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Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: GSA's Billing National Trust for Historic
Preservation for FTS Use and Termination Costs

File: B-238181.2

Date: September 17, 1991

DIGEST

Upon reconsideration, we reaffirm B-238181, Jan. 9, 1991, holding that the General Services Administration was authorized to assess the National Trust for Historic Preservation for (1) Federal Telecommunications Service (FTS) usage based on statistical sampling of data gathered two quarters prior to the quarter billed and (2) termination costs based upon a formula derived from experience gained in handling Postal Service's withdrawal from FTS.

DECISION

The National Trust for Historic Preservation (NTHP) asked us to reconsider our decision involving the General Services Administration's (GSA) billing NTHP for Federal Telecommunications System (FTS) usage and termination costs. In B-238181, Jan. 9, 1991, we held that GSA was authorized to assess NTHP for FTS usage one quarter in advance based upon a statistical sampling of usage data provided by vendors to GSA for the last available quarter. The last available quarter for which data generally was available was two quarters prior to the quarter being billed. We also held that GSA was authorized to assess termination costs based upon a formula derived from experience gained in handling the Postal Service's withdrawal from FTS.

NTHP does not dispute GSA's authority to use statistical sampling methodology to approximate actual costs. Instead, it argues that where evidence indicates that the sampling methodology has produced a result that is not consistent with past experience, GSA should examine actual usage to ensure that estimated costs approximate actual costs. Nor does NTHP dispute the authority of GSA to use a formula designed to approximate termination costs, but instead disputes the reasonableness of the formula, both in design and application vis a vis its billings. Since NTHP has not demonstrated an error of fact or law in B-238181, Jan. 9, 1991, or presented new information not previously considered, we affirm our prior decision.

Usage Charges

NTHP contends that the final usage charges are unreasonable because they are substantially higher than amounts billed by GSA for previous periods of service (and substantially higher than billing estimates earlier provided by GSA to NTHP). NTHP points out that in view of the time elapsed between the usage period and the billing dispute, actual usage data was available to verify the accuracy of the earlier sampling carried out by GSA. While agreeing that GSA is entitled to bill agencies based on a sampling of prior usage data, NTHP's position is that GSA should examine available actual usage data to ensure that estimated costs in fact approximate actual costs.

The GSA billed NTHP \$68,370 for the second quarter of fiscal year 1987 (January 1 through March 31) usage and \$5,095.49 for usage during the third quarter from April 1 through April 10, the date of withdrawal of its D.C. location from FTS. NTHP paid \$45,102 against this billing, leaving an unpaid balance of \$28,363.49.

GSA informally provided information that the billings to NTHP for the 2 years prior to the first quarter of fiscal year 87 were as follows:

1st quarter	FY 85	\$66,068
2nd quarter	FY 85	\$62,038
3rd quarter	FY 85	\$59,734
4th quarter	FY 85	\$40,739
1st quarter	FY 86	\$65,429
2nd quarter	FY 86	\$61,477
3rd quarter	FY 86	\$55,453
4th quarter	FY 86	\$54,940
1st quarter	FY 87	\$64,358

With respect to NTHP's assertion that the second and third quarter usage charges were inconsistent with prior charges, we observe that differences in amounts billed from quarter to quarter routinely occurred in GSA's billing to NTHP for FTS usage. For example, the billings show that the first quarter billing routinely was the highest followed by a general decline in billings for each succeeding quarter, and that the variation among the amount billed from quarter to quarter has been as high as \$24,690 and as low as \$513. The increase from the fourth quarter fiscal year 1986 billing to the first quarter fiscal year 1987 billing, followed by an increase of 6 percent for the second quarter of fiscal year 1987 over the immediately prior quarter, while a departure from the first to second quarter decrease in fiscal year 1986, is not so significant as to clearly evidence a problem in GSA's use of statistical sampling to estimate costs. In fact, the billing

produced by GSA's methodology for the period in dispute is more in line with amounts NTHP was billed and apparently paid in prior periods than is the \$45,102 NTHP paid by virtue of its assessment of what was due under historical billing practices. NTHP has provided nothing in its request for reconsideration which provides us with a basis for concluding that GSA's method for computing FTS usage for billing purposes was unreasonable in its overall application to NTHP.

We also disagree with NTHP's position that GSA was unreasonable in not recalculating its second and third quarter fiscal year 1987 usage billings based on actual usage data. In support of its position, NTHP refers to (1) evidence indicating that GSA's methodology produced results inconsistent with past experience and (2) the availability of actual data because of the time elapsed since the dispute. As discussed above, NTHP has not provided evidence showing that GSA's billing was unreasonable. Therefore, we do not believe GSA was unreasonable in refusing to recalculate the billing simply because actual usage data may be available.^{1/} To conclude otherwise would encourage users to dispute bills to await actual usage data whenever the user decides that GSA's methodology has worked to the user's disadvantage in a particular billing period.

Termination Charges

NTHP contends that applying a termination cost formula to an agency the size of NTHP (with less than 250 employees) that is

^{1/} Our prior decision states that NTHP totally discontinued FTS service on April 10, 1987. GSA clarified this point subsequent to our decision by providing information showing that NTHP requested only that its District of Columbia location be disconnected on April 10 with several other locations to be disconnected over the summer. GSA also stated informally that it initially billed NTHP for FTS usage by the locations outside of D.C. based upon its estimate that the D.C. location accounted for about 70 percent of NTHP total usage. Once GSA computed the termination cost for the D.C. location leaving the FTS network, it canceled NTHP's third and fourth quarter usage billings for NTHP's other locations for fiscal year 1987. Based on information provided by GSA, it also appears that GSA did not assess NTHP termination costs when the other locations disconnected from FTS. It seems reasonable therefore to assume that any perceived errors in second and third quarter (up to April 10) usage billings were more than offset by the cancellation of usage billings for NTHP's other locations for the third and fourth quarters and the apparent waiver of any termination costs associated with the later disconnects of the other locations from FTS.

based on the effect on FTS of the withdrawal of an agency the size of the Postal Service is patently unreasonable. We disagree.

Although the formula was derived from GSA's study of the impact on FTS from the Postal Service's withdrawal from the network, the formula is primarily based on network wide figures identified in order to process the Postal Service's withdrawal. Thus, where the formula identifies a factor for the amount of traffic sent through Automatic Off-Net and local service, this factor is a network wide figure and not specific to the Postal Service. The only factor derived from Postal Service usage is that representing the amount of traffic sent by an agency over the FTS backbone system. GSA is comfortable with the factor derived from a large agency user as being a fair representation of agency use generally. In view of this, we find nothing inherently inappropriate about using a factor derived from large agency usage as opposed to a small agency usage as a basis for estimating a network average in the absence of any evidence that a substantial variation exists between GSA's figure and the figure actually applicable to the agency in question. NTHP's assertion that GSA's use of its experience with the Postal Service to estimate NTHP's termination costs is "patently unreasonable" does not provide us with a basis for objecting to GSA's billing. NTHP's submission contains no data, studies or other information which enables to conclude that applying GSA's formula to NTHP is unreasonable.

One additional point worth noting is the fact that GSA's method of billing for usage resulted in a two-quarter lag from the time an agency joined FTS until it received its first usage billing. Thus, when NTHP left FTS, there was two quarters of usage that had not been directly allocated to it. While the formula derived by GSA to assess termination costs arguably results in a benefit to some agencies and a detriment to others, whether the detriment to NTHP is so pronounced as to outweigh the benefits of not being billed for the first two quarters of usage seems highly unlikely. This further militates against requiring GSA to recompute termination costs to NTHP for leaving FTS.

Finally, NTHP contends that the termination costs resulting from its leaving FTS are so minor that they should be waived by GSA as negligible to the system. GSA has administratively determined to assess such costs consistent with the manner that such costs have been allocated and assessed against other agencies leaving FTS. Whether the costs are negligible and should be waived is a matter within the administrative discretion of GSA.

For the reasons discussed above, NTHP has not demonstrated an error of fact or law in B-238181, Jan. 9, 1991, or presented new information not considered in our earlier decision. Accordingly, we affirm our prior decision.

Wilton J. Hooper
for Comptroller General
of the United States