

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

<b>IN THE MATTER OF THE COMPLAINT )</b>	<b>FINDINGS OF FACT AND</b>
<b>FILED BY BEN HOFER, CARPENTER, )</b>	<b>CONCLUSIONS OF LAW;</b>
<b>SOUTH DAKOTA, AGAINST U S WEST )</b>	<b>NOTICE OF ENTRY OF ORDER</b>
<b>COMMUNICATIONS, INC. REGARDING )</b>	
<b>TELEPHONE SERVICE OUTAGES AND )</b>	<b>TC97-178</b>
<b>INADEQUATE SERVICE )</b>	

On October 29, 1997, the Public Utilities Commission (Commission) received a Complaint from Ben Hofer, Carpenter, South Dakota, against U S WEST Communications, Inc. (U S WEST) alleging frequent phone service outages, slow internet connections, line noise, and weak phone signals.

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 December 18, 1997, at its duly noticed meeting, the Commission reviewed the complaint. The Commission voted unanimously to find probable cause. U S WEST filed its response on January 28, 1998.

By order dated March 12, 1998, a hearing was scheduled in this matter for April 2, 1998, in Ballroom "C" at the Crossroads Hotel and Convention Center, Huron, South Dakota. On March 26, 1998, U S WEST filed a Motion to Amend Answer along with its Amended Answer.

The hearing was held as scheduled on April 2, 1998. At the hearing, U S WEST stated that it would replace the facilities to the Hofer residence with a digital line carrier system (Tr. at 51) and that if Mr. Hofer wanted a second line, the tariffed rate would be between \$1,300.00 to \$1,400.00. Tr. at 56. At the conclusion of the hearing, the Commission unanimously voted to order U S WEST to put in the system, as they had agreed to, and found the charges for the second line were consistent with the tariff and Mr. Hofer would be responsible for payment of those charges if he wanted a second line.

Based on the evidence and testimony received at the hearing, the Commission makes the following Findings of Fact and Conclusions of Law.

**FINDINGS OF FACT**

1

On October 29, 1997, the Commission received a Complaint from Ben Hofer, Carpenter, South Dakota, against U S WEST alleging frequent phone service outages,

slow internet connections, line noise, and weak phone signals. The Commission found probable cause to proceed to a hearing. A hearing was held on April 2, 1998.

## II

Darla Loewen, Mr. Hofer's daughter who lives at the Ben Hofer farm, stated that the farm has three full-time employees and there is also a bed and breakfast farm/ranch vacation business located there. Tr. at 26.

## III

They requested a second line for the farm from U S WEST in the fall of 1996. Tr. at 26-27. U S WEST stated that they would be able to receive the second line. Tr. at 27. Later they were told the second line would cost \$3,000.00 to \$4,000.00. Id.

## IV

Ms. Loewen stated that they have had problems with their primary line. She stated there is frequent noise on the line that makes it nearly impossible to carry on a conversation. Id. The phone would ring but when she picked up the receiver, the telephone would keep on ringing. Tr. at 27-28. Telephone outages also seemed to be related to the weather. Tr. at 28. Also the phone would ring just a couple of times and then stop ringing even though the person on the other end was still on the line. Id. In addition, transmission on the fax machine was often interrupted. Tr. at 31.

## V

Russell Evans, engineering manager for U S WEST, stated that the Ben Hofer farm is served by an anaconda carrier. Tr. at 49. He stated that U S WEST would put in an NEC digital line carrier system. Tr. at 51. He stated that U S WEST would add 26 repeaters to boost power to the digital line carrier that will be placed 4,000 feet from the Ben Hofer farm. Tr. at 52. U S WEST would also add about 4,600 feet of cable beyond the digital line carrier in order to allow the Hofer farm to receive a second line. Tr. at 52, 55. It would be a six pair cable that would run from the distribution terminal to Mr. Hofer's house. Tr. at 58. U S WEST's cost model estimated the cost of the facilities would be \$152,639.00. Tr. at 53. U S WEST would begin construction in the first part of May and would complete the project by the middle of July. Tr. at 54.

## VI

Pursuant to the terms of the applicable tariff, a second line would cost 48 cents a foot from the distribution terminal for a total cost between \$1,300.00 to \$1,400.00. Tr. at 56; Exhibit 6. This cost is to be paid by the person requesting the additional line. Id.

## VII

Approximately 38 customers are on the line that U S WEST will rebuild. Tr. at 123. U S WEST agreed to notify those customers to see if they want a second line. Tr. at 124.

### CONCLUSIONS OF LAW

#### I

The Commission has jurisdiction in this matter pursuant to SDCL Chapters 1-26, 49-13, including 49-13-1 through 49-13-14, inclusive, and 49-31, including 49-31-3, 49-31-7, 49-31-7.1, 49-31-7.2, 49-31-10, 49-31-11, 49-31-38, 49-31-38.1, 49-31-38.2, 49-31-38.3, 49-31-60 through 49-31-68, inclusive, and ARSD 20:10:01:07.01 through 20:10:01:15.01, inclusive.

#### II

U S WEST shall put in a digital line carrier system to serve the Ben Hofer farm. If requested by Mr. Hofer, U S WEST shall put in a second line consisting of a six pair cable. Mr. Hofer is responsible for paying the tariffed charge for that second line which will be between \$1,300.00 and \$1,400.00. This charge is consistent with the tariff.

#### III

U S WEST shall have the system installed by mid-July and shall notify other customers along the new line and inquire as to whether they desire any additional lines.

It is therefore

ORDERED, that U S WEST shall install a digital line carrier system and, if requested by Mr. Hofer, a second line; and it is

FURTHER ORDERED, that U S WEST shall install the new system by mid-July and ask the other customers along the new system whether they want to order any additional lines.

### NOTICE OF ENTRY OF ORDER

PLEASE TAKE NOTICE that this Order was duly entered on the 28<sup>th</sup> day of April, 1998. Pursuant to SDCL 1-26-32, this Order will take effect 10 days after the date of receipt or failure to accept delivery of the decision by the parties.

Dated at Pierre, South Dakota, this 28<sup>th</sup> day of April, 1998.

<p style="text-align: center;"><b>CERTIFICATE OF SERVICE</b></p> <p>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.</p> <p>By: <u>Debra Kalko</u></p> <p>Date: <u>4/29/98</u></p> <p style="text-align: center;">(OFFICIAL SEAL)</p>
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BY ORDER OF THE COMMISSION:

James A. Burg  
JAMES A. BURG, Chairman

Pam Nelson  
PAM NELSON, Commissioner

Laska Schoenfelder  
LASKA SCHOENFELDER, Commissioner