

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Investigation and determination of appropriate method for refunding overcharges for 0+ calls made from pay telephones by Network Communications International Corp. d/b/a Mundo Telecom d/b/a 1800Call4Less.

DOCKET NO. 050484-TI  
ORDER NO. PSC-05-0967-PAA-TI  
ISSUED: October 10, 2005

The following Commissioners participated in the disposition of this matter:

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

NOTICE OF PROPOSED AGENCY ACTION  
ORDER ACCEPTING SETTLEMENT

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.

**Case Background**

Network Communications International Corp. d/b/a Mundo Telecom d/b/a 1800Call4Less (NCIC) is registered as an intrastate interexchange telecommunications company (IXC) with the Florida Public Service Commission (Commission). Among other services, NCIC provides operator services for approximately twenty-four pay telephone service providers that operate in Florida. The company reported \$1,723,267.30 gross operating revenue in Florida on its 2004 Regulatory Assessment Fee Return.

Rule 25-24.630, Florida Administrative Code (F.A.C.), sets maximum rates that an operator services provider can charge for intrastate 0+ calls made from a pay telephone station. Based on rates NCIC billed this Commission for intrastate 0+ test calls performed by our staff, and input from other telecommunications providers, our staff determined that NCIC's billed rates exceeded the maximum rates established by Rule 25-24.630, F.A.C.

During exchanges NCIC, our staff learned that it assessed a non-subscriber surcharge of up to \$2.50 on a per-call basis on intrastate 0+ calls. The non-subscriber surcharge caused

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NCIC's billed rates to exceed the established rate caps. A non-subscriber surcharge is a charge that a company bills to any customer that is not presubscribed for the company's services, such as 1+ toll service.

NCIC's tariff did identify the non-subscriber surcharge, however, Rule 25-24.630, F.A.C., precludes application of any surcharge, tariffed or not, that causes the charges billed to a customer to exceed the codified rate caps. NCIC has amended its tariff to eliminate the non-subscriber surcharge.

Our staff opened this docket on July 13, 2005, to investigate and determine an appropriate method for refunding these overcharges. This Order addresses the company's proposal for disposing of the monies collected as a result of overcharging customers for intrastate 0+ calls made from pay telephone stations.

We have jurisdiction over this matter pursuant to Section 364.3376, Florida Statutes.

### Analysis

Rule 25-24.630, F.A.C., provides in pertinent part that:

(1) Services charged and billed to any end user by an operator services provider for an intrastate 0+ or 0- call made from a pay telephone or in a call aggregator context shall not exceed a rate of \$.30 per minute plus the applicable charges for the following types of telephone calls:

- (a) A person-to-person call – a charge of \$3.25;
- (b) A call that is not a person-to-person call – a charge of \$1.75.

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(7) An operator services provider shall not:

- (d) Bill or collect a surcharge levied by any entity, either directly or through its billing agent, except Commission-approved charges for pay telephone providers.

By charging a non-subscriber surcharge of up to \$2.50 for 0+ calls made from pay telephones, NCIC was billing customers in apparent violation of Rule 25-24.630, F.A.C. To resolve this matter, NCIC has adjusted its rates to eliminate the non-subscriber surcharge on 0+ calls made from pay telephones and has amended its tariff to eliminate the surcharge.

NCIC has proposed to make payment of \$35,000, representing an estimated and stipulated amount, into the General Revenue Fund of the State of Florida. NCIC proposes to make the \$35,000 payment in three installments payable as follows: \$15,000 payable thirty (30) days after the issuance of this Order approving the refund plan; \$10,000 payable 30 days thereafter; and \$10,000 payable 30 days thereafter. NCIC has offered the payment plan because a lump sum payment of \$35,000 would put a strain on the its finances. NCIC claims that approximately half of the revenues collected for the overcharges were paid to pay telephone companies.

NCIC believes this is the only practical and effective means to resolve the overcharge issue. NCIC claims that it has no name or billing information for the affected customers and would have to rely on the billing local exchange companies, and other third party billing entities, to attempt to effectuate refunds. NCIC further claims that changes in serving local exchange companies, credit card providers, billed-to phone numbers and mailing addresses over the time frame involved will result in a substantial number of failed refund attempts even if such an effort were undertaken. In addition, NCIC estimates that the effort would cost it an additional fifty percent of the amount to be refunded.

This Commission has accepted a proposed refund process that is essentially identical to that offered by NCIC, with exception of the total revenues involved due to the difference in business volume. In Docket No. 010364-TI, In Re: Investigation and determination of appropriate method for refunding non-subscriber surcharge, plus interest, applied to intrastate 0+ calls made from pay telephones by AT&T Communications of the Southern States, Inc. d/b/a Connect 'N Save and d/b/a Lucky Dog Phone Co. and d/b/a ACC Business, this Commission approved AT&T's proposal to contribute \$50,000 to the General Revenue Fund to settle apparent overcharges of a non-subscriber surcharge on intrastate 0+ calls made from pay telephones.

### **Conclusion**

Upon consideration, we hereby accept NCIC's offer to contribute \$35,000, in three installments of \$15,000, \$10,000 and \$10,000, to the General Revenue Fund as a resolution for charging end users a non-subscriber surcharge on 0+ intrastate calls made from pay telephones in excess of the rate caps provided in Rule 25-24.630, F.A.C.

This Order issued as a proposed agency action shall become final and effective upon issuance of the Consummating Order if no person whose substantial interests are affected timely files a protest within twenty-one (21) days of issuance of this Order. NCIC shall submit its first payment of \$15,000 within 30 days after issuance of this Order; submit the second payment of \$10,000 within sixty (60) days after issuance of this Order; and submit its final payment of \$10,000 within ninety (90) days after issuance of this Order. All payments shall be made payable to the Florida Public Service Commission for deposit in the State of Florida General Revenue Fund. NCIC shall submit its final report to this Commission within 30 days of making its last payment. Upon receipt of all the payments and the final report, this Docket shall be closed administratively.

Based upon the foregoing, it is

ORDERED by the Florida Public Service Commission that Network Communications International Corp. d/b/a Mundo Telecom d/b/a 1800Call4Less's settlement offer to contribute \$35,000, in three installments of \$15,000, \$10,000 and \$10,000, to the General Revenue Fund as a resolution for charging end users a non-subscriber surcharge on 0+ intrastate calls made from pay telephones in excess of the rate caps provided in Rule 25-24.630, Florida Administrative Code is hereby accepted. It is further

ORDERED that this Order issued as a proposed agency action shall become final and effective upon issuance of the Consummating Order if no person whose substantial interests are affected timely files a protest within 21 days of issuance of this Order. It is further

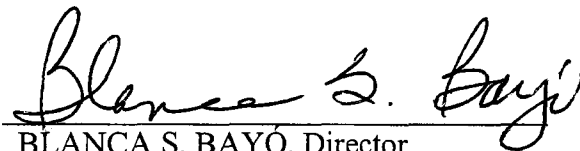
ORDERED that Network Communications International Corp. d/b/a Mundo Telecom d/b/a 1800Call4Less shall submit its first payment of \$15,000 within 30 days after issuance of this Order; submit the second payment of \$10,000 within 60 days after issuance of the this Order; and submit its final payment of \$10,000 within 90 days after issuance of this Order. It is further

ORDERED that all payments shall be made payable to the Florida Public Service Commission for deposit in the State of Florida General Revenue Fund. It is further

ORDERED that Network Communications International Corp. d/b/a Mundo Telecom d/b/a 1800Call4Less shall submit its final report to this Commission within 30 days of making its last payment. It is further

ORDERED that upon receipt of all the payments and the final report, this Docket shall be closed administratively.

By ORDER of the Florida Public Service Commission this 10th day of October, 2005.



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

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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.

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 Director, Division of the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on October 31, 2005.

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.