

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Investigation and determination of appropriate method for refunding payphone surcharges, plus interest, applied to calls made from non-payphones 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.

DOCKET NO. 010858-TI
ORDER NO. PSC-01-2469-PAA-TI
ISSUED: December 18, 2001

The following Commissioners participated in the disposition of this matter:

E. LEON JACOBS, JR., Chairman
J. TERRY DEASON
LILA A. JABER
BRAULIO L. BAEZ
MICHAEL A. PALECKI

NOTICE OF PROPOSED AGENCY ACTION
ORDER APPROVING SETTLEMENT REGARDING IMPROPER PAYPHONE SURCHARGES

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.

I. Case Background

In January 2000, this Commission received a consumer complaint wherein the complainant was billed payphone surcharges for intrastate calls made from a non-payphone. The calls were placed from telephones at the Florida Department of Agriculture using a calling card issued by AT&T Communications of the Southern States, Inc. (AT&T).

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Subsequently, our staff notified AT&T of the problem and requested that AT&T investigate the incident to determine if there are any systemic problems that might be causing the improper billing. At that time, AT&T was unable to provide any explanation as to why the payphone surcharge was improperly applied to non-payphone calls using an AT&T calling card.

In June 2000, while AT&T was still investigating, our staff sent inquiries to Sprint to determine if any actions by Sprint might be causing non-payphone lines to appear to AT&T as payphone lines. Sprint concluded that its systems were operating appropriately.

In August 2000, our staff attempted to determine the extent of the payphone surcharge problem for employees using AT&T calling cards at the Department of Agriculture. At their request, the Agency's management forwarded an agency-wide e-mail asking the employees to review their telephone bills to determine if they were billed a payphone surcharge on calls made from non-payphones using an AT&T calling card. During the next three months, our staff received seven e-mail responses confirming that the customers were billed for payphone surcharges even though they did not make calls from a payphone. Employees at the Department of Agriculture were not billed the payphone surcharge on AT&T calling card calls made from telephones at other locations, other than actual payphones wherein the charge would have been appropriate.

In addition to the Department of Agriculture's employees, two other customers were billed a payphone surcharge when making AT&T calling card calls from locations other than the Department of Agriculture's facilities. One of these customers was assessed payphone surcharges on AT&T calling card calls made from a rental property at St. George Island, and the other customer had placed calls at another State agency's facilities.

On December 4, 2000, our staff sent a letter of inquiry to AT&T requesting that the company provide them with the specific information necessary so that the proper refund amount could be determined. On December 29, 2000, AT&T responded and indicated that the billing errors were caused by one of the screen codes (503) being incorrectly set. AT&T indicated that the error was

corrected in July of 2000. However, at that time, AT&T was still reviewing data to determine how many calls may have been affected.

During the ensuing months, AT&T continued its investigation of the payphone surcharge billing issue. AT&T solicited the assistance of Sprint and, together, the entities performed test calls at the Department of Agriculture, the Public Service Commission, and other State agencies. On November 8, 2001, AT&T submitted its proposal regarding the refund of the apparent overcharges.

We are vested with jurisdiction over this matter pursuant to Sections 364.601 and 364.337, Florida Statutes.

II. Settlement Proposal

In its investigation, AT&T concluded that the payphone surcharge problem was isolated to the geographic area of Tallahassee and St. George Island. Only calls made in Sprint's and GT Com's service territories appeared to be affected. Our own staff reviewed our Division of Consumer Affairs' customer complaint data base and determined that the complaints were, indeed, only filed by customers using AT&T calling cards in Sprint's and GT Com's operating areas. Further, our staff determined that the affected calls were placed from telephones located at a limited number of State agencies and at rental property on St. George Island.

AT&T has already reimbursed all of the customers that filed complaints with this Commission. Our staff has indicated to us that they are not aware of any outstanding complaints involving payphone surcharges assessed on non-payphone calls.

In its settlement proposal, AT&T offers to:

- Make a voluntary contribution of \$135,000 to the State of Florida General Revenue Fund. The amount includes applicable interest through December 31, 2001.
- Resolve any further complaints or inquiries associated with the imposition of the payphone

surcharge at non-payphones this Commission may receive. The complaint would be handled through the standard complaint resolution process.

- Cooperate with this Commission in the event such complaints prove to be continuing or suggestive of other problems.
- Continue to notify the affected LEC when AT&T identifies locations with screen code problems so that the screen code records can be investigated and corrected.

AT&T acknowledges that the preferred method of payment would be to refund the affected customers. However, AT&T has indicated that in this particular situation, such a refund is impractical, excessively burdensome, and prohibitively expensive. AT&T also indicated that a rate reduction would also be impractical and complicated to implement.

III. Decision

We acknowledge that it appears that AT&T has corrected the problems causing the improper payphone surcharges and has refunded all customers that filed complaints with this Commission. Therefore, we hereby accept AT&T's proposed settlement offer to contribute \$135,000 to the State General Revenue Fund to resolve the imposition of payphone surcharges on intrastate calls made from non-payphones during the calendar years 1998, 1999, and 2000. The settlement appears reasonable and in the public interest. If this Order becomes final, the contribution must be received by this Commission within ten business days from the date of the Consummating Order and must identify the docket number and company name. We will forward the contribution to the Office of the Comptroller for deposit in the State General Revenue Fund.

It is therefore

ORDERED by the Florida Public Service Commission that the settlement proposed by AT&T Communications of the Southern States, Inc. to resolve the improper payphone surcharges addressed in this Docket is hereby accepted. It is further

ORDER NO. PSC-01-2469-PAA-TI
DOCKET NO. 010858-TI
PAGE 5

ORDERED that the provisions of this Order, 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 Director, Division of the Commission Clerk and Administrative Services, 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 if this Order becomes final, the \$135,000 contribution shall be received by this Commission within ten (10) business days from the issuance of the Consummating Order. The payment must identify the Docket number and company name. It is further

ORDERED that upon receipt of the \$135,000 contribution, we shall forward it to the Office of the Comptroller for deposit in the State General Revenue Fund. It is further

ORDERED that this Docket shall remain open pending receipt of the \$135,000 contribution. It is further

ORDERED that in the event this Order becomes final and the \$135,000 contribution is timely received in accordance with this Order, this Docket may be closed administratively.

ORDER NO. PSC-01-2469-PAA-TI
DOCKET NO. 010858-TI
PAGE 6

By ORDER of the Florida Public Service Commission this 18th
Day of December, 2001.

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

BY: Kay Flynn
Kay Flynn, Chief
Bureau of Records and Hearing
Services

(S E A L)

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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 January 8, 2002.

ORDER NO. PSC-01-2469-PAA-TI
DOCKET NO. 010858-TI
PAGE 7

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 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.