**FLORIDA PUBLIC SERVICE COMMISSION**

 **Fletcher Building**

 **101 East Gaines Street**

 **Tallahassee, Florida 32399-0850**

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

 **June 10, 1993**

**TO : DIRECTOR, DIVISION OF RECORDS AND REPORTING**

**FROM : DIVISION OF COMMUNICATIONS [ROBERTSON]**

 **DIVISION OF LEGAL SERVICES [ADAMS]**

**RE : DOCKET NO. 930416-TP - INVESTIGATION OF NORTH AMERICAN INTELECOM FOR INCORRECT BILLING OF COLLECT CALLS FROM VARIOUS PRISONS.**

**AGENDA:J UNE 22, 1993 - CONTROVERSIAL - PARTIES MAY PARTICIPATE**

**CRITICAL DATES: NONE**

**SPECIAL INSTRUCTIONS: I:PSC\CMU\WP\930416.RCM**

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 **CASE BACKGROUND**

During the autumn of 1991 North American Intelecom, Inc. (NAI) had overcharging billing problems at several prisons. The programming errors were corrected and a refund sent to subscribers in August 1992.

. In early October of 1992 North American Intelecom, Inc. installed new equipment for collect calling from various correctional institutions.

 Staff conducted collect call tests from two NAI locations, Apalachee C.I. and New River C.I., on October 19, 1992. The bill for testing revealed overcharging and a letter notifying NAI of the problem was sent on February 5, 1993, (Attachment I).

 NAI acknowledged a programming problem resulted in an error of $.75 per call. An equipment related timing problem caused an additional $.21 per call error.

 They have agreed to make a refund of approximately $32,500 to the collect call payers from all six correctional institutions served. The cost to NAI of processing the refunds is projected to be about $32,500. Which is about 50% of the total refund amount.

. Subsequent to staff's investigation a consumer has alleged long term consumer fraud in a letter (Attachment IV) to the Office of Statewide Prosecution dated April 27, 1993.

 **DISCUSSION OF ISSUES**

**ISSUE 1:** Should North American InTeleCom be ordered to refund all money incorrectly collected from the payers of collect calls?

**RECOMMENDATION:** Yes. staff recommends that NAI be ordered to credit a refund to the called subscribers.

**STAFF ANALYSIS:** The Staff conducted collect call tests from the Apalachee C.I. in Sneads, FL. and the New River C.I. in Raiford, FL. on October 19, 1992. The tests consisted of one thirty (30) second call and two ninety (90) second calls from each location. These calls should be billed $1.27 and $1.50 respectively. The calls were charged at $2.23 and $2.45 respectively at Apalachee C.I. and $2.02 and $2.24 respectively at New River C.I. The excess charges were $.75 due to the programming error at each location and $.21 due to the equipment timing problem at Apalachee C.I.. Therefore the total overcharge was $.96 at the Apalachee C.I. and $.75 at the New River location.

 A letter was sent on February 5, 1993 (Attachment I) to North American InTeleCom, INC. (NAI) who investigated and acknowledged the problems on February 23, 1993, (Attachment II). NAI reported that the correction of the problem was made at all locations. Furthermore, it has investigated the refund procedures and offered on March 26, 1993 to refund the overcharges resulting from installation and programming errors at the Correctional Institutions. These facilities are Apalachee C.I., New River C.I., Caryville C.I., Franklin C.I., Jackson Work Camp and Marianna CCC. They have identified the calling period billing tapes and can submit them as billing credits.

 The refund and collection costs are estimated at $65,000 with costs and refunds equally divided. NAI suggested it might be more beneficial to pay this amount to an inmate or state fund. However, since the money has been paid by telephone subscribers and records are available to refund to them, staff believes the overcharges should be credited to the billed party. This is consistent with prior Commission policy requiring refunds to be directed to the enduser if possible. Therefore, staff recommends that NAI be ordered to credit a refund to the called subscribers.

**ISSUE 2:** Should North American InTeleCom, Inc. be required to show cause why it should not be fined for billing in excess of the PATS rate cap?

**RECOMMENDATION:** Yes.

**STAFF ANALYSIS:** The overcharging of the public is addressed

in Order Number 24101 "Section VII Confinement Facilities" and is explicit in setting a rate cap due to the lack of choice of a operator service provider. However, the refunding process will incur costs of approximately $32,500.

 NAI had previously had trouble in the autumn of 1991 at the Union C.I., Apalachee C.I. and New River C.I. with overcharging which resulted in subscribers getting refunds of $1571.03 at a cost of $2299.00 in labor. No show cause order was recommended at that time as it appeared to be satisfactorily settled. A letter from Marko A. Mendez, NAI Manager of Operations (Attachment III) responded to the complaints. The repeated problems suggests the company procedures allow the billing problems to continue for an extended period because there is slow resolution of the errors.

 A complaint was received by Consumer Affairs (request number 59824P 4-26-97) from Ms. Jeri Friedman that alleged billing irregularities since NAI began service at the New River Correctional Institution. She indicates poor service, improper billing, and misidentification of call source. There are letters from the Department of corrections, NAI and telephone bills which are now available to confirm the problems. She has referred the problems to her local state representative, Bob Casey, M.D. Also, Ms. Friedman has sent a letter on April 27, 1993 to the Office of Statewide Prosecution (Attachment IV) requesting legal action against NAI. The request is under investigation and some of the subject matter may be beyond the jurisdiction of the Commission.

 Therefore, Staff recommends that NAI be ordered to show cause why it should not be fined for billing in excess of the rate cap. Previous fines of this nature have ranged from $500 to $100,000. Staff believes a fine is appropriate for exceeding the rate cap in this second circumstance.

**ISSUE 3:** Should this docket be closed?

**RECOMMENDATION:** No.

**STAFF ANALYSIS:** This docket should remain open pending resolution of the refund and show cause process.