

ORIGINAL

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)
Agreement with Sprint- Florida, Incorporated)

Docket No. 031047-TP

Filed: April 15, 2005

Sprint-Florida, Incorporated's Request for Confidential Classification
Pursuant to Section 364.183(1), Florida Statutes

Sprint-Florida, Incorporated (hereinafter, "Sprint-Florida") hereby requests that the Florida Public Service Commission ("Commission") classify certain documents and/or records identified herein as confidential, exempt from public disclosure under Chapter 119, Florida Statutes and issue any appropriate protective order reflecting such a decision.

1. The information that is the subject of this request is confidential and proprietary as set forth in paragraph 3. Sprint previously filed a Claim and Notice of Intent to Request Confidential Classification related to this information on February 14, 2005 and is filing this request pursuant to Rule 25-22-2006, F.A.C. The following documents or excerpts from documents are the subject of this request:

- a. **Highlighted information on page 4 of the Supplemental Direct Testimony of James R. Burt**
- b. **Exhibit JRB-5**
- c. **Highlighted information in Exhibit JRB-6**

2. Two redacted copies of the information are attached to this request. One unredacted copy of the confidential information was filed under seal with the Division of Records and Reporting on February 14, 2005 (Document No. 01534-05).

CMP 1
DOM _____
CTR _____
ECR _____
BCL 1
DPC _____
MMS _____
RCA _____
SCR _____
SEC 1
OTH Marguerite

This confidentiality request was filed by or for a "telco" for DN 01534-05. No ruling is required unless the material is subject to a request per 119.07, FS, or is admitted in the record per Rule 25-22.006(8)(b), FAC.

DOCUMENT NUMBER-DATE
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3. The information for which the Request is submitted is customer information that Sprint is required by law and contract (Sprint's interconnection agreements with KMC) to keep confidential, pursuant to s. 364.24, F.S. or information relating to Sprint's competitive interests, the disclosure of which would impair the competitive business interests of Sprint, as set forth in s. 364.183(3)(e), F.S. Specific justification for confidential treatment is set forth in Attachment A.

4. Section 364.183(3), F.S., provides:

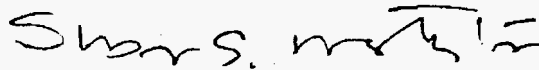
- (3) The term "proprietary confidential business information" means information, regardless of form or characteristics, which is owned or controlled by the person or company, is intended to be and is treated by the person or company as private in that the disclosure of the information would cause harm to the ratepayers or the person's or company's business operations, and has not been disclosed unless disclosed pursuant to a statutory provision, an order of a court or administrative body, or private agreement that provides that the information will not be released to the public. The term includes, but is not limited to:
 - (a) Trade Secrets.
 - (b) **Internal auditing** controls and reports of internal auditors.
 - (c) Security measures, systems, or procedures.
 - (d) Information concerning bids or other contractual data, the disclosure of which would impair the efforts of the company or its affiliates to contract for goods or services on favorable terms.
 - (e) Information relating to competitive interests, the disclosure of which would impair the competitive business of the provider of information.
 - (f) Employee personnel information unrelated to compensation, duties, qualifications, or responsibilities.

5. Section 364.24, Florida Statutes, prohibits a telecommunications company from intentionally disclosing customer account records, except as authorized by the customer or allowed by law.

6. The subject information has not been publicly released by Sprint.

Based on the foregoing, Sprint respectfully requests that the Commission grant the Request for Confidential Classification, exempt the information from disclosure under Chapter 119, Florida Statutes and issue any appropriate protective order, protecting the information from disclosure while it is maintained at the Commission.

RESPECTFULLY SUBMITTED this 15th day of April 2005



Susan S. Masterton
Post Office Box 2214
Tallahassee, Florida 32316-2214
850/599-1560

ATTORNEY FOR SPRINT

ATTACHMENT A

Document and page and line numbers	Justification for Confidential Treatment
Highlighted information on page 4, line 10 of James R. Burt's	This information is KMC customer account information (minutes of use of traffic terminated to Sprint) that Sprint is required by law and contract to keep confidential. Section 364.24, F.S.
Supplemental Direct Testimony	
Highlighted information on page 4, line 15 of James R. Burt's Supplemental Direct Testimony	This information is information relating to the competitive interests of Sprint (minutes of use of voice and ISP-bound traffic), the disclosure of which would impair Sprint's competitive business interests. Section 364.183(3)(e), F.S.
Exhibit JRB-5	This information is KMC customer account information (minutes of use and associated intercarrier compensation) that Sprint is required by law and contract to keep confidential. Section 364.24, F.S.
Highlighted information in Exhibit JRB-6	This information is KMC customer account information (access charges Sprint alleges KMC owes Sprint) that Sprint is required by law and contract to keep confidential Section 364.24, F.S.

1 interconnection agreement and Sprint's access tariffs regarding what types of traffic should
2 be terminated via the various trunking arrangements described in Exhibit JRB-4. Sprint
3 treats KMC's traffic in the same manner as any other traffic being terminated to Sprint. The
4 interconnection trunks are no different. The switching platform is the same. The traffic is
5 being terminated to telephone numbers that are served by Sprint's switches.
6

7 **Q. Based on Sprint's records, what is the amount of each type of traffic that KMC**
8 **terminates over its local interconnection trunks with Sprint?**

9 **A.** Sprint records show that from June 2004 to January 2004 KMC terminated an estimated
10 average of [REDACTED] minutes of traffic to Sprint over local interconnection trunks per month.
11

12 **Q. Based on Sprint's records, what is the amount of each type of traffic that Sprint**
13 **terminates to KMC over its local interconnection trunks with Sprint?**

14 **A.** Sprint's records show that from June 2004 to January 2005 Sprint terminated an estimated
15 average of [REDACTED] minutes of voice traffic and an estimated average of [REDACTED]
16 minutes of ISP-bound traffic to KMC over local interconnection trunks per month.
17

18 **Q. Have there been any dramatic shifts in the amount of traffic KMC terminates to Sprint**
19 **over its local interconnection trunks during the time KMC has exchanged traffic**
20 **pursuant to its interconnection agreements with Sprint?**

21 **A.** Yes. As reflected in Exhibit JRB-5, the traffic KMC terminated over its local
22 interconnection trunks with Sprint decreased dramatically beginning around May 2004,
23 when compared to the previous time period.
24

Docket 031047-TP
Supplemental Direct Testimony
James R. Burt

EXHIBIT JRB-5 (REDACTED)



William E. Chcek
Assistant Vice President
Strategic Sales & Account
Management

Sprint Business Solutions
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April 30, 2004

Mr. Larry Salter
Sr. Vice President Network Services
KMC
1755 N. Brown Road
Lawrenceville, GA 30043

Re: Payment of access billing on long distance traffic terminated over local facilities

Dear Mr. Salter:

On April 21, 2004 the Federal Communications Commission (FCC) released its order dealing with AT&T's petition to declare that phone-to-phone VoIP service is not subject to access charges. The FCC rejected AT&T's request and found that AT&T's service is both "telecommunications" and a "telecommunications service" because it provides only voice transmission without any net protocol conversion. Further, the end users of AT&T's service do not order a different service, pay different rates, or place and receive calls any differently than they do through AT&T's traditional circuit-switched long distance service. It is clear from the Order that this ruling applies to all similarly situated carriers in detailing how phone-to-phone VoIP will be treated for access charge purposes.

Sprint has previously placed KMC on notice of its liability for delivering long distance traffic for termination over local interconnection arrangements and has previously billed KMC \$[REDACTED] for this traffic. Sprint demands payment of this balance and will deliver additional bills for traffic accumulated in the current billing period.

KMC has an interconnection contract with Sprint whose terms, among other things, spell out the traffic the parties are authorized to exchange under the agreement. Each Party is authorized to "terminate Local Traffic and IntraLATA/InterLATA toll calls originating on the other Party's network." The contract states that for "non-local traffic, the Parties agree to exchange traffic and compensate one another based on the rates and elements in each Party's access tariffs." The contract further provides that separate "two-way trunks will be made available for the exchange of equal-access InterLATA or IntraLATA interexchange traffic that transits Sprint's network." The interconnection contract between the two parties provides for the termination of KMC originated traffic or the handling of traffic that transits Sprint's network. The contract does not contemplate KMC terminating over its local interconnection facilities with Sprint non-local

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traffic (as defined in the interconnection agreement) that does not originate on KMC's facilities (e.g., traffic handed off from other LECs or IXCs, or access traffic involving an intermediate IXC). Thus, Sprint asserts that KMC has violated its interconnection contract by using the local interconnection facilities to send Sprint non-local traffic that does not originate on KMC's network or that involves the transport of interexchange traffic.

Further, Sprint's Florida Access Service Tariff, Section E2.4.8, for example, requires each customer to place an order with Sprint for access service. In the case of access service, KMC and Sprint could have agreed, pursuant to Sprint's tariff, to bill IXCs for access using a single bill, multiple bill, or pass through method. However, no customer order was placed with Sprint for the access services coming through KMC pursuant to Sprint's Florida Access Service Tariff Section E2.4.8.C.2 for the traffic in question. Instead, KMC, in violation of its interconnection contract and obligations under Sprint's Florida Access Service Tariff, used the local interconnection facilities to pass to Sprint for termination interexchange traffic that either did not originate on its network or that involved an IXC customer. The fact that this traffic either did not originate on the KMC network and that it was long distance traffic, or that an IXC was involved in the transport of the calls, was hidden from Sprint because call detail records were manipulated before the calls entered Sprint's network. Sprint believes this manipulation was done with the intent to avoid the payment of access charges.

Given these facts, Sprint asserts that the interconnection agreement with KMC and the terms of Sprint's tariff require KMC to pay Sprint access charges, as previously billed for past periods in the state of Florida. Billing for current periods must also be paid. Sprint further reserves the right to send access bills for additional states where KMC has engaged in similar behavior.

Consistent with the FCC's April 21 order, Sprint demands that KMC reconfigure its network within the next ten (10) business days to stop sending long distance traffic to Sprint over its local facilities. Sprint further demands that KMC either place that traffic on access facilities where it has always rightfully belonged, or cease delivering to Sprint over the local facilities access traffic that does not originate on KMC's network or that involves the transport of IXC traffic. Prompt action in regard to payment and reconfiguration of KMC's network will avoid the need for formal legal action to collect the current balance due and to stop your company from continued use of these unlawful traffic routing approaches.

In addition to the above, and in order to avoid legal action and possible self-help, which Sprint will be entitled to take under its contract or tariff, Sprint requires KMC to submit a sworn affidavit and certification by an officer of KMC setting forth the following:

- 1) the total amount of traffic (MOU), by month for the past 24 months, KMC sent to Sprint local interconnection trunks or local PRI circuits without the correct calling party number information (i.e., the number from which the call originates) or without any calling party number information;
- 2) the total amount of traffic (MOU), by month for the past 24 months, KMC sent to Sprint local interconnection trunks or local PRI circuits under color of a claim that it was VoIP traffic;

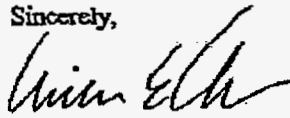
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April 30, 2004

- 3) the names and addresses of CLECs, IXCs or other carriers that have sent or are sending traffic to KMC that KMC delivers to Sprint over the local interconnection facilities or local PRI circuits as identified above;
- 4) the amount of traffic from each CLEC, IXC or other carrier identified in #3 above, separated and designated by the MOU of traffic sent under color of a VoIP claim and the MOU of traffic sent otherwise;
- 5) the terms of any contractual agreement between KMC and any other carrier specifically regarding the obligations of each party and the ultimate assignment of responsibility for the payment of access charges if VoIP traffic or other traffic delivered over Sprint local interconnection trunks or local PRI circuits is found to be subject to access charges due to regulatory or legal action (which has now occurred);
- 6) a certification that all KMC traffic flowing to Sprint over local interconnection facilities is either traffic that originates on KMC's local network and is local traffic as defined in KMC's interconnection agreement with Sprint, or a certification that the traffic originates on the network of another carrier, that KMC has contractual commitments with the other carrier to only send local exchange traffic for termination to Sprint, and that, in either case, all calling records are sent without manipulation; and
- 7) a detailed identification and quantification of any "enhanced services" traffic that KMC sends on its own account or from others to Sprint for local termination, including a full explanation of the basis for the claimed exemption including an accounting for traffic that originates and terminates on a circuit switched network.

We look forward to your full and immediate cooperation in addressing this matter, including the requested payment and certification.

If you have any questions, please contact me.

Sincerely,



William B. Cheek

WEC/tr

pc: Rich Morris *hand delivered s/s*