

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

IN THE MATTER OF THE COMPLAINT FILED )	ORDER GRANTING
BY JULIE ROESLER ON BEHALF OF SLEEP )	REQUEST TO ADD
INN, SIOUX FALLS, SOUTH DAKOTA, )	PARTIES, ORDER FINDING
AGAINST SPRINT COMMUNICATIONS )	PROBABLE CAUSE AND
COMPANY L.P., MCLEODUSA )	SECOND ORDER FOR AND
TELECOMMUNICATIONS SERVICES, INC. )	NOTICE OF HEARING
AND U S WEST COMMUNICATIONS, INC. )	
REGARDING UNAUTHORIZED )	CT00-014
DISCONNECTION AND UNAUTHORIZED )	
SWITCHING OF SERVICES )	

On January 10, 2000, the Public Utilities Commission (Commission) received a complaint filed by Julie Roesler on behalf of Sleep Inn, Sioux Falls, South Dakota (Complainant), against Sprint Communications Company L.P. (Sprint). The Complainant alleges that the phone lines, including the fax lines were inoperable from September 20 through October 8, 1999. Complainant also alleges that it was switched from AT&T to Sprint without authorization. Complainant requests that the Sprint charges be removed from its bill, and that a fine of \$1000 per phone line be imposed.

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 February 2, 2000, 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. On March 6, 2000, the Commission received a request from Sprint to add McLeodUSA and U S WEST Communications. The matter was heard at the March 28, 2000, meeting. The matter was deferred at that time. On April 28, 2000, an Order for and Notice of Hearing was issued setting a hearing for May 31, 2000, at 1:30 P.M., in Room 412 of the State Capitol, 500 E. Capitol, Pierre, South Dakota. On May 4, 2000, Sprint filed its Revised Answer and Renewed Request for Addition of Other Parties.

At its regularly scheduled meeting of May 17, 2000, the Commission considered Sprint's filing. U S WEST did not object to being added as a party. McLeod was not present. The Commission voted unanimously to grant Sprint's motion which added U S WEST and McLeod as parties and to find probable cause against U S WEST and McLeod.

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.

A hearing shall be held on June 29, 2000, beginning at 1:30 o'clock P.M., in Room 412 of the State Capitol Building, 500 E. Capitol, Pierre, South Dakota. All persons testifying will be subject to cross-examination by the parties.

The issue at the hearing is whether Sprint, U S WEST, and/or McLeod committed an unlawful or unreasonable act, rate, practice or omission and, if so, what relief would be appropriate.

The hearing shall be an adversary proceeding conducted pursuant to SDCL Chapter 1-26. All parties have the right to be present and to be represented by an attorney. These rights and other due process rights shall be forfeited if not exercised at the hearing. If you or your representative fail to appear at the time and place set for the hearing, the Final Decision will be based solely on the testimony and evidence provided, if any, during the hearing or a Final Decision may be issued by default pursuant to SDCL 1-26-20. After the hearing, the Commission will consider all evidence and testimony that was presented at the hearing. The Commission will then enter Findings of Fact, Conclusions of Law, and a Final Decision regarding this matter. As a result of the hearing, the Commission shall determine whether Sprint, U S WEST, and/or McLeod committed an unlawful or unreasonable act, rate, practice, or omission and, if so, order any appropriate relief. The Commission's Final Decision may be appealed by the parties to the state Circuit Court and the state Supreme Court as provided by law. It is therefore

ORDERED, that pursuant to ARSD 20:10:01:09, the Commission grants Sprint's request to add U S WEST and McLeod as parties and finds that there is probable cause of an unlawful or unreasonable act, rate, practice, or omission and the complaint shall be forwarded to U S WEST and McLeod and U S WEST and McLeod shall satisfy the complaint or file with the Commission its answer in writing within twenty (20) days of service of this order. It is further

ORDERED, that a hearing shall be held at the time and place specified above on the issue of whether Sprint, U S WEST, and/or McLeod committed an unlawful or unreasonable act, rate, practice or omission and, if so, what relief would be appropriate.

Pursuant to the Americans with Disabilities Act, this hearing is being held in a physically accessible location. Please contact the Public Utilities Commission at 1-800-332-1782 at least 48 hours prior to the hearing if you have special needs so arrangements can be made to accommodate you.

Dated at Pierre, South Dakota, this 23<sup>rd</sup> day of May, 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>Melanie Kelbo</u>
Date:	<u>5/25/00</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