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Decision 91-09-095 September 30, 1991

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)	
Resurgens Communications Group,)	
Inc. to acquire control of Comm)	
Systems Network Services, Inc.,)	Application 91-07-011
TMC Communications, Inc., and)	(Filed July 11, 1991)
TMC Communications, L.P.)	

O P I N I O N

Resurgens Communications Group, Inc. (Resurgens), a California public utility, seeks authority under Public Utilities (PU) Code §§ 852 and 854 to acquire control of Com Systems Network Services, Inc. (Com Systems), TMC Communications, Inc. (TMC, Inc.), and TMC Communications, L.P. (TMC, L.P.), all certificated California public utilities. Com Systems, Inc. (CSI) is the sole shareholder and parent corporation of Com Systems and TMC, Inc. and also controls TMC, L.P., a California limited partnership whose corporate general partner is TMC, Inc. Resurgens will obtain control of the utilities through acquisition of the parent company, CSI, by purchase of convertible preferred stock and convertible debentures now held by OmniCorp International B.V. and OmniCorp Holdings, Inc. (Omni companies). The May 31, 1991 merger agreement between Resurgens and CSI states the parties intend that all of the issued and outstanding shares of capital stock of CSI be acquired by Resurgens.

This application was served on competing carriers and noticed in the Commission's Daily Calendar on July 15, 1991. No protests were received.

Resurgens is a nondominant interexchange carrier (NDIEC) providing intrastate, interLATA long distance operator services within California. Resurgens, a Georgia-based corporation, provides telecommunications services in twenty other

states and is listed on the American Stock Exchange. The company restructured under bankruptcy proceedings in May, 1989. Its Securities and Exchange Commission 10Q filing of March 31, 1991 reflects assets of \$36,245,000, equity of \$19,774,000, and nine-month gross revenues of \$18,938,000 with related net income after taxes of \$934,000.

We granted Resurgens' California certificate of public convenience and necessity in Decision (D.) 87-11-043 under its former corporate name, Central Corporation. Resurgens informed the Commission by letter dated March 9, 1990 of the name change, and all tariffs are currently in Resurgens' name. A formal amendment to change the corporate name has not been filed by Resurgens with the Secretary of State of California, but Resurgens states that it will do so.

The utilities to be acquired, Com Systems, TMC, Inc. and TMC, L.P., are also NDIECs providing long distance operator services within California. Their parent, CSI, is a California corporation listed on the American Stock Exchange whose stock is controlled by the Omni companies. In D.90-01-062, the Commission granted authority for the Omni companies to acquire TMC, Inc. and TMC, L.P. and, in companion D.90-01-063, for the Omni companies to acquire Com Systems.

Several affiliated partnerships had earlier been authorized to merge into TMC, L.P. in D.89-12-009. Resurgens believes the partnership to have merged; however, our files continue to show separate utility certificates for:

1. Telemarketing Communications of Bakersfield
(Certificate Number U-5084-C)
2. Telemarketing Communications of San Luis
Obispo (U-5035-C)
3. Telemarketing Communications of Ventura
(U-5087-C)

4. TMC of Stockton Limited (U-5125-C)
5. TMC of Fresno (U-5121-C)

The status of the previously authorized merger should be clarified. The proposed corporate structure reflected in the application is illustrated at Appendix A.

The Commission has found the business of reselling telecommunications services in California to be competitive and that it is in the public interest to maintain competition among competitors. Nondominant firms in the reseller market are therefore exempt from regulation under PU Code §§ 816-830 for stock issuances and security transactions but still required under PU Code §§ 851-855 to obtain the approval of the Commission prior to selling assets or merging with another utility. (D.85-01-008, 17 CPUC 2d 1.) In D.86-08-057, 21 CPUC 2d 549, the Commission revisited the issue and authorized the Executive Director to grant applications under §§ 851-855 of the PU Code when the application is noncontroversial and the applicant is a nondominant telecommunications carrier.

Findings of Fact

1. Application has been properly noticed and no protests were received. No public hearing is required and the application can be handled on an ex-parte basis.
2. Resurgens requests authority to acquire control of Com Systems, TMC, Inc., and TMC, L.P.
3. Resurgens has the financial and technical ability to assume control of the above utilities.
4. No customer services will be affected. Resurgens and the acquired utilities will continue to provide service in accordance with their respective tariffs.
5. Resurgens is a nondominant interexchange carrier.
6. Resurgens asserts all business in California is conducted in its current name and a formal filing with the California

Secretary of State will be made to reflect the corporate name change.

7. Commission files continue to reflect utility certificates in the name of TMC partnerships authorized to merge into TMC, L.P. in D.89-12-009.

Conclusions of Law

1. The application should be granted.
2. The Executive Director is authorized to grant this application.
3. This authorization is not a finding of the value of the rights and properties over which control is to be acquired.

ORDER

IT IS ORDERED that:

1. Resurgens Communications Group, Inc. (Resurgens) is authorized to acquire control of Com Systems Network Services, Inc., TMC Communications, inc., and TMC Communications, TMC, L.P. (TMC, L.P.), in accordance with the terms of the application, on or after the effective date of this order.

2. Within 10 days after acquisition of control, Resurgens shall write the Commission stating the date of the transfer of control. A copy of the documents effectuating the transfer of control shall be attached, together with evidence of current California corporate registration. A letter clarifying the certificate authority of the applicants authorized to merge into TMC, L.P. in Decision 89-12-009 shall also be included.

3. The authority granted in Ordering Paragraph 1 shall expire unless it is exercised within 12 months from the date of this order.

This order is effective today.

Dated September 30, 1991, at San Francisco, California.

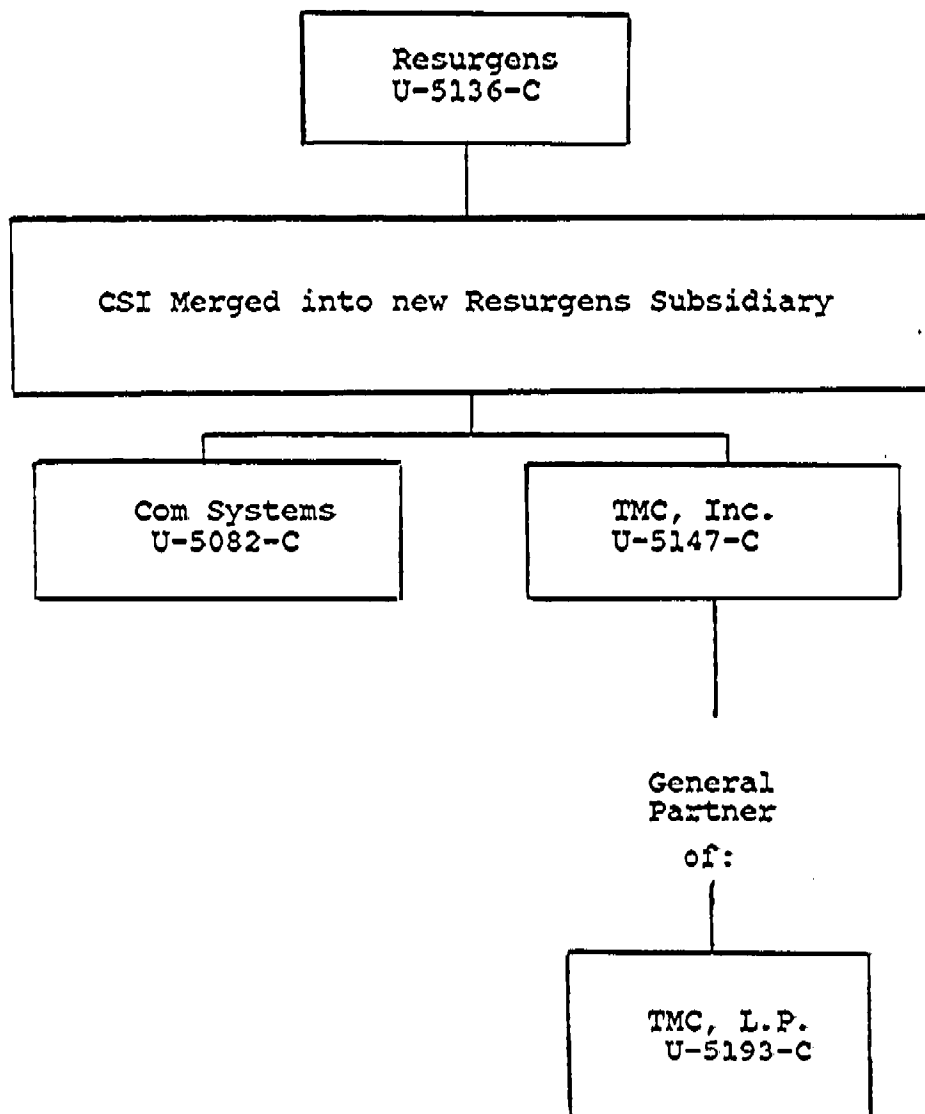
/s/ NEAL J. SHULMAN
Neal J. Shulman
Executive Director

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


NEAL J. SHULMAN, Executive Director

APPENDIX A

Proposed Merged Corporate Structure



(END OF APPENDIX A)