

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

IN THE MATTER OF THE COMPLAINT FILED)	ORDER FOR AND NOTICE
BY ORBITCOM, INC. AGAINST VERIZON)	OF HEARING
BUSINESS NETWORK SERVICES, INC.)	
REGARDING UNPAID ACCESS CHARGES)	TC08-135

On November 25, 2008, the Public Utilities Commission (Commission) received a Complaint from OrbitCom, Inc. (OrbitCom) against Verizon Business Network Services, Inc. (Verizon). OrbitCom seeks recovery on an account because of the failure of Verizon to pay OrbitCom the amounts invoiced pursuant to its state tariff for the provisioning of telephone access services.

On December 22, 2008, the Commission received an Answer to Complaint from Verizon. On June 1, 2009, the Commission received a Stipulation for Scheduling Order signed by the parties. At its regularly scheduled meeting of June 9, 2009, the Commission voted unanimously to approve the Stipulation for Scheduling Order. On June 17, 2009, the Commission received an Amended Complaint from OrbitCom. On June 25, 2009, the Commission received a Stipulation to File and Serve Amended Complaint from OrbitCom. On July 7, 2009, the Commission received an Answer to Amended Complaint and Counterclaim from Verizon. On July 27, 2009, the Commission received a Reply to Amended Counterclaim from OrbitCom. On August 20, 2009, the Commission received a Motion to Compel and Motion to Reset Hearing Date from Verizon. On August 21, 2009, the Commission received a Corrected Motion to Compel and Motion to Reset Hearing Date from Verizon. On August 24, 2009, the Commission received a Response to Verizon's Motion to Compel, Delay of Hearing and Supplement Prefiled Testimony and Affidavit of Meredith Moore from OrbitCom.

At its regularly scheduled meeting of August 25, 2009, the Commission voted unanimously to grant the Motion to Compel in part to the extent that it relates to the provision of ANI information, with five days worth of data, giving Verizon information on the full 10 digit telephone number and that the data must be transmitted in Excel or some other format that is easily manipulated. The Commission voted to approve the resetting of the hearing dates (Commission Kolbeck dissenting). The Commission voted unanimously to grant Verizon's request to submit supplemental testimony, with OrbitCom being given the opportunity to respond if that becomes necessary. On September 10, 2009, the Commission received a Motion for Hearing Date from OrbitCom.

The Commission has jurisdiction in this matter pursuant to SDCL Chapters 1-26 and 49-31. The Commission may rely upon any or all of these or other laws of this state in making its determination.

A hearing will be held on this matter beginning at 9:00 A.M. on October 22, 2009, with marking of exhibits to begin at 8:30 A.M., in Room 413, State Capitol, 500 East Capitol, Pierre, South Dakota.

The issues to be determined by the Commission are the issues raised by OrbitCom's Amended Complaint, Verizon's Answer to Amended Complaint and Counterclaim and OrbitCom's Reply to Amended Counterclaim involving the parties' respective payment and/or refund or credit obligations to the other for the provision of and billing and payment for switched access services.

The hearing will be an adversary proceeding conducted pursuant to SDCL Chapter 1-26. All persons testifying will be subject to cross-examination by the parties. All parties have the right to be

present and to be represented by an attorney. These rights and other due process rights may be forfeited if not exercised at the hearing. If a party or its representative fails 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 will resolve the issues raised by OrbitCom's Amended Complaint, Verizon's Answer to Amended Complaint and Counterclaim and OrbitCom's Reply to Amended Counterclaim involving the parties' respective payment and/or refund or credit obligations to the other for the provision of and billing and payment for switched access services and order any appropriate relief. The Commission's Final Decision may be appealed by the parties as provided by law. It is therefore

ORDERED, that a hearing shall be held at the time and place specified above.

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 8th day of October, 2009.

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, electronically.
By: <u>Aldine Kalbo</u>
Date: <u>10/8/09</u>
(OFFICIAL SEAL)

BY ORDER OF THE COMMISSION:

Dustin M. Johnson
DUSTIN M. JOHNSON, Chairman *dk*

Steve Kolbeck
STEVE KOLBECK, Commissioner

Gary Hanson
GARY HANSON, Commissioner