

Court File No. CV-16-11257-00CL

**PT HOLDCO, INC.,
PRIMUS TELECOMMUNICATIONS CANADA, INC.,
PTUS, INC.,
PRIMUS TELECOMMUNICATIONS, INC., and
LINGO, INC.**

FIFTH REPORT OF THE MONITOR

March 6, 2017

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,
R.S.C. 1985, c. C-36, AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF
PT HOLDCO, INC., PRIMUS TELECOMMUNICATIONS CANADA, INC.,
PTUS, INC., PRIMUS TELECOMMUNICATIONS, INC., and LINGO, INC.

**FIFTH REPORT TO THE COURT
SUBMITTED BY FTI CONSULTING CANADA INC.,
IN ITS CAPACITY AS MONITOR**

INTRODUCTION

1. On January 19, 2016, PT Holdco, Inc. (“**PT Holdco**”), Primus Telecommunications Canada, Inc. (“**PT Canada**”), PTUS, Inc. (“**PTUS**”), Primus Telecommunications, Inc. (“**PTI**”), and Lingo, Inc. (“**Lingo**” and together with PT Holdco, PT Canada, PTUS and PTI, the “**Applicants**”) sought and obtained an initial order (as may be amended or restated from time to time, the “**Initial Order**”) under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “**CCAA**”) providing for, *inter alia*, a stay of proceedings against the Applicants until February 18, 2016, (the “**Stay Period**”) and appointing FTI Consulting Canada Inc. as monitor (the “**Monitor**”). The proceedings commenced by the Applicants under the CCAA will be referred to herein as the “**CCAA Proceedings**”.

2. On January 21, 2016, the Monitor, acting as Foreign Representative of the Applicants pursuant to paragraph 38 of the Initial Order, filed petitions in the United States Bankruptcy Court for the District of Delaware (the “**US Court**”) under Chapter 15 of the United States Bankruptcy Code seeking recognition of the CCAA Proceedings as foreign main proceedings (the “**Chapter 15 Proceedings**”). On February 19, 2016, the US Court issued a final order recognizing the CCAA Proceedings as foreign main proceedings and granting related relief. The Chapter 15 Proceedings were assigned to the Honourable Judge Silverstein of the US Court.
3. On February 25, 2016, the Honourable Mr. Justice Hainey granted an approval and vesting order in connection with an asset purchase agreement dated January 19, 2016 (the “**Birch APA**”) by and between PT Canada, PTI and Lingo as vendors (collectively, the “**Vendors**”) and Birch Communications, Inc. (“**Birch**”) as purchaser (Birch or its permitted assigns, as applicable, being the “**Purchaser**”), pursuant to which the Purchaser was to acquire the Vendors’ right, title and interest in substantially all of the Vendors’ business and assets (the “**Birch Transaction**”).
4. Also on February 25, 2016, the Court granted an order (the “**Distribution Order**”) pursuant to which the Monitor is authorized, subject to retaining the Holdback (as defined in the Distribution Order), to disburse proceeds of the Birch Transaction.
5. The Birch Transaction closed on April 1, 2016 (the “**Closing Date**”).
6. On September 16, 2016, the Honourable Mr. Justice Newbould granted an Order (the “**Approval of Activities Order**”), *inter alia*,

- (a) approving the Third Report of the Monitor and the Fourth Report of the Monitor and the actions, conduct and activities of the Monitor described therein, including, without limitation, the Post-Filing Claims Process;
 - (b) authorizing and directing the Monitor to include in the Holdback, the Bell Holdback (as defined in the Approval of Activities Order);
 - (c) authorizing the Monitor to disburse the Bell Holdback in accordance with the Distribution Order on final determination of the Bell Post-Filing Expenses (as defined below), if any, by way of agreement between the Applicants, the Agent, and Bell Canada; and
 - (d) ordering that on payment of the Bell Post-Filing Expenses, if any, the Monitor shall have no obligation to continue to maintain any Holdback for Post-Filing Expenses and no action lies against the Monitor, its affiliates, agents, employees, officers or directors in connection with any Post-Filing Expenses.
7. Also on September 16, 2016, the Honourable Mr. Justice Newbould granted an Order (the “**Stay Extension, Discharge and Termination Order**”), *inter alia* terminating the CCAA Proceedings and discharging the Monitor upon the filing of the Monitor’s Discharge Certificate (as defined in the Stay Extension, Discharge and Termination Order) certifying that to the best of its knowledge and belief, all matters to be attended to in connection with the CCAA Proceedings have been completed.
8. The Stay Period has been extended a number of times. Pursuant to the Stay Extension, Discharge and Termination Order, the Stay Period was extended to the earlier of March 19, 2017, and the date that the Monitor files the Monitor’s Discharge Certificate.
9. The purpose of this, the Monitor’s Fifth Report (this “**Report**” or the “**Monitor’s**

Fifth Report”), is to provide information to the Court in respect of the following:

- (a) The status of post-closing matters related to the Birch Transaction;
- (b) Activities since the issuance of the Stay Extension, Discharge and Termination Order;
- (c) Remaining activities required to complete the CCAA Proceedings; and
- (d) The Applicants’ motion (the “**March 9 Stay Extension Motion**”) for an order (the “**Stay Extension Order**”), *inter alia*, extending the Stay Period to the earlier of (i) the filing of the Monitor’s Discharge Certificate, and (ii) September 1, 2017.

TERMS OF REFERENCE

- 10. In preparing this Report, the Monitor has relied upon unaudited financial information of the Applicants, the Applicants’ books and records, certain financial information prepared by the Applicants and discussions with various parties, including senior management (“**Management**”) of the Applicants (collectively, the “**Information**”).
- 11. Except as described in this Report:
 - (a) The Monitor has not audited, reviewed or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would comply with Generally Accepted Assurance Standards pursuant to the Chartered Professional Accountants of Canada Handbook; and
 - (b) The Monitor has not examined or reviewed financial forecasts and projections referred to in this Report in a manner that would comply with the procedures described in the Chartered Professional Accountants of Canada Handbook.

12. Future oriented financial information reported or relied on in preparing this Report is based on Management's assumptions regarding future events; actual results may vary from forecast and such variations may be material.
13. The Monitor has prepared this Report in connection with the March 9 Motion for a Stay Extension Order, returnable March 9, 2017. This Report should not be relied on for other purposes.
14. Unless otherwise stated, all monetary amounts contained herein are expressed in Canadian Dollars.
15. Capitalized terms not otherwise defined herein have the meanings defined in the Initial Order or the previous reports of the Monitor.

EXECUTIVE SUMMARY

16. Capitalized terms used in the Executive Summary are as defined in the relevant section of the Report.
17. Based on the information currently available, the Monitor believes that creditors would not be materially prejudiced by the proposed extension of the Stay Period.
18. The Monitor also believes that the Applicants have acted, and are acting, in good faith and with due diligence and that circumstances exist that make an extension of the Stay Period appropriate.
19. The Monitor respectfully recommends that this Honourable Court grant the Applicants' request for an extension of the Stay Period.

POST-CLOSING MATTERS RELATING TO THE BIRCH TRANSACTION

MANAGEMENT SERVICES AGREEMENT

20. As previously reported, pursuant to the Birch APA the transfer to Birch of the Applicants' customer accounts and relationships in the United States (the "**Regulated Customer Relationships**") did not occur on closing of the Birch Transaction, but instead occurred periodically after the Required Approvals were obtained from both the Federal Communication Commission and the relevant State Public Utility Company.
21. Pursuant to the Birch APA, PTI and Lingo (the "**US Sellers**") and Birch entered into a management services agreement dated April 1, 2016 (the "**MSA**") for the purposes of establishing the terms under which Birch, as manager, would, at the direction of the US Sellers, manage the Regulated Customer Relationships pending the necessary Required Approvals. The term of the MSA was extended from time to time and expired pursuant to its terms on March 1, 2017. The Monitor understands that the US Sellers and Birch are currently in discussions to further extend the MSA until April 1, 2017.

WIND-DOWN OF BUSINESS IN PUERTO RICO

22. The Applicants' business in Puerto Rico consisted of reselling local, long distance, and Internet telecommunications services to approximately 1,200 business and residential customers. Pursuant to the terms of the MSA, Birch, in its role as manager, has managed the business and customers in Puerto Rico since the Closing Date.
23. All of the Regulated Customer Relationships, with the exception of customer accounts located in Puerto Rico, were transferred to Birch by the end of September 2016.

24. In September 2016, Birch determined that it would no longer pursue the Required Approvals to acquire the Regulated Customer Relationships in Puerto Rico. The Applicants, in consultation with Birch, the Agent and the Monitor, determined that an orderly wind-down of the Puerto Rico operations should be effected.
25. In order to achieve an orderly wind-down, Birch, in consultation with the Applicants and the Monitor, negotiated an agreement to allow the transfer of PTI's residential and business customers to Puerto Rico Telephone Company ("**Claro**"), the incumbent local exchange carrier in Puerto Rico.
26. Pursuant to an agreement among PTI, Birch and Claro dated December 9, 2016 (the "**Discontinuance of Services Agreement**"), PTI would discontinue offering telecommunications services to customers in Puerto Rico as of January 25, 2017¹, and thereafter would cancel its certificate to operate as a telecommunications provider in Puerto Rico. PTI customers would be issued a Discontinuance Notice (as defined below) and their accounts would be transferred to Claro unless the customer made arrangements to transfer services to an alternate supplier. Claro would pay a flat rate transfer fee for each customer whose services were transferred to Claro, which flat fee depends on whether such services consisted of local or long distance services.
27. On or around January 10, 2017, Birch, on behalf of PTI, issued a notice of discontinuance to each customer in Puerto Rico advising them of PTI's plans to discontinue providing telecommunications services in Puerto Rico effective February 15, 2017 (the "**Discontinuance Date**") and advising that their accounts would be transferred to Claro on the Discontinuance Date unless they made arrangements to transfer their accounts to an alternate supplier.

¹ The Discontinuance of Services Agreement dated December 9, 2016 contemplated that PTI would discontinue services to customers effective January 25, 2017. As a result of delays in finalizing the procedures to transfer the customers to Claro, the parties agreed to extend the date on which services would be terminated to February 15, 2017.

28. As a condition of Birch entering into the Discontinuance of Services Agreement, and in consideration of the resources, time and costs required to effect an orderly wind-down of the operations in Puerto Rico, Birch and the Applicants, in consultation with the Agent and the Monitor, agreed in principle to share net proceeds after reimbursing certain costs and expenses of Birch from the gross proceeds derived from Claro under the Discontinuance of Services Agreement (the “**Net Discontinuation Proceeds**”).
29. Birch and the Applicants, in consultation with the Agent and the Monitor are in the process of documenting the sharing of proceeds arrangement and terms related thereto.
30. While final reporting has not yet been received regarding the transfer PTI’s residential and business customers to Claro, Birch has indicated that approximately 1,200 customer accounts have been or will be transferred to Claro. According to Birch, as a result of technical issues in transferring certain customers to Claro, there were approximately 300 PTI customers whose accounts were not transferred to Claro on the Discontinuance Date. Birch, in consultation with PTI, is working with Claro to complete the transition of these customer accounts and expects to have completed the transfers by no later than March 31, 2017. Once completed, the transfer of the customer accounts to Claro is expected to generate gross proceeds of approximately US\$235,000. It is uncertain however, if after reimbursing certain costs and expenses of Birch, there will be any Net Discontinuation Proceeds available to be shared with PTI

31. As part of the winding down of operations in Puerto Rico, Birch, in consultation with PTI and the Monitor, identified five executory contracts that would no longer be required following the discontinuance of services in Puerto Rico. Two of those contracts were terminated in accordance with their terms with such terminations becoming effective on March 1, 2017. The remaining three contracts were disclaimed by PTI, with the approval of the Monitor and such disclaimers became effective on March 1, 2017.
32. To ensure that PTI's vendors in Puerto Rico were aware of the discontinuance of services and that any Post-Closing expenses owing to them (the "**Puerto Rican Post-Closing Expenses**") would be paid, Birch, on behalf of PTI and in consultation with the Monitor, delivered notices on or around February 15, 2017, to all known trade vendors of PTI in Puerto Rico advising of PTI's plans to discontinue providing telecommunications services in Puerto Rico as of the Discontinuance Date and requesting that any outstanding invoices for the period from the Closing Date through February 28, 2017 be submitted no later than March 7, 2017. Pursuant to the MSA, Birch, as manager, is required to pay any Puerto Rican Post-Closing Expenses.
33. Pursuant to the terms of the MSA, Birch has undertaken to assist in the preparation of the final sales transaction based tax returns in respect of the various municipalities and taxing agencies in Puerto Rico for the period from the Closing Date through the termination of services to customers in Puerto Rico (the "**Puerto Rico Sales Tax Returns**"). In that regard, the Applicants have engaged Atlantax Systems ("**Atlantax**"), a third-party preparer of tax returns that previously provided services to the Applicants, to prepare and submit the Puerto Rico Sales Tax Returns. The Puerto Rico Sales Tax Returns are expected to be filed by the Applicants by no later than March 31, 2017.

ACTIVITIES SINCE THE STAY EXTENSION, DISCHARGE AND TERMINATION ORDER

BELL MATTERS

34. On October 12, 2016, the Monitor, on the instruction of the Applicants and in consultation with the Agent, disbursed \$635,168.04 and US\$22,620.79 to Bell Canada from the Bell Holdback in payment of undisputed amounts owing in respect of Bell Post-Filing Expenses.
35. On November 25, 2016, counsel to Bell Canada confirmed to counsel to the Monitor that Bell Canada's only remaining claim in respect of Bell Post-Filing Expenses was for the amount of \$331,086 (the "**Bell WLSF Claim**") and costs related to same (the "**Remaining Bell Claim**") and that the balance of Bell Canada's claims in respect of Bell Post-Filing Expenses was withdrawn.
36. On December 22, 2016, the Applicants, Agent and Bell Canada entered into an Acknowledgment and Consent Agreement (the "**Bell Post-Filing Claim Agreement**"), pursuant to which, the parties, *inter alios*, (i) acknowledged and agreed that the amount of the Bell Holdback in excess of the Remaining Bell Claim could be distributed to the Agent in accordance with the Distribution Order and that the Bell Holdback could be reduced to the amount of the Remaining Bell Claim, and (ii) acknowledged that in accordance with the Approval of Activities Order, the remaining Bell Holdback would be distributed by way of agreement among the Applicants, Agent and Bell Canada (or by further order of the Court).
37. Pursuant to the Distribution Order and the Bell Post-Filing Claim Agreement, on December 23, 2016, the Monitor issued a disbursement to the Agent, on behalf of the Syndicate, equal to the amount of the Bell Holdback in excess of the remaining Bell WLSF Claim.

38. By way of e-mail dated January 2, 2017 (the “**Withdrawal of the Remaining Bell Post-Filing Claim Email**”), counsel to Bell Canada informed counsel to the Monitor that the Bell WLSF Claim was also withdrawn and on January 4, 2017, counsel to Bell Canada confirmed that, pursuant to the Bell Post-Filing Claim Agreement, the Withdrawal of the Remaining Bell Post-Filing Claim Email constituted an agreement by and on behalf of Bell Canada that the remaining Bell Holdback was no longer required to be retained by the Monitor and could be disbursed. Accordingly, the balance of the Bell Holdback was distributed to the Agent on January 13, 2017 in accordance with the Bell Post-Filing Claim Agreement, the Withdrawal of the Remaining Bell Post-Filing Claim Email and the Distribution Order.

SALES TAX REFUND

39. On December 12, 2016, Canada Revenue Agency (“**CRA**”) issued a notice to PT Canada (the “**December 12 Notice**”) advising that the CRA had completed an assessment of certain sales tax returns resulting in a refund owing to PT Canada totalling approximately \$1.5 million (the “**Sales Tax Refund**”). The December 12 Notice stated that CRA would hold the Sales Tax Refund pending the filing of PT Canada’s corporate tax return for the year ending December 31, 2015 (the “**PT Canada 2015 Tax Return**”).
40. Following receipt of the December 12 Notice, the Applicants, in consultation with the Agent and the Monitor, engaged BDO Canada LLP to prepare and file the PT Canada 2015 Tax Return in order to obtain the release of the Sale Tax Refund. It is expected that the PT Canada 2015 Tax Return will be filed by no later than March 31, 2017. The timing of collection of the Sales Tax Refund is uncertain.

U.S. REGULATORY AND TAX REPORTING

41. Pursuant to the MSA, Birch, in its role as manager, is responsible for monitoring all of the administrative and governmental notice, filing, reporting, tax, fee and permit requirements with respect to the Regulated Customer Relationships, and, when notices, reports or fees fall due, submitting to the U.S. Sellers those notices, reports, invoices or other submissions for the U.S. Sellers to remit to the appropriate agency (together with documentation supporting the calculations, instructions for remission, and payment reimbursing the U.S. Sellers for any fees or taxes U.S. Sellers must pay each such agency) (the “**U.S. Regulatory and Tax Reporting**”). Birch’s responsibilities in this regard (i) are only in respect of U.S. Regulatory and Tax Reporting requirements for periods after the Closing Date, and (ii) survive the expiry of the term of the MSA.
42. Notwithstanding the provisions of the MSA, Birch has confirmed to the Monitor that following the closing of the Birch Transaction, and with the exception of the Puerto Rico Sales Tax Returns, Birch has included the amounts related to the Regulated Customer Relationships in its own regulatory and tax reporting.
43. The Applicants, in consultation with the Agent and the Monitor, have engaged Atlantax to prepare and submit final returns in respect of the Regulated Customer Relationships in the United States, other than Puerto Rico, and expect to have filed these returns by no later than March 31, 2017.
44. Additional U.S. Regulatory and Tax Reporting to the Universal Services Administration Company in respect of the Universal Services Fund is expected to be completed following the wind-down of the business in Puerto Rico.
45. Under the terms of the MSA, any payments owing to taxing authorities in respect of the Regulated Customer Relationships for the period after the Closing Date are the responsibility of Birch and any such payments are not expected to be material.

CANADA POST DEPOSIT

46. Following the commencement of the CCAA Proceedings, Canada Post required that PT Canada post financial collateral in the form of a deposit in the amount of CAD \$132,000 (the “**Canada Post Deposit**”) as security for it providing post-filing services to the Applicants.
47. The Monitor is in discussions with Canada Post to secure the return of the Canada Post Deposit which is expected to occur by no later than March 31, 2017.

ACTIVITIES REQUIRED TO COMPLETE THE CCAA PROCEEDINGS

48. The following are the activities remaining to be completed prior to the termination of the CCAA Proceedings, discharge of the Monitor and termination of the Chapter 15 Proceedings:
 - (a) Filing of the PT Canada 2015 Tax Return and collection of the Sales Tax Refund;
 - (b) Completion of the U.S. Regulatory and Tax Reporting;
 - (c) Reconciliation the Net Discontinuation Proceeds;
 - (d) Obtaining the Canada Post Deposit;
 - (e) Completing the final distributions of proceeds in accordance with the Distribution Order and matters related thereto;
 - (f) Other statutory and administrative duties and filings;
 - (g) Completing the statutory and other steps necessary to terminate the Chapter 15 Proceedings; and
 - (h) Termination of CCAA Proceedings and discharge of Monitor and matters ancillary thereto.

THE MARCH 9 STAY EXTENSION MOTION

49. The Stay Period currently expires on the earlier of March 19, 2017 or the CCAA Termination Date. Additional time is required for the Applicants and the Monitor to complete the remaining activities described earlier in this Report. Accordingly, the Applicants now seek an extension of the Stay Period to the time at which the Monitor's Discharge Certificate is filed.
50. The Monitor continues to hold approximately \$1.7 million as Holdback in the Designated Account which will provide sufficient liquidity to fund the balance of the CCAA Proceedings and the Chapter 15 Proceedings.
51. Based on the information currently available, the Monitor believes that creditors would not be materially prejudiced by the proposed extension of the Stay Period.
52. The Monitor also believes that the Applicants have acted, and are acting, in good faith and with due diligence and that circumstances exist that make an extension of the Stay Period appropriate.
53. The Monitor therefore respectfully recommends that this Honourable Court grant the Applicants' request for an extension of the Stay Period.

The Monitor respectfully submits to the Court this, its Fifth Report.

Dated this 6th day of March, 2017.

FTI Consulting Canada Inc.
In its capacity as Monitor of
PT Holdco, Inc., Primus Telecommunications Canada, Inc.,
PTUS, Inc., Primus Telecommunications, Inc., and Lingo, Inc.



Nigel D. Meakin
Senior Managing Director



Steven Bissell
Managing Director