



**Public Service Commission**  
CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD  
TALLAHASSEE, FLORIDA 32399-0850

**-M-E-M-O-R-A-N-D-U-M-**

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**DATE:** SEPTEMBER 06, 2001

**TO:** DIRECTOR, DIVISION OF THE COMMISSION CLERK & ADMINISTRATIVE SERVICES (BAYÓ)

**FROM:** DIVISION OF COMPETITIVE SERVICES (M. WATTS) *DB*  
DIVISION OF ECONOMIC REGULATION (D. DRAPER) *RT*  
DIVISION OF LEGAL SERVICES (B. KEATING) *TK* *CSN* *ALM*

**RE:** DOCKET NO. 010937-TI - INVESTIGATION AND DETERMINATION OF APPROPRIATE METHOD FOR REFUNDING OVERCHARGES AND INTEREST ON 0+ CALLS MADE FROM PAY TELEPHONES BY USLD COMMUNICATIONS, INC.

**AGENDA:** 09/18/01 - REGULAR AGENDA - PROPOSED AGENCY ACTION - INTERESTED PERSONS MAY PARTICIPATE

**CRITICAL DATES:** NONE

**SPECIAL INSTRUCTIONS:** REFUND AMOUNT REVISED BY COMPANY

**FILE NAME AND LOCATION:** S:\PSC\CMP\WP\010937A.RCM

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**CASE BACKGROUND**

- May 18, 1990 - USLD Communications, Inc. (USLD) obtained Florida Public Service Commission Interexchange (IXC) Certificate No. 2469.
- February 1, 1999 - Rule 25-24.630, Florida Administrative Code, Rate and Billing Requirements, was amended to cap rates for intrastate 0+ and 0- calls from pay telephones to \$.30 per minute plus \$3.25 for a person-to-person call or \$1.75 for a non person-to-person call.
- March 30, 2001 - Staff sent a letter to USLD stating that staff had determined, as a result of pay telephone evaluations, that two 0+ test calls from separate pay telephones were billed differently. Staff requested a

DOCUMENT NUMBER-DATE

11073 SEP-65

FPSC-COMMISSION CLERK

detailed explanation of the charges for each call by April 17, 2001.

- May 4, 2001 - Staff received a letter from Mr. Peter Kirchhof, Director of Policy and Law for USLD, explaining the difference in billing between the two calls. Mr. Kirchhof explained that while the January 3, 2001, call was billed correctly, the January 22, 2001, call was incorrectly billed. The per-minute rate and operator surcharge for the second call was not billed in accordance with USLD's tariff. USLD also believes that due to a system error, the call was recognized as a 0- instead of a 0+ call. In either case, the charges should have been the same for each call. As of May 2, 2001, USLD had corrected the error in its billing systems for all operator services calls placed from pay telephones.
- July 10, 2001 - Staff received a letter from Mr. Kirchhof in which the company calculated that 2318 calls were incorrectly billed from February 1999 through April 2001, resulting in overcharges of \$926.00 (not including interest). USLD has proposed to offer a refund to Florida customers who have been overcharged (Attachment A).
- August 27, 2001 - Proposed Agency Action (PAA) Order No. PSC-01-1744-PAA-TI was issued by the Commission approving USLD's refund offer. Deadline for responding to the Order is September 17, 2001.
- August 31, 2001 - Staff was contacted by Mr. Joseph McGlothlin, counsel for USLD. Mr. McGlothlin advised staff that USLD had erred in providing staff a figure of \$926.00 in overcharges. USLD has determined that the amount of the overcharges should have been reported as \$2,344.51. Based on the new principle amount, staff calculated interest in the amount of \$208.26, resulting in a total refund of \$2,552.77. Mr. McGlothlin advised that the company would complete the refund, using the new amount of \$2,552.77, as originally scheduled and ordered by the Commission in PAA Order No. PSC-01-1744-PAA-TI.

The Florida Public Service Commission is vested with jurisdiction over this matter pursuant to Sections 364.285 and 364.3376, Florida Statutes. Accordingly, staff believes the following recommendations are appropriate.

**DISCUSSION OF ISSUES**

**ISSUE 1:** Should the Commission accept USLD Communications, Inc.'s revised offer of refund and refund calculation of \$2,344.51 plus interest of \$208.26, for a total of \$2,552.77, for overcharging end users on intrastate 0+ calls made from pay telephones from February 1, 1999, through April 30, 2001, and supplement Order No. PSC-01-1744-PAA-TI issued August 27, 2001, to reflect the revised refund calculations?

**RECOMMENDATION:** Yes. Staff recommends that the Commission accept USLD's revised refund calculation of \$2,344.51, adding interest of \$208.26, for a total of \$2,552.77, and supplement Order No. PSC-01-1744-PAA-TI issued August 27, 2001, to reflect the revised refund calculations. All remaining terms and conditions specified in Order No. PSC-01-1744-PAA-TI should remain the same. **(M. Watts)**

**STAFF ANALYSIS:** On August 27, the Commission issued Order No. PSC-01-1744-PAA-TI approving USLD's refund offer of \$926.00, adding interest of \$82.49, for a total of \$1,008.49, and proposal to credit end user customers' local exchange telephone bills beginning September 1, 2001, for overcharging end users on intrastate 0+ calls made from pay telephones from February 1, 1999 through April 30, 2001.

On August 31, 2001, Mr. Joseph McGlothlin, counsel for USLD, advised staff that USLD had erred in providing staff a figure of \$926.00 in overcharges. USLD has determined that the amount of the overcharges should have been reported as \$2,344.51. Based on the new principle amount, staff calculated interest in the amount of \$208.26, resulting in a total refund of \$2,552.77.

Mr. McGlothlin advised staff that the company would complete the refund, using the new amount of \$2,552.77, in accordance with the schedule ordered by the Commission in PAA Order No. PSC-01-1744-PAA-TI. Although USLD originally reported an incorrect amount for refund, the company is commended for coming forward and voluntarily refunding the higher amount even though the Commission has not approved the revised numbers. USLD had prepared the transaction data to effect the refund on September 1, 2001, and believes that it is in the best interest of the consumers to effect the refund as scheduled. USLD is seeking the Commission's after-the-fact approval for implementing the refund with the higher amounts.

Based on the foregoing, staff recommends that the Commission accept USLD's revised refund calculation of \$2,344.51, adding interest of \$208.26, for a total of \$2,552.77, and supplement Order No. PSC-01-1744-PAA-TI issued August 27, 2001, to reflect the revised refund calculations. All remaining terms and conditions specified in Order No. PSC-01-1744-PAA-TI should remain the same.

**ISSUE 2:** Should this docket be closed?

**RECOMMENDATION:** No. If no person, whose interests are substantially affected by the proposed agency action files a protest of the Commission's decision in Issue 1 within the 21 day protest period, the Commission's Order will become final upon issuance of a Consummating Order. The docket should, however, remain open pending the completion of the refund and receipt of the final report on the refund. After completion of the refund and receipt of the final refund report, this docket should be closed administratively. **(B. Keating)**

**STAFF ANALYSIS:** Whether staff's recommendation on Issue 1 is approved or denied, the result will be a proposed agency action order. If no timely protest to the proposed agency action is filed within 21 days of the date of the issuance of the Order, the Commission's Order will become final upon the issuance of a Consummating Order. This docket should, however, remain open pending the completion of the refund and receipt of the final report on the refund. After completion of the refund and receipt of the final refund report, this docket should be closed administratively.