

12-00154

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January 31, 2013

Via ECFS

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

**Re: CC Docket No. 00-257 - Notification Pursuant to 47 C.F.R. § 64.1120 for
Birch Communications, Inc., and Covista, Inc.**

Dear Secretary Dortch:

Birch Communications, Inc. ("BCI"), on behalf of itself and the subsidiaries noted below (collectively, "Birch"), and Covista, Inc., on behalf of itself and its subsidiary Covista of Virginia, Inc. (collectively, "Covista") (Birch and Covista collectively, the "Applicants"), hereby notify the Federal Communications Commission ("Commission") pursuant to 47 C.F.R. § 64.1120(e)(1) of the pending transfer of certain Covista customers to Birch.

Parties to the Transaction: The Applicants filed a request for approval of the transfer of certain assets and customers of Covista to Birch.

The following entities are involved in this transaction:

Covista, Inc.
Covista of Virginia, Inc.

Birch Communications, Inc.
Birch Telecom of Kansas, Inc. dba Birch Communications
Birch Telecom of Missouri, Inc. dba Birch Communications
Birch Telecom of Oklahoma, Inc. dba Birch Communications
Birch Telecom of Texas LTD LLP dba Birch Communications
Birch Telecom of the Great Lakes, Inc. dba Birch Communications
Birch Telecom of the South, Inc. dba Birch Communications
Birch Telecom of the West, Inc. dba Birch Communications
Birch Communications of the Northeast, Inc. dba Birch Communications
Birch Communications of Virginia, Inc. dba Birch Communications
Ionex Communications, Inc. dba Birch Communications
Ionex Communications South, Inc. dba Birch Communications
Ionex Communications North, Inc. dba Birch Communications

10039817v1

Type of Telecommunications Services Provided to Affected Subscribers: Covista provides interstate and international telecommunications services to its subscribers. The customer transfer involves customers currently receiving services in the following states: Alabama, Arkansas, California, Colorado, Connecticut, District of Columbia, Delaware, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Vermont, Virginia, Washington, Wisconsin, and Wyoming.

Planned Date of Transfer: Covista subscribers will be transferred on or after March 4, 2013.

Certification of Compliance: Birch hereby certifies that it will comply with the requirement to provide advance notice to affected Covista subscribers in accordance with 47 C.F.R. § 64.1120(e)(3), with the obligations specified in that notice as applicable, and with the other statutory and Commission requirements that apply to this streamlined process. Please see the attached verification.

Copy of Notice To Be Sent to Affected Subscribers: Drafts of the notices to be sent to affected subscribers are attached. Please note that there are specific customer notice drafts for use in the states of Colorado, Connecticut, Maryland, Massachusetts, New Jersey, New York, Oklahoma, Tennessee, and the District of Columbia that comply with 47 C.F.R. § 64.1120 and applicable customer notice requirements in those states. Customers in all other states included in the transaction will receive the same notice in compliance with 47 C.F.R. § 64.1120.

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

Respectfully submitted,



Angela F. Collins

Counsel for Birch Communications, Inc.

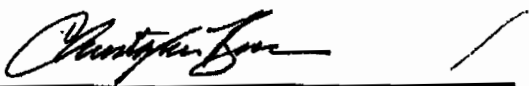
Attachments

Verification

I, Christopher J. Bunce, Senior Vice President, Legal, General Counsel of Birch Communications, Inc., Birch Telecom, Inc., and their subsidiaries hereby certify under penalty of perjury that the statements in the foregoing filing are true, complete, and correct to the best of my knowledge and belief.

Date:

1/28/2013



Christopher J. Bunce
Senior Vice President, Legal, General Counsel



IMPORTANT NOTICE
REGARDING A CHANGE IN YOUR TELECOMMUNICATIONS SERVICES

Dear _____

Birch Communications ("Birch") and Covista are pleased to announce that Birch is acquiring Covista's local telephone and long distance telephone customers, as well as certain other customers receiving additional types of services from Covista. Subject to approval by the Federal Communications Commission and State regulators as necessary, Birch will replace Covista as your current telecommunications service provider on or after **[30 DAYS AFTER LETTER DATE]** (the "Transfer Date"). As a result of this transaction, Birch will assume responsibility for all services previously provided to you by Covista. 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 Covista 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 March 2013 or April 2013 bill. As in the past, you are responsible for paying all bills rendered to you by Covista during the transition of service.²

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.

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MD 30-day

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 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 Covista on the Transfer Date as set forth above, your account will automatically be transferred to Birch. As required by Maryland law, no termination fee will apply to those local and long distance service accounts changing service providers during the first 90 days of service with Birch. 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 Covista at **866-454-7727**.

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 **888-772-4724**.³

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

Sincerely,

Covista and
Birch Communications

³ **About Birch Communications** - Headquartered in Atlanta, Georgia, Birch Communications is one of the largest competitive local exchange carriers in its 38-state southeast, southwest, midwest and northeast regions 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- and medium-sized business customers.



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TN

within ninety (90) days following the transfer of your service, Birch will provide you with a notice of the rate change thirty (30) days prior to the change date.

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 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 Covista 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 Covista 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.

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Sincerely,

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DC 30 day

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The District of Columbia Public Service Commission may be contacted at 202-626-5100, or www.dcpsc.org. The District of Columbia Office of the People's Counsel may be contacted at 202-727-3071 or www.opc-dc.gov.

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Sincerely,

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DC 60 day

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NY 30-day

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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>
TTY: 1-888-835-5322

DA 13-242
Released: February 20, 2013

**DOMESTIC SECTION 214 APPLICATION FILED FOR THE ACQUISITION OF CERTAIN
ASSETS OF COVISTA, INC.
BY BIRCH COMMUNICATIONS, INC. AND BIRCH TELECOM, INC.**

STREAMLINED PLEADING CYCLE ESTABLISHED

WC Docket No. 13-47

Comments Due: March 6, 2013
Reply Comments Due: March 13, 2013

On December 20, 2012, Birch Communications, Inc. (BCI), Birch Telecom, Inc. (Birch Telecom, and together with BCI, Birch), and Covista, Inc. (Covista) (collectively, Applicants) filed an application pursuant to section 63.03 of the Commission's rules¹ transfer certain Covista assets to Birch.

Covista, a New Jersey corporation, offers or is certificated to offer competitive local exchange and interexchange services in the District of Columbia and all 50 states except Alaska. Birch Telecom, a Delaware corporation, is a wholly owned subsidiary of BCI, a Georgia corporation. 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 do not hold any interests in other telecommunications entities. Birch and its wholly owned U.S. based subsidiaries offer or are certificated to offer competitive local exchange and interexchange services in 42 states.²

Pursuant to the terms of the proposed transaction, Birch will purchase certain assets and customers of Covista, including accounts and contracts for customers that Covista serves in the District of

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 February 20, 2013.

² The states are 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. Applicants state that Birch recently received authority to offer service in the District of Columbia, Maine, Rhode Island, and Vermont and is in the process of obtaining certification to offer service in Connecticut, Idaho, Nevada, and New Hampshire.

Columbia and all 50 states except Alaska, Arizona, Hawaii, Utah, and West Virginia. 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 of Covista, Inc. by Birch Communications, Inc. and Birch Telecom, Inc., WC Docket No. 13-47 (filed Dec. 20, 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 March 6, 2013**, and reply comments **on or before March 13, 2013**. Unless otherwise notified by the Commission, the Applicants may transfer control on the 31st day after the date of this notice.⁴ Comments should be filed using the Commission's Electronic Comment Filing System (ECFS). See *Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998).

- Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: <http://fjallfoss.fcc.gov/ecfs2/>.

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; phone: (202) 488-5300; fax: (202) 488-5563;
- 2) Tracey Wilson, Competition Policy Division, Wireline Competition Bureau, tracey.wilson@fcc.gov;
- 3) Jodie May, Competition Policy Division, Wireline Competition Bureau, jodie.may@fcc.gov;
- 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.

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).

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.

For further information, please contact Tracey Wilson at (202) 418-1394 or Jodie May at (202) 418-0913.

- FCC -