

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: April 21, 2005

TO: Director, Division of the Commission Clerk & Administrative Services (Bayó)

FROM: Division of Competitive Markets & Enforcement (Isler) PK
Office of the General Counsel (Scott, Rojas) KS BK

RE: Docket No. 040912-TI – Compliance investigation of Maxcess, Inc. for apparent violation of Section 364.336, F.S.

Docket No. 040919-TI – Compliance investigation of Globaltron Communications Corporation for apparent violation of Section 364.336, F.S.

Docket No. 040931-TI – Compliance investigation of Xynergia, Inc. for apparent violation of Section 364.336, F.S.

Docket No. 040982-TI – Compliance investigation of MMG Holdings, Inc. for apparent violation of Section 364.336, F.S.

AGENDA: 05/03/05 – Regular Agenda – Interested Persons May Participate

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

FILE NAME AND LOCATION: S:\PSC\CMP\WP\040912.RCM.DOC

Discussion of Issues

Issue 1: Should the Commission accept the settlement offers proposed by the entities listed in Attachment A to resolve the apparent violation of Section 364.336, Florida Statutes?

Recommendation: Yes. (Isler, Scott, Rojas)

Staff Analysis: See attached proposed Order.

DOCUMENT NUMBER-DATE

03869 APR 20 05

FPSC-COMMISSION CLERK

Docket Nos. 040912-TI, 040919-TI, 040931-TI, 040982-TI
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Issue 2: Should these dockets be closed?

Recommendation: If the Commission approves staff's recommendation in Issue 1, these dockets should be closed upon receipt of the \$100 contribution or cancellation of each entity's intrastate interexchange telecommunications tariff and removal from the register. (Scott, Rojas)

Staff Analysis: Staff recommends that the Commission take action as set forth in the foregoing staff recommendation statement.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Compliance investigation of Maxcess, Inc. for apparent violation of Section 364.336, Florida Statutes.	DOCKET NO. 040912-TI
In re: Compliance investigation of Globaltron Communications Corporation for apparent violation of Section 364.336, Florida Statutes.	DOCKET NO. 040919-TI
In re: Compliance investigation of Xynergia, Inc. for apparent violation of Section 364.336, Florida Statutes.	DOCKET NO. 040931-TI
In re: Compliance investigation of MMG Holdings, Inc. for apparent violation of Section 364.336, Florida Statutes.	DOCKET NO. 040982-TI ORDER NO. ISSUED:

The following Commissioners participated in the disposition of this matter:

BRAULIO L. BAEZ, Chairman
J. TERRY DEASON
RUDOLPH "RUDY" BRADLEY
CHARLES M. DAVIDSON
LISA POLAK EDGAR

ORDER APPROVING SETTLEMENTS

BY THE COMMISSION:

The Division of the Commission Clerk & Administrative Services advised our staff that the entities listed below had not paid the Regulatory Assessment Fees required by Section 364.336, Florida Statutes, and Rule 25-4.0161, Florida Administrative Code, for the years specified below. Also, accrued statutory late payment charges required by Section 350.113(4), Florida Statutes, for the year(s) specified below had not been paid. The entities were scheduled to remit their respective 2003 Regulatory Assessment Fees by January 30, 2004. In addition, on June 10, 2004, our staff wrote the entities specified below and advised that payment of the 2003 Regulatory Assessment Fees should be paid by July 2, 2004, to avoid dockets from being established.

Pursuant to Section 364.336, Florida Statutes, intrastate interexchange telecommunications companies (IXCs) must pay a minimum annual Regulatory Assessment Fee (RAF) of \$50 if the registration 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 Regulatory Assessment Fee return forms, for the period of January 1 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 registration receive a copy of our rules governing intrastate interexchange telecommunications service.

<u>ENTITY'S NAME</u>	<u>REGISTRATION NO.</u>	<u>PAST DUE RAFS</u>	<u>PAST DUE LATE PAYMENT CHARGES</u>
Maxcess, Inc.	TJ313	2003	2003
Globaltron Communications Corporation	TJ503	2003	2003
Xynergia, Inc.	TJ610	2003	2003
MMG Holdings, Inc.	TJ860	2003	2003

After these dockets were established, each of the entities contacted our staff, paid the past due amounts, including statutory late payment charges, and proposed to pay a \$100 contribution. In addition, each of the entities proposed to pay future Regulatory Assessment Fees on a timely basis. The settlement amount in these dockets is consistent with amounts the Commission has accepted for recent, similar violations.

We believe that the terms of the settlement agreements represent a fair and reasonable resolution of these dockets. Accordingly, we hereby accept the settlement offers. Each of the entities 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 deposited in the Florida Public Service Regulatory Trust Fund, pursuant to Section 350.113, Florida Statutes. Upon remittance of the \$100 contribution or cancellation of their respective registration, each docket shall be closed. If an entity's IXC tariff is cancelled and respective registration is cancelled in accordance with this Order, that entity shall immediately cease and desist providing intrastate interexchange telecommunications services in Florida. We are vested with jurisdiction over this matter pursuant to Sections 364.336, 364.02, and 364.285, Florida Statutes.

Based on the foregoing, it is

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

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

ORDERED that each docket shall remain open pending timely receipt of the \$100 contribution, which will be applied to the cost of collection. The contribution will be deposited in the Florida Public Service Regulatory Trust Fund. It is further

ORDERED that if an entity fails to comply with this Order, its respective intrastate interexchange telecommunications registration will be cancelled administratively. It is further

ORDERED that if the entity's registration is cancelled in accordance with this Order, the respective entity shall immediately cease and desist providing intrastate interexchange telecommunications services in Florida. It is further

ORDERED that upon receipt of the \$100 contribution or cancellation of the registration, each docket shall be closed.

By ORDER of the Florida Public Service Commission this ____ day of _____, _____.

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

(S E A L)

KS; JPR

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

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Attachment A

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.