

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

IN THE MATTER OF THE COMPLAINT FILED)	ORDER FINDING NO
BY PHILIP AND DARLENE BESTGEN,)	PROBABLE CAUSE,
WHITEWOOD, SOUTH DAKOTA, AGAINST U S)	DISMISSING COMPLAINT
WEST COMMUNICATIONS, INC. REGARDING)	AND CLOSING DOCKET
LACK OF EASEMENT FOR FACILITY)	
PROPERTY)	CT99-007

On June 11, 1999, the Public Utilities Commission (Commission) received a complaint from Philip and Darlene Bestgen (Complainants), Whitewood, South Dakota, against U S WEST Communications, Inc. (U S WEST) regarding lack of easement for facility property. The Complainants claim that U S WEST buried a cable on their property without an easement. They further claim that when U S WEST was informed of the issue, U S WEST signed a contract to remove the cable by November 29, 1998, and paid \$1600 for indemnification. The cable has not yet been removed. The Complainants seek the following relief: "We ask that U S WEST pay the same daily indemnification from Nov. 29, 1998, to the date of removal as they did from Aug. 29, 1998, to Nov. 29, 1998. We ask that this money be made payable to South Dakota schools of our choice and for the matter to be addressed as personal private property rights as the Constitution intended."

On July 13, 1999, at its regularly scheduled meeting, the Commission considered this matter. Both U S WEST and Complainants appeared.

The Commission finds that it has jurisdiction over this matter pursuant to 49-13-1, 49-13-4, 49-13-13, 49-31-3, 49-31-4, 49-31-7.1, and ARSD 20:10:01:08.01 and 20:10:01:09.

The Commission voted 2-1 to find no probable cause of an unlawful or unreasonable act, rate, practice, or omission on the part of U S WEST 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 CT99-007 is hereby closed.

Dated at Pierre, South Dakota, this 16th day of July, 1999.

<p>CERTIFICATE OF SERVICE</p> <p>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.</p> <p>By: <u>Melaine Kalbs</u></p> <p>Date: <u>7/16/99</u></p> <p align="center">(OFFICIAL SEAL)</p>
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BY ORDER OF THE COMMISSION:

James A. Burg
 JAMES A. BURG, Chairman

PAM NELSON, Commissioner, dissenting

Laska Schøenfelder
 LASKA SCHØENFELDER, Commissioner