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June 25, 2009

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VIA EMAIL TO PATTY.VANGERPEN@STATE.SD.US

Ms. Patricia Van Gerpen
South Dakota Public Utilities Commission
Capitol Building, 1st Floor
500 East Capitol Avenue
Pierre, SD 57501-5070

RE: *TC08-135*

*In the Matter of the Complaint of Orbitcom, Inc. Against Verizon Business Network
Services, Inc. for Unpaid Access Charges*

Dear Ms. Van Gerpen:

Enclosed for filing in the above matter, please find the Stipulation to File and Serve Amended Complaint. I inadvertently neglected to file the attached with the actual Amended Complaint which was forwarded to you for filing on June 17, 2009.

Should you have any questions or concerns, please do not hesitate to contact me. Thank you for your assistance.

Best regards.

Sincerely,

CUTLER & DONAHOE, LLP



Meredith A. Moore
For the Firm

MAM/cmc
Enclosure

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

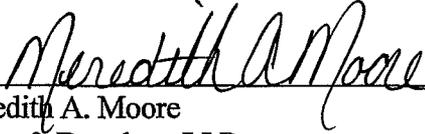
IN THE MATTER OF THE COMPLAINT
OF ORBITCOM, INC. AGAINST MCI
COMMUNICATIONS SERVICES, INC.
D/B/A VERIZON BUSINESS SERVICES
AND TELECONNECT LONG DISTANCE
SERVICES & SYSTEMS COMPANY D/B/A
TELECOM*USA FOR UNPAID ACCESS
CHARGES

TC08-135

**STIPULATION TO
FILE AND SERVE
AMENDED COMPLAINT**

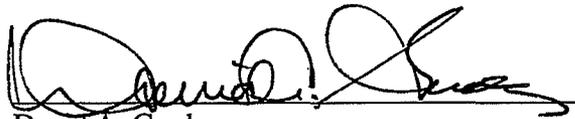
COME NOW the Complainant, OrbitCom, Inc. ("OrbitCom"), and the Respondents, MCI Communications Services, Inc. d/b/a Verizon Business Services and Teleconnect Long Distance Services & Systems Company d/b/a Telecom*USA (collectively referred to as "Verizon"), by and through their respective undersigned counsel, and hereby stipulate and agree that Complainant may file and serve an amended complaint in the form reflected in the Amended Complaint attached hereto as Exhibit A.

Dated this 25 day of June, 2009.



Meredith A. Moore
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Attorney for Complainant

Dated this 24th day of June, 2009.



David A. Gerdes
May, Adam, Gerdes & Thompson LLP
503 South Pierre Street
P.O. Box 160
Pierre, SD 57501-0160
Telephone: (605) 224-8803
Facsimile: (605) 224-6289
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-and-

Thomas F. Dixon
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Verizon
707 - 17th Street, #4000
Denver, CO 80202
Telephone: (303) 390-6206
Facsimile: (303) 390-6333
thomas.f.dixon@verizon.com
Attorneys for Respondent

Exhibit A

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

<p>IN THE MATTER OF THE COMPLAINT OF ORBITCOM, INC. AGAINST MCI COMMUNICATIONS SERVICES, INC. D/B/A VERIZON BUSINESS SERVICES AND TELECONNECT LONG DISTANCE SERVICES & SYSTEMS COMPANY D/B/A TELECOM*USA FOR UNPAID ACCESS CHARGES</p>	<p style="text-align: right;">TC08-135</p> <p style="text-align: center;">AMENDED COMPLAINT</p>
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COMES NOW OrbitCom, Inc., by and through its undersigned counsel of record, and for its Complaint against MCI Communications Services, Inc. d/b/a Verizon Business Services and Teleconnect Long Distance Services & Systems Company d/b/a Telecom*USA, hereby states and alleges:

NATURE OF THE CASE

1. OrbitCom, Inc. (“OrbitCom”) brings this action seeking recovery on an account because of the failure of MCI Communications Services, Inc. d/b/a Verizon Business Services and Teleconnect Long Distance Services & Systems Company d/b/a Telecom*USA (collectively referred to as “Verizon”) to pay OrbitCom the amounts invoiced pursuant to its state tariff for the provisioning of telephone access services. This Complaint is filed pursuant to A.R.S.D. 20:10:01:02.03 and SDCL Chapter 49-13.

THE PARTIES

2. OrbitCom is a corporation organized and existing under the laws of the State of South Dakota, with its principal place of business in Sioux Falls, South Dakota. OrbitCom is a competitive local exchange carrier (“CLEC”) engaged in the provisioning of telephone exchange service in the State of South Dakota pursuant to a certificate of convenience and necessity

granted by the South Dakota Public Utilities Commission (the "Commission"). OrbitCom provides local originating and terminating and switched access services. The address and relevant telephone and facsimile numbers for OrbitCom are:

Brad Van Leur, President
OrbitCom, Inc.
1701 North Louise Avenue
Sioux Falls, SD 57107
Telephone: (605) 977-6900

3. Upon information and belief, MCI Communications Services, Inc. d/b/a Verizon Business Services is a corporation organized and existing under the laws of the State of Delaware and one which has been authorized to transact business in the State of South Dakota. Teleconnect Long Distance Services & Systems Company d/b/a Telecom*USA is a corporation organized and existing under the laws of the State of Iowa and one which has been authorized to transact business in the State of South Dakota. In this matter, both corporations are represented by:

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FACTUAL BACKGROUND

4. Complainant OrbitCom is a CLEC that provides telephone and other services through wires to the businesses of its customers. Complainant also provides originating and terminating and access services to long distance companies, which services allow long distance companies to transmit long distance calls even though they do not own or lease the telephone lines that connect the customer to which the long distance call is directed.

5. OrbitCom has filed with this Commission a tariff which establishes its rate for intrastate switched access. OrbitCom's tariff was originally issued on August 6, 2002, in the name of VP Telecom, Inc. This same tariff has remained in effect to the present.

6. Respondent Verizon is an interexchange carrier ("IXC") that provides long distance service in South Dakota.

7. OrbitCom provides originating access services to Verizon for those customers who selected Verizon as their interexchange carrier. Verizon utilized the access services provided by OrbitCom pursuant to the terms of its tariffs.

8. OrbitCom has billed Verizon in the name of MCI Worldcom on a monthly basis for use of its service in accordance with the applicable rates set forth in its tariff filed with this Commission.

9. In approximately February 2008, Verizon ceased making payment on OrbitCom's billing statements which statements included tariffed charges for intrastate traffic despite continuing to use OrbitCom's facilities to access OrbitCom customers. Attached hereto as Exhibit 1 is an itemization of those charges for intrastate traffic for which OrbitCom has billed Verizon since February 2008 and for which Verizon has failed and refused, and continues to fail and refuse to pay OrbitCom. The total amounts due and owing from Verizon to OrbitCom for

said intrastate traffic as of the date of this Complaint are also subject to applicable interest, fees and penalties.

10. Verizon has failed and refused, and continues to fail and refuse to pay the charges set out in OrbitCom's billing statements although demand for said payments has been made by OrbitCom. As a result of such failure, Verizon is indebted to OrbitCom in those amounts set forth in Exhibit 1, plus applicable interest, fees and penalties.

11. Verizon has knowingly and unlawfully refused to pay OrbitCom's invoices.

**FIRST CAUSE OF ACTION
BREACH OF CONTRACT**

12. OrbitCom re-alleges paragraphs 1 through 11 above and incorporates them as if set forth fully herein.

13. Pursuant to state regulations, OrbitCom has filed a tariff with this Commission, which tariff has the force and effect of law, the terms of which constitute a valid and binding contract.

14. OrbitCom has invoiced Verizon pursuant to rates as set forth in its state tariff as outlined above.

15. Defendant has failed and refused to pay those amounts invoiced to it by OrbitCom, thus constituting a breach of the applicable tariff and therefore a breach of contract.

**SECOND CAUSE OF ACTION
UNJUST ENRICHMENT**

16. OrbitCom re-alleges Paragraphs 1 through 15 above and incorporates them as if set forth fully herein.

17. OrbitCom provided access services for the Defendant through the origination and termination of long distance calls. Such services conferred a benefit upon Verizon because

Verizon was able to collect fees from its customers for providing long distance service. Verizon has not paid OrbitCom for providing such services.

18. It would be inequitable for Verizon to retain the benefit of the services provided by OrbitCom without properly compensating OrbitCom for the value of the services provided.

19. Pursuant to the equitable doctrines of quantum meruit and unjust enrichment, OrbitCom is entitled to payment from OrbitCom for the amount of the invoices.

WHEREFORE, Plaintiff requests judgment against Defendant as follows:

1. For those sums as set forth in Exhibit 1, plus applicable interest, fees and penalties, and any unpaid amounts to date of hearing.
2. For pre-judgment interest, post-judgment interest, and the costs of this action, including attorneys' fees and expenses.
3. For expedited relief given the significant impact of Verizon's continued refusal to pay upon OrbitCom.
4. For such other and further relief as this Commission deems just and equitable.

Dated this ___ day of June, 2009.

CUTLER & DONAHOE, LLP
Attorneys at Law

Meredith A. Moore
100 North Phillips Avenue, 9th Floor
Sioux Falls, SD 57104-6725
Telephone: (605) 335-4950
meredithm@cutlerfirm.com

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing was served electronically on the ___ day of June, 2009, upon the following:

Ms. Patricia Van Gerpen
Executive Director
South Dakota Public Utilities Commission
500 East Capitol
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