

TC97-028

KC/LH

TC97-028

DOCKET NO.

In the Matter of **IN THE MATTER OF THE COMPLAINT
FILED BY NETWAY ADVERTISING,
WHITE RIVER, SD, AGAINST GOLDEN
WEST COMPANIES REGARDING
INTERNET ACCESS CHARGES**

Public Utilities Commission of the State of South Dakota

DATE

MEMORANDA

3/25/97	Filed andocketed;
3/27/97	TC Fax Filing;
4/28/97	Order Finding Probable Cause and Notice Requiring Answer;
5/16/97	Answer of Golden West;
7/22/97	Order for and Notice of Hearing;
7/30/97	Order for Continuance of Hearing;
10/3/97	Order dismissing Complaint and Closingocket;
10/3/97	ocket Closed

0142321
 PLEASE TYPE OR PRINT CLEARLY

TC97-028

BEFORE THE PUBLIC UTILITIES COMMISSION
 OF THE STATE OF SOUTH DAKOTA

RECEIVED

MAR 24 1997

COMPLAINT

SOUTH DAKOTA PUBLIC
 UTILITIES COMMISSION

Complainant(s): (The party filing the complaint)		Respondent(s): (The person or Company complained against)	
Name	Setway Advertising Andrew F Wade	Contact Person	Jack Brown
Address	PO Box 421	Company	Golden West Computer
City, State, Zip	White River, SD 57579	Address	410 Crown St.
Work Phone	605-256-3307	City, State, Zip	Wall, SD 57796-0411
Home Phone	605-256-3456	Work Phone	605-275-2161
Cellular Phone		Cellular Phone	
Fax	605-256-3465	Fax	605-275-2727

If the Complainant is represented by an attorney, please list the attorney's name, address, telephone number and fax number below:
 If Complainant is not represented by an attorney, please leave blank:

The facts giving rise to my complaint:

Setway Advertising is an Internet Advertising Agency and an Internet Provider in White River, SD. We have a 56K line now running from our own T1 in Sioux Falls. We installed our 56K line in November of 95. I ran from UWest in Chicago. Then in December we switched it to our own T1 in Sioux Falls. Our installation fee in November of 95 from Golden West was \$0.00. Our installation fee to switch to our own T1 in Sioux Falls in December was \$600.00. Again, since we are in competition with Golden West how our installation charges increased. The line was physically placed in November of 95. All they did in December of 96 was make a switch to their territory. Also, our per month line fee up until December of 96 was 0.00. Now, in January they sent us a bill for \$197.55 for our 56K line. US West charges \$1.15 per mile for a 56K line. Golden West charges \$2.15 per mile. Now it is that a non-profit federally financed organization can make more money than US West. These charges are outrageous and should be lowered. I want these fees to stop. Golden West is trying to make sure they put their competition out of business so they can maintain their non-profit status. Setway Advertising would like to become telephone resellers in all of Golden West territory. Golden West can compete against For-Profit businesses in the Internet services business. That Setway Advertising is For-Profit business should be able to compete against them in a telephone service reseller. Then maybe they would see how it feels. Every time a non-profit takes over a For-Profit Enterprise their Nation looks

NOTE: Please attach additional pages, if necessary, to explain your situation. Also enclose copies of any bills which may pertain to your complaint.

EXHIBIT

RESOLUTION REQUEST

I ask that the Public Utilities Commission grant the following relief. (What do you think the Commission should do to solve this problem?)

I want Golden West to understand that they can't try to put their competition out of business. Our line fees are completely out of line with other phone companies and they need to stop. I want my \$600.00 installation fee returned and our line fees lowered.

NOTE: Please attach any additional pages, if necessary.

VERIFICATION

Signature must be witnessed by a notary public.


 Complainant's Signature

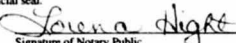
8/20/97
 Date

State of South Dakota

County of Melleita SS

On this 20th day of March, 1997, before me personally came and appeared Andrew F Wade known to me to be the individual described herein and who executed the foregoing instrument, and who duly acknowledged to me that he/she executed same for the purpose therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.


 Signature of Notary Public

(SEAL)

My commission expires:

March of 1997



DISTRICT BRANCH OFFICE
1510 National Avenue
Hot Springs, South Dakota 57747-1498
Phone: 605/745 3103
Fax: 605/745 5331

BILLING DATE	259-0214
MAR 01, 1997	
DELINQUENT AFTER	0062424
MAR 27, 1997	

AMOUNT DUE \$917.46

AMOUNT PAID: \$_____

NETWAY ADVERTISING *
2 HARLAN ELLIS
PO BOX 421
WHITE RIVER SD 57579-0421

7271

GOLDEN WEST COMPANIES
PO BOX 411
WALL, SD 57790-0411

DETACH HERE AND SEND BACK WITH YOUR PAYMENT. DO NOT FOLD.

Payments will be applied on a percentage basis to each service (e.g., phone, cable, television, internet, etc.) unless otherwise specified by customer.

BILLING NUMBER	ACCOUNT NUMBER
259-0214	0062424

NETWAY ADVERTISING



Companies
"Bringing It All Together"

HEADQUARTERS (OFFICE)	DISTRICT BRANCH (OFFICE)
810 Conover St.	1610 National Avenue
West, South Dakota 57701-0411	Hot Springs, South Dakota 57702-1400
Phone: 605/276-2101	Phone: 605/345-5100
Fax: 605/276-2137	

PAGE 1 OF 2

PAGE 1 OF 2

PAYMENTS RECEIVED AFTER FEB 25 ARE NOT INCLUDED

PAYMENTS RECEIVED AFTER FEB 25 ARE NOT INCLUDED				BILLS DATE	
				MAR 01, 1997	MAR 27, 1997
702.13	0.00	0.00	702.13	215.33	917.46

PLEASE CALL 811 OR (605) 279-2161
FOR BILLING INQUIRES OR SERVICE QUESTIONS,
Current charges are due upon receipt. These charges become past
due and are subject to a late charge on the 27th.

CUSTOMER DETAIL

PREVIOUS BALANCE

702.13

CURRENT CHARGES

SPECIAL ACCESS

Recurring Charges MAR 01 TO MAR 31

Description			
DSO	INTRA	CH TERM	- 56K
DSO	INTRA	CH MILE	- 56K
DSO	INTRA	CH MILE FAC	- 56K

Qty	Amount
1	50.00
1	25.00
57	122.55

Total Charges			
Taxes	FED 5.93	STA 7.90	LOC 3.95

$$\begin{array}{r} 197.55 \\ - 17.78 \\ \hline \end{array}$$

Total SPECIAL ACCESS

TOTAL LOCAL CHARGES

215.33

215.33

TOTAL CURRENT CHARGES

215.33

TOTAL AMOUNT DUE

917.46



GOLDEN WEST TELECOMMUNICATIONS COOPERATIVE, INC.

HEADQUARTERS OFFICE
P.O. Box 411
Wall, South Dakota 57790-0411
Phone: 605/279-2161
Fax: 605/279-2777

DISTRICT BRANCH OFFICE
1510 National Avenue
Hot Springs, South Dakota 57747-1498
Phone: 605/745-3103
Fax: 605/745-5331

February 11, 1997

Netway Advertising
2001 S Summit Ave
Sioux Falls, SD 57105

*PO Box 421
White River SD 57579*

Dear Golden West Customer:

The following rate structure for Intrastate or in-state special access circuits will go into effect with Golden West's February billing.

INTRASTATE DSO

Channel Term - \$50.00
Channel Mileage Term - \$25.00
Channel Mileage Facility (per mile) - \$2.15
Bridging (each) - \$6.00

INTRASTATE DSI

Channel Term - \$132.19
Channel Mileage Term - \$75.76
Channel Mileage Facility (per mile) - \$14.60
Multiplexing - \$137.34

The new rate structure, based on the company's revenue requirement, will fall more in line with the method used for pricing Interstate or out-of-state circuits. As you can see below, we use the same elements for pricing both types of circuits however, the in-state pricing (shown above) is lower than the out-of-state pricing.

INTERSTATE DSO

Channel Term - \$62.70
Channel Mileage Term - \$48.52
Channel Mileage Facility (per mile) - \$4.83
Bridging (each) - \$7.85

INTERSTATE DSI

Channel Term - \$176.25
Channel Mileage Term - \$101.01
Channel Mileage Facility (per mile) - \$19.46
Multiplexing - \$183.12

Depending on the distance of the circuit, some customers will see a decrease in their Intrastate Special Access Billing while others may see an increase.

Please note below the amount of increase or decrease that you will see on your monthly billing.

If you have questions about the pricing of your circuit, please call Rick Sutter at Golden West's Headquarters Office in Wall at 605-279-2161 or dial 811 if calling from a Golden West service area.

GOLDEN WEST COMPANIES

Billing Number: 259-0214

Monthly Increase: \$ 26.02

Monthly Decrease:

GOLDEN WEST TELECOMMUNICATIONS

Billing Inquiries Call: (605)278-2181

NETWAY ADVERTISING

(605)259-0214 62424 B01 SA

BILLING DATE 02/15/97

Page 1

PAYMENTS RECEIVED AFTER 01-31 ARE NOT
DEDUCTED FROM THIS BILL.

51.USDA.94895.NW

BILLING SUMMARY

PREVIOUS BALANCE DUE.....	601.64
OTHER SUBSCRIBER CHARGES	
02-15 LOCAL SERVICE CHARGE....FR 02-15 TO 2-28.....	92.19
02-15 TAX ON SUBSCRIBER CHARGES	
TAX- FED 2.77 STATE 3.69 CITY 1.84	8.30
TOTAL OTHER SUBSCRIBER CHARGES	100.49
CURRENT BILLING AMOUNT.....	100.49

TOTAL DUE: Please pay this amount--> 702.13

SUMMARY OF LOCAL SERVICE CHARGES

QTY.	DESCRIPTION	AMOUNT	QTY.	DESCRIPTION	AMOUNT	QTY.	DESCRIPTION	AMOUNT
1	SP ACC INTRA	50.00	1	SP ACC INTRA	25.00	57	SP ACC INTRA	122.55

TOTAL LOCAL SERVICE 197.55

FORMAL COMPLAINT

TC97-028	Netway Advertising vs Golden West Telecommunications Cooperative. Netway Advertising is an Internet Advertising Agency and an Internet Provider in White River, SD. We have a 56K line now running from our own T1 in Sioux Falls. We installed our 56K line in November of 95. It ran from Uninet in Chicago. Then in December we switched it to our own T1 in Sioux Falls. Our installation fee in November of 95 from Golden West was \$0.00. Our installation fee to switch to our own T1 in Sioux Falls in December was \$600.00. Amazing since we are in competition with Golden West how our installation charges increased. The line was physically placed in November of 95. All they did in December of 96 was make a switch at their terminal. Also, our per monthly line fee up until December of 96 was \$0.00. Now, in January they sent us a bill for \$197.55 for our 56K line. U.S. WEST charges \$1.15 per mile for a 56K line. Golden West charges \$2.15 per mile. How is it that a non-profit federally financed cooperative can make more money than U.S. WEST. These charges are outrageous and should be outlawed. I want these fees to stop. I want Golden West to understand that they can't try to put their competition out of business. Our line fees are completely out of line with other phone companies and they need to stop. I want my \$600.00 installation fee returned and our line fees lowered. (Staff: LHKC)	03/24/97	NA
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FULLY COMPETITIVE TELECOMMUNICATIONS FILINGS

(The Commission will be discontinuing this portion of the Fax Filing with this issue.)

NA	Least Cost Routing, Inc. d/b/a Long Distance Charges filed to increase the peak usage rate for its LDC Switched 800 Service. The revision is effective March 25, 1997.	03/24/97	NA
NA	Atlas Communications, Ltd. filed to introduce new rate plans to its Switched Inbound Usage Rates, Switched Outbound Usage Rates, and Calling Card Usage Rates. The revisions are effective April 28, 1997.	03/25/97	NA
NA	POPP Telecom Incorporated filed to modify its usage rates for a number of products offered. The revisions are effective May 1, 1997.	03/26/97	NA
NA	McLeodUSA Telecommunications Services, Inc. filed its tariff to offer long distance service in South Dakota. The tariff is effective March 24, 1997.	03/21/97	NA
No	USA Global Link, Inc. filed to increase the surcharge for LEC Billed Measured Service and to increase the Directory Assistance rate. The revisions are effective March 24, 1997.	03/20/97	NA
No	WorldCom, Inc. filed to increase the surcharge for LEC Billed Measured Service, OnLine Card Service, EasyAnswer Service, Other Service Arrangements, and Directory Assistance and to adjust the Peak and Off-peak periods for selected service offerings. The revisions are effective March 24, 1997.	03/20/97	NA

Important Notice: The Commission is compiling a list of internet addresses. If you have an internet address please notify the Commission by E-mailing it to Terry.Neuman@telnet.sdsd.us. Faxing the address to the Commission at 605-773-3809.

PAGE 2 OF 2

<p>South Dakota Public Utilities Commission State Capitol 500 E. Capitol Pierre, SD 57501-5070 Phone: (605) 332-1782 Fax: (605) 773-3809</p>		<h1> <p>TELECOMMUNICATIONS SERVICE FILINGS</p> </h1> <p>These are the telecommunications service filings that the Commission has received for the period of:</p> <h2> <p>03/21/97 through 03/27/97</p> </h2> <p>If you need a complete copy of a filing faxed, overnight expressed, or mailed to you, please contact Delane Kolbo within five days of this filing.</p>	
DOCKET NUMBER	TITLE/STAFF/SYNOPSIS	DATE FILED	INTERVENTION DEADLINE
REQUEST FOR CERTIFICATE OF AUTHORITY			
TC97-031	Application by RSL COM U.S.A., Inc. for a Certificate of Authority to operate as a telecommunications company within the state of South Dakota. (Staff: TS/KC) "RSL proposes to offer four types of service: presubscribed direct dial interexchange service, inbound Wide Area Telecommunications Service, Directory Assistance, and Prepaid Card Service."	03/27/97	04/11/97
REQUEST FOR ELIGIBLE TELECOMMUNICATIONS COMPANY STATUS			
TC97-030	Dakota Cooperative Telecommunications, Inc., Dakota Telecom, Inc. and Dakota Telecommunications Systems, Inc. (collectively, Dakota) filed a petition with the Commission requesting that the Commission take the steps necessary to implement the Regulations relating to the Universal Service Fund which the Federal Communications Commission (FCC) must have ready by May 8, 1997. Specifically, Dakota is requesting that it be designated as an Eligible Telecommunications Company, as that term is used in 47 USC 214 (e) (1), for the following exchanges: Alsen (253); Beresford Rural (957); Chancellor (647); Davis (238); Flyger (327); Gayville (267); Hurley (238); Irene (263); Lennox (647); Monroe (297); Parker (297); Volin (267); Wakonda (267) and Worthing (372). Dakota offers services throughout these territories and will, once final rules are adopted by the FCC, continue to offer services that are supported by Federal universal service support mechanisms and as supplemented by State regulations under section 254 (f) of the Telecommunications Act, as amended. To provide these services in these exchanges, Dakota will use its own facilities. Dakota has previously, and will continue to advertise the availability of its services in media of general distribution. Prior to this filing, Dakota has not advertised its prices as part of its marketing, but makes those rates known upon inquiry. Dakota further requests that the Commission establish a "service area" as that term is defined in 47 USC 214 (e) (5) for Dakota. Due to the compact and contiguous nature of Dakota's traditional service area, Dakota requests that the Commission designate Dakota's present study area as its service area." (Staff: HB/KC)	03/26/97	04/11/97
NONCOMPETITIVE TARIFF FILING			
TC97-029	McLeodUSA Telecommunications Services, Inc. filed its tariff to offer local exchange service in the Aberdeen, Pierre-Fort Pierre, Rapid City, Sioux Falls and North Sioux City exchanges in South Dakota. The tariff includes general rules and regulations, description of services offered, and rates and charges. (Staff: HB/KC)	03/21/97	04/11/97

PAGE 1 OF 2

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

IN THE MATTER OF THE COMPLAINT FILED)	ORDER FINDING
BY NETWAY ADVERTISING, WHITE RIVER,)	PROBABLE CAUSE AND
SOUTH DAKOTA, AGAINST GOLDEN WEST)	NOTICE REQUIRING
TELECOMMUNICATIONS COOPERATIVE, INC.)	ANSWER
REGARDING INTERNET ACCESS CHARGES)	TC97-028

On March 24, 1997, the Public Utilities Commission (Commission) received a complaint from Netway Advertising (Netway) located in White River, South Dakota, against Golden West Telecommunications Cooperative, Inc. (Golden West). According to the complaint, "Netway Advertising is an Internet Advertising Agency and an Internet Provider in White River, SD. We have a 56K line now running from our own T1 in Sioux Falls. We installed our 56K line in November of 95. It ran from UUnet in Chicago. Then in December we switched it to our own T1 in Sioux Falls. Our installation fee in November of 95 from Golden West was 50.00. Our installation fee to switch to our own T1 in Sioux Falls in December was \$600.00. Amazing since we are in competition with Golden West how our installation charges increased. The line was physically placed in November of 95. All they did in December of 96 was make a switch at their terminal. Also, our per monthly line fee up until December of 96 was 0.00. Now, in January they sent us a bill for \$197.55 for our 56K line. U S WEST charges \$1.15 per mile for a 56K line. Golden West charges \$2.15 per mile. How is it that a non-profit federally financed cooperative can make more money than U S WEST. These charges are outrageous and should be outlawed. I want these fees to stop. I want Golden West to understand that they can't try to put their competition out of business. Our line fees are completely out of line with other phone companies and they need to stop. I want my \$600.00 installation fee returned and our line fees lowered."

Pursuant to ARSD 20.10.01.08.01 and 20.10.01.09, if a complaint cannot be settled without formal action, the Commission shall determine if the complaint shows probable cause of an unlawful or unreasonable act, rate, practice or omission to go forward with the complaint.

On April 15, 1997, at its duly noticed meeting, the Commission reviewed the complaint. Golden West, by letter to the Commission dated April 14, 1997, stated that it did not object to the Commission commencing the hearing process on the complaint.

The Commission finds that it has jurisdiction over this matter pursuant to SDCL Chapters 49-13 and 49-31 and ARSD 20.10.01.08.01 and 20.10.01.09. The Commission voted unanimously to find probable cause; it is therefore

0142-32-7
ORDERED, that pursuant to ARSD 20.10.01.09, the Commission finds that there is probable cause of an unlawful or unreasonable act, rate, practice, or omission and that the complaint shall be forwarded to Golden West and Golden West shall file with the Commission its answer in writing within twenty (20) days of service of this order

Dated at Pierre, South Dakota, this 38th day of April, 1997.

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

Date

(OFFICIAL SEAL)

BY ORDER OF THE COMMISSION:

James A. Burg
JAMES A. BURG, Chairman

Pam Nelson
PAM NELSON, Commissioner

Laska Schoenfelder
LASKA SCHOENFELDER, Commissioner



**GOLDEN WEST TELECOMMUNICATIONS
COOPERATIVE, INC.**

A Golden West Company

HEADQUARTERS OFFICE
P.O. Box 411
Wall, South Dakota 57790-0411
Phone: 605/279-2161
Fax: 605/279-2727

DISTRICT BRANCH OFFICE
1510 National Avenue
Hot Springs, South Dakota 57747-1489
Phone: 605/745-3103
Fax: 605/745-5331

RECEIVED

MAY 16 1997

SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION

May 15, 1997

Mr. William Bullard, Jr.
Executive Director
South Dakota Public Utilities Commission
500 E. Capital Ave.
Pierre, SD 57501


RE: Docket TC 97-028 (Order Finding Probable Cause and Notice Requiring
Answer)

Dear Bill

Enclosed is our response to TC 97-028 relative to the complaint of Netway Advertising.
If you have any questions, please call.

Yours truly,

GOLDEN WEST TELECOMMUNICATIONS COOPERATIVE, INC.



Jack Brown
General Manager

JB:cn

"Bringing It All Together"

BEFORE THE PUBLIC UTILITIES COMMISSION

OF THE STATE OF SOUTH DAKOTA

IN THE MATTER OF THE COMPLAINT FILED BY)	ANSWER OF
NETWAY ADVERTISING, WHITE RIVER,)	GOLDEN WEST
SOUTH DAKOTA, AGAINST GOLDEN WEST)	TELECOMMUNICATIONS
TELECOMMUNICATIONS COOPERATIVE, INC.)	COOPERATIVE
REGARDING INTERNET ACCESS CHARGES)	DOCKET TC97-028

Golden West Telecommunications Cooperative, Inc. ("Golden West"), in response to the Commission's Order dated April 28th, 1997, issued in the above captioned matter and pursuant to ARSD §§ 20 10 01 10 and 20 10 01 11 01, submits the following as its answer to the complaint filed with the Commission by Netway Advertising ("Netway")

- 1 The Complaint of Netway fails to state a cause of action upon which relief may be granted against Golden West.
- 2 Golden West denies any and all allegations of Netway's Complaint except those allegations that are specifically hereinafter admitted.
- 3 Golden West specifically alleges that the Commission is without jurisdiction and authority to review or regulate special access charges because such action by the Commission would constitute rate regulation of services provided, and telecommunications cooperatives (and other independent and municipal local exchange carriers) are exempt from rate regulation by the Commission under SDCL 49-31-5.1. In addition, special access services have been classified by the Commission for regulatory purposes as "fully competitive" services, so the Commission is without jurisdiction and authority to review the allegations contained in Netway's Complaint or to grant the relief prayed for therein.
- 4 Netway also appears to take issue with the local exchange line fees being charged by Golden West. With respect to such charges, again, Golden West as a company covered by the exemption from rate regulation extended under SDCL § 49-31-5.1 is not subject to Commission regulation concerning such charges which are clearly local service charges. Also, Golden West denies that the charges could be viewed as unfair or unreasonable. The charges appropriately reflect the costs incurred by Golden West in providing such services to Netway, in particular, giving consideration to Netway's usage of the local exchange network as an internet service provider. A preliminary traffic study conducted by Golden West indicates that the holding time on an average internet call is approximately 45 minutes compared to an average holding time of less than 4 minutes for voice calls placed on local business lines. The data collected further indicated that the average time used on a daily basis by local lines used for internet access is approximately five times that used on a daily basis, on average, by local business lines.
- 5 The Complaint allegations of Netway specifically reference installation and recurring charges for its purchase of special access services. Golden West admits that it provides Netway with 56 kilobit (hereafter referred to as "56k") special access services allowing for dedicated transmission between Netway's White River location and Sioux Falls. The 56k line is not, however, in its entirety provided by Golden West. The dedicated line is provided through the use of both Golden West and US West facilities. Golden West and US West bill Netway separately for their portion of the 56k line.

EXHIBIT

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- 6 Netway takes issue with a \$600.00 installation charge that apparently was related to establishing connections with a T1 special access service it is purchasing to allow for connections in Sioux Falls. Golden West is without information or belief concerning the \$600.00 installation charge. Golden West denies ever providing Netway any T1 services or charging the company a \$600.00 installation charge. An installation charge was assessed by Golden West for installing the 56k dedicated line in December of 1996, but the charge was \$303.00.
- 7 The Netway complaint further suggests in error that the 56k installed by Golden West for Netway in December 1996 was the continuation of a 56k special access service installed in November of 1995. Contrary to what is indicated by these allegations, the 56k special access services involve two separate lines, one that is provided to Netway directly by Golden West (the December 1996 installation) and another that is provided not to Netway directly but to Worldcom/Witel (the November 1995 installation). Netway states that it was charged a \$50.00 installation fee for the 56k service that was installed in November 1995. Golden West admits that there was an installation charge, but the amount was \$303.00 and the charge was billed by Golden West to Worldcom/Witel and not Netway.
- 8 Golden West admits that its monthly charges to Netway for the 56k special access service being provided directly by Golden West to Netway is \$197.55. Such charges are billed as intrastate special access charges and, contrary to Netway's allegations, they are without question fair and reasonable charges for the service being provided. The claim that the charges are unreasonable based on a comparison with US West's per mile special access charges fails to give any recognition to the substantially different cost of service characteristics existing between Golden West and US West as local exchange carriers. Golden West would also note in response to the claims of Netway, if the 56k special access services provided were determined to be interstate services and purchasing were required under the NECA interstate tariff, the monthly recurring charge for a 56k line for the same connection would be \$433.00 per month.
- 9 Golden West denies all claims made by Netway that any of the rates being charged by Golden West are unfair, unreasonable, or anti-competitive.
- 10 Based on the foregoing, there is clearly no legal or factual basis for the Netway complaint and Netway is entitled to no relief with respect to the Golden West billings.

WHEREFORE, Golden West pray that Netway's Complaint be dismissed on the merits with prejudice, and that Netway take nothing thereunder.

DATED at Wall, South Dakota, this 15th day of May, 1997

GOLDEN WEST TELECOMMUNICATIONS COOPERATIVE, INC.



Jack Brown
General Manager
P.O. Box 411
Wall, SD 57790
(605) 279-2161

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

IN THE MATTER OF THE COMPLAINT FILED)	ORDER FOR AND NOTICE
BY NETWAY ADVERTISING, WHITE RIVER,)	OF HEARING
SOUTH DAKOTA, AGAINST GOLDEN WEST)	
TELECOMMUNICATIONS COOPERATIVE, INC.)	TC97-028
REGARDING INTERNET ACCESS CHARGES)	

On March 25, 1997, the Public Utilities Commission (Commission) received a complaint from Netway Advertising (Netway) located in White River, South Dakota, against Golden West Telecommunications Cooperative, Inc. (Golden West). According to the complaint, "Netway Advertising is an Internet Advertising Agency and an Internet Provider in White River, SD. We have a 56K line now running from our own T1 in Sioux Falls. We installed our 56K line in November of 95. It ran from UUnet in Chicago. Then in December we switched it to our own T1 in Sioux Falls. Our installation fee in November of 95 from Golden West was 50.00. Our installation fee to switch to our own T1 in Sioux Falls in December was \$600.00. Amazing since we are in competition with Golden West how our installation charges increased. The line was physically placed in November of 95. All they did in December of 96 was make a switch at their terminal. Also, our per monthly line fee up until December of 96 was 0.00. Now, in January they sent us a bill for \$197.55 for our 56K line. U.S. WEST charges \$1.15 per mile for a 56K line. Golden West charges \$2.15 per mile. How is it that a non-profit federally financed cooperative can make more money than U.S. WEST. These charges are outrageous and should be outlawed. I want these fees to stop... I want Golden West to understand that they can't try to put their competition out of business. Our line fees are completely out of line with other phone companies and they need to stop. I want my \$600.00 installation fee returned and our line fees lowered."

Pursuant to ARSD 20 10 01 08 01 and 20 10 01 09, if a complaint cannot be settled without formal action, the Commission shall determine if the complaint shows probable cause of an unlawful or unreasonable act, rate, practice or omission to go forward with the complaint.

On April 15, 1997, at its duly noted meeting, the Commission reviewed the complaint. The Commission found that there was probable cause of an unlawful or unreasonable act, rate, practice, or omission. The complaint was forwarded to Golden West and Golden West filed its answer on May 16, 1997.

The Commission has jurisdiction in this matter pursuant to SDCL Chapters 1-26, 49-13, 49-31 and ARSD 20 10 01 08 01 and 20 10 01 09. The Commission may rely upon any or all of these or other laws of this state in making its determination.

The issue is whether Golden West has unjustly or unreasonably discriminated in providing telecommunications services or in the rate or price charged for those services.

The hearing is an adversary proceeding conducted pursuant to SDCL Chapter 1-26. All parties have the right to attend and represent themselves or be represented by an attorney. However, such 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 testimony and evidence provided, if any, during the hearing or a Final Decision may be issued by default pursuant to SDCL 1-26-20.

The Commission, after examining the evidence and hearing testimony presented by the parties, shall make Findings of Fact, Conclusions of Law, and a Final Decision. As a result of the hearing the Commission will determine whether Golden West has unjustly or unreasonably discriminated in providing telecommunications services or in the rate or price charged for those services. The Final Decision made by the Commission may be appealed by the parties to the Circuit Court and the South Dakota Supreme Court as provided by law. It is therefore

ORDERED that a hearing shall commence on August 1, 1997, in Room 412, State Capitol Building, Pierre, SD, beginning at 1 00 p.m.

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 22nd day of July, 1997.

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

William Bullard, Jr.

Date

7/22/97

(OFFICIAL SEAL)

BY ORDER OF THE COMMISSION
Commissioners Burg, Nelson and
Schoenfelder

William Bullard, Jr.

WILLIAM BULLARD, JR.
Executive Director

0142-32-13

**NETWAY ADVERTISING
PO BOX 421
WHITE RIVER, SD 57579
605-259-3307**

RECEIVED

JUL 25 1997

SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION

July 24, 1997

William Bullard, Jr.
Executive Director
Public Utilities Commission
500 East Capitol Avenue
Pierre, SD 57501-5070

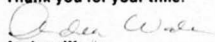
Attention: Complaint - TC97-028

Dear Mr. Bullard:

Netway Advertising would like to withdraw the complaint against Golden West Telecommunications Cooperative, Inc. due to the fact that the PUC doesn't seem to have jurisdiction over the Cooperative.

I believe that if you don't have rate jurisdiction over this Cooperative then the PUC can't possible have jurisdiction over any other issue or complaint involving Golden West.

Thank you for your time.


Andrea Wade
Owner

81442
2003
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**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA**

IN THE MATTER OF THE COMPLAINT FILED)	ORDER FOR CONTINUANCE
BY NETWAY ADVERTISING, WHITE RIVER,)	OF HEARING
SOUTH DAKOTA, AGAINST GOLDEN WEST)	
TELECOMMUNICATIONS COOPERATIVE, INC.)	TC97-028
REGARDING INTERNET ACCESS CHARGES)	

On March 25, 1997, the Public Utilities Commission (Commission) received a complaint from Netway Advertising (Netway) located in White River, South Dakota, against Golden West Telecommunications Cooperative, Inc. (Golden West). A hearing on this matter was scheduled for August 1, 1997. On July 25, 1997, the Commission received a letter from Netway requesting that the complaint be withdrawn. It is therefore

ORDERED that the hearing scheduled for August 1, 1997, in Room 412, State Capitol Building, Pierre, SD, at 1:00 p.m. shall be continued until further notice.

Dated at Pierre, South Dakota, this 30th day of July, 1997.

<p>CERTIFICATE OF SERVICE</p> <p>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.</p> <p>By <u><i>Nelaine Kaebo</i></u></p> <p>Date <u>7/30/97</u></p> <p>(OFFICIAL SEAL)</p>
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BY ORDER OF THE COMMISSION
Commissioners Burg, Nelson and
Schoenfelder

William Bullard Jr
WILLIAM BULLARD JR
Executive Director

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA

IN THE MATTER OF THE COMPLAINT FILED)	ORDER DISMISSING
BY NETWAY ADVERTISING, WHITE RIVER,)	COMPLAINT AND CLOSING
SOUTH DAKOTA, AGAINST GOLDEN WEST)	DOCKET
TELECOMMUNICATIONS COOPERATIVE, INC.)	
REGARDING INTERNET ACCESS CHARGES)	TC97-028

On March 25, 1997, the Public Utilities Commission (Commission) received a complaint from Netway Advertising (Netway), White River, South Dakota, against Golden West Telecommunications Cooperative, Inc. (Golden West) alleging a billing disagreement with Golden West regarding installation fees and rates.

Pursuant to ARSD 20 10 01 08 01 and 20 10 01 09, if a complaint cannot be settled without formal action, the Commission shall determine if the complaint shows probable cause of an unlawful or unreasonable act, rate, practice or omission to go forward with the complaint.

On April 15, 1997, at its duly noted meeting, the Commission reviewed the complaint. The Commission found that there was probable cause of an unlawful or unreasonable act, rate, practice, or omission. The Commission further ordered the executive director to establish a procedural schedule. The complaint was forwarded to Golden West and Golden West filed its answer on May 16, 1997. A hearing was scheduled for August 1, 1997. On July 25, 1997, Netway filed a request to withdraw the complaint.

The Commission has jurisdiction in this matter pursuant to SDCL Chapters 1-26, 49-13, 49-31 and ARSD 20 10 01 08 01 and 20 10 01 09.

At its regularly scheduled September 25, 1997, meeting, the Commission considered the request to withdraw its complaint. The Commission granted Netway's request to withdraw its complaint. It is therefore

ORDERED, that Netway's request to withdraw its complaint is granted and this docket is closed.

Dated at Pierre, South Dakota, this 3rd day of October, 1997.

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 [Signature]

Date 10/7/97

(OFFICIAL SEAL)

BY ORDER OF THE COMMISSION

[Signature]
JAMES A. BURG, Chairman

[Signature]
PAM NELSON, Commissioner

[Signature]
LASKA SCHOENFELDER, Commissioner