

**Before the
District of Columbia Public Service Commission**

Joint Application of)	
)	
Fusion Connect, Inc. and)	
)	
Fusion Communications, LLC)	Case No.
)	
)	
For Consent to a Change in Control of)	
Fusion Communications Services, LLC)	

JOINT APPLICATION

Fusion Connect, Inc. (“Fusion Connect”) and Fusion Communications, LLC (f/k/a Cbeyond Communications, LLC) (“Fusion Communications”)¹ jointly, the “Applicants,” respectfully request, pursuant to 15 DCMR § 2511 and any other applicable provisions of the Code or DCMR that may apply, that, to the extent necessary, the District of Columbia Public Service Commission (“Commission”) grant authority for a transaction which will result in a material change in the ultimate control of Fusion Communications (the “Transaction”). No assignment of licenses, assets, or customers will occur as a consequence of the proposed Transaction. Following the consummation of the Transaction, Fusion Communications will continue to provide service to its existing customers pursuant to its existing rates, terms, and conditions. Accordingly, this Transaction will be, for all practical purposes, imperceptible to the customers of Fusion Communications. The proposed Transaction will not adversely affect competition in the District of Columbia because it will not result in a reduction of competitors, and customers will continue

¹ Fusion Connect and Fusion Communications, together with other Fusion operating companies described herein are referred to collectively as the “Fusion Companies”.

to have access to the same competitive alternatives they have today. For all these reasons, Applicants submit that the approval requested by this Application is in the public interest.

In support of this Application, Applicants provide the following information:

I. THE FUSION COMPANIES

Fusion Connect is a privately-held Delaware corporation, with headquarters located at 210 Interstate North Parkway, Suite 300, Atlanta, GA 30339. Fusion Connect is authorized by the Federal Communications Commission (“FCC”) to provide interstate and international telecommunications services.² Fusion Connect, through its subsidiaries, provides a wide range of communications services, including unified communications, digital voice and data communications services, including hosted Voice over Internet Protocol and Session Initiated Protocol trunking, broadband Internet access service, data networks, cloud-based services, and other enhanced communications services and features, as well as traditional voice solutions, to business customers throughout the United States.³ Fusion Connect does not directly hold intrastate telecommunications authorizations.

Fusion Communications is a Delaware limited liability company, also with its principal address located at 210 Interstate North Parkway, Suite 300, Atlanta, GA 30339. In the District of Columbia, the Commission authorized Fusion Communications to operate as a competitive local exchange carrier in Formal Case No. 892-T-1698 on January 24, 2001. Fusion Communications holds intrastate telecommunications service authority in a total of 13 states. Fusion Communications also holds domestic Section 214 authority to provide interstate

² File No. ITC-214-19971001-00592; FCC Filer ID 825160.

³ The Fusion Companies have, at most, a *de minimis* number of non-business (*i.e.*, residential) customers in the United States.

telecommunications services and operates pursuant to Fusion Connect's international Section 214 authority.

II. DESIGNATED CONTACTS

Questions, correspondence or other communications concerning this Application should be directed to Applicants' counsel as identified below:

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With copies to:

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III. DESCRIPTION OF THE TRANSACTION

A. Background

As Fusion Communications previously informed the Commission, on June 3, 2019, each of the Fusion Companies commenced voluntary cases under chapter 11 of Title 11 of the United States Code with the United States Bankruptcy Court for the Southern District of New York (the "Bankruptcy Court").⁴ The Fusion Companies undertook this course of action in order to effectuate a reorganization that would improve their financial structure and position them more securely for future growth. Following extensive negotiations with affected parties, including

⁴ *In re Fusion Connect, Inc., et al.*, Debtors, Case No. 19-11811 (Bankr. S.D.N.Y. Jun. 3, 2019).

creditors and lenders, and under the close observation of the Bankruptcy Court, a final reorganization plan (the “Plan”) was confirmed on December 17, 2019. Shortly thereafter, on January 14, 2020, the Fusion Companies emerged from chapter 11 protection. As a consequence of the bankruptcy process, the Fusion Companies emerged financially stronger and in a materially better positioned to compete effectively in the U.S. telecommunications and cloud services markets.

Pursuant to the Plan, at emergence, the then-existing equity interests in Fusion Connect were cancelled, certain existing debt of the Fusion Companies was extinguished, and holders of Fusion Connect’s first and second lien secured debt (the “Lenders”) received new common stock in reorganized Fusion Connect. The controlling interests in the Fusion Companies (approximately sixty-five percent) are currently held by an investment holding company named Telecom Holdings, LLC.⁵ The remaining interests in Fusion Connect are widely held, with no party holding ten percent or more equity. This allocation of Fusion Connect’s new equity arose, in part, from an arrangement among the Lenders designed to expedite the Fusion Companies’ emergence from bankruptcy protection and thus minimize the erosive effects of a prolonged chapter 11 case. Under this arrangement, the Lenders agreed to defer the issuance of some of the shares of Fusion Connect common stock that are representative of their pre-emergence debt, until after both the emergence of the Fusion Companies and the grant of additional regulatory approvals, as would be required for the resulting changes to the ownership of Fusion Connect.⁶

⁵ The Commission reviewed this reorganization transaction in Case No. TA 2013-01-38, granting approval effective August 27, 2019.

⁶ The pursuit of a two-transaction approach arose in connection with the FCC’s review of the reorganization transaction. As is common within the investment sector, several of the Lender funds are non-U.S. companies. The inclusion of these companies among proposed interest-holders in the pre-emergence FCC applications could have triggered a standard national security review by a multi-agency group, including the Department of Justice, the Department of Treasury and the Department of Homeland Security (commonly referred to as “Team

B. The Transaction

As contemplated by the Plan, the Transaction proposes the issuance of additional shares of Fusion Connect common stock to certain Lenders once all required regulatory approvals are secured. Upon completion of the Transaction, Telecom Holdings will no longer hold a majority controlling interest in, Fusion Connect or in Fusion Communications. Indeed, no individual or entity will hold a controlling interest in the Fusion Companies. Fusion Connect will become a widely held corporation, with all of its common stock held by the Lenders. It is anticipated that one group of affiliated funds will hold approximately thirty-three percent (33%) of the issued and outstanding shares of Fusion Connect and that another group of affiliated funds will hold approximately thirteen percent (13%) of Fusion's issued and outstanding shares. It is anticipated that all other stockholders of Fusion Connect will hold less than ten percent (10%) of Fusion Connect's common stock. Significantly, the Transaction will not have any impact on the organization and operations of the Fusion Companies, including Fusion Communications. All that will change is the relative percentage of ownership of the various Lenders in Fusion Connect.

For the Commission's convenience, pre- and post-Transaction corporate organizational structure charts for the Fusion Companies are provided as **Exhibit 1**.

IV. PUBLIC INTEREST CONSIDERATIONS

The Applicants submit that approval of the proposed Transaction will promote the public interest, convenience, and necessity. The Transaction is simply the final step contemplated by the

Telecom"). This review could have materially delayed the Fusion Companies' emergence from chapter 11 protection, which would have been devastating to their financial viability. Postponing issuance of certain equity interests to the non-U.S. companies until after the Fusion Companies' emergence and the receipt of additional regulatory approvals helped to reduce that extreme financial injury. In the Transaction, there will be no comparable risk of financial harm should Team Telecom determine that a review is required.

Plan, which Plan improved the financial condition of the Fusion Companies, thus ensuring that they continue to offer competitive, high-quality communications and cloud services offerings to customers throughout the United States, including those in the District of Columbia.

The proposed Transaction will have no adverse effects upon the District of Columbia or interstate telecommunications market. Fusion Communications has a small share of the intrastate telecommunications market and, together, the Fusion Companies have a small share of the interstate telecommunications market. Significantly, the Transaction will not eliminate any market participants nor will it, in any respect, reduce the service choices available to consumers.

Moreover, the Transaction holds no adverse effects for District of Columbia customers of Fusion Communications. The carefully crafted Plan effectively ensured that, following emergence, Fusion Communications would continue providing services to their customers without any interruption or diminishment of service quality. These customers continue to receive the same services as they did previously, pursuant to the same rates, terms and conditions. Consummation of the Transaction will have no impact on this outcome.

Finally, the Transaction clearly satisfies the five factors which the Commission has cited previously in connection with review of proposed transfers:

- As noted, the Transaction will have no adverse effects whatsoever upon telecommunications competition in the District of Columbia. Fusion Communications will continue to provide the same quality of services post-close as it did previously, without any interruption or change to its current rates, terms and conditions.
- The Transaction will have no effect, adverse or otherwise, upon the universal service trust fund, as it will not result in any change to Fusion Communications' services.

- The Commission will continue to regulate Fusion Communications post-close as it does today and consequently there will be no adverse effect upon the public safety and welfare.
- The Commission will continue to regulate Fusion Communications' quality of service, which will in no respect be diminished by the Transaction.
- The Transaction will have no effect upon consumer rights, which will continue to be monitored and sustained by the Commission's oversight.

V. **CONCLUSION**

WHEREFORE, for the reasons set forth above, the Applicants respectfully submit that the public interest, convenience and necessity will be furthered by the proposed Transaction and therefore request that the Commission expeditiously grant this Application and such additional relief as it may deem appropriate.

Respectfully Submitted,

**Fusion Connect, Inc. and
Fusion Communications, LLC**

/s/ Winafred Brantl
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Date: March 4, 2020

VERIFICATION

STATE OF GEORGIA

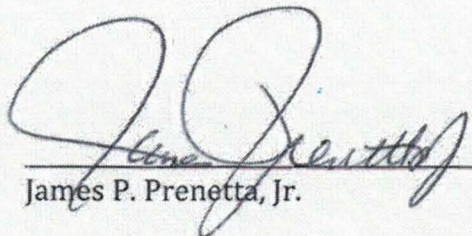
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COUNTY OF FULTON

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I, James P. Prenetta, Jr., state that I am the Executive Vice President and General Counsel of Fusion Connect, Inc. ("Fusion Connect"); that I am authorized to make this Verification on behalf of Fusion Connect and its wholly-owned subsidiary, Fusion Communications, LLC (together, the "Fusion Companies"); that I have read the foregoing document; and that the statements in the foregoing document with respect to the Fusion Companies, except as otherwise specifically attributed, are true and correct to the best of my knowledge, information and belief.


James P. Prenetta, Jr.

Subscribed and sworn to before me this 28th day of February, 2020.

Notary Public: Subrenna M. Stewart

My Commission expires: August 10, 2021

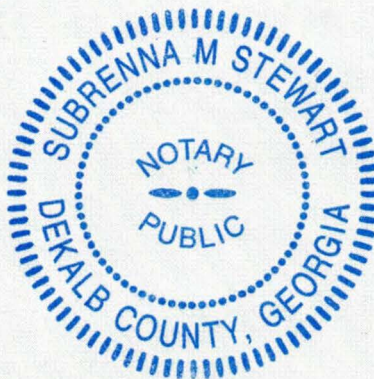
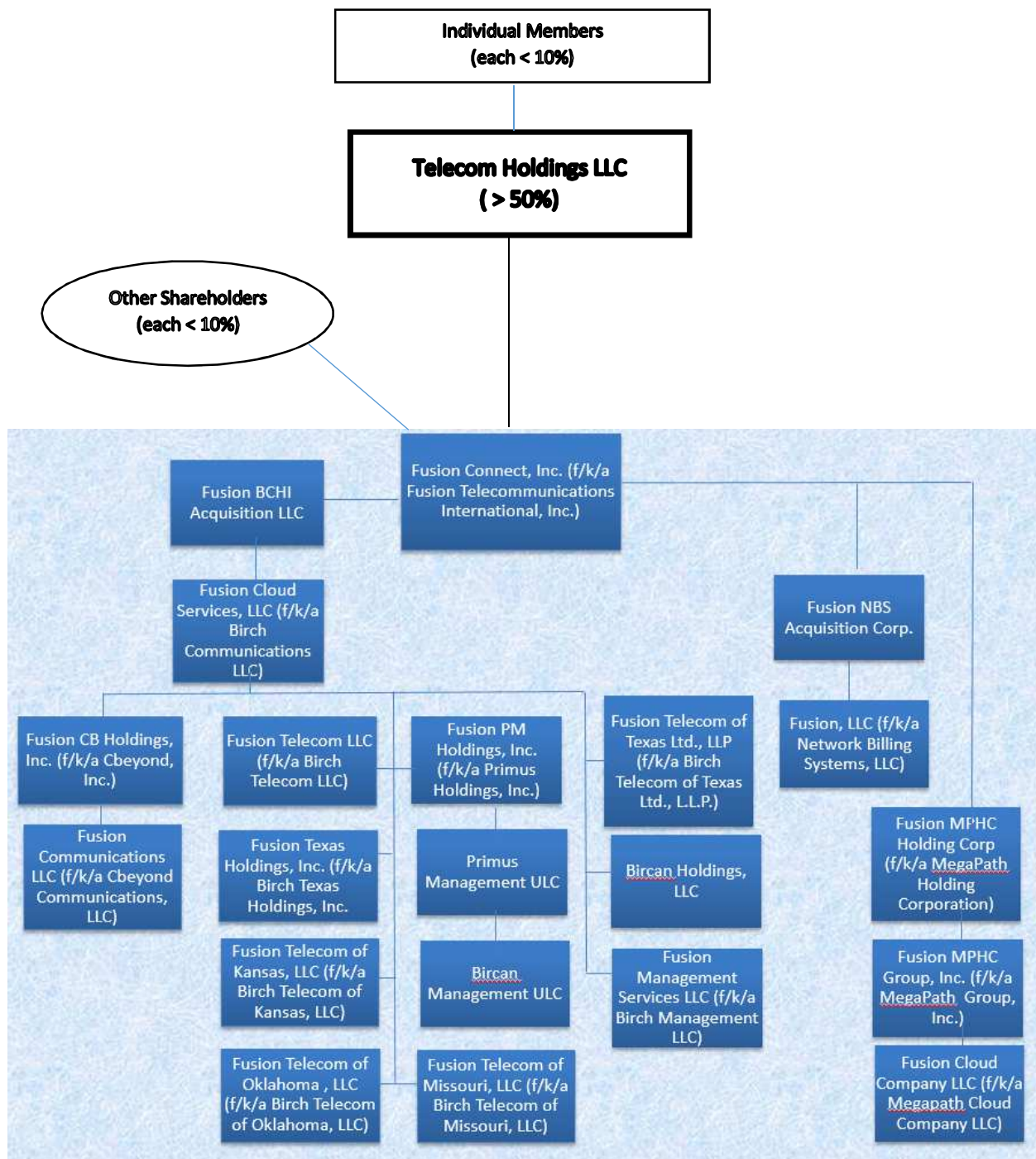


EXHIBIT 1

Pre- and Post-Close Organizational Charts for the Fusion Companies

Pre-Transaction Organizational Chart for the Fusion Companies



Post-Transaction Organizational Chart for the Fusion Companies

