

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the)	Application No. C-3527
Application of KMC Data, LLC,)	
Bedminster, New Jersey,)	
seeking authority to complete)	GRANTED
a series of transactions)	
resulting in the transfer of)	
control to Hypercube, LLC,)	
Bedminster, New Jersey.)	Entered: February 7, 2006

BY THE COMMISSION:

On December 23, 2005, an application was filed by KMC Data, LLC (KMC), Bedminster, New Jersey, seeking authority to complete a series of transactions resulting in the transfer of control to Hypercube, LLC, (Hypercube), Bedminster, New Jersey. Notice of the application was published in The Daily Record, Omaha, Nebraska, on December 29, 2005. No protests were filed; therefore, this application is processed pursuant to the Commission's Rule of Modified Procedure.

O P I N I O N A N D F I N D I N G S

The Parties:

KMC is a Delaware corporation with its headquarters in Bedminster, New Jersey. KMC was granted authority to provide local exchange telecommunications services in the state of Nebraska pursuant to authority issued in Application No. C-2554. KMC is an indirect, wholly owned subsidiary of KMC Telecom Holdings, Inc., which is owned by a diverse group of investors.

Hypercube is a limited liability company formed under the laws of the State of Delaware with its principal place of business in Bedminster, New Jersey. Hypercube is a newly formed entity that is overseen by former members of the senior executive team of the KMC Companies. Hypercube was formed for the purpose of acquiring KMC in order to allow the continued provision of service to customers of the KMC tandem service business.

Hypercube states it is well qualified to acquire ownership and control of KMC. With respect to managerial

and technical capabilities, Hypercube's operations are overseen by virtually the same management team that currently oversees KMC's operations.

The Transaction:

KMC and Hypercube (together "Applicants") have agreed to complete a series of transactions whereby KMC will become a wholly owned direct subsidiary of Hypercube. Applicants have entered into an Asset Purchase Agreement ("Agreement"). Under the terms of the Agreement, Hypercube will acquire the membership interests of KMC in return for a \$1.6 million subordinated promissory note, along with certain other considerations including the assumption by Hypercube of certain liabilities of the KMC companies.

Although the proposed transactions will result in a change in the ownership of KMC, the transactions will not affect the assets KMC currently holds or adversely affect any of the customers who receive service in connection with KMC's ongoing operations. Immediately following the consummation of the transactions, those customers will continue to receive service under the same rates, terms and conditions of service and continue to receive service under the KMC brand name. As a new subsidiary of Hypercube, KMC will continue to operate and provide services to its customers and will retain the assets used in the provisions of those services. As a result, the transactions will be virtually transparent to KMC's customers in terms of the services they receive.

The parties submit that the public interest will be served because Hypercube holds the financial, managerial and technical qualifications to acquire and operate KMC. In addition, the transaction will increase competition in the telecommunications market by ensuring the ability of KMC to remain a viable and effective competitor. The transactions will ensure that customers of the tandem business can continue to receive service on an uninterrupted basis. Furthermore, the transaction will be seamless in nature and therefore virtually transparent to existing KMC customers.

Based on the evidence, we find the application to be fair and reasonable and in the public interest. The application should be granted.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that Application No. C-3527 be, and it is hereby, approved.

MADE AND ENTERED at Lincoln, Nebraska, this 7th day of February, 2006.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Chairman

ATTEST:

Executive Director