

DECISION MEMORANDUM

TO: COMMISSIONER KJELLANDER
COMMISSIONER SMITH
COMMISSIONER HANSEN
COMMISSION SECRETARY
COMMISSION STAFF
LEGAL

FROM: JOHN HAMMOND

DATE: JUNE 4, 2004

SUBJECT: STIPULATION AND SETTLEMENT AGREEMENT IN THE MATTER OF THE INVESTIGATION OF OCMC, INC. REGARDING WHETHER THE COMPANY VIOLATED THE TERMS OF ITS PRICE LIST AND OPERATOR SERVICES AND PAY TELEPHONE RULE 104.04. CASE NO. GNR-T-04-4.

On March 14, 2004, Staff filed a Petition to Initiate an Investigation alleging and requesting the Commission begin a proceeding to resolve consumer complaints, determine if OCMC was providing service and compliance with its price list and to decide if OCMC, Inc. violated the Commission's Operator Services and Pay Telephone Rule 104.04, IDAPA 31.51.01.104.04 between March 12, 2002 and July 29, 2003.

On April 27, 2004, OCMC, a company that provides operator services in the State of Idaho filed a Motion to Terminate this investigation disputing Staff's allegations and the legal basis for them. As a result of the foregoing there is a dispute and disagreement between Staff and OCMC which the parties now desire to compromise and settle on the terms set forth in the attached Stipulation and Settlement Agreement pursuant to Commission Rule of Procedure 272, IDAPA 31.01.01.272.

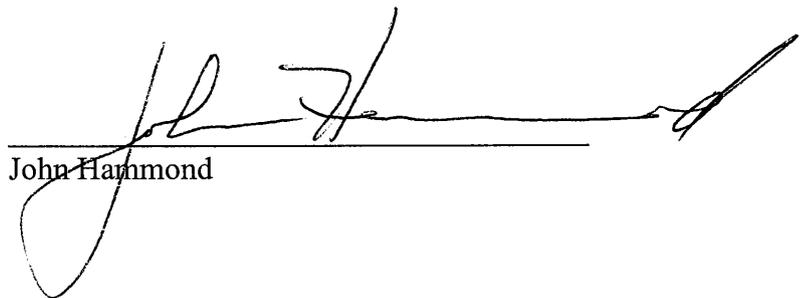
The parties represent that the following terms comprise the settlement agreement. First, OCMC will make a voluntary payment by check payable to the State of Idaho in the amount of \$15,000 to deposit in a fund designated by the Commission. This check will be sent to the Commission Secretary within 30 days of acceptance by the Commission of this Stipulation and Settlement. The parties request that the Commission designate where the voluntary payment be deposited. *Idaho Code* § 62-620 provides that penalties shall be paid to the General Account

of the State Treasury. Staff believes this voluntary payment is an analogous to the penalty described in § 62-620 and recommends that the Commission deposit this check into the State Treasury to the credit of the General Account. Second, OCMC has agreed to reimburse by credit or refund charges certain customers incurred as shown on the attached Exhibit A. The parties also provided that they understand it is within the Commission's discretion whether to issue a press release in any particular matter. Notwithstanding that, neither party recommends issuance of a press release in conjunction with the settlement or any Commission Order respecting the Stipulation. The remaining terms are standard language to stipulations and settlement agreements.

Staff and the Company are the only parties to this proceeding. Staff and the Company represent that this settlement is reasonable, in the public interest, or otherwise in accordance with the law or regulatory policy. As such the parties request that the Commission accept this Agreement, without material change, as a means for resolving this matter pursuant to its authority under the Commission's Rules of Procedure. *See* IDAPA 31.01.01.271-276.

Commission Decision

Does the Commission wish to accept the Settlement Agreement as proposed by Staff and OCMC to resolve this proceeding? If so, where does the Commission wish to direct OCMC to make the voluntary payment?



John Hammond

b1s/M:GNRT0404_jh8

JOHN R. HAMMOND, JR.
DEPUTY ATTORNEY GENERAL
IDAHO PUBLIC UTILITIES COMMISSION
PO BOX 83720
BOISE, ID 83720-0074
IDAHO BAR NO. 5470
Tele: (208) 334-0357
FAX: (208) 334-3762

Attorney for the Staff of the Idaho Public Utilities Commission

DEAN J. MILLER (ISB No. 1968)
McDEVITT & MILLER LLP
420 WEST BANNOCK STREET
BOISE, ID 83702
Tele: (208) 343-7500
Fax: (208) 336-6912

Attorneys for OCMC, Inc.

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) STIPULATION AND
SERVICES AND PAY TELEPHONE RULE) SETTLEMENT AGREEMENT
104.04.)

COMES NOW the Staff of the Idaho Public Utilities Commission (Staff) and OCMC, Inc., an Indiana corporation, or its affiliates OPTICOM, One Call Communications, AdvantTel, LiveTel, SuperTel, RegionTel or 1-800-MAX-SAVE (collectively, OCMC) by and through their respective counsel of record and stipulate and agree as follows:

RECITALS

WHEREAS, on March 15, 2004, Staff filed herein a Petition to Initiate an Investigation alleging and requesting that the Commission initiate an investigation to: 1) resolve consumer complaints; 2) determine if OCMC is providing service in compliance with its Price List; and 3) to decide if OCMC, Inc. has violated the Commission's Operator Services and Pay Telephone Rule 104.04, IDAPA 31.51.01.104.04 between March 12, 2002 and July 29, 2003.

WHEREAS, on April 7, 2004, OCMC, a company that provides operator services in Idaho as that term is defined in Rule 5.06 of the Commission's Operator Services and Pay

STIPULATION AND
SETTLEMENT AGREEMENT

Telephone Rules, IDAPA 31.51.01.000, filed a Motion to Terminate Investigation wherein OCMC disputed Staff's allegations and the legal basis therefore.

WHEREAS, as a result of the foregoing there is a dispute and disagreement between Staff and OCMC which the parties desire to compromise and settle on the terms set forth below pursuant to Commission Rule of Procedure 272, IDAPA 31.01.01.272.

STIPULATION

In consideration of the foregoing, the parties agree as follows:

1. Payment by OCMC. Within thirty (30) days of the Commission's approval of this Stipulation OCMC shall make a voluntary payment by check payable to the State of Idaho in the amount of fifteen thousand dollars (\$15,000) for deposit in a fund designated by the Commission. This check shall be sent to the Commission Secretary.

2. Customer Reimbursements. Within thirty (30) days of the approval of this Stipulation OCMC shall, either by credit or refund, make reimbursements to customers in the amounts shown on Exhibit A attached hereto and made a part hereof.

3. No admission. It is acknowledged by that the payment above described and the reimbursements above described are in compromise of a disputed claim and are not intended, nor shall they be construed as, an admission of liability by OCMC.

4. Compliance. Without admitting or denying the allegations contained in the Commission Staff's Petition, OCMC states that as of July 29, 2003 its services comply with its Price List and Commission Operator Services and Pay Telephone Rule 104.04.

5. Voluntary Compliance. OCMC agrees that it will not engage in any future acts, practices or omissions that would constitute violations of Idaho Code, Title 62 or Commission Rules.

6. No Press Release. The parties understand and acknowledge that it is within the Commission's discretion whether to issue a press release in any particular matter. Notwithstanding that, neither party recommends issuance of a press release in conjunction with this settlement or any Commission order respecting this Stipulation.

7. Commission Approval. This Stipulation shall be entered into the record in this proceeding. The Parties recognize 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 this case was first initiated. Thus, the Parties agree that this Stipulation presents an

opportunity to finally resolve the issues in this case. This Stipulation 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 Stipulation represents a reasonable resolution of the issues in this case and believe that it is in the public interest for the Commission to approve it. The parties have negotiated this Stipulation as an integrated settlement document. The parties recommend that the Commission accept this Stipulation without material change or condition and upon doing so, issue its Order approving this Stipulation as a reasonable resolution of this matter. If the Commission rejects all or any part of this Stipulation, either party disadvantaged by such action shall have the right, upon written notice to the Commission and the other party, within seven (7) days of the Commission's Order to withdraw from this Stipulation.

8. No Additional Proceedings. The Parties acknowledge that the time period covered by Staff's investigation in this matter is March 2002 through July 29, 2003. Based on its investigation, Staff will not file any additional formal proceedings against OCMC for the conduct that it specifically alleged in its Petition the Company engaged in during the time period above stated.

9. Warranty of Authority. The undersigned each represent and warrant that they have authority to bind their respective clients to the terms of this Stipulation.

**IDAHO PUBLIC UTILITIES
COMMISSION STAFF**

6/4/2004

DATE

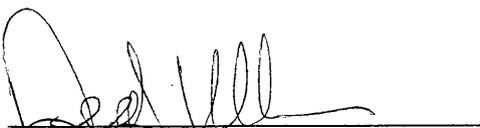


John Hammond
Deputy Attorney General
Idaho Public Utilities Commission

OCMC, Inc.

6/4/04

DATE



Dean J. Miller
Attorney for OCMC, Inc.

EXHIBIT A TO SETTLEMENT AGREEMENT

Jurisdiction	Charge	Credit	Net Due	Customer	Call Date
Intralata	\$17.35	\$6.07	\$11.28	Ann M Voda	03/12/03
Intralata	\$10.43	\$0.00	\$10.43	Rod Benedetti	05/15/02
Intralata	\$16.05	\$5.61	\$10.44	Kelli Bills	04/26/03
Intralata	\$44.30	\$0.00	\$44.30	Joleta Quigley	05/30/03
Intralata	\$31.30	\$0.00	\$31.30	Ross Tarter	05/30/03
Intralata	\$78.61	\$46.79	\$31.82	Tammy Lindt	08/20/02 08/23/02 08/24/02
Intralata	\$18.30	\$7.32	\$10.98	Robert Thompson	01/10/03

TOTAL REFUNDS DUE

\$150.55

CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT I HAVE THIS 6th DAY OF JUNE 2004, SERVED THE FOREGOING **STIPULATION AND SETTLEMENT AGREEMENT**, IN CASE NO. GNR-T-04-4, BY MAILING A COPY THEREOF, POSTAGE PREPAID, TO THE FOLLOWING:

ANN C. BERNARD
OCMC, INC.
801 CONGRESSIONAL BLVD.
CARMEL, IN 46032
E-mail: ann.bernard@ocld.com

DEAN J. MILLER
McDEVITT & MILLER, LLP
420 W. BANNOCK STREET
PO BOX 2564 – 83701
BOISE, ID 83702
E-mail: joe@mcdevitt-miller.com

CT CORPORATION
300 N. 6TH STREET
BOISE, ID 83702



SECRETARY