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October 12, 2004

Ms. Susan K. Duffy, Executive Director
Kansas Corporation Commission
1500 SW Arrowhead Road
Topeka, Kansas 66604-4027

STATE CORPORATION COMMISSION

OCT 12 2004

Re: Docket No. 03--SWBT-301-IAT

Susan K. Duffy Docket
Room

Dear Ms. Duffy:

Enclosed for filing with the Commission is an original and three (3) copies of an Application for Approval of a Modification to the Interconnection Agreement ("the Agreement") previously approved between Southwestern Bell Telephone, L.P. d/b/a SBC Kansas ("SBC") and Sprint Communications Company LP ("Sprint") on November 12, 2002 in the above-captioned docket. Also enclosed is the supporting Affidavit of Michael Scott, Area Manager-Regulatory Issues.

This modification adds a Collocation Power amendment which establishes an agreed methodology for charging of collocation DC Power. The Agreement, with this modification, and the attachments incorporated therein are an integrated package and are the result of negotiation and compromise. There are no outstanding issues between the parties that need the assistance of mediation or arbitration. This amendment was previously approved in Docket No. 01-SWBT-446-IAT. Sprint is registered as active and in good standing with the Kansas Secretary of State's office.

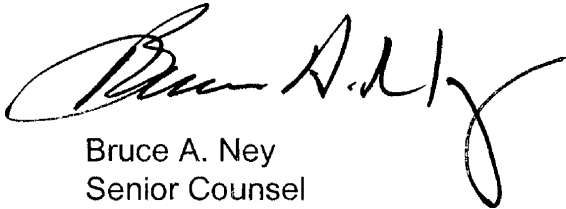
SBC files this modification to the Agreement seeking Commission approval of its terms and conditions consistent with the Federal Telecommunications Act of 1996. SBC represents and believes in good faith that the implementation of this modification to the Agreement is consistent with the public interest, convenience and necessity and does not discriminate against any telecommunications carrier. SBC specifically requests that the Commission refrain from taking any action to change, suspend or otherwise delay implementation of this modification to the agreement, in keeping with the support for competition previously demonstrated by the Commission.

Contact information for Sprint is listed below.

CLEC Officer Name:	CLEC Attorney Name:
Mr. Klinten Bennett	
Supervisor-Access Collocation	
Mailstop KSOPHA 0110-1B250	
6330 Sprint Parkway	
Overland Park, KS 66251	
Phone: 913-762-1149	

The Commission's prompt attention to this matter would be appreciated.

Sincerely,

A handwritten signature in black ink, appearing to read "Bruce A. Ney". The signature is fluid and cursive, with a large, sweeping initial "B" and a long, trailing flourish at the end.

Bruce A. Ney
Senior Counsel

Enclosures

cc: Ms. Eva Powers (transmittal letter only)
Mr. Klinten Bennett

**BEFORE THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS**

STATE CORPORATION COMMISSION

In the Matter of the Application of Southwestern)
Bell Telephone Company for Approval of)
Interconnection Agreement Under The)
Telecommunications Act of 1996)
with Sprint Communications Company LP)

OCT 12 2004

 Docket
Room

) Docket No. 03-SWBT-301-IAT

**APPLICATION OF SOUTHWESTERN BELL TELEPHONE COMPANY
FOR APPROVAL OF A MODIFICATION TO INTERCONNECTION AGREEMENT**

Southwestern Bell Telephone, L.P. d/b/a SBC Kansas ("SBC") hereby files this Application for Approval of a Modification to the Interconnection Agreement ("the Agreement") under the Telecommunications Act of 1996 ("Federal Act") between SBC and Sprint Communications Company LP ("Sprint") and would respectfully show the Kansas Corporation Commission ("Commission") the following:

I. INTRODUCTION

SBC presents to this Commission a modification to the Agreement previously negotiated, executed and filed with the Commission on October 9, 2002 pursuant to the terms of the Federal Act. The Commission issued an order approving the Agreement on November 12, 2002. This modification adds a Collocation Power amendment which establishes an agreed methodology for charging of collocation DC Power. The Agreement, with this modification, and the attachments incorporated therein are an integrated package and are the result of negotiation and compromise. There are no outstanding issues between the parties that need the assistance of mediation or arbitration. This amendment was previously approved in Docket No. 01-SWBT-446-IAT. A copy of the executed Amendment which reflects the parties' agreement to incorporate this modification to the Agreement, is attached hereto as Attachment I.

II. REQUEST FOR APPROVAL

SBC seeks the Commission's approval of this modification to the Agreement, consistent with the provisions of the Federal Act. The implementation of this modification to the Agreement complies fully with Section 252(e) of the Federal Act because the modifications are consistent with the Commission's previous conclusion that the Agreement is consistent with the public interest, convenience and necessity and does not discriminate against any telecommunications carrier.

SBC respectfully requests that the Commission grant expeditious approval of this modification to the Agreement, without change, suspension or other delay in its implementation. The Agreement, with this modification, is a bilateral agreement, reached as a result of negotiations and compromise between competitors, and the parties do not believe a docket or intervention by other parties is necessary or appropriate.

III. STANDARD FOR REVIEW

The statutory standards of review are set forth in Section 252(e) of the Federal Act which provides as follows:

Section 252(e) of the Federal Act:

(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 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 . . .

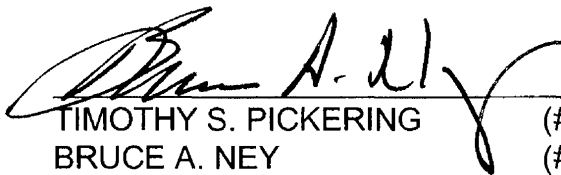
The affidavit of Michael Scott, Area Manager-Regulatory Issues, establishes that the modification to the Agreement submitted herein satisfies the standards for approval under the Federal Act. (Affidavit, Attachment II).

IV. KANSAS LAW

The negotiated and executed modification to the Agreement is consistent with the Kansas regulatory statutes.

V. CONCLUSION

For the reasons set forth above, SBC respectfully requests that the Commission approve this modification to the Agreement previously approved.


TIMOTHY S. PICKERING (#02003)
BRUCE A. NEY (#15554) ◀
MELANIE N. SAWYER (#19945)
220 E. Sixth Street, Room 515
Topeka, Kansas 66603-3596
(785) 276-8413
(785) 276-1948 (Facsimile)
Attorneys for Southwestern Bell Telephone, L.P.,
d/b/a SBC Kansas

**AMENDMENT
to
INTERCONNECTION AGREEMENT UNDER
SECTIONS 251 AND 252 OF THE
TELECOMMUNICATIONS ACT OF 1996**

by and between

SOUTHWESTERN BELL TELEPHONE, L.P., d/b/a

SBC KANSAS

and

SPRINT COMMUNICATIONS COMPANY, L.P.

(KANSAS)

**COLLOCATION POWER AMENDMENT
TO THE INTERCONNECTION AGREEMENT UNDER
SECTIONS 251 AND 252 OF THE TELECOMMUNICATIONS ACT OF 1996
BETWEEN
SOUTHWESTERN BELL TELEPHONE, L.P. D/B/A SBC KANSAS
AND
SPRINT COMMUNICATIONS COMPANY, L.P.**

This Collocation Power Amendment to the Interconnection Agreement under Sections 251 and 252 of the Telecommunications Act of 1996 (the "**Amendment**") by and between Southwestern Bell Telephone, L.P., d/b/a SBC Kansas ("**SBC Kansas**") and Sprint Communications Company, L.P. ("**CLEC**") is dated _____ 2004.

WHEREAS, SBC Kansas and CLEC are parties to a certain Interconnection Agreement under Sections 251 and 252 of the Telecommunications Act of 1996 ("**Act**") approved by the Kansas Public Service Commission ("State Commission"), as may have been amended prior to the date hereof (the "**Agreement**");

WHEREAS, the Parties want to amend the Agreement to establish an agreed methodology for charging for collocation DC Power, as set forth herein.

NOW, THEREFORE, in consideration of the mutual promises contained herein, the Parties agree as follows:

1. Unless otherwise defined herein, capitalized terms shall have the meanings assigned to such terms in the Agreement.
2. Pursuant to General Terms and Conditions, Section 1.1.97 and Section 46.2.1 of the Interconnection Agreement, CLEC is purchasing all collocation arrangements pursuant to Local Access Service Tariff – Physical and Virtual Collocation ("**Tariff**"), and the Parties intend that the Tariff continue to apply to all such arrangement(s) except as provided herein. This Amendment memorializes the Parties' bilateral agreement on how certain rates related to monthly recurring collocation DC Power charges (DC Power Consumption) shall be billed by SBC Kansas to CLEC to all such arrangement(s), and to any additional collocation arrangements (whether physical, virtual or cageless) that CLEC may establish during the term of the Amendment. Accordingly, this Amendment shall apply to any such existing or additional arrangement(s) only as to application of these monthly recurring DC power charges in accordance with the Amendment's provisions. The Amendment is not intended to constitute an interpretation, clarification or modification of the Tariff.
3. By executing this Amendment, CLEC represents and warrants that it at no time will draw more than 50% of the combined total capacity of the DC power leads (in amperes or "AMPs") provided by SBC Kansas for a collocation arrangement (the combined total capacity being the aggregate capacity of both leads for that collocation arrangement, including all "A" AMPs and all "B" AMPs). Based upon CLEC's representation and warranty and other good and valuable consideration as set forth herein, SBC Kansas shall prospectively bill the CLEC for DC collocation power consumption and HVAC as follows:

- (a) For DC collocation power consumption, a monthly recurring rate of \$10.61 per AMP applied to fifty percent (50%) of the total capacity ordered and provisioned per the collocation application; and
- (b) For HVAC, a monthly recurring rate of \$14.62 per 10 AMPs, applied to fifty percent (50%) of the total provided capacity.

By way of example, where SBC Kansas has provisioned two (2) twenty (20) AMP DC power leads [for a combined total capacity of forty (40) AMPs], based upon CLEC's above representation and warranty SBC Kansas shall prospectively bill the CLEC the monthly recurring DC Power Consumption charge of \$10.61 per AMP for a total of twenty (20) AMPs (i.e., \$212.20 per month), and SBC Kansas shall prospectively bill CLEC the monthly recurring HVAC charge of \$14.62 per-each-ten (10) AMPs applied against twenty (20) AMPs (i.e., \$29.24 per month).

4. SBC Kansas has the right to periodically inspect and/or test the amount of DC power CLEC actually draws and, in the event CLEC is found to have breached the representation and warranty set forth in paragraph 3, to pursue remedies for breach of this Amendment and the Agreement.

5. The provisions of this Amendment shall remain effective until such time as the State Commission changes, by means of a final order issued in a cost proceeding establishing rates for collocation provided under 47 U.S.C. § 251(c)(6) applicable to all requesting telecommunications carriers, the monthly recurring rate(s) and billing procedure (including rate application) for SBC Kansas' collocation DC power, or until expiration or termination of this Amendment, whichever occurs first. If the foregoing is triggered by a cost proceeding changing rates for collocation provided under 47 U.S.C. § 251(c)(6) applicable to all requesting telecommunications carriers, then either Party may invoke the change of law/rate (or similar) provisions of the Agreement, as may be applicable, in accordance with such provisions. In the case of either triggering event, the provisions of this Amendment shall continue to apply until thereafter replaced by a successor interconnection agreement/amendment, as the case may be. By executing this Amendment, both Parties relinquish any right, during the term of the Amendment, to a different rate and billing procedure (including rate application) from the Effective Date of this Amendment until such time as the State Commission issues a final order in a cost proceeding changing the rates for collocation provided under 47 U.S.C. § 251(c)(6) applicable to all requesting telecommunications carriers, the monthly recurring rate(s) and billing procedure (including rate application) for SBC Kansas' collocation DC power.

6. Nothing in this Amendment shall be deemed or considered an admission on the part of either Party as to, or evidence of, the unreasonableness of the rates and elements for collocation DC power in SBC Kansas' Tariff, or of the manner in which SBC Kansas has applied or billed such rates, or any other aspect of its collocation power billing, all as existed prior to the making of this Amendment.

7. CLEC agrees to refrain from initiating or participating in any opposition activity to SBC Kansas' current power reduction charges, policies and practices. Further, CLEC agrees not to propose or support any proposal to reduce or change charges for collocation DC power charges (or changes in policies or application that result in a reduction or change), including any proposal to base DC collocation power charges on a metered "as used, per amp" basis. In addition, CLEC and SBC Kansas agree to mutually release and discharge each other from all claims which each Party may have against the other arising directly or indirectly out of, or relating in any way, to

charges for DC collocation power. The billing arrangement described in Paragraphs 2, 3 and 4 ("Billing Arrangement"), above, is integrally related to the overall settlement and the mutual release and discharge. Said mutual release and discharge, and the Billing Arrangement are expressly contingent upon:

- 1) approval by the State Commission of the terms and conditions of this Amendment; and
- 2) dismissal with prejudice of CLEC's complaint or complaints, if any, with the State Commission arising directly or indirectly out of, or relating in any way to charges for DC collocation power ("Collocation Power Complaint(s)"), to the extent CLEC has filed such Collocation Power Complaint(s); and
- 3) an exchange of consideration between the Parties in connection with said settlement, including a payment from CLEC to SBC of a mutually agreed upon amount.

8. The effective date of this Amendment shall be the day upon which the State Commission approves this Amendment under Section 252(e) of the Act or, absent such State Commission approval, the date this Amendment is deemed approved by operation of law ("**Amendment Effective Date**"). In the event that all or any portion of this Amendment as agreed-to and submitted is rejected and/or modified by the State Commission, this Amendment shall be automatically suspended and, unless otherwise mutually agreed, the Parties shall expend diligent efforts to arrive at mutually acceptable new provisions to replace those rejected and/or modified by the State Commission; provided, however, that failure to reach such mutually acceptable new provisions within thirty (30) days after such suspension shall permit either Party to terminate this Amendment upon ten (10) days written notice to the other.

9. EXCEPT AS MODIFIED HEREIN, ALL OTHER TERMS AND CONDITIONS OF THE UNDERLYING AGREEMENT SHALL REMAIN UNCHANGED AND IN FULL FORCE AND EFFECT. This Amendment will become effective as of the Amendment Effective Date, and will terminate on the termination or expiration of the Agreement. This Amendment does not extend the term of the Agreement.

10. In entering into this Amendment, the Parties acknowledge and agree that neither Party is waiving any of its rights, remedies or arguments it may have at law or under the underlying Agreement, including but not limited to the intervening law or regulatory change provisions in the underlying Agreement (including intervening law rights asserted by either Party via written notice predating this Amendment), with respect to any orders, decisions, legislation or proceedings and any remands thereof, including but not limited to its intervening law or other rights relating to the following actions which occurred after the Effective Date of the underlying Agreement, or which may be the subject of further government review: *Verizon v. FCC, et. al*, 535 U.S. 467 (2002); *USTA v. FCC*, 290 F.3d 415 (D.C. Cir. 2002) and following remand and appeal, *USTA v. FCC*, 359 F.3d 554 (D.C. Cir. 2004); the FCC's Triennial Review Order, CC Docket Nos. 01-338, 96-98, and 98-147 (FCC 03-36), and the FCC's Biennial Review Proceeding; the FCC's Supplemental Order Clarification (FCC 00-183) (rel. June 2, 2000), in CC Docket 96-98; and the FCC's Order on Remand and Report and Order in CC Dockets No. 96-98 and 99-68, 16 FCC Rcd 9151 (2001), (rel. April 27, 2001) ("ISP Compensation Order"), which was remanded in *WorldCom, Inc. v. FCC*, 288 F.3d 429 (D.C. Cir. 2002), and as to the FCC's Notice of Proposed Rulemaking as to Intercarrier Compensation, CC Docket 01-92 (Order No. 01-132) (rel. April 27, 2001); the FCC's Order *In the Matter of Petition for Declaratory Ruling that AT&T's Phone-to-Phone IP Telephony Services are Exempt from Access Charges*, WC

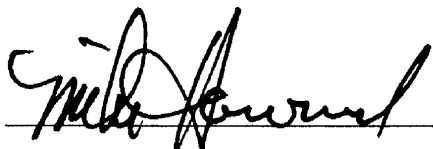
Docket No. 02-361 (rel. April 21, 2004). In entering into this Amendment, each Party fully reserves all of its rights, remedies and arguments with respect to any decisions, orders or proceedings.

11. This Amendment constitutes the entire amendment of the Agreement and supersedes all previous proposals, both verbal and written, regarding the subject matter covered by the Amendment. To the extent there is a conflict or inconsistency between the provisions of this Amendment and the provisions of the Agreement (including all incorporated or accompanying Appendices, Addenda and Exhibits to the Agreement), the provisions of this Amendment shall control and apply but only to the extent of such conflict or inconsistency. The Parties further acknowledge that the entirety of this Amendment and its provisions are non-severable, and are "legitimately related" as that phrase is understood under Section 252(i) of Title 47, United States Code.

12. This Amendment may be executed in counterparts, each of which shall be deemed an original but all of which when taken together shall constitute a single agreement.

IN WITNESS WHEREOF, each Party has caused this Amendment to be executed by its duly authorized representative.

Sprint Communications Company, L.P.

By: 

Printed: Mike Howard

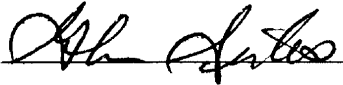
Title: Acting Vice President

Date: 9/3/04

AECN/OCN # 08723

**Southwestern Bell Telephone L.P. d/b/a SBC
Kansas,**

**By its Authorized Agent,
SBC Telecommunications, Inc.**

By: 

Printed: GLEN SIRLLES

Title *For/* Senior Vice President – Industry
Markets and Diversified Businesses

Date: 9-28-2004

**BEFORE THE KANSAS CORPORATION COMMISSION
OF THE STATE OF KANSAS**

In the Matter of the Application of Southwestern)
Bell Telephone Company for Approval of)
Interconnection Agreement Under The)
Telecommunications Act of 1996)
with Sprint Communications Company LP) Docket No. 03-SWBT-301-IAT

AFFIDAVIT OF MICHAEL SCOTT

STATE OF KANSAS)
) ss
COUNTY OF SHAWNEE)

Before me, the Undersigned Authority, on the 12th day of October, 2004, personally appeared Michael Scott of Southwestern Bell Telephone, L.P. d/b/a SBC Kansas ("SBC") who, upon being by me duly sworn on oath deposed and said the following:

1. My name is Michael Scott. I am over the age of 21, of sound mind and competent to testify to the matters stated herein. I am the Area Manager-Regulatory Issues for SBC, and I have personal knowledge concerning the Interconnection Agreement ("the Agreement") between SBC and Sprint Communications Company LP which was approved by the Commission on November 12, 2002 and the proposed modification to that Agreement.
2. This modification adds a Collocation Power amendment which establishes an agreed methodology for charging of collocation DC Power.
3. There are no outstanding issues between the parties that need the assistance of mediation and arbitration relating to the modification to the Agreement.
4. The implementation of this modification to the Agreement is consistent with the public interest, convenience and necessity.

5. This modification to the Agreement does not discriminate against any telecommunications carrier. The modification is available to any similarly situated local service provider in negotiating a similar agreement.
6. The negotiated and executed modification to the Agreement is consistent with Kansas law.

Michael Scott

Michael Scott

Subscribed and sworn to before me this 12th day of October, 2004.



Mary A. Reed
Notary Public

My Commission Expires: *October 15, 2006*