



Public Service Commission
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DATE: JANUARY 24, 2002

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

FROM: DIVISION OF COMPETITIVE SERVICES (BUYS) *DAB*
DIVISION OF LEGAL SERVICES (TEITZMAN) *zic d*
DIVISION OF ECONOMIC REGULATION (DRAPER, VENDETTI) *ALM*

RE: DOCKET NO. 011654-TI - INVESTIGATION AND DETERMINATION OF
APPROPRIATE METHOD FOR REFUNDING OVERCHARGES ASSESSED ON
INTRASTATE CALLS MADE USING PREPAID CALLING SERVICES BY
LOCUS TELECOMMUNICATIONS, INC.

AGENDA: 02/05/2002 - REGULAR AGENDA - PROPOSED AGENCY ACTION -
INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMP\WP\011654.RCM

CASE BACKGROUND

- August 18, 2001 - Staff purchased and evaluated a prepaid phone card branded as *Satellite Phone Card*, and determined that Locus Telecommunications, Inc. (Locus) is the prepaid calling services provider.
- August 28, 2001, - Staff mailed Locus a certified letter informing the company of apparent rule violations and overcharges. Staff requested a written response by September 10, 2001.
- October 3, 2001 - Locus submitted its response to staff's letter and also submitted tariff revisions.

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- October 26, 2001 - Staff sent Locus a second letter requesting that the company include all surcharges for the *Satellite Phone Card* in its tariff and submit a proposal to refund overcharges.
- December 14, 2001 - Staff received Locus' refund proposal (Attachment A) and tariff revisions.
- December 17, 2001 - Staff opened this docket to address Locus' refund proposal.

The Commission is vested with jurisdiction over this matter pursuant to Sections 364.08, and 364.19, Florida Statutes. Staff believes the following recommendations are appropriate.

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission accept Locus Telecommunications, Inc.'s proposal to submit a payment of \$3,896.75, plus interest of \$87.30, for a total of \$3,984.05, to the General Revenue Fund for overcharging end-users on intrastate calls made using prepaid calling services provided through the *Satellite Phone Card* from May 1, 2001, through August 31, 2001?

RECOMMENDATION: Yes. The Commission should accept Locus Telecommunications, Inc.'s offer to submit a payment of \$3,896.75, plus interest of \$87.30, for a total of \$3,984.05, to the General Revenue Fund for overcharging end-users on intrastate calls made using prepaid calling services provided through the *Satellite Phone Card* from May 1, 2001, through August 31, 2001. The payment should be received by the Commission within ten business days after the issuance of the Consummating Order and should identify the docket number and company name. The Commission should forward the contribution to the Office of the Comptroller for deposit in the General Revenue Fund. If Locus Telecommunications, Inc. fails to pay in accordance with its offer, Certificate No. 7439 should be canceled administratively and this docket should be closed. **(Buys, Teitzman)**

STAFF ANALYSIS: Rule 25-24.920(6), Florida Administrative Code, Standards for Prepaid Calling Card Services and Consumer Disclosure, states:

A company shall not reduce the value of a card by more than the charges printed on the card, packaging, or visible display at the point of sale.

Rule 25-24.920(7), Florida Administrative Code, Standards for Prepaid Calling Card Services and Consumer Disclosure, states:

The billing increment shall not exceed one minute.

Based on staff's evaluation, the value of the *Satellite Phone Card* was charged down by more than the charges printed on the card or visible display in apparent violation of Rule 25-24.920(6), Florida Administrative Code. Locus also billed customers in 3-minute increments in apparent violation of Rule 25-24.920(7), Florida Administrative Code. As a result, Locus overcharged end-users by the following amounts:

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- Overcharging the connection charge by \$0.20 for each call made. The amount actually charged was \$0.79, but the amount disclosed on the phone card was \$0.59.
- Undisclosed service charges applied for each card (\$0.49 for the first call and again every 15 days thereafter).
- \$0.025 for each minute that was overcharged due to rounding up to 3-minute billing increments.

To resolve the apparent violations of Rule Nos. 25-24.920(6), and 25-24.920(7), Florida Administrative Code, Locus has offered to make a payment to the General Revenue Fund in lieu of refunding affected customers. Due to the nature of this prepaid calling card product, it is not feasible to refund the overcharges to the affected customers. A record of the customers does not exist. Therefore, staff believes the best alternative is that proposed by Locus, which is to contribute the amount of the overcharges to the General Revenue Fund.

Locus estimated that 10,375 calls were affected from May 1, 2001, through August 31, 2001. The refund of \$3,896.75 proposed by Locus is based on the following:

1. Connection fees overcharged by \$2,075.00.
2. Service fees overcharged by \$1,562.37.
3. 3-minute billing increments caused overcharges of \$259.38.

Staff then used the amount of \$3,896.75 as the basis for calculating the interest of \$87.30.

In addition, staff reviewed the company's tariff and did not find any information regarding the provision of prepaid calling services in apparent violation of Rule 25-24.915(2), Florida Administrative Code, Tariffs and Prices Lists, which states:

Each company shall file a tariff or price list for PPCS (prepaid calling services).

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To resolve the apparent violation of Rule 25-24.915(2), Florida Administrative Code, Locus has submitted a revised tariff listing prepaid calling services.

Locus has revised the printing on the *Satellite Phone Card* and display material so that it complies with all applicable rules. Locus has also submitted a revision to its tariff to include prepaid calling card services' rates and applicable surcharges for the *Satellite Phone Card*. Locus has also corrected the rounding such that calls are now rounded to the nearest minute instead of the nearest three minutes. It appears that Locus has taken the necessary actions to remedy the problems that caused the apparent rule violations and overcharges. Moreover, this is the first time that Locus has had any compliance issues with the Commission.

Based on the aforementioned, staff recommends that the Commission should accept Locus Telecommunications, Inc.'s offer to submit a payment of \$3,896.75, plus interest of \$87.30, for a total of \$3,984.05, to the General Revenue Fund for overcharging end-users on intrastate calls made using prepaid calling services provided through the *Satellite Phone Card* from May 1, 2001, through August 31, 2001. The payment should be received by the Commission within ten business days after the issuance of the Consummating Order and should identify the docket number and company name. The Commission should forward the contribution to the Office of the Comptroller for deposit in the General Revenue Fund. If Locus Telecommunications, Inc. fails to pay in accordance with its offer, Certificate No. 7439 should be canceled administratively and this docket should be closed.

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ISSUE 2: Should this docket be closed?

RECOMMENDATION: The Order issued from this recommendation will become final upon issuance of a Consummating Order, unless a person whose substantial interests are affected by the Commission's decision files a protest within 21 days of the issuance of the Proposed Agency Action Order. This docket should remain open pending the receipt of the \$3,984.05 contribution. Upon receipt of the contribution, it should be forwarded to the Office of the Comptroller for deposit in the General Revenue Fund, and this docket should be closed administratively. If the company fails to pay the settlement contribution, this docket may be closed administratively upon cancellation of Locus Telecommunications, Inc.'s certificate. **(Teitzman)**

STAFF ANALYSIS: The Order issued from this recommendation will become final upon issuance of a Consummating Order, unless a person whose substantial interests are affected by the Commission's decision files a protest within 21 days of the issuance of the Proposed Agency Action Order. This docket should remain open pending the receipt of the \$3,984.05 contribution. Upon receipt of the contribution, it should be forwarded to the Office of the Comptroller for deposit in the General Revenue Fund, and this docket should be closed administratively. If the company fails to pay the settlement contribution, this docket may be closed administratively upon cancellation of Locus Telecommunications, Inc.'s certificate.



December 5, 2001

Dale R. Buys
Bureau of Service Quality
State of Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

2001 DEC 14 AM 10:46
DIVISION OF
COMPETITIVE SERVICES

Dear Mr. Buys:

This letter to response to your letter dated October 26, 2001 regarding the *Satellite Phone Card*.

As you instructed in you letter, we are proffering to make a payment to the Florida general revenue fund for the difference in amount charged for all intrastate calls in Florida. We are unable to determine the actual refund amount, however, we have estimated the amount as described below.

According to our records, the rate structure of the *Satellite Phone Card* was changed effective May 1, 2001. Therefore, we estimated the refund amount from May 1, 2001 to the August 31, 2001, when we made necessary changes in order to provide the prepaid calling services in compliance with all applicable Commission Rules and Florida Statues.

For the period, the total estimate refund amount is \$3,896.75. The said amount has been derived from the following calculations:

1. Connection charge difference of \$0.20 (\$0.79 - \$0.59) per call.
Total numbers of calls for the period were 10,375 calls; total estimated difference due to the connection charge is \$2,075 (10,375 calls times \$0.20)
2. Minute increment
Using the 3-minute billing increment, the difference in amount per call ranges from 0 minute to 2 minutes worth of time. Therefore, the difference, \$259.38, is calculated based on the average extra minutes of 1 minute; total number of call 10,375 calls times \$0.025, which is the per minute rate.
3. Service charge of \$0.49
Usually, the customers use up the cards within 20 days after the initial purchase or use and the service charge does not apply if the customers use up the card in one call. So we estimated the refund amounts due to the undisclosed service charge based on the average percentage for each card denomination. Under the assumption of one time service charge per card (since most of cards will be used within 20 days), the percentage portion of service charge per each card is 10% for \$5.00, 5% for \$10.00 and 2% for \$20.00 card. We take the average of these numbers and multiply that average percentage to the total intra-state revenue for the period; total intra-state revenue for the period of 05/01- 08/01 is \$27,409.95 and the average service charge is 5.7% of the card face value. When we multiply



these numbers together, \$1,562.37 will be the overcharge due to the unclosed service charge on the intra-state revenue.

As per your instructions, we also have revised tariff listing the connection charges of \$0.79 and the bi-monthly charge of \$0.49. Furthermore, we enclosed a copy of contract between Locus and our distributor customer that insures the distributor provides the required information to the customers.

When we sell PIN numbers to our distributors, we are applying the certain discount to the face value of the cards.

If you have any questions or need further information, please contact me at 201-585-3634 or email me at evchun@locus.net.

Sincerely,

A handwritten signature in cursive script that reads "Aileen Chun".

Aileen Chun
Accountant / Tax & Control
Locus Telecommunications, Inc.

enclosures:
revised tariff - price list
distributor contract copy

Locus Telecommunications, Inc.

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