



Public Service Commission
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COMMISSION CLERK

DATE: JULY 26, 2001

TO: DIRECTOR, DIVISION OF THE COMMISSION CLERK &
ADMINISTRATIVE SERVICES (BAYÓ)

FROM: DIVISION OF COMPETITIVE SERVICES (K. CRAIG/M. WATTS) (cc) WWA
DIVISION OF ECONOMIC REGULATION (D. DRAPER) JD RT
DIVISION OF LEGAL SERVICES (B. KEATING) KC ALM

RE: DOCKET NO. 010937-TI - INVESTIGATION AND DETERMINATION OF
APPROPRIATE METHOD FOR REFUNDING OVERCHARGES AND INTEREST
ON 0+ CALLS MADE FROM PAY TELEPHONES BY USLD
COMMUNICATIONS, INC.

AGENDA: 08/07/01 - REGULAR AGENDA - PROPOSED AGENCY ACTION -
INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMP\WP\010937.RCM

CASE BACKGROUND

- May 18, 1990 - USLD Communications, Inc. (USLD) obtained Florida Public Service Commission Interexchange (IXC) Certificate No. 2469.
- 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 to \$.30 per minute plus \$3.25 for a person-to-person call or \$1.75 for a non person-to-person call.
- March 30, 2001 - Staff sent a letter to USLD stating that staff had determined, as a result of pay telephone evaluations, that two 0+ test calls from separate pay telephones were billed differently. Staff requested a NUMBER-

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detailed explanation of the charges for each call by April 17, 2001.

- May 4, 2001 - Staff received a letter from Mr. Peter Kirchhof, Director of Policy and Law for USLD, explaining the difference in billing between the two calls. Mr. Kirchhof explained that while the January 3, 2001, call was billed correctly, the January 22, 2001, call was incorrectly billed. The per-minute rate and operator surcharge for the second call was not billed in accordance with USLD's tariff. USLD also believes that due to a system error, the call was recognized as a 0- instead of a 0+ call. In either case, the charges should have been the same for each call. As of May 2, 2001, USLD had corrected the error in its billing systems for all operator services calls placed from pay telephones.
- July 10, 2001 - Staff received a letter from Mr. Kirchhof in which the company calculated that 2318 calls were incorrectly billed from February 1999 through April 2001, resulting in overcharges of \$926.00 (not including interest). USLD has proposed to offer a refund to Florida customers who have been overcharged (Attachment A).

The Florida Public Service Commission 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 USLD Communications, Inc.'s offer of refund and refund calculation of \$926.00, plus interest of \$82.49, for a total of \$1,008.49, for overcharging end users on intrastate 0+ calls made from pay telephones from February 1, 1999, through April 30, 2001?

RECOMMENDATION: Yes. Staff recommends that the Commission accept USLD's refund calculation of \$926.00, adding interest of \$82.49, for a total of \$1,008.49, and proposal to credit end user customers' local exchange telephone bills beginning September 1, 2001, for overcharging end users on intrastate 0+ calls made from pay telephones from February 1, 1999 through April 30, 2001. At the end of the refund period, any unrefunded amount, including interest, should be remitted to the Commission by January 2, 2001, and forwarded to the Comptroller for deposit in the General Revenue Fund. USLD should submit a final report as required by Rule 25-4.114, Florida Administrative Code, Refunds, by January 2, 2001.
(K. Craig/M. Watts)

STAFF ANALYSIS: Staff determined, through routine evaluations of pay telephones in January 2001, that two 0+ intrastate test calls, of identical duration, were billed different amounts by USLD. The charges for one call did not exceed the Commission's rate caps for 0+ and 0- intrastate calls made from a pay telephone, and the other did. On March 30, 2001, staff sent a letter to USLD requesting an explanation as to why these identically dialed calls were billed differently. Staff requested a written response by April 17, 2001.

On May 4, 2001, Mr. Peter Kirchhof, Director of Policy and Law for USLD, responded to staff's inquiries concerning the billing inconsistencies of the test calls. In his response, Mr. Kirchhof stated that the January 3, 2001, test call was billed correctly at the tariffed rate of \$0.30 per minute, plus a non-person-to-person charge of \$1.75.

Mr. Kirchhof stated that the second test call, conducted on January 22, 2001, was apparently recognized by USLD's system as a 0- call due to a temporary system error that would not allow the call to be completed on a 0+ basis. Even if this were the case, Mr. Kirchhof provided that the call should have been billed the tariffed rates of \$0.30 per minute plus a non-person-to-person charge of \$1.75. USLD determined that it had an error in its

billing system whereby calls recognized as 0- calls would be billed at \$0.28 per minute plus a charge of \$2.25. Therefore, all calls USLD's system recognized as 0- calls would be billed at rates exceeding the Commission's rate caps for 0+ or 0- intrastate calls made from pay telephones. Also, the calls were not billed in accordance with USLD's tariffed rates. USLD corrected the tables in the billing system used to calculate charges for 0+ and 0- intrastate calls made from pay telephones where USLD provides operator services.

In correspondence received on July 10, 2001 (Attachment A), Mr. Kirchof reports that USLD determined that 2318 calls were incorrectly billed from February 1999 through April 2001, resulting in overcharges of \$926.00. USLD's calculations were determined using a combination of actual data from the period May 1999 through April 2001, plus an estimate for the months February 1999 through April 1999. As a result of changes in its internal accounting system, USLD can only recover records as far back as May 1999, without extraordinary efforts. USLD calculated the monthly average overcharges using actual data, and applied it to the overcharges for the three month period where no data were available.

USLD proposes to refund the affected customers' accounts, plus interest, during the month of September 2001. USLD states in its proposal that any portion of the total amount that proved to be unrefundable would be contributed to the State of Florida General Revenue Fund.

Based on the foregoing, staff recommends that the Commission accept USLD's refund calculation of \$926.00, adding interest of \$82.49, for a total of \$1,008.49, and proposal to credit end user customers' local exchange telephone bills beginning September 1, 2001, for overcharging end users on intrastate 0+ calls made from pay telephones from February 1, 1999 through April 30, 2001. At the end of the refund period, any unrefunded amount, including interest, should be remitted to the Commission by January 2, 2001, and forwarded to the Comptroller for deposit in the General Revenue Fund. USLD should submit a final report as required by Rule 25-4.114, Florida Administrative Code, Refunds, by January 2, 2001.

ISSUE 2: 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 in Issue 1 within the 21 day protest period, the Commission's Order will become final upon issuance of a Consummating Order. The 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. **(B. Keating)**

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 the 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.



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DIVISION OF
COMPETITIVE SERVICES

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Peter F. Kirchhof
Director - Policy and Law

July 3, 2001

Ms. Barbara H. Bailey
Research Assistant
Public Service Commission
State of Florida
Capital Circle Office Center
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

Dear Ms. Bailey:

In late May, I spoke with Ray Kennedy regarding my May 4, 2001 letter to you explaining the billing error on the staff test calls made in January, 2001. To rectify the matter, Qwest has offered to refund the amount of overcharges plus interest to the affected customers. Any portion of the total amount that proves to be unrefundable would be contributed to the State of Florida's General Fund. We calculate that 2318 calls were incorrectly billed, resulting in overcharges for the period of \$926 (not including interest).

This amount is based on actual data for the period May 1999-April 2001, plus an estimate for the three months February 1999-April 1999. In our May 4, 2001 response to the Staff, we indicated that USLD records go back only as far as May, 1999 due to changes in the accounting system. As was the case in an analogous situation last fall, the actual data for the period February-April 1999 may be recoverable. However, unlike the earlier situation, the expense that we would incur to retrieve the actual data for these three months would exceed by far the total refund for the entire period of over two years. To prepare the estimate, we reviewed the actual data available for the other twenty-four months and applied the average monthly overcharge for that period to the three months in question. The small amount involved and the greater base of available actual data give us confidence that our estimate for the three months closely approximates the missing data. As I discussed with Ray, Qwest proposes to base its refund on this calculation.

I understand that a docket will be opened for the purposes of obtaining the Commission's approval and for tracking our compliance with the refund. I also understand that, due to the Commission's calendar and the required public notice period, the refund will probably not be approved for implementation until September, 2001.

If you have any additional questions or concerns, please call me at 303 896-7388.

Sincerely,

cc: Ray Kennedy, Joe McGlothlin, Kathy Ford