

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA**

IN THE MATTER OF FONE AMERICA, INC.'S FAILURE TO SUBMIT A REPORT AND PAY THE GROSS RECEIPTS TAX) ORDER FOR AND NOTICE OF SHOW CAUSE HEARING)))
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TC97-203

SDCL 49-1A-1 establishes the South Dakota Public Utilities Commission (Commission) Gross Receipts Tax Fund. This fund is financed by assessing a tax of .0015 or \$250, whichever is greater, on the annual intrastate gross receipts received by a utility from the company's customers within the State of South Dakota, and requires that all telecommunications companies submit on June 1, each year, a report of the amount of such gross receipts received during the preceding calendar year and pay the tax. A penalty of 10% of the tax is imposed for each month of delinquency.

Despite reminder letters from the Commission on May 9, 1997, and on June 12, 1997, Fone America, Inc., has failed to file the required report and pay the gross receipts tax.

Pursuant to SDCL 49-1A-6, the Commission may collect this debt by distress and sale of any personal property of the company within South Dakota. Further, the Commission has the authority, under SDCL 49-31-3, to suspend or revoke the certificate of authority granted to the company, assess a civil fine against the company from \$200 to \$1,000 under SDCL 49-31-38, proceed under SDCL 49-31-38.2 or 49-31-38.3 to stop the company from transacting any future business in South Dakota, or take any other enforcement actions against the company allowed by law.

Fone America, Inc., shall appear on February 3, 1998, at 1:30 P.M. (CDT) in Room 430, State Capitol Building, Pierre, South Dakota, to show cause why action should not be taken against the company for failure to comply with SDCL Chapter 49-1A. The hearing is being held pursuant to the Commission's jurisdiction over telecommunications companies found at SDCL Chapter 1-26, 49-1A, and 49-31, specifically, 49-1-11(4), 49-1A-3, 49-1A-4, 49-1A-5, 49-1A-6, 49-31-3, and ARSD 20.10.01.45.

The issue at the hearing is whether the Commission shall suspend or revoke Fone America, Inc.'s Certificate of Authority or otherwise institute collection proceedings against Fone America, Inc., for failure to pay gross receipts tax.

At the hearing representatives of the company may appear in person and may be represented by legal counsel or legal assistant (paralegal) if desired. The hearing shall be an adversary proceeding and the company shall have the burden of proving that none of the above enumerated adverse actions should be taken against it. These and other due process rights shall be deemed waived if not exercised at the hearing. The decision of the

Commission may be appealed to the Circuit Court and the State Supreme Court as provided by law. It is therefore

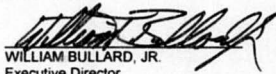
ORDERED, that a show cause hearing in the matter of Fone America, Inc., shall be held on February 3, 1998, at 1:30 P.M. (CDT) (or as soon thereafter as the parties can be heard) in Room 430, State Capitol Building, Pierre, South Dakota. And it is

FURTHER ORDERED, that, in the event Fone America, Inc., shall file an appropriate report and pay the delinquent gross receipts tax, including the 10% penalty for the months of June, July, August, September, October, November, and December, the hearing and actions mentioned herein shall not be held or taken, otherwise this order shall remain in effect

Dated at Pierre, South Dakota, this 30th day of December, 1997.

CERTIFICATE OF SERVICE	
The undersigned hereby certifies that this document has been served today upon all parties of record in this docket, as listed on the docket service list, by facsimile or by first class mail, in properly addressed envelopes, with charges prepaid thereon.	
By	<u>Melaine Kelso</u>
Date	<u>12/30/97</u>
(OFFICIAL SEAL)	

BY ORDER OF THE COMMISSION:
Commissioners Burg, Nelson and
Schoenfelder


WILLIAM BULLARD, JR.
Executive Director

DOCUMENT (S)

RECEIVED

TAPED TOGETHER

NOT AN

OVERLAP

TC97-203 P 464 617 778

RECEIPT FOR CERTIFIED MAIL

NO INSURANCE COVERAGE PROVIDED
NOT FOR INTERNATIONAL MAIL

U.S. G.P.O. 1989-234-551

PS Form 3800, June 1985

Sent to: Peter H. Jacobs Fore America, Inc.	
Street and No.: 12323 SW 66th Ave	
Post Office: Portland, OR 97223	
Postage	\$
Certified Fee	
Special Delivery Fee	
Restricted Delivery Fee	
Return Receipt showing to whom and Date Delivered	
Return Receipt showing to whom Date and Address of Delivery	
TOTAL Postage and Fees	\$
Postmark or Date	

SENDER:

- Complete items 1 and/or 2 for additional services.
- Complete items 3, 4a, and 4b.
- Print your name and address on the reverse of the form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "Return Receipt Requester" on the mailpiece below the article number.
- The Return Receipt will show to whom the article was delivered and the date delivered.

3. Article Addressed to:
Peter H. Jacobs
Fore America, Inc.
12323 SW 66th Ave.
Portland, OR 97223

5. Received By: (Print Name)

6. Signature: (Address or Agent)

X *[Signature]*

PS Form 3811, December 1984

TC97-203

I also wish to receive the following services (for an extra fee):

- 1. Addressee's Address
- 2. Restricted Delivery

Consult postmaster for fees.

4a. Article Number

P 464 617 778

4b. Service Type

- Registered Certified
- Express Mail Insured
- Return Receipt for Merchandise COD

7. Date of Delivery

12-98

8. Addressee's Address (Only if requested and fee is paid)

Domestic Return Receipt

PS Form 3811, December 1984

Thank you for using Return Receipt Service.

TC97-207	In The Matter Of Preferred Telecom, Inc.'s Failure To Submit A Report And Pay The Gross Receipts Tax. Preferred Telecom shall appear on February 3, 1998, at 1:30 pm (CST) in Room 430, State Capitol Building, Pierre, South Dakota, to show cause why action should not be taken against the company for failure to comply with SDCL Chapter 49-1A. (Staff: SC/CH)	12/30/97	Hearing 02/03/98
TC97-208	In The Matter Of SmartTel Communications, Inc.'s Failure To Submit A Report And Pay The Gross Receipts Tax. SmartTel Communications shall appear on February 3, 1998, at 1:30 pm (CST) in Room 430, State Capitol Building, Pierre, South Dakota, to show cause why action should not be taken against the company for failure to comply with SDCL Chapter 49-1A. (Staff: SC/CH)	12/30/97	Hearing 02/03/98
TC97-209	In The Matter Of Telecom USA d/b/a Teleconnect Company's Failure To Submit A Report And Pay The Gross Receipts Tax. Teleconnect shall appear on February 3, 1998, at 1:30 pm (CST) in Room 430, State Capitol Building, Pierre, South Dakota, to show cause why action should not be taken against the company for failure to comply with SDCL Chapter 49-1A. (Staff: SC/CH)	12/30/97	Hearing 02/03/98
TC97-210	In The Matter Of Telenational Communications' Failure To Submit A Report And Pay The Gross Receipts Tax. Telenational Communications shall appear on February 3, 1998, at 1:30 pm (CST) in Room 430, State Capitol Building, Pierre, South Dakota, to show cause why action should not be taken against the company for failure to comply with SDCL Chapter 49-1A. (Staff: SC/CH)	12/30/97	Hearing 02/03/98
TC97-211	In The Matter Of Total National Communications d/b/a Total World Telecom's Failure To Submit A Report And Pay The Gross Receipts Tax. Total World Telecom shall appear on February 3, 1998, at 1:30 pm (CST) in Room 430, State Capitol Building, Pierre, South Dakota, to show cause why action should not be taken against the company for failure to comply with SDCL Chapter 49-1A. (Staff: SC/CH)	12/30/97	Hearing 02/03/98
TC97-212	In The Matter Of USX Consultants, Inc.'s Failure To Submit A Report And Pay The Gross Receipts Tax. USX Consultants shall appear on February 3, 1998, at 1:30 pm (CST) in Room 430, State Capitol Building, Pierre, South Dakota, to show cause why action should not be taken against the company for failure to comply with SDCL Chapter 49-1A. (Staff: SC/CH)	12/30/97	Hearing 02/03/98
TC97-213	In The Matter Of Universal Network Services of South Dakota, Inc.'s Failure To Submit A Report And Pay The Gross Receipts Tax. Universal Network Services shall appear on February 3, 1998, at 1:30 pm (CST) in Room 430, State Capitol Building, Pierre, South Dakota, to show cause why action should not be taken against the company for failure to comply with SDCL Chapter 49-1A. (Staff: SC/CH)	12/30/97	Hearing 02/03/98
TC97-214	In The Matter Of Utility Analysts, Inc.'s Failure To Submit A Report And Pay The Gross Receipts Tax. Utility Analysts shall appear on February 3, 1998, at 1:30 pm (CST) in Room 430, State Capitol Building, Pierre, South Dakota, to show cause why action should not be taken against the company for failure to comply with SDCL Chapter 49-1A. (Staff: SC/CH)	12/30/97	Hearing 02/03/98
TC97-215	In The Matter Of WATS/800, Inc. d/b/a ITS's Failure To Submit A Report And Pay The Gross Receipts Tax. ITS shall appear on February 3, 1998, at 1:30 pm (CST) in Room 430, State Capitol Building, Pierre, South Dakota, to show cause why action should not be taken against the company for failure to comply with SDCL Chapter 49-1A. (Staff: SC/CH)	12/30/97	Hearing 02/03/98
TC97-216	In The Matter Of WorldTel Services, Inc.'s Failure To Submit A Report And Pay The Gross Receipts Tax. WorldTel Services shall appear on February 3, 1998, at 1:30 pm (CST) in Room 430, State Capitol Building, Pierre, South Dakota, to show cause why action should not be taken against the company for failure to comply with SDCL Chapter 49-1A. (Staff: SC/CH)	12/30/97	Hearing 02/03/98
TC97-217	In The Matter Of Cellular Express' Failure To Submit A Report And Pay The Gross Receipts Tax. Cellular Express shall appear on February 3, 1998, at 1:30 pm (CST) in Room 430, State Capitol Building, Pierre, South Dakota, to show cause why action should not be taken against the company for failure to comply with SDCL Chapter 49-1A. (Staff: SC/CH)	12/30/97	Hearing 02/03/98

Important Notice: The Commission is compiling a list of internet addresses. If you have an internet address please notify the Commission by E-mailing it to Terry Neorum at: terryne@public.state.sd.us Faxing the address to the Commission at: 605-773-3809

PAGE 2 OF 2

South Dakota Public Utilities Commission State Capitol 500 E. Capitol Pierre, SD 57501-5070 Phone: (605) 773-3705 Fax: (605) 773-3809		TELECOMMUNICATIONS SERVICE FILINGS These are the telecommunication service filings that the Commission has received for the period of: 12/24/97 through 12/31/97 If you need a complete copy of a filing faxed, overnight expressed, or mailed to you, please contact Delaine Kolbo within five days of this filing.	
DOCKET NUMBER	TITLE/STAFF/SYNOPSIS	DATE FILED	INTERVENTION DEADLINE
FORMAL COMPLAINT FILED			
TC97-200	Jerome Jacobs vs U S WEST Communications. Complainant "would like to have [an] extra line for present and future development. U S WEST said I would have to pay for this line and service at a very high cost." (Staff: LH/KC)	12/24/97	NA
ORDER FOR AND NOTICE OF SHOW CAUSE HEARING			
TC97-201	In The Matter Of Advanced Telecommunication Network, Inc.'s Failure To Submit A Report And Pay The Gross Receipts Tax. Advanced shall appear on February 3, 1998, at 1:30 pm (CST) in Room 430, State Capitol Building, Pierre, South Dakota, to show cause why action should not be taken against the company for failure to comply with SDCL Chapter 49-1A. (Staff: SC/CH)	12/30/97	Hearing 02/03/98
TC97-202	In The Matter Of Central Payphone Services, Inc.'s Failure To Submit A Report And Pay The Gross Receipts Tax. Central Payphone shall appear on February 3, 1998, at 1:30 pm (CST) in Room 430, State Capitol Building, Pierre, South Dakota, to show cause why action should not be taken against the company for failure to comply with SDCL Chapter 49-1A. (Staff: SC/CH)	12/30/97	Hearing 02/03/98
TC97-203	In The Matter Of Fone America, Inc.'s Failure To Submit A Report And Pay The Gross Receipts Tax. Fone America shall appear on February 3, 1998, at 1:30 pm (CST) in Room 430, State Capitol Building, Pierre, South Dakota, to show cause why action should not be taken against the company for failure to comply with SDCL Chapter 49-1A. (Staff: SC/CH)	12/30/97	Hearing 02/03/98
TC97-204	In The Matter Of GTN Corp. d/b/a Global Telecom Network's Failure To Submit A Report And Pay The Gross Receipts Tax. GTN Corp shall appear on February 3, 1998, at 1:30 pm (CST) in Room 430, State Capitol Building, Pierre, South Dakota, to show cause why action should not be taken against the company for failure to comply with SDCL Chapter 49-1A. (Staff: SC/CH)	12/30/97	Hearing 02/03/98
TC97-205	In The Matter Of Inmate Communications Corporation's Failure To Submit A Report And Pay The Gross Receipts Tax. Inmate Communications shall appear on February 3, 1998, at 1:30 pm (CST) in Room 430, State Capitol Building, Pierre, South Dakota, to show cause why action should not be taken against the company for failure to comply with SDCL Chapter 49-1A. (Staff: SC/CH)	12/30/97	Hearing 02/03/98
TC97-206	In The Matter Of Network Services, Inc. d/b/a Long Distance Network Services, Inc.'s Failure To Submit A Report And Pay The Gross Receipts Tax. Long Distance Network Services shall appear on February 3, 1998, at 1:30 pm (CST) in Room 430, State Capitol Building, Pierre, South Dakota, to show cause why action should not be taken against the company for failure to comply with SDCL Chapter 49-1A. (Staff: SC/CH)	12/30/97	Hearing 02/03/98

PAGE 1 OF 2



South Dakota Public Utilities Commission

State Capitol Building, 500 East Capitol Avenue, Pierre, South Dakota 57501-5070



May 9, 1997

To All
Attached

RE: ANNUAL GROSS RECEIPTS TAX ASSESSMENT

Dear

SDCL Chapter 49-1A establishes the South Dakota Public Utilities Commission Gross Receipts Tax Fund. This Fund is financed by assessing a tax of .0015 on the annual intrastate gross receipts received by a utility. The Fund is used by the Commission to defray regulatory expenses related to the regulation of telecommunications, electricity and natural gas. The specific statute reads as follows:

SDCL 49-1A-3. Annual intrastate gross receipts tax levied -- Amount.

There is hereby levied on each public utility as defined in subdivision 49-34-1(12), which is subject to the rate regulation of the commission, and all telecommunications companies as defined in subdivision 49-31-1(9), a tax of .0015 or two hundred and fifty dollars, whichever is greater upon the annual intrastate gross receipts derived by the public utility or telecommunications company from its customers within the State of South Dakota during the preceding calendar year. The two hundred fifty dollar minimum gross receipt tax does not apply to telecommunications companies providing local exchange service as defined in subdivision 49-31-1(5) or to radio Common carriers.

On June 1st of each year all utilities and telecommunications companies doing business in South Dakota shall file with the Commission, on forms provided by the Commission, the amount of its gross receipts derived from customers within South Dakota during the preceding calendar year pursuant to SDCL 49-1A-4. The report shall be sworn to and verified by an officer of the company. In accordance with SDCL 49-1A-5, the tax is due and payable on **June 1st** of each year. Please note that one form must be filed for **EACH** company.

Your payment to the Commission should be based on GROSS INTRASTATE REVENUES, the statute does not exempt any forms of this revenue. The data may be verified with other data filed with the state of South Dakota.

Please note that late payment shall result in a penalty assessment of ten percent of the tax due for each month of such delinquency pursuant to SDCL 49-1A-6.

If you have any questions regarding your payment please contact our office.

Sincerely,

Sue Cichos
Sue Cichos
Business Manager

Capitol Office:
Telephone (605)773-3201
FAX (605)773-3009

Transportation/
Warehouse Division
Telephone (605)773-5280
FAX (605)773-3225

Consumer Hotline
1-800-332-1782

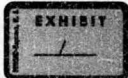
TTY Through
Relay South Dakota
1-800-877-1113

Internet
billb@pucc.state.sd.us

Jim Berg
Chairman
Pam Nelson
Vice-Chairman
Lyska Schoenfelder
Commissioner

William Bullard Jr.
Executive Director

Edward R. Anderson
Harlan Best
Martin C. Bettmann
Charlie Bolle
Sue Cichos
Karen E. Cremer
Marlette Fischbach
Shirleen Fugitt
Lewis Hammond
Lena Healy
Cameron Horack
Dave Jacobson
Rob Knadle
Deanne Kolbo
Terri J. Lemesurier
Jeffrey P. Lorenson
Terry Norum
Gregory A. Rulow
Tammi Stangohs
Steven M. Wegman
Raylene Ault West



SOUTH DAKOTA PUBLIC UTILITIES COMMISSION
GROSS RECEIPTS TAX LIST

COMPANY CLASSIFICATION	COMPANY	NAME	ADDRESS
TC/AOS - RESELLERS	Advanced Telecommunication Network, Inc.	Gary K. Carpenter	Four Executive Campus Suite 200, Cherry Hill, NJ 08002-4105
	Central Payphone Services, Inc.	Barry E. Selvidge	1150 Northmeadow Parkway Suite 118, Rowell, GA 30074
	Fone America, Inc.	Peter H. Jacobs	12323 SW 46th Avenue, Portland, OR 97223
	GTN Corp. d/b/a Global Tele. Network	William E. Ottens	2450 W Cypress Creek Rd., Suite 205, Fort Lauderdale, FL 33309
	Inmate Communications Corporation	Stephen A. Edwards	7107 Valjean Avenue, Van Nuys, CA 91406
	Network Services	Lou Green	2650 Van Buren Suite 2651, Norman, OK 73072-5704
	Preferred Telecom, Inc.	Jerry G. Kirby	12455 North Central Expressway, #800, Dallas, TX 75243
	SmorTel Communications, Inc.	Jonathan Slater	120 Boylston Street, Boston, MA 02114
	Telecom USA d/b/a Teleconnect Co.	Patrick Chow	201 Spear Street, 0349/604, San Francisco, CA 94105
	Telenational Communications	Janet Prochaska	7300 Woolworth Avenue, Omaha, NE 68124-1604
	Total National Communications d/b/a Total World Telecom	Donald W. Booth	1001 Fannin, Suite 300, Houston, TX 77002
	U S X Consultants, Inc.	Sharon K. Ritchey	400 Grant Street Room 1648, Pittsburgh, PA 15219-2749
	Universal Network Services of South Dakota	Kathleen Flanagan	2 Corporate Plaza Drive Suite 200, Newport Beach, CA 92660
	Utility Analysts, Inc.	Brian Somerville	PO Box 39292, Bedford, MI 48219-0292
	WATS/AOS, Inc. d/b/a ITS	Robert L. Segior	P. O. Box 574405, Orlando, FL 32857-4405
	WorldTel Services, Inc.	Sally Packer	151 Kalmus Dr Ste B-150 Costa Mesa, CA 92626-5142

SOUTH DAKOTA PUBLIC UTILITIES COMMISSION
GROSS RECEIPTS TAX LETTER

COMPANY CLASSIFICATION	COMPANY	NAME	ADDRESS
TC/CELLULAR	<i>Cellular Express</i>	F Thomas Tuttle	1200 19th Street, NW, Suite 407, Washington, DC 20036



South Dakota Public Utilities Commission

State Capitol Building, 500 East Capitol Avenue, Pierre, South Dakota 57501-5070



June 12, 1997

* IA-NAME*
* COMPANY*
* IA-ADDRESS*
* CITY*, *STATE* *ZIP*

To All
Attached

RE: DELINQUENT PAYMENT OF GROSS RECEIPTS TAX ASSESSMENT

Dear *FIRSTNAME* *LASTNAME*:

On May 2, 1997 a letter and accompanying form were sent to you advising you that your company, as a telecommunications company doing business in South Dakota, must pay the gross receipts tax levied pursuant to SDCL 49-1A-3. This tax filing is due June 1 of each year. A penalty assessment of ten percent of the tax due is accruing for each month of such delinquency.

Because of your failure to respond to the above request for payment of the gross receipts tax, I hereby inform you that the Commission has the authority to revoke your South Dakota Certificate of Authority as a telecommunications company pursuant to SDCL 49-31-3 if the tax, including all penalties, is not paid by July 1, 1997. In addition, the Commission may take either of the following actions against your company. Pursuant to SDCL 49-1A-6, the Commission may collect this debt by collection and sale of any personal property of the company within South Dakota. Furthermore, pursuant to SDCL 49-31-38.2 and 49-31-38.3, the Commission may request the South Dakota Attorney General to take action to void your South Dakota corporate franchise or your corporate authority to do business in South Dakota.

To avoid the above actions against your company, please respond by paying the tax and penalty, and returning the assessment form before July 1, 1997. (The tax due is .0015 of total intrastate revenues or \$250.00, whichever is greater plus a ten percent penalty for each month of delinquency.)

If you need further information, forms or assistance please contact the Commission.

Sincerely,

ROLAYNE AILTS WIEST
General Counsel

enclosed: Assessment Form



Capitol Office
Telephone (605)773-3301
FAX (605)773-3809

Transportation
Warehouse Division
Telephone (605)773-3280
FAX (605)773-3225

Consumer Hotline
1 800-332-1782

TTY Through
Relay South Dakota
1 800-877-1113

Internet
http://pc.state.sd.us

Jim Burg
Chairman

Fam Nelson
Vice Chairman

Laska Schoenfelder
Commissioner

William Ballard Jr.
Executive Director

Edward R. Anderson
Hartie Host

Martin C. Bettenmann
Charlie Bolle

Sue Cushman
Kareem E. Connor

Mariette Fuschbach
Sharon Fugitt

Levon Hammond
Katie Harford

Loni Healy
Cameron Hirsch

Dave Jacobson
Beth Knudde

Delaine Kolbo
Jeffrey P. Lorenson

Terry Norum
Gregory A. Reubin

Torren Stangosh
Steven M. Wagnon

Rolayne Ailts Wiest

SOUTH DAKOTA PUBLIC UTILITIES COMMISSION
GROSS RECEIPTS TAX LETTER

COMPANY CLASSIFICATION	COMPANY	NAME	ADDRESS
TC/MS - RESELLERS	Advanced Telecommunication Network, Inc.	Gary K. Carpenter	Four Executive Campus Suite 200, Cherry Hill, NJ 08002-4105
	Central Payphone Services, Inc.	Barry E. Selvidge	1150 Northmeadow Parkway Suite 118, Roswell, GA 30076
	Fone America, Inc.	Peter H. Jacobs	12323 SW 64th Avenue, Portland, OR 97273
	OTN Corp d/b/a Global Tele. Network	William E. Oxtens	2400 W Cypress Creek Rd., Suite 205, Fort Lauderdale, FL 33309
	Inmate Communications Corporation	Stephen A. Edwards	7107 Valjean Avenue, Van Nuys, CA 91406
	Network Services	Lou Green	2600 Van Buren Suite 2601, Norman, OK 73072-5704
	Preferred Telecom, Inc.	Jerry G. Kirby	12655 North Central Expressway, #800, Dallas, TX 75243
	SmrTel Communications, Inc.	Jonathan Slater	120 Boylston Street, Boston, MA 02116
	Telecom USA d/b/a Teleconnect Co.	Patrick Chow	201 Spear Street, 0449/006, San Francisco, CA 94105
	Teleational Communications	Janet Prochaska	7300 Woolworth Avenue, Omaha, NE 68124-1604
	Total National Communications d/b/a Total World Telecom	Donald W. Booth	1001 Fannin, Suite 300, Houston, TX 77002
	T S X Consultants, Inc.	Sharon K. Ritchey	600 Grant Street Room 1644, Pittsburgh, PA 15219-2749
	Universal Network Services of South Dakota	Kathleen Flanagan	2 Corporate Plaza Drive Suite 200, Newport Beach, CA 92640
	Utility Analysts, Inc.	Brian Somerville	PO Box 19292, Redford, MI 48239-0292
	WATS/800, Inc. d/b/a ITS	Robert L. Siegler	P. O. Box 574405, Orlando, FL 32857-4405
	WorldTel Services, Inc.	Dolly Racker	151 Kalmus Dr Ste B-150, Casta Mesa, CA 92626-5962

SOUTH CAROLINA PUBLIC UTILITIES COMMISSION
GROSS RECEIPTS TAX LETTER

COMPANY CLASSIFICATION	COMPANY	NAME	ADDRESS
TC/CELLULAR	^{sample} Cellular Express	F Thomas Tuttle	1200 19th Street, NW, Suite 607, Washington, DC 20036

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA

IN THE MATTER OF FONE AMERICA, INC.'S)	FINDINGS OF FACT,
FAILURE TO SUBMIT A REPORT AND PAY)	CONCLUSIONS OF LAW
THE GROSS RECEIPTS TAX)	AND FINAL ORDER; NOTICE
)	OF ENTRY OF FINAL
)	ORDER
)	TC97-203

On December 30, 1997, the Public Utilities Commission (Commission) issued an Order for and Notice of Show Cause Hearing against Fone America, Inc. (Fone America) for failure to submit an annual report and pay the gross receipts tax. The hearing was held as scheduled on February 3, 1998, at 1:30 p.m., in the Commission's Conference Room, State Capitol Building, Pierre, South Dakota. The reason for the hearing was to give Fone America an opportunity to show cause why the Commission should not revoke its Certificate of Authority, or other specified actions, for failure to submit an annual report as required by ARSD 20:10.24.04 or pay the gross receipts tax as required by SDCL 49-1A-1. Commissioners Burg, Nelson and Schoenfelder were present. Also present were Camron Hoseck, Commission Staff Attorney, Harlan Best, Deputy Director of Fixed Utilities, and Sue Cichos, Business Manager for the Commission. No representative of Fone America appeared at the hearing. After hearing the testimony, the Commission voted unanimously to revoke Fone America's Certificate of Authority for failure to pay the gross receipts tax.

The Commission, having heard the testimony presented at the hearing, makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

I

Fone America is a telecommunications company holding a Certificate of Authority, issued by this Commission, to provide telecommunications services in South Dakota.

II

Sue Cichos, Business Manager for the Commission, sent letters to Fone America on May 9, 1997, and June 12, 1997, requesting payment of the gross receipts tax as authorized by SDCL 49-1A-1. She testified that Fone America never paid the gross receipts tax.

III

A copy of the Order for and Notice of Show Cause Hearing was sent by certified mail to Fone America on December 30, 1997.

IV

No representative of Fone America appeared at the hearing to show cause why the Commission should not revoke its Certificate of Authority.

I

CONCLUSIONS OF LAW

I

The Commission has jurisdiction over this matter pursuant to SDCL 49-1A-3, 49-1A-4, 49-1A-5, 49-1A-6, and 49-31-3.

II

Pursuant to 49-1A-3, the Commission assesses a tax of .0015 or \$250, whichever is greater, on the annual intrastate gross receipts received by a telecommunications company from the company's customers within the state of South Dakota. Pursuant to 49-1A-5, the tax is due on June first of each year.

III

Fone America has failed to pay the gross receipts tax.

IV

The Commission has the authority, under SDCL 49-31-3, to suspend or revoke a Certificate of Authority granted to a company for a willful violation of the laws of this state. Based on the failure of Fone America to pay the gross receipts tax in violation of 49-1A-5, the Commission revokes Fone America's Certificate of Authority.

Based on the foregoing Findings of Fact and Conclusions of Law, it is therefore

ORDERED, that the Certificate of Authority granted to Fone America by this Commission is hereby revoked and shall be returned to the Commission within thirty (30) days from the date of this Order.

NOTICE OF ENTRY OF ORDER

PLEASE TAKE NOTICE that this Order was duly entered on the 13th day of March, 1998. Pursuant to SDCL 1-26-32, this Order will take effect 10 days after the date of receipt or failure to accept delivery of the decision by the parties.

Dated at Pierre, South Dakota, this 12th day of March, 1998.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that this document has been served today upon all parties of record in this docket, as listed on the docket service list, by facsimile or by first class mail, in properly addressed envelopes, with charges prepaid thereon.

By

Nellaine Kalls

Date

3/13/98

(OFFICIAL SEAL)

BY ORDER OF THE COMMISSION:

James A. Burg
JAMES A. BURG, Chairman

Pam Nelson
PAM NELSON, Commissioner

Laska Schoenfelder
LASKA SCHOENFELDER, Commissioner