



Federal Communications Commission
Washington, D.C. 20554

May 19, 2010

DA 10-813

Small Entity Compliance Guide

IP-Enabled Services: VoIP Discontinuance Order

FCC 09-40
WC Docket No. 04-36
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This Guide is prepared in accordance with the requirements of Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996. It is intended to help small entities—small businesses, small organizations (non-profits), and small governmental jurisdictions—comply with the new rules adopted in the above-referenced FCC rulemaking docket(s). This Guide is not intended to replace the rules and, therefore, final authority rests solely with the rules. Although we have attempted to cover all parts of the rules that might be especially important to small entities, the coverage may not be exhaustive. This Guide may, perhaps, not apply in a particular situation based upon the circumstances, and the FCC retains the discretion to adopt approaches on a case-by-case basis that may differ from this Guide, where appropriate. Any decisions regarding a particular small entity will be based on the statute and regulations.

In any civil or administrative action against a small entity for a violation of rules, the content of the Small Entity Compliance Guide may be considered as evidence of the reasonableness or appropriateness of proposed fines, penalties or damages. Interested parties are free to file comments regarding this Guide and the appropriateness of its application to a particular situation; the FCC will consider whether the recommendations or interpretations in the Guide are appropriate in that situation. The FCC may decide to revise this Guide without public notice to reflect changes in the FCC's approach to implementing a rule, or to clarify or update the text of the Guide. Direct your comments and recommendations, or calls for further assistance, to the FCC's Consumer Center:

1-888-CALL-FCC (1-888-225-5322)

TTY: 1-888-TELL-FCC (1-888-835-5322)

Fax: 1-866-418-0232

fccinfo@fcc.gov

I. OBJECTIVES OF THE PROCEEDING

- **Protect customers of interconnected Voice over Internet Protocol (VoIP) service from the abrupt discontinuance, reduction, or impairment of their service without adequate notice.**
 - As consumers increasingly use interconnected VoIP service as a replacement for traditional voice service, their expectations for this type of service trend toward their expectations for other telephone services. It is important that interconnected VoIP service customers have the same right as customers of traditional wireline services to receive notice of a provider's plans to discontinue, reduce, or impair service, and the same opportunity to inform the Commission of resultant hardships. This is especially critical given the importance of reliable access to communications services such as 911 access.
- **Minimize interconnected VoIP service providers' burden of complying with the Commission's discontinuance rules.**
 - The Commission has limited the burden on interconnected VoIP providers, including small entity providers, by requiring these providers to comply only with the streamlined discontinuance obligations that apply to domestic non-dominant telecommunications carriers.

II. COMPLIANCE REQUIREMENTS

- **Scope of Requirements.**
 - As described below, the Commission's discontinuance obligations now apply to facilities-based and "over-the-top" interconnected VoIP providers. Specifically, the term "carrier" in sections 63.60 through 63.90 of the Commission's rules shall include interconnected VoIP providers when referring either to all telecommunications carriers where they are referenced generally, or to non-dominant telecommunications carriers where their obligations are specified. [47 C.F.R. §§ 63.60-63.90] However, these rules currently are not extended to providers of interconnected VoIP services that are "mobile services" under the Act. [*VoIP Discontinuance Order*]
- **Interconnected VoIP providers must comply with the same service discontinuance obligations as domestic non-dominant carriers.**
 - **Provide Written Notice to All Affected Customers:** Before implementing a standard discontinuance, reduction or impairment of service, written notification of the proposed discontinuance must be provided to all affected customers. This notice must include the name and address of the provider, the date of the planned service discontinuance, the geographic areas where service will be discontinued, and a brief description of the type of service affected. In addition, notice must include a prescribed statement that informs customers of their right to object to the proposed discontinuance by filing comments with the Commission as soon as possible, but no later than 15 days after the Commission releases public notice of the proposed discontinuance. The required statement also must include language to inform customers that the Commission normally will authorize the proposed discontinuance "unless it is shown that customers would be unable to receive service or a reasonable substitute from another carrier or that the public convenience and necessity is otherwise adversely affected." [47 C.F.R. § 63.71(a)]

- **Submit Discontinuance Application to the FCC:** After notice of a standard discontinuance has been given to affected customers, a discontinuance application must be filed with the Commission which identifies the provider as an interconnected VoIP service provider seeking to discontinue, reduce or impair interconnected VoIP services. Each application must contain: (1) a caption – “Section 63.71 Application”; (2) information provided in the notice to affected customers; (3) a brief description of the dates and methods of notice to all affected customers; (4) a statement as to whether the provider is considered dominant or non-dominant with respect to the service to be discontinued, reduced, or impaired; and (5) any other information the Commission may require. [47 C.F.R. § 63.71(b)]
 - **Submit Copy of Discontinuance Application to Other Governmental Entities:** Providers also must notify and submit a copy of any standard discontinuance application to the public utility commission and Governor of each state in which their discontinuance is proposed, and also to the Secretary of Defense, Attn. Special Assistant for Telecommunications. [47 C.F.R. § 63.71(a)]
 - **Demonstrate to the FCC that the Provider is in Compliance with the Discontinuance Requirements:** In order to demonstrate compliance with section 63.71, providers generally include a copy of the notice sent to customers and a certificate of service that indicates service of the application on the Secretary of Defense and on each of the applicable state offices. Notice by postal mail to the customer’s billing address typically satisfies the Commission’s customer notice requirement. The Commission’s service requirement is generally satisfied when a provider mails a copy of its discontinuance application to the applicable state offices of each state where the provider no longer plans to offer services regardless of whether customers are currently subscribing to their service at the time of the application. [*VoIP Discontinuance Order*]
- **After it has been determined that a standard discontinuance application is complete and has been filed in compliance with the rules, the Commission will release a public notice seeking comment on the application.**
- Comments filed in response to a standard application for the discontinuance, reduction, or impairment of interconnected VoIP service will be due 15 days after the release of the Commission’s public notice. [47 C.F.R. § 63.71(a)]
 - A standard application seeking authority for the discontinuance, reduction, or impairment of interconnected VoIP service will be granted automatically on the 31st day after the Commission releases public notice of the application unless the Commission notifies the applicant that the application will not be automatically granted. [47 C.F.R. § 63.71(c)]

III. COMPLIANCE DATES

- A summary of the *VoIP Discontinuance Order* was published in the Federal Register on August 7, 2009 and became effective on September 8, 2009. The information collection requirements contained in the *VoIP Discontinuance Order* became effective on December 1, 2009 upon approval by the Office of Management and Budget (OMB). [*VoIP Discontinuance Order*]

IV. DEFINITION OF INTERCONNECTED VOIP SERVICE

- An interconnected Voice over Internet protocol (VoIP) service is a service that:
 - enables real-time, two-way voice communications;
 - requires a broadband connection from the user's location;
 - requires Internet protocol-compatible customer premises equipment (CPE); and
 - permits users generally to receive calls that originate on the public switched telephone network and to terminate calls to the public switched telephone network. [47 C.F.R. § 9.3]

V. WEBLINKS

VoIP Discontinuance Order, 24 FCC Rcd 6039 (2009); 74 Fed. Reg. 39551 (Aug. 7, 2009); http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-09-40A1.pdf

IP Enabled Services NPRM, 19 FCC Rcd 4863 (2004); 69 Fed. Reg. 16193 (Mar. 29, 2004); http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-04-28A1.pdf