

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

|                                             |   |                         |
|---------------------------------------------|---|-------------------------|
| In the Matter of                            | ) |                         |
|                                             | ) |                         |
| Section 63.71 Application of Advanced       | ) |                         |
| TelCom, Inc. d/b/a Advanced TelCom Group    | ) | Comp. Pol. File No. 657 |
| and Shared Communications Services, Inc. to | ) |                         |
| Discontinue Services                        | ) |                         |

**ORDER**

**Adopted:** August 15, 2003

**Released:** August 15, 2003

By the Chief, Competition Policy Division:

**I. INTRODUCTION**

1. In this Order, we grant Advanced TelCom, Inc. d/b/a Advanced TelCom Group and Shared Communications Services, Inc.'s (collectively, ATG or Applicants) application to discontinue the provision of certain U.S. domestic telecommunications services pursuant to section 214(a) of the Communications Act of 1934, as amended (the Act),<sup>1</sup> and section 63.71 of the Federal Communications Commission's (Commission) rules.<sup>2</sup> As explained in further detail below, authority to discontinue is granted consistent with ATG's agreement to provide service in Oregon until September 30, 2003, to provide service to certain ATG customers who reside at the Alexan at Lake Washington, an apartment property in Renton, Washington, until August 25, 2003, and to continue providing E911 service in Washington.

**II. BACKGROUND**

2. On June 27, 2003, ATG 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 its Residential Multi-Tenant Services (RMTS) in California, Oregon, and Washington.<sup>3</sup> The application indicated that ATG provides RMTS, which include local exchange, long distance, and data services, to approximately 3500 customers located in 18

---

<sup>1</sup> 47 U.S.C. § 214(a).

<sup>2</sup> 47 C.F.R. § 63.71.

<sup>3</sup> *Section 63.71 Application of Advanced TelCom, Inc. d/b/a Advanced TelCom Group and Shared Communications Services, Inc.*, Comp. Pol. File No. 657 (filed June 27, 2003) (ATG Application).

residential properties in California, Oregon, and Washington. The application stated that ATG filed for bankruptcy law protection under Chapter 11 of the U.S. Bankruptcy Code on May 2, 2002, and that several RMTS agreements between ATG and various residential properties were rejected as a part of the bankruptcy process. Consequently, ATG stated that it plans to discontinue providing RMTS in California and Washington on August 15, 2003, and in Oregon on September 30, 2003. The application indicated that, in compliance with the Commission's rules, ATG notified its customers, on June 23, 2003, of its intent to discontinue service.

3. By Public Notice dated July 15, 2003, the Commission notified the public that, in accordance with 47 C.F.R. § 63.71(c), the application would be deemed to be automatically granted on the thirty-first day after the release date of the notice, unless the Commission notified ATG that the grant would not be automatically effective.<sup>4</sup> Accordingly, the automatic grant date for this application is August 15, 2003. The Commission did not receive comments from any ATG customers in the affected states, and did not receive comments from any party regarding ATG's proposed discontinuance of service in California. The Commission did, however, receive responses from the Public Utility Commission of Oregon (Oregon Commission), the Washington Utilities and Transportation Commission (Washington Commission), and W&H Pacific, an engineering consulting firm representing owners of apartment buildings in Washington where ATG's customers reside.

4. In its comments, W&H Pacific expressed concern regarding continuity of service for the approximately 700 residents of its clients' apartment communities.<sup>5</sup> In particular, W&H Pacific stated that there is insufficient time to ensure proper number portability for residents who wish to retain their existing telephone numbers, and insufficient time to contact additional competitive LECs that might be interested in providing service to ATG's customers.<sup>6</sup> On August 13, 2003, W&H Pacific submitted further comments announcing the resolution of many of the initial problems it had earlier identified, but stating that one additional week is necessary to ensure that at least thirty remaining residents at one apartment property – the Alexan at Lake Washington<sup>7</sup> – will be able to obtain substitute service prior to ATG's discontinuance of service.<sup>8</sup> Accordingly, W&H Pacific requested that the Commission require ATG to keep its switch at this property operational until August 25, 2003.<sup>9</sup> In a letter dated August 14, 2003, counsel for ATG indicated its willingness to

---

<sup>4</sup> *Comments Invited on Advanced TelCom, Inc. d/b/a Advanced TelCom Group and Shared Communications Services, Inc. Application to Discontinue Domestic Telecommunications Services*, Public Notice, Comp. Pol. File No. 657, DA 03-2326 (rel. July 15, 2003).

<sup>5</sup> W&H Comments at 1.

<sup>6</sup> *Id.*

<sup>7</sup> The Alexan at Lake Washington is located at 2100 Lake Washington Blvd. N, Renton, Washington. W&H Pacific Further Comments at 1.

<sup>8</sup> W&H Pacific Further Comments at 1.

<sup>9</sup> *Id.*

continue service to the customers residing in the Alexan until August 25, 2003.<sup>10</sup>

5. In a letter dated August 12, 2003, the Oregon Commission stated that it does not object to ATG's proposed discontinuance in Oregon because ATG has also satisfied customer notification obligations imposed by Oregon.<sup>11</sup> The Oregon Commission indicated that Verizon Northwest Inc. (Verizon) represented it will be able to serve seven of ten ATG RMTS locations in Oregon by September 30, 2003 but advised the owners of the remaining three properties that they need to provide 4-inch conduit on each property before Verizon can complete the facility installations necessary to serve customers residing there. The Oregon Commission stated that Verizon is uncertain whether the property owners will be able to install this conduit by September 30, 2003.<sup>12</sup> In its comments filed on August 15, 2003, the Washington Utilities and Transportation Commission indicated that under state rules, carriers must notify the state E911 program thirty days prior to ceasing service.<sup>13</sup> According to the Washington Commission, ATG provided this notice on August 12, 2003 but sought waiver of the thirty-day rule, which was denied.<sup>14</sup> Therefore, according to the Washington Commission, ATG would violate state rules if it discontinues service prior to September 11, 2003.<sup>15</sup> In a letter submitted on August 15, 2003, ATG indicated its willingness to work with the Oregon property owners to ensure a smooth transition in the state, and to comply with Washington law.<sup>16</sup>

6. 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.”<sup>17</sup> 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.<sup>18</sup> As the Commission has stated, “we have retained the right to delay grant of a discontinuance authorization if we believe an

---

<sup>10</sup> Letter from Erin Weber Emmott, Counsel to ATG, to Brad Koerner, FCC (August 14, 2003) (ATG Aug. 14 Letter) at 1.

<sup>11</sup> Oregon Commission Comments at 1.

<sup>12</sup> *Id.*

<sup>13</sup> Washington Commission Comments at 1.

<sup>14</sup> *Id.*

<sup>15</sup> *Id.*

<sup>16</sup> Letter from Erin Weber Emmott, Counsel to ATG, to Brad Koerner, FCC (August 15, 2003) (ATG Aug. 15 Letter) at 1.

<sup>17</sup> 47 U.S.C. § 214(a).

<sup>18</sup> *See* 47 U.S.C. § 201.

unreasonable degree of customer hardship would result,<sup>19</sup> 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, and whether the public convenience and necessity is otherwise adversely affected.<sup>20</sup>

### III. DISCUSSION

7. We find that ATG has provided sufficient assurances that it will maintain service to its remaining customers in the Alexan at Lake Washington until August 25, 2003, and will continue E911 services in the state until such time as it is permitted by the Washington Commission to cease the provision of E911 services, or until all of ATG's Washington customers have migrated from its service, whichever occurs first.<sup>21</sup> In addition, ATG has indicated in its application that it will not discontinue service to customers in Oregon until September 30, 2003, and has provided assurances that it will work with building owners to ensure the smooth transition of customers to alternate service providers.<sup>22</sup> Thus, on the basis of ATG's representations, we find that the proposed discontinuance will not result in an unreasonable degree of customer hardship and, therefore, that there will be no adverse effect on the public convenience and necessity. Accordingly, ATG may discontinue service to the customers affected by this application in a manner consistent with its filed representations in this proceeding.

### IV. ORDERING CLAUSE

8. 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 Advanced TelCom, Inc. d/b/a Advanced TelCom Group and Shared Communications Services, Inc. to discontinue domestic telecommunications IS GRANTED, consistent with its filed representations in this proceeding.

FEDERAL COMMUNICATIONS COMMISSION

Michelle M. Carey  
Chief, Competition Policy Division  
Wireline Competition Bureau

---

<sup>19</sup> *Policy and Rules Concerning Rates for Competitive Common Carrier Services and Facilities Authorizations Therefor (Competitive Carrier First Report and Order)*, 85 FCC 2d 1, 49 (1980).

<sup>20</sup> 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).

<sup>21</sup> ATG Aug. 14 Letter; ATG Aug. 15 Letter.

<sup>22</sup> ATG Application at 3; ATG Aug. 15 Letter at 1.