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MEMORANDUM

FPSC - Records/Reporting

JULY 2, 1997

TO: DIRECTOR, DIVISION OF RECORDS AND REPORTING (BAYO)

FROM: DIVISION OF COMMUNICATIONS (CORDIANO) *RC*  
DIVISION OF AUDITING & FINANCIAL ANALYSIS (LESTER) *PL*  
DIVISION OF LEGAL SERVICES (PELLEGRINI) *MB*

RE: DOCKET NO. 970621-TI - INITIATION OF SHOW CAUSE PROCEEDINGS AGAINST AMERICAN TELECOMMUNICATIONS ENTERPRISE, INC. D/B/A AMERICAN TELECOM FOR VIOLATION OF RULES 25-24.630(1)(A), F.A.C., AND 25-24.480, F.A.C.

AGENDA: JULY 15, 1997 - REGULAR AGENDA - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: S:\PSC\CMU\WP\970621TI.RCM

CASE BACKGROUND

American Telecommunications, Inc. d/b/a American Telecom ("ATI") has been a certificated operator service provider (OSP) since June 15, 1993. ATI has reported gross intrastate revenues of \$99,003.31 for the year ending December 31, 1996.

Staff routinely evaluates pay telephones for compliance with the rate cap set forth in Rule 25-24.630(1)(a), Florida Administrative Code. During the evaluation process, a direct dialed 0+ interLATA credit card call is made from each pay telephone to a test number in Tallahassee. Upon review of the call timing tape and billing detail, the calls are verified against the rate cap for compliance.

Based on a test call from the pay telephone with number 813-846-6964 listed to CoinTel International located at a Miami Subs at 6206 U.S. Hwy 19, New Port Richey, Florida, ATI was found to be the alternative operator services (AOS) provider handling the 0+ interLATA traffic. Upon staff's analysis, the call was found to be overtimed and rated in excess of the Commission-approved rate cap.

Staff has sent numerous letters to ATI addressing the apparent rule violations and requesting that ATI respond accordingly. ATI

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has acknowledged an overcharging problem, determined the amount of the overcharges and offered a settlement proposal, which is shown as Attachment A.

Staff believes the following recommendations are appropriate.

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission accept ATI's settlement proposal?

RECOMMENDATION: Yes, the Commission should accept the terms of ATI's settlement, with the requirement that ATI submit a verification report confirming ATI has issued \$4,906.92 in refunds or credits, as calculated in Attachment B, within 90 days of the effective date of the Commission's order. Additionally, the Commission should require ATI to pay the settlement amount of \$18,988.72, within 90 days of the effective date of the Commission's order, with the monies to be forwarded to the Office of the Comptroller for deposit in the State General Revenue Fund in accordance with Section 364.285(1), Florida Statutes. (Cordiano)

STAFF ANALYSIS: On March 29, 1996, the pay telephone with number 813-846-6964 operated by Cointel International, Inc. at Miami Subs in New Port Richey, Florida was evaluated. A review of our calling tapes, evaluation form, and respective billing detail, indicates ATI overtimed and rated in excess of the 0+ interLATA rate cap which is a violation of Rule 25-24.630(1)(a), Florida Administrative Code. Specifically, the 1 minute and 39 second test call should have been billed for 2 minutes at a cost not to exceed \$1.77. Instead, ATI billed the call for 3 minutes at a cost of \$2.52. The \$1.77 is based on the Commission-approved 0+ interLATA rate cap set forth in the aforementioned rule. The following analysis shows that the test call should have been billed at a cost of \$1.73:

|                                    | <u>Rate Cap</u> | <u>ATI's Tariff</u> |
|------------------------------------|-----------------|---------------------|
| Applicable AT&T rate.....          | \$ .2600        | \$ .2600            |
| Each add'l minute.....             | .2600           | .2215               |
| Operator/Calling Card charges....  | 1.0000          | 1.0000              |
| Set use fee, fixed rate.....       | <u>.2500</u>    | <u>.2500</u>        |
| Total charges.....                 | \$1.7700        | \$1.7315            |
| Billed at (rounded to lower cent): | \$1.77          | \$1.73              |

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Therefore, the test call was overtimed by 1 minute, resulting in an overcharge of \$.79, i.e., overtiming charge of \$.2215 plus overrating charge of \$.5685. Furthermore, even if we were to consider the call to have been correctly timed for three minutes, it should have been billed at a cost of \$1.95, not \$2.52, which computes to a \$.57 overrating charge. Hence, both conditions give rise to an overrating problem.

Numerous requests were made to ATI to furnish information concerning the overbilling, to which ATI failed to timely respond. Staff considered recommending to the Commission that ATI be required to show cause why it should not be fined up to \$25,000 per day for violation of Rule 25-24.630(1)(a), Florida Administrative Code, for overcharging customers, and Rule 25-24.480, Florida Administrative Code, for failure to timely respond to the Commission's inquiries. However, prior to staff's completion of the recommendation for a show cause, ATI offered a settlement proposal as shown in Attachment A.

In its proposal, ATI admits to overcharging its customers due to a rounding up of all calls to 3 minutes. ATI states that the violation affected operator service traffic and not business and residential billings. ATI notes that it has corrected the billing error which was caused by the billing file for Florida being inadvertently corrupted during a process to modify its rate structures for the summer 1996 Olympics in Georgia. ATI further states that the excess charges accounted for only a small portion of its total revenues, and that there were no deliberate attempts to overcharge the customers.

To prevent future occurrences, ATI now requires all billing charges to be approved by certain personnel. It has also decreased the number of software personnel who may access the billing programs.

In regard to ATI's failure to timely respond to Commission staff's inquiries, ATI states that it was undergoing organizational changes that left some personnel without certain operational authorities. A backlog developed, which caused it to fail to timely respond to the Commission's inquiries. ATI is now under new management and offers the assurance that the problems will not recur. ATI notes that these problems did not affect the quality of service offered to consumers.

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Upon review of ATI's proposed settlement offer, staff believes that it is reasonable and in the public interest. Staff recommends that the Commission accept ATI's settlement offer, which includes refunding the overcharged customers the total amount of \$4,906.92, and paying the settlement offer of \$18,988.72, i.e., \$8,988.72 for overcharging customers, plus \$10,000 for failing to timely respond to the Commission's inquiries, to be forwarded to the Office of the Comptroller for deposit in the State General Revenue Fund, pursuant to Section 364.285(1), Florida Statutes, within 90 days of the effective date of the Commission's order. Furthermore, ATI should be required to furnish the Commission with written verification that it has issued the \$4,906.92 in refunds or credits to the overcharged customers, also within 90 days of the effective date of the Commission's order.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: Yes, this docket should be closed when ATI satisfies all of the conditions of its settlement proposal and meets the requirements specified in Issue 1. (Pellegrini)

STAFF ANALYSIS: This docket should be closed when ATI satisfies all of the conditions of its settlement proposal and meets the requirements specified in Issue 1.: ATI should submit a verification report confirming that ATI has issued the \$4,906.92 in refunds or credits, as calculated in Attachment B, within 90 days of the effective date of the Order; and pay the settlement amount of \$18,988.72, within 90 days of the effective date of the Commission's order. The monies should be forwarded to the Office of the Comptroller for deposit in the State General Revenue Fund in accordance with Section 364.285(1), Florida Statutes.



**American Telecom**

7323 Oswego Road • Liverpool, NY 13090  
Mailing Address: P.O. Box 6544, Syracuse, NY 13217  
Tel: 315-453-2323 • Fax: 315-453-1011

June 13, 1997

970621

Charlie Pellegrini, Staff Counsel  
Florida Public Service Commission  
2540 Sherwood Oak Blvd  
Tallahassee, Florida 32399-0850

Re: Amended Proposal

Dear Mr. Pellegrini:

We were requested to amend our original proposal to include the interest on the amount owed on overcharges for operator services. Enclose is our Amended Proposal for your review to the Commission

If there is any further information that the commission needs before your agenda on July 15, 1997, please do not hesitate to contact this office.

Sincerely,  
American Telecommunications  
Enterprise, Inc.

By: [Signature]  
Carl E. Worboys,  
Legal Counsel

enc./smh

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SEEKING FOR PROFILES

AMENDED  
PROPOSAL TO THE  
FLORIDA PUBLIC SERVICE  
COMMISSION FOR SETTLEMENT  
OF BILLING DISCREPANCIES AND  
RESPONSE ISSUES TO INQUIRIES  
FROM THE COMMISSION

American Telecommunications Enterprises, Inc. ("American Telecom") submits this proposal for settlement to the Florida Public Service Commission concerning two separate issues, over billing and response to the Commission's inquiries:

1. OVERCHARGES ON OPERATOR SERVICES

On an inquiry from the Commission, American Telecom examined its billing records regarding charges for intrastate Florida traffic and determined that American Telecom had in fact overcharged due to a rounding up of all calls to three minutes. This violation occurred only on operator service traffic and not on business and residential billing. Tests by the Commission's representative indicated that in July 31, 1996 our business and residential billing was correctly timed.

American Telecom determined that customers had been overbilled in the amount of \$4,494.36.

An investigation determined that the billing file for Florida had inadvertently been corrupted during a process to modify our rate structures for the Olympic time periods to occur in Georgia in the summer of 1996. At the time, a major customer was planning a major investment in privately owned payphones in Fulton County, Georgia and American Telecom was testing its billing procedures for private payphones in Georgia. Modifications were made to operator services billing in Florida where American Telecom had two small payphone clients.

American Telecom did correct the error on its own initiative.

It is submitted that the billing overcharges were caused by an error and not by an attempt to gouge the public. The excess charges represent a small part of the Company's total revenue and consequently occurred through operational mistakes and not bad faith.

To correct those operational mistakes, American Telecom now requires that all billing charges be approved by three individuals, Joseph Passalacqua, Spencer Lovelace and the undersigned prior to implementation. We have in addition curtailed the number of software personnel having access to the billing programs. This process will prevent improper assumptions by operational personnel and specific improper requests from customers.

## 2. RESPONSE TO THE COMMISSION

In 1996, American Telecom's Chief Executive Officer maintained his office in Seattle, Washington. On receipt of the inquiry from the Commission, the undersigned forwarded the information to that individual as per his directions.

With no operations' authority at that time, the undersigned awaited directions. Those directions were not timely and American Telecom did not respond in the time frame required by statute. This situation has been remedied with the resignation of that officer, the closing of the Seattle office and consolidation of all responsibility in our Liverpool office.

With the resignation of that officer, certain contractual and operational functions fell to the undersigned and we were remiss in replying to the Commission requests. Due to the fact of travel commitments and the amount of material received from the various states, I fell very far behind in the work schedule.

This problem did not reflect in our responses to our customers, due to the fact that our customer service representatives were on duty six days per week to respond to inquiries.

Consequently, we ask that the Commission grant some consideration to a small company undergoing some very substantial changes during the period in question.

## 3. PROPOSAL

American Telecom proposes the following as settlement to the Commission:

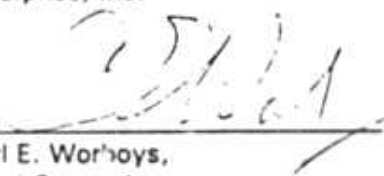
- (1) Refund of the \$4,494.36 to the customers overcharged by issuing the credits through our billing agent, EDS;
- (2) Written verification to the Commission that the credits have been issued;
- (3) A penalty paid to the Commission of twice the amount of overcharges or \$8,988.72;
- (4) A penalty paid to the Commission of \$10,000 for failure to timely respond to inquiries;
- (5) Continued checks and balances on the billing system by corporate officers;
- (6) Continued monitoring of the billing itself.

4. INTEREST

According to Florida Rule 25.4.114, the interest accrued on the amount of \$4,494.36 is \$412.56. American Telecom has agreed to pay the total of \$4,906.92 which is the overbilled amount with interest added.

We ask that the Commission look with favor on this proposal.

Respectively Submitted,  
American Telecommunications  
Enterprise, Inc.

By:   
Carl E. Worhoys,  
Legal Counsel



State of Florida



## Public Service Commission

-M-E-M-O-R-A-N-D-U-M-

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**DATE:** June 16, 1997  
**TO:** Victor Cordiano, Division of Communications  
**FROM:** Pete Lester, Division of Auditing and Financial Analysis *PL* *ALM*  
**RE:** Docket No. 970621-TI, American Telecommunications Enterprise, Inc. *APC* *ms* Interest  
Calculation of Refund

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This is a revision of my memorandum dated May 22, 1997, due to the one month extension of time.

The total refund amount of \$4,906.92 consists of \$4,494.36 in overcharges and \$412.56 in interest. I have assumed that the overcharges occurred evenly within each month between February 1, 1996 and April 30, 1996, and the refund will occur between August 5, 1997 and November 5, 1997. The last available interest rate of 5.61% for the month of May 1997 is used for the future period from May 1997 through September 1997. Attached is a schedule that shows the calculations.

Docket No. 970621-TI  
 American Telecommunications Enterprise, Inc.  
 Interest Calculations of Refund

| MONTH             | AVERAGE MONTHLY INTEREST RATE | MONTHLY INTEREST FACTOR | MONTHLY OVERCHARGES | MONTHLY OVERCHG INTEREST | MONTHLY OVERCHARGE PRINCIPAL AND INTEREST | BALANCE BROUGHT FORWARD PLUS INTEREST | REFUND BALANCE | MONTHLY REFUND    |
|-------------------|-------------------------------|-------------------------|---------------------|--------------------------|---|---------------------------------------|----------------|-------------------|
| FEB '96           | 5.37%                         | 0.447%                  | \$1,788.59          | \$8.00                   | \$1,796.59                                | \$0.00                                | \$1,796.59     |                   |
| MAR               | 5.42%                         | 0.451%                  | \$1,427.17          | \$6.44                   | \$1,433.61                                | \$1,804.69                            | \$3,238.30     |                   |
| APR               | 5.45%                         | 0.454%                  | \$1,278.60          | \$5.81                   | \$1,284.41                                | \$3,253.01                            | \$4,537.42     |                   |
| MAY               | 5.40%                         | 0.450%                  |                     |                          |   | \$4,557.84                            | \$4,557.84     |                   |
| JUN               | 5.46%                         | 0.455%                  |                     |                          |   | \$4,578.57                            | \$4,578.57     |                   |
| JUL               | 5.49%                         | 0.457%                  |                     |                          |   | \$4,599.50                            | \$4,599.50     |                   |
| AUG               | 5.43%                         | 0.452%                  |                     |                          |   | \$4,620.30                            | \$4,620.30     |                   |
| SEP               | 5.42%                         | 0.452%                  |                     |                          |   | \$4,641.16                            | \$4,641.16     |                   |
| OCT               | 5.41%                         | 0.451%                  |                     |                          |   | \$4,662.09                            | \$4,662.09     |                   |
| NOV               | 5.42%                         | 0.451%                  |                     |                          |   | \$4,683.13                            | \$4,683.13     |                   |
| DEC               | 5.70%                         | 0.475%                  |                     |                          |   | \$4,705.37                            | \$4,705.37     |                   |
| JAN 97            | 5.70%                         | 0.475%                  |                     |                          |   | \$4,727.72                            | \$4,727.72     |                   |
| FEB               | 5.44%                         | 0.453%                  |                     |                          |   | \$4,749.15                            | \$4,749.15     |                   |
| MAR               | 5.59%                         | 0.465%                  |                     |                          |   | \$4,771.26                            | \$4,771.26     |                   |
| APR               | 5.68%                         | 0.473%                  |                     |                          |   | \$4,793.84                            | \$4,793.84     |                   |
| MAY               | 5.61%                         | 0.468%                  |                     |                          |   | \$4,816.25                            | \$4,816.25     |                   |
| JUN               | 5.61%                         | 0.468%                  |                     |                          |   | \$4,838.77                            | \$4,838.77     |                   |
| JUL               | 5.61%                         | 0.468%                  |                     |                          |   | \$4,861.39                            | \$4,861.39     | \$0.00            |
| AUG               | 5.61%                         | 0.468%                  |                     |                          |   | \$4,884.12                            | \$3,249.12     | \$1,635.00        |
| SEP               | 5.61%                         | 0.468%                  |                     |                          |   | \$3,264.31                            | \$1,629.31     | \$1,635.00        |
| OCT               | 5.61%                         | 0.468%                  |                     |                          |   | \$1,636.92                            | \$0.00         | \$1,636.92        |
| TOTAL OVERCHARGES |                               |                         | <u>\$4,494.36</u>   |                          |   |                                       |                |                   |
|                   |                               |                         |                     |                          |   | TOTAL INTEREST                        |                | \$412.56          |
|                   |                               |                         |                     |                          |   | TOTAL OVERCHARGE                      |                | <u>\$4,494.36</u> |
|                   |                               |                         |                     |                          |   | TOTAL REFUND                          |                | \$4,906.92        |

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DATE: JUL 2, 1997