

RICHARD A. CUTLER
KENT R. CUTLER
BRIAN J. DONAHOE **
STEVEN J. SARBACKER **
JAYNA M. VOSS
MICHAEL D. BORNITZ †
TRENT A. SWANSON *
RYAN J. TAYLOR °
KIMBERLY R. WASSINK
MEREDITH A. MOORE
DAVID L. EDWARDS
NATHAN S. SCHOEN ††
ONNA B. DOMINIACK #
AMY L. ELLIS ^
NICHOLE MOHNING ROTHS *
WILLIAM D. SIMS #
BOBBI L. THURY
DANIEL J. DOYLE

CUTLER & DONAHOE, LLP
ATTORNEYS AT LAW

Telephone (605) 335-4950

Fax (605) 335-4961

www.cutlerlawfirm.com

November 19, 2008

JEAN BROCKMUELLER, CPA (Inactive)
BUSINESS MANAGER

*Also licensed to practice
in Minnesota

#Also licensed to practice
in Iowa

‡Also licensed to practice
in Nebraska

+Also licensed to practice
in Missouri

^Also licensed to practice
in Colorado

*Also licensed to practice
in Kansas

†Admitted to practice in
United States Tax Court

°Also licensed as a
Certified Public Accountant

VIA EMAIL TO PATTY.VANGERPEN@STATE.SD.US

Ms. Patricia Van Gerpen
South Dakota Public Utilities Commission
Capitol Building, 1st Floor
500 East Capitol Avenue
Pierre, SD 57501-5070

RE: *TC08-
In the Matter of the Complaint of Orbitcom, Inc. Against Verizon Business Network
Services, Inc. for Unpaid Access Charges*

Dear Ms. Van Gerpen:

Enclosed for filing in the above matter, please find Orbitcom, Inc.'s Complaint. We will obtain service upon the Respondent Verizon Business Network Services, Inc. Thank you for your assistance. Should you have any questions or concerns, please do not hesitate to contact me.

Best regards.

Sincerely,

CUTLER & DONAHOE, LLP



Meredith A. Moore
For the Firm

MAM/cmc
Enclosure

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

IN THE MATTER OF THE COMPLAINT OF ORBITCOM, INC. AGAINST VERIZON BUSINESS NETWORK SERVICES, INC. FOR UNPAID ACCESS CHARGES	TC08- COMPLAINT
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COMES NOW Orbitcom, Inc., by and through its undersigned counsel of record, and for its Complaint against Verizon Business Network Services, Inc., hereby states and alleges:

NATURE OF THE CASE

1. Orbitcom, Inc. ("Orbitcom") brings this action seeking recovery on an account because of the failure of Verizon Business Network Services, Inc. ("Verizon") to pay Orbitcom the amounts invoiced pursuant to its state tariff for the provisioning of telephone access services. This Complaint is filed pursuant to A.R.S.D. 20:10:01:07.01 and SDCL Chapter 49-13.

THE PARTIES

2. Orbitcom is a corporation organized and existing under the laws of the State of South Dakota, with its principal place of business in Sioux Falls, South Dakota. Orbitcom is a competitive local exchange carrier ("CLEC") engaged in the provisioning of telephone exchange service in the State of South Dakota pursuant to a certificate of convenience and necessity granted by the South Dakota Public Utilities Commission (the "Commission"). Orbitcom provides local originating and terminating and switched access services. The address and relevant telephone and facsimile numbers for Orbitcom are:

Brad Van Leur, President
Orbitcom, Inc.
1701 North Louise Avenue
Sioux Falls, SD 57107
Telephone: (605) 977-6900

3. Upon information and belief, Verizon is a corporation organized and existing under the laws of the State of Delaware and one which has been authorized to transact business in the State of South Dakota. Upon information and belief, the address and relevant telephone and facsimile numbers for Verizon are:

6929 North Lakewood Ave.
M.D. 5.2-105D
Tulsa, OK 74117
Telephone: (918) 590-2474
Facsimile: (918) 590-1996

FACTUAL BACKGROUND

4. Complainant Orbitcom is a CLEC that provides telephone and other services through wires to the businesses of its customers. Complainant also provides originating and terminating and access services to long distance companies, which services allow long distance companies to transmit long distance calls even though they do not own or lease the telephone lines that connect the customer to which the long-distance call is directed.

5. Orbitcom has filed with this Commission a tariff which establishes its rate for intrastate switched access.

6. Respondent Verizon is an interexchange carrier ("IXC") that provides long distance service. Upon information and belief, Verizon acquired MCI Worldcom in approximately July 2006.

7. Orbitcom provides originating access services to Verizon for those customers who selected Verizon as their interexchange carrier. Verizon utilized the access services provided by

Orbitcom pursuant to the terms of its tariffs.

8. Orbitcom has billed Verizon in the name of MCI Worldcom, which corporation was acquired by Verizon in 2006, on a monthly basis for use of its service in accordance with the applicable rates set forth in its tariff filed with this Commission.

9. In approximately February 2008, Verizon ceased making payment on Orbitcom's CABS which statements included intrastate and switched access charges. Attached hereto as Exhibit 1 are the monthly Carrier Access Billings Statements ("CABS") for which Orbitcom has billed Verizon since February 2008 and for which Verizon has not paid Orbitcom. The total amounts due and owing from Verizon to Orbitcom as of the date of this Complaint is also subject to applicable interest, fees and penalties.

10. Verizon has failed and refused and continues to fail and refuse, to pay the invoices although demand for said payments has been made by Orbitcom. As a result of such failure, Verizon is indebted to Orbitcom in those amounts set forth in Exhibit 1, plus applicable interest, fees and penalties.

11. Verizon has knowingly and unlawfully refused to pay Orbitcom's invoices.

**FIRST CAUSE OF ACTION
BREACH OF CONTRACT**

12. Orbitcom re-alleges paragraphs 1 through 11 above and incorporates them as if set forth fully herein.

13. Pursuant to state regulations, Orbitcom has filed a tariff with this Commission, which tariff has the force and effect of law, the terms of which constitute a valid and binding contract.

14. Orbitcom has invoiced Verizon pursuant to rates as set forth in its state tariff as outlined above.

15. Defendant has failed and refused to pay those amounts invoiced to it by Orbitcom, thus constituting a breach of the applicable tariff and therefore a breach of contract.

**SECOND CAUSE OF ACTION
UNJUST ENRICHMENT**

16. Orbitcom re-alleges Paragraphs 1 through 15 above and incorporates them as if set forth fully herein.

17. Orbitcom provided access services for the Defendant through the origination and termination of long distance calls. Such services conferred a benefit upon Verizon because Verizon was able to collect fees from its customers for providing long distance service. Verizon has not paid Orbitcom for providing such services.

18. It would be inequitable for Verizon to retain the benefit of the services provided by Orbitcom without properly compensating Orbitcom for the value of the services provided.

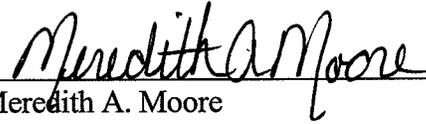
19. Pursuant to the equitable doctrines of quantum meruit and unjust enrichment, Orbitcom is entitled to payment from Orbitcom for the amount of the invoices.

WHEREFORE, Plaintiff requests judgment against Defendant as follows:

1. For those sums as set forth in Exhibit 1, plus applicable interest, fees and penalties, and any unpaid amounts to date of hearing.
2. For pre-judgment interest, post-judgment interest, and the costs of this action, including attorneys' fees and expenses.
3. For expedited relief given the significant impact of Verizon's continued refusal to pay upon Orbitcom.
4. For such other and further relief as this Commission deems just and equitable.

Dated this 19 day of November, 2008.

CUTLER & DONAHOE, LLP
Attorneys at Law

A handwritten signature in cursive script that reads "Meredith A. Moore". The signature is written in black ink and is positioned above a horizontal line.

Meredith A. Moore
100 North Phillips Avenue, 9th Floor
Sioux Falls, SD 57104-6725
Telephone: (605) 335-4950
meredithm@cutlerfirm.com