Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	
Section 63.71 Application of MCI Communications Services Inc. d/b/a Verizon Business Services for Authority to Discontinue Domestic Telecommunications Services	))))	WC Docket No. 08-14 Comp. Pol. File No. 851

ORDER

Adopted: March 17, 2008 **Released:** March 17, 2008

By the Deputy Chief, Wireline Competition Bureau:

I. INTRODUCTION

1. In this Order, we grant the application of MCI Communications Services Inc. d/b/a Verizon Business Services (Verizon or Applicant), to discontinue the provision of telex service pursuant to section 214(a) of the Communications Act of 1934, as amended (the Act),[1] and section 63.71 of the Federal Communications Commission's (Commission) rules.[2] As explained in further detail below, this Order provides Verizon with authority to discontinue a service that Verizon indicates currently has low subscribership and significant costs that exceed the revenue that the service generates. This Order also facilitates a reasonable transition to alternative services for the one Verizon customer that has filed specific concerns about Verizon's proposed discontinuance. Specifically, we grant Verizon authority to discontinue service consistent with its filed representation that it will not take any action to discontinue service to Canpotex Shipping Services before April 7, 2008.

II. BACKGROUND

2. On January 2, 2008, Verizon filed an application with the Commission requesting authority, under section 214 of the Act and section 63.71 of the Commission's rules, to discontinue the provision of a certain domestic telecommunications service in all 50 states, the District of Columbia, and Puerto Rico.[3] Specifically, Verizon seeks authority to discontinue telex service in the above-mentioned locations.[4] Verizon specifies that this service allows subscribers to send real-time teletype messages. Verizon states that while telex service was originally designed as an alternative to the telegraph, its use has steadily declined since the 1980s. Verizon states that it had approximately 100 subscribers to its telex service at the time it filed its application and that the expense of maintaining the service now exceeds the revenue that the service generates given this low subscribership. Thus Verizon proposed to discontinue its provision of telex service as early as March 1, 2008, subject to Commission authorization. Verizon represents that it mailed

[1] 47 U.S.C. § 214(a).

[2] 47 C.F.R. § 63.71.

[3] By an amendment filed January 18, 2008, Verizon corrected certain deficiencies in its initial application and updated the record regarding notice to customers.

[4] Verizon asserts that it is non-dominant with respect to the service it seeks to discontinue.

letters to affected customers to inform them of the proposed discontinuance on December 27, 2007, and that it subsequently mailed notice in compliance with section 63.71(a) of the Commission's rules on January 18, 2008. Verizon further represents that it later learned that one of its telex customers may not have been mailed proper notice, so this customer was provided with a copy of the written notification on February 12, 2008.

3. By Public Notice issued January 30, 2008, the Wireline Competition Bureau (Bureau) announced that Verizon's application would be deemed to be automatically granted on the thirty-first day after the release date of the notice in accordance with section 63.71(c), unless the Commission notified Verizon that the grant would not be automatically effective.[5] Accordingly, the notice stated that pursuant to section 63.71(c), and absent further Commission action, Verizon could not terminate service to the customers affected by the application until March 1, 2008.

4. The Commission received one initial comment in opposition to Verizon's proposed discontinuance.[6] Mr. Garrett of Telex Americas primarily objects to Verizon's application on the grounds that Verizon's proposed discontinuance of telex services on March 1, 2008 will not allow sufficient time for alternative numbers to be implemented for certain of Telex Americas' end user customers in the shipping and maritime business.[7] In particular, Mr. Garrett warns that premature discontinuance of Verizon's telex services would put these customers at risk for safe ship routing, for notification to shore of ship and crew emergencies, for transmittal of cargo loading and unloading instructions, and for notification of arrival and departure information, including compliance with all U.S. Coast Guard Notifications in order for the ship to enter U.S. water and ports.[8] In its reply, Verizon maintains that new telex numbers can be rapidly activated and inexpensively broadcast to a customer's contacts by telex or fax.[9] Verizon therefore submits that it provided customers with sufficient notice and that customers have had sufficient time to transition to another provider.[10] In consideration of the unresolved concerns raised in the record regarding a potential

[5] *Comments Invited on Application of MCI Communications Services Inc. d/b/a Verizon Business Services to Discontinue Domestic Telecommunications Services*, Public Notice, WC Docket No. 08-14, DA 08-267 (WCB Jan. 30, 2008).

[6] *See* Letter from Roy Patrick Norris, Roy Patrick Norris & Associates, P.C., Counsel for Mr. Phillip Lynn Garrett of Telex Americas, to Marlene H. Dortch, Office of the Secretary, Federal Communications Commission, WC Docket No. 08-14 (dated January 18, 2008) (Garrett Comments).

[7] *See* Garrett Comments at 1. In his initial comments, Mr. Garrett also suggests that Verizon should port or transfer customers' current telex numbers to new carriers. Garrett Comments at 1-2. Verizon indicates that it is not aware of any system that could be used to port individual telex numbers to other providers, and Mr. Garrett later agrees in his response that telex numbers cannot be ported without complete take-over of the telex switch by another carrier. *See* Response of MCI Communications Services Inc. d/b/a Verizon Business Services, WC Docket No. 08-14 at 4-6 (dated February 14, 2008) (Verizon Reply); Roy Norris Response on Behalf of Mr. Phil Garrett, WC Docket No. 08-14 at 5 (dated February 18, 2008) (Garrett Feb. 18th Response).

[8] *See* Garrett Comments at 1.

[9] *See* Response of MCI Communications Services Inc. d/b/a Verizon Business Services, WC Docket No. 08-14 at 4 (dated February 14, 2008) (Verizon Reply). Verizon also states that Mr. Garrett does not appear to be a subscriber of Verizon's telex service. Verizon Reply at 1.

[10] Verizon Reply at 3-4. Verizon acknowledges it later discovered that one of its telex subscribers may not have been mailed a written notification, but Verizon asserts that it provided that customer with a copy of the written notification on February 12, 2008. Verizon states that it made arrangements with this customer to continue service in order to allow thirty days notice and to ensure that service is not prematurely discontinued. Verizon Reply at 4, n.4. Verizon further states that this customer subsequently established telex service with Easylink, an alternative provider (continued….)

loss or disruption of service to customers in a manner that may have implications for shipping safety, the Bureau issued a second Public Notice, on February 29, 2008, alerting the public that Verizon's application would not be automatically granted and requesting additional public comment.[11] In response to this second Public Notice, the Commission received comments from Verizon, and from Roy Norris on behalf of Phil Garrett and Carly Gray of Canpotex.[12]

5. Section 214(a) of the Communications Act, as amended, states that "[n]o carrier shall discontinue, reduce, or impair service to a community, or part of a community, unless and until there shall first have been obtained from the Commission a certificate that neither the present nor future public convenience and necessity will be adversely affected thereby."[13] The primary purpose of this requirement is to reduce the harm to consumers caused by discontinuances of service, which is an important aspect of the Commission's general obligation under the Communications Act to protect and promote the public interest.[14] As the Commission has stated, "we have retained the right to delay grant of a discontinuance authorization if we believe an unreasonable degree of customer hardship would result,"[15] and will review each application to determine whether proper notice has been given, whether customers or other end users are able to receive service or a reasonable substitute from another carrier,

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of telex services. Further Response of MCI Communications Services Inc. d/b/a Verizon Business Services, WC Docket No. 08-14 at 1 (received March 7, 2008) (Verizon March 7th Comments). Given these circumstances, we need not separately analyze Verizon's possible failure to provide notice to this customer at an earlier time. The discontinuance authority in this Order extends to this customer, subject to Verizon's representations, but we caution applicants that we carefully examine whether all customers have received timely notice of a future discontinuance.

[11] *Application of MCI Communications Services Inc. d/b/a Verizon Business Services to Discontinue Domestic Telecommunications Services Not Automatically Granted, Further Comment Requested*, Public Notice, WC Docket No. 08-14, Comp. Pol. File No. 851, DA 08-484 (rel. Feb. 29, 2008).

[12] *See* Roy Norris Comments on Behalf of Carly Gray of Canpotex Shipping Services, WC Docket No. 08-14 (received March 4, 2008) (Canpotex March 4th Comments) (stating that Canpotex is an end user of Verizon's telex service and that six months notice would have been more appropriate, but acknowledging that Canpotex was provisioned a new telex number before March 1st, and that most of their vessels have confirmed notice of the new number); Verizon March 7th Comments (indicating that Verizon's customer that was notified on February 12, 2008 has already established telex service with Easylink, that Verizon has informed Ms. Gray of Canpotex that it will not take any action on her telex number for thirty days, and that ships still using telex services use it primarily for business communications rather than to send out distress or other emergency signals); Roy Norris Comments on Behalf of Phil Garrett Regarding Carly Gray of Canpotex Shipping Services, WC Docket No. 08-14 (received March 7, 2008) (Phil Garrett March 7th Comments) (stating that many end user customers did not reply or post comments for a variety of reasons, but that a thirty day extension of service should be applied to all of Verizon's telex customers); *see also* Roy Norris on Behalf of Phil Garrett, WC Docket No. 08-14 (received March 10, 2008) (Phil Garrett March 10th Response) (further explaining the Phil Garrett March 7th Comments); Response of MCI Communications Services Inc. d/b/a Verizon Business Services Inc. to Mr. Garrett's Comments of March 7, 2008, WC Docket No. 08-14 (received March 11, 2008) (Verizon March 11th Response) (clarifying that telex number 149078 is the appropriate telex number for which it intends to extend service, and describing the cost burden of extending service to all of its telex customers).

[13] 47 U.S.C. § 214(a).

[14] *See* 47 U.S.C. § 201.

[15] *Policy and Rules Concerning Rates for Competitive Common Carrier Services and Facilities Authorizations Therefor*, First Report and Order, CC Docket No. 79-252, 85 FCC 2d 1, 49 (1980) (*Competitive Carrier First Report and Order*).

and whether the public convenience and necessity is otherwise adversely affected.[16] In addition, the Commission is bound to "promot[e] safety of life and property."[17]

6. The Commission has considerable discretion in determining whether to grant a carrier authority to discontinue service pursuant to section 214.[18] Balancing the interests of the carrier and the affected user community, the Commission considers a number of factors including: (1) the financial impact on the common carrier of continuing to provide the service; (2) the need for the service in general; (3) the need for the particular facilities in question; (4) the existence, availability, and adequacy of alternatives; and (5) increased charges for alternative services, although this factor may be outweighed by other considerations.[19]

III. DISCUSSION

7. We find that the record supports granting Verizon's request to discontinue service in accordance with its filed representations in this proceeding. Specifically, and as stated above, Verizon indicates that it has agreed, with Ms. Gray of Canpotex, not to take any action on telex number 149078 for thirty days until April 7, 2008 in order to facilitate Canpotex's transition to alternative services, and in response to its specific request.[20] On the basis of Verizon's representations and considering the five factors identified by the Commission for evaluating applications to discontinue service, we find that the proposed discontinuance as amended should not result in an unreasonable degree of customer hardship, and, therefore, that there should be no adverse effect on the public convenience and necessity.[21]

[16] *See* 47 C.F.R. § 63.71(a); *see, e.g., AT&T Application to Discontinue Interstate Sent-Paid Coin Service Not Automatically Granted*, Public Notice, NSD File No. W-P-D-497 (Aug. 3, 2001) (requiring AT&T to show how it will minimize the negative impact on the affected customers).

[17] 47 U.S.C. § 151.

[18] *FCC v. RCA Communications, Inc.*, 73 S. Ct. 998, 1002 (1953); *see also Verizon Telephone Companies, Section 63.71 Application to Discontinue Expanded Interconnection Service Through Physical Collocation*, Order, WC Docket No. 02-237, FCC 03-256 (rel. Oct. 22, 2003) (*Verizon Expanded Interconnection Discontinuance Order*).

[19] *Application for Authority Pursuant to Section 214 of the Communications Act of 1934 to Cease Providing Dark Fiber Service*, File Nos. W-P-C-6670 and W-P-D-364, 8 FCC Rcd 2589, 2600, para. 54 (1993) (*Dark Fiber Order*), *remanded on other grounds, Southwestern Bell v. FCC*, 19 F.3d 1475 (D.C. Cir. 1994); *see Verizon Expanded Interconnection Discontinuance Order*.

[20] *See* Verizon March 7th Comments at 2; Verizon March 11th Response at 1-2.

[21] We find that this is also consistent with our evaluation in prior orders of discontinuance applications involving similar circumstances. *See In the Matter of Section 63.71 Application of KMC Telecom V, Inc. and KMC Telecom of Virginia, Inc. for Authority to Discontinue Domestic Telecommunications Services*, Order, WC Docket No. 05-309, Comp. Pol. File No. 729 (rel. Dec. 28, 2005) (applying the five factors to find reasonable KMC's agreement to extend service for almost 30 days); *In the Matter of Section 63.71 Application of Choice One Communications Inc. on Behalf of Certain of its Subsidiaries for Authority to Discontinue Domestic Telecommunications Services*, Order, WC Docket No. 05-38, Comp. Pol. File No. 696 (rel. Mar. 4, 2005) (applying the five factors to find reasonable Choice One's agreement to extend service for 22 days); *In the Matter of Section 63.71 Application of Winstar Communications, LLC and Certain of its Subsidiaries for Authority to Discontinue Domestic Telecommunications Services*, Order, WC Docket No. 04-154, Comp. Pol. File No. 680 (rel. June 14, 2004) (applying the factors and finding reasonable Winstar's agreement to extend services to most affected customers for approximately 30 days); *In the Matter of Cable & Wireless USA, Inc. Application for Authority to Discontinue Certain U.S. Domestic Telecommunications Services*, Order, Comp. Pol. File No. 663 (rel. Dec. 12, 2003) (applying the factors to find (continued….)

8. Applying the first of the Commission's factors -- the financial impact of continuing to provide the service for the carrier seeking to discontinue -- we note that, in its reply, Verizon specifically states that it had approximately 100 subscribers to its telex service at the time it filed its application, and that the expense of maintaining the service now exceeds the revenue that the service generates given this low subscribership.[22] Verizon also indicates that it would incur significant additional costs including salary expenses and possible upgrades or repairs to its telex hardware and network, if it is required to extend service to all of its telex customers through April 7th or some later date.[23] Verizon maintains that these additional costs would exceed the costs associated with its current agreement to extend service based upon specific requests.[24] Given Verizon's assertions, we find that the financial impact of continuing to provide these services for an extended period beyond the planned discontinuance date is burdensome.[25]

9. Applying factors two and three -- the need for the services in general and for the particular services in question -- Verizon explains that telex service was originally designed as an alternative to the telegraph, and that Verizon's telex service permits subscribers to send real-time teletype messages interstate and internationally.[26] Verizon also states that the use of telex services has steadily declined since the 1980s and that it currently has a low subscribership for the service.[27] Commenters in the record indicate that some end user customers may use telex service in the maritime and shipping business for important maritime and shipping related tasks, but commenters in the record acknowledge that alternatives are available, and Verizon further suggests that ships do not use telex services to send out distress or other emergency signals.[28]

10. Finally, considering factor four -- the existence, availability, and adequacy of alternatives – we note that Verizon asserts that there are several alternative providers of telex services in the United States.[29] Canpotex indicates that it was provisioned a new telex number before March 1, 2008, but that it believes that additional time to implement the number would be more appropriate and fair.[30] Verizon, however, states that it already has informed Ms. Gray of Canpotex that it will not take any action on her telex number for an additional thirty days.[31] The fifth factor, increased charges for alternative services,

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reasonable Cable & Wireless's agreements with customers to continue providing service for various amounts of time); *In the Matter of Section 63.71 Application of LDMI Telecommunications, Inc. for Authority to Discontinue the Provision of Domestic Telecommunications Services to Payphone Service Providers in Michigan and Ohio*, Order, Comp. Pol. File No. 648, 18 FCC Rcd 11301 (rel. May 30, 2003) (finding reasonable LDMI's agreement to provide service to all commenters for an additional 120 days).

[22] Verizon Reply at 2.

[23] Verizon March 11th Response at 1-2.

[24] *Id.*

[25] *See supra* para. 5.

[26] Verizon Reply at 2.

[27] *Id.*

[28] *See* Garrett Comments at 1; Canpotex March 4th Comments at 1; Verizon March 7th Comments at 1.

[29] Verizon Application at 2.

[30] Canpotex March 4th Comments at 2.

[31] Verizon March 7th Comments at 2; Verizon March 11th Response at 1-2.

was not raised by any commenter in this proceeding, and we are persuaded that alternative services are available at reasonable cost.

11. We find that the record in this proceeding indicates that Verizon has provided sufficient notice and assurances that it will maintain service for a reasonable additional period in order to address the concerns of the only end user of Verizon telex services that filed in opposition to Verizon's proposed discontinuance. The proposed 30-day extension of time allows Canpotex a period of more than sixty days from the date of written notice under our rules to arrange for and fully implement alternative telex service, and Canpotex has stated that it has already received an alternative telex number. We note that the vast majority of Verizon's customers did not file comments in opposition to Verizon's originally proposed discontinuance, and were apparently able to find alternative services in sufficient time. The commenters in this proceeding are primarily opposed to any premature discontinuance of service by Verizon, but Verizon's extended discontinuance date addresses the concerns that Canpotex specified in the record, and we find that the need for extending the planned discontinuance date for any other customers is not sufficiently identified or documented.[32] Indeed, the only other commenter in this proceeding, who does not appear to be a customer, requested additional time but does not allege that any customers were unable to find alternative service, and we note that the Bureau's action in removing Verizon's discontinuance application from streamlined processing granted all customers additional time to finalize new arrangements. Given the circumstances, we find Verizon's request to discontinue service reasonable subject to its representations that it will not take any action to discontinue service to Canpotex's telex number for an additional period until April 7, 2008. After balancing all of the relevant factors, we therefore conclude that Verizon shall be permitted to discontinue its telex service in accordance with its filed representations.

IV. ORDERING CLAUSE

12. Accordingly, pursuant to sections 1, 4(i), and 214 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), 214, and sections 0.91, 0.291, and 63.71 of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, 63.71, IT IS ORDERED that the application of MCI Communications Services Inc. d/b/a Verizon Business Services to discontinue domestic telecommunications IS GRANTED to the extent declared herein, consistent with Verizon's filed representations in this proceeding.

FEDERAL COMMUNICATIONS COMMISSION

Julie A. Veach

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[32] *See supra* para 3.