

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Investigation and determination of appropriate method for refunding interest and overcharges on intrastate 0+ calls made from pay telephones and in a call aggregator context by International Tele-Services, Inc. d/b/a InTeleServ.

DOCKET NO. 000109-TI  
ORDER NO. PSC-00-0752-PAA-TI  
ISSUED: April 17, 2000

The following Commissioners participated in the disposition of this matter:

JOE GARCIA, Chairman  
J. TERRY DEASON  
SUSAN F. CLARK  
E. LEON JACOBS, JR.  
LILA A. JABER

ORDER DECLINING TO SHOW CAUSE AND  
NOTICE OF PROPOSED AGENCY ACTION  
ORDER APPROVING OFFER OF REFUND  
AND REFUND CALCULATION

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service Commission that the proposed agency action discussed herein, requiring refunds plus interest, 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. BACKGROUND

On January 13, 1998, International Tele-Services, Inc. d/b/a InTeleServ (InTeleServ) was issued Certificate Number 5303 to operate as an interexchange telecommunications company. On February 1, 1999, Rule 25-24.630, Florida Administrative Code, Rate and Billing Requirements, was amended to cap rates for intrastate 0+ and 0- calls from pay telephones or a call aggregator context to \$.30 per minute plus \$3.25 for a person-to-person call or \$1.75 for

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a non person-to-person call. On August 5, 1999, our staff reviewed InTeleServ's tariff for compliance with Rule 25-24.630, Florida Administrative Code, and found that InTeleServ's tariffed rates appeared to exceed the rate cap.

On August 5, 1999, our staff sent InTeleServ a certified letter, requesting additional information by August 20, 1999. On August 11, 1999, our staff faxed a copy of the August 5, 1999, letter to InTeleServ because the company stated it did not receive staff's initial letter. A response was requested by August 26, 1999. On August 19, 1999, InTeleServ requested an extension until September 4, 1999, to file a response to our staff's information request. On October 14, 1999, InTeleServ faxed our staff a response and proposed to offer a refund to the customers who had been overcharged. InTeleServ's response states that it overcharged 3,220 customers by an amount of \$3,381.00.

By Order No. PSC-00-0039-PAA-TI, issued January 6, 2000 in Docket No. 991599-TI, InTeleServ's certificate was canceled for apparent violation of Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies. On February 1, 2000, a consummating order, PSC-00-0202-CO-TI, was issued, making Order No. PSC-00-0039-PAA-TI final and effective and canceling InTeleServ's certificate as of February 6, 2000. On February 17, 2000, our staff contacted the company and reiterated that its certificate had been canceled and that it would need to reapply in order to provide telecommunications services in Florida. Pursuant to this conversation, InTeleServ, on March 15, 2000, assured our staff that it was not currently providing service in Florida and that prior to providing service in the future, it would obtain proper approval.

B. PROPOSED AGENCY ACTION APPROVING OFFER OF REFUND AND REFUND CALCULATION

As previously stated, our staff compared InTeleServ's tariff for operator service rates to the rate cap established in Rule 25-24.630, Florida Administrative Code. Based on the comparison, it appeared InTeleServ's tariffed rate for the surcharge element exceeded the rate cap. The company's tariff, which became effective January 12, 1998, not only exceeded the rate cap for the specific interLata person-to-person and non person-to-person charge, but also included an operator dialed surcharge that was not provided for in the current rate cap rule. Additionally, the

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IntraLATA rates also included an operator dialed surcharge in addition to the person-to-person and non person-to-person rate.

On October 15, 1999, InTeleServ faxed our staff a response to their request for information, stating that, in order to comply with the new rate caps, it had made the appropriate tariff revisions on August 19, 1999. Specifically, it had changed its operator service provider interLata surcharge rates for person-to-person calls from \$4.90 and non person-to-person calls from \$2.25 to \$3.25 and \$1.75, respectively. Additionally, it removed the operator dialed surcharge of \$1.15 and the IntraLata operator dialed surcharge of \$.60. InTeleServ also provided detailed information in response to staff's letter and stated that 3,220 customers were overcharged a total of \$3,381.00.

Based on the foregoing, we accept InTeleServ's refund calculation of \$3,381.00, plus interest of \$228.64, for a total of \$3,609.64. We also accept the company's proposal to credit end user customer's local exchange telephone bills beginning June 1, 2000, and ending July 31, 2000, for overcharging end users on intrastate 0+ calls made from pay telephones and in a call aggregator context from February 1, 1999, through August 19, 1999. At the end of the refund period, any unrefunded amount, including interest, shall be remitted to the Commission by August 10, 2000, and forwarded to the Comptroller for deposit in the General Revenue Fund, pursuant to Section 364.285(1), Florida Statutes. InTeleServ shall submit a final report as required by Rule 25-4.114, Florida Administrative Code, Refunds, by August 10, 2000.

C. NO SHOW CAUSE REQUIRED

By Section 364.285, Florida Statutes, the Commission is authorized to impose upon any entity subject to its jurisdiction a penalty of not more than \$25,000, if such entity is found to have refused to comply with or to have willfully violated any lawful rule or order of the Commission, or any provision of Chapter 364. As previously discussed, it appears that InTeleServ's tariffed rate for the surcharge element exceeded the rate cap established in Rule 25-24.630, Florida Administrative Code. We find, however, that InTeleServ's conduct does not rise to the level to warrant an order to show cause. InTeleServ corrected the problem and cooperated fully with our staff during the investigation. Moreover, InTeleServ has agreed to refund those customers overcharged with interest.

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Accordingly, we hereby decline to require InTeleServ to show cause for its apparent violation of Rule 25-24.630, Florida Administrative Code.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that International Tele-Services, Inc. d/b/a InTeleServ shall refund \$3,381.00, plus interest of \$228.64, for a total of \$3,609.64, to overcharged customers beginning June 1, 2000, and ending July 31, 2000. Any unrefunded amount, including interest, shall be remitted to the Commission by August 10, 2000, and forwarded to the Comptroller for deposit in the General Revenue Fund, pursuant to Section 364.285(1), Florida Statutes. It is further

ORDERED that International Tele-Services, Inc. d/b/a InTeleServ shall submit a final report as required by Rule 25-4.114, Florida Administrative Code, Refunds, by August 10, 2000. It is further

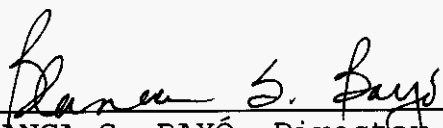
ORDERED that the proposed agency action, requiring International Tele-Services, Inc. d/b/a InTeleServ to refund \$3,381.00, plus interest of \$228.64, for a total of \$3,609.64, to overcharged customers beginning June 1, 2000, and ending July 31, 2000, shall become final and effective upon the issuance 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 Records and Reporting, 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

ORDERED that this Docket shall remain open pending completion of the refund ordered herein, remittance of the refund report, and to address any timely protest that may be filed in response to the proposed agency action. It is further

ORDERED that if the proposed agency action becomes final and effective, this Docket shall be closed administratively, upon completion of the refunds, and remittance of the refund report.

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By ORDER of the Florida Public Service Commission this 17th  
day of April, 2000.

  
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BLANCA S. BAYÓ, Director  
Division of Records and Reporting

( S E A L )

DMC

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 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.

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.

The action proposed herein, requiring International Tele-Services, Inc. d/b/a InTeleServ to refund \$3,381.00, plus interest of \$228.64, for a total of \$3,609.64, to overcharged customers beginning June 1, 2000, and ending July 31, 2000, 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 Records and Reporting, at 2540 Shumard Oak

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Boulevard, Tallahassee, Florida 32399-0850, by the close of business on May 8, 2000.

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 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 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.