

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF SOUTH DAKOTA

IN THE MATTER OF THE COMPLAINT FILED) BY DON JIRACEK ON BEHALF OF G.S.A. INC.,) RAPID CITY, SOUTH DAKOTA, AGAINST) MCLEODUSA TELECOMMUNICATIONS) SERVICES, INC. REGARDING INADEQUATE) SERVICE)	AMENDED ORDER FOR AND) NOTICE OF HEARING) TC98-196)
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On November 2, 1998, the Public Utilities Commission (Commission) received a complaint filed by Don Jiracek on behalf of G.S.A. Inc., Rapid City, South Dakota (Complainant), against McLeodUSA Telecommunications Services, Inc. (McLeod). Complainant alleges a variety of customer service issues against McLeod, including problems procuring reliable service. The Complainant is requesting that it be reimbursed for its business losses.

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 December 7, 1998, the Commission considered this matter. The Commission voted unanimously to find probable cause and served the complaint on McLeod. An Amended Complaint was filed on December 10, 1998. The Commission permitted the filing of the Amended Complaint by order dated December 18, 1998. McLeod filed its Answer to Complaint on January 7, 1999.

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 February 11, 1999, beginning at 9:00 o'clock A.M., in Room 3rd Floor East, Rapid City Area School Administrative Offices, 300 6th Street, Rapid City, South Dakota. The hearing scheduled for February 11, 1999, was cancelled at the request of the parties. The hearing shall now be held on April 15, 1999, beginning at 12:30 p.m. MDT, 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 issue at the hearing is whether McLeod committed an unlawful or unreasonable act, rate, practice or omission and, if so, what relief would be appropriate.

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 McLeod committed an unlawful or unreasonable act, rate, practice, or omission and, if so, order any appropriate relief. 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 McLeod committed an unlawful or unreasonable act, rate, practice or omission and, if so, what relief would be appropriate.

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 5th day of March, 1999.

CERTIFICATE OF SERVICE

BY ORDER OF THE COMMISSION:

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: _____

Date: _____

(OFFICIAL SEAL)

JAMES A. BURG, Chairman

PAM NELSON, Commissioner

LASKA SCHOENFELDER,
Commissioner