

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

In the Matter of the Joint )  
Application of )  
 )  
STARTEC GLOBAL COMMUNICATIONS )  
CORPORATION, STARTEC GLOBAL )  
OPERATING COMPANY and PLATINUM )  
EQUITY, LLC )  
 )  
For Approval for the Indirect )  
Transfer of Control of Startec )  
Global Operating Company to Platinum )  
Equity, LLC )  
 )

DOCKET NO. 2007-0081

DECISION AND ORDER NO. 23437

Filed May 16, 2007  
At 11 o'clock A.M.

Karen Higashi  
Chief Clerk of the Commission

DIV. OF CONSUMER ADVOCACY  
DEPT. OF COMMERCE AND  
CONSUMER AFFAIRS  
STATE OF HAWAII

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Commission, State of Hawaii.

Karen Higashi

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DECISION AND ORDER

By this Decision and Order, the commission waives the requirements of Hawaii Revised Statutes ("HRS") § 269-19 to the extent applicable, with respect to the request by Startec Global Communications Corporation ("SGCC"), Startec Global Operating Company ("Startec"), and Platinum Equity, LLC ("Platinum"), collectively, ("Applicants") for approval of a transaction that will result in the indirect transfer of control of Startec, a subsidiary of SGCC, to Platinum.

I.

Background

A.

Description of Subject Entities

Startec Global Communications Corporation is a Delaware corporation.

Startec Global Operating Company is a Delaware corporation with its principal place of business located in Rockville, Maryland.<sup>1</sup> It is a wholly-owned subsidiary of SGCC. It provides long distance, internet, and other communications services in over forty-five (45) states and internationally.<sup>2</sup> Startec holds a Certificate of Authority to provide resold intrastate telecommunications services in the State of Hawaii.<sup>3</sup>

Platinum Equity, LLC is a Delaware limited liability company with offices located in Beverly Hills, California.<sup>4</sup> It specializes 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 and telecommunications services.<sup>5</sup> Through a series of wholly-owned subsidiary corporations, Platinum indirectly controls two telecommunications carriers, Americatel Corporation ("Americatel") and Matrix Telecom, Inc. ("Matrix").<sup>6</sup> Americatel provides international and domestic facilities-based and resold long distance services in each of the forty-eight (48) contiguous

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<sup>1</sup>See Application at 2.

<sup>2</sup>Id.

<sup>3</sup>See Decision and Order No. 17371, filed November 9, 1999, in Docket No. 99-0193, authorizing Startec Global Licensing Company ("SGLC"), a sister company of Startec authority to provide resold interexchange telecommunications services; Startec and SGLC merged on December 27, 2006. On December 28, 2005, Startec filed an amended tariff which reflected the name change.

<sup>4</sup>See Application at 2.

<sup>5</sup>Id.

<sup>6</sup>See Application at 3.

states.<sup>7</sup> Matrix provides integrated communications services such as local, 1+ long-distance, toll-free voice services, and dedicated internet access primarily to enterprise customers.<sup>8</sup>

EnergyTRACS Acquisition Corp. ("Buyer") is a wholly-owned subsidiary of Platinum and has agreed to acquire SGCC.<sup>9</sup> It is a Delaware corporation.<sup>10</sup> It has created a new merger subsidiary, Soap Merger Corporation ("Soap"), a Delaware corporation and wholly owned subsidiary of the Buyer.<sup>11</sup>

B.

Application

On March 28, 2007, Applicants filed an application seeking approval pursuant to HRS § 269-19, and the Rules of the commission to participate in certain financing arrangements, as described in the application ("Application").<sup>12</sup>

SGCC and Buyer entered into an Agreement and Plan of Merger (the "Agreement") whereby Soap will merge with SGCC; with SGCC surviving.<sup>13</sup> Thus, Buyer will acquire indirect control of

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<sup>7</sup>See Application at 3.

<sup>8</sup>Id.

<sup>9</sup>See Application at 2.

<sup>10</sup>Id.

<sup>11</sup>See Application at 3.

<sup>12</sup>Applicants served copies of the Application on the DIVISION OF CONSUMER ADVOCACY, DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS ("Consumer Advocate"), an *ex officio* party to this proceeding.

<sup>13</sup>See Application at 4.

Startec. Ultimately, control of Startec will be transferred to Platinum.<sup>14</sup>

Applicants represent that Startec will continue to offer services with no change in the rates or terms and conditions of service.<sup>15</sup> It will continue to provide services under the same name and be led by an experienced management team.<sup>16</sup>

C.

Consumer Advocate's Statement of Position

On April 13, 2007, the Consumer Advocate filed its Statement of Position ("Statement of Position") informing the commission that it does not object to the commission's approval of the Application.

The Consumer Advocate states that "Platinum has sufficient technical, financial, and managerial resources and abilities to ensure that [Startec] continues to provide telecommunications services to [Startec's] customers, including those living in Hawaii."<sup>17</sup> The "transaction would be transparent to Hawaii customers because [Startec] will continue to operate under the same name, rates, terms, and conditions."<sup>18</sup>

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<sup>14</sup>Id.

<sup>15</sup>Id.

<sup>16</sup>Id.

<sup>17</sup>Statement of Position at 5.

<sup>18</sup>Statement of Position at 6.

The proposed transfer of control:

will be in the public interest because the proposed merger will provide [Startec] with access to additional resources from Platinum. . . . [allowing Startec] and Platinum's other telecommunications companies (i.e., Americatel and Matrix) to realize cost savings and operational benefits that may result from network integration, lower international termination costs stemming from larger traffic volumes, and synergies in information systems integration.<sup>19</sup>

The merger will "allow [Startec] to become a stronger competitor in the marketplace because [Startec] can continue to provide high quality service at lower costs to Hawaii residents. Moreover, the proposed transaction will benefit the public because [Startec] will be in a better position to expand its service offerings to [Startec] customers in Hawaii."<sup>20</sup>

The Consumer Advocate notes, "[Startec] appears to be a non-dominant telecommunications carrier because in the last four (4) years [Startec] routinely reported nominal levels (i.e., less than \$100) in total intrastate revenues each year. Even when analyzing the combined revenues of Matrix and [Startec], it is unlikely that the proposed transaction will result in an accumulation of unwanted market power in Hawaii's telecommunications market."<sup>21</sup> Also, "the entry of many telecommunications service providers into the Hawaii market serves to mitigate any traditional public utility regulatory concerns . . . [i]f any adverse consequences from the proposed transaction occur, Hawaii consumers of Petitioners'

<sup>19</sup>See Statement of Position at 6.

<sup>20</sup>Statement of Position at 6-7.

<sup>21</sup>Statement of Position at 7.

telecommunication services will have the option of selecting another service provider authorized to provide service in the State."<sup>22</sup>

## II.

### Discussion

HRS § 269-16.9 allows the commission to waive regulatory requirements applicable to telecommunications providers if it determines that competition will serve the same purpose as public interest regulation. Specifically, HAR § 6-80-135 permits the commission to waive the applicability of any of the provisions of HRS ch. 269 or any rule, upon a determination that a waiver is in the public interest.

In this docket, we find, at this time, that the telecommunications services currently provided by Applicants are fully competitive, and that Applicants are non-dominant carriers in Hawaii. The commission also finds that the proposed transfer of control is consistent with the public interest, and that competition, in this instance, will serve the same purpose as public interest regulation. Thus, the commission concludes that the requirements of HRS §§ 269-7(a) and 269-19, to the extent applicable, should be waived with regards to the matters in this docket, pursuant to HRS § 269-16.9 and HAR § 6-80-135.<sup>23</sup>

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<sup>22</sup>Id.

<sup>23</sup>See Decision and Order No. 18454, filed on March 28, 2001, in Docket No. 00-0443. The commission will continue to examine each application or petition and make determinations on a case-by-case basis as to whether the applicable requirements

Similarly, based on the findings and conclusions stated above, the commission will also waive the provisions of HAR §§ 6-61-101 and 6-61-105, to the extent that Applicants fail to meet any of these filing requirements.

### III.

#### Orders

##### THE COMMISSION ORDERS:

1. The requirements of HRS §§ 269-7(a) and 269-19, to the extent applicable, are waived with respect to the proposed transfer of control described in the Application filed on March 28, 2007.

2. The filing requirements of HAR §§ 6-61-101 and 6-61-105, to the extent applicable, are also waived.

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of HRS §§ 269-7(a), 269-17, and 269-19 should be waived. The commission's determination, in the instant case, of the applicability of HRS §§ 269-7(a), 269-17 and 269-19 is based on our review of the instant Application only. Thus, the commission's waiver in this instance of the applicability of HRS §§ 269-7(a), 269-17 and 269-19 should not be construed by any public utility, including Applicants, as a basis for not filing an application or petition regarding similar transfers that fall within the purview of these statutes.

DONE at Honolulu, Hawaii

MAY 16 2007

PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

By *Carlito P. Caliboso*  
Carlito P. Caliboso, Chairman

By *John E. Cole*  
John E. Cole, Commissioner

APPROVED AS TO FORM:

*Jodi L. K. Yi*  
Jodi L. K. Yi  
Commission Counsel

2007-0081.eh

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Decision and Order No. 23437 upon the following parties, by causing a copy hereof to be mailed, postage prepaid, and properly addressed to each such party.

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Karen Higashi

DATED: MAY 16 2007