

SECRETARY'S RECORD, NEBRASKA PUBLIC SERVICE COMMISSION

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the) Application No. C-5104
Application of Fusion Connect,)
Inc. and Fusion, LLC, Atlanta,) GRANTED
Georgia, seeking to Transfer)
Control of a Certified Carrier.) Entered: April 21, 2020

BY THE COMMISSION:

On March 4, 2020 an application was filed by Fusion Connect, Inc. and Fusion, LLC, Atlanta, Georgia, seeking to transfer control of a certified carrier. Notice of the application was published in The Daily Record, Omaha, Nebraska, on March 9, 2020. No protests were filed; therefore, this application is processed pursuant to the Commission's Rule of Modified Procedure.

O P I N I O N A N D F I N D I N G S

Fusion Connect is a privately-held Delaware corporation, with headquarters located at 210 Interstate North Parkway, Suite 300, Atlanta, GA 30339. Fusion Connect, Inc. in connection with Fusion, LLC (The Fusion Companies) are authorized by the Federal Communications Commission to provide interstate and international telecommunications. The Fusion Companies are a New Jersey limited Liability company with a principal address located at 210 Interstate North Parkway, Suite 300, Atlanta, GA. In Nebraska, The Commission has authorized Fusion, LLC to operate as an interexchange carrier in Application No. C-1930 on January 5, 1999. In total, Fusion, LLC holds intrastate telecommunications service authority in 47 states.

Description of the Transaction:

The Fusion Companies commenced their chapter 11 bankruptcy cases on June 3, 2019 in order to effectuate a transaction that would improve their financial structure and position them more securely for future growth. Following extensive negotiations with affected parties, including creditors and lenders, and under the observation of the Bankruptcy Court, a final reorganization plan (the "Plan") was confirmed on December 17, 2019. Shortly thereafter the Fusion Companies emerged from chapter 11 protection. As a consequence, the Fusion Companies emerged financially stronger and in a materially better position to compete effectively in the U.S. telecommunications and cloud services markets. The Parties believe that the Plan is in the best interests of the Fusion Companies and their respective employees, suppliers, vendors, creditors and other key constituencies.

Under 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. Consequently, upon emergence from bankruptcy the controlling interests in the Fusion companies (approximately sixty-five percent) are currently held by an investment holding company named Telecom Holdings, LLC. The remaining interests in Fusion Connect are widely held, with no party holding more than ten percent or more equity. 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. Accordingly, the Transaction will result in a substantial change in ownership and control of the Fusion Companies.

Upon completion of the Transaction, Telecom Holdings will no longer hold a majority controlling interest in, Fusion Connect or in Fusion LLC. Fusion Connect will become a widely held corporation, with all of its common stock held by the Lenders. 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 Connect's issued and outstanding shares. All other stockholders of Fusion Connect will hold less than ten percent (10%) of Fusion Connect's common stock. Accordingly, this application seeks authority for transfer of the ownership interests to various Lenders in Fusion Connect.

The Applicant stated the proposed transaction will affect only the ultimate ownership of the Fusion Companies and will not result in any changes in rates, terms, or conditions of service for retail customers. The Fusion Companies are not seeking to cancel or assign its Certificate. No customer transfers are planned. Following the transaction, the Fusion Companies will continue to offer the same services as offered prior to the transaction.

According to the Applicant, the proposed transfer of control serves the public interest because it is simply the final step in the Plan, which improved the financial condition of the Fusion Companies, thus ensuring that they continue the offer competitive, high-quality communications and cloud services offerings to customers. At the same time, the proposed Transaction will have no adverse impact on the current customers of any of the Fusion Companies.

The proposed Transaction will have no adverse effects upon the Nebraska telecommunications market. The Fusion Companies have a small share of this market and, significantly, the Transaction will not eliminate any market participants nor will it, in any respect, reduce the services choices available to consumers. Moreover, while conveying all of the previously-noted benefits, the Transaction holds no adverse effects for Nebraska customers of The Fusion Companies. The Plan ensures that The Fusion Companies are able to continue providing services to their customers without any interruption or diminishment of service quality. Upon the consummation of the Transaction, these customers will continue to receive the same services as they do today, pursuant to the same rates, terms and conditions.

Based on the evidence, we find the application to be fair and reasonable and in the public interest. The application should be granted.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that Application No. C-5104 be, and it is hereby, granted.

ENTERED AND MADE EFFECTIVE at Lincoln, Nebraska, this 21st day of April, 2020.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Rock Johnson
Crystal Knudsen
Tim Schram
Don Watson

Mary Keddin

Chair

ATTEST:

Michael S. Hyde

Executive Director