



Public Service Commission

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DATE: MARCH 23, 2000

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

FROM: DIVISION OF LEGAL SERVICES (CHRISTENSEN) *JK*
DIVISION OF COMMUNICATIONS (T. WATTS) *TK*

RE: DOCKET NO. 991619-TP - REQUEST FOR ARBITRATION CONCERNING COMPLAINT OF KMC TELECOM INC. AND KMC TELECOM II, INC. AGAINST BELLSOUTH TELECOMMUNICATIONS, INC. REGARDING BREACH OF INTERCONNECTION AGREEMENT, AND REQUEST FOR EXPEDITED RELIEF.

AGENDA: APRIL 4, 2000 - REGULAR AGENDA - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\LEG\WP\991619.RCM

CASE BACKGROUND

On October 18, 1999, KMC Telecom, Inc. (KMCI) and KMC Telecom II, Inc. (KMCII) (collectively, KMC) filed a Petition with the Commission alleging breach of the Interconnection Agreement and requesting expedited relief against BellSouth Telecommunications, Inc. (BST). BST is certificated in Florida as a local exchange company. KMCI and KMCII are certified in Florida as alternative local exchange companies. On February 24, 1997, KMCI and BST entered into an agreement for BST to provide interconnection services to KMCI. On February 23, 1998, KMCII opted into the same agreement with BST. On August 30, 1999, pursuant to the requirements of the Agreement, KMC notified BST by letter of several complaints alleging that BST had breached the Interconnection Agreement. The parties have been unable to resolve these complaints. Pursuant to Order No. PSC-00-0310-PCO-TP, this matter has been scheduled for administrative hearing on May 12,

DOCUMENT NUMBER-DATE

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2000. On February 14, 2000, KMC filed a Motion to Include Issues. BST filed its response to KMC's motion on February 21, 2000. A ruling has not been issued on the Motion to Include Issues.

On March 2, 2000, KMC filed a Notice of Withdrawal of Complaint of KMC Telecom Inc. and KMC Telecom II Against BellSouth Telecommunications, Inc. for Breach of Interconnection Agreement and Request for Expedited Relief. In its notice, KMC stated that it was withdrawing the complaint filed in this docket on October 18, 1999. The prehearing and hearing dates have been canceled by the Prehearing Officer and the Chairman's Office.

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission acknowledge KMC's Notice of Withdrawal of Complaint of KMC Telecom Inc. and KMC Telecom II Against BellSouth Telecommunications, Inc. for Breach of Interconnection Agreement and Request for Expedited Relief?

RECOMMENDATION: Yes. Staff recommends that the Commission acknowledge KMC's Notice of Withdrawal of Complaint of KMC Telecom Inc. and KMC Telecom II Against BellSouth Telecommunications, Inc. for Breach of Interconnection Agreement and Request for Expedited Relief. Staff further recommends that no further action be taken on KMC's Motion to Include Issues because the issues raised in the motion are moot due to KMC's withdrawal of its Complaint. (CHRISTENSEN)

STAFF ANALYSIS: On March 2, 2000, KMC filed its Notice of Withdrawal of Complaint of KMC Telecom Inc. and KMC Telecom II Against BellSouth Telecommunications, Inc. for Breach of Interconnection Agreement and Request for Expedited Relief. In its Notice of Withdrawal, KMC simply states that it is withdrawing its Complaint filed in this docket on October 18, 1999. KMC's Notice of Withdrawal does not indicate the basis for the withdrawal. The outstanding Motion to Include Issues filed by KMC is rendered moot due to the withdrawal of the Complaint.

Therefore, staff recommends that the Commission acknowledge KMC's withdrawal of its Complaint. Staff further recommends that no further action be taken on KMC's Motion to Include Issues because the issues raised in the motion are moot due to KMC's withdrawal of its Complaint.

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ISSUE 2: Should this docket be closed?

RECOMMENDATION: Yes. If the Commission approves staff's recommendation on Issue 1 to acknowledge KMC's withdrawal of its Complaint filed in this docket, KMC's Motion to Include Issues will be rendered moot. As such, no further action will remain for the Commission to take. Therefore, this docket may be closed. (CHRISTENSEN).

STAFF ANALYSIS: If the Commission approves staff's recommendation on Issue 1 to acknowledge KMC's withdrawal of its Complaint filed in this docket, then no further action will remain for the Commission to take. Therefore, this docket may be closed.