

State of Florida



Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

DATE: May 4, 2006

TO: Director, Division of the Commission Clerk & Administrative Services (Bayó)

FROM: Division of Competitive Markets & Enforcement (Dowds)
Office of the General Counsel (Scott)

RE: Docket No. 040130-TP – Joint petition by NewSouth Communications Corp., NuVox Communications, Inc., 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.

AGENDA: 05/16/06 – Regular Agenda – Post-Hearing Decision – Participation is Limited to Commissioners and Staff

COMMISSIONERS ASSIGNED: Edgar, Arriaga, Carter

PREHEARING OFFICER: Edgar

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

FILE NAME AND LOCATION: S:\PSC\CMP\WP\040130-2.RCM.DOC

Case Background

On October 11, 2005, Order No. PSC-05-0975-FOF-TP, the Final Order Regarding Petition for Arbitration, was issued in this proceeding. Among other matters, this Order concluded that “. . . pursuant to Order No. PSC-05-0443-PCO-TP, issued April 26, 2005, the resolution of the issues move[sic] from this docket to Docket No. 041269-TP are to be rolled back into Docket No. 040130-TP as if arbitrated.” (Order, p. 73). The Order also provides that this docket is to remain open pending the Commission’s approval of the final arbitration

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agreements, and that the parties were to file signed agreements that complied with the Final Order within 30 days after the Order's issuance.

On November 7, 2005, the parties filed a Joint Motion for Extension of Time to file an executed agreement, requesting until December 9, 2005 to file an agreement. This request was granted by Order No. PSC-05-1136-PCO-TP, issued on November 10, 2005. On December 9, 2005, the parties filed a second request for extension of time to file an agreement, which was approved by Order No. PSC-05-1247-PCO-TP, issued on December 22, 2005. This Order provides, in pertinent part, that the parties “. . . will have . . . 30 days from the issuance of a final Order in Docket No. 041269-TP, to file a final interconnection agreement.”

On April 21, 2006, BellSouth submitted executed interconnection agreements with NuVox Communications, Inc. (NuVox) and Xspedius Communications, Inc. (Xspedius). This recommendation addresses the approval of these agreements.

Discussion of Issues

Issue 1: Should the Commission approve the arbitrated agreements between BellSouth and NuVox and between BellSouth and Xspedius submitted on April 21, 2006?

Recommendation: Yes. The agreements have been signed by the respective parties and incorporate the resolution of the arbitrated issues. **(Dowds, Scott)**

Staff Analysis: The interconnection agreements (ICAs) filed on April 21, 2006 incorporate the resolution of those disputed issues explicitly arbitrated in this Docket, as well as those matters resolved in Docket No. 041269-TP but rolled back into this proceeding. Since the parties agree that these ICAs resolve all disputed matters, staff recommends they be approved.

Issue 2: Should this docket be closed?

Recommendation: Yes. If the Commission approves staff's recommendation in Issue 1, no further actions are required, and this docket should be closed. **(Scott)**

Staff Analysis: If the Commission approves staff's recommendation in Issue 1, no further actions will be required in this docket. Therefore, this docket may be closed.