IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

MARCHBANKS TRUCK SERVICE, INC., *et al.*, on behalf of itself and all others similarly situated, Plaintiffs, v. COMDATA NETWORK, INC., d/b/a COMDATA CORPORATION, *et al.*, Defendants.	Civil Action No. 07-1078-JKG Consolidated Case

[PROPOSED] PLAN OF ADMINISTRATION AND DISTRIBUTION

Plaintiffs propose to distribute the Net Settlement Fund[1] to Settlement Class Members[2] who submit Claims on a *pro rata* basis using a modified version of the class-wide damages model devised by one of Plaintiffs' economists, Dr. Jeffrey Leitzinger, in his expert reports submitted in the case. All Settlement Class Members will be entitled to submit a Claim for their *pro rata* share of the Net Settlement Fund. Further, those Settlement Class Members that are still in business will obtain the valuable benefits of the prospective relief portion of the settlement (described elsewhere). Below, Plaintiffs summarize the proposed schedule for the plan for allocating the Net Settlement Fund to Settlement Class Members, provide some background information regarding the allocation methodology, and then set out the details of the methodology, including the sources of data, the allocation formula, and the proposed process for the Settlement Administrator to employ as part of the Plan of Distribution.

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[1] The Net Settlement Fund is defined in the Settlement Agreement and represents the gross settlement fund ($130 million), inclusive of any interest earned while the funds are in escrow, net of any attorneys' fees, reimbursed litigation expenses, class representative service awards, applicable taxes, and settlement administration costs approved by the Court.

[2] Capitalized terms in this [Proposed] Plan of Distribution shall have the same meaning as they do in the Settlement Agreement except where otherwise specified.

Plaintiffs have retained Rust Consulting, Inc. ("Rust"), a highly experienced class action settlement administration firm, to oversee the process of sending notice to the Settlement Class and administering the settlement and Plan of Distribution.[3] Plaintiffs have also retained Dr. Leitzinger and his nationally recognized economic consulting firm, Econ One, Inc. (of which he is the President), to assist with the computation of *pro rata* allocation shares to Claimants. Dr. Leitzinger, who has been working on this case since 2007, is fully familiar with the facts of the case and the underlying economics of the relevant firms and markets. He has submitted multiple expert reports on behalf of the Plaintiffs in the litigation, both in support of class certification and on the merits. In his expert reports, Dr. Leitzinger opined on the impact and damages flowing from the conduct Plaintiffs challenged in the case, and proposed a model to compute damages to the proposed class as a whole as well as to class members individually. Plaintiffs plan to use a modified version of the latter methodology, *i.e.*, the model Dr. Leitzinger specifically designed to compute damages to individual Settlement Class Members, as part of the Plan of Distribution.[4]

PLAN OF DISTRIBUTION: SCHEDULE

Plaintiffs propose the following schedule to govern the distribution process:

Not later than 28 days after entry of preliminary approval order	Settlement Administrator will mail Claim Forms to all Truck Stops and Retail Fueling Facilities in the Settlement Class. The Claim Forms will include information relating to the individual claim of each such Truck Stop or Retail Fueling Facility, based on Comdata's transaction data. Each Claim Form may include the following type of information: estimated calculations by the Settlement Administrator of the

[3] *See* www.rustconsulting.com for more information about Rust's qualifications and services. Plaintiffs' Class Counsel selected Rust in light of its reputation for quality of service and given its efficient overall pricing, as part of a bidding process that included five other qualified settlement administration firms.

[4] *See* Expert Report of Jeffrey J. Leitzinger, Ph.D. (Corrected), June 18, 2013, at 81, n.344 (Dkt. No. 554); Supplemental Expert Report of Jeffrey J. Leitzinger, Ph.D., August 23, 2013, at ¶¶ 49-50, Exhibit 2 (Dkt. No. 671).

	number of qualifying percentage rate transactions during the Settlement Class Period[5] for each Truck Stop and Retail Fueling Facility in the Settlement Class, the total combined dollar value of such transactions, and the total Merchant Transaction Fees paid to Comdata on those transactions.
80 days after entry of preliminary approval order	Settlement Class Members' deadline to submit executed Claim Forms to the Settlement Administrator. A Claimant must either accept the Settlement Administrator's estimates or provide transaction data to support its challenge to the Settlement Administrator's computations.
30 days after entry of final approval order	Plaintiffs' Class Counsel will submit to the Court a motion for distribution of the Net Settlement Fund to all valid Claimants supported by a declaration from the Settlement Administrator and/or Dr. Leitzinger, verifying compliance with the Plan of Distribution, and seeking an Order allowing dispersal to Claimants.

PLAN OF DISTRIBUTION: BACKGROUND

To determine each Claimant's *pro rata* share of the Net Settlement Fund, the Settlement Administrator, with the assistance of Dr. Leitzinger, will start by estimating the amount each Claimant paid above what Plaintiffs' claim was a competitive rate (*i.e.*, the claimed "overcharge") using a modified version of the damages model Dr. Leitzinger proposed in the litigation. Transaction data reflected in Comdata's transaction database will be employed in this process.

To calculate each Claimant's overcharge, Dr. Leitzinger will use a benchmark approach. A benchmark serves as a proxy for the fees that Claimants would have paid during the Settlement Class Period absent the challenged conduct. Here, Dr. Leitzinger will apply the TCH

[5] The Settlement Class Period runs from March 1, 2003 through the Preliminary Approval Date.

Benchmark he developed in his expert reports in this case.[6] Dr. Leitzinger concluded that in a world absent the challenged conduct—where, in his view, OTR Fleet Card issuers would have used lower merchant fees to encourage truck stops to steer business to their networks—Comdata would have adopted a pricing strategy similar to TCH, which had charged a flat $1 merchant fee for most of the relevant period.[7] The alleged overcharges on each transaction, then, is the difference between the fees paid by each Claimant on each transaction processed at a percentage fee and the $1 benchmark fee. To compute that amount for any one Claimant, therefore, Dr. Leitzinger will take the sum of these differences over all the percentage fee transactions by that Claimant during the Settlement Class Period.

The amount of money each Claimant will receive also depends on the number of valid Claim Forms submitted by Settlement Class Members and the Net Settlement Amount.[8] If less than 100% of the Settlement Class submits Claim Forms, each Claimant's relative share would be larger. To compute each Claimant's *pro rata* share, Dr. Leitzinger will take the total

[6] *See* Expert Report of Jeffrey J. Leitzinger, Ph.D. (Corrected), dated June 18, 2013 at ¶¶ 126-128, 133-135 (Dkt. No. 554); Supplemental Expert Report of Jeffrey J. Leitzinger, Ph.D., dated August 23, 2013 at ¶¶ 56-58 (Dkt. No. 671).

[7] Plaintiffs have alleged in this case that the conduct at issue allowed Comdata to restructure its transaction fees beginning in or about 2000-2001 (the "Fee Restructuring"). Plaintiffs have alleged further that as a result of the Fee Restructuring, Comdata increased its fees to the class from mainly modest flat fees to higher fees calculated as a percentage of the purchase amount. Plaintiffs have also alleged that these fees were above competitive levels that would have existed absent the challenged conduct (*i.e.*, supracompetitive). Plaintiffs have sought to recover the difference between these allegedly supracompetitive fees and the fees Plaintiffs say that Comdata would have charged in a competitive environment (*i.e.*, the claimed overcharge). Plaintiffs believe that the TCH benchmark represents an estimate of what Comdata's fees would have been to class members in the "but-for world" absent the challenged conduct, and is thus a reasonable model both for assessing overcharges to individual Claimants in this case, and to use as a basis for allocating the Net Settlement Fund to Claimants.

[8] Notably, the $130 million settlement figure reflects more than one-third of the total damages suffered by the proposed class under certain of Dr. Leitzinger's damages models. This is an extraordinary result, especially when considering the considerable value of the prospective relief to Settlement Class Members.

overcharge computation for each Claimant using the above method and divide that by the sum of all overcharges computed for all Claimants to derive each Claimant's *pro rata* share of the Net Settlement Fund. Then, that *pro rata* share for each would be multiplied by the Net Settlement Fund amount to determine each Claimant's total dollar recovery.

PLAN OF DISTRIBUTION: METHODOLOGY

Each Claimant's distribution amount will be calculated by the Settlement Administrator (Rust), with the assistance of Dr. Leitzinger (and Econ One), as set forth below. For each Claim Form submitted, the Settlement Administrator will first determine whether the Claim is timely and valid, including whether the Claimant meets the criteria for being a Settlement Class Member. Second, for all timely and valid Claims, the Settlement Administrator, with the assistance of Dr. Leitzinger, will: (a) identify the Comdata Proprietary Transactions in which the Claimant paid a percentage-based Merchant Transaction Fee of greater than $1[9] during the Settlement Class Period; (b) determine the Comdata Merchant Transaction Fees in dollars paid by the Claimant on each of those transactions;[10] (c) subtract $1 (the TCH benchmark fee) from the Claimant's Merchant Transaction Fee for each of the Claimant's Comdata Proprietary Transactions during the Settlement Class Period to calculate an overcharge for each of the

[9] Under this methodology, Claimants' transaction fees of $1 or less will not be included among the total fees used to calculate overcharges because they are not greater than the $1 benchmark fee.

[10] For the vast majority of Claimants' Proprietary Transactions, Dr. Leitzinger's methodology allows him to (i) determine whether Comdata's Merchant Transaction Fee was percentage based, and (ii) use the actual Merchant Transaction Fee paid by the Claimant to Comdata. For some transactions—*e.g.*, those that include an "add-on" cash advance fee—Dr. Leitzinger's methodology uses the Claimant's average per-transaction percentage-based Merchant Transaction Fee (as a percentage of the transaction amount) to calculate the Claimant's Merchant Transaction Fees for such transactions. This calculation is based on each Claimant's actual average Merchant Transaction Fee percentage multiplied by the total transaction amounts for such transactions (exclusive of any cash received).

Claimant's qualifying Comdata Proprietary Transactions; (d) sum the total overcharges on all qualifying Comdata Proprietary Transactions made by each Claimant during the Settlement Class Period; (e) calculate each Claimant's percentage share of the total overcharges by dividing each Claimant's overcharges by the total combined overcharges paid by all Claimants; and then (f) multiply each Claimant's percentage share of the total overcharges by the total dollars in the Net Settlement Fund.

To ensure uniformity, the Settlement Administrator will use the FMLog transaction data produced by Comdata during the litigation (and supplemental FMLog transaction data that will be produced pursuant to the Settlement Agreement) to calculate each Claimant's overcharges during the Settlement Class Period. Notwithstanding the foregoing, any Claimant may provide the Settlement Administrator with data or information concerning its payment of percentage-based Merchant Transaction Fees on Comdata Proprietary Transactions, which information may, in the discretion of the Settlement Administrator, serve to supplement or correct information drawn from Comdata's transaction database.

For illustrative purposes, take a Claimant for whom Comdata's transaction database shows that it processed 10,100 Comdata Proprietary Transactions as a percentage of the face amount of the transaction during the Settlement Class Period. Assume, for this example, that 10,000 of these transactions incurred transaction fees of $10 per transaction—*e.g.*, purchases of 100 gallons of diesel priced at $4 per gallon, for a total purchase amount of $400, with a 2.5% transaction fee on each transaction (0.25 x $400 = $10.00). These 10,000 transactions would thus be identified as Comdata Proprietary Transactions with percentage-based Merchant Transaction Fees of greater than $1, and included in the computation (*i.e.*, (a) above).

Assume that one-hundred of the transactions, however, incurred transaction fees of just

$0.50 per transaction—*e.g.*, purchases of 5 gallons of fuel at $4 per gallon, for a total purchase amount of $20, with a 2.5% transaction fee on each transaction. These 100 transactions would thus fall below the $1 threshold, and, as a result, would be disregarded.

Next, Dr. Leitzinger would determine the dollar value of the percentage-based Merchant Transaction Fees paid on each of the Claimant's Comdata Proprietary Transactions, which in this example is $10 (*i.e.*, (b) above). Dr. Leitzinger would then subtract the TCH Benchmark fee ($1) from the Merchant Transaction Fee paid by the Claimant on each Comdata Proprietary Transaction, here $10-$1=$9 overcharge per transaction (*i.e.*, (c) above). The Claimant's total overcharges would then be calculated by adding up all of the Claimant's per-transaction overcharges across all of the Claimant's Comdata Proprietary Transactions (*i.e.*, (d) above). In this example, the Claimant's total overcharges would be $90,000 ($9 x 10,000 transactions).

To determine this hypothetical Claimant's *pro rata* share of the Net Settlement Fund, the Claimant's overcharge ($90,000) would then be divided by the total overcharges computed for all valid Claimants using this same method: assume $200 million for these purposes. That would yield a *pro rata* distribution percentage share of the Net Settlement Fund for this exemplar Claimant of 0.045% (*i.e.*, (e) above, where 0.045% = $90,000/$200,000,000).

Finally, to arrive at the total distribution amount in dollars for this hypothetical Claimant, the Claimant's share would be multiplied by the total dollar amount of the Net Settlement Fund. If the Net Settlement Fund amounted to $80 million, then this Claimant would receive 0.045% (its *pro rata* share) of $80 million or $36,000.00.

Plaintiffs respectfully submit that the proposed Plan of Distribution is fair, reasonable, and adequate, and should be approved.

PLAN OF DISTRIBUTION: DECISION-MAKING PROCESS

The Settlement Administrator, in conjunction with Econ One, will determine the total distribution amounts for each Claimant according to the methodology described above. Should any Claimant submit its own data in conjunction with the claims process or otherwise seek to challenge any of the data or estimations set out in the Claim Form,[11] the Settlement Administrator, in conjunction with Econ One, will use its judgment to determine whether the initial estimation set out in the Claim Form should be revised. Plaintiffs' Class Counsel shall be advised of any challenges made by Claimants to the proposed distribution amounts and shall be consulted in the decision-making process.

The Settlement Administrator has the authority to reject a Claimant's challenge in whole or part and/or to modify a distribution amount in response to such challenge. The Claimant shall be informed of the Settlement Administrator's decision to accept, accept in part, or reject the Claimant's challenge within a reasonable time. The Settlement Administrator shall include its final decisions regarding distribution amounts to each of the Claimants in the Declaration that Plaintiffs' Class Counsel shall submit to the Court 30 days after entry of the final approval order.

[11] Any Claimant challenge to any the Settlement Administrator's work or data relied upon must be submitted in writing to the Settlement Administrator before the Claim Bar Date.