

BEFORE THE MISSOURI PUBLIC SERVICE COMMISSION

In the Matter of Birch Telecom of Missouri, Inc.)
and Ionex Communications, Inc. Request for)
Waiver) Case No. _____

BIRCH TELECOM OF MISSOURI, INC. AND IONEX COMMUNICATIONS, INC.
REQUEST FOR WAIVER

Comes Now Birch Telecom of Missouri, Inc ("Birch") and Ionex Communications, Inc. ("Ionex") (collectively, "Applicants") pursuant to Section 392.420 RSMo and 4 CSR 240-2.060, and respectfully request that the Missouri Public Service Commission ("Commission") waive certain statutes and rules. Applicants respectfully submit the following in support of this Application:

1. Birch Telecom of Missouri, Inc. is a Delaware corporation with headquarters located at 3060 Peachtree Road NW, Suite 1065, Atlanta, GA 30305. Birch Telecom of the South, Inc. is authorized to provide local exchange and interexchange telecommunications services in Missouri.¹
2. Ionex Communications, Inc. is a Kansas corporation with headquarters located at 3060 Peachtree Road NW, Suite 1065, Atlanta, GA 30305. Ionex is authorized to provide local exchange and interexchange telecommunications services in Missouri.² Birch Communications, Inc. is the ultimate parent of Birch Telecom of Missouri, Inc., and Ionex Communications, Inc.

¹ Docket No. TA-97-371 - *Application of Birch Telecom of Missouri, Inc for a Certification of Public Convenience and Necessity to provide Local Exchange Telecommunications Service and Interexchange Service*, Order (Apr. 16, 1997); Docket No. TA - *Application of Birch Telecom of Missouri, Inc which seeks a Certification of Public Convenience and Necessity*, Order (Oct. 28, 1997).

² Docket No. TA-93-332 - *Application of Feist Long Distance service, Inc for a Certificate of Public Convenience and Necessity as a Telecommunications Service Provider*, Order (Mar. 25, 1998); Case No. TO-2000-51B – *In the Matter of the Application of Feist Long Distance Service, Inc. for a Name Change from Feist Long Distance Service, Inc. to Ionex Communications, Inc.*, Order Acknowledging Change of Name (Mar. 17, 2000).

Birch Communications, Inc., and its subsidiaries provide telecommunications services in 32 states.

3. Correspondence concerning this Application should be directed to:

Leland B. Curtis
Carl J. Lumley
Curtis, Heinz, Garrett & O'Keefe, PC
Attorneys for Birch Telecom of Missouri, Inc.
130 S. Bemiston, Suite 200
Clayton, Missouri 63105
Telephone: (314) 725-8788
Facsimile: (314) 725-8789
Email: lcurtis@lawfirmemail.com

and

Christopher Bunce
Vice President, Legal and General Counsel
Birch Communications, Inc.
2300 Main Street, Suite 600
Kansas City, MO 64108
816-300-3322 (telephone)
chris.bunce@birch.com

with a copy to:

Chérie R. Kiser
Cahill Gordon & Reindel LLP
1990 K Street, NW, Suite 950
Washington, DC 20006
202-862-8900 (telephone)
202-862-8958 (facsimile)
ckiser@cgrdc.com

4. In the Commission's previous orders,³ Applicants were granted waivers of the following statutes and rules:

Statutes

392.240(1) - ratemaking
392.270- valuation of property (ratemaking)

³ Docket No. TA-97-371 - *Application of Birch Telecom of Missouri, Inc for a Certification of Public Convenience and Necessity to provide Local Exchange Telecommunications Service and Interexchange Service*, Order (Apr. 16, 1997)

392.280 depreciation accounts
392.290 - issuance of securities
392.310- stock and debt issuance
392.320- stock dividend payment
392.330- issuance of securities, debts, and notes
392.340- reorganization(s)

Commission Rules

4 CSR 240-10.020
4 CSR 240-30.010 (2) (C)
4 CSR 240-30.040
4 CSR 240-32.030(1) (B)
4 CSR 240-32.030 (1) (C)
4 CSR 240-32.030(2)
4 CSR 240-32.050(3)
4 CSR 240-32.050(4)
4 CSR 240-32.050(5)
4 CSR 240-32.050(6)
4 CSR 240-32.070(4)
4 CSR 240-33.030
4 CSR 240-33.040(5)

Pursuant to Section 392.420, which provides good cause for this request, Applicants respectfully request that the Commission waive the following Statutes and Rules:

Statutes

Missouri Public Service Commission Rules

.. 392.210.2	4 CSR 240-3.550(4), (5)(A) and (5)(C)
392.300	4 CSR 240.32.080

No public utility will be affected by the requested waiver.

WHEREFORE, Birch Telecom of Missouri, Inc., and Ionex Communications, Inc., respectfully request that the Commission grant waiver of the identified statutes and regulations.

Respectfully submitted,

/s/ Leland B. Curtis

Leland B. Curtis #20550

Carl J. Lumley, #32869

Curtis, Heinz, Garrett & O'Keefe, PC

130 S. Bemiston, Suite 200

Clayton, Missouri 63105

Telephone: (314) 725-8788

Facsimile: (314) 725-8789

Email: lcurtis@lawfirmemail.com

Attorneys for Birch Telecom of Missouri, Inc.

STATE OF GEORGIA)
)
COUNTY OF BIBB)

VERIFICATION

I, Vincent M. Oddo, President/CEO of Birch Communications, Inc., have reviewed and am familiar with the foregoing document. The statements in the foregoing document are true of my own knowledge, except as to matters which are herein stated on information and belief, and as to those matters, I believe them to be true.



Name: Vincent M. Oddo

Title: President/CEO

Subscribed and sworn to before me this 29 day of October 2009



Notary Public

