

MARY C. ALBERT  
ATTORNEY-AT-LAW

SWIDLER  
&  
BERLIN  
L L P  
CHARTERED

DIRECT DIAL  
(202)424-7724

January 15, 1998

**VIA FEDERAL EXPRESS**

Ms. Blanca S. Bayo  
Director, Division of Records & Reporting  
Florida Public Service Commission  
2540 Shumard Oak Blvd.  
Tallahassee, Florida 32399-0866

177089-00

**Re: Application of KMC Telecom II, Inc. for Authorization to Provide  
Interexchange Telecommunications Service Within the State of Florida**

Dear Ms. Bayo:

Enclosed for filing are an original and 6 copies of the Application of KMC Telecom II, Inc. for Authorization to Provide Interexchange Telecommunications Service Within the State of Florida. Also enclosed is a check for \$250.00 to cover the filing fee.

Please date-stamp the extra copy of the application and return it to me in the enclosed self-addressed, stamped envelope.

Thank you for your attention to this matter.

Respectfully submitted,

*Mary C. Albert*

Mary C. Albert  
Counsel for KMC Telecom II, Inc.

98 JAN 15 PM 12 26

Enclosures

172663.1

1000 K STREET, N.W. ■  
WASHINGTON, D.C. 20004  
(202)424-7500 ■ FAX (202)424-7501

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00967 JAN 16 1998

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752084-10

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Thank you for your attention to this matter.

Respectfully submitted

86

SWIDLER & BERLIN  
CHARTERED  
3000 K STREET, N.W., SUITE 300  
WASHINGTON, D.C. 20007

FIRST UNION NATIONAL BANK  
WASHINGTON, DC

0062532

15 122540

0062532

\*\*EXACTLY\*\*\*\*\*250\*DOLLARS AND\*00\*CENTS

DATE

AMOUNT

PAY TO THE ORDER OF FLORIDA PUBLIC SERVICE COMMISS

01/15/98

\$250.00

GENERAL ACCOUNT

TWO HUNDRED FIFTY DOLLARS AND NO CENTS



**BEFORE THE  
FLORIDA PUBLIC SERVICE COMMISSION**

\_\_\_\_\_ )  
**KMC Telecom II, Inc.** )

\_\_\_\_\_ )  
**Request for Authority to Provide** )  
**Interexchange Telecommunications** )  
**Service within the State of Florida** )  
\_\_\_\_\_ )

Docket No. \_\_\_\_\_

**APPLICATION FORM  
for  
AUTHORITY TO PROVIDE INTEREXCHANGE TELECOMMUNICATIONS  
SERVICE WITHIN THE STATE OF FLORIDA**

DOCUMENT NUMBER-DATE

00967 JAN 16 88

REGULATORY REPORTING

1. This is an application for (check one):
- Original Authority (New company).
  - Approval of Transfer (To another certificated company).
  - Approval of Assignment of Existing Certificate (To a noncertificated company).
  - Approval for Transfer of Control (To another certificated company).

2. Select what type of business your company will be conducting (check all that apply):
- Facilities Based Carrier** - company owns and operates or plans to own and operate telecommunications switches and transmission facilities in Florida.
  - Operator Service Provider** - company provides or plans to provide alternative operator services for IXCs; or toll operator services to call aggregator locations; or clearinghouse services to bill such calls.
  - Reseller** - company has or plans to have one or more switches, but primarily leases the transmission facilities of other carriers. Bills its own customer base for services used.
  - Switchless Rebiller** - company has no switch or transmission facilities, but may have a billing computer. Aggregates traffic to obtain bulk discounts from underlying carrier. Rebills end users at a rate above its discount, but generally below the rate end users would pay for unaggregated traffic.
  - Multi-Location Discount Aggregator** - company contracts with unaffiliated entities to obtain bulk/volume discounts under multi-location discount plans from certain underlying carriers, then offers the resold service by enrolling unaffiliated customers.

3. Name of corporation, partnership, cooperative, joint venture, or sole proprietorship:

**KMC Telecom II, Inc.**

4. Name under which the applicant will do business (fictitious name, etc.):

**KMC Telecom II, Inc.**

5. National address (including street name and number, post office box, city, state, and zip code):

**KMC Telecom II, Inc.  
1545 Route 206, Suite 300  
Bedminster, NJ 07921-2567  
Telephone: (908) 719-2200  
Facsimile: (908) 719-2211**

6. Florida address (including street name and number, post office box, city, state, and zip code):

**KMC Telecom II, Inc. plans to establish an office in Tallahassee and will provide the requested information to the Commission when it has done so.**

7. Structure of organization:

- |                          |                     |                                     |                     |
|--------------------------|---------------------|-------------------------------------|---------------------|
| <input type="checkbox"/> | Individual          | <input checked="" type="checkbox"/> | Corporation         |
| <input type="checkbox"/> | Foreign Corporation | <input type="checkbox"/>            | Foreign Partnership |
| <input type="checkbox"/> | General Partnership | <input type="checkbox"/>            | Limited Partnership |
| <input type="checkbox"/> | Other, _____        |                                     |                     |

8. If applicant is an individual or partnership, please give name, title, and address of sole proprietor or partners.

**Not applicable.**

- (a) Provide proof of compliance with the foreign limited partnership statute (Chapter 620.169 FS) if applicable.
- (b) Indicate if the individual or any of the partners have previously been:
- (1) **adjudged bankrupt, mentally incompetent, or found guilty of any felony or of any crime, or whether such actions may result from pending proceedings.**
  - (2) **officer, director, partner, or stockholder in any other Florida certificated telephone company. If yes, give name of company and relationship. If no longer associated with company, give reason why not.**

9. If incorporated, please give:

- (a) **Proof from the Florida Secretary of State that the applicant has authority to operate in Florida.**

**A copy of Applicant's Certificate of Authority to transact business in the State of Florida as a foreign corporation is attached hereto as Exhibit 1.**

**Corporation charter number: F97000005763**

- (b) **Name and address of the company's Florida registered agent.**

**CT Corporation System  
1200 South Pine Island Road  
Plantation, Florida 33324**

- (c) **Provide proof of compliance with the fictitious name statute (Chapter 865.09 FS), if applicable.**

**Not applicable.**

**Fictitious name registration number:**

- (d) **Indicate if any of the officers, directors, or any of the ten largest stockholders have previously been:**

- (1) **adjudged bankrupt, mentally incompetent, or found guilty of any felony or of any crime, or whether such actions may result from pending proceedings.**

**No.**

- (2) **officer, director, partner, or stockholder in any other Florida certificated telephone company. If yes, give name of company and relationship. If no longer associated with company, give reason why not.**

**The officers and directors of KMC Telecom II, Inc. are also officers and directors of KMC Telecom Inc., which is certificated to provide local exchange and interexchange service in the state of Florida. Both KMC Telecom II, Inc. and KMC Telecom, Inc. are wholly owned subsidiaries of KMC Telecom Holdings, Inc.**

10. Who will serve as liaison with the Commission in regard to (please give name, title, address, and telephone number):

(a) Application:

**Andrew D. Lipman, Esq.  
Mary C. Albert, Esq.  
Swidler & Berlin, Chartered  
3000 K Street, N.W., Suite 300  
Washington, D.C. 20007  
Telephone: (202) 424-7500  
Facsimile: (202) 424-7643**

With a copy to:

**Tricia Breckenridge  
Vice President-Market Development  
KMC Telecom II, Inc.  
1580 S. Milwaukee Avenue, Suite 305  
Libertyville, Illinois 60048  
Telephone: (847) 573-0000  
Facsimile: (847) 573-0033**

(b) Official Point of Contact for the ongoing operations of the company:

**Tricia Breckenridge  
Vice President-Market Development  
KMC Telecom II, Inc.  
1580 S. Milwaukee Avenue, Suite 305  
Libertyville, Illinois 60048  
Telephone: (847) 573-0000  
Facsimile: (847) 573-0033**

(c) Tariff:

**See response to 10.b above.**

(d) Complaints/Inquiries from customers

**See response to 10.b above.**

11. List the states in which the applicant:

(a) Has operated as an interexchange carrier

**KMC Telecom II, Inc. has yet to operate as an interexchange carrier.**

(b) Has applications pending to be certificated as an interexchange carrier.

**Applicant is in the process of obtaining intrastate interexchange authority, where required, in numerous states throughout the United States, including Georgia, Kansas, Maryland, Michigan, North Carolina and Minnesota.**

(c) Is certificated to operate as an interexchange carrier

**None.**

(d) Has been denied authority to operate as an interexchange carrier and the circumstances involved.

**None.**

(e) Has had regulatory penalties imposed for violations of telecommunications statutes and the circumstances involved

**None.**

(f) Has been involved in civil court proceedings with an interexchange carrier, local exchange company, or other telecommunications entity and the circumstances involved.

**None.**

12. What services will the applicant offer to other certificated telephone companies:

( ) Facilities ( ) Operators

( ) Billing and Collection ( ) Sales

( ) Maintenance

(X) Other None



13. Do you have a marketing program?

**KMC Telecom II, Inc. anticipates that its initial marketing vehicles will include direct sales, direct mail and limited print advertising.**

14. Will your marketing program: **Not Applicable.**

- Pay commissions?
- Offer sales franchises?
- Offer multi-level sales incentives?
- Offer other sales incentives?

15. Explain any of the offers checked in question 14 (to whom, what amount, type of franchise, etc.).

**Not Applicable.**

16. Who will receive the bills for your services (check all that apply)?

- |   |  |
|---|--|
| <input type="checkbox"/> Residential Customers        | <input checked="" type="checkbox"/> Business Customers |
| <input type="checkbox"/> PATS Providers               | <input type="checkbox"/> PATS Station End-Users        |
| <input checked="" type="checkbox"/> Hotels and Motels | <input type="checkbox"/> Hotel and Motel Guests        |
| <input checked="" type="checkbox"/> Universities      | <input type="checkbox"/> Univ. Dormitory Residents     |
| <input type="checkbox"/> Other, _____                 |  |

17. Please provide the following (if applicable)

(a) Will the name of your company appear on the bill for your services and, if not, who will the billed party contact to ask questions about the bill (provide name and phone number) and how is this information provided?

**Yes, KMC Telecom II, Inc.'s name will appear on the bills sent to customers.**

(b) Name and address of the firm who will bill for your services.

**KMC Telecom II, Inc. will either bill customers directly for its services or will have the charges included in the customer's local telephone bill pursuant to billing and collection agreements with the underlying local exchange carrier.**

18. Please provide all available documentation demonstrating that the applicant has the following capabilities to provide interexchange telecommunications service in Florida.

A. Financial capability.

Regarding the showing of financial capability, the following applies:

The application should contain the applicant's financial statements, including:

1. the balance sheet
2. income statement
3. statement of retained earnings for the most recent 3 years.

If available, the financial statements should be audited financial statements.

If the applicant does not have audited financial statements, it shall be so stated. The unaudited financial statements should then be signed by the applicant's chief executive officer and chief financial officer. The signatures should affirm that the financial statements are true and correct.

See Exhibit 2.

B. Managerial capability.

See Exhibit 3.

C. Technical capability.

See Exhibit 3.

19. Please submit the proposed tariff under which the company plans to begin operation. Use the format required by Commission Rule 25-24.485 (example enclosed).

KMC Telecom II, Inc.'s proposed tariff is appended hereto as Exhibit 4.

20. The applicant will provide the following interexchange carrier services (check all that apply):

**Applicant is seeking authority to provide all forms of direct dialed interexchange services on a resale basis or through its own facilities (when those are deployed).**

- MTS with distance sensitive per minute rates**
  - Method of access is FGA**
  - Method of access is FGB**
  - Method of access is FGD**
  - Method of access is 800**
- MTS with route specific rates per minute**
  - Method of access is FGA**
  - Method of access is FGB**
  - Method of access is FGD**
  - Method of access is 800**
- MTS with statewide flat rates per minute (i.e., not distance sensitive)**
  - Method of access is FGA**
  - Method of access is FGB**
  - Method of access is FGD**
  - Method of access is 800**
- MTS for pay telephone service providers**
- Block-of-time calling plan (Reach Out Florida, Ring America, etc.)**
- 800 Service (toll free)**
- WATS-type Service (bulk or volume discount)**
  - Method of access is via dedicated facilities**
  - Method of access is via switched facilities**
- Private Line Services (channel services) (i.e., 1.544 mbs., DS-3, etc.)**
- Travel Service**
  - Method of access is 950**
  - Method of access is 800**
- 900 Service**

**(X) Operator Services**

- (X) Available to presubscribed customers**
- ( ) Available to non-presubscribed customers (i.e., to patrons of hotels, students in universities, patients in hospitals)**
- ( ) Available to inmates**

**Services included are:**

- (X) Station assistance**
- (X) Person-to-Person assistance**
- (X) Directory assistance**
- (X) Operator verify and interrupt**
- (X) Conference calling**

- 21. What does the end-user dial for each of the interexchange carrier services that were checked in services included (above)?**

**The end-user will dial either "1" or an 800 number to access these services.**

- 22. Other: Not Applicable**

**\*\* APPLICANT ACKNOWLEDGMENT STATEMENT \*\***

1. **REGULATORY ASSESSMENT FEE:** I understand that all telephone companies must pay a regulatory assessment fee in the amount of .15 of one percent of its gross operating revenue derived from intrastate business. Regardless of the gross operating revenue of a company, a minimum annual assessment fee of \$50 is required.
2. **GROSS RECEIPTS TAX:** I understand that all telephone companies must pay a gross receipts tax of two and one-half percent on all intra and interstate business.
3. **SALES TAX:** I understand that a seven percent sales tax must be paid on intra and interstate revenues.
4. **APPLICATION FEE:** A non-refundable application fee of \$250.00 must be submitted with the application.
5. **RECEIPT AND UNDERSTANDING OF RULES:** I acknowledge receipt and understanding of the Florida Public Service Commission's Rules and Orders relating to my provision of interexchange telephone service in Florida. I also understand that it is my responsibility to comply with all current and future Commission requirements regarding interexchange telephone service.
6. **ACCURACY OF APPLICATION:** By my signature below, I, the undersigned owner or officer of the named utility in the application, attest to the accuracy of the information contained in this application and associated attachments. I have read the foregoing and declare that, to the best of my knowledge and belief, the information is a true and correct statement.

Further, I am aware that, pursuant to Chapter 837.06, Florida Statutes, "Whoever knowingly makes a false statement in writing with the intent to mislead a public servant in the performance of his official duty shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 and s. 775-083."

**UTILITY OFFICIAL:**

TRICIA BRECKENRIDGE  
Tricia Breckenridge  
Vice President-Market Development  
KMC Telecom II, Inc.

1/1/98  
Date

(847) 573-0000  
Telephone Number

**APPENDICES**

<b>APPENDIX A</b>	<b>CUSTOMER DEPOSITS AND ADVANCE PAYMENTS</b>
<b>APPENDIX B</b>	<b>INTRASTATE NETWORK</b>
<b>APPENDIX C</b>	<b>FLORIDA TELEPHONE EXCHANGES AND EAS ROUTES</b>

**EXHIBITS**

<b>EXHIBIT 1</b>	<b>CERTIFICATE OF AUTHORITY TO TRANSACT BUSINESS</b>
<b>EXHIBIT 2</b>	<b>FINANCIAL STATEMENTS</b>
<b>EXHIBIT 3</b>	<b>MANAGERIAL AND TECHNICAL QUALIFICATIONS</b>
<b>EXHIBIT 4</b>	<b>PROPOSED TARIFF</b>

**\*\* APPENDIX A \*\***

**CUSTOMER DEPOSITS AND ADVANCE PAYMENTS**

A statement of how the Commission can be assured of the security of the customer's deposits and advance payments may be responded to in one of the following ways (applicant, please check one):

- (X) **The applicant will not collect deposits nor will it collect payments for service more than one month in advance.**
  
- ( ) **The applicant will file with the Commission and maintain a surety bond in an amount equal to the current balance of deposits and advance payments in excess of one month. (Bond must accompany application.)**

**UTILITY OFFICIAL:**

TRICIA BRECKENRIDGE \_\_\_\_\_ 11/1/90 \_\_\_\_\_

Tricia Breckenridge Date  
Vice President-Market Development  
KMC Telecom II, Inc.

(847) 573 0000  
Telephone Number

**\*\* APPENDIX B \*\***

**INTRASTATE NETWORK**

**KMC Telecom II, Inc. plans to construct a fiber optic SONET ring in the city of Tallahassee, which it will use to provide switched and special access local exchange services and competitive access services. Initially, KMC Telecom II, Inc. plans to resell the interexchange services of other certificated interexchange carriers. Eventually, KMC Telecom II, Inc. will construct its own interexchange facilities. At this time, KMC Telecom II, Inc. does not have a detailed plan of where and exactly which kind of facilities it will construct, but will inform the Commission when this information becomes available.**

1. **POP:** Addresses where located, and indicate if owned or leased.

1) **See Above**                      2)

3)                                      4)

2. **SWITCHES:** Addresses where located, by type of switch, and indicate if owned or leased.

1) **See Above**                      2)

3)                                      4)

3. **TRANSMISSION FACILITIES:** POP to POP facilities by type of facilities (microwave, fiber, copper, satellite, etc.) and indicate if owned or leased

<b><u>POP-to-POP</u></b>	<b><u>TYPE</u></b>	<b><u>OWNERSHIP</u></b>
--------------------------	--------------------	-------------------------

1) **See Above**

2)



**\*\* APPENDIX B \*\***

**INTRASTATE NETWORK (continued)**

4. **ORIGINATING SERVICE:** Please provide the list of exchanges where you are proposing to provide originating service within thirty (30) days after the effective date of the certificate (Appendix D).

**KMC Telecom II, Inc. seeks authority to originate interexchange telecommunications service throughout the State of Florida.**

5. **TRAFFIC RESTRICTIONS:** Please explain how the applicant will comply with the EAEA requirements contained in Commission Rule 25-24.471(4)(a) (copy enclosed).

**KMC Telecom II, Inc. initially proposes to provide interexchange service on a resale basis. The certificated carriers from which KMC Telecom II, Inc. purchases services for resale will be responsible for complying with Commission Rule 25-24.471(4)(a). When KMC Telecom II, Inc. deploys its own facilities-based interexchange service, it will do so in a manner that recognizes that "the local exchange company shall be the sole carrier for O+ local, O- local and O-intraLATA toll calls dialed by end users." KMC Telecom II, Inc. will "not change or augment the dialing pattern of end users for such calls." KMC Telecom II, Inc. will only provide intraLATA toll services to end users who dial KMC Telecom II, Inc.'s access code (either 950, 800, or 10XXX).**

6. **CURRENT FLORIDA INTRASTATE SERVICES:** Applicant has ( ) or has not (X) previously provided intrastate telecommunications in Florida. If the answer is has, fully describe the following:

- a) What services have been provided and when did these services begin?
- b) If the services are not currently offered, when were they discontinued?

**UTILITY OFFICIAL:**

TRICIA BRECKENRIDGE  
Tricia Breckenridge  
Vice President-Market Development  
KMC Telecom II, Inc.

10/1/94  
Date

(847) 573 0000  
Telephone Number

**\*\* APPENDIX C \*\***

**FLORIDA TELEPHONE EXCHANGES AND EAS ROUTES**

Describe the service area in which you hold yourself out to provide service by telephone company exchange. If all services listed in your tariff are not offered at all locations, so indicate.

In an effort to assist you, attached is a list of major exchanges in Florida showing the small exchanges with which each has extended area service (EAS).

**\*\* FLORIDA EAS FOR MAJOR EXCHANGES \*\***

<u>Extended Service Area</u>	<u>with</u>	<u>These Exchanges</u>
<b>PENSACOLA:</b>		Cantonment, Gulf Breeze Pace, Milton Holley-Navarre.
<b>PANAMA CITY:</b>		Lynn Haven, Panama City Beach, Youngstown-Fountain and Tyndall AFB
<b>TALLAHASSEE:</b>		Crawfordville, Havana, Monticello, Panacea, Sopchoppy and St. Marks.
<b>JACKSONVILLE:</b>		Baldwin, Ft. George, Jacksonville Beach, Callahan, Maxville, Middleburg, Orange Park, Ponte Vedra and Julington.
<b>GAINESVILLE:</b>		Alachua, Archer, Brooker, Hawthorne, High Springs, Melrose, Micanopy, Newberry and Waldo.
<b>OCALA:</b>		Belleview, Citra, Dunnellon, Forest Lake (BFL), McIntosh, Oklawaha, Orange Springs, Salt Springs and Silver Springs Shores
<b>DAYTONA BEACH:</b>		New Smyrna Beach

**\*\* APPENDIX C \*\***

**FLORIDA TELEPHONE EXCHANGES AND EAS ROUTES (continued)**

<b>TAMPA:</b>	Central East North South West	None Plant City Zephyrhills Palmetto Clearwater
<b>CLEARWATER:</b>	St. Petersburg, Tampa-West and Tarpon Springs.	
<b>ST. PETERSBURG:</b>	Clearwater	
<b>LAKELAND:</b>	Bartow, Mulberry, Plant City, Polk City and Winter Haven.	
<b>ORLANDO:</b>	Apopka, East Orange, Lake Buena Vista, Oviedo, Windermere, Winter Garden, Winter Park, Montverde, Reedy Creek and Oviedo-Winter Springs.	
<b>WINTER PARK:</b>	Apopka, East Orange, Lake Buena Vista, Orlando, Oviedo, Sanford, Windermere, Winter Garden, Oviedo-Winter Springs Reedy Creek, Geneva and Montverde.	
<b>TITUSVILLE:</b>	Cocoa and Cocoa Beach.	
<b>COCOA:</b>	Cocoa Beach, Eau Gallie, Melbourne and Titusville	
<b>MELBOURNE:</b>	Cocoa, Cocoa Beach, Eau Gallie and Sebastian	
<b>SARASOTA:</b>	Bradenton, Myakka and Venice.	

**\*\* APPENDIX C \*\***

**FLORIDA TELEPHONE EXCHANGES AND EAS ROUTES (continued)**

<b>FT. MYERS:</b>	Cape Coral, Ft. Myers Beach, North Cape Coral, North Ft. Myers, Pine Island, Lehigh Acres and Sanibel Captiva Islands
<b>NAPLES:</b>	Marco Island and North Naples.
<b>WEST PALM BEACH:</b>	Boyston Beach and Jupiter.
<b>POMPANO BEACH:</b>	Boca Raton, Coral Springs, Deerfield Beach and Ft. Lauderdale
<b>FT. LAUDERDALE:</b>	Coral Springs, Deerfield Beach, Hollywood and Pompano Beach
<b>HOLLYWOOD:</b>	Ft. Lauderdale and North Dade.
<b>NORTH DADE:</b>	Hollywood, Miami and Perrine
<b>MIAMI:</b>	Homestead, North Dade and Perrine.

**KMC Telecom II, Inc. seeks authority to originate interexchange telecommunications services throughout the State of Florida at the rates identified in its proposed tariff attached hereto as Exhibit 4.**

**UTILITY OFFICIAL:**

TRICIA BRECKENRIDGE  
Tricia Breckenridge  
Vice President-Market Development  
KMC Telecom II, Inc.

10/1/98  
Date

(847) 573-0000  
Telephone Number

**EXHIBIT 1**

**Certificate of Authority to Transact Business**



**FLORIDA DEPARTMENT OF STATE**  
**Sandra B. Mortham**  
**Secretary of State**

**October 30, 1997**

**CT CORPORATION SYSTEM**

**Qualification documents for KMC TELECOM II, INC. were filed on October 30, 1997 and assigned document number F97000005736. Please refer to this number whenever corresponding with this office.**

**Your corporation is now qualified and authorized to transact business in Florida as of the file date.**

**A corporation annual report will be due this office between January 1 and May 1 of the year following the calendar year of the file date. A Federal Employer Identification (FEI) number will be required before this report can be filed. If you do not already have an FEI number, please apply NOW with the Internal Revenue by calling 1-800-829-3676 and requesting form SS-4.**

**Please be aware if the corporate address changes, it is the responsibility of the corporation to notify this office.**

**Should you have any questions regarding this matter, please telephone (850) 487-6091, the Foreign Qualification/Tax Lien Section.**

**Jennifer Sindt**  
**Document Examiner**  
**Division of Corporations**

**Letter Number: 597A00052737**

**EXHIBIT 2**

**Financial Qualifications**


**KMC Telecom II, Inc. is financially qualified to provide interexchange telecommunications service in the State of Florida. KMC Telecom II, Inc. has access to the financing and capital necessary to provide and maintain the telecommunications operations specified in the Application. KMC Telecom II, Inc. will rely upon the financial resources of its parent company, KMC Telecom Holdings, Inc. KMC Telecom Holdings, Inc. is a Delaware corporation formed in September 1997 and does not yet have audited financial statements. Its most recent unaudited financial statements are attached hereto in support of the application. Also attached is a Guaranty executed by KMC Telecom Holdings, Inc. guaranteeing the financial obligations of KMC Telecom II, Inc.**



**GUARANTY**

**KMC Telecom Holdings, Inc. hereby guarantees the financial obligations of KMC Telecom II, Inc. attendant to KMC Telecom II's operations as a telecommunications carrier in the State of Florida. KMC Telecom Holdings, Inc. is the owner of all of the issued and outstanding common stock of KMC Telecom II, Inc. and issues this Guaranty in support of KMC Telecom II's application for authority to provide interexchange telecommunications services within the State of Florida.**

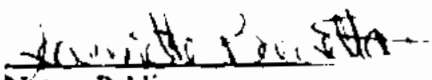
**KMC Telecom Holdings, Inc.**

By:   
Title: President

State of New Jersey )  
County of Somerset ) : SS

The above-named individual Michael Steinberg, appeared before me today and swore that he is the President of KMC Telecom Holdings, Inc., and is duly authorized by it to execute the foregoing Guaranty on its behalf.

Subscribed and sworn to before me this 5th day of December 1997.

  
Notary Public

JEANNETTE BARRETTA  
A Notary Public of New Jersey  
My Commission expires: My Commission Expires March 18, 2002

**CERTIFICATE**

I, Michael A. Sternberg, hereby certify that

1. I am the President and Chief Executive Officer of KMC Telecom Holdings, Inc., a Delaware Corporation, and am authorized to execute this Certificate on its behalf.

2. KMC Telecom Holdings, Inc. is the owner of all of the issued and outstanding common stock of KMC Telecom II, Inc.

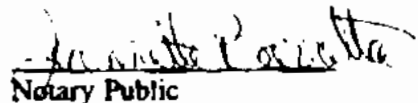
3. I certify that the documents attached hereto are the most recent balance sheet and statement of operations of KMC Telecom Holdings, Inc. compiled by the management of the corporation in accordance with generally accepted accounting principles, and that the same are true and correct to the best of my knowledge and belief



Michael A. Sternberg

State of New Jersey )  
County of Somerset ) : SS

Subscribed and sworn to before me this 24<sup>th</sup> day of December 1997.



Jeannette Barretta  
Notary Public

My Commission expires: JEANNETTE BARRETTA  
A Notary Public of New Jersey  
My Commission Expires March 18, 2002

**CERTIFICATE**

I, Cynthia Worthman, hereby certify that

1. I am the Treasurer and Chief Financial Officer of KMC Telecom Holdings, Inc., a Delaware Corporation, and am authorized to execute this Certificate on its behalf.

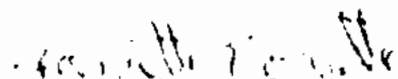
2. KMC Telecom Holdings, Inc. is the owner of all of the issued and outstanding common stock of KMC Telecom II, Inc.

3. I certify that the documents attached hereto are the most recent balance sheet and statement of operations of KMC Telecom Holdings, Inc. compiled by the management of the corporation in accordance with generally accepted accounting principles, and that the same are true and correct to the best of my knowledge and belief.

  
Cynthia Worthman

State of New Jersey )  
 ) : SS  
County of Somerset )

Subscribed and sworn to before me this 21<sup>st</sup> day of December 1997.

  
Notary Public

My Commission expires: **JEANNETTE BARRETTA**  
A Notary Public of New Jersey  
My Commission Expires March 18, 2002

# KMC TELECOM HOLDINGS, INC.

## BALANCE SHEET

NOVEMBER 30, 1997

### Assets

#### Current Assets:

Cash and cash equivalents	\$	23,061,976
Accounts receivable, net		518,452
Prepaid expenses and other current assets		<u>5,583,919</u>

Total current assets 29,164,347

Networks and equipment, net	68,567,922
Deferred Financing	2,995,329
Intangible Assets, net	3,815,177
Other assets	<u>371,118</u>

\$ 104,913,892

### Liabilities and stockholders' equity

#### Current Liabilities:

Accounts Payable	\$	18,523,025
Accrued Expenses		4,065,788
Due to Affiliates		<u>22,293</u>

Total current liabilities 22,611,106

Notes payable- AT&T 46,835,207

Notes payable- AT&T Sub 10,000,000

Total liabilities 79,446,313

#### Stockholders' equity :

Preferred stock	2,988
Common stock	7,466
Unearned Compensation	(1,449,000)
Additional paid-in capital	48,307,222
Accumulated deficit	<u>(21,401,097)</u>

Total stockholders' equity 25,467,579

\$ 104,913,892

**KMC TELECOM HOLDINGS, INC.**  
**STATEMENT OF CASH FLOWS**  
**FOR THE PERIOD ENDED NOVEMBER 30, 1997**

	<u>November</u>	<u>Year to Date</u>
<b>Operating Activities</b>		
Net loss after tax	\$ (2,265,682)	\$ (15,280,915)
Adjustments to reconcile net loss to net cash provided by (used in) operating activities:		
Depreciation and amortization	519,790	2,699,993
Non-cash interest expense	-	50,046
Non-cash stock option	100,000	860,000
Changes in assets and liabilities:		
Accounts receivable	76,941	(495,935)
Due from Affiliates	-	(61,649)
Prepaid expenses and other current assets	(56,387)	(5,461,503)
Accounts payable	17,491,683	15,942,679
Accrued expenses	523,371	2,731,333
Due to affiliates	61,649	2,424
Other assets	(186,386)	(306,590)
Net cash provided by (used in) operating activities	<u>16,264,979</u>	<u>679,881</u>
<b>Investing Activities</b>		
Construction of networks and purchases of equipment	(38,724,812)	(58,218,828)
Increase in acquisition of franchises, authorizations and related assets	(163,416)	(2,712,521)
Net cash used in investing activities	<u>(38,888,227)</u>	<u>(60,931,349)</u>
<b>Financing Activities</b>		
Proceeds from Senior debt	21,095,385	45,531,734
Proceeds from Convertible Note Payable, net	2,300,246	12,144,356
Proceeds from issuance of Preferred Stock	14,850,000	14,850,000
Proceeds from issuance of Common Stock	-	9,300,286
Proceeds from exercise Warrants	12,593,137	12,593,691
Net cash used in financing activities	<u>23,652,694</u>	<u>69,233,792</u>
Net increase in cash and cash equivalents	15,622,583	21,579,462
Cash and cash equivalents, beginning of period	<u>7,439,393</u>	<u>1,486,314</u>
Cash and cash equivalents, end of period	<u>\$ 23,061,976</u>	<u>\$ 23,061,976</u>

**KMC TELECOM HOLDINGS, INC.**  
**STATEMENT OF OPERATIONS**  
**FOR THE PERIOD ENDED NOVEMBER 30, 1997**

Eighteen  
City  
Plan

	NOVEMBER		
	Actual	Eighteen City Budget	Fav/(Unfav) Variance
<b>Revenue</b>	\$ 618,935	\$ 390,000	\$ 228,935
<b>Operating expenses:</b>			
Network operating costs	789,899	599,000	(190,899)
Sales and Marketing	167,664	382,000	214,336
City G&A	348,348	479,000	130,652
<b>Total City Expenses:</b>	<u>1,305,911</u>	<u>1,460,000</u>	<u>154,089</u>
<b>City EBITDA</b>	(686,976)	(1,070,000)	383,024
<b>Corporate Expenses</b>	<u>761,147</u>	<u>1,248,000</u>	<u>586,853</u>
<b>EBITDA</b>	(1,448,123)	(2,338,000)	889,877
<b>Miscellaneous Income</b>	-	-	-
<b>Depreciation and amortization</b>	519,790	640,000	(120,210)
<b>Interest expense, net</b>	197,772	1,590,000	1,392,228
<b>Stock Option Compensation</b>	100,000	-	(100,000)
<b>Net loss before tax</b>	<u>(2,285,483)</u>	<u>(4,368,000)</u>	<u>2,122,517</u>
<b>Taxes</b>	-	-	-
<b>Net Income</b>	\$ <u>(2,285,483)</u>	\$ <u>(4,368,000)</u>	\$ <u>2,122,517</u>
		<b>YEAR TO DATE</b>	
	<b>Actual</b>	<b>Eighteen City Budget</b>	<b>Fav/(Unfav) Variance</b>
<b>Revenue</b>	\$ 2,660,192	\$ 2,223,000	\$ 437,192
<b>Operating expenses:</b>			
Network operating costs	3,534,758	3,064,000	(470,758)
City Sales and Marketing	1,060,938	1,490,000	429,062
City G&A	1,707,936	2,819,000	1,111,064
<b>Total City Expenses:</b>	<u>6,303,632</u>	<u>7,373,000</u>	<u>1,269,368</u>
<b>City EBITDA</b>	(3,643,440)	(5,150,000)	1,706,560
<b>Corporate Expenses</b>	<u>6,832,874</u>	<u>8,314,000</u>	<u>1,671,126</u>
<b>EBITDA</b>	(10,476,315)	(13,664,000)	3,187,684
<b>Miscellaneous Income</b>	(19,018)	-	19,018
<b>Depreciation and amortization</b>	2,499,993	2,587,000	(112,993)
<b>Interest expense, net</b>	1,283,626	2,964,000	1,680,374
<b>Stock Option Compensation</b>	840,000	-	(840,000)
<b>Net loss before tax</b>	<u>(13,280,915)</u>	<u>(19,215,000)</u>	<u>3,934,085</u>
<b>Taxes</b>	-	-	-
<b>Net Income</b>	\$ <u>(13,280,915)</u>	\$ <u>(19,215,000)</u>	\$ <u>3,934,085</u>

**EXHIBIT 3**

**Managerial and Technical Qualifications**

**MICHAEL A. STERNBERG**

**PRESIDENT AND CHIEF EXECUTIVE OFFICER**

Michael Sternberg brings 28 years of senior telecommunications management experience to KMC Telecom II, Inc., including playing a major role in the expansion of Metropolitan Fiber System Inc. as senior vice president for sales and strategy development.

He co-founded and served as chief operating officer of National Telephone Company, one of the first public telephone interconnect companies, prior to becoming vice president of marketing and sales of OKI Electronics of America in 1975. He implemented the New York Teleport project as principal consultant to Western Union, then served as vice president of marketing and corporate development for CIT-Alcatel Inc., a multi-billion dollar manufacturer specializing in digital central office switching technology. In 1986, Mr. Sternberg was named president of Standard Telephones and Cables plc (Stantel), a world leader in telecommunication transmission systems. He most recently co-founded and served as chief operating officer of Rimsat Ltd., a satellite communications company lauded by *Business Week*, *The New York Times* and other publications worldwide.

**ROSCOE C. YOUNG II**

**CHIEF OPERATING OFFICER**

Named chief operating officer in 1997, Roscoe Young brings 20 years of business experience to his direction of KMC Telecom II, Inc.'s day-to-day operations, including fiber optic telecommunications services in eight cities, overseeing development of new markets, and technical and engineering support.

Mr. Young most recently was vice president of network services for Ameritech, where he led more than 4,000 employees involved in customer service fulfillment of ISDN, digital, centrex and voice services. He previously directed engineering, network services, national account sales, marketing and real estate procurement as senior vice president of MFS Communications. While a senior executive with AT&T, Mr. Young was responsible for sales, marketing, operations, engineering, financial management and human resources. During that time, he also was selected by the Reagan Administration to serve as a special assistant to Secretary of Defense Casper Wienberger under the White House Executive Exchange Program.

**CYNTHIA WORTHMAN**

**CHIEF FINANCIAL OFFICER AND TREASURER**

Cynthia Worthman began her telecommunications career as vice president and chief financial officer with Bell Atlantic Systems, a Bell Atlantic startup venture she helped grow into a \$150 million business. Her performance, coupled with overseeing a major acquisition that doubled the size of the organization, led to being named assistant treasurer of Bell Atlantic. During that time, she oversaw



a \$2.5 billion acquisition, a \$400 million public offering, and saved more than \$13 million per year in interest by refinancing \$1 billion in long-term debt. Ms. Worthman most recently was chief financial officer of Questcom Inc. after serving as managing director of FutureVision of America, a provider of interactive and traditional television programming over a two-way, broadband fiber optic network. A certified public accountant, Ms. Worthman began her career at Deloitte Haskins & Sells where she was successively promoted to manager of the consulting staff in the firm's Detroit office.

#### **JAMES L. BARWICK**

##### **SENIOR VICE PRESIDENT/TECHNOLOGY & CHIEF ENGINEER**

James Barwick is responsible for identifying technological advances to be incorporated in KMC's rapidly expanding fiber optic telecommunications networks. He also oversees network engineering, as well as quality and compliance. A renowned expert in the field, he most recently served for eleven years as an independent technical and applications consultant to leading telecommunications companies and equipment manufacturers including Sprint, Kiewit Network Technologies, Johnson Controls, US West and Lucent Technologies. He previously was national director of sales for CIT Alcatel Inc. after directing GTE's Technical Service Division as vice president and general manager.

#### **TRICIA BRECKENRIDGE**

##### **VICE PRESIDENT, BUSINESS DEVELOPMENT**

Tricia Breckenridge's senior telecommunications management experience has played an important role in KMC Telecom's rapid expansion since her appointment as vice president of business development in 1994. That experience includes the 1984 co-founding of Chicago Fiber Optic Corporation, the predecessor of Metropolitan Fiber Systems (MFS), where she was involved in the financing and construction of one of the first competitive access networks in the country.

Mrs. Breckenridge began her telecommunications career in 1982 as director of regulatory affairs for Telesphere Corporation, a non-facilities based reseller of long distance services. Her performance led to being named vice president of external affairs for Diginet, Inc. in 1989 and subsequent promotion to vice president of sales and marketing. In that capacity, she developed and managed strategic relationships with long distance carriers (IXCs), as well as development of Diginet's competitive access networks in Milwaukee, Wisconsin and Northbrook and Chicago, Illinois. She most recently established and directed FiberNet USA's Huntsville, Alabama operations as vice president and city general manager.

**BRIAN KAWAMURA**

**VICE PRESIDENT/GENERAL MANAGER, SOUTHERN DIVISION**

Working from KMC's regional headquarters in Duluth, Georgia, Brian Kawamura is overseeing the operations and aggressive development of the company's telecommunications networks in eight U.S. metropolitan markets.

He most recently was vice president and general manager of the six-state Central Region for MFS WorldCom, Chicago. Brian previously held increasingly responsible positions with Intel Telecommunications' voice and data services, GTE Sprint Communications and Western Union Telegraph Company.

**ROBERT L. NIBBS, JR.**

**VICE PRESIDENT/GENERAL MANAGER, NORTHERN DIVISION**

Working from KMC's regional headquarters in Duluth, Georgia, Robert L. Nibbs Jr. is responsible for developing new KMC Telecom telecommunications networks in ten metropolitan markets during 1998.

Mr. Nibbs most recently served as vice president product marketing for Ameritech Corporation, overseeing services generating more than \$5 billion in annual revenues. He holds an MBA from the Kellogg Graduate School of Business, an MA in psychology from Ball State University, and has completed Northwestern University's European, Far East and East European Business Modules. He has received the Center For Leadership Development Business Award, and served on the Boards of Directors of numerous civic organizations, including Girls Club of America, Indianapolis Public School Foundation and the Stanley K. Lacy Leadership Program.

**CHARLES ROSENBLUM**

**VICE PRESIDENT, HUMAN RESOURCES**

Charles Rosenblum joined Kamine Development Corp. in 1995 as vice president of human resources and assumed responsibility for KMC Telecom when it was formed later that same year. Mr. Rosenblum brings particular expertise in staff development to KMC, having served as national director of management development for KPMG Peat Marwick, one of the Big Six accounting and consulting firms, and manager of management education for Dun & Bradstreet Corporation. While with KPMG, he specialized in creating executive development programs in conjunction with leading business schools throughout the country.

**EXHIBIT 4**

**Proposed Tariff**

**COMMUNICATIONS SERVICES**

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TITLE SHEET  
**FLORIDA TELECOMMUNICATIONS TARIFF**

**This tariff contains the rates, rules and regulations governing communication services within the state of Florida provided by KMC Telecom II, Inc. with principal offices at 1545 Route 206, Bedminster, New Jersey 07921 2567.**

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**Issued: December \_\_, 1997**

**Effective: \_\_\_\_\_**

**By: Tricia Breckenridge  
Vice President-Market Development  
KMC Telecom II, Inc.  
1580 S. Milwaukee Avenue, Suite 305  
Libertyville, IL 60048**

**COMMUNICATIONS SERVICES****CHECK SHEET**

The Sheets 1 to 58 are effective as of the date shown. Revised pages as named below contain all changes from the original tariff that are in effect on the date thereof.

<b><u>SHEET</u></b>	<b><u>REVISION</u></b>	<b><u>SHEET</u></b>	<b><u>REVISION</u></b>	<b><u>SHEET</u></b>	<b><u>REVISION</u></b>
1	Original	21	Original	42	Original
2	Original	22	Original	43	Original
3	Original	23	Original	44	Original
4	Original	25	Original	44	Original
5	Original	26	Original	45	Original
6	Original	27	Original	46	Original
7	Original	28	Original	47	Original
8	Original	29	Original	48	Original
9	Original	30	Original	49	Original
10	Original	31	Original	50	Original
11	Original	32	Original	51	Original
12	Original	33	Original	52	Original
13	Original	34	Original	53	Original
14	Original	35	Original	54	Original
15	Original	36	Original	55	Original
16	Original	37	Original	56	Original
17	Original	38	Original	57	Original
18	Original	39	Original	58	Original
19	Original	40	Original	59	Original
20	Original	41	Original	60	Original

\* New or revised

Issued: December \_\_, 1997

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**COMMUNICATIONS SERVICES**

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**Issued: December \_\_, 1997****Effective: \_\_\_\_\_**

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**1580 S. Milwaukee Avenue, Suite 305**  
**Libertyville, IL 60048**

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COMMUNICATIONS SERVICES

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EXPLANATION OF SYMBOLS

The following symbols shall be used in this tariff for the purpose indicated below:

- D** Delete or Discontinue
- I** Change Resulting In An Increase To A Customer's Bill
- M** Moved from Another Tariff Location
- N** New
- R** Change Resulting In A Reduction To A Customer's Bill
- T** Change In Text or Regulation But No Change In Rate or Charge

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COMMUNICATIONS SERVICES

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TARIFF FORMAT

- (A) **Sheet Numbering** - Sheet numbers appear in the upper right corner of the page. Sheets are numbered sequentially. However, new sheets are occasionally added to the tariff. When a new sheet is added between sheets already in effect, a decimal is added. For example, a new sheet added between sheets 14 and 15 would be 14.1.
- (B) **Sheet Revision Numbers** - Revision numbers also appear in the upper right corner of each page. These numbers are used to determine the most current sheet version on file with the FPSC. For example, the 4th revised Sheet 14 cancels the 3rd revised Sheet 14. Because of various suspension periods, deferrals, etc. the FPSC follows in their tariff approval process, the most current sheet number on file with the Commission is not always the tariff page in effect. Consult the Check Sheet for the sheet currently in effect.

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Issued: December \_\_, 1997

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**COMMUNICATIONS SERVICES**

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TARIFF FORMAT (cont'd.)

(C) **Paragraph Numbering Sequence** - There are nine levels of paragraph coding. Each level of coding is subservient to its next higher level:

- 2.
- 2.1.
- 2.1.1.
- 2.1.1.A.
- 2.1.1.A.1.
- 2.1.1.A.1.(a).
- 2.1.1.A.1.(a).I.
- 2.1.1.A.1.(a).I.(i).
- 2.1.1.A.1.(a).I.(i).(1).

(D) **Check Sheets** - When a tariff filing is made with the FPSC, an updated check sheet accompanies the tariff filing. The check sheet lists the sheets contained in the tariff, with a cross reference to the current revision number. When new pages are added, the check sheet is changed to reflect the revision. All revisions made in a given filing are designated by an asterisk (\*). There will be no other symbols used on this page if these are the only changes made to it (i.e., the format, etc. remains the same, just revised revision levels on some pages). The tariff user should refer to the latest check sheet to find out if a particular sheet is the most current on file with the FPSC.

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**COMMUNICATIONS SERVICES**

---

Certain terms used generally throughout this tariff are described below.

**Advance Payment**

Part or all of a payment required before the start of service.

**Communications Services**

The Company's intrastate telephone services offered pursuant to this tariff.

**Company**

KMC Telecom II, Inc., the issuer of this tariff.

**Customer or Aggregator**

The person, firm, or corporation which orders service for the Company's communications services and is responsible for the payment of charges and compliance with the Company's regulations.

**Dedicated Inbound Calls:**

Refers to calls that are terminated via dedicated access facilities connecting the Customer's premises and the Company's Point of Presence (POP). This service is offered to the extent facilities are available and where the Company and the Customer jointly arrange for the establishment of dedicated access facilities connecting the Customer's trunk-compatible PBX or other suitable equipment to the Company's POP. The Customer shall be responsible for all costs and charges associated with the dedicated access facilities.

**Dedicated Outbound Calls:**

Refers to service that is offered to the extent facilities are available in those cases where the Company and the Customer jointly arrange for the establishment of dedicated access facilities connecting the Customer's trunk-compatible PBX or other suitable equipment to the Company's POP. The Customer shall be responsible for all costs and charges associated with the dedicated access facilities.

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**COMMUNICATIONS SERVICES**

---

**Joint User**

A person, firm or corporation which is designated by the Customer as a user of services furnished to the Customer by the Company, and to whom a portion of the charges for service will be billed under a joint user arrangement as specified herein.

**LATA**

A Local Access and Transport Area established pursuant to the Modification of Final Judgment entered by the United States District Court for the District of Columbia in Civil Action No. 82-0192; or any other geographic area designated as a LATA in the National Exchange Carrier Association, Inc. Tariff F.C.C. No. 4.

**Recurring Charges**

The monthly charges to the Customer for services, facilities and equipment which continue for the agreed upon duration of the service.

**Service Commencement Date**

The first date on which the Company notifies the Customer that the requested service or facility is available for use, unless extended by the Customer's refusal to accept service which does not conform to standards set forth in the Service Order or this tariff, in which case the Service Commencement Date is the date of the Customer's acceptance. The Company and the Customer may mutually agree on a substitute Service Commencement Date.

**Service Order**

The written request for communications services executed by the Customer and the Company in the format devised by the Company. The signing of a Service Order by the Customer and acceptance by the Company initiates the respective obligations of the parties as set forth therein and pursuant to this tariff, but the duration of the service is calculated from the Service Commencement Date.

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---

**COMMUNICATIONS SERVICES**

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**Shared**

A facility or equipment system or subsystem that can be used simultaneously by several Customers.

**Shared Inbound Calls:**

Refers to calls that are terminated via the Customer's LEC-provided local exchange access line.

**Shared Outbound Calls:**

Refers to calls in Feature Group D exchanges whereby the Customer's local telephone lines are presubscribed by the local exchange company to the Company's outbound service such that "1 + 10-digit number" calls are automatically routed to the Company's network. Calls to stations within the Customers LATA may be placed by dialing "10 + NXX" or "101XXXX" + 10-digit number.

**User**

A Customer, Joint User, or any other person authorized by the Customer to use service provided under this tariff.

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---

COMMUNICATIONS SERVICES

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**2.1 Undertaking of the Company**

**2.1.1 Application**

- (A) This tariff applies to intrastate communications services furnished by KMC Telecom II, Inc. to business customers within the State of Florida in accordance with the conditions set forth below. This tariff applies only for the use of the Company's services for communications between and among points within the State of Florida. These services may be provided in conjunction with the Company's interstate telecommunications services which are provided under the Company's Federal tariff.
  
- (B) Services offered under this tariff are not offered for the purpose of completing calls between two points within the same local calling area or metropolitan exchange area, as defined in the tariffs of the Local Exchange Telecommunications Company or Companies serving those points.
  
- (C) Presubscribed services are provided from all converted equal access end offices within the State of Florida where the Company has a point of presence (POP) within the LATAs. Other products will be provided in areas as specified for each product in Section 4 of this tariff.
  
- (D) The operator services are furnished to authorized users of the Company's MTS service and to users accessing public telephones presubscribed to the Company and to patrons, patients, students, and other authorized users of the station telephone or other facilities of privately owned coin-operated telephone station providers, hotels, motels, hospitals, airports, colleges, universities, and other customers.

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COMMUNICATIONS SERVICES

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2.1 Undertaking of the Company (cont'd.)

2.1.2 Scope

The Company undertakes to furnish communications services in accordance with the terms and conditions set forth in this tariff.

2.1.3 Shortage of Facilities

All service is subject to the availability of suitable facilities. The Company reserves the right to limit the length of communications or to discontinue furnishing services when necessary because of the lack of transmission medium capacity or because of any causes beyond its control.

2.1.4 Terms and Conditions

- (A) Service is provided on the basis of a minimum period of at least one month, 24-hours per day. For the purpose of computing charges in this tariff, a month is considered to have 30 days.
- (B) Customers may be required to enter into written service orders which shall contain or reference a specific description of the service ordered, the rates to be charged, the duration of the services, and the terms and conditions in this tariff. Customer will also be required to execute any other documents as may be reasonably requested by the Company.

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Issued: December \_\_, 1997

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**COMMUNICATIONS SERVICES**

---

**2.1 Undertaking of the Company (cont'd.)**

**2.1.4 Terms and Conditions (cont'd.)**

- (C) **At the expiration of the initial term specified in each Service Order, or in any extension thereof, service shall continue on a month-to-month basis at the current rates unless terminated by either party upon 30 days written notice. Any termination shall not relieve Customer of its obligation to pay any charges incurred under the Service Order and this tariff prior to termination. The rights and obligations which by their nature extend beyond the termination of the term of the Service Order shall survive such termination.**
  
- (D) **In any action between the parties to enforce any provision of this tariff, the prevailing party shall be entitled to recover its legal fees and court costs from the non-prevailing party in addition to other relief a court may award.**
  
- (E) **This tariff shall be interpreted and governed by the laws of the State of Florida without regard for its choice of laws provision.**

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**Libertyville, IL 60048**

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**COMMUNICATIONS SERVICES**

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**2.1 Undertaking of the Company (cont'd.)****2.1.5 Liability of the Company**

- (A) Except as otherwise stated in this Tariff, the liability of the Company for damages arising out of the furnishing of its Services, including but not limited to mistakes, omissions, interruptions, delays, or errors, or other defects, representations, or use of these services or arising out of the failure to furnish the service, whether caused by acts or omission, shall be limited to the extension of allowances for interruption as set forth in Section 2.8. The extension of such allowances for interruption shall be the sole remedy of the Customer and the sole liability of the Company. The Company will not be liable for any direct, indirect, incidental, special, consequential, exemplary or punitive damages to the Customer as a result of any Company service, equipment or facilities, or any acts or omissions or negligence of the Company's employees or agents.
- (B) The Company shall not be liable for any delay or failure of performance or equipment due to causes beyond its control, including but not limited to: acts of God, fire, flood, explosion or other catastrophes; any law, order, regulation, direction, action, or request of the United States government, or of any other government, including state and local governments having or claiming jurisdiction over the Company, or of any department, agency, commission, bureau, corporation or other instrumentality of any one or more of these federal, state, or local governments, or of any civil or military authority; national emergencies; insurrections; riots; wars; unavailability of rights-of-way materials; or strikes, lock-outs, work stoppages, or other labor difficulties.

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COMMUNICATIONS SERVICES

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2.1 Undertaking of the Company (cont'd.)

2.1.5 Liability of the Company (cont'd.)

- (C) The Company shall not be liable for (a) any act or omission of any entity furnishing to the Company or to the Company's Customers facilities or equipment used for interconnection with Network Services; or (b) for the acts or omissions of common carriers or warehousemen.
  
- (D) The Company shall not be liable for any damages or losses due to the fault or negligence of the Customer or due to the failure or malfunction of equipment or facilities provided by the Customer or third parties.

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**COMMUNICATIONS SERVICES**

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**2.1 Undertaking of the Company (cont'd.)****2.1.5 Liability of the Company (cont'd.)**

- (E) **The Company does not guarantee nor make any warranty with respect to installations it provides for use in an explosive atmosphere. The Customer indemnifies and holds the Company harmless from any and all loss, claims, demands, suits, or other action, or any liability whatsoever, whether suffered, made, instituted, or asserted by any other party or person(s), and for any loss, damage, or destruction of any property, whether owned by the Customer or others, caused or claimed to have been caused directly or indirectly by the installation, operation, failure to operate, maintenance, removal, presence, condition, location, or use of any installation so provided. The Company reserves the right to require each Customer to sign an agreement acknowledging acceptance of the provisions of this Section 2.1.5(E) as a condition precedent to such installations.**
- (F) **The Company is not liable for any defacement of or damage to Customer premises resulting from the furnishing of services or equipment on such Premises or the installation or removal thereof, unless such defacement or damage is caused by gross negligence or willful misconduct of the Company's agents or employees.**
- (G) **The Company shall be indemnified, defended and held harmless by the Customer from and against all loss, liability, damage and expense, including reasonable counsel fees, due to claims for libel, slander, invasion of privacy or infringement of copyright in connection with the material transmitted over the Company's facilities; and any other claim resulting from any act or omission of the Customer or patron(S) of the Customer relating to the use of the Company's facilities.**

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**COMMUNICATIONS SERVICES**

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**2.1 Undertaking of the Company (Cont'd.)**

**2.1.5 Liability of the Company (Cont'd.)**

- (H) **The entire liability for any claim, loss, damage or expense from any cause whatsoever shall in no event exceed sums actually paid the Company by the Customer for the specific services in the month in which the event giving rise to the liability occurred. No action or proceeding against the Company shall be commenced more than one year after the event giving rise to the liability occurred.**
  
- (I) **THE COMPANY MAKES NO WARRANTIES OR REPRESENTATIONS, EXPRESS OR IMPLIED EITHER IN FACT OR BY OPERATION OF LAW, STATUTORY OR OTHERWISE, INCLUDING WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR USE, EXCEPT THOSE EXPRESSLY SET FORTH HEREIN.**
  
- (J) **The Company shall indemnify, defend, and hold harmless the Customer from and against all claims, actions, damages, liabilities, costs and expenses, including reasonable attorneys' fees, for any injury to persons or property, and any interruption of, interference to, or other defect in any service provided by the Company to any third party, if such injury, interruption, interference, or other defect was not caused by any negligent or intentional act or omission of the Customer or any of its officers, employees, agents, invitees, or contractors.**

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COMMUNICATIONS SERVICES

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2.1 Undertaking of the Company (cont'd.)

2.1.6 Provision of Equipment and Facilities

- (A) Except as otherwise indicated, customer-provided station equipment at the Customer's premises for use in conjunction with this service shall be so constructed, maintained and operated as to work satisfactorily with the facilities of the Company.
  
- (B) The company shall not be responsible for the installation, operation or maintenance of any Customer-provided communications equipment. Where such equipment is connected to service furnished pursuant to this tariff, the responsibility of the Company shall be limited to the furnishing of services under this tariff and to the maintenance and operation of such services in the proper manner. Subject to this responsibility, the Company shall not be responsible for:
  - (1) the through transmission of signals generated by Customer-provided equipment or for the quality of, or defects in, such transmission; or
  - (2) the reception of signals by Customer-provided equipment; or
  - (3) network control signaling where such signaling is performed by Customer-provided network control signaling equipment.

2.1.7 Ownership of Facilities

Title to all facilities provided in accordance with this tariff remains in the Company, its agents, contractors or suppliers.

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**COMMUNICATIONS SERVICES**

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**2.2 Prohibited Uses**

- (A) **The services the Company offers shall not be used for any unlawful purpose or for any use for which the Customer has not obtained all required governmental approvals, authorization, licenses, consents and permits.**
  
- (B) **The Company may require applicants for service who intend to use the Company's offering for resale and/or for shared use to file a letter with the Company confirming that their use of the Company's offerings complies with relevant laws and regulations, policies, orders, and decisions.**
  
- (C) **The Company may require a Customer to immediately shut down its transmission if such transmission is causing interference to others.**
  
- (D) **A customer, joint user, or authorized user may not assign, or transfer in any manner, the service or any rights associated with the service without the written consent of the Company. The Company will permit a Customer to transfer its existing service to another entity if the existing Customer has paid all charges owed to the Company for regulated communications services. Such a transfer will be treated as a disconnection of existing service and installation of new service, and non-recurring installation charges as stated in this tariff will apply.**

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**COMMUNICATIONS SERVICES**

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**2.3 Obligations of the Customer****2.3.1 Customer Premises Provisions**

- (A) **The Customer shall provide the personnel, power and space required to operate all facilities and associated equipment installed on the premises of the Customer.**
- (B) **The Customer shall be responsible for providing Company personnel access to premises of the Customer at any reasonable hour for the purpose of testing the facilities or equipment of the Company.**

**2.3.2 Liability of the Customer**

- (A) **The Customer will be liable for damages to the facilities of the Company and for all incidental and consequential damages caused by the negligent or intentional acts or omissions of the Customer, its officers, employees, agents, invitees, or contractors where such acts or omissions are not the direct result of the Company's negligence or intentional misconduct.**
- (B) **To the extent caused by any negligent or intentional act of the Customer as described in (A), preceding, the Customer shall indemnify, defend and hold harmless the Company from and against all claims, actions, damages, liabilities, costs and expenses, including reasonable attorneys' fee, for (1) any loss, destruction or damage to property of any third party, (2) the death of or injury to persons, including, but not limited to, employees or invitees of either party, and (3) any liability incurred by the Company to any third party pursuant to this or any other tariff of the Company, or otherwise, for any interruption of, interference to, or other defect in any service provided by the Company to such third party.**

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COMMUNICATIONS SERVICES

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**2.3 Obligations of the Customer**

**2.3.2 Liability of the Customer**

- C) **The Customer shall not assert any claim against any other customer or user of the Company's services for damages resulting in whole or in part from or arising in connection with the furnishing of service under this Tariff including but not limited to mistakes, omissions, interruptions, delays, errors or other defects or misrepresentations, whether or not such other customer or user contributed in any way to the occurrence of the damages, unless such damages were caused solely by the negligent or intentional act or omission of the other customer or user and not by any act or omission of the Company. Nothing in this Tariff is intended either to limit or to expand Customer's right to assert any claims against third parties for damages of any nature other than those described in the preceding sentence**

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**2.4 Customer Equipment and Channels**

**2.4.1 Interconnection of Facilities**

- (A) **Interconnection between Customer-provided and Company-provided service must be made by the Customer's purchase of dedicated access lines or through the use of LEC-provided switched access service.**
  
- (B) **In order to protect the Company's facilities and personnel and the services furnished to other customers by the Company from potentially harmful effects, the signals applied to the Company's service shall be such as not to cause damage to the facilities of the Company. Any special interface equipment necessary to achieve the compatibility between facilities of the Company and the channels or facilities of others shall be provided at the Customer's expense.**

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**COMMUNICATIONS SERVICES**

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**2.4 Customer Equipment and Channels (cont'd.)**

**2.4.2 Inspections**

- (A) **The Company may, upon notification to the Customer, at a reasonable time, make such tests and inspections as may be necessary to determine that the requirements regarding the equipment and interconnections are being complied with the installation, operation and maintenance of Customer-provided equipment and in the wiring of the connection of Customer channels to Company-owned facilities.**
  
- (B) **If the protective requirements in connections with Customer-provided equipment are not being complied with, the Company may take such action as necessary to protect its facilities and personnel and will promptly notify the Customer by registered mail in writing of the need for protective action. In the event that the Customer fails to advise the Company within 10 days after such notice is received or within the time specified in the notice that corrective action has been taken, the Company may take whatever additional action is deemed necessary, including the suspension of service, to protect its facilities and personnel from harm. The Company will upon request 24 hours in advance provide Customer with a statement of technical parameters that the Customer's equipment must meet.**

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**2.5 Advance Payments**

To safeguard its interests, the Company may require a Customer to make an advance payment before services and facilities are furnished. The advance payment will not exceed an amount up to one month of estimated monthly usage charges. In addition, where special construction is involved, the advance payment may also include an amount equal to the estimated non-recurring charges for the special construction and recurring charges (if any) for a period to be set between the Company and the Customer. The advance payment will be credited to the Customer's initial bill.

**2.6 Customer Deposits**

The company will not request customer deposits.

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**2.7 Payment Arrangements**

**2.7.1 Payment for Service**

The Customer is responsible for the payment of all charges for facilities and services furnished by the Company to the Customer.

**(A) Taxes**

The Customer is responsible for payment of any sales, use, gross receipts, excise, access or other local, state and federal taxes, charges or surcharges (however, designated) (excluding taxes on the Company's net income) imposed on or based upon the provision, sale or use of Network Services. All taxes are listed as separate items and are not included in the quoted rates.

**2.7.2 Billing and Collection of Charges**

The Customer is responsible for payment of all charges incurred by the Customer or other users for services and facilities furnished to the Customer by the Company.

- (A) Non-recurring charges are due and payable within 30 days after the date of the invoice.**
- (B) The Company shall present invoices for Recurring Charges monthly to the Customer, in advance of the month in which service is provided, and Recurring Charges shall be due and payable within 30 days after the date of the invoice. When billing is based upon customer usage, usage charges will be billed monthly for the preceding billing period.**

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**2.7 Payment Arrangements (Cont'd.)**

**2.7.2 Billing and Collection of Charges (Cont'd.)**

- (C) **When service does not begin on the first day of the month, or end on the last day of the month, the charge for the fraction of the month in which service was furnished will be calculated on a pro rate basis. For this purpose, every month is considered to have 30 days.**
  
- (D) **Billing of the Customer by the Company will begin on the Service Commencement Date, which is the day on which the Company notifies the Customer that the service or facility is available for use, except that the Service Commencement Date may be postponed by mutual agreement of the parties, or if the service or facility does not conform to standards set forth in this tariff or the Service Order. Billing accrues through and includes the day that the service, circuit, arrangement or component is discontinued.**
  
- (E) **If any portion of the payment is received by the Company after the date due, or if any portion of the payment is received by the Company in funds which are not immediately available upon presentment, then a late payment penalty shall be due to the Company. The late payment penalty shall be the portion of the payment not received by the date due, multiplied by a late factor. The late factor shall be the lesser of:**
  - (1) **a rate of 1.5 percent per month; or**
  - (2) **the highest interest rate which may be applied under state law for commercial transactions.**
  
- (F) **The Customer will be assessed a charge of twenty-five dollars (\$25.00) for each check submitted by the Customer to the Company which a financial institution refuses to honor.**

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**2.7 Payment Arrangements (Cont'd.)**

**2.7.2 Billing and Collection of Charges (Cont'd.)**

- (G) Customers have up to 90 days (commencing 5 days after remittance of the bill) to initiate a dispute over charges or to receive credits.
- (H) If service is disconnected by the Company in accordance with section 2.7.3 following and later restored, restoration of service will be subject to all applicable installation charges.

**2.7.3 Discontinuance of Service for Cause**

- (A) Upon nonpayment of any amounts owing to the Company, the Company may, by giving 24 hours prior written notice to the Customer, discontinue or suspend service without incurring any liability.
- (B) Upon violation of any of the other material terms or conditions for furnishing service the Company may, by giving 24 hours prior notice in writing to the Customer, discontinue or suspend service without incurring any liability if such violation continues during that period.
- (C) Upon condemnation of any material portion of the facilities used by the Company to provide service to a Customer or if a casualty renders all or any material portion of such facilities inoperable beyond feasible repair, the Company, by notice to the Customer, may discontinue or suspend service without incurring any liability.

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**2.7 Payment Arrangements (Cont'd.)****2.7.3 Discontinuance of Service for Cause (cont'd.)**

- (D) Upon the Customer's insolvency, assignment for the benefit of creditors, filing for bankruptcy or reorganization, or failing to discharge an involuntary petition within the time permitted by law, the Company may immediately discontinue or suspend service without incurring any liability.
- (E) Upon any governmental prohibition or required alteration of the services to be provided or any violation of an applicable law or regulation, the Company may immediately discontinue service without incurring any liability.
- (F) In the event of fraudulent use of the Company's network, the Company may without notice suspend or discontinue service. The Customer will be liable for all related costs as set forth in Section 2.10 of this tariff. The Customer will also be responsible for payment of any reconnection charges.
- (G) Upon the Company's discontinuance of service to the Customer under Section 2.7.3(A) or 2.7.3(B), the Company, in addition to all other remedies that may be available to the Company at law or in equity or under any other provision of this tariff, may declare all future monthly and other charges which would have been payable by the Customer during the remainder of the term for which such services would have otherwise been provided to the Customer to be immediately due and payable (discounted to present value at six percent).

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2.7 Payment Arrangements (Cont'd.)

2.7.3 Discontinuance of Service for Cause (cont'd.)

- (H) The Customer is responsible for providing adequate access lines to enable the Company to terminate all 800 Service calls to the Customer's telephone equipment. Should the Customer have insufficient access lines on which to terminate 800 Service calls, the Company reserves the right to request the Customer to add additional lines for call terminations. If, after 90 days, the Customer has not made the requested change, the Company, without incurring any liability, reserves the right to terminate the Customer's 800 Service, with 30 days written notice.

2.7.4 Notice to Company for Cancellation of Service

Customers desiring to terminate service shall provide Company thirty (30) days written notice of desire to terminate service.

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**2.8 Allowances for Interruptions in Service**

Interruptions in service, which are not due to the negligence of, or noncompliance with the provisions of this tariff by, the Customer or the operation or malfunction of the facilities, power or equipment provided by the Customer, will be credited to the Customer as set forth in 2.8.1 for the part of the service that the interruption affects.

**2.8.1 Credit for Interruptions**

- (A) A credit allowance will be made when an interruption occurs because of a failure of any component furnished by the Company under this tariff. An interruption period begins when the Customer reports a service, facility or circuit to be interrupted and releases it for testing and repair. An interruption period ends when the service, facility or circuit is operative. If the Customer reports a service, facility or circuit to be inoperative but declines to release it for testing and repair, it is considered to be impaired, but not interrupted.
  
- (B) For calculating credit allowances, every month is considered to have 30 days. A credit allowance is applied on a pro rata basis against the rates specified hereunder and is dependent upon the length of the interruption. Only those facilities on the interrupted portion of the circuit will receive a credit.

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**2.8 Allowances for Interruptions in Service (Cont'd.)**

**2.8.1 Credit for Interruptions (Cont'd.)**

- (C) A credit allowance will be given for interruptions of 15 minutes or more. Credit allowances shall be calculated as follows:

**Interruptions of 24 Hours or Less**

<u>Length of Interruption</u>	<u>Interruption Period To Be Credited</u>
Less than 15 minutes	None
15 minutes up to but not including 3 hours	1/10 Day
3 hours up to but not including 6 hours	1/5 Day
6 hours up to but not including 9 hours	2/5 Day
9 hours up to but not including 12 hours	3/5 Day
12 hours up to but not including 15 hours	4/5 Day
15 hours up to but not including 24 hours	One Day

Two or more interruptions of 15 minutes or more during any one 24-hour period shall be considered as one interruption.

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**2.8 Allowances for Interruptions in Service (Cont'd.)**

**2.8.1 Credit for Interruptions (Cont'd.)**

(C) (Cont'd.)

Interruptions Over 24 Hours and Less Than 72 Hours. Interruptions over 24 hours and less than 72 hours will be credited 1/5 day for each 3-hour period or fraction thereof. No more than one full day's credit will be allowed for any period of 24 hours.

Interruptions Over 72 Hours. Interruptions over 72 hours will be credited 2 days for each full 24-hour period. No more than 30 days credit will be allowed for any one month period.

**2.8.2 Limitations on Allowances**

No credit allowance will be made for interruptions of service:

- (A) due to the negligence of, or noncompliance with the provisions of this tariff or contract by, the Customer, authorized user, joint user, or other common carrier providing service connected to the service of the Company;
- (B) due to the negligence of any person other than the Company, including but not limited to the Customer or other common carriers connected to the Company's facilities;
- (C) due to the failure or malfunction of non-Company equipment;
- (D) during any period in which the Company is not given full and free access to its facilities and equipment for the purpose of investigating and correcting interruptions;

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**2.8 Allowances for Interruptions in Service (Cont'd.)****2.8.2 Limitations on Allowances (Cont'd.)**

- (E) during a period in which the Customer continues to use the service on an impaired basis;
- (F) during any period when the Customer has released service to the Company for maintenance purposes or for implementation of a Customer order for a change in service arrangements;
- (G) due to circumstances or causes beyond the control of Company; and
- (H) that occur or continue due to the Customer's failure to authorize replacement of any element of special construction.

**2.8.3 Cancellation For Service Interruption**

Cancellation or termination for service interruption is permitted only if any circuit experiences a single continuous outage of 8 hours or more or cumulative service credits equaling 16 hours in a continuous 12-month period. The right to cancel service under this provision applies only to the single circuit which has been subject to the outage or cumulative service credits.

**2.9 Cancellation of Service/Termination Liability**

If a Customer cancels a Service Order or terminates services before the completion of the term for any reason whatsoever other than a service interruption (as defined in Section 2.8.1), Customer agrees to pay to Company termination liability charges, which are defined below. These charges shall become due and owing as of the effective date of the cancellation or termination and be payable within the period set forth in Section 2.7.2.

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**2.9 Cancellation of Service/Termination Liability (Cont'd.)**

**2.9.1 Termination Liability**

**Customer's termination liability for cancellation of service shall be equal to:**

- (a) all unpaid Non-Recurring charges reasonably expended by Company to establish service to Customer, plus;**
- (b) any disconnection, early cancellation or termination charges reasonably incurred and paid to third parties by Company on behalf of Customer, plus;**
- (c) all Recurring Charges specified in the applicable Service Order for the balance of the then current term discounted at the prime rate announced in the Wall Street Journal on the third business day following the date of cancellation;**
- (d) minus a reasonable allowance for costs avoided by the Company as a direct result of Customer's cancellation.**

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**2.10 Customer Liability for Unauthorized Use of the Network****2.10.1 Unauthorized Use of the Network**

**Unauthorized use of the Network** occurs when a person or entity that does not have actual, apparent, or implied authority to use the Network, obtains the Company's services provided under this tariff.

**2.10.2 Liability for Calling Card Fraud**

- (A) The Customer is liable for the unauthorized use of the Network obtained through the fraudulent use of a Company calling card, provided that the unauthorized use occurs before the Company has been notified.**
- (B) A Company calling card is a telephone calling card issued by the Company at the Customer's request, which enables the Customer or user(s) authorized by the Customer to place calls over the Network and to have the charges for such calls billed to the Customer's account.**
- (C) The Customer must give the Company written notice that an unauthorized use of the Company calling card has occurred or may occur as a result of loss, theft or other reasons.**
- (D) The Customer is responsible for payment of all charges for services furnished to the Customer or to users authorized by the Customer to use service provided under this tariff. This responsibility is not changed due to any use, misuse, or abuse of the Customer's service or Customer-provided equipment by third parties, the Customer's employees, or the public.**

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**2.10 Customer Liability for Unauthorized Use of the Network (cont'd.)**

**2.10.2 Liability for Calling Card Fraud (cont'd.)**

- (E) **The Customer is liable for all charges incurred as a result of unauthorized use of the Network, including incidental and consequential damages. In addition, the Customer is responsible for payment of any charges related to the suspension and/or termination of service and any charges for reconnection of service.**

**2.10.3 Liability for Credit Card Fraud and Other Unauthorized Use**

- (A) **The Customer is liable for the unauthorized use of the Network obtained through the fraudulent use of a credit card, provided: (1) the card is an accepted credit card, and (2) the unauthorized use occurs before the Company has been notified.**

**An accepted credit card is any credit card that a cardholder has requested or applied for and received, or has signed, used, or authorized another person to use to obtain credit. Any credit card issued as an renewal or substitute in accordance with this paragraph is an accepted credit card when received by the cardholder.**

- (B) **The liability of the Customer for unauthorized use of the Network by credit card fraud will not exceed the lesser of \$50 or the amount of money, property, labor, or services obtained by the unauthorized user before notification to the Company.**
- (C) **The Customer must give the Company written notice that an unauthorized use of the credit card has occurred.**

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**COMMUNICATIONS SERVICES**

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**2.11 Special Conditions Governing Operator Services****2.11.1 Obligations of the Company**

In compliance with the Florida Public Service Commission rules and regulations, when providing operator services, the Company will:

- (A) Identify itself, audibly, and distinctly, to the customer at the beginning of each call before the customer incurs any charges and also a second time prior to connecting the call before the customer incurs any charges, otherwise referred to as double branding; and
- (B) Inform the customer, upon request, of the rates to be charged and explain the method of billing and collection used by the Company at no charge. In addition, explain the methods by which complaints concerning rates, charges, or collection practices will be resolved; and
- (C) Permit the customer to terminate the call at no charge before the call is connected; and
- (D) Not bill for unanswered or incomplete telephone calls; and
- (E) Not engage in call splashing (billing rates other than from the actual call origination) unless the customer requests to be transferred to another provider of operator services, the customer is informed prior to incurring any charges that the rates for the call may not reflect the rates from the actual originating location of the call, and the customer then consents to be transferred; and

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**COMMUNICATIONS SERVICES**

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**2.11 Special Conditions Governing Operator Services**

**2.11.1 Obligations of the Company (cont'd.)**

- (F) **Withhold payment of any compensation to aggregators if the Company reasonably believes that the aggregator is engaging blocking 800, 950 or any other end user access to the end user's carrier of choice; and**
  
- (G) **Upon receipt of any emergency telephone call, the Company shall immediately connect the call to the appropriate emergency service of the reported locations of the emergency, if known, and, if not known, of the originating location of the call.**
  
- (H) **All 0- and 0+ IntraLATA calls are routed to the local exchange company.**

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**COMMUNICATIONS SERVICES**

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**2.11 Special Conditions Governing Operator Services (cont'd.)**

**2.11.2 Requirements of the Aggregator**

- (A) **The aggregator shall display plainly on or in close proximity to all telephones printed documentation (tent cards) notifying the end user of the following:**
- (1) **The name, address and toll free telephone number of the company providing the operator services;**
  - (2) **Operator service provider intralata and interlata rates or how to obtain these rates (collect, credit card, person-to-person, etc.).**
  - (3) **A written disclosure that informs the end users that they have a right to obtain access to the carrier of their choice, and that they may contact their preferred carrier for information on accessing that carrier's service using that station telephone.**
  - (4) **Intralata and interlata dialing instructions.**
  - (5) **Hotel surcharge for local and long distance calls, if any.**
- (B) **An aggregator shall not charge higher rates for calls accessing the operator service provider via 800, 950 or 10XXX access numbers than those rates charged for calls using the presubscribed operator services provider.**

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**COMMUNICATIONS SERVICES**

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**3.1 Rates Charged Based on Timing of Calls**

Where charges for service are specified based on the timing of calls, such as the duration of a telephone call, the following rules apply:

**3.1.1 When Billing Charges Begin and Terminate For Phone Calls.**

The customer's long distance usage charge is based on the actual usage of the Company's network. Usage begins when the called party picks up the receiver, (i.e. when 2 way communication, often referred to as "conversation time," is possible). When the called party picks up is determined by hardware answer supervision in which the local telephone company sends a signal to the switch or the software utilizing audio tone detection. When software answer supervision is employed, up to 60 seconds of ringing is allowed before it is billed as usage of the network. A call is terminated when the calling or called party hangs up.

**3.1.2 Billing Increments**

Unless otherwise specified in this tariff, the minimum call duration for billing purposes is 1 minute for a connected call. Calls beyond 1 minute are billed in 1 minute increments.

**3.1.3 Per Call Billing Charges**

Billing will be rounded up to the nearest penny for each call.

**3.1.4 Uncompleted Calls**

There shall be no charges for uncompleted calls.

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**COMMUNICATIONS SERVICES**

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**3.2 Rates Based Upon Calculation of Distance**

Where the charges for service are specified based upon distance, the following rules apply:

- 3.2.1** Distance between two points is measured as airline distance between the Rate Centers of the originating and terminating telephone lines. The Rate Center is set of geographic coordinates, as referenced in National Exchange Carrier Association, Inc. Tariff FCC No. 4, associated with each NPA NXX combination (where NPA is the area code and NXX is the first three digits of a seven-digit telephone number). Where there is no telephone number associated with an access line on the Company's network (such as dedicated 800 or WATS access line), the Company will apply the Rate Center of the Customer's main billing telephone number.
- 3.2.2** The airline distance between any two Rate Centers is determined as follows:
- (A) Obtain the "V" (vertical) and "H" (horizontal) coordinates for each Rate Center from the above-referenced NECA tariff.
  - (B) Compute the difference between the "V" coordinates of the two rate centers; and the difference between the two "H" coordinates.
  - (C) Square each difference obtained in step (B) above.

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**COMMUNICATIONS SERVICES**


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**3.2 Application of Rates (cont'd.)****3.2.2 Rates Based Upon Calculation of Distance (cont'd.)**

- (D) Add the square of the "V" difference and the square of the "H" difference obtained in step (C).
- (E) Divide the sum of the squares by 10. Round to the next higher whole number if any fraction is obtained.
- (F) Obtain the square root of the whole number result obtained above. Round to the next higher whole number if any fraction is obtained. This is the airline mileage.

(G) Formula = 
$$\sqrt{\frac{(V1 - V2)^2 + (H1 - H2)^2}{10}}$$

**3.3 Minimum Call Completion Rate**

A customer can expect a call completion rate (number of calls completed/number of calls attempted) of not less than 99.5% during peak use periods for the Company services.

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**COMMUNICATIONS SERVICES**

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**3.4 Service Offerings****3.4.1 Message Telecommunications Service (MTS)**

**Message Telecommunications Service (MTS)** is a communications service which is available for use by customers twenty-four (24) hours a day. Customers may originate MTS from locations served by the Company, and may terminate in all locations within the State of Florida. Operator, Calling Card, and Directory Assistance services are available to Customers of the Company's MTS service subject to the provisions of Sections 3.4.3 and 4.3.3 of this tariff.

**MTS calls will be billed in 6 second increments with an initial billing period of 18 seconds.**

**The service is offered in two variations depending upon the method the Customer employs to gain access to the Company's network for use of the service:**

**Presubscribed MTS is offered in Feature Group D (FGD) exchanges whereby the Customer's local telephone lines are presubscribed by the local exchange company (LEC) to the Company's MTS service, such that "1 + " interLATA calls are automatically routed to the Company's network.**

**Dedicated MTS is offered to the extent facilities are available in those cases where the Company and the Customer jointly arrange for the establishment of dedicated access facilities connecting the Customer's trunk-compatible PBX or other suitable equipment to the Company's POP. The Customer shall be responsible for all costs and charges associated with the dedicated access facilities.**

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**COMMUNICATIONS SERVICES**

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**3.4.2 800 Service**

**800 Service is an inbound communications service which permits calls to be completed at the Customer's location without charge to the calling party. Access to the service is gained by dialing a ten (10) digit telephone number (800 + NXX-XXXX) which will terminate at the Customer's location. Calls may originate from any location within the State of Florida and may terminate at the Customer's location.**

**800 Service will be billed per call based on the duration of the call. Each call will be billed in 6 second increments with an initial billing period of 30 seconds. Usage discounts apply to aggregate monthly interstate and intrastate usage.**

**800 Service is offered in two variations depending upon the method the Customer employs to access the Company's network for use of the service:**

**Presubscribed 800 service calls are originated via normal shared use facilities and are terminated via the Customer's LEC-provided local exchange service access line.**

**Dedicated 800 service calls are originated via normal shared use facilities and are terminated via dedicated access facilities connecting the Customer's premises and the Company's POP. This service is offered to the extent facilities are available and where the Company and the Customer jointly arrange for the establishment of dedicated access facilities connecting the Customer's trunk-compatible PBX or other suitable equipment to the Company's POP. The Customer shall be responsible for all costs and charges associated with the dedicated access facilities.**

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**COMMUNICATIONS SERVICES**

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**3.4.3 Miscellaneous Services****(A) Operator Service**

**Operator Service** is available to users of the Company's MTS service and to users accessing presubscribed public payphones or customer provided stations for operator-assisted calls. In addition to usage charges, each operator call will be assessed a charge(s) as set forth in Section 4.4.1 of this tariff. The methods available to the Customer for accessing the Company's operator depends upon the type of MTS:

**Presubscribed** MTS users and presubscribed public payphones or customer provided stations may dial "00"; or dial "0 + the called interLATA telephone number (NPA + NXX-XXXX)" for long distance calling assistance from the equal access (FGD) areas.

**Dedicated** MTS users may dial "00" or "0 +".

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**COMMUNICATIONS SERVICES****3.4 Service Offerings (cont'd.)****3.4.3 Miscellaneous Services (cont'd.)****(A) Operator Service (cont'd.)****Time Periods**

**Day, Evening, Night, and Weekend rates apply as follows:**

**Time Applicable**

<b>Rates</b>	<b>From</b>	<b>To But Not Including</b>	<b>Days Applicable</b>
<b>Day*</b>	8:00 A.M.	5:00 P.M.	Mon. - Fri.
<b>Evening</b>	5:00 P.M.	11:00 P.M.	Sun. - Fri.
<b>Night</b>	11:00 P.M.	8:00 A.M.	Every day
<b>Weekend</b>	8:00 A.M.	11:00 P.M.	Saturday
<b>Weekend</b>	8:00 A.M.	5:00 P.M.	Sunday

**\* Rates Applicable on Certain Holidays:**

**Holidays include: New Year's Day (January 1), Independence Day (July 4), Labor Day (the first Monday in September), Thanksgiving Day (the fourth Thursday in November), and Christmas Day (December 25).**

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**COMMUNICATIONS SERVICES**

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**3.4 Service Offerings (cont'd.)****3.4.3 Miscellaneous Services (cont'd.)****(B) KMC Telecom II, Inc. Calling Card Service**

KMC Telecom II, Inc. Calling Card Service is provided to Customers for use when away from their established service location. Access to the service is gained by dialing a Company designated 800 access number (800-NXX-XXXX), plus the Customer's/ User's KMC Telecom II, Inc.'s Calling Card authorization number and the called telephone number. The service includes a Customer-programmable speed dialing capability for up to eight telephone numbers, and a capability whereby a Customer may establish 2-to 6 digit, verified or unverified accounting codes for use with the KMC Telecom II, Inc. Calling Card at no additional charge.

The KMC Telecom II, Inc. Calling Card can also be used to place operator-assisted and directory assistance calls, subject to the application of additional charges.

Beyond these standard features, the KMC Telecom II, Inc. Calling card includes the following enhanced features: conference calling, KMC Telecom II, Inc. Voice Mail access, voice messaging, and news and information access. Use of these enhanced features is subject to separate charges. KMC Telecom II, Inc. Calling Card calls are billed in six second increments, with a one minute minimum. This service is offered with Peak and Off-Peak pricing. A description of the additional features are as follows.

**(1) Operator-Assisted Calls**

The KMC Telecom II, Inc. Calling Card can be used to place operator-assisted calls. Surcharges apply per call, in addition to the standard usage charges.

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**COMMUNICATIONS SERVICES**

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**3.4 Service Offerings (cont'd.)****3.4.3 Miscellaneous Services (cont'd.)****(B) KMC Telecom II, Inc. Calling Card Service (cont'd.)****(2) Directory Assistance Calls**

The KMC Telecom II, Inc. Calling Card can be used to place calls for Directory Assistance. A flat charge will apply per requested number (Requested Number Charge). At the Customer's option, the Company will automatically place a call to the requested number. For calls completed in this manner, a Call Completion Charge and the Standard Usage Charges will apply in addition to the Requested Number Charge.

**(3) Enhanced Features Charges**

Enhanced features are available for use as described below. Enhanced features charges apply in lieu of standard usage charges. Usage charges are billed in six second increments with a one minute minimum.

**(a) Conference Calling**

Allows a User to establish a conference call by accessing the conference operator. Charges apply per established line and per minute of usage.

**(b) Voice Mail Access**

Allows a User to access KMC Telecom II, Inc. Voice Mail and to place return calls without having to hang-up and initiate a new calling card call.

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**3.4 Service Offerings (cont'd.)****3.4.3 Miscellaneous Services (cont'd.)****(B) KMC Telecom II, Inc. Calling Card Service (cont'd.)****(3) Enhanced Features Charges (cont'd.)****(c) Voice Messaging**

**Allows the User to leave up to a three minute voice recorded message that is stored for future delivery when the called number is busy or no answer.**

**(d) News and Information**

**Provides access to news, weather, sports, financial information and other features.**

**(4) Rate Periods**

**Peak and Off-Peak rate periods are as follows:**

<b>Non-Holiday Rate Periods</b>	<b>From</b>	<b>To But Not Including</b>	<b>Days</b>
<b>Peak</b>	8:00 a.m.	5:00 p.m.	Mon-Fri
<b>Off-Peak</b>	5:00 p.m.	8:00 a.m.	Mon-Fri
	8:00 a.m.	8:00 a.m.	Sat-Sun
	8:00 a.m.	8:00 a.m.	Holidays

**Holidays: On Christmas Day (Dec. 25), New Years Day (Jan. 1), Memorial Day, Independence Day (July 4), Labor Day (first Monday in Sept.) and Thanksgiving Day (fourth Thursday in Nov.) the Off-Peak Period rate applies unless a lower rate would normally apply.**

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**COMMUNICATIONS SERVICES**

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**Service Offerings (cont'd.)****3.4.3 Miscellaneous Services (cont'd.)****(C) Bill-to-Calling Card (BCC) Service**

Bill-to-Calling Card Service allows users of touch-tone telephones connected to the Company's MTS services to charge calls to their local exchange company (LEC) calling card. In addition to standard MTS, the BCC charge, as set forth in 4.4.3 applies when users complete calls by entering both the called number and their LEC calling card number without the assistance of an operator; in addition, Operator charges will apply as set forth in 4.4.1, if operator assistance is required. For BCC calls to Directory Assistance, the appropriate charges set forth in 4.4.4 will apply in addition. The Company accepts only LEC calling cards which it can identify as valid. Charges for BCC calls will appear on the user's LEC bill.

**(D) Directory Assistance (DA)**

Company will connect MTS Service Customers to Directory Assistance (DA) for a fee as set forth in Section 4.4.4. A credit allowance for DA will be provided upon request if the Customer experiences poor transmission quality, is cut-off, receives an incorrect telephone number, or misdials the intended DA number (NPA + 555-1212).

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**COMMUNICATIONS SERVICES**

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**3.4 Service Offerings (cont'd.)****3.4.4 Special Promotions**

The Company may from time to time engage in special promotional service offerings designed to attract new customers or to increase existing subscribers awareness of a particular tariff offering. These promotions will be approved by the Florida Public Service Commission with specific starting and ending dates, times, and/or locations and under no circumstances run for longer than 90 days in any 12 month period.

**3.4.5 Special Service Arrangements**

Customer-specific service arrangements, which may include engineering, installation, construction, facilities, assembly and/or other special services, may be furnished in addition to existing tariff offerings. Rates, terms, and conditions plus any additional regulations, if applicable for the special service arrangements will be developed upon the customer's request. Unless otherwise specified, the regulations for the special service arrangements are in addition to the applicable regulations specified in other sections of this tariff. The necessary tariff revisions will be filed to reflect the special service arrangements.

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**COMMUNICATIONS SERVICES****Section 4 - RATES****4.1 Message Telecommunications Service (MTS)**

	<u>Dedicated MTS</u>	<u>Presubscribed MTS</u>
Per minute usage rates:		\$ .1700
20,000 - 40,000	\$ .1150	
40,001 - 90,000	\$ .1125	
90,001 - +	\$ .1100	

**4.2 800 Service**

	<u>Dedicated 800</u>	<u>Presubscribed 800</u>
Per minute usage rates:		\$ .1800
20,000 - 40,000	\$ .1250	
40,001 - 90,000	\$ .1225	
90,001 - +	\$ .1200	

**4.2.1 Recurring and Non-Recurring Rates**

	<u>Monthly Recurring</u>	<u>Non Recurring</u>
Shared charge per 800 number	\$10.00	\$15.00
Dedicated charge per routing arrangement	\$40.00	\$50.00

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**COMMUNICATIONS SERVICES****Section 4 -- RATES (cont'd.)****4.3 Miscellaneous Services****4.3.1 Operator Service**

Per minute usage rates:

Rate <u>Mileage</u>	<u>DAY</u>		<u>EVENING</u>		<u>NIGHT/WEEKEND</u>	
	<u>Initial Period</u>	<u>Each Addt'l Minute</u>	<u>Initial Period</u>	<u>Each Addt'l Minute</u>	<u>Initial Period</u>	<u>Each Addt'l Minute</u>
1 - 10	\$ .1900	\$ .0900	\$ .1425	\$ .0675	\$ .0950	\$ .0450
11 - 22	0.2200	0.1600	0.1700	0.1200	0.1300	0.0800
23 - 55	0.2500	0.2180	0.1900	0.1635	0.1400	0.1140
56 - 124	0.2700	0.2200	0.1900	0.1650	0.1500	0.1185
125-292	0.2700	0.2260	0.1900	0.1700	0.1600	0.1235
293-430	0.2700	0.2300	0.2000	0.1725	0.1600	0.1235
431-624	0.2700	0.2350	0.2025	0.1725	0.1600	0.1285

Per call rates:

(A)	Person-to-Person	\$ 2.50
(B)	Station-to-Station	\$ 1.00
(C)	Operator Dialed Charge	\$ .60
	(applies in addition to other operator charges)	
(D)	Busy Line Verification	\$ 2.00
(E)	Busy Line Interrupt	\$ 3.00

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 COMMUNICATIONS SERVICES
 

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Section 4 -- RATES (cont'd.)4.3 Miscellaneous Services (cont'd.)4.3.2 KMC Telecom II, Inc. Calling Card Service

A)	<u>Standard Usage Charges</u> -(per minute of use)	
1)	Peak Rate	\$0.26
2)	Off-Peak Discount	10%
B)	<u>Operator-Assisted Calls</u>	
1)	Person-to-Person surcharge	\$3.25
2)	Station-to-Station surcharge	\$0.60
C)	<u>Directory Assistance Calls</u>	
1)	Requested Number Charge	\$0.60
2)	Call Completion Charge	\$0.50
D)	<u>Enhanced Feature Charges</u>	
1)	Conference Calling	
	per established line	\$2.00
	per minute of usage per line	\$0.26
2)	Voice Mail Access	
	per minute of usage	\$0.26
3)	Voice Messaging	
	per call	\$1.50
4)	News and Information	
	per minute of usage	\$0.28

4.3.3 BCC Service

BCC Charge	\$0.50
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4.3.4 Directory Assistance


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Per requested number

\$0.60

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**Section 4 -- RATES (cont'd.)****4.4 Exemptions and Special Rates****4.4.1 Discounts for Hearing Impaired Customers**

A telephone toll message which is communicated using a telecommunications device for the deaf (TDD) by properly certified hearing or speech impaired persons or properly certified business establishments or individuals equipped with TDDs for communicating with hearing or speech impaired persons will receive, upon request, credit on charges for certain intrastate toll calls placed between TDDs. The credit to be given on a subsequent bill for such calls placed between TDDs will be equal to applying the evening rate during business day hours and the night/weekend rate during the evening rate period. Discounts do not apply to surcharges or per call add on charges for operator service when the call is placed by a method that would normally incur the surcharge.

**4.4.2 Operator Assistance for Handicapped Persons**

Operator station surcharges will be waived for operator assistance provided to a caller who identified him or herself as being handicapped and unable to dial the call because of a handicap.

**4.4.3 Directory Assistance for Handicapped Persons**

There is no charge for Directory Assistance for the first 50 calls in a monthly billing period from handicapped persons. Such persons must contact the Company for credit on their directory assistance calls.

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**Section 4 -- RATES (cont'd.)**

**4.4 Exemptions and Special Rates**

**4.4.4 Discounts for Telecommunications Relay Service**

For intrastate toll calls received from the telecommunications relay service, there will be a 50 percent discount off the applicable rate for a voice non relay call except that where either the calling or called party indicates that either party is both hearing and visually impaired, the call will be discounted 60 percent off the applicable rate for a voice non relay call. The above discounts apply only to time-sensitive elements of a charge for the call and shall not apply to per call charges such as a credit card surcharge.

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