

COPY

RECEIVED
FEB 27 2001

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554
Telecom Division
International Bureau

FEB 21 2001

FCC/MILLER

In the Matter of
ipulsys USA Inc.
Global Blanket Application Pursuant to
Section 214 of the Communications Act of 1934,
as Amended, for Authority to Operate as an
International Facilities-Based and Resale Carrier)
)
)
)
)
)
)
)
)
)
)
)

Streamlined

ITC-214-20010221-00098

IPULSYS USA INC.

File No. ITC-214-2001

GLOBAL BLANKET APPLICATION FOR SECTION 214 AUTHORITY

ipulsys USA Inc. (“Applicant”) hereby requests authority, pursuant to section 214 of the
Communications Act of 1934, as amended, 47 U.S.C. § 214, and section 63.18 of the
Commission’s rules, to provide international facilities-based and resale services between the
United States and all international points except countries listed on the Commission’s exclusion
list.¹

As discussed below, Applicant is affiliated with foreign carriers in only The Netherlands,
France, and the United Kingdom, and each of these carriers has far less than a 50% market share
in the international transport and local access markets in its respective country. Accordingly,
Applicant is entitled to a presumption of non-dominance on all routes for which it is seeking
authority, pursuant to sections 63.10(a)(1) and (a)(3) of the Commission’s rules. See 47 U.S.C. §
63.10(a)(1), (a)(3).

¹ Applicant also agrees not to use facilities listed on the Commission’s exclusion list.

Applicant is affiliated with ipulsys B. V., which is a foreign carrier in The Netherlands under the Commission's definitions of "affiliated" and "foreign carrier." *See* 47 C.F.R. § 63.09(d), (e). However, ipulsys B. V. has far less than a 50% market share in the international transport and local access markets in The Netherlands. Accordingly, Applicant should be presumptively classified as non-dominant for the provision of international communications services on the U.S.-Netherlands route.

Applicant is affiliated with ipulsys France SAS, which is a foreign carrier in France under the Commission's definitions of "affiliated" and "foreign carrier." *See* 47 C.F.R. §§ 63.09(d), (e). However, ipulsys France SAS has far less than a 50% market share in the international transport and local access markets in France. Accordingly, Applicant should be presumptively classified as non-dominant for the provision of international communications services on the U.S.-France route.

Applicant is affiliated with ipulsys UK Ltd., which is a foreign carrier in the United Kingdom under the Commission's definitions of "affiliated" and "foreign carrier." *See* 47 C.F.R. §§ 63.09(d), (e). However, ipulsys UK Ltd. has far less than a 50% market share in the international transport and local access markets in the United Kingdom. Accordingly, Applicant should be presumptively classified as non-dominant for the provision of international communications services on the U.S.-United Kingdom route.

Moreover, because The Netherlands, France, and the United Kingdom are all Members of the World Trade Organization ("WTO"), and because Applicant is entitled to a presumption of non-dominant treatment on all international routes, Applicant requests streamlined processing of this section 214 application pursuant to section 63.12(a) and (c)(1)(ii) of the Commission's rules. *See* 47 U.S.C. § 63.12(a), (c)(1)(ii).

DESCRIPTION OF APPLICANT

Applicant is a corporation organized under the laws of the State of Delaware. Applicant is 100% directly owned by ipulsys B. V., which, in turn, is 100% directly owned by Ipulsys Holdings B. V.

ipulsys B. V. is licensed as a telecommunications carrier in The Netherlands and qualifies as a “foreign carrier” as that term is defined in the Commission’s rules. *See* 47 U.S.C.

§ 63.09(d). ipulsys B. V. is a private company with limited liability under the laws of The Netherlands. ipulsys B. V. has ownership interests in two foreign carriers:

- ipulsys France SAS is licensed as a telecommunications carrier in France. ipulsys B. V. directly owns a 100% interest in ipulsys UK Ltd.
- ipulsys UK Ltd. is licensed as a telecommunications carrier in the United Kingdom. ipulsys B. V. indirectly owns a 100% interest in ipulsys UK Ltd.

Applicant is therefore affiliated with three foreign carriers: ipulsys B. V., ipulsys France SAS and ipulsys UK Ltd.² Each of these foreign carriers has far less than a 50% market share in the international transport and local access markets in its respective country. Accordingly,

Applicant should be presumptively classified as non-dominant on the U.S.-Netherlands, U.S.-France, and U.S.-United Kingdom routes, as well as on all other international routes.

² Prior to February 6, 2001, these three companies were known as Mannesmann ipulsys B. V., Mannesmann ipulsys France SAS, and Mannesmann ipulsys UK Ltd., respectively. The names of all of the subsidiaries of Ipulsys Holdings B. V., including these three companies, were legally changed on February 6, 2001 to remove the word “Mannesmann.” These name changes reflect the independence of the ipulsys companies from Mannesmann AG following the November 14, 2000 divestiture of ipulsys B. V. and its subsidiaries. *See infra* p.4.

Applicant is not affiliated with Mannesmann AG, Vodafone AirTouch PLC, or any affiliates of those companies. Prior to November 14, 2000, Mannesmann ipulsys B.V. (which changed its name to ipulsys B.V. on February 6, 2001) was a wholly-owned subsidiary of Mannesmann Investment B.V., which, in turn, was a wholly-owned subsidiary of Mannesmann AG. On November 14, 2000, Mannesmann Investment B.V. transferred its entire ownership interest in Mannesmann ipulsys B.V. to Ipulsys Holdings B.V. Ipulsys Holdings B.V. is not affiliated with Mannesmann AG, Vodafone AirTouch PLC, or any affiliates of those companies. Consequently, since November 14, 2000, Mannesmann ipulsys B.V. (now ipulsys B.V.) and its subsidiaries have operated independently of Mannesmann AG, Vodafone AirTouch PLC, and their affiliates.

On February 6, 2001, the names of all of the subsidiaries of Ipulsys Holdings B.V. were legally changed to remove the word "Mannesmann." These name changes reflect the independence of the ipulsys companies from Mannesmann AG following the November 14, 2000 divestiture.

PUBLIC INTEREST

Grant of this application will serve the public interest, convenience and necessity by enabling Applicant to enter the international services market and thereby benefit consumers by increasing competition, lowering prices, and increasing the service options available to the public. Consequently, the public interest will be served by grant of this application.

SECTION 63.18 INFORMATION

In support of this application, Applicant submits the following information in accordance with section 63.18 of the Commission's Rules:

- (a) The name, address, and telephone number of Applicant are as follows:

ipulsys USA Inc.
111 8th Avenue, Suite 307
New York, NY 10017
(212) 352-1197
- (b) Applicant is organized under the laws of the State of Delaware.
- (c) Correspondence concerning this application should be addressed to:

Carl R. Frank, Esq.
Wiley, Rein & Fielding
1776 K Street, N.W.
Washington, D.C. 20006
(202) 719-7269
- (d) Applicant has not received any prior Section 214 authorizations.
- (e)(1), (e)(2) & (f) Pursuant to sections 63.18(e)(1), 63.18(e)(2), and 63.18(f) of the Commission's rules, Applicant requests authorization to operate as a global facilities-based and global resale carrier between the United States and all international destinations, except countries listed on the Commission's exclusion list. Applicant certifies that it will comply with the terms and conditions contained in sections 63.21, 63.22, and 63.23 of the Commission's rules.
- (g) Not applicable.
- (h) The following persons or entities directly own a ten percent or greater interest in the equity of Applicant:

ipulsys B.V.
Bordewijklaan 18
2591 XR The Hague
The Netherlands
Citizenship: The Netherlands
Principal Business: Telecommunications
Ownership Interest: 100% of Applicant

The following persons or entities indirectly own a ten percent or greater interest in the equity of Applicant:

Ipulsys Holdings B.V.
Frederik Roeskestraat 123
1076 EE Amsterdam
The Netherlands
Citizenship: The Netherlands
Principal Business: Holding company
Ownership Interest: 100% of Applicant (through a 100% ownership interest in ipulsys B.V.)

Warburg Pincus International Partners, L.P.
Cedar House
41 Cedar Avenue
Hamilton HM12
Bermuda
Citizenship: Bermuda
Principal Business: Investment
Ownership Interest: 50% of Applicant (through a 50% ownership interest in Ipulsys Holdings B.V.)

Warburg, Pincus Equity Partners, L.P.
466 Lexington Avenue
New York, NY 10017-3147
Citizenship: United States
Principal Business: Investment
Ownership Interest: 50% of Applicant (through a 50% ownership interest in Ipulsys Holdings B.V.)

Mr. Peter Glasbeek is a director of Applicant. Mr. Glasbeek is also a director of ipulsys B. V., ipulsys France SAS, and ipulsys UK Ltd., the three foreign carriers affiliated with Applicant. Mr. Jan Valk is a director of Applicant and ipulsys UK Ltd.

(i) Applicant certifies that it is not a foreign carrier. Applicant further certifies that it is affiliated, as that term is defined in section 63.09(e) of the Commission's rules, with the following foreign carriers:

(1) ipulsys B.V.: ipulsys B.V. directly owns a 100% interest in Applicant. ipulsys B.V. is licensed as a telecommunications carrier in The Netherlands, a WTO member country. ipulsys B.V. has far less than a 50% market share in the international transport and local access markets in The Netherlands.

(2) ipulsys France SAS: ipulsys France SAS is a wholly-owned subsidiary of ipulsys B.V. ipulsys France SAS is licensed as a telecommunications carrier in France. a WTO member country. ipulsys France SAS has far less than a 50% market share in the international transport and local access markets in France.

(3) ipulsys UK Ltd.: ipulsys B.V. indirectly owns a 100% interest in ipulsys UK Ltd. ipulsys UK Ltd. is licensed as a telecommunications carrier in the United Kingdom, a WTO member country. ipulsys UK Ltd. has far less than a 50% market share in the international transport and local access markets in the United Kingdom.

(j) Pursuant to section 63.18(j) of the Commission's rules, Applicant certifies that it seeks to provide international telecommunications service to two destination countries where:

(1) Applicant is a foreign carrier; (2) Applicant controls a foreign carrier; (3) any entity that owns more than 25% of Applicant, or that controls Applicant, controls a foreign carrier in that country;

or (4) two or more foreign carriers (or parties that control foreign carriers) own, in the aggregate, more than 25% of Applicant and are parties to, or beneficiaries of, a contractual relation (e.g., a joint venture or market alliance) affecting the provision or marketing of international basic telecommunications services in the United States. These foreign carriers and destination countries are:

- (1) ipulsys France SAS (France). ipulsys B. V., which directly owns a 100% interest in Applicant, directly owns a 100% interest in ipulsys France SAS. ipulsys France SAS is licensed as a telecommunications carrier in France.
- (2) ipulsys UK Ltd. (United Kingdom). ipulsys B. V., which directly owns a 100% interest in Applicant, indirectly owns a 100% interest in ipulsys UK Ltd. ipulsys UK Ltd. is licensed as a telecommunications carrier in the United Kingdom.

In addition, as discussed above, Applicant is affiliated with ipulsys B. V., which is licensed as a telecommunications carrier in The Netherlands.

(k) Pursuant to section 63.18(k) of the Commission's rules, Applicant provides the following information with regard to the three destination countries listed in response to paragraph (j) above:

- (1) The Netherlands is a Member of the WTO.
- (2) France is a Member of the WTO.
- (3) The United Kingdom is a Member of the WTO.
- (l) & (m) Applicant's affiliated foreign carriers are relatively recent entrants in their

markets. Each has far less than 50% market share in the international transport and local access markets the relevant foreign destination markets. Accordingly, pursuant to section 63.10(a)(3) of the Commission's rules, Applicant is entitled to non-dominant status on the U.S.-Netherlands, U.S.-France, and U.S.-United Kingdom routes.

(n) Applicant certifies that it has not agreed to accept special concessions, as defined in section 63.14(b) of the Commission's rules, directly or indirectly from any foreign carrier with respect to any U.S. international route where the foreign carrier possesses market power on the foreign end of the route and will not enter into such agreements in the future, except as permitted by section 63.14.

(o) Applicant certifies pursuant to sections 1.2001 through 1.2003 of the Commission's rules, that no party to this application is subject to a denial of Federal benefits pursuant to section 5301 of the Anti-Drug Abuse Act of 1988, 21 U.S.C. § 853a.


(p) This application qualifies for streamlined processing under section 63.12(a) and 63.12(c)(1)(ii) of the Commission's Rules. As discussed above, Applicant is affiliated with a foreign carrier in each of three countries (The Netherlands, France and the United Kingdom), but is entitled to a presumption of non-dominant treatment for the U.S.-Netherlands, U.S.-France and U.S.-United Kingdom routes under section 63.10(a)(3) of the Commission's rules. Accordingly, pursuant to section 63.12(a) and (c)(ii), Applicant is entitled to streamlined processing of this application.

CONCLUSION

For the foregoing reasons, Applicant respectfully requests that the Commission grant it section 214 authorization to provide international facilities-based and resale services between the United States and all international points. Further, Applicant respectfully requests streamlined processing of this section 214 authorization pursuant to section 63.12 of the Commission's rules.

Respectfully submitted,

IPULSYS USA INC.



BR
Peter A. Glasbeek

Director, ipulsys USA, Inc.

February 21 2001