

Talbot
Vandiver

WJ
as for DV

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

OCTOBER 31, 1996

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

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

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

AGENDA: NOVEMBER 12, 1996 - REGULAR AGENDA - SHOW CAUSE - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: S:\PSC\CMU\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. The Master Commission Directory did not reflect a certificated carrier by that name.

● Staff mailed the company a certified letter requesting information about its operations, but the letter was later returned by the 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 the company name of Conectco Communications, and a different address from the one staff had been given. The Master Commission Directory records did not reflect a certificated carrier with the name of Conectco Communications.

DOCUMENT NUMBER-DATE

11614 OCT 31 96

FPSC-RECORDS/REPORTING

DOCKET NO. 961089-TI
DATE: OCTOBER 31, 1996

- Staff mailed the company a certified letter to the address furnished by the consumer and requested a response. The Post Office advised that the letter was delivered on August 5, 1996.

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

- Staff later discovered that a company called Conetco Corporation d/b/a Communications Network Corporation was issued IXC Certificate No. 3974 on June 2, 1995. Although the name is spelled differently, staff has determined that this is the same company to which staff has directed its inquiries concerning The Travel Phone Card.

- 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 notified the Commission that Conetco's 1+ customers were transferred to WilTel.

- To date, Conetco has failed to respond to any of staff's inquiries.

DOCKET NO. 961089-TI
DATE: OCTOBER 31, 1996

DISCUSSION OF ISSUES

ISSUE 1: Pursuant to Chapter 364.285, Florida Statutes, should Conetco Corporation d/b/a Communications Network Corporation 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 Rule 25-4.043, Florida Administrative Code, Response to Commission Staff Inquiries?

RECOMMENDATION: Yes.

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."

The Commission's Communications staff was provided with The Travel Phone Card, a debit card which 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 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 the Post Office returned the letter, July 21, Division of Consumer Affairs staff received a consumer complaint from a customer who claimed that he had purchased The Travel Phone Card, but was unable to use it at all. The customer provided staff with a copy of a letter he had written Conectco Communications complaining about the card. 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.

Since the Master Commission Directory did not reflect a certificated carrier by the name of Conectco Communications, on August 1, 1996, staff sent 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 the company, on August 5, 1996.

DOCKET NO. 961089-TI
DATE: OCTOBER 31, 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. 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. Staff then called the toll-free number which is listed on the debit card as Customer Service. Someone named Kathy answered the phone, took a message, and stated that a company representative would return staff's call.

On August 22, 1996, a company representative returned staff's call. After staff explained its concerns about the card, the representative asked for the PIN number on the travel debit card. At that point, the representative advised staff that there are two companies involved with travel 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. Staff then requested 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 the Florida Administrative Code, 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. Mr. Erckert has not called or written the Commission since.

While doing routine filing, staff noted 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, staff has determined that this is the same company to which 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, called staff and advised that WilTel is a creditor of Conetco's. Ms. Machida stated that WilTel had filed an involuntary Chapter 11 bankruptcy petition against Conetco. Staff was advised that on August 6, 1996, the Bankruptcy Court issued a Consent Order which mandated that Conetco immediately transfer its 1+ customer base, among other things, to WilTel. (Attachment B)

DOCKET NO. 961089-TI
DATE: OCTOBER 31, 1996

While the Commission welcomes innovations, such as prepaid debit card service, in the telecommunications industry, staff believes the Commission has the responsibility of ensuring that consumers receive the service that is purchased. Conetco's only response to staff inquiries has been that of a voice mail message to staff. Conetco has made no further effort to respond to subsequent staff inquiries. In addition, a consumer filed a complaint with the Commission advising he had purchased one of the company's debit cards and was unable to use it. Therefore, staff believes it is important to go forward with the show cause.

Staff's original inquiries to Conetco were based on staff's concern that the company was issuing a debit card for service for which it was not certificated. Staff has now determined that the company does hold an IXC certificate. Nevertheless, the company has failed to respond to staff's correspondence and phone calls regarding both The Travel Phone Card and a customer's inability to use that card. Therefore, staff recommends show causing Conetco for not properly responding to Commission staff inquiries in accordance with Rule 25-4.043, Florida Administrative Code. In previous dockets involving violations of the response requirement, fines and/or settlements have ranged from \$250 to \$4,800.

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. Conetco Corporation d/b/a Communications Network Corporation 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
1-800-334-8199**

**EN ESPAÑOL
1-800-334-8164**

- Dial the 800 number shown above
- Marcar 1-800
- Follow the voice instructions
- Cuidado de la redacción: marque los números

Pin 9

- To make another call, don't hang up!
- Para hacer otro llamado no cuelgue
- Press 7 key for two seconds
- Marque 7 por dos segundos
- For international calls
- Para llamar a cualquier otro país
- Press 011 • country code • city code
- marque 011 • código del país • código de la ciudad • número telefónico
- telephone number

**The Travel
PlanCard**

**For Customer Service
1-800-333-8391**

**CONC
www:**

27869149



KELLEY DRYE & WARREN LLP

A PARTNERSHIP INCLUDING PROFESSIONAL ASSOCIATIONS

1200 19TH STREET, N.W.

SUITE 800

WASHINGTON, D. C. 20036

(800) 855-9800

NEW YORK, N.Y.
LOS ANGELES, CA
MIAMI, FL
CHICAGO, IL
STAMFORD, CT
PARLIPPANY, N.J.BRUSSELS, BELGIUM
HONG KONGAFFILIATED OFFICES
NEW DELHI, INDIA
TOKYO, JAPANFACSIMILE
19021 855 8707

October 7, 1996

BY UNITED PARCEL SERVICEMs. Blanca Bayo
Director Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0864Re: **Transfer of Assets from Communications Network Corporation a/k/a Conetco**

Dear Ms. Bayo:

WorldCom Network Services, Inc. d/b/a **WilTel Network Services ("WilTel")**, a wholly-owned subsidiary of WorldCom, Inc. d/b/a **LDDS WorldCom ("WorldCom")**, by its attorneys, hereby respectfully notifies the Florida Public Service Commission ("Commission") *nunc pro tunc* of a transfer of assets from Communications Network Corporation a/k/a Conetco ("Conetco") to WilTel. As described below, the transfer of assets was precipitated by an involuntary Chapter 11 bankruptcy petition against Conetco that was filed by Conetco's creditors, including WilTel, on July 1, 1996 with the United States Bankruptcy Court of the Southern District of New York ("Bankruptcy Court") and assigned Docket No. 96-B-43504(PBA). The Applicant regrets that Conetco was unable to notify the Commission of this transfer of assets prior to consummating the transfer.

WilTel is a Delaware corporation that is a wholly-owned subsidiary of WorldCom.¹ WilTel and WorldCom are both headquartered at 515 East Amite Street, Jackson, Mississippi 39201. WilTel is a facilities-based provider of interexchange services in 48 states, including Florida. WilTel also is authorized to provide interstate and international telecommunications services pursuant to authority granted by the FCC.

¹ WorldCom, a publicly-held Georgia corporation, is currently the nation's fourth largest interexchange carrier. WorldCom provides a full array of domestic and international voice and data communications services to business and residential customers worldwide pursuant to authority granted by the Federal Communications Commission ("FCC"). WorldCom also is authorized to provide intrastate interexchange services in 48 states, including Florida. In 1995, WorldCom had revenues of approximately \$3.64 billion.

KELLEY DRYE & WARREN LLP

On July 1, 1996, Conesco's creditors, including WITel, filed a petition for Chapter 11 involuntary bankruptcy against Conesco with the Bankruptcy Court. Thereafter, on August 6, 1996, the Bankruptcy Court issued a Consent Order wherein the Bankruptcy Court mandated that Conesco: (1) immediately transfer its "1+" customer base free and clear of claims and interests to WITel; (2) provide notice of such transfer to each of its "1+" customers as requested by WITel; and (3) deliver to WITel, upon request, all customer records, billing records, payment records, documents, invoices, contracts, lease rights, network contracts, customer contracts or any other agreements related to the furnishing of "1+" long distance services by Conesco to its end users, and all computer tapes, disks or other media containing, describing or compiling information related to any of the foregoing. Therefore, beginning August 6, 1996, WITel began to acquire the above-described Conesco assets pursuant to the Bankruptcy Court's Consent Order.

The transfer of assets is being made in a seamless fashion that will not adversely affect the provision of telecommunications service to Conesco's former customers in Florida. Conesco's former customers will receive the same high quality services from WITel that they received from Conesco, at the same rates, and under the same terms and conditions. WITel will amend its tariff as necessary to incorporate the services, rates, terms and conditions previously offered by Conesco. Thus, the transfer will not detrimentally impact consumers in Florida.

The transfer of assets from Conesco to WITel is in the public interest. WITel's acquisition of Conesco's customer base avoided any unnecessary interruption in the telecommunications service provided to Conesco's former customers in Florida. WITel is fully qualified to provide high quality telecommunications services to Conesco's former customers at competitive prices. Therefore, from the perspective of affected customers, the transfer will be largely transparent, leaving the quality of service that they expect unaltered. In addition, the transfer will allow WITel to realize significant economies of scale, thereby making it possible for WITel to introduce new products and services.

Respectfully submitted,

WORLD.COM NETWORK SERVICES, INC. D/B/A WITel
NETWORK SERVICES

By: Andrea D. Rust

Brad E. Muechelhaus
Marjann Z. Machida
Andrea D. Pruitt
KELLEY, DRYE & WARREN LLP
Suite 500
Washington, D.C. 20036
(202) 955-9600

Its Attorneys

Hearing Date: August 6,
1996 at 2:30 p.m.

39

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

In Re: _____ :
:
COMMUNICATIONS NETWORK :
CORPORATION, A/K/A CONETCO :
: _____ :
Debtor. : _____ :

No. 96-B-43504(PBA)

Involuntary Chapter 11

**CONSENT ORDER COMMENCING CASE UNDER CHAPTER 11;
GRANTING RELIEF FROM STAY AND OTHER RELIEF**

AND NOW, this 6th day of August, 1996, upon consideration of Involuntary Petition filed by petitioning creditors as of July 1, 1996; Communications Network Corporation a/k/a Conetco ("Conetco") Motion to Dismiss the Involuntary Petition; Conetco's Motion to bar the solicitation of additional creditors by WorldCom Network Services, Inc. ("WorldCom"); WorldCom's Cross Motion for Summary Judgment; and WorldCom's Motion for Relief From Stay to Terminate Telecommunications Service Agreements (the "Motion") and it appearing that WorldCom and Conetco wish to consent to certain relief set forth below and consideration of all prior papers and proceedings in this case it is:

AUG - 7
RE

*RPS
08/29*

ORDERED that based upon the consent of Conetco a Chapter 11 case is *and an order for relief entered* commenced *as of August 6, 1996;*

ORDERED that Conetco shall (a) immediately transfer its 1+ customer base free and clear of claims and interests to WorldCom; (b) provide notice of such transfer to each of its 1+ customers as requested by WorldCom; (c) deliver to WorldCom, if requested, all customer records, billing records, payment records, documents, invoices, contracts, lease rights, network contracts, customer contracts or any other agreements related to the furnishing of ¹⁺ distance services by Conetco to its end users, and all computer tapes, disks or other media containing, describing or compiling information related to any of the foregoing;

*RPS
08/29
D.*

ORDERED that if required by the Court upon the request of a party in interest, WorldCom shall provide an accounting of the 1+ customer base transferred to WorldCom:

ORDERED during the Conetco's 120 day exclusive period under Bankruptcy Code Section 1121, Petitioners will not make a motion for:

- a. conversion to Chapter 7, Liquidation;
- b. lifting the automatic stay imposed by Section 362(a) of the Bankruptcy Code;
- c. the appointment of a Chapter 11 trustee; or
- d. similar affirmative relief it being the intention of the agreement between Conetco and WorldCom for the Debtor to be given a 120-day breathing spell for the purpose of seeking to rehabilitate its business and formulate a plan;

8/6/96; 12:56pm
41030/1010/PZ/15000.1

Aug 7 14:35

ORDERED all direct and LEC billed 1+ payments will continue to be deposited into the lockbox account at the Bank of Oklahoma and Conetco shall fully cooperate in the collection of accounts receivable.

ORDERED Conetco confirms that no 1+ payments are being received directly by Conetco and if any are received they will be wired the same day to WorldCom.

ORDERED WorldCom shall immediately receive 100% of all of lockbox proceeds and the Bank of Oklahoma is directed to immediately begin to pay all of the lockbox proceeds to WorldCom;

ORDERED WorldCom's pending Motion for Relief from Automatic Stay to Terminate Telecommunications Service Agreements shall be withdrawn without prejudice in exchange for the immediate transfer to WorldCom of Conetco's 1+ customer base free and clear of all claims and interests as provided by Section 363(f) of the Bankruptcy Code;

ORDERED Conetco will take all necessary steps to preserve its 1+ customer base and fully cooperate with the transfer of the 1+ customer base free and clear of claims and interests;

ORDERED the 1+ customer base shall be valued upon the following and applied as a credit to the outstanding balances owed to WorldCom:

- a. By August 9, 1996, Conetco will provide to WorldCom supportable "documentation" as to the retail value of Conetco's 1+ customer base *Original* either the month of April or May, 1996 as selected in Conetco's sole *12/5*

8/29/96 12:50pm
41038/181005/15000.1

- 3 -

W. J. ...

~~discretion the "Selected Month"~~ such "Documentation" may include Zero Plus Dialing, Inc. billings to the various LECs and DCA prepared invoices for the direct billed business usage during the Selected Month.

- b. By August 16, 1996, the Examiner's firm, Price Waterhouse, LLP or such other firm selected by the Examiner shall determine the value of the 1+ business based upon the Selected Month which the parties agree in advance to accept as the value of the customer base and accordingly, the amount of the credit to be issued to Conetco by WorldCom.
- c. As soon as practicable, WorldCom and Conetco will jointly move for further court approval of the transfer of the 1+ customer base in order to provide parties in interest notice and an opportunity for further hearing.

ORDERED the Examiner shall continue his review and investigation pursuant to the Order Appointing an Examiner ("Examiner Order") and nothing in this agreement is intended to supersede the Examiner Order and the parties expressly continue to consent to the Examiner Order; and

08/06 12:50pm
4103010107915000.1

Aug 7 14:36


ORDERED the District Court Action, WorldCom Network Services, Inc. v. Wael Al-Khatib, et al (96 Civ. 4492) shall not be affected by this interim settlement except as provided above. Conesco and WorldCom otherwise reserve all of their rights and nothing shall be construed as a waiver of any legal right or remedy.

Dated: August 6, 1996


United States Bankruptcy Judge

AGREED TO BY:


Robert P. Simons, Esq.
Counsel to WorldCom Network Services, Inc.


Warren J. Martin
Counsel to Communications Network Corporation *et al* Conesco

8/96: 12:30pm
41030181813/1500u.1

60304 PAGE 09

DATE

681 350 8371

11:01 96. 02 07

94 B 0304 (78A)

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

IN RE:

COMMUNICATIONS NETWORK CORPORATION
A/K/A COMNETCO.

Debtors.

CONSENT ORDER COMMENCING CASE UNDER
CHAPTER 11: GRANTING RELIEF FROM STAY
AND OTHER RELIEF

KLETT LIEBER ROONEY & SCHOLLING
A Professional Corporation
40th Floor, One Oxford Center
Pittsburgh, Pennsylvania 15219-4498
(412) 392-2000

Attorneys for
WestConn Network Services, Inc.

10 5-02648904-1904 P.09 09
Aug 7 96 14:36 P.07

OCT 08 '96 10:36 FR KELLEY DRYE@PARREN