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

AUG 09 2002

August 8, 2002

Missouri Public  
**Service Commission**

Secretary of the Commission  
200 Madison Street, Suite 100  
P.O. Box 360  
Jefferson City, Missouri 65102-0360

**Via Federal Express**  
**833736654592**

Re: Case No.: XA-2002-1079

Dear Secretary of the Commission:

Enclosed please find for filing with your office an original and nine (9) copies of the Direct Testimony of LaCharles P. Keese, II on behalf of ICG Telecom Group, Inc.. Upon your receipt, please file stamp the extra copy received and return to the undersigned in the enclosed, self-address, stamped envelope. If you have any questions, please contact me.

Very truly yours,

  
Carl J. Lumley

CJL:dn  
Enclosures  
cc. Parties of Record (W/Enclosure)

**BEFORE THE MISSOURI PUBLIC SERVICE COMMISSION**

In the Matter of the Application of )  
 )  
ICG Telecom Group, Inc. )  
 )  
to Expand Its Certificates of Service )  
Authority to include provision of Local )  
Exchange Telecommunications Service )  
Statewide and to Continue to Classify )  
the Company and )  
Its Services as Competitive. )

Case No. XA-2002-1079

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

**AUG 09 2002**

**DIRECT TESTIMONY OF**

**LaCharles P. Keese, II**

**Missouri Public  
Service Commission**

**ICG TELECOM GROUP, INC.**

**AUGUST 9, 2002**

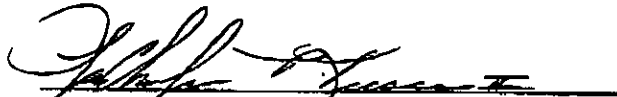
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Authority to include provision of Local	)	
Exchange Telecommunications Service	)	
Statewide and to Continue to Classify	)	
the Company and	)	
Its Services as Competitive.	)	

## AFFIDAVIT OF LACHARLES P. KEESEE II

COMES NOW LaCharles P. Keese II, of lawful age, sound of mind and being first duly sworn, deposes and states:

1. My name is LaCharles P. Keese II. I am Senior Vice President, Business & Government Affairs for ICG Communications, Inc.
2. Attached hereto and made a part hereof for all purposes is my direct testimony in the above-referenced case.
3. I hereby swear and affirm that my statements contained in the attached testimony are true and correct to the best of my knowledge and belief.

  
 LaCharles P. Keese II

SUBSCRIBED AND SWORN TO before me, a Notary Public, this 8<sup>th</sup> day of August, 2002.

  
 Notary Public

My Commission Expires: 8-1-06



DIRECT TESTIMONY OF LaCHARLES P. KEESEE, II  
ON BEHALF OF  
ICG TELECOM GROUP, INC.

1   **Q.   PLEASE STATE YOUR NAME, BUSINESS ADDRESS, TITLE AND**  
2       **QUALIFICATIONS.**

3   A.   My name is LaCharles P. Keese, II. My business address is 161 Inverness Dr. West,  
4       Englewood, CO 80112. I am employed by ICG Communications, the parent corporation  
5       of ICG Telecom Group, Inc. as Senior Vice President of Business and Government  
6       Affairs. I obtained my undergraduate degree in electrical engineering from Prairie View  
7       A&M University in 1989. From 1989 to 1994 I worked as a patent examiner in the U.S.  
8       Patent and Trademarks Office regarding telecommunications equipment (optical  
9       measuring and testing devices). From 1994 to 1997 I was the senior telecommunications  
10      policy advisor to Colorado Governor Roy Romer. In January 1998 I was hired by ICG  
11      Communications as Manager of Right-of-ways. In 1999 I became Vice President of  
12      Legislative and Regulatory Affairs. In 2000, I assumed my current position with the  
13      company.

14   **Q.   WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

15   A.   The purpose of my testimony is to support the Application filed by ICG Telecom Group,  
16      Inc. (ICG) in this proceeding.

17   **Q.   WHAT APPLICATION DID ICG FILE?**

18   A.   On May 17, 2002 ICG filed its verified Application pursuant to the federal  
19      Telecommunications Act of 1996 ("Act"), Sections 392.361, 392.410, 392.420, 392.430,

1 and 392.440 RSMo, and 4 CSR 240-2.060, seeking to expand its certificates of service  
2 authority to include provision of switched local exchange telecommunications service  
3 (other than basic local exchange service) throughout the State of Missouri.

4 **Q. HAS ICG ALREADY OBTAINED ANY CERTIFICATES OF SERVICE**  
5 **AUTHORITY FROM THE COMMISSION?**

6 A. ICG already has obtained authority from the Commission to provide facilities-based and  
7 resold basic local telecommunications services in the service territories of Southwestern  
8 Bell Telephone Company ("SWBT"), Sprint Missouri, Inc. d/b/a Sprint ("Sprint"), and  
9 GTE Midwest Incorporated d/b/a Verizon Midwest, Inc. ("Verizon").<sup>1</sup> ICG also has  
10 already obtained certificates of service authority to provide interexchange services and  
11 non-switched local exchange services, limited to providing dedicated, non-switched local  
12 exchange private line services, throughout the state of Missouri.<sup>2</sup> ICG and its services  
13 have been classified as competitive.<sup>3</sup>

14 **Q. WHAT ADDITIONAL AUTHORITY DOES ICG SEEK IN THIS CASE?**

15 A. In the pending Application, ICG only seeks the additional authority to provide switched  
16 local exchange services other than basic local exchange service throughout the State (i.e.

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<sup>1</sup> See *Application of ICG Telecom Group, Inc. for a Certificate of Service Authority to Provide Basic Local Telecommunications Services in Portions of the State of Missouri and to Classify Said Services as Competitive*, Case No. TA-98-589 (effective October 6, 1998). ICG's authority therefore now includes the service territory of Spectra Communications Group, LLC, which was purchased from Verizon. It also includes the exchanges Verizon is in the process of selling to CenturyTel of Missouri LLC, see Case No. TM-2002-232.

<sup>2</sup> See *Application of ICG Telecom Group, Inc. for a Certificate of Service Authority to Provide Competitive Intrastate Interexchange and Local Exchange Telecommunications Services in the State of Missouri*, Case No. TA-98-577 (effective August 14, 1998).

<sup>3</sup> See *supra* notes 1 and 2.

beyond the service territories of SWBT, Sprint, Spectra and Verizon). ICG does not seek any additional authority to provide basic local service. Additionally, pursuant to Sections 392.361 and 392.420 RSMo, ICG requests that its additional services be classified as competitive, that the company remain classified as competitive, and that certain statutes and regulations remain waived as to its additional services.

**Q. YOU HAVE INDICATED THAT THE APPLICATION WAS FILED PURSUANT TO SPECIFIC STATUTES AND REGULATIONS. CAN YOU SUMMARIZE THESE STATUTES AND REGULATIONS?**

A. Section 392.430 provides that "the commission shall approve an application for a certificate of local exchange or interexchange service authority upon a showing by the applicant, and a finding by the commission, after notice and hearing, that the grant of authority is in the public interest." Section 392.440 makes the same provision for issuance of a certificate for the resale of local exchange service. Section 392.410.2 requires a company to obtain a certificate before providing or offering local exchange service.

Section 392.361.2 authorizes the Commission to classify a telecommunications company as competitive if all of its services are competitive. Section 392.361.3 authorizes the Commission to classify telecommunications services as competitive if it determines that the service is "subject to sufficient competition to justify a lesser degree of regulation and that such lesser regulation is consistent with the protection of ratepayers and promotes the public interest." Under Section 392.361.2, the commission may "rely

1 on a finding of fact made in a prior hearing" regarding the same telecommunications  
2 service.

3 Section 392.361.5 authorizes the Commission to "suspend or modify the  
4 application of its rules or the application of any statutory provision contained in sections  
5 392.200 to 392.340 except as provided in Section 392.390" in connection with an order  
6 classifying a company or its services as competitive.

7 Section 392.420 authorizes the Commission to take action pursuant to Section  
8 392.361 "in connection with the issuance or modification of a certificate of interexchange  
9 or local exchange service authority."

10 Commission rule 4 CSR 240-2.060 sets forth the required contents for an  
11 application for local exchange service authority.

12 **Q. DOES ICG'S APPLICATION MEET THE REQUIREMENTS OF 4 CSR 240-**  
13 **2.060?**

14 A. It is my understanding that the Application complies with 4 CSR 240-2.060. I am not  
15 aware of any party that contends otherwise. A copy of the verified Application is  
16 attached hereto as Schedule 2. I hereby verify its contents as well.

17 **Q. DOES ICG'S APPLICATION MEET THE PUBLIC INTEREST STANDARD SET**  
18 **FORTH IN THE STATUTES PURSUANT TO WHICH THE APPLICATION HAS**  
19 **BEEN FILED?**

20 A. It is my understanding that the Commission has already made this decision by granting  
21 similar requests for authority to other companies, including most recently Level 3

1 Communications in Case No. TA-2002-376. In that case, Staff indicated in its  
2 Recommendation that similar authority had also been granted in Case Nos. TA-96-322  
3 (ATT), TA-96-424 (Sprint), TA-98-318 (Frontier), and TT-99-237 (ATT). A copy of  
4 Staff's Recommendation is attached hereto as Schedule 3. I am not aware of any basis for  
5 treating ICG differently than other companies which have already obtained the requested  
6 authority. I am not aware of any party that contends that ICG is not similarly situated to  
7 such other companies.

8 Moreover, the Commission granted ICG its current certificates of service  
9 authority, based in part upon a finding that the grant of ICG's certificate was in the public  
10 interest. The grant of this Application will also further the public interest by expanding  
11 the availability of local exchange telecommunications services statewide. ICG's proposed  
12 services will create and enhance competition and expand customer service options  
13 consistent with the legislative goals set forth in the federal Telecommunications Act of  
14 1996 and Chapter 392 RSMo. In particular, the public will benefit directly through the  
15 use of the competitive local exchange services to be offered by ICG. The public will also  
16 benefit indirectly because the competitive presence of ICG statewide will increase the  
17 incentives for incumbents and others to operate more efficiently, offer more innovative  
18 services, reduce prices, and improve the quality and coverage of their services. One of the  
19 significant benefits ICG will bring to consumers is the ability to access advanced services  
20 over its network in areas in which those services are not competitively available or are  
21 nonexistent. Intrastate offering of these services is in the public interest because the  
22 services will provide Missouri customers with access to new technologies and service  
23 choices and can permit customers to achieve increase efficiencies and cost savings.



1 Prompt approval of ICG's Application also will expand the availability of innovative,  
2 high quality, and reliable telecommunications services within the State of Missouri.

3 Granting ICG's Application will promote the availability of quality services and  
4 increased consumer choice for Missouri telecommunications consumers. Competition for  
5 customers statewide should result in benefits to consumers in the form of lower prices,  
6 better quality, and increased investment in broadband infrastructure. ICG's expertise in  
7 the telecommunications industry will allow it to provide economic and efficient services,  
8 thereby affording customers with an optimal combination of price, quality, and customer  
9 service. ICG anticipates that its proposed services will increase consumer choice of  
10 innovative, diversified, and reliable service offerings statewide and further the public  
11 interest.

12 ICG intends to offer its local exchange services to, among other customers,  
13 Internet Service Providers (ISPs) that currently do not have points of presence in many of  
14 the exchange areas covered by its Application. The FCC has held that ISPs are interstate  
15 information service providers that are exempt from having to pay for access services and  
16 instead are entitled to obtain access to telecommunications networks by purchasing  
17 services out of local exchange tariffs.<sup>4</sup> ICG should be allowed to provide such local  
18 service to ISPs.

19 Consumers who currently place long distance calls for access to ISPs will benefit  
20 by the establishment of points of presence in their local calling areas. I understand that  
21 the Commission has long recognized the need for local access to ISPs and thereby the  
22 Internet. Indeed, it is my understanding that the Commission continues to seek more

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<sup>4</sup> See Order on Remand and Report and Order, *In the Matter of Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, CC Docket 96-98 (April 27, 2001).

1 ways to enable end users to reach the Internet on a locally dialed basis in Case No. TO-  
2 2001-391.

3 The Commission should find that expanding ICG's certification to provide  
4 switched local exchange telecommunications services, other than basic local service,  
5 throughout the state of Missouri is in the public interest.

6 **Q. DOES ICG MEET THE REQUIREMENTS FOR COMPETITIVE**  
7 **CLASSIFICATION STATED IN THE STATUTES?**

8 A. Again, the Commission should rely on its prior decisions regarding the same services as  
9 offered by other companies, as expressly authorized by Section 392.361.2.  
10 Consequently, the Commission should find that these additional services as offered by  
11 ICG should be classified as competitive (like the same services as offered by other  
12 companies) and, therefore, ICG should remain classified as a competitive company  
13 providing competitive services. Likewise, the rules and statutes previously waived for  
14 ICG and its services should be waived as to these new services, as the Commission has  
15 already done for other companies offering the same services.

16 **Q. SHOULD ICG'S APPLICATION BE TREATED DIFFERENTLY THAN THE**  
17 **APPLICATIONS OF OTHER TELECOMMUNICATIONS COMPANIES?**

18 A. No. It is my understanding that the Commission does not often deny applications for  
19 service authority. ICG's Application meets the same standards that I understand have  
20 been applied to other companies. While the Commission has sometimes (but not always  
21 as indicated above) issued separate certificates of authority for switched versus non-

1 switched local exchange service, I am not aware of any statutory or regulatory basis for  
2 applying different standards to applications for such certificates.

3 **Q. WHAT IS YOUR RECOMMENDATION TO THE COMMISSION?**

4 A. On behalf of ICG Telecom Group, Inc. I recommend that the Commission grant ICG the  
5 requested expansion of its certificates of service authority to include provision of  
6 switched local telecommunications services, other than basic local service, throughout the  
7 state of Missouri, classify its proposed services as competitive, continue to classify the  
8 company as competitive, and grant a waiver of the requested statutes and regulations.

9 **Q. DOES THIS CONCLUDE YOUR DIRECT TESTIMONY?**

10 A. Yes.