

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

**IN THE MATTER OF THE COMPLAINT FILED) ORDER FOR AND NOTICE
BY BRENT AND DAWN BARTON, MINA) OF HEARING
SOUTH DAKOTA, AGAINST U S WEST)
COMMUNICATIONS, INC. REGARDING) TC98-137
UPDATING LINES)**

On July 24, 1998, the Public Utilities Commission (Commission) received a complaint filed by Brent and Dawn Barton, Mina, South Dakota (Complainants), against U S WEST Communications, Inc. (U S WEST). The Complainants state: "We have lived in this area for 14 years and had problems for several years. We don't have a phone for 2-3 days at a time. [W]hen the phone is working, there's so much static you can't hear the person talking." The Complainants requested the following relief: "U S WEST needs to put in new phone lines. Also, to be compensated for the many years of problems with our phone lines, by the phone company."

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 August 4, 1998, at a duly noticed meeting, U S WEST stated that the problem area that the Complainants complained of was scheduled to be updated by October 31, 1998. The Commission voted unanimously to find probable cause. As U S WEST stated that the facilities that serve the Complainants will be updated this year, the Commission deferred any action on the complaint until October 31, 1998. The Commission also decided to defer any action on the issue of damages until October 31, 1998. By letter dated October 15, 1998, U S WEST informed the Commission that the Mina Lake project had been completed and all the customers were cut over to the new system. At its regularly scheduled November 3, 1998, meeting, the Commission deferred this matter until Commission Staff confirmed with the Complainants how they wanted to proceed with their damages claim. At its regularly scheduled November 25, 1998, meeting, Commission Staff reported that the Complainants wanted to proceed with the damages portion of their complaint. The Commission ordered that U S WEST file its answer to the complaint within 20 days. U S WEST filed its Answer to the Complaint on December 28, 1998.

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 22, 1999, beginning at 11:00 a.m., at the Aberdeen Development Corporation, East Business Park, 416 Production Street North, Aberdeen, South Dakota. All persons so testifying will be subject to cross-examination by the parties.

The issue at the hearing is whether U S WEST committed an unlawful or unreasonable act, rate, practice or omission and whether U S WEST is liable for damages caused to the Complainants and, if so, in what amount.

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 U S WEST committed an unlawful or unreasonable act, rate, practice, or omission and whether U S WEST is liable for damages caused to the Complainants and, if so, in what amount. 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 issue of whether U S WEST committed an unlawful or unreasonable act, rate, practice or omission and whether U S WEST is liable for damages caused to the Complainants and, if so, in what amount.

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 30th 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: William Kalls

Date: 12/30/98

(OFFICIAL SEAL)

BY ORDER OF THE COMMISSION:
Commissioners Burg, Nelson and
Schoenfelder

William Bullard, Jr.
WILLIAM BULLARD, JR.
Executive Director