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June 26, 2009

VIA ELECTRONIC FILING

Ms. Ann Cole
Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Re: Docket No. 090327-TP – Petition of DeltaCom, Inc. for Order Determining DeltaCom, Inc. not Liable for Access Charges of KMC Data LLC, Hypercube, LLC and Hypercube Telecom, LLC

Dear Ms. Cole:

Enclosed for filing is a Stipulated Motion for Temporary Stay of Proceeding in the above-reference docket, along with attached Exhibit A.

Your assistance in this matter is greatly appreciated. Should you have any questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in blue ink that reads "Matthew Feil". The signature is stylized and cursive.

Matthew Feil

STATE OF FLORIDA
PUBLIC SERVICE COMMISSION

In Re: Petition of DeltaCom, Inc.)
for order determining DeltaCom, Inc.)
not liable for access charges of KMC)
Data LLC, Hypercube, LLC)
and Hypercube Telecom, LLC.)
_____)

Docket No. 090327-TP

STIPULATED MOTION FOR TEMPORARY
STAY OF PROCEEDINGS

DeltaCom, Inc. (“DeltaCom”), pursuant to Florida Administrative Code Rule 25-106.204, and through its undersigned counsel, hereby files this motion on its own behalf, and by joint stipulation, with Respondents KMC Data LLC (“KMC”), Hypercube, LLC, and Hypercube Telecom, LLC (collectively, “Hypercube”), requesting that the Commission enter an order temporarily staying further proceedings in this matter as set forth hereinbelow. As grounds for this Motion, the parties hereby state as follows:

1. On June 5, 2009, DeltaCom filed a Petition asserting various claims and seeking relief against Hypercube, initiating the instant docket.
2. DeltaCom files this Motion in the proceeding so that DeltaCom and Hypercube can undertake additional good faith negotiations in an effort to resolve the issues presented in DeltaCom's Petition without the need for litigation. Hypercube supports and stipulates to the filing of this motion and stay of this proceeding.¹ Should the negotiations reach an impasse, then either DeltaCom or Hypercube may move the Commission to dissolve the stay and resume the litigation.

¹ See attached declaration from Hypercube, attached and marked as Exhibit A.

3. The parties commit to report to the Commission in writing **no later than** sixty (60) days from the date of this Motion the status of the negotiations and the need, if any, to continue or to cease the stay.

WHEREFORE, DeltaCom requests that the Prehearing Officer enter an order granting a temporary stay of activity in this proceeding on the terms stated above.

Respectfully submitted this 26th day of June, 2009.

By: 
Matthew Feil
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STATE OF FLORIDA
PUBLIC SERVICE COMMISSION

In re:

DeltaCom, Inc.

Complainant,

-v-

KMC Data, LLC, Hypercube, LLC and
Hypercube Telecom, LLC,

Defendant.

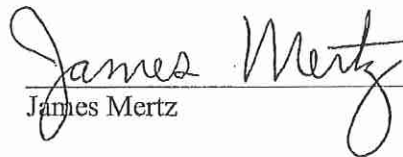
Docket No. 090327

**DECLARATION OF JAMES
MERTZ IN SUPPORT OF MOTION
TO STAY**

1. My name is James Mertz, and I am over 18 years of age.
2. I am employed by Hypercube, LLC as Vice President of Government Affairs. I am authorized to File this declaration in the above-referenced proceeding on behalf of Hypercube, LLC and Hypercube Telecom, LLC (f/k/a KMC Data LLC) (collectively, "Hypercube").
3. Hypercube supports the DeltaCom, Inc. motion to stay the above-referenced proceeding, to which this declaration is appended.
4. I declare under penalty of perjury that the foregoing is true and correct.

Date:

6/25/2009


James Mertz

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been served upon the following by U.S. Mail this 26th day of June, 2009.

Charles Murphy
Timisha Brooks
Office of the General Counsel
Room 370, Gunter Building
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Michael B. Hazzard
Arent Fox LLP
1050 Connecticut Avenue, NW
Washington, DC 20036
(Counsel for Hypercube Telecom, LLC)

By: 
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