



# PUBLIC NOTICE

**Federal Communications Commission**  
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Washington, D.C. 20554

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DA 12-1427  
Released: August 31, 2012

**DOMESTIC SECTION 214 APPLICATION FILED FOR THE  
ACQUISITION OF CERTAIN ASSETS OF THE ULTIMATE CONNECTION, INC. D/B/A  
DAYSTAR COMMUNICATIONS BY BIRCH COMMUNICATIONS, INC.**

**STREAMLINED PLEADING CYCLE ESTABLISHED**

**WC Docket No. 12-227**

**Comments Due: September 14, 2012**

**Reply Comments Due: September 21, 2012**

On August 13, 2012, Birch Communications, Inc. (Birch) and The Ultimate Connection, Inc. d/b/a DayStar Communications (DayStar) (Birch and DayStar collectively, the Applicants) filed an application pursuant to section 63.03 of the Commission's rules<sup>1</sup> requesting approval for the transfer of control of certain DayStar assets to Birch.

DayStar, a Florida corporation, is registered to provide interstate telecommunications services in that state. DayStar, a wholly owned subsidiary of Sun Coast Media Group, Inc., a Florida corporation, is owned by Derek Dunn-Rankin and David Dunn-Rankin, both U.S. citizens. No other entity or individual directly or indirectly holds an ownership interest in DayStar.

Birch, a Georgia corporation, provides interstate telecommunications services. The customers associated with this proposed transaction will be served by Birch Telecom of the South, Inc. Birch and its wholly-owned subsidiaries either offer service or are certificated to offer telecommunications services as competitive local exchange carriers and intrastate interexchange carriers in the following 38 states: Alabama, Arkansas, California, Colorado, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, New Jersey, New Mexico, New York, North Carolina, North Dakota, Nebraska, Ohio, Oklahoma, Oregon, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Virginia, Washington, Wisconsin, and Wyoming.<sup>2</sup> The following individuals hold a ten percent or greater direct or indirect

<sup>1</sup> 47 C.F.R. § 63.03; see 47 U.S.C. § 214. Any action on this domestic section 214 application is without prejudice to Commission action on other related, pending applications.

<sup>2</sup> The following wholly-owned subsidiaries of Birch Telecom, Inc. provide interstate telecommunications services: 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., Birch Telecom of Texas Ltd., LLP, Birch Telecom of Kansas, Inc., Birch Communications of the Northeast, Inc., Ionex Communications, Inc., Ionex Communications South, Inc., and Ionex Communications North, Inc. Birch's wholly owned subsidiary, Birch Communications of Virginia, Inc., is registered to provide interstate telecommunications services.

ownership interest in Birch Holdings: (1) Holcombe Green (66 percent voting) and R. Kirby Godsey, (32 percent voting and equity interest).<sup>3</sup>

Pursuant to the terms of the proposed transaction, Birch, Sun Coast Media Group, Inc. and DayStar entered into an Asset Purchase Agreement (Agreement), by which Birch will purchase certain assets and customers of DayStar. Pursuant to the Agreement, Birch will purchase the following assets from DayStar: certain customer accounts and receivables, certain customer agreements and contracts, certain vendor agreements and contracts, certain equipment, and certain intellectual property. Birch, however, will not assume any of DayStar's pre-closing liabilities or obligations. Applicants state that the proposed transaction is entitled to presumptive streamlined treatment under section 63.03(b)(2)(i) of the Commission's rules<sup>4</sup> and that a grant of the application will serve the public interest, convenience, and necessity.

Domestic Section 214 Application Filed for the Transfer of Certain Assets of The Ultimate Connections, Inc. d/b/a DayStar Communications to Birch Communications, Inc., WC Docket No. 12-227 (filed Aug 13, 2012).

### **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 September 14, 2012**, and reply comments **on or before September 21, 2012**. 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 31<sup>st</sup> day after the date of this notice.<sup>5</sup>

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) Dennis Johnson, Competition Policy Division, Wireline Competition Bureau, [dennis.johnson@fcc.gov](mailto:dennis.johnson@fcc.gov);
- 2) Tracey Wilson, Competition Policy Division, Wireline Competition Bureau, [tracey.wilson@fcc.gov](mailto:tracey.wilson@fcc.gov);
- 3) David Krech, Policy Division, International Bureau, [david.krech@fcc.gov](mailto:david.krech@fcc.gov); and
- 4) Jim Bird, Office of General Counsel, [jim.bird@fcc.gov](mailto:jim.bird@fcc.gov).

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<sup>3</sup> R. Kirby Godsey holds his percentage through his individual holdings and through the R. Kirby Godsey 2008 Grantor Retained Annuity Trust.

<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.

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](mailto: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.<sup>6</sup> 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 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 Dennis Johnson at (202) 418-0809 or Tracey Wilson at (202) 418-1394.

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<sup>6</sup> 47 C.F.R. §§ 1.1200 *et seq.*