

**Consumer Complaint Orders - Issued 1999**

**BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF SOUTH DAKOTA**

<b>IN THE MATTER OF THE COMPLAINT FILED BY NANCY</b>	)	<b>ORDER FINDING</b>
<b>VAN HEERDE, SIOUX FALLS, SOUTH DAKOTA,</b>	)	<b>NO PROBABLE</b>
<b>AGAINST THE FURST GROUP REGARDING</b>	)	<b>CAUSE,</b>
<b>UNAUTHORIZED SWITCHING OF SERVICES</b>	)	<b>DISMISSING</b>
	)	<b>COMPLAINT</b>
	)	<b>AND CLOSING</b>
	)	<b>DOCKET</b>

**CT99-059**

On November 18, 1999, the Public Utilities Commission (Commission) received a complaint from Nancy Van Heerde, Sioux Falls, South Dakota (Complainant), against The Furst Group (Furst) regarding an alleged switching of her long distance service by a deceptive telemarketer.

On November 29, 1999, a regularly scheduled meeting, the Commission considered this matter. The Complainant appeared via teleconference. Commission staff recommended that no finding of probable cause be made.

The Commission finds that it has jurisdiction over this matter pursuant to SDCL Chapters 1- 26, 49-13, including 49-13-1 through 49-13-14, inclusive, and SDCL Chapter 49-31, including 49-31- 3, 49-31-7, 49-31-7.1, 49-31-7.2, 49-31-7.3, 49-31-7.4, 49-31-10, 49-31-11, 49-31-38, 49-31-38.1, 49-31-38.2, 49-31-38.3, 49-31-89 through 49-31-97, inclusive, and ARSD Chapters 20:10:01 and 20:10:34.

The Commission voted 2 to 1 to find no probable cause of an unlawful or unreasonable act, rate, practice, or omission on the part of Furst and to dismiss the complaint and close the docket. Commissioner Nelson dissented. As the Commission's final decision in this matter, it is therefore

ORDERED that the complaint is dismissed and docket CT99-059 is hereby closed.

Dated at Pierre, South Dakota, this 8th day of December, 1999.

**CERTIFICATE OF SERVICE**

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

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PAM NELSON, Commissioner, dissenting

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LASKA SCHOENFELDER, Commissioner

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#### DISSENT OF COMMISSIONER NELSON

I respectfully dissent. The Complainant stated that she believed she was switching to Sprint, not Furst. This belief was based on the marketing call in which the telemarketer referenced Sprint when attempting to convince the Complainant to change telephone companies. The use of false, misleading, or deceptive statements when obtaining a subscriber's authorization to change telecommunications company is prohibited by ARSD 20:10:34:06. Further, her U S WEST bill identified Sprint as her long distance carrier and when she called U S WEST to inquire who her long distance carrier was, she was told it was Sprint. It was not until she received a bill from Furst that she became aware that Furst was handling her toll calls.

In addition, her bill from Furst charged her for someone else's telephone calls. The bill listed a second number with a 717 area code and listed charges due of \$11.73 for that number. The law provides that a telecommunications company that initiates the billing of unauthorized services must pay to the subscriber \$1000.00. SDCL 49-31-93. Furst admitted that it charged the Complainant for toll calls that she did not make. I do not see how it could be any clearer that the Complainant was billed for unauthorized services and, therefore, is entitled to the \$1000.00 as mandated by South Dakota law.

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