

LAW OFFICES
MESSER, CAPARELLO & SELF
A PROFESSIONAL ASSOCIATION

215 SOUTH MONROE STREET, SUITE 701
POST OFFICE BOX 1876
TALLAHASSEE, FLORIDA 32302-1876
TELEPHONE: (850) 222-0720
TELECOPIER: (850) 224-4359
INTERNET: www.lawfla.com

April 22, 2002

BY HAND DELIVERY

Ms. Blanca Bayó, Director
The Commission Clerk and Administrative Services
Room 110, Easley Building
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, Florida 32399-0850

Re: Docket No. 990649B-TP

Dear Ms. Bayó:

Enclosed for filing on behalf of KMC Telecom III, LLC are an original and fifteen copies of KMC Telecom III, LLC's Revised Prehearing Statement in the above referenced docket. Also enclosed is a 3 1/2" diskette with the document on it in WordPerfect 9.0 format.

Please acknowledge receipt of this letter by stamping the extra copy of this letter "filed" and returning the same to me.

Thank you for your assistance with this filing.

Sincerely yours,


Floyd R. Self

FRS/amb
Enclosures
cc: Parties of Record

DOCUMENT NUMBER - DATE

04411 APR 22 02

FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Investigation into pricing of)
unbundled network elements)
_____)

Docket No. 990649B-TP
Filed: April 22, 2002

REVISED PREHEARING STATEMENT OF KMC TELECOM III, LLC

KMC Telecom III, LLC, through undersigned counsel, submits this revised prehearing statement.

A. APPEARANCES

Floyd R. Self, Esq.
Messer, Caparello & Self, P.A.
Post Office Box 1876
Tallahassee, FL 32302-1876

On behalf of KMC Telecom III, LLC

B. WITNESSES

<u>Witness</u>	<u>Issues</u>
Frank Wood (Rebuttal)	1, 2a, 9(a)(1)-(2) and (5)-(8)

C. EXHIBITS

KMC does not intend to present any exhibits, but reserves the right to introduce exhibits, if necessary, as may be required by cross examination, later filed testimony, completion of discovery, or new issues identified at the prehearing conference.

D. BASIC POSITION

Facilities based competitors such as KMC need certain UNEs purchased from the ILECs, and those UNEs need to be priced in a manner that makes them affordable to use. Likewise, the UNE rates that are at or above corresponding end user rates do not help, and in fact, make it

difficult to impossible to effectively compete with the ILECs. The proposed Sprint and Verizon UNE pricing proposals for the key UNEs required by KMC are anticompetitive and should not be adopted.

KMC has been unable to perform the necessary detailed analysis of the cost studies that it would like to undertake. However, KMC does have three basic recommendations for the pricing decisions the Commission must make for Sprint and Verizon. First, KMC recommends that in analyzing the cost studies the Commission should interpret the data, construe any necessary assumptions, and otherwise make any necessary policy decisions in a manner that leads to results that promote competition.

Second, the final UNE prices to CLECs cannot be set at levels that are above the corresponding ILEC retail rates.

Third, the Commission should carefully consider the proposed geographic deaveraging for loop prices, and if necessary, adopt more rather than fewer bands.

In the final analysis, only this Commission has the resources that can comprehensively and meaningfully evaluate the Sprint and Verizon UNE proposals. KMC urges the Commission to conduct this needed evaluation and set new UNE rates at levels that will help give customers a real competitive choice.

E. ISSUES AND POSITIONS

VERIZON

Issue 1: What factors should the Commission consider in establishing rates and charges for UNEs (including deaveraged UNEs and UNE combinations)?

KMC's Position: The proposed Verizon UNE rates are usually higher, and in some cases substantially higher than the rates charged for the corresponding end user local services. Prices at these levels look like a price squeeze when compared to the UNE prices now proposed. While the Commission must set rates consistent with the law, and while end user retail rates are not presently before the Commission, the Commission must nevertheless not set UNE prices in a vacuum. If this Commission sets UNE prices as proposed by Verizon, the CLECs will not be able to effectively compete with these ILECs, and customers will be the ultimate losers.

Issue 2(a): What is the appropriate methodology to deaverage UNEs and what is the appropriate rate structure for deaveraged UNEs?

KMC's Position: The Commission should geographically deaverage UNEs consistent with the law but in a manner that also promotes competition.

Issue 2(b): For which of the following UNEs should the Commission set deaveraged rates?

- (1) loops (all);
- (2) local switching;
- (3) interoffice transport (dedicated and shared);
- (4) other (including combinations).

KMC's Position: All loops, subloops, and any UNE combinations containing loops or subloops should be deaveraged.

Issue 3(a): What are xDSL capable loops?

KMC's Position: Agree with AT&T/WorldCom/FDN.

Issue 3(b): Should a cost study for xDSL-capable loops make distinctions based on loop length and/or the particular DSL technology to be deployed?

KMC's Position: Agree with AT&T/WorldCom/FDN.

Issue 4(a): Which subloop elements, if any, should be unbundled in this proceeding, and how should prices be set?

KMC's Position: Agree with AT&T/WorldCom/FDN.

Issue 4(b): How should access to such subloop elements be provided, and how should prices be set?

KMC's Position: Agree with AT&T/WorldCom/FDN.

Issue 5: For which signaling networks and call-related databases should rates be set?

KMC's Position: Any cost study for signaling networks and call related databases, as well as for any UNE, should be based on forward-looping economic cost, which assumes the most efficient telecommunications technology currently available and the lowest cost network configuration.

Issue 6: Under what circumstances, if any, is it appropriate to recover non-recurring costs through recurring rates?

KMC's Position: Agree with AT&T/WorldCom/FDN.

Issue 7: What are the appropriate assumptions and inputs for the following items to be used in the forward-looking recurring UNE cost studies?

Issue 7(a): network design (including customer location assumptions);

KMC's Position: Agree with AT&T/WorldCom/FDN.

Issue 7(b): depreciation;

KMC's Position: Agree with AT&T/WorldCom/FDN.

Issue 7(c): cost of capital;

KMC's Position: Agree with AT&T/WorldCom/FDN.

Issue 7(d): tax rates;

KMC's Position: Agree with AT&T/WorldCom/FDN.

Issue 7(e): structure sharing;

KMC's Position: Agree with AT&T/WorldCom/FDN.

Issue 7(f): structure costs;

KMC's Position: Agree with AT&T/WorldCom/FDN.

Issue 7(g): fill factors;

KMC's Position: Agree with AT&T/WorldCom/FDN.

Issue 7(h): manholes;

KMC's Position: Agree with AT&T/WorldCom/FDN.

Issue 7(i): fiber cable (material and placement costs);

KMC's Position: Agree with AT&T/WorldCom/FDN.

Issue 7(j): copper cable (material and placement costs);

KMC's Position: Agree with AT&T/WorldCom/FDN.

Issue 7(k): drops;

KMC's Position: Agree with AT&T/WorldCom/FDN.

Issue 7(l): network interface devices;

KMC's Position: Agree with AT&T/WorldCom/FDN.

Issue 7(m): digital loop carrier costs;

KMC's Position: Agree with AT&T/WorldCom/FDN.

Issue 7(n): terminal costs;

KMC's Position: Agree with AT&T/WorldCom/FDN.

Issue 7(o): switching costs and associated variables;

KMC's Position: Agree with AT&T/WorldCom/FDN.

Issue 7(p): traffic data;

KMC's Position: Agree with AT&T/WorldCom/FDN.

Issue 7(q): signaling system costs;

KMC's Position: Agree with AT&T/WorldCom/FDN.

Issue 7(r): transport system costs and associated variables;

KMC's Position: Agree with AT&T/WorldCom/FDN.

Issue 7(s): loadings;

KMC's Position: Agree with AT&T/WorldCom/FDN.

Issue 7(t): expenses;

KMC's Position: Agree with AT&T/WorldCom/FDN.

Issue 7(u): common costs;

KMC's Position: Agree with AT&T/WorldCom/FDN.

Issue 7(v): other.

KMC's Position: Agree with AT&T/WorldCom/FDN.

Issue 8: What are the appropriate assumptions and inputs for the following items to be used in the forward-looking non-recurring UNE cost studies?

Issue 8(a): network design;

KMC's Position: Agree with AT&T/WorldCom/FDN.

Issue 8(b): OSS design;

KMC's Position: Agree with AT&T/WorldCom/FDN.

Issue 8(c): labor rates;

KMC's Position: Agree with AT&T/WorldCom/FDN.

Issue 8(d): required activities;

KMC's Position: Agree with AT&T/WorldCom/FDN.

Issue 8(e): mix of manual versus electronic activities;

KMC's Position: Agree with AT&T/WorldCom/FDN.

Issue 8(f): other.

KMC's Position: Agree with AT&T/WorldCom/FDN.

Issue 9(a): What are the appropriate recurring rates (averaged or deaveraged as the case may be) and non-recurring charges for each of the following UNEs?

Issue 9(a)(1)-(19): 2-wire voice grade loop; 4-wire analog loop; 2-wire ISDN/IDSL loop; 2-wire xDSL-capable loop; 4-wire xDSL-capable loop; 4-wire 56 kbps loop; 4-wire 64 kbps loop; DS-1 loop; high capacity loops (DS3 and above); dark fiber loop; subloop elements (to the extent required by the Commission in Issue 4); network interface devices; circuit switching (where required); packet switching (where required); shared interoffice transmission; dedicated interoffice transmission; dark fiber interoffice facilities; signaling networks and call-related databases; OS/DA (where required).

KMC's Position: Agree with AT&T/WorldCom/FDN.

Issue 9(b): Subject to the standards of the FCC's Third Report and Order, should the Commission require ILECs to unbundle any other elements or combinations of elements? If so, what are they and how should they be priced?

KMC's Position: Agree with AT&T/WorldCom/FDN.

Issue 10: What is the appropriate rate, if any, for customized routing?

KMC's Position: Agree with AT&T/WorldCom/FDN.

Issue 11(a): What is the appropriate rate if any, for line conditioning, and in what situations should the rate apply?

KMC's Position: Agree with AT&T/WorldCom/FDN.

Issue 11(b): What is the appropriate rate, if any, for loop qualification information, and in what situations should the rate apply?

KMC's Position: Agree with AT&T/WorldCom/FDN.

Issue 12: Without deciding the situations in which such combinations are required, what are the appropriate recurring and non-recurring rates for the following UNE combinations:

Issue 12(a): "UNE platform" consisting of: loop (all), local (including packet, where required) switching (with signaling), and dedicated and shared transport (through and including local termination);

KMC's Position: Agree with AT&T/WorldCom/FDN.

Issue 12(b): extended links," consisting of:

Issue 12(b)(1)-(3): loop, DSO/1 multiplexing, DS1 interoffice transport; DS1 loop, DS1 interoffice transport; DS1 loop, DS1/3 multiplexing, DS3 interoffice transport.

KMC's Position: Agree with AT&T/WorldCom/FDN.

Issue 13: When should the recurring and non-recurring rates and charges take effect?

KMC's Position: Agree with AT&T/WorldCom/FDN.

SPRINT

Issue 1: What factors should the Commission consider in establishing rates and charges for UNEs (including deaveraged UNEs and UNE combinations)?

KMC's Position: The proposed Sprint UNE rates are usually higher, and in some cases substantially higher than the rates charged for the corresponding end user local services. Prices at these levels look like a price squeeze when compared to the UNE prices now proposed. While the Commission must set rates consistent with the law, and while end user retail rates are not presently before the Commission, the Commission must nevertheless not set UNE prices in a vacuum. If this Commission sets UNE prices as proposed by Sprint, the CLECs will not be able to effectively compete with these ILECs, and customers will be the ultimate losers.

Issue 2(a): What is the appropriate methodology to deaverage UNEs and what is the appropriate rate structure for deaveraged UNEs?

KMC's Position: The Commission should geographically deaverage UNEs consistent with the law but in a manner that also promotes competition.

Issue 2(b): For which of the following UNEs should the Commission set deaveraged rates?

- (1) loops (all);
- (2) local switching;
- (3) interoffice transport (dedicated and shared);
- (4) other (including combinations).

KMC's Position: All loops, subloops, and any UNE combinations containing loops or subloops should be deaveraged.

Issue 3(a): What are xDSL capable loops?

KMC's Position: Agree with FDN.

Issue 3(b): Should a cost study for xDSL-capable loops make distinctions based on loop length and/or the particular DSL technology to be deployed?

KMC's Position: Agree with FDN.

Issue 4(a): Which subloop elements, if any, should be unbundled in this proceeding, and how should prices be set?

KMC's Position: Agree with FDN.

Issue 4(b): How should access to such subloop elements be provided, and how should prices be set?

KMC's Position: Agree with FDN.

Issue 5: For which signaling networks and call-related databases should rates be set?

KMC's Position: Any cost study for signaling networks and call related databases, as well as for any UNE, should be based on forward-looping economic cost, which assumes the most efficient telecommunications technology currently available and the lowest cost network configuration.

Issue 6: Under what circumstances, if any, is it appropriate to recover non-recurring costs through recurring rates?

KMC's Position: Agree with FDN.

Issue 7: What are the appropriate assumptions and inputs for the following items to be used in the forward-looking recurring UNE cost studies?

Issue 7(a): network design (including customer location assumptions);

KMC's Position: Agree with FDN.

Issue 7(b): depreciation;

KMC's Position: No position.

Issue 7(c): cost of capital;

KMC's Position: No position.

Issue 7(d): tax rates;

KMC's Position: No position.

Issue 7(e): structure sharing;

KMC's Position: Agree with FDN.

Issue 7(f): structure costs;

KMC's Position: No position.

Issue 7(g): fill factors;

KMC's Position: Agree with FDN.

Issue 7(h): manholes;

KMC's Position: No position.

Issue 7(i): fiber cable (material and placement costs);

KMC's Position: Agree with FDN.

Issue 7(j): copper cable (material and placement costs);

KMC's Position: No position.

Issue 7(k): drops;

KMC's Position: No position.

Issue 7(l): network interface devices;

KMC's Position: No position.

Issue 7(m): digital loop carrier costs;

KMC's Position: Agree with FDN.

Issue 7(n): terminal costs;

KMC's Position: No position.

Issue 7(o): switching costs and associated variables;

KMC's Position: No position.

Issue 7(p): traffic data;

KMC's Position: No position.

Issue 7(q): signaling system costs;

KMC's Position: No position.

Issue 7(r): transport system costs and associated variables;

KMC's Position: No position.

Issue 7(s): loadings;

KMC's Position: No position.

Issue 7(t): expenses;

KMC's Position: Agree with FDN

Issue 7(u): common costs;

KMC's Position: No position.

Issue 7(v): other.

KMC's Position: No position.

Issue 8: What are the appropriate assumptions and inputs for the following items to be used in the forward-looking non-recurring UNE cost studies?

Issue 8(a): network design;

KMC's Position: Agree with FDN.

Issue 8(b): OSS design;

KMC's Position: Agree with FDN.

Issue 8(c): labor rates;

KMC's Position: Agree with FDN.

Issue 8(d): required activities; ---

KMC's Position: Agree with FDN.

Issue 8(e): mix of manual versus electronic activities;

KMC's Position: Agree with FDN.

Issue 8(f): other.

KMC's Position: Agree with FDN.

Issue 9(a): What are the appropriate recurring rates (averaged or deaveraged as the case may be) and non-recurring charges for each of the following UNEs?

Issue 9(a)(1)-(19): 2-wire voice grade loop; 4-wire analog loop; 2-wire ISDN/IDSL loop; 2-wire xDSL-capable loop; 4-wire xDSL-capable loop; 4-wire 56 kbps loop; 4-wire 64 kbps loop; DS-1 loop; high capacity loops (DS3 and above); dark fiber loop; subloop elements (to the extent required by the Commission in Issue 4);

network interface devices; circuit switching (where required); packet switching (where required); shared interoffice transmission; dedicated interoffice transmission; dark fiber interoffice facilities; signaling networks and call-related databases; OS/DA (where required).

KMC's Position: Agree with FDN.

Issue 9(b): Subject to the standards of the FCC's Third Report and Order, should the Commission require ILECs to unbundle any other elements or combinations of elements? If so, what are they and how should they be priced?

KMC's Position: Agree with FDN.

Issue 10: What is the appropriate rate, if any, for customized routing?

KMC's Position: No position at this time.

Issue 11(a): What is the appropriate rate if any, for line conditioning, and in what situations should the rate apply?

KMC's Position: Agree with FDN.

Issue 11(b): What is the appropriate rate, if any, for loop qualification information, and in what situations should the rate apply?

KMC's Position: Agree with FDN.

Issue 12: Without deciding the situations in which such combinations are required, what are the appropriate recurring and non-recurring rates for the following UNE combinations:

Issue 12(a): “UNE platform” consisting of: loop (all), local (including packet, where required) switching (with signaling), and dedicated and shared transport (through and including local termination);

KMC’s Position: Agree with FDN.

Issue 12(b): extended links,” consisting of:

Issue 12(b)(1)-(3): loop, DSO/1 multiplexing, DS1 interoffice transport; DS1 loop, DS1 interoffice transport; DS1 loop, DS1/3 multiplexing, DS3 interoffice transport.

KMC’s Position: Agree with FDN.

Issue 13: When should the recurring and non-recurring rates and charges take effect?

KMC’s Position: Agree with FDN.

F. PENDING MOTIONS

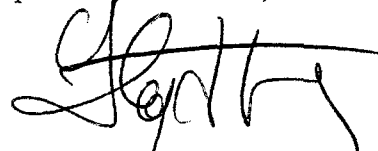
KMC Telecom III, LLC has no pending motions.

G. REQUIREMENTS THAT CANNOT BE COMPLIED WITH

All requirements of the procedural order have been met by KMC Telecom III, LLC.

Dated this 22nd day of April, 2002.

Respectfully submitted,



FLOYD R. SELF, ESQ.
MESSER, CAPARELLO & SELF, P. A.
Post Office Box 1876
Tallahassee, FL 32302-1876
(850) 222-0720

Attorney for KMC Telecom III, Inc.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of KMC Telecom III, LLC's Revised Prehearing Statement in Docket 990649B-TP has been served on the following parties by Hand Delivery (*), and/or U. S. Mail this 22nd day of April, 2002.

Jason Fudge, Esq.*
Division of Legal Services, Room 370
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

Nancy B. White
c/o Nancy H. Sims
BellSouth Telecommunications, Inc.
150 South Monroe Street, Suite 400
Tallahassee, FL 32301

Claudia Davant-DeLoach, Esq.
AT&T
101 N. Monroe St., Suite 700
Tallahassee, FL 32301

Virginia Tate, Esq.
AT&T
1200 Peachtree St., Suite 8068
Atlanta, GA 30309

Jeffrey Whalen, Esq.
John Fons, Esq.
Ausley Law Firm
P.O. Box 391
Tallahassee, FL 32302

Michael A. Gross
Vice President, Regulatory Affairs
& Regulatory Counsel
Florida Cable Telecommunications Assoc., Inc.
246 E. 6th Avenue
Tallahassee, FL 32301

Kimberly Caswell
Verizon Select Services
FLTC-0007
8800 Adamo Drive
Tampa, FL 33619

Donna McNulty, Esq.
WorldCom
The Atrium Building, Suite 105
325 John Knox Road
Tallahassee, FL 32303

Mr. Brian Sulmonetti
WorldCom, Inc.
6 Concourse Parkway, Suite 3200
Atlanta, GA 30328

Marc W. Dunbar, Esq.
Pennington, Moore, Wilkinson, Bell &
Dunbar, P.A.
P.O. Box 10095
Tallahassee, FL 32302-2095

Charles J. Rehwinkel
Sprint-Florida, Incorporated
MC FLTHO0107
P.O. Box 2214
Tallahassee, FL 32399-2214

Mark Buechele
Supra Telecom
1311 Executive Center Drive, Suite 200
Tallahassee, FL 32301

Carolyn Marek
Vice President of Regulatory Affairs
Southeast Region
Time Warner Communications
233 Bramerton Court
Franklin, TN 37069

Ms. Wanda Montano
US LEC of Florida, Inc.
6801 Morrison Blvd
Charlotte, NC 28211-3599

Vicki Kaufman, Esq.
Joe McGlothlin, Esq.
McWhirter, Reeves, McGlothlin,
Davidson, Rief & Bakas, P.A.
117 S. Gadsden Street
Tallahassee, FL 32301

Patrick Wiggins
Charles Pellegrini
Katz, Kutter Law Firm
106 East College Avenue, 12th Floor
Tallahassee, FL 32301

Richard D. Melson
Hopping Green Sams & Smith, P.A.
P.O. Box 6526
Tallahassee, FL 32314

BlueStar Networks, Inc.
Norton Cutler/Michael Bressman
5 Corporate Centre
801 Crescent Centre Drive, Suite 600
Franklin, TN 37067

Mr. John Spilman
Broadslate Networks of Florida, Inc.
585 Loblolly Lane
Charlottesville, VA 22903-7656

William H. Weber
Senior Counsel
Covad Communications Company
1230 Peachtree Street, NE, 19th Floor
Atlanta, GA 30309

Florida Digital Network, Inc.
390 North Orange Avenue, Suite 2000
Orlando, Florida 32801

Mr. Don Sussman
Network Access Solutions Corporation
Three Dulles Tech Center
13650 Dulles Technology Drive
Herndon, VA 20171-4602

Rodney L. Joyce
Shook, Hardy & Bacon LLP
600 14th Street, NW, Suite 800
Washington, DC 20005-2004

Michael Sloan
Swidler & Berlin
3000 K Street, NW #300
Washington, DC 20007-5116

George S. Ford
Z-Tel Communications, Inc.
601 S. Harbour Island Blvd.
Tampa, FL 33602-5706

Lisa Korner Butler
Vice President Regulatory & Industry Affairs
Network Plus, Inc.
41 Pacella Park Drive
Randolph, MA 02368

Andrew O. Isar
Miller Isar, Inc.
7901 Skansie Avenue, Suite 240
Gig Harbor, WA 98335

Nanette Edwards
ITC^DeltaCom
4092 S. Memorial Parkway
Huntsville, AL 35802

Floyd R. Self

