

# LATHAM & WATKINS LLP

## BY ELECTRONIC MAIL AND BY FEDERAL EXPRESS

December 13, 2007

Chairman Sandra Kyle  
c/o Ms. Sharla Dillon, Docket Manager  
Tennessee Regulatory Authority  
460 James Robertson Parkway  
Nashville, Tennessee 37243-0505

filed electronically in docket office on 12/13/07

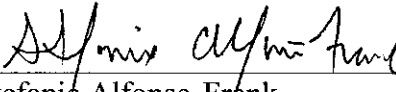
## Re: Joint Petition of Americatel Corporation and Startec Global Operating Company for Approval of a *Pro Forma* Merger

Dear Ms. Dillon:

Enclosed herein for filing on behalf of Americatel Corporation ("Americatel") and Startec Global Operating Company ("Startec") (collectively, "Petitioners") please find the original and four (4) copies of a Joint Petition seeking the Commission's *expedited* approval, to the extent necessary, to participate in a *pro forma* corporate restructuring involving the merger of the Petitioners, with Americatel Corporation surviving, as set forth in the Petition. Also enclosed herein is the required fee of \$50.

Please stamp and return to me in the enclosed envelope the copy provided for that purpose. Should you have any questions regarding this filing, please do not hesitate to contact me at (202) 637-1020.

Very truly yours,

  
\_\_\_\_\_  
Stefanie Alfonso-Frank  
Counsel for Petitioners

Attachment

**BEFORE THE  
TENNESSEE REGULATORY AUTHORITY**

In the Matter of the Joint Petition	)	
of	)	
	)	
<b>Americatel Corporation,</b>	)	Docket No.
and	)	
<b>Startec Global Operating Company</b>	)	
	)	
for Approval of a <i>Pro Forma</i> Restructuring	)	
	)	

**JOINT PETITION**

Startec Global Operating Company (“Startec”) and Americatel Corporation (“Americatel”) (collectively, “Petitioners”), by their attorneys and pursuant to Section 65-4-112 of the Tennessee Code, as well as any other applicable statutes or rules, hereby respectfully request approval from the Tennessee Regulatory Authority (“Authority”) for a *pro forma* corporate restructuring involving the merger of the Petitioners, with Americatel surviving. Petitioners respectfully request that the Authority act expeditiously, to the extent necessary, to grant the approval requested before March 31, 2008, so that the Petitioners may timely meet important business objectives.

In addition, in connection with the proposed transaction, the Petitioners request consent for Startec to cancel its operating authority in Tennessee upon consummation of the proposed 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 authorities 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.

Finally, Petitioners respectfully request pre-approval by the Authority of the customer notice that will be mailed to all Startec subscribers affected by the proposed transaction, as described more fully below.

In support of this Petition, Petitioners state as follows:

## **I. DESCRIPTION OF THE PETITIONERS**

### **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. In Tennessee, Startec holds a Certificate of Public Convenience and Necessity to provide resold telecommunications service by action of the authority in Docket Number 07-00104 (June 25, 2007).<sup>1</sup> Startec currently serves approximately 695 customers in Tennessee. Startec provides its services primarily to customers who place a significant number of calls to international destinations.

### **B. Americatel**

Americatel is a Delaware corporation with principal offices located at 4045 NW 97<sup>th</sup> Avenue, Miami, Florida 33178, tel. (305) 717-0200. Serving the needs of United States customers with connections to Latin America and the Caribbean, Americatel provides

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<sup>1</sup> In Docket No. 04-00282 (December 1, 2004), Startec Global Licensing Company (“SGLC”), a sister company of Startec, received authority to provide resold interexchange telecommunications service. As a result of the merger of Startec and SGLC on December

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 Tennessee, Americatel is authorized to operate as a reseller of telecommunications services pursuant to Case Number 98-00065 (February 2, 1999). Americatel currently serves approximately 2,121 customers in Tennessee. Based on its history of successful operations, Americatel has amply demonstrated its qualifications to serve Startec’s customers.

### **C. Ownership of the Petitioners**

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 interest 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 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 all necessary regulatory approvals, the Petitioners intend to implement a minor internal corporate reorganization that will result in Platinum Equity holding its interest in Startec indirectly through Americatel.

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27, 2006, which Startec survived, Startec now holds the Certificate, Docket Number 07-00082 (August 13, 2007).

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, and logistics, manufacturing, and entertainment distribution. Since its founding in 1995, Platinum Equity has acquired more than 70 businesses with more than \$16 billion in annual aggregate revenue at the time of acquisition.

## **II. DESIGNATED CONTACTS**

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

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

Copies of any correspondence should also be sent to the following designated representative of Startec and Americatel:

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

### III. DESCRIPTION OF THE PROPOSED TRANSACTION

#### A. Description of the Proposed *Pro Forma* Merger

The Petitioners request approval for a *pro forma* corporate restructuring in which Startec will be merged with and into Americatel, with Americatel surviving.<sup>2</sup> 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 Tennessee, 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 all of 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 all of those served under the Startec brand name, pursuant to its existing operating authority in Tennessee. Because the proposed merger is *pro forma* in nature and will result from an internal corporate restructuring, no agreement has been executed or attached in connection with the merger.

The Petitioners 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

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<sup>2</sup> Petitioners recently received Authority approval for a separate proposed transaction by which Petitioners and their affiliate, Matrix Telecom, Inc., sought 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 Americatel on or before December 31, 2007 ("Financing Petition"). See Docket No. 07-00213 (Nov. 22, 2007). The proposed *pro forma* merger of Petitioners, which is scheduled to occur no later than March 31, 2008, does not affect any of the approvals received in that Financing Petition, and the merger that is the subject of this Petition is not a condition precedent to that financing.

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 transaction or as otherwise directed by the Authority.

**B. Description of Customer Notice and Request for Pre-Approval of Customer Notice**

Finally, Petitioners will comply with the Authority's regulations governing the transfer of a customer base between two telecommunications providers, Tenn. Comp. R. & Regs. § 1220-4-2-.56(2)(d), and the Federal Communications Commission's ("FCC's") rules governing the sale of a carrier's customer base, 47 C.F.R. § 64.1120(e). These rules require that every affected subscriber of Startec receive notice of the proposed transaction as prescribed under the FCC's rules and as pre-approved by the Authority. A copy of the proposed notice that will be sent to all affected Startec subscribers in Tennessee is set forth in Exhibit B. Petitioners will send the notice via U.S. First Class mail with Startec's—the current provider—logo on the notice and exterior envelope. Petitioners hereby respectfully request that the Authority pre-approve the attached customer notice on or before February 11, 2008—the date of the first schedule Authority conference in February—to give Petitioners sufficient time to provide affected subscribers thirty days notice prior to the actual customer transfer.

In addition, the FCC rules require that Americatel certify to the FCC that it has provided at least 30 days' written notice to each subscriber affected by this transaction, under 47 C.F.R. § 64.1120(e)(1-3). The Petitioners are in the process of distributing the required customer notices. As a result, Americatel has not yet filed the self-certification letter the FCC requires. In

accordance with Tenn. Comp. R. & Regs. § 1220-4-2-.56(2)(d)(1), Petitioners will provide the Authority a copy of that self-certification letter upon filing it with the FCC.

### **C. Description of Petitions and Notices Filed in Other Jurisdictions**

Petitioners have filed or intend to file similar petitions or notices seeking approval of the proposed transaction in Arizona, California, Georgia, Hawaii, Indiana, Minnesota, Mississippi, Missouri, Nebraska, New York, Ohio, Pennsylvania, South Carolina, Tennessee and West Virginia. All of the proceedings for which the Petitioners have already filed petitions are currently pending. In addition, Petitioners intend to file a petition seeking consent to discontinue service in Wyoming, and notifications of the proposed transaction, including the cancellation of Startec's operating authority, in every other state, except Alaska.

Prior approval of the *pro forma* merger by the FCC is not required pursuant to 47 C.F.R. §§ 63.24(d), (f). As required by FCC rule, 47 C.F.R. § 63.24(f), the Petitioners will file a notice of the *pro forma* merger with the FCC no later than 30 days after the transaction is consummated.

## **IV. PUBLIC INTEREST STATEMENT**

The proposed transaction will serve the public interest in Tennessee. *First*, the proposed transaction will streamline and eliminate inefficiencies from the business and administrative operations of Startec and Americatel. Specifically, the Petitioners anticipate that this transaction will allow them to realize significant cost savings and operational benefits. Such savings are likely to result from network integration, reduced overhead and administrative costs, synergies from information systems integration, and other sources. These cost savings and benefits will cause Americatel to become a stronger competitor in the marketplace and will allow it to continue to provide high quality and low cost telecommunications services to Tennessee residents.



*Second*, the proposed transaction will strengthen competition in Tennessee by helping Americatel's business to grow and by putting Americatel in a better position to expand its service offerings. As Americatel's presence in Tennessee expands, Americatel will be better able to achieve economies of scale and scope, which will permit it to offer lower prices, maintain and improve service quality, and launch new services. As a result, Americatel will become a stronger competitor, bringing more of the well-recognized benefits of vigorous competition to telecommunications customers throughout Tennessee.

*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 OPERATING AUTHORITY IN TENNESSEE**

In connection with the proposed transaction, the Petitioners also request consent for Startec to cancel its operating authority in Tennessee. Petitioners both currently hold authority to provide resold interexchange service in Tennessee. 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 Tennessee; 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,

Petitioners hereby request Authority consent for Startec to cancel its certificate in Tennessee as of the date of closing of the proposed transaction, scheduled to occur on or before March 31, 2008.

## VI. CONCLUSION

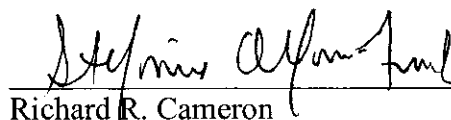
For the reasons stated above, Petitioners respectfully submit that the public interest, convenience and necessity would be furthered by granting this Petition. Accordingly, Petitioners respectfully request that the Authority grant *expedited* approval, to the extent necessary, for the proposed *pro forma* merger of Petitioners, with Americatel surviving. The Petitioners further request that the Authority pre-approve the customer notice on or before February 11, 2008, with sufficient time for Petitioners to provide 30 days advance notice to affected Startec subscribers. In addition, the Petitioners request approval for Startec to cancel its operating authority in Tennessee. Finally, the Petitioners respectfully request that the Authority grant this relief before March 31, 2008, to permit them to meet important business and financial objectives.

RESPECTFULLY SUBMITTED THIS 13th day of December, 2007.

Respectfully submitted,

AMERICATEL CORPORATION  
STARTEC GLOBAL OPERATING COMPANY

By Their Counsel:

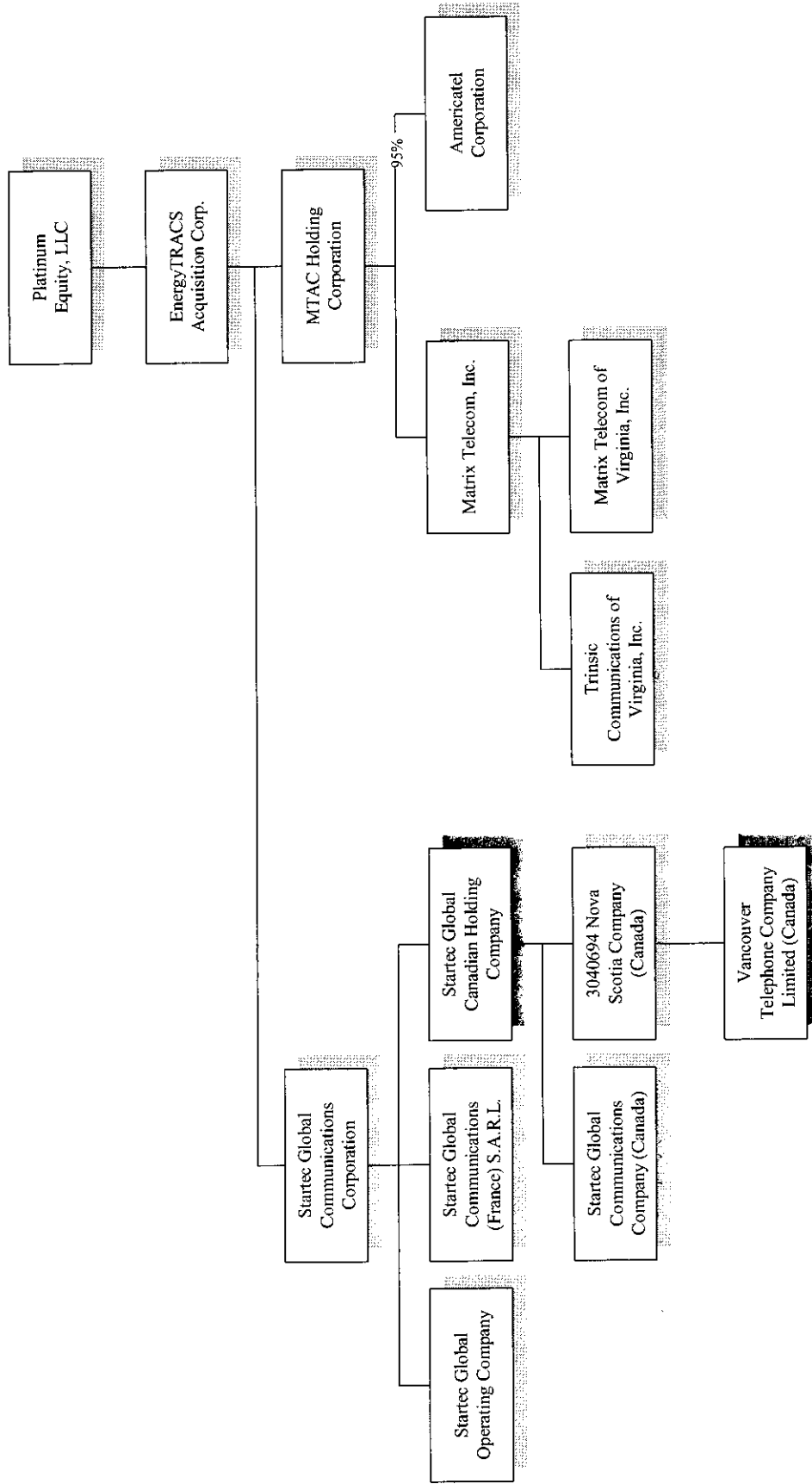


Richard R. Cameron  
Stefanie Alfonso-Frank  
Latham & Watkins LLP  
555 Eleventh Street, N.W., Suite 1000  
Washington, D.C. 20004  
(202) 637-2200

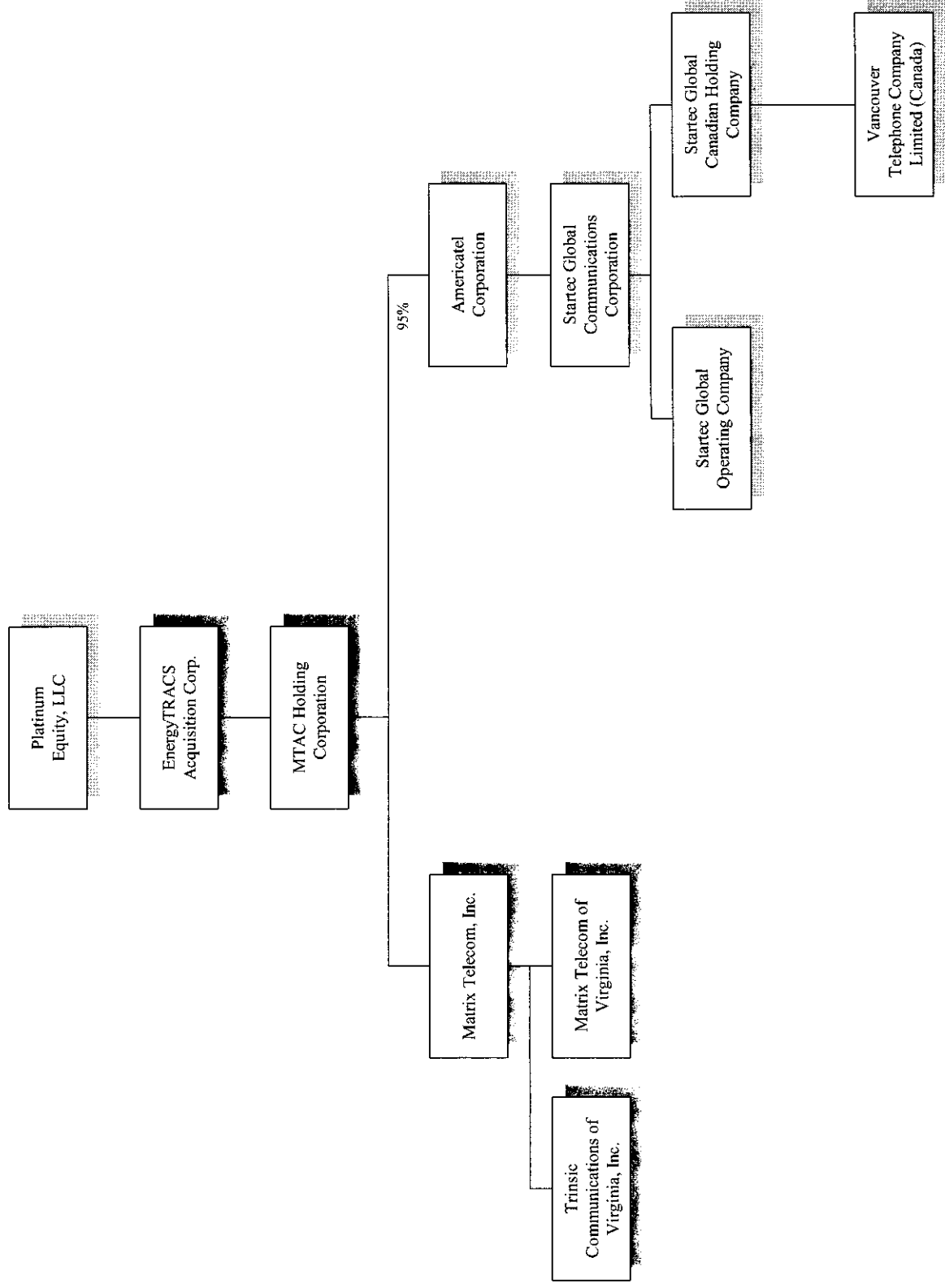
**Exhibit A**

***Pro Forma Corporate Restructuring Charts***

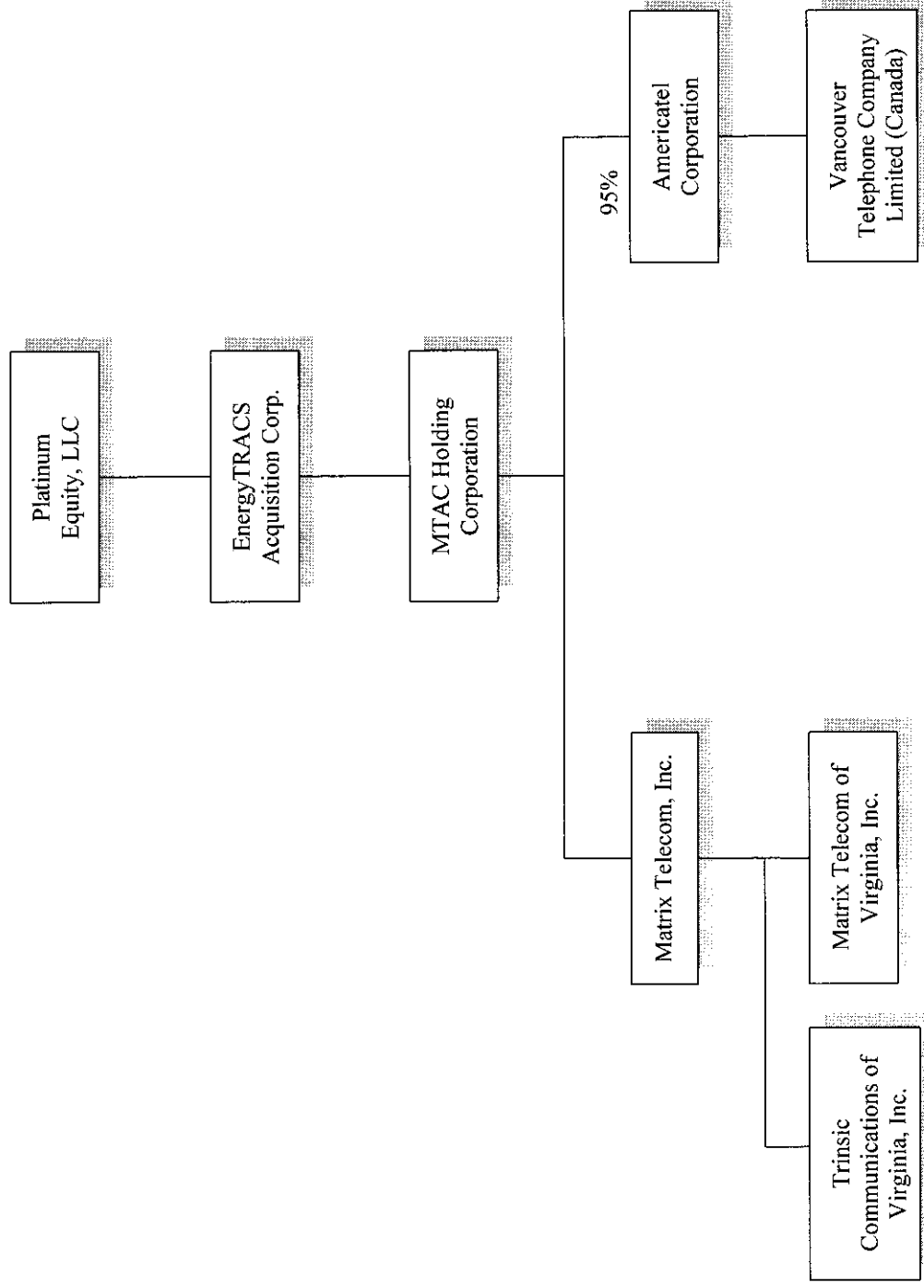
**Pre-Transaction Corporation Structure of Petitioners (current)**



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



## Post-Transaction Corporate Structure of Petitioners



**Exhibit B**

**Customer Notice**



**Thomas H. Perez-Ducy**  
**President and Chief Executive Officer**

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.

**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. We will provide you with at least 30 days' written notice of any rate increase implemented within 90 days of completion of the merger.

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



## VERIFICATION

STATE OF FLORIDA

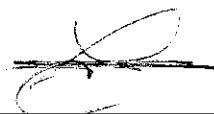
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COUNTY OF MIAMI-DADE

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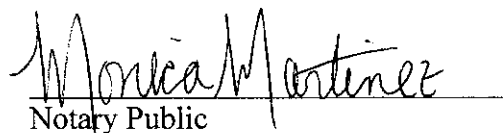
I, Thomas Perez-Ducy, state that I am President & Chief Executive Officer of Americatel Corporation; that I am authorized to make this Verification on behalf of Americatel Corporation; and that the statements in the foregoing document are true and correct to the best of my knowledge, information and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

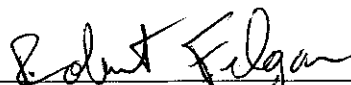
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§

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.

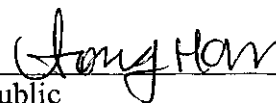


Name: Robert Felgar

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



Voucher #	Invoice #	Date	Invoice Amount	Invoice Description	Amount Paid
2155179	FILING 12/07 OF	12/13/07	50.00	FILING FEE	50.00
Ref Id:					
Acct. Loc. DC	Vendor # 118438	Vendor Name TENNESSEE REGULATORY AUTHORITY	Date of Payment 12/13/07	Check # 324579	Amount Paid 50.00

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**Latham & Watkins LLP**  
Attorneys at Law  
Washington, DC Operating Account  
555 Eleventh Street, N.W., Suite 1000  
Washington, D.C. 20004-1304  
Telephone (202) 637-2200 EIN 95-2018373

**Citibank, F.S.B.**  
P.O. Box 18987  
Washington D.C., 20036-0987

Check Date 12/13/2007	Check No. 324579
Check Amount \$*****50.00	

**PAY ONLY:** Fifty and 00/100 Dollar

**VOID 6 MONTHS AFTER ISSUE DATE**

**PAY TO THE ORDER OF:** TENNESSEE REGULATORY AUTHORITY

*[Signature]*

COPY BANK ANTI-FRAUD PROTECTION PATENTS 4,210,346; 4,327,720; 4,310,180; 5,197,765; 5,340,159

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