

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 Business Telecom, Inc. d/b/a BTI.

DOCKET NO. 000348-TI
ORDER NO. PSC-00-1691-PAA-TI
ISSUED: September 21, 2000

The following Commissioners participated in the disposition of this matter:

J. TERRY DEASON, Chairman
E. LEON JACOBS, JR.
LILA A. JABER

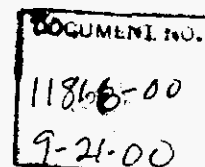
NOTICE OF PROPOSED AGENCY ACTION
ORDER TO REFUND OVERCHARGES AND INTEREST

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 March 18, 1992, Business Telecom, Inc. d/b/a BTI (BTI) was issued certificate number 2948 to operate as an interexchange telecommunications company. On February 1, 1999, Rule 25-24.630, Florida Administrative Code, was amended to cap rates for intrastate toll 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 January 3, 2000, our staff reviewed BTI's tariff for compliance with Rule 25-24.630, Florida Administrative Code, and found that BTI's tariffed rates appeared to exceed the rate cap.



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Our staff mailed BTI a certified letter and requested additional information by January 31, 2000. On January 7, 2000, the United States Postal Service returned the receipt, which showed the certified letter was signed for and delivered on this date. On January 24, 2000, requested additional time to file a response to staff's information request. On May 19, 2000, BTI submitted a final report stating that it ha overcharged \$2,168.60 for 4,176 0+ intrastate toll calls placed by consumers.

On October 11, 1999, BTI faxed our staff a partial response and stated that a complete response would be provided by October 15, 1999. On October 15, 1999, BTI proposed to offer a refund to the customers who had been overcharged. BTI's response stated that it overcharged 30,466 customers by an amount of \$35,035.90. On May 15, 2000, BTI requested a deferral in order to submit revised overcharge information to our staff. BTI's revised data reflects that 32,507 calls were overcharged by an amount of \$37,366.85.

The company's tariff, which became effective October 10, 1997, included an operator dialed surcharge in addition to the per minute rate and the person-to-person or non person-to-person surcharge. For calls where the operator dialed surcharge was applied, the cumulative cost of the surcharge exceeded this Commission's rate caps. The company revised its tariff to remove the operator dialed surcharge and ceased billing customers for the operator dialed surcharge on January 12, 2000.

Based on the foregoing, we find it appropriate to accept BTI's proposed refund calculation, including interest as required by Rule 25-4.114, Florida Administrative Code. BTI shall refund \$2,168.60, plus interest of \$184.70, for a total of \$2353.30. The refund shall be made through credits to end users' local exchange telephone bills between November 1 and November 30, 2000. At the end of the refund period, any unrefunded monies, including interest due, shall 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. BTI shall submit a final report as required by Rule 25-4.114, Florida Administrative Code, by February 2, 2001. If the company fails to issue the refunds in accordance with the terms of this Order, the company's certificate shall be canceled, and this docket shall be closed.

By 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

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comply with or to have willfully violated any lawful rule or order of the Commission, or any provision of Chapter 364. We find that BTI's conduct does not rise to the level that warrants an order to show cause. BTI corrected the problem and cooperated fully with staff during the investigation. Moreover, BTI has agreed to refund those overcharged customers, including interest.

Therefore, based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Business Telecom, Inc. d/b/a BTI (BTI) shall refund \$2,168.60, plus interest of \$184.70, for a total of \$2,353.30 for overcharging end users on intrastate 0+ calls made from pay telephones and in a call aggregator context from February 26, 1999, through January 12, 2000, 1999. It is further

ORDERED that the refunds shall be made through credits to customers' local exchange telephone bills between November 1, 2000 and November 30, 2000. At the end of the refund period, any unrefunded amount, including interest, shall be remitted to the Commission 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 if Business Telecom, Inc. d/b/a BTI (BTI) fails to issue the refunds in accordance with the terms of this Order, the company's certificate shall be canceled, and this docket shall be closed. It is further

ORDERED that Business Telecom, Inc. d/b/a BTI (BTI) shall submit a final report as required by Rule 25-4.114, Florida Administrative Code, by February 2, 2000. It is further

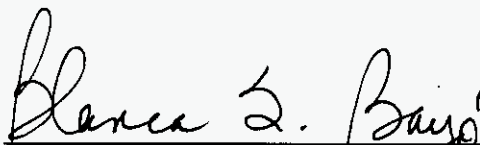
ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective upon the issuance of a Consummating Order unless an appropriate petition, in the form provided by Rule 28-106.201, Florida Administrative Code, is received by the Director, Division of Records 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 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 issuance of a consummating

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order. This docket, however, shall remain open until the refund is properly completed and the final report is received by the Commission. After these tasks are completed, this docket shall be closed administratively.

By ORDER of the Florida Public Service Commission this 21st day of September, 2000.



BLANCA S. BAYÓ, Director
Division of Records and Reporting

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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 October 12, 2000.

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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.