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RECORDS
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March 30, 2001

VIA HAND DELIVERY

Blanca S. Bayo, Director
Division of Records and Reporting
Betty Easley Conference Center
4075 Esplanade Way
Tallahassee, Florida 32399-0870

Re: Docket No.: 000121-TP

Dear Ms. Bayo:

On behalf of KMC Telecom, enclosed for filing and distribution are the original, a disk and 15 copies of the following:

- ▶ KMC Telecom's Prehearing Statement.

Please acknowledge receipt of the above on the extra copy of each and return the stamped copies to me. Thank you for your assistance.

Sincerely,

Vicki Gordon Kaufman
Vicki Gordon Kaufman

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FPSC-RECORDS/REPORTING

**BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION**

In re: Investigation into the Establishment of
Operations Support Systems Permanent
Performance Measures for Incumbent Local
Exchange Telecommunications Companies

Docket No.: 000121-TP
Filed: March 30, 2001

KMC TELECOM'S PREHEARING STATEMENT

KMC Telecom (KMC), pursuant to Order No. PSC-01-0242-PCO-TP, hereby files its Prehearing Statement.

A. APPEARANCES:

VICKI GORDON KAUFMAN, McWhirter, Reeves, McGlothlin, Davidson, Decker, Kaufman, Arnold & Steen, P.A., 117 South Gadsden Street, Tallahassee, Florida 32301.

On behalf of KMC Telecom

B. WITNESSES:

None.

C. EXHIBITS:

None.

D. STATEMENT OF BASIC POSITION:

KMC: KMC adopts the position of the ALEC Coalition.

E. STATEMENT OF ISSUES AND POSITION:

A. How should the results of KPMG's review of BellSouth performance measures be incorporated into this proceeding?

KMC: KMC adopts the position of the ALEC Coalition.

1. **ISSUE:** a. What are the appropriate service quality measures to be reported by BellSouth?

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FPSC-RECORDS/REPORTING

- b. What are the appropriate business rules, exclusions, calculations, and levels of disaggregation and performance standards for each?

KMC: KMC adopts the position of the ALEC Coalition.

- 2. **ISSUE:**
 - a. What are the appropriate Enforcement Measures to be reported by BellSouth for Tier 1 and Tier 2?
 - b. What are the appropriate levels of disaggregation for compliance reporting?

KMC: KMC adopts the position of the ALEC Coalition.

- 3. **ISSUE:**
 - a. What performance data and reports should be made available by BellSouth to ALECs?
 - b. Where, when, and in what format should BellSouth performance data and reports be made available?

KMC: KMC adopts the position of the ALEC Coalition.

- 4. **ISSUE:**
 - a. Does the Commission have the legal authority to order implementation of a self-executing remedy plan?
 - b. With BellSouth's consent?
 - c. Without BellSouth's consent?

KMC: KMC adopts the position of the ALEC Coalition.

- 5. **ISSUE:**
 - a. Should BellSouth be penalized when BellSouth fails to post the performance data and reports to the Web site by the due date?
 - b. If so, how should the penalty amount be determined, and when should BellSouth be required to pay the penalty?

KMC: KMC adopts the position of the ALEC Coalition.

- 6. **ISSUE:**
 - a. Should BellSouth be penalized if performance data and reports published on the BellSouth Web site are incomplete or inaccurate?
 - b. If so, how should the penalty amount be determined, and when should BellSouth be required to pay the penalty?

- KMC:** KMC adopts the position of the ALEC Coalition.
7. **ISSUE:** What review process, if any, should be instituted to consider revisions to the Performance Assessment Plan that is adopted by this Commission?
- KMC:** KMC adopts the position of the ALEC Coalition.
8. **ISSUE:** When should the Performance Assessment Plan become effective?
- KMC:** KMC adopts the position of the ALEC Coalition.
9. **ISSUE:** What are the appropriate Enforcement Measurement Benchmarks and Analogs?
- KMC:** KMC adopts the position of the ALEC Coalition.
10. **ISSUE:** Under what circumstances, if any, should BellSouth be required to perform a root cause analysis?
- KMC:** KMC adopts the position of the ALEC Coalition.
11. **ISSUE:**
- a. What is the appropriate methodology that should be employed to determine if BellSouth is providing compliant performance to an individual ALEC? (Tier 1)
 - b. How should parity be defined for purposes of the Performance Assessment Plan?
 - c. What is the appropriate structure?
 1. What is the appropriate statistical methodology?
 2. What is the appropriate parameter delta, if any?
 3. What is the appropriate remedy calculation?
 4. What is the appropriate benchmark table for small sample sizes?
 5. Should there be a floor on the balancing critical value?
- KMC:** KMC adopts the position of the ALEC Coalition.

12. **ISSUE:**
- a. What is the appropriate methodology that should be employed to determine if BellSouth is providing complaint performance on a statewide ALEC-aggregate basis? (Tier 2)
 - b. How should parity be defined for purposes of the Performance Assessment Plan?
 - c. What is the appropriate structure?
 - 1. What is the appropriate statistical methodology?
 - 2. What is the appropriate parameter delta, if any?
 - 3. What is the appropriate remedy calculation?
 - 4. What is the appropriate benchmark table for small sample sizes?
 - 5. Should there be a floor on the balancing critical value?

KMC: KMC adopts the position of the ALEC Coalition.

13. **ISSUE:** When should BellSouth be required to make payments for Tier 1 and Tier 2 noncompliance, and what should be the method of payment?

KMC: KMC adopts the position of the ALEC Coalition.

14. **ISSUE:**
- a. Should BellSouth be required to pay interest if BellSouth is late in paying an ALEC the required amount for Tier 1?
 - b. If so, how should the interest be determined?

KMC: KMC adopts the position of the ALEC Coalition.

15. **ISSUE:** Should BellSouth be fined for late payment of penalties under Tier 2? If so, how?

KMC: KMC adopts the position of the ALEC Coalition.

16. **ISSUE:** What is the appropriate process for handling Tier 1 disputes regarding penalties paid to an ALEC?

KMC: KMC adopts the position of the ALEC Coalition.

17. **ISSUE:** What is the appropriate mechanism for ensuring that all penalties under Tier 1 and Tier 2 Enforcement Mechanisms have been paid and accounted for?
- KMC:** KMC adopts the position of the ALEC Coalition.
18. **ISSUE:** What limitation of liability, if any, should be applicable to BellSouth?
- KMC:** KMC adopts the position of the ALEC Coalition.
19. **ISSUE:**
- a. What type of cap, if any, is appropriate for inclusion in the Performance Assessment Plan?
 - b. What is the appropriate dollar value of a cap if applicable?
- KMC:** KMC adopts the position of the ALEC Coalition.
20. **ISSUE:** What process, if any, should be used to determine whether penalties in the excess of the cap should be required?
- KMC:** KMC adopts the position of the ALEC Coalition.
21. **ISSUE:** If there is a cap, for what period should the cap apply?
- KMC:** KMC adopts the position of the ALEC Coalition.
22. **ISSUE:** Should the Performance Assessment Plan include a Market Penetration Adjustment, and if so how should such an adjustment be structured?
- KMC:** KMC adopts the position of the ALEC Coalition.
23. **ISSUE:** Should the Performance Assessment Plan include a Competitive Entry Volume Adjustment, and if so how should such an adjustment be structured?
- KMC:** KMC adopts the position of the ALEC Coalition.
24. **ISSUE:**
- a. Should periodic third-party audits of Performance Assessment Plan data and reports be required?

- b. If so, how often should audits be conducted, and how should the audit scope be determined?

KMC: KMC adopts the position of the ALEC Coalition.

25. **ISSUE:** If periodic third-party audits are required, who should be required to pay the cost of the audits?

KMC: KMC adopts the position of the ALEC Coalition.

26. **ISSUE:** Who should select the third-party auditor if a third-party audit is required?

KMC: KMC adopts the position of the ALEC Coalition.

27. **ISSUE:**
- a. Should an ALEC have the right to audit or request a review by BellSouth for one or more selected measures when it has reason to believe the data collected for a measure is flawed or the report criteria for the measure is not being adhered to?
 - b. If so, should the audit be performed by an independent third party?

KMC: KMC adopts the position of the ALEC Coalition.

28. **ISSUE:** Should BellSouth be required to retain performance measurement data and source data, and if so, for how long?

KMC: KMC adopts the position of the ALEC Coalition.

29. **ISSUE:** What is the appropriate definition of "affiliate" for the purpose of the Performance Assessment Plan?

KMC: KMC adopts the position of the ALEC Coalition.

30. **ISSUE:**
- a. Should BellSouth be required to provide "affiliate" data as it relates to the Performance Assessment Plan?
 - b. If so, how should data related to BellSouth affiliates be handled for purposes of

1. Measurement reporting?
2. Tier 1 compliance?
3. Tier 2 compliance?

KMC: KMC adopts the position of the ALEC Coalition.

F. STIPULATED ISSUES:

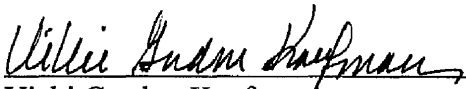
None.

G. PENDING MOTIONS:

KMC has no pending motions.

H. OTHER MATTERS:

None at this time.


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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing KMC Telecom's Prehearing Statement has been furnished by hand delivery(*) or U.S. mail on this 30th day of March, 2001, to:

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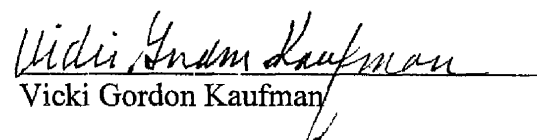
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