

TCOO-166

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

| | | |
|---|---|-----------------------|
| IN THE MATTER OF SBR, INC.'S FAILURE TO |) | ORDER FOR AND NOTICE |
| SUBMIT A REPORT AND PAY THE GROSS |) | OF SHOW CAUSE HEARING |
| RECEIPTS TAX |) | |
| |) | |
| |) | TC00-166 |

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 5, 2000, and July 18, 2000, SBR, Inc. (SBR) 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.

SBR shall appear on November 1, 2000, at 9:00 A.M. (CST) in the Cactus Conference Room, State Capitol Building, 500 E. Capitol, 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 Commission's jurisdiction over telecommunications companies found at SDCL Chapters 1-26, 49-1, 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 fine, or suspend or revoke SBR's Certificate of Authority, assess a civil fine against the company, and/or institute collection proceedings against SBR for failure to pay gross receipts tax.

The hearing shall be an adversary proceeding conducted pursuant to SDCL Chapter 1-26. All parties have the right to be present and to be represented by an attorney. These rights and other due process rights shall be forfeited if not exercised at the hearing. If you or your representative fail to appear at the time and place set for the hearing, the Final Decision will be based solely on the testimony and evidence provided, if any, during the hearing or a Final Decision may be issued by default pursuant to SDCL

1-26-20. After the hearing, the Commission will consider all evidence and testimony that was presented at the hearing. The Commission will then enter Findings of Fact, Conclusions of Law, and a Final Decision regarding this matter. As a result of the hearing, the Commission shall determine whether to fine, or suspend or revoke SBR's Certificate of Authority, assess a civil fine against the company, and/or institute collection proceedings against SBR for failure to pay gross receipts tax. The Commission's Final Decision may be appealed by the parties to the state Circuit Court and the state Supreme Court as provided by law. It is therefore

ORDERED, that a show cause hearing in the matter of SBR shall be held on November 1, 2000, at 9:00 A.M. (CST) in the Cactus Conference Room, State Capitol Building, 500 E. Capitol, Pierre, South Dakota. And it is

FURTHER ORDERED, that, in the event SBR shall file an appropriate report and pay the delinquent gross receipts tax, including the 10% penalty for each month of delinquency, the hearing and actions mentioned herein shall not be held or taken; otherwise this order shall remain in effect.

Pursuant to the Americans with Disabilities Act, this hearing is being held in a physically accessible location. Please contact the Public Utilities Commission at 1-800-332-1782 at least 48 hours prior to the hearing if you have special needs so arrangements can be made to accommodate you.

Dated at Pierre, South Dakota, this 5th day of October, 2000.

| | |
|--|-----------------------|
| 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>Nellaine Kolbo</u> |
| Date: | <u>10/5/00</u> |
| (OFFICIAL SEAL) | |

BY ORDER OF THE COMMISSION

James A. Burg
JAMES A. BURG, Chairman

Pam Nelson
PAM NELSON, Commissioner

Laska Schoenfelder
LASKA SCHOENFELDER, Commissioner

**U.S. Postal Service
CERTIFIED MAIL RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)**

7099 3220 0004 5201 5344

Article Sent To:
SBR, Inc

| | | | |
|---|----|--|--|
| Postage | \$ | Postmark | |
| Certified Fee | | Return Receipt Fee (Endorsement Required) | |
| Restricted Delivery Fee (Endorsement Required) | | | |
| Total Postage & Fees | \$ | | |

Name (Please Print Clearly) (To be completed by addressee)
SBR, Inc
Street, Apt., Mo., or PO Box No.
300 Prairie Center Dr, Ste 300
City, State, ZIP+4
Eden Prairie, MN 55344

Is your RETURN ADDRESS completed on the reverse side?

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 this 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 Requested" on the mailpiece below the article number.
 ■ The Return Receipt will show to whom the article was delivered and the date delivered.

I also wish to receive the following services (for an extra fee):
 1. Addressee's Address
 2. Restricted Delivery
 Consult postmaster for rate.

3. Article Addressed to:
SBR, Inc.
300 Prairie Center Dr, Ste 300
Eden Prairie, MN
55344

5. Received By: (Print Name)
N Kuebler

6. Signature: (Addressee or Agent)
X N. Kuebler

4a. Article Number
7099 3220 0004 5201 5344

4b. Service Type
 Registered Certified
 Express Mail Insured
 Return Receipt for Merchandise CDD

7. Date of Delivery
10-16-01

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

South Dakota Public Utilities Commission

WEEKLY FILINGS

For the Period of October 5, 2000 through October 11, 2000

If you need a complete copy of a filing faxed, overnight expressed, or mailed to you, please contact Delaine Kolbo within five business days of this filing.
Phone: 605-773-3705 Fax: 605-773-3809

ELECTRIC

EL00-029 In the Matter of the Application of Xcel Energy, Inc. for Approval to Extend Expected Merger Benefits to its South Dakota Service Territory and Customers.

An application by Xcel Energy, Inc. for approval of a memorandum of understanding which would provide benefits to its customers and service territory was filed with the Commission. Xcel Energy, Inc. proposes to provide an additional contribution to its annual economic development investment within its service territory for a limited time and also agrees to a conditional rate moratorium until May 1, 2004. The agreement is being offered to provide rate payers expected benefits of the recent merger between Northern States Power Company and New Century Energies Company.

Staff Analyst: Dave Jacobson
Staff Attorney: Karen Cremer
Date Docketed: 10/10/00
Intervention Deadline: NA

TELECOMMUNICATIONS

- TC00-146** In the Matter of ACC National Long Distance Corporation d/b/a Vista International Communications' Failure to Submit a Report and Pay the Gross Receipts Tax.
- TC00-147** In the Matter of Accutel Communications, Inc.'s Failure to Submit a Report and Pay the Gross Receipts Tax.
- TC00-148** In the Matter of ACOMM, Inc.'s Failure to Submit a Report and Pay the Gross Receipts Tax.
- TC00-149** In the Matter of Atlantic Telephone Company, Inc.'s Failure to Submit a Report and Pay the Gross Receipts Tax.
- TC00-150** In the Matter of ClearPoint Communications, Inc.'s Failure to Submit a Report and Pay the Gross Receipts Tax.
- TC00-151** In the Matter of Columbia Telecommunications, Inc. d/b/a Xossa's Failure to Submit a Report and Pay the Gross Receipts Tax.
- TC00-152** In the Matter of ConnectAmerica, Inc. d/b/a Connect US' Failure to Submit a Report and Pay the Gross Receipts Tax.
- TC00-153** In the Matter of ConQuest Operator Services Corp.'s Failure to Submit a Report and Pay the Gross Receipts Tax.

- TC00-154 In the Matter of Federal TransTel, Inc.'s Failure to Submit a Report and Pay the Gross Receipts Tax.
- TC00-155 In the Matter of Home Owners Long Distance, Inc.'s Failure to Submit a Report and Pay the Gross Receipts Tax.
- TC00-156 In the Matter of IdealDial Corporation's Failure to Submit a Report and Pay the Gross Receipts Tax.
- TC00-157 In the Matter of Inacom Communications, Inc.'s Failure to Submit a Report and Pay the Gross Receipts Tax.
- TC00-158 In the Matter of Inmark, Inc. d/b/a Preferred Billing's Failure to Submit a Report and Pay the Gross Receipts Tax.
- TC00-159 In the Matter of International Telecommunications Corp. d/b/a Discount Direct Dialing's Failure to Submit a Report and Pay the Gross Receipts Tax.
- TC00-160 In the Matter of Legends Communications, Inc.'s Failure to Submit a Report and Pay the Gross Receipts Tax.
- TC00-161 In the Matter of Long Distance America, Inc.'s Failure to Submit a Report and Pay the Gross Receipts Tax.
- TC00-162 In the Matter of NeTel, Inc. d/b/a TEL3's Failure to Submit a Report and Pay the Gross Receipts Tax.
- TC00-163 In the Matter of Nor Communications, Inc.'s Failure to Submit a Report and Pay the Gross Receipts Tax.
- TC00-164 In the Matter of Qcc Incorporated's Failure to Submit a Report and Pay the Gross Receipts Tax.
- TC00-165 In the Matter of Quest Telecommunications, Inc. d/b/a QTI's Failure to Submit a Report and Pay the Gross Receipts Tax.
- TC00-166 In the Matter of SBR, Inc.'s Failure to Submit a Report and Pay the Gross Receipts Tax.
- TC00-167 In the Matter of USBG, Inc.'s Failure to Submit a Report and Pay the Gross Receipts Tax.

The above companies shall appear on November 1, 2000, at 9:00 a.m. in the Cactus Conference Room, State Capitol Building, Pierre, SD, to show cause why action should not be taken against the company for failure to comply with SDCL Chapter 49-1A.

Deputy Executive Director: Sue Cichos
 Staff Attorney: Karen Cremer
 Date Docketed: 10/05/00
 Hearing Date: 11/01/00

- TC00-168 In the Matter of the Application of IDT America, Corp. for a Certificate of Authority to Provide Telecommunications Services in South Dakota.

IDT America, Corp. is seeking a Certificate of Authority to provide interexchange telecommunication services in South Dakota. The applicant is a reseller that intends to offer 1-800-MTS, 101XXXX, prepaid calling card, toll free, and rechargeable calling card services to and from all points within South Dakota.

Staff Analyst: Keith Senger
Date Docketed: 10/05/00
Intervention Deadline: 10/27/00

TC00-169 In the Matter of the Filing for Approval of a Resale Agreement between Qwest Corporation and Flatel, Inc.

A Resale Interconnection Agreement between Qwest Corporation (Qwest) and Flatel Inc. was filed with the Commission for approval. The agreement is a negotiated agreement which sets forth the terms, conditions and prices under which Qwest will provide the Unbundled Network Element Platform and/or services for resale to Flatel for the provision of local exchange services. Any party wishing to comment on the agreement may do so by filing written comments with the Commission and the parties to the agreement no later than October 26, 2000. Parties to the agreement may file written responses to the comments no later than twenty days after the service of the initial comments.

Staff Attorney: Karen Cremer
Date Docketed: 10/06/00
Initial Comments Due: 10/26/00

TC00-170 In the Matter of the Application of 360Networks (USA) Inc. for a Certificate of Authority to Provide Local Exchange Services in South Dakota.

360networks (USA) inc. is seeking a Certificate of Authority to provide resold and facilities-based local exchange service in South Dakota. Initially, the applicant will provide non-switched dedicated and private line, high capacity fiber optic transmission capacity and access services and will eventually expect to offer a broad range of voice and data local exchange services to business and residential customers throughout the state.

Staff Analyst: Heather Forney
Date Docketed: 10/10/00
Intervention Deadline: 10/27/00

You may receive this listing and other PUC publications via our website or via internet e-mail. You may subscribe or unsubscribe to the PUC mailing lists at <http://www.state.sd.us/puc/>

RECEIVED

OCT 19 2000

SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION

SBR, INC.

300 Prairie Center Drive
Suite 300
Eden Prairie, MN 55344

October 12, 2000

South Dakota Public Utilities Commission
500 East Capitol Avenue
Pierre, SD 57501-5070

Certified Mail
Return Receipt Requested

Attn.: Mr. James A. Burg, Chairman

RE: Petition to Relinquish Certificate of Authority
Order for and Notice of Show Cause Hearing - TC00-166

Dear Mr. Burg:

SBR, Inc. requests that its Certificate of Authority be relinquished effective October 12, 2000. SBR, Inc. intends to discontinue offering service to long distance customers. SBR Inc. does not currently serve any intrastate customers and currently has no plans to offer service in the future. SBR has not generated any revenue from business conducted within the State of South Dakota during calendar year 1999 or through October 12, 2000.

SBR Inc. requests that this serve as its formal petition for service withdrawal and further requests that the hearing scheduled for November 1, 2000, as stated in the Order for and Notice of Show Cause Hearing, be cancelled in light of its request for withdrawal. Please let me know what, if any, further documentation is required by the State of South Dakota to finalize SBR Inc.'s withdrawal from the state. I can be reached at (952) 942-1010 and/or by fax at (952) 942-1014.

Thank you for your consideration.

Sincerely,



Dennis G. Gethmann
Vice President

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

| | | |
|---|---|------------------------|
| IN THE MATTER OF SBR, INC.'S FAILURE TO |) | ORDER GRANTING |
| SUBMIT A REPORT AND PAY THE GROSS |) | PETITION TO RELINQUISH |
| RECEIPTS TAX |) | CERTIFICATE OF |
| |) | AUTHORITY |
| |) | TC00-165 |

On October 5, 2000, the Public Utilities Commission (Commission) issued an Order for and Notice of Show Cause Hearing against SBR, Inc. (SBR) for failure to submit an annual report and pay the gross receipts tax. The hearing was scheduled for November 1, 2000, at 9:00 A.M. in the Cactus Conference Room, State Capitol Building, 500 E. Capitol, Pierre, South Dakota. The reason for the hearing was to give SBR 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. On October 19, 2000, the Commission received a Petition to Relinquish Certificate of Authority from SBR.

The Commission has jurisdiction over this matter pursuant to SDCL Chapters 1-26, 49-1A, 49-31, specifically 49-1A-3, 49-1A-4, 49-1A-5, 49-1A-6, 49-31-3, and 49-31-89 through 49-31-97, inclusive. At a duly noticed hearing of November 1, 2000, the Commission voted unanimously to grant the petition to relinquish SBR's Certificate of Authority based upon the recommendation of Commission Staff. It is therefore

ORDERED, that SBR's Petition to Relinquish its Certificate of Authority be granted and the Certificate of Authority shall be returned to the Commission within thirty (30) days from the date of this Order. It is

FURTHER ORDERED, that the docket shall be dismissed and closed.

Dated at Pierre, South Dakota, this 16th day of November, 2000.

| |
|--|
| 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>Delaine Kalbo</u> |
| Date: <u>11/16/00</u> |
| (OFFICIAL SEAL) |

BY ORDER OF THE COMMISSION:

James A. Burg
JAMES A. BURG, Chairman

Pam Nelson
PAM NELSON, Commissioner

Laska Schoenfelder
LASKA SCHOENFELDER, Commissioner

SBR, INC.

300 Prairie Center Drive
Suite 300
Eden Prairie, MN 55344

November 30, 2000

South Dakota Public Utilities Commission
500 East Capitol Avenue
Pierre, SD 57501-5070

Certified Mail
Return Receipt Requested

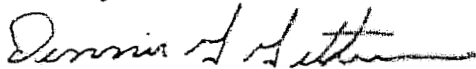
Attn.: Mr. James A. Burg, Chairman

RE: Order Granting Petition to Relinquish Certificate of Authority TCOO-166

Dear Mr. Burg:

Pursuant to an Order received from the South Dakota Public Utilities Commission dated November 16, 2000 (copy enclosed), please find returned herewith SBR, Inc.'s Certificate of Authority.

Sincerely,



Dennis G. Gethmann
Vice President

Enclosures (2)

RECEIVED
DEC 07 2000
SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA

IN THE MATTER OF SBR, INC.'S FAILURE TO) ORDER GRANTING
SUBMIT A REPORT AND PAY THE GROSS) PETITION TO RELINQUISH
RECEIPTS TAX) CERTIFICATE OF
) AUTHORITY
)
) TC00-166

On October 5, 2000, the Public Utilities Commission (Commission) issued an Order for and Notice of Show Cause Hearing against SBR, Inc. (SBR) for failure to submit an annual report and pay the gross receipts tax. The hearing was scheduled for November 1, 2000, at 9:00 A.M. in the Cactus Conference Room, State Capitol Building, 500 E. Capitol, Pierre, South Dakota. The reason for the hearing was to give SBR 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. On October 19, 2000, the Commission received a Petition to Relinquish Certificate of Authority from SBR.

The Commission has jurisdiction over this matter pursuant to SDCL Chapters 1-25, 49-1A, 49-31, specifically 49-1A-3, 49-1A-4, 49-1A-5, 49-1A-6, 49-31-3, and 49-31-89 through 49-31-97, inclusive. At a duly noticed hearing of November 1, 2000, the Commission voted unanimously to grant the petition to relinquish SBR's Certificate of Authority based upon the recommendation of Commission Staff. It is therefore

ORDERED, that SBR's Petition to Relinquish its Certificate of Authority be granted and the Certificate of Authority shall be returned to the Commission within thirty (30) days from the date of this Order. It is

FURTHER ORDERED, that the docket shall be dismissed and closed.

Dated at Pierre, South Dakota, this 16th day of November, 2000.

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: Delaine Kelso

Date: 11/16/00

(OFFICIAL SEAL)

BY ORDER OF THE COMMISSION:

James A. Burg
JAMES A. BURG, Chairman

Pam Nelson
PAM NELSON, Commissioner

Laska Schoenfeldor
LASKA SCHOENFELDOR, Commissioner

SOUTH DAKOTA PUBLIC UTILITIES COMMISSION

CERTIFICATE OF AUTHORITY

To Conduct Business As A Telecommunications Company
Within The State Of South Dakota

Authority was Granted November 18, 1997
Docket No. TC97-161

This is to certify that

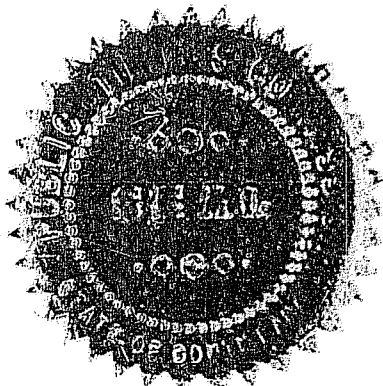
SBR, INC.

is authorized to provide telecommunications services in South Dakota.

This certificate is issued in accordance with SDCL 49-31-3 and ARSD 20:10:24:02, and is subject to all of the conditions and limitations contained in the rules and statutes governing its conduct of offering telecommunications services.

Dated at Pierre, South Dakota, this 1st day of November, 1997.

**SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION:**





JAMES A. BURG, Chairman



PAM NELSON, Commissioner



LASKA SCHOENFELDER, Commissioner