

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

<b>IN THE MATTER OF THE COMPLAINT FILED )</b>	<b>SECOND ORDER FOR AND</b>
<b>BY JOHN AND SHIRLEY HATCH, PIERRE, )</b>	<b>NOTICE OF HEARING</b>
<b>SOUTH DAKOTA, AGAINST QWEST )</b>	
<b>COMMUNICATIONS, INC., WCS TELECOM )</b>	<b>CT99-018</b>
<b>AND WESTERN TELECOMMUNICATIONS, )</b>	
<b>INC. REGARDING UNAUTHORIZED BILLING )</b>	
<b>FOR SERVICES )</b>	

On July 26, 1999, the Public Utilities Commission (Commission) received a complaint filed by John and Shirley Hatch, Pierre, South Dakota (Complainants), against Qwest Communications, Inc. (Qwest). Complainants allege the unauthorized switching of their long distance service at a house they own in the Black Hills south of Lead, South Dakota.

Pursuant to ARSD 20:10:01:08.01 and 20:10:01:09, if a complaint cannot be settled without formal action, the Commission shall determine if the complaint shows probable cause of an unlawful or unreasonable act, rate, practice or omission to go forward with the complaint.

On August 17, 1999, the Commission considered this matter. Complainant John Hatch appeared before the Commission on this matter. The Commission found there was probable cause of an unlawful or unreasonable act, rate, practice or omission, and ordered that the complaint be forwarded to Qwest for an answer to be filed within twenty (20) days of service of the order. The order was dated August 26, 1999.

By order dated September 22, 1999, a hearing was scheduled for October 27, 1999, beginning at 1:00 o'clock P.M., in Room 412 of the State Capitol Building, 500 East Capitol Avenue, Pierre, South Dakota. On October 22, 1999, the Commission received a letter from the Complainants requesting that they be allowed to amend their complaint and that additional companies, namely WCS Telecom (WCS) and Western Communications, Inc. (Western) be added to their complaint. Due to this request the hearing was cancelled. On October 15, 1999, Qwest moved to dismiss the complaint against it.

On November 1, 1999, Complainants through John Hatch, and Qwest through its local counsel, Robert C. Riter, Jr., personally appeared before the Commission to argue their motions. The Commission voted to deny Qwest's motion to dismiss and grant Complainants' motion to amend the complaint and add WCS and Western as respondents. Commissioner Jim Burg dissented.

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 20:10:01:07.01 through 20:10:15:01, inclusive, and ARSD Chapter 20:10:34.

A hearing shall be held on December 15, 1999, beginning at 1:30 o'clock P.M., in Room 412 of the State Capitol Building, 500 East Capitol Avenue, Pierre, South Dakota. All persons testifying will be subject to cross-examination by the parties.

The issue at the hearing is whether Qwest, WCS, or Western committed an unlawful or unreasonable act, rate, practice or omission and, if so, what relief would be appropriate.

The hearing shall be an adversary proceeding conducted pursuant to SDCL Chapter 1-26. All parties have the right to be present and to be represented by an attorney. These rights and other due process rights shall be forfeited if not exercised at the hearing. If you or your representative fail to appear at the time and place set for the hearing, the Final Decision will be based solely on the testimony and evidence provided, if any, during the hearing or a Final Decision may be issued by default pursuant to SDCL 1-26-20. After the hearing, the Commission will consider all evidence and testimony that was presented at the hearing. The Commission will then enter Findings of Fact, Conclusions of Law, and a Final Decision regarding this matter. As a result of the hearing, the Commission shall determine whether Qwest, WCS, or Western committed an unlawful or unreasonable act, rate, practice, or omission and, if so, order any appropriate relief. The Commission's Final Decision may be appealed by the parties to the state Circuit Court and the state Supreme Court as provided by law. It is therefore

ORDERED that a hearing shall be held at the time and place specified above on the issue of whether Qwest, WCS, or Western committed an unlawful or unreasonable act, rate, practice or omission and, if so, what relief would be appropriate.

Pursuant to the Americans with Disabilities Act, this hearing is being held in a physically accessible location. Please contact the Public Utilities Commission at 1-800-332-1782 at least 48 hours prior to the hearing if you have special needs so arrangements can be made to accommodate you.

Dated at Pierre, South Dakota, this 5<sup>th</sup> day of November, 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:	<u>Alvin Kalbo</u>
Date:	<u>11/5/99</u>
(OFFICIAL SEAL)	

BY ORDER OF THE COMMISSION:

James A. Burg  
JAMES A. BURG, Chairman

Pam Nelson  
PAM NELSON, Commissioner

Laska Schoenfelder  
LASKA SCHOENFELDER, Commissioner