

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In the Matter of Petition of KMC Telecom III )  
LLC, KMC Telecom V, Inc., and KMC Data )  
LLC For Arbitration of an Interconnection ) Docket No. 031047-TP  
Agreement with Sprint- Florida, Incorporated )  
Pursuant to 47 U.S.C. Section 252(b) of the )  
Communications Act of 1934, as Amended. )

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**KMC TELECOM III LLC, KMC TELECOM V, INC., AND KMC DATA LLC'S  
OBJECTIONS TO SPRINT-FLORIDA, INCORPORATED'S  
SECOND SET OF INTERROGATORIES (NO. 12)**

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KMC Telecom III LLC, KMC Telecom V, Inc., and KMC Data LLC (collectively, "KMC"), by and through their undersigned counsel, hereby submit their objections to Sprint-Florida, Incorporated's ("Sprint") Second Set of Interrogatories (No. 12) (the "Interrogatories").

**GENERAL OBJECTIONS**

**A.** KMC objects to Sprint's Interrogatories and all Instructions and Definitions associated with those Interrogatories to the extent they purport to impose obligations that are different from, or go beyond, the obligations imposed under Rules 1.280 and 1.340 of the Florida Rules of Civil Procedures, and the Commission's *Order Establishing Procedure*.

**B.** KMC objects to the Interrogatories and all Instructions and Definitions associated with those Interrogatories to the extent they seek information outside the scope of the issues raised in this arbitration proceeding, and to the extent their principal purpose appears to be to harass KMC and unnecessarily impose costs on KMC.

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**C.** KMC objects to the Interrogatories and all Instructions and Definitions associated with those Interrogatories to the extent they seek documents or information protected by the attorney-client privilege, the attorney work-product doctrine, or any other applicable privileges or doctrines. Any inadvertent disclosure of such privileged documents or information shall not be deemed to be a waiver of the attorney-client privilege, attorney work-product doctrine, or other applicable privileges or doctrines.

**D.** KMC objects to each Interrogatory to the extent that it is vague and ambiguous, particularly to the extent that it uses the terms that are undefined or vaguely defined in the Interrogatory.

**E.** KMC objects to the Interrogatories and all Instructions and Definitions associated with those Interrogatories to the extent they seek confidential business, financial, or other proprietary documents or information. KMC further objects to the Interrogatories to the extent they seek documents or information protected by the privacy protections of the Florida or United States Constitution, or any other law, statute, or doctrine. Any confidential or proprietary documents KMC produces are produced subject to the terms of the Protective Order in this proceeding.

**F.** KMC objects to the Interrogatories to the extent they seek documents or information equally available to Sprint through public sources or records, because such requests subject KMC to unreasonable and undue annoyance, oppression, burden, and expense.

**G.** The responses provided herein by KMC are not intended, and shall not in any way be construed, to constitute an admission or representation that responsive documents in fact do or do not exist, or that any such documents are relevant or admissible. KMC expressly reserves the right to rely, at any time, on subsequently discovered documents.

**H.** To the extent KMC responds to Sprint's Interrogatories, KMC reserves the right to amend, replace, supersede, and/or supplement its responses as may become appropriate in the future.

**I.** KMC objects to the Interrogatories and all Instructions and Definitions associated with those Interrogatories to the extent that they seek to impose an obligation on KMC to respond on behalf of subsidiaries, affiliates, or other persons that are not subject to the jurisdiction of this Commission on the grounds that such discovery is overly broad, unduly burdensome, oppressive, and not permitted by applicable discovery rules.

**J.** KMC has interpreted the Interrogatories to apply to KMC's regulated intrastate operations in Florida and will limit its responses accordingly. To the extent that any Interrogatories or any Instructions and Definitions associated with those Interrogatories are 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 this Commission, KMC objects to such Interrogatories as irrelevant, overly broad, unduly burdensome, and oppressive.

**K.** KMC objects to the Interrogatories to the extent they seek information that is not reasonably calculated to lead to the discovery of admissible evidence and not relevant to the subject matter of this arbitration proceeding.

**L.** KMC objects to the Interrogatories to the extent they are duplicative and overlapping, cumulative of one another, overly broad, and/or seek responses in a manner that is unduly burdensome, expensive, oppressive, or excessively time-consuming to KMC.

**M.** KMC is a large corporation with employees located in many different locations in Florida and with affiliates that have employees who are located in various states providing services on KMC's behalf. In the course of its business, KMC creates countless

documents that are not subject to retention of records requirements of the Commission or the Federal Communications Commission (“FCC”). These documents are kept in numerous locations and are frequently moved from site to site as employees change jobs or a KMC’s business is reorganized. Therefore, it is possible that not every document will be identified in response to Sprint’s Interrogatories. 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 Interrogatories or all Instructions and Definitions associated with those Interrogatories purport to require more, KMC objects on the grounds that compliance would impose an undue burden or expense on KMC.

**N.** KMC objects to the Interrogatories and all Instructions and Definitions associated with those Interrogatories to the extent they seek to obtain “all,” “each,” or “every” document, item, customer, or such other piece of information because such discovery is overly broad and unduly burdensome.

**O.** KMC objects to the Interrogatories and all Instructions and Definitions associated with those Interrogatories to the extent they seek to have KMC create documents not in existence at the time of the Interrogatories because such discovery is overly broad and unduly burdensome.

**P.** KMC objects to the Interrogatories and all Instructions and Definitions associated with those Interrogatories to the extent they are 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 proceeding, as such discovery is overly broad and unduly burdensome.

**Q.** KMC objects to each and every Interrogatory that seeks information regarding KMC’s projections regarding future services, revenues, marketing strategies,

equipment deployments, or other such future business plans as such Interrogatories seek trade secrets and, for purposes of this proceeding, would be highly speculative and irrelevant to the issues involved in this proceeding.

**R.** KMC objects to the definition of “document” to the extent it seeks to impose an obligation that is greater than that imposed by Rules 1.280 and 1.340 of the Florida Rules of Civil Procedure, and the Commission’s *Order Establishing Procedure*, and to the extent that it would pose an unreasonable and undue annoyance, burden, and expense on KMC. KMC’s objection includes, but is not limited to, the definition of “document” to the extent it calls for the production of information which was not generated in the form of a written or printed record, on the grounds that it would be unduly burdensome and expensive to require KMC to search through computer records or other means of electronic or magnetic data storage or compilation.

**OBJECTIONS**

12. Referencing the Direct Testimony of KMC witness Timothy J. Gates, page 15, lines 2-3 where he states “The costs of routine network modifications are already included in, and recovered by, the recurring rates Sprint charges to KMC”.

a) Is it KMC’s position that there is never a situation where Sprint would have to modify its existing network to provide a service to KMC where the cost of the network modification exceeds the cost covered by Sprint through the UNE Monthly Recurring Charges (MRCs) Sprint charges KMC in Florida?

b) If the answer to part a) is in the affirmative, please identify all UNE MRCs Sprint charges to KMC in Florida that recover the full cost of all possible network modifications to existing plant.

c) For each MRC listed in part b) please provide any and all analysis performed by KMC including cost analysis, references to Commission Orders, references to contested proceedings including generic dockets, or other information that enables KMC to conclude that all possible network modifications to existing plant are already included in, and recovered, by the recurring rates Sprint charges to KMC in Florida.

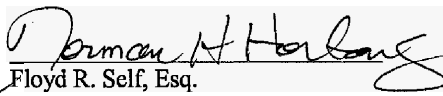
d) If the answer to part a) is no, please provide a detailed description of all network modifications to existing plant that KMC believes are not covered by the MRCs Sprint charges to KMC in Florida.

**OBJECTIONS:** KMC incorporates its general objections as though more fully set forth herein. KMC further objects to this interrogatory on the grounds that it is vague, overly broad and beyond the scope of, or mischaracterizes, the testimony provided by Mr. Gates and referenced in the interrogatory. Specifically, the Gates direct testimony, upon which the interrogatory is based, refers to “routine” network modification costs. The interrogatory posed by Sprint purports to be predicated on Mr. Gates’ testimony, but appears to ask questions not about “routine modifications,” as referenced, but “all possible modifications.” Because the interrogatory references a specific portion of Mr. Gates’ testimony and then ask questions unrelated and beyond the scope of that testimony, it is unclear what relevant information is being sought by this interrogatory. The interrogatory also unreasonably asks for cost information, presumably *Sprint’s* costs, for all possible network modifications that may be undertaken by Sprint in its provision of service to KMC, including those that are “non-routine” and, thus, beyond the scope of Mr. Gates’ testimony. As such, the interrogatory is also open-ended and is oppressive and unduly burdensome. KMC also objects to this as being oppressive and unduly

burdensome as it asks KMC to speculate as to “all network modifications to existing plant that . . . are not covered by the MRCs Sprint charges to KMC in Florida.” This interrogatory is extremely open-ended. KMC simply has never compiled this type of information and any effort to comply with this interrogatory would require exhaustive examination and analysis and, thus, would pose an unreasonable and undue annoyance and an unacceptable burden on KMC.

In addition, KMC objects to this interrogatory because it seeks information that is solely within the possession of Sprint. Namely, what non-routine modifications are or are not included in Sprint’s recurring charges is information that is already in the possession of Sprint, as well as whether Sprint recovers all of its costs for “all possible” network modifications through its UNE MRCs. As stated by Mr. Gates in his direct testimony, although KMC has received some cost and rate information from Sprint, the cost support received does not permit KMC to determine whether the costs described in this interrogatory are already recovered in Sprint’s existing rate structure. Thus, all the information necessary to make any determination about Sprint’s costs for network modifications and the reasonableness of any rates assessed for such network modifications is in Sprint’s hands and has not been provided to KMC to date. Indeed, this interrogatory underscores the need for KMC to obtain and review all costs studies, work papers and the like regarding the network modification costs included in Sprint’s UNE rates, as well as Sprint’s definition of network modifications, to the extent that such costs are recovered in Sprint’s UNE rates.

Respectfully submitted this 28th day of June, 2004.

By:   
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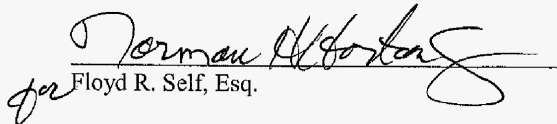


**CERTIFICATE OF SERVICE**

I, Floyd R. Self, do hereby certify that I have this day served a copy of the foregoing **KMC TELECOM III LLC, KMC TELECOM V, INC., AND KMC DATA LLC'S OBJECTIONS TO SPRINT-FLORIDA, INCORPORATED'S FIRST SET OF INTERROGATORIES**, by hand or first class U.S. mail, postage prepaid, upon the following individuals:

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