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May 5, 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: 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 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***

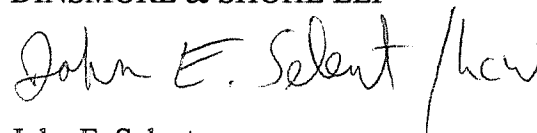
Dear Ms. O'Donnell:

Enclosed for filing in the above-styled case with the Public Service Commission of the Commonwealth of Kentucky is an original and ten copies of the Joint Motion to Move Issues to Generic Proceeding by the Joint Petitioners and BellSouth Telecommunications, Inc.

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

Very truly yours,

DINSMORE & SHOHL LLP



John E. Selent

JES/kwi

Enclosures

cc: Amy E. Dougherty, Esq.  
John Heitmann, Esq.

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

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IN RE:

MAY 5 2005

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 )

PUBLIC SERVICE  
COMMISSION

CASE NO.  
2004-00044

**JOINT MOTION TO MOVE ISSUES TO GENERIC PROCEEDING**

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”) (together, the “Parties”) hereby file this Joint Motion to move certain arbitration issues to Generic Proceeding (“Motion”) and to declare certain arbitration issues moot. In support of their request, the Parties state the following:

1. Joint Petitioners and BellSouth are currently engaged in a section 252 arbitration before the Kentucky Public Service Commission (“Commission”). In October 2004, the Parties filed an updated issues matrix reflecting the addition of Issues 108-114 to the arbitration and the modification of pre-existing issue 23 (“Supplemental Issues”). The hearing of this matter is scheduled for May 17, 2005.

2. On or about October 29, 2004, BellSouth filed with the Commission a petition which sought the Commission’s resolution of issues related to, inter alia, several changes of law resulting from the Federal Communications Commission’s (“FCC”) Triennial Review Order, FCC 03-36, 18 FCC Rcd 16978 (Aug. 21, 2003) (“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*”). By Commission Order, a generic proceeding was established (Docket No. 2004-00044).

3. 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*”). Issues relating to the *TRRO* will be addressed in the Generic Proceeding.

4. As a result of the *TRRO*, the Parties believe that a sub-set of the Supplemental Issues relating to the *Interim Rules Order* are now moot. These issues include issues 109, 110 and 112 (“Moot Supplemental Issues”). Accordingly, the Parties request that the Commission find the Moot Supplemental Issues to be moot.

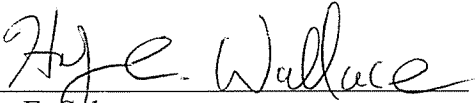
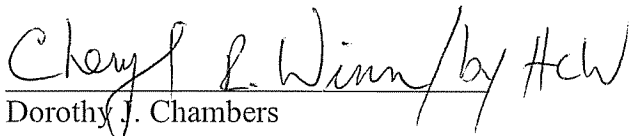
5. The Parties believe that a sub-set of the Supplemental Issues, issues 23, 108, 111, 113 and 114 (“Unresolved Supplemental Issues”) are impacted by the FCC’s release of the *TRRO* and should be moved to the Generic Proceeding for consideration and resolution because (1) those issues and the Parties’ positions with respect thereto may evolve as a result of the *TRRO* and the Parties’ future negotiations with respect to how the *TRRO* should be incorporated into the new Agreements that result from the above-captioned arbitration, and (2) the Commission has established a docket wherein these issues can be resolved and the results then can be folded back into the above-captioned arbitration dockets and the arbitrated agreements that result therefrom.

6. Accordingly, the Parties request that the Commission move the Unresolved Supplemental Issues into the Generic Proceeding. Further, to the extent the Parties do not negotiate otherwise, the Parties request that the resolution of the Unresolved Supplemental Issues

in the Generic Proceeding be folded back into the above-captioned arbitration dockets so that they can be properly incorporated into the arbitrated agreements that result therefrom.

WHEREFORE, for the foregoing reasons, Joint Petitioners and BellSouth request that this Commission move the Unresolved Supplemental Issues to the Generic Proceeding and, to the extent the Parties do not negotiate otherwise, the Parties request that the resolution of the Unresolved Supplemental Issues in the Generic Proceeding be folded back into the above-captioned arbitration dockets so that they can be properly incorporated into the arbitrated agreements that result therefrom. The Parties also request that the Commission concurrently find the Moot Supplemental Issues moot.

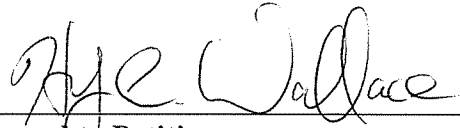
Respectfully submitted this 5<sup>th</sup> day of May, 2005.

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Dated: May 5, 2005

**CERTIFICATE OF SERVICE**

It is hereby certified that the foregoing was served by mailing a copy of the same to the parties identified on the attached service list by First Class United States Mail, postage prepaid, this 5<sup>th</sup> day of May, 2005.

A handwritten signature in cursive script that reads "Rye Wallace". The signature is written in black ink and is positioned above a horizontal line.

**Counsel to Petitioners**

**KENTUCKY PUBLIC SERVICE COMMISSION  
CASE NO. 2004-00044**

**SERVICE LIST**

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