

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

In the Matter of the Cancellation of the)
Certificates of Service Authority of KMC) Case No. TD-2006-_____
Telecom III, LLC.)

**MOTION TO OPEN CASE AND CANCEL CERTIFICATES OF SERVICE AUTHORITY
AND ASSOCIATED TARIFFS**

COMES NOW the Staff of the Missouri Public Service Commission (Staff) and moves the Commission to open a case and cancel the Certificates of Service Authority it has granted to KMC Telecom III, LLC, as well as the company's tariffs. In support of its Motion, the Staff respectfully states as follows:

1. In July 1999 in Case No. TA-99-576, the Commission granted a certificate of service authority to KMC Telecom III, Inc. to provide interexchange telecommunications services. The Commission approved the company's tariff, Missouri P.S.C. Tariff No. 1, in the same case.

2. In August 1999 in Case No. TA-99-577, the Commission granted a certificate of service authority to KMC Telecom III, Inc. to provide basic local exchange telecommunications services in portions of Missouri that were then served by Southwestern Bell Telephone Company, GTE of the Midwest Incorporated, and United Telephone Company of Missouri, d/b/a Sprint. Subsequently, in Case No. TT-2000-310, the Commission approved the company's tariff, Missouri P.S.C. Tariff No. 2.

3. In Case No. TO-2002-386, the Commission recognized KMC Telecom III, Inc.'s change of corporate name to KMC Telecom III, LLC.

4. In March 2003, KMC Telecom III, LLC requested the cancellation of its certificate of service authority at the federal level in a Section 63.71 application filed with the

Federal Communications Commission and provided to this Commission as required by 47 CSR §63.71(a). See Attachment A.

5. Subsequently, the director of governmental affairs on behalf of KMC Telecom III, LLC indicated via email that “KMC Telecom III's asset sale was completed on June 30th, and KMC Telecom III would like to relinquish/cancel its certification in MO. KMC III has no employees, assets, customers or revenue in MO.” See Attachment B.

6. The company owes no assessments or annual reports.

7. Because KMC Telecom III, LLC Communications has requested cancellation of its certificate, and because it is no longer providing telecommunications service in Missouri, the Staff recommends that the Commission issue an order canceling KMC Telecom III, LLC's certificates and tariffs.

8. The Commission has the authority to cancel a telecommunications corporation certificate pursuant to Section 392.410.5 RSMo (Supp.2003), which provides:

Any certificate of service authority may be altered or modified by the commission after notice and hearing, upon its own motion or upon application of the person or company affected.

However, the Commission need not hold a hearing, if, after proper notice and opportunity to intervene, no party requests such a hearing. *State ex rel. Rex Deffenderfer Enterprises, Inc. v. Public Service Commission*, 776 S.W.2d 494 (Mo. App. 1989).

9. Copies of this Motion are being served by certified mail upon the most recent address available, and via regular mail on its registered agent.

WHEREFORE, the Staff recommends the Commission cancel the certificates of service authority granted to KMC Telecom III, LLC to provide basic local telecommunications services and interexchange services in Case Nos. TA-99-576 and TA-99-577, as well as the associated

tariffs, P.S.C. Missouri Tariff No.1 (interexchange) and P.S.C. Missouri Tariff No.2 (basic local).

Respectfully submitted,

DANA K. JOYCE
General Counsel

/s/ David A. Meyer

David A. Meyer
Senior Counsel
Missouri Bar No. 46620

Attorney for the Staff of the
Missouri Public Service Commission
P.O. Box 360
Jefferson City, MO 65102
(573) 751-8706 (Telephone)
(573) 751-9285 (Fax)
david.meyer@psc.mo.gov

Certificate of Service

I hereby certify that copies of the foregoing have been mailed or electronically mailed to all parties of record as shown below this 11th day of August 2005.

/s/ David A. Meyer

Office of the Public Counsel
Governor Office Building, Suite 650
200 Madison Street
P. O. Box 7800
Jefferson City, MO 65102

KMC Telecom III, LLC
1545 Route 206
Bedminster, NJ 07921
(via certified mail)

CT Corporation System
Registered Agent for KMC Telecom III, LLC
120 South Central Ave.
St. Louis, MO 63105

KMC Telecom III, LLC
1755 North Brown Road, 3d floor
Lawrenceville, GA 30043

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)
Section 63.71 Application of)
)
KMC Telecom III LLC)
)
For Authority Pursuant to Section 214 of the)
Communications Act of 1934, as Amended,)
To Discontinue the Provision of Domestic)
Telecommunications Services in Arkansas,)
Kentucky, Missouri, Nevada, New Hampshire,)
Oklahoma, and West Virginia)

SECTION 63.71 APPLICATION

KMC Telecom III LLC (“KMC” or “Applicant”), by its attorneys, hereby seeks authorization pursuant to Section 214(a) of the Communications Act of 1934, as amended (the “Act”), 47 U.S.C. § 214, and Section 63.71 of the Commission’s Rules, 47 C.F.R. § 63.71, to discontinue the provision of domestic telecommunications service to customers in Arkansas, Kentucky, Missouri, Nevada, New Hampshire, Oklahoma and West Virginia (collectively, the “Affected States”).

KMC has limited operations in the Affected States, providing only resold long distance and toll free services to a small number of customers. KMC intends to discontinue the provision of these long distance services.

The following chart details the number of affected customers in each state.

<u>State</u>	<u># Customers</u>
Arkansas	8
Kentucky	2
Missouri	20
Nevada	2
New Hampshire	4
Oklahoma	2
West Virginia	7

KMC has targeted April 6, 2003 as the service discontinuance date for each of the Affected States and customers will be provided with a minimum of thirty (30) days to transition to another service provider. KMC will notify customers of the discontinuance on March 3, 2003, via direct mail.

KMC respectfully requests that the Commission issue its public notice of the proposed discontinuance as soon as possible, so that service may be discontinued in accordance with the projected termination date discussed above.

KMC provides the following information pursuant to Section 63.71 of the Commission's Rules:

1. Name and Address of the Carrier: KMC is located at 1545 Route 206, Suite 300, Bedminster, New Jersey 07921.
2. Date of Planned Service Discontinuance: Subject to final regulatory and other approvals, the anticipated date for KMC's discontinuance of service is on or after April 6, 2003.
3. Points of Geographic Areas of Service Affected: KMC will discontinue providing domestic telecommunications services to customers throughout KMC's service areas in Arkansas, Kentucky, Missouri, Nevada, New Hampshire, Oklahoma, and West Virginia.

4. Brief Description of Type of Service Affected: KMC intends to discontinue the provision of resold switched long distance and s toll free services

5. Brief Description of the Dates and Methods of Notice to All Affected Customers: Notices containing the information required by Section 63.71(a) of the Commission's Rules will be mailed to KMC's customers in the Affected States on March 3, 2003. The notices will advise customers of the proposed discontinuance of service by KMC and the need to arrange service from another carrier. A copy of the notice is appended hereto as Exhibit 1.

6. Whether the Carrier is Considered Dominant or Non-dominant with respect to the Services to be Discontinued: KMC is considered to be a non-dominant carrier with respect to the services to be discontinued.

7. Service of Application: A copy of this application is being served on the Governors and state public utility commissions of each state affected and on the Special Assistant for Telecommunications of the Secretary of Defense.

WHEREFORE, KMC Telecom III LLC respectfully requests that the Commission grant this Application to discontinue the services described herein. In consideration of this request, the Applicant submits that the public convenience and necessity will not be adversely affected by the discontinuance of service in the aforementioned states because other carriers are available to provide the same services and sufficient notice has been given for the customers to arrange for substitute service.

Respectfully submitted,

KMC Telecom III LLC



By: Genevieve Morelli
Todd D. Daubert
KELLEY DRYE & WARREN LLP
1200 19th Street, N.W.
Suite 500
Washington, D.C. 20036
(202) 955-9600 (tel)
(202) 955-9792 (fax)

Its Counsel

Dated: March 3, 2003

Attachment 1
Customer Notice

Mr. KMC Customer
1234 ABC Street
This Town, State 20202

March 3, 2003

Dear KMC Telecom Customer,

As you know, the past couple of years have been a trying time for the telecommunications industry – especially for small competitive providers like KMC Telecom. Our founding objective, to become a local service provider delivering high quality, low cost state-of-the-art communication services to underserved business communities, has not changed.

Over the last few months, we have undertaken an internal review of our customer base; and in order to maintain the quality and scope of services to our customers who purchase a variety of services, we are forced to discontinue long distance service to those customers who do not also purchase KMC's local services.

The FCC will normally authorize this proposed discontinuance of service unless it is shown that customers would be unable to receive service or a reasonable substitute from another carrier or that the public convenience and necessity is otherwise adversely affected. If you wish to object, you should file your comments within 15 days after receipt of this notification. Address them to the Federal Communications Commission, Washington, DC 20554, referencing the §63.71 Application of KMC. Comments should include specific information about the impact of this proposed discontinuance upon you or your company, including any inability to acquire reasonable substitute service.

As such, KMC will ***discontinue your long distance service, as of April 6, 2003. You must find an alternative long distance carrier prior to this date or you may not have access to long distance.***

KMC has identified an alternative carrier that offers high quality long distance services at competitive rates. The company is ACN Communications Services, Inc.

ACN is a privately held company. Founded in 1993, it has grown from revenues of \$2 million in its first year, to \$270 million in 2002; and now ACN offers long distance, gas and electric service to customers throughout the United States, Canada and nine European countries. You may not recognize the ACN name, since ACN does not advertise, telemarket, or use other traditional methods of marketing. Instead, ACN markets through referrals, enabling the company to offer high quality service at the lowest cost to its customers.

You have the right to switch to any carrier of your choice. For simplicity and convenience, ***we have enclosed the necessary instructions, pre-completed forms and prepaid postage envelope to transition your service to ACN. Please return the completed forms immediately to avoid any lapse in service to:***

**KMC Telecom/ACN Transition
PO Box 918
Devon, PA 19333-0918**

Should you have any questions, please call the ACN transition team at **1-888-302-8769**.

While we sincerely appreciate your business; to remain successful, we must focus on key customers. We will continue to offer high quality voice and data services to our local business customers.

Respectfully,
KMC Telecom

KMC Telecom
1545 US Highway 206
Bedminster, New Jersey 07921

Meyer, David

From: Duke, Michael (Mike) [michael.duke@kmctelecom.com]
Sent: Wednesday, August 10, 2005 1:26 PM
To: david.meyer@psc.mo.gov
Cc: Fontenot, Debbie (Randy)
Subject: RE: Missouri Public Service Commission certification of KMC Telecom III

David - KMC Telecom III's asset sale was completed on June 30th, and KMC Telecom III would like to relinquish/cancel its certification in MO. KMC III has no employees, assets, customers or revenue in MO. As such, what's the process for canceling our CPCN?

Thanks,

Mike

From: david.meyer@psc.mo.gov [mailto:david.meyer@psc.mo.gov]
Sent: Tuesday, August 09, 2005 10:18 AM
To: Duke, Michael (Mike)
Subject: Missouri Public Service Commission certification of KMC Telecom III LLC

Mike,

About two or three months ago we spoke on the telephone and you indicated that KMC III was being sold and that it had no Missouri customers or assets. I think you said once the deal was closed, that KMC III would seek to withdraw its certificate. Where does that process stand at this time? Your expectations were that the deal would close around the end of June, I believe. Our files have a note that indicates that cancellation is pending and we have assessed KMC III \$0.00, but I would like to follow through and complete the cancellation process as soon as it is appropriate.

We have the old Section 63.71 application from March 2003, and that accompanied by an indication from KMC III that the Missouri certification should be cancelled should suffice for us to act upon. Please advise.

Regards,

David Meyer

David A. Meyer
Senior Counsel
Missouri Public Service Commission
voice (573) 751-8706
fax (573) 751-9285
david.meyer@psc.mo.gov

8/10/2005

Attachment B