

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

IN THE MATTER OF THE COMPLAINT FILED)	ORDER DENYING FINES;
BY LAWRENCE KLEIN, VALENTINE,)	ORDER KEEPING DOCKET
NEBRASKA, AGAINST U S WEST)	OPEN
COMMUNICATIONS, INC. REGARDING POOR)	
SERVICE AND A REQUEST TO HAVE LINES)	TC98-199
UPDATED)	

On November 6, 1998, the Public Utilities Commission (Commission) received a complaint filed by Lawrence Klein, Valentine, Nebraska (Complainant), against U S WEST Communications, Inc. (U S WEST), regarding poor service. Complainant outlines a series of service outages, unreliable service, and phantom calls. Complainant requests more reliable phone service.

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 25, 1998, at a duly noticed meeting, the Commission considered this matter. The Commission voted unanimously to find probable cause. U S WEST filed its answer on December 24, 1998.

The hearing was held on February 3, 1999, beginning at 1:30 P.M., at Cherry-Todd Electric Cooperative, West Highway 18, Mission, South Dakota. The Commission also heard the complaints filed against U S WEST in dockets TC98-183, TC98-184, and TC98-212, since those complaints concern the same general area as this complaint. At the hearing, U S WEST stated that it would do testing and any necessary repairs and report to the Commission. U S WEST filed updates on April 2, 1999 and May 7, 1999. In its April 2, 1999, update, U S WEST reported that it needed to replace part of the buried cable and stated it would take around 90 days to get the cable, make the replacements, and test the system.

At its May 12, 1999, meeting, the Commission unanimously voted to require U S WEST to complete its repairs and testing by June 8, 1999. On June 4, 1999, the Commission received a Motion to Extend Deadline from U S WEST. U S WEST requested that an extension be granted until July 30, 1999, for the completion of all cable work and testing of all carrier systems on the route. At its June 8, 1999, meeting, the Commission considered how to proceed. After listening to comments from the parties, the Commission voted to grant the extension until July 30, 1999. The Commission further voted that if U S WEST fails to meet the July 30, 1999, deadline, the Commission shall issue a show cause order as to why U S WEST should not be fined \$1000.00 per day for each day the work remains uncompleted after July 30, 1999. The Commission also voted to hold another hearing after July 30, 1999, to take additional testimony as to the Complainant's quality of service.

The Commission again considered this matter at its August 17, 1999, regularly scheduled meeting. A report was given by both U S WEST and complainants who noted that service problems still exist. 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, 49-31-61, and ARSD Chapter 20:10:33.

A hearing was held as scheduled on November 4, 1999, beginning at 1:30 P.M., at Cherry-Todd Electric Cooperative, West Highway 18, Mission, South Dakota. At the hearing, the Complainant stated that he had experienced some problems with his telephone since the end of July. U S WEST witness, Ed Peters, stated that according to testing completed prior to July 30, 1999, the services in the area met U S WEST's service quality standards. He stated that additional problems were discovered after July 30, 1999, and additional work was done to correct those problems. At the close of the hearing, Commission Staff requested that U S WEST be fined for failure to meet the July 30, 1999, deadline, which was the deadline that required the completion of cable work and testing of all carrier systems on the route.

At its December 14, 1999, meeting, the Commission considered this matter. The Commission voted unanimously not to issue a show cause order to determine whether to assess any fines against U S WEST pursuant to the June 15, 1999, order. The Commission also declined to close this docket. The Commission noted that due to the dry fall, the docket should be kept open to determine whether additional problems would arise after it rained or snowed. It is therefore

ORDERED, that no show cause order will be issued to determine whether fines should be assessed against U S WEST pursuant to the June 15, 1999, order; and it is

FURTHER ORDERED, that this docket shall remain open.

Dated at Pierre, South Dakota, this 21st day of December, 1999.

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>Delaine Keebs</u>
Date:	<u>12/23/99</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