



PUBLIC NOTICE

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OFFICE OF ENGINEERING AND TECHNOLOGY AND WIRELINE COMPETITION BUREAU SEEK COMMENT ON LIST OF INTEROPERABLE DEVICES FOR DISCONTINUANCE APPLICATIONS UNDER THE ADEQUATE REPLACEMENT TEST

GN Docket No. 13-5

Comments Date: November 28, 2018

Reply Comment Date: December 13, 2018

By this Public Notice, the Office of Engineering and Technology and the Wireline Competition Bureau (Bureaus) seek comment on expanding the list of key applications and functionalities for which a carrier must demonstrate interoperability when requesting to discontinue a legacy voice service pursuant to the adequate replacement test.

The adequate replacement test allows a telecommunications carrier to discontinue voice service as part of a technology transition if the carrier can establish, among other things, that the available replacement service satisfies a three-prong test to ensure that it constitutes an adequate replacement for the service that the carrier is seeking authority to discontinue.¹ To qualify, the discontinuing carrier must demonstrate, among other things, that the new service is interoperable “with key applications and functionalities.”²

¹ 47 CFR §§ 63.71(f), 63.602; *Technology Transitions et al.*, Declaratory Ruling, Second Report and Order, and Order on Reconsideration, 31 FCC Rcd 8283, 8305, paras. 64-65 (2016) (*2016 Technology Transitions Order or Order*). A technology transition in this context means “any change in service that would result in the replacement of a wireline TDM-based voice service with a service using a different technology or medium for transmission to the end user, whether Internet Protocol (IP), wireless, or another type.” See 47 CFR § 63.60(i); see also *2016 Technology Transitions Order*, 31 FCC Rcd at 8305, paras. 64-65. A carrier seeking to discontinue a legacy voice service as part of a technology transition need not proceed under the adequate replacement test. It can instead rely on the alternative options test, or it can proceed under the Commission’s traditional section 214(a) discontinuance analysis. See *Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment*, WC Docket No. 17-84, Second Report and Order, FCC 18-74, paras. 29-38 (adopted June 7, 2018). The alternative options test requires a carrier to show that it offers stand-alone interconnected VoIP service throughout the affected area and another unaffiliated provider offers a stand-alone facilities-based voice service throughout the affected area. *Id.* at para. 30. The Commission’s traditional analysis, which applies to all discontinuance applications, utilizes a five-factor balancing test to analyze a section 214(a) discontinuance application: (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) increased charges for alternative services; and (5) the existence, availability, and adequacy of alternatives. 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, 22742, para. 8 (2003); *Technology Transitions et al.*, Declaratory Ruling, Second Report and Order, and Order on Reconsideration, 31 FCC Rcd 8283, 8303-04, paras. 61-62 (2016) (*2016 Technology Transitions Order*).

² *2016 Technology Transitions Order*, 31 FCC Rcd at 8305, para. 65. The other two criteria require: (i) substantially similar levels of network infrastructure and service quality as the applicant service; and

When it adopted the adequate replacement test, the Commission identified five low-speed modem devices—fax machines, home security alarms, medical monitoring devices, analog-only caption telephone sets, and point-of-sale terminals—as the initial list of key applications and functionalities (the interoperability list).³ The Commission also established a process for supplementing the interoperability list.⁴ To that end, the *Order* directed the Bureaus “to seek comment, and, based on the record developed, propose additions to the list of key applications and functionalities adopted [in the *Order*] for Commission review and approval.”⁵ The Commission identified four relevant considerations in determining whether an application or functionality should be interoperable with replacement services: (i) do customers rely on it for health or safety reasons; (ii) do other providers rely on it as a wholesale input; (iii) does it rely on the continued availability of necessary vendor equipment or inputs that have been discontinued; and (iv) is the service provider or the end-user customer the least-cost avoider.⁶

Accordingly, we now invite consumers, carriers, and other stakeholders to submit comments on whether additional applications and functionalities should be added to the interoperability list in light of the considerations identified above, as well as changes in market conditions, industry developments, or Commission rules since the interoperability component of the adequate replacement test was adopted in 2016.

Pursuant to sections 1.415 and 1.419 of the Commission’s rules, 47 CFR §§ 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using the Commission’s Electronic Comment Filing System (ECFS). *See Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998). You may submit comments, identified by GN Docket No. 13-5, by any of the following methods:

- Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: <http://apps.fcc.gov/ecfs/>.
- Paper Filers: Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

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 St., SW, Room TW-A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building.
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(ii) compliance with existing federal and/or industry standards required to ensure that critical applications such as 911, network security, and applications for individuals with disabilities remain available. *See* 47 CFR § 63.602(b).

³ *2016 Technology Transitions Order*, 31 FCC Rcd at 8342, para. 159.

⁴ *Id.* at 8342, paras 160-61. The Commission further recognized that certain applications and functionalities on the interoperability list might no longer be considered key at some point in the future and directed staff to regularly examine the list through the biennial review process to propose changes or updates, including to remove elements of the list that are no longer key. *Id.* at 8343, para 166.

⁵ *Id.* at 8342, paras. 160-61. The rules related to the adequate replacement test became effective on July 30, 2018. *See Technology Transitions et al.*, 83 Fed. Reg. 36467 (July 30, 2018).

⁶ *2016 Technology Transitions Order*, 31 FCC Rcd at 8343, para. 162.

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