

**Dinsmore & Shohl** LLP  
ATTORNEYS

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September 6, 2005

**VIA HAND DELIVERY**

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

RECEIVED  
SEP 9 6 2005  
PUBLIC SERVICE COMMISSION

**Re: Joint Petition for Arbitration of an Interconnection Agreement with BellSouth Telecommunications, Inc. Pursuant to Section 252(b) of the Communications Act of 1934, as Amended; Docket No. PSC 2004-00044**

Dear Ms. O'Donnell:

Enclosed for filing in the above-styled case is the original and ten copies of the Joint Petitioners' Motion to Withdraw Documents from the Kentucky Public Service Commission.

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

Very truly yours,

DINSMORE & SHOHL LLP



Holly C. Wallace

HCW/rk  
Enclosure

cc: Amy E. Dougherty, Esq. (w/enclosure)  
All Counsel of Record (w/enclosure)

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**BEFORE THE  
KENTUCKY 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

SEP 06 2005  
PUBLIC SERVICE COMMISSION

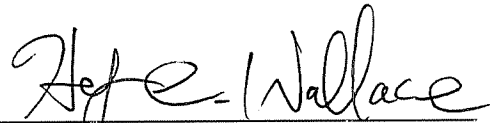
**MOTION TO WITHDRAW DOCUMENTS FROM THE COMMISSION**

NewSouth Communications Corp., Nuvox Communications, Inc., 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 (collectively the "Joint Petitioners"), hereby move the Public Service Commission of the Commonwealth of Kentucky (the "Commission") to withdraw from the Commission the original and all copies of documents NVX 000001 through 000004, NVX 000026 through 000037, NSC/NVX 000076 through 000081, and NSC/NVX 000003.

The above-referenced documents were the subject of the Joint Petitioners' Petition for Confidential Treatment filed on July 15, 2005. On August 16, 2005, the Executive Director of the Commission, Beth O'Donnell, informed counsel for the Joint Petitioners that the documents would be made available for public inspection on September 6, 2005. Upon further review, the Joint Petitioners believe that these documents do not need to be part of the record in the Joint Petitioners' arbitration with BellSouth Telecommunications, Inc. in Case No. 2004-00044. The

Joint Petitioners do not rely upon these documents in their post-hearing brief or reply brief.<sup>1</sup> Moreover, these documents are not necessary for the Commission to resolve the remaining outstanding issues in arbitration. Accordingly, given the sensitive nature of these proprietary and confidential documents, the Joint Petitioners request that the original and all copies of documents NVX 000001 through 000004, NVX 000026 through 000037, NSC/NVX 000076 through 000081, and NSC/NVX 000003 be withdrawn from the Commission, and returned to the undersigned counsel.

Respectfully submitted,



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and

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<sup>1</sup> The Joint Petitioners did rely on documents XSP 000004 and XSP 000005, however, in their post-hearing brief (See Joint Petitioners' Post-Hearing Brief, attachment 1, July 15, 2005.) These two documents were also the subject of the Joint Petitioners' Petition for Confidential Treatment filed on July 15, 2005. The Joint Petitioners no longer seek confidential treatment for these two documents, nor do they seek to withdraw these two documents from the Commission. Accordingly, unredacted copies of these two documents should be deemed part of Joint Petitioners' Post-Hearing Brief. For the sake of clarity, documents XSP 000004 and XSP 000005 are attached hereto as Exhibit A.

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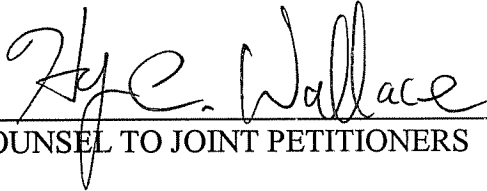
**COUNSEL TO THE JOINT  
PETITIONERS**

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on this 6th day of September, 2005, a true and correct copy of the foregoing has been forwarded via first class U.S. Mail, to the following.

Dorothy J. Chambers  
BellSouth Corporation  
P.O. Box 32410  
601 W. Chestnut Street, Room 407  
Louisville, KY 40232-2410

James Meza III  
BellSouth Telecommunications, Inc.  
150 South Monroe Street  
Room 400  
Tallahassee, FL 32301

  
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COUNSEL TO JOINT PETITIONERS



XSPEDIUS COMMUNICATIONS SERVICES AGREEMENT
General Terms and Conditions

This Service Agreement ("Agreement") is between Xpedius Communications, LLC on behalf of its applicable service providing entity ("Xpedius") and the individual or entity identified as the customer ("Customer") on the front page of this Agreement. This Agreement consists of the separate pages, Service Order Form(s), the General Terms and Conditions, and any addenda added by the agreement of the parties. The following terms, conditions and restrictions apply to the use of the applicable Xpedius Product and Service, and to the use of the applicable Xpedius Product and Service, and to the use of the applicable Xpedius Product and Service, and to the use of the applicable Xpedius Product and Service.

- 1. SERVICES. Xpedius will provide the Service as described in the terms of this Agreement and of Xpedius' applicable addenda.
2. OBLIGATION OF CUSTOMER. Customer agrees to provide all information, data, and support required for Xpedius to provide the Service and to comply with all of the terms and conditions of this Agreement.
3. TERM/TERMINATION. For each Service, the initial term commences ("Initial Term") on the date of the Service Order Form. This Agreement will terminate automatically on the date of the Service Order Form.
4. FEE SCHEDULES. The charges and fees for Xpedius' Service are contained on the applicable Service Order Form or (1) "Billing Changes" and (2) "Non-Billing Changes."
5. PAYMENT. Customer will be billed on a regular basis for the Service.
6. INDEMNIFICATION OF SERVICE PROVIDER. For an impairment of service ("Impairment"), the liability, if any, of Xpedius arising out of or in any way connected with any delay, interruption, interruption, or other failure in connection with the Service, shall be limited to the actual amount of the impairment.
7. TERMINATION BY XPEDIOUS. Xpedius reserves the right to terminate this Agreement if Customer fails to pay any amount due to Xpedius within the time specified in the applicable Service Order Form.
8. TERMINATION BY CUSTOMER. Customer may terminate this Agreement at any time by providing written notice to Xpedius.
9. SERVICE CHANGES. Xpedius reserves the right to make changes to the Service at any time.
10. BILLING. Customer's billing depends on the type of Service, and may be subject to change.
11. RESOLUTION OF DISPUTES. Disputes shall be resolved through arbitration.
12. LIMIT OF REMEDY. Xpedius' liability is limited to the actual amount of the impairment.
13. FORCE MAJEURE. This Agreement shall be subject to the force majeure provisions of the General Terms and Conditions.
14. ENTIRE AGREEMENT. This Agreement constitutes the entire agreement between the parties.
15. ASSIGNMENT. This Agreement may be assigned by either party.
16. SEVERABILITY. If any provision of this Agreement is found to be unenforceable, the remaining provisions shall remain in effect.
17. GOVERNING LAW. This Agreement shall be governed by the laws of the State of Illinois.
18. ENTIRE AGREEMENT. This Agreement constitutes the entire agreement between the parties.
19. ASSIGNMENT. This Agreement may be assigned by either party.
20. SEVERABILITY. If any provision of this Agreement is found to be unenforceable, the remaining provisions shall remain in effect.

X Customer Initial

XSP 000004

