

**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 CANCELLING HEARING AND SETTING BRIEFING SCHEDULE TC96-105
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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. A hearing in this matter was set for 10:00 a.m. on May 8, 1997, in Room 412 of the State Capitol Building, Pierre, South Dakota.

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.

The issue before the Commission 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.

The parties and Commission staff have stipulated to the facts and have filed two Stipulations of fact with

the Commission. The scheduled hearing shall be cancelled.

The parties and Commission staff have further informally agreed to a briefing schedule wherein the parties and Commission staff will submit their arguments and authorities to the Commission for its consideration prior to reaching a decision in this case. The briefing schedule shall be as follows:

Initial simultaneous briefs from all parties shall be due on June 9, 1997.

Simultaneous reply briefs from all parties shall be due on July 3, 1997.

Upon submission of the reply briefs the Commission shall take the case under consideration.

Based upon the foregoing, it is

ORDERED that the hearing scheduled in this matter for May 8, 1997, at 10:00 a.m. in Room 412 of the State Capitol Building, Pierre, South Dakota, is cancelled; and it is further

ORDERED that the briefing schedule set forth above shall be followed and the Commission shall consider this matter as filed in this docket pursuant to this Order.

Dated at Pierre, South Dakota, this 7th day of May, 1997.

CERTIFICATE OF SERVICE

BY ORDER OF THE COMMISSION:

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.

Commissioners Burg, Nelson and Schoenfelder

WILLIAM BULLARD, JR.
Executive Director

By: _____

Date: _____

(OFFICIAL SEAL)

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