

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

IN THE MATTER OF THE COMPLAINT FILED) BY GEMINI COMPANIES, INC., SIOUX FALLS,) SD, AGAINST U S WEST COMMUNICATIONS,) INC. REGARDING THE COST OF BASIC) PUBLIC ACCESS LINES)	ORDER FINDING NO PROBABLE CAUSE TC97-139
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On July 28, 1997, the South Dakota Public Utilities Commission (Commission) received a complaint from Gemini Companies, Inc. (Gemini) against U S WEST Communications, Inc. (U S WEST) regarding the cost of basic public access lines. Gemini requested that the Commission mandate the use of a flat rate and eliminate the measured service rate. Gemini alleged that the effect of U S WEST's measured rate is to cause higher bills for Gemini in South Dakota as compared to surrounding states. At its regularly scheduled meeting of September 9, 1997, the Commission deferred action on this matter.

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 25, 1997, at its duly noticed meeting, the Commission reviewed the complaint, as well as comments from Gemini and staff.

The Commission finds that it has jurisdiction over this matter pursuant to SDCL Chapters 49-13 and 49-31 and ARSD 20:10:01:08.01 and 20:10:01:09. In Docket TC97-006, the Commission did not mandate the use of a flat rate for U S WEST's Smart Public Access Lines. Consistent with that decision, the Commission voted unanimously to find no probable cause. It is therefore

ORDERED, that there is no probable cause of an unlawful or unreasonable act, rate, practice, or omission.

Dated at Pierre, South Dakota, this 3rd day of October, 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><i>Helaine Kalbo</i></u>
Date: <u>10/7/97</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