State of Florida

Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

DATE: September 22, 2005

TO: Director, Division of the Commission Clerk & Administrative Services (Bayó)

FROM: Division of Competitive Markets & Enforcement (M. Watts) MW ALM
Division of Economic Regulation (Lester) PL
Office of the General Counsel (Susac)

RE: Docket No. 050546-TI – Investigation and determination of appropriate method for refunding overcharges due to call duration errors on long distance calls by Trinsic Communications, Inc.

AGENDA: 10/04/05 – Regular Agenda – Proposed Agency Action – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Administrative

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

FILE NAME AND LOCATION: S:\PSC\CMP\WP\050546.RCM.DOC

Case Background

From February 14, 2005, through March 18, 2005, the Florida Public Service Commission (Commission) staff evaluated the timing and billing accuracy of test calls placed from an access line presubscribed to Trinsic Communications, Inc. (TCI). Staff calculated the amount that should be charged for each call based on the length of the call and TCI's tariffed rates. When staff compared its calculations with the bill from TCI, it identified some possible timing and overcharge problems.

Staff sent TCI a letter on April 20, 2005, to inform TCI of its evaluation findings and to request that TCI take action to identify and correct the billing errors. Upon investigation, TCI found that its billing system was pulling the call duration from the wrong field in the call detail record provided by its underlying carrier. In its response, TCI stated:

> ...our system was using the bill duration field, which contains the call duration for which our underlying carrier bills Trinsic, instead of the call duration field itself. The bill duration field is subject to rounding, so in some instances such as those you identified, the bill duration is longer than the actual call duration. This error, combined with the fact that Trinsic rounds call durations to whole minute increments, caused the overtiming and overbilling identified in your audit.

This caused some calls to be erroneously rounded up to the next full minute for billing purposes, resulting in overcharges. TCI corrected the problem in its system in May 2005.

On May 24, 2005, staff sent TCI a letter requesting it identify the overcharges caused by the error in its billing system and submit a refund proposal. TCI submitted its refund proposal on August 23, 2005.

The Commission has jurisdiction over this matter pursuant to Sections 364.04, 364.01, 364.02(14) and 364.604, Florida Statutes. Accordingly, staff believes the following recommendations are appropriate.

Discussion of Issues

Issue 1: Should the Commission accept Trinsic Communications, Inc.'s proposal to issue a refund of $1,200.00, plus interest of $61.43, for a total of $1,261.43, to its customers of record who are not subscribed to an unlimited long distance plan at the time of the refund in its January 2006 billing cycle for overcharging end-users on intrastate calls made using services provided by Trinsic Communications, Inc. from July 2003 through May 2005; and require the company to submit a report within 30 days after the completion of the refund to the Commission stating, (1) how much was refunded to its customers, and (2) the number of customers?

Recommendation: Yes. **(M. Watts/Lester/Susac)**

Staff Analysis: TCI determined that, although the portion of the software in its billing system that caused the problem had existed since its inception in 2000, it did not institute usage-based long distance service until the fall of 2003. Thus, the only period for which overbilling could have occurred was, at most, from July 2003 to May 2005. However, TCI maintains that the mistiming of calls would only have affected a small percentage of its customer base. To be affected, a customer would have had to meet the following conditions:

1. not be subscribed to an unlimited long distance plan;
2. exceed his/her calling allowance; and
3. make one or more calls of x minutes + 57, 58, or 59 seconds duration after exceeding the calling allowance.

TCI does not have the data to calculate the exact amount of the overcharges. However, it believes that call data from March through mid-June 2005 provides a representative sample of data from which it can estimate overcharges for the entire overbilling period. Making the unlikely assumption that *all* calls during this period were made by customers who did not have an unlimited calling plan and had exceeded their calling allowance, and that the calls were billed at the highest tariffed rate of 10 cents per minute, TCI determined that the most it could have overcharged was approximately $160 per month.

TCI stated that taking a more realistic view and assuming that the majority of these calls would have been incorporated into an unlimited plan or been covered by the customer's call allowance, and that many of the affected customers would have paid a 5- or 7-cents-per-minute rate, TCI believes that the amount of the overcharges was likely well below $50 per month. Using this criteria, for the period that the overcharges occurred, the total amount of overcharges would be less than $1,200.00. Therefore, TCI proposed issuing a refund of $1,200.00, plus interest, during its January 2006 billing cycle, to be divided equally among its active customers who are not subscribed to an unlimited long distance plan, and to submit a refund report within 30 days after the completion of the refund. Since customers subscribed to unlimited long distance plans were never exposed to any overcharges, they are not included in the refund pool.

Staff believes that TCI's rationale for estimating the amount of the refund is appropriate. Accordingly, staff recommends that the Commission accept Trinsic Communications, Inc.'s proposal to issue a refund of $1,200.00, plus interest of $61.43, for a total of $1,261.43, to its customers of record who are not subscribed to an unlimited long distance plan at the time of the refund in its January 2006 billing cycle for overcharging end-users on intrastate calls made using services provided by Trinsic Communications, Inc. from July 2003 through May 2005; and require the company to submit a report within 30 days after the completion of the refund to the Commission stating, (1) how much was refunded to its customers, and (2) the number of customers.

Issue 2: Should this docket be closed?

Recommendation: The Order issued from this recommendation will be a proposed agency action. Thus, the Order will become final and effective upon issuance of the Consummating Order if no person whose substantial interests are affected timely files a protest within 21 days of issuance of this Order. The company should submit its final report to the Commission within 30 days of the completion of the refund. Upon receipt of the final report, this docket should be closed administratively if no timely protest has been filed. **(Susac)**

Staff Analysis: The Order issued from this recommendation will be a proposed agency action. Thus, the Order will become final and effective upon issuance of the Consummating Order if no person whose substantial interests are affected timely files a protest within 21 days of issuance of this Order. The company should submit its final report to the Commission within 30 days of the completion of the refund. Upon receipt of the final report, this docket should be closed administratively if no timely protest has been filed.