

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Determination of ) DOCKET NO. 950064-TI  
appropriate method for refunding ) ORDER NO. PSC-95-0682-FOF-TI  
overcharges by Cleartel ) ISSUED: June 6, 1995  
Communications, Inc. on )  
intrastate long distance calls )  
placed from pay telephones. )  
\_\_\_\_\_)

The following Commissioners participated in the disposition of this matter:

SUSAN F. CLARK, Chairman  
J. TERRY DEASON  
JOE GARCIA  
JULIA L. JOHNSON  
DIANE K. KIESLING

NOTICE OF PROPOSED AGENCY ACTION  
ORDER APPROVING METHOD OF REFUND

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.

A staff engineer from our Division of Communications placed calls from several pay telephones in Palm Beach and Pinellas counties during June, 1994. The calls were to our test number here in Tallahassee and billed to a calling card account established for testing purposes. A review of the resulting bill revealed overcharges of \$.20 per call on calls where Cleartel Communications, Inc. (Cleartel) was the long distance carrier. We contacted Cleartel for an explanation of the apparent overcharges on August 8, 1994. The company responded and has worked with our staff to determine the cause of the overcharges, correct the problem, and determine the best method to refund the overcharges.

Cleartel's investigation showed it had overcharged \$6,428.60 in calls from October 1, 1993 through October 29, 1994. The overbilling was a result of Cleartel's charging a \$1.00 surcharge on all intrastate calls subject to operator intervention. Although the operator charge for customer dialed calling cards was appropriately listed as \$.80 in its tariff, Cleartel was charging \$1.00.

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FPSC-RECORDS/REPORTING

In reviewing Cleartel's tariff, we discovered that some other rates listed in the tariff were higher than allowed. In order to comply with the Commission's rate cap, the operator charge for any operator assisted call except a person-to-person, collect or third-party billed call should not exceed \$.80. Cleartel's tariff did not list these operator charges correctly. Cleartel revised its tariff on November 1, 1994.

While Cleartel acknowledged its error in billing \$1.00 rather than \$.80 for the operator charge on all its operator assisted calls, the company stated that it should not be required to make refunds because its overcharges were offset by a \$.75 surcharge it had failed to collect on calls dialed by the operator. Operator service providers may bill a \$.75 surcharge on calls dialed by the operator. However, not only did Cleartel's tariff contain no such charge, the company admitted that it could not distinguish between a customer dialed and an operator dialed call for billing purposes. Therefore, Cleartel was not entitled to bill the charge during the period in question nor is it capable of billing the charge presently.

Since Cleartel has revised its tariff to reflect the correct \$.80 operator charge on all operator assisted calls other than person-to-person, collect or third-party billed calls, the remaining issue to be resolved is the number of calls subject to refund. Cleartel's equipment is incapable of distinguishing between an operator dialing a station number and a customer dialing a station number so the exact number of calls that were overbilled cannot be determined. Therefore, Cleartel will refund all intrastate operator assisted calls placed between October 1, 1993 and October 29, 1994. While this might result in Cleartel refunding some calls that were not overcharged, it is the only way to ensure that all overcharged calls are refunded.

Cleartel proposes to refund the overcharged amount via a prospective rate reduction. The company proposes to reduce the operator surcharge from \$.80 per call to \$.60 per call on all 0-calls until the amount overcharged is refunded. Cleartel estimates this process will take thirteen months.

Accordingly, we accept Cleartel's proposal and order Cleartel to implement a prospective rate reduction to refund the overcharged amounts. Cleartel shall reduce the operator surcharge from \$.80 per call to \$.60 per call on all 0-calls until the amount overcharged, \$6,428.60, plus interest, \$603.64, is refunded. We prefer that companies refund money directly to the overcharged end users. We are allowing a prospective rate reduction in this instance because a direct refund would be expensive and unduly

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burdensome on the company. A prospective rate reduction will benefit similarly situated customers to those that were overcharged. Therefore, in this instance, a prospective rate reduction is appropriate. Cleartel will submit monthly reports indicating the status of the refunds.

We choose not to issue a show cause order against Cleartel. The company cooperated with our staff and submitted an acceptable settlement proposal. We do not believe further action against Cleartel is necessary at this time.

It is, therefore,

ORDERED by the Florida Public Service Commission that Cleartel Communications, Inc. shall reduce its operator surcharge from \$.80 to \$.60 on all 0- calls until \$6,428.60 in overcharges and \$603.64 in interest is refunded. It is further

ORDERED that Cleartel Communications, Inc. shall submit monthly reports regarding the status of the refund. It is further

ORDERED that, unless a person whose substantial interests are affected by the action proposed herein files a petition in the form and by the date specified in the Notice of Further Proceedings or Judicial Review, below, this Order shall become final. It is further

ORDERED that this docket shall remain open to monitor the refund and shall be closed when the refund is complete.

By ORDER of the Florida Public Service Commission, this 6th day of June, 1995.



BLANCA S. BAYÓ, Director  
Division of Records and Reporting

( S E A L )

LMB

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, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on June 27, 1995.

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 substantially 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.