

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

IN THE MATTER OF S&S)	FINDINGS OF FACT,
COMMUNICATIONS/ALTERNA-CELL'S)	CONCLUSIONS OF LAW
FAILURE TO SUBMIT A REPORT AND PAY)	AND FINAL ORDER; NOTICE
THE GROSS RECEIPTS TAX)	OF ENTRY OF FINAL
)	ORDER
)	TC03-223

On December 31, 2003, the Public Utilities Commission (Commission) issued an Order for and Notice of Show Cause Hearing against S&S Communications/Alterna-Cell (S&S) for failure to submit an annual report and pay the gross receipts tax. The hearing was held as scheduled on January 20, 2004, at 10:00 A.M., in the Cactus Conference Room, State Capitol Building, 500 E. Capitol, Pierre, South Dakota. The reason for the hearing was to give S&S 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. Commissioners Sahr, Hanson and Burg were present. Also present were Karen E. Cremer, Commission Staff Attorney and Heather Forney, Deputy Executive Director for the Commission. No representative of S&S appeared at the hearing. After hearing the testimony, the Commission voted unanimously to revoke S&S' Certificate of Authority for failure to pay the gross receipts tax.

The Commission, having heard the testimony presented at the hearing, makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. S&S is a telecommunications company which held a Certificate of Authority, issued by the Commission, to provide telecommunications services in South Dakota until the Certificate of Authority was revoked by an order of the Commission dated August 28, 2003, in Docket TC02-166.
2. Heather Forney, Deputy Executive Director for the Commission, sent letters to S&S on April 28, 2003 and September 26, 2003, requesting payment of the gross receipts tax as authorized by SDCL 49-1A-1. Heather Forney testified that S&S never paid the gross receipts tax.
3. A copy of the Order for and Notice of Show Cause Hearing was sent by certified mail to S&S on December 31, 2003.
4. No representative of S&S appeared at the hearing to show cause why the Commission should not revoke its Certificate of Authority.

CONCLUSIONS OF LAW

1. The Commission has jurisdiction over this matter pursuant to SDCL 49-1A-3, 49-1A-4, 49-1A-5, 49-1A-6, and 49-31-3.
2. Pursuant to 49-1A-3, the Commission assesses a tax of .0015 or \$250, whichever is greater, on the annual intrastate gross receipts received by a telecommunications company from the company's customers within the state of South Dakota. Pursuant to 49-1A-5, the tax is due on June first of each year.

3. S&S has failed to pay the gross receipts tax.

4. The Commission has the authority, under SDCL 49-31-3, to suspend or revoke a Certificate of Authority granted to a company for a willful violation of the laws of this state. The Commission concludes that the failure of S&S to pay the gross receipts tax in violation of 49-1A-5, provides sufficient grounds for revocation of S&S' Certificate of Authority in addition to the grounds set forth in the final order in Docket TC02-166.

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

ORDERED, that an additional grounds for revocation of the Certificate of Authority granted to S&S by this Commission is hereby added to those set forth in the final order in Docket TC02-166.

NOTICE OF ENTRY OF ORDER

PLEASE TAKE NOTICE that this Order was duly entered on the 6th day of February, 2004. 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 6th day of February, 2004.

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>Hellaine Kalbo</u>
Date:	<u>2/6/04</u>
(OFFICIAL SEAL)	

BY ORDER OF THE COMMISSION:

Robert K. Sahr
ROBERT K. SAHR, Chairman *RS*

Gary Hanson
GARY HANSON, Commissioner