



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
COMMONWEALTH KEYSTONE BUILDING
400 NORTH STREET, HARRISBURG, PA 17120

BUREAU OF
INVESTIGATION
&
ENFORCEMENT

March 8, 2022

Via Electronic Filing

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

Re: Pennsylvania Public Utility Commission
Bureau of Investigation and Enforcement v.
Fusion Connect, LLC
Docket No. C-2022-
I&E Formal Complaint

Dear Secretary Chiavetta:

Enclosed for electronic filing please find the Bureau of Investigation and Enforcement's Formal Complaint in the above-referenced proceeding. Copies have been served on the parties of record in accordance with the Certificate of Service.

Should you have any questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink that reads 'Chris M. Andreoli'.

Christopher M. Andreoli
Prosecutor
Bureau of Investigation and Enforcement
PA Attorney ID No. 85676
(717) 772-8582
chandreoli@pa.gov

CMA/ac
Enclosures

cc: Per Certificate of Service

NOTICE

A. You must file an Answer within 20 days of the date of service of this Complaint.

The date of service is the mailing date as indicated at the top of the Secretarial Letter. *See* 52 Pa. Code §1.56(a). The Answer must raise all factual and legal arguments that you wish to claim in your defense, include the docket number of this Complaint, and be verified. You may file your Answer by mailing an original to:

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
400 North Street
Harrisburg, PA 17120

Or, you may eFile your Answer using the Commission's website at www.puc.pa.gov. The link to eFiling is located under the Filing & Resources tab on the homepage. If your Answer is 250 pages or less, you are not required to file a paper copy. If your Answer exceeds 250 pages, you must file a paper copy with the Secretary's Bureau.

Additionally, a copy should either be mailed to:

Christopher M. Andreoli, Prosecutor
Pennsylvania Public Utility Commission
Bureau of Investigation and Enforcement
400 North Street
Harrisburg, PA 17210

Or, emailed to Mr. Andreoli at: chandreoli@pa.gov

B. If you fail to answer this Complaint within 20 days, the Bureau of Investigation and Enforcement will request that the Commission issue an Order imposing the requested relief.

C. You may elect not to contest this Complaint by paying the past due assessment and civil penalty within 20 days. Send only a certified check or money order made payable to the "Commonwealth of Pennsylvania," with the docket number indicated, and mail to:

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
400 North Street
Harrisburg, PA 17120

D. If you file an Answer which either admits or fails to deny the allegations of the Complaint, the Bureau of Investigation and Enforcement will request the Commission to issue an Order imposing the requested relief set forth in this Complaint.

E. If you file an Answer which contests the Complaint, the matter will be assigned to an Administrative Law Judge for hearing and decision. The Judge is not bound by the penalty set forth in the Complaint and may impose additional and/or alternative penalties as appropriate.

F. If you are a corporation, you must be represented by legal counsel. 52 Pa. Code § 1.21.

G. Alternative formats of this material are available for persons with disabilities by contacting the Commission's ADA Coordinator at 717-787-8714.

pursuant to 66 Pa.C.S. § 308.2(a)(11). *See also Implementation of Act 129 of 2008; Organization of Bureaus and Offices*, Docket No. M-2008-2071852 (Order entered August 11, 2011) at 5 (transferring authority to prosecute assessment cases to I&E).

3. Complainant is represented by:

Christopher M. Andreoli
Prosecutor
Pennsylvania Public Utility Commission
Bureau of Investigation and Enforcement
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120
(717) 772-8582
chandreoli@pa.gov

Kourtney L. Myers
Prosecutor
Pennsylvania Public Utility Commission
Bureau of Investigation and Enforcement
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120
(717) 705-4366
komyers@pa.gov

4. Respondent is Fusion Connect, LLC and maintains its principal place of business at 210 Interstate North Parkway, Suite 200, Atlanta, GA 30339, Attn: Ronald Sheehan.

5. Respondent is a “public utility” as that term is defined at 66 Pa.C.S. § 102, as it is engaged in conveying or transmitting messages or communications by telephone in the Commonwealth of Pennsylvania for compensation.

6. The Commission issued Respondent a Certificate of Public Convenience on or about January 28, 1999, at A-310728, for competitive local exchange carrier authority and interexchange carrier reseller authority.

7. Section 501(a) of the Public Utility Code, 66 Pa.C.S. § 501(a), authorizes and obligates the Commission to execute and enforce the provisions of the Public Utility Code.

8. Section 701 of the Public Utility Code, 66 Pa.C.S. § 701, authorizes the Commission to, *inter alia*, hear and determine complaints against public utilities for a violation of any law or regulation that the Commission has jurisdiction to administer.

9. Section 3301 of the Public Utility Code, 66 Pa.C.S. § 3301, authorizes the Commission to impose civil penalties on any public utility, or any other person or corporation subject to the Commission's authority, for violation(s) of the Public Utility Code and/or Commission regulations. Section 3301(a)-(b) of the Public Utility Code, 66 Pa.C.S. § 3301(a)-(b), allows for the imposition of a separate civil penalty for each violation and each day's continuance of such violation(s).

10. Respondent, in conveying or transmitting messages or communications by telephone for compensation, is subject to the power and authority of this Commission pursuant to Section 501(c) of the Public Utility Code, 66 Pa.C.S. § 501(c), which requires a public utility to comply with Commission regulations.

11. Pursuant to the provisions of the applicable Commonwealth statutes and regulations, the Commission has jurisdiction over the subject matter of this complaint and the actions of Respondent related thereto.

Factual Background

12. On or about September 10, 2020, the Commission mailed to Respondent, by certified mail, an assessment invoice for the July 1, 2020 to June 30, 2021 Fiscal Year (“2020-2021 Fiscal Year”) that was based, in part, on revenues for the 2019 calendar year that Respondent reported to the Commission in its 2019 Assessment Report.

Respondent’s assessment was \$1,385. A copy of the assessment invoice is attached as Exhibit 1.

13. Accompanying the assessment invoice was a notice of assessment that informed Respondent that it was obligated to pay the amount listed on the assessment invoice within thirty (30) days or file objections within fifteen (15) days. A copy of the notice of assessment is attached as Exhibit 2.

14. On September 14, 2020, Respondent received the assessment invoice and notice of assessment for the 2020-2021 Fiscal Year. A true and correct copy of proof of delivery of the assessment invoice and notice of assessment is attached as Exhibit 3.

15. The Commission received no objections from Respondent to the assessment amount set forth in the 2020-2021 Fiscal Year Assessment Invoice.

16. On or about November 12, 2020, the Commission’s Bureau of Administration (“ADM”) sent Respondent a letter warning Respondent that if it did not pay its 2020-2021 Fiscal Year Assessment within 20 days of receipt of the letter, then the Commission would institute appropriate legal action against Respondent.

17. Respondent failed to pay the amount of the 2020-2021 Fiscal Year Assessment Invoice.

18. The total outstanding assessment balance for Respondent related to the 2020-2021 Fiscal Year is \$1,385.

Violation

19. That Respondent failed to satisfy its 2020-2021 Fiscal Year Assessment in that it did not pay the amount due within thirty (30) days of receipt of the invoice. If proven, this is a violation of Section 510(c) of the Public Utility Code, 66 Pa.C.S. § 510(c). The Bureau of Investigation and Enforcement's proposed civil penalty for this violation is 15% of the outstanding assessment balance or \$208.¹ This civil penalty, consistent with past Commission decisions,² is based on Respondent's acceptable history of compliance with the Public Utility Code and Commission's regulations,³ the amount of Respondent's outstanding assessment balance related to the 2020-2021 Fiscal Year, and the need to deter future violations of the Public Utility Code and the Commission's regulations pursuant to 52 Pa. Code § 69.1201.⁴

¹ I&E anticipates that this level of penalty will provide a sufficient deterrent against future violations by Respondent.

² See *Pa. Pub. Util. Comm'n v. Juan Genet Enter., LLC t/a Safe Destinations*, Docket No. C-2014-2450660 (Order entered August 3, 2017); *Pa. Pub. Util. Comm'n v. Leo Movers & Storage, Inc.*, Docket No. C-2015-2494528 (Order entered August 3, 2017); *Pa. Pub. Util. Comm'n v. Hoffman Landscaping & Trucking, LLP*, Docket No. C-2015-2495061 (Order entered September 21, 2017); *Pa. Pub. Util. Comm'n v. Deer Haven, LLP*, Docket No. C-2015-2498095 (Order entered October 26, 2017); *Pa. Pub. Util. Comm'n v. Reach for the Stars Limousine Serv. Inc.*, Docket No. C-2015-2499276 (Order entered October 26, 2017).

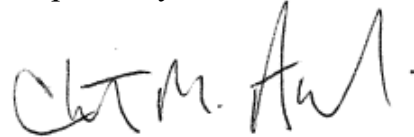
³ A review of the Commission's records for a period of three (3) years prior to the date of the filing of this Complaint demonstrates that Respondent has an acceptable compliance history with the Commission.

⁴ The Commission promulgated a Policy Statement at 52 Pa. Code § 69.1201 as a guideline that sets forth ten factors that are to be considered when evaluating whether and to what extent a civil penalty for violating a Commission order, regulation, or statute is warranted. Among these factors are the compliance history of the regulated entity that committed the violation, the amount of the civil penalty necessary to deter future violations, and past Commission decisions in similar situations. 52 Pa. Code §§ 69.1201(c)(6), (8), and (9).

WHEREFORE, for all the foregoing reasons, the Pennsylvania Public Utility Commission's Bureau of Investigation and Enforcement respectfully requests that:

- (a) Respondent be ordered to pay a total of \$1,593, which consists of its outstanding assessment balance of \$1,385 and a total civil penalty of \$208 for the above-described violation. Said payment should be made by certified check or money order, made payable to the "Commonwealth of Pennsylvania" with the docket number of this proceeding listed, and mailed to the Secretary's Bureau of the Commission; and
- (b) If payment of the assessment and civil penalty is not made, the Bureau of Investigation and Enforcement requests that:
 - (1) the Commission issue an Order to cancel the Certificate of Public Convenience issued to Respondent; and
 - (2) this matter be referred to the Pennsylvania Office of Attorney General for appropriate action.

Respectfully submitted,



Christopher M. Andreoli
Prosecutor
PA Attorney ID No. 85676

Pennsylvania Public Utility Commission
Bureau of Investigation and Enforcement
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120
(717) 772-8582
chandreoli@pa.gov

Date: March 8, 2022

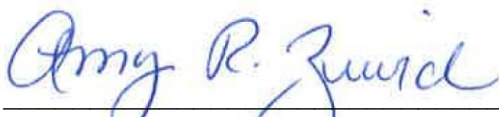
**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission	:	
Bureau of Investigation and Enforcement,	:	
Complainant	:	
	:	
v.	:	Docket No. C-2022-
	:	
Fusion Connect, LLC,	:	
Respondent	:	

VERIFICATION

I, Amy Zuvich, Chief of Finance and Assessments, Bureau of Administration, Finance and Assessment Section, hereby state that the facts above set forth are true and correct to the best of my knowledge, information, and belief and that I expect the Bureau will be able to prove the same at any hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: March 8, 2022



Amy Zuvich, Chief of Finance and Assessments
Finance and Assessment Section
Bureau of Administration
Pennsylvania Public Utility Commission
400 North Street
Harrisburg, PA 17120

I&E
EXHIBIT 1



Commonwealth of Pennsylvania
Pennsylvania Public Utility Commission

Harrisburg, PA 17105-3265

GENERAL ASSESSMENTS INVOICE

FUSION CONNECT LLC
TRISH KIRBY
210 INTERSTATE NORTH PARKWAY
STE 300
ATLANTA GA30339

Invoice Date	Invoice Number
9/10/2020	20-310728
Fiscal Year	
July 1, 2020 to June 30, 2021	

- Read carefully Notice of Assessment
- Use return envelope provided
- Make check payable to:
Commonwealth of Pennsylvania
- If you desire confirmation of receipt, use a mailing service that provides one, such as USPS-Return Receipt, or overnight delivery with receipt confirmation

PUC Assessment	\$1,284.00
Consumer Advocate Assessment	\$51.00
SBA Assessment	\$46.00
DPC Assessment	\$4.00
PAY THIS AMOUNT WITHIN 30 DAYS	\$1,385.00

TO RECEIVE PROPER CREDIT FOR YOUR PAYMENT, REMOVE THE BOTTOM PART OF THIS INVOICE AT THE PERFORATION AND RETURN WITH YOUR REMITTANCE

MAIL PAYMENT TO:
PA DOR
PO BOX 61380
HARRISBURG, PA 17106-1380

FOLD AND CUT HERE

RETURN THIS PORTION WITH YOUR REMITTANCE

FUSION CONNECT LLC
TRISH KIRBY
210 INTERSTATE NORTH PARKWAY
STE 300
ATLANTA GA30339

Invoice Date	Invoice Number
9/10/2020	20-310728
Fiscal Year	
July 1, 2020 to June 30, 2021	

PAY THIS AMOUNT WITHIN 30 DAYS	\$1,385.00
---------------------------------------	-------------------

20000031072841 091020100001288002000000510030000004600 000001385007

I&E
EXHIBIT 2

**PENNSYLVANIA PUBLIC UTILITY COMMISSION
Harrisburg, PA 17105-3265**

NOTICE OF ASSESSMENT

**EXPLANATION OF BILL FOR GENERAL ASSESSMENT
FOR FISCAL YEAR JULY 1, 2020 TO JUNE 30, 2021**

In Section 510 of the Public Utility Code, 66 Pa. C.S. §510, the Pennsylvania General Assembly has authorized the Pennsylvania Public Utility Commission to assess all public utilities a percentage of their gross intrastate operating revenues for the preceding calendar year. Under Section 510, each public utility is required, on or before March 31 of each year to file with the Commission a statement of the utility's gross intrastate operating revenues for the preceding calendar year. After receiving the utilities' statements of gross intrastate operating revenues, the Commission sends general assessment invoices to all public utilities to advise each utility of the amount of assessment that utility owes based upon that utility's activity (gross intrastate operating revenues) in the preceding year. The enclosed assessment is for your proportionate share of the estimated expenses of the Public Utility Commission for the Commission's Fiscal Year July 1, 2020 to June 30, 2021.

YOU ARE REQUIRED TO PAY THIS BILL WITHIN THIRTY DAYS AFTER YOU RECEIVE IT. Objections to the assessment must be made in writing within 15 days and shall set out in detail the grounds upon which you regard the assessment to be excessive, erroneous, unlawful, or invalid. Objections may be filed only by the person, partnership, or corporation assessed. Filing an objection, however, does not eliminate your obligation to pay the assessment while your objection is being considered. **FAILURE TO PAY THE ASSESSMENT WHEN PAYMENT IS DUE WILL SUBJECT YOU TO PENALTIES.**

Be sure that your personal check or money order is written out in the same amount as your assessment invoice, and make your remittance payable to, "Commonwealth of PA". **DO NOT SEND CASH.** If you have reason to correspond with the Commission regarding your assessment invoice, please refer to your invoice number. A receipt for payment will not be issued. Please mail your payment with the return portion of your invoice in the enclosed self-addressed envelope. Please note that rounding of your assessment to the nearest dollar has occurred. Your assessment for the PUC, including the OCA, OSBA and the DPC where applicable, has been combined into one invoice; one payment for all applicable assessments is acceptable. **A TWENTY DOLLAR (\$20.00) FEE WILL BE CHARGED FOR ALL DISHONORED OR BAD CHECKS REMITTED AS PAYMENT OF ASSESSMENTS.**

Your assessment has been computed by multiplying your gross intrastate operating revenues for the calendar year 2019 by the assessment factor for the public utility group of which you are a member. Your gross intrastate operating revenues for 2019 have been taken from the Assessment Reports Form GAO-19, AR-19-RR or AR-19-MC which you have filed with the Commission, or have been estimated by the Commission if you failed to file a timely report. Gross operating revenue reported to the Commission on the Assessment Reports may have been revised by the Commission to accurately reflect assessable revenue. The assessment factors for the various public utility groups are set forth in Schedule B enclosed herewith.

The approved estimate of expenditures of the Commission for the period July 1, 2020 to June 30, 2021 payable as a General Assessment by the public utilities which the Commission regulates has been determined as follows:

Approved budget for the Commission for the Fiscal Year July 1, 2020 through June 30, 2021:	\$76,076,801
Deduct:	
Pipeline Operators per Act 127 of 2011	535,541
Various Fees Collected in FY 2019-20	688,473
UGWF Administration per Act 13 of 2012	453,404
Prior Year cost saving	8,292,175
UCR Collection for CY 2019	4,945,527
EGS/NGS fees per Act 155 of 2014	<u>5,859,359</u>
Total Deductions	<u>\$20,774,479</u>
General Assessment Total Amount	\$55,302,322

The way in which the total Public Utility Commission assessment of \$55,302,322 has been allocated to the various groups of public utilities as shown on Schedules A and B enclosed herewith.



Rosemary Chiavetta
Secretary
PA Public Utility Commission

MAKE INQUIRIES TO:

Pennsylvania Public Utility Commission
Bureau of Administrative Services/Assess
P.O. Box 3265
Harrisburg, PA 17105-3265

FOR CERTIFIED AND EXPRESS CARRIERS

Pennsylvania Public Utility Commission
Bureau of Administrative Services/Assess
400 North Street
Harrisburg, PA 17120

CONTACT INFORMATION:

Assessment Section Information - Telephone 717-265-7548

Allocation of Expenses based on percent of prior year Public Utility Group workload
Budget Fiscal Year 2020-21

SCHEDULE A

Group	Total Expenditures per Utility Group Calendar Year 2019	Percentage Distribution	Estimated Expenditures Fiscal Year 2020- 2021 by Utility Group
Electric	\$24,920,549	45.1523%	\$24,970,270
Gas	\$11,203,601	20.2993%	\$11,225,984
Pipeline	\$628,447	1.1387%	\$629,728
Steam Heat	\$318,410	0.5769%	\$319,039
Tele./Tele.	\$5,541,503	10.0404%	\$5,552,574
Water/Sewer	\$6,533,076	11.8370%	\$6,546,136
Transportation - Passenger	\$2,052,922	3.7196%	\$2,057,025
Transportation - Property	\$1,206,524	2.1860%	\$1,208,909
Transportation - Rail	\$2,787,117	5.0498%	\$2,792,657
Total	\$55,192,149	100.00%	\$55,302,322

SCHEDULE B

Group	Estimated Expenditures Fiscal Year 2020- 2021 by Utility Group	Gross intrastate revenues by utility group Calendar Year 2019	General Assessment Factor by Utility Group (Col. (a) / by Col. (b))
	(a)	(b)	(c)
Electric	\$24,970,270	\$7,943,458,506	0.003143501031
Gas	\$11,225,984	\$4,082,124,332	0.002750034807
Pipeline	\$629,728	\$26,369,139	0.023881249972
Steam Heat	\$319,039	\$110,004,181	0.002900244310
Tele./Tele.	\$5,552,574	\$1,820,452,702	0.003050106160
Water/Sewer	\$6,546,136	\$1,447,058,777	0.004523752666
Transportation - Passenger	\$2,057,025	\$685,828,971	0.002999326490
Transportation - Property	\$1,208,909	\$508,973,483	0.002375190536
Transportation - Rail	\$2,792,657	\$78,530,272	0.035561534793
Total	\$55,302,322	\$16,702,800,363	0.003310961084

**SUPPLEMENTAL SCHEDULE
FEDERAL SHORTFALL RELATED TO GAS SAFETY APPLICABLE TO GAS PUBLIC UTILITIES
ONLY**

	Estimated Commission Federal Shortfall for Calendar Year 2019 and 6 Months of Calendar Year 2020	Actual Commission Federal Shortfall for Calendar Year 2019 and 6 Months of Calendar Year 2020	Estimated Commission Federal Shortfall for Calendar Year 2020 and 6 Months of Calendar Year 2021
Gas	\$0	\$0	\$0
	Net Estimated Commission Federal Shortfall for Fiscal Year 2020-21 Assessment	Reported Revenue for Gas Utility Group for Calendar Year 2019	Supplemental add- on Factor
Gas	\$0	\$4,082,124,332	0.000000000000

I&E
EXHIBIT 3

USPS Tracking®

Track Another Package +

Tracking Number: 9171969009350239996140

Remove X

Your item was picked up at a postal facility at 8:31 am on September 14, 2020 in ATLANTA, GA 30339.

USPS Tracking Plus® Available ∨

Delivered, Individual Picked Up at Postal Facility

September 14, 2020 at 8 31 am
ATLANTA, GA 30339

Feedback

Get Updates ∨

Text & Email Updates



Return Receipt Electronic



Tracking History



September 14, 2020, 8:31 am

Delivered, Individual Picked Up at Postal Facility
ATLANTA, GA 30339

Your item was picked up at a postal facility at 8:31 am on September 14, 2020 in ATLANTA, GA 30339.

September 12, 2020, 11:45 am

Available for Pickup
ATLANTA, GA 30339

September 12, 2020, 11:43 am

Arrived at Post Office
ATLANTA, GA 31139

September 11, 2020, 11:02 pm

Departed USPS Regional Destination Facility
ATLANTA GA DISTRIBUTION CENTER

September 11, 2020, 7:39 am

Arrived at USPS Regional Destination Facility
ATLANTA GA DISTRIBUTION CENTER

September 10, 2020

In Transit to Next Facility

September 9, 2020, 11:45 pm

Arrived at USPS Regional Origin Facility
HARRISBURG PA DISTRIBUTION CENTER

September 9, 2020, 10:30 pm

Accepted at USPS Origin Facility
HARRISBURG, PA 17120

September 9, 2020

Pre-Shipment Info Sent to USPS, USPS Awaiting Item

Feedback

USPS Tracking Plus®



Product Information



See Less ^

Can't find what you're looking for?

Go to our FAQs section to find answers to your tracking questions.

FAQs

Feedback

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission	:	
Bureau of Investigation and Enforcement,	:	
Complainant	:	
	:	
v.	:	Docket No. C-2022-
	:	
Fusion Connect, LLC,	:	
Respondent	:	

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing **Formal Complaint** in the manner and upon the parties listed below, in accordance with the requirements of 52 Pa. Code §§ 1.54 (relating to service by a party).

Served via Electronic Mail

Ronald Sheehan
Director of Regulatory Compliance
Fusion Connect, LLC
210 Interstate North Parkway, Suite 200
Atlanta, GA 30339
ronald.sheehan@fusionconnect.com
jharper@inteserra.com



Christopher M. Andreoli
Prosecutor
PA Attorney ID No. 85676

Bureau of Investigation and Enforcement
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120
(717) 772-8582
chandreoli@pa.gov

Date: March 8, 2022