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August 15, 2013

**Via Electronic Filing**

Patricia Van Gerpen  
Executive Director  
South Dakota Public Utilities Commission  
Capitol Building, First Floor  
500 East Capitol Ave.  
Pierre, SD 57501

**Re: Ionex Communications North, Inc. d/b/a Birch Communications and  
Lightyear Network Solutions, LLC - Notification of Transfer of Customers  
and Assets**

Dear Ms. Van Gerpen:

Ionex Communications North, Inc. d/b/a Birch Communications (“Ionex”) and Lightyear Network Solutions, LLC (“Lightyear”) (Ionex and Lightyear collectively, the “Parties”), hereby respectfully notify the South Dakota Public Utilities Commission (“Commission”) of a pending transaction between Lightyear and Ionex, pursuant to which Lightyear will transfer substantially all of its telecommunications assets and South Dakota customer base to Ionex (the “Transaction”).

**I. PARTIES**

**A. Ionex Communications North, Inc. d/b/a Birch Communications**

Ionex is a South Dakota corporation with headquarters located at 3060 Peachtree Road NW, Suite 1065, Atlanta, Georgia 30305. Ionex is authorized by the Commission to provide local exchange and interexchange telecommunications services in South Dakota.<sup>1</sup> Ionex 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 in 49 states and the District of Columbia, with an application pending in Arizona.

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<sup>1</sup> Docket No. TC97-032.

**B. Lightyear Network Solutions, LLC**

Lightyear is a Kentucky limited liability company with corporate headquarters at 1901 Eastpoint Parkway, Louisville, KY, 40223. Lightyear is authorized to provide telecommunications service in the state of South Dakota.<sup>2</sup>

**II. DESIGNATED CONTACTS**

Correspondence concerning this matter should be directed to:

<b>For Lightyear Network Solutions, LLC</b>	<b>For Ionex Communications North, Inc. d/b/a Birch Communications</b>
John J. Greive Vice President/General Counsel Lightyear Network Solutions 1901 Eastpoint Parkway Louisville, KY 40223 502-244-6666, ext. 1248 (telephone) 502-515-4138 (facsimile) John.Greive@lightyear.net	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 May 10, 2013, BCI and Lightyear entered into an Asset Purchase Agreement (“Agreement”) pursuant to which BCI will purchase certain assets and customers of Lightyear. Pursuant to the Agreement, BCI will purchase the following assets from Lightyear: 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 Lightyear’s pre-closing liabilities or obligations.

As the certificated entity in South Dakota, Ionex will serve the South Dakota customers to be acquired from Lightyear. While the Agreement is between BCI and Lightyear, the Agreement allows BCI to assign all or part of its rights under the Agreement to one or more of its affiliates, including Ionex. BCI will not provide any services in South Dakota as a result of the Transaction.

Ionex will make any necessary revisions to its rates, terms, and conditions to incorporate Lightyear’s 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 Ionex will not be affected by the Transaction. Upon consummation of the Transaction and after completion of the customer

<sup>2</sup> Docket No. TC03-200.

transfer, Ionex will provide Lightyear's customers with the same service quality they have come to expect and all billing will be handled under the Ionex name. Consummation of the Transaction is contingent on, among other things, receipt of all necessary regulatory approvals.

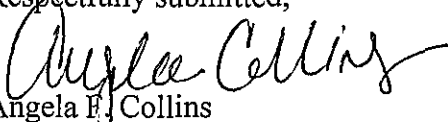
The proposed transfer will affect all of Lightyear's current South Dakota customers, none of whom will experience any material change to the terms and conditions of their services as a result of this transfer. The transfer is scheduled to take place on or around September 15, 2013. The Parties will provide 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 Ionex, Lightyear will no longer offer telecommunications services in South Dakota. After Lightyear determines that it no longer needs its South Dakota authorizations for operational or billing purposes, Lightyear will surrender its authorizations in a separate filing. The Parties respectfully request that Lightyear's authorization and any existing tariffs remain in place until Lightyear separately requests such cancellation.

The proposed Transaction serves the public interest, and will ensure that affected customers enjoy continuity of high-quality telecommunications service. Lightyear's current customers will be given prior written notice of the transfer of their account to Ionex, in compliance with state and federal customer notice rules. Following the Transaction, the affected customers will receive high-quality service supported by Ionex'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 South Dakota customers, or competition.

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

Respectfully submitted,



Angela F. Collins

Counsel for Ionex Communications North,  
Inc. d/b/a Birch Communications

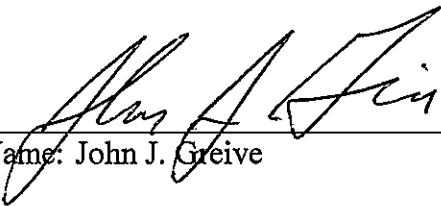
Attachment

COMMONWEALTH OF KENTUCKY )  
 )  
COUNTY OF JEFFERSON )

**VERIFICATION**

I, John J. Greive, Vice President/General Counsel of Lightyear Network Solutions, LLC, have reviewed and am familiar with the foregoing document. The statements in the foregoing document 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.

6-11-13  
Date

  
Name: John J. Greive  
Title: Vice President/General Counsel  
Lightyear Network Solutions, LLC

Subscribed and sworn to before me this 11<sup>th</sup> day of June, 2013.


  
Notary Public  
My Commission Expires: 7-6-2013  


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 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.

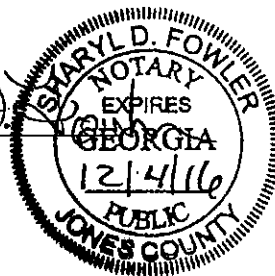
5/30/2013  
Date

  
Name: Vincent M. Oddo

Title: President/CEO  
Birch Communications, Inc.

Subscribed and sworn to before me this 30<sup>th</sup> day of May

  
Notary Public



**Exhibit A**

**Draft Customer Notice**



**LIGHTYEAR**  
Network Solutions



**Birch**  
communications

**IMPORTANT NOTICE**  
**REGARDING A CHANGE IN YOUR TELECOMMUNICATIONS SERVICES**

Dear \_\_\_\_\_

Birch Communications (“Birch”) and Lightyear Network Solutions (“Lightyear”) are pleased to announce that Birch is acquiring Lightyear’s local telephone and long distance telephone customers, as well as certain other customers receiving additional types of services from Lightyear. Subject to approval by the Federal Communications Commission and state regulators as necessary, Birch will replace Lightyear as your current telecommunications service provider on or after **[30 DAYS AFTER LETTER DATE]**, 2013 (the “Transfer Date”). As a result of this transaction, Birch will assume responsibility for all services previously provided to you by Lightyear. 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 Lightyear 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**

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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.

**to continue your telecommunications service(s) with Birch.** You will receive your first billing statement from Birch starting with your **[MONTH] 2013** or **[MONTH] 2013** bill. As in the past, you are responsible for paying all bills rendered to you by Lightyear 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 distance provider to ensure that your current long distance plan is not changed. Please note that if you are a customer of Lightyear 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 Lightyear 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 Lightyear at: **800-393-7300**.

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**.<sup>3</sup>

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

Sincerely,

Lighyear Network Solutions and  
Birch Communications

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

<sup>3</sup> **About Birch Communications** - Headquartered in Atlanta, Georgia, Birch Communications is one of the largest competitive local exchange carriers in its 48-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- and medium-sized business customers.