

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Complaint against KMC Telecom III LLC, KMC Telecom V, Inc., and KMC Data LLC for alleged failure to pay intrastate access charges pursuant to its interconnection agreement and Sprint's tariffs and for alleged violation of Section 364.16(3)(a), F.S., by Sprint-Florida, Incorporated.

DOCKET NO. 041144-TP
ORDER NO. PSC-06-0417-AS-TP
ISSUED: May 18, 2006

The following Commissioners participated in the disposition of this matter:

LISA POLAK EDGAR, Chairman
J. TERRY DEASON
ISILIO ARRIAGA
MATTHEW M. CARTER II
KATRINA J. TEW

ORDER ACKNOWLEDGING SETTLEMENT

BY THE COMMISSION:

On September 24, 2004, Sprint-Florida, Incorporated (Sprint) filed its complaint against KMC Telecom III LLC, KMC Telecom V, Inc. and KMC Data LLC (collectively KMC), alleging that KMC knowingly terminated intrastate interexchange traffic over local interconnection arrangements, in violation of Section 364.16(3)(a), Florida Statutes, to avoid paying Sprint access charges. Sprint also asserted that this misrouting of access traffic has resulted in an overpayment of reciprocal compensation to KMC for local minutes terminated to KMC by Sprint.

The hearing in this matter was conducted on July 12, 2005, and on December 19, 2005, we issued our Order on Sprint's Complaint, Order No. PSC-05-1234-FOF-TP. On January 3, 2006, KMC filed its Motion for Reconsideration of Order No. PSC-05-1234-FOF-TP, and Request for Oral Argument, and on January 13, 2006, Sprint filed its Response to KMC's Motion, and Sprint's Cross-Motion for Reconsideration. KMC did not file a response to Sprint's Cross-Motion for Reconsideration.

On April 21, 2006, the parties filed their Joint Notice of Settlement With Prejudice, advising this Commission that the parties had resolved all the issues between them which had constituted the basis of this docket and requesting that we acknowledge that settlement and close this docket.

DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

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).

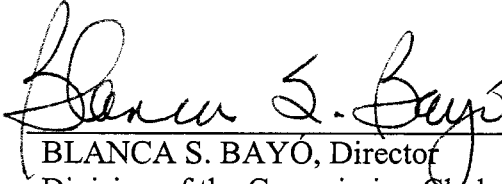
Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the parties' Joint Notice of Settlement With Prejudice 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

ORDERED that this Docket shall be closed.

By ORDER of the Florida Public Service Commission this 18th day of May, 2006.



BLANCA S. BAYÓ, 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,

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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.