

ORIGINAL



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BEFORE THE ARIZONA CORPORATION COMMISSION

DOUG LITTLE
Chairman
BOB STUMP
Commissioner
BOB BURNS
Commissioner
TOM FORESE
Commissioner
ANDY TOBIN
Commissioner

Arizona Corporation Commission

DOCKETED

MAY 03 2016

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AZ CORP COMMISSION

DOCKET CONTROL

2016 MAY 3 PM 3 04

In the Matter of the Application of Ionex)
Communications North, Inc. d/b/a Birch)
Communications for Approval of Transfer) T- 03243A-16-0052
of Customers from Primus Telecommunications, Inc.) T- 03864A-16-0052
_____)

**SUPPLEMENT TO APPLICATION FOR
WAIVER OF SLAMMING RULES AND
NOTIFICATION OF CUSTOMER TRANSFER**

Ionex Communications North, Inc. d/b/a Birch Communications (“Ionex”) and Primus Telecommunications, Inc. (“Primus”) (“Applicants”) provide the following supplement to the Application filed with the Commission on February 12, 2016 requesting a waiver of the slamming rules, A.A.C. R14-2-1901-1913 (“Slamming Rules”).

The transaction described in the Application has not closed with respect to Arizona customers and assets. The draft notice included with the original Application was not sent to Arizona customers. Instead, a revised notice was sent to Primus residential and business customers in Arizona during the last week of March. The Primus residential customers received the initial revised notice in error. Consequently, a revised residential customer notice was subsequently sent to Arizona residential customers which clarified: (a) what Primus residential customers could expect, (b) informed customers that Birch would use the Primus brand name in delivering residential services, and (c) provided phone numbers customers could use to contact Primus or

Birch. The initial notice letter is attached as Exhibit A and the revised notice letter is attached as Exhibit B. The Applicants' letter and notice verification, filed with the FCC pursuant to 47 C.F.R. §64.1120(2)(1), are included as Exhibit C. Exhibit D is the Arizona Secretary of State filing by Ionex Communications North, Inc. registering the trade name "Primus Communications." Going forward, Primus business customers will be served under the "Birch" brand just as Ionex Communications North, Inc. customers are served under the "Birch" brand. Birch residential customers will be served under the Primus brand.

Birch anticipates closing the transaction in mid-to-late May, but will not transfer Arizona customers until its application for waiver of the Arizona Slamming Rules is approved.

RESPECTFULLY SUBMITTED this 3rd day of May 2016.

LAW OFFICE OF JOAN S. BURKE



Joan S. Burke
Law Office of Joan S. Burke
1650 North First Avenue
Phoenix, Arizona 85003
Tel: (602) 535-0396
joan@jsburkelaw.com

Attorney for Ionex Communications North, Inc.
d/b/a Birch Communications

ORIGINAL and thirteen (13) copies
of the foregoing filed
this 3rd day of May 2016 with:

The Arizona Corporation Commission
Docket Control
1200 W. Washington Street
Phoenix, Arizona 85007



Exhibit A



IMPORTANT NOTICE
REGARDING A CHANGE IN YOUR TELECOMMUNICATIONS SERVICES

Dear Customer,

Birch Communications ("Birch") and Primus Telecommunications, Inc. ("Primus") are pleased to announce that Birch is acquiring Primus' local telephone and long distance telephone customers, as well as certain other customers receiving additional types of services from Primus. Subject to approval by the Federal Communications Commission and state regulators as necessary, Birch will replace Primus as your current telecommunications service provider on or after April 17, 2016 (the "Transfer Date"). As a result of this transaction, Birch will assume responsibility for all wireline services previously provided to you by Primus. Birch is excited about the opportunity to provide your telecommunications service(s) and looks forward to a long and mutually rewarding business relationship.

Please rest assured, the transition will have little or no impact on your current services, nor will there be any interruption of your service. The agreement between Birch and Primus has been structured so that the transfer of service will be virtually seamless. There, however, may be other changes to your service plan based on Birch's unique billing systems (e.g., customers currently utilizing a message or measured local service plan may be switched to a flat rate plan). In those cases, Birch will transition you in a neutral manner **with no increase to your regular monthly recurring charges**. You will retain all other service rates, features, terms, and conditions of service and your telephone number. Birch will not impose any charges for the transfer of your services to Birch and **no action is required from you to continue your telecommunications service(s) with Birch**. You will receive your first billing statement from Birch starting with your June 2016 or July 2016 bill. As in the past, you are responsible for paying all bills rendered to you by Primus during the transition of service.¹

You do have the right to select a different carrier for your telecommunications service(s). If you choose to switch to an alternate carrier for services, you may incur a fee from that alternate carrier for the transfer of services to that alternate carrier. If you select a local telephone service provider other than Birch, you should also contact your current long distance provider to ensure that your current long distance plan is not changed. Please note that if you are a customer of Primus on the Transfer Date as set forth above, your account will automatically be transferred to Birch. In addition, should you have a term commitment with Primus and you disconnect or transfer services to another carrier prior to the end of that term, you will be liable to Birch for any applicable early termination charges, subject to applicable law. Please note that when your service is transferred to Birch, any preferred

¹ Those customers interested in setting up online payments will be pleased to know Birch offers online payments and account updates.

carrier "freeze" you have placed on your existing telephone lines to prevent unauthorized transfer of your services to another carrier will be over-ridden for purposes of this transaction and will need to be reinstated by you by contacting Birch after the transfer is complete.

If you have any questions regarding this transaction or questions about your service or billing prior to the Transfer Date set forth above, you should contact Primus at **1-888-877-4687** (residential customers) or **1-866-385-3360** (business customers).

If you have any questions regarding this transaction, or questions about your service or billing after the Transfer Date set forth above, you should contact Birch at **1-888-772-4724**.²

Primus thanks you for your business and Birch looks forward to providing you with quality service for many years to come.

Sincerely,

Primus Telecommunications, Inc. and
Birch Communications

² **About Birch Communications** - Birch Communications, Inc. is a leading communications, network, cloud and IT solutions provider celebrating 20 years in business (1996-2016). Recognized for exceptional customer experience, Birch delivers cost-effective solutions that assist small, mid-sized, enterprise and wholesale businesses to increase their productivity. Its industry-leading product portfolio is available nationwide and includes Metro-Fiber, Metro-Ethernet, unified communications (UC), hosted phone systems, hosted data centers, and hosted file storage services.

Exhibit B



IMPORTANT NOTICE AND CLARIFICATION
REGARDING A CHANGE IN YOUR TELECOMMUNICATIONS SERVICES

Dear Customer,

To clarify information in the notice you received approximately a week ago, we are sending this second notice. Birch Communications (“Birch”) and Primus Telecommunications, Inc. (“Primus”) are pleased to announce that Birch is acquiring Primus’ local telephone and long distance telephone customers, as well as certain other customers receiving additional types of services from Primus. To clarify from the previous notice, Birch will continue to do business and communicate with you under the Primus brand for your residential services.

We’ve included the remaining information from the previous note again just for consistency:

Subject to approval by the Federal Communications Commission and state regulators as necessary, Birch will replace Primus as your current telecommunications service provider on or after April 28, 2016 (the “Transfer Date”). As a result of this transaction, Birch will assume responsibility for all wireline services previously provided to you by Primus. Birch is excited about the opportunity to provide your telecommunications service(s) and looks forward to a long and mutually rewarding business relationship.

Please rest assured, the transition will have little or no impact on your current services, nor will there be any interruption of your service. The agreement between Birch and Primus has been structured so that the transfer of service will be virtually seamless. There, however, may be other changes to your service plan based on Birch’s unique billing systems (e.g., customers currently utilizing a message or measured local service plan may be switched to a flat rate plan). In those cases, Birch will transition you in a neutral manner **with no increase to your regular monthly recurring charges**. You will retain all other service rates, features, terms, and conditions of service and your telephone number. Birch will not impose any charges for the transfer of your services to Birch and **no action is required from you to continue your telecommunications service(s) with Birch**. You will receive your first billing statement from Birch starting with your June 2016 or July 2016 bill. As in the past, you are responsible for paying all bills rendered to you by Primus during the transition of service.¹

You do have the right to select a different carrier for your telecommunications service(s). If you choose to switch to an alternate carrier for services, you may incur a fee

¹ Those customers interested in setting up online payments will be pleased to know Birch offers online payments and account updates.

from that alternate carrier for the transfer of services to that alternate carrier. If you select a local telephone service provider other than Birch, you should also contact your current long distance provider to ensure that your current long distance plan is not changed. Please note that if you are a customer of Primus on the Transfer Date as set forth above, your account will automatically be transferred to Birch. Please note that when your service is transferred to Birch, any preferred carrier "freeze" you have placed on your existing telephone lines to prevent unauthorized transfer of your services to another carrier will be over-ridden for purposes of this transaction and will need to be reinstated by you by contacting Birch after the transfer is complete.

If you have any questions regarding this transaction or questions about your service or billing prior to the Transfer Date set forth above, you should contact Primus at **1-888-877-4687**.

If you have any questions regarding this transaction, or questions about your service or billing after the Transfer Date set forth above, you should contact Birch at **1-888-772-4724**.²

Primus thanks you for your business and Birch looks forward to providing you with quality service for many years to come.

Sincerely,

Primus Telecommunications, Inc. and
Birch Communications

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CAHILL GORDON & REINDEL LLP

Exhibit C

SUITE 950

1990 K STREET, N.W.

WASHINGTON, D.C. 20006-1181

EIGHTY PINE STREET
NEW YORK, N.Y. 10005-1702
(212) 701-3000
FAX: (212) 269-5420

TELEPHONE (202) 862-8900
FACSIMILE (202) 862-8958

AUGUSTINE HOUSE
6A AUSTIN FRIARS
LONDON, ENGLAND EC2N 2HA
(011) 44.20.7920.9800
FAX: (011) 44.20.7920.9825

ANGELA F. COLLINS | 202-862-8930 | acollins@cahill.com

March 31, 2016

Via ECFS

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

**Re: CC Docket No. 00-257 - Notification Pursuant to 47 C.F.R. § 64.1120(e) for
Birch Communications, Inc. and Primus Telecommunications, Inc., Debtor-
in-Possession**

Dear Secretary Dortch:

Pursuant to 47 C.F.R. § 64.1120(e)(1), Birch Communications, Inc., on behalf of itself and the subsidiaries noted below (collectively, "Birch"), and Primus Telecommunications, Inc., Debtor-in-Possession ("Primus") (Birch and Primus collectively, the "Applicants") hereby notify the Federal Communications Commission ("Commission") of the pending transfer of Primus customers to Birch.

Parties to the Transaction: The Applicants filed a request for approval of the transfer of Primus customers to Birch. That request is pending under WC Docket No. 16-43 and IBFS File No. ITC-ASG-20160202-00051. The following entities are involved in this transaction:

Primus Telecommunications, Inc., Debtor-in-Possession

Birch Communications, Inc.

Birch Communications of Virginia, Inc. d/b/a Birch Communications

Birch Communications of the Northeast, Inc. d/b/a Birch Communications

Birch Telecom of the West, Inc. d/b/a Birch Communications

Birch Telecom of the Great Lakes, Inc. d/b/a Birch Communications

Birch Telecom of Kansas, Inc. d/b/a Birch Communications

Birch Telecom of Missouri, Inc. d/b/a Birch Communications

Birch Telecom of Oklahoma, Inc. d/b/a Birch Communications

Birch Telecom of Texas Ltd., L.L.P. d/b/a Birch Communications

Birch Telecom of the South, Inc. d/b/a Birch Communications

Ionex Communications North, Inc. d/b/a Birch Communications

Ionex Communications South, Inc. d/b/a Birch Communications

Ionex Communications, Inc. d/b/a Birch Communications

Type of Telecommunications Services Provided to Affected Subscribers: Primus is a competitive local exchange carrier and offers or is certified to offer competitive local exchange service in California, Florida, Iowa, Maryland, Massachusetts, Michigan, New Jersey, New York, Pennsylvania, Puerto Rico, and the District of Columbia. Primus also offers or is certified to offer intrastate interexchange services in Puerto Rico and all 50 states with the exception of Alaska. Primus also is authorized to provide interstate interexchange services and international services. The customer transfer involves customers currently receiving services from Primus in all 50 states with the exception of Alaska. The Applicants will file a separate notice regarding the transfer of Primus customers located in Puerto Rico.

Planned Date of Transfer: Primus customers will be transferred after the receipt of all necessary regulatory approvals, but no earlier than April 30, 2016.

Certification of Compliance: Birch hereby certifies that it has complied with the requirement to provide advance notice to Primus customers in accordance with 47 C.F.R. § 64.1120(e)(3) and with the other statutory and Commission requirements that apply to this streamlined process. Please see the attached verification.

Copy of Notice To Be Sent to Affected Subscribers: Copies of the notices sent to Primus subscribers are attached. Please note that there are specific customer notice drafts for use in Colorado, Oklahoma, Oregon, Massachusetts, New York, Tennessee, Maryland, and the District of Columbia that comply with 47 C.F.R. § 64.1120(e) and applicable customer notice requirements in those states. Customers in all other states included in the transaction will receive the same notice in compliance with 47 C.F.R. § 64.1120(e). Birch will utilize the new assumed or doing business as (“DBA”) name of “Primus” to serve the residential customers of Primus to be transferred to Birch. Birch will serve the business customers of Primus to be transferred to Birch under the existing DBA of “Birch Communications.” Residential customers of Primus received a second notice letter informing them that their services would be provided under the “Primus” brand name.

If you have any questions regarding this matter, please contact the undersigned.

Respectfully submitted,



Angela F. Collins
Counsel for Birch Communications, Inc.

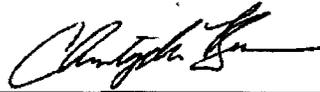
Attachments

Verification

I, Christopher Bunce, Senior Vice President, Legal, Regulatory and General Counsel of Birch Communications, Inc. and its subsidiaries, hereby certify under penalty of perjury that the statements in the foregoing filing are true, complete, and correct to the best of my knowledge, information, and belief.

Date:

3-29-16



Christopher Bunce
Senior Vice President, Legal, Regulatory
and General Counsel

Exhibit D

643076



MICHELE REAGAN Secretary of State

State of Arizona - Office of the Secretary of State Trade Name Registration Application

SEND BY MAIL TO:

Secretary of State Michele Reagan, Attn: Trade Name/Trademark Division 1700 W. Washington Street, FL 7, Phoenix, AZ 85007-2808

OR return this application in person:

PHOENIX - State Capitol Executive Tower, 1700 W. Washington Street, 1st Fl., Room 103 TUCSON - Arizona State Complex, 400 W. Congress, 1st Fl., Suite 141

Office Hours: Monday through Friday, 8 a.m. to 5 p.m., except state holidays. PLEASE NOTE: The registration of a Trade Name is not legally required in Arizona, but is an accepted business practice. The registration is a public record and does not constitute exclusive rights to the holder of the Trade Name

DO NOT WRITE IN THIS SPACE FILED

APR 12 2016

ARIZONA SECRETARY OF STATE FOR OFFICE USE ONLY SOSBSTN REV. 1/5/2015

APPLICANT INSTRUCTIONS

First time applicants shall use this form to apply for a Trade Name under A.R.S. § 44-1460. Applicants must be at least 18. This application must be signed, dated and notarized.

Trademark/Renewal/Address Change: To register a Trademark, DO NOT use this form. Use the Trademark Registration Application. To renew a Trade Name, use the Trade Name Renewal form. To report a change of address use the Trade Name Amendment form.

Processing: 2-3 weeks; expedited service (24-48 hours) available.

Be Accurate: Complete all applicable fields on this form. Write legibly, or fill out this application online at www.azsos.gov and print it.

Filing Fee and Payment: \$10; expedited service, include an additional \$25. Checks or money orders shall be made payable to the Secretary of State. Credit cards are not accepted.

Questions? Call (602) 542-6187; in-state/toll-free (800) 458-5842.

Website: All forms are available on the Secretary of State's Website, www.azsos.gov.

1. Name, title or designation to be registered SPACE BELOW FOR OFFICE USE ONLY - VALIDATION AREA

Trade Name (Names with a corporate ending are unacceptable. Examples: Inc., LLC, or Ltd.) Primus Communications

The date which the name above was first used by the applicant in Arizona. This date must be today or prior to today's date. Month: 04, Day: 07, Year: 2016

2. Entity Type and Owner Name

What type of person or entity functions as the owner of this trade name? Enter the entity or person(s) name. CHOOSE ONLY ONE.

Form with checkboxes for A. SOLE PROPRIETORSHIP (one person), B. ASSOCIATION, C. ORGANIZATION. Fields for Applicant Name, Association Name, Organization Name.

D. PARTNERSHIP (List name(s)) Either provide the partnership name(s) OR multiple individuals by the Applicants' First and Last Name

Form with checkboxes for E. CORPORATION, F. LIMITED LIABILITY COMPANY (LLC). Fields for Corporation Name, Limited Liability Company Name.

*Corporation/LLC. If checked the applicant must be on the Arizona Corporation Commission's website as a member/officer. The application will be returned if not incorporated.

Form with checkboxes for G. FOREIGN CORPORATION, H. OTHER. Fields for Foreign Corporation Name, Other Name.

3. Nature of Business General nature of business conducted telecommunications, broadband, Internet, and data services

4. Contact Information Addresses must be complete as they are used to mail certificates and renewal notices

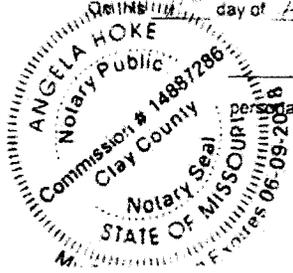
Mailing Address: 2323 Grand Blvd, Ste 925, Kansas City, MO 64108, Business Phone Number: (816) 300-1049

5. Applicant's Signature - If two applicants are listed in Section 2D, both must sign.

Signature fields for 1st and 2nd signers, including printed names, signatures, and dates.

State of Arizona, County of... On this 4th day of April, 2016

(Name of Person Appearing Before the Notary) personally appeared before me and acknowledged that he/she signed this document for it's stated purpose.

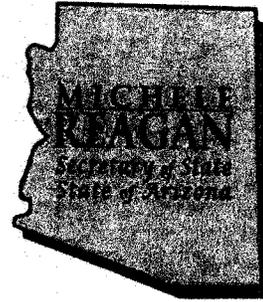


(Notary Public)

(Notary Public)

STATE OF ARIZONA

Department of State



TRADE NAME CERTIFICATION

PRIMUS COMMUNICATIONS

I, Michele Reagan, Secretary of State, do hereby certify that in accordance with the Trade Name Application filed in this Office, the Trade Name herein certified has been duly registered pursuant to Section 44-1460, Arizona Revised Statutes, in behalf of:

IONEX COMMUNICATIONS NORTH, INC.
2323 GRAND BLVD
SUITE 925
KANSAS CITY MO 64108-

4/12/2016 Application



Registration Date: 04/12/2016

Expiration Date: 4/12/2021

Date First Used: 4/7/2016

Trade Name No.: 643076

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Great Seal of the State of Arizona. Done at Phoenix, the capitol, this 13 day of April, 2016.

Michele Reagan

MICHELE REAGAN