

**TC05-047    IN THE MATTER OF THE PROCEEDS FROM BONDS AND OTHER  
SECURITY FOR THE BENEFIT OF CUSTOMERS OF S&S  
COMMUNICATIONS**

**Notice Procedure**

1.     Does the Commission want to provide additional notice to customers of their right to file claims against the bond proceeds and/or file formal complaints?    Yes    No

**Staff recommendation:** Yes

**Background:** S&S listed 666 current prepaid customers on the spreadsheet we received on June 23, 2003. We have pending 145 formal complaints and an additional 13 stand-alone bond claim forms. We sent a mailing to 180 of the 183 persons who contacted the Commission concerning S&S but who had not filed either a complaint or bond claim form. We believe that we can assume that at least approximately 325 of the 666 S&S customers had actual knowledge of their rights to file something with the Commission.

2.     If "Yes," what notice does the Commission want Staff to provide?

a.     Does the Commission want Staff to do a mailing to all known customers who have not yet filed anything?    Yes    No

**Staff recommendation:** Yes. Although there was not unanimity among Staff on whether we need to, in effect, advertise for claims/complaints, the majority opinion was that we should make one last effort, particularly as Staff is recommending establishing a bond claim cut-off date and there may be customers who do not know of the existence of the bond proceeds.

b.     Does the Commission want Staff to publish notice of S&S customer filing rights in one or more newspapers?    Yes    No

**Staff recommendation:** Yes. Same rationale as above.

c.     If the Commission wants to do a publication, in which newspapers?

_____ Sioux Falls	\$1,200
_____ Rapid City	800
_____ Aberdeen	500
_____ Watertown	500
_____ Pierre	200
_____ Mitchell	500
_____ Huron	500
_____ Yankton	<u>500</u>
Total	\$4,700

**Staff recommendation:** Publish in all of the above papers if we publish at all. Although the greatest concentration of customers is in the Aberdeen coverage area, S&S had customers throughout the state.

### **Cut-Off Date**

1. Does the Commission want to establish a cut-off date for the filing of bond claim forms?  
 Yes  No

**Staff recommendation:** Yes. In order to have any finality to the bond distribution proceeding, it is necessary to establish a date by which customers must file a claim or be barred.

2. If "Yes," what should that date be? \_\_\_\_\_ days

**Staff recommendation:** 20 days following the date of mailing or date of publication, whichever is later, as determined by post-mark or Fed Ex send date. Staff's feeling is that all customers obviously knew their service was cut-off, that this matter received a lot of publicity at the time in all media, that the customers tended to be linked by business and personal relationships because of the nature of S&S's marketing campaign and that a lengthy response period actually tends to discourage responses. Staff's thought is that even for forwarded mail, a delivery period of no more than 10 days may be assumed giving customers 10 days to fill out the claim form and mail it. As with the bankruptcy court, the Commission would always have the authority to grant relief for extenuating circumstances (e.g. I was kicked by a bull and didn't wake up till three days ago).

### **Complaint as Bond Form**

1. Should the Complaints filed by customers also be considered as claims against bond proceeds?  Yes  No

**Staff recommendation:** Yes. The procedures involved with the related but not identical complaint and bond proceedings are confusing to people. Staff suggests that to require complainants to file a bond form in addition to the formal complaint is a needless bureaucratic hoop that accomplishes nothing. We therefore recommend that formal complaints be deemed to be claims against proceeds.