

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

IN THE MATTER OF THE COMPLAINT FILED)	ORDER FINDING
BY RAYMOND AND GENENE SAND D/B/A)	PROBABLE CAUSE AND
SAND CONSTRUCTION, DALLAS, SD)	NOTICE REQUIRING
AGAINST U S WEST COMMUNICATIONS, INC.)	ANSWER
REGARDING TELEPHONE LINE LOCATION)	TC97-142

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."

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 September 9, 1997, at its duly noticed meeting, the Commission reviewed the complaint.

The Commission finds that it has jurisdiction over this matter pursuant to SDCL 49-13-1, 49-13-1.1, 49-13-4, 49-13-13, 49-13-14, 49-13-14.1, 49-31-3, 49-31-4, 49-31-7, 49-31-7.1, 49-31-11, 49-31-12, 49-31-12.4, and ARSD 20:10:01:08.01 and 20:10:01:09. The Commission voted unanimously to find probable cause, it is therefore

ORDERED, that pursuant to ARSD 20:10:01:09, the Commission finds that there is probable cause of an unlawful or unreasonable act, rate, practice, or omission and that the complaint shall be forwarded to U S WEST and U S WEST shall file with the Commission its answer in writing within twenty (20) days of service of this order.

Dated at Pierre, South Dakota, this 17th day of September, 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:	<u>Allyson Kalbs</u>
Date:	<u>9/17/97</u>
(OFFICIAL SEAL)	

BY ORDER OF THE COMMISSION:

James A. Burg
JAMES A. BURG, Chairman

Pam Nelson
PAM NELSON, Commissioner

Laska Schoenfelder
LASKA SCHOENFELDER, Commissioner