

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 Network Operator Services, Inc.

DOCKET NO. 991269-TI  
ORDER NO. PSC-00-0775-PAA-TI  
ISSUED: April 20, 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

NOTICE OF PROPOSED AGENCY ACTION ORDER  
APPROVING METHOD OF REFUND OF OVERCHARGES

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.

Network Operator Services, Inc. (NOS), is a provider of interexchange telecommunications services, pursuant to certificate number 5557. On March 16 and March 18, 1999, our staff made two routine test calls from NOS pay telephones in Fort Myers. The calls were four minutes in duration and were billed \$3.65 each. Based on the rate cap established in Rule 25-24.630, F.A.C., the charge for each call should have been a maximum of \$2.95.

The company's tariff, which became effective May 7, 1998, stated that the rates, depending upon time of day and distance, were between \$.12 and \$.28 per minute. The tariff also added a \$1.00 location surcharge, in addition to the operator charge.

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On May 25, 1999, we wrote NOS and asked what caused the overcharge, how many calls were overcharged, what corrective measures had been implemented to prevent future overcharges and how the company proposed to refund the overcharged customers. Between May 25 and August 24, our staff had several contacts with the company.

NOS advised us that it had inadvertently failed to revise its tariff when the new rule went into effect on February 1, 1999. The company stated that 2,446 calls were charged the \$1.00 location surcharge. In addition, in March 1999, the company changed the per minute rate to the rate cap of \$.30, but failed to revise its tariff. Therefore, the overcharged consumers shall receive at least the \$1.00 overcharged amount, and, in appropriate cases, a refund on the per minute charge. In order to prevent this from happening in the future, NOS also advised us that it is currently interviewing regulatory consulting firms to advise it on changes that need to be made to keep NOS in compliance with rule changes.

We do not believe that NOS's conduct rises to the level that warrants an order to show cause. The Company corrected the problem and cooperated fully with our staff during the investigation. Moreover, NOS has agreed to refund those overcharged customers, including interest.

Upon consideration, pursuant to Rule 25-4.114, F.A.C., we accept NOS's refund proposal. The amount of refunds should be \$4,004.64, including interest of \$233.34. NOS will credit end users' bills for the overcharge plus interest. The credit will appear on the local telephone company statement in May 2000. Any unrefunded monies, including interest due, shall be remitted to the Commission and deposited in the General Revenue Fund, pursuant to Chapter 364.285(1), Florida Statutes. In addition, NOS will be required to file with the Commission a report, consistent with Rule 25-4.114, Florida Administrative Code, Refunds, once all monies have been refunded.

Based on the forgoing, it is

ORDERED by the Florida Public Service Commission that the method proposed by Network Operator Services, Inc. for refunding the overcharges is hereby approved. It is further

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ORDERED that Network Operator Services, Inc. shall refund \$4,004.64, including interest of \$233.34 in accordance with the terms of this order. The refunds shall appear as a credit on the affected end user's monthly statements in May, 2000. It is further

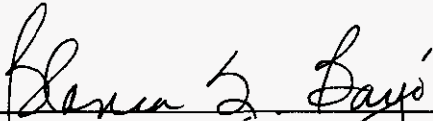
ORDERED that any unrefunded monies, including interest due, shall be remitted to the Commission and will be deposited in the General Revenue Fund, pursuant to Chapter 364.285(1), Florida Statutes. It is further

ORDERED that Network Operator Services, Inc. shall submit a refund report to the Commission once all monies have been refunded, as required by Rule 25-4.114(7), Florida Administrative Code. It is further

ORDERED that the provisions of this Order, issued as proposed agency action, 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 in the event this Order becomes final, and all monetary obligations imposed herein are satisfied, this Docket shall be closed.

By ORDER of the Florida Public Service Commission this 20th day of April, 2000.

  
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BLANCA S. BAYO, Director  
Division of Records and Reporting

( S E A L )

CLF

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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 that is available under Section 120.57, 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 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 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, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on May 11, 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.