



PUBLIC NOTICE

Federal Communications Commission
445 12th St., S.W.
Washington, D.C. 20554

News Media Information 202 / 418-0500
Internet: <http://www.fcc.gov>
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Released: July 1, 2013

DOMESTIC SECTION 214 APPLICATION FILED FOR THE ACQUISITION OF CERTAIN ASSETS OF LIGHTYEAR NETWORK SOLUTIONS, LLC AND SE ACQUISITIONS, LLC BY BIRCH COMMUNICATIONS, INC. AND BIRCH TELECOM, INC.

STREAMLINED PLEADING CYCLE ESTABLISHED

WC Docket No. 13-164

Comments Due: July 15, 2013
Reply Comments Due: July 22, 2013

On June 18, 2013, Birch Communications, Inc. (Birch), Birch Telecom, Inc. (Birch Telecom) (together, Birch), Lightyear Network Solutions, LLC (Lightyear), and SE Acquisitions, LLC (SE) (collectively, Applicants) filed an application pursuant to section 63.03 of the Commission's rules¹ to transfer certain assets of Lightyear and SE to Birch.

Lightyear, a Kentucky limited liability company, offers or is certified to offer competitive local exchange (LEC) and interexchange services nationwide, including in the District of Columbia and Puerto Rico, with the exception of Alaska.² SE, a Kentucky limited liability company, is a subsidiary of Lightyear and is certified to offer competitive LEC and interexchange services in Kentucky.

BCI, a Georgia corporation, and its wholly owned subsidiary, Birch Telecom, a Delaware corporation, offer or are certificated to offer through their operating subsidiaries competitive LEC and interexchange services in the District of Columbia and 48 states with applications pending in Arizona and West Virginia. Birch Communications Holdings, Inc. (Birch Holdings), a Georgia corporation, owns a 100 percent equity and voting interest in BCI. Applicants state that Holcombe Green, a U.S. citizen, holds a 66 percent equity and voting interest, and R. Kirby Godsey, a U.S. citizen, holds a 32 percent equity and voting interest in Birch Holdings. Applicants further state that these individuals hold interests in Tempo Telecom, LLC, a reseller of prepaid wireless voice and data services in 18 states.

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. Applicants filed a supplement to their domestic section 214 application on July 1, 2013.

² Applicants state that Lightyear is not certified to provide local services in the District of Columbia, Puerto Rico, Arizona, Connecticut, Delaware, Wyoming, or South Dakota.

Pursuant to the terms of the proposed transaction, Birch will purchase certain assets and customers of Lightyear and SE, including customer accounts and contracts. 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 and Customers of Lightyear Network Solutions, LLC and SE Acquisitions, LLC by Birch Communications, Inc. and Birch Telecom, Inc., WC Docket No. 13-164 (filed June 18, 2013).

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 July 15, 2013**, and reply comments **on or before July 22, 2013**. 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

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.*

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 Tracey Wilson at (202) 418-1394 or Jodie May at (202) 418-0913.

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