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

January 8, 2013

Via Federal Express

Jean Jewell
Commission Secretary
Idaho Public Utilities Commission
PO Box 83720
Boise, Idaho 83720-0074

INX-T-13-01

RECEIVED
2013 JAN -9 AM 10:19
IDAHO PUBLIC
UTILITIES COMMISSION

**Re: Application of Ionex Communications North, Inc. dba Birch
Communications for a Certificate of Public Convenience and Necessity to
provide local telecommunications service in Idaho**

Dear Ms. Jewell,

Ionex Communications North, Inc. dba Birch Communications (the "Applicant") hereby encloses an unbound original and three (3) copies of the **PUBLIC** version of its Application for a Certificate of Public Convenience and Necessity to provide local telecommunications service in Idaho ("Application"). Also enclosed are an unbound original and three (3) copies of a Request for Trade Secret Treatment. The enclosed Application includes **TRADE SECRET** information. Pursuant to Rules 61 and 67 of the Rules of Procedure of the Idaho Public Utilities Commission, two (2) copies of the enclosed trade secret information have been submitted on yellow paper and have been separated from the non-trade-secret portion of the Application. This Application is being submitted in conjunction with a pending transaction, as such, the Applicant respectfully requests expedited handling of this Application.

Please date stamp the extra copy of the Application and Request for Trade Secret Treatment, and return them in the enclosed envelope. If you have any questions concerning this matter, please contact the undersigned.

Respectfully submitted,



Angela F. Collins
Counsel for Ionex Communications North,
Inc. dba Birch Communications

Enclosures

Angela F. Collins
Cahill Gordon & Reindel, LLP
1990 K St. NW, Suite 950
(202) 862-8900 (telephone)
866-814-6582 (facsimile)
acollins@cahill.com
Attorney for Ionex Communications North, Inc. dba Birch Communications

RECEIVED

2013 JAN -9 AM 10: 33

IDAHO PUBLIC
UTILITIES COMMISSION

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

Application of Ionex)
Communications North, Inc. dba)
Birch Communications for a)
Certificate of Public Convenience)
and Necessity to provide local)
telecommunications service in Idaho)

INX-T-13-01

APPLICATION FOR CERTIFICATION

Pursuant to the rules of the Idaho Public Utilities Commission (the "Commission"), Ionex Communications North, Inc. dba Birch Communications ("Ionex" or "Applicant") hereby applies for a Certificate of Public Convenience and Necessity to provide basic local exchange service in Idaho pursuant to Commission Order No. 26665. In support of this application, Applicant submits the following information:

I. Proposed Services

Ionex will offer local exchange and long distance services within Idaho. Ionex is filing this application in connection with an Asset Purchase Agreement ("Agreement") between Ionex's parent, Birch Communications, Inc. ("BCI"), and Covista, Inc. ("Covista"), an authorized local exchange carrier in Idaho. Pursuant to the Agreement, BCI will purchase certain assets and customers of Covista, including certain customer accounts and receivables, certain customer agreements and contracts, certain vendor agreements and contracts, certain equipment, and certain intellectual property. BCI, however, will not assume any of Covista's pre-closing liabilities or obligations. Ionex and Covista are filing for any necessary approvals of the transaction under separate cover. Once Ionex receives all necessary authority from the Commission, Birch will serve the customers currently served by Covista in Idaho. Ionex, therefore, requests expedited review of its Application.

II. Form of Business

1. Name, Address and Form of Business: Ionex is a South Dakota corporation with headquarters located at 2300 Main Street, Suite 340, Kansas City, MO, 64108. Ionex is a wholly owned subsidiary of Birch Communications Inc. ("BCI"), a Georgia corporation with headquarters located at 3060 Peachtree Road NW, Suite 1065, Atlanta, Georgia 30305. BCI and its subsidiaries provide telecommunications services to both business and residential customers in 38 states. A copy of Ionex's authority to do business in the state of Idaho is attached as **Exhibit A**. A copy of the Certificate of Assumed Business Name for Ionex to use the name Birch Communications is also set forth in **Exhibit A**. A certified copy of its articles of incorporation is attached as **Exhibit B**.

If the applicant is a corporation, a short statement of the character of public service in which it may engage: The provision of telecommunications services.

2. Principal business address within Idaho: None

3. Name and address of registered agent for service in Idaho:

Corporation Service Company
12550 W. Explorer Drive, Suite 100
Boise, ID 83713

4. The names and addresses of the ten common stockholders of applicant owning the greatest number of shares of common stock and the number of such shares owned by each, as follows:

Birch Telecom, Inc. owns 100% of Ionex. BCI owns 100% of Birch Telecom, Inc. Birch Communications Holdings, Inc. ("Birch Holdings") owns a 100% voting and equity interest in BCI. Birch Holdings is a Georgia corporation whose principal business is telecommunications holdings. The address for Birch Holdings and both stockholders is 3060 Peachtree Road, NW, Suite 1065, Atlanta, GA 30305.

Ownership of Birch Holdings is as follows:

- (1) Holcombe Green, a U.S. citizen, owns a 66% voting and equity interest in Birch Holdings; and
- (2) R. Kirby Godsey, a U.S. citizen, owns a 32% voting and equity interest¹ in Birch Holdings.

5. Names and addresses of the officers and directors of Applicant: are attached as **Exhibit C**.

¹ R. Kirby Godsey holds his percentage through his individual holdings and through the R. Kirby Godsey 2008 Grantor Retained Annuity Trust.

6. Name and address of any corporation, association, or similar organization holding a 5% or greater ownership or a management interest in the applicant. As to ownership, the amount and character of the interest must be indicated. A copy of any management agreement must be attached: See response to Question 4.

7. Names and addresses of subsidiaries owned or controlled by applicant:
N/A

III. Telecommunication Service

1. The date on which applicant proposes to begin construction or anticipates it will begin to provide service: As soon as authorized. As discussed above, Ionex's parent company is acquiring the customers and substantially all of the assets of Covista, Inc., and is submitting this Application pursuant to that transaction. Ionex will begin to serve Covista customers as soon as it receives the necessary regulatory approvals.

2. A written description of customer classes and customer service[s] that the applicant proposes to offer to the public: Local exchange and interexchange service to residential and business customers.

IV. Service Territory

1. A description sufficient for determining whether service is to be offered in a particular location; and the names of all incumbent local exchange corporations with whom the proposed utility is likely to compete: The service will be offered to those customers currently served by Covista, Inc. Ionex is likely to compete with Qwest.

2. Written description of the intended manner of service, for example, resold services or facilities based. A general description of the property owned or controlled by applicant: Ionex will offer resold services and will own no facilities in Idaho.

3. A statement describing with whom the applicant is likely to compete: Other local exchange carriers, such as Qwest, XO, TW Telecom, and Level 3.

4. A description of the property owned by the applicant clarifies the applicant's proposed services and operation: N/A

V. Financial Information

The Applicant possesses adequate financial resources to provide the proposed services. In support of this, the Applicant submits the financial statements of its parent company (BCI) from 2012 as **Exhibit D** and pursuant to a Request for Confidential Treatment.

VI. "Illustrative" Tariff Filings

Proposed initial tariff and price sheets setting forth rates, rules, terms, and regulations applicable to the contemplated service are attached as **Exhibit E**. Ionex will further revise this tariff to incorporate the services currently offered by Covista to ensure Covista's customers continue to receive the same services and rates without immediate change after those customers are transferred to Ionex.

VII. Customer contacts

1. Contact information for the Applicant:

a) Person(s) responsible for consumer inquiries and complaints from the public, as well as complaints, inquiries, and matters concerning rates and price lists from Commission Staff:

Tara Jackson
Senior Manager, Legal, Regulatory, Security, and Fraud
Birch Communications
2300 Main Street, Suite 340
Kansas City, MO 64108
816-300-1677(telephone)
tara.jackson@birch.com

b) A toll-free number for customer inquiries and complaints: 1-888-772-4724

VIII. Interconnection Agreements

Ionex has an existing interconnection agreement with Qwest and will add Idaho to that agreement.

IX. Compliance with Commission Rule: The Applicant has reviewed all of the Commission rules and agrees to comply with them.


X. Escrow Account or Security Bond

1. If a company requires advance deposits by its customers, the company must submit a signed copy of an escrow account with a bonded escrow agent or a security bond. The escrow or bond shall be sufficient to meet customer deposit refunds in case of company default: The Applicant does not require advance deposits by its customers, and this requirement is therefore inapplicable.

WHEREFORE, Ionex respectfully requests that the Commission hereby grant its Application for a Certificate of Public Convenience and Necessity to provide local telecommunications service in Idaho.

Respectfully submitted,

**IONEX COMMUNICATIONS NORTH,
INC. DBA BIRCH
COMMUNICATIONS**



Angela F. Collins
Cahill Gordon & Reindel LLP
1990 K Street, N.W.
Suite 950
Washington, D.C. 20006
202-862-8930 (telephone)
866-814-6582 (facsimile)
acollins@cahill.com

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

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this 9th day of January, 2013, served the foregoing Application of Ionex Communications North, Inc. dba Birch Communications for a Certificate of Public Convenience and Necessity to provide local telecommunications service in Idaho upon all parties of record in this proceeding, by mailing a copy thereof, properly addressed with postage prepaid, to:

Jean Jewell
Commission Secretary
Idaho Public Utilities Commission
PO Box 83720
Boise, Idaho 83720-0074

**IONEX COMMUNICATIONS, INC.
DBA BIRCH COMMUNICATIONS**



Angela F. Collins
Cahill Gordon & Reindel LLP
1990 K Street, N.W.
Suite 950
Washington, D.C. 20006
202-862-8930 (telephone)
866-814-6582 (facsimile)
acollins@cahill.com

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

List of Exhibits

- Exhibit A Secretary of State Certificate of Authority to do business in Idaho and Certificate of Assumed Business Name
- Exhibit B Certified Copy of Articles of Incorporation
- Exhibit C Names and addresses of Officers and Directors
- Exhibit D Financial Statements – TRADE SECRET*
- Exhibit E Proposed Tariff

*Submitted pursuant to a Request for Trade Secret Treatment

Exhibit A

Secretary of State Certificate of Authority to do business in Idaho and Certificate of Assumed
Business Name

State of Idaho

Office of the Secretary of State

**CERTIFICATE OF AUTHORITY
OF
IONEX COMMUNICATIONS NORTH, INC.**

File Number C 196891

I, BEN YSURSA, Secretary of State of the State of Idaho, hereby certify that an Application for Certificate of Authority, duly executed pursuant to the provisions of the Idaho Business Corporation Act, has been received in this office and is found to conform to law.

ACCORDINGLY and by virtue of the authority vested in me by law, I issue this Certificate of Authority to transact business in this State and attach hereto a duplicate of the application for such certificate.

Dated: December 24, 2012



Ben Yursa
SECRETARY OF STATE

By *Contha*



APPLICATION FOR CERTIFICATE OF AUTHORITY (For Profit) (Instructions on Back of Application)

2012 DEC 24 PM 12:05

SECRETARY OF STATE STATE OF IDAHO

The undersigned Corporation applies for a Certificate of Authority and states as follows:

- 1. The name of the corporation is: Ionex Communications North, Inc.
2. The name which it shall use in Idaho is: Ionex Communications North, Inc.
3. It is incorporated under the laws of: South Dakota
4. Its date of incorporation is: 06/28/1993
5. The address of its principal office is: 2300 Main Street, Ste 340, Kansas City, MO 64108
6. The address to which correspondence should be addressed, if different from Item 5, is:
7. The street address of its registered office in Idaho is: 12550 W. Explorer Drive, Suite 100, Boise, ID 83713 and its registered agent in Idaho at that address is: Corporation Service Company

8. The names and respective business addresses of its directors and officers are:

Table with 3 columns: Name, Title, Business Address. Rows include Vincent M. Oddo (President/CEO), Christopher Aversano (Exec VP/COO), Christopher Bunce (Sr. VP/General Couns), Edward James III (Sr. VP/CFO), Holcombe T. Grean, Jr. (Director), and R. Kirby Godsay (Director).

Dated: 12/19/2012

Signature: [Handwritten Signature]

Typed Name: Christopher Bunce

Capacity: Sr. Vice President & General Counsel (The signer must be a director or an officer of the corporation.)

Customer Acct #: (if using pre-paid account) Secretary of State use only

grizaplmsicwp
someplmsicawmny_graft.amd
Revised 05/2005

IDAHO SECRETARY OF STATE
12/24/2012 05:00
CK: NONE CT: 1157 BH: 1352719
Web Form 1 @ 100.00 = 100.00 AUTH PRD # 2
1 @ 20.00 = 20.00 EXPEDITE C # 3

C196891



CERTIFICATE OF ASSUMED BUSINESS NAME

Pursuant to Section 53-504, Idaho Code, the undersigned submits for filing a certificate of Assumed Business Name.

Please type or print legibly.

Instructions are included on back of application.

1. The assumed business name which the undersigned use(s) in the transaction of business is:

Birch Communications

2. The true name(s) and business address(es) of the entity or individual(s) doing business under the assumed business name:

Name

Complete Address

Ionex Communications North, Inc.

2300 Main Street, Ste 340, Kansas City, MO 64108

3. The general type of business transacted under the assumed business name is:

- | | |
|--|--|
| <input type="checkbox"/> Retail Trade | <input type="checkbox"/> Transportation and Public Utilities |
| <input type="checkbox"/> Wholesale Trade | <input type="checkbox"/> Construction |
| <input checked="" type="checkbox"/> Services | <input type="checkbox"/> Agriculture |
| <input type="checkbox"/> Manufacturing | <input type="checkbox"/> Mining |
| <input type="checkbox"/> Finance, Insurance, and Real Estate | |

4. The name and address to which future correspondence should be addressed:

Ionex Communications North, Inc.

2300 Main Street, Ste 340

Kansas City, MO 64108

5. Name and address for this acknowledgment copy is (if other than # 4 above):

Submit Certificate of Assumed Business Name and **\$25.00** fee to:

Secretary of State
450 North 4th Street
PO Box 83720
Boise ID 83720-0080
208 334-2301

Signature: _____

Printed Name: Christopher Bunce

Capacity/Title: Sr. Vice President & General Counsel

Signature: _____

Printed Name: _____

Capacity/Title: _____

Secretary of State use only

INSTRUCTIONS

Optional: If the document requires a correction, please list a telephone number where we can reach you.

816-300-1049

Filing a Certificate of Assumed Business Name does not give a business any specific right to the use of the name on the Certificate. Before filing, it might prove useful to have the Secretary of State's Office search the records for names which are identical or deceptively similar. Another business might already be using the name you wish to file; in many cases this would be a reason to select another name. **Please be aware that all filings with this office are public record and are available upon request and via the internet.**

When an Assumed Business Name filing is required:

- (1) Any person who proposes to or intends to transact business in Idaho under an assumed business name shall, before beginning to transact business, file with the Secretary of State a certificate of assumed business name.
- (2) An entity which is organized, registered or admitted to the state by filing its organizational document or qualification papers with the Secretary of State is not required to file a Certificate of Assumed Business Name, except when it conducts business under a name other than its true name which appears on its organizational document or qualification papers. Formally organized or registered entities include corporations, limited liability companies, limited partnerships and limited liability partnerships.
- (3) If an individual is using both his/her legal first and last name within the business name, filing of this certificate is not required.

One certificate must be filed per assumed business name. If an individual or business conducts business under more than one assumed name, it must file a separate certificate for each assumed business name it uses.

Line 1. Enter the assumed business name exactly as is used in conducting the business with the public. Please note that the business name shall not include words or abbreviations which falsely imply the existence of a formally organized or registered entity, such as "Inc.", "Corporation", "LLC", "Company", etc.

Line 2. Enter the name and address of each individual who has a financial interest. (Since this information is public record we advise you use a business address and NOT a home address.) For a formally organized entity, enter in item #2 the true name exactly as it appears on the organizational or registration document, and its principal business address.

Line 3. Check one or more boxes in item # 3. You MUST select one of the options that best describe your business. Do not make up your own category.

Line 4. Enter the address to which the Secretary of State should send future correspondence concerning this certificate.

Line 5. Acknowledgment address. If you want this certificate returned to a different address than listed on line 4, enter that address in line 5.

Signature. The certificate must be signed by an individual who has actual authority to bind the business to legal obligations. The signer must be identified by printing or typing his/her name below the signature and indicate in what capacity they sign (i.e. president, partner, manager, owner, etc.) Only one signature is required, but space has been provided for more than one signature.

Pursuant to Idaho Code § 67-910(6), the Secretary of State's Office may delete a business entity filing from our database if payment for the filing is not completed.

Mail or deliver to:

Office of the Secretary of State
450 N 4th Street
PO Box 83720
Boise ID 83720-0080

The filing fee is \$25.00.

If you have questions or need help, call the Secretary of State's office at (208) 334-2301.

PUBLIC VERSION

Exhibit B
Certified Copy of Articles of Incorporation

State of South Dakota



OFFICE OF THE SECRETARY OF STATE

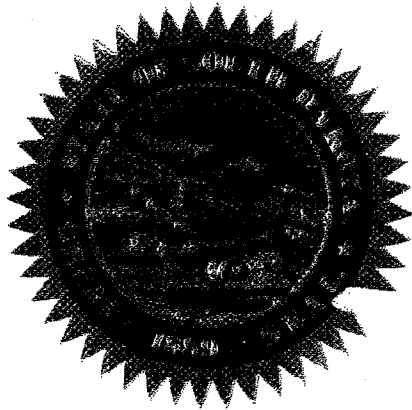
Department of State

United States of America, }

Secretary's Office

State of South Dakota }

This is to certify that the attached instrument of writing is a true, correct and examined copy of the Articles of Incorporation and all Amendments for IONEX COMMUNICATIONS NORTH, INC. filed with this office through April 14, 2006.



IN TESTIMONY WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the state of South Dakota at the city of Pierre, the capital, this April 14, 2006.

Chris Nelson

**Chris Nelson
Secretary of State**

Fees, \$ 33.

State of South Dakota



OFFICE OF THE SECRETARY OF STATE

CERTIFICATE OF INCORPORATION

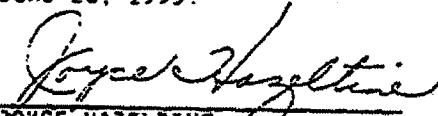
BUSINESS CORPORATION

I, JOYCE HAZELTINE, Secretary of State of the State of South Dakota, hereby certify that the Articles of Incorporation of FIRSTEL, INC. duly signed and verified, pursuant to the provisions of the South Dakota Business Corporation Act, have been received in this office and are found to conform to law.

ACCORDINGLY and by virtue of the authority vested in me by law, I hereby issued this Certificate of Incorporation and attach hereto a duplicate of the Articles of Incorporation of FIRSTEL, INC.



IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the Great Seal of the State of South Dakota, at Pierre, the Capital, this June 28, 1993.


JOYCE HAZELTINE
Secretary of State

