

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

IN THE MATTER OF THE COMPLAINT FILED)	ORDER DENYING REQUEST
BY BARRY AND DAWN AUSTIN, WHITE OWL,)	TO DISMISS; ORDER FOR
SOUTH DAKOTA, AGAINST GOLDEN WEST)	AND NOTICE OF HEARING
TELECOMMUNICATIONS COOPERATIVE, INC.)	
REGARDING DISCRIMINATORY)	TC98-179
INSTALLATION FEES)	

On September 23, 1998, the Public Utilities Commission (Commission) received a complaint filed by Barry and Dawn Austin, White Owl, South Dakota (Complainants), against Golden West Telecommunications Cooperative, Inc. (Golden West). The complaint alleges that Golden West discriminates against mobile home owners in its line extension policy. The Complainants request that Golden West make an exception to its policy and review each case on an individual basis or abolish the policy entirely.

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 October 15, 1998, at a duly noticed meeting, Ms. Austin explained her complaint to the Commission. Golden West stated its position for having the policy. Commission Staff recommended a finding of probable cause. The Commission voted unanimously to find probable cause and served the complaint on Golden West. Golden West filed its answer on November 16, 1998. In its answer, Golden West asked that the matter be dismissed without a formal hearing.

At its December 30, 1998, meeting, the Commission considered whether to dismiss this matter. After listening to the arguments of the parties the Commission unanimously denied the request for dismissal.

The Commission has jurisdiction in this matter pursuant to SDCL Chapters 1-26, 49-2, 49-13, including 49-13-1 through 49-13-14, inclusive, and SDCL Chapter 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 20:10:01:28, inclusive. The Commission may rely upon any or all of these or other laws of this state in making its determination.

A hearing shall be held on January 12, 1999, beginning at 10:00 o'clock A.M., in the Pierre Community Room, Chamber of Commerce Building, 300 West Dakota, Pierre, South Dakota. All persons so testifying will be subject to cross-examination by the parties.

The issue at the hearing is whether Golden West committed an unlawful or unreasonable act, rate, practice or omission and, if so, what relief would be appropriate.

The hearing shall be an adversary proceeding conducted pursuant to SDCL Chapter

1-26. All parties have the right to be present and to be represented by an attorney. These 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 the testimony and evidence provided, if any, during the hearing or a Final Decision may be issued by default pursuant to SDCL 1-26-20. After the hearing, the Commission will consider all evidence and testimony that was presented at the hearing. The Commission will then enter Findings of Fact, Conclusions of Law, and a Final Decision regarding this matter. As a result of the hearing, the Commission shall determine whether Golden West committed an unlawful or unreasonable act, rate, practice, or omission and, if so, order any appropriate relief. The Commission's Final Decision may be appealed by the parties to the state Circuit Court and the state Supreme Court as provided by law.

It is therefore

ORDERED, that Golden West's request to dismiss this matter without a hearing is denied; and it is

FURTHER ORDERED that a hearing shall be held at the time and place specified above on the issue of whether Golden West committed an unlawful or unreasonable act, rate, practice or omission and, if so, what relief would be appropriate.

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 31st day of December, 1998.

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:

JAMES A. BURG, Chairman

PAM NELSON, Commissioner

LASKA SCHOENFELDER, Commissioner