

STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION

At a Session of the Public Service  
Commission held at its office  
in Jefferson City on the 12th  
day of April, 1994.

In the matter of the joint application of       )  
Tel-Central of Jefferson City, Inc. and       )  
LDDS of Missouri, Inc., d/b/a LDDS       )  
Communications to sell assets.       )  
CASE NO. TM-94-156

ORDER APPROVING SALE

On November 12, 1993, LDDS of Missouri, Inc. d/b/a LDDS Communications (LDDS) filed a joint application on behalf of LDDS and Tel-Central of Jefferson City, Inc. (Tel-Central) requesting permission for a sale of Tel-Central's assets to LDDS. LDDS and Tel-Central were certificated to provide intrastate interexchange telecommunication services within the state of Missouri on August 26, 1986, in Case No. TO-84-223. Both companies are Missouri corporations and are classified as competitive telecommunications companies.

The transaction described in the joint application would allow LDDS to acquire Tel-Central's customer base, accounts receivable aged less than 60 days, and dialing equipment. The application states that LDDS would notify customers and the Commission at least ten days before the effective date of the cancellation of Tel-Central's tariff and transfer to LDDS's tariff. The Application gives no effective date for the sale of assets. LDDS states that the transfer of customers would not adversely affect the provision of services to the public and the sale of assets would not be detrimental to the public interest.

The Staff of the Commission filed its memorandum on March 22, 1994, recommending approval of the sale of assets. Staff expressed concern with the untimeliness of the application which was filed approximately two months after the sale. The Telecommunications Department Staff discovered that the sale of assets actually took place in September of 1993. Tel-Central customers received a notice dated October 20, 1993, a copy of which is included with the application, advising them of the merger but giving no time frame for the transfer of customers. Section 392.300, RSMo Supp. 1993, requires telecommunications companies to obtain Commission approval before entering into arrangements for sale of assets or mergers. Transactions embarked upon without Commission approval are deemed void. Staff states that LDDS did not move to comply with this statute until Staff contacted the company's legal counsel about the sale. Staff requests that LDDS be placed on notice that future applications involving purchases should be filed on a timely basis if LDDS wishes to avoid incurring penalties. Staff has no objection to the transaction other than the untimely filing of the application.

Having reviewed LDDS's application and Staff's memorandum, the Commission is of the opinion that approval of the sale is not detrimental to the public interest and the authority requested should be granted. However, the Commission also finds that LDDS has failed to comply with Section 392.300, RSMo Supp. 1993; failure to comply with this section may result in the penalties set out in Section 392.360, RSMo Supp. 1993. The Commission finds that an investigation of LDDS by Staff would be appropriate to determine whether the company acted in good faith in proceeding with the purchase of Tel-Central's assets without Commission authorization, and whether the company has acted in violation of any other provision of Sections 392.190 to 392.530 or any order or decision,

direction or requirement of the Commission. Staff should either file a report with the results of its investigation or a complaint against LDDS.

The Commission will grant the consent and authority requested in the companies' application. The Commission believes that Tel-Central's tariff and certificate of service authority should be cancelled simultaneously with the approval of the sale of assets.

**IT IS THEREFORE ORDERED:**

1. That Tel-Central of Jefferson City, Inc. is authorized to sell the assets described in this Order to LDDS of Missouri, Inc. d/b/a LDDS Communications.

2. That Tel-Central of Jefferson City, Inc.'s tariff is cancelled as of the effective date of this Order.

3. That the certificate of service authority of Tel-Central of Jefferson City, Inc. is cancelled as of the effective date of this Order.

4. That the Staff of the Commission shall conduct an investigation to determine whether a complaint should be filed against LDDS of Missouri, Inc., d/b/a LDDS Communications for failure to comply with provisions of Chapters 386 or 392 RSMo, or Commission order or direction, and Staff shall either file a complaint or make a report to the Commission on its findings within sixty (60) days of the effective date of this order.

5. That this Order shall become effective on April 22, 1994.

BY THE COMMISSION

(S E A L)



David L. Rauch  
Executive Secretary

Mueller, Chm., McClure, Perkins,  
Kincheloe and Crumpton, CC., Concur.