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May 10, 2005

BY HAND DELIVERY

Ms. Blanca Bayó, Director
Commission Clerk and Administrative Services
Room 110, Easley Building
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, Florida 32399-0850

Re: Docket No. 041144-TP

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JOM 3
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Dear Ms. Bayó:

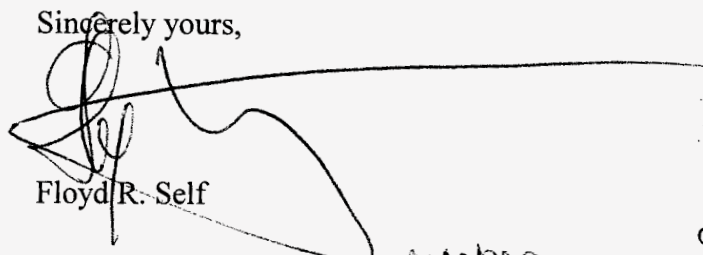
Enclosed for filing on behalf of **KMC Telecom III LLC, KMC Telecom V, Inc., and KMC Data LLC ("KMC")** are an original and **fifteen copies** of the following documents in the above referenced docket:

1. Rebuttal Testimony of Paul J. Calabro; 04558-05
2. Rebuttal Testimony of Marva Brown Johnson; 04557-05
3. Rebuttal Testimony of Christopher S. Menier; and 04556-05
4. Rebuttal Testimony of Timothy E. Pasonski. 04455-05

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.
Thank you for your assistance with this filing.

Sincerely yours,



Floyd R. Self

Calabro

DOCUMENT NUMBER-DATE

04558 MAY 10 05

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cc: Parties of Record

CERTIFICATE OF SERVICE

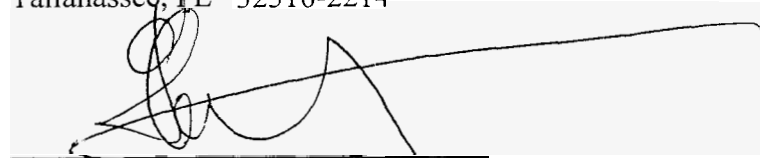
I HEREBY CERTIFY that true and correct copies of the foregoing have been served upon the following parties by hand delivery (*) and/or U.S. Mail this 10th day of May, 2005.

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c/o Sprint-Florida, Incorporated
P.O. Box 2214 (MC FLTLHO0107)
Tallahassee, FL 32316-2214



Floyd R. Self

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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

REBUTTAL TESTIMONY OF

TIMOTHY E. PASONSKI

ON BEHALF OF

KMC TELECOM III LLC,
KMC TELECOM V, INC.,
AND
KMC DATA LLC

MAY 10, 2005

DOCUMENT NUMBER DATE

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FPSC-COMMISSION CLERK

1 **Q. PLEASE STATE YOUR NAME FOR THE RECORD.**

2 A. My name is Timothy E. Pasonski.

3 **Q. WHO IS YOUR EMPLOYER AND WHAT IS YOUR BUSINESS**
4 **ADDRESS?**

5 A. I am employed by KMC Telecom Holdings, parent company of KMC
6 Telecom III LLC ("KMC III"), KMC Telecom V, Inc. ("KMC V"), and KMC
7 Data LLC ("KMC Data"). My business address is 1755 North Brown Road,
8 Lawrenceville, Georgia 30043.

9 **Q. ARE YOU THE SAME TIMOTHY PASONSKI THAT PREFILED DIRECT**
10 **TESTIMONY IN THIS CASE?**

11 A. Yes, I am.

12 **Q. WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY?**

13 A. My testimony addresses the points made by the Sprint witnesses Burt,
14 Danforth, Farnan, and Wiley regarding the Agilent study, various aspects
15 of SS7 signalling, some of the jurisdictional aspects of enhanced services,
16 and Sprint's compensation, or damages, analysis.

17 **Q. WHAT INFORMATION HAVE YOU REVIEWED TO PREPARE FOR**
18 **YOUR REBUTTAL TESTIMONY?**

19 A. I have reviewed the five sets of Sprint prefiled direct testimony and
20 exhibits as well as some of the Sprint discovery responses.

21 **Q: SPRINT WITNESS WILEY STATES THAT KMC EITHER CHANGED**
22 **THE SIGNALING ASSOCIATED WITH ITS CUSTOMER'S CALLS OR**
23 **DELIBERATELY MISROUTED THE TRAFFIC SO AS TO FOOL SPRINT**

1 **INTO BELIEVING THAT THE CALLS WERE LOCAL WHEN THEY**
2 **WERE IN FACT INTEREXCHANGE CALLS. WAS THAT THE CASE?**

3 **A:** No.

4 **Q.** **WHY NOT?**

5 **A.** Let me answer that by first explaining exactly what KMC did to cause the
6 signaling information to exhibit the characteristics that Sprint alleges were
7 suspicious. This will help the Commission understand why KMC acted
8 within the boundaries of industry norms. KMC provided Customer X with
9 a number of PRI services from its Fort Myers and Tallahassee local
10 switches. In each case, KMC assigned the customer with Fort Myers and
11 Tallahassee local telephone numbers respectively, as per the customer's
12 expressed desires. KMC also addressed the billing for each of the PRI
13 service groups by billing, on a flat-rate basis, all local calls over the PRIs
14 in each city to one local billing telephone number. There was nothing
15 unusual about this. Many PRI customers request aggregate billing to a
16 single billing account number and do not want or accept detailed billing by
17 individual station line. To accommodate Customer X's request, KMC
18 established its translations within its switches so as to populate the charge
19 number field in its SS7 signaling messages with the billing account
20 number assigned to the respective PRI service group. For the calls in
21 question, by populating the charge party number field in this way, KMC
22 did not displace pre-existing information in that field. Sprint's five
23 witnesses offer no evidence to the contrary. In fact, the Agilent study

1 which Mr. Wiley attaches to his testimony, Exhibit WLW-2, at page 10,
2 notes that “[w]hat we don’t know is whether the call information was
3 altered prior to arriving at KMC Telecom.” The alleged altering, if it
4 occurred, may have been caused by, as Agilent admits, “even by another
5 intermediate carrier,” such as any IXC involved with the traffic. In short,
6 the Agilent study demonstrates that Sprint has not proven its case against
7 KMC – and cannot. In short, there was no alteration of the charge party
8 number.

9 **Q. HOW DID KMC USE THE CALLING PARTY NUMBER AND THE**
10 **CHARGE PARTY NUMBER?**

11 **A.** While KMC used the billing telephone number within its own billing
12 systems – by populating the appropriate field within its AMA records –
13 KMC had no reason to record or even look at the calling party number
14 populated by Customer X’s customer premises equipment.

15 **Q. DOES THE AGILENT STUDY THAT WAS ATTACHED TO MR.**
16 **WILEY’S DIRECT TESTIMONY SUPPORT SPRINT’S POSITION**
17 **REGARDING THAT KMC’S POPULATION OF THE CHARGE PARTY**
18 **NUMBER FIELD WAS IMPROPER?**

19 **A.** No. As explained in the testimony of KMC’s expert witness Paul Calabro,
20 the Agilent study is flawed in numerous ways. Fundamentally, Agilent
21 misconceived the traffic flow involved with the calls in question and
22 improperly assumed that it was IXCs that were passing traffic directly to
23 KMC, as on pages 10 and 11 of Exhibit WLW-2. Because Agilent did not

1 understand that the traffic was originating local traffic from an enhanced
2 services provider on PRI service groups, it did not perceive why the
3 charge party number field was populated as it was. Agilent made the
4 unwarranted and incorrect assumption that KMC was inserting into the
5 Charge Party Number field a number locally-assigned to KMC, but
6 unrelated to the services and functionalities KMC was providing – which
7 Agilent mistakenly assumed was interconnection with the IXCs providing
8 them local access. This was not the case, as KMC properly used the
9 Billing telephone Number in the Charge Party Number field, given that it
10 was providing local PRI service groups to an end user customer.

11 **Q. IN YOUR VIEW, DOES THE AGILENT STUDY MAKE OTHER**
12 **MISTAKES?**

13 **A.** Yes. For example, Agilent improperly assigns significance to the charge
14 party number for jurisdictional purposes. On Exhibit WLW-2, page 3,
15 Agilent states that the inserted charge number changed the jurisdictional
16 nature of the call. The charge party number has no bearing on whether
17 the traffic was unregulated enhanced services traffic or regulated
18 telecommunications traffic, which is a threshold question that must be
19 answered. In this case, Sprint has the burden of proving that the traffic
20 was telecommunications traffic. Moreover, even apart from that question,
21 the Agilent study's basis for the jurisdictional nature of traffic is flawed. If
22 the traffic were telecommunication traffic, then the calling party number,

1 not the charge number would be used to determine jurisdiction, as stated
2 in the interconnection agreements.

3 **Q. WHAT ABOUT THE CALLING PARTY NUMBER? DID KMC ALTER**
4 **THAT INFORMATION?**

5 **A.** No. The calling party number was not in any way manipulated by KMC.
6 None of Sprint's five witnesses offer any evidence that the calling party
7 number was changed before Sprint received it. By KMC programming its
8 switch to use the billing telephone number as the *charge* party number,
9 the use of the PRI line by the customer to place a call was all that actually
10 had to occur to have the billing number inserted into the charge number
11 field. On the other hand, KMC did nothing to change the *calling* party
12 number, which I might loosely call the Caller ID information that came with
13 the ISDN calls it received from Customer X – the calling party number was
14 passed intact to Sprint on every call.

15 What happened in the switches must be distinguished from what
16 was happening in the signaling environment. Notwithstanding Sprint's
17 assertions, KMC did not in any manner alter the signaling associated with
18 the use of KMC's PRI services by Customer X. The signaling that KMC
19 delivered to Sprint was identical in every material respect with signaling
20 associated with PRI services in general. The charge number field was
21 populated with the appropriate billing telephone number, be it one number
22 for an entire group, or individual numbers, based on KMC's
23 implementation of translations in accordance with its customers' desires.

1 This was true with Customer X and all other PRI customers of KMC.
2 Interestingly, the Agilent study upon which Sprint relies allows that the
3 charge number was merely inserted as opposed to altered, although the
4 study misconstrues the significance of the charge party number, as I just
5 explained. The calling party number was passed on to Sprint as KMC
6 received it. Indeed, if it had not been, Sprint would not even have been
7 able to conduct its “investigation” using the Agilent system as described in
8 Sprint’s direct testimony or concoct its faulty claims in this case. It is
9 telling that Sprint’s witness Wiley at page 11, lines 8-15, concedes that,
10 for signaling purposes, KMC complied with industry norms in its handling
11 of the billing party number.

12 **Q. SPRINT’S WITNESS WILEY SUGGESTS THAT THERE WAS SOME**
13 **SIGNIFICANCE TO BE DRAWN FROM THE FACT THAT THE**
14 **CALLING PARTY NUMBER AND CHARGE PARTY NUMBER**
15 **INFORMATION, AS PASSED ALONG TO SPRINT, DID NOT AGREE.**
16 **WHAT IS YOUR REACTION TO HIS ASSESSMENT?**

17 **A.** As stated earlier, there is no necessity for the calling party number and
18 the charge party number to agree. In fact, Mr. Wiley, at page 9, lines 1-8,
19 concedes that charge party field may be empty where the calling party
20 number is included in the Initial Address Message. As such, where there
21 is originating line information, such as calling party number, *but the*
22 *charge party number has not been populated*, then the charge number
23 and the calling party number agree. Conversely, where a charge party

1 number is included, as with the traffic in question, the presence of the
2 charge party number is an indication that the charge number does *not*
3 agree with the calling party number. In other words, the scenario where
4 charge party numbers disagree with calling party numbers is specifically
5 accounted for in the way that signaling is handled in the industry. More
6 importantly, the way that KMC handled the signaling in this case is wholly
7 consistent with the industry practices. There is no basis for Mr. Wiley's
8 statement at page 11, lines 2-3, that "the CPN and [charge number]
9 should have a relationship between the two."

10 **Q. ONE OF THE THEMES OF THE TESTIMONY OF MESSRS. BURT AND**
11 **WILEY SEEMS TO BE AN IMPLICATION THAT KMC SHOULD HAVE**
12 **LOOKED AT THE CALLING PARTY NUMBER FIELD TO ASCERTAIN**
13 **WHETHER THE CALLS WERE INTEREXCHANGE CALLS OR NOT. IS**
14 **THIS SOMETHING KMC SHOULD HAVE DONE?**

15 **A.** No. Even if KMC had had a reason to look at the calling party number
16 fields at all – which it did not for the PRI service traffic -- KMC would not
17 have concluded that its customer's calls were interexchange calls.
18 Admittedly, under the parties' interconnection agreement, CPN ordinarily
19 is used to determine the jurisdiction of traffic, but this is limited to
20 *telecommunications traffic*. KMC understood that Customer X was an
21 enhanced service provider, based upon the representations of the
22 customer when the PRIs were established, and that the traffic that passed
23 over the PRI service groups leased by Customer X were entitled to local

1 treatment and would have been exempt from access charges regardless
2 of the calling party numbers associated with that traffic. KMC routed calls
3 to Sprint based on the standard routing that is used in connection with all
4 local calling between KMC's customers and Sprint's customers. Calls
5 from *all* local service lines KMC provided in Fort Myers and Tallahassee,
6 including the PRI services provided to Customer X, were routed to Sprint's
7 local customers (based on the NPA and NXX of the dialed digits) over the
8 local interconnection trunks between KMC's Fort Myers and Tallahassee
9 switches and Sprint's switches in those respective cities.

10 **Q. HAVE YOU READ MR. FARNAN'S TESTIMONY REGARDING**
11 **SPRINT'S CALCULATION OF DAMAGES?**

12 **A.** Yes.

13 **Q. DO YOU HAVE ANY SPECIFIC RESPONSE TO THE CALCULATION**
14 **OF ACCESS CHARGES BY SPRINT?**

15 **A.** At the outset, it must be understood that Sprint bears the burden of proof
16 with regard to damages as well as liability. KMC has sought the detail
17 behind Sprint's calculation of damages, but Sprint has steadfastly refused
18 to provide it. KMC, because it billed its Customer X on a flat-rate basis,
19 has no underlying data on which to verify Sprint's calculation of traffic
20 categories or damages. KMC asked Sprint for the underlying call detail
21 records on which Sprint's claim for damages rests. Rather than providing
22 that data, Sprint gave KMC only 3% of the call detail spread over twenty-

1 seven months. Specifically, Sprint provided one days' worth of data each
2 month.

3 **Q. WHY ISN'T THE SAMPLE OF DATA PROVIDED SUFFICIENT?**

4 **A.** Quite simply this is not the full set of call detail upon which Sprint makes
5 claims for damages. Sprint tries to support its sample with an
6 uncaptioned affidavit of a non-witness, Brian A. Staihr, but the affidavit
7 overlooks the fundamental fact that Sprint is not relying on this sample in
8 order to calculate its damages. At least I found no statements in Sprint's
9 testimony or its discovery responses that this is the case. Consequently,
10 whether the sample is statistically valid and representative is completely
11 irrelevant to Sprint's calculation of damages. As a result of Sprint
12 withholding the underlying data, neither KMC nor the Commission verify
13 the monthly MOUs that Sprint alleges that KMC passed to Sprint over the
14 local interconnection trunks with the charge party numbers in question. In
15 addition, KMC cannot verify the usage factors – PIUs and PLUs – that
16 Sprint used to calculate damages. Basically, Sprint says "take our word
17 for it" that all of the traffic for each and every day over this two-year-plus
18 period was exactly the same as the other 29 or 30 days each month. To
19 require KMC or any other entity to pay the access charges Sprint has
20 calculated on this record would be highly inequitable, especially because
21 Sprint has the data available to it, which it does not deny, but chooses to
22 keep this data from both the Commission and KMC.

1 **Q. IN YOUR INITIAL TESTIMONY, YOU SPENT QUITE A BIT OF TIME**
2 **ADDRESSING KMC'S OWN COUNTERCLAIMS. DO THE SPRINT**
3 **WITNESSES ADDRESS KMC'S COUNTERCLAIMS?**

4 A. No. This is to be expected since KMC was not prepared to file its
5 counterclaims until the same time that the initial testimony is due.
6 Certainly, Sprint should have the opportunity to submit testimony on these
7 matters responding to KMC's claims. At the same time, it is equally
8 important that Sprint respond to KMC's discovery on the counterclaims,
9 which will allow KMC and the Commission to understand the extent of
10 Sprint and its IXC affiliate's involvement and complicity in arrangements
11 diverting access traffic from KMC, as discussed in my Direct Testimony, of
12 which Sprint accuses KMC of in its Complaint.

13 **Q. CAN YOU SUMMARIZE YOUR REBUTTAL TESTIMONY?**

14 A. Yes. In my rebuttal testimony, I have responded to Sprint's allegations
15 that KMC's actions regarding the traffic in question were improper. Contrary to
16 the insinuations of the Sprint witnesses, KMC appropriately provisioned PRI
17 service for its enhanced service customer when it 1) provided Customer X PRI
18 service locally in Ft. Myers and Tallahassee, 2) provided, at the customer's
19 request, local telephone numbers for the PRIs, which KMC used for billing
20 purposes, and 3) provisioned the PRIs using the Lucent guidelines which
21 resulted in the customer's Billing Telephone Number both being inserted in the
22 Charged Party Number field of the SS7 data and in the AMA records. Sprint's
23 Agilent Study reached unsupportable conclusions based on faulty premises:

1 KMC did not alter the Calling Party Number nor the Charge Party Number on any
2 of the calls or alter the SS7 information, nor was there any reason for KMC to
3 consider let along undertake such action. Further, KMC had no reason to
4 analyze the call detail or the Calling Party Number individually, or in conjunction
5 with the corresponding Charge Party Number, since the customer was an
6 enhanced service provider. Although I would have been surprised were it
7 otherwise, it was still striking that Sprint failed to proffer any data and/or evidence
8 that prove any of the points on which it bases its claim. If anything, Sprint's
9 testimony and other documentation highlights the inconsistencies and therefore
10 the flaws in their logic, all of which appears to be based on incorrect assumptions
11 versus fact.

12 **Q. DOES THIS CONCLUDE YOUR REBUTTAL TESTIMONY?**

13 **A. Yes.**