

FLORIDA PUBLIC SERVICE COMMISSION
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M E M O R A N D U M

May 29, 1997

TO: DIRECTOR, DIVISION OF RECORDS AND REPORTING (BAYO)

FROM: DIVISION OF COMMUNICATIONS (STAVANJA) *not*
DIVISION OF LEGAL SERVICES (PELLEGRINI) *CB NCB AD*

RE: DOCKET NO. 970242-TP - PETITION FOR ARBITRATION, PURSUANT TO SECTION 252(b) OF THE COMMUNICATIONS ACT OF 1934 AS AMENDED BY THE TELECOMMUNICATIONS ACT OF 1996, OF RATES, TERMS, AND CONDITIONS FOR AN INTERCONNECTION AND RELATED ARRANGEMENTS WITH SPRINT-FLORIDA, INCORPORATED BY KMC TELECOM INC.

AGENDA: JUNE 10, 1997 - REGULAR AGENDA - PETITION WITHDRAWN - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: S:\PSC\CNU\WP\970242TP.RCM

CASE BACKGROUND

On February 25, 1997, KMC Telecom, Inc. (KMC) filed a petition for arbitration, pursuant to 47 U.S.C. 5252(b), of rates, terms, and conditions for interconnection and related arrangements with Sprint United-Centel, Inc., (Sprint-Florida). In its petition, KMC stated that it had reached agreement in principle with Sprint-Florida on all issues except the issue of compensation for termination of traffic involving tandem switching. In its petition for arbitration, KMC requests the ability to opt into Sprint-Florida's interconnection agreement with MPS Communications Company, Inc., pursuant to Section 252(i) of the Act.

KMC has withdrawn its petition for arbitration with Sprint-Florida and has filed a new petition seeking relief under Section 252(i) of the Act. KMC filed the new petition on April 24, 1997.

DOCUMENT NUMBER - DATE

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FPSD - RECORDS - REPORTING

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DISCUSSION OF ISSUES

ISSUE 1: Should this docket be closed?

RECOMMENDATION: Yes. KMC has withdrawn its petition for arbitration with Sprint-Florida. No issues remain for the Commission to resolve; therefore, this docket should be closed.
(STAVANJA, PELLEGRINI)

STAFF ANALYSIS: The Commission has already determined in Docket No. 961173-TP, Order No. PSC-97-0230-FOF-TP, that it is not required to interpret 47 U.S.C. §252(i) to fulfill its arbitration responsibilities. Therefore, the arbitration process is not the proper venue to address a request for relief under Section 252(i) of the Act. Section 252(i) states:

(i) AVAILABILITY TO OTHER TELECOMMUNICATIONS CARRIERS. - A local exchange carrier shall make available any interconnection, service, or network element provided under an agreement approved under this section to which it is a party to any other requesting telecommunications carrier upon the same terms and conditions as those provided in the agreement.

At the prehearing conference on April 21, 1997, KMC withdrew its petition for arbitration. KMC confirmed its withdrawal by letter dated May, 6, 1997. On April 24, 1997, KMC filed a new petition seeking relief under Section 252(i). The petition for relief under 252(i) will be addressed in a separate docket. There are no further issues remaining to be arbitrated in the instant docket. Therefore, staff recommends that this docket be closed.