BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF SOUTH DAKOTA

IN THE MATTER OF UNAUTHORIZED LONG DISTANCE CHARGES MADE BY RADICAL PERSSON, INC. D/B/A ECHURCH NETWORK AND ILAB TECHNOLOGIES AND FOR THEIR FAILURE TO OBTAIN CERTIFICATES OF AUTHORITY IN SOUTH DAKOTA	))))))	**FINDINGS OF FACT, CONCLUSIONS OF LAW AND FINAL ORDER** **TC06-190**

On September 27, 2006, the Consumer Affairs Division ("Consumer Affairs") of the Commission began an investigation of alleged Cramming, potentially affecting over sixty businesses. The practice of adding unsolicited telephone services to a consumer's bill is known as "Cramming," the subject of this Order. All affected consumers were billed for a one minute, fifty dollar ($50) long distance charge from companies known as either eChurch Network or iLab Technologies. Both companies are under the management and control of Radical Persson, Inc., the parent company. None of the affected consumers authorized the charges. None of the listed companies have a Certificate of Authority to provide telecommunication services.

The Commission has jurisdiction over this matter pursuant to SDCL Chapter 49-31, specifically 49-31-7.1, 49-31-89 through 49-31-96 and ARSD Chapter 20:10:34. On November 28, 2006, after proper notice, the Commission heard Staff's request that an Order to Show Cause be issued against Radical Persson, Inc. for violations of South Dakota Cramming rules. An Order to show why Radical Persson, Inc. did not violate the South Dakota statutes for the charging of unauthorized services was granted unanimously by the Commissioners.

A hearing was held March 20, 2007, at 9:30 A.M. (CDT) in Room 464, State Capitol Building, 500 E. Capitol, Pierre, South Dakota, to show cause why action should not be taken against Radical Persson, Inc. for failure to comply with SDCL Chapter 49-31. The hearing was being held pursuant to the Commission's jurisdiction over telecommunication companies as found in SDCL 49-31-89 through 49-31-96 and 49-31-3. Radical Persson, Inc. was properly notified of the hearing. In addition to notification through the mail, Commission Staff contacted Radical Persson, Inc. via telephone to further notify it of the hearing time. Despite its knowledge of the hearing time, Radical Persson, Inc. failed to appear. Commission Staff proceeded and presented evidence at the set time and place for the hearing. The issue at the hearing was whether the Commission shall impose the civil penalty available in SDCL 49-31-94; or to take any other enforcement actions against the Company allowed by law due to its illegal cramming practice.

Based on the evidence of record the Commission makes the following findings of fact and conclusions of law:

FINDINGS OF FACT

1. On September 26, 2006, the Consumer Affairs Division of the Public Utilities Commission received three complaints against Radical Persson, Inc. d/b/a eChurch Network and iLab Technologies. Public Utility Commission Staff began an investigation on September 27, 2006, under the authority of SDCL 49-31-95.

2. Upon request, Radical Persson, Inc. provided Commission Staff with a list of its customers. Commission Staff was unable, however, to verify the majority of the information on the list. Customer names and phone numbers were incorrect. Staff was successful, however, in verifying ten complaints. All ten complainants produced a bill demonstrating a fifty dollar one minute phone call. None authorized the charge.

3. Staff spoke with Radical Persson, Inc. on several occasions regarding the above complaints. Radical Persson, Inc. was not; however, able to explain why or how the consumers were billed for a service for which they had not subscribed.

4. A copy of the Order for and Notice of Show Cause Hearing was sent by certified mail to Radical Persson, Inc. on March 1, 2007.

5. No representative of Radical Persson, Inc., appeared at the hearing to show cause why the Commission should not find Radical Persson, Inc, guilty of Cramming and impose a civil penalty according to the law.

6. Radical Persson, Inc. committed at least ten violations of SDCL 49-31-89 by causing services and charges therefor to be listed on subscribers' bills in this state that were not authorized by the subscribers.

7. Due to the apparent intentional conduct of Radical Persson and its failure to present any mitigating evidence or to appear at the hearing, the Commission finds there is just cause to impose a civil fine of Fifteen Thousand Dollars per violation.

CONCLUSIONS OF LAW

1. The Commission has jurisdiction over this matter pursuant to SDCL Chapter 49-31, specifically 49-31-7.1, 49-31-89 through 49-31-96 and ARSD Chapter 20:10:34.

2. SDCL 49-31-89 prevents products of services from being listed on a subscriber's bill unless authorized by the subscriber.

3. SDCL 49-31-94 allows the Commission to impose a civil fine of not more than twenty thousand dollars ($20,000) for each offense.

4. The Commission concludes that there is sufficient evidence to find that Radical Persson, Inc. violated SDCL 49-31-89 on at least ten occasions and that such violations were intentional and fraudulent violations of the same.

5. The Commission, according to SDCL 49-13-24, may pursue payment in any court of competent jurisdiction in the event Radical Persson, Inc. fails to pay the Ordered fine.

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

ORDERED, that the Commission finds Radical Persson, Inc. violated SDCL 49-31-89; and it is

FURTHER ORDERED, that Radical Persson, Inc. pay to the Commission Fifteen Thousand Dollars ($15,000) per violation for a total of One Hundred Fifty Thousand Dollars ($150,000) within thirty days of issuance of this Order.

NOTICE OF ENTRY OF ORDER

PLEASE TAKE NOTICE that this Order was duly entered on the 24th day of April, 2007. 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 24th day of April, 2007.

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, electronically.

By: Delaine Kolbo

Date: 4/26/07

(OFFICIAL SEAL)

BY ORDER OF THE COMMISSION:

DUSTIN M. JOHNSON, Chairman

GARY HANSON, Commissioner

STEVE KOLBECK, Commissioner