



from 2008-August, 2010 was \$10,326.00.<sup>6</sup> However, its total surcharge collection through June of 2010 was \$8,413.00.<sup>7</sup>

### ANALYSIS

6. Public Law 25-55, enacted June 30, 1999, requires that Local Exchange Carriers such as PDS remit E911 amounts collected to the Department of Administration no later than forty-five (45) days *after* the end of the month in which the amount is collected.<sup>8</sup> PDS violated this statutory requirement by not remitting the amounts collected to DOA.
7. Furthermore, PDS violated the statutory procedure by deducting its expenses from the remittances [actual expenses incurred for collection services] without approval by the PUC.<sup>9</sup>
8. By Commission Order dated October 5, 1999, collection agents were required to remit their collections to DOA within 45 days after the end of the month during which the surcharges are collected. Collection agents were cautioned to carefully review PL 25-55 to determine the full scope of their duties.<sup>10</sup>
9. By Order dated June 24, 2002, the Commission further adopted a protocol to regulate Collection Agents' activities.<sup>11</sup> The duty of collection agencies to remit surcharge revenues to DOA was reiterated, and collection agents were advised that, since no fees procedure had yet been established, "no deduction may be made until an Administrative fee is established by the PUC."<sup>12</sup>
10. Counsel notes that Attachment A to the June 24, 2002, PUC Order expressly designated those entities that were "Collection Agents" as of the date of the Order. Startec/PCI was indicated in Attachment A as a Collection Agent,

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<sup>6</sup> Letter from PDS to PUC Legal Counsel dated September 14, 2010 re: Reimbursement of 911 Collection Agent Costs, at p.1.

<sup>7</sup> Letter from PDS to PUC Legal Counsel dated September 14, 2010 re: Reimbursement of 911 Collection Agent Costs at p.2.

<sup>8</sup> Public Law 25-55, Section 3(b), enacted June 30, 1999.

<sup>9</sup> Id., Section 3(c)

<sup>10</sup> PUC Order, Docket 99-10, [911 Emergency System Surcharge], dated October 5, 1999 at p.5

<sup>11</sup> PUC Order, Docket 99-10, issued June 24, 2002 at p.1

<sup>12</sup> Id., at p.2.

with the contact person being Mr. John Day.<sup>13</sup> PDS was not listed (it only received a Certificate of Authority in 2005).

11. Certain “Reporting Requirements” were also instituted regarding the filing of quarterly reports with the Commission.<sup>14</sup> PDS did not comply with its reporting requirements under the PUC Order for the period of 2008-2010.
12. On April 11, 2003, the PUC implemented a “Reimbursement Protocol Order”.<sup>15</sup> Therein, the PUC authorized collection agents to file a petition for reimbursement of monthly expenses.<sup>16</sup> Prior to its September 2010 request for reimbursement of expenses, PDS had not filed a petition for reimbursement of the expenses which it claims offset the E911 collection remittances.
13. On January 5, 2011, Counsel requested an opinion from Georgetown Consulting Group Inc. [GCG], the PUC consultant, as to how the PUC should approach the compliance issues regarding PDS.<sup>17</sup> GCG addressed such issues in sub-paragraph (3) of its Report Re: E911 Fiscal 2010 Surcharge Summary.<sup>18</sup> GCG also filed its Report Re: PDS Request for Reimbursement of E911 Administrative Costs, Docket 10-04, on January 13, 2011.<sup>19</sup>
14. GCG found that PDS was in violation of the June 24, 2002, Commission Order in Docket 99-10, by virtue of withholding payment of E911 surcharges until cumulative surcharge revenues exceeded the amount claimed as administrative expenses.<sup>20</sup> Approval by the PUC is needed before a Collection Agent can legally retain funds as reimbursement of administrative costs.<sup>21</sup> PDS did not request approval of its administrative costs until

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<sup>13</sup> Id., Attachment A.

<sup>14</sup> Id., at p. 3.

<sup>15</sup> PUC Order Docket 99-10, issued April 11, 2003 [Reimbursement Protocol Order], at p.1.

<sup>16</sup> Id at p.2

<sup>17</sup> Email from PUC Counsel to GCG, dated January 5, 2011, PDS Docket 10-04.

<sup>18</sup> GCG Report Re: E911 Fiscal 2010 Surcharge Summary, Docket 99-10, filed January 13, 2011, at p.3.

<sup>19</sup> GCG Report Re: PDS Request for Reimbursement of E911 Administrative Costs, Docket 10-04, filed January 13, 2011.

<sup>20</sup> Id., at p.1.

<sup>21</sup> Id.

September 14, 2010, although it had been collecting and retaining the surcharge for years.<sup>22</sup>

15. However, GCG found that there was no willful violation since PDS' obligations with respect to E911 surcharge collections may not have been adequately explained at the time it received a Certificate of Authority from the PUC. PDS' Certificate of Authority was issued by the PUC on March 16, 2005; it contained no references to E911 obligations. Thus, no punitive PUC action is recommended: "the goal should be to get PDS into compliance on a going forward basis."<sup>23</sup>
16. In a separate confidential Report issued January 13, 2011, GCG concluded that based upon its analysis of PDS' line count, the amount of the surcharge collected by PDS was consistent with PUC rules.<sup>24</sup>
17. As to Reimbursement of E911 Administrative Costs, PDS reported that it incurred a one-time software cost of \$750 to upgrade its billing system and a total of \$469 per month in on-going costs. Such ongoing monthly costs include Surcharge billing (4 hours per month at a cost of \$98); Surcharge collections (6 hours per month at a cost of \$161); Reconciliation and recording (4 hours per month at a total cost of \$140); Remittance (2 hours per month at a cost of \$70).<sup>25</sup> GCG finds that the expenses claimed by PDS or "modest" and are "in line with the expenses that the PUC authorized for recovery by other Collection Agents." Consequently, it recommends that the PUC approve these amounts for reimbursement.<sup>26</sup>
18. GCG further found that PDS had already retained most of the amounts it claimed for reimbursement. As of September 2010, it had collected and retained \$9,989 and its administrative costs for \$10,795: "At the current rate of collection, cumulative receipts should exceed cumulative expenses by February 2011."<sup>27</sup>

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<sup>22</sup> Id.

<sup>23</sup> GCG Report Re: E911 Fiscal 2010 Surcharge Summary, Docket 99-10, filed January 13, 2011, at p.3.

<sup>24</sup> GCG Report Re: PDS E911 Collections and Expenses, Docket 10-04, filed January 13, 2011, at p. 1.

<sup>25</sup> GCG Report Re: PDS Requests for Reimbursement of E911 Administrative Costs, Docket 10-04, January 13, 2011.

<sup>26</sup> Id. at pgs. 1-2.

<sup>27</sup> Id. at p.2.

19. In accordance therewith, GCG recommends that PUC should allow PDS to keep all surcharges collected through January 2011 in full satisfaction of all claims for reimbursement, and, that starting February 2011, reimbursement should be \$469 per month. PDS should remit all amounts collected in excess of \$469 per month to the Department of Administration, as required by the E911 Law. In the required quarterly filings, PDS should positively affirm that it has fully collected the outstanding amounts.<sup>28</sup>

### RECOMMENDATIONS

20. Counsel concurs that the recommendations of GCG and recommends that the PUC adopt them. While PDS did violate its duties under the statute and prior PUC Order, Counsel does not find clear evidence in the record that PDS was fully advised of its E911 obligations. There is no indication in the PUC records that Collection Agent letters and notices were sent to PDS. The violations by PDS, in any event, were not willful.
21. The expenses claimed by PDS for E911 Collection Activity should be approved. However, from February 2011 onward PDS must fully comply with all applicable laws and PUC Orders regarding remittance of all surcharges collected in excess of \$469 per month to the Department of Administration. In the required quarterly filings, PDS should positively affirm that it has fully collected the outstanding amounts. PDS must fully comply with all reporting obligations under law.
22. An Order is submitted herewith for the consideration of the Commissioners.

Dated this 4th day of April, 2011.

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Frederick J. Horecky  
PUC Legal Counsel

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<sup>28</sup> Id.