

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-05-0654-PCO-TP
ISSUED: June 16, 2005

ORDER GRANTING BELLSOUTH TELECOMMUNICATIONS, INC.'S
UNOPPOSED MOTION FOR LEAVE TO
FILE REVISED POST-HEARING BRIEF

Case Background

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 filed its Answer to the Joint Petitioners' Petition. On July 20, 2004, both parties filed a Joint Motion to Hold Proceeding in Abeyance for 90 days. As a result, Order No. PSC-04-0807-PCO-TP, issued on August 19, 2004, revised the procedural schedule as set forth in Order No. PSC-04-0488-PCO-TP and required the parties to file an updated issues matrix on October 15, 2004.

A hearing was held in this matter on April 26 - 28, 2005, and post-hearing briefs were due on June 9, 2005. BellSouth timely filed its post-hearing brief, subsequently discovering that it had inadvertently failed to include summary positions for each of the disputed issues as required by Order No. PSC-05-0325-PHO-TP. On June 13, 2005, BellSouth filed its Unopposed Motion for Leave to File Revised Post-Hearing Brief (Motion) with attached revised post-hearing brief, which includes its summary positions for each of the disputed issues.

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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Decision

Upon consideration, BellSouth's Motion for Leave to File Revised Post-Hearing Brief is granted. The post-hearing brief shall not be modified in any other respect and the summary positions shall be based on BellSouth's positions as set forth in Order No. PSC-05-0325-PHO-TP. Furthermore, the revised brief shall not exceed the Commission ordered limit of 75 pages. The parties will not be prejudiced by granting this Motion, because the revised brief will be filed two business days after the original filing. The revised portions of BellSouth's brief are based on previously filed summary positions and BellSouth has made a commitment to counsel for the Joint Petitioners that it will not review the Joint Petitioners' brief prior to filing the revised brief. The Joint Petitioners do not have any objections to this Motion.


Based on the foregoing, it is

ORDERED by Commissioner Rudolph "Rudy" Bradley that BellSouth Telecommunications, Inc.'s Unopposed Motion for Leave to File Revised Post-Hearing Brief is granted. It is further

ORDERED that BellSouth Telecommunications, Inc.'s post-hearing brief shall not be modified in any other respect and its summary positions shall be based on its positions as set forth in Order No. PSC-05-0325-PHO-TP. It is further

ORDERED that the revised brief shall not exceed the Commission ordered limit of 75 pages.

By ORDER of Commissioner Rudolph "Rudy" Bradley, as Prehearing Officer, this
16th day of June, 2005



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 25-22.0376, 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.