

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

January 4, 2007

IN RE:

JOINT PETITION OF MATRIX TELECOM, INC. AND
AMERICATEL CORPORATION FOR EXPEDITED
APPROVAL TO PARTICIPATE IN CERTAIN DEBT
FINANACING ARRANGEMENTS AND FOR A MINOR
CORPORATE REORGANIZATION

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DOCKET NO.
06-00240

ORDER APPROVING FINANCING TRANSACTION

This matter came before Director Eddie Roberson, Director Pat Miller and Director Ron Jones of the Tennessee Regulatory Authority (the "Authority" or "TRA"), the voting panel assigned to this docket, at a regularly scheduled Authority Conference held on December 4, 2006 for consideration of the *Petition* of Matrix Telecom, Inc. ("Matrix") and Americatel Corporation ("Americatel") (together "Petitioners") for approval for certain debt financing arrangements pursuant to Tenn. Code Ann. § 65-4-109 and an indirect transfer of authority pursuant to Tenn. Code Ann. § 65-4-113.

The *Petition*

Matrix is a Texas corporation with principal offices in Dallas, Texas. Matrix is authorized to operate in Tennessee as a reseller of telecommunications services, including local exchange service, pursuant to Authority Order in Docket No. 05-00083 and Order by the former Tennessee Public Service Commission in Docket No. 95-03215. In 2005, Matrix acquired, and continues to serve, the small business customer base of Global Crossing Telecommunications, Inc. in Tennessee and throughout the nation.¹ Matrix is a competitive provider of integrated communications services

¹ Matrix acquired the small customer base of Global Crossings in TRA Docket No. 05-00094.

including local, 1+long distance and toll-free voice services and a wide range of data services, such as dedicated Internet access, frame relay and point-to-point transmission services, mainly to enterprise customers.

Americatel is a Delaware corporation with principal offices in Miami, Florida. Americatel is authorized to resell telecommunications services in Tennessee pursuant to Authority Order issued in Docket No. 98-00065. Americatel provides international and domestic facilities-based and resold long distance services, including “dial around” casual calling (i.e., 1010XXX) service and prescribed 1+calling services, in forty-eight states.

Platinum Equity, LLC (“Platinum Equity”) is a Delaware limited liability company with principal offices in Beverly Hills, California. Platinum Equity has indirectly held 100% of the equity of Matrix since 1999 and 95% of the equity of Americatel since July 2006. Platinum Equity is a global firm specializing in the merger, acquisition and operation of companies that provide services and solutions to customers in a broad range of business markets, including information technology, telecommunications, logistics, manufacturing and entertainment distribution. Platinum Equity currently holds its interests in Matrix and Americatel through its wholly-owned subsidiary, EnergyTRACS Acquisition Corp. (“EnergyTRACS”).

The Petitioners request Authority approval for the issuance of debt, the encumbrance of their Tennessee assets, the pledge of the Petitioners’ stock, and a minor corporate reorganization pursuant to which EnergyTRACS will transfer the stock it holds in Petitioners to MTAC Holding Corporation (“MTAC”), a newly-formed, wholly-owned subsidiary of EnergyTRACS, resulting in an indirect transfer of authority of Petitioners. Specifically, Matrix and Americatel request authorization to enter into certain debt financing arrangements, pursuant to a Credit Agreement dated September 14, 2006 (the “Credit Agreement”), executed by Petitioners, EnergyTRACS, the immediate parent of Petitioners, HBK Investments, L.P. (“HBK”), the Arranger and Administrative Agent, and PCRL III Investments L.P. (the “Lender”); further, they request an indirect transfer of authority as part of a minor corporate restructuring.

According to the *Petition*, the Credit Agreement is structured in two phases. The first phase, currently in effect, will have a maximum term of 364 days. During this phase, Petitioners are jointly and severally liable as co-borrowers for debt obligations of up to \$90,000,000, consisting of a \$40,000,000 term loan and a \$50,000,000 revolving credit facility. This debt is guaranteed by Platinum Equity, EnergyTRACS and Matrix Telecom of Virginia, Inc. (“Matrix of Virginia”), a subsidiary of Matrix, all affiliated companies. None of the Petitioners’ stock or assets are being pledged to secure the debt in the first phase. During the first phase, Petitioners must secure the necessary regulatory approvals to implement the second phase of the Credit Agreement.

In the second phase, which will be implemented upon receipt of all necessary regulatory approvals, Petitioners will pledge all of their assets and stock as collateral for this indebtedness. Petitioners will continue to act as co-borrowers and will remain jointly and severally liable for the entire debt, but the first phase guarantees of the debt by Platinum Equity, EnergyTRACS, and Matrix of Virginia will terminate. This structure will remain in place through September 14, 2011, the maturity date of the Credit Agreement. In a Data Response filed with the Authority on October 10, 2006, the Petitioners stated that they have no physical assets in Tennessee but will pledge their Tennessee accounts receivable as collateral for the debt under the Credit Agreement.

The interest rate for the financing will conform to market conditions, and the terms of the arrangements are comparable to those offered for other, similarly-situated borrowers. It is expected that the financing arrangements will bear interest at a rate equal to the London Interbank Offered Rate (“LIBOR”).

The *Petition* states that in preparation for the implementation of the second phase of the Credit Agreement, EnergyTRACS must transfer the stock of the Petitioners that it currently holds to MTAC. MTAC will be an intermediate holding company between Petitioners and EnergyTRACS, which in turn, holds its equity interests in the Petitioners directly. This minor corporate reorganization, which is required

by the Credit Agreement, will minimize the effect of the Credit Agreement on other unregulated subsidiaries of EnergyTRACS. Ultimate control of Petitioners will not change; it will remain with Platinum Equity. The re-organization only places another wholly-owned holding company between the Petitioners and the ultimate owners.

The *Petition* further states that, other than the addition of the intermediate holding company, the proposed reorganization will not change Petitioners' ownership, management or day-to-day operations in Tennessee. Matrix and Americatel will continue to provide competitive resold telecommunications services in Tennessee, and the regulated services and tariffs of Matrix and Americatel will not change as a consequence of the proposed transaction. As a result, the proposed financing arrangements and reorganization will be transparent to consumers in the State of Tennessee.

December 4, 2006 Authority Conference

Tenn. Code Ann. § 65-4-113(a) (2004) provides:

No public utility, as defined in § 65-4-101, shall transfer all or any part of its authority to provide utility services, derived from its certificate of public convenience and necessity issued by the authority, to any individual, partnership, corporation or other entity without first obtaining the approval of the authority.

At a regularly scheduled Authority Conference held on December 6, 2006, a majority of the panel voted that Tenn. Code Ann. § 65-4-113 (2004) does not require the approval of such transaction as described in this *Petition*.² The minority dissented and voted to approve this transaction.³

Regarding the proposed debt financing arrangement, Tenn. Code Ann. § 65-4-109 (2004) provides:

No public utility shall issue any stocks, stock certificates, bonds, debentures, or other evidences of indebtedness payable in more than one (1) year from the date thereof, until it shall have first obtained authority from the authority for such proposed issue. It shall be the duty of the authority after hearing to approve any such proposed issue

² The Authority made a similar finding in Docket No. 05-00250.

³ Director Jones stated that there is a direct transfer of authority from EnergyTRACS to MTAC, EnergyTRACS will exercise indirect control over Matrix post transaction, and ultimate control of the parent, Platinum Equity does remain unchanged. Director Jones also opined that Tenn. Code Ann. § 65-4-113 (2004) does not contemplate ignoring the direct transfer of control in instances where the ultimate control by the parent remains unchanged in a restructuring, and therefore voted to approve this *Petition*.

maturing more than one (1) year from the date thereof upon being satisfied that the proposed issue, sale and delivery is to be made in accordance with law and the purpose of such be approved by the authority.

The panel voted unanimously to approve the debt financing arrangement and made the following findings:⁴

1. The proposed debt financing arrangements are subject to Authority approval pursuant to Tenn. Code Ann. § 65-4-109;
2. The transaction is being made in accordance with the laws enforceable by the Authority; and
3. The financing arrangements will serve the public interest in promoting competition among telecommunications carriers because Petitioners will have the opportunity to strengthen their competitive position through access to greater financial resources.

IT IS THEREFORE ORDERED THAT:

1. Approval for the indirect transfer of control as described in the *Petition* of Matrix Telecom, Inc. and Americatel Corporation is not required by this Authority.
2. The decision that approval is not needed for the transfer of authority is based solely on the facts set forth in this *Petition* and should not be construed as a statement of general policy regarding the Authority's jurisdiction to review transactions pursuant to Tenn. Code Ann. §§ 65-4-112 or 65-4-113 (2004).
3. The financing transaction as described in the *Petition* of Matrix Telecom, Inc. and Americatel Corporation is approved.

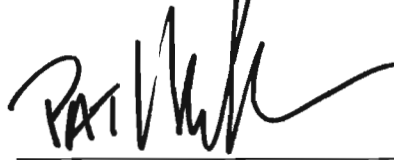
⁴ Director Jones made the following additional findings:

1. The proposed financing transaction is expected to affect the Tennessee assets of a Tennessee certificated entity;
2. The applicants have filed similar petitions or notices in other states;
3. Tennessee has a legitimate interest in monitoring the integrity of the competitive marketplace, which includes obtaining information on the financial transactions and fitness of certificated telecommunications carriers; and
4. The burden of compliance with Tenn. Code Ann. Tenn. Code Ann. § 65-4-109 (2004) is minimal, as such compliance should be perfunctory, given the telecommunications industry's movement to a competitive environment.

4. The authorization and approval given shall not be used by any party for the purpose of inferring an analysis or assessment of the risk involved. This decision is not intended to create any liability on the part of the Tennessee Regulatory Authority, the State of Tennessee or any political subdivision thereof.

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Eddie Roberson, Director

A handwritten signature in black ink, appearing to read "Pat Miller", written over a horizontal line.

Pat Miller, Director

Ron Jones, Director