

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Compliance investigation of IXC Registration No. TJ087, issued to TRICOM USA, Inc., for apparent second-time violation of Section 364.336, F.S. and Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies.

DOCKET NO. 080350-TI

In re: Compliance investigation of IXC Registration No. TJ307, issued to OpenTel Communications, Inc., for apparent second-time violation of Section 364.336, F.S., and Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies.

DOCKET NO. 080355-TI

In re: Compliance investigation of IXC Registration No. TJ313, issued to Maxcess, Inc., for apparent second-time violation of Section 364.336, F.S., and Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies.

DOCKET NO. 080357-TI

In re: Compliance investigation of IXC Registration No. TJ826, issued to Movie, Television, & Graphics Corp. d/b/a M.T.G., for apparent second-time violation of Section 364.336, F.S., and Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies.

DOCKET NO. 080374-TI

In re: Compliance investigation of IXC Registration No. TJ860, issued to MMG Holdings, Inc., for apparent second-time violation of Section 364.336, F.S., and Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies.

DOCKET NO. 080376-TI

In re: Compliance investigation of IXC Registration No. TK122, issued to ITSI America, Inc., for apparent second-time violation of Section 364.336, F.S., and Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies.

DOCKET NO. 080402-TI
ORDER NO. PSC-08-0525-PAA-TI
ISSUED: August 14, 2008

DOCUMENT NUMBER-DATE

07236 AUG 14 8

FPSC-COMMISSION CLERK

NOTICE OF PROPOSED AGENCY ACTION ORDER IMPOSING PENALTIES AND
COLLECTION COSTS, AND REQUIRING PAYMENT OF DELINQUENT REGULATORY
ASSESSMENT FEES, OR CANCELING INTRASTATE INTEREXCHANGE
TELECOMMUNICATIONS TARIFF AND REGISTRATION FOR VIOLATION OF
SECTION 364.336, FLORIDA STATUTES, AND RULE 25-4.0161, FLORIDA
ADMINISTRATIVE CODE

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service Commission that the action discussed herein is preliminary in nature and will become final unless a person whose interests are substantially affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

Pursuant to Rule 25-4.0161(10), Florida Administrative Code, telecommunications companies that fail to pay the Regulatory Assessment Fee, including any statutory late payment charges, within 15 days after receiving a delinquent notice, shall be automatically penalized \$500 for a first offense, \$1,000 for a second offense, and \$2,000 for a third offense. The penalty amounts include collection costs. If an entity fails to pay the Regulatory Assessment Fee in full, including any statutory late payment charges, along with the penalty amount, that entity's intrastate interexchange telecommunications carrier (IXC) tariff and registration shall be cancelled.

Pursuant to Section 364.336, Florida Statutes, certificate holders must pay a minimum annual Regulatory Assessment Fee 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 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.

The Division of Administrative Services advised our staff that the entities listed below failed to comply with Section 364.336, Florida Statutes, and Rule 25-4.0161, Florida Administrative Code. In addition, each entity listed below has had a prior docket for the same rule violation in which each entity proposed a settlement or paid the penalty imposed to resolve its respective docket. The entities without an asterisk (*) before their names have not paid the fee. The entity marked with an asterisk (*) before the name, paid the fee and accrued late payment charges more than 15 days after receipt of the delinquent notice and has paid the \$1,000 penalty. The entity marked with two asterisks (**) before the name, made a partial payment of the fee more than 15 days after receipt of the delinquent notice.

<u>ENTITY'S NAME</u>	<u>CO. CODE</u>	<u>DOCKET NO.</u>
* TRICOM USA, Inc.	TJ087	080350-TI
OpenTel Communications, Inc.	TJ307	080355-TI
Maxcess, Inc.	TJ313	080357-TI
** Movie, Television, & Graphics Corp. d/b/a M.T.G.	TJ826	080374-TI
MMG Holdings, Inc.	TJ860	080376-TI
ITSI America, Inc.	TK122	080402-TI

Accordingly, we hereby find it appropriate to cancel each entity's IXC tariff and registration for failure to comply with Section 364.336, Florida Statutes, and Rule 25-4.0161, Florida Administrative Code, unless each entity pays a penalty and cost of collection, together totaling \$1,000, and remits the past due Regulatory Assessment Fees, along with any accrued statutory late payment charges, to the Florida Public Service Commission.

If this Order is not protested, each entity's respective IXC tariff and registration shall be cancelled. If an entity pays the penalty and cost of collection, together totaling \$1,000, and remits the past due Regulatory Assessment Fees, along with any accrued statutory late payment charges, prior to the expiration of the Proposed Agency Action Order, then that entity's respective IXC tariff and registration will remain active. If an entity fails to protest the Order or pay the penalty and cost of collection, together totaling \$1,000, and fails to remit the past due Regulatory Assessment Fees, along with any accrued statutory late payment charges, prior to the expiration of the Proposed Agency Action Order, then that entity's respective IXC tariff and registration should be cancelled administratively, and the collection of the past due Regulatory Assessment Fees should be referred to the Florida Department of Financial Services for further collection efforts. If an entity's IXC tariff and registration are cancelled in accordance with this Commission's Order, that company should be required to immediately cease and desist providing intrastate interexchange service in Florida. This docket should be closed administratively either upon receipt of the payment of the penalty and cost of collection, together totaling \$1,000, and the past due Regulatory Assessment Fees, along with any accrued statutory late payment charges from each entity, or upon cancellation of that entity's IXC tariff and registration. If an entity's IXC tariff and registration are cancelled in accordance with this Order and it subsequently decides to reapply as a telecommunications company, that entity shall be required to first pay the penalty and cost of collection, together totaling \$1,000 and any outstanding fees, including all accrued statutory late payment charges. We are vested with jurisdiction over these matters pursuant to Sections 350.113, 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 listed herein shall pay a penalty and cost of collection, together totaling \$1,000, and any past due Regulatory Assessment Fees, including statutory late payment charges, to the Florida Public Service Commission for failure to comply with Section 364.336, Florida Statutes, and Rule 25-4.0161, Florida Administrative Code, by the end of the protest period. The cost of collection will be subtracted from any monies collected as payments (full or partial) of the penalty and cost of collection, and will be deposited, along with the past due Regulatory Assessment Fees, in the Florida Public Service Regulatory Trust Fund, pursuant to Section 350.113, Florida Statutes. The statutory late payment charges and any portion of the penalty exceeding the cost of collection will be remitted to the Florida Department of Financial Services for deposit in the State of Florida General Revenue Fund, pursuant to Section 364.285(1), Florida Statutes. It is noted that TRICOM USA, Inc. has, in advance, complied with the terms and conditions of this Order. It is further

ORDERED that should any of the entities fail to comply with this Order, that entity's respective tariff and registration shall be cancelled. It is further

ORDERED that the cancellation of the tariff and registration in no way diminishes any of the entities' obligation to pay applicable delinquent Regulatory Assessment Fees, and any accrued statutory late payment charges. If any company listed in this Order has its respective tariff and registration cancelled, and subsequently decides to reapply as a telecommunications company, that company shall be required to first pay any outstanding penalties and cost of collection and fees, including accrued statutory late payment charges. Any unpaid Regulatory Assessment Fees, and accrued statutory late payment charges, shall be referred to the Florida Department of Financial Services for further collection efforts. It is further

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

ORDERED that any protest to the action proposed herein shall specify the entity or entities to which it applies. It is further

ORDERED that if a protest to this Order is filed, the protest shall not prevent the action proposed herein from becoming final with regard to the remaining entities listed in this Order. It is further

ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective upon the issuance of a Consummating Order unless an appropriate petition, in the form provided by Rule 28-106.201, Florida Administrative Code, is received by

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the Office of Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings" attached hereto. It is further

ORDERED that in the event this Order becomes final, these dockets shall be closed upon receipt of the imposed penalty and cost of collection, together totaling \$1,000, and Regulatory Assessment Fees, including statutory late payment charges, from each entity or upon cancellation of that entity's respective IXC tariff and registration.

By ORDER of the Florida Public Service Commission this 14th day of August, 2008.



Ann Cole
Commission Clerk

(S E A L)

TJB

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 that is available under Section 120.57, 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 will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

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The action proposed herein is preliminary in nature. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, in the form provided by Rule 28-106.201, Florida Administrative Code. This petition must be received by the Office of Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on September 4, 2008.

In the absence of such a petition, this order shall become final and effective upon the issuance of a Consummating Order.

Any objection or protest filed in this/these docket(s) before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.