

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

IN THE MATTER OF THE COMPLAINT FILED)	ORDER FINDING
BY DONALD D. WYNIA, TYNDALL, SOUTH)	PROBABLE CAUSE AND
DAKOTA, AGAINST OPEX)	NOTICE REQUIRING
COMMUNICATIONS, ALSO DOING BUSINESS)	ANSWER
AS COGNIGEN REGARDING FAULTY BILLING)	
PRACTICES)	CT99-071

On December 7, 1999, the Public Utilities Commission (Commission) received a complaint filed by Donald D. Wynia, Tyndall, South Dakota (Complainant), against Opex Communications, also doing business as Cognigen (Opex) alleging billings which he received for calls that did not involve his business. Complainant seeks relief from the Commission and asks that all charges should be adjusted and that Opex remedy the situation.

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 December 28, 1999, at a duly noticed meeting, Complainant filed a statement which explained his case. Commission Staff recommended a finding of probable cause due to the appearance of a prima facie case.

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, 20:10:07, and 20:10:34. The Commission voted unanimously to find probable cause. It is therefore

ORDERED, that pursuant to ARSD 20:10:01:09, the Commission finds that there is probable cause of an unlawful or unreasonable act, rate, practice, or omission and that the complaint shall be forwarded to Opex and Opex shall satisfy the complaint or file with the Commission its answer in writing within twenty (20) days of service of this order.

Dated at Pierre, South Dakota, this 12th day of January, 2000.

<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><i>Heldene Kalkes</i></u></p> <p>Date: <u>1/13/00</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
 PAM NELSON, Commissioner

Laska Schoenfelder
 LASKA SCHOENFELDER, Commissioner