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RECORDS AND
REPORTING

April 23, 1999

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

Re: Docket No. 980253-TX

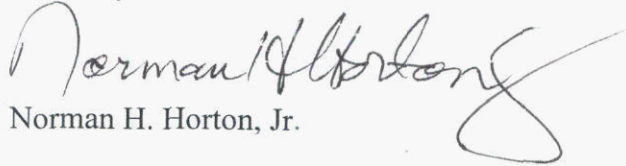
Dear Ms. Bayo:

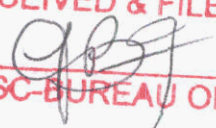
Enclosed for filing on behalf of e.spire Communications, Inc. is an original and fifteen copies of Comments of e.spire Communications, Inc. in the above referenced docket.

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.

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Enclosure
cc: Paul F. Guarisco
Parties of Record

DOCUMENT NUMBER-DATE

05276 APR 23 99

FPSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Proposed Rule 25-4.300, F.A.C.,)
Scope and Definitions; 25-4.301, F.A.C.,) Docket No. 980253-TX
Applicability of Fresh Look; and 25-4.302,) Filed: April 23, 1999
F.A.C., Termination of LEC Contracts.)
_____)

COMMENTS OF e.spire COMMUNICATIONS, INC.

Pursuant to Order No. PSC-99-0539-NOR-TX, e.spire Communications, Inc. ("e.spire") files the following comments in regard to the Commission's proposed Fresh Look rule.

Purpose of Fresh Look Rule

1. e.spire commends the Commission for proposing a Fresh Look rule and recognizing that it is important to give competitive choices to customers who are locked into contracts entered into in a monopoly environment.

2. e.spire agrees with the Florida Competitive Carriers Association that the purpose of a Fresh Look rule is to allow captive customers a meaningful opportunity to opt out of contracts entered into during a time when there was no competition and the incumbent was only the option for customers. Such a policy will foster competition in the state by helping to remove current barriers to competition. Such a rule should be carrier neutral and easy to administer, so that competitive alternatives, not lengthy administrative proceedings, are the focus of the Commission's Fresh Look rule.

The Commission's Proposed Rule

3. On March 24, 1999, the Commission proposed a Fresh Look rule. The rule provides:
- ◆ the Fresh Look period to begin 60 days after the effective date of the rule;
 - ◆ the Fresh look period to end 2 years after it begins;

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◆ customers may terminate contracts of six months or more by notifying the LEC in writing during the Fresh Look period;

◆ the LEC may assess a termination penalty limited to any unrecovered, contract specific nonrecurring costs, in an amount which does not exceed the termination liability.

4. e.spire supports the Commission rule as proposed with two exceptions. First, because competition will come to different parts of the state at different times, a longer Fresh Look window (such as the 4 years suggested by FCCA) is more appropriate. This longer window will help ensure that all (or most) areas of the state benefit from competition.

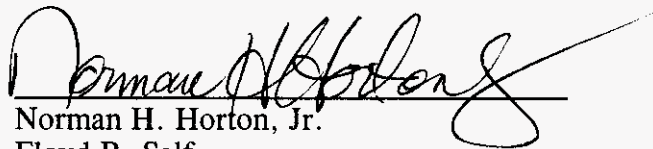
5. Second, the proposed rule (25-4.302(3)) includes a provision for the assessment of termination liability by the LEC. The provision may engender disputes between the LEC and the customer attempting to change carriers. Such disputes may dampen the consumer's willingness to change, thus stifling the very competition the rule is designed to promote. Further, to the extent the termination charge is high, it will again stifle competition which the rule is supposed to engender. This, like the FCCA, e.spire recommends there be no imposition of termination liability on a customer exercising his/her right under the Commission's Fresh Look rule to switch carriers.

6. Additionally, the Commission's proposed Fresh Look rule applies only to "local telecommunications services offered over the public switched network." Section 25-4.300(1) defines "local telecommunications services" as those services which include provision of dial tone and flat-rated or message-rated usage." e.spire recommends that the Commission modify its proposed rule to include also any and all advanced telecommunications services, including wireline, broadband telecommunications services such as services that rely on digital subscriber line technology (commonly referred to as xDSL) and packet switched technology, i.e., data traffic.

7. The Commission should move forward now to enact a Fresh Look rule which will give consumers the benefit of choice and allow them to opt out of contracts entered into in a monopoly environment. The Commission should either enact the proposed Commission rules, with the FCCA's suggested changes, or the rule proposed by the FCCA.

Respectfully submitted this 23rd day of April, 1999.

Respectfully submitted



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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of e.spire Communications, Inc.'s Comments in Docket No. 980253-TX have been served upon the following parties by Hand Delivery (*) and/or U. S. Mail this 23rd day of April, 1999.

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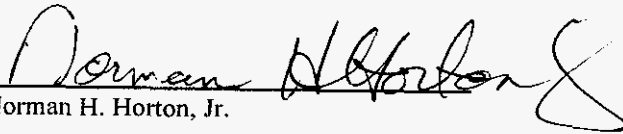
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