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March 9, 2005

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PUBLIC SERVICE
COMMISSION

VIA HAND DELIVERY

Hon. Beth O'Donnell
Executive Director
Public Service Commission
211 Sower Blvd.
P. O. Box 615
Frankfort, KY 40601

Re: Joint Petition for Arbitration of 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, Xspedius Management Co. of Lexington, LLC, and Xspedius Management Co. of Louisville, LLC of an Interconnection Agreement with BellSouth Telecommunications, Inc. Pursuant to Section 252(b) of the Communications Act of 1934, as Amended, before the Public Service Commission of the Commonwealth of Kentucky, Case No. 2004-00044

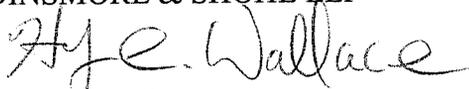
Dear Ms. O'Donnell:

Enclosed for filing in the above-styled case is the original and ten copies of the Motion to (1) Strike Answer and (2) Order BellSouth to Satisfy the Petition for Emergency Relief and accompanying Order.

Thank you, and if you have any questions, please call me.

Very truly yours,

DINSMORE & SHOHL LLP


Holly C. Wallace

HCW/rk

BEFORE THE
KENTUCKY PUBLIC SERVICE COMMISS

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PUBLIC SERVICE
COMMISSION

In the Matter of:)
)
Joint Petition for Arbitration of 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)
Xspedius Management Co. of Lexington, LLC and)
Xspedius Management Co. of Louisville, LLC)

Case No. 2004-00044

**MOTION TO (1) STRIKE ANSWER AND (2) ORDER BELLSOUTH TO SATISFY
THE PETITION FOR EMERGENCY RELIEF**

NuVox Communications, Inc. (“NuVox”), Xspedius Management Co. Switched Services, LLC, Xspedius Management Co. of Lexington, LLC, and Xspedius Management Co. of Louisville, LLC (“Xspedius”), KMC Telecom III, LLC (“KMC III”) and KMC Telecom V, Inc. (“KMC V”) (collectively, “Joint Petitioners”) pursuant to KRS Chapter 278 and KRS 278.260, move the Kentucky Public Service Commission (the “Commission”) to: (1) strike the Answer of BellSouth Telecommunications Inc. (“BellSouth”) filed March 8, 2005 in response to Joint Petitioners’ Petition for Emergency Relief and (2) order BellSouth to satisfy the Joint Petitioners’ prayer for relief in their Petition for Emergency Relief. In support of their motions, Joint Petitioners state as follows.

On March 1, 2005, Joint Petitioners filed a Petition for Emergency Relief with the Commission based on BellSouth’s February 11, 2005 and February 25, 2005 Carrier Notifications stating that as of March 11, 2005 BellSouth would reject UNE-P orders and orders for high capacity loops and transport where it has been relieved of its obligation to provide such UNEs, except where such orders are certified in accordance with paragraph 234 of the Triennial

Review Remand Order (“TRRO”). In those same Carrier Notification letters, BellSouth also announced that it would not accept new orders for dedicated transport “UNE entrance facilities” or “UNE dark fiber loops” under any circumstances. In response to these two carrier notifications, the Joint Petitioners filed a Petition for Emergency Relief requesting that the Commission order BellSouth to continue to honor the rates, terms, and conditions of the parties’ existing interconnection agreements until such time as those agreements are superseded by the agreements resulting from the resolution of the present case.

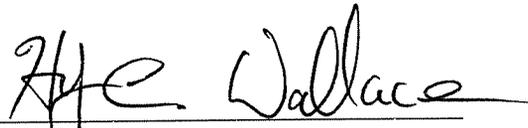
In response to the Joint Petitioners’ Petition for Emergency Relief, the Commission issued an order on March 2, 2005 ordering BellSouth to “**satisfy the matters complained of or file a written answer to the complaint no later than March 7, 2005.**” Order, Case No. 2004-00044, March 2, 2005 (emphasis added). BellSouth failed to comply with this order by failing to timely file its Answer to the Joint Petitioners’ Emergency Petition. BellSouth should be held accountable for failing to timely file its Answer because it is BellSouth that created the artificial March 11, 2005 deadline and placed both the Commission and the Joint Petitioners in the position of having to address BellSouth’s demands immediately. Having created this artificial deadline, BellSouth should be held to the letter and the spirit of the Commission’s March 2, 2005 Order. The Commission specifically ordered that BellSouth satisfy the matters complained of or file a written answer *no later than March 7, 2005*. BellSouth, however, did not file its Answer to the Joint Petitioners’ Petition for Emergency Relief until March 8, 2005. Therefore, pursuant to the express terms of the Commission’s order, BellSouth’s Answer was not timely filed and should be stricken from the record.

Moreover, given BellSouth did not answer the emergency petition by the March 7, 2005 deadline, BellSouth has, by default, chosen to satisfy the matters complained of in the Joint

Petitioner's Petition for Emergency Relief. This is BellSouth's only other option pursuant to the Commission's March 2, 2005 Order.

Accordingly, Joint Petitioners respectfully request that the Commission (1) order BellSouth's Answer be stricken from the record; and (2) order BellSouth to honor the rates, terms, and conditions of the parties' existing interconnection agreements until such time as those agreements are superseded by the agreements resulting from Case No. 2004-00044.

Respectfully submitted,

A handwritten signature in black ink that reads "Holly C. Wallace". The signature is written in a cursive style with a horizontal line underneath the name.

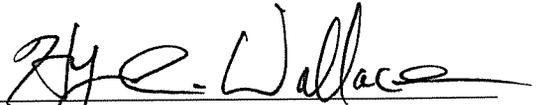
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Counsel to the Joint Petitioners

CERTIFICATE OF SERVICE

It is hereby certified that the foregoing was served by mailing a copy of the same by First Class United States Mail, postage prepaid to the parties shown on the attached service list this 9th day of March, 2005.



Counsel to the Joint Petitioners

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Case No. 2004-00044

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**BEFORE THE
KENTUCKY PUBLIC SERVICE COMMISSION**

In the Matter of:)
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Joint Petition for Arbitration of NewSouth)
Communications Corp., NuVox Communications,)
Inc., KMC Telecom V, Inc., KMC Telecom III)
LLC, and Xspedius Communications, LLC on) Case No. 2004-00044
Behalf of Its Operating Subsidiaries Xspedius)
Management Co. Switched Services, LLC)
Xspedius Management Co. of Lexington, LLC and)
Xspedius Management Co. of Louisville, LLC)

ORDER TO STRIKE ANSWER AND TO SATISFY

This matter coming before the Commission on the Joint Petitioners' Motion to Strike Answer and to Satisfy, and the Commission being otherwise sufficiently advised;

IT IS HEREBY ORDERED that the Answer of BellSouth Telecommunications, Inc. to the Joint Petitioners' Petition for Emergency Relief is stricken from the record;

IT IS FURTHER ORDERED that BellSouth Telecommunications, Inc. shall honor the rates, terms, and conditions of the parties' existing interconnection agreements until such time as those agreements are superseded by the agreements resulting from Case No. 2004-00044.

Done at Frankfort, Kentucky, this ___ day of March, 2005.

By the Commission

ATTEST:

Executive Director

Case No. 2004-00044