



# PUBLIC NOTICE

**Federal Communications Commission**  
**445 12<sup>th</sup> St., S.W.**  
**Washington, D.C. 20554**

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**DA 09-1226**  
**Released: June 1, 2009**

**DOMESTIC SECTION 214 APPLICATION FILED FOR THE ACQUISITION OF ASSETS OF  
CLEARTEL COMMUNICATIONS, INC. AND ITS SUBSIDIARIES  
BY BIRCH COMMUNICATIONS, INC.**

**STREAMLINED PLEADING CYCLE ESTABLISHED**

**WC Docket No. 09-67**

**Comments Due: June 15, 2009**  
**Reply Comments Due: June 22, 2009**

On May 11, 2009, Birch Communications, Inc. (f/k/a Access Integrated Networks, Inc.), Birch Telecom, Inc. (BTI), and BTI's certificated subsidiaries<sup>1</sup> (collectively, Assignees), and Cleartel Communications, Inc. (CCI) and its subsidiaries, Cleartel Telecommunications, Inc. (CTI), IDS Telcom Corp. (IDS), nii communications, ltd. (nii), Now Communications, Inc. (NOW), Supra Telecommunications and Information Systems, Inc. (Supra), and Telecon Communications Corporation (Telecon) (collectively, Assignors), filed an application pursuant to section 63.03 of the Commission's rules<sup>2</sup> seeking approval to complete a proposed transaction whereby Assignees will acquire substantially all of the customers, customer accounts, and telecommunications assets of Assignors.<sup>3</sup>

CCI, CTI, IDS, NOW, and Supra are all Delaware corporations, and nii is a Texas limited partnership. CCI, through Assignors, provides competitive local exchange and interexchange services to residential and business users in 26 states. BTI is a Delaware corporation, and together with its subsidiaries, is wholly-owned by BCI, a Georgia corporation. They are authorized to provide competitive local exchange and interexchange services to residential and business customers in 30 states. The following U.S. citizens hold a 10 percent or greater direct interest in BCI: Holcombe Green (66 percent);

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<sup>1</sup> Birch Telecom of the South, Inc.; Birch Telecom of the West, Inc.; Birch Telecom of the Great Lakes, Inc.; Birch Telecom of Missouri, Inc.; Birch Telecom of Oklahoma, Inc. (all Delaware corporations); and Birch Telecom of Texas Ltd., LLP (a Texas limited liability partnership).

<sup>2</sup> 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. On May 29, 2009, Applicants filed a supplement to their domestic section 214 application.

<sup>3</sup> These customers and assets are located in the following states: Alabama, Arkansas, California, Florida, Georgia, Illinois, Indiana, Kentucky, Louisiana, Massachusetts, Michigan, Mississippi, Missouri, New Jersey, New York, North Carolina, Oklahoma, Pennsylvania, South Carolina, Tennessee, Texas, and Wisconsin.

and R. Kirby Godsey (32 percent). Applicants state that no other person or entity owns or controls a 10 percent or greater direct or indirect interest in Assignees.

Applicants propose to complete a series of transactions through which Assignees will acquire the assets and replace Assignors as the service provider in the various states served by Assignors, pursuant to an Asset Purchase Agreement dated April 29, 2009. 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.<sup>4</sup>

Domestic Section 214 Application Filed for the Transfer of Control of Cleartel Communications, Inc. and its Subsidiaries to Birch Communications, Inc., WC Docket No. 09-67 (filed May 11, 2009).

## **GENERAL INFORMATION**

The transfer of assets 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 June 15, 2009**, and reply comments **on or before June 22, 2009**. Unless otherwise notified by the Commission, the Applicants may transfer control on the 31<sup>st</sup> day after the date of this notice.<sup>5</sup> Comments must be filed electronically using (1) the Commission's Electronic Comment Filing System (ECFS) or (2) the Federal Government's e-Rulemaking Portal. *See* 47 C.F.R. § 63.03(a) ("All comments on streamlined applications shall be filed electronically . . ."); *Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998).

- Comments may be filed electronically using the Internet by accessing the ECFS, <http://www.fcc.gov/cgb/ecfs/>, or the Federal e-Rulemaking Portal, <http://www.regulations.gov>. Filers should follow the instructions provided on the website for submitting comments.
- For ECFS filers, if multiple docket or rulemaking numbers appear in the caption of this proceeding, filers must transmit one electronic copy of the comments for each docket or rulemaking number referenced in the caption. In completing the transmittal screen, filers should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions, filers should send an e-mail to [ecfs@fcc.gov](mailto:ecfs@fcc.gov) and include the following words in the body of the message, "get form." A sample form and directions will be sent in response.

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

- 1) The Commission's duplicating contractor, Best Copy and Printing, Inc., [fcc@bcpiweb.com](mailto:fcc@bcpiweb.com); phone: (202) 488-5300; fax: (202) 488-5563;
- 2) Tracey Wilson-Parker, Competition Policy Division, Wireline Competition Bureau, [tracey.wilson-parker@fcc.gov](mailto:tracey.wilson-parker@fcc.gov);
- 3) Alex Johns, Competition Policy Division, Wireline Competition Bureau, [alexis.johns@fcc.gov](mailto:alexis.johns@fcc.gov);

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<sup>4</sup> 47 C.F.R. § 63.03(b)(2)(i).

<sup>5</sup> Such authorization is conditioned upon receipt of any other necessary approvals from the Commission in connection with the proposed transaction.

- 4) David Krech, Policy Division, International Bureau, david.krech@fcc.gov; and
- 5) Jim Bird, Office of General Counsel, jim.bird@fcc.gov.

Filings and comments are available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, S.W., Room CY-A257, Washington, D.C. 20554. They may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., Portals II, 445 12th Street, S.W., Room CY-B402, Washington, D.C. 20554; telephone: (202) 488-5300; fax: (202) 488-5563; e-mail: fcc@bcpiweb.com; url: www.bcpiweb.com.

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For further information, please contact Tracey Wilson-Parker at (202) 418-1394 or Alex Johns at (202) 418-1167.

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