

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Initiation of Show Cause) DOCKET NO. 961089-TI
Proceedings Against Conetco) ORDER NO. PSC-97-0227-FOF-TI
Communications d/b/a) ISSUED: February 26, 1997
Communications Network)
Corporation for Violation of)
Rule 25-4.043, F.A.C., Response)
to Commission Staff Inquiries.)
_____)

The following Commissioners participated in the disposition of this matter:

SUSAN F. CLARK, Chairman
J. TERRY DEASON
JOE GARCIA
JULIA L. JOHNSON
DIANE K. KIESLING

ORDER TO SHOW CAUSE

BY THE COMMISSION:

This Order is a reissuance of Order No. PSC-96-1437-FOF-TI, which was originally issued November 26, 1996.

It was brought to our attention that The Travel Phone Card, a debit card, was being sold in the Miami area. Initial appearances raised our concern that the company may have been providing long distance service without a certificate through a debit card called "The Travel Phone Card." On July 9, 1996, our staff sent a certified letter addressed to "The Travel Phone Card," explaining that two types of companies provide debit card service and requesting that the company explain whether it was providing distributor/reseller service or underlying carrier service. A response was requested by July 25, 1996. Staff's letter was returned on July 21, 1996, marked "Return to Sender; Attempted - Not Known".

On the same day that the letter was returned, we received a consumer complaint from a customer who claimed that he had purchased The Travel Phone Card, but was unable to use it. The customer provided our staff with a copy of a letter he had written Conectco Communications complaining about the card. Our records did not indicate the existence of a certificated carrier by the name of Conectco Communications. In addition, the address the customer had used was different from the one staff had used for the July 9 letter inquiring about The Travel Phone Card.

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FPSC-RECORDS/REPORTING

On August 1, 1996, Commission staff sent the company a certified letter at the address provided by the customer, and requested a response by August 16, 1996. That letter was signed for on August 5, 1996.

When a response was not received by August 21, staff called both toll-free numbers listed on the Travel Phone Card for accessing service for English and Spanish-speaking customers. Both times, a recording was reached that advised callers that the 800 number was not in service and directed them to call the information operator. The information operator did not have a listing for either The Travel Phone Card or Conectco Communications. Our staff then called the toll-free number listed on the debit card as Customer Service. An employee answered and stated that a company representative would return staff's call.

On August 22, 1996, a company representative returned staff's call. After explaining our concerns about the card, the representative asked for the PIN number on the Travel Phone Card. The representative then stated that there were two companies distributing similar debit cards and that the one in the Commission's possession was not connected with Conectco. However, when staff asked why Conectco's Customer Service toll-free number appeared on another company's debit card, the company representative could not answer. Our staff then asked that an officer of Conectco call the Commission.

Richard Erckert from the company returned staff's call later the same day and left a voice mail message. He explained that he had received staff's August 1 letter, did not want to be in violation of Commission rules, and asked that his call be returned.

On August 23, 1996, staff returned Mr. Erckert's call, but he was not available. A message was left for him to return staff's call. To date, Mr. Erckert provided no further response.

Staff, however, discovered the existence of a certificated carrier by the name of Conetco Corporation d/b/a Communications Network Corporation. This company was issued Certificate No. 3974 on June 2, 1995. Although the name is spelled differently, we have determined that this is the same company to which our staff has directed its inquiries concerning The Travel Phone Card.

On October 8, 1996, an attorney for WorldCom Network Services, Inc. d/b/a WilTel Network Services, Inc. (WilTel), Marieann Machida, advised us that WilTel is a creditor of Conetco's. Ms. Machida stated that WilTel has filed an involuntary Chapter 11 bankruptcy petition against Conetco. We were further advised that

on August 6, 1996, the Bankruptcy Court issued a Consent Order mandating that Conetco immediately transfer its 1+ customer base, among other things, to WilTel.

Rule 25-24.480 (1)(a), F.A.C., incorporates Rule 25-4.043, F.A.C., 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."

Although we have now determined that Conetco does hold an IXC certificate, the company has, nevertheless, failed to respond to Commission staff's correspondence and phone calls regarding both The Travel Phone Card and a customer's inability to use that card. While we welcome innovations in the telecommunications industry, such as prepaid debit card service, we have the responsibility of ensuring that consumers receive the service that is purchased. Therefore, Conetco is ordered to show cause why it should not be fined up to \$25,000 per day or have its certificate cancelled for not properly responding to Commission staff's inquiries in accordance with Rule 25-4.043, Florida Administrative Code.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Conetco Communications d/b/a Communications Network Corporation is ordered to show cause why it should not be fined up to \$25,000 per day or have its certificate cancelled for Rule violations as described in the body of this Order. It is further

ORDERED that Conetco Communications d/b/a Communications Network Corporation's response shall contain specific allegations of fact and law. It is further

ORDERED that failure to respond to this Order in the manner and by the date set forth in the Notice of Further Proceedings or Judicial Review section of this Order shall constitute an admission of the violations described in the body of this Order, and waiver of the right to a hearing. It is further

ORDERED that this docket shall remain open pending resolution of this proceeding.

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By ORDER of the Florida Public Service Commission, this 26th
day of February, 1997.

BLANCA S. BAYÓ, Director
Division of Records and Reporting

by: Kay Flynn
Chief, Bureau of Records

(S E A L)

BC

Dissent

Commissioners Garcia and Johnson dissent from the reissuance of
this Order.

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

This order is preliminary, procedural or intermediate in nature. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, as provided by Rule 25-22.037(1), Florida Administrative Code, in the form provided by Rule 25-22.036(7)(a) and (f), Florida Administrative Code. This petition must be received by the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on March 18, 1997.

Failure to respond within the time set forth above shall constitute an admission of all facts and a waiver of the right to a hearing pursuant to Rule 25-22.037(3), Florida Administrative Code, and a default pursuant to Rule 25-22.037(4), Florida Administrative Code. Such default shall be effective on the day subsequent to the above date.

If an adversely affected person fails to respond to this order within the time prescribed above, that party may request judicial review by the Florida Supreme Court in the case of any electric, gas or telephone utility or by the First District Court of Appeal in the case of a water or wastewater utility by filing a notice of appeal with the Director, Division of Records and Reporting, and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days of the effective date of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure.