

State of Florida



Public Service Commission

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RECORDS AND REPORTING

DATE: JUNE 8, 2000

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

FROM: DIVISION OF COMPETITIVE SERVICES (BIEGALSKI) *KB*
 DIVISION OF ECONOMIC REGULATION (D. DRAPER)
 DIVISION OF LEGAL SERVICES (VACCARO) *QV/12*

RE: DOCKET NO. 000019-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 SPRINT COMMUNICATIONS COMPANY, LIMITED PARTNERSHIP D/B/A SPRINT.

AGENDA: 06/20/00 - REGULAR AGENDA - ISSUE 1 - PROPOSED AGENCY ACTION - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMP\WP\000019.RCM

CASE BACKGROUND

- June 27, 1986 - Sprint Communications Company, Limited Partnership d/b/a Sprint (Sprint) was issued certificate number 83 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.

DOCUMENT NUMBER-DATE

06967 JUN-88

FPSC-RECORDS/REPORTING

DOCKET NO. 000019-11
DATE: June 8, 2000

- August 9, 1999 - Staff reviewed Sprint's tariff for compliance with Rule 25-24.630, Florida Administrative Code, and found that Sprint's tariffed rates appeared to exceed the rate cap. Staff mailed Sprint a certified letter and requested additional information by August 24, 1999.
- August 25, 1999 - Sprint requested an extension until October 11, 1999, to file a response to staff's information request.
- October 11, 1999 - Sprint faxed staff a partial response and stated that a complete response would be provided by October 15, 1999.
- October 15, 1999 - Sprint proposed to offer a refund to the customers who had been overcharged. Sprint's response states that it overcharged 30,466 calls by an amount of \$35,035.90.
- May 15, 2000 - Sprint requested a deferral in order to submit revised overcharge information to staff. Sprint's revised data reflects that 32,507 calls were overcharged by an amount of \$37,366.85.

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission accept Sprint Communications Company, Limited Partnership d/b/a Sprint's offer of refund and refund calculation of \$37,366.85, plus interest of \$2,912.80, for a total of \$40,279.65, for overcharging end users on intrastate 0+ calls made from pay telephones and in a call aggregator context from February 1, 1999, through September 19, 1999?

RECOMMENDATION: Yes. The Commission should accept Sprint's refund calculation of \$37,366.85, adding interest of \$2,912.80, for a total of \$40,279.65, and proposal to credit customer's local exchange telephone bills beginning August 1, 2000, and ending September 30, 2000, for overcharging end users on intrastate 0+ calls made from pay telephones and in a call aggregator context from February 1, 1999, through September 19, 1999. At the end of the refund period, any unrefunded amount, including interest, should be remitted to the Commission by October 10, 2000, and forwarded to the Comptroller for deposit in the General Revenue Fund, pursuant to Section 364.285(1), Florida Statutes. Sprint should submit a final report as required by Rule 25-4.114, Florida Administrative Code, Refunds, by October 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 Sprint'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 Sprint was charging an operator dialed surcharge of \$1.15 for interlata 0+ calls and \$.75 for intralata 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 Sprint was exceeding the rate cap. On August 9, 1999, staff wrote Sprint and advised of the discrepancy and requested information by August 24, 1999. Immediately upon receipt of staff's request, a Sprint representative contacted staff and requested an extension to respond to staff's information request until October 11, 1999. On October 11, 1999, Sprint faxed staff a partial response and stated that a complete response would be sent by October 15, 1999. In its response, the company stated that the operator dialed surcharge would be removed immediately.

The company's tariff, which became effective January 29, 1999, included an operator dialed surcharge in addition to the per minute rate and the person-to-person or non person-to-person surcharge.

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For calls where the operator dialed surcharge was applied, the cumulative cost of the surcharge exceeded the Commission's rate caps. The company revised its tariff to remove the operator dialed surcharge on October 13, 1999; however, it ceased billing customers for the operator dialed surcharge on September 19, 1999. On October 15, 1999, Sprint provided detailed information in response to staff's letter stating that apparently 30,466 were overcharged. However, when Sprint was compiling the data necessary in order to issue refunds to customers, it determined that the calculations needed to be revised. In its revised calculation, Sprint states that 32,507 calls were overcharged a total of \$37,366.85.

Based on the foregoing, staff recommends that the Commission accept Sprint's proposed refund calculation, including interest as required by Rule 25-4.114, Florida Administrative Code. Staff believes the amount of refunds should be \$40,279.65, including interest of \$2,912.80. Sprint has agreed to credit end users' local exchange telephone bills for the overcharge plus interest between August 1 and September 30, 2000. Staff recommends that any unrefunded monies, including interest due, should be remitted to the Commission by October 10, 2000, and deposited in the General Revenue Fund, pursuant to Chapter 364.285(1), Florida Statutes. In addition, Sprint should be required to file a report consistent with Rule 25-4.114, Florida Administrative Code, Refunds, with the Commission by October 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. 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 Sprint Communications Company, Limited Partnership d/b/a Sprint 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)

DATE: June 8, 2000

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

Sprint corrected the problem and cooperated fully with staff during the investigation. Moreover, Sprint 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 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. **(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 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.