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File No. 1273100-26
October 6, 1999

Via FedEx

The Honorable Dale Hardy Roberts
Chief Regulatory Law Judge
Missouri Public Service Commission
301 West High Street, Suite 530
Jefferson City, MO 65101

FILED²

OCT 7 1999

Missouri Public
Service Commission

Re: Birch Telecom of Missouri, Inc.

Dear Judge Roberts:

Please find enclosed one original and 14 copies of a Motion to Intervene Out of Time filed on behalf of Birch Telecom of Missouri, Inc. in Case No. TO-99-593. This motion is filed pursuant to 4 CSR 240-2.075. As you can see from the Certificate of Service, copies of this pleading have been served on the Office of the Public Counsel and the parties to this case.

Please date stamp and return the enclosed copy of this cover letter in the return envelope we have provided to signify your receipt of this pleading. If you have any questions, please call me.

Yours truly,



Pete Mirakian

PM1:cb1
Enclosures

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FILED²

OCT 7 1999

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

Missouri Public
Service Commission

In the Matter of the Investigation)
into Signaling Protocols, Call Records,)
Trunking Arrangements, and Traffic) Case No. TO-99-593
Measurement.)

MOTION TO INTERVENE OUT OF TIME

COMES NOW Birch Telecom of Missouri, Inc. ("Birch") and hereby submits its Motion to Intervene Out of Time in Case No. TO-99-593 pursuant 4 CSR 240-2.075.

1. Birch is a Delaware corporation with principal offices located at 2020 Baltimore Avenue, Kansas City, Missouri 64108, and holds certificates to provide basic local, local exchange, and interexchange telecommunications services in the State of Missouri.

2. Birch initially filed a Motion to Intervene in accordance with the Commission's June 15 Order Directing Notice in this case in July, but missed the deadline for filing to intervene due to a clerical oversight. Birch's intention in its initial attempt to intervene was to monitor, and not necessarily to take an active role in proceedings that appeared likely to address only issues of slight relevance to Birch's particular situation, so Birch elected not to pursue its failure to be granted intervention. When the August 12 Order Granting and Denying Intervention and Directing Filing of Procedural Schedule was issued, Birch believed its interests would be properly represented by the other parties to the case.

3. Having now spoken with other parties to this case, Birch believes the case will address issues more directly applicable to its service offerings and to the industry as a whole and desires to intervene out of time. Birch's interests as a provider of local exchange and interexchange telecommunications services are different from the interests of the general public, and no party

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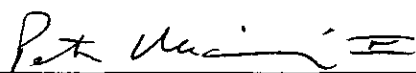
currently participating in this case can adequately protect Birch's interests. Moreover, Birch has been asked to participate in the conference call scheduled for October 7, at which the parties to this case will attempt to set an agenda for the January 19 technical workshop that was scheduled at the September 21 prehearing conference.

4. Applications to intervene filed after the official intervention date may be granted by the Commission upon a showing of good cause, pursuant to 4 CSR 240.075(4)(D). Birch's intervention would both allow Birch to protect its own interests and allow for a fuller interchange between the providers in the State of Missouri on the issues to be addressed in this case. For the reasons set forth in this Motion, Birch believes it has shown good cause to be permitted to intervene at this time.

WHEREFORE, Birch Telecom of Missouri, Inc. respectfully requests the Commission to grant Birch's Motion to Intervene Out of Time.

Respectfully Submitted,

SPENCER FANE BRITT & BROWNE LLP



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ATTORNEYS FOR BIRCH TELECOM OF
MISSOURI, INC.

CERTIFICATE OF SERVICE

I, Peter Mirakian III, hereby certify that a true and correct copy of the above and foregoing Motion to Intervene Out of Time of Birch Telecom of Missouri, Inc. in Case No. TO-99-593 was placed in the United States Mail, postage prepaid on this 6th day of October, 1999, to the following:

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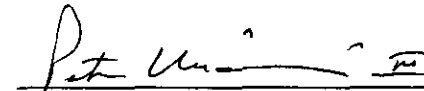
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