

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of
Application for the Transfer of Control of

Tri-M Communications, Inc. d/b/a TMC Communications
from The John Marsch Revocable Trust, Transferor
to
The Estate of John Marsch, Transferee

Application Pursuant to Section 214 of the
Communications Act of 1934 and
Section 63.24 of the Commission's Rules for
Consent to the Transfer of Control of

File No. ITC/T/C-2010

Tri-M Communications, Inc. d/b/a TMC Communications
from The John Marsh Revocable Trust, Transferor
to
The Estate of John Marsch, Transferee

and

Application Pursuant to Section 214 of the
Communications Act of 1934 and
Section 63.04 of the Commission's Rules for
Consent to the Transfer of Control
of Tri-M Communications, Inc. d/b/a TMC Communications.
from The John Marsch Revocable Trust, Transferor
to
The Estate of John Marsch, Transferee

WC Docket No. 10-_____

Attention: International Bureau and Wireline Competition Bureau

**COMBINED/JOINT INTERNATIONAL AND DOMESTIC
APPLICATION FOR
TRANSFER OF CONTROL**

Pursuant to section 214 of the Communications Act of 1934, as amended (the "Act"), and sections 63.04 and 63.24 of the Commission's rules, this Application seeks Commission approval to transfer control of Tri-M Communications, Inc. d/b/a TMC Communications

("TMC") from the John Marsch Revocable Trust¹ ("Marsch Trust") to The Estate of John Marsch ("Marsch Estate") (the "Acquisition"). TMC holds authority to provide domestic and international telecommunications services pursuant to section 214 of the Act.² On July 6, 2010, TMC and its Stockholders entered into a Stock Purchase Agreement with 5LINX Enterprises, Inc ("5LINX"), whose transaction is being addressed in a separate and simultaneous filing with the Commission. The purpose of this filing is to address the involuntary transfer of control between the Marsch Trust and the Marsch Estate. The death of Mr. Marsch on May 17, 2006 caused an involuntary transfer of control of TMC's FCC 214 authorities from the Marsch Trust to the Marsch Estate.³ The Marsch Estate is comprised of Mr. Marsch's daughters, namely Michelle Marsch Cutlip and Melissa Marsch-Baker (through the Melissa Marsch-Baker Trust, administered by Michael Pfau, Trustee). Both heirs were unaware of the notification requirement pursuant to Section 63.24 of the Commission's rules and therefore did not file the notification of an involuntary transfer of control as a result of the demise of John Marsch. An application for Special Temporary Authority for the Marsch Estate to operate is being filed simultaneous with this application.

TMC is a provider of interstate, international and intrastate interexchange telecommunications services. The customers of TMC will benefit from the resources and assets of 5LINX in the ultimate transaction, which will help ensure continuity of service and enhance

¹ John Marsch transferred his shares to the John Marsch Revocable Trust on June 30, 2000. At all times following creation of the Trust and prior to his demise, Mr. Marsch controlled the Trust and was its lifetime beneficiary.

² TMC holds domestic and international authority pursuant to section 214 of the Act. Authority was granted in File No. ITC-214-19981218-00897 on February 18, 1999. A typographical error was made in the International Bureau database which incorrectly refers to the Applicant as Tri-M Telecommunications, Inc. A copy of the original Application for 214 International Authority reflecting the correct company name is attached hereto as Exhibit A.

³ Upon Mr. Marsch's death, the shares of TMC passed through the John D. Marsch Administrative Trust ("Administrative Trust") directly to the Estate of John Marsh. Mr. Marsch was at all times the beneficial owner of the Administrative Trust.

the ability of TMC to offer a broader range of innovative products and services to customers. The transfer of control will therefore serve to enhance the overall capacity of TMC to compete in the marketplace and to provide telecommunications services for a greater number of consumers at competitive rates. Grant of this Application clearly will promote competition in the interstate and international long distance telecommunications markets and will serve the public interest.

I. INFORMATION REQUIRED BY SECTION 63.24

This Application seeks authority to transfer the control of the common stock of TMC, which holds authority pursuant to section 214 of the Act to provide domestic interstate and international telecommunications service, from the John Marsch Revocable Trust to the Estate of John Marsch. Section 63.24(e)(2) of the Commission's rules requires that an application for a substantial transfer of control of a carrier holding international section 214 authority include the following information, as described in section 63.18:

- (a) The name, address and contact number of the transferor is:

John Marsch Revocable Trust
Michael E. Pfau, Trustee
820 State Street, 5th Floor
Santa Barbara, California 93101
Telephone: (805) 966-2440 x 444
Fax: (805) 966-3320

The name, address and contact number of the transferee is:

The Estate of John Marsch
Attn: Michael E. Pfau
1421 State Street, Suite B
Santa Barbara, California 93101
Telephone: (805) 966-2440 x 444
Fax: (805) 966-3320

The name, address and contact number of the holder of section 214 authorities is:

Tri-M Communications, Inc. d/b/a TMC Communications
820 State Street, 5th Floor
Santa Barbara, California 93101
Telephone: (866) 999-1133
Fax: (877) 965-7822

- (b) TMC is a California corporation.
MC is a person of the full age of majority, a citizen of the United States and a resident of New Jersey.
Trust is a juridical person and a resident of the State of California
5LINX is a Delaware corporation.

- (c) Correspondence concerning this Application should be addressed to:

Leon Nowalsky, Esq.
Nowalsky, Bronston & Gothard
1420 Veterans Blvd.
Metairie, LA 70005
Phone: (504) 832-1984
Fax: (504) 831-0892
Email: lnowalsky@nbglaw.com

- (d) TMC was granted authority in File No. ITC-214-19981218-00897.

Responses (e) through (g) are not applicable to this Application.

- (h) The following are the names, addresses, citizenship, and principal businesses of any person or entity that will directly or indirectly own at least ten percent of the equity of the applicants. There will be no interlocking directorates with any foreign carrier.

John Marsch Revocable Trust

Michael E. Pfau, Trustee (“Marsch Trust”)

Address: 1421 State Street, Suite B, Santa Barbara, CA 93101

Citizenship: United States

Principal Business: Trust

Percent Ownership: Marsch Trust owns 100% of the common stock of TMC before the Acquisition

Marsch Trust does not own a 10% or greater ownership or equity interest in any other telecommunications companies.

The Estate of John Marsch

Michelle Cutlip, an individual (“Cutlip”)

Address: 14 Stafford Road, Chatham, New Jersey 07928

Citizenship: United States

Principal Business: Stockholder

Percent Ownership: Cutlip owns 50% of The Estate of John Marsch after the Acquisition

Cutlip does not own a 10% or greater ownership or equity interest in any other telecommunications companies

Michael E. Pfau, Trustee of the

Melissa Marsch-Baker Trust (“Trust”)

Address: 1421 State Street, Suite B, Santa Barbara, CA 93101

Principal Business: Stockholder

Percent Ownership: Trust owns 50% of The Estate of John Marsch after the Acquisition

Marsch Trust does not own a 10% or greater ownership or equity interest in any other telecommunications companies

- (i) Applicants certify that they are not, and following the proposed transaction will not be, affiliated with any foreign carrier within the meaning of section 63.09(d) and (e).
- (j) The Applicants certify that they do not seek authority to provide service to any country described in paragraphs (1) through (4) of section 63.18(j).
- (k) Not applicable.
- (l) Not applicable.
- (m) Not applicable.
- (n) Applicants certify that they have not agreed to accept special concessions directly or indirectly from any foreign carrier with respect to any U.S. international route where the foreign carrier possesses market power on the foreign end of the route and will not enter into such agreements in the future.
- (o) Applicants certify that no party to the Application is subject to a denial of Federal benefits pursuant to section 5301 of the Anti-Drug Abuse Act of 1988.
- (p) This international section 214 Application qualifies for streamlined processing pursuant to section 63.12 because the applicants are not affiliated with any foreign carriers; are not affiliated with any dominant U.S. carriers whose international switched or private line services the applicant seeks authority to resell; and do not seek authority to provide switched basic services over private lines to a country

for which the Commission has not previously authorized the provision of switched services over private lines. This Application therefore should be granted, pursuant to section 63.12(a), fourteen days after the date of public notice listing this Application as accepted for filing.

II. ADDITIONAL INFORMATION REQUIRED BY SECTION 63.04

This Application seeks Commission consent to transfer control of TMC, which holds authority to provide domestic and international telecommunications services pursuant to section 214 of the Act. Pursuant to section 63.04(b) of the Commission's rules, the parties submit the following information in support of this Application in response to items 6 through 12 of section 63.04(a):

- 6) As set forth above, this Application seeks Commission consent to transfer control of TMC from the March Trust to the Marsch Estate. As a result of the transfer, TMC will continue to operate and provide service pursuant to its current authority.
- 7) [intentionally omitted]
- 8) This Application qualifies for streamlined processing under section 63.03(b)(2)(I) because the transferee will have a market share in the interstate interexchange market of less than 10 percent, the transferee will provide competitive telephone exchange services or exchange access services exclusively in geographic areas served by a dominant local exchange carrier that is not a party to the proposed transaction, and no party to this Application is dominant with respect to any service.
- 9) The parties will file a slamming certification letter with the Commission, if necessary.
- 10) Only standard streamlined processing of this domestic section 214 transfer of control application is sought pursuant to Section 63.03.
- 11) No waiver requests are being filed in conjunction with the transaction.
- 12) As discussed above, grant of this Application will strengthen TMC as the post-transaction company and will become a stronger competitor in the marketplace for interstate and international telecommunications services. The customers of TMC will benefit from 5LINX's resources and assets, which will help ensure continuity of service and enhance the ability of TMC to offer a broader range of innovative products and services to customers. Grant of this Application will promote competition in the domestic interexchange and international telecommunications markets and will serve the public interest.

III. CONCLUSION

For the foregoing reasons, this Application respectfully requests that the Commission consent to the transfer of control of TMC from the Marsch Trust to the Marsch Estate.

Respectfully submitted,



Leon Nowalsky, Esq. *lv*
Nowalsky, Bronston & Gothard
A Professional Limited Liability Company
1420 Veterans Blvd.
Metairie, LA 70005
Telephone: (504) 832-1984
Counsel for Tri-M Communications, Inc.
d/b/a TMC Communications, Stockholders,
and 5LINX Enterprises, Inc.

Exhibit A

505 Sansome Street
Suite 900
San Francisco
California 94111

**GOODIN, MACBRIDE,
SQUERI, SCHLOTZ & RITCHIE, LLP**
Attorneys at Law

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

Regina M. DeAngelis

December 17, 1998

VIA EXPRESS MAIL

Federal Communications Commission
Common Carrier International
P.O. Box 358115
Pittsburgh, Pennsylvania 15251-5115

**Re: §214 Application of TRI-M COMMUNICATIONS, INC. dba TMC
COMMUNICATIONS**

Dear Madam or Sir:

Enclosed is an original and six copies of the Section 214 Application of TRI-M Communications, Inc. dba TMC Communications for global authority to operate as an international facilities-based and resale carrier, a FCC 159 form, and the filing fee of \$780.00.

Please file-stamp the extra copy and return it in the self-addressed stamped envelope.


Please contact me should you have any questions regarding this matter.

Thank you for your assistance.

Very truly yours,

**GOODIN, MACBRIDE,
SQUERI, SCHLOTZ & RITCHIE, LLP**

By


Regina M. DeAngelis

Enclosures (copies, FCC 159 form, filing fee)

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BEFORE THE FEDERAL COMMUNICATIONS COMMISSION

WASHINGTON, D.C. 20554

In the Matter of TRI-M Communications, Inc.,)
dba TMC Telecommunications)

Application for authority pursuant)
to Section 214 of the Communications)
Act of 1934, as amended, for global)
authority to operate as an)
international facilities-based and)
resale carrier.)

File No. TIC-214-19981218-00897

APPLICATION

TRI-M Telecommunications, Inc., dba TMC Communications ("TMC") hereby requests authority, pursuant to Section 214 of the Communications Act of 1934, as amended, 47 U.S.C. Section 214 (1982), and Section 63.18 of the Federal Communications Commission's ("FCC") Rules, 47 C.F.R. §63.18 et seq., to provide global international facilities-based and resale services between the United States and international points. TMC further requests that this Application be granted according to the streamlined processing procedures set forth in 47 C.F.R. §63.12.

TMC is a U.S. company organized to provide telecommunication services. TMC has no affiliations with any foreign carriers.

By granting this Application, the Commission will serve the public interest, convenience and necessity by promoting competition in the international services market.

COPY

Competition will benefit U.S. consumers by increasing service options and lowering prices.

Thus, the public interest will be served by the grant of Section 214 authority to TMC.

TMC submits the following information in support of its request for authorization pursuant to Section 63.18 of the FCC's Rules, 47 C.F.R. §63.18:

(a) TRI-M Communications, Inc.
dba TMC Communications
125 E. De La Guerra
Suite 201
Santa Barbara, California 93101
Telephone: (805) 965-8620

(b) Applicant is organized under the laws of the State of California.

(c) Correspondence concerning this Application should be sent to:

Regina M. DeAngelis, Esq.
GOODIN, MACBRIDE, SQUERI, SCHLOTZ & RITCHIE, LLP
505 Sansome Street, 9th Floor
San Francisco, California 94111
Telephone: (415) 392-7900

with copy to:

Bernadette Richardson
TRI-M Communications, Inc.
dba TMC Communications
125 E. De La Guerra
Suite 201
Santa Barbara, California 93101
Telephone: (805) 965-8620

(d) TMC has never received authority under Section 214 of the Communications Act.

(e)(2)(i) TMC requests global facilities-based and resale Section 214 authority pursuant to the terms and conditions of Section 63.18(e) and (e)(2) of the Commission's Rules.

- (e)(2)(ii) In support of this request, Applicant states that it will comply with 47 C.F.R. §63.18(e)(2)(ii)(A), §63.18(e)(2)(ii)(B), and §63.18(e)(2)(ii)(C).
- (f) At this time, TMC seeks no other authorization available under Section 63.18(e).
- (g) Not applicable.
- (h) TMC certifies that it is not affiliated with any foreign carriers. In support of this certification, TMC provides the name, address, citizenship, and principal businesses of its ten percent or greater direct or indirect shareholders or other equity holders and the identity of any interlocking directorates:

* John Marsch
 TRI-M Communications, Inc.
 dba TMC Communications
 125 E. De La Guerra
 Suite 201
 Santa Barbara, California 93101
 Telephone: (805) 965-8620
 Citizenship: U.S.A.
 Percentage Ownership in TMC: Greater than 10%
 Principal Business: TMC

No interlocking directorates exist. 47 C.F.R. § 63.18(h)(2).

Pursuant to 47 C.F.R. §63.18(h), TMC further certifies that neither it or its shareholders are (1) affiliated with the carrier whose facilities-based services TMC proposes to resell or (2) affiliated with a foreign carrier in any of TMC's proposed destination markets.

- (j) Applicant TMC hereby certifies that neither the Applicant nor any party to the Applicant is subject to a denial of Federal benefits under Section 5301 of the Anti-Drug Abuse Act of 1988.
- (i) TMC certifies that it has not agreed and will not agree in the future to accept any special concessions from a foreign carrier.

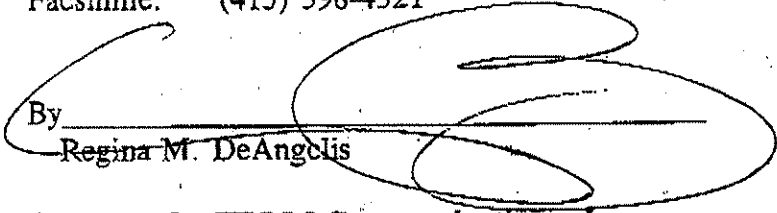
CONCLUSION

As demonstrated in this application, TRI-M Communications, Inc. dba TMC Communications is legally, financially, and technically qualified to provide the services for which it requests authority. For the reasons stated above, TRI-M Communications, Inc. dba TMC Communications submits that the public interest, convenience and necessity would be furthered by a grant of this Section 214 Application. The requested authorization should therefore be issued to TRI-M Communications, Inc. dba TMC Communications for the purpose of providing telecommunication services between the United States and the overseas points herein specified.

Dated: December 16, 1998

Respectfully submitted,

GOODIN, MACBRIDE, SQUERI,
SCHLOTZ & RITCHIE, LLP
Regina M. DeAngelis
505 Sansome Street, 9th Floor
San Francisco, California 94111
Telephone: (415) 392-7900
Facsimile: (415) 398-4321


By 
Regina M. DeAngelis

Attorneys for TRI-M Communications, Inc.,
dba Telecommunications, Inc.

CERTIFICATION OF APPLICANT

I hereby certify that the statements in the foregoing Application for Section 214 authority are true, complete, and correct to the best of my knowledge and are made in good faith.

**TRI-M COMMUNICATIONS, INC.,
dba TMC Communications**

Name: 
Title: PRESIDENT
Date: 12.10.98

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