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FLORIDA PUBLIC SERVICE COMMISSION
Capital Circle Office Center • 2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

M E M O R A N D U M

AUGUST 22, 1996

TO: DIRECTOR, DIVISION OF RECORDS AND REPORTING (BAYO)

FROM: DIVISION OF COMMUNICATIONS (ISLER) *DC*
DIVISION OF LEGAL SERVICES (CULPEPPER) *MCB*

RE: DOCKET NO. 960853-TI - INITIATION OF SHOW CAUSE
PROCEEDINGS AGAINST COLORADO RIVER COMMUNICATIONS CORP.,
FOR VIOLATION OF RULE 25-24.480 (1), FLORIDA
ADMINISTRATIVE CODE, RESPONSE REQUIREMENT

AGENDA: SEPTEMBER 3, 1996 - REGULAR AGENDA - PROPOSED AGENCY
ACTION - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: I:\PSC\CMU\WP\960853.RCM

CASE BACKGROUND

- Colorado River Communications Corp., (CRC) is a provider of interexchange telecommunications service and was certificated on July 8, 1994.
- From July 8, 1994 through July 12, 1996, the Division of Consumer Affairs received six complaints against CRC. In all six cases, the consumers advised the Commission that their long distance carrier was switched without their authorization. In only one case did CRC respond within the 15 days allowed. On two complaints, CRC has not responded at all.

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DOCKET NO. 960853-TI
DATE: AUGUST 22, 1996

DISCUSSION OF ISSUES

ISSUE 1: Should Colorado River Communications Corp., be ordered to show cause why it should not be fined pursuant to Section 364.285, Florida Statutes, or certificate number 3565 should not be cancelled for violations of Rule 25-24.480 (1), Florida Administrative Code, Response Requirement?

RECOMMENDATION: Yes.

STAFF ANALYSIS: Rule 25-24.480 (1), Florida Administrative Code, incorporates Rule 25-4.043, Florida Administrative Code, and states:

The necessary replies to inquiries propounded by the Commission's staff concerning service or other complaints received by the Commission shall be furnished in writing within fifteen (15) days from the date of the Commission inquiry.

The Division of Consumer Affairs has received a total of six slamming complaints against CRC since the Commission issued Certificate No. 3565. Only once did CRC respond in a timely manner, twice the company did not respond at all, and three times, a report was received after the required 15 days, ranging between two and 85 days late, which is outlined in the chart below.

DOCKET NO. 960853-TI
DATE: AUGUST 22, 1996

Complainant Complaint #	Date Provided to Company	Date Report Due	Date Report Received	# of Days Late
Milobar 71238P	06/15/95	06/30/95	06/22/95	0
Malone 75209P	07/10/95	07/25/95	10/18/95	85
Brannon 77547P	07/21/95	08/05/95	08/07/95	2
Walker 80351P	08/01/95	08/16/95	08/21/95	5
Circle 85409P	08/31/95	09/15/95		342 ¹
Towe 85626P	09/05/95	09/20/95		337 ¹

¹ Includes up to August 22, 1996

CRC responded late to three cases. For example, Mr. Eric Malone contacted the Division of Consumer Affairs and the company was provided a copy of the complaint on July 10, 1995, with a report due by July 25, 1995. CRC responded on October 18, 1995, or 85 days late. In the Walker case, CRC was faxed the complaint on August 1, 1995 and with the report due by August 16, 1995. The company provided Consumer Affairs a report on August 21, 1995, five days late.

In June, 1996, the Division of Consumer Affairs asked Communications staff to investigate CRC's slow or no response to Commission complaints. In one case of no response from the company, the Circle Redmont, Inc. complaint, CRC was provided the complaint by fax on August 31, 1995, with a report due by September 15, 1995. Consumer Affairs staff refaxed the complaint form to the company two more times, made one telephone call, and sent the company one certified letter. CRC completely ignored all requests for a response.

On June 18, 1996, Communications staff then called the telephone number listed in the Master Commission Directory for CRC and a voice mail message was left for the call to be returned. Later on the same day, another call was made and, again, a message

DOCKET NO. 960853-TI
DATE: AUGUST 22, 1996

was left. The company's liaison, Elaine Villanueva, returned the call about 30 minutes later. Staff explained that Consumer Affairs had not received a report on the complaint and that before beginning show cause proceedings, the company was being given another opportunity to respond. Ms. Villanueva asked that the complaint be refaxed to her and promised that she would have someone respond within a few days. The complaint was refaxed the same day.

On July 1, 1996, staff called the company back as a report still had not been received. Mr. Dennis Bay, Executive Vice President, returned the call and apologized for the delay in responding to the complaint. He advised staff that CRC had problems with the agent issuing the order to switch this customer's long distance carrier and said he would do whatever it took to make this customer happy. He promised staff a report by the next day, July 2, 1996. To date, no report has been received from CRC.

In conclusion, based on the company's disregard of the Commission's rules, staff believes there is sufficient cause to order CRC to show cause why it should not be fined or have its certificate cancelled. Further, a show cause order is appropriate to help assure that Florida consumers receive adequate protection when a complaint is filed with this agency by having the company respond to inquiries in a timely manner.

In previous dockets involving violation of the response requirement rule, fines and/or settlements have ranged from up to \$5,000 to cancellation of the certificate. In the event the company is fined, the monies should be forwarded to the Office of the Comptroller for deposit in the State General Revenue Fund pursuant to Section 364.285 (1), Florida Statutes.

DOCKET NO. 960853-TI
DATE: AUGUST 22, 1996

ISSUE 2: Should this docket be closed?

RECOMMENDATION: No, this docket should remain open pending resolution of the show cause process.

STAFF ANALYSIS: If the Commission approves the staff recommendation on Issue 1, an order to show cause will be issued Colorado River Communications Corp., must respond, in writing, to the allegations set forth in the show cause order within 21 days of the issuance of the order. The company's response must contain specific allegations of facts and law. In the event the company is fined, the monies should be forwarded to the Office of the Comptroller for deposit in the State General Revenue Fund pursuant to Section 364.285 (1), Florida Statutes.