

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Investigation and determination of appropriate method for issuing out-of-service credits to all affected customers of ITS Telecommunications Systems, Inc.

DOCKET NO. 090161-TL
ORDER NO. PSC-09-0358-PAA-TL
ISSUED: May 26, 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 APPROVING METHOD FOR PROVIDING
OUT-OF-SERVICE 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.

I. Case Background

ITS Telecommunications Systems, Inc. (ITS) is certificated as a local exchange telecommunications company (LEC) with the Florida Public Service Commission (Commission).

As part of this Commission's service quality evaluation program, a comprehensive telephone service evaluation of ITS' only exchange, Indiantown, was conducted during the period May 19, 2008, to June 6, 2008. As part of the evaluation, we reviewed repair services for compliance with our service standards.

An analysis of ITS' 2007 repair tickets was conducted to determine whether out-of-service conditions were cleared within 24 hours and, if not, whether the proper rebate was automatically applied to the affected customer's account. In sampling ITS' records, we found that 33 rebates were not credited to customers that experienced out-of-service conditions for more than 24 hours.

DOCUMENT NUMBER-DATE

05196 MAY 26 8

FPSC-COMMISSION CLERK

On December 19, 2008, ITS was requested to investigate the missed rebates. ITS found that the apparent missed rebates were due to a peculiarity of the billing system implemented in April 2006. ITS stated that it hired a new clerk in September 2008 and during her training, noticed that the "auto date/time" field would fluctuate based on how the ticket was closed-out. For example, saving the cleared ticket file without exiting the file, and then saving again, or closing, could cause the date/time to change for that ticket. When that happened, it gave a false read on the actual ticket closing time. ITS reported that it has changed its procedures to assure that the system properly records the closing of the repair tickets.

In a thorough review of its records, ITS found that a total of 57 customers were due a credit for being out-of-service for more than 24 hours during the period March 1, 2006, to September 30, 2008. ITS stated that it would credit a total of \$327.88 in out-of-service rebates to customers' accounts for that period. Two customers are no longer with the company. One of those customers has an outstanding bill with the company and ITS applied the credit to the balance due. The credit due to the other former customer is \$0.63.

We have jurisdiction over this matter pursuant to Sections 364.01, 364.285, and 364.604, Florida Statutes.

II. Analysis

Rule 25-4.110(6), F.A.C., states the following:

Each company shall make appropriate adjustments or refunds where the subscriber's service is interrupted by other than the subscriber's negligent or willful act, and remains out of order in excess of 24 hours after the subscriber notifies the company of the interruption. The refund to the subscriber shall be the pro rata part of the month's charge for the period of days and that portion of the service and facilities rendered useless or inoperative; except that the refund shall not be applicable for the time that the company stands ready to repair the service and the subscriber does not provide access to the company for such restoration work. The refund may be accomplished by a credit on a subsequent bill for telephone service.

ITS issued credits on the customers' bills in the March and April 2009 billing cycles. ITS reported the number of customers, the amount to be refunded, and the amount that was unrefundable in its January 30, 2009 letter to this Commission. For the two customers entitled to a refund, but no longer in its system, ITS stated it would apply one customer's credit to his past-due balance, and would not mail a refund check to the last known billing address of the second because the amount was less than \$1.00.¹ ITS confirmed via e-mail on April 22, 2009, that the refund proposal proceeded as anticipated in its January 30, 2009 letter.

¹ Rule 25-4.114(5), F.A.C., Refunds, states in part, "For customers entitled to a refund but no longer on the system, the company shall mail a refund check to the last known billing address except that no refund for less than

Typically, we work with the regulated entity to define and calculate interest applicability for refunded principal amounts. In this case, ITS has already implemented the refunds. Because the total interest is \$19.93, we find that it is not practical for ITS to program its systems to implement the payment of interest for the small amount of interest our staff has determined. Because the interest amounts are small, and the costs to implement payment appear high, we find that interest payments should not be required, given that the refunds have already been completed. Rule 25-4.114, F.A.C., Refunds, provides us flexibility to order refunds with or without interest.

III. Decision

Accordingly, we approve ITS Telecommunications Systems, Inc.'s actions wherein the company issued a refund to the affected customers in the March and April 2009 billing cycles, for failing to issue automatic rebates to customers who experienced out-of-service conditions for more than 24 hours, as required by Rule 25-4.110(6), F.A.C., from March 2006 through September 2008.

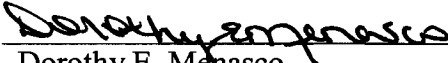
Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that ITS Telecommunications Systems, Inc.'s actions wherein the company issued a refund to the affected customers in the March and April 2009 billing cycles, for failing to issue automatic rebates to customers who experienced out-of-service conditions for more than 24 hours, as required by Rule 25-4.110(6), F.A.C., from March 2006 through September 2008 are approved. It is further

ORDERED that this Order will 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, this docket shall be closed upon issuance of the Consummating Order.

By ORDER of the Florida Public Service Commission this 26th day of May, 2009.

ANN COLE
Commission Clerk

By: 
Dorothy E. Manasco
Chief Deputy Commission Clerk

(S E A L)

JLM

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 June 16, 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.