

Supplemental Exhibit 5

UT PSC Docket No. 15-2563-01

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE: IONEX COMMUNICATIONS NORTH, INC., d/b/a BIRCH COMMUNICATIONS, INC., AND ORBITCOM, INC.	DOCKET NO. SPU-2015-0014
--	--------------------------

ORDER APPROVING TRANSFER OF CUSTOMERS

(Issued May 27, 2015)

On April 28, 2015, Ionex Communications North, Inc., d/b/a Birch Communications, Inc. (Birch), and OrbitCom, Inc. (OrbitCom), filed with the Utilities Board (Board) a joint petition requesting a discontinuance of service and transfer of customers pursuant to Iowa Code § 476.20. The filing was identified as Docket No. SPU-2015-0014.

The filing indicates that on April 24, 2015, Birch and OrbitCom entered into an asset purchase agreement pursuant to which Birch will purchase the customer list and certain assets from OrbitCom. The transfer of customers and assets is scheduled to take place on or around June 30, 2015. Upon completion of the transfer, OrbitCom will no longer offer telecommunications services in Iowa and its existing customers will be served by Birch. The companies assert that the transfer has been structured so that it will be virtually seamless to the affected customers. The companies also request that OrbitCom's certificate remain in place until the

completion of the transaction and migration to Birch at which time OrbitCom states that it will file a separate request to cancel its certificate.

Board rule 199 IAC 7.1(6)(c) requires the Board approve an application for discontinuance of service incident to a utility property transfer within 30 days or docket it for further investigation. Subrule 199 IAC 22.23(2)(e)(3) requires, in part, that written notice of the transfer be served on all affected customers and that the notice inform the customer of the date on which the acquiring carrier will begin providing service.

Birch and OrbitCom assert that notice was provided to all of the affected customers in compliance with 199 IAC 22.23(2)(e) and a draft of that notice was submitted to the Board with the joint application. The notice contained the terms and conditions of subscribing to Birch's service and appears to be in compliance with the requirements for customer notice set forth in 199 IAC 22.23(2)(e), specifically, the notice was sent to affected customers no later than 30 days before the planned transfer and the notice includes the date on which the transfer will occur as well as the rates, terms, and conditions of the service to be provided by the acquiring carrier.

The Board will approve the joint application for the transfer of customers from OrbitCom to Birch. The Board finds the transfer is reasonable and in compliance with the Board's rules regarding the discontinuance of service incident to utility property transfer outlined in 199 IAC 7.1(6). Specifically, the Board finds that Birch, as an incumbent local exchange carrier (ILEC) authorized to provide service in Iowa, is

ready, willing, and able to provide comparable utility service to the affected customers and that the notice requirements set forth in 199 IAC 22.23(2)(e) have been satisfied.

The transfer of customers from OrbitCom to Birch necessitates the cancellation of OrbitCom's certificate and will require that Birch amend its maps and modify its certificate by updating the list of exchanges Birch serves pursuant to its certificate.

Iowa Code § 476.29(4) provides that a certificate of public convenience and necessity shall define the service territory in which land-line local telephone service is provided. Service territories are to be shown on maps and other documentation determined by the Board. Board rule 22.20 implements Iowa Code § 476.29(4) and requires that service territories be defined by exchange boundary maps filed with the Board.

On March 20, 2015, the Board issued an order in Docket No. RMU-2014-0003 initiating a rule-making proceeding and proposing amendments to the Board's rules in response to the enactment of SF 2195, which, among other things, eliminates the retail tariff requirement for local exchange carriers.¹ Among the proposed amendments to 199 IAC chapter 22 were proposed changes to subrules 22.20(4) and 22.20(4)(a) regarding certificate modifications. These proposed rules would require ILECs to file revised boundary maps if the certificate modification involves an

¹ See "Order Commencing Rulemaking," Docket No. RMU-2014-0003 (Issued March 20, 2015). See also, "Notice of Intended Action," IAB Vol. XXXVII, No. 21 (04/15/15) p. 1849-50, ARC 1957C.

ILEC and also require companies to file with the Board a notice of a service area expansion. In addition, the notice is to be provided to all affected carriers in the expanded service area. Pursuant to the proposed rules, this type of notice is to be titled "Proposed Expansion of Competitive Service Area" and be assigned an ES docket number.

The transfer of customers from OrbitCom to Birch involves an ILEC (Birch) and results in the expansion of Birch's service area. While the proposed rules are not yet effective and binding, the Board believes they reflect useful principles that should be applied in this case. Therefore, consistent with the Board's proposed subrules 22.20(4) and 22.20(4)(a), within 30 days of the date of this order, Birch is directed to file revised boundary maps and a notice of its service area expansion resulting from the asset transfer. The notice should list the exchanges where Birch currently provides service and identify those exchanges that Birch intends to add to its service territory as a result of this asset transfer and should be provided to all affected carriers in the expanded service area. The notice shall be titled, "Proposed Expansion of Competitive Service Area," and will be assigned an ES docket number.

IT IS THEREFORE ORDERED:

1. The request by Ionex Communications North, Inc., d/b/a Birch Communications, Inc., and OrbitCom, Inc., filed on April 28, 2015, identified as Docket No. SPU-2015-0014, to transfer the customer base of OrbitCom, Inc., to Ionex Communications North, Inc., d/b/a Birch Communications, is granted.

2. Revised exchange boundary maps reflecting the transfer of the exchanges previously served by OrbitCom, Inc., to Ionex Communications North, Inc., d/b/a Birch Communications, Inc., shall be filed with the Board by Ionex Communications North, Inc., d/b/a Birch Communications, Inc., within 30 days of the issuance of this order.

3. Within 30 days of the issuance of this order, Ionex Communications North, Inc., d/b/a Birch Communications, Inc., shall file a notice of service area expansion with the Board by as described in this order. A copy of the notice shall be provided to all affected carriers in the expanded service area as described in this order.

4. Within 30 days of the completion of the asset transfer, OrbitCom, Inc., shall file with the Board a request to cancel its certificate, identified as Certificate No. 0259.

UTILITIES BOARD

/s/ Geri D. Huser

/s/ Elizabeth S. Jacobs

ATTEST:

/s/ Joan Conrad
Executive Secretary

/s/ Nick Wagner

Dated at Des Moines, Iowa, this 27th day of May 2015.