

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

May 9, 1996

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

FROM: DIVISION OF COMMUNICATIONS (TRUBELHORN) *PREP FAT*
DIVISION OF LEGAL SERVICES (BILLMEIER) *LMB H*
DIVISION OF AUDITING & FINANCIAL ANALYSIS (JOHE) *LRJ DM*

RE: DOCKET NO. 960509-TI - DETERMINATION OF APPROPRIATE
METHOD OF REFUNDING OVERCHARGES BY BN1
TELECOMMUNICATIONS, INC. (BN1) ON INTRASTATE LONG
DISTANCE CALLS.

AGENDA: 5/21/96 - REGULAR AGENDA - PROPOSED AGENCY ACTION -
INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: S:\PSC\CMU\WP\960509.RCM

CASE BACKGROUND

Staff tested BN1's timing, billing, and rating accuracies in two sets (1+ DDD and Calling Card) of 54 interLATA, intrastate test calls made on April 7, 1995. BN1 scored 0% in each of six tests - two each for timing, billing, and rating accuracy. Staff standards are 97% for timing, 100% for billing, and 100% for rating. Staff queried BN1 (by FAX) on June 13, 1995, about Staff's inability to match BN1's billing increments and rated amounts with a BN1 tariff. Staff then informed BN1 of the failures by letter on October 23, 1995 and again by Certified letter on December 1, 1995.

BN1 replied by letter on December 14, 1995 that it had corrected its timing system and that its attorney was acting to file the necessary tariff changes. BN1 filed tariff corrections to its billing increment on January 4, 1996. BN1 then filed tariff corrections to its rate on February 5, 1996.

In January 1996, BN1 requested that staff retest its service to demonstrate that its timing, billing, and rating systems had been corrected. Staff met with BN1's Tariff Manager on January 31, 1996 to discuss its unsatisfactory performance in the April 1995 tests; he agreed to prepare a refund plan to compensate for the

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FPSC-RECORDS/REPORTING

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over-timing failures. A second round of test calls (for both 1+DDD and Calling Card calls) was completed on February 12, 1996. Staff's March 22, 1996 letter reported that no errors were found in BN1's timing, billing, and rating of the new test calls.

On April 3, 1996, BN1 forwarded a revenue analysis of the effects of its over-timing and incorrect billing and rating parameters; BN1's analysis estimated that the net effect of the timing, billing, and rating errors equals \$516.90. Staff reviewed the revenue analysis and, on April 24, revised the estimated net effect to \$10,621.23. BN1 had failed to adjust their total billed revenue amount by its intrastate factor when determining its (credit) adjustment for its under-billed and under-rated calls. On April 25, BN1 agreed with the revisions and proposed to refund \$11,500 to the State of Florida. On April 29, BN1 wrote that the \$11,500 would be paid within 30 days of the Regular Agenda date. These four letters are attached as pages 5 through 12). This recommendation addresses BN1's proposal.

DISCUSSION OF ISSUES

ISSUE 1: Should BN1 Telecommunications, Inc.'s settlement proposal providing payment of \$11,500 within 30 days of the order be accepted? How should the settlement amount be disbursed?

RECOMMENDATION: Yes. The settlement amount should be paid to BN1's four largest customers, in accordance with their percentage of the company's billed revenues, with the remainder being paid to the State of Florida.

STAFF ANALYSIS: Staff and BN1 concur in the revised revenue analysis and the \$10,621.23 estimate of the net effect of the discrepancies. Staff calculates that BN1 (1) over-timed the 54 test calls by 23% or an average of 28.5 sec. per call on calls ranging in length from 58 seconds to 183 seconds, (2) under-billed by 12.9% to 22.5%, in that it billed in six second increments instead of the tariffed 60 second increments, and (3) under-rated by 7.3%, in that it charged \$0.139 per minute instead of the tariffed \$0.15 per minute. The proposed \$11,500 settlement satisfactorily reimburses for this overcharging from November 1994 (the start of BN1's Florida sales) to September 1995 (the month before BN1 corrected their timing problems). The \$11,500 includes interest in accordance with Rule 25-4.114, Florida Administrative Code. BN1 proposes paying the \$11,500 settlement amount to the State of Florida, since it cannot precisely determine refund amounts for specific customers due refunds. Staff proposes that 75% (\$8,625) of the \$11,500 settlement amount be paid to its four largest customers and that the remaining 25% (\$2,875) be paid to

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the State of Florida since BN1 cannot obtain its customers' total records from its original billing system, but can obtain the billed revenues and commissions paid to four business associations accounting for 71.4% to 79.4% of their revenues during the time period. Staff proposes that 75%, or \$8,625, be paid to these four associations according to their percentage of BN1's billed revenues. The remaining 25%, or \$2,875, should be paid to the Florida Public Service Commission and forwarded to the Office of the Comptroller for deposit in the General Revenue Fund pursuant to 364.285 (1), Florida Statutes. Both of these settlement payments should be made within 30 days of the order, as proposed by BN1.

ISSUE 2: Should BN1 Telecommunications, Inc. be required to show cause why it should not pay a fine for charging in excess of its tariffed rates?

RECOMMENDATION: No.

STAFF ANALYSIS: The net effect of BN1's problems (\$10,621.23) equals less than five percent of its billed revenue base in Florida of \$214,144. BN1 has corrected all problems associated with its timing of intrastate calls, as demonstrated by its 100% rating on our February 12 retest; BN1 has filed the appropriate tariffs, correcting the billing and rating discrepancies. BN1 reports no customer complaints for overcharging and was unaware that the problems existed. In conclusion, BN1 has cooperated satisfactorily with staff engineers. Therefore staff recommends against requiring BN1 to show cause why it should not be fined.

ISSUE 3: Should the docket be closed without further action by the FPSC?

RECOMMENDATION: Yes, unless a person whose substantial interests are affected by the FPSC's decision files a protest within 21 days of the issuance of the order, this docket should be closed after the expiration of the protest period and upon completion of the refund and verification by staff.

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STAFF ANALYSIS: Unless a person whose substantial interests are affected by the FPSC's decision files a protest within 21 days of the issuance of the order, this docket should be closed after the expiration of the protest period and upon completion of the refund and verification by staff.



Corporate Office • 1 Cascade Plaza • Suite 1350 • Akron, Ohio 44308 • 330-762-4900 • Fax 330-762-7252

April 29, 1996

J. Alan Taylor, Chief
Bureau of Service Evaluation
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Fl 32399-0850

Dear Mr. Taylor,

This is the inform you that the proposed settlement amount before the PSC will be paid within thirty (30) days of the PSC agenda date.

Sincerely,

James K. Leedy Sr.
President

Regional Offices

Cincinnati, OH
Columbus, OH

Dayton, OH
Detroit, MI

Orlando, FL
Pittsburgh, PA

Youngstown, OH
Chicago, IL

YOUNG, VAN ASSENDERP & VARNADOE, P. A.
ATTORNEYS AT LAW

REPLY TO:

Tallahassee

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*BOARD CERTIFIED REAL ESTATE LAWYER

April 24, 1996

HAND DELIVER

J. Alan Taylor, Chief
Bureau of Service Evaluation
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Re: Docket No. 960509-TI

Dear Mr. Taylor:

Your letter to me dated April 24, 1996, indicates that your staff discovered a need to revise the computations attached to BN1's April 3, 1996 letter that offered a \$2,000 payment in settlement for BN1's overtiming and underrating of intrastate calls from November 1994 to September 1995.

I faxed your letter to BN1, along with your staff's worksheet. BN1 reviewed the revised calculations, and BN1 has advised me that they agree with your staff.

It is obviously appropriate to revise the settlement offer of BN1, and BN1 believes that a payment to the State of Florida in the amount of \$11,500 is proper pursuant to the revised calculations.

Please place this offer before the Commission at the May 7, 1996 Agenda Conference.

Sincerely,

A handwritten signature in cursive script that reads "David B. Erwin".

David B. Erwin

DBE/kdr
cc: James Leedy, Sr.

State of Florida

Commissioners:
SUSAN F. CLARK, CHAIRMAN
J. TERRY DEASON
JULIA L. JOHNSON
DIANE K. KIESLING
JOE GARCIA



DIVISION OF COMMUNICATIONS
WALTER D'HAESELEER
DIRECTOR
(904) 413-6600

Public Service Commission

April 24, 1996

Mr. David B. Erwin
Young, van Assenderp & Varnadoe, P.A.
225 South Adams Street, Suite 200
P.O. Box 1833
Tallahassee, FL 32302-1833

Dear Mr. Erwin:

We have received BN1's April 3, 1996 letter offering a \$2000 payment to the State of Florida in settlement for BN1's overtime and underrating of intrastate calls from November 1994 to September 1995.

Based on our analysis we propose certain revisions. We changed the 70% average percentage of instate calls to 65%, based on your Interexchange Company Regulatory Assessment Fee Return forms from 7/1/94 to 12/31/95. Gross Operating Revenue over that period equalled \$486,494 and Intrastate Revenue equalled \$314,586. This changed the step one to step four calculations, yielding a revised adjustment for overtime equal to \$34,284.14. We also adjusted the computation of the actual versus tariffed billed revenues to show instate (not total) billed revenues, yielding an adjustment equal to \$23,462.91. The difference changed from \$516.90 to \$10,621.23.

Please review these revisions and submit a new refund proposal. We have established Docket #960509-TI to address your proposal. We thank you for your cooperation.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Alan Taylor".

J. Alan Taylor, Chief
Bureau of Service Evaluation

Enclosure

C: File\IXC-BN1

4. TIME DIFFERENCE BETWEEN "CONNECT" AND "ANSWER" = 27 SEC. per ATTACHMENT "A"

5. 27 SEC. x .15 CENTS/MIN = 7.5 CENTS
ROUNDED UP

65% 6. ~~70%~~ CALLS AVG. IN STATE

COMPUTATION:

STEP 1. \$305,920 TOTAL BILLED REVENUE
TIMES ~~70%~~ ^{65%} INSTATE EQUALS ~~\$214,144~~ \$198,848

STEP 2. ~~\$214,144~~ ADJ. BILLED REVENUE DIVIDED
BY .15 CENTS EQUALS ~~1,427,626~~ MINUTES 1,325,653

STEP 3. ~~1,427,626~~ MINUTES DIVIDED BY 2.9 MIN
PER CALL EQUALS ~~492,285~~ CALLS 457,122

STEP 4. ~~492,285~~ CALLS TIMES 7.5 CENTS
EQUALS ~~\$36,921.38~~ \$34,284.14

COMPUTATION: ACTUAL BILLED REVENUE TIMES # CALLS IN STATE TIMES
PERCENTAGE UNDERCHARGE

EXAMPLE: \$305,920 TIMES ~~11.9%~~ ^{65%} TIMES 11.9%
EQUALS ~~36,404.48~~
\$23,662.91.

COMPARISON:

\$34,284.14 ~~\$36,921.38~~ (ADJ. FOR DIFF. CONNECT vs ANSWER)
- 23,662.91 ~~36,404.48~~ (ADJ. FOR ACTUAL vs TARIFF BILLED
REVENUE)
10,621.23 ~~\$516.90~~ DIFFERENCE

V. ASSOCIATION (ACCOUNTS VARY FROM 145 NOV 94' TO 293 SEPT 95")

1. CENTRAL FLORIDA BUILDERS EXCHANGE
2. APARTMENT ASSOCIATION OF GREATER ORLANDO
3. TAMPA BUILDERS EXCHANGE
4. ORANGE COUNTY BAR ASSOCIATION

THE ABOVE ASSOCIATIONS REPRESENT FROM 71.4% TO 79.4%
OF TOTAL REVENUE



Bob Lafon • Account Executive • 70 Castle Village, Suite 158 • Pittsburgh, PA 15235 • Phone 412-884-3041 • Fax 412-884-3091

April 3, 1996

Alan Taylor
Division of Communications
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Dear Mr. Taylor:

BN1 Telecommunications (BN1) was granted FPSC IXC Certificate No. 3567 in July 1994. As a part of the application process, BN1 filed a tariff which was approved by the Commission.

In accordance with BN1's understanding of the tariff, calls were initially billed by BN1 on the basis of connection time to BN1's network. Test calls conducted by the Commission staff in April, 1995, alerted the staff to this fact, and BN1 was informed on October 23, 1995 that calls should be billed on the basis of answer time. BN1 immediately responded by changing its billing system, and tests conducted on February 12, 1996, by the Commission staff confirmed that billing by BN1 is accurate and in conformity with Commission policy.

BN1 has calculated the difference in revenue produced by the two billing procedures, and has determined that there is a billing difference that would be appropriately credited to BN1's customers except for another billing practice that has created a virtual net billing effect. From the outset BN1 billed customers at the rate of \$.139 per minute of use (MOU), instead of the higher tariff rate of \$.15 per MOU. Attached hereto is a calculation that shows the methodology used by BN1 to reach the determination that customers have not been harmed by the combination of billing practices that deviated from the approved tariff of BN1 and the policies of the Commission.

BN1 has filed all necessary tariff changes to reflect that billing is now done on the basis of answer time at the rate of \$.139 per MOU.

BN1 appreciates the diligence of staff and the manner in which the investigation was completed. In order to make certain that BN1 does not retain any proceeds unless BN1 is clearly entitled to such proceeds, BN1 hereby offers to pay to the State of Florida the amount of \$2,000.00. It is not possible to return any revenue to customers with any degree

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Detroit, MI

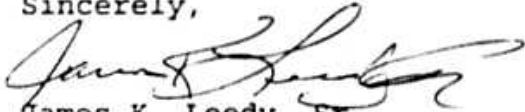
Pittsburgh, PA

Chicago, IL

of precision; there are no outstanding customer complaints,
and BN1 believes that payment to the state is the only remedy
in this case.

We request that you accept the offer of BN1 and close this
matter as expeditiously as possible.

Sincerely,



James K. Leedy, Sr.
President

Enclosure

dsh/025

FACT SHEET

I. ACTIVITY: BILLED REVENUE BY MONTH DURING QUESTIONABLE TIME:

<u>1994</u>	NOV - \$16,796
	DEC - \$13,581
	TOTAL..... \$30,377
<u>1995</u>	JAN - 20,699
	FEB - 24,019
	MAR - 27,211
	APR - 31,389
	MAY - 31,765
	JUN - 34,903
	JUL - 33,371
	AUG - 39,927
	SEP - 62,991 (ADJ. FOR T-1; \$30,732 ELIMINATE)
	TOTAL.....\$275,543
	GRAND TOTAL...\$305,920

NOTE 1: OCT - B.N.1.T. SOFTWARE CHANGED TO "ANSWER" TIME RATHER THAN "CONNECT" TIME:

II. ANALYSIS: COMPUTE ACTUAL vs TARIFF BILLINGS

(REFERENCE - P.S.C. "TIMING & BILLING RECONCILIATION") per ATTACHMENT "A"

	(ACTUAL) BILLED	(TARIFF) BILLED
DIAL-UP TOTALS.....	\$19.30	\$21.60
*SERVICE ACCESS CARD...	38.48	41.64

COMPUTATION - ASSUMPTIONS (TOTAL VOLUME)

- DIAL-UP REPRESENTS - 97.5%
SERVICE ACCESS CARD REPRESENTS 2.5%
- DIAL-UP ACTUAL BILLED REVENUE AGAINST TARIFF IS UNDERSTATED BY
2.30
19.30 = 11.9%

NOTE 1: CALCULATION (ex:)
21.60 BY TARIFF
19.30 ACTUAL BILLED

*NOTE 2: SERVICE ACCESS CARD WAS NOT FACTORED BECAUSE IT IS A VERY SMALL PERCENT OF THE CALLS (2.5%) per ATTACHMENT "A"

- AVERAGE MINUTES PER CALL = 2.9

4. TIME DIFFERENCE BETWEEN "CONNECT" AND "ANSWER" = 27 SEC. per ATTACHMENT "A"
5. 27 SEC. x .15 CENTS/MIN = 7.5 CENTS
ROUNDED UP
6. 70% CALLS AVG. IN STATE

COMPUTATION:

- STEP 1. \$305,920 TOTAL BILLED REVENUE
TIMES 70% INSTATE EQUALS \$214,144
- STEP 2. \$214,144 ADJ. BILLED REVENUE DIVIDED
BY .15 CENTS EQUALS 1,427,626 MINUTES
- STEP 3. 1,427,626 MINUTES DIVIDED BY 2.9 MIN
PER CALL EQUALS 492,285 CALLS
- STEP 4. 492,285 CALLS TIMES 7.5 CENTS
EQUALS \$36,921.38

COMPUTATION: ACTUAL BILLED REVENUE TIMES
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EXAMPLE: \$305,920 TIMES 11.9%
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COMPARISON:

\$36,921.38	(ADJ. FOR DIFF. CONNECT vs ANSWER)
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<hr/>	
\$516.90	DIFFERENCE

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