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April 5, 2005

The Honorable Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge
Missouri Public Service Commission
P.O. Box 360
Jefferson City, MO 65102-0360

FILED⁴
APR 05 2005

Missouri Public
Service Commission

Re: KMC Data LLC

Dear Judge Roberts:

Enclosed for filing please find the original and five copies of an Application for Re-Establishment and Expansion of Certificate of Service Authority and Competitive Classification of KMC Data LLC. I also enclose the original and five copies of a Motion for Protective Order, which pertains to the financial statements filed under seal as Exhibit C.

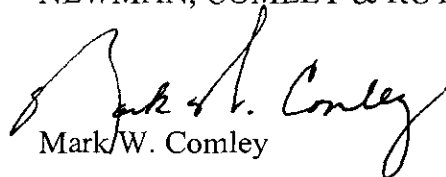
Would you please bring this filing to the attention of the appropriate Commission personnel.

Please contact me if you have any questions regarding this filing. Thank you for your attention to this matter.

Sincerely,

NEWMAN, COMLEY & RUTH P.C.

By:


Mark W. Comley

MWC:ab
Enclosure

cc: Office of Public Counsel
General Counsel's Office
Karly E. Baraga

FILED⁴

APR 05 2005

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

Missouri Public
Service Commission

In the Matter of the Application of)
)
KMC Data LLC)
) Case No. _____
)
for Re-Establishment and Expansion)
of its Certificate of Service)
Authority to Provide Basic Local)
Telecommunication Services)
in the State of Missouri and to)
Classify Such Services and the Company)
As Competitive)

**APPLICATION FOR RE-ESTABLISHMENT AND EXPANSION OF CERTIFICATE OF
SERVICE AUTHORITY AND COMPETITIVE CLASSIFICATION OF KMC DATA LLC**

Comes now, KMC Data LLC ("KMC Data," "Applicant" or "Company"), by its undersigned counsel, and hereby applies pursuant to MO. REV. STAT. § 392.410(4) and MO. CODE REGS. ANN. tit. 4 § 240-2.060 to 1) re-establish its Certificate of Service authority in the exchanges of Southwestern Bell Telephone Company ("SWBT"), Sprint Missouri, Inc. d/b/a Sprint (Sprint), and Spectra Communications Group, LLC now d/b/a CenturyTel (Spectra); and 2) expand its Certificate of Service Authority to include authority to provide service in the exchanges served by CenturyTel of Missouri L.L.C. ("CenturyTel") and ALLTEL Missouri, Inc. ("Alltel"). By Order dated June 6, 2001, the Commission has already granted KMC Data a Certificate of Service Authority to provide facilities-based and resold basic local telecommunications in the exchanges of GTE Midwest, Inc. d/b/a Verizon Midwest (Verizon),

SWBT, Spectra, and Sprint.¹ The Order also classified KMC Data as a competitive telecommunications carrier and its services were classified as competitive telecommunications services. Due to a change in its business plan, KMC Data now seeks authority to provide facilities-based and resold basic local telecommunications services in the exchanges served by Alltel. Since Verizon's exchanges were transferred to CenturyTel,² KMC Data also wishes to confirm by this application its authority to offer and provide service in CenturyTel exchanges. In support of its Application, KMC Data provides the following information:

I. IDENTIFICATION OF THE APPLICANT

A. CORPORATE INFORMATION

1. KMC Data is a limited liability company formed under the laws of Delaware.

KMC Data's principal address is:

KMC Data LLC
1545 Route 206
Suite 300
Bedminster, New Jersey 07921
Telephone (908) 470-2100
Facsimile (908) 719-8775

¹ *In re Application of KMC Data L.L.C., for a Certificate of Service Authority to Provide Basic Local Telecommunications Service in the State of Missouri and to Classify said Services and the Company as Competitive*, Case No. TA-2001-594, Order Granting Certificate to Provide Basic Local Telecommunications Services (June 16, 2001). KMC Data has not filed a tariff under which to provide service pursuant to the Certificate of Service Authority, however, KMC Data has been an active participant in Commission proceedings and has complied with Commission requirements associated with the Certificate, including the filing of annual reports. KMC Data has also received authority to provide intrastate interexchange telecommunications services in *In re Application of KMC Data L.L.C., for a Certificate of Service Authority to Provide Competitive Resold Intrastate Interexchange Telecommunications and Nonswitched Local Telecommunications Services in the State of Missouri*, Case No. TA-2001-595, Order Approving Interexchange and Nonswitched Local Exchange Certificate of Service Authority (June 15, 2001).

² See Report and Order in Case No. TM-2002-232 issued May 21, 2002

2. KMC Data's Certificate of Formation and Certificate of Good Standing from the Delaware Secretary of State and Certificate of Authority to do Business from the Missouri Secretary of State are attached hereto as *Exhibit A*.

3. The name and address of KMC Data's registered agent in Missouri for service of process is:

CT Corporation System
120 South Central Avenue
Clayton, MO 63105

B. DESIGNATED CONTACTS

4. The designated contacts for this Application are:

Mark Comley
NEWMAN, COMLEY & RUTH
601 Monroe, Suite 301
P.O. Box 537
Jefferson City, MO 65101
Telephone: (573) 634-2266
Facsimile: (573) 636-3306

Brad Mutschelknaus
Denise N. Smith
KELLEY DRYE & WARREN LLP
1200 19th Street, N.W., Suite 500
Washington, D.C. 20036
Telephone: (202) 955-9600
Facsimile: (202) 955-9792

5. Copies of all correspondence, notices, orders and inquiries also should be sent to:

Marva Brown Johnson
Vice President and Senior Counsel
KMC Data LLC
1755 North Brown Road
Lawrenceville, Georgia 30043
Telephone (678) 985-6220
Facsimile (678) 985-6213

6. All correspondence, notices and inquiries regarding all (1) consumer, (2) technical and service quality, and (3) tariff and pricing issues should be sent to:

Michael Duke
Director – Governmental Affairs
KMC TELECOM, INC.
1755 North Brown Road
Lawrenceville, Georgia 30043
Telephone (678) 985-7900
Facsimile (678) 985-6213

II. SERVICES

A. PROPOSED LOCAL EXCHANGE SERVICES TO BE OFFERED BY APPLICANT

7. By this Application, KMC Data seeks authority to provide telecommunications services in Missouri to include competitive facilities-based and resold basic local exchange telecommunications services. KMC Data desires to be able to provide switched and dedicated local telecommunications services throughout the exchanges hereinafter identified in the State of Missouri. KMC Data submits that it will remain a competitive carrier offering competitive basic local exchange and interexchange services in Missouri.

8. With respect to the geographic coverage area for its intended services, KMC Data requests authority to operate as a competitive local exchange carrier in all areas defined by the existing exchange areas in which SWBT, Sprint, Spectra, CenturyTel and Altell are authorized to operate in Missouri. KMC Data anticipates serving only business customers at this time. Due to the time-sensitive nature of KMC Data's business plan, KMC Data respectfully requests grant of the authority as soon as possible..

B. DESCRIPTION OF KMC DATA LLC'S NETWORK

9. KMC Data intends to provide voice telecommunications services on a common carrier basis in direct competition with incumbent local exchange and interexchange carriers. KMC Data has installed and leased switching and interconnection facilities. Additionally, KMC

Data has upgraded its switching equipment, converted one-way interconnection trunks to two-way interconnection trunks, and added 911 trunks to facilitate emergency calling.

III. DESCRIPTION OF THE MANAGERIAL, TECHNICAL AND FINANCIAL ABILITY OF APPLICANT

10. In support of this Application, KMC Data submits the following information to demonstrate that it has sufficient managerial experience and expertise to ensure the provision of quality local exchange telecommunications services within Missouri.

A. MANAGERIAL AND TECHNICAL QUALIFICATIONS

11. KMC Data is well-qualified managerially and technically to provide the facilities-based and resold competitive local exchange services for which authority is requested in this Application. KMC Data is a wholly-owned subsidiary of KMC Telecom Holdings, Inc. ("KMC Holdings"), a Delaware corporation. KMC Data will rely upon the expertise of KMC Holding's management team who oversees the operations of KMC Data and its certificated affiliates: KMC Telecom III, LLC ("KMC IIF"), KMC Data LLC ("KMC Data"), KMC Telecom of Virginia, Inc. ("KMC Telecom of VA") and KMC Telecom V of Virginia, Inc. ("KMC Telecom of VA").

12. KMC Data has the adequate internal managerial resources to support its Missouri operations. This expertise in the telecommunications industry makes KMC Data's management team well-qualified to construct, operate and manage KMC Data's local exchange networks in Missouri. Specific details of the business and technical experience of KMC Data's officers and management personnel are appended hereto as *Exhibit B*.

13. Neither KMC Data nor its Affiliates have been denied authority to provide telecommunications services in any state.

B. FINANCIAL

14. Applicant, through the strength of its parent corporation, KMC Holdings, has access to ample capital to compete effectively in the market and provide telecommunications services in Missouri.

15. As demonstrated in KMC Holdings' Cash Flow Statements as set forth in *Exhibit C*, KMC Data has access to ample capital to fund the construction and operation of KMC Data's telecommunications network in Missouri, and to meet any lease and ownership obligations associated with its provision of local exchange and interexchange telecommunications services in Missouri.

16. KMC Data is a privately-held company and, thus, does not issue annual reports or submit any financial filings with the Securities and Exchange Commission.

17. Please note that the information provided in *Exhibit C* is privileged and confidential and therefore is being submitted separately as an appendix to the Company's *Motion for a Protective Order* ("Motion"). This Motion seeks the confidential treatment of all information contained in *Exhibit C* and is being filed pursuant to Mo. Code Regs. Ann. tit. 4 § 240-2.085, solely for the purpose of the Commission's *in camera* review.

D. REPAIR AND MAINTENANCE/CUSTOMER SERVICE INFORMATION

18. KMC Data's client service representatives are available to assist its customers with service, maintenance and billing issues. Specifically, KMC Data's client service representatives are prepared to respond to a broad range of service matters, including inquiries regarding: (1) the types of services offered by KMC Data and the rates associated with such services; (2) monthly billing statements; (3) problems or concerns pertaining to a customer's current service; and (4) general telecommunications matters. For service and maintenance

issues, customers may contact KMC Data's Client Services 24 hours a day, seven (7) days a week, by calling toll-free 1-888-KMC-THE1 (1-888-562-8431). Alternatively, customers may communicate billing questions or concerns to KMC Data's client services representatives in writing to:

KMC Data LLC
1755 North Brown Road
Lawrenceville, Georgia 30043

IV. CLASSIFICATION

19. KMC Data requests classification as a competitive telecommunications company within the State of Missouri. Applicant believes that the services it proposes to provide will be subject to sufficient competition to justify a lesser degree of regulation.

V. STATEMENTS OF COMPLIANCE AND REQUESTS FOR WAIVER

20. KMC Data will offer basic local exchange telecommunications service and interexchange service in accordance with applicable law. KMC Data will give consideration to equitable access for all Missourians, regardless of where they might reside or their income, to affordable telecommunications services in the Company's proposed service area, in accordance with applicable law.

21. KMC Data is willing to comply with all applicable Commission rules, and is willing to meet all relevant service standards, including but not limited to, billing, quality of service, and tariff filing and maintenance. However, consistent with the Commission's treatment of other certificated competitive local exchange telecommunications companies, KMC Data requests that the following statutes and regulations be waived for its basic local exchange telecommunications service offerings, in accordance with MO. REV. STAT. § 392.420 and MO. CODE REGS. ANN. tit. 4 § 240-32.010(2):

STATUTES

MO. REV. STAT. § 392.210.2	--	Uniform System of Accounts
MO. REV. STAT. § 392.270	--	Valuation of Property (Ratemaking)
MO. REV. STAT. § 392.280	--	Depreciation Accounts
MO. REV. STAT. § 392.290	--	Issuance of Stocks and Bonds
MO. REV. STAT. § 392.300.2	--	Acquisition of Stock
MO. REV. STAT. § 392.310	--	Stock and Debt Issuance
MO. REV. STAT. § 392.320	--	Stock Dividend Payment
MO. REV. STAT. § 392.330	--	Issuance of Securities, Debts and Notes
MO. REV. STAT. § 392.340	--	Reorganization(s)

RULES

MO. CODE REGS. ANN. tit. 4 § 240-3.550(5)(c)	--	Exchange Boundary Maps
MO. CODE REGS. ANN. tit. 4 § 240-10.020	--	Income on Depreciation Fund Investments
MO. CODE REGS. ANN. tit. 4 § 240-30.040	--	Uniform System of Accounts
MO. CODE REGS. ANN. tit. 4 § 240-32.050(3)-(6)	--	Public Business Office Information; Telephone Directories etc.

22. The above-referenced rules and statutory provisions have been waived with regard to other competitive basic local exchange companies. These rules or statutory provisions are principally designed to apply to non-competitive telecommunications carriers. As a result, it would be inconsistent with the goal and purpose of Section 392.185 to apply them to a competitive telecommunications carrier such as Applicant, and, for this reason, KMC Data respectfully requests that the Commission waive the application of these rules.

23. The Company also exercises the option permitted by 4 CSR 240-3.510(1)(C) and has not attached a proposed tariff at this time. At such time as all facts necessary for the development of such tariffs are known to KMC Data, it will promptly file tariffs bearing no less than a forty-five day effective date with the Commission. In any circumstance, KMC Data will file its proposed basic local exchange service and switched exchange access tariffs, if necessary,

no later than thirty days after Commission approval of any interconnection agreement(s) applicant may enter.

24. KMC Data has no pending or final judgments or decisions against it or its affiliates from any state or federal agency or court that involve customer services or rates.

VII. PUBLIC INTEREST

25. KMC Data submits that approval of this Application is in the public interest because KMC Data is well-qualified – technically, managerially, and financially – to serve the Missouri public as a facilities-based and resold local exchange carrier. Moreover, permitting KMC Data to provide the services described in this Application will expand local service options for customers in Missouri, and will increase competition in Missouri by expanding the diversity of suppliers and competition within the local exchange telecommunications market -- without any adverse impact on the Commission's goals of universal service and affordable telecommunications services for the residents of Missouri.

26. KMC Data's participation in the market for local exchange telecommunications services in Missouri will promote consumer choice by expanding the availability of innovative, high quality, reliable and competitively-priced telecommunications services. Approval of this Application also is likely to compel other local telecommunications providers to improve their existing services, increase the quality and efficiency of their operations, and introduce innovative new services of their own. The addition of KMC Data to the Missouri telecommunications market makes it probable that consumers of telecommunications services in Missouri will receive the benefits of downward pressure on prices, improved customer responsiveness, and access to increasingly advanced telecommunications technology. Further, KMC Data's

provision of basic local exchange service to the business public in Missouri is consistent with the legislative goals set forth in the 1996 Act and Chapter 392 of the Missouri Revised Statutes.

27. KMC Data submits, notwithstanding the provisions of Section 392.500 RSMo., that as a condition of certification and competitive classification, unless otherwise ordered by the Commission, KMC Data originating and terminating switched exchange access rates will be no greater than the lowest Commission-approved corresponding access rates in effect for CenturyTel and Alltel within whose service areas KMC Data seeks authority to provide service. Additionally, pursuant to the Commission's Report and Order in Case No. TO-99-596, KMC Data agrees that if CenturyTel or Alltel decreases its originating and/or terminating access service rates, KMC Data will file an appropriate tariff amendment to reduce its originating and/or terminating access rates within 30 days of CenturyTel or Alltel's reduction of its originating and/or terminating access rates in order to maintain the cap on switched access rates.

WHEREFORE, KMC Data respectfully requests that the Commission grant KMC Data a certificate of service authority to provide basic local exchange telecommunication services in the exchanges served by SWBT, Sprint, Spectra, CenturyTel and Alltel in Missouri. KMC Data also requests classification as a competitive telecommunications company in Missouri. Finally, KMC Data requests that the Commission grant waivers of the aforementioned rules and statutory provisions.

Respectfully submitted,

KMC Data LLC

By: 

Mark W. Comley #28847
NEWMAN, COMLEY & RUTH P.C.
601 Monroe Street, Suite 301
P.O. Box 537
Jefferson City, MO 65101
Telephone: (573) 634-2266
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Brad Mutschelknaus
Denise N. Smith
KELLEY DRYE & WARREN LLP
1200 19th Street, N.W., Suite 500
Washington, D.C. 20036
Telephone: (202) 955-9600
Facsimile: (202) 955-9792

Its Attorneys

Certificate of Service

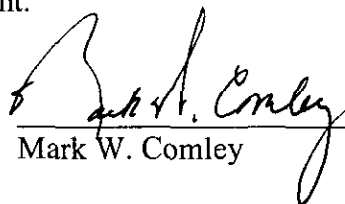
I hereby certify that a true and correct copy of the above and foregoing document was sent via e-mail on this 5th day of April, 2005, to General Counsel's Office at gencounsel@psc.state.mo.us; Office of Public Counsel at opcservice@ded.state.mo.us.



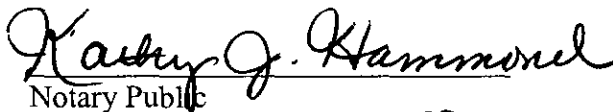
ATTORNEY VERIFICATION

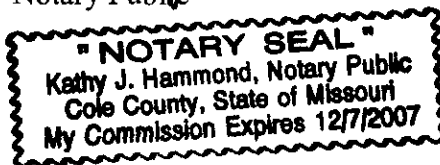
STATE OF MISSOURI)
) ss.
COUNTY OF COLE)

I, Mark W. Comley, being first duly sworn, do hereby certify, depose and state that I am the attorney for KMC Data LLC, applicant in this proceeding; that I have read the above and foregoing Application for Expansion of Certificate of Service Authority and Competitive Classification of KMC Data LLC and the allegations therein contained are true and correct to the best of my knowledge, information and belief; and I further state that I am authorized to verify the foregoing application by the above said applicant.


Mark W. Comley

Subscribed and sworn to before me, a Notary Public, this 5th day of April, 2005.


Notary Public



LIST OF EXHIBITS

EXHIBIT A: SECRETARY OF STATE CERTIFICATIONS

EXHIBIT B: MANAGEMENT PROFILES

EXHIBIT C: FINANCIAL QUALIFICATIONS

KMC DATA LLC
APPLICATION FOR CPCN
MISSOURI
EXHIBIT A

EXHIBIT A

CERTIFICATIONS

STATE OF MISSOURI



Matt Blunt
Secretary of State

CORPORATION DIVISION
CERTIFICATE OF GOOD STANDING

I, MATT BLUNT, *Secretary of the State of Missouri*, do hereby certify that the records in my office and in my care and custody reveal that

KMC DATA LLC

using in Missouri the name

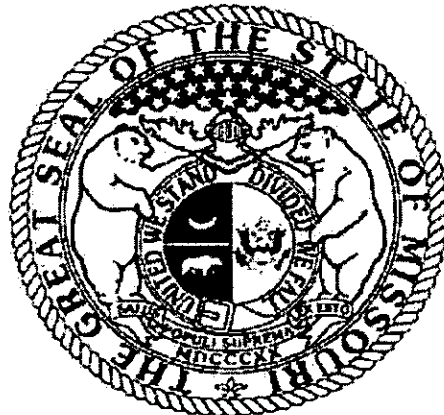
KMC DATA LLC
FL0047355

a DELAWARE entity was created under the laws of this State on the 2nd day of February, 2001, and is in good standing, having fully complied with all requirements of this office.

IN TESTIMONY WHEREOF, I have set my hand and imprinted the GREAT SEAL of the State of Missouri, on this, the 6th day of December, 2004

Matt Blunt

Secretary of State



Certification Number: 7214990-1 Reference:
Verify this certificate online at <http://www.sos.mo.gov/businessentity/verification>

EXHIBIT B

MANAGEMENT PROFILES

The following is a list of KMC Data LLC's management team:

William F. Lenahan	Chief Executive Officer
Roscoe C. Young II	Chief Executive Officer and Chief Operating Officer
William H. Stewart	Chief Financial Officer and Executive Vice President
Alan M. Epstein	General Counsel, Executive Vice President and Secretary
Robert Hagan	Senior Vice President/Finance and Assistant Secretary
Riley M. Murphy	Senior Vice President/Legal and Assistant Secretary
Constance Loosemore	Vice President, Treasurer and Assistant Secretary
Joseph P. Sheehan III	Vice President and Controller
Jessica Herr	Vice President/Finance and Assistant Secretary
Gary Wagner	Vice President and Regulatory Compliance
Julie L. DeSantis	Assistant Secretary

Collectively, the members of KMC Data's management team have designed, managed, and/or operated advanced telecommunications facilities throughout the United States. The members of KMC Data's management team bring many years of experience and a wealth of knowledge from being associated with a number of a highly successful companies in the telecommunications industry.

William F. Lenahan is the Chief Executive Officer and a member of the Board of Directors of KMC Telecom Holdings, Inc. Mr. Lenahan came to KMC from BellSouth Wireless Data, where he was President and CEO, responsible for financial performance and nationwide wireless data strategy for this division of BellSouth Corporation, beginning in October 1994. Through his vision and execution, BellSouth earned recognition as the nationwide leader in wireless data. Lenahan's team combined the power of handheld computers with wireless technology to deliver products and services for interactive messaging, email on the belt and access to the Internet with Palm.net service on the Palm VII, the first true Internet appliance. Mr. Lenahan has served nearly 30 years in the information technology, telecommunications and data industries. He began his career at IBM, where he worked for 12 years in a variety of sales, marketing, operations and human resources executive assignments, and sat on the IBM Product Review Board, helping determine key product launches. He later joined United Telecom, the forerunner of Sprint, where he started Amerisource, a new business that resold PBXs, PCs and systems integration products. In 1986, he was named President and CEO of Bell Atlantic's Compushop division, a reseller of PCs and communications products. From 1987 to 1993 he was Vice President/General Manager and then President and CEO of three Sears divisions – Sears Business Centers, Office Centers and Computer Services. Mr. Lenahan earned a Bachelor of Science degree in Data Processing at Kings College, and has pursued graduate studies in Business Administration at Pace University, Financial Management at Harvard University and Financial Planning at LaHulpe in Belgium. He is a member of the boards of the Broadbeam Corporation and the WolfeTech Corporation, a member of the World President's Organization, and was on the Advisory Councils of IBM, Compaq and NCR.

Roscoe C. Young, II, KMC Data's Chief Executive Officer and Chief Operating Officer, prior to joining the Company, was Vice President of Network Services for Ameritech, where he led more than 4,000 employees in providing services ranging from ISDN and digital Centrex to dial tone. He previously directed engineering, network services, national account sales, marketing and real estate procurement for MFS Communications as Senior Vice President of that company. He has also been a senior executive with AT&T where he was responsible for sales, marketing, operations, engineering, financial management and human resources. During that time, he was selected by the Reagan Administration to serve as a Special Assistant to Secretary of Defense Caspar Weinberger under the White House Executive Exchange Program.

William H. Stewart, KMC Data's Chief Financial Officer and Executive Vice President, was previously employed with Nassau Capital. Mr. Stewart joined Nassau Capital in 1995 and has over eleven in the telecommunications investment industry. While at Nassau Capital, Mr. Stewart led Nassau's investment program in the communications industry, which included investments in Cypress Communications, Crown Castle and Portal Software. Mr. Stewart has served as a Director of KMC Data since 1996. He graduated cum laude with a B.S. degree from Villanova University, earned an M.B.A. from New York University, and is a Chartered Financial Analyst.

Alan M. Epstein, KMC Data's Executive Vice President and Chief Legal Counsel, is a partner in the New York office of Sidley Austin Brown & Wood. He practices in all areas of domestic and international project finance with a particular focus on power, telecommunications, processing plants and infrastructure finance. He has represented multilateral agencies, major developers and financial institutions in project finance transactions in Asia, South America and Europe. In telecommunications finance, he has advised a major local exchange carrier and a

number of other telecom providers. He has extensive experience in financing of non-recourse and limited recourse projects. Mr. Epstein is the author of a chapter on lease financing published by Matthew Bender & Co., Inc. Mr. Epstein is a 1974 graduate of Syracuse University College of Law.

Robert Hagan is Senior Vice President, Finance for KMC Data. Hagan joined KMC in 1997 as Corporate Controller and was promoted to his current position in 2000. Mr. Hagan currently oversees the company's finance, accounting, tax, access cost management and purchasing organizations. Prior to joining KMC, Mr. Hagan held positions as VP of Finance for Westfalia Separator, Inc., CFO of Lynton Group, Inc. and as an audit manager for Ernst & Young. Mr. Hagan is a Certified Public Accountant with bachelor degrees in accounting and business administration from Fairleigh Dickinson University in New Jersey.

Riley M. Murphy is Senior Vice President/Legal Affairs. Ms. Murphy has held executive positions in the competitive local telecommunications sector since 1994. She has served as Senior Vice President/Legal Affairs of KMC Data in Bedminster, NJ since August 2002. In 2000, she served as General Counsel/Senior Vice President/Corporate Secretary for Trivergent Communications, which merged with Gabriel Communications (now NuVox), and from 1994-2000 she was General Counsel/Executive Vice President/Corporate Secretary of e.spire. During 1995-1999, she held various terms as an active board member of three industry trade associations ALTS, CompTel and the Commercial Internet eXchange (CIX). She has testified before Congressional subcommittees, state utility commissions and local governments on various competitive telecommunications issues. She spent the first part of her career in private practice, representing cellular carriers, IXCs and other competitive providers.

Constance Loosemore, Vice President, Assistant Treasurer and Assistant Secretary joined KMC after serving as Assistant Vice President, Telecommunications and Media Group with Dresdner Kleinwort Benson. Prior to that she was the Assistant Vice President, US Project Finance Group with the Sanwa Bank. Ms. Loosemore earned a BS in Finance from the University of Tennessee.

EXHIBIT C

FINANCIAL QUALIFICATIONS

Filed Under Seal