

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

IN THE MATTER OF THE ESTABLISHMENT )	ORDER SETTING BRIEFING
OF DIFFERENT RATES FOR )	SCHEDULE
INTERCONNECTION AND UNBUNDLED )	
NETWORK ELEMENTS IN AT LEAST THREE )	TC99-106
GEOGRAPHIC AREAS FOR NONRURAL )	
TELECOMMUNICATIONS COMPANIES )	

In August of 1996, the Federal Communications Commission (FCC) issued its Local Competition Order implementing section 251 of the federal Telecommunications Act of 1996. Section 51.507(f) required each state commission to establish different rates for interconnection and unbundled network elements (UNEs) in at least three geographic areas within the state to reflect geographic cost differences. The Eighth Circuit subsequently stayed and then vacated the deaveraging rule. Based on those decisions, the Commission did not establish different rates for different geographic areas. However, in January of 1999, the U. S. Supreme Court reversed the Eighth Circuit's decision. On May 7, 1999, the FCC stayed the effectiveness of the rule in order to allow states additional time to comply with the rule. By order released November 2, 1999, the FCC ruled that the stay will be lifted on May 1, 2000. *In the Matter of the Federal-State Joint Board on Universal Service*, CC Docket 96-45, Ninth Report and Order and Eighteenth Order on Reconsideration, FCC 99-306, paragraph 120 (rel. Nov. 2, 1999). The order provides that by May 1, 2000, "states are required to establish different rates for interconnection and UNEs in at least three geographic areas pursuant to section 51.507(f) of the Commission's rules." *Id.*

At its November 15, 1999, meeting, the Public Utilities Commission (Commission) considered how to proceed in this matter. After listening to comments from interested persons, the Commission decided to request written comments on how to proceed from interested persons or entities. The Commission received comments from AT&T Communications of the Midwest, Inc. (AT&T), U S WEST Communications, Inc. (U S WEST), and the South Dakota Independent Telephone Coalition, Inc. (SDITC).

The Commission has jurisdiction over this matter pursuant to SDCL Chapters 1-26 and 49-31, specifically 49-31-3 and 49-31-81, and the Telecommunications Act of 1996, specifically 47 U.S.C. §§ 251 and 252. At its February 2, 2000, meeting, the Commission again considered how to proceed with this docket. The Commission decided as follows: (1) that this proceeding be limited to nonrural companies since the rural companies in South Dakota are currently exempt from 47 U.S.C. § 251(c) requirements; (2) that the Commission proceed with a contested case type proceeding as opposed to a rulemaking; and (3) that the Commission use the rates as established in the U S WEST/AT&T interconnection agreement as the bases for the setting of deaveraged rates. Although AT&T proposed, and U S WEST agreed, that geographic deaveraging need only be applied to the UNE loop at this time, the Commission will leave it open to the parties as to whether they will advocate that other rates be subject to geographic deaveraging as well.

By Order dated February 4, 2000, the Commission set a procedural schedule and intervention deadline. By order dated March 6, 2000, intervention was granted to U S WEST Communications, Inc., McLeodUSA Telecommunications Services Incorporated, Sprint Communications Company L.P., and AT&T Communications of the Midwest, Inc.

The hearing was held as scheduled on March 15, 2000, beginning at 8:30 A.M., in Room 412 of the State Capitol Building, 500 E. Capitol, Pierre, South Dakota. Additional information was requested by the Commission at the hearing. U S WEST and AT&T provided the additional information following the hearing.

At its March 28, 2000, meeting, the Commission asked the parties whether any party desired an additional hearing based on the information filed after the hearing. No party has requested an additional hearing. Therefore, the Commission sets the following briefing schedule: simultaneous initial briefs shall be filed with the Commission on or before April 11, 2000, and simultaneous rebuttal briefs shall be filed with the Commission on or before April 18, 2000. It is therefore

ORDERED, that all parties shall follow the briefing schedule as stated above.

Dated at Pierre, South Dakota, this 31st 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>Delaine Kaabo</u>
Date:	<u>3/31/00</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