



5. In a written letter dated August 23, 1999, Western stated tha service was sold to an unauthorized person and that Western accepted full responsibility and would issue a full credit. Exhibit 2. No representatives of Western appeared at the hearing. Tr. at 4.
6. At the hearing, Mr. Hamann requested \$153.00 for travel to get help to figure out the charges and time involved trying to resolve the issue. Exhibit 3. The \$153.00 was based on 18 hours spent trying to resolve the matter multiplied by \$8.50 per hour. *Id.* He also requested \$500.00 to compensate him for frustration in trying to resolve the matter and \$6.00 in late charges billed by U S WEST. *Id.*
7. The Commission's Order Finding Probable Cause and Notice requiring Answer was sent to Western Telecom on August 30, 1999 at 4955 West Napoleon Ave., Suite 294, Metairie, Louisiana 70001. Tr. at 25-26; Exhibit 7. This was the address listed on the letter from Western. Exhibit 2. The order was not returned to the Commission as being undeliverable. Tr. at 26.
8. On September 10, 1999, the Commission's Order for and Notice of Hearing was sent to Western at the same Louisiana address. Tr. at 27; Exhibit 8. The order was not returned to the Commission as being undeliverable. Tr. at 27-28.
9. The Commission finds that Western charged Mr. Hamann for unauthorized services pursuant to the bills listed under the name of Evelyn Weaver. The Commission finds that the evidence shows that Mr. Hamann did not request any services from Western. Tr. at 5, 11. The Commission finds that Mr. Hamann is not responsible for any of the Western charges listed on the bills.
10. The Commission further finds that Mr. Hamann is entitled to \$153.00 from Western to compensate him for time and travel expended in attempting to resolve this matter.
11. The Commission finds that the request for reimbursement for \$6.00 in late charges billed by U S WEST will be denied because, based on the bills presented at the hearing, the late charges did not total \$6.00 and the late charges that were imposed were not just for failure to pay charges billed by Western but were also for authorized charges billed by U S WEST that were not paid on time. Exhibits 5 and 6.
12. The Commission finds that the request for \$500.00 for frustration in trying to resolve this matter was not sufficiently supported by the evidence. Further, it appears that the amount was based in part on the same rationale used to justify the \$153.00, that is, the time spent trying to resolve the billing dispute. Tr. at 10.
13. The Commission finds that Western has billed for unauthorized services and therefore, is required to pay to Mr. Hamann \$1000.00 as provided by SDCL 49-31-93.

### **CONCLUSIONS OF LAW**

1. The Commission finds that it has jurisdiction over this matter pursuant to SDCL 49-13- 1, 49-13-4, 49-13-13, 49-13-14.1, 49-31-3, 49-31-7, 49-31-7.1, 49-31-11, 49-31-89 through 49-31-96, inclusive, and ARSD 20:10:01:08.01 and 20:10:01:09.
2. Pursuant to SDCL 49-31-93, the Commission finds that Western charged Mr. Hamann for unauthorized services pursuant to the bills listed under the name of Evelyn Weaver. The Commission finds that Mr. Hamann is not responsible for any of the charges imposed by Western.
3. Pursuant to SDCL 49-13-14, the Commission further finds that Mr. Hamann is entitled to \$153.00 in damages from Western to compensate him for time and travel expended in attempting to resolve this matter.
4. The Commission finds that the request for reimbursement for \$6.00 in late charges billed by U S WEST will be denied because, based on the bills presented at the hearing, the late charges did not total \$6.00 and the late charges that were imposed were not just for failure to pay charges billed by Western but were also for authorized charges billed by U S WEST that were not paid on time. Exhibits 5 and 6.
5. The Commission finds that the request for \$500.00 for frustration in trying to resolve this matter was not

sufficiently supported by the evidence.

6. Pursuant to SDCL 49-31-93, the Commission finds that Western has billed for unauthorized services and, therefore, is required to pay to Mr. Hamann \$1000.00.

It is therefore

ORDERED, that Western shall pay to Mr. Hamann the amounts listed above and shall absolve Mr. Hamann of all charges imposed by Western.

#### NOTICE OF ENTRY OF ORDER

PLEASE TAKE NOTICE that this Order was duly entered on the 15th day of November, 1999. Pursuant to SDCL 1-26-32, this Order will take effect 10 days after the date of receipt or failure to accept delivery of the decision by the parties.

Dated at Pierre, South Dakota, this 15th day of November, 1999.

<b>CERTIFICATE OF SERVICE</b>	
The undersigned hereby certifies that this document has been served today upon all parties of record in this docket, as listed on the docket service list, by facsimile or by first class mail, in properly addressed envelopes, with charges prepaid thereon.	
By:	_____
Date:	_____
(OFFICIAL SEAL)	
BY ORDER OF THE COMMISSION:	
_____	JAMES A. BURG, Chairman
_____	PAM NELSON, Commissioner
_____	LASKA SCHOENFELDER, Commissioner

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