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SOUTH DAKOTA PUBLIC UTILITIES COMMISSION

THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF SOUTH DAKOTA

MAY 21 1999

-----	)	CT99-003
	)	CT99-004
IN THE MATTER OF THE	)	TC98-155
	)	TC98-183
PUC AGENDA MEETING	)	TC98-184
	)	TC98-199
	)	TC98-212
-----	)	TC99-030

HEARD BEFORE THE PUBLIC UTILITIES COMMISSION

PROCEEDINGS: May 12, 1999  
1:30 P.M.  
LCR#1, 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  
Leni Healy  
Shirleen Fugitt  
Sue Cichos  
Bill Bullard

Reported by: Lori J. Grode, RMR

ORIGINAL

A P P E A R A N C E S

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For SDITC: Richard D. Coit  
P.O. Box 57  
Pierre, SD 57501

For the Klein  
Complaint: Milton Klein  
and Lawrence Klein

Appearances by Telephone:

For USW: Thomas Welk  
Colleen Sevold  
Ed Peters

For DTG: William P. Heaston

Also Appearing: Margaret Figert  
Loretta Spear  
Constance Johnson  
Sheryl Klein  
JoAnn Klein  
Jim Frankenstein

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P R O C E E D I N G S

1  
2 CHAIRMAN BURG: Okay. This is Jim Burg.  
3 I'll call the meeting to order. This is a meeting, a  
4 regularly-scheduled meeting of the Public Utilities  
5 Commission. I'm Commissioner Jim Burg, Chairman, and  
6 Commissioners Schoenfelder and Nelson are also  
7 present.

8 Shirleen, I'll -- let me call the roll call  
9 first.

10 (Roll Call.).

11 CHAIRMAN BURG: We are going to move around  
12 just a little bit today to accommodate people, but  
13 first we'll do the administration, the approval of the  
14 minutes of the Commission meeting that was held on  
15 April 26th, 1999. Shirleen, were there any corrections  
16 or additions?

17 MS. FUGITT: There were none.

18 COMMISSIONER NELSON: I'd move approval.

19 COMMISSIONER SCHOENFELDER: I'd second.

20 CHAIRMAN BURG: I'll concur. Consumer  
21 issues, the status report on consumer inquiries and  
22 complaints recently received by the Commission. Leni  
23 Healy.

24 (Not Transcribed.)

25 CHAIRMAN BURG: Item number two -- did

1 somebody just join that was not on roll call? Okay.  
2 Is there anybody that I did not call before when I did  
3 roll call?

4 MR. WEGMAN: Yes, Steve Wegman.

5 CHAIRMAN BURG: We're going to take item  
6 number two under the addendum first because somebody  
7 has a later commitment that we want to take care of for  
8 them.

9 TC99-032, In the Matter of the Filing for  
10 Approval of an Interconnection Agreement between the  
11 City of Haywarden and Heartland Telecommunications  
12 Company of Iowa.

13 (Not Transcribed.)

14 CHAIRMAN BURG: Okay. Because we have a lot  
15 of parties involved in this, I'm going to move to items  
16 Number 5, 6, 7, and 8 of the regular agenda. And is  
17 there any reason -- can those all be combined for  
18 discussion purposes?

19 Camron, is there any problem with combining  
20 them?

21 MR. HOSECK: No, I can't see any problem.

22 CHAIRMAN BURG: I'll read the first one, In  
23 the Matter of the Complaint Filed by Cheryl L. Klein,  
24 Valentine, Nebraska, against U S West Communications,  
25 Incorporated, Regarding Poor Service and Request to

1 Have Lines Updated.

2 The question being today, how shall the  
3 Commission proceed? There has already been a hearing  
4 on this matter. I can't remember, what was the date of  
5 the hearing?

6 MS. CICHOS: February 3rd.

7 CHAIRMAN BURG: And today we will be doing an  
8 update on what has occurred since that hearing. Do we  
9 want U S West to go first with explaining?

10 MS. WIEST: Yeah, why don't they explain what  
11 they've done and then we'll let the complainants  
12 respond to that.

13 CHAIRMAN BURG: Who's going to speak for U S  
14 West? Ed Peters or Tom Welk?

15 MR. PETERS: This is Ed Peters. I'll speak.

16 CHAIRMAN BURG: Okay.

17 MR. PETERS: After the hearing we provided  
18 the Commission a list of what work had been done as of  
19 April 1st, and that was the April 2nd letter. And at  
20 that time we also identified the additional work that  
21 needed to be done, which included a 6,300 feet section  
22 of buried cable that had to be replaced as well as  
23 smaller sections of cable and buried wire that had to  
24 be replaced.

25 In the meantime, we have done some of that

1 work and completed some of the shorter sections of  
2 cable replacement and wire replacement and have  
3 replaced at least one customer that was dropped. 6,300  
4 foot of 19-gauge cable that had to be ordered is now in  
5 the Valentine location and either has started being  
6 placed or will be placed shortly. And then we'll be  
7 spliced up.

8           Now, all of our testing to date has indicated  
9 that the carrier equipment is working properly and the  
10 repeaters are in the right location. And we have done  
11 testing on the carrier up to the customer locations, so  
12 we don't believe that that is a problem.

13           But once the cable, all of the cable is  
14 placed, spliced, and tested, then we would plan on  
15 going back and testing out the carriers for each and  
16 every customer that works in the what I think is  
17 referred to as the Klein Corner area, which would  
18 include all of the complainants that we're talking  
19 about as well as all the other customers.

20           If we find any additional work that is needed  
21 at that time, then we would make adjustments such as  
22 adjusting where the carrier terminals are located or  
23 changing out equipment. If we find any buried drops  
24 that need to be replaced, we would do that.

25           And then we would propose to continue to

1 monitor the quality of the service on a 30-day basis to  
2 make sure that we have, in fact, corrected the  
3 problems; and we would propose doing that in concert  
4 with the people that have filed complaints in this  
5 matter.

6 CHAIRMAN BURG: Do you have an anticipated  
7 completion date for the installation of that cable?

8 MR. PETERS: Yes. I believe that we will  
9 have that completed before the end of May and hopefully  
10 in the next week or so.

11 CHAIRMAN BURG: Okay. Any other questions  
12 for Mr. Peters?

13 COMMISSIONER SCHOENFELDER: Well, this is  
14 Commissioner Schoenfelder. I'm looking at a report  
15 that you filed in this docket. I don't know what day  
16 it came into the office, but it looks to me like May  
17 7th is when it was faxed to our office.

18 MR. PETERS: That's my latest report, which  
19 also included answers to questions that were asked  
20 also.

21 COMMISSIONER SCHOENFELDER: Questions: On  
22 the back, it looks to me like there are repeaters that  
23 you've tested. Is that what that is, because I don't  
24 read this sort of thing very well? Would you explain  
25 that to me?

1           MR. PETERS: Yes. We included a copy of the  
2 test results the technician did when they went out and  
3 did the initial test at the very beginning, and that  
4 would include testing between the central office and  
5 the first repeater and then between each subsequent  
6 repeater. Also testing that was done at the fiber  
7 terminal.

8           COMMISSIONER SCHOENFELDER: Okay. And if I  
9 read your report right, you said that's within the  
10 expected limitations or something. So tell me what  
11 that is, would you, please?

12           MR. PETERS: Okay. The single coming into  
13 the repeater should be greater than a minus 39 dB and  
14 leaving the repeater it should be between 0 and a -5  
15 dB.

16           So if you look through the numbers that are  
17 given here under each of these columns for each of the  
18 repeater types, you'll see that those readings are  
19 consistent with what it should be.

20           COMMISSIONER SCHOENFELDER: And that really  
21 has to do with the noise on the line, am I correct on  
22 that?

23           MR. PETERS: It really has to do with the  
24 quality of the signal that's coming into the repeater  
25 and being regenerated, then coming out of the repeaters



1 going to the next repeater, and that would affect both  
2 volume and noise and so forth.

3 Now, there can be other causes of noise such  
4 as, you know, bad drops and bad cable and that kind of  
5 stuff; and those are the problems that we're trying to  
6 take care of right now.

7 COMMISSIONER SCHOENFELDER: Okay. And then  
8 the 411 problem, do you think you have that solved? I  
9 didn't -- your report doesn't really say you have it  
10 solved. I just would like to have you elaborate on  
11 that a bit, please.

12 MR. PETERS: I think the issue that came up  
13 at the hearing was whether or not this could be a  
14 switch-related problem. We haven't found any switch  
15 issues that would cause the 411 problem. I think that  
16 it's probably more from the buried cable problem and  
17 getting static and extraneous signals riding over the  
18 carrier system because of the bad cable.

19 So what we propose to do is go ahead and get  
20 that problem fixed and then do some retesting and  
21 monitoring of the 411 situation to see if that's also  
22 been resolved. If it has not been resolved, then we  
23 would need to do further analysis.

24 Right now because we have the bad cable and  
25 that affects the entire integrity of the system, it's

1 hard to isolate the 411 problem.

2 COMMISSIONER SCHOENFELDER: Mr. Peters, but  
3 you told Commissioner Burg at the end of May you  
4 thought you should have this cable in place.

5 MR. PETERS: Yes.

6 COMMISSIONER SCHOENFELDER: Even with -- I  
7 don't know exactly in that area, but in a lot of places  
8 in South Dakota there's been flooding conditions, and  
9 I'm sure those people must be without phones now if  
10 water causes any kind of a problem.

11 MR. PETERS: I'm not sure of whether the  
12 section of cable that is causing the problem is in a  
13 low-lying area that would be subject to flooding or  
14 not. And, quite clearly, since I'm in Denver, I'm not  
15 aware of exactly what the weather conditions have been  
16 up there.

17 COMMISSIONER SCHOENFELDER: I don't think it  
18 necessarily has to be low-lying. I think there's  
19 plenty in just about everywhere these days. I think  
20 that's all I have for Mr. Peters.

21 MR. PETERS: I would add to the extent that  
22 weather does hamper our placing the cable, that would  
23 be something that we would want to work with the  
24 Commission on. But when I talked to the installation  
25 or the construction supervisor here a week ago, my

1 understanding is at that time that they thought they  
2 would still be able to place it.

3 COMMISSIONER NELSON: There have been some  
4 reports that in some places the cables are just plain  
5 laying above ground. Is that because you're trying to  
6 repair these things or --

7 MR. PETERS: Yes. Oftentimes what we do,  
8 especially in the short sections, we will go ahead and  
9 bypass the bad section of cable by laying a temporary  
10 cable on the ground, splicing it in to get rid of the  
11 bad section of cable that's causing the trouble, and  
12 then we come back and bury it when the conditions  
13 allow.

14 COMMISSIONER NELSON: Thank you.

15 CHAIRMAN BURG: I'm going to ask each of the  
16 participants -- Cheryl Klein, I believe were you on the  
17 phone. Cheryl?

18 MS. CHERYL KLEIN: Yes, I am.

19 CHAIRMAN BURG: Yes. Did you have any  
20 comments on it at all?

21 MS. CHERYL KLEIN: Well, we've experienced --  
22 my husband is present up there, isn't he? Do you  
23 want --

24 CHAIRMAN BURG: Do you want him to speak? I  
25 just was going to take each of the complaints as it

1 happened. Do you have anything to add? I can ask him  
2 as well.

3 MS. CHERYL KLEIN: Yes, I do have two overall  
4 comments, but my husband has more detailed paperwork up  
5 there. I understand this has been going on for almost  
6 a year and a half, at least officially your awareness  
7 it's been a year and a half that we made complaints.  
8 We've had several years prior to that of problems.

9 Supposedly, U S West has made efforts to fix  
10 things, and we've had several years where things  
11 haven't been fixed, and I submit that maybe this is not  
12 a fixable situation. Maybe it's time for us to look at  
13 it differently and say replace the line with new  
14 equipment. It seems pretty apparent to me.

15 I think there's no facts in dispute here that  
16 it's not working. It hasn't worked for several years.  
17 So I submit it can't be fixed.

18 CHAIRMAN BURG: Okay. Thank you. And, okay,  
19 Mr. Klein.

20 MR. MILTON KLEIN: We've continued to have --  
21 our phone over the winter seemed to work fairly well;  
22 however, on April 8th we had problems, on April 15th we  
23 had problems, on April 22nd we had problems, again on  
24 the 8th of May, and as we speak today my phone at home  
25 is not functioning.

1           CHAIRMAN BURG: Is your wife calling from a  
2 different location?

3           MS. CHERYL KLEIN: I'm calling from my  
4 office.

5           MR. MILTON KLEIN: We can sometimes call, but  
6 I had to be here today. It's highly unlikely you can  
7 reach me at my home.

8           CHAIRMAN BURG: What are the nature of the  
9 problems? No service at all?

10          MR. MILTON KLEIN: No, it's intermittent more  
11 often than not now. If someone tries to call, maybe  
12 two out of ten times you'll get like a half a ring and  
13 then it just cuts off the ring; and you pick up the  
14 phone, answer it, and there's just a dial tone.  
15 Sometimes our phone is totally dead and other times  
16 there's just a lot of static on it.

17          CHAIRMAN BURG: So whatever they have done  
18 prior to the first of April or, you know, has not been  
19 an improvement since?

20          MR. MILTON KLEIN: It has not permanently  
21 fixed it. And I'd be willing to bet my paycheck  
22 against anybody in this room when they get done laying  
23 the cable, it won't be done.

24          MR. PETERS: Mr. Commissioner, at the  
25 appropriate time I would like to respond to those

1 comments.

2 CHAIRMAN BURG: I think I'll ask each one of  
3 them to comment and you can respond to them all at  
4 once.

5 Do you have anything else right at --

6 MR. MILTON KLEIN: No.

7 CHAIRMAN BURG: I'm going to go through each  
8 one. In TC98-184 the Complainant was JoAnn Klein. Is  
9 JoAnn on?

10 MS. JOANN KLEIN: Yes.

11 CHAIRMAN BURG: JoAnn, do you have any  
12 comments?

13 MS. JOANN KLEIN: Yes. Well, I want to say  
14 that my husband and I are -- (inaudible) seeing as we  
15 live a quarter mile from our son Milton, who just  
16 addressed you, and it is -- we have serious health  
17 problems and it's been -- in order to stay and live  
18 here, we must have dependable phone service, which we  
19 haven't had, and (inaudible) conditions our not being  
20 able to call our son-in-law. Fortunately, we haven't  
21 had any emergencies. But one day we tried to call  
22 Valentine to ask our prescription to be mailed out to  
23 us and we didn't get through with them. And it is very  
24 essential that we have dependable phone service. And  
25 that's all I have to say.

1           CHAIRMAN BURG: Okay. Thank you. Anybody  
2 else on that one? JoAnn spoke on that. The next one  
3 is Lawrence Klein. Is that you, sir?

4           MR. LAWRENCE KLEIN: Yes.

5           CHAIRMAN BURG: I do have to apologize to  
6 you. I was under the whether the day the hearing was  
7 held, so I was not able to come down for the hearing,  
8 so I'm not familiar with what occurred. But that's why  
9 I don't know the individuals. So go ahead, sir.

10          MR. LAWRENCE KLEIN: My son has made  
11 complaints -- my son has made complaints to the  
12 company, and he sent a list of stuff here that isn't  
13 too long. I could read it to you.

14          CHAIRMAN BURG: Okay. Go ahead.

15          MR. LAWRENCE KLEIN: "Since the Utilities  
16 Commission meeting in Mission on February 3rd, 1999, I  
17 have on my records calling in about needing service on  
18 February 11th, April 14th, May 9th. The problem is  
19 still static on the line, or dialing and having it ring  
20 once and then reverting back to dial tone and not able  
21 to complete the call.

22                 I would hope the Commission would continue to  
23 work with U S West to resolve these problems as our  
24 phone service is still important to our rural area. I  
25 noticed we received another rate increase with my April

1 1 bill, but I have yet to notice any improved service.  
2 I believe we should see improvement before we are asked  
3 to pay higher prices."

4 CHAIRMAN BURG: And is your son one of the  
5 complainants?

6 MR. LAWRENCE KLEIN: No, he wasn't. My wife  
7 called in and my name got involved. But now as far as  
8 this increase in service, I have some records right in  
9 front of me. As of the end of the year we were paying  
10 26.94 for monthly service. As of the first of January  
11 it was raised to 28.15, and as of the last mailing it  
12 was 29.95. Now, am I entitled to some explanation?

13 CHAIRMAN BURG: Do you know from those bills  
14 what portion went up, what caused that increase? I  
15 mean there are several different --

16 MR. LAWRENCE KLEIN: I have no idea. It says  
17 on here 50 cents for extended local service calling. I  
18 don't know whether I've got anything or not that  
19 warrants that kind of rates.

20 COMMISSIONER SCHOENFELDER: Could we see your  
21 bills?

22 CHAIRMAN BURG: Would you look at that, Leni,  
23 and pick out what it was for us?

24 That would be a Nebraska billing, wouldn't  
25 it?



1 MR. LAWRENCE KLEIN: Yes, yes, it does.

2 CHAIRMAN BURG: Anything else that you wanted  
3 to add? Where does your son live from you then?

4 MR. LAWRENCE KLEIN: About three miles east.

5 CHAIRMAN BURG: Three miles. And he's having  
6 the same problems even though he wasn't one of the  
7 complainants?

8 MR. LAWRENCE KLEIN: Yes, he is. And he has  
9 complained to the company before. And he did attend  
10 the meeting in Mission, and so did I. And I hate to  
11 complain, but sometimes it's the point you need to.

12 MS. WIEST: So then how has your phone  
13 service been since the hearing?

14 MR. LAWRENCE KLEIN: There's been times that  
15 we've had the phone ring in the middle of the night two  
16 rings, and when we get to it, it's dead. And we've had  
17 quite a little static on the line. Last night I had a  
18 person call from Martin and there was so much static  
19 that I couldn't understand him.

20 CHAIRMAN BURG: Did you have static on yours,  
21 too, quite a bit?

22 MR. MILTON KLEIN: Yes.

23 CHAIRMAN BURG: Okay. And then the last one  
24 that we will -- Margaret Figert, are you on, Margaret?

25 MS. FIGERT: Yes, I am.

1           CHAIRMAN BURG: Do you want to just comment  
2 on what your experience has been mostly since the  
3 hearing, because I think we have a transcript on a  
4 record on what you said at the hearing? So what's been  
5 your experience since then?

6           MS. FIGERT: (Inaudible).

7           COMMISSIONER SCHOENFELDER: We can't hear  
8 you, Margaret.

9           MS. FIGERT: On April 24th -- can you hear me  
10 now? On April 24th I had no phone service at all. I  
11 called the central office, was promised a repairman to  
12 come out. They did. The phone service was restored.  
13 I had severe static on Saturday, the 8th of May, static  
14 last night so severe I could not talk, could not  
15 complete a business transaction. So it's even like  
16 whenever it rings, we are out of phone service.

17           I was hoping after 33 years to semi-retire.  
18 I need Internet service to do that. (Inaudible) I  
19 hope I can do that. So my community has to put up with  
20 my, well, grouchy countenance as long as I don't get to  
21 semi-retire. It would really be nice to have lines  
22 that would transmit data. I would prefer, however, to  
23 have voice capable lines all the time. There has been  
24 rings in the middle of the night. By the time I get  
25 there it quits, go back to bed. But it is (Inaudible.)

1 It's frustrating.

2 CHAIRMAN BURG: Okay. Thank you very much.  
3 Any questions for her?

4 COMMISSIONER NELSON: I guess I have one.  
5 Have any of you had any of that billing for 411 calls?  
6 Has that gone away?

7 MR. MILTON KLEIN: Most of these problems,  
8 these phone problems that we're talking about in April,  
9 the billings for that period haven't shown up yet so we  
10 won't know for about a week yet.

11 COMMISSIONER NELSON: Thank you.

12 CHAIRMAN BURG: Leni, what did you find on  
13 those?

14 MS. HEALY: The rate for basic service has  
15 gone up \$1.80, and line backer has gone up 94 cents.

16 CHAIRMAN BURG: Anybody else that was on the  
17 phone that filed a complaint? Does any of them have a  
18 comment?

19 COMMISSIONER SCHOENFELDER: But they need to  
20 know that that rate increase was in Nebraska. Was that  
21 a South Dakota rate increase? Because we don't have a  
22 rate increase. That would be inappropriate.

23 CHAIRMAN BURG: Do you have anything you want  
24 to add before I go to Mr. Peters again, or do you want  
25 to hear what he has to say?

1 MR. HOSECK: I think I would have a comment  
2 or two and then maybe Mr. Peters can address that.  
3 This is Camron Hoseck on behalf of Commission staff. I  
4 think the Commission could look at the transcript in  
5 this matter, and specifically pages 132 and 133 from  
6 the February 3rd meeting.

7 At that time Mr. Peters testified that it  
8 would be 60 days to get the problem diagnosed. On  
9 April 2nd, in the transmittal to the Commission of  
10 April 2nd, if I'm reading that correctly, Mr. Peters  
11 wanted 60 days to order, place, and splice a cable and  
12 then another 30 days to test and analyze this.

13 To me, that says it's 90 days from about  
14 April 2nd that U S West said they would have this in  
15 and tested. And in the May 7 letter that Mr. Peters  
16 writes to the Commission, he disputes the calculations  
17 that I made in my supplemental brief.

18 I think it would be in everyone's best  
19 interest if we know for sure exactly what U S West's  
20 intentions are with regard to their present plan of  
21 remedying this situation because every time that  
22 something occurs, it looks as if the deadline is pushed  
23 back a little bit further.

24 Now, if Mr. Peters' presentation to you today  
25 constitutes a change in that position, I would ask that

1 the record be made clear as to whether or not the old  
2 time lines are abandoned and the new ones are in  
3 effect, or exactly what is going on. Because I agree  
4 with the complainants in this case, that this has gone  
5 on too long, and they are dependent upon this phone  
6 service and it is not working. So perhaps Mr. Peters  
7 can address that.

8 CHAIRMAN BURG: Mr. Peters, do you have some  
9 response?

10 MR. PETERS: Yes. Let me address that issue  
11 to begin with. I don't believe that U S West has  
12 changed its stated position on any of the time line.

13 I think that Mr. Hoseck is correct that I  
14 said at the hearing that we would need 60 days to go  
15 through and do the testing and do the analysis and come  
16 up with a definitive plan as to what needed to be done  
17 to fix the problems. I believe U S West did that. And  
18 my April 2nd letter states what that plan would be, and  
19 we have been consistent with the plan as far as the  
20 time intervals.

21 The only deviation for that is from my May  
22 7th letter which indicated we were a little bit ahead  
23 of the schedule and that we thought we would be able to  
24 have the cable in sooner than we thought we originally  
25 could. And so that pushes us a little bit ahead of the

1 schedule.

2           But I believe that the communications that  
3 U S West has had with the Commission, both at the  
4 original hearing and subsequent letters, is consistent  
5 with the position that we've taken at that hearing, and  
6 it's also consistent with the position that we took in  
7 other hearings that addressed the complaints from  
8 Ms. Spear and Mr. Kiefer.

9           At those hearings we also indicated that we  
10 would need time to assess what work needed to be done  
11 and that we would need additional time after the  
12 assessment was done to complete the work.

13           And this case is very similar to that as far  
14 as the social work, and it also is very similar to the  
15 approach that we've taken and the time intervals. So  
16 it's my position that we have not deviated from what we  
17 originally committed to.

18           CHAIRMAN BURG: So you're saying that you'll  
19 have the cable all laid and in place by May 1st? And  
20 then how long will you need to do additional testing?  
21 May 31st, excuse me.

22           MR. PETERS: Testing is based on -- you know,  
23 the longer the testing period -- it really relates to  
24 how quickly -- the Commission has enough information  
25 established, what needs to be done. And of course

1 we're certainly hopeful to the point where these  
2 complaints will be satisfied with quality of service  
3 that we're providing.

4           The problem with this kind of plant is, when  
5 you're 35 miles from the CO, it is very difficult to  
6 say 100 percent sure that just replacing this cable is  
7 going to fix the problem. We believe that to be true.  
8 We believe the carrier is going to work fine.

9           But we want to have time to test and make  
10 sure that we have solved the problem and that with the  
11 service. We don't want to be in a position where there  
12 is a subsequent problem because of some part of the  
13 plant that we haven't identified.

14           So we want -- we would like ideally to be  
15 able to get this cable spliced, be able to test, feel  
16 that service is reasonably reliable, and then start  
17 fine-tuning service on an individual basis to identify  
18 any individual problems that might exist such as a bad  
19 carry drop, or maybe we can isolate the problem to  
20 inside wiring, or something that we can definitively  
21 say on an individual basis this is how each person's  
22 service is.

23           Obviously to the degree that the Commission  
24 gives us a shorter period of time, we will report on  
25 what we'd have at that point in time. But we do not

1 plan on walking away from these customers. We want to  
2 continue to work with them.

3 COMMISSIONER SCHOENFELDER: This is  
4 Commissioner Schoenfelder, Mr. Peters. If and when you  
5 get the cable in place, the new cable in place -- and I  
6 think you identified several different places that  
7 cable had to be replaced?

8 MR. PETERS: Yes.

9 COMMISSIONER SCHOENFELDER: Could the  
10 customers then at that time, before you start the  
11 testing, expect better service, at least better  
12 service, if not perfect service?

13 MR. PETERS: Well, we would certainly expect  
14 that to be the case. We found with another issue that  
15 we're working on with the Commission and in the case of  
16 Randy Kiefer, that when we replaced a section of cable  
17 on that route, the signal improved from a -41 dB to a  
18 -27. That is a significant improvement.

19 I don't know what the actual improvement will  
20 be on these services when we get the cable replaced,  
21 but we would certainly expect there to be improvement  
22 once that work is done.

23 COMMISSIONER SCHOENFELDER: But improvement,  
24 but you would still keep working to make sure that it  
25 were better if it were not?



1 MR. PETERS: You bet, you bet. We do not  
2 just want to assume that replacing the cable is going  
3 to fix the problems. We want to continue to do testing  
4 throughout the full length of the 35 miles or so for  
5 each individual customer at their premise and  
6 throughout the route to make sure that we have fixed  
7 the problem.

8 The problem with these kinds of service  
9 problems is that they can have multiple causes. We  
10 want to make sure that there aren't other causes that  
11 we're not yet aware of. And if there are, we will go  
12 after those and get them fixed as well.

13 COMMISSIONER SCHOENFELDER: I have a couple  
14 other questions, Commissioner Burg. I will like to  
15 ask, first of all, I believe, Mr. Peters, that -- is  
16 Colleen Sevold on the phone?

17 MS. SEVOLD: I am, Commissioner.

18 COMMISSIONER SCHOENFELDER: And the 411  
19 reimbursements, was everyone that asked for  
20 reimbursement, have they been reimbursed according to  
21 what your records are?

22 MS. SEVOLD: Yes, that's correct.

23 COMMISSIONER SCHOENFELDER: Thank you. And  
24 then I would ask that of the Kleins, do you know if  
25 everyone that's asked for reimbursement for the 411, to

1 your knowledge?

2 MR. MILTON KLEIN: To my knowledge.

3 COMMISSIONER SCHOENFELDER: Thank you.

4 CHAIRMAN BURG: And some of those may still  
5 occur on this bill you haven't received for April yet.

6 MR. MILTON KLEIN: I wouldn't be surprised.

7 COMMISSIONER SCHOENFELDER: If Mr. Welk is on  
8 the phone, I think I have a question for him. I think  
9 he would be the appropriate person to ask. Are you  
10 there, Tom?

11 MR. WELK: Yes.

12 COMMISSIONER SCHOENFELDER: It's my  
13 understanding -- I've heard several times through  
14 gossip that the Valentine Exchange is sold; that U S  
15 West has sold that exchange. And if that's true, I'd  
16 like to know how that affects this and what U S West  
17 plans to do for these people in the process of that  
18 exchange sale, if that's true.

19 MR. WELK: Commissioner, all I can tell you  
20 is what I'm generally aware of, and I have not been  
21 involved in the details of that. I know that that  
22 exchange is being offered for sale. I would also tell  
23 you that we have made -- there's an inquiry being made  
24 about these customers.

25 And if that sale goes through, whether it

1 would be somebody in Nebraska, whether Golden West  
2 might be interested, and all I can tell you is those  
3 matters are being pursued. But, Commissioner, I have  
4 no specific knowledge, but I know they are being  
5 pursued.

6           COMMISSIONER SCHOENFELDER: I'm going to  
7 follow up on this because this is really a concern of  
8 mine. First of all, if there's ever a place where  
9 people really need communications -- I happen to know a  
10 little bit about areas like this area and people in  
11 that part of the -- in that kind of terrain really need  
12 communications desperately.

13           The other issue with me are the schools.  
14 There are three schools in this area. They need --  
15 those children in those schools need to be hooked up to  
16 the information highway, if you want to call it that.  
17 And if I understood Mr. Peters' testimony in the first  
18 hearing, the plant that they're currently replacing  
19 probably would not bear Internet services or  
20 interactive TV of any kind.

21           And so, therefore, because this is a very  
22 difficult situation, and I understand the enormous  
23 amount of investment, as well as the cry of need in  
24 this area for decent communications as well as for very  
25 good educational type access, I guess I would ask that

1 U S West go further with a plan. Or if they're dealing  
2 with someone in this sale, that the schools be taken  
3 into consideration too.

4 And if somebody has some creative ideas on  
5 how to do this for less, I would certainly like to have  
6 that brought forward in this docket. Because when it  
7 comes to a final decision, that's going to make it  
8 very, very difficult for us here who have sworn to keep  
9 people hooked up. And I understand the cost and I  
10 understand some of the problems, but I would ask that  
11 someone make a proposal here.

12 MR. PETERS: Well, this is Ed Peters. I  
13 don't know if I can solely answer your concerns, but  
14 let me say that as far as the customers in the Klein  
15 corner area goes, the sale of the exchange, if and when  
16 it should take place, is independent of the commitment  
17 that we have made to provide quality voice grade  
18 service.

19 And we honor our commitment to the customers  
20 up there, and we're going to get this problem fixed  
21 with respect to voice grade service.

22 The concern that has been expressed with  
23 Internet access is a concern that we have as a company  
24 throughout our region because we do have large rural  
25 areas. The network has been built to provide voice

1 grade service. The Internet phenomenon has occurred  
2 after those designs have long since been in place. And  
3 to guarantee quality Internet access will take a major  
4 rebuild of that area. That would be millions of  
5 dollars.

6 I don't know if this is any consolation, but  
7 certainly in my mind -- and I speak only as an  
8 individual citizen of the country and not as an  
9 employee because I'm not involved with this issue on a  
10 professional level. But it does seem to me from what I  
11 know about the business world that smaller companies  
12 may qualify for government subsidized funding that may  
13 aid in being able to do the kinds of services that  
14 you're talking about.

15 And I represent that only from my own  
16 personal knowledge and not a commitment. It does seem  
17 to me, just as the electrical co-ops get certain types  
18 of access to government funding, that may be the case  
19 if and when some other company chooses to buy this  
20 exchange. That may be a possibility, but I represent  
21 it only for what my personal opinion is worth.

22 COMMISSIONER SCHOENFELDER: But U S West is  
23 not engaged any kind of pilot projects across their  
24 14-state region to assist in bringing educational  
25 communications to small rural schools.

1 MR. PETERS: I'm not personally aware of a  
2 program like that.

3 COMMISSIONER SCHOENFELDER: Do you have any  
4 idea of any technology that would work in a situation  
5 like that?

6 MR. PETERS: Certainly there are technologies  
7 that would work. The issue is always a matter of  
8 cost. Fiber all the way from the central office out to  
9 the Klein corner area would extend the capabilities out  
10 35 miles to that small school. I don't know where the  
11 other schools are located. But obviously building  
12 fiber and all of the electronics that go with it would  
13 be many, many, many millions of dollars.

14 COMMISSIONER SCHOENFELDER: What about a  
15 fixed wireless solution, would U S West have some kind  
16 of solution they could offer like that?

17 MR. PETERS: U S West does not deploy a  
18 wireless technology in deploying our services, so we  
19 would not be a company capable of supplying something  
20 like that for this location.

21 COMMISSIONER SCHOENFELDER: Thank you.

22 CHAIRMAN BURG: Camron, what do you see --  
23 given the time line that you discussed, what do you see  
24 is the day that they felt that they should have  
25 everything they're going to do at least initially done.

1           MR. HOSECK: Originally, as I understood it,  
2 testing was to take 60 days from February 3rd, and that  
3 puts it up to about April 4th. April 2nd was when the  
4 first correspondence came from Mr. Peters and that said  
5 that they wanted 60 days to order, place, and splice  
6 the cable.

7           CHAIRMAN BURG: That would get it up roughly  
8 to June 2nd and then 30 days to test and analyze. That  
9 puts us into July.

10           And let me just, if I might, conclude what  
11 staff's feelings might be on this, and that is I think  
12 that we all work better under deadlines. There is not  
13 a deadline here for U S West to reach and to get their  
14 job done.

15           And consistent with the position that I took  
16 in my supplemental brief, I sincerely believe that  
17 these people deserve a deadline so that they know when  
18 they're going to have service and U S West knows when  
19 it's to get its job done. I think it's been going on  
20 far too long.

21           Would you, personally, as a representative be  
22 satisfied with the time line that they've given us?

23           MR. HOSECK: No. In other words, I think it  
24 wouldn't be unreasonable to have a June 1st deadline  
25 for having service to these people and having it.

1 tested.

2 CHAIRMAN BURG: I mean, and from what we've  
3 been told, I think we can -- you know they can beat  
4 that deadline. Whether it has given them a chance to  
5 do all the fixes or not, sometimes time tells. So I'm  
6 wondering whether we're going to accomplish a lot if we  
7 haven't given adequate time for testing. It appears  
8 the placing won't be completed until the end of May.

9 MR. HOSECK: And I think there's an unknown  
10 quantity here and that is the amount of resources that  
11 U S West is willing to and has dedicated to solving  
12 this problem. I don't know how much of their effort  
13 has been directed toward this particular problem.

14 The only thing that I think that the record  
15 sustains here and the testimony or the comments rather  
16 made by the participants here today is that the problem  
17 has not been solved and they continue to live under  
18 these circumstances.

19 And that's why I'm pressing for a definite  
20 deadline to get the work done. And that as a result,  
21 if U S West has to dedicate enough effort and resources  
22 and personnel whatever to get the job done, then it  
23 would be up to them to do it by that deadline time.

24 COMMISSIONER NELSON: Well, I guess I have  
25 some of the same concerns that Camron Hoseck has here,



1 that I think that deadlines are good and it could at  
2 least give somebody an idea of what they have to look  
3 forward to or not look toward to. And I think that you  
4 have to allocate the amount of resources necessary.

5           If we established a deadline, for instance,  
6 like June 1, they need to dedicate the resources  
7 necessary to see that those problems are resolved by  
8 June 1. And I guess I think if you got a crisis  
9 problem, you devote the people to the crises and maybe  
10 that's the kind of situation you have here. So I'd be  
11 inclined to support a June 1 deadline.

12           CHAIRMAN BURG: Mr. Peters, do you have any  
13 response?

14           MR. PETERS: Yes, I do. I think that it may  
15 be difficult for people that are not doing the  
16 day-to-day work to understand that we have dedicated he  
17 the resources that are appropriate to do this work.

18           So once you go through and you do the testing  
19 and you have to wait for materials to come in, such as  
20 6,300 feet of cable before you can do the placing,  
21 there isn't any additional resources you can throw in  
22 because you don't have the materials.

23           So any delays in ordering materials are just  
24 something that we're settled with of not of our own  
25 causing. Once we get the materials, we have

1 contractors already lined up to do the work. But, you  
2 know, to the extent that weather doesn't permit to you  
3 do the work, those are additional delays that we have  
4 no control over.

5           So I see it as a situation where we have made  
6 an honest effort to deploy the resources to do the work  
7 in a timely manner, and we have made commitments to the  
8 Commission that we take very seriously. And whether  
9 those dates came out on a Commission order or not, we  
10 are living with those dates.

11           And I would also refer back to the work that  
12 we've done for Mrs. Spear and also for Mr. Kiefer. We  
13 have met all of the committed dates that we gave to the  
14 Commission on those hearings as well, and in fact much  
15 of the work that we had planned on doing for Mrs. Spear  
16 we did ahead of schedule. Our only delay has been in  
17 weather-related delays on getting her bury drop  
18 replaced, which we'll get into when we talk about that  
19 complaint.

20           But we have made the commitment that we have  
21 given to the Commission. We are serious about doing  
22 this. We will have the cable replaced before the June  
23 1st date. We will continue to test after that date, or  
24 as long as it takes to make sure that we have good  
25 service and/or identify additional work that has to be

1 done.

2 I think that that is in the best interests of  
3 these customers and to impose dates that are not  
4 consistent with the work that has to be done, I think  
5 only makes it more difficult for everyone. Certainly  
6 we can live with a June 1st date as far as having the  
7 cable placed and spliced, assuming we don't have a  
8 weather-related problem. But I do want to be able to  
9 continue to work with these customers to make sure that  
10 we identify each and every cause of the problems that  
11 is causing their service to be less than the quality of  
12 service that they deserve.

13 CHAIRMAN BURG: Okay. Camron.

14 MR. HOSECK: Mr. Chairman, Commissioners, I'm  
15 just going to bring up one point on this timing  
16 business and the seriousness that U S West has  
17 approached this problem. And I went back and I read  
18 the complaint of Milt and Cheryl Klein this morning.

19 And if my memory serves me right, the first  
20 allegations of problems that they had in this complaint  
21 setting were in October 8, on October 8 of 1998. And  
22 it wasn't until the hearing in February that there was  
23 any type of a serious plan for remedying the situation  
24 that was brought forward.

25 I do not call that responsiveness, and I do

1 not call that any type of service to these customers.  
2 And if this goes through June, they will have had at  
3 least documented bad service for nine months out of a  
4 year. Thank you.

5 CHAIRMAN BURG: I don't disagree with that  
6 criticism that you're pointing. I'm not sure that can  
7 change how long it takes to actually get whatever fixes  
8 in place to be done.

9 One of the considerations that I have is that  
10 our next Commission meeting -- the first Commission  
11 meeting in June is for the 8th of June; is that  
12 correct? Do you know, Sue, right offhand?

13 MS. CICHOS: Yes, it is.

14 CHAIRMAN BURG: That at least at the minimum  
15 that we have a report on the fact that there's been  
16 installed and whatever testing has been done on that  
17 particular Commission date. And because hopefully when  
18 the new cable is put in, that will make the major fix.  
19 If there needs to be tweaking, I don't know how much --  
20 how you could speed that up just by making a deadline  
21 is a question I have.

22 Any other comments from other Commissioners?

23 COMMISSIONER NELSON: I guess I am a little  
24 concerned that nine months goes by and these people  
25 still don't have phone service. You know, it's not the

1 customers' problem that U S West didn't have the cable  
2 on hand. And it's not the customers' problem that U S  
3 West didn't start addressing the problem when they got  
4 complaint one. And it's not the customers' problem  
5 that they waited until we went to the hearing before  
6 they decided to take this problem seriously.

7 I think that when you have a highway project  
8 and you have a deadline and there are big fines on the  
9 line, if you don't get there, you see highway crews out  
10 there with flashlights working on the road.

11 And I expect U S West ought to be able to get  
12 the resources that they need from somewhere in this  
13 country today so they can get these jobs done and the  
14 testing done. I think it's a matter of how much time  
15 and how many people they commit to resolving this  
16 problem. And I guess that nine months is too long for  
17 this company to get by with not taking this problem  
18 seriously.

19 CHAIRMAN BURG: Do you have a motion?

20 COMMISSIONER NELSON: I guess I would move  
21 that they have the testing, the stuff in place by the  
22 June 8th meeting.

23 COMMISSIONER SCHOENFELDER: I'm going to  
24 second Commissioner Nelson's motion.

25 CHAIRMAN BURG: And I'll concur. Any other

1 comments? That will close --

2 MS. FIGERT: Wait, wait, wait, wait. This is  
3 Mrs. Figert. Did anybody up there notice that my line  
4 has been dead during the testimony?

5 CHAIRMAN BURG: That your line what?

6 MS. FIGERT: My line went dead in the middle  
7 of my testimony.

8 CHAIRMAN BURG: No, I guess I don't know what  
9 we can't hear. How long were you out, like 10 or 15  
10 minutes of this?

11 MS. FIGERT: I was out for about five  
12 minutes. I thought it was most appropriate.

13 CHAIRMAN BURG: Did you have to redial?

14 MS. FIGERT: Yes, I redialed their 800  
15 number, hung up, but then your people called me back.  
16 I spoke into the phone after my line went dead thinking  
17 perhaps you might hear me. I didn't know.

18 CHAIRMAN BURG: Thank you. I did hear a  
19 couple bleeps. We hear those when you go off the  
20 line. Did that occur to anybody else, because I heard  
21 a couple others? I think it's -- we're very conscious  
22 of the problem that you're having.

23 MS. FIGERT: May I ask some questions?

24 CHAIRMAN BURG: Go ahead.

25 MS. FIGERT: If, in fact, the June 8th

1 deadline is firm, what kind of penalty is recommended  
2 to regulate U S West?

3 CHAIRMAN BURG: I guess I would ask counsel  
4 what authority -- what penalties do we have the  
5 authority to render? Do you know of any?

6 MS. WIEST: You have fining authority for  
7 failure to comply with an order.

8 CHAIRMAN BURG: Would we have to specify that  
9 we intended to implement that, or if we set the  
10 deadline is that adequate?

11 MS. WIEST: You could do so at this time if  
12 you wanted to. I believe the applicable one would be  
13 49-31-38, neglects, fails, or refuses to comply with  
14 order, rule, or regulation is punishable by a civil  
15 fine of not less than 200, nor more than \$1,000.

16 CHAIRMAN BURG: And of course then the next  
17 question comes is what is the criteria for which they  
18 would be fined if they didn't meet? That's the  
19 difficulty we have is we're saying get it fixed. Well,  
20 at what point is fixed, I mean, if you only have an  
21 outage every other month or every other day?

22 You know, hopefully when this new cable goes  
23 in, it will be fixed. But then we aren't going to know  
24 for a period of time as to whether or not because  
25 everything is always intermittent. It doesn't occur

1 constantly.

2           So we'll have to let some time pass to see  
3 whether it really is fixed or not is one of the  
4 problems that we always have with these type of  
5 hearings, with these type of problems.

6           MS. WIEST: I think at this time the  
7 Commission could just put U S West on notice that if  
8 the testing and everything else isn't complete by June  
9 8th, they may be subjected to this statute and the  
10 fining authority of the Commission depending on the  
11 circumstances, you know, that they report back to us on  
12 June 8th.

13           CHAIRMAN BURG: Okay. Is that satisfactory,  
14 ma'am?

15           MS. FIGERT: Who do they send the fine to?

16           CHAIRMAN BURG: Excuse me, who would they pay  
17 the fine to?

18           MS. WIEST: It goes into the general fund of  
19 the state, is my understanding.

20           MS. FIGERT: (Inaudible.)

21           MS. WIEST: I didn't hear.

22           CHAIRMAN BURG: Would you repeat that? We're  
23 having a hard time hearing, so we must still have a  
24 line problem.

25           MS. FIGERT: I have my mouth immediately next



1 to my mouthpiece. Will South Dakota be able to use any  
2 fine money to upgrade our service?

3 CHAIRMAN BURG: No, they have wouldn't, they  
4 would not be on that case, but then we still can  
5 require -- they're required to provide you with  
6 adequate service without being able to use those types  
7 of monies.

8 MS. FIGERT: I still think there's a matter  
9 of stockholders versus customers here. It would be  
10 nice to be able to return a dividend to stockholders  
11 who don't have customers. They're going to lose  
12 stockholders.

13 CHAIRMAN BURG: That's probably true, ma'am.

14 MS. FIGERT: Matter of more than economics.  
15 Thank you.

16 CHAIRMAN BURG: We're going to try to make  
17 every effort we can to get it fixed by that time.

18 MS. FIGERT: Thank you.

19 MR. LAWRENCE KLEIN: I have one question yet,  
20 and that is are the customers going to have any say in  
21 who this line is sold to?

22 CHAIRMAN BURG: I would guess not. We don't  
23 have any say in who it's sold to either, either for  
24 approval or nonapproval of the sale. Let's put it that  
25 way. That is an agreement between U S West as a

1 private company and whoever they intend to deal with on  
2 it. But I'm not sure on this one we don't even know if  
3 this one comes before us for approval since it's a  
4 Nebraska company.

5 MR. LAWRENCE KLEIN: The reason I ask this  
6 because we have a situation out there where these  
7 outlying schools are all on a separate line as the main  
8 school districts, see. And it's costing quite a lot of  
9 money just to call back and forth, and it's true also  
10 with the country people. If they could tie the whole  
11 county together, it would be a lot better.

12 CHAIRMAN BURG: What's the school district  
13 out there?

14 MR. LAWRENCE KLEIN: It's Todd County School  
15 District.

16 CHAIRMAN BURG: Is that Mission?

17 MR. LAWRENCE KLEIN: Yes.

18 CHAIRMAN BURG: They are on one exchange and  
19 these other three schools are all on a separate one?

20 MR. LAWRENCE KLEIN: Right, right.

21 CHAIRMAN BURG: Okay. That's something  
22 hopefully that they will look at when they do the sale  
23 is to try to get you the kind of service that you're  
24 requesting to do the business and to your school and  
25 everything else that goes with it. And we have tried

1 making a point of them several times that that should  
2 be a consideration in the sale, but we don't probably  
3 have very much authority to enforce that with the  
4 sale.

5 Anything else on these items? If not, thank  
6 you all very much. Thank you for making the effort to  
7 come up, and thanks to those of you who were on the  
8 phone.

9 \* \* \* \* \*

10 I think we'll just move to the one right  
11 before that, item Number 4, TC98-155, In the Matter of  
12 the Complaint filed by Loretta Spear, Hill City, South  
13 Dakota, regarding -- against U S West, Incorporated,  
14 regarding updating of line.

15 Today, how shall the Commission proceed?

16 Loretta, you're on the phone. Do you have  
17 anything to add about -- well, let me first ask U S  
18 West again to tell us what they've done with that line.

19 MR. PETERS: This is Ed Peters again. We did  
20 find, as we suspected at the original hearing, that  
21 there was a problem with the carrier system but not  
22 with the terminal that serves Mrs. Spear, but with the  
23 repeater that regenerates the signal to make sure that  
24 we have a good strong signal coming to her.

25 We have found that the original design that

1 the engineer did requires that the repeater be put in a  
2 particular location, but the subcontractor, which was  
3 not a U S West operation, failed to put it in the  
4 correct location. That was not known to us until we  
5 got into doing some further examination and looking at  
6 our records.

7           So we did move the repeater and that seems to  
8 have improved the service by a fair amount. Mrs. Spear  
9 has reported to us that she still has some static on  
10 the line occasionally and some other miscellaneous  
11 stray problems. And we believe that that may be due to  
12 a buried drop problem based on the testing we've done  
13 because the signal is very good at the carrier terminal  
14 at her house.

15           So our intent has been for, I think, over a  
16 month and a half now to replace that drop. I think we  
17 reported that to the Commission. And the weather has  
18 prevented us from doing that. We're hoping to get out  
19 and do that within the next week or so. At that time  
20 we will take further tests to make sure that that  
21 corrected the static problems. And if there's any  
22 other problems that still are apparent, we'll resolve  
23 those. But we believe that that should take care of  
24 most of the complaints.

25           CHAIRMAN BURG: Thank you. Miss Spear, do

1 you have -- has your service improved since they made  
2 that change?

3 MS. SPEAR: Yes, it has in many respects.  
4 The hearing was on the 15th in Rapid, and since then we  
5 had -- I've been writing everything down -- about 18  
6 different problems. Most of them were static, or that  
7 the service would cut out, or the phone would ring and  
8 I'd go to answer it and the line would be dead, or we'd  
9 get this funny ringing sound but it wasn't like a true  
10 telephone ring.

11 On the -- let's see, right here, on the 11th  
12 of this month, they came and put in a drop line just on  
13 top of the ground until they could bury the cable. And  
14 I didn't personally pick up the phone, but my husband  
15 did because it still sounds staticky and noisy, but  
16 maybe that's just because it is laying on top of the  
17 ground. I don't know.

18 Most of the problems have been at a time when  
19 we've had bad weather and things have gotten wet. I'm  
20 assuming that's what what's causing it anyway.

21 But my only other concern is the fact that we  
22 would like to get Caller ID. I get phone calls. I go  
23 to answer the phone. There won't be anyone there, and  
24 then they'll hang up. I don't know if somebody is  
25 checking to see if we're home or what the deal is.

1           So I would like to be able to get Caller ID  
2 just as a safety feature. But other than that, the  
3 phone itself we don't have near the long outages. It  
4 will be maybe five or ten minutes; then it comes back.

5           CHAIRMAN BURG: At this point are you  
6 satisfied to wait for them to put the drop to your  
7 house until it dries up so that they don't do damage to  
8 your yard as they've indicated to us.

9           MS. SPEAR: Actually, the subcontractor came  
10 out probably a couple hours after the repairmen did to  
11 lay the cable on the surface and marked the lines  
12 apparently and process to do the cable. I don't mind  
13 waiting a week or so.

14          CHAIRMAN BURG: Yeah.

15          MS. SPEAR: I don't want anything prolonged  
16 again. We've been -- this has been going on way too  
17 long. But I do feel that I don't want everything tore  
18 up. And they're going to have to go across our drive,  
19 so I don't want to have it too muddy and sloppy out  
20 there. Living in the country, you know, you don't have  
21 the amenities that you have in town. So we have a lot  
22 to contend with mud and that sort of thing. I would  
23 rather it dried up a little.

24          CHAIRMAN BURG: Camron, do you have -- or,  
25 Karen, you're doing this one. Do you have anything to

1 add?

2 MS. CREMER: Mrs. Spear, am I right you were  
3 without service again on April 25th?

4 MRS. SPEAR: Yes. And that was when we had a  
5 freak snow storm come through. And then on the 25th I  
6 placed a call to my son and daughter-in-law in  
7 California and that's when the phone kept cutting out  
8 on me. That was on the 25th. We had been out of town  
9 over the weekend and when we got back, that's what we  
10 noted.

11 MS. CREMER: Thank you. Staff's position  
12 here has not changed, Mr. Chairman. And that is that  
13 they can keep on repairing and they can keep on  
14 band-aiding this problem, but it's not going to fix the  
15 problem. And that is when there's moisture, they have  
16 no phone service. And I don't believe changing the  
17 drop line to their house is going to make that much  
18 difference.

19 Mr. Peters refers in one of his letters to  
20 the Commission about voice grade service. Staff's  
21 position is, is that that is not the standard in South  
22 Dakota. That local exchange service has access and  
23 transmission of two-way switched telecommunications  
24 service and that voice is not the standard. Even if  
25 voice were the standard here, Spears are still not

1 getting that.

2           And so our position has not changed, and we  
3 would recommend a new carrier system.

4           CHAIRMAN BURG: Mr. Peters, any response to  
5 that?

6           MR. PETERS: I think that the comment about  
7 it not being the standard, I think, is a legal  
8 determination. I would defer that to Mr. Welk. I  
9 don't think I need to add anything further as far as  
10 what we're trying to do to solve the problems for  
11 Mrs. Spear.

12           CHAIRMAN BURG: And but you are saying with  
13 this system they will not get Caller ID.

14           MR. PETERS: With analog carrier it's not  
15 compatible with Caller ID, that's correct.

16           CHAIRMAN BURG: And what and how far would  
17 you have to bring service, new service, in order to  
18 have it upgraded to where they could get Caller ID?

19           MR. PETERS: Our cable plant is all the way  
20 from the CO out to this area if we don't use carrier.  
21 So we would have to replace everything from the central  
22 office.

23           CHAIRMAN BURG: How many people in that area  
24 are on that system that could not get, for example,  
25 Caller ID?



1 MR. PETERS: I don't have my records in front  
2 of me so I'm really not sure. I don't remember what  
3 the number is.

4 MS. SPEAR: Commissioner Burg, I understand  
5 that there's several of these systems out in our area.  
6 Some of the people in the area -- for instance, one of  
7 the customers is probably a mile, mile and a half, away  
8 from us can get Caller ID. We can't. So I don't know  
9 is there any way of patching them together, or are we  
10 just creating another problem?

11 COMMISSIONER NELSON: Why is it that that  
12 person can get it? Mr. Peters, why would that be?

13 MR. PETERS: Because not everyone that's on,  
14 that's working on this entire route, is working on  
15 carrier. People closer in where we had more cable  
16 carriers are working on copper cable. As the cable  
17 tapers to smaller and smaller size as you go farther  
18 away from the city, we had to use carrier because there  
19 wasn't enough copper pairs to serve everyone.

20 MS. SPEAR: I said a mile. Well, this  
21 particular party isn't even that far, probably a  
22 quarter of a mile, and they can they have Caller ID.

23 MR. PETERS: I'm not sure they have Caller ID  
24 because they are working on a copper pair and that's  
25 what we would need to do here is to be able to find a

1 way of coming up with a spare copper pair that we could  
2 extend to Mrs. Spear to be able to get her Caller ID.

3 COMMISSIONER NELSON: My question is then in  
4 a global economy and with the information super  
5 highway, why would you want to deploy analog systems in  
6 today's technological world? I mean it's one thing if  
7 it's in the ground and maintaining, but why would you  
8 put it in today and make that a choice?

9 MR. PETERS: Well, analog carrier has been  
10 deployed for, you know, a long time so it's already in  
11 the network. And where you already have it, you can't  
12 put digital carrier unless you replace everything.  
13 That's where the large expense comes in is replacing  
14 everything that you have out there.

15 CHAIRMAN BURG: Is there any plans by the  
16 company to upgrade these at any time in the foreseeable  
17 future?

18 MR. PETERS: That would be on a case-by-case  
19 basis, and it's looked at on an annual basis based on  
20 the growth of a given area and service problems in the  
21 long range of things that we look at.

22 Generally these kinds of systems get replaced  
23 when there is a sudden spurt of growth such as a  
24 subdivision goes in where there is a large number homes  
25 that we can tell are going to be built and they are

1 going to be occupied.

2           And the system will not support enough  
3 services for that type of area, then we usually go out  
4 and look at completely redesigning the network for that  
5 area. It is -- you know, it's a cost comparison of  
6 what needs to be done versus the service demands for  
7 the area.

8           MS. WIEST: Again, I would recommend this go  
9 on the June 8th agenda. At that time the drop should  
10 be in and she can report back on how her service  
11 quality is.

12           CHAIRMAN BURG: I'll make such a motion that  
13 we -- that by the June 8th, which is our next meeting,  
14 that definitely this should be in place and we can see  
15 what the condition of her line is at that time. We  
16 recognize that will not make Caller ID available, but  
17 at least we hope we will expect they will have  
18 continuous reliable service.

19           COMMISSIONER NELSON: Mr. Chairman, I guess  
20 I'm not going to support that motion because I don't  
21 believe that the standard in South Dakota today is  
22 voice grade service either and I think that people are  
23 entitled to CLASS services. I thought there was an  
24 agreement in this state at least to provide caller  
25 identification services statewide, and I thought that

1 was by like 1995, and it's long past that date.

2           So I think that we'd be approving obsolete  
3 technology today and I don't support that standard and  
4 I don't think that's the law today. It may be the law  
5 in the future in South Dakota, but it isn't the law  
6 today.

7           COMMISSIONER SCHOENFELDER: Well, I'm going  
8 to support Commissioner Burg's motion simply because I  
9 need more information and I think we need more testing  
10 on this line. I don't have a transcript before me, but  
11 my notes seem to tell me that during the hearing that  
12 Mr. Peters testified that it might be a line problem  
13 but it could also be a carrier problem, and I want to  
14 know whether it is or not.

15           And while I agree that voice grade isn't the  
16 standard now and I don't believe it should be the  
17 standard, I want Miss Spear to have reliable service  
18 first, and then I'd like to address the other issues at  
19 another time. But I would like to put this off until  
20 we have some further testing and then I might support  
21 Commissioner Nelson's motion at that time.

22           CHAIRMAN BURG: That's basically my point,  
23 too, is we -- is to me the issue of total replacement  
24 to a heavier service is probably one we should address  
25 in a broader sense of the number of customers and all

1 the involvement. But, first of all, we need to get  
2 them reliable voice service now, and we've been assured  
3 that will occur as soon as they can get that in. So we  
4 want a report on that April 8th.

5 MS. CREMER: This is Karen Cremer, and I have  
6 a question, I guess. If when this comes in on June  
7 8th, whatever the report is, is that the end of this  
8 case?

9 COMMISSIONER SCHOENFELDER: I don't think so.

10 MS. CREMER: Is there going to be a decision  
11 though in this docket eventually?

12 COMMISSIONER SCHOENFELDER: Yes, absolutely.

13 MS. CREMER: But so this is just a  
14 continuance of the decision until June 8th?

15 CHAIRMAN BURG: Well, I know -- I mean June  
16 8th we will determine whether within this docket we  
17 will require an upgrade, or whether it will be a docket  
18 open to serve -- to me, when you start putting in a new  
19 system, you've got to look at all the customers and  
20 what's going to happen and not just one customer. So I  
21 think we'd have a question at that time as to whether  
22 it would be.

23 COMMISSIONER SCHOENFELDER: I don't have that  
24 question because if I remember from the testimony,  
25 there is a line that was put in that has a better

1 carrier system on it that was -- that's a newer line if  
2 that's the right -- a newer cable system. And so at  
3 this point in time I want more information before I  
4 make the final decision.

5 MS. CREMER: Okay. That's what I needed to  
6 know.

7 COMMISSIONER NELSON: That's, in essence, why  
8 I wasn't voting for the original motion as I understood  
9 it because I thought it closed this case and we agreed  
10 they should provide voice grade communications.

11 CHAIRMAN BURG: No. My motion is the same as  
12 before, that we get -- have them adequate voice grade  
13 service on November 8th and report on that and then we  
14 will decide where to go from there.

15 MS. WIEST: Do you support that motion for  
16 purposes of the order?

17 COMMISSIONER NELSON: Right.

18 CHAIRMAN BURG: Thank you, Miss Spear.

19 MS. SPEAR: Thank you.

20 \* \* \* \* \*

21 CHAIRMAN BURG: If we go to item number 3,  
22 CT99-004, In the Matter of the Complaint Filed by James  
23 Frankenstein, Redfield, South Dakota, Against U S West  
24 Communications, Incorporated, Regarding Poor Service  
25 and Request to Have the Lines Updated.

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

5           Mr. Frankenstein, do you want to explain what  
6 the problem with your service is?

7           MR. FRANKENSTEIN: After we talked a while  
8 there will be a lot of static on the phone and then  
9 lose everything. If we hang the phone up and try to  
10 get out, sometimes we will, sometimes we won't.  
11 (Inaudible) intermittent. It's been like this for  
12 three, four years. Never does (Inaudible).

13           CHAIRMAN BURG: Are you very often totally  
14 out of service?

15           A. Yes.

16           CHAIRMAN BURG: And do you have any other  
17 neighbors, any other people around you that are having  
18 the same problems?

19           MR. FRANKENSTEIN: My mother lives 200 feet  
20 away. She has problems every time we do. She gets  
21 calls with static that just goes dead. We know when  
22 we're going to be cut off because it may be gone for  
23 five to ten seconds with this, then we're gone.

24           One area -- one other area I wanted to touch  
25 on was Caller ID. We cannot get it. Due to our last

1 name, we seem to get plenty of prank calls. And I  
2 bought a Caller ID a couple years ago for Christmas but  
3 it wouldn't work. We called and were told it would  
4 never work.

5 And I got four kids. One will be a freshman  
6 in high school. We would like to get on the Internet.  
7 I'm told there's only -- there are no extra lines.  
8 Kids would like it at home. (Inaudible) That's not  
9 available either.

10 CHAIRMAN BURG: Can you -- just for my  
11 information, where is your farm located at, Jim?

12 MR. FRANKENSTEIN: I'm six east and eight  
13 south of Redfield.

14 CHAIRMAN BURG: Okay. Who's going to  
15 represent this issue from U S West? Colleen, you  
16 taking this, or have we got Mr. Peters on it already?

17 MS. SEVOLD: Commissioner Burg, I'll go ahead  
18 and take it. Mr. Frankenstein is served on an Anaconda  
19 carrier. And after I received this complaint, I have  
20 forwarded it on to Mr. Peters. We are doing some  
21 checking and investigating on it. Right now I would  
22 have to just say that we're checking into it to see  
23 what we can do for it.

24 CHAIRMAN BURG: Who's taking this from you?  
25 Have you got it, Camron?



1 MR. HOSECK: Mr. Chairman, members of the  
2 Commission, Camron Hoseck on behalf of Commission  
3 staff.

4 I would recommend a finding of probable cause  
5 in this instance. I think that there are obviously  
6 factual issues that need to be resolved.

7 CHAIRMAN BURG: I think that would probably  
8 be true. Anybody else have any comments?

9 COMMISSIONER SCHOENFELDER: I would move a  
10 finding of probable cause.

11 COMMISSIONER NELSON: Seconded.

12 CHAIRMAN BURG: And I'll concur. What that  
13 means, Mr. Frankenstein, is we have accepted the  
14 complaints that you have. We're going to put it to a  
15 formal hearing. We will be establishing a hearing  
16 date, and you'll have the opportunity to explain and  
17 U S West to respond. At that time if they choose to  
18 fix this before that occurs, that can be done.

19 And when you're satisfied, we could dismiss  
20 the complaint. But this is just our method of moving  
21 forward to find you do have a basis for a complaint and  
22 a reason for us to continue to examine this. We'll be  
23 letting you know when we've established a hearing date  
24 for this.

25 MR. FRANKENSTEIN: Okay. Thank you very

1 much.

2 CHAIRMAN BURG: Thank you.

3 \* \* \* \* \*

4 CHAIRMAN BURG: Item number 2, CT99-003, In  
5 the Matter of the Complaint Filed by Constance Johnson,  
6 Sioux Falls, South Dakota, Against U S West.

7 Today, does the Commission find probable  
8 cause of an unlawful or unreasonable act, rate,  
9 practice, or omission to go forward with this complaint  
10 and serve it upon the Respondent?

11 I do -- I'm going to ask you, Miss Johnson,  
12 to give us a short explanation of what your problem  
13 is. As you can see, each one of these takes quite a  
14 while, so we hope you can keep it brief.

15 MS. JOHNSON: Yes. First of all, as I  
16 mentioned when I was called at my home at 1:30 this  
17 afternoon, I hear that you have a couple of attorneys.  
18 I would just like to ask who is representing this  
19 aspect of the agenda for U S West, which attorney, or  
20 who, or what representatives?

21 MR. WELK: This is Tom Welk, Constance. I'm  
22 representing U S West in this matter.

23 MS. JOHNSON: I would like to make a  
24 request. My late husband -- we had a very nasty,  
25 sordid, ugly affair with my husband's children and

1 myself; and Tom Welk did represent some of the  
2 children, or all of them. I'm not exactly sure. But  
3 I'm sure he's a very nice gentleman, but it was a very  
4 ugly matter and I did feel uncomfortable.

5 I'm wondering if I may humbly request that --  
6 and I do realize he has full rights to represent U S  
7 West as one of their lawyers. But I would request that  
8 another representative be selected, or Ed Peters, or  
9 someone else in this matter, because I just don't think  
10 I could possibly be dealt with in a fair or  
11 nonprejudicial manner by Tom Welk.

12 CHAIRMAN BURG: Tom, do you have any  
13 response?

14 MR. WELK: Yes. This Commission doesn't have  
15 the ability to determine who represents U S West or  
16 Mrs. Johnson. Just because I represented an adverse  
17 party in another matter has nothing to do with my  
18 representation in this case. And I don't believe the  
19 Commission has got any jurisdiction and I don't believe  
20 that Miss Johnson has any ability to tell U S West who  
21 they can select as counsel.

22 MS. JOHNSON: I'm not telling anyone. This  
23 is a request. It's a personal request. Because it was  
24 very unpleasant, Tom. And, I'm sorry, but I wanted to  
25 make this clear to everyone that I'm very

1 uncomfortable.

2           And it's just a request. I'm not telling  
3 anyone to do anything. I'm just -- it is a humble  
4 request on my part because I do try to lead a private  
5 life. And I am a customer of U S West, and I do want  
6 to be dealt with and feel comfortable to go into these  
7 details in a nonthreatening way as possible. And I  
8 think --

9           CHAIRMAN BURG: Thank you. We understand  
10 your position. I'm going to ask our counsel for  
11 comment.

12           MS. WIEST: Yes. This is Rolayne Wiest. And  
13 Mr. Welk is right, we have no say in who U S West uses  
14 as their attorney. So it would be a request made just  
15 to U S West, and they can respond to that.

16           MS. JOHNSON: Thank you.

17           CHAIRMAN BURG: Do you want to briefly tell  
18 us what your concern is?

19           CHAIRMAN BURG: Miss Johnson, do you want to  
20 tell us what the basis of your complaint is

21           MS. JOHNSON: Now, which one are we talking  
22 about, my request?

23           CHAIRMAN BURG: No, your complaint that you  
24 filed with the Commission about the service that you  
25 get from U S West. What is the nature of that?

1 MS. JOHNSON: Well, I think you know it's a  
2 long story, but I just have been unable to get the  
3 standard -- this matter resolved. It's been going on  
4 for over a year, a lot of people. This is regarding my  
5 business telephone.

6 And, first of all, this has been unresolved  
7 for over a year. No commercial business telephone bill  
8 was ever sent to me. But I could pay my business phone  
9 bill for the first three or four months. I will -- I  
10 have to say I don't have any billings from January on  
11 for any U S West bill for my business phone.

12 They attached an advertising bill, and I  
13 asked to have it separate so I could pay that all at  
14 once for a yellow page ad listing. That was the U S  
15 West DEX yellow page ad listing, and I wanted to pay  
16 that right off the start. A lot of the customers  
17 prefer to do that. But that does not mix in with the  
18 monthly billing and that was never done.

19 You know, that caused a lot of problems and,  
20 you know, then there were other charges tacked on that  
21 I didn't understand, for some long distance charges. I  
22 have a lock on my phone that does not allow any long  
23 distance calls made.

24 I guess I just got shuffled around a lot, and  
25 it has been going on for over a year. And I've had to

1 chase down, you know, request by request by request to  
2 get this matter resolved. And it's come to this and  
3 it's sad.

4 Now, they had a strike and no one could get  
5 through to any of the people in their offices. The U S  
6 West DEX advertising was a huge disaster. That was  
7 part of the problem, being tacked onto my regular  
8 monthly bill.

9 I was dealing with Judy Donahue from U S West  
10 in my living room, and we signed a contract. And I  
11 specifically said, "I want this ad bill paid all at  
12 once. I don't want it mixed in or spread over a  
13 12-month period and added onto my business. Simply  
14 charge for my business phone." That was never done.  
15 It was promised but it was never done.

16 And I felt I could not pay the rest of the  
17 bills as they were because they were incorrect since  
18 they were all mixed up with these other charges. Then  
19 they misprinted the name of my business in the white  
20 pages of U S West's telephone book. You can see that  
21 if you have a copy of the phone book, it's not the  
22 correct business.

23 They offered me a second amended contract,  
24 and I resigned that. And I said, "Now, this is a full,  
25 final payment." My lawyer has always advised me to

1 sign things, you know, a check saying you paid this.  
2 This is the full, final payment for the advertising for  
3 that yellow page ad. No other charges are going to be  
4 tacked on.

5 Then later on they tacked on, eight or nine  
6 months later, another charge for a U S West listing for  
7 a Sioux City thing listing, which I was unaware of, or  
8 not very aware of, or that just got left off the bill.  
9 Well, now I got a phone call a day or two ago and they  
10 said now we've removed that. This is two days before  
11 today, you know, and --

12 CHAIRMAN BURG: Where are you at right now?  
13 Do you feel that you've been billed for some things you  
14 don't owe for or exactly what's --

15 MS. JOHNSON: Whom am I speaking with now?

16 CHAIRMAN BURG: Chairman Burg of the  
17 Commission.

18 MS. JOHNSON: I'm sorry, go ahead.

19 CHAIRMAN BURG: Where are you at right now?  
20 Do you feel that they're charging you for some things  
21 you don't feel you owe for or what?

22 MS. JOHNSON: I guess what I'm saying is that  
23 after the month and the meeting with Judy Donahue and  
24 all of the attempts I've made for over a year, after  
25 one full year of the blood, sweat, and tears, verbal

1 abuse by U S West employees and operators and  
2 negligence resolving this matter, under the hours and  
3 hours I spent and time and money --

4 I'm a business woman. I have a business to  
5 run. The waiting, the haggling, the discussing, the  
6 arbitrating to no end, I think that, you know, the only  
7 decent thing to do -- or I guess what I'm requesting is  
8 that U S West forget the \$539 bill and be respectful,  
9 be professional, and -- you know, I mean I'm just a  
10 humble, small business person, you know, and I've spent  
11 hundreds of hours on this matter. And I would like  
12 them to forget the \$539 bill and start giving me a bill  
13 for my business phone. You have to understand, I don't  
14 have any bill for my monthly business service.

15 CHAIRMAN BURG: We understood that. Let's  
16 see if we can get a response from U S West.

17 MS. JOHNSON: Last month I wrote a check for  
18 \$80.00. I just guessed, well, that's my monthly bill.  
19 And I sent it to them in good faith because I'm not the  
20 type of person trying to get out of paying bills. But  
21 I've had crackling on the line. My Caller ID didn't  
22 work. They've had to send me countless Caller ID's  
23 that didn't work.

24 CHAIRMAN BURG: Did they accept your \$80.00  
25 check?



1 MS. JOHNSON: They must have. I've never  
2 heard from them. I don't have a bill for May. I did  
3 this of my own because I don't want to get behind, and  
4 I want to be -- I mean, I want -- I'm a decent paying  
5 person who pays my bills.

6 CHAIRMAN BURG: Let's see if we can get a  
7 response from U S West. Who's going to represent them  
8 on this issue? Colleen?

9 MS. SEVOLD: Yes, Commissioner Burg, I'll  
10 take this. This is Colleen Sevold, U S West  
11 Communications, and I'm going to talk to the portion of  
12 the bill that has to do with U S West Communications.  
13 Anything that has to do with U S West DEX advertising  
14 will have to be dealt with with those people.

15 But it is my understanding all of the charges  
16 for the U S West advertising has been removed from the  
17 customer's bill. Now, I just heard her say that she  
18 has not received a bill, and I was not aware of that.  
19 I will certainly check into that.

20 But I do know that she had received some  
21 correspondence from a Kim Carmac (sp) who had put  
22 together a matrix who showed exactly what charges were,  
23 how much credit had been put to it, and the balance,  
24 and she had that through February of '99.

25 Right now what we're looking at is all of the

1 U S West advertising has been removed. There's a  
2 balance of \$537.02. And May 10 is her billing date, so  
3 there will be another bill coming out shortly. So  
4 these charges are for phone service that she's used,  
5 and we would just -- I would just add I would be glad  
6 to make payment arrangements, but I do feel those  
7 charges do need to be paid.

8 CHAIRMAN BURG: Colleen, was there some  
9 problem with having monthly billing?

10 MS. SEVOLD: I wasn't aware of it. I did  
11 hear the customer say that. I wasn't aware of that,  
12 and I'll certainly check into that.

13 CHAIRMAN BURG: Do you have in front of you  
14 the itemization of the \$539?

15 MS. SEVOLD: I do, but I have it in the form  
16 of a matrix. And I do know that the customer received  
17 that through February of '99.

18 CHAIRMAN BURG: What I'm getting at does that  
19 include monthly billings for more than one month?

20 MS. SEVOLD: Yes, it does.

21 CHAIRMAN BURG: How many, do you know?

22 MS. SEVOLD: It looks like there's been a  
23 balance -- and this also has a U S West DEX advertising  
24 so it's hard to say, but it looks like there's been at  
25 least four months of no payment on the regular service.

1           CHAIRMAN BURG: Can you get the DEX part  
2 separated from the bill?

3           MS. SEVOLD: It is taken off. Now, I can  
4 just provide a matrix of exactly what is owed to us,  
5 yes, I can.

6           CHAIRMAN BURG: What I mean, she said she  
7 indicated she wanted that to be a separate charge for  
8 the --

9           MS. SEVOLD: And that is being charged  
10 separately. That's what I'm saying, that all of the  
11 advertising has been removed from her U S West  
12 Communications bill, so the bill she gets now is just  
13 for her phone service. It is not any advertising that  
14 has been removed. She pays us separately.

15           CHAIRMAN BURG: Camron, have you had any  
16 discussion with the complainant or anything?

17           MR. HOSECK: No, I haven't. But I do have  
18 some questions of Miss Johnson.

19           CHAIRMAN BURG: Go ahead.

20           MR. HOSECK: Miss Johnson, this is Camron  
21 Hoseck. I'm an attorney for the staff in this matter.  
22 To get a little better idea of the facts in this  
23 matter, are you contesting that the 537, or 39 dollars,  
24 whichever it is, that is apparently still outstanding,  
25 was any of that not for regular phone service that you

1 get?

2 MS. JOHNSON: It was pointed out to me, and I  
3 even have it in writing from my U S West -- it's hard  
4 for me to read the print, it's a little tiny, from my  
5 doctor. I apologize, it's hard for me to read small  
6 writing. I'm farsighted, and I just found out the  
7 parts are wearing out.

8 But the point about there were numerous late  
9 charges tacked on. See, most of the big picture of all  
10 of this, to make it real crystal clear on my part, on  
11 my behalf, I'm not one of these people coming up to U S  
12 West saying, oh, excuse me, I've used four months or  
13 five months of phone service but now I'm not willing to  
14 pay for it. No, that's not my what I'm requesting.

15 I'm saying I have waited and waited and  
16 waited over a year, so long, and all the way up until  
17 last December, for them to take this 2,000-some dollars  
18 off of my normal, regular commercial business phone  
19 billing, or for however much that came to.

20 And there was an adjustment of six, \$700 on  
21 there for the errors they made, whatever, but it took  
22 them till December from last May or June to get that  
23 off of there. Then the balance became 500 or so  
24 whatever dollars. Now, it took that long to get that  
25 separated. Now, why is that? Okay?

1           Number two, it took all that time, all that  
2 calling on my part, to get that much done. Then that  
3 was done, so I paid for my U S West DEX advertising  
4 finally because I wanted to pay for it eight or nine  
5 months before and I couldn't, you know. You got to  
6 understand, I can't be paying a bill that with late  
7 charges because I was being charged late charges for  
8 not paying an incorrect bill for the errors were not my  
9 fault. It was the fault of U S West.

10           MR. HOSECK: Another question I'd have is you  
11 mentioned something about long distance charges. Are  
12 these long distance charges that you incurred as a part  
13 of your business?

14           MS. JOHNSON: I don't know who made them. A  
15 ghost? I mean everybody knows nobody was there for  
16 nine months during the remodeling. You know, here I am  
17 paying a phone bill for a year with no income. And I  
18 did that. I mean that's fine, but there's a block on  
19 the phone. You can't make long distance charges on  
20 here.

21           MR. HOSECK: Have you discussed with U S West  
22 this problem?

23           MS. JOHNSON: I have.

24           MR. HOSECK: And what was their response?

25           MS. JOHNSON: And I didn't get anywhere with

1 them. I mean it's just like one person calls and says,  
2 "Huh, what's going on?" And the next person, "Oh, I'm  
3 not aware of this;" and another person, "I'll call you  
4 back later," and they don't. This has been going on  
5 for what, over a 79 cent long distance call. One is  
6 for 75 cents and another one for something, oh, 80 or  
7 98 cents, I don't know.

8           Then two days ago I think a lady by the name  
9 of Colleen or somebody called and said, "Okay, we're  
10 going to take another 178 dollars," or that amount is  
11 probably wrong. I'm not looking at my notes here. But  
12 another 180 or so hundred dollars from the Sioux City  
13 listing, which we forget to include in that second  
14 amended contract which I signed. By the contract, once  
15 you sign a contract, that's it. You can't tag on any  
16 extra charges after that.

17           So I just sort of believe it doesn't take a  
18 Philadelphia lawyer to figure that out. They're taking  
19 that off because they are, you know -- so is that still  
20 included in this 500-some dollar balance, or do we need  
21 to subtract it from that?

22           MR. HOSECK: I don't believe I have any  
23 further questions, Mr. Chairman.

24           MS. SEVOLD: This is Colleen, and if I could  
25 just respond. I did call Mrs. Johnson the other day,

1 and what I said -- because I represent only U S West  
2 Communications, so I have not been a part of this  
3 contract at all. I said that an additional \$72.03 was  
4 removed in March by U S West Direct. We did not remove  
5 it. They removed it.

6 So what I was saying is now the entire U S  
7 West DEX advertising has been removed from this bill.  
8 The charges that we're looking at right now are for  
9 phone service only. And the long distance charges of  
10 75 cents and 98 cents have also been removed.

11 MS. JOHNSON: Might I ask you what amount you  
12 were calling about two days ago, because I still have  
13 your tape-recorded voice on my -- I saved the message  
14 so --

15 MS. SEVOLD: The bill we're looking at today  
16 is \$537.02.

17 MS. JOHNSON: What amount did you say on the  
18 phone to me, which I do have a tape recording of your  
19 voice on there? What amount was that? Can you repeat  
20 that amount to me that you say has been removed?

21 MS. SEVOLD: I said an additional \$72.03 has  
22 been removed.

23 MS. JOHNSON: I'll listen to that message  
24 again. I thought you said \$170.00.

25 MS. SEVOLD: An additional 72.

1           CHAIRMAN BURG: Colleen, do you have that  
2 letter from Kim Carmac in front of you?

3           MS. SEVOLD: Yes, I do.

4           CHAIRMAN BURG: Can you go down just before  
5 the matrix on page three? I think it is one line up  
6 there. It says the February 10, 1999. Is that why the  
7 bill shows payment in full for \$1,486.30?

8           MS. SEVOLD: That's not payment in full.  
9 What that would be, Commissioner Burg, is most of that  
10 were adjustments. These are the adjustments that U S  
11 West DEX was making to the account. And then it  
12 doesn't show that it's paid in full on mine. It shows  
13 that there was still a balance of 397.20.

14           CHAIRMAN BURG: Okay. You were just  
15 wondering about that statement. I was trying to figure  
16 out who paid it and how.

17           MS. SEVOLD: That was probably an adjustment  
18 from U S West DEX.

19           CHAIRMAN BURG: Of \$1,486.30; right?

20           MS. SEVOLD: Right. And they just moved that  
21 over to another bill, which I believe the customer said  
22 she had paid. But, in other words, we just took the  
23 charges off of our bill and U S West DEX billed her  
24 directly.

25           CHAIRMAN BURG: Can you tell me how many



1 months this 529.58 covers? Or that's what it shows  
2 here, but you said it's 537 something.

3 MS. SEVOLD: It's 537.02 and there will be  
4 another bill shortly. It's hard to say exactly. I  
5 mean there was a payment from the customer on May 3rd  
6 of \$80.00. There was a payment in April, so there has  
7 been some payments, but there have been months without  
8 payments too. So this 537 is for phone service that  
9 has not been paid for yet.

10 COMMISSIONER NELSON: Does the 537 include  
11 any late charges?

12 MS. SEVOLD: I believe they've all been  
13 removed, and I will reverify that.

14 MR. HOSECK: Mr. Chairman, could I make a  
15 discussion here and perhaps in the form of a motion?  
16 At least staff would recommend that probable cause be  
17 found in two respects. One, with regard to the  
18 billing, as I'm understanding where there was no bill  
19 sent for a period of time and the possibility of  
20 attendant issues of late charges, things of that  
21 nature.

22 The second being the issue of the long  
23 distance charges. As to the issues of the Yellow  
24 Pages, the DEX billing, I do not believe that the  
25 Commission has jurisdiction over that particular issue

1 and would recommend a finding of no probable cause as  
2 to the DEX billing.

3           If the Commission were to find probable  
4 cause, staff would agree to act as an arbitrator or  
5 mediator in this particular situation to see if some  
6 settlement can be reached. However, it would be our  
7 recommendation at this point in time that probable  
8 cause be found as to the billing and the long distance  
9 aspects of this complaint.

10           CHAIRMAN BURG: Let me ask you before we go  
11 ahead. Could you not do that same kind of arbitration  
12 without a probable cause? My concern is I have not --  
13 it's not clear enough to me that there's a basis for  
14 probable cause here yet. It's so confusing. And I'd  
15 like not to not find probable cause but not dismiss.

16           MR. HOSECK: If I might respond? It's my  
17 understanding that there have been some efforts along  
18 that line at this point in time.

19           However, if we are again working under  
20 deadlines and to give the case some format, there's  
21 nothing saying that this arbitration or mediation can't  
22 continue. But knowing that, ultimately we would not  
23 have to come back to you if the mediation fails and  
24 there is a full-blown hearing, that's necessary, so  
25 that will be the reason.

1           CHAIRMAN BURG: My only concern is, though,  
2 that nothing is clear enough to me to show that there  
3 is basis for probable cause at this time and I hate to  
4 start setting that standard.

5           Rolayne, do you have a comment?

6           MS. WIEST: Well, yeah, I guess I would agree  
7 with you that I think you should defer it at this time,  
8 because I believe Colleen stated that those long  
9 distance charges were removed and thought maybe the  
10 late charges were removed.

11           And I thought that if U S West if staff would  
12 get together with U S West and the consumer and  
13 actually go through that latest bill and try to figure  
14 it out and then come back with an update for us as to  
15 what the actual facts are at this time, we'd be in a  
16 better position to decide.

17           CHAIRMAN BURG: That's my feeling, because I  
18 really want to be comfortable there's a basis for  
19 probable cause if we open a docket finding probable  
20 cause. And at this point I'm not convinced of that  
21 yet.

22           MS. JOHNSON: I would also like to make a  
23 comment, if I may?

24           CHAIRMAN BURG: Very briefly.

25           MS. JOHNSON: This is Constance.

1           CHAIRMAN BURG:  Yes.

2           MS. JOHNSON:  That there was never any  
3 intention not to pay the commercial business telephone  
4 bill of \$80.00 per month for those particular months,  
5 so three or four months, whatever that they had on the  
6 bill.  It's just that, you know, my late husband -- and  
7 all my attorneys say don't ever pay an incorrect bill  
8 that has errors on it and there were errors.

9           And the one error was all these other U S  
10 West DEX advertising things were all mixed up, late  
11 charges were piling up because I wouldn't pay an  
12 incorrect bill.  I wanted to get it resolved.

13           CHAIRMAN BURG:  Okay, we understand that.  
14 And from what we've heard so far, you have not been  
15 penalized for doing that in any way.  But we do want to  
16 get these clarified before we do find probable cause in  
17 order to open an actual complaint docket on this.  So  
18 that would be my -- I don't know if we need a motion.  
19 I would ask the Commissioners how they feel about it.

20           COMMISSIONER SCHOENFELDER:  I have some  
21 concerns and that I agree with Mr. Hoseck that the  
22 deadlines help.

23           But I guess what I'd like to do is to say  
24 that we have June 8th is the next one, and so the  
25 deadline I'd like is that if U S West and staff and the

1 complainant can't reach one, then I'm perfectly willing  
2 to find probable cause and go to a hearing.

3 But at this point in time I would just -- so  
4 I don't know if I need it in the form of a motion that  
5 says that if resolution isn't reach by June 8th, then I  
6 would move for probable cause at that time. At this  
7 time I would like the mediation in this to go forward.

8 But I do think that without finding probable  
9 cause, if I set a June 8th deadline by motion, that  
10 would have the same effect, I hope. So therefore I  
11 would move the June 8th deadline, if not a resolution,  
12 we would find probable cause.

13 COMMISSIONER NELSON: I'd second it.

14 CHAIRMAN BURG: I'll concur. Thank you.

15 \* \* \* \* \*

16 CHAIRMAN BURG: TC99-030, In the Matter of  
17 the FCC Order Establishing New Deadlines for  
18 Implementations of IntraLATA Dialing Parity by Local  
19 Exchange Carriers.

20 Today, shall the Commission grant the  
21 approval of the carrier notification letters in advance  
22 of final Commission action on the proposed plans to the  
23 companies listed above?

24 Rich, do you have some comments on this?

25 MR. COIT: Yes, Mr. Chairman, Commissioners

1 and staff, my name is Richard Coit. I'm here today  
2 representing the SDITC member companies that are listed  
3 in the agenda that have made this request.

4 Just to give you a little bit more  
5 background, I guess, we made the request because the  
6 FCC rules on IntraLATA dialing parity require the  
7 companies to implement dialing parity within 30 days  
8 after the Commission has approved the plans and has  
9 issued a final approval on the plans.

10 And that 30 days alone does not give enough  
11 time to send out the carrier notices, receive responses  
12 back, and get out the notices from customers, and at  
13 the same time give them a reasonable amount of time to  
14 make a PIC selection before their conversion.

15 And for that reason we have requested that  
16 the Commission provide some advanced approval to the  
17 carrier notification materials, and that would include  
18 specifically Appendices A and B that have been attached  
19 to the plans that the SDITC member companies have  
20 filed.

21 What we are asking specifically is that the  
22 Commission approve the content and form of those  
23 carrier notification documents and do that and at the  
24 same time allow us to send those out before final  
25 approval of the plans. And we've requested that that

1 final approval come on June 22nd.

2 Another point I would just point out that the  
3 plans -- I believe all the plans are consistent, and I  
4 think that the plans basically indicate now that those  
5 carrier notices would go out before June 1st. And I  
6 think it will probably vary in terms of when  
7 specifically between now and June 1st the companies  
8 send them out. I've had some companies ask already,  
9 "Can we send them out? Can we send them out?" They  
10 would like to get them out as soon as they can.

11 CHAIRMAN BURG: Karen, do you have this?

12 MS. CREMER: Staff, in their comments,  
13 recommended that notification be given prior to the  
14 final approval of the plan.

15 CHAIRMAN BURG: And do I understand correctly  
16 that you also asked for approval of the form?

17 MR. COIT: Yeah. Well, I think basically  
18 what we're asking is to send them out. So I think  
19 before we send them out, we would like the  
20 Commissioners to bless what we've got in.

21 CHAIRMAN BURG: Have you reviewed those  
22 forms?

23 MS. CREMER: As to the carriers that we have  
24 no problem. We did have some problem with customer  
25 letters, but those wouldn't go out until after.

1           CHAIRMAN BURG: So it's part of your  
2 recommendation we would approve the carriers' letters.

3           MS. CREMER: Right, the carrier letters at  
4 this time.

5           CHAIRMAN BURG: Any other questions or  
6 comments?

7           MS. WIEST: Also U S West and DTG made the  
8 same request. Do they have any comments?

9           CHAIRMAN BURG: Are they on the list?  
10 Colleen, are you still on or Tom, anybody on from U S  
11 West? No comments.

12                   Were they satisfactory as well?

13           MS. CREMER: Yes, they are.

14           MS. WIEST: I guess the other question I  
15 would have there is DTG but --

16           CHAIRMAN BURG: Bill, are you still on?

17           MR. HEASTON: Yeah.

18           CHAIRMAN BURG: Thanks for staying with us.

19           MR. HEASTON: I have the same thoughts as  
20 Rich does, and we would like to get these letters out  
21 to the carriers.

22           CHAIRMAN BURG: Okay. And they're also  
23 satisfactory?

24           MS. CREMER: Yes, they are.

25           CHAIRMAN BURG: Anybody have any comments



1 about whether we should approve?

2 COMMISSIONER SCHOENFELDER: I have a question  
3 about it because I've seen some since. Are we going to  
4 have to do this again soon because they -- there are  
5 some carriers that aren't listed here. I didn't check  
6 this list against what was in my file. I was just  
7 going to ask you the question.

8 MS. CREMER: I'm not sure we would be getting  
9 -- you mean that list of 57 where we said --

10 COMMISSIONER SCHOENFELDER: But see what's  
11 listed on today's agenda, is that all we're approving,  
12 or are we approving everybody?

13 MS. CREMER: That's all you're approving.

14 CHAIRMAN BURG: We couldn't approve them  
15 without being listed.

16 MS. CREMER: And I think theirs are the only  
17 ones we will be getting carrier letters from.

18 CHAIRMAN BURG: Okay. I'll move approval of  
19 the carrier letters and the early distribution of those  
20 letters.

21 MR. COIT: Thank you.

22 COMMISSIONER NELSON: I'll second.

23 COMMISSIONER SCHOENFELDER: I'll concur. I'm  
24 still confused about the list, but that's okay.

25 CHAIRMAN BURG: The motion has been approved

1 in TC99-030, and the letters have been approved and  
2 authorized to be mailed.

3 MR. COIT: Thank you.

4 (THE HEARING CONCLUDED AT 4:00 P.M.)

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1 STATE OF SOUTH DAKOTA )  
2 COUNTY OF HUGHES )

3

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 82, 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 17th day of May 1999.

22

23

  
\_\_\_\_\_  
Lori J. Grode, RMR, RPR

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