

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

IN THE MATTER OF THE FILING BY BLACK)	ORDER FOR AND NOTICE
HILLS FIBERCOM, LLC FOR APPROVAL OF)	OF HEARING
ITS INTRASTATE SWITCHED ACCESS TARIFF)	
AND FOR AN EXEMPTION FROM)	TC00-190
DEVELOPING COMPANY SPECIFIC COST-)	
BASED SWITCHED ACCESS RATES)	

On November 22, 2000, the Public Utilities Commission (Commission) received a filing from Black Hills FiberCom, LLC for approval of its intrastate switched access tariff and for an exemption from developing company specific cost-based switched access rates. The tariff filing is a concurrence in the rates, terms and conditions of the current LECA Tariff No. 1, with the exception of the switched access rates which are based on a statewide average. The company is also requesting that the Commission exempt it from the requirement to develop intrastate switched access rates based on company specific costs. The company is requesting an effective date of November 22, 2000.

On November 23, 2000, the Commission electronically transmitted notice of the filing and the intervention deadline of December 8, 2000, to interested individuals and entities. Qwest Corporation (Qwest) filed a Petition for Leave to Intervene on December 6, 2000. At its regularly scheduled meeting of December 12, 2000, the Commission granted intervention to Qwest.

The Commission has jurisdiction in this matter pursuant to SDCL Chapters 49-31, specifically 49-31-18 and 49-31-19 and ARSD Chapters 20:10:27 through 20:10:29, inclusive.

A hearing shall be held on January 18, 2001, beginning at 8:30 A.M., in the Chamber of Commerce Meeting Room, 800 West Dakota, Pierre, South Dakota. All persons testifying will be subject to cross-examination by the parties.

The issue at the hearing is whether the Commission will approve Black Hills Fibercom's intrastate switched access tariff and grant it an exemption from developing company specific cost-based switched access rates.

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 approve Black Hills Fibercom's intrastate switched access tariff and grant it an exemption from developing company specific cost-based switched access rates. 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 hearing shall be held at the time and place specified above on the issue of whether to approve Black Hills Fibercom's intrastate switched access tariff and grant it an exemption from developing company specific cost-based switched access rates.

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 5th day of January, 2001.

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>Helsine Kaabo</i></u>
Date: <u>1/5/01</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

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BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA

SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION

IN THE MATTER OF THE CONSIDERATION OF)	TC99-107
THE ASSESSMENT OF FINES AND OTHER)	
PENALTIES AGAINST WESTERN TELECOM)	AGREEMENT REGARDING
)	ORDERS TO SHOW CAUSE
IN THE MATTER OF THE CONSIDERATION OF)	AGAINST WESTERN TELECOM
THE ASSESSMENT OF FINES AND OTHER)	AND
PENALTIES AGAINST TOUCHTONE)	TOUCHTONE COMMUNICATIONS
COMMUNICATIONS)	

INTRODUCTION

1. This Agreement Regarding Disposition of Orders to Show Cause Against Western Telecom and Touchtone Communications is entered into between the Staff of the State of South Dakota Public Utilities Commission and Western Telecom and Touchtone Communications. (Western Telecom)

2. Western Telecom is a Washington corporation with its principle place of business at 701 Dexter Avenue North, Suite 410, Seattle, Washington 98109. In the past Western Telecom has engaged in the business of reselling interstate long distance telecommunication services.

3. On November 15, 1999, the Commission voted to issue Orders to Show Cause against Western Telecom and Touchtone Communications as to why the companies should not be assessed civil fines or other penalties pursuant to SDCL §49-31-38 through 49-31-38.3 or assessed civil fines of not more than \$20,000.00 for each alleged violation of SDCL §49-31-89 to 49-31-97, inclusive and ARSD Chp. 20:10:34 pursuant to SDCL §49-31-94. Hearing on said Orders was set for February 1, 2000 at 9:00 o'clock a.m. On January 25, 2000, Commission staff and Western Telecom moved for a continuance of the February 1, 2000 hearing which was granted on January 27, 2000. Since that time the parties have met and conferred regarding the issues raised by the Orders to Show Cause.

4. The Orders to Show Cause basically alleged that Western Telecom was conducting telecommunications business in the State of South Dakota without having first received a Certificate of Authority to so do from the Commission and that fourteen (14) complaints had been filed against Western Telecom alleging unauthorized listing of products or services on a subscriber's bill without the subscriber's permission.

5. In the spring of 2000, Western Telecom ceased doing business entirely within the State of South Dakota and presently does not conduct any telecommunication business of any type in this State.

6. All fourteen of the consumer complaints lodged against Western Telecom have now been settled directly with the consumers involved.

7. It is expressly agreed and understood that Western Telecom does not admit to any violation of State or Federal law, rule or regulation, wrongdoing, or liability of any kind on its part on the part of any of Western Telecom's officers, directors, agents, employees, representatives, independent contractors, marketers, or assigns, nor does this Agreement constitute any finding of any such violations, wrongdoing or liability of any kind on its part or the part of any Western Telecom's officers, directors, agents, employees, representatives, independent contractors, marketers or assigns. Indeed Western Telecom expressly denies such wrongdoing.

FINAL SETTLEMENT

8. Western Telecom shall make a voluntary payment in satisfaction of SDCL §49-30-94 to the State of South Dakota in the sum of Five Thousand Dollars (\$5000.00), and pay costs pursuant to

SDCL §49-31-96 to the South Dakota Public Utilities Commission of a sum of One Thousand Five Hundred Dollars (\$1500.00), to reimburse the Commission for its costs of those proceedings specified in Docket TC99-107. These payments shall be in lieu of any other fines, penalties or actions as might be authorized or imposed under SDCL §49-31-38, §49-31-38.1, §49-31-93, §49-31-94, §49-31-95 and §49-31-96, or any other statutes or rules under which the South Dakota Public Utilities Commission is acting. The parties hereto further agree that such payment is fair and reasonable, in the best interests of all parties involved, and an appropriate resolution of TC99-107.

9. The criteria addressed by SDCL §49-31-94 show as follows:

A. Size of the Company: Western Telecom has total stockholders equity of \$1,473,790.30. (This is from Western Telecom Summary Balance Sheet as of April 30, 2000. The Summary Balance Sheet shows TradeEx International, Inc., as the company name, however, Western Telecom does business as TradeEx International, Inc. This Summary Balance sheet is attached to this document as Exhibit 1)

B. Alleged prior offenses, compliance history: See attached list of complainants and the disposition of the complainants which is attached to this document as Exhibit 2.

C. Good faith in attempting to achieve compliance: As previously stated, Western Telecom no longer conducts any business whatsoever in the State of South Dakota and has in good faith settled with each one of the complainants listed on Exhibit 2.

10. It is understood and agreed that this Agreement addresses the cases specifically cited in the Orders to Show Cause in this docket, and any other cases filed against Western Telecom prior to the date this agreement becomes effective. All of the cases cited by the Orders to Show Cause have been settled with the complainants. It is understood and agreed that this Agreement is intended to effectuate a full and final settlement between the

Public Utilities Commission and Western Telecom as to the matters specifically cited in the Orders to Show Cause and subsequent pleadings in this docket and for any similar fines, costs and statutory penalties that could arise concerning any other complaints concerning similar matters or claims or complaints of improper practices of any kind received by the Commission on or before the effective date of this Agreement.

11. The undersigned Staff of the South Dakota Public Utilities Commission agrees to advise the PUC of this resolution, and request the Commission to enter an Order dismissing with prejudice the Orders to Show Cause filed herein by the Commission, and Staff also agrees not to bring any other motion or request for proceedings related to the previously filed complaints itemized in prior pleadings herein, intending this to be a full, final and complete resolution thereof as between the parties hereto. If the Commission does not dismiss this action then the parties hereto agree that Western Telecom shall be given the opportunity to respond in writing prior to this matter being scheduled for determination at a Formal Hearing, and also to respond as necessary with evidence and exhibits relative thereto. Furthermore, this Agreement shall not be final and effective until it is approved and adopted by the South Dakota Public Utilities Commission, and if not so adopted, it shall be of no force and effect.

DATE: Dec 8, 2000

WESTERN TELECOM and
TOUCHTONE COMMUNICATIONS



James Robbennolt
Counsel for Western Telecom and
Touchtone Communications

STATE OF SOUTH DAKOTA
Staff of the Public Utilities
Commission

DATE:

Dec. 11, 2000

Karen E. Cremer
Karen Cremer
Attorney for the Commission

05/10/00

Tradex International, Inc.
Summary Balance Sheet
As of April 30, 2000

EX 1

	Apr 30, '00
ASSETS	
Current Assets	
Checking/Savings	-1,720.96
Accounts Receivable	3034294.23
Other Current Assets	1372690.68
Total Current Assets	<u>4405263.95</u>
Fixed Assets	75,789.79
Other Assets	6,107.75
TOTAL ASSETS	<u><u>4487161.49</u></u>
LIABILITIES & EQUITY	
Liabilities	
Current Liabilities	
Accounts Payable	685,960.81
Other Current Liabiliti...	2192410.38
Total Current Liabilities	<u>2878371.19</u>
Long Term Liabilities	135,000.00
Total Liabilities	<u>3013371.19</u>
Equity	1473790.30
TOTAL LIABILITIES & EQUI...	<u><u>4487161.49</u></u>

\$250.00 Ed Blood
\$250.00 Laura Collins
\$250.00 Orman & Nyla Fixsen
\$250.00 Garry Helland
\$500.00 Ingrid McCaulley
\$250.00 Sarah Nelson
\$500.00 Bryan & Natalie Parks
\$500.00 Margaret Putnam
\$250.00 Dean Royer
\$1000.00 Faye Stauffacher
\$250.00 Wyatt Strand
\$250.00 Thomas Tiahrt (Marcine)
\$250.00 Marvin Harnisch
\$250.00 Jory White Bull

EX2

