



May 18, 2022

Via Electronic Filing and Overnight Mail

Sallie Tanner
Executive Secretary
Georgia Public Service Commission
244 Washington Street, SW
Atlanta, GA 30334-9052

**Re: Docket Nos. 7381, 12331, 33616, 33697
Request for Emergency Action in connection with Fusion Connect, Inc.
Notice of Intent to Discontinue Wholesale Communications Services for
Nonpayment**

Dear Secretary Tanner:

Lingo Telecom, LLC (“Lingo”) respectfully submits this Request for Emergency Action¹ to the Georgia Public Service Commission (“Commission”) for emergency assistance to protect numerous residential and business end user customers (the “Lingo Customers”) who will have their local phone service improperly suspended as a result of wrongful actions by Lingo’s underlying carriers, Fusion Connect, Inc. and its subsidiaries operating in Georgia, Fusion Cloud Services, LLC, Fusion Communications, LLC, and Fusion LLC (collectively, “Fusion”). After 8:00pm Eastern on Friday, May 13, 2022, Fusion notified Lingo via electronic mail that it will begin suspending service to Lingo Customers in Georgia as of midnight on Friday, May 20, 2022.² Fusion filed notice of its intent to discontinue services to Lingo with the Commission on May 17, 2022 in the above-referenced dockets.

On May 3, 2022, Fusion filed a request with the Federal Communications Commission (“FCC”) for approval to discontinue certain services to end user and carrier customers as of June 29, 2022 (the “Discontinuance Request”).³ Fusion notified the Commission regarding the June 29 discontinuance on May 3, 2022.⁴ Consistent with the June 29 date established by Fusion, Lingo has been working diligently to have the services associated with the Lingo Customers transferred

¹ Georgia Rule 515-2-1-.04 contemplates the Commission may take “emergency action . . . in the interest of safeguarding the public health, safety and welfare.”

² Specifically, Fusion’s notice states services will be terminated to Lingo Customers in Georgia effective 12:01am on Saturday, May 21, 2022.

³ WC Docket No. 22-192, Section 63.71 Application of Fusion Cloud Services, LLC and Fusion Telecom of Texas Ltd., LLP (filed May 3, 2022).

⁴ Docket No. 7381.

to an alternative underlying carrier; that process is underway and is scheduled to be completed prior to the Fusion-requested June 29 service disconnection date.

Despite Fusion's representations to the FCC, this Commission, and its customers, which includes Lingo, that it would not discontinue service until June 29, Lingo learned on Friday, May 13, 2022 that Fusion suspended service to numerous residential and business Lingo Customers in Texas.⁵ After 8:00pm Eastern on Friday, May 13, 2022, Fusion notified Lingo via electronic mail that it also will begin suspending service to Lingo Customers in Alabama and Georgia in the next few days. Fusion's actions to suspend service to Lingo and the Lingo Customers flies in the face of Fusion's representations to its end users, the Commission, the FCC, and Lingo, and is contrary to Fusion's regulatory obligations and its agreement to negotiate with Lingo in good faith to resolve billing disputes between the parties.

Fusion's unnecessary, harmful, and aggressive actions to suspend service to Lingo and the Lingo Customers appears to be a self-help effort to pressure Lingo to pay amounts Lingo has formally disputed under the parties' agreements. In doing so, Fusion has disregarded Lingo's counterclaims and set-off rights for amounts owed to Lingo, and ignored Lingo's commitment to pay all undisputed invoices when due while the parties continue to negotiate or arbitrate, both of which are permitted per the terms of the parties' agreements. Nevertheless, Fusion has refused to continue to negotiate in good faith and instead has chosen self-help to the detriment of the residential and business Lingo Customers in Georgia and other states. As the Commission has recognized in the interconnection context, an underlying carrier should not be able to unilaterally determine that a competitor is not acting in good faith when it disputes a bill.⁶

In addition, Fusion has failed to fully comply with the Commission's rules for disconnection of service. Rule 515-12-1-.33 requires an underlying carrier to provide a reseller "at least seven (7) days written notice" of its intent to disconnect service and provide a copy of such notice to the Commission at the same time. Fusion provided notice to Lingo via electronic mail after 8:00pm Eastern on Friday, May 13, but did not file a copy of the notice with the Commission until May 17. Email notice after business hours on a Friday does not comport with the intent of the rule to ensure resellers and their customers have adequate notice before service disconnection. Further, there is no basis for Fusion to invoke Rule 515-12-1-.33 because, as stated above, Lingo has paid undisputed invoices when due, and filed disputes for any wrongly invoiced charges pursuant to the process established by the parties' agreements.

Accordingly, Lingo respectfully requests the Commission's assistance to stop Fusion's unlawful suspension of service and ensure the Lingo Customers can continue to receive uninterrupted and high-quality local phone services during the pendency of the parties' dispute or at least until June 29, 2022, the Fusion-established date for service discontinuance per its Discontinuance Request.

⁵ Lingo learned about the suspension of service in Texas after receiving over 100 complaints from Lingo Customers in Texas that their local phone service was not operational. Lingo expects it will receive similar complaints from Georgia customers if Fusion is permitted to suspend service to those customers as of 12:01am on Saturday, May 21.

⁶ Docket No. 11901-U, Order (Feb. 6, 2001).

Please contact me at (972) 910-1720 or alex.valencia@lingo.com if you have any questions concerning this matter. Thank you.

Respectfully submitted,

/s/ Alex Valencia

Alex Valencia
VP Government Affairs & Compliance
General Counsel

cc: Leon Bowles, Director of Telecommunications
(via electronic mail: leonb@psc.gov)

Winfred Brantl, Counsel for Fusion Connect, Inc.
(via electronic mail: wbrantl@kelleydrye.com)