

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 19A-0427T

IN THE MATTER OF A JOINT APPLICATION OF FUSION CONNECT, INC. DBA FUSION COMMUNICATIONS LLC AND TELECOM HOLDINGS LLC FOR CONSENT TO A REORGANIZATION TRANSACTION THAT WILL RESULT IN CHANGES TO THE OWNERSHIP OF AN AUTHORIZED TELECOMMUNICATIONS PROVIDER.

**COMMISSION DECISION
APPROVING JOINT TRANSFER**

Mailed Date: September 17, 2019

Adopted Date: September 11, 2019

I. BY THE COMMISSION

A. Statement

1. This matter comes before the Commission for consideration of a joint application filed by Fusion Connect, Inc. (Fusion), and Telecom Holdings, LLC (TH) on August 5, 2019 (Joint Application). The applicants request Commission authorization for a change of control that involves Fusion Communications, LLC, formerly known as Cbeyond Communications, LLC (FC), an entity that holds Commission issued telecommunications authority and a subsidiary of Fusion.

2. We will construe this filing as an application for approval of the transfer of control of the Commission issued telecommunications authority held by FC pursuant to 4 *Code of Colorado Regulations* 723-2-2110 of the Commission's Rules Regulating Telecommunications Services and Providers of Telecommunications Services.

3. FC acquired Certificates of Public Convenience and Necessity (CPCNs) for the provision of local exchange and emerging competitive services in Decision No. C00-1021 in Proceeding No. 00A-433T on September 19, 2000.

4. Fusion is a publicly traded company that through its operating subsidiaries, offers a range of communications services predominantly to business customers. Fusion is the corporate parent of FC and along with its affiliated subsidiaries, made a voluntary Chapter 11 Bankruptcy filing on June 3, 2019. Fusion does not hold any Commission issued telecommunications authority.

5. TH is an investment holding company that will be the entity that holds a majority interest of Fusion following equity interest transactions contemplated in the Fusion bankruptcy proceeding. TH does not hold any Commission issued telecommunications authorities.

6. The Joint Application states that as a part of an agreement, the majority of existing first lien holders of Fusion will convert their debt interest into a majority equity interest in Fusion. Other equity owners of Fusion after the transactions, will have ownership interest that will individually not exceed 10 percent.

7. On August 6, 2019, notice of the Joint Application was provided to all persons, firms, or corporations interested in or affected by the grant or denial of the requested relief. Interventions were due on or before September 5, 2019. No interventions were filed.

B. Discussion

8. The Commission has jurisdiction over this Joint Application pursuant to §§ 40-5-105, 40-15-204, and 40-15-303, C.R.S.

9. The application contains all of the information required by the applicable Commission Rules and is therefore deemed complete.

10. The application is unopposed and therefore may be considered without a formal hearing, pursuant to § 40-6-109(5), C.R.S.

11. Following the transaction, Fusion will be majority owned by TH with minority ownership by other equity holders. The Joint Application states that FC will continue to provide services at the same rates, terms, and conditions that exist prior to the transaction.

12. FC is a competitive local exchange provider with Commission issued authorities. Except for limited circumstances (such as for providers that are recipients of state high cost support and for the provision of basic emergency services), certifications to provide basic local exchange services are no longer regulated by the Commission. *See* § 40-15-401(1)(b), C.R.S. Similarly, the provision of any other emerging competitive services such as advanced features, premium services, intraLATA toll, non-optional operator services, and private line services, except switched access services and basic emergency services, are no longer regulated by the Commission. *See* §§ 40-15-401(1)(e), (k), (n), (o), (s), (t), C.R.S. Consequently, the Commission does not have the authority to approve the transfers of the CPCNs or those parts of the Letters of Registration addressing advanced features, premium services, intraLATA toll, non-optional operator services, and private line services.

13. Switched access services and the provision of basic emergency services have not been deregulated. As a result, we have the authority to review and approve/deny the transfers and encumbrances of the part of authorities held by providers that address those services.

14. We remind applicants that public utilities remain subject to Commission oversight that includes but is not limited to, reporting and payment obligations to the Colorado High Cost Support Mechanism and the Telecommunications Relay Services Program.

15. We find that the proposed transfer of control of the telecommunications authorities held by FC is not contrary to the public interest and therefore grant the Joint Application for transfer of control to that extent. The Joint Application recognizes the Commission's jurisdiction as it now exists. Entities that hold Commission issued authorities remain obligated to comply with any applicable requirements or regulations as stated in Article 15 of Title 40.

II. ORDER

A. The Commission Orders That:

1. The joint application to transfer filed by Fusion Connect, Inc. (Fusion) and Telecom Holdings, LLC (TH) is deemed complete. The request to transfer control of the Commission issued authorities held by Fusion Communication, LLC as a part of a transaction where TH is acquiring a majority interest of Fusion, is granted.

2. Fusion, TH, or their authorized representatives shall jointly notify the Commission if the transfer has been terminated or is not completed within 60 days of the proposed effective date stated in the application or if the proposed transfer terms are changed prior to the consummation date. The notice shall include the proceeding and decision numbers which granted the authority to execute the transfer.

3. The 20-day period provided for in § 40-6-114, C.R.S., within which to file applications for rehearing, reargument, or reconsideration begins on the first day following the effective date of this Decision.

4. This Decision is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
September 11, 2019.**

(S E A L)



ATTEST: A TRUE COPY

A handwritten signature in cursive script that reads "Doug Dean".

Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

JEFFREY P. ACKERMANN

FRANCES A. KONCILJA

JOHN GAVAN

Commissioners