0000052625

RECEIVED

2002 APR 23 P 12: 56

AZ CORP COMMISSION
DOCUMENT CONTROL

TO: Docket Control

FROM: Ernest G. Johnson
Director
Utilities Division

DATE: April 22, 2002

RE: IN THE MATTER OF THE APPLICATION OF TRI-M COMMUNICATIONS DBA TMC COMMUNICATIONS FOR A CERTIFICATE OF CONVENIENCE AND NECESSITY TO PROVIDE LOCAL COMPETITIVE SERVICES AND PETITION FOR COMPETITIVE CLASSIFICATION OF PROPOSED SERVICES WITHIN THE STATE OF ARIZONA (DOCKET NO. T-03714A-01-0805)

Attached is the Staff Report for the above referenced application. The Applicant is applying for approval to provide the following services:

- Facilities-based local exchange services
- Resold local exchange services

Staff is recommending approval of the application following a hearing.

/jfb

Originator: John F. Bostwick

Attachment: Original and Ten Copies

Arizona Corporation Commission
DOCKETED

APR 23 2002

DOCKETED BY

SERVICE LIST FOR: TRI-M COMMUNICATIONS, INC. DBA TMC COMMUNICATIONS
DOCKET NO. T-03714A-01-0805

Mr. John Clark
Goodin, MacBride, Squeri, Ritchie & Day, LLP
505 Sansome Street, Suite 900
San Francisco, CA 94111

Mr. Ernest G. Johnson
Arizona Corporation Commission
Utilities Division
1200 West Washington
Phoenix, Arizona 85007

Mr. Christopher C. Kempley
Arizona Corporation Commission
Legal Division
1200 West Washington
Phoenix, Arizona 85007

Ms. Lyn Farmer
Chief Administrative Law Judge
Arizona Corporation Commission
Hearing Division
1200 West Washington
Phoenix, Arizona 85007

STAFF REPORT

UTILITIES DIVISION

ARIZONA CORPORATION COMMISSION

TRI-M COMMUNICATIONS DBA TMC COMMUNICATIONS

DOCKET NO. T-03714A-01-0805

IN THE MATTER OF THE APPLICATION OF TRI-M COMMUNICATIONS DBA TMC COMMUNICATIONS FOR A CERTIFICATE OF CONVENIENCE AND NECESSITY TO PROVIDE LOCAL COMPETITIVE SERVICES AND PETITION FOR COMPETITIVE CLASSIFICATION OF PROPOSED SERVICES WITHIN THE STATE OF ARIZONA

APRIL 22, 2002

TABLE OF CONTENTS

STAFF ACKNOWLEDGMENT

The Staff Report for Tri-M Communications, Inc. dba TMC Communications, Docket No. T-03714A-01-0805, was the responsibility of the Staff member listed below. John F. Bostwick was responsible for the review and analysis of the Applicant's application for a Certificate of Convenience and Necessity to provide facilities-based and resold local exchange services; and petition for a determination that its proposed services should be classified as competitive.

John F. Bostwick

John F. Bostwick
Administrative Services Officer II

1. INTRODUCTION

On October 15, 2001, Tri-M Communications, Inc. dba TMC Communications ("TMC" or "Applicant") filed an application for a Certificate of Convenience and Necessity ("CC&N") to provide facilities-based and resold local exchange services within the State of Arizona. The Applicant petitioned the Arizona Corporation Commission ("Commission") for a determination that its proposed services should be classified as competitive.

Staff's review of this application addresses the overall fitness of the Applicant to receive a CC&N. Staff's analysis also considers whether the Applicant's services should be classified as competitive and if the Applicant's initial rates are just and reasonable.

2. THE APPLICANT'S APPLICATION FOR A CERTIFICATE OF CONVENIENCE & NECESSITY

This section of the Staff Report contains descriptions of the geographic market to be served by the Applicant, the requested services, and the Applicant's technical and financial capability to provide the requested services. In addition, this section contains the Staff evaluation of the Applicant's proposed rates and charges and Staff's recommendation thereon.

2.1 DESCRIPTION OF THE GEOGRAPHIC MARKET TO BE SERVED

TMC seeks authority to provide telecommunications services throughout the State of Arizona.

2.2 DESCRIPTION OF REQUESTED SERVICES

TMC proposes to provide facilities-based and resold local exchange services. These services include, but are not limited to the following: directory listings and directory assistance, E911 service, CLASS services, and telephone relay service.

2.3 THE ORGANIZATION

TMC is incorporated under the laws of the State of California and has authority to transact business in Arizona.

2.4 TECHNICAL CAPABILITY TO PROVIDE THE REQUESTED SERVICES

TMC currently offers facilities-based local exchange telecommunications service in the State of California. TMC is authorized to provide resold local exchange telecommunications services in the State of California.

2.5 FINANCIAL CAPABILITY TO PROVIDE THE REQUESTED SERVICES

The Applicant did provide audited financial statements for the year ending December 31, 2000. These financial statements list assets of $3.5 million; negative equity of $1.1 million; and a net income of $662,654. The Applicant did provide notes related to the financial statements.

The Applicant stated in its Tariff, Rule 7 page 13, that it does not collect from its customers an advance, deposit, and/or prepayment. Since the Applicant is requesting a CC&N for more than one kind of service, the amount of a performance bond for multiple services is an aggregate of the minimum bond amount for each type of telecommunications services requested by the Applicant. The amount of bond coverage needed for each service is as follows: resold local exchange $25,000; and facilities-based local exchange $100,000. The bond coverage needs to increase in increments equal to 50 percent of the total minimum bond amount when the total amount of the advances, deposits, and prepayment is within 10 percent of the total minimum bond amount. Further, measures should be taken to ensure that the Applicant will not discontinue service to its local exchange customers without first complying with Arizona Administrative Code ("AAC") R14-2-1107.

To that end, Staff recommends that the Applicant procure a performance bond equal to $125,000. The minimum bond amount of $125,000 should be increased if at any time it would be insufficient to cover advances, deposits, and/or prepayments collected from the Applicant's customers. The bond amount should be increased in increments of $62,500. This increase should occur when the total amount of the advances, deposits, and prepayments is within $12,500 of the bond amount. If the Applicant desires to discontinue local exchange service, it must file an application with the Commission pursuant to AAC R14-2-1107. Additionally, the Applicant must notify each of its local exchange customers and the Commission 60 days prior to filing an application to discontinue service. Failure to meet this requirement should result in forfeiture of the Applicant's performance bond. Staff further recommends that proof of the above mentioned performance bond be docketed within 365 days of the effective date of an Order in this matter or 30 days prior to the provision of service, whichever comes first, and must remain in effect until further order of the Commission.

If this Applicant experiences financial difficulty, there should be minimal impact to its customers because there are many other companies that provide resold telecommunications services or the customers may choose a facilities-based provider. If the customer wants service from a different provider immediately, that customer is able to dial a 101XXXX access code. In the longer term, the customer may permanently switch to another company.

2.6 ESTABLISHING RATES AND CHARGES

The Applicant would initially be providing service in areas where an incumbent local exchange carrier ("ILEC"), along with various competitive local exchange carriers ("CLECs") and interexchange carriers are providing telephone service. Therefore, the Applicant would have to compete with those providers in order to obtain subscribers to its services. The Applicant would be a new entrant and would face competition from both an incumbent provider and other competitive providers in offering service to its potential customers. Therefore, the Applicant would generally not be able to exert market power. Thus, the competitive process should result in rates that are just and reasonable.

Both initial rates (the actual rate to be charged) and a maximum rate must be listed for each competitive service offered, provided that the rate for the service is not less than the Company's total service long-run incremental cost of providing the service pursuant to A.A.C. R14-2-1109.

The rates proposed by this filing are for competitive services. In general, rates for competitive services are not set according to rate of return regulation. Staff obtained information from the company and has determined that its fair value rate base is de minimus. Accordingly, the company's fair value rate base is too small to be useful in a fair value analysis. In addition, the rate to be ultimately charged by the company will be heavily influenced by the market. Therefore, while Staff considered the fair value rate base information submitted by the company, it did not accord that information substantial weight in its analysis.

3. LOCAL EXCHANGE CARRIER SPECIFIC ISSUES

Since the Applicant intends to provide local exchange service, the issues related to the provision of that service are discussed below.

3.1 DIRECTORY LISTINGS AND DIRECTORY ASSISTANCE

Callers should be able to determine the telephone numbers belonging to customers of alternative local exchange companies, such as the Applicant. Staff recommends that the Applicant file a plan, within 365 days of the effective date of the Order in this matter or 30 days prior to the provision of service, whichever comes first, and must remain in effect until further order of the Commission, how it plans to have its customers' telephone numbers included in the incumbent's Directories and Directory Assistance databases before it begins providing local exchange service.

3.2 NUMBER PORTABILITY

Another issue associated with the Applicant's proposal to become a competitive local exchange company relates to how telephone numbers should be administered. Local exchange competition may not be vigorous if customers, especially business customers, must change their telephone numbers to take advantage of a competitive local exchange carrier's service offerings. Staff recommends that the Applicant pursue permanent number portability arrangements with other local exchange carriers ("LECs") that are consistent with federal laws, federal rules and state rules.

3.3 PROVISION OF BASIC TELEPHONE SERVICE AND UNIVERSAL SERVICE

The Commission has adopted rules to address maintenance of universal telephone service during and after the transition to a competitive telecommunications services market. The rules contain the terms and conditions for contributions to and support received from telephone service subscribers to finance the Arizona Universal Service Fund ("AUSF"). Under the rules, the Applicant will be required to participate in the financing of the AUSF and it may be eligible for AUSF support. Therefore, Staff recommends that approval of the Applicant's application for a CC&N be conditioned upon the Applicant's agreement to abide by and participate in the AUSF mechanism established by Decision No. 59623, dated April 24, 1996 (Docket No. RT-00000E-95-0498).

3.4 QUALITY OF SERVICE

Staff believes that the Applicant should be ordered to abide by the quality of service standards that were approved by the Commission for Qwest (f/k/a USWC) in Docket No. T-01051B-93-0183 (Decision No. 59421). Because the penalties that were developed in this docket were initiated only because Qwest's level of service was not satisfactory, Staff does not recommend that those penalties apply to the Applicant. In the competitive market that the Applicant wishes to enter, the Applicant generally will have no market power and will be forced to provide a satisfactory level of service or risk losing its customers. Therefore, Staff believes that it is unnecessary to subject the Applicant to those penalties at this time.

3.5 ACCESS TO ALTERNATIVE LOCAL EXCHANGE SERVICE PROVIDERS

Staff expects that there will be new entrant providers of local exchange service who will install the plant necessary to provide telephone service to, for example, a residential subdivision or an industrial park much like existing local exchange companies do today. In those areas where the Applicant installs the only local exchange service facilities, the Applicant will be a monopoly service provider. In the interest of providing competitive alternatives to the Applicant's local exchange service customers, Staff recommends that the Applicant provide customers served in these areas with access to alternative local exchange service providers. In this way, an alternative local exchange service provider may serve a customer if the customer so desires. With this requirement in place, the Applicant will not be able to exert monopoly power over customers who are located in areas where the Applicant is the only provider of facilities to serve the customer. Access to other providers should be provided pursuant to the provisions of the 1996 Telecommunications Act, the rules promulgated thereunder and Commission rules on interconnection and unbundling.

3.6 911 SERVICE

The Applicant has not indicated in its application whether it will provide all customers with 911 and E911 service, where available, or will coordinate with ILECs and emergency service providers to provide the service. Staff believes that the Applicant should be required to work cooperatively with local governments, public safety agencies, telephone companies, the National Emergency Number Association and all other concerned parties to establish a systematic process in the development of a universal emergency telephone number system. Staff recommends that the Applicant be required to certify, through the 911 service provider in the area in which it intends to provide service, that all issues associated with the provision of 911 service have been resolved with the emergency service providers before it begins to provide local exchange service, within 365 days of the effective date of the order in this matter or 30 days prior to the provision of service, whichever comes first, and must remain in effect until further order of the Commission.

3.7 CUSTOM LOCAL AREA SIGNALING SERVICES

In its decisions related to Qwest's proposal to offer Caller ID and other CLASS features in the State, the Commission addressed a number of issues regarding the appropriateness of offering these services and under what circumstances it would approve the proposals to offer them. The Commission concluded that Caller ID could be offered provided that per call and line blocking, with the capability to toggle between blocking and unblocking the transmission of the telephone number, should be provided as options to which customers could subscribe with no charge. The Commission also approved a Last Call Return service that will not return calls to telephone numbers that have the privacy indicator activated, which indicates that the number has been blocked. The Commission further required that Qwest engage in education programs when introducing or providing the service(s).

Staff recommends that the Applicant be required to abide by all the Commission decisions and policies regarding Caller ID and other CLASS services. However, Staff does not believe that it is necessary for the Applicant to engage in the educational program that was ordered for Qwest as long as customers in the areas where the Applicant intends to serve have already been provided with educational material and are aware that they can have their numbers blocked on each call or at all times with line blocking.

3.8 EQUAL ACCESS FOR INTEREXCHANGE CARRIERS

Although the Applicant did not indicate that its switch will be "fully equal access capable" (i.e. would provide equal access to interexchange companies), the Commission requires local exchange companies to provide 2-Primary Interexchange Carriers ("2-PIC") equal access. 2-PIC equal access allows customers to choose different carriers for interLATA and intraLATA toll service and would allow customers to originate intraLATA calls using the preferred carrier on a 1+ basis. Staff recommends that the Applicant be required to provide 2-PIC equal access.

4. COMPETITIVE SERVICES ANALYSIS

The Applicant has petitioned the Commission for a determination that the services it is seeking to provide should be classified as competitive. The Applicant has published legal notice of the application in all counties in which it requests authorization to provide service. The Applicant has certified that all notification requirements have been completed. Staff's analysis and recommendations are discussed below.

4.1 COMPETITIVE SERVICES ANALYSIS FOR LOCAL EXCHANGE SERVICES

4.1.1 **A description of the general economic conditions that exist, which makes the relevant market for the service one that, is competitive.**

The analysis of the market for local exchange service that the Applicant seeks to enter must take into account the fact that there are two local exchange service submarkets. The first is the local exchange service market that consists of locations where ILECs currently provide service. The second local exchange service market consists of locations within ILECs' service territories where ILECs are authorized to provide local exchange service, but where they do not actually provide service.

The local exchange market that the Applicant seeks to enter is one in which a number of new CLECs have been authorized to provide local exchange service. Nevertheless, ILECs hold a virtual monopoly in the local exchange service market. At locations where ILECs provide local exchange service, the Applicant will be entering the market as an alternative provider of local exchange service and, as such, the Applicant will have to compete with those companies in order to obtain customers. In areas where ILECs do not serve customers, the Applicant may have to convince developers to allow it to provide service to their developments. Staff recommends that, in those instances where the Applicant provides the only facilities used to provide telecommunications service, that the Applicant be required to allow other local exchange companies to use those facilities to serve customers who wish to obtain service from an alternative provider pursuant to federal laws, federal rules and state rules.

4.1.2 **The number of alternative providers of the service.**

Qwest and various independent LECs are the primary providers of local exchange service in the State. Several CLECs and local exchange resellers are also providing local exchange service.

4.1.3 **The estimated market share held by each alternative provider of the service.**

Since Qwest and the independent LECs are the primary providers of local exchange service in the State, they have a large share of the market. Since the CLECs and local exchange resellers have only recently been authorized to offer service they have limited market share.

4.1.4 **The names and addresses of any alternative providers of the service that are also affiliates of the telecommunications Applicant, as defined in A.A.C. R14-2-801.**

None.

4.1.5 **The ability of alternative providers to make functionally equivalent or substitute services readily available at competitive rates, terms and conditions.**

ILECs have the ability to offer the same services that the Applicant has requested in their respective service territories. Similarly many of the CLECs and local exchange resellers also offer substantially similar services.

4.1.6 **Other indicators of market power, which may include growth and shifts in market share, ease of entry and exit, and any affiliation between and among alternative providers of the service(s).**

The local exchange service market is:

a. One in which ILECs own networks that reach nearly every residence and business in their service territories and which provide them with a virtual monopoly over local exchange service. New entrants are also beginning to enter this market.

b. One in which new entrants will be dependent upon ILECs:

1. To terminate traffic to customers.
2. To provide essential local exchange service elements until the entrant's own network has been built.
3. For interconnection.

c. One in which ILECs have had an existing relationship with their customers that the new entrants will have to overcome if they want to compete in the market and one in which new entrants do not have a long history with any customers.

d. One in which Qwest provides a quality of service that has generated a significant number of complaints. These complaints led the Commission to adopt service quality rules that contain penalties if the service quality standards are not met. A provider of alternative service, such as the Applicant, should provide Qwest--as well as other incumbents--with the incentive to produce higher quality service including service installation and repair on a timely basis.

e. One in which most customers have few, if any choices since there is generally only one provider of local exchange service in each service territory.

f. One in which the Applicant will not have the capability to adversely affect prices or restrict output to the detriment of telephone service subscribers.

5. RECOMMENDATIONS

The following sections contain the Staff recommendations on the Applicant's Application for a CC&N and the Applicant's Petition for a Commission Determination that its Proposed Services Should be Classified as Competitive.

5.1 RECOMMENDATIONS ON THE APPLICANT'S APPLICATION FOR A CC&N

TMC is incorporated under the laws of the State of California and has authority to transact business in Arizona. TMC currently offers facilities-based local exchange telecommunications service in the State of California. TMC is authorized to provide resold local exchange telecommunications services in the State of California. The Applicant has demonstrated that it has the capability to provide its proposed services, as requested, and the provision of these would merely be an extension of its current activities elsewhere. Therefore, Staff recommends that the Applicant's application for a CC&N to provide intrastate telecommunications services, as listed in Section 2.2 of this Report, be granted subject to the following recommendations:

1. That, unless it provides services solely through the use of its own facilities, the Applicant procure an Interconnection Agreement, within 365 days of the effective date of the order in this matter or 30 days prior to the provision of service, whichever comes first, and must remain in effect until further order of the Commission, before being allowed to offer local exchange service;

2. That the Applicant file with the Commission, within 365 days of the effective date of the order in this matter or 30 days prior to the provision of service, whichever comes first, and must remain in effect until further order of the Commission, its plan to have its customers' telephone numbers included in the incumbent's Directories and Directory Assistance databases;

3. That the Applicant pursue permanent number portability arrangements with other LECs pursuant to Commission rules, federal laws and federal rules;

4. That the Applicant agree to abide by and participate in the AUSF mechanism instituted in Decision No. 59623, dated April 24, 1996 (Docket No. RT-00000E-95-0498);

5. That the Applicant abides by the quality of service standards that were approved by the Commission for Qwest in Docket No. T-01051B-93-0183;

6. That in areas where the Applicant is the sole provider of local exchange service facilities, the Applicant will provide customers with access to alternative providers of service pursuant to the provisions of Commission rules, federal laws and federal rules;

7. That the Applicant be required to certify, through the 911 service provider in the area in which it intends to provide service, that all issues associated with the provision of 911 service have been resolved with the emergency service providers, within 365 days of the effective date of the order in this matter or 30 days prior to the provision of service, whichever comes first, and must remain in effect until further order of the Commission;

8. That the Applicant be required to abide by all the Commission decisions and policies regarding CLASS services;

9. That the Applicant be required to provide 2-PIC equal access;

10. That the Applicant be required to notify the Commission immediately upon changes to the Applicant's address or telephone number;

11. That the Applicant comply with all Commission rules, orders, and other requirements relevant to the provision of intrastate telecommunications service;

12. That the Applicant maintain its accounts and records as required by the Commission;

13. That the Applicant file with the Commission all financial and other reports that the Commission may require, and in a form and at such times as the Commission may designate;

14. That the Applicant maintain on file with the Commission all current tariffs and rates, and any service standards that the Commission may require;

15. That the Applicant cooperate with Commission investigations of customer complaints;

16. That the Applicant participates in and contributes to a universal service fund, as required by the Commission; and

17. The rates proposed by this filing are for competitive services. In general, rates for competitive services are not set according to rate of return regulation. Staff obtained information from the company and has determined that its fair value rate base is de minimus. Accordingly, the company's fair value rate base is too small to be useful in a fair value analysis. In addition, the rate to be ultimately charged by the company will be heavily influenced by the market. Therefore, while Staff considered the fair value rate base information submitted by the company, Staff recommends that the fair value information provided not be given substantial weight in this analysis.

Staff further recommends that the Applicant's application for a CC&N to provide intrastate telecommunications services should be granted subject to the following conditions:

1. The Applicant be ordered to file conforming tariffs within 365 days from the date of an Order in this matter or 30 days prior to providing service, whichever comes first, and in accordance with the Decision;

2. In order to protect the Applicant's customers,

    a. the Applicant should be ordered to procure a performance bond equal to $125,000;

    b. the minimum bond amount of $125,000 should be increased if at any time it would be insufficient to cover advances, deposits, and/or prepayments collected from the Applicant's customers. The bond amount should be increased in increments of $62,500. This increase should occur when the total amount of the advances, deposits, and prepayments is within $12,500 of the bond amount;

    c. if the Applicant desires to discontinue service, it should file an application with the Commission pursuant to AAC R14-2-1107;

    d. the Applicant should be required to notify each of its local exchange customers and the Commission 60 days prior to filing an application to discontinue service; and any failure to do so should result in forfeiture of the Applicant's performance bond; and

    e. proof of the performance bond should be docketed within 365 days of the effective date of an Order in this matter or 30 days prior to the provision of service, whichever comes first, and must remain in effect until further order of the Commission.

3. If any of the above timeframes are not met, the Applicant's CC&N shall be null and void without further Order of the Commission and no time extensions for compliance shall be granted.

5.2 RECOMMENDATION ON THE APPLICANT'S PETITION TO HAVE ITS PROPOSED SERVICES CLASSIFIED AS COMPETITIVE

Staff believes that the Applicant's proposed services should be classified as competitive. There are alternatives to the Applicant's services. The Applicant will have to convince customers to purchase its services, and the Applicant has no ability to adversely affect the local exchange service markets. Therefore, the Applicant currently has no market power in the local exchange service markets where alternative providers of telecommunications services exist. Staff therefore recommends that the Applicant's proposed services be classified as competitive.

Staff further recommends that the Applicant be subject to the Commission's rules governing interconnection and unbundling and the 1996 Telecommunications Act and the rules promulgated thereunder. In the event that the Applicant provides essential services or facilities that potential competitors need in order to provide their services, the Applicant should be required to offer those facilities or services to these providers on non-discriminatory terms and conditions pursuant to federal laws, federal rules, and state rules.

Bostwick
Rec'd 3/22/02

DIRECTOR

505 Sansome Street
Suite 900
San Francisco
California 94111

GOODIN, MACBRIDE,
SQUERI, RITCHIE & DAY, LLP
Attorneys at Law

Telephone
415/392-7900
Facsimile
415/398-4321

John L. Clark

Writer's Direct Line
415/765-8443

RECEIVED

2002 MAR 15 A 9: 15

AZ CORP COMMISSION
DOCUMENT CONTROL

March 14, 2002

VIA FEDERAL EXPRESS

Docket Control Center
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007-2996

Re: <u>Docket No. T-03714A-01-0805</u>

Enclosed please find for filing an original plus eleven copies of this letter, a Filings Cover Sheet, and a Response of Tri-M Communications, Inc. d/b/a TMC Communications to Staff Data Request Relating to Fair Value Finding.

Please file-stamp the extra copy and return it in the enclosed self-addressed stamped envelope. If you have any questions or require additional information, please contact me at (415) 765-8443 or at jclark@gmssr.com.

Thank you for your assistance regarding this matter.

Very truly yours,

John Clark

ARIZONA CORPORATION COMMISSION
RECEIVED
MAR 15 2002
Director of Utilities

Enc.

2585/002/X29787-1

Arizona Corporation Commission
Docket Control Center
Filings Cover Sheet

Company/Case Name Tri-M Communications, Inc.
Doing Business As (d/b/a) TMC Communications
Docket Number (s) T-03714A-01-0805

Description of Document or Nature of Action
Please choose the item that best describes the nature of the case/filing.

UTILITIES – NEW APPLICATION

- ___ New CC&N
- ___ Rates
- ___ Interim Rates
- ___ Cancellation of CC&N
- ___ Deletion of CC&N
- ___ Extension of CC&N
- ___ Tariff (NEW)
- ___ Request for Arbitration
- ___ Full or Partially Arbitrated Interconnection Agreement
- ___ Voluntary Interconnection Agreement
- ___ Miscellaneous - Specify: ___
- ___ Main Extension
- ___ Contract/Agreements
- ___ Formal Complaint
- ___ Waiver/Rule Variance
- ___ Line Siting Committee Case
- ___ Small Water Company – Surcharge
- ___ Sale of Assets & Transfer of Ownership
- ___ Sale of Assets & Cancellation of CC&N
- ___ Fuel Adjuster/PGA
- ___ Merger
- ___ Financing

UTILITIES – REVISIONS/AMENDMENTS TO PENDING OR APPROVED MATTERS

___ **Application:**

Company ___
Docket Number ___

___ **Tariff: (Promotional or Compliance)**
(Circle One)
Decision No. ___
Docket No: ___

SECURITIES or MISCELLANEOUS FILINGS

- ___ Affidavit (Publication, Public Notice)
- ___ Comments
- ___ Exception
- ___ Exhibit(s)
- ___ Notice of Appearance/Intent
- ___ Notice of Errata
- ___ Opposition
- ___ Petition

Other: ~~Response to Staff Data Request~~

- ___ Request/Motion for Extension of Time
- ___ Request/Motion for a Hearing
- ___ Request/Motion for an Intervention
- ___ Miscellaneous Request/Motion
- ___ Request/Motion for a Re-hearing
- ___ Request/Motion to Continue Hearing
- ___ Request/Motion to Strike
- ___ Response
- ___ Testimony
- ___ Waiver
- ___ Witness List

3/5/2002
Date

John L. Clark, Attorney for Applicant
Please print the name of the person whose signature appears on the filing (i.e. Contact Person, Respondent, Attorney, Applicant, etc.)

ARIZONA CORPORATION COMMISSION

Response of Tri-M Communications, Inc. d/b/a TMC Communications To Staff Data Request Relating to Fair Value Finding

Tri-M Communications, Inc. d/b/a TMC Communications ("Applicant") hereby submits the following response to Staff's data request dated January 29, 2002, requesting information relating to fair valuation of Applicant's property for purposes of determining the reasonableness of Applicant's rates. Applicant's response was originally due on February 28, 2002; however, an extension of time to respond was granted by John F. Bostwick at Applicant's request.

Applicant has not yet commenced any local exchange operations in Arizona. Accordingly, Applicant's responses are based on projections, as contemplated by Staff's data requests shown below:

INFORMATION IN RESPONSE TO STAFF DATA REQUEST

1. Provide the projected total revenue for the first twelve months to provide telecommunications service to Arizona customers by the Applicant following certification, adjusted to reflect the **maximum rates** that the Applicant has requested in its tariff. This adjusted total revenue figure could be calculated as the number of units sold for all services offered times the maximum charge per unit.

   Response: Applicant's revenue projections are shown in Table 1 and Table 2, below. Table 1 shows projected revenues for the first year of operations, based on Applicant's proposed initial rates, which Applicant has designed to be competitive with the current rates of other carriers. Table 2 shows projected revenues for the same period, based on Applicant's proposed maximum rates. In the competitive marketplace, no carrier can sustain rates that are markedly higher than other carriers for like services. Moreover, the marketplace will drive prices for competitive services toward cost. Accordingly, the projected revenues shown in Table 2 assume parallel rate increases by other carriers and proportionate increases in costs. In the absence of both of these occurrences, Applicant would be unable to retain any customers at the proposed maximum rates and its revenues would fall to zero.

Table 1 -- Projected Revenues (Proposed Initial Rates)

Month	New Lines	Add'l Rev./Mo.	Annualized Rev.
1	120	$ 5,400	$ 64,800
2	240	$10,080	$ 118,800
3	480	$21,600	$ 216,000
4	720	$32,400	$ 291,600
5	960	$43,200	$ 345,600
6	960	$43,200	$ 302,400
7	960	$43,200	$ 259,200
8	960	$43,200	$ 216,000
9	960	$43,200	$ 172,800
10	960	$43,200	$ 129,600
11	960	$43,200	$ 86,400
12	960	$43,200	$ 43,200
Total	**9240**		**$2,246,400**

Note: Applicant intends to offer bundled local exchange and interexchange services pursuant to a number of different rate plans, the prices for which vary depending on the number of access lines served and the amount of local and interexchange usage that is included in the basic monthly service charge. Applicant's revenue projection assumes that it will recover an average of $40 per month for each access line served.

Table 2 -- Projected Revenues (Proposed Maximum Rates)

Month	New Lines	Add'l Rev./Mo.	Annualized Rev.
1	120	$ 9,450	$ 113,400
2	240	$18,900	$ 207,900
3	480	$37,800	$ 378,000
4	720	$56,700	$ 510,300
5	960	$75,600	$ 604,800
6	960	$75,600	$ 529,200
7	960	$75,600	$ 453,600
8	960	$75,600	$ 378,000
9	960	$75,600	$ 302,400
10	960	$75,600	$ 226,800
11	960	$75,600	$ 151,200
12	960	$75,600	$ 75,600
Total	**9240**		**$3,931,200**

Note: The differences between Applicant's proposed initial rates and its proposed maximum rates range between approximately 50% to 100%. The revenue projections in this table assume that Applicant's average per line revenue would be 75% higher at the proposed maximum rate than at the proposed initial rates.

2. Provide the projected **operating expenses** for the first twelve months to provide service to Arizona customers by the Applicant following certification.

Response: Applicant's projected expenses shown in Table 3 are incremental to those of its other operations and are based on an assumed marketing cost of $40 per line, plus current costs of unbundled network elements and wholesale toll services (network costs) that Applicant will utilize to provide its bundled service offerings. Applicant estimates these network costs would average $27 per line, per month. The projected expenses exclude, among other things, general and administrative overheads, billing and customer support, uncollectibles, costs of debt, and income taxes. As noted above, it is extremely improbable that Applicant would be able to retain customers at the projected maximum rates unless costs of service were to increase proportionately for all carriers. Accordingly, for purposes of comparison with projected revenues based on the proposed maximum rates, it should be assumed that expenses would be approximately 75% higher than those shown in Table 3. Table 4 shows projected costs based on this assumption.

Table 3 -- Projected Expenses (Current)

Month	New Lines	Marketing Cost	Monthly Network Cost	Annualized Network Cost
1	120	$ 4,800	$ 3,240	$ 38,880
2	240	$ 9,600	$ 6,480	$ 71,280
3	480	$ 19,200	$12,960	$ 129,600
4	720	$ 28,800	$19,440	$ 174,960
5	960	$ 38,400	$25,920	$ 207,360
6	960	$ 38,400	$25,920	$ 181,440
7	960	$ 38,400	$25,920	$ 155,520
8	960	$ 38,400	$25,920	$ 129,600
9	960	$ 38,400	$25,920	$ 103,680
10	960	$ 38,400	$25,920	$ 77,760
11	960	$ 38,400	$25,920	$ 51,840
12	960	$ 38,400	$25,920	$ 25,920
Sub-Total	9240	$369,600		$1,347,840
			Total Cost	**$1,717,440**

Table 4 -- Projected Expenses (175% of Current)

Month	New Lines	Marketing Cost	Monthly Network Cost	Annualized Network Cost
1	120	$ 8,400	$ 5,670	$ 68,040
2	240	$ 16,800	$ 11,340	$ 124,740
3	480	$ 33,600	$12,960	$ 226,800
4	720	$ 50,400	$22,680	$ 306,180
5	960	$ 67,200	$45,360	$ 362,880
6	960	$ 67,200	$45,360	$ 317,520
7	960	$ 67,200	$45,360	$ 272,160
8	960	$ 67,200	$45,360	$ 226,800
9	960	$ 67,200	$45,360	$ 181,440
10	960	$ 67,200	$45,360	$ 136,080
11	960	$ 67,200	$45,360	$ 90,720
12	960	$ 67,200	$45,360	$ 45,360
Sub-Total	9240	$646,800		$2,358,720
			Total Cost	**$3,005,520**

3. Provide the book value (original cost less accumulated depreciation) of **all Arizona jurisdictional assets** projected to be providing telecommunications service to Arizona customers at the end of the first twelve months of operation. If the projected fair value of those assets is different from the projected original cost net book value, also provide the corresponding projected fair value amounts. Assets are not limited to plant and equipment. Items such as office equipment and office supplies should be included in this list. If the projected value of all assets is zero, please specifically state this in your response.

   Response: Applicant does not currently plan to devote hard assets exclusively to service in Arizona. Proportionate allocations of Applicant's hard assets to Arizona service are nominal. Applicant expects that its requirements for working cash to support its proposed Arizona operations during the first year, may exceed revenues from those operations (notwithstanding the foregoing revenue and expense estimates). However, Applicant has no way to accurate project those requirements at this time.

Respectfully submitted this 14th day of March 2002.

GOODIN, MACBRIDE, SQUERI,
RITCHIE & DAY, LLP
505 Sansome Street, Suite 900
San Francisco, California 94111
Tel: 415-765-8443
Fax: 415-398-4321
E-mail: jclark @gmssr.com

John L. Clark

Attorneys for Applicant

2585/002/X32520-1