

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service
Commission held at its office in
Jefferson City on the 2nd day of
December, 2009.

In the Matter of Birch Telecom of Missouri,)
Inc. and Ionex Communications, Inc.,)
Request for Waiver)

File No. CE-2010-0143

ORDER GRANTING WAIVER

Issue Date: December 2, 2009

Effective Date: December 12, 2009

On November 6, 2009¹, Birch Telecom of Missouri, Inc., and Ionex Communications, Inc. (hereafter "Applicants") asked the Commission to waive two rules and two statutes.

Applicants ask the Commission to waive:

Section 392.210.2 – Uniform System of Accounts
Section 392.300.1 – Transfer of property
4 CSR 240-3.550(4), (5)(A) – Held order records, quality of service reports
4 CSR 240-33.080(1) – Toll-free number for billing disputes

On November 13, Staff filed its Recommendation. Staff states that Sections 392.240 RSMo and 392.245.5(8), as amended by H.B. 1779, allow the Commission to grant the requested waivers. Staff further states that the waiver would not relieve Applicants of any reporting or other obligations that arise from a source other than the waived rules or statutory provisions.

Commission Rule 4 CSR 240-2.080(15) allows parties ten days after pleadings are filed to respond. No party responded to Staff's Recommendation.

¹ Unless otherwise noted, all calendar references are to 2009.

Section 392.245.5(8) states that all alternative local exchange telecommunications companies shall not be required to comply with customer billing rules, network engineering and maintenance rules, and rules requiring the recording and submitting of service objectives or surveillance levels establish by the Commission. Section 392.420 allows the Commission to grant waivers of its rules and of certain statutes if the waiver is consistent with other provisions of Sections 392.361 to 392.520 and the purposes of Chapter 392 RSMo. Section 392.361 also allows the Commission to waive its rules, but permits the Commission to reinstate those rules if the lessened regulation is no longer in the public interest or consistent with the provisions of Chapter 392.

The Commission has reviewed the verified application and Staff's verified recommendation, which are hereby admitted into evidence. The Applicants are alternative local exchange telecommunications companies, and are thus entitled to the requested waiver. The Commission will grant the application.

THE COMMISSION ORDERS THAT:

1. The Request for Waiver filed by Birch Telecom of Missouri, Inc., and Ionex Communications, Inc., is granted.

2. The Commission waives the following statutes and Commission rules:

Section 392.300.1 – Transfer of property
4 CSR 240-3.550(4), (5)(A) – Held order records, quality of service reports
4 CSR 240-33.080(1) – Toll-free number for billing disputes
Section 392.210.2 – Uniform System of Accounts

3. Birch Telecom of Missouri, Inc., and Ionex Communications, Inc., are not relieved of any reporting or other obligations that arise from a source other than the waived rules or statutory provisions.

4. This order shall become effective on December 12, 2009.
5. This case shall be closed on December 13, 2009.

BY THE COMMISSION

A handwritten signature in black ink, appearing to read 'S. C. Reed', written in a cursive style.

Steven C. Reed
Secretary

(S E A L)

Clayton, Chm., Davis, Jarrett,
Gunn, and Kenney, CC., concur.

Pridgin, Senior Regulatory Law Judge