

**KELLEY DRYE & WARREN LLP**

A LIMITED LIABILITY PARTNERSHIP

1200 19<sup>TH</sup> STREET, N.W.

SUITE 500

WASHINGTON, D.C. 20036

(202) 955-9600

B

FACSIMILE

(202) 955-9792

www.kelleydrye.com

WRITER'S DIRECT LINE

(202) 955-9785

WRITER'S E-MAIL

moden@kelleydrye.com

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NEW YORK, NY  
TYSONS CORNER, VA  
LOS ANGELES, CA  
CHICAGO, IL  
STAMFORD, CT  
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BRUSSELS, BELGIUM  
HONG KONG

AFFILIATE OFFICES  
BANGKOK, THAILAND  
JAKARTA, INDONESIA  
MANILA, THE PHILIPPINES  
MUMBAI, INDIA  
TOKYO, JAPAN

September 19, 2001

*Via Federal Express*

Ms. Stephanie Bell  
Secretary  
Public Service Commission of Kentucky  
211 Sower Boulevard  
Frankfort, KY 40602-0615

Re: KMC Data, LLC's Notice of Intent to Provide Telecommunications Service

Dear Ms. Bell:

05053050 (0505) pending  
22250530 (0510)

Enclosed for filing with the Public Service Commission of Kentucky ("Commission"), please find an original and four (4) copies of KMC Data, LLC's ("KMC Data") Notice of Intent to Provide Resold and Facilities-Based Local Exchange and Resold Interexchange Telecommunications Service in the Commonwealth of Kentucky.

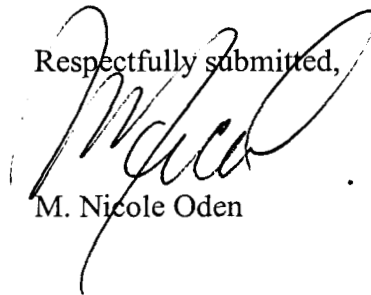
Also, please accept this letter as confirmation of the rates, terms and services provided for in KMC Data's Tariffs, Kentucky P.S.C. No. 1 and Kentucky P.S.C. No. 2. At present, KMC Data does not intend to offer services where in either tariff (1) there is no rate listed and/or (2) the rate provision has been "RESERVED FOR FUTURE USE."

At such time as KMC Data decides to offer additional services, the Company will revise its respective tariffs in conformity with all of the Commission's applicable rules and regulations.

Ms. Stephanie Bell  
September 19, 2001  
Page Two

In addition, enclosed is a duplicate of this filing. Please date-stamp the duplicate and return it in the self-addressed, postage-paid envelope provided. Finally, please do not hesitate to contact me with any questions you may have regarding this filing. Thank you for your kind assistance with this matter.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "M. Nicole Oden", written in a cursive style.

M. Nicole Oden

Enclosures

**BEFORE THE  
PUBLIC SERVICE COMMISSION OF KENTUCKY**

**IN THE MATTER OF KMC DATA, LLC                    )**  
**NOTICE OF INTENT TO PROVIDE RESOLD            )**  
**AND FACILITIES-BASED TELECOMMUNICATIONS    )**     **CAUSE NO. \_\_\_\_\_**  
**SERVICE IN THE COMMONWEALTH OF KENTUCKY )**

In accordance with the Kentucky Public Service Commission’s provisions in Administrative Case No. 359 and Section 807 KAR 5:011, KMC Data, LLC (“KMC Data” or “Company”) respectfully submits this Notice of Intent to Provide Resold and Facilities-Based Local Exchange and Resold Interexchange Services in the Commonwealth of Kentucky (“Notice”) and the associated tariffs. In support of this Notice, KMC Data submits the following information:

**I.     NAME, ADDRESS, AND TELEPHONE NUMBER OF THE COMPANY**

The name, address, and telephone number of the Company are:

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

## II. ARTICLES OF INCORPORATION

KMC Data is a privately held limited liability company organized under the laws of Delaware. A copy of KMC Data's Certificate of Formation is attached hereto as *Exhibit A*. KMC Data has been duly authorized by the Secretary of State of to transact business as a foreign corporation within Kentucky. A Copy of KMC Data's Certificate of Authority to do Business is appended hereto as *Exhibit B*. KMC Data is a wholly owned subsidiary of KMC Telecom Holdings, Inc. ("KMC Holdings"), a Delaware corporation with its principal office and place of business located at:

KMC Telecom Holdings, Inc.  
1545 Route 206  
Suite 300  
Bedminster, New Jersey 07921

## III. CONTACTS

### A. Customer Complaints

The Company's toll-free number for customer service, which is available 24 hours/day, 7 days/week, is (888) 272-8778.

### B. Corporate Contact

KMC Data's contact for customer complaints and regulatory issues is:

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

C. Designated Contacts for Notice

The designated contacts for this Notice are:

Genevieve Morelli  
Eric D. Jenkins  
M. Nicole Oden  
KELLEY DRYE & WARREN LLP  
1200 19th Street, N.W., Suite 500  
Washington, D.C. 20036  
Telephone: (202) 955-9600  
Facsimile: (202) 955-9792

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

Tricia Breckenridge  
Executive Vice President, Business Development  
KMC TELECOM, INC.  
1755 North Brown Road  
Lawrenceville, Georgia 30043  
Telephone: (678) 985-7900  
Facsimile: (678) 985-6213

IV. NOTARIZED STATEMENT

A notarized statement by an officer of KMC Data that the Company has not provided or collected for intrastate service in Kentucky prior to filing this Notice is appended hereto as *Exhibit C*.

V. SERVICE TO AGGREGATORS

At this time KMC Data does not intend to provide operator-assisted calling to its customers. However, in the event that in the future the Company chooses to provide service to traffic aggregators it will comply fully with the Commission's mandates in Administrative Case No. 330.

**VI. PROPOSED TARIFF/SAMPLE BILL**

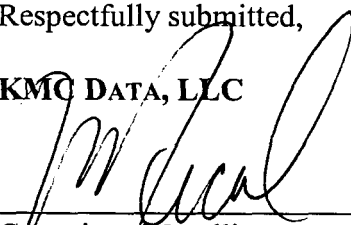
KMC Data appends hereto as *Exhibits D & E* its proposed tariffs for local exchange service and interexchange telecommunications service, respectively. The tariffs are being filed and dated to become effective thirty (30) days from the date of this filing. In addition, in compliance with Commission requirements, a sample customer bill is attached hereto as *Exhibit F*.

WHEREFORE, KMC Data requests that the Public Service Commission of the Commonwealth of Kentucky grant authority to provide resold and facilities-based local exchange and resold interexchange telecommunications services to the public in accordance with applicable laws currently in effect or hereinafter enacted by the Commission.

Respectfully submitted,

**KMC DATA, LLC**

By: \_\_\_\_\_

  
Genevieve Morelli  
Eric D. Jenkins  
M. Nicole Oden  
KELLEY DRYE & WARREN LLP  
1200 19th Street, N.W., Suite 500  
Washington, D.C. 20036

Its Attorneys

Dated: September 19, 2001

**VERIFICATION**

[Commonwealth/State] of New Jersey

: ss.

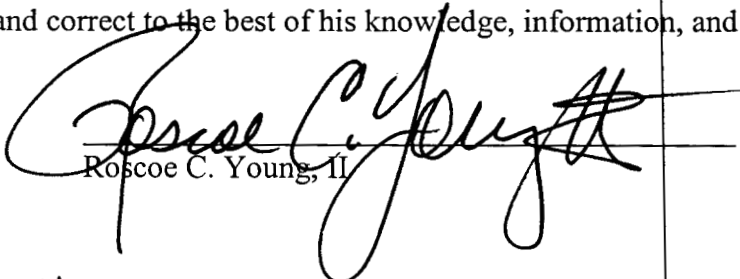
County of Somerset :

**Roscoe C. Young, II**, Affiant, being duly [sworn/affirmed] according to law, deposes and says that:

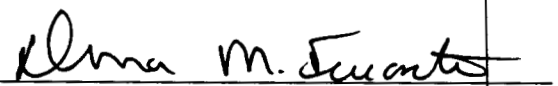
He is the **President and Chief Operating Officer** (Office of Affiant) of KMC Data, LLC


That he is authorized to and does make this affidavit for KMC Data, LLC;

That the facts above set forth are true and correct to the best of his knowledge, information, and belief.

  
\_\_\_\_\_  
Roscoe C. Young, II

Sworn and subscribed before me this 14<sup>th</sup> day of September, 2001

  
\_\_\_\_\_  
Signature of official administering oath

My commission expires \_\_\_\_\_  **DINA M. FERRANTE**  
**Notary Public, State of New Jersey**  
**My Commission Expires August 6, 2003**

# EXHIBIT A

## CERTIFICATE OF FORMATION



Office of the Secretary of State

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I, HARRIET SMITH WINDSOR, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY "KMC DATA LLC" IS DULY FORMED UNDER THE LAWS OF THE STATE OF DELAWARE AND IS IN GOOD STANDING AND HAS A LEGAL EXISTENCE SO FAR AS THE RECORDS OF THIS OFFICE SHOW, AS OF THE TWENTY-NINTH DAY OF JANUARY, A.D. 2001.

AND I DO HEREBY FURTHER CERTIFY THAT THE ANNUAL TAXES HAVE NOT BEEN ASSESSED TO DATE.



*Harriet Smith Windsor*  
Harriet Smith Windsor, Secretary of State

AUTHENTICATION: 0941376

3344825 8300

010045766

DATE: 01-29-01

State of Delaware  
Office of the Secretary of State

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PAGE 1

I, HARRIET SMITH WINDSOR, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT COPY OF THE CERTIFICATE OF FORMATION OF "KMC DATA LLC", FILED IN THIS OFFICE ON THE TWELFTH DAY OF JANUARY, A.D. 2001, AT 4:30 O'CLOCK P.M.



*Harriet Smith Windsor*

Secretary of State

AUTHENTICATION: 0918432

DATE: 01-17-01

3344825 8100

010025137

**CERTIFICATE OF FORMATION**

**OF**

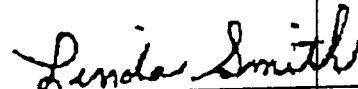
**KMC DATA LLC**

The undersigned, an authorized natural person, for the purpose of forming a limited liability company under the provisions of and subject to the requirements of the State of Delaware (particularly Chapter 18, Title 6 of the Delaware Code and the acts amendatory thereof and supplemental thereto, and known, identified and referred to as the "Delaware Limited Liability Company Act"), hereby certifies that:

**FIRST:** The name of the limited liability company is **KMC DATA LLC** (the "Company").

**SECOND:** The address of the registered office in the State of Delaware is Corporation Trust Center, 1209 Orange Street, Wilmington, Delaware 19801. The name of its registered agent at such address is The Corporation Trust Company.

IN WITNESS WHEREOF, the undersigned has executed this Certificate of Formation on the 10th day of January, 2001.



Linda Smith, Authorized Person

STATE OF DELAWARE  
SECRETARY OF STATE  
DIVISION OF CORPORATIONS  
FILED 04:30 PM 01/12/2001  
010025137 - 3344825

KMC DATA LLC

\* \* \* \*

ACTION BY WRITTEN CONSENT OF  
THE SOLE MEMBER

THE UNDERSIGNED, being the Sole Member of KMC Data LLC, a Delaware limited liability company (the "Company"), does hereby take the following action by written consent pursuant to Section 18-302(d) of the Limited Liability Company Act of the State of Delaware:

RESOLVED, that the following persons are hereby elected as officers of the Company effective as of January 12, 2001 in the positions set forth across from their names to serve, subject to their current compensations, in such capacity until their successors are elected and qualified or removed as provided in the Company's limited liability company agreement:

William F. Lenahan	Chief Executive Officer
Roscoe C. Young II	President and Chief Operating Officer
William H. Stewart	Chief Financial Officer
Marcy Dean	Senior Vice President and Treasurer
Robert Hagan	Senior Vice President of Finance
Constance Loosemore	Vice President, Assistant Treasurer and Assistant Secretary
Alan M. Epstein	Secretary

IN WITNESS WHEREOF, I have hereunto set my hand as of this 12 day of January, 2001.

KMC Telecom Holdings, Inc.

By: 

Name: William H. Stewart

Title: CFO

Dated: As of January 12, 2001

## EXHIBIT B

### AUTHORIZATION TO TRANSACT BUSINESS

COMMONWEALTH OF KENTUCKY  
JOHN Y. BROWN III  
SECRETARY OF STATE

0510484.06



John Y. Brown III  
Secretary of State  
Received and Filed  
02/12/2001 01:22 PM  
Fee Receipt: \$90.00

APPLICATION FOR CERTIFICATE OF AUTHORITY

Pursuant to the provisions of KRS Chapter 275, the undersigned hereby applies for authority to transact business in Kentucky on behalf of the limited liability company named below and for that purpose submits the following statements:

- 1. The company is  a limited liability company (LLC).  
 a professional limited liability company (PLLC).

Document No.: DN2001026718  
Lodged By: MAIL 132135116  
Recorded On: 02/23/2001 08:23:50  
Total Fees: 9.00  
Transfer Tax: .00  
County Clerk: Bobbie Hoisler-JEFF CO KY  
Deputy Clerk: KELMAL

2. The name of the limited liability company is  
KMC Data LLC

3. The name of the limited liability company to be used in Kentucky is

(If "real name" is unavailable for use)

4. Delaware is the state or country of organization.

5. 01/12/2001 is the date of organization and, if the limited liability company has a specific date of dissolution, the latest date upon which the limited liability company is to dissolve is

6. The street address of the office required to be maintained in the state of formation or, if not so required, the principal office address is  
1545 Route 206, Bedminster, NJ 07921

7. The names and usual business addresses of the current managers, if any, are as follows:  
SEE ATTACHMENT

Name	Address

(Attach a continuation, if necessary)

8. The street address of the registered office in Kentucky is  
c/o C T Corporation System, Kentucky Home Life Building, Louisville, Kentucky 40202

and the name of the registered agent at that office is  
C T Corporation System

9. This application will be effective upon filing, unless a delayed effective date and/or time is specified:

(Delayed effective date and/or time)

I certify that, as of the date of filing this application, the above-named limited liability company validly exists as a limited liability company under the laws of the jurisdiction of its formation.

[Signature]  
Signature  
Constance Loosemore, Manager  
Type or Print Name & Title

Date: Jan 26 01

C T Corporation System  
Type or print name of registered agent, consent to serve as the registered agent on behalf of the limited liability company.

By: [Signature]  
Signature of Registered Agent

CHARLES W. MEYER  
Type or Print Name & Title  
ASSISTANT SECRETARY

# EXHIBIT C

## NOTARIZED STATEMENT



**BEFORE THE  
COMMONWEALTH OF KENTUCKY  
PUBLIC SERVICE COMMISSION**

**AFFIDAVIT**

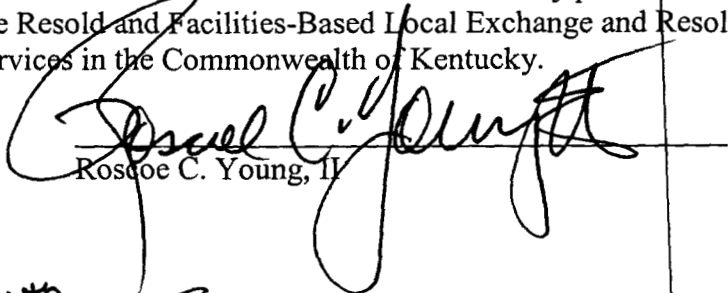
[Commonwealth/State] of New Jersey :  
County of Somerset : ss.

**Roscoe C. Young, II.**, Affiant, being duly [sworn/affirmed] according to law, deposes and says that:

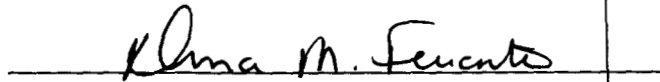
He is the **President and Chief Operating Officer** (Office of Affiant) of KMC Data, LLC

That he is authorized to and does make this affidavit for KMC Data, LLC;

That KMC Data, LLC has not provided service in the Commonwealth of Kentucky prior to the filing of this Notice of Intent to Provide Resold and Facilities-Based Local Exchange and Resold Interexchange Telecommunications Services in the Commonwealth of Kentucky.

  
Roscoe C. Young, II

Sworn and subscribed before me this 14<sup>th</sup> day of September, 2001.

  
Signature of official administering oath

**DINA M. FERRANTE**  
Notary Public, State of New Jersey  
My Commission Expires August 6, 2006

My commission expires \_\_\_\_\_

## EXHIBIT D

### PROPOSED LOCAL EXCHANGE TELECOMMUNICATIONS SERVICE TARIFF