

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Determination of appropriate method of refund for improper charges billed by ONE CALL COMMUNICATIONS, INC. d/b/a OPTICOM) DOCKET NO. 920888-TI) ORDER NO. PSC-92-1488-FOF-TI) ISSUED: 12/24/92)))))

The following Commissioners participated in the disposition of this matter:

THOMAS M. BEARD, Chairman
SUSAN F. CLARK
J. TERRY DEASON
BETTY EASLEY
LUIS J. LAUREDO

NOTICE OF PROPOSED AGENCY ACTION
ORDER APPROVING REFUND PLAN

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 adversely affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

One Call Communications, Inc. d/b/a Opticom (Opticom or the Company), is a certificated provider of intrastate operator and long distance service. In addition to providing service to hotels/motels, hospitals and other businesses, Opticom also provides service to pay telephone providers in several county jails in Florida. On July 22, 1992, Opticom advised this Commission that it had inadvertently placed a surcharge of \$1.00 per call on collect calls placed from three county jail accounts belonging to Peoples Telephone Company (Peoples).

This Commission has issued several orders which clearly state that the non-local exchange company pay telephone service (NPATS) surcharge may not be collected on calls originating from confinement facilities. In orders issued granting waivers of certain rules for pay telephone providers serving confinement facilities, the Commission clearly stated that because inmates would be restricted to using one carrier, rates for interLATA calls were capped at the AT&T time-of-day rate, plus operator charges, and that no NPATS surcharge could be collected. By Order No.

DOCUMENT NUMBER-DATE

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22450, issued January 23, 1990, this Commission prohibited Peoples from billing the one dollar surcharge on calls originating from confinement facilities. As the operator service provider, Opticom rates the calls for its clients, the pay telephone providers, in this case Peoples.

Opticom stated that it had accidentally incorporated a surcharge on calls originating from three county jails during a "global" system rating change that was intended to update interstate data only. The surcharge was in effect from May 19, 1992 through July 16, 1992, when the error was discovered. The Company reported overcharges in the amount of \$6,601.00. Further investigation by our staff revealed that four other county jail accounts also had NPATS surcharges ranging from \$.25 to \$1.00 improperly added to the rates. This overbilling occurred between May and September of 1992 and involved two other pay telephone providers. Thus, a total of 8,112 calls were billed and NPATS surcharges totaling \$7,310.25 were improperly billed.

Upon discovery of the error, Opticom voluntarily brought the improper charges to the attention of the Commission staff. The Company has identified the improperly billed NPATS surcharges and has corrected its billing data so that the NPATS surcharge will not be billed on these accounts in the future. Our staff subsequently conducted numerous test calls and has verified that those calls were billed at the correct rates and that no NPATS surcharges were billed. The Company has also advised the Commission that by using the number identification it can obtain the correct billing name and address and make direct refunds to affected customers.

Opticom has cooperated with our investigation and identified the customers who were overcharged. Opticom reports that it can begin making refunds to customers immediately upon the Commission's determination that this is the appropriate method of refund. Accordingly, we hereby approve Opticom's proposal to provide a direct refund to each affected customer. Additionally, any money that cannot be refunded due to Opticom's inability to locate the billed customer will be paid to the appropriate county jail for the benefit of the Inmate Welfare Fund.

Opticom shall report to our staff on the status of the refunds within 30 days after this Order becomes final. The refunds to all improperly billed customers who can be identified shall be completed within 60 days after this Order becomes final. Opticom must also advise our staff of the results of its refund efforts

ORDER NO. PSC-92-1488-FOF-TI
DOCKET NO. 920888-TI
PAGE 3

prior to issuing any refund payments to the county jails. After our staff has verified that the appropriate refunds have been made, this docket shall be administratively closed.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that One Call Communications, Inc. d/b/a Opticom shall refund improper surcharges in the amount of \$7,310.25, by providing a direct refund to each affected customer that can be identified, in accordance with the requirements set forth in the body of this Order. It is further

ORDERED that this docket shall remain open pending the expiration of the protest period and Opticom's compliance with the requirements set forth in this Order. Once those requirements have been met, this docket shall be closed administratively.

By ORDER of the Florida Public Service Commission this 24th day of December, 1992.

STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

PAK

by: Kay Flynn
Chief, Bureau of Records

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), 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.

The action proposed herein is preliminary in nature and will not become effective or final, except as provided by Rule 25-22.029, Florida Administrative Code. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, as provided by Rule 25-22.029(4), Florida Administrative Code, in the form provided by Rule 25-22.036(7)(a) and (f), Florida Administrative Code. This petition must be received by the Director, Division of Records and Reporting at his office at 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on January 14, 1993.

In the absence of such a petition, this order shall become effective on the day subsequent to the above date as provided by Rule 25-22.029(6), Florida Administrative Code.

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

If this order becomes final and effective on the date described above, any party adversely affected may request judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or by the First District Court of Appeal in the case of a water or wastewater utility by filing a notice of appeal with the Director, Division of Records and Reporting 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 of the effective date 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.