ploy by which it hopes to drive up the costs  
14          of its competitors and, indirectly, the rates of consumers. The Commission should  
15          reject this BellSouth's position in favor of the Texas approach which e.spire  
16          espouses.

17     **Q.     SHOULD E.SPIRE BE PERMITTED TO COLLOCATE IN BELL SOUTH**  
18           **REMOTE TERMINALS?**

19     A.     Yes. e.spire is entitled to interconnect with BellSouth at any technically feasible  
20           point. Collocation is an essential component of efficient and effective  
21           interconnection. In its *Advanced Services Rulemaking*, the FCC already has  
22           tentatively concluded that collocation at Remote Terminals is technically feasible  
23           and should be provided. BellSouth's proposal for "cross-box to cross-box"

1 collocation at remote terminals also recognizes that technical feasibility and  
2 practical importance of Remote Terminal collocation. While cross-box to cross-  
3 box collocation is an attractive alternative for cases in which Remote Terminal  
4 collocation is not feasible due to space constraints, it should be offered *in addition*  
5 *to* Remote Terminal collocation and not in place of it.

6 As I explained earlier, Remote Terminal collocation is essential to  
7 competitors' efforts to obtain access to Subloop elements and to the provisioning  
8 of advanced services such as xDSL. Without Remote Terminal collocation,  
9 competitors' efforts to break down BellSouth's monopoly stranglehold on the  
10 loop will be stymied and their efforts to provide xDSL services, in some cases,  
11 will be foreclosed entirely. This Commission should act now to prevent both of  
12 these outcomes. To ensure competitive access to Sub-Loop elements and to  
13 encourage the deployment of Advanced Telecommunications Services, this  
14 Commission should require BellSouth to offer both Remote Terminal collocation  
15 *and* the cross-box to cross-box alternative proposed by BellSouth.

16 **Q. SHOULD SPACE PREPARATION FEES BE ESTABLISHED ON AN ICB**  
17 **BASIS?**

18 A. No. Again, e.spire seeks predetermined cost-based rates and BellSouth refuses  
19 and offers only highly unpredictable ICB pricing for collocation space  
20 preparation. As with numerous other attempts by BellSouth to impose ICB  
21 pricing, e.spire objects on the grounds that ICB rates frequently do not end up  
22 bearing a reasonable relation to cost – that is, ICB rates typically recover costs  
23 plus monopoly profits. On the other hand, having predetermined cost-based rates

1 for space preparation likely would control expenses and would allow competitors.  
2 such as e.spire, to better plan collocation and market entry. ICB rates for space  
3 preparation have varied enormously across BellSouth's regional service territory.  
4 Unfortunately, by the time e.spire is presented with the rates, it must proceed with  
5 collocation and it has virtually no opportunity to challenge BellSouth's rates by  
6 requesting a rate case at the Commission. To correct this problem, the  
7 Commission should establish permanent rates in this proceeding.

**Numbering and Number Portability**

8  
9  
10 **Q. WHAT PROGRESS WAS MADE DURING THE NEGOTIATION ON THE**  
11 **SUBJECTS OF NUMBERING AND NUMBER PORTABILITY?**

12 A. Again, the vast majority of issues were resolved through negotiations. However,  
13 a few issues remain to be resolved by the Commission

14 **Q. WHAT ISSUES ARE OPEN?**

15 A. The key disagreement relates to the transition from Interim Number Portability  
16 ("INP") arrangements to permanent Local Number Portability ("LNP"). "Number  
17 portability" refers to the ability to change providers of local exchange services  
18 without the necessity of changing the affected customer's local telephone number.  
19 Initially, number portability was provided via interim means, while a permanent  
20 LNP was being developed and deployed in accordance with roll-out schedules  
21 established by the FCC. The parties agree on how INP and permanent LNP  
22 should be provided, but disagree on the process of conversion from INP to LNP.

23 **Q. PLEASE EXPLAIN E.SPIRE'S POSITION ON THE PROCESS THAT**  
24 **SHOULD APPLY TO CONVERSION OF INP TO LNP.**

1     **A.     When an ILEC converts its systems from INP to LNP in a particular geographic**  
2     **market, it has two immediate impacts upon e.spire. First, we must convert our**  
3     **existing base of customers from INP to LNP. Second, we must cease submitting**  
4     **INP-based orders for installation. e.spire does not object to either of these**  
5     **circumstances, but we submit that the carriers involved need to work together**  
6     **cooperatively on the timing of each.**

7             **You must understand that actual timing of a conversion from INP to LNP**  
8     **is largely within the control of the ILEC. Although the FCC has published a**  
9     **market-by-market set of deadlines, ILECs often have sought extensions. In other**  
10    **cases, they have elected to convert ahead of schedule. This presents tremendous**  
11    **coordination problems for CLECs such as e.spire that have networks and**  
12    **customers in cities served by numerous ILECs across the country.**

13            **Thus, we propose that a temporary extension procedure be incorporated**  
14    **into the INP-to-LNP conversion process. Specifically, e.spire has requested that**  
15    **BellSouth allow e.spire to extend the period during which the base of INP**  
16    **customers need to be converted to LNP and that INP-based orders will be**  
17    **accepted for processing. The extension should be available automatically upon**  
18    **request for a one-time transition period of up to six (6) months. This recognizes**  
19    **that the parties are acting as co-carriers, and that neither side should be able to**  
20    **unilaterally dictate the conversion schedule.**

21    **Q.     ARE THERE ANY OTHER DISPUTES RELATING TO NUMBER**  
22    **PORTABILITY?**

1     A.     Yes. In many markets, INP will still be utilized for some time to come. Where  
2            INP is used, it is critical that the installation of a physical loop and the associated  
3            INP for that line be coordinated so that they happen as close to simultaneously as  
4            possible. If the provisioning of INP is delayed, a customer's incoming calls will  
5            be misdirected.

6                    e.spire has asked BellSouth to commit to update the switch translations for  
7            INP within five minutes of the cutover of an unbundled Local Loop. As I  
8            discussed earlier, this interval is consistent with the terms included in e.spire's  
9            initial interconnection agreement with BellSouth, and with what BellSouth told  
10          the FCC it is capable of doing in its requests for Section 271 long distance  
11          authority. There is no reason why BellSouth should not be required to include its  
12          representation to the FCC as a commitment in the Agreement. This is a critical  
13          quality-of-service issue which should not be left unaddressed.

14    **Q.     EXPLAIN THE DISAGREEMENT OVER THE ASSESSMENT OF**  
15            **SWITCHED ACCESS CHARGES FOR CALLS PLACED TO INP-**  
16            **PORTED NUMBERS.**

17    A.     Billing of interexchange Switched Access charges is complicated when calls are  
18            terminated to INP-ported numbers utilizing the Remote Call Forwarding ("RCF")  
19            technology. In these situations both carriers involved provide a portion of the  
20            Switched Access Service. Namely, BellSouth incurs some cost in redirecting the  
21            call to e.spire via RCF, and e.spire incurs the cost of terminating the call to the  
22            ported number. As I understand it, the problem is further complicated by the fact

1       that BellSouth normally is in possession of the billing records needed to render an  
2       invoice to the IXC's for whom the terminating access service is provided.

3               The solution is to establish a system where (i) associated Switched Access  
4       revenue is split on a Meet Point Billing-like basis, and (ii) BellSouth bills the  
5       charges and settles with e.spire by remitting its portion of the revenue to it. We  
6       have included such a proposal in the draft Agreement, and ask the Commission to  
7       order its adoption.

8                       **OSS, Ordering, Provisioning and Repair**

9       **Q.     DID THE PARTIES RESOLVE ALL ISSUES RELATED TO**  
10       **OPERATIONAL SUPPORT SYSTEMS, ORDERING AND**  
11       **PROVISIONING?**

12      A.     Again, we made significant progress, but a number of critical items remain to be  
13       resolved by the Commission. Some of these issues may appear mundane, but  
14       they germanely affect customer service, and are critical parts of the "blocking and  
15       tackling" required to provide efficient, high quality and seamless service to End  
16       Users.

17      **Q.     WHAT TYPES OF ELECTRONIC INTERFACES HAS BELL SOUTH**  
18       **OFFERED TO E.SPIRE FOR ORDERING AND PROVISIONING OF**  
19       **UNE's AND RESALE SERVICES OFFERED IN ITS INTERCONNECTION**  
20       **AGREEMENT?**

21      A.     BellSouth has offered a combination of electronic interfaces to fulfill e.spire's  
22       pre-ordering, ordering, billing and maintenance requirements. At some point  
23       BellSouth has promised to provide access to Electronic Data Interchange which

1 will comply with all relevant and current industry standards for pre-ordering,  
2 ordering, maintenance and billing. Initially, only the following applications will  
3 be made available: LENS for pre-ordering, EC-Lite and API for ordering and  
4 provisioning, and ECTA and TAFI for maintenance and repair issues. The OSS  
5 interfaces that BellSouth has offered prior to the availability of API, EDI, version  
6 7.0 does not provide consolidated access to one electronic interface which is  
7 capable of providing access to pre-order, order, maintenance and billing  
8 functions.

9 **Q. WHAT TYPE OF INTERFACE IS E.SPIRE REQUESTING?**

10 A. Our request is simply that BellSouth keep pace with the evolving industry  
11 standards in this area. There is general agreement that it is desirable to have a  
12 Single Point of Connect ("SPOC") EDI interface available for all pre-ordering,  
13 ordering, provisioning, and repair functions. EDI Version 8.0 moves in that  
14 direction, and further work is being done by the industry standard-setting bodies,  
15 *i.e.*, ATIS, OBF and ANSI. We ask that BellSouth be obligated to implement  
16 these systems as they are developed.

17 **Q. WHY DOES E.SPIRE REQUEST ACCESS TO A CONSOLIDATED**  
18 **INTERFACE WHICH PROVIDES ACCESS TO PRE-ORDERING,**  
19 **ORDERING AND PROVISIONING, MAINTENANCE AND BILLING**  
20 **FUNCTIONS?**

21 A. There are two primary reasons why e.spire must have access to an integrated OSS  
22 interface. The first reason is to reduce training and systems development costs  
23 that are spent on interim OSS solutions. Prior to the adoption of API and EDI



1       **Version 7.0 interface, e.spire must spend time and resources to train its employees**  
2       **to order, provision and monitor local services to its customers on each of the**  
3       **ordering and maintenance systems BellSouth has offered. It would be more**  
4       **efficient for e.spire to train its employees to use one system, especially since**  
5       **access to LENS, EC-Lite, ECTA and T&FI will only be utilized prior to the date**  
6       **EDI becomes commercially available. e.spire also will have to internally**  
7       **provision its ordering and provisioning systems with software compatible to what**  
8       **BellSouth is providing.**

9               **The second reason why e.spire requires access to a single OSS interface is**  
10       **so that it can have a meaningful opportunity to compete with BellSouth in its local**  
11       **serving area. In its *Second Louisiana Section 271 Order*, the FCC commented on**  
12       **the lack of a degree of integration in the OSS applications BellSouth provided to**  
13       **CLECs as one of the factors contributing to its failing to meet its Section 271**  
14       **burden for providing unbundled access to OSS. In order to compete effectively**  
15       **with BellSouth, e.spire employees must have the same access to pre-order, order,**  
16       **provisioning, maintenance and billing systems (collectively "OSS systems") that**  
17       **BellSouth employees have access to. In its *Michigan Section 271 Order*, the FCC**  
18       **held that a Bell Operating Company ("BOC"), such as BellSouth, must offer**  
19       **competing carriers access to OSS "that are analogous to OSS functions that a**  
20       **BOC provides itself."**

21               **For example, BellSouth employees have access to RNS which is a system**  
22       **application that provides a single interface for pre-order, ordering, provisioning,**  
23       **maintenance and billing information. Therefore, e.spire requires access to RNS or**

1       its functional equivalent in order for there to be parity in the OSS used by  
2       BellSouth employees and that which is offered to e.spire.

3       **Q.    WHAT IS BELL SOUTH'S POSITION ON PROVIDING ACCESS TO RNS**  
4       **OR A FUNCTIONALLY SYSTEM?**

5       A.    BellSouth has offered CLECs an array of systems, none of which to date has been  
6       utilized by a CLEC, alone or in combination, successfully to replicate BellSouth's  
7       internal systems. The FCC consistently has ruled that BOCs must provide OSS  
8       on a nondiscriminatory basis and at parity to the OSS it provides to itself. Such  
9       parity requires access to systems with equivalent speed and ease of use, and  
10      nondiscriminatory access to information provided by such systems.

11      **Q.    HAS BELL SOUTH OBJECTED TO PROVIDING ACCESS TO OSS**  
12      **INTERFACES, SUCH AS RNS, ON THE BASIS OF THE TYPE OF**  
13      **INFORMATION THAT IS MAINTAINED IN THAT DATABASE?**

14      A.    Yes. BellSouth has objected to providing access to pre-order information that is  
15      contained in some of its databases on the basis that such information belongs to  
16      BellSouth, and should not be available as a part of a customer's records.  
17      BellSouth has also refused to provide e.spire access to RNS which is a single  
18      interface that BellSouth employees utilize to access information regarding OSS  
19      functions, based on its assertion that it has a proprietary interest in the information  
20      contained within this system. This position is wholly inconsistent with the FCC's  
21      *Local Competition Order* and its *Second Louisiana Section 271 Order*.  
22      According to the FCC, the ILEC is required to provide nondiscriminatory access  
23      to OSS "systems" and "information" contained therein.

1    **Q.    HAS BELL SOUTH DENIED E.SPIRE ACCESS TO IMPORTANT PRE-**  
2    **ORDER INFORMATION?**

3    A.    Yes. BellSouth has refused to provide e.spire access to the results of pre-testing  
4    of complex resale and UNE orders provisioned by BellSouth technicians on  
5    behalf of e.spire. This information is necessary for e.spire to maintain accurate  
6    service records on its own customers. e.spire should be afforded access to this  
7    information on an electronic basis as a part of BellSouth's OSS offering.  
8    BellSouth refuses to provide the results to e.spire electronically or in written form.

9    **Q.    ARE THERE ANY INDUSTRY STANDARDS THAT BELL SOUTH HAS**  
10   **NOT COMPLIED WITH IN ITS OSS PROPOSAL FOR**  
11   **INTERCONNECTION AGREEMENTS WITHIN ITS REGION?**

12   A.    Yes. BellSouth's proposal is littered with inconsistency with regards to providing  
13   access to OSS functions in accordance with relevant industry standards. In  
14   particular, BellSouth refuses to agree to language regarding the applicability of  
15   OBF and ATIS and ANSI standards. The Ordering and Billing Forum or "OBF"  
16   and the Alliance for Telecommunications Industry Solutions or "ATIS" are  
17   industry associations that specialize in creating and maintaining industry  
18   standards for pre-order, order and billing information, whereas ANSI specializes  
19   in creating industry standards for Electronic Bonding ("EBI") applications. The  
20   FCC has relied on standards setting organizations such as OBF, ATIS and ANSI  
21   to create national and uniform standards for OSS. Despite the credentials and  
22   broad participation of the industry in setting standards through these  
23   organizations, BellSouth refuses to uniformly and unequivocally commit itself to

1       adopt forthcoming OSS standards, business rules and specifications adopted by  
2       these organizations for the term of the interconnection agreement between the  
3       Parties.

4               The reluctance of BellSouth to continue to implement OSS standards as  
5       they are adopted by these organizations is inapposite to their representations on  
6       point to the FCC in its 271 Petition for authority to provide in-region interLATA  
7       services. In its Louisiana petition, BellSouth instructed the FCC that it had met  
8       all industry standards with regards to provisioning UNEs. The FCC in that  
9       proceeding commended BellSouth for its compliance with such standards, but  
10       instructed BellSouth that industry standards do not exist for all aspects of OSS,  
11       such as pre-ordering functions, and therefore compliance with industry standards  
12       is not sufficient to meet the statutory requirements of providing nondiscriminatory  
13       access to OSS.

14              BellSouth's proposed terms of the interconnection agreement for  
15       performance intervals on issuing Firm Order Confirmations ("FOCs"), notices of  
16       completion, jeopardy reporting and reject notification are all inconsistent with  
17       existing OBF standards for ordering and provisioning of these notifications. For  
18       example, the time to provision a FOC or a notification of order completions for  
19       electronic orders is four hours, not the 24 hour intervals proposed by BellSouth

20   **Q.   HOW WILL THE PARTIES MANAGE THEIR INTERIM ORDERING**  
21   **AND PROVISIONING SYSTEMS AS THEY MOVE FROM THE**  
22   **CURRENT ORDERING INTERFACES, *i.e.*, LENS, TO EDI 7.0?**

1     A.     Within the industry, CLECs and ILECs routinely implement new upgrades to  
2           existing systems or conversions to intermediate OSS while the long-term interface  
3           solutions, *i.e.*, EDI, are being developed. The process commonly is referred to as  
4           “change management”. Through the course of these negotiations, the Parties have  
5           been unable to come to mutual terms and conditions governing the change  
6           management process.

7                 It is e.spire’s position that the change management process should have  
8           some degree of flexibility to accommodate the parties review and implementation  
9           of new industry standards. Despite the need for flexibility, the change  
10          management process must include precise terms and conditions for forward  
11          notification of system upgrades, review of draft specifications and determination  
12          of mutually agreeable time-frame during which BellSouth continues to offer  
13          access to the existing interface. For the notification and review requirements,  
14          e.spire seeks to require BellSouth to produce draft specifications within 60 days  
15          of when a new industry standard is adopted and that e.spire is provided 15 days to  
16          review BellSouth’s proposal. As for a commitment by BellSouth to keep existing  
17          access to existing OSS interface functional, this time-frame should be at least as  
18          long in duration as the mutually agreed to implementation interval.

19                These requirements will create a smooth transition from interim interface  
20          solutions to EDI, with minimal impact to the processing, billing and maintenance  
21          of customer orders.

22     **Q.     WILL CHANGE MANAGEMENT BE NECESSARY AFTER THE**  
23     **PARTIES MOVE TO A SINGLE EDI INTERFACE FOR OSS?**

1     A.     Yes. Even after EDI 7.0 is fully implemented, the industry standard setting  
2           organizations will continue to make recommendations to the industry regarding  
3           software and equipment upgrades. Should OBF, ATIS, ANSI or another industry  
4           forum endorse new standards or recommend system upgrades, e.spire will need a  
5           process to manage the conversion to new industry standards. The change  
6           management provisions proposed by e.spire would be applicable to current and  
7           future implementation of industry standards.

8     **Q.     SINCE THE FCC HAS HELD THAT MEETING INDUSTRY**  
9           **STANDARDS IS NOT SUFFICIENT INDICATION THAT BELL SOUTH**  
10          **HAS MET ITS STATUTORY OBLIGATIONS TO PROVIDE OSS**  
11          **FUNCTIONS, WHAT OTHER PRE-ORDERING, ORDERING,**  
12          **PROVISIONING, BILLING OR MAINTENANCE NOTIFICATIONS**  
13          **DOES E.SPIRE REQUIRE IN ORDER TO COMPETE EFFECTIVELY**  
14          **WITH BELL SOUTH?**

15    A.     e.spire requires prior notification by BellSouth, preferably on an electronic basis,  
16           of when one of its customers contacts BellSouth for disconnection of service.  
17           BellSouth refuses to provide this information to e.spire, prior to disconnecting the  
18           customer. BellSouth should be prohibited from disconnecting a customer without  
19           receiving a disconnect for the e.spire end-user from e.spire's ordering and  
20           provisioning center. Without this safeguard, it will be impossible for e.spire to  
21           determine why the customer issued the disconnect order, confirm that such order  
22           was in fact requested, or prepare its billing and other systems for the disconnect.  
23           Moreover, this situation represents another example of the lack of parity within

1 the ordering and provisioning of CLEC orders and orders that BellSouth  
2 provisions for itself. If a BellSouth customer requested to migrate to e.spire,  
3 e.spire could not provision the disconnect order without first contacting BellSouth  
4 and providing adequate authorization that the customer was authorizing such  
5 change in local carrier. Yet, BellSouth can unilaterally disconnect service of an  
6 e.spire customer without first contacting e.spire to validate the order.

7 Not only does this disparity present an opportunity for unauthorized  
8 changes of a customer's local exchange carrier, critically it prevents e.spire from  
9 receiving necessary information which it needs to accurately bill its customer. If  
10 e.spire does not have notice of disconnects, it will still continue to bill the  
11 customer for services which it is no longer providing. This will result in the  
12 perception of poor customer service quality attributable to e.spire. e.spire must  
13 have forward notification of disconnect orders in order to provide local services at  
14 parity to that which BellSouth provides to its customers.

15 **Q. WHY IS IT IMPORTANT FOR E.SPIRE TO RECEIVE NOTICES OF**  
16 **COMPLETION OF ORDERS IN A TIMELY MANNER?**

17 A. Notification of when an order complete is completed is the only means by which  
18 e.spire is informed that a customer's services have been initiated, disconnected or  
19 changed as requested by an order. Prior to notification of completion, e.spire does  
20 not update its billing systems to reflect changes in service that are implemented  
21 pursuant to completion of such orders. By contrast, BellSouth has first hand  
22 knowledge of the completion of the order when its technicians perform the work  
23 requested. Without notification of that orders are completed, e.spire will generate

1 bills to its customers that do not accurately reflect the services being provided to  
2 that customer.

3 The OBF standard for sending a notice of completion ("NOC") via EDI is  
4 four hours from the time of completion of the order. e.spire requests that a four  
5 hour interval be adopted and implemented by the parties. This requirement will  
6 contribute to greater accuracy in customer billing.

7 **Q. WHY IS IT IMPORTANT FOR E.SPIRE TO BE NOTIFIED AS SOON AS**  
8 **POSSIBLE WHEN BELL SOUTH CHANGES A CUSTOMER'S DESIRED**  
9 **DUE DATE BY MOVING THE DUE DATE TO AN EARLIER TIME?**

10 **A. Many Desired Due Dates ("DDD") are pre-scheduled with customers prior to the**  
11 **orders being submitted. These due dates are prescheduled to insure that the**  
12 **technicians completing the orders have access to the necessary equipment on the**  
13 **customer's premise ("CPE") or require that service be interrupted while test and**  
14 **turn-up activities are conducted. When BellSouth notifies e.spire that it will have**  
15 **to change the time or date of a customer's DDD, the customer will presume that**  
16 **such change is a reflection on the service quality of e.spire. Therefore, it is**  
17 **essential that e.spire have as much notice as possible to contact the customer and**  
18 **reschedule the DDD for a time that is convenient for the customer, not just**  
19 **BellSouth.**

20 Many of the work orders that require access to CPE also involve providing  
21 INP and LNP services to the customer. If BellSouth provisions the facilities too  
22 early, this may result in an unforeseen service outage. The provisioning of INP  
23 and LNP requires coordination with the customer, and both parties' End Office



1 technicians. If the cut is too early, the customer will not only be out of service  
2 during the cutover which should only be a five minute interval for a single loop.  
3 The customer will continue to experience service outage until the End Office  
4 technicians have implemented the RCF services required to port the number. The  
5 same scenario also holds true when BellSouth is late in provisioning the cutover.  
6 In either case, prompt notification of missed DDD will help e.spire minimize the  
7 impact to its customer. This issue becomes more critical as we migrate to LNP.  
8 e.spire will order the LNP through the NPAC, not through BellSouth. If e.spire  
9 does not receive notice of a delayed cutover, it cannot adjust its independent LNP  
10 request accordingly.

11 **Q. WHAT SHOULD THE INTERVAL BE FOR NOTIFICATION OF A**  
12 **CHANGE IN DDD?**

13 A. Whether BellSouth provides services earlier than anticipated by the DDD or later,  
14 it should be required to provide notification of a missed due date, as soon as it  
15 discovers that it cannot make the DDD. This notification of a missed due date is  
16 commonly referred to as a "jeopardy" within the industry. e.spire proposes that  
17 BellSouth be required to notify e.spire via an electronic interface or any interim  
18 manual method *as soon as it determines* it cannot meet the scheduled due date and  
19 time. This process will help mitigate the impact to customers.

20 **Q. WHAT OTHER TYPE OF PERFORMANCE CRITERIA DOES E.SPIRE**  
21 **REQUEST FROM BELL SOUTH WITH RESPECT TO OSS**  
22 **FUNCTIONALITY?**

1     A.     e.spire seeks complete electronic “flow-through” of orders for local services.  
2           “Flow-through” represents the degree to which an ordering process is mechanized  
3           and orders are provisioned without manual intervention. The benefits of a high  
4           degree of flow-through is that it enhances the reliability of provisioning intervals,  
5           by reducing the amount of delay and error caused by manual intervention. In  
6           order for e.spire to compete effectively with BellSouth, it must be able to provide  
7           equivalent service quality to its customers. Without complete electronic flow-  
8           through of its orders, service reliability will be effected. The FCC found in the  
9           *Second Louisiana Section 271 Order* that BellSouth has never met parity of  
10          service for the percentage flow through of CLEC orders and BellSouth orders. In  
11          light of BellSouth poor performance with respect to providing flow-through at  
12          parity, it should be required to meet a specified performance level. e.spire  
13          proposes that BellSouth be required to provide flow-through at parity to what it  
14          provides to itself, its affiliates, and any other Telecommunications Carrier.

15     **Q.     WHAT SPECIFIC REQUIREMENTS DOES E.SPIRE BELIEVE SHOULD**  
16     **APPLY TO THE PROVISIONING OF UNBUNDLED LOCAL LOOPS?**

17     A.     e.spire requests that BellSouth be required to provision loop cutovers within a five  
18          minute interval. During the cutover process, the customer who orders a ported  
19          number, must be out of service while the loop is being connected to e.spire’s  
20          collocated facility. If the cutover process does not go smoothly, the End User  
21          may attribute such provisioning issues to the new carrier. Therefore, it is  
22          imperative that service outages are minimized. A five minute cutover period will  
23          lessen the inconvenience of service outages to e.spire’s new customers. In its

1 current interconnection agreement with e.spire, BellSouth agreed to provision  
2 "live cutovers" within the five minute interval. Under the effective terms between  
3 the parties, the penalty for not meeting the five minute cutover is for BellSouth to  
4 waive the applicable line connection charge when the interval is 15 minutes or  
5 more. The purpose of the interval and the associated remedy is for the parties to  
6 minimize the disruption to the customer and compensate e.spire for non-  
7 compliance attributable to a performance breach by BellSouth. The Georgia and  
8 Louisiana Commissions explicitly have recognized this five minute interval in  
9 their Performance Measurement requirements, demanding measurement of how  
10 often loop and number portability are cut over within five minutes.

11 **Q. HOW DOES THE SIZE OF A CUSTOMER ORDER IMPACT THE**  
12 **AMOUNT OF TIME IT TAKES TO PERFORM A LIVE CUSTOMER**  
13 **CUTOVER?**

14 A. The size of a customer's cutover will change the amount of work to be done in  
15 disconnecting and reconnecting the customer's loop(s) from BellSouth's facilities  
16 to e.spire's facilities, but the effect of this increase is not directly proportional to  
17 the number of loops, digital or optical equivalents being cutover. For example, if  
18 a customer had requested to change his facilities-based services from BellSouth to  
19 e.spire and these services were provisioned on a T-1 (the equivalent of 24 loops),  
20 it would not take the technicians twenty-four times the length of time it takes to  
21 cut-over a single loop.

22 The intervals proposed by e.spire take this principle into account. As  
23 indicated above in this testimony, the time it takes to make a single loop

1 conversion should be at maximum, five minutes. For upwards of ten (10) loops,  
2 the BellSouth technicians should be able to complete the conversion within thirty  
3 (30) minutes. For loop cutovers not exceeding thirty loops, the interval for the  
4 conversion should be one hour. All intervals for more than 30 loops or complex  
5 orders of at least 10 loops, shall be mutually agreed to by the Parties. DS-1 or  
6 DS-3 loops should be considered as one physical loop for these purposes (as  
7 opposed to 24 or more channels).

8 **Q. WHAT SHOULD THE INTERVAL FOR A CONVERSION BE WHEN**  
9 **BELLSOUTH REGAINS A CUSTOMER THAT HAD MIGRATED TO**  
10 **E.SPIRE?**

11 A. This situation is commonly referred to as a customer "win-back". If BellSouth  
12 regains a customer that had migrated to e.spire's facilities-based services, the  
13 interval for performing a win-back conversion should be at parity to the intervals  
14 BellSouth performs the equivalent work for e.spire. BellSouth should not be able  
15 to perform these cutovers in a shorter timeframe than what it provide to e.spire,  
16 because the work involved to perform such cutover is exactly the same in a win-  
17 back situation as when the originally customer migrated to e.spire. Any  
18 performance that is above parity in this respect should constitute a performance  
19 breach on the part of BellSouth.

20 **Q. WHAT TYPE OF ANCILLARY SUPPORT IS NECESSARY FOR E.SPIRE**  
21 **TO OPERATE BELLSOUTH'S OSS?**

22 A. e.spire requires access to trained personnel, i.e., an operational support help desk,  
23 provided by BellSouth on a twenty-four hour a day, seven days a week basis.

1 e.spire requires 24 hour access, seven days a week, because the OSS interface is  
2 required for maintenance and trouble shooting of customers' services in addition  
3 to the establishment or discontinuance of services. Service outages may occur at  
4 any time during the week. Therefore, in order for e.spire to provide maintenance  
5 functions at parity to BellSouth, it must have 24 hour access to OSS support  
6 personnel 7 days per week.

**Directory Listings**

8 **Q. HOW DOES E.SPIRE PROPOSE TO REDUCE THE INCIDENCE OF**  
9 **ERRORS IN THE DIRECTORY LISTINGS OF ITS CUSTOMERS PRIOR**  
10 **TO PUBLICATION OF DIRECTORIES?**

11 **A. e.spire has proposed language at Attachment 12 of the attached draft**  
12 **interconnection agreement that requires BellSouth to provide information via an**  
13 **electronic interface sufficient for e.spire to confirm the validity of the directory**  
14 **listing information for its end users. The designated time frame during which**  
15 **e.spire should receive this electronic feed is within 48 hours of when BellSouth**  
16 **sends this information to be published. In addition to the requirement that e.spire**  
17 **be provided the electronic feed, e.spire requests that it be provided the opportunity**  
18 **to review the galley proofs of directories prior to publication of the proofs.**

19 The language requested by e.spire will provide two opportunities to  
20 correct the information of its end users prior to it being published in directories.  
21 Once the information is published – or worse yet, not published – there is no  
22 opportunity for e.spire to correct any errors to the information included under its  
23 own customers' listings. After publication, it is foreseeable that errors in these

1 listings may cause economic harm to e.spire's end users which may be  
2 attributable to the negligence of e.spire or BellSouth. If there are mistakes in the  
3 data provided by e.spire's order entry personnel, access to electronic  
4 confirmations will alert e.spire of the errors and give it the opportunity to notify  
5 BellSouth in order to have such errors corrected prior to publication. Having  
6 sufficient time to review of the galley proofs of e.spire's end users will also  
7 contribute to the accuracy of the listings, provided e.spire has enough time to  
8 contact BellSouth or its publishing affiliate and correct any mistakes in the galley  
9 proofs, prior to publication.

10 It is my understanding that BellSouth is demanding to limit its liability to  
11 the amount of one dollar for any errors that get published in its directories. Such  
12 a limitation of liability is unacceptable to e.spire unless it has a reasonable  
13 opportunity to verify inclusion of its customer's listing information in advance of  
14 publication as we have proposed. e.spire proposes the above review process  
15 which will greatly reduce the chances for errors committed by e.spire order entry  
16 personnel and BellSouth's employees or affiliates that produce the galley proofs  
17 and the directories.

18 **Performance Standards/Measurements**

19 **Q. WHAT ISSUES REMAIN TO BE RESOLVED IN CONNECTION WITH**  
20 **PERFORMANCE MEASUREMENTS AND STANDARDS?**

21 **A.** I have touched on this topic throughout my testimony, and I will only briefly  
22 restate the point here. The parties have agreed to incorporate a set of Performance  
23 Measurements established by the Georgia and Louisiana Commissions, as they

1       are strengthened from time to time by other regulators. However, BellSouth  
2       believes that the resulting statistics should be for informational purposes only.  
3       e.spire believes that performance at parity to the service BellSouth affords *itself*  
4       should be mandatory, as established by the Performance Measurements.  
5       Moreover, e.spire believes that Liquidated Damages should apply automatically  
6       whenever services provided to e.spire fall below a level at parity to the service  
7       BellSouth provides to itself.

**Rates**

9       **Q.   WERE THE PARTIES ABLE TO AGREE ON RATES FOR UNES?**

10      A.   No, for many UNEs, the parties were unable to agree on Monthly Recurring  
11       Charges ("MRCs") and Non-Recurring Charges ("NRCs"), or both. Accordingly,  
12       we ask that this Commission establish arbitrated rates consistent with Section 252  
13       of the Act and the FCC's reinstated pricing rules.

**Geographic Deaveraging**

15      **Q.   DO THE PARTIES DISAGREE OVER THE ISSUE OF "GEOGRAPHIC  
16       DEAVERAGING"?**

17      A.   Yes, as I discussed earlier – and as e.spire's expert witness, Dr. Marvin Kahn,  
18       also will discuss, e.spire's inability to obtain geographically deaveraged loop rates  
19       constitutes a substantial barrier to entry that must be removed by this  
20       Commission. Specifically, e.spire seeks, and BellSouth refuses to provide, ULL  
21       rates that are geographically deaveraged into three density zones.

22               As I have mentioned previously, the FCC's geographic deaveraging rule  
23       was reinstated by the Supreme Court in its *Iowa Utilities Board* decision.

1 Consistent with the reasoning that led the FCC to adopt its geographic  
2 deaveraging rule, the FCC and the US Department of Justice consistently have  
3 found that in order for rates to be truly cost-based, they cannot be based on  
4 statewide averaged costs but, rather, they must reflect the costs incurred in  
5 relevant density zones within the particular state. This also is consistent with  
6 BellSouth's own practice of deaveraging prices for certain special access services  
7 in three density zones.

8 If e.spire must price its end-user offerings to reflect BellSouth's state-wide  
9 loop costs, it will have difficulty competing in dense urban markets where  
10 BellSouth can compete on the basis of its lower costs of provisioning loops there.  
11 e.spire will have difficulty absorbing this cost-differential and only will be able to  
12 do so where volumes are high. Accordingly, BellSouth's anticompetitive practice  
13 of building statewide averaged costs into its loop rates effectively raises e.spire's  
14 costs so that it is difficult or impossible for e.spire to compete in the low-end  
15 business or residential markets. To ensure that consumers in these markets realize  
16 the benefits made possible only by competition, this Commission should act now  
17 to remove this barrier by requiring BellSouth to offer geographically deaveraged  
18 loop rates in three density zones, as is required by FCC Rule 51.507(f).

19 **Current TELRIC Studies and New "Permanent" Prices**

20 **Q. DO BELLSOUTH'S CURRENT "PERMANENT" RATES ACCURATELY**  
21 **REFLECT COSTS?**

22 **A.** No, and there are many reasons why they do not. e.spire consistently has  
23 challenged whether BellSouth conducted its initial round of TELRIC studies



1 consistent with forward looking pricing principles. Indeed, e.spire believes that  
2 BellSouth's interconnection, UNE and collocation pricing are inconsistent with  
3 the FCC's designated TELRIC pricing standards and could not withstand review  
4 by that agency.

5 Moreover, BellSouth's current "permanent" rates are now based on cost  
6 studies that are two or even more years old. Technological advancements –  
7 particularly the conversion of many network inputs to digital technology –  
8 continue to place substantial downward pressure on the forward looking costs of  
9 UNEs. Thus, consistent with the cost-based pricing mandate of the FTA – and in  
10 conjunction with this second round of interconnection negotiations and  
11 arbitrations – e.spire believes that it also is time that a second round of so called  
12 permanent rates be established. *Thus, e.spire requests new and current TELRIC*  
13 *based rates – MRCs and NRCs – for all UNEs*

14 **Monthly Recurring Charges for Loops**

15 **Q. PUTTING ASIDE FOR THE MOMENT THE NEED FOR UPDATED**  
16 **TELRIC PRICES, PLEASE EXPLAIN OTHER ISSUES E.SPIRE HAS**  
17 **WITH REGARD TO BELL SOUTH'S PROPOSED MONTHLY**  
18 **RECURRING CHARGES – MRCs – FOR 4-WIRE VOICE GRADE**  
19 **ANALOG LOOPS.**

20 **A.** The dispute here centers on whether BellSouth's 4-wire rates accurately reflect  
21 TELRIC pricing principles. e.spire does not think that they do and believes that  
22 this proceeding presents the Commission with an appropriate opportunity to  
23 review the matter. Dr. Marvin Kahn, e.spire's expert witness will discuss at

1       length TELRIC principles and specific rates. What I want to do today is to  
2       provide some reality checks that, at the very least, should raise considerable doubt  
3       as to whether BellSouth's MRCs for 4-wire voice grade analog loops are  
4       appropriately TELRIC based.

5               First, and as a general manner, the relationship between the MRC for 2-  
6       wire and 4-wire voice grade analog loops should give the Commission pause.  
7       Throughout its region, BellSouth has proposed MRCs for 4-wire voice grade  
8       analog loops that are up to 76 percent more than their 2-wire counterparts.  
9       Although it is conceptually convenient to think that a 4-wire loop would cost  
10      much more or even double what a 2-wire loop costs, this is not the case. In  
11      reality, the cost of a 4-wire loop is only marginally more than that of a 2-wire  
12      loop. Recognizing this fact, the Tennessee Commission requires that BellSouth  
13      charge the same rate – \$18.00 – for either kind. The same is true for Texas, where  
14      Southwestern Bell has no cost differential between the two. The same is true for  
15      Bell Atlantic in Maryland and Virginia.

16             In states outside BellSouth's service territory where there is a cost  
17      differential, it generally is small. For example, the Arizona Commission found  
18      that U S West's costs for 4-wire loops only exceeded its 2-wire costs by less than  
19      5 percent. In Missouri, Southwestern Bell's 4-wire/2-wire cost differential is  
20      roughly 10 percent. Within BellSouth territory, the cost differential ranges from a  
21      zero in Tennessee to 76 percent here in Florida. Assuming that all other factors  
22      are constant, it must be determined whether the TELRIC of the equipment  
23      installed for a 4-wire voice grade analog loop exceeds its 2-wire counterpart by

1       that great an amount – the external reasonableness tests I have just set forth  
2       strongly suggest that it does not.

3       **Q.     PLEASE EXPLAIN THE PROBLEM E.SPIRE HAS WITH REGARD TO**  
4       **THE MRC FOR DIGITAL 4-WIRE 56/64 kbps LOOPS?**

5       A.     The problem we have identified with respect to BellSouth's MRC for 56/64 kbps  
6       loops is that BellSouth has not proposed *any* rates for them. Competition simply  
7       cannot be held hostage to the bureaucratic wrangling between BellSouth's  
8       interconnection and accounting departments. It is impossible for e.spire to  
9       negotiate a rate, if BellSouth makes no proposal. Accordingly, e.spire requests  
10      that the Commission set TELRIC rates in this arbitration proceeding.

11             Mindful of BellSouth's history of ignoring TELRIC pricing mandates and  
12      inflating its purported costs in numerous ways, I am going to take a moment to  
13      offer an external reality check for guidance. Although, with respect to 56.64 kbps  
14      loops, there is not a lot to go on, I can offer the \$29.92 rate from Georgia as a  
15      benchmark and note that Louisiana and Mississippi, the only two states other than  
16      Georgia that have set 56/64 kbps loop rates, ended up with rates that were 17 and  
17      19 percent higher.

18      **Q.     IN ADDITION TO ITS GENERAL DISPUTE REGARDING THE NEED**  
19      **FOR UPDATED TELRIC STUDIES AND RATES, ARE THERE**  
20      **INDICATIONS THAT THE PROPOSED MRCs FOR DIGITAL 4-WIRE**  
21      **LOOPS DO NOT ACCURATELY REFLECT TELRIC PRICING**  
22      **PRINCIPLES?**

1     A.     Yes. e.spire already has requested that all BellSouth UNE rates, including its DS-  
2           1 loop MRC, be checked and reset at current TELRIC-based levels. Putting that  
3           aside for the moment, e.spire also takes issue with BellSouth's proposed DS-1  
4           loop MRC because it greatly exceeds corresponding MRCs for DS-1 loops in  
5           other BellSouth states. To illustrate my point, let me offer as a barometer  
6           BellSouth's DS-1 rate for Alabama. That MRC of \$64.19 is similar to the rates  
7           established by the Georgia and Kentucky Commissions. The rates proposed by  
8           BellSouth for Louisiana and South Carolina are 14 and 21 percent higher. Then  
9           there is the rate for North Carolina – that rate is a staggering 136 percent higher.  
10          This Commission approved a rate that is 25 percent higher and is exceeded only  
11          by the larcenous rate established in North Carolina. All other things being equal,  
12          is there any reason to believe that labor and materials costs in Florida are 25  
13          percent higher than they are in Alabama? I doubt that there is one. Because of  
14          this doubt, e.spire requests that close scrutiny of new BellSouth cost studies is  
15          warranted to ensure that BellSouth is not permitted to overprice its DS-1 loops  
16          again.

17                 With respect to 56/64 kbps loops, e.spire's dispute is that BellSouth  
18                 simply has not proposed *any* rates and, as a result, has refused to negotiate with  
19                 e.spire. Again, BellSouth's failure to produce rates cannot be condoned as a  
20                 means to stave off competition. Governing law is plain – TELRIC studies must  
21                 be produced and prices must be set. Although there is not much regionally that  
22                 can be looked to for a reality check, I offer the \$29.92 rate from Georgia as a  
23                 reference point and note that Louisiana and Mississippi, the only two states other

1    **Q.    ARE THERE SIMILAR PROBLEMS WITH BELLSOUTH'S 2-WIRE**  
2    **HDSL DIGITAL GRADE LOOP MRC?**

3    A.    Yes. Here, too, the range of rates across BellSouth territory suggests that its rates  
4    in many states may not appropriately reflect TELRIC pricing principles. In  
5    Florida, BellSouth's 2-wire HDSL digital loop rate is 42 percent higher than the  
6    corresponding rate in Kentucky and 32 percent higher than that in Georgia. Once  
7    again, I think do not think it is remotely possible that BellSouth's 2-wire HDSL  
8    loop costs in Florida could exceed its costs in Kentucky and Georgia by so great a  
9    margin as to lead to such a wide variation in rate levels. This significant degree  
10   of variation should give the Commission reason enough to take a fresh look at  
11   BellSouth's cost methodology – and at fresh and properly conducted BellSouth  
12   TELRIC studies.

13   **Q.    ARE THERE SIMILAR PROBLEMS WITH BELLSOUTH'S 4-WIRE**  
14   **HDSL DIGITAL GRADE LOOP MRC?**

15   A.    Yes. Again, the range of rates for this UNE across BellSouth territory suggests  
16   that they may not appropriately reflect TELRIC pricing principles. Here in  
17   Florida, BellSouth's 4-wire HDSL digital loop rate is a staggering 76 percent  
18   higher than the corresponding rate in Kentucky and 51 percent higher than that in  
19   Georgia. Could BellSouth's 4-wire HDSL loop costs in Florida exceed the costs  
20   in Kentucky and Georgia by that much? Do e.spire's Florida customers really  
21   need to pay that much? Again, e.spire requests that the Commission compel the  
22   production of new TELRIC studies that it can properly set rates that afford

1        BellSouth a reasonable profit, competitors a chance to compete and Florida  
2        consumers value in telecommunications services.

3                                **Non-Recurring Charges for Loops**

4        **Q.        OUTSIDE OF THE NEED FOR UPDATED TELRIC STUDIES AND**  
5        **RATES, DOES E.SPIRE TAKE ISSUE WITH BELL SOUTH'S NON-**  
6        **RECURRING CHARGES – NRCs – FOR ULLs?**

7        A.        Yes. NRCs are up-front costs that a carrier incurs in providing service to a  
8        customer. Generally, e.spire is not able to recover all of these costs in installation  
9        charges from end users at the time they receive service. A customer becomes  
10       profitable only if e.spire can recoup its initial investment over the length of time  
11       that an average customer can be expected to remain with e.spire's service. If  
12       NRCs are too high, e.spire will have no reasonable expectation that serving a  
13       customer will be profitable, and it will not enter the market for these customers.  
14       In other words, inflated NRCs can represent a significant barrier to entry for  
15       competitors such as e.spire. BellSouth's NRCs for ULLs are so excessive that  
16       they constitute such a barrier to entry. If facilities-based competition is going to  
17       develop and prosper as intended by Congress, this Commission must take action  
18       now to reduce BellSouth's NRCs to true TELRIC-based rates.

19       **Q.        WHY DO YOU BELIEVE THAT BELL SOUTH'S NRCs EXCEED**  
20       **TELRIC?**

21       A.        One indication that BellSouth's proposed NRCs exceed TELRIC is that they  
22       exceed the NRCs that BellSouth imposes on its own retail customers. Indeed,  
23       BellSouth's proposed NRCs are significantly higher than its retail rates, some

1       nearly four and others nearly six times higher. For example, BellSouth's  
2       proposed NRCs for installing a new 2-wire analog voice-grade loop total \$195,  
3       without taking account for a cross-connect NRC. BellSouth business customers  
4       pay only \$56 for comparable service. For ISDN lines, the proposed NRCs are  
5       nearly six times higher than comparable retail rates.

6               Comparison to rates outside BellSouth territory also offers strong support  
7       for the proposition that BellSouth's proposed NRCs exceed TELRIC. For  
8       example, BellSouth's NRCs for 2-wire analog voice grade loops – including the  
9       specified conversion time surcharge that preemptively applies only to simple  
10      POTS lines – are *ten times higher* than those charged by Bell Atlantic in New  
11      York. Even without the specified conversion time surcharge/penalty, BellSouth's  
12      \$140.00 NRC is nearly eight times higher than the \$18.27 charged by Bell  
13      Atlantic in New York. It is difficult to imagine that costs in New York City are  
14      eight times *less expensive* than they are here in Tallahassee.

15             Further comparisons reveal similar results. The NRC for a 2-wire digital  
16      ISDN loop is \$306 – this figure is more than \$250 – or six times higher – than the  
17      \$48 NRC charged by Bell Atlantic in Maryland – again, that is a differential of  
18      \$250 per loop. And it gets even worse for DS-1 loops. BellSouth's \$540 NRC is  
19      almost \$464 – or seven times – higher than the \$76.01 NRC imposed by Bell  
20      Atlantic in Pennsylvania.

21             I have attached a chart of representative ULL NRCs from other states  
22      hereto as Attachment 1, and it shows that BellSouth's proposed charges are  
23      several times higher than the rates for equivalent services elsewhere. The tasks

1 performed by the ILECs in other states in provisioning UNEs do not differ  
2 significantly from those undertaken by BellSouth.

3 **Q. PLEASE PROVIDE AN ILLUSTRATION OF HOW THESE**  
4 **DIFFERENCES EFFECT E.SPIRE'S ABILITY TO COMPETE.**

5 A. I'll use a typical business customer with five POTS lines to illustrate. Applying  
6 BellSouth's tariffed rates, the customer would pay a total of \$280 in NRCs to  
7 BellSouth. (This is calculated as five lines at \$56 per line.) If e.spire were to win  
8 that customer over, however, e.spire would be charged at least \$583 in NRCs.  
9 (This represents the sum of BellSouth's proposed NRCs for a first line (\$140.00),  
10 for order coordination(5 @ \$55.00 = \$275), and additional lines (4 @ \$42.00 =  
11 168).) Thus, in this example, BellSouth's proposed NRCs would be at least 108  
12 percent higher (not accounting for cross-connect NRCs) – or more than twice as  
13 much – for e.spire than for its own retail customers.

14 In order to compete with BellSouth's retail services, e.spire must offer  
15 high-quality telecommunications services at rates which are equal to or lower than  
16 BellSouth's retail rates. The high NRCs proposed by BellSouth would  
17 significantly limit the number of customers to whom e.spire could provide service  
18 at economic rates.

19 As a practical matter, e.spire would not be able to recover its costs in up-  
20 front charges from end users. At most, e.spire would be able to pass through only  
21 an amount equal to what BellSouth charges its retail customers. However, e.spire  
22 has found in its experience so far that, as a new entrant, it often must charge even



1 less than the comparable ILEC rate in order to induce customers to switch  
2 carriers.

3 Even if it can assess a charge equal to the full BellSouth retail rate, e.spire  
4 still would have a significant deficit that it would need to recover over the time it  
5 serves the customer. In the example of the five-line business customer that I  
6 previously described, BellSouth's proposed ULL NRCs exceed the corresponding  
7 retail rate by more than \$303. This differential is really nothing more than a  
8 penalty unilaterally imposed by BellSouth on e.spire for competing and on  
9 e.spire's customers for switching from BellSouth.

10 Assuming e.spire could expect to retain that customer for two years (the  
11 minimum period e.spire uses for planning purposes), it would have to charge its  
12 customers at least an additional \$12.62 a month for 24 months in order to recover  
13 this cost differential. Notably, this is a cost that BellSouth does not recover in its  
14 own retail rate, making it difficult for e.spire to recover the additional cost. In  
15 sum, if e.spire were forced to accept BellSouth's excessive proposed NRCs, it  
16 would be impossible for e.spire to compete for many smaller business customers  
17 and most, if not all, residential customers.

18 **Q. ARE THERE OTHER COMPARISONS THAT CAN BE MADE THAT**  
19 **WOULD SUGGEST THAT BELL SOUTH'S PROPOSED ULL NRCs ARE**  
20 **NOT TRULY TELRIC-BASED?**

21 **A.** Yes. As I have done with BellSouth's proposed MRCs, I can compare several of  
22 BellSouth's proposed NRCs for Florida with corresponding rates from elsewhere  
23 in BellSouth service territory – the result simply begs the question “how can these

1 rates be TELRIC-based?" For example, BellSouth's proposed first NRCs for 2-  
2 wire analog loops are 62 percent higher than comparable NRCs in North Carolina.  
3 Proposed NRCs for additional 2-wire analog lines are 51 percent higher. The  
4 differential is slightly greater for 4-wire analog loop NRCs. For 2-wire ISDN  
5 lines, the NRCs proposed for Florida – first and additional – are 32 and 82 percent  
6 higher than comparable NRCs in Louisiana. Each of these comparisons strongly  
7 suggest that BellSouth should be required to establish new TELRIC rates during  
8 this proceeding.

9 **Q. DOES E.SPIRE HAVE A PROBLEM WITH BELL SOUTH'S NRC FOR**  
10 **ORDER COORDINATION FOR A SPECIFIED CONVERSION TIME?**

11 A. Yes. The Commission should not permit BellSouth to impose a separate NRC for  
12 order coordination – *virtually all loop cutovers must be coordinated*. Notably,  
13 BellSouth only proposes to impose this NRC when 2-wire analog loops are  
14 involved. As a result, the NRCs for 2-wire analog loops *exceeds* those for 4 wire  
15 analog and xDSL loops.

16 **Q. DOES E.SPIRE HAVE AN ADDITIONAL ISSUE REGARDING**  
17 **BELL SOUTH'S NRCs?**

18 A. Yes. The issue is that the drop between first and additional NRCs may not  
19 adequately reflect the cost differential realized by *BellSouth* when multiple loop  
20 orders are placed. For example, the additional NRCs for a 2- and 4- wire analog  
21 loops are 70 percent less than the first NRCs. Yet, first and additional NRCs for  
22 2-wire ISDN, and 2- and 4-wire xDSL loops differ by only 8 and 13 percent,  
23 respectively. Similarly, the drop between first and additional NRCs for DS-1

1 loops is only 17 percent. Here, too, we believe BellSouth should be compelled to  
2 submit updated cost studies to justify these discrepancies.

3 **Sub-Loop Pricing**

4 **Q. MOVING TO SUB-LOOP PRICING ISSUES, PLEASE EXPLAIN**  
5 **E.SPIRE'S DISPUTE WITH REGARD TO BELL SOUTH'S PROPOSED**  
6 **MRCs FOR CENTRAL OFFICE LOOP CHANNELIZATION SYSTEMS.**

7 A. Here, too, e.spire questions whether BellSouth's rates are truly cost-based. In  
8 Florida, the MRCs are 70 percent higher than they are across the boarder in  
9 Georgia. In fact, the MRCs proposed by BellSouth are higher than those  
10 proposed for every BellSouth state, other than Tennessee. BellSouth's first and  
11 additional NRCs for central office loop channelization systems also appear high.  
12 Corresponding first NRCs in Georgia and Louisiana are 13 and 19 percent lower,  
13 respectively. Additional NRCs are 18 and 24 percent higher.

14 **Q. DOES E.SPIRE ALSO DISPUTE BELL SOUTH'S PROPOSED PER**  
15 **CIRCUIT CHANNEL INTERFACE MRCs FOR CENTRAL OFFICE**  
16 **LOOP CHANNELIZATION SYSTEMS?**

17 A. Yes. BellSouth's proposed per circuit MRC for central office 2-wire voice grade  
18 channel interfaces is the highest in the region exceeding the corresponding MRC  
19 in other BellSouth states by up to 66 percent.

20 **Q. DOES E.SPIRE HAVE ADDITIONAL PROBLEMS WITH REGARD TO**  
21 **SUB-LOOP UNBUNDLING RATES?**

22 A. Yes. For certain subloop elements related to loop concentration outside the  
23 central office, BellSouth has failed to propose any rates. e.spire submits that the

1 Commission should compel BellSouth to fill-out its subloop rate proposals based  
2 on current TELRIC cost-studies.

**Charges for xDSL-Equipped Loops**

4 **Q. TURNING NOW TO xDSL-EQUIPPED LOOPS, PLEASE EXPLAIN THE**  
5 **PARTIES' DISPUTE OVER RATES.**

6 A. Once again, the problem here is that BellSouth has refused to propose rates for  
7 xDSL-equipped loops. Thus, even though the FCC recently affirmed that ILECs  
8 must unbundle all network elements used in provisioning advanced services,  
9 BellSouth still refuses to establish MRCs and NRCs for ULLs equipped with  
10 DSLAMs. However, like all other UNE rates, the rates for DSLAM-equipped  
11 loops should be set at TELRIC plus a reasonable profit. So that consumers can  
12 exercise a separate choice for voice and data traffic (if they so desire), TELRIC-  
13 based MRCs and NRCs also should be established for the individual voice and  
14 data channels of an xDSL-equipped loop. To expedite the deployment of  
15 advanced telecommunications services, e.spire requests that the Commission  
16 expeditiously establish the appropriate TELRIC rates during this proceeding.

**Charges for High Capacity Loops, Dark Fiber Loops,**

**Bit-Stream Links and Extended Links**

19 **Q. DOES E.SPIRE HAVE RATE ISSUES WITH REGARD TO HIGH**  
20 **CAPACITY AND DARK FIBER LOOPS, AS WELL AS BIT-STREAM**  
21 **AND EXTENDED LINKS?**

22 A. Yes. As I discussed earlier with respect to UNEs, BellSouth simply has not  
23 proposed rates for fiber DS-3 loops and other high capacity loops, including OC-

1        3. OC-48, OC -96 and SONET loops. BellSouth also has failed to propose rates  
2        for dark fiber loop plant, Bit-Stream Links, and all varieties of Extended Links.  
3        including 2-wire voice grade, 4-wire voice grade, 2-wire digital, 4-wire digital, 2-  
4        wire ADSL compatible, 2-wire ADSL equipped, 2-wire HDSL compatible, 2-wire  
5        HDSL equipped, 4-wire HDSL compatible, and 4-wire HDSL equipped Extended  
6        Links. e.spire requests that the Commission compel BellSouth to file cost studies  
7        based on forward-looking TELRIC pricing principles for each of these UNEs.  
8        With regard to the xDSL-equipped loops, Bit-Stream Links and Extended Links.  
9        e.spire urges the Commission to ensure that the MRCs and NRCs for the whole  
10       do not exceed the sum of the parts. The Commission also should avoid awarding  
11       BellSouth with the ability to impose a non-cost-based glue charge for resisting the  
12       impulse to tear apart common network configurations requested by its  
13       competitors.

14    **Q.    DO YOU HAVE ANY ADDITIONAL CONCERNS WITH REGARD TO**  
15    **BELLSOUTH'S PRICING OF EXTENDED LINKS?**

16    A.    Yes. My concern is with the NRCs that BellSouth might seek to attach to such  
17       configurations. As I have expressed earlier, I believe that there is ample reason to  
18       believe that few – if any – of BellSouth's UNE prices are consistent with the  
19       forward looking, cost-based pricing principles of the FTA. As I also have  
20       discussed, BellSouth's proposed NRCs are so high that they constitute a barrier to  
21       entry. Right now, if e.spire were to assemble Extended Links from individually  
22       priced UNEs, the related NRCs would nearly equal those applicable to the same  
23       facilities ordered under BellSouth's special access tariff (\$741 for a DS-1

1       Extended Link (based on proposed UNE NRCs and no "glue charge") versus  
2       \$745 for DS-1 special access). I cannot believe that the appropriate TELRIC  
3       studies could produce NRCs that rival those incorporated into BellSouth's  
4       subsidy-laden special access tariff. Accordingly, I ask the Commission to compel  
5       updated TELRIC studies so that prices for Extended Links and high capacity  
6       loops can be set at rates consistent with the 1996 Act.

**Charges for Transport**

8       **Q.     TURNING TO UNBUNDLED TRANSPORT, PLEASE EXPLAIN THE**  
9       **ISSUES E.SPIRE HAS WITH REGARD TO BELL SOUTH'S RATES.**

10      A.     First, e.spire believes that BellSouth's shared transport rates are not appropriately  
11            TELRIC-based. BellSouth's proposed per minute facilities termination rate is the  
12            highest in the nine state BellSouth territory. In fact, the rate is 6 to 36 percent  
13            higher than in other BellSouth states. Similarly, BellSouth's proposed per  
14            mile/per month rate is based on the highest permanent rate established in the region.  
15            It is almost two-and-one-half times higher than the corresponding rate in  
16            Kentucky and is still 32 percent higher than the next highest non-interim rate.

17      **Q.     DOES E.SPIRE HAVE OTHER ISSUES REGARDING TRANSPORT**  
18      **RATES?**

19      A.     Yes. An additional – and critical – problem is that BellSouth simply has not  
20            proposed rates for dedicated interoffice transport at any speed other than DS-1.  
21            BellSouth should be compelled to produce TELRIC-based rates for DS-3, OC-3,  
22            OC-12, OC-96 and SONET transport in the context of this proceeding. No ICB  
23            pricing should be permitted. Moreover, BellSouth should be forced to justify its

1 DS-1 rates which, like those proposed for shared transport, appear to be too high  
2 to bear an appropriate relationship to cost. For example, the proposed per mile  
3 and termination rates are 33 and 85 percent higher than those in Kentucky.

4 **Q. PLEASE EXPLAIN WHY E.SPIRE IS DISPUTING BELL SOUTH'S**  
5 **RATES FOR UNBUNDLED DARK FIBER TRANSPORT FACILITIES.**

6 A. Again, the problem is that BellSouth has not proposed any rates for dark fiber  
7 transport facilities. Thus, e.spire requests that the Commission require BellSouth  
8 to produce current TELRIC studies so that appropriate rates can be established.

9 **Charges for Frame Relay UNEs**

10 **Q. DOES E.SPIRE ALSO DISPUTE THE RATES FOR FRAME RELAY**  
11 **UNEs?**

12 A. Yes. As I discussed earlier in this testimony, BellSouth has not yet proposed  
13 TELRIC-based rates for frame relay interconnection and UNEs. e.spire requests  
14 that the Commission establish TELRIC-based prices for frame relay  
15 interconnection and UNEs, after reviewing current BellSouth cost studies. In so  
16 doing, e.spire recommends that the trunk port charge for local switching be used  
17 as an external reality check to guard against any attempts to inflate costs and the  
18 rates which consumers ultimately must pay.

19 **Reciprocal Compensation Rates**

20 **Q. DOES E.SPIRE ALSO DISPUTE THE RATES PROPOSED FOR**  
21 **RECIPROCAL COMPENSATION FOR LOCAL TRANSPORT AND**  
22 **TERMINATION?**

1 A. Yes. As I discussed earlier – and as Dr. Kahn discusses in his testimony, e.spire  
2 and BellSouth costs may not be identical. Therefore, e.spire proposes that  
3 BellSouth should pay \$0.009 per minute to e.spire for traffic terminated on  
4 e.spire's network. e.spire does not object to paying BellSouth the rates it  
5 proposed for e.spire to pay for traffic terminated on BellSouth's network.

### Charges for UNE Combinations

7 Q. DOES E.SPIRE ALSO HAVE AN ISSUE WITH RATES FOR UNE  
8 COMBINATIONS?

9     A.     **Yes. Here, too, BellSouth has refused to provide rate proposals. As I discussed**  
10       **earlier, this Commission should establish combination UNE rates by adding the**  
11       **MRCs and NRCs for each UNE incorporated into the specified combination to**  
12       **arrive at price ceilings. e.spire also urges the Commission to resist any attempts**  
13       **by BellSouth to drive-up its competitors' costs – and End User rates – by**  
14       **imposing a non-cost-based glue charge for refraining from tearing apart common**  
15       **network configurations.**

### Charges for Physical Collocation

17 Q. DOES E.SPIRE ALSO TAKE ISSUE WITH BELL SOUTH'S PHYSICAL  
18 COLLOCATION SPACE PREPARATION FEE?

19 A. Yes. As, I discussed earlier, BellSouth should not be permitted to price physical  
20 collocation on an ICB basis. So that competitors can plan their collocation and  
21 local market entry strategies efficiently and effectively, e.spire requests that the  
22 Commission establish TELRIC-based rates for physical collocation after  
23 reviewing current BellSouth TELRIC studies.



**Volume and Term Discounts**

1  
2 **Q. DOES E.SPIRE ALSO HAVE AN ISSUF WITH REGARD TO VOLUME**  
3 **AND TERM DISCOUNTS?**

4 A. Yes. As I discussed earlier, e.spire believes that it should be entitled to volume  
5 and term discounts when it agrees to purchase UNEs in volumes greater or in  
6 terms longer than those contemplated in the base pricing established for particular  
7 UNEs. Accordingly, e.spire asks the Commission to establish UNE volume and  
8 term discounts that reflect the economies of scale realized in such situations. By  
9 establishing volume and term discounts for UNEs, the Commission will continue  
10 to put downward pressure on wholesale inputs and end user rates.

11 **Q. DOES E.SPIRE HAVE SPECIFIC RATES TO SUGGEST TO THE**  
12 **COMMISSION FOR ADOPTION?**

13 A. Our position is that we should calculate proposed rates *after* reviewing the latest  
14 relevant BellSouth cost information. We have developed an extensive set of  
15 discovery requests seeking that information. However, since the Commission's  
16 rules indicate that we should suggest rates at the time of filing of our petition, we  
17 have produced two sets of estimated rates. The first is a limited set of rates  
18 included in Dr. Kahn's testimony based on non-Bell cost models and relevant  
19 public information. The second is a set of stakeholder rates which I have attached  
20 to my direct testimony as Attachment 1. These rates represent a compilation of  
21 rates which BellSouth accepted elsewhere, and we submit should be acceptable  
22 here – at least until they sufficiently demonstrate a substantial cost differential  
23 between jurisdictions. However, each of the rates should be geographically

1        **deaveraged in accordance with Dr. Kahn's testimony, and we reserve the right to**  
2        **revise them based upon the results of Dr. Kahn's expert analysis of the BellSouth**  
3        **cost information during discovery.**

#### 4 Conclusion

5 Q. DOES THIS CONCLUDE YOUR DIRECT TESTIMONY?

6 A. Yes. However, I reserve the right to modify and supplement my testimony after  
7 having an opportunity to examine BellSouth's responses to e.spire's discovery  
8 requests. On behalf of e.spire, I hereby thank the Commission in advance for its  
9 consideration of our requests.

**Nonrecurring Charges For Unbundled  
Loops In Selected BOC Territories**

**SOUTHWESTERN BELL**

STATE	UNBUNDLED LOOP	NONRECURRING CHARGE	
		Initial	Additional
Arkansas (SWB - AT&T Agreement)	<u>Unbundled Loops</u> 2-Wire Analog Conditioning for dB Loss 4-Wire Analog 2-Wire Digital BRI 4-Wire Digital PRI Service Order	\$24.15/\$0.00 <sup>1</sup>	\$24.15/\$0.00 <sup>1</sup>
California (AT&T - PacBell Arbitration)	Installation/service order	\$37.31	\$3.11
Missouri (SWB - AT&T Agreement)	<u>Unbundled Loops</u> 2-Wire Analog (8dB Loop) Conditioning for dB Loss 4-Wire Analog 2-Wire Digital ISDN-BRI Loop) 4-Wire Digital (DS1 Loop) 4-Wire Digital (ISDN-PRI Loop)	\$26.07 \$22.76 \$28.77 \$57.77 \$136.63 \$136.63	\$11.09 \$8.58 \$11.09 \$30.22 \$53.94 \$53.94
	<u>Loop Cross Connects without Testing</u> MDF to Collocation 2-Wire Analog 4-Wire Analog 2-Wire Digital (ISDN-BRI) 4-Wire Digital (DS1)	\$19.96 \$25.38 \$19.96 \$34.48	\$12.69 \$17.73 \$12.69 \$28.57
Oklahoma (Sprint - SWB Agreement)	2-Wire Analog (8dB Loop) Loop Conditioning (5 dB Loop) <sup>2</sup> Basic Rate Interface (BRI) Primary Rate Interface Loop (4-Wire)	\$47.45 \$43.00 \$118.00 \$278.75	\$19.80 \$16.00 \$61.85 \$103.85

<sup>1</sup> Rate proposed by SWB; Rate proposed by AT&T

<sup>2</sup> For a 5dB Loop, 8dB prices plus Loop Conditioning Prices

**Nonrecurring Charges For Unbundled  
Loops In Selected BOC Territories**

**SOUTHWESTERN BELL**

<b>Texas</b>  (MCI - SWB Agreement)	2-Wire Analog	\$15.03	\$6.22
	Conditioning for dB loss (8dB to 5dB) <sup>1</sup>	\$17.54	\$16.13
	4-Wire Analog	\$15.03	\$6.22
	2-Wire Digital	\$15.03	\$6.22
	4-Wire Digital	\$73.25	\$26.68

<sup>1</sup> Rate proposed by SWBT/Rate proposed by AT&T  
<sup>2</sup> For a 5dB Loop, 8dB prices plus Loop Conditioning Prices

**Nonrecurring Charges For Unbundled  
Loops In Selected BOC Territories**

**NYNEX**

STATE	UNBUNDLED LOOP	NONRECURRING CHARGE	
		Per Order	Per Link (Loop)
New York  (P.S.C. Tariff No. 916)	<b><u>2-Wire Analog</u></b>		
	Service Order		
	1 Link	\$0.00	
	2-9 Links	\$0.00	
	10 or more Links	\$0.00	
	Manual Intervention Surcharge		
	1 Link	\$12.74	\$11.04
	2-9 Links	\$33.29	\$11.04
	10 or more Links	\$148.73	\$148.73
	Service Connection Central Office Wiring		\$18.27
	Service Connection - Other		\$10.17
	Customer Loop Information		\$9.12
	Installation Dispatch		
	1 Link		TBD
	2-9 Links		TBD
	10 or more Links		TBD
	TC Not Ready - per occasion	\$66.09	
	<b><u>2-Wire Digital</u></b>		
	Service Order		
	1 Link	\$12.82	
	2-9 Links	\$12.82	
	10 or more Links	\$21.37	
	Manual Intervention Surcharge		
	1 Link	\$12.74	\$11.04
	2-9 Links	\$33.29	\$11.04
	10 or more Links	\$148.73	\$148.73
	Service Connection Central Office Wiring		\$18.27
	Service Connection - Other - Per link		\$10.17
	Customer Loop Information - Per link		\$9.12
	Installation Dispatch		
	1 Link		TBD
	2-9 Links		TBD
	10 or more Links		TBD
	TC Not Ready - per occasion	\$66.09	

**Nonrecurring Charges For Unbundled  
Loops In Selected BOC Territories**

**NYNEX**

STATE	UNBUNDLED LOOP	NONRECURRING CHARGE	
		Per Order	Per Link (Loop)
New York (Cont'd)  (P.S.C. Tariff No. 916)	<u>1.5 Mbps</u>		
	Service Order		\$67.47
	Manual Intervention Surcharge		
	1 Link	\$12.74	\$11.04
	2-9 Links	\$33.29	\$11.04
	10 or more Links	\$148.73	\$11.04
	Service Connection Central Office Wiring		\$51.33
	Service Connection - Other		\$133.98
	Installation Dispatch		
	1 Link	TBD	
	2-9 Links	TBD	
	10 or more Links	TBD	
	TC Not Ready - per occasion	\$66.09	
	<u>45 Mbps</u>		
	Service Order		\$45.77
	Service Connection Central Office Wiring		\$48.73
	Service Connection - Other		
	Circuit Provisioning Center		\$20.17
	Network Design Center		\$70.34
	Installation Dispatch		\$236.28
	TC Not Ready - per occasion	\$66.09	
	<u>4-Wire Analog</u>		
	Service Order		
	1 Link	\$0.00	
	2-9 Links	\$0.00	
	10 or more Links	\$0.00	
	Manual Intervention Surcharge		
	1 Link	\$12.74	\$11.04
	2-9 Links	\$33.29	\$11.04
	10 or more Links	\$148.73	\$148.73
	Service Connection Central Office Wiring		\$18.27
	Service Connection - Other		\$10.17
	Customer Loop Information		\$9.12
	Installation Dispatch		
	1 Link		TBD
	2-9 Links		TBD
	10 or more Links		TBD
	TC Not Ready - per occasion	\$66.09	

**Nonrecurring Charges For Unbundled  
Loops In Selected BOC Territories**

**BELL ATLANTIC**

STATE	UNBUNDLED LOOP	NONRECURRING CHARGE	
		Initial	Additional
<b>Maryland</b>  (Bell Atlantic – AT&T Agreement)	<b>2-Wire Analog (POTS loops)</b>		
	<b>&amp; 4-Wire Analog</b>		
	Service Order	\$47.00	
	Installation	\$51.50	
	<b>ISDN Loops</b>		
	Service Order	\$29.51	
	Installation – Premises visit not required	\$16.49	\$18.49
	– Premises visit required	\$83.44	\$40.29
	<b>DS-1 Loops</b>		
	Service Order	\$23.20	
<b>New Jersey</b>  (Bell Atlantic - Sprint Agreement)	<b>POTS (analog 2-Wire)</b>		
	Service Order	\$23.55	
	If premises not required	\$8.61	\$8.61
	If premises visit required	\$83.69	\$29.58
	<b>ISDN</b>		
	Service Order	\$30.26	
	If premises not required	\$20.19	\$20.19
	If premises visit required	\$95.26	\$41.15
	<b>Customer Specified Signaling – 2 Wire</b>		
	Service Order	\$23.55	
	If premises not required	\$54.84	\$54.84
	If premises visit required	\$146.87	\$92.76
	<b>Customer Specified Signaling – 4 Wire</b>		
	Service Order	\$23.55	
	If premises not required	\$58.84	\$58.84
	If premises visit required	\$146.87	\$92.76
	<b>DS-1</b>		
	Service Order	\$23.55	
	If premises not required	\$58.84	\$58.84
	If premises visit required	\$146.878	\$92.76

<sup>1</sup> Not applicable when MCI orders both loop and switching elements together where Bell Atlantic does not perform installation function.

**Nonrecurring Charges For Unbundled  
Loops In Selected BOC Territories**

**BELL ATLANTIC**

STATE	UNBUNDLED LOOP	NONRECURRING CHARGE	
		Initial	Additional
<b>Pennsylvania</b>  (MCI - Bell Atlantic Agreement)	2 Wire Analog Loops (POTS Loops) and 4 Wire Loops Service Order Installation Per Loop	\$37.00 \$36.00 <sup>1</sup>	
	4 Wire Loops If premises visit not required	\$15.49 \$60.52	
	If premises visit required	\$141.62	\$60.52 \$94.38
	ISDN Loops Service Order	\$141.62	
	If premises not required	\$17.50	\$17.50
	If premises visit required	\$85.68	\$38.43
	DS-1 Loops Service Order	\$15.49	
	If premises not required	\$60.52	\$60.52
	If premises visit required	\$141.52	\$94.38
<b>Virginia</b>  (MCI - Bell Atlantic Arbitration)	2 Wire Analog Loops (POTS Loops) and 4 Wire Loops Service Order Existing Customers New Customers	\$20.21/loop \$13.91/loop \$27.02/loop	
	ISDN Loops Service Order	\$23.93	
	If premises not required	\$18.47	\$18.47
	If premises visit required	\$90.87	\$40.02
	DS-1 Loops Service Order	\$17.72	
	If premises not required	\$70.58	\$70.58
	If premises visit required	\$156.29	\$105.43



**Nonrecurring Charges For Unbundled  
Loops In Selected BOC Territories**

**AMERITECH**

<b>STATE</b>	<b>UNBUNDLED LOOP</b>	<b>NONRECURRING CHARGE</b>
<b>Illinois</b> (Ameritech - MCIm Agreement)	Service Order Establish/Change (Bus. Or Res.)	\$14.71 <sup>1</sup>
	Line Connection (Bus. Or Res.)	\$36.54 <sup>2</sup>
<b>Indiana</b> (Ameritech - AT&T Agreement)	Service Order – Establish (Bus. Or Res.)	\$46.42 <sup>1</sup>
	Line Connection: (Bus. Or Res.)	\$20.00 <sup>2</sup>
	Record Change	\$13.00
	Provision Change	\$13.50
<b>Michigan</b> (Ameritech - MCIm Agreement)	Service Order Establish/Change (Bus. Or Res.)	\$38.44 <sup>1</sup>
	Line Connection (Bus. Or Res.)	\$32.76 <sup>2</sup>
<b>Ohio</b> (Ameritech - MCIm Agreement)	Service Order Establish/Change (Bus. Or Res.)	\$25.50 <sup>1</sup>
	Service Order – Add/Change	\$9.30
	Record Change	\$9.30
	Line Connection (Bus. Or Res.)	\$24.35 <sup>2</sup>
<b>Wisconsin</b> (Ameritech - AT&T Wisconsin)	Service Order Establish/Change (Bus. Or Res.)	\$43.27 <sup>1</sup>
	Line Connection (Bus. Or Res.)	\$41.82 <sup>2</sup>

**e.spire Communications, Inc.**  
**Proposed "Placeholder" Rates**  
**(Tentative Pending Expert Analysis of BellSouth Cost Studies)**  
**(Each ULL Would be Deaveraged into Three Density Zones)**

UNE	Recurring Charge ("RC")	Nonrecurring Charge ("NRC")	Source
2W Analog VG ULL with NID	Rates must be geographically deaveraged	1 <sup>st</sup> – \$51.20 Add'l – \$27.90	NRC – BellSouth proposed rates in South Carolina (1 <sup>st</sup> ) and North Carolina (Add'l)
4W Analog VG ULL with NID	\$18.00	1 <sup>st</sup> – \$51.20 Add'l – \$27.80	RC – BellSouth proposed rate in Tennessee NRC – BellSouth proposed rates in South Carolina (1 <sup>st</sup> ) and North Carolina (Add'l)
2W ADSL ULL with NID	\$11.89	\$51.20	RC – BellSouth proposed rate in Kentucky NRC – BellSouth proposed rate in South Carolina
2W HDSL ULL with NID	\$3.51	\$51.20	RC – BellSouth proposed rate in Kentucky NRC – BellSouth proposed rate in South Carolina

UNE	Recurring Charge ("RC")	Nonrecurring Charge ("NRC")	Source
4W HDSL ULL with NID	\$10.39	\$51.20	RC - BellSouth proposed rate in Kentucky NRC - BellSouth proposed rate in South Carolina
4W DSL ULL with NID	\$64.19	1 <sup>st</sup> - \$300.00 Add'l - \$250.00	RC - BellSouth proposed rate in Alabama NRC - BellSouth proposed rate in South Carolina
4W 56/64 Kbps ULL with NID	\$29.92	1 <sup>st</sup> - \$333.28 Add'l - \$230.50	RC - BellSouth proposed rate in Georgia NRC - BellSouth proposed rate in Louisiana
High Capacity ULLs - DS3 - OC3 - OC48	DS3 - \$600.00 OC3 - \$1228.00 OC48 - \$4224.00	DS3 - \$67.19 OC3 - \$67.19 OC48 - \$67.19	DS3 - BellSouth proposed rate for South Carolina OC3, OC48 - Assume 52% Discount on RCs based on comparison of DS1 UNE loop rates and DS1 special access channels - See, BellSouth FCC Tariff No. (\$7.5.9(A)(3)(ao)-(as))
Subloop - Feeder	\$8.58	1 <sup>st</sup> - \$206.44 Add'l - \$170.05	BellSouth proposed rates for Georgia
Subloop - Distribution	\$8.57	1 <sup>st</sup> - \$78.28 Add'l - \$58.33	BellSouth proposed rates for Florida

UNE	Recurring Charge ("RC")	Nonrecurring Charge ("NRC")	Source
Subloop - Distribution	\$8.57	1 <sup>st</sup> - \$78.28 Add'l - \$58.33	BellSouth proposed rates for Florida
Unbundled Network Terminating Wire	\$2.00/month/pair	\$225.00	BellSouth proposed rates for Florida, Georgia, Kentucky, and Tennessee
Loop Concentration/ Channelization	\$80.16	\$81.00	Assume 40% Discount on NRCs and 52% Discount on RCs based on comparison of DS1 UNE loop rates and DS1 special access channels - See, BellSouth FCC Tariff No. 1 §7.5.9(D)(1)(c)
CO Channel Interface - 2W Cross-connect	\$.09016	\$5.75	RC - BellSouth proposed rate for Georgia NRC - BellSouth proposed rate for Florida
DS0 Dedicated Transport	\$1.92 per mile \$19.20 fixed	\$14.41	Assume 40% Discount on NRCs and 52% Discount on RCs based on comparison of DS1 UNE loop rates and DS1 special access channels - See, BellSouth FCC Tariff No. 1 §7.5.9(B)(1)

UNE	Recurring Charge ("RC")	Nonrecurring Charge ("NRC")	Source
DS1 Dedicated Transport	\$5.72 per mile \$36.00 fixed	\$93.60	Assume 40% Discount on NRCs and 52% Discount on RCs based on comparison of DS1 UNE loop rates and DS1 special access channels - See, BellSouth FCC Tariff No. 1 §7.5.9(A)(1)
DS3 Dedicated Transport	\$40.00 per mile \$600.00 fixed	\$67.19	BellSouth proposed rates for South Carolina
High Capacity Dedicated Transport - OC3  - OC48	OC3 - \$165.60 per ¼ mile - \$14.40 fixed  OC48 - \$165.60 per ¼ mile - \$14.40 fixed	OC3 - \$300.00  OC48 - \$300.00	Assume 40% Discount on NRCs and 52% Discount on RCs based on comparison of DS1 UNE loop rates and DS1 special access channels - See, BellSouth FCC Tariff No. 1 §7.5.14(A)(3)-(4)
Dark Fiber	\$44.22/month. + \$0.008375/mile	1 <sup>st</sup> - \$1000.00 Add'l - \$273.69	RC - BellSouth proposed rate for Georgia NRC - BellSouth proposed rate for Alabama (1 <sup>st</sup> ) and Georgia (Add'l)

UNE	Recurring Charge ("RC")	Nonrecurring Charge ("NRC")	Source
<b>Frame Relay UNEs</b>  - FR Switch Port - Per UNI - 56 Kbps - 64 Kbps - 1.536 Mbps - 44.210 Mbps  - Per NNI - 56 Kbps - 64 Kbps - 1.536 Mbps - 44.210 Mbps  - DLCI  - DLCI (CIR) - 56-64 Kbps - >64-128 Kbps - >128-256 Kbps - >256-384 Kbps - >384-512 Kbps - >512-768 Kbps - >768 Kbps-1.536 Mbps	- Per UNI 56 Kbps - \$21.12 64 Kbps - \$24.00 1.536 Mbps - \$100.00 44.210 Mbps - \$822.72  - Per NNI 56 Kbps - \$21.12 64 Kbps - \$24.00 1.536 Mbps - \$100.00 44.210 Mbps - \$822.72  \$0.72  \$6.24 \$8.64 \$11.52 \$13.44 \$15.36 \$17.28 \$26.40	- Per UNI 56 Kbps - \$180.00 64 Kbps - \$180.00 1.536 Mbps - \$246.00 44.210 Mbps - \$630.00  - Per NNI 56 Kbps - \$180.00 64 Kbps - \$180.00 1.536 Mbps - \$246.00 44.210 Mbps - \$630.00  \$15.00  NA NA NA NA NA NA NA	Assume 40% Discount on NRCs and 52% Discount on RCs based on comparison of DSL UNE loop rates and DSL special access channels - See, BellSouth FCC Tariff No. 1 §21.1.10(A)-(B)

UNE	Recurring Charge ("RC")	Nonrecurring Charge ("NRC")	Source
(continued) - >1.536 - 4 Mbps - >4 - 10 Mbps - >10 - 16 Mbps - >16-34 Mbps - >34-44.736 Mbps	\$57.60 \$76.80 \$100.48 \$120.00 \$177.60	NA NA NA NA NA	
Reciprocal Compensation (Transport and Termination)	\$0.009	N/A	c.spire cost study and KMC agreement

## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that true and correct copies of the Revised Direct Testimony of James C. Falvey on behalf of e.spire Communications, Inc. in Docket Nos. 981642-TP and 981745-TP have been served upon the following parties by Hand Delivery (\*) and/or U. S. Mail this 4th day of February, 1999.

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