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April 9, 1999

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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

**DECLASSIFIED**

Re: Docket Nos. 980947-TL, 980948-TL, 981011-TL, and 981012

Dear Ms. Bayo:

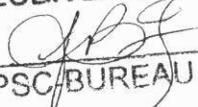
Enclosed for filing on behalf of e.spire Communications, Inc. is an original of the direct testimony of James C. Falvey. Pursuant to agreement of the parties, BellSouth has filed a blanket notice of confidential classification regarding this testimony. Accordingly, the Commission should maintain this testimony as confidential until such time as BellSouth has completed its determination regarding any confidential information that may be contained in this testimony.

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: James C. Falvey  
Parties of Record

per DN 06056-99  
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1       **Q.   PLEASE STATE YOUR NAME, TITLE AND BUSINESS**  
2       **ADDRESS FOR THE RECORD.**

3       **A.**   My name is James C. Falvey. I am Vice President - Regulatory Affairs  
4       for e.spire Communications, Inc. (“e.spire”), which formerly was known  
5       as American Communications Services, Inc. My business address is 133  
6       National Business Parkway, Suite 200, Annapolis Junction, MD 20701

7       **Q.   PLEASE DESCRIBE YOUR PROFESSIONAL EXPERIENCE**  
8       **AND BACKGROUND.**

9       **A.**   Prior to joint e.spire as Vice President - Regulatory Affairs in 1996, I  
10      practiced law as an associate with the Washington, D.C. law firm of  
11      Swidler and Berlin for two and a half years. In the course of my practice,  
12      I represented competitive local exchange providers, competitive access  
13      providers, cable operators and other common carriers before state and  
14      federal regulatory authorities. Prior to my employment at Swidler and  
15      Berlin , I was an associate in the Washington Office of Johnson & Gibbs,  
16      where I practiced antitrust litigation for three years. I graduated from  
17      Cornell University in 1985 with honors and received my law degree from  
18      the University of Virginia School of Law in 1990. I am admitted to  
19      practice law in the District of Columbia and Virginia.

20      **Q.   HAVE YOU PREVIOUSLY TESTIFIED BEFORE THIS**  
21      **COMMISSION?**

22      **A.**   Yes, I have.

23      **Q.   HAVE YOU PREVIOUSLY TESTIFIED BEFORE OTHER STATE**  
24      **COMMISSIONS?**

25      **A.**   Yes, I have. I have testified before the state commissions in Alabama,

1 Georgia, Kentucky, Louisiana, Mississippi, South Carolina and  
2 Tennessee.

3 **Q. ON WHOSE BEHALF ARE TESTIFYING IN THIS**  
4 **PROCEEDING?**

5 **A.** I am testifying on behalf of e.spire and its Florida operating subsidiaries,  
6 namely American Communications Services of Jacksonville, Inc. d/b/a  
7 e.spire Communications, Inc., and ACSI Local Switched Services, Inc  
8 d/b/a e.spire Communications, Inc. e.spire, through its operating  
9 subsidiaries, provides a full range of local and long distance  
10 telecommunications services in Florida.

11 **Q. HAS E.SPIRE APPLIED FOR PHYSICAL COLLOCATION AND**  
12 **BEEN REJECTED IN FLORIDA?**

13 **A.** Yes. e.spire applied and was rejected in at least four central offices:  
14 Miami Palmetto, North Dade Golden Glades, Boca Raton Boca Teeca,  
15 and Palm Beach Gardens. e.spire is particularly currently interested in  
16 physical collocation in these central offices in which it was rejected for  
17 physical collocation.

18 **Q. WHY DOES E.SPIRE REQUIRE PHYSICAL COLLOCATION?**

19 **A.** e.spire generally requires physical collocation because it provides greater  
20 control over its facilities and reduces costs in the long run. When e.spire  
21 obtains access to the equipment in its network, e.spire can manage the  
22 maintenance and repair of its equipment and resolve network issues more  
23 easily. e.spire's substantial experience with virtual collocation has  
24 confirmed that not having access causes delays and makes it much more  
25 difficult to access its equipment. In addition, over time, it becomes

1 expensive to have another company maintain e.spire's equipment.  
2 Physical collocation costs more up front, but avoids excessive and  
3 unpredictable costs in the long run.

4 **Q. WHAT ARE THE OTHER ADVANTAGES OF PHYSICAL**  
5 **COLLOCATION?**

6 **A.** Physical collocation has two principle additional advantages. First,  
7 e.spire cannot obtain certain combinations of unbundled elements without  
8 physical collocation. Without digressing as to problems with obtaining  
9 combinations, BellSouth has advocated a policy whereby combinations  
10 of unbundled network elements are often not available without physical  
11 collocation. While e.spire is pressing to obtain combinations and new  
12 unbundled elements without physical collocation, e.spire must also  
13 ensure that it has access to physical collocation space in order to be able  
14 to order combinations – and specifically combinations of unbundled  
15 loops and unbundled transport – in the current environment. Second,  
16 e.spire is interested in providing xDSL services in order to offer advanced  
17 services to its customers. In order to offer xDSL services, physical  
18 collocation is necessary to obtain access to loops and install the necessary  
19 electronics. Due to all of the above reasons, physical collocation has  
20 become an increasingly important commodity for e.spire.

21 **Q. WHEN IT WAS REJECTED FOR PHYSICAL COLLOCATION,**  
22 **DID E.SPIRE ORDER OTHER TYPES OF COLLOCATION IN**  
23 **THE TWO CENTRAL OFFICES IN QUESTION?**

24 **A.** e.spire ordered virtual collocation in one of the four central offices.  
25 While e.spire prefers physical collocation, e.spire was forced to order

1 virtual due to the alleged lack of space according to BellSouth at the time.

2 **Q. IN WHAT ORDER SHOULD PHYSICAL COLLOCATION BE**  
3 **AWARDED IF IT IS FOUND TO EXIST?**

4 **A.** The first-come, first-served rule, established at the state and federal level,  
5 should apply. As discussed further below, if space is available, until a  
6 carrier has had a chance to review its options with BellSouth, it should  
7 retain its place in line on a first-come first-served basis.

8 **Q. IN CENTRAL OFFICES IN WHICH SPACE IS FOUND TO**  
9 **EXIST, WHAT RESULT WOULD E.SPIRE LIKE TO SEE FROM**  
10 **THIS DOCKET?**

11 **A.** The result that e.spire would like to see will depend upon the particular  
12 circumstances of each central office. There are at least two possible  
13 results. First, if e.spire obtained virtual collocation, e.spire would like to  
14 convert its existing virtual collocation to a physical collocation. The FCC  
15 has now clarified that where there is space for a virtual collocation, there  
16 should be space for a physical collocation. This is particularly true to the  
17 extent that cageless collocation is required and a LEC cannot designate  
18 what portions of its central offices are and are not available for  
19 collocation. First Report and Order and Further Notice of Proposed  
20 Rulemaking, In the Matter of Deployment of Wireline Services Offering  
21 Advanced Telecommunications Capability, CC Docket No. 98-147  
22 (March 31, 1999) (“FCC Collocation Order”), paras. 42-44. e.spire has  
23 already invested the time and resources to establish virtual collocations.  
24 Moreover, e.spire has already wasted substantial resources in establishing  
25 a virtual collocation when in fact it preferred physical. Converting these

1 to physical collocations is e.spire's first preference. Moving this  
2 equipment to new physical locations, establishing additional collocation  
3 arrangements, or other solutions that would exhaust e.spire resources are  
4 considerably less attractive to e.spire. Second, however, if e.spire cannot  
5 convert its virtual collocations, or if it did not obtain a virtual collocation  
6 in the first instance, e.spire would be interested in new physical  
7 collocation space in the same central office, either in a traditional  
8 arrangement, or depending on the office, in an alternative arrangement  
9 such as shared, cageless, or adjacent collocation.

10 **Q. WHY WOULD FURTHER DELAYS PRIOR TO MAKING NEW**  
11 **ARRANGEMENTS AVAILABLE BE PARTICULARLY**  
12 **HARMFUL TO LOCAL COMPETITION IN FLORIDA?**

13 **A.** e.spire and other ALECs have already waited a substantial time to get  
14 current collocations up and running. In numerous cases, e.spire  
15 applications have been processed slowly, and when a Firm Order  
16 Confirmation is received, the date is not met. This has delayed the  
17 establishment of e.spire facilities-based service in Florida and elsewhere.  
18 As noted, e.spire has been forced to use virtual collocations when space  
19 was, as we will see in this proceeding, in fact available. e.spire should  
20 not be forced to incur further delays before physical collocations are  
21 established, other than the minimum amount of time necessary for  
22 BellSouth to perform the tasks that need to be accomplished. Delaying  
23 tactics, such as the establishment of additional phases of this docket,  
24 should not be countenanced by the Commission. If space is determined  
25 to be available, the Commission should order that it be made available

1 based upon interim guidelines, with details such as final pricing and  
2 detail as to what the parameters of certain arrangements will be left to be  
3 clarified after ALECs have established new collocations.

4 **Q. HOW SHOULD SUCH SPACE BE PARCELED OUT IF IT IS**  
5 **FOUND TO BE AVAILABLE?**

6 **A.** The first-come, first-served rule should be carried out in a manner that  
7 gives carriers an opportunity to assess the alternatives available and,  
8 critically, must give carriers ample time to establish which of the  
9 available alternatives best fits the carriers business plan and available  
10 resources at any given time. Each carrier must be given at least 30  
11 business days to make a decision as to how it would like to proceed, once  
12 the Commission has established how much space is available for each  
13 carrier, and what means of using that space will be available. ALECs  
14 must not be forced to make command decisions as to how they will  
15 proceed. Once alternatives become available, ALECs must be given time  
16 to conduct the appropriate business planning, allocate resources, and  
17 notify BellSouth of their decision. In e.spire's first-hand experience, at  
18 least 30 business days is necessary, after all the relevant information  
19 becomes available.

20 **Q. IN DETERMINING WHETHER SPACE IS AVAILABLE, WHAT**  
21 **ALTERNATIVES SHOULD BE CONSIDERED?**

22 **A.** The Commission should consider, at a minimum, shared, cageless,  
23 smaller space, and adjacent alternatives. The Commission should also  
24 closely examine the manner in which existing virtual collocation  
25 arrangements, given recent new FCC orders, must be allowed to be

1 converted to physical collocation in the same space. These alternatives  
2 should be considered, and the Commission should ensure that they  
3 become immediately available as soon as practically feasible consistent  
4 with the terms of the FCC Collocation Order. e.spire recognizes that  
5 there has been substantial debate in this proceeding as to the extent to  
6 which this docket should address such alternatives. e.spire provides  
7 detail as to these alternatives at this time to the extent that each  
8 alternative is fully addressed by the FCC Collocation Order.

9 **Q. HAS BELLSOUTH CONCEDED THAT IT WILL MAKE**  
10 **CERTAIN ALTERNATIVE COLLOCATION ARRANGEMENTS**  
11 **AVAILABLE IN E.SPIRE'S INTERCONNECTION**  
12 **NEGOTIATION?**

13 **A.** In principle, yes. BellSouth made certain concessions, although they  
14 were not implemented because of a settlement of the e.spire arbitrations.  
15 We made significant progress on some of these issues during our  
16 negotiations. For example, BellSouth – to its credit – agreed for the first  
17 time to make available “cageless” collocation, albeit in shared space,  
18 allow limited “sharing” of collocation cages, to provide such cageless  
19 space without a minimum space requirement and to charge e.spire only  
20 its pro rata portion of Space Preparation Fees, even if it is one first  
21 collocated carrier at a particular central office. These are very important  
22 developments.

23 However, a number of new arrangements remain to be made  
24 available, particularly in light of the FCC Collocation Order. Swift and  
25 firm Commission action is required to ensure that limitations on

1 collocation alternatives do not become a key barrier to the development  
2 of local competition.

3 **Q. SHOULD E.SPIRE BE PERMITTED TO SUBLEASE ITS**  
4 **PHYSICAL COLLOCATION SPACE TO OTHER**  
5 **TELECOMMUNICATIONS CARRIERS AND OTHERWISE**  
6 **SHARE COLLOCATION SPACE?**

7 **A.** Yes. As recently ordered by the FCC, such shared collocation must now  
8 be made available. Order, para. 41. There are several measures that the  
9 Commission can and should take to ensure that competitors can collocate  
10 more efficiently and effectively. Requiring BellSouth to allow for shared  
11 cage collocation and cage subleasing of existing and future collocation  
12 space are two of them. Recognizing that current ILEC physical  
13 collocation practices constitute one of the most formidable barriers to  
14 competitive entry, shared collocation is critical to the development of  
15 competition.

16 By requiring BellSouth to allow competitors, such as e.spire to  
17 share cages with and sublease physical collocation space to other  
18 telecommunications carriers, this Commission can reduce collocation  
19 expenses and increase the efficiency of central office space utilization  
20 significantly. Both results will lead to an increase in competitive service  
21 alternatives available to Florida end users. Shared cage collocation and  
22 subleasing reduce competitors' collocation expenditures by allowing  
23 them to split overhead costs with other carriers. Shared cages and  
24 subleasing also will help maximize the number of carriers that can  
25 collocate in an central office by allowing carriers the flexibility to more

1                   closely match their space procurement with their actual needs. e.spire  
2                   and other competitors have been forced by BellSouth to secure at least  
3                   100 square feet of collocation space – in many cases, there is extra space  
4                   in competitors’ cages that, unless subleased to another competitor, would  
5                   be wasted. By maximizing the number of competitors that can collocate  
6                   in an central office, shared cage collocation and subleasing also conserve  
7                   scarce collocation space in BellSouth’s central offices. To ensure that all  
8                   of these benefits are realized, the Commission should require BellSouth  
9                   to generally permit shared cage collocation and cage subleasing, with no  
10                  restrictions on which sharing party may order services into a shared  
11                  space.

12                  **Q.    SHOULD E.SPIRE BE ABLE TO ESTABLISH ADJACENT**  
13                  **COLLOCATION ARRANGEMENTS WITH BELLSOUTH?**

14                  **A.**    Yes.    Adjacent collocation is an attractive alternative to physical  
15                  collocation that has been approved by some states and was incorporated  
16                  into national collocation requirements by the FCC Collocation Order.  
17                  There are two general varieties of Adjacent Collocation. With the first,  
18                  "Adjacent On-Site Collocation", the ILEC builds a structure on the same  
19                  property as the central office and permits ALECs to place their equipment  
20                  in this structure. The ILEC then provides a connection for ALEC  
21                  equipment to the Main Distribution Frame (“MDF”) in the central office.  
22                  The second form of adjacent collocation, "Adjacent Off-Site Collocation"  
23                  involves the construction or rental by either the ILEC or ALEC of  
24                  property near the central office, but not on the same property as the  
25                  central office. Carriers establish a mid-span meet – which must be made

1 available over either fiber or copper facilities -- connecting the ALEC's  
2 equipment to the central office and the MDF therein. Adjacent  
3 collocation provides ALECs with the same functionality as direct  
4 physical collocation while alleviating space exhaust and security  
5 concerns, and physical collocation overpricing concerns. Having this  
6 alternative available will give ALECs more opportunity to optimize the  
7 available collocation arrangements, and their own resources.

8 In light the benefits that can be gained by allowing ALECs to use  
9 Adjacent Collocation and with BellSouth's own indirect admission that  
10 such an option is both useful and feasible, the Commission should require  
11 that provisions that allow for Adjacent Collocation be incorporated into  
12 the e.spire/BellSouth interconnection agreement. Further, with respect  
13 to "Adjacent Off-Site Collocation", the Commission should make clear  
14 that the cost of the Mid-Span Meet must be shared by BellSouth and  
15 e.spire.

16 **Q. SHOULD BELL SOUTH BE REQUIRED TO MAKE CAGELESS**  
17 **COLLOCATION SPACE AVAILABLE?**

18 **A.** Yes. Since no construction is required for cageless collocation, there  
19 simply is no reason why such arrangements cannot be provisioned in 30  
20 days or less. Again, the FCC Collocation Order requires cageless  
21 collocation. Order, para. 42. Given the requirements of the FCC  
22 Collocation Order, BellSouth should also be required to convert existing  
23 virtual collocations to physical collocations.

24 **Q. SHOULD E.SPIRE BE ALLOWED TO ORDER "CAGED"**  
25 **COLLOCATION SPACE OF ANY SIZE WITH NO MINIMUM**

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**SPACE REQUIREMENT?**

**A.** Yes. This is required by the FCC Collocation Order, as well. Order, para. 43. As I explained earlier, BellSouth’s policy of requiring 100 square foot minimum and 50 square foot additional increments is arbitrary and wasteful. Because efficient space utilization is critical to supporting competitive entry, this Commission should reject minimum square footage requirements and should require BellSouth to allow ALECs to take only the space they need. Even if the Commission is convinced that there is some benefit to be gained by allotting collocation space in standard-sized parcels, the minimum size measures should be reduced. GTE, for example, recently agreed with e.spire to establish a 25 square foot minimum for collocation space, with 25 foot increments for addition of space. e.spire believes that the GTE approach represents a reasonable compromise position.

**Q. DOES E.SPIRE CONSIDER THAT THERE WAS SPACE AVAILABLE FOR PHYSICAL COLLOCATION IN EACH OF THE FOUR CENTRAL OFFICES OF IMMEDIATE CONCERN TO E.SPIRE?**

**A.** Yes. I have personally toured two of the central offices – Miami Golden Glades and Palm Beach Gardens – and have worked closely with attorneys and other experts who have toured the other offices. I was also accompanied on my tours by e.spire’s James Dreher who is in charge of operations for the Miami-Ft. Lauderdale corridor. There was substantial amounts of administrative space available in each of the central offices in question that could be converted to more valuable collocation space.

1 BellSouth made little effort in these offices to economize on space, locate  
2 records off-site, or consolidate workstations. e.spire has submitted  
3 pictures for the record for several of these offices. e.spire concludes  
4 therefore that there is substantial space available in all four central  
5 offices. Given e.spire's advanced placement on the first-come, first-  
6 served list for each of these offices, e.spire should be given an  
7 opportunity to claim physical space in all of these offices.

8 **Q. DOES THIS CONCLUDE YOUR DIRECT TESTIMONY?**

9 **A.** Yes, it does.

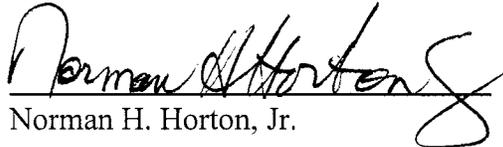
## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of Direct Testimony of James C. Falvey on behalf of e.spire Communications, Inc. in Docket Nos. 980947, 980948-TL, 981011-TL and 981012-TL has been furnished by Hand Delivery (\*) and/or U.S. Mail to the following parties of record this 9th day of April, 1999:

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