

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

IN THE MATTER OF THE APPLICATION OF)
BIRCH COMMUNICATIONS OF THE NORTHEAST,)
INC. D/B/A AS BIRCH COMMUNICATIONS FOR A)
CERTIFICATE OF PUBLIC CONVENIENCE AND)
NECESSITY TO PROVIDE LOCAL EXCHANGE AND)
COMPETITIVEINTRASTATE TELECOMMUNICATIONS) PSC DOCKET NO. 10-262
SERVICES WITHIN THE STATE OF DELAWARE,)
AND FOR REVIEW OF A PLAN FOR PROVIDING)
INTRALATA TOLL DIALING PARITY IN)
ACCORDANCE WITH FEDERAL COMMUNICATIONS)
COMMISSION REQUIREMENTS)
(FILED JULY 29, 2010))

ORDER NO. 7859

AND NOW, this 10th day of November 2010:

WHEREAS, on July 29, 2010, Birch Communications of the Northeast, Inc. d/b/a Birch Communications ("Birch" or "the Company"), filed with the Commission an application for a Certificate of Public Convenience and Necessity ("CPCN") to allow it to provide local exchange and competitive intrastate telecommunications services within Delaware. Birch has also filed an illustrative tariff setting forth the terms and conditions for its proposed services; and

WHEREAS, public notice of the application, including a period for filing objections, was published in The News Journal newspaper and the Delaware State News newspaper on August 31, 2010. No comments or objections to the application have been received. The Commission Staff reports that Birch has shown that it has the financial, technical, and managerial capabilities as required for a CPCN as set forth in the Commission's "Rules for the Provision of Telecommunications Services." (the "Rules"). See 26 Del. Admin. C §4001, et. seq. On October 27,

2010, Birch filed a Letter of Credit in the amount of Ten Thousand Dollars (\$10,000); and

WHEREAS, the Commission determines that a conditional CPCN should be granted to Birch authorizing it, as a public utility, to offer local exchange and competitive intrastate telecommunications services under the provisions of the Commission's Rules until the Company completes the conditions described in Ordering Paragraph 3

NOW, THEREFORE, IT IS HEREBY ORDERED BY THE AFFIRMATIVE VOTE OF NOT FEWER THAN THREE COMMISSIONERS:

1. That, pursuant to 26 Del. C. §§203A and 703(3) and the Commission's "Rules for the Provision of Telecommunications Services," a conditional Certificate of Public Convenience and Necessity is granted to Birch Communications of the Northeast, Inc. d/b/a Birch Communications to operate as a public utility and provide local exchange and interstate telecommunications services as described in the application filed on July 29, 2010.

2. That Birch Communications of the Northeast, Inc. d/b/a Birch Communications shall provide local exchange and competitive intrastate telecommunications services in the manner required by the Commission's "Rules for the Provision of Telecommunications Services," and shall, at all times, comply with all applicable provisions of such Rules. Birch Communications of the Northeast, Inc. d/b/a Birch Communications shall also file all returns and pay all assessments and fees as may be required by the provisions of 26 Del. C. §§114 and 115.

3. That the Certificate for local exchange telecommunications services is awarded upon, and subject to, the following conditions:¹

- (a) That ten (10) days prior to the date Birch Communications of the Northeast, Inc. d/b/a Birch Communications intends to offer and implement local exchange telecommunications services, Birch Communications of the Northeast, Inc. d/b/a Birch Communications shall file a tariff or price list with rules, regulations, terms, and conditions of service specifically adopted for Delaware; and
- (b) That Birch Communications of the Northeast, Inc. d/b/a Birch Communications has a Commission approved interconnection agreement or a filed "opt-in" agreement between Birch Communications of the Northeast, Inc. d/b/a Birch Communications and Verizon Delaware LLC, or another certificated local exchange carrier.

4. That the provisions of 26 Del. C. §208(b) are waived, and Birch Communications of the Northeast, Inc. d/b/a Birch Communications is authorized to maintain its books and records relating to its Delaware operations outside of the State of Delaware provided, however, and upon the condition that, all such books and records relating to Delaware operations as the Commission may deem it reasonably necessary from time

¹These conditions must be completed within 6 months of the date of this Order.

to time, to review and copy, shall be provided to the Commission at the Commission's Office within the State of Delaware in a timely manner upon written request by the Commission's Deputy Director or Executive Director. The conduct of such a review at a location other than Delaware shall be at the Company's expense.

5. That a violation of this Order, the Commission rules and regulations, or other applicable law may result in suspension or revocation of this Certificate.

6. That the Commission reserves the jurisdiction and authority to enter such further Orders in this proceeding as may be deemed necessary or proper.

BY ORDER OF THE COMMISSION:

/s/ Arnetta McRae
Chair

/s/ Joann T Conaway
Commissioner

/s/ Jaymes B. Lester
Commissioner

/s/ Dallas Winslow
Commissioner

/s/ Jeffrey Clark
Commissioner

ATTEST:

/s/ Alisa Carrow Bentley
Secretary