

H-2015, P-513/PA-90-628 ORDER APPROVING TRANSFER OF SHARE OF  
DANUBE STOCK

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Darrel L. Peterson	Chair
Cynthia A. Kitlinski	Commissioner
Dee Knaak	Commissioner
Norma McKanna	Commissioner
Patrice M. Vick	Commissioner

In the Matter of the Joint  
Petition of Danube Telephone  
Company and Telephone and Data  
Systems, Inc. for Approval of  
the Acquisition of a Majority of  
the Outstanding Shares of Stock  
of Danube Telephone Company by  
TDS Telecommunications  
Corporation, a Wholly-owned  
Subsidiary of Telephone and Data  
Systems, Inc.

ISSUE DATE: August 21, 1991

DOCKET NO. H-2015, P-513/PA-90-  
628

ORDER APPROVING TRANSFER OF  
SHARE OF DANUBE STOCK

**PROCEDURAL HISTORY**

Danube Telephone Company (Danube) is a Minnesota corporation providing local exchange service to approximately 430 customers in the Danube service area of southern Minnesota.

Telephone and Data Systems, Inc. is a telephone holding company which owns and operates approximately 80 independent telephone companies in 27 states. TDS Telecommunications Corporation (TDS) is a wholly-owned subsidiary of Telephone and Data Systems, Inc.

Danube and TDS reached an agreement in which TDS would acquire a majority of the outstanding shares of Danube stock. TDS made an offer to Danube stockholders to buy Danube shares through the exchange of TDS common stock, or in the alternative by paying \$13,350 per share. On August 28, 1990, Danube filed a joint petition seeking Commission approval of the acquisition.

On December 27, 1990, the Department of Public Service (the Department) filed its Report and Recommendation. During its investigation the Department had found that allegations of insider trading of Danube stock were under investigation by the Minnesota Department of Commerce and the Renville County Attorney. Certain former holders of Danube stock alleged that in February of 1989, before negotiations with TDS took place, certain Danube officials and their families had acquired stock from individuals without revealing significant "insider" information which would have influenced price.

Additional documents filed with the Commission indicated that nine former Danube shareholders had filed a civil suit in U.S. District Court in Minneapolis against officers of Danube Telephone Company as well as the Americana Bank of Danube. Becker et al v. Americana Bank of Danube et al, Civil Action No. CV4-90-777. The plaintiffs in the action alleged that the defendants had violated federal and state securities law as well as the federal racketeering law, and had committed common law fraud.

On January 31, 1991, the Commission issued its ORDER APPROVING ACQUISITION OF DANUBE STOCK BY TDS EXCEPT FOR CERTAIN SHARES. In that Order the Commission separated outstanding shares of Danube stock into two categories: shares which were not subject to dispute and twelve Disputed Shares. The twelve Disputed Shares were subject to investigation, civil suit, or both. The Commission allowed the immediate transfer of nondisputed shares, but required that safeguards be implemented with the transfer of any Disputed Share.

On February 19, 1991, the Commission issued its ORDER ALLOWING TRANSFER OF FOUR SHARES OF DANUBE STOCK. In that Order the Commission approved the transfer of four Disputed Shares which had been the subject of a settlement agreement in the district court proceeding.

On April 16, 1991, the Commission issued its ORDER APPROVING TRANSFER OF THREE SHARES OF DANUBE STOCK AND ACCEPTING COMPLIANCE FILING. In that Order the Commission allowed the transfer of three Disputed Shares which had either been under investigation or had been part of the district court proceeding.

On August 1, 1991, the Commission issued its ORDER APPROVING TRANSFER OF SHARE OF DANUBE STOCK. In that Order the Commission allowed the removal of Disputed Share status from one share of Danube stock.

On May 30, 1991, a petition was filed with the Commission requesting removal of Disputed Share status from a share which had been part of the district court proceeding. The petition was filed on behalf of Ms. Patricia Sindelir, who had purchased the share from Ms. Pearl Grafenstein. The petition came before the Commission for consideration on July 16, 1991. At that meeting, the Commission indicated that it wished further information before it made a decision regarding the petition. On August 6, 1991, the Commission again met to consider the matter. At that meeting, Ms. Sindelir appeared in person and through her attorney, Thomas J. Hunziker. Ms. Grafenstein appeared through her attorney, J. K. Ivey.

## FINDINGS AND CONCLUSIONS

The May 30 petition stated that Ms. Patricia Sindelir, one of the defendants in the federal district court proceeding, had purchased a single share of Danube stock from Ms. Pearl Grafenstein, one of the plaintiffs in the suit. Ms. Grafenstein subsequently contended that the acquisition of the stock by Ms. Sindelir had been fraudulent.

As a result of negotiations between the parties, Ms. Sindelir and Ms. Grafenstein executed an Agreement and Covenant Not to Sue and a Stipulation of Dismissal with Prejudice, which was submitted to the federal court. Under the terms of the agreement, Ms. Grafenstein dismissed her claim against Ms. Sindelir and agreed to Ms. Sindelir's retaining the share. The agreement did not call for monetary consideration from Ms. Sindelir beyond the original \$50.00 paid for the share. Ms. Sindelir agreed to forego any possible cause of action against Ms. Grafenstein, including any claim for attorneys' fees.

In its January 31, 1991 Order, the Commission set out the following requirement for the transfer of Disputed Shares:

    Holders of stock which has been subject to investigation or litigation referred to in the body of this Order, who wish to transfer their shares following resolution of the investigation or litigation, must petition the Commission for approval to transfer said shares.

In this case, the share of stock has been subject to the litigation referred to in the Order, that is, the district court proceeding. A settlement has been reached and has been submitted to the district court. The owner of the share, as acknowledged by the court's acceptance of the stipulation, is Ms. Sindelir.

As owner of the share, Ms. Sindelir has properly petitioned the Commission for approval of transfer of the share, pursuant to the Commission's January 31 Order. The Commission finds that it is in the public interest to remove Disputed Share status from the share. The share is no longer the subject of litigation; it is not under investigation by any authority. The Commission has monitored the transfer of this share while its rightful ownership was in question. Through district court proceedings, issues of valuation, consideration and ownership have been settled. The Commission safeguards are no longer necessary since these issues are no longer in dispute. The Commission will approve the removal of Disputed Share status from this share. It may now be freely transferred.

ORDER

1. The Commission approves the removal of Disputed Share status from the Sindelir share as explained in this Order.
2. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Richard R. Lancaster  
Executive Secretary

(S E A L)