Mailed 12/3/98

Decision 98-12-008 December 3, 1998

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's Own Motion into the Operations, Practices, and Conduct of National Telephone & Communications, Inc. (NTC) to Determine Whether it has Violated the Laws, Rules, and Regulations Governing the Manner in Which California Consumers are Switched From One Long Distance Carrier to Another.	ORIGINAL Investigation 97-09-001 (Filed September 3, 1997)

OPINION

Summary

This order approves a modification to the settlement agreement between Commission's Consumer Services Division (CSD) and National Telephone & Communications, Inc. (NTC) and the Commission decision approving the settlement, Decision (D.) 98-02-029. Pursuant to the modifications, NTC may use inbound verification and may contract with local exchange companies for billing service, rather than doing its own billing.

Background

In D.98-02-029, the Commission approved a settlement agreement which imposed severe operating limitations on NTC and ordered substantial restitution. In their joint motion to modify the agreement and decision, CSD and NTC state that NTC's customer complaint levels have dramatically decreased, from 1,404 (April 1997) to seven (June 1998).

CSD and NTC state, however, that two provisions of the settlement agreement are having unexpected, substantial, and negative effects on NTC. First, Paragraph 6a requires that a customer transfer be verified by an outbound call from an independent third-party verification company. (The verifier calls the customer). NTC believes that this process causes it to lose customers due to difficulty in contacting customers. NTC and CSD seek to modify this paragraph to allow inbound verification calls. (Customer calls the verifier.) Such calls would only be accepted from the number to be switched.

NTC and CSD also ask to eliminate the provision requiring NTC to bill directly rather than through a local exchange company. NTC states that they are experiencing an uncollectable rate of nearly double that of calls billed through a local exchange company.

Description of the Revised Settlement Agreement

The two provisions of the modification to settlement agreement are:

1. Replace Paragraph 6a to allow for inbound verification calls to an independent third-party verification company from the number to be switched or via an outbound call from the verification company.

2. Eliminate Paragraph 9 which will eliminate the requirement that NTC direct bill its customers.

Discussion

Commission Rules of Practice and Procedure 51(e) requires that settlement agreements be: (1) reasonable in light of the whole record, (2) consistent with the law, and (3) in the public interest to be approved by the Commission.

a. Reasonable in Light of the Whole Record

The joint motion shows that NTC has substantially reduced its customer complaint record but that certain of the restrictions it is operating under are causing it severe financial harm.

CSD agrees that the two restrictions discussed above can be lifted with no harm to the public. Allowing inbound verification calls, but only from the number to be switched, will enhance customer convenience but offer some assurance that the calling party is indeed responsible for the phone line.

Using other billing services, including local exchange companies, may decrease NTC's uncollectable rate which will only affect customers that do not pay their bills.

Thus, these two minor modifications will benefit this apparently reformed carrier without placing the public at risk. We find that this settlement agreement is reasonable in light of the record.

b. Consistent with the Law

None of the actions required by the settlement agreement, as amended, are in violation of any statute or Commission rule or regulation.

c. In the Public Interest

The Commission is responsible for ensuring that the public is protected from unscrupulous practices by interexchange carriers. The settlement agreement amendment leaves the majority of the provisions of the original agreement in place but makes two minor modifications that benefit NTC without jeopardizing the public.

For these reasons, the Commission finds that the settlement agreement, as amended, is reasonable in light of the whole record, is consistent with the law, and is in the public interest. The amendment to the agreement is approved pursuant to Rules 51 through 51.10 of the Commission's Rules of Practice and Procedure. (See also San Diego Gas & Electric, 46 CPUC2d 538 (1992)(rules for all-party settlements).)

Findings of Fact

1. The Commission issued D.98-02-029 in which it approved a settlement agreement between CSD and NTC.

2. The parties have agreed to amend the settlement agreement which is Attachment A to this decision.

3. The amended settlement agreement modifies two components of the original settlement agreement.

Conclusions of Law

1. The amended settlement agreement is reasonable in light of the whole record, is consistent with the law, and is in the public interest.

2. The amended settlement agreement should be approved.

3. In order to assure prompt compliance with the terms of the settlement agreement this order should be made effective immediately.

ORDER

Therefore, IT IS ORDERED that:

1. The settlement agreement and amendment affixed hereto as Attachment A and made a part hereof is approved, and National Telephone & Communications, Inc. (NTC) and Consumer Services Division are directed to comply with the terms set forth in the settlement agreement.

2. Pacific Bell and GTE California Incorporated are directed to cooperate in implementation of the settlement agreement. All costs of such cooperation shall be assessed to NTC, which shall pay the costs within 30 days.

3. This proceeding is closed.

This order is effective today.

Dated December 3, 1998, at San Francisco, California.

RICHARD A. BILAS
President
P. GREGORY CONLON
JESSIE J. KNIGHT, JR.
HENRY M. DUQUE
JOSIAH L. NEEPER
Commissioners

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's own motion into the operations, practices, and conduct of National Telephone & Communications, Inc. (NTC) to determine whether it has violated the laws, rules, and regulations governing the manner in which California consumers are switched from one long distance carrier to another.	I.97-09-001

AMENDMENT TO THE SETTLEMENT BETWEEN NATIONAL TELEPHONE & COMMUNICATIONS, INC. AND THE CONSUMER SERVICES DIVISION

National Telephone & Communications, Inc. ("NTC") and the Consumer Services Division ("CSD") here amend the Settlement Agreement entered into on November 12, 1997 as amended on November 17, 1997 and January 21, 1998 and adopted by the California Public Utilities Commission ("Commission") on February 4, 1998 in Decision ("D") 98-02-029. NTC and CSD (hereinafter NTC and CSD will collectively be referred to as the "Parties") agree to the replace paragraph 6 of the Settlement Agreement with paragraphs 6a provided herein. In addition, the Parties agree to delete paragraph 9 of the Settlement Agreement.

6a. Prior to initiating a service order to switch telephone service to NTC for any California subscriber, NTC shall have all switch orders verified via an inbound call to an independent, third party verification company ("Verification Company") from the telephone number to be switched or via an outbound call initiated by an Verification Company to the telephone number to be switched to NTC service.

9. Paragraph 9 is deleted in its entirety.

Michael J. Keebaugh, Executive Vice President
National Telephone & Communications, Inc.

On Behalf of National Telephone &
Communications, Inc.

Dated: 9/25/98

William R. Schulte, Director
Consumer Services Division

Public Utilities Commission
of the State of California

Dated: 9/28/98

END OF ATTACHMENT A