

THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF SOUTH DAKOTA

**RECEIVED**

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**SOUTH DAKOTA PUBLIC  
UTILITIES COMMISSION**

IN THE MATTER OF THE COMPLAINT  
FILED BY RANDY KIEFFER, STURGIS,  
SOUTH DAKOTA, AGAINST US WEST  
COMMUNICATIONS, INC. REGARDING  
TELEPHONE SERVICE OUTAGES AND  
INADEQUATE SERVICE

TC98-176

IN THE MATTER OF THE COMPLAINT FILED  
BY RANDY KIEFFER, STURGIS, SOUTH  
DAKOTA, AGAINST US WEST COMMUNICATIONS,  
INC. REGARDING SERVICE PROBLEMS

CT99-002

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Transcript of Proceedings  
September 7, 2001

**ORIGINAL**

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BEFORE THE PUBLIC UTILITIES COMMISSION,  
JIM BURG, CHAIRMAN  
PAM NELSON, VICE CHAIRMAN

COMMISSION STAFF  
Rolayne Ailts Wiest  
Karen Cremer  
Leni Healy  
Kelly Frazier  
Charlene Lund  
Mary Healy  
Harlan Best  
Keith Senger  
Dave Jacobson  
Michele Farris  
Heather Forney  
Gregory Rislov

Reported By Cheri McComsey Wittler, RPR

**PRECISION REPORTING**

**L I M I T E D**

APPEARANCES BY TELEPHONE

- Joe Schuele - Martin Group
- Don Lee - Martin Group
- Cindy Grosvenor - Telec Consulting
- Colleen Sevold - Qwest
- Mary Hobson - Qwest
- Cindy Pearson - Qwest
- Jane Wagner - Helein Law Group
- Stewart Wevik - BHPL
- Linden Evans - Black Hills Corp.
- Robert Frieberg - City of Beresford
- Wayne Hackland
- Alice Walker - Cheyenne River Sioux Tribe  
Telephone Authority
- Tom Simmons - Midcontinent Communications
- Mark Ayotte - GCC License Corp/Western Wireless
- Jim Blundell
- Ray Ann Kelsch
- Robert Saak - Sprint
- Darren Moser - Dickey Rural Telephone
- Steve Weigler - AT&T
- Gerald Larson
- Lori Caldwell
- Randy Kieffer

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TRANSCRIPT OF PROCEEDINGS, held in the  
 above-entitled matter, at the South Dakota State  
 Capitol, Room 412, 500 East Capitol Avenue, Pierre,  
 South Dakota, on the 7th day of September 2001,  
 commencing at 1:00 p.m.

1 CHAIRMAN BURG: In the Matter of the  
2 Complaint Filed by Randy Kieffer, Sturgis,  
3 South Dakota Against US West Communications, Inc.  
4 Regarding Telephone Service Outages and Inadequate  
5 Service.

6 And TC99-002 is in the Matter of the Complaint  
7 filed by Randy Kieffer, Sturgis, South Dakota  
8 Against US West Regarding Service Problems.

9 Today the Commission requests an update from  
10 the parties concerning the Complainant's current  
11 service.

12 Randy, do you want to update us on what your  
13 problems with the telecommunications service are.

14 MR. KIEFFER: For the last  
15 approximately two months we've had very  
16 intermittent service out there at the residence  
17 where I live and also at the other phone number.  
18 The Commission holds these cases open pending to  
19 see how service is going and everything and we go  
20 along good for a time period and then all the  
21 sudden everything quits.

22 Well, the last week, week and a half, the  
23 phone has worked good. But up until then the last  
24 two months before that it's been very intermittent  
25 service. Nobody could seem to find the problem.

1           Now they did replace the line from the granary  
2 up to the other residence, house there, and that's  
3 where all the phone problems have been coming from,  
4 not from my home phone 347-7532 but from 347-9566.  
5 The numbers are both listed in the Complaints  
6 somewhere.

7           CHAIRMAN BURG: Are those both in  
8 your name?

9           MR. KIEFFER: Yeah. And I put one  
10 in my wife's name.

11          CHAIRMAN BURG: Are they to the same  
12 residence?

13          MR. KIEFFER: No. We live about a  
14 mile apart. The one in my wife's name is up at my  
15 dad's.

16          CHAIRMAN BURG: Okay. Are these  
17 dealing with the normal telephony, or are you  
18 talking about Internet service?

19          MR. KIEFFER: Telephone. I'm not  
20 even worried about Internet service because it  
21 doesn't work if you don't have telephone.

22          CHAIRMAN BURG: US West, do you have  
23 any response?

24          MS. SEVOLD: Mr. Chairman, this is  
25 Colleen from Qwest Corporation. I have reviewed

1 the customer's account, and he has had some trouble  
2 reports in July and August. I have visited with  
3 the manager out there, and all the trouble we found  
4 were basically due to weather. We had a couple of  
5 lightening strikes on it and there was a problem  
6 with the housing and the wind had blown it.

7 We have a couple instances also in those  
8 months where we had -- it was caused by something  
9 other than -- I mean, it was not on the Qwest  
10 network. It was on the customer's premises itself.  
11 So a couple of those instances are those.

12 Our manager is continuing to monitor this. We  
13 have a very good technician that's very dedicated  
14 to it. And I think Mr. Kieffer would agree he is  
15 very responsive. So we are continually working on  
16 it.

17 CHAIRMAN BURG: You said there's  
18 some problems caused by wind. Is all of this line  
19 buried?

20 MS. SEVOLD: It was the housing, and  
21 the technician felt -- he felt sometimes the winds  
22 may blow that housing to the point where it would  
23 give a temporary out of service condition. So he  
24 wasn't sure about that so just to be sure he  
25 replaced the housing.

1 CHAIRMAN BURG: What's the housing?  
2 A pedestal?

3 MS. SEVOLD: It's my understanding,  
4 yes.

5 COMMISSIONER NELSON: Do you have  
6 trouble reports that explain the difficulty and  
7 what the problem and what you found?

8 MS. SEVOLD: I do have the trouble  
9 reports in July and August. Yes, I do.

10 COMMISSIONER NELSON: Could we get  
11 copies of those?

12 MS. SEVOLD: Could you have copies?

13 COMMISSIONER NELSON: Could we, yes.

14 MS. SEVOLD: Yes. As long as the  
15 customer is agreeable to me releasing them, I would  
16 be glad to furnish them.

17 MR. KIEFFER: No problem here.

18 CHAIRMAN BURG: Does staff have any  
19 comments?

20 MS. CREMER: The only thing that  
21 comes to mind, you know, I wasn't involved in this  
22 from the get-go so I don't know what evidence you  
23 have before you and I don't know if you have enough  
24 evidence in the present Docket to make a decision  
25 or if you need more.

1           So if what was discussed today -- do you want  
 2           that to come in the record so that can also be  
 3           considered as part of your decision? If you do,  
 4           you could do it one of two ways. Mr. Kieffer could  
 5           submit an affidavit. Qwest could respond to that.  
 6           It's kind of -- they seem to be very agreeable  
 7           maybe on what was done. So maybe that would work.

8           The other option I think you could do is  
 9           actually do live testimony, you know, either do a  
 10          hearing out in Rapid City or something and just  
 11          take that portion of the testimony, reopen the  
 12          record in that manner. That does cost Mr. Kieffer  
 13          quite a bit of money to miss work and all of that  
 14          and just continues to add to the damages here.

15          Or, like I said, if you have enough evidence  
 16          you think currently in the record, then I don't  
 17          know if you necessarily, you know -- you're not  
 18          going to be able to consider this unless it's  
 19          somehow put into the record, I guess, is my point.

20                    COMMISSIONER NELSON: Well, I guess  
 21                    I think we need to have that stuff admitted in the  
 22                    record. So I'd be inclined to have a hearing.

23                    MS. AILTS WIEST: Unless the parties  
 24                    would agree to submission of affidavits. I would  
 25                    ask the parties.

1 CHAIRMAN BURG: Probably just  
2 another question. What time period are we talking  
3 about, Mr. Kieffer for -- you know, that you're  
4 mentioning in today's discussion? How do you  
5 mean -- I mean, how long has this been, the period  
6 you're talking about, having some outages?

7 I know you mentioned the last two weeks you  
8 haven't had any problems.

9 MR. KIEFFER: (Inaudible) -- the  
10 last week, yeah.

11 CHAIRMAN BURG: How long before  
12 that?

13 MR. KIEFFER: About two months prior  
14 to last week.

15 MS. SEVOLD: This is Colleen from  
16 Qwest and according to our repair records, with the  
17 exception of the last two months, we didn't have  
18 any repair reports for about 14 months.

19 CHAIRMAN BURG: And in the last two  
20 months you did?

21 MS. SEVOLD: In the last two months  
22 we have had a couple that were weather-related,  
23 that is correct.

24 CHAIRMAN BURG: You feel that those  
25 were corrected?



1 MS. SEVOLD: Yeah. The technician  
2 went out there and did repairs so, yes, we believe  
3 they were.

4 CHAIRMAN BURG: I don't know. I  
5 guess, would the parties be willing to just sign  
6 affidavits, or would you like to have another  
7 hearing?

8 I know, Mr. Kieffer, it inconveniences you to  
9 have to take off work for a hearing or something.

10 MR. KIEFFER: Yeah. Whatever I need  
11 to do.

12 MS. CREMER: Maybe you could do  
13 affidavits, and if it's a problem -- you know, if  
14 it becomes -- you know, it's too much of a he said  
15 she said type of situation where we can't resolve  
16 it, then you could go to live testimony.

17 We could see if everyone is agreeable with the  
18 affidavits and if the evidence can come in that  
19 way.

20 COMMISSIONER NELSON: Mr. Kieffer,  
21 do you have a preference for doing the live hearing  
22 and testimony versus the affidavit?

23 MR. KIEFFER: It makes me no  
24 difference. How do I do the affidavit?

25 CHAIRMAN BURG: What I would suggest

1 is staff contact you to talk about what you should  
2 make sure you include in the affidavit. It's going  
3 to be a sworn statement. Would that be accurate?

4 MS. CREMER: Right.

5 CHAIRMAN BURG: An affidavit would  
6 be a sworn statement as to what happened, which  
7 would be similar to what you would present in the  
8 testimony. Since we've already had a hearing and  
9 are familiar with the basis of this, we would like  
10 to have an affidavit from you in place of probably  
11 another hearing saying what the conditions have  
12 been. And then Qwest would respond to the comments  
13 in the affidavit.

14 COMMISSIONER NELSON: Does that  
15 require Mr. Kieffer to get a lawyer to help him  
16 draw up the affidavit, or are we helping him draw  
17 up the affidavit or what?

18 MS. CREMER: No. He can submit an  
19 affidavit on his own. I can help him with the  
20 format of it.

21 CHAIRMAN BURG: Right. Make sure  
22 what's included in a good affidavit.

23 MS. CREMER: That would make it  
24 valid then.

25 COMMISSIONER NELSON: I don't know

1 about Mr. Kieffer, but if it were me, I would  
2 prefer to have the testimony and show up and hear  
3 the problem, in my opinion. If you have a  
4 preference, I'm willing to personally go with what  
5 you prefer.

6 CHAIRMAN BURG: Like Karen said, if  
7 the result of the affidavit and the response isn't  
8 adequate, we could always have a hearing.

9 COMMISSIONER NELSON: I guess my  
10 question to Mr. Kieffer is is he comfortable with  
11 the affidavit, or would he prefer to have the  
12 hearing?

13 MR. KIEFFER: Well, I'd prefer to be  
14 in a hearing myself. Because that way if there's  
15 any clarification to be done, we can get it done  
16 and over with at that point.

17 COMMISSIONER NELSON: Since, well he  
18 wants a hearing, I'm willing to go with a hearing.

19 CHAIRMAN BURG: Okay.

20 MS. SEVOLD: This is Colleen from  
21 Qwest Corporation. What we could do is do  
22 originally the affidavit and I would submit the  
23 repair reports that we have for the last two months  
24 and that way the Commission and staff could see  
25 exactly what the problems are and if the hearing

1 was needed further, we could do it after that  
2 point.

3 COMMISSIONER NELSON: Unless  
4 Mr. Kieffer's changed his mind, I'm still inclined  
5 to do the hearing.

6 CHAIRMAN BURG: I'm not sure that we  
7 gain that much more, at least initially. But if  
8 you want a hearing, we will try to schedule one.  
9 Is that your --

10 MR. KIEFFER: Yeah. I'd rather try  
11 the hearing.

12 CHAIRMAN BURG: Okay. This was just  
13 for an update on it so that we've gotten our  
14 update. We'll move forward.

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THE PUBLIC UTILITIES COMMISSION

OF THE STATE OF SOUTH DAKOTA

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IN THE MATTER OF THE FILING FOR  
APPROVAL OF A RESALE AGREEMENT  
BETWEEN QWEST CORPORATION AND NEW  
ACCESS COMMUNICATIONS, LLC

TC00-193

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Transcript of Proceedings  
September 7, 2001

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BEFORE THE PUBLIC UTILITIES COMMISSION,  
JIM BURG, CHAIRMAN  
PAM NELSON, VICE CHAIRMAN

COMMISSION STAFF

Rolayne Ailts Wiest  
Karen Cremer  
Leni Healy  
Kelly Frazier  
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Heather Forney  
Gregory Rislov

Reported By Cheri McComsey Wittler, RPR

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- Lori Caldwell
- Randy Kieffer

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TRANSCRIPT OF PROCEEDINGS, held in the  
 above-entitled matter, at the South Dakota State  
 Capitol, Room 412, 500 East Capitol Avenue, Pierre,  
 South Dakota, on the 7th day of September 2001,  
 commencing at 1:00 p.m.

1 CHAIRMAN BURG: TC00-193, In the  
2 Matter of the Filing for Approval of a Resale  
3 Agreement Between Qwest Corporation and New Access  
4 Communications, Incorporated.

5 Today shall the Commission approve the resale  
6 agreement.

7 Is either party on the phone? Is New Access  
8 on the phone?

9 MR. FRAZIER: I don't believe  
10 they'll be present. The company agreed to waive  
11 the 90-day automatic implementation pending a COA  
12 application. This Commission approved the COA and  
13 filed TC01-035, and at this point I would recommend  
14 approval of the Interconnection Agreement.

15 CHAIRMAN BURG: Any other questions  
16 or comments?

17 If not, I'll move for approval of the resale  
18 agreement in TC00-193.

19 COMMISSIONER NELSON: I'd concur.

20 CHAIRMAN BURG: Okay. It has been  
21 approved.

22 CHAIRMAN BURG: I'll move that we  
23 deny the resale agreement in 00-143.

24 COMMISSIONER NELSON: Second.

25 CHAIRMAN BURG: So that is denied.

THE PUBLIC UTILITIES COMMISSION

OF THE STATE OF SOUTH DAKOTA

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IN THE MATTER OF THE FILING FOR  
APPROVAL OF AN ADOPTION AGREEMENT  
BETWEEN QWEST CORPORATION AND  
NPCR, INC. D/B/A NEXTEL PARTNERS

TC01-072

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Transcript of Proceedings  
September 7, 2001

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BEFORE THE PUBLIC UTILITIES COMMISSION,  
JIM BURG, CHAIRMAN  
PAM NELSON, VICE CHAIRMAN

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Reported By Cheri McComsey Wittler, RPR



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- Gerald Larson
- Lori Caldwell
- Randy Kieffer

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TRANSCRIPT OF PROCEEDINGS, held in the  
above-entitled matter, at the South Dakota State  
Capitol, Room 412, 500 East Capitol Avenue, Pierre,  
South Dakota, on the 7th day of September 2001,  
commencing at 1:00 p.m.

1 CHAIRMAN BURG: TC01-172, In the  
2 Matter of the Filing for Approval of an Adoption  
3 Agreement Between Qwest Corporation and NPCR,  
4 Incorporated doing business as Nextel Partners.

5 Today shall the Commission approve the  
6 proposed agreement?

7 Qwest, do you have any comments?

8 MS. SEVOLD: No. We have no  
9 comments, Chairman Burg.

10 CHAIRMAN BURG: Nextel is not on the  
11 phone.

12 Kelly.

13 MR. FRAZIER: This was a standard  
14 interconnection. It was held up. Harlan requested  
15 they provide a hardcopy of the Interconnection  
16 Agreement which was not submitted with the  
17 application and they provide a physical address.

18 They have provided both of those, and at this  
19 point I would recommend approval of the  
20 interconnection.

21 CHAIRMAN BURG: Any other questions  
22 or comments?

23 COMMISSIONER NELSON: I guess I  
24 would move that the Commission approve the  
25 agreement proposed in TC01-072.

CHAIRMAN BURG: I'll second that.

So the agreement has been approved.

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THE PUBLIC UTILITIES COMMISSION

OF THE STATE OF SOUTH DAKOTA

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IN THE MATTER OF THE FILING FOR  
APPROVAL OF A RESALE AGREEMENT  
BETWEEN QWEST CORPORATION AND  
QUANTUMSHIFT, INC.

TC01-081

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Transcript of Proceedings  
September 7, 2001

=====

BEFORE THE PUBLIC UTILITIES COMMISSION,  
JIM BURG, CHAIRMAN  
PAM NELSON, VICE CHAIRMAN

COMMISSION STAFF

Rolayne Ailts Wiest  
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Reported By Cheri McComsey Wittler, RPR

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- 24 Randy Kieffer

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14

15 TRANSCRIPT OF PROCEEDINGS, held in the

16 above-entitled matter, at the South Dakota State

17 Capitol, Room 412, 500 East Capitol Avenue, Pierre,

18 South Dakota, on the 7th day of September 2001,

19 commencing at 1:00 p.m.

1  
2 CHAIRMAN BURG: TC01-081, In the  
3 Matter of the Filing for Approval of Resale  
4 Agreement Between Qwest Corporation and  
5 Quantumshift, Inc.

6 Today shall the Commission approve the  
7 proposed resale agreement?

8 Kelly.

9 MR. FRAZIER: Yes. The company has  
10 waived the 90-day automatic implementation pending  
11 an investigation of the Certificate of Authority  
12 with the Secretary of State. They filed as  
13 Quantumshift Communications, Inc., but their  
14 Certificate of Authorities with us and the  
15 Secretary of State are MVX.com.

16 I would recommend approval of the  
17 interconnection but recommend that the order state  
18 that the interconnection be approved for MVX.com  
19 doing business as Quantumshift Communication, Inc.

20 CHAIRMAN BURG: Any comments on  
21 that, questions?

22 If not, I will move that we approve the  
23 proposed resale agreement with the clarification as  
24 expressed by staff.

25 COMMISSIONER NELSON: I would

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concur.

CHAIRMAN BURG: So the -- approval  
has been made in the resale agreement in TC01-081.

THE PUBLIC UTILITIES COMMISSION

OF THE STATE OF SOUTH DAKOTA

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IN THE MATTER OF THE FILING FOR  
APPROVAL OF AN AGREEMENT FOR TERMS  
AND CONDITIONS FOR INTERCONNECTION,  
UNBUNDLED NETWORK ELEMENTS,  
ANCILLARY SERVICES AND RESALE OF  
TELECOMMUNICATION SERVICES  
BETWEEN QWEST CORPORATION AND  
CIERA NETWORK SYSTEMS, INC.

TC01-094

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Transcript of Proceedings  
September 7, 2001

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BEFORE THE PUBLIC UTILITIES COMMISSION,  
JIM BURG, CHAIRMAN  
PAM NELSON, VICE CHAIRMAN

COMMISSION STAFF  
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15 TRANSCRIPT OF PROCEEDINGS, held in the

16 above-entitled matter, at the South Dakota State

17 Capitol, Room 412, 500 East Capitol Avenue, Pierre,

18 South Dakota, on the 7th day of September 2001,

19 commencing at 1:00 p.m.

1 CHAIRMAN BURG: TC01-094, In the  
2 Matter of the Filing for Approval of an Agreement  
3 for Terms and Conditions for Interconnection,  
4 Unbundled Network Elements, Ancillary Services and  
5 Resale of Telecommunications Services Between Qwest  
6 Corporation and Ciera Network Systems, Inc.

7 Today shall the Commission approve the  
8 Interconnection Agreement?

9 Kelly.

10 MR. FRAZIER: Yes. I checked and  
11 Ciera does not have a Certificate of Authority. I  
12 contacted them, and they informed me they have no  
13 intentions of filing for one soon.

14 So at this point I would actually recommend  
15 that the Commission disapprove the agreement.

16 CHAIRMAN BURG: Any other comments?  
17 I'll move that we disapprove the Interconnection  
18 Agreement and close the Docket in TC01-094.

19 COMMISSIONER NELSON: Concur.

20 CHAIRMAN BURG: It has been  
21 approved. The Interconnection Agreement has been  
22 disapproved in TC01-094.

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THE PUBLIC UTILITIES COMMISSION

OF THE STATE OF SOUTH DAKOTA

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IN THE MATTER OF THE FILING FOR  
APPROVAL OF AN AMENDMENT TO AN  
INTERCONNECTION AGREEMENT  
BETWEEN QWEST CORPORATION AND  
MCLEODUSA

TC01-097

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Transcript of Proceedings  
September 7, 2001

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BEFORE THE PUBLIC UTILITIES COMMISSION,  
JIM BURG, CHAIRMAN  
PAM NELSON, VICE CHAIRMAN

COMMISSION STAFF

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Gregory Rislov

Reported By Cheri McComsey Wittler, RPR

1 APPEARANCES BY TELEPHONE

- 2 Joe Schuele - Martin Group
- 3 Don Lee - Martin Group
- 4 Cindy Grosvenor - Telec Consulting
- 5 Colleen Sevold - Qwest
- 6 Mary Hobson - Qwest
- 7 Cindy Pearson - Qwest
- 8 Jane Wagner - Helein Law Group
- 9 Stewart Wevik - BHPL
- 10 Linden Evans - Black Hills Corp.
- 11 Robert Frieberg - City of Beresford
- 12 Wayne Hackland
- 13 Alice Walker - Cheyenne River Sioux Tribe
- 14 Telephone Authority
- 15 Tom Simmons - Midcontinent Communications
- 16 Mark Ayotte - GCC License Corp/Western Wireless
- 17 Jim Blundell
- 18 Ray Ann Kelsch
- 19 Robert Saak - Sprint
- 20 Darren Moser - Dickey Rural Telephone
- 21 Steve Weigler - AT&T
- 22 Gerald Larson
- 23 Lori Caldwell
- 24 Randy Kieffer

14 = = = = =

15 TRANSCRIPT OF PROCEEDINGS, held in the

16 above-entitled matter, at the South Dakota State

17 Capitol, Room 412, 500 East Capitol Avenue, Pierre,

18 South Dakota, on the 7th day of September 2001,

19 commencing at 1:00 p.m.

1 CHAIRMAN BURG: TC01-097, In the  
2 Matter of the Filing for Approval of an Amendment  
3 to an Interconnection Agreement between Qwest  
4 Corporation and McLeodUSA.

5 Today shall the Commission approve the  
6 proposed amendment?

7 Is there anybody on the phone who wants to  
8 comment on either one of these?

9 If not, Kelly.

10 MR. FRAZIER: Yes. This is a  
11 standard interconnection that's been properly  
12 filed, proper certifications in place. It has been  
13 properly executed. 20 days have passed without  
14 response, and I would recommend approval.

15 CHAIRMAN BURG: Any other questions  
16 or comments? I'll move we approve the proposed  
17 amendment in TC01-097.

18 COMMISSIONER NELSON: Concur.

19 CHAIRMAN BURG: It has been  
20 approved.  
21  
22  
23  
24  
25

THE PUBLIC UTILITIES COMMISSION

OF THE STATE OF SOUTH DAKOTA

=====

IN THE MATTER OF DETERMINING PRICES  
FOR UNBUNDLED NETWORK ELEMENTS (UNES)  
IN QWEST CORPORATION'S STATEMENT OF  
GENERALLY AVAILABLE TERMS

TC01-098

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Transcript of Proceedings  
September 7, 2001

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BEFORE THE PUBLIC UTILITIES COMMISSION,  
JIM BURG, CHAIRMAN  
PAM NELSON, VICE CHAIRMAN

COMMISSION STAFF

Rolayne Ailts Wiest  
Karen Cremer  
Leni Healy  
Kelly Frazier  
Charlene Lund  
Mary Healy  
Harlan Best  
Keith Senger  
Dave Jacobson  
Michele Farris  
Heather Forney  
Gregory Rislov

APPEARANCES

DAVID A. GERDES, Midcontinent

Reported By Cheri McComsey Wittler, RPR

1 APPEARANCES BY TELEPHONE

- 2 Joe Schuele - Martin Group
- 3 Don Lee - Martin Group
- 4 Cindy Grosvenor - Telec Consulting
- 5 Colleen Sevold - Qwest
- 6 Mary Hobson - Qwest
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15 TRANSCRIPT OF PROCEEDINGS, held in the

16 above-entitled matter, at the South Dakota State

17 Capitol, Room 412, 500 East Capitol Avenue, Pierre,

18 South Dakota, on the 7th day of September 2001,

19 commencing at 1:00 p.m.

1 CHAIRMAN BURG: TC01-098, In the  
2 Matter of Determining Prices for Unbundled Network  
3 Elements in Qwest Corporation's Statement of  
4 Generally Available Terms and Conditions.

5 Today shall the Commission grant AT&T's  
6 position to intervene?

7 And I believe that goes to the Addendum; is  
8 that right? It goes to part of the Addendum, which  
9 also includes Midcontinent's petition to intervene.  
10 And the second part of the question is it how shall  
11 the Commission proceed.

12 Let's take the first part first, and then is  
13 there any comments on the petition to intervene  
14 from AT&T or Midcontinent?

15 MS. SEVOLD: Mr. Chairman, this is  
16 Colleen from Qwest. We have no comments, no  
17 objections.

18 CHAIRMAN BURG: Okay. Either one of  
19 the parties have a comment?

20 MR. GERDES: This is Dave Gerdes. I  
21 represent Midcontinent and would stand by for any  
22 questions, but we, of course, ask for the  
23 intervention.

24 CHAIRMAN BURG: Okay. I will move  
25 we grant intervention to Midcontinent Cable,



1 Midcontinent Telecommunications; is that right, and  
2 to AT&T.

3 COMMISSIONER NELSON: And I'd  
4 concur.

5 CHAIRMAN BURG: So intervention has  
6 been granted to these two parties. The second part  
7 of the question is how shall the Commission  
8 proceed?

9 We at this time will entertain comments on  
10 procedurals from the parties involved. I'll start  
11 with Qwest.

12 MS. SEVOLD: Thank you,  
13 Mr. Chairman. This is Mary Hobson from the  
14 Stoel Rives Law Firm. I'm representing Qwest on  
15 this matter.

16 As I think the Commission is aware, what we  
17 are seeking is permanent TELRIC based rates for our  
18 unbundled network elements in this Docket. This is  
19 the subject that you're probably aware that has  
20 received a lot of attention around the Qwest  
21 region, and we're hoping to make the South Dakota  
22 proceedings as simple and straight forward as  
23 possible.

24 Qwest's proposal for doing this is contained  
25 in the Petition that we filed with you in late

1 July. One of the features of our proposal is the  
2 rates that the Commission developed in the  
3 arbitration with AT&T could be adopted as permanent  
4 rates for the UNEs that were priced at that time.

5 If that proposal were acceptable to the  
6 Commission and the prices -- and to the other  
7 parties, we would still need some process, however,  
8 since there are a myriad of other new unbundled  
9 network elements and interconnection arrangements  
10 that have come about since the time that  
11 arbitration was completed.

12 So whether or not there is eventually a  
13 stipulation on the status of the arbitrated rates,  
14 we still need a process to establish new prices  
15 here in South Dakota. In this regard we have  
16 suggested a two-phase process. The first phase  
17 consisting of a series of collaborative workshops,  
18 and those workshops would have two major objectives  
19 in our view, at least.

20 They would create a forum for the parties to  
21 reach mutually acceptable agreements that would  
22 serve to narrow the issues. For example, there may  
23 be a stipulation on certain UNE prices. There may  
24 be stipulations about certain inputs of cost models  
25 or the use of particular cost models and so on.

1 That's going to help a lot in narrowing the issues  
2 that ultimately will have to be decided.

3 Secondly, they provide an informal opportunity  
4 for the parties and especially the staff and those  
5 parties who have not been participating in these  
6 cases in our jurisdictions to learn about this  
7 pricing costing procedure and to get some help  
8 running cost models if that's something that they  
9 choose to do.

10 And this, Mr. Chairman, brings me to one of  
11 the big issues that we're urging the Commission to  
12 take up sooner rather than later in this proceeding  
13 and that is to establish whether any other party is  
14 going to offer an alternative cost model to the  
15 cost model and cost studies that have already been  
16 provided by Qwest.

17 As I said, this is something that we encourage  
18 you to get to sooner rather than later because it  
19 will make a very big difference as to how the  
20 parties and the staff proceed and will have a huge  
21 impact on the scope of the issues. We believe that  
22 either way, whether there is another competing  
23 model offered in opposition to the Qwest model or  
24 not, the collaborative process is helpful.

25 If, for example, we are only looking at the

1 Qwest cost model and Qwest cost studies, the  
2 collaborative process allows the parties the  
3 opportunity to learn about it and use it  
4 themselves. But in addition to that, Qwest is  
5 willing in this proposed informal stage of the  
6 proceedings to provide results using other cost  
7 models, for example, the AJI model and to provide  
8 the results from other jurisdictions.

9 Of course, it would not be our advocacy that  
10 the parties should rely on those or the Commission  
11 should rely on those but that helps to give a  
12 perspective to the staff and parties as to how if  
13 we were to have a full-blown discussion about cost  
14 models, how that might affect the prices that  
15 you're looking at.

16 If we know that, for example, AT&T will be  
17 offering its cost models, then the collaborative  
18 process on the other hand provides a forum where  
19 the results can be compared, different versions of  
20 the models developing, using different inputs and  
21 so on can be compared with each other in an  
22 informal process that, again, sort of gives the  
23 parties protective highlights, whether they're  
24 areas of common agreement and so on. So in either  
25 case we believe that a collaborative process will

1 be very helpful to the staff and to the other  
2 parties.

3 Ultimately the purpose, as I said, is to  
4 narrow the issues and to set the stage for more  
5 formal proceedings. We propose that the formal  
6 stage be limited to those issues, and we sincerely  
7 hope there will be a narrowing of issues by that  
8 point that remain after the collaborative phase is  
9 completed. And those would be, of course, the  
10 issues that actually require contested case  
11 proceedings.

12 So I'd like to summarize as follows. The  
13 Commission is taking an important step today by  
14 getting us together and hearing from everyone as to  
15 how they would like to proceed. Because AT&T has  
16 intervened and because their model has been  
17 introduced to many but not all proceedings of this  
18 type across the Qwest region, we strongly urge the  
19 Commission to set a near term deadline for all  
20 parties to declare their intention to rely on  
21 alternative cost models. This must be done for the  
22 parties to have an efficient and meaningful  
23 discussion of these issues, whether or not the  
24 collaborative process is adopted.

25 Qwest then urges the Commission to adopt the

1 collaborative process for a first phase to allow  
2 narrowing of the issues, to allow all the parties  
3 to get up to speed on the model or models being  
4 introduced and to facilitate the discovery process.

5 One of the objectives is to see if the parties  
6 are willing to stipulate on the use of arbitrated  
7 rates. Another early objective should be to define  
8 the -- to the extent possible, the issues that  
9 really matter in South Dakota and what we're going  
10 to focus on in this jurisdiction as opposed to the  
11 others that have already started proceeding.

12 Finally, we think some of the -- some form of  
13 formal process is going to be necessary after the  
14 collaboratives to finally settle those issues that  
15 we can't reach agreement on.

16 I would be happy to answer any questions the  
17 Commission or any of the parties have. Just by way  
18 of introduction to myself, I will let you know that  
19 I am also representing Qwest in UNE cost dockets in  
20 the state of Idaho, which is my home state, where a  
21 collaborative process has begun and I am  
22 representing Qwest in Utah in a process that is not  
23 so informal. It's a more formal process, but it is  
24 focused at this point on the new UNE.

25 So I have some perspective on how Qwest has

1           been approaching these issues in other  
2           jurisdictions and that may be helpful to you.  
3           Thanks.

4                   CHAIRMAN BURG: Thank you. Any  
5           questions that might help clarify before we have  
6           comments from others? That was a rather long  
7           statement so there must have been some questions in  
8           there.

9                   If not, AT&T.

10                   MR. WEIGLER: This is Steve Weigler  
11           from AT&T. Only purchasing a limited number of --  
12           (Inaudible) -- mostly in Nebraska, I'm not sure how  
13           much a collaborative process will really move this  
14           matter forward. I would think the Commission would  
15           want to have as much intervention as possible in  
16           cost issues and would want to have knowledge of the  
17           parties' positions throughout.

18                   So to bring this to like an informal workshop  
19           proceeding doesn't seem to be getting any of the  
20           parties really anywhere. I mean, even just from my  
21           knowledge of what's occurred in Nebraska, we  
22           usually don't agree on a cost model so -- and I  
23           don't see that this would be any different.

24                   The parties usually don't agree on cost. So  
25           it's not like -- (Inaudible) -- for an

1 interconnection discussion where there's certainly  
2 things the parties would agree on. And I would  
3 think the Commission would want as much  
4 intervention as possible.

5 Not being familiar with any kind of  
6 collaborative process I bet questions of attorney  
7 representing -- there's one going on in Idaho. I  
8 believe most of the Commissions have had formal  
9 proceedings. However AT&T is open to whatever the  
10 Commission feels is the most efficient way and the  
11 most -- provides the due process necessary in this  
12 process.

13 CHAIRMAN BURG: Does AT&T anticipate  
14 introducing another cost model?

15 MR. WEIGLER: Mr. Commissioner, I  
16 have not met with our cost people at this time to  
17 even know the extent we'll be involved.

18 CHAIRMAN BURG: Okay. Midcontinent.

19 MR. GERDES: Mr. Chairman and  
20 Commissioner Nelson, Midcontinent tends to favor  
21 the course of action suggested by Qwest, that is  
22 that we go through the series of informal  
23 workshops, work through the collaborative process,  
24 identify the issues, and then file prefiled  
25 testimony and litigate the issues that actually are



1 issues.

2 CHAIRMAN BURG: Okay. Any other  
3 party? Those are the only parties to this Docket;  
4 correct?

5 MS. AILTS WIEST: Yes.

6 CHAIRMAN BURG: Staff, do you have  
7 any comments?

8 MS. CREMER: Staff would just note  
9 that it appears the interveners are going to be  
10 participating on a very limited basis and,  
11 therefore, we believe that the hiring of a  
12 consultant may be needed regardless of whether  
13 staff ultimately sits as a party or if we sit with  
14 the Commission like we did in the arbitration.

15 But I think, as Qwest pointed out, you know,  
16 that may be an alternative cost model comes from --

17 CHAIRMAN BURG: Would you see the  
18 hiring of this consultant before this informal  
19 collaborative or after? I mean, to be included in  
20 the informal meetings?

21 MS. CREMER: I guess I'm not real  
22 sure what this collaborative process involves. You  
23 know, is it one or two things, and it's kind of  
24 generic. Do we go to Denver and Seattle or  
25 wherever and learn how -- I mean, I'm not sure. I

1 guess I'm not clear what they mean by this process.

2 COMMISSIONER NELSON: I'm sort of  
3 disappointed that AT&T didn't have any idea of how  
4 they wanted to proceed today. So I guess the other  
5 intervener feels you ought to go with Qwest's way.

6 CHAIRMAN BURG: Is it staff's  
7 feeling we ought to go with the meetings as well?  
8 Do you support the proposal by Qwest?

9 MS. CREMER: Would that be our cost  
10 people that would be attending that? Because would  
11 that be like Harlan and Heather and Keith? I'm not  
12 sure. Would they be flying off somewhere, or do  
13 they come here to South Dakota and bring all of  
14 their people here and everybody sits in on that?  
15 I'm not clear.

16 MS. SEVOLD: Mr. Chairman, may I  
17 respond to that?

18 MS. AILTS WIEST: I was just  
19 assuming that we aren't flying anywhere and Qwest  
20 is coming here for the informal workshops.

21 CHAIRMAN BURG: Do you want to  
22 respond to that?

23 MS. SEVOLD: Thank you,  
24 Mr. Chairman. Yes. That is our intention, that  
25 Qwest would be bringing its people to South Dakota.

1 It would be bringing its model, its modeling  
2 experts, if that's necessary, to help anyone that  
3 is attempting to use the Qwest model or has  
4 questions about our models and so on to actually  
5 give them hands-on help.

6 Now, obviously, that is very much an informal  
7 mode. But there is no expectation that this is  
8 going to be happening in ex parte contact with an  
9 attempt to exclude anyone that is interested in  
10 participating.

11 What we have seen is that by working in this  
12 way with a state staff that is attempting to  
13 prepare itself to take a position in a formal  
14 proceeding, this is very helpful because I think,  
15 for example, the Idaho staff is in a similar mode  
16 to, I believe, where the South Dakota staff, that  
17 is that you haven't had a lot of cost proceedings  
18 previously. You don't have a -- haven't developed  
19 a lot of expertise in-house.

20 And I have not actually formed a lot of  
21 opinions about exactly how you would like to  
22 proceed with pricing here. So this is at least in  
23 the Idaho case something that was designed to  
24 specifically help the Idaho staff, but it also  
25 included the other parties.

1 Frankly, in Idaho I believe that AT&T has not  
2 yet decided whether or not it's going to be  
3 offering HAI. So, again, we have been allowing the  
4 Idaho staff to look at HAI, not that we try to stop  
5 them. But in helping them with that we've been  
6 providing them with results from other  
7 jurisdictions of both our model and other models  
8 and so on and so forth simply to put this huge kind  
9 of issue in perspective.

10 Mr. Weigler is right that there have been  
11 formal proceedings virtually everywhere and we  
12 certainly don't think that we're going to avoid  
13 formal proceedings entirely but we hope maybe we  
14 can cut down on the scope and that we can get the  
15 parties up to speed and the staff up to speed by  
16 doing this informal process first.

17 COMMISSIONER NELSON: Mr. Chairman,  
18 it seems to me if the staff wants a consultant, the  
19 staff ought to be involved in the workshops and  
20 stuff too.

21 MS. CREMER: Harlan, I don't know if  
22 you have an opinion one way or the other on the  
23 consultant from the get-go. It seems like it would  
24 be useful, rather than bringing them in after the  
25 workshops and then bringing them up to speed.

1 CHAIRMAN BURG: What my suggestion  
2 is is you find out as much about the structure as  
3 you can and make a request for the consultant.  
4 Bring a request for the consultant based on what  
5 you find out, the timeframes, as much as you can.  
6 And then we'll act on that consult.

7 Because I don't think we're in objection to  
8 the consult. I think it's rather narrow. We need  
9 to understand what we're doing.

10 COMMISSIONER NELSON: Qwest doesn't  
11 see the Commissioners being involved in the  
12 workshop?

13 CHAIRMAN BURG: No. We'll have to  
14 make a decision.

15 MR. WEIGLER: I just have one quick  
16 question. Would the workshops involve transcripts?  
17 Would transcripts be made of those workshops?

18 COMMISSIONER NELSON: Probably not,  
19 would they?

20 MS. AILTS WIEST: I would just ask  
21 Qwest what their opinion is on that question.

22 MS. HOBSON: We are very flexible on  
23 how these proceed. We have not used transcripts in  
24 Idaho, but I don't think we have an objection to  
25 doing that. It's just, as I pointed out, we're

1           trying to proceed very informally here so it's  
2           probably not a thing that would develop a very  
3           helpful transcript but certainly if there were  
4           going to be presentations or so on and someone  
5           wanted to have those transcribed, that would  
6           probably make sense.

7                        COMMISSIONER NELSON:   Qwest is  
8           paying for the transcripts?

9                        CHAIRMAN BURG:   Are you doing the  
10          informal portion in Idaho?

11                       MS. HOBSON:   Yes.

12                       CHAIRMAN BURG:   AT&T, are you  
13          participating in those in Idaho?

14                       MR. WEIGLER:   Mr. Commissioner, I  
15          have no idea.   I can find out.

16                       CHAIRMAN BURG:   If there's a  
17          parallel there, you should have some idea how well  
18          it works.

19                       MR. WEIGLER:   I can find out about  
20          that, and I apologize for not knowing.   The issue  
21          and an issue with AT&T, there are probably at least  
22          10 cost proceedings going on all over the Qwest  
23          region and, you know, we at AT&T as large a  
24          corporation as we are, we have limited resources to  
25          staff them.

1           And so to be candid with the Commission, I'm  
2           not sure what the extent we'll be involved in this  
3           proceeding or other proceedings around the country  
4           with so much going on with the Qwest 271 effort and  
5           their need to establish permanent pricing in every  
6           one of the 14 states.

7                   CHAIRMAN BURG: Are there any other  
8           comments on how the Commission should proceed?

9                   MR. GERDES: Well, Mr. Chairman,  
10          Dave Gerdes on behalf of Midcontinent. It seems to  
11          me the Commission is headed in the right direction  
12          and that is let's find out what we're talking about  
13          first and then if you need a consultant, that will  
14          be something we can look at but I think we need a  
15          little more information on exactly how this is  
16          going to be structured and then we can go forward  
17          accordingly.

18                   MS. AILTS WIEST: Well, do the  
19          parties want to talk about how the structure is?  
20          I'm kind of trying to figured out what kind of  
21          order I can put out on this. It's not like I'm  
22          going to be setting any dates or informal  
23          workshops.

24                   At this point I would recommend the Commission  
25          encourage the parties to get together and pursue

1 the formal workshops at this point and for staff to  
2 see if they can come up with a consult and proposal  
3 to bring before the Commission.

4 MR. GERDES: Just to follow up on  
5 that, it seems to me that can be the first we talk  
6 about at the first informal session is the --

7 MS. AILTS WIEST: The process?

8 MR. GERDES: Exactly.

9 CHAIRMAN BURG: Is it my  
10 understanding we would not need to develop a  
11 procedure schedule for the inform hearings?

12 MS. AILTS WIEST: Right. At this  
13 point everybody has to work out with their own  
14 schedule. So I don't see us actually setting up  
15 any dates or times at this point.

16 CHAIRMAN BURG: Okay. That would  
17 just be by agreement among the parties?

18 MS. AILTS WIEST: Right. Perhaps  
19 the parties would get together and talk it over,  
20 they could come and report back to the Commission  
21 as to what their process is and how they set it up.

22 CHAIRMAN BURG: Is that agreeable  
23 with Qwest?

24 MS. HOBSON: Yes, Chairman. I think  
25 that's probably a good idea at this point. We



1 believe that eventually we will want to see a  
2 procedural schedule so that this doesn't just kind  
3 of spin off into nowhere. But I think that given  
4 the questions that you've heard today, it makes  
5 sense for us to get together and talk about what  
6 makes sense for this particular group because Qwest  
7 doesn't have a set proposal here.

8 We are willing to be very flexible and talk  
9 about whatever will be useful to people. And what  
10 is working in Idaho may not be what works somewhere  
11 else. But we're willing to talk about what will  
12 work. So that's basically the message I want to  
13 leave with everyone.

14 CHAIRMAN BURG: Any other comments?  
15 If not, we will leave it up to the parties to  
16 establish informal collaborative sessions, and then  
17 we will develop a procedural schedule after those  
18 occur. We'll leave it to staff to determine the  
19 need for a consultant and the parameters around  
20 that.

THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF SOUTH DAKOTA

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IN THE MATTER OF THE FILING FOR  
APPROVAL OF A THIRD AMENDMENT TO AN  
INTERCONNECTION AGREEMENT BETWEEN  
QWEST CORPORATION AND AT&T  
COMMUNICATIONS OF THE MIDWEST, INC.

TC01-099

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Transcript of Proceedings  
September 7, 2001

= = = = =

BEFORE THE PUBLIC UTILITIES COMMISSION,  
JIM BURG, CHAIRMAN  
PAM NELSON, VICE CHAIRMAN

COMMISSION STAFF

Rolayne Ailts Wiest  
Karen Cremer  
Leni Healy  
Kelly Frazier  
Charlene Lund  
Mary Healy  
Harlan Best  
Keith Senger  
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Michele Farris  
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Gregory Rislov

Reported By Cheri McComsey Wittler, RPR

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- Darren Moser - Dickey Rural Telephone
- Steve Weigler - AT&T
- Gerald Larson
- Lori Caldwell
- Randy Kieffer

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TRANSCRIPT OF PROCEEDINGS, held in the  
 above-entitled matter, at the South Dakota State  
 Capitol, Room 412, 500 East Capitol Avenue, Pierre,  
 South Dakota, on the 7th day of September 2001,  
 commencing at 1:00 p.m.

1 CHAIRMAN BURG: TC01-099, In the  
2 Matter of the Filing for Approval of a Third  
3 Amendment to an Interconnection Agreement Between  
4 Qwest Corporation and AT&T Communications of the  
5 Midwest, Incorporated.

6 Today shall the Commission approve the  
7 proposed amendment?

8 Kelly.

9 MR. FRAZIER: Yes. This is just a  
10 standard interconnection. It has been properly  
11 filed, executed, and the proper certificates of  
12 authority are in place. 20 days have passed  
13 without comment, and I would recommend approval.

14 CHAIRMAN BURG: I'll move that we  
15 approve the proposed amendment in TC01-099.

16 COMMISSIONER NELSON: Concur.

17 CHAIRMAN BURG: It has been  
18 approved.

THE PUBLIC UTILITIES COMMISSION

OF THE STATE OF SOUTH DAKOTA

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IN THE MATTER OF THE FILING BY  
QWEST CORPORATION FOR APPROVAL  
OF REVISIONS TO ITS EXCHANGE AND  
NETWORK SERVICES CATALOG

TC01-059

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Transcript of Proceedings  
September 7, 2001

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BEFORE THE PUBLIC UTILITIES COMMISSION,  
JIM BURG, CHAIRMAN  
PAM NELSON, VICE CHAIRMAN

COMMISSION STAFF

- Rolayne Ailts Wiest
- Karen Cremer
- Leni Healy
- Kelly Frazier
- Charlene Lund
- Mary Healy
- Harlan Best
- Keith Senger
- Dave Jacobson
- Michele Farris
- Heather Forney
- Gregory Rislov

Reported By Cheri McComsey Wittler, RPR

1 APPEARANCES BY TELEPHONE

- 2 Joe Schuele - Martin Group
- 3 Don Lee - Martin Group
- 4 Cindy Grosvenor - Telec Consulting
- 5 Colleen Sevold - Qwest
- 6 Mary Hobson - Qwest
- 7 Cindy Pearson - Qwest
- 8 Jane Wagner - Helein Law Group
- 9 Stewart Wevik - BHPL
- 10 Linden Evans - Black Hills Corp.
- 11 Robert Frieberg - City of Beresford
- 12 Wayne Hackland
- 13 Alice Walker - Cheyenne River Sioux Tribe
- 14 Telephone Authority
- 15 Tom Simmons - Midcontinent Communications
- 16 Mark Ayotte - GCC License Corp/Western Wireless
- 17 Jim Blundell
- 18 Ray Ann Kelsch
- 19 Robert Saak - Sprint
- 20 Darren Moser - Dickey Rural Telephone
- 21 Steve Weigler - AT&T
- 22 Gerald Larson
- 23 Lori Caldwell
- 24 Randy Kieffer

14 = = = = =

15 TRANSCRIPT OF PROCEEDINGS, held in the

16 above-entitled matter, at the South Dakota State

17 Capitol, Room 412, 500 East Capitol Avenue, Pierre,

18 South Dakota, on the 7th day of September 2001,

19 commencing at 1:00 p.m.

1 CHAIRMAN BURG: TC01-059, In the  
2 Matter of the Filing by Qwest Corporation for  
3 Approval of Revisions to its Exchange and Network  
4 Services Catalog.

5 Today how shall the Commission proceed?

6 Qwest, do you have a comment?

7 MS. SEVOLD: Yes. We've asked for  
8 this matter to be deferred until the September 18  
9 meeting because our counsel could not be here  
10 today.

11 CHAIRMAN BURG: Any other comment?  
12 If not, we will defer TC01-059 to the next meeting.

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STATE OF SOUTH DAKOTA )

:SS

CERTIFICATE

COUNTY OF HUGHES )

I, CHERI MCCOMSEY WITTLER, a Registered Professional Reporter and Notary Public in and for the State of South Dakota:

DO HEREBY CERTIFY that as the duly-appointed shorthand reporter, I took in shorthand the proceedings had in the above-entitled matter on the 7th day of September 2001, and that the attached is a true and correct transcription of the proceedings so taken.

Dated at Pierre, South Dakota this 1st day of October 2001.

Cheri M. Wittler  
Cheri McComsey Wittler,  
Notary Public and  
Registered Professional Reporter



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