

ORIGINAL

State of Florida



Public Service Commission
-M-E-M-O-R-A-N-D-U-M-

DATE: January 23, 2002
TO: Blanca Bayó, Director, Division of Commission Clerk and Administrative Services
FROM: Dale Buys, Division of Competitive Markets and Enforcement *DB*
RE: Docket No. 020049-TI; Investigation and determination of appropriate method for refunding overcharges, and interest, assessed on intrastate calls made using prepaid calling services by Ultimate Communications, Inc. (TJ233)

Please file the attached letters, dated December 19, 2001, and January 9, 2002, in Docket No. 020049-TI.

DRB/
Attachments

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FPSC-COMMISSION CLERK

LAW OFFICES OF THOMAS K. CROWE, P.C.

2300 M STREET, N.W.
SUITE 800
WASHINGTON, D.C. 20037

TELEPHONE (202) 973-2890
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E-MAIL firm@tkcrowe.com

2001 DEC 20 10:22
DIVISION OF
COMPETITIVE SERVICES

December 19, 2001

BY FEDEX (850-413-6536)

Dale R. Buys
Regulatory Analyst
Bureau of Service Quality
Florida Public Service Commission
Capitol Circle Office Center
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Re: Ultimate Communications, Inc.

Dear Mr. Buys:

The following replies to your letter of inquiry dated November 8, 2001 regarding the prepaid calling services of Ultimate Communications, Inc. ("UCI"). UCI has carefully reviewed the concerns expressed in your letter and has taken specific actions, described herein, to address these concerns. Please note that the original deadlines for responding set forth in your letter were extended to December 20, 2001.

The following responds to the six points raised on pages four and five of your letter with respect to which you requested that UCI take specific action.

1. *Please identify all circumstances in which an overcharge may have occurred for all intrastate prepaid calling services provided by Ultimate Communications through The Nickel Card and the Universal Prepaid Phone Card within Florida.*

RESPONSE: The *Universal Prepaid Phone Card* contained a 3 minute rounding provision, which has since been corrected. According to our client, as many as 62,344 minutes of extra time was deducted from phone cards for Florida intrastate calls as a result of 3 minute rounding.

In addition, the Maintenance Fee, according to UCI, had recently been increased on the *Universal Prepaid Phone Card* from 49¢ to 55¢, which is the reason for the 6¢ discrepancy on the first call. Our client informs us that 11,696 Florida intrastate calls

were impacted by this.

With respect to the other discrepancies indicated in your review, the differences your inquiry discovered were as a result of not taking into consideration the charge associated with the phrase "*Additional taxes, fees, and surcharges imposed by government and/or carrier of 6¢ to 25¢ per three minutes of calling time apply to each call.*" For instance, the amount of such "additional taxes, fees, and surcharges" for Florida intrastate calls for the *Nickel Card* has been 8¢ per three minutes, rounded down. Thus, a 183 second call would result in an 8¢ charge. This amount is consistent with your observation. Likewise, the amount of such "additional taxes, fees, and surcharges" for Florida intrastate calls for the *Universal Prepaid Phone Card* has been 11¢ per three minutes. Thus, a 183 second call would result in an 11¢ charge.

UCI regrets these discrepancies and, with the separate tariff revision being filed today, seeks to ensure that its billing practices are consistent with its tariff and other disclosures.

2. *Please disclose the amount of overcharges identified in action 1.*

RESPONSE: Overcharges identified under the Response above total \$1,886.30. Overcharges with respect to the three minute rounding of the *Universal Prepaid Phone Card* come to a maximum of \$1,184.54 (62,344 minutes multiplied by 1.9¢). Overcharges with respect to the *Universal Prepaid Phone Card* Maintenance Fee come to \$701.76. According to our client, the 55¢ Maintenance Fee was applied to 11,696 intrastate Florida calls ($11,696 \times 6¢ = \$701.76$).

3. *In consideration of Rule 25-4.114, Florida Administrative Code, Refunds, Ultimate Communications should proffer to refund any overcharges to its Florida customers, if possible, or remit the total amount overcharged to the Florida General Revenue Fund.*

RESPONSE: UCI intends to remit the total amount overcharged (i.e., \$1,886.30) to the Florida General Revenue Fund. We will contact you shortly for specific instructions as to how and where to forward our payment.

4. *Please provide me with a written response to the apparent overcharges and proposed refund listed in actions 1, 2, and 3, by November 26, 2001.*

RESPONSE: See above.

Dale R. Buys
December 19, 2001
Page 3

5. *Please submit a revision updating Ultimate Communications' tariff to the Division of Regulatory Oversight by November 26, 2001. The revision should include the rates and applicable surcharges as disclosed on The Nickel Card and the Universal Prepaid Phone Card. Also, please notify me when the tariff update has been submitted.*

RESPONSE: A tariff revision updating Ultimate Communications' tariff is being filed simultaneously with this letter. A copy of the revised tariff, as filed, is included herewith as Appendix A. The revised tariff includes the rates and applicable surcharges as disclosed on *The Nickel Card* and the *Universal Prepaid Phone Card*.

6. *Please revise the printing on The Nickel Card and the Universal Prepaid Phone Card so that they comply with the Commission's consumer disclosure rules and provide me with a copy of the revised phone cards, and any display material used to market the cards, by December 3, 2001.*

RESPONSE: A copy of the revised phone card disclosure language is included as Appendix B. This language is consistent with the proposed language separately forwarded and discussed with you on December 10, 2001.

We trust that the foregoing responds fully to your letter of inquiry. Should you have any questions or require any additional information, please contact the undersigned.

Sincerely,

A handwritten signature in black ink, appearing to read 'Thomas K. Crowe', with a large, stylized initial 'T'.

Thomas K. Crowe
Daron T. Threet,
Counsel for UCI Communications, Inc.

Appendices

cc: Leslie G. Labanca

APPENDIX A



10400 Westoffice Dr., Suite 112, Houston, Texas 77042

Tel: (713) 917-0440 Fax: (713) 917-0499
email: uci@ucicomcommunications.com • www.nickelcard.comWriter's Direct Phone
713/243-2104Writer's Facsimile
713/266-4210

Via Federal Express

850-413-6770

December 19, 2001

Division of Records and Reporting
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0866Subject: Proposed Changes to Existing Tariff of Ultimate Communications, Inc., Company
Code TJ233.

Dear Madam or Sir:

The accompanying tariff material, issued by Ultimate Communications, Inc., is sent to you for filing in compliance with Rule 25-24.485 of the Florida Administrative Code. The materials contained in this filing are proposed changes to the company's original Florida Telecommunications Tariff related to domestic intrastate telecommunications service in the State of Florida.

Herewith are the following sheets contain proposed changes:

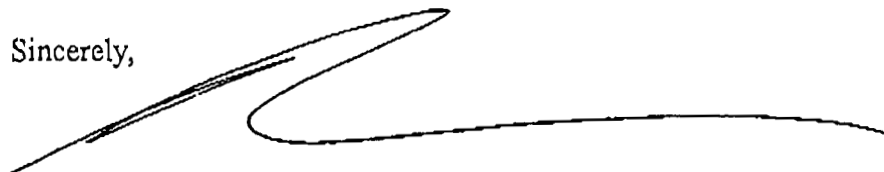
1. Sheet 2. Revised Check Sheet which reflects proposed changes in the Tariff.
2. Sheet 10. A phrase was deleted in Section 2.7 to avoid possible ambiguity in language.
3. Sheet 14. Specifically names the Universal 1.9 product in the Tariff and sets forth the rates, fees and charges for such service. In addition, the proposed change revises the rates, fees and charges for the Nickel Card consistent with current market conditions.

Please acknowledge receipt of this transmittal by returning a date stamped copy of the enclosed

Division of Records and Reporting
Florida Public Service Commission
December 19, 2001
Page Two

duplicate of this cover letter in the self-addressed stamped envelope provided for this purpose. Please address any inquiries or further correspondence regarding this filing to my attention at my direct telephone or facsimile noted above.

Sincerely,

A handwritten signature in black ink, appearing to read 'Leslie G. Labanca'. The signature is fluid and stylized, with a long horizontal stroke extending to the right.

Leslie G. Labanca
Legal Counsel to Ultimate Communications, Inc.

Enclosures: Four (4) copies of Check Sheet and Tariff pages which contain proposed changes.
Extra copy of transmittal letter with stamped, self address envelope.

ULTIMATE COMMUNICATIONS, INC.

Florida Tariff No. 1
First Revised Sheet No.2
Cancels Original Sheet No. 2

CHECK SHEET

The sheets listed below, which are inclusive of this tariff, are effective as of the date shown at the bottom of the respective sheet(s). Original and revised sheets as named below comprise all changes from the original tariff and are currently in effect as of the date shown at the bottom of this page.

Sheet	Revision
1	Original
2	* First Revised
3	Original
4	Original
5	Original
6	Original
7	Original
8	Original
9	Original
10	* First Revised
11	Original
12	Original
13	Original
14	* First Revised
15	Original

ISSUED: December 19, 2001

EFFECTIVE: December 20, 2001

Claudio R. Roman, President
10400 Westoffice Drive, Suite 112
Houston, Texas 77042

ULTIMATE COMMUNICATIONS, INC.

Florida Tariff No. 1
First Revised Sheet No.10
Cancels Original Sheet No. 10

SECTION 2 - RULES AND REGULATIONS (Cont'd)2.5 Deposits

The Company does not require a deposit from the customer.

2.6 Advance Payments

The Company does not require advanced payments from the customer.

2.7 Taxes

All state and local taxes (i.e., gross receipts tax, sales tax, municipal utilities tax, etc.) are deducted from the customers prepaid calling card.

2.8 Billing Procedures

All services of the Company are provided on a prepaid basis only. The Company bills the wholesale distributors of its prepaid calling cards directly.

ISSUED: December 19, 2001

EFFECTIVE: December 20, 2001

Claudio R. Roman, President
10400 Westoffice Drive, Suite 112
Houston, Texas 77042

ULTIMATE COMMUNICATIONS, INC.

Florida Tariff No. 1
First Revised Sheet No. 14
Cancels Original Sheet No. 14

SECTION 4-RATES4.1 Prepaid Calling Card

A)	<u>Dime Card Plan A:</u>	D
B)	<u>Nickel Card Plan B:</u>	
	\$ 0.05/minute	
	<u>Connection Charge</u>	
	\$ 0.29/call	R
	<u>Pay Phone Surcharge</u>	
	\$ 0.50/call	
	<u>Maintenance Fee</u>	N
	\$0.25/ per week	N
	<u>Surcharge for all taxes, fees, and administrative costs</u>	N
	\$0.08/per three completed minutes	N
	<u>Call to Directory Assistance</u>	N
	\$1.00/call	N
C)	<u>Universal 1.9</u>	N
	\$ 0.019/ minute	N
	<u>Connection Charge</u>	N
	\$ 0.49/call	N
	<u>Pay Phone Surcharge</u>	N
	\$ 0.50/call	N
	<u>Maintenance Fee</u>	N
	\$0.49/per week	N
	<u>Surcharge for all taxes, fees, and administrative costs</u>	N
	\$0.11/per three completed minutes	N
	<u>Call to Directory Assistance</u>	N
	\$1.00/call	N

ISSUED: December 19, 2001

EFFECTIVE: December 20, 2001

Claudio R. Roman, President
10400 Westoffice Drive, Suite 112
Houston, Texas 77042

APPENDIX B

Current Nickel Card

Do not return your phone card to the store! If for any reason you experience difficulties with your card please call customer service 1-800-515-5213. • Rates, fees, taxes and surcharges are subject to change without notice. • All information is correct on 7/18/00. • Please consult customer service (800-515-5213) or applicable tariff for current rates, taxes, fees, and surcharges. • Maintenance fee of 25¢ per week will apply after first use. • A 29¢ connection fee applies to each call to US destination. • A connection fee of \$1.00 to \$1.50, depending on the destination, applies to each call to an international destination. • Each call to directory assistance is an additional \$1.00. • Each call from a payphone is subject to an additional fee of 50¢. • International cellular calls will be billed at higher rates. • All calls billed in 1 minute increments. • Additional taxes, fees, and surcharges imposed by government and/or carrier of 6¢ to 25¢ per three minutes of calling time apply to each call. • Not responsible for lost, stolen, or misused cards. Unless prohibited by applicable law, no refunds and no returns. Expires 90 days after first use or 9/30/01, whichever occurs first.

Revised Nickel Card **(Changes are shown in italics type)**

Do not return your phone card to the store! If for any reason you experience difficulties with your card please call customer service 1-800-515-5213. • Rates, fees, taxes, and surcharges are subject to change without notice, *except where prohibited by applicable law*. • All information is correct on _____ 200_. • Please consult customer service (800-515-5213) or applicable tariff for current rates, taxes, fees, and surcharges. • Maintenance fee of 25¢ per week will apply after first use. • A 29¢ connection fee applies to each call to US destination. • A connection fee of \$1.00 to \$1.50, depending on the destination, applies to each call to an international destination. • Each call to directory assistance is an additional \$1.00. • Each call from a payphone is subject to an additional fee of 50¢. • International cellular calls will be billed at higher rates. • All calls billed in 1 minute increments. • Additional taxes, fees, and surcharges imposed by government and/or carrier of 6¢ to 25¢ per three minutes of calling time apply to each call, *except for intrastate calls which are subject to a surcharge of ___¢ per minute*. • Not responsible for lost, stolen, or misused cards. Unless prohibited by applicable law, no refunds and no returns. Expires 90 days after first use or __/__/0_, whichever occurs first.

Current Universal 1.9¢

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Revised Universal 1.9¢ (Changes are shown in italic type)

Do not return your phone card to the store. If for any reason you experience difficulties with your card please call customer service 1-800-515-5213. Rates, fees, taxes, and surcharges are subject to change without notice, *except where prohibited by applicable law*. All information is correct on _____ 200_. Please consult customer service at 1-800-515-5213 or applicable tariff for current rates, taxes, and surcharges. Maintenance fee of 49¢ per week will apply after first use. A 49¢ connection fee applies to each call to US destination. A connection fee of \$1.00-\$2.00 applies to each call to an international destination. Each call to directory assistance is an additional \$1.00. Each call from a payphone is subject to an additional fee of 50¢. International cellular calls will be billed at higher rates. All calls billed in 3 minute (*except 1 minute for intrastate calls*) increments. Additional taxes, fees, and surcharges imposed by government and/or carrier of 6¢ to 25¢ per three minutes of calling time apply to each call, *except for intrastate calls which are subject to a surcharge of __¢ per minute*. Not responsible for lost, stolen, or misused cards. Unless prohibited by applicable law, no refunds and no returns. Expires 90 days after first use or _/__/0_, whichever occurs first.

We will also require that the face of the card contain a phrase similar to that contained on the face of the Nickel Card, that is to say:

Call Anywhere in the Continental U.S., 1.9¢ minute

Great International Rates!

LAW OFFICES OF THOMAS K. CROWE, P.C.

2300 M STREET, N.W.
SUITE 800
WASHINGTON, D.C. 20037

TELEPHONE (202) 973-2890
FAX (202) 973-2891
E-MAIL firm@tkcrowe.com

January 9, 2002

BY FEDEX (850-413-6536)

Dale R. Buys
Regulatory Analyst
Bureau of Service Quality
Florida Public Service Commission
Capitol Circle Office Center
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Re: Ultimate Communications, Inc.

Dear Mr. Buys:

On behalf of Ultimate Communications, Inc. ("UCI"), and pursuant to our conference call yesterday, the following supplies the additional information you have requested. This information constitutes a supplement to our letter to you dated December 19, 2001.

First, revised phone card disclosure language for the *Universal Prepaid Phone Card* and *The Nickel Card* is included in the Appendix. This revised language, modified in accordance with our discussion yesterday, supercedes the language supplied under Appendix B in our December 19, 2001 letter for the *Universal Prepaid Phone Card* and *The Nickel Card*.

Second, the following is being supplied in response to your request for more specific information regarding the overcharges so as to allow a calculation of refund interest in accordance with Rule 25-4.114 of the Florida Administrative Code.

With respect to overcharges associated with the three minute rounding, the rounding was in effect from approximately October 1, 2000 to December 1, 2001. UCI is unable to determine a precise time allocation for the overcharges, and proposes that a pro rata allocation be accepted for purposes of interest calculation. Thus, to determine applicable interest, the \$1,184.54 would be allocated over the 14 month period at \$84.61 per month.

With respect to overcharges associated with the weekly Maintenance Fee which was increased from \$0.49 to \$0.55, that increase was in effect from February 1, 2001 to December 1,

2002 JAN 10 11:18:13
DIVISION OF
COMPETITIVE SERVICES

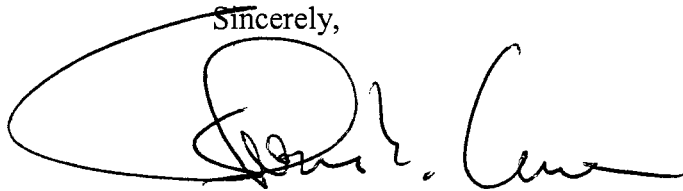
Dale R. Buys
January 9, 2002
Page 2

2001. UCI is unable to determine a precise time allocation for the overcharges, and proposes that a pro rata allocation be accepted for purposes of interest calculation. Thus, to determine applicable interest, the \$701.76 would be allocated over the 10 month period at \$70.18 per month.

UCI understands that the method preferred by the Commission is to refund individual customers, but the product at issue here does not facilitate a specific, per customer determination of the customer base. In light of this, we would prefer to remit a one time refund representing the total amount overcharged to the Florida General Revenue Fund, as indicated in our December 19, 2001 letter.

We trust that the foregoing responds fully to your letter of inquiry. Should you have any questions or require any additional information, please contact the undersigned.

Sincerely,

A handwritten signature in black ink, appearing to read "Thomas K. Crowe". The signature is fluid and cursive, with a large loop at the beginning and a long, sweeping tail.

Thomas K. Crowe
Daron T. Threet,
Counsel for Ultimate
Communications, Inc.

Appendix

cc: Leslie G. Labanca

APPENDIX

Current Nickel Card

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Current Universal 1.9¢

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We will also require that the face of the card contain a phrase similar to that contained on the face of the Nickel Card, that is to say:

Call Anywhere in the Continental U.S., 1.9¢ minute

Great International Rates!