

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

IN THE MATTER OF THE COMPLAINT) FILED BY LORETTA SPEAR, HILL CITY,) SOUTH DAKOTA, AGAINST U S WEST) COMMUNICATIONS, INC. REGARDING) TELEPHONE SERVICE OUTAGES AND) INADEQUATE SERVICE)	ORDER FOR AND NOTICE OF HEARING TC98-155
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On September 3, 1998, the Public Utilities Commission (Commission) received a complaint filed by Loretta Spear (Complainant), Hill City, South Dakota, against U S WEST Communications, Inc. (U S WEST). Complainant stated:

"In retrospect our telephone problems began in the spring of this year (1998). Starting with noisy lines (static) and later followed by temporary interruptions in service lasting anywhere from a few minutes to a couple of hours. These were not reported to repair service as the service would come back on. During this time the volume on the caller's voice would fluctuate. Several times the telephone would ring and when I answered, it would be a dead line. Approximately 4 weeks ago the line went dead for a day and I called repair service. By the time the repair man came the phone had started to work again. He did work on the service but stated the equipment is old. A week later the phone went dead again. (Friday, the day before the strike started) I called repair service again. This time supervisory personnel came out on a Sunday and worked on the line. I also advised him that our caller ID service which we had just purchased was not working. He stated we did not have that service as the equipment was old and not available to us. He also stated that the equipment upgrade was on the books but not enough money to do the work now. Perhaps next year. When calling to cancel Caller ID the customer service office said that we should have that service available to us, but would cancel our order and issue credit. I checked with repair service once again and was told by electronic voice that we might expect to have service by September 5. That will be 3 weeks without telephone service."

Complainant requested the following remedies: (1) That she receive a credit for all charges made by U S WEST for "Caller ID" services, and a credit for charges made by U S WEST for telephone services not received for a period of three weeks; and (2) That U S WEST be ordered by the Commission to upgrade her telephone services to a level comparable to other U S WEST subscribers residing in her residential area. U S WEST credited Complainant for the Caller ID billings, and has credited her account for the days she was without telephone service. The second remedy, an upgrade of service, is the subject of this Order.

The Commission reviewed the complaint during its duly noticed meeting on October 20, 1998, during which it voted unanimously to find probable cause and served the Complaint on U S WEST. U S WEST filed its Answer to Complaint on November 16, 1998.

A hearing was held on December 15, 1998, beginning at 1:30 o'clock P.M., in Room 3rd Floor East, Rapid City Area School Administrative Offices, 300 6th Street, Rapid City, South Dakota. At the hearing, U S WEST stated it would test the facilities and take necessary steps to improve service to Complainant. On March 1, 1999, and April 2, 1999, U S WEST provided updates on the

testing. In its April 2, 1999, letter, U S WEST stated it was proposing to replace the buried drop serving the Complainant and then test the service afterwards.

The Commission considered how to proceed on this matter at its May 12, 1999, meeting. After listening to comments from the parties, the Commission ordered U S WEST to replace the drop and test the system by June 8, 1999.

The matter again came before the Commission at its duly noticed June 8, 1999, meeting. U S WEST representative Edward Peters, who had been a witness at the December hearing, commented on work completed by U S WEST. Staff requested deferral of this matter to allow comment by a Staff witness who was not present at the June 8, 1999, meeting.

The deferred matter came before the Commission at its regularly scheduled July 29, 1999, meeting for decision, during which it was ordered that U S WEST provide the Complainant a telecommunications plant capable of furnishing digital services at an acceptable internet speed and that U S WEST develop a plan identifying the manner, time, cost, and resources required to provide digital telecommunications delivery to the Complainant. It was further required that the plan specify an internet speed, be submitted to the Commission within 90 days from receipt of the order, be subject to Commission approval, and include a cost-recovery schedule.

On September 16, 1999, the Commission received a Petition for Reconsideration and a Motion to Take Judicial Notice from U S WEST. On November 16, 1999, the Commission received U S WEST's Plan as required by the Commission's August 17, 1999, Order Requiring Service Upgrade and Filing of Plan. On January 14, 2000, the Commission received Staff's Response to U S WEST's Plan.

At its January 18, 2000, meeting, the Commission considered how to proceed in this matter. The Commission deferred action on U S WEST's Petition for Reconsideration and Motion to Take Judicial Notice. The Commission unanimously voted to hold a hearing on U S WEST's proposed implementation plan, the issue of cost recovery, and the Complainant's quality of service.

The Commission has jurisdiction in this matter pursuant to SDCL Chapters 1-26, 49-13, and SDCL Chapter 49-31, including 49-13-1 through 49-13-14.1, inclusive, 49-31-3, 49-31-4, 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, 49-31-58, 49-31-60, 49-31-84, 49-31-85, and 49-31-98, and ARSD 20:10:01:07.01 through 20:10:01:15.01, inclusive, and ARSD Chapter 20:10:33.

A hearing shall be held on March 29, 2000, beginning at 12:30 o'clock P.M. (MST), in Room 3rd Floor West, Rapid City Area School Administrative Offices, 300 6th Street, Rapid City, South Dakota. All persons testifying will be subject to cross-examination by the parties.

The issues at the hearing are: (1) whether U S WEST's implementation plan and cost recovery plan should be approved, changed, or rejected; (2) if the quality of service being provided by U S WEST has been reliable and adequate; and (3) if U S WEST has failed to provide reliable and adequate service, what action should now be taken by the Commission.

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: (1) whether U S WEST's implementation plan and cost recovery plan should be approved, changed, or rejected; (2) if the quality of service being provided by U S WEST has been reliable and adequate; and (3) if U S WEST has failed to provide reliable and adequate service, what action should now be taken by the Commission. 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 a hearing shall be held at the time and place specified above on the issues listed above.

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 6th day of March, 2000.

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>Delaine Kelso</i></u>
Date: <u>3/6/00</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

