

# BINGHAM

Andrew D. Lipman  
Brett P. Ferenchak  
andrew.lipman@bingham.com  
brett.ferenchak@bingham.com

June 20, 2012

*Via Overnight Courier*

Patricia Van Gerpen, Executive Director  
South Dakota Public Utilities Commission  
Capital Building, 1<sup>st</sup> Floor  
500 East Capital Avenue  
Pierre, South Dakota 57501-5070

**Re: Notification of Proposed Transfer of Control of Network Billing Systems, LLC to Fusion Telecommunications International, Inc.**

Dear Ms. Van Gerpen:

Fusion Telecommunications International, Inc. ("Fusion"), Fusion NBS Acquisition Corp. ("Newco") and Network Billing Systems, LLC ("NBS") (collectively, the "Parties"), pursuant to S.D. Codified Laws § 49-31-20, hereby notify the Commission of the transfer of direct control of NBS to Newco and indirect control of NBS to Fusion (the "Transaction"). The Parties submit this letter for informational purposes only to ensure the continuing accuracy of the Commission's records.

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

**Description of the Parties**

**A. Fusion and Newco**

Fusion is a publicly-held Delaware corporation (OTC BB: FSNN) with principal offices located at 420 Lexington Avenue, Suite 1718, New York, NY 10170. Newco is a Delaware corporation and a wholly-owned direct subsidiary of Fusion. Although a publicly-held company, Fusion has the following shareholders that hold more than 10% of Fusion's equity: Marvin S. Rosen, the Chairman of Fusion (approximately 15%) and the Post-Confirmation Estate of West End Financial Advisors (approximately 12%). In connection with the Transactions, Fusion may issue additional equity diluting the ownership of current shareholders such that upon completion of the Transactions there may be no shareholder that has a 10% or greater ownership interest in Fusion.

Formed in 1997, Fusion is a provider of Internet Protocol ("IP") based digital voice and data communications services to corporations and carriers worldwide. Fusion's services include local, long distance, and international Voice over Internet Protocol ("VoIP") services and other enhanced communications services and features. Currently, Fusion does not hold authorization to provide intrastate telecommunications services in any state, but is authorized by the Federal Communications Commission ("FCC") to provide interstate and international telecommunications services.

Boston  
Hartford  
Hong Kong  
London  
Los Angeles  
New York  
Orange County  
San Francisco  
Santa Monica  
Silicon Valley  
Tokyo  
Washington

Bingham McCutchen LLP  
2020 K Street NW  
Washington, DC  
20006-1806

T +1.202.373.6000  
F +1.202.373.6001  
bingham.com

A/74972629.1

Patricia Van Gerpen, Executive Director  
June 20, 2012  
Page 2

Fusion is managerially, technically, and financially well-qualified to complete the Transaction. As noted above, Fusion has provided voice and data communications services since 1997. For additional detail on the financial and managerial qualifications of Fusion, please see [www.fusiontel.com](http://www.fusiontel.com). In addition, the key management of NBS will remain with NBS and continue to manage the day-to-day operations of company with additional support from Fusion's experienced management team. Following the Transaction, therefore, NBS will continue to have the managerial, technical and financial qualifications to provide high quality telecommunications services to consumers in South Dakota supported by experienced Fusion management and Fusion's financial resources.

**B. NBS**

NBS is a New Jersey limited liability company with principal offices at 155 Willowbrook Boulevard, Wayne, NJ 07470. NBS is owned by its founder and Chief Executive Officer, Jonathan Kaufman (15%), and the LK Trust (85%), which is managed by Mr. Kaufman. NBS provides voice (circuit switched and VoIP) and data telecommunications services to small and medium sized companies.

In South Dakota, NBS is authorized to provide resold interexchange telecommunications services pursuant to Order No. TC98-195 issued on January 6, 1999. NBS is also authorized by the FCC to provide interstate and international telecommunications services.

**Contacts**

Questions or any correspondence, orders, or other materials pertaining to this filing should be directed to the following:

For Fusion and Newco:

Andrew D. Lipman  
Brett P. Ferenchak  
Bingham McCutchen LLP  
2020 K Street, N.W., Suite 1100  
Washington, DC 20006-1806  
202-373-6697 (tel)  
202-373-6001 (fax)  
[andrew.lipman@bingham.com](mailto:andrew.lipman@bingham.com)  
[brett.ferenchak@bingham.com](mailto:brett.ferenchak@bingham.com)

With copies to:

Gordon Hutchins, Jr.  
President and Chief Operating Officer  
Fusion Telecommunications International, Inc.  
420 Lexington Avenue, Suite 1718  
New York, NY 10170  
212-201-2424 (tel)  
212-972-7884 (fax)  
[dhutchins@fusiontel.com](mailto:dhutchins@fusiontel.com)

Patricia Van Gerpen, Executive Director  
June 20, 2012  
Page 3

For NBS:

Jonathan Kaufman  
Chief Executive Officer  
Network Billing Systems, LLC  
155 Willowbrook Boulevard  
Wayne, NJ 07470  
973-638-2121 (tel)  
973-638-2199 (fax)  
[jonk@nbsvoice.com](mailto:jonk@nbsvoice.com)

**Description of the Transaction**

Pursuant to a Membership Interest Purchase and Sale Agreement by and among Fusion, Newco, NBS, Jonathan Kaufman and Christiana Trust as trustee of LK Trust (the "Agreement"), Newco will acquire all of the outstanding equity interests in NBS. As a result, NBS will become a wholly-owned direct subsidiary of Newco and a wholly-owned indirect subsidiary of Fusion. Diagrams depicting the pre- and post-transaction corporate organization structures are appended hereto as Exhibit A.

**Public Interest Considerations**

The Parties submit that the Transaction described herein will serve the public interest. The Transaction is expected to enable Fusion and NBS to offer customers a compelling *alternative to legacy carriers through a comprehensive suite of IP-based and circuit switched communications services*. The Transaction also will serve the public interest in promoting competition among telecommunications carriers by providing Fusion and NBS with access to greater financial resources that will allow them to combine their operations and thereby become more effective competitors to legacy carriers. Fusion expects that the combination of Fusion and NBS will create opportunities for existing and potential customers of both companies to receive a broader base of high quality services. Immediately following consummation of the Transaction, NBS will continue to provide service to customers pursuant to its existing authorizations with no immediate change in their rates or terms and conditions of service. The Transaction, therefore, will be transparent and seamless to NBS's customers in terms of the services they currently receive. The only immediate change resulting from the Transaction will be that NBS will be owned directly by Newco and ultimately Fusion.

\* \* \* \*

Patricia Van Gerpen, Executive Director  
June 20, 2012  
Page 4

An original and one (1) copy of this letter are enclosed for filing. Please date-stamp the enclosed extra copy and return it in the envelope provided. Should you have any questions regarding this filing, please do not hesitate to contact Brett Ferenchak at 202-373-6697.

Respectfully submitted,



Andrew D. Lipman  
Brett P. Ferenchak

Counsel for Fusion and Newco

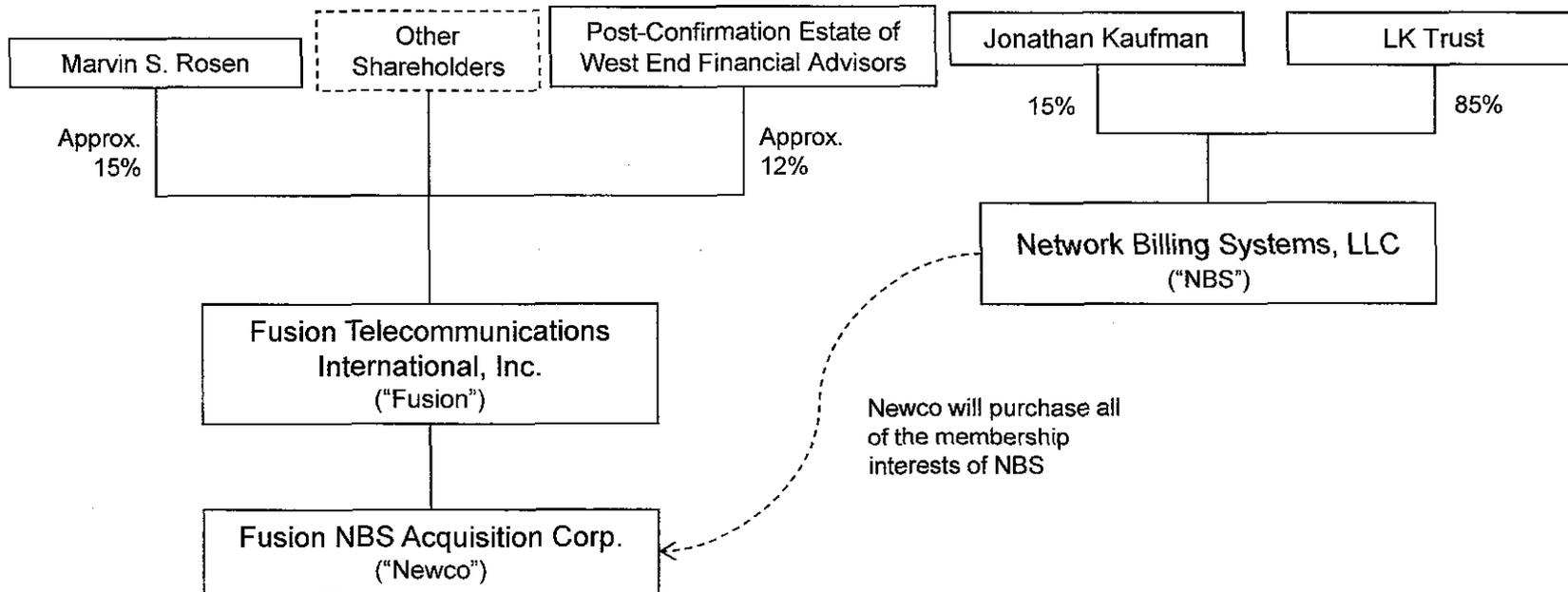
**EXHIBIT A**

**Diagrams of the Pre- and Post-Transaction Corporate Organization Structures**

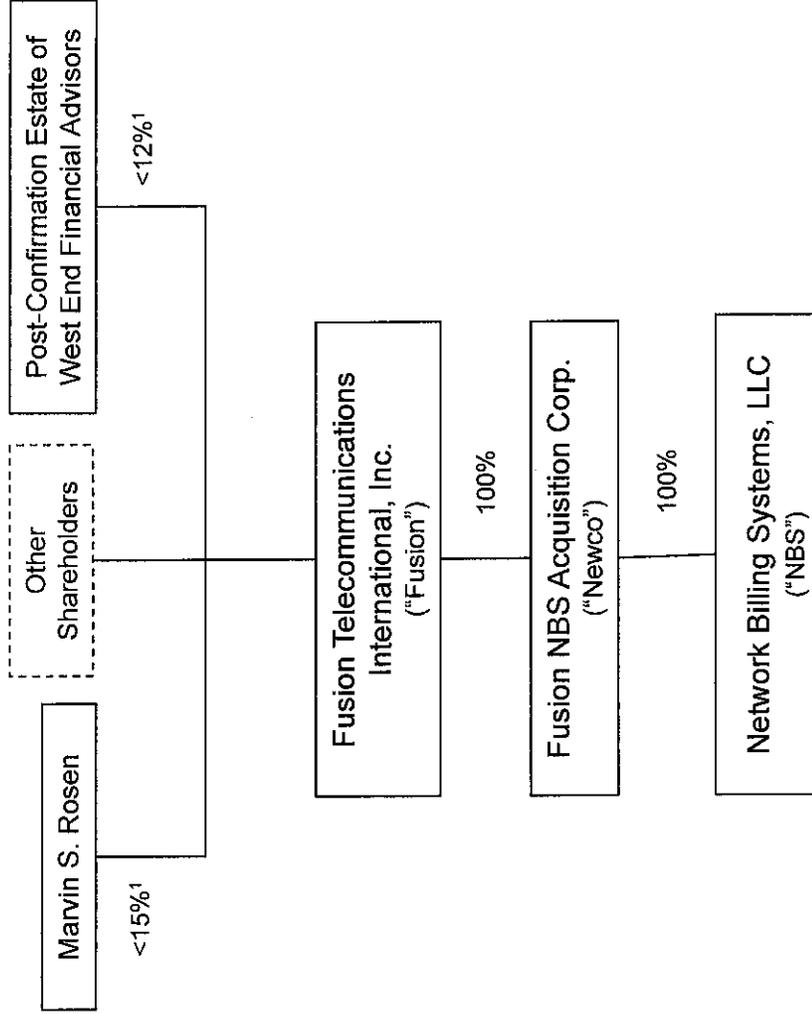
# Pre-Transaction Corporate Organization Structures

## Ownership Structure of Fusion

## Ownership Structure of NBS



# Post-Transaction Corporate Organization Structure

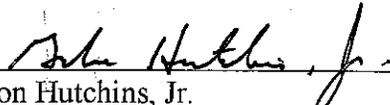


<sup>1</sup> The ownership of Fusion's current stockholders is expected to be diluted (possibly below 10% each) as a result of new equity that may be issued by Fusion.

## VERIFICATION

I, Gordon Hutchins, Jr., am President and Chief Operating Officer of Fusion Telecommunications International, Inc. and its subsidiaries (collectively, the "Company"); that I am authorized to make this Verification on behalf of the Company; that the foregoing filing was prepared under my direction and supervision; and that the contents with respect to the Company are true and correct to the best of my knowledge, information, and belief.

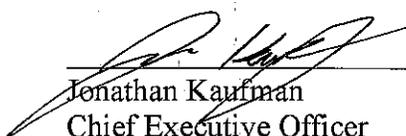
I declare under penalty of perjury that the foregoing is true and correct. Executed this 20<sup>th</sup> day of June 2012.

  
\_\_\_\_\_  
Gordon Hutchins, Jr.  
President and Chief Operating Officer  
Fusion Telecommunications International, Inc.

## VERIFICATION

I, Jonathan Kaufman, am Chief Executive Officer of Network Billing Systems, LLC (the "Company"); that I am authorized to make this Verification on behalf of the Company; that the foregoing filing was prepared under my direction and supervision; and that the contents with respect to the Company are true and correct to the best of my knowledge, information, and belief.

I declare under penalty of perjury that the foregoing is true and correct. Executed this 20<sup>th</sup> day of June 2012.



---

Jonathan Kaufman  
Chief Executive Officer  
Network Billing Systems, LLC