

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

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

At its November 15, 1999, meeting, the Public Utilities Commission (Commission) unanimously voted to issue Orders to Show Cause against Western Telecom and Touchtone Communications as to why Western Telecom and Touchtone Communications (Western) 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 for each alleged violation of SDCL 49-31-89 to 49-31-97, inclusive and ARSD Chapter 20:10:34 pursuant to SDCL 49-31-94. The Commission also unanimously voted to order Western Telecom and Touchtone Communications to provide the Commission with a complete list of their current South Dakota subscribers, including the subscribers' billing addresses pursuant to SDCL 49-31-95.

The Orders to Show Cause were issued on November 22, 1999, and set the hearing for February 1, 2000. On January 25, 2000, the Commission received a Motion for Continuance from Commission Staff and a Motion for Continuance and Joinder in Staff's Motion for Continuance from Western Telecom. Staff and Western Telecom both requested an indefinite continuance. At its January 27, 2000, meeting, the Commission considered the motions. The Commission voted unanimously to grant the continuance. The Commission also requested an updated report within one month regarding the status of this case. By order dated June 6, 2000, the hearings were set for July 17, 2000. Commission Staff requested a continuance which was granted on July 11, 2000.

On December 11, 2000, an Agreement Regarding Orders to Show Cause Against Western Telecom and Touchtone Communications (the Agreement) was filed with the Commission, said Agreement representing a compromise and settlement of this matter between Western and Staff.

The Commission has jurisdiction over this matter pursuant to SDCL Chapters 49-13 and 49-31, specifically 49-13-1 to 49-13-16, inclusive, 49-31-3, 49-31-7, 49-31-7.1, 49-31-7.2, 49-31-7.3, 49-31-7.4, 49-31-10, 49-31-11, 49-31-38 to 49-31-38.3, inclusive, 49-31-89 to 49-31-97, inclusive, and ARSD Chapter 20:10:34.

At its duly noticed December 12, 2000, meeting, the Commission considered whether to approve the Agreement. Western appeared through its local counsel of record, James Robbenolt. Commission Staff recommended its approval.

The Commission unanimously voted to approve the agreement. It is therefore

ORDERED, that the Commission approves the agreement; and it is

FURTHER ORDERED, that the terms and conditions of the Agreement shall be incorporated into this Order by reference and attached hereto, the same as if it was fully recited herein and shall as such be fully binding upon the parties to it; and it is

FURTHER ORDERED, that pursuant to the Agreement, the docket shall be closed.

Dated at Pierre, South Dakota, this 2nd day of January, 2001.

<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, by facsimile or by first class mail, in properly addressed envelopes, with charges prepaid thereon.
By: <u>Delaine Kelcho</u>
Date: <u>1/4/01</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

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, 2005

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

