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TC98-214

TC98-214

DOCKET NO.

In the Matter of

IN THE MATTER OF THE FILING BY U
S WEST COMMUNICATIONS, INC. FOR
APPROVAL OF REVISIONS TO ITS
EXCHANGE AND NETWORK
SERVICES TARIFF

Public Utilities Commission of the State of South Dakota

DATE

MARK AND

12/24/98 Filed and Accepted,
12/30/98 Henry Felling,
1/11/99 Filed by documentation for exchange,
5/12/99 Under Review and Revisions to Tariff,
5/12/99 Market Check

0150621
TC98-214

125 South Dakota Avenue, 8th Floor
Sioux Falls, South Dakota 57194

USWEST
COMMUNICATIONS @

December 21, 1998

RECEIVED

DEC 24 1998

Mr. William Bullard, Executive Director
Public Utilities Commission
State Capitol Building
Pierre, South Dakota 57501

SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION

Dear Mr. Bullard:

U S WEST Communications has attached for filing with the Commission the following revised pages from our Exchange and Network Services Tariff.

<u>Section</u>	<u>Page</u>	<u>Release</u>
1	8	2
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10	Index Page 1	2
10	6	1

The purpose of these revisions is to assess a \$.17 per month surcharge on all Sioux Falls customer access lines for the elimination of toll services from Sioux Falls to Dell Rapids and Colton, South Dakota.

U S WEST proposes this charge be effective upon installation of the necessary facilities to offer the service.

If you have any questions, please call me at 605-335-4596. We would appreciate acknowledgment of receipt of this filing. A duplicate copy of this letter is attached for your convenience.

Sincerely,


Colleen E. Sevold
Manager-Regulatory Affairs

Attachment

TELECOMMUNICATIONS NEW SERVICES CLASSIFICATION FILING

- 1) Requested Classification: Non-Competitive
 Emerging Competitive
 Fully Competitive

- 2) This service will be offered: Intrastate, IntraLATA
 Intrastate, InterLATA
 Interstate

- 3) Detailed Description of Service: This filing assesses a monthly surcharge to all Sioux Falls access lines for the elimination of toll services from Sioux Falls to Colton and Dell Rapids.

- 4) Reason for Change: To recover revenues lost when removing the toll charge to Dell Rapids and Colton from Sioux Falls.

- 5) Basis for Rates: The \$.17 per access line is the result of the revenue lost.

- 6) Quantification of Customer Impact: This will affect all Sioux Falls customers.

- 7) Proposed Effective Date: Upon installation of the necessary facilities.

U S WEST COMMUNICATIONS, INC.
Exchange and Network
Services Tariff

SECTION I
Page 8
Release 2
Effective: 3

State of South Dakota
Issued: 12-21-98

I. APPLICATION AND REFERENCE

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SERVICE OFFERINGS**

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SECTION 14. RESERVED FOR FUTURE USE

U S WEST COMMUNICATIONS, INC.
Exchange and Network
Services Tariff

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State of South Dakota
Issued: 12-21-98

I. APPLICATION AND REFERENCE

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Surcharge for Elimination of MTS Charges	10	(N)
SWITCHNET 36 Service	15	

U S WEST COMMUNICATIONS, INC.
Exchange and Network
Services Tariff

SECTION 5
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Effective: 7

State of South Dakota
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5. EXCHANGE SERVICES

5.1 EXCHANGE AREAS

5.1.1 EXCHANGES AND THEIR EXTENDED AREA SERVICE (EAS) POINTS (Cont'd)

EXCHANGE	RATE GROUP	EXCEPTION	
Morristown Lemmon[1] McIntosh	D	2FB and 2FR service is obsolete. - Also serves rural territory in state of North Dakota	
Pierre-Ft Pierre Hayes[1]	E	2FB and 2FR service is obsolete.	
Rapid City Hermosa[1] Hill City Keystone[1]	G	2FB and 2FR service is obsolete.	
Redfield Doland[1] Tulare[1]	C	2FB and 2FR service is obsolete.	
Sioux Falls[2] Baltic[1] Brandon[1] Crooks[1] Garretson[1] Harrisburg Hartford[1] Tea Valley Springs[1]	I	2FB and 2FR service is obsolete.	(T)

[1] Non-Company Exchanges.

[2] See 10.14, Surcharge for Elimination of MTS Charges.

(N)

U S WEST COMMUNICATIONS, INC.
Exchange and Network
Services Tariff

SECTION 10
Index Page 1
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Issued 12-21-98

10. MISCELLANEOUS SERVICE OFFERINGS

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U S WEST COMMUNICATIONS, INC.
Exchange and Network
Services Tariff

SECTION 10
Page 6
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Effective: 1

State of South Dakota
Issued: 12-21-98

10. MISCELLANEOUS SERVICE OFFERINGS

10.14 SURCHARGE FOR ELIMINATION OF MTS CHARGES

(N)

Sioux Falls customers are assessed \$ 0.17 per flat rated access line for elimination of MTS charges between Sioux Falls and Dell Rapids and Sioux Falls and Colton.

South Dakota Public Utilities Commission

WEEKLY FILINGS

For the Period of December 24, 1998 through December 30, 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

TC98-214 U S WEST Communications filed "to assess a \$ 17 per month surcharge on all Sioux Falls customer access lines for the elimination of toll services from Sioux Falls to Dell Rapids and Colton, South Dakota U S WEST proposes this charge be effective upon installation of the necessary facilities to offer the service "

U S WEST Communications filed a tariff to implement a Surcharge For Elimination Of Message Telecommunication Service (MTS) Charges. "Sioux Falls customers are assessed \$0.17 per flat rated access line for elimination of MTS charges between Sioux Falls and Dell Rapids and Sioux Falls and Colton." U S WEST proposes this charge be effective upon installation of the necessary facilities to offer the service

Staff Attorney Karen Cremer
Staff Analyst Harlan Best
Date Filed 12/24/98
Intervention Deadline 01/15/99

You may receive this listing and other PUC publications via our website or via internet e-mail
You may subscribe to the PUC mailing list at <http://www.state.sd.us/puc/>

01589
9.200.0

125 South Dakota Avenue 8th Floor
Sioux Falls, South Dakota 57194

USWEST
COMMUNICATIONS @

January 8, 1999

RECEIVED

Mr. William Bullard, Executive Director
Public Utilities Commission
State Capitol Building
Pierre, South Dakota 57501

Re: Dockets TC95-120 and TC95-122

Dear Mr. Bullard:

In Dockets TC95-120 and TC95-122 the Commission ordered the elimination of toll between Sioux Falls and Colton and Sioux Falls and Dell Rapids. U S WEST has filed with the Commission (Docket TC98-214) to assess a \$.17 per month surcharge on all Sioux Falls customers to recover the lost toll revenues.

Attached please find the back-up documentation for the surcharge. **All this documentation is proprietary and confidential.** If you have any questions, please call me on 605-335-4596.

Sincerely,


Colleen E. Sevold
Manager-Regulatory Affairs

Attachment

01596218

CONFIDENTIAL

**Dell Rapids/Colton Request for EAS to Sioux Falls
Financial Implications/Recovery from Sioux Falls Customers**

Lost Toll Revenue \$165,272

Annual Lost Toll from Sioux Falls to Dell Rapids/Colton based on
December 1996 - November 1997 toll data

Lost Access Revenue \$62,227

Dell Rapids/Colton minutes terminating to Sioux Falls traffic study data
without internet 11-1-97, 12-1-97 and 1-1-98 annualized
1,503,072 minutes x \$.0414 access charge = \$62,227

Terminating Access Charges Paid to Sioux Valley \$92,792

Access charges paid to Sioux Valley for terminating access for calls from
Sioux Falls to Dell Rapids/Colton
989,249 minutes x \$.0938 access charge = \$92,792

**NET IMPACT = LOST TOLL + LOST ACCESS
LESS ACCESS PAID TO SIOUX VALLEY** \$134,707

Net Impact Recovery by an EAS Surcharge on Sioux Falls Customers \$.17

\$134,707 - Residence and Business flat rated lines in Sioux Falls
(64,490) = 12 equals a monthly EAS surcharge of \$.17

CONFIDENTIAL

NOTICE
The information contained herein is confidential and
proprietary, and should not be disclosed to unauthorized
persons. It is meant for use by authorized
representative of U.S. WEST only.

Sioux Falls to Colton/Dell Rapids

CONFIDENTIAL

9412 thru 9711

	Average monthly			
to Colton	<u>Flts</u>	<u>Minutes</u>	<u>Messages</u>	<u>Revenue</u>
Residence	1,149	200,631	42,025	\$ 35,472.63
Business	426	40,046	17,977	\$ 8,247.32
both	1,575	270,877	59,903	\$ 43,719.95
to Dell Rapids				
Residence	2,797	575,025	110,564	\$ 90,886.18
Business	986	143,347	63,789	\$ 30,666.20
both	3,784	718,372	174,373	\$ 121,552.38
both routes				
Residence		805,856	152,610	\$ 126,358.81
Business		183,393	81,668	\$ 38,913.52
both		989,249	234,278	\$ 165,272.33

22 Dec 97

CONFIDENTIAL

CONFIDENTIAL - Discuss and distribute solely to USMC employees having need to know

Sxfseas xis

Sioux Falls to Delt Rapids

9512 thru 9711

BUSINESS	MIN	MINUTES	MESSAGES	REVENUE
Dec-96	936	11,268	4,830	\$ 2,384.67
Jan-97	951	11,316	5,129	\$ 2,559.10
Feb-97	985	11,379	5,200	\$ 2,618.92
Mar-97	96	11,591	4,917	\$ 2,314.66
Apr-97	1,035	11,321	5,427	\$ 2,619.66
May-97	1,030	11,356	6,069	\$ 3,010.03
Jun-97	1,024	11,112	5,616	\$ 2,696.12
Jul-97	1,010	11,193	5,660	\$ 2,650.73
Aug-97	1,026	11,467	5,712	\$ 2,677.00
Sep-97	1,009	11,734	5,419	\$ 2,631.60
Oct-97	975	11,114	5,040	\$ 2,600.30
Nov-97	947	11,973	5,146	\$ 2,584.40
		142,367	43,786	\$ 20,696.20

RESIDENCE

Dec-96	2,716	50,245	9,139	\$ 6,229.86
Jan-97	2,860	59,948	10,719	\$ 9,796.84
Feb-97	2,861	49,924	9,029	\$ 7,846.20
Mar-97	2,818	43,303	7,748	\$ 6,745.67
Apr-97	2,777	50,537	8,120	\$ 7,015.02
May-97	2,873	46,070	9,022	\$ 7,306.98
Jun-97	2,877	48,134	9,667	\$ 7,635.96
Jul-97	3,008	44,521	9,666	\$ 7,247.66
Aug-97	3,032	46,790	9,870	\$ 7,524.39
Sep-97	2,866	42,611	8,000	\$ 6,902.13
Oct-97	2,708	44,216	8,560	\$ 6,941.66
Nov-97	2,684	46,661	8,874	\$ 7,349.92
		572,075	110,664	\$ 90,660.18

BUS-RES 716,392 174,373 \$ 121,552.38

22-Dec-97

CONFIDENTIAL

CONFIDENTIAL

Sioux Falls to Colton

19612 thru 9211

BUSINESS	DTN	MINUTES	MESSAGES	REVENUE
Dec-96	404	3,234	1,381	\$ 876.20
Jan-97	437	4,344	1,680	\$ 937.04
Feb-97	480	4,080	1,667	\$ 834.61
Mar-97	478	3,026	1,367	\$ 614.46
Apr-97	407	2,497	1,032	\$ 706.70
May-97	400	3,446	1,387	\$ 802.34
Jun-97	407	3,302	1,514	\$ 836.66
Jul-97	437	3,745	1,534	\$ 860.56
Aug-97	447	3,701	1,510	\$ 712.03
Sep-97	426	2,997	1,420	\$ 616.34
Oct-97	344	2,327	1,110	\$ 690.51
Nov-97	407	3,239	1,384	\$ 664.27
		<u>47,046</u>	<u>17,877</u>	<u>\$ 8,247.32</u>

RESIDENCE

Dec-96	1,207	22,231	8,839	\$ 3,464.82
Jan-97	1,280	20,441	4,304	\$ 3,996.47
Feb-97	1,104	21,701	2,498	\$ 3,006.64
Mar-97	892	17,853	3,359	\$ 2,690.87
Apr-97	1,071	14,749	1,126	\$ 2,446.60
May-97	1,100	16,472	3,110	\$ 2,647.31
Jun-97	1,176	17,464	3,421	\$ 2,721.86
Jul-97	1,226	19,039	3,607	\$ 2,700.00
Aug-97	1,190	18,030	3,600	\$ 2,831.26
Sep-97	1,211	18,660	3,635	\$ 2,676.47
Oct-97	1,140	16,614	3,313	\$ 2,816.10
Nov-97	1,090	17,187	3,186	\$ 2,634.13
		<u>220,937</u>	<u>43,070</u>	<u>\$30,472.63</u>

BUS-RES 271,677 61,947 \$43,719.96

27 Dec 97

CONFIDENTIAL**CONFIDENTIAL**

0158762014

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA

IN THE MATTER OF THE FILING BY U S WEST) ORDER DENYING
COMMUNICATIONS, INC. FOR APPROVAL OF) REVISIONS TO TARIFF
REVISIONS TO ITS EXCHANGE AND)
NETWORK SERVICES TARIFF) TC98-214

On December 24, 1998, the Public Utilities Commission (Commission) received a filing from U S WEST Communications, Inc. (U S WEST) to revise the following pages from its Exchange and Network Services Tariff.

Section	Page	Release
1	8	2
1	13	4
5	6	6
10	Index Page 1	2
10	6	1

According to the filing, "The purpose of these revisions is to assess a \$ 17 per month surcharge on all Sioux Falls customer access lines for the elimination of toll services from Sioux Falls to Dell Rapids and Colton, South Dakota." U S WEST proposes that this charge be effective upon installation of the necessary facilities to offer the service. U S WEST did not request a hearing.

On June 3, 1998, the Commission ordered extended area service (EAS) between Colton and Sioux Falls and between Dell Rapids and Sioux Falls. Docket TC95-120, *In the Matter of the Petition of David Glazier for Extended Area Service Between Colton, South Dakota and Sioux Falls, South Dakota* and Docket TC95-122, *In the Matter of the Petition for Extended Area Service between Dell Rapids, South Dakota and Sioux Falls, South Dakota*. Extended area service means that calls are essentially treated as local calls instead of toll calls.

At its regularly scheduled meeting of March 25, 1999, the Commission heard the matter. The Commission has jurisdiction over this matter pursuant to SDCL 49-31-1.1, 49-31-1.2, 49-31-2, 49-31-3, 49-31-4, 49-31-12.4, and 40-31-12.5. Commission staff recommended approval. The Commission took the matter under advisement. On April 26, 1999, at its regularly scheduled meeting, the Commission voted to deny the application.

The Commission finds that U S WEST is not attempting to recover any investment associated with the provisioning of EAS to Colton and Dell Rapids from Sioux Falls. Instead, it is attempting to recover alleged lost toll revenues. Toll is classified as an emerging competitive service. U S WEST filed for the recovery of its alleged lost toll revenues through a \$ 17 per month surcharge which it classified as a noncompetitive service. The Commission finds that U S WEST should not be allowed to recover lost revenues associated with an emerging competitive service from a noncompetitive service. If, as a result of the provisioning of EAS to Dell Rapids and Colton, U S WEST was under-recovering for toll, then it should have filed to recover the lost toll revenues from its toll services.

The Commission further finds that this claim is barred by res judicata. "The doctrine of res judicata serves as claim preclusion to prevent relitigation of an issue actually litigated or which could have been properly raised and determined in a prior action." *Hogg v. Siebrecht*, 464 N.W.2d 209, 211 (S.D. 1990). On June 3, 1998, the Commission ordered EAS in Docket TC95-120, *In the Matter*

of the Petition of David Glader for Extended Area Service Between Colton, South Dakota and Sioux Falls, South Dakota and Docket TC95-122. In the Matter of the Petition for Extended Area Service between Dell Rapids, South Dakota and Sioux Falls, South Dakota. In these dockets, U S WEST failed to properly present the issue of lost toll revenue to the Commission. On June 17, 1998, these decisions were appealed by U S WEST. In the Matter of the Petition of David Glader for Extended Area Service Between Colton, South Dakota and Sioux Falls, South Dakota. In the Matter of the Petition for Extended Area Service between Dell Rapids, South Dakota and Sioux Falls, South Dakota. U S WEST Communications, Inc. v. Public Utilities Commission of South Dakota. CIV. 98-228, CIV. 98-229. In its appeals, U S WEST raised the issue of the loss of toll revenue, claiming it was a taking. The Commission's decisions were affirmed by the Circuit Court, Sixth Judicial Circuit on October 28, 1998. U S WEST did not appeal to the Supreme Court. The Commission finds that U S WEST could have properly raised the issue of the loss of alleged toll revenues in Dockets TC95-120 and TC95-122 but failed to do so and, therefore, U S WEST's application for recovery of alleged lost toll revenue in this docket is barred by res judicata.

It is therefore

ORDERED that the above referenced tariff revisions are hereby denied.

Dated at Pierre, South Dakota, this 17th day of May, 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: William Kiehl

Date: 5/13/99

(OFFICIAL SEAL)

BY ORDER OF THE COMMISSION

JAMES A. BURG Chairman

PAM NELSON Commissioner

LASKA SCHOENFELDER Commissioner

8-1-000-4-0-0-7-1

SOUTH DAKOTA PUBLIC UTILITIES COMMISSION

CERTIFICATE OF AUTHORITY

To Conduct Business As A Telecommunications Company
Within The State Of South Dakota

Authority was Granted January 26, 1999
Docket No. TC98-190

This is to certify that

ENHANCED COMMUNICATIONS NETWORK, INC.

is authorized to provide telecommunications services in South Dakota.

This certificate is issued in accordance with SDCL 49-31-3 and ARSD 20:10.24.02, and is subject to all of the conditions and limitations contained in the rules and statutes governing its conduct of offering telecommunications services.

Dated at Pierre, South Dakota, this 3rd day of February, 1999.

SOUTH DAKOTA PUBLIC UTILITIES COMMISSION:



James A. Burg
JAMES A. BURG, Chairman

Pam Nelson
PAM NELSON, Commissioner

Laska Schoenfelder
LASKA SCHOENFELDER, Commissioner