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COMMISSIONERS
JEFF HATCH-MILLER - Chairman
WILLIAM A. MUNDELL
MIKE GLEASON
KRISTIN K. MAYES
GARY PIERCE



ORIGINAL

ARIZONA CORPORATION COMMISSION

DATE: February 16, 2007
DOCKET NOS: T-03228A-06-0586 and T-03517A-06-0586
TO ALL PARTIES:

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

**MATRIX TELECOM, INC. and AMERICATEL CORPORATION
(ASSET EMCUMBRANCE)**

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:

Company has waived the 10 days for filing of exceptions

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 Working Session and Open Meeting to be held on:

MARCH 1, 2007

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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BRIAN C. McNEIL
EXECUTIVE DIRECTOR

Arizona Corporation Commission
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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

JEFF HATCH-MILLER, Chairman
WILLIAM A. MUNDELL
MIKE GLEASON
KRISTIN K. MAYES
GARY PIERCE

IN THE MATTER OF THE APPLICATION OF
MATRIX TELECOM, INC. AND AMERICATEL
CORPORATION FOR APPROVAL TO
ENCUMBER ASSETS IN CONNECTION WITH
FINANCING ARRANGEMENTS.

DOCKET NO. T-03228A-06-0586
DOCKET NO. T-03517A-06-0586

DECISION NO. _____

ORDER

Open Meeting
March 1, 2007
Phoenix, Arizona

BY THE COMMISSION:

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

FINDINGS OF FACT

1. On September 15, 2006, Matrix Telecom, Inc. ("Matrix") and Americatel Corporation ("Americatel") (collectively "Applicants") filed an application with the Arizona Corporation Commission ("Commission") for authorization to encumber their assets in the State of Arizona in connection with participation in certain debt financing arrangements, pursuant to a Credit Agreement among Applicants, their parent, EnergyTRACS Acquisition Corp. ("Parent"), HBK Investment, L.P. (the Arranger and Administrative Agent), and PCRL III Investments L.P. (the Lender). The stated purpose of the proposed financing is to introduce new services, expand into new markets and to allow more consumers to benefit from competitive services more quickly and efficiently, and to refinance indebtedness.

2. On November 8, 2006, Applicants filed a Notice of Filing Affidavit of Publication.

3. On January 22, 2007, the Commission's Utilities Division ("Staff") filed a Staff

1 Report recommending conditional approval of the application to encumber assets in connection with
2 financing.

3 4. Matrix is a Texas corporation with principal offices in Dallas, Texas. Pursuant to
4 Decision No. 68343 (December 9, 2005), Matrix provides competitive resold inter-exchange
5 telecommunication services and competitive resold local exchange service in Arizona.

6 5. Americatel is a Delaware corporation with principal offices in Miami, Florida.
7 Pursuant to Decision No. 61054 (August 6, 1998), Americatel provides competitive interLATA and
8 intraLATA resold telecommunications services except local exchange service in Arizona.

9 6. Matrix and Americatel are affiliate companies that have the same immediate parent
10 company, EnergyTRACS Acquisition Corp. which is a subsidiary of Platinum Equity, LLC
11 ("Platinum"), a limited liability company formed in Delaware with principal offices in Beverly Hills,
12 California.

13 7. On September 14, 2006, Matrix and Americatel entered into a Credit Agreement
14 consisting of two phases. The first phase took effect on September 14, 2006 and has a maximum
15 term of 364 days. During phase one, Matrix and Americatel are jointly and severally liable co-
16 borrowers for debt obligations of up to \$90 million, consisting of a \$40 million term loan and a \$50
17 million revolving credit facility. During phase one, the debt is guaranteed by Platinum,
18 EnergyTRACS, and Matrix of Virginia. The second phase will happen when the Applicants secure
19 regulatory approval, which must occur by March 13, 2007. If such regulatory support is not secured,
20 then the phase one debt must be repaid by September 13, 2007.

21 8. This application is for the Applicants to obtain authorization to pledge all their assets
22 as well as their stock as collateral in support of phase two of the Credit Agreement. During phase
23 two, Applicants will continue to be jointly and severally liable for the entire debt, but the guarantees
24 by its affiliates will terminate. The maturity date of the Credit Agreement under phase two is
25 September 14, 2011.

26 9. In preparation for the second phase, EnergyTRACS will transfer the stock of the
27 Applicants to a newly-formed, wholly-owned subsidiary of EnergyTRACS. This new subsidiary will
28 be an intermediate holding company between the Applicants and EnergyTRACS. Ultimate control of

1 the Applicants will remain with Platinum.

2 10. According to the Staff Report, as foreign public service corporations providing
3 communication services whose facilities are used in interstate commerce, the Applicants are exempt
4 from having to comply with A.R.S. § 40-301 for phase one of the Credit Agreement. However,
5 A.R.S. § 40-285 does require Commission approval of phase two, the encumbrance of assets. In
6 Staff's financial analysis, Staff noted that the filing was consistent with A.R.S. § 40-285, which
7 requires public service corporations to obtain Commission authorization to encumber certain utility
8 assets. The statute serves to protect captive customers from a utility's attempt to dispose of any of its
9 assets that are necessary for the provision of service, and so it serves to prevent any service
10 impairment due to disposal of assets essential for providing service.

11 11. Staff stated that Applicants provide competitive services and that their customers
12 have alternative service providers, but that customers may still have exposure to losses to the extent
13 they have prepaid for service or made deposits. Therefore, Staff recommended that any authorization
14 for encumbrances should provide customer protection for prepayments and deposits.

15 12. Staff recommended approval for Applicants to encumber their assets in the State of
16 Arizona pursuant to the Credit Agreement, subject to the condition that all Arizona customer deposits
17 and prepayments be excluded from encumbrance, or that they are secured by a bond or irrevocable
18 sight draft letter of credit which is not included in the pledged collateral.

19 13. Staff further recommended authorizing Applicants to engage in any transactions and to
20 execute or cause to be executed any documents necessary to effectuate the authorizations requested
21 with the application.

22 14. Staff recommended that Applicants file copies of the executed loan closing, Credit
23 Agreement, and security documents pertaining to any authorization granted, with Docket Control as a
24 compliance item in this docket, within 60 days of the transaction.

25 15. According to the Staff Report, there are no compliance issues with Matrix or
26 Americatel.

27 16. Staff's recommendations are reasonable and should be adopted.
28

CONCLUSIONS OF LAW

1
2 1. Applicants are public service corporations within the meaning of Article XV of the
3 Arizona Constitution and A.R.S. §§ 40-281 and 40-285.

4 2. The Commission has jurisdiction over Applicants and the subject matter of the
5 application.

6 3. Applicants' request to encumber their assets is a transaction that requires Commission
7 approval pursuant to A.R.S. § 40-285.

8 4. Notice of the application was given in accordance with the law.

9 5. Staff's recommendations are reasonable and should be adopted.

10 **ORDER**

11 IT IS THEREFORE ORDERED that the application by Matrix Telecom, Inc. and Americatel
12 Corporation for authorization to encumber assets in connection with the Credit Agreement as
13 discussed herein, shall be, and hereby is, granted, subject to the condition that all Arizona customer
14 deposits and prepayments be excluded from encumbrance, or be secured by a bond or an irrevocable
15 sight draft letter of credit which is not included in the pledged collateral.

16 IT IS FURTHER ORDERED that Matrix Telecom, Inc. and Americatel Corporation shall file,
17 as a compliance item in this docket, a statement of whether all Arizona customer deposits and
18 prepayments are excluded from encumbrance, or whether they are secured by a bond or irrevocable
19 sight draft letter of credit which is not included in the pledged collateral, within 60 days of the
20 transaction.

21 IT IS FURTHER ORDERED that Matrix Telecom, Inc. and Americatel Corporation are
22 hereby authorized to engage in any transactions and to execute any documents necessary to effectuate
23 the authorization granted herein.

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IT IS FURTHER ORDERED that Matrix Telecom, Inc. and Americatel Corporation shall file copies of the executed loan closing, Credit Agreement and security documents pertaining to the authorization granted, with Docket Control, as a compliance item in this docket, within 60 days of the transaction.

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

BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

CHAIRMAN

COMMISSIONER

COMMISSIONER

COMMISSIONER

COMMISSIONER

IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive Director of the Arizona Corporation Commission, have hereunto set my hand and caused the official seal of the Commission to be affixed at the Capitol, in the City of Phoenix, this ____ day of _____, 2007.

BRIAN C. McNEIL
EXECUTIVE DIRECTOR

DISSENT _____

DISSENT _____

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SERVICE LIST FOR:

MATRIX TELECOM, INC. and AMERICATEL CORPORATION

DOCKET NOS.:

T-03228A-06-0586 and T-03517A-06-0586

Michael W. Patten
ROSHKA, DeWULF & PATTEN
400 East Van Buren Street, Ste. 800
Phoenix, AZ 85004

Christopher Kempsey, Chief Counsel
Legal Division
ARIZONA CORPORATION COMMISSION
1200 West Washington Street
Phoenix, AZ 85007

Ernest G. Johnson, Director
Utilities Division
ARIZONA CORPORATION COMMISSION
1200 West Washington Street
Phoenix, AZ 85007