

BEFORE THE
PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA
Docket No. 2013-216-C

In re:)
)
Joint Application of Birch Communications,)
Inc.; Birch Telecom of the South, Inc., dba)
Birch Communications; and Ernest)
Communications, Inc. for Approval)
to Transfer Assets)-

DIRECT TESTIMONY OF
CHRISTOPHER J. BUNCE
ON BEHALF OF
BIRCH COMMUNICATIONS, INC. AND
BIRCH TELECOM OF THE SOUTH, INC.

1 Q. Please state your name, title, and address.

2 A. My name is Christopher Bunce. I am the Senior Vice President and General Counsel for
3 Birch Communications, Inc. (“BCI”) and its subsidiary Birch Telecom of the South, Inc.
4 doing business as Birch Communications (“Birch”) (BCI and Birch collectively the
5 “Company”). My business address is 2300 Main Street, Suite 340, Kansas City, Missouri
6 64108. My email address is Chris.Bunce@birch.com.

7 Q. What are your responsibilities as Senior Vice President and General Counsel?

8 A. I am responsible for managing legal operations and legal and regulatory compliance
9 functions for BCI and its affiliated companies.

10 Q. Please tell us about your background and experience.

11 A. I have nearly 20 years experience in communications and telecommunications law. Prior
12 to joining Birch in 2000, I was legal counsel for GST Telecom, CallAmerica, Whole
13 Earth Networks, Hawaii online and other telecommunications and Internet firms. I have a
14 Bachelor’s degree in History and Journalism/Mass Communication from Iowa State
15 University and a Juris Doctor degree from the University of Iowa College of Law.

16 Q. Are you familiar with the Joint Application submitted to the Commission?

17 A. Yes. I adopt and incorporate the information included in the Joint Application in my
18 testimony.

19 Q. What is the purpose of your testimony?

20 A. The purpose of my testimony is to describe the proposed transaction whereby the
21 Company will purchase certain assets, including the South Carolina customer base, of
22 Ernest Communications, Inc. (“Ernest”).

1 **Q. Who are the Applicants?**

2 **A.** The Company and Ernest (BCI, Birch and Ernest collectively, “Joint Applicants”).

3 **Q. Briefly describe the Joint Applicants.**

4 **A.** BCI is a Georgia corporation and Birch is a Delaware corporation, both with principal
5 offices located at 3060 Peachtree Road NW, Suite 1065, Atlanta, Georgia 30305. The
6 Commission granted BCI, formerly Access Integrated Networks, Inc., authority to
7 provide local and interexchange distance telecommunications services on November 15,
8 1999, in Order No. 1999-801. Order No. 2008-824 approved the request of Access
9 Integrated Networks, Inc., doing business as Birch Communications, to change the name
10 to BCI.

11 Birch is a wholly owned subsidiary of BCI. The Commission granted Birch
12 authority to provide resold and facilities-based local exchange and intrastate
13 interexchange telecommunications services by Order No. 2000-792 issued September 25,
14 2000, in Docket No. 2000-0265-C.

15 Ernest is a Georgia corporation with headquarters located at 5275 Triangle
16 Parkway, Suite 150, Norcross, Georgia 30092. Ernest was granted authority to provide
17 interexchange telecommunications services in South Carolina in Order No. 2002-90,
18 Docket No. 2001-447-C on February 6, 2002.

19 **Q. Whom do you represent?**

20 **A.** I represent BCI and Birch.

21 **Q. What authority is requested by the Joint Application?**

22 **A.** The Joint Applicants seek approval from the Commission to transfer substantially all of
23 the telecommunications assets and South Carolina customers of Ernest to the Company.

1 Because of the timing of the transaction and the proposed target date for the transfer of
2 customers, the Joint Applicants further request that the Commission grant the relief
3 requested on an expedited basis.

4 **Q. Please describe the proposed asset transfer transaction.**

5 A. On May 30, 2013, BCI agreed to purchase Ernest's assets and customer base pursuant to
6 an Asset Purchase Agreement ("Agreement"). The assets to be purchased include
7 customer accounts, accounts receivable, customer agreements and contracts, vendor
8 agreements and contracts, certain equipment, and intellectual property. The Company
9 will not assume any of Ernest's pre-closing liabilities or obligations. We anticipate a
10 proposed September first closing date that is dependent upon the receipt of all required
11 regulatory approvals.

12 **Q. What impact will this transaction have on Ernest's South Carolina customers and
13 will the proposed transaction serve the public interest?**

14 A. This transaction is being made in a seamless fashion that will cause virtually no
15 immediate changes in customers' terms, conditions, and rates for service. The transfer
16 will be nearly transparent to customers other than a change in the name of their service
17 provider. The proposed transaction will also ensure that the affected customers enjoy
18 continuity of high-quality telecommunications service. Grant of the Joint Application is
19 consistent with the public interest in South Carolina.

20 **Q. Will the customers to be transferred be notified of this transaction?**

21 A. Yes. Written notice of the proposed asset transfer will be provided to Ernest's customers
22 via First Class United States mail as required pursuant to Section 64.1120(e) of the
23 Federal Communications Commission's rules. A sample notice was provided as Exhibit

1 l of the Application and is incorporated by reference. To the extent necessary, the Joint
2 Applicants also request that the Commission grant a waiver of any applicable anti-
3 slamming regulations.

4 **Q. Why have the Joint Applicants requested expedited treatment of the Application?**

5 **A.** Joint Applicants request that the Commission process the Joint Application on an
6 expedited basis. Expedited treatment is warranted so that Ernest's customers may be
7 transferred to the Company with a minimum of disruption and confusion. In order to
8 manage the transfer on a corporate-wide basis and to ensure that customer service is not
9 impacted during this transition, it is important that the transfer of South Carolina
10 customers take place on as uniform a schedule as possible with other Ernest customers
11 nationwide. The Federal Communications Commission approved the transaction on July
12 15, 2013. The transaction has also been approved in Georgia, Massachusetts, Rhode
13 Island, Connecticut, Indiana, Ohio, Louisiana, Maryland and New Jersey. Expedited
14 approval will help the Joint Applicants to proceed in an orderly and seamless fashion.

15 **Q. Does this conclude your testimony?**

16 **A.** Yes.

VERIFICATION

I, Christopher J. Bunce, Senior Vice President and General Counsel, first being duly sworn upon oath, depose and say that I am an officer authorized to represent Birch Communications, Inc. and Birch Telecom of the South, Inc. in this application; that I have read the above pre-filed testimony, the Joint Application and know the contents; that the contents are true and correct to the best of my knowledge and belief.

Birch Communications, Inc. and
Birch Telecom of the South, Inc.

By: 

Christopher J. Bunce, Senior Vice President and
General Counsel

Subscribed and sworn to before me

this 16 day of July, 2013



Notary Public for Platte County
My Commission Expires: 6-9-14

ANGELA A. HOKE
Notary Public-Notary Seal
STATE OF MISSOURI
Platte County
My Commission Expires June 9, 2014
Commission # 10887286