

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

In the Matter of the Cancellation of the )  
Certificate of Service Authority and )  
Tariff of Cbeyond Communications, LLC )

File No. CD-2015-  
Tariff No. JL-2002-0270  
JL-2002-0271

**MOTION TO CANCEL CERTIFICATES OF SERVICE AUTHORITY AND TARIFFS**

**COMES NOW** the Staff of the Missouri Public Service Commission and moves for the Missouri Public Service Commission (Commission) to cancel the certificates of competitive basic local and interexchange telecommunications service authority in Missouri of Cbeyond Communications, LLC (“the Company”) and states as follows:

1. On December 1, 2000, and February 22, 2001, the Commission granted certificates of interexchange competitive basic local telecommunications service authority the Company in Cases No. TA-2001-259 and 260, and approved the current name (d/b/a Birch) in Cases No. XN-2015-0099 and CN-2015-0098, respectively. It has existing approved tariffs, JL-2002-0270 and JL-2002-0271.

2. On March 26, 2015, the Company notified the Commission that it no longer wished to retain its certification to provide telecommunications services in Missouri (see the attached letter).

3. The Commission has the authority to cancel a telecommunications certificate pursuant to Section 392.410.5 RSMo 2000, which provides “[a]ny certificate of service authority may be altered or modified by the commission after notice and hearing, upon its own motion or upon application of the person or company affected.”

4. The Commission need not hold a hearing, if, after proper notice and opportunity to intervene, no party requests such a hearing. *State ex rel. Rex Deffenderfer Enterprises, Inc. v. Public Service Commission*, 776 S.W.2d 494 (Mo. App. W.D. 1989).

**WHEREFORE**, the Staff respectfully recommends the Commission cancel the certificates of service authority of Cbeyond Communications, LLC to provide competitive basic local and interexchange telecommunications service in Missouri and its tariffs.

Respectfully submitted,



Colleen M. Dale  
Senior Counsel  
Missouri Bar No. 31624  
Attorney for the Staff of the  
Missouri Public Service Commission  
P. O. Box 360  
Jefferson City, MO 65102  
(573) 751-4255 (Telephone)  
[cully.dale@psc.mo.gov](mailto:cully.dale@psc.mo.gov)

**CERTIFICATE OF SERVICE**

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile or electronically mailed to all counsel of record this 5<sup>th</sup> day of May, 2015.



CURTIS, HEINZ, GARRETT & O'KEEFE, P. C.  
ATTORNEYS AT LAW  
130 SOUTH BEMISTON, SUITE 200  
ST. LOUIS, MISSOURI 63105  
(314) 725-8788  
FAX (314) 725-8789

CARL J. LUMLEY  
PRINCIPAL

DIRECT DIAL (314) 884-7503  
DIRECT FAX (314) 884-7533  
CLUMLEY@LAWFIRMEMAIL.COM

March 26, 2015

Via EFIS

Mr. Morris L. Woodruff  
Secretary / Chief Regulatory Law Judge  
Missouri Public Service Commission  
P.O. Box 360  
200 Madison Street  
Jefferson City, MO 65102-0360

Re: Cbeyond Communications, LLC d/b/a Birch  
Cancellation of Authority and All Tariffs

Dear Mr. Woodruff:

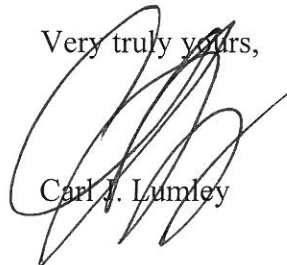
By letter dated August 12, 2014, the Commission was notified of the transfer of control of Cbeyond Communications, LLC ("Cbeyond") to Birch Communications, Inc. (BMGR-2015-0075).

The letter is submitted on behalf of Cbeyond to notify the Commission that it has no Missouri customers.

Further, Cbeyond hereby requests cancellation of its authority and all of its tariffs as soon as practicable. (See Case Nos. TA-2001-0259, TA-2001-0260, CN-2015-0098, XN-2015-0099).

Please contact the undersigned if there are any questions.

Very truly yours,



Carl J. Lumley

CJL:lr