



# PUBLIC NOTICE

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445 12<sup>th</sup> Street, S.W.  
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**DA 05-512**  
**February 28, 2005**

## **COMMENTS INVITED ON APPLICATION OF MERCEDNET, INC. TO DISCONTINUE DOMESTIC TELECOMMUNICATIONS SERVICES**

**WC Docket No. 05-64**  
**Comp. Pol. File No. 699**

**Comments Due: March 14, 2005**

### **Section 214 Application** **Applicant: MercedNet, Inc.**

On **January 13, 2005, MercedNet, Inc.** (MercedNet or Applicant), located at **450 West 18th Street, Merced, California 95340**, filed an application with the Federal Communications Commission (FCC or Commission) requesting authority, under section 214 of the Communications Act of 1934, as amended, 47 U.S.C. § 214, and section 63.71 of the Commission's rules, 47 C.F.R. § 63.71, to discontinue the provision of local exchange telephone services (including exchange access service) and domestic interstate long distance toll services to its customers in the Merced, California Basic Trading Area (BTA).<sup>1</sup> By an amendment filed February 16, 2005, MercedNet corrected certain deficiencies in its initial application. Accordingly, the application is deemed complete and officially filed with the Commission on February 16, 2005.

MercedNet states that it provides local exchange telephone service to approximately sixty-two (62) business customers, including originating and/or terminating access to approximately fourteen (14) interexchange carriers. Specifically, MercedNet indicates that it provides local exchange service and exchange access service over, or in conjunction with, Local Multipoint Distribution Service (LMDS) through Station WPOK277 in the Merced, California BTA, which consists of Merced County and Mariposa County, California. In addition, MercedNet states that it resells the domestic long distance toll service of AT&T Corporation to approximately thirty-eight (38) of its local exchange service customers. MercedNet indicates in its application and notice to customers that it plans to discontinue its provision of local exchange

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<sup>1</sup> This application was subsequently received in the Competition Policy Division of the Wireline Competition Bureau on February 9, 2005.

telephone services, including exchange access service, and resold domestic interstate long distance toll services on March 5, 2005, or as soon thereafter as the necessary state and federal governmental approvals can be obtained. To the extent that section 101.306(b) of the Commission's rules requires termination of the Station WPOK277 license in the event that permanent discontinuance is authorized by the Commission, MercedNet requests that the license for its LMDS Station WPOK277 not be terminated prior to March 5, 2005. MercedNet indicates that all affected customers were notified in writing of the planned discontinuance by letters dated January 5 and January 10, 2005. MercedNet further states that it is non-dominant with respect to the services it seeks to discontinue.

Section 101.305(b) of the Commission's Rules requires MercedNet, as the licensee of LMDS Station WPOK277, to obtain prior authorization from the Commission, pursuant to the procedures set-forth in Part 63 of the Commission's Rules, because it is subject to Title II of the Communications Act of 1934, as amended, and seeks to voluntarily discontinue service to its customers in the Merced, California BTA. In accordance with section 63.71(c) of the Commission's rules, MercedNet's application will be deemed to be granted automatically on the thirty-first (31st) day after the release date of this public notice, unless the Commission notifies MercedNet that the grant will not be automatically effective. Accordingly, pursuant to section 63.71(c), absent further Commission action, MercedNet may not terminate service until March 31, 2005. The Commission will normally authorize proposed discontinuances of service unless it is shown that customers or other end users would be unable to receive service or a reasonable substitute from another carrier, or that the public convenience and necessity would otherwise be adversely affected. Section 1.955(a)(3) of the Commission's Rules provides that "[a]uthorizations automatically terminate, without specific Commission action, if service is permanently discontinued." Therefore, if permanent discontinuance of service is authorized by the Commission, MercedNet's license to operate LMDS Station WPOK277 will also be automatically terminated as of the effective date. Section 1.955(a)(3) further requires MercedNet to electronically submit FCC Form 601 or 605 to request cancellation of the LMDS Station WPOK277. *See also* 47 C.F.R. § 101.65(b).

This proceeding is considered a "permit but disclose" proceeding for purposes of the Commission's ex parte rules, 47 C.F.R. §§ 1.1200-1.1216. Comments objecting to this application must be filed with the Commission on or before **March 14, 2005**. Such comments should refer to **WC Docket No. 05-64 and Comp. Pol. File No. 699**. Comments should include specific information about the impact of this proposed discontinuance on the commenter, including any inability to acquire reasonable substitute service. 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). 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. 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](mailto: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 send an original and four (4) copies of the comments to the Office of the Secretary, Federal Communications Commission, 445 12th Street, S.W., Room TW-A325, Washington, D.C. 20554. Two (2) copies of the comments should also be sent to the Competition Policy Division, Wireline Competition Bureau, Federal Communications Commission, 445 12th Street, S.W., Room 5-C327, Washington, D.C. 20554, Attention: Carmell Weathers. In addition, comments should be served upon the Applicant. Commenters are also requested to fax their comments to the FCC at (202) 418-2345, Attention: Carmell Weathers.

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, S.W., Washington, D.C. 20554. All filings must be addressed to the Commission’s Secretary, Office of the Secretary, Federal Communications Commission.

The application will be available for review and copying during regular business hours at the FCC Reference Center, Portals II, 445 12th Street, S.W., Room CY-A257, Washington, D.C. 20554, (202) 418-0270. A copy of the application may also be purchased from the Commission’s copy contractor, Best Copy and Printing, Inc., 445 12th Street, S.W., Room CY-B402, Washington, D.C. 20554, telephone (202) 488-5300, facsimile (202) 488-5563, or via e-mail at [FCC@BCPIWEB.COM](mailto:FCC@BCPIWEB.COM).

For further information, contact Carmell Weathers, (202) 418-2325 (voice), [carmell.weathers@fcc.gov](mailto:carmell.weathers@fcc.gov), or Denise Coca, (202) 418-0574 (voice), [denise.coca@fcc.gov](mailto:denise.coca@fcc.gov) of the Competition Policy Division, Wireline Competition Bureau. The TTY number is (202) 418-0484. For information or questions specific to LMDS, please contact Brian Michael Wondrack, Esq., (202) 418-0653 (voice), [brian.wondrack@fcc.gov](mailto:brian.wondrack@fcc.gov), TTY (202) 418-7233 of the Broadband Division, Wireless Telecommunications Bureau. For further information on procedures regarding section 214 please visit [http://www.fcc.gov/wcb/cpd/other\\_adjud](http://www.fcc.gov/wcb/cpd/other_adjud).

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