

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

In Re: Interconnection, Collocation and Resale)
Agreement by and Between Birch Telecom of)
Missouri, Inc., d/b/a Birch Communications and) **Case No. TK-2009-0214**
Embarq Missouri, Inc. Pursuant to Sections 251)
and 252 of the Telecommunications Act of 1996)

**ORDER DIRECTING NOTICE AND MAKING
BIRCH COMMUNICATIONS A PARTY**

Issue Date: November 26, 2008

Effective Date: November 26, 2008

This order provides notice of this application to interested parties and joins the other party to the interconnection, collocation and resale agreement, Birch Telecom of Missouri, Inc., d/b/a Birch Communications, as a party to this proceeding.

On November 20, 2008, Embarq Missouri, Inc. d/b/a Embarq filed an application with the Commission for approval of an interconnection, collocation and resale agreement with Birch under the provisions of the federal Telecommunications Act of 1996. Embarq states that there are no unresolved issues and that the agreement complies with Section 252(e) of the Act in that it is not discriminatory to nonparty carriers and is consistent with the public interest. Embarq requests expeditious approval of the agreement.

Although Birch is a party to the agreement, it did not join in the application. Because Birch is a necessary party to a full and fair adjudication of this matter, the Commission will add it as a party to this case.

The Act provides that an interconnection or resale agreement must be approved unless the state commission finds that the agreement discriminates against a

telecommunications carrier not a party to the agreement, or that implementation of the agreement is not consistent with the public interest, convenience, and necessity.¹ Section 252(e)(4) of the Act provides that if the Commission has not approved an agreement within 90 days after submission, the agreement shall be deemed approved. Therefore, the Commission will proceed with this case expeditiously. The Commission finds that proper persons shall be allowed 20 days from the issuance of this order to file a motion for hearing. The Commission also finds that notice of this application shall be sent to all interexchange and local exchange telecommunications companies.

THE COMMISSION ORDERS THAT:

1. The Commission's Data Center shall send notice to all interexchange and local exchange telecommunications companies.
2. Birch Telecom of Missouri, Inc., d/b/a Birch Communications is made a party to this case.
3. Any party wishing to request a hearing shall do so by filing a pleading no later than December 19, 2008, with:

Colleen M. Dale, Secretary
Missouri Public Service Commission
Post Office Box 360
Jefferson City, Missouri 65102

and send copies to:

Craig Smith
Embarq
5454 West 110th Street
Mailstop: KSOPKJ0401
Overland Park, Kansas 66211

¹ 47 U.S.C. § 252(e).

Karen Bollerman
Birch Communications
Attn: Legal Department
2300 Main Street, Ste. 600
Kansas City, Missouri 64108

and:

Office of the Public Counsel
Post Office Box 2230
Jefferson City, Missouri 65102

4. The Staff of the Commission shall file a memorandum advising either approval or rejection of this agreement and giving the reasons therefor no later than December 29, 2008.

5. This order shall become effective on November 26, 2008.

BY THE COMMISSION



Colleen M. Dale
Secretary

(S E A L)

Colleen M. Dale, Chief Regulatory
Law Judge, by delegation of authority
pursuant to Section 386.240, RSMo 2000.

Dated at Jefferson City, Missouri,
on this 26th day of November, 2008.