

# Supplemental Exhibit 7

UT PSC Docket No. 15-2563-01

Decision No. C15-0426

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO**

PROCEEDING NO. 15A-0276T

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IN THE MATTER OF THE JOINT APPLICATION OF IONEX COMMUNICATIONS NORTH, INC. DBA BIRCH COMMUNICATIONS AND ORBITCOM, INC. TO EXECUTE TRANSFER AND WAIVER OF COLORADO RULE 2311.

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**COMMISSION DECISION APPROVING  
JOINT TRANSFER APPLICATION**

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Mailed Date: June 15, 2015

Adopted Date: June 11, 2015

**I. BY THE COMMISSION**

**A. Statement**

1. This matter comes before the Commission for consideration of a joint application filed by Ionex Communications North, Inc. (Ionex) and OrbitCom, Inc. (OrbitCom) on April 28, 2015. The applicants request Commission authorization for a transaction where Birch Communications, Inc., the parent company of Ionex, will purchase OrbitCom's customers, and certain identified assets excluding OrbitCom's Commission issued telecommunications authorities. The filing represents that following the purchase transaction, Ionex will provide services to the acquired customers. We will construe this filing as an application for approval of the transfer of OrbitCom's customers and certain assets pursuant to 4 *Code of Colorado Regulations* (CCR) 723-2-2109 of the Commission's Rules Regulating Telecommunications Providers, Services, and Products.

2. The application also contains a request for a waiver of Commission Rule 4 CCR 723-2-2311(g) as it relates to the slamming rules for transferred customers.

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3. OrbitCom holds a certificate of public convenience and necessity (CPCN) that authorizes it to provide local exchange telecommunications services and a letter of registration to provide emerging competitive telecommunications services. These authorities were granted by Decision No. C03-1335, Proceeding No. 03A-464T on December 1, 2003.

4. Ionex owns a CPCN that authorizes it to provide local exchange services, granted by Decision No. C98-1245, Proceeding No. 98A-481T, issued December 15, 1998, and a CPCN granted in Decision No. C99-0062, Proceeding No. 98A-540T, issued January 19, 1999, allowing the offering of emerging competitive services. Ionex is also a registered toll reseller.

5. The applicants state that following the completion of the transfer, OrbitCom will no longer offer telecommunications services in Colorado but desires to retain its Commission issued telecommunications authorities for operational or billing purposes.

6. Subsequent to the transfer, the application represents that Ionex will adopt OrbitCom's effective tariffs in order to provide services to the transferred customers. The application represents that there will be no immediate changes to the services, rates, or terms and conditions provided to affected customers as a result of the transfer.

7. The application contains a draft of the customer notice that informs OrbitCom's customers of the transfer. This notice is provided as a requirement to obtain a variance of Rule 723-2-2311(g).

8. With the represented transfer of assets and customers from OrbitCom to Ionex, we find that the Commission has jurisdiction in this matter.

9. On April 29, 2015, notice of the application was provided to all persons, firms, or corporations interested in or affected by the grant or denial of the requested relief. Interventions were due on or before May 29, 2015. No interventions were filed.

**B. Discussion**

10. The application contains all information required by the applicable Commission Rules and is therefore deemed complete.

11. The application represents that customers of OrbitCom will continue to receive services following the transfer at the same rates, terms, and conditions that currently exist prior to the transaction.

12. The request of a waiver of Commission Rule 4 CCR 723-2-2311(g) is made so as not to obtain individual customer authorization for the change in provider. Applicants have provided a proposed customer notice that is required to obtain such a waiver.

13. The application is unopposed and therefore may be considered without a formal hearing, pursuant to § 40-6-109(5), C.R.S.

14. We find that the proposed transfer of assets and customers is not contrary to the public interest and therefore grant the joint application for transfer and waiver of the Commission's slamming rules. This is based on the representation that affected customers will be properly notified on a timely basis and that rates, terms, and conditions for the transferred customers will not change.

**II. ORDER**

**A. The Commission Orders That:**

1. The joint application to transfer filed by Ionex Communications North, Inc. (Ionex) and OrbitCom, Inc. (OrbitCom) is deemed complete and is granted.

2. For the sole purpose of this application to transfer jurisdictional customers, Ionex and OrbitCom are granted a waiver of Rule 2311(g) of the Rules Regulating Telecommunications Providers, Services, and Products, 4 *Code of Colorado Regulations* (CCR)

723-2. The draft of the customer notice contained in the application is acceptable and may be used to notify customers of the transfer and of their respective right to select an alternative provider if they desire to do so.

3. Ionex shall file a notice to adopt the relevant portions of OrbitCom's effective tariffs serving transferred customers that are on file with the Commission within 45 days following the actual date of transfer. If OrbitCom serves no customers and desires to relinquish its Commission issued telecommunications authorities, it may file to relinquish the authorities with a Notification of Discontinuance of Regulated Telecommunications Services Where No Customers are Affected pursuant to Rule 4 CCR 723-2-2108(f).

4. The 20-day period provided for in § 40-6-114, C.R.S., within which to file applications for rehearing, reargument, or reconsideration begins on the first day following the effective date of this Decision.

5. This Decision is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING  
June 11, 2015.**

(S E A L)



ATTEST: A TRUE COPY

A handwritten signature in cursive script that reads "Doug Dean".

Doug Dean,  
Director

THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF COLORADO

JOSHUA B. EPEL

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PAMELA J. PATTON

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GLENN A. VAAD

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Commissioners