

**Ruth Nettles**

**From:** nicki.garcia@akerman.com  
**Sent:** Friday, June 26, 2009 11:08 AM  
**To:** Filings@psc.state.fl.us  
**Cc:** Timisha Brooks; Charles Murphy; tony.mastando@deltacom.com  
**Subject:** Electronic Filing - Docket No. 090327-TP  
**Attachments:** 20090626110549601.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  
**AKERMAN SENTERFITT**  
106 East College Avenue, Suite 1200  
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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:** Stipulated Motion for Temporary Stay of Proceedings along with and exhibit (Exhibit A).

**Nicki Garcia**

Office of:  
Lila A. Jaber  
Matthew Feil

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DOCUMENT NUMBER - DATE  
06426 JUN 26 08  
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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,



Matthew Feil

DOCUMENT NUMBER-DATE

06426 JUN 26 8

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**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.<sup>1</sup> Should the negotiations reach an impasse, then either DeltaCom or Hypercube may move the Commission to dissolve the stay and resume the litigation.

<sup>1</sup> See attached declaration from Hypercube, attached and marked as Exhibit A.

DOCUMENT NUMBER-DATE

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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  
AKERMAN SENTERFITT  
106 East College Avenue, Suite 1200  
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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,

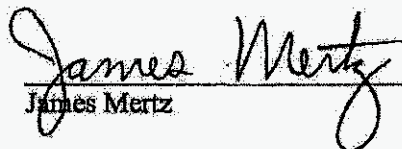
Defendant.

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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