

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE JOINT APPLICATION OF TELCOR, INC., )  
AND TELEMARKETING COMMUNICATIONS OF )  
EVANSVILLE, INC., FOR APPROVAL OF (1) THE ) CASE NO.  
MERGER OF TELEPHONE MANAGEMENT CORPORATION ) 10327  
AND LDDS COMMUNICATIONS, INC., AND (2) )  
LOANS TO REFINANCE EXISTING DEBT AND FUND )  
THE MERGER )

O R D E R

On July 25, 1988, Telcor, Inc. ("Telcor"), Telemarketing Communications of Evansville, Inc. ("TMCE"), and LDDS Communications, Inc. ("LDDS"), filed a joint application requesting that the Public Service Commission issue an Order approving the acquisition of Telcor and TMCE by LDDS, pursuant to a proposed merger of Telephone Management Corporation ("TMC") and LDDS. The parties also sought approval of the proposed borrowing by Telcor and TMCE that will be necessary to complete the merger.

DISCUSSION

Telcor is a Georgia corporation qualified to do business in the Commonwealth of Kentucky and is a wholly owned subsidiary of TMC, a Delaware corporation. Telcor has been granted the authority to provide interexchange long distance telephone service within the Commonwealth of Kentucky pursuant to an Order of the Public Service Commission entered February 2, 1988 in Case No. 10133, Application of Telcor, Inc. Telcor provides interexchange

services through the resale of wide area telecommunication service ("WATS").

TMCE is an Indiana corporation, qualified to do business in Kentucky, and is also a wholly owned subsidiary of TMC. TMCE has been granted authority to provide interexchange long distance telephone service within Kentucky, pursuant to an Order of the Commission entered March 1, 1988 in Case No. 10167, Application of Communication Investments, Ltd. TMCE also provides interexchange long distance telephone service through the resale of WATS.

LDDS is a Delaware corporation currently engaged in the provision of interexchange telephone service in the states of Missouri, Arkansas, Tennessee, and Mississippi. Financial information including balance sheets and income statements for LDDS have been filed as Exhibit C to the joint application.

TMC, the parent corporation of Telcor and TMCE, intends to merge with LDDS, subject to approval of the transaction by the Kentucky Commission and other public service commissions having authority over the proposed merger. LDDS shall be the surviving corporation. After the merger, Telcor and TMCE will continue to exist as wholly owned subsidiaries of LDDS. A copy of the proposed agreement of merger has been filed as Exhibit B to the joint application. Additionally, information pertaining to the borrowing necessary to fund the merger has been filed as part of the joint application. No petitions for intervention have been filed in this case.

### APPLICABLE LAW

The Kentucky Commission has authority to review the proposed merger, since the proposal will result in a change of control for Telcor and TMC, utilities operating under the jurisdiction of the Commission. KRS 278.020(4). See Public Service Commission v. Cities of Southgate, Kentucky, Ky., 268 S.W.2d 19 (1954). KRS 278.020(5) appears inapplicable to this case since Telcor and TMCE have represented that they derive the majority of their gross revenue from business in other jurisdictions. KRS 278.300 is literally applicable to the proposed financing of the merger, although the approval of the merger itself would involve recognition of the financing necessary to accomplish the merger.

### EFFECT OF THE PROPOSED TRANSFER

After the transfer TMCE and Telcor will continue to operate as interexchange telephone utilities in Kentucky. No change in services is contemplated in the local management of either utility. Each current shareholder of TMC will become a shareholder of LDDS, pursuant to the merger agreement. Financial records for the surviving corporation, LDDS, demonstrate that LDDS possesses the financial, managerial, and technical ability to operate successfully as an interexchange long distance carrier in Kentucky, inasmuch as LDDS has operated successfully in other states.

The Commission believes that the proposed merger will not affect the ability of Telcor and TMCE to provide adequate, efficient, and reliable service. The merger is, therefore, consistent with the public interest.

FINDINGS AND ORDERS

The Commission, after consideration of the evidence of record, and being advised is of the opinion and FINDS that:

1. The proposed acquisition of TMCE and Telcor by LDDS, through the merger with TMC, should be approved.

2. The borrowing by TMCE and Telcor is necessary to accomplish the merger, is for a lawful object within the corporate purposes of the utilities, is consistent with the proper performance of the utilities and will not impair any ability to perform such service.

IT IS THEREFORE ORDERED that:

1. The proposed acquisition of TMCE and Telcor pursuant to the proposed merger agreement between TMC and LDDS be and it hereby is approved.

2. The proposed financing described by the application be and it hereby is approved.

Nothing herein shall be construed as a finding of value or a warranty by the Commonwealth of Kentucky or any of its agencies of the financing approved herein.

Done at Frankfort, Kentucky, this 31st day of August, 1988.

PUBLIC SERVICE COMMISSION

Richard D. Henneghy  
Chairman

Robert M. Davis  
Vice Chairman

James N. Williams, Jr.  
Commissioner

ATTEST:

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Executive Director