

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

In the Matter of

Section 63.71 Application of Verizon New York Inc. and Verizon New Jersey Inc.

WC Docket No. 13-149

For Authority Pursuant to Section 214 of the Communications Act of 1934, as Amended To Discontinue the Provision of Service

**REPLY COMMENTS OF VERIZON NEW YORK INC.
AND VERIZON NEW JERSEY INC.**

This narrow application¹ addresses three obsolete services – Metallic Service, Telegraph Grade Service, and Program Audio Service² – that can only be delivered over copper and that are no longer available in the areas where Superstorm Sandy destroyed Verizon’s copper network. None of the seven customers of these services in the affected areas has objected to their discontinuance, nor should they: the three services are outdated and have been supplanted by new technologies and services. Verizon’s Application should be deemed granted in the ordinary course.

¹ See Section 63.17 Application of Verizon New York Inc. and Verizon New Jersey Inc., WC Docket No. 13-149 (May 24, 2013) (“Application”); see also *Comments Invited on Application of Verizon New Jersey Inc. and Verizon New York Inc. to Discontinue Domestic Telecommunications Services*, Public Notice, 28 FCC Rcd 9193 (2013) (“Public Notice”).

² As discussed in Verizon’s filing, these three services are: (i) Metallic Service (used to transmit signals at low speeds up to 30 baud); (ii) Telegraph Grade Service (used to transmit binary signals over a telegraph grade channel at rates up to 150 baud); and (iii) Program Audio Service (used to provide one-way transmission of complex signal voltages) (collectively “Metallic Services”).

Superstorm Sandy destroyed portions of Verizon's legacy copper network in parts of Lower Manhattan and New Jersey. In some places where the existing copper facilities were rendered unusable by the storm, rather than re-deploy copper facilities, Verizon replaced the copper with more resilient fiber infrastructure. Almost all of the interstate telecommunications services previously available over copper are also available over fiber, with the exception of three largely obsolete, copper-based special access services — the Metallic Services — that are incompatible with fiber as a technical matter and that Verizon must discontinue in the areas where the copper is gone. These services have largely been supplanted by new technologies and services, including those available over fiber, cable, wireless, and other IP-based platforms. Prior to the storm, Verizon had just seven customers (including one Verizon affiliate) in the affected areas for these services, none of which has objected to this discontinuance. The Commission should allow Verizon's discontinuance filing for these obsolete services to be deemed granted.

The only comments filed in this proceeding were filed by a handful of CLECs who do not purchase these obsolete, copper-based services in the affected areas, but who nonetheless seek to inject broader network transition and interconnection issues into this proceeding. The apparent aim of these comments is to reverse the Commission's current policies allowing providers' flexibility to retire legacy copper facilities that they no longer need to serve their customers. For example, XO and MegaPath, neither a customer of any of the three services at issue here, urge the FCC to address policy questions surrounding network and service restoration in the wake of a disaster or emergency, and also argue that there should be changes in existing network modification regulations.³ These broader questions are appropriately addressed, if at all, in a

³ See XO and MegaPath Comments, WC Docket Nos. 13-149 & 13-150 (July 29, 2013).

proceeding of general applicability and not in connection with a narrow discontinuance filing related to obsolete services that are no longer available as a result of the destruction of copper by an historic storm. In fact, these same parties have repeatedly raised these issues in such proceedings. The Commission should give these comments no weight in this context.

“[T]he Commission typically authorizes a carrier’s proposed discontinuance of service, unless it is shown that customers or other end users would be unable to receive service or a reasonable substitute from another carrier, or that the public convenience and necessity is otherwise adversely affected.”⁴ In determining if any such showing has been made, the Commission will “balance the interests of the carrier and the affected user community,” including weighing “(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.”⁵ However, the Commission has repeatedly recognized that section 214 proceedings are not the appropriate place to consider industry-wide issues in the course of its analysis.⁶

Here, no customer has filed an objection to Verizon’s proposed discontinuance. Nor has any other party stated, much less demonstrated, that Verizon’s discontinuance in this docket of these three obsolete services will “adversely affect the user community” or otherwise harm the

⁴ *Rhythms Links Inc. Emergency Application to Discontinue Domestic Telecommunications Services*, Order, 16 FCC Rcd 16372, ¶ 5 (2001).

⁵ *AT&T Communications’ Application to Discontinue Domestic Telecommunications Services*, Memorandum Opinion and Order, 18 FCC Rcd 24376, ¶ 6 (2003).

⁶ *See, e.g., Applications for Consent to the Transfer of Control of Licenses and Section 214 Authorizations from Southern New England Telecommunications Corp. to SBC Communications, Inc.*, Memorandum Opinion and Order, 13 FCC Rcd 21292 (1998).

public interest. This is hardly surprising given that there are only seven customers (including a Verizon affiliate) of these services prior to the storm in these areas, and given that the services at issue are outdated and largely have been replaced by newer technologies as discussed above. Thus, there has been no showing that would warrant a rejection of Verizon's discontinuance Application or any delay in the automatic grant.⁷

Not a single commenter filed solely in this docket; the only comments filed were dual-filed in another pending discontinuance proceeding (13-150). None of these comments specifically addresses the Metallic Services that are the sole subject of Verizon's discontinuance filing. Instead, they either expressly take no position on the proposed discontinuance, and/or they argue only broader issues regarding copper retirement and network transition from TDM to IP that are irrelevant to Verizon's discontinuance request.⁸ CenturyLink urges the Commission to grant the Application, arguing that providers need the ability to restore service in the most efficient and expedient way possible using the full range of available technologies.⁹ Verizon's Application should be deemed granted as of August 27, 2013.

⁷ See Section 63.71 Application of Verizon Long Distance LLC for Authority to Discontinue Domestic Telecommunications Service, Order, 25 FCC Rcd 8452, ¶ 11 (2010) ("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.").

⁸ See, e.g., COMPTTEL Comments, WC Docket Nos. 13-149 & 13-150 (July 29, 2013); Cox Comments, *id.*; Letter from Jodie Griffin, Public Knowledge, to Marlene Dortch, FCC, *id.*, Attachment at 2 (June 13, 2013) (arguing that "the Commission should consider the broader policy issues presented by this application in the context of the overall phone network transition.").

⁹ See CenturyLink Comments, WC Docket Nos. 13-149 & 13-150 (July 29, 2013) (explaining that as the public has embraced new technologies and capabilities, regulators should move forward as well).

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