

**Before the  
GEORGIA PUBLIC SERVICE COMMISSION**

Joint Notice of )  
 )  
Fusion Connect, Inc., debtor-in-possession )  
 )  
Fusion LLC, debtor-in-possession )  
 )  
Fusion Communications, LLC, debtor-in-possession )  
 )  
Fusion Cloud Services, LLC, debtor-in-possession )  
 )  
and Telecom Holdings LLC )  
 )  
For Consent to a Transaction That Will Result in a )  
Material Change to the Ownership and Control of )  
Fusion LLC, Fusion Communications, LLC, )  
and Fusion Cloud Services, LLC )

**JOINT NOTICE**

Fusion Connect, Inc., debtor-in-possession (“Fusion Connect”), Fusion LLC, debtor-in-possession (“Fusion”), Fusion Communications, LLC, debtor-in-possession (“Fusion Communications”), Fusion Cloud Services, LLC, debtor-in-possession (“Fusion Cloud”)<sup>1</sup> and Telecom Holdings LLC (“Telecom Holdings”), collectively, the “Parties,” hereby respectfully notify the Georgia Public Service Commission (“Commission”) of a forthcoming reorganization transaction which will result in Telecom Holdings acquiring a controlling interest in the Fusion GA Licensees, through Telecom Holdings’ acquisition of in excess of a majority of the common stock of Fusion Connect (the “Transaction”). The Parties believe that Commission approval for

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<sup>1</sup> Fusion Connect, Fusion, Fusion Communications, and Fusion Cloud, together with other Fusion operating companies described herein, together, the “Fusion Companies”. Fusion, Fusion Communications, and Fusion Cloud, collectively referred to as the “Fusion GA Licensees.”

this Transaction is not required pursuant to O.C.G.A. § 46-5-41 as the Transaction will occur at the parent level and will result only in the transfer of indirect ownership of the Fusion GA Licensees. In the event the Commission determines that approval of the Transaction is required, the Parties respectfully request that the Commission treat this filing as an Application and approve the Transaction. *The Parties further request that the Commission review this filing and issue a Letter of Acknowledgement, or Letter of Order, expeditiously and, in any event, by October 1, 2019.*

On June 3, 2019, each of the Fusion Companies, including the Fusion GA Licensees, commenced with the United States Bankruptcy Court for the Southern District of New York (the “Bankruptcy Court”) a voluntary case under chapter 11 of title 11 of the United States Code.<sup>2</sup> The contemplated transfer of control will result from an agreement by an ad hoc group consisting of the majority of the holders of Fusion Connect’s first lien debt (the “Lenders”) to exchange a portion of their debt for, among other things, common stock of Fusion Connect.<sup>3</sup> As a result of the Transaction, Telecom Holdings will acquire in excess of fifty percent (50%) of the common stock in reorganized Fusion Connect (“Reorganized FCI”) and, thus, will acquire indirect majority interests in the Fusion GA Licensees. The Transaction will allow the Fusion Companies to (i) emerge from bankruptcy protection as financially stronger, more competitive participants in the U.S. market for communications and cloud services, and (ii) provide their

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<sup>2</sup> *In re Fusion Connect, Inc., et al.*, Debtors, Case No. 19-11811 (Bankr. S.D.N.Y. Jun. 3, 2019). As a consequence of this filing, the legal status of Fusion Connect and its subsidiaries changed to debtors-in-possession. Accordingly, on June 11, 2019, the Fusion GA Licensees filed a notice with the Commission regarding this change of status. A complete copy of the Petitions and related information is available at <https://cases.primeclerk.com/Fusion>.

<sup>3</sup> The Transaction is discussed more fully below.

comprehensive suite of cloud-based and other innovative advanced communications services to current and newly-acquired customers.

No assignment of licenses, assets, or customers will occur as a consequence of the proposed Transaction. Immediately following the consummation of the Transaction, the Fusion GA Licensees will continue to provide service to their existing customers pursuant to the same rates, terms, and conditions as previously. Accordingly, this Transaction will be, for all practical purposes, imperceptible to the customers of the Fusion GA Licensees. The proposed Transaction will not adversely affect competition in the State of Georgia because it will not result in a reduction of competitors and customers will continue to have access to the same competitive alternatives they have today.

In support of this notice, the Parties provide the following information:

**I. THE PARTIES**

**A. The Fusion Companies**

Fusion Connect is a publicly traded Delaware corporation (OTCMKTS: FSNNQ),<sup>4</sup> with headquarters located at 210 Interstate North Parkway, Suite 300, Atlanta, GA 30339. Fusion Connect is authorized by the Federal Communications Commission to provide interstate and international telecommunications.<sup>5</sup> 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

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<sup>4</sup> In the months prior to the Fusion Companies' filing of Chapter 11 petitions, Fusion Connect was delisted from the NASDAQ Global Market.

<sup>5</sup> File No. ITC-214-19971001-00592; FCC Filer ID 825160.

other enhanced communications services and features, as well as traditional voice solutions, to business customers throughout the United States.<sup>6</sup>

The Fusion GA Licensees each hold domestic Section 214 authority to provide interstate telecommunications services and operate pursuant to Fusion Connect's international Section 214 authority. These subsidiaries also hold intrastate telecommunications authorizations issued by state public utility commissions.

Fusion is a New Jersey limited liability company with its principal address located at 210 Interstate North Parkway, Suite 300, Atlanta, GA 30339. In Georgia, the Commission has authorized Fusion to provide local exchange; interexchange; and alternative operator services in Docket No. 9658-U (IXC/AOS) on October 7, 2000 and Docket No. 33616-U (CLEC) on April 19, 2011. In total, Fusion holds intrastate telecommunications service authority in 47 states.

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 Georgia, the Commission has authorized Fusion Communications to provide local exchange; interexchange; and alternative operator services in Docket No. 12331-U (CLEC) on August 15, 2000 and Docket No. 12333-U (IXC/AOS) on June 11, 2001. Fusion Communications holds intrastate telecommunications service authority in a total of 13 states.

Fusion Cloud is a Georgia limited liability company, with its principal address located at 210 Interstate North Parkway, Suite 300, Atlanta, GA 30339. In Georgia, the Commission has authorized Fusion Cloud to provide local exchange and interexchange services in Docket No.

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<sup>6</sup> The Fusion Companies have, at most, a *de minimis* number of non-business (*i.e.*, residential) customers in the United States.

7381-U (CLEC) on June 5, 1997 and Docket No. 7581-U (IXC) on October 19, 1999. In total, Fusion Cloud holds intrastate telecommunications service authority in 35 states.

**B. Telecom Holdings**

Telecom Holdings is a limited liability company, formed under the laws of the State of Delaware, with its principal address at 1 Market Street, Steuart Tower, 23<sup>rd</sup> Floor San Francisco, CA 94105. As described below, Telecom Holdings is an investment holding company. When the Fusion Companies emerge from chapter 11 bankruptcy protection, Telecom Holdings will hold more than fifty percent (50%) of the common stock of Reorganized FCI. Telecom Holdings has no other operations than to hold debt interests and ultimately, common stock in Fusion Connect.

**II. DESIGNATED CONTACTS**

Questions, correspondence or other communications concerning this filing should be directed to the Parties' counsel as identified below:

**For Fusion Connect, Fusion, Fusion Communications, and Fusion Cloud**

Edward A. Yorkgitis, Jr.  
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[WBrantl@kelleydrye.com](mailto:WBrantl@kelleydrye.com)

**With copies to:**

James P. Prenetta, Jr.  
Executive Vice President and General Counsel  
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**For Telecom Holdings**

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### **III. DESCRIPTION OF THE TRANSACTION**

The Fusion Companies filed their chapter 11 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, and on July 1, 2019, filed a plan of reorganization (the “Plan”) and associated disclosure statement with the Bankruptcy Court.<sup>7</sup> As a consequence of the Transaction, the Fusion Companies will emerge from bankruptcy with a significantly deleveraged balance sheet, which will enable the Fusion Companies to expand their current investment in enhanced customer experience, product innovation and infrastructure. The Parties expect that the Fusion Companies will emerge from bankruptcy protection financially stronger and materially better positioned to compete effectively in the U.S. telecommunications market. 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, all current equity interests in Fusion Connect will be cancelled, certain existing debt of the Fusion Companies will be extinguished, and the holders of that debt will receive, among other things, new common stock in Reorganized FCI. Consequently, upon emergence from bankruptcy, BCHI Holdings LLC and Holcombe T. Green, Jr., parties that currently hold intermediate and ultimate control of the Fusion Companies, will no longer hold a controlling interest in the Fusion Companies, and all of the common stock of Reorganized FCI

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<sup>7</sup> Copies of the Plan and associated disclosure statement, as filed with the Bankruptcy Court on July 1, 2019, are attached as **Exhibit 1**. As these documents are finalized with the Bankruptcy Court, we will provide copies to the Commission as a supplement to this filing. Prior to the Fusion Companies’ filing for chapter 11 protection, Fusion Connect entered into a Restructuring Support Agreement (the “RSA”) with lenders holding a majority of the aggregate outstanding principal amount of its first lien loans. As discussed more fully below, the RSA contemplated the restructuring transaction set out in the Plan.

will be held by Lenders. Accordingly, the Transaction will result in a substantial change in ownership and control of the Fusion Companies.

At emergence, only one party, Telecom Holdings, will own ten percent (10%) or more of the common stock of Reorganized FCI. Telecom Holdings is owned on a pro rata basis by twelve U.S. citizens, none of whom will hold a direct or indirect economic interest in Reorganized FCI of ten percent (10%) or more. The remaining common stock in Reorganized FCI (and, indirectly, in the other Fusion Companies) will be held in varying amounts by the Lenders, none of whom will hold common stock representing an equity or voting interest of ten percent (10%) or more of Reorganized FCI at emergence. In addition, Telecom Holdings will hold more than fifty percent (50%) of the new common stock of Reorganized FCI at emergence and have *de jure* control of the Fusion Companies. Accordingly, as a result of this transaction at the parent level, Telecom Holdings will acquire more than fifty percent (50%) of the indirect equity interests in the Fusion GA Licensees.<sup>8</sup>

For the Commission's convenience, pre- and post-Transaction corporate organizational structure charts for the Fusion Companies and Telecom Holdings are provided as **Exhibit 2**.

Consummation of the Transaction and emergence of the Fusion Companies from chapter 11 as soon as practicable is critical for the success of the reorganization and the continued competitive viability of the Fusion Companies, including the operations of the Fusion GA Licensees. *Consequently, the Parties propose to complete the Transaction on October 1, 2019 or as soon thereafter as possibly, following receipt of all required federal and state regulatory approvals and satisfaction (or waiver) of various other closing conditions.*

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<sup>8</sup> Although the precise percentage of common stock that Telecom Holdings will hold in Reorganized FCI upon its emergence from bankruptcy has not yet been determined, it will exceed fifty percent (50%).

#### IV. PUBLIC INTEREST CONSIDERATIONS

The proposed Transaction is demonstrably in the public interest. Reflecting months of careful negotiations, the reorganization of the Fusion Companies will allow them to maximize the value of the Fusion Companies and reduce their debt load, emerging from chapter 11 protection as financially stronger competitors, well positioned to continue delivery of their comprehensive portfolio of innovative communications solutions to business customers in Georgia and across the United States. Consequently, the proposed Transaction will enhance the Fusion Companies' presence in the domestic telecommunications markets to the ultimate benefit of consumers without harming customers or competition in any market sector.

The proposed Transaction ensures continuity of operations for Fusion Connect and the other Fusion Companies, including the Fusion GA Licensees, to the ultimate benefit of consumers. As discussed elsewhere in this Application, the Fusion Companies filed their cases with the Bankruptcy Court in order to effectively address certain financial challenges. The proposed reorganization of the Fusion Companies will significantly reduce the amount of debt owed by Reorganized FCI while bringing new financial resources as well as the commercial acumen and managerial strengths of the acquiring interest holders. This restructuring and the newly configured financial resources available to the Fusion Companies should ensure that they continue to offer competitive, high-quality communications and cloud service offerings to customers throughout the United States. 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 Georgia or interstate telecommunications markets. 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 service choices available to consumers. To the contrary, by strengthening the

competitive capabilities of the Fusion Companies, the Transaction will also strengthen the competitive depths of the U.S. communications market.

Moreover, while conveying all of the previously-noted benefits, the Transaction holds no adverse effects for Georgia customers of the Fusion GA Licensees. The RSA and the additional financial support provided by the Lenders to fund chapter 11 cases as well as the carefully crafted Plan all ensure that the Fusion GA Licensees are able to continue providing services to their customers without any interruption or diminishment of service quality. Upon the emergence of the Fusion Companies from chapter 11, these customers will continue to receive the same services as they do today, pursuant to the same rates, terms and conditions.

**V. CONCLUSION**

WHEREFORE, for the reasons set forth above, the Parties respectfully submit that the public interest, convenience and necessity will be furthered by the Transaction. The Parties therefore request that the Commission expeditiously issue a Letter of Acknowledgement (or Letter of Order, should the Commission deem approval is required), and such additional relief as it may deem appropriate.

Respectfully submitted,



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**Counsel for Fusion Connect, Inc. , debtor-in-  
possession; Fusion LLC, debtor-in-possession  
Fusion Communications, LLC, debtor-in-  
possession; and Fusion Cloud Services, LLC,  
debtor-in-possession**

Date: August 8, 2019



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Email: [wjohnsen@wileyrein.com](mailto:wjohnsen@wileyrein.com)  
**Counsel for Telecom Holdings LLC**

## **LIST OF EXHIBITS**

**EXHIBIT 1** Reorganization Plan and Disclosure Statement

**EXHIBIT 2** Pre- and Post-Close Organizational Charts for the Fusion Companies

**EXHIBIT 1**

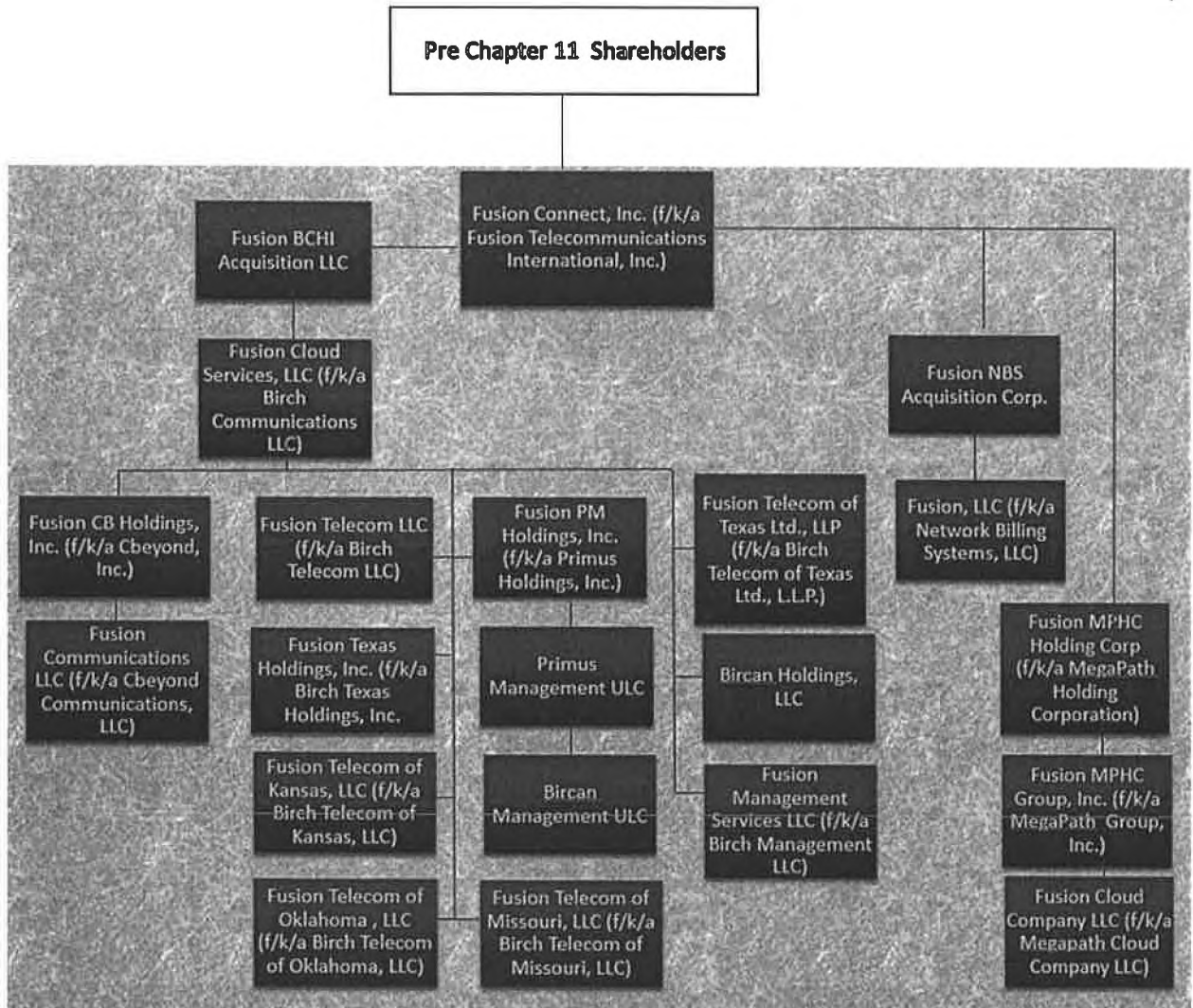
**Plan of Reorganization and associated Disclosure Statement**

**Please see separate bound Exhibit**

**Exhibit 2**

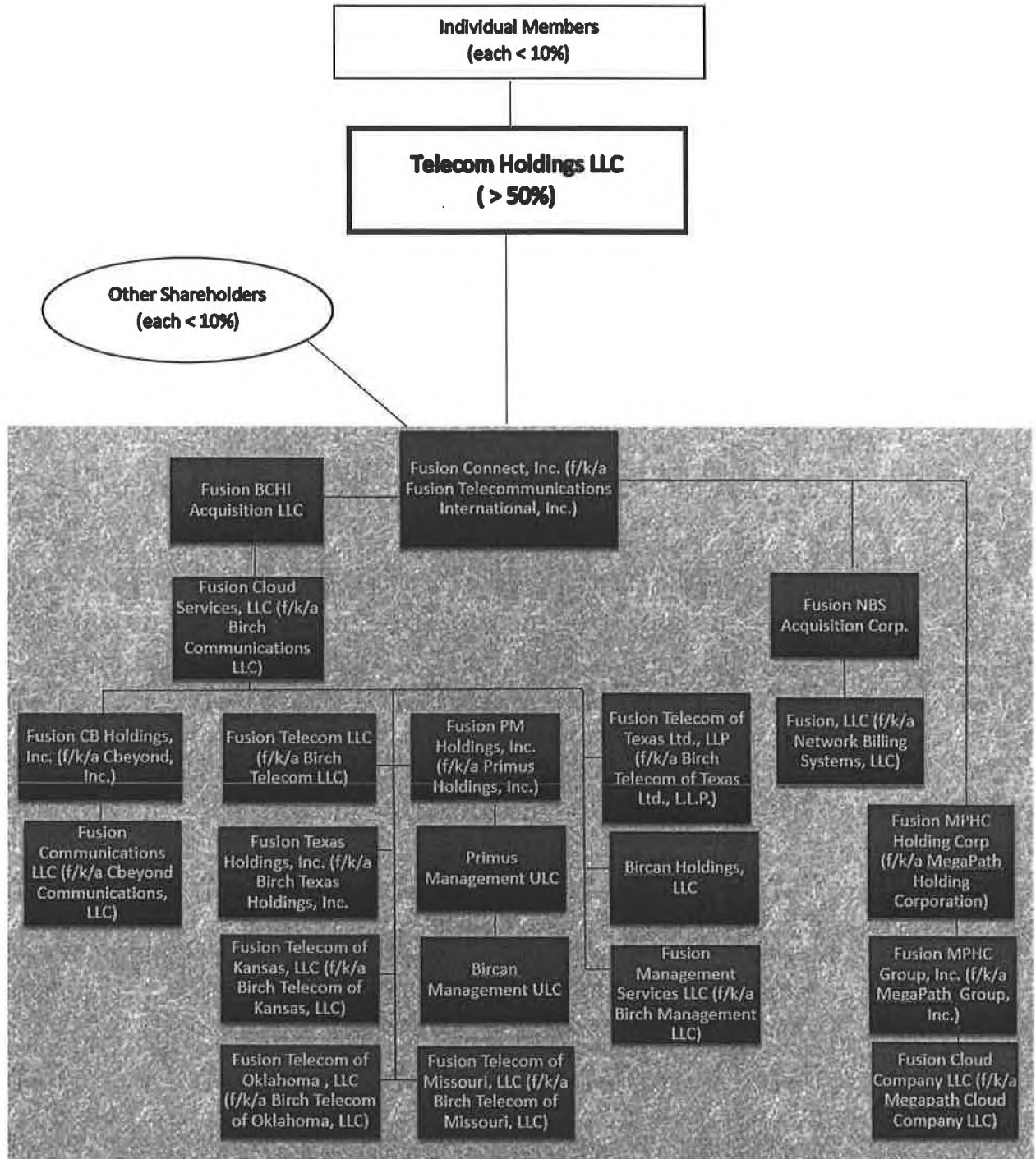
**Pre- and Post-Close Organizational Charts for the Fusion Companies**

**Pre-Transaction Organizational Chart for the Fusion Companies**



**Note:** All of the companies identified in this chart, except Primus Management ULC and Bircan Management ULC, filed for chapter 11 protection on June 3, 2019 and currently are in debtor-in-possession status.

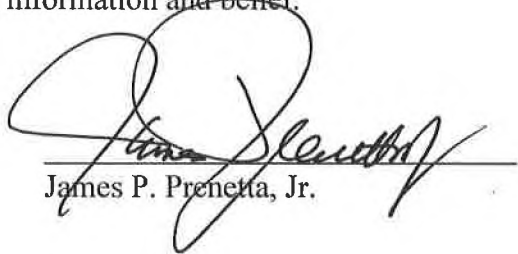
**Post-Transaction Organizational Chart for the Fusion Companies**



VERIFICATION

STATE OF NEW YORK    )  
  ) ss.  
COUNTY OF NEW YORK )

I, James P. Prenetta, Jr., state that I am the Executive Vice President and General Counsel of Fusion Connect, Inc. debtor-in-possession (“Fusion Connect”); that I am authorized to make this Verification on behalf of Fusion Connect and its wholly-owned subsidiaries; that I have read the foregoing document; and that the statements in the foregoing document with respect to Fusion Connect and its wholly owned subsidiaries, 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 1<sup>st</sup> day of August, 2019.

Notary Public: 

My Commission expires: 11/13/2021

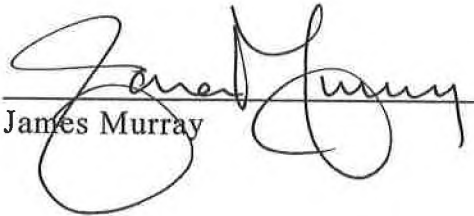
Peter Eric Bogdanich  
Notary Public, State of New York  
No. 01BO6366981  
Qualified in Nassau County  
Commission Expires November 13, 2021



VERIFICATION

STATE OF CALIFORNIA     §  
                                      §  
COUNTY OF SAN FRANCISCO §

I, James Murray, state that I am the President of Telecom Holdings LLC (“Telecom Holdings”); that I am authorized to make this Verification on behalf of Telecom Holdings; that I have read the foregoing document; and that the statements in the foregoing document with respect to Telecom Holdings, except as otherwise specifically attributed, are true and correct to the best of my knowledge, information and belief.

  
James Murray

Subscribed and sworn to before me this \_\_\_<sup>th</sup> day of July, 2019.

Notary Public:

My Commission expires: \_\_\_\_\_

*See attached*

**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

**CIVIL CODE § 1189**

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California )  
County of San Francisco )  
On 7-22-2019 before me, Pamela Fong, Notary Public  
Date Here Insert Name and Title of the Officer  
personally appeared James Murray  
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature Pamela Fong  
Signature of Notary Public

Place Notary Seal Above

**OPTIONAL**

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

**Description of Attached Document**

Title or Type of Document: \_\_\_\_\_

Document Date: \_\_\_\_\_ Number of Pages: \_\_\_\_\_

Signer(s) Other Than Named Above: \_\_\_\_\_

**Capacity(ies) Claimed by Signer(s)**

Signer's Name: \_\_\_\_\_

Corporate Officer — Title(s): \_\_\_\_\_

Partner —  Limited  General

Individual  Attorney in Fact

Trustee  Guardian or Conservator

Other: \_\_\_\_\_

Signer Is Representing: \_\_\_\_\_

Signer's Name: \_\_\_\_\_

Corporate Officer — Title(s): \_\_\_\_\_

Partner —  Limited  General

Individual  Attorney in Fact

Trustee  Guardian or Conservator

Other: \_\_\_\_\_

Signer Is Representing: \_\_\_\_\_