

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

IN THE MATTER OF THE COMPLAINT FILED)	ORDER FOR AND NOTICE
BY ROLLIE JENSEN, SIOUX FALLS, SOUTH)	OF HEARING
DAKOTA, AGAINST MCLEODUSA)	
TELECOMMUNICATIONS SERVICES, INC.)	CT00-020
AND U S WEST COMMUNICATIONS, INC.)	
REGARDING DELAYED INSTALLATION AND)	
BILLING ISSUES)	

On January 18, 2000, the Public Utilities Commission (Commission) received a complaint filed by Rollie Jensen, Sioux Falls, South Dakota (Complainant), against McLeodUSA Telecommunications Services, Inc. (McLeod). The Complainant alleges that service was delayed to a new office thus affecting his phone service, computer usage and fax services. Complainant seeks damages for lost income, wages, extra rent and cellular phone charges.

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 15, 2000, at a duly noticed meeting, the Commission considered this matter and determined that there was probable cause that an unlawful or unreasonable act, rate, practice or omission was committed by McLeod. The Complainant appeared via teleconference; McLeod appeared in the same manner and was represented by its counsel Barbara Berkenpas. Commission Staff recommended a finding of probable cause. The Commission voted unanimously to find probable cause.

On January 19, 2000, Complainant moved to amend his complaint to include U S WEST Communications, Inc. (U S WEST) as an additional defendant. On February 24, 2000, Complainant moved to further amend his complaint to address billing issues against McLeod and U S WEST. The question of whether the complaint should be amended to include U S WEST as an additional defendant and to consider billing issues against both McLeod and U S WEST was considered by the Commission at its regularly scheduled February 29, 2000, meeting. Further, if amendment was to be allowed, the issue of probable cause of U S WEST committing an unlawful or unreasonable act, rate, practice or omission was considered. Complainant appeared via teleconference. U S WEST appeared through Colleen Sevoid who did not resist the amendment of the complaint or the subsequent finding of probable cause. Commission Staff recommended allowing the amendment and the finding of probable cause. The Commission voted unanimously to allow the amendment and 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, 20:10:33, and 20:10:34.

A hearing shall be held on June 15, 2000, beginning at 1:30 o'clock P.M., in Room 464 of the State Capitol Building, 500 E. Capitol, Pierre, South Dakota. All persons testifying will be subject to cross-examination by the parties.

The issues at the hearing are: (1) whether McLeod committed an unlawful or unreasonable act, rate, practice or omission and, if so, what relief would be appropriate; and (2) whether U S WEST 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: (1) whether McLeod committed an unlawful or unreasonable act, rate, practice, or omission and, if so, order any appropriate relief; and (2) whether U S WEST 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 a hearing shall be held at the time and place specified above on the issues of: (1) whether McLeod committed an unlawful or unreasonable act, rate, practice or omission and, if so, what relief would be appropriate; and (2) whether U S WEST 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 17th 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>Melaine Kelbo</u>
Date: <u>5/17/00</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