



# Public Service Commission

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**DATE:** FEBRUARY 17, 2000

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

**FROM:** DIVISION OF COMMUNICATIONS (BIEGALSKI) *UB*  
DIVISION OF AUDITING AND FINANCIAL ANALYSIS (SAMAAN) *W*  
DIVISION OF LEGAL SERVICES (VACCARO) *WPK*

**RE:** DOCKET NO. 000022-TI - INVESTIGATION AND DETERMINATION OF APPROPRIATE METHOD FOR REFUNDING INTEREST AND OVERCHARGES ON INTRASTATE 0+ CALLS MADE FROM PAY TELEPHONES AND IN A CALL AGGREGATOR CONTEXT BY UNIVERSALCOM, INC.

**AGENDA:** 02/29/00 - REGULAR AGENDA - ISSUE 1 - PROPOSED AGENCY ACTION - INTERESTED PERSONS MAY PARTICIPATE

**CRITICAL DATES:** NONE

**SPECIAL INSTRUCTIONS:** NONE

**FILE NAME AND LOCATION:** S:\PSC\CMU\WP\000022.RCM

### CASE BACKGROUND

- June 15, 1993 - UniversalCom, Inc. (UniversalCom) was issued Certificate Number 3174 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 for intrastate 0+ and 0- calls from pay telephones or a call aggregator context to \$.30 per minute plus \$3.25 for a person-to-person call or \$1.75 for a non person-to-person call.
- August 5, 1999 - Staff reviewed UniversalCom's tariff for compliance with Rule 25-24.630, Florida Administrative Code, and found that UniversalCom's tariffed rates appeared to exceed the rate cap. Staff sent UniversalCom a certified

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letter and requested additional information by August 20, 1999.

- August 10, 1999 - UniversalCom signed for and received the certified letter.
- August 16, 1999 - UniversalCom requested an extension until August 25, 1999, to file a response to staff's information request.
- August 25, 1999 - UniversalCom responded to staff's initial letter stating that it failed to timely revise its tariff.
- November 3, 1999 - Staff mailed UniversalCom a letter requesting additional information.
- November 16, 1999 - UniversalCom provided an interim response to staff's additional questions.
- January 13, 2000 - UniversalCom provided its final response and stated that it appears that it overcharged approximately 2729 customers in the amount of \$2,992.85.

**DISCUSSION OF ISSUES**

**ISSUE 1:** Should the Commission order UniversalCom, Inc. to refund \$2,992.85, plus interest of \$161.67, for a total of \$3,154.52 for overcharging end users on intrastate 0+ calls made from pay telephones and in a call aggregator context from February 1, 1999, through December 31, 1999?

**RECOMMENDATION:** Yes. The Commission should order UniversalCom to refund \$2,992.85, plus interest of \$161.67, for a total of \$3,154.52 for overcharging end users on intrastate 0+ calls made from pay telephones and in a call aggregator context from February 1, 1999, through December 31, 1999. The refunds should be made through credits to customers' local exchange telephone bills between April 2000 and May 2000. At the end of the refund period, any unrefunded amount, including interest, should be remitted to the Commission by June 10, 2000, and forwarded to the Comptroller for deposit in the General Revenue Fund, pursuant to Section 364.285(1), Florida Statutes. UniversalCom should submit a final report as required by Rule 25-4.114, Florida Administrative Code, Refunds, by June 10, 2000. **(Biegalski)**

**STAFF ANALYSIS:** Staff compared UniversalCom's tariff for operator service rates to the rate cap established in Rule 25-24.630, Florida Administrative Code Based on the comparison, it appeared UniversalCom's tariffed rate for the surcharge element exceeded the rate cap. On August 5, 1999, staff wrote UniversalCom and advised the company of the discrepancy and requested information by August 20, 1999. Immediately upon receipt of staff's request, a UniversalCom representative contacted staff and requested an extension to respond to staff's information request until August 25, 1999. On August 25, 1999, staff received a response from UniversalCom stating that it had not made the necessary tariff revisions to change its operator service provider interLata surcharge rates for person-to-person calls from \$4.90 and non person-to-person calls from \$2.25 to \$3.25 and \$1.75, respectively, in order to comply with the new rate caps and that it would be corrected immediately. On January 5, 2000, staff contacted UniversalCom to discuss the elements of the refund information. During the conversation, it was discovered that the payphone surcharge had not been eliminated in the tariff revisions made on August 26, 1999; therefore, the calculations needed to be adjusted to include a refund of the payphone surcharge. UniversalCom provided staff with revised calculations on January 13, 2000.

The company's tariff, which became effective March 6, 1998, not only exceeded the rate cap for the specific interLata person-to-person and non person-to-person charge, but also included a payphone surcharge that was not provided for in the current rate cap rule. The company revised its tariff for the interLata person-to-person and non person-to-person surcharges August 26, 1999, and removed the operator dialed and payphone surcharges on January 21, 2000.

In its response, UniversalCom states that although it had not revised its tariff in a timely manner to comply with the new rate caps, not all customers were overcharged. UniversalCom states that although its interLata person-to-person and non person-to-person surcharges were in excess of the rate cap, its per minute rates were below the capped rate, and therefore, many customers were charged less for the total call than would have been the case had both elements been rated at the respective capped rate. UniversalCom states that although it urges the Commission not to require refunds in situations where the customer paid less for the total call than would have been the case under the rate caps, it would issue refunds upon Commission Order. In its responses, UniversalCom provided detailed information in response to staff's letter and stated that 2,729 customers were overcharged a total of \$2,992.85. UniversalCom informed staff that this calculation was based on the difference between the surcharge assessed and the surcharge element of the rate cap implemented for the appropriate type of call as well as the elimination of the payphone surcharge.

Staff believes that the rate caps implemented on February 1, 1998, are the maximum the company may tariff for those type of calls. UniversalCom's tariffed per minute rate and intraLata surcharge for person-to-person and non person-to-person calls on file with the Commission are below the parameters set by the Rule. The interLata surcharge for these types of calls, however, is above the cap, and therefore the interLata surcharge imposed in excess of the rate cap and the payphone surcharge need to be refunded. Staff believes it was a decision made by the company to charge a per minute rate for calls that were less than allowed by the Rule, and therefore, staff does not believe that it would be appropriate to refund the difference in the total cost of the call. Therefore, the refund calculation provided by UniversalCom is accurate and is the appropriate amount to be refunded to consumers.

Based on the foregoing, the Commission should order UniversalCom to refund \$2,992.85, plus interest of \$161.67, for a total of \$3,154.52 for overcharging end users on intrastate 0+ calls made from pay telephones and in a call aggregator context

from February 1, 1999, through December 31, 1999. The refunds should be made through credits to customers' local exchange telephone bills between April 2000 and May 2000. At the end of the refund period, any unrefunded amount, including interest, should be remitted to the Commission by June 10, 2000, and forwarded to the Comptroller for deposit in the General Revenue Fund, pursuant to Section 364.285(1), Florida Statutes. UniversalCom should submit a final report as required by Rule 25-4.114, Florida Administrative Code, Refunds, by June 10, 2000.

**ISSUE 2:** Should UniversalCom, Inc. be required to show cause why it should not pay a fine for overbilling of calls in excess of the rate cap established in Rule 25-24.630, Florida Administrative Code, Rate and Billing Requirements?

**RECOMMENDATION:** No. (Biegalski)

**STAFF ANALYSIS:** By 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. Staff does not believe that UniversalCom's conduct rises to the level that warrants an order to show cause.

UniversalCom corrected the problem and cooperated fully with staff during the investigation. Moreover, UniversalCom has agreed to refund those overcharged customers, including interest if so ordered by the Commission.

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DATE: February 17, 2000

**ISSUE 3:** Should this docket be closed?

**RECOMMENDATION:** No. If no person, whose interests are substantially affected by the proposed action files a protest of the Commission's decision in Issue 1 within the 21 day protest period, the Commission's Order will become final upon issuance of a Consummating Order. This docket should, however, 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 should be closed administratively. **(Vaccaro)**

**STAFF ANALYSIS:** Whether staff's recommendation on Issue 1 is approved or denied, the result will be a proposed agency action order. If no timely protest to the proposed agency action is filed within 21 days of the date of issuance of the Order, the Commission's Order will become final upon the issuance of a Consummating Order. This docket should, however, 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 should be closed administratively.