



## Missouri Public Service Commission

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June 27, 2000

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Secretary/Chief Regulatory Law Judge  
**DANA K. JOYCE**  
General Counsel

Mr. Dale Hardy Roberts  
Secretary/Chief Regulatory Law Judge  
Missouri Public Service Commission  
P. O. Box 360  
Jefferson City, MO 65102

**RE: Case No. TA-2000-570**

Dear Mr. Roberts:

Enclosed for filing in the above-captioned case are an original and eight (8) conformed copies of a **STAFF RECOMMENDATION**.

This filing has been mailed or hand-delivered this date to all counsel of record.

Thank you for your attention to this matter.

Sincerely yours,

Julie A. Kardis  
Assistant General Counsel  
(573) 751-8706  
(573) 751-9285 (Fax)

JAK:sw  
Enclosure  
cc: Counsel of Record

BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI

FILED<sup>2</sup>

JUN 27 2000

Missouri Public  
Service Commission

In the Matter of the Application of )  
Maxcess, Inc. for a Certificate of Service )  
Authority to Provide Basic Local )  
Telecommunications Services in Portions )  
of the State of Missouri and to Classify )  
Such Services and the Company as )  
Competitive. )

Case No. TA-2000-570

STAFF RECOMMENDATION

COMES NOW the Staff of the Missouri Public Service Commission (Staff) and for its recommendation states:

1. In the attached Memorandum, which is labeled Appendix A, the Staff recommends that the Missouri Public Service Commission (Commission) grant Maxcess, Inc. (Applicant) a conditional certificate of authority to provide basic local exchange telecommunications services. The Commission shall grant an application for a certificate of telecommunications service authority upon a finding that the grant of authority is in the public interest. (See §§ 392.430 and 392.440 RSMo 1994.)

2. Staff also recommends that the Commission classify the Applicant and its services as competitive. The Commission may classify a telecommunications provider or its services as competitive if the Commission determines it is subject to sufficient competition to justify a lesser degree of regulation. (See §392.361.2 RSMo 1994.) All the services a competitive company provides must be classified as competitive. (See §392.361.3 RSMo 1994.)

3. Staff further recommends that the Commission approve the waivers listed in Maxcess, Inc.'s application. The Commission may waive the application of its rules and certain

statutes if the Commission determines that waiver is consistent with the purposes of Chapter 392 RSMo. (See §§ 392.361.3 and 392.420 RSMo 1994, and § 392.185 RSMo Supp. 1999.)

WHEREFORE, Staff recommends that the Commission grant Maxcess, Inc. a certificate to provide basic local exchange telecommunications services, grant Applicant competitive classification, and approve the waivers listed in the Notice of Applications.

Respectfully submitted,

DANA K. JOYCE  
General Counsel

Julie A. Kardis  
Julie A. Kardis  
Assistant General Counsel  
Missouri Bar No. 44450

Attorney for the Staff of the  
Missouri Public Service Commission  
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### Certificate of Service

I hereby certify that copies of the foregoing have been mailed or hand-delivered to all counsel of record as shown on the attached service list this 27<sup>th</sup> day of June 2000.

Julie A. Kardis

# MEMORANDUM

06-23-00P03:54 RCVD

WH

To: Missouri Public Service Commission Official Case File  
Case No. TA-2000-570  
Maxcess, Inc.

From: Sara Buyak <sup>SB</sup> BV  
Telecommunications Department

J 6/23/00  
Utility Operations Division/Date

Man Foster 6/23/00  
General Counsel's Office/Date AK-6-23-00

Subject: Staff Recommendation to Approve Certificate of Service Authority to Provide Basic Local Exchange Telecommunications Services and Competitive Classification

Date: June 21, 2000

On March 14, 2000, Maxcess, Inc. (Maxcess) submitted an Application for Certificate of Service Authority to Provide resold and facilities-based Basic Local Telecommunications Services and for Competitive Classification. On March 21, 2000, the Commission issued a Notice of Applications establishing April 20, 2000 as the deadline for parties wishing to file an application for intervention. No parties filed for intervention.

Maxcess requests classification as a competitive telecommunications company and proposes to provide facilities based and resold basic local telecommunications service to business and residential customers throughout exchanges currently served by Southwestern Bell Telephone Company (SWBT), GTE Midwest, Inc. (GTE), and Sprint of Missouri (Sprint). The specific exchanges are attached as exhibit IV of the Amended Application. Maxcess initial services will involve private line, dedicated access data transmission services. Maxcess also proposes to provide facilities-based service in the future, utilizing its own telecommunications equipment collocated in the ILEC's central offices.

Maxcess requested a temporary waiver of 4 CSR 240.2.060 (4) (H), which requires applicants to file a tariff with its application. Maxcess submitted copies of its Certificate of Authority in exhibit I to transact business in Missouri from the Missouri Secretary of State, a brief description of the qualifications and experience of Maxcess's key management are in exhibit II.

Maxcess's Application states that Maxcess will comply with billing, quality of service, and the filing and maintenance of tariffs, except as waived by the Missouri Public Service Commission. Maxcess will offer basic local telecommunications service as a separate and distinct service and Maxcess will provide equitable access for all Missourians within the geographic area in which it proposes to offer basic local service in compliance with 392.455 (5), RSMo. Supp. 1997.

Appendix A

Maxcess requested waivers of the following Commission rules and statutes:

392.210.2	Uniform system of accounts
392.270	Ascertain property value
392.280	Depreciation accounts
392.300.2	Acquisition of stock
392.310	Issuance of stocks and bonds
392.320	Stock dividend payment
392.330	Issuance of securities, debts & notes
392.340	Reorganization
4 CSR 240-10.020	Depreciation fund income
4 CSR 240-30.040	Uniform system of accounts
4 CST 240-35	Bypass

The requested waivers are the same as those ordinarily waived by the Commission for competitive basic local exchange carriers. Therefore, the Telecommunications Department Staff (Staff) recommends that the Commission waive the requested statutes and rules.

The Financial Analysis Dept. has reviewed the application and its memo is attached. The Staff recommends the Commission grant Maxcess a certificate of service authority to provide basic local exchange telecommunications services with the following conditions:

- 1) Notwithstanding the provisions of Section 392.500, RSMo 1994, unless otherwise ordered by the Commission, Maxcess originating and terminating access rates will be no greater than the lowest Commission approved corresponding access rates in effect for each large incumbent local exchange company (ies) for each service area within which Maxcess seeks authority to provide service.
- 2) Any increases in switched access service rates above the maximum switched access service rates set forth in (1) shall be made exclusively pursuant to 392.220 and 392.230, and not 392.500 and 392.510.
- 3) That the certificate be subject to the conditions stated above and that the certificate becomes effective when the company's tariff becomes effective.
- 4) Order Maxcess to file a basic local exchange tariff within 30 days of a Commission approved Interconnection Agreement.

The Staff is unaware of any other filing which affects or which would be affected by this filing. Maxcess has not filed any proposed interconnection agreements with this Commission.

**Service List for  
Case No. TA-2000-570  
June 27, 2000**

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