

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Determination of) DOCKET NO. 960509-TI
appropriate method of refunding) ORDER NO. PSC-96-0762-FOF-TI
overcharges by BN1) ISSUED: June 12, 1996
Telecommunications, Inc. on)
intrastate long distance calls.)
_____)

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 REQUIRING REFUNDS

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.

Test calls made by our staff in April, 1995, indicated BN1 Telecommunications, Inc. (BN1) was not properly rating, timing, and billing intrastate calls. In June, 1995, our staff notified BN1 of the problems and requested a response. BN1 replied by letter on December 14, 1995 that it had corrected its timing system and that it was acting to file necessary tariff changes.

In January 1996, BN1 requested that staff retest its service to demonstrate that its timing, billing, and rating systems had been corrected. Our staff met with BN1's tariff manager on January 31, 1996 to discuss its unsatisfactory performance in the April 1995 tests. BN1 agreed to prepare a refund plan to compensate for the over-timing failures. Our staff performed a second round of test calls February 12, 1996 and found no errors in BN1's timing, billing, and rating of the new test calls.

On April 3, 1996, BN1 forwarded a revenue analysis of the effects of its over-timing and incorrect billing and rating

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parameters. BN1 estimated that the net effect of the timing, billing, and rating errors equalled \$516.90. Our staff reviewed the revenue analysis and found that BN1 incorrectly calculated the overcharged amount. Our staff estimated the overcharged amount as \$10,621.23. On April 25, BN1 agreed with the revisions and proposed to refund \$11,500 to the Commission for deposit in the general revenue fund. The refund amount includes interest calculated pursuant to Rule 25-4.114, Florida Administrative Code. BN1 proposes paying the \$11,500 settlement amount to the State of Florida, since it cannot precisely determine refund amounts for specific customers due refunds. We prefer direct refunds to overcharged customers whenever possible. BN1 has four customers that provide 71 percent to 79 percent of its total revenues. Since BN1 cannot determine exactly how much each of its customers was overcharged, we order it to refund to each of its four largest customers an amount according to each customer's percentage of BN1's billed revenue. For example, a customer with 20 percent of BN1's billed revenues shall receive 20 percent of the refund. The remaining amount should be paid to the Public Service Commission for deposit in the General Revenue Fund pursuant to Section 364.285(1), Florida Statutes.

We do not believe it is appropriate to issue a show cause order against BN1 at this time. The net effect of BN1's problems is less than five percent of its billed revenue base in Florida. BN1 corrected all problems associated with its timing of intrastate calls and filed appropriate tariffs to correct the billing and rating discrepancies. BN1 reported no customer complaints for overcharging and was unaware that the problems existed. BN1 cooperated with our staff engineers and agreed to refund the full amount overcharged. Accordingly, show cause action is not appropriate.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that BN1 Telecommunications, Inc.'s proposal that it refund \$11,500 is accepted. It is further

ORDERED that BN1 Telecommunications, Inc. refund to each of its four largest customers according to each customer's percentage of BN1's billed revenue, as described in the body of this Order. It is further

ORDERED that BN1 Telecommunications, Inc. pay the remaining amount to the Public Service Commission for deposit in the General Revenue Fund pursuant to Section 364.285(1), Florida Statutes. It is further

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ORDERED that, unless a person whose interests are substantially 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, this Order shall become final and this docket shall be closed on the following date.

By ORDER of the Florida Public Service Commission, this 12th day of June, 1996.

BLANCA S. BAYÓ, Director
Division of Records and Reporting

by: Kay J. J. J.
Chief, Bureau of Records

(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 July 3, 1996.

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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.