



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-

DATE: NOVEMBER 5, 1998

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

FROM: DIVISION OF LEGAL SERVICES (BEDELL) *CB MCB*
 DIVISION OF AUDITING AND FINANCIAL ANALYSIS (LESTER)
 DIVISION OF COMMUNICATIONS (BIEGALSKI) *CB*

RE: DOCKET NO. 971317-TP - INITIATION OF SHOW CAUSE PROCEEDINGS AGAINST NATIONWIDE COMMUNICATIONS OF MICHIGAN, INC. FOR APPARENT VIOLATION OF RULE 25-24.630, FLORIDA ADMINISTRATIVE CODE, RATE AND BILLING REQUIREMENTS, RULE 25-4.043, FLORIDA ADMINISTRATIVE CODE, RESPONSE TO COMMISSION STAFF INQUIRIES, AND RULE 25-4.0161, FLORIDA ADMINISTRATIVE CODE, REGULATORY ASSESSMENT FEES

AGENDA: 11/17/98 - REGULAR AGENDA - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMU\WP\971317.RCM

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CASE BACKGROUND

Nationwide Communications of Michigan, Inc. (Nationwide), is an interexchange carrier and provides long distance services under Certificate No. 3950.

On January 23, 1997, staff received a complaint regarding apparent overcharges for calling card calls made from a hotel room. Nationwide advised staff the problem was due to a virus in its computer system, which corrupted the rate table data base. Nationwide informed staff that the problem had been corrected and agreed to refund those consumers who were overbilled.

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In addition, Nationwide was delinquent on its regulatory assessment fees for the year 1996 on both its payphone certificate and its interexchange certificate. Nationwide submitted its regulatory assessment fees, including statutory penalties and interest, on January 28, 1998.

Thereafter, on January 22, 1998, by Order No. PSC-98-0121-PCO-TP, in Docket Number 971317-TP, the Commission ordered Nationwide to show cause in writing within 20 days of the issuance of the order why it should not be fined for its apparent violations of Rule 25-4.0161, 25-4.630, and 25-4.043, Florida Administrative Code.

In response to the Order to Show Cause and after many negotiations regarding the overcharges and settlement, Nationwide provided the information requested regarding the apparent overcharges.

Based on these circumstances, staff believes the following recommendations are appropriate.

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission accept the settlement offer proposed by Nationwide Communications of Michigan, Inc. to resolve the apparent violations of Rule 25-24.630, Florida Administrative Code, Rate and Billing Requirements, Rule 25-4.043, Florida Administrative Code, Response to Commission Staff Inquiries, Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees?

RECOMMENDATION: Yes. (Biegalski)

STAFF ANALYSIS: Staff has met with Nationwide on numerous occasions regarding the apparent violations. Nationwide notified staff that the problem was due to a virus in its computer system, which corrupted the rate table data base. Nationwide informed staff that the problem had been corrected. On July 29, 1998, Nationwide provided additional information to staff regarding the overcharges. Nationwide estimated the overcharges which occurred between January 1996, and December 1997, to be \$5,863.17. Assuming the refunds will be issued to consumers who were overcharged between December 1, 1998 and February 28, 1999, staff added interest calculations of \$905.81. Therefore the aggregate sum of the refund is calculated

to be \$6768.98. (Attachment A, Pages 5-6) On November 4, 1998, Nationwide submitted its offer to settle. (Attachment B, Pages 7-8) In its settlement offer Nationwide agreed to do the following:

- Nationwide will refund customers the aggregate sum of \$6,768.98, representing overcharges plus interest, through credits issued during the period of December 1, 1998 through February 28, 1999.
- Nationwide will provide a monthly refund report to the Commission during the refund period described above.
- Nationwide will forward all amounts remaining unrefunded to the Commission for deposit in the General Revenue Fund by June 1, 1999.
- Nationwide will make a voluntary contribution in the amount of \$2,750 to the General Revenue Fund of the State of Florida within 5 days of the Commission's order becoming final.

Staff supports Nationwide's refund calculation of \$5,863.17 for the apparent overcharges, adding staff's interest calculation of \$905.81. Staff also supports Nationwide's proposal to refund customers who were overcharged between December 1, 1998 and February 28, 1999 and the remittance of a monthly refund report. In addition, staff supports Nationwide's proposal to forward to the Commission all amounts not refunded for deposit in the General Revenue Fund by June 1, 1999.

Nationwide has satisfactorily addressed each of staff's concerns. Moreover, the company has been very cooperative in resolving all issues. Therefore, staff believes the terms of the settlement agreement as summarized in this recommendation are fair and reasonable, and we support the voluntary contribution to the General Revenue Fund pursuant to Section 364.285(1), Florida Statutes, in the amount of \$2,750.

DOCKET NO. 971317-1P
DATE: November 5, 1998

ISSUE 2: Should this docket be closed?

RECOMMENDATION: No. This docket should remain open pending the completion of the refunds and remittance of the \$2,750 voluntary contribution to the General Revenue Fund. Upon completion of the refunds and remittance of the \$2,750 voluntary contribution to the General Revenue Fund, this docket may be closed administratively.
(Bedell)

STAFF ANALYSIS: This docket should remain open pending the completion of the refunds and remittance of the \$2,750 voluntary contribution to the General Revenue Fund. Upon completion of the refunds and remittance of the \$2,750 voluntary contribution to the General Revenue Fund, this docket may be closed administratively.



Public Service Commission

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

DATE: August 20, 1998
TO: Kelly Biegalski, Division of Communications
FROM: Pete Lester, Division of Auditing and Financial Analysis *PL*
Eva Samaan, Division of Auditing and Financial Analysis *ES*
RE: Docket No. 971317-TP, Nationwide Communications, Inc., Interest Calculation for Refund of Overcharges *ALM*
APC

Staff has calculated the interest on the overcharges in this show cause proceeding based on the letter dated July 29, 1998 from Philip Cwagenberg, attorney for Nationwide Communications, Inc. Specifically, the overcharges occurred from January 1996 to December 1997. The appropriate interest rate is the 30-day commercial paper rate for each month. The last available interest rate was 5.58% for July 1998. This calculation assumes that the overcharges will be refunded evenly between December 1998 and February 1999. The total refund is \$6,768.98, which consists of \$5,863.17 in overcharges and \$905.81 in interest accrued through February 1999 as shown on the attached schedule.

cc: Division of Legal Services
Division of Records and Reporting (2)

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NATIONWIDE COMMUNICATIONS, INC.

MONTH	AVERAGE MONTHLY INTEREST RATE	MONTHLY INTEREST FACTOR	MONTHLY OVER CHARGE	ACCUM. OVER CHARGE	INTEREST ON MONTHLY OVER CHARGE	MONTHLY OVERCHARGE PRINCIPAL AND INTEREST	BALANCE FORWARD PLUS INTEREST	REFUND BALANCE	ACCUM INTEREST
DEC	5.81%	0.48%	\$0.00	0	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
JAN 96	5.61%	0.47%	\$1.07	1.07	\$0.00	\$1.07	\$0.00	\$1.07	\$0.00
FEB	5.37%	0.45%	\$810.28	811.35	\$1.81	\$812.09	\$1.08	\$813.17	\$1.82
MAR	5.42%	0.45%	\$849.95	1661.3	\$1.92	\$851.87	\$816.84	\$1,668.71	\$7.41
APR	5.45%	0.45%	\$668.77	2330.07	\$1.52	\$670.29	\$1,676.28	\$2,346.57	\$16.50
MAY	5.40%	0.45%	\$497.85	2827.92	\$1.12	\$498.97	\$2,357.13	\$2,856.10	\$28.18
JUN	5.46%	0.46%	\$269.98	3097.9	\$0.61	\$270.59	\$2,869.10	\$3,139.69	\$41.79
JUL	5.49%	0.46%	\$264.70	3362.6	\$0.60	\$265.30	\$3,154.04	\$3,419.35	\$56.75
AUG	5.43%	0.45%	\$566.23	3928.83	\$1.28	\$567.51	\$3,434.81	\$4,002.32	\$73.49
SEP	5.42%	0.45%	\$604.30	4533.13	\$1.36	\$605.66	\$4,020.39	\$4,626.06	\$92.93
OCT	5.41%	0.45%	\$574.42	5107.55	\$1.29	\$575.71	\$4,646.91	\$5,222.63	\$115.08
NOV	5.42%	0.45%	\$375.65	5483.2	\$0.85	\$376.50	\$5,246.20	\$5,622.69	\$139.49
DEC	5.70%	0.48%	\$182.22	5665.42	\$0.43	\$182.65	\$5,649.40	\$5,832.05	\$166.63
JAN 97	5.70%	0.48%	\$137.35	5802.77	\$0.33	\$137.68	\$5,859.76	\$5,997.43	\$194.66
FEB	5.44%	0.45%	\$10.15	5812.92	\$0.02	\$10.17	\$6,024.62	\$6,034.79	\$221.87
MAR	5.59%	0.47%	\$3.05	5815.97	\$0.01	\$3.06	\$6,062.88	\$6,065.94	\$249.97
APR	5.68%	0.47%	\$9.77	5825.74	\$0.02	\$9.79	\$6,094.65	\$6,104.44	\$278.70
MAY	5.61%	0.47%	\$5.53	5831.27	\$0.01	\$5.54	\$6,132.98	\$6,138.52	\$307.25
JUN	5.61%	0.47%	\$3.30	5834.57	\$0.01	\$3.31	\$6,167.22	\$6,170.53	\$335.96
JUL	5.60%	0.47%	\$11.17	5845.74	\$0.03	\$11.20	\$6,199.33	\$6,210.52	\$364.78
AUG	5.57%	0.46%	\$8.77	5854.51	\$0.02	\$8.79	\$6,239.35	\$6,248.14	\$393.63
SEP	5.55%	0.46%	\$1.37	5855.88	\$0.00	\$1.37	\$6,277.01	\$6,278.38	\$422.50
OCT	5.53%	0.46%	\$4.31	5860.19	\$0.01	\$4.32	\$6,307.32	\$6,311.64	\$451.45
NOV	5.57%	0.46%	\$0.78	5860.97	\$0.00	\$0.78	\$6,340.91	\$6,341.69	\$480.72
DEC	5.68%	0.47%	\$2.20	5863.17	\$0.01	\$2.21	\$6,371.68	\$6,373.88	\$510.71
JAN 98	5.63%	0.47%	\$0.00	5863.17	\$0.00	\$0.00	\$6,403.76	\$6,403.76	\$540.59
FEB	5.52%	0.46%	\$0.00	5863.17	\$0.00	\$0.00	\$6,433.19	\$6,433.19	\$570.02
MAR	5.54%	0.46%	\$0.00	5863.17	\$0.00	\$0.00	\$6,462.89	\$6,462.89	\$599.72
APR	5.54%	0.46%	\$0.00	5863.17	\$0.00	\$0.00	\$6,492.73	\$6,492.73	\$629.56
MAY	5.52%	0.46%	\$0.00	5863.17	\$0.00	\$0.00	\$6,522.57	\$6,522.57	\$659.40
JUNE	5.55%	0.46%	\$0.00	5863.17	\$0.00	\$0.00	\$6,552.74	\$6,552.74	\$689.57
JULY	5.58%	0.47%	\$0.00	5863.17	\$0.00	\$0.00	\$6,583.21	\$6,583.21	\$720.04
AUG	5.58%	0.47%	\$0.00	5863.17	\$0.00	\$0.00	\$6,613.82	\$6,613.82	\$750.65
SEP	5.58%	0.47%	\$0.00	5863.17	\$0.00	\$0.00	\$6,644.57	\$6,644.57	\$781.40
OCT	5.58%	0.47%	\$0.00	5863.17	\$0.00	\$0.00	\$6,675.47	\$6,675.47	\$812.30
NOV	5.58%	0.47%	\$0.00	5863.17	\$0.00	\$0.00	\$6,706.51	\$6,706.51	\$843.34
MONTH	PRINCIPAL	PAYMENT	INTEREST	BALANCE	TOTALS AS OF 10/98			TOTALS AS OF 01/99	
DEC	\$6,706.51	\$2,256.33	\$31.19	\$4,481.37	OVERCHARGE	\$5,863.17			\$5,863.17
JAN	\$4,481.37	\$2,256.33	\$20.84	\$2,245.88	INTEREST	\$843.34	+	\$62.47	\$905.81
FEB	\$2,245.88	\$2,256.33	\$10.44	\$0.00	REFUND	\$6,706.51			\$6,768.98
TOTAL INTEREST			\$62.47						

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November 4, 1998

**VIA FACSIMILE (850) 413-6547
AND FIRST CLASS MAIL**

Ms. Kelly Biegalski
Regulatory Analyst II
Florida Public Service Commission
Capital Circle Office Center
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Re: Nationwide Communications of Michigan, Inc.

Dear Ms. Biegalski:

With respect to the complaint that has been filed against Nationwide Communications of Michigan, Inc., please accept this letter as a settlement proposal, designed to resolve the complaint, and the vagaries of litigation, notwithstanding Nationwide's insistence that at all times its actions were proper and within the applicable rule of law.

In an effort to fully and completely resolve the issues raised in Staff's complaint, Nationwide agrees to:

- Refund to consumers the aggregate sum of Six Thousand Seven Sixty Eight and 98/100 (\$6,768.98) Dollars, representing claimed overcharges plus interest, through credit issued in during the period of December 1, 1998 through February 28, 1999, inclusive;
- Provide a Monthly refund report to the Commission, during the refund period described above;
- Forward to the Commission, by June 1, 1999, all amounts remaining unrefunded from the aggregate fund described above;
- Pay to the Commission the amount of Two Thousand Seven Hundred Fifty (\$2,750.00) Dollars within five (5) days of the Commission's order in this matter becoming final.

Ms. Kelly Biegalski
Re: Nationwide Communications, Inc.
November 4, 1998
Page 2

As before, this settlement proposal is being made with the intent and understanding that there will be no findings of fault or error being made against Nationwide, and with Nationwide specifically denying the substantive allegations contained in Staff's complaint.

Please advise me, at your soonest convenience, whether this settlement proposal is acceptable to the Commission. Thank you for your anticipated cooperation in this regard.

Very truly yours,

ISHBIA & GAGLEARD, P.C.


Philip Cwagenberg

PC/ema

cc: Mr. Richard Makens
Jeffrey A. Ishbia, Esq.

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