

BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI

**FILED<sup>4</sup>**

APR 05 2005

Missouri Public  
Service Commission

In the Matter of the Application of )  
 )  
KMC DATA LLC )  
 )  
for Expansion of its Certificate of Service )  
Authority to Provide Basic Local )  
Telecommunications Services within the State )  
of Missouri and to Classify Such Services and )  
the Company As Competitive. )

Case No. \_\_\_\_\_

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**MOTION FOR PROTECTIVE ORDER**

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**INTRODUCTION**

KMC Data LLC ("KMC Data" or "Movant"), by its attorneys and pursuant to 4 CSR 240-2.085, hereby files this Motion for a Protective Order ("Motion") in the above-captioned proceedings. KMC Data submits this Motion for the purpose of seeking the confidential treatment of certain commercially-sensitive financial information, which has been appended as *Exhibit C* to its Application for Re-establishment and Expansion of its Certificate of Service Authority to Provide Basic Local Telecommunications Services in the State of Missouri and to Classify Such Services and the Company as Competitive ("Application"). Because the instant Motion is an inseparable part of the Application, it is being filed concurrently with KMC Data's Expansion of Service Authority Application.

In support of this Motion, KMC Data states the following:

## **I. DESCRIPTION OF CONFIDENTIAL INFORMATION**

1. MO. REV. STAT. § 392.455(1) requires the Missouri Public Service Commission ("Commission") to grant certificates to new entrants to provide basic telecommunications service on a common carrier basis provided that such applicants demonstrate that they possess sufficient financial resources and abilities to provide the telecommunications services requested in their applications. In conformity with these rules, KMC Data has appended to the above-referenced Application as *Exhibit C* a copy of KMC Telecom Holdings, Inc.'s Consolidated Financial Statements and Supplemental Combining and Consolidating Information, all for the year ended December 31, 2003.

## **II. GROUNDS FOR CLAIM OF PROTECTIVE TREATMENT**

2. KMC Data seeks to protect the information contained in *Exhibit C* because its financial statements contain highly-confidential and strictly-proprietary information, the public disclosure of which potentially may result in direct and immediate harm to the competitive position of KMC Data in Missouri and elsewhere.

3. Because KMC Data's financial statements contain confidential and commercially-sensitive information from which its competitors may derive economic value, KMC Data actively seeks to protect such material from public disclosure. KMC Data derives independent economic value from the fact that significant, detailed and proprietary information regarding the Company's financial structure and current financing activities is unknown to its competitors. Given this fact, the disclosure of this information could provide existing and potential competitors, including competitive local exchange carriers ("CLECs"), incumbent local exchange carriers ("ILECs"), independent local exchange carriers, and interexchange carriers ("IXCs") in Missouri, as well as in other states in which KMC Data provides or intends to provide telecommunication services, with an unfair and undeserved competitive advantage over KMC Data and its affiliates.

4. KMC Data is a privately-held company presently immune from a legal obligation to prepare or submit financial information to any public entity. As such, the financial statements

set forth in *Exhibit C* to KMC Data's Application are not readily ascertainable by persons external to the Company, and none of the information for which this claim of confidentiality is made may be found in any format in any other public document.

### **III. PERIOD OF NONDISCLOSURE**

5. KMC Data requests that the material contained in *Exhibit C* to KMC Data's Application be held confidential for a minimum of three (3) years.

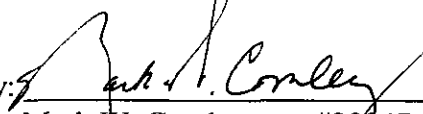
### **CONCLUSION**

6. The information for which confidential treatment is sought in this Motion is both private and competitively-sensitive. The direct harm that could be caused to KMC Data as a result of any such disclosure is real and not speculative. Moreover, to date, no other jurisdiction or governmental agency has required KMC Data to make its financial statements available to the public. For all of these reasons, KMC Data's financial statements should be protected from public disclosure.

WHEREFORE, KMC Data LLC respectfully requests that the Commission grant its Motion for Protective Order with respect to *Exhibit C* of its Application for expansion of its Certificate of Service Authority to Provide Basic Local Telecommunications Services in the State of Missouri and to Classify Such Services and the Company As Competitive.

Respectfully submitted,

**KMC DATA LLC**

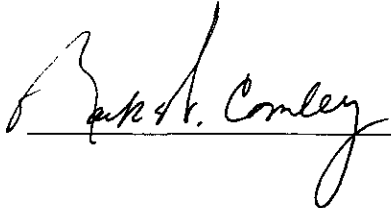
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Its Attorneys

**Certificate of Service**

I hereby certify that a copy of this document has been hand delivered or mailed by first class mail, postage prepaid, to the Office of Public Counsel and General Counsel's Office, on this 5th day of April, 2005.

  
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