

STATE OF MISSOURI
PUBLIC SERVICE COMMISSION

At a session of the Public Service Commission held at its office in Jefferson City on the 23rd day of January, 1990.

In the matter of the application of Com-Link 21 Inc.,)
LDDS of Kansas City, Inc., d/b/a LDDS Communications,)
and LDDS Communications, Inc., for permission and)
approval of borrowing, guaranty and granting of a)
security interest in collateral.)
)

Case No. TF-90-129

ORDER

On December 27, 1989, Com-Link 21 Inc., LDDS of Kansas City, Inc., d/b/a LDDS Communications, and LDDS Communications, Inc. (Applicants) filed an application for approval of borrowing, guaranty and granting of a security interest in collateral.

Com-Link 21 Inc. (Com-Link) is a Missouri corporation with its principal office and place of business located at 635 Maryville Centre Drive, Suite 220, St. Louis, Missouri 63141. Com-Link is a public utility and a certified reseller of telephone toll services on an intrastate and interstate basis, holding a certificate of public convenience and necessity in Case No. TO-84-223, effective August 26, 1986. The primary equipment facilities of Com-Link are located in the city of St. Louis, Missouri. Com-Link is a wholly-owned subsidiary of LDDS Communications, Inc.

LDDS of Kansas City, Inc., d/b/a LDDS Communications, (LDDS of Kansas City) is a Missouri corporation duly organized and existing under the laws of the state of Missouri with its principal office and place of business located at 6330 College Boulevard, Overland Park, Kansas 66211. LDDS of Kansas City is a public utility and a certified reseller of telephone toll services on an intrastate and interstate basis, providing service in Missouri and Kansas. It holds a certificate of public convenience and necessity from the Commission in Case No. TO-84-223, effective August 26, 1986. The primary equipment facilities of LDDS of Kansas City are located

in St. Louis and Kansas City, Missouri. LDDS of Kansas City is a wholly-owned subsidiary of LDDS Communications, Inc.

LDDS Communications, Inc. (LDDS) is a Tennessee corporation duly organized and existing under the laws of the state of Tennessee with its principal office, place of business and mailing address at 4780 I-55 North, Suite 200, Jackson, Mississippi 39211. LDDS, through its operating subsidiaries, is engaged in providing all types of services related to the communications industry, including long distance telephone services and the transmission and delivery of voice and written communications.

The Applicants stated that by the terms of a Credit Agreement and related documents, to be executed on or before January 31, 1990, LDDS will enter into a \$125,000,000 loan facility with The First National Bank of Chicago and The Boatman's National Bank of St. Louis (Lenders). The Applicants also stated the purpose of their application is to refinance the existing indebtedness between LDDS and Heller Financial, Inc., which the Commission had previously approved in Case Nos. TF-89-30 and TF-89-176. As defined in the Credit Agreement, both Com-Link and LDDS of Kansas City are Subsidiaries of LDDS. A copy of the Credit Agreement is attached to the application as Exhibit 4.

The Applicants further stated that pursuant to a Pledge Agreement, LDDS pledges and grants to Lenders a continuing lien and security interest in (a) all of the outstanding shares of Capital Stock of each Subsidiary currently or hereafter owned by LDDS, defined as the Pledged Stock; (b) any securities, dividends or other distributions and any other right or property at any time and from time to time receivable or otherwise distributed in respect of or in exchange for any or all of the Pledged Stock and any other property substituted or exchanged therefor; and (c) any and all proceeds of the foregoing (all of the property and rights described in the foregoing clauses (a) through (c) being herein collectively called the

Collateral as defined in the Pledge Agreement). The Pledge Agreement is attached to the application as Exhibit 5.

The Applicants stated that, in addition, each Subsidiary shall execute a Guaranty in consideration of a certain portion of the loan to LDDS being advanced to the Subsidiaries by LDDS. By the terms of the Guaranty, each guarantor, jointly and severally, irrevocably and unconditionally guarantees the full and prompt payment when due (whether at stated maturity, upon acceleration or otherwise) of (i) all unpaid principal of and accrued and unpaid interest on the notes, all accrued and unpaid fees and all other obligations now existing or hereafter incurred under, arising out of or in connection with the loan documents, and (ii) any and all obligations of LDDS to one or more of the Lenders, whether absolute or contingent and howsoever and whensoever created, arising, evidenced or acquired, under any and all payment agreements for principal, interest, fees, obligations and liabilities being collectively referred to as the Guaranteed Debt. The Applicants also stated that all payments by each Guarantor under the Guaranty shall be made on the same basis as payments made by LDDS under the Credit Agreement. The Guaranty is attached to the application as Exhibit 6.

The Applicants further stated that, in addition, each Subsidiary shall execute a Security Agreement as a condition precedent to the loan being made from Lenders to LDDS. The Applicants stated that in order to secure the full and complete payment and performance of the obligation when due, each grantor pledges and grants to Lenders' agent for the benefit of the Lenders, equally and ratably in proportion to the total obligations owing at any time to the Lenders, a continuing lien and security interest in the Collateral. The Security Agreement is attached to the application as Exhibit 7.

The Applicants stated that Collateral, as defined in the Security Agreement, is generally defined as all tangible and intangible property, wherever located, in which the grantors (or any of them) now has or hereafter acquires any right or

interest, and the proceeds (including insurance proceeds) and products thereof and all cash and cash equivalents, bank accounts, special collateral accounts, and all books and records, customer lists, credit files, computer files, programs, printouts and other computer materials and records related thereto, including, without limitation, the following property: all Accounts, Chattel Paper, Documents, Equipment, Fixtures, General Intangibles, Instruments, Inventory, Pledged Deposits and Stock Rights, other than licenses and permits issued by the Federal Communications Commission to the extent it is unlawful to grant a security interest in any such license or permit or to the extent that the grant of any such security interest in any such license or permit would result in the forfeiture of any such license or permit or a default under any such license or permit.

The Applicants further stated that the loan facility contemplated in the Credit Agreement will be made from Lenders to LDDS from time to time as set forth in Article II, with borrowings, repayments and reborrowings at any time prior to the defined Revolving Credit Termination Date. As such, the Applicants request authority to draw down the loan facility without seeking additional Commission approval, so long as the proper journal entries are made reflecting the issuance of the debt authorized and the utilization of the proceeds, to be filed with the Commission's Office of Internal Accounting.

The Applicants stated the specific terms, conditions, rights, duties and obligations set forth in the Credit Agreement, Pledge Agreement, Guaranty, and Security Agreement shall govern in all respects, as the representations made in this application are summaries and recitals limited for purposes of the application.

The Applicants further stated that the purpose of the loan facility, as set forth in Section 392.310, R.S.Mo. (Supp. 1987), includes the acquisition of property, the construction, completion, extension and improvement of facilities and services, refinancing existing indebtedness, and for the discharge of lawful obligations.

The Applicants also stated the loan facility herein will in no way adversely affect any considerations involving public convenience or necessity, and will in no way adversely affect the provision of services to the public, and will not be detrimental to the public interest, as Com-Link and LDDS of Kansas City will continue to hold the certificates of public convenience and necessity and will continue to be the operating companies under the certificates.

The Applicants stated that corporate authority has been conferred upon each party. A copy of the Director's Resolutions documenting said authority is attached to the application as Exhibit 8.

The Applicants also stated the Agreement will have no adverse impact on tax revenues in Missouri nor political subdivisions thereof.

On January 10, 1990, the Commission Staff (Staff) filed a memorandum recommending approval. The Staff stated that the proposed loan would reduce the Applicants' long term debt cost. The Staff also recommended that the Applicants be authorized to draw down the loan without seeking additional Commission approval, so long as the proper journal entries which reflect the issuance of the debt authorized and the utilization of the proceeds are filed with the Commission's Office of Internal Accounting.

The Staff also recommended that, in order for it to be kept apprised of Applicants' activities, the Commission order the Applicants to file with the Commission a copy of the final loan documents after the Revolving Credit Agreement is officially signed. Staff further recommended that the journal entries reflecting the issuance of debt and the utilization of proceeds be filed in order to facilitate applicability of the fee schedule.

The Commission finds the recommendations of its Staff in regards to the instant application should be adopted and the application should be granted. In the opinion of the Commission, the requested financing is not, in whole or in part, reasonably chargeable to operating expenses or to income. Moreover, the Commission

has determined that the proposed borrowing is not detrimental to the public. The application is granted in an amount not to exceed \$125 million.

It is, therefore,

ORDERED: 1. That Com-Link 21 Inc., LDDS of Kansas City, Inc., d/b/a LDDS Communications, and LDDS Communications, Inc., are hereby authorized to borrow, guarantee and grant a security interest in the collateral of Com-Link 21 Inc. and LDDS of Kansas City, Inc., d/b/a LDDS Communications, as set forth in the Credit Agreement, Pledge Agreement, Guaranty and Security Agreement as attached to the application.

ORDERED: 2. That Com-Link 21 Inc., LDDS of Kansas City, Inc., d/b/a LDDS Communications, and LDDS Communications, Inc., are hereby authorized to draw down the loan facility periodically as long as proper journal entries are filed with the Commission.

ORDERED: 3. That the total amount of the Credit Agreement authorized herein is not to exceed One Hundred Twenty-five Million Dollars (\$125,000,000).

ORDERED: 4. That Com-Link 21 Inc., LDDS of Kansas City, Inc., d/b/a LDDS Communications, and LDDS Communications, Inc., are hereby authorized to do and perform all such acts and things, as well as to make, execute and deliver any and all documents as may be appropriate to effect the financing proposed herein.

ORDERED: 5. That nothing in this order shall be considered as a finding by the Commission of the reasonableness of the expenditures herein involved, nor of the value for ratemaking purposes of the properties herein involved, nor as an acquiescence in the value placed upon said properties by Com-Link 21 Inc., LDDS of Kansas City, Inc., d/b/a LDDS Communications, and LDDS Communications, Inc.. Furthermore, the Commission reserves the right to consider the ratemaking treatment to be afforded these financing transactions, and their resulting cost of capital, in any later proceeding.

ORDERED: 6. That within thirty (30) days from the closing of the transaction herein authorized, Com-Link 21 Inc., LDDS of Kansas City, Inc., d/b/a LDDS Communications, and LDDS Communications, Inc., shall submit to the Commission a copy of the final loan documents after the Credit Agreement is officially signed. Journal entries as to the issuance of the debt and utilization of the proceeds shall be submitted to the Commission's Office of Internal Accounting.

ORDERED: 7. That this order shall become effective on the date hereof.

BY THE COMMISSION



Daniel J. Redel
Acting Secretary

(S E A L)

Steinmeier, Chm., Mueller, Rauch,
McClure and Letsch, CC., Concur.