



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-

RECEIVED-FPSC
00 MAY 25 AM 11:52
RECORDS AND REPORTING

DATE: MAY 25, 2000

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

FROM: DIVISION OF COMMUNICATIONS (BIEGALSKI) *ICB*
DIVISION OF AUDITING AND FINANCIAL ANALYSIS (D. DRAPER) *LD*
DIVISION OF LEGAL SERVICES (KNIGHT) *LOOKS/12*

RE: DOCKET NO. 000530-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 INTELICALL OPERATOR SERVICES, INC. D/B/A ILD.

AGENDA: 6/6/00 - REGULAR AGENDA - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMU\WP\000530.RCM

CASE BACKGROUND

- October 18, 1988 - Intellicall Operator Services, Inc. d/b/a ILD (ILD) was issued certificate number 2177 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 4, 1999 - Staff reviewed ILD's tariff for compliance with Rule 25-24.630, Florida Administrative Code, and found that ILD's tariffed rates appeared to exceed the rate cap.

DOCUMENT NUMBER-DATE

06461 MAY 25 8

FPSC-RECORDS/REPORTING

DATE: May 25, 2000

- August 5, 1999 - Staff mailed ILD a certified letter and requested additional information by August 20, 1999.
- August 17, 1999 - ILD requested an extension until September 11, 1999, to file a response to staff's information request.
- September 13, 1999 - ILD responded to staff's inquiry stating that even though its tariff listed an operator dialed surcharge, that element was not implemented in its billing system. Therefore, no overcharges occurred to Florida consumers.
- March 6, 2000 - Staff reviewed a bill for test calls initiated by the evaluation staff and concluded that ILD was charging rates in excess of the rate cap. Staff mailed ILD a letter requesting a response to the apparent overcharges.
- April 27, 2000 - ILD responded to staff's inquiry stating that its rate table was designed to allow the implementation of a location surcharge. ILD states that when updating its rate table to comply with the rate caps, the location surcharge was not reset to zero, therefore, causing the apparent overcharges.
- April 27, 2000 - ILD proposed to offer a refund to the customers who had been overcharged. ILD's response states that it overcharged 63,010 calls by an amount of \$15,752.25.

DATE: May 25, 2000

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission accept Intellicall Operator Services, Inc. d/b/a ILD's offer of refund and refund calculation of \$15,752.25, plus interest of \$799.41, for a total of \$16,551.66, for overcharging end users on intrastate 0+ calls made from pay telephones and in a call aggregator context from February 1, 1999, through March 31, 2000?

RECOMMENDATION: Yes. The Commission should accept ILD's refund calculation of \$15,752.25, adding interest of \$799.41, for a total of \$16,551.66, and proposal to credit customer's local exchange telephone bills beginning August 1, 2000, and ending October 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 March 31, 2000. At the end of the refund period, any unrefunded amount, including interest, should be remitted to the Commission by November 10, 2000, and forwarded to the Comptroller for deposit in the General Revenue Fund, pursuant to Section 364.285(1), Florida Statutes. ILD should submit a final report as required by Rule 25-4.114, Florida Administrative Code, Refunds, by November 10, 2000. If the company fails to issue the refunds in accordance with the terms of the Commission's Order, the company's certificate should be canceled, and this docket should be closed. **(Biegalski)**

STAFF ANALYSIS: Staff compared ILD'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 ILD was charging an operator dialed surcharge of \$1.15 for interlata 0+ calls in addition to the tariffed rates for the surcharge element on person-to-person and non person-to-person calls. Therefore, it appeared as if ILD was exceeding the rate cap. On August 5, 1999, staff wrote ILD and advised of the discrepancy and requested information by August 20, 1999. Immediately upon receipt of staff's request, an ILD representative contacted staff and requested an extension to respond to staff's information request until September 11, 1999. On September 13, 1999, ILD responded to staff's inquiry. In its response, the company stated that although its tariff listed the operator dialed surcharge, it was never implemented in its billing system. Therefore, no overcharges occurred.

The company's tariff, which became effective June 27, 1997, included an operator dialed surcharge in addition to the per minute rate and the person-to-person or non person-to-person surcharge.

DATE: May 25, 2000

The company revised its tariff to remove the operator dialed surcharge on September 13, 1999.

On March 6, 2000, upon review of a billing received for test calls initiated by the evaluation staff, it was determined that ILD was apparently charging in excess of the rate cap implemented on February 1, 1999. On April 27, 2000, ILD responded to staff's additional inquiry regarding the apparent overcharges. ILD states that when updating its rate tables to comply with the rate caps, it did not reset the location surcharge to zero, therefore causing the apparent overcharges. ILD stated that apparently 63,010 calls were overcharged a total of \$15,752.25.

Based on the foregoing, staff recommends that the Commission accept ILD's proposed refund calculation, including interest as required by Rule 25-4.114, Florida Administrative Code. Staff believes the amount of refunds should be \$16,551.66, including interest of \$799.41. ILD has agreed to credit end users' local exchange telephone bills for the overcharge plus interest between August 1 and October 31, 2000. Staff recommends that any unrefunded monies, including interest due, should be remitted to the Commission by November 10, 2000, and deposited in the General Revenue Fund, pursuant to Chapter 364.285(1), Florida Statutes. In addition, ILD should be required to file a report consistent with Rule 25-4.114, Florida Administrative Code, Refunds, with the Commission by November 10, 2000. If the company fails to issue the refunds in accordance with the terms of the Commission's Order, the company's certificate should be canceled, and this docket should be closed.

ISSUE 2: Should Intellicall Operator Services, Inc. d/b/a ILD 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

DATE: May 25, 2000

any lawful rule or order of the Commission, or any provision of Chapter 364.

In previous dockets involving apparent overcharges, companies have not been required to show cause. In this case, since ILD corrected the problem, provided the overcharge information necessary to calculate the interest due on the overcharges, and has agreed to refund those overcharged customers, including interest, staff does not believe that ILD's conduct rises to the level that warrants an order to show cause.

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 on 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 may be closed administratively. **(Knight)**

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 issuance of a consummating order. This docket, however, 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.