



# Public Service Commission

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**DATE:** APRIL 6, 2000

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

**FROM:** DIVISION OF TELECOMMUNICATIONS (ISLER) *PI*  
 DIVISION OF LEGAL SERVICES (FORDHAM) *c.f.f.*  
 DIVISION OF AUDITING AND FINANCIAL ANALYSIS (SAMAAN) *ALM*

**RE:** DOCKET NO. 991269-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 NETWORK OPERATOR SERVICES, INC.

**AGENDA:** 04/18/00 - REGULAR AGENDA - PROPOSED AGENCY ACTION - INTERESTED PERSONS MAY PARTICIPATE

**CRITICAL DATES:** NONE

**SPECIAL INSTRUCTIONS:** NONE

**FILE NAME AND LOCATION:** S:\PSC\CMU\WP\991269.RCM

### CASE BACKGROUND

- **05/07/98** - Network Operator Services, Inc. (NOS) was granted IXC Certificate No. 5557.
- **02/01/99** - Rule 25-24.630, F.A.C., 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.
- **03/16/99** - Staff placed a test call from a pay telephone in Fort Myers.
- **04/13/99** - A bill for the test call was received, which appeared to be an overcharge based on our rule.

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FPSC-RECORDS/REPORTING

- **05/25/99** - Staff wrote the company and requested additional information concerning the apparent overcharge.
- **06/04/99** - NOS responded to staff's request for information.
- **06/04/99 TO 07/12/99** - Staff had several conversations with NOS representatives and requested additional information.
- **07/19/99** - Staff wrote the company a letter and requested additional information by August 4.
- **07/28/99** - NOS provided some additional information.
- **07/30/99 TO 08/09/99** - Staff had several conversations with NOS representatives and requested additional information.
- **08/24/99** - NOS submitted its proposed refund method and schedule, and provided data to calculate the amount of interest owed all customers overcharged for the calls.
- **03/21/00** - Memo from Division of Auditing and Financial Analysis providing interest calculations.

Staff believes the following recommendations are appropriate.

**ISSUE 1:** Should the Commission accept Network Operator Services, Inc.'s offer of refund and refund calculation of \$3,771.30, plus interest of \$233.34, for a total of \$4,004.64, for overcharging customers from pay telephones between February 1 and May 31, 1999?

**RECOMMENDATION:** Yes. The Commission should accept NOS's refund calculation of \$3,771.30, adding interest of \$233.34, for a total of \$4,004.64, and proposal to credit customer bills in May 2000, for overcharging customers for 0+ intrastate calls made from pay telephones between February 1 and May 31, 1999. The refunds should be made through credits to customers' bills in May 2000. At the end of the refund period, any amount not refunded, including interest, should be remitted to the Commission and forwarded to the Comptroller for deposit in the General Revenue Fund, pursuant to Chapter 364.285(1), Florida Statutes. In addition, NOS should be required to file a report, consistent with Rule 25-4.114, Florida Administrative Code, Refunds, with the Commission once all monies have been refunded. (Isler)

**STAFF ANALYSIS:** Staff routinely makes test calls from pay telephones around the state. On March 16 and March 18, 1999, staff made two calls from pay telephones in Fort Myers. The calls were four minutes in duration and were billed \$3.65 each. Based on the rate cap established in Rule 25-24.630, F.A.C., the charge for each call should have been a maximum of \$2.95.

The company's tariff, which became effective May 7, 1998, stated that the rates, depending upon time of day and distance, were between \$.12 and \$.28 per minute. The tariff also added a \$1.00 location surcharge, in addition to the operator charge.

On May 25, 1999, staff wrote NOS and asked what caused the overcharge, how many calls were overcharged, what corrective measures had been implemented to prevent future overcharges and how the company proposed to refund the overcharged customers. Between May 25 and August 24, staff had several contacts with the company.

NOS advised staff that it had inadvertently failed to revise its tariff when the new rule went into effect on February 1, 1999. The company stated that 2,446 calls were charged the \$1.00 location surcharge. In addition, in March 1999, the company changed the per minute rate to the rate cap of \$.30, but failed to revise its tariff. Therefore, the overcharged consumers will receive at least the \$1.00 overcharged amount, and some consumers will receive a refund on the per minute charge. In order to prevent this from happening in the future, NOS also advised staff that it is

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currently interviewing regulatory consulting firms to advise it on changes that need to be made to keep NOS in compliance with rule changes.

Based on the foregoing, the Commission should accept NOS's refund pursuant to Rule 25-4.114, F.A.C. The amount of refunds should be \$4,004.64, including interest of \$233.34. NOS has agreed to credit end users' bills for the overcharge plus interest. The credit will appear on the local telephone company statement in May 2000. Any unrefunded monies, including interest due, should be remitted to the Commission and deposited in the General Revenue Fund, pursuant to Chapter 364.285(1), Florida Statutes. In addition, NOS should be required to file a report consistent with Rule 25-4.114, Florida Administrative Code, Refunds, with the Commission once all monies have been refunded.

**ISSUE 2:** Should Network Operator Services, 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, F.A.C., Rate and Billing Requirements?

**RECOMMENDATION:** No. (Isler)

**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 NOS's conduct rises to the level that warrants an order to show cause.

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

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**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, a consummating order should be issued, but 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. (Fordham)

**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, a consummating order should be issued, but 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.