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**STAFF MEMORANDUM**

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**TO:** COMMISSIONERS AND ADVISORS  
**FROM:** CINDY KEMNITZ  
**RE:** GROSS RECEIPTS TAX SHOW CAUSE HEARING FOR DOCKETS TC21-119, TC21-120 AND TC21-121  
**DATE:** 12/26/21

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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 16, 2021, the attached exhibit shows companies that failed to timely pay the calendar year 2020 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.

**RECOMMENDATION**

Staff recommends that DataBytes, Inc. (TC21-119), T C Telephone LLC dba Horizon Cellular (TC21-120) and Wing Tel, Inc. (TC21-121), not be able to do business in the State until all fees, fines and penalties are paid in full.