

Angela Charles

From: Collins, Angela <ACollins@cahill.com>
Sent: Tuesday, February 02, 2016 12:26 PM
To: Filings@psc.state.fl.us
Subject: New Matter - Notification of Customer Transfer
Attachments: Birch-Primus Florida Notification Letter.pdf

The person responsible for this electronic filing is:

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Non-docketed: Notification for Birch-Primus Customer Transfer

This document is being filed on behalf of Birch Telecom of the South, Inc. dba Birch Telecom dba Birch Communications and Primus Telecommunications, Inc.

The total number of pages is 8.

The document is a notification to the Commission of the pending transfer of Primus' Florida customers to Birch.

Respectfully submitted,
Angela Collins
Counsel to Birch Telecom of the South, Inc. dba Birch Telecom dba Birch Communications

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February 2, 2016

Via Electronic Filing

Ms. Carlotta Stauffer
Florida Public Service Commission
Office of the Commission Clerk
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

**Re: Birch Telecom of the South, Inc. dba Birch Telecom dba Birch
Communications and Primus Telecommunications, Inc. - Notification of
Transfer of Customers**

Dear Ms. Stauffer:

Birch Telecom of the South, Inc. dba Birch Telecom dba Birch Communications (“Birch”) and Primus Telecommunications, Inc. (“Primus”) (Birch and Primus collectively, the “Parties”) hereby respectfully notify the Florida Public Service Commission (“Commission”) of a pending transaction pursuant to which Primus will transfer its Florida customer base to Birch (the “Transaction”).

It is the Parties’ understanding that no prior Commission approval is required to consummate the Transaction described herein. The Parties therefore submit this notice for the Commission’s information.

I. PARTIES

**A. Birch Telecom of the South, Inc. dba Birch Telecom dba Birch
Communications**

Birch is a Delaware corporation with headquarters located at 3060 Peachtree Road NW, Suite 1065, Atlanta, Georgia. Birch is authorized by the Commission to provide local exchange and interexchange services in Florida.¹ Birch is a wholly owned subsidiary of Birch Communications, Inc. (“BCI”), which is a Georgia corporation with principal corporate offices located at 3060 Peachtree Road NW, Suite 1065, Atlanta, Georgia. BCI is authorized by the Commission to provide local exchange and interexchange services in Florida.² BCI and its

¹ CLEC Certificate No. 7552 and IXC Registration No. TJ414.

² CLEC Certificate No. 7130 and IXC Registration Nos. TJ268 and TX326.

subsidiaries are authorized to provide telecommunications services in 50 states and the District of Columbia. The customers to be acquired in the Transaction will be served by Birch.

B. Primus Telecommunications, Inc.

Primus is a Delaware corporation with corporate headquarters at 805 Wright Brothers Boulevard, Cedar Rapids, Iowa 52404. Primus is authorized to provide telecommunications services in Florida under Utility Code TI364 (deregulated) and Utility Code TX371 (regulated).

On January 21, 2016, Primus filed a petition under Chapter 15 of the United States Bankruptcy Code,³ which resulted in the *pro forma* assignment of Primus' Florida telecommunications authorization from Primus Telecommunications, Inc. to Primus Telecommunications, Inc., debtor-in-possession. During the restructuring process, which will allow the company to remain in possession and control of its current and future assets, undertakings and properties, and the proceeds thereof while it completes a sale of its business, Primus will continue to operate as debtor-in-possession in the ordinary course of business. Thus, no substantive change in ownership or control has taken place as a result of the bankruptcy filing.

II. DESIGNATED CONTACTS

Correspondence concerning this matter should be directed to:

For Primus Telecommunications, Inc.	Birch Telecom of the South, Inc. dba Birch Telecom dba Birch Communications
Douglas Brandon Akin Gump Strauss Hauer & Feld LLP 1333 New Hampshire Avenue, N.W. Washington, DC 20036 202-887-4021 (telephone) 202-887-4288 (facsimile) dbrandon@akingump.com	Angela F. Collins Cahill Gordon & Reindel LLP 1990 K Street, NW, Suite 950 Washington, DC 20006 202-862-8930 (telephone) 866-814-6582 (facsimile) acollins@cahill.com

III. DESCRIPTION OF THE TRANSACTION AND PUBLIC INTEREST STATEMENT

On January 18, 2016, BCI and Primus entered into an Asset Purchase Agreement ("Agreement") pursuant to which BCI will purchase certain assets and customers of Primus, including certain customer accounts and receivables, certain customer agreements and contracts, certain vendor agreements and contracts, certain equipment, and certain intellectual property (the "Transaction"). BCI, however, will not assume any of Primus' pre-closing liabilities or obligations.

³ In re PT Holdco, Inc., *et al.*, Case No. 16-10131 (LSS) (D. Del. Jan. 21, 2016).

Birch will make any necessary revisions to its rates, terms, and conditions to incorporate Primus' current services and rates so that affected customers will continue to receive the same services that they currently receive without any immediate changes to their service offerings or rates. The ownership structure of BCI and Birch will not be affected by the Transaction. Upon consummation of the Transaction and after completion of the customer transfer, Birch will provide Primus' customers with the same service quality they have come to expect and all billing will be handled under the Birch name.

The proposed transfer will affect all of Primus' current Florida customers, none of whom will experience any material change to the terms and conditions of their services as a result of this transfer. The Parties will provide notice to affected customers in accordance with state requirements and the rules and regulations of the Federal Communications Commission. A draft customer notice letter is attached as Exhibit A.

Upon completion of the Transaction and the migration of customers to Birch, Primus will no longer offer telecommunications services in Florida. Once the Parties notify the Commission that the Transaction has been consummated, the Parties respectfully request that the Commission proceed to cancel Primus' telecommunications authorization and any tariffs it may have on file.

The proposed Transaction serves the public interest, and will ensure that affected customers enjoy continuity of high-quality telecommunications service. Primus' current customers will be given prior written notice of the transfer of their account to Birch, in compliance with state and federal customer notice rules. Following the Transaction, the affected customers will receive high-quality service supported by Birch's experienced and well-qualified management team. Consequently, the proposed Transaction will be transparent to customers and will not have a negative impact on the public interest, service to Florida customers, or competition.

If you have any questions concerning this matter, please contact the undersigned.

Respectfully submitted,



Angela F. Collins
Counsel for Birch Telecom of the South,
Inc. dba Birch Telecom dba Birch
Communications

Attachment

cc: Douglas Brandon, Counsel to Primus

Exhibit A

Draft Customer Notice



IMPORTANT NOTICE
REGARDING A CHANGE IN YOUR TELECOMMUNICATIONS SERVICES

Dear _____

Birch Communications ("Birch") and Primus Telecommunications, Inc. ("Primus") are pleased to announce that Birch is acquiring Primus' local telephone and long distance telephone customers, as well as certain other customers receiving additional types of services from Primus. Subject to approval by the Federal Communications Commission and state regulators as necessary, Birch will replace Primus as your current telecommunications service provider on or after **[30 DAYS AFTER LETTER DATE]**, 2016 (the "Transfer Date"). As a result of this transaction, Birch will assume responsibility for all wireline services previously provided to you by Primus. Birch is excited about the opportunity to provide your telecommunications service(s) and looks forward to a long and mutually rewarding business relationship.

Please rest assured, the transition will have little or no impact on your current services, nor will there be any interruption of your service. The agreement between Birch and Primus has been structured so that the transfer of service will be virtually seamless, other than the possibility of a minor change to your voice mail service for which you will receive additional information.¹ There, however, may be other changes to your service plan based on Birch's unique billing systems (e.g., customers currently utilizing a message or measured local service plan may be switched to a flat rate plan). In those cases, Birch will transition you in a neutral manner **with no increase to your regular monthly recurring charges**. You will retain all other service rates, features, terms, and conditions of service and your telephone number. Birch will not impose any charges for the transfer of your services to Birch and **no action is required from you to continue your telecommunications service(s) with Birch**. You will receive your first billing statement from Birch starting with your **[MONTH]** 2016 or **[MONTH]** 2016 bill. As in the past, you are responsible for paying all bills rendered to you by Primus during the transition of service.²

You do have the right to select a different carrier for your telecommunications service(s). If you choose to switch to an alternate carrier for services, you may incur a fee from that alternate carrier for the transfer of services to that alternate carrier. If you select a

¹ It will be necessary for you to reset your password and re-record your message greeting(s). Additionally, saved messages at the time of the transfer will no longer be retained. Birch will provide further details in a follow-up letter.

² Those customers interested in setting up online payments will be pleased to know Birch offers online payments and account updates.

local telephone service provider other than Birch, you should also contact your current long distance provider to ensure that your current long distance plan is not changed. Please note that if you are a customer of Primus on the Transfer Date as set forth above, your account will automatically be transferred to Birch. In addition, should you have a term commitment with Primus and you disconnect or transfer services to another carrier prior to the end of that term, you will be liable to Birch for any applicable early termination charges, subject to applicable law. Please note that when your service is transferred to Birch, any preferred carrier "freeze" you have placed on your existing telephone lines to prevent unauthorized transfer of your services to another carrier will be over-ridden for purposes of this transaction and will need to be reinstated by you by contacting Birch after the transfer is complete.

If you have any questions regarding this transaction or questions about your service or billing prior to the Transfer Date set forth above, you should contact Primus at **1-888-877-4687** (residential customers) or **1-866-383-3360** (business customers).

If you have any questions regarding this transaction, or questions about your service or billing after the Transfer Date set forth above, you should contact Birch at **1-888-772-4724**.³

Primus thanks you for your business and Birch looks forward to providing you with quality service for many years to come.

Sincerely,

Primus Telecommunications, Inc. and
Birch Communications

³ **About Birch Communications** - Headquartered in Atlanta, Georgia, Birch Communications is one of the largest competitive local exchange carriers in its 50-state footprint, serving residential and business customers. Birch was the first in its class to deploy its own private IP network utilizing soft switch technology to deliver innovative, high quality, affordable voice and broadband communications services to small- to large-sized business customers.

STATE OF **GEORGIA**)
)
COUNTY OF **BIBB**)

VERIFICATION

I, Vincent M. Oddo, President/CEO of Birch Communications, Inc., have reviewed and am familiar with the foregoing document. The statements in the foregoing document with respect to Birch Communications, Inc. and its affiliates are true of my own knowledge, except as to matters which are herein stated on information and belief, and as to those matters, I believe them to be true.

February 01, 2016
Date


Name: Vincent M. Oddo

Title: President/CEO
Birch Communications, Inc.

Subscribed and sworn to before me this 01 day of February 2016



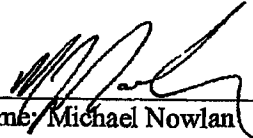

Notary Public

Province Ontario)
~~STATE OF~~ Ontario)
City Toronto)
~~COUNTY OF~~ Toronto)

VERIFICATION


I, Michael Nowlan, Chief Executive Officer of Primus Telecommunications, Inc., have reviewed and am familiar with the foregoing document. The statements in the foregoing document with respect to Primus Telecommunications, Inc. are true of my own knowledge, except as to matters which are herein stated on information and belief, and as to those matters, I believe them to be true.

2/2/2016
Date


Name: Michael Nowlan

Title: Chief Executive Officer
Primus Telecommunications, Inc.

Subscribed and sworn to before me this 2nd day of February


Notary Public