

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Request for approval of interconnection  
agreement between **Sprint-Florida,**  
Incorporated, KMC Telecom III LLC, KMC  
Telecom V, Inc. and KMC Data LLC.

DOCKET NO. 031047-TP  
ORDER NO. PSC-05-0580-FOF-TP  
ISSUED: May 25, 2005

The following Commissioners participated in the disposition of this matter:

J. TERRY DEASON  
RUDOLPH "RUDY" BRADLEY  
CHARLES M. DAVIDSON

ORDER ACKNOWLEDGING VOLUNTARY DISMISSAL

BY THE COMMISSION:

**Case Background**

On November 12, 2003, KMC Telecom III LLC, KMC Telecom V, Inc., and KMC Data LLC (KMC) filed a Petition for Arbitration of Interconnection Agreement with Sprint Communications Company Limited Partnership and Sprint-Florida, Incorporated (Sprint). On November 18, 2003, Sprint filed its Response to Petition for Arbitration. On June 1, 2004, Order No. PSC-04-0563-PCO-TP was issued, setting the matter for hearing and establishing the procedures to be followed in preparation for said hearing.

On February 25, 2005, the parties filed their Joint Motion for Abeyance, accompanied by a Settlement Agreement, properly executed by the parties. The parties announced that they had reached a settlement on all issues which are a part of this Docket. On April 25, 2005, KMC filed a Notice of Voluntary Dismissal of its Complaint with prejudice.

The law is clear that the plaintiff's right to take a voluntary dismissal is absolute. Fears v. Lunsford, 314 So.2d 578, 579 ( Fla. 1975). It is also established civil law that once a timely voluntary dismissal is taken, the trial court loses its jurisdiction to act. Randle-Eastern Ambulance Service, Inc. v. Vasta, 360 So.2d 68, 69 (Fla. 1978).

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that KMC's Voluntary Dismissal of Complaint is hereby acknowledged. It is further

ORDERED that any pending motions are rendered moot, and all confidential materials filed in this Docket shall be returned to the filing party. It is further

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FPSC-COMMISSION CLERK

ORDERED that this Docket shall remain open pending our staff's approval of the submitted Agreement. Thereafter, the Docket shall be closed administratively.

By ORDER of the Florida Public Service Commission this 25th day of May, 2005.

  
BLANCA S. BAYO, Director  
Division of the Commission Clerk  
and Administrative Services

( S E A L )

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Any party adversely affected by the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or 2) judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or the First District Court of Appeal in the case of a water and/or wastewater utility by filing a notice of appeal with the Director, Division of the Commission Clerk and Administrative Services and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.