



PUBLIC NOTICE

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COMMENTS INVITED ON APPLICATION OF VERIZON NEW JERSEY INC. AND VERIZON NEW YORK INC. TO DISCONTINUE DOMESTIC TELECOMMUNICATIONS SERVICES

WC Docket No. 13-150
Comp. Pol. File No. 1115

Comments Due: July 29, 2013

Section 214 Application

Applicants: Verizon New Jersey Inc. and Verizon New York Inc.

On June 7, 2013, **Verizon New Jersey Inc.**, located at **540 Broad Street, Newark, NJ 07102** and **Verizon New York Inc.**, located at **140 West Street, New York, NY 10007** (collectively, Verizon or Applicants), filed an application requesting authority under section 214 of the Communications Act of 1934, as amended, 47 U.S.C. § 214, and section 63.71 of the Federal Communications Commission's (FCC or Commission) rules, 47 C.F.R. § 63.71, to discontinue certain domestic telecommunications services in certain parts of New Jersey and New York affected by Hurricane Sandy.¹ On June 14, 2013, Verizon filed a letter to update the record regarding notice to affected customers.²

Request to Discontinue Services. The application indicates that Verizon has been offering interstate wireline telecommunications services, including interstate interexchange and exchange access service (collectively, Affected Services), to customers in New Jersey and New York.³ Verizon asserts that copper wireline facilities used to provide these services in certain parts of New Jersey and New York were destroyed or rendered inoperable by Hurricane Sandy on or after October 29, 2012.⁴ Verizon specifies that areas particularly affected by the storm include the western and central region of Fire Island in New York, starting at the far western section of Kismet and ending at the far eastern section of Point O' Woods, and portions of the barrier island communities of Bay Head, Brick and Mantoloking in New

¹ Letter from Frederick E. Moacdieh, Executive Director – Federal Regulatory Affairs, Verizon, to Ms. Marlene H. Dortch, Secretary, Federal Communications Commission, Attach. (filed June 7, 2013) (Verizon Application), available at <http://apps.fcc.gov/ecfs/document/view?id=7022424983>.

² See Letter from Frederick E. Moacdieh, Executive Director – Federal Regulatory Affairs, Verizon, to Ms. Marlene H. Dortch, Secretary, Federal Communications Commission (filed June 14, 2013) (stating that Verizon is sending additional notice to the billing address of a number of customers that were previously notified at their service address, and that Verizon has since identified an additional 65 affected customers that are being provided with the notice attached to the application). The Competition Policy Division of the Wireline Competition Bureau subsequently received Verizon's letter on June 18, 2013.

³ Verizon Application at 1-2.

⁴ Verizon Application at 3.

Jersey (Service Areas).⁵ Verizon states that the extent of the destruction from Hurricane Sandy required substantial effort to ascertain which facilities were no longer working and to identify possible solutions in storm-vulnerable areas. According to Verizon, residents in portions of the barrier islands are just starting to return, and damage varies from house to house in parts of western Fire Island, with some homes having no service and others able to receive service over existing copper facilities.⁶

Verizon asserts that new deployment of wireline facilities in the Service Areas would be impractical because the repair or replacement of damaged facilities “would require significant work” and “exacerbate existing infrastructure issues, and would delay the restoration of service for many customers for several months.” For example, Verizon states that the extent of the damage on Fire Island “would require digging up the island’s main road at repeated intervals”, causing inconvenience to customers. Verizon also maintains that it is likely that restoration attempts would be temporary, “given the prevalence of storms” and ongoing possibility of “ground and seawater contamination” in the Service Areas.⁷ Accordingly, Verizon seeks authority to discontinue interstate wireline telecommunications services including interstate interexchange and exchange access services in the Service Areas on or after October 29, 2012 as a result of damage from Hurricane Sandy, and to grandfather these services in the Service Areas for customers using copper facilities that are still working.⁸ Verizon states that it provided notice to all retail wireline customers in the Service Areas via U.S. mail on June 6 and 7, 2013. In addition, Verizon states that, on June 7, 2013, it provided notice to all users of access via email and by posting on its website, in accordance with established procedures for notification to those entities.⁹ The application indicates that Verizon is considered dominant under the Commission’s rules with respect to the services to be discontinued.¹⁰

Request for Waiver of Timing Requirements. Verizon also seeks a waiver of the timing provisions of sections 63.60(b), 63.63(a) and 63.71 of the Commission’s rules to the extent necessary.¹¹ Although section 63.60(b) is not a timing provision, for purposes of part 63, section 63.60(c) defines a reasonable time for the restoration of service or the establishment of comparable service after a discontinuance, reduction, or impairment of service occasioned by conditions beyond the control of a service provider as no more than 60 days in most cases.¹² Section 63.63(a) states that informal requests for emergency discontinuance authority in most cases shall be made by filing not later than 65 days after the occurrence of the conditions which occasioned the discontinuance, reduction or impairment.¹³ In

⁵ Verizon Application at 3.

⁶ Verizon Application at 1-2.

⁷ Verizon Application at 3-4.

⁸ Verizon Application at 2-3. A “grandfathered” customer can continue receiving service over the copper facilities until the copper stops working, after which Verizon will provide service to the customer using Voice Link. Verizon maintains that it is grandfathering the Affected Services given the impracticality of repairing these copper facilities in the future. Nevertheless, in its notice to some customers, Verizon states that it will deploy and repair copper facilities to provide landline service on an as-needed basis to firehouses, police stations and other government buildings.

⁹ Verizon Application at 5.

¹⁰ Verizon Application at 6.

¹¹ Verizon Application at 1 n.1.

¹² See 47 C.F.R. §§ 63.60(b)-(c).

¹³ See 47 C.F.R. § 63.60(a).

addition, for planned discontinuances of service, section 63.71 generally sets the timing for notice to customers, as well as for comment and the possible automatic grant of authority after the release of a public notice seeking comment on the provider's application.¹⁴

Description of Voice Link Service. Verizon asserts that it is offering its Voice Link service as a replacement for the Affected Services to customers in the Service Areas.¹⁵ Verizon describes Voice Link as a wireless voice service that uses regular home telephone handsets and existing wiring and jacks in the customer's home. Verizon states that the Verizon wireline operating companies will provide Voice Link service to customers using a small device, provided free of charge, that can plug into an existing telephone jack. The device uses wireless technology rather than wireline facilities to transmit and receive calls between a customer's home or business and Verizon's network. Customers may use their same telephone number.¹⁶ Verizon states that the service will be offered at the same or lower prices as the prior wireline services.¹⁷ According to Verizon, Voice Link service will provide address-specific E911 capability, nationwide calling, assistance services, telecommunications relay services, directory listings and, depending on the customer's plan, additional features including Call Waiting, Call Forwarding, 3-way Calling, Voice Mail, 411, Caller ID (with Return Call) and Caller ID Block.¹⁸ For data services, Verizon states that it will refer customers to a Verizon Wireless specialist for 4G LTE broadband services in Voice Link areas.¹⁹ Verizon submits that its Voice Link service offers consumers a voice communications capability that is comparable to what they received before, and that consumers in some areas, including the barrier islands, have the option of alternative services from cable and/or wireless providers. Verizon thus asserts that the public convenience and necessity will not be harmed by the proposed discontinuance of Affected Services given the extent of the destruction from the storm and the difficulties and delay inherent in rebuilding.²⁰

The New York Public Service Commission (NYPSC) identified several potential distinctions between Verizon's Voice Link service and its copper-based wireline services. For instance, the NYPSC states that Verizon's Voice Link service: 1) will not allow for digital subscriber line (DSL) services; 2) will be incompatible with medical alert systems and credit card machines; 3) will require the use of mandatory 10-digit dialing; and 4) will not allow customers to make certain types of calls that they could make using a wireline phone.²¹ According to the Voice Link Terms of Service filed in New York State: "[t]he Service does not allow the Customer to make 500, 700, 900, 950, 976, 0, 00, 01, 0+, calling card or dial-around calls (e.g., 10-10-XXXX). The Service does not allow the Customer to accept collect calls or third number billed calls."²² Because the Voice Link service does not provide a broadband connection, it also is not compatible with Video Relay services.

¹⁴ See 47 C.F.R. § 63.71.

¹⁵ Verizon Application at 4.

¹⁶ Verizon Application at 4-5.

¹⁷ Verizon Application at 2.

¹⁸ Verizon Application at 4.

¹⁹ Verizon Application at 5.

²⁰ Verizon Application at 5.

²¹ See State of New York Public Service Commission Order Conditionally Approving Tariff Amendments In Part, Revising in Part, and Directing Further Comments (May 16, 2013) (NYPSC May Order).

²² See Letter from Joseph A. Post, Deputy General Counsel – New York, Verizon New York Inc., to Hon. Jeffrey C. Cohen, Acting Secretary, New York State Public Service Commission, NY PSC Case No. 13-C-0197, Attach. at 2,

Verizon's application states that "certain interstate wireline telecommunications services ... will no longer be available."²³ We also note that, although Verizon indicates that the Voice Link service will provide "fully enabled" E911 capability, the Voice Link Terms of Service state, "[The customer] agree[s] that any 911 calls made using the Service may be subject to network congestion and/or reduced routing or processing speed."²⁴ Verizon also acknowledges that certain customer equipment may not work over Voice Link service, such as alarm systems or facsimile machines. Verizon states that the customer provides the power for Voice Link from a standard home electrical outlet, and that the unit includes a built-in battery backup option with 36 hours of standby and up to two and a half hours of talk life.²⁵

Standard of Review. The Commission has discretion in determining whether to grant a carrier authority to discontinue service pursuant to section 214.²⁶ The Commission also can delay grant of a discontinuance authorization if it believes an unreasonable degree of customer hardship would result.²⁷ The Commission reviews each discontinuance application to determine, as applicable, issues such as whether proper notice has been given, whether customers or other end users are able to receive the service or a reasonable substitute from another carrier, and whether the public convenience and necessity is otherwise adversely affected.²⁸ Balancing the interests of the carrier and the affected user community, the Commission generally considers a number of factors including: (1) the financial impact on the 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.²⁹

para. 1(g) (filed June 12, 2013) (Voice Link Terms of Service), *available at* <http://documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId={0241FDFA-D31F-4063-B9B9-988D97C1AADA}>.

²³ Verizon Application at 5.

²⁴ See Letter from Joseph A. Post, Deputy General Counsel – New York, Verizon New York Inc., to Hon. Jeffrey C. Cohen, Acting Secretary, New York State Public Service Commission, NY PSC Case No. 13-C-0197, Attach. at 5 (filed June 12, 2013) (Verizon Voice Link Terms of Service), *available at* <http://documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId={0241FDFA-D31F-4063-B9B9-988D97C1AADA}>. See Verizon Application at 4; Voice Link Terms of Service, Attach. at 5, para. 7(c). The Voice Link Terms of Service also explain that if the subscriber has "Call Forwarding, or other features programmed and in use at the time you dial a 911 call and your call is interrupted, the emergency dispatcher may not be able to call you back at the phone from which you dialed the call." See *id.*

²⁵ Voice Link Terms of Service, Attach. at 2-3, para. 2(b).

²⁶ See *Verizon Telephone Companies, Section 63.71 Application to Discontinue Expanded Interconnection Service Through Physical Collocation*, WC Docket No. 02-237, Order, 18 FCC Rcd 22737 (2003) (*Verizon Expanded Interconnection Discontinuance Order*); see also *FCC v. RCA Communications, Inc.*, 73 S. Ct. 998, 1002 (1953) (ruling that the Commission has considerable discretion in deciding how to make its section 214 public interest finding).

²⁷ *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, 146 (1980) (*Competitive Carrier First Report and Order*).

²⁸ 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, 16 FCC Rcd 14935 (CCB 2001) (requiring AT&T to show how it would minimize the negative impact on affected customers).

²⁹ *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*),

Request for Comment. We seek comment on Verizon's requests for authority to discontinue the Affected Services in the Service Areas, including comment on its waiver request, the steps it has taken to notify customers given the particular circumstances in this case, the availability of alternative services including the steps Verizon has taken to offer alternative service to customers, and any other relevant issues in light of the above mentioned factors. What impact, if any, should the circumstances of this case have on the Commission's traditional analysis, including the fact that many of the affected customers have already lost service? Is Voice Link service a reasonable substitute for the Affected Services? In addition to those discussed above, are there features, functions, or capabilities that were available over the Affected Services that would not be available over the Voice Link service? We seek comment on the significance of the features, functions and capabilities that are not currently available over the Voice Link service. Parties expressing concern should identify whether any conditions could ensure that the discontinuance of Verizon's wireline service does not harm the public interest?

In accordance with section 63.71(c) of the Commission's rules, Verizon's request to discontinue service will be deemed to be granted automatically on the 60th day after the release date of this public notice, unless the Commission notifies Verizon that the grant will not be automatically effective. In the application and notice to customers, Verizon indicates that it seeks authority to discontinue interstate wireline telecommunications services including interstate interexchange and exchange access services lost in the Service Areas on or after October 29, 2012, as a result of damage from Hurricane Sandy. Accordingly, pursuant to section 63.71(c) and the terms of Verizon's application and notice, absent further Commission action, Verizon will receive authority for the discontinuance of interstate wireline telecommunications services including interstate interexchange and exchange access services in the Service Areas on or after **August 27, 2013**, in accordance with Verizon's filed representations. The Commission normally will authorize proposed discontinuances 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 would be otherwise adversely affected.

Comments on this application must be filed with the Commission on or before **July 29, 2013**. Such comments should refer to **WC Docket No. 13-150 and Comp. Pol. File No. 1115**. Comments should include specific information about the impact of this proposed discontinuance on the commenter, including any inability to acquire reasonable substitute service. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. *See Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998). Comments may be filed electronically using the Internet by accessing the ECFS: <http://fjallfoss.fcc.gov/ecfs2/>. Filers should follow the instructions provided on the Web site for submitting comments. Generally, only one copy of an electronic submission must be filed. In completing the transmittal screen, filers should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number.

Parties who choose to file by paper must file an original and one copy of each filing. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission. All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th Street, S.W., Room TW-A325, Washington, D.C. 20554. The filing hours are Monday through Friday, 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and

remanded on other grounds, Southwestern Bell v. FCC, 19 F.3d 1475 (D.C. Cir. 1994); *see Verizon Expanded Interconnection Discontinuance Order*.

boxes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street, S.W., Washington, D.C. 20554.

Two copies of the comments should also be sent to the Competition Policy Division, Wireline Competition Bureau, Federal Communications Commission, 445 12th Street, S.W., Room 5-C140, Washington, D.C. 20554, Attention: Carmell Weathers. In addition, comments should be served upon the Applicants. Commenters are also requested to fax their comments to the FCC at (202) 418-1413, Attention: Carmell Weathers.

This proceeding is considered a “permit but disclose” proceeding for purposes of the Commission’s *ex parte* rules.³⁰ Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter’s written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule 1.1206(b). In proceedings governed by rule 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (*e.g.*, .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission’s *ex parte* rules.

People with Disabilities: To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at (202) 418-0530 (voice), (202) 418-0432 (tty).

For further information, contact Carmell Weathers, (202) 418-2325 (voice), carmell.weathers@fcc.gov, or Rodney McDonald, (202) 418-7513 (voice), rodney.mcdonald@fcc.gov, of the Competition Policy Division, Wireline Competition Bureau. The tty number is (202) 418-0484. For further information on procedures regarding section 214 please visit http://www.fcc.gov/wcb/cpd/other_adjud.

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³⁰ 47 C.F.R. §§ 1.1200 *et seq.*