

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Request by BellSouth Telecommunications, Inc. for approval of interconnection; unbundling, resale, and collocation agreement with KMC Telecom Inc., KMC Telecom II, Inc., KMC Telecom III, Inc., and KMC Telecom V, Inc.

DOCKET NO. 001701-TP
ORDER NO. PSC-01-0606-FOF-TP
ISSUED: March 13, 2001

The following Commissioners participated in the disposition of this matter:

E. LEON JACOBS, JR., Chairman
J. TERRY DEASON
LILA A. JABER
BRAULIO L. BAEZ
MICHAEL A. PALECKI

ORDER RECONSIDERING VOTE AND APPROVING INTERCONNECTION,
UNBUNDLING, RESALE, AND COLLOCATION AGREEMENT

BY THE COMMISSION:

On November 14, 2000, BellSouth Telecommunications, Inc. (BellSouth) and KMC Holdings, Inc. (KMC Holdings), parent company of KMC Telecom Inc., KMC Telecom II, Inc., KMC Telecom III, and KMC Telecom V, Inc. (collectively, KMC Telecom), filed with this Commission a petition for approval of an interconnection, unbundling, resale, and collocation agreement pursuant to 47 U.S.C. §252(e) of the Telecommunications Act of 1996 (the Act). The agreement is incorporated by reference herein. A copy of the agreement may be obtained by contacting our Division of Records and Reporting.

The docket was scheduled to go to the January 2, 2001, Agenda Conference. On this date we approved our staff's recommendation. However, after the vote, it was brought to our staff's attention that, due to a scrivener's error, the recommendation reflected that the filing was an agreement between BellSouth and KMC Holdings. This agreement was negotiated by KMC Holdings on behalf of its

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certificated operating affiliates in Florida, KMC Telecom. Therefore, we find it appropriate to reconsider our vote.

The Act encourages parties to enter into negotiated agreements. Under the requirements of 47 U.S.C. § 252(e), negotiated agreements must be submitted to the state commission for approval. Section 252(e)(4) requires the state to reject or approve the agreement within 90 days after submission or it shall be deemed approved.

This agreement covers a three-year period and governs the relationship between the companies regarding physical collocation, local interconnection and the exchange of traffic pursuant to 47 U.S.C. § 251. The agreement states that collocation space will be provided for KMC Telecom in BellSouth's Central Offices and telecommunications services provided by BellSouth for resale will be available for purchase by KMC Telecom. Rates for the collocation space and telecommunications services are set out in the schedules included in the agreement. Under 47 U.S.C. § 252(a)(1), the agreement shall include a detailed schedule of itemized charges for interconnection and each service or network element included in the agreement.

Upon review of the proposed agreement, we believe that it complies with the Act; thus, we hereby approve it. The Commission's approval of this agreement should not be construed as a determination that BellSouth has met the requirements of Section 271 of the Act. BellSouth and KMC Telecom are also required to file any subsequent supplements or modifications to their agreement with the Commission for review under the provisions of 47 U.S.C. § 252(e).

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that we hereby reconsider our vote at the January 2, 2001, Agenda Conference and approve the interconnection, unbundling resale, and collocation agreement between BellSouth Telecommunications, Inc. and KMC Telecom Inc., KMC Telecom II, Inc., KMC Telecom III, Inc., and KMC Telecom V, Inc., incorporated by reference in this Order. A copy of the agreement may be obtained as specified in the body of this Order. It is further

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ORDERED that any supplements or modifications to this agreement must be filed with the Commission for review under the provisions of 47 U.S.C. § 252(e). It is further

ORDERED that this docket shall be closed.

By ORDER of the Florida Public Service Commission this 13th Day of March, 2001.

BLANCA S. BAYÓ, Director
Division of Records and Reporting

By: Kay Flynn
Kay Flynn, Chief
Bureau of Records

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

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

Any party adversely affected by the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or 2) judicial review in Federal district court pursuant to the Federal Telecommunications Act of 1996, 47 U.S.C. § 252(e)(6).