



PUBLIC NOTICE

Federal Communications Commission
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DA 21-1247

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COMMENTS INVITED ON SECTION 214 APPLICATION OF EMBARQ FLORIDA, INC. D/B/A CENTURYLINK TO DISCONTINUE LEGACY VOICE SERVICE AS PART OF A TECHNOLOGY TRANSITION

WC Docket No. 21-298
Comp. Pol. File No. 1710

Comments Due: November 3, 2021

Replies Due: November 18, 2021

On July 14, 2021, Embarq Florida, Inc. d/b/a CenturyLink, a Lumen company (CenturyLink or Applicant), filed an application with the Federal Communications Commission (FCC or Commission) requesting authority, under section 214 of the Communications Act of 1934, as amended,¹ and section 63.71 of the Commission's rules,² to discontinue legacy voice service (Affected Service) to 26 customers on Little Gasparilla Island, Florida (Affected Service Area) that would result in a technology transition.³ The Wireline Competition Bureau (Bureau), upon initial review, has found CenturyLink's Application to be acceptable for filing.

CenturyLink's Application is not, however, eligible for an automatic grant of authority pursuant to streamlined treatment under section 63.71, generally, or section 63.71(f)(2)(i) of the Commission's rules⁴ on

¹ 47 U.S.C. § 214.

² 47 CFR § 63.71.

³ See Section 63.71 Application of Embarq Florida, Inc. d/b/a CenturyLink, a Lumen company, for Authority Pursuant to Section 214 of the Communications Act of 1934, as Amended, to Discontinue a Telecommunications Service, WC Docket No. 21-298 (filed July 14, 2021) (Application), https://www.fcc.gov/ecfs/search/filings?proceedings_name=21-298&sort=date_disseminated_DESC. The term "technology transition" 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, wireless, or another type." 47 CFR § 63.60(i); see also *Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment*, Declaratory Ruling, Order on Reconsideration, and Order, WC Docket. No. 17-84, 35 FCC Rcd 11750, 11750-51, para. 2 (WCB 2020) (clarifying that any carrier seeking to discontinue legacy voice service to a community or part of a community that is the last retail provider of such legacy TDM service to that community or part of the community is subject to the Commission's technology transition discontinuance rules).

⁴ 47 CFR §§ 63.71, 63.71(f)(2)(i). A technology transition discontinuance application may be eligible for automatic grant if "[t]he applicant provides affected customers with the notice required under paragraph (a)(6) of this section, and the application contains the showing or certification described in § 63.602(b)." *Id.*; see also *Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment*, WC Docket No. 17-84, Second Report and Order, 33 FCC Rcd 5660, 5672-73, paras. 29-31 (2018) (*Wireline Infrastructure Second Report and Order*) (stating that "...an applicant can receive streamlined treatment [under the adequate replacement test] by demonstrating that a single adequate replacement service exists in the affected service area."); *id.* at 5673, para. 31.

which the Application relies.⁵ CenturyLink's application does not make the *prima facie* showing necessary for an applicant relying on the service of a third-party provider for the replacement service.⁶ CenturyLink relies on the availability of mobile wireless services offered by AT&T, T-Mobile, and Verizon in the Affected Service Area for its *prima facie* showing of adequate replacements for CenturyLink's legacy voice service pursuant to section 63.602(b) of the Commission's rules.⁷ Because this is the first instance of a third-party mobile wireless voice service serving as the replacement service for legacy voice service in a technology transition discontinuance application, in the absence of a prior first party showing that one or more of these mobile wireless services satisfies the adequate replacement test, a *prima facie* showing is difficult to make. We, therefore, process this Application on a non-streamlined basis to consider, under the specific factual circumstances in the Affected Service Area, whether CenturyLink's proposed discontinuance of legacy voice service in the Affected Service Area is in the public interest.⁸

Accordingly, we seek comment on CenturyLink's discontinuance application to more fully inform the Commission's determination of whether the Application satisfies the Commission's traditional five factor test.⁹ We specifically seek comment on whether the third-party mobile wireless services offered by AT&T, T-Mobile, or Verizon or any other voice services that may be available in the Affected Service Area are adequate replacements for CenturyLink's legacy voice service. We encourage comment on the totality of the circumstances as explained in the Application, and on any other relevant factors the Bureau should consider in balancing the interests of the Applicant and the affected community under the five-factor test.

Comments in response to or opposition to CenturyLink's application must be filed with the Commission within 30 days, on or before **November 3, 2021**. Replies must be filed within 15 days of that date, on or before **November 18, 2021**. Comments and replies should refer to **WC Docket No. 21-298** and **Comp. Pol. File No. 1710**. Comments and replies may be filed using the Commission's

⁵ See Application at 2.

⁶ See *Technology Transitions et al.*, WC Docket No. 13-5 et al., Declaratory Ruling, Second Report and Order, and Order on Reconsideration, 31 FCC Rcd 8283, 8287, para. 11, 8312, para. 86 (2016) (*2016 Technology Transitions Order*) (applicants relying on a third party service must make a *prima facie* showing based on publicly available information as to whether the third party service meets our test as an adequate replacement).

⁷ See 47 CFR § 63.602(b). In order to be eligible for automatic grant under section 63.71(f)(2)(i), "an applicant must demonstrate that a service... is an adequate replacement for the voice service identified by either certifying or showing, based on the totality of the circumstances, that one or more replacement services satisfies all of the following criteria: (1) offers substantially similar levels of network infrastructure and service quality as the service being discontinued; (2) complies with regulations regarding the availability and functionality of 911 service for consumers and public safety answering points (PSAPs); and (3) offers interoperability with key applications and functionalities." *Id.*

⁸ See 47 U.S.C. § 214(a) (stating 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").

⁹ See *2016 Technology Transitions Order*, 31 FCC Rcd at 8306, para. 67 ("If an applicant cannot certify or make that [prima facie] showing, or declines to pursue the voluntary path of streamlined treatment, it must include in its application an explanation of how its proposed discontinuance will not harm the public interest, with specific reference to the five factors the Commission traditionally considers. The Bureau will then weigh that information as part of the traditional multi-factor evaluation, placing particular scrutiny on the adequate replacement factor under the newly-enhanced test."); *id.* at 8304, para. 62 (setting forth the Commission's traditional five-factor test—i.e., (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); *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) (setting forth the Commission's traditional five-factor test).

Electronic Comment Filing System (ECFS) or by filing paper copies.¹⁰ Comments and replies may be filed electronically using the Internet by accessing the ECFS: <https://www.fcc.gov/ecfs/>. 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 number.

Parties who choose to file by paper must file an original and one copy of each filing. Filings can be sent by commercial overnight courier or by first-class or overnight U.S. Postal Service mail.¹¹ All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701. U.S. Postal Service first-class, Express, and Priority mail must be addressed to 45 L Street, NE, Washington, D.C. 20554.

Copies of the comments may also be emailed to Michele Berlove of the Competition Policy Division, Wireline Competition Bureau, Federal Communications Commission at Michele.Berlove@fcc.gov. In addition, comments should be served upon CenturyLink.

This proceeding is considered a "permit but disclose" proceeding for purposes of the Commission's *ex parte* rules.¹² Participants should familiarize themselves with the Commission's *ex parte* rules. 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).

People with Disabilities: We ask that requests for accommodations be made as soon as possible in order to allow the agency to satisfy such requests whenever possible. Send an e-mail to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at (202) 418-0530.

For further information, contact Michele Berlove, (202) 418-1477 (voice), Michele.Berlove@fcc.gov of the Competition Policy Division, Wireline Competition Bureau. For further information on procedures regarding section 214 please visit <https://www.fcc.gov/encyclopedia/domestic-section-214-discontinuance-service>.

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¹⁰ See *Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998).

¹¹ Effective March 19, 2020, and until further notice, the Commission no longer accepts any hand or messenger delivered filings. This is a temporary measure taken to help protect the health and safety of individuals, and to mitigate the transmission of COVID-19. See *FCC Announces Closure of FCC Headquarters Open Window and Change in Hand-Delivery Filing*, Public Notice 35 FCC Rcd 2788 (OS 2020).

¹² 47 CFR § 1.1200 *et seq.*