

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

IN THE MATTER OF H.S.S. VENDING DISTRIBUTORS')	ORDER FOR AND
FAILURE TO APPLY FOR A CERTIFICATE OF AUTHORITY)	NOTICE OF SHOW
TO OPERATE WITHIN THE STATE OF SOUTH DAKOTA)	CAUSE HEARING
)	TC96-192

The Public Utilities Commission (Commission) has received numerous complaints regarding a sweepstakes contest sponsored by H.S.S. Vending Distributors (H.S.S.). Apparently by signing up for the contest, the complainants also signed up for a calling card. On October 7, 1996, the Commission sent a letter to H.S.S. informing the company that it was operating as a telecommunications company within the state of South Dakota, without a required Certificate of Authority. The letter stated that the company should apply for such a certificate.

Pursuant to SDCL 49-31-3, the offering of telecommunications services by a telecommunications company without a Certificate of Authority is a class 1 misdemeanor. In addition, the Commission has the authority under SDCL 49-31-38 to assess a civil fine against the company from \$200.00 to \$1,000.00; to 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.

A November 25, 1996, meeting, the Commission considered whether to issue an Order to Show Cause as to why the Commission should not issue a Cease and Desist Order against H.S.S. or other appropriate remedies. The Commission was informed that the company had resolved many of the complaints informally, however, it had still not applied for a Certificate of Authority. The Commission voted unanimously to issue an Order to Show Cause.

H.S.S. shall appear on December 17, 1996, at 10:00 A.M. (CST), in Room 412, State Capitol Building, Pierre, South Dakota, to show cause why action should not be taken against the company for failure to apply for a Certificate of Authority pursuant to SDCL 49-31-3. The hearing is being held pursuant to SDCL Chapter 1-26 and the Commission's jurisdiction over telecommunications companies pursuant to SDCL 49-31-3.

The issue at the hearing is whether the Commission shall issue a Cease and Desist Order against H.S.S. or any other appropriate enforcement action.

At the hearing, representatives of the company have the right to appear in person and may be represented in person by legal counsel. These and other due process rights shall be forfeited if not exercised at the hearing. If a representative of the company fails to appear at the time and place set for

the hearing, the final decision will be based solely on testimony and evidence provided, if any, during the hearing or a final decision may be issued by default pursuant to SDCL 1-26-20. 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. The decision of the Commission may be appealed 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 H.S.S. shall be held on December 17, 1996, at 10:00 A.M. (CST) in Room 412, State Capitol Building, Pierre, South Dakota; and it is

FURTHER ORDERED, that, in the event that H.S.S. shall file an Application for a Certificate of Authority 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 4th day of December, 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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