

OPEN MEETING ITEM



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COMMISSIONERS
BOB STUMP - Chairman
GARY PIERCE
BRENDA BURNS
BOB BURNS
SUSAN BITTER SMITH



ARIZONA CORPORATION COMMISSION

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DATE: OCTOBER 24, 2013

ARIZONA CORPORATION COMMISSION
DOCKET CONTROL

DOCKET NOS.: T-03228A-02-0894 and T-03664A-02-0894

TO ALL PARTIES:

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

MATRIX TELECOM, INC. AND INTERNATIONAL EXCHANGE
COMMUNICATIONS, INC.
(TRANSFER OF ASSETS)

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 4, 2013

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:

NOVEMBER 13, 2013 and NOVEMBER 14, 2013

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.

Arizona Corporation Commission

DOCKETED

OCT 24 2013

DOCKETED BY 


JODI JERICHI
EXECUTIVE DIRECTOR

1200 WEST WASHINGTON STREET; PHOENIX, ARIZONA 85007-2927 / 400 WEST CONGRESS STREET; TUCSON, ARIZONA 85701-1347

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This document is available in alternative formats by contacting Shaylin Bernal, ADA Coordinator, voice phone number 602-542-3931, E-mail SBernal@azcc.gov.

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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

BOB STUMP - Chairman
GARY PIERCE
BRENDA BURNS
BOB BURNS
SUSAN BITTER SMITH

IN THE MATTER OF THE JOINT APPLICATION
OF MATRIX TELECOM, INC. AND
INTERNATIONAL EXCHANGE
COMMUNICATIONS, INC. FOR APPROVAL OF
THE TRANSFER OF CERTAIN ASSETS AND
RELATED TRANSACTIONS AND A WAIVER OF
APPLICABLE ANTI-SLAMMING
REGULATIONS.

DOCKET NO. T-03228A-02-0894

DOCKET NO. T-03664A-02-0894

DECISION NO. _____

ORDER

Open Meeting
November 13 & 14, 2013
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 December 9, 2002, Matrix Telecom, Inc. ("Matrix"), and International Exchange Communications, Inc. ("IEC") (collectively "Applicants") filed a joint application with the Arizona Corporation Commission ("Commission") for approval of the transfer of certain assets and related transactions and a waiver of applicable anti-slamming regulations¹ in the State of Arizona ("Application").

2. On September 17, 2003, the Commission's Utilities Division ("Staff") filed a Letter of Insufficiency and First Set of Data Requests.

3. On October 7, 2003, Applicants filed a response to Staff's Letter and Data Requests.

¹ Applicants state that they intend to make every effort to comply with state anti-slamming regulations and reconcile the regulations with the Federal Bankruptcy Court Order, but also state that a waiver may be necessary to ensure a seamless transition of customers from EIC to Matrix.

1 4. On August 25, 2004, Applicants filed a letter stating that the transfer of certain assets
2 of IEC to Matrix had taken place, that public notice of the Application had been provided to affected
3 subscribers, and that Matrix adopted IEC's tariff.

4 5. On July 7, 2007, Staff mailed a Second Set of Data Requests to Applicants, and on
5 July 16, 2007, mailed another copy of the Second Set of Data Requests to Applicants at an alternate
6 address.

7 6. By Procedural Order dated July 30, 2013, Staff was requested to update the status of
8 this docket in order to determine whether additional action is necessary.

9 7. On August 9, 2013, Staff filed a Staff Report recommending approval of the
10 Application and cancellation of IEC's Certificate of Convenience and Necessity ("CC&N") to
11 provide resold interexchange telecommunications services in Arizona.

12 8. In Decision No. 61931 (August 27, 1999), IEC received a CC&N to provide resold
13 long distance telecommunications services in Arizona.

14 9. In Decision No. 65926 (May 16, 2003), Matrix received a CC&N to provide resold
15 interexchange telecommunications services. In Decision No. 68343 (December 9, 2005) Matrix was
16 authorized to provide resold local exchange telecommunication services, and in Decision No. 69944
17 (October 16, 2007) Matrix received a CC&N to provide facilities-based local exchange
18 telecommunications services.

19 10. According to the Application, on December 29, 2000, Matrix and IEC entered into a
20 Management Services Agreement ("MSA") under which Matrix provided telecommunications
21 services to IEC's customer base. The MSA reflected that IEC and Matrix desired to negotiate and
22 enter into an Asset Purchase Agreement under which Matrix would buy the assets that it was
23 managing pursuant to the MSA. Matrix began providing service to IEC's customers as of the date of
24 the MSA.

25 11. On January 4, 2001, IEC filed a voluntary petition under Chapter 11 of the Bankruptcy
26 Code in the United States Bankruptcy Court, Northern District of California, San Francisco Division,
27 and ceased operations. During the course of IEC's bankruptcy proceeding, IEC and Matrix were able
28 to reach an agreement for Matrix to purchase IEC's customer base. Pursuant to the terms of a

1 Settlement Agreement filed with the Bankruptcy Court, Matrix agreed to pay IEC \$600,000 for these
2 assets.

3 12. On August 25, 2004, Matrix filed a letter stating that the transfer of IEC's assets to
4 Matrix had taken place and that customers were notified pursuant to Federal Communications
5 Commission ("FCC") requirements (a copy of the FCC's public notice was attached). In addition,
6 Matrix submitted a "Certificate of Compliance" signed by Dennis Smith, President of Matrix, stating
7 that the acquisition of the customer base by Matrix met the FCC's advance customer notice
8 requirements. IEC's customer base was the only asset purchased by Matrix when IEC was being
9 liquidated in the Bankruptcy proceeding.

10 13. Staff states that based on a review of the 2009 Annual Reports filed with the
11 Commission, Staff determined that neither of the Applicants generated annual operating revenue
12 from their Arizona operations in excess of \$1,000,000. As a result, Staff states that neither IEC nor
13 Matrix is a Class A utility, and thus, Arizona Administrative Code ("A.A.C.") R14-2-801 et seq.,
14 Article 8 – Public Utility Holding Companies and Affiliated Interest Rules, do not apply to this
15 Application.

16 14. Staff confirmed that there were no complaints, inquiries or opinions filed against
17 either IEC or Matrix from January 1, 1999 through August 19, 2010. The Commission's
18 Corporations Division records indicate that Matrix is in good standing. IEC's authority to do business
19 in Arizona was revoked on March 20, 2002, for failure to file its annual report. In addition, Staff
20 reports that neither IEC nor Matrix has any compliance delinquencies with the Commission.

21 15. Staff recommends approval of the transfer of IEC's customer base and a waiver of
22 Arizona's anti-slamming regulation in this matter. Staff further recommends cancellation of IEC's
23 CC&N.

24 16. Upon cancellation of its CC&N, IEC will no longer be authorized to provide resold
25 long distance telecommunications services in Arizona and therefore, will no longer be subject to any
26 of the requirements of Decision No. 61931.

27 17. Matrix has serviced IEC's Arizona customers satisfactorily for several years. IEC no
28 longer exists as a going concern. Under the totality of circumstances, Staff's recommendations are

1 reasonable. We approve the transfer of IEC's customer base to Matrix and the cancellation of IEC's
2 CC&N as recommended by Staff.

3 **CONCLUSIONS OF LAW**

4 1. Matrix is a public service corporation pursuant to Article XV of the Arizona
5 Constitution and A.R.S. § 40-281 and 40-285.

6 2. The Commission has jurisdiction over the subject matter of the Application.

7 3. Notice of the Application to transfer certain assets was given in accordance with the
8 law.

9 4. Matrix is a fit and proper entity to acquire and manage the assets purchased from IEC, and
10 the transfer of customers as set forth in the Application is in the public interest.

11 5. To the extent necessary to transfer seamlessly IEC's customers to Matrix, it is in the
12 public interest to waive Arizona's anti-slamming rules set forth in A.A.C. R14-2-1902 *et seq.*

13 6. It is in the public interest to cancel IEC's CC&N.

14 **ORDER**

15 IT IS THEREFORE ORDERED that the Joint Application of International Exchange
16 Communications, Inc. and Matrix Telecom, Inc. to transfer certain assets of International Exchange
17 Communications, Inc. to Matrix Telecom, Inc. is hereby approved.

18 IT IS FURTHER ORDERED that to the extent necessary to promote the transfer of customers
19 from International Exchange Communications, Inc. to Matrix Telecom, Inc., pursuant to the
20 Application, the anti-slamming rules of A.A.C. R14-2-1901 *et seq.* are waived.

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1 IT IS FURTHER ORDERED that International Exchange Communications, Inc.'s Certificate
2 of Convenience and Necessity to provide resold long distance telecommunications services in
3 Arizona is hereby cancelled.

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

5 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

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CHAIRMAN

COMMISSIONER

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COMMISSIONER

COMMISSIONER

COMMISSIONER

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IN WITNESS WHEREOF, I, JODI JERICH, 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 _____ 2013.

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JODI JERICH
EXECUTIVE DIRECTOR

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DISSENT _____

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DISSENT _____

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JLR:ru

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1 SERVICE LIST FOR:

MATRIX TELECOM, INC.

2 DOCKET NOS.:

T-03228A-02-0894 AND T-03664A-02-0894

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