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Decision 91-03-052 March 22, 1991

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the application of )  
Quantum Communications, Incorporated )  
for a certificate of public )  
convenience and necessity to operate )  
as a reseller of telecommunications )  
services within California. )

**ORIGINAL**  
Application 90-071-078  
(Filed July 30, 1990;  
amended November 5, 1990)

OPINION

Quantum Communications, Inc. (Quantum or applicant) of Lodi, California filed an initial application for authority to operate in California as a telecommunications reseller on July 30, 1990. On September 20, 1990 the assigned Administrative Law Judge (ALJ) issued a ruling requiring Quantum to provide additional financial information and to correct certain minor errors or omissions in its application. In particular, the ALJ Ruling sought information sufficient to show whether or not Quantum could meet the financial requirements of Decision (D.) 90-08-032 issued in R.85-08-042 on August 13, 1990. That decision requires that telecommunications resellers show that they have sufficient financial means to meet their initial year operating costs.<sup>1</sup>

Quantum filed its amended application disclosing additional and revised financial information on November 6, 1990.

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1 D.90-08-032 requires a showing that an applicant has \$400,000 in unencumbered cash or equivalent or that its operating cost is less than \$400,000 and the applicant has the necessary lesser amount available. In its July 30, 1990 filing, Quantum showed an operating loss and a net worth of only \$9,709.24.

However, Quantum did not attempt to show that it meets the financial requirements of D.90-08-032 but, instead, requested that the requirements be waived.<sup>2</sup>

In making its request for a waiver, Quantum states that all of its "transmission related debt would be to Execuline of Sacramento" and that "Execuline of Sacramento will see that Quantum customers will not experience service interruption nor [sic] tariff increases simply because Quantum failed to meet its financial obligations." Quantum attached a copy of its "switched service agreement" with Execuline dated October 20, 1989.

The Execuline agreement does contain several provisions to guarantee month-to-month payments by Quantum. The contract requires Quantum to provide a cash security and to pledge its assets, including its customer base, to Execuline. These provisions afford no protection to Quantum's customers, however. Execuline has the right under paragraph 5(b) of the contract to cancel service to Quantum within 72 hours after Quantum is notified that it has failed to pay within one week of receiving Execuline's monthly billing. Even if Quantum's customer list defaulted in breach to Execuline, the contract does not state that Execuline would continue service or that it would not increase its charges to them.<sup>3</sup>

Quantum's Income Statement as of October 31, 1990 discloses 28 expense items, in addition to its Execuline costs, totaling \$38,397.53 for the first 10 months of 1990. None of these costs are even purportedly guaranteed by Execuline or any one else.

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<sup>2</sup> D.90-08-032 contains no provision for waiver of its financial requirements.

<sup>3</sup> Although Quantum purchases Execuline service at wholesale and sells it to small businesses at retail, direct service by Execuline to Quantum's customers would presumably be at Execuline's retail rate.

For 1990 Quantum showed a pretax profit of \$5,045.25. That amount is insufficient as a cash reserve even to cover its operating expense for October alone.

Quantum does not attempt to show, as provided in R.85-08-042 (D.90-08-032, mimeo p. 34), that it does not require the full \$400,000 unencumbered cash availability. However, we observe that Quantum's financial documents indicate that its estimated initial annual operating expense would be \$45,600.<sup>4</sup> This, added to an estimated \$44,000 per year cost for Execuline service, would suggest that Quantum would require at least \$89,600 in unencumbered cash or equivalent. Quantum's only cash assets shown in its balance sheet consist of \$20,596.31 and \$14,036.75 in accounts receivable.<sup>5</sup>

On the basis of applicant's amended application, we must conclude that Quantum has failed to meet the minimum financial entry standards established in D.90-08-032. Accordingly, we must deny the application, but because it may be that applicant has some means not yet revealed by which it might show its financial fitness, our denial will be without prejudice.

Findings of Fact

1. Quantum filed an application for a certificate of public convenience and necessity to operate as an intrastate telecommunications reseller on July 30, 1990.

2. The assigned ALJ by ruling on September 20, 1990, directed Quantum to file supplementary information to remedy certain defects in its July 30, 1990 filing.

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4 This amount is estimated based on a projection of Quantum's year-to-date figures through October 31, 1990.

5 Quantum's revised balance sheet as of October 31, 1990 shows total assets of \$111,120.94 and liabilities of \$104,758.52 with total equity of \$6,362.42.

3. Applicant filed an amended application on November 5, 1990 requesting that the financial requirements established in D.90-08-032 be waived.

4. Quantum's October 31, 1990 balance sheet shows total assets of \$111,120.94 of which \$14,036.75 consists of accounts receivable and \$20,596.30 is cash.

5. Quantum's application indicates that its annual operating cost is approximately \$89,600.

Conclusions of Law

1. Quantum's November 5, 1990 application does not show that it meets the minimum standard of financial fitness for entry as a certificated telecommunications reseller in California as required by D.90-08-032.

2. Quantum should not be granted a certificate of public convenience and necessity.

ORDER

IT IS ORDERED that Application 90-07-078 filed November 5, 1990 by Quantum Communications, Inc. is denied without prejudice.

This order becomes effective 30 days from today.

Dated March 22, 1991, at San Francisco, California.

PATRICIA M. ECKERT  
President  
G. MITCHELL WILK  
JOHN B. OHANIAN  
DANIEL WM. FESSLER  
NORMAN D. SHUMWAY  
Commissioners

I CERTIFY THAT THIS DECISION  
WAS APPROVED BY THE ABOVE  
COMMISSIONERS TODAY

*[Handwritten Signature]*  
NEIL J. [unclear], Executive Director  
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