

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

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| JOINT PETITION FOR ARBITRATION OF |) | |
| NEWSOUTH COMMUNICATIONS CORP., |) | CASE NO. |
| NUVOX COMMUNICATIONS, INC., KMC |) | 2004-00044 |
| 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 BILLSOUTH TELECOMMUNICATIONS, |) | |
| INC. PURSUANT TO SECTION 252(B) OF THE |) | |
| COMMUNICATIONS ACT OF 1934, AS |) | |
| AMENDED |) | |

O R D E R

Three procedural matters are pending in this docket. On May 5, 2005, NewSouth Communications Corp., NuVox Communications, Inc., KMC Telecom V, Inc. and KMC Telecom III, LLC, and Xspedius Communications, LLC on behalf of its operating subsidiaries named in this proceeding (collectively, the “Joint Petitioners”) and BellSouth Telecommunications, Inc. (“BellSouth”) filed a joint motion to move certain arbitration issues to a generic proceeding¹ and to declare certain arbitration issues moot.

¹ Case No. 2004-00427, Petition of BellSouth Telecommunications, Inc. to Establish Generic Docket to Consider Amendments to Interconnection Agreements Resulting From Changes of Law.

The release by the Federal Communications Commission of its Triennial Review Remand Order, FCC 04-290, WC Docket No. 04-313, CC Docket No. 01-338 (Rel. February 4, 2005), has affected this proceeding. Parties assert that issues 109, 110, and 112 are now moot. In addition, parties believe that issues 23, 108, 111, 113, and 114 should be addressed in the Commission's generic proceeding regarding the change of law provisions. The parties' positions may evolve over the course of the generic proceeding and future negotiations. However, the parties ask that the Commission require that the determinations made in the generic proceeding regarding these issues be "folded back" into this arbitration proceeding and any agreements resulting therefrom. The Commission finds this procedure proposed by the parties to be reasonable.

On May 5, 2005, Holly C. Wallace, an attorney licensed to practice law in the Commonwealth of Kentucky, who is representing the Joint Petitioners in this proceeding, moved the Commission to admit *pro hac vice* John J. Heitmann and Garret R. Hargrave to practice before the Commission and to appear on behalf of Joint Petitioners. In support of his request, Mr. Heitmann has shown that he is a member in good standing with the bars of the District of Columbia and the state of New York and has filed with the Commission an out-of-state certification form. In addition, Mr. Heitmann has agreed to be subject to the jurisdiction and rules of the Commission and the Kentucky Bar Association. In support of his request, Mr. Hargrave has shown that he is a member in good standing with the bar of the District of Columbia and has filed with the Commission an out-of-state certification form. In addition, Mr. Hargrave has

agreed to be subject to the jurisdiction and rules of the Commission and the Kentucky Bar Association.

The parties to this proceeding have also requested that they be allowed to summarize their witnesses' testimony at the hearing in an effort to reduce the length of the proceeding.

IT IS THEREFORE ORDERED that:

1. The joint motion to move certain arbitration issues to a generic proceeding and to declare certain arbitration issues moot is granted.

2. John J. Heitmann and Garret R. Hargrave are admitted *pro hac vice* for the purpose of representing Joint Petitioners in the above-styled proceeding, provided that Holly C. Wallace or another member of the Kentucky Bar Association acts as co-counsel and is present at any and all proceedings before this Commission.

3. Each party shall be permitted a total of 15 minutes to present a summary of its witnesses' testimony at the hearing.

Done at Frankfort, Kentucky, this 17th day of May, 2005.

By the Commission

Commissioner W. Gregory Coker did not participate in the deliberations or decision concerning this case.

ATTEST:



Executive Director