

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

IN THE MATTER OF THE COMPLAINT FILED)	ORDER FINDING
BY W. JOSEPH CLAFLIN, RAPID CITY, SOUTH)	PROBABLE CAUSE
DAKOTA, AGAINST U S WEST)	
COMMUNICATIONS, INC. REGARDING)	TC98-142
UPDATING LINES)	

On July 31, 1998, the Public Utilities Commission (Commission) received a complaint filed by W. Joseph Claflin, President of Edelweiss Mountain Improvement Association, Rapid City, South Dakota, against U S WEST Communications, Inc. (U S WEST). The complaint states: "As President of Edelweiss Mountain Improvement Association, I represent 54 homeowners and 49 potential homebuilders on Edelweiss Mountain Development, three and one-half miles west of Hi-Way 385 at the Black Forest Inn turnoff. I am writing on behalf of the users of the 75 phone lines in our community. Since moving to Edelweiss in June, 1997, and having been elected President of this Association, members of this Association have complained about our poor phone service and the inability to effectively connect to Internet services. After making numerous phone calls to various U S WEST personnel during the fall and winter of 1997-98, without satisfaction in improved phone quality, I wrote to the PUC [February 2, 1998]. During the fall of 1997 a number of residents attempted to take advantage of some of the 'class services' provided by U S WEST but were told on a number of occasions that we are guaranteed only a dial tone. It seems that the 'switching tower' at the entrance of our development, is unable to provide anything more than voice communication. This system, a 'slick 40' system, was installed in the early 1970's and has not been updated since. . . . The people who live in this development, permanently or seasonally, have been paying, for the past 25 years, the same phone charges that exist in urban areas, but have been receiving poor phone service through antiquated equipment." Other issues outlined include termination of phone conversations with loud screeching or static and access to the Internet is almost impossible. The residents of Edelweiss Mountain community request that U S WEST install upgraded telecommunications equipment that will put them at the same level of efficiency as those U S WEST customers in Rapid City. And, "we request that an upgrade in equipment and service be completed within the next year as our emergency phone needs, Internet access, day to day communications requirements, and our proposed business use, are all in jeopardy without reasonable communications capabilities."

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 18, 1998, at a duly noticed meeting, U S WEST stated that the problem area was scheduled to have the line updated and it was anticipated this would be completed by the end of the second quarter of 1999.

The Commission finds that it has jurisdiction over this matter pursuant to SDCL Chapters 1-26, 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 20:10:01:15.01, inclusive. The Commission voted unanimously to find probable cause. However, since U S WEST has stated that the facilities that serve the Edelweiss Mountain Improvement Association will be updated by the end of the second quarter of 1999, the Commission will defer any action on the complaint until July 31, 1999. It is therefore

ORDERED, that pursuant to ARSD 20:10:01:09, the Commission finds that there is probable cause of an unlawful or unreasonable act, rate, practice, or omission. The Commission does not require U S WEST to file its answer in this matter at this time.

Dated at Pierre, South Dakota, this 25th day of August, 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:	<u>Debra Kaelo</u>
Date:	<u>8/26/98</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