

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 International Tele-Services, Inc. d/b/a InTeleServ.

DOCKET NO. 000109-TI
ORDER NO. PSC-01-0496-PAA-TI
ISSUED: February 27, 2001

The following Commissioners participated in the disposition of this matter:

E. LEON JACOBS, JR., Chairman
J. TERRY DEASON
LILA A. JABER
BRAULIO L. BAEZ
MICHAEL A. PALECKI

ORDER DECLINING TO SHOW CAUSE AND
NOTICE OF PROPOSED AGENCY ACTION
ORDER APPROVING OFFER OF REFUND AND REFUND CALCULATION

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service Commission that the action discussed herein, requiring International Tele-Services, Inc. d/b/a InTeleServ to refund \$3,381.00, plus interest of \$428.80, for a total of \$3,809.80, to overcharged customers beginning April 2, 2001, and ending April 30, 2001, 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.

BACKGROUND

On January 13, 1998, International Tele-Services, Inc. d/b/a InTeleServ (InTeleServ) was issued Certificate Number 5303 to operate as an interexchange telecommunications company. On February 1, 1999, Rule 25-24.630, Florida Administrative Code, was

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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. On August 5, 1999, our 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.

On August 5, 1999, our staff sent InTeleServ a certified letter, requesting additional information by August 20, 1999. On October 14, 1999, InTeleServ faxed our staff a response and offered 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.

By Order No. PSC-00-0039-PAA-TI, issued January 6, 2000 in Docket No. 991599-TI, InTeleServ's certificate was canceled for apparent violation of Rule 25-4.0161, Florida Administrative Code. On February 1, 2000, a consummating order, PSC-00-0202-CO-TI, was issued, making Order No. PSC-00-0039-PAA-TI final and effective and canceling InTeleServ's certificate as of February 6, 2000. On March 15, 2000, InTeleServ assured our staff that it was not currently providing service in Florida and that prior to providing service in the future, it would obtain proper approval.

InTeleServ's offer to refund customers for overcharges on 0+ calls was previously approved by us in Order No. PSC-00-0752-PAA-TI, issued April 17, 2000, which was made final and effective by Order No. PSC-00-0949-CO-TI, issued May 12, 2000.

In September 2000, we notified InTeleServ that it had not reported the actions taken to make refunds to its customers and needed to resolve the matter.

OFFER OF REFUND AND REFUND CALCULATION

After it became apparent that InTeleServ had not made refunds to its customers, we contacted InTeleServ. InTeleServ acknowledged that customer refunds had not been accomplished. In correspondence dated December 8, 2000, InTeleServ explained that the refunds were not fulfilled due to the failure of its consultant to follow up on our 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, our staff requested that InTeleServ adjust the refund period to April 2001. In correspondence dated December 18, 2000, InTeleServ offered to make refunds during April 2001.

Based on the foregoing, we 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, shall be remitted to this 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 shall submit a final report as required by Rule 25-4.114, Florida Administrative Code, Refunds, by July 1, 2001.

NO SHOW CAUSE REQUIRED

Section 364.285, Florida Statutes, authorizes this 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 this 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 us and fulfill customer refunds. Even though InTeleServ did not satisfy the requirements of Order No. PSC-00-0752-PAA-TI, we find that this was due to an oversight. In addition, InTeleServ no longer provides telecommunications services in Florida and because of this, a fine would serve no useful purpose. Therefore, we find that InTeleServ's conduct does not rise to the level that warrants an order to show cause. Accordingly, we hereby decline to require InTeleServ to show cause for its apparent violation of Rule 25-24.630, Florida Administrative Code.

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This docket shall 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 shall be closed administratively.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that International Tele-Services, Inc. d/b/a InTeleServ shall refund \$ 3,381.00, plus interest of \$428.80, for a total of \$3,809.80, to overcharged customers beginning April 2, 2001, and ending April 30, 2001. Any unrefunded amount, including interest, shall be remitted to this 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. It is further

ORDERED that International Tele-Services, Inc. d/b/a InTeleServ shall submit a final report as required by Rule 25-4.114, Florida Administrative Code, Refunds, by July 1, 2001. It is further

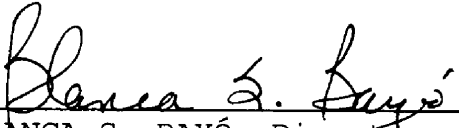
ORDERED that the proposed agency action, requiring International Tele-Services, Inc. d/b/a InTeleServ to refund \$3,381.00, plus interest of \$428.80, for a total of \$3,809.80, to overcharged customers beginning April 2, 2001, and ending April 30, 2001, shall become final and effective upon the issuance 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 this Docket shall remain open pending completion of the refund ordered herein, remittance of the refund report, and to address any timely protest that may be filed in response to the proposed agency action. It is further

ORDERED that if the proposed agency action becomes final and effective, this Docket shall be closed administratively, upon completion of the refunds, and remittance of the refund report.

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By ORDER of the Florida Public Service Commission this 27th
day of February, 2001.



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, requiring International Tele-Services, Inc. d/b/a InTeleServ to refund \$3,381.00, plus interest of \$428.80, for a total of \$3,809.80, to overcharged customers beginning April 2, 2001, and ending April 30, 2001, 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,

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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 March 20, 2001.

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.