

NANCY B. WHITE
Assistant General Counsel-Florida

BellSouth Telecommunications, Inc.
150 South Monroe Street
Room 400
Tallahassee, Florida 32301
(305) 347-5558

January 25, 1999

Mrs. Blanca S. Bayó
Director, Division of Records and Reporting
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Re: Docket No. 981642-TP and 981745-TP

Dear Ms. Bayó:

Enclosed please find the original and fifteen copies of BellSouth Telecommunication, Inc.'s Objections to e.spire Communications, Inc.'s First Set of Interrogatories, which we ask that you file in the above-captioned dockets.

A copy of this letter is enclosed. Please mark it to indicate that the original was filed and return the copy to me. Copies have been served to the parties shown on the attached Certificate of Service.

Sincerely,

Nancy B. White
Nancy B. White (PW)

ACK _____

AFA _____

APP _____

CAF _____

CMH *Stavino*

CTR _____

Enclosures

EAG _____

LES 1

cc: All parties of record

LIN 2

Marshall M. Criser III

CO _____

William J. Ellenberg II

RO _____

SE 1

WAL _____

OTH _____

RECEIVED & FILED
[Signature]
FPSC BUREAU OF RECORDS

DOCUMENT NUMBER DATE

01006 JAN 25 99

FLORIDA PUBLIC SERVICE COMMISSION

CERTIFICATE OF SERVICE
Docket Nos. 981642-TP and 981745-TP

I HEREBY CERTIFY that a true and correct copy of the foregoing was served by
Federal Express this 25th day of January, 1999 to the following:

Staff Counsel
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

Brad E. Mutschelknaus
KELLEY DRYE & WARREN LLP
1200 Nineteenth Street, N.W.
Suite 500
Washington, D.C. 20036
Tel. No. (202) 955-9600

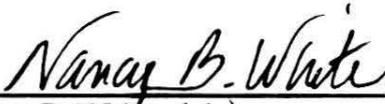
Norman H. Horton, Jr.
Floyd R. Self
MESSER CAPARELLO & SELF, P.A.
215 South Monroe Street
Suite 701
Tallahassee, FL 32302-1876
Tel. No. (850) 222-0720

Riley M. Murphy
James C. Falvey
E.spire Communications, Inc.
133 National Business Parkway
Suite 200
Annapolis Junction, Maryland 20701
Tel. No. (301) 617-4200

Donna L. Canzano
Patrick Knight Wiggins
Wiggins & Villacorta, P.A.
2145 Delta Boulevard
Suite 200
P.O. Drawer 1657
Tallahassee, FL 32302
Tel. No. (850) 385-6007
Fax. No. (850) 385-6008

Jonathan E. Canis
Enrico C. Soriano
Kelley Dye and Warren LLP
1200 19th Street, N.W.
Fifth Floor
Washington, D.C. 20036
Tel. No. (202) 955-9600
Fax. No. (202) 955-9792

Scott A. Sapperstein
Senior Policy Counsel
Intermedia Communications, Inc.
3625 Queen Palm Drive
Tampa, FL 33619-1309
Tel. No. (813) 829-4093
Fax. No. (813) 829-4923


Nancy B. White (20)

**BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION**

In re: **Petition by Intermedia Communications Inc.**)
for Arbitration with BellSouth Telecommunications,) **Docket No. 981642-TP**
Inc., Pursuant to the Telecommunications Act of 1996)

In re: **Petition by e.spire Communications, Inc.**)
And American Communication Services of Tampa,)
Inc., American Communications Services of)
Jacksonville, Inc. for Arbitration of an) **Docket No. 981745-TP**
Interconnection Agreement with BellSouth)
Telecommunications, Inc. Pursuant to Section 252(b))
Of the Telecommunications Act of 1996)
_____) **FILED: Jan. 25, 1999**

BELLSOUTH TELECOMMUNICATIONS, INC.'S
OBJECTIONS TO e.spire COMMUNICATIONS, INC.'S
FIRST SET OF INTERROGATORIES

Pursuant to Rules 25.22-034 and 25-22.035 of the Florida Administrative Code, and Rules 1.340 and 1.280(b) of the Florida Rules of Civil Procedure, BellSouth Telecommunications, Inc. ("BellSouth") respectfully submits the following objections to the First Set of Interrogatories propounded on January 15, 1999 by e.spire Communications, Inc., American Communication Services of Jacksonville, Inc., and American Communication Services of Tampa, Inc., (collectively "e.spire").

GENERAL OBJECTIONS

1. BellSouth objects to each Interrogatory to the extent that it seeks information protected from discovery by the attorney-client privilege.

DOCUMENT NUMBER DATE
01006 JAN 25 99
FLORIDA PUBLIC SERVICE COMMISSION

2. BellSouth objects to the instructions to e.spire's First Set of Interrogatories to the extent e.spire seeks to require BellSouth to produce information in a form in which such information is not maintained by BellSouth.

3. BellSouth has interpreted e.spire's Interrogatories to apply to BellSouth's regulated intrastate operations in Florida and will limit its responses accordingly. To the extent that any Interrogatory is intended to apply to matters other than BellSouth's Florida intrastate operations, BellSouth objects to such request as irrelevant, overly broad, unduly burdensome, and oppressive.

4. BellSouth objects to providing information to the extent such information is already in the public record.

SPECIFIC OBJECTIONS

1. Please name each CAP, CLEC, other LEC, or IXC with which BellSouth has entered into an interconnection agreement within the last ten years in Florida. State the date on which such agreement was executed and briefly describe the nature of each such agreement.

Objection: BellSouth objects to this Interrogatory to the extent it seeks information concerning agreements other than those between BellSouth and Competing Local Exchange Carriers ("CLECs") entered into under Section 252 of the Telecommunications Act of 1996 ("1996 Act"). Because this proceeding is an arbitration under Section 252 of the 1996 Act, information concerning any other agreement is not relevant to the issues in this proceeding nor reasonably calculated to lead to the discovery of admissible evidence. BellSouth also objects to this

Interrogatory as being overly broad and unduly burdensome in that it seeks information for the past ten years.

5. Please provide a complete explanation of the manner in which the NRC BellSouth assesses when a customer elects to change its presubscribed long-distance carrier was established.

Objection: BellSouth objects to this Interrogatory on grounds that the information requested is not relevant to any issue in this proceeding nor reasonably calculated to lead to the discovery of admissible evidence. Although the Commission has been asked to arbitrate the nonrecurring rates for certain unbundled network elements, the charges a customer pays when it changes long distance carriers is irrelevant to this issue because, as the Federal Communications Commission has repeatedly held, unbundled network elements do not have a retail analogue. *See In re: Application of BellSouth Corp., BellSouth Telecommunications, Inc., and BellSouth Long Distance, Inc. for Provision of In-Region, InterLATA Services in Louisiana*, CC Docket 98-121, 13 FCC Rcd 20599 ¶ 87 (Oct. 13, 1998); *See In re: Application of BellSouth Corp., et al. Pursuant to Section 271 of the Communications Act of 1934, as amended, to Provide In-Region, InterLATA Services in South Carolina*, CC Docket 97-208, 13 FCC Rcd 539 ¶ 98 (Dec. 24, 1997); *In re: Application of Ameritech Michigan Pursuant to Section 271 of the Communications Act of 1934, as amended, to Provide In-Region, InterLATA Services in Michigan*, CC Docket 97-137, 12 FCC Rcd 20543 ¶ 141 (Aug. 19, 1997).

11. Please identify all orders issued by the Florida Public Service Commission granting BellSouth customer specific contracting authority.

Objection: BellSouth objects to this Interrogatory on grounds that the information requested is not relevant to any issue in this proceeding nor reasonably calculated to lead to the discovery of admissible evidence. Neither e.spire's arbitration petition nor BellSouth's response raises any issue that concerns the source or extent of BellSouth's contracting authority.

12. Please identify the sections of BellSouth's tariff(s) identifying and/or describing BellSouth's contracting authority and the sections identifying the products and services available to which such contracting authority applies. Also, please provide copies of the portions of tariffs identified.

Objection: BellSouth objects to this Interrogatory on grounds that the information requested is not relevant to any issue in this proceeding nor reasonably calculated to lead to the discovery of admissible evidence. Neither e.spire's arbitration petition nor BellSouth's response raises any issue that concerns the source or extent of BellSouth's contracting authority.

13. Please identify all services that BellSouth provides pursuant to customer specific contract arrangements.

Objection: BellSouth objects to this Interrogatory on grounds that the information requested is not relevant to any issue in this proceeding nor reasonably

calculated to lead to the discovery of admissible evidence. Although e.spire's arbitration petition sought to arbitrate the issue of whether BellSouth should be required to resell Contract Service Arrangements ("CSAs"), BellSouth has agreed to make CSAs available for resale at the wholesale discount.

14. Has BellSouth prepared a revenue/cost comparison or other cost related support for its customer specific, end-user contracts? If so, please identify the most recently conducted cost study for each service offered pursuant to BellSouth's contracting authority including the source of the components of the study.

Objection: BellSouth objects to this Interrogatory to the extent it seeks information concerning the cost of BellSouth's retail services on grounds that such information is not relevant to any issue in this proceeding nor reasonably calculated to lead to the discovery of admissible evidence. Although the Commission has been asked to arbitrate rates for certain unbundled network elements, the costs BellSouth incurs in connection with its retail services is irrelevant to this issue because, as the Federal Communications Commission has repeatedly held, unbundled network elements do not have a retail analogue. *See In re: Application of BellSouth Corp., BellSouth Telecommunications, Inc., and BellSouth Long Distance, Inc. for Provision of In-Region, InterLATA Services in Louisiana*, CC Docket 98-121, 13 FCC Rcd 20599 ¶ 87 (Oct. 13, 1998); *See In re: Application of BellSouth Corp., et al. Pursuant to Section 271 of the Communications Act of 1934, as amended, to Provide In-Region, InterLATA Services in South Carolina*, CC Docket 97-208, 13 FCC

Rcd 539 ¶ 98 (Dec. 24, 1997); *In re: Application of Ameritech Michigan Pursuant to Section 271 of the Communications Act of 1934, as amended, to Provide In-Region, InterLATA Services in Michigan*, CC Docket 97-137, 12 FCC Rcd 20543 ¶ 141 (Aug. 19, 1997).

22. Have cost studies been prepared by or on behalf of BellSouth relating to:
- a) dedicated interoffice transport of any type;
 - b) LIGHTgate/SMARTgate;
 - c) SMARTpath;
 - d) SMARTring.

Objection: BellSouth objects to this Interrogatory to the extent it seeks information concerning the cost of BellSouth's retail services on grounds that such information is not relevant to any issue in this proceeding nor reasonably calculated to lead to the discovery of admissible evidence. Although the Commission has been asked to arbitrate rates for certain unbundled network elements, the costs BellSouth incurs in connection with its retail services is irrelevant to this issue because, as the Federal Communications Commission has repeatedly held, unbundled network elements do not have a retail analogue. *See In re: Application of BellSouth Corp., BellSouth Telecommunications, Inc., and BellSouth Long Distance, Inc. for Provision of In-Region, InterLATA Services in Louisiana*, CC Docket 98-121, 13 FCC Rcd 20599 ¶ 87 (Oct. 13, 1998); *See In re: Application of BellSouth Corp., et al. Pursuant to Section 271 of the Communications Act of 1934, as amended, to*

Provide In-Region, InterLATA Services in South Carolina, CC Docket 97-208, 13 FCC Rcd 539 ¶ 98 (Dec. 24, 1997); *In re: Application of Ameritech Michigan Pursuant to Section 271 of the Communications Act of 1934, as amended, to Provide In-Region, InterLATA Services in Michigan*, CC Docket 97-137, 12 FCC Rcd 20543 ¶ 141 (Aug. 19, 1997).

23. With regard to BellSouth's Frame Relay Service:

- a) please describe the elements comprising the service;
- b) describe the charges therefor;
- c) identify any cost studies prepared by or on behalf of BellSouth relating to Frame

Objection: BellSouth objects to this Interrogatory to the extent it seeks information concerning BellSouth's retail services on grounds that such information is not relevant to any issue in this proceeding nor reasonably calculated to lead to the discovery of admissible evidence. Although the Commission has been asked to arbitrate rates for certain unbundled network elements, the rates a BellSouth customer pays for a BellSouth retail service and the costs BellSouth incurs in connection with such service is irrelevant to this issue because, as the Federal Communications Commission has repeatedly held, unbundled network elements do not have a retail analogue. See *In re: Application of BellSouth Corp., BellSouth Telecommunications, Inc., and BellSouth Long Distance, Inc. for Provision of In-Region, InterLATA Services in Louisiana*, CC Docket 98-121, 13 FCC Rcd 20599 ¶ 87 (Oct. 13, 1998); See *In re: Application of BellSouth Corp., et al. Pursuant to*

Section 271 of the Communications Act of 1934, as amended, to Provide In-Region, InterLATA Services in South Carolina, CC Docket 97-208, 13 FCC Rcd 539 ¶ 98 (Dec. 24, 1997); *In re: Application of Ameritech Michigan Pursuant to Section 271 of the Communications Act of 1934, as amended, to Provide In-Region, InterLATA Services in Michigan*, CC Docket 97-137, 12 FCC Rcd 20543 ¶ 141 (Aug. 19, 1997).

95. For each collocation construction job that has been completed or closed by the BellSouth network organization, please provide a detailed explanation of the work and equipment BellSouth performed and provided (including work BellSouth contracted from third parties) and an analysis of the costs BellSouth has incurred using the elements included in the BellSouth tariff. In addition, please reconcile this explanation and analysis with, time sheets, and other documents describing the costs BellSouth actually incurred.

Objection: BellSouth objects to this Interrogatory on grounds that it is overly broad and unduly burdensome. To date BellSouth has completed more than 100 physical and virtual collocation arrangements in Florida and approximately 500 in the region. In order to provide the information requested in this Interrogatory, BellSouth would have to consult seven different Network organizations, two or more BellSouth Network contractors, and three or more property management contractors (depending on the scope of the work). Based on input from these participants, who are involved in the various aspects of the work associated with collocation, BellSouth

conservatively estimates that it would require in excess of 5,000 man-hours to provide the requested information just for those collocation projects completed in Florida. Furthermore, the individuals who would have to provide the information requested in this Interrogatory are the same individuals responsible for fulfilling active, in-progress collocation requests for BellSouth's CLEC customers. To impose such onerous discovery burdens upon these individuals would impede BellSouth's ability to timely fulfill its collocation obligations to these CLECs.

BellSouth also objects to this Interrogatory to the extent it seeks information about the work performed by BellSouth to permit CLECs other than e.spire to collocate on BellSouth's premises. Such information would tend to reveal the marketing and network plans of e.spire's competitors, including the types of facilities such competitors have elected to deploy to serve their customers and the locations where they intend to compete. Although the Commission has been asked to arbitrate certain issues concerning the rates, terms, and conditions that should apply when e.spire physically collocates on BellSouth's premises, e.spire should not be permitted to delve into trade secret and other confidential commercial information of e.spire's competitors. *See Everco Industries, Inc. v. OEM Products Co.*, 362 F. Supp. 204, 206 (N.D. Ill. 1973) (rejecting open-ended discovery request for company's confidential documents, recognizing that confidential documents should not be disclosed between business competitors absent sufficient cause).

96. For each collocation construction job that has not been completed or closed by the network organization, please provide a detailed explanation of the work or required tasks on which BellSouth based its quote and an analysis of the costs BellSouth estimated that it will incur using the elements identified by BellSouth in its tariff.

Objection: BellSouth objects to this Interrogatory on grounds that it is overly broad and unduly burdensome. BellSouth currently has approximately 250 physical and virtual collocation requests in progress in Florida and more than 400 requests in progress in the region. In order to provide the information requested in this Interrogatory, BellSouth would have to consult seven different Network organizations, two or more BellSouth Network contractors, and three or more property management contractors (depending on the scope of the work). Based on input from these participants, who are involved in the various aspects of the work associated with collocation, BellSouth conservatively estimates that it would require in excess of 3,100 man-hours to provide the requested information just for those collocation projects currently in progress in Florida. Furthermore, the individuals who would have to provide the information requested in this Interrogatory are the same individuals responsible for fulfilling active, in-progress collocation requests for BellSouth's CLEC customers. To impose such onerous discovery burdens upon these individuals would impede BellSouth's ability to timely fulfill its collocation obligations to these CLECs.

BellSouth also objects to this Interrogatory to the extent it seeks information about the work performed by BellSouth to permit CLECs other than e.spire to

collocate on BellSouth's premises. Such information would tend to reveal the marketing and network plans of e.spire's competitors, including the types of facilities such competitors have elected to deploy to serve their customers and the locations where they intend to compete. Although the Commission has been asked to arbitrate certain issues concerning the rates, terms, and conditions that should apply when e.spire physically collocates on BellSouth's premises, e.spire should not be permitted to delve into trade secret and other confidential commercial information of e.spire's competitors. *See Everco Industries, Inc. v. OEM Products Co.*, 362 F. Supp. 204, 206 (N.D. Ill. 1973) (rejecting open-ended discovery request for company's confidential documents, recognizing that confidential documents should not be disclosed between business competitors absent sufficient cause).

99. Please provide a complete explanation of the differences in activities and nonrecurring costs involved in the service order processing, engineering, connect and test, and technician travel time between each of the following:

- a) 1FB and 2 wire analog voice grade loop UNE
- b) 1FR and 2 wire analog voice grade loop UNE
- c) PBX trunk and 2 wire analog voice grade loop UNE
- d) Centrex line and 2 wire analog voice grade loop UNE
- e) ISDN and 2 wire ISDN digital grade loop UNE
- f) ADSL and 2 wire ADSL compatible loop UNE
- g) 4 wire DS1 and 4 wire DS1 digital loop UNE

Objection: BellSouth objects to this Interrogatory to the extent it seeks information concerning BellSouth's retail services on grounds that such information is not relevant to any issue in this proceeding nor reasonably calculated to lead to the discovery of admissible evidence. Although the Commission has been asked to arbitrate the nonrecurring rates for certain unbundled network elements, the rates a BellSouth customer pays for a BellSouth retail service is irrelevant to this issue because, as the Federal Communications Commission has repeatedly held, unbundled network elements do not have a retail analogue. See *In re: Application of BellSouth Corp., BellSouth Telecommunications, Inc., and BellSouth Long Distance, Inc. for Provision of In-Region, InterLATA Services in Louisiana*, CC Docket 98-121, 13 FCC Rcd 20599 ¶ 87 (Oct. 13, 1998); See *In re: Application of BellSouth Corp., et al. Pursuant to Section 271 of the Communications Act of 1934, as amended, to Provide In-Region, InterLATA Services in South Carolina*, CC Docket 97-208, 13 FCC Rcd 539 ¶ 98 (Dec. 24, 1997); *In re: Application of Ameritech Michigan Pursuant to Section 271 of the Communications Act of 1934, as amended, to Provide In-Region, InterLATA Services in Michigan*, CC Docket 97-137, 12 FCC Rcd 20543 ¶ 141 (Aug. 19, 1997).

Respectfully submitted this 25th day of January, 1999.

BELLSOUTH TELECOMMUNICATIONS, INC.

Nancy B. White

NANCY B. WHITE

c/o Nancy Sims

Suite 400

150 South Monroe Street

Tallahassee, FL 32301

(305) 347-5558

WILLIAM J. ELLENBERG II

THOMAS B. ALEXANDER

BENNETT L. ROSS

Suite 4300, BellSouth Center

675 West Peachtree Street, N.E.

Atlanta, Georgia 30375

(404) 335-0750

148854