

**BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI**

Petition by KMC Telecom V, Inc., )  
KMC Telecom III LLC and KMC Data, )  
L.L.C., for Arbitration of an Interconnection )  
Agreement with CenturyTel, Inc., CenturyTel of )  
Missouri, LLC, and Spectra Communications, )  
LLC, Pursuant to Section 252(b) of the )  
Communications Act of 1934, as Amended, and )  
Missouri Law )

Case No. TK-2005-0276

Petition by CD Telecommunications, LLC for )  
Arbitration of an Interconnection Agreement )  
with CenturyTel, Inc., CenturyTel of Missouri, )  
LLC, and Spectra Communications, LLC, )  
Pursuant to Section 252(b) of the )  
Communications Act of 1934, as Amended, and )  
Missouri Law )

Case No. XO-2005-0277

**JOINT MOTION FOR EXTENSION OF PROCEDURAL SCHEDULE  
AND JOINT MOTION FOR EXPEDITED TREATMENT**

**COME NOW** CD Telecommunications, LLC (“CD Telecom” or “Joint Petitioner”), KMC Telecom V, Inc. (“KMC V”), KMC Telecom III LLC (“KMC III”), and KMC Data, L.L.C. (“KMC Data”) (collectively, “KMC” or “Joint Petitioner”), CenturyTel of Missouri, LLC and Spectra Communications Group, LLC d/b/a CenturyTel (“Respondents”), collectively referred to as “the Parties,” by and through counsel of record and pursuant to 4 CSR 240-2.080(16), hereby submit this Joint Motion for Extension of Procedural Schedule and Joint Motion for Expedited Treatment in these cases. In support of their Joint Motions, the Parties state the following:

1. The instant cases were initiated by Petitions for Arbitration filed with the Commission on February 16, 2005.

2. On February 22, 2005, CD Telecom and KMC filed a Motion for Consolidation and Joint Proceedings in these cases.

3. On February 28, 2005, an Initial Arbitration Meeting was jointly conducted in these cases at which the Motion for Consolidation and the schedule of proceedings for conduct of the instant arbitrations were discussed, both on and off the record.

4. The proposed schedule of proceedings presented by the Arbitrator, and the alternative proposed schedule presented by CD Telecommunications, at the Initial Arbitration Meeting are highly condensed and demanding due to the limited time schedule provided for by the Telecommunications Act of 1996 and the Commission's rules at 4 CSR 240-36.040.

5. The transcript of the Initial Arbitration Meeting will reflect that there are serious procedural issues outstanding among the Parties that include the Motion for Consolidation and Joint Proceedings, the timing of events, and other matters.

6. The schedule of proceedings in these matters is likely to include hearings during the week of April 18 or the week of April 25, 2005, prior to which all parties will need to agree to and file a Joint Statement of Unresolved Issues, conduct discovery, draft and file testimony, draft and file pretrial briefs and agree to and file Final DPLs ("Decision Points Lists" or "Disputed Points Lists").

7. As a result of extensive discussions by the Parties following the Initial Arbitration Meeting on February 28, the Parties believe that an extension of the June 10, 2005 deadline for Commission decision in these arbitrations, with the consent of the Parties as expressed below, would greatly enhance the possibility of significantly reducing the number of disputed issues in these cases and facilitate a procedural schedule that is more workable for the Parties and for the Commission.

8. Therefore, the Parties respectfully request that the Commission extend the June 10, 2005 deadline for Commission decision in these cases to August 10, 2005, with the

consent of each of the Parties to these arbitrations as indicated by the signatures of counsel below.

9. Further, the Parties respectfully request that the Commission extend the March 13, 2005 deadline for the filing by Respondents of Responses to the Petitions for Arbitration in these cases to April 15, 2005, with the consent of each of the Parties to these arbitrations as indicated by the signatures of counsel below.

10. If the Commission extends the deadlines for Response and decision as requested herein, each of the Parties hereby promises, covenants and agrees not to appeal the Commission's decision in either of these cases on the basis that the Parties or the Commission failed to act within the time periods established in Section 47 USC 252(b)(3) & (4)(C).

11. If the Commission extends the deadlines for Response and decision as requested herein, Respondents hereby promise, covenant and agree not to move for or otherwise seek dismissal of the Petitions for Arbitration in these cases on the basis that the Petitioners failed to engage in good faith negotiations of interconnection agreements as a prerequisite to filing said Petitions for Arbitration.

12. If the Commission extends the deadlines for Response and decision as requested herein, Respondents promise, covenant and agree to withdraw their objection to the Motion for Consolidation and Joint Proceedings filed by Joint Petitioners on February 22, 2005 in these cases.

13. If the Commission extends the deadlines for Response and decision as requested herein, CD Telecom promises, covenants and agrees to voluntarily dismiss Case Nos. CO-2005-0280 and CO-2005-0281.

14. If the Commission extends the deadlines for Response and decision as requested herein, the Parties propose to submit a proposed procedural schedule to the Arbitrator on or before March 31, 2005.

15. The voluntary extension of Section 252 statutory deadlines relating to the arbitration of interconnection agreements under the Telecommunications Act of 1996 is a customary part of the practice and procedure of almost every other state regulatory commission of which the Parties are aware. For example, in each of the other twelve states in which Level 3 Communications, LLC and SBC are currently engaged in arbitrations (*see* MoPSC Case No. TO-2005-0166), the parties were permitted to voluntarily extend the arbitration timeframes established by the Act on more than one occasion, part of a process which ultimately resulted in settlement of those arbitrations.

16. In a recent arbitration of KMC Telecom with Sprint (as an ILEC) in several states, the parties voluntarily waived the statutory deadline for Commission resolution of the arbitration, with the Commission's approval. In an arbitration before the Florida Public Service Commission, for example, KMC and Sprint were able to use the time created by that extension and waiver of the deadline to successfully settle all but one of the many complex issues that had been in dispute in that arbitration. The settled issues included Point of Interconnection (POI) and Unbundled Network Elements (UNEs), among many others. The only issue that ultimately remained to be decided by the Florida Public Service Commission in that case was the treatment of Voice over Internet Protocol (VoIP) traffic. *Petition of KMC Telecom III LLC, KMC Telecom V, Inc. and KMC Data LLC for Arbitration of Interconnection Agreement with Sprint-Florida, Inc.*, FL PSC Docket 03-1047-TP.

17. Similarly, the operative dates were voluntarily waived by agreement of the parties in an interconnection agreement arbitration between CenturyTel and Level 3

Communications before the Texas Public Utility Commission, to the knowledge of CenturyTel personnel. *Petition of Level 3 Communications, LLC for Arbitration Pursuant to 47 U.S.C. 252 of Interconnection Rates, Terms and Conditions with CenturyTel of Lake Dallas, Inc. and CenturyTel of San Marcos, Inc.*, TX PUC Docket No. 26431.

18. If additional time is granted to the Parties in the instant cases, the Parties are confident that the list of unresolved issues between the Parties can be significantly reduced before the filing of Responses by Respondents, the submission of testimony or the conduct of hearings. However, without additional time, the Parties will be forced to devote the limited time they have to preparation for hearings.

19. Without additional time, it will also be extremely difficult to prepare effective Joint Statements of Unresolved Issues in these cases within the time constraints of these proceedings, which could make the Commission's job of arbitrating these matters far more difficult.

20. The Commission's rules on arbitration, at 4 CSR 240-36.040, contemplate continued negotiations between the Parties to an arbitration during the pendency of that arbitration. However, the time constraints of the arbitration proceeding, as they currently exist, would make such meaningful negotiations impossible without the extension requested herein.

21. Thus, the Parties respectfully submit that a voluntary extension of time in these proceedings, as requested herein, would enhance the negotiating process between and among the Parties, result in fewer contested issues remaining unresolved as a result of negotiations, and facilitate the arbitration process both for the Parties and for the Commission.

22. Under the current schedule of proceedings in these arbitrations, Respondents are required to file their Responses to the Petitions for Arbitration on March 11, 2005 ("within

25 days” of the filing of the Petitions; March 13, 2005 falls on a Sunday) and the Parties are required to file their Revised Statement of Unresolved Issues on March 18, 2005. Possible hearing dates discussed at the Initial Arbitration Meeting held jointly in these cases on February 28, 2005 were the week of April 18 or the week of April 25, 2005.

23. Further, at the Initial Arbitration Meeting, the Arbitrator directed the parties to file written arguments by March 1, 2005 on the Petitioners’ Motion for Consolidation and Joint Proceedings, and to file a proposed procedural schedule for the filing of testimony and briefs, hearings, and other events in these cases by March 2, 2005.

24. The fast-track of the required events in these proceedings makes it necessary to request that a determination by the Commission on this Joint Motion be made expeditiously, at the earliest possible opportunity. Specifically, the Parties respectfully request that the Commission act on this Joint Motion at its Agenda meeting on March 3, 2005.

25. The granting of this Joint Motion will enable the Parties to reduce the number of disputed issues in this matter, thus facilitating the ultimate resolution of these arbitrations by the Arbitrator and the Commission, and will expand the time period available to the Arbitrator and the Commission for consideration and determination of any remaining issues and for writing and issuing their decisions herein.

26. The granting of this Joint Motion will have no negative effect on any customers nor on the general public.

27. This Joint Motion is being filed as soon as it could have been after the Initial Arbitration Meeting on February 28, 2005, in which the issues being addressed by this Joint Motion were raised and after which those issues continued to be discussed by the Parties earnestly seeking a reasonable resolution.

WHEREFORE, CD Telecom, KMC, CenturyTel of Missouri and Spectra Communications Group, d/b/a CenturyTel respectfully request that the Arbitrator and/or the Commission: (1) extend the June 10, 2005 deadline for Commission decision in these cases to August 10, 2005; (2) extend the March 13, 2005 deadline for Respondents to file their Responses to the Petitions for Arbitration in these matters to April 15, 2005; (3) suspend or cancel the obligation of the Parties to file written arguments concerning the Motion for Consolidation and Joint Proceedings by March 1, 2005; (4) extend the deadline for the Parties to file a proposed procedural schedule to March 31, 2005; (5) expedite consideration of this Joint Motion; and (6) issue such other orders as the Arbitrator and/or the Commission deem just and necessary.

Respectfully submitted,

CD Telecommunications, LLC

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Respectfully submitted,

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Spectra Communications Group, LLC  
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Dated: March 2, 2005

Respectfully submitted,

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### CERTIFICATE OF SERVICE

I hereby certify that the undersigned has caused a complete copy of the attached document to be electronically filed and served on the Commission's Office of General Counsel (at [gencounsel@psc.mo.gov](mailto:gencounsel@psc.mo.gov)), the Office of Public Counsel (at [opcservice@ded.mo.gov](mailto:opcservice@ded.mo.gov)), counsel for KMC (at [comley@ncrpc.com](mailto:comley@ncrpc.com)) and counsel for CenturyTel (at [lwdority@sprintmail.com](mailto:lwdority@sprintmail.com)) on this 1<sup>st</sup> day of March 2005.

/s/ William D. Steinmeier