

BEFORE THE  
FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 040130-TP

In the Matter of

JOINT PETITION BY 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 JACKSONVILLE, LLC, FOR  
ARBITRATION OF CERTAIN ISSUES ARISING  
IN NEGOTIATION OF INTERCONNECTION  
AGREEMENT WITH BILLSOUTH  
TELECOMMUNICATIONS, INC.



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PROCEEDINGS: PREHEARING

BEFORE: RUDOLPH "RUDY" BRADLEY  
Prehearing Officer

DATE: Monday, March 7, 2005

TIME: Commenced at 9:30 a.m.  
Concluded at 9:50 a.m.

PLACE: Betty Easley Conference Center  
Room 152  
4075 Esplanade Way  
Tallahassee, Florida

REPORTED BY: JANE FAUROT, RPR  
Chief, Office of Hearing Reporter Services  
FPSC Division of Commission Clerk and  
Administrative Services  
(850) 413-6732

DOCUMENT NUMBER-DATE

FLORIDA PUBLIC SERVICE COMMISSION 02403 MAR 10 05

FPSC-COMMISSION CLERK

## 1 APPEARANCES:

2 JAMES MEZA, ESQUIRE, BellSouth Telecommunications,  
3 Inc., c/o Ms. Nancy H. Sims, South Monroe Street, Suite 400,  
4 Tallahassee, Florida 32301-1556, appearing on behalf of  
5 BellSouth Telecommunications, Inc.

6 JOHN J. HEITMANN, ESQUIRE, STEPHANIE JOYCE, ESQUIRE,  
7 and GARRET R. HARGRAVE, ESQUIRE, Kelley Law Firm, 1200  
8 Nineteenth Street, N.W., Suite 50, Washington, DC 20036,  
9 appearing on behalf of the Joint Petitioners.

10 NORMAN H. HORTON, JR., ESQUIRE, Messer Law Firm, 215  
11 South Monroe Street, Suite 701, Tallahassee, Florida 32302,  
12 appearing on behalf of NewSouth Communications, NuVox  
13 Communications, KMC and Xspedius Communications, the Joint  
14 Petitioners

15 JEREMY SUSAC, ESQUIRE, and KIRA SCOTT, ESQUIRE, FPSC  
16 General Counsel's Office, 2540 Shumard Oak Boulevard,  
17 Tallahassee, Florida 32399-0850, appearing on behalf of the  
18 Commission Staff.

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## P R O C E E D I N G S

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2 COMMISSIONER BRADLEY: I would like to call this  
3 prehearing conference to order.

4 Could I have the notice read, please.

5 MR. SUSAC: Pursuant to notice issued February 22nd,  
6 2005, this time and place has been set for a prehearing in  
7 Docket Number 040130-TP.

8 COMMISSIONER BRADLEY: Thank you.

9 Let's take appearances. For BellSouth.

10 MR. MEZA: Jim Meza on behalf of BellSouth.

11 MR. HORTON: Norman H. Horton, Jr., Messer, Caparello  
12 and Self on behalf of NewSouth Communications, NuVox  
13 Communications, KMC and Xspedius Communications, the Joint  
14 Petitioners. And I would like to also enter an appearance for  
15 Mr. John Heitmann, Ms. Stephanie Joyce, and Mr. Garret Hargrave  
16 of the Kelley, Drye, and Warren law firm in Washington on  
17 behalf of the Joint Petitioners.

18 MR. SUSAC: Jeremy Susac and Kira Scott on behalf of  
19 the Commission Staff.

20 COMMISSIONER BRADLEY: Are there any preliminary  
21 matters?

22 MR. SUSAC: There are no preliminary matters,  
23 Commissioner.

24 COMMISSIONER BRADLEY: Okay. We are going to proceed  
25 through the draft prehearing order section-by-section. If

1 there are any questions or clarifications or changes or  
2 anything to be called to my attention, please let me know when  
3 we reach that section.

4 To preserve the record, I'm going to ask each party  
5 to provide an oral response to each question. It can just be a  
6 no changes response. I have a draft prehearing order that was  
7 provided to my office on Friday, March 4th. Does everyone have  
8 a copy?

9 MR. HORTON: Yes, sir.

10 MR. SUSAC: Yes, sir.

11 COMMISSIONER BRADLEY: We will begin with Section I,  
12 the conduct of the proceedings.

13 MR. MEZA: No changes.

14 MR. HORTON: No changes.

15 COMMISSIONER BRADLEY: Section II, case background.

16 MR. MEZA: No changes.

17 MR. HORTON: No changes.

18 COMMISSIONER BRADLEY: Section III, procedure for  
19 handling confidential information.

20 MR. MEZA: No changes.

21 MR. HORTON: No changes.

22 COMMISSIONER BRADLEY: Section IV, post-hearing  
23 procedures.

24 MR. MEZA: I believe that the parties are jointly  
25 going to ask the prehearing officer for leave to file a brief

1 that does not exceed 50 pages. There are a number of issues in  
2 this proceeding, and we both feel that 40 pages may not be  
3 sufficient.

4 MR. SUSAC: Staff recommends that 50 pages is  
5 appropriate, due to the number of issues and the complexity in  
6 some of the issues.

7 COMMISSIONER BRADLEY: Granted.

8 Section VI, order of witnesses.

9 MR. MEZA: No changes.

10 MR. HORTON: No changes.

11 COMMISSIONER BRADLEY: Section VII, basic positions.

12 MR. MEZA: No changes.

13 MR. HORTON: No changes.

14 COMMISSIONER BRADLEY: Section VIII, issues and  
15 positions. I'm going to go through each of the 114 individual  
16 issues. If anyone has any comments or changes on any of the  
17 issues, go ahead and offer them now.

18 MR. MEZA: Commissioner Bradley, do you want us to  
19 raise them now or after you go through each one?

20 COMMISSIONER BRADLEY: Well, you can -- raise them  
21 now. Let me know what you have. We'll deal with them in  
22 block.

23 MR. MEZA: Yes, sir. BellSouth's comments are in  
24 relation to Joint Petitioners' issues or basic positions as  
25 relates to what we have termed the supplemental issues. They

1 tart on 23.

2 COMMISSIONER BRADLEY: Issue 23?

3 MR. MEZA: Yes, sir. And then pick up in Issue 108.

4 And for all of those supplemental issues, I just want to make  
5 it clear that BellSouth objects to the Joint Petitioners'  
6 statement which is identified as the last sentence of the  
7 italicized paragraph regarding their assertion that there is a  
8 an agreement not to amend their existing agreement. That  
9 dispute is currently at issue in the generic proceeding.

10 I believe it is irrelevant to the arbitration  
11 proceeding, but to the event the Joint Petitioners continue to  
12 assert that alleged agreement, I want to make it clear that  
13 BellSouth does not agree with that statement. The Joint  
14 petitioners apparently added this paragraph subsequent to the  
15 exchange of drafts and the filing of the prehearing statements,  
16 so BellSouth does not have a written response to that in its  
17 issue statement, so I just want to make it clear for the  
18 record.

19 COMMISSIONER BRADLEY: You're recognized.

20 Are there any issues or positions that you have  
21 concerns with?

22 MR. HORTON: No, sir.

23 COMMISSIONER BRADLEY: Okay. Anything else? Thank  
24 you.

25 Section IX, exhibit lists.

1 MR. MEZA: No changes.

2 MR. HORTON: No changes.

3 COMMISSIONER BRADLEY: Section X, proposed  
4 stipulations.

5 MR. MEZA: There are none.

6 MR. HORTON: No, sir.

7 COMMISSIONER BRADLEY: Thank you. Section XI,  
8 pending motions.

9 MR. MEZA: No, sir. I do think procedurally -- I  
10 don't know how we would want to move the supplemental issues to  
11 the generic. I don't know if that requires a motion or not.

12 MR. SUSAC: At this point in time, Commissioner, no  
13 motions have been filed regarding the generic -- moving the  
14 issues into the generic docket. If the parties feel that they  
15 will require that, they can file one subsequent to this order  
16 being issued.

17 MR. HORTON: That's fine with us.

18 COMMISSIONER BRADLEY: Is that agreed?

19 MR. MEZA: Yes, sir.

20 MR. HORTON: Yes, sir.

21 COMMISSIONER BRADLEY: Fine. Section XII, pending  
22 confidentiality matters.

23 MR. MEZA: No changes.

24 MR. HORTON: There are no changes.

25 COMMISSIONER BRADLEY: Section XIII, rulings.

1 MR. MEZA: No changes.

2 MR. HORTON: None.

3 COMMISSIONER BRADLEY: Are there any other matters to  
4 ome before the prehearing officer? If not, this prehearing  
5 onference is adjourned.

6 MR. MEZA: Thank you, sir.

7 MR. HORTON: Thank you.

8 (The prehearing conference concluded at 9:50 a.m.)

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STATE OF FLORIDA )

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CERTIFICATE OF REPORTER

COUNTY OF LEON )

I, JANE FAUROT, RPR, Chief, Office of Hearing Reporter Services, FPSC Division of Commission Clerk and Administrative Services, do hereby certify that the foregoing proceeding was heard at the time and place herein stated.

IT IS FURTHER CERTIFIED that I stenographically reported the said proceedings; that the same has been transcribed under my direct supervision; and that this transcript constitutes a true transcription of my notes of said proceedings.

I FURTHER CERTIFY that I am not a relative, employee, attorney or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorney or counsel connected with the action, nor am I financially interested in the action.

DATED THIS 10th day of March, 2005.



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JANE FAUROT, RPR  
Chief, Office of Hearing Reporter Services  
FPSC Division of Commission Clerk and  
Administrative Services  
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