

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Investigation into the ) DOCKET NO. 910666-TI  
billing practices of INTER- ) ORDER NO. PSC-92-1063-AS-TI  
NATIONAL TELECHARGE, INC. and ) ISSUED: 09/24/92  
PEOPLES TELEPHONE COMPANY. )  
\_\_\_\_\_ )

The following Commissioners participated in the disposition of this matter:

THOMAS M. BEARD, Chairman  
J. TERRY DEASON  
BETTY EASLEY  
LUIS J. LAUREDO

NOTICE OF PROPOSED AGENCY ACTION  
ORDER ACCEPTING SETTLEMENT OFFER

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 adversely affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

On December 5, 1991, our staff filed a recommendation for consideration at our December 17, 1991, Agenda Conference. That recommendation addressed the results of our staff's investigation into the billing practices of International Telecharge, Inc. (ITI) and Peoples Telephone Company (Peoples). ITI is a certificated interexchange carrier (IXC) that also provides alternative operator services (AOS), while Peoples is a certificated pay telephone service (PATS) provider. Both of these companies are large providers of intrastate telecommunications services throughout Florida. The staff recommendation alleged that substantial overcharging has occurred at confinement facilities served by ITI and Peoples, and at other locations served by ITI.

At the December 17, 1991, Agenda Conference, we deferred consideration of our staff's recommendation in response to requests from the companies to allow them to pursue the possibility of settling this matter. We believed such action to be reasonable, given the serious nature of the allegations of overcharging and the gravity of the potential penalties under consideration.

Subsequently, ITI and Peoples submitted a Joint Settlement and Refund Proposal on December 31, 1991, to address overcharging at confinement facilities. In addition, ITI filed a separate

DOCUMENT NUMBER-DATE

11149 SEP 24 1992

FPSC-RECORDS/REPORTING

Settlement and Refund Proposal to address overcharging at certain other locations. Our staff then filed a supplemental recommendation, and the matter was reset for our January 14, 1992, Agenda Conference.

At the January 14, 1992, Agenda Conference, we rejected both of the above-referenced settlement offers. On our own motion, we directed that this matter be set for hearing. These decisions are reflected in Order No. 25730, issued February 17, 1992. In accordance with our directive, a hearing has been scheduled for September 16, 1992.

On June 22, 1992, Peoples submitted a Settlement and Refund Proposal (Proposal). The Proposal addressed all of the issues raised regarding Peoples and its involvement in the incorrect rating and/or routing of telephone traffic originated from Peoples' pay telephones located in Florida Department of Corrections (FDOC) facilities, as well as Peoples' own store-and-forward (SAF) pay telephones at both correctional and non-correctional locations. By Order No. PSC-92-0728-AS-TI, issued July 28, 1992, we announced our intention to accept Peoples' Proposal. No protest was filed, so Order No. PSC-92-0728-AS-TI became final on August 19, 1992.

On August 19, 1992, ITI submitted a Settlement and Refund Proposal (ITI's Proposal). ITI also submitted several corrected pages for its Proposal on August 20, 1992. ITI's Proposal (including the corrected pages) is set forth as Attachment A to this Order. ITI's Proposal addresses all of the issues raised regarding ITI and its involvement in the incorrect rating and/or routing of telephone traffic originated from Peoples' and other pay telephones located in FDOC facilities, including calls billed through the "network override" feature. ITI's Proposal also addresses overcharges by ITI on intrastate calls originating from non-correctional locations. ITI's Proposal will result in refunds to customers of ITI's share of the overcharging that occurred in FDOC facilities during 1990 and 1991. In addition, ITI's Proposal recognizes that ITI also improperly handled or billed for operator assisted local and intraLATA calls in FDOC facilities. As a result, some refunds are to be made to local exchange companies (LECs), as well as to end users. ITI has also agreed to refund its share of the excess charges on interstate calls placed from FDOC facilities during 1990 and 1991. ITI has agreed to an independent audit of all of its intrastate calls from non-correctional locations for 1990 and 1991 and agrees to refund any overcharges that may exist. ITI's Proposal includes a true-up provision for

the FDOC related refund, as well as a bond in the amount of \$1.5 million to secure refunds from this docket, as well as from Docket No. 871394-TP. Finally, ITI's Proposal provides for a stipulated fine in the amount of two hundred fifty thousand dollars (\$250,000.00).

We have reviewed ITI's Proposal and find it to be a reasonable resolution of the issues involving ITI in this docket. While ITI emphasizes that its errors were unintentional, the Company has fully acknowledged its duty to have identified and corrected the problems that have occurred. In our view, a severe penalty is warranted in this case and will be an incentive for this company, as well as others in the industry, to exercise proper managerial oversight of their operations. In light of ITI's full admission to the excess charges and its willingness to continue working with our staff throughout the refund process, as well as its ongoing monitoring and auditing safeguards, we believe it is in the public interest to accept ITI's Proposal. Since the Proposal addresses all categories of traffic for which ITI received revenues to which it was not entitled, we do not believe the public would derive any additional benefit from proceeding to hearing against ITI. In our view, even though further quantification is required, the true-up and audit provisions, along with the bond, will ensure that all monies are ultimately refunded to those individuals and entities who were billed incorrectly. Accordingly, we shall accept the Proposal submitted by ITI. In closing, we wish to underscore how seriously we view the past behavior of this Company. Future violations simply will not be tolerated.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the Settlement and Refund Proposal submitted by International Telecharge, Inc. and set forth as Attachment A to this Order is hereby approved and shall be incorporated into this Order. It is further

ORDERED that International Telecharge, Inc. shall comply with all terms and conditions contained within the Settlement and Refund Proposal. It is further

ORDERED that if no proper protest is filed within the time frame set forth below, our proposed action shall become final and effective on the first working day following the date specified below. It is further

ORDERED that International Telecharge, Inc. shall pay to this Commission, within seven days of the date this Order becomes final, the sum of \$100,000.00 as the first installment of the stipulated fine. It is further

ORDERED that International Telecharge, Inc. shall pay to this Commission, within thirty days of the date this Order becomes final, the sum of \$50,000.00 as the second installment of the stipulated fine. It is further

ORDERED that International Telecharge, Inc. shall pay to this Commission, within sixty days of the date this Order becomes final, the sum of \$50,000.00 as the third installment of the stipulated fine. It is further

ORDERED that International Telecharge, Inc. shall pay to this Commission, within ninety days of the date this Order becomes final, the sum of \$50,000.00 as the fourth and final installment of the stipulated fine. It is further

ORDERED that International Telecharge, Inc. shall begin the refund process in accordance with the timetable set forth in its Settlement and Refund Proposal upon this Order becoming final. It is further

ORDERED that International Telecharge, Inc. shall secure the services of an outside auditor in accordance with the terms and conditions specified herein. It is further

ORDERED that International Telecharge, Inc. shall secure a bond in accordance with the requirements delineated herein. It is further

ORDERED that this docket shall remain open.

By ORDER of the Florida Public Service Commission this 24th day of September, 1992.

( S E A L )  
ABG

\_\_\_\_\_  
STEVE TRIBBLE, Director  
Division of Records and Reporting

by: Kay Hagan  
\_\_\_\_\_  
Chief, Bureau of Records

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), 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.

The action proposed herein is preliminary in nature and will not become effective or final, except as provided by Rule 25-22.029, Florida Administrative Code. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, as provided by Rule 25-22.029(4), Florida Administrative Code, in the form provided by Rule 25-22.036(7)(a) and (f), Florida Administrative Code. This petition must be received by the Director, Division of Records and Reporting at his office at 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on October 15, 1992.

In the absence of such a petition, this order shall become effective on the day subsequent to the above date as provided by Rule 25-22.029(6), Florida Administrative Code.

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 this order becomes final and effective on the date described above, any party adversely affected may request judicial review by the Florida Supreme Court in the case of an 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. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Investigation into the  
Billing Practices of International  
Telecharge, Inc. and Peoples  
Telephone Company, Inc.

Docket No. 910666-TI  
Filed August 20, 1992

SETTLEMENT AND REFUND PROPOSAL

International Telecharge, Inc. ("ITI") proposes to the Florida Public Service Commission (Commission or FPSC) the following as a basis for full and complete settlement of all matters relating to the issues raised with regards to ITI in this proceeding. As set forth more fully below, upon approval of this proposal, ITI will take all necessary steps to effect direct refunds, with interest, of excess or improper charges to affected customers. ITI also will pay to the Commission a total stipulated fine amount of \$250,000 in recognition of the seriousness of the matters at issue. In accordance with the specific terms and conditions set forth below, ITI makes this proposal in order to resolve this proceeding in the most effective, expeditious and economical way so as to avoid the time and expense of protracted litigation.

1. With respect to intrastate calls placed during the calendar years 1990-1991, from paystations within Florida confinement facilities operated by Peoples Telephone Company, Inc. ("PTC"), ITI proposes the following:

a. Upon approval of this proposal by the Commission, ITI will take the appropriate steps to return monies, with interest, to the persons actually billed and who have paid ITI MTS rates in excess of the MTS rate caps in Docket No. 891301-TC. The total refund amount taking into account an uncollectible factor of 8% is estimated by staff to be approximately \$750,000.

b. The estimated refund amount would be subject to a true-up based upon ITI's and Commission staff's calculations and any other relevant and accurate inputs received from other parties to this case. This refund will include interest calculated in accordance with Florida Administrative Code Rule 25-4.114(4). The refund will be completed within 90 days from the date the Commission's order approving the proposal becomes final and, wherever possible, effectuated through a direct credit to the customers' telephone bills. ITI will file monthly refund reports with the Commission, identifying the refunds made during the previous period, for review and tracking purposes, until the refund process is complete.

c. Although overcharges on calls placed from paystations within Florida confinement facilities operated by PTC primarily consisted of interLATA intrastate traffic, some of the

DOCUMENT NUMBER-DATE

09469 AUG 20 1992

FPSC-RECORDS/REPORTS

traffic also inadvertently included local and intraLATA calls despite ITI's efforts to exclude that type of traffic from its network. Because ITI was not authorized to handle local and intraLATA calls during this period, certain monies will be returned to the local exchange companies (LECs) and to end-users. Specifically, refunds relating to traffic originating from confinement facilities referenced in this paragraph will be made as follows:

(1) Charges on local calls received by ITI in excess of the applicable LEC tariffed rates (\$.25 plus operator service charges) will be refunded, with interest, to end users;

(2) For local calls inadvertently handled by ITI, revenues based on the applicable LEC tariffed rates (\$.25 plus operator service charges) will be returned to the LEC through appropriate adjustments, with interest, but net of any applicable access or other charges.

(3) Charges on intraLATA calls inadvertently handled by ITI in excess of the applicable LEC tariff rates (MTS plus operator charges) will be refunded, with interest, to end users;

(4) For intraLATA toll calls inadvertently handled by ITI, revenues based on the applicable LEC tariff rates (MTS + operator service charges) will be returned to the LEC through appropriate adjustments, with interest, but net of any applicable access or other charges;

(5) Charges on interLATA calls in excess of the applicable rates will be refunded, with interest to end users.

d. Although not subject to the jurisdiction of this Commission, ITI agrees to use its best efforts, subject to the resolution of its contractual or other disputes with PTC, to effectuate direct refunds of all net monies received by ITI from customers who were charged in excess of the rate requirements agreed to by PTC and the Florida Department of Corrections (FDOC) for interstate calls placed from FDOC confinement facilities served by PTC during the calendar years 1990 and 1991, a contract to which ITI was neither a party nor a recipient of outside of the context of this proceeding.

e. ITI will take all reasonable steps to locate those persons actually billed and who have paid, but not yet been credited for, overcharges in rates received by ITI for intrastate traffic originating at FDOC facilities during the 1990-1991 time frame. If, after reasonable effort, such persons cannot be located, ITI agrees to pay to the FDOC for the benefit of the Inmate Welfare Fund an amount equal to the refund that would have

been made had those persons been located, or to make such other disposition of the funds as the Commission deems appropriate.

f. Prior to late November, 1990, ITI routinely prevented its operators from extending calls that ITI could not bill due to the absence of a billing and collection agreement with the LEC. As a consequence, prisoners at Florida confinement facilities served by PTC experienced problems in making collect calls into the areas where ITI had no billing and collection agreement. Because of these problems, PTC specifically requested ITI to allow such calls to be processed even though ITI could not bill for them. ITI agreed to override its blocking function after PTC advised that tensions in prisons had reached crisis levels. One of the unintended by-products of the "block override" was that virtually all blocks -- including customer-requested collect call blocking -- were inadvertently overridden. The problem was identified and ITI moved quickly to devise a specific block which would allow unbillable collect calls to be processed, without also overriding other block commands. During the interim period, ITI recognizes that certain customers may have received collect calls that otherwise should have been blocked. To the extent that certain customers paid for collect calls that should not have been received, ITI agrees to refund to those customers, with interest, the charges that it collected. ITI will take the necessary steps to locate those customers who paid for such calls and complete the refund within 90 days of the Commission's order approving this proposal. If, after reasonable effort, such customers cannot be located, ITI will refund through a prospective reduction into its rates an amount equal to the direct refund, with interest, that would have been made had such persons been located.

2. With respect to intrastate calls carried by ITI and placed from paystations within Florida confinement facilities operated by non-LEC PATS providers other than PTC, ITI proposes the following:

a. For such calls placed during the calendar years 1990-1991, ITI will take the appropriate steps to return monies, with interest, to the persons actually billed and who have paid MTS rates in excess of the MTS rate caps in Docket No. 890821-TC. Specifically, ITI will take the necessary reasonable steps to locate those persons actually billed and who have paid excess MTS rates for calls placed from confinement facility locations during the calendar years 1990-1991. The estimated amount of this refund, taking into account an uncollectible factor of 8% and including interest calculated in accordance with Florida Administrative Code Rule 25-4.114(4), is \$13,390.92. The estimated refund amount will be subject to true up. ITI will complete this refund within 90 days of the date the Commission's order approving this settlement offer becomes final. If, after reasonable effort, such persons cannot be located, ITI agrees to pay to the FDOC for the benefit of the Inmate Welfare Fund an amount equal to the refund that would



have been made had those persons been located, or to make such other disposition of the funds as the Commission may direct.

b. Where unauthorized traffic was carried, ITI will return the appropriate monies to the LECS or the end users where appropriate, as specified in paragraph 1.c.(1)-(5).

3. With respect to intrastate calls carried by ITI at transient locations other than at Florida correctional facilities ITI proposes the following:

a. ITI has rerated calls made during the January, 1990 - October, 1991 time frame in accordance with its approved tariff and has determined that undercharges as well as overcharges have inadvertently occurred during this period. ITI has determined that undercharges exceeded excess charges during the period in question. However, because certain end users were inadvertently charged excess rates, certain refunds of monies collected are in order. ITI thus will institute direct refunds to persons actually billed and who have paid MTS rates and operator surcharges in excess of ITI's approved tariff as soon as possible but not later than the date of the Commission's order approving this proposal. The estimated amount of the refund is approximately \$27,797.75 taking into account an uncollectible factor of 8% and including interest calculated in accordance with Florida Administrative Code Rule 25-4.114(4). The refund amount will be subject to true up consistent with the provisions of paragraph 1.b. and the audit referenced in subparagraph c. below. Refunds will be directly credited to the customer's bill wherever possible.

b. In order to effect direct refunds, ITI will employ its best efforts to locate those persons actually billed and who have paid for the excess rates at transient locations served by ITI. In the event that after reasonable effort such persons cannot be located, ITI shall refund through a prospective reduction to its rates an amount equal to the direct refund, with interest, that would have been made had such persons actually been located.

c. ITI will submit to an audit by an outside auditor to ensure accurate rating of intrastate calls placed from locations outside of Florida confinement facilities for the period January, 1990 through October, 1991. ITI will select the outside auditor within 30 days of the date that the order approving this proposal becomes final, such selection being subject to staff approval. ITI will take all reasonable steps to ensure that the audit is complete within 120 days from the staff approval of ITI's selection of the outside auditor.

4. During the time the above refunds are effectuated, ITI will report on a monthly basis to staff on the status of these refunds. ITI will also secure a bond in the amount of \$1,500,000 for all revenues subject to refund, including the revenues

currently subject to refund in Docket No. 871394-TI. The bond amount will be adjusted 90 days from the date the Commission's order approving this proposal becomes final to reflect the outstanding balance subject to refund at that time. The name of the bonding company and proof of the bond will be provided not later than within 7 days of the date the Commission's order approving this proposal becomes final.

5. ITI will institute all such reasonable procedures on a going forward basis, in addition to the procedures ITI already has in place, to implement necessary audit and monitoring safeguards to assure that the mishandling of traffic here at issue never reoccurs in the future. On a going forward basis, ITI will also work in full cooperation with Commission staff to identify and develop other needed enhancements to internal steps already taken by ITI to ensure the fullest reasonably attainable compliance with Commission regulations and requirements in this area.

6. Although ITI acknowledges and accepts the company's responsibility for its part of the charges here at issue, this proposal is made in the interest of settlement and should not be construed as an admission against interest, preclusion, or waiver of rights, obligations or responsibilities by ITI with respect to the issues or the other parties explicitly or implicitly involved in this proceeding, or an admission of liability with respect to any other non-governmental party. Approval of the proposal shall constitute settlement in full of all matters implicitly or explicitly relating to the issues raised with respect to ITI in this proceeding. Consistent with such consideration, ITI agrees to pay to the Commission, in accordance with the schedule set forth below, a total stipulated fine amount of \$250,000 to resolve this matter in full:

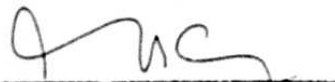
- \* Within 7 days of the date of the Commission order approving this proposal becomes final -- \$100,000 to address violations in confinement facilities;
- \* Within 30 days of the date that the Commission order approving this proposal becomes final- \$50,000 to address the violations in the non-confinement transient intrastate locations;
- \* Within 60 days of the date that the Commission order approving this proposal becomes final- \$50,000 to address the violations in the non-confinement transient intrastate locations; and
- \* Within 90 days of the date the Commission order approving this proposal becomes final -- \$50,000 to address the extensive staff time required to conduct this investigation.

ORDER NO. PSC-92-1063-AS-TI  
DOCKET NO. 920666-TI  
PAGE 11

ATTACHMENT A  
PAGE 6 OF 6

Such fine payment shall be in addition to any refund amounts made to customers in accordance with the above-identified terms and conditions.

Respectfully submitted,



---

Gregory M. Casey  
Senior Vice President of  
Regulatory and Telephone  
Company Relations  
International Telecharge, Inc.  
6707 Democracy Blvd., Suite 800  
Bethesda, Maryland 20817