

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Joint petition by NewSouth Communications Corp., NuVox Communications, Inc., KMC Telecom V, Inc., KMC Telecom III LLC, and Xspedius Communications, LLC, on behalf of its operating subsidiaries Xspedius Management Co. Switched Services LLC and Xspedius Management Co. of Jacksonville, LLC, for arbitration of certain issues arising in negotiation of interconnection agreement with BellSouth Telecommunications, Inc.	DOCKET NO. 040130-TP ORDER NO. PSC-04-0807-PCO-TP ISSUED: August 19, 2004
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ORDER GRANTING AND DENYING IN PART
JOINT MOTION TO HOLD PROCEEDING IN
ABEYANCE AND TO REVISE PROCEDURAL DATES

BY THE COMMISSION:

This Order is issued pursuant to the authority granted by Rule 28-106.211, Florida Administrative Code, which provides that the presiding officer before whom a case is pending may issue any orders necessary to effectuate discovery, prevent delay, and promote the just, speedy and inexpensive determination of all aspects of the case.

On February 11, 2004, the Joint Petitioners¹ filed their Joint Petition for Arbitration with BellSouth Telecommunications, Inc. (BellSouth) pursuant to the Telecommunications Act of 1996. On March 8, 2004, BellSouth Telecommunications, Inc. filed its Answer to the Joint Petitioners' Petition. By Order No. PSC-04-0488-PCO-TP, issued May 12, 2004, (Order Establishing Procedure), this matter has been scheduled for an administrative hearing December 1-3, 2004. On July 20, 2004, both parties filed a Joint Motion to Hold Proceeding in Abeyance. This Order addresses the Joint Motion and revises procedural dates as set forth in Order No. PSC-04-0488-PCO-TP.

In the Joint Motion, the parties request that the above-captioned proceeding be held in abeyance for a period of ninety (90) days. Furthermore, the parties request the suspension of all pending deadlines and consideration of all pending motions until after October 1, 2004. The

¹ NewSouth Communications Corp. (NewSouth); NuVox Communications, Inc. (NuVox); KMC Telecom V, Inc. (KMC V) and KMC Telecom III LLC (KMC III)(collectively "KMC"); and Xspedius Communications, LLC on behalf of its operating subsidiaries Xspedius Management Co. Switched Services, LLC (Xspedius Switched) and Xspedius Management Co. of Jacksonville, LLC (Xspedius Management) (collectively "Xspedius");(collectively the "Joint Petitioners" or "CLECs")

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parties address the fact that many of the Federal Communications Commission (FCC) rules regarding BellSouth's obligation to provide unbundled network elements are vacated, and the FCC is expected to issue interim rules shortly. Both parties have agreed that they will continue operating under their current Interconnection Agreements until they are able to move into the new arbitrated/negotiated agreements that ensue from this proceeding. The parties agree that during this 90-day period they will continue their efforts to reduce the number of already identified issues.

The parties further request that the procedural schedule as set forth in Order No. PSC-04-0488-PCO-TP be revised. Upon consideration, the Commission calendar will be unable to accommodate the dates proposed in the parties' Joint Motion. However, the parties have requested and proposed to file a revised issues matrix on October 15, 2004, which would be acceptable and appropriate. Furthermore, subsequent to the filing of the Joint Motion, the parties agreed to the following new procedural dates, which are more appropriate:

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|--|-------------------|
| 1) Direct Testimony & Exhibits (All) | January 10, 2005 |
| 2) Rebuttal Testimony & Exhibits (All) | February 7, 2005 |
| 3) Prehearing Statements | February 21, 2005 |
| 4) Prehearing Conference | March 7, 2005 |
| 5) Hearing | March 22-25, 2005 |
| 6) Briefs | May 6, 2005 |

In light of the above, the Joint Motion to Hold Proceeding in Abeyance is hereby granted in part and denied in part. The above-captioned proceeding shall be held in abeyance for a period of ninety (90) days. Furthermore, there shall be a suspension of all pending deadlines and consideration of all pending motions until after October 1, 2004. The parties shall file a revised issues matrix on October 15, 2004. The parties' request to revise the procedural schedule, as set forth in Order No. PSC-04-0488-PCO-TP, to reflect those dates proposed in their Joint Motion is denied. The procedural schedule as set forth in Order No. PSC-04-0488-PCO-TP shall be revised as set forth herein.

Based on the foregoing, it is

ORDERED by Rudolph "Rudy" Bradley, as Prehearing Officer, that the Joint Petitioners and BellSouth Telecommunications, Inc. Joint Motion to Hold Proceeding in Abeyance is hereby granted in part and denied in part. It is further

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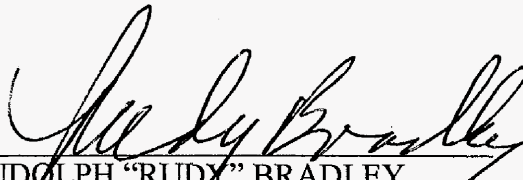
ORDERED that the proceeding is hereby held in abeyance for a period of ninety (90) days, and there shall be a suspension of all pending deadlines and consideration of all pending motions until after October 1, 2004. It is further

ORDERED that the parties shall file a revised issues matrix on October 15, 2004. It is further

ORDERED that the procedural schedule as set forth in Order No. PSC-04-0488-PCO-TP is revised as set forth herein. It is further

ORDERED that Order No. PSC-04-0488-PCO-TP is reaffirmed in all other respects.

By ORDER of Commissioner Rudolph "Rudy" Bradley, as Prehearing Officer, this 19th day of August, 2004.


RUDOLPH "RUDY" BRADLEY
Commissioner and Prehearing Officer

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-

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22.0376, Florida Administrative Code; or (2) judicial review by the Florida Supreme Court, in the case of an electric, gas or telephone utility, or the First District Court of Appeal, in the case of a water or wastewater utility. A motion for reconsideration shall be filed with the Director, Division of the Commission Clerk and Administrative Services, in the form prescribed by Rule 25-22.060, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.