

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

IN THE MATTER OF THE COMPLAINT FILED )  
BY ORBITCOM, INC. AGAINST VERIZON )  
BUSINESS NETWORK SERVICES, INC. )  
REGARDING UNPAID ACCESS CHARGES )

**ORDER DENYING IN PART  
& GRANTING IN PART**

**TC08-135**

On November 25, 2008, OrbitCom filed a complaint seeking recovery on an account because of the failure of Verizon to pay OrbitCom the amounts invoiced pursuant to its state tariff for the provisioning of telephone access services. On June 1, 2009, the parties filed a proposed procedural schedule. The Commission approved the proposed procedural schedule at its June 9, 2009, meeting. On August 20, 2009, Verizon filed a Motion to Compel, a Motion to Reset Hearing Dates, and a Request to Supplement its Prefiled Direct Testimony. A Corrected Motion to Compel and Motion to Reset Hearing Dates was filed on August 21, 2009. On September 15, 2009, the Commission issued its Order Granting Motion to Compel In Part; Order Approving Resetting Hearing Dates and Order Granting Filing of Supplemental Testimony. On September 10, 2009, OrbitCom filed a Motion for Hearing Date. On September 24, 2009, OrbitCom filed a letter advising the Commission of the parties' stipulation regarding the schedule for filing of pre-filed testimony. On October 8, 2009, the Commission issued its Order for and Notice of Hearing. On October 22, 2009, a hearing was held as scheduled in the order. On November 11, 2009, OrbitCom filed a letter advising the Commission of the briefing schedule stipulated by the parties. On December 4, 2009, initial post-hearing briefs were filed by Verizon and OrbitCom. On January 8 and January 11, 2010, reply briefs were filed by Verizon and OrbitCom, respectively. On February 4, 2009, the Commission received Verizon's Motion to Strike or in the alternative, a Motion for Leave to File Sur-Reply Brief. On February 16, 2010, the Commission received OrbitCom's Reponse to Verizon's Motion.

The Commission has jurisdiction in this matter pursuant to SDCL Chapters 1-26 and 49-31. The Commission may rely upon any or all of these or other laws of this state in making its determination.

At its February 18, 2010, meeting, the Commission considered Verizon's Motion to Strike, or in the alternative, Verizon's Motion to Leave to File a Sur-Reply Brief. The Commission voted to deny the Motion to Strike and grant the Motion to Leave to File a Sur-Reply Brief. It is therefore

ORDERED, that Verizon's Motion to Strike is denied, and it if further

ORDERED, that Verizon's Motion for Leave to File a Sur-Reply Brief is granted. to allow Verizon to submit a sur-reply brief by Monday, February 22, 2010, before the 5:00 p.m. filing deadline.

Dated at Pierre, South Dakota, this 26<sup>th</sup> day of February 2010.

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that this document has been served today upon all parties of record in this docket, as listed in the docket service list, electronically.

By: *Stephanie A. Moore*

Date: 02/26/10

(OFFICIAL SEAL)

BY ORDER OF THE COMMISSION:

*Dustin M. Johnson*  
DUSTIN M. JOHNSON, Chairman

*Steve Kolbeck*  
STEVE KOLBECK, Commissioner

*Gary Hanson*  
GARY HANSON, Commissioner