

STATE OF IOWA  
DEPARTMENT OF COMMERCE  
UTILITIES BOARD

IN RE:  KMC TELECOM V, INC.	DOCKET NO. FCU-03-3
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**ORDER REINSTATING CERTIFICATE  
AND CLOSING DOCKET**

(Issued February 10, 2004)

On December 23, 2002, the Utilities Board (Board) issued a local exchange certificate of public convenience and necessity to KMC Telecom V, Inc. (KMC), pursuant to Iowa Code § 476.29 (2001). The certificate was identified as Certificate No. 0260. The Board issued the certificate on the basis of KMC's application in Docket No. TCU-00-26 and its tariff, identified as TF-02-554.

On January 6, 2003, KMC applied to the North American Numbering Plan Administration (NANPA) for the telephone numbering resources it would need to provide local service in Iowa. As a part of that application, KMC filed a confidential document entitled "'Proposed Services' or 'Business Plan'" (Business Plan) that described the services KMC intended to offer in Iowa. KMC made statements in its Business Plan that were inconsistent with its application for a certificate and were also inconsistent with its tariff as filed with the Board. Based on these Business Plan statements, it appeared KMC did not intend to offer land-line local telephone services in Iowa; instead, it intended to provide virtual NXX (VNXX) services.

On January 9, 2003, the Board issued an order opening Docket No. FCU-03-3, a formal proceeding to investigate whether KMC should have its certificate

revoked pursuant to Iowa Code § 476.29 due to the conflicts between KMC's statements in its Business Plan and its representations to the Board in its application for a certificate and in its tariff. In that order, the Board stated that KMC would be given an opportunity to show cause as to why the Board should not find it in violation of the conditions of its certificate, or the terms of its tariff, or such provisions of chapter 476 and the Board's rules, and why the Board should not take appropriate action if such violations are found, including, but not limited to, the revocation of KMC's certificate. The Board's January 9, 2003, order also suspended KMC's certificate pending further order from the Board.

On January 22, 2003, KMC filed a response to the Board's order suspending KMC's certificate. In the filing, KMC stated that the *pro forma* document submitted to NANPA incorrectly stated that KMC did not have plans to deliver voice-grade telecommunications services in Iowa. In support of this statement, KMC provided a letter that it sent to NANPA, which stated that the Business Plan for Iowa was submitted in error. KMC also provided an affidavit from its Director of Marketing who avowed that KMC intended to offer voice-grade services in Iowa. KMC also submitted a copy of its Business Plan for Iowa which indicated that KMC plans to target businesses with five or less access lines in Ames, Burlington, Davenport, Dubuque, Iowa City, Waterloo, and Des Moines, Iowa.

On January 22, 2004, KMC filed an application with the Board for reinstatement of its certificate. In its application, KMC stipulated that it would not use its numbering resources to provide VNXX services in Iowa until the Board, or a court

of competent jurisdiction, issues a legally binding order authorizing the provision of VNXX services in Iowa.

The Board has reviewed KMC's application and supporting information and finds that KMC proposes a legitimate Business Plan for providing local telecommunications services to Iowa businesses. KMC's plan is similar to those offered by other competitive local exchange carriers in Iowa and KMC's written agreement and stipulation to not use its numbering resources to provide VNXX services satisfies the Board's concern in this matter.

**IT IS THEREFORE ORDERED:**

1. The "Application for Reinstatement of Certificate" filed by KMC Telecom V, Inc., on January 22, 2004, is granted.
2. Certificate No. 0260, issued to KMC Telecom V, Inc., on December 23, 2002, is reinstated effective the date of this order.
3. This proceeding, identified as Docket No. FCU-03-3, is closed.

**UTILITIES BOARD**

/s/ Diane Munns

/s/ Mark O. Lambert

ATTEST:

/s/ Sharon Mayer  
Executive Secretary, Assistant to

/s/ Elliott Smith

Dated at Des Moines, Iowa, this 10<sup>th</sup> day of February, 2004.