

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

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| IN THE MATTER OF THE COMPLAINT FILED |) | ORDER FOR AND NOTICE |
| BY FRED HOLPP, RAPID CITY, SOUTH |) | OF HEARING |
| DAKOTA, AGAINST U S WEST |) | |
| COMMUNICATIONS, INC. REGARDING |) | CT99-020 |
| FAILURE TO PROVIDE SERVICE |) | |

On July 29, 1999, the Public Utilities Commission (Commission) received a complaint filed by Fred Holpp, Rapid City, South Dakota (Complainant), against U S WEST Communications, Inc. (U S WEST) regarding failure to provide service. Complainant outlines a series of missed commitments by U S WEST for delivery of service to a new residential location.

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 September 21, 1999, at a duly noticed meeting, Complainant appeared by teleconference. Commission Staff recommended a finding of probable cause due to service quality issues. A representative of U S WEST acquiesced to a finding of probable cause. The Commission voted to find probable cause.

The Commission finds that it has jurisdiction over this matter pursuant to SDCL Chapters 1-26, 49-13, including 49-13-1 through 49-13-14.1, inclusive, and SDCL Chapter 49-31, including 49-31-3, 49-31-7, 49-31-7.1, 49-31-7.2, 49-31-10, 49-31-11, 49-31-38, 49-31-38.1, 49-31-38.2, 49-31-38.3, 49-31-60, 49-31-61, and ARSD 20:10:01:07.01 through 20:10:01:15.01, inclusive and ARSD Chapter 20:10:33.

A hearing shall be held at 9:00 a.m. (MST), on November 17, 1999, in the Bear Butte Room at the Ramkota Hotel and Conference Center, 2211 LaCrosse Street, Rapid City, South Dakota. The hearing is open to the public. All persons testifying shall be subject to cross-examination.

The issue at the hearing is whether U S WEST committed an unlawful or unreasonable act, rate, practice or omission in its provisioning of service to the Complainant, and, if so, what remedy is 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 this hearing, the Commission shall determine whether U S WEST committed an unlawful or unreasonable act, rate, practice or omission in its provisioning of service to the Complainant, and, if so, what remedy is appropriate. 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 the hearing shall commence at 9:00 a.m. (MST), on November 17, 1999, in the Bear Butte Room at the Ramkota Hotel and Conference Center, 2211 LaCrosse Street, Rapid City, South Dakota.

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 7th day of October, 1999.

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| 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>Delaine Kalbo</u> |
| Date: | <u>10/7/99</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