

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-05-0742-PCO-TP  
ISSUED: July 12, 2005

ORDER ACKNOWLEDGING KMC V, INC. AND KMC TELECOM III, L.L.C.'S  
NOTICE OF WITHDRAWAL WITH PREJUDICE

On February 11, 2004, a joint petition for arbitration was filed on behalf of NewSouth Communications, Inc., NuVox Communications, Inc., KMC Telecom V, Inc. and KMC Telecom III, L.L.C., and Xspedius Communications LLC (collectively "Joint Petitioners") with BellSouth Telecommunications, Inc. (BellSouth). On March 8, 2004, BellSouth filed its Answer to the Petition, and a hearing was held on April 26 – 28, 2005.

On May 27, 2005, KMC Telecom V, Inc. and KMC Telecom III, L.L.C., and Xspedius Communications LLC (collectively "KMC"), filed a Notice of Withdrawal with Prejudice (Notice). In its Notice, KMC asserts that the withdrawal with prejudice only applies to KMC.

Upon review and consideration, I find it appropriate to acknowledge KMC's Notice of Withdrawal with Prejudice. The Commission is vested with jurisdiction pursuant to Section 252 of the Telecommunications Act of 1996.

Based on the foregoing, it is

ORDERED by Commissioner Rudolph "Rudy" Bradley, as Prehearing Officer, that I hereby acknowledge KMC Telecom V, Inc. and KMC Telecom III, L.L.C.'s Notice of Withdrawal. It is further

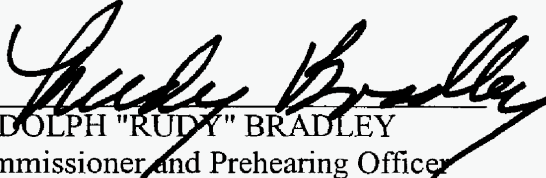
ORDERED that a Final Order in this docket will not include KMC Telecom V, Inc. and KMC Telecom III, L.L.C.

DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

By ORDER of Commissioner Rudolph "Rudy" Bradley, as Prehearing Officer, this  
12th day of July, 2005.

  
RUDOLPH "RUDY" BRADLEY  
Commissioner and Prehearing Officer

(SEAL)

JLS

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 25-22.0376, 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.