

**BEFORE THE TENNESSEE REGULATORY AUTHORITY
NASHVILLE, TENNESSEE**

In re:

DeltaCom, Inc.

Complainant,

-v.-

KMC Data, LLC, Hypercube, LLC and
Hypercube Telecom, LLC,

Respondent.

Docket No.: 09-00077

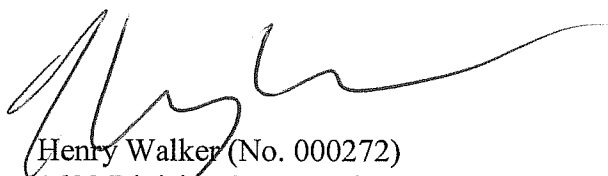
MOTION TO FILE AMENDED COMPLAINT

Pursuant to Rule 15.01 of the Tennessee Rules of Civil Procedure,¹ DeltaCom, Inc. respectfully requests leave of the Authority to file this amended complaint. The amended complaint should be substituted for the original complaint filed by DeltaCom on June 5, 2009. Exhibits A-D, as originally filed are unchanged and are not being refiled. The Amended Complain, however, now includes an additional exhibit, **Exhibit E**, attached.

¹ The TRA Rules do not discuss the filing of amended pleadings. Under T.R.C.P. 15.01, a party may file an amended pleading by agreement or by leave of court. "[L]eave shall be freely given when justice so requires." At this time, no substantive proceedings have yet occurred, only the filing of the parties' claims and answers. Therefore, allowing the filing of this amended complaint will not prejudice any party. Under T.R.C.P. Rule 15.01 and TRA Rule 1220-1-2-.03(i), the respondent has thirty days to file an answer to the amended complaint.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of this Motion to File Amended Complaint has been served upon the following by U.S. Mail this 20 day of October, 2009.

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