



MINNESOTA
DEPARTMENT OF
COMMERCE

ORIGINAL

85 7th Place East, Suite 500
St. Paul, Minnesota 55101-2198

651.296.4026 FAX 651.297.1959 TTY 651.297.3067

March 11, 2003

Burl W. Haar
Executive Secretary
Minnesota Public Utilities Commission
121 7th Place East, Suite 350
St. Paul, Minnesota 55101-2147

030000-PU

RE: **Comments of the Minnesota Department of Commerce**
Docket No. P5426/M-03-232

Dear Dr. Haar:

Attached are the comments of the Minnesota Department of Commerce in the following matter:

KMC Telecom III's request to discontinue offering its switched intrastate long distance and toll free services to customer who purchase only long distance or toll free service.

The petition was filed on February 10, 2003 by:

Genevieve Morelli
Todd D. Daubert
Kelley Drye & Warren LLP
1200 19th Street NW, Suite 500
Washington, D.C. 20036

The Department recommends **approval** and is available to answer any questions the Commission may have.

Sincerely,

BRUCE L. LINSCHIED
FINANCIAL ANALYST

BLL/ja
Attachment

AUS
CAF
CMP
COM
CTR
ECR
GCL
OPC
MMS
SEC
OTH

DISTRIBUTION CENTER
2003 MAR 17 AM 9:43

DOCUMENT NUMBER-DATE
02545 MAR 17 03
FPSC-COMMISSION CLERK



BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

COMMENTS OF THE
MINNESOTA DEPARTMENT OF COMMERCE

DOCKET NO. P5426/M-03-232

I. BACKGROUND

On February 10, 2003, KMC Telecom III LLC (KMC) filed a notification that it wishes to discontinue offering switched intrastate long distance and toll free services to customers who purchase only long distance or toll free service from KMC. KMC stated that it has sixteen customers in Minnesota who purchase only long distance or toll free service. On February 3, 2003, it provided a minimum of a 30-day notice to secure service from another provider. The anticipated date of KMC's discontinuance of service is March 10, 2003 in Minnesota; however, KMC acknowledges that discontinuance of service is subject to regulatory approval.

II. STATEMENT OF ISSUES

Whether the Commission should approve the request by KMC to discontinue offering switched intrastate long distance and toll free services to customers who purchase only long distance or toll free service from KMC.

III. DISCUSSION OF LAW AND DEPARTMENT POLICY

Minn. Stat. § 237.16, subd. 5 says, "any certificate of authority may, after notice of hearing and a hearing, be revoked or temporarily suspended, in whole or in part, for: . . . failure to meet the terms and conditions of its certificate.

IV. ANALYSIS

KMC was granted authority to provide long distance, switched and special access local exchange service in Docket No. P5426/NA-96-1305 on January 3, 1997. KMC is an authorized interexchange telecommunications carrier that has chosen to discontinue offering switched intrastate long distance and toll free services to its 16 customers in Minnesota who purchase only long distance or toll free service from KMC. These customers have been give a minimum of a 30-day notice of the proposed discontinuance of service, and they will need to arrange service from another carrier. Customers who purchase long distance or toll free services in addition to , or in conjunction with, local service from KMC will not be affected.

Department policy encourages competition unhindered by unnecessary regulation in the telecommunications marketplace. Companies make decisions to discontinue service for variety of reasons that often are meant to achieve a better competitive edge. Companies should be permitted to freely make such changes as long as the decisions receive approval from the agencies charged with reviewing the impacts of company action upon the public. KMC modified its tariff to reflect this restriction to its interexchange authority in Docket No. P5426/M-03-211 on February 13, 2003. The Department reviewed that tariff modification and found that it complied with Commission requirements.

V. RECOMMENDATION

Approve KMC III LLC's request to discontinue offering its switched intrastate long distance and toll free services to customer who purchase only long distance or toll free service.

/ja

STATE OF MINNESOTA)
) ss
COUNTY OF RAMSEY)

AFFIDAVIT OF SERVICE

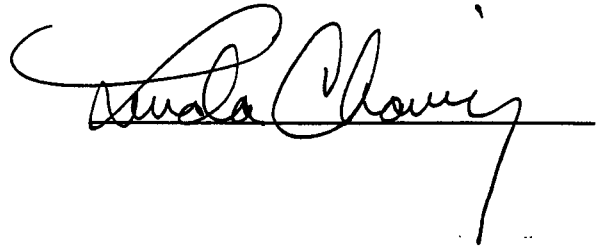
I, **Linda Chavez**, on the **12th** day of **March, 2003**, served the attached **Minnesota Department of Commerce – Comments**

Docket Number(s): **P5426/M-03-232**

- X by depositing in the United States Mail at the City of St. Paul, a true and correct copy thereof, properly enveloped with postage prepaid.

- X by personal service
 by express mail
 by delivery service

to all persons at the addresses indicated below or on the attached list:



A handwritten signature in black ink, appearing to read 'Linda Chavez', is written over a horizontal line.

P5426/M-03-232

The Honorable Jennifer Granholm
3022 W. Grand Blvd.
Cadillac Place, Suite 14-150
Detroit, MI 45202

Mr. David Foster
Tennessee Regulatory Authority
RSA Union, Room 850
460 James Robertson Parkway
Nashville, TN 37243-0505

Burl W. Haar, Exec Sec
MN Public Utilities Commission
350 Metro Square Bldg
121 7th Place East
St. Paul, MN 55101

The Honorable Tim Pawlenty
130 State Capitol
75 Constitution Avenue
St. Paul, MN 55155

Linda Chavez (4)
MN Dept of Commerce
85 7th Place East, Ste 500
St. Paul, MN 55101-2145

The Honorable Ronnie Musgrove
PO Box 139
Jackson, MS 39205

Julia Anderson
Attorney General's Office
525 Park St, Ste 200
St. Paul, MN 55103-2106

The Honorable Phil Bredezen
Tennessee State Capitol
Nashville, TN 37243-0001

Curt Nelson
Attorney General's Office
900 NCL Tower
445 Minnesota Street
St. Paul, MN 55101-2130

Secretary of Defense
Attn: Special Asst. for Telecommunications
Pentagon
Washington, D.C. 20301

Genevieve Morelli
Todd D. Daubert
Kelly Drye & Warren LLP
1200 19th Street NW, Suite 500
Washington, DC 20036

Ms. Blanca S. Bayo, Director
Division of Records and Reporting
Florida Public Service Commission
2540 Shumard Oak Blvd
Tallahassee, FL 32399-0850

Mike Duke
Director of Regulatory Affairs
KMC Telecom III LLC
1755 N. Brown Road, 3rd Floor
Lawrenceville, GA 30043

Ms. Felecia L. Greer
Executive Secretary
New York Public Service Commission
Three Empire State Plaza
Albany, NY 12223-1350

The Honorable Jeb Bush
PL 05 The Capitol
400 S. Monroe Street
Tallahassee, FL 32399-0001

Ms. Dorothy Wideman
Director, Executive Secretary Division
Michigan Public Service Commission
6545 Mercantile Way, Suite 7
Lansing, MI 48911

The Honorable Parris N. Glendening
Office of the Governor
State House
Annapolis, MD 21401

Brian U. Ray
Executive Secretary
Public Service Commission
PO Box 1174
Jackson, MS 39215-1174