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

OCTOBER 17, 1996

TO: DIRECTOR, DIVISION OF RECORDS AND REPORTING (BAYO)

FROM: DIVISION OF COMMUNICATIONS (ISLER)
DIVISION OF LEGAL SERVICES (PELLEGRINI)
DIVISION OF AUDITING & FINANCIAL ANALYSIS (JONES)

RE: DOCKET NO. 961049-TI - TELTRUST COMMUNICATIONS SERVICES, INC. - DETERMINATION OF APPROPRIATE METHOD FOR REFUNDING OVERCHARGES ON INTRASTATE LONG DISTANCE SERVICE FOR CALLS PLACED FROM PAY TELEPHONES

AGENDA: OCTOBER 29, 1996 - REGULAR AGENDA - PROPOSED AGENCY ACTION - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: S:\PSC\CMU\WP\961049TI.RCM

CASE BACKGROUND

• Teltrust Communications Services, Inc. (Teltrust) is an interexchange carrier, has been providing operator services since March 23, 1993, and holds Certificate No. 3154.

• A staff engineer evaluated pay telephones in the New Smyrna Beach area during April, 1996. Calls were placed to the Commission's test number in Tallahassee and billed to a calling card account established for testing purposes.

• Staff's review of the resulting bill revealed that a call was overbilled by one minute.

• Staff contacted Teltrust in May, 1996, for an explanation of the apparent overbilling.

• Teltrust advised the Commission that completed calls were billed at the switch seizure rather than at answer supervision. "Switch seizure" is when the long distance carrier's point of presence is accessed. This caused end users to be overbilled by approximately one minute on long distance calls made between January 27 and July 13, 1996.

• Teltrust promptly corrected the cause of the overbilling by changing all billing to answer supervision. The company also advised the Commission that to prevent future overbilling, an internal policy was implemented that requires Teltrust's Regulatory Affairs Manager's approval and signature before any change can be made that affects the rating and/or timing of calls.

• Teltrust has agreed to directly credit those overbilled customers via its billing company, Zero Plus Dialing, Inc., on end users' telephone billings.

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission accept Teltrust Communications Services, Inc.'s refund calculation of $8,182.82, adding interest of $314.07, for a total of $8,496.89, and proposal to credit customer bills between November 18 and December 31, 1996, for overbilling end users by one minute on intrastate calling card calls placed between January 27, 1996 and July 13, 1996?

RECOMMENDATION: Yes. The Commission should accept Teltrust Communications Services, Inc.'s refund calculation of $8,182.82, adding interest of $314.07, for a total of $8,496.89, and proposal to credit customer bills between November 18 and December 31, 1996, for overbilling end users by one minute on intrastate calling card calls placed between January 27, 1996 and July 13, 1996.

STAFF ANALYSIS: Staff engineers routinely evaluate pay telephones for call timing and billing accuracy. On April 4, 1996, staff made a calling card test call that lasted one minute 39 seconds, which should have been rounded up to two minutes according to Teltrust's tariff. Staff's timing device, that is installed on our test line, begins the timing when the answering machine answers and terminates timing when the call is released. The subsequent billing for that call revealed the Commission was billed for a three minute call.

Staff notified Teltrust of the discrepancy on May 28, 1996, and asked for an explanation. Teltrust advised staff on June 27, 1996, that its records show the call lasted two minutes 33 seconds, was rounded up to the next full minute per its tariffs, and, therefore, was rated correctly.

Staff recontacted Teltrust on July 2, 1996, and explained how the Commission's test equipment works, included a copy of the tape which illustrated that the call in question lasted for one minute 39 seconds per our records, and requested Teltrust to make some test calls to verify the timing accuracy of calls.

Teltrust advised the Commission by letter dated July 26, 1996, that test calls were conducted and revealed completed calls were billed at switch seizure rather than at answer supervision. The company advised that its technical operations department made a change on January 27, 1996, that was intended to affect only a few accounts with traffic originating from outside Florida. Teltrust advised that even though Florida accounts were not scheduled for the change, they were inadvertently included. After Teltrust discovered its error, its data entry group was instructed to change all billing to answer supervision effective July 13, 1996.

Teltrust determined that 49,303 calls made between January 27 and July 13, 1996, were overbilled by one minute. Based on the time of day and mileage of the calls, the company determined that it overbilled customers $8,182.82.

The company should be required to make refunds pursuant to Rule 25-4.114, Florida Administrative Code. The amount of the refunds should be $8,496.89, including interest of $314.07 (Attachment A). The company has agreed to credit end users' bills that can be identified for the one minute overbilling, plus interest. The credit will appear on their local telephone company statement through Teltrust's billing agent, Zero Plus Dialing, Inc. The refunds will be completed by making the credits between November 18 and December 31, 1996. Any remaining monies, including interest due unidentified consumers, should be remitted to the Florida Public Service Commission and deposited in the General Revenue Fund, pursuant to Chapter 364.285 (1), Florida Statutes. Therefore, staff recommends accepting Teltrust's offer.

ISSUE 2: Should Teltrust Communications Services, Inc. be required to show cause why it should not pay a fine for overbilling the timing of intrastate long distance calls from pay telephones?

RECOMMENDATION: No.

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. Utilities are charged with knowledge of the Commission's rules and statutes. Additionally, "[i]t is a common maxim, familiar to all minds, that 'ignorance of the law' will not excuse any person, either civilly or criminally." Barlow v. United States, 32 U.S. 404, 411 (1833). Thus, any intentional act, such as Teltrust's conduct in issue here, would meet the standard for a "willful violation."

Staff believes that Teltrust's conduct in billing Florida accounts at switch seizure rather than at answer supervision since January 1996 has been "willful" in the sense intended by Section 364.285, Florida Statutes. Rule 25-24.630(1)(f), Florida Administrative Code, requires that an operator services provider shall "charge only for conversation time as rounded according to company tariffs." In Order No. 24306, issued April 1, 1991, in Docket No. 890216-TL titled In re: Investigation Into The Proper Application of Rule 25-14.003, F.A.C., Relating To Tax Savings Refund for 1988 and 1989 For GTE Florida, Inc., having found that the company had not intended to violate the rule, the Commission nevertheless found it appropriate to order it to show cause why it should not be fined, stating that "In our view, willful implies intent to do an act, and this is distinct from intent to violate a rule."

However, staff does not believe that Teltrust's conduct rises to the level warranting that a show cause order be issued. Teltrust has corrected the problem associated with the timing of intrastate calls. The company has cooperated fully with staff during the investigation. Moreover, Teltrust has agreed to refund those customers who were overbilled, and has implemented internal measures to prevent future overbilling.

ISSUE 3: Should this docket be closed?

RECOMMENDATION: Yes. This docket should be closed if no person, whose interests are substantially affected by the proposed action, files a protest within the 21 day protest period, and upon completion of the refund.

STAFF ANALYSIS: At the conclusion of the protest period, if no protest is filed, and upon completion of the refund, this docket should be closed.

State of Flor[illegible]

Public Service Commission

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

DATE: October 10, 1996

TO: Paula Isler, Division of Communications

FROM: Sonja Jones, Division of Auditing and Financial Analysis SLS ALM APC

RE: Docket No. 961049-TI, Interest Calculation of Refund for Teltrust, Inc.

THIS IS A REVISION TO AFAD'S SEPTEMBER 11, 1996 MEMO. THIS ITEM WAS DEFERRED FROM THE OCTOBER 8TH AGENDA RESULTING IN A MODIFICATION TO THE TIME PERIOD IN WHICH THE REFUND WILL TAKE PLACE.

The total refund amount of $8,496.89 consists of $8,182.82 in overcharges and $314.07 in interest. This calculation assumes that the overcharges occurred evenly between January 27 and July 27, 1996, and the refund will occur between November 18 and December 31, 1996. The last available interest rate of 5.42% for the month of September is used for the future months of October, November, and December of 1996. Attached is a schedule that shows the calculations.

Docket No. 961049-TI
Teltrust, Inc.
Interest Calculations of Refund

MONTH	AVERAGE MONTHLY INTEREST RATE	MONTHLY INTEREST FACTOR	MONTHLY OVERCHARGE	MONTHLY OVERCHG INTEREST	MONTHLY OVERCHARGE PRINCIPAL AND INTEREST	BALANCE BROUGHT FORWARD PLUS INTEREST	REFUND BALANCE	MONTHLY REFUND
JAN 96 *	5.61%	0.47%	$175.97	$0.62	$176.60	$0.00	$176.60	
FEB	5.37%	0.45%	$1,363.80	$6.10	$1,369.90	$177.59	$1,547.49	
MAR	5.42%	0.45%	$1,363.80	$6.15	$1,369.96	$1,554.47	$2,924.43	
APR	5.45%	0.45%	$1,363.80	$6.19	$1,370.00	$2,937.71	$4,307.71	
MAY	5.40%	0.45%	$1,363.80	$6.14	$1,369.94	$4,327.09	$5,697.03	
JUN	5.46%	0.46%	$1,363.80	$6.21	$1,370.01	$5,722.95	$7,092.96	
JUL *	5.49%	0.46%	$1,187.83	$5.43	$1,193.26	$7,125.38	$8,318.64	
AUG	5.43%	0.45%				$8,356.25	$8,356.25	
SEP	5.42%	0.45%				$8,393.99	$8,393.99	
OCT	5.42%	0.45%				$8,431.90	$8,431.90	
NOV	5.42%	0.45%				$8,469.99	$5,956.19	$2,513.80
DEC	5.42%	0.45%				$5,983.09	$0.00	$5,983.09
	TOTAL OVERCHARGES		$8,182.82					

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* Assumes overcharges occurred from January 27 through July 27, 1996.
Refunds to take place between November 18 and December 31, 1996.

TOTAL INTEREST	$314.07
TOTAL OVERCHARGE	$8,182.82
TOTAL REFUND	$8,496.89

Attachment A
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