

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Complaint against KMC Telecom III LLC, KMC Telecom V, Inc., and KMC Data LLC for alleged failure to pay intrastate access charges pursuant to its interconnection agreement and Sprint's tariffs and for alleged violation of Section 364.16(3)(a), F.S., by Sprint-Florida, Incorporated.

DOCKET NO. 041144-TP
ORDER NO. PSC-05-0326-PCO-TP
ISSUED: March 22, 2005

ORDER ON MOTION FOR EXTENSION OF TIME

On September 24, 2004, Sprint-Florida, Incorporated (Sprint) filed its complaint against KMC Telecom III LLC, KMC Telecom V, Inc., and KMC Data LLC (collectively KMC) for alleged failure to pay intrastate access charges pursuant to its interconnection agreement and Sprint's tariffs, and for alleged violation of Section 364.16(3)(a), F.S.

On October 15, 2004, KMC filed a motion to dismiss for failure to state a claim upon which relief may be granted, improper joinder of KMC Data and KMC Telecom V, failure to join an indispensable party, failure to request an audit, and for use of an unauthorized methodology to recalculate traffic. On October 21, 2004, Sprint filed its response to KMC's motion to dismiss. On December 3, 2004, Order No. PSC-04-1204-FOF-TP was issued denying KMC's motion to dismiss.

On February 28, 2005, KMC filed its Answer, Affirmative Defenses and Counterclaims in this docket. On March 4, 2005, KMC filed its Motion for Audit against Sprint.

On March 10, 2005, Sprint filed a Motion for Extension of Time to respond to KMC's Motion for Audit. Sprint states it needs an extension of (7) days to properly respond to the Motion for Audit independent of any response by motions or pleadings relating to the Answer, Affirmative Defenses and Counterclaims since the Counterclaim and the Motion for Audit raise interrelated issues of law and fact. Sprint states it has consulted with KMC, and counsel for KMC has represented that KMC does not object to Sprint's request. Commission counsel has communicated with KMC's counsel regarding this extension of time and KMC has no objections.

Upon consideration, it appears reasonable and appropriate to extend the response due date as requested by Petitioner. Accordingly, the filing date for Sprint's response to KMC's request for extension of time is extended until March 18, 2005.

Based on the foregoing, it is

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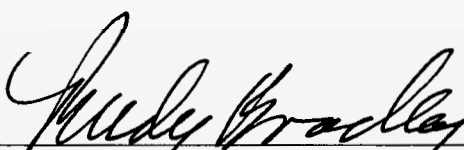
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FPSC-COMMISSION CLERK

ORDERED by Commissioner Rudolph "Rudy" Bradley, as Prehearing Officer, that Sprint-Florida Incorporated's Motion for Extension of Time for filing its response to KMC Telecom III LLC, KMC Telecom V, Inc. and KMC Data LLC's Motion for Audit is hereby approved. It is further

ORDERED that Sprint-Florida Incorporated shall have until March 18, 2005, to file its response to KMC Telecom III LLC, KMC Telecom V, Inc. and KMC Data LLC's Motion for Audit.

By ORDER of Commissioner Rudolph "Rudy" Bradley, as Prehearing Officer, this 22nd day of March, 2005.


RUDOLPH "RUDY" BRADLEY
Commissioner and Prehearing Officer

(SEAL)

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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.

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.0376, Florida Administrative Code; or (2) judicial review by the Florida Supreme Court, in the case of an electric, gas or telephone utility, or the First District Court of Appeal, in the case of a water or wastewater utility. A motion for reconsideration shall be filed with the Director, Division of the Commission Clerk and Administrative Services, in the form prescribed by Rule

ORDER NO. PSC-05-0326-PCO-TP

DOCKET NO. 041144-TP

PAGE 3

25-22.060, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.