



Public Service Commission

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FEBRUARY 8 PM 1:16
RECORDS AND REPORTING

DATE: FEBRUARY 8, 2001

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

FROM: DIVISION OF COMPETITIVE SERVICES (K. CRAIG/KENNEDY)
DIVISION OF ECONOMIC REGULATION (D. DRAPER) *cc DD-AM*
DIVISION OF LEGAL SERVICES (FUDGE) *DFW*

RE: DOCKET NO. 001808-TI - INVESTIGATION AND DETERMINATION OF APPROPRIATE METHOD FOR REFUNDING OVERCHARGES AND INTEREST ON INTRASTATE 0+ CALLS MADE FROM PAY TELEPHONES AND IN A CALL AGGREGATOR CONTEXT BY CENTURYTEL TELECOMMUNICATIONS, INC.

AGENDA: 02/20/01 - REGULAR AGENDA - PROPOSED AGENCY ACTION - ISSUES 1 AND 3- INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMP\WP\001808.RCM

CASE BACKGROUND

- September 28, 1995 - CenturyTel Telecommunications, Inc. (formerly Century Telecommunications, Inc.) (CenturyTel) was issued certificate number 4072 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 CenturyTel's tariff for compliance with Rule 25-24.630, Florida Administrative Code, and found that CenturyTel's operator service provider rates

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appeared to exceed the rate cap. Staff mailed CenturyTel a certified letter and requested additional information by August 19, 1999.

- August 13, 1999 - CenturyTel responded to staff's inquiry stating that its tariffs were prepared to be in compliance with Florida rules, as well as directly comparable to the AT&T tariff, and requested that it not be required to revise its tariff any sooner than AT&T. Therefore, CenturyTel stated that these charges were included in the quoted rates, and no overcharges occurred to Florida consumers.
- August 23, 1999 - CenturyTel announced the removal of the \$0.25 payphone set use fee and the \$0.30 payphone surcharge for all Florida customers, effective August 16, 1999, and stated that they were in the process of identifying all call detail records that were due a refund.
- November 8, 1999 - CenturyTel proposed to offer a refund to Florida customers who had been overcharged. CenturyTel's response states that it had overcharged a total of 14,814 calls for \$8,130.65. CenturyTel also noted that all tariffs and rates in the system were changed to reflect the correct rate cap. CenturyTel had also expressed concern that the surcharges should be allowable charges above and beyond the Commission's rate caps for 0+ calls made from pay telephones and in a call aggregator context.
- June 9, 2000 - In Docket No. 000567-TI, by Order No. PSC-00-2028-FOF-TI, the Commission approved Century Telecommunications, Inc.'s request to change its name on IXC certificate 4072 to CenturyTel Telecommunications, Inc.
- November 2000 - Staff contacted CenturyTel to discuss settlement of this docket. CenturyTel acknowledged that it was in the process of finalizing its business affairs and that it was not actively offering telecommunications services. Based on this information, staff encouraged CenturyTel to propose a new settlement offer to resolve this case.
- January 4, 2001 - CenturyTel agreed to resolve the matter by paying the refund amount of \$9,111.72, consisting of \$8,130.65 in overcharges plus accrued interest of \$981.07. At this time, CenturyTel has closed its operations and there are no employees capable of determining refund amounts due to individual customers. Therefore, CenturyTel requests to refund all amounts due in connection with overcharges by lump sum payment into the Florida General Revenue Fund.

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The Florida Public Service Commission (FPSC) is vested with jurisdiction over this matter pursuant to Sections 364.285 and 364.3376, Florida Statutes. Accordingly, staff believes the following recommendations are appropriate.

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission accept CenturyTel Telecommunications, Inc.'s offer to submit a lump sum payment to the General Revenue Fund in the amount of \$8,130.65, plus accrued interest of \$981.07, for a total of \$9,111.72, for overcharging end users on intrastate 0+ calls made from pay telephones and in a call aggregator context from February 1, 1999 to August 16, 1999?

RECOMMENDATION: Yes. The Commission should accept CenturyTel's refund calculation of \$8,130.65, adding interest of \$981.07, for a total of \$9,111.72, and proposal to refund all amounts due in connection with the overcharges by lump sum payment into the Florida General Revenue Fund. This refund amount, including interest, should be remitted to the Commission by April 6, 2001, and forwarded to the Comptroller for deposit in the General Revenue Fund, pursuant to Section 364.285(1), Florida Statutes. In addition, CenturyTel should be required to file a report consistent with Rule 25-4.114, Florida Administrative Code, Refunds, with the Commission by April 6, 2001. (K. Craig)

STAFF ANALYSIS: Staff compared CenturyTel's tariff for operator services rates to the rate cap established in Rule 25-24.630, Florida Administrative Code. Based on the comparison, it appeared CenturyTel's tariffed rates exceeded the rate caps applicable to an operator service provider for intrastate 0+ or 0- calls made from a pay telephone or in a call aggregator context. On August 4, 1999, staff informed CenturyTel of the discrepancy and requested information by August 19, 1999. On August 13, 1999, CenturyTel responded to staff's inquiry. In its response, the company stated that its tariffs were prepared to be in compliance with Florida rules, and these charges were included in the quoted rates. Therefore, CenturyTel believed no overcharges occurred.

The company's tariff included a \$.30 payphone surcharge and a \$.25 set use fee. The rates charged consumers exceeded the Commission's rate caps as provided in Rule 25-24.630, Florida Administrative Code. The company voluntarily revised its tariff to remove the payphone surcharge and set use fee on August 16, 1999. However, in recognition of CenturyTel's position that its payphone surcharges should not be viewed as part of the Commission's rate caps, staff delayed filing a recommendation in this docket.

Subsequently, CenturyTel provided that its operations involving operator services were discontinued in June 2000 and its preference was to refund the overcharges and settle this docket as soon as possible.

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CenturyTel offered to refund all overcharges by lump sum payment into the Florida General Revenue Fund because CenturyTel has ceased its operator services operations and there remain no employees capable of determining refund amounts due individual customers.

Therefore, staff recommends that the Commission should accept CenturyTel's refund calculation of \$8,130.65, adding interest of \$981.07, for a total of \$9,111.72, and proposal to refund all amounts due in connection with the overcharges by lump sum payment into the Florida General Revenue Fund. This refund amount, including interest, should be remitted to the Commission by April 6, 2001, and forwarded to the Comptroller for deposit in the General Revenue Fund, pursuant to Section 364.285(1), Florida Statutes. In addition, CenturyTel should be required to file a report consistent with Rule 25-4.114, Florida Administrative Code, Refunds, with the Commission by April 6, 2001.

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ISSUE 2: Should CenturyTel Telecommunications, Inc. be required to show cause why it should not pay a fine for apparent overbilling of calls in excess of the rate cap established in Rule 25-24.630, Florida Administrative Code, Rate and Billing Requirements?

RECOMMENDATION: No. (K. Craig, Fudge)

STAFF ANALYSIS: Section 364.285, Florida Statutes, authorizes the Commission 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.

In previous dockets involving apparent overcharges, companies have not been required to show cause. In this case, since CenturyTel corrected the problem, provided the overcharge information necessary to calculate the interest due on the overcharges, and has agreed to refund those overcharges, including interest, in a lump sum payment to the Florida General Reserve Fund, staff does not believe that CenturyTel's conduct rises to the level that warrants an order to show cause.

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ISSUE 3: Should the Commission grant CenturyTel Telecommunications, Inc. (formerly Century Telecommunications, Inc.) a voluntary cancellation of Certificate No. 4072?

RECOMMENDATION: Yes. The Commission should grant CenturyTel's request for a voluntary cancellation of Certificate No. 4072 with an effective date of December 31, 2000. **(K. Craig)**

STAFF ANALYSIS: Pursuant to Rules 25-24.474(2) and 25-24.600(2), Florida Administrative Code, CenturyTel informed staff, by letter dated February 8, 2001, that it is no longer actively offering operator services, has closed its office that managed the operator services functions, and requested the voluntary withdrawal of its certificate. CenturyTel has offered to refund \$9,111.72, consisting of \$8,130.65 in overcharges plus accrued interest of \$981.07, and requested to refund all amounts by lump sum payment into the Florida General Revenue Fund. CenturyTel has also submitted its payment for the 2000 regulatory assessment fee (RAF). Accordingly, staff believes CenturyTel's request for a voluntary cancellation of Certificate No. 4072 should be granted with an effective date of December 31, 2000.

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ISSUE 4: Should this docket be closed?

RECOMMENDATION: No. If no person, whose interests are substantially affected by the proposed agency action files a protest of the Commission's decision on Issues 1 and 3 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. **(Fudge)**

STAFF ANALYSIS: Whether staff's recommendations on Issues 1 and 3 are 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.