



**APPLICATION FOR A CERTIFICATE OF TERRITORIAL AUTHORITY FOR
COMMUNICATIONS SERVICE PROVIDERS**

State Form 52648 (R5 / 8-11)
INDIANA UTILITY REGULATORY COMMISSION

FILED

November 3, 2017

INDIANA UTILITY

REGULATORY COMMISSION

Applicants are required to file an original and five (5) paper copies.

Cause No. 45003 (IURC use only)

PURSUANT TO IC 8-1-32.5-4, A COMMUNICATIONS SERVICE PROVIDER ("CSP") MEANS A PERSON OR ENTITY THAT OFFERS COMMUNICATIONS SERVICE TO CUSTOMERS IN INDIANA, WITHOUT REGARD TO THE TECHNOLOGY OR MEDIUM USED BY THE PERSON OR ENTITY TO PROVIDE THE COMMUNICATIONS SERVICE. THE TERM INCLUDES A PROVIDER OF COMMERCIAL MOBILE RADIO SERVICE (AS DEFINED IN 47 U.S.C. 332).

List each type of Communications Service which applicant proposes to offer in Indiana:



TELECOMMUNICATIONS SERVICE AS DEFINED IN 47 U.S.C. 153(46)

Birch Communications, Inc. proposes to provide local exchange and interexchange services in Indiana.

Please list each type of service, such as facilities-based local exchange; bundled resale of local exchange; commercial mobile radio service; interexchange; operator services or other.



INFORMATION SERVICE AS DEFINED IN 153(20), WITHOUT REGARD TO THE TECHNOLOGY OR MEDIUM USED TO PROVIDE THE COMMUNICATIONS SERVICE.

Please list each type of service, such as internet protocol enabled services; broadband service; advanced service (as defined in 47 CFR 51.5); or other.



VIDEO SERVICE AS DEFINED IN IC 8-1-34-14 (Note: A Video Service Provider which does not currently have a video franchise (local or state) for the service area described above must obtain a state issued video franchise as specified in IC 8-1-34-16)

Please list any service areas in Indiana where Applicant offers service under a local franchise.

PURSUANT TO I.C. 8-1-32.5-6(e), A CSP THAT IS ONLY OFFERING A SERVICE(S) DESCRIBED IN I.C. 8-1-2.6-1.1 IS ONLY REQUIRED TO REPORT AND CERTIFY THE ACCURACY OF SOME OF THE INFORMATION REQUESTED IN THIS FORM. NOT ALL PORTIONS OF THE FORM ARE APPLICABLE TO SUCH A CSP. *SEE PAGE 2 FOR INSTRUCTIONS.

The following services are "described in I.C. 8-1-2.6-1.1":

- (1) advanced services (as defined in 47 CFR 51.5);
- (2) broadband service, however defined or classified by the Federal Communications Commission;
- (3) information service (as defined in 47 U.S.C. 153(20));
- (4) Internet Protocol enabled retail services:
 - (A) regardless of how the service is classified by the Federal Communications Commission;
- and
- (B) except as expressly permitted under I.C. 8-1-2.8;
- (5) commercial mobile service (as defined in 47 U.S.C. 332); or
- (6) any service not commercially available on March 28, 2006.

In Indiana, will Applicant **ONLY** offer services described in I.C. 8-1-2.6-1.1?

Check one: ☐ YES ☒ NO

Please list the specific services, as described in I.C. 8-1-2.6-1.1, the Applicant proposes to offer:

Not applicable

PLEASE NOTE: All CSPs *must complete* a Verified Notice of Change form if the answer to this question changes at any time subsequent to completing this application form. The Notice of Change form is currently available on the Commission's website: www.in.gov/iurc.

***INSTRUCTIONS for providers offering ONLY a service(s) described in I.C. 8-1-2.6-1.1:**

You **DO NOT** have to complete the following sections:

- Part II •Part IV.2.a •Part IV.2.b
- Some portions of Part VI may also not apply.

The following sections **are required**, unless otherwise noted:

- Part I.A •Part I.D •Part IV.1
- Part I.B •Part I.E. •Part IV.3
- Part I.C •Part III •Part V
- Selected portions of Part VI

I. APPLICANT CONTACT INFORMATION

A. Legal Name of Company: Birch Communications, Inc.

B. Name(s) under which the company will be marketing services in Indiana:

(Company names, including any "doing business as" names, must be registered with Indiana Secretary of State)

Birch Communications, Inc.

C. Company Address:

320 Interstate North Parkway SE, Atlanta, GA 30339

Main Telephone Number: 678-424-2400

FAX Number: _____

E-mail Address: _____

Website Address: www.birch.com

D. Name, title, and other contact information of company's contact person for ongoing communications with the commission (including regulatory affairs and/or customer service information):

Name and Title Sharyl Fowler

Telephone Number: 478-475-9800

FAX Number: 478-405-3112

Mailing Address: 115 Gateway Drive, Macon, GA 31210

Email Address: sharyl.fowler@birch.com

E. Name, title, and other contact information of attorney or contact person for this application, if different from D. above:

Name and Title Nikki Gray Shoultz, Counsel

Telephone Number: 317-684-5242

FAX Number: 317-223-0242

Mailing Address: 111 Monument Circle, Suite 2700 Indianapolis, IN 46204

E-mail Address: nshoultz@boselaw.com

F. Parent Company's Legal Name, Address, and Telephone Number (if applicable):
Birch Communications Holdings, Inc., 320 Interstate North Parkway SE, Atlanta, GA 30339, 478-475-9800 (telephone)

(CSPs that will only offer a service(s) described in I.C. 8-1-2.6-1.1 are not required to provide their parent company information.)

II. Service Information

(Add additional sheets if necessary.)

A. Please describe the geographic area(s) for which the applicant seeks authority.

Throughout State of Indiana

B. Please provide a description of each service area in Indiana in which the applicant initially proposes to offer communications service (i.e., county, city, or rate center). If the applicant is proposing to offer Video Service, will the service be authorized through a State or local franchise? If the applicant is a Video Service provider authorized through a local franchise authority, please provide the issuing franchise authority and expiration date.

Throughout State of Indiana

C. Please provide a description of each type of communications service that the provider proposes to offer in each of the service areas identified in II B. above. The services listed should be consistent with the services marked at the top of Page 1.

Birch Communications, Inc. proposes to provide local exchange and interexchange services in Indiana.

D. For each type of service identified in C, please list whether the communications service will be offered only to residential customers, only to business customers or to both residential and business customers.

Both residential and small business customers

E. Please provide an estimated date of deployment (year and quarter) for each service area and each service type within that area for which the applicant seeks authority. The services listed should be consistent with the services marked at the top of Page 1.

As soon as possible based on approval

F. Will applicant offer stand alone basic telecommunications service for a flat monthly rate pursuant to I.C. 8-1-2.6-0.1?

Yes

G. Does the applicant seek authorization to provide facilities-based local exchange? Yes

H. Does the applicant seek authorization to offer interexchange services only? No

I. Is applicant offering wholesale communications services, retail communications services, or both?

Both

J. Will the applicant operate as a Local Cooperative Corporation pursuant to I.C. 8-1-17-3?

No

If yes, please submit three (3) original articles of incorporation as required by I.C. 8-1-17-5 et seq.¹

¹ The Commission is required to provide notice of CTA applications of local cooperative corporations to each facilities-based local exchange carrier operating in territory contiguous to the area in which the cooperative corporation proposes to render telephone service pursuant to IC 8-1-17-5(d).

K. Please list other states in which applicant is authorized to provide communications services and the types of services offered.

Birch is authorized to provide local exchange and interexchange services in the 9-state BellSouth region, AR, MT, NJ, and PA. Affiliates of Birch are authorized to provide the same services in all other states and the District of Columbia.

III. Additional Requirements²

Applicant further represents that it will:

- Comply with Indiana law (including but not limited to Title 8 of the Indiana Code) and IURC regulations (170 IAC 7) and applicable current and future Orders of the IURC.³
- Notify the Commission of any change in the legal name, address, control or status of the CTA, or service area (if applicable), pursuant to I.C. 8-1-32.5-12, using the CSP Notice of Change Form prescribed by the Commission. Such notification of change shall be provided to the Commission thirty (30) days prior to the occurrence of the change.
- Upon request, provide any other information the Commission is authorized to collect from a communications service provider under state or federal law pursuant to I.C. 8-1-2.6-13-9(E).
- Applicant represents that it will, at the time requested by the Commission, provide an annual report concerning communications services offered in each service area (county and ZIP code) in Indiana as required by I.C. 8-1-2.6-13(d)(9)(C) **Note:** This does not apply to CMRS providers.
- If applicable, file intrastate access tariffs, concurrences, and exceptions pursuant to the Commission's filing procedures and provide informational copies of interstate access tariffs.
- If applicable, provide the Commission with current and updated/corrected hyperlinks to the company's intrastate and interstate access tariffs, concurrences, and exceptions, consistent with the IURC's General Administrative Order (GAO) 1998-2.

IV. Attachments

The following information must be included with this application:

1. A copy of the Applicant's Certificate of Authority from the Indiana Secretary of State, authorizing the applicant to do business within the State of Indiana. (A tax statement or other documentation from the Indiana Department of Revenue is **not acceptable**.)
 - a. Applicants that are units of a municipal government, or are owned by a municipal government entity, may submit their local authorizing ordinance in lieu of the Secretary of State Certificate of Authority.
2. Information demonstrating the financial, managerial and technical ability to provide each communication service identified in the application.
 - a. The applicant's most recent financial statement or balance sheet or that of the parent company if separate Indiana operations have not yet been established. Applicants that are municipalities may submit their local budget.
 - b. Biographies of the applicant's corporate officers responsible for Indiana indicating managerial and technical qualifications.
(Attachment 2a and 2b are not required for CSPs that will "only offer a service(s) described in IC 8-1-2.6-1.1.")
3. A statement signed under penalty of perjury by an officer or another person authorized to bind the applicant (see attached affidavit).

Although an evidentiary hearing before the Commission is not required, the Commission shall hold an evidentiary hearing, if one is requested pursuant to IC 8-1-32.5-9(a). Any hearing shall follow the statutory provisions of IC 8-1-32.5-9(b).⁴

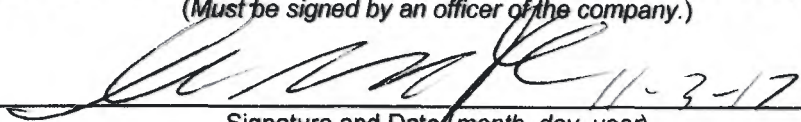
² Part III applies to all communications service providers, unless explicitly exempted pursuant to Indiana law and as otherwise noted herein.

³ Telecommunications Service Providers and Video Service Providers are subject to enforcement remedies for prohibited actions pursuant to IC 8-1-29.5.

⁴ The FCC determines market entry of CMRS providers pursuant to 47 CFR Chapter 1 Part 13.

V. Application Verification

I affirm under the penalties of perjury that the above representations made in this application are true.
(Must be signed by an officer of the company.)


Signature and Date (month, day, year)

Gordon P. Williams, Jr. - SVP and General Counsel
Name and Title (printed or typed)

AFFIDAVIT⁵

I, Gordon P. Williams, Jr. (print name), as an authorized corporate officer or person authorized to bind Birch Communications, Inc. (company name), affirm under penalty of perjury that:

a) the applicant has filed or will timely file with the Federal Communications Commission ("FCC") all forms required by the FCC;

b) the applicant agrees to comply with customer notification requirements of the Commission pursuant to I.C. 8-1-32.5-6(b)(3)(B) and 8-1-32.5-11(b) (not applicable to CMRS providers per I.C. 8-1-32.5-11(b));

c) the applicant (including CMRS providers⁶) agrees to update the information provided in the application on a regular basis pursuant to I.C. 8-1-32.5-12;

d) the applicant agrees to notify the Commission when the applicant commences offering communications service in each service area identified in the application (Pursuant to I.C. 8-1-32.5-6(e), this requirement is not applicable to CSPs that only offer a service(s) described in I.C. 8-1-2.6-1.1.);

e) the applicant agrees to pay any lawful rate or charge for switched and special access services, as required under any:

- applicable interconnection agreement; or
- lawful tariff or order approved or issued by a regulatory body having jurisdiction.

f) the applicant agrees to report, at the time requested by the Commission, information required under I.C. 8-1-2.6-13(d)(9) *et seq.* (This requirement is not applicable to CMRS providers, per I.C. 8-1-2.6-13(d)(9).); and

g) applicant further represents that it will provide an annual report concerning communications services offered in each service area (county, ZIP code and census tract) in Indiana as required by I.C. 8-1-2.6-13(d)(9)(C). (Not applicable to CMRS providers, per I.C. 8-1-2.6-13(d)(9).)

Signature

SVP and General Counsel

Title

November 3, 2017

Date (month, day, year)

Subscribed and Sworn to before me, a Notary Public, this 3rd day of November, A.D. 20 17

Subrenna M. Stewart
Signature

Subrenna M. Stewart
Printed Name

My Commission Expires: August 10, 2021

My County of Residence:

DeKalb

⁵See IC 8-1-32.5-6(b)(3).

⁶There is an exception in IC 8-1-32.5-12-6 to the information that CMRS providers must provide. This exception does not apply to the other subsections in IC 8-1-32.5-12.

Attachment A

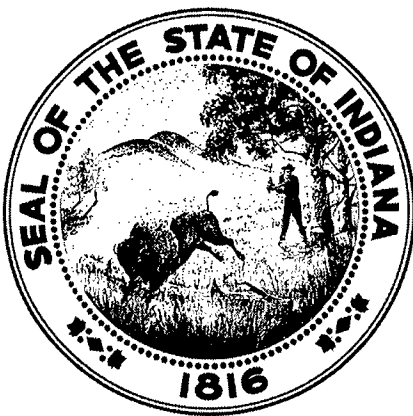
Applicant's Certificate of Authority from the Indiana Secretary of State

**State of Indiana
Office of the Secretary of State**

**Certificate of Authority
of
BIRCH COMMUNICATIONS, INC.**

I, CONNIE LAWSON, Secretary of State, hereby certify that an Application for Certificate of Authority of the above Foreign For-Profit Corporation has been presented to me at my office, accompanied by the fees prescribed by law and that the documentation presented conforms to law as prescribed by the provisions of the Indiana Business Corporation Law.

NOW, THEREFORE, with this document I certify that said transaction will become effective
Wednesday, November 01, 2017.



In Witness Whereof, I have caused to be affixed my
signature and the seal of the State of Indiana, at the City
of Indianapolis, November 02, 2017

Connie Lawson

CONNIE LAWSON
SECRETARY OF STATE

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To ensure the certificate's validity, go to <https://bsd.sos.in.gov/PublicBusinessSearch>

Attachment B

Information demonstrating financial, managerial, and technical ability to provide each communication service identified in the application; financial statement.

Overview

Birch Communications, Inc. (“Birch”) has offered telecommunications services for more than 20 years. Birch and its affiliates are authorized to provide local exchange and/or interexchange services in all 50 states and the District of Columbia. Birch’s wholly owned subsidiary, Birch Telecom of the Great Lakes, Inc., is authorized to provide local exchange and interexchange services in Indiana. In addition, Birch’s wholly owned subsidiary, Tempo Telecom, LLC, is authorized to provide wireless services in Indiana, and also has been designated as an eligible telecommunications carrier (“ETC”) by the Commission.

Directors & Officers

R. Kirby Godsey – Chairman of the Board and Director

Dr. Godsey served as President and CEO of Mercer University for 27 years before being named Chancellor in 2006 by the Board of Trustees. Dr. Godsey earned his undergraduate degree in history and religion from Samford University in Birmingham, Alabama. He holds Master of Divinity and Doctor of Theology degrees from New Orleans Baptist Theological Seminary and a Master of Arts in Philosophy from the University of Alabama. In 1969, he earned a Ph.D. in Philosophy from Tulane University. The University of South Carolina, Averett College and Samford University have all awarded him honorary degrees.

Holcombe T. Green, Jr. – Director

Mr. Green has over thirty years of experience investing in and growing market-leading public and private businesses. As an entrepreneur, Holcombe founded Green Capital Investors, a private equity investment management firms and served as the Chairman, Board Member or Chief Executive Officer of many of Green Capital’s the portfolio companies. Mr. Green received his BA from Yale University and his J.D. from the University of Virginia.

James P. O’Brien – Executive Vice President and Chief Operating Officer

O’Brien has direct oversight of Birch IT, Cloud, Engineering, and Product Development as well as operations groups consisting of Order Assurance, Customer Care, Margin Assurance, and Field Operations. O’Brien is a 20+year communications operations executive and has served in several executive positions at notable CLECs including Deltacom –now EarthLink– and ICG Communications. O’Brien comes to Birch from Rise Broadband where he most recently served as Senior Vice President of Customer Operations and led all Network and Field Operations, Customer Care, Contact Center and Technical Support groups.

Kevin M. Dotts – Executive Vice President, Chief Financial Officer and Treasurer

Birch announced the appointment of Kevin Dotts as Executive Vice President and Chief Financial Officer on February 7, 2017. Dotts oversees all financial operations and investor relations, and corporate sourcing for the company and reports to Tony Tomae, President and CEO at Birch. Dotts is an expert in driving key corporate growth initiatives across multiple high-tech industries with over 30 years of experience. Before joining Birch, Kevin served as Chief Financial Officer of Internap, a Cloud, Hosting, and Colocation business. Before Internap, Kevin was Executive Vice President and Chief Financial Officer at Culligan International in Chicago and EarthLink in Atlanta. Kevin started his career with financial leadership roles in various domestic and international divisions of GE. Dotts holds a Bachelor of Science in Finance and Computer Systems Management from Drexel University. He is based out of the company's Atlanta Operations Center.

Gordon P. Williams, Jr. – Senior Vice President, Secretary and General Counsel

Gordon "Chuck" Williams is responsible for all legal affairs, including corporate governance, legal operations, litigation and regulatory compliance at the company. Williams brings 30+ years of legal leadership experience to Birch. He is a Martindale-Hubbell AV- Preeminent® rated attorney with demonstrated expertise in strategic planning and execution to build sustainable enterprise value, and he has served as Counsel to public and private global companies both in a General Counsel role and in private practice. Williams has extensive experience in the communications industry with previous roles at Broadwing Communications, Wayport and MCI. Most recently, he served as a partner at Culhane Meadows, PLLC. Williams is a graduate of the University of Richmond with a bachelor's degree in Psychology and holds a Juris Doctorate from the University of Richmond's School of Law. He will be based at the Atlanta Operations Center, and plans to relocate to the Atlanta area.

Michelle H. Ansley – Vice President and Chief Administrative Officer, Human Resources

Michelle Ansley is responsible for the management of Human Resources activities and oversight of facility management for all Birch locations. Ms. Ansley began her career in technology and transitioned into Human Resources via Learning and Development and Change Management. Prior to joining Birch in 2014, she served as Vice President of Human Resources at ASAP Solutions, LLC; Senior Vice President of Shared Services at Prommis Solutions, LLC; and held various human resources, learning and development, technical and program management positions at IBM. Ms. Ansley holds a Bachelor's of Business Administration from Kennesaw State University and a Masters in Business Administration from Georgia State University.

Attachment C

Affidavit

AFFIDAVIT OF GORDON P. WILLIAMS, JR.

GORDON P. WILLIAMS, JR., upon his oath, deposes and states:

1. I am Senior Vice President & General Counsel for Birch Communications, Inc. (the "Company"). In that capacity as Senior Vice President & General Counsel, I support the submission of testimony and exhibits to support regulatory applications.

2. I have personal knowledge of the confidential, proprietary, competitively sensitive, and trade secret nature of the information addressed herein through direct contact with this information and through my investigation with other Company employees who work directly with the confidential information. I have personal knowledge of efforts taken by the Company to maintain the secrecy of the confidential information through direct contact with these efforts and through my investigation of these efforts with other employees who work directly with these procedures.

3. The Company requests that its confidential financial information to be provided as part of the Company's Application for a Communications Service Provider Certificate of Territorial Authority in this proceeding be exempted from public disclosure as confidential, proprietary, competitively sensitive, and trade secret information (the "Confidential Information").

4. The Confidential Information includes the confidential and proprietary financial information for the Company. The Confidential Information is not readily available in the public domain. The Company takes steps to protect this information from public disclosure. Such information is competitively sensitive and a trade secret because competitors may use the financial information to gain a competitive advantage over the Company. The Confidential Information includes the balance sheet for the Company. This information is not revealed to

competitors or other third parties without a binding Nondisclosure Agreement and only in the case of absolute business necessity.

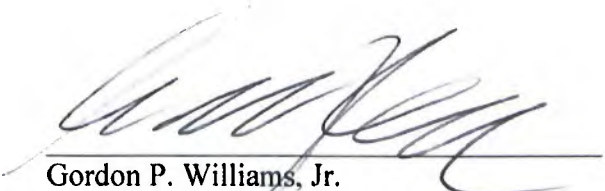
5. The Confidential Information is competitively sensitive and a trade secret. Public disclosure of the Confidential Information would be economically valuable to competitors because it would provide significant insight into the business operations and market penetration of the Company. Analysis of the Confidential Information by competitors could provide insight into the overall financial viability of the Company or its affiliates. Competitors could use the Confidential Information to adjust and target business strategies to the detriment of the Company.

6. The Confidential Information is not available or ascertainable by other parties through normal or proper means. No reasonable amount of independent research could yield this information to other parties.

7. The Confidential Information has been the subject of efforts that are reasonable under the circumstances to maintain its secrecy. The Company restricts the access of information to only those employees, officers, and representatives who have a need to know about such information due to their job and management responsibilities. The Company's files containing the Confidential Information are maintained separately from the Company's general records and access to those files is restricted. Access to the Confidential Information has been and will continue to be disclosed only to those employees, officers, and representatives of the Company who have a need to know about such information due to their job and management responsibilities. Outside of the Company, this information is only provided to certain persons who have a legitimate need to review the information.

Further the Affiant sayeth not.

Dated: November 3, 2017


Gordon P. Williams, Jr.
Senior Vice President & General Counsel
Birch Communication, Inc.

State of Georgia)
) SS:
County of Cobb)

Before me, a Notary Public in and for said County and State, personally appeared Gordon P. Williams, who having been duly sworn upon his oath, attested that the foregoing statements are true to the best of his knowledge, information and belief.

WITNESS my hand and Notarial Seal this 3rd day of November, 2017.


Notary Public


(Subrenna M. Stewart)

My Commission Expires:
August 10, 2021
My County of Residence:
DeKalb

