

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA

IN THE MATTER OF THE COMPLAINT FILED) ORDER DISMISSING
BY DAVID AND LISA NEUHARTH, FORT) COMPLAINT AND CLOSING
PIERRE, SOUTH DAKOTA, AGAINST EXCEL) DOCKET
TELECOMMUNICATIONS, INC. REGARDING)
UNAUTHORIZED SWITCHING OF SERVICES) CT99-048

On October 25, 1999, the Public Utilities Commission (Commission) received a complaint filed by David and Lisa Neuharth, Fort Pierre, South Dakota (Complainants), against Excel Telecommunications, Inc. (Excel), regarding alleged unauthorized switching of services. Complainants allege that a ranch bunkhouse phone on "vacation" status with the local carrier was, without their authorization, switched to Excel.

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 November 15, 1999, at a duly noticed meeting, Commission Staff recommended a finding of probable cause due to unresolved factual issues. The Commission found probable cause at that time. Excel moved that the Commission bring Golden West Telephone Company (Golden West) into this matter as a third party defendant. Whether to allow bringing Golden West in as a third party defendant and to find probable cause against Golden West was scheduled for determination by the Commission on February 2, 2000.

On February 2, 2000, the Complainants, represented by Lisa Neuharth, sent a fax transmission to the Commission that settlement was reached with Golden West in this matter.

The Commission finds that it has jurisdiction over this matter pursuant to SDCL Chapters 1-26, 49-13 and 49-31.

On February 2, 2000, at a regularly scheduled meeting, the Commission considered this matter. Upon recommendation of Commission Staff, the Commission voted to dismiss the complaint and close the docket. It is therefore

ORDERED, that the complaint shall be dismissed and the docket closed.

Dated at Pierre, South Dakota, this 11th day of February, 2000.

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>Arlaine Kolbo</u>
Date:	<u>2/14/00</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