

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

In the Matter of the Application of)
Xspedius Management Co. of Kansas)
City, LLC for a Certificate of Service)
Authority to Provide Basic Local)
Telecommunications Services in Portions)
of the State of Missouri and to Classify)
Said Services and the Company as)
Competitive.)

Case No. CA-2007-0473
Tariff No. YC-2007-0961

STAFF’S RESPONSE TO ORDER DIRECTING FILING

COMES NOW the Staff of the Missouri Public Service Commission (Staff) and in response to the Commission’s *Order Directing Filing*, states:

1. Xspedius Management Co. of Kansas City, LLC and Xspedius Management Co. Switched Services, LLC have filed a joint application for approval of a merger between the two companies, with Xspedius Management Co. Kansas City, LLC as the survivor, in Case No. TM-2007-0472. In conjunction with that case, Xspedius Management Co. Kansas City, LLC has filed the present case to obtain a certificate of service authority to provide basic local telecommunications services so that “Xspedius KC, as the surviving entity following the merger, [may] have the certificate of service authority to be able to assume and provide all basic local exchange services currently provided by its affiliated company, Xspedius Switched Services, under the latter’s existing basic local exchange certificate of service authority”.¹ Staff provides its response to Xspedius Management Co. Kansas City, LLC’s *Application for Waiver* as directed by the Commission in its *Order Directing Filing* of June 29, 2007, below.

¹ *Application* at 2, introductory paragraph.

2. The Commission has directed its Staff to respond to Xspedius Management Co. of Kansas City, LLC's *Application for Waiver* of certain paragraphs in the Commission's rule at 4 CSR 240-3.510(1)(D)1 pertaining to filing financial data and information and pro forma statements and information. Staff has reviewed the *Application for Waiver* filed by the Applicant, seeking waiver of the Commission's rule. Staff has no objection to a grant of the Applicant's waiver request, as the Applicant has provided a number of reasons that constitute good cause for a waiver under 4 CSR 240-2.060(4) of the Commission's rules. Specifically, the company has stated, among other points (see *Application for Waiver*, paras. 5-17):

- These are not start-up companies and have been operating already for a number of years;
- In light of the companies' established history, they are unlikely to cease providing service unexpectedly in the near future;
- Time Warner Telecom, Inc. backs them and it is a large, well-known company;
- The company has provided its 10-K;
- The public will be protected from an undercapitalized CLEC even if Staff does not review their financials because the company has a proven track record and well-maintained financial records; and
- The company does not compile financials on an operating company, state-specific basis.

Staff notes that the factual situation in this case is unusual and that Staff's lack of objection to a waiver in this case, and a grant of the waiver request by the Commission, are based upon the fact-specific scenario presented by the Applicant in this case.

3. Staff's recommendation regarding the waiver request, along with the balance of its recommendation, will be filed in a subsequent filing in this matter.

WHEREFORE, Staff requests that the Commission accept this response.

Respectfully submitted,

/s/ David A. Meyer

David A. Meyer
Senior Counsel
Missouri Bar No. 46620

Attorney for the Staff of the
Missouri Public Service Commission
P.O. Box 360
Jefferson City, MO 65102
(573) 751-8706 (Telephone)
(573) 751-9285 (Fax)
david.meyer@psc.mo.gov

Certificate of Service

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile or e-mailed to all counsel of record this 10th day of July 2007.

/s/ David A. Meyer