

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Determination of) DOCKET NO. 931238-TI
appropriate method of refund for) ORDER NO. PSC-94-0263-FOF-TI
overcharges by TELALEASING) ISSUED: March 8, 1994
ENTERPRISES, INC. on intrastate)
long distance calls placed from)
pay telephones.)
_____)

The following Commissioners participated in the disposition of this matter:

J. TERRY DEASON, Chairman
SUSAN F. CLARK
JULIA L. JOHNSON
DIANE K. KIESLING
LUIS J. LAUREDO

NOTICE OF PROPOSED AGENCY ACTION
ORDER REQUIRING REFUND FOR OVERCHARGES

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 formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

I. BACKGROUND

The Commission's Division of Communications' Bureau of Service Evaluation routinely conducts field tests to evaluate the service being provided telecommunications companies. During July of 1993, test calls from several pay telephones in Monroe and Dade counties were direct-dialed to our test number here in Tallahassee and billed to a calling card account established for testing purposes. A review of the resulting bill indicated that overcharges of approximately \$.75 per call were placed on calls where Telaleasing Enterprises, Inc. (Telaleasing) was the long distance carrier.

By Order No. 24101, issued February 14, 1991, the Commission reduced the surcharge on 0+ interLATA calls from \$1.00 to \$.25. However, pursuant to Order No. PSC-92-0008-SPA-TP, we granted a stay of the reductions to end user rates prescribed by was Order No. 24101 pending appeal. By Order No. PSC-93-0896-AS-TP, issued

DOCKET NO. 931238-TI
02217 MAR-85
PSC-94-0263-FOF-TI

June 14, 1993, we accepted a settlement offer that provided, inter alia, that the \$0.25 set use fee on revenue generating 0- and 0+ intraLATA and interLATA call would go into effect June 1, 1993.

II. OVERCHARGES

A memorandum detailing the new rates and their effective dates was mailed on May 25, 1993, to all NPATS providers and operator service providers certified in Florida. The memorandum set forth the new rates and stated that the new rates were to be effective June 1, 1993.

Telaleasing, Inc. holds both a pay telephone and an interexchange carrier certificate and, therefore, should have received a copy of this memorandum. However, Order No. PSC-93-0896-AS-TP, detailing the new rates, was not issued until June 14, 1993. As a result it appears that there is a reasonable possibility that there may have been some confusion as to when the new rates were to be effective and whether there was sufficient time to place the new rates into effect by June 1, 1993. Accordingly, some latitude will be accorded in this case to Telaleasing's failure to implement the revised rates on June 1, 1993. However, the rates should have been implemented at least by July 1, 1993.

Telaleasing, upon inquiry regarding the overcharges, responded that the overcharges were related to an error on the part of the Company in continuing to charge a \$1.00 surcharge on 0+ interLATA calls after the surcharge was eliminated and replaced with a \$0.25 set-use charge. According to the Company, the \$1.00 surcharge was billed on 35,711 intrastate calls placed between July 1, 1993, and August 30, 1993. The overbilling totaled \$26,783.25.

III. REFUND REQUIREMENT

Telaleasing has acknowledged its error in continuing to charge the \$1.00 surcharge from July 1 through August 30, 1993. We note that the company corrected the improper rates prior to our notification and inquiry regarding the overcharges. The amount overbilled has been determined, and Telaleasing agrees that it should be required to refund this amount to its customers.

It has been our stated preference that refunds should be provided to the persons that were actually overcharged. However, pay telephone end users are transient and all of the calls in question were billed to credit cards. Although it appears possible to identify the customer billed for each of the 35,711 calls during

the time the overcharging took place, it also appears that requiring a separate refund to each of these customers would be extremely costly and time-consuming for the company as well as difficult for us to monitor and verify. In addition there are also problems regarding tracing all of the customers, delayed or unclaimed refund checks and ultimate disposition of unclaimed amounts.

In view of the problems associated with a direct refund, it appears that the better mechanism to achieve a refund in this situation is to require Telaleasing to reduce its rates on a prospective basis until the refund amount is accomplished. This method of refund will effectively compensate future pay telephone customers who place long distance calls carried by Telaleasing. This method can also be achieved quickly and will refund the exact amount overcharged to the public generally.

Telaleasing is capable of revising its billing program to adjust its rates on future intrastate calls in order to accomplish the refund and has indicated a willingness to do so. Accordingly, Telaleasing shall reduce its rates by eliminating the \$0.25 set use fee on 0+ intrastate toll calls until the total amount of customers' savings is equal to the amount of the refund calculated above plus interest. The interest amount of the refund has been calculated pursuant to the provisions of Rule 25-4.114(4), Florida Administrative Code, to be approximately \$835.00. The rate reductions shall be implemented within 60 days of the date this Order becomes final. According to the Company, if calls continue at current levels, the total refund should be achieved in approximately four months.

IV. REPORTING REQUIREMENTS

As discussed above, refunds are not being made to specific customers. Because of this we need sufficient information to verify that Telaleasing has reduced its rates for the appropriate number of calls. Therefore, Telaleasing shall provide call detail records showing the amount billed for each call. The call detail records shall be provided in diskette form since it would otherwise be voluminous. The required information shall be provided within 30 days after the completion of the refund.

V. TARIFF REVISIONS

Order No. PSC-93-0896-AS-TP required local exchange companies to file appropriate tariff revisions reflecting the changes required by Order 24101 but did not place the same requirement on interexchange carriers. However, the memorandum discussed above

detailing the terms of the settlement between the FPTA and other parties was mailed to all interexchange carriers. This memorandum noted that "As a result of the settlement, all operator service providers (OSPs) providing operator services to pay telephone providers will need to revise their tariffs to reflect the new rates to become effective June 1, 1993." Telaleasing failed to timely revise its tariffs to reflect the changes. Accordingly, if Telaleasing has not already done so, the Company shall file the appropriate changes to its tariff to reflect the changes set forth in Order No. PSC-93-0896-AS-TP.

With respect to Telaleasing's failure to timely file the appropriate tariffs, we note that upon review of the tariff pages of several other operator service providers, it appears that several have also not made the appropriate revisions. Our Staff is presently reviewing the tariff filings of all interexchange carriers providing operator services in order to determine if their tariffs are accurate. While we make no decision at this time regarding any penalty for Telaleasing's failure maintain accurate tariffs, such determination may be made after our investigation of the accuracy of IXC's operator services tariffs.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Telaleasing Enterprises, Inc. shall refund with interest the overcharges described in the body of this Order. It is further

ORDERED that the refund shall be accomplished by reducing rates for 0+ intrastate long distance calls by \$.25 per call until the refund has been accomplished as set forth in the body of this Order. It is further

ORDERED that the rate reductions shall be implemented no later than 60 days from the date this Order becomes final. It is further

ORDERED that Telaleasing shall provide call detail records showing the amount billed for each of the calls subject to the refund requirement within 30 days after completion of the refund as set forth in the body of this Order. It is further

ORDERED that Telaleasing shall revise its tariff to reflect the changes required by Order No. PSC-93-0896-AS-TP as set forth in the body of this Order. It is further

ORDERED that this Order shall become final and effective on the date set forth below if no timely protest is filed pursuant to the requirements set forth below. It is further

ORDER NO. PSC-94-0263-FOF-TI
DOCKET NO. 931238-TI
PAGE 5

ORDERED that if this Order becomes final and effective, this docket may be closed without further Commission action upon verification of the refund by our Staff.

By ORDER of the Florida Public Service Commission, this 8th day of March, 1994.

STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

TWH

by: Kay Hagan
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 March 29, 1994.

ORDER NO. PSC-94-0263-FOF-TI
DOCKET NO. 931238-TI
PAGE 6

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.