

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Request for arbitration concerning complaint of KMC Telecom Inc. and KMC Telecom II, Inc. against BellSouth Telecommunications, Inc. regarding breach of interconnection agreement, and request for expedited relief.

DOCKET NO. 991619-TP
ORDER NO. PSC-00-0780-FOF-TP
ISSUED: April 21, 2000

The following Commissioners participated in the disposition of this matter:

JOE GARCIA, Chairman
J. TERRY DEASON
SUSAN F. CLARK
E. LEON JACOBS, JR.
LILA A. JABER

ORDER ACKNOWLEDGING NOTICE OF WITHDRAWAL

BY THE COMMISSION:

BACKGROUND

On October 18, 1999, KMC Telecom, Inc. (KMCI) and KMC Telecom II, Inc. (KMCII) (collectively, KMC) filed a Petition with the Commission alleging breach of the Interconnection Agreement and requesting expedited relief against BellSouth Telecommunications, Inc. (BST). BST is certificated in Florida as a local exchange company. KMCI and KMCII are certified in Florida as alternative local exchange companies. On February 24, 1997, KMCI and BST entered into an agreement for BST to provide interconnection services to KMCI. On February 23, 1998, KMCII opted into the same agreement with BST. On August 30, 1999, pursuant to the requirements of the Agreement, KMC notified BST by letter of several complaints alleging that BST had breached the Interconnection Agreement. The parties had been unable to resolve these complaints. Pursuant to Order No. PSC-00-0310-PCO-TP, this matter had been scheduled for administrative hearing on May 12,

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2000. On February 14, 2000, KMC filed a Motion to Include Issues. BST filed its response to KMC's motion on February 21, 2000.

On March 2, 2000, KMC filed a Notice of Withdrawal of Complaint of KMC Telecom Inc. and KMC Telecom II Against BellSouth Telecommunications, Inc. for Breach of Interconnection Agreement and Request for Expedited Relief. In its notice, KMC stated that it was withdrawing the complaint filed in this docket on October 18, 1999. The prehearing and hearing dates were canceled by the Prehearing Officer and the Chairman's Office.

ACKNOWLEDGMENT OF NOTICE OF WITHDRAWAL

As stated previously, on March 2, 2000, KMC filed its Notice of Withdrawal of Complaint of KMC Telecom Inc. and KMC Telecom II Against BellSouth Telecommunications, Inc. for Breach of Interconnection Agreement and Request for Expedited Relief. In its Notice of Withdrawal, KMC simply states that it is withdrawing its Complaint filed in this docket on October 18, 1999. KMC's Notice of Withdrawal does not indicate the basis for the withdrawal. We find that the outstanding Motion to Include Issues filed by KMC is rendered moot due to the withdrawal of the Complaint.

Therefore, we acknowledge KMC's withdrawal of its Complaint. We find that no further action is necessary on KMC's Motion to Include Issues because the issues raised in the motion are moot due to KMC's withdrawal of its Complaint. Therefore, this docket may be closed.


Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the Notice of Withdrawal of Complaint of KMC Telecom Inc. and KMC Telecom II Against BellSouth Telecommunications, Inc. for Breach of Interconnection Agreement and Request for Expedited Relief is hereby acknowledged. It is further

ORDERED that this docket is closed.

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By ORDER of the Florida Public Service Commission this 21st
day of April, 2000.



BLANCA S. BAYÓ, Director
Division of Records and Reporting

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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 Records and Reporting, 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 Records and reporting 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.