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Timolyn Henry

From: Slaughter, Brenda [Brenda.Slaughter@bellsouth.com]
Sent: Tuesday, July 20, 2004 10:16 AM
To: Filings@psc.state.fl.us
Cc: Meza, James; Linda Hobbs; Fatool, Vicki; Nancy Sims; Holland, Robyn P; Bixler, Micheale
Subject: Docket 040130-TP
Importance: High

- A. Brenda Slaughter
 Legal Secretary to James Meza III
 BellSouth Telecommunications, Inc.
 c/o Nancy Sims
 150 South Monroe, Rm. 400
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- B. Docket No. 040130-TP: Joint Petition for Arbitration of NewSouth Communications, Corp., NuVox Communications, Inc., KMC Telecom V, Inc., KMC Telecom III LLC, and Xspedius [Affiliates] of an Interconnection Agreement with BellSouth Telecommunications, Inc. Pursuant to Section 252(b) of the Communications Act of 1934, as Amended
- C. BellSouth Telecommunications, Inc.
 on behalf of James Meza III
- D. 5 pages total
- E. Joint Motion to Hold Proceeding in Abeyance

Brenda Slaughter
 BellSouth Telecommunications, Inc.
 Suite 4300 - Legal Department
 675 W. Peachtree Street
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 Phone: (404) 335-0714

CMP _____
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CTR <<040130-TP Joint Motion.pdf>>

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Legal Department

JAMES MEZA III
Attorney

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July 20, 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

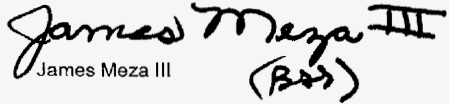
Re: Docket No.: 040130-TP

Dear Ms. Bayó:

Enclosed is a Joint Motion to Hold Proceeding in Abeyance, which we ask that you file in the captioned docket.

Copies have been served to the parties shown on the attached Certificate of Service.

Sincerely,


James Meza III (BSS)

Enclosures

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

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**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 20th day of July, 2004 to the following:

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James Meza III (AFL)

ORIGINAL

**BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION
Docket No. 040130-TP**

In the Matter of)	JOINT MOTION TO HOLD PROCEEDING IN ABEYANCE
Joint Petition of NewSouth)	
Communications Corp. <i>et al.</i> for)	
Arbitration with BellSouth)	
Telecommunications, Inc.)	

JOINT MOTION TO HOLD PROCEEDING IN ABEYANCE

NewSouth Communications Corp. ("NewSouth"), NuVox Communications, Inc. ("NuVox"), KMC Telecom V, Inc. and KMC Telecom III, LLC (collectively "KMC"), and Xspedius Communications, LLC on behalf of its operating subsidiary Xspedius Management Company Switched Services, LLC ("Xspedius") (collectively the "Joint Petitioners") and BellSouth Telecommunications, Inc. ("BellSouth") (together, the "Parties"), through their respective counsel, submit this Joint Motion to Hold Proceeding in Abeyance and hereby respectfully request that the Florida Public Service Commission (the "Commission") hold the above-captioned proceeding in abeyance for a period of ninety (90) days. In doing so, the Parties request that the Commission suspend all pending deadlines and consideration of all pending motions until after October 1, 2004. The Parties already have agreed to waive the deadline, under section 252(b)(4)(C) of the Act, 47 U.S.C. § 252(b)(4)(C), for final resolution by the Commission of the issues in this arbitration. In support of this Joint Motion, the Parties submit the following.

Joint Petitioners and BellSouth have engaged in the above-captioned arbitration proceeding since February 11, 2004. On March 2, 2004, the United States Court of Appeals for the District of Columbia Circuit, in *United States Telecom Ass'n v. FCC*, 359 F.3d 554 (D.C. Cir.2004) ("*USTA II*"), affirmed in part, and vacated and remanded in part, certain rules of the Federal Communications Commission ("FCC"), pursuant to which incumbent LECs are obligated to

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provide to any requesting telecommunications carrier access to network elements on an unbundled basis. The D.C. Circuit initially stayed its *USTA II* mandate for a period of sixty (60) days. The stay of the *USTA II* mandate later was extended by the D.C. Circuit for a period of forty-five (45) days, until June 15, 2004 on which date the D.C. Circuit's *USTA II* mandate issued. At this time, certain of the FCC's rules applicable to BellSouth's obligation to provide to Joint Petitioners network elements on an unbundled basis are vacated and the FCC is expected to issue new rules.

In light of these events, the Parties have agreed to the proposed 90-day abatement so that they can consider how the post *USTA II* regulatory framework should be incorporated into the new agreements currently being arbitrated and to identify what arbitration issues may be impacted and what additional issues, if any, need to be identified for arbitration. The Parties have agreed that no new issues may be raised in this arbitration proceeding other than those that result from the Parties' negotiations regarding the post-*USTA II* regulatory framework.

With this framework, the Joint Petitioners and BellSouth have agreed to avoid a separate/second process of negotiating/arbitrating change-of-law amendments to the current interconnection agreements to address *USTA II* and its progeny. Accordingly, the Parties have agreed that they will continue operating under their current Interconnection Agreements until they are able to move into the new arbitrated/negotiated agreements that ensue from this proceeding.

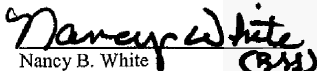
During this ninety (90) day period, the Parties also have agreed to continue their efforts to reduce the number of issues already identified. In this regard, the Parties have agreed to conduct multiple face-to-face negotiations.

Consistent with the foregoing, the Joint Petitioners and BellSouth hereby respectfully request that the Commission hold the above-captioned proceeding in abeyance for a period of ninety (90) days. In so doing, the Parties request that the Commission suspend all pending

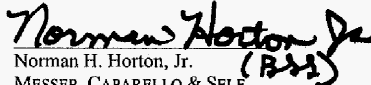
deadlines and consideration of all pending motions until after October 1, 2004. The Parties also jointly propose and request approval of the following revised procedural schedule.

October 15, 2004	Revised Issues Matrix
January 21, 2005	Direct Testimony (Simultaneous)
February 18, 2005	Reply Testimony (Simultaneous)
March 4, 2005	Prehearing Statements
March 15, 2005	Prehearing Conference
April 5-8, 2005	Hearing
May 27, 2005	Briefs

Respectfully submitted,


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Dated: July 20, 2004