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March 23, 2004

Mrs. Blanca S. Bayó  
Division of the Commission Clerk and  
Administrative Services  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0850


**Re: Docket No.: 040130-TP**

Dear Ms. Bayó:

Enclosed is an original and fifteen copies of BellSouth Telecommunications, Inc.'s Notice of Filing of a copy of a recent Procedural Ruling issued by the duly appointed Arbitration Panel on behalf of the Alabama Public Service Commission in Alabama Public Service Commission Docket No. 29242, which we ask that you file in the captioned docket.

A copy of this letter is enclosed. Please mark it to indicate that the original was filed and return the copy to me. Copies have been served to the parties shown on the attached Certificate of Service.

Sincerely,

  
J. Phillip Carver (JK)

Enclosures

cc: All Parties of Record  
Marshall M. Criser III  
R. Douglas Lackey  
Nancy B. White

DOCUMENT NUMBER - DATE

03846 MAR 23 04

FPSC-COMMISSION CLERK

**CERTIFICATE OF SERVICE  
DOCKET NO. 040130-TP**

I HEREBY CERTIFY that a true and correct copy of the foregoing was served via Electronic Mail and First Class U. S. Mail this 23rd day of March, 2004 to the following:

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J. Phillip Carver

**BEFORE THE  
FLORIDA PUBLIC SERVICE COMMISSION**

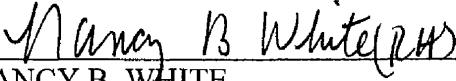
In the Matter of	)	
	)	
Joint Petition for Arbitration of	)	
	)	
NewSouth Communications Corp.,	)	
NuVox Communications, Inc.	)	Docket No. 040130-TP
KMC Telecom V, Inc., KMC Telecom III LLC, and	)	
Xspedius Communications, LLC on Behalf of its	)	
Operating Subsidiaries Xspedius Management Co.	)	
Switched Services, LLC and Xspedius Management Co.	)	
Of Jacksonville, LLC,	)	Filed: March 23, 2004
	)	
Of an Interconnection Agreement with	)	
BellSouth Telecommunications, Inc.	)	
Pursuant to Section 252(b) of the	)	
Communications Act of 1934, as Amended	)	
_____	)	

**NOTICE OF FILING**

BellSouth Telecommunications, Inc. (“BellSouth”) hereby provides Notice of its Filing of a copy of a recent Procedural Ruling issued by the duly appointed Arbitration Panel on behalf of the Alabama Public Service Commission in Alabama Public Service Commission Docket No. 29242. This filing is made for informational purposes because the Alabama Docket is similar to the Joint Petition for Arbitration in this Docket, and the Alabama Procedural Ruling granted BellSouth’s request for the same procedural restrictions that BellSouth has requested in this docket to properly and efficiently conduct the proceeding.

Respectfully submitted, this 23rd day of March 2004.

BELLSOUTH TELECOMMUNICATIONS, INC.



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532348



**STATE OF ALABAMA**  
ALABAMA PUBLIC SERVICE COMMISSION  
P.O. BOX 304260  
MONTGOMERY, ALABAMA 36130-4260

JIM SULLIVAN, PRESIDENT  
JAN COOK, ASSOCIATE COMMISSIONER  
GEORGE C. WALLACE, JR., ASSOCIATE COMMISSIONER

WALTER L. THOMAS, JR.  
SECRETARY

**ALABAMA PUBLIC SERVICE COMMISSION**

In the Matter of	)	
	)	
Joint Petition for Arbitration of	)	Docket No. 29242
	)	
NewSouth Communications Corp., KMC	)	
Telecom V, Inc., KMC Telecom III LLC,	)	
and Xspedius Communications, LLC on	)	
Behalf of its Operating Subsidiaries,	)	
Xspedius Management Co. Switched	)	
Services LLC, Xspedius Management Co. of	)	
Birmingham LLC, Xspedius Management	)	
Co. of Mobile LLC, and Xspedius	)	
Management Co. of Montgomery LLC	)	
	)	
Of an Interconnection Agreement with	)	
BellSouth Telecommunications, Inc.,	)	
Pursuant to Section 252(b) of the	)	
Communications Act of 1934, as Amended	)	

Procedural Ruling

On February 11, 2004, NewSouth Communications Corp., KMC Telecom V, Inc., KMC Telecom III LLC, and Xspedius Communications LLC on behalf of its operating subsidiaries, Xspedius Management Co. Switched Services LLC, Xspedius Management Co. of Birmingham LLC, Xspedius Management Co. of Mobile LLC, and Xspedius Management Co. of Montgomery LLC filed a Joint Petition for arbitration seeking resolution of certain issues arising between the

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Procedural Ruling  
Docket 29242  
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Joint Petitioners and BellSouth Telecommunications, Inc., (BellSouth) in the negotiation of an interconnection agreement.

In support of the petition, the Joint Petitioners stated that the window for filing a formal request for arbitration under the Telecommunications Act of 1996 opened on January 17, 2004, and closed on February 11, 2004.

Joint Petitioners listed 107 issues, with ten of those issues not common among all parties. Joint Petitioners stated that they anticipated a team witness approach. Joint Petitioners requested a temporary waiver of Commission Rule T-26(A), which requires that petitioners for arbitration file testimony and discovery on the date they file the petition for arbitration. Joint Petitioners noted that they would agree to the Commission granting BellSouth a similar extension of the deadline for filing of Additional Requirements, should BellSouth request such an extension.

In support of the request for a waiver of T-26(A), Joint Petitioners stated that the parties are still in robust negotiation and that some of the outstanding issues may well be resolved subsequent to the filing for arbitration. In addition, the task of preparing testimony and discovery requests are expected to be costly and resource-intensive. Joint Petitioners stated that these costs could not be justified if there is likelihood that the parties will resolve some of the outstanding issues. Further, Joint Petitioners commented that they have been unable to devote their time to preparing prefiled testimony and discovery requests because of their focus on negotiations.

Joint Petitioners stated that should the Commission decide that separate petitions for arbitration be filed by each of the Joint Petitioners, the Joint Petitioners request that the Commission grant them adequate time to prepare and submit their individual petitions for arbitrations and toll the statutory deadlines imposed by Section 252(b)(1) of the Communications Act for good cause.

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On March 2, 2004, BellSouth Telecommunications, Inc., filed its opposition to Joint Motion for Partial and Temporary Waiver of the Commission's Arbitration Requirements, Motion to sever or to impose Procedural Restrictions, and Request for Expedited Consideration. BellSouth indicated that the Joint Petitioners' filing for arbitration of issues was not in accordance with Commission Rules for Arbitration. According to BellSouth, Joint Petitioners should have filed separate petitions for arbitration with a request that these petitions be consolidated into a Joint Petition. Also, Joint Petitioners did not seek a waiver of T-26(A) in a timely fashion. Further, petitioners' basis for seeking a waiver of Commission Rule T-26 is not sufficient to justify such a waiver according to BellSouth

BellSouth asserted that the Commission should sever the proceeding or in the alternative impose procedural restrictions on a joint proceeding. Specifically, BellSouth objected to the Joint Petitioners' anticipated team witness approach. Additionally, BellSouth has requested that the Commission require that Joint Petitioners' positions be identical on each common issue. Further, BellSouth requested that the Commission restrict Joint Petitioners to cross examining each BellSouth witness only once. Finally, BellSouth requested that if the Commission permits the CLECs to continue jointly, they should be limited to one witness per issue or subissue.

BellSouth also stated that to the extent that the Commission waives Rule T-26(A) for the Joint Petitioners, BellSouth requests Commission waiver of Rule T-26(B) for response.

On March 8, 2004, BellSouth filed its response to the Joint Petitioners request for arbitration. BellSouth did not file prefiled testimony or discovery requests.

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On March 9, 2004, Joint Petitioners filed a Joint Response, and Opposition of Petitioners to BellSouth's Motion was filed on March 2, 2004. In a letter dated March 15, 2004, BellSouth issued its reply to the Joint Response.

Having considered the points raised by the parties, the Panel grants the Joint Petitioners request for Joint Arbitration of issues as well as their request for a temporary waiver of Commission Rule T-26 (A). The Panel requires Joint Petitioners to file all items required in Rule T-26(A) that were not filed with the Original petition for arbitration, including discovery requests and testimony, by April 6, 2004.

Petitioners position must be identical on each common issue. Petitioners may sponsor one witness per issue or subissue. Joint Petitioners may cross examine each BellSouth's witness only once.

BellSouth shall file its response to discovery requests by Joint Petitioners, testimony, discovery requests, as well as any other information required by Commission Rule 4-26(B) on May 7, 2004.

Joint Petitioners shall file responses to BellSouth discovery by May 31, 2004.

The Parties are instructed to file jointly an agreed schedule for filing additional testimony, as well as a proposed hearing schedule on May 31, 2004

IT IS SO RULED.


Done at Montgomery, Alabama this

day of March, 2004.

Arbitration Panelists

  
Larry S. Smith

  
Justice Terry L. Butts *per mission*

  
Rolland Casey