

MOYLE, FLANIGAN, KATZ, RAYMOND, WHITE & KRASKER, P.A.
ATTORNEYS AT LAW

The Perkins House
118 North Gadsden Street
Tallahassee, Florida 32301

Telephone: (850) 681-3828
Facsimile: (850) 681-8788

Wellington Office
(561) 227-1560
West Palm Beach Office
(561) 659-7500

Vicki Gordon Kaufman
E-mail: vkaufman@moylslaw.com

November 8, 2006
Via Electronic and US Mail

Ms. Blanca Bayo, Director
Commission Clerk and Administrative Services
Room 110, Easley Building
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399

Re: Docket No. 040130-TP

Dear Ms. Bayo:

Enclosed are the Instructions to the Clerk filed in *NuVox Communications, Inc., et al. v. Lisa Polak Edgar, et al.*, Case No. 4:06-cv-00308-SPM-WCS.

Please acknowledge receipt of this letter by stamping the extra enclosed copy and returning it to me. Thank you for your assistance. Please contact me if you have any questions.

Sincerely,

s/ Vicki Gordon Kaufman

Vicki Gordon Kaufman

VGK/pg
Enclosure

cc: Parties of Record

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF FLORIDA
TALLAHASSEE DIVISION**

NUVOX COMMUNICATIONS, INC., <i>et al.</i> ,)	
)	
Plaintiffs,)	Case No. No. 4:06-cv-00308-SPM-WCS
)	
v.)	
)	
LISA POLAK EDGAR, <i>et al.</i> ,)	
)	
Defendants.)	

INSTRUCTIONS TO CLERK

Plaintiffs, NuVox Communications, Inc. and Xspedius Communications Corp., on behalf of itself and its operating subsidiaries, in accordance with the Joint Rule 26(f) Report filed by the parties on October 19, 2006, hereby submit these Instructions to the Clerk of the Florida Public Service Commission to request that the relevant portions of the record in the proceedings below be forwarded to this Court.

The docket in the proceedings below regards several issues and disputes that are not before the Court in this appeal. Thus, in order not to burden the record, Plaintiffs request that the Clerk limit the record to the documents identified herein.

I. DOCKET NO. 040130-TP

<u>PSC DOCUMENT NO.</u>	<u>DESCRIPTION</u>
01989-04	Petition for Arbitration with BellSouth of NewSouth Communs. Corp., <i>et al.</i>
03296-04	BellSouth Answer to Petition for Arbitration
03911-04	NewSouth, <i>et al.</i> Notice of Filing (Procedural Ruling Issued by Alabama Public Service

<u>PSC DOCUMENT NO.</u>	<u>DESCRIPTION</u>
	Commission)
04566-04	NewSouth, <i>et al.</i> Issues/Open Items Matrix
05244-04	BellSouth Withdrawal of Motion to Sever
07867-04	NewSouth, <i>et al.</i> and BellSouth Motion to Hold Proceeding in Abeyance
09064-04	Order No. PSC-04-0807-PCO-TP Granting in Part Motion to Hold Proceeding in Abeyance
11141-04	NewSouth, <i>et al.</i> and BellSouth Joint Open Issues Matrix
12866-04	NewSouth, <i>et al.</i> Brief in Support of Including Issues 113(B) and 114(B) in Arbitration
12870-04	BellSouth Brief in Opposition to Including Issues 113(B) and 114(B) in Arbitration
00103-05	Order Granting Petitioners' Request to Include Issues 113(B) and 114(B) in Arbitration
00331-05	Direct Testimony of Kathy Blake with exhibits (BellSouth)
00332-05	Direct Testimony of P.I. (Scot) Ferguson with exhibits (BellSouth)
00334-05	Direct Testimony of Eddie L. Owens (BellSouth)
00349-05	Testimony of James Falvey with exhibits (Xspedius)
00350-05	Testimony of Marva Brown Johnson with exhibits (KMC)
00351-05	Testimony of Hamilton Russell with exhibits (NuVox)
00638-05	Order No. PSC-04-0488-PCO-TP
01381-05	Rebuttal Testimony of Eddie L. Owens (BellSouth)

<u>PSC DOCUMENT NO.</u>	<u>DESCRIPTION</u>
01384-05	Rebuttal Testimony of Kathy Blake and Exh. KKB-2 (BellSouth)
01727-05	Exh. ELO-1 to Rebuttal Testimony of Eddie L. Owens (BellSouth)
01744-05	PSC Staff Prehearing Statement
01795-05	Petitioners' Letter Claiming Confidentiality
01796-05	Petitioners' filing of Confidential Information (Excerpt of Russell Deposition) [CONFIDENTIAL]
01842-05	BellSouth Prehearing Statement
01860-05	Petitioners' Prehearing Statement
02403-05	Transcript of Prehearing Conference held March 7, 2005
02978-05	Prehearing Order
02952-05	BellSouth Motion to Move Issues to Generic Proceeding
03238-05	Petitioners' Response to BellSouth Motion to Move Issues to Generic Proceeding
03290-05	BellSouth Request for Specified Confidential Classification and Attachment A
03291-05	BellSouth Attachment C and Second Supplemental Responses to Staff's Third Set of Discovery
03292-05	BellSouth Attachment B (redacted)
03989-05	BellSouth letter with attached hearing exhibits
03958-05	BellSouth Notice of Intent to Request Specified Confidential Classification
04025-05	Petitioners' Letter Claiming Confidentiality
04026-05	Petitioners' Confidential Attachment A and portions of consolidated stipulated exhibits

<u>PSC DOCUMENT NO.</u>	<u>DESCRIPTION</u>
	[CONFIDENTIAL]
04035-05	Order Granting in Part and Denying in Part BellSouth's Motion to Move Issues to Generic Proceeding
04038-05	Order Granting BellSouth's Request for Confidential Classification
04073-05	BellSouth responses to discovery in North Carolina arbitration docket [CONFIDENTIAL]
04075-05	BellSouth responses to discovery in North Carolina arbitration docket [CONFIDENTIAL]
04077-05	BellSouth responses to discovery in Alabama PSC arbitration docket [CONFIDENTIAL]
04079-05	Deposition Transcript of Eddie L. Owens (BellSouth)
04080-05	Deposition Transcript of Scot Ferguson (BellSouth)
04248-05	Confidential Hearing Exhibit No. 3 [CONFIDENTIAL]
04249-05	Confidential Hearing Exhibit No. 5 [CONFIDENTIAL]
04446-05	Hearing Exhibit No. 33
04630-05	Hearing Transcript Volume I
04631-05	Hearing Transcript Volume II
04632-05	Hearing Transcript Volume III
04633-05	Hearing Transcript Volume IV
04634-05	Hearing Transcript Volume V
04635-05	Hearing Transcript Volume VI
04636-05	Hearing Transcript Volume VII

<u>PSC DOCUMENT NO.</u>	<u>DESCRIPTION</u>
04637-05	Hearing Transcript Volume VIII
05021-05	BellSouth responses to Staff's 4 th Set of Interrogatories
05022-05	Redacted version of DN 05021-05
05115-05	Email from CCA/ Lockard stating that DN 04446-05 is not confidential
05180-05	KMC Notice of Withdrawal With Prejudice
05216-05	Email from CCA/Lockard stating that DNs 04079-05, 04080-05, and 04081-05 should be declassified
05563-05	BellSouth Post-Hearing Brief (with all exhibits)
05565-05	Petitioners' Post-Hearing Brief
05566-05	Petitioners' Letter Claiming Confidentiality
05567-05	Petitioners' Confidential Attachments 3 and 6 to Post-Hearing Brief
05620-05	BellSouth Unopposed Motion for Leave to File Revised Post-Hearing Brief, with attached Revised Post-Hearing Brief
05744-05	Order PSC 05-0654-PCO-TP Granting BellSouth Unopposed Motion for Leave to File Revised Post-Hearing Brief
06345-05	BellSouth Letter Advising that Parties Have Settled Issues 2 and 104
06556-05	Order PSC-05-0742-PCO-TP Acknowledging KMC Motion to Withdraw
06952-05	Staff's Recommendation
07444-05	PSC Vote Sheet for August 2, 2005 — deferred
08295-05	PSC Vote Sheet

<u>PSC DOCUMENT NO.</u>	<u>DESCRIPTION</u>
08468-05	Memo from Marsh to Susac recommending that DNs 04804-05, 01796-05, 04026-05, and 04249-05 be given confidential treatment
08469-05	Memo from Marsh to Susac recommending that DNs 04073-05, 04075-05, and 04077-05 be given confidential treatment
08509-05	Order PSC-05-0896-CFO-TP Granting BellSouth Request for Confidential Classification
08735-05	Transcript of PSC Agenda Meeting on August 30, 2005
09511-05	Order PSC-05-0950-CFO-TP Granting BellSouth Request for Confidential Classification
09747-05	Order PSC-05-0975-FOF-TP Resolving Arbitration Issues (and ordering parties to file signed agreements)
10194-05	Order PSC-05-1026-CFO-TP granting Petitioners' Request for Confidential Treatment
10757-05	Joint Motion for Extension of Time to File Executed Agreements
10897-05	Order PSC-05-1136-PCO-TP Granting Joint Motion for Extension of Time to File Executed Agreements
11551-05	Joint Motion for Extension of Time to File Executed Agreements
11823-05	Order PSC-05-1247-PCO-TP Joint Motion for Extension of Time to File Executed Agreements
03569-06	BellSouth Letter attaching Executed Agreements
03572-05	Signed Agreement with NuVox
03573-05	Signed Agreement with Xspedius

<u>PSC DOCUMENT NO.</u>	<u>DESCRIPTION</u>
03955-06	Staff Recommendation to Approve Agreements
04309-06	Vote Sheet from May 16, 2006, to Approve Agreements
04805-06	Order PSC-06-0477-FOF-TP Approving Final Interconnection Agreements
06173-06	Memo regarding treatment of materials designated confidential
06299-06	Copy of Complaint for Declaratory Relief

II. EXHIBITS 2 and 4 IN DOCKET NO. 040130-TP

NuVox and Xspedius also request that every item listed under Exhibits 2 and 4 on the attached Comprehensive Exhibit List be copied and forwarded to the district court.

Dated: November 8, 2006

Respectfully submitted,

s/Vicki Gordon Kaufman
Vicki Gordon Kaufman
Florida Bar No. 286672
Moyle, Flanigan, Katz, Raymond,
White & Krasker, P.A.
118 N. Gadsden Street
Tallahassee FL 32301
Phone: 850-681-3828
Fax: 850-681-8788

John J. Heitmann, Esq. *
Stephanie A. Joyce, Esq.
Kelley Drye & Warren LLP
3050 K Street, N.W., Suite 400
Washington, D.C. 20007
Phone: 202-342-8582
Fax: 202-342-8451

Counsel for Plaintiffs

**Admission pending*

CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that a true and correct copy of the foregoing document will be furnished by the Court via the CM/ECF system on this 8th day of November, 2006, to:

Richard Bellak
Florida Public Service Commission
Division of Legal Services
2540 Shumard Oak Boulevard
Tallahassee FL 32399-0850
rbellak@psc.state.fl.us

Susan L. Clark
Harry O. Thomas
Radey, Thomas, Yon & Clark, P.A.
P.O. Box 10967
Tallahassee, FL 32302
sclark@radeylaw.com
hthomas@radeylaw.com

Sean A. Lev
Kellogg, Huber, Hansen, Todd, Evans & Figel, P.L.L.C.
1615 M Street, NW, Suite 400
Washington, D.C. 20036
slev@khhte.com

s/Vicki Gordon Kaufman
Vicki Gordon Kaufman