

Decision 08-03-015 March 13, 2008

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Utility Consumers' Action Network (UCAN),

Complainant,

vs.

MCI Communication Services, Inc., dba
WorldCom LLC (U5378C) and related entities
collectively "MCI,"

Defendants.

Case 06-10-023
(Filed October 13, 2006)

OPINION ADOPTING SETTLEMENT

Summary

Utility Consumers' Action Network (UCAN) and MCI Communication Services, Inc. (MCI) (collectively, the Parties) have jointly moved for the adoption of an uncontested Settlement Agreement in this complaint proceeding involving a computer billing error on the part of MCI that affected 1,890 California customers from June 2006 to October 2006, and some associated issues. Under the settlement agreement, MCI agreed to implement procedures designed to prevent similar errors from occurring again. MCI has fully compensated all the affected customers for any billing errors they experienced. The Commission adopts the settlement, the full text of which is set forth in Appendix A, as resolving all issues in the complaint, and closes the proceeding.

Background

UCAN alleged that as early as May 2006, MCI began “cramming”¹ certain customers by erroneously charging particular local service-only customers a long distance-associated “Basic Monthly Fee” and related fees, taxes and surcharges. Specifically, UCAN asserted that Jack Duclo, a California resident and local service-only customer of MCI, began receiving erroneous charges for a basic monthly fee and related fees, taxes and surcharges beginning with his June 2006 bill. UCAN further alleged that between June 2006 and October 2006, Duclo complained to MCI’s customer service representatives (CSRs) about the billing errors and that the CSRs failed to properly credit his account.

MCI began its investigation into Duclo’s complaints on or about October 25, 2006, following the receipt of UCAN's Complaint. The investigation revealed that Duclo was affected by a computer coding error that failed to exempt certain customers from being assessed the long distance basic monthly fee. Consequently, MCI billed him for a basic monthly fee, related taxes, fees and surcharges between June 2006 and October 2006. In response to his complaints, MCI credited Duclo’s account \$69.99, which included a \$25.00 “courtesy credit” which the CSR added when he realized that Duclo’s account was not properly credited.

On or about October 13, 2006, MCI discovered the computer coding error had occurred because technicians had not applied a certain hard-coded logic to a new billing component implemented on June 1, 2006. Upon detecting the coding

¹ "Cramming" refers to the submission or inclusion of unauthorized, misleading, or deceptive charges on consumers' local telephone bills.

error, MCI looked into the issue and added the missing hard code logic.² On March 1, 2007, MCI added a note to the "plan page" of its billing system alerting users to add the hard code logic before changing the basic monthly fee in the future.

In November 2006, MCI conducted a credit recovery to ensure that it properly credited for overcharges any customer who experienced the same billing errors as Duclo. MCI issued credits of fees, taxes and surcharges equal to or greater than those previously charged to all its customers impacted by the coding error. The total amount of credits given to 1,890 California customers was \$24,454.26. MCI has fully credited all customers.

Procedural History

On October 13, 2006, UCAN filed its formal complaint with the Commission. MCI filed its Answer and Affirmative Defenses to the Complaint on December 4, 2006. From December 19, 2006 through April 25, 2007, UCAN and MCI exchanged information, both formally and informally, and submitted timely joint status reports to the assigned Administrative Law Judge (ALJ).

On May 3, 2007, the ALJ issued a ruling³ setting a Prehearing Conference (PHC) for May 9, 2007. At the PHC, the parties reported on their ongoing efforts to resolve the matter. The ALJ commended both parties on their cooperation and

² This occurred on October 19, 2006, six days before MCI received UCAN's Complaint.

³ The ruling noted that the two remaining issues in the proceeding were: (1) a further explanation by MCI of the CSR crediting process, particularly to what extent the process was automated and to what extent CSRs had to manually trigger and input the credits; and (2) MCI's policies and procedures regarding reporting of repeat complaints to its resolution departments.

diligence, and encouraged them to continue their dialogue to work out the claims. On May 16, 2007, UCAN and MCI advised the ALJ that they would continue both to exchange information and to renew their efforts to resolve the case without the need for additional hearings. From mid-May until July 20, 2007, the parties communicated extensively and jointly resolved UCAN's remaining issues through the Settlement Agreement submitted for Commission approval.

The Settlement

Under the terms of the Settlement Agreement,⁴ MCI acknowledges that between June 2006 and October 2006, Jack Duclo and other California customers were erroneously charged a basic monthly fee and related taxes, fees and surcharges. The parties further acknowledge that since then, MCI engaged in a credit recovery and fully credited all affected customers. Additionally, both parties acknowledge that to prevent the recurrence of the issues raised by UCAN in this proceeding, MCI has undertaken the following actions:

- MCI has modified its billing system to alert users to add the hard code logic before changing the Basic Monthly Fee;
- MCI has implemented a new policy whereby a customer complaint will enter the escalation process when there are multiple credits issued to a customer on what appears to be the same issue. It has also implemented training to inform the CSRs about this new policy; and
- MCI has added a bullet to the "pop-up" that appears as part of the computer-based crediting procedures to remind CSRs to apply a companion credit when applicable, and has included the "pop-ups" in its CSR training.

⁴ The settlement is attached as Appendix A to this decision.

Pursuant to the Settlement Agreement, MCI has also agreed to make the following operational improvements in its business practices:

- MCI will provide a contact person for UCAN to approach if there are future problems. UCAN agrees to try to contact this individual to endeavor to resolve any concerns before filing any legal actions against MCI.
- Unrelated to this proceeding, MCI is in the process of reviewing and consolidating its billing systems to create a more unified and automated system for each jurisdiction.
- Between 90 and 180 days after completion of the review and consolidation of the billing systems, MCI will provide UCAN with a random sample of 12 long-distance standalone accounts that were issued corrective credits through a CSR, including the internal details showing how MCI credited all fees, taxes and surcharges.
- MCI intends for the above changes to internally allow it to see a line-by-line review of the associated fees, taxes and surcharges calculated for the credit amount. However, UCAN acknowledges that because these efforts are still in the developmental stage no guarantees can be made by MCI about the capabilities of the system.

Discussion

Standard of Review

Rule 12.1(d) of the Commission's Rules of Practice and Procedure provides that a settlement must be reasonable in light of the whole record, consistent with the law, and in the public interest for the Commission to approve it. We examine this settlement considering these three criteria.

Reasonable in Light of the Whole Record

UCAN identified three key concerns in this proceeding: (1) the reason(s) why Duclo was erroneously billed the basic monthly fee and related taxes, fees and surcharges; (2) the reason(s) why Duclo's account was not properly credited

by CSRs for the erroneous taxes, fees and surcharges, despite Duclo's complaints; and (3) prevention and prompt resolution of further billing errors for other consumers. The Settlement Agreement appears to address these concerns.

First, the Settlement Agreement contains provisions intended to ensure that the computer billing error that resulted in MCI wrongfully charging Duclo and other customers a basic monthly fee and related taxes, fees and surcharges does not occur again. As set forth in the accord, MCI has added the missing hard code logic that caused the billing error issue and modified MCI's billing system to alert users to add the hard code logic before changing the basic monthly fee component in the future. These changes should remedy this billing problem.

Second, the Settlement Agreement contains provisions that address the CSRs' handling of the credits to Duclo's account. MCI has implemented a new escalation policy whereby customer complaints will enter the escalation process when a CSR identifies that he or she issued multiple credits to a customer on what appears to be the same issue. MCI has also implemented training to inform the CSRs about the new policy. Further, MCI has added a bullet to the "pop-up" that appears as part of the computer-based crediting procedures to remind CSRs to apply a companion credit when applicable, and has included the "pop-ups" in its CSR training. Finally, MCI is in the process of reviewing, consolidating and improving its billing systems to avoid future crediting issues.

Third, the Settlement Agreement addresses UCAN's concerns regarding prevention and resolution of future problems with MCI. Under the terms of the accord, MCI will provide a contact person for UCAN in order to improve communication and expeditiously and effectively resolve billing or other issues that arise in the future prior to filing a complaint with the Commission. MCI has also agreed to demonstrate the efficacy of the improvements to its billing

systems. At the 90- and 180-day intervals after it completes the improvements, MCI will provide UCAN with a random sampling of 12 long-distance standalone accounts that received credits from a CSR, including the internal details showing how MCI credited all fees, taxes and surcharges. UCAN and MCI state that their understanding is that this will allow UCAN to independently verify that MCI's system improvements are working.

This accord, as well as the operational improvements and changes in business practices that have been, or are being, implemented by MCI, address each of UCAN's concerns, and represent a fair compromise of the issues identified. Also, the remedies set forth in the Agreement are commensurate with the problems documented. We conclude that the Settlement is reasonable in light of the whole record.

Consistent with the Law

Pursuant to Pub. Util. Code § 2890(a), MCI may only bill for charges that the subscriber has authorized. Under the Settlement Agreement, MCI has agreed to make operational improvements designed to better ensure compliance with statutory requirements. In addition, the agreement implements operational procedures that will help prevent future billing errors and mistakes on crediting fees, taxes and surcharges. UCAN and MCI contend that this agreement promotes the fair and proper treatment of the customers the Commission is required to protect as well as compliance with all applicable statutes and Commission decisions. We agree; and conclude that the settlement is consistent with the law.

In the Public Interest

The Settlement Agreement provides an effective and efficient resolution of the parties' dispute and removes the need for further action in this proceeding.

Since MCI has made whole all customers affected by this billing error and made additional improvements in its operations, the public at large benefits from this agreement. Thus, we conclude that the settlement is in the public interest.

In sum, the UCAN-MCI settlement satisfies the three criteria, and we grant the Joint Motion and adopt the Settlement Agreement.

Waiver of Comment Period

This is an uncontested matter, where the decision grants the relief requested by adopting the settlement between the parties. Accordingly, as provided by Pub. Util. Code § 311(g)(2) and Rule 14.6(c)(2) of the Rules of Practice and Procedure, we waive the otherwise applicable 30-day comment period.

Assignment of Proceeding

Rachelle B. Chong is the assigned Commissioner and Jacqueline A. Reed is the assigned ALJ this proceeding.

Findings of Fact

1. The settlement, as well as the operational improvements and changes in business practices that MCI is implementing or has implemented, address each of UCAN's concerns.
2. The agreement contains provisions designed to ensure that the computer billing error that resulted in certain customers being erroneously billed a basic monthly fee and related taxes, fees and surcharges does not recur.
3. The agreement contains provisions that address the CSRs' handling of crediting problems.
4. MCI is in the process of reviewing, consolidating and improving its billing systems to avoid future crediting issues.

5. The agreement addresses UCAN's concerns regarding prevention and resolution of future problems with MCI.

6. MCI has agreed to demonstrate the efficacy of the implemented improvements to its billing systems.

Conclusions of Law

1. The settlement between UCAN and MCI attached to this decision, as Appendix A, is reasonable, consistent with the law, and in the public interest.

2. The UCAN-MCI Joint Motion to Adopt the Uncontested Settlement Agreement should be granted, and the settlement should be approved.

3. No evidentiary hearings were necessary.

4. For administrative efficiency, this order should be made effective immediately.

O R D E R

IT IS ORDERED that:

1. The Joint Motion for Adoption of Uncontested Settlement Agreement by the Utility Consumers' Action Network and MCI Communications Services, Inc. is granted.

2. The Settlement Agreement, attached to this decision as Appendix A, is approved.

3. The determination that evidentiary hearings were necessary is changed. No evidentiary hearings were necessary.

4. Case 06-10-023 is closed.

This order is effective today.

Dated March 13, 2008, at San Francisco, California.

MICHAEL R. PEEVEY

President

DIAN M. GRUENEICH

JOHN A. BOHN

RACHELLE B. CHONG

TIMOTHY ALAN SIMON

Commissioners