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October 16, 2003

BY HAND DELIVERY

Ms. Blanca Bayó, Director
Division of Records and Reporting
Room 110, Easley Building
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, Florida 32399-0850

Re: Docket No. 030851-TP

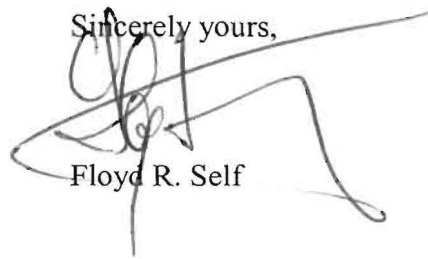
Dear Ms. Bayó:

Enclosed for filing on behalf of KMC Telecom III, LLC are an original and fifteen copies of KMC Telecom III, LLC's Preliminary Objections to BellSouth Telecommunications, Inc.'s First Set of Interrogatories and First Request for Production of Documents in the above referenced docket.

Please acknowledge receipt of these documents by stamping the extra copy of this letter "filed" and returning the same to me.

Thank you for your assistance with this filing.

Sincerely yours,



Floyd R. Self

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Enclosures
cc: Marva Brown Johnson, Esq.
Parties of Record

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Implementation of Requirements)	
Arising From Federal Communications)	Docket No.: 030851-TP
Commission Triennial UNE Review:)	
Local Circuit Switching for Mass)	Filed: October 16, 2003
Market Customers)	
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**KMC TELECOM III, LLC'S OBJECTIONS TO BELLSOUTH'S
FIRST SET OF INTERROGATORIES (Nos. 1-84) AND BELLSOUTH'S
FIRST REQUEST FOR PRODUCTION OF DOCUMENTS (1-21)**

KMC Telecom III LLC (hereinafter "KMC"), pursuant to the *Order Establishing Procedure*, Order No. PSC-03-1054-PCO-TP, issued September 22, 2003 (hereinafter "*Procedural Order*"), Rule 28-106.206 of the Florida Administrative Code, and Rules 1.280 and 1.340 of the Florida Rules of Civil Procedure, objects generally and specifically to BellSouth Telecommunications, Inc.'s (hereinafter "BellSouth") First Set of Interrogatories (hereinafter "BellSouth's Interrogatories") and BellSouth's First Requests for Production of Documents (hereinafter "Requests") to KMC, served on October 9, 2003, as described below.

I. Overview

1. KMC's objections are preliminary in nature and filed to comply with the seven (7) day requirement set forth in the *Procedural Order*. KMC reserves the right to amend, supplement, or revise these objections, and assert additional objections, should KMC discover additional grounds for objecting as KMC prepares its responses to any discovery or at any time prior to hearing.

2. At the time of the filing of these objections, the issues to be addressed in this proceeding have not yet been identified pursuant to the *Procedural Order*. Accordingly, KMC reserves the right to amend, supplement, or revise these objections should additional grounds for objecting develop as the Commission identifies the issues to be addressed in this proceeding.

II. GENERAL OBJECTIONS TO BELL SOUTH'S INTERROGATORIES

KMC makes the following general objections to the Interrogatories and will incorporate these general objections by reference into KMC's specific responses to the Interrogatories.

1. BellSouth's Interrogatory Definitions

KMC objects to the "Definitions" section of BellSouth's Interrogatories to KMC to the extent that:

A. BellSouth's definitions seek to impose discovery obligations on KMC that are inconsistent with, and beyond the scope of, what is permitted under the *Procedural Order* and the applicable Florida Rules of Civil Procedure.

B. The definitions operate to include the discovery of information protected by attorney-client privilege, the work product doctrine, the accountant-client privilege, or any other applicable privilege.

C. The definitions operate to include the discovery of information and/or materials containing the mental impressions, conclusions, opinions or legal theories of any attorney or other representative of KMC concerning the subject of the proceeding and prepared and developed in anticipation of litigation pursuant to Rule 1.280(b)(3) of the

Florida Rules of Civil Procedure without the requisite showing from BellSouth that it has need of the requested information and materials in the preparation of the case and is unable without undue hardship to obtain the substantial equivalent of the materials by other means.

D. The definitions operate to seek disclosure of information that is proprietary confidential information without the issuance of an appropriate Protective Order or Confidential Classification as outlined by the *Procedural Order*, §364.183 of the Florida Statutes, §90-506 of the Florida Statutes and Rule 25-22.006.

E. The definitions BellSouth uses are overly broad and lacking in specificity, and are unduly burdensome, irrelevant and not likely to lead to the discovery of admissible evidence pursuant to the *Procedural Order*, Rule 28-106.206 of the Florida Administrative Code, and Rules 1.280 and 1.340 of the Florida Rules of Civil Procedure.

F. The defined terms are inconsistent with those definitions of the same terms under the FCC's Triennial Review Order, the laws of the State of Florida, and prior holdings of this Commission.

2. **BellSouth's Interrogatory Instructions**

KMC objects to the "General Instructions" section of BellSouth's Interrogatories to KMC to the extent that:

A. BellSouth's instructions operate to impose discovery obligations on KMC that are inconsistent with, and beyond the scope of, the discovery permitted under the *Procedural Order* and the applicable Florida Rules of Civil Procedure. Subject to the foregoing, KMC will provide responses in accordance with the *Procedural Order* and the applicable Florida Rules of Civil Procedure, without waiving any right to additional objections.

B. BellSouth's instructions seek disclosure of the mental impressions, analysis, opinions, legal theories, or conclusions of an attorney or other representative of KMC concerning the subject of litigation without the requisite showing under Rule 1.280(b)(3) of the Florida Rules of Civil Procedure.

C. BellSouth's instructions operate to seek disclosure of "all" information in KMC's "possession, custody or control" and to the extent that said "instruction" requires KMC to provide information or materials beyond its present knowledge, recollection or possession. KMC provides telecommunications services in 17 states, including Florida. In the course of KMC's day-to-day business operations, KMC creates many documents that are not subject to the Commission or FCC record retention requirements. During the course of multiple operational restructurings, KMC made multiple changes in personnel, office locations, and information storage and retrieval locations/mediums. As such, BellSouth's Request is unduly burdensome.

3. General Objections to Interrogatories

A. KMC objects to BellSouth's Interrogatories to KMC to the extent that the interrogatories are overly broad, lack specificity, unduly burdensome, irrelevant and not likely to lead to the discovery of admissible evidence pursuant to the *Procedural Order*, Rule 28-106.206 of the Florida Administrative Code, and Rules 1.280 and 1.340 of the Florida Rules of Civil Procedure.

B. KMC objects to BellSouth's Interrogatories to KMC to the extent that the interrogatories seek discovery of information protected by attorney-client privilege, the work product doctrine, the accountant-client privilege, or any other applicable privilege.

C. KMC objects to BellSouth's Interrogatories to KMC to the extent that the interrogatories purport to seek discovery of information and/or materials containing mental impressions, analysis, opinions, legal theories, or conclusions of an attorney or other representative of KMC concerning the subject of the proceeding and prepared and developed in anticipation of litigation pursuant to Rule 1.280(b)(3) of the Florida Rules of Civil Procedure without the requisite showing from BellSouth that it has need of the requested information and materials in the preparation of the case and is unable without undue hardship to obtain the substantial equivalent of the materials by other means.

D. KMC objects to BellSouth's Interrogatories to KMC to the extent that the interrogatories purport to impose discovery obligations on KMC beyond the scope of, what is permitted under the *Procedural Order* and the applicable Florida Rules of Civil Procedure.

E. KMC objects to BellSouth's Interrogatories to KMC to the extent that the interrogatories purport to seek discovery of matters other than those subject to the jurisdiction of the Commission pursuant to the FCC's Triennial Review Order, Florida Administrative Code and Florida Statutes.

F. KMC objects to all Interrogatories which require the disclosure of information which already is in the public domain, BellSouth already has possession of or unrestricted access to, and information that is otherwise on record with the Commission or the Federal Communications Commission ("FCC").

G. KMC objects to BellSouth's Interrogatories to KMC to the extent that the interrogatories seek information and discovery of facts known and opinions held by experts acquired and/or developed in anticipation of litigation or for hearing and outside the scope of

discoverable information pursuant to Rule 1.280(4) of the Florida Rules of Civil Procedure.

H. Pursuant to the *Procedural Order*, the Triennial Review Order, Rule 28-106.206 of the Florida Administrative Code, and Rules 1.280 and 1.340 of the Florida Rules of Civil Procedure, to the extent that BellSouth's interrogatories request specific financial, business or proprietary information regarding KMC's economic business model, KMC objects to providing or producing any such information on the grounds that those requests presume that the market entry analysis is contingent upon KMC's economic business model instead of the hypothetical business model contemplated by the Triennial Review Order.

I. KMC objects to BellSouth's Interrogatories to KMC to the extent that the interrogatories seek discovery of matters beyond the scope of the FCC's Triennial Review Order and/or seek information not relevant to this proceeding.

III. GENERAL OBJECTIONS TO BELL SOUTH'S REQUEST FOR THE PRODUCTION OF DOCUMENTS

KMC makes the following general objections to Bellsouth's Request for the Production of Documents and will incorporate these general objections by reference into KMC's specific responses to BellSouth's Requests.

1. BellSouth's Requests Definitions

KMC objects to the "Definitions" section of BellSouth's Requests to KMC to the extent that:

A. Such terms are overly broad, lack specificity, unduly burdensome, irrelevant and not likely to lead to the discovery of admissible evidence pursuant to the *Procedural Order*, Rule 28-106.206 of the Florida Administrative Code, and Rules 1.280 and 1.340 of the

Florida Rules of Civil Procedure. Furthermore, KMC objects to the “Definitions” section to the extent that it utilizes terms that are subject to multiple interpretations, but are not properly defined or explained for purposes of these Requests.

B. The definitions operate to include the discovery of documents and other information protected by attorney/client privilege, the work product doctrine, the accountant/client privilege, or any other applicable privilege.

C. The definitions operate to include the discovery of information and/or materials containing the mental impressions, analysis, opinions, legal theories, or conclusions of any attorney or other representative of KMC concerning the subject of the proceeding and prepared and developed in anticipation of litigation pursuant to Rule 1.280(b)(3) of the Florida Rules of Civil Procedure without the requisite showing from BellSouth that it needs the requested information and materials in the preparation of its case and is unable without undue hardship to obtain the substantial equivalent of the materials by other means.

D. The definitions operate to impose discovery obligations on KMC beyond the scope of what is permitted under the *Procedural Order* and the applicable Florida Rules of Civil Procedure.

E. The definitions operate to seek discovery of documents and/or materials other than those subject to the jurisdiction of the Commission pursuant to the FCC’s Triennial Review Order, Florida Administrative Code and Florida Statutes.

F. The definitions operate to seek disclosure of documents, materials and other information that is proprietary confidential information without the issuance of an appropriate Protective Order or Confidential Classification as outlined by the *Procedural Order*, §364.183

of the Florida Statutes, §90-506 of the Florida Statutes, and Rule 25-22.006.

G. Address matters beyond the scope of the FCC's Triennial Review Order and/or seek material not relevant to this proceeding.

2. BellSouth Requests Instructions

KMC objects to the "General Instructions" section of BellSouth's Requests to KMC to the extent that:

A. The "instructions" operate to impose discovery obligations on KMC that are beyond the scope of what is permitted under the *Procedural Order* and the applicable Florida Rules of Civil Procedure.

B. The "instructions" operate to seek disclosure of documents or other materials containing the mental impressions, conclusions, opinions, or legal theories of an attorney or other representative of KMC relating to the subject of litigation without the requisite showing under Rule 1.280(b)(3) of the Florida Rules of Civil Procedure.

C. The "instructions" operate to seek disclosure of "all" documents, materials or information in KMC's "possession, custody or control" and to the extent that said "instruction" requires KMC to provide information or materials beyond its present knowledge, recollection or possession. KMC provides telecommunications services in 17 states, including Florida. In the course of KMC's day-to-day business operations, KMC creates many documents that are not subject to the Commission or FCC record retention requirements. During the course of multiple operational restructurings, KMC made multiple changes in personnel, office locations, and information storage and retrieval locations/mediums. As such, BellSouth's Requests are unduly burdensome.

3. General Objections to Requests

A. KMC objects to BellSouth's Requests to KMC to the extent that the Requests are broad, lack specificity, unduly burdensome, irrelevant and not likely to lead to the discovery of admissible evidence pursuant to the *Procedural Order*, Rule 28-106.206 of the Florida Administrative Code, and Rules 1.280 and 1.340 of the Florida Rules of Civil Procedure.

B. KMC objects to Requests to KMC to the extent that the Requests purport to seek discovery of materials and/or information protected by attorney/client privilege, the work product doctrine, the accountant/client privilege, or any other applicable privilege.

C. KMC objects to BellSouth's Requests to KMC to the extent that the Requests purport to seek discovery of information and/or materials containing the mental impressions, conclusions, opinions or legal theories of any attorney or other representative of KMC concerning the subject of the proceeding and prepared and developed in anticipation of litigation pursuant to Rule 1.280(b)(3) of the Florida Rules of Civil Procedure without the requisite showing from BellSouth that it has need of the requested information and materials in the preparation of the case and is unable without undue hardship to obtain the substantial equivalent of the materials by other means.

D. KMC objects to BellSouth's Requests to KMC to the extent that the Requests purport to impose discovery obligations on KMC inconsistent with, or beyond the scope of, what is permitted under the *Procedural Order* and the applicable Florida Rules of Civil Procedure.

E. KMC objects to BellSouth's Requests to KMC to the extent that the Requests

purport to seek discovery of documents and/or materials other than those subject to the jurisdiction of the Commission pursuant to the FCC's Triennial Review Order, Florida Administrative Code and Florida Statutes.

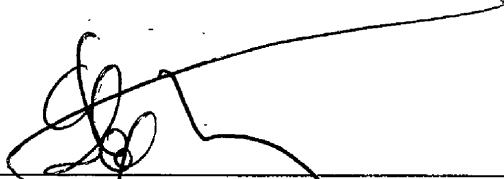
F. KMC objects to all Requests which require the production of materials and/or information which is already in the public domain or is otherwise on record with the Commission or the Federal Communications Commission ("FCC") and/or is already in BellSouth's possession or that BellSouth has unrestricted access to.

G. KMC objects to BellSouth's Requests to KMC to the extent that the Requests seek materials or other documents containing information relating to facts known and opinions held by experts acquired and/or developed in anticipation of litigation or for hearing and outside the scope of discoverable information pursuant to Rule 1.280(4) of the Florida Rules of Civil Procedure.

H. Pursuant to the *Procedural Order*, the Triennial Review Order, Rule 28-106.206 of the Florida Administrative Code, and Rules 1.280 and 1.340 of the Florida Rules of Civil Procedure, to the extent that BellSouth's interrogatories request specific financial, business or proprietary information regarding KMC's economic business model, KMC objects to providing or producing any such information on the grounds that those Requests presume that the market entry analysis is contingent upon KMC's economic business model instead of the hypothetical business model contemplated by the Triennial Review Order.

I. KMC objects to BellSouth's Requests to KMC to the extent that the Requests address matters beyond the scope of the FCC's Triennial Review Order and/or seek material not relevant to this proceeding.

Respectfully submitted, this the 16th day of October, 2003.



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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been served on the following parties by U. S. Mail this 16th day of October, 2003.

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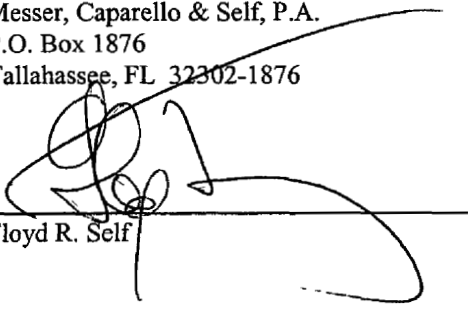
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