

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Investigation and determination of appropriate method for refunding unauthorized surcharges by Working Assets Funding Service, Inc. d/b/a Working Assets Long Distance.

DOCKET NO. 050485-TI
ORDER NO. PSC-05-1019-PAA-TI
ISSUED: October 19, 2005

The following Commissioners participated in the disposition of this matter:

BRAULIO L. BAEZ, Chairman
J. TERRY DEASON
RUDOLPH "RUDY" BRADLEY
LISA POLAK EDGAR

NOTICE OF PROPOSED AGENCY ACTION
ORDER ACCEPTING PROPOSED REFUND

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service Commission that the action discussed herein 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.

Case Background

From February 14, 2005, through March 18, 2005, our staff evaluated the timing and billing accuracy of test calls placed from an access line presubscribed to Working Assets Funding Service, Inc. d/b/a Working Assets Long Distance (WALD). Our staff calculated the amount that should be charged for each call based on the length of the call and WALD's tariffed rates. When our staff compared its calculations with the bill from WALD, it identified some possible billing and overcharge problems.

Our staff sent WALD a letter on April 20, 2005, to inform WALD of its evaluation findings and to request that WALD take action to identify and correct the billing errors. In its investigation, WALD discovered that the apparent errors were caused by a \$.99 per call surcharge on calls made by customers using the company's calling card. Upon further investigation, WALD found that Section 4.17.2 of its tariff did not contain the calling card surcharge of \$0.99 per call. WALD stated in its May 19, 2005, response that, while this charge was disclosed to its customers, the company failed to incorporate it in its tariff on file with this Commission. It has since updated its tariff to reflect this surcharge.

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On June 7, 2005, our staff sent WALD a letter requesting it submit a refund proposal. WALD submitted its refund proposal on September 7, 2005.

We have jurisdiction over this matter pursuant to Sections 364.04 and 364.604, Florida Statutes.

Analysis and Conclusion

Rule 25-24.485(1)(g), Florida Administrative Code, states that a company shall charge only the rates contained in its tariff. As noted above, WALD found that it had been charging its customers a surcharge that was not contained in its tariff. WALD determined that it instituted the surcharge on June 6, 1999, and continued billing the surcharge in error until May 19, 2005, when it filed its corrected tariff page. WALD reported that approximately 2,732¹ customers were overcharged a total amount of \$14,960.88, with an average refund of \$5.48 per customer. Our staff calculated the interest on these overcharges to be \$1,494.73. WALD proposes to issue a credit to its active customers within 90 days of this Commission's approval. WALD stated that, of the 2,732 customers it identified, 1,148 customers were no longer with the company and would have to be issued a refund by check. WALD stated that it would cost the company \$7.52 per check to issue refunds to these disconnected customers, and even more cost if any of those customers proved unable to be located. WALD believes that issuing such small refunds to disconnected customers is impractical and cost-prohibitive, and has proposed distributing the portion of the refund due to disconnected customers, with interest, equally to all customers whose accounts are active as of the date of the refund.

Upon consideration, we hereby accept WALD's proposal, however, we find that it would be more appropriate to deposit monies that cannot be associated with a specific customer into the General Revenue Fund of the State of Florida, rather than distribute those monies equally to all active customers as proposed by WALD. Accordingly, we accept WALD's proposal to issue a refund of \$14,960.88, plus interest of \$1,494.73, for a total of \$16,455.61, to the affected customers within 90 days of the issuance of the Consummating Order for overcharging end-users through imposing unauthorized surcharges from June 6, 1999 through May 19, 2005, with the exception that monies that cannot be identified with specific customers shall be deposited into the General Revenue Fund of the State of Florida; and require the company to submit a report within 120 days of the issuance of the Consummating Order to this Commission stating, (1) how much was refunded to its customers, (2) the number of customers, and (3) the amount of money that was deposited into the General Revenue Fund.

This Order shall be issued as a proposed agency action, which shall 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. Upon receipt of the final report, this Docket shall be closed administratively, unless a timely protest has been filed.

¹ WALD stated that data from June 1999 to May 2000 was archived in an unrecognizable file format and the data was irretrievable. The data for this time period was estimated using data from June to December 2000. WALD cannot identify with certainty individual customers from this time period.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Working Assets Funding Service, Inc. d/b/a Working Assets Long Distance's proposal is hereby accepted, with the exception that monies that cannot be identified with specific customers shall be deposited into the General Revenue Fund of the State of Florida. It is further

ORDERED that in accordance with Working Assets Funding Service, Inc. d/b/a Working Assets Long Distance's proposal, it shall issue a refund of \$14,960.88, plus interest of \$1,494.73, for a total of \$16,455.61, to the affected customers within 90 days of the issuance of the Consummating Order for overcharging end-users through imposing unauthorized surcharges from June 6, 1999 through May 19, 2005; deposit monies that cannot be identified with specific customers into the General Revenue Fund of the State of Florida; and submit a report within 120 days of the issuance of the Consummating Order to this Commission stating, (1) how much was refunded to its customers, (2) the number of customers, and (3) the amount of money that was deposited into the General Revenue Fund of the State of Florida. It is further

ORDERED that this Order issued as a proposed agency action shall 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. It is further

ORDERED that upon receipt of the final report, this Docket shall be closed administratively, unless a timely protest has been filed.

By ORDER of the Florida Public Service Commission this 19th day of October, 2005.

BLANCA S. BAYÓ, Director
Division of the Commission Clerk
and Administrative Services

By: Kay Flynn
Kay Flynn, Chief
Bureau of Records

(SEAL)

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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 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, Florida Administrative Code. This petition must be received by the Director, Division of the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on November 9, 2005.

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/these docket(s) before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.