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March 29, 2000

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

EX PARTE OR LATE FILED

VIA COURIER

Ms. Audrey Wright
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: **Written Ex Parte: CC Docket 00-4 Application by SBC
Communications Inc. Southwestern Bell Tel. Co. and Southwestern
Bell Communications Services, Inc. d/b/a Southwestern Bell Long
Distance for Provision of In-Region, Inter-ALTA Services in Texas**

Dear Ms. Wright:

On behalf of e.spire Communications, Inc. ("e.spire"), I am writing to provide additional information to supplement an e.spire oral *ex parte* presentation made on February 16, 2000. During that meeting, James C. Falvey, Vice President—Legal and Regulatory Affairs, e.spire; Farid Ahmed, Network Engineer, e.spire, along with the undersigned, discussed several fatal flaws in Southwestern Bell Telephone Company's ("SWBT") application for 271 authority in Texas. Specifically, e.spire detailed the trunk provisioning delays it has experienced as a result of the SWBT's "slow-rolling" of the provisioning process, and the resulting network blockage and customer dissatisfaction that has resulted. In addition, e.spire discussed the need for the Commission to ensure that SWBT meets its statutory and contractual obligations to pay reciprocal compensation, and the need for the Commission to impose a "fresh look" period prior to granting SWBT 271 authority in order to allow CLECs, forced to order special access circuits pending the availability of enhanced extended links ("EELs"), to convert those circuits to UNEs without incurring termination penalties. This written *ex parte* provides additional information to supplement e.spire's oral *ex parte*.

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SWBT Has Not Complied With Checklist Item 8 (Reciprocal Compensation)

As e.spire indicated in its initial comments in this proceeding, and at its oral *ex parte*, SWBT is not in compliance with checklist item xiii of Section 271 in that SWBT has provided e.spire with inaccurate and incomplete traffic measurement reports and insisted that e.spire use those reports as the basis for determining the amount of reciprocal compensation SWBT owes e.spire.¹ However, SWBT's usage data does not accurately represent the actual amount of traffic sent by SWBT to the e.spire network, and therefore results in SWBT under compensating e.spire for reciprocal compensation. e.spire has sought recovery of the amounts due from SWBT and currently has complaints pending in Texas, Oklahoma, and Arkansas.² e.spire will likely be forced to litigate this issue in Kansas and Missouri as well. So far in this proceeding, SWBT has refused to address this issue, submitting only that this 271 proceeding is not the appropriate forum to address the issue.³ A more detailed description of this issues follows.

e.spire began billing SWBT for reciprocal compensation in Texas in March 1998. e.spire utilizes a system called TrafficMaster to measure the local traffic sent to e.spire by SWBT.⁴ TrafficMaster generates what are known as "Division of Revenue Reports" which reflect the total minutes of use ("MOUs") sent from SWBT to e.spire over trunk groups designated by the parties for Local and intraLATA toll traffic. e.spire takes the monthly MOU total generated by TrafficMaster and multiplies it by the \$0.009 rate for reciprocal compensation agreed to by the parties in their interconnection agreement to arrive at the total monthly amount due for reciprocal compensation.

¹ See *Comments of e.spire Communications, Inc.*, CC Docket 00-4 (filed Jan. 21, 2000).

² A copy of e.spire's complaint against SWBT, filed at the Texas PUC on March 8, 2000, seeks recovery of more than \$2 million of the approximately \$10 million that SWBT owes e.spire for reciprocal compensation region-wide.

³ Reply Affidavit of Michael C. Auinbauh, ¶ 46 ("Any carrier to carrier billing disagreements are properly addressed through the procedures contained in the interconnection agreements, which may include dispute resolution before the Texas PUC.")

⁴ e.spire also has utilized the TrafficMaster system to measure Local Traffic sent to it by Bell Atlantic, BellSouth and GTE. Each of these ILECs have accepted e.spire's TrafficMaster reports as being an accurate and appropriate basis for determining minutes of use subject to reciprocal compensation and have paid reciprocal compensation to e.spire on that basis. In addition, it is e.spire's understanding that Ameritech, now a part of the same Regional Bell Operating Company that owns SWBT, utilizes usage reports similar to e.spire's to measure traffic for the purpose of calculating amounts due for reciprocal compensation.

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After e.spire had been billing SWBT for over a year based on its TrafficMaster reports, on April 5, 1999, SWBT wrote to e.spire submitting that, pursuant to the terms the interconnection agreement, SWBT would pay reciprocal compensation based on SWBT's category 92-99 ("Cat 92") summary usage records for originating calls. By that time, however, e.spire had for some time been receiving SWBT's Cat 92 records and, based on its own TrafficMaster reports, determined that significant discrepancies existed between SWBT's Cat 92 reports and e.spire's TrafficMaster reports. In fact, until August 1999, e.spire used its own TrafficMaster reports as the sole basis for determining reciprocal compensation amounts due from SWBT. From September 1999 forward, e.spire delivered SWBT invoices for reciprocal compensation that reflected amounts due based on SWBT's Cat 92 reports as well as amounts due for additional MOUs reported by TrafficMaster and not reflected in the Cat 92 reports.⁵ Despite numerous attempts by e.spire to resolve the issue, SWBT has failed to explain and correct the systematic under-reporting of traffic as a result of utilizing Cat 92 reports. Under Section 5.2 of the e.spire/SWBT interconnection agreement, both parties are obligated to send *accurate* call origination records to each other.

SWBT has failed to demonstrate that its summary Cat 92 reports are accurate, and therefore cannot reasonably insist that compensation due e.spire be based on the Cat 92 reports. If SWBT would simply provide e.spire with some very basic call detail information, this dispute could be easily resolved. However, by failing to demonstrate that its Cat 92 reports are accurate, SWBT has not only breached its interconnection agreement with e.spire, and failed to comply with checklist item viii of Section 271, it has also unnecessarily forced e.spire to litigate the issue.

The Commission Should Establish a Fresh Look Period for Facilities-Based CLECs Forced to Enter Into Special Access Contracts In Order to Purchase EELs

As e.spire noted in its initial comments, many CLECs were effectively forced into purchasing special access circuits from RBOCs pursuant to long-term volume and term contracts because they were unable to order UNE from ILECs. But even after the Supreme Court and the Commission affirmed the ILECs' legal obligation to provide UNE combinations, including enhanced extended links ("EELs") many facilities-based CLECs are effectively precluded from converting special access arrangements to EEL arrangements as a result of the massive termination penalties associated with the conversion of those circuits to EELs. For example, not only has e.spire been forced order special access circuits from SWBT at a cost of approximately \$290,000 per month, but when e.spire converts those special access arrangements to EELs, e.spire will be forced to pay huge sums in termination penalties for each circuit.

⁵ e.spire provided data regarding the discrepancies to the Commission in its initial comments in this proceeding as a confidential attachment to its filing.

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In order to ensure that competitive carriers have the same opportunity to compete for customers in Texas, e.spire submits that the Commission should implement a "fresh look" policy for facilities-based carriers locked into contracts for special access circuits with SWBT in Texas.

If you have any questions with regard to this letter or the attached materials, please do not hesitate to contact me at 202/887-1248. In addition, please feel free to contact Jim Falvey at 301/617-4298. Thank you for your time and consideration. Notice of this written *ex parte* presentation will be filed today with the Commission Secretary.

Respectfully submitted,



Ross A. Buntrock

cc: Chairman William E. Kennard
Commissioner Susan Ness
Commissioner Harold Furchtgott-Roth
Commissioner Michael K. Powell
Commissioner Gloria Tristani
Kathy Brown
Dorothy Attwood
Rebecca Beynon
Jordan Goldstein
Sarah Whitesell
Kyle Dixon
Bill Dever
Jessica Rosenworcel
John Stanley
Claire Blue

DOCKET NO. _____

E.SPIRE COMPLAINT AGAINST § PUBLIC UTILITY COMMISSION
SOUTHWESTERN BELL TELEPHONE §
COMPANY SEEKING PAYMENT FOR §
TRANSPORT AND TERMINATION §
OF LOCAL TRAFFIC § OF TEXAS

**COMPLAINT SEEKING PAYMENT FOR
TRANSPORT AND TERMINATION OF TRAFFIC
(Post-Interconnection Agreement Dispute Resolution)**

NOW COMES E.SPIRE COMMUNICATIONS, INC. ("e.spire") on behalf of its Texas operating subsidiaries, and submits this complaint against Southwestern Bell Telephone Company ("SWBT") for breach of the parties' Interconnection Agreement ("Agreement") and seeking payment of compensation for local and other traffic that e.spire transported and terminated for SWBT.

BACKGROUND

1. This Complaint is brought under PUC SUBST. R. § 22.326. This Commission has jurisdiction to arbitrate this dispute and to interpret and enforce the terms of the Agreement, pursuant to Section 252 (e)(1) of the Telecommunications Act of 1996. 47 U.S.C. § 252 (e)(1).
2. SWBT has violated the terms of the Agreement by providing e.spire with flawed, inaccurate or incomplete traffic measurement reports and insisting that e.spire utilize those reports as the basis for e.spire's bills to SWBT. e.spire seeks an order requiring SWBT to pay e.spire for transport and termination of traffic based on accurate traffic measurement reports. e.spire also seeks interest on all amounts past due, reasonable costs and attorney's fees, all other available monetary relief, and other relief, including prospective relief.
3. e.spire holds SPCOA No. 60105, issued on July 17, 1997.

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4. e.spire's Complaint against SWBT is for breach of the terms of the parties' Interconnection Agreement, dated April 22, 1997, between e.spire and SWBT.¹ Damages sought by the Company are in excess of \$2,000,000. The parties' Agreement (including several amendments after initial approval) continues in effect pending negotiation of a replacement agreement. Portions of the Agreement that are cited herein are appended hereto as Attachment A to this Complaint.

5. The parties to this proceeding are:

Southwestern Bell Telephone Company
c/o Larry Cooper
Executive Director, Local Provider Account Team
Four Bell Plaza, Room 800
Dallas, Texas 75202

e.spire Communications, Inc.
c/o James C. Falvey
Vice President Regulatory Affairs
133 National Business Parkway
Suite 200
Annapolis Junction, Maryland 20701

6. The parties attempted to resolve this dispute through negotiations, but those efforts failed. Specifically, as explained in e.spire's letter dated December 9, 1999, e.spire met with SWBT in Dallas, Texas on November 30, 1999. A copy of e.spire's December 9 letter (and all other correspondence cited in this Complaint) is attached hereto as Attachment B. e.spire followed up with the December 9 letter to SWBT in an attempt to resolve SWBT's multi-million dollar region-wide underpayment of reciprocal compensation obligations. In the December 9 letter, e.spire recommended further settlement discussions to resolve this matter.

¹ The Agreement was first submitted for Commission approval in Docket 16290 and 16295, and it was approved on November 8 and December 19, 1996. There have been multiple amendments to the Agreement: Docket 16700 (approved February 21, 1997), Docket 17377

7. e.spire sent formal notice pursuant to Sections 28.11 and 28.12 of the Agreement that it considered SWBT to be in breach on January 4, 2000. This notice initiated a 45-day negotiations period that, according to the Agreement, is necessary prior to the filing of a formal complaint. During the ensuing 45 days, e.spire and SWBT conducted several settlement conference calls. More than 45 days have passed since that notice and the parties have not settled their traffic measurement dispute. e.spire therefore requests that the Commission resolve the matter.

ISSUES IN DISPUTE

8. SWBT has violated the terms of the Agreement by providing e.spire with flawed, inaccurate or incomplete traffic measurement reports and insisting that e.spire utilize those reports as the basis for e.spire's bills for call transport and termination functions provided to SWBT. SWBT presently owes e.spire more than \$2 million for transporting and terminating traffic on behalf of SWBT in Texas.

9. e.spire began billing SWBT for reciprocal compensation in Texas in March 1998. e.spire utilizes a system called TrafficMaster to measure the Local Traffic sent to e.spire by SWBT. TrafficMaster generates what are known as "Division of Revenue Reports" which reflect the total minutes of use ("MOUs") sent from SWBT to e.spire over trunk groups designated by the parties for Local and intraLATA toll traffic. e.spire takes the monthly MOU total generated by TrafficMaster and multiplies it by the rate for reciprocal compensation agreed to by the parties to arrive at the total monthly amount due for reciprocal compensation.

(approved July 17, 1997), Docket 19857 (approved November 24, 1998) and Docket 20480 (approved March 19, 1999).

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10. e.spire also has utilized the TrafficMaster system to measure Local Traffic sent to it by Bell Atlantic, BellSouth and GTE. Each of these ILECs have accepted e.spire's TrafficMaster reports as being an accurate and appropriate basis for determining minutes of use subject to reciprocal compensation and have paid reciprocal compensation to e.spire on that basis. In addition, it is e.spire's understanding that Ameritech, now a part of the same Regional Bell Operating Company that owns SWBT, utilizes usage reports similar to e.spire's to measure traffic for the purpose of calculating amounts due for reciprocal compensation.

11. After e.spire had been billing SWBT for some time based on its TrafficMaster reports, on April 5, 1999, SWBT wrote to e.spire submitting that, pursuant to terms in the Interconnection Agreement, SWBT would pay reciprocal compensation based on category 92-99 ("Cat 92") summary usage records for originating calls.

12. By that time, however, e.spire had for some time been receiving SWBT's Cat 92 records and, based on its own TrafficMaster reports, had determined that significant discrepancies existed between SWBT's Cat 92 reports for originating calls sent to e.spire for completion and e.spire's TrafficMaster reports for terminating calls sent to it by SWBT.

13. Until August 1999, e.spire used its own TrafficMaster reports as the sole basis for determining reciprocal compensation amounts due from SWBT. From September 1999 forward, e.spire delivered SWBT invoices for reciprocal compensation that reflected amounts due based on SWBT's Cat 92 reports as well as amounts due for additional MOUs reported by TrafficMaster and not reflected in the Cat 92 reports.

14. Despite numerous attempts to resolve the issue, SWBT has failed to explain and correct the systematic under-reporting of traffic sent by it to e.spire in its Cat 92 reports. Under Section 5.2 of the Agreement, both parties are obligated to send accurate call origination records

to each other. SWBT cannot reasonably insist that compensation due e.spire be based on reports that it cannot demonstrate are accurate. By failing to demonstrate that its Cat 92 reports are accurate, SWBT has breached the Agreement.

15. By continuing to base its payment of reciprocal compensation to e.spire solely on its flawed Cat 92 reports, SWBT also has breached those provisions of the Agreement which require the payment of reciprocal compensation for Local Traffic, § 5.3, and also establish separate compensation mechanisms for other types of traffic, §§ 6.3, 7.0.

16. As discussed above, e.spire has been unable to reach a negotiated settlement of this dispute with SWBT. Accordingly, in this complaint, e.spire seeks damages equal to, at a minimum, the accrued amount of compensation due for MOUs reflected in e.spire's TrafficMaster reports and not reflected in SWBT's Cat 92 reports, plus interest, and the costs of pursuing this Complaint. The amount that SWBT owes e.spire for reciprocal compensation increases on a daily basis. Thus, the Commission should also require SWBT to fully compensate e.spire, on the basis of accurate and complete traffic measurement reports, on a prospective basis.

17. SWBT has acted in bad faith by its insistence that the parties use Cat 92 reports, when SWBT knew or should have known that its Cat 92 reports do not accurately measure traffic delivered by SWBT to e.spire for termination. In this respect, e.spire seeks penalties and punitive damages, as appropriate.

18. e.spire also submits that SWBT is passing other types of traffic (e.g., cellular traffic and intraLATA toll traffic) to e.spire without passing associated traffic measurement records necessary for e.spire to determine the minute of use volumes of calls within these additional types of traffic and additional amounts due to e.spire for terminating non-local traffic

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passed over local interconnection trunks. Thus, in this complaint, e.spire also seeks damages in an amount that would make e.spire whole for any amounts due from SWBT for the termination of these other types of traffic, in addition to reciprocal compensation owed for Local Traffic.

PRAYER FOR RELIEF

WHEREFORE, e.spire respectfully requests that the Commission:

- (a) Order SWBT to pay all call transport and termination compensation amounts invoiced by e.spire and disputed by SWBT, or to release such disputed amounts from an interest bearing escrow account which SWBT was obligated to establish pursuant to § 28.12.1 of the Agreement;
- (b) Require SWBT to make payment for reciprocal compensation to e.spire based on e.spire's TrafficMaster reports, until such time as SWBT can make an affirmative demonstration to the Commission that its Cat 92 measurement records are accurate;
- (c) Compel SWBT to provide adequate records to identify and quantify all other traffic which SWBT has sent to e.spire (e.g., cellular traffic and intraLATA toll traffic) and to compensate e.spire for such traffic at the rates set forth in the Agreement;
- (d) Impose penalties and or punitive damages upon SWBT as the Commission deems appropriate, if the Commission finds that SWBT has acted in bad faith by continuing to insist on utilizing its flawed Cat 92 records;
- (d) Require SWBT to pay interest on all past due amounts, and all reasonable costs and attorney's fees; and
- (e) Award such other relief as the Commission deems just and reasonable.

Respectfully submitted,



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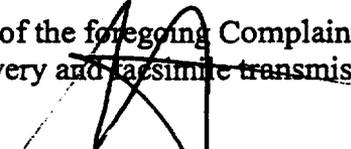
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202.955.9600

Counsel for E.SPIRE COMMUNICATIONS, INC.

March 8, 2000

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing Complaint was served on Southwestern Bell Telephone, by hand delivery and facsimile transmission on March 8, 2000.



W. Scott McCollough

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ATTACHMENT "A"

Relevant Terms of the Interconnection Agreement

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EXECUTION COPY
TEXAS

INTERCONNECTION AGREEMENT UNDER SECTIONS 251 AND 252 OF THE
TELECOMMUNICATIONS ACT OF 1996

Dated as of April, 1997

by and between

SOUTHWESTERN BELL TELEPHONE COMPANY

and

AMERICAN COMMUNICATION SERVICES, INC.

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have excess capacity, trunks will be turned down as appropriate. If the trunk group resizing lowers the fill level of the system below 80%, the growth planning process will be suspended and will not be reinitiated until a 80% fill level is achieved. Trunk design blocking criteria described in Exhibit C (ITR) will be used in determining trunk group sizing requirements and forecasts.

4.7.4 If based on the forecasted equivalent DS1 growth, the existing fiber optic system is not projected to exhaust within one year, the Parties will suspend further relief planning on this SONET interconnection until a date one year prior to the projected exhaust date. If growth patterns change during the suspension period, either Party may re-initiate the joint planning process.

4.7.5 If the placement of a minimum size OLTM will not provide adequate augmentation capacity for the joint forecast over a two-year period, and the forecast appears reasonable based upon history, the next larger system size shall be deployed. In the case of a SONET system, the OC-3 system will be upgraded to an OC-12 or higher. If the forecast does not justify a move to the next larger system, another minimal size system (such as OC-3) will be placed. This criteria assumes both Parties would negotiate placement of additional fibers or higher bit rate systems.

4.7.6 Both Parties will negotiate a project service date and corresponding work schedule to construct relief facilities in an effort to achieve "just in time" deployment.

5.0 TRANSMISSION AND ROUTING OF TELEPHONE EXCHANGE SERVICE TRAFFIC PURSUANT TO SECTION 251(c)(2)

5.1 Scope of Traffic

This Section 5.0 prescribes parameters for Traffic Exchange trunk groups the Parties shall establish over the Interconnections specified in Section 4.0. The Traffic Exchange trunk groups specified in this Section 5.0 and in Exhibit C shall be employed by the Parties for the transmission and routing of all Local and IntraLATA Toll Traffic between the Parties' respective Telephone Exchange Service end users.

5.2 Measurement and Billing

5.2.1 For billing purposes, each Party shall, unless otherwise agreed, pass the originating call record for the recording, record exchange and billing of traffic using the guidelines as set forth in the Technical Exhibit Settlement Procedures (TESP), provided by SWB to ACSI.

5.2.2 Measurement of all billing minutes shall be in actual conversation seconds. In each billing period, total conversation seconds shall be rounded to the next whole minute for billing purposes.

5.2.3 Where one Party is passing CPN but the other Party is not properly receiving the information, the Parties shall cooperatively work to correctly rate the traffic.

5.3 Reciprocal Compensation Arrangements – Section 251(b)(5)

5.3.1 Reciprocal Compensation applies for transport and termination of Local Traffic and Optional EAS Traffic which a Telephone Exchange Service end user originates on SWB's or ACSI's network for termination on the other Party's network.

5.3.2 The Parties shall mutually and reciprocally exchange Local Traffic on a Bill and Keep basis for the first nine (9) months immediately following ACSI's completion of its first commercial call in Texas and thereafter mutually and reciprocally compensate each other for such traffic at the rates provided in the Pricing Schedule, subject to the de minimis provisions in section 5.3.3. For purposes of Section 28.15, the Parties acknowledge that the Reciprocal Compensation rate for Local Traffic listed in the Pricing Schedule is not comparable to Local Traffic termination rates SWB may establish with others which may reflect different rates for calls terminated to a tandem and for calls terminated to an End office. The Parties agree that the Reciprocal Compensation rate listed for Local Traffic is designed to compensate each Party for the transport and termination of Local Traffic to a single point of Interconnection in each Metropolitan Exchange Area to the ultimate end user including transport and/or intermediary switching and/or final switching. To this extent, the Reciprocal Compensation rate listed for Local Traffic in the Pricing Schedule is tied directly to the Interconnection network architecture specified in Section 4.0 and the trunk configuration criteria and procedures specified in this Section 5.0 and Exhibit C. Any other requested interconnection architecture will require renegotiation of rates.

5.3.3 De Minimis Provision.

(a) For purposes of this Paragraph there shall be a monthly threshold de minimis level of Local Traffic below which no compensation will be paid by the Parties for termination of Local Traffic, unless the net of such terminating traffic results in Minutes of Use (MOUs) in excess of the threshold. The net billing will be determined by comparing each Party's monthly MOU calculation. Such minutes of use shall be measured in seconds by call type and accumulated to one minute increments for billing purposes in accordance with industry rounding standards. This provision applies to Local Traffic only, which includes calls originated and terminated to/from mandatory local calling areas, but does not include Transit, Wireless, or Optional EAS Traffic.

(b) The threshold MOUs reviewed pursuant to Section 5.2 are as follows:

(i) During the first nine (9) month period after ACSI completes its first commercial call in Texas, the Parties shall settle on a Bill and Keep basis;

(ii) During the second period, which shall be three (3) months, (commencing after the period identified in i. above), the threshold will be 1.5 million MOUs per month;

(iii) During the third period, which shall be six (6) months, (commencing after the period identified in ii, above), the threshold will be 1.0 million MOUs per month;

(iv) During the final period (commencing after the period identified in iii., above), the threshold will be .5 million MOUs.

(v) During any extension of this Agreement 0 MOUs will apply.

(c) The Parties acknowledge and agree that any compensation which might accrue in an amount less than required by this Section shall be considered de minimis. In the event the first commercial call is completed on any date other than the first day of a month, that portion of the first month shall not be considered a full month for purposes of determining the initial nine (9) month period. All subsequent periods shall commence on the first day of the month immediately following the prior de minimis period. However, in the event the Parties so agree, monthly billing and calculation periods under this subsection may begin on a day other than the first day of a month, so long as the same day of the month is used for each such period.

(d) The Parties shall submit bills for terminating Local Traffic MOUs on a monthly basis by the 30th day of the following month, and payment shall be due within forty-five days after the bill date when billing is applicable consistent with the threshold levels.

5.3.4 Optional Extended Area Service (EAS) Rate - For the SWB optional calling areas listed in Appendix Map, the compensation for termination of intercompany traffic will be at the rate provided in the Pricing Schedule. This terminating compensation rate applies to all traffic to and from the exchange(s) listed in Appendix Map, attached hereto and incorporated by reference, and the associated metropolitan area and is independent of any retail service arrangement established by either LSP or SWB.

The Parties also agree to apply the EAS compensation rate when traffic is exchanged between ACSI end users and end users in other incumbent LEC exchange(s) that share a common mandatory local calling area with all SWB exchanges that are included in the metropolitan exchange area and end users located in its associated metropolitan exchange area. Appendix Map lists the shared LEC mandatory local calling areas.

5.3.5 The Reciprocal Compensation arrangements set forth in this Agreement are not applicable to IntraLATA Toll calls. Each Party shall bill the other Party for transport and

termination of such calls according to rates, terms, and conditions contained in that Party's effective Switched Access tariffs. Settlements for such intraLATA toll calls shall be governed by Appendix CH which is attached hereto and incorporated herein by reference.

5.3.6 The Reciprocal Compensation arrangements set forth in this Agreement are not applicable to Switched Exchange Access Service. Compensation for such jointly provided services are set forth in Section 6.0 and shall continue to be governed by the terms and conditions of the applicable federal and state tariffs.

5.3.7 Compensation for transport and termination of all traffic which has been subject to performance of INP by one Party for the other Party pursuant to Section 13.0 shall be as specified in Section 13.5.

5.3.8 Settlements for alternately billed local calls shall be handled in accordance with Appendix BCR which is attached hereto and incorporated herein by reference.

6.0 TRANSMISSION AND ROUTING OF EXCHANGE ACCESS TRAFFIC PURSUANT TO 251(c)(2)

6.1 Scope of Traffic

Section 6.0 prescribes parameters for certain trunk groups ("Access Toll Connecting Trunks") to be established over the Interconnections specified in Section 4.0 for the transmission and routing of Exchange Access traffic between ACSI Telephone Exchange Service end users and Interexchange Carriers via a SWB access tandem.

6.2 Trunk Group Architecture and Traffic Routing

6.2.1 The Parties shall jointly establish Access Toll Connecting Trunks as described in Exhibit C, by which they will jointly provide tandem-transported Switched Exchange Access Services to Interexchange Carriers to enable ACSI's end users to originate and terminate traffic to/from such Interexchange Carriers.

6.2.2 Access Toll Connecting Trunks shall be used for the transmission and routing of Switched Exchange Access to allow ACSI end users to originate and terminate traffic to/from any Interexchange Carrier which is connected to a SWB Access Tandem. In addition, the trunks shall be used to allow ACSI's end users to connect to, or be connected to, the 800 Services of any Telecommunications Carrier connected to the SWB Access Tandem.

6.2.3 The Parties shall jointly determine which SWB access Tandem(s) will be sub-tended by each ACSI End Office Switch. Except as otherwise agreed by the Parties, SWB

shall allow each ACSI End Office Switch to sub-tend the Access Tandem nearest to the Routing Point associated with the NXX codes assigned to that End Office Switch and shall not require that a single ACSI End Office Switch sub-tend multiple Access Tandems, even in those cases where such End Office Switch serves multiple Rate Centers.

6.3 Meet-Point Billing Arrangements

6.3.1 ACSI and SWB agree to establish Meet-Point Billing arrangements in order to provide Switched Exchange Access Services to Interexchange Carriers via a SWB Access Tandem Switch over the Access Toll Connecting Trunks described above, in accordance with the Meet-Point Billing guidelines adopted by and contained in the Ordering and Billing Forum's MECAB and MECOD documents, except as modified herein. ACSI's Meet-Points with SWB shall be those identified in Schedule 3.

6.3.2 Billing to Interexchange Carriers for the Switched Exchange Access Services jointly provided by the Parties via Meet-Point Billing arrangement shall be according to the multiple bill/multiple tariff method. As described in the MECAB document, each Party will render a bill in accordance with its own tariff for that portion of the service it provides. For the purpose of this Agreement, ACSI is the Initial Billing Company (IBC) and SWB is the Subsequent Billing Company (SBC). The assignment of revenues, by rate element, and the Meet-Point Billing percentages applicable to this Agreement are set forth in the Meet Point Billing Arrangement Revenue Assignment Schedule. The actual rate values for each element shall be the rates contained in that Party's own effective applicable access tariffs.

6.3.3 Meet-Point Billing shall also apply to all jointly provided minutes of use traffic bearing the 900, 800, and 888 NPAs or any other non-geographic NPAs which may likewise be designated for such traffic in the future where the responsible party is an Interexchange Carrier. For 800 database queries performed by SWB, SWB will charge the provider of the Signaling Service Point for the database query in accordance with standard industry practices.

6.3.4 The Parties will maintain provisions in their respective federal and state access tariffs, or provisions within the National Exchange Carrier Association (NECA) Tariff No. 4, or any successor tariff, sufficient to reflect this Meet-Point Billing arrangement, including Meet-Point Billing percentages. ACSI shall use its best efforts to include in such tariff the billing percentages and associated information as a nonmember of NECA.

6.3.5 Each Party shall coordinate and exchange the billing account reference ("BAR") and billing account cross reference ("BACR") numbers for the Meet Point Billing service. Each Party shall notify the other if the level of billing or other BAR/BACR elements change, resulting in a new BAR/BACR number.

6.3.6 As detailed in the MECAB document, the Parties will exchange all information necessary to accurately, reliably and promptly bill third parties for Switched Exchange Access Services traffic jointly handled by the Parties via the Meet-Point Billing arrangement. The Parties will exchange the information in Exchange Message Record (EMR) format, on magnetic tape or via a mutually acceptable electronic file transfer protocol as described below:

(i) SWB will perform assembly and editing, message processing and provision of Access Usage Records (AUR). The records will be generated by SWB and provided to ACSI on a weekly basis no later than fourteen (14) days from the last day of recorded usage in that week; and

(ii) ACSI will provide Summary Usage Records (SUR) to SWB within ten (10) working days of sending ACSI's bills to the IXC.

6.3.7 Each Party reserves the right to charge the other Party for the recording/processing functions it performs pursuant to 6.3.6 on nondiscriminatory terms and conditions.

6.3.8 Errors may be discovered by ACSI, the IXC or SWB. Both SWB and ACSI agree to provide the other Party with notification of any discovered errors within two (2) business days of the discovery.

6.3.9 In the event of a loss of data, both Parties shall cooperate to reconstruct the lost data within 60 days of notification and if such reconstruction is not possible, shall accept a reasonable estimate of the lost data, based upon no more than three (3) to twelve (12) months of prior usage data, if available.

6.3.10 SWB shall provide to ACSI the billing name, billing address, and CIC of the IXCs in order to comply with the MPB Notification process as outlined in the MECAB document and pursuant to OBF guidelines.

7.0 TRANSPORT AND TERMINATION OF OTHER TYPES OF TRAFFIC

7.1 Transit Service

7.1.1 The Parties shall provide and compensate one another for Transit Service on the terms and conditions set forth in this section 7.1.

7.1.2 "Transit Service" means (i) the delivery of Local Traffic from ACSI to a third party which subtends a SWB tandem by SWB over Traffic Exchange trunks or (ii) the delivery of Local Traffic from SWB to a third party which subtends an ACSI tandem by ACSI over the Traffic Exchange trunks. Charges for Transit Service are listed in the Pricing Schedule.

assessed on a minute of use basis, and are owed by the originating service provider except as set forth in Section 7.3.5.

7.1.3 In addition, ACSI may also exchange IntraLATA Toll Traffic between its Telephone Exchange Service end users and third party LECs over the Traffic Exchange trunk groups. Such IntraLATA Toll Traffic shall not be subject to a transit charge but shall instead be billed by SWB to ACSI as Switched Exchange Access Service.

7.1.4 ACSI represents that it shall not send Local Traffic to SWB that is destined for the network of a third party unless and until ACSI has the authority to exchange traffic with the third party.

7.1.5 SWB expects that all networks with CCS involved in Transit Service will deliver each call to each involved network with CCS and the appropriate Transactional Capabilities Application Part ("TCAP") message to facilitate full interoperability and CCS billing functions. In all cases, the Parties are responsible to follow the Exchange Message Record ("EMR") standard and exchange records between the Parties and the terminating third party to facilitate the billing process to the originating network.

7.2 - Wireless Traffic

7.2.1 Appendix Wireless, attached hereto and incorporated by reference sets forth the terms and conditions under which the Parties will distribute revenue from their joint provision of Wireless Interconnection Service for mobile to landline traffic terminating through the Parties' respective wireline switching networks within a LATA. If one Party enters into an interconnection agreement with a CMRS provider, Appendix Wireless shall no longer be applicable between the Parties with respect to such CMRS providers, and the other Party shall be obligated to enter into an agreement with such CMRS provider for the termination of wireless to landline traffic.

7.2.2 LSP shall pay the Local Transit Traffic rate to SWB for calls that originate on LSP's network and are sent to SWB for termination to a CMRS provider as long as such Traffic can be identified as wireless traffic. SWB shall pay the Local Transit Traffic rate to LSP for such calls that originate on SWB's network are sent through LSP for termination on a CMRS provider's network. Each Party shall be responsible for interconnection agreements with CMRS providers for terminating compensation regarding traffic originating on the Party's network and terminating on the CMRS provider's network.

7.2.3 When traffic is originated by either Party to a CMRS provider, and the traffic cannot be specifically identified as wireless traffic for purposes of compensation between SWB and LSP, the traffic will be rated either as Local, Optional, or Access and the appropriate compensation rate shall be paid by the originating Party to the transiting Party. The originating

Party agrees to indemnify the transiting Party for any claims of compensation that may be made by the CMRS provider against the transiting Party regarding compensation for such traffic.

7.3 Feature Group A Traffic

The Parties shall divide compensation of Feature Group A traffic between their end users in accordance with the terms and conditions of the Pricing Schedule and Appendix FGA, attached hereto and incorporated by reference.

8.0 SIGNALING, JOINT GROOMING PLAN AND INSTALLATION, MAINTENANCE, TESTING AND REPAIR

8.1 Signaling

8.1.1 Where available, CCS signaling shall be used by the Parties to set up calls between the Parties' Telephone Exchange Service networks. If CCS signaling is unavailable, MF (Multi-Frequency) signaling shall be used by the Parties. Each Party shall charge the other Party equal and reciprocal rates for CCS signaling in accordance with applicable tariffs. During the Term of this Agreement neither Party shall charge the other Party additional usage-sensitive rates for SS7 queries made for Local Traffic.

8.1.2 The following list of publications describe the practices, procedures and specifications generally utilized by SWB for signaling purposes and are listed herein to assist the Parties in meeting their respective Interconnection responsibilities related to signaling:

SWB Technical Publication, TP-76638 - Common Channel Signaling Network Interface Specifications

GR-000246-CORE, Bell Communications Research Specifications of Signaling System 7

GR-000317-CORE, Switching System Requirements for Call Control Using the Integrated Services Digital Network User Part

GR-000394-CORE, Switching System Requirements for Interexchange Carrier Interconnection Using the Integrated Services Digital Network User Part

GR-000606-CORE, LATA Switching Systems Generic Requirements-Common Channel Signaling-Section 6.5

GR-000905-CORE, Common Channel Signaling Network Interface

nondiscriminatory access to Directory Assistance service available under the terms and conditions of Appendix DA, attached hereto and incorporated by reference.

b. DA traffic shall be routed over trunks as described in Exhibit C.

18.7 OSS

Pursuant to Section 271(c)(2)(B)(x), and at ACSI's request, SWB shall provide nondiscriminatory access to Operations Support Systems for ACSI pursuant to the terms and conditions in Appendix OSS, attached hereto and incorporated by reference.

19.0 GENERAL RESPONSIBILITIES OF THE PARTIES

19.1 SWB and ACSI shall each use their best efforts to meet the Interconnection Activation Dates in accordance with Sections 3.0 and 4.5.

19.2 Each Party is individually responsible to provide facilities within its network which are necessary for routing, transporting, measuring, and billing traffic from the other Party's network and for delivering such traffic to the other Party's network in the standard format compatible with SWB's network and to terminate the traffic it receives in that standard format to the proper address on its network. The Parties are each solely responsible for participation in and compliance with national network plans, including the National Network Security Plan and the Emergency Preparedness Plan.

19.3 Each Party shall, unless otherwise agreed, adhere to the requirements for the recording, record exchange, and billing of traffic using the guidelines as set forth in the Technical Exhibit Settlement Procedures (TESP), provided by SWB to ACSI.

19.4 Neither Party shall use any service related to or use any of the services provided in this Agreement in any manner that interferes with other persons in the use of their service, prevents other persons from using their service, or otherwise impairs the quality of service to other carriers or to either Party's end users, and either Party may discontinue or refuse service if the other Party violates this provision. Upon such violation, either Party shall provide the other Party notice, if practicable, at the earliest practicable time.

19.5 Each Party is solely responsible for the services it provides to its end users and to other Telecommunications Carriers.

19.6 The Parties shall work cooperatively to minimize fraud associated with third-number billed calls, calling card calls, and any other services related to this Agreement, including but not limited to sharing end user credit information when any necessary end user

incurred by the providing party as a result of actions taken by the applicable taxing authority to collect the Tax from the providing Party due to the failure of the purchasing party to pay or collect and remit such Tax to such authority.

28.9 Non-Assignment. This Agreement shall be binding upon every subsidiary and Affiliate of either Party that is engaged in providing Telephone Exchange and Exchange Access services in any territory within which SWB is an Incumbent Local Exchange Carrier as of the date of this Agreement (the "SWB Territory") and shall continue to be binding upon all such entities regardless of any subsequent change in their ownership. Except as provided in this paragraph, neither Party may assign or transfer (whether by operation of law or otherwise) this Agreement (or any rights or obligations hereunder) to a third party without the prior written consent of the other Party; provided that each Party may assign this Agreement to a corporate Affiliate or an entity under its common control or an entity acquiring all or substantially all of its assets or equity by providing prior written notice to the other Party of such assignment or transfer. Any attempted assignment or transfer that is not permitted is void ab initio. Without limiting the generality of the foregoing, this Agreement shall be binding upon and shall inure to the benefit of the Parties' respective successors and assigns.

28.10 Non-Waiver: Failure of either Party to insist on performance of any term or condition of this Agreement or to exercise any right or privilege hereunder shall not be construed as a continuing or future waiver of such term, condition, right or privilege.

28.11 Audits. Each Party to this Agreement will be responsible for the accuracy and quality of its data as submitted to the respective Parties involved. Where SS7 is deployed, each Party shall pass Calling Party Number (CPN) information on each call carried over the Traffic Exchange trunks; provided that so long as the percentage of calls passed with CPN is greater than ninety percent (90%), all calls exchanged without CPN information shall be billed as either Local Traffic or IntraLATA Toll Traffic in direct proportion to the minutes of use of calls exchanged with CPN information. If the percentage of calls passed with CPN is less than 90%, all calls passed without CPN shall be billed as IntraLATA Toll Traffic.

Upon reasonable written notice and at its own expense, each Party or its authorized representative (providing such authorized representative does not have a conflict of interest related to other matters before one of the Parties) shall have the right to conduct an audit of the other Party to give assurances of compliance with the provisions of this Agreement. This includes on-site audits at the other Party's or the Party's vendor locations. Each Party, whether or not in connection with an audit, shall maintain reasonable records for a minimum of 24 months and provide the other Party with reasonable access to such information as is necessary to determine amounts receivable or payable under this Agreement. Each Party's right to access information for audit purposes is limited to data not in excess of 24 months in age.

28.12 Dispute Resolution.

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28.12.1 No claims, under this Agreement or its Appendices, shall be brought more than twenty-four (24) months from the date of occurrence which gives rise to the dispute provided however that the issue giving rise to the dispute could have been discovered by the aggrieved party with reasonable diligence (hereinafter "discoverable"). All other claims must be brought no later than thirty-six (36) months from the date of the occurrence giving rise to the dispute, whether or not discoverable. Under this Section 28.12, if any portion of an amount due to a Party (the "Billing Party") under this Agreement is subject to a bona fide dispute between the Parties, the Party billed (the "Non-Paying Party") shall within sixty (60) days of its receipt of the invoice containing such disputed amount give notice to the Billing Party of the amounts it disputes ("Disputed Amounts") and include in such notice the specific details and reasons for disputing each item. The Non-Paying Party shall pay when due (i) all undisputed amounts to the Billing Party and (ii) all Disputed Amounts into an interest bearing escrow account with a third party escrow agent mutually agreed upon by the Parties.

28.12.2 If the Parties are unable to resolve the issues related to the Disputed Amounts in the normal course of business within sixty (60) days after delivery to the Billing Party of notice of the Disputed Amounts, each of the Parties shall appoint a designated representative who has authority to settle the dispute and who is at a higher level of management than the persons with direct responsibility for administration of this Agreement. The designated representatives shall meet as often as they reasonably deem necessary in order to discuss the dispute and negotiate in good faith in an effort to resolve such dispute.

28.12.3 If the Parties are unable to resolve issues related to the Disputed Amounts within forty-five (45) days after the Parties' appointment of designated representatives pursuant to Section 29.12.2, then the parties may mutually agree to arbitration under the Texas PUC's arbitration procedures or either Party may file a complaint with the FCC or the Commission to resolve such issues or proceed with any other remedy pursuant to law or equity. The Commission may direct release of any or all funds (including any accrued interest) in the escrow account, plus applicable late fees, to be paid to either Party.

28.12.4 The Parties agree that all negotiations pursuant to this Section 28.12 shall remain confidential and shall be treated as compromise and settlement negotiations for purposes of the Federal Rules of Evidence and state rules of evidence.

28.12.5 Any undisputed amounts not paid when due shall accrue interest from the date such amounts were due at the lesser of (i) one and one-half percent (1-1/2%) per month or (ii) the highest rate of interest that may be charged under applicable law.

28.12.6 For disputes other than disputed amounts under this Agreement or its Appendices, each Party shall appoint a designated representative as set forth in Section 28.12.2 and if unable to resolve the dispute, proceed as set forth in Section 28.12.3.

ATTACHMENT "B"

Correspondence Between the Parties

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Marty Felan
Account Manager-
Local Provider
Account Team

4116
7273

Southwestern Bell Telephone
Four Bell Plaza, 7th Floor
511 S. Akard Street
Dallas, Texas 75202-5598
Phone: 214 464-4373
Fax: 214 464-1486
Email: mg8354@txmn1lab.com

 Southwestern Bell

April 5, 1999

Riley M. Murphy
Executive Vice President and General Council
e.spire Communications, Inc.
133 National Business Parkway, Suite 200
Annapolis Junction, MD 20701

Dear Ms. Murphy:

This letter is the written notice to e.spire Communications, Inc. required by section 28.13, entitled "Notices" of the interconnection Agreement between Southwestern Bell Telephone Company ("SWBT") and e.spire in Texas and Arkansas. This notice relates to the nonperformance of several material obligations under the Agreement.

The first of these obligations is set forth in Section 5.2 of our Agreement, which is entitled "Measurement and Billing." Section 5.2.1 of our Agreement states as follows:

"For billing purposes, each party shall, unless otherwise agreed, pass the originating call record for the recording, record exchange and billing of traffic using the guidelines as set forth in the Technical Exhibit Settlement Procedures (TESP), previously provided by SWBT to e.spire."

In addition, Section 19.3 of our Agreement addresses this obligation, and states, in pertinent part, as follows:

"Each party shall, unless otherwise agreed, adhere to the requirements for the recording, record exchange, and billing of traffic using the guidelines as set forth in the Technical Exhibit Settlement Procedures (TESP), previously provided by SWBT to e.spire."

Please refer to the TESP - General Section, VI. Intercompany Compensation and Record Exchange, which states as follows:

"The intercompany exchange of records will be required to the extent that usage sensitive compensation is established between the LSP and the incumbent LEC for mutually exchanged local/EAS and IntraLATA toll traffic. This usage-sensitive settlement would utilize the existing LEC Industry Primary Toll Carrier (PTC) process and usage record exchange."

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Despite the fact that our Agreements were approved by each state Commission and have been effective for two years, e.spire has failed to establish the required interfaces for exchanging such records. SWBT has been willing and able to test the electronic exchange of records with e.spire.

In addition, e.spire has made no effort to submit the category 92-99 summary usage records required by the TESP referenced in both of the quoted contract provisions, despite numerous attempts from Southwestern Bell to attain the records described above. Southwestern Bell has been creating its originating usage records monthly, and has been providing them to e.spire on a monthly basis since October 1997. e.spire has been submitting billing to Southwestern Bell based on e.spire's terminating records, and Southwestern Bell has been making payments as defined in the agreement based on Southwestern Bell's originating records.

e.spire's failure to establish the data interfaces for records exchange and its failure to pass the required 92-99 records, both of which are clearly required by our Agreement, constitute material breaches of the Agreement.

Please contact me at 214 464-4373 as soon as possible to discuss this matter further. Your immediate attention is appreciated. .

Sincerely,

Marty Felan

Marty Felan
Account Manager - LPAT

cc: Charles Kallenbach (e.spire)
John Bookout (e.spire)
Jan Brainard (SWBT)
Stan Brower (SWBT)

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June 8, 1999

Ms. Marty Felan
Account Manager- Local Provider
Account Team
Southwestern Bell Telephone
Four Bell Plaza, 7th Floor
311 S. Akard Street
Dallas, Texas 75202-5398

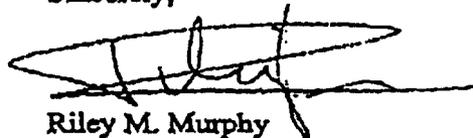
Dear Ms. Felan:

In response to your letter to e.spire alleging nonperformance of several obligations under the interconnection agreements between e.spire and Southwestern Bell, e.spire hereby designates Charles Kallenbach as its representative to attempt to quickly resolve these issues. Please contact Charles at (301) 361-4208 to arrange a mutually agreeable time to discuss these matters.

In addition, e.spire anticipates that it will be passing originating call records to SWBT soon and requests that SWBT provide the name and contact number for SWBT representatives that will be responsible for testing transmission of and receiving these records. e.spire hopes to be able to test call record transmission to SWBT within the next few weeks. Meanwhile, if you have detailed questions about the tests or the transmission of records, please contact Brandi Gladden of e.spire's Information Services department at (410) 369-3507.

e.spire fully expects that we will be establishing data interfaces for the transmission of call records and that we will be passing the Category 92-99 summary usage records to SWBT shortly.

Sincerely,



Riley M. Murphy
Executive Vice President
and General Counsel

cc: Jan Brainard (SWBT)
Brad Mutschelknaus (Kelley, Drye & Warren)
Charles Kallenbach (e.spire)
Brandi Gladden (e.spire)

LEGAL DEPARTMENT

e.spire Communications, Inc.
133 National Business Parkway, Suite 200
Annapolis Junction, Maryland 20701
phone 301.361.4200
fax 301.361.7654
www.espire.net



000024

bcc: Dennis Kern
Dave Piazza
Wayne Charity
Sally Brice
Donna Talmage
John Bookout
Chip Yorkgitis

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December 9, 1999

Mr. Larry Cooper
Executive Director-Local
Provider Account Team
SBC Telecommunications, Inc.
Four Bell Plaza
Room 800
Dallas, Texas 75202

Re: SWBT Reciprocal Compensation Payments Owed to Espire for ISP Traffic; and
SWBT Underreporting of Reciprocal Compensation Minutes
Dear Larry,

First and foremost, I wanted to thank you for meeting with Scott Nicholls and Alex Geib of our Carrier Relations Department on November 30, 1999. As you are aware, I asked our Carrier Relations group to speak with you to discuss e.spire's concerns regarding the specific topics discussed below and to gauge your interest in entering into fast track, good-faith negotiations to settle these issues. e.spire would like to settle both of these issues with SWBT without having to resort to litigation. However, we will pursue such legal remedies if we cannot reach rapid resolution.

The issues of primary concern are: (1) the local terminations that e.spire bills SWBT in Missouri, Oklahoma, Kansas and Arkansas ("MOKA states") for ISP traffic and SWBT's failure to pay e.spire for the associated compensation that e.spire is properly owed; and (2) some disturbing trends that e.spire recently identified regarding the call detail record ("CDR") CAT 92 data. These trends result in SWBT's failure to remit to e.spire the full amount of reciprocal compensation for terminating your customers' calls throughout the SWBT 5-state service territory. Based on our analysis and other external information, we strongly believe these trends result from a systematic underreporting of CDR CAT 92 data and failures by SWBT to recognize and/or correct these errors.

Based on my discussions with Scott and his summary of your discussions, it is my understanding that (1) with respect to ISP traffic and associated compensation in the MOKA states, you agreed we may be able to settle our differences as long as any settlement is in the best interest of both of our companies; and (2) with respect to the trends identified by e.spire, you acknowledged that there appeared to be enough discrepancy in the data presented on the charts you viewed to immediately meet to analyze and resolve these obvious differences.

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e.spire Communications, Inc.™
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Page 2
Larry Cooper
December 9, 1999

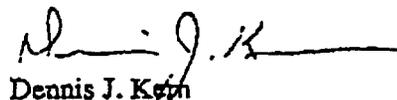
With respect to issue (2) above, we have submitted invoices for reciprocal compensation due to e.spire for terminating your customer's calls based on e.spire's switch data. Without exception, SWBT has been remitting payment to e.spire based on its' CDR CAT 92 data. e.spire is confident that the data it used to create its invoices and to verify SWBT CDR CAT 92 data is accurate. The source of our data has been universally accepted by other RBOCs - including SWBT's sister local exchange provider - Ameritech. I think that you will agree that using e.spire's data to determine total minutes terminated by e.spire is a more accurate methodology. We are very interested in sitting down to address these differences and to audit the SWBT data.

This letter is to formally request a written response, no later than December 20th, that SWBT agrees to enter into fast track, good faith negotiations to settle (1) non-payment of reciprocal compensation for ISP traffic; and (2) the apparent underreporting of reciprocal compensation minutes by SWBT switches and the associated underpayment to e.spire for the underreported minutes.

We believe that settling both of these issues is in the best interest of each of our companies and believe that both of these issues are necessarily linked. I cannot stress enough that SWBT should be aware that these issues are of extreme importance to e.spire from both an economic and policy perspective. We are prepared and willing to immediately move forward to resolve our issues in the appropriate forum if we think SWBT is unwilling to expeditiously negotiate in good faith.

Again, thank you for taking the time to meet with Scott and Alex and I look forward to receiving your written response by December 20th and working on issues like these going forward in a co-operative and non-litigious manner.

Respectfully,


Dennis J. Keen
Chief Operating Officer

000027



January 4, 2000

Mr. Larry Cooper
Executive Director-Local
Provider Account Team
SBC Telecommunications, Inc.
Four Bell Plaza
Room 800
Dallas, Texas 75202

Re: SWBT Reciprocal Compensation Payments Owed to Espire for ISP Traffic; and
SWBT Underreporting of Reciprocal Compensation Minutes

Dear Larry,

Thank you for responding to my December 9, 1999 letter. I am pleased that SWBT is willing to work with e.spire to reach a mutually acceptable solution regarding both the compensation for ISP-bound traffic and the CAT92 CDR issues.

With respect to settling the issue of compensation for ISP-bound traffic in the non-Texas states, e.spire designates Mark Koppermith, Vice President, Carrier Management and Jim Falvey, Vice President, Regulatory Affairs as the individuals to engage SWBT in immediate negotiations. Please advise me who we should contact to immediately commence these negotiations.

As I noted in my December 9, 1999 letter, e.spire seeks to resolve this issue as expeditiously as possible no later than 45 days from the date of this letter, as is referenced in our Interconnection Agreements. We are very hopeful that negotiations between SWBT and e.spire will move forward quickly and productively. However, pursuant to the Dispute Resolution clauses set out in the relevant Interconnection Agreements, e.spire is hereby tolling the forty-five day negotiating period delineated in those clauses in order to preserve our ability to pursue available remedies should a settlement not be reached.

While I agree with you that the wording of the Interconnection Agreements between e.spire and SWBT identifies originating records as the basis for reciprocal compensation, we have established that SWBT consistently has failed to forward a large volume of originating records. As a result, e.spire believes that SWBT originating records cannot be the sole basis for determining reciprocal compensation and suggests that our companies look at other more accurate mechanisms for establishing reciprocal compensation until we can determine the root cause of the SWBT originating record problems.

Historically, the bills that e.spire has forwarded to SWBT for reciprocal compensation have not been based on SWBT originating data, but rather on Division of Revenue data, which is the method for determining reciprocal compensation used by every major RBOC and ILEC outside of SWBT territory. As a result, a review of our

e.spire Communications, Inc.

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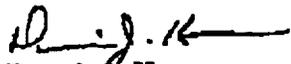
communications to the point™



past bills (up until September 1999) submitted to SWBT should provide you with the results of e.spire's data. If you would like further information about Division of Revenue data, including how e.spire switches collect this data, we would be pleased to provide you and your billing experts with this information. Perhaps we can schedule a conference call for January 11, 2000 to provide you with this information. We could then schedule a meeting for January 25, 2000 to further review the reasons for the differences and resolve questions about the originating records forwarded by SWBT. I would also propose that we use that meeting to further discuss possible settlement of our other reciprocal compensation issue under dispute, i.e., payments for ISP-bound traffic.

I appreciate your willingness to discuss the possibility of settling the reciprocal compensation issues. I expect that Marty and Mark will contact each other to finalize the scheduling of the meetings.

Respectfully,



Dennis J. Kern
Chief Operating Officer

Cc: Riley M. Murphy

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