

VOTE SHEET

MARCH 16, 1999

RE: DOCKET NO. 981008-TP - 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.

Issue 1: Is ISP traffic included in the definition of "local traffic" as that term is defined in the Interconnection Agreement between BellSouth and e.spire?

Recommendation: Yes. ISP traffic is included in the definition of "local traffic" as that term is defined in the Interconnection Agreement between BellSouth and e.spire. The preponderance of the evidence does not show that either party intended to exclude ISP traffic from the definition of "local traffic" during negotiation of their Interconnection Agreement.

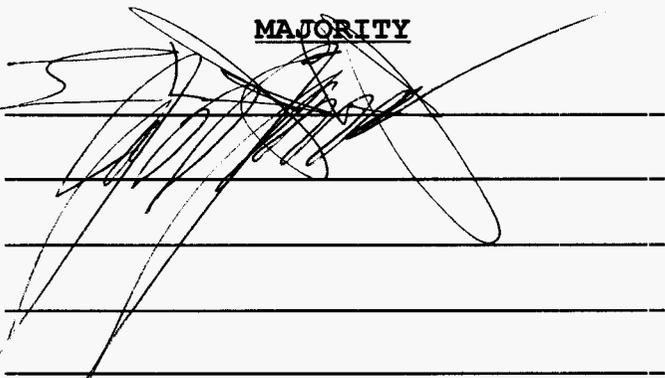
**APPROVED**

COMMISSIONERS ASSIGNED: JN JC

COMMISSIONERS' SIGNATURES

MAJORITY

DISSENTING



\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

REMARKS/DISSENTING COMMENTS:

DOCUMENT NUMBER-DATE

03433 MAR 17 99

FPSC-RECORDS/REPORTING

VOTE SHEET

MARCH 16, 1999

DOCKET NO. 981008-TP - 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.

(Continued from previous page)

Issue 2: Did the difference in e.spire's minutes of use for terminating local traffic exceed two million minutes in Florida on a monthly basis?

Recommendation: Yes. Staff recommends that the Commission find that the difference in e.spire's minutes of use for terminating local traffic exceeded two million minutes in Florida on a monthly basis if the Commission approves staff's recommendation in Issue 1. If the Commission denies staff's recommendation in Issue 1, staff recommends that the Commission order the parties to determine the amount of ISP traffic that was included in e.spire's monthly usage reports, remove that traffic from the usage reports, and determine whether the two million minute differential has been met.

**APPROVED**

Issue 3: In this instance, how should the reciprocal compensation rate, if any, be determined under the parties' Interconnection Agreement?

Recommendation: Staff interprets the parties' Interconnection Agreement to require that the reciprocal compensation rate be determined pursuant to Section XXII of the Agreement, the Most Favored Nations (MFN) clause, from the time it is determined that e.spire met the two-million-minute differential threshold and after the effective date of the other CLEC's agreement. Therefore, staff recommends that the Commission should determine the rate to be the .9 cents a minute rate requested by e.spire pursuant to Section XXII of the parties' Interconnection Agreement.

**APPROVED**

VOTE SHEET

MARCH 16, 1999

DOCKET NO. 981008-TP - 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.

(Continued from previous page)

Issue 4: What action, if any, should the Commission take?

Recommendation: As set forth in the previous issue, staff recommends that the reciprocal compensation rate be set at \$.009 as determined pursuant to Section XXII, the Most Favored Nations clause, of the parties' Interconnection Agreement. Staff recommends, therefore, that the Commission require BellSouth to compensate e.spire based upon the rate requested by e.spire according to Section XXII of the parties' interconnection agreement, including interest, for the entire period the balance owed is outstanding. Staff also recommends, consistent with the parties' Interconnection Agreement, that the Commission order BellSouth to pay e.spire's reasonable attorney's fees and legal expenses associated with this case.

**APPROVED**

Issue 5: Should the Commission require the parties to use the methodology described in the staff analysis to estimate the number of minutes originated from e.spire and terminated on BellSouth's system?

Recommendation: Yes. The parties should be required to use the methodology described in the staff analysis to estimate the number of minutes originated from e.spire and terminated on BellSouth's system. Upon estimating the number of minutes originated from e.spire and terminated on BellSouth's system, the differential between what e.spire terminated on BellSouth's system and what BellSouth terminated on e.spire's system may be easily derived by the parties. The parties should report to the Commission once they have determined the amount owed by BellSouth to e.spire based on the rate recommended in Issue 4, and the amount has been paid to e.spire. The parties should be required to report to the Commission in a period not to exceed four months from the date of the Commission's vote.

*Revised issue 5, attached, approved.*

**Docket NO. 981008-TP**  
**REVISED PROPOSED AGENCY ACTION ISSUE #5**

**ISSUE 5:** Should the Commission require the parties to determine the number of minutes originated by e.spire and terminated on BellSouth's system? **(PROPOSED AGENCY ACTION)**

**RECOMMENDATION:** Yes. The parties should be required to determine the number of minutes originated by e.spire and terminated on BellSouth's system using actual, available information. The parties should then use this amount to derive the differential between what e.spire terminated on BellSouth's system and what BellSouth terminated on e.spire's system.

If actual information is not available for the parties to use to determine the number of minutes originated by e.spire and terminated on BellSouth's system, then the parties should be required to use the methodology described in the staff analysis to estimate the number of minutes originated from e.spire and terminated on BellSouth's system. Upon estimating the number of minutes originated from e.spire and terminated on BellSouth's system, the differential between what was terminated on both parties' systems may be derived.

The parties should report to the Commission once they have determined the amount owed by BellSouth to e.spire based on the rate recommend in Issue 4, and the amount has been paid to e.spire. The parties should be required to report to the Commission in a period not to exceed 4 months from the date of the Commission's vote. **(ILERI, B. KEATING)**

**APPROVED**

VOTE SHEET

MARCH 16, 1999

DOCKET NO. 981008-TP - 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.

(Continued from previous page)

Issue 6: Should this docket be closed?

Recommendation: If no person whose substantial interests are affected by the Commission's proposed agency action decision in Issue 5 files a protest within 21 days of the issuance date of the Order, the docket should be placed on monitor status until the parties provide the report required in Issue 5. Once the report has been provided, the docket should be closed after the time for filing an appeal of the Commission's decisions in Issues 1-4 has run.

**APPROVED**