

Federal Communications Commission

Consumer Advisory Committee

Recommendation Regarding Technology Transition 08/15 order and FNPRM

Whereas, the United States of America is in the midst of a major technology transition in our nation's communications networks, rapidly transitioning away from the historical provision of time-division multiplexed (TDM) "circuit-switched voice services running on copper loops" to "all-Internet Protocol (IP) multi-media networks using copper, coaxial cable, wireless, and fiber as physical infrastructure."¹ The Federal Communications Commission has worked to address the consumer and industry impact of these changes through a series of *Technology Transition Orders*. The stated goal of the Commission is to support "market-driven technological transitions and innovations" while preserving "the core statutory values as codified by Congress: competition, consumer protection, universal service, and public safety."² The Commission believes that "furthering these core values will accelerate customer adoption of technology transitions;"³ and

Whereas, in August 2015, the Commission released a Report and Order, Order on Reconsideration (collectively, the Order) and Further Notice of Proposed Rulemaking (FNPRM). At the core, the Commission addressed two types of "technology transitions: (1) changes in network *facilities*, in particular retirement of copper, circuit-switched networks; and (2) changes that involve discontinuance, impairment, or reduction of legacy *services*."⁴ In the Order, the Commission permitted carriers to retire copper networks without requiring Commission approval "so long as the change of technology does not discontinue, reduce, or impair the service provided."⁵ The Commission further required notice to be provided to retail consumers and interconnecting carriers when copper networks are retired, and defined "copper retirement" to "prevent *de facto* copper retirement without notice to affected persons";⁶ and

Whereas, consistent with statutory requirements, in the Order, the Commission reiterated that carriers subject to section 214 obligations must obtain Commission approval before discontinuing, reducing, or impairing a service (either to wholesalers or end-users).⁷ In the

¹ See FCC *Technology Transitions Order*, GN Docket No. 13-5, [FCC 15-97](#), (released August 7, 2015) at ¶ 1 ("communications networks are rapidly transitioning away from the historical provision of time-division multiplexed (TDM) service running on copper to new, all-Internet Protocol (IP) multi-media networks using copper, coaxial cable, wireless, and fiber as physical infrastructure"), ¶ 8 ("transitions from networks based on TDM circuit switched voice service running on copper loops"); see *id.* at 9 ("alternatives to legacy voice services") and at ¶ 12 ("Today, we significantly update our copper retirement rules for the first time in over a decade to address the increasing pace of copper retirement.").

² *Id.* at ¶ 1.

³ *Id.*

⁴ *Id.* at ¶ 4.

⁵ *Id.* at ¶ 5 (Copper Retirement bullet point); see also discussion at ¶¶ 12-14, 16-18.

⁶ *Id.* at ¶ 5 (Copper Retirement bullet point).

⁷ *Id.* at ¶ 6 (second bullet point).

FNPRM, the Commission announced its intention to establish clear standards and criteria to use to evaluate applications to discontinue, reduce, or impair legacy retail services.⁸ The Commission's stated goal is to protect competition, consumer protection, universal service, and public safety, and at the same time provide clear guidance to carriers about what they need to do to obtain approval to discontinue, reduce, or impair services; and

Whereas the Commission has determined that if a carrier transitions from copper to fiber but continues to provide plain old telephone service (POTS) or "time-division multiplexed (TDM) circuit-switched voice service," a carrier is only required to provide notice of that copper retirement; but, whereas, if a POTS/TDM service running over copper is replaced with "an-Internet Protocol (IP)" service "using copper, coaxial cable, wireless, [or] fiber as physical infrastructure," or if POTS/TDM delivered via copper is replaced with a wireless service, then the carrier must obtain Commission Section 214 approval before discontinuing, reducing, or impairing a service" "to a community or part of a community."⁹ Thus, the Commission has determined that, in the first example of copper to fiber, there is no discontinuance of service, but in the latter two examples, TDM to IP or wireline to wireless, there is a discontinuance of service that requires Commission approval; and

Whereas, in the FNPRM, the Commission proposed that carriers "seeking to discontinue an existing retail service in favor of a retail service based on a newer technology must demonstrate that any substitute service offered by the carrier or alternative services available from other providers in the affected service area meet the following criteria": "(1) network capacity and reliability; (2) service quality; (3) device and service interoperability, including interoperability with vital third-party services (through existing or new devices); (4) service for individuals with disabilities, including compatibility with assistive technologies; (5) PSAP and 9-1-1 service; (6) cybersecurity; (7) service functionality; and (8) coverage."¹⁰ The Commission asked for detailed comment on these and other possible criteria, and also specifically asked for comment about what constitutes "adequate consumer education and outreach plans" regarding discontinuance of services;¹¹ and

Whereas, in January 2014, the Commission authorized carriers to begin technical trials to retire copper facilities, discontinue legacy services, and provide alternative services. These trials are

⁸ *Id.* at ¶ 7 ("With clear standards in place, carriers will not have to guess as to how they can obtain approval to discontinue TDM services once they are ready to do so.").

⁹ FCC 15-97 FNPRM at ¶ 1, ¶ 5 Copper Retirement; ¶ 1, ¶ 6 (second bullet). *See also*, FCC 14-185 NPRM that lead to Order and FNPRM at ¶ 5 (first bullet)("Our rules governing *network changes*—here in particular, copper retirement—are triggered when a carrier makes a change in network facilities, as occurs when a carrier retires its copper network to move to an all-fiber network. So long as no service is discontinued in this process (*e.g.*, TDM basic service), a carrier need only provide notice of its intent to retire the legacy facilities (*e.g.*, copper loops);" and at ¶ 93 (We therefore seek comment on whether the Commission should update its rules to define what would constitute an adequate substitute for retail services that a carrier seeks to discontinue, reduce, or impair in connection with a technology transition (*e.g.*, TDM to IP, wireline to wireless)."

¹⁰ FCC 15-97 FNPRM at ¶ 208.

¹¹ *Id.* at ¶ 232.

in a preparatory phase and there is no single date on which communities may be transitioned. As of June 2016, the Commission has not provided additional information about the Technology Transition on the Commission’s Consumer Help Center webpage or by issuing additional Wireline Consumer Guides;

Therefore, the Federal Communications Commission’s Consumer Advisory Committee (CAC) supports the following recommendations:

1. The CAC commends the Commission for taking action to protect consumers during the technology transition.
2. The CAC supports the Commission’s proposal to evaluate applications to discontinue, reduce, or impair legacy services based on evidence that alternative services are available that provide comparable or better service along eight criteria: (1) network capacity and reliability; (2) service quality; (3) device and service interoperability, including interoperability with vital third-party services (through existing or new devices); (4) service for individuals with disabilities, including compatibility with assistive technologies; (5) PSAP and 9-1-1 service; (6) cybersecurity; (7) service functionality; and (8) coverage. The CAC recommends that the Commission move quickly to issue a Second Order implementing these rules to expedite the technology transition with minimal disruption to consumers.
3. The CAC recommends that the Commission add a 9th criterion: comparable price. Adequate substitute service should be available at a comparable price to be an effective alternative to an existing service.
4. The CAC recommends that within three months of this Recommendation, the Commission provide consumer information about the Technology Transition on its Consumer Help Center webpage and by issuing additional Wireline Consumer Guides. Even though the technology used for the transition may vary by community, it is important that the public be made aware that a transition is coming. The Wireline Consumer Guides can help consumers understand what types of issues the Commission will address and what types of issues the Commission will allow the market to address. The Commission can update consumer materials with more information about specific rights and notice requirements as this information becomes available. But there is an enormous amount of consumer information that the Commission can begin to quickly release to facilitate the Technology Transition.
5. The CAC recommends that carriers should include information about applicable changes in backup power and power responsibilities as part of the transition and discontinuance notifications to consumers and inform consumers of future notifications that will be provided in accordance with the 911 Backup Power Order.¹² In that Order, the FCC

¹² Ensuring Continuity of 911 Communications, PS Docket No. 14-174, FCC 15-98 (released August 7, 2015)(“911 Backup Power Order”).

required providers to disclose specific information to subscribers about changes in backup power¹³ and required that the information be given to subscribers at point of sale and annually thereafter.¹⁴

6. The CAC recommends that after developing consumer information, the Commission conduct significant outreach to organizations that work with consumers, older adults, low-income households, non-English-speaking consumers, and deaf, hard-of-hearing, blind, sight-impaired, and deaf-blind consumers, to have these organizations assist the Commission in educating the public about the Technology Transition. The responsibility for educating the public should not rest on carriers alone and should not be delayed until a technology transition is about to happen in a particular market. To ensure effective and accountable outreach, the Consumer and Governmental Affairs Bureau should further provide the CAC updates regarding such targeted consumer outreach to enable the CAC to offer additional recommendations and support for the Commission's consumer education efforts.
7. The CAC recommends that the Commission be proactive by periodically reviewing copies of subscriber notices provided to consumers, so that the Commission may assess the ability of consumers to understand copper retirement and service discontinuance notices.
8. The CAC recommends that the Commission immediately begin to conduct outreach to national organizations of state, local and tribal governments, 911 providers, and other public safety organizations, such as NATOA, NARUC, NACO, NLC, USCM, NENA, NPSTC, APCO, and FEMA, to discuss how the Technology Transition will impact the ability of state, local and tribal governments and public safety entities to receive 911, 311 and other calls to government, and to facilitate adequate budget planning to prepare for the Technology Transition.
9. The CAC recommends that in consultation with state, local and tribal governments and public safety entities, the Commission further evaluate whether its notice requirements are sufficient where substantial equipment replacement is necessary to ensure continued functionality of our 911 system. Without adequate lead time, these agencies may have limited ability to allocate resources to support new technology used to deliver 911, 311 and other calls to government. Moreover, use of alternative technologies may enable government agencies to seek competitive bidding for service contracts. Encouraging early outreach by providers to state, local, and tribal governments will help facilitate a smooth and efficient technology transition.

¹³ *Id.* at ¶ 60. "We require providers to disclose to subscribers the following information: (1) availability of backup power sources; (2) service limitations with and without backup power during a power outage; (3) purchase and replacement options; (4) expected backup power duration; (5) proper usage and storage conditions for the backup power source; (6) subscriber backup power self-testing and monitoring instructions; and (7) backup power warranty details, if any."

¹⁴ *Id.* at ¶ 69.

CAC Technology Transition Recommendation – June 10, 2016

Adopted June 10, 2016

Abstentions: American Consumer Institute; Americans for Tax Reform; CenturyLink; Google; National Cable and Telecommunications Association; T-Mobile

Respectfully submitted:

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FCC Consumer Advisory Committee