

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF IONEX)
COMMUNICATIONS NORTH, INC.’S) **CASE NO. INX-T-13-01**
APPLICATION FOR A CERTIFICATE OF)
PUBLIC CONVENIENCE AND NECESSITY)
TO PROVIDE LOCAL EXCHANGE) **ORDER NO. 32809**
TELECOMMUNICATIONS SERVICES)
)

On January 9, 2013, Ionex Communications North, Inc. dba Birch Communications (the “Company”) applied to the Commission for a Certificate of Public Convenience and Necessity (“CPCN”) authorizing the Company to provide resold local exchange and interexchange telecommunications service to residential and business customers in Idaho. The Company filed an Amended Application on April 9, 2013, and an Amended Application Exhibit E (proposed price list) on April 12, 2013 (collectively, the “Application”). On April 24, 2013, the Commission issued a Notice of Application and Notice of Modified Procedure that solicited public input on the Application and set a March 26, 2013 comment deadline. *See* Order No. 32795. Commission Staff filed the only comments in the case and supported the Company’s Application.

Having reviewed the record, we grant the Company’s Application for a CPCN as set forth below.

THE APPLICATION

The Application states that the Company is a South Dakota corporation and is authorized to do business in Idaho. It is headquartered in Kansas City, Missouri, and is a wholly owned subsidiary of the Georgia corporation, Birch Communications Inc. (“BCI”). Amended Application at 2.¹ The Company says BCI and its subsidiaries provide telecommunications service to business and residential customers in 38 states. *Id.*

The Company says that BCI is buying assets and customer accounts from Covista, Inc., an authorized local exchange carrier in Idaho. *Id.* at 1. The Company plans to serve customers currently served by Covista. It would provide service in the territories of, and

¹ The Company says it is owned 100% by Birch Telecom, Inc., that BCI owns 100% of Birch Telecom, Inc., and that Birch Communications Holdings, Inc. owns a 100% voting and equity interest in BCI. Birch Holdings is a Georgia corporation whose principal business is telecommunications holdings. *Id.* at 2.

compete with, incumbent local exchange carriers (“ILECs”) Qwest Corporation dba CenturyLink QC and Frontier Communications Northwest Inc. It also would compete with competitive local exchange carriers like XO, TW Telecom, and Level 3. *Id.* at 3.

The Company proposes to provide telecommunications service in Idaho as a facilities-based provider, a reseller, or some combination thereof. *Id.* at 1, 3. It has no plans to place facilities or switches in Idaho, but rather will serve Idaho customers using its facilities and switches in other parts of its service territory. *Id.* The Company says it also will buy unbundled network elements (“UNEs”) or UNE-replacement services from carrier ILECs like Qwest Corporation dba CenturyLink QC and Frontier Communications Northwest Inc. The Company plans to use a mix of its own facilities and services purchased from ILECs to provide local exchange and interexchange services in Idaho. *Id.*

The Company says it has adequate financial resources to provide the proposed services. *Id.* at 4. Further, it has an existing interconnection agreement with Qwest Corporation dba CenturyLink QC and Frontier Communications Northwest Inc., or their affiliates, and it will seek to add Idaho to those agreements or enter into new agreements with those ILECs as necessary. *Id.* The Company says it will begin serving Covista customers as soon as it receives the necessary regulatory approvals. *Id.* at 3. The Company says it has reviewed and will comply with Commission rules. *Id.* at 4.

THE COMMENTS

Staff reviewed the Company’s Application for compliance with applicable legal requirements for acquiring a CPCN, including RP 114, which specifies the information that a CLEC must include in its application. Based on that review, Staff believes the Company understands and agrees to comply with the Commission’s rules and requirements. Staff also believes the Company possesses the requisite financial, managerial, and technical qualifications necessary to provide local exchange telecommunications services. Further, Staff believes the Company’s price list complies with the Commission’s rules and Idaho law. Staff thus recommends that the Commission issue a CPCN to the Company, subject to the following conditions:

1. The Company must comply with the number pooling and reporting requirements of the North American Numbering Plan Administrator (NANPA).²

² See Commission Order No. 30425.

2. The Company must comply with all reporting and contribution requirements of Idaho's Universal Service Fund (USF; *Idaho Code* § 62-610; IDAPA 31.46.01), Telecommunications Relay Services (TRS) program (*Idaho Code* § 61-1304; IDAPA 31.46.02); and Telecommunications Service Assistance (TSA) program (*Idaho Code* § 56-904);³
3. The Company must comply with all future reporting requirements deemed appropriate by the Commission for competitive telecommunications providers; and
4. The Company must relinquish its CPCN and all telephone numbers if, within one year of the issuance of a CPCN, the Company is not providing basic local exchange service in Idaho.⁴

DISCUSSION AND FINDINGS

Based on our review of the record, including the Company's Application and Staff's comments, we find that the Company's Application complies with RP 114. Thus, we approve the Company's Application for a CPCN to provide local exchange telecommunications services within Idaho, subject to the following conditions: (1) the Company must comply with the NANPA's number pooling and reporting requirements; (2) the Company must comply with all reporting and contribution requirements of Idaho's USF, TRS program, and TSA program; (3) the Company must comply with all future reporting requirements deemed appropriate by the Commission for competitive telecommunications providers; and (4) the Company must relinquish its certificate and all telephone numbers if, within one year of the issuance of a CPCN, the Company is not providing local exchange telecommunications services in Idaho.

ORDER

IT IS HEREBY ORDERED that the Company's Application for a CPCN is granted subject to the above conditions.

THIS IS A FINAL ORDER. Any person interested in the Order may petition for reconsideration within twenty-one (21) days of the service date of this Order with regard to any matter decided in this Order. Within seven (7) days after any person has petitioned for

³ See Commission Order Nos. 32637, 32524, and 32526.

⁴ "Basic local exchange service' means the provision of access lines to residential and small business customers with the associated transmission of two-way interactive switched voice communication within a local exchange calling area." *Idaho Code* § 62-603(1).

reconsideration, any other person may cross-petition for reconsideration. *See Idaho Code § 61-626.*

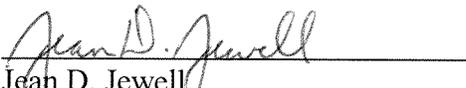
DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 21st day of May 2013.


PAUL KJELLANDER, PRESIDENT


MACK A. REDFORD, COMMISSIONER


MARSHA H. SMITH, COMMISSIONER

ATTEST:


Jean D. Jewell
Commission Secretary

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