

State of Florida



Public Service Commission  
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**DATE:** February 24, 2011

**TO:** Office of Commission Clerk (Cole)

**FROM:** Division of Regulatory Analysis (Lowery) *Lowery*  
Division of Economic Regulation (Davis) *Davis*  
Office of the General Counsel (Harris) *Harris*  
Division of Service, Safety & Consumer Assistance (Vickery) *Vickery*

*CRS/B* *N* *BWS* *AW*

**RE:** Docket No. 100027-TL – Investigation and determination of appropriate method for refunding apparent rebates not provided by Quincy Telephone Company d/b/a TDS Telecom/Quincy Telephone as required by rule and/or tariff.

**AGENDA:** 03/8/11 – 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\RAD\WP\100027.RCM.DOC

**Case Background**

The Florida Public Service Commission (Commission) staff performed a service evaluation of Quincy Telephone Company d/b/a TDS Telecom/Quincy Telephone (TDS), a local exchange telecommunications company (LEC), during the period of March 2 – March 20, 2009.

As part of this service evaluation, staff reviewed repair service orders and new service installation orders. The purpose was to verify that TDS issued rebates to customers as required by the Commission’s rules and in accordance with the company’s tariff. For that evaluation,

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staff reviewed 2008 repair and installation orders for the Greensboro and Gretna exchanges, and fourth quarter 2008 repair and installation orders for the Quincy exchange. Staff then reviewed documentation provided by TDS, for the years 2006 to 2010, to determine if further credits were due to the customers, that were not included in the original service evaluation.

In reviewing the repair service orders, staff found that TDS had failed to issue credits to several customers that appeared to qualify for credits. Rule 25-4.110, Florida Administrative Code (F.A.C.), requires a local exchange company to issue a pro rata refund for the time that service is out in excess of 24 hours. In addition, TDS' tariff, Section A2. E.1b.2, stated "[a] one (1) month local service credit will be applied to the customer's telephone bill if the Company fails to restore basic exchange telephone service within 24 hours after the interruption was reported to or discovered by the Company." In some cases the company did not issue credits required by the Commission's rule and in other cases the company did not issue credits required by its tariff. There were also instances where both credits were missed. The number of customers entitled to the repair service credit is 747 and the number of customers entitled to the new service installation credit is 233.

For new service installation orders, staff also found that TDS had failed to issue credits to several customers. TDS' tariff, Section A2. E.1b. 1, stated "[T]he customer will be given a one (1) month local service credit if the Company fails to meet a commitment and has not notified the customer 24 hours prior to the agreed upon time and date. This would apply to such services as installations, changes to custom features, provision of optional calling plans and other similar requests."

This recommendation addresses TDS' proposal to provide customers time out of service credits and new service installation credits as prescribed by the Commission's rule and/or TDS' tariff. The Commission has jurisdiction over these matters pursuant to Sections 364.01, 364.04, and 364.285, Florida Statutes.

### **Discussion of Issues**

**Issue 1:** Should the Commission approve Quincy Telephone Company d/b/a TDS Telecom/Quincy Telephone's proposal to issue time-out-of-service and failure to meet new service installation commitment credits of \$27,017.41, plus interest in the amount of \$817.19, for a total of \$27,834.60 to the affected customers during the April 2011 billing cycle; require the company to remit any unrefundable monies to the Commission by August 1, 2011, for deposit in the General Revenue Fund; and require the company to submit a refund report by August 1, 2011, to the Commission 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.

**Recommendation:** Yes. The Commission should approve Quincy Telephone Company d/b/a TDS Telecom/Quincy Telephone's refund proposal. As required by Rule 25-4.114, F.A.C., for those customers still on the system, a credit shall be made on the bill. For customers entitled to a refund but no longer on the system, the company shall mail a refund check to the last known billing address except that no refund for less than \$1.00 will be made to these customers. At the end of the refund period, any amount not refunded, including interest, should be remitted to the Commission for deposit in the General Revenue Fund. (Lowery, Davis, Vickery, Harris)

**Staff Analysis:** The refunds proposed by TDS have been determined in accordance with the requirements of a Commission rule and the company's tariff. The company's practice has been to issue customers both the credits required by rule and the credits offered in its tariff.

Rule 25-4.110(6), F.A.C., states:

Each company shall make appropriate adjustments or refunds where the subscriber's service is interrupted by other than the subscriber's negligent or willful act, and remains out of order in excess of 24 hours after the subscriber notifies the company of the interruption. The refund to the subscriber shall be the pro rata part of the month's charge for the period of days and that portion of the service and facilities rendered useless or inoperative; except that the refund shall not be applicable for the time that the company stands ready to repair the service and the subscriber does not provide access to the company for such restoration work. The refund may be accomplished by a credit on a subsequent bill for telephone service.

Before amending its tariff on March 10, 2010, TDS' tariff, Section A2. E.1b provided:

1. The customer will be given a one (1) month local service credit if the Company fails to meet a commitment and has not notified the customer 24 hours prior to the agreed upon time and date. This would apply to such services as installations, changes to custom features, provision of optional calling plans and other similar requests.
2. A one (1) month local service credit will be applied to the customer's telephone bill if the Company fails to restore basic exchange telephone service

within 24 hours after the interruption was reported to or discovered by the Company.

For some repair orders, the company failed to consistently issue the credits required by the Commission's rule, as well as credits voluntarily offered in its tariff. In some instances, the company did not issue credits required by Rule 25-4.110, F.A.C., and in others the company did not issue credits required by its tariff. There were also instances where both credits were missed.

While there are no credits required by the Commission's rules for failing to meet new service installation commitments, TDS did voluntarily offer credits in its tariff. Staff found that TDS had failed to consistently issue credits to customers when the new service installation commitment was not met.

As a reason for not issuing all credits due customers, TDS explained that in the beginning of 2007, the company underwent an extensive system-wide reorganization effort. This effort was designed to centralize their operations and reduce costs. During the reorganization, TDS began closing many of its local offices which were all independently operated. TDS claims that centralizing operations and closing local offices across the country was a major effort that came with many challenges. As a result of the reorganization, operations such as scheduling and dispatch were no longer handled at local offices. New systems and procedures were put into place. The company stated that the number of missed installations and repairs began to increase during March 2007.

Of the total refund amount proposed by TDS, \$21,549.43 relates to repair service credits and \$5,467.98 for new service installation credits. The remainder is interest calculated by staff. The number of customers that will receive the repair service credit is 747 and the number of customers that will receive the new service installation credit is 233.

Pursuant to Rule 25-4.114, F.A.C., in calculating the interest, staff assumed the number of the repair service credits was evenly distributed over the 40-month period from December 2006 to March 2010, and the new service installation credits were evenly distributed over the 36-month period from January 2007 to December 2009. These time periods are when the company should have originally issued the credits. TDS has proposed to issue the refunds, plus interest, in April 2011. Staff used an interest rate of the average 30-day commercial paper rate for each month. Staff used the last available monthly interest rate of 0.25 percent for the months beyond February 2011.

Accordingly, staff recommends that the Commission should approve Quincy Telephone Company d/b/a TDS Telecom/Quincy Telephone's proposal to issue time-out-of-service and failure to meet new service installation commitment credits of \$27,017.41, plus interest in the amount of \$817.19, for a total of \$27,834.60 to the affected customers during the April 2011 billing cycle; require the company to remit any unrefundable monies to the Commission by August 1, 2011, for deposit in the General Revenue Fund; and require the company to submit a refund report by August 1, 2011, to the Commission 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.

**Issue 2:** Should Quincy Telephone Company d/b/a TDS Telecom/Quincy Telephone be required to show cause why it should not pay a penalty for its apparent violation of Rule 25-4.110, F.A.C., Customer Billing for Local Exchange Telecommunications Companies and Rule 25-4.034, F.A.C., Tariffs?

**Recommendation:** No. Quincy Telephone Company d/b/a TDS Telecom/Quincy Telephone should not be required to show cause why it should not pay a fine for apparent violation of Rule 25-4.110, F.A.C., Customer Billing for Local Exchange Telecommunications Companies. (Lowery, Harris)

**Staff Analysis:** Rule 25-4.110(6), F.A.C., states:

Each company shall make appropriate adjustments or refunds where the subscriber's service is interrupted by other than the subscriber's negligent or willful act, and remains out of order in excess of 24 hours after the subscriber notifies the company of the interruption. The refund to the subscriber shall be the pro rata part of the month's charge for the period of days and that portion of the service and facilities rendered useless or inoperative; except that the refund shall not be applicable for the time that the company stands ready to repair the service and the subscriber does not provide access to the company for such restoration work. The refund may be accomplished by a credit on a subsequent bill for telephone service.

Rule 25-4.034(5), F.A.C, provides in part that companies shall only charge the rates and credits contained in their tariff.

Pursuant to Section 364.285, Florida Statutes, the Commission is authorized to impose upon any entity subject to its jurisdiction a penalty of not more than \$25,000 per violation, if such entity is found to have refused to comply with or to have willfully violated any lawful rule or Order of the Commission, or any provision of Chapter 364. Staff does not believe that TDS' apparent violations of Rules 25-4.110 and 25-4.034, F.A.C., rise to the level that warrants an order to show cause.

TDS promptly determined the cause of the failure to issue customer refunds as required by the Rule and its tariffs in effect at the time of the violations. Further, TDS corrected the problem and cooperated fully with staff during the investigation. Moreover, TDS has agreed to refund all affected customers, including interest, dating back to 2007. Accordingly, staff believes that the Commission should decline to issue a show cause order or impose a penalty against TDS.

**Issue 3:** Should this docket be closed?

**Recommendation:** The Order issued from this recommendation will be 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, by August 1, 2011. Upon receipt of the final report, including the disposition of unclaimed funds, this docket should be closed administratively if no timely protest has been filed. (Harris)

**Staff Analysis:** The Order issued from this recommendation will be 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, by August 1, 2011. Upon receipt of the final report, including the disposition of unclaimed funds, this docket should be closed administratively if no timely protest has been filed.