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RECORDS AND
REPORTING

November 25, 1998

BY HAND DELIVERY

Ms. Blanca Bayo, Director
Division of Records and Reporting
Room 110, Easley Building
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, Florida 32399-0850

981745-TP

Dear Ms. Bayo:

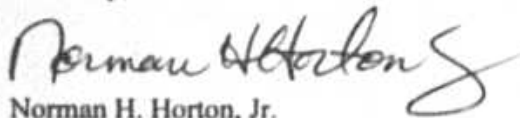
Enclosed for filing on behalf of e.spire Communications, Inc. are the following documents:

1. An original and fifteen copies of e.spire Communications, Inc.'s Petition for Arbitration;
2. An original and fifteen copies of e.spire Communications, Inc.'s Notice of Claiming Confidential Treatment of Agreement.

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,



Norman H. Horton, Jr.

NHH/amb
Enclosures

cc: James C. Falvey, Esq.
Beth Keating, Esq.

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FPSC-BUREAU OF RECORDS

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FPSC-RECORDS/REPORTING

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

In the Matter of)
)
Petition by E.SPIRE COMMUNICATIONS, 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. _____
Filed: November 25, 1998

PETITION FOR ARBITRATION

e.spire Communications, Inc. (formerly known as "American Communications Services, Inc."), and its local exchange operating subsidiaries in Florida, American Communication Services of Tampa, Inc. and American Communication Services of Jacksonville, Inc. (collectively "e.spire"), pursuant to Section 252(b) of the Communications Act of 1934, as amended (the "Act"), 47 U.S.C. § 252(b), hereby petition the Florida Public Service Commission ("Commission"), for arbitration of the unresolved issues in the interconnection negotiations between e.spire and BellSouth Telecommunications, Inc. ("BellSouth). Specifically, e.spire requests the Commission to find that BellSouth is required to resolve each of the issues designated herein as unresolved by ordering the Parties to incorporate e.spire's proposed position in their final draft Interconnection Agreement (the "Interconnection Agreement"). In support of this petition, e.spire states as follows:

I. DESIGNATED CONTACTS

All correspondence, notices, inquiries and orders regarding this Petition should be forwarded to the following designated contacts for e.spire:¹

Brad E. Mutschelknaus
KELLEY DRYE & WARREN LLP
1200 Nineteenth Street, N.W.
Suite 500
Washington, D.C. 20036
(202) 955-9600

Norman H. Horton, Jr.
Floyd R. Self
MESSER CAPARELLO & SELF, P.A.
215 S. Monroe Street, Suite 701
Tallahassee, Florida 32302-1876
(850) 222-0720

Riley M. Murphy
James C. Falvey
E.SPIRE COMMUNICATIONS, INC.
133 National Business Parkway
Suite 200
Annapolis Junction, Maryland 20701
(301) 617-4200

The lead attorney at BellSouth assigned to these negotiations has been:

Mary Jo Peed
General Attorney
BELL SOUTH TELECOMMUNICATIONS, INC.
675 West Peachtree Street, N.E.
Atlanta, Georgia 30375
(404) 335-0705

¹ Messer Caparello & Self will be filing an appearance in this proceeding on behalf of e.spire at the earliest possible opportunity.

II. STATEMENT OF FACTS

1. e.spire Communications, Inc. is a publicly traded Delaware corporation, having its principal place of business at 133 National Business Parkway, Suite 200, Annapolis Junction, Maryland 20701. e.spire Communications, Inc., through its operating subsidiaries, provides or is authorized to provide competitive circuit-switched local exchange and exchange access services in 32 markets in 20 states, including Florida and packet-switched and interexchange services virtually nationwide.

2. BellSouth is an "incumbent local exchange carrier" ("ILEC") in Florida as defined by the Act. 47 U. S.C. § 251(h). Within its operating territory BellSouth has at all relevant times been a monopoly provider of telephone exchange services.

3. BellSouth received e.spire's request for interconnection pursuant to Section 251 of the Act on June 24, 1998. BellSouth and e.spire have held numerous meetings, both in person and by telephone, to discuss the rates, terms and conditions pursuant to which BellSouth would provide interconnection and related services and facilities to e.spire. The purpose of these negotiations was to complete a successor Interconnection Agreement that will replace an existing Interconnection Agreement executed by e.spire and BellSouth in July 1996. e.spire's existing Interconnection Agreement with BellSouth was scheduled to expire on September 1, 1997, but has been extended by mutual agreement of the Parties until a successor agreement is finalized.

4. As a result of these negotiations, during which e.spire believes that both Parties consistently have acted in good faith, BellSouth and e.spire reached agreement on most of the hundreds of issues raised. Unfortunately, they did not reach agreement on all issues. Thus, e.spire is seeking arbitration of the unresolved issues, as identified in Section IV herein, pursuant to Section 252 of the Act.

III. JURISDICTION OF THE COMMISSION

5. Under the Act, Parties to a negotiation for interconnection or access to unbundled elements within a particular state have the right to petition the respective State commission for arbitration of any open issues whenever negotiations between them fail to yield an agreement. 47 U.S.C. § 252(b). Either Party may seek such arbitration during the period between the 135th day and the 160th day, inclusive, after the date the ILEC received the request for negotiation. *Id.* Because the Parties have agreed that BellSouth received the e.spire Request on June 24, 1998, the window for requesting arbitration opened on November 5, 1998 and closes on November 30, 1998. Accordingly, this Petition is filed within the time period established by the Act. Unless waived by both Parties, Section 252(b)(4)(c) requires that the Commission conclude the arbitration no later than March 24, 1999 (*i.e.*, within nine (9) months after BellSouth received e.spire's request for interconnection). *See* 47 U.S.C. § 252(b)(4)(C).

IV. ARBITRATION ISSUES

6. The unresolved issues are presented in a manner that is consistent with the structure of the final draft Interconnection Agreement between the Parties, which is appended hereto Attachment A. Briefly described, the Agreement is structured in a modular manner, and is comprised of the following discrete sections:

General Terms and Conditions

- Part A: Terms and Conditions
- Part B: Definitions
- Part C: Schedule of e.spire Operating Subsidiaries

Attachments

- 1: Resale
- 2: Unbundled Network Elements
- 3: Local Interconnection

- GTC-2(a) Should the failure to provide interconnection, services and facilities under the Interconnection Agreement at parity as established by the Performance Standards and Measurements appended to the Interconnection Agreement as Attachment 10, be classified as a Specified Performance Breach?
- GTC-2(b) If so, should Liquidated Damages be imposed for the occurrence of such Specified Performance Breach?
- GTC-3 Should e.spire be able to substitute the rates, terms and conditions of portions of its Interconnection Agreement with comparable portions of agreements between BellSouth and other Telecommunications Carriers?
- GTC-4 Should a "fresh look" period be established to enable End Users bound to long term agreements with BellSouth to switch local carriers without penalty?
- GTC-5 Should both Parties be required to absorb their own costs of complying with subpoenas and government orders for intercept devices?
- GTC-6 Should the Parties be able to elect use of binding commercial arbitration for the resolution of disputes?
- GTC-7 Should the Agreement be reformed to conform to changes in the Applicable Law when such changes are "effective" or "nonappealable"?
- GTC-8 Should dial-up calls placed to Internet Service Providers ("ISPs") be defined as "local traffic" for purposes of the e.spire/BellSouth Interconnection Agreement?
- GTC-9 Should the e.spire local switch be defined as constituting both an "End Office" and a "Tandem Switch"?

Attachment 1 (Resale)

- ATT1-1 Should e.spire be permitted to resell flat and measured rate service on the same business premise to End Users when BellSouth previously allowed such End Users to purchase both flat and measured Services at the same premise?
- ATT1-2(a) Should the failure to provide Resale Services under the Interconnection Agreement at parity as established by the

- ATT2-2(b) If so, should e.spire be able to purchase the voice and data channels separately?
- ATT2-2(c) If so, should each channel be priced at no more than one-half of the charge of the comparable ULL?
- ATT2-2(d) When e.spire purchases only the data channel, should BellSouth be required to provide voice services over the remaining channel upon consumer request?
- ATT2-2(e) Should BellSouth be required to publish and apply reasonable Loop qualification procedures, including reasonable standards for addressing spectral interference, and be prohibited from denying access to Loops due to alleged spectral interference?
- ATT2-3 Should BellSouth be required to make available DS-1 digital loops/ 4-wire digital loops at pre-established TELRIC-based rates?
- ATT2-4 Should BellSouth be required to make available 4-wire 56/64 kbps digital grade loops at pre-established TELRIC-based rates?
- ATT2-5 Should BellSouth be required to make available DS-3 loops at pre-established TELRIC-based rates where present in its own network?
- ATT2-6 Should BellSouth be required to make available OC3, OC12 and OC48 unbundled loops at pre-established TELRIC-based rates where present in its own network?
- ATT2-7 Should BellSouth be required to make available Dark Fiber loops where available at pre-established TELRIC-based rates?
- ATT2-8 Should BellSouth be required to make available a "Bit Stream" UNE/Loop?
- ATT2-9 Should BellSouth be required to provide "Extended Link" Loops (2-wire voice grade, 4-wire voice grade, 2-wire digital, 4-wire digital, 2-wire ADSL-compatible, 2-wire HDSL-compatible, 4 wire HDSL-compatible)?
- ATT2-10 Should BellSouth be required to make a Frame Relay Access Loop ("FRAL") available extending from the End User Premises to the e.spire Frame Relay switch?
- ATT2-11 Should BellSouth be permitted to establish differential NRCs for SL1 and SL2 Loops?

- ATT2-12(a) Should BellSouth be required to provide loop conditioning to make specified loops capable of supporting advanced services?
- ATT2-12(b) If so, should NRCs for loop conditioning be established at the associated TELRIC cost and what should be the resulting rates?
- ATT2-12(c) Should e.spire receive a credit for such NRCs if the conditioned loop is later taken back by BellSouth for a "win-back" sale or to sell to another CLEC?
- ATT2-13 Should BellSouth provide e.spire with the capability to independently identify xDSL-capable loops on an electronic basis, both on an individual basis and for an entire Central Office?
- ATT2-14 Where an unbundled loop passes through equipment located outside the Central Office serving the Customer, that limits or affects the ability of the unbundled loop to support xDSL services, should BellSouth be required to provide (i) an alternate loop capable of supporting the services, or (ii) equal access to electronics at the Remote Terminal or the Central Office?
- ATT2-15 Where BellSouth provides loops through Integrated Digital Loop Carrier ("IDLC") systems, should BellSouth be required to make alternative arrangements available to e.spire or each such loop to permit e.spire a contiguous local loop?
- ATT2-16 Should BellSouth be required to provide "sub-loop unbundling" by providing feeder, distribution and concentration separately at pre-established TELRIC-based rates, and allowing e.spire to collocate at its Remote Terminals, unless BellSouth can affirmatively demonstrate that a particular location (i) sub-loop unbundling is not "technically feasible"; or (ii) there is insufficient space at the Remote Terminal to accommodate the request?
- ATT2-17 Should BellSouth be required to provide loop concentration at Remote Terminals as a UNE?
- ATT2-18 Should BellSouth be required to permit Physical Collocation of e.spire equipment at BellSouth's Remote Terminal?
- ATT2-19 When provisioning unbundled loops, should BellSouth be required to take action to ensure that affected End Users will not be out-of-service for more than five (5) minutes, including the coordination of INP?
- ATT2-20 Should FOCs for loops orders be returned by BellSouth within four

(4) hours of electronic order submission by e.spire and within 24 hours of manual order submission?

- ATT2-21 Should BellSouth be required to provide high-capacity Interoffice Transport facilities at prescribed (non-ICB) TELRIC-based rates (i.e., DS3, OC3, OC12 and OC48)?
- ATT2-22 Should Dedicated Transport be made available both between BellSouth Central Offices and as a "Local Channel"?
- ATT2-23 Should BellSouth be required to make available interoffice Dark Fiber at pre-established TELRIC-based rates?
- ATT2-24 Should BellSouth be required to unbundle Network Elements required to provide packet-switched services (i.e., UNI, NNI, DLCI and CIR), and provide pre-established TELRIC-based rates for each?
- ATT2-25(a) Should BellSouth be required to provide the prescribed combinations of UNEs listed in Schedule 1 to draft Attachment 2?
- ATT2-25(b) If so, should BellSouth be precluded from assessing special recombination charges?
- ATT2-26(a) Should the failure of BellSouth to provide UNEs at parity as measured by the Performance Standards and Measurements specified in Attachment 10 be classified as a Specified Performance Breach?
- ATT2-26(b) If so, should Liquidated Damages be imposed for each such Specified Performance Breach?
- ATT2-27 Should the rates applicable to the recurring charges for unbundled loops be deaveraged on a geographic basis?
- ATT2-28 Should BellSouth be required to offer volume and term discounts for UNEs consistent with those available for its special access services?
- ATT2-29(a) Should e.spire be permitted to convert its special access facilities to Extended Link UNEs?
- ATT2-29(b) If so, should the NRCs (i) be established at the direct additional cost of conversion where no physical facilities rearrangement is required, and (ii) at charges net of credits for previously paid Special Access NRCs where facilities rearrangement is necessary?

- ATT2-30 For each discrete UNE made available under the Interconnection Agreement, should BellSouth be required to commit to make such UNE available to e.spire on a nondiscriminatory basis on terms no less favorable than those BellSouth makes available to any BellSouth Affiliate or any other Telecommunications Carrier?

Attachment 3 (Interconnection)

- ATT3-1(a) Should the parties be required to interconnect their packet-switched Frame Relay networks at the same network architecture and rate structure applied to circuit-switched voice telecommunications?
- ATT3-1(b) If so, should permanent rates and charges applicable to such interconnection be based on TELRIC, and should e.spire's proposed surrogate rate proposal be adopted on an interim basis?
- ATT3-2 Should BellSouth be required to meet the Performance Standards established in Attachment 10 for local interconnection, and pay Liquidated Damages for breaches of specified performance metrics or parity requirements?
- ATT3-3 Should e.spire be permitted to charge a single "blended" reciprocal compensation rate for reciprocal compensation?
- ATT3-4 Should e.spire's proposed rate level for Reciprocal Compensation be adopted for use when e.spire terminates local traffic routed to it by BellSouth?
- ATT3-5 Should dial-up calls placed to ISPs be classified as local traffic for purposes of assessing reciprocal compensation?
- ATT3-6(a) Should BellSouth be required to provide Interconnection which is "equal in quality" to that provided to itself, its Affiliates or any other Telecommunications Carrier?
- ATT3-6(b) If so, should "equal in quality" be defined to mean that BellSouth would employ the same technical criteria and service standards that BellSouth uses within its own network, including the same or equivalent interface specifications, provisioning, installation, maintenance, testing, repair intervals, call blocking incidence, grade of service, and transmission clarity for purposes of providing service and facilities to e.spire?

Attachment 4 (Physical Collocation)

Should e.spire be permitted to self-supply a direct cross-connection to another Telecommunications Carrier collocated in the same BellSouth Central Office?

- ATT4-14 Should e.spire be permitted to collocate in a BellSouth Remote Terminal on a space-available basis?
- ATT4-15 Should the Space Preparation Fee be established on an ICB basis?
- ATT4-16 Should e.spire be permitted to collocate equipment that satisfies NEBs safety standards but does not meet unrelated NEBs qualifications?
- ATT4-17 Should BellSouth be required to notify e.spire of the exhaustion of Physical Collocation Space and the filing of requests for waiver of Physical Collocation Space requirements?
- ATT4-18 Should cost-based rates for physical collocation, including cross-connects, be established?

Attachment 5 (Numbering)

- ATT5-1 When permanent LNP is implemented, should BellSouth be required to make available a procedure allowing e.spire (i) to extend the period during which the base of existing INP customers shall be converted to LNP and (ii) to expand the period during which INP-based orders will be processed?
- ATT5-2 For coordinated cutovers of Loops, should all associated INP switch translations be completed within 5 minutes after the physical Loop cutover is completed?
- ATT5-3 Should BellSouth be required to remit to e.spire the interconnection charge, local switching charge and pro rata portions of transport and CCL charges, when BellSouth receives access revenue for traffic terminated to ported numbers?

Attachment 6 (OSS)

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13

- ATT6-1 Should BellSouth be required to make its RNS interface available to e.spire?
- ATT6-2 Should BellSouth be required to develop an EDI interface that will function as a Single Point of Contact ("SPOC") for pre-ordering, ordering and provisioning functions?
- ATT6-3 Should BellSouth be required to provide prices charged to its End Users over a pre-ordering interface?
- ATT6-4 Should failure to provide pre-ordering functions at parity as measured by specified Performance Measurements be treated as a Specified Performance Breach requiring the payment of Liquidated Damages?
- ATT6-5 Should BellSouth be required to develop systems which provide end-to-end pre-ordering and ordering processes (including legacy BellSouth applications) without manual intervention (i.e., "flow-through")?
- ATT6-6 Should BellSouth be required to notify e.spire in advance via EDI or facsimile of an order to switch Resale Services of ULLs for e.spire End Users to BellSouth or another CLEC?
- ATT6-7 Should BellSouth be prohibited from initiating disconnection or service rearrangement of any e.spire End User for Resale Services, UNEs or Combinations, unless directed by e.spire?
- ATT6-8 Should BellSouth be required to provide copies of all test and turn-up results in support of complex Resale services or UNEs ordered by e.spire?
- ATT6-9 When e.spire orders UNEs or Combinations of UNEs that are currently interconnected and functional, should BellSouth be precluded from disconnecting such UNEs from one another or impose additional charges for leaving them interconnected?
- ATT6-10 Should a failure to provide ordering and provisioning functions at parity as measured by specified Performance Measurements be treated as a Specified Performance Breach, requiring the payment of Liquidated Damages?
- ATT6-11 Should a failure to provide maintenance and repair functions at parity as measured by specified Performance Measurements be treated as a Specified Performance Breach, requiring the payment

DC01CRITE/67179.1

of Liquidated Damages?

- ATT6-12 Should BellSouth be required to develop electronic systems for pre-ordering, ordering, provisioning, and maintenance which are compliant with all existing and future applicable industry standards established by ATIS, OBF and ANSI?
- ATT6-13 Should BellSouth be required to adopt the "Change Management" procedures applicable to OSS systems modifications that were suggested by e.spire?
- ATT6-14 Should BellSouth be required to transmit a Firm Order Commitment ("FOC"), or, in the alternative, notification of the lack of available facilities, within four (4) hours of receiving a complete and correct order from e.spire via an electronic interface and within 24 hours of receiving orders via manual submission?
- ATT6-15 Should BellSouth be required to provide notification via an electronic interface of rejections, errors and edits for any data field in an e.spire service request?
- ATT6-16 Should BellSouth be required to provide electronic notification of work completion within four (4) hours of such work completion?
- ATT6-17 Should BellSouth be required (i) to exercise best efforts to make e.spire's specified Desired Due Dates ("DDD") for Network Element installation, and (ii) not complete such orders prior to the DDD unless needed for testing purposes?
- ATT6-18(a) Should BellSouth be required to commit to an out-of-service interval of five (5) minutes or less in connection with coordinated cutovers of unbundled Loops?
- ATT6-18(b) Should coordinated conversions of multiple local Loops be completed with out-of-service conditions of less than thirty (30) minutes for orders involving up to ten (10) loop conversions, and of less than sixty (60) minutes for loop conversions of eleven (11) to thirty (30) Loops?
- ATT6-19 Should BellSouth be required to warrant that intervals for provisioning unbundled Loops and Resale Services for e.spire shall not exceed the average intervals experienced when BellSouth converts "win-back" accounts from e.spire?
- ATT6-20 Should BellSouth be required to provide "help desk" coverage for inquiries relating to the electronic interfaces for ordering and

provisioning?

Attachment 10 (Performance Standards)

ATT10-1 Should failure to meet the prescribed intervals or to provide service at parity as measured by the specified Performance Measurements be classified as a Specified Performance Breach? If so, should Liquidated Damages be imposed for each such breach?

Attachment 11 (Rates)

ATT11-1 What pricing should be applied to e.spire's purchase of UNEs? Specifically, what prices should be established for: (1) Unbundled Loops (recurring and non-recurring charges); (2) Interoffice Transport (recurring and non-recurring charges); (3) Packet-Switched UNEs; (4) Remote Terminal UNEs; and (5) Loop Concentration?

ATT11-2 Should UNE rates be deaveraged on a geographic basis?

ATT11-3 Should volume and term discounts be available for UNEs?

ATT11-4 What rate should be established for Reciprocal Compensation for transport and termination when charged by e.spire to BellSouth?

Attachment 12 (Directory Listings)

ATT12-1 Should BellSouth be required to provide an electronic feed sufficient to enable e.spire to confirm that Directory Listings of e.spire End Users have been included in the databases utilized by BellSouth to generate Directories and the Directory Assistance database?

ATT12-2 Should BellSouth permit e.spire to review galley proofs of Directories in advance of publication for the purpose of verifying inclusion of e.spire End Users?

ATT12-2 Should BellSouth be allowed to limit its liability for errors or omissions in Directory Listings to \$1.00?

V. APPLICABLE ARBITRATION STANDARDS

10. This arbitration must be resolved by the standards established in Sections 251 and 252 of the Act, and the effective rules adopted by the FCC in its *Local Competition Order*. See

47 U.S.C. §§ 251, 252; *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, CC Docket No. 96-98, First Report and Order, 11 FCC Red 13042 (1996) ("*Local Competition Order*"). Section 252(c), 47 U.S.C. § 252(c), of the Act requires a state Commission resolving open issues through arbitration to:

- (1) ensure that such resolution and conditions meet the requirements of Section 251, including the regulations prescribed by the [FCC] pursuant to Section 251; [and]
- (2) establish any rates for interconnection, services, or network elements according to subsection (d) [Section 252(d)].

11. The Commission must make an affirmative determination that the rates, terms and conditions that it prescribes in this arbitration proceeding for interconnection are consistent with the requirements of Sections 251(b)-(c) and Section 252(c) of the Act. Notably, Section 251(c)(3), which requires that an implementation schedule be prescribed, is inapplicable because the Parties already have implemented interconnection pursuant to their existing Interconnection Agreement.

12. Section 251(b), 47 U.S.C. § 251(b), states that each local exchange carrier has the following duties:

- (1) the duty not to prohibit, and not to impose unreasonable or discriminatory conditions or limitations on, the resale of its telecommunications service;
- (2) the duty to provide, to the extent technically feasible, number portability in accordance with requirements prescribed by the FCC;
- (3) the duty to provide dialing parity to competing providers of telephone exchange service and telephone toll service, and the duty to permit all such providers to have nondiscriminatory access to telephone numbers, operator services, directory assistance, and directory listing, with no unreasonable dialing delays;
- (4) the duty to afford access to the poles, ducts, conduits, and rights-of-way of such carrier to competing providers of telecommunications services on rates, terms, and conditions that are consistent with Section 224 of the Act; and

- (5) the duty to establish reciprocal compensation arrangements for the transport and termination of telecommunications.

13. Section 251(c) states that each incumbent local exchange carrier, such as BellSouth, has the following additional duties:

- (1) the duty to negotiate in good faith;
- (2) the duty to provide, for the facilities and equipment of any requesting telecommunications carrier, interconnection with the local exchange carrier's network for the transmission and routing of telephone exchange service and exchange access at any technically feasible point within the carrier's network that is at least equal in quality to that provided by the local exchange carrier to itself, or to any subsidiary, affiliate, or any other party to which the carrier provides interconnection on rates, terms and conditions that are just, reasonable and nondiscriminatory;
- (3) the duty to provide, to any requesting telecommunications carrier, nondiscriminatory access to network elements on an unbundled basis at any technically feasible point on rates, terms and conditions that are just, reasonable and nondiscriminatory and in such a manner that allows requesting carriers to combine such elements in order to provide such telecommunications service;
- (4) the duty to offer for resale at wholesale rates any telecommunications service that the carrier provides at retail to subscribers who are not telecommunications carriers and not to prohibit, and not to impose unreasonable or discriminatory conditions or limitations on the resale of such services;
- (5) the duty to provide reasonable public notice of changes in the information necessary for the transmission and routing of services using that local exchange carrier's facilities or networks, as well as of any other changes that would affect the interoperability of those facilities and networks; and
- (6) the duty to provide, on rates, terms and conditions that are just, reasonable and nondiscriminatory, for physical collocation of equipment necessary for interconnection or access to unbundled network elements at the premises of the local exchange carrier, except that virtual collocation may be provided if the local exchange carrier demonstrates to the State commission that physical collocation is not practical for technical reasons or because of space limitations.

14. Section 252(d) sets for the applicable pricing standards for interconnection and

network element charges as well as for transport and termination of traffic. Section 252(d)(1) states in pertinent part that "determinations by a State commission of the just and reasonable rate for the interconnection of facilities and equipment . . . and the just and reasonable rate for network elements . . . shall be (i) based on the cost (determined by reference to a rate-of-return or other rate-based proceeding) of providing the interconnection or network element (whichever is applicable), and (ii) nondiscriminatory, and [(iii)] may include a reasonable profit." 47 U.S.C. § 252(d)(1). Section 252(d)(2) further states in pertinent part that "a State commission shall not consider the terms and conditions for reciprocal compensation [for transport and termination] to be just and reasonable unless (i) such terms and conditions provide for the mutual and reciprocal recovery by each carrier of costs associated with the transport and termination on each carrier's network facilities of calls that originate on the network facilities of another carrier; and (ii) such terms and conditions determine such costs on the basis of a reasonable approximation of the additional costs of terminating such calls." 47 U.S.C. § 252(d)(2).

occurrence of such Specified Performance Breach?

e.spire
position:

Performance measures are an invaluable tool for e.spire because they make it possible for e.spire to identify failures by BellSouth to meet its obligations under the Interconnection Agreement. However, performance measures have little meaning if they identify breaches but do not provide a mechanism for curing such breaches. In e.spire's experience over the past two years, the lack of an immediate adverse consequence for a failure to perform encourages BellSouth nonperformance. In addition, seeking judicial or regulatory resolution of such breaches is impractical. Having to litigate such failures to perform time and again is time consuming and costly. Moreover, it constitutes a poor use of scarce resources, at e.spire, BellSouth and the agency burdened with the task of resolving the dispute.

BellSouth
position:

BellSouth maintains that there should be no self-executing remedies for breach of specified Performance Standards.

GTC-3

Should e.spire be able to substitute the rates, terms and conditions of portions of its Interconnection Agreement with comparable portions of agreements between BellSouth and other Telecommunications Carriers?

e.spire
position:

The ability to substitute the provisions of an agreement between BellSouth and another Telecommunications Carrier is a critical competitive safeguard. Without it, e.spire cannot agree to more than very short-term agreements out of fear that BellSouth will subsequently agree to more favorable terms with another CLEC or a BellSouth Affiliate. If that happened, e.spire would be put at a grave competitive disadvantage. Moreover, the ability to substitute an entire agreement is inadequate because BellSouth can insert "poison pills" that would have the effect of making such other agreements unavailable.

BellSouth
position:

BellSouth maintains that no "most favored nation" rights should be granted.

GTC-4

Should a "fresh look" period be established to enable End Users bound to long term agreements with BellSouth to switch local carriers without penalty?

e.spire position: Prior to the advent of competition, BellSouth was very successful in signing many End Users to long term contracts. Without a "fresh look" period, these customers cannot take advantage of the emergence of competitive providers of telecommunications services because if they exit these long-term contracts with BellSouth, they are penalized. Often, the penalties imposed are quite stiff. e.spire submits that customers should have the option of selecting a carrier other than BellSouth when such carriers enter the local telecommunications market. Thus, a "fresh look" provision should be included in the Interconnection Agreement.

BellSouth position: BellSouth maintains that a "fresh look" period is not appropriate.

GTC-5 **Should both Parties be required to absorb their own costs of complying with subpoenas and government orders for intercept devices?**

e.spire position: Both Parties should absorb their own costs of complying with subpoenas and government orders as a normal cost of doing business.

BellSouth position: BellSouth maintains that e.spire should pay the costs of both Parties.

GTC-6 **Should the Parties be able to elect use of binding commercial arbitration for the resolution of disputes?**

e.spire position: Commercial arbitration should be available because it is a valuable alternative method for dispute resolution.

BellSouth position: e.spire does not know what BellSouth's position is on this issue.

GTC-7 **Should the Interconnection Agreement be reformed to conform to changes in the Applicable Law when such changes are "effective" or "nonappealable"?**

e.spire position: The Interconnection Agreement should be reformed when changes in law become "effective."

BellSouth
position:

BellSouth maintains that the Interconnection Agreement should be reformed when changes in law become "nonappealable."

GTC-8

Should dial-up calls placed to Internet Service Providers ("ISPs") be defined as "local traffic" for purposes of the e.spire/BellSouth Interconnection Agreement?

e.spire
position:

Dial-up calls to ISPs should be classified as "local" traffic because LECs are prohibited from treating such calls as traffic that is subject to interexchange access charges. Thus, treating ISP traffic as "local" traffic is the only way to ensure that carriers are compensated for the transport and termination of such traffic, and are not unjustly required to subsidize other carriers by providing free service

BellSouth
position:

BellSouth maintains that traffic terminated to ISPs is not "local" traffic.

GTC-9

Should the e.spire local switch be defined as constituting both an "End Office" and a "Tandem Switch"?

e.spire
position:

e.spire's Local Switch provides the same coverage as the BellSouth End Office and Tandem Switches provide in combination. Thus, e.spire's Local Switch should be defined in a manner that recognizes its overall functionality. To do otherwise would enable BellSouth to manipulate the rate structure for reciprocal compensation to unjustly obtain asymmetric reciprocal compensation payments.

BellSouth
position:

BellSouth maintains that e.spire's Local Switch should be classified exclusively as an "End Office" regardless of its overall functionality.

Attachment 1 (Resale)

ATT1-1

Should e.spire be permitted to resell flat and measured rate service on the same business premise to End Users when BellSouth previously allowed such End Users to purchase both flat and measured Services at the same premise?

position: BellSouth maintains that the Performance Measurements should be considered "informational" and should not be contractually binding on BellSouth. Thus, no Liquidated Damages would apply for failure to meet such Performance Measurements.

ATTI-3 **Should BellSouth be permitted to impose extra or special charges to process e.spire's requests for installation of Resale Services?**

e.spire position: BellSouth should not be permitted to impose extra or special charges to process requests for installation of Resale Service. It is discriminatory for BellSouth to impose "expedite" charges on e.spire when it does not collect similar charges from its own End Users.

BellSouth position: BellSouth maintains that "expedite" charges should apply.

ATTI-4 **Should BellSouth be required to provide e.spire prompt notification of all cutovers of Resale Services to e.spire End Users?**

e.spire position: e.spire must have timely notification of all cutovers of Resale Services in order to provide quality service and correct billing.

BellSouth position: BellSouth maintains that it should not be required to provide prompt notice of cutovers to e.spire.

ATTI-5 **Should BellSouth be required to promptly notify e.spire of any installation Due Dates for Resale Services that are in jeopardy of being missed?**

e.spire position: e.spire must be notified when installation Due Dates for Resale Services are in jeopardy of being missed because it must apprise its customers of when their service will be changed.

BellSouth position: BellSouth maintains that it should not be required to provide notice of when installation Due Dates are in jeopardy of being missed.

e.spire
position: Yes. This approach is necessary to avoid discriminating between similarly situated End Users.

BellSouth
position: Unknown.

ATT1-8(c) **Where e.spire resells an existing CSA, should application of all non-recurring termination, re-installation, recurring, rollover and move charges be waived?**

e.spire
position: Yes, where e.spire executes a binding assumption letter.

BellSouth
position: Unknown.

Attachment 2 (UNEs)

ATT2-1 **Should BellSouth be required to make available at pre-established TELRIC-based rates an assortment of xDSL-compatible loops (2-wire ADSL-compatible, 2-wire HDSL-compatible, 4-wire HDSL-compatible, ISDL, SDSL-compatible)?**

e.spire
position: Yes. TELRIC-based rates should be developed in this proceeding.

BellSouth
position: e.spire does not know BellSouth's position on this issue.

ATT2-2(a) **Should BellSouth be required to make xDSL-equipped loops available where present in its own network?**

e.spire
position: Yes, and TELRIC-based rates need to be developed in this proceeding.

BellSouth
position: No.

ATT2-2(b) **If so, should e.spire be able to purchase the voice and data channels separately?**

e.spire
position: Yes. Loop Spectrum unbundling is necessary to promote customer choice.

BellSouth
position: No.

ATT2-2(c) If so, should each channel be priced at no more than one-half of the charge of the comparable ULL?

e.spire
position: Yes, otherwise there would be double recovery of Loop costs for xDSL Loops.

BellSouth
position: No.

ATT2-2(d) When e.spire purchases only the data channel, should BellSouth be required to provide voice services over the remaining channel upon consumer request?

e.spire
position: Yes. This approach is required to facilitate Loop Spectrum unbundling.

BellSouth
position: No.

ATT2-2(e) Should BellSouth be required to publish and apply reasonable Loop qualification procedures, including reasonable standards for addressing spectral interference, and be prohibited from denying access to Loops due to alleged spectral interference?

e.spire
position: Yes.

BellSouth
position: Unknown.

ATT2-3 Should BellSouth be required to make available DS-1 digital/4-wire digital loops at pre-established TELRIC-based rates?

e.spire

position: Yes. TELRIC-based rates should be established in this proceeding.

BellSouth position: Unknown.

ATT2-4 **Should BellSouth be required to make available 4-wire 56/64 kbps digital grade loops at pre-established TELRIC-based rates?**

e.spire position: Yes. TELRIC-based rates should be established in this proceeding.

BellSouth position: Unknown.

ATT2-5 **Should BellSouth be required to make available DS-3 loops at pre-established TELRIC-based rates where present in its own network?**

e.spire position: Yes. A new UNE should be defined, and TELRIC-based rates should be established in this proceeding.

BellSouth position: Unknown.

ATT2-6 **Should BellSouth be required to make available OC3, OC12 and OC48 unbundled loops at pre-established TELRIC-based rates where present in its own network?**

e.spire position: Yes, new UNEs should be defined, and TELRIC-based rates should be established in this proceeding.

BellSouth position: Unknown.

ATT2-7 **Should BellSouth be required to make available Dark Fiber loops where available at pre-established TELRIC-based rates?**

e.spire

e.spire
position: No. A single cost-based NRC should be established for each loop type.

BellSouth
position: Yes.

ATT2-12(a) Should BellSouth be required to provide loop conditioning to make specified loops capable of supporting advanced services?

e.spire
position: Yes. BellSouth should be required to make "clean copper" loops available upon request.

BellSouth
position: Unknown.

ATT2-12(b) If so, should NRCs for loop conditioning be established at the associated TELRIC cost and what should be the resulting rates?

e.spire
position: Yes. Any non-cost based pricing would create a barrier to entry.

BellSouth
position: Unknown.

ATT2-12(c) Should e.spire receive a credit for such NRCs if the conditioned loop is later taken back by BellSouth for a "win-back" sale or to sell to another CLEC?

e.spire
position: Yes. Otherwise, "win-back" sales will free-ride on the investment made by the initial party seeking loop conditioning. Providers of xDSL services should share loop conditioning costs.

BellSouth
position: No.

ATT2-13 Should BellSouth provide e.spire with the capability to independently identify xDSL-capable loops on an electronic

basis, both on an individual basis and for an entire Central Office?

e.spire
position:

Yes. BellSouth should not glean a market advantage from superior access to information on the inventory of xDSL-capable loops.

BellSouth
position:

BellSouth maintains that it should not be required to provide e.spire with the capability to independently identify xDSL-capable loops on an electronic basis.

ATT2-14

Where an unbundled loop passes through equipment located outside the Central Office serving the Customer, that limits or affects the ability of the unbundled loop to support xDSL services, should BellSouth be required to provide (i) an alternate loop capable of supporting the services, or (ii) equal access to electronics at the Remote Terminal or the Central Office?

e.spire
position:

Yes. BellSouth should be responsible for making an alternate xDSL-capable loop available in each instance.

BellSouth
position:

Unknown.

ATT2-15

Where BellSouth provides loops through Integrated Digital Loop Carrier ("IDLC") systems, should BellSouth be required to make alternative arrangements available to e.spire or each such loop to permit e.spire a contiguous local loop?

e.spire
position:

Yes. BellSouth should be responsible for making an alternate xDSL-capable loop available in each instance.

BellSouth
position:

Unknown.

ATT2-16

Should BellSouth be required to provide "sub-loop unbundling" by providing feeder, distribution and concentration separately at pre-established TELRIC-based rates, and allowing e.spire to collocate at its Remote Terminals, unless BellSouth can affirmatively demonstrate that a

particular location (i) sub-loop unbundling is not "technically feasible"; or (ii) there is insufficient space at the Remote Terminal to accommodate the request?

e.spire
position:

Yes. Sub-loop unbundling, at TELRIC-based rates, is critical to the provisioning of advanced services. Sub-loop UNEs and the rates therefor should be established in this proceeding.

BellSouth
position:

Unknown.

ATT2-17

Should BellSouth be required to provide loop concentration at Remote Terminals as a UNE?

e.spire
position:

Yes. Concentration is an important sub-loop element.

BellSouth
position:

Unknown.

ATT2-18

Should BellSouth be required to permit Physical Collocation of e.spire equipment at BellSouth's Remote Terminal?

e.spire
position:

Yes. Remote Terminal collocation is critical to obtaining efficient access to sub-loop elements.

BellSouth
position:

No.

ATT2-19

When provisioning unbundled loops, should BellSouth be required to take action to ensure that affected End Users will not be out-of-service for more than five (5) minutes, including the coordination of INP?

e.spire
position:

Yes.

BellSouth
position:

BellSouth suggests a 15 minute standard.

ATT2-20

Should FOCs for loops orders be returned by BellSouth within

e.spire
position: Yes. Frame Relay UNEs and TELRIC-based prices should be established in this proceeding.

BellSouth
position: Unknown.

ATT2-25(a) **Should BellSouth be required to provide the prescribed combinations of UNEs listed in Schedule 1 to draft Attachment 2?**

e.spire
position: Yes. UNE combinations are important to facilitate market entry.

BellSouth
position: BellSouth maintains that it should not be required to provide the prescribed combinations of UNEs listed in Schedule 1 to Attachment 2.

ATT2-25(b) **If so, should BellSouth be precluded from assessing special recombination charges?**

e.spire
position: Yes. BellSouth should not be permitted to assess a reassembly charge for something they did not need to take apart.

BellSouth
position: BellSouth maintains that it should not be required to provide the prescribed combinations of UNEs listed in Schedule 1 to Attachment 2.

ATT2-26(a) **Should the failure of BellSouth to provide UNEs at parity as measured by the Performance Standards and Measurements specified in Attachment 10 be classified as a Specified Performance Breach?**

e.spire
position: Yes. In order to give Performance Measurements meaning, any failure to achieve parity should be defined as a performance breach.

BellSouth
position: No.

ATT2-26(b) If so, should Liquidated Damages be imposed for each such Specified Performance Breach?

e.spire position: Yes. The metrics in Performance Measurements should be enforced as substantive requirements of the Agreement. Failure to achieve parity should be treated as a breach, triggering the assessment of Liquidated Damages.

BellSouth position: BellSouth maintains that the failure to provide UNEs in accordance with the metrics specified in Attachment 10 or at parity should not be considered a Specified Performance Breach. BellSouth submits that the Performance Measurements are "informational" and should not be contractually binding on BellSouth.

ATT2-27 Should the rates applicable to the recurring charges for unbundled loops be deaveraged on a geographic basis?

e.spire position: Yes. Geographic deaveraging based on at least three density zones—as BellSouth has done in its Special Access Tariffs—is critical to creating a level playing field.

BellSouth position: BellSouth maintains that the rates applicable to the recurring charges for unbundled loops should not be deaveraged on a geographic basis.

ATT2-28 Should BellSouth be required to offer volume and term discounts for UNEs consistent with those available for its special access services?

e.spire position: Yes, volume and term discounts should be made available in a manner that is consistent with the availability of volume and term discounts under BellSouth's tariffs for special access services.

BellSouth position: BellSouth maintains that it should not be required to offer volume and term discounts for UNEs consistent with those available for its special access services.

ATT2-29(a) **Should e.spire be permitted to convert its special access facilities to Extended Link UNEs?**

e.spire
position: Yes. e.spire should be permitted to migrate special access services to UNEs without penalty.

BellSouth
position: BellSouth maintains that e.spire should not be permitted to migrate its special access facilities to UNEs.

ATT2-29(b) **If so, should the NRCs (i) be established at the direct additional cost of conversion where no physical facilities rearrangement is required, and (ii) at charges net of credits for previously paid Special Access NRCs where facilities rearrangement is necessary?**

e.spire
position: Yes. e.spire should not incur unreasonable NRCs where it was forced to order special access to cure BellSouth's provisioning problems.

BellSouth
position: BellSouth maintains that e.spire should not be permitted to migrate its special access facilities to UNEs.

ATT2-30 **For each discrete UNE made available under the Interconnection Agreement, should BellSouth be required to commit to make such UNE available to e.spire on a nondiscriminatory basis on terms no less favorable than those BellSouth makes available to any BellSouth Affiliate or any other Telecommunications Carrier?**

e.spire
position: Yes. This commitment is necessary to implement the non-discrimination requirements of the Act.

BellSouth
position: No.

Attachment 3 (Interconnection)

ATT3-1(a) Should the parties be required to interconnect their packet-switched Frame Relay networks at the same network architecture and rate structure applied to circuit-switched voice telecommunications?

e.spire
position:

The Parties should be required to interconnect their packet-switched Frame Relay networks at the same network architecture and rate structure applied to circuit-switched voice telecommunications because, as the FCC recently concluded, the Act is technology neutral. See *Deployment of Wireline Services Offering Advanced Telecommunications Capability*, CC Docket No. 98-147, Memorandum Opinion and Order and Notice of Proposed Rulemaking, 13 Comm Reg (P&F) 1, ¶47 (rel. Aug. 7, 1998) ("For purposes of determining the interconnection obligation of carriers, the Act does not draw a regulatory distinction between voice and data services.") The same interconnection requirements and related pricing standards apply to both traditional and advanced telecommunications services. Thus, e.spire's interconnection and rate proposal should be adopted.

BellSouth
position:

Unknown.

ATT3-1(b) If so, should permanent rates and charges applicable to such interconnection be based on TELRIC, and should e.spire's proposed surrogate rate proposal be adopted on an interim basis?

e.spire
position:

The Parties should be required to interconnect their packet-switched Frame Relay networks at the same network architecture and rate structure applied to circuit-switched voice telecommunications because, as the FCC recently concluded, the Act is technology neutral. See *Deployment of Wireline Services Offering Advanced Telecommunications Capability*, CC Docket No. 98-147, Memorandum Opinion and Order and Notice of Proposed Rulemaking, 13 Comm Reg (P&F) 1, ¶47 (rel. Aug. 7, 1998) ("For purposes of determining the interconnection obligation of carriers, the Act does not draw a regulatory distinction between voice and data services.") The same interconnection requirements and related pricing standards apply to both traditional and advanced telecommunications services. Thus, e.spire's interconnection and rate proposal should be adopted.

BellSouth
position:

Unknown.

ATT3-2

Should BellSouth be required to meet the Performance Standards established in Attachment 10 for local interconnection, and pay Liquidated Damages for breaches of specified performance metrics or parity requirements?

e.spire
position:

Performance measures are an invaluable tool for e.spire because they make it possible for e.spire to identify failures by BellSouth to meet its obligations under the Interconnection Agreement. However, performance measures have little meaning if they identify breaches but do not provide a mechanism for curing such breaches. In e.spire's experience over the past two years, seeking judicial or regulatory resolution of such breaches is impractical. Having to litigate such failures to perform time and again is time consuming and costly. Moreover, it constitutes a poor use of scarce resources, at e.spire, BellSouth and the agency burdened with the task of resolving the dispute.

BellSouth
position:

BellSouth maintains that the Performance Standards set forth in Attachment 10 are "informational" and should not be contractually binding on BellSouth. Thus, BellSouth believes that there should be no self-executing remedies for breach of specified Performance Standards.

ATT3-3

Should e.spire be permitted to charge a single "blended" reciprocal compensation rate for reciprocal compensation?

e.spire
position:

When e.spire accepts traffic originated by BellSouth End Users at its Local Switch for termination, e.spire provides BellSouth with the same functionality that BellSouth's Tandem Switching, Transport and Termination elements provide in combination. e.spire's switch provides the same coverage area as the BellSouth Tandem. Moreover, e.spire provides its transport on the line side of its switch, as opposed to the trunk side transport provided by BellSouth. The Commission should allow e.spire to charge a single "blended" reciprocal compensation rate in order to avoid the creation of an asymmetrical and anticompetitive system of reciprocal compensation.

BellSouth
position:

BellSouth maintains that e.spire should not be permitted to charge a single "blended" reciprocal compensation rate. Rather, despite the fact that there is no difference in the functionality provided, BellSouth submits that a strict network approach should be used to determine reciprocal compensation, thus permitting e.spire to charge for only the End Office Switching element, while BellSouth charges for Tandem Switching, Transport and Termination.

ATT3-4

Should e.spire's proposed rate level for Reciprocal Compensation be adopted for use when e.spire terminates local traffic routed to it by BellSouth?

e.spire
position:

e.spire should be able to recover its own costs of providing transport and termination under a rate structure that reflects the manner and level in which such costs are incurred.

BellSouth
position:

BellSouth maintains that e.spire's proposed rate level for Reciprocal Compensation should not be used when e.spire terminates local traffic routed to e.spire by BellSouth.

ATT3-5

Should dial-up calls placed to ISPs be classified as local traffic for purposes of assessing reciprocal compensation?

e.spire
position:

Dial-up calls to ISPs should be classified as "local" traffic because LECs are prohibited from treating such calls as traffic that is subject to interexchange access charges because ISPs are classified as End Users. Thus, treating ISP traffic as "local" traffic is the only way to ensure that carriers are compensated for the transport and termination of such traffic, and are not unjustly required to subsidize other carriers by providing free service.

BellSouth
position:

BellSouth maintains that traffic terminated to ISPs is not "local" traffic and should not be subject to reciprocal compensation.

ATT3-6(a)

Should BellSouth be required to provide Interconnection which is "equal in quality" to that provided to itself, its Affiliates or any other Telecommunications Carrier?

e.spire

position: Yes. BellSouth should be required to provide Interconnection which is "equal in quality" as defined by e.spire's proposed language in the Draft Agreement.

BellSouth position: Unknown.

ATT3-6(b) If so, should "equal in quality" be defined to mean that BellSouth would employ the same technical criteria and service standards that BellSouth uses within its own network, including the same or equivalent interface specifications, provisioning, installation, maintenance, testing, repair intervals, call blocking incidence, grade of service, and transmission clarity for purposes of providing service and facilities to e.spire?

e.spire position: Yes. This definition is consistent with FCC requirements.

BellSouth position: Unknown.

Attachment 4 (Physical Collocation)

ATT4-1(a) Should e.spire be permitted to sublease its existing and future physical collocation space to third party telecommunications carriers?

e.spire position: Yes. The ability to sublease is necessary to make efficient use of available Central Office space.

BellSouth position: No.

ATT4-1(b) If not, should e.spire at least be permitted to sublease its existing physical collocation space?

e.spire position: e.spire should be permitted to sublease its physical collocation space in order to maximize efficient use of space and to reduce expenses. Since BellSouth requires minimum cage size of 100 sq.ft., which sometimes exceeds e.spire's requirements, it will be

unavoidable that space is wasted, and e.spire's costs are higher than necessary. At a minimum, e.spire should be permitted to sublease portions of space in collocation cages that e.spire was required to construct before a cageless collocation alternative became available.

**BellSouth
position:**

BellSouth maintains that e.spire should not be permitted to sublease its physical collocation space.

ATT4-2

Should e.spire be able to establish Adjacent Collocation arrangements for purposes of interconnecting with BellSouth?

**e.spire
position:**

In order to avoid problems associated with the exhaustion of physical collocation space, BellSouth should be required to cooperate with e.spire in establishing both Adjacent On-Site Collocation and Adjacent Off-Site Collocation where it is technically feasible to do so.

**BellSouth
position:**

BellSouth maintains that no form of Adjacent Collocation should be required.

ATT4-3

Should e.spire be required to utilize a BellSouth-certified vendor for purposes of installation, provisioning and maintenance work in its own collocation space?

**e.spire
position:**

e.spire should be able to opt to use either its own employees or a BellSouth-certified vendor for the performance of tasks within its own collocation space.

**BellSouth
position:**

BellSouth maintains that e.spire should be required to use BellSouth-certified vendors only, even for purposes of installation, provisioning and maintenance work in its own collocations space.

ATT4-4

Should e.spire be required to pay BellSouth for a security escort and/or the installation of security cameras or computerized tracking systems to monitor e.spire employees and vendors when accessing or working in the e.spire collocation space?

**e.spire
position:**

Although e.spire recognizes the importance of security, e.spire

does not believe that security cameras and security escorts are necessary to maintain the security of the space. Thus, if BellSouth chooses to escort e.spire employees or vendors when access or working in the e.spire collocation space, or to install security cameras or computerized tracking systems, it should do so at its own expense.

BellSouth
position:

BellSouth maintains that e.spire should bear the costs associated with the provision of security escorts and security systems necessary to monitor e.spire's use of the collocation space.

ATT4-5

Should BellSouth be permitted to establish intervals of 120 days (plus time for obtaining government permits) under "ordinary" conditions and 180 days (plus time for obtaining government permits) under "extraordinary" conditions, for construction of enclosed collocation cages?

e.spire
position:

BellSouth should not be permitted to establish these intervals for construction of enclosed collocation cages. The 120/180 day intervals are too long to support competitive market entry. Moreover, such delay is unnecessary as a technical matter. In addition, excluding time attributable to obtaining government permits introduces an unreasonable degree of uncertainty and vagueness.

BellSouth
position:

BellSouth maintains that the 120/180 day intervals are reasonable and appropriate.

ATT4-6

Should BellSouth be required to make cageless Collocation space available within 30 days of receipt by BellSouth of a Bona Fide Request from e.spire?

e.spire
position:

BellSouth should be required to make cageless Collocation space available within 30 days of receipt of a BFR from e.spire. Since no construction is required, there is no justification for any delay in providing Collocation space beyond 30 days.

BellSouth
position:

BellSouth maintains that the intervals for the provision of "caged" and "cageless" Collocation should be the same.

ATT4-7

Should BellSouth be required to reimburse e.spire the

reasonably demonstrable and mitigated expenses incurred as a direct result of BellSouth's failure to deliver Collocation Space within the required interval?

**e.spire
position:**

BellSouth should be required to reimburse e.spire for the reasonably demonstrable and mitigated expenses incurred as a direct result of BellSouth's failure to deliver Collocation space with the interval specified. e.spire will submit requests for Collocation space and make plans to occupy such space on the basis of the time intervals set forth in the Interconnection Agreement. If BellSouth fails to make the Collocations space available on time, e.spire will incur significant costs to postpone its plans. If BellSouth is not required to reimburse e.spire for such costs, BellSouth will have no incentive to meet its performance obligations under the Interconnection Agreement in a timely manner and e.spire will have no legitimate basis for evaluating when BellSouth will provide the requested space.

**BellSouth
position:**

BellSouth maintains that it should not be required to reimburse e.spire for the reasonably demonstrable and mitigated expenses incurred as a direct result of BellSouth's failure to deliver Collocation Space on time.

ATT4-8

Should e.spire be allowed to order "caged" collocation space of any size with no minimum space requirement?

**e.spire
position:**

e.spire should be permitted to order "caged" collocation space of any size, with no minimum space requirement. The amount of space ordered should bear a direct relationship to its equipment placement requirements, not to pre-ordained minimums established by BellSouth. Requiring e.spire to order more space than it needs would be inefficient and would unnecessarily waste limited Central Office space, exacerbating the problem of space exhaustion. This would have a particularly severe adverse effect on subsequent requesting carriers, particularly if e.spire is not permitted to sublease extra space. Further, to the extent that e.spire is not able to sublease extra space, particularly when it did not need it in the first place, e.spire's costs are artificially and unnecessarily inflated.

**BellSouth
position:**

BellSouth maintains that "caged" Collocation space should be subject to a 100 sq. ft. minimum, with additional 50 sq. ft. increments.

the collocation agreement to a corporate parent, subsidiary, or affiliate without obtaining the prior consent of BellSouth?

e.spire
position:

e.spire should not have to seek the prior consent of BellSouth to assign its rights and obligations under the Collocation agreement to a corporate parent, subsidiary or affiliate.

BellSouth
position:

BellSouth maintains that e.spire should not be permitted to assign its rights and obligations under the Collocation agreement to any entity without its prior consent.

ATT4-13

Should e.spire be permitted to self-supply a direct cross-connection to another Telecommunications Carrier collocated in the same BellSouth Central Office?

e.spire
position:

e.spire should be permitted to self-supply a direct cross-connection to another Telecommunications Carrier collocated in the same BellSouth Central Office.

BellSouth
position:

BellSouth maintains that e.spire should not be permitted to self-supply a direct cross-connection to another Telecommunications Carrier collocated in the same BellSouth Central Office.

ATT4-14

Should e.spire be permitted to collocate in a BellSouth Remote Terminal on a space-available basis?

e.spire
position:

e.spire is entitled to interconnect with BellSouth at any technically feasible point. As Collocation is a critical component of efficient and effective interconnection, Collocation at a Remote Terminal is critical to use of sub-loops and to provision of advanced services such as xDSL.

BellSouth
position:

BellSouth maintains that no collocation arrangement should be required at its Remote Terminal.

ATT4-15

Should the Space Preparation Fee be established on an ICB basis?

e.spire

position: The Space Preparation Fee should not be established on an ICB basis.

BellSouth position: BellSouth maintains that the Space Preparation Fee should be established on an ICB basis.

ATT4-16 **Should e.spire be permitted to collocate equipment that satisfies NEBs safety standards but does not meet unrelated NEBs qualifications?**

e.spire position: Yes. BellSouth should not be allowed to dictate e.spire's choice of equipment vendors except for the imposition of reasonable safety-related standards.

BellSouth position: Unknown.

ATT4-17 **Should BellSouth be required to notify e.spire of the exhaustion of Physical Collocation Space and the filing of requests for waiver of Physical Collocation Space requirements?**

e.spire position: Yes. Space availability information is important for rational network planning.

BellSouth position: No.

ATT4-18 **Should cost-based rates for physical collocation, including cross-connects, be established?**

e.spire position: Yes, cost-based rates for physical collocation, including cross-connects, should be established. e.spire does not believe that the rates proposed by BellSouth are cost-based.

BellSouth position: BellSouth maintains that its proposed rates are cost-based.

Attachment 5 (Numbering)

ATT5-1 **When permanent LNP is implemented, should BellSouth be**

required to make available a procedure allowing e.spire (i) to extend the period during which the base of existing INP customers shall be converted to LNP and (ii) to expand the period during which INP-based orders will be processed?

e.spire
position: BellSouth should be required to continue to accept INP orders for a limited period after converting to permanent LNP because transition procedures are required to prevent occasional delays in order processing.

BellSouth
position: BellSouth maintains that it should not be required to accept INP orders for a transition period.

ATT5-2 For coordinated cutovers of Loops, should all associated INP switch translations be completed within 5 minutes after the physical Loop cutover is completed?

e.spire
position: Yes. A 5-minute interval is easily achievable, and is necessary to avoid customer dissatisfaction.

BellSouth
position: No.

ATT5-3 Should BellSouth be required to remit to e.spire the interconnection charge, local switching charge and pro rata portions of transport and CCL charges, when BellSouth receives access revenue for traffic terminated to ported numbers?

e.spire
position: Yes. Such a Meet-Point-Billing-like approach fairly compensates each carrier involved for providing its portion of the related services.

BellSouth
position: Unknown.

Attachment 6 (OSS)

ATT6-1 Should BellSouth be required to make its RNS interface available to e.spire?

e.spire
position: BellSouth should be required to make its RNS interface available to e.spire on an equal basis as it provides access to its own personnel.

BellSouth
position: BellSouth maintains that it should not be required to make its RNS interface available to e.spire.

ATT6-2 **Should BellSouth be required to develop an EDI interface that will function as a Single Point of Contact ("SPOC") for pre-ordering, ordering and provisioning functions?**

e.spire
position: BellSouth should be required to develop an EDI interface that will function as a SPOC for pre-ordering, ordering and provisioning functions because a SPOC interface is necessary to ensuring parity.

BellSouth
position: BellSouth maintains that it should not be required to develop an EDI interface that will function as a SPOC for preordering, ordering and provisioning functions.

ATT6-3 **Should BellSouth be required to provide prices charged to its End Users over a pre-ordering interface?**

e.spire
position: BellSouth should be required to provide prices charged to its End Users because pre-ordering availability of pricing information is required to place e.spire at parity and is required by FCC rules and policies.

BellSouth
position: BellSouth maintains that it should not be required to provide prices charged to its End Users over a pre-ordering interface.

ATT6-4 **Should failure to provide pre-ordering functions at parity as measured by specified Performance Measurements be treated as a Specified Performance Breach requiring the payment of Liquidated Damages?**

e.spire
position: Failure to provide pre-ordering functions in the manner specified by the specified Performance Measurements should constitute a Specified Performance Breach subject to the payment of

e.spire
position: Yes. e.spire needs to control such activity to avoid customer confusion and billing errors.

BellSouth
position: No.

ATT6-8 **Should BellSouth be required to provide copies of all test and turn-up results in support of complex Resale services or UNEs ordered by e.spire?**

e.spire
position: BellSouth should be required to provide copies of all test and turn-up results in support of complex Resale services or UNEs ordered by e.spire.

BellSouth
position: BellSouth maintains that it should not be required to provide copies of all test and turn-up results in support of complex Resale services or UNEs ordered by e.spire.

ATT6-9 **When e.spire orders UNEs or Combinations of UNEs that are currently interconnected and functional, should BellSouth be precluded from disconnecting such UNEs from one another or impose additional charges for leaving them interconnected?**

e.spire
position: BellSouth should not be permitted to tear apart existing UNE Combinations for the sole purpose of making it more difficult for competitors to provide service. Further, BellSouth should not be permitted to charge for services that it does not perform. Thus, when, e.spire orders UNEs or Combinations of UNEs that are already interconnected and functional, BellSouth should be precluded from disconnecting such UNEs from one another and from imposing additional charges for leaving them interconnected.

BellSouth
position: BellSouth maintains that it should be allowed to break up existing UNE Combinations as well as impose additional charges for leaving existing UNE Combinations intact.

ATT6-10 **Should a failure to provide ordering and provisioning functions at parity as measured by specified Performance Measurements be treated as a Specified Performance Breach,**

requiring the payment of Liquidated Damages?

e.spire
position:

Any failure to provide ordering and provisioning functions at parity as measured by specified Performance Measurements should be treated as a Specified Performance Breach requiring the payment of Liquidated Damages.

BellSouth
position:

BellSouth maintains that the Performance Measurements are "informational" and not contractually binding on BellSouth. Thus, no failure to meet the Performance Standard would qualify as a Specified Performance Breach.

ATT6-11

Should a failure to provide maintenance and repair functions at parity as measured by specified Performance Measurements be treated as a Specified Performance Breach, requiring the payment of Liquidated Damages?

e.spire
position:

Any failure to provide maintenance and repair functions at parity as measured by specified Performance Measurements should be treated as a Specified Performance Breach requiring the payment of Liquidated Damages.

BellSouth
position:

BellSouth maintains that the Performance Measurements are "informational" and not contractually binding on BellSouth. Thus, no failure to meet the Performance Standard would qualify as a Specified Performance Breach.

ATT6-12

Should BellSouth be required to develop electronic systems for pre-ordering, ordering, provisioning, and maintenance which are compliant with all existing and future applicable industry standards established by ATIS, OBF and ANSI?

e.spire
position:

Yes. BellSouth should be required to commit to keeping up with current industry standards for OSS.

BellSouth
position:

Unknown.

ATT6-13

Should BellSouth be required to adopt the "Change Management" procedures applicable to OSS systems modifications that were suggested by e.spire?

e.spire
position: Yes. Reasonable Change Management procedures are important to insuring that the OSS systems of both Parties remain compatible.

BellSouth
position: Unknown.

ATT6-14 Should BellSouth be required to transmit a Firm Order Commitment ("FOC"), or, in the alternative, notification of the lack of available facilities, within four (4) hours of receiving a complete and correct order from e.spire via an electronic interface and within 24 hours of receiving orders via manual submission?

e.spire
position: Yes. These intervals are consistent with industry standards.

BellSouth
position: Unknown.

ATT6-15 Should BellSouth be required to provide notification via an electronic interface of rejections, errors and edits for any data field in an e.spire service request?

e.spire
position: Yes. These notifications are important data and consistent with industry standards.

BellSouth
position: Unknown.

ATT6-16 Should BellSouth be required to provide electronic notification of work completion within four (4) hours of such work completion?

e.spire
position: Yes. This interval is consistent with industry standards.

BellSouth
position: Unknown.

ATT6-17 Should BellSouth be required (i) to exercise best efforts to make e.spire's specified Desired Due Dates ("DDD") for Network Element installation, and (ii) not complete such

for inquiries relating to the electronic interfaces for ordering and provisioning?

e.spire
position: Yes. This is an important information source to ensure smooth functioning of OSS.

BellSouth
Position: Unknown.

Attachment 10 (Performance Standards)

ATT10-1 Should failure to meet the prescribed intervals or to provide service at parity as measured by the specified Performance Measurements be classified as a Specified Performance Breach? If so, should Liquidated Damages be imposed for each such breach?

e.spire
position: Failure to meet the prescribed intervals or to provide service at parity as measured by the specified Performance Measurements should be classified as a Specified Performance Breach, subject to Liquidated Damages. If the Performance Measurements are not enforceable, then they are meaningless, and e.spire will have to ability to determine or ensure that it is at parity. This would constitute a serious impediment to competition and is unreasonable.

BellSouth
Position: BellSouth maintains that the Performance Measurements are "informational" and should not be contractually binding on BellSouth. Thus, no self-executing damage provision should apply to the breach thereof.

Attachment 11 (Rates)

ATT11-1 What pricing should be applied to e.spire's purchase of UNEs? Specifically, what prices should be established for: (1) Unbundled Loops (recurring and non-recurring charges); (2) Interoffice Transport (recurring and non-recurring charges); (3) Packet-Switched UNEs; (4) Remote Terminal UNEs; and (5) Loop Concentration?

e.spire

position: TELRIC based rates should be established anew.

BellSouth
position: BellSouth's position, as it is understood by e.spire, is set forth in Attachment 11 of Attachment A hereto.

ATT11-2 Should UNE rates be deaveraged on a geographic basis?

e.spire
position: UNE rates should be deaveraged on a geographic basis into at least three (3) density zones, as BellSouth does for selected special access services.

BellSouth
position: BellSouth maintains that geographic deaveraging should not be required.

ATT11-3 Should volume and term discounts be available for UNEs?

e.spire
position: Volume and term discounts for UNEs should be made available consistent with the manner provided in BellSouth's special access tariff.

BellSouth
position: BellSouth maintains that volume and term discounts should not be required.

ATT11-4 What rate should be established for Reciprocal Compensation for transport and termination when charged by e.spire to BellSouth?

e.spire
position: e.spire should charge a single blended rate of \$0.0091 per MOU.

BellSouth
position: e.spire should charge the rates proposed by BellSouth under its "elemental" rate structure.

Attachment 12 (Directory Listings)

ATT12-1 Should BellSouth be required to provide an electronic feed sufficient to enable e.spire to confirm that Directory Listings of e.spire End Users have been included in the databases utilized by BellSouth to generate Directories and the Directory Assistance database?

e.spire
position: Yes. It is necessary for e.spire to confirm in advance of publication that its customers' listings are included in BellSouth's directories.

BellSouth
position: Unknown.

ATT12-2 **Should BellSouth permit e.spire to review galley proofs of Directories in advance of publication for the purpose of verifying inclusion of e.spire End Users?**

e.spire
position: Yes. It is necessary for e.spire to confirm in advance of publication that its customer's directory listings are accurate.

BellSouth
position: Unknown.

ATT12-2 **Should BellSouth be allowed to limit its liability for errors or omissions in Directory Listings to \$1.00?**

e.spire
position: BellSouth should not be permitted to limit its liability if it does not provide e.spire the ability to confirm directory listings in advance of publication.

BellSouth
position: Unknown.

VII. PROCEDURAL MATTERS

16. Section 252(b)(4)(c) requires that the Commission render a decision in this proceeding not later than nine (9) months after e.spire submitted its request for negotiations to BellSouth, *i.e.*, March 24, 1999. In order to allow the most expeditious conduct of this arbitration, e.spire respectfully requests that the Commission issue a procedural order as promptly as possible to establish a schedule for discovery requests, prehearing testimony, prehearing conference, and the timing and conduct of the hearing in this matter.

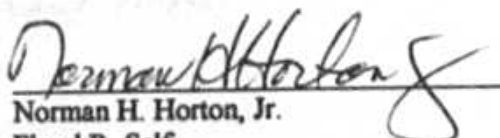
VIII. CONCLUSION

WHEREFORE, for the foregoing reasons, e.spire respectfully requests that the Commission require incorporation of e.spire's position on each disputed issue into a successor Interconnection Agreement to be executed between e.spire and BellSouth.

Respectfully submitted,

**E.SPIRE COMMUNICATIONS, INC.,
AMERICAN COMMUNICATION SERVICES OF
TAMPA, INC. AND AMERICAN
COMMUNICATION SERVICES OF
JACKSONVILLE, INC.**

By:



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November 25, 1998

CERTIFICATE OF SERVICE

I hereby certify that on November 24, 1998, I caused a copy of the foregoing "Petition for Arbitration of e.spire Communications, Inc." to be served on the following persons by overnight courier:

Mary Jo Peed
General Attorney
BELL SOUTH TELECOMMUNICATIONS, INC.
675 West Peachtree Street, N.E.
Atlanta, Georgia 30375


Marieann Z. Machida

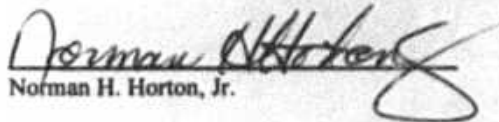
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that true and correct copies of e.spire Communications, Inc.'s Petition for Arbitration have been served upon the following parties by Hand Delivery (*) and/or U. S. Mail this 25th day of November, 1998.

Beth Keating, Esq.*
Division of Legal Services, Room 370
Florida Public Service Commission
2540 Shumard Oak Blvd.
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Ms. Nancy White*
c/o Ms. Nancy Sims
BellSouth Telecommunications, Inc.
150 S. Monroe Street, Suite 400
Tallahassee, FL 32301

Mary Jo Peed, Esq. (served directly by overnight delivery on Nov. 25, 1998)
BellSouth Telecommunications, Inc.
675 West Peachtree Street, NE
Atlanta, GA 30375


Norman H. Horton, Jr.

ATTACHMENT A

**INTERCONNECTION AGREEMENT UNDER SECTIONS 251 AND 252 OF THE
TELECOMMUNICATIONS ACT OF 1996**

Dated as of _____, 1999

by and between

e.spire COMMUNICATIONS, INC.

and

BELLSOUTH TELECOMMUNICATIONS, INC.

**THIS DOCUMENT IS CONSIDERED CONFIDENTIAL AND HAS BEEN FILED IN THE OFFICE
OF RECORDS AND REPORTING.**

Draft: November 20, 1998