



PUBLIC NOTICE

Federal Communications Commission
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DA 14-598
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**DOMESTIC SECTION 214 APPLICATION FILED FOR THE ACQUISITION OF
CERTAIN ASSETS OF DISHNET WIRELINE, LLC BY
BIRCH COMMUNICATIONS, INC. AND BIRCH TELECOM, INC.**

STREAMLINED PLEADING CYCLE ESTABLISHED

WC Docket No. 14-65

Comments Due: May 16, 2014
Reply Comments Due: May 23, 2014

On April 22, 2014, Birch Communications, Inc. (BCI), Birch Telecom, Inc. (Birch Telecom) (together, Birch), and dishNET Wireline, LLC (dishNET) (collectively, Applicants) filed an application pursuant to section 63.03 of the Commission's rules to transfer certain assets of dishNET to Birch.¹

dishNET, a Colorado limited liability company, is certified to offer competitive local exchange (LEC), intrastate, and interstate services in 47 states and the District of Columbia. It currently provides services in the 14-state CenturyLink region, Arizona, Colorado, Idaho, Iowa, Minnesota, Montana, Nebraska, New Mexico, North Dakota, Oregon, South Dakota, Utah, Washington, and Wyoming. BCI, a Georgia corporation, and its wholly owned subsidiary, Birch Telecom, a Delaware corporation, offer or are certificated to offer through operating subsidiaries competitive LEC, intrastate, and interstate services in the District of Columbia and 50 states. Birch Communications Holdings, Inc. (Birch Holdings), a Georgia corporation, owns a 100 percent equity and voting interest in BCI. Applicants state that the following U.S. citizens hold a five percent or greater voting and equity interest in Birch Holdings: Holcombe Green (53 percent), R. Kirby Godsey (21 percent), and Vincent Oddo (7 percent). Applicants further state that these individuals hold interests in Tempo Telecom, LLC, a nationwide reseller of prepaid wireless voice and data services.²

Pursuant to the terms of the proposed transaction, Birch will purchase customers that currently receive services from dishNET under the "Liberty-Bell Telecom" trade name in Colorado, New Mexico, and Utah. The proposed transaction does not include the residential customers receiving services from

¹ 47 C.F.R § 63.03; *see* 47 U.S.C. § 214. Applicants are also filing applications for transfer of control associated with authorization for international services. Any action on this domestic section 214 application is without prejudice to Commission action on other related, pending applications.

² Birch has also filed a pending domestic section 214 application to acquire control of Cbeyond Communications, LLC, which provides competitive telecommunications services in multiple states. *Birch Communications, Inc. and Birch Telecom, Inc. and Cbeyond Communications, LLC Application for Consent for a Transfer of Control*, WC Docket No. 14-64 (filed Apr. 22, 2014).

dishNET. Applicants state that Jonex Communications North, Inc. d/b/a Birch Communications will provide services to the affected customers. Applicants assert that the proposed transaction is entitled to presumptive streamlined treatment under section 63.03(b)(2)(i) of the Commission's rules and that a grant of the application will serve the public interest, convenience, and necessity.³

Domestic Section 214 Application Filed for the Acquisition of Certain Assets of dishNET Wireline, LLC by Birch Communications, Inc. and Birch Telecom, Inc., WC Docket No. 14-65 (filed Apr. 22, 2014).

GENERAL INFORMATION

The transfer of control identified herein has been found, upon initial review, to be acceptable for filing as a streamlined application. The Commission reserves the right to return any transfer application if, upon further examination, it is determined to be defective and not in conformance with the Commission's rules and policies. Pursuant to section 63.03(a) of the Commission's rules, 47 CFR § 63.03(a), interested parties may file comments **on or before May 16, 2014**, and reply comments **on or before May 23, 2014**. Pursuant to section 63.52 of the Commission's rules, 47 C.F.R. § 63.52, commenters must serve a copy of comments on the Applicants no later than the above comment filing date. Unless otherwise notified by the Commission, the Applicants may transfer control on the 31st day after the date of this notice.⁴

Pursuant to section 63.03 of the Commission's rules, 47 CFR § 63.03, parties to this proceeding should file any documents in this proceeding using the Commission's Electronic Comment Filing System (ECFS): <http://fjallfoss.fcc.gov/ecfs2/>.

In addition, e-mail one copy of each pleading to each of the following:

- 1) Tracey Wilson, Competition Policy Division, Wireline Competition Bureau, tracey.wilson@fcc.gov;
- 2) Jodie May, Competition Policy Division, Wireline Competition Bureau, jodie.may@fcc.gov;
- 3) David Krech, Policy Division, International Bureau, david.krech@fcc.gov; and
- 4) Jim Bird, Office of General Counsel, jim.bird@fcc.gov.

People with Disabilities: To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at (202) 418-0530 (voice), (202) 418-0432 (tty).

The proceeding in this Notice shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules.⁵ Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation

³ 47 C.F.R. § 63.03(b)(2)(i).

⁴ Such authorization is conditioned upon receipt of any other necessary approvals from the Commission in connection with the proposed transaction.

⁵ 47 C.F.R. §§ 1.1200 *et seq.*

must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule 1.1206(b), 47 C.F.R. § 1.1206(b). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

For further information, please contact Tracey Wilson at (202) 418-1394 or Jodie May at (202) 418-0913.

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