

VOTE SHEET

JANUARY 18, 2000

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: Should e.spire's Request for Oral Presentation be granted?

Recommendation: Yes. Staff recommends that the request be granted. In view of the questions raised at the November 30, 1999, Agenda Conference, and addressed herein, staff believes that oral argument will assist the Commission in rendering its decision on this matter, particularly as it relates to whether e.spire should be required to provide some type of security for the amount due.

NO VOTE

e.spire's counsel withdrew the request for oral argument, rendering this issue moot.

COMMISSIONERS ASSIGNED: DS CL JC

COMMISSIONERS' SIGNATURES

MAJORITY

DISSENTING

Susan L. Clark
J. Tom Deason
[Signature]

J. Tom Deason

REMARKS/DISSENTING COMMENTS:

Commissioner Deason DOCUMENT NUMBER-DATE
dissented on Issue 2. 00747 JAN 198

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Issue 2: Should BellSouth's Motion for Stay Pending Appeal be granted?
Recommendation: No. The Commission should deny BellSouth's Motion for Stay of the final portions of Order No. PSC-99-0658-FOF-TP and the proposed agency action portions of that Order. BellSouth's Motion for Stay Pending Appeal does not demonstrate that a stay pending appeal is warranted. Furthermore, staff recommends that the Commission should not require e.spire to provide security for the amount due to it under Order No. PSC-99-0658-FOF-TP as a condition of denying BellSouth's request for a stay. If, however, the Commission believes that some sort of security is necessary, staff recommends that it may be appropriate to require e.spire to hold the amount in an escrow account with interest accrued in accordance with Rule 25-4.114(4), Florida Administrative Code, or to obtain a letter of credit, or a surety bond, whichever is least expensive for the company. Furthermore, if the Commission decides to grant the motion for stay, it should order BellSouth to hold all monies due to e.spire under the interconnection agreement at issue in escrow, pending the outcome of the appeal. Since BellSouth has already indicated that it has established an escrow account for these monies, it should be required to advise the Commission as to the type of account and that interest on the amount will accrue as provided for in Rule 25-4.114(4), Florida Administrative Code.

APPROVED

*Commissioner Deason
dissented.*

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(Continued from previous page)

Issue 3: Should this Docket be closed?

Recommendation: No. This Docket should remain open pending resolution of BellSouth's appeal of Order No. PSC-99-0658-FOF-TP and the Commission's resolution of BellSouth's protest of the proposed agency action portion of that Order.

APPROVED