



PUBLIC NOTICE

Federal Communications Commission
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DA 06-527

Released: March 3, 2006

NOTICE OF STREAMLINED DOMESTIC 214 APPLICATION GRANTED

WC Docket No. 06-20

On January 31, 2006, the Wireline Competition Bureau issued a public notice seeking comment on a section 214 application filed by Hypercube, LLC (Hypercube) and KMC Data LLC (KMC Data) (together "Applicants").¹ The Applicants request authority to transfer control of KMC Data from KMC Telecom Holdings, Inc. (KMC Holdings) to Hypercube. This application has been granted pursuant to the Commission's streamlined procedures for domestic section 214 transfer of control applications.² The Wireline Competition Bureau has determined that grant of this application serves the public interest.³

The Commission received one comment concerning the proposed transfer of control from AT&T Inc. (AT&T). AT&T does not oppose the grant of the application but requests that the Commission condition the grant "on an express undertaking on the record by KMC Holdings that it and its affiliates will comply fully with industry standards and practices governing local number portability (LNP) and number administration in connection with the KMC Holdings family of companies' service discontinuances and other transactions."⁴ AT&T specifically identifies a Wireline Competition Bureau Order that allowed KMC Telecom V, Inc. and KMC Telecom of Virginia, Inc. (KMC) to extend the date for termination of service in 39 states from December 5, 2005 to January 2, 2006.⁵ AT&T notes that KMC in that proceeding stated that it would "make sure their discontinuance of service does not unduly disrupt the operations of

¹ Domestic Section 214 Application Filed for the Transfer of Control of KMC Data LLC From KMC Telecom Holdings, Inc. to Hypercube, LLC., WC Docket No. 06-20, DA 06-239 (rel. Jan. 31, 2006).

² 47 C.F.R. § 63.03.

³ *Implementation of Further Streamlining Measures for Domestic Section 214 Authorizations*, CC Docket No. 01-150, Report and Order, 17 FCC Rcd 5517, 5529, para. 22 (2002).

⁴ AT&T Comments at 1-2.

⁵ AT&T Comments at 2. See Section 63.71 *Application of KMC Telecom V, Inc. and KMC Telecom of Virginia, Inc. for Authority to Discontinue Domestic Telecommunications*, WC Docket No. 05-309, Comp. Pol. File No. 729, Order, DA 05-3334 (rel. Dec. 28, 2005).

customers still subscribed to those offerings.”⁶ AT&T argues that KMC Holdings’ companies failed to comply with that representation by not adhering to LNP industry standards as it withdraws from service “which threatens serious disruption not only to customers of the KMC Holdings affiliates but also to other end users and to other carriers such as AT&T.”⁷

The Applicants filed reply comments in response to AT&T’s comments, which state that “this is not the appropriate proceeding to address AT&T’s concerns regarding the prior practices of affiliates of KMC Data.”⁸ According to the Applicants, the issues that AT&T raises relate to transactions by former affiliates of KMC Data that were completed over six months ago and discontinuance by other affiliates that were completed over one month ago.⁹ The Applicants further state that AT&T does not allege that KMC Data has not followed industry standards with respect to this proposed transaction.¹⁰

After careful consideration of the record in this proceeding, we conclude that the concerns raised by AT&T are not sufficient to persuade us to impose any conditions on the terms of the transfer. We agree with the Applicants that this proceeding is not the appropriate proceeding to address AT&T’s concerns of past practices of KMC Data’s affiliates. Furthermore, AT&T does not raise any specific LNP concerns or identify specific rule violations with respect to the proposed transfer of control. We are satisfied, based on the record, that the proposed transaction is in the public interest and should be granted accordingly.

For purposes of computation of time for filing a petition for reconsideration or application for review, or for judicial review of the Commission’s decision, the date of “public notice” shall be the release date of this notice.¹¹

Effective Date of Grant: 3/3/06

For further information, please contact Tracey Wilson-Parker, at (202) 418-1394 or Denise Coca, Competition Policy, Wireline Competition Bureau at (202) 418-0574.

⁶ AT&T Comments at 2.

⁷ *Id.* at 3.

⁸ KMC Data Reply at 1.

⁹ *Id.* at 2.

¹⁰ *Id.*

¹¹ *See* 47 C.F.R. § 1.4 (computation of time).