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FROM: Deborah R. Scott  
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Utilities Division

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AZ CORP COMMISSION  
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DATE: August 14, 2000

RE: STAFF REPORT ON THE APPLICATION OF ALLIED RISER OF ARIZONA, INC.  
FOR A CERTIFICATE OF CONVENIENCE AND NECESSITY TO PROVIDE  
COMPETITIVE INTRASTATE TELECOMMUNICATIONS SERVICES AS A  
FACILITIES-BASED PROVIDER AND RESELLER, AND PETITION FOR A  
DETERMINATION THAT ITS SERVICES SHOULD BE CLASSIFIED AS  
COMPETITIVE. (DOCKET NO. T-03871A-00-0277)

Attached is the Staff Report for the above referenced application. Staff is recommending approval of the application following a hearing.

/mgk

Originator: Marta Kalleberg

Attachment: Original and Eleven Copies

**STAFF REPORT**  
**UTILITIES DIVISION**  
**ARIZONA CORPORATION COMMISSION**

**ALLIED RISER OF ARIZONA, INC.**

**DOCKET NO. T-03871A-00-0277**

**APPLICATION FOR A CC&N TO PROVIDE  
COMPETITIVE INTRASTATE TELECOMMUNICATIONS  
SERVICES AS A FACILITIES-BASED PROVIDER  
AND RESELLER IN ARIZONA  
AND  
PETITION FOR A DETERMINATION THAT ITS SERVICES  
SHOULD BE CLASSIFIED AS COMPETITIVE**

**AUGUST 14, 2000**

TABLE OF CONTENTS

PAGE

1. Introduction..... 1

2. Allied Riser's Application for a Certificate of Convenience & Necessity ..... 1

    2.1 Description of the Geographic Market to be Served ..... 1

    2.2 Description of Requested Services ..... 1

    2.3 The Organization ..... 1

    2.4 Technical Capability to Provide the Requested Services ..... 1

    2.5 Financial Capability to Provide Services ..... 2

    2.6 Establishing Rates and Charges ..... 2

3. Local Exchange Carrier Specific Issues ..... 3

    3.1 Interconnection ..... 3

    3.2 Directory Listings and Directory Assistance ..... 3

    3.3 Number Portability ..... 4

    3.4 Provision of Basic Telephone Service and Universal Service ..... 4

    3.5 Quality of Service ..... 4

    3.6 Access to Alternative Local Exchange Service Providers ..... 4

    3.7 911 Service ..... 5

    3.8 Custom Local Area Signaling Services ..... 5

    3.9 Equal Access for Interexchange Carriers ..... 5

4. Competitive Services Analysis ..... 6

    4.1 Competitive Services Analysis for Local Exchange Services ..... 6

5. Recommendations ..... 8

    5.1 Recommendations on Allied Riser's Application For a CC&N ..... 8

    5.2 Recommendation on Allied Riser's Petition to Have Its  
    Proposed Services Classified as Competitive ..... 10

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## STAFF ACKNOWLEDGMENT

The Staff Report for Allied Riser of Arizona, Inc., Docket No. T-03871A-00-0277, was the responsibility of the Staff member listed below. Marta G. Kalleberg was responsible for the review and analysis of the Company's application for a Certificate of Convenience and Necessity to provide facilities-based and resold local exchange service and petition for a determination that its services should be classified as competitive.



Marta G. Kalleberg  
Economist II

## INTRODUCTION

On April 27, 2000, Allied Riser of Arizona, Inc. ("Allied Riser" or "Company") filed an application for a Certificate of Convenience and Necessity ("CC&N") to provide facilities-based and resold local exchange service within the State of Arizona. Allied Riser petitioned the Arizona Corporation Commission ("Commission") for a determination that the services it seeks to offer should be classified as competitive.

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

## 2. ALLIED RISER'S APPLICATION FOR A CERTIFICATE OF CONVENIENCE & NECESSITY

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

### 2.1 DESCRIPTION OF THE GEOGRAPHIC MARKET TO BE SERVED

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

### 2.2 DESCRIPTION OF REQUESTED SERVICES

Allied Riser proposes to provide a full range of facilities-based and resold local exchange services. This includes: basic residential and business exchange services, 911, directory assistance, and relay services.

### 2.3 THE ORGANIZATION

Allied Riser is incorporated under the laws of the State of Delaware and has provided a copy of its approved Application for Authority to transact business in Arizona. Allied Riser's parent company is Allied Riser Communications Corporation (ARCC), a publicly traded company on the NASDAQ National Market.

### 2.4 TECHNICAL CAPABILITY TO PROVIDE THE REQUESTED SERVICES

Allied Riser is not approved to offer facilities-based or resold local exchange service in any state. Affiliates of Allied Riser are approved to offer facilities-based local exchange service in 10 states. Affiliates of Allied Riser are approved to offer resold local exchange service in 7 states and

the District of Columbia. Allied Riser states that it will draw upon the expertise of its affiliates in providing service.

## 2.5 FINANCIAL CAPABILITY TO PROVIDE SERVICES

Allied Riser has submitted the audited financial statements of its Parent Company for the year ended December 31, 1999. These financials list assets of \$475.06 million, total stockholders' equity of \$452.41 million, and a net loss of (\$57.49 million) on network services revenues of \$1.87 million. Based upon this information, Staff believes that Allied Riser lacks sufficient financial strength to offer the requested telecommunications services in Arizona absent the procurement of a performance bond.

Since Allied Riser does not appear to have sufficient financial resources, Staff believes that any deposits, prepayments, and advances received from Allied Riser's customers should be protected. Further, measures should be taken to ensure that Allied Riser will not discontinue service to its customers without first complying with A.A.C. R14-2-1107.

To that end, Staff recommends that Allied Riser procure a performance bond equal to a minimum of 120 days intrastate telecommunications revenue, plus the amount of any prepayments and deposits collected from the Company's customers. The amount of the performance bond must be increased if at any time it would be insufficient to cover 120 days intrastate telecommunications revenue, and the cumulative total of any prepayments and deposits collected from the Company's customers. If Allied Riser desires to discontinue service it must file an application with the Commission pursuant to A.A.C. R14-2-1107. Additionally, Allied Riser must notify each of its customers and the Commission 60 days prior to filing an application pursuant to A.A.C. R14-2-1107. Failure to meet this requirement should result in forfeiture of Allied Riser's performance bond. Staff further recommends that proof of the above mentioned performance bond be docketed at least 30 days prior to the provision of service.

After one year of operation under the CC&N granted by the Commission, Staff recommends that Allied Riser be allowed to file a request for cancellation of its performance bond. Such request should be accompanied by information demonstrating Allied Riser's financial viability. Upon receipt of such filing and after Staff review, Staff will forward its recommendation to the Commission for a Decision.

## 2.6 ESTABLISHING RATES AND CHARGES

Allied Riser will initially be providing service in areas where an ILEC, along with various CLECs, are providing telephone service. Therefore, Allied Riser will have to compete with those providers in order to obtain subscribers to its services. Allied Riser 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, Allied Riser will generally not be able to exert market power. Thus, the competitive process should result in rates that are just and reasonable.

Both an initial rate (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. Since Allied Riser has not begun to negotiate an interconnection agreement with the ILEC, it is not possible for Allied Riser to determine what rates are necessary for services that require interconnection with the ILEC. Therefore, Staff recommends that Allied Riser be required to file its proposed tariffs at least 30 days prior to the provision of service, or within 30 days of a Decision in this matter, whichever is sooner.

### 3. LOCAL EXCHANGE CARRIER SPECIFIC ISSUES

Since Allied Riser intends to provide local exchange service, the issues related to the provision of that service are discussed below:

#### 3.1 INTERCONNECTION

Allied Riser has applied for a CC&N to become a local exchange company. As such, Allied Riser will need to connect its network to other local exchange company networks in order to provide ubiquitous calling capabilities to its customers. The Commission approved the parameters under which interconnection between Allied Riser and other telephone service providers will take place (Decision No. 59761, dated July 22, 1996, in Docket No. RT-00000F-96-0001). The 1996 Act has also set forth general guidelines for interconnection. Staff therefore recommends that, unless it provides services solely through the use of its own facilities, Allied Riser procure an Interconnection Agreement that is consistent with these guidelines before being allowed to offer local exchange service.

#### 3.2 DIRECTORY LISTINGS AND DIRECTORY ASSISTANCE

Callers should be able to determine the telephone numbers belonging to customers of alternative local exchange companies, such as Allied Riser. There are three issues associated with the provision of Directory Assistance for subscribers to new local exchange company services, no matter what service provider the subscriber uses. These issues are:

1. Should there be one Directory Assistance database administrator?
2. If there is one Directory Assistance database administrator, what should the rates be for inclusion in the directories?
3. What should be included in the Directory Assistance database?

Staff recommends that Allied Riser indicate 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.

### 3.3 NUMBER PORTABILITY

Another issue associated with Allied Riser'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 Allied Riser pursue interim and permanent number portability arrangements with other local exchange carriers ("LECs") that are consistent with federal laws, federal rules and state rules.

### 3.4 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, Allied Riser 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 Allied Riser's application for a CC&N be conditioned upon Allied Riser'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).

### 3.5 QUALITY OF SERVICE

Staff believes that Allied Riser should be ordered to abide by the quality of service standards that were approved by the Commission for USWC in Docket No. T-01051B-93-0183 (Decision No. 59421). Because the penalties that were developed in this docket were initiated only because USWC's level of service was not satisfactory, Staff does not recommend that those penalties apply to Allied Riser. In the competitive market that Allied Riser wishes to enter, Allied Riser 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 Allied Riser to those penalties at this time.

### 3.6 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 Allied Riser installs the only local exchange service facilities, Allied Riser will be a monopoly service provider. In the interest of providing competitive alternatives to Allied Riser's local exchange service customers, Staff recommends that Allied Riser provide customers served in these areas with access to alternative local exchange service providers so that they may be served by them if they desire. With this requirement in place, Allied Riser will not be able to exert monopoly power over customers who are located in areas where Allied Riser is the only provider of facilities to serve

the customer. Access to other providers should be provided pursuant to the provisions of the 1996 Act, the rules promulgated thereunder and Commission rules on interconnection and unbundling.

### 3.7 911 SERVICE

Allied Riser 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 Allied Riser 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 Allied Riser 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.

### 3.8 CUSTOM LOCAL AREA SIGNALING SERVICES

In its decisions related to USWC'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 USWC engage in education programs when introducing or providing the service(s).

Staff recommends that Allied Riser 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 Allied Riser to engage in the educational program that was ordered for USWC as long as customers in the area where Allied Riser 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.

### 3.9 EQUAL ACCESS FOR INTEREXCHANGE CARRIERS

Although Allied Riser 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 Allied Riser be required to provide 2-PIC equal access.

#### 4. COMPETITIVE SERVICES ANALYSIS

Allied Riser has petitioned the Commission for a determination that the services it is seeking to provide should be classified as competitive. Allied Riser has published legal notice of the application in all counties in which it requests authorization to provide service. Allied Riser has certified that all notification requirements have been completed.

Staff's analysis and recommendations are as follows:

##### 4.1 COMPETITIVE SERVICES ANALYSIS FOR ALLIED RISER'S REQUESTED LOCAL EXCHANGE SERVICES

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

The analysis of the market for local exchange service that Allied Riser 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 Allied Riser 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, Allied Riser will be entering the market as an alternative provider of local exchange service and, as such, Allied Riser will have to compete with those companies in order to obtain customers. In areas where ILECs do not serve customers, Allied Riser may have to convince developers to allow it to provide service to their developments. Staff recommends that, in those instances where the Company provides the only facilities used to provide telecommunications service, that the Company 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.**

USWC 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 USWC 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 Company, 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 Allied Riser has requested in their respective service territories. Similarly many of the CLECs and local exchange resellers also offer substantially similar services.

**4.1.5 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 USWC 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 Allied Riser, should provide USWC--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 Allied Riser 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 Allied Riser's Application for a CC&N and Allied Riser's Petition for a Commission Determination that its Proposed Services Should be Classified as Competitive.

### 5.1 RECOMMENDATIONS ON ALLIED RISER'S APPLICATION FOR A CC&N

Allied Riser is incorporated under the laws of the State of Delaware and is authorized to provide facilities-based local exchange and interexchange services in Texas, California, and Nevada. Allied Riser 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 Allied Riser'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:

- a. Allied Riser should be ordered to abide by the additional financial requirements as stated in Section 2.5 of this Report;
- b. Allied Riser should be ordered to file its tariffs within 30 days of an Order in this matter, and in accordance with the Decision;
- c. Unless it provides services solely through the use of its own facilities, Allied Riser should be ordered to procure an Interconnection Agreement before being allowed to offer local exchange service;
- d. Allied Riser should be ordered to file with the Commission, within 30 days of an Order in this matter, its plan to have its customers' telephone numbers included in the incumbent's Directories and Directory Assistance databases;
- e. Allied Riser should be ordered to pursue permanent number portability arrangements with other LECs pursuant to Commission rules, federal laws and federal rules;

- f. Allied Riser should be ordered to abide by and participate in the AUSF mechanism instituted in Decision No. 59623, dated April 24, 1996 (Docket No. RT-00000E-95-0498);
- g. Allied Riser should be ordered to abide by the quality of service standards that were approved by the Commission for USWC in Docket No. T-01051B-93-0183;
- h. In areas where Allied Riser is the sole provider of local exchange service facilities, Allied Riser should be ordered to provide customers with access to alternative providers of service pursuant to the provisions of Commission rules, federal laws and federal rules;
- i. Allied Riser should be ordered 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 30 days of an Order in this matter;
- j. Allied Riser should be ordered to abide by all the Commission decisions and policies regarding CLASS services;
- k. Allied Riser should be ordered to provide 2-PIC equal access;
- l. Allied Riser should be ordered to notify the Commission immediately upon changes to Allied Riser's address or telephone number;
- m. Allied Riser should be ordered to comply with all Commission rules, orders, and other requirements relevant to the provision of intrastate telecommunications service;
- n. Allied Riser should be ordered to maintain its accounts and records as required by the Commission;
- o. Allied Riser should be ordered to 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;
- p. Allied Riser should be ordered to maintain on file with the Commission all current tariffs and rates, and any service standards that the Commission may require;
- q. Allied Riser should be ordered to cooperate with Commission investigations of customer complaints; and
- r. Allied Riser should be ordered to participate in and contribute to a universal service fund, as required by the Commission.

Staff further recommends that the Order provide that Allied Riser's failure to comply with any of the above conditions may result in rescission of its Certificate of Convenience and Necessity.

5.2 RECOMMENDATION ON ALLIED RISER'S PETITION TO HAVE ITS PROPOSED SERVICES CLASSIFIED AS COMPETITIVE

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

Staff further recommends that Allied Riser be subject to the Commission's rules governing interconnection and unbundling and the 1996 Act and the rules promulgated thereunder. In the event that Allied Riser provides essential services or facilities that potential competitors need in order to provide their services, Allied Riser 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.