

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF SOUTH DAKOTA

IN THE MATTER OF NETWORK SERVICES INCORPORATED d/b/a LONG DISTANCE NETWORK SERVICES INCORPORATED'S FAILURE TO SUBMIT AN ANNUAL REPORT PURSUANT TO ARSD 20:10:24:04.)))	FINDINGS OF FACT, CONCLUSIONS OF LAW, FINAL ORDER, and NOTICE OF ENTRY OF FINAL ORDER TC96-137
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The Public Utilities Commission (Commission) conducted a hearing in the above entitled action on August 6, 1996, at 10:00 a.m. (CDT) in Room 412 of the State Capitol Building in Pierre, South Dakota. The reason for the hearing was to give Network Services Incorporated d/b/a Long Distance Network Services, Incorporated (LDNS) an opportunity to show cause why the Commission should not revoke its certificate of authority for failure to file an annual report as required by ARSD 20:10:24:04.

Commission staff was represented by staff legal intern Adam Reeves. Commission counsel was Rolayne Ailts Wiest. Commissioners Stofferahn, Burg and Schoenfelder were present, as was Harlan Best, Deputy Director of the Commission's Fixed Utilities Division. No representatives of LDNS appeared for the hearing. After hearing the testimony, the Commission voted unanimously to suspend LDNS's certificate of authority.

The Commission, having heard the testimony of Harlan Best, and having reviewed the exhibits introduced into evidence, makes the following:

FINDINGS OF FACT

1. LDNS is a telecommunications company holding a Certificate of Authority issued by this Commission.
2. Harlan Best is the analyst assigned to this docket.
3. Mr. Best sent a letter to LDNS, dated March 15, 1996, that was intended to remind LDNS of the impending deadline of May 1, 1996 for the filing of the annual report required by ARSD 20:10:24:04. A copy of this letter was introduced into evidence as Exhibit 1.
4. LDNS did not respond to this letter.
5. LDNS did not file the required report with the Commission before the May 1, 1996 deadline.
6. Mr. Best drafted another letter, dated May 31, 1996, had it signed by Commission counsel, and

caused it to be sent to LDNS. This letter informed LDNS that the required report was late, and also reflected the possibility of the future issue by the Commission of a Show Cause Order. This letter was introduced into evidence as Exhibit 2.

7. LDNS did not respond to this letter.
8. This matter was brought before the Commission on July 9, 1996. Mr. Best recommended the Commission issue a Show Cause Order. The Commission voted to issue such an order. A Show Cause Order was sent by first class U.S. mail, with postage prepaid thereon, to LDNS on July 22, 1996. The order set a date of August 6, 1996, at 10:00 a.m. (CDT) in Room 412 of the State Capitol Building in Pierre, South Dakota to afford LDNS an opportunity to show cause in reference to its failure to file the required report. The order allowed LDNS to file a report at any time before the hearing, upon the filing of which the docket would be closed.
9. LDNS failed to file the required report before the August 6, 1996 Show Cause Hearing.
10. LDNS did not appear on the appointed day to show cause why the Commission should not revoke its Certificate of Authority.
11. LDNS did pay the minimum Gross Receipts Tax required by SDCL § 49-1A-3.

From the foregoing Findings of Fact, the Commission now makes its:

CONCLUSIONS OF LAW

1. The Commission has jurisdiction over LDNS pursuant to SDCL Chapter 49-31, specifically §§ 49-31-3, 49-31-5, and 49-31-7.1.
2. ARSD 20:10:24:04, promulgated pursuant to SDCL § 49-31-5 and § 49-31-7.1(4), requires that any telecommunications company registered with the Commission submit on May 1 of each year a report of certain specified financial and business information from the preceding calendar year.
3. LDNS has failed to file an annual report as required by ARSD 20:10:24:04.
4. 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.

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

ORDERED, that the Certificate of Authority granted to LDNS by this Commission is hereby suspended and shall remain so until further action is taken by this Commission.

PLEASE TAKE NOTICE that this Final Decision and Order in Docket Number TC96- 137 was duly entered on the 9th of August, 1996. 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 9th day of August, 1996.

CERTIFICATE OF SERVICE

BY ORDER OF THE COMMISSION:

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.

KENNETH STOFFERAHN, Chairman

By: _____

JAMES A. BURG, Commissioner

Date: _____

LASKA SCHOENFELDER,
Commissioner

(OFFICIAL SEAL)

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