

## Long Distance Operator(s) (Case 1028)

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### The Case:

You work for a medium-sized consulting firm that offers services in a relatively specialized area of the A/E (Architectural/Engineering) design industry. Most of your clients are municipalities, counties, state and federal agencies, in addition to large-scale commercial and industrial developers. Because your projects are usually some distance from your office, it is not unusual for you to spend a considerable amount of time on the telephone communicating with the client who is often headquartered in another state or region of the country, as well as other members of the design team, and regulatory agencies. The long distance telephone charges for these calls can accumulate to an appreciable amount over the course of a project.

As mundane as it may seem, one of the sticky problems you encounter all the time is how to bill your clients for “out-of-pocket” or “reimbursable” expenses. Almost all of the clients insist that these expenses be passed on to them at actual cost, without a mark-up for your associated real overhead costs. These overhead costs include business taxes, professional liability insurance based on your gross (total) billings, and the cost of financing from the time the costs are incurred to the time reimbursement is received from the client (often three, four or more months after they receive your invoice).

Several years ago, your firm, along with approximately 120 other similar firms across the country, decided to form a professional organization to provide assistance to its members focused on the business aspects of your professional practice (a topic often not covered to any extent in college or graduate school). The name of the organization is the Associated Services Society, and its executive director is I. B. Wiley, a man who has had several years of experience dealing with the business and legal issues commonly encountered in your area of practice.

As a service to the Society’s members, I. B. Wiley periodically distributes information regarding ways in which to avoid legal problems, tips for good accounting practice, and other helpful hints for running an efficient company. You have recently received the following memo from the Society:

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**MEMORANDUM**

August 28, 2002

**To:** All Associated Service Society Member Firms

**From:** I. B. Wiley, Executive Director

**Reference:** Long Distance Telephone Charges

As you may know, we here at the Society headquarters in Pebble Beach switched our long distance telephone service to Creative Communications Corporation, a national communications provider, more than three years ago. Because of our close association with CCC, they are now offering a unique service that should be of great interest to each of you. No longer will you have to stress over recouping overhead costs associated with the long distance telephone charges passed on to your clients.

CCC's service allows you to receive your monthly long distance telephone bill from CCC with a client-by-client or project-by-project accounting, thereby saving considerable clerical effort at billing time when it is necessary to accumulate, list and invoice long distance charges. Of even greater importance, CCC can send you two telephone bills, if you wish. One of them is the 'normal' bill. The other bill includes an internal markup based on a percentage of your choosing, project by project or client by client. You are then able to send a copy of this second telephone bill to your clients as backup for the charges shown on your invoice to them. All you need do is notify CCC of the specific percentage to be added to calls for individual clients or projects when you initiate your own internal project accounting.

No longer will you have to lose money on these long distance telephone charges. In fact, you can even turn a profit on your telephones! Other Society members using this service are excited and pleased. Be sure to call our office to sign up for this plan and learn how you too can charge your clients the telephone rates that you personally select. Be your own utility, for a change!

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**What, if anything, do you do?**

## **Alternate Approaches and Survey Results for “Long Distance Operator(s)” (Case 1028)**

1. This is a great deal, call and sign up! Whether a surcharge is included on long distance telephone calls is as much your decision as the client's. There is nothing wrong with having the telephone service (CCC) perform the surcharge function, and it saves you the clerical time and expense to do it with your personnel.  
**Percentage of votes agreeing: 1%**
2. Sign up for the CCC telephone service. You certainly have real overhead costs and by not passing these costs along to your clients, you deprive your employees and stockholders of revenue that is rightfully theirs.  
**Percentage of votes agreeing: 1%**
3. This program obviously has the approval of the professional Associated Services Society, of which your firm is a member. You should therefore sign up for it, since it appears that everyone else in the society will be doing the same thing. Also, it is unreasonable that your firm should give your professional competitors an advantage by their collecting these costs through the CCC program while you do not.  
**Percentage of votes agreeing: 1%**
4. Sign up for it - this is a great program which gives you the opportunity to even the playing field. The real advantage to this CCC program is that you are able to set the surcharge rates for each of your clients individually. This allows you to charge greater surcharge percentages to those clients who are chronically late paying your invoices and/or complain time and again about the charges for your professional services.  
**Percentage of votes agreeing: 1%**
5. Sign up for the CCC telephone service, but inform your clients that you use this firm to handle your telephone service and billing. Leave disclosure of CCC's business practices and judgment of your choice of a telephone service provider up to your clients. This is in accordance with the widespread doctrine of “caveat emptor” – buyer beware.  
**Percentage of votes agreeing: 11%**
6. At the next meeting of the Associated Services Society, pass a motion to give 10% of all of the additional revenue collected by each firm participating in the CCC program to the Executive Director of the Society on a yearly basis as a reward for his creative initiative, and encourage him to find other similar ways of recouping lost overhead costs.  
**Percentage of votes agreeing: 0%**
7. You do not need hidden schemes to make your business profitable. You have the option of rejecting a contract with a client who refuses to pay you a reasonable overhead surcharge for long distance communications in accordance with the provisions of your standard contract form.

Percentage of votes agreeing: 15%

8. The way to substantially avoid being involved in lawsuits and litigation brought on by a client is to make certain that the communications between your firm and the client are open and there are no hidden agendas in the performance of your work. If you want to be reimbursed for the overhead costs associated with long distance telephone charges, as well as overhead costs connected with other out-of-pocket expenses for a project, you should be willing to negotiate these reimbursement rates directly with your client at the time you formalize your contract for the services your firm will provide for a specific project.

Percentage of votes agreeing: 36%

9. What goes around, comes around. If you nickel and dime your client by hiding overhead surcharges for long distance telephone communications without telling them, it is likely your client will find one or more ways to cause your firm a loss of revenue when they find out about your surcharge practice. This may be by withholding payment of your invoices for a substantial period of time, thereby making it necessary for your firm to borrow funds at a substantial interest rate from a lending institution to cover your payroll, insurance and rent. You may think you are winning the battle, but are actually losing the war.

Percentage of votes agreeing: 7%

10. This practice is plainly dishonest and unethical. You do not wish to have you and your firm's professional reputation tarnished by participating in such a program, and it should not take a brain surgeon to figure that out.

Percentage of votes agreeing: 15%

11. You should refuse to participate in the program since it is clearly dishonest and unethical, and you should bring the issue to the Board of Directors of the Associated Service Society, demanding they reprimand the Executive Director and inform the rest of the Society member firms of their position and action.

Percentage of votes agreeing: 12%

### **Forum Comments from Respondents**

1. Use the service within your contract agreement and negotiated surcharge if applicable. The ability to assign a project to the telephone call is a critical time-saving part of business. Not telling the customer about the markup is unethical.
2. This is unethical. It is not part of an engineering practice to make profits off telephone bills. It is reasonable to charge the client in order to pay for most, if not all, of the long distance charges. It is not reasonable to make profit from the charges, especially by lying to clients about phone bills.

3. It should not be necessary to hide charges. You should be open and honest with a client who is obviously trusting your work, your judgment, and you.
4. I wouldn't have this problem as the overhead charges would have *already been hidden* in the invoice somewhere else.... gas/food/lodging whatever.
5. As we have seen with Enron, Tyco, and others, hiding costs will come back to get you. I think it is perfectly reasonable to contract the costs of telephone and travel expenses. As long as you and your client agree on the terms, everyone is happy, and no ethics have been violated as such. Hiding the markup is the problem here.
6. Dishonesty (failure to provide true, complete information for personal gain or aggressive intent) is a fine path to trouble. The services of CCC would be a convenient method for transacting with a firm that is aware of and has agreed to the markup that will be occurring in the phone charges but this is obviously not the intent of Director Wiley. Assuming I respect Wiley as a colleague (though I think that something by this time would have tipped me off to his unfortunate character and I would have politely excused myself from his association), I would take two actions in this situation. The actual order of these two actions depends on the degree of influence I hold with the man. Given a fair amount of personal influence, I would give my own opinion to him before bringing the matter to the attention of an appropriate governing board (whom I assume to be a fair and ethical body). Given a small chance for having a personal influence, I would inform the board as quickly as possible and then, letting them know my intent, express my concern to Wiley in some sort of confidential communication. My communication to Wiley would be by confidential letter or memo, informing him of the action I had taken or will take. If possible I would try to avoid personally offending the man, and only explain my understanding of the unethical nature of his business practices.
7. In my work as an intern for an engineering company, I noticed that our firm did all of the overhead billing in-house, and charged the client for it. So I don't see any problem with allowing a contract firm to do the overhead billing, if that is your preference.
8. I feel open communication is the way to solve every issue, and that the CCC may choose for themselves if they need to stop this practice or not.
9. Perhaps I am over simplifying this, but it appears obvious to me that CCC is offering a convenient service with their billing by project and that adding a hidden percentage is entirely optional. If indeed they can perform the billing as they say, go with them. Even without an additional percentage, this should reduce your overhead by allowing your company to allocate fewer resources to billing. If you can be up front in explaining the need for an extra percentage to your clients then you now have an easy way of billing that extra amount. The other question is what to do on the society level

since it could appear that you are supporting less than honest behavior. You don't want that reputation, and you don't want to be a part of a society that encourages it. I am still undecided on how to handle that situation; perhaps it would be best to suggest the above plan and recommend that others use the same approach.

10. Refuse to participate in the program. It is obviously unethical and very dishonest. This concern should be brought to the attention of Executive Director Wiley, to give him a chance to see what he is doing. If this is unsuccessful, then the engineering licensure board should be notified.
11. It is best to discuss overhead charges to the client beforehand so that the matter can be agreed upon and there are no surprises to either party. In the long run your clients will come to appreciate your honesty and charity.
12. Sign up for the program, but do not use the surcharge option. Use only the benefit of listing the client-by-client and project-by-project calls. This will save time, and therefore money, and it is not imposing any hidden surcharges on the client.
13. Review any contracts with the customer. If there are none that this billing method would violate then inform the customer that you intend to profit on all costs and services you supply. Then use the new method. If your clients really wished for you not to incur the charges they could supply your firm with a calling card.
14. Sign up for the program, but do not use the second bill feature. Your clients will be able to trust your billing because CCC was responsible for it, and you may gain their trust. In return you may have an easier time billing them for overhead.

#### **Comments from Board of Review Members**

1. Ethics require fair dealing and truthful communications to the client. A firm's ability to negotiate and come to an agreement with the client to cover the firm's costs should not be overcome by deceitful billing practices.
2. While all other services you provide have associated surcharges, your firm's accounting department handles that business with the client. Since you will be hiring a telephone service specifically to circumvent the scrutiny of your client, you are being inherently deceitful. Such deception is inappropriate for your business, and if your actions become public knowledge, you could possibly lose future business revenues greater than the telephone surcharge could ever generate.
3. CCC's service of providing itemized billing reports is terrific. You can easily track charges to specific clients and projects. You should definitely consider signing on for that part of the service. Now, about that automatic and hidden mark-up part....Not so cool. If you've lost the backbone to negotiate

fairly with your clients, you can't go sneaking around and hiding what you do. That would ultimately lead to a complete breakdown in the integrity column. Either grow a backbone and work with your clients to get a fair rate for reimbursable expenses, or accept the bare bones of recovering your actual per call costs without the associated overhead and go on. You could also consider moving to lump sum type pricing structures where you can in fact recoup many of those costs.