

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Investigation of NORTH) DOCKET NO. 930416-TC
AMERICAN INTELECOM, INC. for)
incorrect billing of collect)
calls from various prisons.)
_____))
In Re: Initiation of show cause) DOCKET NO. 950149-TC
proceedings against North) ORDER NO. PSC-96-0647-AS-TC
American Intelcom, Inc. for) ISSUED: May 10, 1996
violation of Commission rules)
and orders.)
_____)

The following Commissioners participated in the disposition of this matter:

SUSAN F. CLARK, Chairman
JULIA L. JOHNSON
JOE GARCIA

ORDER ACCEPTING SETTLEMENT PROPOSAL

BY THE COMMISSION:

Currently, two show cause dockets are open against North American InTeleCom, Inc. (NAI). On July 26, 1993, we issued Order No. PSC-93-1083-FOF-TC in Docket No. 930416-TC ordering NAI to show cause why it should not be fined or have its certificate cancelled for charging rates in excess of the pay telephone rate cap established by Order No. 24101. Docket No. 950149-TC was opened in February 1995, to address alleged violations not covered by Order No. PSC-93-1083-FOF-TC. On March 14, 1995, we issued Order No. PSC-95-0349-FOF-TC requiring NAI to show cause why it should not be fined or have its certificate cancelled for seven alleged violations of various pay telephone rules. NAI filed timely responses to each show cause order and requested a hearing on the allegations.

NAI, in an attempt to avoid the uncertainty and expense of litigation, filed a motion to refer the dockets to voluntary mediation. On April 6, 1995, the prehearing officer referred these dockets to mediation by Order No. PSC-95-0452-PCO-TC.

NAI and our staff met in mediation on June 8, 1995 and June 21, 1995. During mediation, staff and NAI agreed upon a mechanism to present the issues to us for resolution. It was agreed that NAI would file two settlement proposals. Settlement Proposal I would dispose of the issues on which our staff and NAI agreed. Settlement Proposal II would present for resolution the issues on

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which our staff and NAI did not reach agreement. This bifurcated settlement mechanism gave us the option of approving the settlement in part and rejecting other portions.

We approved Settlement Proposal I by Order No. PSC-96-0354-AS-TC, issued March 13, 1996. Under Settlement Proposal I, NAI agreed:

- (1) to make a voluntary contribution to the General Revenue Fund of \$25,000;
- (2) to refund \$35,000, plus interest, for the six facility misrating problem; and
- (3) to refund at least \$15,000 for the AT&T discount rounding problem.

During mediation, NAI demonstrated it had not provided interexchange service without a certificate in violation of Rule 25-24.470, Florida Administrative Code, so that allegation was dropped. Order No. PSC-95-0349-FOF-TC also alleged NAI violated Rules 25-24.630(2)(b) and 25-24.515(9), Florida Administrative Code, and Order No. 14529. While NAI believed it could show it did not violate these Rules or the Order, it agreed to abide our preliminary interpretation of the Rules and Order and to not litigate the issues.

Settlement Proposal II dealt with the issues that staff and NAI could not resolve at mediation. Two issues remained in dispute after mediation: (1) the refund mechanism; and (2) the amount to be refunded due to the one minute billing problem. NAI proposed to refund directly to end users the amount overcharged, less 80% of the amount NAI paid into the Inmate Welfare Fund under its contract with the Department of Corrections. Since the company does not believe it could locate all overcharged customers, it offered to pay the remaining amount to the General Revenue Fund, less the costs of attempting the direct refunds. At the February 20, 1996 Agenda Conference, we deferred consideration on that proposal.

On March 19, 1996, NAI submitted a revised Settlement Proposal II. A copy of the revised proposal is attached to this Order as Attachment A. Under the revised proposal, NAI proposes to audit its records from January 1, 1993 through July 1, 1994 and refund directly to customers the entire amount overcollected due to the one-minute billing problem. The exact amount is presently unknown. NAI will report to our staff, at the conclusion of its audit, the exact amount it will attempt to refund.

In addition, NAI proposes to submit a status report within 120 days of approval on the status of the refunds. The report will detail the amount refunded, the amount pending and appropriate interest calculations. NAI does not expect to be able to locate all of the overcharged customers. Therefore, the report will project the amounts NAI will not be able to refund and propose an appropriate disposition of the remaining monies.

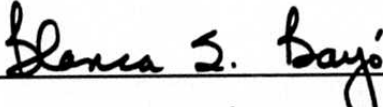
We find this proposal to be in the public interest and accept it. Under this plan, NAI will provide direct refunds, plus interest in accordance with Rule 25-4.114, Florida Administrative Code, to the customers overcharged. Further, by performing an audit of its records, NAI will refund to customers the exact amount overcharged. The proposal also eliminates the uncertainty of future litigation. NAI believes if all issues were litigated, it could show its liability to be approximately \$64,310. However, to settle these dockets, NAI proposes to forego litigation and refund all overcharged amounts.

It is therefore,

ORDERED by the Florida Public Service Commission that the Settlement Proposal submitted by North American InTeleCom, Inc. filed on March 19, 1996 is accepted as described in the body of this Order. It is further

ORDERED that this docket shall remain open to monitor the status of the refunds.

By ORDER of the Florida Public Service Commission, this 10th day of May, 1996.



BLANCA S. BAYÓ, Director
Division of Records and Reporting

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, 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 or judicial review will be granted or result in the relief sought.

Any party adversely affected by the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or 2) judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or the First District Court of Appeal in the case of a water and/or wastewater utility by filing a notice of appeal with the Director, Division of Records and Reporting and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900 (a), Florida Rules of Appellate Procedure.

ATTACHMENT A

WIGGINS & VILLACORTA, P.A.
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March 19, 1996

Mr. Michael Billmeier
Staff Counsel
Division of Legal Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

Re: Docket Nos. 930416-TC and 950149-TC (North American
InTeleCom, Inc.) - Revised Settlement Proposal

Dear Mr. Billmeier:

The purpose of this letter is to further revise Settlement Proposal II so that this case can be fully settled consistent with apparent Commission principles and without creating inappropriate precedent. Under Settlement Proposal II, NAI now proposes the following:

(a) NAI will attempt to refund directly to customers the entire amount overcollected as a result of the one-minute problem, plus interest. Specifically, NAI will review its call records from January 1, 1993 through July 1, 1994, to identify every call where a refund is appropriate because an additional minute was added. For every such call NAI will attempt to refund the overcharge plus interest. In computing the refund, NAI will not reduce the amounts refunded by any payments made to the Department of Corrections or by the transaction costs of making the refund.

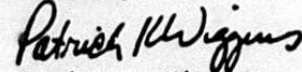
(b) Within 120 days of final approval of this proposal, NAI will provide the Commission with a status report on all of its refund efforts. This report will address amounts due based on call records and appropriate computation of interest, amounts refunded, and additional amounts projected to be refunded. The report will also project the amounts that NAI will not be able to refund and propose an appropriate disposition of these amounts.

This offer is made for the purpose of settling this matter and is not to be construed as an admission of liability.

Mr. Michael Billmeier
March 19, 1996
Page 2

I hope that staff finds this final revision of Proposed Settlement II appropriately responsive to staff's concerns and in the public interest. Please let me know if you have any questions.

Sincerely,



Patrick K. Wiggins
Counsel for
North American InTeleCom, Inc.

cc: Ed Taylor