

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

IN THE MATTER OF ACCUTEL )	FINDINGS OF FACT,
COMMUNICATIONS, INC.'S FAILURE TO )	CONCLUSIONS OF LAW
SUBMIT A REPORT AND PAY THE GROSS )	AND FINAL ORDER; NOTICE
RECEIPTS TAX )	OF ENTRY OF FINAL
)	ORDER
)	TC99-127

On March 9, 2000, the Public Utilities Commission (Commission) issued an Order for and Notice of Show Cause Hearing against Accutel Communications, Inc. (Accutel) for failure to submit an annual report and pay the gross receipts tax. The hearing was held as scheduled on March 28, 2000, in the Commission's Conference Room, State Capitol Building, Pierre, South Dakota. The reason for the hearing was to give Accutel an opportunity to show cause why the Commission should not revoke its Certificate of Authority, or other specified actions, for failure to pay the gross receipts tax as required by SDCL 49-1A-3. Commissioners Nelson and Schoenfelder were present. Also present were Camron Hoseck, Commission Staff Attorney, and Sue Cichos, Business Manager for the Commission. No representative of Accutel appeared at the hearing. After hearing the testimony, the Commission voted 2-0 to suspend Accutel's Certificate of Authority for failure to pay the gross receipts tax. (Commissioner Burg was not present for the hearing.) The Commission further ordered Accutel to provide the Commission with a complete list of its current South Dakota subscribers, including the subscribers' billing addresses.

The Commission, having heard the testimony presented at the hearing, makes the following Findings of Fact and Conclusions of Law:

**FINDINGS OF FACT**

1. Accutel is a telecommunications company holding a Certificate of Authority, issued by this Commission, to provide telecommunications services in South Dakota.
2. Sue Cichos, Business Manager for the Commission, testified that Accutel never paid the gross receipts tax due June 1, 1999, as required by SDCL 49-1A-3.
3. A copy of the Order for and Notice of Show Cause Hearing was sent by certified mail to Accutel.
4. No representative of Accutel appeared at the hearing to show cause why the Commission should not revoke or suspend Accutel's Certificate of Authority or take other actions.
5. Commission Staff recommended that Accutel's Certificate of Authority be suspended and that Accutel be required to provide a list of its current South Dakota customers. Accutel has had a minimum of six complaints, four formal and two informal, filed against it since November of 1999.

**CONCLUSIONS OF LAW**

1. The Commission has jurisdiction over this matter pursuant to SDCL Chapters 1-26, 49-1A, 49-31, specifically 49-1A-3, 49-1A-4, 49-1A-5, 49-1A-6, 49-31-3, and 49-31-89 through 49-31-97, inclusive.

2. Pursuant to SDCL 49-1A-3, the Commission assesses a tax of .0015 or \$250, whichever is greater, on the annual intrastate gross receipts received by a telecommunications company from the company's customers within the state of South Dakota. Pursuant to SDCL 49-1A-5, the tax is due on June first of each year.

3. Accutel has failed to pay the gross receipts tax.

4. The Commission has the authority, under SDCL 49-31-3, to suspend or revoke a Certificate of Authority granted to a company for a willful violation of the laws of this state. Based on the failure of Accutel to pay the gross receipts tax in violation of SDCL 49-1A-5, the Commission suspends Accutel's Certificate of Authority.

5. Pursuant to SDCL 49-31-95, Accutel shall provide the Commission with a complete list of its current subscribers, including the subscribers' billing addresses.

Based on the foregoing Findings of Fact and Conclusions of Law, it is therefore

ORDERED, that the Certificate of Authority granted to Accutel by this Commission is hereby suspended; and it is

FURTHER ORDERED, that Accutel shall provide the Commission with a complete list of its current subscribers, including the subscribers' billing addresses.

#### NOTICE OF ENTRY OF ORDER

PLEASE TAKE NOTICE that this Order was duly entered on the 13<sup>th</sup> day of April, 2000. Pursuant to SDCL 1-26-32, this Order will take effect 10 days after the date of receipt or failure to accept delivery of the decision by the parties.

Dated at Pierre, South Dakota, this 13<sup>th</sup> day of April, 2000.

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>Delaine Kalbo</u>
Date:	<u>4/14/00</u>
(OFFICIAL SEAL)	

BY ORDER OF THE COMMISSION:

Pam Nelson  
PAM NELSON, Commissioner

Laska Schoenfelder  
LASKA SCHOENFELDER, Commissioner