



Public Service Commission

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TALLAHASSEE, FLORIDA 32399-0850

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EDUCATION AND REPORTING

DATE: JANUARY 25, 2001

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

FROM: DIVISION OF COMPETITIVE SERVICES (K. CRAIG/KENNEDY) *me*
DIVISION OF ECONOMIC REGULATION (D. DRAPER) *RD*
DIVISION OF LEGAL SERVICES (CALDWELL) *me*

ALM
(initials)

RE: DOCKET NO. 000109-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 INTERNATIONAL TELE-SERVICES, INC. D/B/A INTELESERV.

AGENDA: 02/06/01 - REGULAR AGENDA - PROPOSED AGENCY ACTION - ISSUE 1 - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMP\WP\000109.RCM

CASE BACKGROUND

- January 13, 1998 - International Tele-Services, Inc. d/b/a InTeleServ (InTeleServ) was issued Certificate Number 5303 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 5, 1999 - Staff reviewed InTeleServ's tariff for compliance with Rule 25-24.630, Florida Administrative Code, and found that InTeleServ's tariffed rates appeared to exceed the rate cap.

DOCUMENT NUMBER-DATE

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FPSC-RECORDS/REPORTING

- August 5, 1999 - Staff sent InTeleServ a certified letter and requested additional information by August 20, 1999.
- October 14, 1999 - InTeleServ faxed staff a response and proposed to offer a refund to the customers who had been overcharged. InTeleServ's response states that it overcharged 3,220 customers by an amount of \$3,381.00.
- January 6, 2000 - In Docket No. 991599-TI, Order No. PSC-00-0039-PAA-TI was issued to fine InTeleServ or to cancel its certificate for apparent violation of Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies.
- February 1, 2000 - In Docket No. 991599-TI, Consummating Order No. PSC-00-0202-CO-TI was issued making Order No. PSC-00-0039-PAA-TI final and effective. InTeleServ failed to respond to the Order and its certificate was cancelled.
- March 15, 2000 - InTeleServ informed staff that it is not providing intrastate telecommunications service in Florida.
- March 28, 2000 - Commission voted to approve staff's recommendation for InTeleServ's proposed customer refunds.
- May 12, 2000 - Consummating Order No. PSC-00-0949-CO-TI makes previous Order No. PSC-00-0752-PAA-TI, which declined to show cause and accepted InTeleServ's offer to refund, effective and final.
- September 2000 - Staff notified InTeleServ to the fact that it had not reported actions taken to refund customers, and consequently needed to resolve the matter.
- December 11, 2000 - InTeleServ responded to staff's request stating that refunds had not been made to customers, but proposed to refund customers during the period February 1, through February 28, 2001. Included in the refund would be additional interest to reflect the delay in payment from the original date. (Attachment A, page 8)
- December 19, 2000 - InTeleServ modified its previous letter to propose customer refunds be made during the month of April 2001 rather than February 2001. (Attachment B, page 9)

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The Florida Public Service Commission (FPSC) is vested with jurisdiction over these matters pursuant to Section 364.3376, Florida Statutes. Accordingly, staff believes the following recommendations are appropriate.

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission accept International Tele-Services, Inc. d/b/a InTeleServ's offer of refund and refund calculation of \$3,381.00, plus interest of \$428.80, for a total of \$3,809.80, for overcharging end users on intrastate 0+ calls made from pay telephones and in a call aggregator context from February 1, 1999, through August 19, 1999?

RECOMMENDATION: Yes. The Commission should accept InTeleServ's refund calculation of \$3,381.00, adding interest of \$428.80, for a total of \$3,809.80, and proposal to credit end user customer's local exchange telephone bills beginning April 2, 2001 and ending April 30, 2001, for overcharging end users on intrastate 0+ calls made from pay telephones and in a call aggregator context from February 1, 1999, through August 19, 1999. At the end of the refund period, any unrefunded amount, including interest, should be remitted to the Commission by July 1, 2001, and forwarded to the Comptroller for deposit in the General Revenue Fund, pursuant to Section 364.285 (1), Florida Statutes. InTeleServ should submit a final report as required by Rule 25-4.114, Florida Administrative Code, Refunds, by July 1, 2001. **(K. Craig)**

STAFF ANALYSIS: InTeleServ's offer to refund customers for overcharges on 0+ calls was previously approved by the Commission by Order No. PSC-00-0752-PAA-TI, which was made final and effective by Order No. PSC-00-0949-CO-TI. After it became apparent to staff InTeleServ had not refunded its customers, staff contacted InTeleServ. InTeleServ acknowledged that customer refunds had not been accomplished. In correspondence dated December 8, 2000 (Attachment A, page 8), InTeleServ offered an explanation that the refunds were not fulfilled due to the failure of its consultant to follow up on the Commission's Order. In the same correspondence, InTeleServ submitted a new proposal to refund customer accounts during the month of February 2001. Because a refund date of February 2001 would not allow sufficient time for issuance of the Order and expiration of the protest period, staff requested that InTeleServ adjust the refund period to April 2001. In correspondence dated December 18, 2000, (Attachment B, page 9), InTeleServ offered to make refunds during April 2001.

Based on the foregoing, staff recommends the Commission accept InTeleServ's refund calculation of \$3,381.00, adding interest of \$428.80, for a total of \$3,809.80, and proposal to credit end user customer's local exchange telephone bills beginning April 2, 2001,

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and ending April 30, 2001, for overcharging end users on intrastate 0+ calls made from pay telephones and in a call aggregator context from February 1, 1999, through August 19, 1999. At the end of the refund period, any unrefunded amount, including interest, should be remitted to the Commission by July 1, 2001, and forwarded to the Comptroller for deposit in the General Revenue Fund, pursuant to Section 364.285 (1), Florida Statutes. InTeleServ should submit a final report as required by Rule 25-4.114, Florida Administrative Code, Refunds, by July 1, 2001.

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ISSUE 2: Should International Tele-Services, Inc. d/b/a InTeleServ be required to show cause why it should not pay a fine for failing to comply with Commission Order No. PSC-00-0752-PAA-TI?

RECOMMENDATION: No. (K. Craig)

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.

All past due Regulatory Assessment Fees owed by InTeleServ have been paid and InTeleServ desires to cooperate with the Commission and fulfill customer refunds. Even though InTeleServ did not satisfy the requirements of Commission Order No. PSC-00-0752-PAA-TI, staff believes that this was due to an oversight. In addition, InTeleServ no longer provides telecommunications services in Florida and because of this, staff believes that a fine would serve no useful purpose. Therefore, staff does not believe that InTeleServ'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 in 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 should be closed administratively. **(Caldwell)**

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 the 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 should be closed administratively.

December 8, 2000

DEC 11 2000

Copy by Fax to 850-413-6250, Original by First Class Mail

Ms. Diana Caldwell
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

RE: International Tele-Services, Inc. d/b/a InTeleServ
Docket No. 000109-TI
Order No. PSC-00-0752-PAA-TI

Dear Ms. Caldwell:

I have been retained by InTeleServ to respond to your inquiries concerning the above referenced order.

InTeleServ had employed the services of a consultant, Mr. Mark Angelle of Dallas, Texas, to advise the company and to help it follow up on the order. Unfortunately, this consultant failed to follow through and the refund that InTeleServ agreed to make was not made to customers. Of course, we recognize that this is not a legal excuse, but I do want you to know that InTeleServ desires to cooperate with your agency in every way possible to conclude this matter as promptly as possible.

InTeleServ proposes that the customer refunds be made in billing period of February 1, through February 28, 2001 and included in the refund will be the additional interest to reflect the delay in payment from the original date.

If you and your staff can agree with this proposal, please let me know, and we will comply with any formal documentation requirements necessary to implement it.

Thank you for your consideration and patience in this matter.

Sincerely,



Wm. Boyd Lyons
Attorney for International Tele-Services, Inc.

c. Mr. Larry Butler

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Wm. Boyd Lyons
Attorney at Law

ATTACHMENT B

December 18, 2000

Ms. Diana Caldwell
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

RE: International Tele-Services, Inc. d/b/a InTeleServ
Docket No. 000109-TI
Order No. PSC-00-0752-PAA-TI

Dear Ms. Caldwell:

This is to modify my letter to you dated December 8, 2000.

International Tele-Services, Inc. proposes to make the refunds to customers during the month of April, 2001, rather than February as originally proposed.

All other terms of our proposal remain the same.

Sincerely,



Wm. Boyd Lyons
Attorney for International Tele-Services, Inc.

c. Mr. Larry Butler

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