

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

IN THE MATTER OF THE COMPLAINT FILED)	ORDER DISMISSING
BY BASEC.NET, HURON, SOUTH DAKOTA,)	COMPLAINT AND CLOSING
AGAINST U S WEST COMMUNICATIONS, INC.)	DOCKET
AND FIRSHEL, INC. REGARDING BILLING)	
ISSUES)	TC98-194

On October 26, 1998, the Public Utilities Commission (Commission) received a complaint by Marvie Tschetter of Basec.Net, Huron, South Dakota (Basec.Net), against U S WEST Communications, Inc. (U S West) and FirsTel, Inc. (FirsTel). Basec.Net states that it purchased an existing business and contacted U S WEST to continue customer access through T-1 lines. U S WEST informed Basec.Net it could not take over payment of the lines unless the previous owner's debt was paid in full. Basec.Net decided to move the equipment and obtain services through FirsTel. After obtaining the services, Basec.Net was informed by U S WEST that they would be charged for installation/construction fees, the old billings of the previous owner, and additional charges for monthly service until other options were available. Neither U S WEST nor FirsTel disclosed these costs prior to providing service. FirsTel offered a plan with minimal installation fees but could not offer the service for 15-20 days which would not allow Basec.Net's customers access to their services. Basec.Net seeks the following relief: "1) Require U S WEST to inform promptly of facilities issues. 2) Some sort of financial compensation for loss of revenue."

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 November 3, 1998, at its duly noticed meeting, the Commission reviewed the complaint. The Commission voted unanimously to find probable cause and served the complaint on U S WEST and FirsTel. U S WEST filed its Answer to Complaint and Counterclaim on November 30, 1998. FirsTel filed its Answer to Complaint of Basec.Net and Cross Claim against U S WEST Communications, Inc., on November 30, 1998. Basec.Net filed its Answer to U S WEST's Counterclaim on December 11, 1998. U S WEST filed its Answer to Cross-Claim of FirsTel on December 18, 1998.

By order dated January 25, 1999, a hearing was scheduled for March 31, 1999. On March 30, 1999, the Commission received a letter from the Complainant's attorney stating that the parties have agreed in principle to a settlement of the matter, that the Complainant will not be in attendance at the hearing, and that the Commission may want to cancel the hearing. Based on the request of Complainant's attorney, the hearing scheduled for March 31 was cancelled. On July 12, 1999, the Commission received a Stipulation and Order for Dismissal with Prejudice executed by all parties. On July 29, 1999, at a regularly scheduled meeting, Commission Staff recommended that the complaint be dismissed and the docket closed.

The Commission finds that it has jurisdiction over this matter pursuant to SDCL 49-13-1, 49-13-4, 49-13-13, 49-13-14.1, 49-31-3, 49-31-7, 49-31-7.1, 49-31-11, 49-31-60 through 49-31-68, inclusive, and ARSD 20:10:01:08.01 and 20:10:01:09. The Commission voted unanimously to dismiss the complaint with prejudice and close the docket. It is therefore

ORDERED that the complaint be dismissed with prejudice and the docket be closed.

Dated at Pierre, South Dakota, this 6th day of August, 1999.

<p style="text-align: center;">CERTIFICATE OF SERVICE</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: _____</p> <p>Date: _____</p> <p style="text-align: center;">(OFFICIAL SEAL)</p>

BY ORDER OF THE COMMISSION:

JAMES A. BURG, Chairman

PAM NELSON, Commissioner

LASKA SCHOENFELDER, Commissioner