

**BEFORE THE MISSOURI PUBLIC SERVICE COMMISSION**

<b>APPLICATION OF ICG TELECOM</b>	)	
<b>GROUP, INC. FOR APPROVAL OF</b>	)	
<b>AMENDMENTS TO ITS M2A</b>	)	
<b>INTERCONNECTION AGREEMENT</b>	)	
<b>WITH SOUTHWESTERN BELL</b>	)	<b>CASE NO. _____</b>
<b>TELEPHONE COMPANY PURSUANT</b>	)	
<b>TO § 252(e) OF THE</b>	)	
<b>TELECOMMUNICATIONS</b>	)	
<b>ACT OF 1996</b>	)	

**APPLICATION FOR APPROVAL OF AMENDMENTS  
TO THE M2A INTERCONNECTION AGREEMENT  
BETWEEN ICG TELECOM GROUP, INC.  
AND  
SOUTHWESTERN BELL TELEPHONE COMPANY**

COMES NOW ICG Telecom Group, Inc. ("ICG") and, for its application for approval of five amendments ("the Amendments") to its Missouri 271 Agreement ("M2A") interconnection agreement with Southwestern Bell Telephone Company d/b/a SBC Missouri ("SBC Missouri") pursuant to § 252(e) of the Telecommunications Act of 1996 ("the Federal Act"), Section 392.240 RSMo, and 4 CSR 240-2.060, states to the Commission as follows:

**I. Parties**

1. ICG is a corporation organized under Colorado law with its principal place of business located at 161 Inverness Drive West, Englewood, Colorado 80112. ICG is a wholly owned subsidiary of ICG Communications, Inc., a Delaware corporation. ICG is a telecommunications services provider with clustered regional telecommunications networks throughout the United States. It is authorized to provide local and interexchange telecommunications services in Missouri by certificates issued by the Commission. Its certificate

of authority to conduct business in Missouri was filed in Case No. LK-2002-1093 and remains current.

2. All inquiries, correspondence, communications, pleadings, notices, orders and decisions relating to this Application should be directed to:

Carl J. Lumley  
Leland B. Curtis  
Curtis, Oetting, Heinz, Garrett & O'Keefe, PC  
130 S. Bemiston, Suite 200  
Clayton, Missouri 63105  
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and

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919 Congress Avenue, Suite 1060  
Austin, Texas 78701  
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3. SBC Missouri is a Texas limited partnership with its principal Missouri place of business located at One Bell Center, St. Louis, Missouri 63101. SBC Missouri is an incumbent local exchange carrier ("ILEC"), as defined in Section 251(h) of the Federal Act, and is a noncompetitive large local exchange carrier as defined by Section 386.020 R.S.Mo. It is the successor to Southwestern Bell Telephone Company ("SWBT").

## **II. Allegations of Fact**

4. ICG presents to this Commission for approval the Amendments to its M2A Agreement with SBC Missouri, attached hereto as Exhibits 1 through 3, negotiated and executed

pursuant to the terms of the Federal Act. All issues have been successfully negotiated and agreed upon. No arbitration of any issue is required.

5. The parties have agreed to supplement and amend the M2A to include the following amendments:

? Amendment – Add Dark Fiber Inquiry Language

? Further Amendment to Amendment Superseding Certain Compensation, Interconnection, and Trunking Provisions and

? Traffic Termination Agreement

6. Except as modified by the Amendments, all other terms and conditions of the M2A Agreement between the parties shall remain unchanged and in full force and effect.

7. Amendment – Add Dark Fiber Inquiry Language sets forth the terms and conditions under which SBC Missouri will make available dark fiber to ICG.

8. Amendment – Add Dark Fiber Inquiry Language is attached hereto as Exhibit 1.

9. Further Amendment to Amendment Superseding Certain Compensation, Interconnection, and Trunking Provisions sets forth additional terms and conditions that govern reciprocal compensation, points of interconnection, and trunking requirements. Specifically, the Amendment No. 1 Superseding Certain Compensation, Interconnection and Trunking Provisions, is being expressly revised and superseded by this Further Amendment.

10. Further Amendment to Amendment Superseding Certain Compensation, Interconnection, and Trunking Provisions is attached hereto as Exhibit 2.

11. The Traffic Termination Agreement sets forth the respective obligations of the parties and the terms and conditions under which the parties will 1) terminate local and toll

traffic on each others' networks, 2) pass transiting traffic across each others' facilities, and 3) interconnect their networks.

12. The Traffic Termination Agreement is attached hereto as Exhibit 3.

13. ICG seeks the Commission's approval of the Amendments to its M2A Agreement consistent with the provisions of the Federal Act and Missouri law. ICG believes that the implementation of the Amendments complies fully with § 252(e) of the Federal Act because the Amendments are non-discriminatory and consistent with the public interest, convenience and necessity. The Amendments promote diversity in providers, provide for interconnectivity between the parties, and will lead to increased customer choices for telecommunications services.

14. ICG respectfully requests that the Commission grant approval of the Amendments without change, suspension, or other delay in their implementation. These are bilateral Amendments, entered into as a result of negotiations and compromise between competitors, and ICG believes that procedures for review of the Amendments should be designed to permit expeditious implementation thereof, and that interventions should be strictly limited consistent with the scope of review specified by the Federal Act and the Commission's applicable rules.

15. The Applicable standard of review is set forth in § 252(e) of the Federal Act and provides as follows:

(e) APPROVAL BY STATE COMMISSION –

- (1) **APPROVAL REQUIRED** – Any interconnection agreement adopted by negotiation or arbitration shall be submitted for approval to the State commission. A State commission to which an agreement is submitted to shall approve or reject the agreement, with written findings as to any deficiencies.
- (2) **GROUND FOR REJECTION** – The State commission may only reject –

- (A) an agreement (or any portion thereof) adopted by negotiation under subsection (a) if it finds that –
  - (i) the agreement (or portion thereof) discriminates against a telecommunications carrier not a party to the agreement; or
  - (ii) the implementation of such agreement or portion is not consistent with the public interest, convenience and necessity.

16. ICG does not have any pending actions or unsatisfied final judgments or decisions against it from any state or federal agency or court which involve customer service or customer rates, which action, judgment or decision has occurred within three years of the date of this Application.

17. ICG does not have any overdue annual reports or assessment fees.

#### **IV. Relief Sought**

WHEREFORE, ICG respectfully requests that the Commission approve its acceptance of the Amendments to its M2A Interconnection Agreement between ICG and SBC Missouri and grant additional relief as the Commission deems proper and reasonable.

Respectfully submitted,

/s/ Carl J. Lumley

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Carl J. Lumley MBE 32869  
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Curtis, Oetting, Heinz, Garrett & O'Keefe, PC  
130 S. Bemiston, Suite 200  
Clayton, Missouri 63105  
Telephone: (314) 725-8788  
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lcurtis@cohgs.com

/s/ Bradford W. Bayliff (by Carl J. Lumley)

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Bradford W. Bayliff  
Casey & Gentz, L.L.P.  
919 Congress Avenue, Suite 1060  
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ATTORNEYS FOR ICG TELECOM GROUP, INC.

#### CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of this document was served upon the parties listed below on this 27th day of October, 2003 by placing same in the U.S. Mail, postage prepaid.

/s/ Carl J. Lumley

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Carl J. Lumley

Office of the Public Counsel  
PO Box 7800  
Jefferson City, Missouri 65102

Office of General Counsel  
Missouri Public Service Commission  
PO Box 360  
Jefferson City, Missouri 65102

Legal Department  
Southwestern Bell Telephone Company  
One Bell Center, Room 3520  
St. Louis, Missouri 63101-1976

STATE OF COLORADO )

) SS:

I, Darian Collins, being first duly sworn, depose and state that I am over the age of 21 years, sound of mind, and the Manager of Business and Governmental Affairs of ICG Communications, Inc., the parent company of ICG Telecom Group, Inc., the Applicant in the subject proceeding, and that I am authorized to make this Verification on behalf of ICG Telecom Group, Inc.; that I have read the foregoing Application and know the contents thereof; and that the same is true and correct to the best of my knowledge, information, and belief. Further, I verify that the Applicant will comply with all other applicable rules and regulations. I also verify that Carl J. Lumley, Leland B. Curtis, and Curtis, Oetting, Heinz, Garrett & O'Keefe, PC, 130 S. Bemiston, Suite 200, Clayton, Missouri, 63105 are authorized to sign all pleadings and documents necessary to receive the approval of the Missouri Public Service Commission of the foregoing Application, and to represent ICG Telecom Group, Inc. in this proceeding.

**Darian Collins**  
**Manager,**  
**Business and Governmental Affairs**  
**ICG Communications, Inc.**

Subscribed and sworn to before me this 20<sup>th</sup> day of October, 2003.

**My commission expires:** 10-15-05