

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service
Commission held at its office in
Jefferson City on the 17th day
of November, 2005.

In the Matter of Joint Application of Matrix Telecom,)	
Inc., and Global Crossing Telecommunications, Inc.,)	
Global Crossing Local Services, Inc., and Global)	
Crossing Telemanagement, Inc., for Expedited)	<u>Case No. TM-2005-0324</u>
Approval of the Transfer of Certain Assets and a)	
Waiver of Applicable Anti-slamming Regulations.)	

ORDER APPROVING SALE OF ASSETS

Issue Date: November 17, 2005

Effective Date: November 27, 2005

On March 24, 2005, Matrix Telecom, Inc., Global Crossing Telecommunications, Inc., Global Crossing Local Services, Inc., and Global Crossing Telemanagement, Inc., filed a joint application for approval of a transaction in which Matrix would acquire certain assets and the Small Business Group customer base from the Global Crossing companies. The applicants also request waiver of the anti-slamming regulations.

The applicants filed supplements to the application on November 2, 2005. On November 7, 2005, the Staff of the Commission filed its Recommendation and Memorandum.

The Parties:

According to the application, Matrix is a Texas corporation that provides domestic and international long distance service to business and residential customers throughout the United States. Matrix states that it is authorized to provide intrastate interexchange

telecommunications services in Missouri. By order issued October 25, 2005, in Case No. CA-2005-0393, the Commission granted Matrix a certificate of service authority to provide local telecommunications services in Missouri.

Global Crossing Telecommunications, Inc., is a corporation organized under the laws of the state of Michigan. Global Crossing Telecommunications is a long distance carrier that provides voice and data services to business customers throughout the United States, including Missouri.¹ Global Crossing Local Services, Inc., is a corporation organized and existing under the laws of the state of Delaware. Global Crossing Local Services provides facilities-based competitive local exchange services in various locations throughout the United States, including Missouri.² Global Crossing Telemanagement, Inc., is a corporation organized and existing under the laws of the state of Wisconsin. Global Crossing Telemanagement provides resale-based competitive local exchange services in various locations throughout the United States, including Missouri.³

The Transaction:

Pursuant to an Asset Purchase Agreement executed on March 19, 2005, the Global Crossing companies have agreed to sell to Matrix certain assets and assume certain liabilities relating to Global Crossing's Small Business Group, which provides voice and data products to small and medium-sized business enterprises throughout the United States. Upon consummation of the transactions contemplated in the Agreement, Matrix will serve the Small Business Group customer base, and Global Crossing will continue to

¹ See Case No. TO-84-223, order issued July 24, 1986.

² See Case No. TA-98-318.

³ See Case No. TA-98-161.

provide service to those customers not previously served by its Small Business Group. The parties indicate that Global Crossing will retain the authority to provide telecommunications services in Missouri in order to continue to serve these customers.

Staff's Memorandum and Recommendation:

Staff filed its Memorandum and Recommendation on November 7, 2005. Staff notes that a transfer of assets for a telecommunications company is governed by Section 392.300⁴ and 4 CSR 240-3.520. Applicable case law provides that the Commission may “not withhold its approval of the disposition of assets unless it can be shown that such disposition is detrimental to the public interest.” *State ex rel. Fee Fee Trunk Sewer, Inc. v. Litz*, 596 S.W.2d 466, 468 (Mo. App. E.D. 1980), citing *State ex rel. City of St. Louis v. Public Serv. Comm’n of Mo.*, 73 S.W.2d 393, 400 (Mo. banc 1934). Staff opines that the transaction will not be detrimental to the public interest. Staff notes that the transaction involves only competitively classified companies and is not detrimental to the public interest since a customer will receive advance notice and can freely switch to another provider. Staff notes that the applicants also request waiver of the Commission’s anti-slamming rule, 4 CSR 240-33.150(4), which provides:

(4) Changes in subscriber carrier selections as a result of merger or consolidation or the sale, assignment, lease or transfer of assets.

(A) A telecommunications carrier may submit or execute a change in a subscriber’s provider of telecommunications service on behalf of the subscriber without obtaining authorization and verification in accordance with the procedures prescribed in 4 CSR 240-33.150(2) and 4 CSR 240-33.150(3) when such change is a result of merger or consolidation or the sale, assignment, lease or transfer of assets approved by the commission.

⁴ All statutory references are to the Revised Statutes of Missouri (RSMo), revision of 2000, unless otherwise specified.

(B) A telecommunications carrier will notify all subscribers of such change through a notice in each subscriber's bill at least thirty (30) days prior to the effective date of the change.

(C) A telecommunications carrier will notify all subscribers of the right to switch to another service provider.

Therefore, Staff states, waiver of the anti-slamming regulation is not necessary if the Commission approves this transfer and if subscribers are properly notified. Staff also notes that the draft Subscriber Notification filed by the applicants on November 2, 2005, complies with this regulation. Staff recommends that the Commission issue an order approving the proposed transfer of assets and customers and direct the applicants to send a customer notice in each subscriber's bill at least 30 days prior to the effective date of the change.

Discussion:

The Commission has reviewed the joint application, the supplemental filings, and Staff's Memorandum and Recommendation. Based upon its review, the Commission concludes that the proposed transaction does not pose a detriment to the public interest. Therefore, the Commission will approve the transactions and direct the applicants to send customer notice in each subscriber's bill at least 30 days prior to the effective date of the change. Applicants shall use the sample customer notice found in Attachment E to its November 2, 2005 filing, which indicates that customers' rates and terms and conditions of service will remain unchanged or customers will be notified by mail if there are any such changes. The Commission will direct Matrix to comply with these provisions.

The Commission notes that, as discussed by Staff, waiver of the anti-slamming regulation is not necessary as the applicants shall send customer notice in each subscriber's bill at least 30 days prior to the effective date of the change.

IT IS THEREFORE ORDERED:

1. That the joint application, filed on March 24, 2005, by Matrix Telecom, Inc., Global Crossing Telecommunications, Inc., Global Crossing Local Services, Inc., and Global Crossing Telemanagement, Inc., is approved.
2. That Matrix Telecom, Inc., Global Crossing Telecommunications, Inc., Global Crossing Local Services, Inc., and Global Crossing Telemanagement, Inc., are authorized to enter into and perform in accordance with the Asset Purchase Agreement referred to above.
3. That the applicants are directed to send customer notice, as discussed above, in each subscriber's bill at least 30 days prior to the effective date of the change.
4. That Matrix Telecom, Inc., shall not change the rates, or the conditions or terms of service, of the transferred Small Business Group customers unless those customers are first notified by mail.
5. That the request for waiver of 4 CSR 240-33.150(4), the Commission's anti-slamming rule, is denied.
6. That this order shall become effective on November 27, 2005.

(S E A L)

BY THE COMMISSION



Colleen M. Dale
Secretary

Davis, Chm., Gaw, Clayton,
and Appling, CC., concur.
Murray, C., absent.

Ruth, Senior Regulatory Law Judge