

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Investigation and determination of appropriate method for refunding apparent overcharges by Image Access, Inc. d/b/a NewPhone, Inc. due to overbilling on TASA fees.

DOCKET NO. 090106-TX
ORDER NO. PSC-09-0268-PAA-TX
ISSUED: April 28, 2009

The following Commissioners participated in the disposition of this matter:

MATTHEW M. CARTER II, Chairman
LISA POLAK EDGAR
KATRINA J. McMURRIAN
NANCY ARGENZIANO
NATHAN A. SKOP

NOTICE OF PROPOSED AGENCY ACTION
ORDER ACCEPTING IMAGE ACCESS' REFUND PROPOSAL

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.

I. Case Background

This Commission issued competitive local exchange telecommunications company (CLEC) certificate number 5783 to Image Access, Inc. d/b/a NewPhone, Inc. (Image Access) on February 2, 1999.

As part of our review of Image Access's application for eligible telecommunications carrier (ETC) status,¹ we issued a data request to the company on September 16, 2008. In the request, we asked for a sample customer bill.

Image Access responded on October 16, 2008. While reviewing the data, our staff found that the amount charged for the Telecommunications Access Surcharge Act (TASA) fee was incorrect. Each year, we approve the proposed budget for the Florida Telecommunications

¹ Docket No. 080523-TX - Petition for designation as eligible telecommunications carrier (ETC) by Image Access, Inc. d/b/a NewPhone, Inc., received on August 5, 2008.

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Relay and set the amount of the surcharge. The amount of the surcharge set in 2007 and 2008 was \$0.11. The sample bill provided by Image Access showed the charge as \$0.23.

Upon such finding, we requested that the company provide a breakdown of its taxes and fees on January 6, 2009. The company responded on January 14, 2009. After additional clarification, the company was informed that it appeared to be overcharging customers for the TASA fee. Our staff asked the company to identify the time period during which the overcharges occurred, the number of customers affected, and the total amount of the overcharges.

Image Access investigated and reported on February 4, 2009, that customers were billed \$0.23 per month from September 2006 to October 2008. The company said that its billing system in Florida had inadvertently been programmed with the wrong amount. Its controllers' notes indicated the charge should have been \$0.11 per month. Image Access stated that the billing software had been revised to bill the correct amount for the TASA fee in Florida.

Image Access submitted a refund proposal on March 6, 2009. We have jurisdiction over this matter pursuant to Sections 364.02, 364.04, and 364.285, Florida Statutes.

II. Analysis

This Commission issued Order Nos. PSC-07-0457-PAA-TP, issued on May 29, 2007, and PSC-08-0337-PAA-TP, issued on May 27, 2008, in Docket No. 040763-TP, In Re: Request for submission of proposals for relay service, beginning in June 2005, for the hearing and speech impaired, and other implementation matters in compliance with the Florida Telecommunications Access System Act of 1991, which set the TASA fee at \$0.11 for 2007 and 2008. Image Access charged its customers \$.23 per month for this fee, an apparent overcharge of \$0.12 per month.

To resolve this matter, Image Access proposes to issue a refund of \$2,164.16, plus interest in the amount of \$113.29, for a total of \$2,277.45, to the affected customers during its April 2009 billing cycle. We calculated the interest amount using the overcharges that occurred over the 26-month period from September 2006 to October 2008, with the expectation the company will refund the entire amount in April 2009. We used the average 30-day commercial paper rate for each month through February 2009, and the last available monthly interest rate of 0.770% for months beyond February 2009. Our calculation is consistent with the requirements of Rule 25-4.114, Florida Administrative Code.

III. Decision

Accordingly, we accept Image Access, Inc. d/b/a NewPhone, Inc.'s proposal to issue a refund of \$2,164.16, plus interest in the amount of \$113.29, for a total of \$2,277.45, to the affected customers during the April 2009 billing cycle; require the company to remit any unrefundable monies to this Commission by August 31, 2009, for deposit in the General Revenue Fund; and require the company to submit a refund report by August 31, 2009, to this Commission stating, (1) how much was refunded to its customers, (2) the total number of customers receiving refunds, and (3) the amount of money determined to be unrefundable.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Image Access, Inc. d/b/a NewPhone, Inc.'s refund proposal is hereby accepted as set forth in the body of this Order. It is further

ORDERED that the provisions of this Order, issued as a proposed agency action, become final and effective upon issuance of the Consummating Order if no person whose substantial interests are affected timely files a protest within 21 days of issuance of this Order. It is further

ORDERED that the company should submit its final report, identified by docket number, by August 31, 2009. If any monies are not refunded, Image Access should submit payment of these monies to this Commission at the time it submits its final report, and the Commission shall deposit these monies in the General Revenue Fund. It is further

ORDERED that upon receipt of the final report, this docket should be closed administratively if no timely protest has been filed.

By ORDER of the Florida Public Service Commission this 28th day of April, 2009.



ANN COLE
Commission Clerk

(SEAL)

TJB

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 Office of Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on May 19, 2009.

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/these docket(s) before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.