



BellSouth Telecommunications, Inc.  
801 W. Chestnut Street  
Room 407  
Louisville, KY 40203

Dorothy J. Chambers  
General Counsel/Kentucky

602 682 8218  
Fax 602 682 1679

Dorothy.Chambers@BellSouth.com

August 8, 2005

Ms. Beth O'Donnell  
Executive Director  
Public Service Commission  
211 Sower Boulevard  
P. O. Box 615  
Frankfort, KY 40602

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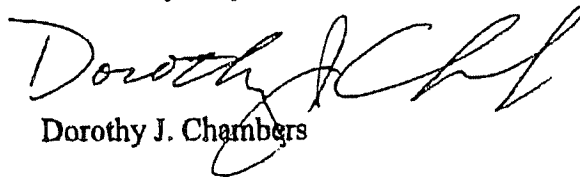
PUBLIC SERVICE  
COMMISSION

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  
PSC 2004-00044

Dear Ms. O'Donnell:

Enclosed for filing in the above-referenced case are the original and ten (10) copies of BellSouth Telecommunications, Inc.'s Motion for Reconsideration.

Yours very truly,

  
Dorothy J. Chambers

Enclosures

cc: Parties of Record

596718

COMMONWEALTH OF KENTUCKY

BEFORE THE 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 AND XSPEDIUS MANAGEMENT )  
 CO. OF LEXINGTON, LLC, AND XSPEDIUS )  
 MANAGEMENT CO. OF LOUISVILLE, LLC )

CASE NO.  
2004-00044

**BELLSOUTH TELECOMMUNICATIONS, INC.'S  
MOTION FOR RECONSIDERATION**

BellSouth Telecommunications, Inc., (“BellSouth”), by counsel, respectfully requests the Public Service Commission of the Commonwealth of Kentucky (the “Commission”), to reconsider its denial of BellSouth’s confidentiality petition with respect to certain information from the North Carolina and Florida record filed in this case on May 13 and 17, 2005. BellSouth filed its petition on June 23, 2005, pursuant to KRS 61.878. By letter dated July 18, 2005, the Commission ruled that BellSouth’s confidentiality petition did not meet the Commission’s threshold for confidential treatment.

Regarding North Carolina discovery responses, BellSouth requests that the Commission reconsider its decision with respect to certain BellSouth Responses to the Joint Petitioners’ First Request for Production of Documents (“Joint Petitioners’ 1<sup>st</sup> PODs”), specifically: 2-12-1 – portions of Attachment 2; and BellSouth’s First Supplemental Response to Item 2-39-1 of Joint Petitioner’s 1<sup>st</sup> POD . As an initial matter, BellSouth’s North Carolina responses involve issues that have been resolved.

Regarding responses to Florida Staff discovery, BellSouth requests that the Commission reconsider its decision with respect to BellSouth's responses to Florida Staff Interrogatories Nos. 82, and 117 (Attachment), and BellSouth's response to Florida Request for Production No. 22. The aforementioned discovery requests contain CLEC-specific information that is considered customer proprietary network information ("CPNI"), BellSouth has an obligation to protect CPNI from disclosure under federal law. 47 U.S.C. § 222.<sup>1</sup>

Section 222(c) of the Telecommunications Act provides that every telecommunications provider has an obligation to provide confidentiality to the network information of other carriers. While BellSouth filed the information with the Commission because BellSouth believed the information would be helpful to the Commission in considering the issues before it in this matter, this information is customer specific information to which those customers have an expectation of privacy. Indeed, the information provided to the Commission concerning specific customers is CPNI and may not be publicly disclosed without the approval of the individual customers. Disclosure of customer-specific information is subject to obligations under Section 222 of the Federal Law. Federal law imposes the obligation to maintain the confidentiality of such information ("the 222(a) obligation"). KRS 61.878(1)(k) specifically excludes from disclosure all public records or information "the disclosure of which is prohibited by federal law or regulation. . ." Accordingly, because this information is CPNI under Section 222 of the Federal

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<sup>1</sup> See 47 U.S.C. §222(h), "customer proprietary network information" means –

- (A) information that relates to the quantity, technical configuration, type, destination, location, and amount of use of a telecommunications service subscribed to by any customer of a telecommunications carrier, and that is made available to the carrier by the customer solely by virtue of the carrier-customer relationship; and
- (B) information contained in the bills pertaining to telephone exchange service or telephone toll service received by a customer of a carrier . . ."

Law, this information should be afforded proprietary treatment pursuant to the Kentucky Open Records Act. KRS 61.878(1)(k).

Because such information is protected from disclosure under federal law, such information should be afforded proprietary treatment under state law. KRS 61.878(1)(k).

### **NORTH CAROLINA DISCOVERY RESPONSES**

Regarding the North Carolina discovery responses (BST Response to POD 2-12-1 and BST Supplemental Response to POD 2-39-1), *such responses are associated with issues that have been resolved*. Thus, from a practical perspective, the Commission will not rely on such documents when ruling on the remaining unresolved issues, and the public should have little (or no interest) in such documents. Further, and as explained below, the disclosure of such documents may harm BellSouth as the information could provide BellSouth's competitors with an unfair competitive advantage.<sup>2</sup> KRS 61.878(1)(c)(1); KAR 5:001 § 7.

#### **BellSouth Response to Joint Petitioners' 1<sup>st</sup> PODs, Item 2-12-1, Attachment 2.**

Both the document entitled "UNEs for Wireless Traffic" (Bates Stamp No. 000168—000174) and the memorandum from Jerry Hendrix to Trip Agerton (Bates Stamp No. 000178—179) contain sensitive business information that is proprietary to BellSouth. Specifically, these documents contain projected revenue impact that certain regulatory rulings may have on BellSouth. Public disclosure of such information harms BellSouth as it provides BellSouth's competitors with insight into BellSouth's financial situation and business strategies.

#### **BellSouth's Supplemental Response to Joint Petitioners' 1<sup>st</sup> PODs, Item 2-39-1.**

BellSouth's 1st supplemental response to Item 2-39-1 of Joint Petitioners' 1<sup>st</sup> POD is a Calling Name ("CNAM") database agreement between BellSouth and Syniverse (formerly

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<sup>2</sup> BellSouth incorporates by reference its Confidentiality Petition filed on June 23, 2005.

known as TSI Telecommunications Network Services, Inc.) (Bates Stamp No. 001401—001421). Among other things, the agreement contains negotiated rates between BellSouth and Syniverse. The agreement's negotiated rates reflect the special circumstances related to the relationship between Syniverse and BellSouth and should be treated as confidential as they would provide BellSouth's competitors with information relative to BellSouth's cost of goods and services and, therefore, place BellSouth as a competitive disadvantage. Public knowledge of these rates could provide BellSouth's competitors with sensitive competitive information and may severely damage BellSouth's relationship with other third Party Database providers and subsequently impacting the expense and revenue associated with CNAM. See KRS 61.878(1)(a).

#### **FLORIDA DISCOVERY RESPONSES**

##### **BellSouth Supplemental Response to Staff Request for Production No. 22.**

This response contains CLEC-specific information for State Communications. The information relates to the type and quantity of certain services provided to State Communications. Such information constitutes CPNI and is protected from disclosure pursuant to KRS 61.878(1)(k). *Supra* p. 2.

##### **BellSouth Supplemental Response to Staff Interrogatory 82.**

The response contains CLEC-specific information regarding the number of bills the Joint Petitioners received in Florida in 2004; the percentage of bills timely paid; and the number of such bills that were disputed. As set forth in footnote 1, certain billing information constitutes CPNI pursuant to 47 U.S.C. § 222(B). Such information is protected from disclosure pursuant to KRS 61.878(1)(k). *Supra* p. 2.

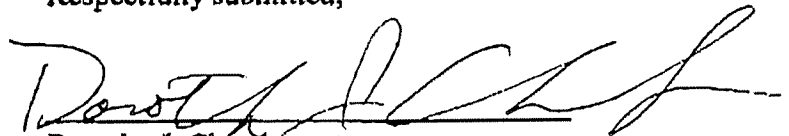
##### **BellSouth Response to Staff Interrogatory 117 (Attachment).**

This document contains CLEC-specific information regarding billing account numbers ("BANs"); amounts owed on such BANs' and payments made by a certain CLEC. (Bates Stamped No. 1000002—1000080). Certain billing information constitutes CPNI pursuant to 47 U.S.C. § 222(B). Such information is protected from disclosure pursuant to KRS 61.878(1)(k).

All of the information identified herein has potential value to other participants in the local exchange market, such as incumbent local exchange carriers (ILECs), competitive access providers (CAPs), facilities-based competitive local exchange carriers (CLECs), cable companies who have developed or are contemplating the development of wholesale or retail network products, and wireless providers. Public disclosure of the identified information would provide competitors with an unfair advantage. The information provided to the Commission is proprietary. It is information provided to limited personnel within BellSouth and is not shared with the public on a CLEC-specific basis. This Commission has been particularly sensitive to the need to maintain proprietary information as confidential. BellSouth asks the same consideration for the sensitive business information identified herein.

Accordingly, for foregoing reasons as well as the reasons stated in BellSouth's Confidentiality Petition filed June 23, 2005, the Commission should reconsider its earlier decision in this matter and grant BellSouth's request for confidential treatment of the identified information based upon BellSouth's petition filed on that same date.

Respectfully submitted,



Dorothy J. Chambers  
601 W. Chestnut Street, Room 407  
P. O. Box 32410  
Louisville, KY 40232  
Telephone No.: (502) 582-8219

Robert A. Culpepper  
Suite 4300, BellSouth Center  
675 W. Peachtree St., N.E.  
Atlanta, GA 30375  
Tel. No. (404) 335-0841

COUNSEL FOR BELLSOUTH  
TELECOMMUNICATIONS, INC.

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**CERTIFICATE OF SERVICE**

It is hereby certified that a true and correct copy of the foregoing was served on the following individuals by mailing a copy thereof, this 8th day of August 2005.

Jake E. Jennings  
NewSouth  
Two North Main Street  
Greenville, SC 29601

Mary Campbell  
NuVox Communications  
2 North Main Street  
Greenville, SC 29601

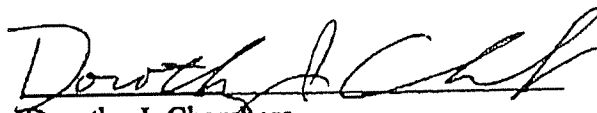
Riley Murphy, Esq.  
NuVox Communications  
2 North Main Street  
Greenville, SC 29601

James C. Falvey  
Xspedius  
7125 Columbia Gateway Drive, Suite 200  
Columbia, MD 21046

John J. Heitmann  
Enrico C. Soriano  
Heather T. Hendrickson  
Kelley Drye & Warren LLP  
1200 19th Street, N.W., Suite 500  
Washington, DC 20036

John E. Selent  
Dinsmore & Shohl LLP  
1400 PNC Plaza  
500 W. Jefferson Street  
Louisville, KY 40202

Marva Brown Johnson  
Senior Regulatory Policy Advisor  
KMC Telecom V, Inc.  
1755 North Brown Road  
Lawrenceville, GA 30043

  
Dorothy J. Chambers