

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

In the Matter of )
China Unicom (Americas) Operations Limited ) GN Docket No. 20-110;
) ITC-214-20020728-00361;
) ITC-214-20020724-00427
)
)
)

ORDER DENYING MOTION FOR EXTENSION OF TIME

Adopted: March 31, 2022

Released: March 31, 2022

By the Chief, International Bureau; Chief, Wireline Competition Bureau; and Deputy Bureau Chief, Enforcement Bureau:

I. INTRODUCTION

1. By this Order, we deny China Unicom (Americas) Operations Limited’s (CUA) March 18, 2022 motion for an extension of time to discontinue the section 214 services CUA provides to its enterprise customers from April 4, 2022 to July 2, 2022.1 The Commission’s Order on Revocation directed CUA to discontinue services it provides pursuant to its section 214 authority by April 4, 2022.2 We find that CUA has not shown good cause for an extension of time and therefore deny CUA’s motion for the reasons discussed below.

II. BACKGROUND

2. On January 27, 2022, the Commission adopted the Order on Revocation that revokes CUA’s domestic and international section 214 authority and requires CUA to discontinue all section 214 services by April 4, 2022.3 Based on the Commission’s public interest analysis and the totality of the

1 China Unicom (Americas) Operations Limited, Motion for Brief Extension of Time to Discontinue Enterprise Customer Common Carrier Operations, GN Docket 20-110 (filed Mar. 18, 2022) (CUA Mar. 18, 2022 Motion).

2 China Unicom (Americas) Operations Limited, GN Docket No. 20-110, File Nos. ITC-214-20020728-00361, ITC-214-20020724-00427, Order on Revocation, FCC 22-9, paras. 2, 77, 130, 136 (rel. Feb. 2, 2022) (Order on Revocation). See also China Unicom (Americas) Corporation, GN Docket No. 20-110, File Nos. ITC-214-20020728-00361, ITC-214-20020724-00427, Order to Show Cause, 35 FCC Red 3721 (IB, WCB, EB 2020); China Unicom (Americas) Corporation, GN Docket No. 20-110, File Nos. ITC-214-20020728-00361, ITC-214-20020724-00427, Order Instituting Proceeding on Revocation, 36 FCC Red 6319 (2021); China Unicom (Americas) Operations Limited, Response to Order to Show Cause, GN Docket No. 20-110, File Nos. ITC-214-20020728-00361, ITC-214-20020724-00427 (June 1, 2020); China Unicom (Americas) Operations Limited, Response to Order Instituting Proceeding on Revocation, GN Docket No. 20-110, File Nos. ITC-214-20020728-00361, ITC-214-20020724-00427 (Apr. 28, 2021).

3 Order on Revocation, FCC 22-9 at para. 2; 47 U.S.C. § 214. The Order on Revocation requires CUA to “discontinue any domestic or international services that it provides pursuant to its section 214 authority no later than sixty (60) days from the release of this Order.” Order on Revocation, FCC 22-9 at para. 2; see id. at paras. 130, 136. The Order on Revocation was released on February 2, 2022, and, accordingly, CUA must discontinue all such services no later than April 4, 2022.

record, the Commission found in the *Order on Revocation* that the present and future public interest, convenience, and necessity is no longer served by CUA's retention of its section 214 authority.<sup>4</sup> On March 18, 2022, CUA filed a motion in which it "requests that the Commission grant an extension of an additional 90 days, until July 2, 2022, in order to allow time for CUA to complete a smooth transition of its enterprise customers to alternative service providers."<sup>5</sup>

### III. DISCUSSION

3. In support of its motion, CUA contends that "the timeframes provided by in [sic] the [*Order on Revocation*] for discontinuance of service do not reflect the reality of the market for enterprise telecommunications services or provide enterprise customers with sufficient time to source comparable services from alternate providers."<sup>6</sup> CUA argues that "[b]ecause of the costs involved with changing network topology, including relocating to other colocation space and/or the cost of third-party services to reconfigure network equipment (because of stringent security requirements and limited access to colocation space), provisioning a new service typically takes much longer than the 60 days provided in the Revocation Order."<sup>7</sup> CUA states that "[d]espite its diligent efforts, many of CUA's enterprise customers have informed CUA that they will not be able to transition their services by the 60-day deadline."<sup>8</sup> CUA adds, "[t]he requested extension would allow CUA to work efficiently and diligently to provide CUA's current customers with a smooth transition to alternative service providers" and "would be consistent with [Commission] precedent by providing CUA's enterprise customers with the time necessary to locate alternate services."<sup>9</sup>

4. In accordance with section 1.46 of the Commission's rules, "[i]t is the policy of the Commission that extensions of time shall not be routinely granted."<sup>10</sup> In this case, CUA has not shown that an extension of time for CUA to discontinue the section 214 services it provides to its enterprise customers is in the public interest. In the *Order on Revocation*, the Commission determined that a 60-day transition period is appropriate and rejected CUA's claims that a longer transition period is in the public interest.<sup>11</sup> The Commission concluded that CUA has not demonstrated that its customers would be unable to obtain an adequate replacement service provider or need a longer time period to transition to another service provider, adding that customers have been on notice for two years that CUA's authorizations might be revoked.<sup>12</sup> We note that CUA is not asking the Commission to revisit these findings, and in any event, CUA has not persuaded us that the public interest warrants an extension of time.

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<sup>4</sup> *Order on Revocation*, FCC 22-9 at para. 1.

<sup>5</sup> CUA Mar. 18, 2022 Motion at 2.

<sup>6</sup> *Id.* (also stating that "CUA currently provides certain enterprise customers with domestic and international Ethernet Private Line ('EPL') Service, which is a service that provides dedicated point-to-point or point-to-multiple point Ethernet connections; Domestic Dedicated Private Line Circuits, which are dedicated, point-to-point connections between two locations with guaranteed bandwidth; and International Direct Lease Circuit ('PLC') service, which provides cross-border and cross-region customers with fully transparent end-to-end private line service with guaranteed bandwidth").

<sup>7</sup> *Id.* at 3.

<sup>8</sup> *Id.*

<sup>9</sup> *Id.* (asserting that grant of its request would be consistent with Commission precedent seeking to avoid service disruptions to customers where a provider seeks discontinuance of service).

<sup>10</sup> 47 CFR § 1.46(a).

<sup>11</sup> *Order on Revocation*, FCC 22-9 at paras. 130-133.

<sup>12</sup> *Id.* at paras. 132-133.

5. CUA has not provided evidence to support its claim that customers are unable to transition by the 60-day deadline.<sup>13</sup> *First*, the motion does not contain sufficient justification or evidence to support a 90-day extension. While CUA states that “many of CUA’s enterprise customers have informed CUA that they will not be able to transition their services by the 60-day deadline,”<sup>14</sup> CUA offers no specific information to support its request, such as the number of enterprise customers unable to transition within the specified timeframe and/or the identity of these customers. CUA contends that changing to another provider in less than 60 days would be cost-prohibitive but does not provide any evidence detailing the cost to customers or otherwise explain why the customers are unable to meet the 60-day deadline due to the cost.<sup>15</sup> If CUA’s existing enterprise customers are experiencing difficulty with transitioning to a different service provider within the timeframe set forth in the *Order on Revocation*, we would reasonably expect CUA to identify these customers and/or to provide supporting affidavits from these customers.<sup>16</sup> *Second*, CUA’s motion provides no response to the Commission’s finding in the *Order on Revocation* that, {{

}}<sup>17</sup> In its motion, CUA failed to explain why these enterprise customers would need an additional 90 days given this and other findings in the *Order on Revocation*.<sup>18</sup> *Third*, CUA did not address the Commission’s statement in the *Order on Revocation* that “this proceeding was initiated almost two years ago, providing customers with notice that CUA might have its section 214 authority revoked and have to discontinue its services provided under that authority.”<sup>19</sup>

6. Further, we disagree with CUA’s contention that “the additional delay in discontinuance would not create any harm or threats to the public or to national security.”<sup>20</sup> Contrary to CUA’s claim, in

<sup>13</sup> We thus disagree with CUA’s claim that enforcement of the deadline would conflict with Commission policy favoring avoidance of disruptions in service to consumers. See CUA Motion at 2 (citing *Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment*, WC Docket No. 17-84, Report and Order, Declaratory Ruling, and Further Notice of Proposed Rulemaking, 32 FCC Rcd 11128, 11163, para. 86 (2017), *subsequent hist. omitted* (“Our section 214 discontinuance provisions are intended to protect the public by ensuring that consumers are not harmed by loss of service as a result of a discontinuance, and we will normally authorize a discontinuance unless it is shown that affected customers would be unable to receive a reasonable substitute service.”)). See also *Order on Revocation*, FCC 22-9 at para. 132 (“CUA has not demonstrated that its customers would be unable to obtain an adequate replacement service provider or that its customers need a longer time period to transition to another service provider.”).

<sup>14</sup> CUA Mar. 18, 2022 Motion at 3.

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

<sup>16</sup> See, e.g., *Bridging the Digital Divide for Low-Income Consumers; Lifelink and Link Up Reform and Modernization; Telecommunications Carriers Eligible for Universal Service Support*, WC Docket Nos. 17-287, 11-42, 09-197, Order Denying Stay Petition, 33 FCC Rcd 6353, 6360, para. 26 (WCB 2018) (denying petition for stay, stating that “[p]etitioners offer no support for their claims in the form of customer affidavits” and citing “*cf. [Arriva Med. LLC v. United States Dep’t of Health & Human Servs., 239 F. Supp.3d 266, 283 (D.D.C. 2017)]* (Party seeking a stay submitted affidavits from customers detailing customers’ reactions).”).

<sup>17</sup> *Order on Revocation*, FCC 22-9 at para. 132; see CUA Response to *Order to Show Cause*, Business Confidential Exh. 6, Attach. 6-A.

Material set off by double brackets {{ }} is business-confidential information and is redacted from the public version of this document.

<sup>18</sup> See *Order on Revocation*, FCC 22-9, Section III.D.

<sup>19</sup> *Id.* at para. 133.

<sup>20</sup> CUA Mar. 18, 2022 Motion at 3.

the *Order on Revocation*, the Commission clearly articulated the significant and substantial risks to U.S. national security and law enforcement interests resulting from CUA's provision of section 214 and related services.<sup>21</sup> In fact, granting an extension based on CUA's argument that an unspecified number of individual customers could be impacted would defeat the fundamental public interest concern of protecting the nation's communications infrastructure from potential security threats, as stated in the *Order on Revocation*.<sup>22</sup> CUA has not provided any other public interest reason for an extension of time that outweighs the concerns identified in the *Order on Revocation*.

7. For these reasons, we deny CUA's request for an extension of time. As required by the *Order on Revocation*, CUA must discontinue all domestic and international services it provides pursuant to its section 214 authority no later than April 4, 2022, 60 days from the release of that Order.<sup>23</sup>

#### IV. ORDERING CLAUSES

8. Accordingly, IT IS ORDERED, pursuant to sections 1, 4(i), 4(j), and 214 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), 154(j), 214, and sections 0.51, 0.91, 0.111, 0.141, 0.261, 0.291, and 1.46 of the Commission's rules, 47 CFR §§ 0.51, 0.91, 0.111, 0.141, 0.261, 0.291, 1.46, that China Unicom (Americas) Operations Limited's motion for extension of time is DENIED.

FEDERAL COMMUNICATIONS COMMISSION

/s/ Thomas Sullivan

Thomas Sullivan  
Chief  
International Bureau

/s/ Trent Harkrader

Trent Harkrader  
Chief  
Wireline Competition Bureau

/s/ Keith Morgan

Keith Morgan  
Deputy Bureau Chief  
Enforcement Bureau

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<sup>21</sup> See generally *Order on Revocation*, FCC 22-9.

<sup>22</sup> *Id.* at para. 74 (“CUA's operations in the United States pursuant to its domestic and international section 214 authority, combined with those operations that do not require section 214 authority, provide CUA with access to U.S. telecommunications infrastructure and sensitive U.S. customer information. . . . [T]his access presents CUA, its controlling parent entities, and therefore the Chinese government, with numerous opportunities to access, monitor, store, disrupt, and/or misroute U.S. communications in ways that are not authorized and that can facilitate espionage and other activities harmful to U.S. national security and law enforcement interests”).

<sup>23</sup> *Id.* at paras. 2, 136.