

LARRY D. CALLISON  
STATE MANAGER  
Regulatory Affairs & Tariffs



Verizon Communications  
P.O. Box 1650  
Lexington, KY. 40588-1650

(859)245-1389  
(859)245-1721 (Fax)

August 16, 2000

00153-AI #1

Mr. William H. Bowker  
Executive Director, Acting  
Public Service Commission  
211 Sower Blvd.  
Frankfort, Kentucky 40601

RECEIVED

AUG 16 2000

PUBLIC SERVICE  
COMMISSION

RE: 252(i) Adoption Letters Between Verizon South Inc.  
and KMC Telecom IV, Inc.

Dear Mr. Bowker:

Enclosed for joint filing by the parties with the Kentucky Public Service Commission (Commission) are six copies of executed 252(i) Adoption Letters recently executed between Verizon South Inc., (formerly GTE South Inc.) and KMC Telecom IV, Inc., adopting the terms of the arbitrated Interconnection, Resale, and Unbundling Agreement between AT&T Communications of the South Central States, Inc. and Verizon South Inc. That agreement was approved by the Commission in Case Number 96-478. Also enclosed is an electronic copy in Microsoft Word 97 format on a 3.5 floppy diskette.

Please bring this filing to the attention of the Commission, and if there are any questions, please contact me at your convenience.

Yours truly,

A handwritten signature in black ink that reads "Larry D. Callison".

Larry D. Callison

Enclosures

c: Ms. Tricia Breckenridge – KMC Telecom IV, Inc.  
Mr. Andy M. Klein – Counsel to KMC IV, Inc.

Connie Nicholas  
Assistant Vice President  
Wholesale Markets-Interconnection



**GTE Network  
Services**

HQE03B28  
600 Hidden Ridge  
P.O. Box 152092  
Irving, TX 75038  
972/718-4586  
FAX 972/719-1523

July 5, 2000

Genevieve Morelli  
Counsel to KMC IV, Inc.  
Kelley Drye & Warren, LLP  
1200 19<sup>th</sup> Street, NW, Suite 500  
Washington, DC 20036

Dear Ms. Morelli:

GTE has received your letter stating that, under Section 252(i) of the Telecommunications Act of 1996 (the "Act"), KMC IV, Inc. ("KMC") wishes to adopt the terms of the arbitrated Interconnection Agreement between AT&T Communications of the South Central States, Inc. ("AT&T") and GTE that was approved by the Commission as an effective agreement in the State of Kentucky in Docket No. 96-478 (the "Terms")<sup>1</sup>. I understand you have a copy of the Terms. Please note the following with respect to your adoption of the Terms.

1. By your countersignature on this letter, you hereby represent and commit to the following three points:
  - (A) KMC adopts the Terms of the AT&T arbitrated agreement for interconnection with GTE and in applying the Terms, agrees that KMC shall be substituted in place of AT&T in the Terms wherever appropriate.
  - (B) KMC requests that notice to KMC as may be required under the Terms shall be provided as follows:

To : KMC Telecom IV, Inc.  
Attention: Tricia Breckenridge  
Executive Vice President of Business Development  
3075 Breckinridge Blvd., Suite 415  
Duluth, GA. 30096  
Telephone number: 770-935-1230  
FAX number: 770-638-6796

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<sup>1</sup> These "agreements" are not agreements in the generally accepted understanding of that term. GTE was required to accept these agreements, which were required to reflect then-effective FCC rules and other applicable law.

- (C) KMC represents and warrants that it is a certified provider of local telecommunications service in the State of Kentucky, and that its adoption of the Terms will cover services in the State of Kentucky only.
2. KMC's adoption of the AT&T arbitrated Terms shall become effective upon GTE's filing of this letter with the Kentucky Public Service Commission and remain in effect no longer than the date the AT&T arbitrated Terms are terminated. The AT&T arbitrated agreement is currently scheduled to expire on August 9, 2002.
  3. As the Terms are being adopted by you pursuant to your statutory rights under section 252(i), GTE does not provide the Terms to you as either a voluntary or negotiated agreement. The filing and performance by GTE of the Terms does not in any way constitute a waiver by GTE of its position as to the illegality or unreasonableness of the Terms or a portion thereof, nor does it constitute a waiver by GTE of all rights and remedies it may have to seek review of the Terms, or to petition the Commission, other administrative body, or court for reconsideration or reversal of any determination made by the Commission pursuant to arbitration in Docket No. 96-478, or to seek review in any way of any provisions included in these Terms as a result of KMC's 252(i) election.
  4. On January 25, 1999, the Supreme Court of the United States ("Court") issued its decision on the appeals of the Eighth Circuit's decision in *Iowa Utilities Board*. Specifically, the Supreme Court modified several of the FCC's and the Eighth Circuit's rulings regarding unbundled network elements and pricing requirements under the Act. *AT&T Corp. v. Iowa Utilities Board*, No. 97-826, 1999 U.S. LEXIS 903 (1999). Certain provisions of the Terms may be void or unenforceable as a result of the Court's decision of January 25, 1999 and the remand of the pricing rules to the United States Eighth Circuit Court of Appeals. Moreover, nothing herein shall be construed as or is intended to be a concession or admission by either GTE or KMC that any contractual provision required by the Commission in Docket No. 96-478 (the AT&T arbitration) or any provision in the Terms complies with the rights and duties imposed by the Act, the decision of the FCC and the Commissions, the decisions of the courts, or other law, and both GTE and KMC expressly reserve their full right to assert and pursue claims arising from or related to the Terms.
  5. GTE reserves the right to deny KMC's adoption and/or application of the Terms, in whole or in part, at any time:
    - (a) when the costs of providing the Terms to KMC are greater than the costs of providing it to AT&T;

- (b) if the provision of the Terms to KMC is not technically feasible; and/or
  - (c) to the extent KMC already has an existing interconnection agreement (or existing 252(i) adoption) with GTE and the Terms were approved before the date of approval of the existing interconnection agreement (or the effective date of the existing 252(i) adoption).
6. As noted above, pursuant to Rule 809, the FCC gave ILECs the ability to deny 252(i) adoptions in those instances where the cost of providing the service to the requesting carrier is higher than that incurred to serve the initial carrier or there is a technical incompatibility issue. The issue of reciprocal compensation for traffic destined for the Internet falls within this exception. GTE never intended for Internet traffic passing through a telecommunications carrier to be included within the definition of local traffic and subject to the corresponding obligation of reciprocal compensation. Despite the foregoing, some forums have required reciprocal compensation to be paid. This produces the situation where the cost of providing the service is not cost based. With this in mind, GTE opposes, and reserves the right to deny, the adoption and/or the application of the provisions of the Terms that might be interpreted to characterize traffic destined for Internet as local traffic or requiring the payment of reciprocal compensation.
7. Should KMC attempt to apply the Terms in a manner that conflicts with paragraphs 3-6 above, GTE reserves its rights to seek appropriate legal and/or equitable relief.

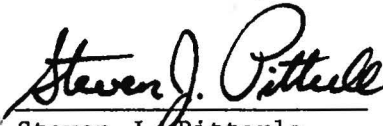
Please sign this letter on the space provided below and return it to the undersigned.

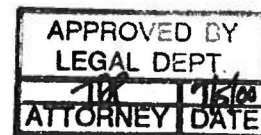
Sincerely,

~~GTE South Incorporated~~

~~Connie Nicholas  
Assistant Vice President  
Wholesale Markets-Interconnection~~

GTE South Incorporated

  
Steven J. Pitterle  
Director-Negotiations  
Wholesale Markets



Reviewed and countersigned as to points A, B, and C of paragraph 1:

KMC Telecom IV, Inc.

\_\_\_\_\_  
(SIGNATURE)

\_\_\_\_\_  
(PRINT NAME)

c: W.E. Munsell - GTE

**KELLEY DRYE & WARREN LLP**

A LIMITED LIABILITY PARTNERSHIP

1200 19TH STREET, N.W.

SUITE 500

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E-MAIL: AKlein@KelleyDrye.com

July 27, 2000

William E. Munsell  
Manager-Interconnection Negotiations  
GTE Network Services  
600 Hidden Ridge, HQE03B62  
Irving, TX 75038

Re: KMC IV Adoption of GTE/AT&T Interconnection Agreement for  
Kentucky  
File No. 035725.0042

Dear Mr. Munsell:

In accordance with our conversation of yesterday's date, this letter shall confirm that KMC IV disagrees with much of the content of Connie Nicholas' correspondence to Genevieve Morelli dated July 5, 2000, and that KMC IV will therefore not be countersigning that letter.

Instead, as we discussed, I will briefly state KMC IV's position herein, and request that GTE (n/k/a Verizon<sup>1</sup>) file this correspondence together with its petition to the Kentucky PSC requesting approval of KMC IV's opt-in to the GTE/AT&T Interconnection Agreement.

While KMC IV is in general agreement with the points raised in paragraph one of Ms. Nicholas' letter, we wish to clarify several items. By indicating to GTE that KMC IV would like to obtain interconnection, services, and network elements upon the same terms and conditions as they are made available to AT&T, KMC IV is simply exercising its statutory rights pursuant to §252(i) of the Communications Act, as well as its rights pursuant to the Rules,

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<sup>1</sup> Since Verizon is the successor corporation to GTE following GTE's merger with Bell Atlantic Corporation, we fully expect that Verizon and GTE may be freely substituted for one another, and that Verizon will fully honor all obligations of GTE.

W.E. Munsell  
GTE  
July 27, 2000  
Page Two

Regulations and Orders of the FCC promulgated thereunder. Although Ms. Nicholas asserts in her letter that "[t]hese 'agreements' are not agreements in the generally accepted understanding of that term" since GTE was "required" to accept them, §252 of the Communications Act refers to all of these contracts as "agreements," including those agreements reached through compulsory arbitration [e.g. §252(b)]. KMC IV is adopting the GTE/AT&T Interconnection Agreement, and the terms and conditions contained therein. KMC IV shall therefore be substituted in place of AT&T in the Agreement, wherever appropriate; following such substitution, the document will become the "GTE/KMC IV Agreement" and be submitted to the Kentucky PSC for its approval in accordance with §252(e) of the Communications Act.

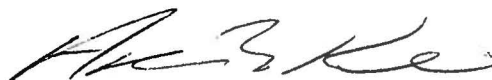
With regard to subparagraphs 1(b) and (c) of the July 5<sup>th</sup> correspondence, KMC IV does wish to have the contact information inserted, as you indicate, and does represent that it is a certified provider of local telecommunications service in the Commonwealth of Kentucky and that the GTE/KMC IV Agreement will govern the relationship between GTE and KMC IV only in Kentucky.

We note with appreciation that paragraph two of the July 5<sup>th</sup> letter indicates that "KMC's adoption of the AT&T arbitrated Terms shall become effective upon GTE's filing of this letter with the Kentucky Public Service Commission," as KMC IV is anxious to bring the benefits of its service to the Commonwealth of Kentucky.

Regarding GTE's legal interpretations set forth in the remainder of the letter, KMC IV disagrees with most, if not all, of those assertions. As is noted in paragraph four, however, "both GTE and KMC expressly reserve their full right[s] to assert and pursue claims arising from or related to the terms."

Kindly contact me at your earliest convenience in order to discuss your preferred procedure for the preparation of an adopted version of the GTE/KMC IV Agreement for submission to the Kentucky PSC.

Sincerely yours,



Andrew M. Klein  
Counsel to KMC IV

cc: John Evans  
Carrier Management  
KMC Telecom, Inc.  
4250 International Blvd, Suite B  
Norcross, GA 30093