

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

| | |
|--|------------------------------|
| IN THE MATTER OF THE COMPLAINT FILED) | ORDER DISMISSING |
| BY BLACK HILLS FIBERCOM L.L.C., RAPID) | COMPLAINT AND CLOSING |
| CITY, SOUTH DAKOTA, AGAINST U S WEST) | DOCKET |
| COMMUNICATIONS, INC. REGARDING) | |
| COMPETITIVE PRICING AND PROMOTION) | CT00-055 |
| PRACTICES) | |

On March 14, 2000, Black Hills FiberCom, L.L.C. (FiberCom) filed a complaint with the South Dakota Public Utilities Commission (Commission). The complaint was forwarded to U S WEST Communications, Inc. (U S WEST) on March 15, 2000, to attempt to resolve the complaint informally. The informal attempt to resolve the complaint was not successful within the requested time frame. The complaint was formally docketed on March 29, 2000. FiberCom is of the information and belief that as early as the fall of 1999, U S WEST conducted, and continues to conduct, an unlawful pricing and promotion campaign within the local exchange area serviced concurrently by U S WEST and FiberCom. On August 16, 2000, U S WEST (now Qwest Corporation) (Qwest), filed a Motion to Dismiss or Alternatively for Summary Judgment.

On March 29, 2000, the complaint was faxed to U S WEST. Pursuant to ARSD 20:10:01:09, U S WEST was notified that it must satisfy the complaint or file an answer in writing with the Commission by April 18, 2000. On April 17, 2000, the Commission received U S WEST's Answer to Complaint. On August 16, 2000, Qwest filed a Motion to Dismiss or Alternatively for Summary Judgment and a Brief in Support of Motion to Dismiss. FiberCom filed a Response on September 20, 2000. Qwest filed a Reply Brief on September 25, 2000. By order dated September 29, 2000, the Commission denied Qwest's Motion to Dismiss or Alternatively for Summary Judgment.

A hearing in this matter was scheduled for January 18, 2001. By order dated December 8, 2000, the hearing was cancelled as Commission Staff was informed that settlement had been reached in this matter. On December 12, 2000, the Commission received a Stipulation of Voluntary Dismissal signed by the parties.

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, 49-31-12 through 49-31-12.5, inclusive, 49-31-38, 49-31-38.1, 49-31-38.2, 49-31-38.3, 49-31-84 through 49-31-86.2, inclusive.

On December 12, 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 20th day of December, 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: Alaine Kelbo

Date: 12/21/00

(OFFICIAL SEAL)

BY ORDER OF THE COMMISSION:

James A. Burg
JAMES A. BURG, Chairman

Pam Nelson
PAM NELSON, Commissioner

Laska Schoenfelder
LASKA SCHOENFELDER, Commissioner