

COMTEL TELCOM ASSETS LP
433 E. LAS COLINAS BLVD., SUITE 700, IRVING, TEXAS 75039

RECEIVED

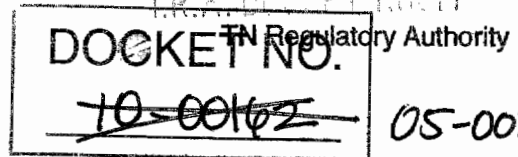
August 4, 2010

Received
2010 AUG 5 MARY W. FREEMAN

AUG 09 2010

VIA EXPRESS DELIVERY

Ms. Sara Kyle, Director
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, TN 37243



Re: Voluntary Certification Withdrawal by Comtel Telcom Assets LP d/b/a Excel Telecommunications, VarTec Telecom, Clear Choice Communications and VarTec Solutions and Notice of Asset Sale Closing

Dear Ms. Kyle:

Comtel Telcom Assets LP d/b/a Excel Telecommunications, VarTec Telecom, Clear Choice Communications and VarTec Solutions ("Comtel") hereby voluntarily withdraws its operating authorities to provide local exchange and interexchange telecommunications services within your state. By way of background for this request, Comtel entered into an asset purchase agreement ("APA") with Matrix Telecom, Inc. ("Matrix") to sell substantially all of its assets, including customers, to Matrix. The purchase and sale was ultimately consummated on July 31, 2010.

Following the consummation of the purchase and sale, Comtel no longer has an employee base, customers or other telecommunications operations in any jurisdiction. The existing customers and the associated operations were transferred to Matrix which has now stepped into Comtel's shoes to allow for a seamless transition as far as the end-user customers are concerned. All of the affected customers have been provided notice in compliance with the rules of this Commission and Federal Communications Commission, and where required, the parties have obtained the approvals of the Federal Communications Commission and State Commissions. Without impacting Matrix's operating authority, customers and/or ongoing operations, Comtel respectfully requests that your office take any steps necessary to immediately withdraw any remaining operating authority and tariffs/price lists on file for corporate entities of Comtel. As previously referenced, Matrix is now serving the customers acquired from Comtel.

Comtel sincerely appreciates your service and assistance over the years and now seek your prompt attention to this necessary request. Please direct any inquiries regarding the ongoing operations of Matrix to Leslie Ellis at leslie.ellis@excel.com or at (972) 910-1411. Acknowledgment and date of receipt of this filing are respectfully requested. Please date and file stamp the attached copy of this correspondence and return it in the enclosed pre-addressed, postage-prepaid envelope.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Jonathan Dennis".

Jonathan Dennis
Senior Vice President, General Counsel, and
Secretary
Comtel Assets Inc., General Partner of
Comtel Telcom Assets LP

Enclosures

cc: Leslie Ellis
Manager, Regulatory Affairs

Exhibit A

FCC Approval



PUBLIC NOTICE

Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

News Media Information 202 / 418-0500
Fax-On-Demand 202 / 418-2830
TTY 202 / 418-2555
Internet: <http://www.fcc.gov>
<ftp.fcc.gov>

DA 10-864
Released: May 14, 2010

DOMESTIC SECTION 214 AUTHORIZATION GRANTED

**Domestic Section 214 Application Filed for the Acquisition of Assets of Comtel Telecom Assets L.P.
and Comtel Virginia LLC by Matrix Telecom, Inc. and Matrix Telecom of Virginia, Inc.**

WC Docket No. 10-82

Pursuant to section 214 of the Communications Act of 1934, as amended (Act), 47 U.S.C. § 214, and sections 0.91, 0.291, and 63.03 of the Federal Communication Commission's (Commission) rules, 47 C.F.R. §§ 0.91, 0.291, 63.03, the Wireline Competition Bureau (Bureau) approves the application of Matrix Telecom, Inc. (Matrix), Matrix Telecom of Virginia, Inc. (Matrix-VA), Comtel Telecom Assets LP (Comtel), and Comtel Virginia LLC (Comtel-VA) (collectively, Applicants) requesting approval to transfer assets from Comtel and Comtel-VA to Matrix and Matrix-VA.¹ The Bureau has determined that grant of this application serves the public interest,² and accordingly the application is granted pursuant to the Commission's procedures for domestic section 214 transfer of control applications.³

Hypercube Telecom, LLC (Hypercube) filed comments against the transaction.⁴ Hypercube argues that it is engaged in a long-running dispute with Comtel over access charges that Hypercube asserts Comtel owes for toll free calls Hypercube routed from end users to Comtel. Hypercube states that this issue is the subject of pending litigation in U.S. District Court in Texas, but that it is concerned that the transaction will allow Comtel to evade obligations to pay Hypercube for past due amounts and that the merged entity will fail to pay Hypercube in the future.⁵ It also states that Comtel filed an informal

¹ Joint Application of Matrix Telecom, Inc., Matrix Telecom of Virginia, Inc. and Comtel Telecom Assets LP, Comtel Virginia LLC, WC Docket No. 10-82 (filed Mar. 22, 2010) (Application); *Domestic Section 214 Application Filed for the Acquisition of Assets of Comtel Telecom Assets L.P. and Comtel Virginia LLC by Matrix Telecom, Inc. and Matrix Telecom of Virginia, Inc.*, WC Docket No. 10-82, Public Notice, DA 10-583 (rel. Mar. 31, 2010); *Notice of Removal of Domestic Section 214 Application from Streamlined Treatment*, WC Docket No. 10-82, Public Notice, DA 10-680 (rel. Apr. 22, 2010).

² *Implementation of Further Streamlining Measures for Domestic Section 214 Authorizations*, CC Docket No. 01-150, Report and Order, 17 FCC Rcd 5517, 5529, para. 22 (2002).

³ 47 C.F.R. § 63.03.

⁴ Comments of Hypercube Telecom, LLC, WC Docket No. 10-82 (filed Apr. 14, 2010) (Comments).

⁵ *Id.* at 2-5 (citing *Hypercube, LLC, et al. v. Comtel Telecom Assets LP d/b/a Excel Telecommunications, Inc.*, Case No. 3:08-CV-2298 (N.D. Tex)).

complaint that is pending before the Commission's Enforcement Bureau that contains claims related to the dispute.⁶ Hypercube asserts that it does not oppose the proposed sale of assets, but urges the Commission to impose conditions on the transaction that are related to its access charge claims.⁷

The Applicants filed reply comments stating that Hypercube's ongoing dispute with Comtel is wholly unrelated to the proposed transaction.⁸ They assert that the access charges Hypercube claims Comtel owes were unlawful and are, in any case, already the subject of the U.S. District Court proceedings.⁹ They state that Hypercube's comments seek to secure remedies against Comtel prior to a determination that it has violated any legal requirements.¹⁰ They further argue that pre-judgment statutes in Texas concerning the distribution of assets by business entities apply should Hypercube prevail in the litigation, and that Hypercube has not demonstrated that the proposed transaction harms competition or otherwise contravenes the public interest.¹¹

After careful consideration of the record in this proceeding, we conclude that the concerns raised by Hypercube are not sufficient to persuade us to deny the transaction or to impose conditions on the terms of the transfer. We find that the transaction is likely to result in certain public interest benefits, including the continued provision of telecommunications service to Comtel's customers by Matrix, an

⁶ Comments at 3. On April 16, 2010, the Enforcement Bureau granted Comtel's motion for extension of the due date to convert the informal complaint into a formal complaint. Reply Comments at 19 (citing Letter from Rosemary McEnery, Deputy Chief, Market Disputes Resolution Division, to James H. Lister, Counsel for Comtel, and Michael Hazzard, Counsel for Hypercube, File EB-09-MDIC-0028 (rel. Apr. 16, 2010)).

⁷ Comments at 7-8. It requests removal of the transaction from streamlined processing, resolution of what Hypercube asserts are Comtel's outstanding obligations to Hypercube and any other similarly-situated carrier, and the establishment of an escrow fund by Comtel to cover any alleged access charge debts. It further requests that the Commission seek clarification from state utility commissions about existing and future traffic routing issues between Comtel and other carriers and condition approval of the transaction on Matrix entering into an interconnection agreement with Hypercube and "any other carriers with which Comtel is currently engaged in access charge billing issues." *Id.*

⁸ Reply Comments of Comtel Telecom Assets LP and Comtel Virginia LLC to Comments of Hypercube Telecom, LLC, WC Docket No. 10-82 at 2-6 (filed Apr. 20, 2010).

⁹ Applicants state that the Court already dismissed Hypercube's federal tariff claims against Comtel for the time period March 3, 2006 to March 31, 2009, which it asserts accounts for the bulk of the charges Hypercube claims it is owed, and that for the remaining time, the Court held that Hypercube must demonstrate that the services for which it is attempting to collect charges "added value" to the telecommunications network. Comtel states that this is a remaining issue in the litigation. Reply at 10 (citing *Hypercube LLC v. Comtel Telecom Assets LP*, Civil Action No. 3:08-CV-2298-G, 2009 WL 3075208 (N.D. Tex., Sept. 25, 2009)). Hypercube also argues that Comtel did not comply with universal service fund requirements under section 254(d) of the Act because it entered into a consent decree with the Commission to pay a fine and establish a compliance plan. Comments at 3-4. The Enforcement Bureau has determined that the consent decree resolves the matter, which is based on universal service claims raised in 2008 that are not related to the proposed transaction, and has terminated its investigation. *Comtel Telecom Assets LP*, File No. EB-08-IH-1372, Consent Decree, DA 10-418 (rel. Mar. 18, 2010).

¹⁰ Reply at 2-6.

¹¹ *Id.* at 16-17.

established competitive carrier currently providing service nationwide.¹² Applicants state that Matrix has the technical, managerial, and financial resources to ensure that the customers receive service under the same rates, terms, and conditions as they currently receive service.¹³ We agree with the Applicants that Hypercube's claims are not merger-specific¹⁴ and are more appropriately resolved in the pending litigation.¹⁵ We also find that Hypercube's claim that the Applicants will fail to comply with any legal or financial obligations to Hypercube or any other carrier after consummation¹⁶ is speculative and not supported by evidence in the record. We are thus satisfied that the proposed transaction is in the public interest and should be granted.

The Bureau finds, upon consideration of the record, that the proposed transfer will serve the public interest, convenience, and necessity, and therefore grants the requested authorization. Pursuant to section 1.103 of the Commission's rules, 47 C.F.R. § 1.103, the consent granted herein is effective upon the release of this Public Notice. Petitions for reconsideration under section 1.106 or applications for review under section 1.115 of the Commission's rules, 47 C.F.R. §§ 1.106, 1.115, may be filed within 30 days of the date of this Public Notice.

For further information, please contact Jodie May, (202) 418-0913, Competition Policy Division, Wireline Competition Bureau.

-FCC-

¹² Application at 6-7.

¹³ *Id.* at 7.

¹⁴ See *Verizon Communications, Inc. and America Movil, S.A. de C.V., Application for Authority to Transfer Control of Telecomunicaciones de Puerto Rico, Inc.*, WT Docket No. 07-43, Memorandum Opinion and Order, 22 FCC Rcd 6195, 6206-07, para. 25 (2007) (rejecting assertions that a transfer of control should be denied or conditioned based on non merger-specific issues and finding that applicants were subject to existing requirements).

¹⁵ See *Verizon Communications Inc. and MCI, Inc. Applications for Approval of Transfer of Control*, WC Docket No. 05-75, Memorandum Opinion and Order, 20 FCC Rcd 18433, 18529, para. 191 (2005) (noting that a number of issues raised by commenters were the subject of other pending proceedings).

¹⁶ Comments at 5.

Exhibit B

FCC Slamming Certification

BINGHAM

Russell M. Blau
Jeffrey R. Strenkowski
russell.blau@bingham.com
jeffrey.strenkowski@bingham.com

May 28, 2010

VIA ELECTRONIC FILING

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Re: CC Docket No. 00-257: *In the Matter of 2000 Biennial Review - Review of Policies and Rules Concerning Unauthorized Changes of Consumers Long Distance Carriers.*

**Notification of Matrix Telecom, Inc. and Matrix Telecom of Virginia, Inc.
Pursuant to 47 C.F.R. § 64.1120(e)**

Dear Ms. Dortch:

Matrix Telecom, Inc. and Matrix Telecom of Virginia, Inc. (together, "Matrix"), pursuant to Section 64.1120(e) of the Commission's Rules, 47 C.F.R. § 64.1120(e), hereby notify the Commission of Matrix's intent to acquire the telecommunications customers of Comtel Telecom Assets LP and Comtel Virginia LLC (together, "Comtel") through the purchase of substantially all of the assets of Comtel by Matrix, as fully described in the Application filed by Matrix, Comtel, and their affiliates in WC Docket No. 10-82.

Names of the Parties to the Transaction: The parties to the transaction include Matrix Telecom, Inc., Matrix Telecom of Virginia, Inc., Comtel Telecom Assets LP and Comtel Virginia LLC.

Types of Telecommunications Services Provided to Affected Customers: The customers affected by the proposed transaction will include residential and business customers. Comtel provides local and intrastate, interstate and international long distance throughout the United States, including in Virginia through its Comtel Virginia LLC subsidiary.

Date of the Transfer: The parties anticipate that the affected customers will become customers of Matrix on or about June 30, 2010, or as soon as possible thereafter following receipt of regulatory approvals.

Certification of Compliance: Attached hereto is a certification from Matrix required under Section 64.1120(e)(1) of the Commission's rules.

Copy of Notice Sent to Affected Subscribers: Notice was provided to the affected customers through separate mailings, sent from April 30, 2010, through May 28, 2010, depending on the various applicable state public utility commission regulatory requirements. In all cases the affected customers were notified at least 30 days in advance of the transfer date pursuant to Commission rules. Immediately following

Boston
Hartford
Hong Kong
London
Los Angeles
New York
Orange County
San Francisco
Santa Monica
Silicon Valley
Tokyo
Washington

Bingham McCutchen LLP
2020 K Street NW
Washington, DC
20006-1806

T +1.202.373.6000
F +1.202.373.6001
bingham.com

A/73378849.1

Marlene H. Dortch, Secretary
May 28, 2010
Page 2

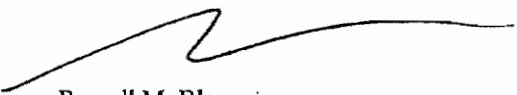
completion of the proposed transaction, all affected customers will be receiving identical service from Matrix, at the same rates, terms and conditions, as they currently receive from their current provider, and under the same trade names previously used by Comtel. Copies of the state-specific customer notice letters are attached hereto as Exhibits A-1 to A-8. Below is a list of when the customer notice letters were sent to each state:

<u>Date Sent</u>	<u>Customer Location(s)</u>
April 30, 2010	Washington, DC; Massachusetts; New Jersey; and Oregon
May 14, 2010	Colorado
May 24, 2010	Ohio
May 28, 2010	All other locations.

* * * *

Should there be any questions regarding this notification, please do not hesitate to contact the undersigned.

Very truly yours,



Russell M. Blau
Jeffrey R. Strenkowski ✓

Counsel for Matrix

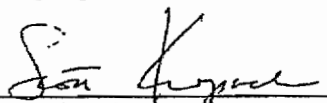
Attachment

CERTIFICATION

On behalf of Matrix Telecom, Inc. and Matrix Telecom of Virginia, Inc. (together, "Matrix"), and in accordance with Section 64.1120 of the Commission's rules, 47 C.F.R. § 64.1120, I hereby certify under penalty of perjury that I have read the foregoing notification and the statements contained therein are true, complete and correct to the best of my knowledge. I further certify that, with respect to the transfer to certain of the affected customers of Comtel (as defined in the foregoing notification) to Matrix, the Parties have complied with the Commission's requirements to provide advance customer notice in accordance with Section 64.1120(e)(3), with the obligations specified in that notice, and with other statutory and Commission requirements that apply to this streamlined process.

I certify under penalty of perjury that the foregoing is true and correct.

By:



Name: Scott Klopach

Title: General Counsel

Date: May 28, 2010