

Diamond Williams

090327-TP

From: nicki.garcia@akerman.com
Sent: Tuesday, August 10, 2010 3:37 PM
To: Filings@psc.state.fl.us
Cc: tony.mastando@deltacom.com; Fself@lawfla.com; Charles Murphy;
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hazzard.michael@arentfox.com; koslofsky.jason@arentfox.com; Kevin Bloom
Subject: Electronic Filing - Docket No. 090327-TP
Attachments: 20100810153211926.pdf

Attached is an electronic filing for the docket referenced below. If you have any questions, please contact either Matt Feil or Nicki Garcia at the numbers below. Thank you.

Person Responsible for Filing:

Matthew Feil
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Docket No. and Name: 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.

Filed on behalf of: DeltaCom, Inc.

Total Number of Pages: 5

Description of Documents: Joint Stipulation of Dismissal of DeltaCom and Hypercube

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August 10, 2010

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 and Hypercube Telecom, LLC

Dear Ms. Cole:

Please find enclosed for filing in the captioned docket the Joint Stipulation of Dismissal of DeltaCom, Inc., KMC Data LLC and Hypercube Telecom LLC.

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

Sincerely,



Matthew Feil

{TL252933;1}

DOCUMENT NUMBER-DATE
16627 AUG 10 09
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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition of DeltaCom, Inc. for order)
determining DeltaCom, Inc. not liable for) Docket No. 090327-TP
access charges of KMC Data LLC and) Filed: August 10, 2010
Hypercube Telecom, LLC.)
_____)

JOINT STIPULATION OF DISMISSAL

The parties to this cause, Complainant DeltaCom, Inc. and Defendants/Counter-Complainants KMC Data, LLC, Hypercube, LLC, and Hypercube Telecom, LLC, having resolved their differences, stipulate to the dismissal of this proceeding, with each party to bear its own fees and costs. In support thereof the parties assert as follows.

1. The parties' settlement agreement¹ provides in pertinent part:

The Parties will enter into appropriate joint stipulations of dismissal of their claims against each other in each action involved in the DeltaCom/Hypercube Litigation no later than seven (7) business days after the Effective Date [July 28, 2010] of this Agreement. The Parties then shall, commencing immediately upon the Effective Date, use best efforts to cooperate to halt the DeltaCom/Hypercube Litigation.

WHEREFORE, the parties respectfully request that the proceeding be dismissed as set forth above.

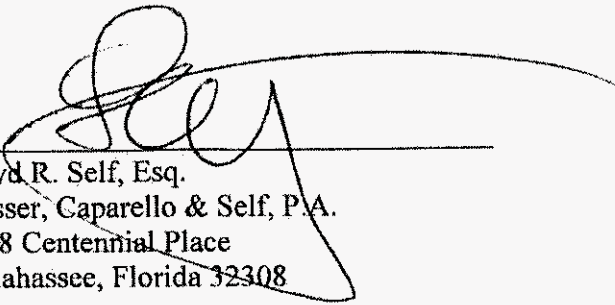
Respectfully submitted on this 10th day of August, 2010.

¹ The parties' settlement agreement is confidential and is not being filed, since approval of the settlement agreement is not required by the Commission.


On behalf of DeltaCom, Inc.

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and

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Counsel for Hypercube Telecom, LLC

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy was served upon the following by Electronic Mail and/or U.S. Mail this 10th day of August, 2010.

Charles Murphy, Esq. Office of the General Counsel Florida Public Service Commission 2540 Shumard Oak Boulevard Tallahassee, FL 32399-0850 cmurphy@psc.state.fl.us	Kevin Bloom Florida Public Service Commission 2540 Shumard Oak Boulevard Tallahassee, FL 32399-0850 kbloom@psc.state.fl.us
D. Anthony Mastando, Esq. Regulatory Vice President Jean Houck DeltaCom, Inc 7037 Old Madison Pike, Suite 400 Huntsville, AL 35806 (256) 382-5900 tony.mastando@deltacom.com jean.houck@deltacom.com	Mr. James Mertz Hypercube Telecom LLC Building 300 5300 Oakbrook Parkway, Suite 330 Norcross, GA 30093-6210 james.mertz@hypercube-llc.com
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By: 
Matthew Feil