



Bob Sahr, Chair  
Dustin Johnson, Vice-Chair  
Gary Hanson, Commissioner

## SOUTH DAKOTA PUBLIC UTILITIES COMMISSION

500 East Capitol Avenue  
Pierre, South Dakota 57501-5070  
[www.puc.sd.gov](http://www.puc.sd.gov)

Capitol Office  
(605) 773-3201  
(605) 773-3809 fax

Transportation/Warehouse  
(605) 773-5280  
(605) 773-3225 fax

Consumer Hotline  
1-800-332-1782

September 1, 2006

Ms. Judy Feddersen  
Clerk of Courts  
P. O. Box 1238  
Pierre, SD 57501-1238

Re: Golden West Companies/WWC License  
Civ.06-302

Dear Ms. Feddersen:

Enclosed you will find original Notice of Entry of Order in the above captioned matter for filing.

Very truly yours,

Rolayne Ailts Wiest  
Special Assistant Attorney General

Enc.



Bob Sahr, Chair  
Dustin Johnson, Vice-Chair  
Gary Hanson, Commissioner

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September 1, 2006

Ms. Meredith A. Moore  
Attorney at Law  
Cutler & Donahoe, LLP  
100 North Phillips Avenue, 9<sup>th</sup> Floor  
Sioux Falls, SD 57104-6725

Mr. Ryan J. Taylor  
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Sioux Falls, SD 57104-6725

Mr. Denny Law  
Eastern Region Manager  
Golden West Companies  
P. O. Box 98  
Dell Rapids, SD 57022-0098

Mr. Paul M. Schudel  
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Mr. James A. Overcash  
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Rapid City, SD 57709-8045

Mr. Stephen B. Rowell  
Alltel  
P. O. Box 2177  
Little Rock, AR 72202

Mr. Richard D. Coit  
Executive Director and General Counsel  
SDTA  
P. O. Box 57  
Pierre, SD 57501-0057

Mr. Leo Disburg  
Chief Hearing Examiner  
Office of Hearing Examiners  
210 East 4<sup>th</sup> Avenue  
Pierre, SD 57501

Re: Golden West Companies/WWC License  
Civ. 06-302

Dear Folks:

Enclosed each of you will find a copy of Notice of Entry of Order with reference to the above captioned matter. This is intended as service upon you by mail.

Very truly yours,

Rolayne Ailts Wiest  
Special Assistant Attorney General

Enc.

STATE OF SOUTH DAKOTA

IN CIRCUIT COURT

COUNTY OF HUGHES

SIXTH JUDICIAL CIRCUIT

IN THE MATTER OF THE PETITIONS OF )  
 ARMOUR INDEPENDENT TELEPHONE )  
 COMPANY, BRIDGEWATER-CANISTOTA )  
 INDEPENDENT TELEPHONE COMPANY, )  
 GOLDEN WEST TELECOMMUNICATIONS )  
 COOPERATIVE, INC., KADOKA TELEPHONE )  
 COMPANY, SIOUX VALLEY TELEPHONE )  
 COMPANY, UNION TELEPHONE COMPANY )  
 AND VIVIAN TELEPHONE COMPANY )  
 (COLLECTIVELY THE "GOLDEN WEST )  
 COMPANIES") FOR ARBITRATION )  
 PURSUANT TO THE TELECOMMUNICATIONS )  
 ACT OF 1996 TO RESOLVE ISSUES )  
 RELATING TO INTERCONNECTION )  
 AGREEMENTS WITH WWC LICENSE L.L.C. )  
 (WESTERN WIRELESS) )

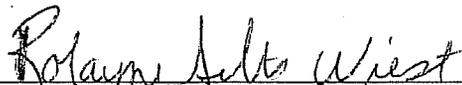
NOTICE OF ENTRY  
OF ORDER

Civ. 06-302

TO: THE GOLDEN WEST COMPANIES. AND ITS ATTORNEYS, RYAN J. TAYLOR,  
 MEREDITH A. MOORE, PAUL M. SCHUDEL AND JAMES A. OVERCASH; WWC  
 LICENSE LLC AND ITS ATTORNEY, TALBOT J. WIECZOREK; DENNY LAW;  
 RON WILLIAMS; STEPHEN B. ROWELL; RICHARD D. COIT AND LEO DISBURG:

Notice is hereby given that an Order, a copy of which is attached hereto, was  
 entered and filed by the Court on the 21<sup>ST</sup> day of August, 2006, in the office of the Clerk of  
 Courts of Hughes County, South Dakota.

Dated this 1st day of September, 2006.



\_\_\_\_\_  
 Rolayne Ailts Wiest  
 Special Assistant Attorney General  
 South Dakota Public Utilities Commission  
 500 East Capitol  
 Pierre, SD 57501  
 Telephone (605) 773-3201

CERTIFICATE OF SERVICE

I hereby certify that copies of Notice of Entry of Order were served on the following  
 by mailing the same to them by United States Post Office First Class mail, postage thereon  
 prepaid, at the address shown below on this the 1st day of September, 2006.

Ms. Meredith A. Moore  
Attorney at Law  
Cutler & Donahoe, LLP  
100 North Phillips Avenue, 9<sup>th</sup> Floor  
Sioux Falls, SD 57104-6725

Mr. Denny Law  
Eastern Region Manager  
Golden West Companies  
P. O. Box 98  
Dell Rapids, SD 57022-0098

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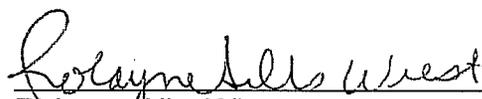
Mr. Ryan J. Taylor  
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210 East 4<sup>th</sup> Avenue  
Pierre, SD 57501

  
\_\_\_\_\_  
Rolayne Ailts Wiest  
Special Assistant Attorney General  
South Dakota Public Utilities Commission  
500 East Capitol  
Pierre, SD 57501

STATE OF SOUTH DAKOTA

IN CIRCUIT COURT

COUNTY OF HUGHES

SIXTH JUDICIAL CIRCUIT

IN THE MATTER OF THE PETITIONS OF )  
 ARMOUR INDEPENDENT TELEPHONE )  
 COMPANY, BRIDGEWATER-CANISTOTA )  
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 COMPANY, UNION TELEPHONE COMPANY )  
 AND VIVIAN TELEPHONE COMPANY )  
 (COLLECTIVELY THE "GOLDEN WEST )  
 COMPANIES") FOR ARBITRATION )  
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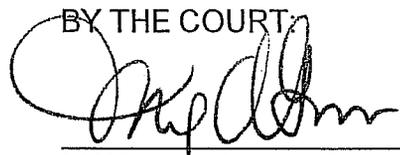
ORDER

Civ. 06-302

This matter is before the Court, the Honorable Max A. Gors, Circuit Court Judge, on the Golden West Companies' Application for Stay dated July 28, 2006, and with the Court having entered Findings of Fact and Conclusions of Law, it is hereby

ORDERED, ADJUDGED AND DECREED that the Application for Stay is denied and dismissed.

Dated this 18th day of August, 2006.

BY THE COURT:  


MAX A. GORS  
 CIRCUIT COURT JUDGE

ATTEST:

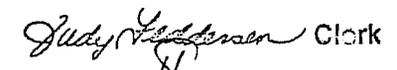
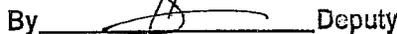
  
 Clerk of Courts Deputy

(SEAL)

STATE OF SOUTH DAKOTA  
 CIRCUIT COURT, HUGHES CO.

**FILED**

AUG 21 2006

 Clerk  
 By  Deputy

STATE OF SOUTH DAKOTA  
 Sixth Judicial Circuit Court

I hereby certify that the foregoing instrument is a true and correct copy of the original as the same appears on file in my office on this date:

AUG 31 2006

Judy Feddersen  
 Hughes County Clerk of Courts

By: 



## FINDINGS OF FACT

1. The Golden West Companies filed the Application for Stay pursuant to SDCL 1-26-32. The Application for Stay requested that this Court immediately enter a temporary stay of the Commission's Order transferring certain dockets to the Office of Hearing Examiners; a stay of the Commission's Order Setting Procedural Schedule; and a stay of any action by the Office of Hearing Examiners relating to OHE File No. PUC 6-06. The Golden West Companies requested the stays pending resolution of the Commission's consideration of the Motion for Reconsideration filed by the Golden West Companies pursuant to ARSD 20:10:01:29 and 20:10:01:30.01.

2. The Golden West Companies did not file an appeal in connection with any of the decisions or actions that were the subject of the request for the stays.

## CONCLUSIONS OF LAW

1. SDCL 1-26-32 provides as follows:

Any agency decision in a contested case is effective ten days after the date of receipt or failure to accept delivery of the decision by the parties. An application to the circuit court for a stay of the agency's decision may be made only within ten days of the date of receipt or failure to accept delivery of the agency's decision. Upon receiving a timely application for a stay and notice of hearing thereon, the court may enter a temporary stay pending a hearing on the application. Following a hearing, the court may order a further stay, pending final decision of the court. The court, as a condition to granting a stay, may require *the appellant* to furnish a bond or other such security or order supervision as the court may direct to indemnify or protect the state or agency or any person from loss, damage, or costs which may occur during the stay. This section does not apply to determinations of benefits made by the Department of Labor pursuant to Title 61.

*(emphasis added).*

2. The South Dakota Supreme Court has declared that "[w]hen the legislature provides for appeal to circuit court from an administrative agency, the circuit court's appellate

jurisdiction depends on compliance with conditions precedent set by the legislature." *Clagget v. Dept. of Revenue*, 464 N.W.2d 212, 214 (S.D. 1990). The Court finds that a condition precedent for the Court to have jurisdiction over the granting of a stay is the filing of an appeal.

3. Under the plain terms of SDCL 1-26-32 an applicant who files for a stay is required to be an appellant. Thus, pursuant to SDCL 1-26-32, a court may only entertain a request for a stay of an administrative decision if the party requesting the stay has appealed the administrative decision. Without an appeal of the underlying decision, this Court lacks the jurisdiction to hear an application for a stay.

4. The Court finds it has no jurisdiction to hear this Application for Stay and hereby dismisses it.

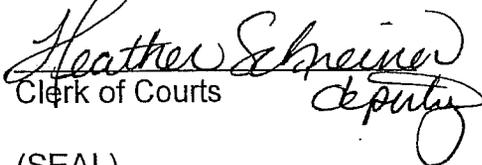
Dated this 18th day of August, 2006.

BY THE COURT



MAX A. GORS  
CIRCUIT COURT JUDGE

ATTEST:

  
Clerk of Courts *deputy*

(SEAL)

STATE OF SOUTH DAKOTA  
Sixth Judicial Circuit Court  
I hereby certify that the foregoing instrument  
is a true and correct copy of the original as the  
same appears on file in my office on this date:

AUG 31 2006

Judy Feddersen  
Hughes County Clerk of Courts

By:

