

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Application for ) DOCKET NO. 930146-TI  
certificate to provide ) ORDER NO. PSC-93-1259-FOF-TI  
interexchange telecom- ) ISSUED: August 31, 1993  
munications service by GATEWAY )  
COMMUNICATIONS INTERNATIONAL )  
CORPORATION d/b/a GCIC. )  
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The following Commissioners participated in the disposition of this matter:

J. TERRY DEASON, Chairman  
THOMAS M. BEARD  
SUSAN F. CLARK  
JULIA L. JOHNSON

NOTICE OF PROPOSED AGENCY ACTION  
ORDER DENYING CERTIFICATE OF  
PUBLIC CONVENIENCE AND NECESSITY

BY THE COMMISSION:

NOTICE IS HEREBY GIVEN by the Florida Public Service Commission that the action discussed herein is preliminary in nature and will become final unless a person whose interests are adversely affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

On September 19, 1986, an application for a certificate of public convenience and necessity authorizing operation as an interexchange telecommunication company was filed on behalf of Profit Concept Systems, Inc. by Mr. Gregory Hoenig. Investigation found that Profit Concept Systems, Inc. was in violation of Commission Rule 25-24.470, F.A.C., for providing intrastate long distance telephone service in Florida without a certificate. A fine of \$16,916.88 was imposed by Order No. 17622, issued May 27, 1987. However, Order No. 17622 provided that if there was no protest to the order within the proposed time frame and Profit Concept Systems, Inc. paid \$8,458.44 of the fine, the remaining \$8,458.44 of the fine was to be suspended in the event Profit Concept Systems, Inc. satisfied the conditions set forth in the body of the order.

A protest of Order No. 17622 was filed by the Zwickel Group, Inc. against Profit Concept Systems, Inc. Allegations contained

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within the protest included lack of performance, misrepresentation and false advertising on the part of Profit Concept Systems, Inc. The hearing scheduled as a result of the protest was cancelled when in June of 1987, Florida Digital Network, Inc. acquired Profit Concept Systems, Inc.'s stock, assets and customer base due to defaults in payments by Profit Concept Systems, Inc. on an interexchange transmission carrier service contract.

Because of Profit Concept Systems, Inc.'s failure to comply with the terms of Order No. 17622, a certificate to provide intrastate long distance service in Florida was never issued. Both Florida Digital Network, Inc. and Profit Concept Systems, Inc. ceased all business operations when Florida Digital Network filed bankruptcy later that year.

While reasonable efforts to collect the fine authorized in Order No. 17622, Docket No. 861255-TI were being conducted, another application for a certificate of public convenience and necessity authorizing operation as an interexchange telecommunication company was filed on behalf of Fiberlink USA, Inc. on September 23, 1988. After reviewing the application of Fiberlink USA, Inc., it became apparent that the President of Fiberlink, Inc., was Mr. Gregory Hoenig.

The request for certification was denied in Order No. 20950, dated March 28, 1989. After the protest period had expired, the docket was closed on April 20, 1989, Order No. 21082.

Efforts to collect the fine imposed in the original proceedings against Profit Concept Systems, Inc. failed and the Commission issued Order No. 21170 on May 5, 1989 declaring the fine uncollectible. On May 19, 1989, verification was received from the Comptroller's Office, Department of Banking and Finance, giving this agency permission to write off this debt.

In another docket (Docket No. 890053-TC), Mr Gregory Hoenig failed to file annual reports as required resulting in cancellation of Pay Telephone Certificate No. 447 (Order No. 20834, dated 3/27/89) which had been granted to him on December 12, 1985, under his own name as a sole proprietorship.

On February 6, 1992, Mr. Gregory Hoenig filed another application for certification as an interexchange telecommunication service provider on behalf of First Network Systems, International, Inc. a/k/a First Net (Docket No. 920106-TI). The request for

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certification was found to be not in the public interest and denied in Order No. PSC-92-0695-FOF-TI, dated July 22, 1992. After the protest period had expired, the docket was closed on August 13, 1992.

On September 10, 1992, the Division of Consumer Affairs requested an investigation into a complaint filed by Investigator Williams with the Ocala Police Department. In this complaint a company called First Network Systems was conducting business in the Ocala area and Mr. Gregory Hoenig was associated with the company. We believe First Network Systems and First Network Systems International, Inc. are one and the same.

On October 16, 1992, we received copies of information being used by First Network Systems to acquire business in Texas. In the information was a copy of an application before this agency which was being used to represent certification in Florida.

This agency has been receiving inquiries from residents in Florida along with copies of bills showing First Network System using AT&T Bill Manager Service. Also included with the inquiries were copies of complaints pending in Texas against First Network Systems. According to Bob Sanit of Communications Gateway Network, Inc., Irving, Texas, Mr. Gregory Hoenig is now operating Gateway Communications International Corporation.

Based on this information and information previously gathered, we found it appropriate to order First Network Systems to show cause why it should not be fined for violation of Rule 25-24.470, F.A.C, Certificate of Public Convenience and Necessity Required in Docket 921239-TI (Order PSC-93-0750-FOF-TI pages 12-14).

On February 11, 1993, we received an application from Gateway Communications International Corporation listing a Mr. William E. Webster as President. Reviewing the information obtained in the First Network Systems investigation revealed a letter received on March 1, 1993, indicating Mr. William E. Webster was associated with First Network Services as Vice-President and as a stockholder in First Network Systems.

A certificate should not be granted to GATEWAY COMMUNICATIONS INTERNATIONAL CORPORATION d/b/a GCIC to operate as an interexchange telephone company in Florida. This is based on Mr. William E. Webster's association with FIRST NETWORK SYSTEMS INTERNATIONAL

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a/k/a FIRST NET along with the negative information received concerning the operation of GCIC.

Therefore, after reviewing the information available in this docket along with the information gathered in Docket 921239-TI, we find that certification of GCIC is not in the public interest and the application should be denied.

Based on the foregoing, it is

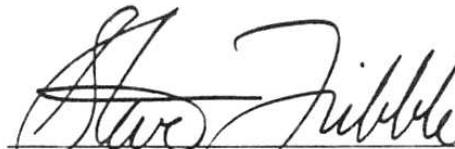
ORDERED by the Florida Public Service Commission that the application for a Certificate of Public Convenience and Necessity by Gateway Communications is hereby denied. It is further

ORDERED that any protest of this Order be filed pursuant to the requirements set forth below. It is further

ORDERED that if a protest of this Order is timely filed, this docket shall remain open pending resolution of the protest. It is further

ORDERED that if no protest of this Order is filed, this docket shall be closed.

By ORDER of the Florida Public Service Commission this 31st day of August, 1993.



STEVE TRIBBLE, Director  
Division of Records and Reporting

( S E A L )

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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.

The action proposed herein is preliminary in nature and will not become effective or final, except as provided by Rule 25-22.029, Florida Administrative Code. 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 25-22.029(4), 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 at his office at 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on September 21, 1993.

In the absence of such a petition, this order shall become effective on the day subsequent to the above date as provided by Rule 25-22.029(6), Florida Administrative Code.

Any objection or protest filed in this docket before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.

If this order becomes final and effective on the date described above, any party adversely affected may request judicial review by the Florida Supreme Court in the case of an 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. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.