



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 08, 2013

Re: In the Matter of the Notification by Ionex Communications North, Inc. dba Birch Communications and Ernest Communications, Inc. of the Transfer of Customers and Assets, Docket No. 13-2563-03.

RECOMMENDATION (Approve):

The Division has reviewed the joint application between Ionex Communications North, Inc. dba Birch Communications ("Ionex") and Ernest Communications, Inc. ("Ernest")(together the "Applicants") and believes that the transfer of control is in the public interest.

EXPLANATION:

On or about July 26, 2013, Ionex and Ernest notified the Commission of a transaction, which will result in a transfer of certain customers and assets of Ernest to Ionex.

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.

Ernest is a Georgia corporation headquartered at 5275 Triangle Parkway, Suite 150, Norcross, GA 30092. Ernest 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 October 12, 2005, Docket Number 05-2451-01, certificate number 2451.

On May 30, 2013, Ionex and Ernest entered into an agreement where Ernest will sell certain customer accounts and receivables, certain customer agreements and contracts, certain vendor agreements and contracts, certain equipment, and certain intellectual property to Ionex. Ernest currently has approximately 58 business customers in the state of Utah, comprising of 53 local and 5 long distance. They currently service no residential accounts in the state. The Applicants have stated that the transfer of assets is scheduled for September 01, 2013. After the purchase has been completed, Ernest will no longer have customers in the state of Utah and will request the cancellation of their certificate to serve in a separate filing.

Ionex states that they will make any necessary revisions to their rates, terms, and conditions to incorporate Ernest's current services and rates so that affected customers will continue to receive the same services that they currently receive without any immediate changes to their service offerings or rates. The applicants have provided a copy of the letter that will accompany customer billing statements to notify them about the transaction, attached to this recommendation as Exhibit A.

The Applicants submit that the transaction described will serve the public interest and will be conducted in a manner that will be largely transparent their customers. In no event will it result in the discontinuance, reduction, loss, or impairment of service to customers.

cc. Angela F. Collins, Counsel for Ionex Communications North, Inc. d/b/a Birch Communications
Paul Masters, President, Ernest Communications, Inc.
Justin Jetter, Assistant Attorney General, State of Utah