

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE JOINT APPLICATION OF THE)
TRANSFER OF TELEPHONE AND)
DATA SYSTEMS, INC., AN IOWA) CASE NO. 98-036
CORPORATION, TO TELEPHONE AND)
DATA SYSTEMS, INC., A DELAWARE)
CORPORATION)

O R D E R

On March 13, 1998, Telephone Data Systems, Inc., an Iowa corporation ("TDS Iowa") and Telephone and Data Systems, Inc., a Delaware corporation ("TDS Delaware") (hereinafter collectively referred to as "Joint Applicants") filed, pursuant to KRS 278.020(4) and KRS 278.020(5), an application for Commission approval of the merger of TDS Iowa into TDS Delaware or, alternatively, for a declaration that no such approval by the Commission is required. In addition, Joint Applicants applied for a declaration by the Commission that no approval is required under KRS 278.300 for the creation and issuance by TDS Delaware of three new classes of stock to separately track the performances of Telephone Data Systems, Inc.'s cellular telephone, landline telephone and personal communications businesses. Joint Applicants also requested a declaration by the Commission that no approval is required pursuant to KRS 278.020(4) or KRS 278.020(5) for the "rollup" of the minority publicly held interests in United States Cellular Corporation ("USCC") and Aerial Communications, Inc. ("AERL") through the exchange of such publicly held shares for classes of Telephone and Data System, Inc.

common stock. Having considered the evidence of record and being otherwise sufficiently advised, the Commission finds that:

1. Pursuant to a deficiency letter from the Commission on March 6, 1998, the Joint Applicants filed with the Commission the Agreement and Plan of Merger entered into by the parties on March 6, 1998 and requested that the Commission grant deviation from the Commission's rules pursuant to 807 KAR 5:001, Section 14 and treat the Joint Application as having been properly filed no later than February 3, 1998, without the Agreement and Plan of Merger. The motion should be denied. The requested deviation is inappropriate because review of the terms of the transaction is integral to the processing of an application to transfer a utility.

2. TDS Iowa is a corporation organized under the laws of the State of Iowa. TDS Iowa owns subsidiaries that provide local exchange service within the jurisdiction of this Commission. These subsidiaries are Leslie County Telephone Company, Lewisport Telephone Company and Salem Telephone Company. In addition, TDS Iowa is a majority owner of USCC and AERL. USCC previously provided services in Kentucky. However, neither USCC nor AERL currently provides service in this Commonwealth.

3. TDS Delaware is a corporation organized under the laws of the State of Delaware and is a wholly owned subsidiary of TDS Iowa. TDS Delaware was organized for the sole purpose of effecting the reincorporation of TDS Iowa as a Delaware corporation.

4. At the effective time of the merger, the separate existence of TDS Iowa will cease and TDS Delaware, as the surviving corporation, will succeed to the business, properties, assets and liabilities of TDS Iowa and TDS Delaware.

5. The Joint Applicants state that this merger will have no impact on the quality of service currently provided to the subscribers of Leslie County Telephone Company, Lewisport Telephone Company and Salem Telephone Company; nor will it change the day-to-day management or operation of these jurisdictional utilities.

6. Joint Applicants state that TDS Delaware's tracking stock may be exchanged for the publicly held shares of USCC and AERL in connection with a "rollup" of the minority interests in USCC and AERL and that following the exchange, TDS Delaware will own 100 percent of the equity of USCC and AERL.

7. Joint Applicants assert that the issuance of the tracking stock of TDS Delaware in connection with the "rollup" will not result in a change in the ownership, control or management of the corporation or the jurisdictional utilities, and therefore request that the Commission declare that approval is not required pursuant to KRS 278.020(4) or KRS 278.020(5).

8. Pursuant to KRS 278.020(4), persons are required to obtain Commission approval prior to the acquisition or transfer of ownership or control of a utility. KRS 278.020(5) prohibits any entity from acquiring control of any utility under jurisdiction of the Commission without prior approval. KRS 278.020(5) does not apply when an acquirer is under common control with the jurisdictional utility. However, corporate restructuring does not constitute an exception to the requirements of KRS 278.020(4).

Consequently, the Commission finds that KRS 278.020(4) applies to the proposed transaction as described by Joint Applicants, and Commission approval is necessary.

9. Joint Applicants request that the Commission declare that approval is not required under KRS 278.300 for the creation and issuance by TDS Delaware of three new classes of stock that will separately track the performances of Telephone and Data System, Inc.'s cellular telephone, landline telephone and personal communications businesses. The Commission finds that, under KRS 278.300(10), this section does not apply where the issuance of securities or evidence of indebtedness is subject to the supervision or control of the federal government or any agency thereof. The creation of the tracking stock is subject to the approval of the Securities and Exchange Commission, a federal agency and, therefore, the Commission's approval is not necessary.

10. The Commission finds that the proposed transaction is consistent with the public interest and that it will take place in accordance with law and for a proper purpose. The Commission further finds that the Joint Application demonstrates that TDS Delaware, succeeding to the assets and business of TDS Iowa, will possess the financial, technical and managerial abilities to provide reasonable service in Kentucky.

IT IS THEREFORE ORDERED that:

1. The deviation requested by Joint Applicants is denied and the proper filing date of the Application is March 13, 1998.

2. That portion of the transaction described by the Joint Applicants and found herein to be within the jurisdiction of this Commission is hereby approved.

3. Joint Applicants shall notify the Commission within 10 days of the consummation of the proposed merger or, in the alternative, shall notify the Commission if the proposed merger does not occur.

Done at Frankfort, Kentucky, this 23rd day of April, 1998.

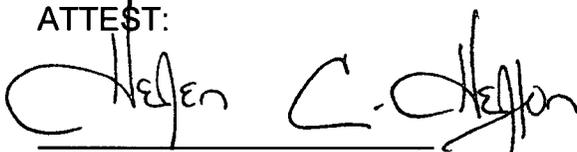
PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director