



based telecommunications carrier.<sup>1</sup> TWTC is authorized by the Federal Communications Commission to provide both domestic interstate and international telecommunications services.

Xspedius, through its certificated subsidiaries, provides advanced, integrated telecommunications services targeted to small and medium-sized business customers including local and long distance telephone services in combination with enhanced communication features. Xspedius currently offers competitive local and long distance telecommunications services in twenty states, including Tennessee, and the District of Columbia. Xspedius is a wholly-owned subsidiary of TWTC.<sup>2</sup>

### **THE JOINT APPLICATION**

In their *Joint Application*, the Applicants request approval to transfer the assets, including customer bases, of Xspedius Certificated Subsidiaries to TWT-MS, and to cancel the certificates of public convenience and necessity (“CCNs”) currently held by Xspedius Certificated Subsidiaries in Tennessee.<sup>3</sup> After completion of the transfer, TWTC will remain the ultimate corporate parent and will have only one subsidiary operating in Tennessee, TWT-MS.

Further, the Applicants state that the proposed transaction is not expected to result in any loss or impairment of services to the customers of any of the Applicants. Additionally, the Applicants assert that the proposed transaction is in the public interest because it will simplify the TWTC corporate structure, streamline TWTC’s operations in Tennessee, eliminate administrative redundancy, and improve the company’s overall efficiency. The Applicants

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<sup>1</sup> TWT-MS was certificated by the Tennessee Public Service Commission in Docket No. 93-02980 on August 14, 1995.

<sup>2</sup> In TRA Docket No. 06-00206 (November 15, 2006), the Authority approved a transaction whereby TWTC acquired the membership interests of Xspedius resulting in the conversion of Xspedius to a wholly-owned subsidiary of TWTC.

<sup>3</sup> By letter dated June 14, 2007, the Applicants clarified their requested relief stating that in addition to the assets and customer bases of Xspedius Certificated Subsidiaries, the proposed transfer encompassed the assets and customer base of Xspedius and included cancellation of any CCN held by Xspedius in Tennessee.

predict that the improved efficiency will enhance the company's ability to compete in Tennessee and elsewhere.

In their *Joint Application*, the Applicants maintain that written notice will be provided to the affected customers of Xspedius and Xspedius Certified Subsidiaries in Tennessee on or about July 1, 2007 and that this date will be at least thirty days prior to the transfer. Further, the customer notice will be sent in compliance with the applicable FCC and state requirements for changing a customer's presubscribed carrier. As indicated in their June 11, 2007 Data Response, the Applicants have not yet filed a self-certification letter with the Federal Communications Commission ("FCC") in CC Docket 00-257. However, the Applicants assert that following approval by the Authority they will notify customers and provide certification in accordance with the FCC regulations governing these types of transactions and will provide the Authority with a copy of the FCC filing.<sup>4</sup>

### **FINDINGS AND CONCLUSIONS**

The Applicants request approval of the proposed transaction described in the *Joint Application* pursuant to Tenn. Code Ann. § 65-4-112, Tenn. Code Ann. § 65-4-113 and the TRA Rules. The Authority finds that Tenn. Code Ann. § 65-4-112 is applicable because the transaction involves a transfer between and among Tennessee-certificated public utilities.<sup>5</sup> Tenn. Code Ann. § 65-4-112(a) (2004) states:

No lease of its property, rights, or franchises, by any such public utility, and no merger or consolidation of its property, rights and franchises by any such public utility with the property, rights and franchises of any other such public utility of like character shall be valid until approved by the authority, even though power to take such action has been conferred on such public utility by the state of Tennessee or by any political subdivision of the state.

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<sup>4</sup> *Data Response*, p. 1 (June 11, 2007).

<sup>5</sup> No change in the ultimate ownership of Xspedius Certificated Subsidiaries' customers occurs in the transfer to TWT-MS as both entities are ultimately owned by TWTC.

Regarding the transfer of a customer base, TRA Rule 1220-4-2-.56(2)(d) provides:

- (d) In the case of a transfer of a customer base between two or more telecommunications service providers, the Authority, upon petition by the acquiring telecommunications service provider, may deem that sufficient notice has been given and approval received from the affected customers when the following criteria are met:
1. The acquiring telecommunications service provider shall provide the Authority a copy of the self-certification letter it shall file with the Federal Communications Commission ("FCC"), as required in CC Docket No. 00-257, certifying that the customer transfer is in compliance with all FCC regulations governing such transactions.
  2. A notification letter, pre-approved by the Authority, shall be mailed by the current provider of telecommunications service to its customers describing the customer transfer and explaining that unless the customer selects another telecommunications service provider, the customers' local or long distance service will be transferred to the acquiring telecommunications service provider by a date specified in the notification letter. The notification letter shall be mailed by U.S. First Class Postage, with the logo or name of the current provider displayed on both the letterhead and the exterior envelope, no less than thirty (30) days prior to the actual customer transfer. For good cause shown, the Authority may waive any requirement of this part or order any requirement thereof to be fulfilled by the acquiring provider. Good cause includes, but is not limited to, evidence that the current provider is no longer providing service in Tennessee.
  3. The acquiring telecommunications service provider agrees to pay any fees charged to the customer associated with changing service to the acquiring telecommunications service provider. The notification letter required in 1220-4-2-.56(2)(d)(2) shall inform the customer of this provision.
  4. The acquiring telecommunications service provider agrees to provide to the affected customers a thirty (30) day written notice of any rate increase that may affect their service up to ninety (90) days from the date of the transfer of customers. The notification letter mentioned in 1220-4-2-.56(2)(d)(2) shall inform the customer of this provision.

At the regularly scheduled Authority Conference held on June 25, 2007, the panel voted unanimously to approve the *Joint Application* and made the following findings:

1. The proposed transaction falls within the regulatory powers of the Authority pursuant to Tenn. Code. Ann. § 65-4-112.

2. The customer notification letter filed with the Authority on June 11, 2007 conforms to TRA Rule 1220-4-2-.56(2)(d).

3. Approval of the *Joint Application* shall be contingent upon the Applicants' filing of the FCC self-certification letter as required by TRA Rule 1220-4-2-.56(2)(d)(1).

4. Cancellation of the CCNs of Xspedius and its Certificated Subsidiaries shall be effective upon notice to the Authority that the proposed transaction has been completed and that all customers have been transferred to TWT-MS.

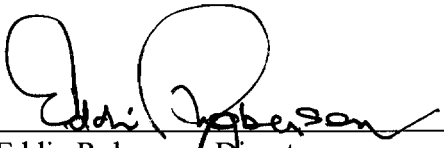
**IT IS THEREFORE ORDERED THAT:**

1. The transfer of assets, including customer base, of Xspedius Management Co. Switched Services, LLC, Xspedius Management Co. of Chattanooga, LLC and Xspedius Communications, LLC to Time Warner Telecom of the Mid-South LLC, as described in the *Joint Application* and herein is approved, contingent upon the filing of the Federal Communications Commission self-certification letter with this Authority.

2. The customer notification letter filed on June 11, 2007 which is to be sent to the affected customers of Xspedius Management Co. Switched Services, LLC, Xspedius Management Co. of Chattanooga, LLC and Xspedius Communications, LLC is approved.

3. The Certificates of Convenience and Necessity of Xspedius Management Co. Switched Services, LLC, Xspedius Management Co. of Chattanooga, LLC and Xspedius Communications, LLC are cancelled effective upon notice to the Authority that the transfer of assets, including all remaining customers, has been completed.

4. The Applicants shall file with the Authority any documentation from the Federal Communications Commission regarding subsequent action on the transfer.



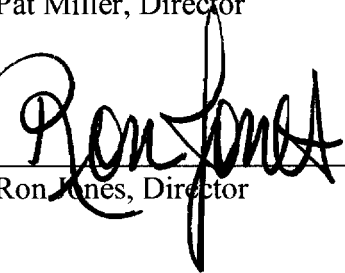
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Eddie Roberson, Director



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Pat Miller, Director



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Ron Jones, Director