

ORIGINAL

LAW OFFICES  
**Messer, Caparello & Self**  
A Professional Association

Post Office Box 1876  
Tallahassee, Florida 32302-1876  
Internet: www.lawfla.com

RECEIVED  
COMMISSION  
CLERK  
DEC 17 PM 3:21

December 16, 2003

**BY HAND DELIVERY**

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

Re: Docket No. 030851-TP

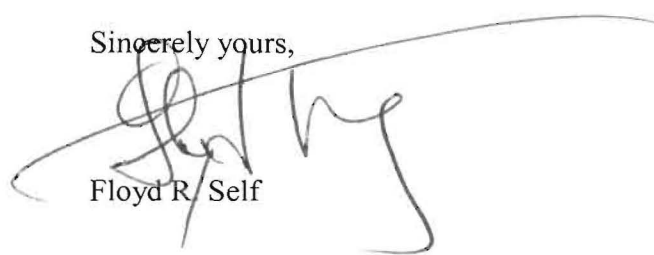
Dear Ms. Bayó:

Enclosed for filing on behalf of KMC Telecom III, Inc. are an original and fifteen copies of KMC's Preliminary Objections to Sprint's First Set of Interrogatories (No.1) in the above referenced docket.

Please acknowledge receipt of these documents 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

- AUS \_\_\_\_\_
  - CAF \_\_\_\_\_
  - CMP \_\_\_\_\_
  - COM \_\_\_\_\_
  - CTR \_\_\_\_\_
  - ECR \_\_\_\_\_
  - GCL \_\_\_\_\_
  - OPC \_\_\_\_\_
  - MMS \_\_\_\_\_
  - SEC   1
  - OTH \_\_\_\_\_
- FRS/amb  
Enclosures  
cc: Parties of Record

RECEIVED & FILED

  
FPSC-BUREAU OF RECORDS

DOCUMENT # 030851-TP  
13144 DEC 17 8

FPSC-COMM. CLERK

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In Re: Implementation of Requirements )  
Arising From Federal Communications )  
Commission Triennial UNE Review: )  
Local Circuit Switching for Mass )  
Market Customers )  
\_\_\_\_\_ )

Docket No.: 030851-TP  
Filed: December 16, 2003

**KMC'S PRELIMINARY OBJECTIONS TO SPRINT'S  
FIRST SET OF INTERROGATORIES (No. 1)**

KMC Telecom III LLC (hereinafter "KMC"), pursuant to the *Order Establishing Procedure*, Order No. PSC-03-1054-PCO-TP, issued September 22, 2003, and the *Second Order on Procedure*, PSC-03-1265-PCO-TP, issued November 7, 2003 (hereinafter "*Procedural Orders*"), Rule 28-106.206 of the Florida Administrative Code, and Rules 1.280 and 1.340 of the Florida Rules of Civil Procedure, hereby generally and specifically objects to the First Set of Interrogatories (No. 1) to KMC, served on December 9, 2003, by Sprint Communications Limited Partnership and Sprint-Florida, Incorporated (collectively, "Sprint") via email after 5:00 PM Eastern Time. The Objections stated herein are preliminary in nature and are made at this time for the purpose of complying with the seven-day requirement set forth in Order No. PSC-03-1054-PCO-TP, by the Florida Public Service Commission (hereinafter the "Commission") in the above-referenced docket.

A. General Objections

KMC makes the following General Objections to Sprint's First Set of Interrogatories (No. 1), including the applicable definitions and general instructions therein ("Sprint discovery"), which as appropriate will be incorporated into each relevant response when KMC's responses are served on Sprint.

DOCUMENT NUMBER-DATE  
13144 DEC 17 8  
FPSC-COMMISSION CLERK

1. KMC objects to the Sprint discovery to the extent that such discovery seeks to impose an obligation on KMC to respond on behalf of subsidiaries, affiliates, or other persons that are not parties to this case on the grounds that such discovery is overly broad, unduly burdensome, oppressive, and not permitted by applicable discovery rules. KMC further objects to any and all Sprint discovery that seeks to obtain information from KMC for KMC subsidiaries, affiliates, or other related KMC entities that are not certificated by the Commission.

2. KMC has interpreted the Sprint discovery to apply to KMC's regulated intrastate operations in Florida and will limit its responses accordingly. To the extent that any Sprint discovery is intended to apply to matters that take place outside the state of Florida and which are not related to Florida intrastate operations subject to the jurisdiction of the Commission, KMC objects to such request as irrelevant, overly broad, unduly burdensome, and oppressive.

3. KMC objects to the Sprint discovery to the extent that such discovery calls for information which is exempt from discovery by virtue of the attorney-client privilege, work product privilege, or other applicable privilege.

4. KMC objects to the Sprint discovery insofar as such discovery is vague, ambiguous, overly broad, imprecise, or utilizes terms that are subject to multiple interpretations but are not properly defined or explained for purposes of these requests. Any responses provided by KMC in response to the Sprint discovery will be provided subject to, and without waiver of, the foregoing objection.

5. KMC objects to the Sprint discovery insofar as such discovery is not reasonably calculated to lead to the discovery of admissible evidence and is not relevant to the subject matter of this action.

6. KMC objects to the Sprint discovery insofar as it seeks information or documents, or seek to impose obligations on KMC which exceed the requirements of the Florida Rules of Civil Procedure or Florida law.

7. KMC objects to providing information to the extent that such information is already in the public record before the Florida Public Service Commission or which is already in the possession, custody, or control of Sprint.

8. KMC objects to the Sprint discovery to the extent that such discovery is overly broad, unduly burdensome, expensive, oppressive, or excessively time consuming as written.

9. KMC objects to each and every request to the extent that the information requested constitutes "trade secrets" which are privileged pursuant to Section 90.506, Florida Statutes. To the extent that Sprint's requests seek proprietary confidential business information which is not the subject of the "trade secrets" privilege, KMC will make such information available to counsel for Sprint pursuant to an appropriate Protective Agreement and the Commission's Protective Order, subject to any other general or specific objections contained herein.

10. KMC is a large corporation with employees located in many different locations in Florida and in other states. In the course of its business, KMC creates countless documents that are not subject to Florida Public Service Commission or FCC retention of records requirements. These documents are kept in numerous locations and are frequently moved from site to site as employees change jobs or as the business is reorganized. Therefore, it is possible that not every document has been identified in response to these requests. KMC will conduct a reasonable and diligent search of those files that are reasonably expected to contain the requested information.

To the extent that the Sprint discovery purports to require more, KMC objects on the grounds that compliance would impose an undue burden or expense.

11. KMC objects to the Sprint discovery that seeks to obtain “all,” “each,” or “every” document, item, customer, or other such piece of information to the extent that such discovery is overly broad and unduly burdensome. Any answers that KMC may provide in response to the Sprint discovery will be provided subject to, and without waiver or, this objection.

12. KMC objects to the Sprint discovery to the extent such discovery seeks to have KMC create documents not in existence at the time of the request.

13. KMC objects to the Sprint discovery to the extent that such discovery is not limited to any stated period of time or a stated period of time that is longer than is relevant for purposes of the issues in this docket, as such discovery is overly broad and unduly burdensome.

14. In light of the short period of time KMC has been afforded to respond to the Sprint discovery, the development of KMC’s positions and potentially responsive information to the Sprint requests is necessarily ongoing and continuing. Accordingly, these are preliminary objections to comply with the Commission’s *Procedural Orders*, and KMC reserves the right to supplement, revise, or modify its objections at the time that it serves its actual responses to the Sprint discovery. However, KMC does not assume an affirmative obligation to supplement its answers on an ongoing basis, contrary to the Sprint General Instruction.

#### B. Specific Objections

KMC makes the following Specific Objections to Sprint’s First Set of Interrogatories (No. 1), including the applicable definitions and general instructions therein (“Sprint discovery”), which as appropriate will be incorporated into each relevant response when KMC’s responses are served on Sprint.

15. KMC objects to the definition of “voice-grade equivalent lines,” and each and every interrogatory or request for production that includes such term, as this term is not used by KMC in the course of its business. Any answer to such questions will be based upon the information in KMC’s business records.

16. KMC objects to each and every interrogatory or request for production that seeks information regarding enterprise customers as such discovery is irrelevant for purposes of this docket and is not reasonably calculated to lead to the discovery of admissible evidence since the scope of this proceeding, as set forth by the FCC and the Commission, is limited to local circuit switching for mass market customers.

17. KMC objects to each and every interrogatory or request for production that seeks information regarding non-switched services (e.g., services that do not depend on local Class 5 switches) except for non-switched services (e.g., DSL) provided on loops that are also used to provide switched services), as such discovery is irrelevant for purposes of this docket and is not reasonably calculated to lead to the discovery of admissible evidence since the scope of this proceeding, as set forth by the FCC and the Commission, is limited to local circuit switching for mass market customers.

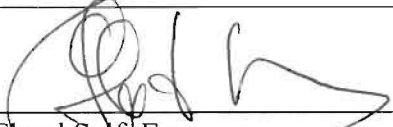
18. KMC objects to each and every interrogatory or request for production that seeks information regarding KMC’s operations in ILEC service areas other than the Sprint ILEC service area within the state of Florida as such information is irrelevant to Sprint’s case in this docket and such discovery is overly broad and unduly burdensome.

19. KMC objects to each and every interrogatory or request for production that seeks to obtain information regarding “past” representatives or employees, and any “past and present”

representatives or employees of Sprint, as such information is not within KMC's control, would be unduly burdensome to attempt to obtain and is likely irrelevant.

20. KMC objects to each and every interrogatory or request for production that seeks information regarding KMC's projections regarding future services, revenues, marketing strategies, equipment deployments, or other such future business plans as such requests are trade secrets and, for purposes of this proceeding, would be highly speculative and irrelevant to the issues to be decided in this docket.

Respectfully submitted this 16<sup>th</sup> day of December, 2003.

 <hr/> <p>Floyd Self, Esq. Messer, Caparello &amp; Self, P.A. 215 S. Monroe Street, Suite 701 Tallahassee, FL 32302 (850) 222-0720</p>	<p>Marva Brown Johnson KMC Telecom III LLC 1755 North Brown Road Lawrenceville, Georgia 30043</p> <p>Andy Klein Kelley Drye &amp; Warren LLP 1200 19th Street, N.W. Washington, DC 20036</p>
---	--

Attorneys for KMC Telecom III LLC

## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been served on the following parties by Hand Delivery (\*), electronic mail, and/or U. S. Mail this 16<sup>th</sup> day of December, 2003.

Adam Teitzman, Esq.\*  
Office of General Counsel, Room 370  
Florida Public Service Commission  
2540 Shumard Oak Blvd.  
Tallahassee, FL 32399-0850

Jason Rojas, Esq.\*  
Office of General Counsel, 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

Susan S. Masterton, Esq.  
Sprint-Florida, Incorporated  
Sprint Communications Company Limited  
Partnership  
P.O. Box 2214  
Tallahassee, FL 32316-2214

Richard A. Chapkis, Esq.  
Verizon Florida Inc.  
P.O. Box 110, FLTC0007  
Tampa, FL 33601-0110

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

Mr. James White  
ALLTEL  
601 Riverside Avenue  
Jacksonville FL 32204-2987

Ms. Laurie A. Maffett  
Frontier Telephone Group  
180 South Clinton Avenue  
Rochester NY 14646-0700

Mr. R. Mark Ellmer  
GT Com  
P. O. Box 220  
Port St. Joe FL 32457-0220

Mr. Robert M. Post, Jr.  
ITS Telecommunications Systems, Inc.  
P. O. Box 277  
Indiantown FL 34956-0277

Ms. Harriet Eudy  
NEFCOM  
11791 110th Street  
Live Oak FL 32060-6703

Ms. Lynn B. Hall  
Smart City Telecom  
P. O. Box 22555  
Lake Buena Vista FL 32830-2555

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

Tracy W. Hatch, Esq.  
AT&T Communications of the Southern States, LLC  
101 N. Monroe Street, Suite 701  
Tallahassee, FL 32301

Lisa Sapper  
AT&T  
1200 Peachtree Street, NE, Suite 8100  
Atlanta, GA 30309

Donna McNulty, Esq.  
WorldCom  
1203 Governors Square Blvd, Suite 201  
Tallahassee, FL 32301-2960

De O'Roark, Esq.  
MCI WorldCom Communications, Inc.  
6 Concourse Parkway, Suite 600  
Atlanta, GA 30328

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

Marva Brown Johnson, Esq.  
KMC Telecom III, LLC  
1755 North Brown Road  
Lawrenceville, GA 30034-8119.



Charles V. Gerkin, Jr.  
Regulatory Counsel  
Allegiance Telecom, Inc.  
9201 North Central Expressway  
Dallas, TX 75231

Terry Larkin  
Allegiance Telecom, Inc.  
Regional Vice President  
700 East Butterfield Road  
Lombard, IL 60148

James C. Falvey, Esq.  
Senior Vice president, Regulatory Affairs  
Xspedius Communications, LLC  
7125 Columbia Gateway Drive, Suite 200  
Columbia, MD 21046

Norman H. Horton, Jr.  
Messer, Caparello & Self, P.A.  
P.O. Box 1876  
Tallahassee, FL 32302-1876

Mr. Jake E. Jennings  
NewSouth Communications Corp.  
Two N. Main Center  
Greenville, SC 29601

Jon C. Moyle, Jr., Esq.  
Moyle, Flanigan, Katz, Raymond & Sheehan, P.A.  
118 North Gadsden Street  
Tallahassee, FL 32301

Charles E. Watkins  
Covad Communications Company  
1230 Peachtree Street, NE, 19<sup>th</sup> Floor  
Atlanta, GA 30309

Rand Currier  
Granite Telecommunications, LLC  
234 Copeland Street  
Quincy, MA 02169

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

Jorge Cruz-Bustillo, Esq.  
Supra Telecommunications and  
Information Systems, Inc.  
2620 S.W. 27<sup>th</sup> Avenue  
Miami, Florida 33133

Mr. Jonathan Audu  
Supra Telecommunications and  
Information Systems, Inc.  
1311 Executive Center Drive, Suite 220  
Tallahassee, FL 32301

Thomas M. Koutsky  
Vice president, Law and Public Policy  
Z-Tel Communications, Inc.  
1200 19<sup>th</sup> Street, N.W., Suite 500  
Washington, DC 20036

  
Floyd R. Self