

State of Florida



Public Service Commission
CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

DATE: NOVEMBER 20, 2002

TO: DIRECTOR, DIVISION OF THE COMMISSION CLERK &
ADMINISTRATIVE SERVICES (BAYÓ)

FROM: DIVISION OF COMPETITIVE MARKETS & ENFORCEMENT (ISLER) *Pji*
OFFICE OF THE GENERAL COUNSEL (ELLIOTT; W. KNIGHT; *WOK*)
TEITZMAN) *WOK*

RE: DOCKET NO. 020584-TX - CANCELLATION BY FLORIDA PUBLIC
SERVICE COMMISSION OF ALEC CERTIFICATE NO. 7153 ISSUED TO
MAXCESS, INC. FOR VIOLATION OF RULE 25-4.0161, F.A.C.,
REGULATORY ASSESSMENT FEES; TELECOMMUNICATIONS COMPANIES.

DOCKET NO. 020620-TX - CANCELLATION BY FLORIDA PUBLIC
SERVICE COMMISSION OF ALEC CERTIFICATE NO. 7636 ISSUED TO
DIRECT2INTERNET CORP. FOR VIOLATION OF RULE 25-4.0161,
F.A.C., REGULATORY ASSESSMENT FEES; TELECOMMUNICATIONS
COMPANIES.

DOCKET NO. 020634-TX - CANCELLATION BY FLORIDA PUBLIC
SERVICE COMMISSION OF ALEC CERTIFICATE NO. 7922 ISSUED TO
NTERA, INC. FOR VIOLATION OF RULE 25-4.0161, F.A.C.,
REGULATORY ASSESSMENT FEES; TELECOMMUNICATIONS COMPANIES.

AGENDA: 12/02/02 - REGULAR AGENDA - INTERESTED PERSONS MAY
PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMP\WP\020584.RCM

CASE BACKGROUND

On December 12, 2001, the certificated companies listed on
Attachment A were mailed the 2001 Regulatory Assessment Fee (RAF)
Return Notice and payment was due by January 30, 2002. On February

DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

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21, 2002, the Office of the General Counsel mailed a delinquent notice, via certified mail, for the 2001 RAF.

After the dockets were opened, the companies listed on Attachment A paid the past due amounts in full and proposed settlements to resolve these dockets.

The Commission is vested with jurisdiction over this matter pursuant to Sections 364.336, 364.285, and 364.337, Florida Statutes. Accordingly, staff believes the following recommendations are appropriate.

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission accept the settlement offer proposed by each company listed on Attachment A to resolve the apparent violation of Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies, incorporated by Rule 25-24.835, Florida Administrative Code?

RECOMMENDATION: Yes. The Commission should accept each company's respective settlement proposal, as listed on Attachment A. Any contribution should be received by the Commission within fourteen (14) calendar days from the date of the Commission Order and should identify the docket number and company name. The Commission should forward the contribution to the Office of the Comptroller for deposit in the State General Revenue Fund pursuant to Section 364.285(1), Florida Statutes. If any of the companies listed on Attachment A fails to pay in accordance with the terms of the Commission Order, that company's respective certificate should be cancelled administratively. If a company's certificate, as listed on Attachment A, is cancelled in accordance with the Commission's Order from this recommendation, the respective company should be required to immediately cease and desist providing alternative local exchange carrier services in Florida. (Isler; Elliott; W. Knight; Teitzman)

STAFF ANALYSIS: Rule 25-4.0161, Florida Administrative Code, incorporated by Rule 25-24.835, Florida Administrative Code, which implements Section 364.336, Florida Statutes, requires the payment of Regulatory Assessment Fees by January 30 of the subsequent year for telecommunications companies, and provides for penalties and interest as outlined in Section 350.113, Florida Statutes, for any delinquent amounts.

After the individual dockets were established, the companies listed on Attachment A contacted the Commission and subsequently paid the past due amounts, including statutory penalty and interest charges, and proposed settlements. Each company listed on Attachment A offered to pay a \$100 contribution and proposed to pay future RAFs on a timely basis. These settlement amounts are consistent with amounts accepted for recent, similar violations. Pursuant to Section 364.336, Florida Statutes, cancellation of an entity's certificate does not relieve the obligation to pay Regulatory Assessment Fees, including statutory penalty and

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interest charges, if the certificate was active during any portion of the calendar year, including the year of cancellation.

Accordingly, staff believes the Commission should accept each company's respective settlement proposal, as listed on Attachment A. Any contribution should be received by the Commission within fourteen (14) calendar days from the date of the Commission Order and should identify the docket number and company name. The Commission should forward the contribution to the Office of the Comptroller for deposit in the State General Revenue Fund pursuant to Section 364.285(1), Florida Statutes. If any of the companies listed on Attachment A fails to pay in accordance with the terms of the Commission Order, that company's respective certificate should be cancelled administratively. If a company's certificate, as listed on Attachment A, is cancelled in accordance with the Commission's Order from this recommendation, the respective company should be required to immediately cease and desist providing alternative local exchange carrier services in Florida.

ISSUE 2: Should these dockets be closed?

RECOMMENDATION: If the Commission approves staff's recommendation on Issue 1, the docket for each company listed on Attachment A should be closed upon receipt of the \$100 contribution or cancellation of the certificate. (Elliott; W. Knight; Teitzman)

STAFF ANALYSIS: If the Commission approves staff's recommendation on Issue 1, the docket for each company listed on Attachment A should be closed upon receipt of the \$100 contribution or cancellation of the certificate.

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<u>DOCKET NO.</u>	<u>PROVIDER LAST REPORTED REVENUES & PERIOD ENDED</u>	<u>CERT. NO.</u>	<u>RAFs</u>	<u>Penalty and Interest*</u>
020584-TX	Maxcess, Inc. -\$295,293 Revenues for Period Ended 12/31/01	7153	2001	2001
020620-TX	Direct2Internet Corp. \$0 Revenues for Period Ended 12/31/01	7636	2001	2001
020634-TX	NTERA, Inc. \$0 Revenues for Period Ended 12/31/01	7922	2001	2001

*Years penalty and/or interest was not paid