

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 ASC Telecom, Inc. d/b/a AlternaTel.

DOCKET NO. 000020-TI
ORDER NO. PSC-00-1143-PAA-TI
ISSUED: June 23, 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.

On April 20, 1996, ASC Telecom, Inc. d/b/a AlternaTel (ASC) was issued certificate number 4398 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 a non person-to-person call. On July 29, 1999, while reviewing ASC's tariff for compliance with Rule 25-24.630, Florida Administrative Code, our staff found that ASC's tariffed rates appeared to exceed the rate cap. Pursuant to that finding, on July 29, 1999, we sent ASC a certified letter and requested from them additional information, to be provided no later than July 29, 1999.

DOCUMENT NUMBER-DATE

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FPSC-RECORDS/REPORTING

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Receiving no response, on September 1, 1999, our staff faxed a copy of the letter to ASC and was advised by the company that it did not receive staff's initial letter. Our staff then requested a response by September 15, 1999. On that date, ASC contacted our staff and asked for an extension until October 11, 1999, to file the requested information. On October 11, 1999, ASC faxed staff a partial response and, on October 15, 1999, it proposed to offer a refund to the customers who had been overcharged. According to ASC's response, it overcharged 10,263 customers by an amount of \$11,802.45.

Upon reviewing the billing data provided by ASC, we determined that ASC was also charging a set use fee in the amount of \$.25 in addition to the rate cap elements. As a result thereof, on May 17, 2000, ASC revised its calculations to reflect 19,674 calls overcharged a total of \$15,964.20. Of this amount, 12,273 calls were overcharged an amount of \$14,113.95 for the operator dialed surcharge and 7,401 calls were overcharged an amount of \$1,850.25 for the set use fee.

Upon consideration, we accept ASC's proposed refund calculations, including interest as required by Rule 25-4.114, Florida Administrative Code. We find that the amount of refunds should be \$17,208.63, including interest of \$1,244.43. ASC will credit end users' local exchange telephone bills for the overcharge plus interest between August 1 and September 30, 2000. Any unrefunded monies, including interest due, shall be remitted to the Commission by October 10, 2000, and deposited in the General Revenue Fund, pursuant to Chapter 364.285(1), Florida Statutes. In addition, ASC will be required to file a report, consistent with Rule 25-4.114, Florida Administrative Code, Refunds, with the Commission by October 10, 2000. If the company fails to issue the refunds in accordance with the terms of the Commission's Order, the company's certificate shall be canceled, and this docket shall be closed.

We do not believe that ASC's conduct rises to the level that warrants an order to show cause. ASC has corrected the problem and cooperated fully with our staff during the investigation. Moreover, ASC will be providing refunds, including interest, to overcharged customers.

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Based on the forgoing, it is

ORDERED by the Florida Public Service Commission that the method proposed by ASC Telecom, Inc. d/b/a AlternaTel for refunding the overcharges is hereby approved. It is further

ORDERED that ASC Telecom, Inc. d/b/a AlternaTel shall refund \$17,208.63, including interest of \$1,244.43 in accordance with the terms of this order. The refunds for the overcharge shall appear as a credit on the affected end user's monthly statements between August 1 and September 30, 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 ASC Telecom, Inc. d/b/a AlternaTel 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 if ASC Telecom, Inc. d/b/a AlternaTel fails to issue the refunds in accordance with the terms of this Order, the company's certificate shall be canceled, and this docket shall be closed. 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.

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By ORDER of the Florida Public Service Commission this 23rd
day of June, 2000.

BLANCA S. BAYÓ, Director
Division of Records and Reporting

By: Kay Flynn
Kay Flynn, Chief
Bureau of Records

(S E A L)

CLF

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 July 14, 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.