

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

<b>IN THE MATTER OF THE COMPLAINT FILED</b>	)	<b>ORDER FOR AND NOTICE</b>
<b>BY RAYMOND AND GENENE SAND D/B/A</b>	)	<b>OF HEARING</b>
<b>SAND CONSTRUCTION, DALLAS, SD</b>	)	
<b>AGAINST U S WEST COMMUNICATIONS, INC.</b>	)	<b>TC97-142</b>
<b>REGARDING TELEPHONE LINE LOCATION</b>	)	

On August 8, 1997, Raymond & Genene Sand d/b/a Sand Construction filed a complaint with the Public Utilities Commission (Commission) against U S WEST Communications, Inc. (U S WEST) regarding a telephone line location. "Our complaint is in reference to telephone line location and moving line for Project AIP 3-46-0048-21 Rapid City Regional Airport County Road Relocation, County Road C232, and Construct Runway 14 Safety Area, Pennington County. Bid date for this project was May 9, 1997. At that time or before, the affected utilities were aware that utility relocation would be necessary. A pre-construction meeting was held on May 30, 1997. U S WEST representative Dennis Serfling was present. Raymond Sand stated that he would like to begin the project as soon as possible--at least by June 9th. Dennis Serfling said U S WEST was waiting for cable to arrive for the fiber optic line move and that expected arrival was June 3, 1997, after which they would proceed to install it. Sand Construction notified One Call Notification shortly after the meeting as a precautionary measure. We were issued ticket #23361. The project owners' project paperwork was not completed as rapidly as expected; therefore, Sand Construction didn't begin work until June 16, 1997. The telephone line relocation work in the county road work area was not completed, we had no choice but to try to work around it...We submit that Sand Construction has suffered losses due to the delay in utility relocation by U S WEST. We request recovery of these losses from U S WEST."

At its regularly scheduled September 9, 1997, meeting, the Commission found probable cause of an unlawful or unreasonable act, rate, practice or omission and served the complaint on U S WEST. U S WEST filed its response on October 7, 1997.

The Commission has jurisdiction over this matter pursuant to SDCL 1-26-18, 1-26-19, 49-13-1, 49-13-1.1, 49-13-4, 49-13-13, 49-13-14, 49-31-3, 49-31-7, and 49-31-7.1, and ARSD 20:10:01:07.01 through 20:10:01:15.01 and 20:10:01:22.02.

The issues at the hearing are as follows: (1) whether U S WEST's actions in relocating the utility line were unlawful or unreasonable acts, rates, practices, or omissions; and (2) whether such actions caused the Sands to suffer damages.

A hearing shall be held at 1:30 P.M., on Tuesday, November 18, 1997, in Room 464, State Capitol, Pierre, South Dakota. It 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 may find that U S WEST's actions in relocating the utility line were an unlawful or unreasonable act, rate, practice, or omission. Based upon such a finding, the Commission may then find that such action caused the Sands to suffer damages which could be assessed against U S WEST. The Commission's 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 whether U S WEST's actions in relocating the utility line were unlawful or unreasonable acts, rates, practices, or omissions and whether such actions caused the Sands to suffer damages.

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 7<sup>th</sup> day of November, 1997.

<b>CERTIFICATE OF SERVICE</b>	
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>Delaine Kaebbs</u>
Date:	<u>11/7/97</u>
(OFFICIAL SEAL)	

BY ORDER OF THE COMMISSION:  
Commissioners Burg, Nelson and  
Schoenfelder

William Bullard, Jr.  
WILLIAM BULLARD, JR.  
Executive Director