



# Public Service Commission

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## -M-E-M-O-R-A-N-D-U-M-

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**DATE:** AUGUST 17, 2000

**TO:** DIRECTOR, DIVISION OF RECORDS AND REPORTING (BAYÓ)

**FROM:** DIVISION OF LEGAL SERVICES (KNIGHT) *wk BK*  
DIVISION OF COMPETITIVE SERVICES (M. WATTS) *mw*

**RE:** DOCKET NO. 000348-TI - INVESTIGATION AND DETERMINATION OF APPROPRIATE METHOD FOR REFUNDING INTEREST AND OVERCHARGES ON INTRASTATE 0+ CALLS MADE FROM PAY TELEPHONES AND IN A CALL AGGREGATOR CONTEXT BY BUSINESS TELECOM, INC. D/B/A BTI.

**AGENDA:** 08/29/00 - REGULAR AGENDA - INTERESTED PERSONS MAY PARTICIPATE

**CRITICAL DATES:** NONE

**SPECIAL INSTRUCTIONS:** NONE

**FILE NAME AND LOCATION:** S:\PSC\CMP\WP\000348.RCM

### CASE BACKGROUND

- March 18, 1992 - Business Telecom, Inc. d/b/a BTI (BTI) was granted IXC Certificate No. 2948.
- February 1, 1999 - Rule 25-24.630, Florida Administrative Code, Rate and Billing Requirements, was amended to cap rates on intrastate toll 0+ calls placed from pay telephones or a call aggregator context to \$.30 per minute plus \$3.25 for a person-to-person call or \$1.75 for a non person-to-person call.
- January 3, 2000 - Staff reviewed BTI's tariff for compliance with Rule 25-24.630, Florida Administrative Code, and found that BTI's tariffed rates appeared to exceed the rate cap. Staff mailed BTI a certified letter and requested additional information by January 31, 2000.

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PSC-RECORDS REPORTING

- January 7, 2000 - The United States Postal Service returned the receipt, which showed the certified letter was signed for and delivered on this date.
- January 24, 2000 - BTI submitted a response requesting additional time to compile the requested information.
- May 19, 2000 - BTI submitted a final report stating that it had overcharged \$2,168.60 for 4,176 0+ intrastate toll calls placed by consumers.

Staff believes the following recommendations are appropriate.

#### **DISCUSSION OF ISSUES**

**ISSUE 1:** Should the Commission accept Business Telecom, Inc. d/b/a BTI's offer of refund and refund calculation of \$2,168.60, plus interest of \$184.70, for a total of \$2,353.30, for overcharging customers for 0+ intrastate toll calls placed from pay telephones and in call aggregator contexts between February 26, 1999, and January 12, 2000?

**RECOMMENDATION:** Yes. The Commission should accept BTI's calculation of \$2,168.60, adding interest of \$184.70, for a total of \$2,353.30, and proposal to credit customer bills beginning November 1, 2000, and ending November 30, 2000, for overcharging customers for 0+ intrastate toll calls placed from pay telephones and in call aggregator contexts between February 26, 1999, and January 12, 2000. The refunds should be made through credits to customers' bills beginning November 1, 2000. At the end of the refund period, any amount not refunded, including interest, should be remitted to the Commission and forwarded to the Comptroller for deposit in the General Revenue Fund, pursuant to Chapter 364.285(1), Florida Statutes. BTI should submit a final report as required by Rule 25-4.114, Florida Administrative Code, Refunds, by February 2, 2001. If the company fails to issue the refunds in accordance with the terms of the Commission's Order, the company's certificate should be canceled, and this docket should be closed.  
**(M. Watts)**

**STAFF ANALYSIS:** Staff compared BTI's tariff for operator service rates to the rate caps established in Rule 25-24.630, Florida Administrative Code. Based on the comparison, it appeared that BTI was applying surcharges of \$2.25 for collect calls and \$2.35 for third party calls instead of \$1.75, and was applying a surcharge of \$4.90 for person-to-person calls instead of \$3.25. In addition, it appeared that BTI was charging a \$1.15 surcharge when its operator dialed the number for the customer. As a result, the rates BTI charged exceeded the Commission's rate caps. On January 3, 2000, staff wrote to BTI and advised it of the discrepancy and requested information by January 20, 2000.

The company's tariff, which became effective October 10, 1997, included an operator-dialed surcharge in addition to the per minute rate and the person-to-person and non person-to-person surcharges. The company revised its tariff to remove the operator-dialed surcharge and to lower the person-to-person and non person-to-person surcharges to comply with the Commission's rate caps and ceased billing customers at the higher rates on January 12, 2000. On May 19, 2000, after several communications with staff, BTI provided that a total of \$2,168.60 was overcharged on 4,176 calls. Of the 4,176 calls, 3,538 were collect calls, 622 were third party calls, 16 were person-to-person calls, and no calls were charged the operator-dialed surcharge.

Based on the foregoing, staff recommends that the Commission should accept BTI's calculation of \$2,168.60, adding interest of \$184.70, for a total of \$2,353.30, and proposal to credit customer bills beginning November 1, 2000, and ending November 30, 2000, for overcharging customers for 0+ intrastate toll calls placed from pay telephones and in call aggregator contexts between February 26, 1999, and January 12, 2000. The refunds should be made through credits to customers' bills beginning November 1, 2000. At the end of the refund period, any amount not refunded, including interest, should be remitted to the Commission and forwarded to the Comptroller for deposit in the General Revenue Fund, pursuant to Chapter 364.285(1), Florida Statutes. BTI should submit a final report as required by Rule 25-4.114, Florida Administrative Code, Refunds, by February 2, 2001. If the company fails to issue the refunds in accordance with the terms of the Commission's Order, the company's certificate should be canceled, and this docket should be closed.

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**ISSUE 2:** Should Business Telecom, Inc. d/b/a BTI be required to show cause why it should not pay a fine for over billing of calls in excess of the rate cap established in Rule 25-24.630, Florida Administrative Code, Rate and Billing Requirements?

**RECOMMENDATION:** No. Staff does not believe that BTI's conduct rises to the level that warrants an Order to Show Cause. **(M. Watts)**

**STAFF ANALYSIS:** By 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, 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, Florida Statutes. Staff does not believe that BTI's conduct rises to the level that warrants an Order to Show Cause.

BTI corrected the problem and cooperated with staff during the investigation. Moreover, BTI has agreed to refund those overcharged customers, including interest.

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

**RECOMMENDATION:** No. If no person, whose interests are substantially affected by the proposed action, files a protest of the Commission's decision on Issue 1 within the 21-day protest period, the Commission's Order will become final upon issuance of a Consummating Order. This docket should, however, remain open pending the completion of the refund and receipt of the final report on the refund, or cancellation of the certificate. After completion of the refund and receipt of the final report or cancellation of the company's certificate, this docket may be closed administratively. **(Knight)**

**STAFF ANALYSIS:** Whether staff's recommendation on Issue 1 is approved or denied, the result will be a Proposed Agency Action Order. If no timely protest to the proposed agency action is filed within 21 days of the date of issuance of the Order, the Commission's Order will become final upon issuance of a Consummating Order. This docket should, however, remain open pending the completion of the refund and receipt of the final report on the refund, or cancellation of the certificate. After completion of the refund and receipt of the final report or cancellation of the company's certificate, this docket may be closed administratively.