



Bob Sahr, Chair
Dustin Johnson, Vice-Chair
Gary Hanson, Commissioner

SOUTH DAKOTA PUBLIC UTILITIES COMMISSION

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1-800-332-1782

November 15, 2006

Echo Satellite LLC
Dispute Resolution Dept
PO BOX 9040
Littleton CO 80120

Re: IN THE MATTER OF DISH NETWORK'S FAILURE TO REGISTER AS A
TELEMARKETER AND THE SOLICITATIONS IT MADE TO THOSE
REGISTERED ON THE DO NOT CALL LIST

Enclosed please find a copy of Staff's Motion for an Order to Show Cause in the above
captioned matter. This is intended as service upon you by certified mail.

Very truly yours,

Kara Van Bockern
Staff Attorney

Enc.

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

IN THE MATTER OF DISH NETWORK'S
FAILURE TO REGISTER AS A
TELEMARKETER AND THE
SOLICITATIONS IT MADE TO THOSE
REGISTERED ON THE DO NOT CALL
LIST

MOTION FOR ORDER TO SHOW
CAUSE

TC06-191

Comes now the staff of the South Dakota Public Utilities Commission (Commission), pursuant to SDCL 49-31-99 through SDCL 49-31-108 and ARSD 20:10:35, and moves the Commission to issue an Order to Show Cause, pursuant to 20:10:01:45, in the above-entitled manner. By this Motion, staff requests that the Commission assess up to the maximum civil monetary fine against Dish Network and require it to cease calling those individuals registered on the South Dakota Do Not Call Registry (the "Registry"). In support of this Motion, staff asserts as follows:

BACKGROUND

On March 22, 2006, the Consumer Affairs Division ("Consumer Affairs") of the Commission received its first complaint regarding a telephone solicitation made by Dish Network despite the complaining individual's presence on the Registry. The complainant received a telephone solicitation from a Dish Network representative. The representative called for the sole purpose of selling the Dish Network product. The consumer previously placed its phone number on the Registry. Additionally, the consumer asked the Dish Network representative to place her number on the Dish Network internal Do Not Call list. The representative ignored the consumer's request and continued to call several times every day.

Over the next several months, Consumer Affairs received nine additional complaints. Consumer Affairs immediately attempted to contact Dish Network. Dish Network did not return any phone calls, refusing all attempts to resolve this matter informally. Some of the consumers that received the telephone solicitations from Dish Network chose to proceed formally. Formal Complaint paperwork was requested, completed and filed by seven of the original complainants. Consumer Affairs again tried to resolve this issue informally and Dish Network again refused. Individual formal complaint proceedings are, therefore, before the Commission in a separate action.

Staff now seeks the Commission's assistance to both prevent future violations of the Do Not Call rules, and to enforce them in this particular situation. Aside from its disregard of the Registry, Dish Network did not pay the annual fee as SDCL 49-31-105 requires. Dish Network disregarded the rules and refused to acknowledge the Consumer Affairs role in enforcement. Staff requests up to the maximum fine assessed against Dish Network for each complaint, formal and informal, filed with the Commission against Dish Network.

ARGUMENT IN SUPPORT OF MOTION

1. The Commission has jurisdiction over this matter pursuant to SDCL Chapter 49-31, specifically 49-31-7.1, 49-31-99 through 49-31-108 and ARSD Chapter 20:10:35.
2. Pursuant to 20:10:01:45, this Motion has been served by certified mail upon Dish Network at PO Box 9033, Englewood, CO 80112. The purpose of this service is to give notice of the facts and conduct which warrant staff's request that the Commission issue up to the maximum fine of up to Five Thousand Dollars (\$5,000) per offense pursuant to

49-31-108 and require Dish Network to immediately cease soliciting individuals listed on the Registry.


It is staff's position that Dish Network is guilty of the following:

- a) Failure to pay the annual fee as required in SDCL 49-31-105;
- b) Failure to institute procedures that comply with the provisions of the South Dakota Do Not Call statutes as SDCL 49-31-99 requires;
- c) Failure to obtain the Registry as is required by SDCL 49-31-102; and,
- d) Ten individual violations of SDCL 49-31-99 when it made unsolicited telephone calls to Complainants.

Pursuant to 20:10:01:45, an Affidavit from Deb Gregg, Consumer Affairs Manager of the Commission is attached and will be served via certified mail on Dish Network. Consistent with the allegations in this Affidavit, staff requests the Commission serve notice that the following issues will be heard by the Commission:

1. Whether Dish Network violated the above Do Not Call statutes; and,
2. What penalties, if any shall be imposed if Dish Network is found guilty of such violations.

Signed and dated this 15th day of November, 2006



Kara Van Bockern, Staff Attorney
South Dakota Public Utilities Commission
500 E. Capitol Ave
Pierre, SD 57501
(605)773-3201

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OF THE STATE OF SOUTH DAKOTA**

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AFFIDAVIT OF DEB GREGG OF THE
CONSUMER AFFAIRS DIVISION OF
THE PUC

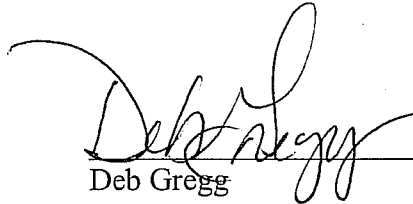
TC06-

Deb Gregg, after being duly sworn upon her oath, hereby states and disposes as follows:

1. My name is Deb Gregg and I am an employee of the South Dakota Public Utilities Commission in the Consumer Affairs Division.
2. The Consumer Affairs Division of the South Dakota Public Utilities Commission received more than ten complaints since March 22, 2006, regarding Dish Network and the telephone solicitations it makes to individuals without any attention to the South Dakota Do Not Call Registry.
3. I attempted to conduct an investigation after receiving the above complaints. Dish Network did not, however, return any calls or respond to my inquiry in any way.
4. I attempted to contact Dish Network to not only inform them of the Complaints but also in an attempt to inform them of the South Dakota Do Not Call rules. Dish Network did not return any of my calls regarding this issue.
5. I sent formal complaint paperwork to all the Complainants after I was unable to informally resolve the issue.
6. I am aware of this problem not only from the complaints sent to this office, but also due to the overwhelming amount of complaints received at various

public venues, such as the county and state fairs, where the PUC has a presence.

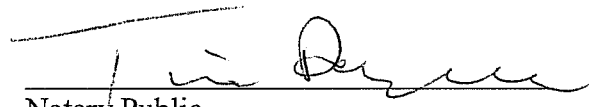
7. I believe Dish Network violated the South Dakota Do Not Call statutes and rules.



Deb Gregg
South Dakota Public Utilities Commission

STATE OF SOUTH DATKOA)
) SS
COUNTY OF HUGHES)

On this 15th day of November, 2006, before me Tina Douglas, a Notary Public within and for said County and State, personally appeared Deb Gregg, known to me to be the person who is described in and who executed the within and foregoing instrument and acknowledged to me that she executed the same.



Notary Public

My Commission Expires:

(SEAL)

TINA DOUGLAS
My Commission Expires
April 14, 2011

CERTIFICATE OF SERVICE

I hereby certify that a copy of the Motion for Order to Show Cause was served on the following by mailing the same to it by United States Post Office Certified Mail, postage thereon prepaid, at the address shown below on this the 15th day of November, 2006.

Echo Satellite LLC
Dispute Resolution Department
P. O. Box 9040
Littleton, CO 80120



Kara Van Bockern
Staff Attorney
South Dakota Public Utilities Commission