

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Initiation of show cause ) DOCKET NO. 961149-TI  
proceedings against WorldCom ) ORDER NO. PSC-97-0391-FOF-TI  
Network Services, Inc. d/b/a ) ISSUED: April 8, 1997  
WilTel Network Services, Inc. )  
for violation of Rule 25- )  
24.485(1)(i), F.A.C., Tariffs. )  
\_\_\_\_\_ )

The following Commissioners participated in the disposition of this matter:

JULIA L. JOHNSON, Chairman  
SUSAN F. CLARK  
J. TERRY DEASON  
JOE GARCIA  
DIANE K. KIESLING

ORDER APPROVING PROPOSED  
SETTLEMENT OFFER FOR RULE VIOLATION

BY THE COMMISSION:

In March, 1996, our staff conducted a service evaluation of WorldCom Network Services, Inc. d/b/a WilTel Network Services, Inc. (WilTel). The company cooperated in the evaluation and was notified prior to the evaluation that the Commission's test calls should be billed as a basic subscriber, a customer with an established account with WilTel. A review of the resulting bills indicated that WilTel was adding a thirty-five cent (.35) surcharge that was not included in its tariff to each long distance intrastate call. The surcharge is not permitted by Rule 25-24.485(1)(i), Florida Administrative Code, which provides that companies shall charge only the rates contained in their tariff.

WilTel identified this non-tariffed surcharge as a "Casual Caller" surcharge but Section 3.7.17 of WilTel's tariff, which deals with casual calling, did not reflect the thirty-five cent surcharge. See Attachment A. When our staff questioned WilTel about the surcharge, WilTel responded that it had billed the Commission as a casual end user, one who either did not have a pre-established account with WilTel, or one who dialed WilTel's access code for an intrastate long distance call. WilTel acknowledged receipt of the notice of the Commission's test, but stated that an account was not established due to an oversight.

Further investigation revealed that casual callers were billed the thirty-five cent surcharge between February 1, 1996 and June 15, 1996. WilTel claimed that it failed to file the Florida intrastate tariff due to an internal oversight.

DOCUMENT NUMBER-DATE

03620 APR-86

FPSC-RECORDS/REPORTING

In an effort to remedy the overcharging, WilTel filed an amended tariff, which included the thirty-five cent surcharge on casual calls. See Attachment B. The company later voluntarily suspended the surcharge until October 1, 1996, in lieu of issuing direct refunds to the customers who were overcharged. The company believed that the waiver of the surcharge was an expeditious method of correcting the problem, and would adequately compensate the overcharged users.

The overcharges resulted in revenues of \$132,788.60 for WilTel. The company estimated that the suspension of the surcharge resulted in loss revenues of \$93,256.06, during the period of June 16, 1996, and September 22, 1996, and that this amount would have increased to \$143,558.46 by November 14, 1996. WilTel, however, did not provide us with the actual amount of revenues it forfeited during the entire suspension period.

WilTel's overcharging of casual callers is a violation of Rule 25-24.48591(i), Florida Administrative Code. In lieu of a show cause proceeding to show why the company should not be fined for rule violation, WilTel offered to pay \$5,000 into the State General Revenue Fund pursuant to Section 364.285(1), Florida Statutes. See Attachment C.

Upon review, we find that WilTel's proposed offer to pay \$5,000 into the State General Revenue Fund within 30 days from the date this Order becomes final is appropriate and reasonable. We also find that WilTel's method of compensating overcharged users by suspending the surcharge from June 16, 1996 to September 22, 1996 is reasonable under these circumstances. Although we prefer direct refunds to overcharged customers, we will approve this method in this case because WilTel maintained that its failure to file the tariff was due to an oversight; the surcharge did not cause WilTel to exceed any statutory rate caps; the surcharge became legitimate once WilTel filed the appropriate tariff; and, the customers who were affected by the surcharge had voluntarily selected WilTel as their carrier.

Additionally, we will require WilTel to furnish us with a detailed written report outlining the exact amount of revenues foregone during the suspension period. WilTel shall file the report within 30 days from the date this Order becomes final.

ORDER NO. PSC-97-0391-FOF-TI  
DOCKET NO. 961149-TI  
PAGE 3

Based on the foregoing it is,

ORDERED by the Florida Public Service Commission that WilTel Network Services, Inc. shall pay the sum of \$5,000 to the Commission to be deposited in the State General Revenue Fund pursuant to Section 364.285(1), Florida Statutes, within thirty days of the date this Order becomes final. It is further

ORDERED that WorldCom Network Services, Inc. d/b/a WilTel Network Services, Inc. shall provide the Commission with a detailed, written report which outlines the exact sum of its foregone revenues during the period of June 16, 1996, and November 14, 1996, within thirty days of the date this Order becomes final. It is further

ORDERED that this docket shall be closed upon remittance of the \$5,000 contribution by WilTel and receipt by the Commission of the detailed written report.

By Order of the Florida Public Service Commission, this 8th day of April, 1997.

BLANCA S. BAYO, Director  
Division of Records and Reporting

by: Kay Flynn  
Chief, Bureau of Records

( S E A L )

MES

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.

Any party adversely affected by the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, 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 and/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 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.



ATTACHMENT A

**WorldCom Network Services, Inc.**  
**d/b/a WITel Network Services**

FPSC Tariff No. 2

Attachment A  
Page . of 1

ORIGINAL SHEET 108\*

SECTION 3 - DESCRIPTION OF SERVICE (Cont'd)

3.7. MESSAGE TELECOMMUNICATIONS SERVICES (Cont'd)

3.7.17. Casual Calling

Customers may access Measured Service by means of Casual Calling. In Casual Calling, the Company allows Customers calling from a telephone not pre-subscribed to the Company or Customers without an established account with the Company to place calls by dialing either 10555 or another Company accepted access number. Casual Calls accepted by the Company will be billed at the WilPlus I Service rates listed in Section 4.6.1. In addition, Casual Calls will not be subject to a minimum monthly requirement, will not be subject to any recurring or non-recurring Ancillary Charges and will not receive any type of discount.

3.7.18. Prepaid Calling Card

Prepaid Calling Card Service allows Customers who pay in advance to complete calls via a Company-provided 800 number printed on the Prepaid Calling Card. Calls to 700, 900, 950 or 800 numbers, other than the 800 number printed on the card, may not be completed with the card.

Prepaid Calling Card Service card balances will be reduced and depleted based upon customer usage. Customer will be given notice one minute before the available card balance is depleted, based on the terminating location of the call. When the available balance is depleted, the call will be terminated.

Prepaid Calling Card Service cards are non-refundable and will expire on the date specified on the card, carrier or package in which the card is included.

Three types of Prepaid Calling Cards are offered: Basic Promotional Prepaid Calling Card, Enhanced Promotional Calling Card and Standard Prepaid Calling Card.

3.7.18.A Basic Promotional Prepaid Calling Card

1. Basic Promotional Prepaid Calling Card ("Promotional Card") Service offers direct dial Outbound Service and Directory Assistance. Promotional Card Service will be used for Customer's promotional purposes only, and the cards will be distributed through Customer's outlets and products. All advertising and promotional materials which refer to the Customer and the Company shall be jointly approved.
2. Promotional Cards are available in whole dollar denominations up to \$100. Calls placed via Promotional Card Service are billed in one minute increments with a one minute minimum initial period. A standard per minute rate is charged with no time-of-day discount. No Operator Service calls may be completed with the card. See Price List for current rates.

\* Material on this page was previously found in the WITel FPSC Tariff No. 1, First Revised Sheet 36.31.

ISSUED: April 10, 1995

EFFECTIVE: JUL 27 1995

Issued by:

Brian K. Sulmonetti  
Director, Regulatory Affairs  
WorldCom Network Services, Inc.  
d/b/a WITel Network Services  
1515 South Federal Highway, Suite 400  
Boca Raton, FL 33432-7404

ATTACHMENT B

WorldCom Network Services, Inc.  
d/b/a WITel Network Services, Inc.

FPSR Tariff No. 2

Attachment B  
Page 1 of 1

1ST REVISED SHEET 108  
CANCELS ORIGINAL SHEET 108

SECTION 3 - DESCRIPTION OF SERVICE (Cont'd)

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In addition to the above-referenced WilPlus I service rates, customers who access measured service by means of casual calling will be charged a Per Call Surcharge of \$0.35.

(N)  
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ISSUED: June 10, 1996

- 7 -

EFFECTIVE:

Issued by:

Brian K. Sulmonetti  
Director, Regulatory Affairs  
WorldCom Network Services, Inc.  
d/b/a WITel Network Services, Inc.  
1515 South Federal Highway, Suite 400  
Boca Raton, FL 33432-7404

ATTACHMENT C

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LDDS-REGULATORY

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Attachment C  
Page 1 of 1

**WILTEL**

BY FACSIMILE:

Mr. Alan Taylor  
Chief, Bureau of Service Evaluation  
Florida Public Service Commission  
2540 Shumard Oak Blvd.  
Tallahassee, FL 32399

RE: Docket No. 961149-TI - Determination of appropriate method of refunding overcharges by WorldCom Network Services, Inc. d/b/a Witel Network Services on intrastate long distance calls.

Dear Alan:

Pursuant to our recent conversation in the above referenced docket, Witel is offering the following settlement.

Witel hereby agrees with the FPSC Staff in supporting Witel's proposal of a voluntary general rebate be accepted for purposes of customer reimbursement (Issue 1 in the Staff recommendation dated February 6, 1997). Witel would also offer to make a contribution of \$5,000 to the General Revenue Fund of the State of Florida. This offer does not constitute an admission or acknowledgment of any violation of any rule or regulation but is made because Witel believes that there are benefits to the parties and consumers to an expeditious resolution of this matter. Further, in making this offer, Witel has not abandoned or conceded any issue or position that it might have taken.

I believe this offer meets our mutual goal of resolving this docket in a timely fashion and avoiding anymore expense to the parties. If you have any questions regarding this offer, please contact me at 561-750-2940. I look forward to a prompt resolution of this matter. Thank you.

Sincerely yours,



Brian Sulmonetti  
Director, Regulatory Affairs