

State of Florida



Public Service Commission
-M-E-M-O-R-A-N-D-U-M-

DATE: July 10, 2003
TO: Chairman Lila A. Jaber
Commissioner J. Terry Deason
Commissioner Braulio L. Baez
Commissioner Rudolph "Rudy" Bradley
Commissioner Charles M. Davidson
FROM: Office of the General Counsel (Christensen) *pkc* *D/c*
Division of Competitive Markets and Enforcement (Dowds) *CS* *MS*
RE: Docket No. 990649B-TP - In re: Investigation into Pricing of Unbundled Network Elements (Sprint Phase)

At the June 17, 2003, Agenda Conference, the Commission voted to deny Florida Digital Network, Inc. (FDN) and KMC Telecom, III, LLC (KMC)'s Motion for Reconsideration. On July 8, 2003, FDN and KMC filed a Joint Notice of Statutory Non-Compliance with Proposed Means to Cure and Suggestion for New Hearing. Staff believes that it is appropriate to address this filing before the Order on the Motion for Reconsideration is issued. Specifically, staff believes that the pleading raises an issue which should be addressed by the Commission prior to the potential initiation of the appellate process by the issuance of the Order on the Motion for Reconsideration.

Staff anticipates filing a recommendation on this pleading for the August 5th Agenda Conference. For the reasons described above, the Order on the Motion for Reconsideration, due to have been issued on Monday, July 7, 2003, will not be issued. Upon the disposition of this matter at the earliest available agenda conference, an order(s) consistent with the Commission's decision will be issued.

Should you have any questions concerning this memorandum, please contact Patricia A. Christensen or David Dowds.