

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Investigation and determination of appropriate method for refunding apparent rebates not provided by Quincy Telephone Company d/b/a TDS Telecom/Quincy Telephone as required by rule and/or tariff.	DOCKET NO. 100027-TL ORDER NO. PSC-11-0169-PAA-TL ISSUED: March 16, 2011
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The following Commissioners participated in the disposition of this matter:

ART GRAHAM, Chairman
LISA POLAK EDGAR
RONALD A. BRISÉ
EDUARDO E. BALBIS
JULIE I. BROWN

NOTICE OF PROPOSED AGENCY ACTION ORDER APPROVING CUSTOMER
REFUNDS AND FINAL ORDER DECLINING TO INITIATE SHOW CAUSE
PROCEEDINGS

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service Commission that the Proposed Agency Action (PAA) actions discussed herein, except for our decision not to initiate show cause proceedings, are 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 (F.A.C.).

Background

Our staff performed a service evaluation of Quincy Telephone Company d/b/a TDS Telecom/Quincy Telephone (TDS), a local exchange telecommunications company (LEC), during the period of March 2 – March 20, 2009.

As part of this service evaluation, our staff reviewed repair service orders and new service installation orders. The purpose was to verify that TDS issued rebates to customers as required by our rules and in accordance with the company's tariff. For that evaluation, our staff reviewed 2008 repair and installation orders for the Greensboro and Gretna exchanges, and fourth quarter 2008 repair and installation orders for the Quincy exchange. Our staff then reviewed documentation provided by TDS, for the years 2006 to 2010, to determine if further credits were due to the customers, that were not included in the original service evaluation.

In reviewing the repair service orders, our staff found that TDS had failed to issue credits to several customers that appeared to qualify for credits. Rule 25-4.110, Florida Administrative

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Code (F.A.C.), requires a local exchange company to issue a pro rata refund for the time that service is out in excess of 24 hours. In addition, TDS' tariff, Section A2.E.1b.2, stated "[a] one (1) month local service credit will be applied to the customer's telephone bill if the Company fails to restore basic exchange telephone service within 24 hours after the interruption was reported to or discovered by the Company." In some cases the company did not issue credits required by our rule and in other cases the company did not issue credits required by its tariff. There were also instances where both credits were missed. The number of customers entitled to the repair service credit is 747.

For new service installation orders, our staff also found that TDS had failed to issue credits to several customers. TDS' tariff, Section A2.E.1b.1, stated "[T]he customer will be given a one (1) month local service credit if the Company fails to meet a commitment and has not notified the customer 24 hours prior to the agreed upon time and date. This would apply to such services as installations, changes to custom features, provision of optional calling plans and other similar requests." The number of customers entitled to the new service installation credit is 233.

Our decision today resolves TDS' proposal to provide customers time out of service credits and new service installation credits (customer refunds) as prescribed by Rule 25-4.110, F.A.C. and/or TDS' tariff. We have jurisdiction over these matters pursuant to Sections 364.01, 364.04, and 364.285, Florida Statutes.

Customer Refunds

As discussed in the background, TDS has proposed to issue customer refunds to those customers affected by TDS' failure to meet the terms of Rule 25-4.110, F.A.C. and its tariff regarding repair and new installation service credits. TDS' proposed refund has been determined in accordance with the requirements of our rules and the company's tariff. The company's practice has been to issue customers both the credits required by rule and the credits offered in its tariff.

Rule 25-4.110(6), F.A.C., states:

Each company shall make appropriate adjustments or refunds where the subscriber's service is interrupted by other than the subscriber's negligent or willful act, and remains out of order in excess of 24 hours after the subscriber notifies the company of the interruption. The refund to the subscriber shall be the pro rata part of the month's charge for the period of days and that portion of the service and facilities rendered useless or inoperative; except that the refund shall not be applicable for the time that the company stands ready to repair the service and the subscriber does not provide access to the company for such restoration work. The refund may be accomplished by a credit on a subsequent bill for telephone service.

Before amending its tariff on March 10, 2010, TDS' tariff, Section A2.E.1b provided:

1. The customer will be given a one (1) month local service credit if the Company fails to meet a commitment and has not notified the customer 24 hours prior to the agreed upon time and date. This would apply to such services as installations, changes to custom features, provision of optional calling plans and other similar requests.
2. A one (1) month local service credit will be applied to the customer's telephone bill if the Company fails to restore basic exchange telephone service within 24 hours after the interruption was reported to or discovered by the Company.

For some repair orders, the company failed to consistently issue the credits required by the Rule, as well as credits voluntarily offered in its tariff. In some instances, the company did not issue credits required by the Rule, and in others the company did not issue credits required by its tariff. There were also instances where both credits were missed.

While there are no credits required by our rules for failing to meet new service installation commitments, TDS did voluntarily offer credits in its tariff. Our staff's service evaluation found that TDS had failed to consistently issue credits to customers when the new service installation commitment was not met.

As a reason for not issuing all credits due customers, TDS explained that in the beginning of 2007, the company underwent an extensive system-wide reorganization effort. This effort was designed to centralize their operations and reduce costs. During the reorganization, TDS began closing many of its local offices which were all independently operated. TDS claims that centralizing operations and closing local offices across the country was a major effort that came with many challenges. As a result of the reorganization, operations such as scheduling and dispatch were no longer handled at local offices. New systems and procedures were put into place. The company stated that the number of missed installations and repairs began to increase during March 2007.

Of the total refund amount proposed by TDS, \$21,549.43 relates to repair service credits and \$5,467.98 for new service installation credits. The remainder is interest calculated by our staff. The number of customers that will receive the repair service credit is 747 and the number of customers that will receive the new service installation credit is 233.

Pursuant to Rule 25-4.114, F.A.C., in calculating the interest, we assumed the number of the repair service credits was evenly distributed over the 40-month period from December 2006 to March 2010, and the new service installation credits were evenly distributed over the 36-month period from January 2007 to December 2009. These time periods are when the company should have originally issued the credits. TDS has proposed to issue the refunds, plus interest, in April 2011. We have used an interest rate of the average 30-day commercial paper rate for each month, and the last available monthly interest rate of 0.25 percent for the months beyond February 2011.

We hereby approve Quincy Telephone Company d/b/a TDS Telecom/Quincy Telephone's proposal to issue time-out-of-service and failure to meet new service installation commitment credits (customer refunds) of \$27,017.41, plus interest in the amount of \$817.19, for a total of \$27,834.60 to the affected customers during the April 2011 billing cycle. We will further require the company to remit any unrefundable monies to us by August 1, 2011, for deposit in the General Revenue Fund, and require the company to submit a refund report by August 1, 2011. This refund report shall state: (1) how much money was refunded to its customers, (2) the total number of customers receiving refunds, and (3) the amount of money determined to be unrefundable.

Show Cause

Rule 25-4.110(6), F.A.C., states:

Each company shall make appropriate adjustments or refunds where the subscriber's service is interrupted by other than the subscriber's negligent or willful act, and remains out of order in excess of 24 hours after the subscriber notifies the company of the interruption. The refund to the subscriber shall be the pro rata part of the month's charge for the period of days and that portion of the service and facilities rendered useless or inoperative; except that the refund shall not be applicable for the time that the company stands ready to repair the service and the subscriber does not provide access to the company for such restoration work. The refund may be accomplished by a credit on a subsequent bill for telephone service.

Rule 25-4.034(5), F.A.C., provides in part that companies shall only charge the rates and credits contained in their tariff.

Pursuant to Section 364.285, Florida Statutes, we are authorized to impose upon any entity subject to our jurisdiction a penalty of not more than \$25,000 per violation, if such entity is found to have refused to comply with or to have willfully violated any lawful rule or Order of the Commission, or any provision of Chapter 364. We find, however, that TDS' apparent violations of Rules 25-4.110 and 25-4.034, F.A.C., does not rise to the level that warrants an order to show cause.

TDS promptly determined the cause of the failure to issue customer refunds as required by our rules and its tariffs in effect at the time of the violations. Further, TDS corrected the problem and cooperated fully with our staff during the investigation, and has agreed to refund all affected customers, including interest, dating back to 2007. Accordingly, we hereby decline to issue a show cause order or impose any penalty against TDS.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Quincy Telephone Company d/b/a TDS Telecom/Quincy Telephone shall issue customer refunds in the amount of \$27,834.60 to the affected customers during the April, 2011, billing cycle. It is further.

ORDERED that Quincy Telephone Company d/b/a TDS Telecom/Quincy Telephone shall remit any unrefundable monies to the Florida Public Service Commission by August 1, 2011, for deposit in the General Revenue Fund. It is further

ORDERED that Quincy Telephone Company d/b/a TDS Telecom/Quincy Telephone shall submit a refund report by August 1, 2011. This refund report shall state: (1) how much money was refunded to its customers, (2) the total number of customers receiving refunds, and (3) the amount of money determined to be unrefundable. It is further

ORDERED that those provisions of this Order which are 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 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 this docket shall be held open pending verification that refunds to customers have been made and receipt of the refund report, after which staff is granted administrative authority to close this docket.

By ORDER of the Florida Public Service Commission this 16th day of March, 2011.



ANN COLE
Commission Clerk
Florida Public Service Commission
Office of Commission Clerk
2540 Shumard Oak Boulevard
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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 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.

As identified in the body of this order, our actions herein, except for our decision not to initiate a show cause proceeding, are 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, at 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on April 6, 2011. If such a petition is filed, 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. In the absence of such a petition, this order shall become effective and final upon the issuance of a Consummating Order.

Any party adversely affected by the Commission's decision not to initiate a show cause proceeding, which is final action, may request: (1) reconsideration of the decision by filing a motion for reconsideration with the Office of Commission Clerk, within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or (2) judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or the First District Court of Appeal in the case of a water or wastewater utility by filing a notice of appeal with the Office of Commission Clerk 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 after the issuance 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.