

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Investigation and
determination of appropriate
method for refunding overcharges
assessed on intrastate calls
made using calling card services
provided by Easton Telecom
Services, L.L.C.

DOCKET NO. 030909-TI
ORDER NO. PSC-03-1309-PAA-TI
ISSUED: November 17, 2003

The following Commissioners participated in the disposition of
this matter:

LILA A. JABER, Chairman
J. TERRY DEASON
BRAULIO L. BAEZ
RUDOLPH "RUDY" BRADLEY
CHARLES M. DAVIDSON

NOTICE OF PROPOSED AGENCY ACTION
ORDER APPROVING 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.

On April 1, 2002, Easton Telecom Services, L.L.C. (Easton) obtained certificate No. 8068 authorizing the company to provide interexchange telecommunications services in Florida.

On September 9, 2002, through October 4, 2002, our staff evaluated the quality of service from access lines presubscribed to Easton Telecom Services, L.L.C. During the evaluation of Easton's calling card services, our staff determined that Easton was overtiming calls which resulted in overcharges. Our staff later notified Easton of the timing and billing discrepancies and

DOCUMENT NUMBER DATE

11445 NOV 17 8

FPSC-COMMISSION CLERK

requested that the company investigate the matter and submit a proposal to refund the affected customers.

After investigating the matter, Easton informed our staff that the company was taking corrective action to eliminate future timing and billing discrepancies and submitted the company's refund proposal. Easton was unable to identify and make direct refunds to the affected customers, therefore, to resolve the overbilling issue Easton proposes to make a lump sum payment of \$190.35 to the Commission to be placed in the General Revenue Fund. The proposed amount to be paid was calculated by multiplying the total number of calling card minutes utilized by the customers in Florida (38,650) by the percentage of calls that were overtimed during the service evaluation tests (19.7%), times the effective tariff rate (0.0250): $38,658 \text{ minutes} \times 19.7\% \times \$0.0250 = \$190.35$. After receiving Easton's proposal, our staff then used the proposed amount of \$190.35 as the basis for calculating interest of \$3.61. Easton understands that the preferred method would be to refund the overcharges to the individual customers; however, the company cannot identify the customers that were directly affected.

As stated above, Easton acknowledges and admits to overtiming calls which resulted in overcharges to some of their customers. Section 364.04, Florida Statutes, Schedules of Rates, Tolls, Rentals, Contracts, and Charges; Filing; Public Inspection; states, in pertinent part:

Companies shall charge only the rates contained in their tariff

Section 364.285(2), Florida Statutes, Penalties; states in pertinent part that

The Commission may, at its discretion, . . . compel the accounting and refund of any moneys collected in violation of this chapter or commission rule.

Inherent in our authority to issue a refund, is the ability to calculate the refund with interest. Easton has therefore agreed to pay a lump sum payment of \$190.35, plus interest of \$3.61, for a total of \$193.96.

Based upon the aforementioned, we hereby approve Easton's proposal to pay a lump sum payment of \$190.35, plus interest of \$3.61, for a

ORDER NO. PSC-03-1309-PAA-TI
DOCKET NO. 030909-TI
PAGE 3

total of \$193.96, to be deposited into the General Revenue Fund for overcharges on interstate calls made using Easton's calling card services from July 5, 2002 through October 4, 2002. Easton's payment proposal is consistent with similar proposals we have approved in previous dockets.

This Order will become final upon issuance of a Consummating Order, unless a person whose substantial interest are affected by the Commission's decision files a protest within 21 days of the issuance of the Proposed Agency Action Order. This docket should remain open pending the receipt of the \$193.96 payment. Upon receipt of the payment, it should be forwarded to the Division of Financial Services to be deposited into the General Revenue Fund, and this docket should be closed administratively. If the company fails to make the payment, this docket shall be closed administratively upon the cancellation of the company's tariff and the removal of the company's registration number from the register.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Easton Telecom Services, L.L.C. settlement proposal set forth in the body of this Order is hereby approved. It is further

ORDERED that this docket shall remain open pending timely receipt of the \$193.96 payment. Upon receipt of the payment, it should be forwarded to the Division of Financial Services to be deposited into the General Revenue Fund. It is further

ORDERED that if Easton Telecom Services, L.L.C. fails to make the payment, the company's tariff shall be canceled and the company's registration number shall be removed from the register. It is further

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

ORDER NO. PSC-03-1309-PAA-TI
DOCKET NO. 030909-TI
PAGE 4

ORDERED that upon receipt of the \$193.96 payment or cancellation of Easton Telecom Services, L.L.C.'s tariff and removal of its registration number from the register this docket shall be closed.

By ORDER of the Florida Public Service Commission this 17th Day of November, 2003.

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)

AJT

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.

ORDER NO. PSC-03-1309-PAA-TI
DOCKET NO. 030909-TI
PAGE 5

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 December 8, 2003.

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.