



State of Utah  
Department of Commerce  
Division of Public Utilities

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**MEMORANDUM**

**To:** Public Service Commission

**From:** Division of Public Utilities  
Chris Parker, Director  
Bill Duncan, Telecommunications / Water Manager  
Ron Slusher, Utility Technical Consultant

**Date:** August 30, 2013

**Re:** In the Matter of the Notification by Ionex Communications North, Inc. dba Birch Communications and Lightyear Network Solutions, LLC of the Transfer of Customers and Assets, Docket No. 13-2563-04.

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**RECOMMENDATION (Approve):**

The Division of Public Utilities (“Division”) has reviewed the joint application between Ionex Communications North, Inc. dba Birch Communications (“Ionex”) and Lightyear Network Solutions, LLC. (“Lightyear”)(together “The Applicants”) and believes that the transfer of control is in the public interest.

The Division expects that based on history that a filing of this type and with the information submitted by the company there will be no objections or opposition to this recommendation. Therefore, the Division request that this docket be adjudicated informally in accordance with R746-110-1.

**EXPLANATION:**

On or about August 14, 2013, Ionex and Lightyear notified the Public Service Commission (“Commission”) of a transaction, which will result in a transfer of customers and assets of Lightyear to Ionex. The Division has reviewed their application and found the following:

Ionex is a South Dakota corporation headquartered at 2300 Main Street, Suite 340, Kansas City, MO 64108. Ionex was granted a Certificate of Public Convenience and Necessity to provide Resold and Facilities-Based Local Exchange Telecommunications Service within the State of Utah on April 05, 2013, Docket Number 13-2563-01, certificate number 2563. 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, GA 30305.

Lightyear is a Kentucky limited liability company with corporate headquarters at 1901 Eastpoint Parkway, Louisville, KY, 40223. Lightyear was granted a Certificate of Public Convenience and Necessity to provide Resold and Facilities-Based Local Exchange Telecommunications Service within the State of Utah on April 07, 2005, Docket Number 04-2434-01, certificate number 2434. Lightyear currently serves 45 residential customers, of which 41 are long distance only, and 19 business customers, of which 16 are long distance only, in Utah.

On May 10, 2013, BCI and Lightyear entered into an agreement where BCI will purchase certain assets, customer accounts and receivables, certain customer agreements and contracts, certain vendor agreements and contracts, certain equipment, and certain intellectual property of Lightyear. BCI will not assume any of Lightyear's pre-closing liabilities or obligations.

Upon completion of the Transaction and the migration of customers to Ionex, Lightyear will no longer offer telecommunications services in Utah. After Lightyear determines that it no longer needs its Utah authorizations for operational or billing purposes, Lightyear will surrender its authorizations in a separate filing.

The Applicants submit that the transaction described herein will serve the public interest and will ensure that affected customers enjoy continuity of high-quality telecommunications service. Lightyear's current customers will be given prior written notice, see **EXHIBIT A**, of the transfer of their account to Ionex, in compliance with state and federal customer notice rules. The Applicants further submit that the transaction will be conducted in a manner that will be largely transparent their customers.

The Division has reviewed the joint application between Ionex and Lightyear and believes that the transfer of control is in the public interest. As a result of the acquisition, the Ionex will be able to provide the telecom services that were being provided by Lightyear without interruption to the current customers.

Cc. Angela F. Collins, Counsel for Ionex Communications North, Inc. d/b/a Birch Communications  
John J. Greive, Vice President / General Counsel, Lightyear Network Solutions  
Justin Jetter, Assistant Attorney General, State of Utah  
Cheryl Murray, Utility Analyst, Office of Consumer Services, State of Utah