

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Investigation and determination of appropriate method for refunding apparent overcharges by EveryCall Communications, Inc. due to overbilling on local number portability fees.

DOCKET NO. 100112-TX
ORDER NO. PSC-10-0255-PAA-TX
ISSUED: April 26, 2010

The following Commissioners participated in the disposition of this matter:

NANCY ARGENZIANO, Chairman
LISA POLAK EDGAR
NATHAN A. SKOP
DAVID E. KLEMENT
BEN A. "STEVE" STEVENS III

NOTICE OF PROPOSED AGENCY ACTION
ORDER ACCEPTING EVERYCALL COMMUNICATIONS, INC.'S REFUND PROPOSAL

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.

I. Case Background

On December 10, 2003, this Commission issued competitive local exchange telecommunications company (CLEC) certificate number 8407 to EveryCall Communications, Inc. (EveryCall).

As part of our review of EveryCall's application for eligible telecommunications carrier (ETC) status¹ for providing discounted service under the Lifeline Assistance Program (Lifeline), our staff issued data requests to EveryCall requesting a sample customer bill.

On April 15, 2009, EveryCall provided a copy of a sample Lifeline customer bill. On May 5, 2009, another data request was sent to EveryCall requesting additional information about the charge labeled "LNP" on the bill. EveryCall responded on July 1, 2009.

¹ Docket No. 090026-TX – Application for designation as an Eligible Telecommunications Carrier (ETC) by Everycall Communications, Inc.

DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

While reviewing the data, our staff saw that EveryCall was charging the Local Number Portability (LNP) fee to Lifeline customers. Between April 2008, and October 2009, 1,500 Lifeline customers were apparently charged between \$0.35 and \$1.40 a month for LNP.

We have jurisdiction over this matter pursuant to Sections 364.02, 364.04, and 364.285, Florida Statutes.

II. Analysis

Code of Federal Regulations 53.22(a)(1)(i)(C), which governs the provisioning of Lifeline service to eligible customers, states that "Lifeline Assistance Program customers shall not receive the monthly number-portability charge."

Upon determining that EveryCall had charged Lifeline customers the LNP fee, on January 6, 2010, we requested that the company provide a breakdown of its taxes and fees. The company responded on January 14, 2010, with a spreadsheet showing the customer's name, address, Lifeline qualification determinant, amount apparently overcharged for the LNP fee, and length of time the amount was charged.

After discussions with our staff, EveryCall agreed to issue a refund of \$1,567.46, plus interest in the amount of \$5.06, for a total of \$1,572.52, to the affected customers during its June 2010 billing cycle. Our staff calculated the interest amount using the overcharges that occurred over the 19-month period from April 2008 to October 2009, with the expectation the company will refund the entire amount in June 2010. Our staff used the average 30-day commercial paper rate for each month through February 2010, and the last available monthly interest rate of 0.2050% for months beyond February 2010. This calculation is consistent with the requirements of Rule 25-4.114, F.A.C.

III. Decision

Accordingly, we find that EveryCall Communications, Inc. must refund \$1,567.46, plus interest in the amount of \$5.06, for a total of \$1,572.52, to the affected customers during the June 2010 billing cycle; we require the company to remit any unrefundable monies to this Commission by October 29, 2010, for deposit in the General Revenue Fund; and lastly, we require EveryCall Communications, Inc. submit a refund report by October 29, 2010, stating, (1) how much was refunded to its customers, (2) the total number of customers receiving refunds, and (3) the amount of money determined to be unrefundable.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that EveryCall Communications, Inc.'s refund proposal is hereby accepted as set forth in the body of this Order. It is further

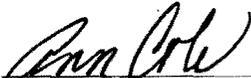
ORDERED that the provisions of this Order, issued as a proposed agency action, become final and effective upon issuance of the Consummating Order if no person whose substantial interests are affected timely files a protest within 21 days of issuance of this Order. It is further

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ORDERED that the company should submit its refund report, identified by docket number, by October 29, 2010. If any monies are not refunded, EveryCall Communications, Inc.'s should submit payment of these monies to this Commission at the time it submits its final report, and the Commission shall deposit these monies in the General Revenue Fund. It is further

ORDERED that upon receipt of the final report, this docket should be closed administratively if no timely protest has been filed.

By ORDER of the Florida Public Service Commission this 26th day of April, 2010.



ANN COLE
Commission Clerk

(SEAL)

TJB

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 Office of Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on May 17, 2010.

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.