

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

IN THE MATTER OF THE APPLICATION OF)	STAFF'S HEARING BRIEF
PAM COMMUNICATIONS TO OFFER)	
NEGOTIATED RATES)	TC96-205

PAM Communications has petitioned the Commission for a determination that it not be required to file tariffs in its providing of local telephone service.

Commission staff has taken the following positions on this docket:

1. The filing of tariffs with the Commission are not necessary for long distance companies as a condition of doing business, although they are necessary for regulatory purposes.
2. The Commission's administrative rules require the filing of tariffs as a condition of getting a certificate of authority.
3. The Commission's rule requiring the filing of tariffs can be waived.
4. Tariffs would be desirable to be on file for local service for residential but not commercial customers.
5. From a consumer protection point of view, tariffs should be on file with the Commission, an independent party in consumer and carrier disputes.

See prefiled testimony of Harlan Best.

ISSUE

WHAT AUTHORITY EXISTS FOR REQUIRING THE FILING OF TARIFFS FOR LOCAL SERVICE?

ARGUMENT AND AUTHORITY


The Commission has general supervision and control of all telecommunications companies providing service within this state, see SDCL 49-31-3. It is submitted that this general authority permits the Commission to make general tariff and rate schedule filings with it. If the Commission is to look out for consumers, then having this information easily at hand facilitates this process.

As witness Best points out in his prefiled testimony, PAM as a condition of getting its certificate of authority was to file tariffs. ARSD 20:10:24:02(8) requires this. It was made a part of the Commission's Final Order in Docket TC96-175. At a minimum, this condition should be binding.

With regard to SDCL 49-31-5.1, PAM submits that it is an independent company, and that it is exempt from the regulatory requirements. Staff submits that SDCL 49-31-5.1 makes no reference to competing local exchange companies. As a matter of fact, they probably were not even thought of when this statute was passed. Staff further submits that because SDCL 49-31-5.1 is silent as to what constitutes an independent company, it is a legislative determination that should resolve this issue.

Until the Legislature acts, the Commission may rely upon its general supervisory powers to require what it determines to be necessary tariffs or rate schedules. This will facilitate protection of the consuming public.

Dated this 12th day of February, 1997.



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CERTIFICATE OF SERVICE

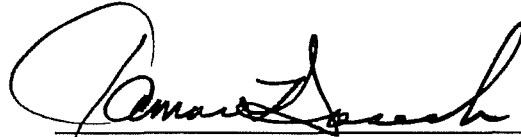
I hereby certify that copies of Staff's Hearing Brief were served on the following by mailing the same to them by United States Post Office First Class mail, postage thereon prepaid, at the address shown below on this the 12th day of February, 1997.

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