

CAHILL GORDON & REINDEL LLP

SUITE 950
1990 K STREET, N.W.
WASHINGTON, D.C. 20006-1181

EIGHTY PINE STREET
NEW YORK, N.Y. 10005-1702
(212) 701-3000
FAX: (212) 269-5420

TELEPHONE (202) 862-8900
FACSIMILE (202) 862-8958

AUGUSTINE HOUSE
6A AUSTIN FRIARS
LONDON, ENGLAND EC2N 2HA
(011) 44.20.7920.9800
FAX: (011) 44.20.7920.9825

ANGELA F. COLLINS | 202-862-8930 | acollins@cahill.com

April 21, 2014

VIA E-FILING

Mr. Doug Dean
Executive Director
Colorado Public Utilities Commission
1560 Broadway, Suite 250
Denver, CO 80202

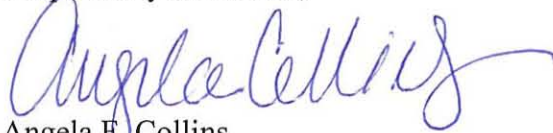
**RE: JOINT APPLICATION OF IONEX COMMUNICATIONS NORTH, INC.
DBA BIRCH COMMUNICATIONS AND DISHNET WIRELINE, LLC
DBA LIBERTY-BELL TELECOM**

Dear Mr. Dean,

Ionex Communications North, Inc. dba Birch Communications and dishNET Wireline, LLC dba Liberty-Bell Telecom, by their attorneys, hereby respectfully file their Joint Application for Waiver of Colorado Rule 2311 Regarding Authorization and Verification of Changes in Telecommunications Providers in Connection with a Pending Transaction.

If you have any questions concerning this matter, please contact the undersigned.

Respectfully submitted,



Angela F. Collins
Counsel for Ionex Communications
North, Inc. dba Birch Communications

Enclosures

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO
 1560 Broadway, Suite 250, Denver, CO 80202 **PHONE: 303-894-2000**
E-MAIL ADDRESS: www.dora.state.co.us/puc

FOR OFFICIAL USE ONLY DOCKET NO. _____

IN THE MATTER OF THE JOINT APPLICATION OF [APPLICANTS LISTED BELOW] TO EXECUTE A

xxx	<u>TRANSFER OR</u>
	<u>MERGER OF JURISDICTIONAL TELECOMMUNICATIONS PROVIDERS OR</u>
	<u>ENCUMBRANCE</u>

1. Applicant's Name and Complete Mailing Address (Transferor):

Legal Name	dishNET Wireline, LLC
Name (d/b/a) applicant uses in Colorado	Liberty-Bell Telecom
Mailing Address	9601 S. Meridian Blvd Englewood, CO 80112
Regulatory Contact	William Hunt
Phone Number	303-723-1712
Fax Number	N/A
E-mail Address	WilliamP.Hunt@dish.com

2. Applicant's Name and Complete Mailing Address (Transferee or Lender):

Legal Name	Ionex Communications North, Inc.
Trade Name (d/b/a) applicant uses in Colorado	Birch Communications
Mailing Address	2323 Grand Blvd., Suite 925 Kansas City, MO 64108
Regulatory Contact	Chris Bunce
Phone Number	816-300-3322
Fax Number	N/A
E-mail Address	chris.bunce@birch.com

3. Person to Contact for Questions about this Application:

Contact Person	Angela F. Collins, Cahill Gordon & Reindel LLP
Mailing Address	1990 K Street, NW Suite 950 Washington, DC 20006
Phone Number	202-862-8930
Fax Number	866-814-6582
E-Mail Address	acollins@cahill.com

4. Application to Execute a Transfer, Merger or Encumbrance:

Read Rule 4 CCR 723-2-2109 before completing this section.

For an encumbrance see Sections 40-15-204 and 40-15-509 C.R.S. Use attachments as necessary.

To request authority to execute a transfer, as defined at 4 CCR 723-2-2101 (b) or as required by Colorado statute, the transferor and transferee shall file a joint application with the Commission not less than 45 days prior to the effective date of the proposed transfer.

If the transferee does not hold a Commission issued certificate of public convenience and necessity to provide local exchange telecommunications services, the transferee shall also provide the information required pursuant to Rule 4 CCR 723-2-2103 and must receive an appropriate grant of authority from the Commission.

5. Application to Execute a Transfer or Merger (Continued):

A. Name under which the transferee is, or shall be, providing service in Colorado, if the transfer is approved.

Ionex Communications North, Inc. d/b/a Birch Communications

B. Identify the assets, including any certificate, operating authority, or CPCN, or rights including stock obtained under such certificate, operating authority, or CPCN, proposed to be sold, assigned, encumbered, leased or otherwise transferred.

See attached

C. Proposed effective date of the transfer (no sooner than 45 days from filing date): By June 4, 2014 agenda

D. Provide a statement of the facts relied upon to show that the proposed transfer is consistent with, and not contrary to, the statements of public policy in 40-15-101, 40-15-501, and 40-15-502, C.R.S.

See attached

E. If the Application is set for a hearing by the Commission, in which town or city does the applicant prefer the hearing be held? Denver, Colorado

6. Signature and verification (to be completed by all applicants):

By signing this form, joint applicants understand and agree:

1) To answer all questions posed by the Commission or any authorized member of its staff concerning the application, and to permit the Commission or any authorized member of its staff to inspect the applicants' books and records as part of the investigation into the application.

2) That filing of the application does not, by itself, constitute authority to execute a transfer. Applicants will not execute the proposed transfer unless and until a Commission decision granting the application is issued.

3) That if a transfer is granted, such transfer is conditional upon: a) the existence of applicable, effective tariffs or price lists for relevant services, including any required adoption notices; b) compliance with statutes and all applicable Commission rules; c) the transferor filing an annual report and remitting payment for all amounts due to all applicable funds or support mechanisms for the period up to the effective date of the transfer and d) compliance with any and all conditions established by Commission order.

4) If the application to transfer is granted, the joint applicants shall notify the Commission if the transfer is not consummated within 60 days of the proposed effective date stated in the application or if the proposed transfer terms are changed prior to the consummation date. This notice shall include the docket and decision numbers which approved the transfer.

5. Provider of last resort (POLR). If the Commission has designated either the transferor or the transferee as a POLR, the application shall also include the information required by Commission rule 4 CCR 723-2-2186 relating to relinquishment of POLR designation.

6) That if any portion of the application is found to be false or to contain material misrepresentations, any transfer granted may be deemed null and void, upon Commission order.

Transferor

SIGNATURE _____ DATE _____
NAME OF SIGNATORY _____ TITLE _____

Transferee/Lender

SIGNATURE  _____ DATE 4.10.14
NAME OF SIGNATORY Vincent M. Ordo TITLE President + CEO

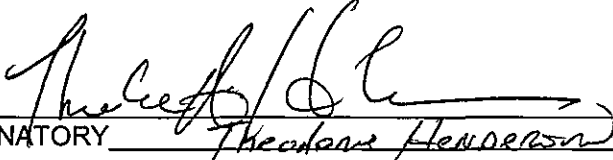
7. Affidavit: (to be provided by both applicants)

Each applicant shall attach an affidavit signed by an officer, partner, owner, or authorized employee, stating that the contents of this application are true, accurate and correct.

5. Provider of last resort (POLR). If the Commission has designated either the transferor or the transferee as a POLR, the application shall also include the information required by Commission rule 4 CCR 723-2-2186 relating to relinquishment of POLR designation.

6) That if any portion of the application is found to be false or to contain material misrepresentations, any transfer granted may be deemed null and void, upon Commission order.

Transferor

SIGNATURE  DATE April 8, 2014
NAME OF SIGNATORY Theodore Henderson TITLE VP

Transferee/Lender

SIGNATURE _____ DATE _____
NAME OF SIGNATORY _____ TITLE _____

7. Affidavit: (to be provided by both applicants)

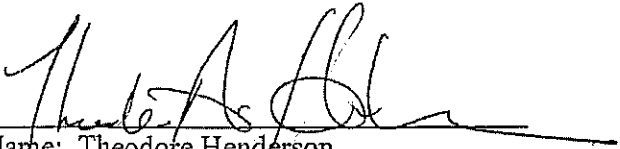
Each applicant shall attach an affidavit signed by an officer, partner, owner, or authorized employee, stating that the contents of this application are true, accurate and correct.

STATE OF Colorado
COUNTY OF Douglas

VERIFICATION

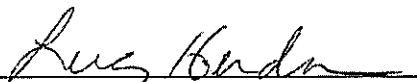
I, Theodore Henderson, VP Corporate Development for DISH Networks, make this Verification on behalf of dishNET Wireline, LLC dba Liberty-Bell Telecom. I have reviewed and am familiar with the foregoing document. The statements in the foregoing document are true of my own knowledge, except as to matters which are herein stated on information and belief, and as to those matters, I believe them to be true.

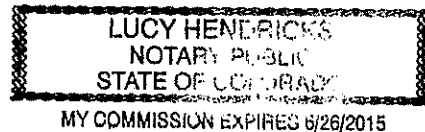
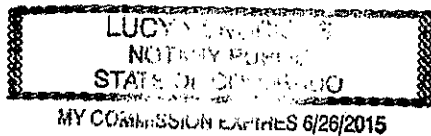
April 8, 2014
Date


Name: Theodore Henderson

Title: VP Corporate Development
DISH Networks

Subscribed and sworn to before me this 8 day of April, 2014


Notary Public



**BEFORE THE
COLORADO PUBLIC UTILITIES COMMISSION**

Joint Application of)
Ionex Communications North, Inc. dba Birch)
Communications and dishNET Wireline, LLC)
dba Liberty-Bell Telecom for Waiver of Colorado)
Rule 2311 Regarding Authorization and) Docket No. _____
Verification of Changes in Telecommunications)
Providers in Connection with a Pending)
Transaction)

JOINT APPLICATION FOR WAIVER

Ionex Communications North, Inc. dba Birch Communications (“Ionex”) and dishNET Wireline, LLC dba Liberty-Bell Telecom (“dishNET”) (dishNET and Ionex collectively, the “Applicants”) hereby request a waiver from the Colorado Public Utilities Commission (“Commission”) of Colorado Rule 2311, 4 CCR 723-2-2311, regarding authorization and verification of changes in a telecommunications provider (“Application”). This Application is made in connection with a pending transaction involving the transfer of the dishNET customer base that receives telecommunications services in Colorado under the trade name “Liberty-Bell Telecom” (“Liberty-Bell Customer Base”) to Ionex (the “Transaction”). The Transaction excludes dishNET’s Colorado authorizations. In connection with this Application, Applicants also submit the required Commission form seeking approval of the transfer of assets. Applicants submit the following in support of their waiver request:

I. DESCRIPTION OF THE 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 Colorado.¹ 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 Colorado.²

II. DESIGNATED CONTACTS

Correspondence concerning this matter should be directed to:

For dishNET

William Hunt
Director, Regulatory
dishNET Wireline dba Liberty-Bell Telecom
9601 S. Meridian Blvd
Englewood, CO 80112
303-723-1712 (telephone)
WilliamP.Hunt@dish.com

For Ionex

Angela F. Collins
Cahill Gordon & Reindel LLP
1990 K Street, NW, Suite 950
Washington, DC 20006
202-862-8930 (telephone)
866-814-6582 (facsimile)
acollins@cahill.com

III. DESCRIPTION OF TRANSFER OF ASSETS AND CUSTOMERS

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 Colorado, Ionex will provide service to the affected customers. Neither BCI or Ionex will assume any of dishNET’s pre-closing liabilities or obligations.

¹ Decision Nos. C99-62 and. C98-1245.

² Liberty-Bell Telecom, LLC received authorization in Docket No. 03A-318T, which was transferred to dishNET in Docket No. 10A-935T, Decision No. C10-1370.

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 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 forty-five (45) days prior to the planned transfer as required under the Commission's rules and as discussed in more detail below. 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 Colorado 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 Colorado authorizations, and will also revise its tariff in a separate filing.

IV. REQUEST FOR WAIVER

Applicants respectfully request a waiver of Colorado Rule 2311 so that dishNET may transfer the Liberty-Bell Customer Base to Ionex without Ionex securing authorization and verification from each customer. As contemplated by Colorado Rule 2311(g)(I), a waiver is appropriate in this case given that obtaining the authorization and verification from each of the affected customers would be a burdensome process and impose an undue hardship on Ionex.

The proposed transfer date is on or around June 2, 2014. The Applicants will comply with the requirements of Colorado Rule 2311(g)(1)(B), which requires notice be provided at least forty-five (45) days prior to the transfer. A draft of the customer notice letter to be used in connection with this Transaction is set forth in **Exhibit A**. Each of the requirements of Colorado Rule 2311(g)(I)(B) is contained in the customer notification.

V. PUBLIC INTEREST CONSIDERATIONS

Approval of the Transaction and this waiver request 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 Colorado and federal customer notice rules. Following consummation of the Transaction, Ionex will continue to offer high quality services to Colorado 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 and will not have a negative impact on the public interest, services to Colorado customers, or competition.

WHEREFORE, for the reasons stated above, the Applicants respectfully request that the Commission grant the request for a waiver of Colorado Rule 2311 and any other applicable regulations, regarding authorization and verification of changes in a telecommunications provider, and otherwise approve the transfer of assets and customers as set forth herein.

Respectfully submitted,

**IONEX COMMUNICATIONS NORTH, INC.
DBA BIRCH COMMUNICATIONS**



Angela F. Collins
Cahill Gordon & Reindel LLP
1990 K Street, N.W., Suite 950
Washington, D.C. 20006
202-862-8930 (telephone)
866-814-6582 (facsimile)
acollins@cahill.com

William P. Hunt, CO Bar #44684
Director, Regulatory
dishNET Wireline L.L.C.
9601 S. Meridian Blvd
Englewood, CO 80112
303-723-1712 (telephone)
Williamp.hunt@dish.com

Counsel for Ionex Communications North, Inc.
dba Birch Communications

Dated: April 21, 2014

EXHIBIT A

DRAFT CUSTOMER NOTICE



IMPORTANT NOTICE
REGARDING A CHANGE IN YOUR TELECOMMUNICATIONS SERVICES

Dear _____

Birch Communications ("Birch") and dishNET Wireline L.L.C. d/b/a Liberty-Bell Telecom ("Liberty-Bell") are pleased to announce that Birch is acquiring Liberty-Bell's local telephone and long distance telephone customers, as well as certain other customers receiving additional types of services from Liberty-Bell. Subject to approval by the Federal Communications Commission and state regulators as necessary, Birch will replace Liberty-Bell as your current telecommunications service provider on or after **[45 DAYS AFTER LETTER DATE]**, 2014 (the "Transfer Date"). As a result of this transaction, Birch will assume responsibility for all services previously provided to you by Liberty-Bell. Birch is excited about the opportunity to provide your telecommunications service(s) and looks forward to a long and mutually rewarding business relationship.

Please rest assured, the transition will have little or no impact on your current services, nor will there be any interruption of your service. The agreement between Birch and Liberty-Bell has been structured so that the transfer of service will be virtually seamless, other than the possibility of a minor change to your voice mail service for which you will receive additional information.¹ There, however, may be other changes to your service plan based on Birch's unique billing systems (e.g., customers currently utilizing a message or measured local service plan may be switched to a flat rate plan). In those cases, Birch will transition you in a neutral manner **with no increase to your regular monthly recurring charges**. You will retain all other service rates, features, terms, and conditions of service and your telephone number. Birch will not impose any charges for the transfer of your services to Birch and **no action is required from you to continue your telecommunications service(s) with Birch**. You will receive your first billing statement from Birch starting with your **[MONTH]** 2014 or **[MONTH]** 2014 bill. As in the past, you are responsible for paying all bills rendered to you by Liberty-Bell during the transition of service.²

¹ It will be necessary for you to reset your password and re-record your message greeting(s). Additionally, saved messages at the time of the transfer will no longer be retained. Birch will provide further details in a follow-up letter.

² Those customers interested in setting up online payments will be pleased to know Birch offers online payments and account updates.

You do have the right to select a different carrier for your telecommunications service(s). If you choose to switch to an alternate carrier for services, you may incur a fee from that alternate carrier for the transfer of services to that alternate carrier. If you select a local telephone service provider other than Birch, you should also contact your current long distance provider to ensure that your current long distance plan is not changed. Please note that if you are a customer of Liberty-Bell on the Transfer Date as set forth above, your account will automatically be transferred to Birch. In addition, should you have a term commitment with Liberty-Bell and you disconnect or transfer services to another carrier prior to the end of that term, you will be liable to Birch for any applicable early termination charges, subject to applicable law. Please note that when your service is transferred to Birch, any preferred carrier "freeze" you have placed on your existing telephone lines to prevent unauthorized transfer of your services to another carrier will be over-ridden for purposes of this transaction and will need to be reinstated by you by contacting Birch after the transfer is complete.

If you have any questions regarding this transaction or questions about your service or billing prior to the Transfer Date set forth above, you should contact Liberty-Bell at: **866-664-BELL (2355)**.

If you have any questions regarding this transaction, or questions about your service or billing after the Transfer Date set forth above, you should contact Birch at **888-772-4724**.³

Liberty-Bell thanks you for your business and Birch looks forward to providing you with quality service for many years to come.

Sincerely,

Liberty-Bell Telecom and
Birch Communications

³ **About Birch Communications** - Headquartered in Atlanta, Georgia, Birch Communications is one of the largest competitive local exchange carriers operating nationwide serving residential and business customers. Birch was the first in its class to deploy its own private IP network utilizing soft switch technology to deliver innovative, high quality, affordable voice and broadband communications services to small- and medium-sized business customers.