



Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

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

DATE: MARCH 16 ,2000

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

FROM: DIVISION OF COMMUNICATIONS (BIEGALSKI) *KCB*
 DIVISION OF AUDITING AND FINANCIAL ANALYSIS (D. DRAPER)
 DIVISION OF LEGAL SERVICES (CLEMONS) *DMC blv*

RE: DOCKET NO. 000109-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 INTERNATIONAL TELE-SERVICES, INC. D/B/A INTELESERV.

AGENDA: 03/28/00 - REGULAR AGENDA - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMU\WP\000109.RCM

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CASE BACKGROUND

- January 13, 1998 - International Tele-Services, Inc. d/b/a InTeleServ (InTeleServ) was issued Certificate Number 5303 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 InTeleServ's tariff for compliance with Rule 25-24.630, Florida Administrative Code, and found that InTeleServ's tariffed rates appeared to exceed the rate cap.

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- August 5, 1999 - Staff sent InTeleServ a certified letter and requested additional information by August 20, 1999.
- August 11, 1999 - Staff faxed a copy of the letter to InTeleServ because the company stated it did not receive staff's initial letter. A response was requested by August 26, 1999.
- August 19, 1999 - InTeleServ requested an extension until September 4, 1999 to file a response to staff's information request.
- October 14, 1999 - InTeleServ faxed staff a response and proposed to offer a refund to the customers who had been overcharged. InTeleServ's response states that it overcharged 3,220 customers by an amount of \$3,381.00.
- January 6, 2000 - Order No. PSC-00-0039-PAA-TI was issued to cancel InTeleServ's certificate for apparent violation of Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies.
- February 1, 2000 - Consummating Order No. PSC-00-0202-CO-TI was issued making Order No. PSC-00-0039-PAA-TI final and effective canceling InTeleServ's certificate effective February 6, 2000.
- March 15, 2000 - InTeleServ informed staff that it is not providing intrastate service in Florida.

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission accept International Tele-Services, Inc. d/b/a InTeleServ's offer of refund and refund calculation of \$3,381.00, plus interest of \$228.64, for a total of \$3,609.64, for overcharging end users on intrastate 0+ calls made from pay telephones and in a call aggregator context from February 1, 1999, through August 19, 1999?

RECOMMENDATION: Yes. The Commission should accept InTeleServ's refund calculation of \$3,381.00, adding interest of \$228.64, for a total of \$3,609.64, and proposal to credit end user customer's local exchange telephone bills beginning June 1, 2000, and ending July 31, 2000, for overcharging end users on intrastate 0+ calls made from pay telephones and in a call aggregator context from February 1, 1999, through August 19, 1999. At the end of the refund period, any unrefunded amount, including interest, should be remitted to the Commission by August 10, 2000, and forwarded to the Comptroller for deposit in the General Revenue Fund, pursuant to Section 364.285(1), Florida Statutes. InTeleServ should submit a final report as required by Rule 25-4.114, Florida Administrative Code, Refunds, by August 10, 2000. **(Biegalski)**

STAFF ANALYSIS: Staff compared InTeleServ'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 InTeleServ's tariffed rate for the surcharge element exceeded the rate cap. On August 5, 1999, staff wrote InTeleServ and advised the company of the discrepancy and requested information by August 20, 1999. InTeleServ contacted staff and requested a copy of the initial request. Staff faxed InTeleServ a copy of the letter and requested a response by August 26, 1999.

The company's tariff, which became effective January 12, 1998, not only exceeded the rate cap for the specific interLata person-to-person and non person-to-person charge, but also included an operator dialed surcharge that was not provided for in the current rate cap rule. Additionally, the IntraLATA rates also included an operator dialed surcharge that was charged in addition to the person-to-person and non person-to-person rate.

On August 19, 1999, InTeleServ requested an extension until September 4, 1999, to file a response to staff's information request. On October 15, 1999, InTeleServ faxed staff a response stating that, in order to comply with the new rate caps, it had made the appropriate tariff revisions on August 19, 1999, 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. Additionally, it removed the operator dialed surcharge of \$1.15 and the IntraLata operator dialed surcharge of \$.60. InTeleServ also provided detailed information in response to staff's letter and stated that 3,220 customers were overcharged a total of \$3,381.00.

Prior to opening a docket on the apparent overcharges, staff opened a docket to cancel InTeleServ's certificate for failure to pay delinquent regulatory assessment fees for the year 1998. Order No. PSC-00-0039-PAA-TI was issued January 13, 2000 and staff received no response from the company. Therefore, Consummating Order No. PSC-00-0202-CO-TI was issued on February 1, 2000, making Order No. PSC-00-0039-PAA-TI final and effective and canceling InTeleServ's certificate effective February 6, 2000. On February 17, 2000, staff contacted the company and reiterated that its certificate had been canceled and that it would need to reapply in order to provide telecommunications in the State of Florida. Pursuant to staff's telephone conversation with InTeleServ on March 15, 2000, InTeleServ informed staff that it is not providing intrastate service in Florida and prior to providing service in the future it would obtain proper approval.

Based on the foregoing, staff recommends the Commission accept InTeleServ's refund calculation of \$3,381.00, adding interest of \$228.64, for a total of \$3,609.64, and proposal to credit end user customer's local exchange telephone bills beginning June 1, 2000, and ending July 31, 2000, for overcharging end users on intrastate 0+ calls made from pay telephones and in a call aggregator context from February 1, 1999, through August 19, 1999. At the end of the refund period, any unrefunded amount, including interest, should be remitted to the Commission by August 10, 2000, and forwarded to the Comptroller for deposit in the General Revenue Fund, pursuant to Section 364.285(1), Florida Statutes. InTeleServ should submit a final report as required by Rule 25-4.114, Florida Administrative Code, Refunds, by August 10, 2000.

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ISSUE 2: Should International Tele-Services, Inc. d/b/a InTeleServ 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 InTeleServ's conduct rises to the level that warrants an order to show cause.

InTeleServ corrected the problem and cooperated fully with staff during the investigation. Moreover, InTeleServ has agreed to refund those overcharged customers, 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 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. (Clemons)

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

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of the final refund report, this docket should be closed administratively.