

THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF SOUTH DAKOTA

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 IN THE MATTER OF THE PETITION FOR )  
 AN ORDER DIRECTING U S WEST )  
 COMMUNICATIONS, INC., TO FILE UPDATES )  
 TO ITS EXCHANGE AND NETWORK SERVICES ) TC98-187  
 CATALOG, ACCESS SERVICE CATALOG, )  
 ADVANCED COMMUNICATIONS SERVICES ) AGENDA MEETING  
 CATALOG, AND PRIVATE LINE TRANSPORT )  
 SERVICES CATALOG )  
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HEARD BEFORE THE PUBLIC UTILITIES COMMISSION

PROCEEDINGS: November 3, 1998  
Room 412, Capitol Building  
Pierre, South Dakota

PUC COMMISSION: Jim Burg, Chairman  
Laska Schoenfelder, Commissioner  
Pam Nelson, Commissioner

COMMISSION STAFF  
PRESENT: Rolayne Ailts Wiest  
Karen Cremer  
Camron Hoseck  
Harlan Best  
Bob Knadle  
Gregory A. Rislov  
David Jacobson  
Kylie Tracy  
Leni Healy  
Shirleen Fugitt  
Bill Bullard

Reported by: Lori J. Grode, RMR

A P P E A R A N C E S

Appearances by Telephone:

Colleen Sevold, U S West  
Tom Welk, U S West

P R O C E E D I N G S

CHAIRMAN BURG: TC98-187, In the Matter of the Petition for an Order Directing U S West Corporation, Incorporated, to File Updates to its Exchange and Network Services Catalog, Access Service Catalog, Advanced Communications Services Catalog, and Private Line Transport Service Catalog.

Today, how shall the Commission proceed?

I think I'm going to let staff go first with their request. Harlan, are you --

MR. HOSECK: Mr. Chairman and members of the Commission, Camron Hoseck here on behalf of staff.

Staff has filed this petition with the Commission primarily because we were not getting what we thought we should be getting from U S West in terms of information for these various catalogs.

And as a matter of history, and as indicated in the affidavit of Harlan Best which has been filed in this also, we were receiving these things and were filing them and they were useful in our processes; and,

1 quite frankly, useful as far as the accomplishment of  
2 the Commission's mission.

3 U S West apparently decided not to file these  
4 with us any more in written form and did this without  
5 informing us of this decision. And it was up to  
6 approximately July of 1998 that these were filed.

7 Harlan has the requisite skills to research  
8 these matters on the Internet. I do not. However, he  
9 informs me that the problems that he has encountered on  
10 the Internet do not make this a workable proposal as  
11 U S West has come forward with it.

12 And so, accordingly, there are several  
13 statutes which I have cited that give the Commission  
14 authority to have U S West ordered to provide this  
15 information.

16 So at this time, Commissioners, I'm just  
17 going to back away from this. And I think my filing  
18 speaks for itself, but I am going to ask Harlan to tell  
19 you what his experiences have been in this regard.

20 CHAIRMAN BURG: Go ahead, Harlan.

21 MR. BEST: Thank you, Mr. Chairman. In the  
22 normal course of what I do each month from -- get from  
23 U S West is a USOC report, Uniform Service Ordering  
24 Code Report, which I track a number of offerings to  
25 determine what the quantity and services are and the

1 revenues associated with a specific USOC code.

2           The one that brought it to my attention was  
3 one that showed for, I believe it was for ISDN, it  
4 showed -- one of the codes showed that it was a  
5 dramatic decrease. It went from 400-something down to  
6 one.

7           So I called Colleen Sevold, or left a  
8 message, I believe it was, or maybe I talked to Kathy  
9 Walker. Anyway, I left a message to find out why the  
10 dramatic decrease. I was then informed that the USOC  
11 had changed. When I asked why the Commission had not  
12 been informed of the USOC code change, it was then --  
13 that was when I found out that U S West had decided to  
14 go to the Internet for, to use U S West terms,  
15 catalogs, which is in this case the emerging and  
16 non-emerging and fully-competitive items are in the  
17 catalog.

18           If you go to the Internet page, you can find  
19 -- if you go to the appropriate Internet page, you can  
20 find the catalogs and also the tariffs. In the process  
21 of -- so in that way I could find the appropriate USOC  
22 code and all that wonderful stuff.

23           In the process of trying to track down an  
24 offering called Welcome Back, I put in the code word,  
25 or the search word Welcome, and it pulled up an Iowa

1 catalog tariff -- an Iowa catalog sheet that showed  
2 that in the state of Iowa they had a Welcome Back  
3 package that was delineated or set forth in their  
4 tariff. When I went to the tariff on the Internet for  
5 Iowa, it did not show anything.

6 So I called the Iowa Utilities Board and said  
7 -- asked them where in your -- can I get a copy of  
8 your exchange of network service tariff that explains  
9 what this Welcome Back package is?

10 At that point in time I was told that the  
11 Iowa Utility Board had rejected this offering, but yet  
12 it's set forth in the U S West Exchange of Network  
13 Services Catalog for the state of Iowa that they do  
14 have a Welcome Back package.

15 So my concern at that point became if U S  
16 West is going to require that the only way that the  
17 Commission can access fully-competitive rates and  
18 charges, terms and conditions is through a catalog on  
19 the Internet, what guarantee is there that what is  
20 there is 100 percent accurate based on this page that I  
21 found with the Iowa tariff?

22 CHAIRMAN BURG: Okay. Thank you. U S West.

23 MR. WELK: Mr. Chairman -- and, Colleen, you  
24 can respond to this -- but we have filed an affidavit  
25 from Colleen Sevold today with the Commission, and has

1 that been received?

2 CHAIRMAN BURG: Yes, we have it. We haven't  
3 had a chance to look at it, but we did receive it. I  
4 think that's what this is.

5 MR. WELK: First, let me say on behalf of U S  
6 West, that obviously if Harlan has a question, that U S  
7 West is going to help him respond to answer that  
8 question. And certainly as Mr. Hoseck cited some of  
9 the statutes that the Commission has a right to look  
10 into the business of U S West and investigate if it  
11 wants, but that's really not the issue here.

12 The issue is the file, somebody's paper  
13 filings. And, Colleen, you can correct me if I'm wrong  
14 but most of these -- all of these all fully-competitive  
15 filings that we're talking about here, Colleen?

16 MS. SEVOLD: Yes. In the catalog is also the  
17 emerging competitive. But as the Commission knows, we  
18 need to file the emerging competitive before the  
19 Commission, so those are filed. Even though they're in  
20 the catalogs, those are already filed with the  
21 Commission.

22 MR. WELK: So what we're talking about here  
23 at issue are fully-competitive filings. And I can find  
24 no statute whatsoever -- and I can stand corrected --  
25 in the South Dakota law that says you have to file a

1 competitive filing. Indeed, as I understand it, nobody  
2 files with the Commission on competitive filings.

3 Now, if you are requiring U S West to make  
4 filings on competitive filings, I do believe we have an  
5 issue with 49-31-85, the new statute, that says that  
6 the ultimate telecommunication services by the  
7 Commission shall be fair, reasonable, and  
8 nondiscriminatory and applicable to all  
9 telecommunications carriers.

10 So if you want U S West to file all the  
11 fully-competitive -- which I don't see a statute --  
12 everybody has. And I think what U S West is trying to  
13 do is save the Commission and U S West a bunch of paper  
14 on fully-competitive filings since they're not  
15 required. They're on the Internet.

16 And if Harlan had a problem with that -- and  
17 I can understand it. He's much more competent than I  
18 am and probably anybody on the call. If he's got a  
19 problem, I wish he'd just pick up the phone. And I  
20 think that's what Colleen did, tell him what the right  
21 address is, and work through those issues. Because the  
22 electronic availability is what we're trying to get,  
23 have people available, and not have to have the  
24 Commission's file full of a bunch of fully-competitive  
25 filings.

1           So I mean it's the issue, and I think it's a  
2 communication issue, and I think it's an issue for the  
3 Commission.

4           Do you want to have -- when you have no  
5 statutory authority yet except a broad scope of power  
6 -- to have all companies file fully-competitive  
7 filings? I really think this is a communication  
8 issue.

9           And if Harlan has got a question, he should  
10 just pick up the phone and call Colleen. If he's got a  
11 problem with the Internet fully-competitive, bring it  
12 to our attention and we'll try to help him through it.

13           CHAIRMAN BURG: Response?

14           MR. HOSECK: Yes. I would like to have  
15 Harlan explain to the Commission exactly what we do get  
16 in terms of competitive filings from other providers.

17           MR. WELK: Fully-competitive filings.

18           MR. HOSECK: Yes.

19           MR. BEST: In the process of certificates of  
20 authority, one of the ordering clauses within the  
21 Commission's order is words to the effect, further  
22 ordered that the name, and names the company, shall  
23 file with the Commission any changes in their tariff so  
24 there is all the fully-competitive certificate of  
25 authorities that the Commission has granted for IXE's.

1 All those companies do have on file a tariff which  
2 shows their rates, terms and conditions of what they  
3 charge their end users.

4 MR. HOSECK: One final point I would like to  
5 make: The reason that this has risen to this point is  
6 that we were told that there was no order compelling  
7 U S West to do this.

8 So if it takes an order, that's what we're  
9 asking for. We don't care if it comes in electronic  
10 form or paper form. We want an order so that this  
11 information is provided to us in an accurate form.

12 CHAIRMAN BURG: Is there a statutory  
13 authority for that order?

14 MR. HOSECK: Oh, yes. I cited it in my  
15 brief.

16 MS. SEVOLD: If I could respond to that, this  
17 is Colleen again from U S West. And when Harlan and I  
18 had that conversation and I said that we now put them  
19 on the Internet, you know, and they're actually there  
20 for any customer, in addition to the Commission, that  
21 they can view them, Harlan said to me, I believe, that  
22 you are violating a Commission order by doing that.  
23 And I made the comment, I'm not aware of a Commission  
24 order that, nor a statute that says we need to do  
25 that. So that's how that conversation arose.

1 MS. WIEST: Camron, you said something you  
2 would take them in electronic form but you don't want  
3 it over the Internet?

4 MR. HOSECK: Harlan, what's your preference  
5 on that? I was assuming that it came on the Internet,  
6 it was the electronic form, but accuracy was the issue;  
7 is that correct?

8 MR. BEST: That's my concern, based on what I  
9 discovered with an Iowa tariff is how do I know what's  
10 on the Internet is 100 percent accurate?

11 MS. SEVOLD: Everything that is on our  
12 Internet -- and like Mr. Welk said, if there is ever a  
13 question, I'm more than happy to answer it, or the  
14 tariff manager. But everything that is on the Internet  
15 is exactly as the Commission and staff would see it in  
16 paper form.

17 Now, with the Iowa, I can't answer that. I  
18 mean, that's -- I just heard about that. I have no  
19 idea what went on in Iowa. There may be something  
20 about the facts that the name was taped or something.  
21 I can't answer that, and it wouldn't be fair to try.  
22 But I will tell you that everything you see on the  
23 Internet is exactly the same thing you would see in  
24 paper form from South Dakota.

25 CHAIRMAN BURG: Do you have a comment, Mr.

1 Wegman?

2 MR. WEGMAN: This is Steve Wegman for  
3 Commission staff. The other day I was looking for some  
4 things on Winback, a program that U S West offers, and  
5 I have a data request out. But basically on the  
6 Internet it says it's offered in South Dakota, but we  
7 don't have anything in the office that says that it's  
8 here.

9 CHAIRMAN BURG: The problem that I'm seeing  
10 right now is perhaps it's okay to send it via the  
11 Internet, but the Commission somehow needs to be  
12 alerted that there was a change and that you don't have  
13 to just search the Internet to find out if there had  
14 been any new filings or changes. Is that an accurate  
15 observation?

16 MS. SEVOLD: There's two ways that we have it  
17 on the Internet. We have what is called the Bulletin  
18 Board, and any change that is made sits in the Bulletin  
19 Board for 45 days. So, in other words, you can go into  
20 the Bulletin Board and see any change that's been made  
21 in the last 45 days. There's notice there that after  
22 that 45-day period it will be put into the catalog  
23 portion of the Internet. But you can access the  
24 Bulletin Board and see any changes that are made.

25 COMMISSIONER NELSON: Well, I guess for

1 myself, I'd just as soon have a hard copy. I'd just as  
2 soon have it in our hands and on file. And since we're  
3 already requesting that for everybody that we issue a  
4 certificate of authority, it doesn't seem right that we  
5 should be expecting any less of one of the largest  
6 monopoly providers in the state of South Dakota.

7 MS. SEVOLD: It's my understanding that while  
8 they're required to at the beginning, I'm not sure that  
9 they're required to do updated, nor does the staff  
10 follow up to see if they send in updated.

11 COMMISSIONER NELSON: My recollection of that  
12 language when we approved those certificates of  
13 authority is that they are to inform us of any changes  
14 in those tariffs.

15 MS. SEVOLD: And we have those. We have  
16 every up-to-date one right in our Internet.

17 COMMISSIONER NELSON: Well, I guess I'm just  
18 saying today maybe we ought to formalize our policy  
19 about this stuff being in hard copy.

20 MR. WELK: All companies then. That there  
21 will be an order entered if the Commission so desires  
22 that it wants hard copies of everything, that will  
23 equally apply to all companies doing business in the  
24 state of South Dakota?

25 COMMISSIONER NELSON: To my knowledge, it's

1 already being applied to all other companies that are  
2 operating in the state of South Dakota.

3 MR. WELK: I don't know whether that's true  
4 or not, Commissioner. I know what Harlan has said is  
5 true. I've seen those conditions, but I do not know.  
6 And I do not know whether the staff has followed up and  
7 made inquiry of every company, whether they're doing  
8 that.

9 COMMISSIONER SCHOENFELDER: Can I make a  
10 suggestion here that either in some form or another  
11 that the Commission can hear more argument about this  
12 or in a brief? Or you could write briefs or  
13 something? And I know you have some -- both parties  
14 have done some to a certain extent. I just don't know  
15 that this is right for a decision, from my point of  
16 view right now.

17 CHAIRMAN BURG: Would you have objections to  
18 that, Mr. Welk, of just going --

19 MR. WELK: This should be a cooperative issue  
20 between the staff and U S West and how it runs its  
21 business; and I fully support you, Commissioner. I  
22 think we should find out what's going on on some of the  
23 other issues. And if you want to defer this for  
24 another day, we'd be glad to do that.

25 COMMISSIONER SCHOENFELDER: I would like some

1 more information. Because I guess my concern here is  
2 if there's inaccuracies, then I would like to know how  
3 they would be dealt with in the electronic scenario as  
4 well as in a paper scenario. Is it too much to ask you  
5 to brief it or to have a small hearing or something?

6 CHAIRMAN BURG: My thought is also to defer  
7 it and ask the staff and U S West to try to work out a  
8 way to get the delivery that they could agree to on to  
9 us and take it up at a later date. Because it appears  
10 to me that the biggest issue is how are we going to  
11 have notice?

12 And the Bulletin Board, I'm not sure I'm  
13 satisfied with the Bulletin Board because we're  
14 responsible then to enter the Bulletin Board on a  
15 continuous basis to see if there has been any changes.  
16 I would think if there's a change, we could just be put  
17 on an Internet listing the same as what we do when we  
18 send out issues. We've got a list of people that  
19 receive it.

20 If we received it that way, I'm wondering if  
21 that isn't satisfactory. What I'd like to have an  
22 agreement come back between the two parties as to the  
23 method by which we do receive that information.

24 COMMISSIONER SCHOENFELDER: Chairman Burg,  
25 I'm going to respectfully disagree with that because an

1 agreement between these two parties will not set forth  
2 any kind of a message to the other companies and the  
3 other participants in this state. I guess I'm looking  
4 toward more of a Commission order. If we're going to  
5 change the way we do business, I'm willing to listen to  
6 the way we might change business.

7           So I think I'm still in the hearing mode on  
8 this. I think I would like to order that we set this  
9 for hearing. I'd like to make that motion.

10           COMMISSIONER NELSON: Well, I guess I would  
11 second the motion for the hearing, but I guess we're  
12 already requiring people to submit in writing their  
13 tariffs when they apply for their certificates of  
14 authority. When we grant that certificate of  
15 authority, the certificate of authorities clearly  
16 states that they are supposed to inform us that when  
17 they change those tariffs.

18           So I think that that's pretty clear. I don't  
19 have that in any way -- that's in any way ambiguous. I  
20 also think that when we require these tariffs to be  
21 filed, it's for informal purposes and we're requiring  
22 them of everyone. I don't think we'll be doing  
23 anything different in the future, so I don't see that  
24 that's a problem.

25           CHAIRMAN BURG: I'm going to concur because I

1 do want to hear the method by which we're going to  
2 monitor every single company by which it's applied to  
3 make sure.

4 COMMISSIONER NELSON: Whether we're  
5 monitoring or not, we stated and they agreed to provide  
6 any -- they agreed to provide us and notify us of any  
7 changes in those.

8 CHAIRMAN BURG: But we still have to monitor  
9 to know whether they're complying or not in some way.

10 MS. WIEST: I would just point out, though,  
11 that this is just a petition to order U S West. I mean  
12 if you're trying to bring in an order that would apply  
13 to everyone else, it's really not contemplated by this  
14 petition.

15 COMMISSIONER NELSON: There's quite a  
16 difference in putting something up on the Internet and  
17 filing something officially with this Commission as to  
18 its validity, I think. I think -- I don't think a  
19 company would give it the same weight if they're  
20 putting something on the Internet that we may or may  
21 not be looking at if as if they were filing it with us  
22 as some official document stating this is what they're  
23 doing or not doing in regard to something.

24 CHAIRMAN BURG: Rolayne, if we put this out  
25 for hearing, can't we allow intervenors so it could

1 expand to everybody?

2 MS. WIEST: I think you would have to change  
3 the whole docket because it's no longer just a petition  
4 to order U S West. I mean you just change everything.

5 MR. HOSECK: I thought this was going to be  
6 simple.

7 CHAIRMAN BURG: You should know better. You  
8 always complicate it.

9 MR. HOSECK: What I wanted to do, because we  
10 were told by U S West this information would not come  
11 to us at least in the manner we thought that it was  
12 going to come unless there was an order. Our reaction  
13 was, okay, if it takes an order, we'll ask for an  
14 order. That's the reason we're here today.

15 The only thing that we're asking for is that  
16 this information be furnished to us in a current and  
17 accurate manner, whether it's done electronically or in  
18 hard copy, either is workable. The accuracy and the  
19 current nature of it is of concern to staff. And it is  
20 something that's used by us in our processes.

21 And I think you've got the authority to order  
22 the production of that information right now without  
23 the necessity of a further hearing, but that is your  
24 decision.

25 CHAIRMAN BURG: But your request is for an

1 order directing U S West to do something. U S West has  
2 raised the case to make sure whatever orders we issue  
3 are not discriminatory, and that's why I want to make  
4 sure is this broad enough to not end up with a  
5 discriminatory order.

6 COMMISSIONER NELSON: How could it be  
7 discriminatory if we're already requiring for  
8 certificates of authority that people file tariffs when  
9 we grant the certificate of authority it clearly states  
10 that they're responsible for notifying this Commission  
11 if there's any change in the tariff. I don't know how  
12 more nondiscriminatory that can be or how much clearer  
13 we can get it.

14 CHAIRMAN BURG: We have unanimously approved  
15 a move to go to hearing on this particular issue. I  
16 don't know where it's going to lead us to, but that's  
17 our motion. Okay.

18 (THE HEARING CONCLUDED AT 4:06 P.M.)

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1 STATE OF SOUTH DAKOTA )  
2 COUNTY OF HUGHES )

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4 I, LORI J. GRODE, Registered Merit Reporter  
5 and Notary Public in and for the State of South  
6 Dakota:

7 DO HEREBY CERTIFY that the above hearing,  
8 pages 1 through 18, inclusive, was recorded  
9 stenographically by me and reduced to typewriting.

10 I FURTHER CERTIFY that the foregoing  
11 transcript of the said hearing is a true and correct  
12 transcript of the stenographic notes at the time and  
13 place specified hereinbefore.

14 I FURTHER CERTIFY that I am not a relative or  
15 employee or attorney or counsel of any of the parties,  
16 nor a relative or employee of such attorney or counsel,  
17 or financially interested directly or indirectly in  
18 this action.

19 IN WITNESS WHEREOF, I have hereunto set my  
20 hand and seal of office at Pierre, South Dakota, this  
21 4th day of March 1999.

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23

  
Lori J. Grode, RMR, RPR

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