

**BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION**

**IN THE MATTER OF THE STAFF'S )  
PETITION TO INITIATE A COMMISSION ) CASE NO. GNR-T-04-4  
INVESTIGATION TO DETERMINE IF OCMC, )  
INC. VIOLATED THE TERMS OF ITS PRICE )  
LIST AND THE COMMISSION'S OPERATOR ) ORDER NO. 29527  
SERVICES AND PAY TELEPHONE RULE )  
104.04. )**

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On March 15, 2004, Staff of the Idaho Public Utilities Commission filed a Petition recommending that the Commission initiate an investigation to resolve subscriber complaints about OCMC, Inc., determine if OCMC is providing service in compliance with its Price List and to decide if OCMC, Inc. has violated the Commission's Operator Services and Pay Telephone Rules, IDAPA 31.51.01 *et seq.* OCMC, Inc., is an operator services provider ("OSP"), operating in the State of Idaho as itself or under the assumed business names of OPTICOM, Inc., One Call Communications, Inc., AdvantTel, LiveTel, SuperTel, RegionTel or 1-800-MAX-SAVE (hereinafter "OCMC"). Specifically, Staff alleged that OCMC violated the Commission's Operator Services and Pay Telephone Rule 104.04 and the terms of its own Price List between the dates of March 15, 2002 until July 29, 2003 by failing to provide the opportunity for customers to receive information about call charges on connected, intrastate collect calls.<sup>1</sup>

On April 1, 2004, the Commission issued Notice of Petition, Notice of Schedule and Notice of Hearing. Order No. 29456. On May 8, 2004, OCMC filed a Motion to Terminate Investigation where it disputed Staff's allegations and the legal basis for them.

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<sup>1</sup> Rule 104.04, enacted on March 15, 2002, requires OSPs like OCMC to:

Disclose, audibly and distinctly to the consumer (caller for non-collect calls, called party for collect calls), at no charge, and before connecting any intrastate operator service call, how to obtain the total cost of the call, including any aggregator surcharge, or the maximum possible total cost of the call, including any aggregator surcharge, before providing further advice to the consumer on how to proceed to make the call. The oral disclosure required in Rule 104.04 shall instruct consumers that they may obtain applicable rate and surcharge quotations either, at the option of the provider of operator services, by dialing no more than (2) digits or by remaining on the line.

IDAPA 31.51.01.104.04.

On June 4, 2004, Staff and OCMC, the only parties in this proceeding, filed a Stipulation and Settlement Agreement ("Agreement"), pursuant to Commission Rule of Procedure 272, IDAPA 31.01.01.272. Staff and OCMC represented that this Agreement is reasonable, in the public interest and consistent with the law and regulatory policy. The parties requested that the Commission accept this Agreement without material change. After reviewing the terms of the Agreement the Commission accepts it. As a result the Commission also orders the vacation of the procedural schedule as provided in Order No. 29456 and closes Case No. GNR-T-04-4.

#### **THE STIPULATION AND SETTLEMENT AGREEMENT**

The following terms are contained in the Agreement. OCMC has agreed to make a voluntary payment to the State of Idaho in the amount of \$15,000 within thirty (30) days of Commission approval of the Agreement. OCMC has also agreed to make reimbursements to specific customers listed in Exhibit A attached to the Agreement. The Company will make these reimbursements in the amounts shown in Exhibit A by credit or refund. OCMC has also stated in the Agreement that it will not engage in any future acts, practices or omissions that would constitute violations of the Idaho Code, Title 62 or the Commission's Rules. Staff and OCMC also stated that they would not recommend that the Commission issue a press release in conjunction with any Order it issues accepting this Agreement. However, the parties understand and acknowledge that it is within the Commission's discretion whether to issue a press release in any particular matter. The Agreement also provides that OCMC is not admitting liability to the allegations contained in Staff's Petition. Finally, the Agreement provides that the parties acknowledge that the time period covered by Staff's investigation is March 2002 through July 29, 2003, and that Staff will not file any additional formal proceedings against OCMC for the specific conduct it alleged in its Petition the Company had engaged in.

In the Agreement Staff and OCMC recognized the complexity of the issues presented in this case, the amount of resources and effort expended by the parties thus far, and the length of time that has elapsed since the case was first initiated. The parties stated the Agreement is made to compromise contested claims and is entered solely for the purpose of avoiding expense, inconvenience, and uncertainty of further litigation. Furthermore, the parties agree that this Agreement represents a reasonable resolution of the issues in this case and believe that it is in the public interest for the Commission to accept it without material change.

## COMMISSION DECISION

Pursuant to Commission Rule of Procedure 274, IDAPA 31.01.01.274, the Commission has reviewed the terms of this Agreement to determine whether it is appropriate to accept it as a means to resolve the issues in this case. First, the Commission finds that Staff and the Company are the only proper parties in this case. Although consumers who used OCMC's services are those directly affected by OCMC's alleged conduct, Staff's position in this case as demonstrated by the record has been in the best interest of these individuals.

In the Agreement OCMC made several commitments in order to resolve this case: a financial contribution to the State; reimbursements to specific customers; and assurances that it will not engage in future practices, omissions or other acts in the provision of operator services in the State of Idaho that would constitute violations of the Commission Rules and Idaho Code, Title 62. In consideration for these commitments this case will be closed and Staff will not file further proceedings concerning the specific allegations contained in its Petition that occurred between March 15, 2002 and July 29, 2003. Finally, OCMC does not admit liability on any allegations made by Staff in its Petition. After considering the Agreement the Commission finds that the parties have carried their burden to demonstrate that the Commission should accept it. The terms demonstrate that the Agreement is in the best interest of consumers and it resolves issues that could cause the parties to incur significant costs in order to litigate to finality. Thus, the Commission finds that this Stipulation and Settlement Agreement is reasonable, in the public interest, and otherwise in accordance with the law and regulatory policy. Accordingly, the Commission accepts the Agreement. The Commission directs the parties to comply with all terms of the Settlement Agreement. Failure to comply with the terms of the Agreement would constitute grounds for further proceedings. The Commission also directs OCMC to make its voluntary payment by check, to be paid to the general account of the State Treasury for the State of Idaho. OCMC is ordered to send this check to the Commission Secretary within thirty (30) days of issuance of this Order.

## ORDER

IT IS HEREBY ORDERED that the June 4, 2004, Stipulation and Settlement Agreement entered into between the Commission Staff and OCMC, Inc., is accepted and approved. The Commission directs OCMC to make the \$15,000 voluntary payment to the general account of the Treasury of the State of Idaho within thirty (30) days from issuance of this

Order. This check shall be sent to the Commission Secretary for the Idaho Public Utilities Commission.

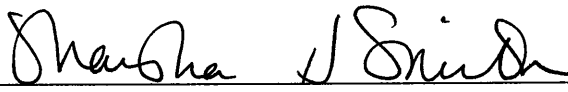
IT IS FURTHER ORDERED that the parties shall comply with all terms of the Stipulation and Settlement Agreement.

IT IS FURTHER ORDERED that all proceedings including the evidentiary hearing as provided in Order No. 29456 are vacated and Case No. GNR-T-04-4 is closed.

THIS IS A FINAL ORDER. Any person interested in this Order (or in issues finally decided by this Order) or in interlocutory Orders previously issued in this Case No. GNR-T-04-4 may petition for reconsideration within twenty-one (21) days of the service date of this Order with regard to any matter decided in this Order or interlocutory Orders previously issued in this case. Within seven (7) days after any person has petitioned for reconsideration, any other person may cross-petition for reconsideration. *See Idaho Code §§ 61-626 and 62-619.*

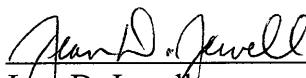
DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this // <sup>th</sup> day of June 2004.

  
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PAUL KJELLANDER, PRESIDENT

  
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MARSHA H. SMITH, COMMISSIONER

  
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DENNIS S. HANSEN, COMMISSIONER

ATTEST:

  
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Jean D. Jewell  
Commission Secretary

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