



FILED³

MAY 22 2000

Missouri Public
Service Commission

May 22, 2000

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

RE: COMPLAINT vs. Midwestern Tel

TC-2000-772

Dear Judge Roberts:

Enclosed please find one original and fourteen (14) copies of a formal Complaint by Birch Telecom of Missouri, Inc. against Midwestern Tel. As you can see from the Certificate of Service, one copy of this pleading has been served on the Office of Public Counsel.

Please date stamp a copy and return the enclosed copy of this cover letter in the return envelope we have provided to signify your receipt of this filing.

Thank you for your attention to this matter.

Very truly yours,

Kara A. Gilmore
Missouri Bar No. 44861
Manager of Corporate Law
Birch Telecom, Inc.

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Missouri Public
Service Commission

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

In the Matter of the Complaint of)
Birch Telecom of Missouri, Inc. Against)
Midwestern Tel (Midwestern Services L.C.))
For Refusal to Lift Restrictive Identifiers)
FIDs) from Customer Accounts Which)
Have Authorized a Service Conversion to)
Birch.)

Case No. TC-2000-772

COMPLAINT

Comes now Birch Telecom of Missouri, Inc. ("Birch"), and hereby files a formal complaint pursuant to 4 C.S.R. 240-2.070 against Midwestern Tel ("MWT") for MWT's refusal to lift restrictive identifiers it has placed on some of its customers' lines. In support of its complaint, Birch states as follows:

1. Birch is a Delaware corporation duly qualified to do business in the state of Missouri and certified by the Public Service Commission of the state of Missouri (the "Commission") to provide basic local exchange, nonswitched local exchange, and interexchange telecommunications service in the state of Missouri as a competitive telephone company.

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

Birch Telecom of Missouri, Inc.
Attention: Rose M. Mulvany, Esq.
2020 Baltimore Avenue
Kansas City, MO 64108
(816) 300-3731
(816) 300-3293 fax

3. This complaint is being filed against MWT, whose address is:

Midwestern Tel
9705 Watson, Suite 309
Crestwood, MO 63126
(888) 566-3426


4. Birch and MWT each serve customers in the St. Louis metropolitan area.
5. Certain of MWT's former customers (the "former customers") have signed appropriate letters of authorization to become Birch's customers. However, certain of the former customers' lines cannot be switched to Birch because MWT has placed restrictive identifiers ("FIDs") on them, which effectively "freezes" the accounts with MWT. No conversions can become effective until such restrictions are removed by MWT internally. Birch has obtained the appropriate documentation from all of the former customers to authorize MWT to remove the FIDs from each account, in order to be converted to Birch.
6. Over the course of the last several months, Birch provisioning personnel have worked with MWT personnel in an effort to get the FIDs lifted, with only partial success. Additionally, certain of Birch nonprovisioning personnel, primarily in its Legal Department, as well as its outside counsel, have attempted to resolve this problem with certain of MWT nonprovisioning personnel, including one or more of its officers. It is unclear whether MWT personnel are unwilling or simply unable to lift the FIDs as requested. In any event, the FIDs remain on the former customers' lines.
7. Birch requests the Commission to require MWT to lift the FIDs on the lines of the former customers which shall be identified to the Public Service Commission, independent of this pleading. This specific relief would enable Birch to fully provide to its customers, the former customers of MWT, the telecommunications services to which they are entitled and have requested of Birch.

8. Birch has learned that while MWT is still in operation, the future of the business remains uncertain, amid reports of the company closing its doors or being acquired by another company. While Birch personnel are still able to contact MWT personnel at this time, it is unknown how much longer MWT personnel will be available.

9. As set forth above, Birch has attempted to negotiate directly with MWT to reach a mutual solution to this problem without success. The Commission has jurisdiction over the subject matter of this complaint because it affects the provision of local telephone service throughout the state of Missouri.

WHEREFORE, Birch Telecom of Missouri, Inc. respectfully requests that the Commission consider the matters raised in this complaint, in an expedited manner, and grant the relief requested by ordering MWT to lift restrictive identifiers it has placed on certain of its former customers' lines without further delay.

Respectfully submitted,


Kara A. Gilmore, MO Bar No. 44861
Birch Telecom of Missouri, Inc.
2020 Baltimore Avenue
Kansas City, MO 64108
(816) 300-3000
(816) 300-3293 fax

In the Matter of the Complaint of)
 Birch Telecom of Missouri, Inc. Against)
 Midwestern Tel (Midwestern Services, L.C.))
 For Refusal to Lift Restrictive Identifiers)
 (FIDs) from Customer Accounts Which)
 Have Authorized a Service Conversion to)
 Birch.)

Case No. _____

STATE OF MISSOURI)
) ss
COUNTY OF JACKSON)

Kara A. Gilmore

Kara A. Gilmore

Cheryl A. Bogo
Notary Public

Notary Public

CHERYL A. BROGAN
Notary Public - State of Missouri
Commissioned in Jackson County
My Commission Expires April 29, 2002

My commission expires

CERTIFICATE OF SERVICE

I hereby certify that a correct copy of the above and foregoing Complaint was sent via U.S. Mail or certified U.S. Mail on this 22nd day of May, 2000 to:

Office of Public Counsel
Missouri Public Service Commission
P.O. Box 7800
Jefferson City, Missouri 65102

President/CEO
Midwestern Tel
9705 Watson, Suite 309
Crestwood, MO 63126