

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: 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. 020584-TX
ORDER NO. PSC-02-1697-AS-TX
ISSUED: December 5, 2002

The following Commissioners participated in the disposition of
this matter:

LILA A. JABER, Chairman
J. TERRY DEASON
BRAULIO L. BAEZ
MICHAEL A. PALECKI
RUDOLPH "RUDY" BRADLEY

ORDER APPROVING SETTLEMENT

BY THE COMMISSION:

Maxcess, Inc. (Maxcess) currently holds Certificate of Public
Convenience and Necessity No. 7153, issued by the Commission on
October 12, 1999, authorizing the provision of Alternative Local
Exchange (ALEC) service. The Division of the Commission Clerk and
Administrative Services advised our staff that Maxcess had not paid
the Regulatory Assessment Fees (RAFs) required by Section 364.336,
Florida Statutes, and Rule 25-4.0161, Florida Administrative Code,
for the year 2001. Also, accrued statutory penalties and interest
charges for late RAFs payments for the year 2001 had not been paid.
Maxcess was scheduled to remit its RAFs by January 30, 2002.

Pursuant to Section 364.336, Florida Statutes, certificate
holders must pay a minimum annual RAFs of \$50 if the certificate
was active during any portion of the calendar year. Pursuant to
Rule 25-4.0161(2), Florida Administrative Code, the form and
applicable fees are due to the Florida Public Service Commission by
January 30 of the subsequent year. Pursuant to Section 350.113(4),
Florida Statutes, the RAFs forms, for the period of January 1

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through December 31, are mailed to entities at least 45 days prior to the date that payment of the fee is due. All entities that apply for certification receive a copy of our rules governing ALEC service.

After this docket was established, Glenn Kernweis, representative of Maxcess, contacted us by letter dated October 14, 2002, proposing to pay future RAFs on a timely basis and offering \$100 as settlement for the violations in this docket. The letter also enclosed a copy of the 2001 RAF form and a copy of the money order submitted as payment in full for the fees, penalties and interest due.

We believe that the terms of the settlement agreement represent a fair and reasonable resolution of this matter. Accordingly, we hereby accept the settlement offer. Maxcess must comply with these requirements within 14 days from the date of issuance of this Order. The contribution should be identified with the docket number and the company name. Upon timely receipt, the contribution will be forwarded to the Office of the Comptroller for deposit in the State General Revenue Fund pursuant to Section 364.285(1), Florida Statutes. Maxcess has waived any objection to the administrative cancellation of its certificate if it does not comply with its settlement agreement. Upon remittance of the \$100 contribution or cancellation of the certificate, this docket shall be closed. If Maxcess's certificate is canceled in accordance with this Order, Maxcess shall immediately cease and desist providing services in Florida. We are vested with jurisdiction over this matter pursuant to Sections 364.336, 364.337, and 364.285, Florida Statutes.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Maxcess, Inc.'s settlement proposal set forth in the body of this Order is hereby approved. It is further

ORDER that the settlement amount must be received within 14 days of the issuance of this Order. It is further

ORDERED that this docket shall remain open pending timely receipt of the \$100 contribution. The contribution will be

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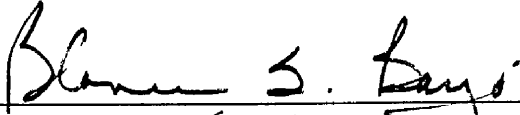
transmitted to the Comptroller for deposit in the State of Florida General Revenue Fund. It is further

ORDERED that if Maxcess, Inc. fails to comply with this Order, its certificate will be canceled administratively. It is further

ORDERED that if Maxcess, Inc.'s certificate is canceled in accordance with this Order, Maxcess, Inc. shall immediately cease and desist providing Alternative Local Exchange telecommunications services in Florida. It is further

ORDERED that upon receipt of the \$100 contribution or cancellation of the certificate this docket shall be closed.

By ORDER of the Florida Public Service Commission this 5th Day of December, 2002.



BLANCA S. BAYÓ, Director
Division of the Commission Clerk
and Administrative Services

(S E A L)

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Any party adversely affected by the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or 2) judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or the First District Court of Appeal in the case of a water and/or wastewater utility by filing a notice of appeal with the Director, Division of the Commission Clerk and Administrative Services and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.