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DA 05-1287

Released: May 4, 2005

DOMESTIC SECTION 214 APPLICATION FILED FOR TRANSFER OF CONTROL OF MIDWEST INFORMATION SYSTEMS, INC. TO ARVIG ENTERPRISES, INC.

NON-STREAMLINED PLEADING CYCLE ESTABLISHED

WC Docket No. 05-172

Comments Due: May 18, 2005

Reply Comments Due: May 25, 2005

On April 8, 2005, Midwest Information Systems, Inc. ("MIS"), its wholly owned subsidiaries Midwest Telephone Co. and The Peoples Telephone Co. of Bigfork ("Peoples"), Midwest Telephone Co.'s wholly owned subsidiary Osakis Telephone Company ("Osakis"), and MIS' parent Varistar Corporation (collectively "Midwest"), and Arvig Enterprises, Inc. ("Arvig" or "Transferee") (collectively the "Applicants") filed an application pursuant to sections 63.03 and 63.04 of the Commission's rules¹ requesting approval to transfer control of Midwest Telephone Co., Osakis and Peoples to Arvig.²

Applicants seek streamlined treatment for this transaction on a case-by-case basis, pursuant to section 63.04(a)(8), because the transaction is not entitled to presumptive streamlined treatment under section 63.03(b)(2)(iii) of the Commission's rules. At the completion of the proposed transaction, Arvig and its affiliates will have a less than 10% share of the interstate, interexchange market; and Arvig and its affiliates are incumbent independent local exchange carriers (LECs) that will have fewer than 2% of the nation's subscriber lines installed in the aggregate nationwide, and no overlapping service areas. However, an exchange of an Arvig affiliate lies adjacent to two exchanges of Midwest Telephone Co. Because the Applicants have adjacent service areas, this application is not subject to streamlined treatment.³

¹ 47 C.F.R. §§ 63.03, 63.04; see 47 U.S.C. § 214.

² Applicants are also filing applications for transfer of control of wireless licenses related to this transaction. Any action on this domestic 214 application is without prejudice to Commission action on other related pending applications.

³ See 47 C.F.R. § 63.03(b)(2)(iii); *Implementation of Further Streamlining Measures for Domestic Section 214 Authorizations*, 17 FCC Rcd 5517, 5534 (2002), para. 32.

MIS, Midwest Telephone Co., Osakis, Peoples, and Varistar Corporation are all Minnesota corporations. The Transferee, Arvig, is also a Minnesota corporation. Midwest Telephone Co., Osakis and Peoples are independent incumbent local exchange carriers providing local exchange, exchange access and long distance service to subscribers in the following local exchanges in Minnesota: Eagle Bend, Miltona, Parkers Prairie and Urbank (Midwest Telephone Co.); Bigfork and Marcell (Peoples); Osakis (Osakis). Midwest Telephone Co. and Peoples are wholly owned by MIS. Midwest Telephone Co. owns 100% of Osakis. Varistar Corporation owns 100% of MIS and Varistar is, in turn, wholly owned by Otter Tail Corporation. No entity owns ten percent or more of Otter Tail Corporation. The following entities own ten percent or more of Arvig: Allen R. Arvig and Donna M. Ward own 35.75% and 21.09% of the common stock of Arvig Enterprises, Inc. In addition, Marvin S. Ward is the successor trustee of the Eleanor M. Arvig Revocable Trust and holds 99.87% of the preferred stock of Arvig Enterprises, Inc., which carries no voting rights.

The Applicants executed a Stock Purchase Agreement for the transfer of all outstanding capital stock of MIS to Arvig. As a result, Arvig will acquire three incumbent local exchange carriers, Midwest Telephone Co., Osakis, and Peoples.

The Applicants state that the proposed transfer of control is in the public interest because service will continue under the same terms and conditions subscribers currently enjoy. The Applicants assert that Arvig possesses the required financial, managerial and technical resources to provide telecommunications services through the acquired entities. The Applicants state that Arvig's well-established record of providing the customers of its currently held operating subsidiaries with high quality telecommunications services include: East Otter Tail Telephone Company, Twin Valley-Ulen Telephone Company, Callaway Telephone Company, and Tekstar Communications, Inc. According to the Applicants, each of these companies provides telecommunications services in Minnesota, in service areas that do not overlap with the local exchanges served by Midwest Telephone Co., Osakis or Peoples.

GENERAL INFORMATION

The transfer of control identified herein has been found, upon initial review, to be acceptable for filing as a non-streamlined application. The Commission reserves the right to return any transfer of control application if, upon further examination, it is determined to be defective and not in conformance with the Commission's rules and policies. Interested parties may file **comments on or before May 18, 2005** and **reply comments on or before May 25, 2005.**⁴ Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. *See Electronic Filing of Documents in Rulemaking Proceedings*, 63 Fed. Reg. 24121 (1998).

⁴ See 47 C.F.R. § 63.03(a).

Comments filed through the ECFS can be sent as an electronic file via the Internet to <<http://www.fcc.gov/e-file/ecfs.html>>. Generally, only one copy of an electronic submission must be filed. If multiple docket or rulemaking numbers appear in the caption of this proceeding, however, commenters must transmit one electronic copy of the comments to each docket or rulemaking number referenced in the caption. In completing the transmittal screen, commenters should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send e-mail to ecfs@fcc.gov, and should include the following words in the subject line "get form <your e-mail address>." A sample form and directions will be sent in reply.

Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, commenters must submit two additional copies for each additional docket or rulemaking number. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). The Commission's contractor, Natek, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, N.E., Suite 110, Washington, D.C. 20002. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, SW, Washington, D.C. 20554. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

In addition, one copy of each pleading must be sent to each of the following:

- (1) The Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, S.W., Room CY-B402, Washington, DC 20554, www.bcpiweb.com; phone: (202) 488-5300 fax: (202) 488-5563;
- (2) Tracey Wilson-Parker, Competition Policy Division, Wireline Competition Bureau, 445 12th Street, S.W., Room 5-C212, Washington, D.C. 20554; e-mail: tracey.wilson-parker@fcc.gov;
- (3) Kimberly Jackson, Competition Policy Division, Wireline Competition Bureau, 445 12th Street, S.W., Room 5-C142, Washington, D.C. 20554; e-mail: kimberly.jackson@fcc.gov;
- (4) William Dever, Competition Policy Division, Wireline Competition Bureau, 445 12th Street, S.W., Room 5-C266, Washington, D.C. 20554; e-mail: william.dever@fcc.gov;
- (5) Susan O'Connell, Policy Division, International Bureau, 445 12th Street, S.W., Room 7-B544, Washington, D.C. 20554; email: susan.o'connell@fcc.gov; and

(6) James Bird, Office of General Counsel, 445 12th Street, S.W., Room 8-C824, Washington, D.C. 20554; e-mail: james.bird@fcc.gov.

Filings and comments are also available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW, Room CY-A257, Washington, DC, 20554. They may also be purchased from the Commission's duplicating contractor, the Commission's duplicating contractor, Best Copy and Printing, Inc., Portals II, 445 12th Street, SW, Room CY-B402, Washington, DC 20554, telephone: (202) 488-5300, fax: (202) 488-5563, or via e-mail www.bcpiweb.com.

For further information, please contact Tracey Wilson, at (202) 418-1394, or Kimberly Jackson at (202) 418-7393.

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