

Telecommunications Orders - Issued 1997

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF SOUTH DAKOTA

**IN THE MATTER OF THE COMPLAINT FILED BY NETWAY) ORDER FOR
ADVERTISING, WHITE RIVER, SOUTH DAKOTA, AGAINST GOLDEN) AND NOTICE
WEST TELECOMMUNICATIONS COOPERATIVE, INC. REGARDING) OF HEARING
INTERNET ACCESS CHARGES) TC97-028**

On March 25, 1997, the Public Utilities Commission (Commission) received a complaint from Netway Advertising (Netway) located in White River, South Dakota, against Golden West Telecommunications Cooperative, Inc. (Golden West). According to the complaint: "Netway Advertising is an Internet Advertising Agency and an Internet Provider in White River, SD. We have a 56K line now running from our own T1 in Sioux Falls. We installed our 56K line in November of 95. It ran from UUnet in Chicago. Then in December we switched it to our own T1 in Sioux Falls. Our installation fee in November of 95 from Golden West was 50.00. Our installation fee to switch to our own T1 in Sioux Falls in December was \$600.00. Amazing since we are in competition with Golden West how our installation charges increased. The line was physically placed in November of 95. All they did in December of 96 was make a switch at their terminal. Also, our per monthly line fee up until December of 96 was 0.00. Now, in January they sent us a bill for \$197.55 for our 56K line. U S WEST charges \$1.15 per mile for a 56K line. Golden West charges \$2.15 per mile. How is it that a non-profit federally financed cooperative can make more money th WEST. These charges are outrageous and should be outlawed. I want these fees to stop....I want Golden West to understand that they can't try to put their competition out of business. Our line fees are completely out of line with other phone companies and they need to stop. I want my \$600.00 installation fee returned and our line fees lowered."

Pursuant to ARSD 20:10:01:08.01 and 20:10:01:09, if a complaint cannot be settled without formal action, the Commission shall determine if the complaint shows probable cause of an unlawful or unreasonable act, rate, practice or omission to go forward with the complaint.

On April 15, 1997, a duly noted meeting, the Commission reviewed the complaint. The Commission found that there was probable cause of an unlawful or unreasonable act, rate, practice, or omission. The complaint was forwarded to Golden West and Golden West filed its answer on May 16, 1997.

The Commission has jurisdiction in this matter pursuant to SDCL Chapters 1-26, 49- 13, 49-31 and ARSD 20:10:01:08.01 and 20:10:01:09. The Commission may rely upon any or all of these or other laws of this state in making its determination.

The issue is whether Golden West has unjustly or unreasonably discriminated in providing telecommunications services or in the rate or price charged for those services.

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 will determine whether Golden West has unjustly or unreasonably discriminated in providing telecommunications services or in the rate or price charged for those services. 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 commence on August 1, 1997, in Room 412, State Capitol Building, Pierre, SD, beginning at 1:00 p.m.

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 July, 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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