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September 16, 2003

**BY OVERNIGHT 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, Investigation into Pricing of Unbundled  
Network Elements (Sprint/Verizon Track)

Dear Ms. Bayó:

Enclosed please find a copy of Florida Digital Network, Inc.'s Notice of Joinder of Appeal which was filed with the Florida Supreme Court in the case, *KMC Telecom III, LLC v. Florida Public Service Commission, et al.*

Should you have any questions concerning this filing, please do not hesitate to call us.

Respectfully submitted,

Harisha J. Bastiampillai

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September 16, 2003

## BY OVERNIGHT DELIVERY

Florida Supreme Court  
Attention: Clerk's Office  
500 South Duval Street  
Tallahassee, Florida 32399-1927

Re: *KMC Telecom III, LLC v. Florida Public Service Commission, et al.*,  
Case No. \_\_\_\_\_  
Lower Tribunal Case No. 990649B-TP

Dear Sir/Madam Clerk:

Enclosed please find an original and five (5) copies of Florida Digital Network, Inc.'s Notice of Joinder of Appeal.

Please date stamp and return the enclosed extra copy of this filing. Should you have any questions concerning this filing, please do not hesitate to call us.

Respectfully submitted,



Harisha J. Bastiampillai

Enclosures

cc: Parties of Record in PSC Proceeding

DOCUMENT NUMBER - DATE

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FPSC-COMMISSION CLERK

BEFORE THE SUPREME COURT OF FLORIDA

KMC TELECOM III, LLC

Appellant,

vs.

FLORIDA  
PUBLIC SERVICE COMMISSION;  
LILA A. JABER, in her official capacity as  
Chairman of the Florida Public Service  
Commission; and, BRAULIO L. BAEZ  
RUDOLPH BRADLEY,  
CHARLES M. DAVIDSON  
And J. TERRY DEASON, as and constituting  
The Florida Public  
Service Commission,

Appellees.

Case No. \_\_\_\_\_

Lower Tribunal Case No.  
990649B-TP

SEP 17 AM 10:16  
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CLERK

NOTICE OF JOINDER OF APPEAL

NOTICE IS GIVEN that Florida Digital Network, Inc. ("Florida Digital"), pursuant to Rule 9.360, Florida Rules of Appellate Procedure, hereby joins in the appeal filed by Appellant, KMC Telecom III, LLC ("KMC"). The appeal concerns the Florida Public Service Commission ("PSC") Order Nos. PSC-03-0058-FOF-TP and PSC-03-0918-FOF-TP. Copies of the Orders were attached to KMC's Notice of Appeal. The Orders were rendered in Docket No. 990649B-TP, *In re:*

DOCUMENT NUMBER-DATE

08823 SEP 17 8

FPSC-COMMISSION CLERK

*Investigation into Pricing of Unbundled Network Elements.* Those final Orders address prices for purchase unbundled network elements from Sprint-Florida, Inc. The Orders are based on a cost model, inputs and assumptions that result in rates that violate the federal Telecommunications Act of 1996 and its implementing regulations, are the product of a misapplied burden of proof, were arbitrarily and capriciously determined without regard for the evidence before the PSC, and are otherwise contrary to law.

Florida Digital hereby reserves for independent adjudication in federal court all federal questions raised in this appeal. Florida Digital informs the Court of the existence of its complaint containing claims based on federal law filed on September 8, 2003 in the United States District Court for the Northern District of Florida, *Florida Digital Network, Inc. v. Sprint-Florida, Inc., et al.*, Case No. 03-CV-282, in order to permit this Court, to the extent it ultimately retains jurisdiction

over the matter, to resolve Florida Digital's state law claims in light of the pending federal claims.

Respectfully submitted,



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Counsel to Florida Digital Network, Inc.

Dated: September 16, 2003

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the Notice of Joinder of Appeal of Florida Digital Network has been served on the following parties by U.S. mail this 16<sup>th</sup> day of September, 2003.

  
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