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May 20, 2004

**FILED**

**MAY 20 2004**

**Missouri Public  
Service Commission**

The Honorable Dale Hardy Roberts  
Secretary/Chief Regulatory Law Judge  
Missouri Public Service Commission  
P.O. Box 360  
Jefferson City, MO 65102-0360

Re: Case No. TO-2004-0576

Dear Judge Roberts:

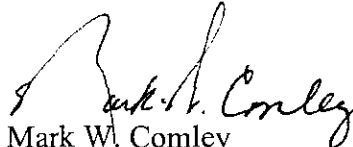
Please find enclosed for filing in the referenced matter the original and five copies of Birch Telecom of Missouri, Inc.'s Application to Intervene.

Please contact me if you have any questions regarding this filing. Thank you.

Very truly yours,

NEWMAN, COMLEY & RUTH P.C.

By:



Mark W. Comley

comleym@ncrpc.com

MWC:ab

Enclosure

cc: Office of Public Counsel  
General Counsel's Office

BEFORE THE MISSOURI PUBLIC SERVICE COMMISSION

FILED

In the Matter of the Agreement between )  
SBC Communications, Inc. and Sage )  
Telecom, Inc., )

Case No. TO-2004-0576

MAY 20 2004

Missouri Public  
Service Commission

**BIRCH TELECOM OF MISSOURI, INC.'s**  
**APPLICATION TO INTERVENE**

COMES NOW Birch Telecom of Missouri, Inc. (Birch Telecom) pursuant to 4 CSR 240-2.075, and for its Application to Intervene states the following to the Commission:

1. Birch Telecom 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. All communications and pleadings in this case should be directed to:

Mark W. Comley  
Newman, Comley & Ruth, P.C.  
601 Monroe Street, Suite 301  
P.O. Box 537  
Jefferson City, MO 65102  
573/634-2266  
573/636-3306 (FAX)  
comleym@ncrpc.com

Ms. Rose Mulvany Henry  
Birch Telecom, Inc.  
2020 Baltimore Avenue  
Kansas City, MO 64108  
(816) 300-3731 (voice)  
(816) 300-3350 (fax)  
rmulvany@birch.com

3. This matter commenced on or about May 6, 2004, when the Commission issued a Notice of New Case in order to consider and investigate an agreement between SBC Communications, Inc. and Sage Telecom, Inc. .

4. Birch Telecom seeks to intervene in this proceeding because the Commission's decision could adversely affect Birch Telecom's interests as a provider of local telecommunications services, in particular with respect to Birch Telecom's rights under Section 252, subsections (e) and (i) of the Telecommunications Act of 1996. The Commission should only approve agreements that comply with subsection (e) and should make sure that agreements are available under subsection (i).

5. Birch Telecom's interests as a telecommunications company are different from those of the general public. Furthermore, Birch Telecom's intervention in this proceeding is in the public interest because of Birch Telecom's interest in enhancing competition and because of its expertise in the telecommunications industry.

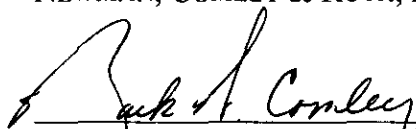
6. Regarding its position, Birch Telecom supports issuance of an order requiring SBC Missouri and Sage to file their agreements with the Commission. Birch Telecom intends to explain its position in detail in subsequently filed comments.

WHEREFORE, for the foregoing reasons, Birch Telecom of Missouri, Inc., respectfully requests the Commission to grant its Application to Intervene in this matter.

Rose Mulvany Henry  
BIRCH TELECOM, Inc.  
2020 Baltimore Avenue  
Kansas City, Missouri 64108  
(816) 300-3731 (voice)  
(816) 300-3350 (fax)  
rmulvany@birch.com

NEWMAN, COMLEY & RUTH, P.C.

By:

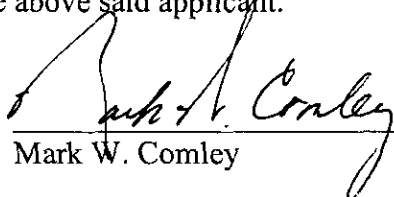
  
Mark W. Comley #28847  
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Attorneys for Birch Telecom of Missouri, Inc.

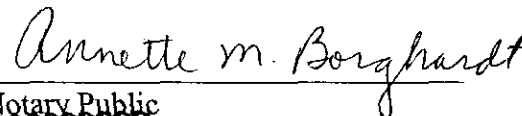
**ATTORNEY VERIFICATION**

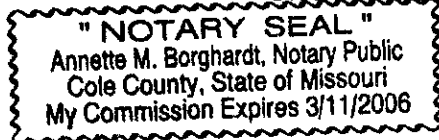
STATE OF MISSOURI     )  
                                  ) ss.  
COUNTY OF COLE        )

I, Mark W. Comley, being first duly sworn, do hereby certify, depose and state that I am the attorney for the Birch Telecom of Missouri, Inc., applicant for intervention in this proceeding; that I have read the above and foregoing Application to Intervene and the allegations therein contained are true and correct to the best of my knowledge, information and belief; and I further state that I am authorized to verify the foregoing application by the above said applicant.

  
Mark W. Comley

Subscribed and sworn to before me, a Notary Public, this 20<sup>th</sup> day of May, 2004.

  
Notary Public

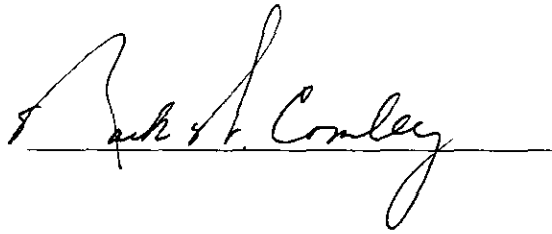


**Certificate of Service**

A true and correct copy of the foregoing was served upon the following parties on this 20th day of May, 2004, by placing same in the U.S. Mail, postage paid.

Office of Public Counsel  
P.O. Box 2230  
Jefferson City, Missouri 65102

Office of General Counsel  
Missouri Public Service Commission  
P.O. Box 360  
Jefferson City, Missouri 651012

A handwritten signature in cursive script, reading "Robert A. Conley", is written over a horizontal line.