

ORIGINAL

OPEN MEETING ITEM



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



ARIZONA CORPORATION COMMISSION

Arizona Corporation Commission

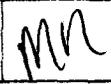
DOCKETED

DATE: OCTOBER 5, 2007

DOCKET NO: T-03228A-06-0800

OCT 05 2007

TO ALL PARTIES:

DOCKETED BY 

Enclosed please find the recommendation of Administrative Law Judge Yvette Kinsey. The recommendation has been filed in the form of an Opinion and Order on:

MATRIX TELECOM, INC. dba  
MATRIX BUSINESS TECHNOLOGIES  
(CC&N/FACILITIES-BASED)

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 ten (10) 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:

OCTOBER 11, 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 Secretary's Office at (602) 542-3931

BRIAN C. McNEIL  
EXECUTIVE DIRECTOR

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AZ CORP COMMISSION  
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1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 COMMISSIONERS

3 MIKE GLEASON - Chairman  
4 WILLIAM A. MUNDELL  
5 JEFF HATCH-MILLER  
6 KRISTIN K. MAYES  
7 GARY PIERCE

8 IN THE MATTER OF THE APPLICATION OF  
9 MATRIX TELECOM, INC. D/B/A MATRIX  
10 BUSINESS TECHNOLOGIES FOR APPROVAL  
11 OF A CERTIFICATE OF CONVENIENCE AND  
12 NECESSITY TO PROVIDE FACILITIES BASED  
13 LOCAL EXCHANGE TELECOMMUNICATIONS  
14 SERVICES.

DOCKET NO. T-03228A-06-0800

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

OPINION AND ORDER

11 DATE OF HEARING: September 27, 2007

12 PLACE OF HEARING: Phoenix, Arizona

13 ADMINISTRATIVE LAW JUDGE: v.

14 APPEARANCES: PLC,

15  
16 legal  
17 the

18 **BY THE COMMISSION:**

19 On December 26, 2006, Matrix  
20 or "Applicant") submitted to the Arizona  
21 for a Certificate of Convenience and Necessity  
22 local exchange telecommunications service

23 On January 25, 2007, the Commission  
24 Insufficiency and first set of data requests in the

25 On May 17, 2007, Matrix filed its response

26 On June 12, 2007, Staff filed a second set of  
27 requests.

28 On July 18, 2007, Staff filed a third Letter

1 On July 24, 2007, Matrix filed its response to the data request.

2 On August 3, 2007, Matrix filed a letter in response to the data request.

3 On August 14, 2007, Staff filed a fourth Letter of Insufficiency and a fourth set of data  
4 requests.

5 On August 31, 2007, Staff filed a fifth Letter of Insufficiency and a fifth set of data requests.

6 On September 5, 2007, Staff filed its Staff Report recommending approval of Matrix's  
7 application.

8 On September 13, 2007, Matrix filed a Motion for Expedited Hearing, requesting that the  
9 hearing be held promptly so that a Recommended Opinion and Order could be prepared and  
10 considered at the Commission's October 11, 2007 Securities Open Meeting. In order to facilitate an  
11 expedited hearing, Matrix stated that it would order an overnight transcript of the hearing; waive the  
12 10-day period to file exceptions; and would promptly publish notice of the hearing.

13 On September 17, 2007, Matrix published notice of this matter in accordance with the law.

14 On September 27, 2007, a full public hearing was held before a duly authorized  
15 Administrative Law Judge of the Commission at its offices in Phoenix, Arizona. Matrix and Staff  
16 appeared through counsel and presented evidence and testimony in this matter. On September 28,  
17 2007, and October 4, 2007, Matrix and Staff, respectively docketed late-filed exhibits. After the  
18 filing of the late-filed exhibits, the matter was taken under advisement pending submission of a  
19 Recommended Opinion and Order to the Commission.

20 \* \* \* \* \*

21 Having considered the entire record herein and being fully advised in the premises, the  
22 Commission finds, concludes, and orders that:

23 **FINDINGS OF FACT**

24 1. On December 26, 2006, Matrix submitted to the Commission an application for a  
25 Certificate to provide facilities-based local exchange telecommunications services in Arizona.

26 2. On March 21, 2007, Trinsic Communications, Inc., ("Trinsic") and Tide Acquisition  
27 Corporation ("Tide") entered into an Asset Purchase Agreement (the "APA") under which Tide  
28 would acquire the assets of Trinsic used to provide telecommunications services, as well Trinsic's

1 accounts across the nation, including those in Arizona. Tide subsequently assigned its rights under  
2 the APA to Matrix.

3       3.       On April 9, 2007, Trinsic and Matrix filed a joint application, in Docket No. T-  
4 03589A-07-0231, et al., seeking expedited Commission approval to transfer control of assets used to  
5 provide local and long distance telecommunications services from Trinsic to Matrix. In the joint  
6 application, Trinsic and Matrix request Commission approval on an expedited basis because of the  
7 terms of the APA, because Trinsic has filed for bankruptcy and because approval is necessary to  
8 ensure the continuation of service to Trinsic's customers.<sup>1</sup>

9       4.       In Docket No. T-03589A-07-0231, et al., Staff has recommended approval of the sale  
10 of assets from Trinsic to Matrix.

11       5.       Trinsic has approximately 1,200 customers in Arizona, of which 900 are residential  
12 customers.

13       6.       The customers to be transferred from Trinsic to Matrix require service through a  
14 Qwest UNE package, which requires a facilities-based CC&N.

15       7.       Currently, Matrix is managing Trinsic's assets under a management service agreement  
16 executed as a part of Trinsic's bankruptcy proceeding.

17       8.       According to Matrix, the management service agreement was set to expire in June  
18 2007; however, the bankruptcy trustee has extended the expiration deadline. (Tr. Pg. 9, line 1-5)

19       9.       Under the application filed in this docket, Matrix seeks Commission approval to  
20 provide facilities-based local exchange telecommunications services in Arizona to help facilitate  
21 continued service to Trinsic's customers.

22       10.       Matrix was granted authority to provide resold interexchange telecommunications  
23 services in Arizona in Commission Decision No. 65926 (May 16, 2003) and resold local exchange  
24 telecommunications services in Commission Decision No. 68343 (December 9, 2005).

25       11.       Matrix currently has authority to provide resold local exchange services and resold  
26 long distance telecommunications services in 49 states.

27  
28 <sup>1</sup> See Staff Report, docketed September 5, 2007; Docket No. T-03589A-07-0231.

1           12.    Based on Matrix's experience in the telecommunications industry, Matrix has the  
2 technical capabilities to provide the telecommunications services it is requesting to provide in  
3 Arizona.

4           13.    Matrix provided unaudited financial statements for the period ending December 31,  
5 2007.

6           14.    Matrix's financial statements showed assets in excess of \$25 million, negative equity  
7 in excess of \$15 million and a net income in excess of \$4 million.

8           15.    Matrix states in its application that it does not plan to collect deposits from its local  
9 exchange customers.

10          16.    Matrix currently has a \$25,000 performance bond on file with the Commission for its  
11 resold local exchange services.

12          17.    All CC&Ns for facilities-based local exchange service must be secured by a minimum  
13 bond or irrevocable sight draft letter of credit in the amount of \$100,000. Staff recommends that  
14 Matrix increase its existing performance bond or sight draft letter of credit by \$100,000, for a total  
15 amount of \$125,000.

16          18.    Staff recommends that the performance bond or sight draft letter of credit needs to  
17 increase in increments equal to 50 percent of the total minimum bond or sight draft letter amount  
18 when the total amount of the advances, deposits, and prepayments is within 10 percent of the total  
19 minimum bond amount.

20          19.    Staff further recommends the minimum bond or irrevocable sight draft letter of credit  
21 amount of \$125,000 should be increased if at any time it would be insufficient to cover prepayments  
22 or deposits collected from the Applicant's customers. Further, the bond or sight draft letter should be  
23 increased in increments of \$62,500. This increase should occur when the total amount of the  
24 advances, deposits, and prepayments is within \$12,500 of the bond or irrevocable sight draft letter of  
25 credit amount.

26          20.    Staff recommends that pursuant to Arizona Administrative Code ("A.A.C.") R-14-2-  
27 1107, if Matrix desires to discontinue service in Arizona it must file an application with the  
28 Commission, and notify its customers and the Commission sixty (60) days prior to filing the

1 application to discontinue service. Further, Staff states that pursuant to the above mentioned rule,  
2 Matrix's failure to meet the requirement will result in a forfeiture of Matrix's performance bond or  
3 sight draft letter of credit.

4 21. Staff also recommends that Matrix provide proof of its performance bond or sight  
5 draft letter of credit within 365 days of the effective date of an Order in this matter or thirty (30) days  
6 prior to the provision of service, whichever comes first, and the bond or sight draft letter of credit  
7 should remain in effect until further Order of the Commission.

8 22. Pursuant to A.A.C. R14-2-1109, Matrix may charge rates for service that are not less  
9 than its total service long-run incremental costs of providing service.

10 23. Matrix's proposed rates are for competitive services. In general, rates for competitive  
11 services are not set according to the rate of return regulation.

12 24. Matrix will have to compete with incumbent local exchange carriers ("ILECs") and  
13 various local exchange carriers ("CLECs") and interexchange carriers currently providing service.

14 25. Matrix's fair value rate base ("FVRB") is zero.

15 26. Given the competitive markets in which Matrix will operate, Matrix's FVRB is too  
16 small to be useful in a fair value analysis.

17 27. Staff reviewed Matrix's proposed rates and the rates are comparable with rates  
18 charged by competitive local carriers, local incumbent carriers and major long distance carriers  
19 operating in Arizona.

20 28. Pursuant to A.A.C. R14-2-1308(A) and federal laws and rules, Matrix will make  
21 number portability available to facilitate the ability of the customer to switch between authorized  
22 local carriers within a given wire center without changing their telephone number and without  
23 impairment to quality, functionality, reliability or convenience of use.

24 29. In compliance with A.A.C. R14-2-1204, all telecommunications service providers that  
25 interconnect into the public switched network shall provide funding for the Arizona Universal Fund  
26 ("AUSF"). Matrix will contribute to the AUSF as required by the A.A.C., and shall make the  
27 necessary monthly payments as required under A.A.C. R-14-2-1204 (B).

28 30. Staff recommends that in areas where Matrix is the only local exchange service

1 provider, Matrix should be prohibited from barring access to alternative local exchange service  
2 providers who wish to serve the area.

3 31. Matrix will provide all customers with 911 and E911 service where available, or will  
4 coordinate with ILECs, and emergency service providers to facilitate the service.

5 32. Pursuant to past Commission Decisions, Matrix may offer custom local area signaling  
6 services such as Caller ID and Call Blocking, so long as the customer is able to block or unblock each  
7 individual call at no additional cost.

8 33. Matrix must also offer Last Call Return service which will not allow the return of calls  
9 to telephone numbers that have the privacy indicator activated.

10 34. Matrix has requested that its telecommunications services in Arizona be classified as  
11 competitive. Staff recommends that Matrix's proposed services be classified as competitive because  
12 there are alternatives to Matrix's services; ILECs hold a virtual monopoly in local markets; Matrix  
13 will have to convince customers to purchase its services; Matrix has no ability to adversely affect the  
14 local exchange service market as several CLECs and local exchange resellers also provide local  
15 exchange services; and Matrix will therefore have no market power in those local exchange markets  
16 where alternative providers to telecommunications services exists.

17 **Complaint Information**

18 35. Matrix has not had an application for service denied, or revoked, in any state.

19 36. Matrix does not have any outstanding complaints in Arizona.

20 37. Since 2001, the Federal Communications Commission ("FCC") has issued 13 orders  
21 resolving informal complaints from customers against Matrix. Each of the complaints alleged that  
22 Matrix switched the subscriber's primary interexchange carrier without proper authorization and  
23 therefore violated the FCC's "slamming" rules.

24 38. The FCC denied or found to be resolved nine (9) of the thirteen (13) complaints.

25 39. The FCC found that out of the four (4) remaining complaints, three (3) were found to  
26 technically violate the FCC's slamming rules and resulted from Matrix's reliance on a third party to  
27 verify the subscriber's intent to switch his or her carrier to Matrix.

28 40. Matrix's witness testified that Matrix still uses the third party verification process, but

1 that it no longer uses the same third party verifier referred to in the FCC Order.

2 41. In 2001, the FCC issued an Order of Forfeiture, finding that Matrix violated Section  
3 254(d) of the Communications Act of 1934, as amended, 47 U.S.C. § 254(d), and Section 54.706 of  
4 the FCC's rules, by failing to make the required payments to the universal service support programs.<sup>2</sup>

5 42. In the Notice of Apparent Liability ("NAL") leading to the Order of Forfeiture, the  
6 FCC found Matrix liable for a forfeiture in the amount of \$113,000 for its failure to make required  
7 universal service contributions in November and December 1999.<sup>3</sup>

8 43. In its response to the NAL, Matrix asserted that the forfeiture amount should be  
9 reduced or rescinded because the amount was too high and because due to its financial condition,  
10 Matrix was unable to pay such a large amount.<sup>4</sup>

11 44. The FCC noted that the NAL calculated the forfeiture amount taking into  
12 consideration "Matrix's significant efforts to satisfy its universal service obligations" and "in  
13 recognition of those efforts, [the FCC] applied a downward adjustment of \$76,614 to the proposed  
14 forfeiture, a reduction of over 40 percent."<sup>5</sup>

15 45. The FCC Order also found that Matrix was financially capable of paying the \$113,000  
16 forfeiture amount based on a review of Matrix's assets and that the forfeiture amount was  
17 "substantially less than one percent of Matrix's annual gross revenues."<sup>6</sup>

18 46. Matrix's witness Ms. Dana Hoyle<sup>7</sup> testified that the payment arrangement with the  
19 FCC to pay off the forfeiture amount was "worked out" by prior management and that she did not  
20 know the details of the payment plan, but that she believed all arrearages had been paid.

21 47. In its order, the FCC cited with approval the efforts of the new Platinum Equity,  
22 LLC<sup>8</sup> ("Platinum"), ownership and management both to put in remedial compliance measures and to  
23 pay overdue amounts.

24 <sup>2</sup> See Matrix Telecom, Inc., File No. EB-00-IH-0057, Forfeiture Order, FCC 01-48, 16 FCC Rcd 10553.

25 <sup>3</sup> Id.

26 <sup>4</sup> Id.

27 <sup>5</sup> Id.

28 <sup>6</sup> Id.

<sup>7</sup> Ms. Hoyle is Manager of Regulatory Affairs for Matrix

<sup>8</sup> Platinum Equity LLC is the parent company for Matrix. Platinum has approximately 357 legal entities worldwide including holding companies and operating companies and is in the business of buying and selling companies.

1           48.     Ms. Hoyle testified that Matrix is current on its universal fund payments, but that she  
2 did not check that information before the hearing. (Tr. Pg. 53, lines 20-25)

3           49.     Ms. Hoyle also testified that Matrix has hired a consultant company familiar with  
4 regulatory compliance to handle its payments to the universal service fund programs. (Tr. Pg. 43,  
5 lines 1-7)

6           50.     In 1995, the FCC issued a NAL alleging that Matrix had changed the primary  
7 interexchange carrier of one its customers without obtaining proper authorization to do so.<sup>9</sup> Matrix  
8 later entered into a Consent Decree resolving all the allegations stated in the NAL, with no finding of  
9 wrongdoing. (Applicant's application A-11)

10          51.     In 1993, the FCC issued a letter of admonition to Matrix for the form of Matrix's  
11 Letter of Agency ("LOA"), which was used to sign up new long distance customers. (Applicant's  
12 application A-11)

13          52.     Matrix's witness testified that the company no longer uses that LOA and that its new  
14 LOA meets the requirements of all federal and state laws. (Tr. Pg. 25, lines 1-12)

15          53.     Matrix's application also states that it has "periodically been the subject of informal  
16 customer complaints" filed with the other state Commissions. Matrix states that there were twenty-  
17 two (22) informal complaints filed in 2005 and 28 informal complaints in 2006. Matrix reported that  
18 all but one of these complaints had been resolved and that the company is waiting on additional  
19 information in order to be able to resolve the remaining complaint.

20          54.     Matrix's application discussed NextiraOne, a former subsidiary of Platinum Equity  
21 LLC ("Platinum"), which had pled guilty to wire fraud for over billing the U.S. government for  
22 telecommunications services provided to Native-American tribes.<sup>10</sup> (Application A-12)

23          55.     NextiraOne entered into a Plea Agreement with the FCC and NextiraOne was required  
24 to pay a fine of \$1,818,380 and claims totaling \$2.6 million to the FCC.

25          56.     Matrix's witness, Sally Ward, senior legal analyst and assistant secretary for Platinum  
26

27 <sup>9</sup> See Matrix Telecom, Inc., File No. EnF-96-02, Notice of Apparent Liability for Forfeiture, DA 95-2421, 11 FCC Rcd  
1258 (Com Car. Bur 1995).

28 <sup>10</sup> NextiraOne designed a telecommunications platform that allowed certain Native-American tribes to access the Internet.  
The U.S. government has a program for funding such telecommunications services for schools and libraries.

1 testified that NextiraOne was a subsidiary of Platinum, but that it was sold by Platinum on April 30,  
2 2006. (Tr. Pg. 57, lines 1-14) Ms. Ward also testified that under Platinum's corporate structure each  
3 subsidiary operates either as its own distinct legal entity or group of entities for the operating  
4 company, and they operate independently from one another. (Tr. Pg. 58, lines 19-25 and pg. 59, lines  
5 1-6)

6 57. Ms. Ward testified that she was unaware of the plea agreement between NextiraOne  
7 and the FCC until immediately before NextiraOne was sold. She stated that NextiraOne had its own  
8 staff, general counsel and legal department and therefore NextiraOne would not have had a need to  
9 "come up to Platinum" regarding the plea agreement. Further, she testified that Platinum leaves the  
10 day-to-day operations to its affiliates, but that during the ordinary course in a divestiture, Platinum  
11 would have to disclose to a potential buyer any new litigation involving NextiraOne, and since  
12 Platinum was negotiating with a buyer to sell NextiraOne, the plea agreement would have been sent  
13 up to Platinum at some point. (Tr. Pg. 70, lines 1-15; Tr. pg. 75, lines 4-25; Tr. pg. 76, lines 1-2)

14 58. Ms. Ward stated that she did not have any knowledge as to whether Platinum  
15 participated in the negotiations of the plea agreement. (Tr. pg. 70, lines 19-22)

16 59. Ms. Ward further stated that Platinum is approximately a \$2 billion corporation and at  
17 the time NextiraOne entered into the plea agreement it was approximately a \$1 billion corporation.  
18 (Tr. Pg. 74, lines 3-18)

19 60. Ms. Hoyle testified that Matrix does provide some of the same telecommunications  
20 services to schools and libraries such as those involved in the NextiraOne plea agreement, but that all  
21 of its billing is done consistent with FCC rules and regulations. She further testified that Matrix's  
22 business with schools and libraries amounted to a small portion of Matrix's business, and was less  
23 than \$200,000 for 2006 to 2007. (Tr. Pg. 27, lines 1-25; Tr. Pg. 29, lines 16-25) Additionally, she  
24 stated that Matrix hired her as manager of regulatory affairs as a part of its steps towards ensuring  
25 compliance. (Tr. Pg. 28, lines 1-7)

26 61. Staff's Report noted that at the time Matrix filed its application in this matter that Mr.  
27 Paul Bird was Matrix's senior vice president of technology, and that Mr. Bird had been employed  
28 with NextiraOne, as its Director of Networks, during the time of the plea agreement. Staff's Report

1 stated that Mr. Bird and his team designed the telecommunications platform that allowed certain  
2 Native-American tribes to access the internet.

3 62. At hearing, Ms. Hoyle testified that Mr. Bird was no longer employed by Matrix and  
4 that she did not know where he is currently employed. (Tr. pg. 28, lines 11-22)

5 63. Staff's Report also stated that one current officer of Matrix, Eva Kalawski, a director,  
6 a vice president and secretary for Platinum, was employed (for about ten months) by NextiraOne  
7 during the relevant time period of the plea agreement. Ms. Kalawski served as vice president and  
8 secretary at NextiraOne from April 2002 to April 2006 when it was sold.

9 64. Ms. Ward testified that as a part of Ms. Kalawski's duties with Platinum, Ms.  
10 Kalawski would at times serve as an officer for various Platinum affiliates, for administrative ease in  
11 the buying and selling of companies. However, the witness stated she did not believe Ms. Kalawski  
12 would have been familiar with the day-to-day operations of NextiraOne or any affiliate.

13 65. Staff's witness testified that based on Staff's review of the information supplied by  
14 Matrix and its own independent research, Staff concluded that at this time there is one person who  
15 was with NextiraOne during the relevant time period of the plea agreement who is currently with  
16 Platinum, but that there is no one who was with NextiraOne who is currently employed with Matrix.  
17 (Tr. Pg. 84, lines 1-5)

18 66. Staff's witness testified that based on Staff's research conducted on Matrix,  
19 NextiraOne and Platinum, Staff concluded that the activities involving NextiraOne were removed and  
20 separate from Matrix. (Tr. pg. 83, line 1-3) Staff's witness further testified that if the Commission  
21 denies Matrix's application in this matter, that Trinsic's customers will be without service. (Tr. pg.  
22 85, line 1-12)

23 67. Staff recommends approval of Matrix's application for a CC&N to provide intrastate  
24 telecommunications services. Staff further recommends:

25 (a) That Matrix comply with all Commission Rules, Orders and other requirements  
26 relevant to the provision of the intrastate telecommunications services;

27 (b) That Matrix abide by the quality of service standards that were approved by the  
28 Commission for Qwest in Docket No. T-01051B-93-0183;

- 1 (c) That Matrix be prohibited from barring access to alternative local exchange service  
2 providers who wish to serve areas where Matrix is the only provider of the local  
3 exchange service facilities;
- 4 (d) That Matrix be required to notify the Commission immediately upon changes to its  
5 name, address or telephone number;
- 6 (e) That Matrix cooperate with Commission investigations including, but not limited  
7 to customer complaints;
- 8 (f) That although Staff considered the fair value rate base information submitted by  
9 Matrix, the fair value information provided should not be given substantial weight  
10 in this analysis;
- 11 (g) That Matrix offer Caller ID with the capability to toggle between blocking and  
12 unblocking the transmission of the telephone number at no charge;
- 13 (h) That Matrix offer Last Call Return service that will not return calls to telephone  
14 numbers that have the privacy indicator activated; and
- 15 (i) That Matrix be authorized to discount its rates and service charges to the marginal  
16 cost of providing the services.

17 68. Staff further recommends that Matrix comply with the following conditions within the  
18 timeframes outlined below, or Matrix's CC&N should be considered null and void, after due process:

- 19 (1) That Matrix docket conforming tariffs for local exchange service within 365 days of  
20 the effective date of a Decision in this matter or 30 days prior to providing service in  
21 Arizona, whichever comes first. Additionally, the tariffs submitted to the Commission  
22 should coincide with the application in this matter.
- 23 (2) Matrix shall:
- 24 (a) Procure, at its discretion, either a performance bond or irrevocable sight draft letter  
25 of credit equal to \$125,000. The minimum performance bond or irrevocable sight  
26 draft letter of credit amount of \$125,000 should be increased if at any time it  
27 would be insufficient to cover advances, deposits, and/or prepayments collected  
28 from Matrix's customers. The performance bond or irrevocable sight draft letter  
of credit amount should be increased in increments of \$62,500. The increase  
should occur when the total amount of advances, deposits, and prepayments is  
within \$12,500 of the performance bond or irrevocable sight draft letter of credit  
amount.
- (b) Docket proof of the performance bond or irrevocable sight draft letter of credit  
within 365 days of the effective date of a Decision in this matter or 30 days prior  
to the provision of service, whichever comes first. The performance bond or  
irrevocable sight draft letter of credit must remain in effect until further Order of  
the Commission.

1 Analysis

2 69. Based on the seriousness of the complaints that have been filed against Matrix, this  
3 Commission must ensure that consumers in Arizona will be protected from activities that violate state  
4 and federal laws. Based on the facts set forth below, greater scrutiny and oversight of Matrix's  
5 operations in Arizona is required.

6 70. In 2001, the FCC found that in three (3) cases Matrix violated the FCC's slamming  
7 rules. The FCC found that the three (3) complaints centered around Matrix's reliance on a third-party  
8 to verify telephone numbers to be switched. The facts show that although Matrix is not using the  
9 same third party cited by the FCC, it is still using the same process to verify whether customers want  
10 to be switched to Matrix.

11 71. Also in 2001, Matrix was fined a forfeiture amount of \$113,000 for its failure to make  
12 timely payments to the universal service fund. In recognition of Matrix's efforts to satisfy the  
13 universal fund service obligations, the FCC reduced the forfeiture amount by more than \$70,000 or  
14 by 40 percent. The facts show that Matrix, has hired a consultant firm to handle future payments to  
15 the universal service fund and created the position of manager of regulatory affairs to oversee  
16 compliance.

17 72. In 1993 and 1995, Matrix entered into a Consent Decree with the FCC relating to  
18 allegations of "slamming" as well as the FCC issued a letter of admonition to Matrix for its use of a  
19 LOA that violated federal and state laws.

20 73. In light of the need to provide Trinisc's customers with continued service and Matrix's  
21 efforts towards compliance, Matrix's application should be approved with the conditions and  
22 requirements recommended by Staff and with the following additional conditions:

- 23 1) Matrix shall file with the Commission, as a compliance item, quarterly updates on any  
24 complaints filed against Matrix for a period of no less than 365 days after an Order is  
25 issued in this matter;
- 26 2) If at any time during the one year period, Staff believes that Matrix is out of  
27 compliance with Commission, federal or state rules and laws, Staff shall seek an Order  
28 to Show Cause that requires Matrix to appear and show cause why its CC&N should  
not be revoked.



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**ORDER**

IT IS THEREFORE ORDERED that the application of Matrix Telecom Inc., d/b/a Matrix Business Technologies for a Certificate of Convenience and Necessity for authority to provide competitive facilities-based local exchange telecommunications services within the State of Arizona, is hereby granted subject to Staff's conditions in Findings of Facts No. 67 and 68, and as set forth in the following Ordering paragraphs.

IT IS FURTHER ORDERED that Matrix Telecom, Inc., d/b/a Matrix Business Technologies shall file with Docket Control, as a compliance item in this docket, quarterly updates on any complaints filed against Matrix for a period of no less than 365 days from the date of this Order.

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IT IS FURTHER ORDERED that the Commission's Utilities Division shall monitor the quarterly filings ordered herein, and if at any time during the 365 days after the date of this Order, Staff believes that Matrix is out of compliance with Commission, federal or state rules and laws, Staff shall seek an Order to Show Cause that requires Matrix Telecom, Inc., d/b/a Matrix Business Technologies to appear and show cause why its CC&N should not be revoked.

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, DEAN S. MILLER, Interim 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.

DEAN S. MILLER  
INTERIM EXECUTIVE DIRECTOR

DISSENT \_\_\_\_\_

DISSENT \_\_\_\_\_

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SERVICE LIST FOR:

MATRIX TELECOM, INC. D/B/A MATRIX  
BUSINESS TECHNOLOGIES

DOCKET NO.:

T-03228A-06-0800

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