

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

IN THE MATTER OF ECHOSTAR SATELLITE)	<u>AMENDED ORDER FOR</u>
LLC OWNING THE TRADEMARK DISH)	AND NOTICE OF SHOW
NETWORK'S FAILURE TO REGISTER AS A)	CAUSE HEARING
TELEMARKETER AND THE SOLICITATION IT)	
MADE TO THOSE REGISTERED ON THE DO)	TC06-191
NOT CALL LIST)	

SDCL 49-31-99 through SDCL 49-31-108 establishes the South Dakota Public Utilities Commission (Commission) Telephone Solicitation rules. Any telephone solicitor who makes unsolicited telephone calls shall institute procedures that comply with the provisions of the above statutes. Included in the various statutory obligations is that a telephone solicitor may not make an unsolicited telephone call to any number listed on the statewide Do-Not-Call Register ("Registry").

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. The Complainant received a telephone solicitation from Dish Network, despite his presence on the Registry. The Dish Network representative called for the sole purpose of selling the Dish Network product. Furthermore, Dish Network did not register as a telemarketer with this office, nor did it pay the solicitor fee. Consumer Affairs has received nine other similar complaints against Dish Network.

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. On November 28, 2006, the Commission first heard Staff's request that an Order to Show Cause be issued against Dish Network for violations of South Dakota Do Not Call Rules. The Commission deferred action, due to uncertainty regarding the correct Dish Network corporate name. Commissioners again heard Staff's request for an Order to Show Cause on December 6, 2006. Dish Network's correct corporate name was determined and an Order to Show Cause why Dish Network did not violate the South Dakota Do Not Call Rules was granted unanimously by the Commissioners.

Dish Network shall appear on April 3, 2007, at 4:30 P.M. (CST) 8:30 A.M. (CDT) in Room 412, State Capitol Building, 500 E. Capitol, Pierre, South Dakota, to show cause why action should not be taken against Dish Network for failure to comply with SDCL Chapter 49-31. The hearing is being held pursuant to Commission's jurisdiction over the Registry found in SDCL 49-31-99 through 49-31-108.

The issue at the hearing is whether the Commission shall impose the civil penalty available in SDCL 49-31-108; or to take any other enforcement actions against the Company allowed by law.

The hearing shall be an adversary proceeding conducted pursuant to SDCL Chapter 1-26. Parties may have the right to request a hearing under SDCL 1-26-18.3. All parties have the right to be present and to be represented by an attorney. These rights and other due process rights shall be forfeited if not exercised at the hearing. If you or your representative fail to appear at the time and place set for the hearing, the Final Decision will be based solely on the testimony and evidence provided, if any, during the hearing or a Final Decision may be issued by default pursuant to SDCL 1-26-20. After the hearing, the Commission will consider all evidence and testimony that was presented at the hearing. The Commission will then enter Findings of Fact, Conclusions of Law, and a Final Decision regarding this matter. As a result of the hearing, the Commission shall determine whether to issue civil penalties, or take any other enforcement actions against the

Company allowed by law. The parties may have the right to require the Commission use the Office of Hearing Examiners by giving notice of the request no later than ten days after service of a notice of hearing issued pursuant to § 1-26-17.

The Commission's Final Decision may be appealed by the parties to the state Circuit Court and the state Supreme Court as provided by law. It is therefore

ORDERED, that a show cause hearing in the matter of Dish Network shall be held on April 3, 2007, at 1:30 P.M. (CST) 8:30 A.M. (CDT) in Room 412, State Capitol Building, 500 E. Capitol, Pierre, South Dakota.

Pursuant to the Americans with Disabilities Act, this hearing is being held in a physically accessible location. Please contact the Public Utilities Commission at 1-800-332-1782 at least 48 hours prior to the hearing if you have special needs so arrangements can be made to accommodate you.

Dated at Pierre, South Dakota, this 1st day of March, 2007.

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>Melaine Koebis</u>
Date: <u>3/1/07</u>
(OFFICIAL SEAL)

BY ORDER OF THE COMMISSION:

Dustin M. Johnson
DUSTIN M. JOHNSON, Chairman

Gary Hanson
GARY HANSON, Commissioner

Steve Kolbeck
STEVE KOLBECK, Commissioner