



0000095010

ORIGINAL

MEMORANDUM

30

TO: Docket Control

FROM: Ernest G. Johnson  
Director  
Utilities Division

*EA for EGJ*

DATE: March 27, 2009

RE: STAFF REPORT FOR THE JOINT APPLICATION OF AMERICATEL CORPORATION, MATRIX TELECOM, INC. AND STARTEC GLOBAL OPERATING COMPANY FOR APPROVAL TO PLEDGE THEIR ARIZONA ASSETS PURSUANT TO A.R.S. § 40-285. (DOCKET NOS. T-03517A-09-0015, T-03228A-09-0015 AND T-20522A-09-0015)

Attached is the Staff Report for the joint application of Americatel Corporation, Matrix Telecom, Inc. and Startec Global Operating Company for approval to pledge their Arizona assets pursuant to A.R.S. § 40-285. Staff recommends conditional approval of the requested authorization.

Any party to this procedure who wishes may file comments to the Staff Report with the Commission's Docket Control by 4:00 p.m. on or before April 10, 2009.

EGJ:JCM:tdp

Originator: Juan C. Manrique

Arizona Corporation Commission  
**DOCKETED**

**MAR 27 2009**

DOCKETED BY 

**RECEIVED**  
2009 MAR 27 P 3:03  
AZ CORP COMMISSION  
DOCKET CONTROL

Service List for: Americatel Corporation, Matrix Telecom, Inc., et al  
Docket Nos. T-03517A-09-0015, et al

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Mr. Ernest G. Johnson  
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Phoenix, Arizona 85007

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

**STAFF REPORT  
UTILITIES DIVISION  
ARIZONA CORPORATION COMMISSION**

**AMERICATEL CORPORATION,  
MATRIX TELECOM, INC. AND  
STARTEC GLOBAL OPERATING COMPANY  
DOCKET NOS. DOCKET NOS. T-03517A-09-0015,  
T-03228A-09-0015 AND T-20522A-09-0015**

**APPLICATION FOR APPROVAL  
TO PLEDGE THEIR ARIZONA ASSETS  
PURSUANT TO A.R.S. § 40-285**

**MARCH 27, 2009**

## STAFF ACKNOWLEDGMENT

The Staff Report for Americatel Corporation, Matrix Telecom, Inc. and Startec Global Operating Company, Docket Nos. T-03517A-09-0015, T-03228A-09-0015, T-20522A-09-0015, is the responsibility of the Staff member listed below. Juan C. Manrique is responsible for the review and financial analysis of the Company's application.

A handwritten signature in cursive script that reads "Juan Manrique".

JUAN C. MANRIQUE  
PUBLIC UTILITIES ANALYST I

**EXECUTIVE SUMMARY**  
**AMERICATEL CORPORATION, et al**  
**DOCKET NOS. T-03517A-09-0015, et al**

On January 16, 2009, Americatel Corporation ("Americatel"), Matrix Telecom, Inc. ("Matrix") and Startec Global Operating Company ("Startec") collectively ("Applicants") filed an application with the Arizona Corporation Commission ("Commission") requesting that the Commission authorize them to pledge their assets in the State of Arizona pursuant to A.R.S. § 40-285.

Americatel is a Delaware corporation with principal offices located at Miami, Florida. In Arizona, Americatel is authorized to provide competitive interLATA and intraLATA resold telecommunications service except local exchange service. Matrix is a Texas corporation with principal offices located at Dallas, Texas. In Arizona, Matrix is authorized to provide competitive resold inter-exchange telecommunication services and competitive resold local exchange service. Startec is a Delaware corporation with its principal offices located at Rockville, Maryland. In Arizona, Startec is authorized to provide resold inter-exchange telecommunications services.

The Applicants seek authority to pledge their Arizona assets in connection with a Senior Secured Second Lien Facility ("Second Facility") and a Senior Secured Third Lien Facility ("Third Facility"). Applicants will borrow up to \$40 million with each Facility.

Staff concludes that a pledge of the Applicants' assets would not impair the availability of service to customers since the Applicants provide competitive services that are available from alternate service providers. However, customers may still have exposure to losses to the extent they have prepaid for service or made deposits. Accordingly, any authorization for encumbrances should provide customer protection for prepayments and deposits.

Staff recommends that the Commission authorize the Applicants' request to encumber their assets in the State of Arizona pursuant to A.R.S. § 40-285 subject to the condition that all Arizona customer deposits and prepayments, if any, be excluded from encumbrance, or in the alternative, be secured by a bond or an irrevocable sight draft letter of credit which is not included in the pledged collateral.

Staff further recommends authorizing Applicants to engage in any transaction and to execute any documents necessary to effectuate the authorizations granted.

Staff further recommends that the Applicants file with Docket Control, as a compliance item in this matter, a copy of the loan documents within 60 days of the execution of any financing transaction authorized herein.

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## INTRODUCTION

On January 16, 2009, Americatel Corporation (“Americatel”), Matrix Telecom, Inc. (“Matrix”) and Startec Global Operating Company (“Startec”) collectively (“Applicants”), filed an application with the Arizona Corporation Commission (“Commission”) requesting that the Commission authorize them to pledge their assets in the State of Arizona pursuant to A.R.S. § 40-285.

## PUBLIC NOTICE

On February 26, 2009, the Applicants filed an affidavit of publication verifying public notice of their financing application. The Applicants published notice of their financing application in the *Arizona Republic* on February 13, 2009. The *Arizona Republic* is a daily newspaper of general circulation in the county of Maricopa, State of Arizona. The affidavit of publication is attached along with a copy of the Notice.

## BACKGROUND

Americatel is a Delaware corporation with principal offices located in Rockville, Maryland. In Arizona, Americatel is authorized to provide competitive interLATA and intraLATA resold telecommunications service except local exchange service.<sup>1</sup>

Matrix is a Texas corporation with principal offices located at Dallas, Texas. In Arizona, Matrix is authorized to provide competitive resold inter-exchange telecommunication services<sup>2</sup> and competitive resold local exchange service.<sup>3</sup> Matrix is also authorized to provide facilities-based local exchange services.<sup>4</sup>

Startec is a Delaware corporation with its principal offices located at Rockville, Maryland. In Arizona, Startec is authorized to provide resold inter-exchange telecommunications services.<sup>5</sup>

The Applicants are affiliate companies that have the same parent company, MTAC Holding Corporation (“MTAC”), a Delaware Corporation. MTAC is also the parent of SGCC and Startec Global Canadian Holding Company (“SGCHC”).

## COMPLIANCE

There are no compliance issues with Americatel, Matrix or Startec.

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<sup>1</sup> Decision No. 61054, dated August 6, 1998

<sup>2</sup> Decision No. 65926, dated May 16, 2003.

<sup>3</sup> Decision No. 68343, dated December 9, 2005.

<sup>4</sup> Decision No. 69944, dated October 16, 2007

<sup>5</sup> Decision No. 63370, dated February 16, 2001; and Decision No. 69573, dated May 21, 2007.

## **PURPOSE AND DESCRIPTION OF THE REQUESTED APPROVAL**

The Applicants along with MTAC, SGCC and SGCHC are collectively known as the "Borrowers". As of January 16, 2009, Borrowers have entered into long-term financing agreements in order to restructure their debt. The agreements consist of a senior secured second lien facility ("Second Facility") and a senior secured third lien facility ("Third Facility"), each of which will be for up to \$40 million. Both liens will mainly be used to refinance current debt.

The Second and Third Facilities will be implemented upon receipt of all regulatory approvals. The Borrowers will become jointly and severally liable for both liens. Applicants will pledge their assets as collateral for the debt with certain exceptions relating to a Senior First Lien Facility already in effect. The purpose of the Applicants' filing is to obtain authorization to pledge their assets.

The Applicants indicate that the transactions will not result in any changes to their management, day-to-day operations or provision of service to its current customers.<sup>6</sup>

## **FINANCIAL ANALYSIS**

The Applicants request authorization to pledge their assets as security for the Second and Third Lien Facilities. A.R.S. § 40-285 requires public service corporations to obtain Commission authorization to encumber certain utility assets. The statute serves to protect captive customers from a utility's act to dispose of any of its assets that are necessary for the provision of service, thus, it serves to prevent any service impairment due to disposal of assets essential for providing service. In this instance, a pledge of the Applicants assets should not impair the availability of service to customers since Applicants provide competitive services that are available from alternate service providers. However, customers may still have exposure to losses to the extent they have prepaid for service or made deposits. Therefore, any authorization for encumbrance should provide customer protection for prepayments and deposits.

R14-2-804(B) provides that a Class A utility will not, without Commission approval, obtain a financial interest in any affiliate not regulated by the Commission, or guarantee, or assume the liabilities of such affiliate. Under R14-2-804(C), the Commission is to review the transaction to determine if it would impair the financial status of the public utility, otherwise prevent it from attracting capital at fair and reasonable terms, or impair the ability of the public utility to provide safe, reasonable and adequate service.

The transactions in this proceeding will not impair the financial status of the public utilities, otherwise prevent them from attracting capital at fair and reasonable terms, or impair the ability of the public utilities to provide safe, reasonable and adequate service.

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<sup>6</sup> Americatel/Matrix/Startec Application, page 5.

## **CONCLUSION AND RECOMMENDATIONS**

Staff concludes that the Applicants' pledge of their assets for the purposes described in their application would not impair the availability of service to customers since the Applicants provide competitive services that are available from alternate service providers. However, customers may still have exposure to losses to the extent they have prepaid for service or made deposits. Accordingly, any authorization for encumbrance should provide customer protection for prepayments and deposits.

Staff recommends that the Commission authorize the Applicants' request to encumber their assets in the State of Arizona pursuant to the Second and Third Facilities in connection with their debt restructuring. Such authorization should be subject to the condition that all Arizona customer deposits and prepayments, if any, be excluded from encumbrance, or in the alternative, be secured by a bond or an irrevocable sight draft letter of credit which is not included in the pledged collateral.

Staff further recommends authorizing the Applicants to engage in any transactions and to execute any documents necessary to effectuate the authorizations granted.

Staff further recommends that the Applicants file with Docket Control, as a compliance item in this matter, a copy of the loan documents within 60 days of the execution of any financing transaction authorized herein.

LEWIS  
AND  
ROCA  
LLP  
LAWYERS

LEGAL

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BEFORE THE ARIZONA CORPORATION COMMISSION

2009 FEB 26 P 4: 55

AZ CORP COMMISSION  
DOCKET CONTROL

1 KRISTIN K. MAYES  
2 Chairman

3 GARY PIERCE  
4 Commissioner

5 PAUL NEWMAN  
6 Commissioner

7 SANDRA D. KENNEDY  
8 Commissioner

9 BOB STUMP  
Commissioner

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FEB 27 2009

LEGAL DIV.  
ARIZ CORPORATION COMMISSION

10 IN THE MATTER OF THE APPLICATION )  
11 OF AMERICATEL CORPORATION, )  
12 MATRIX TELECOM, INC., AND STARTEC )  
13 GLOBAL OPERATING COMPANY FOR )  
14 AUTHORIZATION TO ENCUMBER THEIR )  
15 ASSETS )

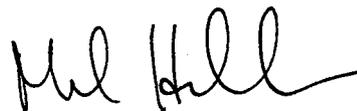
Docket Nos. T-03517A-09-0015  
T-03228A-09-0015  
T-20522A-09-0015

NOTICE OF FILING AFFIDAVIT  
OF PUBLICATION

15 Americatel Corporation ("Americatel"), Matrix Telecom, Inc. ("Matrix") and  
16 Startec Global Operating Company ("Startec") (Americatel, Matrix and Startec  
17 collectively "Applicants") file the attached Affidavit of Publication published on February  
18 13, 2009, in The Arizona Republic by which the Applicants gave public notice of their  
19 Application in this matter.

20 RESPECTFULLY SUBMITTED this 26th day of February, 2009.

21 LEWIS AND ROCA LLP

22 

23 \_\_\_\_\_  
24 Thomas H. Campbell  
25 Michael T. Hallam  
26 40 North Central Avenue  
Phoenix, AZ 85004

Attorneys for Applicants

1 ORIGINAL and thirteen (13) copies  
2 of the foregoing filed  
3 this 26th day of February, 2009, with:

4 The Arizona Corporation Commission  
5 Utilities Division – Docket Control  
6 1200 W. Washington Street  
7 Phoenix, Arizona 85007

8 Copy of the foregoing hand-delivered  
9 this 26th day of February, 2009, to:

10 Janice Alward  
11 Legal Division  
12 Arizona Corporation Commission  
13 1200 W. Washington Street  
14 Phoenix, Arizona 85007

15 Ernest Johnson  
16 Utilities Division  
17 Arizona Corporation Commission  
18 1200 W. Washington Street  
19 Phoenix, Arizona 85007

20 Lyn Farmer, Chief Administrative Law Judge  
21 Hearing Division  
22 Arizona Corporation Commission  
23 1200 W. Washington Street  
24 Phoenix, Arizona 85007

25  
26  


# THE ARIZONA REPUBLIC

IN THE MATTER OF THE AP-  
PLICATION OF  
AMERICATEL CORPORA-  
TION, MATRIX TELECOM,  
INC. AND  
STARTEC GLOBAL OPERAT-  
ING COMPANY FOR  
AUTHORIZATION TO EN-  
CUMBER THEIR ASSETS  
Docket Nos. T-03517A-09-  
0015; T-4322A-09-0015; T-  
20522A-09-0015

Americatel Corporation,  
Matrix Telecom, Inc. and  
StarTec Global Operating  
Company (collectively "App-  
licants") filed an applica-  
tion with the Arizona Public  
Utilities Commission ("Com-  
mission") on January 16,  
2009, requesting approval  
to the extent necessary to  
encumber and/or mortgage  
their assets in connection  
with certain long-term debt  
financing arrangements.  
These financing arrange-  
ments consist of a senior-  
secured second lien facility  
and a senior secured third  
lien facility, each in an ag-  
gregate principal amount to  
be determined based on  
market conditions currently  
expected to be up to \$400  
million each.

The Application is available  
for inspection during regu-  
lar business hours at the of-  
fice of Applicants' legal  
counsel, Lewis and Rocca  
Law, North Central Ave-  
nue, Suite 1900, Phoenix,  
Arizona 85004, at the offices  
of the Commission located  
at 1200 West Washington  
Street, Phoenix, Arizona  
85007, and on the Internet  
via the Commission website  
(www.azcp.gov) using the  
e-Docket function.

Intervention in the Commis-  
sion's proceedings on the  
Application shall be permit-  
ted to any person entitled  
by law to intervene and hav-  
ing a direct substantial in-  
terest in this matter. Per-  
sons desiring to intervene  
must file a Motion to inter-  
vene with the Commission  
which must be served upon  
applicant and which, as a  
minimum, shall contain the  
following information:

1. The name, address and  
telephone number of the  
proposed intervenor and of  
any person upon whom  
service of documents is to  
be made if different than  
the intervenor;
2. A short statement of the  
proposed intervenor's inter-  
est in the proceeding;
3. Whether the proposed  
intervenor desires a formal  
evidentiary hearing on the  
Application and the reasons  
for such a hearing;
4. A statement certifying  
that a copy of the Motion to  
intervene has been mailed  
to Applicants.

The granting of Motions to  
intervene shall be governed  
by A.A.C. R14-3-105, except  
that all Motions to intervene  
must be filed on or before  
the 15th day after this no-  
tice.

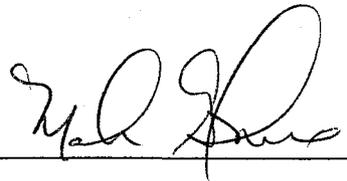
Published: February 13, 2009

STATE OF ARIZONA }  
COUNTY OF MARICOPA } SS.

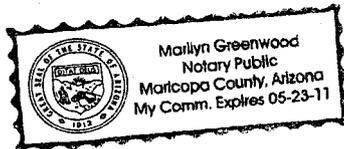
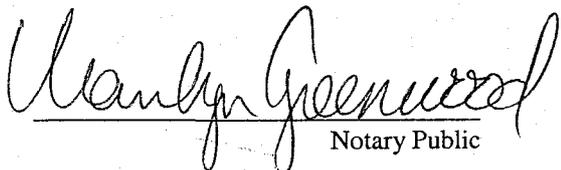
Mark Gilmore, being first duly sworn, upon oath deposes and says: That he is a legal advertising representative of the Arizona Business Gazette, a newspaper of general circulation in the county of Maricopa, State of Arizona, published at Phoenix, Arizona, by Phoenix Newspapers Inc., which also publishes The Arizona Republic, and that the copy hereto attached is a true copy of the advertisement published in the said paper on the dates as indicated.

The Arizona Republic

February 13, 2009



Sworn to before me this  
13<sup>TH</sup> day of  
February A.D. 2009

Notary Public

