

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Initiation of show cause proceedings against American Telecommunications Enterprise, Inc. d/b/a American Telecom for violation of Rules 25-24.630(1)a) and 25-24.480, F.A.C.

DOCKET NO. 970621-TI
ORDER NO. PSC-97-0916-AS-TI
ISSUED: August 4, 1997

The following Commissioners participated in the disposition of this matter:

JULIA L. JOHNSON, Chairman
J. TERRY DEASON
SUSAN F. CLARK
DIANE K. KIESLING
JOE GARCIA

ORDER ACCEPTING SETTLEMENT

BY THE COMMISSION:

American Telecommunications, Inc., d/b/a American Telecom (ATI) has been a certificated operator services provider (OSP) since June 15, 1993. The company reported gross intrastate revenues of \$99,003 for the year ending December 31, 1996.

Our 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 the pay telephone to a test number in Tallahassee. Upon inspection of the call timing tape and billing detail, the call is compared to the rate cap for compliance.

A test call on March 29, 1996, from the pay telephone with the number 813-846-6964, listed to CoinTel International and located at Miami Subs, 6206 U.S. Highway 19, New Port Richey, Florida, was found to be overtimed and rated in excess of the Commission-approved rate cap, a violation of Rule 25-24.630(1)(a), Florida

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Administrative Code. ATI was the alternative OSP handling 0+ interLATA traffic.

The test call lasted 1 minute and 39 seconds. It should have been billed for 2 minutes at a charge not to exceed \$1.77. Instead, ATI billed the call for 3 minutes at a charge of \$2.52. The \$1.77 maximum charge is based on the Commission-approved 0+ interLATA rate cap set forth in Rule 25-24.630(1)(a), Florida Administrative Code. In fact, the test call should have been billed at a charge of \$1.73. Thus, the test call was overtimed by 1 minute, resulting in an overcharge of \$0.79 (\$2.52 less \$1.73). The overcharge consists of an overtiming charge of \$.2215 and an overrating charge of \$.5685.

Our staff sent several letters to ATI addressing the apparent rule violation. ATI initially failed to respond. Our staff was prepared to recommend to us that we require ATI 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 consumers, and Rule 25-24.480, Florida Administrative Code, for failure to timely respond to Commission inquiries. On June 9, 1997, however, ATI acknowledged the overcharges and offered a settlement proposal. On June 13, 1997, the company amended its proposal (Attachment A) to include interest in the amount it proposed to refund to the overcharged consumers.

In its settlement proposal, ATI acknowledges overcharging consumers due to rounding up calls to 3 minutes. ATI states that only operator services traffic was overcharged, not business and residential traffic. ATI explains that the overcharges resulted from an inadvertent corruption of the Florida billing file during a project to modify rate structures for the 1996 Olympics in Georgia. ATI further states that the overcharges were not deliberate and accounted for only a small portion of its total revenues.

To prevent future occurrences of this kind, ATI now requires all billing charges to be approved only by designated personnel. It has also restricted access to its billing programs.

ATI states further that its failure to respond as required to Commission inquiries was the result initially of a breakdown in communications inside the company, compounded by a work overload. This has been remedied, ATI claims, with a consolidation of its administration in its Liverpool, N.Y. office. ATI notes that these

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problems did not affect the quality of service offered to consumers.

Under its settlement offer, ATI will refund to the overcharged consumers the amount of \$4,906.92, and make a payment in settlement of \$18,988.72. ATI arrived at the latter amount by doubling the amount of the overcharges to consumers, \$8,988.72, and adding \$10,000 for its failure to timely respond to Commission inquiries. We believe ATI's settlement offer is reasonable, and, accordingly, we find it appropriate to accept it.

ATI shall make the payment in settlement to the Florida Public Service Commission within 90 days of the issuance of this Order. Upon receipt, the payment shall be forwarded to the Office of the Comptroller for deposit in the General Revenue Fund, pursuant to Section 364.285(1), Florida Statutes. Furthermore, ATI shall furnish the Commission with written verification that it has made the refunds or issued credits to the overcharged consumers in the correct amount also within 90 days of the issuance of this Order.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the settlement offer of American Telecommunications, Inc., d/b/a American Telecom, attached hereto as Attachment A and incorporated herein by reference, is accepted. It is further

ORDERED that American Telecommunications, Inc., d/b/a American Telecom, shall refund to its consumers the amount of \$4,906.62 within 90 days of the issuance of this Order. It is further

ORDERED that American Telecommunications, Inc., d/b/a American Telecom shall file with this Commission within 90 days of the issuance of this Order a verification of the completed consumer refund. It is further

ORDERED that American Telecommunications, Inc., d/b/a American Telecom shall make a payment in settlement to this Commission in the amount of \$18,988.72, which shall be forwarded on receipt to the Office of the Comptroller for deposit in the General Revenue Fund, pursuant to Section 364.285(1), Florida Statutes. It is further

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ORDERED that this docket shall be closed administratively when American Telecommunications, Inc., d/b/a American Telecom has satisfied in full the settlement herein accepted.

By ORDER of the Florida Public Service Commission, this 4th day of August, 1997.

BLANCA S. BAYÓ, Director
Division of Records and Reporting

By: Kay Flynn
Kay Flynn, Chief
Bureau of Records

(S E A L)

CJP .

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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 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.

Any party adversely affected by the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or 2) judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or the First District Court of Appeal in the case of a water and/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 after the issuance 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.

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FILE COPY



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.

- ACK _____
- AFA _____
- APP _____
- CAF _____
- CMU 1
- CTR _____ enc./smh
- EAG _____
- LEG 1
- LIN 5
- OFC _____
- ROH _____
- SEC 1
- WAS _____
- OTH _____

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

Florida Public Service Commission
JUN 16 1997
LEGAL DIVISION

Florida Public Service Commission
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LEGAL DIVISION

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FEDERAL COMMUNICATIONS

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 operational 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:

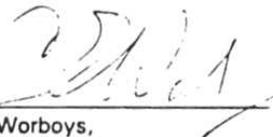
- (1) Refund of the \$4,494.36 to the customers overcharged by issuing the credits through our billing agent, EDS;
- (2) Written verification to the Commission that the credits have been issued;
- (3) A penalty paid to the Commission of twice the amount of overcharges or \$8,988.72;
- (4) A penalty paid 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.

Respectfully Submitted,
American Telecommunications
Enterprise, Inc.

By: 
Carl E. Worboys,
Legal Counsel