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May 9, 2003

FILED<sup>3</sup>

MAY 09 2003

Missouri Public  
Service Commission

The Honorable Dale Hardy Roberts  
Secretary/Chief Regulatory Law Judge  
Missouri Public Service Commission  
P.O. Box 360  
Jefferson City, MO 65102-0360

Re: ACN Communication Services, Inc.; Basic Local Application

Dear Judge Roberts:

Enclosed for filing in the above-referenced matter, please find the original and eight copies of an Application for a Certificate of Service Authority to Provide Basic Local Telecommunications Service in portions of the State of Missouri and for Competitive Classification. I note that I filed a motion for a protective order with the Commission in conjunction with Exhibit C of the Application and also enclose the original and eight copies of the highly confidential Exhibit C which is filed under seal. In addition, I point out that the Application contains tariffs labeled Exhibit D-1 and D-2 bearing 45-day effective dates, and I enclose the original and five copies of such tariffs.

If you have any questions, please advise. Thank you very much for your attention to this matter.

Sincerely,

NEWMAN, COMLEY & RUTH P.C.

By:



Cathleen A. Martin  
[martinc@ncrpc.com](mailto:martinc@ncrpc.com)

CAM:tgg

Enclosures

cc: Office of Public Counsel  
General Counsel  
Monique Byrnes

**FILED**<sup>3</sup>

MAY 09 2003

Missouri Public  
Service Commission

BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI

In the Matter of the Application of )  
**ACN Communication Services, Inc.** )  
for a Certificate of Service Authority )  
to provide Basic Local Telecommunications )  
Service in portions of the State of Missouri )  
and for Competitive Classification )

Case No. \_\_\_\_\_

APPLICATION FOR CERTIFICATE OF SERVICE AUTHORITY  
AND FOR COMPETITIVE CLASSIFICATION

COMES NOW ACN Communication Services, Inc., a Michigan corporation ("Applicant" or "ACN"), by its undersigned counsel, and hereby applies pursuant to sections 392.361, 392.420, and 392.430 RSMo 1994, 392.410, 392.450 RSMO Supp. 1998, and 4 CSR 240-2.060, for authority to provide facilities-based and resold basic local telecommunications service in portions of the State of Missouri in the exchanges of Southwestern Bell Telephone Company ("SWBT"), CenturyTel of Missouri, LLC ("CenturyTel") and Sprint Missouri, Inc. ("Sprint") and to classify said service and Applicant as competitive. Pursuant to Section 392.40 and 4 CSR 240-32.010(2) ACN also seeks a waiver of certain of the Commission's requirements for basic local exchange telecommunication's service offerings. In support of its Application, ACN states as follows:

1. ACN Communication Services, Inc. is a corporation duly organized and existing under and by virtue of the laws of the State of Michigan on April 30, 1999, and is duly authorized to conduct business in Missouri. Pursuant to relevant provisions of 4 CSR 240-2.060, a Certificate of Authority to transact business as a foreign entity is attached hereto and incorporated herein by reference as Appendix A. Applicant's principal place of business is 32991 Hamilton Court, Farmington Hills, Michigan 48334. Its telephone number is (248) 699-4000.

2. All correspondence, communications, pleadings, notices, order, and decisions relating to this Application should be addressed to:

Cathleen A. Martin  
Newman, Comley & Ruth, P.C.  
601 Monroe Street, Suite 301  
P.O. Box 537  
Jefferson City, Missouri 65102  
(573) 634-2266  
(573) 636-3306 (FAX)

Monique Byrnes  
Technologies Management, Inc.  
210 Park Avenue North  
Winter Park, Florida 32789  
(407) 740-8575  
(407) 740-0613 (FAX)

All inquiries or communications regarding the ongoing operations of ACN should be addressed to:

Lisa Lezotte  
Legal Affairs Manager  
ACN Communication Services, Inc.  
32991 Hamilton Court  
Farmington Hills, Michigan 48333  
(248) 699-3314  
(248) 489-5917 (FAX)

3. ACN's statutory representation in the State of Missouri is:

The Corporation Company  
120 South Central Avenue  
Clayton, Missouri 63105

4. By this Application, ACN Communication Services, Inc. requests certificate authority to provide competitive facilities-based and resold basic local exchange services to residential and business customers throughout all exchanges served by "SWBT," "CenturyTel" and "Sprint". The exchanges in which ACN seeks authority are listed in the approved tariffs of SWBT, CenturyTel and Sprint. ACN's proposed service areas will follow the respective exchange boundaries of the stated incumbent LECs and shall be no smaller than an exchange as required by Section 392.455(3) RSMo Supp. 1998. Applicant may seek authorization to provide service in exchanges served by other incumbent LECs in a subsequent proceeding.

ACN intends to provide service facilities-based local exchange service via the Unbundled Network Element Platform (UNE-P) offered by the ILECs. ACN plans to commence offering basic local service upon receiving Commission approval of its interconnection agreement(s) and related tariffs.

5. Pursuant to this Application, ACN seeks authority to offer and provide all forms of facilities-based and resold basic local telecommunications service to customers within Missouri as defined in 386.020(4) RSMo Supp. 1998. ACN is currently authorized to provide resold long distance telecommunications services within the state of Missouri and plans to offer bundled services consisting of local exchange and supplementary services along with long distance service.

ACN will, through interconnection with other carriers or resale of other carriers' services, provide access to 911 and enhanced 911 emergency services and provide directory assistance and operator assisted calling, dual party relay services, and other miscellaneous services currently provided by incumbent local exchange carriers.

ACN Communication Services, Inc. provides comprehensive customer service to its Customers. Complaints may be reported by the customer to ACN's customer service department. Customer service agents are available to answer customer service inquiries for new service, repair or with billing inquiries. Applicant's customer service representatives are prepared to respond to a broad range of service matters, including inquiries regarding: (1) the types of services offered by ACN and the rates associated with such services; (2) monthly billing statements; (3) problems or concerns pertaining to a customer's current service; and (4) general telecommunications matters.

Customer service is available during the hours of 8:00 AM to 9:00 PM EST, Monday through Friday and 8:00 AM to 6:00 PM EST, Saturday. On-call service is available, in the case of emergencies, twenty-four hours a day, seven days a week. Customers may contact the Company in writing at ACN's headquarters location at 32991 Hamilton Court, Farmington Hills, Michigan 48334, or by calling a toll-free customer service number to be provided on each invoice for service. ACN's toll-free customer service number is 888-226-9013.

6. Applicant possesses the technical and managerial expertise and experience necessary to provide the services it proposes as required by Section 392.455(1) RSMo Supp. 1998. ACN intends to provide service as both a facility-based and resale carrier and has assembled a management team with the expertise necessary to successfully operate as a competitive local exchange carrier. A listing of Applicant's principal management employees and their qualifications is attached hereto and incorporated herein as Appendix B.

7. ACN possesses the necessary financial qualifications to provide the services it proposes as required by Section 392.455(1) RSMo Supp. 1998. Current audited financial statements of ACN's parent company, American Communications Network, Inc., are available, and filed under confidential seal as noted in Appendix C. The information in Appendix C is submitted separately as an appendix to ACN's Motion for a Protective Order. This motion seeks confidential treatment of all information contained in Appendix C and is being filed pursuant to 4 CSR 240-2.085, solely for the purpose of the Commission's *in camera* review.

8. Pursuant to this Application, ACN seeks classification of itself and its basic local telecommunications service offerings as competitive, with accompanying reduced regulation pursuant to Section 392.361 and 392.420 RSMo 1994 and 4 CSR 240-2.060(4)(F). The existing monopoly services of SWBT, CenturyTel and Sprint will make the local markets Applicant seeks to enter sufficiently competitive to make a lesser degree of regulation for ACN and its proposed services in the public interest, consistent with the legislative policies established by the Federal Telecommunications Act of 1996 and the recent revisions of Chapter 392 RSMo. This Commission already has approved several applications to provide resold and facilities-based local telecommunications services filed by new market entrants and has classified those new entrants and their services as competitive.

9. Applicant will offer its basic local telecommunications service as a separate and distinct service in accordance with Section 392.455(4) RSMO Supp.1998. ACN will provide equitable access for all customers in Missouri, without regard to their income or where they might reside, to affordable telecommunications services in Applicant's proposed service areas in accordance with Section 392.455(5) RSMo Supp. 1998.

10. Applicant is willing to comply with all applicable Commission rules and is willing to meet all relevant service standards including, but not limited to, quality service, billing, and tariff filing and maintenance. Consistent with the Commission's treatment of other certificated competitive local exchange telecommunications companies, Applicant requests that, at minimum, the following statutes and regulations for ACN Communication Services, Inc. and its basic and non-basic local exchange service offerings be waived at this time:

**STATUTES**

- |            |   |  |
|------------|---|--|
| 392.210.2  | - | Uniform System of Accounts             |
| 392.240(1) | - | Just and Reasonable Rates              |
| 392.270    | - | Ascertain Property Values              |
| 392.280    | - | Depreciation Accounts                  |
| 392.290    | - | Issuance of Securities                 |
| 392.300.2  | - | Acquisition of Stock                   |
| 392.310    | - | Issuance of Stock & Debt               |
| 392.320    | - | Stock dividend payment                 |
| 392.330    | - | Issuance of securities, debt and notes |
| 392.340    | - | Reorganization(s)                      |

**COMMISSION RULES**

- |                         |   |   |
|-------------------------|---|---|
| 4 CSR 240-10.020        | - | Depreciation fund income                    |
| 4 CSR 240-30.010(2)(C)  | - | Posted Rate Schedules in Central Offices    |
| 4 CSR 240-30.040        | - | Uniform System of Accounts                  |
| \$ CSR 240-32.030(4)(C) | - | File exchange boundary maps with Commission |
| 4 CSR 240-33.030        | - | Inform Customers of Lowest Price            |

11. Applicant submits that the public interest will be served by Commission approval of this Application because Applicant's proposed service will create and enhance competition and expand customer service options, consistent with the legislative goals set forth in the Telecommunications Act of 1996 and Chapter 392 RSMo. Prompt approval of this Application also will expand the availability of innovative, high quality and reliable telecommunications services within the State of Missouri. Customers will benefit by having alternatives from which to choose and from general improvements in price, features and options that are generated by competitive market pressures.

12. The ACN Competitive Local Exchange Services tariff that contains the rules and regulations applicable to its Customers, a description of the services offered, and a list of rates associated with such services, is being filed simultaneously with this Application as Appendix D-1. The Company's Competitive Access Services tariff is filed with this Application as Appendix D-2. The tariffs have forty-five (45) day effective dates.

13. ACN has no pending or final judgments or decisions against it from any state or federal agency or court that involve customer rates or service.

14. ACN has no annual report or assessment fees that are overdue.



WHEREFORE, Applicant ACN Communication Services, Inc. respectfully requests that the Commission grant it a certificate of service authority to provide facilities-based and resold basic local telecommunications service as herein requested, classify Applicant and Applicant's proposed basic local services as competitive, and grant waivers of aforesaid statutes and regulations, as expeditiously as possible.

Respectfully submitted,

NEWMAN, COMLEY & RUTH, P.C.

By:



Cathleen A. Martin #45682  
Newman, Comley & Ruth, P.C.  
601 Monroe Street, Suite 301  
P.O. Box 537  
Jefferson City, Missouri 65102  
(573) 643-2266  
(573) 636-3306 (FAX)  
[martinc@ncrpc.com](mailto:martinc@ncrpc.com)

ATTORNEYS FOR APPLICANT  
ACN COMMUNICATION SERVICES, INC.

CERTIFICATE OF SERVICE

I do hereby certify that a true and correct copy of the foregoing document has been hand-delivered or mailed, postage prepaid, this 9<sup>th</sup> day of May 2003, to:

Office of the Public Counsel  
P.O. Box 7800  
Jefferson City, MO 65102

Dan Joyce, General Counsel  
Missouri Public Service Commission  
P.O. Box 360  
Jefferson City, MO 65102

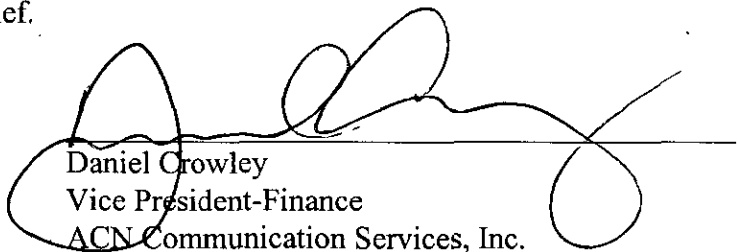
*Carleen A. Martin*

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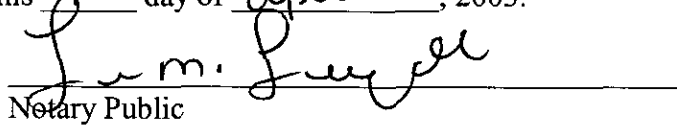
VERIFICATION

STATE OF MICHIGAN  
COUNTY OF Washtenaw

Daniel Crowley, being first duly sworn, deposes and says: That he is the Vice President-Finance for ACN Communication Services, Inc. the Applicant in the foregoing Application; that he has read the foregoing Application, knows the contents thereof and is authorized to verify the accuracy of same; and that the statements contained in the Application are true to his best knowledge, information and belief.

  
Daniel Crowley  
Vice President-Finance  
ACN Communication Services, Inc.

Subscribed and sworn to before me this 4 day of April, 2003.

  
Notary Public



My commission expires: Feb. 24, 2004

**ACN COMMUNICATION SERVICES, INC.**

**APPENDIX A**

Certificate of Authority  
from  
Missouri Secretary of State

# STATE OF MISSOURI



**Rebecca McDowell Cook**  
**Secretary of State**

## CORPORATION DIVISION - CERTIFICATE OF AUTHORITY

WHEREAS,  
ACN COMMUNICATION SERVICES, INC.

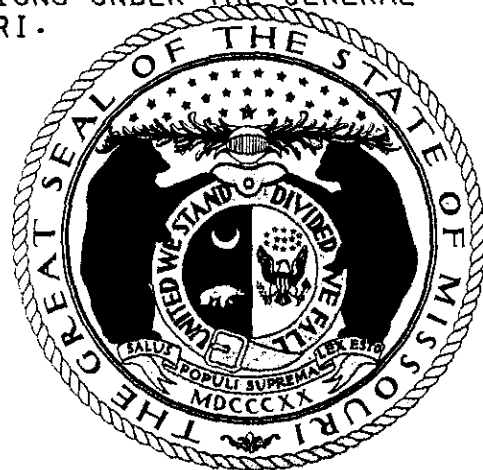
USING IN MISSOURI THE NAME  
ACN COMMUNICATION SERVICES, INC.

HAS COMPLIED WITH THE GENERAL AND BUSINESS CORPORATION LAW WHICH GOVERNS FOREIGN CORPORATIONS; BY FILING IN THE OFFICE OF THE SECRETARY OF STATE OF MISSOURI AUTHENTICATED EVIDENCE OF ITS INCORPORATION AND GOOD STANDING UNDER THE LAWS OF THE STATE OF MICHIGAN.

NOW, THEREFORE, I, REBECCA MCDOWELL COOK, SECRETARY OF STATE OF THE STATE OF MISSOURI, DO HEREBY CERTIFY THAT SAID CORPORATION IS FROM THIS DATE DULY AUTHORIZED TO TRANSACT BUSINESS IN THIS STATE, AND IS ENTITLED TO ALL RIGHTS AND PRIVILEGES GRANTED TO FOREIGN CORPORATIONS UNDER THE GENERAL AND BUSINESS CORPORATION LAW OF MISSOURI.

IN TESTIMONY WHEREOF, I HAVE SET MY HAND AND IMPRINTED THE GREAT SEAL OF THE STATE OF MISSOURI, ON THIS, THE 24TH DAY OF NOVEMBER, 1999.

*Rebecca McDowell Cook*  
Secretary of State



\$155.00

**ACN COMMUNICATION SERVICES, INC.**

**APPENDIX B**

Profiles of Key Management Employees

**ACN Communication Services, Inc.**  
**Management Profiles**

**Charles Barker - Chief Executive Officer - North America**

Charles Barker is the Chief Executive Officer - North America for ACN has over 17 years of telecommunications experience. Prior to joining ACN he was Chief Financial Officer of Global Carrier Services for Global Crossing where, among other responsibilities, he oversaw strategic and product development analysis, customer provisioning and negotiations, billing and forecasting. Mr. Barker also held the position of Chief Financial Officer for North America Carrier Services with the Frontier Corporation and also served as Corporate Controller for Frontier. He worked for eleven years with PricewaterhouseCoopers LLP where his primary assignment was the Frontier Corporation audit. Mr. Barker has a bachelor's degree in accounting from Clemson University and is a Certified Public Accountant.

**James F. Mulcahy - Secretary**

James F. Mulcahy is the Secretary and Chief Operating Officer - Europe for ACN and has more than 20 years experience in corporate finance, including specific expertise in general accounting, credit and collection operations, financial reporting, budgeting and planning. Prior to joining ACN, he was Vice President International Carrier Finance for Global Crossing where he was responsible for the organization of credit and collection. From 1994 until 2000 Mr. Mulcahy worked for Frontier Corporation in various positions including Managing Director UK, Vice President Finance, Vice President Corporate Operations and Vice President Finance and CFO - FCI Long Distance. Prior to Frontier he held various executive level positions with the Dun & Bradstreet Corporation. Mr. Mulcahy has a BBA. in Accounting and an MBA in Finance from Pace University.

**Lance Beck - Vice President of Call Center Operations**

Lance Beck brings over 11 years of customer service and call center operational experience to the ACN team. After graduating from Hendrix College in Conway, Arkansas with a B.A. in International Relations, Lance worked for MCI Telecommunications progressing from front-line support of Spanish-speaking customers to managing training development and implementation for MCI's Consumer Markets. Upon leaving MCI, Lance joined Excel Telecommunications as the Manager of Training and Development where he developed the Customer Service strategy and training to support it. In addition, he was significantly involved in the establishment of two new call centers and promoting the benefits of multi-site operations. Expanding his experience, Lance joined WinStar Communications as a Call Center Manager obtaining first hand call center knowledge and applying many years of training experience. At GTE Communications, Lance was a Project Manager for Strategic Markets successfully seeing multiple projects launch on time and within budget.

Lance moved directly back into the call center environment when he joined InteleSolve, a consulting company, and was immediately placed with ACN to assist in developing a service strategy to support ACN's long distance reseller initiative. Drawing upon previous site selection experience and the establishment of a new operation, Lance lead the initiative to successfully develop the Marquette operation. Lance joined ACN in January of 2000 as Director of Call Center Operations and currently holds the position of V.P. of Call Center Operations of N.A.

**ACN Communication Services, Inc.**  
**Management Profiles, (Cont'd.)**

**Dan Crowley - Vice President, Finance**

Dan Crowley is the Vice President, Finance, North America for ACN, Inc., a telecommunications reseller based in Farmington Hills, MI. In this role, Dan is responsible for all financial operations of this \$100 Million division, including accounting, finance, credit & collections and corporate tax. Before joining ACN in August 2002, Dan provided strategic advisory services to companies in the CLEC and ISP markets. Dan helped launch Carrier Trust Company, which focused on financing alternatives for carriers and he also completing work on the Excite@Home reorganization and transitional strategy plan.

Dan left IQ Labs, Inc. in November of 2001, where he was the Vice President of business and product development. IQ Labs makes enterprise software that automates the provisioning process for enterprise communications equipment. In this role, Dan built the strategic plan that helped the company secure \$12 Million in venture funding. He also successfully re-crafted the company's product strategy to align it with enterprise customer's needs.

Prior to joining IQ Labs in July of 2000, Dan held various business and product development positions for Qwest Communications (formerly U S WEST) in the !NTERPRISE Networking Data business. !NTERPRISE was created by U S WEST in 1992 to address the advanced data and network integration needs of customers in its 14 Western and Midwestern states. As Director of product development, Dan led the team that conceived and launched the company's E-Commerce offerings. Previously, he was Director of business development for !NTERPRISE where he directed partnering and investment activity in the Internet and broadband sectors. Dan began his career at U S WEST in 1997 as Director of business development for U S WEST Long Distance, and moved to !NTERPRISE in 1998.

Before joining U S WEST, Dan was a member of the corporate development team at Frontier Corporation, in Rochester, New York, which merged with Global Crossing in 1998. While there, Dan helped complete seven acquisitions valued at over \$2 Billion. He also contributed to the groundbreaking Open Market Plan, which opened the local telephone markets of Frontier to competition. The Open Market Plan eventually served as a major blueprint for the Telecommunications Act of 1996, which sought to introduce local telephony competition across the country. Dan joined Frontier in 1994 after holding various positions with The Chase Manhattan Bank in corporate finance.

Dan graduated with a Bachelor of Science degree in business administration from the California State University at Humboldt and received an MBA from St. Bonaventure University in Olean, New York.



**ACN COMMUNICATION SERVICES, INC.**

**APPENDIX C**

Financial Information

*Consolidated Financial Statements  
and  
Report of Independent Certified Public Accountants  
for  
American Communications Network, Inc. and Subsidiaries  
December 31, 2001 and 2000*

[Filed under Seal]

**ACN COMMUNICATION SERVICES, INC.**

**APPENDIX D-1**

Proposed Local Exchange Tariff

**ACN COMMUNICATION SERVICES, INC.**

**APPENDIX D-2**

Proposed Access Tariff