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October 27, 2003

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

Re: Docket No. 030851-TP

Dear Ms. Bayó:

Enclosed for filing on behalf of Xspedius Communications, LLC are an original and fifteen copies of Xspedius Communications, LLC's Preliminary Objections to BellSouth's First Set of Interrogatories (Nos. 1-84) and First Request for Production of Documents (Nos. 1-21) in the above referenced docket.

Please acknowledge receipt of these documents by stamping the extra copy of this letter "filed" and returning the same to me.

Thank you for your assistance with this filing.

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Sincerely yours,

Norman H. Horton, Jr.

NHH/amb
Enclosures
cc: Parties of Record

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Implementation of Requirements Arising From Federal Communications Commission Triennial UNE Review: Local Circuit Switching for Mass Market Customers	)))))	Docket No.: 030851-TP Filed: October 24, 2003

PRELIMINARY OBJECTIONS OF XSPEDIUS COMMUNICATIONS TO BELLSOUTH'S FIRST SET OF INTERROGATORIES (Nos. 1-84) AND FIRST REQUESTS FOR PRODUCTION OF DOCUMENTS (Nos. 1-21)

Xspedius Communications, LLC, on behalf of its Florida operating affiliates, Xspedius Management Co. Switched Services, LLC and Xspedius Management Co. of Jacksonville, LLC (collectively "Xspedius"), pursuant to the *Order Establishing Procedure*, Order No. PSC-03-1054-PCO-TP, issued September 22, 2003 (hereinafter "*Procedural Order*"), Rule 28-106.206 of the Florida Administrative Code, and Rules 1.280 and 1.340 of the Florida Rules of Civil Procedure, hereby generally and specifically objects to BellSouth Telecommunications, Inc.'s (hereinafter "BellSouth") First Set of Interrogatories and First Request for Production of Documents to Xspedius, served on October 9, 2003. The Objections stated herein are preliminary in nature and are made at this time for the purpose of complying with the seven-day requirement set forth in Order No. PSC-03-1054-PCO-TP, by the Florida Public Service Commission (hereinafter the "Commission") in the above-referenced docket. Any answer that Xspedius may provide in response to the BellSouth discovery will be provided subject to, and without waiver of, these objections.

I. General Objections

Xspedius makes the following General Objections to BellSouth's First Set of Interrogatories and First Request for Production of Documents, including the applicable

definitions and general instructions therein ("BellSouth discovery"), which as appropriate will be incorporated into each relevant response when Xspedius' responses are served on BellSouth.

1. Xspedius objects to the BellSouth discovery to the extent that such discovery seeks to impose an obligation on Xspedius to respond on behalf of subsidiaries, affiliates, or other persons that are not parties to this case on the grounds that such discovery is overly broad, unduly burdensome, oppressive, and not permitted by applicable discovery rules. Xspedius further objects to any and all BellSouth discovery that seeks to obtain information from Xspedius for Xspedius subsidiaries, affiliates, or other related Xspedius entities that are not certificated by the Commission.

2. Xspedius has interpreted the BellSouth discovery to apply to Xspedius' regulated intrastate operations in Florida and will limit its responses accordingly. To the extent that any BellSouth discovery is intended to apply to matters that take place outside the state of Florida and which are not related to Florida intrastate operations subject to the jurisdiction of the Commission, Xspedius objects to such request as irrelevant, overly broad, unduly burdensome, and oppressive.

3. Xspedius objects to the BellSouth discovery to the extent that such discovery calls for information which is exempt from discovery by virtue of the attorney-client privilege, work product privilege, or other applicable privilege.

4. Xspedius objects to the BellSouth discovery insofar as such discovery is vague, ambiguous, overly broad, imprecise, or utilizes terms that are subject to multiple interpretations and are not properly defined or explained for purposes of these requests.

5. Xspedius objects to the BellSouth discovery insofar as such discovery is not reasonably calculated to lead to the discovery of admissible evidence and is not relevant to the subject matter of this action.

6. Xspedius objects to the BellSouth discovery insofar as it seeks information or documents, or seek to impose obligations on Xspedius which exceed the requirements of the Florida Rules of Civil Procedure or Florida law.

7. Xspedius objects to providing information to the extent that such information is already in the public record before the Florida Public Service Commission, the FCC, is otherwise publicly available, or which is already in the possession, custody, or control of BellSouth.

8. Xspedius objects to the BellSouth discovery to the extent that such discovery is overly broad, unduly burdensome, expensive, oppressive, or excessively time consuming as written.

9. Xspedius objects to each and every request to the extent that the information requested constitutes "trade secrets" which are privileged pursuant to Section 90.506, Florida Statutes. To the extent that BellSouth's requests seek proprietary confidential business information which is not the subject of the "trade secrets" privilege, Xspedius will make such information available to counsel for BellSouth pursuant to an appropriate Protective Agreement, subject to any other general or specific objections contained herein.

10. Xspedius is a corporation with employees located in many different locations in Florida and in other states. In the course of its business, Xspedius creates countless documents that are not subject to Florida Public Service Commission or FCC retention of records requirements. These documents are kept in numerous locations and are frequently moved from site to site as employees change jobs or as the business is reorganized. Therefore, it is possible

that not every document has been identified in response to these requests. Xspedius will conduct a reasonable and diligent search of those files that are reasonably expected to contain the requested information. To the extent that the BellSouth discovery purports to require more, Xspedius objects on the grounds that compliance would impose an undue burden or expense.

11. Xspedius objects to the BellSouth discovery that seeks to obtain "all," "each," or "every" document, item, customer, or other such piece of information to the extent that such discovery is overly broad and unduly burdensome.

12. Xspedius objects to the BellSouth discovery to the extent such discovery seeks to have Xspedius create documents not in existence at the time of the request.

13. Xspedius objects to the BellSouth discovery as overly broad and unduly burdensome to the extent that such discovery is not limited to any stated period of time or a stated period of time that is longer than is relevant for purposes of the issues in this docket.

14. In light of the short period of time Xspedius has been afforded to respond to the BellSouth discovery, the development of Xspedius' positions and potentially responsive information to the BellSouth requests is necessarily ongoing and continuing. This process is further complicated since at this point in time, the actual issues to be set forth for hearing in this docket have not yet been established by order of the Commission. Accordingly, these are preliminary objections to comply with the Commission's September 22, 2003, order Xspedius reserves the right to supplement, revise, or modify its objections at the time that it serves its actual responses to the BellSouth discovery. However, Xspedius does not assume an affirmative obligation to supplement its answers on an ongoing basis, contrary to the BellSouth General Instruction.

15. Xspedius objects to the BellSouth discovery to the extent that it seeks disclosure of facts known and opinions held by experts acquired and/or developed in anticipation of litigation or for hearing and outside the scope of discoverable information pursuant to Rule 1.280(4) of the Florida Rules of Civil Procedure.

16. Xspedius objects to the BellSouth discovery to the extent that the definitions operate to seek discovery of matters other than those subject to the jurisdiction of the Commission, pursuant to the FCC's Triennial Review Order, Florida Administrative Code, and Florida statutes.

17. Xspedius objects to the BellSouth discovery to the extent that it asks for information that may not be available in precisely the same format, category, or definitions from Xspedius systems, which systems are limited in terms of their capacity to produce unlimited reports and information in any format, category or definition requested.

II. Specific Objections

Xspedius makes the following Specific Objections to BellSouth's First Set of Interrogatories and First Request for Production of Documents, including the applicable definitions and general instructions expressed therein ("BellSouth discovery"), which as appropriate will be incorporated into each relevant response when Xspedius' responses are served on BellSouth.

18. Xspedius objects to each and every interrogatory or request for production that seeks information regarding enterprise customers as such discovery is irrelevant for purposes of this docket and is not reasonably calculated to lead to the discovery of admissible evidence since the scope of this proceeding, as set forth by the FCC and the Commission, is limited to local circuit switching for mass market customers.

19. Xspedius objects to each and every interrogatory or request for production that seeks information regarding non-switched services (e.g., services that do not depend on local Class 5 switches) except for non-switched services (e.g., DSL) provided on loops that are also used to provide switched services), as such discovery is irrelevant for purposes of this docket and is not reasonably calculated to lead to the discovery of admissible evidence since the scope of this proceeding, as set forth by the FCC and the Commission, is limited to local circuit switching for mass market customers.

20. Xspedius objects to each and every interrogatory or request for production that seeks information regarding Xspedius' operations in ILEC service areas other than the BellSouth ILEC service area within the state of Florida as such information is irrelevant to BellSouth's case in this docket and such discovery is overly broad and unduly burdensome.

21. Xspedius objects to each and every interrogatory or request for production that seeks to obtain information regarding "former officers, employees, agents, directors, and all other persons acting or purporting to act on behalf of Xspedius" as such information is not within Xspedius' control, would be unduly burdensome to attempt to obtain and is likely irrelevant.

22. Xspedius objects to the definitions for "qualifying service" and "non-qualifying service," and each and every interrogatory or request for production that includes such terms, as Xspedius does not use such terms in the ordinary course of business and answering in these terms would require Xspedius to provide a legal interpretation of the FCC's terms. With the exception of the specific services the FCC has designated as qualifying or non-qualifying, the term is not clearly defined by the FCC or by BellSouth. For example, as the FCC stated in footnote 466 of the TRO Order (FCC 03-36, released August 21, 2003), the terms in question are intended for another, unrelated purpose: "Our list is intended to identify general categories of

services that would qualify as eligible services. It is not intended to be an exhaustive list or to identify services in a more particular manner." Accordingly, the terms in question are not relevant to the subject matter of this proceeding. Moreover, such discovery is overly broad and it would be unduly burdensome for Xspedius to respond to such ambiguous discovery.

23. Xspedius objects to the definitions for "hot cut, "batch hot cut," and "individual hot cut," and each and every interrogatory or request for production that includes such terms, as such definitions are vague in that it is not clear whether or to what extent BellSouth's practices are consistent with the FCC's use of such terms, however such terms may be defined by the FCC. Thus, such discovery is overly broad and it would be unduly burdensome for Xspedius to respond to such ambiguous discovery. Xspedius further objects to BellSouth's use of such terms as they apply to BellSouth's individual hot cut process as Xspedius is not privy to each and every process or procedure employed by BellSouth in implementing such hot cuts.

24. Xspedius objects to each and every interrogatory or request for production that seeks information regarding Xspedius' projections regarding future services, revenues, marketing strategies, equipment deployments, or other such future business plans as such requests are trade secrets and, for purposes of this proceeding, would be highly speculative and irrelevant to the issues to be decided in this docket.

Respectfully submitted this 24th day of October 2003.

Norman H. Horton, Jr.
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Attorneys for Xspedius Communications, LLC

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been served on the following parties by electronic mail on October 24, 2003 and by Hand Delivery (*) and U. S. Mail this 27th day of October, 2003.

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