

MEMORANDUM

March 27, 1998

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9:40

PSC Records/Reporting

TO: DIVISION OF RECORDS AND REPORTING

FROM: DIVISION OF LEGAL SERVICES (PEÑA) *161 PNCB*

RE: DOCKET NO. 971677-TP - APPLICATION FOR APPROVAL OF AN  
INTRACORPORATE REORGANIZATION AND RELATED PRO FORMA  
TRANSFER TRANSACTION BY KMC TELECOM INC.

*95-0436-1 OF TP*

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Attached is a NOTICE OF PROPOSED AGENCY ACTION ORDER APPROVING  
INTRACORPORATE REORGANIZATION, to be issued in the above referenced  
docket. (Number of pages in order - 4)

KMP/anr  
Attachment  
cc: Division of Communications  
I: 971677.kmp

*See 2*

*10011*

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for approval  
of an intracorporate  
reorganization and related pro  
forma transfer transaction by  
KMC Telecom Inc.

DOCKET NO. 971677-TP  
ORDER NO. PSC-98-0436-FOF-TP  
ISSUED: March 27, 1998

The following Commissioners participated in the disposition of  
this matter:

JULIA L. JOHNSON, Chairman  
J. TERRY DEASON  
SUSAN F. CLARK  
JOE GARCIA  
E. LEON JACOBS, JR.

NOTICE OF PROPOSED AGENCY ACTION  
ORDER APPROVING INTRACORPORATE REORGANIZATION  
AND RELATED PRO FORMA TRANSACTIONS

BY THE COMMISSION:

NOTICE IS HEREBY GIVEN by the Florida Public Service  
Commission that the action discussed herein is preliminary in  
nature and will become final unless a person whose interests are  
substantially affected files a petition for a formal proceeding,  
pursuant to Rule 25-22.029, Florida Administrative Code.

Section 364.33, Florida Statutes, provides that a person may  
not acquire ownership or control of any telecommunications  
facility, or any extension thereof for the purpose of providing  
telecommunications services to the public, including the  
acquisition, transfer, or assignment of majority organizational  
control or controlling stock ownership, without prior approval from  
this Commission.

KMC Telecom Inc. (KMC Telecom) holds Interexchange  
Telecommunications (IXC) Certificate No. 4792, Alternative Local  
Exchange (ALEC) Certificate No. 4733, and Alternative Access Vendor  
(AAV) Certificate No. 4822.

DOCUMENT PREPARED DATE

03624 MAR 27 8

REPORTING

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By letter dated December 31, 1997, KMC Telecom filed with this Commission an application for approval of its intracorporate reorganization into a holding company-subsidary structure and requested that the Commission's Order be effective the date of the reorganization. KMC Holdings, Inc. was created on September 15, 1997, to become the holding company of KMC Telecom.

We determine that KMC Telecom has met the requirements of Section 364.33, Florida Statutes. Accordingly, we find that the reorganization is in the public interest, and we approve it pursuant to Section 364.33, Florida Statutes.

Ordinarily, Commission Orders are prospective in nature. In this case, however, because the company inadvertently failed to request prior approval and because it was cooperative with our staff, we hereby approve its request to make the effective date the same as that of its reorganization, September 15, 1997.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that KMC Telecom Inc.'s request for approval of its intracorporate reorganization into a holding company-subsidary structure, effective September 15, 1997, is hereby approved. It is further

ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective unless an appropriate petition, in the form provided by Rule 25-22.036, Florida Administrative Code, is received by the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings or Judicial Review" attached hereto. It is further

ORDERED that in the event this Order becomes final, this Docket shall be closed.

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By ORDER of the Florida Public Service Commission, this 27th  
day of March, 1998.

BLANCA S. BAYO, Director  
Division of Records and Reporting

By: Kay Flynn  
Kay Flynn, Chief  
Bureau of Records

( S E A L )

KMP

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

The action proposed herein is preliminary in nature and will not become effective or final, except as provided by Rule 25-22.029, Florida Administrative Code. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, as provided by Rule 25-22.029(4), Florida Administrative Code, in the form provided by Rule 25-22.036(7)(a) and (f), Florida Administrative Code. This petition must be received by the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on April 17, 1998.

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In the absence of such a petition, this order shall become effective on the day subsequent to the above date as provided by Rule 25-22.029(6), Florida Administrative Code.

Any objection or protest filed in this docket before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.

If this order becomes final and effective on the date described above, any party substantially affected may request judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or by the First District Court of Appeal in the case of a water or wastewater utility by filing a notice of appeal with the Director, Division of Records and Reporting and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days of the effective date of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.