



Agenda Date: 9/21/11  
Agenda Item: IVC

**STATE OF NEW JERSEY**  
**Board of Public Utilities**  
44 South Clinton Avenue, 9<sup>th</sup> Floor  
Post Office Box 350  
Trenton, New Jersey 08625-0350  
[www.nj.gov/bpu/](http://www.nj.gov/bpu/)

TELECOMMUNICATIONS

IN THE MATTER OF THE VERIFIED JOINT PETITION )  
OF BIRCH COMMUNICATIONS, INC., CORDIA )  
COMMUNICATIONS CORP, MY TEL CO, INC. AND )  
NORTHSTAR TELECOM, INC. FOR APPROVAL TO )  
TRANSFER ASSETS AND CUSTOMERS TO BIRCH )  
COMMUNICATIONS, INC. )

ORDER OF APPROVAL

DOCKET NO. TM11070429

(SERVICE LIST ATTACHED)

Parties of Record:

**Angela F. Collins**, Cahill Gordon & Reindel LLP  
**Vincent M. Oddo**, Birch Communications, Inc.  
**Stefanie A. Brand**, Director, New Jersey Division of Rate Counsel  
**Maria A. Abbagnaro**, Cordia Communications Corp.

**BY THE BOARD:**

On July 18, 2011, Birch Communications, Inc. ("Birch"), Cordia Communications Corp ("Cordia"), MyTelCo, Inc. ("MyTel") and Northstar Telecom, Inc. ("Northstar") (jointly, "Petitioners"), filed a verified petition with the New Jersey Board of Public Utilities ("Board"), pursuant to N.J.S.A. 48:3-7, for approval or such authority as may be necessary to consummate a Transaction among Birch, Cordia, MyTel and Northstar through which Birch will acquire the assets and customers of Cordia, MyTel and Northstar ("Sellers"). Upon consummation of the proposed transaction, Cordia and Northstar will surrender their authorizations and cancel their tariffs. Birch will file any necessary tariff revisions to incorporate Sellers' current services and rates so that Cordia, MyTel and Northstar customers will continue to receive services under the same terms, rates and conditions that they currently receive without any immediate changes.

**BACKGROUND**

Birch is a Georgia corporation with headquarters located at 3060 Peachtree Road NW, Suite 1065, Atlanta, GA 30305. In New Jersey, Birch was authorized to provide local exchange and

Interexchange services on July 1, 2009. See I/M/O the Verified Petition of Birch Communications, Inc. for Approval to Provide Local Exchange and Interexchange Telecommunications Services throughout the State of New Jersey, Docket No. TE09040307, Order dated July 1, 2009. Petitioners state that on July 14, 2011, Birch was sole bidder and agreed to purchase the assets and customer base of Sellers through an Asset Purchase Agreement submitted to the United States Bankruptcy Court for the Middle District of Florida.

Cordia Communications Corp is a Nevada corporation with headquarters located at 2900 Westchester Avenue #103, Purchase, New York 10577. Cordia is authorized by the Board to provide local exchange and Interexchange services in New Jersey. Cordia received its authority in New Jersey on July 23, 2003. See, I/M/O the Verified Petition of Cordia Communications Inc. for Authority to Provide Local Exchange and Telecommunications Services throughout New Jersey, Docket No. TE02020077, Order dated July 23, 2002. Cordia has no employees in New Jersey. Cordia has approximately 300 business lines and 4600 residential lines in New Jersey.

MyTel Co, Inc. is an affiliate of Cordia, and is a New York corporation with offices located at 2900 Westchester Avenue, #103, Purchase, New York 10577. MyTel is a reseller and provides service via a resale agreement with Verizon. MyTel has no employees in New Jersey. MyTel has approximately 20 residential lines in New Jersey.

Northstar Telecom, Inc. is a Nebraska corporation with headquarters located at 2900 Westchester Avenue, #103, Purchase, New York 10577. Northstar is authorized by the Board to provide local exchange services in New Jersey. Northstar received its authority in New Jersey on April 12, 2007. See, I/M/O the Verified Petition of Northstar Telecom, Inc. to Provide Local Exchange Telecommunications Services Throughout the State of New Jersey, Docket No. TE06040292, Order dated June 7, 2006. Northstar has no employees in New Jersey. Northstar has approximately 1 business line and 500 residential lines in New Jersey.

## DISCUSSION

According to the petition, on June 17, 2011 Birch submitted a proposal including an executed Asset Purchase Agreement to the United States Bankruptcy Court for the Middle District of Florida to purchase certain assets and customers of Cordia, MyTel and Northstar. The bankruptcy court approved Petitioners' agreement on July 14, 2011. Pursuant to the agreement, Birch will purchase substantially all of Sellers' telecommunications assets and the New Jersey customer base. Birch will not assume any of Sellers' pre-closing liabilities. Sellers' customers are certain local and long distance resale and UNE-P customers. Birch will acquire approximately 4900 subscriber lines from Cordia, 20 subscriber lines from MyTel and 500 subscriber lines from Northstar. After consummation of the transaction, Birch will provide Cordia, MyTel and Northstar customers with the same service quality as before and handle all billing.

Petitioners have also complied with Mass Migration guidelines at N.J.A.C. 14:10-12, and will provide customers a 60-day and a 30-day notification. This notice would inform customers of the transfer and that they have the right to choose another carrier. Petitioners have requested a modification of mass migration guidelines at N.J.A.C. 14:10-12.7(a) to provide Staff with a list of end users at least 60 days prior to departure. Staff has determined that a modification of this requirement should be granted since there are no priority end users involved in this migration.

According to the petition, following consummation of the transaction, Birch will continue to offer the same service quality to New Jersey residents and all billing will be handled by Birch. Birch will also file any necessary tariff revisions to incorporate Sellers' 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, rates or terms and conditions. Birch will provide services to Cordia, MyTel and Northstar customers utilizing its existing interconnection agreements, 911 arrangements and numbering arrangements.

As a result, the proposed transaction will be transparent to customers and will not have a negative impact on the public interest, services to New Jersey customers, or competition.

By letter dated August 30, 2011, Division of Rate Counsel filed comments, stating that it recommends that the Board approve the petition.

### **FINDINGS AND CONCLUSION**

Under N.J.S.A. 48:3-7, the Board is required to determine whether the public utility or a wholly owned subsidiary thereof may be unable to fulfill its pension obligations to any of its employees. However, those obligations do not apply here.

After a thorough review of the petition and all related documents, the Board concludes that there will be no negative impact on service quality to New Jersey customers or the rates they pay. Nor will there be a negative impact on competition. The Board also concludes that a modification of mass migration N.J.A.C. 14:10-12.7(a) as proposed by petitioner is in the best interest of the parties.

Accordingly, after careful review of this matter, the Board FINDS that the transaction will have no negative impact on competition, employees, or the rates to customers. The Board also FINDS that the asset and customer transfer will have no negative impact on the provision of safe, adequate and proper service and will positively benefit competition. Furthermore, the Board FINDS that the transfer will likely have a net positive benefit to the customers in the state.

Therefore, the Board, after investigation, having considered the record and exhibits submitted in this proceeding, FINDS that the asset and customer transfer is in accordance with the law and in the public interest. The Board HEREBY APPROVES the request by Petitioner for this transaction. Finally, the Board FURTHER ORDERS that the approval in this Order shall become null and void and of no effect to the extent that the approved Transaction has not been effected prior to May 31, 2012. The Board HEREBY ORDERS that Petitioners shall notify the Board of the closing of the proposed transaction within ten (10) days of consummation of the transfer. This Order shall become effective upon the service thereof, in accordance with N.J.S.A. 48:2-40.


DATED: 9/22/11

BOARD OF PUBLIC UTILITIES  
BY:

  
LEE A. SOLOMON  
PRESIDENT

  
JEANNE M. FOX  
COMMISSIONER

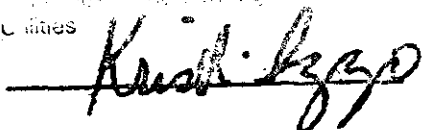
  
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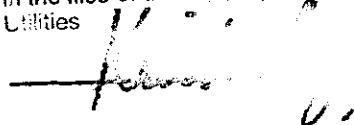
ATTEST:

  
KRISTI IZZO  
SECRETARY

I HEREBY CERTIFY that the within document is a true copy of the original in the files of the Board of Public Utilities



I HEREBY CERTIFY that the within document is a true copy of the original in the files of the Board of Public Utilities



**In the Matter of the Verified Joint Petition of Birch Communications, Inc., Cordia Communications Corp, My Tel Co, Inc. and Northstar Telecom, Inc. for Approval to Transfer Assets and Customers to Birch Communications, Inc.**

Docket No. TM11070429

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