

Talbott *WJR*
Vandiver *A*

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

MAY 29, 1997

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

FROM: DIVISION OF LEGAL SERVICES (CULPEPPER) *lc MB*
DIVISION OF COMMUNICATIONS (ISLER) *Pji LW*

RE: DOCKET NO. 961089-TI - CONETCO COMMUNICATIONS D/B/A
COMMUNICATIONS NETWORK CORPORATION - INITIATION OF SHOW
CAUSE PROCEEDINGS FOR VIOLATION OF RULE 25-4.043, FLORIDA
ADMINISTRATIVE CODE, RESPONSE TO COMMISSION STAFF
INQUIRIES

AGENDA: JUNE 10, 1997 - REGULAR AGENDA -
INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: S:\PSC\CMU\WP\961089TI.RCM

CASE BACKGROUND

Staff obtained a debit card identified only as The Travel Phone Card and later discovered that Conetco Communications d/b/a Communications Network Corporation (Conetco or the company) provided the debit card service. Conetco holds Certificate of Public Convenience and Necessity Number 3974. Staff could not obtain any pertinent information from Conetco about its Florida operations.

WorldCom Network Services, Inc. d/b/a WilTel Network Services, Inc., notified the Commission that it had filed an involuntary Chapter 11 bankruptcy petition against Conetco and advised staff that Conetco transferred its 1+ customers to WilTel.

By Order No. PSC-96-1437-FOF-TI, issued November 26, 1996, the Commission initiated proceedings to require Conetco to show cause why the Commission should not fine Conetco up to \$25,000 per day for not responding to Commission staff inquiries. The Post Office

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subsequently returned the certified copy of the Order to Show Cause to the Commission.

After the Commission voted to fine Conetco, but before the Commission issued the Order, the Post Office provided staff with a new address for Conetco. Based on the new information, by Order No. PSC-97-0227-FOF-TI, issued February 26, 1997, the Commission reinitiated proceedings to require Conetco to show cause why the Commission should not fine Conetco up to \$25,000 per day or have their certificate canceled for not responding to Commission staff inquiries.

Conetco's alleged Chapter 11 trustee advised staff that the company is not providing any type of telecommunications service in Florida. Based on this information, staff believes the following recommendations are appropriate.

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission fine Conetco Communications d/b/a Communications Network Corporation up to \$25,000 per day or cancel its certificate number 3974 for violation of Rule 25-4.043, Florida Administrative Code, Response to Commission Staff Inquiries, or both?

RECOMMENDATION: The Commission should cancel Conetco's Certificate of Public Convenience and Necessity Number 3974 for not responding to Commission staff inquiries. Staff believes a fine will serve no purpose as the company is currently involved in bankruptcy proceedings and is apparently no longer operating. (Isler)

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

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.

Staff obtained a debit card identified as The Travel Phone Card and wrote the company on July 9, 1996, requesting information about its Florida operations. On July 21, 1996, the Post Office returned the letter marked "Return to Sender - Attempted - Not Known."

On July 21, 1996, staff received a complaint from a consumer who had purchased The Travel Phone Card and was unable to use it. The consumer provided staff with a different address for Conetco. Staff wrote Conetco a certified letter on August 1, 1996, and requested a response by August 16, 1996. The Post Office delivered the letter on August 5, 1996.

Staff talked with a Conetco representative on August 22, 1996. Staff could not, however, determine if Conetco complied with rules and regulations due to the lack of information provided by the Conetco representative.

On October 8, 1996, WorldCom Network Services, Inc. d/b/a WilTel Network Services, Inc. (WilTel) notified the Commission that it had filed an involuntary Chapter 11 bankruptcy petition against Conetco and advised staff that Conetco transferred its 1+ customers

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to WilTel. See Attachment A, Page 8 for the U. S. Bankruptcy Case Number.

By Order No. PSC-96-1437-FOF-TI, issued November 26, 1996, the Commission initiated proceedings to require Conetco to show cause why the Commission should not fine Conetco up to \$25,000 per day or have their certificate canceled for not responding to Commission staff inquiries. On December 26, 1996, the Post Office returned as undeliverable the certified copy of the Order to Show Cause to the Commission.

On February 5, 1997, the Division of Records and Reporting notified staff that the Post Office returned the Agenda Notice and provided a new forwarding address for Conetco.

By Order No. PSC-97-0227-FOF-TI, issued February 26, 1997, the Commission reinitiated proceedings to require Conetco to show cause why the Commission should not fine Conetco up to \$25,000 per day or have their certificate canceled for not responding to Commission staff inquiries. The Commission mailed the certified copy of the Order to the new address.

On March 17, 1997, Conetco's alleged Chapter 11 trustee responded that he was attempting to clarify matters relating to the pending proceedings and would contact the Commission staff upon resolution (Attachment A, Page 6). Staff wrote the trustee on April 11, 1997, asking for specific information. On May 12, 1997, staff received the trustee's response (Attachment A, Page 7). The trustee advised staff that Conetco is not providing any type of telecommunications service in Florida.

In previous dockets involving companies not responding to staff inquiries, the Commission either canceled a company's certificate or agreed to a \$1,000 settlement. Since Conetco is currently involved in bankruptcy proceedings and is apparently no longer providing service in Florida, staff believes that the Commission should cancel Conetco's certificate number 3974.

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ISSUE 2: Should the Commission order all certificated interexchange telecommunications companies to discontinue providing interexchange telecommunications service to Conetco?

RECOMMENDATION: Yes. It is appropriate for the Commission to make all interexchange telecommunications companies aware that the Commission canceled Conetco's certificate and order all interexchange carriers to discontinue providing intrastate long distance service to this company. (Isler)

STAFF ANALYSIS: If the Commission approves staff's recommendation in Issue 1, staff believes that it is appropriate for the Commission to make all interexchange telecommunications companies aware that the Commission canceled Conetco's certificate and order all interexchange carriers to discontinue providing intrastate long distance service to this company, although it appears that Conetco is no longer providing any telecommunications service in Florida.

ISSUE 3: Should the Commission close this docket?

RECOMMENDATION: Yes. If Issue 1 is approved, the Commission should close this docket. (Culpepper)

STAFF ANALYSIS: If the Commission approves Issue 1, this docket should be closed.

ATTACHMENT A
DOCKET NO. 961089-T1
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**CONETCO
10 SAUGATUCK AVENUE
WESTPORT, CT 06880**

TEL: (203) 226-4392
FAX: (203) 226-4613

March 11, 1997

Blanca S. Bayo, Director
Division of Records and Reporting
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850


RE Conetco Communications d/b/a Communications Network Corporation
Docket No.: **961089-T1**
Order No: PSC-97-0227-FOF-T1
Issued: 02/26/97

Dear Ms. Bayo:

We are in receipt of the above-referenced document. On October 11, 1996, I was appointed Chapter 11 Trustee the U S Bankruptcy Court Southern District of New York. I believe that there was a substantial amount of fraudulent conduct involved in the business affairs of Conetco. I am trying to sort those affairs out. As soon as we reach a resolution, we will contact your department.

If you need additional information or if I can be of assistance, please do not hesitate to contact me.

Sincerely,



Mitchell Bodian
Chapter 11 Trustee

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MAY-12-87 12:11 FROM: CNC COMMUN NETWORK

ID: 12128435436

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CONETCO
10 SAUGATUCK AVENUE
WESTPORT, CT 06880

TEL: (860) 239-4902
FAX: (860) 239-4913

May 1, 1997

Via Facsimile: (904) 413-6503

Paula J. Isler
Bureau of Service Evaluation
Capital Circle Office Center
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

Dear Ms. Isler:

In response to your letter dated April 11, 1997, the status of Conetco has remained unchanged. At present, Conetco is not providing any type of telecommunications services in Florida nor have we reached a resolution as to the matter of Conetco's business affairs. We are continuing our investigation and will contact your department as soon as such resolution is reached.

If you need additional information or if I can be of assistance, please do not hesitate to contact me.

Sincerely,



Mitchell Bodian
Chapter 11 Trustee

Attachment

ATTACHMENT A
DOCKET NO. 961089-TI
MAY 29, 1997

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re
**COMMUNICATIONS NETWORK
CORPORATION A/K/A COMETCO,
Debtor.**

:
:
Case No. 96 B 43306 (PBA)
:
(Involuntary Chapter 11)
:
:

ORDER APPROVING THE APPOINTMENT OF EXAMINER

Upon the application of the United States Trustee; and it appearing that Harvey R. Kelly, a disinterested person as set forth in 11 U.S.C. § 101(16), has been appointed by the United States Trustee as examiner in the above-captioned involuntary Chapter 11 case pursuant to the Order Directing Appointment of Examiner, dated July 12, 1996; and after due deliberation and sufficient cause appearing therefor, it is hereby

ORDERED, that the appointment of Harvey R. Kelly as Examiner is approved pursuant to 11 U.S.C. § 1104(c); and it is further

ORDERED, that Harvey R. Kelly, in his capacity as Examiner, shall have the same limitations on liability and the same rights to indemnification from the estate for costs of defense (including attorneys' fees) as a trustee under Chapter 11 of Title 11 of the United States Code, 11 U.S.C. §§ 101 et seq.

Dated: New York, New York
July 22, 1996

**151 PRUDENCE BRADY ABRAM
PRUDENCE B. ABRAM
UNITED STATES BANKRUPTCY JUDGE**