

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

IN THE MATTER OF TW COMMUNICATIONS, INC.'S FAILURE TO SUBMIT A REPORT AND PAY THE GROSS RECEIPTS TAX))))	ORDER FOR AND NOTICE OF SHOW CAUSE HEARING TC98-170
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SDCL 49-1A-1 establishes the South Dakota Public Utilities Commission (Commission) Gross Receipts Tax Fund. This fund is financed by assessing a tax of .0015 or \$250, whichever is greater, on the annual intrastate gross receipts received by a utility from the company's customers within the state of South Dakota, and requires that all telecommunications companies submit on June 1, each year, a report of the amount of such gross receipts received during the preceding calendar year and pay the tax. A penalty of 10% of the tax is imposed for each month of delinquency.

Despite reminder letters from the Commission on May 7, 1998, and on July 7, 1998, TW Communications, Inc., has failed to file the required report and pay the gross receipts tax.

Pursuant to SDCL 49-1A-6, the Commission may collect this debt by distress and sale of any personal property of the company within South Dakota. Further, 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.

TW Communications, Inc., shall appear on October 20, 1998, at 1:30 P.M. (CDT) in the Cactus Conference Room, State Capitol Building, Pierre, South Dakota, to show cause why action should not be taken against the company for failure to comply with SDCL Chapter 49-1A. The hearing is being held pursuant to Commission's jurisdiction over telecommunications companies found at SDCL Chapter 1-26, 49-1A, and 49-31, specifically, 49-1-11(4), 49-1A-3, 49-1A-4, 49-1A-5, 49-1A-6, 49-31-3, and ARSD 20:10:01:45.

The issue at the hearing is whether the Commission shall fine, or suspend or revoke TW Communications, Inc.'s Certificate of Authority or otherwise institute collection proceedings against TW Communications, Inc., for failure to pay gross receipts tax.

At the hearing representatives of the company may appear in person and may be represented by legal counsel or legal assistant (paralegal) if desired. 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. These and other due process rights shall be deemed waived if not exercised at the hearing. The decision of the

Commission may be appealed to the Circuit Court and the State Supreme Court as provided by law. It is therefore

ORDERED, that a show cause hearing in the matter of TW Communications, Inc., shall be held on October 20, 1998, at 1:30 P.M. (CDT) (or as soon thereafter as the parties can be heard) in the Cactus Conference Room, State Capitol Building, Pierre, South Dakota. And it is

FURTHER ORDERED, that, in the event TW Communications, Inc., shall file an appropriate report and pay the delinquent gross receipts tax, including the 10% penalty for the months of June, July, August, and September, 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 21 day of September, 1998.

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><i>Delaine Kelso</i></u>
Date	<u>9/22/98</u>
(OFFICIAL SEAL)	

BY ORDER OF THE COMMISSION:
Commissioners Burg, Nelson and
Schoenfelder

William Bullard, Jr.
WILLIAM BULLARD, JR.
Executive Director

2 348 318 012



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PS Form 3800, March 1993

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South Dakota Public Utilities Commission
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For the Period of September 18, 1998 through September 24, 1998

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contact Delaine Kolbo within five business days of this filing.
Phone: 605-773-3705. Fax: 605-773-3809.

GAS AND ELECTRIC

GE98-002 In the Matter of the Application of MidAmerican Energy Company for a Statement to the Securities and Exchange Commission Regarding Investment in a Foreign Utility.

Application by MidAmerican Energy Company for an order by the Commission claiming jurisdiction over MidAmerican in order to be exempt from the Public Utility Holding Company Act. MidAmerican is being acquired by CalEnergy and as a result will have an indirect interest in several foreign utility properties. PUHCA provides that foreign utility companies will not be subject to regulation as utilities if certification by Regulatory Commissions is received by the Securities and Exchange Commission stating the Commission has the authority and resources to protect ratepayers subject to its jurisdiction and that it intends to exercise its authority to the fullest extent allowed by law.

Staff Attorney: Camron Hoseck
Staff Analyst: Dave Jacobson
Date Filed: 09/17/98
Intervention Deadline: NA

TELECOMMUNICATIONS

TC98-158 In the Matter of Cypress Telecommunications Corporation's Failure to Submit a Report and Pay the Gross Receipts Tax.

Cypress Telecommunications Corporation shall appear on October 20, 1998, at 1:30 p.m. in the Cactus Conference Room, State Capitol Building, Pierre, SD, to show cause why action should not be taken against the company for failure to comply with SDCL Chapter 49-1A.

Staff Attorney: Camron Hoseck
Deputy Executive Director: Sue Cichos
Date Opened: 09/21/98
Hearing Date: 10/20/98

TC98-159 In the Matter of Freedom Communications Corp.'s Failure to Submit a Report and Pay the Gross Receipts Tax.

Freedom Communications Corp. shall appear on October 20, 1998, at 1:30 p.m. in the Cactus Conference Room, State Capitol Building, Pierre, SD, to show cause why action should not be taken against the company for failure to comply with SDCL Chapter 49-1A.

Staff Attorney: Camron Hoseck
Deputy Executive Director: Sue Cichos
Date Opened: 09/21/98
Hearing Date: 10/20/98

TC98-160 In the Matter of Global Telemedia International, Inc.'s Failure to Submit a Report and Pay the Gross Receipts Tax.

Global Telemedia International, Inc. shall appear on October 20, 1998, at 1:30 p.m. in the Cactus Conference Room, State Capitol Building, Pierre, SD, to show cause why action should not be taken against the company for failure to comply with SDCL Chapter 49-1A.

Staff Attorney: Camron Hoseck
Deputy Executive Director: Sue Cichos
Date Opened: 09/21/98
Hearing Date: 10/20/98

TC98-161 In the Matter of Host Network, Inc.'s Failure to Submit a Report and Pay the Gross Receipts Tax.

Host Network, Inc. shall appear on October 20, 1998, at 1:30 p.m. in the Cactus Conference Room, State Capitol Building, Pierre, SD, to show cause why action should not be taken against the company for failure to comply with SDCL Chapter 49-1A.

Staff Attorney: Camron Hoseck
Deputy Executive Director: Sue Cichos
Date Opened: 09/21/98
Hearing Date: 10/20/98

TC98-162 In the Matter of Long Distance Direct Holdings, Inc.'s Failure to Submit a Report and Pay the Gross Receipts Tax.

Long Distance Direct Holdings, Inc. shall appear on October 20, 1998, at 1:30 p.m. in the Cactus Conference Room, State Capitol Building, Pierre, SD, to show cause why action should not be taken against the company for failure to comply with SDCL Chapter 49-1A.

Staff Attorney: Camron Hoseck
Deputy Executive Director: Sue Cichos
Date Opened: 09/21/98
Hearing Date: 10/20/98

TC98-163 In the Matter of Meridian Telecom Corporation's Failure to Submit a Report and Pay the Gross Receipts Tax.

Meridian Telecom Corporation shall appear on October 20, 1998, at 1:30 p.m. in the Cactus Conference Room, State Capitol Building, Pierre, SD, to show cause why action should not be taken against the company for failure to comply with SDCL Chapter 49-1A.

Staff Attorney: Camron Hoseck
Deputy Executive Director: Sue Cichos
Date Opened: 09/21/98
Hearing Date: 10/20/98

TC98-164 In the Matter of Micro-Comm, Inc.'s Failure to Submit a Report and Pay the Gross Receipts Tax.

Micro-Comm, Inc. shall appear on October 20, 1998, at 1:30 p.m. in the Cactus Conference Room, State Capitol Building, Pierre, SD, to show cause why action should not be taken against the company for failure to comply with SDCL Chapter 49-1A.

Staff Attorney: Camron Hoseck
Deputy Executive Director: Sue Cichos
Date Opened: 09/21/98
Hearing Date: 10/20/98

TC98-165 In the Matter of Polar Communications Corporation's Failure to Submit a Report and Pay the Gross Receipts Tax.

Polar Communications Corporation shall appear on October 20, 1998, at 1:30 p.m. in the Cactus Conference Room, State Capitol Building, Pierre, SD, to show cause why action should not be taken against the company for failure to comply with SDCL Chapter 49-1A.

Staff Attorney: Camron Hoseck
Deputy Executive Director: Sue Cichos
Date Opened: 09/21/98
Hearing Date: 10/20/98

TC98-166 In the Matter of Professional Communications Management Services, Inc. d/b/a PROCOM's Failure to Submit a Report and Pay the Gross Receipts Tax.

Professional Communications Management Services, Inc. d/b/a PROCOM shall appear on October 20, 1998, at 1:30 p.m. in the Cactus Conference Room, State Capitol Building, Pierre, SD, to show cause why action should not be taken against the company for failure to comply with SDCL Chapter 49-1A.

Staff Attorney: Camron Hoseck
Deputy Executive Director: Sue Cichos
Date Opened: 09/21/98
Hearing Date: 10/20/98

TC98-167 In the Matter of Providian Group, LLC's Failure to Submit a Report and Pay the Gross Receipts Tax.

Providian Group, LLC shall appear on October 20, 1998, at 1:30 p.m. in the Cactus Conference Room, State Capitol Building, Pierre, SD, to show cause why action should not be taken against the company for failure to comply with SDCL Chapter 49-1A.

Staff Attorney: Camron Hoseck
Deputy Executive Director: Sue Cichos
Date Opened: 09/21/98
Hearing Date: 10/20/98

TC98-168 In the Matter of SmarTel Communications, Inc.'s Failure to Submit a Report and Pay the Gross Receipts Tax.

SmarTel Communications, Inc. shall appear on October 20, 1998, at 1:30 p.m. in the Cactus Conference Room, State Capitol Building, Pierre, SD, to show cause why action should not be taken against the company for failure to comply with SDCL Chapter 49-1A.

Staff Attorney: Camron Hoseck
Deputy Executive Director: Sue Cichos
Date Opened: 09/21/98
Hearing Date: 10/20/98

TC98-169 In the Matter of The Phonco, Inc. d/b/a Network Services Long Distance's Failure to Submit a Report and Pay the Gross Receipts Tax.

The Phonco, Inc. d/b/a Network Services Long Distance shall appear on October 20, 1998, at 1:30 p.m. in the Cactus Conference Room, State Capitol Building, Pierre, SD, to show cause why action should not be taken against the company for failure to comply with SDCL Chapter 49-1A.

Staff Attorney: Camron Hoseck
Deputy Executive Director: Sue Cichos
Date Opened: 09/21/98
Hearing Date: 10/20/98

TC98-170 In the Matter of TW Communications, Inc.'s Failure to Submit a Report and Pay the Gross Receipts Tax.

TW Communications, Inc. shall appear on October 20, 1998, at 1:30 p.m. in the Cactus Conference Room, State Capitol Building, Pierre, SD, to show cause why action should not be taken against the company for failure to comply with SDCL Chapter 49-1A.

Staff Attorney: Camron Hoseck
Deputy Executive Director: Sue Cichos
Date Opened: 09/21/98
Hearing Date: 10/20/98

TC98-171 In the Matter of United Wats, Inc.'s Failure to Submit a Report and Pay the Gross Receipts Tax.

United Wats, Inc. shall appear on October 20, 1998, at 1:30 p.m. in the Cactus Conference Room, State Capitol Building, Pierre, SD, to show cause why action should not be taken against the company for failure to comply with SDCL Chapter 49-1A.

Staff Attorney: Camron Hoseck
Deputy Executive Director: Sue Cichos
Date Opened: 09/21/98
Hearing Date: 10/20/98

TC98-172 In the Matter of V.I.P. Telephone Network, Inc.'s Failure to Submit a Report and Pay the Gross Receipts Tax.

V.I.P. Telephone Network, Inc. shall appear on October 20, 1998, at 1:30 p.m. in the Cactus Conference Room, State Capitol Building, Pierre, SD, to show cause why action should not be taken against the company for failure to comply with SDCL Chapter 49-1A.

Staff Attorney: Camron Hoseck
Deputy Executive Director: Sue Cichos
Date Opened: 09/21/98
Hearing Date: 10/20/98

TC98-173 In the Matter of XIEX Telecommunications, Inc.'s Failure to Submit a Report and Pay the Gross Receipts Tax.

XIEX Telecommunications, Inc. shall appear on October 20, 1998, at 1:30 p.m. in the Cactus Conference Room, State Capitol Building, Pierre, SD, to show cause why action should not be taken against the company for failure to comply with SDCL Chapter 49-1A.

Staff Attorney: Camron Hoseck
Deputy Executive Director: Sue Cichos
Date Opened: 09/21/98
Hearing Date: 10/20/98

TC98-174 In the Matter of the Application of PremierCom, Inc., for a Certificate of Authority to Provide Telecommunications Services in South Dakota

Application by PremierCom, Inc., for a certificate of authority to provide intrastate, interexchange switched inbound, switched outbound, and calling card services on a resale basis.

Staff Attorney: Camron Hoseck
Staff Analyst: Dave Jacobson
Date Filed: 09/22/98
Intervention Deadline: 10/09/98

TC98-175 In the Matter of the Complaint filed by John R. Steele, Plankinton, South Dakota, against MCI Telecommunications Corporation Regarding Fraudulent Marketing Practices.

Complaint by John R. Steele, Plankinton against MCI. Complainant alleges that actual rates charged by MCI were higher than rates promised for intra and interstate long distance calls. Complainant is requesting that MCI honor a \$.12 per minute rate along with a 20 percent rebate at the end of the first year, or that MCI switch his service back to DTG and rerate his current bill at the promised rate.

Staff Attorney: Karen Cremer
Consumer Representative: Leni Healy
Date Filed: September 14, 1998
Intervention Deadline: N/A

TC98-176 In the Matter of the Complaint filed by Randy Kieffer, Sturgis, South Dakota, against U S WEST Communications, Inc., Regarding Service Problems

On September 21, 1998, the Commission received a complaint from Randy Kieffer, Sturgis, SD, against U S WEST regarding service problems. The complaint states

several incidents of ongoing service problems and poor or slow response by U S WEST. The phone outages require the complainant to drive 26 miles to Sturgis to report the outage and to make necessary phone calls. The complainant paid \$2,500 last year to have a telephone line installed. The complainant asks that U S WEST reimburse time and travel expenses for past and future phone outages or that U S WEST provide two cellular phones free of cost to be used when the outages occur.

Staff Attorney: Camron Hoseck
Consumer Representative: Leni Healy
Date Filed: 09/21/98
Intervention Deadline: N/A

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