

to any difference in charges to the public, and the reasons for the proposed closure or reduction. Authority for such closure or reduction shall be deemed to have been granted by the Commission, effective as of the 15th day following the date of filing of such request, unless, on or before the 15th day, the Commission shall notify the carrier to the contrary.

[45 FR 6585, Jan. 29, 1980]

§ 63.71 Procedures for discontinuance, reduction or impairment of service by domestic carriers.

Any domestic carrier that seeks to discontinue, reduce or impair service shall be subject to the following procedures:

(a) The carrier shall notify all affected customers of the planned discontinuance, reduction, or impairment of service and shall notify and submit a copy of its application to the public utility commission and to the Governor of the State in which the discontinuance, reduction, or impairment of service is proposed; to any federally-recognized Tribal Nations with authority over the Tribal lands in which the discontinuance, reduction, or impairment of service is proposed; and also to the Secretary of Defense, Attn. Special Assistant for Telecommunications, Pentagon, Washington, DC 20301. Notice shall be in writing to each affected customer unless the Commission authorizes in advance, for good cause shown, another form of notice. For purposes of this section, notice by email constitutes notice in writing. Notice shall include the following:

- (1) Name and address of carrier;
- (2) Date of planned service discontinuance, reduction or impairment;
- (3) Points of geographic areas of service affected;
- (4) Brief description of type of service affected; and
- (5) One of the following statements:
 - (i) If the carrier is non-dominant with respect to the service being discontinued, reduced or impaired, the notice shall state: The FCC will normally authorize this proposed discontinuance of service (or reduction or impairment) 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. If you wish to object, you should file your comments as soon as possible, but no later than 15 days after the Commission releases public notice of the proposed discontinuance. You may file your comments electronically through the FCC's Electronic Comment Filing System using the docket number established in the Commission's public notice for this proceeding, or you may address them to the Federal Communications Commission, Wireline Competition Bureau, Competition Policy Division, Washington, DC 20554, and include in your comments a reference to the § 63.71 Application of (carrier's name). Comments should include specific information about the impact of this proposed discontinuance (or reduction or impairment) upon you or your company, including any inability to acquire reasonable substitute service.

(ii) If the carrier is dominant with respect to the service being discontinued, reduced or impaired, the notice shall state: The FCC will normally authorize this proposed discontinuance of service (or reduction or impairment) 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. If you wish to object, you should file your comments as soon as possible, but no later than 30 days after the Commission releases public notice of the proposed discontinuance. You may file your comments electronically through the FCC's Electronic Comment Filing System using the docket number established in the Commission's public notice for this proceeding, or you may address them to the Federal Communications Commission, Wireline Competition Bureau, Competition Policy Division, Washington, DC 20554, and include in your comments a reference to the § 63.71 Application of (carrier's name). Comments should include specific information about the impact of this proposed discontinuance (or reduction or impairment) upon you or your company, including any inability to acquire reasonable substitute service.

(6) For applications to discontinue, reduce, or impair an existing retail

service as part of a technology transition, as defined in § 63.60(h) of this part, in order to be eligible for automatic grant under paragraph (f) of this section:

(i) A statement that any service offered in place of the service being discontinued, reduced, or impaired may not provide line power; and

(ii) The information required by § 12.5(d)(1) of this chapter.

(7) For applications to discontinue, reduce, or impair an existing retail service as part of a technology transition, as defined in § 63.60(h) of this part, in order to be eligible for automatic grant under paragraph (f) of this section:

(i) A description of any security responsibilities the customer will have regarding the replacement service; and

(ii) A list of the steps the customer may take to ensure safe use of the replacement service.

(b) If a carrier uses email to provide notice to affected customers, it must comply with the following requirements in addition to the requirements generally applicable to the notice:

(1) The carrier must have previously obtained express, verifiable, prior approval from retail customers to send notices via email regarding their service in general, or planned discontinuance, reduction, or impairment in particular;

(2) A carrier must ensure that the subject line of the message clearly and accurately identifies the subject matter of the email; and

(3) Any email notice returned to the carrier as undeliverable will not constitute the provision of notice to the customer.

(c) The carrier shall file with this Commission, on or after the date on which notice has been given to all affected customers, an application which shall contain the following:

(1) Caption—"Section 63.71 Application";

(2) Information listed in § 63.71(a) (1) through (4) above;

(3) Brief description of the dates and methods of notice to all affected customers;

(4) Whether the carrier is considered dominant or non-dominant with re-

spect to the service to be discontinued, reduced or impaired; and

(5) Any other information the Commission may require.

(d)(1) If an incumbent LEC, as that term is defined in § 51.5 of this chapter, obtains authority to discontinue, reduce, or impair a time-division multiplexing (TDM) service listed in this paragraph (c)(1) and if the incumbent LEC offers an Internet Protocol (IP) service in the same geographic market(s) as the TDM service following the discontinuance, reduction, or impairment of such TDM service, then as a condition on such authority, the incumbent LEC shall provide any requesting telecommunications carrier wholesale access reasonably comparable to the level of wholesale access it previously provided on reasonably comparable rates, terms, and conditions. This condition shall expire when all of the following have occurred:

(i) The Commission identifies a set of rules and/or policies that will ensure rates, terms, and conditions for special access services are just and reasonable;

(ii) The Commission provides notice such rules are effective in the FEDERAL REGISTER; and (iii) Such rules and/or policies become effective.

(2) The requirements of this paragraph apply to:

(i) A special access service that is used as a wholesale input by one or more telecommunications carriers; and

(ii) A service that is used as a wholesale input by one or more telecommunications carriers to provide end users with voice service and that includes last-mile service, local circuit switching, and shared transport.

(e) Discontinuance applications and all related attachments to the application filed under this section shall be filed through the "Submit a Non-Docketed Filing" module of the Commission's Electronic Comment Filing System.

(f) The application to discontinue, reduce or impair service, if filed by a domestic, non-dominant carrier, shall be automatically granted on the 31st day after its filing with the Commission without any Commission notification to the applicant unless the Commission has notified the applicant that the

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grant will not be automatically effective. The application to discontinue, reduce or impair service, if filed by a domestic, dominant carrier, shall be automatically granted on the 60th day after its filing with the Commission without any Commission notification to the applicant unless the Commission has notified the applicant that the grant will not be automatically effective. For purposes of this section, an application will be deemed filed on the date the Commission releases public notice of the filing. An application to discontinue, reduce, or impair an existing retail service as part of a technology transition, as defined in § 63.60(h) of this part, may be automatically granted only if the applicant provides affected customers with the notice required under paragraphs (a)(6) and (7) of this section, and the application contains the showing or certification described in § 63.602(b) of this part.

(g) An application to discontinue, reduce, or impair a service for which the requesting carrier has had no customers or reasonable requests for service during the 180-day period immediately preceding submission of the application shall be automatically granted on the 31st day after its filing with the Commission without any Commission notification to the applicant, unless the Commission has notified the applicant that the grant will not be automatically effective.

(h) An application to discontinue, reduce, or impair an existing retail service as part of a technology transition, as defined in § 63.60(h) of this part, shall contain the information required by § 63.602 of this part. The certification or showing described in § 63.602(b) of this part is only required if the applicant seeks eligibility for automatic grant under paragraph (f) of this section.

(i) An application to discontinue, reduce, or impair a service filed by a competitive local exchange carrier in response to a copper retirement notice filed pursuant to § 51.332 of this chapter shall be automatically granted on the effective date of the copper retirement; provided that:

(1) The competitive local exchange carrier submits the application to the Commission for filing at least 40 days

prior to the copper retirement effective date; and

(2) The application includes a certification, executed by an officer or other authorized representative of the applicant and meeting the requirements of § 1.16 of this chapter, that the copper retirement is the basis for the application.

(j) Procedures for discontinuance, reduction or impairment of international services are in § 63.19.

[64 FR 39939, July 23, 1999, as amended at 71 FR 65751, Nov. 9, 2006; 73 FR 56741, Sept. 30, 2008; 80 FR 1588, Jan. 13, 2015; 80 FR 63373, Oct. 19, 2015; 81 FR 62656, Sept. 12, 2016]

EFFECTIVE DATE NOTE: At 81 FR 62656, Sept. 12, 2016, § 63.71 was amended by revising paragraph (a) introductory text, adding paragraphs (a)(6) and (7), redesignating paragraph (f) as (j), redesignating paragraphs (b) through (e) as (c) through (f), adding new paragraph (b), adding a sentence to the end of newly redesignated paragraph (f), and adding paragraphs (g), (h), and (i). These paragraphs contain information collection and recordkeeping requirements and will not become effective until approval has been given by the Office of Management and Budget.

§ 63.90 Publication and posting of notices.

(a) Immediately upon the filing of an application or informal request (except a request under § 63.71) for authority to close or otherwise discontinue the operation, or reduce the hours of service at a telephone exchange (except an exchange located at a military establishment), the applicant shall post a public notice at least 51 cm by 61 cm (20 inches by 24 inches), with letter of commensurate size, in a conspicuous place in the exchange affected, and also in the window of any such exchange having window space fronting on a public street at street level. Such notice shall be posted at least 14 days and shall contain the following information, as may be applicable:

(1) Date of first posting of notice;

(2) Name of applicant;

(3) A statement that application has been made to the Federal Communications Commission;

(4) Date when application was filed in the Commission;