



**BOULT ■ CUMMINGS**  
**CONNERS ■ BERRY PLC**

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November 18, 2002

Blanca S. Bayo  
 Commission Clerk and Administrative Services Director  
 Florida Public Service Commission  
 Betty Easley Conference Center  
 2540 Shumard Oak Blvd.  
 Tallahassee, FL 32399-0850

Re: Birch Telecom of the South, Inc.

Dear Ms. Bayo:

I am writing on behalf of Birch Telecom of the South, Inc. The purpose of this letter is to undo a mistaken request for a name change which was approved by the Commission last year.

Birch Telecom of the South, Inc. holds both an ALEC certificate and an IXC certificate to operate in Florida. In a letter dated Dec. 11, 2000, the carrier asked the Commission to "amend" the two certificates to indicate that Birch Telecom of the South, Inc. also did business under the fictitious names "Birch" and "Birch Telecom." The letter, a copy of which is attached, wrongly described this as a "Request for Name Change."

As a result of this mistake, the Commission Staff concluded that "Birch Telecom of the South, Inc." wanted to change its name to "Birch Telecom of the South, Inc. d/b/a Birch Telecom and d/b/a Birch." See Memo from Dan Hoppe to Division of Legal Services, January 5, 2001. (Copy attached.)

That was not, however, the carrier's intent. The legal name of the carrier has not changed. It was then – and is now – Birch Telecom of the South, Inc. The other, fictitious names are merely d/b/a's, not part of the actual name of the carrier.

Nevertheless, because of the misleading language in the letter, the Commission entered an Order on January 17, 2001 (Docket 001779-TP), which officially changed the name on each certificate from "Birch Telecom of the South, Inc." to "Birch Telecom of the South, Inc. d/b/a/ Birch Telecom and d/b/a Birch." A copy of the Order is attached.

This confusion over the name of the certificate holder has produced some unintended, adverse consequences. When Birch recently submitted to BellSouth a revised interconnection agreement, BellSouth declined to file the revised agreement with the Commission because (as BellSouth reported to Birch) the ALEC name on the interconnection agreement (Birch Telecom

November 18, 2002

Page 2

of the South, Inc.) did not match the name on the ALEC's certificate (Birch Telecom of the South, Inc. d/b/a Birch Telecom and d/b/a Birch).

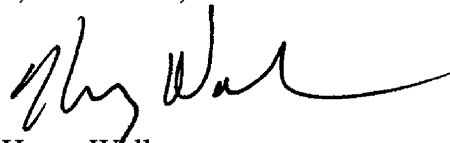
To prevent such incidents from happening again, Birch Telecom of the South, Inc. respectfully asks that the Commission either vacate the January 17, 2001 order or enter a second order clarifying that the ALEC and IXC certificates are held by Birch Telecom of the South, Inc. and not by Birch Telecom of the South, Inc. d/b/a Birch Telecom and d/b/a Birch.

Since Birch does not yet operate in Florida, these changes will have no impact on Florida consumers.

Birch Telecom of the South, Inc. apologizes for the inaccurate, earlier request and for the confusion that has resulted. Please call me at 615-252-2363 if there are any questions about this letter.

Very truly yours,

BOULT, CUMMINGS, CONNERS & BERRY, PLC

By:   
Henry Walker

HW/nl  
Attachment

ORIGINAL



RECEIVED - FPSC  
06 DEC 11 PM 4:42  
RECORDS AND REPORTING

December 11, 2000

Blanca S. Bayo'  
Director, Records and Reporting  
Florida Public Service Commission  
Betty Easley Conference Center  
2540 Shumard Oak Blvd.  
Tallahassee, FL 32399-0850

001779

Re: Birch Telecom of the South, Inc. Request for Name Change

Dear Ms. Bayo':

Attached please find documentation from the Florida Department of State, Division of Corporations web page that reflects that Birch Telecom of the South, Inc. has registered Birch Telecom and Birch as fictitious names. We respectfully request the Florida Public Service Commission to amend Certificate Number 7552 to reflect these names.

Also enclosed is a copy of this letter. Please date stamp and return in the self-addressed postage prepaid envelope.

Thank you for your assistance with this filing. Should you have any questions regarding this matter, please do not hesitate to contact me at 919-562-3069.

Sincerely yours,

Monica M. Barone  
Director, State Regulation  
Birch Telecommunications of the South,  
Inc.

Enclosures

RECEIVED & FILED  
*M. Lockard*  
FPSC-BUREAU OF RECORDS

DOCUMENT NUMBER-DATE

15854 DEC 11 8

FPSC-RECORDS-REPORTING

State of Florida



## Public Service Commission

-M-E-M-O-R-A-N-D-U-M-

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**DATE:** January 5, 2001  
**TO:** Division of Legal Services (Elliott)  
**FROM:** Dan Hoppe, Director, Division of Regulatory Oversight *DH*  
**RE:** Docket No. 001779-TP Request for name change on ALEC Certificate No. 7552 and IXC Certificate No. 7610 from Birch Telecom of the South, Inc. to Birch Telecom of the South, Inc. d/b/a Birch Telecom and d/b/a Birch

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Birch Telecom of the South, Inc. has requested a name change on its Certificate Nos. 7552 and 7610 to Birch Telecom of the South, Inc. d/b/a Birch Telecom and d/b/a Birch.

Since the changes do not involve a change in control or transfer of assets, it is my recommendation that the name changes be acknowledged and that the certificates be reissued.

As required in Chapter 2.07, Section C.2 of the Administrative Procedures, this is to inform you that I concur with the name changes on the Certificates of Public Convenience and Necessity No. 7552 and No. 7610.

c: Records and Reporting (2)  
Regulatory Oversight (Pruitt)

DOCUMENT NUMBER-DATE

00255 JAN-5

FPSC-RECORDS/REPORTING

## BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Request for approval of name change on ALEC Certificate No. 7552 and IXC Certificate No. 7610 from Birch Telecom of the South, Inc. to Birch Telecom of the South, Inc. d/b/a Birch Telecom and d/b/a Birch.

DOCKET NO. 001779-TP  
ORDER NO. PSC-01-0117-FOF-TP  
ISSUED: January 17, 2001

ORDER ACKNOWLEDGING NAME CHANGE

BY THE COMMISSION:

By letter dated December 11, 2000, Birch Telecom of the South, Inc. holder of Alternative Local Exchange Company (ALEC) Certificate of Public Convenience and Necessity No. 7552 and Interexchange Telecommunications (IXC) Certificate No. 7610, requested that ALEC Certificate No. 7552 and IXC Certificate No. 7610 be amended to reflect the inclusion of fictitious names, Birch Telecom of the South, Inc. d/b/a Birch Telecom and d/b/a Birch. Upon review of the Department of State, Division of Corporations' records, it appears that Birch Telecom of the South, Inc. has properly registered the fictitious names. Accordingly, we find it appropriate to amend Certificate No. 7552 to reflect the new operating names.

This Order will serve as Birch Telecom of the South, Inc. d/b/a Birch Telecom and d/b/a Birch's amended ALEC Certificate of Public Convenience and Necessity No. 7552 and IXC Certificate of Public Convenience and Necessity No. 7610. Birch Telecom of the South, Inc. d/b/a Birch Telecom and d/b/a Birch should retain this Order as evidence of the name change.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the request by Birch Telecom of the South, Inc. to change the name on Certificate No. 7552 and Certificate No. 7610 from Birch Telecom of the South, Inc. to Birch Telecom of the South, Inc. d/b/a Birch Telecom and d/b/a Birch is hereby acknowledged. It is further

DOCUMENT NUMBER-DATE

00672 JAN 17 2001

FPS-C-RECORDS REPORTING

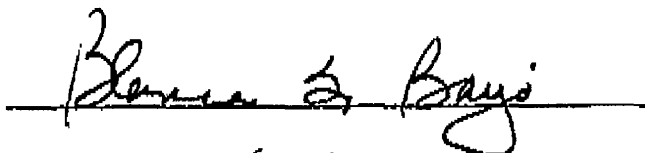
ORDER NO. PSC-01-0117-FOF-TP  
DOCKET NO. 001779-TP  
PAGE 2

ORDERED that this Order will serve as Birch Telecom of the South, Inc. d/b/a Birch Telecom and d/b/a Birch's amended certificates and that this Order should be retained as evidence of the name change. It is further

ORDERED that this change will be effective upon issuance of the Order. It is further

ORDERED that this docket is hereby closed.

By ORDER of the Florida Public Service Commission, this 17th day of January, 2001.



BLANCA S. BAYÓ, Director  
Division of Records and Reporting

( S E A L )

JAE

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.