

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

IN THE MATTER OF TON SERVICES, INC.'S)	ORDER FOR AND NOTICE
FAILURE TO SUBMIT A REPORT AND PAY)	OF SHOW CAUSE HEARING
THE GROSS RECEIPTS TAX)	
)	TC03-226

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 April 28, 2003 and September 26, 2003, TON Services, Inc. (TON) 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.

TON shall appear on January 20, 2004, at 10:00 A.M. (CST) in the Cactus Conference Room, State Capitol Building, 500 E. Capitol, 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 TON's Certificate of Authority, assess a civil fine against the company, and/or institute collection proceedings against TON 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 TON's Certificate of Authority, assess a civil fine against the company, and/or institute collection proceedings against TON 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 TON shall be held on January 20, 2004, at 10:00 A.M. (CST) in the Cactus Conference Room, State Capitol Building, 500 E. Capitol, Pierre, South Dakota. And it is

FURTHER ORDERED, that, in the event TON 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 31st day of December, 2003.

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>Helaine Kalbo</i></u>
Date:	<u>1/2/04</u>
(OFFICIAL SEAL)	

BY ORDER OF THE COMMISSION:

Robert K. Sahr
ROBERT K. SAHR, Chairman

Gary Hanson
GARY HANSON, Commissioner

James A. Burg
JAMES A. BURG, Commissioner

South Dakota Public Utilities Commission
WEEKLY FILINGS
For the Period of December 18 through December 31, 2003

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 report. Phone: 605-773-3201

CONSUMER COMPLAINTS

CT03-159 **In the Matter of the Complaint filed by Arnold Wienk, Lake Preston, South Dakota, against S&S Communications/Alterna-Cell Regarding Loss of Long Distance Services.**

Complainant states that he purchased a four-year prepaid long distance service plan on July 2, 2002. Service was terminated without notice in early June of 2003. Complainant seeks to be reimbursed for the prepaid service not provided.

Staff Analyst: Jim Mehlhaff
Staff Attorney: Kelly Frazier
Date Docketed: 12/18/03
Intervention deadline: N/A

ELECTRIC

EL03-033 **In the Matter of the Request by Xcel Energy for Approval of the Construction of a Third Simple Cycle Combustion Turbine Generator at the Angus C. Anson Site Near Sioux Falls.**

On December 19, 2003, the Commission received a request from Xcel Energy that the facility permit order issued in Docket EL91-001 on May 20, 1993, be amended to reflect the proposed construction of a third simple cycle combustion turbine generator at the Angus C. Anson Site near Sioux Falls, South Dakota. The unit will be a General Electric Model 7FA, with a nominal capacity of 160 MW. The Commission's original order approved the construction for up to four 100-megawatt simple cycle combustion turbine generators at the site. Two 105-megawatt combustion turbines have already been installed. This filing by Xcel Energy is to certify that the conditions leading to the issuance of the Facility Siting Permit in Docket EL91-001 will continue to be met.

Staff Analyst: Michele Farris
Staff Attorney: Karen Cremer
Date Docketed: 12/19/03
Intervention deadline: 01/09/04

TELECOMMUNICATIONS

TC03-201 **In the Matter of the Filing for Approval of an Amendment to an Interconnection Agreement between Qwest Corporation and DIECA Communications, Inc. d/b/a Covad Communications Company.**

On December 18, 2003, the Commission received a Filing for Approval of an Amendment to an Interconnection Agreement between Qwest Corporation and DIECA Communications, Inc. d/b/a Covad

Communications Company. According to the parties, the Amendment is made in order to replace the previously approved Joint Testing Amendment, in its entirety, with the terms, conditions and rates for Joint Testing as set forth in Attachment 1 and Exhibit A, which were filed with the Amendment. The original Agreement was approved by the Commission on November 18, 1999, in Docket No. TC99-017. Any party wishing to comment on the agreement may do so by filing written comments with the Commission and the parties to the agreement no later than January 7, 2004. Parties to the agreement may file written responses to the comments no later than twenty days after the service of the initial comments.

Staff Attorney: Kelly Frazier
Date Docketed: 12/18/03
Initial Comments Due: 01/07/04

TC03-202 In the Matter of the Application of Computer Network Technology Corporation for a Certificate of Authority to Provide Interexchange Telecommunications Services and Local Exchange Services in South Dakota.

Computer Network Technology Corporation filed an application for a Certificate of Authority to provide local exchange and interexchange telecommunications services in South Dakota. The applicant intends to provide "non-switched local intrastate interexchange services, specifically private line special access services." The applicant does not intend to provide rural local exchange services.

Staff Analyst: Steve Wegman
Staff Attorney: Kelly Frazier
Date Docketed: 12/19/03
Intervention Deadline: 01/16/04

TC03-203 In the Matter of the Application of Phonetec PCS, LLC for a Certificate of Authority to Provide Interexchange Telecommunications Services in South Dakota.

On December 24, 2003, Phonetec PCS, LLC filed an application for a Certificate of Authority to provide resold interexchange telecommunication service in South Dakota. Phonetec intends to offer 1+ and 101XXXX outbound dialing, 800/888 toll-free inbound dialing, directory assistance, data services and postpaid calling card service throughout South Dakota.

Staff Analyst: Michele Farris
Staff Attorney: Karen Cremer
Date Docketed: 12/24/03
Intervention Deadline: 01/16/04

TC03-204 In the Matter of the Filing for Approval of a Reciprocal Transport and Termination Agreement between Qwest Wireless, LLC and TW Wireless, LLC and PrairieWave Telecommunications, Inc.

On December 24, 2003, the Commission received a Filing of a Reciprocal Transport and Termination Agreement between Qwest Wireless, LLC and TW Wireless, LLC and PrairieWave Telecommunications, Inc. for approval. According to the filing, the parties wish to put in place an arrangement for the mutual exchange and reciprocal compensation of local telecommunications traffic in accord with the 1996 Telecommunications Act which is intended to supersede any previous arrangements between the parties relating to such traffic. Any party wishing to comment on the agreement may do so by filing written comments with the Commission and the parties to the agreement

no later than January 13, 2004. Parties to the agreement may file written responses to the comments no later than twenty days after the service of the initial comments.

Staff Attorney: Kelly Frazier
Date Docketed: 12/24/03
Initial Comments Due: 01/13/04

- TC03-205 In the Matter of ACSI Local Switched Services, Inc. d/b/a e.spire's Failure to Submit a Report and Pay the Gross Receipts Tax.
- TC03-206 In the Matter of All-Star Acquisition Corporation's Failure to Submit a Report and Pay the Gross Receipts Tax.
- TC03-207 In the Matter of Atlas Communications, LTD's Failure to Submit a Report and Pay the Gross Receipts Tax.
- TC03-208 In the Matter of Big Planet, Inc.'s Failure to Submit a Report and Pay the Gross Receipts Tax.
- TC03-209 In the Matter of Comtel Network, LLC's Failure to Submit a Report and Pay the Gross Receipts Tax.
- TC03-210 In the Matter of Eastern Telecommunications Incorporated's Failure to Submit a Report and Pay the Gross Receipts Tax.
- TC03-211 In the Matter of Essex Communications, Inc. d/b/a eLEC Communications' Failure to Submit a Report and Pay the Gross Receipts Tax.
- TC03-212 In the Matter of ezTel Network Services, LLC's Failure to Submit a Report and Pay the Gross Receipts Tax.
- TC03-213 In the Matter of GLD Group Long Distance, Inc.'s Failure to Submit a Report and Pay the Gross Receipts Tax.
- TC03-214 In the Matter of Glyphics Communications, Inc.'s Failure to Submit a Report and Pay the Gross Receipts Tax.
- TC03-215 In the Matter of Intelecall Communications, Inc.'s Failure to Submit a Report and Pay the Gross Receipts Tax.
- TC03-216 In the Matter of Intercontinental Communications Group, Inc. d/b/a Fusion Telecom/Fusion - Trucker Phone's Failure to Submit a Report and Pay the Gross Receipts Tax.
- TC03-217 In the Matter of LD Exchange.com, Inc.'s Failure to Submit a Report and Pay the Gross Receipts Tax.
- TC03-218 In the Matter of Long Distance Billing Services, Inc.'s Failure to Submit a Report and Pay the Gross Receipts Tax.

- TC03-219 In the Matter of Maxcess, Inc.'s Failure to Submit a Report and Pay the Gross Receipts Tax.
- TC03-220 In the Matter of Natel, LLC's Failure to Submit a Report and Pay the Gross Receipts Tax.
- TC03-221 In the Matter of Norstar Communications, Inc. d/b/a Business Savings Plan's Failure to Submit a Report and Pay the Gross Receipts Tax.
- TC03-222 In the Matter of QuantumShift Communications, Inc.'s Failure to Submit a Report and Pay the Gross Receipts Tax.
- TC03-223 In the Matter of S&S Communications/Alternacell's Failure to Submit a Report and Pay the Gross Receipts Tax.
- TC03-224 In the Matter of Sonix4U, Inc.'s Failure to Submit a Report and Pay the Gross Receipts Tax.
- TC03-225 In the Matter of Special Accounts Billing Group, Inc.'s Failure to Submit a Report and Pay the Gross Receipts Tax.
- TC03-226 In the Matter of TON Services, Inc.'s Failure to Submit a Report and Pay the Gross Receipts Tax.
- TC03-227 In the Matter of TransNet Connect, Inc.'s Failure to Submit a Report and Pay the Gross Receipts Tax.
- TC03-228 In the Matter of UKI Communications, Inc.'s Failure to Submit a Report and Pay the Gross Receipts Tax.
- TC03-229 In the Matter of United Communications HUB, Inc.'s Failure to Submit a Report and Pay the Gross Receipts Tax.
- TC03-230 In the Matter of Western CLEC Corporation d/b/a Business Services by Cellular One's Failure to Submit a Report and Pay the Gross Receipts Tax.

The above companies shall appear on January 20, 2004, at 10:00 a.m. 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.

Deputy Executive Director: Heather Forney
Staff Attorney: Karen Cremer
Date Docketed: 12/31/03
Hearing Date: 01/20/04

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Sent To <i>TON Services, Inc.</i> Street, Apt. No.; or PO Box No. <i>4185 Harrison Blvd Ste 301</i> City, State, ZIP+4 <i>Orden VT 84403</i>	
PS Form 3810, June 2002 See Reverse for Instructions	

SENDER: COMPLETE THIS SECTION <ul style="list-style-type: none"> Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. Print your name and address on the reverse so that we can return the card to you. Attach this card to the back of the mailpiece, or on the front if space permits. <p>1. Article Addressed to:</p> <p><i>TON Services, Inc.</i> <i>4185 Harrison Blvd.</i> <i>Orden, VT Ste 301</i> <i>84403</i></p> <p>2. Article Number (Transfer from service label)</p>	COMPLETE THIS SECTION ON DELIVERY <p>A. Signature <input checked="" type="checkbox"/> <i>Cheryl Sims</i> <input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name) <i>CHERYL SIMS</i></p> <p>C. Date of Delivery <i>01-25-04</i></p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If YES, enter delivery address below:</p> <p>3. Service Type <i>TC03-276</i> <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p> <p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>
7002 2030 0004 5245 7560	

SOUTH DAKOTA PUBLIC UTILITIES COMMISSION GROSS RECEIPTS TAX FUND ASSESSMENT

RECEIVED

For the Calendar Year ended December 31, 2002
Payment due on June 1, 2003

JAN 13 2004

TELECOMMUNICATIONS

SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION

(Independent, Cooperative, Municipal, AOS, Reseller, Cellular, Radio Common Carrier)

Name of Company & D/B/A TON Services, Inc.

Address of Company 4185 Harrison Blvd Suite 301
Ogden, UT 84403

Tax ID # 87 - 0498174 Phone # 801-624-4500

INTRASTATE - SOUTH DAKOTA

Local Service Revenues	<u>0</u>
Access Service Revenues	<u>0</u>
Toll Service Revenues	<u>0</u>
Any Other SD Intrastate Revenues	<u>0</u>
TOTAL SD INTRASTATE REVENUES	<u>0</u>

Assessment (.0015 of South Dakota Gross Revenues or \$250.00 whichever is greater.)

\$ 250.00

Signed by Company Officer: Brett Sanford

D. BRETT SANFORD, CFO
(Type or Print Name and Title)

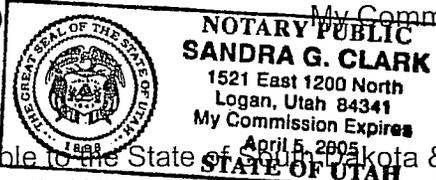
Subscribed and sworn to before me this 9 day of January, 2003.

Sandra G. Clark

(Notary Public)

My Commission expires: 4/5/05

(SEAL)



Checks are to be made payable to the State of South Dakota & are due **June 1, 2003**. (SDCL 49-1A-5)
Mail form and payment to: Public Utilities Commission, 500 E Capitol, Pierre SD 57501-5070.