

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

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

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 voted unanimously 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, 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 and 20:10:34.

By order dated December 27, 1999, a hearing was scheduled for January 27, 2000, beginning at 1:30 o'clock P.M., CST, in Room 468 of the State Capitol Building, 500 E. Capitol, Pierre, South Dakota. At its January 18, 2000, meeting the Commission granted Excel's motion for a continuance, so therefore the hearing is cancelled. It is therefore

ORDERED, that the hearing scheduled for January 27, 2000, is cancelled and will be rescheduled at a later date.

Dated at Pierre, South Dakota, this 24th day of January, 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: _____
Date: _____
(OFFICIAL SEAL)

BY ORDER OF THE COMMISSION:

JAMES A. BURG, Chairman

PAM NELSON, Commissioner

LASKA SCHOENFELDER, Commissioner

