

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

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: In the Matter of :
: Request for arbitration :
: concerning complaint of :
: American Communication :
: Services of Jacksonville, Inc.:
: d/b/a e.spire Communications, :
: Inc. and ACSI Local Switched :
: Services, Inc. d/b/a e.spire :
: Communications, Inc. against :
: BellSouth Telecommunications, :
: Inc. regarding reciprocal :
: compensation for traffic :
: terminated to internet :
: service providers. :

DOCKET NO. 981008-TP

*Prehearing
Transcript*

PROCEEDINGS: **PREHEARING CONFERENCE**

BEFORE: COMMISSIONER E. LEON JACOBS, JR.
 Prehearing Officer

DATE: **Wednesday, January 6, 1999**

TIME: Commenced at 1:30 p.m.
 Concluded at 1:45 p.m.

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

REPORTED BY: H. RUTHE POTAMI, CSR, RPR
 Official Commission Reporter

DOCUMENT NUMBER - DATE
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FPC RECORDS REPORTING

1 **APPEARANCES:**

2 **NORMAN H. HORTON, JR.,** Messer, Caparello &
3 Self, 215 South Monroe Street, Post Office Box 1876,
4 Tallahassee, Florida 32302-1876, appearing on behalf
5 of **American Communication Services of Jacksonville,**
6 **Inc. d/b/a e.spire Communications, Inc. and ACSI**
7 **Local Switched Services, Inc., d/b/a e.spire**
8 **Communications, Inc.**

9 **NANCY B. WHITE,** BellSouth
10 Telecommunications, Inc., c/o Nancy Sims, 150 South
11 Monroe Street, Suite 400, Tallahassee, Florida 32301,
12 appearing on behalf of **BellSouth Telecommunications,**
13 **Inc.**

14 **BETH KEATING,** Florida Public Service
15 Commission, Division of Legal Services, 2540 Shumard
16 Oak Boulevard, Tallahassee, Florida 32399-0870,
17 appearing on behalf of the **Commission Staff.**

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1 P R O C E E D I N G S

2 (Hearing convened at 1:30 p.m.)

3 COMMISSIONER JACOBS: Counsel, read the
4 notice.

5 MS. KEATING: By notice issued
6 December 21st, 1998, this time and place have been set
7 for a prehearing in Docket 981008-TP, the complaint of
8 e.spire against BellSouth. The purpose is as set
9 forth in the notice.

10 COMMISSIONER JACOBS: Take appearances.

11 MS. KEATING: Nancy White on behalf of
12 BellSouth Telecommunications.

13 MR. HORTON: Norman H. Horton, Jr. of
14 Messer, Caparello & Self, Tallahassee, on behalf of
15 e.spire; and if I might enter an additional appearance
16 for Mr. Brad E. Mutschelknaus of Kelley, Drye & Warren
17 in Washington, D.C. Mr. Mutschelknaus will be at the
18 hearing.

19 COMMISSIONER JACOBS: Could you spell that
20 for us, please?

21 MR. HORTON: It's Brad, B-R-A-D.

22 MS. WHITE: And if you can't, you have to
23 dismiss your complaint. (Laughter)

24 MR. HORTON: M-U-T-S-C-H-E-L-K-N-A-U-S, and
25 he's with Kelley, Drye & Warren in Washington, D.C.

1 **MS. KEATING:** And Beth Keating and Clintina
2 Watts for Commission Staff.

3 **COMMISSIONER JACOBS:** Okay. Are there any
4 preliminary matters?

5 **MS. KEATING:** None, except for an
6 outstanding motion to strike that I believe can be
7 taken up when we're going through the prehearing order
8 in the motion section.

9 **COMMISSIONER JACOBS:** Okay. None from the
10 parties other than that? (No response.)

11 Good. We'll proceed, then, to go through
12 the prehearing order section by section.

13 Any comments on Section 1 or Section 2? (No
14 response.) None there.

15 There's something I wanted to check on the
16 20th. You're right; that is the hearing date, because
17 the 19th is the Tuesday before the Agenda. I remember
18 now.

19 **MS. KEATING:** That's correct.

20 **COMMISSIONER JACOBS:** Section 3? (No
21 response.) No corrections there. Excellent.

22 Section 4? (No response.) Very well.

23 Section 5? (No response.) And Section 6?

24 **MR. HORTON:** Commissioner, with respect to
25 e.spire's witnesses, I think, Mr. Falvey, we'd like to

1 have Mr. Falvey go first, and he will address all
2 issues, just to make sure. It shows 1 through 4, but
3 that would be all. And then Mr. Cummings.

4 **COMMISSIONER JACOBS:** Mr. Cummings would
5 appear after Mr. Falvey, but only for direct?

6 **MR. HORTON:** Yes, sir.

7 **COMMISSIONER JACOBS:** Okay. He's only
8 offered on direct.

9 **MR. HORTON:** That's correct.

10 **COMMISSIONER JACOBS:** Very well.

11 **MS. WHITE:** And then BellSouth would request
12 that after Mr. Cummings would be Mr. Hendrix, and last
13 would be Mr. Halprin. And I assume that you just want
14 to combine direct and rebuttal?

15 **MR. HORTON:** I don't object.

16 **COMMISSIONER JACOBS:** Okay. Well, then
17 they'll testify on direct and rebuttal. Okay. That's
18 all of Section -- wait a minute. I said Section 6,
19 right?

20 Section 7. Are there any corrections to the
21 basic positions?

22 **MR. HORTON:** No, sir.

23 **COMMISSIONER JACOBS:** Section 8, Issues and
24 Positions.

25 Issue 1; any corrections there? (No

1 response.)

2 Issue 2; any corrections? (No response.)

3 None.

4 Issue 3? (No response.) None there.

5 Issue 4. (No response.) And that's that.

6 Section 9, the exhibits. Any correction to
7 the exhibits? (No response.) None there.

8 No stipulations, Section 10? (No response.)

9 Section 11, we have the motion to strike, I
10 understand.

11 **MS. KEATING:** That's correct. Yesterday
12 e.spire filed a motion to strike the direct and
13 rebuttal testimony of Albert Halprin. It's my
14 understanding that neither party is prepared to argue
15 this at this time. BellSouth hasn't had an
16 opportunity to respond to the motion.

17 **COMMISSIONER JACOBS:** Okay. I think I
18 prefer to have the opportunity for Staff to see the
19 response. I'd like to defer ruling on that today, and
20 unless there's any need to, we'll just rule on the
21 pleadings once we receive those responses.

22 **MR. HORTON:** That's fine.

23 **MS. WHITE:** Fine.

24 **COMMISSIONER JACOBS:** Okay. Are the times
25 for filing of those -- for the response, is that taken

1 care of?

2 **MS. KEATING:** Yes, sir, it is, and I will
3 reflect that in the prehearing order, that it will be
4 ruled upon at a later date.

5 **MS. WHITE:** I believe we were served on
6 Tuesday by hand or Wednesday. What is --

7 **MS. KEATING:** Today is Wednesday.

8 **MS. WHITE:** We were served on Monday --

9 **MR. HORTON:** Yesterday.

10 **MS. WHITE:** Yesterday. Okay. So we would
11 have seven days from yesterday. So we can try to get
12 it in earlier if possible.

13 **COMMISSIONER JACOBS:** Okay. With that, are
14 there any other matters to come before us today?

15 **MS. KEATING:** Just one other thing. In view
16 of the fact that there is an outstanding motion to
17 strike regarding Mr. Halprin's testimony, I would
18 suggest that we make some indication in the witness
19 section that there is at this time an outstanding
20 motion regarding Mr. Halprin's testimony.

21 **COMMISSIONER JACOBS:** Okay. Unless we can
22 resolve that before this goes out, do you think -- is
23 that possible? Probably not?

24 **MS. KEATING:** Probably not.

25 **COMMISSIONER JACOBS:** Okay. That's fine.

1 We can note that in the witness list.

2 Is that it? Any other matters from the
3 parties? (No response.)

4 Great. Thank you very much. We're
5 adjourned.

6 **MS. KEATING:** Thank you.

7 (Thereupon, the hearing concluded at
8 1:45 p.m.)

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