

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Investigation into the) DOCKET NO. 910666-TI
billing practices of INTER-) ORDER NO. PSC-92-0728-AS-TI
NATIONAL TELECHARGE, INC. and) ISSUED: 07/28/92
PEOPLES TELEPHONE COMPANY.)
_____)

The following Commissioners participated in the disposition of this matter:

THOMAS M. BEARD, Chairman
J. TERRY DEASON
BETTY EASLEY
LUIS J. LAUREDO

NOTICE OF PROPOSED AGENCY ACTION
ORDER ACCEPTING SETTLEMENT OFFER

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 adversely affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

On December 5, 1991, our staff filed a recommendation for consideration at our December 17, 1991, Agenda Conference. That recommendation addressed the results of our staff's investigation into the billing practices of International Telecharge, Inc. (ITI) and Peoples Telephone Company (Peoples). ITI is a certificated interexchange carrier (IXC) that also provides alternative operator services (AOS), while Peoples is a certificated pay telephone service (PATS) provider. Both of these companies are large providers of intrastate telecommunications services throughout Florida. The staff recommendation alleged that substantial overcharging has occurred at confinement facilities served by ITI and Peoples, and at other locations served by ITI.

At the December 17, 1991, Agenda Conference, we deferred consideration of our staff's recommendation in response to requests from the companies to allow them to pursue the possibility of settling this matter. We believed such action to be reasonable, given the serious nature of the allegations of overcharging and the gravity of the potential penalties under consideration.

Subsequently, ITI and Peoples submitted a Joint Settlement and Refund Proposal on December 31, 1991, to address overcharging at confinement facilities. In addition, ITI filed a separate

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Settlement and Refund Proposal to address overcharging at certain other locations. Our staff then filed a supplemental recommendation, and the matter was reset for our January 14, 1992, Agenda Conference.

At the January 14, 1992, Agenda Conference, we rejected both of the above-referenced settlement offers. On our own motion, we directed that this matter be set for hearing. These decisions are reflected in Order No. 25730, issued February 17, 1992. In accordance with our directive, a hearing has been scheduled for September 16, 1992.

On June 22, 1992, Peoples submitted a Settlement and Refund Proposal (Proposal). The Proposal is set forth as Attachment A to this Order. The Proposal addresses all of the issues raised regarding Peoples and its involvement in the incorrect rating and/or routing of telephone traffic originated from Peoples' pay telephones located in Florida Department of Corrections (FDOC) facilities, as well as Peoples' own store-and-forward (SAF) pay telephones at both correctional and non-correctional locations. The Proposal will result in refunds to customers of Peoples' share of the overcharging that occurred in FDOC facilities during 1990 and 1991. In addition, the Proposal recognizes that Peoples also improperly handled or billed for operator assisted local and intraLATA calls. As a result, some refunds are to be made to local exchange companies (LECs), as well as to end users. Peoples has also agreed to refund its share of the excess charges on interstate calls placed from FDOC facilities during 1990 and 1991. Peoples will audit its SAF phones for 1990 and 1991 and agrees to refund any additional overcharges that may exist. The Proposal includes a true-up provision and a stipulated fine in the amount of one hundred thousand dollars (\$100,000.00).

We have reviewed Peoples' Proposal and find it to be a reasonable resolution of the issues involving Peoples in this docket. While Peoples emphasizes that its errors were unintentional, the Company has fully acknowledged its duty to have identified and corrected the problems that have occurred. In our view, a severe penalty is warranted in this case and will be an incentive for this company, as well as others in the industry, to exercise proper managerial oversight of their operations. In light of Peoples' full admission to the excess charges and its willingness to continue working with our staff throughout the refund process, as well as its ongoing monitoring and auditing safeguards, we believe it is in the public interest to accept

Peoples' Proposal. Since the Proposal addresses all categories of traffic for which Peoples received revenues to which it was not entitled, we do not believe the public would derive any additional benefit from proceeding to hearing against Peoples. Accordingly, we shall accept the Proposal submitted by Peoples. In closing, we wish to underscore how seriously we view the past behavior of this Company. Future violations simply will not be tolerated.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the Settlement and Refund Proposal submitted by Peoples Telephone Company and set forth as Attachment A to this Order is hereby approved and shall be incorporated into this Order. It is further

ORDERED that Peoples Telephone Company shall comply with all terms and conditions contained within the Settlement and Refund Proposal. It is further

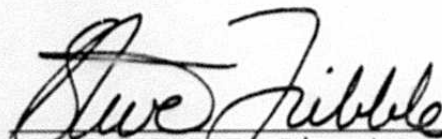
ORDERED that if no proper protest is filed within the time frame set forth below, our proposed action shall become final and effective on the first working day following the date specified below. It is further

ORDERED that Peoples Telephone Company shall pay to this Commission, within seven days of the date this Order becomes final, the sum of \$100,000.00 as a stipulated fine. It is further

ORDERED that Peoples Telephone Company shall begin the refund process in accordance with the timetable set forth in its Settlement and Refund Proposal upon this Order becoming final. It is further

ORDERED that this docket shall remain open.

By ORDER of the Florida Public Service Commission this 28th day of July, 1992.



STEVE TRIBBLE, Director

Division of Records and Reporting

(S E A L)
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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), 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.

The action proposed herein is preliminary in nature and will not become effective or final, except as provided by Rule 25-22.029, Florida Administrative Code. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, as provided by Rule 25-22.029(4), Florida Administrative Code, in the form provided by Rule 25-22.036(7)(a) and (f), Florida Administrative Code. This petition must be received by the Director, Division of Records and Reporting at his office at 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on August 18, 1992.

In the absence of such a petition, this order shall become effective on the day subsequent to the above date as provided by Rule 25-22.029(6), Florida Administrative Code.

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.

If this order becomes final and effective on the date described above, any party adversely affected may request judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or by the First District Court of Appeal in the case of a water 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 of the effective date 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.

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Investigation into the billing) DOCKET NO. 910666-TI
practices of INTERNATIONAL TELECHARGE, INC.) FILED: 06/22/92
and PEOPLES TELEPHONE COMPANY)
_____)

SETTLEMENT AND REFUND PROPOSAL

Peoples Telephone Company, Inc. (Peoples) proposes to the Florida Public Service Commission (FPSC or Commission) the following as a basis for full settlement of the issues raised with regards to Peoples in the above referenced docket, involving incorrect rating and/or routing of telephone traffic initiated at Peoples' paystations located in Florida Department of Corrections (FDOC) facilities, in lieu of Peoples participation in further proceedings or hearings before the Commission on this subject. Upon approval of this proposal, Peoples will take all necessary steps to initiate full refunds, with interest, to affected customers of all monies received by Peoples in excess of the pay telephone cap authorized by this Commission. Peoples will also pay a stipulated fine amount of \$100,000.00, in recognition of the serious mishandling of the pay telephone traffic at issue. More, specifically, Peoples proposes the following terms and conditions for resolving this proceeding in the most effective, expeditious and economical way, based on the facts and circumstances of the case:

1. Once approval is given by the Commission, Peoples agrees to take all steps necessary to affect direct refunds of all monies received by Peoples, with interest, from customers who have overpaid for intrastate calls placed from FDOC confinement facilities served by Peoples during calendar years 1990 and 1991. Peoples is willing and able to make these refunds either in conjunction with International Telecharge, Inc. (ITI), or directly on Peoples' own behalf, based upon the direction of the Commission.

2. The estimated amount of this refund by Peoples is \$745,809.10. This estimated amount is based upon data taken from billed call records supplied to Peoples by ITI and by Peoples billing agent for store-and-forward traffic, with application of: (1) an 8% uncollectible/bad debt factor for the ITI traffic and 7% for the store and forward traffic and, (2) a compounded interest rate, based upon the methodology set forth in Florida Administrative Code Rule 25-4.114(4), applied for calendar years 1990-1991 and through July 1, 1992.

3. The estimated refund amount will be subject to a true-up based upon Commission Staff's calculations and any other relevant and accurate inputs received from other parties to this case. This refund will wherever possible be effectuated via a direct credit to the customer's telephone bill, and will be completed within ninety (90) days from Commission approval. Peoples will file monthly refund

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reports with the Commission, identifying the refunds made during the previous period, for review and tracking purposes until the refund process is complete.

4. Although primarily consisting of interLATA intrastate calls, the traffic on which incorrect rating occurred also inadvertently included local and intraLATA calls. Since Peoples was not authorized to handle local and intraLATA calls during this period, certain refunds will also be made to local exchange companies (LECs). Specifically, refunds relating to the FDOC traffic referenced in Paragraph 1. above will be made as follows:

(a) Charges on local calls in excess of the applicable LEC tariffed rates (\$.25 plus operator service charges) will be refunded, with interest, to end users;

(b) For local calls inadvertently handled by Peoples at its store and forward phones, revenues based on the applicable LEC tariffed rates (\$.25 plus operator service charges) will be remitted to the appropriate LEC, with interest but net of any applicable access or other charges;

(c) Charges on intraLATA toll calls inadvertently handled by Peoples at its store and forward phones, in excess of the applicable LEC tariffed rates (MTS plus operator service charges) will be refunded, with interest, to end users;

(d) For intraLATA toll calls inadvertently handled by Peoples at its store and forward phones, revenues based on the applicable LEC tariffed rates (MTS plus operator service charges) will be remitted to the appropriate LEC, with interest but net of any applicable access or other charges; and

(e) Charges on interLATA calls in excess of the applicable rates will be refunded, with interest, to end users.

5. Although not subject to the jurisdiction of this Commission, Peoples hereby agrees to use its best efforts, subject to resolution of its contractual dispute with the FDOC, to effectuate direct refunds of all net monies received by Peoples from customers who were charged in excess of the Peoples/FDOC contractual caps for interstate calls placed from FDOC confinement facilities served by Peoples during calendar years 1990 and 1991. Peoples is willing and prepared to make these refunds either in conjunction with International Telecharge, Inc. (ITI), or directly on Peoples' own behalf. The estimated amount of the interstate excess charges is \$213,370.

6. Peoples will take all reasonable steps to locate those persons actually billed and who have paid (and not yet been credited for) overcharges in rates and surcharges received by Peoples for traffic originating at FDOC facilities during the 1990-1991 time frame. In the event that, after reasonable effort, such persons cannot be located, Peoples agrees to pay to the FDOC for the benefit of the

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Inmate Welfare Fund an amount equal to the refund that would have been made had those persons been located, or to make such other disposition of the funds as the Commission may direct.

7. As noted above, a relatively small portion of the incorrect rating of calls from Florida correctional facilities was associated with Peoples' store and forward payphones. Peoples firmly believes that these were isolated errors that occurred due to the unique conditions associated with prison traffic. However, in an abundance of caution, Peoples hereby agrees to conduct an audit of all Florida intrastate traffic originating from its store and forward payphones during the calendar years 1990 and 1991. This audit will be completed within six (6) months of the acceptance of this settlement proposal and the results of the audit will be provided to Commission Staff for its review. If overcharging is discovered, Peoples agrees to make any necessary refunds, with interest.

8. Peoples will institute all such reasonable procedures on a going forward basis, in addition to the procedures Peoples has already put in place, to implement necessary audit and monitoring safeguards to assure that the mishandling of traffic here at issue never reoccurs in the future. Peoples will also work in full cooperation with Commission Staff to identify and develop any needed additional enhancements to the internal steps already taken by Peoples to modify operational handling of rating and routing inputs for Peoples' pay telephone traffic in Florida, to assure the fullest reasonably obtainable compliance with FPSC regulations and requirements in this area.

9. While Peoples fully acknowledges and accepts the company's responsibility for its part of the overcharges here at issue, and the operational mishandling that contributed to these overcharges, this proposal is being made in the interests of settlement and should not be construed as an admission against interest, preclusion or waiver of rights, obligations or responsibilities by Peoples with respect to the issues or the other parties explicitly or implicitly involved in this proceeding. Consistent with such reservation, Peoples agrees to pay to the Commission, within seven (7) days of issuance of the Commission's Order approving this settlement and refund proposal, a stipulated fine amount of \$100,000.00 to resolve this matter in full, with such amount to be tendered in the specific manner directed by the Commission. Such fine payment shall be in addition to any refund amounts made to customers in accordance with the above identified terms and conditions.

Respectfully submitted,

PEOPLES TELEPHONE COMPANY, INC.

By: Bruce Renard
Bruce W. Renard, General Counsel
Peoples Telephone Company
8041 N.W. 14th Street
Miami, Florida 33126