

ORIGINAL

LAW OFFICES  
Messer, Caparello & Self  
A Professional Association

Post Office Box 1876  
Tallahassee, Florida 32302-1876  
Internet: www.lawfla.com

RECEIVED-1-SC  
03 DEC 29 PM 4:28  
COMMISSION  
CLERK

December 29, 2003

**BY HAND DELIVERY**

Ms. Blanca Bayó, Director  
Commission Clerk and Administrative Services  
Room 110, Easley Building  
Florida Public Service Commission  
2540 Shumard Oak Blvd.  
Tallahassee, Florida 32399-0850

Re: Docket No. 030852-TP

Dear Ms. Bayó:

Enclosed for filing on behalf of Xspedius Communications, LLC are an original and fifteen copies of Xspedius' Preliminary Objections to Verizon's First Request for Admissions (Nos. 1-2), First Set of Interrogatories (Nos. 1-21), and First Request for Production of Documents (Nos 1-11) 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.

RECEIVED & FILED

  
FPSC-BUREAU OF RECORDS

Sincerely yours,

  
Norman H. Horton, Jr.

AUS \_\_\_\_\_  
CAF \_\_\_\_\_  
CMP \_\_\_\_\_  
COM \_\_\_\_\_  
CTR \_\_\_\_\_  
ECR \_\_\_\_\_  
GCL \_\_\_\_\_  
OPC \_\_\_\_\_  
MMS \_\_\_\_\_  
SEC \_\_\_\_\_  
OTH \_\_\_\_\_  
NHH/amb  
Enclosures  
cc: Parties of Record

DOCUMENT NUMBER 027  
13517 DEC 29 8  
FPSC-COMMISSION CLERK

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In Re: Implementation of Requirements	)	
Arising From Federal Communications	)	
Commission Triennial UNE Review:	)	Docket No.: 030852-TP
For DS1, DS3, and Dark Fiber Loops	)	Filed: December 29, 2003
And Route-Specific Review for DS1, DS3,	)	
And Dark Fiber Transport	)	
_____)		

**XSPEDIUS' PRELIMINARY OBJECTIONS TO VERIZON  
FIRST REQUEST FOR ADMISSIONS (NOS. 1-2), FIRST SET OF  
INTERROGATORIES (NOS. 1-21) AND  
FIRST REQUESTS FOR PRODUCTION OF DOCUMENTS (NOS. 1-11)**

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*") by the Florida Public Service Commission ("Commission"), 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 Verizon Florida, Inc.'s (hereinafter "Verizon") First Request for Admissions, First Set of Interrogatories, and First Request for Production of Documents to Xspedius, served on December 22, 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 the *Procedural Order*.

A. General Objections

Xspedius makes the following General Objections to Verizon's First Request for Admissions, First Set of Interrogatories, and First Request for Production of Documents, including the applicable definitions and general instructions therein ("Verizon discovery"),

which as appropriate will be incorporated into each relevant response when Xspedius's responses are served on Verizon.

1. Xspedius objects to the Verizon 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 Verizon 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 Verizon discovery to apply to Xspedius's regulated intrastate operations in Florida and will limit its responses accordingly. To the extent that any Verizon 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 Verizon 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 Verizon discovery insofar as such discovery is vague, ambiguous, overly broad, imprecise, or utilizes terms that are subject to multiple interpretations but are not properly defined or explained for purposes of these requests. Any responses provided by Xspedius in response to the Verizon discovery will be provided subject to, and without waiver of, the foregoing objection.

5. Xspedius objects to the Verizon 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 Verizon 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 or which is already in the possession, custody, or control of Verizon.

8. Xspedius objects to the Verizon 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 Verizon's requests seek proprietary confidential business information which is not the subject of the "trade secrets" privilege, Xspedius will make such information available to the Verizon pursuant to the terms of the Commission's Protective Order and the requirements of section 364.183 and Florida Administrative Code Rule 25-24.006, subject to any other general or specific objections contained herein.

10. Xspedius is a large 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 Verizon discovery purports to require more, Xspedius objects on the grounds that compliance would impose an undue burden or expense.

11. Xspedius objects to the Verizon 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. Any answers that Xspedius may provide in response to the Verizon discovery will be provided subject to, and without waiver or, this objection.

12. Xspedius objects to the Verizon 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 Verizon discovery 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, as such discovery is overly broad and unduly burdensome.

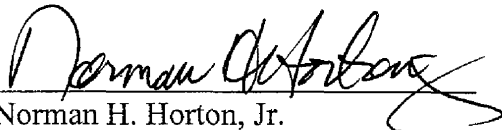
14. In light of the short period of time Xspedius has been afforded to respond to the Verizon discovery, the development of Xspedius’s positions and potentially responsive information to the Verizon requests is necessarily ongoing and continuing. Accordingly, these are preliminary objections to comply with the *Procedural Order*, and Xspedius reserves the right to supplement, revise, or modify its objections at the time that it serves its actual responses to the Verizon discovery. However, Xspedius does not assume an affirmative obligation to supplement its answers on an ongoing basis.

B. Specific Objections

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

15. Xspedius objects to each and every interrogatory or request for production that seeks information regarding Xspedius's 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 29<sup>th</sup> day of December, 2003.



Norman H. Horton, Jr.  
Messer, Caparello & Self, P.A.  
215 S. Monroe Street, Suite 701  
Tallahassee, FL 32302  
(850) 222-0720

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 Hand Delivery (\*), electronic mail, and/or U. S. Mail this 29<sup>th</sup> day of December, 2003.

Jeremy Susac, Esq.\*  
Office of General Counsel, Room 370  
Florida Public Service Commission  
2540 Shumard Oak Blvd.  
Tallahassee, FL 32399-0850

Jason Rojas, Esq.\*  
Office of General Counsel, Room 370  
Florida Public Service Commission  
2540 Shumard Oak Blvd.  
Tallahassee, FL 32399-0850

Nancy B. White  
c/o Nancy H. Sims  
BellSouth Telecommunications, Inc.  
150 South Monroe Street, Suite 400  
Tallahassee, FL 32301

Susan S. Masterton, Esq.  
Sprint-Florida, Incorporated  
Sprint Communications Company Limited  
Partnership  
P.O. Box 2214  
Tallahassee, FL 32316-2214

Richard A. Chapkis, Esq.  
Verizon Florida Inc.  
P.O. Box 110, FLTC0007  
Tampa, FL 33601-0110

Nanette Edwards  
ITC^DeltaCom  
4092 S. Memorial Parkway  
Huntsville, AL 35802

Mr. James White  
ALLTEL  
601 Riverside Avenue  
Jacksonville FL 32204-2987

Ms. Laurie A. Maffett  
Frontier Telephone Group  
180 South Clinton Avenue  
Rochester NY 14646-0700

Mr. R. Mark Ellmer  
GT Com  
P. O. Box 220  
Port St. Joe FL 32457-0220

Mr. Robert M. Post, Jr.  
ITS Telecommunications Systems, Inc.  
P. O. Box 277  
Indiantown FL 34956-0277

Ms. Harriet Eudy  
NEFCOM  
11791 110th Street  
Live Oak FL 32060-6703

Ms. Lynn B. Hall  
Smart City Telecom  
P. O. Box 22555  
Lake Buena Vista FL 32830-2555

Michael A. Gross  
Vice President, Regulatory Affairs  
& Regulatory Counsel  
Florida Cable Telecommunications Assoc., Inc.  
246 E. 6<sup>th</sup> Avenue  
Tallahassee, FL 32301

Tracy W. Hatch, Esq.  
AT&T Communications of the Southern States, LLC  
101 N. Monroe Street, Suite 701  
Tallahassee, FL 32301

Lisa Sapper  
AT&T  
1200 Peachtree Street, NE, Suite 8100  
Atlanta, GA 30309

Donna McNulty, Esq.  
WorldCom  
1203 Governors Square Blvd, Suite 201  
Tallahassee, FL 32301-2960

De O'Roark, Esq.  
MCI WorldCom Communications, Inc.  
6 Concourse Parkway, Suite 600  
Atlanta, GA 30328

Vicki Kaufman, Esq.  
Joe McGlothlin, Esq.  
McWhirter, Reeves, McGlothlin,  
Davidson, Rief & Bakas, P.A.  
117 S. Gadsden Street  
Tallahassee, FL. 32301

Marva Brown Johnson, Esq.  
KMC Telecom III, LLC  
1755 North Brown Road  
Lawrenceville, GA 30034-8119.

Charles V. Gerkin, Jr.  
Regulatory Counsel  
Allegiance Telecom, Inc.  
9201 North Central Expressway  
Dallas, TX 75231

Terry Larkin  
Allegiance Telecom, Inc.  
Regional Vice President  
700 East Butterfield Road  
Lombard, IL 60148

James C. Falvey, Esq.  
Senior Vice president, Regulatory Affairs  
Xspedius Communications, LLC  
7125 Columbia Gateway Drive, Suite 200  
Columbia, MD 21046

Floyd R. Self  
Messer, Caparello & Self, P.A.  
P.O. Box 1876  
Tallahassee, FL 32302-1876

Mr. Jake E. Jennings  
NewSouth Communications Corp.  
Two N. Main Center  
Greenville, SC 29601

Jon C. Moyle, Jr., Esq.  
Moyle, Flanigan, Katz, Raymond & Sheehan, P.A.  
118 North Gadsden Street  
Tallahassee, FL 32301

Charles E. Watkins  
Covad Communications Company  
1230 Peachtree Street, NE, 19<sup>th</sup> Floor  
Atlanta, GA 30309

Rand Currier  
Granite Telecommunications, LLC  
234 Copeland Street  
Quincy, MA 02169

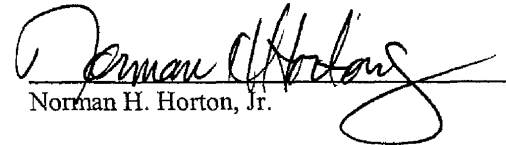
Andrew O. Isar  
Miller Isar, Inc.  
7901 Skansie Avenue, Suite 240  
Gig Harbor, WA 98335

Jorge Cruz-Bustillo, Esq.  
Supra Telecommunications and Information Systems,  
Inc.  
2620 S.W. 27<sup>th</sup> Avenue  
Miami, Florida 33133

Mr. Jonathan Audu  
Supra Telecommunications and Information  
Systems, Inc.  
1311 Executive Center Drive, Suite 220  
Tallahassee, FL 32301

Thomas M. Koutsky  
Vice president, Law and Public Policy  
Z-Tel Communications, Inc.  
1200 19<sup>th</sup> Street, N.W., Suite 500  
Washington, DC 20036

Michael B. Twomey  
P.O. Box 5256  
Tallahassee, FL 32314-5256

  
Norman H. Horton, Jr.