

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

IN THE MATTER OF BIG PLANET, INC.)	ORDER FOR AND NOTICE
FAILURE TO SUBMIT A REPORT AND PAY)	OF SHOW CAUSE HEARING
THE GROSS RECEIPTS TAX)	
)	TC02-188

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 2, 2002 and July 25, 2002, Big Planet, Inc. (Big Planet) 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.

Big Planet shall appear on December 19, 2002, at 10:00 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 the 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 Big Planet's Certificate of Authority, assess a civil fine against the company, and/or institute collection proceedings against Big Planet 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 Big Planet's Certificate of Authority, assess a civil fine against the company, and/or institute collection proceedings against Big Planet 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 Big Planet shall be held on December 19, 2002, at 10:00 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 Big Planet 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 15th day of November, 2002.

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><i>Delaine Kalbs</i></u>
Date:	<u>11/18/02</u>
(OFFICIAL SEAL)	

BY ORDER OF THE COMMISSION:

James A. Burg
JAMES A. BURG, Chairman

Pam Nelson
PAM NELSON, Commissioner

Robert K. Sahr
ROBERT K. SAHR, Commissioner

U.S. Postal Service
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Return Receipt Fee (Endorsement Required)	
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 Street, Apt. No.,
 or PO Box No. *75 West Center Street*
 City, State, ZIP+4
Groves, VT 84601

PS Form 3800, January 2001 See Reverse for Instructions

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
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1. Article Addressed to:

Big Planet, Inc.
75 W Center St.
Groves, VT
84601

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 Addressee
[Signature]

B. Received by (Printed Name) Agent
 Addressee
David G. Mal...

C. Date of Delivery
11-22-02

D. Is delivery address different from item 1? Yes
 No
 If YES, enter delivery address below:
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[Signature]

3. Service Type
 Certified Mail Express Mail
 Registered Return Receipt for Merchandise
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4. Restricted Delivery? (Extra Fee) Yes

2. Article Number (Transfer from service label) **7001 2510 0004 4799 4027**

South Dakota Public Utilities Commission

WEEKLY FILINGS

For the Period of November 14, 2002 through November 20, 2002

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 report. Phone: 605-773-3705 Fax: 605-773-3809

ELECTRIC

EL02-024 In the Matter of the Filing by Otter Tail Power Company for Approval of Tariff Revisions.

Otter Tail Power Company filed a petition for approval of proposed changes to its standard Municipal Contract form. The form currently used may create deviations from Otter Tail's Outdoor Lighting Tariff. The changes proposed in this filing would create a standard form, which will be consistent among the three states in which Otter Tail provides retail electric service.

Staff Analyst: Michele Farris
Staff Attorney: Kelly Frazier
Date Docketed: 11/15/02
Intervention Deadline: 12/06/02

NATURAL GAS

NG02-009 In the Matter of the Application of Berkland Organization, Yankton, South Dakota, for a Master Metering Variance Request for an Apartment Building Located at 110 West 6th Street, Yankton, South Dakota.

Application by Berkland Organization, represented by Dennis K. Berkland, requesting a variance to Master Metering Rules pursuant to ARSD 20:10:26, for property located at 110 W. 6th St., Yankton, South Dakota. Mr. Berkland is renovating the heating system of the triplex in question and wishes it to be served by one natural gas meter instead of the existing three.

Staff Analyst: Michele Farris
Staff Attorney: Kelly Frazier
Date Docketed: 11/20/02
Intervention Deadline: 12/06/02

TELECOMMUNICATIONS

TC02-185 In the Matter of the Filing for Approval of an Amendment to an Interconnection Agreement between Qwest Corporation and PrairieWave Telecommunications, Inc.

On November 14, 2002, the Commission received a filing of LIS Inter Local Calling Area Facility Amendment to the Interconnection Agreement between Qwest Corporation f/k/a U S WEST (Qwest) and PrairieWave Telecommunications, Inc. f/k/a McLeodUSA Telecom Development, Inc. f/k/a Dakota Telecom, Inc. According to the parties, this is an Amendment to the Interconnection Agreement approved by the Commission in Docket TC97-126, effective October 21, 1998. The Interconnection Agreement in TC97-126 was originally between U S WEST Communications, Inc.,

Dakota Telecom, Inc. and Dakota Telecommunications Systems, Inc. U S WEST subsequently changed its name to Qwest. Dakota Telecom, Inc. subsequently changed its name to McLeodUSA Telecom Development, Inc. and again changed its name to PrairieWave. Dakota Telecommunications Systems, Inc. is not a party to the November 14, 2002, filing. According to the parties, the Amendment is made in order to add to the agreement the terms, conditions and rates for LIS Inter Local Calling Area (LCA) Facility as set forth in Attachment 1, attached to the Amendment. 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 December 4, 2002. 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: Kelly Frazier

Date Docketed: 11/14/02

Initial Comments Due: 12/04/02

- TC02-186 In the Matter of ACS Systems, Inc. Failure to Submit a Report and Pay the Gross Receipts Tax.**
- TC02-187 In the Matter of America's Tele-Network Corp. Failure to Submit a Report and Pay the Gross Receipts Tax.**
- TC02-188 In the Matter of Big Planet, Inc. Failure to Submit a Report and Pay the Gross Receipts Tax.**
- TC02-189 In the Matter of Capsule Communications, Inc. Failure to Submit a Report and Pay the Gross Receipts Tax.**
- TC02-190 In the Matter of CEO Telecommunications, Inc. Failure to Submit a Report and Pay the Gross Receipts Tax.**
- TC02-191 In the Matter of Cybertel Communications Corp. Failure to Submit a Report and Pay the Gross Receipts Tax.**
- TC02-192 In the Matter of EqualNet Corporation Failure to Submit a Report and Pay the Gross Receipts Tax.**
- TC02-193 In the Matter of Federal TransTel, Inc. Failure to Submit a Report and Pay the Gross Receipts Tax.**
- TC02-194 In the Matter of Global TeleLink Services, Inc. d/b/a South Dakota GTS Failure to Submit a Report and Pay the Gross Receipts Tax.**
- TC02-195 In the Matter of IPVoice Communications, Inc. Failure to Submit a Report and Pay the Gross Receipts Tax.**
- TC02-196 In the Matter of Maxtel USA, Inc. Failure to Submit a Report and Pay the Gross Receipts Tax.**

- TC02-197 In the Matter of NeTel, Inc. d.b.a Tel3 Failure to Submit a Report and Pay the Gross Receipts Tax.**
- TC02-198 In the Matter of NTERA, Inc. Failure to Submit a Report and Pay the Gross Receipts Tax.**
- TC02-199 In the Matter of Pac-West Telecomm Inc. Failure to Submit a Report and Pay the Gross Receipts Tax.**
- TC02-200 In the Matter of Premiere Network Services, Inc. Failure to Submit a Report and Pay the Gross Receipts Tax.**
- TC02-201 In the Matter of RapTel Communications, LLC Failure to Submit a Report and Pay the Gross Receipts Tax.**
- TC02-202 In the Matter of Sterling Time Company Failure to Submit a Report and Pay the Gross Receipts Tax.**
- TC02-203 In the Matter of StormTel, Inc. Failure to Submit a Report and Pay the Gross Receipts Tax.**
- TC02-204 In the Matter of TalkNow, Inc. Failure to Submit a Report and Pay the Gross Receipts Tax.**
- TC02-205 In the Matter of United Services Telephone, LLC Failure to Submit a Report and Pay the Gross Receipts Tax.**
- TC02-206 In the Matter of West End Communications Inc. Failure to Submit a Report and Pay the Gross Receipts Tax.**

The above companies shall appear on 12/19/02, at 10:00 a.m. in the Cactus Conference Room, 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.

Finance Officer: Terri Iverson
Staff Attorney: Karen Cremer
Date Docketed: 11/15/02
Hearing Date: 12/19/02

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