

WILLIAM D. STEINMEIER, P.C.

2031 TOWER DRIVE  
JEFFERSON CITY, MISSOURI (MO) 65109

WILLIAM D. STEINMEIER  
ATTORNEY AT LAW  
GOVERNMENTAL CONSULTANT  
(573) 659-8672  
FAX (573) 636-2305

MAILING ADDRESS:  
POST OFFICE BOX 104595  
JEFFERSON CITY, MISSOURI (MO)  
65110-4595

MARY ANN YOUNG  
ATTORNEY AT LAW  
OF COUNSEL  
(573) 634-8109  
FAX (573) 634-8224

July 2, 2002

Mr. Dale Hardy Roberts  
Missouri Public Service Commission  
P.O. Box 360  
Jefferson City, MO 65102

RE: Application of Xspedius Management Co. Switched Services, LLC,  
for a Certificate of Service Authority to Provide Interexchange and  
Local Exchange Telecommunications Services

Dear Mr. Roberts:

Enclosed for filing on behalf of Xspedius Management Co. Switched Services, LLC, please find an original and eight (8) copies of an "APPLICATION FOR CERTIFICATE OF SERVICE AUTHORITY AND FOR COMPETITIVE CLASSIFICATION."


Please see that this filing is brought to the attention of the appropriate Commission personnel. **PLEASE NOTE that this Application is related to three applications filed on June 24, 2002, which are Case Nos. CA-2002-1153, XA-2002-1154 and TM-2002-1155.**

Copies of this filing are being hand-delivered, or sent via postage-prepaid U.S. mail, to the Office of Public Counsel and the Commission's General Counsel's office.

Thank you for your cooperation and assistance in this matter.

Sincerely,

WILLIAM D. STEINMEIER, P.C.

By:   
William D. Steinmeier

Enclosures

**BEFORE THE  
PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI**

In the Matter of the Application of )  
 )  
**Xspedius Management Co. Switched** )  
**Services, LLC** )  
 )  
For Authority to Provide Intrastate Interexchange and )  
Local Exchange Telecommunications Services in the )  
State of Missouri and Competitive Classification )

Case No. \_\_\_\_\_

**APPLICATION FOR CERTIFICATE OF SERVICE AUTHORITY  
AND FOR COMPETITIVE CLASSIFICATION**

Comes now Xspedius Management Co. Switched Services, LLC ("Xspedius Switched" or "Applicant"), by its undersigned attorneys and pursuant to §§ 392.410 and 392.440 *et seq.*, RSMo, and hereby respectfully requests that the Missouri Public Service Commission ("Commission") grant it authority to provide facilities-based and resale intrastate interexchange, and local exchange telecommunications service (namely facilities-based and resale intrastate private line and special access services), throughout the state of Missouri as permitted under the law, and classify its services as competitive. Pursuant to §392.361 and §392.420, RSMo, the Applicant also seeks a waiver of certain of the Commission's requirements for intrastate interexchange and local exchange telecommunications service offerings. In support of its Application, Xspedius Switched states as follows:

## **I. THE APPLICANT**

- The Applicant, Xspedius Management Co. Switched Services, LLC, is a wholly-owned subsidiary of Xspedius Management Co., LLC. Applicant is a limited liability company formed under the laws of Delaware. The Applicant is currently applying for a Certificate of Authority to do business in Missouri from the Missouri Secretary of State's Office. Pursuant to 4 CSR 240-2.060, the Applicant will late-file with the Commission its Certificate of Authority as Exhibit A. The Applicant's principal offices are located at P.O. Box 1116, O'Fallon, MO 63366-1116. The toll-free number for customer service is: 1-877-962-1900.

## **II. DESIGNATED CONTACTS**

All inquiries, correspondence, communications, pleadings, notices, orders and decisions relating to the case should be addressed to:

William D. Steinmeier  
Mary Ann (Garr) Young  
William D. Steinmeier, P.C.  
2031 Tower Drive  
P. O. Box 104595  
Jefferson City, Missouri 65110-4595  
Telephone: (573) 659-8672  
Fax: (573) 636-2305  
Email: wds@wdspsc.com

with a copy to:

Brad Mutschelknaus  
Enrico C. Soriano  
Winafred Brantl  
KELLEY DRYE & WARREN LLP  
1200 19<sup>th</sup> Street, N.W., Fifth Floor  
Washington, D.C. 20036  
(202) 955-9600  
(202) 955-9792 (facsimile)

[bmutschelknaus@kelleydrye.com](mailto:bmutschelknaus@kelleydrye.com)  
[esoriano@kelleydrye.com](mailto:esoriano@kelleydrye.com)  
[WBrantl@kelleydrye.com](mailto:WBrantl@kelleydrye.com)

James C. Falvey  
Senior Vice President – Regulatory Affairs  
7125 Columbia Gateway Drive  
Suite 200  
Columbia, MD 21046

Leon Nowalsky  
Nowalsky, Bronston & Gothard, APPLC  
3500 N. Causeway Blvd., Suite 1442  
Metairie, LA 70002  
Telephone: (504) 832-1984  
Fax: (504) 831-0892  
Email: BHeggelund@nbglaw.com

The corporate contact for consumer issues or customer complaints is:

Chad Pifer, Esq.  
Directory of Regulatory & Legal Affairs  
Xspedius  
901 Lakeshore Drive  
Floor 2  
Lake Charles, LA 70601

**III. DESCRIPTION OF THE APPLICANT'S NETWORK, SERVICES SOUGHT TO BE PROVIDED, AND AUTHORITY REQUESTED**

By this Application, Xspedius Switched seeks authority to operate as an intrastate interexchange carrier providing both facilities-based and resale intrastate interexchange services and provider of facilities-based and resale intrastate private line and special access services. Xspedius Switched seeks Commission authorization to provide these services throughout Missouri. Xspedius Switched will initially provide the following services, which are the same services being provided by ACSI Local Switched Services, Inc., ("e.spire") to its existing customers.

- 1+ long distance

- Audio conference calling
- Post-paid calling card
- Dedicated toll-free service
- Pre-paid calling card service
- Directory assistance
- Special access
- Private line
- Other miscellaneous services

By separate Joint Application filed on June 24, 2002, Xspedius Management Co. Switched Services, LLC ("Xspedius Switched") and Xspedius Management Co. of Kansas City, LLC ("Xspedius Kansas City"), (the "Xspedius Operating Entities"), seek authority of the Commission to transfer virtually all of the assets of American Communications Services of Kansas City, Inc., ("ACSI of Kansas City") and ACSI Local Switched Services, Inc. ("ACSI Local"), collectively known as the "e.spire" Operating Entities, to the Xspedius Operating Entities. Simultaneous applications were filed on June 24 by Xspedius Switched (Applicant herein) for a certificate of service authority to provide competitive basic local telecommunications service (CA-2002-1153) and by Xspedius Kansas City for a certificate of service authority to provide competitive local exchange and interexchange telecommunications services (XA-2002-1154). It has since been determined by Applicant that Xspedius Management Co. Switched Services, LLC will also require interexchange and local exchange authority.

ACSI Local Switched Services, Inc., d/b/a e.spire ("ACSI Local") is a Delaware corporation providing competitive interexchange and local exchange

telecommunications services in Missouri pursuant to authority granted by the Missouri Public Service Commission in its Report and Order issued September 23, 1997 in Case No. TA-98-57. American Communication Services of Kansas City, Inc., d/b/a e.spire ("ACSI of Kansas City") is a Maryland corporation providing basic local exchange and local exchange telecommunications service in Missouri pursuant to authority granted by the Missouri Public Service Commission in its Report and Order issued March 19, 1997 in Case No. TA-96-455.

The Applicant has no plans to construct interexchange facilities at this time, but may undertake such deployment in the future if market conditions or other considerations so dictate. The Applicant will, however, use the existing telecommunications facilities of e.spire in Missouri in the event that this Commission approves Xspedius' acquisition of e.spire's assets pursuant to the application for transfer filed June 24, 2002.

The Applicant intends to offer intrastate interexchange telecommunications services in Missouri in accordance with the terms, conditions, and rates contained in the tariff of ACSI Local Switched Services, Inc., ("e.spire"), which Applicant intends to adopt.

#### **IV. QUALIFICATIONS OF THE APPLICANT**

The Applicant has the requisite managerial, technical, and financial qualifications to operate a viable business and provide the services sought to be provided in Missouri.

## **V. PUBLIC INTEREST**

Xspedius Switched submits that the public interest will be served by Commission approval of this application because Applicant's proposed services will create and enhance competition and expand customer service options consistent with the legislative goals set forth in the federal Telecommunications Act of 1996 and Chapter 392 RSMo. Prompt approval of this application also will expand the availability of innovative, high quality, and reliable telecommunications services within the State of Missouri. Approval of this Application is likewise in the public interest because it will prevent the customers of the e.spire Operating Entities from facing the risk of poor quality of service, interruption or disconnection which might occur as a consequence of e.spire's financial status. Expedited approval of this application will protect the viability of the transaction approved by the Bankruptcy Court on June 5, 2002, ensure a seamless transition from e.spire to Xspedius, and avoid customer confusion or inconvenience. Public interest considerations, therefore, compel that Xspedius' Application be granted.

## **VI. REGULATORY TREATMENT AND WAIVERS**

As a new interexchange entrant, Xspedius Switched requests streamlined regulatory treatment afforded similarly situated telecommunications carriers in Missouri. Likewise, to the extent the Commission has granted other interexchange carriers a waiver of certain of the Commission's rules and regulations, Xspedius Switched respectfully requests that it be granted the same waivers.

Consistent with the Commission's treatment of other certificated telecommunications companies, Xspedius Switched respectfully requests that, pursuant

to §392.361.5 and §392.420, RSMo, the following statutes and regulations be waived with respect to its interexchange, local exchange and special access service offerings:

**STATUTES**

§ 392.210.2	--	Uniform System of Accounts
§ 392.240(1)	--	Just and Reasonable Rates
§ 392.270	--	Ascertain Property Value
§ 392.280	--	Depreciation Accounts
§ 392.290	--	Issuance of Securities
§ 392.300.2	--	Acquisition of Stock
§ 392.310	--	Issuance of Stock and Debt
§ 392.320	--	Stock Dividend Payment
§ 392.330	--	Issuance of Securities, Debts and Notes
§ 392.340	--	Reorganization

**RULES**

4 CSR 240-10.020	--	Depreciation Fund Income
4 CSR 240-30.010(2)(C)	--	Posting of Rate Schedules at Central Office
4 CSR 240-30.040	--	Uniform System of Accounts
4 CSR 240-33.030	--	Inform Customers of Lowest Price
4 CSR 240-35	--	Bypass Reports

Xspedius Switched will comply fully with all applicable Commission rules except those that are specifically waived by the Commission pursuant to the Company's request herein. To the extent that the Commission may modify its waiver policies, Xspedius Switched respectfully reserves the right to amend its waiver requests accordingly.

Xspedius Switched has no pending or final judgments or decisions against it or its affiliates from any state or federal agency or court that involve customer services or rates. No annual report or assessment fees are overdue.



**VII. CLASSIFICATION**

Xspedius Switched requests classification as a competitive telecommunications company within the State of Missouri. The Company believes that the highly developed state of the local exchange and interexchange telecommunications services market in Missouri and nationwide ensures that its proposed services will be subject to sufficient competition to warrant a less rigorous degree of regulation.

**VIII. CONCLUSION**

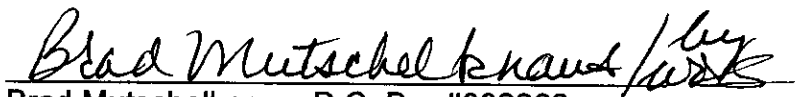
Xspedius Switched seeks authorization to provide intrastate interexchange telecommunications services and local exchange (private line) and special access services in Missouri. Xspedius Switched possesses the requisite managerial, technical, and financial qualifications to operate a telecommunications business in Missouri, as shown in this Application. Moreover, public interest considerations demonstrate that a grant of authority to Xspedius Switched will serve the public interest.

**WHEREFORE**, Xspedius Management Co. Switched Services, LLC respectfully requests that the Commission grant the instant Application.

Respectfully submitted,



William D. Steinmeier      Mo. Bar #25689  
Mary Ann (Garr) Young      Mo. Bar # 27951  
WILLIAM D. STEINMEIER, P.C.  
2031 Tower Drive  
P.O. Box 104595  
Jefferson City, MO 65110-4595  
Tel.: (573) 659-8672  
Fax: (573) 636-2305  
E-mail: [wds@wdspsc.com](mailto:wds@wdspsc.com)



Brad Mutschelknaus      D.C. Bar #332262  
Enrico C. Soriano      D.C. Bar #451810  
Winafred Brantl      VA Bar #46683  
KELLEY DRYE & WARREN LLP  
1200 19<sup>th</sup> Street, N.W., Fifth Floor  
Washington, D.C. 20036  
(202) 955-9600  
(202) 955-9792 (facsimile)  
[bmutschelknaus@kelleydrye.com](mailto:bmutschelknaus@kelleydrye.com)  
[esoriano@kelleydrye.com](mailto:esoriano@kelleydrye.com)  
[WBrantl@kelleydrye.com](mailto:WBrantl@kelleydrye.com)

COUNSEL FOR XSPEDIUS MANAGEMENT  
CO. SWITCHED SERVICES, LLC

Dated: July 2, 2002

Certificate of Service

I hereby certify that a copy of this document has been hand delivered or mailed by first class mail, postage prepaid, to the Office of the General Counsel of the Missouri Public Service Commission, and to the Office of Public Counsel, on this 2<sup>nd</sup> day of July 2002.

  
William D. Steinmeier

**EXHIBIT A**

**Secretary of State Certificate**

**To be late-filed**

**Verification**

**To be late-filed**