

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Investigation into
Pricing of Unbundled Network
Elements

DOCKET NO. 990649B-TP

REBUTTAL TESTIMONY OF FRANK W. WOOD

ON BEHALF OF

KMC TELECOM III, INC.

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I. INTRODUCTION

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Q. PLEASE STATE YOUR NAME, BUSINESS ADDRESS, AND TITLE.

A. My name is Frank W. Wood. My business address is 1545 Raymond Diehl Rd, Suite #350, Tallahassee, Florida. I am employed by KMC Telecom III, Inc. ("KMC") as the City Director for Tallahassee.

Q. BRIEFLY OUTLINE YOUR EDUCATIONAL BACKGROUND AND BUSINESS EXPERIENCE IN THE TELECOMMUNICATIONS INDUSTRY.

A. After attending college at the University of Northern Colorado, my telecommunications career began in 1986, when I was employed by Southland Systems as the local Sales Manager for long distance service. Through a number of mergers, I eventually became a National Account Manger with MCI Telecommunications. In 1992, I resigned from MCI and founded Communications Solutions, Inc., (d/b/a CSI Long Distance) in Tallahassee, which was a switchless reseller for commercial customers. Our niche was to provide customized billing solutions for law firms and trade associations. In 1996, I sold CSI to Gulf Long Distance of Foley, Alabama. Based upon my knowledge of the Tallahassee communications market and my experience as a manager and salesman, I was hired by KMC in January of 1998 to begin the planning and development of KMC's entry into Tallahassee as a competitive local exchange carrier. As KMC's City Director for Tallahassee, I am responsible for all daily business functions in Tallahassee,

1 including sales, marketing, operations, profit and loss responsibility,
2 construction, customer care, and on-going business development.

3 **Q. HAVE YOU PREVIOUSLY TESTIFIED BEFORE THIS**
4 **COMMISSION?**

5 A. No, I have not.

6 **Q. ON WHOSE BEHALF ARE YOU APPEARING IN THESE**
7 **PROCEEDINGS?**

8 A. I am appearing on behalf of KMC as a certificated alternative local exchange
9 carrier (“ALEC” or, as these competitive local carriers are also known,
10 “CLEC”) operating in both the Sprint and Verizon market areas.

11 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

12 A. The purpose of my testimony is to provide KMC’s position on the proposals
13 of Sprint and Verizon to substantially increase the price of several key UNEs
14 that are required by facilities based ALECs such as KMC. KMC greatly
15 appreciates the fact that this Commission is investigating the cost studies and
16 proposed pricing for Sprint and Verizon UNEs. As I will discuss, however,
17 this proceeding presents the CLEC industry with a very difficult dilemma.
18 Facilities based competitors such as KMC need certain UNEs from ILECs
19 such as Sprint and Verizon, and the CLECs need for those prices to be lower.
20 But in the current market, the cost of undertaking the significant effort
21 necessary to analyze, evaluate, and substantially challenge the ILEC cost
22 studies is simply beyond our means. In order to provide service to our

1 customers, we do not have the staff or financial resources available to us to
2 contest the ILEC cost studies.

3 I am participating in this case as a field level manager, offering what I
4 believe is valuable and relevant information about how a facilities based
5 CLEC operates in the Sprint and Verizon markets. I also discuss what a
6 facilities based CLEC needs in order to get started, grow the business, reach
7 profitability, and then sustain it. The CLECs very much need UNEs
8 purchased from the ILECs, and we need UNEs priced in a manner that makes
9 them affordable to use.

10 To bridge the gap, we desperately need this Commission's help.
11 Florida is one of the largest telecommunications marketplaces in the country.
12 This Commission has one of the largest Staffs in the country. Use your Staff.
13 Turn them loose on the Sprint and Verizon cost studies, and let them dig into
14 them and give them the independent review the studies require and this
15 industry need. We urge you in our strongest voice to live up to your
16 legislative mandate and your recently revised mission statement and promote
17 competition by undertaking the only detailed, independent investigation these
18 cost studies will receive. The few real CLECs that are now left need for you
19 to bring the full power of your vast resources to bear on these cost studies and
20 set cost based UNE rates that will foster the growth of facilities competition
21 and not bury it.

22

1 **II. BACKGROUND ON KMC**

2 **Q. CAN YOU PLEASE DISCRIBE KMC AND ITS OPERATIONS.**

3 A. Yes. For the past several years, the Commission has heard various arguments
4 about the status of CLECs. Unfortunately, much of the talking has been from
5 the ILECs. While some Interexchange Carriers also operate as ALECs and
6 have brought various competitive matters before the Commission, these
7 companies do not have the same issues or concerns as a facilities based
8 CLEC such as KMC, which does not have a legacy as a long distance service
9 provider.

10 KMC was founded on the eve of the passage of the
11 Telecommunications Act of 1996 as a competitive local service provider.
12 KMC's business plan has been to build state of the art local networks in the
13 Tier III markets, those metropolitan areas that generally have a population
14 between 100,000 and 750,000. We have augmented this plan to also be a
15 nationwide provider of next generation data services for Interexchange
16 Carriers and Tier I and II Internet providers.

17 KMC is the kind of CLEC envisioned by the Telecommunications Act
18 of 1996 – KMC is a facilities based carrier utilizing fiber-based integrated
19 communications networks that offer a full range of advanced voice, data, and
20 Internet infrastructure services across the eastern half of the United States.
21 Dedicated to delivering high-quality and reliable services at highly
22 competitive prices in each of its markets, KMC provides single-source

1 product and service availability and maintains a strong commitment to
2 localized customer care to the communities we service.

3 **Q. WHERE HAS KMC BUILT ITS LOCAL NETWORKS?**

4 A. KMC today has local, facilities based networks in 37 metropolitan areas.
5 Our focus on Tier III markets was done for a number of reasons, but
6 ultimately we felt that smaller markets were under-served, especially in
7 offering the small and medium sized businesses in those communities a real
8 competitive alternative. KMC believes that an appropriate capital
9 investment in infrastructure in these markets will meet an untapped need
10 that will give us a firm foundation on which to execute a solid business
11 plan.

12 **Q. DOES KMC SERVE RESIDENTIAL MARKETS?**

13 A. It would be great to serve residential markets – once you deploy a network,
14 you want to put as many customers as possible on it. However, given our
15 deployment of SONET rings, the cost to build laterals, and the cost to
16 collocate at the ILEC central offices or at ILEC digital loop carrier
17 equipment (collocation construction costs, cards, cross connections, back
18 haul transport, power, etc), it is not cost effective at this time to serve
19 residential customers through our own networks. We have considered a
20 residential service via UNEs, but the cost is greater to purchase the service
21 from the ILEC than what we can retail it for.

22 **Q. HOW MANY OF THE 37 MARKETS WHERE KMC HAS BUILT**

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NETWORKS ARE IN FLORIDA?

A. Florida is the state with the largest KMC presence – we have built networks in seven Florida markets. These seven markets include two Sprint markets, Tallahassee and Ft. Myers, two Verizon markets, Greater Pinellas and Sarasota, and three BellSouth markets, Brevard, Daytona Beach, and Pensacola.

Q. HOW DOES KMC DEPLOY ITS NETWORKS AND BUSINESS OPERATIONS?

A. In each of its local markets, KMC invests in a network infrastructure that is designed to reach approximately 80 percent of the business access lines through either a direct connection or unbundled network elements leased from the ILEC. In each market, KMC will have its own #5ESS central office switch and collocate facilities at the ILEC’s tandem and other ILEC central offices. KMC builds a fully redundant fiber backbone ring utilizing Synchronous Optical Network (“SONET”) technology that allows KMC to connect to Interexchange Carriers and an assortment of commercial customers, where practical, and offer a full array of local and long distance voice and data services.

Q. HOW SUCCESSFUL HAS KMC BEEN IN ITS BUSINESS PLAN?

A. At the end of the third quarter 2001, KMC’s gross networks, property, and equipment represented a \$1.5 billion investment. Total lines (DS-0 equivalents -- the combination of access lines and dedicated lines) grew to

1 over 3.6 million at the end of the third quarter 2001, representing a 16
2 percent increase over KMC's total at the end of the second quarter 2001,
3 and 95 percent higher than reported at the end of the third quarter 2000.
4 KMC continues to service 99.9 percent of the total lines on its networks
5 either by direct connections or UNEs. Total customers as of September 30,
6 2001, were 15,301, a 6 percent increase compared to last quarter, and 53
7 percent higher than the customer base at the end of the third quarter of
8 2000. In 2001, KMC continued the trend of positive quarterly Adjusted
9 EBITDA. At the end of the third quarter of 2001, Adjusted EBITDA was
10 \$24.2 million versus \$3.4 million in the second quarter of 2001.

11 **Q. SINCE YOU ARE THE CITY DIRECTOR FOR TALLAHASSEE,**
12 **CAN YOU PLEASE DESCRIBE YOUR TALLAHASSEE**
13 **OPERATIONS IN MORE DETAIL?**

14 A. In Tallahassee, KMC's central office switch is located in the
15 Commonwealth Center, and we are collocated at the Calhoun, Blairstone,
16 and Willis Road Sprint central offices. We have approximately 45 route
17 miles of fiber that very generally forms a circle around Tallahassee, and we
18 have 32 lateral builds to either IXCs or commercial and government
19 customers. We can serve a small business with just a few phones line via a
20 2-wire analog loop UNE, a mid-sized customer with multiple business lines
21 via a DS-1 UNE, a large commercial customer via a direct fiber connection
22 to our network, or a multi-tenant building where we have our own fiber into

1 the building that enables us to serve tenants within the building completely
2 on our network.

3 We first began to provide service in Tallahassee in November 1998.

4 Our product mix includes POTS service, business trunks, ISDN, point to
5 point data, voice mail, dedicated Internet service, long distance, and large
6 bandwidth applications such as a full DS-3 of Internet service for a local
7 software company and an OC-3c access link for Florida State University.

8 Our total capital investment in Tallahassee is approximately \$22,500,000.

9 Our Tallahassee operation became EBITDA positive in September of 2000.

10 **Q. DOES THIS MEAN THAT KMC'S—OPERATIONS ARE**
11 **FINANCIALLY SECURE FOR THE FUTURE?**

12 A. No, and to assume that we are now "safe" would be tragic. The EBITDA
13 which the Tallahassee office has generated is barely enough to begin
14 payment on the debt service we incurred. The fact is that in order to
15 succeed we need to continue our revenue growth and positive
16 improvements to EBITDA. If CLEC's cannot reach positive cash flow and
17 SUSTAIN it, then our industry is DEAD. And that of course means that
18 Florida customers would not be able to receive the benefits of a competitive
19 telecommunications marketplace.

20 **Q. HOW DO THE PRICING OF UNEs PLAY INTO KMC'S BUSINESS**
21 **PLAN AND THE FUTURE OF COMPETITION?**

22 A. It is KMC's intent to bring service to every possible customer that we can

1 on our own network so as to maximize our infrastructure investment. That
2 said, it is clear that as a new entrant in Tallahassee, Ft. Myers, Greater
3 Pinellas, Sarasota, or in any of the markets we serve in Florida or
4 elsewhere, the overwhelming majority of our customers must be served via
5 UNE's. Why? Simple math. A single location customer that has 14 lines
6 and pays approximately \$420 per month for local service can't afford the
7 lateral construction cost to extend our network, which may cost on average
8 \$30,000 plus the associated optical electronics, which may cost an
9 additional \$20,000. Likewise, it would take KMC nearly 10 years to
10 recover that \$50,000 investment at \$420 a month. That's bad math and a
11 bad business decision.

12 Until you begin to reach the economies of scale where you have
13 facilities everywhere, the only realistic way that a facilities carrier can bring
14 competitive choice to that customer is to deploy UNEs. And, of course,
15 UNEs are one of the three legs of local competition that is the basis for the
16 Telecommunications Act of 1996. Everyone realized that if a CLEC had to
17 completely build a local network that would replicate all of the connections
18 available to the ILEC, competition in local service would never happen.

19 **Q. WHY HAS KMC INTERVENED AT THIS POINT IN THIS**
20 **PROCEEDING AND PROFFERED YOUR TESTIMONY?**

21 A. As I said in my introduction, I'm the City Director for Tallahassee, and the
22 person who is in the trenches trying to bring competition to this market. I

1 have a budget with limited financial resources, a small but dedicated staff,
2 and we have to build a network, put customers on that network, and build
3 both our customer base and the network. The other City Directors for
4 KMC are in a similar situation as Tallahassee.

5 Our company is very young – as is the industry itself. As a new
6 entrant in the telecommunications marketplace, we have to achieve a
7 number of different goals in order to be successful. Initially, our regulatory
8 involvement was limited to getting certificated, filing and updating tariffs,
9 negotiating and sometimes arbitrating interconnection agreements with the
10 ILECs, and dealing the usual regulatory compliance and customer relations
11 issues. These are all things that we must do to be in the business, and we
12 accept them.

13 But I do not believe that anyone, not in their wildest imagination,
14 would have envisioned that six years after the passage of the 1996 Telecom
15 Act that the industry would still be fighting for its basic right to exist. Who
16 would have foreseen that six years after the 1996 Act became law that we
17 would still be embroiled in regulatory proceedings fighting with the ILECs
18 over reciprocal compensation, basic UNE rates, operational support
19 systems and interfaces, and other ongoing business problems. The current
20 situation is far beyond the regulatory burdens any start up business should
21 have to face, and certainly way more than was promised when the 1996 Act
22 was passed.

1 **Q. SO HOW DOES A NEW ENTRANT BALANCE THE REGULATORY**
2 **AND LITIGATION ISSUES WITH ITS ONGOING OPERATIONAL**
3 **NEEDS?**

4 A. On a financial statement, “regulatory” is an expense, unlike customers
5 which are considered “revenue.” As KMC has weathered the storms of the
6 last six years, our company has had to make tough, but realistic
7 management decisions. Where do we spend our capital? Is it better to
8 spend it building networks and paying for UNEs that are too high, or should
9 we invest in lawyers and what to me seems like endless rounds of
10 litigation?

11 For KMC, the decision has been simple – build networks and get
12 revenue. Why? Because our investors deserve a return on their investment
13 – and that is a basic fact of our national economy. But in the present
14 situation, we are faced with a really horrible choice. We can succumb and
15 accept the outrageous UNE price increases now before the Commission
16 which would drastically alter our ability to use UNEs, and thus limit our
17 ability to compete for customers, or we can try to give the Commission our
18 CLEC business perspective. It would be nice to be able to hire the experts
19 necessary to analyze the ILEC UNE cost studies, but the money simply is
20 not there. It’s my understanding that while some of the other ALECs have
21 retained outside experts to evaluate the Verizon cost study, that no one is
22 undertaking the same effort for Sprint’s cost study.

1 Competition is great for customers, but without competitors there to
2 offer those choices, competition is an empty promise. I can tell you what
3 it's like to run a CLEC operation on a day-to-day basis and what the effect
4 of the proposed UNE rates would have on my ability to offer service to
5 customers. Unfortunately, we cannot rely upon other CLECs to spend their
6 money since most of them are bankrupt or in the same boat as KMC. I am
7 here to say that there is no other reasonable alternative but for this
8 Commission to use its vast resources to comprehensively review the cost
9 studies and set prices that will work. You control whether real competition
10 is given the chance envisioned by the 1996 Telecom Act or whether the
11 vast majority of customers will remain hopelessly monopolized.

12 13 **III. SPRINT AND VERIZON UNE PROPOSALS**

14 **Q. HAVE YOU REVIEWED THE COST STUDIES, TESTIMONY, AND**
15 **EXHIBITS SUBMITTED BY SPRINT AND VERIZON IN THIS**
16 **PROCEEDING?**

17 A. I have reviewed some of the materials submitted by Sprint and Verizon.
18 Since I am not an economist or cost study expert, I have not examined the
19 cost studies or all of the supporting testimony. However, I have reviewed
20 those Sprint and Verizon exhibits that detail their proposed UNE rates,
21 focusing my review on those UNEs KMC uses or may use. In addition, I
22 have also reviewed the supporting testimony filed by Sprint's witness Mr.

1 Hunsucker and Verizon's witness Mr. Dennis Trimble.

2 **Q. DO YOU HAVE ANY GENERAL OBSERVATIONS REGARDING**
3 **THE SPRINT AND VERIZON TESTIMONY THAT YOU HAVE**
4 **REVIEWED?**

5 A. Yes, I do. In general, if you read just the ILEC testimony, you may conclude
6 that their proposals sound perfectly reasonable. However, the ILEC
7 perspective on how the CLECs operate and use UNEs is incorrect, and the
8 ILEC pricing proposals, if adopted, will make the present bad situation
9 significantly worse.

10 **Q. CAN YOU PLEASE EXPLAIN HOW THE ILEC TESTIMONY IS**
11 **WRONG?**

12 A. Yes. In general, the ILECs fail to recognize the impact on competition of
13 their ubiquitous local networks, which have been established over many
14 decades at ratepayer expense and in fulfillment of their monopoly obligations
15 to serve everyone. It would be great if the CLECs could instantly replicate
16 the ILEC networks. But this is not the situation today. Rather, we must rely
17 upon investor capital in a very different marketplace without the opportunity
18 for any guaranteed return, and ultimately we must provide our investors with
19 a return on their investment while growing the business. As Mr. Hunsucker
20 acknowledges at pages 6 and 7 of his testimony, "Facility-based entrants are
21 confronted by the formidable hurdle of having to devote substantial capital
22 resources, over an extended period of time, to construct a local network prior

1 to winning any customers or generating any revenues.” This is certainly true.

2 However, Mr. Hunsucker’s remarks over the next two pages, where
3 he discusses the importance of UNE prices being set correctly so that a new
4 entrant will get the right “pricing signal” for the “make or buy” decision in
5 acquiring network facilities, does not reflect how CLEC business decisions
6 are made. The Verizon testimony has similar problems. Moreover, the prices
7 proposed by both Sprint and Verizon will not help promote competitive entry
8 or expansion of competitive options for customers.

9 **Q. HOW DOES THE ILEC TESTIMONY FAIL TO REFLECT HOW NEW**
10 **ENTRANTS MAKE NETWORK DEPLOYMENT DECISIONS?**

11 A. As I said, the ILECs have had many years, under a completely different
12 regulatory structure, to build and deploy their networks. During my tenure
13 with KMC in Tallahassee, I have had to make the tough business decisions
14 regarding the deployment of our network in a manner that gets our foot in the
15 door and gives us the opportunity to be a long-term, viable competitor. It is
16 critical to understand that facilities based competitors today must deploy their
17 networks in phases, and not all at once. In our first phase, we deployed our
18 switch and built the first leg of our SONET backbone. That first leg of our
19 backbone was deployed so that we would connect our switch to the Sprint
20 tandem, key Sprint central offices, other local and long distance competitors’
21 points of presence, and, certainly, major commercial buildings or large users
22 who would benefit from direct fiber connections at the DS-1 or DS-3 levels

1 and higher.

2 As we continue to market our services and our reputation within the
3 community becomes established, we continue to build additional segments to
4 reach other parts of the community not served by our existing fiber backbone.
5 In the four years we have been operating in Tallahassee, we have increased
6 our fiber backbone by approximately 20 miles, to its current length of 45 fiber
7 miles. Even with the current national economic downturn, we will still make
8 route expansions when we can ensure reasonable rates of return on our
9 investment. Our experience in the Ft. Myers, Greater Pinellas, and Sarasota
10 markets has been similar.

11 Once we have fiber deployed, we have the ongoing task of getting
12 customers to connect to our network. As I have already discussed,
13 construction of the necessary laterals from the backbone to specific
14 commercial buildings or single customers is a costly and time consuming
15 undertaking. For example, one major building in downtown Tallahassee
16 denied KMC access to its tenants for several months while negotiating a
17 lengthy and expensive access agreement that would permit us to bring our
18 fiber into the building – requirements rarely imposed upon an ILEC.
19 However, you do not even get to the point of building the lateral to your
20 network for the average customer until you have several customers for whom
21 you can spread out the cost of that lateral. Since you do not solicit customers
22 and keep them unserved in your back pocket until you have enough signed

1 contracts to then build a lateral, the only choice is to resell the ILEC's service
2 or use UNEs.

3 **Q. HOW REALISTIC IS IT FOR A CLEC TO RESELL AN ILEC'S**
4 **SERVICES?**

5 A. For a facilities based carrier, the resale of ILEC services is usually a very
6 undesirable alternative since it leaves you totally dependent upon the ILEC.
7 From a business and especially a customer relations standpoint, resale is at
8 most a very short term solution, one that you use only until you can build
9 your network to the customer or you can serve the customer through UNEs.

10 **Q. SO USE OF UNEs IS A GOOD INTERIM STEP?**

11 A. The UNE alternative is not without its difficulties, but they remain a vital
12 component. UNEs certainly give you a much greater degree of control and
13 ability to serve the customer since your own switch provides the dial tone and
14 related services made available to the customer. However, putting aside for a
15 moment the ILEC's prices for UNEs, to use UNEs requires the CLEC to also
16 collocate facilities at one or more ILEC central offices, another cost and
17 hassle to the new entrant. However, being collocated still does not get you to
18 the customer. In our experience, notwithstanding being collocated, we have
19 still been denied the opportunity to serve some customers because of the way
20 the ILEC has deployed digital loop carriers and used fiber distribution instead
21 of copper. In other instances, after we've received a Firm Order Confirmation
22 from the ILEC, we are notified just before the scheduled cut that "No

1 Facilities” are available. The explanation is that no copper facilities exist
2 from the customer’s demarcation point to the KMC collocation point at the
3 DS-0 UNE level. These denials and delays are terribly frustrating to us and
4 especially to our customers who don’t want to deal with all of the behind the
5 scenes technical stuff that must be done to institute service. Still, we must
6 have UNEs and the associated collocation in order to provide service.
7 Even with our desire to place customers on our own facilities, we fully
8 understand that approximately 80 percent or more of our revenue for local
9 service will come from our services provided through UNEs.

10 **Q. YOU HAVE SAID THAT THE SPRINT AND VERIZON PRICING**
11 **PROPOSALS ALSO DO NOT HELP PROMOTE COMPETITIVE**
12 **ENTRY OR EXPANSION OF COMPETITIVE OPTIONS. CAN YOU**
13 **PLEASE EXPLAIN?**

14 **A.** The proposed Sprint and Verizon UNE prices for the key UNEs required by
15 KMC have the potential to crush the CLEC industry. These proposed
16 changes can virtually wipe-out all of the gains which we have made and
17 would likely halt all competition. We urge the Commission to follow the
18 recent actions of the New York Public Service Commission which lowered
19 the Verizon UNE loop prices to an average of \$11.49, and take a similar bold
20 step here and set UNE prices at a level that makes it economic for us to stay
21 in these Tier III markets where KMC is often the only facilities competitor to
22 the ILEC.

1 **Q. CAN YOU BE MORE SPECIFIC REGARDING THE PRICING**
2 **PROBLEMS WITH THE ILEC PROPOSALS FOR UNEs?**

3 A. Two of the more important UNEs utilized by KMC are 2 wire loops and DS-
4 1 loops. Let's look at the simple 2 wire loop for a moment.

5 Sprint is proposing to collapse the existing 6 bands for UNE loops
6 into 3 bands. Sprint's current standard rates for 2 wire analog loops by band
7 are: Band 1, \$10.78; Band 2, \$15.41; Band 3, \$20.54; Band 4, \$27.09; Band
8 5, \$39.66; Band 6, \$74.05. The Tallahassee Calhoun central office, which
9 generally serves the downtown area, has been in Band 1. The Tallahassee
10 Willis Road central office, serving north of downtown and inside I-10, has
11 been in Band 2. The Tallahassee Blairstone Road central office, serving the
12 southeast side Tallahassee, has been in Band 3. As I said before, KMC is
13 collocated in all three of these central offices.

14 The effect of moving to three bands would be to nearly double the
15 rate we currently pay for a Band 1 central office. For example, that same 2
16 wire analog loop would be priced at \$21.22 in Band 1, \$34.52 in Band 2,
17 and \$68.81 in Band 3. All of the central offices in which KMC is
18 collocated would now be under the Band 1 rate, which represents a
19 substantial increase in cost of operation.

20 **Q. HOW DO THE VERIZON UNE PRICES COMPARE?**

21 A. Unlike Sprint, Verizon is recommending a single, non-deaveraged 2 wire
22 UNE loop rate of \$26.17. Alternatively, if the Commission were to require

1 Verizon to deaverage loops, Verizon would propose three pricing bands,
2 which would be: Zone 1, \$22.17; Zone 2, \$30.91; Zone 3, \$77.39. When
3 compared to the KMC interconnection agreement with Verizon, the \$26.17
4 average price looks like a decrease from the contract amount of \$33.08.
5 However, because of volume and term commitments, the proposed \$26.17
6 rate would be an increase, with the proposed banded rates representing a
7 larger increase.

8 **Q. HOW DO THESE PRICES COMPARE TO THESE ILECs' RETAIL**
9 **RATES?**

10 A. The proposed Sprint and Verizon UNE rates are usually higher, and in some
11 cases substantially higher than the retail rates charged for their end user local
12 services. However, it is important to understand that it is not always easy to
13 make meaningful comparisons because of the way the ILECs package and
14 sell their services. For example, KMC lost a customer back to Sprint because
15 Sprint offered a key system with a line charge of only \$19.75. Prices at these
16 levels look like a price squeeze when compared to the UNE prices now
17 proposed.

18 In light of these pricing proposals and our marketplace experience, I
19 find Sprint's actions in this case as an ILEC especially troubling in view of
20 what is going on in the BellSouth phase of this docket. In the BellSouth
21 proceeding, Sprint has advocated for, and benefited from, much lower rates
22 than what Sprint and Verizon are advocating here. Because of the lower

1 BellSouth UNE rates, we have the situation where Sprint, operating as an
2 ALEC in the BellSouth territory, is in a better position to compete with
3 BellSouth than KMC can compete with Sprint's ILEC operations in
4 Tallahassee or Ft. Myers.

5 **Q. CAN YOU ALSO COMMENT ON THE PROPOSED DS-1 PRICES?**

6 A. At the DS-1 level, the principles remain the same as the DSO level UNE – a
7 substantial cost increase. Current DS-1 UNE prices are as follows: Band 1,
8 \$64.79; Band 2, \$74.96; and Band 3, \$83.83. The proposed pricing by Sprint
9 for the same service would be \$206.76. For Verizon, KMC pays rates as low
10 as \$160.00. Verizon's proposed price would be \$240.52

11 Provisioning service over DS-1 UNEs is an efficient manner of
12 providing service for both parties. The ILEC simply uses two pairs of
13 copper for the loop, and installs a "smart Jack" at the customer premise. It
14 is our opinion that a UNE DS-1 should generally cost no more than two
15 UNE DS-0s.

16 **Q. ARE THERE ANY OTHER CONSEQUENCES OF THE PROPOSED**
17 **DS-1 UNE PRICES?**

18 A. If the proposed rates are approved, it would drastically increase the threshold
19 for the minimum number of lines in service that are required to justify the
20 capital necessary to install the channel bank which facilitates the voice
21 service over a DS-1. This is another blatant example of squeezing a
22 competitor from the marketplace.

1 **Q. MR. HUNSUCKER DISCUSSES AT PAGES 12-13 HOW SPRINT'S**
2 **RETAIL PRICES SHOULD BE IGNORED IN SETTING UNE RATES**
3 **AND MR. TRIMBLE AT PAGE 6 DISCUSSES HOW UNE RATES**
4 **AND RETAIL RATES ARE INEXTRIBLY LINKED. DO YOU**
5 **AGREE?**

6 A. I believe the point of both witnesses is that since local rates are below cost,
7 the Commission should not compare these proposed UNE rates to their
8 retail rates. This attitude reminds me of that scene in the Wizard of Oz
9 where the Great Wizard admonishes Dorothy to "pay no attention to that
10 man behind the curtain!" How can you possibly avoid retail rates when
11 setting wholesale rates?

12 The issues associated with the levels of local rates are obviously not
13 before this Commission at this time. But the Commission cannot be setting
14 rates in a vacuum. Local rates may need to go up at some time, but the
15 Commission must today recognize that the services the CLECs are selling
16 are competing against the retail services being sold by the ILECs. How are
17 we supposed to sell local service when one of the key components we need
18 costs us more than what Sprint or Verizon are selling the full package of
19 retail services? Keep in mind that the prices I have discussed are just part
20 of the UNE picture. Depending upon the service we are providing, we may
21 be required to purchase additional UNEs, such as NIDs or cross connects,
22 in our collocations costs, or pay high nonrecurring charges which only

1 further exacerbate the impact of the proposed UNE prices and our ability to
2 compete with ILEC retail prices.

3 **Q. BUT DOESN'T THE FLORIDA PSC HAVE AN OBLIGATION TO**
4 **SET COST-BASED UNE PRICES?**

5 A. I am no expert on what the 1996 Telecom Act or the FCC rules, and the
6 Commission should certainly follow the requirements of the law. However, I
7 am suggesting that in following the law, the Commission should do three
8 things.

9 First, in analyzing the cost studies, the Commission will have to make
10 certain assumptions or otherwise exercise its discretion in accepting or
11 rejecting information submitted by Sprint and Verizon. In undertaking your
12 evaluation, all such assumptions should be made in favor of results that
13 promote competition.

14 Second, you cannot end up with UNE prices that are above ILEC
15 retail rates. I recognize that the Commission may be in a difficult position
16 because of end user rates. But to ignore end user rates in setting UNE rates
17 will result in UNE prices that no CLEC can afford. And if we cannot afford
18 to buy UNEs, you have effectively ended any chance of competition.

19 Lastly, you should carefully consider the proposed geographic
20 deaveraging for loop prices, and if necessary, adopt more rather than fewer
21 bands. This seems especially true for Sprint where the present 6 band
22 approach results in rates that are at least tolerable Band 1 and Band 2 offices.

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Q. DO YOU HAVE ANY OTHER COMMENTS FOR THE COMMISSION REGARDING THE SPRINT AND VERIZON PROPOSED UNE PRICES?

A. While preparing this testimony, I learned that Alltel, a CLEC with which KMC competes in Tallahassee, announced that it was curtailing its CLEC operations in Tallahassee and in several other markets. Alltel's demise cannot be blamed on poor marketing or effort, as KMC certainly felt their competitive presence in Tallahassee. Professionally, they certainly had the technical expertise and financial resources to be a viable provider. Based upon what I have heard and read, it appears that Alltel simply couldn't see the light at the end of the tunnel in regards to profit. Looking at the UNE rates proposed in this proceeding, the road to profitability becomes a brick wall.

Q. CAN YOU PLEASE SUMMARIZE YOUR TESTIMONY?

A. We'd like to be able to provide you with a detailed economic analysis of the Sprint and Verizon UNE proposals, but as a young company KMC simply doesn't have the luxury of unlimited budgets. At this important time in our history, and the history of the telecommunications industry, it is critical that UNE prices for Sprint and Verizon be set at a level that would further competition and not deny us the opportunity to provide competitive choices to customers. In the final analysis, only this Commission has the resources

1 that can comprehensively evaluate the ILEC UNE proposals. We urge you to
2 conduct this needed evaluation and set new UNE rates that will help give
3 customers a real competitive choice.

4 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

5 **A. Yes, it does.**

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of The Rebuttal Testimony of Frank W. Wood in Docket 990649B-TP has been served on the following parties by Hand Delivery (*) and/or U. S. Mail this 30th day of January, 2002.

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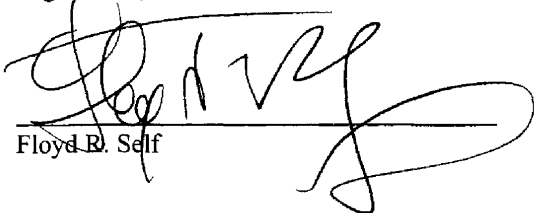
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