

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

In the Matter of	)	
	)	WC Docket No. _____
Section 63.71 Application of	)	
Fusion Communications, LLC,	)	
debtor-in-possession	)	

**SECTION 63.71 APPLICATION**

Fusion Communications, LLC, debtor-in-possession (“Fusion Communications” or the “Company”)<sup>1</sup> hereby seeks authorization, pursuant to Section 214(a) of the Communications Act of 1934, as amended (the “Act”), 47 U.S.C. § 214, and Section 63.71 of the Federal Communications Commission’s (“Commission”) rules, 47 C.F.R. § 63.71, to discontinue its provision of certain fiber-based Ethernet provisioned data and/or voice and ancillary services (collectively, the “Services”) to a small number of customers (the “Customers”) in the states of Colorado, Georgia, Illinois and Texas (the “Impacted States”).

Fusion Communications provides a wide range of communications services, including unified communications, digital voice and data communications services, including hosted Voice over Internet Protocol (VoIP) 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. The Company holds domestic Section 214 authority pursuant to operation of law<sup>2</sup> and

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<sup>1</sup> F/k/a Cbeyond Communications, LLC. FCC Registration Number (FRN) is 0028591550.

<sup>2</sup> 47 C.F.R. § 63.01.

provides international section 214 services pursuant to the authority of its parent, Fusion Connect, Inc., debtor-in-possession (“Fusion Connect”).<sup>3</sup>

On June 3, 2019, Fusion Communications, along with its parent, Fusion Connect and certain other U.S. operating subsidiaries of Fusion Connect, 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”).<sup>4</sup> As part of its restructuring, Fusion Communications is terminating certain long-term fiber IRU (indefeasible right of use) agreements that are integral to the Company’s provision of the Services, as well as the specific Customer contracts for the Services. Consequently, upon receipt of all required regulatory approvals, Fusion Communications will discontinue the provision of the Services. This discontinuance will affect approximately one-hundred (100) Customers in total. The Company will continue to offer other services at these end-user locations and will work with the affected Customers to transition them to an alternative service should they choose to do so. Moreover, these Customers and other consumers in the Impacted States will not be harmed generally by the discontinuance of the Services because they have access to a number of alternative providers, including the incumbent local exchange carrier and competitive carriers offering wireline, wireless, VoIP and other services.

Fusion Communications provides the following information pursuant to Section 63.71 of the Commission’s Rules:

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<sup>3</sup> File No. ITC-214-19971001-00592; FCC Filer ID 825160.

<sup>4</sup> *In re Fusion Connect, Inc., et al.*, Debtors, Case No. 19-11811 (Bankr. S.D.N.Y. Jun. 3, 2019). See, *Notice of Pro Forma Assignment Resulting from Chapter 11 Petition filing by Fusion Connect, Inc. and its subsidiaries (ITC-214-19971001-00592)* (June 7, 2019) WC Dkt. No. 19-262, IB File No. ITC-ASG-20190607-00118.

1. Name and Address of Carrier: Fusion Communications is located at 210 Interstate North Parkway, Suite 300, Atlanta, GA 30339.

2. Date of Planned Service Discontinuance, Reduction or Impairment: The Company plans to discontinue the provision of the Services on December 5, 2019, subject to receipt of regulatory approvals. Fusion Communications understands that this application will be automatically granted on the 31<sup>st</sup> day after public notice of filing unless the Commission notifies the Company to the contrary.

3. Points of Geographic Areas of Service Affected: Fusion Communications proposes to discontinue the provision of the Services to Customers in the following states: Colorado, Georgia, Illinois and Texas.

4. Brief Description of Type of Service Affected: The Services are fiber-based Ethernet provisioned data and/or voice and ancillary services, for business customers.

5. Brief Description of the Dates and Methods of Notice to All Affected Customers: Fusion Communications has provided the affected Customers with at least sixty (60) days' advance notice, via first-class mail, of the discontinuance of the Services.<sup>5</sup> A copy of the notice content, which complies with the requirements of 47 C.F.R. § 63.71 is attached.

6. Whether the Carrier is Considered Dominant or Non-Dominant with Respect to the Service to Be Discontinued, Reduced or Impaired: Fusion Communications is considered non-dominant with respect to the Services.

In accordance with Section 63.71 of the Commission's Rules and concurrent with the filing of this Application, a copy of this Application is being mailed to the Special Assistant for

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<sup>5</sup> Customer notices were sent on October 2, 2019.

Telecommunications for the Secretary of Defense and the Governor and the public utility commission for each of the Impacted States.

Additional questions regarding this application should be addressed to the undersigned.

Respectfully submitted,

By: /s/ Winafred Brantl  
Winafred Brantl  
Kelley Drye & Warren LLP  
3050 K Street, NW – Suite 400  
Washington, DC 20007  
Tel: (202) 945-6649  
E-Mail: [wbrantl@kelleydrye.com](mailto:wbrantl@kelleydrye.com)

Dated: October 2, 2019

*Counsel for Fusion Communications, LLC,  
debtor-in-possession*

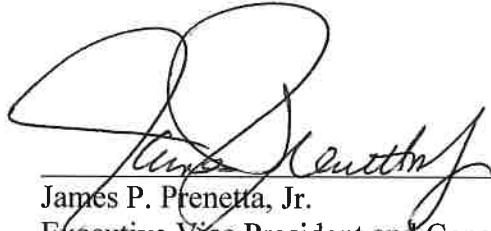
## Verification

STATE OF NEW YORK   §  
                                  §  
COUNTY OF NEW YORK §

I, James P. Prenetta, Jr., state that I am the Executive Vice President and General Counsel of Fusion Communications, LLC, debtor-in-possession ("Fusion Communications"); that I am authorized to make this Verification on behalf of Fusion Communications; that I have read the foregoing document; and that the statements in the foregoing document with respect to Fusion Communications are true, accurate and correct to the best of my knowledge, information and belief.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: September 27, 2019

  
\_\_\_\_\_  
James P. Prenetta, Jr.  
Executive Vice President and General Counsel  
Fusion Communications, LLC, debtor-in-possession  
210 Interstate North Parkway, Suite 300  
Atlanta, GA 30339

## **Sample Customer Notice**



210 Interstate North Parkway, Suite 300  
Atlanta, Georgia 30339  
[www.fusionconnect.com](http://www.fusionconnect.com)

[DATE], 2019

[NAME]  
[STREET]  
[CITY, ST ZIP]  
Acct No. [ACCT NO]; Tel No. [TEL NO 1]<sup>1</sup>

**Notice of Discontinuance of Voice and Other Services Provided by Cbeyond Communications, LLC (n/k/a Fusion Communications, LLC)<sup>2</sup>**

Dear Customer:

Cbeyond Communications, LLC n/k/a Fusion Communications, LLC ("we" or "us" or "our") regret to inform you that we will be discontinuing the provision of your fiber-based, Ethernet provisioned data and/or voice, and associated services at [SERVICE LOCATION] (the "Affected Location") on or shortly after December 5, 2019 (the "Service Termination Date").<sup>3</sup>

***In order to avoid a disruption in your services at the Affected Location, you must make arrangements to transition all of your services with us to an alternative product or transition all of your services at the Affected Location to a new service provider before the Service Termination Date.***

If you do not arrange to transition to one of our other products and services, or should you fail to move to a new service provider prior to the Service Termination Date, you will experience a loss of service. **Specifically, if you currently receive voice service from us at the Affected Location, you will be unable to make local calls, including 911 emergency calls and any long distance service that you currently enjoy.** You will also lose your data service at the Affected Location. Further, should you fail to make arrangements prior to the Service Termination Date, you may not be able to keep your current telephone number(s) and move them to a new service provider. We urge you not to delay in arranging for new service, either with us or with a new service provider, particularly as some carriers may

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<sup>1</sup> Additional telephone numbers served under this account include: [\_\_\_\_\_].

<sup>2</sup> Cbeyond Communications, LLC has changed its name to Fusion Communications, LLC and is currently going through the necessary steps to implement this name change with all require regulatory agencies.

<sup>3</sup> This discontinuance involves a limited number of locations in the states of Colorado, Georgia, Illinois and Texas.

require several weeks or months to install new services. To help avoid any lapse in your service, please check carefully that all services you currently receive from us are moved to your new service provider.

We continue to offer other services at the Affected Location and, should you so choose, we will be happy to assist you in transitioning to a different service offering. One of our Account Managers will be reaching out to you to assist with the transition. In the meantime, if you are interested in receiving alternative services from us, please do not hesitate to call your Account Manager at **(866) 300-0749**. If, instead, you prefer to move to a new service provider, there are a number of other choices available at the Affected Location.<sup>4</sup>

***Important Note: If you arrange for new service before your service with us is terminated and wish to keep your current telephone number(s), please be sure to address this with your new service provider.***

We thank you for your past patronage and we remain committed to ensuring that your service transition is as smooth as possible.<sup>5</sup> If you have any further questions regarding the discontinuance of your services at the Affected Location, please contact Customer Service at **(866) 424-5100**.

Sincerely,

**Fusion Communications, LLC**

**The Federal Communications Commission requires us to provide you with the following notice:**

The FCC will normally authorize this proposed discontinuance of service unless it is shown that customers would be unable to receive service or a reasonable substitute from another carrier or that the public convenience and necessity is otherwise adversely affected. If you wish to object, you should file your comments as soon as possible, but no later than 15 days after the Commission releases public notice of the proposed discontinuance. You may file your comments electronically through the FCC's Electronic Comment Filing System using the docket number established in the Commission's public notice for this proceeding, or you may address them to the Federal Communications Commission, Wireline Competition Bureau, Competition Policy Division, Washington, DC 20554, and include in your comments a reference to the § 63.71 Application of Fusion Communications, LLC, debtor-in-possession. Comments should include specific information about the impact of this proposed discontinuance upon you or your company, including any inability to acquire reasonable substitute service.

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<sup>4</sup> Extensive information regarding alternative providers is available online. Information also may be available from the [State Commission], at [website].

<sup>5</sup> We will pay the switching fees, if any, associated with the transfer of your regulated services to another service provider. As the Service Termination Date is not the last day of a billing cycle, if you migrate your services to an alternative service provider we will issue you a refund check (within thirty days of the discontinuance) equal to the pro rata portion of the month for which prepayment was received but services were not provided.



## CERTIFICATE OF SERVICE

I hereby certify that the foregoing Section 63.71 Application was served this 2<sup>nd</sup> day of October, 2019 by mailing true and correct copies thereof, postage prepaid, to the following persons at the addresses listed below.

Attn: Mr. Doug Dean Colorado Public Utilities Commission 1560 Broadway #250 Denver, CO 80202	Office of Governor Jared Polis State Capitol Building 200 E. Colfax Ave., Rm. 136 Denver, CO 80203
Attn: Mr. Reece McAlister Georgia Public Service Commission 244 Washington Street, SW Atlanta GA, 30334-9052	Office of Governor Brian Kemp 206 Washington Street Suite 203, State Capitol Atlanta, GA 30334
Attn: Ms. Elizabeth Rolando Illinois Commerce Commission 527 E Capitol Ave. Springfield, IL 62701	Office of Governor J.B. Pritzker 207 State House Springfield, IL 62706
Attn: Central Records Public Utility Commission of Texas PO Box 13326 Austin, TX 78711-3326	Office of Governor Greg Abbott P.O. Box 12428 Austin, Texas 78711-2428
Secretary of Defense Attn: Special Assistant for Telecommunications Pentagon Washington, D.C. 20301	

/s/ Winafred Brantl

Winafred Brantl