

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

IN THE MATTER OF THE COMPLAINT) FILED BY WWC LICENSE LLC AGAINST) GOLDEN WEST TELECOMMUNICATIONS) COOPERATIVE, INC., VIVIAN) TELEPHONE COMPANY, SIOUX VALLEY) TELEPHONE COMPANY, UNION) TELEPHONE COMPANY, ARMOUR) INDEPENDENT TELEPHONE COMPANY,) BRIDGEWATER-CANISTOTA) INDEPENDENT TELEPHONE COMPANY) AND KADOKA TELEPHONE COMPANY) REGARDING INTERCARRIER BILLINGS))	ORDER DENYING MOTIONS TO PROHIBIT WWC FROM CONTESTING THE ACCURACY OF DATA PROVIDED, TO STRIKE LATE-FILED CLAIM, TO COMPEL AND TO BIFURCATE COMPLAINT AND COUNTERCLAIM AND GRANTING MOTIONS TO PERMIT ADDITIONAL DISCOVERY AND TO POSTPONE HEARING CT05-001
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On February 16, 2005, the Public Utilities Commission (Commission) received a complaint filed by WWC License LLC (Complainant) against Golden West Telecommunications Cooperative, Inc., Vivian Telephone Company, Sioux Valley Telephone Company, Union Telephone Company, Armour Independent Telephone Company, Bridgewater-Canistota Independent Telephone Company and Kadoka Telephone Company (Golden West Companies) regarding intercarrier billings.

On February 17, 2005, the Commission electronically transmitted notice of the filing and the intervention deadline of March 4, 2005, to interested individuals and entities. No petitions to intervene or comments were filed.

On March 8, 2005, the Commission received an Answer and Counterclaim of Golden West Companies. On March 29, 2005, the Commission received WWC's Answer to Golden West Companies' Counterclaim. On April 6, 2005, the Commission received a Motion for Partial Summary Judgment and Memorandum in Support of Motion for Partial Summary Judgment from WWC. On May 20, 2005, the Commission received a Memorandum in Response to Complainant's Motion for Partial Summary Judgment from the Golden West Companies. On May 23, 2005, the Commission received an Affidavit of Dennis Law from the Golden West Companies.

At its duly noticed May 24, 2005, meeting, the Commission considered this matter. The Commission unanimously voted to grant the Motion for Partial Summary Judgment regarding jurisdiction, determining that the Commission does have jurisdiction over this matter pursuant to SDCL Chapters 49-13 and 49-31 and 47 U.S.C. § 252, but to take the matter under advisement, and defer voting regarding WWC's request for immediate payment of undisputed overcharges and WWC's request that the Commission find interest is applicable to any overcharges.

The Commission finds that it has jurisdiction in this matter pursuant to SDCL Chapters 1-26, 49-1, including 49-1-9 and 49-1-11, 49-13, including 49-13-1 through 49-13-14.1, inclusive, and SDCL Chapter 49-31, including 49-31-3, 49-31-7, 49-31-7.1, 49-31-7.2, 49-31-11, 49-31-76 and 49-31-89, and ARSD Chapters 20:10:01 and 20:10:32.

At its duly noticed June 14, 2005, meeting, the Commission considered WWC's request for immediate payment of undisputed overcharges and WWC's request that the Commission find interest is applicable to any overcharges. The Commission unanimously voted to deny the Motion for Partial Summary Judgment regarding payment of undisputed overcharges and grant the Motion for Partial Summary Judgment regarding applicability of interest to overcharges.

On August 10, 2005, the Commission received a Notification of Question of Constitutionality of SDCL §§ 49-31-109 to 49-31-115 and Notice to Intervene from WWC. On August 15, 2005, the Commission received a Motion to Prohibit WWC from Contesting the Accuracy of Data Provided and Motion to Strike Late-Filed Claim; Motion to Compel; Motion to Permit Additional Discovery; Motion to Postpone Hearing; and, Motion to Strike or Dismiss from Golden West Companies. On August 17, 2005, the Commission received a Motion to Bifurcate Complaint and Counterclaim from WWC. On August 18, 2005, the Commission received WWC's Response to Motions filed by Golden West Companies. On August 18, 2005, the Commission received an Opposition to Motion to Bifurcate Complaint and Counterclaim from Golden West Companies.

At its duly noticed August 19, 2005, ad hoc meeting, the Commission unanimously voted to grant Golden West's Motion to Strike or Dismiss WWC's claims for double damages and attorney fees. This action is reflected in a separate order of this same date.

At its duly noticed August 22, 2005, ad hoc meeting, the Commission considered the remaining motions and voted unanimously to dispose of the motions and to order such additional relief and actions as are set forth below in the ordering clauses.

It is therefore

ORDERED, that Golden West's Motion to Prohibit WWC from Contesting the Accuracy of Data Provided and to Strike Late-Filed Claim and Motion to Compel and WWC's Motion to Bifurcate are denied; and it is further

ORDERED, that Golden West's Motion to Postpone Hearing is granted to allow for the filing of additional or amended claims and to conduct additional discovery so that all issues involving the billings in question can be addressed and resolved in this proceeding; and it is further

ORDERED, that the hearing scheduled for August 30 and 31, 2005, is continued until November 7, 2005, commencing at 10:00 a.m., continuing at 8:30 a.m. on November 8, 2005, and carrying over to November 9, if necessary, unless the parties' procedural schedule submittals demonstrate that these dates are not available for them, in which case alternative hearing dates will be scheduled; and it is further

ORDERED, that Golden West's Motion to Permit Additional Discovery is granted to allow full exploration by both parties of the minutes-of-use data and other issues and also to address any additional claims and defenses that are added or modified through amendments to the pleadings; and it is further

ORDERED, that the parties shall file amendments to their pleadings to conform to the evidence revealed through discovery and to reflect any additional claims, and answers thereto, related to Golden West's intercarrier billings to WWC that have come to light during the discovery and analysis process; and it is further

ORDERED, that in connection with the extension of discovery, the parties' technical experts shall meet in a good faith effort to resolve the billing data issues, that the parties shall provide access to the data in their possession to the other party on reasonable terms, including protective orders where appropriate, that the meeting of the parties' respective data experts shall take place at a location acceptable to them and to Staff, or if they cannot agree, in the Commission's conference room and that Staff and Staff counsel are directed to be present at such meeting to assist the parties in attempting to resolve any disputes their experts may have involving the data, access to data and related issues; and it is further

ORDERED, that the parties shall submit to the Commission by August 31, 2005, their proposals for a procedural schedule for the remainder of this case and shall submit their proposed date for the meeting of technical experts in their procedural schedule proposals.

Dated at Pierre, South Dakota, this 26th day of August, 2005.

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>Rebecca Kalbo</u>
Date:	<u>8/26/05</u>
(OFFICIAL SEAL)	

BY ORDER OF THE COMMISSION:

Gary Hanson
GARY HANSON, Chairman

Robert K. Sahr
ROBERT K. SAHR, Commissioner

Dustin M. Johnson
DUSTIN M. JOHNSON, Commissioner