

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

IN THE MATTER OF THE INVESTIGATION OF WHETHER SIOUX FALLS CABLE IS SUBJECT TO CERTIFICATION REQUIREMENTS)	ORDER FOR AND NOTICE OF HEARING
)	TC96-105

On June 20, 1996, the Commission received a letter from U S WEST Communications, Inc. (U S WEST) and "various documents concerning the establishment of the EdNet by the Sioux Falls School District. From the documents, it is abundantly clear that what the school district wants constitutes a telecommunications service, and that the provider must, if not already a certificated provider, submit the necessary application and documentation for a certificate as required by SDCL § 49-31-3 and commission rules. Sioux Falls Cable...is the provider of the EdNet. To the best of U S WEST's knowledge and belief, Sioux Falls Cable has not sought the requisite commission certification. U S WEST has discussed the legal requirement with Sioux Falls Cable, but Sioux Falls Cable appears not inclined to comply with the statutory requirements. U S WEST requests that the commission, pursuant to its authority in SDCL § 49-13-5, conduct an inquiry into this matter. If the facts are as revealed in the attached documents, U S WEST would ask that the commission direct that Sioux Falls Cable comply with the requirements of SDCL § 49-31-3."

On June 27, 1996, the Commission electronically transmitted notice of the filing to interested individuals and entities. A regularly scheduled August 13, 1996, meeting, the Commission considered U S West's request for the Commission to open an investigation to determine if Sioux Falls Cable is subject to the certification requirements of the Commission. On August 21, 1996, the Commission issued its Order Granting Request for Investigation. A regularly scheduled meeting of December 9, 1996, the Commission directed the Executive Director to set a procedural schedule for a hearing. On December 17, 1996, the Commission received a Petition to Intervene from Baltic Telecom Cooperative, Inc.

The Commission has jurisdiction in this matter pursuant to SDCL Chapter 49-31, specifically 49-31-3. The Commission may rely upon any or all of these or other laws of this state in making its determination. It is therefore

ORDERED, that a hearing be held in this matter commencing at 10:00 a.m. on May 8, 1997, in Room 412 of the State Capitol Building, Pierre, South Dakota.

The issue at the hearing is whether Sioux Falls Cable must obtain a Certificate of Authority to provide telecommunications services in South Dakota pursuant to SDCL § 49-31-3 and Commission rules.

All persons testifying will be subject to cross-examination by the parties. The order of the proceeding will be in the following sequence: (1) Applicant; (2) Intervenors; and (3) Staff.

The hearing is an adversary proceeding conducted pursuant to SDCL Chapter 1-26. All parties have the right to attend and represent themselves or be represented by an attorney. However, such 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 testimony and evidence provided, if any, during the hearing or a Final Decision may be issued by default pursuant to SDCL 1-26-20.

The Commission, after examining the evidence and hearing testimony presented by the parties, shall make Findings of Fact, Conclusions of Law, and a Final Decision. As a result of the hearing the Commission may either close this docket without ordering Sioux Falls Cable to obtain a Certificate of Authority or it may order Sioux Falls Cable to obtain such certification. The Final Decision made by the Commission may be appealed by the parties to the Circuit Court and the South Dakota Supreme Court as provided by law. It is therefore

ORDERED that a hearing shall be held on the matter of whether Sioux Falls Cable must obtain a Certificate of Authority at the date and time specified herein.

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 22nd day of April, 1997.

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: _____

Date: _____

(OFFICIAL SEAL)

BY ORDER OF THE
COMMISSION:

Commissioners Burg, Nelson and
Schoenfelder

WILLIAM BULLARD, JR.

Executive Director

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