
STAFF MEMORANDUM

TO: COMMISSIONERS AND ADVISORS
FROM: CINDY KEMNITZ
RE: GROSS RECEIPTS TAX SHOW CAUSE HEARING FOR DOCKETS TC20-053 – TC20-058
DATE: 01/08/21

Commission Staff (Staff) submits this Memorandum regarding its recommendations for the above captioned matter.

BACKGROUND

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 April 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 reminders from the Commission on or about April 30, August 18, and September 15, 2020, the attached exhibit shows companies that failed to timely pay the calendar year 2019 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.

DOCKETS TO BE DISMISSED AND CLOSED

Since the November 24, 2020, Commission meeting, the following companies have paid the tax and penalty; DataBytes Inc. (TC20-054); Peerless Network of South Dakota, LLC (TC20-055); The Light Phone (TC20-058); and WaveNation LLC (TC20-059).

RECOMMENDATION

Staff recommends the Commission dismiss and close dockets TC20-054, TC20-055, TC20-058 and TC20-059. Staff further recommend the Commission revoke American Telecommunications Systems, Inc.'s Certificate of Authority and order Stream Communications and STS Media Inc. to file the appropriate reports and pay the delinquent gross receipts tax that is due including a 10% penalty for each month of delinquency within 30 days. If payment is not received, Staff would recommend this matter shall be turned over to the State's collection agency.