

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: 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.

DOCKET NO. 000022-TI  
ORDER NO. PSC-00-0542-PAA-TI  
ISSUED: March 16, 2000

The following Commissioners participated in the disposition of this matter:

JOE GARCIA, Chairman  
J. TERRY DEASON  
SUSAN F. CLARK  
E. LEON JACOBS, JR.  
LILA A. JABER

NOTICE OF PROPOSED AGENCY ACTION  
ORDER TO REFUND OVERCHARGES AND INTEREST

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service Commission that the action discussed herein is preliminary in nature and will become final unless a person whose interests are substantially affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

On June 15, 1993, UniversalCom, Inc. (UniversalCom) was issued Certificate Number 3174 to operate as an interexchange telecommunications company. On 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.

On August 5, 1999, our 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

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ORDER NO. PSC-00-0542-PAA-TI  
DOCKET NO. 000022-TI  
PAGE 2

rate cap. Our staff sent UniversalCom a certified letter and requested additional information by August 20, 1999. Immediately upon receipt of the request, a UniversalCom representative contacted our staff and requested an extension to respond to the information request until August 25, 1999. On August 25, 1999, UniversalCom responded 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, our 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 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 stated 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 stated 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 stated that although it urged this 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 our staff's letter and stated that 2,729 customers were overcharged a total of \$2,992.85. UniversalCom informed our

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.

We find that the rate caps implemented on February 1, 1999, are the maximum the company may tariff for those types of calls. UniversalCom's tariffed per minute rate and intraLATA surcharge for person-to-person and non person-to-person calls on file with us 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. The company made the decision to charge a per minute rate for calls that were less than allowed by the Rule, and therefore, we find that it would be inappropriate to refund the difference in the total cost of the call. The refund calculation provided by UniversalCom is accurate and is the appropriate amount to be refunded to consumers.

Based on the foregoing, UniversalCom shall 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 shall 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, shall 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 shall submit a final report as required by Rule 25-4.114, Florida Administrative Code, Refunds, by June 10, 2000.

In accordance with Section 364.285, Florida Statutes, we are authorized to impose upon any entity subject to our 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. We find that UniversalCom corrected the problem and cooperated fully with our staff during the investigation. Moreover, UniversalCom agreed to refund those overcharged customers, including interest. Because of UniversalCom's cooperation and compliance, we find that the company's conduct does not warrant the initiation of show cause proceedings.

ORDER NO. PSC-00-0542-PAA-TI  
DOCKET NO. 000022-TI  
PAGE 4

If no timely protest to the proposed agency action is filed within 21 days of the date of issuance of this Order, the Order will become final upon the issuance of a Consummating Order. This docket shall, 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 shall be closed administratively.

Therefore, it is

ORDERED by the Florida Public Service Commission that UniversalCom, Inc. shall 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. It is further

ORDERED that the refunds shall 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, shall 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. It is further

ORDERED that UniversalCom, Inc. shall submit a final report as required by Rule 25-4.114, Florida Administrative Code, Refunds, by June 10, 2000. It is further

ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective upon the issuance of a Consummating Order unless an appropriate petition, in the form provided by Rule 28-106.201, Florida Administrative Code, is received by the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings" attached hereto. It is further

ORDERED that this docket shall remain open until the refund is properly completed and the final report is received by the Commission. After these tasks are completed, the docket shall be closed upon issuance of a Consummating Order.

ORDER NO. PSC-00-0542-PAA-TI  
DOCKET NO. 000022-TI  
PAGE 5

By ORDER of the Florida Public Service Commission this 16th  
day of March, 2000.

BLANCA S. BAYÓ, Director  
Division of Records and Reporting

By: Kay Flynn  
Kay Flynn, Chief  
Bureau of Records

( S E A L )

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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 that is available under Section 120.57, 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 will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

The action proposed herein is preliminary in nature. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, in the form provided by Rule 28-106.201, Florida Administrative Code. This petition must be received by the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on April 6, 2000.

ORDER NO. PSC-00-0542-PAA-TI  
DOCKET NO. 000022-TI  
PAGE 6

In the absence of such a petition, this order shall become final and effective upon the issuance of a Consummating Order.

Any objection or protest filed in this docket before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.

MEMORANDUM

March 8, 2000  
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RECORDS AND  
REPORTING

TO: DIVISION OF RECORDS AND REPORTING

FROM: DIVISION OF LEGAL SERVICES (VACCARO) *OV/AL*

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.

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Attached is an ORDER TO REFUND OVERCHARGES AND INTEREST to be  
issued in the above-referenced docket. (Number of pages in order  
- 6)

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Attachment

cc: Division of Telecommunications (Biegalski)  
Division of Auditing & Financial Analysis (Samaan)  
I:000022or.tv

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*pg 3*