

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA

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AGENDA OF THE COMMISSION MEETING)
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HEARD BEFORE THE PUBLIC UTILITIES COMMISSION

PROCEEDINGS: November 25, 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
Steve Wegman
David Jacobson
Leni Healy
Shirleen Fugitt
Martin Bettmann
Kylie Tracy

Reported by: Lori J. Grode, RMR

A P P E A R A N C E S

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Appearances by Telephone:

Thomas J. Welk
Colleen Sevold
Mary B. Tribby
William P. Heaston
Richard Lipman
Randy Roos
Marilyn Bolt
Mary Lohnes
Mike Bradley
Barb Berkenpas
Larry Hetinger
Bruce Hanson
Tom Simmons
John Devaney
Loren Hiatt
Tim Dupick
Ann Thorson
Suzanne Hanson
Diane Neilan
Eric Campbell
Sarah Kilgore

Appearances in Person:

Richard D. Coit
Darla P. Rogers

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P R O C E E D I N G S

1
2 CHAIRMAN BURG: I will open the meeting. Let
3 the minutes show I am Chairman Jim Burg conducting the
4 meeting, and Commissioners Schoenfelder and Nelson are
5 also present.

6 Let me go through the roll call. And even
7 before I do that, I'm going to ask that once -- you
8 know, some of you -- we don't have enough ports today
9 for all the people we need. So I know the first couple
10 issues have a lot of participants on. Let us know when
11 you leave so we have a port available for some
12 callbacks that we have to make.

13 (Roll call.)

14 Okay. First of all, approval of the minutes
15 of the Commission meeting held on November 3rd.
16 Shirleen, any corrections or additions.

17 MS. FUGITT: No changes.

18 CHAIRMAN BURG: Is there a motion?

19 COMMISSIONER NELSON: I move approval of the
20 minutes.

21 COMMISSIONER SCHOENFELDER: Second.

22 CHAIRMAN BURG: Okay. Consumer affair status
23 report on consumer utility inquiries and complaints
24 recently received by the Commission. Leni.

25 MS. HEALY: (Report given.)

1 CHAIRMAN BURG: Any questions or comments for
2 Leni? If not, thank you. I did hear one or two people
3 join. Who has joined since I called the roll.

4 MR. LIPMAN: I have joined since you called
5 the roll, sir. My name is Richard Lipman. I'm with
6 McLeod USA. I'm here concerning item Number 23 on
7 your agenda, which is a consumer complaint against my
8 company.

9 CHAIRMAN BURG: Give me your name again. I
10 don't believe we had it on the list.

11 MR. LIPMAN: Yes, sir. My name is Richard
12 Lipman, L-I-P-M-A-N, and I'm with McLeod USA.

13 CHAIRMAN BURG: Thank you. Anybody else
14 join?

15 MR. ROOS: This is Randy Roos of CommChoice,
16 along with Tony Mau (sp). We are here in connection
17 with a complaint of Suzanne Hanson against CommChoice.

18 CHAIRMAN BURG: Randy Roos, is that R-o-s-e?

19 MR. ROOS: R-o-o-s.

20 CHAIRMAN BURG: And you're? Who are you with
21 again?

22 MR. ROOS: CommChoice.

23 CHAIRMAN BURG: Anyone else that I didn't
24 call their name?

25 MS. THORSON: My name is Ann Thorson. I'm

1 with the hospital.

2 CHAIRMAN BURG: Suzanne Hanson and Diane
3 Neilan (sp), Number 21.

4 MR. CAMPBELL: Eric Campbell with AT&T with
5 the Lake Area Hospital Complaint, Docket TC98-200.
6 Sarah Kilgore will also be joining us shortly in regard
7 to that complaint.

8 CHAIRMAN BURG: Anyone else? Do we have all
9 the complaints on already? Okay. Let's go ahead and
10 get started.

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 IN THE MATTER OF THE PETITION)
 FOR ARBITRATION ON BEHALF OF AT&T)
 COMMUNICATIONS OF THE MIDWEST, INC.) TC96-184
 WITH U S WEST COMMUNICATIONS, INC.)
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CHAIRMAN BURG: The first item is AT&T, TC
 96-184, In the Matter of the Petition for Arbitration
 on Behalf of AT&T Communications of the Midwest,
 Incorporated, with U S West Communications. The
 question being today shall the Commission grant AT&T's
 motion, which was a motion requesting expedited access
 to U S West telecommunications facilities for local
 interconnection. That's just a decision on the part of
 the Commission. Is there a motion?

COMMISSIONER SCHOENFELDER: Mr. Chairman, I

1 have a motion. I would move that we deny AT&T's
2 motion.

3 COMMISSIONER NELSON: Seconded.

4 CHAIRMAN BURG: And I concur.

5 -----)
6)
7 IN THE MATTER OF THE FILING BY AT&T)
8 COMMUNICATIONS OF THE MIDWEST, INC.)
9 FOR APPROVAL OF AT&T DIGITAL LINK) TC98-151
SERVICE)
-----)

10 CHAIRMAN BURG: TC98-151, In the Matter of
11 the Filing by AT&T Communications of the Midwest,
12 Incorporated, for Approval of AT&T's Digital Link
13 Services. I think the basic question here,
14 Mr. Heaston, do you guys -- are you requesting a
15 hearing?

16 MR. HEASTON: Mr. Chairman, we're requesting
17 that the tariff not go into effect until the
18 interconnection agreement is complete. And I guess
19 what I would prefer to do is have this thing held in
20 abeyance pending the completion of the interconnection
21 agreement. And we have no factual disputes. We'd be
22 able to stipulate to facts, but we do have a legal
23 concern about the tariff going into effect without the
24 appropriate interconnection agreement.

25 CHAIRMAN BURG: Is there a response on the

1 part of AT&T?

2 MS. TRIBBY: Mr. Chairman, this is Mary
3 Tribby on behalf of AT&T. I would just comment that as
4 I've mentioned before, this tariff is only for U S West
5 territory. Mr. Heaston, his client's territory, is not
6 at all affected by this tariff. We are not going to be
7 able to offer service prior to our interconnection
8 agreement being approved based on the Commission's
9 ruling on the last item. And so I think that
10 Mr. Heaston's concern to the extent that even as
11 standing to make that concern with respect to this
12 docket number is taken care of. And I would request
13 that if there are no other objections, that the tariff
14 be approved. And if the Commission wishes that it have
15 an effective date commensurate with the interconnection
16 agreement, that AT&T doesn't have a problem with that.

17 CHAIRMAN BURG: Any response, Mr. Heaston?

18 MR. HEASTON: I think I do have -- DTG does
19 have standing. We do provide service in U S West
20 territory. But aside from that, I guess I would not
21 have a problem if the effective date of the tariff were
22 established no sooner than the effective date of the
23 interconnection agreement. And I guess then that would
24 resolve my concerns.

25 CHAIRMAN BURG: Karen, do you have anything

1 on this?

2 MS. CREMER: Staff had a number of concerns
3 with the tariff, some language in there that violates
4 South Dakota law. We were waiting to see what happens
5 with the prior one. One question that does need to be
6 answered: AT&T, in their comments to the rules on
7 pages three and four, and those were signed by
8 Ms. Tribby, stated that 911, E911, they wouldn't have
9 the ability to carry that over this system. So that
10 would be one thing that we would have to hear from AT&T
11 on, I believe. And then there were just a number of
12 other concerns by staff, so we would not recommend
13 approving the tariff at this time.

14 CHAIRMAN BURG: Okay. Mary, any response to
15 that?

16 MS. TRIBBY: We are certainly happy to work
17 with staff with respect to any concerns that they
18 have. Mr. Commissioner, we'll need to refile our
19 tariff anyway since it initially had an effective date
20 of October 5th. We obviously would like to avoid any
21 undo delay with respect to this, but we would certainly
22 work with staff to see if we can take care of their
23 concerns prior to this being effective.

24 CHAIRMAN BURG: So you're recommending a
25 deferment on this?

1 MS. TRIBBY: No. I would request that it be
2 approved today. I think we can work out any issues
3 that we have since we have to refile the tariff anyway,
4 if the Commission is willing to do that today.

5 MS. CREMER: And staff, I guess, you know, we
6 can defer -- or my preference would be that they
7 withdraw the filing and then when they're more prepared
8 to go forward with the language changes and effective
9 date, then they can file at that point.

10 CHAIRMAN BURG: Rolayne.

11 MS. WIEST: Well, I would just defer at this
12 time. If there are any language changes, I think they
13 can make revisions to the docket as it is now. I don't
14 know that there's any need for them to actually
15 withdraw it.

16 CHAIRMAN BURG: Or if they choose to withdraw
17 and refile, that would be their choice.

18 MS. WIEST: That would be their choice, or
19 otherwise they can file revisions.

20 CHAIRMAN BURG: Any comments, Commissioners?

21 COMMISSIONER SCHOENFELDER: I would suggest
22 that we defer until the different language and the
23 staff's -- and I don't think you need a motion. Just
24 defer until the staff has got all their questions
25 answered. But if in the process that staff then

1 doesn't have their questions answered, then I would be
 2 willing to grant Ms. Cremer's request to dismiss and
 3 let them refile. But at this time I would just say
 4 defer.

5 CHAIRMAN BURG: Recommend defer, I agree.

6 COMMISSIONER NELSON: I concur.

7 CHAIRMAN BURG: So we will defer pending
 8 those changes.

9 CHAIRMAN BURG: Mr. Chairman, this is John
 10 Devaney. Consistent with your earlier announcement,
 11 I'm dropping off the line.

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 13)
 14 IN THE MATTER OF THE COMPLAINT FILED)
 15 BY BRENT AND DAWN BARTON, MINA,)
 16 SOUTH DAKOTA, AGAINST U S WEST) TC98-137
 17 COMMUNICATIONS, INC., REGARDING)
 18 UPDATING LINES)
 19 -----)

18 CHAIRMAN BURG: Thank you. Now we're going
 19 to go to the complaints. And the first one I have
 20 listed is item 13, 98-137; is that correct? In the
 21 matter of the Complaint filed by Brent and Dawn Barton,
 22 Mina, South Dakota, against U S West Communications
 23 regarding updating the line. Do we have anybody on
 24 with that one?

25 MS. HEALY: No, we do not.

1 CHAIRMAN BURG: Let's just try to do it.
2 Leni, do you have any update on that?

3 MS. HEALY: Yes. Miss Barton did contact me
4 yesterday and indicated that she has reconsidered and
5 is now going to pursue damages, so this should probably
6 be set for a hearing.

7 MS. CREMER: Probable cause was found on this
8 and so that finding has been made. It would just be a
9 damages hearing.

10 CHAIRMAN BURG: Okay. Mr. Commissioner, this
11 is Tom Welk. I don't think we provided an answer on
12 this. I think you deferred not all these complaints
13 until the project was completed. I could be wrong on
14 that.

15 MS. WIEST: Yeah, that is correct. So I
16 would say you have 20 days from today to file your
17 answer now.

18 MR. WELK: You entered an order setting a
19 hearing date setting 20 days from today, Rolayne, to
20 file the answer?

21 MS. WIEST: Right, unless there's any
22 objection.

23 MS. CREMER: No.

24 CHAIRMAN BURG: Okay.

25 MS. TRIBBY: Mr. Chairman, this is Mary

1 Tribby. I'm also dropping off the line. Thanks. Have
2 a good Thanksgiving.

3 CHAIRMAN BURG: Thanks, you too.

4 -----)
5)
6 IN THE MATTER OF THE COMPLAINT FILED)
7 BY DALE W. AND P. RENE LARSON, LEAD,)
8 SOUTH DAKOTA, AGAINST U S WEST) TC98-156
9 COMMUNICATIONS, INC. REGARDING)
DISCONNECTION)
-----)

10 CHAIRMAN BURG: Okay. The next item I have
11 is item number 18, TC98-156, In the Matter of the
12 Complaint filed by Dale W. and P. Rene Larson, Lead,
13 South Dakota, against U S West Communications regarding
14 disconnection. Today, staff has an update. If the
15 matter is resolved, shall the Commission close the
16 docket? Do we have Larsons or not on?

17 MS. HEALY: No, they are not.

18 CHAIRMAN BURG: Are you taking that one,
19 Leni?

20 MS. HEALY: Yes. A settlement has been
21 reached between the parties, and the Complainants
22 indicated that we could dismiss the docket.

23 CHAIRMAN BURG: I'll move we dismiss the
24 complaint and close the docket.

25 COMMISSIONER SCHOENFELDER: Seconded.

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COMMISSIONER NELSON: Concur.

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 IN THE MATTER OF THE COMPLAINT FILED)
 BY SUZANNE HANSON, MCCOOK LAKE,)
 SOUTH DAKOTA, AGAINST COMMCHOICE, LLC) TC98-189
 REGARDING POOR QUALITY OF SERVICE)
 AND A REQUEST TO BE SERVED BY)
 U S WEST)
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CHAIRMAN BURG: TC98-189, In the Matter of the Complaint filed by Suzanne Hanson, McCook Lake, South Dakota, against CommChoice, LLC regarding poor quality of service and request to be served by U S West.

Today, does the Commission find probable cause of an unlawful or unreasonable act, rate, practice, or omission to go forward with the complaint and serve it upon the respondent?

Suzanne, do you want to give us a quick rundown on what your complaint is? And just as a way of clarification, this is just a threshold issue only to determine if this rises to something that comes within the Commission jurisdiction. If we determine that there is probable cause that there's been a complaint, then we will establish a hearing date to actually hear the complaint. So today we just need enough information to determine if there is probable

1 cause for this complaint. So can you give us an
2 explanation of your concerns?

3 MS. HANSON: Well, just as a background, I
4 have moved into this area a year ago in December. I
5 did not -- I was promised phones first (inaudible) I
6 got at the end of January. Do you want me to address
7 the preliminary response by CommChoice?

8 CHAIRMAN BURG: Yes, go ahead.

9 MS. HANSON: Okay. They're saying that they
10 are taking limited service right now. That's not
11 true. They never told us that they were not going to
12 provide everything they said they would provide. They
13 said that without charge. I paid the bill from January
14 until July when they admitted to us that they were not
15 providing us with a billable service. I have two phone
16 numbers, one for long distance, one is for local.
17 Service is not good. Everything is blamed on this
18 inter thing. I guess the problem is if we need this
19 inter thing, why was not this inter thing implemented
20 before they let them provide service to us? You know,
21 every answer they have is that interconnects are not
22 there. The fact that we proposed it as a trial basis
23 is not true. And all they had -- service is poor and
24 slow, and it's just a myriad of problems. They are not
25 providing the standard of service for you to

1 (inaudible).

2 CHAIRMAN BURG: Darla, are you representing
3 CommChoice today?

4 MS. HANSON: I think the other respondent has
5 some words to say first.

6 MS. NEILAN: This is Diane Neilan. I'm also
7 on the complaint. In response to their preliminary
8 letter, they also mention that we have -- that this was
9 on a trial basis. We were not told that. And also
10 they're stating if we wish to disconnect service, we
11 may certainly do so. It's my understanding we have no
12 other choice. U S West does not have any lines coming
13 in here. I did originally try to set up with U S
14 West. I have a pending order right now from August and
15 was referred to U S West via telephone, as this was
16 really our carrier for the area. I've had numerous
17 problems. We've been in several weeks now, and within
18 -- sometimes every day there's a problem, maybe I skip
19 a day. But people have trouble reaching me. They use
20 this different numbers and sometimes neither one
21 works. And I have a home-based business. It puts a
22 real damper on my clientele. I just simply hadn't
23 known this was a trial basis when we hooked up. I was
24 not informed that at the time I put my work order in.

25 CHAIRMAN BURG: One question I have for

1 either of you, how many people are affected by this?

2 MS. HANSON: Well, we have about five houses
3 here in Deer Run. We have a subdivision, 15 homes in
4 Winston Subdivision down here in McCook. There is a
5 person present at the moment from Winston not on the
6 complaint, but did not realize we filed, but it is from
7 the subdivision.

8 CHAIRMAN BURG: Thank you. I got one
9 question also first for somebody from U S West. Is
10 this U S West territory, and what's the situation with
11 the other provider?

12 MS. SEVOLD: Mr. Chairman, this is Colleen
13 Sevold for U S West. It is my understanding that in
14 these developments, the developer chose to have
15 CommChoice rather than U S West put the facilities in
16 that area. So we have no facilities in there because
17 that was their request.

18 CHAIRMAN BURG: But it is in an assigned
19 territory of U S West, would that be accurate?

20 MS. SEVOLD: That would be true.

21 CHAIRMAN BURG: What if there is being a
22 request made from service from you, what action are you
23 taking on that then?

24 MS. SEVOLD: It's my understanding we have
25 told them that we would take facilities in, but excess

1 construction charges would apply to take the facilities
2 in there. You know, we don't have any there right
3 now. We would have to charge excess construction to
4 take them in there.

5 CHAIRMAN BURG: Has there been any
6 engineering done? If you took them in there, how many
7 are you talking about?

8 MS. SEVOLD: From the notes that I read from
9 engineering, apparently that it didn't go that far.
10 When one of the customers was told that there would be
11 excess construction charges, they according to these
12 notes said that they were going to contact the PUC.
13 So, you know, in any event, they are interested in
14 paying the excess construction charges, we would then
15 send the engineer out to determine what those charges
16 would be.

17 CHAIRMAN BURG: Okay. Thank you. Anything
18 else from the complainants at this point?

19 MS. HANSON: There's two things. Neither one
20 of them us said that we were going to contact the PUC.
21 After we talked to --

22 CHAIRMAN BURG: Excuse me, you're breaking up
23 a little. Neither one of you what?

24 MS. HANSON: Sorry, it was neither one of us
25 who declined to pursue U S West. Also, I guess I'm

1 looking at their reply and it says that they are using
2 a hybrid of fiber coax just by the KTB supplier. Is
3 there a possibility U S West could come in on that?

4 CHAIRMAN BURG: I don't know. That would
5 probably be with them. I'm going to let the
6 representative of CommChoice comment on this. Darla.

7 MS. ROGERS: Thank you. My name is Darla
8 Rogers, and I represent CommChoice. I'll tell you
9 instead of me giving you sort of a background, I do
10 have Randy Roos, and also Tony, the manager of
11 CommChoice, on the line. And so I'm going to let Randy
12 explain a little bit the background situation from the
13 perspective of CommChoice. Randy.

14 MR. ROOS: Thanks, Darla. Some of the
15 situation precedes me, but I will explain as best I can
16 from what I know. Much of the complaints really are
17 having to do with the interconnection with U S West.
18 My understanding is that CommChoice in a joint trial
19 with Cable One attempted to get a telephone signal
20 rolled over a hybrid fiber coax network. And that's, I
21 guess, the means by which Miss Hanson and Miss Neilan
22 are being served. Now, CommChoice, a few months back,
23 entered into an interconnection agreement with U S
24 West; and we have just in the past few weeks concluded
25 the implementation above that interconnection

1 agreement. With that the interconnection implemented,
2 Miss Hanson and Miss Neilan should be able to call the
3 same extended area service area that any other U S West
4 customer in the North Sioux City area would be able to
5 do. In other words, with the 422, and in fact she
6 should be able to call to South Sioux City, Nebraska,
7 and to Sioux City, Iowa, and to the immediately
8 surrounding areas.

9 Likewise, the long distance problem is
10 corrected with the (inaudible) the 422, and that number
11 has been given to INS, who is -- forgive me for not
12 remembering the acronym here. But INS has put that
13 number into the (inaudible) because I know that all the
14 switches in the country can point to the 422 number so
15 that they should be usable just as any other number for
16 long distance.

17 It's also my understanding that the folks who
18 were using the 422 had not been charged for that use.
19 I understand that Miss Hanson says that she didn't get
20 charged for a period of time. Is that correct, Miss
21 Hanson?

22 MS. HANSON: That is correct.

23 MR. ROOS: Okay. Then in the July you
24 stopped being charged?

25 MS. HANSON: That's correct.

1 MR. ROOS: Okay.

2 MS. HANSON: The other thing I have to say,
3 you've been telling me this interconnection is going to
4 hook up for a year and it hasn't happened.

5 MR. ROOS: It's happened now. I mean I have
6 never spoken to you. I don't know what to tell you
7 about that.

8 MS. ROGERS: I believe that December 1st was
9 the date, the target date for the interconnection
10 agreement. In fact, it has been implemented now.

11 MS. HANSON: December 1st last year,
12 according to what they told me when I hooked up.

13 MR. ROOS: I have a letter here of June 10,
14 1998, which here, I guess, all of the customers, the
15 CommChoice customers, are being advised of the
16 interconnection issues, directory assistance, and
17 things of that nature, the use of dual numbers.

18 MS. HANSON: The problem I have is why have
19 we been an experiment only with you people? Why was
20 not this implemented prior to hooking us up?

21 MR. ROOS: We would have loved to implemented
22 a year ago. It's not that easy to accomplish.

23 MS. HANSON: You shouldn't have tried to
24 provide service.

25 MS. ROGERS: Then there would have been no

1 service at all.

2 MS. HANSON: Yes, we could have gotten U S
3 West.

4 MR. ROOS: And got whatever charged for
5 construction to your house, \$1,500 or thereabouts, or
6 15,000. I don't know.

7 MS. HANSON: You're saying as of now we will
8 be receiving a letter that will say we will no longer
9 have to use the two telephone numbers and that all
10 calls could just go to the 422 number? Is that
11 correct?

12 MR. ROOS: Yes.

13 MS. HANSON: When does that take effect?

14 OTHER SPEAKER: All the EAS trunks with U S
15 West should have been implemented within the last two
16 weeks, and you should have that today.

17 MS. HANSON: Were you guys going to send a
18 letter notifying that this has happened?

19 MR. ROOS: November 16th, that letter went
20 out.

21 MS. HANSON: We received nothing. None of us
22 have gotten anything about that. Since you got U S
23 West sitting there and CommChoice sitting there, you
24 know, we've been told it was a problem to be hashed out
25 an agreement with U S West.

1 MR. ROOS: That's solved.

2 MS. HANSON: I mean the problems are people
3 who dial this 271 number to reach us, so it's not long
4 distance calls as we were promised. And they get some
5 recording saying either that our numbers have been
6 disconnected or they reached some mailbox that I don't
7 even have, you know, an answering system within you
8 guys. So what you're telling me now is as of today for
9 Sioux City or North Sioux can call us on 422 and saying
10 it will not be a toll call; correct?

11 MR. ROOS: Yes, that's correct. That's the
12 way it should be.

13 MS. HANSON: As of today?

14 MR. ROOS: As of about two weeks ago.

15 MS. HANSON: Where is your letter then?

16 MR. ROOS: The letter went out November
17 16th. I don't know why you didn't get it.

18 MS. HANSON: None of us got it.

19 CHAIRMAN BURG: Let me interrupt for a
20 minute. It looks to me like this thing is in the
21 process of being solved, if not already solved, and
22 there's no point in bringing up probable cause to have
23 a hearing if there is not going to be an issue.

24 We would like to defer the action until we
25 make sure it's all clarified. We won't dismiss it. We

1 won't put it away. And what I would recommend is that
2 you not count on the letter that the number of people
3 you're talking about; that somebody make a personal
4 contact to explain to them exactly how they need to use
5 the process. This idea of having two phone numbers and
6 that sounded real confusing. And if all the problems
7 you talk about are solved as you have told us, Randy, I
8 would like to see you make a contact, because we're
9 looking at a limited number of people, to make sure
10 they understand how it would work.

11 COMMISSIONER SCHOENFELDER: I had some
12 questions of Mr. Roos. You are like a subsidiary or
13 something -- or, Darla, either one, of Northwest Iowa
14 Telephone?

15 MR. ROOS: We purchase switching services
16 from Northwest Iowa Telephone. Actually, we're a
17 subsidiary of Pioneer.

18 COMMISSIONER SCHOENFELDER: Okay. So was
19 your hybrid fiber in the ground before this development
20 took place? Was it part of the development process? I
21 sort of need some history here.

22 MR. ROOS: The hybrid fiber coax belongs to
23 Cable One. It's a cable TV system, and it was not in
24 the ground prior to. What we're trying to do with some
25 new electronics is to roll a dial tone over a cable TV

1 network.

2 COMMISSIONER SCHOENFELDER: Okay.

3 MR. ROOS: That's a -- there's some -- it's a
4 lot different than running it over a twisted pair
5 copper. And we've learned a great deal, and we think
6 we have it tuned now where it works with the kind of
7 reliability that we need for telephone service.

8 COMMISSIONER SCHOENFELDER: Then do you have
9 to have a cable modem at each home for this?

10 MR. ROOS: No. The cable modem will be
11 coming and -- well, it's in place now some places for
12 access to the Internet. What we do is there's a
13 special box that's attached to the side of the house
14 that breaks out the signal from cable TV to phone.
15 Boxes are called network interface devices, or NIDS, or
16 sometimes they're called home terminals.

17 COMMISSIONER SCHOENFELDER: Yeah.

18 MR. ROOS: And that's the coax cable runs to
19 that, and within that box then it's split to the cable
20 TV system within the house and to one or more telephone
21 lines.

22 COMMISSIONER SCHOENFELDER: Okay. Is this a
23 totally new development? This was virgin prairie when
24 this was developed and you put your cable in, or they
25 put the cable in?

1 MR. ROOS: This is not far from virgin
2 prairie. It is new development.

3 COMMISSIONER SCHOENFELDER: Okay. And I
4 would like to ask the complainants then what the
5 developer told you about telephone service before you
6 built your homes there.

7 MS. HANSON: They said it would be wonderful.

8 COMMISSIONER SCHOENFELDER: But where did he
9 tell you you were going to get your telephone, your
10 voice grade from?

11 MS. HANSON: From CommChoice, or they were
12 Northwest Iowa Telephone, actually, is what they told
13 us we could get it from.

14 COMMISSIONER SCHOENFELDER: So the developer
15 told you there was phone there and you expected there
16 to be phone there when you moved there; is that
17 correct?

18 MS. HANSON: Actually, I probably got here
19 about the same time the cable got put in. They told me
20 that was the deal and that it was going to be
21 wonderful. And I called these people in November, and
22 they said they would hook me up in December and then it
23 was end of January and always somebody else's fault.

24 COMMISSIONER SCHOENFELDER: Part of it has
25 been, if I understood that correctly, it's an

1 interconnection agreement that's been bogged down in
2 negotiation.

3 MS. ROGERS: That's exactly right.

4 COMMISSIONER SCHOENFELDER: I think I have my
5 questions answered.

6 CHAIRMAN BURG: Just a little more
7 clarification. How much of the time have you actually
8 been able to complete a phone call or receive a phone
9 call? Has there been an awful lot of interruptions
10 with that, or what's been the situation?

11 MS. NEILAN: This is Diane Neilan. We moved
12 in on October 30th, and I have here documented all the
13 way up through the 17th of November things happening
14 every day where people could not reach me. They gave
15 me the wrong -- originally when I put my work order in,
16 they told me 1603 was my home phone. I have two
17 business lines coming in, in addition. And I could not
18 receive any calls. Come to find out, they hooked me up
19 with 1601 as my home number. So I went three days
20 without receiving phone calls, and nobody could figure
21 out why. I've had people trying to call and they get
22 to enter a voice box number. When I contacted
23 Northwest Iowa Telephone they said we ordered voice
24 mail. And I said but it's not working properly. It
25 should be going into voice mail if I'm on the phone or

1 not home, and people can't even get in and my phone
2 does not ring at home. So I did ask them to remove
3 that from my line.

4 CHAIRMAN BURG: Have you been able to call
5 out?

6 MS. NEILAN: Yes. Sometimes, though, I have
7 to -- I am not dialing a long distance number and I get
8 a long distance number without dialing a long distance
9 number. So there's some days I call Sioux City without
10 using the 712 exchange and there's days I have to use
11 it.

12 CHAIRMAN BURG: Okay. And, Mr. Roos, now you
13 indicated to me that there has been no charge or should
14 have been no charge to this point?

15 MR. ROOS: There should have been no charge
16 to this point. I'm a little confused though. Did Miss
17 Neilan say she moved in October 30?

18 MS. NEILAN: I moved in October 30.

19 MR. ROOS: The complaint is filed October
20 19.

21 MS. NEILAN: I was not made aware that U S
22 West was not the carrier. And I had put in a work
23 order for my phone service. I talked to the Tony about
24 this. He called me and asked me why I filed a
25 complaint. I explained to him that I wanted U S West

1 for business purposes. I have heard too many bad
2 horror stories about what was going on with the
3 telephone company. And as I work out of my home and my
4 livelihood is based on using the phone, I was very
5 concerned. I put a work order in approximately three
6 weeks before moving in. A week before I moved in I
7 called Northwest Telephone to make sure my phone was
8 operational, as I needed to work immediately getting in
9 here; and they assured me everything was taken care
10 of. The work order was completed.

11 MR. ROOS: Have you ever been charged
12 anything, Miss Neilan?

13 MS. NEILAN: We have only been here three
14 weeks. We have not received any phone bills yet.

15 CHAIRMAN BURG: Okay. I think that we do
16 need to just defer this and make sure everything gets
17 in order. It's unfortunate that you haven't had
18 adequate service. I think it would probably be a
19 reality that you would not have had it if you requested
20 it from U S West because of the lack of facilities in
21 the area either. It sounds like it may be getting to
22 the point of being satisfied.

23 The other thing, Mr. Roos, I would recommend
24 is that you clarify if somebody has been receiving a
25 bill because you've indicated that they should not

1 have.

2 MR. ROOS: It predates me a bit, but I will
3 look into that and find out who has been billed at any
4 time in the history of this.

5 CHAIRMAN BURG: Okay. And then be sure and
6 contact everybody to clarify what is available now and
7 how they use it because it sounds like with two phone
8 numbers that is pretty confusing.

9 MR. ROOS: Well, the two phones numbers will
10 no longer be needed.

11 MS. NEILAN: Can we hang up?

12 CHAIRMAN BURG: We will keep it as an open
13 docket though until it's clarified and hopefully it's
14 getting worked out. It's unfortunate you haven't had
15 adequate service. We'd like to have you work those out
16 with the people as you go, and we will keep this an
17 open docket. Thank you.

18 -----)
19)
20 IN THE MATTER OF THE COMPLAINT FILED)
21 BY GREG AND MARILYN BOLT, RAPID CITY)
22 SOUTH DAKOTA, AGAINST MCLEOD USA) TC98-192
23 REGARDING DELAYED TRANSFER OF SERVICE)
24)
25 -----)

23 CHAIRMAN BURG: 23, TC98-192, In the Matter
24 of the Complaint Filed by Greg and Marilyn Bolt, Rapid
25 City, South Dakota, against McLeod USA regarding

1 Delayed Transfer of Service.

2 Today, does the Commission find probable
3 cause of unlawful or reasonable act, rate, practice or
4 omission to go forward with the complaint and served
5 upon the respondent.

6 Are you on, Marilyn or Greg?

7 MRS. BOLT: I'm on, Marilyn.

8 CHAIRMAN BURG: Do you want to explain to us
9 what your problem has been?

10 MRS. BOLT: Well, our problem has been that
11 we tried to work with McLeod and they were not willing
12 to work with us and that we were without phone service
13 from the 8th of May until the 20 -- 25th of May, I
14 believe. The 12th of May we were without service.

15 And the other thing, when we connected with
16 McLeod, we were not told that, you know, we had to work
17 through U S West. My husband called on, I believe it
18 was the 30th of April, to tell them that we were moving
19 and we wanted our service. And they told him at that
20 time it would take a week. I'm not sure exactly if
21 they said a week to ten days. But our move date was
22 May 8. That morning I called them to ask them if I had
23 would be having service that day. It had been a week
24 at that time at my new residence. And they told me
25 that -- they assured me that I would have phone service

1 by Monday, the 11th. Being it was the weekend, I said,
2 fine, we can live without a phone for the weekend.

3 Monday came and went, and we had no phone
4 service. Thursday morning we called them on the 12th
5 and told them that we had no service, and they put us
6 off and said to not worry about it, that it was being
7 connected and didn't tell us there was any problems;
8 that it was connected with U S West and that they
9 needed to get someone out here or anything. They just
10 said it's being connected without a problem.

11 So we went all day Thursday without a phone
12 again. The 13th, still no phone. I called them again
13 and they said that it had been connected and there
14 should be no problem. And they still -- it still
15 wasn't working, and I told them that. At that point I
16 asked U S West if I could get phone service with them
17 and they said yes. I called McLeod and I said I no
18 longer want to be their customer, that I would go with
19 U S West. And they said, fine. And U S West told me
20 they would have me a phone by Friday the 15th.

21 Friday the 15th came and I still had no
22 phone. And I called U S West, and they told me the
23 reason I had no phone was because McLeod would not
24 release to them the paperwork and that I was no longer
25 their customer. I called McLeod and I said, "Look, I

1 have to have a phone. You send the information they
2 need today so that I can get a phone today." And they
3 put me off. This being the weekend again, and nothing
4 was done until the 18th I contacted them again. I
5 contacted them and they said, you know, not to worry
6 about it. I also contacted U S West, and they told me
7 that McLeod still had not given them the paperwork they
8 needed to disconnect me.

9 And so on the 13th I was never told we'd all
10 be paid, that since I was a McLeod customer, I had to
11 wait so many days or whatever. So this is the 18th now
12 and waiting with U S West. And so I spent more time
13 with all of them and, umm, they didn't want to work
14 with me. McLeod would not cooperate.

15 And finally I believe it was about the 23rd
16 McLeod was so tired of hearing me call every little
17 while, and they finally told me I was no longer
18 McLeod's customer; that I would be U S West's customer
19 and that they would take care of me from that point
20 on.

21 And I told them that I would not pay a bill
22 for May. And they said, you know, that's fine, or
23 whatever. Then we got connected with U S West and a
24 phone bill came from McLeod with a move charge of
25 \$29.00 and a May bill. I called them and told them I

1 wanted a revised bill and that I wasn't paying a move
2 fee because I was never moved, and I'm not paying for
3 service in May because I have not had service. They
4 told me they could do nothing about it; that I owed
5 that money. And so at that time they just said -- I
6 said I want a revised bill, not a revised bill. I
7 continued to get bills.

8 And then this fall we were sent to court
9 because we did not pay that bill. And so then once
10 again I called them and said that I did not -- I did
11 not want to pay a \$29.00 move fee and I was not paying
12 service again for the month of May. Then the girl told
13 me, she said, "There's nothing I can do about it. I
14 cannot take you off. You owe us that money and you
15 have to pay it." And at that time I said, "I'll let
16 the Commissioner decide." And it was the very next day
17 then when they got the letter from you that they told
18 me they would drop the \$29.00 fee and whatever other
19 charges were on there.

20 But my complaint here is that I've tried to
21 work from McLeod from the beginning of May clear
22 through this fall, the day before I filed my complaint,
23 the day of that I filed my complaint, and they were not
24 willing to work with me. And, yes, we do run a
25 business out of my home. My husband is a roofing

1 contractor, and we know we lost one job for \$10,000 and
2 we did not get it. That was from the work during that
3 time. The people could not get us. We got a
4 registered letter from a company wondering why they
5 could no longer get ahold of us when we had work that
6 they needed to contact us about. We got a letter from
7 another person saying, you know, we want to you do our
8 work but we haven't been able to contact you. What's
9 the problem? Please get ahold of us so you can do our
10 work. Those are just a few examples. And I know that
11 there were many other phone calls that we don't even
12 know of.

13 So that's my complaint. Are you there?

14 CHAIRMAN BURG: Yes. Thank you. Mr. Lipman,
15 what's your response?

16 MR. LIPMAN: Yes. My response is that, first
17 of all, we have wiped away all the May charges.

18 MS. BOLT: But you wouldn't wipe them away at
19 the time that I asked.

20 CHAIRMAN BURG: Yes, ma'am, we understand.
21 Let's listen to the whole thing and then we can come
22 back and get a response.

23 MR. LIPMAN: Thank you, sir. First, we have
24 wiped off the move charge, the charges for May, and we
25 have wiped off and forgiven all charges to Mr. and Mrs.

1 Bolt to McLeod. McLeod is forgiving everything.

2 Now, as far as the historical facts, the
3 truth is a little different. Much of what Mrs. Bolt
4 said as far as the dates on when she contacted us. But
5 here's the story. She's right, she contacted us first
6 on April 30. And she was moving into a new home and
7 wanted service at that new home. But we are a reseller
8 of U S West service. So when we get a request for new
9 service for a new line, not an existing line, that's a
10 little more difficult. We call U S West and have them
11 go out there. And they give us seven to ten days,
12 according to your own Commission's rules, by which to
13 give us a move order.

14 So when Mrs. Bolt, or one of them, Mr. or
15 Mrs. Bolt, contacted us on the 30th, we contacted U S
16 West that same day. Within seven days, which is
17 actually the earliest of your rules, U S West came back
18 to us and told us when they would get their technician
19 out there and lay the wiring, and that date was the
20 11th. And when we heard on the 7th, we told Mr. and
21 Mrs. Bolt that day on the 7th that it would be the
22 11th. And that's basically what Mrs. Bolt told you,
23 that's correct.

24 The U S West guy did go out there on May 11th
25 and he did connect the network to the DEMARC. We use

1 terminology, but the DEMARC is where -- is the
2 difference between the network and the homeowner's home
3 wiring. Now, on May 11th the U S West guy did hook up
4 the network to the DEMARC. Hearing that there was a
5 problem within the new construction inside wire, in
6 other words, the homeowner's home wire. Now, what we
7 call inside wire is the DEMARC to the home, which is
8 the homeowner's responsibility. Part of that inside
9 wire is inside the home. There's also a part of it in
10 the home to the DEMARC which can be in the ground for,
11 you know, ten feet or so on average.

12 Hearing that there was a problem somewhere in
13 the inside wire, and on May 13th -- and I'm not sure
14 Mrs. Bolt -- and this was listening from Mrs. Bolt's
15 story. So what the phone company did was right on the
16 11th, but she still didn't have service because there
17 was a problem in the inside wire, which is the
18 homeowner's problem. And just to say, this was new
19 construction. We often find that there are problems to
20 the inside wire on new construction. My experience has
21 been more often than not, but it's a very common
22 thing.

23 All right. My records show that on May 13th
24 U S West sent the guy out again and he on the 13th
25 discovered that the connection to the DEMARC was okay

1 and there was a problem with the inside wire. Umm,
2 with my records are unclear on the file as to whether
3 this was relayed to the Bolts or not. You know, we
4 sort of -- our records are pretty good, but they don't
5 have everything.

6 CHAIRMAN BURG: Could I interrupt a minute?
7 Was it relayed to you? Were you aware there was an
8 inside wire problem after U S West checked it?

9 MR. LIPMAN: Yes. My records show it was
10 relayed to us. It doesn't show when.

11 MS. BOLT: I've got several questions.

12 CHAIRMAN BURG: Are you finished,
13 Mr. Lipman?

14 MR. LIPMAN: Oh, no, sir, I'm not.

15 CHAIRMAN BURG: We'll give you another chance
16 to respond, ma'am.

17 MR. LIPMAN: Okay. Mrs. Bolt said -- she's
18 absolutely correct on the 18th she contacted us and
19 said she was without service. At the very least, she
20 was told at that point that there was a problem with
21 the inside wire. I don't know if she was told before
22 that. But the 18th my records show that she did call
23 as she said and she's right. And she was told again
24 there was a problem and it was with U S West. I guess
25 there was an appointment made. I'm not sure who set it

1 up with U S West to go back on the 19th, which they
2 did, and I guess they went ahead again. And the
3 problem was solved on the 26th, to make a long story
4 short.

5 Now, Mrs. Bolt is right that we did send her
6 bills, and I apologize for that. But at this point in
7 time all bills from McLeod have been forgiven and wiped
8 off. We understand. And she's back with U S West and
9 has been since the end of May. And we understand that
10 she owes us nothing. We apologize for the problem.
11 And it really wasn't our fault, and it wasn't U S
12 West's fault either. Getting her hooked up to the
13 DEMARC by the 11th is well within the rules and then
14 after that the problem was with inside wire.

15 Now, we've forgiven all bills and
16 apologized. And the only remaining dispute is she's
17 trying to get \$12,000 out of us for to conduct her
18 business. Now, first, she's signed up for a
19 residential line with us, which is less than a business
20 line, and we didn't know it was used for business, and
21 that's sort of illegal. But leaving that aside, our
22 tariffs say that we're not responsible for residential
23 business. And we have no way of knowing, you know,
24 what business is lost, and the utilities aren't
25 responsible for residential businesses. We've forgiven

1 her for all fees that she owes us for May, and we
2 apologized, even though it sort of wasn't our fault,
3 but we've forgiven all fees.

4 But right now the only remaining dispute is
5 with the \$12,000 that she's trying to extort from us
6 for the jobs she's lost. So this is a residential
7 line, not a business line. And, second, we feel that
8 our tariff and in our contract with the Bolts it
9 clearly says the only remedy to our knowledge, which we
10 apologized, is to acknowledge the fees. Well, we've
11 already forgiven the fees. And both the tariff and the
12 contract clearly say we're not responsible for
13 consequential damages.

14 CHAIRMAN BURG: Okay. Thank you. Miss Bolt,
15 do you have some remark?

16 MS. BOLT: He has several things wrong.
17 First of all, we are not a new residence. This is a
18 50-year-old house. Second of all, I was home the
19 entire day from May 11th. There was never a service
20 man sent to this house. I was not out of the house the
21 entire day. There was never a service man sent to this
22 house.

23 MR. LIPMAN: That's correct, he went on the
24 13th not the 11th.

25 MS. BOLT: No, the 11th you said originally

1 was the hookup day and that's when you said that there
2 was a problem with the line.

3 CHAIRMAN BURG: Okay. Go ahead.

4 MR. LIPMAN: Yes, she's right.

5 MS. BOLT: You said I contacted you on the
6 13th, which I did not. I contacted you on the 12th,
7 the morning of the 12th, Tuesday morning, when I had
8 got a call on my sell phone in the evening telling me
9 that they had tried to call me all day Monday and got a
10 busy signal. Then I called Tuesday morning and that's
11 when I was told by McLeod there was no problem; that it
12 was being connected; that not to worry about it; that
13 don't worry about a thing, it's all taken care of.
14 Now, for you to say here and tell them that you're
15 saying to me that I was told there was a problem with
16 the line and that we knew there was a problem on the
17 line and that's my problem is not the truth. We were
18 told that we would have service on May 11th, and we
19 were not given service. There was -- no one came here
20 connecting a line, and no one did anything on the 12th
21 either when we were told on the 12th it was being taken
22 care of and not to worry about anything.

23 So we went all the day of the 12th believing
24 that. On the morning of the 13th there was still no
25 phone service, and at noon on my lunch hour I spent my

1 entire lunch hour working with McLeod, being told there
2 was no problem, that it was being fixed, that it was --
3 you know, not to worry about anything. And that's when
4 I was angry, and you kept telling me for two days and
5 nothing is happening. And that's when I said I no
6 longer want to be your customer. So those points and
7 what you're saying about new residence is not the
8 truth.

9 MR. LIPMAN: It's not a new residence. I
10 apologize. Mine says it is. But you're right, we
11 didn't know that there was a problem with the inside
12 wires on the 11th or 12th. We found out when the U S
13 West technician went out on the 13th.

14 CHAIRMAN BURG: Miss Bolt, did they have to
15 do some work on the inside wires?

16 MS. BOLT: Yes, they did.

17 CHAIRMAN BURG: And were you charged for
18 that?

19 MS. BOLT: No.

20 CHAIRMAN BURG: Is that who did that, U S
21 West?

22 MS. BOLT: U S West did it.

23 MR. LIPMAN: Yeah, but we absorbed the cost.

24 CHAIRMAN BURG: For the inside wire?

25 MR. LIPMAN: Yes.

1 MS. BOLT: You told us that was my
2 responsibility.

3 MR. LIPMAN: It is your responsibility, but
4 we absorbed the cost.

5 CHAIRMAN BURG: Now, do you have a question,
6 Pam?

7 MS. BOLT: Because at that point I was no
8 longer your customer. I became U S West's customer.
9 And they came out to fix it and which they did not come
10 out on the 13th. Nobody did anything because U S West
11 told me they had no right to do anything. They told me
12 the 13th that I could become their customer and they
13 would give me toll service by the 15th.

14 MR. LIPMAN: The same problem with inside
15 wire that would affect U S West would affect us. We're
16 a reseller. We use their line. It's the same line.

17 CHAIRMAN BURG: Let's move on. I think we
18 got that part clarified. What was the date that you
19 lost this business you're talking about, the \$10,000
20 job.

21 MS. BOLT: It was during the month of May.
22 My husband had been in contact with the man right up
23 until the date we were moving at the end of April,
24 first week in May.

25 CHAIRMAN BURG: And \$10,000 is what you would

1 have made profit on that job or was that the whole?

2 MS. BOLT: Profit on the job.

3 CHAIRMAN BURG: That was not the entire bid?

4 MS. BOLT: No.

5 CHAIRMAN BURG:

6 MR. LIPMAN: We have no way of knowing that,
7 sir.

8 COMMISSIONER SCHOENFELDER: I have a question
9 for whoever the attorney is.

10 MR. LIPMAN: My name is Rich Lipman.

11 COMMISSIONER SCHOENFELDER: Whatever. Why
12 did you tell them they had to call U S West to fix the
13 line?

14 MR. LIPMAN: No, we didn't tell them. We
15 call U S West.

16 COMMISSIONER SCHOENFELDER: Why did you do
17 that? Why didn't you call another vendor if --

18 MR. LIPMAN: Because it's usual for the
19 vendor to fix inside wire and then bill someone. What
20 we said -- I guess my records show that U S West has to
21 get their permission.

22 MS. BOLT: No one asked me for permission to
23 fix anything when I was a customer.

24 MR. LIPMAN: My records show that at the
25 latest on the 18th, when you called in, you were told

1 of the problem. I'm not sure whether you were told
2 earlier on the 13th, but the latest you were told on
3 the 18th.

4 CHAIRMAN BURG: Okay. I think we have it
5 clarified. I'm interested in any comments staff and
6 analysts might have. Has anybody done engineering or
7 anything. First of all, one of the questions I have is
8 were they meeting the tariff requirements?

9 MR. BEST: This is Harlan Best with
10 Commission staff. Mr. Lipman speaks to a Commission
11 rule that requires seven to ten days for completion of
12 resale connection time. And there are no Commission
13 rules that speak to time frame regarding connection on
14 resale. That time frame may be in their
15 interconnection agreement that McLeod has with U S
16 West, but it's not a Commission rule.

17 MR. LIPMAN: You may be right, sir, and I
18 apologize. That's probably right.

19 CHAIRMAN BURG: Okay. Anything else?

20 MS. BOLT: One other thing is that my whole
21 amount of \$12,000 is not only for loss of work. It's
22 for loss of phone in case of emergency and for the time
23 I spent, the heartache that I went through because of
24 it not working. So for him to say it's only, business
25 is not. It's for everything.

1 CHAIRMAN BURG: The question we have today is
2 there probable cause for an unlawful act, rate,
3 practice or omission? Do you have -- you have service
4 now; correct?

5 MS. BOLT: Yes.

6 CHAIRMAN BURG: It comes down to can we
7 (inaudible). Do we have that authority to find
8 probable cause?

9 COMMISSIONER SCHOENFELDER: Mr. Chairman, I'm
10 going to move we find probable cause.

11 COMMISSIONER NELSON: I second it.

12 CHAIRMAN BURG: I will concur. Okay. We
13 have found probable cause. We will establish a hearing
14 date. Thank you for joining us on the phone.

15 -----)
16)
17 IN THE MATTER OF THE COMPLAINT FILED)
18 DEBRA ESCHE, CANTON, SOUTH DAKOTA,)
19 AGAINST U S WEST COMMUNICATIONS, INC) TC98-193
REGARDING UNACCEPTABLE SERVICE)
-----)

20 CHAIRMAN BURG: Thank you. TC98-193, In the
21 Matter of the Complaint filed by Debra Esche, Canton,
22 South Dakota, against U S West Communications regarding
23 unacceptable service.

24 Today, does the Commission find probable
25 cause of an unlawful or unreasonable rate -- act, rate,

1 practice, or omission to go forward with the complaint
2 and serve it upon the Respondent?

3 Is Ms. Esche on the phone?

4 MS. HEALY: No, she is not.

5 MS. HEALY: Do you want to take that?

6 MS. HEALY: Ms. Esche called me this morning
7 and indicated she had been offered a settlement, which
8 she has accepted and she wishes the docket to be
9 dismissed.

10 CHAIRMAN BURG: U S West, do you have any
11 comments on it at all?

12 MS. SEVOLD: No, I don't, Mr. Chairman.

13 CHAIRMAN BURG: Okay. I'll move we dismiss
14 the complaint and close the docket in TC98-193.

15 MR. HOSECK: With regard to the settlement of
16 this, staff would request of U S West a report or an
17 accounting of the details of the settlement.

18 CHAIRMAN BURG: Any problem with that? We
19 will request that.

20 COMMISSIONER NELSON: Mr. Chairman, I guess I
21 would like to make another motion and that is to open a
22 docket to revisit the issue of adequacy of substitute
23 service, and I would so move.

24 COMMISSIONER SCHOENFELDER: I'll second.

25 CHAIRMAN BURG: I will concur. I would

1 rather we had had some comments, but I will concur.

2

3

4 IN THE MATTER OF THE COMPLAINT FILED)
 BY LAWRENCE KLEIN, VALENTINE,)
 NEBRASKA, AGAINST U S WEST) TC98-199
 5 COMMUNICATIONS, INC. REGARDING POOR)
 SERVICE AND REQUEST TO HAVE LINES)
 6 UPDATED)

7

8 CHAIRMAN BURG: TC98-199, In the Matter of
 9 the Complaint filed by Lawrence Klein, Valentine,
 10 Nebraska, against U S West Corporation regarding poor
 11 service and request to have lines updated. Today, does
 12 the Commission find probable cause of an unreasonable
 13 act, rate, practice or omission to go forward with its
 14 complaint and serve it upon the Respondents.

15 Who do we have? Are the Kleins on at all?

16 MS. HEALY: No, they are not. These are --
 17 excuse me, this is Leni from Commission staff. This
 18 Klein is part of the Klein family that is served out of
 19 the Valentine Nebraska Exchange in which we have an
 20 open docket right now on this particular line. This
 21 family of Kleins wishes to join the other Klein
 22 families in their complaint.

23 CHAIRMAN BURG: I'll move we find probable
 24 cause and combine it with the ones we already have
 25 open.

1 COMMISSIONER SCHOENFELDER: Seconded.

2 COMMISSIONER NELSON: Concur.

3 CHAIRMAN BURG: Let's start down the list so
4 I don't miss something.

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6)
7 IN THE MATTER OF THE FILING BY U S)
8 WEST COMMUNICATIONS, INC. FOR)
9 APPROVAL OF AN INTERCONNECTION) TC98-112
10 AGREEMENT BETWEEN U S WEST)
11 COMMUNICATIONS, INC. AND DAKOTA)
12 SERVICES, LTD. AT&T DIGITAL LINK)
13 SERVICE)
14 -----)

12 CHAIRMAN BURG: TC98-112, In the Matter of
13 the Filing by U S West Communications for Approval of
14 an Interconnection Agreement between U S West
15 Communications and Dakota Services, Ltd. Today, shall
16 the Commission approve the interconnection agreement?

17 Camron, do you have that?

18 MR. HOSECK: Yes, Mr. Chairman. Prior to the
19 meeting you should have received a copy of a letter
20 that I have from the Regulatory Compliance
21 Administrator for this company, and they have asked
22 that the contract or the agreement be withdrawn. So at
23 this time it would be appropriate to -- should the
24 Commission so wish to adopt an order approving
25 withdrawal of the negotiated agreement.

1 CHAIRMAN BURG: Okay. I'll move we approve
2 to withdraw and close the docket.

3 COMMISSIONER NELSON: Seconded.

4 COMMISSIONER SCHOENFELDER: Concur.

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7 IN THE MATTER OF THE FILING OF U S)
8 WEST COMMUNICATIONS, INC. FOR)
9 APPROVAL OF INTERCONNECTION AGREEMENT) TC98-186
10 BETWEEN U S WEST COMMUNICATIONS, INC.)
11 AND FIBERCOMM, L.C.)
12 -----)

11 CHAIRMAN BURG: TC98-186, In the Matter of
12 the Filing of U S West Communications, Inc., for
13 Approval of Interconnection Agreement Between U S West
14 and FiberComm, L.C.

15 Shall the Commission approve the
16 interconnection agreement?

17 MR. HOSECK: Mr. Chairman, on behalf of
18 staff, I'm going to ask that this be deferred also.
19 This is related to item number 15, which is the same
20 company that sought a certificate of authority and that
21 one was deferred. It's our position until they have a
22 certificate of authority, this can't take place.

23 CHAIRMAN BURG: Okay.

24 (THE HEARING CONCLUDED AT 12:00 P.M.)

25

1 STATE OF SOUTH DAKOTA)

2)

3 COUNTY OF HUGHES)

4 I, Lori J. Grode, RMR, Notary Public, in and
5 for the State of South Dakota, do hereby certify that
6 the above hearing, pages 1 through 49, inclusive, was
7 recorded stenographically by me and reduced to
8 typewriting.

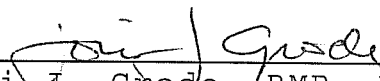
9 I FURTHER CERTIFY that the foregoing
10 transcript of the said hearing is a true and correct
11 transcript of the stenographic notes at the time and
12 place specified hereinbefore.

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

18 IN WITNESS WHEREOF, I have hereunto set my
19 hand and seal of office at Pierre, South Dakota, this
20 1st day of December 1998.

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Lori J. Grode, RMR, RPR

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