

DATE	MEMORANDA
12/30 99	Order for and Notice of Show Cause Hearing;
1/6 00	Weekly Filings;
3/9 00	Order for and Notice of Show Cause Hearing;
4/13 00	Find of Fact, Con. of Law and Final Order; Notice of Entry of Final Order;
11/9 00	Order Dismissing and Closing Docket;
11/9 00	Docket Closed.

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

IN THE MATTER OF ACCUTEL)	ORDER FOR AND NOTICE
COMMUNICATIONS, INC.'S FAILURE TO)	OF SHOW CAUSE HEARING
SUBMIT A REPORT AND PAY THE GROSS)	
RECEIPTS TAX)	TC99-127

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 June 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 reminder letters from the Commission on May 3, 1999, and August 9, 1999, Accutel Communications Inc. (Accutel) has failed to file the required report and pay the 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.

Accutel shall appear on February 3, 2000, at 1:30 P.M. (CST) in the Cactus Conference Room, State Capitol Building, Pierre, South Dakota, to show cause why action should not be taken against the company for failure to comply with SDCL Chapter 49-1A. The hearing is being held pursuant to Commission's jurisdiction over telecommunications companies found at SDCL Chapters 1-26, 49-1, 49-1A, and 49-31, specifically, 49-1-11(4), 49-1A-3, 49-1A-4, 49-1A-5, 49-1A-6, 49-31-3, and ARSD 20:10:01:45.

The issue at the hearing is whether the Commission shall fine, or suspend or revoke Accutel's Certificate of Authority, assess a civil fine against the company, and/or institute collection proceedings against Accutel for failure to pay gross receipts tax.

The hearing shall be an adversary proceeding conducted pursuant to SDCL Chapter 1-26. 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 fine, or suspend or revoke Accutel's Certificate of Authority, assess a civil fine against the company, and/or institute collection proceedings against Accutel for failure to pay gross receipts tax. 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 Accutel shall be held on February 3, 2000, at 1:30 P.M. (CST) (or as soon thereafter as the parties can be heard) in the Cactus Conference Room, State Capitol Building, Pierre, South Dakota. And it is

FURTHER ORDERED, that, in the event Accutel shall file an appropriate report and pay the delinquent gross receipts tax, including the 10% penalty for each month of delinquency, the hearing and actions mentioned herein shall not be held or taken, otherwise this order shall remain in effect.

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 30th day of December, 1999.

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>Hilary Kelso</u>
Date:	<u>12/30/99</u>
(OFFICIAL SEAL)	

BY ORDER OF THE COMMISSION:

James A. Burg
JAMES A. BURG, Chairman

Pam Nelson
PAM NELSON, Commissioner

Laska Schoenfelder
LASKA SCHOENFELDER, Commissioner

Z 348 318 026



Receipt for Certified Mail

No Insurance Coverage Provided
Do not use for International Mail
(See Reverse)

PS Form 3800, March 93

Sent to: Accutel Comm Inc	
Sent to: P.O. Box 1610	
State and ZIP Code: Boca Raton, FL 33429-1610	
Postage	\$
Certified Fee	
Special Delivery Fee	
Restricted Delivery Fee	
Return Receipt Showing to Whom & Date Delivered	
Return Receipt Showing to Whom, Date, and Addressee's Address	
TOTAL Postage & Fees	\$
Postmark or Date	

Is your RETURN ADDRESS completed on the reverse side?

SENDER:

- Complete items 1 and/or 2 for additional services.
- Complete items 3, 4a, and 4b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "Return Receipt Requested" on the mailpiece below the article number.
- The Return Receipt will show to whom the article was delivered and the date delivered.

I also wish to receive the following services (for an extra fee):

- ☐ Addressee's Address
- ☐ Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:

Accutel Comm. Inc
P.O. Box 1610
Boca Raton, FL
33429-1610

4a. Article Number

2 348 318 026

4b. Service Type

- | | |
|---|---|
| ☐ Registered | ☒ Certified |
| ☐ Express Mail | ☐ Insured |
| ☐ Return Receipt for Merchandise | ☐ COD |

7. Date of Delivery

1-12-06

5. Received By (Print Name)

John DE

6. Signature (Address of Agent)

[Signature]

8. Addressee's Address (Only if requested and fee is paid)

PS Form 3811, December 1994

Domestic Return Receipt

Thank you for using Return Receipt Service.

South Dakota Public Utilities Commission

WEEKLY FILINGS

For the Period of December 30, 1999 through January 5, 2000

If you need a complete copy of a filing faxed, overnight expressed, or mailed to you, please contact
Delaine Kolbo within five business days of this filing.

Phone: 605-773-3705 Fax: 605-773-3809

CONSUMER COMPLAINTS

CT00-001 In the Matter of the Complaint filed by Jeanette Moes, Watertown, South Dakota, against OLS, Inc. Regarding Switching Telecommunications Services Through Deceptive Tactics.

The Complainant indicates through a telephone call a man lead her to believe he was with U S WEST offering 10 cents per minute long distance rates, 100 free minutes of long distance, and no monthly fees. The Complainant is requesting that the state laws on slamming be enforced, that she be compensated for her inconvenience, and all assessed fees be removed.

Staff Analyst: Leni Healy
Staff Attorney: Karen Cremer
Date Received: 12/27/99
Date Filed: 01/03/00
Intervention Deadline: NA

CT00-002 In the Matter of the Complaint filed by Dan Grider, Baltic, South Dakota, against Qwest Communications, Inc. Regarding Unauthorized Switching of Services.

On December 28, 1999, the Commission received a complaint from Dan Grider of Baltic, South Dakota, against Qwest regarding unauthorized switching of services. The complainant alleges that his long distance provider was switched to Qwest without his authorization.

Staff Analyst: Keith Senger
Staff Attorney: Camron Hoseck
Date Received: 12/28/99
Date Filed: 01/03/00
Intervention Date: N/A

CT00-003 In the Matter of the Complaint filed by Elaine M. Ingalls, Watertown, South Dakota, against OLS, Inc. Regarding Switching Telecommunications Services Through Deceptive Tactics.

The Complainant claims she received a telephone call from U S WEST indicating a change in her billing. As a result, her long distance service was switched from AT&T to OLS. She is requesting that all OLS charges be removed from her billing.

Staff Analyst: Leni Healy
Staff Attorney: Karen Cremer
Date Received: 12/28/99
Date Filed: 01/03/00
Intervention Deadline: NA

CT00-004 In the Matter of the Complaint filed by Jeanne Stich, McCook Lake, South Dakota, against OLS, Inc. Regarding Promised Rates Which Were Not Assessed.

The Complainant alleges that OLS promised a rate of 10 cents per minute for all long distance calls, 100 free minutes of service, and no switching fees. When the Complainant received her billing, she was not assessed the promised rates or terms. The Complainant is requesting that all charges paid to this company be removed.

Staff Analyst: Leni Healy
Staff Attorney: Karen Cremer
Date Received: 12/30/99
Date Filed: 01/03/00
Intervention Deadline: NA

CT00-005 In the Matter of the Complaint filed by William L. Frost, Watertown, South Dakota, against OLS, Inc. Regarding Switching Telecommunications Services Through Deceptive Tactics.

The Complainant indicates that his long distance service was switched through deceptive tactics. The Complainant requests that the Commission revoke the company's license, assess fines, award compensation, and remove all charges assessed by this company.

Staff Analyst: Leni Healy
Staff Attorney: Karen Cremer
Date Received: 12/30/99
Date Filed: 01/03/00
Intervention Deadline: NA

CT00-006 In the Matter of the Complaint filed by Earl and Pauline DeHoogh, Sioux Falls, South Dakota, against OLS, Inc. Regarding Switching Telecommunications Services Through Deceptive Tactics.

The Complainants indicate that through a deceptive telephone call, their long distance was switched to OLS. They are requesting that the Commission assess a large fine.

Staff Analyst: Leni Healy
Staff Attorney: Karen Cremer
Date Received: 12/30/99
Date Filed: 01/03/00
Intervention Deadline: NA

CT00-007 In the Matter of the Complaint filed by Robert Fogg, Jr., Martin, South Dakota, against AT&T Communications of the Midwest, Inc. Regarding Promised Rates Which Were Not Assessed.

On December 30, 1999, the Commission received a complaint from Robert Fogg, Jr. of Martin, South Dakota, against AT&T regarding deceptive business practices and advertising. The complainant alleges that he was offered 7 cents per minute for all long distance interstate calls during the hours of 7 AM to 7 PM Monday through Friday, and 5 cents per minute for the balance of the week. In addition, he was offered 120 free minutes each month for the next six months. The complainant further alleges that once AT&T became aware that he lives in South Dakota, the offer was withdrawn. Mr. Fogg is requesting a full refund of all charges in excess of the 7 cents per minute, the rates that he was offered, 120 free minutes of interstate long distance for 6 months, and a fine imposed against AT&T in the amount of \$10,000/day.

Staff Analyst: Heather Forney
Staff Attorney: Camron Hoseck
Date Received: 12/30/99
Date Filed: 01/03/99
Intervention Date: N/A

CT00-008 In the Matter of the Complaint filed by Banner Associates, Inc., Brookings, South Dakota, against NOS Communications, Inc. Regarding Billing Issues.

The Complainant alleges that a salesperson offered a rate of 7.9 cents per minute for interstate calls and 14.9 cents per minute for intrastate calls. When questioned the salesperson verified the rate and stated there would be no other charges. The first two months the rates were honored, but the subsequent months were billed at a higher rate. The complainant was told they were being billed those rates per call unit and a call unit was not equivalent to a minute. Complainant entered an agreement contingent on a per minute rate and not a call unit rate. The Complainant is requesting restitution for the amount they were billed over and above the agreed upon rate of 7.9 cents per minute and 14.9 cents per minute for interstate and intrastate calls respectively. They are also requesting that NOS Communications be required to inform their prospective customers verbally and in writing of their billing method so as not to mislead future customers.

Staff Analyst: Michele Farris
Staff Attorney: Camron Hoseck
Date Received: 12/30/99
Date Filed: 01/03/00
Intervention Deadline: NA

CT00-009 In the Matter of the Complaint filed by Elizabeth A. Ewald, Watertown, South Dakota, against OLS, Inc. Regarding Switching of Services Through Deceptive Practices.

The Complainant alleges that a representative claiming to be from U S WEST contacted her concerning recent legislation which would require changes on her billing. As a result of this conversation her telecommunications service was switched to OLS. The Complainant asks that the Commission assess fines and penalties against OLS for this action.

Staff Analyst: Leni Healy
Staff Attorney: Karen Cremer
Date Received: 01/03/00
Date Filed: 01/05/00
Intervention Deadline: NA

TELECOMMUNICATIONS

TC99-126 In the Matter of A C S Tel Com Inc.'s Failure to Submit a Report and Pay the Gross Receipts Tax.

A C S Tel Com Inc. shall appear on February 3, 2000, at 1:30 p.m. in the Cactus Conference Room, State Capitol Building, Pierre, SD, to show cause why action should not be taken against the company for failure to comply with SDCL Chapter 49-1A.

Deputy Executive Director: Sue Cichos
Staff Attorney: Camron Hoseck
Date Opened: 12/30/99
Hearing Date: 02/03/00

TC99-127 In the Matter of Accutel Communications, Inc.'s Failure to Submit a Report and Pay the Gross Receipts Tax.

Accutel Communications, Inc. shall appear on February 3, 2000, at 1:30 p.m. in the Cactus Conference Room, State Capitol Building, Pierre, SD, to show cause why action should not be taken against the company for failure to comply with SDCL Chapter 49-1A.

Deputy Executive Director: Sue Cichos
Staff Attorney: Camron Hoseck
Date Opened: 12/30/99
Hearing Date: 02/03/00

TC99-128 In the Matter of Affinity Marketing Strategies LLC d/b/a Funding Our Future's Failure to Submit a Report and Pay the Gross Receipts Tax.

Affinity Marketing Strategies LLC d/b/a Funding Our Future shall appear on February 3, 2000, at 1:30 p.m. in the Cactus Conference Room, State Capitol Building, Pierre, SD, to show

cause why action should not be taken against the company for failure to comply with SDCL Chapter 49-1A.

Deputy Executive Director: Sue Cichos
Staff Attorney: Camron Hoseck
Date Opened: 12/30/99
Hearing Date: 02/03/00

TC99-129 In the Matter of AmeriTel Pay Phones, Inc.'s Failure to Submit a Report and Pay the Gross Receipts Tax.

AmeriTel Pay Phones, Inc. shall appear on February 3, 2000, at 1:30 p.m. in the Cactus Conference Room, State Capitol Building, Pierre, SD, to show cause why action should not be taken against the company for failure to comply with SDCL Chapter 49-1A.

Deputy Executive Director: Sue Cichos
Staff Attorney: Camron Hoseck
Date Opened: 12/30/99
Hearing Date: 02/03/00

TC99-130 In the Matter of AMNEX's Failure to Submit a Report and Pay the Gross Receipts Tax.

AMNEX shall appear on February 3, 2000, at 1:30 p.m. in the Cactus Conference Room, State Capitol Building, Pierre, SD, to show cause why action should not be taken against the company for failure to comply with SDCL Chapter 49-1A.

Deputy Executive Director: Sue Cichos
Staff Attorney: Camron Hoseck
Date Opened: 12/30/99
Hearing Date: 02/03/00

TC99-131 In the Matter of Atlas Equity, Inc. d/b/a Performance Telecom's Failure to Submit a Report and Pay the Gross Receipts Tax.

Atlas Equity Inc, d/b/a Performance Telecom shall appear on February 3, 2000, at 1:30 p.m. in the Cactus Conference Room, State Capitol Building, Pierre, SD, to show cause why action should not be taken against the company for failure to comply with SDCL Chapter 49-1A.

Deputy Executive Director: Sue Cichos
Staff Attorney: Camron Hoseck
Date Opened: 12/30/99
Hearing Date: 02/03/00

TC99-132 In the Matter of Business Options, Inc.'s Failure to Submit a Report and Pay the Gross Receipts Tax.

Business Options, Inc. shall appear on February 3, 2000, at 1:30 p.m. in the Cactus Conference Room, State Capitol Building, Pierre, SD, to show cause why action should not be taken against the company for failure to comply with SDCL Chapter 49-1A.

Deputy Executive Director: Sue Cichos
Staff Attorney: Camron Hoseck
Date Opened: 12/30/99
Hearing Date: 02/03/00

TC99-133 In the Matter of Call Plus Inc.'s Failure to Submit a Report and Pay the Gross Receipts Tax.

Call Plus Inc. shall appear on February 3, 2000, at 1:30 p.m. in the Cactus Conference Room, State Capitol Building, Pierre, SD, to show cause why action should not be taken against the company for failure to comply with SDCL Chapter 49-1A.

Deputy Executive Director: Sue Cichos
Staff Attorney: Camron Hoseck
Date Opened: 12/30/99
Hearing Date: 02/03/00

TC99-134 In the Matter of Colorado River Communications Corp. d/b/a CRC Long Distance's Failure to Submit a Report and Pay the Gross Receipts Tax.

Colorado River Communications Corp. d/b/a CRC Long Distance shall appear on February 3, 2000, at 1:30 p.m. in the Cactus Conference Room, State Capitol Building, Pierre, SD, to show cause why action should not be taken against the company for failure to comply with SDCL Chapter 49-1A.

Deputy Executive Director: Sue Cichos
Staff Attorney: Camron Hoseck
Date Opened: 12/30/99
Hearing Date: 02/03/00

TC99-135 In the Matter of Eagle Telecom, Inc.'s Failure to Submit a Report and Pay the Gross Receipts Tax.

Eagle Telecom, Inc. shall appear on February 3, 2000, at 1:30 p.m. in the Cactus Conference Room, State Capitol Building, Pierre, SD, to show cause why action should not be taken against the company for failure to comply with SDCL Chapter 49-1A.

Deputy Executive Director: Sue Cichos
Staff Attorney: Camron Hoseck
Date Opened: 12/30/99
Hearing Date: 02/03/00

TC99-136 In the Matter of Elias Ventures, Inc. d/b/a American Freeway100's Failure to Submit a Report and Pay the Gross Receipts Tax.

Elias Ventures, Inc. d/b/a American Freeway100 shall appear on February 3, 2000, at 1:30 p.m. in the Cactus Conference Room, State Capitol Building, Pierre, SD, to show cause why action should not be taken against the company for failure to comply with SDCL Chapter 49-1A.

Deputy Executive Director: Sue Cichos
Staff Attorney: Camron Hoseck
Date Opened: 12/30/99
Hearing Date: 02/03/00

TC99-137 In the Matter of First Call USA, Incorporated's Failure to Submit a Report and Pay the Gross Receipts Tax.

First Call USA, Incorporated shall appear on February 3, 2000, at 1:30 p.m. in the Cactus Conference Room, State Capitol Building, Pierre, SD, to show cause why action should not be taken against the company for failure to comply with SDCL Chapter 49-1A.

Deputy Executive Director: Sue Cichos
Staff Attorney: Camron Hoseck
Date Opened: 12/30/99
Hearing Date: 02/03/00

TC99-138 In the Matter of Intelicom International Corporation's Failure to Submit a Report and Pay the Gross Receipts Tax.

Intelicom International Corporation shall appear on February 3, 2000, at 1:30 p.m. in the Cactus Conference Room, State Capitol Building, Pierre, SD, to show cause why action should not be taken against the company for failure to comply with SDCL Chapter 49-1A.

Deputy Executive Director: Sue Cichos
Staff Attorney: Camron Hoseck
Date Opened: 12/30/99
Hearing Date: 02/03/00

TC99-139 In the Matter of International Telcom LTD's Failure to Submit a Report and Pay the Gross Receipts Tax.

International Telcom LTD shall appear on February 3, 2000, at 1:30 p.m. in the Cactus Conference Room, State Capitol Building, Pierre, SD, to show cause why action should not be taken against the company for failure to comply with SDCL Chapter 49-1A.

Deputy Executive Director: Sue Cichos
Staff Attorney: Camron Hoseck

Date Opened: 12/30/99
Hearing Date: 02/03/00

TC99-140 In the Matter of Journey Telecom International, Inc.'s Failure to Submit a Report and Pay the Gross Receipts Tax.

Journey Telecom International, Inc. shall appear on February 3, 2000, at 1:30 p.m. in the Cactus Conference Room, State Capitol Building, Pierre, SD, to show cause why action should not be taken against the company for failure to comply with SDCL Chapter 49-1A.

Deputy Executive Director: Sue Cichos
Staff Attorney: Camron Hoseck
Date Opened: 12/30/99
Hearing Date: 02/03/00

TC99-141 In the Matter of London Telecom aka Strategic Alliances' Failure to Submit a Report and Pay the Gross Receipts Tax.

London Telecom aka Strategic Alliances shall appear on February 3, 2000, at 1:30 p.m. in the Cactus Conference Room, State Capitol Building, Pierre, SD, to show cause why action should not be taken against the company for failure to comply with SDCL Chapter 49-1A.

Deputy Executive Director: Sue Cichos
Staff Attorney: Camron Hoseck
Date Opened: 12/30/99
Hearing Date: 02/03/00

TC99-142 In the Matter of Matrix Telecom, Inc.'s Failure to Submit a Report and Pay the Gross Receipts Tax.

Matrix Telecom, Inc. shall appear on February 3, 2000, at 1:30 p.m. in the Cactus Conference Room, State Capitol Building, Pierre, SD, to show cause why action should not be taken against the company for failure to comply with SDCL Chapter 49-1A.

Deputy Executive Director: Sue Cichos
Staff Attorney: Camron Hoseck
Date Opened: 12/30/99
Hearing Date: 02/03/00

TC99-143 In the Matter of New Concept Communications, LLC's Failure to Submit a Report and Pay the Gross Receipts Tax.

New Concept Communications, LLC shall appear on February 3, 2000, at 1:30 p.m. in the Cactus Conference Room, State Capitol Building, Pierre, SD, to show cause why action should not be taken against the company for failure to comply with SDCL Chapter 49-1A.

Deputy Executive Director: Sue Cichos
Staff Attorney: Camron Hoseck
Date Opened: 12/30/99
Hearing Date: 02/03/00

TC99-144 In the Matter of Nova Telecom, Inc. d/b/a B.E.L. EZ Pay's Failure to Submit a Report and Pay the Gross Receipts Tax.

Nova Telecom, Inc. d/b/a B.E.L. EZ Pay shall appear on February 3, 2000, at 1:30 p.m. in the Cactus Conference Room, State Capitol Building, Pierre, SD, to show cause why action should not be taken against the company for failure to comply with SDCL Chapter 49-1A.

Deputy Executive Director: Sue Cichos
Staff Attorney: Camron Hoseck
Date Opened: 12/30/99
Hearing Date: 02/03/00

TC99-145 In the Matter of NTI Telecom, Inc.'s Failure to Submit a Report and Pay the Gross Receipts Tax.

NTI Telecom, Inc. shall appear on February 3, 2000, at 1:30 p.m. in the Cactus Conference Room, State Capitol Building, Pierre, SD, to show cause why action should not be taken against the company for failure to comply with SDCL Chapter 49-1A.

Deputy Executive Director: Sue Cichos
Staff Attorney: Camron Hoseck
Date Opened: 12/30/99
Hearing Date: 02/03/00

TC99-146 In the Matter of Pride America, Inc.'s Failure to Submit a Report and Pay the Gross Receipts Tax.

Pride America, Inc. shall appear on February 3, 2000, at 1:30 p.m. in the Cactus Conference Room, State Capitol Building, Pierre, SD, to show cause why action should not be taken against the company for failure to comply with SDCL Chapter 49-1A.

Deputy Executive Director: Sue Cichos
Staff Attorney: Camron Hoseck
Date Opened: 12/30/99
Hearing Date: 02/03/00

TC99-147 In the Matter of PrimeCall, Inc.'s Failure to Submit a Report and Pay the Gross Receipts Tax.

PrimeCall, Inc shall appear on February 3, 2000, at 1:30 p.m. in the Cactus Conference Room, State Capitol Building, Pierre, SD, to show cause why action should not be taken against the company for failure to comply with SDCL Chapter 49-1A.

Deputy Executive Director: Sue Cichos
Staff Attorney: Camron Hoseck
Date Opened: 12/30/99
Hearing Date: 02/03/00

TC99-148 In the Matter of 1-800-Reconex, Inc. fka Sterling International Funding, Inc. d/b/a Reconex's Failure to Submit a Report and Pay the Gross Receipts Tax.

1-800-Reconex, Inc. fka Sterling International Funding, Inc. d/b/a Reconex shall appear on February 3, 2000, at 1:30 p.m. in the Cactus Conference Room, State Capitol Building, Pierre, SD, to show cause why action should not be taken against the company for failure to comply with SDCL Chapter 49-1A.

Deputy Executive Director: Sue Cichos
Staff Attorney: Camron Hoseck
Date Opened: 12/30/99
Hearing Date: 02/03/00

TC99-149 In the Matter of TelSave Corporation d/b/a Independent Network Service's Failure to Submit a Report and Pay the Gross Receipts Tax.

TelSave Corporation d/b/a Independent Network Service shall appear on February 3, 2000, at 1:30 p.m. in the Cactus Conference Room, State Capitol Building, Pierre, SD, to show cause why action should not be taken against the company for failure to comply with SDCL Chapter 49-1A.

Deputy Executive Director: Sue Cichos
Staff Attorney: Camron Hoseck
Date Opened: 12/30/99
Hearing Date: 02/03/00

TC99-150 In the Matter of Teltrust Communications Services, Inc.'s Failure to Submit a Report and Pay the Gross Receipts Tax.

Teltrust Communications Services, Inc. shall appear on February 3, 2000, at 1:30 p.m. in the Cactus Conference Room, State Capitol Building, Pierre, SD, to show cause why action should not be taken against the company for failure to comply with SDCL Chapter 49-1A.

Deputy Executive Director: Sue Cichos
Staff Attorney: Camron Hoseck

Date Opened: 12/30/99
Hearing Date: 02/03/00

TC99-151 In the Matter of U.S. Network Services, Inc.'s Failure to Submit a Report and Pay the Gross Receipts Tax.

U.S. Network Services, Inc. shall appear on February 3, 2000, at 1:30 p.m. in the Cactus Conference Room, State Capitol Building, Pierre, SD, to show cause why action should not be taken against the company for failure to comply with SDCL Chapter 49-1A.

Deputy Executive Director: Sue Cichos
Staff Attorney: Camron Hoseck
Date Opened: 12/30/99
Hearing Date: 02/03/00

TC99-152 In the Matter of USA Tele Corp.'s Failure to Submit a Report and Pay the Gross Receipts Tax.

USA Tele Corp. shall appear on February 3, 2000, at 1:30 p.m. in the Cactus Conference Room, State Capitol Building, Pierre, SD, to show cause why action should not be taken against the company for failure to comply with SDCL Chapter 49-1A.

Deputy Executive Director: Sue Cichos
Staff Attorney: Camron Hoseck
Date Opened: 12/30/99
Hearing Date: 02/03/00

TC99-153 In the Matter of UStel, Inc.'s Failure to Submit a Report and Pay the Gross Receipts Tax.

UStel, Inc. shall appear on February 3, 2000, at 1:30 p.m. in the Cactus Conference Room, State Capitol Building, Pierre, SD, to show cause why action should not be taken against the company for failure to comply with SDCL Chapter 49-1A.

Deputy Executive Director: Sue Cichos
Staff Attorney: Camron Hoseck
Date Opened: 12/30/99
Hearing Date: 02/03/00

TC99-154 In the Matter of Western Tele-Communications, Inc./Retail Sales Group d/b/a People Link by TCI's Failure to Submit a Report and Pay the Gross Receipts Tax.

Western Tele-Communications, Inc./Retail Sales Group d/b/a People Link by TCI shall appear on February 3, 2000, at 1:30 p.m. in the Cactus Conference Room, State Capitol Building,

Pierre, SD, to show cause why action should not be taken against the company for failure to comply with SDCL Chapter 49-1A.

Deputy Executive Director: Sue Cichos

Staff Attorney: Camron Hoseck

Date Opened: 12/30/99

Hearing Date: 02/03/00

TC00-001 In the Matter of the Application of ezTel Network Services, LLC for a Certificate of Authority to Provide Telecommunications Services in South Dakota.

ezTel Network Services, LLC seeks a Certificate of Authority to provide resold intrastate interexchange telecommunications services in South Dakota. ezTel intends to offer 1+ and 101XXXX direct outbound dialing, toll-free inbound dialing, travel card and directory assistance services.

Staff Analyst: Keith Senger

Staff Attorney: Camron Hoseck

Date Filed: 01/03/00

Intervention Deadline: 01/21/00

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Gross Receipts Tax Show Cause Summary

TC99-126 - A C S Tel Com Inc.

DO NOT REVOKE: TC99-127 - Accutel Communications, Inc.

TC99-128 - Affinity Marketing Strategies LLC d/b/a Funding our Future

DO NOT REVOKE: TC99-129 - AmeriTel Pay Phones, Inc.

TC99-130 - AMNEX

TC99-131 - Atlas Equity, Inc. d/b/a Performance Telecom

DO NOT REVOKE: TC99-132 - Business Options, Inc.

TC99-133 - Call Plus Inc.

TC99-134 - Colorado River Communications Corp. d/b/a CRC Long Distance

TC99-135 - Eagle Telecom, Inc.

TC99-136 - Elias Ventures, Inc. d/b/a American Freeway100

TC99-137 - First Call USA, Incorporated

TC99-138 - Intelicom International Corporation

TC99-139 - International Telecom LTD

TC99-140 - Journey Telecom International Inc.

DO NOT REVOKE: TC99-141 - London Telecom aka Strategic Alliances

DO NOT REVOKE: TC99-142 - Matrix Telecom, Inc.

TC99-143 - New Concept Communications, LLC

TC99-144 - Nova Telecom, Inc. d/b/a B.E.L. EZ Pay

TC99-145 - NTI Telecom, Inc.

TC99-146 - Pride America, Inc.

TC99-147 - PrimeCall, Inc.

DO NOT REVOKE: TC99-148 - 1-800-Reconex, Inc. fka Sterling International Funding, Inc. d/b/a Reconex

EXHIBIT



South Dakota Public Utilities Commission



State Capitol Building, 500 East Capitol Avenue, Pierre, South Dakota 57501-5070

February 25, 2000

ACCUTEL COMMUNICATIONS INC
100 EAST SAMPLE ROAD, SUITE 210
POMPANO BEACH FL 33064

VIA FAX 954-784-0719

Capitol Office
Telephone (605)773-3201
FAX (605)773-3009

Transportation/
Warehouse Division
Telephone (605)773-5200
FAX (605)773-3225

Consumer Hotline
1-800-332-1782

TTY Through
Relay South Dakota
1-800-877-1113

Internet Website
www.state.sd.us/puc/

Jim Burg
Chairman
Pam Nelson
Vice-Chairman
Linda Schoenfelder
Commissioner

William Bullard Jr.
Executive Director

Harlan Best
Martin C. Hettmann
Sue Cichos
Karen E. Crumer
Terry Emerson
Michelle M. Farris
Marlette Fischbach
Heather K. Forney
Shirleen Fugitt
Mary Giddings
Lewis Hammond
Lani Healy
Mary Healy
Camron Hoseck
Lisa Hull
Dave Jacobson
Jennifer Kirk
Bob Knudde
Dolaine Kolbo
Charlene Lund
Gregory A. Rielov
Keith Singer
Rosalyn Ailsa Wiest

RE: Hearing for Docket TC99-127

Dear Accutel Communications:

On January 12, 2000 you received a certified letter notifying you of a hearing before the Commission regarding your failure to pay the Gross Receipts Tax. A hearing was scheduled for February 3, 2000. Just before the hearing, your company contacted Sue Cichos in our office and sent her a copy of a voucher for \$425 indicating that a check was being sent to the Commission. That check has not been received.

If we do not have the check by 5pm on March 3, a hearing will be scheduled to revoke your Certificate of Authority to operate in South Dakota.

Sincerely,

Camron Hoseck
Special Assistant Attorney General
605-773-3201 voice
605-773-3809 fax

2 312 695 380

US Postal Service
Receipt for Certified Mail

No Insurance Coverage Provided.
Do not use for International Mail (See reverse)

Sent to <i>Accutel Comm., Inc.</i>	
Street & Number <i>100 E. Sample Rd., Ste 210</i>	
Post Office, State, & ZIP Code <i>Pompano Beach, FL 33064</i>	
Postage	\$
Certified Fee	
Special Delivery Fee	
Restricted Delivery Fee	
Return Receipt Showing to Whom & Date Delivered	
Return Receipt Showing to Whom, Date, & Addressee's Address	
TOTAL Postage & Fees	\$
Postmark or Date	

PS Form 3800, April 1995

SENDER: • Complete items 1 and/or 2 for additional services. • Complete items 3, 4a, and 4b. • Print your name and address on the reverse of this form so that we can return this card to you. • Attach this form to the front of the mailpiece, or on the back if space does not permit. • Write "Return Receipt Requested" on the mailpiece below the article number. • The Return Receipt will show to whom the article was delivered and the date delivered.		I also wish to receive the following services (for an extra fee): 1. ☐ Addressee's Address 2. ☐ Restricted Delivery Consult postmaster for fee.	
3. Article Addressed to: <i>Accutel Comm., Inc.</i> <i>100 E. Sample Rd., Ste 210</i> <i>Pompano Beach, FL</i> <i>33064</i>		4a. Article Number <i>2 312 695 380</i>	
		4b. Service Type ☐ Registered ☒ Certified ☐ Express Mail ☐ Insured ☐ Return Receipt for Merchandise ☐ COD	
		7. Date of Delivery <i>3/14/00</i>	
5. Received By: (Print Name) <i>Edrica Miller</i>		8. Addressee's Address (Only if requested and fee is paid)	
6. Signature: (Addressee or Agent) <i>x Edrica J. Miller</i>			
PS Form 3811, December 1994		Domestic Return Receipt	

is your RETURN RECEIPT completed on the reverse side?

Thank you for using Return Receipt Service.

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

IN THE MATTER OF ACCUTEL)	ORDER FOR AND NOTICE
COMMUNICATIONS, INC.'S FAILURE TO)	OF SHOW CAUSE HEARING
SUBMIT A REPORT AND PAY THE GROSS)	
RECEIPTS TAX)	TC99-127

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 June 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 reminder letters from the Commission on May 3, 1999, and August 9, 1999, Accutel Communications Inc. (Accutel) has failed to file the required report and pay the 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.

Accutel shall appear on March 28, 2000, at 1:30 P.M. (CST) in the Cactus Conference Room, State Capitol Building, Pierre, South Dakota, to show cause why action should not be taken against the company for failure to comply with SDCL Chapter 49-1A. The hearing is being held pursuant to Commission's jurisdiction over telecommunications companies found at SDCL Chapters 1-26, 49-1, 49-1A, and 49-31, specifically, 49-1-11(4), 49-1A-3, 49-1A-4, 49-1A-5, 49-1A-6, 49-31-3, and ARSD 20:10:01:45.

The issue at the hearing is whether the Commission shall fine, or suspend or revoke Accutel's Certificate of Authority, assess a civil fine against the company, and/or institute collection proceedings against Accutel for failure to pay gross receipts tax.

The hearing shall be an adversary proceeding conducted pursuant to SDCL Chapter 1-26. 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 fine, or suspend or revoke Accutel's Certificate of Authority, assess a civil fine against the company, and/or institute collection proceedings against Accutel for failure to pay gross receipts tax. 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 Accutel shall be held on March 28, 2000, at 1:30 P.M. (CST) (or as soon thereafter as the parties can be heard) in the Cactus Conference Room, State Capitol Building, Pierre, South Dakota. And it is

FURTHER ORDERED, that, in the event Accutel shall file an appropriate report and pay the delinquent gross receipts tax, including the 10% penalty for each month of delinquency, the hearing and actions mentioned herein shall not be held or taken, otherwise this order shall remain in effect.

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 9th day of March, 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><i>William Kaelbo</i></u>
Date	<u>3/9/00</u>
(OFFICIAL SEAL)	

BY ORDER OF THE COMMISSION:

James A. Burg
JAMES A. BURG, Chairman

Pam Nelson
PAM NELSON, Commissioner

Laska Schoenfelder
LASKA SCHOENFELDER, Commissioner

**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 13th 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 13th 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 Kelbo</u>
Date	<u>4/14/00</u>
(OFFICIAL SEAL)	

BY ORDER OF THE COMMISSION:

Pam Nelson
PAM NELSON, Commissioner

Laska Schoenfelder
LASKA SCHOENFELDER, Commissioner

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

IN THE MATTER OF ACCUTEL) COMMUNICATIONS, INC.'S FAILURE TO) SUBMIT A REPORT AND PAY THE GROSS) RECEIPTS TAX)	ORDER DISMISSING AND CLOSING DOCKET TC99-127
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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. 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 never received Accutel's list of current South Dakota subscribers. On November 1, 2000, the Commission revoked Accutel's certificate of authority for failure to pay its gross receipts tax for 1999. (See Docket TC00-147) It was recommended to the Commission that Docket TC99-127 be closed and dismissed based upon the action taken in Docket TC00-147.

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. Due to the action taken in Docket TC00-147, the Commission voted to dismiss and close the docket. It is therefore

ORDERED, that the docket shall be dismissed and closed.

Dated at Pierre, South Dakota, this 9th day of November, 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 Aldene Kaelo

Date 11/14/00

(OFFICIAL SEAL)

BY ORDER OF THE COMMISSION:

James A. Burg
JAMES A. BURG, Chairman

Pam Nelson
PAM NELSON, Commissioner

Laska Schoenfelder
LASKA SCHOENFELDER, Commissioner