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May 11, 2005

RECEIVED

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PUBLIC SERVICE  
COMMISSION

**VIA OVERNIGHT DELIVERY**

Ms. Beth O'Donnell  
Executive Director  
Kentucky Public Service Commission  
211 Sower Boulevard  
Frankfort, KY 40602-0615

Re: KMC Data LLC Notice of Election of Interconnection Agreement  
Case No. 2005-00097

Dear Ms. O'Donnell:

On behalf of KMC Data LLC ("KMC Data" or the "Company"), and in response to discussions with Ms. Amy Dougherty of the Kentucky Public Service Commission ("Commission"), the undersigned counsel submits an original and four (4) copies of this letter for inclusion in the record of the above-referenced case.

KMC Data hereby notifies the Commission that the Company will not be filing a formal response to the March 16, 2004 Motion to Dismiss filed by BellSouth Telecommunications, Inc. ("BellSouth"). KMC Data believes its previous submissions provide sufficient information to support its request to adopt the interconnection agreement between BellSouth and Level 3 Communications, L.L.C. ("BellSouth/Level 3 Agreement").

In addition, KMC Data submits that the Commission has authority to approve KMC Data's adoption of the BellSouth/Level 3 Agreement and requests that the Commission grant the adoption. Specifically, in the March 28, 2005 decision in *BellSouth Telecommunications, Inc. v. Universal Telecom, Inc.* the United States District Court for the Eastern District of Kentucky upheld an order of the Kentucky Public Service Commission approving the unilateral adoption of a BellSouth interconnection agreement under facts similar to those in the present case. (Civ. Action No. 3:04-35-JMH) The Court agreed with the Commission's decision approving the adoption even though there had been a change in law since the agreement had been negotiated and the agreement was over a year old at the time of the

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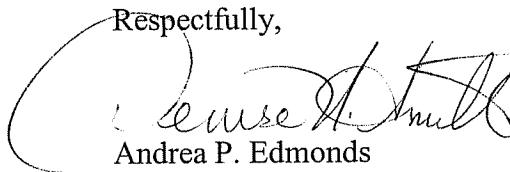
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adoption request. *Id.* at 2, 9. In accord with that decision, the Commission has the authority to approve KMC Data's unilateral adoption of the BellSouth/Level 3 Agreement. KMC respectfully requests that the Commission approve its adoption of the BellSouth/Level 3 Agreement without further delay.

Enclosed is a duplicate of this letter and a self-addressed and stamped envelope. Kindly date-stamp the duplicate and return it in the enclosed envelope.

Please do not hesitate to contact me at (202) 955-9886 if you have any questions about this filing.

Respectfully,

A handwritten signature in cursive script, appearing to read "Denise N. Smith". The signature is written in dark ink and is positioned to the right of the word "Respectfully,".

Andrea P. Edmonds  
Denise N. Smith  
*Counsel to KMC Data LLC*

Encl.

cc: Dorothy J. Chambers, BellSouth Telecommunications, Inc.  
Jim Tamplin, BellSouth Interconnection Services  
Ms. Amy Dougherty, Kentucky PSC Staff

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