



Public Service Commission

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RECORDS AND REPORTING

DATE: JANUARY 6, 2000

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

FROM: DIVISION OF COMMUNICATIONS (BIEGALSKI) *KB*
 DIVISION OF AUDITING AND FINANCIAL ANALYSIS (D. DRAPER) *DD*
 DIVISION OF LEGAL SERVICES (CALDWELL) *DWC* *PLC*

RE: DOCKET NO. 991503-TI - INVESTIGATION OF GTE COMMUNICATIONS CORPORATION FOR INCORRECT BILLING OF INTRASTATE 0+ CALLS MADE FROM PAY TELEPHONES AND INTRASTATE 0+ CALLS MADE IN A CALL AGGREGATOR CONTEXT.

AGENDA: 1/18/00 - REGULAR AGENDA - PROPOSED AGENCY ACTION - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMU\WP\991503.RCM

CASE BACKGROUND

- November 23, 1995 - GTE Communications Corporation (GTE) was issued certificate number 4080 to operate as an interexchange telecommunications company.
- February 1, 1999 - Rule 25-24.630, Florida Administrative Code, Rate and Billing Requirements, was amended to cap rates from pay telephones or a call aggregator context to \$.30 per minute plus the operator charge.
- May 25, 1999 - Staff mailed a certified letter to GTE regarding the apparent overcharge of a test call made from a pay telephone during a routine service evaluation. In addition, staff noticed that GTE's tariff was not in compliance with the rate caps implemented February 1, 1999.

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- June 9, 1999 - GTE responded to staff's letter concerning the apparent overcharge and operator service provider rates in its tariff stating that it had failed to revise its tariff to comply with the new rate caps.
- August 19, 1999 - GTE proposed to offer a refund to the customers who had been overcharged. GTE's response states that it overcharged 133,336 calls by an amount of \$61,636.40.

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission accept GTE Communications Corporation's offer of refund and refund calculation of \$61,636.40, plus interest of \$3,573.99, for a total of \$65,210.39, for overcharging end users on intrastate 0+ calls made from pay telephones and in a call aggregator context from February 1, 1999 through May 31, 1999?

RECOMMENDATION: Yes. The Commission should accept GTE's refund calculation of \$61,636.40, adding interest of \$3,573.99, for a total of \$65,210.39, and proposal to credit customer bills between March 1, 2000, and April 30, 2000, for overcharging customers on intrastate 0+ calls made from pay telephones and in a call aggregator context from February 1, 1999, though May 31, 1999. The refunds should be made through credits to customers' bills between March 1, 2000, and April 30, 2000. At the end of the refund period, any unrefunded amount, including interest, should be remitted to the Commission by May 10, 2000, and forwarded to the Comptroller for deposit in the General Revenue Fund, pursuant to Section 364.285(1), Florida Statutes. At the end of the refund period, GTE should submit a final report as required by Rule 25-4.114, Florida Administrative Code, Refunds. **(Biegalski)**

STAFF ANALYSIS: During a routine service evaluation, it was determined that GTE was overcharging for 0+ calls made from pay telephone stations. In addition, during a review of the operator service provider rates listed in its tariff, it was determined that GTE was not in compliance with the rate caps implemented February 1, 1999. Based on this information, staff sent a letter to GTE on May 25, 1999, requesting a written response to staff's allegations concerning the apparent overcharges. On June 9, 1999, GTE

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responded to staff's inquiry stating that it failed to update its tariff and rate table to comply with the new rate caps. Therefore, overcharges had occurred from February 1, 1999 through May 31, 1999. In addition, GTE proposed to offer a refund on the 133,336 calls that were overcharged in the amount of \$61,636.40.

GTE submitted its tariff revisions to staff and they were effective June 1, 1999. The new rates comply with the Commission's rate caps as stated in Rule 25-24.630, Florida Administrative Code, Rates and Billing Requirements for 0+ intrastate toll calls placed from pay telephone stations and placed in a call aggregator context.

Based on the foregoing, the Commission should accept GTE's refund pursuant to Rule 25-4.114, Florida Administrative Code. The amount of the refunds should be \$65,210.39 including interest of \$3,573.99. The company has agreed to credit end users' bills plus interest. The credit will appear on the customer's local telephone company statement between March 1, 2000, and April 30, 2000. Any remaining monies, including interest due unidentified consumers, should be remitted to the Commission by May 10, 2000, and deposited in the General Revenue Fund, pursuant to Section 364.285(1), Florida Statutes. At the end of the refund period, GTE should submit a final report as required by Rule 25-4.114, Florida Administrative Code, Refunds.

ISSUE 2: Should GTE Communications Corporation be required to show cause why it should not pay a fine for overcharging customers for intrastate 0+ calls made from pay telephone stations and intrastate 0+ calls made in a call aggregator context?

RECOMMENDATION: No. (Biegalski)

STAFF ANALYSIS: Under Section 364.285, Florida Statutes, the Commission is authorized to impose upon any entity subject to its jurisdiction a penalty of not more than \$25,000, if such entity is found to have refused to comply with or to have willfully violated any lawful rule or Order of the Commission, or any provision of Chapter 364, Florida Statutes. Staff does not believe that GTE's conduct rises to the level that warrants an Order to show cause.

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GTE has corrected the problem and cooperated fully with staff during the investigation. Moreover, GTE has agreed to refund those customers who were overcharged, including interest.

ISSUE 3: Should this docket be closed?

RECOMMENDATION: No. If no person, whose interests are substantially affected by the proposed action files a protest within the 21 day protest period, this docket should remain open pending the completion of the refund and receipt of the final report on the refund. After completion of the refund and receipt of the final refund report, this docket may be closed administratively. (Caldwell)

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