

TC 98-142

K3/LH

TC 98-142

DOCKET NO.

In the Matter of

IN THE MATTER OF THE COMPLAINT
FILED BY W. JOSEPH CLAFLIN, RAPID
CITY, SOUTH DAKOTA, AGAINST U S
WEST COMMUNICATIONS, INC.
REGARDING UPDATING LINES

Public Utilities Commission of the State of South Dakota

DATE

MEMORANDA

7/31 98 Received;
8/7 98 Accepted;
8/13 98 Weekly Salary;
8/25 98 Public Seeking Viable Cause;
8/6 99 Note Resolving Complaint and Closing Docket;
18/6 99 Docket Closed.

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA
500 E. Capitol, State Capitol Building, Pierre SD 57501

COMPLAINT

TC 98-142
RECEIVED
JUL 31 1998

SOUTH DAKOTA PUBLIC UTILITIES COMMISSION

Complainant(s): (Persons filing the complaint)		Respondent(s): (Persons or Company complained against)	
Name	<u>W. Joseph Clafin</u>	Contact Person	
Address	<u>225 Bavarian Dr.</u>	Company	<u>U S West</u>
City, State, Zip	<u>Rapid City, SD 57702</u>	Address	
Home Phone	<u>(605) 574-4757</u>	City, State, Zip	
Work Phone		Work Phone	
Cellular Phone		Cellular Phone	
Fax #		Fax #	

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.)

These are the facts giving rise to my complaint:

See Attached:

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

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?)

See Attached:

NOTE: Please attach any additional pages, if necessary.

VERIFICATION

Complainant's signature must be witnessed by a notary public.

W. Joseph Clafin
Complainant's Signature

July 30, 1998
Date

State of South Dakota)
County of Pennington)SS

On this 30th day of July, 1998.

before me personally came and appeared W. Joseph Clafin
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.

Diana Rome
Signature of Notary Public

(SEAL)

My commission expires: 7-1-2003

Facts giving rise to this complaint:

As President of Edelweiss Mountain Improvement Association, I represent 54 homeowners and 49 potential homebuilders on Edelweiss Mountain Development, three and one-half miles west of Hi-Way 385 at the Black Forest Inn turnoff. I am writing on behalf of the users of the 75 phone lines in our community.

Since moving to Edelweiss in June, 1997, and having been elected President of this Association, members of this Association have complained about our poor phone service and the inability to effectively connect to Internet services. After making numerous phone calls to various US West personnel during the fall and winter of 1997-98, without satisfaction in improved phone quality, I wrote to the PUC (letter dated February 2, 1998, to Mr. Bill Bullard). The PUC has copies of my letter on file. I also presented oral testimony at the PUC Public Forum in Rapid City, on July 20, 1998. A copy of this testimony is on file with the PUC Commissioners.

During the fall of 1997 a number of residents attempted to take advantages of some of the "class services" provided by US West but were told on a number of occasions that we are guaranteed only a dial tone. It seems that the "switching tower" at the entrance to our development, is unable to provide anything more than voice communication. This system, a "slick 40" system, was installed in the early 1970's and has not been updated since. The answer I receive in response to "why hasn't this been updated", is "we're working on it and the "cost is excessive". A US West engineer from Rapid City indicated to me that we do have a digital carrier system in the line running from HiWay 385 to the development gate, but the "tower" for switching is obsolete and not manufactured any longer. The people who live in this development, permanently or seasonally, have been paying, for the past 25 years, the same phone charges that exist in urban areas, but have been receiving poor phone service through antiquated equipment.

On many occasions, phone conversations will terminate with loud screeching or continuous static. Calls are made to US West technical support staff, they check our phones and say we are getting exactly what we are "supposed to get", a dial tone and voice communication only. This is extremely frustrating due to the frequency of these disturbances.

A number of homeowners on the Mountain have computers and wish to have reasonable access to the Internet through various providers. Access to the Internet is almost impossible due to the time lag involved in getting connected to the provider, waiting for downloading and screen changes, and even having to re-boot systems due to "termination" of connections. With the unlimited amount of information available through the Internet, we feel that we are "intellectually isolated" by not having the same opportunities to pursue and acquire information as those living in urban communities.

I have listed below, the names of individuals and places that I have called, inquiring about our service and what is being done to upgrade our facilities. To the best of my recollection, I also have listed the dates on which the calls were made.

Oct/Nov, 1997: Called local service three or four times concerning "screeching" on the phone.

Jan, 1998: Inquired about "Caller ID" service. Ordered the service, as did at least 3 other homeowners on the Mountain. Result: Caller ID did not work. I then talked to people in DesMoines, Omaha, Denver and St. Paul about this service. I was told that "we should be able to get this service", and "no, you can't get this service". I then began inquiring as to why we couldn't get the service.

My initial seven or eight calls regarding the quality of our service, were transferred to Omaha, Denver, St.Paul, DesMoines, and Chicago. No one was able, or willing to take the responsibility to tell me why our service was so poor. I explained our situation on the Mountain to all of these US West employees. Those that I talked to were reluctant to provide names of those "administrators" who could have explained our situation. They simply "passed me on to someone else".

Feb. 25, 1998: Called Royal McCracken--left message of concern.

Feb. 25, (PM): McCracken returned call: He indicated that he would pursue answers to our poor service.

Feb.25, 1998. Called Bill Behringer (US West Technician). Bill checked our lines. All OK.

Feb. 26, 1998: Called Larry Janes (US West) Expressed our poor service concerns. These concerns will be passed on to our engineering division in Denver.

Feb. 27, 1998. L. Janes called back. Indicated that our concerns will be aired at a meeting in Sioux Falls during March 2-6. I was to receive a status report from that meeting. I received none.

Mar 4, 1998: (11:00 AM) Called R. McCracken: left message, no return call.

** At some point here, I talked to Dennis Serfling, RC, US West engineer. He informed me that we had a "slick 40" system and that we "wouldn't get any better" until that system was changed.

May 5, 1998: Called Larry Janes: left message inquiring about our status in upgrading.

May 15, 1998: Called Dave Embry, US West Technician, about screeching on our lines. He changed something in the "tower", indicating it was a result of the rain.

May 15, 1998 : Called Larry Janes. Left message. Larry was most helpful in attempting to keep me informed about our system. He indicated however, that he was not in a position to make the kinds of decisions that were needed to upgrade our system. We had at least six conversations regarding this.

May 15, 1998: Phones went dead. I called Dave Embry: He was not available.

May 15, 1998: Called Paul Lowe (Law?): No answer, left message indicating dead phone lines. He returned my call on May 18, two days later.

May 16, 1998: Made an additional call regarding our "dead phones". Don't know who but no answer. Left message.

June 23, 1998: Received a message from Larry Janes indicating no new information regarding our system upgrade.

It appears that US West is responding to the demands of urban areas and industrial telecommunication needs while ignoring the rural areas that provide a steady income from the use of old equipment and little or no competition from other telecom companies. We have been paying the same rates as urban centers for years, our system has paid for itself long ago, monies have been invested and a return used to upgrade other areas. It is time that US West invested in rural areas to bring them up to the same quality of service as the vast majority of users in the country.

I (We) ask the Public Utilities Commission to grant the following relief.

We, the homeowners and property owners on Edelweiss Mountain, request that the Public Utilities Commission, insist that US West, voluntarily, or if necessary by PUC action, install upgraded telecommunications equipment that will put Edelweiss phone users at the same level of efficiency as those US West customers in Rapid City. We have "paid our dues for 25 years" and would like service comparable to that of urban communities.

We request that an upgrade in equipment and service be completed within the next year as our emergency phone needs, Internet access, day to day communications requirements, and are proposed business use, are all in jeopardy without reasonable communications capabilities.

The Edelweiss Mountain community would like to express their appreciation to the Public Utilities Commission for their concern and interest in upgrading and maintaining a high quality communications network in South Dakota. It is imperative that we have the capability to efficiently communicate with the rest of the world.

On behalf of the residents of Edelweiss Mountain Homeowners Association, I respectfully submit the above request.

Sincerely,



W. Joseph Clafin, President
EMIA

South Dakota Public Utilities Commission

WEEKLY FILINGS

For the Period of August 7, 1998 through August 13, 1998

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 filing. Phone: 605-773-3705. Fax: 605-773-3809

TELECOMMUNICATIONS

TC98-142 In the Matter of the Complaint filed by W. Joseph Claflin, Rapid City, South Dakota, against U S WEST Communications, Inc., regarding Updating Lines

Mr. Claflin represents 54 homeowners and 49 potential homebuilders of the Edelweiss Mountain Development who wish to have upgraded services

Staff Attorney: Karen Cremer
Consumer Representative: Leni Healy
Date Filed: 08/07/98
Intervention Deadline: N/A

TC98-143 In the Matter of the Application of RSL COM PrimeCall, Inc., for a Certificate of Authority to Provide Telecommunications Services in South Dakota

Application by RSL COM PrimeCall, Inc. for a Certificate of Authority to "provide resold interexchange telecommunications services in the State of South Dakota" as a prepaid calling card service. "RSL COM PrimeCall propose to provide InterLATA and IntraLATA service within the geographic borders of the State of South Dakota."

Staff Attorney: Karen Cremer
Consumer Representative: Kylie Tracy
Date Filed: 08/13/98
Intervention Deadline: 08/28/98

TC98-144 In the Matter of the Complaint filed by Mike Malsom, Mina, South Dakota, against U S WEST Communications, Inc., regarding Updating Lines

Poor telephone service in the Mina, SD area

Staff Attorney: Karen Cremer
Consumer Representative: Leni Healy
Date Filed: 08/13/98
Intervention Deadline: N/A

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You may subscribe to the PUC mailing list at <http://www.state.sd.us/state/executive/puc/puc.htm>

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

IN THE MATTER OF THE COMPLAINT FILED)	ORDER FINDING
BY W. JOSEPH CLAFLIN, RAPID CITY, SOUTH)	PROBABLE CAUSE
DAKOTA, AGAINST U S WEST)	
COMMUNICATIONS, INC. REGARDING)	TC98-142
UPDATING LINES)	

On July 31, 1998, the Public Utilities Commission (Commission) received a complaint filed by W. Joseph Claflin, President of Edelweiss Mountain Improvement Association, Rapid City, South Dakota, against U S WEST Communications, Inc (U S WEST). The complaint states: "As President of Edelweiss Mountain Improvement Association, I represent 54 homeowners and 49 potential homebuilders on Edelweiss Mountain Development, three and one-half miles west of Hi-Way 385 at the Black Forest Inn turnoff. I am writing on behalf of the users of the 75 phone lines in our community. Since moving to Edelweiss in June, 1997, and having been elected President of this Association, members of this Association have complained about our poor phone service and the inability to effectively connect to Internet services. After making numerous phone calls to various U S WEST personnel during the fall and winter of 1997-98, without satisfaction in improved phone quality, I wrote to the PUC [February 2, 1998]. During the fall of 1997 a number of residents attempted to take advantage of some of the 'class services' provided by U S WEST but were told on a number of occasions that we are guaranteed only a dial tone. It seems that the 'switching tower' at the entrance of our development, is unable to provide anything more than voice communication. This system, a 'slick 40' system, was installed in the early 1970's and has not been updated since. . . . The people who live in this development, permanently or seasonally, have been paying, for the past 25 years, the same phone charges that exist in urban areas, but have been receiving poor phone service through antiquated equipment." Other issues outlined include termination of phone conversations with loud screeching or static and access to the Internet is almost impossible. The residents of Edelweiss Mountain community request that U S WEST install upgraded telecommunications equipment that will put them at the same level of efficiency as those U S WEST customers in Rapid City. And, "we request that an upgrade in equipment and service be completed within the next year as our emergency phone needs, Internet access, day to day communications requirements, and our proposed business use, are all in jeopardy without reasonable communications capabilities."

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 August 18, 1998, at a duly noticed meeting, U S WEST stated that the problem area was scheduled to have the line updated and it was anticipated this would be completed by the end of the second quarter of 1999.

The Commission finds that it has jurisdiction over this matter pursuant to SDCL Chapters 1-26, 49-13, including 49-13-1 through 49-13-14, inclusive, and SDCL Chapter 49-31, including 49-31-3, 49-31-7, 49-31-7.1, 49-31-7.2, 49-31-10, 49-31-11, 49-31-38, 49-31-38.1, 49-31-38.2, 49-31-38.3, 49-31-60 through 49-31-68, inclusive, and ARSD 20.10.01.07.01 through 20.10.01.15.01, inclusive. The Commission voted unanimously to find probable cause. However, since U S WEST has stated that the facilities that serve the Edelweiss Mountain Improvement Association will be updated by the end of the second quarter of 1999, the Commission will defer any action on the complaint until July 31, 1999. It is therefore

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. The Commission does not require U S WEST to file its answer in this matter at this time.

Dated at Pierre, South Dakota, this 25th day of August, 1998.

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>Debbie Kees</i></u>
Date	<u>8/26/98</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**

IN THE MATTER OF THE COMPLAINT FILED)	ORDER DISMISSING
BY W. JOSEPH CLAFLIN, RAPID CITY, SOUTH)	COMPLAINT AND CLOSING
DAKOTA, AGAINST U S WEST)	DOCKET
COMMUNICATIONS, INC. REGARDING)	
UPDATING LINES)	TC98-142

On July 31, 1998, the Public Utilities Commission (Commission) received a complaint filed by W. Joseph Claflin, President of Edelweiss Mountain Improvement Association, Rapid City, South Dakota, against U S WEST Communications, Inc. (U S WEST). The complaint states: "As President of Edelweiss Mountain Improvement Association, I represent 54 homeowners and 49 potential homebuilders on Edelweiss Mountain Development, three and one-half miles west of Hi-Way 385 at the Black Forest Inn turnoff. I am writing on behalf of the users of the 75 phone lines in our community. Since moving to Edelweiss in June, 1997, and having been elected President of this Association, members of this Association have complained about our poor phone service and the inability to effectively connect to Internet services. After making numerous phone calls to various U S WEST personnel during the fall and winter of 1997-98, without satisfaction in improved phone quality, I wrote to the PUC [February 2, 1998]. During the fall of 1997 a number of residents attempted to take advantage of some of the 'class services' provided by U S WEST but were told on a number of occasions that we are guaranteed only a dial tone. It seems that the 'switching tower' at the entrance of our development, is unable to provide anything more than voice communication. This system, a 'slick 40' system, was installed in the early 1970's and has not been updated since.... The people who live in this development, permanently or seasonally, have been paying, for the past 25 years, the same phone charges that exist in urban areas, but have been receiving poor phone service through antiquated equipment." Other issues outlined include termination of phone conversations with loud screeching or static and access to the Internet is almost impossible. The residents of Edelweiss Mountain community request that U S WEST install upgraded telecommunications equipment that will put them at the same level of efficiency as those U S WEST customers in Rapid City. And, "we request that an upgrade in equipment and service be completed within the next year as our emergency phone needs, Internet access, day to day communications requirements, and our proposed business use, are all in jeopardy without reasonable communications capabilities."

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 August 18, 1998, at a duly noticed meeting, U S WEST stated that the problem area was scheduled to have the line updated and it was anticipated this would be completed by the end of the second quarter of 1999. The Commission voted unanimously to find probable cause. However, since U S WEST stated that the facilities that serve the Edelweiss Mountain Improvement Association would be updated by the end of the second quarter of 1999, the Commission deferred any action on the complaint until July 31, 1999.

At its regularly scheduled meeting of July 29, 1999, U S WEST informed the Commission that the facilities had been updated. Commission Staff reported that the complaint was satisfied and requested that the complaint be withdrawn. Commission Staff recommended that the complaint be dismissed and the docket closed.

The Commission finds that it has jurisdiction over this matter pursuant to SDCL 49-13-1, 49-13-4, 49-13-13, 49-13-14 1, 49-31-3, 49-31-7, 49-31-7.1, 49-31-11, 49-31-60 through 49-31-68, inclusive, and ARSD 20:10:01:08:01 and 20:10:01:09. The Commission voted unanimously to dismiss the complaint and close the docket. It is therefore

ORDERED, that this complaint be dismissed and the docket be closed.

Dated at Pierre, South Dakota, this 6th day of August, 1999.

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 Arlene Kalls

Date: 8/6/99

(OFFICIAL SEAL)

BY ORDER OF THE COMMISSION:

James A. Burg
JAMES A. BURG, Chairman

Pam Nelson
PAM NELSON, Commissioner

Laska Schoenfelder
LASKA SCHOENFELDER, Commissioner