

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE JOINT APPLICATION OF LEWISPORT)	
TELEPHONE COMPANY AND TELEPHONE AND)	
DATA SYSTEMS, INC., FOR THE APPROVAL)	CASE NO.
OF THE ACQUISITION OF LEWISPORT)	89-306
TELEPHONE COMPANY BY TELEPHONE AND)	
DATA SYSTEMS, INC.)	

O R D E R

This matter arising upon joint petition of Telephone and Data Systems, Inc. and Lewisport Telephone Company (collectively "TDS") filed October 23, 1989 pursuant to 807 KAR 5:001, Section 7, for confidential protection of the purchase price paid by Telephone and Data Systems, Inc. for the acquisition of Lewisport Telephone Company on the grounds that disclosure of the information would cause TDS competitive injury, and it appearing to this Commission as follows:

Telephone and Data Systems, Inc. is seeking approval of its contract to acquire the Lewisport Telephone Company and by this petition TDS requests that the portion of the agreement containing the purchase price be protected from public disclosure as confidential and proprietary.

TDS is a holding company which maintains and operates telephone companies in 26 states. As such, it is actively engaged in a planned course of acquisition of telecommunications companies, both in Kentucky and in other states. Acquisition of

independent telecommunications companies is a highly competitive business with a multitude of entities engaging in that activity. TDS contends that disclosure of the purchase price of any given telecommunications company is information which is highly sensitive and can be used by its competitors seeking to acquire other independent telecommunications companies to TDS's competitive disadvantage. TDS states that the competitive harm from the disclosure of the purchase price will result from confusion and from false expectations created upon the part of owners of independent companies and upon competitors for such companies who were not privy to the negotiations and, therefore, are unaware of the evaluation process used to establish the purchase price. In other words, TDS finds potential competitive injury in the fact that disclosure of the purchase price paid for the acquisition of a telecommunications company may affect the market price of other telecommunications companies that go on sale in the future.

807 KAR 5:001, Section 7, protects information as confidential when it is established that disclosure is likely to cause substantial competitive harm to the party from whom the information was obtained. In order to satisfy this test, the party claiming confidentiality must demonstrate actual competition and a likelihood of substantial competitive injury if the information is disclosed. Competitive injury occurs when disclosure of the information gives competitors an unfair business advantage.

While disclosure of the purchase price paid by Telephone and Data Systems, Inc. to acquire Lewisport Telephone Company may influence the market value of other independent telecommunications companies which TDS and its competitors may want to purchase in the future, it does not affect the relative ability of TDS and each of its competitors to compete for the acquisition of such other companies. Therefore, no competitive harm has been established, and the petition for protection from disclosure should be denied.

This Commission being otherwise sufficiently advised,

IT IS ORDERED that:

1. The petition for confidential protection of the purchase price paid by Telephone and Data Systems, Inc. for the acquisition of Lewisport Telephone Company be and it hereby is denied.

2. The information sought to be protected from disclosure shall be held as confidential and proprietary for a period of five working days from the date of this Order, at the expiration of which time it shall be placed in the public record.

Done at Frankfort, Kentucky, this 9th day of November, 1989.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman

ATTEST:

Executive Director

Commissioner