



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: April 04, 2013

Re: In the Matter of the Application of Ionex Communications North, Inc. dba Birch Communications for a Certificate of Public Convenience and Necessity to Provide Telecommunications Services in the State of Utah, Docket No.13-2563-01.

RECOMMENDATION (Approve):

The Division has reviewed the technical, managerial, and financial abilities of the Ionex Communications North, Inc. dba Birch Communications and has found that they have provided the necessary information to fulfill the requirements as stated in the existing Commission rules. The Division believes that the public interest will be promoted by recommending that the Commission allow the Ionex Communications North, Inc. dba Birch Communications a Certificate of Public Convenience and Necessity ("CPCN") as requested under the same terms and conditions allowed in other CPCNs.

The Division also recommends that the \$100,000 bond be waived on the basis that the Applicant will not require customer deposits or prepayments of any kind.

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:

Ionex Communications North, Inc. dba Birch Communications ("Ionex Communications or Applicant") filed an application for a certificate of public convenience and necessity ("CPCN") on or about January 03, 2013. The Division reviewed the application and found the following:

Ionex Communications North, Inc. dba Birch Communications is a registered foreign corporation within the State of Utah; with its corporate head quarters located at 2300 Main Street, Suite 340. Kansas City, MO 64108. They registered with the State on December 31, 2012 and are currently in good standing.

The Applicant seeks statewide authority except within exchange areas with less than 5,000 access lines that are owned or controlled by an incumbent local exchange carriers (“ILEC”) with fewer than 30,000 total access lines in accordance with Utah Code Ann. 5 54-8b-2.1 (3) and (4). Specifically, The Applicant seeks authority as a reseller local exchange services in the service areas of CenturyLink Communications, Inc. and any other existing or future LECs providing service in Utah.

The Applicant intends to provide a full range of telecommunications services to business and residential customers in the incumbent, CenturyLink exchanges statewide in Utah, consistent with the exchange maps CenturyLink has on file with the Commission.

The Applicant will not own any switching or other facilities in Utah, but will utilize facilities and switches located in other portions of its operating service territory. Ionex Communications plans utilize a mix of its own facilities, unbundled network elements (UNEs) or UNE-replacement services from ILECs, and other ILEC-provided services to provide local exchange and interexchange services in Utah.

The Applicant intends to commence negotiations with CenturyLink Communications for an interconnection/commercial agreement immediately upon receiving approval from the Public Service Commission of Utah to operate as a local exchange telecommunications service provider in the State of Utah.

Summaries of professional experience and education of its managerial personnel demonstrate that the Applicant has considerable experience in the telecommunications industry.

According to financial statements attested to be accurate, objective and with integrity by Vincent M. Oddo, President and CEO, of Birch Communications, the Applicant has a positive net worth and has ample working capital.

The Applicant requests that the \$100,000 bond requirement be waived because it will not require customer deposits or prepayments of any kind.

The Applicant is currently authorized to provide local exchange telecommunications services in every state and the District of Columbia, with the exceptions of Alaska, Arizona, Connecticut, Hawaii, Idaho, and Nevada. The Applicant states that they have applications pending in Connecticut, Idaho, and Nevada.

The Applicant states that it has had several complaints over the past three years all have been resolved with no sanctions imposed against the company. Ionex Communications submitted copies of the complaints with their application for review.

The Applicant also states that it has implemented policies and procedures concerning solicitation of new customers. These policies require that customers sign a contract authorizing the Applicant to provide telecommunications services.

The Applicant asserts that approval of its application will serve the public interest creating and enhancing competition and expanding customer service options. Additionally, the approval of this application will expand the availability of innovative, high quality, reliable and competitively-priced telecommunications services in the State of Utah.

cc: Vincent M. Oddo, President, Birch Communications
Angela F. Collins, Counsel for Ionex Communications North, Inc. dba Birch Communications
Justin Jetter, Assistant Attorney General, State of Utah
Patricia Schmid, Assistant Attorney General, State of Utah
Cheryl Murray, Utility Analyst, Office of Consumer Services, State of Utah