

**THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS**

Before Commissioners: Jay Scott Emler, Chairman
 Shari Feist Albrecht
 Pat Apple

In the Matter of the Cancellation of All)
Operating Certificates of Convenience) Docket No. 16-PRTC-594-CCS
and Authority Previously Granted to) (IXC)
Primus Telecommunications, Inc.)

ORDER CANCELLING CERTIFICATE

The above-captioned matter comes before the State Corporation Commission of the State of Kansas (Commission) for consideration and decision. Having examined its files and record, and being duly advised in the premises, the Commission finds and concludes as follows:

1. On June 27, 2016, Birch Telecom of Kansas, Inc. d/b/a Birch Communications (Birch) filed a letter request seeking cancellation of the Certificate of Convenience and Authority (Certificate) issued to Primus Telecommunications, Inc. (Primus) authorizing Primus to provide interexchange telecommunications (IXC) services in the State of Kansas.

2. The Commission derives its authority to supervise telecommunications public utilities from K.S.A 2015 Supp. 66-1,188. The Commission's authority to certify and de-certify public utilities derives from K.S.A. 2015 Supp. 66-131. In accordance with K.S.A. 2015 Supp. 66-131, the Commission must review all certification and de-certification applications in order to determine whether the public convenience will be promoted by granting the requested cancellation.

3. On July 19, 2016, the Commission Staff (Staff) submitted its Report and Recommendation dated July 14, 2016, recommending the Commission grant Birch's request and

cancel Primus' Certificate to engage in the business of providing interexchange (IXC) telecommunication service in Kansas.

4. Birch's June 27, 2016 letter request references an earlier letter dated February 18, 2016, jointly prepared and submitted to the Commission by Birch and Primus notifying the Commission of a pending transaction pursuant to which Primus would transfer its Kansas customers to Birch. The parties provided a copy of the notification letter sent to customers and the plan for the transition. Customers were informed of the option to select a different carrier if they chose to do so.¹ Birch's June 27, 2016 letter notifies and confirms for the Commission that the transaction transferring Primus' Kansas customers to Birch was consummated effective May 3, 2016. Consequently, Birch now requests that Primus' Certificate authority to provide IXC services in Kansas be canceled. Staff confirms the foregoing correspondence and notification to customers and further states that it contacted Primus' legal representative who confirmed Primus' desire to cancel its Certificate.²

5. According to Staff, Primus' Certificate authorizing it to provide IXC services in Kansas was issued by the Commission on March 28, 1996, in Docket No. 96-PRTC-418-COC. Primus is registered with the Kansas Secretary of State's office as a foreign for profit corporation, whose current status with that office is *Annual Report not received-status unavailable*. Staff indicates that Primus is current with the company's assessments and report filings with the Commission and the company's Kansas Universal Service Fund (KUSF) account is current. The Federal Communications Commission (FCC) Form 499-A was filed on April 1, 2016. Concluding, Staff states that with the numerous options for customers to choose an alternative provider in Kansas and the transition completed for those customers wishing to be

¹ Report and Recommendation, page 2.

² Id., page 2.

moved to Birch, it would be in the public interest to cancel Primus' Certificate. Staff recommends the Commission grant the parties' request and cancel Primus' Certificate.³

6. The Commission adopts Staff's analysis and recommendation of July 14, 2016, as stated in its Report and Recommendation, which is attached hereto and made a part hereof by reference, and finds that the public convenience will be promoted by granting Birch's request and cancelling Primus' Certificate of Convenience and Authority to provide interexchange (IXC) service in Kansas.

IT IS, THEREFORE, BY THE COMMISSION ORDERED THAT:

A. Birch Telecom of Kansas, Inc. d/b/a Birch Communications' request filed June 27, 2016 is hereby granted and the Certificate of Convenience and Authority authorizing Primus Telecommunications, Inc. to provide interexchange (IXC) service in Kansas, issued March 28, 1996, in Docket No. 96-PRTC-418-COC, is hereby canceled, effective as of the date of this Order.

B. Any party may file a petition for reconsideration of this Order within fifteen (15) days of the date this Order is served. If service is by mail, service is complete upon mailing and three (3) days may be added to the above time frame. K.S.A. 66-118b; K.S.A. 2015 Supp. 77-529.

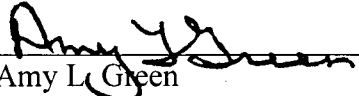
C. The Commission retains jurisdiction over the subject matter of this docket for the purpose of entering such further order, or orders, as it deems necessary.

³ Ibid., page 2.

BY THE COMMISSION IT IS SO ORDERED.

Emler, Chairman; Albrecht, Commissioner; Apple, Commissioner

Dated: AUG 02 2016


Amy L. Green
Secretary to the Commission

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Order Mailed Date

AUG 03 2016

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Jay Scott Emler, Chairman
Shari Feist Albrecht, Commissioner
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Sam Brownback, Governor

REPORT AND RECOMMENDATION UTILITIES DIVISION

TO: Chair Jay Scott Emler
Commissioner Shari Feist Albrecht
Commissioner Pat Apple

FROM: Paula Artzer, Senior Telecommunications Analyst
Christine Aarnes, Chief of Telecommunications
Jeff McClanahan, Director of Utilities

DATE: July 14, 2016

SUBJECT: Docket No. 16-PRTC-594-CCS
In the Matter of the Cancellation of All Operating Certificates of
Convenience and Authority Previously Granted to Primus
Telecommunications, Inc.

EXECUTIVE SUMMARY:

On June 27, 2016, counsel for Birch Telecom of Kansas filed a letter indicating that the transition of customers from Primus Telecommunications, Inc. (Primus) to Birch Telecom of Kansas had been completed. The letter stated Primus' authority to provide telecommunications services in Kansas should now be cancelled. Staff contacted Primus' legal representative and it was confirmed Primus was now requesting the Certificate be canceled. Staff recommends the Commission grant this request to cancel Primus' Certificate.

BACKGROUND:

Primus received a Certificate of Convenience to provide Interexchange services in Kansas in Docket No. 96-PRTC-418-COC, approved March 28, 1996. The Commission derives its authority to supervise telecommunications public utilities from K.S.A. 66-1,188. The Commission derives its authority to certificate and de-certificate public utilities from K.S.A. 66-131.

ANALYSIS:

Pursuant to K.S.A. 66-131, the Commission must review all certification and de-certification applications to determine whether the “public convenience” will be promoted by granting the request.

Primus is registered and is in a status of “Delinquent” with the Kansas Secretary of State. The Company’s Annual Report was due to be filed with the Secretary of State by April 15, 2016, for the 2015 calendar year. Primus is current with the Company’s Assessments and report filings. The FCC Form 499-A was filed on April 1, 2016. The Company’s KUSF account is current.

Primus and Birch jointly provided a letter to the Commission in February of this year indicating the intent to begin transitioning the Primus customer base to Birch and provided a copy of the notification letter to be sent to customers and the plan for the transition. Customers were informed of the option to select a different carrier if they so choose.

RECOMMENDATION:

Staff recommends the Commission cancel the Certificate of Convenience and Authority of Primus Telecommunications, Inc. to provide Interexchange services as requested. With the numerous options for customers to choose an alternative provider in Kansas and the transition completed to those customers wishing to be moved to Birch, it is in the public interest to cancel the Certificate.

CERTIFICATE OF SERVICE

16-PRTC-594-CCS

I, the undersigned, certify that the true copy of the attached Order has been served to the following parties by means of first class mail/hand delivered on AUG 02 2016.

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/S/ DeeAnn Shupe
DeeAnn Shupe

Order Mailed Date

AUG 03 2016