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March 6, 2001

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RECORDS AND
REPORTING

BY HAND DELIVERY

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

Re: FPSC Docket No. 000075-TP

Dear Ms. Bayó:

Enclosed for filing on behalf e.spire Communications, Inc. are an original and fifteen copies of e.spire's Response to Global Motion to Compel 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.

NHH/amb

Enclosure

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cc: James C. Falvey, Esq.
Parties of Record

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FPSC-RECORDS/REPORTING

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Investigation into Appropriate)	
Method to Compensate Carriers for Exchange)	Docket No. 000075-TP
Traffic Subject to Sec. 251 of the)	Filed: March 6, 2001
Telecommunications Act)	
_____)	

RESPONSE TO GLOBAL MOTION TO COMPEL

American Communication Services of Jacksonville, Inc. d/b/a e.spire Communications, Inc. (“e.spire”), through its undersigned counsel, herewith files its response to the Emergency Global Motion to Compel filed by BellSouth Telecommunications, Inc. February 27, 2001. As response e.spire states:

1. On February 2, 2001, BellSouth submitted its First Set of Interrogatories to e.spire consisting of 21 items. BellSouth also submitted its First Request for Production of Documents consisting of 23 requests. On February 12, 2001 e.spire filed preliminary objections and subsequently filed Responses and Objections. Specifically, of the First Set of Interrogatories, e.spire objected to Interrogatories 3, 4, 7-14, 16 and 18. Of the 24 requests in the Request for Production of Documents, e.spire objected to all but 1 and 3. On February 27, 2001 BellSouth filed an Emergency Global Motion to Compel seeking an Order Compelling Responses. For the reasons cited herein, the Commission should decline to enter such an order.

2. As a preliminary issue, attached to the Motion is a copy of the First Set of Interrogatories to Time Warner. It is not entirely clear from the Motion, but apparently the Exhibit is intended by BellSouth to represent the discovery served on the parties, including e.spire. That is not the case. Although the discovery was substantially the same, BellSouth only served 21

interrogatories on e.spire and Interrogatories 22-28 as they appear in the Time Warner discovery were not served on e.spire. To the extent BellSouth is seeking to compel e.spire to respond to discovery which was never served on e.spire then the Motion is simply not appropriate.

3. In its Motion, BellSouth addressed several of the requests collectively because the information sought related to a common interest. e.spire will respond in like manner but initially it must be noted that this entire matter is beyond the date established for completion of discovery in this docket. Order No. PSC-00-2350-PCO-TP established February 28, 2001 as the final date for all discovery in this matter. BellSouth South is beyond that date and the Motion should be denied. BellSouth had ample opportunity to submit discovery with sufficient time to meet the limit established in the Procedural Order but chose instead to wait until it was too late to do so. The time for completion of all discovery has expired and the Motion to Compel should be denied.

4. With respect to the specific requests, BellSouth seeks to compel responses to Interrogatories 7, 8, 9, 10, 11, 12, and 13 on the basis that such information is relevant to Issue 4. The interrogatories seek specific company information as to access lines, customers, and historic and projected revenues. e.spire objected on the basis that this information is confidential and that it is not relevant to the issues in this generic docket. This proceeding is intended as an investigation into the appropriate method to compensate carriers for exchange traffic and the information sought by BellSouth in these interrogatories simply has no relevance to this investigation whatsoever. The “appropriate method” is not dependent upon this type of information. BellSouth asserts that these responses will establish whether or not an ALEC is receiving a “financial windfall” from reciprocal compensation payments which in the first place is an inaccurate, incorrect characterization of the

payments an ALEC may receive and secondly, simply is not relevant to the legal and policy issues to be resolved in this docket.

5. BellSouth also seeks to compel responses to Interrogatories 14 and 16 which sought information relative to e.spire's investment in Florida and costs to e.spire to transport ISP traffic (BellSouth also grouped other inquiries with these requests but e.spire either answered them or BellSouth did not serve them on e.spire). Again, these questions are not relevant to any of the issues in this docket. e.spire's investment has no bearing or relevance on the appropriate mechanism nor are e.spire's costs of any import to a decision on that determination.

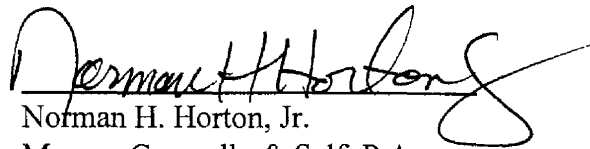
6. BellSouth also seeks to compel a response to Interrogatory No. 4 requesting the identification of "all documents that refer or relate to any issue raised in Phase 1 . . ." e.spire objected on the basis that the question was overly broad, vague unduly burdensome, oppressive expensive and excessively time consuming. The request is to identify "all" documents without any limit whatsoever and that is too broad and vague to be answerable.

7. As to the Production of Documents, BellSouth seeks the information again on their erroneous belief and assertion that ALEC's are receiving an unearned financial windfall. As with the Interrogatories, information sought by BellSouth is first confidential and secondly not relevant to the legal and policy issues associated with appropriate mechanisms. The amount of revenue, location of customers, costs and business arrangements, and other information requested in the Production have no relevance to the method of compensation.

8. e.spire requests that the Commission deny BellSouth's Global Motion to Compel as the discovery was not completed within the time established by the Commission and the discovery

is not relevant to the issues of this docket. However, should the Commission grant any part of the Motion, to the extent that response to any request requires the disclosure of confidential information, e.spire requests that such response be on the basis of a proper nondisclosure agreement.

Respectfully submitted

A handwritten signature in black ink, appearing to read "Norman H. Horton, Jr.", written over a horizontal line.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of e.spire Communications, Inc.'s Response to Global Motion to Compel in Docket 000075-TP has been served on the following parties by Hand Delivery (*) and/or U. S. Mail this 6th day of March, 2001.

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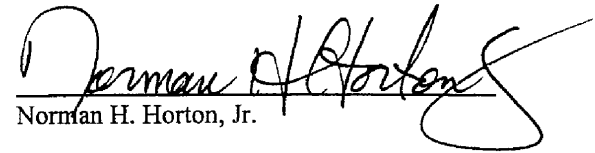
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