

ALJ/RLR/gab

Decision 92 08 052 AUG 18 1992

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of TFN Marketing
Company Inc. (I.D. No. U-5274-C) to
Transfer, and of LDDS Communications
Inc., to Acquire, Certain Shares and
Control of TFN Marketing Company,
Inc. and for Permission and Approval
for TFN Marketing Company, Inc. to
Borrow, Guaranty and Grant a Security
Interest in Collateral.)

ORIGINAL

Application 92-06-026
(Filed June 19, 1992)

O P I N I O N

By joint application filed June 19, 1992, TFN Marketing Company, Inc. (TMCI) and LDDS Communications, Inc. (LDDS) request Commission approval for LDDS to acquire control of TMCI. In addition, by their application TMCI and LDDS request authority for TMCI to participate in certain pre-existing financing agreements of LDDC.

TMCI and LDDS request that this application be considered on an ex parte basis pursuant to the authority granted the Commission's Executive Director by Decision (D.) 86-08-057, 21 CPUC 2d 549 (August 18, 1986).

Notice of the filing of the application was published in the Commission's Daily Calendar on Tuesday, June 30, 1992. No protests to the application have been filed and no hearing is required.

The Parties

TMCI is a Virginia corporation authorized to do business in California, and by D.92-06-017 issued June 3, 1992 (Application (A.) 92-01-029), is authorized to resell intrastate long-distance telephone service within the State of California (see Exhibit (Exh.) A to application). TMCI is a wholly-owned subsidiary of TFN Group Communications, Inc. (TFN Group), also a Virginia

corporation. TMCI and TFN Group are both headquartered at 870 Greenbrier Circle, Suite 500, Chesapeake, Virginia 23320

LDDS is a publicly held Tennessee corporation which currently resells interstate and intrastate long-distance telephone service in 27 states, including California. LDDS operates in California through its control of MidAmerican Communications Corporation (MCC), a Delaware Corporation which is authorized by D.90-12-007 (A.90-09-058) issued December 6, 1990, to provide resold intrastate telecommunications services within the State of California. MCC is a wholly-owned subsidiary of MidAmerican Technologies, Inc. (MTI), a Delaware corporation which, in turn, is a wholly-owned subsidiary of LDDS (see Exh. B to application).

The Transaction

Under the terms of a Merger Agreement dated May 14, 1992, among TFN Group, Ecufin, Inc. (TFN Group's principal stockholder), and LDDS, (Merger Agreement) (see Exh. C to application), a newly formed subsidiary of LDDS, now identified as LDDS Acquisition Corporation (a Virginia corporation), will merge into TFN Group, thereby effecting an indirect transfer of control of TMCI to LDDS.

LDDS, through control of TNF Group and its subsidiaries, plans to offer tariffed intrastate long-distance telecommunications services within California through TMCI under TMCI tariffs which have been filed and approved. Once the merger has occurred, in the event that LDDS seeks to modify or change its rates for or terms of those tariffed services, it will seek the requisite Commission approval.

Upon completion of the merger, TFN Group and each of its subsidiaries, including TMCI, will join in an existing Guaranty, dated January 31, 1990, as amended, and Security Agreement, also dated January 31, 1990, as amended, whereunder its assets will be pledged to secure the obligations of LDDS under an Amended and Restated Credit Agreement dated April 30, 1991, as amended (the

Credit Agreement), and LDDS will pledge all the stock of TFN Group to secure said obligations. TFN Group, in turn, will pledge its assets, including the stock of TMCi to secure said obligations (see Exh. D to the application).

An examination of the 1991 Annual Report of LDDS (Exh. E to the application) and the latest available consolidated balance sheet and income statement for TFN Group, along with a breakdown reflecting the data for TMCi (Exh. F to the application) indicate that LDDS possesses sufficient financial resources to address the obligations it would incur if the application is approved.

From an examination of the documentation submitted in support of the application, and a review of the documentation underlying LDDS' recent application to acquire MCC (A.91-04-021), which was granted by D.91-06-061 issued June 24, 1991, the Commission concludes that LDDS has the requisite technical, financial, and managerial expertise to act as a reseller of intrastate long-distance telephone service in the State of California.

Public Interest

The public interest will be served by granting the application in that under the control of LDDS, TMCi will be in a position to realize significant operational, financial and marketing advantages not currently available to it. The Merger Agreement will make available new network and other operating efficiencies, enhanced development and market resources, shared management information and other support systems, and greater financial resources. Through these attributes, improved services will be possible, resulting in TMCi being better able to provide high quality, low cost telecommunications services to its customers, and compete more effectively in the long-distance market.

Miscellaneous

Applicants reportedly have not engaged in and do not intend to engage in any transaction which is reportable to the Commission under General Order 104-A. In addition, because no construction is contemplated on account of the Merger Agreement, it may be seen with certainty that no environmental assessment under Rule 17.1 of the Commission's Rules of Practice and Procedure is necessary.

Findings of Fact

1. Notice of filing of the application appeared in the Commission's Daily Calendar on Tuesday, June 30, 1992.
2. No protests have been filed and no hearing is required.
3. TMCi is a Virginia corporation authorized to do business in California, and by Commission D.92-06-017 issued June 3, 1992, is authorized to resell intrastate long-distance telecommunication services within the State of California.
4. TMCi is a wholly-owned subsidiary of TFN Group, also a Virginia corporation.
5. Both TFN Group and TMCi are headquartered at 870 Greenbrier Circle, Suite 500, Chesapeake, Virginia 23320.
6. LDDS is a publicly held Tennessee corporation which currently resells interstate and intrastate long-distance telephone services in 27 states, including California.
7. LDDS operates in California through its control of MCC, a Delaware corporation which is authorized by Commission D.90-12-007 issued December 6, 1990, to provide resold intrastate telecommunications services within the State of California.
8. MCC is a wholly-owned subsidiary of MTI, a Delaware corporation which, in turn, is a wholly-owned subsidiary of LDDS.
9. Under a Merger Agreement dated May 14, 1992, the approval of which is sought by the instant application, LDDS Acquisition Corporation (LDDSAC), a newly formed wholly-owned subsidiary of

LDDS, will merge into TFN Group, thereby effecting an indirect transfer of control of TMCi to LDDS.

10. Upon completion of the merger, TFN Group and each of its subsidiaries, including TMCi will, if allowed to do so by this Commission, join in an existing Guaranty dated January 31, 1990, as amended, and Security Agreement, also dated January 31, 1990, as amended, whereunder its assets will be pledged to secure the obligations of LDDS under an Amended and Restated Credit Agreement dated April 30, 1991, as amended, and LDDS will pledge all of the stock of TFN Group to secure said obligations. TFN Group, in turn, will pledge its assets, including the stock of TMCi to secure said obligations.

11. LDDS, through control of TFN Group and its subsidiaries, plans to offer tariffed services through TMCi under TMCi tariffs currently on file with the Commission.

12. The information and documentation provided in support of the application indicates that LDDS possesses sufficient technical, financial, and managerial expertise to address the obligations it would incur if the application was granted

13. Granting the application would not affect the environment and would promote the interest of TMCi's customers.

Conclusions of Law

1. TMCi is authorized by D.92-06-017 (A.92-01-029) to resell intrastate long-distance telephone service within California.

2. LDDS currently resells interstate and intrastate long-distance telephone service in California through its control of MCC which is authorized by D.90-12-007 (A.90-09-058) to provide resold intrastate telecommunications services within California.

3. LDDS possesses sufficient technical, financial, and managerial expertise to address the obligations it would incur if the application was granted.

4. Granting the application would have no adverse impact on the environment.

5. Granting the application is in the public interest.
6. LDDS should be allowed to offer tariffed services through TMCi under TMCi's tariff currently on file with the Commission.
7. The application should be approved.

ORDER

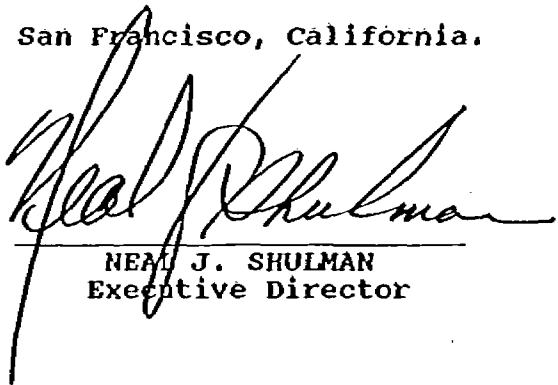
IT IS ORDERED that:

1. The Merger Agreement between TFN Group Communications, Inc., Ecufin, Inc. (TFN Group's principal stockholder), and LDDS Communications, Inc., dated May 14, 1992, is hereby approved.
2. TFN Marketing Company, Inc. (TMCi) is hereby authorized to join in an existing Guaranty dated January 31, 1990, as amended, and Security Agreement, dated January 31, 1990, as amended, whereunder its assets will be pledged to secure the obligations of LDDS under an Amended and Restated Credit Agreement dated April 30, 1991, as amended.
3. Within 10 days following conclusion of the merger authorized herein, LDDS will advise the Commission of the date such merger was completed, and will advise the Commission (CACD Telecommunications Branch) of the name and address of the custodian of the merger documents.

4. In exercising the authority granted by the merger, LDDS may, through TMC, offer tariffed reseller intrastate long-distance telecommunications services under TMC tariffs currently on file with the Commission.

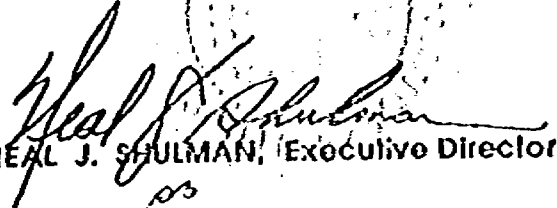
This order is effective today.

Dated AUG 18 1992 , at San Francisco, California.



NEAL J. SHULMAN
Executive Director

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



NEAL J. SHULMAN, Executive Director
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