

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Investigation of NORTH AMERICAN INTELECOM, INC. for incorrect billing of collect calls from various prisons.	)	DOCKET NO. 930416-TC
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In Re: Initiation of show cause proceedings against North American Intelcom, Inc. for violation of Commission rules and orders.	)	DOCKET NO. 950149-TC
	)	ORDER NO. PSC-96-0354-AS-TC
	)	ISSUED: March 13, 1996
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The following Commissioners participated in the disposition of this matter:

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

ORDER ACCEPTING SETTLEMENT PROPOSAL

BY THE COMMISSION:

I. Background

North American Intelcom, Inc. (NAI) received a certificate to provide pay telephone service on March 22, 1990. Test calls by staff engineers uncovered overtiming and overbilling at two facilities served by NAI, New River Correctional Institute and Apalachee Correctional Institute. Docket No. 930416-TC was opened to address these complaints and, on July 26, 1993, we issued Order No. PSC-93-1083-FOF-TC (First Show Cause Order), requiring NAI to show cause why it should not be fined for charging in excess of the rate cap for pay telephone service provided at confinement facilities, as established in Order No. 24101, issued February 14, 1991. We further ordered NAI to refund all monies incorrectly collected from the customers who were billed for collect telephone calls. NAI responded on August 16, 1993 and requested a hearing.

On July 20, 1994, NAI made an offer of settlement. The settlement offer provided that NAI would refund a portion of its total overcharges amounting to \$250,000 by way of a reduced rate for future calls from the confinement facilities. NAI admitted in a letter that it had overcharged a total of \$394,318. Second, NAI

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proposed to make a cash payment of remaining monies not refunded if NAI is not awarded a contract to provide pay telephone service by the Florida Department of Corrections (DOC) after February 1995. Finally, NAI proposed that no fine be imposed.

We rejected the settlement offer by Order No. PSC-94-1206-FOF-TC, issued October 3, 1994. The proposed settlement did not refund all of the overcharged amounts or any interest and NAI's proposal that no fine be imposed did not address the apparent continued violations.

On January 30, 1995, a prehearing conference was held in Docket No. 930416-TC. The prehearing officer ruled that issues not included in the First Show Cause Order could not be included in that hearing, and that those issues should be brought before the Commission to determine whether another show cause order was appropriate. Therefore, Docket No. 950149-TC was opened to address those issues not addressed in Docket No. 930416-TC.

By Order No. PSC-95-0349-FOF-TC (Second Show Cause Order), issued March 14, 1995, we ordered NAI to show cause why it should not be fined or have its certificate cancelled for seven alleged violations. NAI timely responded to the Second Show Cause Order and requested a hearing.

On March 9, 1995, NAI filed a motion asking that Dockets 930416-TC and 950149-TC be referred for mediation between NAI and our staff. By Order No. PSC-95-0452-PCO-TC, issued April 6, 1995, the prehearing officer referred these dockets to mediation.

Mediation sessions were held on June 8, 1995 and June 21, 1995. As a result of the mediation, NAI filed settlement proposals and a Memorandum in Support of Proposed Settlement. NAI filed a revised settlement proposal in January because it no longer serves inmate facilities. The settlement proposals are structured so that we can accept NAI's proposal on some issues while, if we choose, setting the remaining issues for hearing. As described below, we accept NAI's proposal on some issues. The remaining issues are deferred until a future Agenda Conference.

## II. Settlement

### (a) Settlement Amount

NAI agreed to pay \$25,000 to the State of Florida General Revenue fund as a settlement to prevent additional sanctions. We find this to be appropriate and accept this settlement.

(b) Violations of Orders Nos. 24101 & 25030

The First Show Cause Order ordered NAI to show cause why it should not be fined for charging in excess of the pay telephone rate cap set out in Order No. 24101. The Second Show Cause Order ordered NAI to show cause why it should not be fined for violation of a rate cap specific to NAI, set by Order No. 25030.

In its Settlement Proposal, NAI broke the overcharges into four categories and explained each category. The origination facility code problem was caused by incorrect routing of calls from NAI's switch to the long distance carrier's POP. NAI corrected this problem and credited the accounts of customers that were overcharged. The second problem, the six facility misrating problem, was caused when NAI changed equipment in October 1992. A programming error caused incorrect rating of calls and incorrect charges from six NAI facilities. NAI determined that \$35,000 had been overcharged and agrees to refund \$35,000 plus interest.

The third problem, called the AT&T discount rounding problem occurred because NAI used a time-of-day discount different from what was in AT&T's tariff. For example, our staff has billing records that show NAI charged \$3.08 for many calls that should have been \$3.00. Our staff and NAI have determined that the amount overcharged is approximately \$15,000. Our Communications staff is reviewing NAI's billing records to determine an exact amount. If NAI and our staff mutually agree on an amount, NAI will refund that amount. If NAI does not agree with staff's calculation, the matter will be brought back to us for resolution. In any event, NAI agrees to refund \$15,000 once we approve the method of refund.

The last overcharge problem is called the one-minute billing problem. NAI's system of routing calls to its database in Texas for validation caused an additional minute to be added to the time charged for some calls. NAI and our staff do not agree on the amount NAI overcharged customers. Accordingly, we agree to the settlement with respect to the origination facility code problem, the six facility misrating problem, and the AT&T discount rounding problem. The appropriate refund for the one-minute problem will be considered at a later date.

(c) Violation of Rule 25-24.470, Florida Administrative Code

The allegations with respect to the unauthorized provision of IXC service should be dropped. Further investigation indicated that NAI was not providing interexchange service in violation of Rule 25-24.470, Florida Administrative Code. NAI uses its switch

to carry calls as permitted under the Rules. Accordingly, NAI should not be penalized.

(d) Violation of Rule 25-24.630(2)(b), Florida Administrative Code

Rule 25-24.630(2)(b), Florida Administrative Code, states an operator service provider shall not bill for any collect calls that have not been affirmatively accepted by a person receiving the call regardless of whether the call was processed by a live or automated operator. NAI's automated system once used a voice window which allows the caller to be identified before a decision to accept the collect call is made. NAI removed the voice window at the request of DOC. In the Second Show Cause Order, we said that a "customer cannot affirmatively accept a collect call if he or she does not know the identity of the caller." Order No. PSC-95-0349-FOF-TC at p. 6. Although NAI did not concede that it violated this Rule, it agreed to file a request for a waiver of the Rule to allow the Commission, DOC, and NAI to address the problem. However, since NAI no longer provides service to inmate facilities in Florida, the issue is moot.

(e) Violation of Rule 25-24.515(9), Florida Administrative Code, and Order No. 14529

Rule 25-24.515(9), Florida Administrative Code, requires that pay telephones be connected in accordance with the LEC tariff. Order No. 14529, issued July 1, 1985, requires one pay telephone per access line. NAI agreed to order additional access lines as necessary. We accept this settlement although we understand that due to NAI's changed circumstance, this issue is moot.

III. Conclusion

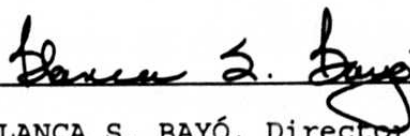
We accept the settlement as outlined in Section II, above. Two major issues remain in dispute. NAI proposes to refund all monies directly to the overcharged end-users. The company does not expect to be able to locate all overcharged customers. It proposes to pay the remaining amount to the General Revenue Fund, less amounts already paid to DOC's Inmate Welfare Fund. In previous dockets, we have required companies to pay all overcharged amounts to end-users or the General Revenue Fund. The second issue in dispute is the amount overcharged due to the one-minute problem. We will defer consideration of the issues until a later Agenda Conference.

It is, therefore,

ORDERED by the Florida Public Service Commission that we accept North American Intelcom, Inc.'s offer of settlement as described in Section II of this Order. It is further

ORDERED that we defer consideration of the remaining issues until a later date as set forth in Section III of this Order.

By ORDER of the Florida Public Service Commission, this 13th day of March, 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.