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FLORIDA PUBLIC SERVICE COMMISSION
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M E M O R A N D U M

SEPTEMBER 26, 1996

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

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

RE: DOCKET NO. 961089-TI - INITIATION OF SHOW CAUSE PROCEEDINGS AGAINST CONECTCO COMMUNICATIONS FOR VIOLATIONS OF RULES 25-24.470, CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY REQUIRED, FLORIDA ADMINISTRATIVE CODE, AND 25-4.043, FLORIDA ADMINISTRATIVE CODE, RESPONSE TO COMMISSION STAFF INQUIRIES.

AGENDA: OCTOBER 8, 1996 - REGULAR AGENDA - SHOW CAUSE - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

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

CASE BACKGROUND

- A representative in the debit card industry provided staff with a debit card identified only as The Travel Phone Card (Attachment A). The industry representative advised staff that this card, along with many others, are being sold in the Miami area. Staff later determined that Conectco Communications, which provides "The Travel Phone Card", is not certificated as an interexchange carrier in Florida.
- Staff sent the company a certified letter on July 9, 1996, for information about its operations in Florida and informed the company that an IXC certificate may be required for its operations. The letter was returned by the U.S. Post Office.
- Staff received a complaint from a consumer who advised he had purchased The Travel Phone Card and was never able to use it. The customer's letter included a different company name and address from the one staff was provided.

DOCUMENT NUMBER-DATE

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FPSC-RECORDS/REPORTING

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- Staff mailed Conectco Communications another certified letter to the address furnished by the customer on August 1, 1996, and requested a response. The U.S. Postal Service returned the return receipt showing the letter was signed for by Conectco on August 5, 1996.

- Staff talked with a Conectco Communications representative, who was unable to satisfactorily answer any questions. A request to speak with an officer of Conectco has been unsuccessful.

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DISCUSSION OF ISSUES

ISSUE 1: Pursuant to Chapter 364.285, Florida Statutes, should Conectco Communications be ordered to show cause why a fine of up to \$25,000 per day should not be imposed each day it is determined to be in violation of Rules 25-24.470, Florida Administrative Code, Certificate of Public Convenience and Necessity Required, and 25-4.043, Florida Administrative Code, Response to Commission Staff Inquiries?

RECOMMENDATION: Yes.

STAFF ANALYSIS: Rule 25-24.470, Florida Administrative Code, states:

No person shall provide intrastate interexchange telephone service without first obtaining a certificate of public convenience and necessity from the Commission. Services may not be provided, nor may deposits or payment for services be collected, until the effective date of a certificate, if granted. However, acquisition of equipment and facilities, advertising and other promotional activities may begin prior to the effective date of the certificate at the applicant's risk that it may not be granted. In any customer contacts or advertisements prior to certification, the applicant must advise the customer that certification has not and may never be granted.

In addition, 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."

Communications staff was provided The Travel Phone Card that was being sold in the Miami area. Since it appeared the company may be providing long distance service through the use of The Travel Phone Card (Attachment A), on July 9, 1996, staff mailed the company a certified letter and explained that there were two types of companies providing debit card service and asked the company to describe what type of service it was providing, i.e., distributor/reseller or underlying carrier. A response was

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requested by July 25, 1996. The U.S. Post Office returned staff's original letter July 21, 1996, marked "Return to Sender; Attempted -Not Known".

On the same day, July 21, Division of Consumer Affairs staff referred a consumer complaint to this office from a customer advising he had purchased The Travel Phone Card, but was unable to use it at all. He provided staff with a copy of a letter he had written Conectco Communications at a different location complaining about the card.

On August 1, 1996, staff wrote the company a certified letter at the address provided by the customer, and requested a response by August 16, 1996. Staff was notified by the U.S. Postal Service that the August 1 letter was delivered, and signed for by Conectco, on August 5, 1996.

When a response was not received by August 21, staff called the toll-free numbers listed on the debit card used to access the service for English and Spanish users and both times, a recording was reached that advised the 800 number was not in service and to call the information operator. The information operator did not have a listing for either The Travel Phone Card or Conectco Communications. Staff then called the toll-free number which is listed on the debit card as Customer Service. Someone named Kathy answered the phone and took a message for a representative to call staff back.

On August 22, 1996, a Conectco representative returned staff's call. After explaining the Commission's concern, the representative asked for the PIN number on the travel debit card. At that point, staff was advised there are two companies involved with travel cards and that the one in the Commission's possession was not connected with Conectco. Staff asked why Conectco's Customer Service toll-free number appeared on another company's debit card, but the representative could not answer. Staff then requested that an officer of Conectco call the Commission.

Richard Eckerd from Conectco 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 the Florida Administrative Code, and asked that his call be returned.

On August 23, 1996, staff returned Mr. Eckerd's call, but he was not available. A message was left for him to return staff's call. Mr. Eckerd has not called or written the Commission since.

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Prepaid debit card service has become increasingly popular, and while the Commission welcomes innovation in the telecommunications industry, staff believes the Commission also has the responsibility of ensuring that consumers receive the service being purchased. The company's only response has been that of a voice mail message to staff. Conectco has made no further effort to respond to subsequent staff inquiries. Also, a consumer filed a complaint with the Commission advising he had purchased one of Conectco's debit cards and was unable to use it. Therefore, we believe it important to go forward with the show cause since service has been purchased that is not available.

In previous dockets involving violations of the response requirement and providing service without an IXC certification, fines and/or settlements have ranged up to \$40,714. In this case, staff believes that providing service without an interexchange carrier certificate and not responding to staff's correspondence and telephone calls warrants a penalty.

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. Conectco Communications must respond, in writing, to the allegations set forth in the show cause order within 20 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.

INSTRUCTIONS

C

FOR ENGLISH
1-800-334-8150

EN ESPAÑOL
1-800-334-8164

- Dial the 800 number shown above
- Follow the voice instructions
- Marcar 1-800
- Conecte al 800 número mostrado los números

Pin #

- To make another call, don't hang up! Press 9 key for two seconds
- For international calls Press 011 • country code • city code • telephone number
- Para hacer otra llamada, no cuelgue marque 9 por dos segundos
- Para llamar a cualquier otro país marque 011 • código del país • código de la ciudad • número telefónico

The Travel
PlazaCard

For Customer Service
1-800-332-8991

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