

OPEN MEETING ITEM

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COMMISSIONERS  
JEFF HATCH-MILLER - Chairman  
WILLIAM A. MUNDELL  
MARC SPITZER  
MIKE GLEASON  
KRISTIN K. MAYES

ARIZONA CORPORATION COMMISSION

DATE: November 18, 2005

DOCKET NO: T-03228A-05-0244

TO ALL PARTIES:

Enclosed please find the recommendation of Administrative Law Judge Amy Bjelland. The recommendation has been filed in the form of an Order on:

MATRIX TELECOM, INC.  
(CC&N/RESELLER)

Pursuant to A.A.C. R14-3-110(B), you may file exceptions to the recommendation of the Administrative Law Judge by filing an original and thirteen (13) copies of the exceptions with the Commission's Docket Control at the address listed below by 4:00 p.m. on or before:

NOVEMBER 28, 2005

The enclosed is NOT an order of the Commission, but a recommendation of the Administrative Law Judge to the Commissioners. Consideration of this matter has tentatively been scheduled for the Commission's Open Meeting to be held on:

DECEMBER 6 AND 7, 2005

For more information, you may contact Docket Control at (602)542-3477 or the Hearing Division at (602)542-4250. For information about the Open Meeting, contact the Executive Director's Office at (602) 542-3931.

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AZ CORP COMMISSION  
DOCUMENT CONTROL

BRIAN C. McNEIL  
EXECUTIVE DIRECTOR

1  
2 **BEFORE THE ARIZONA CORPORATION COMMISSION**

3 COMMISSIONERS

4 JEFF HATCH-MILLER, Chairman  
5 WILLIAM A. MUNDELL  
6 MARC SPITZER  
7 MIKE GLEASON  
8 KRISTIN K. MAYES

9 IN THE MATTER OF THE APPLICATION OF  
10 MATRIX TELECOM, INC. FOR A CERTIFICATE  
11 OF CONVENIENCE AND NECESSITY TO  
12 PROVIDE RESOLD LOCAL EXCHANGE  
13 SERVICES AND FOR COMPETITIVE  
14 CLASSIFICATION OF ITS SERVICES.

DOCKET NO. T-03228A-05-0244

DECISION NO. \_\_\_\_\_

**ORDER**

15 Open Meeting  
16 December 6 and 7, 2005  
17 Phoenix, Arizona

18 **BY THE COMMISSION:**

19 Having considered the entire record herein and being fully advised in the premises, the  
20 Arizona Corporation Commission ("Commission") finds, concludes, and orders that:

21 **FINDINGS OF FACT**

22 1. On April 6, 2005, Matrix Telecom, Inc. ("Applicant") filed with the Commission an  
23 application for a Certificate of Convenience and Necessity ("Certificate") to provide competitive  
24 resold local exchange telecommunications services within the State of Arizona.

25 2. Applicant is a switchless reseller that purchases telecommunications services from  
26 Global Crossing for resale to its customers.

27 3. In Decision No. 58926 (December 22, 1994), the Commission found that resold  
28 telecommunications providers ("resellers") are public service corporations subject to the jurisdiction  
of the Commission.

4. Applicant has authority to transact business in the State of Arizona.

5. On May 11, 2005, Applicant filed an Affidavit of Publication verifying that it had  
published notice of its application that complies with the Commission's notice requirements.

1           6.       On October 26, 2005, the Commission's Utilities Division Staff ("Staff") filed a Staff  
2 Report recommending approval of the application, subject to certain conditions.

3           7.       Regarding Applicant's technical capability to provide the requested services, Staff  
4 stated that Matrix currently provides local exchange service in Texas and has an executive Staff of 75  
5 employees with a total combined experience of over 74 years in the telecommunications industry.

6           8.       Regarding Applicant's financial capability to provide the requested services, Staff  
7 stated that Applicant provided unaudited financial statements for the twelve months ending  
8 December 31, 2004, which list assets of \$4,393,000, negative equity of \$4,447,000, and net income  
9 of \$1,482,000.

10          9.       Regarding establishing rates and charges, and based on information obtained from the  
11 Applicant, Staff has determined that Applicant's fair value rate base ("FVRB") is zero and is too  
12 small to be useful in either a fair value analysis or in setting rates. Staff further stated that in general,  
13 rates for competitive services are not set according to rate of return regulation. Staff has reviewed the  
14 rates to be charged by the Applicant and believes they are just and reasonable, as they are comparable  
15 to the rates of other competitive local exchange companies operating in Arizona and comparable to  
16 the rates the Applicant charges in Texas and other jurisdictions in which applications to provide  
17 service are pending. Therefore, while Staff considered the FVRB information submitted by the  
18 Applicant, that information should not be given substantial weight in this analysis.

19          10.       Staff stated that Applicant has no market power and that the reasonableness of its rates  
20 will be evaluated in a market with numerous competitors. Staff believes that the rates in Applicant's  
21 proposed tariffs for its competitive services will be just and reasonable and recommends that the  
22 Commission approve them.

23          11.       Staff recommended that Applicant's application for a Certificate to provide  
24 competitive resold local exchange telecommunications services be granted subject to the following  
25 conditions:

- 26                   (a)       That the Applicant complies with all Commission Rules, Orders and other  
27                               requirements relevant to the provision of intrastate telecommunications  
28                               services.
- (b)       That the Applicant abides by the quality of service standards that the

Commission approved for Qwest in Docket No. T-01051B-93-0183.

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- (c) That the Applicant be prohibited from barring access to alternative local exchange service providers who wish to serve areas where the Applicant is the only provider of local exchange service facilities.
  - (d) That the Applicant be required to notify the Commission immediately upon changes to the Applicant's name, address or telephone number.
  - (e) That the Applicant cooperates with Commission investigations including, but not limited to, customer complaints.
  - (f) That 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 zero.
  - (g) That the Applicant offers Caller ID with the capability to toggle between blocking and unblocking the transmission of the telephone number at no charge.
  - (h) That the Applicant offers Last Call Return service that will not return calls to telephone numbers that have the privacy indicator activated.

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12. Staff further recommended that Applicant's resold local exchange Certificate should be conditioned upon the Applicant filing a conforming tariff for each service within its CC&N within 365 days from the date of an Order in this matter, or 30 days prior to providing service, whichever comes first. The tariff submitted must conform with the application and state that the Applicant does not collect advances, deposits and/or prepayments from its customers.

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13. Staff also recommended the following:

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- (a) That Applicant's Certificate should be conditioned upon the procurement of a performance bond as described below, and filing proof of that performance bond within 365 days from the date of an Order in this matter, or 30 days prior to providing service, whichever comes first.
  - (b) That Applicant be required to procure a performance bond in the initial amount of \$25,000, with the minimum bond amount of \$25,000 to be increased if at any time it would be insufficient to cover all advances, deposits, prepayments collected from its customers, in the following manner: The bond amount should be increased in increments of \$12,500, with such increases to occur whenever the total amount of the advances, deposits or prepayments reaches a level within \$2,500 under the actual bond amount.

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14. Staff recommended that if the Applicant fails to meet the timeframes outlined in Findings of Fact Nos. 12 and 13 above, then Applicant's resold local exchange Certificate should

1 become null and void.

2 15. The rates proposed by these filings are for competitive services.

3 16. Staff's recommendations as set forth herein are reasonable.

4 17. Applicant's fair value rate base is determined to be zero for purposes of this  
5 proceeding.

6 **CONCLUSIONS OF LAW**

7 1. Applicant is a public service corporation within the meaning of Article XV of the  
8 Arizona Constitution and A.R.S. §§ 40-281 and 40-282.

9 2. The Commission has jurisdiction over Applicant and the subject matter of the  
10 application.

11 3. Notice of the application was given in accordance with the law.

12 4. Applicant's provision of resold local exchange telecommunications services is in the  
13 public interest.

14 5. Applicant is a fit and proper entity to receive the Certificate as conditioned herein for  
15 providing competitive resold local exchange services in Arizona.

16 6. Staff's recommendations in Findings of Fact Nos. 11, 12, 13 and 14 should be  
17 adopted.

18 7. Applicant's fair value rate base is not useful in determining just and reasonable rates  
19 for the competitive services it proposes to provide to Arizona customers.

20 8. Applicant's rates, as they appear in its proposed tariffs, are just and reasonable and  
21 should be approved.

22 **ORDER**

23 IT IS THEREFORE ORDERED that the application of Matrix Telecom, Inc. for a Certificate  
24 of Convenience and Necessity for authority to provide competitive resold local exchange services is  
25 hereby granted conditioned upon its compliance with the conditions recommended by Staff as set  
26 forth above.

27 IT IS FURTHER ORDERED that if Matrix Telecom, Inc. fails to meet the timeframes  
28 outlined in Findings of Fact Nos. 12 and 13, above, then the resold local exchange Certificate of

1 Convenience and Necessity conditionally granted herein shall become null and void.

2 IT IS FURTHER ORDERED that Staff's recommendations set forth in Findings of Fact Nos.  
3 11, 12, 13 and 14 above are hereby adopted.

4 IT IS FURTHER ORDERED that Matrix Telecom, Inc. shall comply with the adopted Staff  
5 recommendations as set forth in Findings of Fact Nos. 11, 12, 13 and 14 above.

6 IT IS FURTHER ORDERED that this Decision shall become effective immediately.

7 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.  
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10 CHAIRMAN \_\_\_\_\_ COMMISSIONER \_\_\_\_\_

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13 COMMISSIONER \_\_\_\_\_ COMMISSIONER \_\_\_\_\_ COMMISSIONER \_\_\_\_\_

14 IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive  
15 Director of the Arizona Corporation Commission, have  
16 hereunto set my hand and caused the official seal of the  
17 Commission to be affixed at the Capitol, in the City of Phoenix,  
18 this \_\_\_\_ day of \_\_\_\_\_, 2005.

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19 BRIAN C. McNEIL  
20 EXECUTIVE DIRECTOR

21 DISSENT \_\_\_\_\_

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23 DISSENT \_\_\_\_\_

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SERVICE LIST FOR:           MATRIX TELECOM, INC.

DOCKET NO.:                   T-03228A-05-0244

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