

On September 10, 2013, the Administrative Law Judge (“ALJ”) for the Commission held a hearing, pursuant to Utah Code Ann. § 54-4-30. William J. Evans appeared on behalf of the Applicant and was joined, telephonically, by Christopher Bunce, senior vice president and general counsel for Ionex, and Angela F. Collins, counsel for Ionex. Justin Jetter, Utah Assistant Attorney General, appeared for the Division, and was accompanied by Ron Slusher, Utility Technical Consultant for the Division.

The ALJ took administrative notice of the application and memorandum filed by the Division recommending approval, and accepted into evidence several supplemental exhibits submitted by Ionex. Mr. Bunce testified on behalf of Ionex and offered the following summary of why the transaction is in the public interest:

. . . Ernest is a very small company in Utah. It has only 58 customers. This transaction will advance Ionex’s economic efficiency, allow it to achieve certain economi[es] of scale, which would put [Ionex] in a position both to expand the services offered to these customers and to bring our services to a broader customer base.

Of course, robust competition . . . telecommunication is in itself in the public interest. As a result of this transfer of control, we hope to be well positioned as a competitive provider in Utah.

. . . .

Transcript of Hearing at 14, lines 22-25; 15, lines 1-8.

Mr. Slusher testified on behalf of the Division in support of the application. Mr. Slusher further testified that a transfer of control in this docket is just, reasonable, and in the public interest. Id. at 19, lines 19-22. No one appeared at the hearing objecting to the application.

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Under Utah Admin. Code R746-349-7, “[i]f no objection to the proposed transaction is submitted in any filed comments or reply comments, the Commission will presume that approval of the transaction is in the public interest and use the information contained in the application and accompanying documents as evidence to support a Commission order.” Utah Admin. Code R746-349-7(A)(3). Because there is no objection to the granting of the application, the Commission thus presumes the application for approval of indirect transfer of control is in the public interest. Moreover, the Division’s memoranda and testimony provide additional support for approval of the application.

ORDER

For the foregoing reasons, the Commission approves the transfer of control of Ernest Communications, Inc. to Ionex Communications North, Inc. dba Birch Communications.

DATED at Salt Lake City, Utah, this 27th day of September 2013.

/s/ Melanie A. Reif
Administrative Law Judge

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Approved and confirmed this 27th day of September, 2013, as the Order
Approving Transfer of Control issued by the Public Service Commission of Utah.

/s/ Ron Allen, Chairman

/s/ David R. Clark, Commissioner

/s/ Thad LeVar, Commissioner

Attest:

/s/ Gary L. Widerburg
Commission Secretary
DW#247500

Notice of Opportunity for Agency Review or Rehearing

Pursuant to Utah Code Ann. §§ 63G-4-301 and 54-7-15, a party may seek agency review or rehearing of this order by filing a request for review or rehearing with the Commission within 30 days after the issuance of the order. Responses to a request for agency review or rehearing must be filed within 15 days of the filing of the request for review or rehearing. If the Commission fails to grant a request for review or rehearing within 20 days after the filing of a request for review or rehearing, it is deemed denied. Judicial review of the Commission's final agency action may be obtained by filing a Petition for Review with the Utah Supreme Court within 30 days after final agency action. Any Petition for Review must comply with the requirements of Utah Code Ann. §§ 63G-4-401, 63G-4-403, and the Utah Rules of Appellate Procedure.

CERTIFICATE OF SERVICE

I CERTIFY that on the 27th day of September, 2013, a true and correct copy of the foregoing ORDER APPROVING TRANSFER OF CONTROL was delivered upon the following as indicated below:

By U.S. Mail:

Paul Masters, President
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By Electronic-Mail:

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By Hand Delivery:

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