



State of Utah
Department of Commerce
Division of Public Utilities

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MEMORANDUM

To: Public Service Commission

From: Division of Public Utilities
Chris Parker, Director
Bill Duncan, Telecommunications / Water Manager
Ron Slusher, Utility Technical Consultant

Date: January 2, 2018

Re: In the Matter of the Joint Notice of BCHI Holdings, LLC, Ionex Communications North, Inc., Birch Communications, Inc. and Fusion Telecommunications International, Inc. Regarding a Merger and an Intra-corporate Reorganization Docket Numbers 17-2563-01 and 17-2600-02.

RECOMMENDATION (Allow):

The Division of Public Utilities (“Division”) has reviewed the joint application between BCHI Holdings, LLC, Ionex Communications North, Inc., Birch Communications, Inc. and Fusion Telecommunications International, Inc. and believes that the public interest will be promoted by recommending that the Public Service Commission (“Commission”) allow the this Merger and Intra-corporate reorganization.

The Division expects that based on history that a filing of this type and with the information submitted by the company there will be no objections or opposition to this recommendation. Therefore, the Division request that this docket be adjudicated informally in accordance with R746-110-1.

EXPLANATION:

On or about December 05, 2017, BCHI Holdings, LLC, Ionex Communications North, Inc., Birch Communications, Inc. and Fusion Telecommunications International, Inc. notified the Commission of a transaction, which will result in the restructuring of BCHI Holdings, LLC, Ionex Communications North, Inc., Birch Communications, Inc. and Fusion Telecommunications International, Inc.

On or about August 26, 2017, Fusion Telecommunications International, Inc., and BCHI Holdings, the parent company of Ionex Communications North, Inc., entered into an agreement whereby, BCHI Holdings will acquire majority interests in Fusion Telecommunications International, Inc.

Birch Communications, Inc. (“Birch”) is a registered foreign corporation within the State of Utah; with its corporate headquarters located at 320 Interstate North Parkway SE, Atlanta, GA 30339. Birch is a wholly owned subsidiary of Ionex Communications North, Inc. Birch is currently waiting for the Commission’s approval of its application for a Certificate of Public Convenience and Necessity (“CPCN”), applied for on December 18, 2017.

Ionex Communications Norths, Inc. (“Ionex”) is a South Dakota corporation also located at 320 Interstate North Parkway SE, Atlanta, GA 30339. Ionex is authorized to provide public telecommunications services in the State of Utah by the Commission on April 05, 2013, Docket No. 13-2563-01. As a result of the intra-corporate reorganization, the ultimate controlling ownership of Ionex will not change; however, Ionex will become a subsidiary of a new holding company formed by the Birch Shareholders.

Fusion Telecommunications International, Inc. (“Fusion”) is a publicly traded Delaware corporation with its headquarters located at 420 Lexington Avenue, Suite 1718, New York, New York 10170. Fusion Telecommunications International, Inc. does not hold authority to provide intrastate telecommunications services within any state. It provides digital voice and data communications services, including hosted Voice over Internet Protocol (“VoIP”) and Session Initiated Protocol (“SIP”) trunking, and other enhanced communications services.

After the merger, Fusion will become a wholly-owned subsidiary of BCHI Holdings. When the merger is complete Birch will implement an intra-corporate restructuring that segregates its Cloud and Business Services Business from its consumer and single-line business customers.

The Applicants submit that the transaction will serve the public interest. The Applicants further submit that the transaction will be conducted in a manner that will be largely transparent their customers. The transaction will not result in a change of carrier for customers or any assignment of authorizations, and in no event will it result in the discontinuance, reduction, loss, or impairment of service to customers.

cc. Edward A Yorkgitis, Jr., Kelley Drye & Warren LLP
James P. Prenetta, Jr., Executive Vice President and General Counsel, Fusion
Telecommunications International, Inc.
Chérie R. Kiser, Cahill Gordon & Reindel LLP
Angela F. Collins, Cahill Gordon & Reindel LLP
Gordon P. Williams, Jr., Senior Vice President & General Counsel, Birch Communications, Inc.
Justin Jetter, Assistant Attorney General, State of Utah
Office of Consumer Services, State of Utah