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Matilda Sanders

From: Slaughter, Brenda [Brenda.Slaughter@BellSouth.COM]
Sent: Friday, March 25, 2005 2:10 PM
To: Filings@psc.state.fl.us
Cc: Meza, James; Linda Hobbs; Fatool, Vicki; Holland, Robyn P; Nancy Sims; Bixler, Micheale
Subject: Docket 040130-TP
Importance: High
Attachments: 040130-TP BST Motion to Move Issues to Generic.pdf

- A. Brenda Slaughter
 Legal Secretary for James Meza III
 BellSouth Telecommunications, Inc.
 c/o Nancy Sims
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 (404) 335-0714
brenda.slaughter@bellsouth.com
- B. Docket No. 040130-TP: Joint Petition for Arbitration of NewSouth Communications Corp., NuVox 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 and Xspedius Management Co. of Jacksonville, LLC
- C. BellSouth Telecommunications, Inc.
 on behalf of James Meza III
- D. 5 pages total
- E. BellSouth Telecommunications, Inc.'s Motion to Move Issues to Generic Proceeding

Brenda Slaughter (sent on behalf of James Meza III)
 BellSouth Telecommunications, Inc.
 Suite 4300 - Legal Department
 675 W. Peachtree Street
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117

JAMES MEZA III
Senior Regulatory Counsel

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March 25, 2005

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**
**Joint Petition for Arbitration of NewSouth Communications Corp., NuVox
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 and Xspedius
Management Co. of Jacksonville, LLC**

Dear Ms. Bayó:

Enclosed is BellSouth Telecommunications, Inc.'s Motion to Move Issues to
Generic Proceeding, 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 (BIA)

Enclosures

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

**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 25th day of March, 2005 to the following:

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James Meza III (B12)

(+) Global protective agreement in place for all (9) states.

ORIGINAL

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of)	
Joint Petition for Arbitration of NewSouth)	
Communications Corp., NuVox Communications Corp.)	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.)	Filed: March 25, 2005
Switched Services, LLC and Xspedius Management Co.)	
Of Jacksonville, LLC,)	

BELLSOUTH’S MOTION TO MOVE ISSUES TO GENERIC PROCEEDING

BellSouth Telecommunications Inc. (“BellSouth”) requests that the Florida Public Service Commission (“Commission”) move several arbitration issues to the generic proceeding in Docket No. 041269-TP (“Generic Proceeding”) for consideration and resolution and find that several other issues are moot. In support of this motion, the Parties state the following:

1. BellSouth and NewSouth Communications Corp., NuVox 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 and Xspedius Management Co. of Jacksonville, LLC (collectively “Joint Petitioners”) are currently engaged in an arbitration proceeding conducted pursuant to Section 252 of the Telecommunications Act of 1996 (the “Act”) before the Commission. The hearing of the arbitration is currently scheduled for April 26-28, 2005.

2. Several of the issues the parties are arbitrating are similar if not identical in nature to issues being addressed and raised in the Generic Proceeding. These issues include: Issues 23, 26, 36, 37, 38, 51, 108, 113, and 114 (including subparts) currently pending in the arbitration (“Arbitration Issues”). To avoid the Commission having to hear the same issues on multiple occasions and to conserve the Parties’ and the Commission’s time and resources, BellSouth

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requests that the Commission move the Arbitration Issues to the Generic Proceeding for consideration and resolution.

3. In requesting that the Commission move the Arbitration Issues to the Generic Proceeding, BellSouth does not waive any arguments relating to the Arbitration Issues, including whether the Commission has jurisdiction to resolve them.

4. Further, to the extent the parties have not negotiated otherwise, BellSouth requests that the Commission order the Parties to incorporate the Commission's findings relating to the Arbitration Issues in the Generic Proceeding into the new agreement being arbitrated.

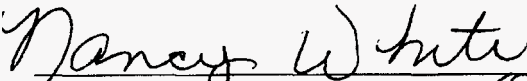
5. In addition, as a result of the Federal Communications Commission's ("FCC") decision in the *Triennial Review Remand Order*, FCC 04-290, WC Docket No. 04-313, CC Docket No. 01-338 (rel. Feb. 4, 2005) ("TRRO"), several additional issues relating to the FCC's *Order and Notice of Proposed Rule Making* in WC Docket No. 04-313, CC Docket No. 01-338 ("Interim Rules Order") are now moot ("Moot Issues"). These issues include: Issues 109, 110, 111, and 112.

6. BellSouth has discussed this Motion with the Joint Petitioners and reports that the Joint Petitioners will be filing a response.

WHEREFORE, for the foregoing reasons, the BellSouth requests that the Commission move the Arbitration Issues to the Generic Proceeding for consideration and resolution and find that the Moot Issues are moot.

Respectfully submitted this 25th day of March, 2005.

BELLSOUTH TELECOMMUNICATIONS, INC.


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