

ORIGINAL

Matilda Sanders

From: Whitt, Chrystal [CC] [Chrystal.Whitt@mail.sprint.com]
 Sent: Thursday, March 10, 2005 2:34 PM
 To: Filings@psc.state.fl.us
 Subject: 041144-TP Sprint's Motion for Extension of Time to Respond to KMC's Motion for Audit
 Attachments: 041144-TP Sprints Motion for Ext of Time to Res to KMC Mot for Audit.pdf

Filed on behalf of:

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Docket No. 041144-TP

Title of filing: Sprint's Motion for Extension of Time to Respond to KMC's Motion for Audit.

Filed on behalf of: Sprint

No. of pages: 5

Description: Sprint's Motion for Extension of Time to Respond to KMC's Motion for Audit.

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 COM 3
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 RCA _____
 SCR _____
 SEC 1
 OTH Kim P.

3/10/2005

DOCUMENT NUMBER-DATE

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March-10, 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

Re: Docket No. 041144-TP

Dear Ms. Bayó:

Enclosed for filing on behalf of Sprint-Florida, Incorporated is Sprint's Motion for Extension of Time to Respond to KMC's Motion for Audit.

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

If you have any questions regarding this electronic filing, please do not hesitate to call me at 850-599-1560.

Sincerely,

Susan S. Masterton

Enclosure

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**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 10th day of March, 2005 to the following:

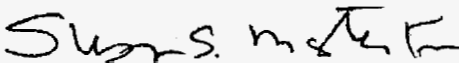
Division of Legal Services
Lee Fordham/ Dovie Rockette-Gray
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

Nancy Pruitt/Ann Marsh
Florida Public Service Commission
2540 Shumard Oak Blvd.
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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
Chip Yorkgitis / Barbara Miller
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

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

Complaint of Sprint-Florida, Incorporated)	Docket No. 041144-TP
Against KMC Telecom III LLC,)	
KMC Telecom V, Inc. and KMC Data LLC,)	
for failure to pay intrastate)	
Access charges pursuant to its interconnection)	
Agreement and Sprint's tariffs and for violation of)	
Section 364.16(3)(a), Florida Statutes.)	Filed: March 10, 2005

SPRINT-FLORIDA INCORPORATED'S
MOTION FOR EXTENSION OF TIME TO RESPOND TO
KMC'S MOTION FOR AUDIT

Sprint-Florida, Incorporated ("Sprint"), pursuant to Rule 28-106.204(5), Florida Administrative Code, requests that the Florida Public Service Commission ("Commission") grant it a seven (7) day extension of time or until March 18, 2005, in which to respond to the Motion for Audit filed by KMC Telecom III LLC, KMC Telecom V, Inc. and KMC Data LLC (collectively, "KMC") on March 4, 2005. In support of this Motion Sprint states as follows:

1. On September 24, 2004, Sprint filed its Complaint against KMC initiating this docket. On February 28, 2005 KMC filed its Answer, Affirmative Defenses and Counterclaims in this docket, in which KMC introduced new allegations against Sprint-Florida, Incorporated not previously raised in this proceeding and also made allegations against Sprint Communications Company Limited Partnership d/b/a Sprint, Sprint's long distance affiliate, which is currently not a party to this proceeding. Rule 28-106.204(2), Florida Administrative Code, provides 20 days for a party to file a Motion to Dismiss and, by Commission practice, the same time frame generally applies to the filing of an answer. Pursuant to this rule,

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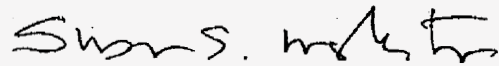
since Sprint was served with the Answer, Affirmative Defenses and Counterclaims on February 28, 2005, any responsive motions or pleadings would be due on March 21, 2005 (since March 20 is a Sunday).

2. On March 4, 2005, KMC filed a Motion for Audit requesting that the Commission initiate an audit to substantiate the claims made in KMC's Answer, Affirmative Defenses and Counterclaims. KMC apparently served this Motion for Audit on Sprint by hand delivery.¹ Therefore, pursuant to Rules 28-106.103 and 28-106.204, Florida Administrative Code, Sprint's response to this Motion is due on March 11, 2005.
3. The Counterclaim and the Motion raise interrelated issues of law and fact. Sprint cannot adequately prepare a response to the Motion for Audit independent of any motions or pleadings responsive to the Answer, Affirmative Defenses and Counterclaims. Similarly, Sprint believes that it would be more logical and efficient for the Commission to consider Sprint's responses to these filings together. Therefore, Sprint is requesting a seven (7) day extension of time, or until March 18, 2005 to respond to the Motion for Audit, on which date Sprint also intends to file its responsive motions or pleadings to the Answer, Affirmative Defenses and Counterclaims.
4. Sprint has consulted with KMC as required by Rule 28-106.204(3), Florida Administrative Code, and counsel for KMC has represented that KMC does not object to Sprint's request. No party will be prejudiced by this seven (7) day extension of time.

¹ KMC's Certificate of Service indicates that the Motion was served on Sprint by "electronic mail and/or U.S. Mail." Sprint has no record of being served electronically, but did receive a hard copy of the Motion on March 4, 2005, presumably through hand delivery.

Wherefore, for the foregoing reasons, Sprint respectfully requests that the Commission grant it a seven (7) day extension of time, until March 18, 2005, in which to respond to the Motion for Audit filed by KMC.

Respectfully submitted this 10th day of March 2005.



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