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**BEFORE THE UTAH PUBLIC SERVICE COMMISSION**

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**In the Matter of Joint Application of Ionex Communications North, Inc. dba Birch Communications and dishNET Wireline, LLC dba Liberty-Bell Telecom for Approval to Transfer Assets and Customers to Ionex Communications North, Inc. dba Birch Communications**

Docket No. \_\_\_\_\_

**JOINT APPLICATION**

Pursuant to the provisions at Utah Code Ann. § 54-4-30 and Utah Admin. Code R746-349-7, Ionex Communications North, Inc. dba Birch Communications (“Ionex”) and dishNET Wireline, LLC dba Liberty-Bell Telecom (“dishNET”) (Ionex and dishNET collectively, the “Applicants”) hereby respectfully request that the Utah Public Service Commission (“Commission”) approve the transfer of the dishNET customer base that receives telecommunications services in Utah under the trade name “Liberty-Bell Telecom” (“Liberty-Bell Customer Base”) to Ionex (the “Transaction”). Applicants submit the following in support of this Joint Application:

**I. DESCRIPTION OF PARTIES**

**A. Ionex Communications North, Inc. dba Birch Communications**

Ionex is a South Dakota corporation with principal offices located at 3060 Peachtree Road NW, Suite 1065, Atlanta, Georgia 30305. Ionex is authorized by the Commission to provide local exchange and interexchange telecommunications services in Utah.<sup>1</sup> Ionex is not an incumbent local exchange carrier (“ILEC”) in Utah. Ionex is a wholly-owned subsidiary of Birch Communications, Inc. (“BCI”), a Georgia corporation with principal offices located at 3060 Peachtree Road NW, Suite 1065, Atlanta, Georgia 30305.

**B. dishNET Wireline, LLC dba Liberty-Bell Telecom**

dishNET is a Colorado limited liability company with corporate headquarters at 2460 W. 26th Ave., Suite 380-C, Denver, CO 80211. dishNET is authorized by the Commission to provide telecommunications services in the state of Utah.<sup>2</sup> dishNET is not an ILEC in Utah.

**II. DESIGNATED CONTACTS**

For the purposes of this Joint Application, inquiries, or copies of any correspondence, orders, or other materials should be directed as follows:

**For dishNET**

William P. Hunt  
Director, Regulatory  
dishNET Wireline dba Liberty-Bell  
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**For Ionex**

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<sup>1</sup> Docket No. 13-2563-01 (granting a Certificate of Public Convenience and Necessity to Ionex).

<sup>2</sup> Docket No. 09-2509-01. In this docket the Commission granted a Certificate of Public Convenience and Necessity for Liberty-Bell Telecom, LLC. In 2012, in Docket No. 12-2509-01, the Commission approved a name change from Liberty-Bell Telecom, LLC to dishNET Wireline, LLC.

### **III. DESCRIPTION OF THE TRANSACTION**

On April 18, 2014, BCI and dishNET entered into an Asset Purchase Agreement pursuant to which BCI will purchase the Liberty-Bell Customer Base and certain assets including certain customer accounts and receivables, certain customer agreements and contracts, certain vendor agreements and contracts, certain equipment, and certain intellectual property. In Utah, Ionex will provide service to the affected customers. Neither BCI or Ionex will assume any of dishNET's pre-closing liabilities or obligations.

Following consummation of the pending Transaction, Ionex will adopt the relevant grandfathered sections of the dishNET tariffs under which dishNET provides services to the Liberty-Bell Customer Base, and then will revise its own tariffs as necessary so that the Liberty-Bell Customer Base will continue to receive the same services that they currently receive without any immediate changes to their service offerings, rates, or terms and conditions. The ownership structure of BCI and Ionex will not be affected by the Transaction. Upon consummation of the Transaction and after completion of the customer transfer, Ionex will provide the Liberty-Bell Customer Base with the same high-quality service they have come to expect and all billing will be handled under the Birch name.

The transfer is scheduled to take place on or around June 2, 2014, assuming receipt of all necessary regulatory approvals. The Liberty-Bell Customer Base will receive notice of the Transaction in accordance with state requirements and the rules and regulations of the Federal Communications Commission ("FCC"). A draft customer notice letter is attached as **Exhibit 1**. Consummation of the Transaction is contingent on, among other things, receipt of all necessary regulatory approvals.

Upon completion of the Transaction and the migration of the Liberty-Bell Customer Base to Ionex, dishNET will no longer offer telecommunications services in Utah under the trade name of “Liberty-Bell Telecom.” After dishNET determines that it no longer needs to maintain the Liberty-Bell Telecom trade name for operational or billing purposes, dishNET will cancel its trade name. dishNET will maintain its Utah authorizations, and will also revise its tariff in a separate filing.

The Applicants have filed an application with the FCC seeking approval of this Transaction (copy attached as **Exhibit 2**). The Applicants expect the Transaction will receive streamlined treatment from the FCC. The Applicants have also filed an application seeking approval of the Transaction from the Colorado Public Utilities Commission (attached as **Exhibit 3**), and plan to soon file notice of the Transaction with the New Mexico Public Regulation Commission.

#### **IV. APPROVAL OF THE TRANSACTION IS IN THE PUBLIC INTEREST**

Approval of the Transaction is in the public interest. As discussed above, the Liberty-Bell Customer Base will be given prior written notice of the transfer of their account to Ionex, in compliance with Utah and federal customer notice rules. Following consummation of the Transaction, Ionex will continue to offer high quality services to Utah residents, as is supported by its industry knowledge, technical expertise, and financial strength. As a result, the proposed Transaction will be seamless and transparent to customers. The Transaction will serve the public interest by promoting competition among providers of telecommunication services in Utah and by enabling the Liberty-Bell Customer Base to receive uninterrupted service following completion of the Transaction.

**V. CONCLUSION**

WHEREFORE, for the forgoing reasons, Applicants respectfully request that the Commission act expeditiously to approve the proposed Transaction in accordance with the informal procedures set out in R746-349-7 of the Commission's rules.

Respectfully submitted,

/s/ William J. Evans

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