

NEW APPLICATION



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BEFORE THE ARIZONA CORPORATION COMMISSION

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JEFF HATCH-MILLER
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Arizona Corporation Commission
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KRISTIN K. MAYES
Commissioner

NOV 07 2007

GARY PIERCE
Commissioner

DOCKETED BY
KK [Signature]

IN THE MATTER OF THE JOINT)
APPLICATION OF AMERICATEL)
CORPORATION AND STARTEC GLOBAL)
OPERATING COMPANY FOR)
APPROVAL OF A PRO FORMA)
RESTRUCTURING AND OTHER)
RELATED APPROVALS)

DOCKET NO: T-03517A-07-0633
T-20522A-07-0633

JOINT APPLICATION

Startec Global Operating Company ("Startec") and Americatel Corporation ("Americatel") (collectively, "Applicants"), by their attorneys and pursuant to A.R.S. § 40-285, AAC R14-2-1107, as well as any other applicable statutes or rules, hereby respectfully request approval from the Arizona Corporation Commission ("Commission") for a *pro forma* corporate restructuring involving the merger of the Applicants, with Americatel surviving. Applicants respectfully request that the Commission act expeditiously, to the extent necessary, to grant the approval requested before March 31, 2008, so that the Applicants may timely meet important business objectives.

Applicants have an Application for a separate proposed transaction pending with this Commission by which Applicants and their affiliate, Matrix Telecom, Inc. (“Matrix”), seek approval for certain financing arrangements scheduled to occur on or before April 8, 2008 and a related *pro forma* change of control whereby Startec will become an indirect subsidiary of Americatele on or before December 31, 2007 (“Financing Application”).¹ The proposed *pro forma* merger of Applicants, which is scheduled to occur no later than March 31, 2008, does not affect any of the approvals requested in the Financing Application. The merger that is the subject of this Application is not a condition precedent to the financing, and the Applicants respectfully request that this Application not delay action on the Financing Application because to do so would jeopardize the Applicants’ ability to meet their contractual commitments to their lender.

To accomplish this *pro forma* merger, the Applicants further request that the Commission grant a waiver of the applicable provisions of the Commission’s slamming rules, AAC R14-2-1901 to AAC R14-2-1913 (“Slamming Rules”). The Applicants will comply with the FCC’s notice and certification requirements applicable to transfers of carrier customer bases as set forth in 47 C.F.R. § 64.1120(e). This FCC rule ensures that all subscribers receive advance notice of the planned transfer, where required, and any potential impact (none in this case) on their telecommunications services.

In addition, in connection with the proposed transaction, the Applicants request that the Commission cancel its Certificate of Convenience and Necessity (“CC&N”) pursuant to AAC R14-2-1107 and any other applicable statutes or rules, upon consummation of the proposed

¹ Docket Nos. T-03228A-06-0586; T-03517A-06-0586. As noted in the Financing Application, neither Americatele nor Startec is a Class A utility. Accordingly, approval under the Affiliated Interests Rules, AAC R14-2-801 to R14-2-806, is not required as part of the Financing Application or for the restructuring set forth in this Application.

transaction. As explained more fully below, following the proposed transaction, Startec will cease to exist and Americatel will assume the customers and operations of Startec pursuant to Americatel's authority to provide telecommunications services. No customers will be affected by this cancellation because no existing service will be discontinued, reduced, impaired or interrupted as a result of the proposed *pro forma* merger.

In support of this Application, Applicants state as follows:

I. DESCRIPTION OF THE APPLICANTS

A. Startec

Startec is a Delaware corporation with its principal place of business located at 7361 Calhoun Place, Suite 650, Rockville, Maryland 20855, tel. (301) 610-4300. Startec is a wholly owned direct subsidiary of Startec Global Communications Corporation ("SGCC"), also a Delaware corporation. Startec provides long distance, Internet, and other communications services to persons and businesses residing in 49 states (all except Alaska) and the District of Columbia, as well as Canada. In Arizona, Startec is authorized to provide resold interexchange telecommunications service pursuant to Decision No. 63370.² Startec currently has approximately 2000 subscribers in Arizona.

B. Americatel

Americatel is a Delaware corporation with principal offices located at 4045 NW 97th Avenue, Miami, Florida 33178, tel. (305) 717-0200. Serving the needs of United States

² Through a *pro forma* restructuring approved by the Commission in Decision No. 69573, Startec became the holder of the Certificate of Convenience and Necessity granted to Startec Global Licensing Company in Decision No. 63370.

customers with connections to Latin America and the Caribbean, Americatel provides international and domestic facilities-based and resold long distance services, including “dial around” casual calling (*i.e.*, 1010XXX) service and presubscribed 1+ calling services, in each of the 48 contiguous states. In Arizona, Americatel is authorized to operate as a reseller of telecommunications services pursuant to Decision No. 61054. Based on its history of successful operations, Americatel has amply demonstrated its qualifications to serve Startec’s customers.

C. Ownership of the Applicants

Platinum Equity, LLC (“Platinum Equity”), a limited liability company formed under the laws of Delaware and headquartered in Beverly Hills, California, has indirectly held 95 percent of the equity of Americatel since July 2006. Platinum Equity currently holds its 95 percent interests in Americatel through its wholly-owned subsidiary, MTAC Holding Corporation, a Delaware corporation, which in turn, is a wholly-owned subsidiary of EnergyTRACS Acquisition Corp. (“EnergyTRACS”), a Delaware corporation, and a wholly-owned subsidiary of Platinum Equity. Platinum Equity acquired indirect control of Startec on July 12, 2007, when it acquired indirect ownership of 100 percent of the equity in Startec. Platinum Equity currently holds this interest through its wholly-owned subsidiary, SGCC, which in turn, is a direct subsidiary of EnergyTRACS. On or about December 31, 2007 and upon receipt of any necessary regulatory approvals in other states, the Applicants intend to implement a minor internal corporate reorganization that will result in Platinum Equity holding its interest in Startec indirectly through Americatel.

II. DESIGNATED CONTACTS

Inquiries or copies of any correspondence, orders, or other materials pertaining to this Application should be directed to:

Thomas H. Campbell
Michael T. Hallam
LEWIS AND ROCA, LLP
40 North Central
Phoenix, AZ 85004
602) 262-5723 (phone)
(602) 734-8341 (fax)
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mhallam@lrlaw.com

and

Richard R. Cameron
Stefanie Alfonso-Frank
LATHAM & WATKINS LLP
555 11th Street, N.W., Suite 1000
Washington, D.C. 20004
(202) 637-2200 (Tel)
(202) 637-2201 (Fax)
richard.cameron@lw.com
stefanie.alfonso-frank@lw.com

Copies of any correspondence should also be sent to the following:

Robert Felgar
General Counsel
Startec Global Operating Company
7361 Calhoun Place, Suite 650
Rockville, MD 20855
(301) 610-4646 (Tel)
(240) 314-4219 (Fax)
Robert.Felgar@startec.com

Thomas Perez-Ducy
President and Chief Executive Officer
Americatel Corp.
4045 NW 97th Ave.
Miami, FL 33178
(305) 717-0302 (Tel)
(305) 717-0338 (Fax)
tperez@americatel.net

III. DESCRIPTION OF THE PROPOSED TRANSACTION

The Applicants request approval for a *pro forma* corporate restructuring in which Startec will be merged with and into Americatel, with Americatel surviving. As a result of the merger,

Startec and SGCC, its immediate parent and a holding company, will cease to exist and Americatel will become the operating telecommunications service provider in Arizona, serving all Americatel and Startec customers. An illustrative chart describing this *pro forma* restructuring is attached hereto as Exhibit A. Upon completion of this *pro forma* corporate restructuring, Americatel will assume the customers and operations of Startec but will continue to use the Startec brand name for those customers, possibly on a co-branded basis. Americatel will provide service to all of its customers, including those served under the Startec brand name, pursuant to its existing operating authority in Arizona.

The Applicants anticipate that this *pro forma* merger will be seamless and transparent to Startec's customers. There will be no change in the ultimate ownership or control of Americatel, which will remain with Platinum Equity, the entity that also currently controls Startec. Service will be provided using the same network, billing systems and customer service operations currently used by Startec. No existing service will be discontinued, reduced, or impaired as a result of the *pro forma* merger. Thus, the proposed transaction will cause no interruption in service to customers. In addition, Americatel will serve Startec's customers using the same rates, terms, and conditions that currently apply under Startec. Americatel intends to adopt those portions of Startec's tariffs relating to Startec's service offerings and will file a revised tariff after consummation of the proposed transaction or as directed by the Commission.

IV. PUBLIC INTEREST STATEMENT

The proposed transaction will serve the public interest in Arizona. *First*, the proposed transaction will streamline and eliminate inefficiencies from the business and administrative operations of Startec and Americatel. *Second*, the proposed transaction will strengthen competition in Arizona and bring more of the well-recognized benefits of vigorous competition to telecommunications customers throughout Arizona. *Third*, the transaction will benefit

customers by permitting Americatel to integrate Startec's assets into its own services to create new, "best-of-class" offerings. In this way, the sale will ensure that the benefits Startec's customers currently enjoy remain available to them, and also may become available to Americatel's existing customers, benefiting the entire merged customer base.

V. REQUEST TO CANCEL STARTEC'S CC&N IN ARIZONA AND REQUEST FOR APPROVAL PURSUANT TO A.R.S. § 40-285

In connection with the proposed transaction, the Applicants also request consent for Startec to cancel its CC&N in Arizona, pursuant to AAC R14-2-1107 and any other applicable rules or statutes. Applicants both currently hold authority to provide resold interexchange service in Arizona. As explained above, following the proposed transaction, Startec will cease to exist, and Americatel will assume the customers and operations of Startec. Americatel will provide service to all of its customers, including those served under the Startec brand name, pursuant to Americatel's existing operating authority in Arizona, thereby making Startec's operating authority unnecessary. No customers will be affected by this relinquishment because, as explained above, no existing service will be discontinued, reduced, impaired or interrupted as a result of the *pro forma* merger. Accordingly, Applicants hereby request Commission consent for Startec to cancel its CC&N in Arizona as of the date of closing of the proposed transaction, scheduled to occur on or before March 31, 2008.

In support of this cancellation request, Startec provides the following additional information in accordance with AAC R14-2-1107:

1. Any reasons for the proposed discontinuance.

As noted above, cancellation of Startec's CC&N is the result of the merger of Startec and Americatel, with Americatel as the surviving entity. Service to Startec customers will not be discontinued, but will be provided by Americatel following the merger.

2. Verification that all customers have been notified and that all customers will have access to alternative providers.

All customers of Startec in Arizona were notified of the proposed transaction on November 7, 2007, with the form of notice set forth in Exhibit B. Also, all Startec customers will have access to alternative interexchange providers and, as set forth in the attached notice, all Startec customers were notified of their ability to choose another provider. In addition, to the extent required, Startec will also publish notice in all counties affected by the cancellation and will file an appropriate affidavit of publication upon receipt.

3. A plan for the refund of deposits.

Startec currently does not hold any deposits for customers in Arizona.

As part of the merger, all of Startec's assets will be transferred to Americatel.

Accordingly, to the extent required, Applicants also request approval pursuant to A.R.S. § 40-285 for the transfer of Startec's assets to Americatel.

VI. REQUEST FOR WAIVER OF SLAMMING RULES

In addition to approval of the *pro forma* merger and related cancellation of Startec's CC&N and transfer of assets, Applicants request that the Commission grant a limited waiver of the Slamming Rules, to the extent those rules are inconsistent with the FCC's rules governing the sale of a carrier's customer base. The Applicants will comply with FCC rules requiring Americatel to certify to the FCC that it has provided at least 30 days' written notice to each customer affected by this transaction, when required by 47 C.F.R. § 64.1120(e)(1-3), specifically including notice of:

- (1) the date on which the acquiring carrier will become the subscriber's new provider of telecommunications service;

- (2) the rates, terms, and conditions of the service(s) to be provided by the acquiring carrier upon the subscriber's transfer to the acquiring carrier, and the means by which the acquiring carrier will notify the subscriber of any change(s) to these rates, terms, and conditions;
- (3) the fact that the acquiring carrier will be responsible for any carrier change charges associated with the transfer;
- (4) the subscriber's right to select a different preferred carrier for the telecommunications service(s) at issue, if an alternative carrier is available;
- (5) the fact that all subscribers receiving the notice, even those who have arranged preferred carrier freezes through their local service providers on the service(s) involved in the transfer, will be transferred to the acquiring carrier, unless they have selected a different carrier before the transfer date; existing preferred carrier freezes on the service(s) involved in the transfer will be lifted; and the subscribers must contact their local service providers to arrange a new freeze;³
- (6) the identity of the carrier that carrier will be responsible for handling any complaints filed, or otherwise raised, prior to or during the transfer against the selling or transferring carrier; and
- (7) The toll-free customer service telephone number of the acquiring carrier.

VII. CONCLUSION

For the reasons stated above, Applicants respectfully submit that the public interest, convenience and necessity would be furthered by granting this Application. Accordingly, Applicants respectfully request that the Commission grant *expedited* approval, to the extent necessary, for the proposed *pro forma* merger of Applicants, with Americatel surviving. The Applicants further request that the Commission grant a waiver of its Slamming Rules. In addition, the Applicants request approval for Startec to cancel its CC&N in Arizona and approval

³ As required by the above FCC rule, subscribers will be notified that even those who have arranged preferred carrier freezes will be transferred to Americatel in connection with the merger. Preferred carrier freezes will not be affected by the merger. However, because Americatel will not change the Carrier Identification Codes (CIC) of the Startec subscribers it acquires through the merger. Accordingly, the requirements (i) to notify subscribers that existing freezes will be lifted and (ii) that subscribers must contact their local service provider to arrange a new freeze are not implicated by the proposed transaction.

of the transfer of assets pursuant to A.R.S. § 40-285. Finally, the Applicants respectfully request that the Commission grant this relief before March 31, 2008, to permit them to meet important business and financial objectives.

RESPECTFULLY SUBMITTED this 7th day of November, 2007.

By:



Thomas H. Campbell
Michael Hallam
Lewis and Roca LLP
40 N. Central Avenue
Phoenix, Arizona 85004-4429
(602) 262-5723 (phone)
(602) 734-8341 (fax)

Attorneys for Applicants

ORIGINAL AND fifteen (15) copies
of the foregoing hand-delivered
this 7th day of November, 2007, to:

Arizona Corporation Commission
Utilities Division – Docket Control
1200 W. Washington Street
Phoenix, Arizona 85007

COPY of the foregoing hand-delivered
this 7th day of November, 2007,
to:

Lyn Farmer, Chief Administrative Law Judge
Hearing Division
Arizona Corporation Commission
1200 West Washington
Phoenix, Arizona 85007

Christopher Kempley, Esq.
Chief Counsel, Legal Division
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

Ernest Johnson
Director, Utilities Division
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

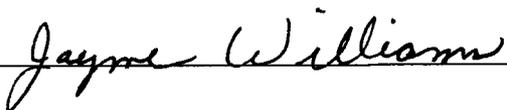
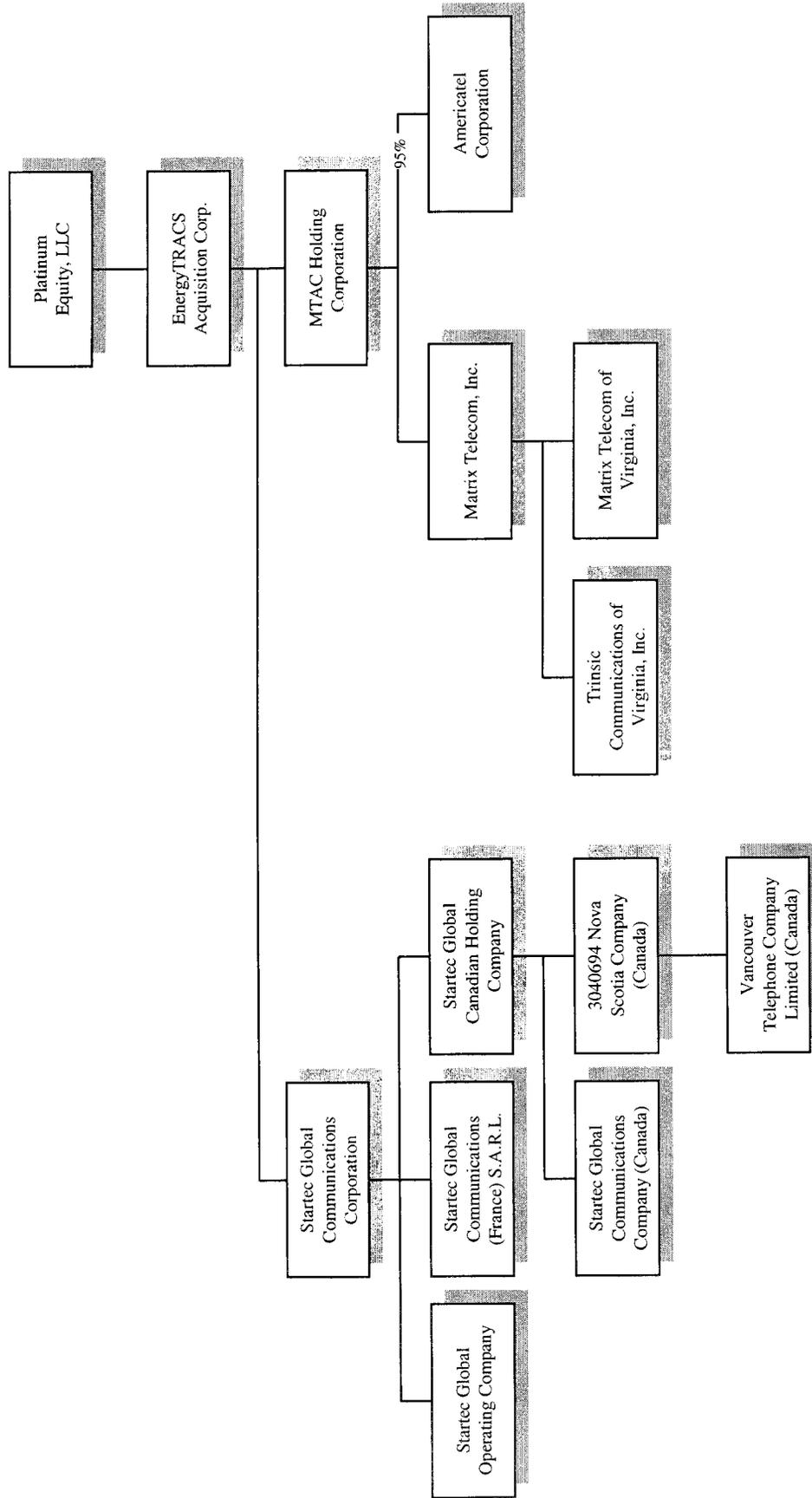


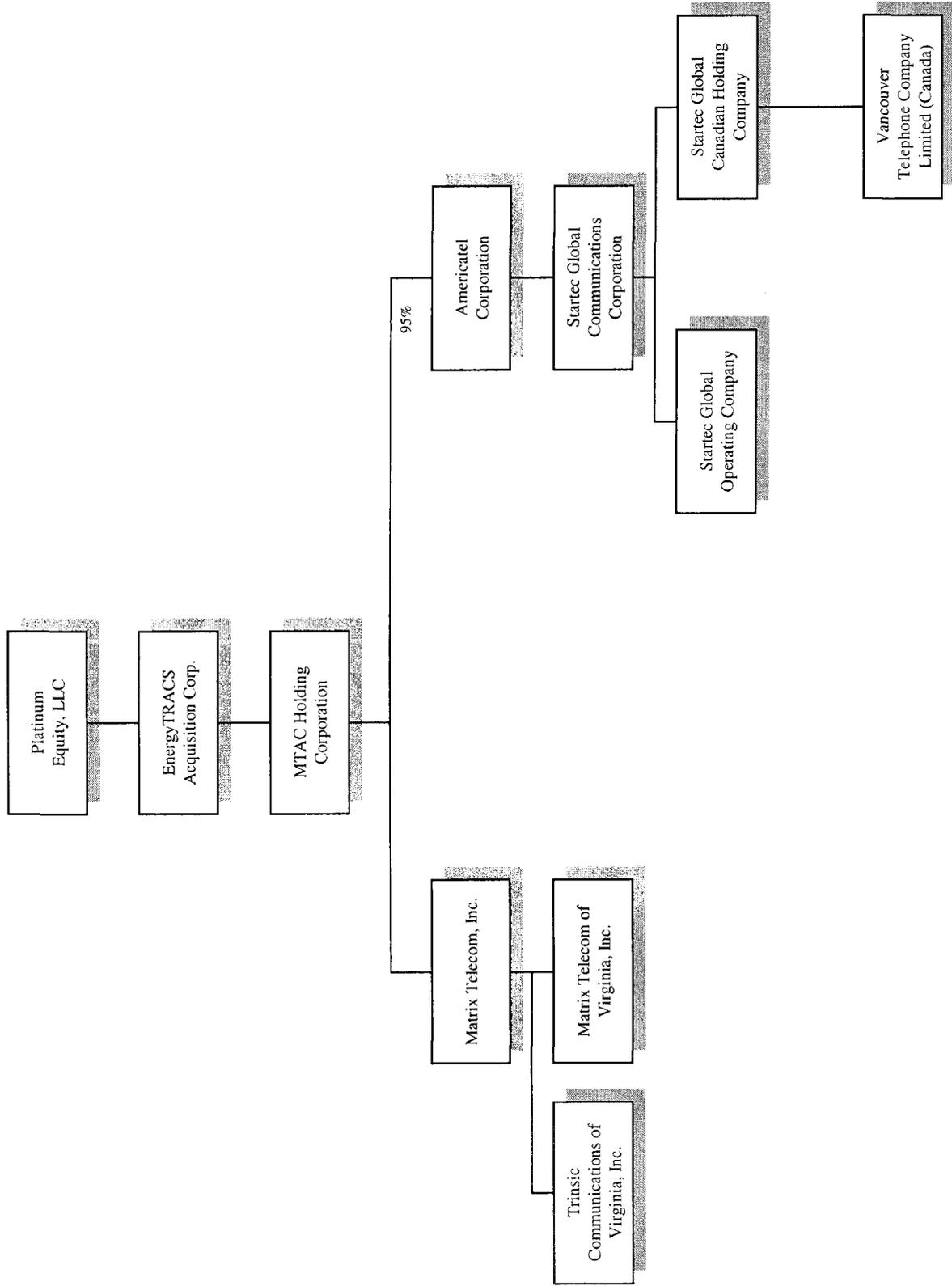
Exhibit A

Pro Forma Corporate Restructuring Charts

Pre-Transaction Corporation Structure of Applicants (current)



Pre-Transaction Corporate Structure of Applicants (as of December 31, 2007)



Post-Transaction Corporate Structure of Applicants

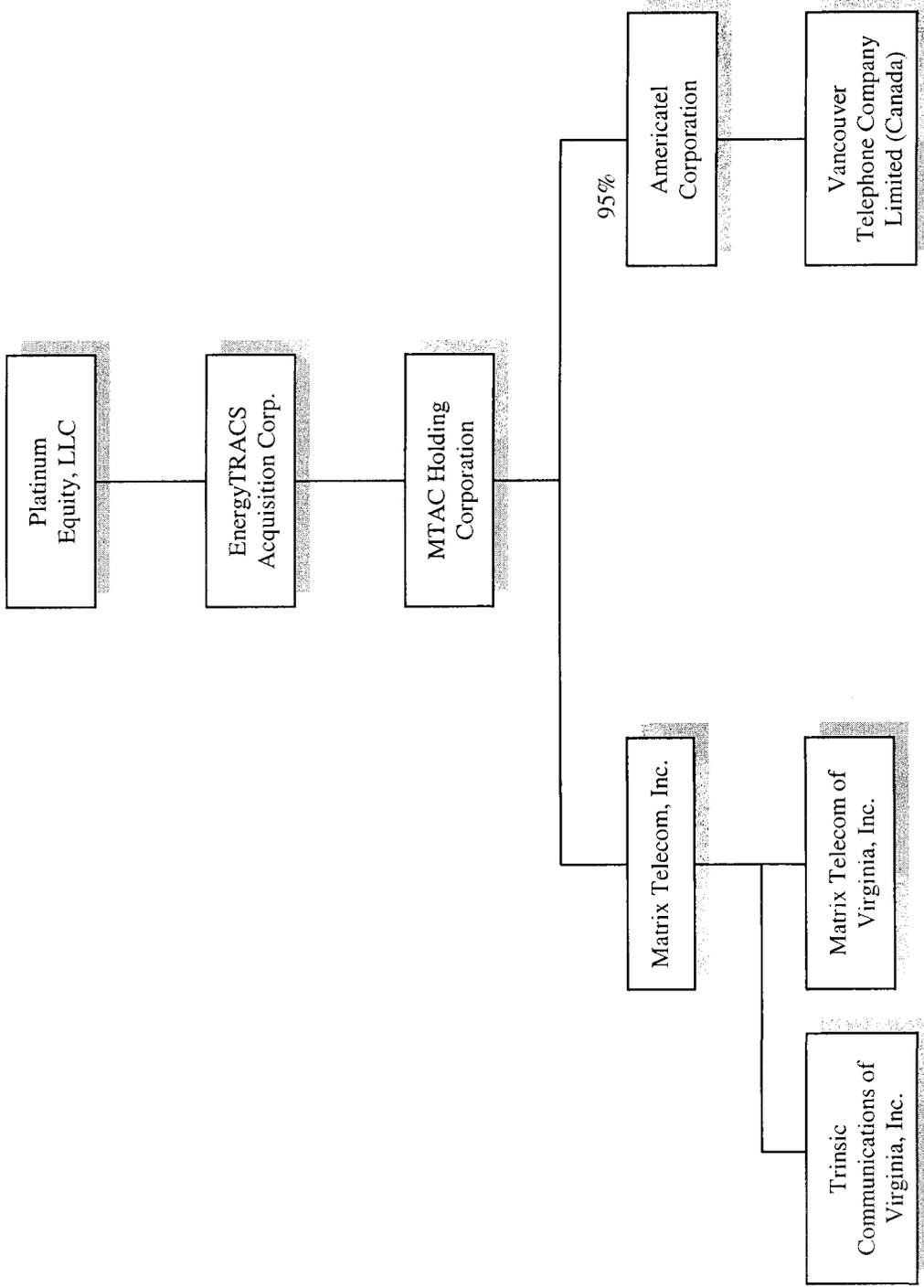


Exhibit B



Thomas H. Perez-Ducy
President and Chief Executive Officer

November 6, 2007
Startec Global Operating Company
477 Peace Portal Dr., #107
Blaine, WA 98230

A Notice from Startec Global Operating Company and Americatel Corporation About Your Long Distance Telephone Service

Dear Valued Customer:

Startec Global Operating Company ("Startec") and Americatel Corporation ("Americatel") are pleased to announce that Startec and Americatel are merging their businesses. As a result of the merger, Americatel will now provide your long distance service using the same great Startec name you know and trust. The anticipated date for the merger of Startec into Americatel is March 31, 2008, or as soon thereafter as Startec and Americatel obtain the necessary regulatory approvals, including approval from the Arizona Corporation Commission.

To retain your current service, you need do nothing. There will be no cost to you because Americatel will be responsible for any carrier change charges resulting from the merger, nor will the merger change your current calling plan or your rates, service features or terms and conditions. There will no be service interruption nor will your telephone number(s) change as a result of the merger. Instead, you will simply continue to receive the same services and rates that you enjoy today under your Startec plan. Additionally, although no change in your service is contemplated, you will be notified of any future changes to the rates, terms and conditions of your service in same manner as you always have – in your bill, by mail, or through other lawful means.

If you have placed a preferred carrier freeze on your account, the freeze will remain in place following the merger. We are required by law to inform you that you have the right to select a different preferred long distance carrier, if one is available. If you choose to change to a different preferred long distance carrier, you may first need to lift any freeze you may have placed on your account by calling your local telephone company.

As always, for help with any customer service, billing issue or complaint, we will continue to assist you at our Customer Service toll-free number 1.800.827.3374, before, during and after the merger.

Sincerely,

Thomas H. Perez-Ducy
President and Chief Executive Officer
Americatel Corp. Startec Global Communications





Thomas H. Perez-Ducy
President and Chief Executive Officer

Noviembre 6, 2007
Startec Global Operating Company
477 Peace Portal Dr., #107
Blaine, WA 98230

Notificación de Startec Global Operating Company y Americatel Corporation sobre su Servicio Telefónico de Larga Distancia

Apreciado Cliente:

Startec Global Operating Company ("Startec") y Americatel Corporation ("Americatel") se complacen en anunciar que Startec y Americatel unirán sus operaciones. Como resultado de la unión, ahora Americatel proveerá su servicio de larga distancia utilizando el gran nombre de Startec que usted conoce y confía. La fecha en que se anticipa la unión de Startec y Americatel es el 31 de marzo del 2008, o tan pronto como Startec y Americatel obtengan las aprobaciones reglamentarias necesarias, incluyendo la aprobación de la Comisión de Corporaciones de Arizona ("Arizona Corporation Commission").

Para mantener su servicio actual, usted no necesita hacer nada. No habrá ningún costo para usted ya que Americatel será responsable de cualquier cargo relacionado al cambio de proveedor que resulte de la unión, ni tampoco la unión cambiará su actual plan de llamadas o tarifas, características del servicio o términos y condiciones. No habrá interrupciones del servicio ni cambiarán su(s) número(s) de teléfono como resultado de la unión. En cambio usted simplemente continuará recibiendo los mismos servicios y tarifas que usted hoy disfruta bajo su plan de Startec. Adicionalmente, aunque no se contempla ningún cambio en su servicio, usted será notificado de cualquier cambio futuro de tarifas, términos y condiciones de su servicio de la misma manera en que ha venido siendo notificado – en su cuenta telefónica, por correo o a través de otro medio legal.

Si usted ha bloqueado el "Cambio de Proveedor Preferido" (realizando un Preferred Carrier Freeze) en su cuenta, el bloqueo se mantendrá después de la unión de las compañías. Por ley, estamos en obligación de informarle que usted tiene el derecho de seleccionar otro proveedor preferido de larga distancia, si alguno se encuentra disponible. Si usted decide cambiarse a otro proveedor preferido de larga distancia, usted tendría primero que cancelar cualquier tipo de bloqueo que tenga en su cuenta llamando a su compañía telefónica local.

Como siempre, para solicitar ayuda con cualquier tema de su cuenta, facturación o reclamo, nosotros continuaremos asistiéndole en nuestra línea gratuita de Servicio al Cliente 1.800.827.3374, antes, durante y después de la unión de las dos compañías.

Cordialmente,

Thomas H. Perez-Ducy
President and Chief Executive Officer
Americatel Corp. Startec Global Communications

VERIFICATION

STATE OF FLORIDA

§

COUNTY OF MIAMI-DADE

§

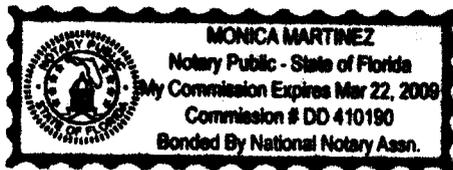
§

I, Thomas Perez-Ducy, state that I am President & Chief Executive Officer of Americatel Corporation; that I am authorized to make this Verification on behalf of Americatel Corporation; and that the statements in the foregoing document are true and correct to the best of my knowledge, information and belief.



Name: Thomas Perez-Ducy
Title: President & Chief Executive Officer
Americatel Corporation

SWORN TO AND SUBSCRIBED before me on October 18th, 2007.




Notary Public

My Commission expires: March 22, 2009

VERIFICATION

STATE OF MARYLAND

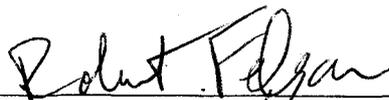
§

COUNTY OF MONTGOMERY

§

§

I, Robert Felgar, state that I am General Counsel of Startec Global Operating Company; that I am authorized to make this Verification on behalf of Startec Global Operating Company; and that the statements in the foregoing document are true and correct to the best of my knowledge, information and belief.

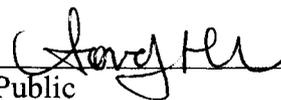


Name: Robert Felgar

Title: General Counsel

Startec Global Operating Company

SWORN TO AND SUBSCRIBED before me on Oct. 25, 2007.



Notary Public

My Commission expires: 12/19/2010

SONG HAN
NOTARY PUBLIC
MONTGOMERY COUNTY
MARYLAND
MY COMMISSION EXPIRES DEC. 19, 2010