

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: February 23, 2006

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

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

RE: Docket No. 060081-TC – Investigation and determination of appropriate method for refunding apparent overcharges by HSI Telecom, Inc.

AGENDA: 03/07/06 – 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\060081.RCM.DOC

Case Background

HSI Telecom, Inc. (HSI) is registered as a pay telephone (PATS) provider with the Florida Public Service Commission (Commission). HSI uses Custom TeleConnect, Inc. (CTI), a registered intrastate interexchange company (IXC), to route and bill customers for 0+ calls placed from its pay telephones. HSI reported \$736,393.46 operating revenue in Florida on its 2005 Regulatory Assessment Fee Return.

In April and May 2005, Commission staff placed 0+ test calls for timing and billing accuracy checks from six HSI pay telephones in three Florida towns. Upon receipt of the telephone bills in July and August 2005, staff noted that CTI billed the Commission rates that are

higher than maximum rates allowed for such calls by Rule 25-24.630, Florida Administrative Code (F.A.C.), Rate and Billing Requirements. Because CTI was the operator services provider (OSP) that billed for the calls, staff first contacted CTI concerning the rates charged for these calls.

CTI responded that the calls came into its switch via a dedicated access number for its Star 11 (*11) product assigned to its customer, HSI, and was billed appropriately. To correctly identify the type of call placed by a customer, CTI provides its clients, such as HSI, a separate dedicated access number for calls placed using 0+ access from pay telephones. The Commission's rate caps apply only to 0+ calls and do not apply to calls, such as *11, where the customer has voluntarily selected his carrier of choice. CTI claimed that it has no control over the programming and routing of calls from pay telephones, and that such misrouting is a direct breach of the language contained in its agreement with HSI.

On September 19, 2005, staff informed HSI of its evaluation findings and requested that HSI identify and correct the misrouting errors and submit a refund proposal. HSI investigated and found that its pay telephones were incorrectly programmed to route 0+ calls to CTI's dedicated access number for *11 calls. HSI reports that it corrected the programming in its pay telephones as of October 10, 2005. HSI submitted its refund proposal on February 7, 2006.

The Commission has jurisdiction over this matter pursuant to Sections 364.3375 and 364.3376, Florida Statutes. Accordingly, staff believes the following recommendations are appropriate.

Discussion of Issues

Issue 1: Should the Commission accept HSI Telecom, Inc.'s proposal to issue a refund of \$5,946.92, plus interest of \$254.38, for a total of \$6,201.30, to the affected customers within 30 days of the issuance of the Consummating Order for overcharging end-users through incorrect routing of 0+ telephone calls from April 2005 through September 2005; require the company to remit monies that cannot be refunded to the Commission for deposit in the State of Florida General Revenue Fund within 60 days of the issuance of the Consummating Order; and require the company to submit a report within 60 days of the issuance of the Consummating Order to the Commission stating, (1) how much was refunded to its customers, (2) the number of customers, and (3) the amount of money that was unrefundable?

Recommendation: Yes, the Commission should accept HSI's refund proposal. (M. Watts/Lester/Scott)

Staff Analysis: Rule 25-24.630, Florida Administrative Code, provides in part:

- (1) Services charged and billed to any end user by an operator services provider for an intrastate 0+ or 0- call made from a pay telephone or in a call aggregator context shall not exceed a rate of \$.30 per minute plus the applicable charges for the following types of telephone calls:
 - (a) A person-to-person call - a charge of \$3.25;
 - (b) A call that is not a person-to-person call - a charge of \$1.75.

Since the rule sets the maximum amounts allowed to be charged for 0+ or 0- calls, if a customer places a 0+ or 0- call, the call must be routed as such by the pay telephone provider to insure proper billing. By improperly routing the calls to CTI's *11 dedicated access number when making a 0+ call, customers were charged rates higher than those allowed by the rule. To resolve this matter, HSI reprogrammed its pay telephones to correctly route the calls on October 10, 2005, and completed field testing by the end of that month.

HSI proposes to credit the apparent overcharges to customers, with interest, in the same manner each respective customer was billed, either through a credit to the customer's local telephone service bill or through a credit to the customer's credit card, during the 30-day billing cycle following the issuance of the Commission's Consummating Order. HSI also proposes to remit any monies found to be unrefundable to the Commission for deposit in the General Revenue Fund within 60 days of the issuance of the Commission's Consummating Order.

Accordingly, staff recommends that the Commission accept HSI's offer to issue a refund of \$5,946.92, plus interest of \$254.38, for a total of \$6,201.30, to the affected customers within 30 days of the issuance of the Consummating Order for overcharging end-users through incorrect routing of 0+ telephone calls from April 2005 through September 2005; require the company to remit monies that cannot be refunded to the Commission for deposit in the State of Florida General Revenue Fund within 60 days of the issuance of the Consummating Order; and require the company to submit a report within 60 days of the issuance of the Consummating Order to the

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Commission stating, (1) how much was refunded to its customers, (2) the number of customers, and (3) the amount of money that was unrefundable.

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, identified by docket number, and a check for the unrefunded amount (if any), made payable to the Florida Public Service Commission, within 60 days of the issuance of the Consummating Order. Upon receipt of the final report and unrefunded monies, if any, this docket should be closed administratively if no timely protest has been filed. **(Scott)**

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, identified by docket number, and a check for the unrefunded amount (if any), made payable to the Florida Public Service Commission, within 60 days of the issuance of the Consummating Order. Upon receipt of the final report and unrefunded monies, if any, this docket should be closed administratively if no timely protest has been filed.