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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Investigation and determination of appropriate method for refunding overcharges assessed on intrastate calls made using prepaid calling services by Locus Telecommunications, Inc.	DOCKET NO. 011654-TI ORDER NO. PSC-02-0402-PAA-TI ISSUED: March 22, 2002

The following Commissioners participated in the disposition of this matter:

LILA A. JABER, Chairman
J. TERRY DEASON
BRAULIO L. BAEZ
MICHAEL A. PALECKI
RUDOLPH "RUDY" BRADLEY

DEPOSIT D203 DATE APR 09 2002

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NOTICE OF PROPOSED AGENCY ACTION
ORDER APPROVING REFUND

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 August 18, 2001, our staff purchased and evaluated a prepaid phone card branded as *Satellite Phone Card*, and determined that Locus Telecommunications, Inc. (Locus) is the prepaid calling services provider. On August 28, 2001, our staff mailed Locus a certified letter informing the company of apparent rule violations and overcharges and requesting a written response by September 10, 2001. Subsequently, on October 3, 2001, Locus submitted its response to our staff's letter and also submitted tariff revisions.

On October 26, 2001, our staff sent Locus a second letter requesting that the company include all surcharges for the *Satellite Phone Card* in its tariff and submit a proposal to refund

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overcharges. Thereafter, on December 14, 2001, our staff received Locus' refund proposal and tariff revisions. On December 17, 2001, our staff opened this docket to address Locus' refund proposal.

The Commission is vested with jurisdiction over this matter pursuant to Sections 364.08, and 364.19, Florida Statutes.

II. ANALYSIS

Rule 25-24.920(6), Florida Administrative Code, Standards for Prepaid Calling Card Services and Consumer Disclosure, states:

> A company shall not reduce the value of a card by more than the charges printed on the card, packaging, or visible display at the point of sale.

Rule 25-24.920(7), Florida Administrative Code, Standards for Prepaid Calling Card Services and Consumer Disclosure, states:

> The billing increment shall not exceed one minute.

Based on our evaluation, we determined the value of the *Satellite Phone Card* was charged down by more than the charges printed on the card or visible display in apparent violation of Rule 25-24.920(6), Florida Administrative Code. Locus also billed customers in 3-minute increments in apparent violation of Rule 25-24.920(7), Florida Administrative Code. As a result, Locus overcharged end-users by the following amounts:

- Overcharging the connection charge by $0.20 for each call made. The amount actually charged was $0.79, but the amount disclosed on the phone card was $0.59.
- Undisclosed service charges applied for each card ($0.49 for the first call and again every 15 days thereafter).
- $0.025 for each minute that was overcharged due to rounding up to 3-minute billing increments.

To resolve the apparent violations of Rule Nos. 25-24.920(6), and 25-24.920(7), Florida Administrative Code, Locus has offered to make a payment to the General Revenue Fund in lieu of refunding affected customers. Due to the nature of this prepaid calling card product, it is not feasible to refund the overcharges to the affected customers. A record of the customers does not exist.

Therefore, we find the best alternative is that proposed by Locus, which is to contribute the amount of the overcharges to the General Revenue Fund.

Locus estimated that 10,375 calls were affected from May 1, 2001, through August 31, 2001. The refund of $3,896.75 proposed by Locus is based on the following:

1. Connection fees overcharged by $2,075.00.

2. Service fees overcharged by $1,562.37.

3. 3-minute billing increments caused overcharges of $259.38.

We then used the amount of $3,896.75 as the basis for calculating the interest of $87.30.

In addition, we reviewed the company's tariff and did not find any information regarding the provision of prepaid calling services in apparent violation of Rule 25-24.915(2), Florida Administrative Code, Tariffs and Prices Lists, which states:

Each company shall file a tariff or price list for PPCS (prepaid calling services).

To resolve the apparent violation of Rule 25-24.915(2), Florida Administrative Code, Locus has submitted a revised tariff listing prepaid calling services.

Locus has revised the printing on the *Satellite Phone Card* and display material so that it complies with all applicable rules. Locus has also submitted a revision to its tariff to include prepaid calling card services' rates and applicable surcharges for the *Satellite Phone Card*. Locus has also corrected the rounding such that calls are now rounded to the nearest minute instead of the nearest three minutes. It appears that Locus has taken the necessary actions to remedy the problems that caused the apparent rule violations and overcharges. Moreover, this is the first time that Locus has had any compliance issues with the Commission.

III. DECISION

Based on the aforementioned, we accept Locus' offer to submit a payment of $3,896.75, plus interest of $87.30, for a total of $3,984.05, to the General Revenue Fund for overcharging end-users on intrastate calls made using prepaid calling services provided through the *Satellite Phone Card* from May 1, 2001, through August

31, 2001. Locus must comply with these requirements within ten business days from the date this Order becomes final. The contribution should be identified with the docket number and the company name. Upon timely receipt, the contribution will be forwarded to the Office of the Comptroller for deposit in the General Revenue Fund. If Locus fails to pay in accordance with its offer, Certificate No. 7439 shall be canceled administratively and this docket shall be closed.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the method proposed by Locus Telecommunications, Inc. to resolve the overcharges addressed in this docket is hereby accepted. It is further

ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective unless an appropriate petition, in the form provided by Rule 28-106.201, Florida Administrative Code, is received by the Director, Division of the Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings or Judicial Review" attached hereto. It is further

ORDERED that if this Order becomes final, the $3,984.05 contribution shall be received by this Commission within ten (10) business days from the issuance of the Consummating Order. The payment must identify the docket number and company name. It is further

ORDERED that upon receipt of the $3,984.05 contribution, we shall forward it to the Office of the Comptroller for deposit in the State of Florida General Revenue Fund. It is further

ORDERED that in the event this Order becomes final and the $3,984.05 contribution is timely received in accordance with this Order, this docket may be closed administratively. It is further

ORDERED that if Locus Telecommunications, Inc. fails to pay the contribution in accordance with the terms of this Order, the company's certificate shall be canceled, and this docket shall be closed.

By ORDER of the Florida Public Service Commission this 22nd Day of March, 2002.

BLANCA S. BAYÓ, Director

Division of the Commission Clerk
and Administrative Services

By: /s/ Kay Flynn
Kay Flynn, Chief
Bureau of Records and Hearing
Services

This is a facsimile copy. Go to the Commission's Web site, http://www.floridapsc.com or fax a request to 1-850-413-7118, for a copy of the order with signature.

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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 Director, Division of the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on April 12, 2002.

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.