

**Cheryl R. Winn**  
**Attorney At Law**

---

June 16, 2005

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

RECEIVED

JUN 17 2005

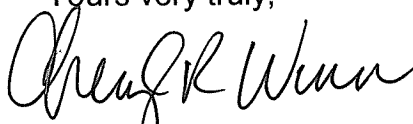
PUBLIC SERVICE  
COMMISSION

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 this Commission's information is the Mississippi Public Service Commission's Order Granting BellSouth Telecommunications, Inc.'s Motion to Move TRO Arbitration Issues to Generic Proceeding (Docket No. 2005-AD-139). The Order was issued by the Arbitration Panel on June 14, 2005, in the *Joint Petitioners' Petition for Arbitration*, Docket No. 2004-AD-094.

Yours very truly,



Cheryl R. Winn

cc: Parties of Record

589969

**BEFORE THE  
MISSISSIPPI PUBLIC SERVICE COMMISSION  
ARBITRATION PANEL**

<b>In the Matter of</b>	)	
	)	
<b>Joint Petition for Arbitration of</b>	)	
<b>NewSouth Communications, Corp.,</b>	)	<b>Docket No. 2004-AD-094</b>
<b>KMC Telecom V, Inc.,</b>	)	
<b>KMC Telecom III LLC, and</b>	)	
<b>Xspedius Communications, LLC</b>	)	
<b>on Behalf of its Operating</b>	)	
<b>Subsidiaries Xspedius Management</b>	)	
<b>Co. Switched Services, LLC and</b>	)	
<b>Xspedius Management Co. of</b>	)	
<b>Jackson, LLC of an Interconnection</b>	)	
<b>Agreement with BellSouth</b>	)	
<b>Telecommunications, Inc.</b>	)	
<b>Pursuant to Section 252(b) of the</b>	)	
<b>Communications Act of 1934,</b>	)	
<b>as Amended</b>	)	

**ORDER GRANTING BELLSOUTH TELECOMMUNICATIONS, INC.'S  
MOTION TO MOVE TRO ARBITRATION ISSUES TO  
GENERIC PROCEEDING (Docket No. 2005-AD-139)**

THIS DAY, there came on for determination by the Mississippi Public Service Commission's ("Commission") duly appointed Arbitration Panel, BellSouth Telecommunications, Inc. ("BellSouth") Motion to move Arbitration Issue Nos. 26, 36, 37, 38 and 51 (including subparts) ("*TRO* Arbitration Issues") to the Commission's Generic Proceeding in MPSC Docket No. 2005-AD-139 for consideration and resolution by the Commission in that proceeding.

NewSouth Communications Corp., and Xspedius Communications, LLC on behalf of its operating subsidiaries (collectively "Joint Petitioners") and BellSouth are currently engaged in a Section 252 Arbitration proceeding before the Commission's duly appointed Arbitration Panel. Several issues in dispute in the Arbitration proceeding directly relate to the Federal

Communication Commission's ("FCC") findings in the *Triennial Review Order*, FCC 03-36, 18 FCC Red 16978 (Aug. 21, 2003) ("*TRO*") regarding commingling, enhanced extended loops ("*EEL*") audits, and line conditioning (previously defined as *TRO* Arbitration Issues).

On October 29, 2004, BellSouth filed with the Commission a petition in which BellSouth requested the Commission to open a generic proceeding so that the Commission could resolve, in one proceeding, issues related to, *inter alia*, several changes of law resulting from the *TRO* and the FCC's *Order and Notice of Proposed Rulemaking* in WC Docket No. 04-313, CC Docket No. 01-338 (rel. Aug. 20, 2004) ("*Interim Rules Order*") ("*IRO*") (Docket No. 2004-AD-724). Although the Commission assigned a docket number to BellSouth's petition, it did not open a generic proceeding at that time. However, on February 4, 2005, the FCC released its *Triennial Review Remand Order*, FCC 04-290, WC Docket No. 04-313, CC Docket No. 01-338 (rel. Feb. 4, 2005) ("*TRRO*") and by Commission Order dated March 9, 2005, it established a generic proceeding, Docket No. 2005-AD-139, to address issues related to the *IRO*, *TRO* and the *TRRO*.

The *TRO* Arbitration Issues are similar if not identical to the issues in the Commission's Generic Proceeding. Specifically, as set forth in the agreed-upon regional Issues Matrix for all Generic Proceedings in the BellSouth Region, Issue 26 in the Arbitration is identical to Issue 14 in the Commission's Generic Proceeding; Issue 51 in the Arbitration is virtually identical to Issue 29 in the Generic Proceeding; and Issues 36-38 in the Arbitration are encompassed within Issue 26 in the Generic Proceeding. Consequently, it is more than likely that all of the *TRO* Arbitration Issues will be addressed in the Commission's Generic Proceeding.

The Arbitration Panel believes that it is neither necessary nor appropriate to expend the time and resources of the Arbitration Panel and the Parties addressing the *TRO* Arbitration Issues in the context of this Section 252 Arbitration when the same issues are likely to affect all competitive local exchange carriers ("*CLECs*") in Mississippi that have interconnection

agreements with BellSouth. The TRO Arbitration Issues should therefore be addressed in the context of the Commission's Generic Proceeding, where all affected entities will have the opportunity to be heard on these issues and the Commission can render a single decision applicable to all affected entities.

Having duly considered the Motion and finding it well taken, the Arbitration Panel hereby finds and rules as follows:

IT IS, THEREFORE, ORDERED that Arbitration Issue Nos. 26, 36, 37, 38 and 51 (including subparts) are moved to the Commission's Generic Proceeding (Docket No. 2005-AD-139) for consideration and resolution.

SO ORDERED this the 14<sup>th</sup> day of June, 2005.

MISSISSIPPI PUBLIC SERVICE COMMISSION  
ARBITRATION PANEL

Man S. Brand  
CHAIRMAN