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2005 DEC 19 PM 3:56  
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December 19, 2005

VIA HAND DELIVERY

Hon Ron Jones, Chairman  
Tennessee Regulatory Authority  
460 James Robertson Parkway  
Nashville, TN 37238

Re: *Joint Petition for Arbitration of NewSouth Communications Corp., et al of an Interconnection Agreement with BellSouth Telecommunications, Inc Pursuant to Section 252(b) of the Communications Act of 1934, as Amended*  
Docket No. 04-00046

Dear Chairman Jones

This is in response to the *Motion to Establish Procedural Schedule* filed on December 13, 2005 by NuVox and Xspedius ("Joint Petitioners"). For the reasons stated below, the Authority should either deny the *Motion* or suspend it and any responsive timeframes associated it until the U.S. District Court ("Federal Court") rules on the Joint Petitioners' appeal and Motion to Dismiss, both of which are still pending

The cover letter accompanying the *Motion* states that the filing is "in compliance with the Joint Petitioners' Motion to Dismiss appeal filed in the U S. District Court"<sup>1</sup> As an initial matter, the U.S. District Court considering the Joint Petitioners' appeal has not approved or otherwise sanctioned the proposed procedure described by the Joint Petitioners. Rather, the Joint Petitioners' representations are nothing more than their description of a unilateral proposed schedule that has not been agreed to by BellSouth or the Authority and has not been approved by the Court. Further, while the Joint Petitioners attempt to leave the impression that the subject filing was authorized by the Court, the Joint Petitioners' conveniently fail to disclose that the Federal Court has not ruled on the Joint Petitioners' Motion to Dismiss their own appeal. Additionally, BellSouth's response to the *Motion to Dismiss* been not yet been addressed by the federal court. Until the Federal Court acts on the Motion to Dismiss, of course, the appeal remains pending. Accordingly, the Authority should not establish any procedural

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<sup>1</sup> *NuVox Communications, Inc , et al v Tennessee Regulatory Authority*, Case No 3 05-CV-742, Middle District of Tennessee

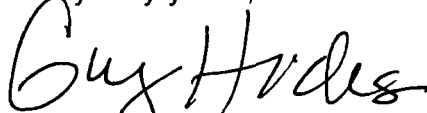
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schedule or take any further action in the docket until the Court has disposed of the Joint Petitioners' appeal.

If the Authority determines that it should proceed with addressing the Joint Petitioners' *Motion to Establish Procedural Schedule* before the Court rules, BellSouth reserves the right to file a detailed response and responsive pleading within thirty days, as proposed by the Joint Petitioners. However, at this juncture, absent a ruling from the Federal Court resolving the Joint Petitioners' appeal, BellSouth submits that the Authority should either deny the *Motion* or suspend it as well as any associated responsive pleadings timeframes

A copy of this letter is being provided to counsel of record.

Very truly yours,



Guy M. Hicks

*with permission*

GMH ch

**CERTIFICATE OF SERVICE**

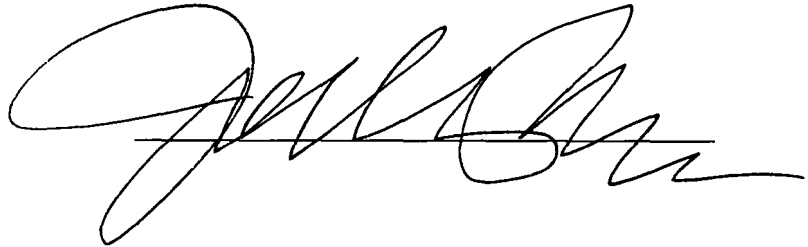
I hereby certify that on December 19, 2005, a copy of the foregoing document was served on the following, via the method indicated:

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A handwritten signature in black ink, appearing to read "John J. Heitmann", written over a horizontal line.