

Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Joint Application of Claricom Networks, LLC, Stacom Holdings LLC, Matrix Telecom, Inc., EnergyTRACS Acquisition Corp. and Platinum Equity, LLC, for Expedited Approval of the Transfer of Membership Interests and the Merger of Claricom Networks, LLC and Matrix Telecom, Inc.

Application 05-10-006
(Filed October 7, 2005)

OPINION GRANTING MERGER

I. Summary

This decision grants the request of Claricom Networks, LLC (Claricom), Stacom Holdings LLC (Stacom), Matrix Telecom, Inc. (Matrix), EnergyTRACS Acquisition Corp. (ETAC) and Platinum Equity, LLC (Platinum), jointly referred to as Applicants, pursuant to Pub. Util. Code § 854, for approval of the proposed transfer of all of the membership interests of Claricom, currently held by Stacom, ultimately to Matrix and of the merger of Claricom with and into Matrix. This application is unopposed. This proceeding is closed.

II. The Parties

A. Claricom Networks, LLC (U-5765-C)

Claricom is a limited liability company organized under the laws of the State of Delaware with its principal offices located at 300 N. Meridian, Oklahoma City, Oklahoma 73107. Claricom provides domestic and international long distance services to business and residential customers throughout the

continental United States. Claricom is authorized to provide intrastate interexchange telecommunications services in California.¹ Claricom is certificated as an interexchange reseller in the 48 contiguous states where required and as a competitive local exchange carrier in 22 states including California.² Claricom also provides interstate and international telecommunications services pursuant to the authorities granted to it by the Federal Communications Commission (FCC). A Certificate of Good Standing in the State of California for Claricom is included in the application as Attachment A.

B. Stacom Holdings LLC

Stacom is a Delaware limited liability company with its principal offices located at 360 N. Crescent Drive, South Building, Beverly Hills, California 90210. Stacom is a holding company and holds 100% of the membership interests of Claricom. Stacom in turn is a wholly-owned subsidiary of Platinum Equity, LLC.

C. Matrix Telecom, Inc. (Matrix)

Matrix (U-5227-C) is a corporation organized under the laws of the State of Texas with its principal offices located at 300 N. Meridian, Oklahoma City, Oklahoma 73107. Matrix provides domestic and international long distance services to business and residential customers throughout the United States. Matrix is authorized to provide intrastate interexchange telecommunications services in California.³ Matrix is certificated as an

¹ Decision (D.) 97-05-025 dated May 6, 1997.

² D.03-02-052 dated February 27, 2003.

³ D.90-12-062 dated December 19, 1990.

interexchange reseller in all 50 states where required and as a competitive local exchange carrier in 36 states. Matrix is authorized to provide local telecommunications services in California.⁴ Matrix also provides interstate and international telecommunications services pursuant to the authorities granted to it by the FCC. A Certificate of Good Standing in the State of California for Matrix is included in the application as Attachment B.

D. EnergyTRACS Acquisition Corp. (ETAC)

ETAC is a corporation organized under the laws of the State of Delaware with its principal offices located at 360 N. Crescent Drive, South Building, Beverly Hills, California 90210. ETAC is a holding company and holds all of the issued and outstanding capital stock of Matrix. ETAC in turn is a wholly-owned subsidiary of Platinum.

E. Platinum Equity, LLC (Platinum)

Platinum is a Delaware limited liability company formed as a vehicle for the acquisition of companies and is the ultimate parent of Matrix, ETAC, Claricom and Stacom. The Platinum portfolio is comprised of 21 businesses, with over 40,000 employees serving more than 600,000 customer sites worldwide. Attachment C to the application is a current organizational chart reflecting the relationship of the Applicants prior to the transactions described herein as well as a post-transaction organizational chart.

⁴ D.05-11-006, dated November 18, 2005.

III. Description of the Transaction

Applicants seek Commission approval of the proposed transfer of all the membership interests of Claricom, currently held by Stacom, to Matrix and of the merger of Claricom with and into Matrix with Matrix being the surviving entity.

Matrix was acquired by Platinum in 1999. Claricom was acquired by Platinum in 2001. Since their acquisitions, Matrix and Claricom have operated as separate entities but under common management. Attached to the application as Attachment D is a listing of officers and directors of Matrix and Claricom. As Matrix and Claricom provide the same services to the same markets, it has been determined that their customers can be served more efficiently by combining Matrix and Claricom into one company. To that end, Applicants seek approval of the transfer of the membership interests of Claricom, currently held by Stacom, initially to Platinum, who will then transfer those interests to ETAC. The final transfer of the membership interests of Claricom will be from ETAC to Matrix. Claricom will then be merged with and into Matrix with Matrix being the surviving entity. Applicants expect that this transaction will be completed on December 31, 2005. Upon the completion of the transaction, the customers of Claricom would be served by Matrix and Claricom would cease to exist, and Claricom will surrender its certifications.

IV. Public Interest

Applicants state that granting of the proposed transaction will serve the public interest. There will be no change to the rates, terms or conditions of service to the Claricom customers as a result of the transaction. All managerial and technical aspects of the provision of reliable telecommunication services will be handled in the same manner and by the same individuals who provide the managerial and technical support for Claricom today. Further, Applicants

believe consummation of the proposed transaction will serve the public interest in promoting competition in the intrastate interexchange and local telecommunications market by providing Matrix the opportunity to strengthen its competitive position by combining Claricom's customer base with Matrix's current customers. Approval of the transaction will permit Matrix to realize significant economic and marketing efficiencies which will enhance its ability to continue providing high quality, low cost telecommunications services and to compete more effectively in the telecommunications market. Matrix's operations will more readily increase in size and profitability, due to enhanced economies of scale. Accordingly, Applicants contend that the proposed transaction will benefit consumers through improved services and lower rates, thereby promoting competition in the telecommunications market. The market for voice and data services is becoming increasingly competitive in nature and such competition benefits consumers. Therefore, Applicants submit that approval of the proposed transaction is in the public interest.

Applicants request that the Commission process this application on an expedited basis to insure that the transaction can be completed on December 31, 2005. Applicants state that applications for approval of this transaction will be filed with the FCC and every state in which Applicants are required to file for approval. Letters of notification will be sent to all other states in which Matrix and Claricom operate.

Applicants intend to provide at least 30 days' advance subscriber notice of the transfer to Matrix. Attachment E to the application is a copy of the notice that will be sent to all subscribers. Each of the subscribers will receive the requisite advance notice and will see no change in rates, terms or conditions of

service from those currently in effect. According to Applicants, the proposed transaction will be seamless and virtually transparent to said subscribers.

V. Financial Showing

Applicants request that the Commission take notice of the financial information Matrix recently filed its application for authority to provide local service in California (A.05-03-022) and a Joint Application with Global Crossing Telecommunications, Inc. (Global Crossing) for approval of the transfer of certain customers from Global Crossing to Matrix (A.05-03-023). Corporate information was filed with these applications and Financial Statements were filed under seal with both of these Applications as well.

Applicants state that the proposed merger does nothing to affect the financial status of the companies. Applicants point out that Claricom and Matrix are sister entities owned by the same parent company. Further, they are managed by the same management team with no differences, as set forth in the application filed in this proceeding.

We will waive the filing requirements of Rules 16 and 36 of the Commission's Rules of Practice and Procedure, since this is an internal restructuring and Applicants' financial and corporate information was only recently reviewed in D.05-11-006 issued November 18, 2005.

VI. Discussion

Applicants seek approval of the proposed transfer of control pursuant to Pub. Util. Code § 854. Section 854(a) states, in relevant part, as follows:

No person or corporation . . . shall merge, acquire, or control . . . any public utility organized and doing business in this state without first securing authorization to do so from the commission . . . Any merger, acquisition, or control without that prior authorization shall be void of no effect.

The Commission has broad discretion to determine if it is in the public interest to authorize a transaction pursuant to § 854(a).⁵ The primary standard used by the Commission to determine if a transaction should be authorized under § 854(a) is whether the transaction will adversely affect the public interest.⁶ The Commission may also consider if the transaction will serve the public interest.⁷ Where necessary and appropriate, the Commission may attach conditions to a transaction in order to protect and promote the public interest.⁸

For the following reasons, we conclude that it is reasonable to grant this § 854(a) application. First, Matrix and Claricom are being merged into one company as a means of creating efficiencies within the company. Subscribers will receive advance notice and will see no change in rates, terms or conditions of service from those currently in effect. Second, the public may benefit from the transfer of control to the extent the transaction enhances the ability of Matrix to maintain and expand its services and operations in California. Third, there is no opposition to this application. For these reasons, we see no reason to withhold authority for the transfer of control before us here.

VII. Categorization and Need for Hearing

In Resolution ALJ 176-3161, dated October 27, 2005, the Commission preliminarily categorized this proceeding as ratesetting, and preliminarily determined that hearings were not necessary. No protests have been received.

⁵ D.95-10-045, 1995 Cal. PUC LEXIS 901, *18-19.

⁶ D.00-06-079, p. 13.

⁷ D.00-06-005, 2000 Cal. PUC LEXIS 281, *4.

⁸ D.95-10-045, 62 CPUC2d 160, 167-68.

Given this status public hearing is not necessary and it is not necessary to alter the preliminary determinations made in Resolution ALJ 176-3161.

VIII. Waiver of Comment Period

This is an uncontested matter in which the decision grants the relief requested. Accordingly, pursuant to Pub. Util. Code 311(g)(2), the otherwise applicable 30-day period for public review and comment is being waived.

IX. Assignment of Proceeding

John Bohn is the Assigned Commissioner and Bertram D. Patrick is the assigned Administrative Law Judge in this proceeding.

Findings of Fact

1. Matrix possesses a CPCN to provide limited facilities-based competitive local exchange services within California under the U -5227-C corporate identification number.
2. Claricom is authorized to provide intrastate and interexchange telecommunications services in California.
3. Claricom and Matrix are sister entities owned by the same parent company, and they are managed by the same management team with no differences.
4. Matrix and Claricom are being merged into one company as a means of creating efficiencies within the company. This is an internal restructuring and not a merger of two unrelated entities.
5. Pub. Util. Code § 854(a) requires Commission authorization to transfer control of a public utility. Any transfer of control without Commission authorization is void under the statute.
6. Matrix has sufficient cash and cash equivalence to provide the necessary funding for daily operations.

7. Matrix will continue offering its current services and use the same name and authority after the transfer of control.
8. Matrix is current on reporting and transmitting the user fees applicable to its California operations.
9. Upon completion of the transaction, Matrix will continue to be operated by the same existing management team.
10. There is no opposition to this application.

Conclusions of Law

1. This is a ratesetting proceeding and no hearing is necessary.
2. This application should be approved and become effective immediately because it is not adverse to the public interest and the public may benefit from ability of Matrix to maintain and expand its services and operations in California.
3. Approval of this application is not a finding of value of the rights and property being transferred.

O R D E R

IT IS ORDERED that:

1. Claricom Networks, LLC (Claricom), Stacom Holdings LLC (Stacom), Matrix Telecom, Inc. (Matrix), EnergyTRACS Acquisition Corp. and Platinum Equity, LLC (together "Applicants"), pursuant to Pub. Util. Code § 854, are authorized to transfer all of the membership interests of Claricom, currently held by Stacom, ultimately to Matrix to consummate the merger of Claricom with and into Matrix.
2. Matrix shall notify the Director of the Commission's Telecommunications Division in writing of the transfer of control, as authorized herein, within 30 days

of this order. A true copy of the instrument(s) of transfer shall be attached to the notification.

3. Application 05-10-006 is closed.

This order is effective today.

Dated _____, at San Francisco, California.