

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

**IN THE MATTER OF DEFENSE MOBILE )  
CORPORATION'S FAILURE TO TIMELY PAY )  
THE GROSS RECEIPTS TAX )**

**FINDINGS OF FACT,  
CONCLUSIONS OF LAW AND  
FINAL ORDER; NOTICE OF  
ENTRY OF FINAL ORDER**

**TC16-065**

On November 16, 2016, the South Dakota Public Utilities Commission (Commission) issued an Order for and Notice of Show Cause Hearing against Defense Mobile Corporation (Company) for failure to timely pay the gross receipts tax. The hearing was held as scheduled on December 20, 2016, at 8:45 A.M., in Room 413 of the State Capitol Building, 500 E. Capitol, Pierre, South Dakota. The reason for the hearing was to give the Company an opportunity to show cause why the Commission should not take action for failure to timely pay the gross receipts tax as required by SDCL 49-1A-3. No representative of the Company appeared at the hearing. After hearing the testimony, the Commission voted unanimously that the Commission may take action against Company for its failure to timely pay the gross receipts tax.

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

**FINDINGS OF FACT**

1. The Company is a wireless telecommunications company pursuant to SDCL Chapter 49-31 providing telecommunications services in South Dakota.
2. Cindy Kemnitz, Finance Manager for the Commission, sent invoices to the Company requesting payment of the gross receipts tax as authorized by SDCL 49-1A-3. She testified that the Company never paid the gross receipts tax.
3. A copy of the Order for and Notice of Show Cause Hearing was sent by certified mail to the Company on November 16, 2016.
4. No representative of the Company appeared at the hearing to show cause why the Commission should not take action against Company for failure to pay its gross receipts tax.

**CONCLUSIONS OF LAW**

1. The Commission has jurisdiction over this matter pursuant to SDCL 49-1A-3, 49-1A-4, 49-1A-5, 49-1A-6, and 49-31-3.
2. Pursuant to SDCL 49-1A-3 and 49-1A-4, the Commission assesses a tax 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 July fifteenth of each year.
3. The Company has failed to pay the gross receipts tax.

4. Based on the failure of Company to pay the gross receipts tax in violation of 49-1A-5, the Commission may take action against Company for failure to pay its gross receipts tax.

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

ORDERED, the Company shall pay to the South Dakota Public Utilities Commission its gross receipts tax due in the amount of \$250, with accrued interest at 10% for each month of delinquency; and it is further

ORDERED, that Company shall file an appropriate report for CY2015.

NOTICE OF ENTRY OF ORDER

PLEASE TAKE NOTICE that this Order was duly entered on the 22<sup>nd</sup> day of December, 2016. 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 22<sup>nd</sup> day of December, 2016.

<b>CERTIFICATE OF SERVICE</b>
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 or by mail.
By: <u>Adam DetHueck</u>
Date: <u>12/22/16</u>
(OFFICIAL SEAL)

BY ORDER OF THE COMMISSION:

Chris Nelson  
CHRIS NELSON, Chairman

Kristie Fiegen  
KRISTIE FIEGEN, Commissioner

Gary Hanson  
GARY HANSON, Commissioner