

ORIGINAL



Susan S. Masterton
Attorney

Law/External Affairs
FTLH00103
1313 Blair Stone Rd.
Tallahassee, FL 32301
Voice 850 599 1560
Fax 850 878 0777
susan.masterton@mail.sprint.com

February 28, 2005

Ms. Blanca S. Bayó, Director
Division of the Commission Clerk
& Administrative Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

RECEIVED-FPSC
00 FEB 28 PM 4:55
COMMISSION
CLERK

Re: Docket No. 041144-TP

Dear Ms. Bayó:

Enclosed for filing on behalf of Sprint-Florida, Incorporated are the original and 15 copies of Sprint's Claim of Confidentiality and the original and 15 copies of Sprint's Redacted Direct Testimonies and Exhibits of:

- 02034-05 1. Christopher M. Schaffer with Exhibits CMS-1 and CMS-2
- 02035-05 2. William L. Wiley with Exhibits WLW-1- WLW-5
- 02036-05 3. James R. Burt
- 02037-05 4. Kenneth J. Farnan with Exhibits KJF-1, KJF-2, and KJF-3
- 02038-05 5. Mitchell S. Danforth with Exhibit MSD-1

Copies are being served on the parties in this docket pursuant to the attached certificate of service.

Please acknowledge receipt of this filing by stamping and initialing a copy of this letter and returning same to my assistant. If you have any questions, please do not hesitate to call me at 850/599-1560.

- CMP
- COM 3
- CTR org.
- ECR _____
- GCL 1
- OPC _____
- WMS _____
- RCA _____
- SCR _____
- SEC 1
- OTH _____

Sincerely,

Susan S. Masterton

Enclosure

RECEIVED & FILED

FPSC-BUREAU OF RECORDS

DOCUMENT NUMBER-DATE
02034 FEB 28 05

FPSC-COMMISSION CLERK

**CERTIFICATE OF SERVICE
DOCKET NO. 041144-TP**

I HEREBY CERTIFY that a true and correct copy of the foregoing was served by electronic and U.S. mail this 28th day of February, 2005 to the following:


Division of Legal Services
Lee Fordham/ Dovie Rockette-Gray
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

Nancy Pruitt/Ann Marsh
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

KMC Data LLC/KMC Telecom III LLC/KMC Telecom V, Inc.
Marva B. Johnson/Mike Duke
1755 North Brown Road
Lawrenceville, GA 30043-8119

Kelley Drye & Warren LLP
Yorkgitis/ Soriano
1200 19th Street, N.W.,
Fifth Floor
Washington, DC 20036

Messer Law Firm
Floyd R. Self, Esq.
P.O. Box 1876
Tallahassee, FL 32302-1876


Susan S. Masterton

1 **BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

2 **DIRECT TESTIMONY**

3 **OF**

4 **CHRISTOPHER M. SCHAFFER**

5 **DOCKET NO. 041144-TP**

6
7 **Q. Please state your name and address.**

8 A. My name is Christopher M. Schaffer. My business address is 6550 Sprint Parkway,
9 Overland Park, Kansas 66251.

10
11 **Q. By whom are you employed and in what capacity?**

12 A. I am employed as a National Engineering Standards Manager in National Network
13 Engineering for Sprint Corporation. In this proceeding I am testifying on behalf of
14 Sprint-Florida, Incorporated.

15
16 **Q. Please provide your education and work background.**

17 A. I received a Bachelor of business Administration degree from the Emporia State
18 University in 1996 and my Masters in Business Administration from Baker University in
19 2000. I begin my career with Sprint in 1998 as a Regional Systems Administrator II in
20 the Regulatory department, conducting traffic analyses for various departments within
21 Sprint. In 2000 I became a National Engineering Standards Manager, in the Sprint Local
22 Telephone Division (LTD) national network organization. Since that time my
23 responsibilities have included ensuring that Sprint Local Telephone has complied with
24 the number conservation efforts set forth by the FCC, state regulators and the industry,
25 including number pooling and number porting initiatives. In mid 2003, I began working

02034 FEB 28 '08

FPC-COMMISSION CLERK

1 on Sprint's LTD revenue assurance initiatives. This includes analyzing SS7 traffic usage
2 summaries and call detail records between Sprint LTD and other carriers, including
3 Interexchange Carriers (IXC)s, Competitive Local Exchange Carriers (CLEC)s and
4 wireless carriers.

5
6 **Q. What is the purpose of your testimony?**

7 **A.** The purpose of my testimony is to address Issue 2, by providing support for why Sprint
8 properly included KMC V, Inc. and KMC Data LLC as parties to this complaint.

9
10 **Issue 2 Are KMC Data LLC and KMC Telecom V, Inc. properly included as parties to**
11 **this complaint?**

12
13 **Q. Why did Sprint include KMC Data LLC and KMC V, Inc. as parties to this**
14 **complaint?**

15 **A.** KMC Data LLC and KMC V, Inc. are both certificated CLECs in the state of Florida. In
16 addition, KMC V is a party to interconnection agreements that Sprint and KMC have
17 operated under during the time frames that are applicable to this Complaint. Also, KMC
18 V and KMC Data are parties to the adoption of the MCI agreement filed by KMC on
19 June 15, 2004, and are parties to the arbitration for a new interconnection agreement that
20 is the subject of Docket No. 031047-TP. In its dealings with Sprint under the
21 interconnection agreements, that is when ordering services and for billing purposes,
22 KMC has not distinguished between its various entities operating in Florida. Rather, all
23 ordering and billing have been done in the name of KMC Telecom. As demonstrated by

1 various certificate filings with the Florida Commission, each of the three Florida
2 operating subsidiaries are either directly or indirectly wholly owned by KMC Telecom
3 Holdings, Inc. See attached Exhibit CSM-1. Based on these facts, Sprint believes that
4 KMC Data LLC and KMC Telecom V, Inc. are proper parties to the complaint, in
5 addition to KMC Telecom, III.

6
7 **Q. Has Sprint done any additional research to determine the involvement of the various**
8 **KMC entities in the actions that are the subject of Sprint's complaint?**

9 **A.** Yes. I undertook several steps in order to help identify the appropriate parties to be
10 included in the Complaint. After looking at SS7 summarized data there was a large
11 amount of terminating interstate and intrastate traffic on KMC/Sprint interconnection
12 trunk groups dedicated for local traffic. I completed an inventory, identifying all of
13 KMC's trunk group interconnections with Sprint. I then identified the trunk groups that
14 are designated as "local terminating", and using correlated call records I determined that
15 virtually all of the interstate/intrastate traffic being incorrectly sent down these "local
16 terminating" trunk groups showed a different charge party number than the calling party
17 number. As an example, call detail records from 9/10/2003 showed that 92% of all the
18 interstate and intrastate MOUs had a charge party number that was different than the
19 calling party number. On this day the records showed that 97% of these MOUs had the
20 same two numbers, 239-689-2995 and 850-201-0579 in the charge party number field of
21 the SS7 records.

22

1 **Q. Was Sprint able to determine which entity owned the two numbers 239-689-2995**
2 **and 850-201-0579?**

3 **A.** Yes. I used the BIRRDS (Business Integrated Routing and Rating Database System)
4 online Database to confirm which company was assigned the 239-689-2995 and 850-201-
5 0579 telephone numbers. BIRRDS is a national database that provides routing and rating
6 information to the telecommunications industry. One of its outputs is the Telcordia Local
7 Exchange Routing Guide (LERG). The LERG is the accepted industry standard for
8 identifying routing information, carriers providing service in a specific area, and a
9 resource for any company needing information about the network and numbering
10 assignments. Using the BIRRDS NXX Record (NXD) Screen, I was able to determine
11 that 239-689-2995 and 850-201-0579 are both assigned to KMC Telecom V, INC. – FL
12 (OCN 8980). (See attached Exhibit CMS-2)

13

14 **Q. After identifying the two numbers as having been assigned to KMC V, did Sprint do**
15 **any research to determine if KMC had ported the numbers to another carrier?**

16 **A.** Yes. The BIRRDS NXX Record NXD Screen contains information regarding the
17 NPA/NXX-X (Telephone Number, first 7 digits) code assignment by name and Operating
18 Company Number (OCN). Using the Switching Entity Record (SRD), I was able to
19 determine Common Language Location Identifier (CLLI) and Switch Type and again I
20 can validate the NPA/NXX code holder. Using the Assigned Code Record (ACD) screen
21 I was able to determine that both the 239/689 and 850/201 NPA/NXXs are not pooled
22 and KMC is assigned all 10 blocks. In viewing the NXD - Pending Changes Screen
23 (XPC), I was able to identify the base view on the code and ensure that there has been no

1 change to either NPA/NXX since the base view date which for 239/689 was 03/11/02 and
2 for 850-201 was 1/01/00. After ensuring that both NPA/NXXs were assigned to KMC
3 Telecom V, I then validated that the individual telephone numbers (239-689-2995 and
4 850-201-0579) are not ported with the National Portability Administrative Center
5 (NPAC). The NPAC is the database and associated administrative support staff that
6 contains all Local Number Portability (LNP) data for all LNP regions.

7

8 **Q. You stated that other charge party numbers were used on 3% of the inter/intrastate**
9 **usage that Sprint identified as interexchange calls on the day you checked. What**
10 **does Sprint's research show about the ownership of these numbers?**

11 **A.** 92% of these MOU's are KMC charge party numbers. This was determined by
12 NPA/NXX association or because at the time of the study the individual numbers were
13 ported to KMC.

14

15 **Q. How does ownership of the charge party numbers establish that KMC V is a proper**
16 **party to Sprint's Complaint?**

17 **A.** As I noted earlier, KMC has never ordered its facilities from Sprint in any name other
18 than KMC Telecom. But I was able to show that KMC Telecom V, Inc. was the legal
19 entity that owned at least two different telephone numbers that were inserted into the
20 Charge Party Number field of the SS7 record for calls that were interexchange in nature,
21 but that were inappropriately routed to Sprint over local interconnection facilities. Since
22 the use of this routing scheme, **in violation of the terms of the interconnection**

1 **agreement**, is at the core of Sprint's complaint, it naturally follows that KMC V is
2 properly a party to this Complaint

3

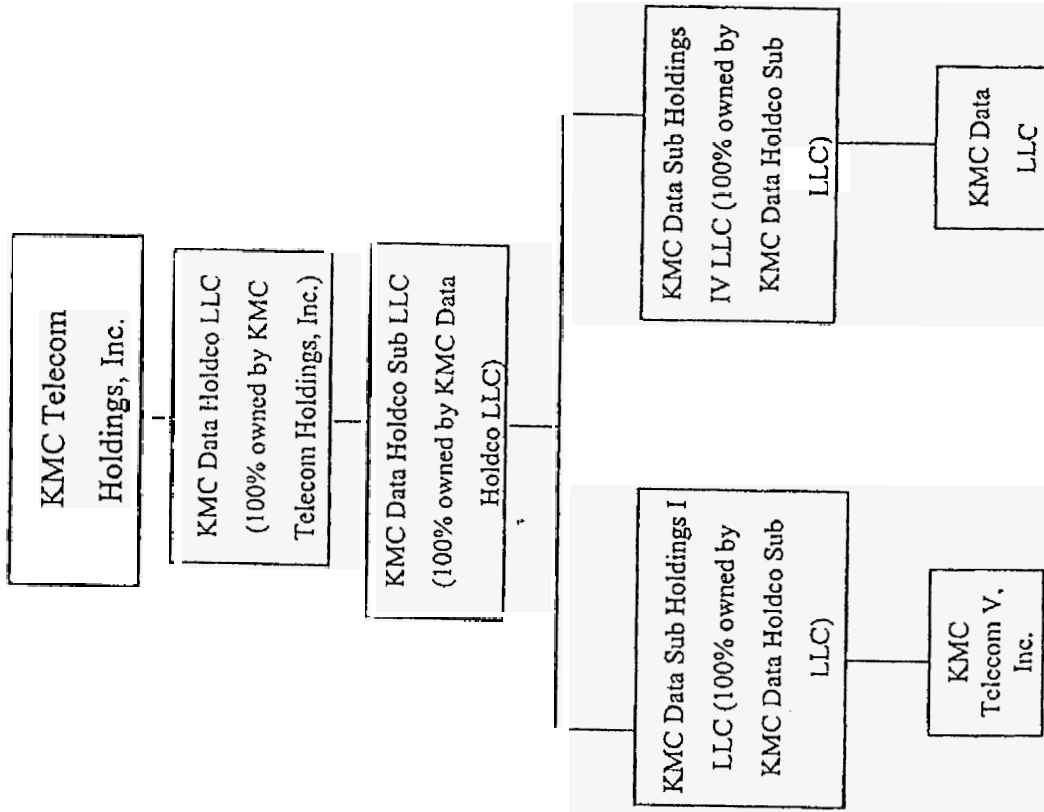
4 **Q. Does this conclude your testimony?**

5 **A.** Yes.

6

Proposed New
Structure

KMC's Corporate Structure



KELLEY DRYE & WARREN LLP

A LIMITED LIABILITY PARTNERSHIP

1200 19TH STREET, N.W.

SUITE 500

WASHINGTON, D.C. 20036

(202) 955-9600

FACSIMILE

(202) 955-9792

www.kelleydrye.com

DIRECT LINE (202) 887-1211

E-MAIL bfredson@kelleydrye.com

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February 19, 2002

VIA FEDERAL EXPRESS

Ms. Blanca S. Bayo, Director
Division of Records and Reporting
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

020143-TP

**Re: Request for Approval of Name Change from KMC III Telecom, Inc.
to KMC Telecom III LLC**

Dear Ms. Bayo:

KMC Telecom III, Inc. hereby respectfully requests the approval of the Florida Public Service Commission ("Commission") to the extent necessary to effectuate a name change from KMC Telecom III, Inc. to KMC Telecom III LLC (together with KMC III, Inc. "KMC III"). This name change is occasioned by the conversion of KMC Telecom III, Inc. into a limited liability company, pursuant to Delaware law, and does not involve any change to the current ownership, management personnel or telecommunications operations of KMC III.

KMC III is currently authorized to provide facilities-based and resold, switched, local exchange and interexchange telecommunications services in the State of Florida.¹ KMC III was formed as a Delaware corporation, and currently transacts business in several states in which it is authorized to provide the telecommunications services described above. KMC Telecom Holdings, Inc. ("KMC Holdings"), a Delaware corporation, is the sole shareholder of KMC III. The technical, financial and managerial qualifications of KMC III to provide telecommunications

¹ In Florida, KMC III Telecom, Inc. is authorized to provide alternative local exchange telecommunications services pursuant to Certificate No. 7093, granted by the Commission on September 6, 1999. KMC III Telecom, Inc. is also authorized to resell interexchange telecommunications services in the State of Florida pursuant to Certificate No. 7092, granted by the Commission on August 3, 1999.

Ms. Blanca S. Bayo, Director
Division of Records and Reporting
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Page Two.

services are a matter of public record, and were previously provided to the Commission in support of KMC III's application for authority to provide telecommunications services in Florida.

For corporate and business reasons, KMC Holdings converted KMC III and certain other of its subsidiaries into Delaware limited liability companies ("LLC"s) on December 31, 2001.² Pursuant to Delaware law, the conversion of a Delaware corporation into a Delaware LLC is regarded as a continuation of the original corporate entity, and accordingly, the date of formation of the LLC is the same date as that on which the corporate entity was originally formed. Moreover, by operation of law, all of the assets, rights, liabilities and obligations of the original corporation become the assets, rights, liabilities and obligations of the LLC upon such conversion.³

Because there is no change to the identity of the legal entity that results from conversion of a Delaware corporation into a Delaware LLC, such a conversion is most appropriately treated as a name change. Although KMC Telecom III, Inc. recently changed its legal form, it did not transfer any assets to a different legal entity, nor assume any new debt. To effectuate the conversion described herein, KMC Holdings exchanged its 100% stock interest in KMC Telecom III, Inc. for a 100% ownership interest in KMC Telecom III LLC. Accordingly, no ownership interest in KMC III passed to a new entity, and there has been no transfer of control of KMC III.

The conversion of KMC Telecom III, Inc. into a limited liability company is transparent to customers in Florida, and will have no adverse impact upon them, as those customers continue to receive telecommunications services provided by KMC III at the same rates, and pursuant to the same terms and conditions. Moreover, there has been no change to KMC III's management and operations personnel, nor to the designated KMC III representatives for customer and Commission inquiries. Because the legal entity providing telecommunications services in Florida remains the same, no carrier change charge has been assessed in connection with this event. Consequently, the conversion of a corporation into an LLC described herein is in effect, for regulatory and most other purposes, a minor name change whereby KMC Telecom III, Inc. became KMC Telecom III LLC.

The insignificant nature of the name change described herein suggests no potential for customer confusion and there is no need for customer notification. Because this name change

² Copies of the documents relating to the conversion of KMC Telecom III, Inc. into a limited liability company, including Certificate of Conversion, Certificate of Formation of KMC Telecom III LLC, and Qualification of KMC Telecom III LLC to transact business in the State of Florida, are attached hereto as *Exhibit A*.

³ Most states have similar provisions for the conversion of a corporation into a limited liability company.

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Division of Records and Reporting
Florida Public Service Commission
February 19, 2002
Page Three

does not affect the identifying portion of KMC III's name, KMC III respectfully requests that the Commission waive any amendments to its outstanding tariffs that may otherwise be required. Further, KMC III respectfully requests the Commission's expeditious grant of any necessary approvals for the name change described herein.

Enclosed, please find two (2) copies of this letter for your records. Enclosed please also find a duplicate copy of this letter and a self-addressed, stamped envelope. Please date-stamp the duplicate upon receipt, and return it in the envelope provided. In addition, KMC III requests that copies of any correspondence related to this matter be sent to Mr. Michael Duke, Director of Government Affairs, KMC Telecom Holdings, Inc., 1755 North Brown Road, Lawrenceville, Georgia 30043.

Please feel free to contact the undersigned counsel at (202) 887-1211 if you have any questions or concerns regarding this filing.

Respectfully submitted,



James J. Freeman
Brett Heather Freedson
KELLEY, DRYE & WARREN LLP
1200 19th Street, N.W.
Suite 500
Washington, D.C. 20036
(202) 955-9600

Its Attorneys

Enclosures

HIRRDS HTML Client - TPA GUI System - Microsoft Internet Explorer provided by Sprint
Print window | Send Email To: TRA - GA Online Market | TRAFFIC Website | TRA Download & Report System

RESP CODE: 8981 AA00 HIRRDS DATABASE SYSTEM CURRENT DATE: 11/02/04
NXX RECORD (NXX)

ACTN: PREV VIEW: 03/11/02
NEXT VIEW: 0H

HPA: 230 NXX: 800 BLOCKID: A STATUS: F EFF DATE: 11/02/04

OCN: 8982 NAME: KNC TELECOM V, INC. - FL

LOCALITY: FORT MYERS CTRY: STATE/PROV: FL RATE CENTER: FORT MYERS RC TYPE:
HC MAJOR VC: 00359 HC: 00004 RC MINOR VC: HC: RC LATA: 2202

PH(10): FORT MYERS PLACENAME: FORT MYERS

COCTYPE: FOC SSC: H TRDIG EO: 10 TRDIG AT: 10

NXXTYPE: 00 BILL RAO: 240 HQ: 000 CO TYPE: 7 TIME ZONE: 7

DDO (Y/N): Y DDO (Y/N): Y DAYLIGHT SAVINGS (Y/N): F PORTABLE (Y/N): Y TOP: H

SWITCH: FTMFL02050 SHA IND: 00 TEST LINE:
SW LATA: 91912 SW LCH: 8982 SW V4H VC: 08364 HC: 01901

OTHER LINE RATE STEP: 00 PROD (L/T/D): F

NOTES: KC

CHMD: CHANGE DATE: 10/30/01 © 2001 TELCORDIA TECHNOLOGIES, INC.

Msg:

FILE PRINT HOME ESC SEARCH F1 F2 F3 F4 F5 F6 F7 F8 F9 F10 F11 F12 HELP

1 Dec 11:02 AM

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041144-TP CMS-LE... [Icons] HIRRDS HTML

BIRROS HTML Libsit - TPA GUI System - Microsoft Internet Explorer provided by Sprint

Print Window | Send Email To TRS | Call Online Manual | TRAFFIC PROBLEMS | TRF Download & Report System

RESP CODE: 8981 AA00	BIRROS DATABASE SYSTEM NXX RECORD (NXX)	CURRENT DATE: 11/02/04
ACIN: []		PREV VIEW: 09/06/99
NPA: 850 NXX: 201 BLOCK II: A		NEXT VIEW: ON
OCH: 8982 NAME: KMC TELECOM V, INC - FL	STATUS: M	EFF DATE: 11/02/04

LOCALITY: TALLAHASSEE CNTY: STATE/PROV: FL RATE CENTER: TALLAHASSEE RC TYPE: HC MAJOR VC: 07876 HC: 01715 RC MINOR VC: HC: RCLATA: 051

PR(10): TALLAHASSEE PLACENAME: TALLAHASSEE

COCYTYPE: EOC [] SSC: M [] TRDIG EO: 10 TRDIG AT: 10

NXX TYPE: 80 [] HILL HAO: 240 HQ: 745 CO TYPE: 7 [] TIME ZONE: 7 []

DDG(Y/M): Y [] DND(Y/M): Y [] DAYLIGHT SAVINGS(Y/M): Y [] PORTABLE(Y/M): Y [] TSP: N

SWITCH: T18SFL01050 SWA MD: 00 TEST LINES: SW DATA: 953 SW DCH: 8982 SW V2H VC: 07876 HC: 01730

OTHER LINE RATE STEP: 00 PROD (L/T/B): B

NOTES: PORTABLE PER MM RMCK-C

CHAD: CHANGE DATE: 08/30/99 © 2004 TELCORDIA TECHNOLOGIES, INC.

Msg: