

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. 13-247 Comp. Pol. File No. 1122
)	
)	

ORDER

Adopted: August 12, 2014

Released: August 12, 2014

By the Acting Chief, Competition Policy Division, Wireline Competition Bureau:

I. INTRODUCTION

1. In this Order, we grant the amended application of MCI Communications Services, Inc. d/b/a Verizon Business Services (Verizon Business or Applicant), filed 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 Business with authority to grandfather its private line DS0 services such that existing customers may continue to purchase such services, and Applicant may cease to offer and provide such services to new customers as of the date of this Order. This Order does not grant Verizon Business authority to discontinue its private line DS0 services to existing customers, as the Applicant has withdrawn that portion of its original application.³

II. BACKGROUND

2. *The Application.* On September 3, 2013, Verizon Business filed an application with the Commission requesting authority, under section 214 of the Act and section 63.71 of the Commission’s rules, to grandfather and eventually discontinue certain domestic telecommunications services in the contiguous 48 states, as well as in Hawaii and the District of Columbia (collectively Service Areas).⁴ In

¹ 47 U.S.C. § 214(a).

² 47 C.F.R. § 63.71.

³ See Letter from Frederick E. Moacdieh, Executive Director, Federal Regulatory Affairs, Verizon, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 13-247 (filed Jan. 10, 2014) (Amendment to Withdraw Discontinuance) (limiting the relief sought in the application to grandfathering of the private line DS0 services at issue in this proceeding and withdrawing the portion of the application that sought authority to eventually discontinue these services); Letter from Frederick E. Moacdieh, Executive Director, Federal Regulatory Affairs, Verizon, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 13-247 (filed Mar. 6, 2014) (Verizon Business Ex Parte Letter) (clarifying the January 10, 2014 amendment).

⁴ See Letter from Frederick Moacdieh, Executive Director, Federal Regulatory Affairs, Verizon, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 13-247, Attach. (filed Sept. 3, 2013) (Original Application). With an amendment filed on November 5, 2013, Verizon Business updated the record regarding notice to customers. See Letter from Frederick Moacdieh, Executive Director, Federal Regulatory Affairs, Verizon, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 13-247 (filed continued....)

its Original Application, Verizon Business indicated that it currently offers Private Line DS0 Service (64 kbps or less) in the Service Areas through its Metro Private Line DS0 service and U.S. Private Line DS0 service offerings (collectively, Affected Services).⁵ Verizon Business describes Private Line DS0 Service as a “point-to-point communications channel that offers voice, video, and data services over non-switched, non-usage sensitive dedicated facilities” and offers “two-way simultaneous transmission.”⁶ Verizon Business asserts, however, that demand for the Affected Services is declining.⁷ Verizon Business maintains that it is considered to be a non-dominant provider with respect to the Affected Services and that it “has always offered DS0 Private Line on a non-dominant basis and has not tariffed the services at least since the Commission adopted its de-tariffing rules more than ten years ago.”⁸

3. On November 14, 2013, the Wireline Competition Bureau (Bureau) announced that, pursuant to section 63.71(c) and absent further Commission action, Verizon Business would be authorized to discontinue the Affected Services in the Service Areas on or after December 15, 2013.⁹

4. *Oppositions in the Record.* Two parties filed oppositions to Verizon Business’s request, each focusing on the Applicant’s request for authority to eventually discontinue the Affected Services.¹⁰ Pan Am Railways (Pan Am), a regional rail carrier operating a system of rail lines throughout New England and eastern New York, asserted that “termination of the concerned circuits would put a considerable undue burden on the railroad to continue to provide for safe and reliable movement of trains.”¹¹ In addition, National Fuel Gas Company (National Fuel), an energy company, commented that the “sudden termination of the DS0 circuits would put an undue financial and operational burden” on the company.¹²

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Nov. 5, 2013) (Notice Amendment). Accordingly, the Original Application was deemed complete as of November 5, 2013.

⁵ Original Application, Attach. at 2-3.

⁶ *Id.*, Attach. at 2.

⁷ *Id.*, Attach. at 3.

⁸ Original Application at 3.

⁹ See *Comments Invited on Application of MCI Communications Services, Inc. d/b/a Verizon Business Services to Discontinue Domestic Telecommunications Services*, WC Docket No. 13-247, Public Notice, 28 FCC Rcd 15745 (Wireline Comp. Bur. 2013).

¹⁰ See Letter from Mack B. Wallace, Assistant Chief Engineer C&S, Pan Am Railways, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 13-247 (filed Dec. 11, 2013) (Pan Am Opposition); Letter from Paula M. Ciprich, Secretary and General Counsel, National Fuel Gas Company, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 13-247 (filed Feb. 14, 2014) (National Fuel Opposition).

¹¹ Pan Am Opposition at 3. Pan Am emphasizes that the passive circuits or passively terminated circuits that it receives significantly allow for “the data circuit’s continued operation during commercial electrical utility outages or where commercial power is unavailable or unreliable.” *Id.* at 2. Pan Am also expresses concern that alternative services “may not be capable of providing the same levels of security, resiliency, and redundancy.” *Id.* at 3.

¹² National Fuel explains that it uses the Affected Services in its Gas Control Operations Center for the 24-hour operation of the pipeline, and in its radio network to connect its base dispatching consoles to remote tower locations that broadcast “voice hails” and instructions to its service personnel. National Fuel Opposition at 1. As in Pan Am Railway’s opposition, National Fuel emphasizes the difference between “passive” and “active” circuits, and the public safety concerns with power outages. *Id.* at 2.

National Fuel also expresses concern that Applicant has refused orders for additional DS0 circuitry and for new multi-year contracts, and that National Fuel's status as a month-to-month customer, if the section 214 application were granted, would make it vulnerable to service discontinuance.¹³

5. Applicant addresses National Fuel's assertion that Verizon Business has refused to accept DS0 private line orders by stating that those orders had come in shortly before National Fuel's filing, and that Applicant will continue to accept orders for such services consistent with the terms of the contracts even if the service is grandfathered.¹⁴

6. On December 13, 2013, the Bureau announced that Verizon Business's application would not be automatically granted.¹⁵

7. *Amendment to Withdraw Discontinuance and Verizon Ex Parte.* On January 10, 2014, Verizon filed an amendment withdrawing its request to discontinue the Affected Services, and expressly limiting its request to grandfathering the Affected Services such that existing customers will be able to continue to purchase them consistent with their contracts, but new customers will no longer be accepted.¹⁶ On March 6, 2014, Applicant filed a Notice of Ex Parte further explaining its Amendment to Withdraw Discontinuance and its plans for the Affected Services and existing customers.¹⁷ In particular, Verizon Business clarified that there will be no change for existing customers of the Affected Services as a result of the present application.¹⁸

III. DISCUSSION

8. Section 214(a) of the Communications Act, as amended, requires carriers to obtain authorization from the Commission before discontinuing, reducing, or impairing service to a community or part of a community.¹⁹ The Commission has considerable discretion in determining whether to grant a carrier authority to discontinue, impair, or reduce service pursuant to section 214.²⁰ After considering the

¹³ National Fuel Opposition at 3.

¹⁴ Verizon Business Ex Parte Letter at 2.

¹⁵ See *Application of MCI Communications Services, Inc. d/b/a Verizon Business Services to Discontinue Domestic Telecommunications Services Not Automatically Granted*, WC Docket No. 13-247, Public Notice (Wireline Comp. Bur. Dec. 13, 2013). Accordingly, Verizon Business was not allowed to discontinue its Affected Services on or about December 15, 2013. See *supra* text accompanying note 9.

¹⁶ Amendment to Withdraw Discontinuance at 2.

¹⁷ See Verizon Business Ex Parte Letter.

¹⁸ *Id.* at 1 (“Verizon Business is not seeking permission to discontinue DS0 private line service at this time. Verizon Business seeks permission only to grandfather DS0 private line service, so that no new customers would be able to purchase this service from Verizon Business. . . . Customers that have Verizon Business DS0 private line service . . . will continue to be able to move, add, or change their DS0 private line service in accordance with their terms and conditions. Moreover, in the case of this service, existing customers whose contracts expire or otherwise terminate will be able to purchase DS0 private line service through Verizon Business's service guide after the Commission approves the application.”).

¹⁹ 47 U.S.C. § 214(a).

²⁰ *FCC v. RCA Communications, Inc.*, 346 U.S. 86, 90-91 (1953); see also *Verizon Telephone Companies, Section 63.71 Application to Discontinue Expanded Interconnection Service Through Physical Collocation*, WC Docket No. (continued....)

application, as modified, and the additional information that Applicant provided, we find that the record supports granting Verizon Business's request to grandfather the Affected Services. We take seriously the concerns that Pan Am and National Fuel have raised regarding the originally proposed discontinuance of the Affected Services to both new and existing customers. We find, however, that those concerns are substantially mitigated by Applicant's decision not to seek authority to discontinue service to existing customers.²¹ National Fuel remains concerned that "at some point in the future," Verizon Business may discontinue its service.²² Verizon Business, however, would need to file and gain Commission approval of a new section 214 application before it would be authorized to cease offering the Affected Services to National Fuel and other current customers. Indeed, Verizon acknowledges that it will not be able to discontinue the Affected Services unless and until it seeks and obtains permission from the Commission in the future.²³ We thus find that National Fuel's concern about future discontinuances is hypothetical, and we will address that matter if and when it arises.

9. We find, based on the evidence in the record, that the public convenience and necessity is not adversely affected by a grant of Verizon Business's amended request. Our decision to grant Applicant's request to grandfather the Affected Services does not permit Verizon Business to discontinue the Affected Services to existing customers.²⁴ We therefore grant Verizon Business's application and authorize Applicant to grandfather the Affected Services consistent with its revised application on or after the date this Order is adopted.

IV. ORDERING CLAUSE

10. 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 amended application of Verizon Business to grandfather domestic telecommunications services IS GRANTED.

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02-237, Order, 18 FCC Rcd 22737(2003) (*Verizon Expanded Interconnection Discontinuance Order*). Balancing the interests of the carrier and the affected user community, the Commission typically 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. *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), remanded on other grounds, *Southwestern Bell v. FCC*, 19 F.3d 1475 (D.C. Cir. 1994).

²¹ We note that Pan Am filed its Opposition in response to Applicant's original request to grandfather and then eventually discontinue the Affected Services. See Pan Am Opposition. Pan Am did not file anything in response to the Amendment to Withdraw Discontinuance nor to the Verizon Business Ex Parte Letter. Verizon Business Ex Parte Letter at 1.

²² National Fuel Opposition at 3.

²³ Verizon Business Ex Parte Letter at 1.

²⁴ We note that this Order grants authority to the Applicant based on its representations in the record, and only with respect to the Affected Services described above that Verizon Business offers as a non-dominant provider. See *supra* para. 2. This Order does not grant authority for the discontinuance, reduction, or impairment of any Private Line DS0 services offered on a dominant basis or by any other Verizon affiliate.

FEDERAL COMMUNICATIONS COMMISSION

Randy Clarke
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Wireline Competition Bureau