

February 17, 2016

Morris Woodruff  
Secretary/Chief Regulatory Law Judge  
Missouri Public Service Commission  
200 Madison Street, PO Box 360  
Jefferson City, MO 65102-0360

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

Dear Judge Woodruff:

Birch Telecom of Missouri, Inc. dba Birch Communications ("Birch") and Primus Telecommunications, Inc. ("Primus") (Birch and Primus collectively, the "Parties"), hereby respectfully notify the Missouri Public Service Commission ("Commission") of a pending transaction pursuant to which Primus will transfer its Missouri 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 Missouri, Inc. dba Birch Communications**

Birch is a Delaware corporation with headquarters located at 3060 Peachtree Road NW, Suite 1065, Atlanta, GA 30305. Birch is authorized by the Commission to provide local exchange and interexchange telecommunications services in Missouri.<sup>1</sup> Birch is a wholly owned subsidiary of Birch Communications, Inc. ("BCI"), a Georgia corporation with headquarters located at 3060 Peachtree Road NW, Suite 1065, Atlanta, Georgia 30305. BCI and its subsidiaries are authorized to provide telecommunications services to both business and residential customers in 50 states and the District of Columbia.

**B. Primus Telecommunications, Inc.**

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<sup>1</sup> Docket No. TN-2008-0307.

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 Missouri.<sup>2</sup>

On January 21, 2016, Primus filed a petition under Chapter 15 of the United States Bankruptcy Code,<sup>3</sup> which resulted in the *pro forma* assignment of Primus' Missouri 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. No substantive change in ownership or control of Primus has taken place as a result of the bankruptcy filing.

## II. DESIGNATED CONTACTS

Correspondence concerning this matter should be directed to:

<b>Primus Telecommunications, Inc.</b>	<b>Birch Telecom of Missouri, Inc.</b>
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	Carl J. Lumley Curtis, Heinz, Garrett & O'Keefe, P.C 130 S. Bemiston, Suite 200 Clayton, MO 63105 (314) 725-8788 (telephone) (314) 725-8789 (facsimile) CLumley@chgolaw.com

## III. DESCRIPTION OF THE TRANSACTION AND PUBLIC INTEREST STATEMENT

On January 18, 2016, BCI and Primus entered into an Asset Purchase 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. BCI, however, will not assume any of Primus' pre-closing liabilities or obligations.

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

<sup>2</sup> Case No. TA-96-20.

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

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 current Primus customers in Missouri, 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 Missouri. 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. Current Primus 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 Missouri customers, or competition.

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

Respectfully submitted,

  
Carl J. Lumley  
Counsel for Birch Telecom of Missouri, Inc.  
dba Birch Communications

Attachment

cc: Doug Brandon, Counsel for Primus



**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.<sup>1</sup> 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.<sup>2</sup>

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

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<sup>1</sup> 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.

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

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**.<sup>3</sup>

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

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<sup>3</sup> **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.