

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Barbara Beerhalter	Chair
Cynthia A. Kitlinski	Commissioner
Norma McKanna	Commissioner
Robert J. O'Keefe	Commissioner
Darrel L. Peterson	Commissioner

In the Matter of the Commission Initiated Investigation of the Reasonableness of Dial Data Services Offered by Northwestern Bell Telephone Company

ISSUE DATE: May 24, 1988

DOCKET NO. P-421/CI-87-631

In the Matter of a Tariff Revision Filing by Northwestern Bell Telephone Company Regarding Standards for Information Providers of Dial Data Service

DOCKET NO. P-421/M-86-533

In the Matter of a Tariff Revision Filing By Northwestern Bell Telephone Company Regarding the Blocking of Calls to Dial Data Information Providers

DOCKET NO. P-421/M-87-602

ORDER AFTER RECONSIDERATION  
OF MARCH 10, 1988 ORDER

BACKGROUND

Dial Data (976) Service is a service in which Northwestern Bell Telephone Company (NWB or the Company) delivers calls from calling customers to companies which provide information for a fee. These companies are called information providers. Callers reach the information providers by dialing 1-976-xxxx. The information providers, rather than the callers, are the subscribers to NWB's 976 service.

NWB provides several services to information providers including network access, call transport, call registering, rating, and billing of calls. 976 service also includes collection of 976 charges from callers, by means of NWB's regular monthly bill, and remittance of the funds collected from callers to the information providers. The information providers in turn pay NWB the

approved tariffed rates for 976 service. Information providers, not NWB, control the message or information made available to calling customers.

### PROCEDURAL HISTORY

On March 10, 1988, the Minnesota Public Utilities Commission (the Commission) issued its Order Requiring 976 Blocking (March 10 Order) in the above-captioned matters.

The March 10 Order authorized NWB to continue offering 976 service in all areas where it is currently being offered provided that NWB make blocking of the service available to all residential and business customers upon request and at no charge. Further, the Commission explained that the ability to block 976 service was not dependent on the Company being able to block the service in its central offices, rather the Company would be required to make premise blocking equipment available without charge to customers in exchanges where the central office equipment cannot block individual customer lines.

The March 10 Order also required the Company to notify affected customers of the availability of free 976 blocking; prohibited NWB from disconnecting basic telephone service because of non-payment of 976 charges; required NWB to continue a liberal refund policy for disputed 976 charges; and authorized the Company to institute mandatory blocking of 976 service under certain conditions.

On March 30, 1988, NWB and the Residential Utilities Division of the Office of the Attorney General (RUD-AG) filed Petitions for Reconsideration with the Commission. On April 11, 1988, Omnicall, Inc. (Omnicall), an information provider, filed a reply to the RUD-AG's petition.

On April 15, 1988, the Commission notified all parties in writing that it would hear oral arguments and conduct deliberations in these matters on May 3, 1988.

NWB filed a Supplement to its Petition for Reconsideration on April 28, 1988.

On May 3, 1988, the Commission met to consider the positions of the parties. The Commission heard oral arguments by NWB, the RUD-AG, Omnicall, Austral Communications, Systems Dynamics, the Minnesota Information Providers Association, TNT Industries, and the Department of Public Service (Department or DPS).

### ISSUE STATEMENT

The Commission must decide:

1. Whether NWB should be required to provide free customer premises blocking equipment where

the central office equipment cannot block individual customer access to 976 service;

2. Whether NWB should be required to block 976 service for customers with 2-party service upon customer request;
3. When NWB can institute mandatory blocking after 976 charges have been adjusted and blocking has been refused by the customer;
4. Whether NWB should be required to have a written refund policy; and
5. Whether information providers should be prohibited from attempting to collect 976 charges that have been adjusted by NWB.

### FINDINGS AND CONCLUSIONS

The first issue for the Commission to decide is whether to reconsider its decision requiring NWB to provide free customer premises blocking equipment in 11 exchanges where the central office equipment cannot block 976 service on individual customer lines.

NWB requested that the Commission change its decision requiring 976 blocking in all exchanges regardless of central office equipment capability to block individual customer lines. In its initial petition for reconsideration, NWB proposed to temporarily suspend 976 service in 11 exchanges where the central office equipment does not have the technical capability to block 976 calls on individual customer lines. Later, in its petition supplement, NWB contended that suspending 976 service in these exchanges would violate the access and nondiscrimination requirements of the Modified Final Judgment (MFJ) in United States v. American Telephone and Telegraph Company, 552 F.Supp. 131 (D.D.C. 1982). NWB also noted that should the Commission order that 976 service be suspended in these exchanges, the Company would have to seek a waiver from the MFJ court before suspending the service.

As an alternative to temporarily suspending 976 service, NWB proposed that blocking be required only where the central office equipment can block 976 service on individual customer lines; that the Company offer a new, more liberal adjustment policy in the 11 older exchanges; and, that this new, more liberal adjustment policy not be advertised.

The RUD-AG and Omnicall asked that the Commission reconsider its earlier decision and temporarily suspend the offering of 976 service in the 11 older exchanges until new central office equipment is installed. The Department did not object to this proposal, but suggested that the Commission approve a voucher system for customers to purchase customer premises blocking equipment and be reimbursed by NWB under certain conditions.

The Commission continues to find that allowing NWB to offer 976 service only where the Company can offer blocking of that service protects the public interest and is a reasonable condition for offering the service. Where 976 service is available, it is available to everyone without asking. This leads to abuses. Children and legally incompetent adults have placed 976 calls without appreciating the consequences of making those calls. Large bills have resulted. Responsible adults have been asked to pay for these unauthorized calls.

The Commission will, however, re-examine its method of providing 976 blocking in NWB's 11 exchanges where the central office equipment is not capable of blocking individual customer lines. The Commission notes that all but one of the exchanges will be able to block individual customer lines by the end of 1988. (See Attachment A.) The Commission believes that requiring NWB to provide customer premises blocking equipment in these exchanges for a relatively short time is needlessly complex and time consuming. Therefore, the Commission will adopt another approach to the problem of unrestricted access to 976 service.

The problem of unrestricted and unrequested access to 976 service is a short term problem that can be simply and effectively solved by temporarily suspending 976 service in the exchanges where the central office equipment cannot block individual customer lines. The Commission does not take this action lightly. Temporarily suspending 976 service will deny access to the service for certain customers who currently use the service in these exchanges. However, the Commission finds that the problems caused by 976 service when blocking is not available outweigh the benefits of offering the service without blocking. The Commission concludes that offering 976 service without the ability to block the service is not in the public interest.

Therefore, the Commission will order NWB to temporarily suspend 976 service in exchanges where the central office equipment does not have the capability to block the service on individual customer lines until individual line blocking is available.

The Commission believes that neither the spirit nor the letter of the MFJ will be violated by the temporary suspension of 976 service in these 11 exchanges. NWB's arguments against this approach offered no legal analysis or specific citations but were merely speculative and conclusory. Further, the MFJ does not contain any language that: 1) mandates that 976 service continue in the form now provided by the Company; 2) prohibits the total elimination of 976 service; or 3) prohibits the Commission from modifying the way 976 service is being offered through a temporary suspension of 976 service until new central office equipment is installed that has the capability to block 976 calls on individual customer lines.

Furthermore, NWB and the information providers are not presently offering 976 service to customers in all NWB exchanges. Rather, information providers and NWB have selectively chosen to provide 976 service in specific areas where they perceive the service will be profitable. Therefore, temporarily suspending 976 service in these 11 exchanges until NWB modifies its central office equipment to allow blocking of individual customer lines is not discriminatory.

The Commission concludes that this narrowly tailored and content-neutral solution temporarily suspending 976 service is both reasonable and essential to maintain the necessary standards of adequate service and protection for consumers in the State of Minnesota. It also preserves the opportunity for information providers and NWB to offer 976 service to people who have the ability to choose whether or not to use this service.

The next issue the Commission must examine is whether to require NWB to block 976 service for customers with 2-party service upon customer request.

NWB requested that it not be required to block 976 service for customers on 2-party lines. NWB explained that it cannot block 976 calls for one customer on a 2-party line and provide 976 access for the second customer. The Company proposed that the Commission adopt NWB's new, more liberal 976 adjustment policy for customers with 2-party service.

The Commission finds that NWB can block individual 2-party lines by switching one customer to a different 2-party circuit. While this may be inconvenient and time-consuming, it is possible. Customers on 2-party lines should have the same 976 service as anyone else. If central office blocking of 976 service is available, an individual should have the choice of either receiving the service or refusing it. This choice should not be dependent on what another party-line customer decides. The Commission will require the Company to block individual 2-party lines upon customer request.

The Commission finds that NWB's third issue for reconsideration is moot. The Company requested that it be granted a time extension until May 1, 1988 to implement blocking for business customers. This Order will be issued after May 1, 1988 and NWB has informed the Commission that business blocking is now available.

The next issue the Commission will address is refunding standards and procedures NWB will use for unauthorized 976 calls.

The Company proposed that customers who have had 976 charges adjusted once but refuse to order blocking should be responsible for future 976 charges. In its March 10 Order, the Commission authorized NWB to institute mandatory blocking for repeated disputes of 976 charges. The Commission will clarify that decision to allow NWB to institute mandatory blocking after 976 charges have been adjusted once and the customer refuses to block 976 service. The Commission believes that most people who have had charges for unauthorized 976 calls adjusted or forgiven will readily elect to have 976 service blocked. In balancing the equities of this situation, the Commission finds that a one-time forgiveness is appropriate; additional adjustments may lead to abuses.

The Commission must now decide whether the Company should be required to have a written 976 service refund policy.

The RUD-AG requested that the Commission require NWB to formalize its 976 service adjustment procedure. The RUD-AG suggested that a March 2, 1988 letter from NWB to all parties in these matters be used to standardize NWB's bill adjustment policy. The Commission finds that the procedures and policies set forth in the Company's March 2 letter are reasonable and easy to understand. The Commission believes that an articulated refund policy is necessary to avoid customer confusion and promote fairness. The Commission will incorporate the March 2 letter (Attachment B) into this Order and recognize it as a refund policy statement for NWB.

The Commission will next determine whether information providers should be prohibited from pursuing collection efforts after 976 charges have been adjusted by NWB under the terms described in its refund policy.

NWB will forgive or adjust disputed 976 charges under certain conditions, i.e. first time, child, legally incompetent adult. The Commission fully supports this refund policy. The refund policy and the blocking mechanism are designed to protect customers, information providers, and NWB. The Commission finds that it is inequitable and confusing to customers for information providers to attempt to collect 976 charges that have been adjusted for meeting the standards of NWB's refund policy.

The Commission has authority under Minn. Stat. Sections 237.06 and 237.07 (1986) to ensure that telephone rates are fair and reasonable and that all telephone companies file their rate schedules and all rules and classifications used in the conduct of the telephone business. The Commission has authority to regulate the offering of 976 service.

The Commission finds that it is reasonable to require NWB to include in its tariff for 976 service a provision prohibiting information providers from pursuing collection efforts after a disputed 976 bill has been adjusted by NWB. The Commission finds that 976 service would not be in the public interest without this provision. This provision is a reasonable and necessary to protect the public interest.

This action does not regulate the business practices of information providers. Information providers

have no proprietary interest in 976 service. They are simply customers of NWB who, like all other customers, are free to elect or reject a service after considering the nature, rates, terms and conditions of the service. Information providers must make a business decision whether or not to subscribe to 976 service as the service offering changes as a result of this Order or future action by NWB or the Commission.

### ORDER

1. NWB shall, within 10 days of the issuance of this Order, temporarily suspend the provision of Dial Data (976) Service in all areas where the Company does not have the capability to block individual customer access to the service. NWB may reinstate Dial Data (976) Service in these areas after the Company has installed the capability to block 976 service on individual customer lines and after written notice to the Commission.
2. Where NWB has the capability to block individual customer access to Dial Data (976) Service, NWB shall block access to the service for all customers, including customers with 2-party service, within 10 days of receipt of such requests.

3. NWB may institute mandatory blocking of Dial Data (976) Service after charges have been adjusted and blocking has been refused by a customer as discussed in this Order and the March 10, 1988 Order in this proceeding.
4. NWB shall adjust bills for Dial Data (976) Service as described in the Company's letter of March 2, 1988 which is incorporated in this Order as Attachment B.
5. NWB shall revise the Dial Data (976) Service offering to prohibit customers of the service from seeking to collect 976 charges which have been adjusted by the Company.
6. NWB shall submit revised tariff pages reflecting the decisions in this Order to the Commission and all parties within 10 days of the issuance of this Order.
7. Any party wishing to comment on the tariffs filed in response to paragraph 6 shall submit such comments in writing to the Commission and all parties within 10 of the filing of the tariffs by NWB.
8. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Mary Ellen Hennen  
Executive Secretary

(S E A L)