Before the
FEDERAL COMMUNICATIONS
COMMISSION Washington, D.C. 20554

Application of	)	
	)	
TDS Telecommunications Corp., d/b/a TDS	)	
Telecom, Transferor,	)	
	)	WC Docket No. _____
and	)	
	)	
Ark-O Holding Company, Transferee,	)	
	)	
For Consent for Transfer of Control	)	

To: Wireline Competition Bureau

APPLICATION FOR CONSENT FOR TRANSFER OF CONTROL

Pursuant to Section 214 of the Communications Act of 1934, as amended (the "Act"), 47 U.S.C. § 214, and Section 63.03 or 63.04 of the Commission's rules, 47 C.F.R. § 63.03 and § 63.04, TDS Telecommunications Corp., d/b/a TDS Telecom ("TDS Telecom" or "Transferor") and Ark-O Holding Company ("Ark-O" or 'Transferee") (together "Applicants" filing the "Application") hereby respectfully request the authority necessary to consummate a transaction (the "Transaction") whereby Ark-O will acquire direct control of three TDS Telecom direct subsidiaries: Wyandotte Telephone Company ("Wyandotte"), Decatur Telephone Company ("Decatur") and Cleveland County Telephone Company ("Cleveland County") (together the "Licensees"), each of which holds a domestic Section 214 authorization.

Applicants respectfully request that the Commission grant this Application on a streamlined basis. Although the Application does not qualify for streamlined treatment on a presumptive basis (because one of Ark-O's existing affiliates, Seneca Telephone Company ("Seneca"), is an independent local exchange carrier whose service area is adjacent to that of Wyandotte), the Commission has long held that an application to transfer control of a Section 214 licensee can be accorded streamlined treatment on a case-by-case basis, too.[1] Indeed, the Commission has specifically held that the "purpose of specifying presumptive streamlined categories is not to limit the types of applications that may obtain streamlined processing, but merely to provide greater assurance to potential applicants about the likely manner in which their applications will be processed by the Commission."[2] The Commission has expressly rejected "rigid eligibility thresholds" for streamlined treatment precisely because such thresholds can "prevent[] applications that merit streamlining from receiving appropriate streamlined treatment."[3]

As explained more fully below, streamlined treatment is appropriate here because the Application on its face does not present any meaningful competitive or public interest concerns. As an initial matter, of the three Licensees that Applicants propose to transfer to Ark-O, only one (Wyandotte) has a service territory adjacent to an existing Ark-O affiliate (Seneca). Furthermore, this adjacency is exceedingly limited: less than 30 percent of Wyandotte's service territory is adjacent to that of Seneca,[4] and less than 25 percent of

---

[1] 47 C.F.R. § 63.04(a)(8).

[2] *Implementation of Further Streamlining Measures for Domestic Section 214 Authorizations*, Report and Order, 17 FCC Rcd 5517 ¶ 34 (2002) ("*Streamlining Order*").

[3] *Id.* at n.59.

[4] The perimeter of Wyandotte's service territory is 43.1 miles; only 12.9 of those miles are adjacent to the service territory of Seneca.

Seneca's service territory is adjacent to that of Wyandotte. Indeed, a far greater percentage of Wyandotte's and Seneca's service territories are adjacent to a much larger Incumbent Local Exchange Carrier ("ILEC"), AT&T.[5] Furthermore, both Wyandotte and Seneca face competition from wireless service providers such as AT&T and Verizon that offer 4G wireless broadband service in their service regions, and those competitors are expected to continue to operate in these regions post-Transaction. As a practical matter, both Wyandotte and Seneca operate a very small number of access lines in their respective service territories, which are costly to serve, and it is precisely for this reason that neither has in the past made plans to compete in the other's service region.

Finally, but for the limited adjacency between the Wyandotte and Seneca service regions, this Application would qualify for presumptive streamlined treatment in all respects, as the Transaction will result in Transferee having a market share in the interstate, interexchange market of less than 10 percent; the Transferee does not and will not provide competitive telephone exchange services or competitive exchange access services; and Applicants are incumbent independent local exchange carriers that have, in combination, fewer than two percent of the nation's subscriber lines installed in the aggregate nationwide. In short, as a result of all of these unique circumstances, the limited adjacency between the Wyandotte and Seneca service territories should not raise any competitive concerns and streamlined treatment on a case-by-case basis is appropriate here.

In accordance with the requirements of Section 63.04 of the Commission's rules, the Applicants provide the following information:

[5] A map of the service territories of Wyandotte and Seneca, which also identifies the service areas of other providers in the region, are included in Exhibit A to this Application.

(1) Name, address, and telephone number of each applicant.

Transferor

TDS Telecommunications Corp., d/b/a TDS Telecom
PO Box 5158
Madison, WI 54717
(608) 664-4000

Transferee

Ark-O Holding Company
816 Oneida Street
Seneca, MO 64865
(417) 776-2247

(2) State under the laws of which each applicant is organized.

TDS Telecom is a corporation organized under the laws of the State of Delaware. Ark-O is a corporation organized under the laws of the State of Missouri. Wyandotte is a corporation organized under the laws of Oklahoma. Both Decatur and Cleveland County are corporations organized under the laws of Arkansas.

(3) Legal counsel to whom correspondence concerning the application is to be addressed.

For Transferor

Yaron Dori
Covington & Burling LLP
1201 Pennsylvania Avenue, NW
Washington, DC 20004-2401
Telephone: (202) 662-6000
Fax: (202) 662-6291
ydori@cov.com

For Transferee

Kendall Parrish
Ron Comingdeer
Ron Comingdeer & Associates
6011 N. Robinson Ave.
Oklahoma City, OK 73118

(405) 848-5534
Fax: (405) 843-5688
kparrish@comingdeerlaw.com
hunter@comingdeerlaw.com

(4) Name, address, citizenship, and principal business of entities that own at least ten percent (10%) of the equity of the applicants (to the nearest one percent (1 %)).

For Transferor

TDS Telecom is a wholly-owned subsidiary of Telephone and Data Systems, Inc. ("TDS"), which is incorporated under the laws of Delaware. TDS is a publicly-traded company listed on the New York Stock Exchange. It is a diversified telecommunications service company that provides wireless and wireline telecommunications services in the United States. The company's address is 30 N. LaSalle Street, Chicago, IL 60602.

TDS is controlled by a Voting Trust whose trustees are LeRoy T. Carlson, Jr., Walter C.D. Carlson, Prudence E. Carlson, and Dr. Letitia G.C. Carlson. They are siblings and U.S. citizens. The address of the trust is TDS's business address: 30 North LaSalle Street, Chicago, IL 60602. LeRoy T. Carlson, Jr. is the President of TDS and Walter C.D. Carlson is its nonexecutive Chairman.

As of February 28, 2015, the Voting Trust controls 56.3% of the voting power of TDS's total shares that vote in matters other than the election of directors and 94.7% of the Series A Common Shares, which elect eight of TDS's 12 directors. Therefore, the Voting Trust elects a majority of the directors and directs a majority of the combined voting power of TDS in matters other than the election of directors.

The only other person or entity that owns an attributable ten percent (10%) or more direct or indirect interest in TDS Telecom is BlackRock Inc. and its affiliates, which owns

11% of the stock of TDS and thus holds an indirect interest in TDS Telecom in that same amount. BlackRock Inc. is an independent publicly-traded investment management firm that is incorporated under the laws of the State of Delaware; its principal place of business is located at 55 East 52nd Street, New York, New York 10055.

For Transferee

Ark-O is a closely held non-public corporation organized under the laws of the State of Missouri and is owned by two siblings. Fifty percent (50%) of the stock of Ark-O is held by W. Jay Mitchell. The remaining fifty percent (50%) of the stock of Ark-O is held by Mr. Mitchell's brother, Brian J. Mitchell. Both Messrs. Jay Mitchell and Brian Mitchell's address is 816 Oneida Street, Seneca, MO, 64865. Because Messrs. Jay Mitchell and Brian Mitchell together own 100% of the stock of Ark-O, no other person or entity owns a ten percent (10%) or more direct or indirect interest in Ark-O. Ark-O itself does not provide telecommunications service. Ark-O, which was created specifically to effectuate the Transaction, is related through common ownership to Seneca Telephone Company, Goodman Telephone Company and Ozark Telephone Company, all of which are independent rural local exchange carriers that provide telecommunications service. The principal business of Messrs. Jay Mitchell and Brian Mitchell, owners of Ark-O, is telecommunications.

(5) Certification pursuant to Sections 1.2001 through 1.2003 that no party to the application is subject to a denial of Federal benefits.

By their signatures below, the Applicants certify that no party to the application is subject to a denial of Federal benefits pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988.

(6) Description of the transaction.

Applicants have entered into three agreements dated as of August 19, 2015, pursuant to which Ark-O will acquire one hundred percent (100%) of the capital stock of the Licensees from TDS Telecom, which currently holds one hundred percent (100%) of capital the stock of the Licensees.[6] Wyandotte serves USAC Study Area 432034 and is operated by TDS Telecom; Decatur serves USAC Study Area 401699 and is operated by TDS Telecom; and Cleveland County serves USAC Study Area 401698 and is operated by TDS Telecom. As of July 2015, there were 482 working loops in the Wyandotte study area; 651 working loops in the Decatur, study area; and 2,233 working loops in the Cleveland County study area.

(7) Description of the geographic areas in which the Transferor and Transferee (and their affiliates) offer domestic telecommunications services, and what services are provided in each area.

TDS Telecom conducts ILEC telephone operations through 108 subsidiaries (at present), in 26 states. TDS Telecom also conducts CLEC operations in two additional states, Illinois and North Dakota, where it does not have ILEC operations. As of June 30, 2015, TDS Telecom provides 330,400 wireline residential voice connections and 324,900 wireline commercial voice connections, as well as 49,200 cable-based voice connections.

Ark-O, a newly formed Missouri corporation, was created for the purpose of acquiring the Licensees and does not currently provide telecommunications services. Ark-O has the following affiliates that provide telecommunications services: Seneca Telephone Company, Ozark Telephone Company and Goodman Telephone Company, each of which is incorporated under the laws of the State of Missouri ("Ark-O Affiliates). Each of the Ark-O Affiliates provides local exchange and exchange access services in the State of

[6] Although embodied in three separate purchase agreements – one per Licensee – each agreement is substantially identical and the Transaction is contemplated as a unitary whole.

Missouri as a rural incumbent local exchange carriers. In addition, Seneca Telephone Company provides local exchange and exchange access services in the State of Oklahoma. The Ark-O Affiliates serve approximately 5,200 working loops as of the date of this Application. Mr. Jay Mitchell and Mr. Brian Mitchell each holds a fifty percent (50%) ownership interest in each of the Ark-O Affiliates.

(8) Statement on how the application fits into one or more of the presumptive streamlined categories or why it is otherwise appropriate for streamlined treatment.

This Application is not eligible for presumptive streamlined treatment under Section 63.03(b) of the Commission's rules because Ark-O's affiliate, Seneca, is an independent rural local exchange carrier whose service area is adjacent to the service area of Wyandotte in Oklahoma.

Nevertheless, Applicants believe streamlined treatment is appropriate for this Application under the Commission's case-by-case approach. The reason companies with adjacent service territories do not qualify for presumptive streamlined treatment is that adjacency is thought to make it more likely that one service provider will compete in the service territory of the other. But the Commission has made clear that under certain circumstances mergers between "small and rural incumbent LECs" in adjacent service territories do not trigger these types of competitive concerns.[7] One of the most explicit articulations of this finding was provided when the Commission approved the transfer of control of a group of small and rural ILECs from Global Crossing Ltd. to Citizens

[7] *In re Joint Applications of Global Crossing Ltd., and Citizens Communications Company for Authority to Transfer Control of Corporations Holding Commission Licenses and Authorizations Pursuant to Sections 214 and 310(d) of the Communications Act and Parts 20, 22, 63, 78, 90 and 101 of the Commission's Rules,* 16 FCC Rcd 8507, 8510 (¶ 7) (2001), DA 01-961.

Communications Company.[8] In that decision, the Commission determined that the transfer of control did not threaten to reduce competition because (1) the service providers involved with adjacent service territories were small; (2) their adjacencies were limited; (3) other competitors already operated in their service regions (and presumably would continue to do so); (4) none of the service providers at issue had "a mobile telephone system that could be used to springboard into the other's market;" and (5) there was "no evidence of intent on the part of either party . . . to enter the market of the other party."

This Application meets these criteria squarely. First, both Wyandotte and Seneca are small. Wyandotte serves fewer than 500 access lines in its service region, and Seneca for its part serves a total of 2,278 access lines in its service region. Second, the adjacencies in their service territories are limited: less than 30 percent of Wyandotte's service territory is adjacent to that of Seneca, and less than 25 percent of Seneca's service territory is adjacent to that of Wyandotte. Indeed, a far greater percentage of Wyandotte's and Seneca's service territories are adjacent to a much larger ILEC, AT&T. Third, other competitors such as AT&T and Verizon already operate in both Wyandotte's and Seneca's service regions (both provide 4G wireless service) and presumably would continue to do so long after the Transaction closes. Fourth, neither Wyandotte nor Seneca operates a Commercial Mobile Radio Service ("CMRS") or a similar service that "could be used to springboard into the other's market." Although U.S. Cellular is an affiliate of Wyandotte's current ultimate corporate parent (TDS Telecom), the services of U.S. Cellular currently do not extend into Seneca's service region and the company has no plans to extend them into that region. The attenuated relationship between Wyandotte, on the one hand, and U.S.

[8] *Id.*

Cellular, on the other hand, therefore has had no practical effect on the ability of Wyandotte or its affiliates to enter Seneca's region. Fifth and finally, neither Wyandotte nor Seneca has ever had plans or designs to compete in the other's service region. These carriers have been operating in remote exchanges across adjacent service territories for over 50 years.[9] During this period, neither Applicant has made plans to compete in the other's service territory, and for good reason: the number of access lines either entity could capture would be small and unlikely to recoup the cost of extending network facilities into the other's region.

Finally, it is worth noting that but for the limited adjacency between the Wyandotte and Seneca service regions, which clearly has no competitive significance, this Application would qualify for presumptive streamlined treatment in all respects, as the Transaction will result in Transferee having a market share in the interstate, interexchange market of less than 10 percent; the Transferee does not and will not provide competitive telephone exchange services or competitive exchange access services; and Applicants are incumbent independent local exchange carriers that have, in combination, fewer than two percent of the nation's subscriber lines installed in the aggregate nationwide. Under these unique circumstances, the limited adjacency between the Wyandotte and Seneca service territories should not raise any competitive concerns and this Application should be accorded streamlined treatment on a case-by-case basis. This Application presents no "novel questions of fact, law, or policy which cannot be resolved under outstanding precedents and guidelines,"[10] and once the Transaction closes the Licensees will continue to provide service at the same rates, terms and conditions as are in effect today. No customer will

[9] TDS Telecom acquired Wyandotte in 1992.

[10] *Streamlining Order* at ¶ 28.

lose service or be adversely affected as a result of the proposed Transaction. In short, this Application is appropriate for streamlined treatment.

(9) Identification of all other Commission applications related to the same transaction.

There are no other Commission applications related to this Transaction.

(10) Statement whether the applicants are requesting special consideration because either party to the transaction is facing imminent business failure.

No party requests any special consideration as no party to the Transaction is facing imminent business failure.

(11) Identification of any separately filed waiver requests being sought in conjunction with the transaction.

None. In addition, please note that there is no international 214 application required for this Transaction.

(12) A statement showing how grant of the application will serve the public interest, convenience, and necessity, including any additional information that may be necessary to show the effect of the proposed transaction on competition in domestic markets.

The Transaction will enhance the ability of the Licensees to serve their subscribers in the local exchange market. Ark-O's owners have long running experience in serving rural areas, and the Transaction will enhance their ability to provide advanced services to Licensee's customers. This market is subject to significant competitive forces, including participation by competitive carriers and multi-channel video programming distributors. Upon consummation of the proposed Transaction, Licensees will continue to provide service at the same rates, terms and conditions as are in effect today. There will be no reduction, impairment, or discontinuance of service to any customer as a result of the proposed Transaction. The transition of service will be seamless with no interruption or

disruption of service. The proposed transaction also poses no countervailing harms. The Transaction will not reduce the number of entities that compete in the market for the provision of telecommunications services. Indeed, the stable financial environment resulting from the proposed Transaction will help to ensure a continued high level of service to existing and new customers.

* * * *

For all of the foregoing reasons, Applicants respectfully request that the Commission grant all authority necessary for consummation of the Transaction described herein. Please contact the undersigned with any inquiries concerning this Application. Payment in the amount of $1,130.00, along with FCC Form 159, was transmitted to the Federal Communications Commission, c/o U.S. Bank- Government Lockbox #979091, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101 (Attn: FCC Government Lockbox) for delivery this date.

Respectfully submitted,

TDS Telecommunications Corp.

Yaron Dori
Covington & Burling LLP
1201 Pennsylvania Avenue NW
Washington, DC 20004-2401
Tel: (202) 662-6000
Fax: (202) 662-6291
E-mail: ydori@cov.com

Its Attorneys

ARK-O Holding Company

Kendall Parrish
Ron Comingdeer
Ron Comingdeer & Associates
6011 N. Robinson Ave.
Oklahoma City, OK 73118
Tel: (405) 848-5534
Fax: (405) 843-5688
E-mail: kparrish@comingdeerlaw.com
hunter@comingdeerlaw.com

Its Attorneys

Dated: September 10, 2015

Attachments

DECLARATION OF KEVIN HESS

I, Kevin Hess, Executive Vice President of TDS Telecommunications Corp., d/b/a TDS Telecom, do hereby declare under penalty of perjury that I have read the foregoing "APPLICATION FOR CONSENT FOR TRANSFER OF CONTROL," and the information contained therein is true and correct to the best of my knowledge, information, and belief.

Sept. 9, 2015
Date

Kevin Hess

DECLARATION OF BRIAN J. MITCHELL

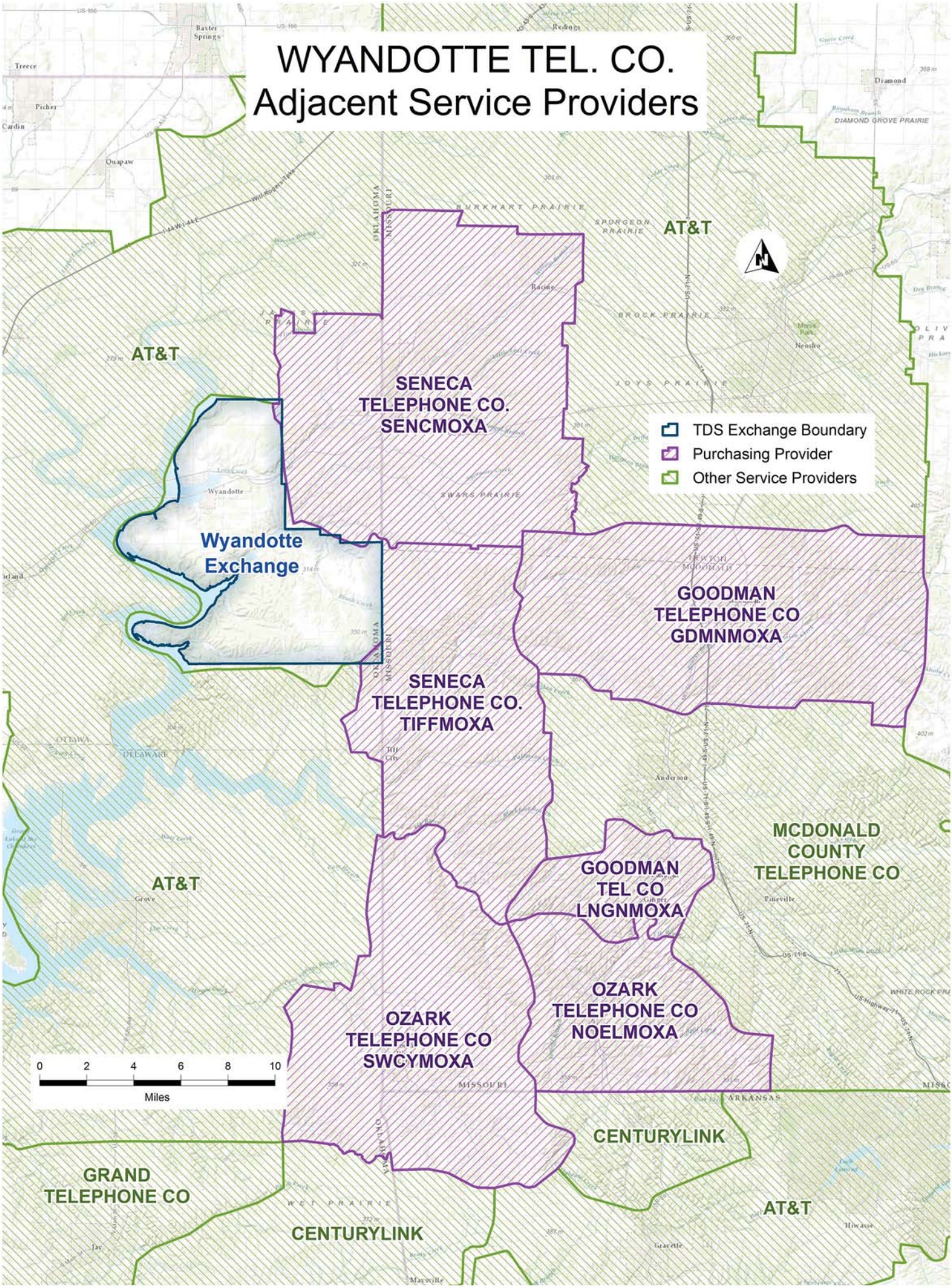
I, Brian J. Mitchell, President for Ark-O Holding Company, do hereby declare under penalty of perjury that I have read the foregoing "APPLICATION FOR CONSENT FOR TRANSFER OF CONTROL," and the information contained therein is true and correct to the best of my knowledge, information, and belief.

9-10-15
Date

Brian J. Mitchell
Brian J. Mitchell

ATTACHMENT A

Service Territory Map


WYANDOTTE TEL. CO.
Adjacent Service Providers
TDS Exchange Boundary
Purchasing Provider
Other Service Providers
Wyandotte Exchange
SENECA TELEPHONE CO. SENCMOXA
SENECA TELEPHONE CO. TIFFMOXA
GOODMAN TELEPHONE CO GDMNMOXA
GOODMAN TEL CO LNGNMOXA
OZARK TELEPHONE CO SWCYMOXA
OZARK TELEPHONE CO NOELMOXA
AT&T
AT&T
AT&T
AT&T
MCDONALD COUNTY TELEPHONE CO
CENTURYLINK
CENTURYLINK
GRAND TELEPHONE CO
0 2 4 6 8 10
Miles