

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Investigation of NORTH) DOCKET NO. 930416-TC
AMERICAN INTELECOM, INC. for) ORDER NO. PSC-93-1083-FOF-TC
incorrect billing of collect) ISSUED: 7/26/93
calls from various prisons.)
_____)

The following Commissioners participated in the disposition of this matter:

J. TERRY DEASON, Chairman
THOMAS M. BEARD
SUSAN F. CLARK
JULIA L. JOHNSON
LUIS J. LAUREDO

ORDER REQUIRING REFUND AND TO SHOW CAUSE

BY THE COMMISSION:

REFUND OF OVERCHARGES

On October 19, 1992, the Staff of this Commission (Staff) conducted collect call tests from the Apalachee Correctional Institutes in Sneads, Florida, and the New River Correctional Institute in Raiford, Florida. The tests consisted of one thirty-second call and two ninety-second calls from each location. These calls should have been billed at \$1.27 and \$1.50, respectively. The calls were actually billed as \$2.23 and \$2.45, respectively, at Apalachee Correctional Institute, and \$2.02 and \$2.24, respectively, at New River Correctional Institute.

By letter dated February 5, 1993, Staff informed North American Intelcom, Inc. (NAI), the pay telephone service provider, of the discrepancy and requested that NAI investigate the matter, determine the amount of overcharges, and identify how it intended to refund the overcharges. By letter dated February 23, 1993, NAI acknowledged that overcharges had been made at the institutions discussed above, as well as at the Caryville, Franklin, Jackson, and Marianna facilities. NAI also stated that it was in the process of correcting the problems which caused the overcharges. NAI has identified the calling period billing tapes and can submit them as billing credits.

The refund and collection costs are estimated at \$65,000, with costs and refunds approximately equal. NAI suggested it might be more beneficial to pay this amount to an inmate or state fund.

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However, since the money has been paid by telephone subscribers and records are available to refund to them, we find it appropriate to require NAI to credit the refunds to those subscribers who were actually overcharged.

ORDER TO SHOW CAUSE

NAI has previously had trouble with overcharges at the Union, Apalachee, and New River facilities. In 1991, we discovered that NAI was charging above the rate cap established under Order No. 24101. We did not order NAI to show cause why it should not be fined at that time since it appeared earnest in its attempts to eliminate the problems and properly credit those who were overcharged. However, the current situation indicates that NAI may have been less than diligent in resolving the problems.

In addition, we have received a complaint from a Ms. Jeri Friedman (request number 59824P) that alleges a number of problems including poor service, improper billing, and misidentification of call source since NAI began service at the New River facility. We have also been made aware of letters, from the Department of Corrections and NAI itself, and telephone bills which appear to confirm Ms. Friedman's allegations. Ms. Friedman has also referred the matter to her local state representative, as well as to the Office of the Statewide Prosecutor. Our Staff continues to investigate this matter, although some of the subject matter may be beyond the jurisdiction of this Commission.

Based upon the discussion above, we believe that it is appropriate to require NAI to show cause, in writing, why it should not be fined for charging in excess of the rate cap established for confinement facilities by Order No. 24101, issued February 14, 1991.

It is, therefore,

ORDERED by the Florida Public Service Commission that North American Intelicom, Inc. shall refund all monies incorrectly collected from the payers of collect telephone calls. It is further

ORDERED that North American Intelicom shall show cause, in writing, on or before the date specified in the Notice of Further Proceedings or Judicial Review, why it should not be fined for charging in excess of the rate cap for pay telephone service

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providers at confinement facilities, as established by Order No. 24101, issued February 14, 1991. It is further

ORDERED that North American Intelicom, Inc.'s response must contain specific allegations of fact and law. It is further

ORDERED that the failure to file a timely response shall constitute an admission of the violations alleged herein. It is further

ORDERED that the failure to file a response or request a hearing on or before the date specified in the Notice of Further Proceedings or Judicial Review shall constitute a waiver of any right to a hearing under Section 120.57, Florida Statutes.

By ORDER of the Florida Public Service Commission, this 26th day of July, 1993.



STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

RJP

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.

This order is preliminary, procedural or intermediate in nature. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal

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proceeding, as provided by Rule 25-22.037(1), 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 16, 1993.

Failure to respond within the time set forth above shall constitute an admission of all facts and a waiver of the right to a hearing pursuant to Rule 25-22.037(3), Florida Administrative Code, and a default pursuant to Rule 25-22.037(4), Florida Administrative Code. Such default shall be effective on the day subsequent to the above date.

If an adversely affected person fails to respond to this order within the time prescribed above, that party may request judicial review by the Florida Supreme Court in the case of any 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.